



ASIC

Australian Securities & Investments Commission

Directors banned July to September 2009

Attachment to AD09-215

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Ms Roslyn BEEVERS—banned for two years

Ms Beevers, of Footscray, Victoria, was banned on 30 September 2009.

Ms Beevers was the director of three failed companies: Curraweena Investments Pty Ltd; Footscray (Palms) Motel Pty Ltd; and Prism Paints & Colours Pty Ltd.

ASIC decided that Ms Beevers failed to take reasonable steps to ensure that Curruweena Investments complied with its obligations to keep written financial records.

ASIC also decided that Ms Beevers breached her director's duties by failing to properly document loans between her and her family and two of the companies; failed to pay statutory liabilities and failed to maintain sufficient control of the company and review its situation on a regular basis.

Mr Robert STEWART—banned for five years

Mr Stewart, of Surfers Paradise, Queensland, was banned on 22 September 2009.

Mr Stewart's disqualification followed an ASIC investigation into his role as a director of two failed companies: Premium Strategies Pty Ltd and Starcorp Data Services Pty Ltd.

Strategies Pty Ltd was involved in the promotion of a thoroughbred horse racing betting scheme, while Starcorp Data Services Pty Ltd promoted a horse race-tipping software program.

It was found that Starcorp Data Services Pty Ltd failed with a deficiency of assets over liabilities of \$3,223,438.00 and that the company's financial records did not comply with the requirements of the Corporations Act. It was further decided that Mr Stewart failed to ensure that this company did not trade while being insolvent in the period 1 February 2004 to 25 October 2004.

Mr Jamin RYAN—banned for three-and-a-half years

Mr Jamin Ryan, of Elemore Vale, New South Wales, was banned on 17 September 2009.

Mr Ryan was the director of four failed companies, namely: A.C.N. 102 276 826 (formerly known as AIPT Pty Ltd); Newcastle Property Solutions Pty Ltd; Corporate Transport Services Australia Pty Ltd; and AIPT Management Pty Ltd.

A report was submitted to ASIC by the respective company's liquidators claiming that no dividends were expected to be paid to unsecured creditors.

Each of the failed companies had outstanding statutory liabilities including: \$146,102 owed by AIPT Pty Ltd to the Office of State Revenue; \$239,742 owed by Newcastle Property Solutions Pty Ltd; and \$279,500 owed by AIPT Management Pty Ltd to the Australian Taxation Office (ATO).

It was also found that Mr Ryan resisted requests from and provided limited assistance to the liquidators in respect of each of the failed companies. In relation to Corporate Transport Services Australia Pty Ltd, Mr Ryan was previously convicted by ASIC for offences under the Corporations Act of failing to assist the liquidator and failing to provide a Report as to Affairs for the company.

AIPT Management Pty Ltd was involved in a number of property transactions with failed debenture issuer, Australian Capital Reserve, that have come under question by the liquidator of Australian Capital Reserve.

Blake Geoffrey Allen RICHARDS—banned for four years (subject to appeal to the AAT)

Mr Richards, of Ulladulla, New South Wales, was banned on 15 September 2009.

Mr Richards was the director of four failed companies, namely, Longbeach Estate Pty Ltd, Longbeach Lifestyle Pty Ltd, Richards Corporate Consulting Pty Ltd and Lisa Richards Pty Ltd.

A report was lodged by the respective liquidators stating that dividends were expected to be less than 10 cents in the dollar.

Longbeach Estate Pty Ltd and Longbeach Lifestyle Pty Ltd were wound up with significant unsecured creditors and statutory liabilities. The companies owed in excess of \$2 million to unsecured creditors and over \$1 million to the ATO.

ASIC decided that Mr Richards failed to act with the degree of care and diligence, or with a lack of commercial morality, in relation to the tax debts of Longbeach Estate Pty Ltd and Longbeach Lifestyle Pty Ltd. ASIC also decided that Mr Richards failed to keep proper books and records to adequately explain the companies' transactions.

Mr Richards has lodged an appeal with the AAT for a review of ASIC's decision.

Mr Francis George RYAN—banned for three-and-a-half years

Mr Francis Ryan, of Arcadia Vale, New South Wales, was banned on 4 September 2009.

Mr Ryan was the director of three failed companies: ACN 102 276 826 (formerly known as AIPT Pty Ltd); Newcastle Property Solutions Pty Ltd; and Corporate Transport Services Australia Pty Ltd.

Each company was wound up with significant deficiencies. In each instance, the liquidator reported to ASIC that the companies would be unable to pay any dividends to unsecured creditors.

The liquidators reported that AIPT Pty Ltd and Newcastle Property Solutions Pty Ltd failed owing \$279,500 and \$239,742 to the ATO.

Mr Ryan had also previously been convicted for failing to provide a Report as to Affairs and failing to provide adequate assistance to the liquidator of AIPT Pty Ltd.

Mr Steven FLELLI—banned for three years

Mr Flelli, of Acacia Ridge, Queensland, was banned on 3 September 2009.

Mr Flelli was a director of Strelli Pty Ltd which operated the 'Mass Nightclub' in Fortitude Valley, Queensland.

The ASIC investigation identified a further three failed companies which had been managed by Mr Flelli, namely Audio Lighting Technologies Pty Ltd; Lets Eat At Pty Ltd; and Hotelco Pty Ltd. Each of these companies was placed into the hands of a liquidator as a result of a creditor's petition.

In respect of each company, the liquidator was of the opinion that the causes of failure were due to poor strategic management, poor financial control which included a lack of records, poor management of accounts receivable and inadequate cash flow or high cash use.

The liquidators of the companies alleged that Mr Flelli did not comply with various directors' duties, failed to maintain proper books and records, failed to submit a Report as to Affairs, failed to provide assistance to the liquidator, failed to provide the liquidator with the company's books and failed to prevent the companies from trading while insolvent.

Mr Brian FRANKLAND—banned for four years

Mr Frankland, of Sanctuary Point, New South Wales, was banned on 28 August 2009.

Mr Frankland was a director of ten failed companies: Brian Group Services Pty Ltd; Supply Services Pty Ltd; NVFAC Pty Ltd MEEYA Pty Ltd; LLGCC Pty Ltd; Bishment Pty Ltd; Hill Street 1 Pty Ltd; Hill Street 2 Pty Ltd; Hill Street 3 Pty Ltd; and Hill Street 4 Pty Ltd.

Each of the companies failed with substantial outstanding liabilities. In each instance, the liquidator reported to ASIC that returns to creditors would be zero cents in the dollar.

Brian Group Services Pty Ltd was wound-up with an outstanding liability to the ATO of \$219,726.67. Similarly, Supply Services Pty Ltd owed the ATO \$485,967.56 upon winding-up.

On 12 May 2009 Mr Frankland was also convicted and fined \$500.00 plus costs for failing to assist the liquidator of Brian Group Services Pty Ltd by not submitting a report as to the affairs of the company.

Mr Keith Henry SHELDRIK—banned for five years

Mr Sheldrick, of Concord, New South Wales, was banned on 27 August 2009.

Mr Sheldrick was a director of five failed companies in the employment services industry namely: MHS Group Pty Limited; MHS Executive Recruitment Pty Limited; MHS Property Management Pty Limited; Michael Henry Services Pty Ltd; and MHS Medical Pty Limited.

The companies collectively failed owing creditors approximately \$31,029,811 including approximately \$3 million to the ATO.

ASIC was satisfied that Mr Sheldrick had breached his directors duties in the management of the companies. ASIC took the view that that Mr Sheldrick had been a persistent failure in the operation of business and as

sole director, bears sole responsibility for the mismanagement of the companies.

Mr Beven Edward SCHWAIGER—banned for two years

Mr Schwaiger, of Kingsford New South Wales, was banned on 17 August 2009.

Mr Schwaiger had been a director of five failed companies: Integrum Pty Ltd; Emsoft Australasia Pty Ltd; Vincennes Pty Ltd; Environmental Management Australia Pty Ltd; and Emsoftcorp Pty Ltd.

ASIC decided that Mr Schwaiger lacked commercial morality and management skills and had on one occasion, failed to comply with his obligations as a director, in facilitating the sale of the business of one company to another of which his wife was sole director, without an independent valuation.

Mr Anthony James SCOTT—banned for one-and-a-half years

Mr Scott, of Clifton Hill, Victoria, was banned on 10 August 2009.

Mr Scott's disqualification followed an ASIC investigation into his role in three failed companies: Swift Securities & Investments Pty Ltd, Trader Systems International Pty Ltd; and TSI Australia Ltd.

ASIC decided that Mr Scott failed to understand and perform the duties of a director adequately.

This included his management and involvement in the affairs of Swift Securities & Investments Pty Ltd; Trader Systems International Pty Ltd; and TSI Australia Ltd that did not meet the standards required of a person in his position as director.

Furthermore, the investigation found that Mr Scott permitted Trader Systems International Pty Ltd and TSI Australia Ltd to incur debts despite the companies being insolvent. In addition, the companies failed to maintain records, as required.

Mr Maxwell Andrew POYSER—banned for four years

Mr Poyser, a business consultant from Hawthorn Victoria, was banned on 7 August 2009

Mr Poyser was disqualified following an investigation into his involvement in two failed companies: Cleargold Pty Ltd; and Diamond Designs FG Pty Ltd (DDFG).

The liquidators appointed to the companies reported that the companies' unsecured creditors will not receive any dividends.

ASIC decided in relation to DDFG, that Mr Poyser failed to maintain proper books and records, allowed the company to trade while insolvent and failed to regularly remit taxation and superannuation monies to the ATO.

ASIC also decided that Mr Poyser engaged in 'phoenix activity' by facilitating the transfer of DDFG's business to an associated company, Diamond Designs Holdings Pty Ltd, for no consideration, to defeat the claims of DDFG's creditors

Mr Philip John O'LEARY—banned for three years

Mr O'Leary, of Waverley New South Wales, was banned on 7 August 2009.

Mr O'Leary had been a director of three failed companies in the construction industry: Reliable Steel Fixing Pty Ltd; Reliable Reo (NSW) Pty Ltd; and Reoform Pty Ltd.

The liquidator for each company advised ASIC that the companies failed due to poor strategic management. Each of the companies was wound up upon application by the ATO for unpaid taxes.

Mr Andrew Rodney Leech—banned for two years

Mr Leech, of Five Dock, New South Wales, was banned on 6 August 2009.

Mr Leech was the director of two failed companies: Formula One Wholesale Pty Ltd and Formula One Imports Pty Ltd.

Each of the companies failed with significant liabilities, amounting to a combined total of over \$440,000. By way of example, Formula One Wholesale Pty Ltd had an outstanding liability to the ATO of \$278,219.

ASIC decided that Mr Leech had improperly used his position as a director of Formula One Wholesale Pty Ltd to gain an advantage for himself and cause detriment to the company. This included Mr Leech not offering any appropriate justification as to why large increases in his salary and credits of director loan accounts were made, effectively eliminating outstanding director's loans that were payable to the companies. Each of these had taken place at a time where the company was incurring losses.

Mr Rajinder Singh DHAMI—banned for five years

Mr Dhami, of Hamilton, New South Wales, was banned on 13 July 2009.

Mr Dhami's disqualification followed an ASIC investigation into his role in three failed companies: Port Hunter Haulage Pty Ltd; Euro Bar & Grill Hamilton Pty Ltd; and Tile Express Pty Ltd.

Mr Dhami was the director of three failed companies, which were initially involved in child-care and real estate developments, and were later involved in transport and haulage.

It was found that the companies failed with an estimated aggregate deficiency of \$1,179,811 and that Mr Dhami failed to understand and perform adequately, his role and duties as a director, including deliberately using available funds for purposes other than paying statutory liabilities and employee entitlements.

Mr Christodoulos PAPANTONIOU—banned for three years

Mr Papantoniou, of Blacktown, New South Wales, was banned on 10 July.

Mr Papantoniou's disqualification followed an ASIC investigation into his role in the failure of two companies: JP Frozen Foods Manufacturing Pty Ltd; and JP Frozen Foods Pty Ltd.

ASIC's investigation found Mr Papantoniou's management of the companies resulted in significant deficiencies, including amounts owing to the ATO.

Further, in respect of the management of JP Frozen Foods Pty Ltd, Mr Papantoniou failed to ensure that the company maintained and retained proper books and records and subsequent to the company being wound up, to provide assistance to the liquidator as soon as practicable.