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Monday, 3 June 2024
Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
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Dear Committee Secretary,

I am writing to underscore the importance of raising awareness about financial abuse, particularly its impact on major decisions made in property division within the Family Law system. This encompasses rectifying the handling of taxation debts as joint obligations and shedding light on the fact that these issues fall under distinct laws and privacy regulations restricting equal access:

- The Australian Taxation Office's (ATO) disregard in actively pursuing tax debts.
- Court Oversights and ATO Negligence Leaves Non-Account Holder Powerless, yet responsible.

This parliamentary inquiry offers an opportunity to shine a spotlight on this issue and enact reforms aimed at bolstering protection for individuals susceptible to exploitation and injustice.

The legal industry plays a pivotal role in safeguarding the rights and well-being of individuals involved in family law proceedings, especially during property division disputes. However, a lack of awareness about the signs and consequences of financial abuse can result in unfair outcomes and further victimisation of vulnerable and unsuspecting parties.

MY PERSONAL CASE

From my personal experience, the legal proceedings initiated by my former partner of 6 years were orchestrated to secure him payment for his taxation debt that he incurred before, during and after our relationship, and additionally for him to obtain a share of my property through property settlement in the Family Court.

It started when I received an email 2 years after our separation, from his accountant requesting my income was required for the years 2012 to 2019.

This was the first time I became aware of any non-lodged tax returns. At this point, I was still oblivious to any debt. When I confronted my former partner about the seriousness of this situation, he urged me to deceive the ATO by citing my previous medical conditions as the reason for his non-compliance. I refused to partake in his plan. I suspect this was the catalyst for his decision to pursue legal action through the family court system, a form of punishment and control.

This scheme unfolded post-separation, as my former partner disclosed tax returns dating back over 14 years, revealing tax debts from six years preceding our de facto relationship. This was all constructed with the assistance of his associate, who is an accountant and a former ATO auditor and assessor.

The disclosed unpaid taxes from 2006-2020, effectively fabricating a taxation debt, emerged only after our separation. Despite assurances throughout our relationship that he was up to date with taxes, his entire debt that I did not know about, including interest, penalties and fines, was included. During the proceedings, I discovered my former de facto partner completed tax returns without bank statements from 2008-2014, however ultimately, the courts validated the legitimacy of the returns and overlooked any suspicion. Despite my request for specific details concerning this debt, including the breakdown of penalties, fines, and interest, I was denied access to this information. I still to this date do not know the legitimacy or accuracy of this debt.

Over a 2.5-year period of legal proceedings in the Family Law Courts, comprising of nine hearings, 32 submissions, and various legal proceedings including conciliation conferences and trials, the court unfortunately failed to fully comprehend my former partner's deceptive tactics and identify financial abuse accordingly. His underhanded manoeuvres, which involved exploiting legal loopholes and deliberately prolonging the proceedings, has left me vulnerable to ongoing financial exploitation. To date, my legal expenses have exceeded more than \$170,000 striving to exclude a taxation debt that had been concealed from me throughout our **short term six-year defacto relationship**.

My former partner has been successful in manipulating the family law system to include his taxation debt, accrued since 2006. The Family Courts have enabled this and ultimately rewarded him. I am now faced with losing my home and my business.

ATO NEGLIGENCE:

Despite the Australian Taxation Office (ATO) being fully aware of his debt for all of those years, have shown a disturbing level of neglect by failing to pursue his debt over many years effectively. My former partner even continued to trade, operating his carpentry business, collecting GST from his customers and not paying the ATO, failing to lodge any

taxation returns or BAS statements and failing to pay any income tax which enabled him to continue increasing his debt.

This unresolved debt continues to linger, awaiting the sale of my family home—a 26 year old property in my name only, mortgaged by myself, that I have single-handedly renovated multiple times with my own funds and financially serviced in my sole name for the entire 26 years. A home that I also have run my home based salon from for 15 years and is my only source of income. This outstanding debt has left me in a position where I have been subjected to financial abuse that will affect my future, independence, employment and financial security.

The Australian Taxation Office's (ATO) failure to address a debt accumulated by my former partner over nearly two decades has directly impacted my future, my home, and my ability to generate income. Despite the ATO's awareness that tax debt is a shared responsibility in the family court system, they neglected to inform me or take appropriate measures to recover my former partner's tax debt.

LEGAL ABUSE

My former partner's aggressive directive to subpoena my bank and finance broker in March 2023, upon discovering my ability to obtain a loan to fund my legal representation, constitutes further abuse and manipulation of the legal process. Despite objections raised regarding privacy invasion and the subpoena's compromising nature to my case, Her Honour granted my former partner access to all of my personal information, correspondence and banking history for a period of 12 years, enabling his abusive tactics and compromising my privacy, that also includes a period of time before our defacto relationship began.

During the trial on March 30, 2023, my former partner exploited legal loopholes to manipulate the narrative. His attempts to alter the date of our de facto relationship while being cross examined, by claiming at the last minute that we were in a fact defacto '*not living together arrangement*', all aimed at including his taxation debt for more years. The Judge allowed this manoeuvre, overlooking his intentions, and essentially condoned his exploitation of a legal loophole. As a consequence, I incurred substantial legal fees and endured prolonged financial strain. The court proceedings were halted, leading to adjournment, which necessitated additional legal expenses for me. I had to engage lawyers and barristers and prepare further affidavits to establish the true start date of my de facto relationship.

UNVEILING COURT FAILURES: THE FLAWS IN PROCESS AND RULINGS AND DISCRETIONARY POWERS AND THE INABILITY TO RECOGNISE ABUSE IN THE PROCESS.

Despite presenting compelling evidence indicating the end of our relationship in 2018, the court failed to acknowledge the significance of this timeline. I provided extensive documentation, including text messages that clearly stated his refusal to vacate my home and his menacing warnings of seizing my property and business if compelled to leave. However, the judge disregarded these critical pieces of evidence.

Instead, the court upheld that because my former partner continued to reside in my home (on the couch) and contributed to lodging costs, we were in a relationship for that extra 1 year. This decision not only dismissed my rightful assertion of the relationship's termination but also added another year of tax debt to the settlement furthering the financial abuse. It's a stark example of the court's failure to recognise the fundamental principle of consent and autonomy, reducing my voice and agency in defining my relationship status to mere acquiescence. It's a chilling echo of the disturbing notion that "no means yes."

Despite all evidence, the court's decision in July 2023 failed to hold him accountable, and enabled him, perpetuating the cycle of abuse and exploitation. The court failed to also recognise the extent of my former partner's involvement in federal taxation fraud and perjury during cross-examination at our re trial.

The family court was aware of his numerous fraudulent tax activities uncovered post-separation. However, during the trial, he was shielded from scrutiny under Section 128 during cross-examination.

Despite committing federal fraud offenses, the family court protected him and even went on to include his entire tax debt PLUS an extra 6 years prior to our defacto relationship commencing. in the property settlement. This debt encompassed fines and penalties for late lodgement of returns and BAS.

By incorporating this into the settlement, the court effectively conveyed that it was my responsibility as a de facto partner to ensure his tax affairs were in order, exceeding the duties expected in a relationship. Allowing these inclusions highlights the court's failure to acknowledge debts and how they accumulate.

The Family Court's glaring oversight of this monumental debt is a reminder of its failure to address financial abuse within the legal system. Despite its significance, the court callously omitted it from consideration, further exacerbating the injustice I face.

During the trial, it was disclosed to the family court that my former partner intended to seek remissions for his taxation debt. NO assessment was made regarding the total debt amount or the potential financial benefits he could accrue from seeking remission. None of these factors were considered, nor was it even contemplated to allocate any savings resulting from his potential remission to offset my payment obligations. Thus, I am left solely responsible for the entire debt, despite his ability to pursue remission.

The court's ruling not only plunges me into dire financial straits and imperils my economic stability. The failure to recognise the ramifications on our well-being and future prospects is deeply disconcerting and underscores a glaring oversight in the court's decision-making process.

Compounding the financial abuse and rewarding the scheme that the family court perpetuates, the judge has mandated that a man who has evaded tax since 2006 be remunerated with a **cash** sum component for his taxation debt, therefore he can spend the money as he chooses and in no way is he compelled to pay his tax debt.

This illustrates the judge's failure to perceive financial irresponsibility and has granted leeway to someone who has shirked tax obligations, permitting him the liberty to utilise this payout at his discretion. Additionally, the judge was cognisant that he could seek remissions of penalties and charges, yet this benefit would not be extended to me. By incorporating his fines and penalties into the settlement, the judge has essentially assumed that it was **my** responsibility and duty as a defacto partner, to lodge his personal returns and be held accountable for his tax obligations.

The Judge overlooked the advantage he gained from the debt itself. By accumulating a substantial debt through the submission of multiple tax returns at once, he utilized this debt to offset his taxes for three years, resulting in only a \$5,000 income tax liability despite earning over \$900,000. I did not share in this tax benefit; he was the sole beneficiary, and no consideration was given to me for that.

Furthermore, the ruling neglects to consider the relocation of my family and the significant accumulation of possessions over 26 years, disregarding crucial measures for our welfare and emotional stability. The personal upheaval, displacement, and uncertainty are grave and irreparable.

Trapped Between Laws: Taxation vs. Family Law

Contact made with my former de facto partners legal representative included a request from myself to have my name added to the tax account, aiming to alleviate the debt due to hardship. The response was brutal: ***'All matters regarding our client's taxation debt has nothing to do with you personally and the debt is a matter between our client and the Australian Taxation Office'***. This statement clearly suggests I am only good enough to be responsible for the debt, yet I must remain silenced and not ask any questions. This is exactly where the failing of the Family Law is.

Failure to Recognize Financial Abuse in Court Proceedings

It is crucial that legal professionals, encompassing judges, lawyers, and other practitioners, undergo thorough training and education in recognizing and addressing financial abuse within intimate relationships. This ensures that perpetrators are not

shielded or incentivized, sending a clear message that such behaviour will not be tolerated or rewarded. By enhancing awareness and providing training on financial abuse, the legal industry can effectively aid individuals navigating family law proceedings, guaranteeing that property division decisions are just, equitable, and guided by a profound understanding of abuse dynamics.

As this parliamentary inquiry proceeds, I urge the committee to prioritise raising awareness about financial abuse within the legal industry and implementing reforms to address systemic gaps and shortcomings in the family law system. By doing so, we can better protect individuals from exploitation and ensure that decisions regarding property division are fair, transparent, and informed by an understanding of the complexities of financial abuse.

ATO and The Family Court can prevent Financial abuse clearly by identifying :

1. **Concealing Taxation Debt:** deliberate concealment of taxation debts during property division proceedings lead to unfair outcomes for the party who was unaware of the debt until after separation.
2. **Manipulating Legal Proceedings:** manipulation of legal proceedings to secure financial interests, such as prolonging the process, exploiting legal loopholes, and initiating unnecessary legal actions, leading to increased costs and distress for the victim.
3. **Exploiting Court System:** exploitation of weaknesses or oversights in the court system to the perpetrators advantage, involving misleading the court, manipulating evidence, or using legal tactics to delay proceedings, further disadvantaging the victim.
4. **Privacy Violation:** resorting to invasive tactics, such as subpoenaing bank and financial records of the victim, compromising their privacy and potentially using the obtained information to gain leverage in legal proceedings.
5. **Failure of Authorities:** Negligence by authorities, such as the Australian Taxation Office (ATO), to pursue taxation debts diligently, enable financial abuse to continue unchecked, leaving victims vulnerable to exploitation.
6. **Unjust Court Decisions:** Court decisions that fail to recognize or address financial abuse perpetuate injustice and reward the abuser, further disadvantaging the victim financially and emotionally.
7. **Inequitable Settlements:** Court rulings that incorporate the abuser's taxation debts into the settlement without considering the victim's financial and emotional well-being can exacerbate the victim's hardship and perpetuate the cycle of abuse.

8. Lack of Consideration for Victim's Welfare: Court decisions that overlook the impact of property division on the victim's welfare, including relocation and emotional stability, neglect crucial aspects of financial abuse and further victimize the individual.

9. Efficiently addressing Financial Remedies: Courts ought to establish more effective systems and possess the authority to mandate financial remedies for costs efficiently in an active hearing without delay. Presently, for costs to be recuperated, additional legal fees, affidavits and potentially more court proceedings hearings are necessary despite costs already being awarded to a party. The party to whom costs are ordered to be paid currently encounters these extra costs in recovering this money, rendering it seemingly unattainable and leading to further financial losses. This constitutes unseen financial abuse that the courts themselves permit. Failure to adequately recognise or substantiate financial abuse may dissuade courts from utilising these powers, resulting in insufficient protection for victims.

Losing independence due to financial abuse: can have profound effects on the victim's well-being, autonomy, and ability to live a fulfilling and empowered life. Addressing financial abuse requires not only legal and systemic reforms but also support services that empower victims to regain their independence and financial autonomy.

1. Financial Dependency: Financial abuse often leads to the victim losing financial dependence. This loss of dependency leaves the victim without the means to support themselves independently.

2. Limited Decision-Making Power: Victims of financial abuse may find their ability to make independent financial decisions severely restricted. The victim no longer has the ability to control how money is spent, has limited access to funds.

3. Restricted Employment Opportunities: Career or employment opportunities, either directly or indirectly are affected. preventing them from pursuing education or training that could lead to financial independence.

5. Loss of Self-Esteem: Constant financial manipulation and control erodes the victim's self-esteem and confidence. The victim may come to believe they are incapable of managing their own finances or making independent decisions, further perpetuating their insecurities and fear.

7. Impact on Future Financial Stability: Financial abuse has long-term consequences for the victim's financial stability and independence that can lead to damaged credit or financial obligations incurred by the abuser that hinder their ability to rebuild their finances independently.

Addressing these gaps and areas of financial abuse ultimately requires comprehensive reforms within the legal system, including increased awareness, training for legal

professionals, and policies that prioritize the protection of victims from exploitation and injustice. This entails providing comprehensive training and education for judges and court personnel including registrars and mediators to enhance their understanding of financial abuse and equip them with the tools to effectively identify and address it within the legal system.

Additionally, collaboration with relevant stakeholders, such as advocacy groups and support services, can help ensure that courts are better equipped to recognize and respond to instances of financial abuse. Allowing recognition of these organisations by providing advocacy during the court process is vital.

Thank you for your attention to this matter.

Sincerely,

Toni Shrubshall