

# Representative Legal Matters

Mark D. Chapple

## **Andersen and HIH/FAI Insurance Groups**

Between 2000 - 2005 Mark acted for Andersen (formerly Arthur Andersen) (as auditors) and certain individual partners (as auditor and audit team members) in various matters arising from the financial collapse of the HIH/FAI Insurance groups, including:

- investigations into the audit and collapse of the HIH/ FAI Insurance groups (including extensive work with respect to director conduct, Australian accounting standards and audit and insurance practice);
- preparing evidence and witnesses for, and representing Arthur Andersen before, the HIH Royal Commission over more than 100 hearing days;
- preparing Andersen partners and staff for, and appearing in, extensive ASIC and APRA examinations; and
- as a senior partner member of Andersen's defence team in a major audit negligence claim and a securities class action.

## **AMP Group**

Mark has regularly acted for AMP Group entities in complex commercial disputes since 2003, including:

- in proceedings against two major investment banks relating to the GIO takeover;
- in relation to a major unit mispricing claim and associated complex warranty and insurance issues;
- in respect of a significant fraud claim;

- in defence of a claim concerning the establishment of a Korean investment fund;
- with respect to proceedings against traffic advisers arising from the financial collapse of the Lane Cove Tunnel (2009-2014); and
- in US proceedings defending a claim by former advisers (since 2011).

### **Global technology company**

In 2010/2011 Mark acted for a global technology company in the resolution of a major dispute with Virgin Airlines.

### **AECOM Australia and CLEM7 Tunnel**

Between late 2011 and May 2016 Mark was the full time lead partner acting for AECOM Australia (an Australian subsidiary of AECOM) in its defence of multiple Federal Court claims arising from the financial collapse of the CLEM7 Tunnel in Brisbane, comprising:

- a USD2 billion+ claim by members the RiverCity Motorway Group;
- an USD80 million+ claim by a secured lender;
- a USD250 million+ securities class action brought on behalf of IPO investors, funded by IMF Bentham; and
- USD360 million+ claims by two groups of US hedge funds.

In turn, AECOM Australia brought cross-claims in the securities class action against, amongst others, CPB Contractors (formerly Leighton Contractors), RBS Group Australia (formerly ABN AMRO Australia), Bilfinger RE Asset Management (formerly Bilfinger Project Investments Australia), Lend Lease Building Contractors (formerly Boulderstone Hornibrook), certain directors (including in respect of alleged breaches of directors' duties) and Mallesons Stephen Jaques (as it then was).

The US hedge fund proceedings were discontinued in 2012 after submissions as to their invalidity. The RiverCity Motorway Group and secured lender claims were resolved by

settlement in mid-2015. The securities class action were resolved on 31 May 2016 subject to required Court approvals, which were obtained in August 2016.

Baker & McKenzie had up to 15 opposing law firms across the various proceedings (including Corrs Chambers Westgarth, Ashurst Australia, Herbert Smith Freehills, Maurice Blackburn, Gilbert + Tobin, Johnson Winter Slattery and Colin Biggers & Paisley continuously since 2012) and more that 30 opposing Counsel (including more than 15 Senior Counsel).

Mark led a core team of two Senior Counsel (Andrew Bell SC and Mark Steele SC), two junior Counsel and eight Baker & McKenzie lawyers, supplemented as required on labour intensive tasks (such as discovery), both from within Baker & McKenzie and with up to 45 lawyers based in India.

### **Major insolvencies**

Mark has provided advice to banks and other financial institutions, liquidators, receivers, directors, creditors and debtors or defendants in relation to many of Australia's major insolvencies, such as:

- National Safety Council (charity–secured creditor and receiver);
- Rothwells (merchant bank-major creditor), including preparing, and appearing for, witnesses in private ASIC examinations;
- Equiticorp (finance group-major creditor and liquidator), including in a complex financial restructuring (contractual moratorium) and major Australian and New Zealand litigation;
- Westmex (listed conglomerate, including oil and gas and manufacturing–liquidator), including in complex financial restructuring (contractual moratorium), extensive investigations, asset sales, publicly examining directors (including Russell Goward and Paul Batchelor) and claims against auditors;
- Girvan (construction-company-receiver);
- Channel 10 (television-receiver);

- Qintex (Christopher Skase listed property development—a bank syndicate);
- John Fairfax (newspaper publisher— leading Australian Bank as major creditor, and receiver), including defending Bank against Federal Court litigation commenced by or on behalf of the "Tourang Syndicate" of "junk-bond" holders;
- Budget Car Rental (listed car rental—the company), including in complex Federal Court litigation against a major international accounting firm and a major Australian law firm;
- Dallhold Investments (Alan Bond conglomerate including mining-main bank syndicate);
- Abe Goldberg/Entrad (textiles, finance-liquidator), including in complex litigation concerning directors duties, breaches of fiduciary duty and constructive trusts;
- The Regent Hotel, Sydney, the Sheraton Airport and Office Tower, Sydney, Milton Park Resort and the Marriott Gold Coast (tourism-secured lenders and receivers);
- New South Wales Grains Board (NSW statutory agricultural corporation—statutory corporation and scheme manager);
- HIH/FAI Insurance Group, including HIH Royal Commission (general insurance-Arthur Andersen as auditors);
- Lehman Brothers Australia (executive and non-executive directors); and
- RiverCity Motorway Group (listed toll road owner- traffic adviser and creditor).