

# RECOVERIES & LITIGATION SUPPORT

ABN 57 111 314 606

Committee Secretary  
Senate Legal and Constitutional Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

PO Box 712  
Bondi Junction 1355  
New South Wales Australia  
Tel: (61 2) 4784 3850  
Fax: (61 2) 4784 3812

30 July 2010

By fax: 02 2 6277 5794

Dear Sirs

**Submission in relation to – “Corporations Amendment (Sons of Gwalia) Bill  
2010”**

**Reversal of High Court Decision – Sons of Gwalia v Margaretic**

1. The Sons of Gwalia High Court Decision is of application ONLY to “CROOKED COMPANIES” and since the Full Court of the Federal Court decision in 2006 there have been relatively few companies which have had Administrators or Liquidators appointed which fit this description.
2. The Sons of Gwalia High Court Decision is a boon to good Corporate Governance which is necessary for both local and overseas investors to be confident in their decisions to invest in ASX Listed Companies.
3. We respectfully draw your attention to an error on the Exposure Draft 19/04/2010, Corporations Amendment (No 2) Bill 2010 “Explanatory Memorandum” which on page 10 says “In almost all liquidations, unsecured creditors receive at best a small percentage of what they are owed, generally only a few cents in the dollar” This statement is wrong, e.g. Ferrier Hodgson, the Administrators of Sons of Gwalia, the “centre of attention” Company, paid in August 2008 and December 2009 approx 21 cents in \$ to admitted shareholder creditors, which was exactly the same as other unsecured creditors including the Banks. There should still be more to come.

Bookarelli Pty Limited trading as Recoveries & Litigation Support ABN 54 111 314 606

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4. In submissions to the Corporations and Markets Advisory Committee in 2007/2008 reference was made to complexities of administering Shareholder/Creditors claims. Once the process for determining the shareholder claims against Sons of Gwalia was approved by creditors in December 2007 (less than a year after the High Court decision), every claim had been adjudicated by July 2008. Shareholders were given a clear indication of the information they had to provide before their claims were admitted. The legal, accounting and expert fees for the seven month adjudication process resulted in costs of less than half a cent in the dollar. The established and successful Gwalia administrators' processes and documentation can be used as an example to establish a regime to deal with aggrieved shareholders claims in other failed companies which have fraudulently misled or deceived their investors..
  
5. Why did the Rudd Government wish to favour Banks and the big end of town against Aggrieved Shareholders? If the Banks were concerned about loans to a Company they could have secured these loans. Banks that have been associated with Companies which have failed usually have themselves to blame. Did they do proper Due Diligence? Now they want to be protected by the proposed legislation.

FOR THE HIGH COURT DECISION	AGAINST THE HIGH COURT DECISION
Full Court of the Federal Court	Federal Corporate Law Minister Chris Bowen
High Court of Australia	Treasury Officials.
ASIC	Banks
Corporations and Markets Advisory Committee (Non Government Advisory Body)	

Yours faithfully

**Recoveries and Litigation Support.**