

*Bankruptcy*  
Submission No: .....67.....

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BY: *J. Gould*

The Secretary  
Gillian Gould  
House of Representatives Standing Committee on  
Legal and Constitutional Affairs  
Parliament House  
Canberra ACT 2600

Contact Stephen Hawke  
2/161 Collins St  
Melbourne Vic 3000

17 June 2004

Dear Ms Gould

**Inquiry into the Bankruptcy Legislation Amendment (Anti-avoidance and Other Measures) Bill 2004**

I understand that submissions are being sought by the Committee in relation to the proposed changes to the Bankruptcy Act. I would like to express concern at the very short period that has been allowed for submissions on this important matter and note the consequent impact on the brevity of my response.

I am a Chartered Accountant in public practice and have very serious concerns regarding the implications of the proposed amendments. I understand that these concerns are also being expressed by the Institute of Chartered Accountants and many other professional and commercial bodies. Rather than further address the issues they are raising, I would like to take a different approach and express my concerns as a Director of a not for profit public benevolent organization.

The value that professionals bring to the not for profit sector, and through the charities to the community at large, cannot be overstated, both in terms of the professionals' roles as honorary directors, as providers of pro bono advice and as fund raisers.

It is my view that the proposed amendments will substantially impede the preparedness of professionals to continue with such roles. I personally will need to seriously reconsider such involvement if, through such involvement I could potentially be bankrupted, putting in jeopardy the lawful arrangements I have in place to protect the well being of my family. Of course the charity with which I am involved as a Director has insurance, but we all know that insurance companies can and do fail. HIH is only

the most recent example, with Palmdale, AGCI, National Employers Mutual and others failing over the last 20 years. Accordingly **insurance is not enough** and Directors are entitled to look to asset protection measures that are both legal and proper.

I do not accept that creditors of a charity (in the unfortunate event of an insolvency) should have the ability to attack totally unrelated lawful transactions that were entered into (many years ago) by a recently appointed Director of the charity. The Director's personal transactions will have been entered into at a time when there was no hint or prospect of insolvency and none of the current creditors of the charity had any relationship whatsoever with the professional/Director. From discussions with fellow professionals, I am aware that many others share these views and are expressing concerns at continuing in honorary roles outside their profession.

In this regard, I believe the Committee should give careful consideration to the potential damage the proposed amendment could inflict on the not for profit sector and the communities that they support.

Certainly there should be much more consultation, as I understand that there was little if any external consultation outside of the government bureaucracy in crafting the proposed amendments, before such draconian legislation with unanticipated and far reaching consequences is implemented.

Yours sincerely



Stephen Hawke

cc:

P Ruddock, Attorney General  
B Bishop, MP