11 November 2014.

Australian Government

Treasury

Re: Insolvency Law Reform Bill

Thank you for considering insolvency reform.

I wanted to provide a brief response.

I apologise for this response being rough, but I reasoned a rough response was better than none. I ask my submission remain confidential.

I would like to offer you my time in person if you want an independent view of the proposed reforms. I'm happy to travel to Canberra as I enjoy trying to improve the insolvency profession.

I have about 20 years' experience in the industry, most of it as a sole practitioner.

I have copied the summary of your report to give context with my response in CAPS for convenience.

I ask that you consider inviting ASIC to issue a regulatory guide on pre-packs. The UK model, (now 10 years ahead of us) was not legislative in design. It would be long overdue change that would benefit SME owners who need guidance on how to phoenix an insolvent company legitimately and would reduce the 600M in lost tax and 3B of creditors losses each year.

The reforms create a new Schedule to the Corporations Act and Bankruptcy Act that substantially aligns the registration process for registered liquidators and registered trustees.

GREAT IDEA

The reforms to the registration system for insolvency practitioners align the standards required of potential practitioners before being able to be considered for registration. The newly aligned registration process based upon the existing Bankruptcy Act provisions will replace the current systems for registration of liquidators and registered trustees.

GREAT IDEA.

REMOVAL OF LIQUIDATOR'S BY CREDITORS IS LONG OVERDUE.

There would be a single class of practitioner in corporate insolvency (although registrations may be conditional or restricted to some kinds of administration). The separate class of official liquidator, as well as debtor company specific registration, would be removed. Registered liquidators would be able to perform all functions currently restricted to official liquidators. [These reforms will be released as part of the forthcoming consequential amendments portion of the Bill]

OK

The reforms to the insurance obligations of insolvency practitioners will significantly strengthen the penalties attached to not holding adequate and appropriate insurance, improve the regularity with which practitioners are required to show evidence of their insurance to the regulators, and allow for the insurance obligations for insolvency practitioners to more easily be amended in light of the insurance markets prevailing at a relevant period of time.

WHY.

AS LIQUIDATOR'S WE PAY MASSIVE PREMIUMS AND IN 20 YEARS OF PRACTICE I HAVE NEVER SEEN A LIQUIDATORS PI PAY THAT RESULTED IN CREDITORS GETTING A BENEFIT. I HAVE SEEN A FEW CLAIMS, BUT NEVER A DIVIDEND RESULTING FROM THE PI PAYMENT.

SO WHY DO YOU LET THIS INHERENT COST OF ABOUT, MY GUESS 5M TO REMAIN COMPULSORY WHEN THERE IS NO BENEFIT TO ANYBODY BUT INSURANCE COMPANIES.

IF YOU WANT TO SAVE COSTS YOU NEED TO DEVISE A SYSTEM BETTER THAN COMPULSORY INSURANCE WHICH IS OUTRAGEOUSLY EXPENSIVE AND DEVOID OF BENEFIT. IN THE OLD DAYS WE USE TO HAVE TO PAY A BOND OF 250K. ITS CHEAPER AND I SUSPECT BETTER THAN THE CURRENT SYSTEM.

The reforms to the annual trustee return obligations on insolvency practitioners will facilitate aligned reporting obligations by insolvency practitioners to their relevant regulators. All insolvency practitioners will now be required to lodge an annual practitioner return, setting out generic information about the practitioner, as well as a return setting out information on each administration undertaken by the practitioner during the financial year.

WHY WE DO THIS WITH BANKRUPTCY AND IT DOES NOT GENERATE ANY BENEFIT TO CREDITORS. THIS IS JUST NEW RED TAPE WHICH WILL PRODUCE A NICE BOOK THAT NOBODY WILL READ COVER TO COVER.

Insolvency practitioners will now be obligated to inform their respective regulator when the trustee becomes aware of prescribed significant events that would result in the practitioner automatically being deregistered by law, the practitioner being able to be deregistered by a regulator without reference to a Committee, or the practitioner ceases to have adequate and appropriate insurance.

OK

The reforms to the disciplinary frameworks applying to insolvency practitioners align the processes applying to registered liquidators and registered trustees. The reforms provide the new capacity for the regulators to deregister or suspend a practitioner directly without referral to a Committee on certain objectively determinable grounds.

OK

The reforms will apply the current three-person committee approach currently operating under the Bankruptcy Act to the registration and discipline of registered

liquidators. The procedures of a Committee under both systems would be based upon the procedures that currently apply to personal insolvency Committees.

GOOD

Yours sincerely

Nicholas Crouch