



12 January 2010

Mr Peter Hallahan
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Parliament House
Canberra ACT 2600

Dear Mr Hallahan

Inquiry into the Bankruptcy Legislation Amendment Bill 2009

We refer to our submission dated 25 November 2009. We wish to draw the Committee's attention to a recent decision of the Federal court of Australia in *McKinnon v Pattison* [2009] FCA 1421 (7 December 2009) on remuneration of a trustee in bankruptcy under the *Bankruptcy Act*. The decision comments that "there exists a public interest in ensuring that trustee's remuneration is open to objective scrutiny" [40] and also that there is a "public interest in ensuring that the trustee's remuneration is limited to work properly undertaken. The Act enables a bankrupt to request taxation regardless of the creditor's approval of the trustee in bankruptcy's remuneration" [42].

That decision confirms the approach of the Bill upon which we comment in our submission [pp 5-6], that there should be a process of review of a trustee's remuneration, even if that remuneration is approved by creditors.

We also draw the Committee's attention to the reference of the Economics Committee of 25 November 2009 to investigate, inter alia, the fees of liquidators and administrators. It is anticipated that issues of remuneration approval of insolvency practitioners and review processes will be raised at that inquiry.

Yours sincerely

Michael Murray
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Insolvency Practitioners Association