

TONKIN'S
12th ANNUAL

INSOLVENCY PRACTICE SYMPOSIUM

BOOK
EARLY &
SAVE \$\$\$



16th & 17th February 2012 :: Brisbane | 20th & 21st February 2012 :: Sydney | 23rd & 24th February 2012 :: Melbourne

KEY BENEFITS OF ATTENDING

UNDERSTAND the changes that affect your practice with the *Personal Properties Securities Act* and amendments to the Directors Penalty Notice Regime

LEARN about the modernisation and harmonisation of the regulatory framework applying to Insolvency Practitioners in Australia

EVALUATE the **2011 Options Paper** and its anticipated results

PLUS: 3 Exclusive Case Studies!

INSOLVENCY EXPERTS FROM ACCOUNTANTS, LAWYERS, INSOLVENCY PRACTITIONERS AND GOVERNMENT, SPEAKING AT THE CONFERENCE INCLUDE:

BRISBANE

- Clive Bowman, Executive Director & Director of Operations, IMF
- John Peters, Senior Economist - Global Market Research, Commonwealth Bank Australia
- John Purcell, Policy Adviser ESG, External Positioning Strategy Group, CPA Australia
- Geoff Slater, Barrister, Victoria Bar
- David O'Farrell, Partner, Minter Ellison
- Scott Sharry, Partner, Clayton Utz
- Damian Butler, Partner, Norton Rose
- Matthew Broderick, Partner, Gadens Lawyers
- Bruce Hambrett, Partner, Baker & McKenzie
- Mark Webech, Partner, HWL Ebsworth Lawyers
- Michael Bray, Partner, KPMG
- Graham Killer, Partner, Grant Thornton
- Angie Hicks, Partner - Tax Consulting, PKF
- Matthew Joiner, Partner - Corporate Recovery, PKF
- Peter Bickford, Barrister, Queensland Bar
- Rosalie Cattermole, Senior Associate, Blake Dawson
- Petrina Macpherson, Senior Associate, McCullough Robertson
- Stephen Harrison, CEO, Global Accounting Alliance

SYDNEY

- John Kluver, Executive Director, CAMAC
- Clive Bowman, Executive Director & Director of Operations, IMF
- John Peters, Senior Economist - Global Market Research, Commonwealth Bank Australia
- John Purcell, Policy Adviser ESG, External Positioning Strategy Group, CPA Australia
- Geoff Slater, Barrister, Victoria Bar
- Michael Hughes, Partner, Minter Ellison
- Jennifer Ball, Partner, Clayton Utz
- Paul O'Donnell, Partner, Blake Dawson
- Gerard Breen, Partner, Norton Rose
- Justin Bates, Partner, Gadens Lawyers
- Bruce Hambrett, Partner, Baker & McKenzie
- Mark Webech, Partner, HWL Ebsworth Lawyers
- Nick Ridehalgh, Partner, KPMG
- Gayle Dickerson, Partner, Grant Thornton
- Lance Cunningham, Director of Taxation, PKF
- James White, Partner - Corporate Recovery, PKF
- Michael Rozdal, Partner, Kemp Strang
- Stephen Harrison, CEO, Global Accounting Alliance

MELBOURNE

- Clive Bowman, Executive Director & Director of Operations, IMF
- John Peters, Senior Economist - Global Market Research, Commonwealth Bank Australia
- John Purcell, Policy Adviser ESG, External Positioning Strategy Group, CPA Australia
- Geoff Slater, Barrister, Victoria Bar
- Brendan Watkins, Partner, Minter Ellison
- Paul James, Partner, Clayton Utz
- Michael Sloan, Partner, Blake Dawson
- Ian Kellock, Partner, Blake Dawson
- Robert Hinton, Partner, Gadens Lawyers
- Peter Lucarelli, Partner, Baker & McKenzie
- Kon Tsiakis, Partner, HWL Ebsworth Lawyers
- Simon Crane, Partner, KPMG
- Matthew Byrnes, Partner, Grant Thornton
- Bryan Webster, Partner, KordaMentha
- David Blake, Partner - Tax Consulting, PKF
- Rachel Baker, Partner Corporate Recovery, PKF
- Kenneth Stout, Graded Arbitrator, Institute of Arbitrators & Mediators Australia
- Penelope Pengilly, Senior Legal Practitioner

CLAIM MCLE/CPD POINTS FOR THIS EVENT:

By attending this educational event, you should be able to claim 1 point per hour of attendance with your Law Society or Bar Association, to add towards your professional development and practice of the law. Please visit: www.InsolvencyPractice.com for information on points available from the Queensland Bar Association, NSW Bar Association and Victorian Bar Association .

Researched by:  Ranked #26 on the
BRW Fast 100 2010

CONFERENCE DAY ONE

- 8:30 Registration, morning coffee and tea
- 9:00 Opening remarks from the chair
 BRISBANE & SYDNEY **Stephen Harrison, CEO, Global Accounting Alliance**
 MELBOURNE **Kenneth Stout, Graded Arbitrator, Institute of Arbitrators & Mediators Australia**

ECONOMIC BRIEFING

- 9:10 **Investment Monitor: An economic future for Australia**
- Expected economic trends for 2012 and beyond
 - Assessing which industries have the greatest financial risk
 - Examining the state of the global economy and what this entails for the domestic economy
 - Analysing long-term demographic and technological changes that will impact on the sustainable wellness of Australia
- ALL 3 LOCATIONS **John Peters, Senior Economic - Global Market Research, Commonwealth Bank Australia**

REGULATORY UPDATES

- 9:55 **Preparing for the accounting standard amendments in 2013**
- How will the amendments to Australian Accounting Standards arising from the Consolidation and Joint Arrangements Standards improve the accounting requirements for consolidated financial statements, joint arrangements and off balance sheet activities?
 - What impacts will these amendments have on directors' duties in relation to corporate disclosure?
 - Understanding your statutory and professional obligations and gaining tips for implementing efficient practices
 - Lessons from the Federal Court decision *ASIC v Healey* [2011] FCA 717
- ALL 3 LOCATIONS **John Purcell, Policy Adviser ESG, External Positioning Strategy Group, CPA Australia**

10:40 Morning tea

- 11:00 **Examining the Personal Properties Securities Act (PPSA) which comes into effect 1 February 2012 and the dramatic changes it will have to the way security is taken over Personal Property**
- What is the PPSA?
 - Who will it impact and how?
 - What do you and your clients need to do to prepare?
 - Lessons learned from New Zealand
 - Examining a number of case studies and examples to illustrate how PPSA will work in practice
- BRISBANE **Graham Killer, Partner, Grant Thornton**
 SYDNEY **Gayle Dickerson, Partner, Grant Thornton**
 MELBOURNE **Matthew Byrnes, Partner, Grant Thornton**

- 11:45 **Update on reforms to tidy up Managed Investment Schemes (MIS)**
- Initiatives made to make the transfer of viable MIS more appealing to a Responsible Entity (RE) especially at short notice
 - Discussing potential regulatory amendments which would incentivise an entity to act as a temporary entity for a financially stressed MIS
 - What options are being considered to assist winding-up the affairs of a non-viable MIS?
 - Will a liquidation procedure specifically designed for MIS' help?
- BRISBANE **Peter Bickford, Barrister, QLD Bar**
 SYDNEY **John Kliver, Executive Director, CAMAC**
 MELBOURNE **Bryan Webster, Partner, KordaMentha**

12:30 Lunch

- 1:30 **Evaluating the options paper of 2011: Which amendments can be made to improve the value for money for recipients of insolvency services?**
- Competition: Should Australia make entry the same as the United Kingdom and United States to allow lawyers and multi-disciplinary practices to create competitive fee tensions?
 - Should contingency fees be introduced with floor and cap, to align interests of creditors and practitioners?
 - Examining Justice Finkelstein and fee auctions as a price setting mechanism
 - What rights are being given to creditors to easily and cheaply remove insolvency practitioners who are not providing fee value proportional to assets, poorly performing, or engaged in misconduct?
 - What happens to the lien and priority upon removal?
 - When is an agreed fee cap not really a fee cap?
- BRISBANE **Geoff Slater, Barrister, Victoria Bar**
Clive Bowman, Executive Director & Director of Operations, IMF
Damian Butler, Partner, Norton Rose
- SYDNEY **Geoff Slater, Barrister, Victoria Bar**
Clive Bowman, Executive Director & Director of Operations, IMF
Gerard Breen, Partner, Norton Rose
- MELBOURNE **Geoff Slater, Barrister, Victoria Bar**
Clive Bowman, Executive Director & Director of Operations, IMF
Michael Sloan, Partner, Blake Dawson

2:20 Afternoon tea

- 2:50 **Examining amendments to the Director Penalty Notice Regime and its impact on the director's personal liability**
- What new powers will the Australian Tax Office (ATO) have to commence recovery against directors under the revised director penalty regime?
 - Which issues do these new rules aim to solve?
 - Which obstacles will be expected with the implementation of this regulation?
 - What are the situations where the ATO is expected to use the enhanced powers?
 - What implications will this have on company directors?
- BRISBANE **Angie Hicks, Partner - Tax Consulting, PKF**
 SYDNEY **Lance Cunningham, Director of Taxation, PKF**
 MELBOURNE **David Blake, Partner - Tax Consulting, PKF**

- 3:35 **Uncovering the proposals of the 2011 options paper: What plans are in place to enhance the credibility of insolvency processes and increase creditor rights?**
- Increasing creditor rights to access the same insolvency information available to the insolvency practitioner: Where does the industry currently stand on this?
 - What new powers have been granted to creditors to enable them to protect their interests? Or which regulations are required to support their interests?
 - What actions have been taken to remove the requirement for creditors to bear the cost in calling a creditors meeting?
 - Have Committees of Inspection (COI) and creditors been given greater capacity to bind resolutions on the actions of a liquidator?
 - Which issues are making it difficult for clients of insolvency practitioners to assess whether they have received value for money and what initiatives are being taken to overcome this?
- BRISBANE **Clive Bowman, Executive Director & Director of Operations, IMF**
Mark Webech, Partner, HWL Ebsworth Lawyers
Matthew Joiner, Partner - Corporate Recovery, PKF

SYDNEY **Clive Bowman**, *Executive Director & Director of Operations, IMF*
Mark Webech, *Partner, HWL Ebsworth Lawyers*
James White, *Partner – Corporate Recovery, PKF*

MELBOURNE **Clive Bowman**, *Executive Director & Director of Operations, IMF*
Kon Tsiakis, *Partner, HWL Ebsworth Lawyers*
Rachel Baker, *Partner – Corporate Recovery, PKF*

4:20 Closing remarks from the chair

4:30 End of Day One

CONFERENCE DAY TWO

8:30 Morning coffee and tea

9:00 Opening remarks from the chair
 BRISBANE & SYDNEY **Stephen Harrison**, *CEO, Global Accounting Alliance*
 MELBOURNE **Kenneth Stout**, *Graded Arbitrator, Institute of Arbitrators & Mediators Australia*

LESSONS LEARNED FROM THE LATEST CASE LAW

9:10 **Great Southern Receivership**
 • Highlighting the context
 • Analysing the challenges
 • Dealing with schemes and comparative sale strategies – winding up versus transition to new responsible entity versus lease termination strategy
 • Relief against forfeiture - lessons learned from *Primary RE Ltd v Great Southern Property Holdings Ltd (Receivers and Managers Appointed)(In Liquidation) & Ors* [2011] VSC 242
 • Maximising the receiver's lien - lessons learned from *Thackray & Ors v Gunns Plantations Ltd & Ors (No 2)* [2011] VSC 417
 BRISBANE **David O'Farrell**, *Partner, Minter Ellison*
 SYDNEY **Michael Hughes**, *Partner, Minter Ellison*
 MELBOURNE **Brendon Watkins**, *Partner, Minter Ellison*

9:55 **Committees of Inspection (COI): Dealing with the heat in the kitchen**
 • Overview of the role, responsibilities and key functions of COI in relation to the recent NSW Supreme Court decisions in *One.Tel*
 • A comparison of the role, responsibilities and functions of COI in voluntary administration and liquidation scenarios
 • Examining the key function of remuneration approval
 • Must liquidators comply with directions given by COI?
 • Beware: Avoiding the trap of relying on circular resolutions in the context of a COI
 BRISBANE & SYDNEY **Bruce Hambrett**, *Partner, Baker & McKenzie*
 MELBOURNE **Peter Lucarelli**, *Partner, Baker & McKenzie*

10:40 Morning Tea

11:10 **Commissioner of Taxation v Bruton Holdings Pty Ltd**
 • Priority creditors of collapsed companies are once again protected
 • Brief background of the Bruton Holdings collapse
 • Understanding the Tax office's section 260-5 notice against the solicitors of Bruton Holdings Pty Ltd
 • Examining the appeal of the Section 260-5 notice by Bruton Holdings' solicitors
 • Clarifying the outcome of the case and its results for Bruton Holdings Stakeholders
 BRISBANE **Rosalie Cattermole**, *Senior Associate, Blake Dawson*
 SYDNEY **Paul O'Donnell**, *Partner, Blake Dawson*
 MELBOURNE **Ian Kellock**, *Partner, Blake Dawson*

11:55 **Buzzle Pty Ltd v Apple Computers**
 CASE STUDY
 • Avoiding the risks of shadow directorship and insolvent trading
 • How far can a creditor of the company go to protect their interests without becoming a potential target for liquidators?
 • Where is the boundary between legitimately protecting your interests and effectively becoming a decision maker for the company as the 'piper' or 'puppet master' of the company?
 • How creditors can best protect themselves from being sued by a liquidator as a director of the company: Practical advice for creditors and those advising them
 BRISBANE **Scott Sharry**, *Partner, Clayton Utz*
 SYDNEY **Jennifer Ball**, *Partner, Clayton Utz*
 MELBOURNE **Paul James**, *Partner, Clayton Utz*

12:40 Lunch

IMPROVING INSOLVENCY PRACTICE

1:40 **Integrated reporting: Performance insights through better business reporting**
 • Improving capital allocation through integrated reporting
 • Learn how to sustain reporting cost reductions and performance improvements through a more consistent understanding of business strategy
 • Evaluating the implications of integrated reporting for Australia
 BRISBANE **Simon Crane**, *Partner, KPMG*
 SYDNEY **Nick Ridehalgh**, *Partner, KPMG*
 MELBOURNE **Michael Bray**, *Partner, KPMG*

2:25 **Revisiting waters and widows: Applying these principles to determine floating and fixed charge recovery of assets**
 • Establishing your receivership start position
 • Working out what your assets are and developing a plan
 • Understanding what information needs to be disclosed and when
 • Guidance for the recording of all work done and the basis of calculation, to guide disclosure of remuneration
 • Knowing what information needs to be provided for each specific remuneration basis for remuneration approval requests
 BRISBANE **Matthew Broderick**, *Partner, Gadens Lawyers*
 SYDNEY **Justin Bates**, *Partner, Gadens Lawyers*
 MELBOURNE **Robert Hinton**, *Partner, Gadens Lawyers*

3:10 Afternoon Tea

3:40 **Best Practices for Alternative Dispute Resolution (ADR) within insolvency cases**
 • Using ADR to improve efficiencies and minimise legal spend in resolving insolvency related conflicts
 • The impact of the pre-litigation ADR requirements in the Federal Court
 • Limitations to ADR solutions in insolvency matters
 BRISBANE **Petrina Macpherson**, *Senior Associate, McCullough Robertson*
 SYDNEY **Michael Rozdal**, *Partner, Kemp Strang*
 MELBOURNE **Penelope Pengilly**, *Senior Legal Practitioner*

4:30 Closing remarks from the chair

4:40 End of conference

