



## Perazzoli & Ors v BankSA & Anor

Michael Samra is a name that may ring a few bells in the legal fraternity. Between 2007 and 2009, Mr Samra operated a Ponzi Scheme in South Australia through the Adelaide Lending Centre (ALC) Group that saw investors lose significant funds. The ensuing 2014 Federal Court case – Perazzoli & Ors v BankSA & Anor – ended when BankSA agreed to pay a landmark \$13.25 million out-of-court settlement.

The settlement is one of very few in Australia in which investors stung in a Ponzi scheme have taken successful action against the scam operator's bank.

During the case, Bruce Debenham, Director of Banking and Finance at Perks, was engaged by the solicitors acting for the lead applicants in the class action against the bank to provide an independent expert report.

With Bruce's breadth of experience and expertise, he was able to provide an independent expert opinion on the standard expected of an honest and reasonable banker in the relevant period in managing client relationships and facilities provided to borrowers engaged in a private lending business, and whether the bank met those standards.

Bruce's expert report played an important role in securing an out-of-court settlement prior to trial in a hard fought case, as it addressed key issues of the bank's alleged liability.

Among other things, Bruce was required to form his opinion on the following matters relating to the case:

- Whether a prudent and diligent banker would have apprehended on reading and considering the ALC Group accounts that they did not record the indicia of a private lending business as represented by Samra;
- The enquiries that an honest and reasonable banker would have made in light of the facts and circumstances known to the bank during the relevant period, including by reference to any specific the bank internal policy;
- Whether the bank made those enquiries, and if not, whether the bank failure to do so was reckless (as opposed to merely negligent or careless) in light of the facts and circumstances known to the bank and the standard expected of an honest and reasonable banker;

In his judgment approving the settlement, Federal Court Justice Michael Lee described the proceeding "as being akin to trench warfare" in reference to the manner in which the bank had defended the proceeding to date.

## Our key technical services included:

- Providing impartial testimony in federal and state courts for legal teams acting both for and against financial services providers, including under cross-examination
- Up-to-date knowledge of the Code of Banking Practice and how it should be applied
- Deep understanding of the expectations of financial service providers as they relate to relevant policies and procedures
- Consultancy work to legal terms, including providing opinion as a 'dirty witness'



## Perazzoli & Ors v BankSA & Anor

With more than 25 years' experience as a risk management professional in the financial services industry, including a period as the Chair of the Lending Review Panel at NAB and serving as a current member of the ASIC Financial Services and Credit Panel, Perks Director of Banking and Finance Bruce Debenham has a deep understanding of the sector and the policies that govern it.

Bruce has been engaged by legal teams across Australia as an independent banking and finance expert witness on numerous Federal and Supreme Court matters relating to the Code of Banking Practice, in particular assisting the courts to determine what constitutes diligent and prudent banking and how a diligent and prudent banker should perform their role.

As an advocate for the proper application of policy and process in the provision of financial services and with deep experience working in the Australian financial industry, Bruce is ideally positioned to provide expert witness testimony to complex financial litigation cases. Bruce Debenham's unique skill-set and experience equips him adeptly as an expert witness on Banking & Finance matters.

Bruce is a Fellow of Chartered Accountants ANZ, a member of Australian Restructuring Insolvency and Turnaround Association (ARITA) and has worked in the reconstruction and recovery divisions of two large accounting firms in the UK and Australia.

Bruce has practical commercial experience in the work out areas and credit risk departments of two major banks in Australia, while his risk experience extends to governance matters and director duties and responsibilities.

In his current role as Director of the Banking and Finance division at Perks, he is abreast of all current issues in the banking and finance industry; in particular, those emanating from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

## Bruce Debenham Director, Banking & Finance

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