

Sheridans' View

Liquidator's examinations (Section 596A of the Corporations Act)

The weird and wonderful claims the Courts are presented with.

On 10 November 2016 the High Court unanimously dismissed Clive Palmer's challenge to the constitutional validity of Section 596A of the Corporations Act (liquidator's power to publicly examine and compel the production of documents).

Palmer, who once declared himself Australia's next prime minister, halted a liquidator's examination of him regarding the collapse of Queensland Nickel with his application to the High Court to have the examination laws (which he said were akin to laws in Nazi Germany) declared unconstitutional.

Palmer said his challenge to public examination laws will "change the way we live" and that he was acting not out of self-interest but on behalf of all Australians.

In addition to the liquidators, the attorneys-general of Queensland, Victoria, South Australia, and their federal counterpart, all objected to the challenge.

Having lost his High Court bid, Palmer will now have to return to the Federal Court to continue answering questions regarding Queensland Nickel.

In September 2016 during a liquidator's examination into the failure of the Sydney-based stockbroking firm BBY, the NSW Supreme Court heard evidence that the executive chairman Glenn Rosewall (son of the great tennis player, Ken Rosewall) had sought advice regarding the company from a self-proclaimed psychic and vibrational healer.

The Court was presented with emails and text messages between Rosewall and the psychic regarding the company. Rosewall appears to have asked the psychic to provide information on when certain stock prices might rise or when the company might receive a "significant windfall".

Lawyers for the liquidators read to the Court an email from the psychic to Rosewall which stated that "wealth clues in BBY's astrological charts" indicated the company "needed to curtail spending" because of a "tied aspect between Athena and Jupiter".

Rosewall had also sought the psychic's assistance with the firm's budgets and forecasts. Rosewall told the Court he viewed the psychic's feedback on the company's budget forecasts as "just another input" on par with input sought from the managers of different sections of the business.

Santa's home valued

A popular US real estate listing company has added a listing for Santa's house at the North Pole (3 beds/2 baths).

Unfortunately the property is currently "off-market" (Zillow Twitter: "We don't anticipate Santa moving any time soon") but is valued at US\$656,957 or \$3,228 per month to rent.

www.zillow.com



FOREWORD

Christmas – a time to reflect, to be grateful and find joy.

"...find out where joy resides, and give it a voice far beyond singing. For to miss the joy is to miss all."

Robert Louis Stevenson

"Happiness, not in another place, but this place... not for another hour, but for this hour."

Walt Whitman

"The joy we feel has little to do with the circumstances of our lives and everything to do with the focus of our lives."

Russell M. Nelson

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Frequently Asked Questions

Are administrators and liquidators working for the directors?

No. Although insolvency practitioners are commonly appointed by the directors in a voluntary administration, and appointed by the company's shareholders (who are often also the directors) in a voluntary liquidation, the insolvency practitioner is bound to act in accordance with the Corporations Act and therefore, in the interests of all creditors. The directors are not the insolvency practitioner's clients.

Who handles a bankruptcy?

The estate of a debtor who is entering into bankruptcy voluntarily will usually be administered by AFSA. However, a registered trustee may administer the estate if they have provided their written consent to the debtor. If a debtor is made bankrupt by a creditor, the creditor will choose the trustee.

Recent Assignments

- **Continuing liquidations involving:**
 - The sale and settlement of a heritage-listed partly developed property.
 - Several insolvent trading claims against directors.
 - An ATO and other preference claims.
 - Ongoing investigations involving the Major Fraud Squad.
- **Personal insolvency administrations, including those involved with:**
 - Croissant Express and Dymocks franchises.
 - A business in the mining sector comprising industrial and commercial plumbing, and liquid waste disposal.
- **Informal insolvency advice to various businesses, including those involved in IT retail, construction trades, retail and beauty services.**
- **Litigation support, including:**
 - Valuation of a home and investment loans business.
 - Assistance to lawyers regarding the valuation of a building company.
 - Assistance with confirmation of a group structure and sundry issues for a Family Court matter.
 - Investigations and sundry advice regarding various Family Court matters.

"Two kinds of gratitude: the sudden kind we feel for what we take; the larger kind we feel for what we give."

Edwin Arlington Robinson



When Fredric J. Baur, the inventor of the Pringles can, died, he was cremated and buried in a Pringles can, as per his wishes.

Baur, an American organic chemist and food storage technician, designed and patented the Pringles packaging, which uniquely stacked chips uniformly rather than loose in a bag. Baur had told his family of his burial wishes, which were adhered to after Baur died following a battle with Alzheimer's. The family's only debate on the issue was what flavour of chip can to use. They chose original.

DID YOU KNOW?



EDITORIAL

Turn off for Christmas

**Are you a "Smombie"?
Or do you suffer from Nomophobia?
Maybe it's time to have a break this Christmas.**

A smombie is a walking person using a smart or mobile phone, who is not paying attention as they walk. Seven out of ten young adults aged up to 24 admit using their mobile phones while walking, although three in ten of those aged 55 and over admit doing it as well.

Motorists have to swerve, slam on brakes or sound their horns. Nick Freeman, a UK celebrity lawyer specialising in traffic and speeding offences, nicknamed "Mr Loophole" by the British tabloid press, has called for laws to be introduced to criminalise pedestrians who cause a serious accident while on their phones.

A survey by the UK Sunday Times in February 2016 found that more than one in four people have risked hurting themselves or others by using phones as they walk around busy shopping areas. The survey observed that 15% of shoppers crossing the extremely busy London Great Portland Street were looking at their phones as they did so. You can observe the same behaviour every working day at crossings along St George's Terrace.

In early 2016, a statue outside Salisbury Cathedral, Wiltshire, UK was moved because pedestrians looking at their phones kept walking into it. In October 2013 in Japan a 47-year-old man wandered onto a railroad crossing while engrossed by his phone. He was hit and killed by a train.

In Antwerp, Belgium and Chongqing, China white lines have been painted on streets to create 'smombie lanes' where pedestrians can walk while texting or looking at mobiles without irritating others.

And what's Nomophobia?

It is the fear of being without your phone: no-mo(bile) (phone)phobia. The "I-must-have-my-phone-with-me-at-all-times" mindset that causes a rush of anxiety and fear when you realise you are disconnected or out of the loop with friends, family, work and the world. People are not addicted to phones themselves but the "checking habits" that develop with phone use. According to medical definitions, needing "anything" in order to feel at ease or normal is technically a disability.

So, maybe this Christmas take some moments to have a break from your phone. **And, have a safe and peaceful Christmas.**



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