

6TH ANNUAL NATIONAL PRACTICAL BANKRUPTCY CONGRESS AND COCKTAIL PARTY

CONGRESS: Monday, 3rd December, 2018

Wesley Conference Centre, 220 Pitt Street

COCKTAIL PARTY: The ArtHouse Hotel, 275 Pitt Street, Sydney

OPTIONAL CONCURRENT FULL AND HALF DAY WORKSHOPS:

Tuesday, 4th December 2018

TOPICS INCLUDE:

- The One Year Bankruptcy Regime & Insolvency Law Reform Act – Where are we at, are you prepared?
- AFSA regulation, remuneration, liaison with ASIC, ARITA's role and other regulation of Trustees
- Funding Recoveries in Bankruptcy
- Voidable Transactions
- The Famous Family Law Experts In Conversation
- Reviews of Recent Decisions Impacting on Practitioners
- Asset Protection structures under the microscope: SMSFs & Superannuation, Estate Planning, Bankruptcy Estates, & Death Benefits
- Section 130 Warrants For Search And Seizure And Other Avenues to Extract Information
- Objections To Discharge And Pre-Referrals/ Offence Referrals
- Income, And Income Contributions: Case Round-Up And Section 139L Notices
- Taking Possession Of And Dealing With Property

PRESENTERS INCLUDE:

- John Melliush, Bankruptcy Trustee, Conference Chair
Bob Cruickshanks, Personal Insolvency Consultant
Sally Nash, Consultant Solicitor, O'Neill Partners Lawyers
Stephen Mullette, Principal, Matthews Folbigg Lawyers
Michael Murray, Principal, Murrays Legal
Peter Harrison, Partner, Thomson Geer
David Topp, Barrister, Brisbane
Megan Zhou, Associate Solicitor, O'Neill Partners
Stephen Bonnor, Assistant Director, Australian Financial Security Authority
Michael Lhuede, Partner, Piper Alderman
Michelle Castle, Barrister, 13th Floor St James Hall
Steven Golledge, Barrister, 3 St James Hall
Giles Woodgate, Senior Partner, Woodgate & Co
Doug Whelan, Executive Director, Litigation Funding Solutions
Vivien Botsikas, DWF (Australia)

Optional Full-Day Workshop 9.30am - 3.30pm
PRACTICAL STRATEGIES FOR SUCCESSFUL OUTCOMES
Interactive Intensive Bankruptcy Session & Hypothetical
AND

Optional Half-Day Workshop 9.00am - 12.00pm
INTERACTION BETWEEN BANKRUPTCY & FAMILY LAW & PROPERTY ISSUES

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

ROSIE TRAILL

Ph 02 9449 8919

M 0405 136 001

F 02 9475 4314

Property Partner 

Media Partner

Insolvency News Online

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

Email rtrill@trailandassociates.com.au

Website www.trailandassociates.com

**PROGRAM OUTLINE MONDAY 3RD DECEMBER, 2018-
Registration 7.45am - Conference 8.30AM – 5.30PM**

7.45 Registration opens

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

John Melliush, Bankruptcy Trustee

8.40 - 9.25 Funding Recoveries in Bankruptcy

Increasingly Trustees are finding it necessary to bring legal action in what would otherwise be no funds bankruptcies. This creates both risk and cost issues for the Trustee. This panel session moderated by **John Melliush**, will consider the advantages and disadvantages of various methods of funding legal action to determine which may be appropriate for your particular claim. Issues will include :-

- Use of Notices issued under the Bankruptcy Act
- Sale or assignment of claims
- Litigation funding
- After the event insurance
- Self funding (speculative)

Panelists include:

Giles Woodgate, Senior Partner, Woodgate & Co

Doug Whelan, Executive Director, Litigation Funding Solutions

Vivien Botsikas, DWF (Australia)

9.25 - 10.05 Regulator Update and Feedback Session – AFSA

Stephen Bonnor, Assistant Director, Australian Financial Security Authority

10.05 - 10.45 Section 130 Warrants For Search And Seizure And Other Avenues to Extract Information

Section 130 warrants can be an enormously useful weapon in a trustee's arsenal. They are used infrequently and are the subject of reported cases even less. In this session **Michelle Castle, Barrister**, considers the purpose and use of s.130 warrants, focussing on the legal principles and the practical steps involved in obtaining and executing them. The discussion is illuminated by reference to several recent interesting case studies, in which the seizure of opals, cars, jewellery, horse floats and the like was effected, and in which appropriate casts of people were assembled to execute the warrants.

In addition, this session explores the use of s.77AA and s.77C to obtain the assistance of AFSA to gain access to premises and books. Again, the legal principles and the practical steps are examined, with reference to a recent high profile case.

10.45 – 11.00 MORNING TEA

11.00 - 11.45 Objections To Discharge And Pre-Referrals/ Offence Referrals

My spies tell me that consultation about the One Year Bankruptcy is currently underway so I think we can expect that the legislation is not far away. That means that many practitioners will need to assess and action a large number of potential objections in a short space of time. At a very convenient point then comes the decision in **Jones & Jones And Inspector-General in Bankruptcy - [2018] AATA 3260**. In **Jones** the AAT found that not a single one of the 26 communications identified by the Trustee comprised an effective 'request for information.'

Also timely, and surely no coincidence is the draft **IGPD7** recently circulated for consultation. **Michael Lhuede, Partner, Piper Alderman** will take you through the implications of **Jones**, and as much is known about IGPD7, and **Estate of Nicholas Saad and IG [2018] AATA 487** to help make sure that your objections are structured and founded to withstand challenge.

11.45 - 12.30 Asset Protection structures under the microscope: SMSFs & Superannuation, Estate Planning, Bankruptcy Estates, & Death Benefits

David Topp is a **Barrister** with a strong interest in estates and asset protection - so who better to help you understand whether and how estate planning strategies might be vulnerable to a trustee's scrutiny? David will look at:

- Bankruptcy and estate inheritances - when could/should a trustee challenge a will?
- Superannuation death benefits - how to ensure they are protected (or: clawed back!) using section 128B 128C
- Recent case law contests between trustees and beneficiaries over superannuation death benefits
- Assets purchased with injury compensation moneys – how trustees have been able to claim such assets despite section 116(2);
- Bankruptcy and assets held in family trusts and companies.

12.30 – 1.00 LUNCH

1.00 - 1.40 Personal Insolvency Law Reform

The Jungle Drums say that One Year Bankruptcy is still on the cards, with behind the scenes adjustments underway to respond to concerns raised in the Senate Inquiry process. I'm hoping that by the time of my Bankruptcy Congress there will be some very fresh news to sit alongside the discussion of the recently legislated Debt Agreement reforms. The "playing this one by ear" panel will comprise experts discussing the practicalities from the legal, debt and trustees' perspectives including some recent cases on the scope of 90-15 power of court to make "such orders as it thinks fit".

- **Moderator: Michael Murray, Principal, Murrays Legal**
- **Michael Lhuede, Partner, Piper Alderman**

Snapshot of the findings from University of Melbourne Personal Insolvency Project:

(Recent empirical research at Melbourne Law School has revealed a dramatic increase in the levels of financial stress suffered by Australian households over the last two decades. This research also makes clear that financial stress is increasingly a 'middle class' phenomenon in Australia, challenging traditional stereotypes of personal insolvents as being on low incomes. The increase in rates of personal insolvency in Australia, coupled with the changing demographics of personal insolvents, demonstrate a pressing need for a thorough review of Australia's personal insolvency regime).

1.40 - 2.25 Taking Possession Of And Dealing With Property

The research for my program involves trawling through literally hundreds of Federal Court, Federal Circuit Court, and Federal Full Court judgments to see what is contentious and to see where the law may have shifted on to new ground. This topic, like the Voidable Transactions topic is one that fights its way onto my program year after year through sheer volume. Consideration of the Trustees duties of sale. I have asked **Sally Nash, Consultant Solicitor, O'Neill Partners Commercial Lawyers** to take you through:

- **Woods (Trustee), in the matter of Magnaye (Bankrupt) v Magnaye [2018] FCA 117**
- **Mogilevsky v Leroy [2017] FCAFC 52**
- **Free (Trustee) v Crawford, in the matter of Crawford (Bankrupt) (No 2) [2018] FCA 1208**
- **The Trustee of the estate of Currey & Anor v Currey & Anor [2017] FCCA 2692**
- **Michell & Newman v Bokhari & Anor [2018] FCCA 595**
- **Woods & Lombe v Barnes (no.3) [2018] FCCA 1974**
- **Micheletto As Trustee Of The Bankrupt Estate Of Wavish & Anor V Wavish [2018] FCCA 1945**
- **Michell v Yilmaz [2018] FCCA 2120**

2.25 - 3.10 Income, And Income Contributions: Case Round-Up And Section 139L Notices

There have been a few significant cases dealing with income and income contributions. I have asked **Steven Golledge, Barrister**, to take you through the following:

- **Peled v Roufeil [2017] FCCA 2342** provides a very useful case study about a trustee deemed a bankrupt to have received reasonable remuneration for work or activities performed for a family owned company, with some practical analysis of mobile phone records to assist in determining how many hours the bankrupt actually spent working
- **Gittins v Field (Trustee) [2018] FCA 976** – dealt with the question of whether monthly payments under an income protection policy are income or whether they are exempt as arising from personal injury
- **Combis v Harding, Billington and Regan as Executors of the Deceased Estate of Billington [2014] FCA 1391** – considered whether the interest on a capital sum invested and distributed to a bankrupt via testamentary trust by a series of monthly payments was "income" or whether it represented after-acquired property
- **Davey v Dessco Pty Ltd & Anor (Bankruptcy) [2017] VSC 744** – Can an undischarged bankrupt sue in his or her own name for personal income derived during the course of the bankruptcy, and if successful, how are the proceeds treated?

3.10 – 3.20 AFTERNOON TEA

3.30 – 4.30 Voidable Transactions

It is time for the yearly refresher on all things voidable, presented again this year by **Stephen Mullette, Principal, Matthews Folbigg Lawyers**. It's been hard to find s122 unfair preference cases this year but there has been plenty of activity on the 120 and 121 front, and so this very popular session remains as relevant and timely as ever with a host of new decisions. Stephen will review the last year's important cases, including at least (no doubt there will be a couple more by the time we get to the Congress!):

- ***Khatiri and Lane (Trustees) v McDonald, in the matter of Wilkie (Bankrupt)*** [2018] FCA 543 (20 April 2018)
- ***Silvia (Trustee) v Williams, in the matter of Williams (Bankrupt)*** [2018] FCA 189 (2 March 2018)
- ***Chamberlain (Trustee) v Tilbrook*** [2017] FCA 1586 (19 December 2017)
- ***A C Matthews as trustee of the Bankrupt Estate of D R Sellars v Sellars*** [2017] FCCA 2323 (22 September 2017)
- ***Wise Investments P/L v. Cullen*** [2018] QSC 221
- ***Nguyen v. Corbett*** [2017] NSWSC 1689
- ***Micheletto (Trustee) v Russell, in the matter of Knight (Bankrupt)*** [2018] FCA 865
- ***Condon v Vanessa Two Pty Ltd*** [2018] FCA 947
- ***Turner as trustee of The Bankrupt Estate Of Wallace v Wallace*** [2017] FCCA 3044
- ***Naudi & Reid As Trustees of The Bankrupt Estate Of Albarouki v Albarouki*** [2018] FCCA 1295
- ***Carrafa & Lofthouse as Trustees of The Bankrupt Estate of Santucci & Santucci v Tile Mart (Vic) Pty Ltd*** [2018] FCCA 2164
- ***Mazija v Prentice*** [2018] FCCA 2491
- Assignment of Rights to Sue IPA 100 – 5
- Commercial settlements

4.30 - 5.30 Bankruptcy / Family Law - Experts In Conversation

Practitioners tell me that the interactions between Family Law and Bankruptcy Law continue to evolve and develop and that this panel session with three of the foremost experts 'in conversation' continues to be one of the most practically useful sessions on the program.

Sally Nash, Consultant Solicitor, O'Neill Partners Commercial Lawyers; Stephen Mullette, Principal, Matthews Folbigg Lawyers and **Bob Cruickshanks, Personal Insolvency Consultant** will take you through the very latest cases:

- ***Official Trustee in Bankruptcy & Galanis*** [2017] FamCAFC 20 - An application to set aside a section 90D agreement entered after discharge from bankruptcy which dealt with a property acquired prior to bankruptcy and subject to a caveat lodged by the trustee. The Full Family Court had to determine whether the FamCA had jurisdiction to deal with the trustee's claim to have the agreement set aside under section 90K of the FLA.
- ***Proposed Civil Law and Justice Amendment Bill 2017*** to amend the Bankruptcy Act to overcome the jurisdictional issue in ***Galanis***. Will it work, and what will be the effect (if any) of this amendment on jurisdiction generally?
- ***Recent cases on bankruptcy and family law...***
- ***Sloan v. Sloan*** [2018] FamCA 610; ***Biddick v. Etier*** [2018] FamCA 744 effect of bankruptcy on family law proceedings
- ***Hankin & Anor & Nankervis*** [2018] FCCA 2075
- ***Cardoso & Cardoso & Anor*** [2018] FCCA 2249
- ***Kanelos & Kanelos*** [2018] FAMCA 524
- ***Porter & Porter*** [2018] FAMCA 433

Family Law Reform

- These amendments are in addition to the Family Court having jurisdiction in bankruptcy where the Trustee in Bankruptcy is a party to property settlement proceedings under s.79 or s.90NM maintenance proceedings or proceedings under s.79A or s.90SN of the *Family Law Act*.
- The definition of "Bankrupt" in the *Family Law Act* has been Expanded to include a person who has been discharged from Bankruptcy and its property remains vested in the Bankruptcy Trustee.

5.40 Closing Remarks from the Chair and Close of Congress

5.40 Move to The ArtHouse Hotel Cocktail Party



6th 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 4th 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 a hypothetical scenario this year 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.

Please make sure that you let me know if there are any aspects that you would like the presenters to address – I’ll do our 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

A handwritten signature in black ink that reads "R. Traill".

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

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

“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

“An excellent program. being recognised and supported by the profession. Well done.” **Wade Ballantyne, Pitcher Partners**

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

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.”; **Moirra Carter, Principal, BRI Ferrier**

“5 out of 5. Excellent Congress! A great avenue of keeping updated with the views and issues facing the industry.”

Andrea Kalik, Jirsch Sutherland

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

Con Nottas, Principal, Hutchinson Legal

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. Updated agendas will be released shortly, please contact me with any queries.

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

OPTIONAL FULL-DAY CONGRESS WORKSHOP
TUESDAY 4TH DECEMBER 2018
9.30am - 3.30pm
PRACTICAL STRATEGIES FOR SUCCESSFUL OUTCOMES
Interactive Intensive Bankruptcy Session

WORKSHOP LEADERS: Peter Harrison, *Partner, Thomson Geer*
Bob Cruickshanks, *Personal Insolvency Consultant*
Michelle Castle, *Barrister, 13th Floor St James Hall*

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 2017 is not a requisite for these 2018 workshops and the issues will be reflective of the past 12 months developments. The full-day workshop will include a hypothetical interactive scenario. Below is the material which was covered in 2017 and will be updated to reflect the 2018 developments.

A team of personal insolvency experts will deal in-depth with some of the complex areas posing the greatest concerns for practitioners. Some of the areas which will be covered may include:

Insolvency Law Reform Issues:

- 1) The amendments were sold as "*the most significant suite of reforms to Australia's bankruptcy and corporate insolvency laws in twenty years and is an integral component of the Federal Government's agenda of improving economic incentives for innovation and entrepreneurialism plus are intended to improve efficiency, competition and consumer confidence in the insolvency profession.*" Have they delivered or perhaps just driven up costs with the additional regulations?
- 2) **Lack of communication on the existence of flaws & subsequent rectification.**
- 3) **Good bits:** Meeting procedures, remuneration claim notices.
- 4) **Not so good bits:** Responding to "*reasonable requests*" to provide documents to creditors & bankrupts.
- 5) **Challenging bits: 42-15 Communication:** "*Communications by a registered trustee must be: (a) clear and concise and, where appropriate, expressed in lay terms; (b) objective; (c) responsive; and (d) timely; and (e) expressed in a professionally courteous tone and manner.*"
- 6) The implications of the **One Year Bankruptcy**.

Profiling a new bankrupt and their creditors: Important lessons to be learnt from *Young v Thomson* (formerly trustee of the property of Young) [2017] FCAFC 140 (1 September 2017).

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

Conflicts of Interest: Actual and/or Perceived: Have the amendments changed the obligations to disclose? Where do you draw the line when disclosing relationships?

Bankrupt's interest in a deceased estate. Determining whether the bequest is an asset or income. Property bequeathed to bankrupt subject to a life tenancy of a third party. Trustee's entitlement no better than the bankrupt's. Bankrupt's rights under the *Succession Act* to challenge a will involving divisible property. Deceased superannuation funds - discretion of the trustee of the super fund.

Dealing with the Bankruptcy Regulation & Enforcement section: Complaints by bankrupts and/or creditors. Errors detected during Annual inspections. IG reviews of objections and income contribution assessments. S.77C 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?

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.

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 book debts: Assets or unpaid income?

CONT/

Realisation of Bankrupt's shares in company & appointment of Liquidator to wind up the company

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": 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). Tips on how to deal with them and where possible, how to avoid being involved in costly litigation and/or disputes with them

Income Contribution regime: Examination of the "grey areas" including deeming income, determination of "a dependent", re-assessment of liability, dealing with hardships applications. Adoption of a reasonable approach. Implications of trustee's use of collection agencies.

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).

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.

Revision topics: Remuneration regime. Interaction between Bankruptcy Act and Family Law Act. Bankrupt's interest in jointly owned property.

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.

PETER HARRISON, *Partner, Thomson Geer*

Peter is a specialist commercial disputes and insolvency lawyer, with over 20 years of experience in both personal and corporate insolvency. Peter acts for financiers in contentious and litigious matters. He also has significant experience acting for both insolvency practitioners and company directors in both formal insolvency administrations and turnaround management, as well as acting in disputes between partners, joint venture partners and shareholders. He has broad experience in commercial and property disputes, working in close collaboration with the firm's Property and Corporate practice group.

MICHELLE CASTLE, *Barrister, 13 St James Hall*

Michelle was called to the Bar in 2007. After graduating from the University of Sydney in 1991 Michelle worked as tipstaff to Justice Simon Sheller in the NSW Court of Appeal. Thereafter Michelle practised as a solicitor with Allen Allen & Hemsley in the Construction and Arbitration department before working with, and ultimately being principal of, DGT Thompson. It was there that Michelle became a recognised expert in the law and practice of legal costs.

Michelle is also a court appointed costs assessor and serves on the Costs Assessment Rules Committee established under the *Legal Profession Uniform Law Application Act 2014*.

At the Bar Michelle has a diverse practice in commercial and equity matters, building and construction, bankruptcy and insolvency, corporations law, administrative law, professional negligence, succession law and costs law.

Michelle is a regular presenter of seminars and contributor to *LSJ*.

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 HALF-DAY INTENSIVE CONGRESS WORKSHOP
TUESDAY 4TH DECEMBER, 2018
9.00am - 12.00pm
INTERACTION BETWEEN BANKRUPTCY &
FAMILY LAW & PROPERTY ISSUES**

www.traillandassociates.com

rtraill@traillassociates.com.au

**WORKSHOP LEADERS: SALLY NASH, Consulting Solicitor;
MEGAN ZHOU, Associate Solicitor O'NEILL PARTNERS COMMERCIAL LAWYERS**

NOTE TO PARTICIPANTS

Sally 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 may 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

S129 Notice – recovery of money

Binding Financial Agreements

Section 79 Family Law Act and property disputes

Section 129AA of the Bankruptcy Act - re-vesting

ABOUT YOUR HALF-DAY WORKSHOP LEADERS

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.

MEGAN ZHOU, *Associate Solicitor, O'Neill Partners*

As a Solicitor with Sally Nash & Co and now with O'Neill Partners, Megan has significant experience in both domestic conveyancing and more complex property matters. She acts in matters in the Local and District Court debt recovery and litigation; Supreme Court property disputes; Supreme Court mortgagee in possession claims; Federal Court Applications for sale by Liquidators and Trustees; and Equitable property proceedings. Megan conducts matters under s66G of the Conveyancing Act, has obtained orders for possession and sale and dealt with equitable mortgages and charges. In addition, Megan has extensive experience in advising on bankruptcy and winding up matters as well as conducting bankruptcy, winding up and debt recovery claims.

In addition, Megan runs the Property practice at O'Neill Partners and manages the electronic conveyancing platform for O'Neill Partners both for New South Wales and Victoria property transactions.

In recognition of her outstanding qualifications and experience, she was appointed an Associate Solicitor of the firm in 2017. Megan is highly regarded by her clients and colleagues alike. She is able to provide efficient, practical and commercial advice and strategic recommendations

Please book directly at rtrail@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.

PRESENTERS

Vivien Botsikas, Associate, DWF (Australia)

Vivien is an Associate at DWF (Australia), who specialises in Commercial Litigation, Insolvency and Bankruptcy. Following her admission as a solicitor in 2010, Vivien has gained significant experience working on bankruptcy and insolvency matters in NSW, and has worked alongside some of the leading lawyers in this area. Vivien's practice includes acting for Trustees in Bankruptcy, both in prosecuting claims brought for the benefit of the estate, and in defending claims made against Trustees. In addition to her substantial experience representing clients in Federal Circuit Court matters, Vivien also often appears in the Federal Court of Australia and the Supreme Court of NSW, acting for insolvency practitioners, creditors, directors and companies, and individuals in financial distress



Giles Woodgate, Senior Partner, Woodgate & Co

The firm's senior partner is Giles Woodgate, who has in excess of 36 years experience as a Chartered Accountant. During the last 33 years Giles has specialised in business recovery services including reconstruction, insolvency and business consulting services. He has Big Four insolvency experience and has extensive overseas experience, having worked on a number of foreign assignments and having been a director of a New Zealand insolvency practice. Much of Giles' work has involved business turnarounds, reconstructions, corporate & personal insolvencies and providing specialist advice to directors, corporates and lenders in the early stages of a business problem.



Doug Whelan, Executive Director, Litigation Funding Solutions

- Financier and investor with 20 years-experience
- Chartered Accountant
- Experienced in debt recovery
- Experienced in risk management and recovery group of Big Four Australian Banks



Stephen Bonner, Assistant Director - Regulation, AFSA

Steve Bonnor is a CA/CPA who has worked for the past 6 years as Assistant Director – Regulation at AFSA. Dealing primarily with Complaints and reviewable decisions and other aspects of the AFSA Compliance Program including inspections of practitioners. Prior to joining AFSA Steve was Director of Financial Audit in the UAE and Auditor General in Tuvalu.



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

Michelle Castle worked as tipstaff to Justice Simon Sheller in the NSW Court of Appeal before commencing practice as a solicitor in Construction & Arbitration in 1992 at Allen, Allen & Hemsley. Through this work Michelle was first introduced to the world of insolvency.

Since being called to the Bar in 2007 Michelle has practised extensively across areas of commercial law, including insolvency, and usually acts for trustees and liquidators. She has been involved since 2009, for various parties, in the long-running Coshott litigation. Michelle now practises at 13th Floor, St James hall.



Michael Lhuede, Partner, Piper Alderman

Michael specialises in corporate and personal insolvency law and is recognised as one of Australia's leading insolvency lawyers.

With thirty years' experience acting in insolvency matters Michael mixes his high level of technical skills with his commercial experience in identifying and achieving the optimal outcome for his clients. In workouts and restructuring Michael will set out the framework for a successful restructure and then work closely with our commercial and property teams on execution of the plan. Michael is also regularly involved in the bringing and defending of a wide range of insolvency actions including preference claims, insolvent trading and avoidance of property transfers. Michael is regularly engaged to assist in the forensic investigation through the undertaking of public examinations of directors and related parties.

Michael is a past National Chair of the Law Council's Insolvency and Reconstruction Committee. As a member of that committee he has actively participated in the reform of the Bankruptcy Act over recent years.



David Topp, Barrister

David Topp is a Barrister at the private bar in Brisbane. Admitted as a solicitor in 2002 and having commenced practice as a barrister during February 2006, David has many years of practical experience in all aspects of property, commercial, insolvency, debt recovery and wills, estate and family provision litigation and dispute resolution. David is an accomplished speaker, having presented seminars on many prior occasions for Lexis Nexis, Step Qld, Step Tasmania, Queensland Law Society, Television Education Network and Legalwise, and has had written work published by *Proctor*, the Tasmanian Law Society's quarterly Law Letter, *CCH Online* and *Lawyers Weekly*. David is also the author of two *Security for Costs* textbooks and the property law themed *Tennyson Breach*



Steven Golledge, Barrister, 3 St James' Hall Chambers

Expertise

Administrative, Banking, Bankruptcy, Commercial, Contracts, Corporate Insolvency, Equity, Industrial/Employment, Insurance

Admissions + Appointments

Admitted as a Solicitor 1984

Admitted to the Bar 2005 (NSW)



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

Sally is acknowledged as a leading insolvency lawyer in NSW. She was admitted to practice in 1977 and has practiced in insolvency, dispute resolution and litigation and debt recovery litigation since that time.

Sally practices in all New South Wales State and Australian Federal Courts involving debt recovery, commercial and insolvency litigation and acts 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 highly regarded by the profession, her clients and fellow practitioners.

Sally is a member of the Law Society of NSW, Law Council of Australia and the Commercial Insolvency and Reconstruction Committee; Australian Restructuring Insolvency & Turnaround Association. Sally also lectures to clients and the profession and is a regular conference speaker.



Michael Murray, *Principal*, Murrays Legal

Michael Murray has been closely involved with personal insolvency law and reform for some years, both in legal practice and in later roles.

He writes for all the law publishers on the ILRA 2016 changes in bankruptcy and corporate insolvency, and on the one year bankruptcy – for Keay’s Insolvency, CCH, Lexis Nexis, and By Lawyers; and he advises government, the courts and practitioners on the implementation of the new laws. Michael’s views are offered through his Murrays Legal website – on codes of practice, AFSA and ASIC, replacement of trustees, offence referrals and remuneration, as well as mental health, stigma, and overseas developments.

He is the Attorney-General’s nominee on trustee registration committees. As a Fellow of the Australian Academy of Law, Michael works with judges, academics and practitioners in organizing conferences and events on issues including law and technology, ethics, and standards. He is also a fellow of the UNCITRAL Coordination Committee and as a QUT academic is judging international insolvency moots in Vancouver in 2018.



Stephen Mullette, *Principal*, Matthews Folbigg Lawyers

Stephen is a specialist insolvency and financial restructuring practitioner. He has extensive experience in all forms of both corporate and personal insolvency, including bankruptcy, liquidations, voluntary administrations, receiverships, as well as informal and formal financial restructuring. He regularly advises and represents insolvency practitioners and also personal and corporate creditors and debtors in relation to insolvency and restructuring matters. Stephen regularly appears in Federal, Family and State Supreme Courts on behalf of insolvency practitioners in respect of legal issues involved with insolvency administrations, including trust and property disputes and the recovery of voidable transactions under the Bankruptcy and Corporations Acts.

He also advises on asset protection and acts for individuals and corporations in dealings with insolvency practitioners, negotiating deeds of company arrangement, personal insolvency agreements and compositions, and claims for the recovery and sale of real property as well as disputes over voidable transactions., insolvent trading, and director’s duties as well as the interaction of Family Law with insolvency.



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.



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6TH ANNUAL NATIONAL PRACTICAL BANKRUPTCY CONGRESS

Monday, 3 December 2018 – Wesley Centre, 220 Pitt St, Sydney

OPTIONAL CONGRESS Workshops – Tuesday, 4 December 2018

COCKTAILS – Monday, 3 December 2018 at ArtHouse Hotel, 275 Pitt Street, Sydney

Early Bird Rates – Register and pay by 26 November 2018

Yes, please register me for this event. FILL OUT BELOW, please print clearly, attach details for multiple registrations

First Name: _____ Last name : _____
 Email : _____
 Organisation : _____ Title : _____
 Address : _____
 Suburb : _____ State : _____ Postcode : _____
 Telephone : _____ Mobile : _____

REGISTER AND PAY BY 26th NOVEMBER 2018 TO TAKE ADVANTAGE OF THE EARLY BIRD RATES :

<input type="checkbox"/> Congress	Early Bird rate	\$550.00 plus GST (\$55.00)	Total \$605.00
<input type="checkbox"/> Half Day Workshop	Early Bird rate	\$280.00 plus GST (\$28.00)	Total \$308.00
<input type="checkbox"/> Full Day Workshop	Early Bird rate	\$410.00 plus GST (\$41.00)	Total \$451.00
<input type="checkbox"/> Congress	Standard rate	\$650.00 plus GST (\$65.00)	Total \$715.00
<input type="checkbox"/> Half Day Workshop	Standard rate	\$360.00 plus GST (\$36.00)	Total \$396.00
<input type="checkbox"/> Full Day Workshop	Standard rate	\$540.00 plus GST (\$54.00)	Total \$594.00
<input type="checkbox"/> Cocktails		\$62.00 plus GST (\$6.20)	Total \$ 68.20

Registration subject to Terms and Conditions and Cancellation policies as set out in brochure
(Please ensure credit card payments include surcharges – see below)

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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
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