

Trail Associates

17th Annual Practical Insolvency Conference and Dinner 19-20 March 2018 Dockside, Cockle Bay Wharf, Sydney

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SYDNEY INSOLVENCY NEWS

Real Journalism, Real People and Real-time Commentary on Sydney's Insolvency Scene

Organised by Rosie Trill
Trail & Associates Pty Limited
Insolvency, Restructuring, Bankruptcy and Turnaround
Conference Specialists



WELCOME TO MY 17TH ANNUAL CONFERENCE

Traill |
+
Associates

Writing a welcome letter is always a challenge for me - trying to pick out the most significant developments of the last twelve months and trying to predict what the near future will hold!

I know that for many in the insolvency, restructuring & turnaround space it has been a challenging year - things are quiet for some of you. I've tried to assist - regular attendees will know that I haven't just held my registration fees I've wound them back several years!

On a more cheerful note, many of those I talk to seem to be busier now than they have been for a while - but of course it is too early to know whether that is a short term spike or whether it is a new trend.

At the same time I don't think I have ever seen a time when there have been as many developments to keep abreast of: the practical implications of the ILRA and Safe Harbour, and the future personal insolvency law changes, a host of important legal cases, active (and changing) regulators. In that sense it has been easy for me to find **15 hours** of topical and relevant content - the hardest part has been what to leave out! Papers will be provided after the conference, once they have been received by all the presenters.

Another reminder which you no doubt are aware of is the RG 258.139 need for the registered liquidator to undertake ten hours per annum of external training: "As at 1 March 2017, the Rules provide for the following industry-wide conditions:

(a) you must undertake at least 40 hours of CPE (10 hours of which must be capable of being objectively verified by a competent source) during each year of your registration (rule 20-5(2) and (3)); ". **If you would like to sign in to the sessions to have us verify your attendance, please see us at the Registration desk.**

There is another benefit of attending my conferences - the networking. Please let me know if you would like a personal introduction to any of your fellow attendees I've tried to identify areas where I think the work may be coming from and to get along some of those who may provide some opportunities.

Special thanks to the **AICM** for reaching out to me on this event and for their support and endorsement. Thanks also to – **Sydney Insolvency News**, my media partner for all the on-going support.

For the first time in many years Richard Fisher is not chairing. Please don't have fears for his health! He has personal commitments that prevent him from joining us and I would like to thank my team of Chairs who will be filling Richard's shoes.

I'm sure that you have heard me talk about how hard I work to ensure that my events provide insights that you will use in your practices on a regular basis, so that you get a real return on the time and money that you spend. . And on that note: unfortunately my event clashes with the ASIC Forum dinner, and my numbers are down - but on the other hand I will be able to find a seat for you if you don't have plans, see me at a break.

As you know, this conference and your profession mean a great deal to me and I'm very pleased that you have allowed me to be a part of it for well over twenty years. As always, I encourage you to get in touch with any feedback. Thank you so much for your support and encouragement, I hope you find this event as stimulating as it is practical.

Warmest regards

R. Traill

Rosie Traill
Managing Director
Traill & Associates

Ps: Mark your diary for my Practical Bankruptcy Congress Monday, 3rdth December, Sydney

Pps: If you have an interest in low-cost, high quality training for your junior and intermediate teams, please speak with me directly so I can tailor my new events to suit your team's training needs!

CONFERENCE PROGRAM - MONDAY, 19 MARCH 2018

7.45-8.35 CONFERENCE REGISTRATION AND ARRIVAL COFFEE

8.35-8.45 WELCOME

8.45-9.45 **Safe Harbour**

With the safe harbour regime having commenced in September 2017, I am excited to hear from our panel of experts on their thoughts on how the regime is being perceived by corporate Australia. Is the regime developing a rescue culture as intended? Is the regime being understood and utilised by directors? What challenges is the new regime presenting? Areas for discussion may include:

- How should safe harbour be documented
- ASX – to disclose or to not disclose
- What constitutes an ‘appropriately qualified entity’?
- Conflict considerations
- How are directors of different companies engaging with the new regime ie. SMEs vs large corporates?

Ryan Eagle, *Partner, Ferrier Hodgson*

Maria O’Brien, *Partner, Baker & McKenzie*

Geoff Green, *Head of Group SBS Melbourne, Group Strategic Business Services,*

National Australia Bank Limited

Barry Kogan, *Partner, McGrathNicol*

9.45-10.25 **The Channel 10 Decision - How much pre-appointment work can an administrator do without creating a conflict?**

- Does the C10 decision shift the line?
- Does it matter who instructs the accountant?
- Does it matter how the accountant is paid?
- What problems might a special purpose appointee solve?
- How does the decision impact the ARITA Code?
- What does it tell us about the position of a Safe Harbour adviser?

Chris Prestwich, *Partner, Allens*

10.25-10.45 MORNING TEA

10.45-11.25 **Ipsos Facto**

The Federal Government enacted ‘ipso facto’ law reforms last year which are anticipated to take effect mid 2018. In essence, the reforms are intended to restrict the ability of counterparties to terminate or modify the operation of a contract by reason of a company entering administration, receivership or a scheme of arrangement – so as to help facilitate a rescue of the insolvent company.

Much of the detail of the proposed reforms has been left to regulations, that are yet to be released. The reforms are likely to impact a large proportion of commercial and financial contracts in Australia, which normally allow for termination and/or enforcement in such circumstances. They may significantly impact the way administrations and receiverships are conducted and will likely raise significant issues of stakeholder management.

This panel will discuss the current status of the reform process and what we can expect to see in the market when the reforms take effect.

Mark Clifton, *Partner, Herbert Smith Freehills*

Paul Apathy, *Partner, Herbert Smith Freehills,*

Rowena White, *Senior Associate, Herbert Smith Freehills*

CONFERENCE PROGRAM - MONDAY, 19 MARCH 2018

- 11.25-12.05** **MACKS v VISCARIELLO Appeal Judgment - Outcomes Impacting On The Conduct And Duties of Insolvency Practitioners**
The recent South Australian Supreme Court Full Court appeal decision of *Macks v Viscariello [2017] SASCFC 172* considers several significant issues impacting on the conduct and duties of voluntary administrators, including their fiduciary duties, the duty of care and misleading or deceptive conduct. This session will discuss the broad implications of this important appeal decision and give practical guidance to practitioners on how to manage their duties when involved in complex litigation, which in this case was a litigation marathon across many years in multiple courts.
- Jason Harris, Associate Professor, UTS Faculty of Law**
Amanda Coneyworth, Director, Ferrier Hodgson and Lecturer, University of Technology
- 12.05-12.45** **What Are We Learning From The Insolvency Law Reform Act 2016 Changes In Operation?**
With the benefit of what are now several months of operation of the ILRA reforms, our presenters will highlight some of the bad, and the good, aspects of the new laws, and some sleeping issues yet to arise.
- For example, how are the courts interpreting the new law - by reference to the old sections, or afresh: *Andersen v Lennon [2017] FCCA 2452*? Are we over the transitional periods: *Walley, Re Poles & Underground [2017] FCA 486*? Are courts still giving directions on the same bases as before, despite the range of other options in s 90-15? How were the funds handling provisions managed in *Network Ten [2017] FCA 1144*? Have creditors been using their new powers, in particular FEG and the ATO? Are there vexatious or other excluded requests? Are practitioners being voted out? How are the misconduct registers being used? Are ASIC and AFSA aligned? What has changed in remuneration? Are voidable transactions being assigned to good effect?
- Jason Harris, Associate Professor, UTS Faculty of Law;**
Michael Murray, Principal, Murrays Legal – The authors of Keay’s Insolvency, 10th edition pending.
- 12.45-1.45** **LUNCH**
- 1.45-2.25** **FEG Activity Update**
FEG is a one-of-a-kind activist creditor – making enquiries, investigating, and sometimes litigating to challenge the work done by insolvency practitioners, and of course FEG is an increasingly important source of funding to assist practitioners in the efforts to recover assets. Henry Carr is uniquely placed to offer views that will be important and insightful for all practitioners.
- Henry Carr, Senior Executive Lawyer / Branch Manager, Recovery and Litigation Branch, Australian Government, Department of Jobs and Small Business**
- 2.25-3.05** **PPSR Update**
The *Personal Property Securities Act 2009 (Cth)* and the Personal Property Securities Register continue to generate significant and complex legal issues for lawyers and insolvency practitioners. Nicholas Mirzai, provides a case law update and emphasises points of interest for those in the legal and insolvency profession. Amongst other cases, he will be speaking to the PPSA aspects of the *Re Amerind* appeal.
- Nicholas Mirzai, Barrister, Level 22 Chambers - Co-author of the Annotated Personal Property Securities Act and the PPS in Practice**

CONFERENCE PROGRAM - MONDAY, 19 MARCH 2018

3.05-3.25 **AFTERNOON TEA**

3.25-4.10 **ASIC PRESENTATION: The Role of the Regulator and Government**

Recent and mooted changes including the Insolvency Law Reform Act 2016, Government's industry funding model for ASIC and safe harbour/ipso facto reforms, makes this a timely opportunity for us to hear from the newly appointed Senior Executive Leader, Insolvency Practitioners, Thea Eszenyi who will cover the important issues and focus for the year ahead from the Regulator including the role of the Regulator and Government.

Thea Eszenyi, *Senior Executive Leader, Insolvency Practitioners Team, ASIC*

4.10-5.30 **State of the Market - Financiers Panel.
Where Are The New Opportunities For Work?**

It's true that bank appointments of IAs and receivers are low. Part of this reflects that there are a number of non-bank lenders in this market, and so some of those appointments are made by non-banks. It also reflects a new preparedness to allow borrower-side advisers to have a first opportunity. I've assembled a panel of bank and non-bank lenders who will talk about the state of the market, opportunities for work, and the impact of regulatory and other factors.

Moderator : Quentin Olde, *Senior Managing Director, FTI Consulting*

Tim Stewart, *Managing Director, Gordon Brothers*

Geoff Green, *Head of Group Strategic Business Services, Melbourne, National Australia Bank*

Craig Ensor, *Partner, Corrs Chambers Westgarth*

Peter Langham, *CEO, Scottish Pacific*

John Munnings, *Head of Group Strategic Business Services, National Australia Bank*

5.30 **CLOSE OF DAY ONE**

6.30-7.00 **PRE-DINNER DRINKS**

7.00-11.00 **DINNER**

CONFERENCE PROGRAM - TUESDAY, 20 MARCH 2018

8.00-8.30 ARRIVAL COFFEE

8.30-9.30 **Personal Insolvency –
Law Reform Focus and Implications for Corporate Practitioners**

As I write this program there is some very significant reform in the wings, with legislation to implement so-called 'one-year bankruptcy' and reform Part IX debt agreements currently before the Senate Legal and Constitutional Affairs Legislation Committee. I've asked Sally Nash to provide an overview to help you understand the changes and what they will mean for insolvency practice, including anything new.

Other areas include:

STOP PRESS: Lessons for Trustees in a judgment delivered 19th February, 2018, *Compton v Ramsay Health Care Australia No 2, [2018], re Part X*

- Trustees Duties – *Young v Thompson (formerly trustee of the property of Young) [2017] FCAFC 140*
- Exoneration: *Lane Trustee in the matter of Lee v Deputy Commissioner of Taxation* re the Trustee's right of indemnity
- 60 Day Time Limits – *Ferella V Official Trustee, FCA 18*
- Family Law & Bankruptcy – *Needham and Trustee of the Bankrupt Estate of Needham [2017] Fam CAFC 94*
- Quistclose Trust - *Rambaldi v Commissioner of Taxation [2017] FCA 57* to seek a preference claim

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

9.30-10.25 **Insolvent Transactions Round-Up, including -
Assigning the Rights to Sue and Funding Voidable Transactions Proceedings**

I have an Insolvent Transactions round up every year. It's not because I can't think of new topics! Preferences may not be the 'sexiest' restructuring topics, but for a lot of you they help pay the bills, especially when things are quieter. So as long as the Court keep producing judgments that are important for practitioners, I will keep delivering 'the same topic' Those of you who come every year will know that it is not really the same topic of course....each presentation provides an overview of the most important cases in the preceding twelve months, and so every paper is different. This year we also will be considering issues of assigning the rights to sue and funding voidable transactions proceedings. Stephen Mullette will take you through the most recent important cases including:

- *Shot One Pty Limited (in Liq) v. Day [2017] VSC 741*
- *Lucas, in the Matter of Filestock Pty Ltd [2017] FCA 1425*
- *Marsden (liquidator) v CVS Lane PV Pty Limited Re: Pentridge Village, Marsden v CVS Lane PV Pty Limited [2018] FCA 102*
- *EH 2015 Pty Ltd (In Liq) v Caratti (No 3) [2017] WASC 210*
- *Lewis Securities Ltd (in Liq) v Carter (2017) 120 ACSR 327*
- *David Clarke Air Conditioning Pty Ltd as trustee for the David Clarke Air Conditioning Trust v Quann (No 3) [2017] WASC 91*

Stephen Mullette, *Principal*, Matthews Folbigg Lawyers

10.25-10.45 MORNING TEA

CONFERENCE PROGRAM - TUESDAY, 20 MARCH 2018

10.45-11.40 Remuneration Issues

At the time we hoped that **Sakr Nominees** (last year's Stop Press topic) had given us clarity, but there have been such a large number of cases that this topic gets a run in 2018 too.

Thomas Russell will be presenting this year's remuneration update, featuring a summary of where we are and how we got here, a review of recent court decisions, the latest on "proportionality", a quick recap of the law relating to payment of remuneration from trust money, and practical tips on preparation and presentation for insolvency practitioners seeking approval of fees by the court. This session is a must-see for practitioners who think it is important to get paid for the work they do – don't miss this opportunity to bring yourself up to date with latest developments. Some of the cases may include the below recent decisions:

- In the matter of **Hunter Valley Dental Surgery Pty Ltd [2017] NSWSC 1144 s 473(3)(b)(ii)**
- In the matter of **ACN 159 605 188 Pty Ltd [2017] NSWSC 1642**
- In the matter of **Anglican Development Fund Diocese of Bathurst Board (Receivers and Managers Appointed) [2017] NSWSC 967**
- **Re Gunns Plantations Ltd (No 3) [2017] VSC 777**
- **Re Atwell & Co Pty Ltd (in liq) [2017] VSC 683 [2017] VSC 500**
- **Re Mackie Group Pty Ltd (in liq) (in its capacity as Trustee of the Jupelina Unit Trust) 2017]**
- **VSC 477 (1 September 2017)**
- **Re Aohai Pty Ltd [2017] VSC 414 (21 July 2017) [2017] VSC 414**

Thomas Russell, *Partner*, Piper Alderman Lawyers

11.40-12.15 STOP PRESS: THE LATEST IMPORTANT CASES ROUNDUP:

The Amerind Appeal – Trading trusts, Statutory Regime of Priority, Employee Entitlements, Set-offs Update, Hamersley & QCA Decision re Environmental Laws Linc Energy Update

How do recent cases including **Commonwealth v Byrnes and Hewitt [2018] VSCA 41 (Amerind) and Hamersley Iron Pty Ltd v Forge Group Power Pty Ltd (in liq) (receivers and managers appointed) [2017] WASC 152 (Hamersley)** affect you?

On **28 February 2018** a five member bench of the Victorian Court of Appeal handed down judgment in **Amerind**. The Court has added to the longstanding debate over whether the allocation and distribution of trust assets in the insolvency of a corporate trustee follows the statutory regime in the Corporations Act or the general law regime at trust law. We now have different law applying depending on your jurisdiction.

On **21 March 2018**, the Western Australian Court of Appeal will consider the appeal from the decision of His Honour, Tottle J in **Hamersley**. What is the impact of **Hamersley** and what may change?

On **9th March 2018**, The Queensland Court of Appeal delivered the judgment relating to environmental laws in **Linc Energy**. What did the Court say? What does this mean for practitioners and other States?

Natasha Toholka, *Partner*, Norton Rose Fulbright

12.15-1.00 Sham Contracts

Sham Contracts are one of my pet topics. No need to prove insolvency, no 6 months/two years/ four years limitations, no three year use it or lose it last minute emergency applications to extend time. Using **Camden Nurseries Pty Ltd v Aussie Growers (Aust) Pty Ltd [2017] NSWSC 1770 (15 December 2017)** as a template Glen Cussen will discuss the forensic advantages of attacking a transaction as a sham, and explain how to go about it.

Glen Cussen, *Partner*, Kemp Strang

1.00-1.50 LUNCH

CONFERENCE PROGRAM - TUESDAY, 20 MARCH 2018

1.50-2.30 **Important Tax Issues and Recent Developments**

The Tax Office's burgeoning activity in the securities area might mean that more cases are resolved through secured arrangements resulting in fewer bankruptcies and liquidations. However, the other side of the coin is that the Tax Office is set to become the new kid on the block who joins the banks as a major appointee of receivers. Ross Burns, will address:

- The ATO's new technological capabilities and how this affects Trustees
- The relatively-new ability to take mortgage security in respect of tax debts – how, when and where will the ATO use this power and how will this play out in terms of statutory priorities
- The very recent ***Keris Pty Ltd (Trustee) v Deputy Commissioner of Taxation [2017] FCAFC 164 (13 October 2017)*** decision and its implication about the tax office's powers to issue a Security Bond Demand.
- Transparency of Tax Debts measure, which essentially is the new law being introduced to allow for the ATO to provide information on taxpayers with ABNs to Credit Reporting Bureaus, Ross will outline details of this legislation.

Ross Burns, Director, Significant Debt Management Service Delivery (Debt), ATO

2.30-3.15 **Winding Up Strata Title Corporations**

One of my banking contacts has picked Strata Title insolvency as one of the hotspots for 2018 and 2019, as Strata title corporations are hit by the need to address problems of cladding/removal/replacement and other buildings defects. Those corporations will need to look at whether they should and can raise special levies. And it seems that some of the parties that will be asking to pay those special levies will be offshore, with limited capacity to find or dispatch funds in Australia.

Using a very recent case in the matter of ***Dungowan Manly Pty Limited (in liquidation) [2017] NSWSC 1771*** as a reference point our panel will use their experience, as the team involved on the case, to help us better understand the challenges involved winding up a strata title corporation and in particular the issue involved in raising a special levy:

- Complications and risks of converting company title buildings to strata title.
- The impact of a dispute between shareholders (i.e. owners) of a company title building
- The impact of a voluntary administration on such an entity.
- What powers exist by a Liquidator or Administrator in raising special levies. Can such levies include the recovery of liquidator's fees and administrator's fees.
- What risks should those persons that are part of a company title property be concerned with respect to the ability of such an entity in raising special levies.

Farid Assaf, Barrister, Banco Chambers
John Breene, Principal, Breene & Breene Solicitors
Simon Cathro, Partner, Worrells Solvency & Forensic Accountants

3.15-3.30 **AFTERNOON TEA**

3.30-4.10 **Administrators Incurring Credit**

When administrators need to borrow money (most of the time!) there are at least two issues to address: whether or not to seek a variation to personal liability, and how the administrator can actually grant effective security to protect any personal liability they do have. Scott Aspinall will review:

- ***Park, in the matter of Surfstitch Group Ltd (Administrators Appointed) [2017] FCA 1244***
File number: NSD 1842 of 2017 October 2017
- ***Korda, in the matter of Ten Network Holdings Ltd (Administrators Appointed) (Receivers and Managers Appointed) [2017] FCA 1144***
- ***Woods, in the matter of Paladin Energy Ltd (Administrators Appointed) [2017] FCA 836***
File number: WAD 328 of 2017
- ***Crawford, in the matter of North Queensland Heavy Haulage Services Pty Ltd (Administrators Appointed) [2017] FCA 723***

Scott Aspinall, Barrister, Ground Floor Wentworth Chambers

CONFERENCE PROGRAM - TUESDAY, 20 MARCH 2018

4.10-4.50 Invalid/Ineffective/Void Appointments

It's not clear just how much work an administrator should do to confirm the validity of their prospective appointments – but there's a great deal of pain in sorting it all out. There have been several cases in the last twelve months which suggest that the law is evolving and practitioners are still encountering practical difficulties. Ingrid King will review:

- ***Kreab Gavin Anderson (Australia) Ltd, in the matter of Kreab Gavin Anderson (Australia) Ltd [2017] FCA 300***
- ***In the matter of Sydney Project Group Pty Ltd (Administrators Appointed) (Receivers and Managers Appointed) and S.E.T. Services Pty Ltd (Administrators Appointed) (Receivers and Managers Appointed) [2017] NSWSC 881 (30 June 2017)***

Ingrid King, Barrister, Tenth Floor St James Hall Chambers

4.50-5.30 Chasing Shadows - Lessons from unravelling Ponzi Schemes

Ponzi schemes hit the press on a regular basis but how do they work and how do they keep happening? What lessons can we apply across litigation and recovery matters?

Drawing on our experience including investigating several schemes which raised over \$200m from investors, this session will include:

- How do these schemes work and how do they operate for so long? With money shuffled around, how do you prove the money at the end was the investors' money?
- Where do you start if records are poor quality?
- What avenues for litigation and recovery are there?

Insights will be provided by:

Noel McCoy, Partner, Norton Rose Fulbright
Alex Bell, Partner, Grant Thornton

Supplementary Session - Winding Up Schemes - Abstract to be provided at a later date

Last year the C10 case taught us (amongst other things) that there was another form of appointment the nameless 'special purpose appointee' – of course that is not the only form of nameless appointment type, you might also be appointed to wind up a Managed Investment Scheme, which are quite different to any other form – very little legislation – almost everything is controlled via Court orders.

Danielle Funston will take you through the ins and out of section 601 appointments.
Danielle Funston Partner, K&LGates

5.30 WRAP UP AND CONFERENCE CLOSE

PRESENTERS



PAUL APATHY, PARTNER, HERBERT SMITH FREEHILLS

Paul is a highly experienced practitioner specialising in restructuring, special situations and insolvency. He has extensive regional, international and cross-border experience advising creditors, companies, private equity and hedge funds in respect of restructurings and distressed situations. In the past 15 years, he has advised on a number of the major cross border insolvency transactions, including advising clients such as: Deutsche Bank, Standard Chartered Bank, KKR, Blackstone, Carlyle, Varde, Macquarie Bank, Nomura, Goldman Sachs, BNY Mellon, Investec and a number of leading international banks, funds, corporations and insolvency firms.

Paul is an extensive legal author and conference speaker, a member of the editorial panel of the Insolvency Law Bulletin, and the chief editor of the Herbert Smith Freehills' Guide to Restructuring, Turnaround and Insolvency in Asia Pacific. Before joining Herbert Smith Freehills, he practised for a number of years at several leading international firms in London where he advised on major European restructurings and insolvencies.



SCOTT ASPINALL, BARRISTER, GROUND FLOOR WENTWORTH CHAMBERS

Scott practises primarily in the areas of domestic and cross-border insolvency, banking and commercial litigation. In 2015 he became the first member of the NSW Bar to be made a fellow of INSOL International and in 2016 was appointed as a member of INSOL's Taskforce Committee.

In 2015 he was recognised in Doyle's Guide as one of Australia's leading junior counsel in the field of insolvency and reconstruction.

Scott regularly advises and acts for major financial institutions, local and foreign liquidators in simple and complex insolvency and debt recovery matters. Amongst other major matters for the liquidators of Octaviar, Centaur and for the Commonwealth Bank, he was recently briefed by ARITA to appear with Hutley SC as amicus before a five member bench of the New South Wales Court of Appeal in the Sakr appeal concerning liquidator's remuneration.

Prior to coming to the Bar, Scott was a medical practitioner before becoming a solicitor at Allens Arthur Robinson. He was Associate to the Honourable Justice Emmett in 2002.



FARID ASSAF, BARRISTER, BANCO CHAMBERS

Farid Assaf is a barrister specialising in corporations and insolvency law matters and is ranked in all leading legal directories (Chambers and Partners Australia Directory for 2013, 2014, 2015, 2016 and 2017; Best Lawyers Directory for 2014, 2015, 2016 and 2017 and Doyle's Guide for 2015 and 2016). Farid regularly appears and advises in relation to all aspects of corporations and insolvency law matters including applications under the UNCITRAL Model Law on Cross-Border Insolvency, contested winding up applications, voidable transaction claims and applications to superior courts on behalf of liquidators and administrators. Farid is also a leading commentator on insolvency law matters.

His textbook, Statutory Demands and Winding Up in Insolvency has been referred to approvingly and repeatedly by superior courts throughout Australia. His most recent text, Voidable Transactions in Company Insolvency, 2014 is published by Lexis-Nexis Butterworths. In 2016, Farid became a fellow of INSOL International graduating with honours and first in class.

PRESENTERS



JOHN BREENE, PRINCIPAL, BREENE & BREENE SOLICITORS

John Breene established Breene & Breene, Solicitors with Tim Breene in 2006. Breene & Breene, Solicitors is a Sydney based commercial law firm specialising in business law, estate planning, commercial litigation, property law, restructuring and insolvency.

John obtained a Bachelor of Commerce and Bachelor of Laws from the University of New South Wales in 1993. John was admitted as a solicitor of the Supreme Court of New South Wales on 14 December 1994, and became an Accredited Specialist in Commercial Litigation Law as recognised by the Law Society of NSW in 2010.

John has practiced extensively in all areas of business and commercial law, and has assisted small to large sized businesses as well as individuals over a range of commercial issues. John focuses on providing cost effective solutions tailored to suit the business and commercial needs of his clients.



ROSS BURNS, DIRECTOR, SIGNIFICANT DEBT MANAGEMENT SERVICE DELIVERY (DEBT), ATO

Ross Burns is the ATO's Director of Significant Debt Management and, in that capacity, he has responsibility for some of the ATO's more complex and high-profile debt recovery matters. Ross has particular expertise in the Commissioner's garnishee powers and the Director Penalty Provisions, and he has been a key participant in a number of processes to seek legislative amendments to enhance the Commissioner's suite of recovery options.



HENRY CARR, SENIOR EXECUTIVE LAWYER/BRANCH MANAGER, RECOVERY AND LITIGATION BRANCH, AUSTRALIAN GOVERNMENT, DEPARTMENT OF JOBS AND SMALL BUSINESS

Henry has advised Commonwealth government departments on insolvency matters for over 17 years, playing key roles in the Ansett and ABC Childcare matters. In 2009 Henry joined Hong Kong-based insolvency and forensic accounting firm Borelli Walsh, working on several high profile financial investigations and insolvencies. On returning to Australia in 2014, Henry re-joined the Commonwealth Government Department of Jobs and Small Business to manage the FEG Recovery and Litigation Programme.



SIMON CATHRO, PARTNER, WORRELLS SOLVENCY & FORENSIC ACCOUNTANTS

Simon Cathro joined Worrells as a Partner in 2015. He is a registered liquidator, a fellow of the Institute of Chartered Accountants Australia, a member of the Australian Restructuring, Insolvency & Turnaround Association and a member of the NSW Law Society. With more than 19 years experience in insolvency and restructuring, Simon is an expert in many forms of corporate insolvency, specializing in:

- Liquidation
- Voluntary Administration
- Deed of Company Arrangement
- Receivership
- Legal Entity Rationalisation Projects
- Closure Management
- Expert Witness

PRESENTERS



MARK CLIFTON, PARTNER, HERBERT SMITH FREEHILLS

Mark is a leading Sydney-based partner with over 25 years' experience in corporate restructuring and insolvency, 20 of those as a partner at Herbert Smith Freehills. He has extensive experience advising stakeholders in corporate distress and restructuring scenarios, including administrators, liquidators and receivers, secured and unsecured creditors, vendors and purchasers of distressed assets, and boards and shareholders of distressed entities.

He has advised on many of Australia's most prominent insolvency administrations and restructures over the past two decades and is known for his commerciality, technical knowledge and ability to find solutions.



AMANDA CONEYWORTH, DIRECTOR, FERRIER HODGSON AND LECTURER, UNIVERSITY OF TECHNOLOGY

Amanda has a broad range of experience in corporate insolvency administrations, complex corporate investigations, investigating accountant reviews, trade-on monitoring and business/asset sales. She also teaches insolvency law subjects at the University of Technology, Sydney and assists with the Australian Restructuring Insolvency & Turnaround Association's education programs and courses.



GLEN CUSSEN, PARTNER, KEMP STRANG

Glen practices extensively in all aspects of insolvency and commercial law, regularly advising and acting for liquidators, administrators, receivers, financiers and corporate clients on various aspects of insolvency recoveries and administrations.

He has been involved in many of the largest and well known administrations, in varying capacities, from the Duke Group and One.Tel to Henry Walker Eltin, and REDgroup/Borders.

He has extensive Court expertise in corporate insolvency matters and, as required, may conduct his own advocacy.



RYAN EAGLE, PARTNER, FERRIER HODGSON

Ryan has two decades of experience delivering corporate restructuring and turnaround solutions.

He works alongside business stakeholders to develop and implement turnaround plans.

Ryan's engagements include advising businesses and directors, assisting financiers / investors to assess businesses, providing strategic advice, and delivering financial and operational turnarounds.

Some of Ryan's recent engagements include Lover Clothing, Top Shop / Top Man, Flynn Transport, KBL Mining and Littore Family Wines.

PRESENTERS



CRAIG ENSOR, PARTNER, CORRS CHAMBERS WESTGARTH

Craig has 20 years' experience in banking, restructuring, insolvency and commercial litigation, and is recognised by his clients and peers as a leading practitioner in all aspects of banking and insolvency law.

Craig has advised Australia's leading banks and other non-mainstream lenders on numerous corporate collapses, and has acted for voluntary administrators, liquidators, provisional liquidators and receivers and managers in many high-profile corporate insolvencies. Craig also has extensive experience in bank related litigation involving secured and unsecured debt recovery, cheque conversion, fraud and unconscionable conduct claims and significant experience in breach of director duty litigation. He has acted for secured creditors in respect of financial ombudsman complaints.



THEA ESZENYI, SENIOR EXECUTIVE LEADER, INSOLVENCY PRACTITIONERS TEAM, ASIC

Thea Eszenyi is the recently appointed Senior Executive Leader with ASIC's Insolvency Practitioners stakeholder team.

Thea has over 30 years' experience in insolvency and restructuring including senior positions in a multi disciplinary accounting practice and a specialist insolvency and restructuring firm, where she gained experience across international, national and SME markets.

Thea is a registered liquidator, a Fellow of Chartered Accountants Australia & New Zealand (and past Regional Councillor and Chairperson for SA & NT), a member of Australian Restructuring, Insolvency and Turnaround Association (and past workshop leader), and past Deputy Member of the South Australian Legal Practitioners Conduct Board.



GEOFF GREEN, HEAD OF GROUP SBS MELBOURNE, GROUP STRATEGIC BUSINESS SERVICES, NATIONAL AUSTRALIA BANK LIMITED

Geoff Green is a Chartered Accountant with eleven years' experience in Ernst & Young's Corporate restructuring team, and a Victorian Board member and workshop leader of ARITA. For the last twelve years Geoff has been at the National Australia Bank and is currently Head of SBS, Melbourne managing a national portfolio of large and complex workouts.

Geoff has significant experience in workouts and restructuring across Property, Agribusiness, Manufacturing, and Mining Services as well as Securitisation structures.



JASON HARRIS, ASSOCIATE PROFESSOR, UTS FACULTY OF LAW

Jason Harris is an associate professor of insolvency law and corporate law in the UTS Faculty of Law. Jason is also the program head of the ARITA Advanced Certificate Course at UTS.

Jason has taught insolvency law for 14 years and is the author of a number of articles and books on the topic, including as co-author of Keay's Insolvency (with Michael Murray) and the Annotated PPSA (with Nicholas Mirzai).

PRESENTERS



BARRY KOGAN, PARTNER, MCGRATHNICOL

Barry has over 20 years experience in restructuring and insolvency. He has substantial experience in both formal and informal insolvency appointments including receiverships, voluntary administrations, deeds of company arrangement, liquidations and investigations, across a range of industry sectors.

Over his career Barry has had a number of client secondments including to the Australian Securities and Investments Commission and the Institutional work-out team of a major trading bank. Barry has a broad range of industry experience including across manufacturing, property, biotechnology and retail.



PETER LANGHAM, CHIEF EXECUTIVE OFFICER, SCOTTISH PACIFIC

Having trained as an accountant, Peter started in the debtor finance business in 1983. His industry experience started in audit and credit but later included international factoring, client management and eventually sales. In 1998 he joined the Bank of Scotland debtor finance business in a sales role and within 3 years was head of sales for England and Wales, responsible for all areas of sales and marketing as well as 14 sales staff.

In 1993 Peter was offered a role with Scottish Pacific (then owned by Bank of Scotland) in Perth, Australia, where he turned a struggling sales office in to a fully-fledged operations centre. Over 7 years Benchmark grew to become a national company with offices in Perth, Adelaide, Melbourne, Sydney and Brisbane. Benchmark continued on a growth path which culminated in the acquisition of Scottish Pacific Business Finance in October 2007.

Peter has remained CEO and a shareholder and now heads the business with offices around Australia, New Zealand, United Kingdom and China and today Scottish Pacific handles over \$15 billion of turnover, lends ~\$1 billion to about 1500 businesses.



NOEL MCCOY, PARTNER, NORTON ROSE FULBRIGHT

Noel is a specialist restructuring and insolvency lawyer based in Sydney. Since 2001, Noel has worked extensively in contentious and non-contentious restructuring, reorganisation and insolvency matters. Noel is currently focused on servicing cross-border, financial services and government clients.

Noel has helped lead some of Australia's most significant cross-border insolvency engagements, including in conducting the first appellate decision in Australia under the UNCITRAL Model Law on Cross Border insolvency (Akers as a joint foreign representative of Saad Investments Company Limited (in Official Liquidation) v Deputy Commissioner of Taxation (2014) 311 ALR 167). Noel acts for the foreign liquidators of Centaur Litigation in conducting Australian investigations and litigation and has advised on the Caledonian Bank restructure. Noel also has extensive experience in international judgment enforcement and offshore asset recovery.

Noel has advised major Australian financial institutions about lending to and restructuring of not-for-profit organisations taking into account their unique legal profiles and risk issues. Noel had primary carriage of the firm's receivership engagement giving rise to the landmark decision of Re Anglican Development Fund Diocese of Bathurst (2015) 336 ALR 372.



NICHOLAS MIRZAI, BARRISTER, LEVEL 22 CHAMBERS

Nicholas was called to the Bar in 2013 and practices from Level 22 Chambers in Sydney. He typically appears unled in State and Federal Court across Australia in a range of commercial, corporate and equity matters. Nicholas has particular interest and expertise in all aspects of corporate insolvency and personal property securities law and he maintains a specialist advisory practice alongside appearance work.

Nicholas has lectured in Commercial Law and Finance Law at UTS for over 7 years. He is co-author of the Annotated Personal Property Securities Act and the PPS in Practice.

PRESENTERS



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.



MICHAEL MURRAY, PRINCIPAL, MURRAYS LEGAL

Michael Murray writes and comments on insolvency law and practice through Murrays Legal Commentary, covering Australian and international insolvency and related law. He co-writes Keay's Insolvency with Jason Harris, involving a major update based on the ILRA 2016, about which both have a few things to say.

Michael is also chair of an UNCITRAL expert advisory group on insolvency law; a director of the Australian Academy of Law; and most recently an assessor of cross-border insolvency moots at UBC in Vancouver, for QUT Law.

He is the Attorney's nominee on bankruptcy trustee registration and discipline committees



SALLY NASH, CONSULTANT LAWYER, O'NEILL PARTNERS COMMERCIAL LAWYERS

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 is a member of the Law Society of NSW, Law Council of Australia, Commercial Insolvency and Reconstruction Committee; Australia Reconstruction Insolvency and Turnaround Association and Member of the Smaller Practice Issues Committee of INSOL International, International Association of Restructuring, Insolvency and Bankruptcy Professionals.

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

PRESENTERS



MARIA O'BRIEN, PARTNER, BAKER & MCKENZIE

Maria O'Brien is the head of Baker McKenzie's Australian Restructuring and Insolvency (R&I) practice. She is also a member of the firm's Global R&I steering committee and leads the firm's Asian R&I initiative. Maria is a Fellow of INSOL International.

Maria has considerable experience acting for distressed or insolvent companies, their external administrators and creditors, in respect of a wide range of insolvency issues both contentious and non-contentious, including workouts, with a particular focus on cross border restructuring. She also has extensive experience in facilitating the court approval of members' and creditors' schemes of arrangement under the Australian Corporations Act.

Recent assignments include acting for Mark Korda, Jarrod Villani and Jenny Nettleton as Administrators of Ten Network Holdings Limited, restructured pursuant to s444GA orders which allowed CBS to take control, and for Emeco Holdings in relation to the creditors' scheme of arrangement and US Chapter 15 recognition by which Emeco's US bond debt was restructured.



QUENTIN OLDE, SENIOR MANAGING DIRECTOR, FTI CONSULTING

A highly regarded restructuring and insolvency practitioner with over 25 years of experience, Quentin provides strategic advice to clients on numerous complex informal and formal restructuring, insolvencies and workouts. Quentin has broad industry expertise in the retail and consumer products, property, hospitality, mining and mining services and technology services sectors. He also leads the Australian aspect of the firm's global initiatives around Private Equity Capital.

As a seasoned corporate finance advisor, Quentin offers clients expertise in private equity transactions, restructurings, strategic workouts, formal insolvencies, distressed debt-trading transactions, dispute resolution and operational restructurings. His clients include banks and financial institutions, finance companies, hedge and private equity funds, pension funds, bondholders and noteholders.

Quentin joined FTI Consulting in 2013, when Taylor Woodings joined FTI Consulting. Prior to this he was a senior partner at Taylor Woodings leading the Sydney practice.



CHRIS PRESTWICH, PARTNER, ALLENS

Chris specialises in commercial litigation and insolvency. He has acted for clients across a range of industries, including banking, infrastructure, private equity, mining and mining services, construction and media. His litigation practice includes high value commercial disputes, multi-jurisdictional litigation, regulatory investigations and arbitrations.

Chris' insolvency and restructuring practice involves advising lenders, corporates and insolvency practitioners in relation to liquidations, schemes of arrangement, receiverships, administrations and deeds of company arrangement.

Chris is the author of the Australian chapter of the Asset Tracing and Recovery Review

PRESENTERS



THOMAS RUSSELL, PARTNER, PIPER ALDERMAN

Thomas is a leading restructuring and insolvency practitioner, as well as an expert in Personal Property Security Act (PPSA) litigation and securities enforcement.

Thomas' insolvency-related work includes advice and representation to company boards, liquidators, receivers, administrators and bankruptcy trustees, with specific expertise in voidable transaction claims, remuneration and priority issues, statutory and regulatory compliance and stakeholder negotiations. He has assisted directors of companies in financial distress, bringing to the table not only his industry connections and knowledge of the technical rules and regulations, but also years of real world experience in assisting company directors to work their way through the commercial realities of a financial crisis.

During his career, Thomas has acted in a number of high-profile insolvency and turnaround matters across a range of industries such as property development, retail, manufacturing, logistics, information technology and communications, automotive and aviation.

He is also the author of a widely distributed bulletin on updates in insolvency law and practice and is known throughout the industry for his pragmatic approach.

Thomas is a Partner in the Sydney Dispute Resolution Team.



TIM STEWART, MANAGING DIRECTOR, GORDON BROTHERS

Tim Stewart is responsible for leading the firm's Australian operations. Prior to joining Gordon Brothers, Tim was Managing Director and Head of the Royal Bank of Scotland (RBS) Plc's restructuring team across the Asia Pacific region. He was responsible for managing distressed and underperforming assets across India, Singapore, Hong Kong, Japan, China, Malaysia and Australia, and led financial and operational restructures, debt for equity swaps and turnarounds.

Tim held a number of other roles and responsibilities during his time at RBS, including Managing Director of the Strategic Disposals group, Chief Risk Officer of the RBS Australia Branch, and Head of Structured Asset Finance, Australia. Tim is the current Chairman of the Turnaround Management Association (TMA) in Australia and the immediate past President. Tim joined RBS in 2003 from KPMG where he worked as a tax advisor providing structuring advice on M&A and cross border structured finance. Tim qualified as a chartered accountant in England & Wales and holds a Masters in International Business Law, and a BA in Law.



NATASHA TOHOLKA, PARTNER, NORTON ROSE FULBRIGHT

Natasha is a financial services, restructuring and insolvency lawyer and ARITA fellow, with 20 years' experience working closely with financiers and insolvency practitioners. She advises clients on all aspects of banking and finance litigation, security enforcement, insolvency (reconstructions, workouts, formal appointments and cross-border), disciplinary proceedings and regulatory investigations.

Natasha was voted by her peers as one of Australia's Best Lawyers in insolvency and reorganisation law (2016, 2017), is recommended for insolvency and restructuring by Doyles (2017) and recommended for restructuring and insolvency and dispute resolution by The Legal 500 Asia Pacific (2018).

Natasha is also a member of ARITA's Vic/Tas committee and the Insolvency and Reconstruction Committee of the Law Council of Australia.

PRESENTERS



ROWENA WHITE, SENIOR ASSOCIATE, HERBERT SMITH FREEHILLS

Rowena is a restructuring and insolvency specialist based in the Sydney office of Herbert Smith Freehills. She advises lenders, borrowers, shareholders, directors, insolvency practitioners and other stakeholders on contentious and non-contentious restructuring and insolvency processes including administrations, deeds of company arrangement, receiverships, liquidations and creditors' schemes of arrangement.

Prior to joining Herbert Smith Freehills in 2014, Rowena spent five years in New York and London working in the restructuring and insolvency group of a major international law firm, and has extensive experience in cross-border and multijurisdictional restructuring transactions.



INGRID KING, BARRISTER, TENTH FLOOR ST JAMES HALL CHAMBERS

Ingrid has worked as a lawyer since 1994. Ingrid was admitted as a barrister in 2012, and has an insolvency, corporate and equity practice. Her other practice areas include administrative law, environmental law, property law, and estates.

Ingrid is a member of the Law Council of Australia Insolvency and Reconstruction Law Committee and also lectures in Securities Regulation at UTS.

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68 Lynbara Ave, St Ives NSW 2075

Phone: 02 9449 8919

Mobile: 0405 136 001

ABN 47085 482 533

Email: rtrail@traillassociates.com.au

Website: www.traillandassociates.com