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Corporate Insolvency Conference

The latest developments
in insolvency law
and practice

18-19 August 2008
Conrad Treasury,
Brisbane

20-21 August 2008
Amora Jamison,
Sydney

More company

Rate rise
predicted

Global financial
market turmoil

Key benefits:

- Debate the remuneration and fee issue - what should a liquidator be entitled to?
- Understand the issues in relation to **cross-border insolvencies**
- Discover the **practical impact of recent reforms** and **case law developments**
- Explore the latest on **accelerating administrations** through **pooling**
- Evaluate recent developments in **litigation funding**
- Gain insight into **how and when Administrators** should determine the **casting vote**

Register today

www.lexisnexis.com.au/pd

Expert speakers include:

The Hon Justice Martin Daubney,
Supreme Court of Queensland

The Hon Justice Reg Barrett,
Supreme Court of New South Wales

Chris Caton, Chief Economist, **BT Financial Group**

Greg Moloney Partner, **Ferrier Hodgson**

Barry Kogan, Director, **McGrathNicol+Partners**

Michael Quinlan, Partner, **Allens Arthur Robinson**

Geoff Sutherland, Special Counsel, **Deacons**

Robert Elliott, Partner, **Hall Chadwick**

Matthew Broderick, Partner, **Gadens**

Ray Mainsbridge, Partner, **Blake Dawson**

Product of:



More company collapses
Rate rise
predicted

Corporate Insolvency Conference

Essential updates in insolvency law and practice

Day One | Brisbane - 18 August 2008 | Sydney - 20 August 2008

8:30 **Conference registration**

9:00 **Opening remarks from the Chair**
Bill Fletcher, Partner, **Bentleys MRI** (Brisbane)

9:15 **Perspective on reforms and the insolvency landscape from the Bench**
Explore the practical issues that will impact work practices in the legal profession. Attendees will benefit from the opportunity to hear first hand from The Hon Justice Daubney in Brisbane and The Hon Justice Barrett in Sydney on insolvency practice issues arising in Court.
The Hon Justice Martin Daubney,
Supreme Court of Queensland (Brisbane)
The Hon. Justice Reg Barrett,
Supreme Court of New South Wales (Sydney)

10:00 **Outlining developments in uncommercial transactions**

- Reviewing the majority and minority decisions in *Capital Finance Australia Ltd v Tolcher* (2007) 164 FCR 83; [2007] FCAFC 185;
- Consideration of the circumstances in which a transaction is uncommercial - *Welcome Homes Real Estate Pty Ltd v Ziade Investments Pty Ltd (In Liq)* [2007] NSWCA 167;
- Defining the "transaction" which may be avoided - *Kalls Enterprises Pty Ltd (In Liq) v Baloglow* (2007) 63 ACSR 557; [2007] NSWCA 191;
- Comparisons to breach of fiduciary duty claims - *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89;
- Defences to uncommercial transaction claims - s 588 FG.
- Remedies under s 588FF.

Matthew Broderick, Partner, **Gadens** (Sydney & Brisbane)

10:40 **Morning tea**

11:00 **How has the OPES Prime case highlighted the issue of ownership of equity**

- Outlining the key issues current players and issues for resolution
- Key issues in relation to the ownership of equity
- Dealing with a trader closing out contracts
- Issues in relation to timing of the security taken
- Examining issues in relation to payments leading up to the collapse

(Speaker to be advised Brisbane & Sydney)

11:45 **Reviewing issues in relation to the calculation of time**
Calculation of time in insolvency matters is important given that a failure to meet a time deadline can have serious consequences for the issue being pursued and for the practitioner.

- Issues relating to 459R *Amorin Constructions Pty Ltd v Kamtech Electrical Services*
- How the Court assessed the matter under the *Acts Interpretation Act 1901*
- Understanding the implications of definition of time and the implications of winding up being out of time
- When can the slip rule be utilised to permit an extension of time
- Update of the services of a director's penalty notice under s222AOE of the Income Tax Assessment *Re V Gouris: Epromotions Australia*

Ray Mainsbridge, Partner, **Blake Dawson** (Sydney)

12:30 **Remuneration and fees**

- Outlining the issues in relation to fees as highlighted in *Hall & Or v Poolman and Bruton Holdings*
- Applying new standards for remuneration and fees disclosure
- What should a liquidator be entitled to?
- Examining what s449E(1) allows?

Paul Venus, Partner, **Holding Redlich**, (Brisbane)
Greg Wrobel, Partner, **Holding Redlich** (Sydney)

1:15 **Networking lunch for speakers and delegates**

2:15 **Pinpointing key issues in recent cases**

- Aussie VIC Plant Hire v Esanda Finance Corporation* – examining whether an order may be made extending the period for compliance with a statutory demand after the period for compliance has expired
- Stork ICM Australia Pty Limited* – can future liability for future claims be transferred from one company to another by way of a scheme of arrangement
- Ausenco International: CCT v Wellnora* – highlighting the issue of how best the Administrators casting vote should be used
- ASIC v Edge* - examining the implications of this high profile disciplinary case
- ASIC v Green Pacific* - examining the extent to which the availability of future funds is insufficient to avoid winding up

James Conomos, Partner, **James Conomos Lawyers** (Brisbane)
Michael Quinlan, Partner, **Allens Arthur Robinson** (Sydney)

3:00 **Reviewing the practical implications of the new amendments to GEERS**

- Understanding changes to the Super Guarantee
- Outlining the current thresholds
- Assessing the correct procedure for employees upon appointment of administrators – how should they be handled when trading on
- Issues in relation to casual staff versus permanent
- What determines whether an employee is entitled to redundancy as opposed to leave

Robert Elliott, Partner, **Hall Chadwick** (Sydney & Brisbane)

3:45 **Afternoon tea**

4:15 **Update on accelerating administrations through pooling and how changes to the law apply**

- Outlining new 579E of the *Corporations Act 2001* allowing a court to determine that a group of companies is a pooled group
- Analysing the *Allen v Feather Products Pty Ltd (2008) NSWSC 259* and its implications for the new pooling law
- Examining the transitional provisions to the *Corporations (Amendment) Insolvency Act 2007*
- Understanding how the changes apply

Leigh Adams, Principal, **Leigh Adams Lawyers** (Sydney & Brisbane)

5:00 **Close of Day One**

Case Law Snapshot

Case Study

Day Two | Brisbane - 19 August 2008 | Sydney - 21 August 2008

- 9:00 **Opening remarks from the Chair**
Bill Fletcher, Partner, Bentleys MRI (Brisbane)
- 9:15 (Sydney): **Economic update: evaluating the impact for insolvency practitioners**
- Outlook for economic growth in the coming year
 - Evaluating the impact of inflation and rising interest rates
 - How has the sub-prime crisis impacted Australia
 - What lessons do we need to learn from the US?
 - Projecting future trends for practitioners
- Chris Caton, Chief Economist, BT Financial Group (Sydney)*
- 9:15 (Brisbane): **Refinancing arrangements and voidable transactions: Case study of CFAL v Tolcher**
- Creation of debtor-creditor relationship by requirement to pay out equipment lease exposure
 - Application of 'entire transaction' principles
 - Assessing whether the financier has received the benefit of an uncommercial transaction
- David O'Farrell, Senior Associate, Minter Ellison (Brisbane)*

Interactive Open Forum

10:00 **Analysing the top issues insolvency practitioners face in the year ahead**

This session will provide an opportunity to discuss the top five issues insolvency practitioners will face in 2008/2009. Don't miss the opportunity to ask questions and ensure that you and your organisation are prepared to respond to developments and challenges as they arise.

- 10:45 **Morning tea**
- 11:15 **Creditors' meetings - understanding how and when Administrators should determine the casting vote**
- Creditors' Meeting recent case update including-
- Administrator's casting vote - *Deputy Commissioner of Taxation v Wellnora Pty Limited* and *Ausino International v Apex Sports Pty Ltd*
 - Rejection of proofs of debt - *Silvia & Anor v Brodyn Pty Limited, Tirrabella Pty Ltd v Struthers* and *Cardno CCS Pty Ltd v Dwyer*
 - What are provable debts in bankruptcy? *Foots v Southern Cross Mine Management Pty Ltd, Buzzle v Apple Computer* and *Auto Group Ltd v England*
 - Discussion of recent amendments to *Corporations Act 2001* and *Corporation Regulations 2001* that affect creditors' meetings
 - Review of Chapter 21 of the IPA Code of Professional Practice dealing with 'Creditors' Meetings'
- Scott Butler, Partner, HWL Ebsworth (Brisbane)*
Barry Kogan, Director, McGrathNicol+Partners (Sydney)

Upcoming Conferences:

5th Contract Law Masterclass
20-22 August, Brisbane

Corporate Tax Conference
3-5 September, Sydney

For more information call: 1800 772 772 or visit www.lexisnexis.com.au/pd

Hypothetical

12:00 **Determining when business re-construction turnaround or sale is the best option**

This session will present a case situation and delegates will work through the strategies for determining whether the business should be sold or a turnaround strategy be put in place. Throughout the session the following issues will be discussed and practical tools and techniques highlighted.

- Re-structuring or asset sale – what factors should be taken into consideration
- Identifying opportunities for growth and recovery
- Mergers as a turnaround strategy
- Identifying when to approach private equity investors or venture capitalists
- Issues in regard to protecting brand and reputation
- Developing a plan for the first 100 days

Greg Moloney, Partner, Ferrier Hodgson (Brisbane)
(Sydney to be advised)

12:45 **Networking lunch for speakers and delegates**

Case Study

2:00 **Update on Sons of Gwalia v Margaretic**

- Advancing shareholders' claims – update on outcomes to date
- Examining outcomes in relation to overseas jurisdictions in US and UK
- Update on the introduction of amending legislation
- Examining s563A and the implications
- Current shareholder management in relation to the case

Karen O'Flynn, Partner, Clayton Utz (Sydney)
(Brisbane to be advised)

- 2:45 **Identifying and managing cross border insolvencies and the implications of the new Cross-Border Insolvency Bill 2008**
- Analysing the implications of the *Cross-Border Insolvency Bill 2008*
 - Highlighting issues raised that impact Australia from recent cases including Basis Capital
 - What lessons could be learnt from the US
 - Conducting examinations outside Australia
 - Examining the recognition in Australia of foreign insolvency orders
- Geoff Sutherland, Special Counsel, Deacons (Sydney & Brisbane)*

3:30 **Afternoon tea**

Banking Perspective

4:00 **Understanding the criteria utilised by banks to allocate insolvency work**

- What methodologies do banks utilise to appoint an investigating team
- Understanding what factors will determine when a bank will appoint a receiver over a VA
- Outlining what banks expect of practitioners following an appointment,

Chris Watts, Executive Manager, Credit Management Commonwealth Bank of Australia(QLD) (Brisbane)
(Sydney to be advised)

4:45 **Close of Conference**

Priority registration form Corporate Insolvency Conference

**4 easy ways
to register**

Phone: 1800 772 772
Fax: (02) 9422 2338
Online: www.lexisnexis.com.au/pd
Mail: Conference Co-ordinator, LexisNexis
Locked Bag 2222,
Chatswood Delivery Centre, Chatswood NSW 2067

Please complete sections A, B, C, D

Conference code: NSW-PD9408 QLD-PD9308 ABN: 70 001 002 357

A Delegate 1 details

Mr/Ms/Dr: _____
First name Last name

Position: _____

Organisation: _____

Postal address: _____

Suburb Postcode State

Telephone: _____

Fax: _____

Email (required**): _____

Delegate 2 details

Mr/Ms/Dr: _____
First name Last name

Position: _____

Telephone: _____

Fax: _____

Email (required**): _____

Delegate 3 details

Mr/Ms/Dr: _____
First name Last name

Position: _____

Telephone: _____

Fax: _____

Email (required**): _____

** to send conference confirmation

3rd Delegate FREE!

B Please tick as many practice areas you work in which apply:

- | | |
|---|---|
| <input type="checkbox"/> Banking & finance | <input type="checkbox"/> Family law |
| <input type="checkbox"/> Commercial litigation & ADR | <input type="checkbox"/> Insolvency & restructuring |
| <input type="checkbox"/> Corporate and commercial law | <input type="checkbox"/> Insurance and risk |
| <input type="checkbox"/> Criminal law | <input type="checkbox"/> Property |
| <input type="checkbox"/> Energy and resources | <input type="checkbox"/> Wills & estates |
| <input type="checkbox"/> Environment and planning | <input type="checkbox"/> Workplace relations, employment & safety |
| | <input type="checkbox"/> Other: _____ |

This will help us keep you informed about topics relevant to your business needs.

CONFERENCE RESOURCES

- I am unable to attend but would like to purchase a set of conference papers for the Corporate Insolvency Conference \$300.00 + GST = \$330.00

TEAM DISCOUNTS*

- Register a team of 2 for the Corporate Insolvency Conference at the same time, from the same organisation and receive a free pass for the 3rd delegate.

* Early Bird, team discounts and any other discount cannot be taken concurrently

C Event Pricing (please tick your selection)

Early Bird Special* (register & pay before 11 July 2008)

Two day conference \$1850.00 + GST = \$2035.00

Standard Price (register & pay after 11 July 2008)

Two day conference \$2500.00 + GST = \$2750.00

Please select venue: Sydney Brisbane

D Payment details

Payment is due upon registration

- Enclosed is my cheque for: \$ _____ made payable to LexisNexis
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- Name of approving manager: _____

Who Should Attend:

Insolvency Practitioners including:

- CEOs
- Partners
- Directors
- Associate Directors
- Senior Managers
- Managers
- Officers
- Administrators
- Corporate Recovery & Turnaround Professionals
- Receivers
- Liquidators
- Trustees
- Auditors
- Risk Managers
- Business Advisors

- Bank & Financial Institution Lenders
- Asset Managers
- Credit Managers
- Financial Controllers & Advisers
- Accountants

Legal Practitioners in Insolvency and restructuring practice groups including:

- Partners
- Senior Associates
- Associates
- Solicitors
- Commercial Lawyers
- Government Lawyers
- In-house Counsel
- Barristers

PROGRAM CHANGES

Details regarding this conference were confirmed and correct at the time of printing. LexisNexis reserves the right to cancel or amend the conference details at any time if required.

CANCELLATION

Your registration will be confirmed in writing when full payment is received. We will refund your registration in full less a \$165 administration fee if notification is received in writing by 22 July 2008. If we receive written notification between 23 July 2008 and 5 August 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 5 August 2008. You may nominate a replacement, however no refund will be issued.

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