

7TH ANNUAL NATIONAL PRACTICAL BANKRUPTCY CONGRESS AND COCKTAIL PARTY

Monday, 2 December 2019

CONGRESS: Wesley Conference Centre, 220 Pitt Street

COCKTAIL PARTY: The ArtHouse Hotel, 275 Pitt Street

Separately Bookable

Tuesday, 3 December 2019:

CONCURRENT FULL OR HALF DAY WORKSHOPS

TOPICS INCLUDE:

- Regulator Update and Feedback Session AFSA
- Voidable Transactions
- The Famous Family Law Experts In Conversation
- Reviews of Recent Decisions Impacting on Practitioners
- Taking Possession Of And Dealing With Property
- "Outbound" Recovery of Overseas Assets
- The ASBFEO "Insolvency Practices Inquiry"
- Review and Replacement of Trustees
- Shareholders rights in a Bankrupt Estate
- Reviews of Sequestration Orders & Dealing With An Annulment Application
- Permission to Travel Overseas

PRESENTERS INCLUDE:

John Melliush, Partner, **PCI Partners** - Conference Chair
Bob Cruickshanks, Personal Insolvency Consultant
Sally Nash, Consultant Solicitor, **O'Neill Partners Lawyers**
Stephen Mullette, Principal, **Matthews Folbigg Lawyers**
Mark Findlay, *Director Regulation, Regulation & Enforcement,*
Australian Financial Security Authority
Amy Sheggerud-Woods, Special Counsel, **Mills Oakley**
Daniela Naidenov, *Principal,* **Daniela Fazio Lawyers**
Jill Lawrence, *Assistant Director, Advocacy,* **Australian Small Business
& Family Enterprise Ombudsman**
Michelle Castle, *Barrister, 13th Floor St James' Hall Chambers*
Noel McCoy, *Partner,* **Norton Rose Fulbright**
Jayne Treherne, *Barrister,* **Level 22 Chambers**

SEPARATELY BOOKABLE: Optional 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

Optional Half-Day Workshop 9.00am - 12.00pm
INTERACTION BETWEEN BANKRUPTCY & FAMILY LAW & PROPERTY ISSUES
Led by Sally Nash & Micah Kelly

**FOR FURTHER DETAILS ON REGISTERING, PRESENTING OR SPONSORING PLEASE CONTACT:
ROSIE TRAILL M 0405 136 001**

PROGRAM OUTLINE MONDAY 2 DECEMBER 2019

8.30AM – 5.30PM

7.30 REGISTRATIONS OPEN

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

John Melliush, *Partner*, PCI Partners

8.40 - 9.25 Regulator Update and Feedback Session

- Trends In the profession & compliance issues arising from Inspector-General reviews, inspections & complaints.
- Online Lodgment of the Debtors Petition – D-Day is 2 January

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

9.25 - 10.10 Taking Possession Of And Dealing With Real Property

There's been a host of new cases! Our speaker will take you through:

- Carrafa v Chaplin, in the matter of the bankrupt estate of Michael Chaplin [2019] FCA 415
- Weston (Trustee), in the matter of Jeffery v Jeffery [2019] FCA 554
- Trustees of the Property of Shane L Fuz (Bankrupt); in the matter of Shane L Fuz (Bankrupt) v NSW Trustee and Guardian [2019] FCA 1311
- Petrie, as trustee of the property of Aitken (Bankrupt) v Aitken & Ors [2019] FCCA 16
- Beadle as trustee of the bankrupt estate of Nyroni v Nyroni & Anor [2019] FCCA 1723
- Sijabat v Cussen [2018] NSWSC 847 (6 June 2018) [2018] NSWSC 847
- Shaw as trustee of the Bankrupt estate of Nguyen v Vu & Anor [2019] FCCA 1451

Daniela Naidenov, *Principal*, Daniela Fazio Lawyers

10.10 - 11.10 Voidable Transactions Update

For many bankruptcies, the potential for recovery from a voidable transaction depends on having a good knowledge of the facts and the case law. **Stephen Mullette** returns to present what is always one of the most popular sessions with attendees, with a host of new cases:

- Weston (Trustee) v Sanna [2019] FCA 32
- Combis (Trustee) v Brent, in the matter of Combis [2019] FCA 1122
- Murrell as trustee v Clifford & Anor [2019] FCCA 128
- Lyons & Anor v Weston as trustee of the estate of Lyons & Anor [2019] FCCA 477
- Official Trustee in Bankruptcy v Pham & Anor [2019] FCCA 797
- Naudi & Reid As Trustees of The Bankrupt Estate Of Albarouki v Albarouki [2018] FCCA 1295
- Kerr as trustee of the property of Janice Mary Kehlet (a bankrupt) v Kehlet [2019] FCA 1572
- Lane v Oakley [2019] FCA 107
- Mansfield (Trustee) v Cruz [2018] FCA 1525
- Michell as Trustee of the Property of Holbrook, a Bankrupt v Holbrook [2019] FCCA 2649
- Nguyen v Corbett (No 4) [2019] NSWSC 712
- Zreika v Royal [2019] FCAFC 82

Stephen Mullette, *Principal*, Matthew Folbiggs Lawyers

11.10 - 11.25 MORNING TEA

11.25 - 12.10 "Outbound" Recovery of Overseas Assets

UNCITRAL Cross-border Insolvency Model Law arrangements can make it easier to recover overseas assets. Using *Warner (Trustee), in the matter of Barnes and Barnes [2018] FCA 1784* as a case study, cross-border specialist, **Noel McCoy** will explain how and when the modern regime can be used to recover and realise offshore assets most effectively.

Noel McCoy, *Partner*, Norton Rose Fulbright

12.10 - 12.50 The ASBFEO "Insolvency Practices Inquiry"

On 10 October, The Australian Small Business & Family Enterprise Ombudsman, Kate Carnell, launched an inquiry "to investigate if current insolvency practices achieve the best possible outcome for small and family businesses in financial trouble." There will be an interim report in December with a final report to be handed down in February 2020. **Jill Lawrence** who is heading up the project for the Ombudsman will be able to provide background and an update on the work of the inquiry. There will be an opportunity for practitioner feedback and a Q & A.

Jill Lawrence, *Assistant Director, Advocacy*, Australian Small Business & Family Enterprise Ombudsman

12.50 - 1.25 LUNCH

1.25 - 2.05 Dealing With An Annulment Application & Reviews of Sequestration Orders

In *Williamson v Mitchell (Trustee)* [2019] FCA 481 the trustee was confronted by an annulment application by bankrupts who “did not quarrel” with the trustee’s characterisation that the presentation of their debtors’ petitions was “part of an elaborate scheme to defraud creditors” and in fact the debtors had pleaded guilty to and were convicted of offences arising out of their debtors’ petitions and information provided to the Trustee.

In *Williamson*, the bankrupts contended that “they were solvent at the time of presenting their debtors’ petitions” or in the alternative that even if they were insolvent that the Court still had the power to annul their bankruptcies. **Sally Nash** will guide you through:

- Revisiting remuneration obligations – who pays?
- Trustees’ mandatory Report to the Court.
- Court attitudes

Sally Nash, Consultant Solicitor, O’Neill Partners Lawyers

2.05 - 2.50 Permission to Travel Overseas

A trustee’s handling of requests to travel overseas seem to disproportionately result in litigation. In this session **Amy Sheggerud-Wood** will take you through some recent cases and provide guidance:

- *Booth v Offerman* as trustee of the estate of Geoffrey David Booth [2019] FCA 5
- *Nguyen v Scott* as trustee of the bankrupt estate of Beth Ngoc Nguyen and Ian Stolyar [2019] FCA 1517
- *Tinkler v Melluish (Trustee); in the matter of Tinkler (Bankrupt)* [2017] FCA 52
- *Wangelin v van der Velde* [2016] FCA 410

Amy Sheggerud-Woods, Special Counsel, Mills Oakley

2.50 - 3.35 Review and Replacement of Trustees

There have been a couple of significant cases where the work of bankruptcy trustees has been the subject of scrutiny, and criticism. **Jayne Treherne** will review:

- *Borg v de Vries (Trustee)*, in the matter of the Bankrupt Estate of David Morton Bertram [2018] FCA2116
- *Reaper v Vrsecky (Trustee)*, in the matter of Reaper [2019] FCA 565
- *Pekar v Holden (Trustee)* [2019] FCA 442
- *Dobrinski v Shepard (Trustee); In the matter of Slade* [2019] FCA 843

Jayne Treherne, Barrister, Level 22 Chambers

3.35 - 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* [2018] FCA 580.
 - Consideration of s.120 and/or s.121 of the Bankruptcy Act in *Stojanovski v Stojanovski* [2018] NSWSC 1967
- Trustees of the Property of Batavia & Batavia & Ors [2018] FamCA 860
- *Kerr* as trustee of the property of Janice Mary Kehlet (a bankrupt) v Kehlet [2019] FCA 1572

Bob Cruickshanks, Personal Insolvency Consultant

Sally Nash, Consultant Solicitor, O’Neill Partners Lawyers

Stephen Mullette, Principal, Matthews Folbigg Lawyers

4.45 - 5.30 Shareholders, Partnerships and Body Corporate Rights in a Bankrupt’s Estate

Section 1072C of the Corporations Act 2001 [Corporations Act] importantly provides rights to the Trustee of the Estate of a bankrupt shareholder. In this session **Michelle Castle** will help you to understand Section 1072C and how it can be used to improve the chances for a better return to creditors, and in some case, to take control of a company associated with the bankrupt.

- *Hurst v Bar Machiavelli Pty Limited* ACN 609 268 037 (No 2) [2018] NSWSC 1549.
- *Re Loremo Pty Ltd* [2018] NSWSC 1355

Our speakers will also review how the same issues are addressed in relation to Strata Title Corporations and Partnerships.

Michelle Castle, Barrister, 13th Floor St James’ Hall Chambers

5.30 Closing Remarks from the Chair and Close of Congress

5.40 Move to The ArtHouse Hotel Cocktail Party

Program ordering or topics may be subject to changes.

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7th Annual National Practical Bankruptcy Congress, Cocktail Party & Optional Workshops



Dear Bankruptcy Friends,

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. 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.

Of course, with such a strong attendance from the key players in Bankruptcy, the event offers fantastic opportunities for networking and business development, even more so at the cocktail party. **The Cocktail Party** is a great way to make some new and valuable connections, catch up with old friends and find out what’s happening in the personal insolvency profession.

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.

Please make sure that you let me know if there are any aspects that you would like the presenters to address – I’ll do my best to make sure that every session is as helpful and relevant as possible.

Finally, please help me to grow the event by forwarding details to your network and in particular to those whom you would like to meet at the event. I look forward to welcoming you personally and assisting you with making those valuable connections. Thank you once again for all your on-going support of this Congress.

Warmest regards

R. Triall

TESTIMONIALS: Here's a small sample of what delegates have written on their Evaluation Form from previous Congresses:

“An extremely useful way to gain an update on Bankruptcy policy and cases in one well-organised day”. Excellent 5/5

Marelda Hibberd, Maddocks

“Jam-packed with practical and current content relating to personal insolvency presented by excellent speakers”

Nathanael Kitingan, McPherson Kelley

“The premier personal insolvency forum for all practitioners. Unequaled and unrivalled”. Excellent. 5/5

Stephen Mullette, Matthews Folbigg

“Simply the best Bankruptcy Conference in Australia”. **Con Nottas, Hutchinson Legal**

“Once again a programme and content that sets the conference as the market leader by a country mile”. Excellent 5/5

Schon Condon, Condon Associates Group

“Fantastic event which keeps you up to date. No alternative forum available. Quality conference. Very enjoyable. Will be back”. Excellent 5/5. **Frank LoPilato, RSM Australia**

“Fantastic congress. Great topics. Well run as usual! Great networking opportunities. Content/topics were very useful and relevant/current. Very well organised. Well done Rosie. Look forward to the next one. All speakers were great! Very practical topics, kept to time, kept it simple. Overall great event! Excellent 5/5. **Mark Rossi, Hicksons Lawyers**

“I have been to every Bankruptcy Congress and each year they get better! I only practice Bankruptcy/personal insolvency and the congress fills the gaps other conferences miss. Keep up the great work Rosie and staff, you do an amazing job”. Excellent 5/5. **Claire Corrigan, Shaw Gidley**

“Great bankruptcy refresher. Has good balance between technical & practical issues and some good tips from the panels.” Excellent 5/5. **David Stimson, SV Partners**

“Another fantastic Congress that covers many topics at the forefront of Bankruptcy in Australia”. Excellent 5/5.

Darrin Mitchell, Matthews Folbigg

“Pre-eminent bankruptcy seminar, with content relevant across practices of varying sizes.” Excellent 5/5.

Nell McGill, Laycock Burke Castaldi Lawyers

“Great content and great presenters. Content of presentations will be useful in day to day practice.” Excellent 5/5.

Neil McLean, Rogers Reidy

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

David Mansfield, Partner, Deloitte

“An excellent program being recognised & supported by the profession. Well done.” **Wade Ballantyne, Pitcher Partners**
An informative and well organised event. Topics are useful and presented in a thought-provoking way”. Excellent 5/5.

Eloise Validum, Aravanis Insolvency

“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**

“One of the musts for your CPD calendar. Information packed and well presented by players who grind away in the insolvency game on a daily basis. Highly recommended.” **Eddie Senatore**

OPTIONAL HALF-DAY INTENSIVE CONGRESS WORKSHOP
TUESDAY 3rd DECEMBER, 2019
9.00am - 12.00pm
INTERACTION BETWEEN BANKRUPTCY &
FAMILY LAW & PROPERTY ISSUES

WORKSHOP LEADERS: SALLY NASH, Consulting Solicitor;
MICAH KELLY, Special Counsel, O'NEILL PARTNERS COMMERCIAL LAWYERS

Sally & Micah will cover a range of issues relating to the interaction between Family Law and Bankruptcy and provide tips on how to avoid being drawn into an acrimonious dispute between the spouses. The complex area of Property Law will also be covered in-depth dealing with the areas posing the greatest concerns for practitioners. Some of the areas which will be covered include:

PEXA – Electronic Conveyancing in New South Wales and Victoria

Registering Caveats – and Priority Notices in New South Wales

Registering the Trustee on Title

Sale to co-owner – Deed or Contract for Sale of Land? Directions, Decision Letters, section 90-15 of the *Insolvency Practice Schedule (Bankruptcy)* and section 90-80 of the *Insolvency Practice Rules (Bankruptcy)*.

Lapsing Caveats - section 90-15 of the *Insolvency Practice Schedule (Bankruptcy)* and section 90-80 of the *Insolvency Practice Rules (Bankruptcy)*.

Section 139ZQ Notice and its effect. On any Application to set it aside the Trustee must still prove his case in full - section 211 of Duties Act, 1997

Section 66G and Appointment of Trustees for Sale – 2 under Section 66G of the Conveyancing Act not 1 under Section 30 of the Bankruptcy Act – Jurisdiction now only in the Federal Courts

Orders for possession – Service of Notice to Occupier and orders for sale – now only in the Federal Courts

Disclaiming onerous property – why?

Mortgagee sales and Determining security - disputes with caveators

Section 139 of the Bankruptcy Act – no liability for rates and taxes in certain circumstances.

Applications for new Certificate of Title – s138 Real Property Act

Exoneration – creating a charge and security over the bankrupt's interest

Section 129AA of the Bankruptcy Act - re-vesting

ABOUT YOUR HALF-DAY WORKSHOP LEADER

SALLY NASH, Consulting 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 debt recovery, 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 the profession, her clients and fellow practitioners.

Sally is a member of the Law Society of NSW, Law Council of Australia, Commercial Insolvency and Reconstruction Committee; Australian Restructuring Insolvency & Turnaround Association. Sally Nash and her staff at Sally Nash & Co joined O'Neill Partners in January 2015.

Please book directly at rtraill@traillassociates.com.au

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.

OPTIONAL FULL-DAY CONGRESS WORKSHOP
TUESDAY 3rd DECEMBER 2019
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 2018 is not a requisite for these 2019 workshops.

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 (*Young v Thomson (formerly trustee of the property of Young)* [2017] FCAFC 140 (1 September 2017).

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 Michell* [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 - *Palmer v Talijancich* [2019] NSWSC 838 (4 July 2019); *Soutar Accountants Pty Ltd v Combis & Sijabat as Trustees of the Bankrupt Estate of Cosimo Gasparre* [2019] FCCA 1766 (26 August 2019)

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 [*Shaw as Trustee of the Bankrupt Estate of Nguyen v Vu & Anor* [2019] FCCA 1451 (31 May 2019)]

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 - *Reaper v Vrsecky (Trustee)* [2016] FCA 509 (12 May 2016)]

Realising Bankrupt's Interest In A Property Jointly Owned With A Non-Bankrupt: Differing procedures between the States [*WA-Beadle in her Capacity as Trustee of the Bankrupt Estate of Nyoni v Nyoni & Anor* [2019] FCCA 1723 (20 June 2019); VIC- *Scott, in the matter of Le* [2019] FCA 1661 (9 October 2019)

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: Whilst the Official Trustee easily recovered an undervalue transfer because the money was still in a solicitor's trust account, the additional investigations resulted in the Official Trustee obtaining an order from the Court that the bankrupt's sister pay the Official Trustee and additional \$71,216.99 plus \$11,893.72 interest because she had been unjustly enriched with the discharge of a collateral mortgage over her property when the bankrupt's property was sold. [*Official Trustee in Bankruptcy v Pham & Anor* [2019] FCCA 797 (1 April 2019)]

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: Lessons to be learnt from *Kiem Dang Investment v Mansfield & Anor* [2017] FCCA 725 (24 May 2017).

Income Contribution Regime: Income status of payments under income protection insurance policies and permanent disability insurance policies [*Gittins v Field (Trustee)* [2018] FCA 976 (29 June 2018)]; "Sharpes case" revisited- *Michell as Trustee of the Property of Holbrook, a Bankrupt v Holbrook* [2019] FCCA 2649 (20 September 2019)

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 (*Appleby v Carter As Trustee of the Bankrupt Estate of Appleby & Anor* [2019] FCCA 564 (7 March 2019))

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: *Pekar v Holden (Trustee)* 2019 FCA442

Overseas Travel Permissions: When can/should a trustee say "no"? Can trustee 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 (*Polis v Zombor* [2019] FCA 69)

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?: Appears to be 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- *Dennis v CBA[2018] FCA1908*

Lady Crown unsuccessfully sues Parramatta Council for Four Hundred and Ninety Five Trillion, Five Hundred and Thirty Eight Billion, Eight Hundred and Ninety Six Million, Nine Hundred and Sixty Eight Thousand and Two Hundred and Fifty Nine Dollars AUD) being the value of 112 acres of rangihou lands at Parramatta, dating back to the gifting of the land in 1811. [*Lady Crown and on Behalf of Ngati Rangihou Corrangie Hapu Dba Office of the Crown v Parramatta City Council, in the matter of Parramatta City Council [2019] FCA 1668 (14 October 2019)*]

Insolvency Law Reform : Not as bad as we thought it would be?

Revision Topics: Open discussion.

ABOUT YOUR FULL DAY WORKSHOP LEADERS

BOB CRUICKSHANKS, *Personal Insolvency Consultant*

Bob Cruickshanks is a consultant to 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

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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 all supplier orders are based on estimated numbers of attendees and are paid in advance.

“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 conference. 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 in excess of 8 CPD, CPE or CLE hours if they attend the conference and up to an additional 5 hours for the full day workshop. One point per actual hour of attendance. Accreditation pending from Bar Association, one point per hour of attendance, to be allocated to strands according to the subject matter of sessions attended. Call Traill & Associates for more details.

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.

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 Traill & Associates in writing prior to the event.

If you have any queries or special requests, comments or suggestions, please contact: Rosie Traill on 02 9449 8919 or 0405 136 001.

**7TH ANNUAL NATIONAL PRACTICAL
BANKRUPTCY CONGRESS**

**Monday, 2 December 2019 – Wesley Centre, 220 Pitt St, Sydney
OPTIONAL CONGRESS Workshops – Tuesday, 3 December 2019**

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 : _____

REGISTER TO ATTEND :

<input type="checkbox"/> Congress (Early bird rate - until 22 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"/> Networking Cocktails (6pm - 8pm)	\$62.00 plus GST (\$6.20)	Total \$ 68.20
<input type="checkbox"/> Workshop half day (Early bird until 22 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 22 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 polices 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 and Associates Pty Ltd)
 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
Traill & Associates Suite 1A, Level 2, 802 Pacific Highway, Gordon NSW 2072
 Enquiries: ph Rosie Traill on **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 on traillandassociates.com website apply.