

8TH ANNUAL NATIONAL PRACTICAL BANKRUPTCY CONGRESS

HYBRID EVENT - In person, Live streamed or Recorded

Monday, 7 December 2020
Tuesday, 8 December 2020

CONGRESS: Wesley Conference Centre, 220 Pitt Street, Sydney
CONCURRENT FULL OR HALF DAY WORKSHOPS

TOPICS INCLUDE:

- Regulator Update, including recent guidance, statistics and priorities
- Dealing with Real Property & Strata Levy Bankruptcies/Lease Disputes
- Voidable Transactions Update
- Calderbank Offers and Other Litigation Cost Protection Methods
- After Acquired Property and Jurisdiction
- Income Contribution
- Mental Health Issues / Vexatious Bankrupts
- Don't Bust the Trust!
- Family Law Update
- Corporations Amendment (Corporate Insolvency Reforms) Bill 2020

PRESENTERS INCLUDE:

John Melliush, *Partner, PCI Partners* - Conference Chair
Mark Findlay, *Director Regulation, Regulation & Enforcement, Australian Financial Security Authority*
Daniela Naidenov, *Principal, Daniela Fazio Lawyers*
Stephen Mullette, *Principal, Matthews Folbigg Lawyers*
Jayne Treherne, *Barrister, Level 22 Chambers*
Sally Nash, *Consultant Solicitor, O'Neill Partners Lawyers*
Colin Brown, *Partner, O'Neill Partners Lawyers*
Roger Marshall SC, *Ground Floor Wentworth Chambers*
Paul Shaw, *National Manager, Regulation & Enforcement, Australian Financial Security Authority*
Ann Jewitt, *CEO, Workplace Mental Health Consulting*
Michelle Painter SC, *9 Selborne Chambers*
Bob Cruickshanks, *Personal Insolvency Consultant*
Hannah Griffiths, *Head of Insolvency & Restructuring, Gilchrist Connell*
Eddie Senatore, *Principal, Eddie Senatore Advisory*

Full-day Workshop 9.30am - 3.30pm

PRACTICAL STRATEGIES FOR SUCCESSFUL OUTCOMES

Interactive Intensive Bankruptcy & Hypothetical Session

Led by Bob Cruickshanks, Personal Insolvency Consultant & Daniela Naidenov (Fazio)

AND

Half-day Workshop 9.00am - 12.00pm

REALISATION ISSUES AND PRACTICAL TIPS FOR TRUSTEES IN BANKRUPTCY

Led by Megan Zhou

FOR FURTHER DETAILS ON REGISTERING, PRESENTING OR SPONSORING PLEASE CONTACT:

ROSIE TRAILL M 0405 136 001

Organised by TRAILL & ASSOCIATES PTY LIMITED ABN:47085 482 533

Email rtrail@trailandassociates.com.au

Website www.trailandassociates.com

8th Annual National Bankruptcy Congress

MONDAY 7 DECEMBER 2020

In person - Wesley Centre, 220 Pitt St Sydney or Live via Zoom or Recorded

7.30 REGISTRATIONS OPEN - QR CODE CHECK IN FOR ALL ATTENDEES

8.30 CONFERENCE COMMENCES – Welcome from Rosie Traill and Opening Remarks from The Chair

CHAIRMAN: John Melliush, Partner, PCI Partners

8.35 - 9.15 Update From the Regulator Including Recent Guidance, Statistics & Priorities

- Casting Vote Issues
- AAT watch - Income Assessments (*Nguyen/residing at Justice Michael Kirby luxury property*)
- The latest statistics
- Trends In the profession & compliance issues arising from Inspector-General reviews, inspections & complaints- where are the hot-spots for 2021
- Brief update on the new Statement of Affairs

Mark Findlay, Director Regulation, Regulation & Enforcement, Australian Financial Security Authority

9.15 - 10.00 Taking Possession Of & Dealing with Real Property and The Latest Hotspots in Relation to Strata Levy Bankruptcies/ Lease Disputes

Lockdown has not prevented a steady flow of cases! Daniela will take you through some of her recent experiences and also address the following cases:

- *Scott, in the matter of Le*
- *Complete Credit Acquisitions Pty Ltd v Sheriff*
- *Kerr as trustee of the property of Janice Mary Kehlet (a bankrupt) v Kehlet (No 2)*
- *Scott (Trustee) v Carter*
- *Quin as Trustee of the Bankrupt Estate of Philip Chill*

Daniela Naidenov, Principal, Daniela Fazio Lawyers

10.00 - 11.00 Voidable Transactions Update

This is a regular session and an attendee favourite, with lots of furious note-taking! **Stephen Mullette** is back to present on:

- *Shepard (Trustee) v Behman*
- *Nelson (Trustee) v Birch & Ors*
- *Nelson (As Trustee) v Supple & Anor*
- *Johnson As Trustee Of Bankrupt Estate of Portellos v J.S.J. & A. Nominees Pty Ltd*
- *Janezic v Official Receiver & Anor*
- *Davidson v Official Receiver & Anor*

Stephen Mullette, Principal, Matthew Folbiggs Lawyers

11.00 - 11.20 MORNING TEA

11.20 - 11.55 Do you know enough about Calderbank Offers and Other Litigation Cost Protection Methods?

There have been a couple of cases involving bankruptcy trustees and Calderbank offers in the last twelve months. One went well for the trustee – but the other resulted in a trustee being ordered to pay costs on an indemnity basis – so I thought it was worth asking Jayne Treherne to provide IPs with an explanation of what they are, how they can help you – and how they can hurt you! Jayne will also take you through what worked and what didn't in the very recent matter of *Paradin & Paradin* in the Family Law Court.

Jayne Treherne, Barrister, Level 22 Chambers

11.55 - 12.45 After Acquired Property and Jurisdiction

The Mehajer case gives us a “factually colourful” after-acquired property consideration, but more usually in practice AAP issues arise from inheritances, as you will see from the other cases. Those drafting Wills will sometimes specifically draft with the AAP regime in mind – and there’s also an interesting Tasmanian Supreme Court case which especially comments on estate planning to defeat creditors. Sally Nash and Colin Brown will take you through the cases, and more:

- *Three Co-Owners of Real Property v Another Co-owner and a Trustee in Bankruptcy*
- *Southwell v Staite*
- *Edwards v Crawford [2020] TASSC 20*
- *Mehajer v Weston in his capacity as Trustee of the Bankrupt Estate of Salim Mehajer*
- *Campbell v van der Velde as trustee of the bankrupt estate of Marilyn Anne Rowan, in the matter of Rowan*

Sally Nash, *Consultant Solicitor*; Colin Brown, *Partner*, O’Neill Partners Lawyers

12.45- 1.15 LUNCH

1.15 - 1.50 Income Contribution

It’s been a little while since we looked at Income Contributions and there have been some important cases. *Holbrook* is probably the headline here: dealing with an exit payment from a partnership and its character as “income” or “capital” but Roger Marshall SC, who appeared in some of these matters listed below, will take you through a number of recent cases:

- *CXTB and Inspector-General in Bankruptcy*
- *Appleby v Carter as Trustee of the Bankrupt Estate of Appleby & Anor*
- *Michell as Trustee of The Property of Holbrook, a Bankrupt v Holbrook*
- *Weston v Pennisi*
- *Weston v Mcauley*
- *Aston v Barnet in her Capacity as the Trustee of the Property of Aston*

Roger Marshall SC , Ground Floor Wentworth Chambers

1.50 - 2.45 Mental Health Issues for Practitioners and Bankrupts - Panel Discussion

- How to best respond when faced with a mentally ill bankrupt
- What practical steps do practitioners need to take to protect themselves when dealing with mentally ill bankrupts?
- Legal Issues relating to vexatious and mentally ill bankrupts
- What directions/ protections are available to your staff?

It's not often that trustees need to focus on their own cashflow and mental health. With the added pressures of the decline in appointments, dealing with dwindling support from creditors, and challenges around vexatious bankrupts, trustees need now, more than ever, to focus on their own mental health and support structures to be ready for the post Covid-19 appointments from emotional, stressed and unfunded debtors.

- Insolvency Mental Health Awareness Program (IMHAP) resources
- What can practitioners do to hold it all together both personally and for your teams to avoid anxiety and depression during stressful times?
- What additional things can and should be done?

Paul Shaw, *National Manager, Regulation and Enforcement, Australian Financial Security Authority*
Daniela Naidenov, *Principal, Daniela Fazio Lawyers - Mental Health Advocate and Beyond Blue speaker*
Ann Jewitt, *CEO, Workplace Mental Health Consulting*

2.45 - 3.30 Don't Bust the Trust!!

Usually Bankruptcy Trustees are looking to “trust bust” but this session will take you through a very interesting set of facts in *Micheletto (Trustee), in the matter of the El-Debel (Bankrupt) v El-Debel* where the trustees contended that the four properties were partly held on trust for the bankrupt at the time of his bankruptcy.

The successful outcome for the trustee was the culmination of a detailed and painstaking investigation and this is a very useful and worthwhile case study.

Michelle Painter SC, 9 Selborne Chambers

3.30 - 3.45 AFTERNOON TEA

3.45 - 4.45 Family Law Update- Experts in Conversation

- A Financial Agreement is not binding on the Trustee in Bankruptcy;
 - It is clearly open to the Trustee to apply to set it aside under s.120 and/or s.121 of the Bankruptcy Act
 - *Naudi v Reid as Trustees of the Bankrupt Estate of Albarouki v Albarouki (No.2) [2019] FCCA 2187;*
 - *Cooper v Fernihough, in the matter of the bankrupt estate of Phillip George Fernihough [2019] FCA 727*
- The Application of s.60 and whether the Trustee should make an election to continue with a Property Application;
- Leave to proceed matter, is it necessary under s.58(3) of the Bankruptcy Act
 - *Stojanovski v Stojanovski*
 - *Consideration of s.120 and/or s.121 of the Bankruptcy Act in Stojanovski v Stojanovski*
- *Trustees of the Property of Batavia & Batavia & Ors*
- *Kerr as trustee of the property of Janice Mary Kehlet (a bankrupt) v Kehlet*

Bob Cruickshanks, *Personal Insolvency Consultant*

Sally Nash, *Consultant Solicitor, O'Neill Partners Lawyers*

Stephen Mullette, *Principal, Matthews Folbigg Lawyers*

4.45 - 5.30 SME INSOLVENCY REFORMS - CORPORATIONS AMENDMENT BILL 2020

Why is a Corporate Topic on my bankruptcy program? It's not bankruptcy, of course, but big changes are coming and even bankruptcy specialists will be interested to hear what's happening. As I write this the legislation is still in draft form and there is no sign of the crucial regulations so there are a lot of unknowns!

- Will there be a new class of practitioner - the SBRT?
- Remuneration arrangements
- Personal liability of practitioners

This session will take you through the very latest on what we do know, on the day.

Hannah Griffiths, *Head of Restructuring & Insolvency, Gilchrist Connell;*

Eddie Senatore, *Principal, Eddie Senatore Advisory*

5.30 -5.40 Closing Remarks from the Chair and Close of Congress

Please send in any questions in advance for our panel to rtrail@traillassociates.com.au so we can ensure your needs are best met.

Program ordering, timing, speakers or topics may be subject to changes.

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PRESENTERS BIOS

<p>John Melluish Partner <i>PCI Partners</i></p> 	<p>John Melluish is one of Sydney's most trusted insolvency specialists. He has more than 30 years experience in personal and corporate insolvency across a wide variety of industries. John has led large teams in the restructure of retail, finance, property and manufacturing businesses, but has also been hands on in the conduct of a high volume of basic insolvency matters including bankruptcies and court liquidations. This experience has led to John having a strong technical focus and is often called upon to provide expert testimony in relation to a variety of insolvency related matters.</p>
<p>Mark Findlay Director Regulation <i>Australian Financial Security Authority</i></p> 	<p>Mark Findlay is the Director for AFSA's Regulation & Enforcement business line having been appointed to the role in August 2008. He has been with AFSA since 1991 and has worked in most areas of AFSA including Trustee Services, Registry and Proceeds of Crime.</p>
<p>Daniela Naidenov Principal <i>Daniela Fazio Lawyers</i></p> 	<p>Daniela is a Solicitor specialising in personal insolvency, with a particular passion concerning the interaction between bankruptcy and family law. Daniela is highly regarded amongst Bankruptcy Trustees for her commercial, yet firm approach.</p> <p>Daniela founded Daniela Fazio Lawyers in 2015. Holding significant experience acting for Trustees in Bankruptcy, Liquidators, Trustees for Sale, Court appointed Receivers, secured creditors, bankrupts and debtors, Daniela offers proven success supporting corporate clients as well as lay clients to bring finality to all matters efficiently, cost effectively and as expeditiously as possible.</p> <p>Daniela is a Solicitor admitted to practice in New South Wales and a qualified Mediator pursuant to the National Mediator Accreditation System (NMAS), member of the NSW Law Society Panel of Mediators, the Resolution Institute and she is on the Australian Taxation Office external list of Mediators. She is a speaker for Beyond Blue and Mental Health Advocate.</p>
<p>Stephen Mullette Principal Matthews Folbiggs Lawyers</p> 	<p>Stephen Mullette is a specialist insolvency lawyer who practises purely in both corporate and personal insolvency. He acts for external administrators and trustees and also for individuals and corporations involved in insolvency related matters. He is a regular presenter, writer and editor on insolvency related topics.</p>
<p>Jayne Treherne Barrister <i>Level 22 Chambers</i></p> 	<p>Jayne Treherne accepts briefs in commercial litigation and family law disputes.</p> <p>Prior to being called to the Bar, Jayne was a Senior Associate in a top-tier law firm, with over eight years of litigation experience.</p> <p>As a solicitor, Jayne had a broad practice which extended to bankruptcy, insolvency, complex commercial and contractual disputes, insurance and family law. Jayne has acted for major banks, communications companies and large insurers.</p>

Sally Nash
Consultant
Solicitor
O'Neill Partners



Sally is acknowledged as a leading insolvency lawyer in NSW, Australia. She was admitted to practice in 1977 and has practiced in insolvency, general commercial litigation and debt recovery litigation since that time. Her practice is in all NSW State and Australian Federal Courts involving commercial and insolvency litigation acting for creditors, Trustees, Liquidators, bankrupts and directors. She also has extensive experience acting for secured creditors in the enforcement of their securities. Sally has been involved in many leading cases and is very highly regarded by her clients and fellow practitioners.

Sally merged her practice with O'Neill Partners Commercial Lawyers, incorporating Sally Nash & Co in January 2015

Colin Brown
Consultant
Solicitor
O'Neill Partners



Colin specialises in the areas of insolvency and reconstruction and commercial litigation, acting for secured and unsecured creditors, commercial entities, administrators, liquidators, bankruptcy trustees and other insolvency practitioners across a range of industry sectors, as well as advising individuals, boards and company directors on all aspects of insolvency law.

Colin also acts for private and corporate clients, particularly in respect of contractual and commercial transactions, focusing on resolving large and complex commercial disputes

Roger Marshall SC
Ground Floor
Wentworth
Chambers



Roger Marshall has over 20 years' experience as a barrister specialising in corporations and insolvency matters. Renowned for his commercial and practical approach to litigation and resolving disputes, Roger regularly advises and appears in all aspects of corporations and insolvency matters. These matters include applications for and against liquidators, receivers, administrators and trustees in bankruptcy.

Roger also practises in equity and has significant experience in partnership disputes, succession and land law matters, as well as the law of trusts. He also advises and appears in commercial litigation involving banking and securities law, trade practices, professional liability, building and insurance. He acts for and against company directors, local governments, professionals and businessmen.

Paul Shaw
National Manager,
Regulation &
Enforcement
**Australian Financial
Security Authority**



Paul Shaw is the National Manager, Regulation and Enforcement at the Australian Financial Security Authority, responsible for discharging the regulatory and review responsibilities of the Inspector-General in Bankruptcy under the Bankruptcy Act. The enforcement function is responsible for investigating all alleged offences under the Bankruptcy Act and preparing briefs for prosecution. Paul has been in that position since 2013.

Prior to joining AFSA Paul worked for over 20 years at the Commonwealth Director of Public Prosecutions, where he was in senior management and oversaw commercial prosecution matters in NSW including those referred by ITSA (AFSA) and ASIC, which included the HIH prosecutions.

<p>Ann Jewitt Chief Executive Officer Workplace Mental Health Consulting</p> 	<p>Ann is a registered Counsellor and an experienced mental health facilitator having worked and volunteered for a number of corporate and mental health organisations.</p> <p>Over 20 years experience in HR leadership roles across a range of industry sectors including HR Director at Healthcare Australia, Executive Manager HR and OD at Marist Youth Care, HR Director Asia Pacific at Liberty International Underwriters, HR Director at Quintiles, and National HR Manager at Hitachi Construction Machinery Australia.</p> <p>Extensive mental health experience as the Mental Health Training Manager at Schizophrenia Fellowship, Trainer and Assessor at Mental Health Coordinating Council, and National Trainer and Assessor at Wesley Mission LifeForce Suicide Prevention. In addition, volunteer experience includes Telephone Counsellor, In Shift Supervisor and Group Facilitator with Lifeline for over 12 years and volunteer Telephone Counsellor and Support Group Facilitator with Family Drug Support for over 2 years.</p>
<p>Michelle Painter SC <i>9 Selborne Chambers</i></p> 	<p>Michelle Painter SC practices primarily in commercial law, including commercial disputes, construction law, equity and trusts, family provision and probate.</p> <p>She has extensive experience in restraints of trade within the context of commercial and employment law.</p> <p>Michelle also has extensive and recent experience in commissions of inquiry, including appearing in the Royal Commission into Trade Union Governance and Corruption and as counsel assisting in ICAC</p> <p>Michelle commenced legal practice as a solicitor in 1991 at Freehill Hollingdale & Page. From about 1992-1998, Michelle was a solicitor in the Australian Government Solicitor, primarily in the Competition Law Unit</p>
<p>Bob Cruickshanks <i>Personal Insolvency Consultant</i></p> 	<p>Bob Cruickshanks is a consultant to a number of firms and provides guidance on personal insolvency administration and associated investigations. He was a former Deputy Official Receiver for NSW and the ACT and retired after 34 years during which time he worked in all the front line sections of AFSA. Prior to his retirement he had a long standing association with registered trustees throughout Australia.</p>
<p>Hannah Griffiths Head of Restructuring & Insolvency Gilchrist Connell</p> 	<p>Hannah is the head of Gilchrist Connell's Restructuring & Insolvency practice. She has extensive experience in corporate insolvency advice, litigation and restructuring as well as construction, corporations and securities, equity and trusts and professional indemnity litigation. She has broad and varied experience in litigation and dispute resolution across Australia. Throughout her career, Hannah has acted on behalf of building and construction companies, professional indemnity insurers, insolvency practitioners, corporate and individual lenders, corporations and individuals.</p>
<p>Eddie Senatore Principal Eddie Senatore Advisory</p> 	<p>Eddie was the Founder and Principal of SBR Insolvency+Reconstruction from 1994-2013. From 2013 - 2018 he was at Deloitte before starting Eddie Senatore Advisory. His qualifications are National Accredited Mediator, Liquidator, Trustee in Bankruptcy, Fellow Chartered Accountant, Graduate Certificate in Change Management, Diploma in Legal Studies and Bachelor of Economics.</p>

**OPTIONAL HALF-DAY INTENSIVE CONGRESS WORKSHOP
TUESDAY 8 DECEMBER, 2020
9.00am - 12.00pm**

REALISATION ISSUES AND PRACTICAL TIPS FOR TRUSTEES IN BANKRUPTCY

WORKSHOP LEADER : Megan Zhou, *Principal*, Austin Core Legal Pty Ltd

Megan will cover a range of issues including :

- Step by Step guide on how to deal with Strata Levies in Bankruptcy
- Deed of Sale/Assignment/Transfer/ Relinquishment/ Disclaimer? What are the differences?
 - Dealing with protected interest s116(2)(ca) Bankruptcy, what not to do
- Practical Conveyancing tips and Land Tax issues (problems and solutions)
 - Dealing with other realizations and question time

ABOUT YOUR WORKSHOP LEADER:

Megan Zhou, the principal, and founder of Austin Core Legal Pty Ltd, takes a progressive and innovative approach in dealing with all legal matters. Megan has a demonstrated history of working in the Commercial Litigation, Bankruptcy and Property practice. She has co-presented at this annual specialised workshop with Sally Nash over a number of years.

Matters which Megan acts in include:

- acting for businesses in commercial litigation and debt recovery
- acting for Insolvency Practitioners including Trustees in Bankruptcy and Liquidators on recovery and realisation of assets
- acting for individuals on all aspects of property transactions matters including complex conveyancing transactions
- acting for secured creditors and mortgagees on recovery of assets and enforcement of securities and caveats

CV and Past Experience

Megan's extensive experience comes from having worked in boutique law firms being Sally Nash & Co and O'Neill Partners since 2011, and recent collections law firm of CCSG Legal Pty Ltd. Her role involves in acting for Trustees in Bankruptcy, Liquidators, secured creditors, unsecured creditors, bankrupts, investors and individuals providing an "end-to-end" legal service commercially and efficiently. Megan is an expert in providing efficient and practical advice in relation to bankruptcy exoneration claims, preference issues, family law issues, equitable charge/mortgages issues, complex Caveat claims and general equitable matters.

Megan is also the Secretary of LIPS – Ladies in Insolvency Professionals social networking group, supporting woman in the insolvency profession.

NOTE TO PARTICIPANTS

Please book directly at rtraill@traillassociates.com.au

Please email particular areas for concern to me directly and these will be confidentially passed on to the presenters to ensure that all your needs are met in these intensive workshops.

**FURTHER DETAILS ON WHETHER THIS EVENT WILL BE FACE TO FACE OR LIVE STREAMED WILL DEPEND ON DELEGATE NUMBERS AND YOU WILL BE ADVISED WITHIN ONE WEEK PRIOR TO THE DATE - OR BEFORE IF POSSIBLE.
RECORDINGS WILL BE AVAILABLE FOR POST EVENT ON DEMAND PER PERSON VIEWING.**

OPTIONAL FULL-DAY CONGRESS WORKSHOP

TUESDAY 8th DECEMBER 2020

9.30am - 3.30pm

PRACTICAL STRATEGIES FOR SUCCESSFUL OUTCOMES

Interactive Intensive Bankruptcy Session

A team of personal insolvency experts will deal in-depth with some of the complex areas posing the greatest concerns for practitioners in our concurrent full and half-day workshops.

NB: Delegates may submit their areas of concern for discussion in advance.

WORKSHOP LEADERS:

Bob Cruickshanks, *Personal Insolvency Consultant*

Daniela Naidenov, *Principal*, Daniela Fazio Lawyers

NOTE:* BOOK EARLY AS NUMBERS ARE RESTRICTED TO ENSURE MAXIMUM PARTICIPATION BENEFITS TO ATTENDEES. If you attended last year's workshop, these workshops will build on some of the areas covered, however, attendance at 2019 is not a requisite for these 2020 workshops. This will be updated for 2020 participants.

Topic areas:

Profiling a new bankrupt and their creditors: Should the trustee visit the new bankrupt's property or direct the bankrupt to attend the trustee's office? Ascertaining the events leading to the bankruptcy from both the creditor(s) and the bankrupt's perspectives.

Conflicts of Interest: Actual and/or Perceived: *The 49 shades of grey continue on this issue. Should Trustees follow the wise old grandma's advice "When in doubt son.. don't !"*

Reports to Creditors: Balancing the expectations of creditors and the statutory requirements. Use of "plain English" as per IGPD 22 and section 42-15 of the *Insolvency Practice (Bankruptcy) Rules*, which require "communications by registered trustees to be clear and concise; expressed in lay terms; objective; responsive; timely; **expressed in a professionally courteous tone and manner plus do not omit or obscure information required to be included or relevant to users of the communication."**

Dealing with "Cranky Creditors": Tips on dealing with creditors who are either unhappy, demanding, and/or have unrealistic expectations of the trustee. **Dealing with "Challenging Bankrupts":** First judgment on application by bankrupt under 90-15 of *Schedule 2-insolvency Practice Schedule (Bankruptcy) 2016* which replaced the now repealed sections 178 & 179 of the *Bankruptcy Act 1966*:- *Miao v Mitchell [2019] FCCA 2314 (22 August 2019)*. Recent actions by "ratty self-represented" bankrupts and how the Courts dealt with them: *Deputy Commissioner of Taxation v Webb [2017] FCCA 1137 (30 May 2017)* [Shades of John "Trial by Jury" Wilson]. Tips on how to deal with them and where possible, how to avoid being involved in costly litigation and/or disputes with them

Recognising Creditors who have lodged caveats as "secured creditors" : Courts taking practical approach where charging clauses are poorly drafted.

Determining the extent of the bankrupt's interest in a property by reference to the financial contributions to the acquisition of the property where the tenant-in-common is not the bankrupt's spouse: Bankrupt's liability under loan used to purchase the property taken into account instead of the bankrupt's payments of monthly mortgage.

Determining the extent of the protected portion of the bankrupt's interest in jointly-owned property due to mortgage payments made with bankrupt's personal injury compensation payments: Differing methods of calculation by Federal Circuit Court and Federal Court.

Realising Bankrupt's Interest In A Property Jointly Owned With A Non-Bankrupt: Differing procedures between the States

Obtaining Property Possession Orders & Dealing with the Sheriff: When and how to obtain Possession Orders and tips on how to have a harmonious working relationship with the Sheriff and his officers who assist you to gaining actual possession of a property. Engagement of a welfare agency in certain cases.

Investigations by Trustees: Going that extra step can reap rewards to the estate

Disclaiming Property And/Or Contracts: Why and when should a trustee disclaim real property or contract entered into by the bankrupt just prior to bankruptcy. Consequences of disclaiming.

Bankrupt's Interest In A Deceased Estate. Property bequeathed to bankrupt and his wife subject to a life tenancy of a third party and subsequently wife assigns her entitlement to the bankrupt as part of their Family Law property settlement then, bankrupt charged his now sole entitlement under the Will to secure debts he owed to relatives: Query: Are the relatives "*secured creditors*"?

Succession Act challenges: (a) By the bankrupt to a Will involving divisible property (b) By relative challenging the bankrupt's entitlement under Will - Degree of involvement in proceedings by trustee.

Deceased superannuation funds - discretion of the trustee of the super fund. Determining whether the bequest is an asset or income

Bankrupt's Book Debts: Assets or unpaid income?

Realisation Of Bankrupt's Shares In Company & Appointment Of Liquidator To Wind Up The Company

Assets Acquired With Accumulated Income During Bankruptcy: Contrary to "*fresh start*" concept and a need for amendment to the Bankruptcy Act to add income & accumulated income to the "*protected assets*" in s.116(2).

Litigation- Expect the Unexpected.

Income Contribution Regime: Income status of payments under income protection insurance policies and permanent disability insurance policies. Examination of the "*grey areas*" including deeming income, valuing a "*housing benefit*"; determination of "*a dependent*", re-assessment of liability, dealing with hardship applications. Adoption of a reasonable approach.

Care with Content of section 139ZL Notices: Court sets aside s.139ZL Notice due to insufficient details being disclosed in Notice addressed to bankrupt's employer.

Use of section 77C Examination Process Instead of section 81 Examination to Obtain Evidence: Comparison of advantages & disadvantages each process.

Advertising & Paying Dividends In Timely Manner- Determining PODs within 14 Days: Application of section 102 Trustee receives judicial rebuke for not complying with s.102 which requires Trustee to admit/reject PODs within 14 days of advertised "*last day for proofs*" and possible action for damages by bankrupt for such breach.

Overseas Travel Permissions: When can/should a trustee say "*no*"? Can trustees impose conditions to granting permission-section 272(2)?

Dealing with the Bankruptcy Regulation & Enforcement section: Remuneration reviews-targeted estates eg. Strata-levy bankruptcies & annulment scenarios, "*proportionality*", expectation that trustee will "*discount*" remuneration to appease creditor(s).

Complaints by bankrupts and/or creditors. Errors detected during Annual inspections. IG reviews of objections and income contribution assessments. s.77A referrals. Prosecution referrals.

Dealing with the ATO - “The Ultimate Challenge”: When will the ATO accept a Repayment Plan to avoid bankruptcy, a PIA proposal or a s.73 Composition proposal?

Personal Insolvency Agreements - still not very common: Usually the insolvent debtor leaves it too late to consider a PIA by which time their creditors “*have stopped listening to offer/promises to pay*”. How can trustees improve this situation? Unusual twist in dodgy PIA: Instead of applying to have PIA terminated/set aside, trustee makes innovative application to Court, which should result in significant increase in rate of dividend to creditors.

Modern-day Relationships: Increasing numbers of new bankrupts have been either married & divorced multiple times, or in same-gender relationships, which present new challenges to trustees.

One Year Bankruptcy: Still a “*dead duck*”?

Warning About Possible Future Bankrupts Who Are “*ratty litigants*” : There a number potential bankrupts who will be extremely challenging to deal with. Customer unsuccessfully sues CBA for refusing to lend her additional funds.

Insolvency Law Reform: Where are we at today and what is needed?

Revision Topics: Open discussion.

ABOUT YOUR FULL DAY WORKSHOP LEADERS

BOB CRUICKSHANKS, *Personal Insolvency Consultant*

Bob Cruickshanks is a consultant to a number of firms and provides guidance on personal insolvency administration and associated investigations. He was a former Deputy Official Receiver for NSW and the ACT and retired after 34 years during which time he worked in all the front line sections of AFSA. Prior to his retirement he had a long standing association with registered trustees throughout Australia.

DANIELA NAIDENOV, *Principal*, DANIELA FAZIO LAWYERS

Daniela founded Daniela Fazio Lawyers in 2015. Holding significant experience acting for Trustees in Bankruptcy, Liquidators, Trustees for Sale, Court appointed Receivers, secured creditors, bankrupts and debtors, Daniela is a Solicitor admitted to practice in New South Wales, member of the NSW Law Society Panel of Mediators, the Resolution Institute and she is on the Australian Taxation Office external list of Mediators.

Daniela’s career has accelerated over the last 8 years. She has the technical skill and knowledge which is well beyond her years. She has over 14 years of experience working in a niche area of the law which only a few know as well as she does. Her vast experience comes from having worked in a small boutique law firm, Sally Nash & Co for 10 years where her role included working on complex and non-complex transactions for Trustees in Bankruptcy, Liquidators, secured creditors, unsecured creditors, bankrupts, first home buyers, investors and individuals.

In her spare time, Daniela is a passionate community advocate for mental health and a Speaker/ Ambassador for Beyondblue.

NOTE TO PARTICIPANTS

Please email particular areas for concern to me directly and these will be confidentially passed on to the presenters to ensure that all your needs are met in these intensive workshops.

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8th Annual National Practical Bankruptcy Congress, & Optional Workshops HYBRID EVENT

Dear Bankruptcy Friends,

Well a lot has happened since we met back in 2019!!! In fact I have not been able to stage any events in 2020 due to the Covid-19 global pandemic. I didn't know that we wouldn't be in a position to be able to bring to you this year's Congress, but I'm thrilled that the Wesley Conference Centre has put in place practices that will allow for those of us in Sydney or those who are in a position to travel, to actually be in the same room together and judging from the tremendous feedback I have been receiving from the profession - it could not have come too soon - we are ready!! All the details on how they will keep us **Covid- safe** are attached at the back of this brochure. Please call me if you have any queries or concerns.

For those of you who are unable to join us in person, I'm very pleased that you will be with us in a **virtual sense through the magic of Zoom** - a tool we have all become so familiar with throughout these past months. For those unable to join us on the day, we will welcome you via the **post event video**. Whichever way you connect with us, I personally would like to thank you for all the wonderful support I have received and encouragement to continue to offer my technical conferencing addressing all the issues that are most important to you. Whilst there may have been fewer cases through the courts, this year we still have much to cover which is why I decided to deviate a little and talk about the **Legislative Reforms in corporate insolvency** that will have a deep impact on the profession as a whole.

As always, a great deal of research goes into the development of a program that will meet your needs: relevant, up-to-date, and cost effective. I have kept the prices the same as 2019. And because every session includes the very **latest developments and the very latest cases**, every session will be of interest to senior practitioners wanting to "keep up to date", as well as to those who are still building their skill and knowledge base.

In doing my part to support the profession during challenging times, as I appreciate how the profession supports me, I have a limited number of **full and partial scholarships** for anyone who has lost their job as a result of the pandemic. For any members of the profession on maternity leave requiring CPD/CPE points my support will continue with scholarships and CPD/CPE solutions. For more details or if you know someone who may benefit from these initiatives, please contact me directly via email or over the phone.

Of course, with such a strong attendance from the key players in Bankruptcy, the event offers fantastic opportunities for networking and business development. Unfortunately, we won't be able to stage our famous post-event Cocktail Party but I'm happy to organise any **"virtual" networking** for anyone not able to join us in person, just reach out to me and I'll arrange this for you.

As usual there will be optional **concurrent workshops on 3rd December** which offer the chance to develop and expand the conference material, with either a full day or half-day session in a relaxed but educational context. Our workshop leaders are so knowledgeable and generous with their information that participants have consistently told me how invaluable these sessions are which is why I continue to bring them to you. In addition, our full-day workshop will incorporate hypothetical scenarios for greater interaction. The collective experience of the audience also adds so much to the quality of the learning. **It is definitely a great use of your time**. You will come away with knowledge and valuable strategies that you can implement in your practice straight away and share with your colleagues back in the office. As they will be videoed - you can now **attend both of them** should you choose by registering for the recordings!

Please make sure that you let me know if there are any aspects that you would like the presenters to address by sending any questions you may have in advance - I'll do my best to make sure that every session is as helpful and relevant as possible.

Finally, please help me to spread the word by forwarding details of the Congress to your network and in particular to those whom you would like to interact with as they may not know this event is on with the tightened firewalls on computers now for remote working.

I look forward to welcoming you personally and assisting you with making those valuable connections either in person or online. Thank you once again for all your on-going support of this Congress.

Warmest regards

PS. **Register now** as numbers for the Congress and Workshops are limited to ensure social distancing is complied with and at these rates and with the track record of very satisfied attendees re-attending each year, they are filling up quickly.

TESTIMONIALS FROM ATTENDEES OF OUR RECENT BANKRUPTCY CONGRESSES:

“Traill & Associates’ Annual Bankruptcy Congress should be mandatory for all personal insolvency practitioners and their senior staff”.

5/5

Wade Ballantyne, Pitcher Partners (Melbourne)

“Excellent, 5 out of 5. Great conference. Fills a very important gap in the market. I look forward to it again next year!”

David Mansfield, Partner, Deloitte (Sydney)

“This has been the best Bankruptcy Congress yet! Great speakers, relevant and practical content - I highly recommend it to anyone senior who works in bankruptcy in Australia.”

5/5

Louisa Sijibat, Vincents (Sydney)

“It’s always the number 1 place to be for Bankruptcy updates and guidance”.

Schon Condon, Condon Advisory Group (Sydney)

“It’s a great conference dedicated to bankruptcy for anyone interested in bankruptcy law and practice.”

Con Nottas, Principal, Hutchinson Legal (Victoria)

“All Bankruptcy professionals should attend”.

5/5

Mark Roufeil, PKF (Sydney)

“If you’re not coming to this Congress you’re missing out on the best personal insolvency education on the circuit”. 5/5

Jason Bettles, Worrells (Brisbane)

“Informative Congress filled with back to back topics of interest. Recommended for those looking for a thought-provoking take on a variety of topics”. 5/5

Adam Treffiletti, PwC (Sydney)

“Great presenters covering a significantly vast area of law in a most succinct manner”. 5/5

Kerissa Naicker, Roser Lawyers (Sydney)

“Rosie, your Congress is amazing. Highly recommended to all bankruptcy solicitors, lawyers etc for overview and update over the previous 12 months and potentially seeing of future trends and directions of the personal insolvency industry. Great way to end the calendar year! Thank you!” 5/5

Clare Corrigan, Shaw Gidley (Regional NSW)

“As a registered trustee, this conference is a great way to stay on top of industry developments and connect with interstate practitioners”. 5/5

Innis Cull, Pitcher Partners (Adelaide)

“Well run and planned. Definitely worth the time and travel to Sydney to attend this conference.”

Kristen Beadle, Hall Chadwick (Melbourne)

“Always meets expectations!” 5/5

Marcus Rodaughan, Pitcher Partners (Melbourne)

“The Bankruptcy Congress is the only Bankruptcy specific course that is available. The topics and presenters are on trend and topical. The presenters have a very detailed knowledge and experience of their topic”.

Tash Angelopoulos, Pitcher Partners (Melbourne)

“5 out of 5. An informative and well organised event. Topics are useful and presented in a thought-provoking way. “

Eloise Validum, Aravanis Insolvency (Sydney)

“If you practice in the field of personal Insolvency you cannot miss the Bankruptcy Congress as the contents are always relevant and topical.”

Moira Carter, Principal, BRI Ferrier (Townsville)

8TH ANNUAL NATIONAL PRACTICAL BANKRUPTCY CONGRESS

Monday, 7th December 2020 – Wesley Centre, 220 Pitt St, Sydney

OPTIONAL CONGRESS Workshops – Tuesday, 8th December 2020

COVID safe options: in person* via Zoom or Recorded - your choice (*details attached)

EARLY BIRD RATE CLOSING 30th NOVEMBER 2020

Yes, please register me for this event. **FILL OUT BELOW, please print clearly**

First Name: _____ Last name : _____

Email : _____

Organisation : _____ Title : _____

Address : _____

Suburb : _____ State : _____ Postcode : _____

Telephone : _____ Mobile : _____

PLEASE INDICATE YOUR PREFERENCE TO ATTEND EITHER:

IN PERSON (registrations will be on a first come first served basis due to social distancing requirements)

ONLINE LIVE VIA ZOOM

POST-EVENT RECORDING

<input type="checkbox"/> Congress (Early bird rate - until 30 November)	\$580.00 plus GST (\$58.00)	Total \$638.00
<input type="checkbox"/> Standard rate	\$680.00 plus GST (\$68.00)	Total \$748.00
<input type="checkbox"/> Workshop half day (Early bird until 30 November)	\$290.00 plus GST (\$29.00)	Total \$319.00
<input type="checkbox"/> Workshop half day (Standard rate)	\$380.00 plus GST (\$38.00)	Total \$418.00
<input type="checkbox"/> Workshop full day (Early bird until 30 November)	\$430.00 plus GST (\$43.00)	Total \$473.00
<input type="checkbox"/> Workshop full day (Standard rate)	\$570.00 plus GST (\$57.00)	Total \$627.00

Registration subject to Terms and Conditions and Cancellation policies as set out in brochure.

(Please ensure credit card payments include surcharges – see below).

TOTAL : _____

PAYMENT:

Please note payment is required in advance. **NOTE:** Diners Card is not accepted

Cheque enclosed (payable to Traill & Associates Pty Limited)

Electronic funds transfer to Bendigo Bank BSB 633 000, Account number 148 724 719

Credit card – surcharges apply Visa (add 2.5%) Mastercard (add 2.5%) Amex (add 2.5%)

Card number : _____ Expiry date : _____

Cardholder's name : _____ Cardholder's Signature _____

Please return completed form by email to rtraill@traillassociates.com.au or by mail to Suite 1A, Level 2, 802 Pacific Highway, Gordon NSW 2072

Enquiries : **0405 136 001**

Please keep a copy of the completed registration for your GST records. Confirmation will be sent by email. This document will be a Tax Invoice, for GST purposes, when you make full payment. ABN 47085 482 533. Organised by : Rosie Traill for Traill & Associates Pty Ltd – Insolvency, Bankruptcy, Turnaround & Restructuring Conference Specialists. www.traillandassociates.com

All terms and conditions and cancellation policy as set out at traillandassociates.com website apply. Please see attached for Wesley Conference COVID Safe information and practices. All in person registrants must stay home if they exhibit any Covid-19 symptoms, have been in contact with overseas or quarantined travellers, someone who tested positive for Covid-19 or are in a "hotspot" as specified by the government health authorities on or 14 days before the 7th December. All registrants must check in with QR code.

BANKRUPTCY CONGRESS REGISTRATION TERMS & CONDITIONS

These terms and conditions are to be read in conjunction with Terms and Conditions of www.trailandassociates.com website.

Note: All sessions including delegate questions and answers will be recorded and photos for social media and promotional use may be taken.

Wesley Conference Centre is a Registered Covid-19 Safe Venue. Please refer to the attachment document regarding the measures the venue will be taking with respect to social distancing, hand sanitisation and food service practices. Each registrant must check in with QR code and comply with all directions from the Wesley Safety Managers on-site.

IN THE UNFORESEEN CIRCUMSTANCES THAT WE WILL NOT BE ABLE TO SAFELY HOLD THIS EVENT FACE-TO FACE, IT WILL BE MOVED ONLINE ON THE SAME DATE IN THE SAME FORMAT BUT DELEGATES CAN EITHER JOIN LIVE VIA ZOOM OR OPT FOR THE RECORDED EVENT OR A FULL REFUND WILL BE PROVIDED UPON REQUEST.

Privacy

Your information is added to our delegate database to register you for this event and provide you with details of our upcoming conferences in your field. We may also from time to time share some of this information with event sponsors and speakers so they know who is in their audience and can deliver accordingly (subject to strict conditions). From time to time, we may contact you about other related events. If you DO NOT wish to receive this information notify us using the contact information in the Contact Us tab / menu item on our website. Please do the same if you do not wish to have your details made available to sponsor organisations or write it on your registration form.

Disclaimer

Trail & Associates reserves the right to change some elements of the program at any time in the event of unforeseen circumstances. Trail & Associates accepts no liability for any loss or damage suffered by any person at any event organised by Trail & Associates by reason of any act or omission on the part of any other person however that loss or damage is caused including but not limited to any negligence on the part of any other person. Information obtained at the event does not constitute legal advice and should not be relied upon as such.

Cancellation Policy

We will refund your registration in full, less \$110 administrative charge (incl gst) provided we receive cancellation in writing up to thirty working days prior to the event. A substitute is welcome at no extra charge. Regrettably, no refunds can be made less than thirty days prior to the event.

As stated above, in the event of a COVID-19 situation preventing this Congress from going ahead as a face to face event, it will be moved online on the same day and timings for live streaming or available post-event as a recording. If you wish to cancel your registration and not avail yourself of either of these two options, you will receive a FULL REFUND.

"YES" Campaign Policy and Early Bird Conditions

Terms and conditions of this registration process: Once your "Yes" or pre-sale campaign email is received by us, you are officially registered for the Congress. Cancellation policy as set out on the brochure and all other terms and conditions apply. You will be sent back a confirmation asking for your payment details. The lowest registration rate available at the time of your "yes" registration applies and will be held for you for up to 7 days when receipt of your payment details confirmation is required. Payment details received outside this timeframe cannot be guaranteed at the lowest registration rate.

CPD/CPE/CLE Points

Accountants, Solicitors and Barristers, may earn 8 CPD/CPE points if they attend the Congress and up to an additional 5 points for the full day workshop and 2.8 for the half-day workshop. One point per actual hour of attendance. Accreditation pending from the NSW Bar Association, one point per hour of attendance, to be allocated to strands according to the subject matter of sessions attended. Call or email Trail & Associates rtraill@trailandassociates.com.au for more details or if you would like us to apply for accreditation with your governing body for CPD's.

Important Security Notice

We want to take good care of you, so for venue requirements, security and safety reasons, highly visible official name badges must be worn at all times by all delegates in attendance.

Registrations for the Bankruptcy Congress are NON TRANSFERABLE - No substitutes or shared registrations will be permitted at this event unless written approval has been granted for extenuating circumstances and confirmed by Trail & Associates in writing prior to the event. Recordings are for individual registrants only, your IP address will be recorded with your email address for verification and you agree not to share the links or recordings with any non-registrants. Additional registrations can be purchased post-event for this purpose.

Congress Recordings:

Registrants agree not to share the recordings of the event or publicly broadcast them which would be a breach of Copyright, they are for the official delegate use only and can be used to claim CPD points for the registrant only. The recordings are uniquely tagged to you and your registration purchase. Additional licenses can be purchased by contacting rtraill@trailandassociates.com.au.

ALL DELEGATES MUST AGREE TO FOLLOW THE DIRECTIONS OF THE WESLEY CONFERENCE CENTRE STAFF TO ENSURE ALL COVID-SAFE PRACTICES ARE ADHERED TO.