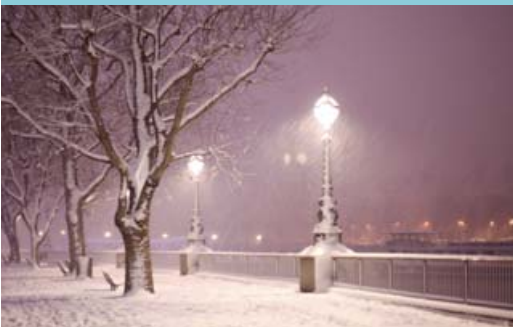


insolvency practitioner



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2010 Annual Lecture

The President is pleased to announce that John Penrose MP will deliver the IPA's 2010 lecture. As Shadow Business Minister, John Penrose MP is the Conservative Party's spokesman on insolvency as well as better regulation and consumer affairs.

The lecture will take place at 6.30 pm on **26 January 2010** at the Royal Automobile Club, London, SW1. Tickets are available from the Secretariat.

IPA Members scoop accolades at *Credit Today* awards

OUR CONGRATULATIONS to IPA Council members Charles Turner, Edward Bible, and Mark Fry, and IPA Past Presidents Tony Benedict and Simon Underwood, who accepted prizes at *Credit Today's* Insolvency and Rescue Awards on 21 October. IPA IPs Alastair Beveridge and Lloyd Hinton also received awards, as did IPA IPs Richard Fleming and Nedim Ailyan on behalf of their respective IPA Member Firms, KPMG and Abbott Fielding.

Charles Turner (then of PwC, now joining Vantis as a partner) was awarded Insolvency Practitioner of the Year – Personal; Mark Fry accepted the Business Rescue of the Year Award (less than £20 million turnover) in respect of Begbies Traynor's instruction on Southampton Football Club; the winner of the corresponding "less than £51 million turnover" award was accepted by Richard Fleming of KPMG in respect of JJB Sports (see *Insolvency Practitioner* Summer 2009 edition for an overview). Insolvency Litigation Firm of the Year was won by Brethertons. IPA Member Firm Benedict Mackenzie won the mid-sized Corporate Recovery Firm of the Year, and Abbott Fielding – Nedim Ailyan's firm – the corresponding



Richard Fleming (second left) collecting the award for Business Rescue of the Year (less than £51m turnover) at the Insolvency and Rescue Awards 2009, organised by *Credit Today*

Small Firm award. Insolvency Practitioner of the Year – Corporate was won by Alastair Beveridge of IPA Member Firm Zolfo Cooper, and Insolvency Manager of the Year by Lloyd Hinton of IPA Member Firm Tenon Recovery. The Sabin Award for Outstanding Contribution to the UK Rescue Culture was made to Gill Hankey of The Bankruptcy Advisory Service.

Below left: Charles Turner (second left) receiving the award for Insolvency Practitioner of the Year – Personal
Pictured right: Edward Bible (second right) of Brethertons receiving the award for Insolvency Litigation Firm of the Year



News in brief

IPA now a Competent Authority. IPA IPs received a mailing from the Secretariat in November which provided information on applying to become an Approved Intermediary for the purpose of processing Debt Relief Order applications. An IP may also wish to consider sponsoring suitable members of staff (who must be IPA members) to apply for Approved Intermediary status.

OFT market study into corporate insolvency. IPA members may be aware that the Office of Fair Trading announced the foregoing study on 12 November. The Chief Executive and Council representatives have already held a preliminary meeting with the OFT and will be preparing a detailed submission.

Joint Ministry of Justice/BIS/Insolvency Service consultation on Debt Management Schemes. The Personal Insolvency Committee has prepared and submitted a response to the consultation.

The Corporate Consultation Committee has submitted a response on behalf of the IPA to the government's green paper, "Reforming Corporate Rescue".

Finance & General Purposes Committee. The committee is pleased to report that CPI and CPPI examination, and IP authorisation fees have not been increased for 2010; membership fees were subject to a modest increase linked to inflation.

Regional Roadshows. The autumn series of roadshows took place again this year, with a total of 260 IPA members – and colleagues of IPA members – attending at 6 venues over the UK. Always keen to innovate, this year a meeting was held at Leeds.

Virgin London Marathon 2010. Alan Grant of the IPA Secretariat is hoping to raise money for Cancer Research UK by taking part in this year's marathon and has a target time of under 4 hours to complete the run. If you would like to sponsor Alan card payments may be made at <http://www.runningsponsorsome.org/alangrant> We wish Alan the best of luck.

Availability of good CPE. Members who are interested in the development of insolvency policy from a CPE perspective might be interested in attending the conferences and seminars arranged periodically by the Insolvency Service. The events are publicised in *Dear IP*.

Changes to the Self-Certification Process Self-certifications were introduced in 2005 and they carry out a vital function in the IPA's Better Regulation regime. Self-certifications provide valuable desk top monitoring information, supporting the IPA's risk assessment process.

In most cases, where self-certifications are carried out close to an inspection visit, they contribute little more to the IPA's monitoring process. Therefore, in line with the Hampton principle of effective regulation regarding the elimination of unnecessary regulatory burdens, we have decided that, in the vast majority of cases, we will no longer request self-certifications in the year of an inspection visit. However, we expect IPs to continue to carry out regular internal reviews to monitor the effectiveness of their systems.

CPI Exam 2009

IT'S TIME ONCE AGAIN to offer some comments on this year's CPI exam. This year 278 candidates sat the paper, a slight increase on 2008. Candidates were drawn from a wide range of firms, both in terms of size and location, as in previous years.

It gives me great pleasure to say that this year's paper was answered better than ever before. A record 71% of candidates passed. 15 candidates achieved a distinction and a further 20 were awarded a merit.

General comments

This year's paper adopted a slightly different format from previous years. There were ten one mark questions, five two mark questions, and five four mark questions. The format for the fifteen mark questions was unchanged, (two compulsory, and two out of three optional questions).

In general, candidates displayed a consistently sound exam technique; most read the questions carefully, and allocated time proportionately. Throughout the paper the marks available for each section of a question were clearly referable to the amount of information required, and there was less knowledge dumping than in previous years.

As with any tough written paper there will always be an element of time pressure, but candidates are not doing themselves justice if their scripts are completely illegible, or their answers are not even numbered, let alone tagged together in any discernible order.

Multiple choice questions

These were consistently answered very well indeed, but particularly the bankruptcy and IVA questions. The poorest answered were on administrative receivership returns – don't forget, administrative receivership remains on the syllabus – and surprisingly s235 IA86, duty to co-operate. Most of this year's candidates should revisit that section.

Short compulsory questions

The new two mark questions proved successful, with candidates generally picking up marks well on such diverse areas as interim orders, statutory purposes of administration, and CVA creditors' meetings.

The four mark questions were tackled less consistently. The listing of examples of associates under s435 IA86, and the steps to be taken by an administrator in announcing his appointment, were straightforward questions which were very well despatched. By contrast, candidates struggled with how to value foreign currency claims for voting purposes, and a question on such a centre ground area as priority of costs under Rule 4.218 IR86 should have been fielded with more confidence.

Statement of Affairs/Administrator's proposals

On to the fifteen mark questions, and the annual whinge. Here goes. Yet again, the Statement of Affairs question was done surprisingly badly. Too many candi-

CPPI Examiner's Report

FOLLOWING a successful pilot exam, the first 'official' sitting of the CPPI took place in June 2009. The exam attracted candidates who were, on the whole, proficient and knowledgeable in the personal insolvency discipline. The exam is in 'start up' phase and had not been fully embedded into the training calendar prior to the June sitting so the training available for this sitting was limited. It was not surprising therefore that the number of candidates was modest and may have been more experienced than might be expected of candidates in future sittings. No doubt this contributed to the high pass rate (83%).

The paper was designed to be mainstream but also to test candidates on a broader range of personal insolvency issues than would be tested in the personal insolvency part of the CPI. This is because the CPI is a generalist paper designed to test a candidate's knowledge and ability across the broad spectrum of both personal and corporate insolvency whereas the CPPI is designed to be a more specialist qualification, on an academic par with the CPI, but primarily designed for those who work exclusively in the personal insolvency arena. It is intended to, and is able to, probe candidates' knowledge of personal insolvency in more detail and in the expectation that candidates will be able to display a good in-depth awareness of the options available to an insolvent individual including, to a limited extent, non-statutory options.



by Charles Turner (formerly of PwC) joining Vantis as a partner and IPA Council Member.

Successful candidates should be able to demonstrate that they are able to advise insolvent individuals on the full range of insolvency options that may be available and to explain in some detail the pros and cons of each process. In addition they will be expected to demonstrate that they are capable, at a day to day level, of managing personal insolvency assignments.

Generally candidates answered most questions well. The ten multiple choice questions presented no particular problems with an average mark being achieved of 7.17.

The short form questions were less well answered. No one achieved more than 50% on the 2 markers (the average mark was around 0.5). These questions probed knowledge on key syllabus topics including the IVA protocol, disclaimers in bankruptcy, a bankruptcy creditors' committee, an appeal on the outcome of an IVA meeting and an admittedly more difficult question on 'whistle blowing' on IVA debtors who are guilty of an offence. It was disappointing that these questions were answered poorly.



by David Thornley, Partner at Bridge Business Recovery and Chairman of the Examinations & Training Committee

dates just didn't seem to grasp the basic concepts, particularly as regards different types of security and where to carry surpluses or deficiencies.

Candidates should not expect that they can score marks merely by setting out a basic template. You've got to be able to demonstrate you understand how these statements work. I can only repeat the message: all candidates sitting the CPI exam must be capable of preparing basic financial statements such as a Statement of Affairs. The principles involved are essential to anyone aspiring to be an insolvency professional, manager or senior administrator, and candidates generally need to be better prepared in this area.

Thankfully, the second part of the question gave candidates a chance to redeem themselves. Matters to be included in the administrator's proposals: this is a subject right out of the heart of the syllabus, and candidates were able to demonstrate a sound grasp of the requirements.

Initial statutory and practical matters for a Trustee following appointment

Not so long ago, the majority of candidates really struggled with personal insolvency questions. This year, this compulsory fifteen mark question was the best answered on the paper. Most candidates gave methodical responses, demonstrating a thorough practical grasp of the key requirements, including case handover and set up procedures,

The five 4 markers were much better answered with only the question on the scale fees on realisation and distribution for bankruptcy causing problems, which was a little surprising.

Compulsory 15 mark questions:

Question 21 required candidates to prepare an estimated outcome statement comparing an IVA with a bankruptcy. Candidates must be comfortable with preparing these sorts of statements which are central to the syllabus. In fact this was the question that was answered the best overall with an average mark of 9.75 being achieved.

Question 22 required candidates to draft a letter of advice to an insolvent debtor setting out what assets would and would not be included in a bankruptcy estate. The average mark achieved was 6.33 – below half marks – which reflected the fact that answers were insufficiently thorough and comprehensive. Few candidates picked up on the NT Gallagher trust points in part (b).

Optional 15 mark questions (2 out of 3 to be done):

Question 23 tested candidates' knowledge of the details required to prove a claim in bankruptcy proceedings coupled with the procedure to be followed by a trustee in adjudicating upon and rejecting claims. Finally candidates were asked about the rights of inspection of proofs. This question was answered reasonably well by the candidates who selected it with an average mark of 8.67.

Question 24 tested candidates' knowledge of the

initial correspondence with the debtor and creditors, and considerations regarding the protection and realisation of the debtor's property interest.

SIP 16/s216 Re-use of company name

SIP 16 has been one of the hot topics of insolvency in the past year, so it was pleasing that this part of this voluntary fifteen mark question was done very well indeed by those candidates who attempted it. Candidates demonstrated a highly creditable knowledge of the conduct expected of an IP prior to his appointment as an Administrator preparing a pre-pack sale, and the disclosure requirements following such a sale.

The final part of the question, concerning s216 was answered a bit more sketchily. The Malpractice and Penalisation Chapter of the Insolvency Act is right at the heart of the syllabus, and candidates need to ensure they have a detailed grasp of its provisions.

Failure of debtor to co-operate

This question comprised three parts: the debtor's obligations to co-operate, the powers that the Trustee can invoke to secure the debtor's compliance, and recoveries from excessive pension contributions. Candidates struggled with this question. To do well some detailed knowledge was required, but at the same time, candidates did miss out on marks, by not stating some straightforward points.

SIP 2/Examination of Company records/ SIP 9 disbursements/ Declarations of dividend/Rejection of Proofs

Candidates shouldn't be scared off by the apparent length of hybrid questions like this; they offer

duties, functions and powers of a supervisor, (particularly in reviewing a debtor's contributions), as set out in the IVA protocol standard conditions. The question also tested the admission of claims and how to fill a vacancy in the office of supervisor. The question was badly answered (average mark 3.33).

For the avoidance of doubt a good knowledge and awareness of the IVA protocol should be regarded as essential for this exam. Protocol questions were poorly answered in the pilot paper as well. The protocol is a key document for thousands of IVAs every year and it is disappointing that so far candidates have been unable to answer straightforward questions on this topic.

Question 25 was selected by all candidates and was generally answered satisfactorily, although some answers were a little superficial. The average mark was 8.67. It required candidates to set out their advice to a property owning 'consumer' debtor, on the insolvency options available (bankruptcy, IVA and DMP). This was a straightforward comparison type question which was again central to the syllabus and should have presented no problems.

In conclusion, candidates were generally well prepared and it was pleasing that they coped well with the paper. Future papers are likely to explore the syllabus a little more thoroughly and candidates will be expected to display a good knowledge and understanding of personal insolvency procedures across the board and in more detail than is expected for the CPI.

Our congratulations to all candidates who passed the June 09 paper. ■

good opportunities to pick up marks. As always, candidates should consider the marks available for each section of the question, and use this as a guide for the level of detail required.

Summary

All in all, the performance of candidates was very pleasing. For the most part, questions were approached methodically and with confidence. Candidates identified what was required, and gave thorough and well tailored answers. It was particularly gratifying that candidates were so well prepared on as important and topical an area as SIP16. The weakest area remains the inability of so many candidates to prepare a Statement of Affairs, which is just not an area you can opt out of.

The CPI is a challenging paper. Candidates must demonstrate a familiarity with statute, SIPs, and case law. But overall the paper concentrates on mainstream areas of the syllabus, and those candidates who study hard will find it rewarding, and of real practical benefit.

Congratulations

As always, congratulations to everybody who passed and good luck to everybody intending to sit the paper in 2010. ■

The Examinations & Training Committee would be pleased to hear from members who are interested in assisting with the IPA's examinations. Please contact the Secretariat for further information.

SIPs

Members are reminded of the clarification issued in October 2009 by the Practice Guidance, Ethics & Standards Committee regarding compliance with SIP16 on pre-packs, and in this context are also pointed to the IPA's Guidance Note on Transparency and Confidentiality which sits alongside the IPA Ethics Code for Members (see www.ipa.uk.com). Please make sure that you have due regard to the *Dear IP* issue no. 42 when preparing SIP16 statements. We will be issuing a consultation shortly, as part of a review being undertaken by the Joint Insolvency Committee, on the shape and content of a possible new SIP16. The IPA representatives on JIC and in discussion with The Insolvency Service have been pressing to ensure that any regulatory requirements are practical, whilst also wishing to give IPs guidance to assist in the process of improving compliance levels in this politically-sensitive area. We hope any revision to this SIP, as with others, will be on the principles-based approach previously agreed by the regulators and consultees.

In relation to SIP9, if you have any strong views – ahead of the consultation – about what a new principles-based SIP9 should look like, then we would be pleased to hear from you. What core principles should remain central to the SIP and what key compliance points would you expect to be a part of it? The timetable on this is tight, because we are driving this process to produce a new SIP in time for the implementation of the new Rules in April. Contact alisonc@ipa.uk.com with your views.

Regulatory Reminders

For members who were unable to attend any of this autumn's IPA regional meetings, below are some of the items arising from inspection visits and self-certifications that were covered:

Disclosure of the basis of Category 2 Disbursements

In April 2007, SIP9 was changed so that, instead of distributing to creditors hard copies of Creditors' Guides to Fees, reports should explain where the Guide could be accessed. Prior to this change, some practices had taken the sensible step of including within the firm's Creditors' Guides information on how they intended to charge Category 2 disbursements. Unfortunately, where reports no longer enclosed a Creditors' Guide, some also omitted information on Category 2 disbursements. It is recommended that members review their standard letter packs to ensure that sufficient information on Category 2 disbursements is provided as required by SIP9.

Whilst on the subject, members might like to note that the IPA is working with a sub-group of the Joint Insolvency Committee on revising SIP9 in readiness for the revised Insolvency Rules, which will come into force in April 2010.

IVA Referrals and Pre-appointment Payments

There have been some instances of members failing to meet the requirements of SIP3, paragraph 5.4. The Proposal or Nominee's Comments must include the source of any referral and any payments made, or proposed to be made, to the source of such referrals. The SIP does not limit disclosure to payments intended to be made only from the Arrangement funds. Therefore, where the Nominee's firm or the debtor has paid or intends to pay the referrer for work done, this should be disclosed.

Paragraph 5.4 of SIP3 also requires the Proposal or Nominee's Comments to disclose any payments made (or proposed to be made) to the Nominee or his firm by the debtor whether in

connection with the proposed VA or otherwise. Therefore, where a debtor has been paying funds to the Nominee's firm, e.g. under a debt management plan, these must be disclosed. Although not expressly required by SIP3, the ethical principle of transparency supports the disclosure of payments made under a debt management plan to any party in the period leading up to the Proposal.

IVA Modifications

We appreciate that managing proposed modifications can be difficult; we are aware that many creditors are continuing to propose significant numbers of modifications and often they are submitted the day before, or even the day of, the creditors' meeting. However, we would expect Nominees to explain to debtors the possible consequences of modifications that may need to be accepted if the IVA is to be approved and to give them time to reflect on material changes. To protect oneself from challenge, IPs will also want to ensure that they maintain evidence that the debtor has agreed to modifications at the time the IVA is approved.

We appreciate that modifications are a matter for the debtor and his/her creditors. However, we would expect an IP to agree to act as Supervisor only in relation to IVAs that he/she believes have a reasonable prospect of being implemented. Consequently, IPs should consider whether any modifications that are likely to be accepted conflict with others and work with creditors prior to the meeting to seek to alter conflicting modifications so that IVA remains workable.

S98 and Statement of Affairs Fees

Rules 4.38-CVL(2) and 4.62-CVL(2) state that, if the expenses of the S98 meeting and Statement of Affairs are paid prior to the S98 meeting, the chairman shall inform the meeting of the payments. Rules 4.38-CVL(4) and 4.62-CVL(4) states that such payments may not be made by the liquidator to himself (or to an associate) without requisite approval. There have been occasions when an IP has

intended to receive payment for S98/Statement of Affairs fees prior to the S98 meeting, but, for some reason or other, that has not been achieved. In such circumstances, the IP must take care to obtain the appropriate resolution if he wishes to draw the fees post-appointment.

Bank Account Signatories

We have noticed that online banking is becoming more popular with IPs. We acknowledge that there may be significant benefits, for example in relation to monitoring standing order receipts and undertaking up-to-date bank reconciliations. We also understand that some IPs operate designated estate accounts linked to a general clients account, and these arrangements require frequent transfers between accounts. Of course, IPs will want to arrange for appropriate staff to have access to online facilities to benefit fully from the advantages of these systems. However, it is not appropriate for anyone other than authorised insolvency practitioners to have the power to transfer monies from estate or client accounts to other accounts that are not controlled by the practitioner(s).

Discretionary Advertising Provisions of the 2009 Rules

Members will be aware that the Insolvency (Amendment) Rules 2009 (and others) relating to changes in newspaper advertising requirements took effect on 6 April 2009. We have heard that some members are reluctant to avoid advertising where it is no longer expressly required by statute. Although we have some sympathy with IPs who feel that advertising aids transparency, we refer members to the Insolvency Service's letter of 13 March 2009 (accessible at: www.insolvency.gov.uk/insolvencyprofessionandlegislation/iparea/iparea.htm). The IPA shares the Insolvency Service's view that an office-holder's discretion to advertise is not expected to be "used routinely in run-of-the-mill cases, but rather in cases where clear benefits or a business need can be identified". ■ *Michelle Butler*

Regulatory Notices

Investigation Committee: Disciplinary Consent Order

Publicity: On 2 June 2009 the Investigation Committee ("The Committee") issued a Disciplinary Order by way of Consent against **Mr Philip D Nunney** (of Sheffield, England) pursuant to Committee Rule 5. Mr Nunney was found liable to disciplinary action under Article 66.1.1 by reference to his conduct as liquidator being found to have breached the Association's Guide to Professional Conduct and Ethics principle of Due Skill and by reference to having breached Insolvency Rule 4.62 in respect of failing to obtain proper approval to draw expenses from estate funds. Mr Nunney was reprimanded, fined a sum of £4,000 and was also ordered to pay a contribution of £500 towards costs.

Investigation Committee: Disciplinary Consent Order

Publicity: On 28 October 2008 the Investigation Committee ("The Committee") issued a Disciplinary Order by way of Consent against **Ms Nicola L Francis** (of Atrincham, England) pursuant to Committee Rule 5. Ms Francis was found liable to disciplinary action under Article 66.1.1 by reference to her conduct as Nominee and Supervisor of an Individual Voluntary Arrangement being found to have breached the Association's Guide to Professional Conduct and Ethics principle of Due Skill

and by reference to having breached Statement of Insolvency Practice 3 in respect of failing to act when the terms of the voluntary arrangement had been breached. Ms Francis was reprimanded, fined a sum of £1,500 and was also ordered to pay a contribution of £500 towards costs.

Investigation Committee: Disciplinary Consent Order

Publicity: On 2 June 2009 the Investigation Committee ("The Committee") issued a Disciplinary Order by way of Consent against **Mr Roderick G Butcher** (of Birmingham, England) pursuant to Committee Rule 5. Mr Butcher was found liable to disciplinary action under Article 66.1.1 by reference to his conduct as Nominee and Supervisor of an Individual Voluntary Arrangement being found to have breached the Association's Guide to Professional Conduct and Ethics principle of Due Skill, being found to have breached Statement of Insolvency Practice 3 in being deficient when advising the debtor and being found to have breached the Insolvency Act 1986 by failing to register the Voluntary Arrangement with the Court and Secretary of State. Mr Butcher was reprimanded, fined a sum of £2,500 and was also ordered to pay a contribution of £500 towards costs.

Membership & Authorisation Committee: Formal Undertaking

Publicity: On 24 September 2009 the Membership and Authorisation Committee ("the Committee") issued an order pursuant to Committee Rule 18 that **Mr Colin**



New Head of Regulatory Operations

Andrew Kerr joined the Secretariat during November as the IPA's new Head of Regulatory Operations. Andrew previously worked at IPA Member Firm, Baker Tilly.

A Sefton (of Skipton, England) will enter into a written undertaking that he will not accept any appointment to act as office holder in relation to a company or limited liability partnership. He is permitted to accept appointments as office holder involving individuals or partnerships of individuals. He also undertook to pay the costs associated with the order.

Investigation Committee: Disciplinary Consent Order

Publicity: On 8 September 2009 the Investigation Committee ("The Committee") issued a Disciplinary Order by way of Consent against **Mrs Gagen D Sharma** (of Birmingham, England) pursuant to Committee Rule 5. Mrs Sharma was found liable to disciplinary action under Article 66.1.1 by reference to her conduct as administrator, being found to have breached Statement of Insolvency Practice 16 in failing to issue the necessary disclosures in a timely manner following a 'pre-packaged' sale of a business. Mrs Sharma was reprimanded, fined a sum of £250 and was also ordered to pay a contribution of £250 towards costs. ■

Colin Bird – handing in his licence after 40 years in the front line



I GUESS I WAS ONE OF THOSE UNUSUAL PEOPLE – at school I knew I wanted to be an accountant! Possibly this was the reason I turned down the opportunity to go to university to study statistics, but it was probably more to do with wanting to stay in London with my girlfriend, Janet (now my wife of 38 years!). In 1968 Price Waterhouse (as it then was) was not graduate entry (if I recall correctly this came in around 1970), so when I was offered a 4 year training contract (then known as “articles”) at £750 per annum I took it. Mind you it was a close run thing – I nearly took a position with the Vestry Group to train for ACCA, but the salary was only £725! I was a bit shocked to find out that up to a couple of years before I would have been expected to pay for articles (which would have meant that I couldn’t have become a Chartered Accountant, but in the event I did, qualifying in 1972).

It was usual during articles to spend a tour in each department, which meant being based in Audit, and having spells in Tax and Corporate Recovery. I worked on a number of insolvencies, including the famous Beagle Aircraft, where the Government paid all the creditors to avoid liability for fraudulent trading as they had publicly funded the development programme and then backed out (aficionados can read about this in HM Inspector’s report into the failure of Rolls Royce, where it was stated that HMG were facing “Beagle-type liability” in that case and chose to let it go under to avoid potentially being liable for its debts). Not surprisingly, when I was told that I wouldn’t make a great auditor I asked to join the Insolvency department because those guys had fun and were not at all like stuffy accountants! At that time Corporate Recovery in PW consisted of a total of 8 people, managed by Monty Eckman who had joined from a small firm and a then Senior Manager, Mark Homan. Both were to become giants of the insolvency world, and I regard myself as privileged to have trained under practitioners of their calibre. When Monty died suddenly in 1974, in the middle of that recession, Mark Homan was made partner and became the leader, under whose guidance the practice grew over the next 20 years to become a substantial business with 20 plus partners nationwide and globally respected as a restructuring practice.

I have now seen 4 recessions, 3 as a practitioner and this one from within a financial services business: have no doubt, this is the worst, although each one felt like the worst at the time! The combination of distress in the banking sector combined with the global slowdown in trade is deadly, and it’s difficult to see which sector is going to lead us out of the position we’re in. In this respect it feels like the 1980’s where the recovery was long and slow until the boom period towards the end of the decade.

For my part I worked on distressed property companies and banks in the 1970s, industrial companies in the 1980s and insurance companies in the 1990’s. One of the highlights was working for the Bank of England on the work out, inter alia, of Johnson Matthey Bankers. I also spent a happy few years sorting out the 300 liquidations in the Rossminster empire and the associated bankruptcy of Roy Tucker, arising from the challenge by HMRC to the considerable number of tax avoidance schemes sold during the high taxation of the 1970s. The 1990’s brought the major challenge of the Maxwell case, where I worked on the protocol between the UK and US to try to bridge the differences between the jurisdictions. Certainly the solution was not perfect and the resulting work was expensive, but the fact was that if we hadn’t sorted something out there would have been no chance of saving the many companies in the Maxwell public company group. During the Maxwell case I was fortunate enough to be asked to handle the restructuring of the property and petrol station group, Heron International, at that time the UK’s second biggest private company and run by Gerald Ronson. It was one of the rare major cases where a team was put in by the board to prepare for a restructuring in advance of being pressed to do so by the banks. This says a lot about the management who were of the highest quality, and about Gerald Ronson in particular who is not only good at what he does, but was also prepared to listen to advice and adapt. The fact that the group survived 2 restructurings with its terrific portfolio of European properties intact and is still building today under Gerald Ronson’s leadership says a lot about its inherent quality.

At this time I was also the provisional liquidator of London United, the holding company of a number of major London Market insurance companies – a fascinating insight into the world of insurance that was to lead to my leaving the profession in 2001 to set up Tawa plc, now an AIM listed company owning 3 insurance companies in run-off – which demonstrates, I hope, that the skills developed as an IP can be applied to any sector in financial distress. Listing the plc on AIM in 2007 and seeing through this recession from the inside have been major challenges.

From the earliest days in the 1970s PW’s ethos was to be at the forefront of developments within the profession, and to actively support the IPA. I became the IPA’s representative on the Joint Insolvency Committee of regulators, working with the late Maurice Withall of Grant Thornton, and then Chairman of the IPA technical Committee, during which time the IPA introduced the first examinations for IPs (long before they became necessary in order

to obtain a licence). On the formation of SPI (now R3) in 1986 I became the Chairman of SPI’s Technical Committee where we developed the first Statements of Insolvency Practice. We were quite clear, then, that we did not want to restate what we thought the law was (which was for the Courts to decide), but to put together best practice. I sense that this principle has been somewhat stretched by those that have succeeded me!

I became President of SPI in 1995 in tragic circumstances – the great Allan Griffiths was elected President and I was his Vice-President for 3 weeks when he died suddenly and I succeeded him. Instead of having a year to prepare for the Presidency I had no time at all – just like a receivership, really – dropped in it, so you have to swim or sink! That year was a whirlwind for me, but every bit as exciting as a new job! I was privileged to be able to launch Farringdon Insurance Company during this time, working with Steve Hill. Since then it has put over £2 million back into the profession and, significantly helped expand training opportunities through its voucher scheme administered by R3.

Throughout this time I stayed on the IPA Council and represented it on the “10 years on” committee review of insolvency regulation which spawned the Insolvency Practices Council. I have been the Director of Finance for IPR Services, which levies the profession to pay for the IPC since its formation, handing that on to the Richard Long earlier this year. In 2000 I was selected to become President of IPA, a challenging position and one I am glad I had the chance to hold. At the IPA I worked with David Sapte to launch, with the RICS, the voluntary regulation scheme for fixed charge receivers which the IPA now administers. More recently I worked with Peter Joyce and Frank Simms to start the process to develop regulation in the debt management sector, but the most pleasing development to me has been the reconfiguration of IP regulation to become a much smarter system where assessing the quality of the service is really important.

As I come to the end of a career as a practising IP, the main thing I will treasure is that I worked with some of the great names of the industry – a lot of them are mentioned above, but there were many others, including Nigel Hamilton, Alan Bloom, Chris Morris, John Talbot, Murdoch McKillop and Chris Hughes. In addition I am proud to have assisted in the professional development of some of the present generation of leading practitioners, including Ian Powell (now Senior Partner of PwC), Tony Lomas (now leading Lehman Brothers) and Dan Schwarzmann (who has made a name for himself in the insurance industry), as well as having been at the forefront of industry developments for over 30 years. ■



IPA President's Reception

THE PRESIDENT, FRANK SIMMS, took the opportunity of the annual IPA President's Reception on 26 November to thank committee members for their service to the Association in 2009. Awards were made during the evening to CPI 2009 prize-winners Stacy Johnson (first prize, pictured), and Robert Hanley (second prize). Ryan Naylor won the third prize.

Developments in Scottish Personal Insolvency Legislation

Maureen Leslie, IPA Council Member, has been keeping members based in Scotland informed of developments in the Home Owner and Debtor Protection (Scotland) Bill, which was introduced to the Scottish Parliament on 1 October 2009. The primary changes sought by the Bill are the provision that the family home may be excluded from Trust Deeds and the introduction of a new route to Sequestration via a Certificate of Insolvency.

In addition to the IPA submission of written evidence, Maureen presented oral evidence to Parliament's Local Government & Communities Committee on 4 November. The evidence session can be viewed from the film archive section

of www.holyrood.tv (Maureen's evidence session starts around 1 hour 25 minutes into the session recorded on 4 November).

The IPA would like to thank Maureen and other members in Scotland for the significant time they have spent in responding to Parliament's invitations to comment on the Bill, sometimes at short notice.

The Bill will be moving on to Stage 2 in the Parliamentary process in late January; we expect to see further consultations on Protected Trust Deeds issued in the New Year. If any members based outside of Scotland would like to receive future updates on developments, please contact Michelle Butler at the IPA (michelleb@ipa.uk.com).



Richard Turton Award 2009

This year's award was made at INSOL Europe's recent conference in Stockholm to Yanna Hankovich from Minsk (pictured third from right; to her left is Neil Cooper of Zolfo Cooper, who represented the IPA at the presentation). Yanna is currently studying for her PhD: her Dissertation topic is on the "Assignment of receivables".

Insolvency Professionals Networking Committee



The Insolvency Professionals Networking Committee have organised several successful events this year. The first was a post-CPI networking event which was kindly sponsored by Edward Symmons LLP.

This was closely followed in July by the third annual "It's a Knockout" competition at Millwall Football Club. This event was sponsored by Tenon Recovery, Philip Davies & Sons, Goodman Masson and Begbies Traynor. More than 140 people attended the event and none of them ended up in hospital! Nabarro won the competition for the second year running. Investigations are continuing!

The last event of the year was the highly successful post-Joint Board/Halloween party.

The event was sponsored by McGrigors and WH Marks Sattin. Over 120 people joined the party in Ludgate Hill, but only the committee were brave/foolish enough to turn up in costume. The quiz was won by the mighty Tenon Recovery team for the second year running. No investigation necessary, I think.

I would like to thank all of the sponsors of these events, the committee for all their hard work and Allister Manson who stepped down as chairman of the committee earlier this year to take up a position in Grand Cayman.

[Lloyd Hinton, Tenon Recovery, Chairman of the Insolvency Professionals Networking Committee](#)

Report of IPA Extraordinary General Meeting held on 12 November

MEMBERS APPROVED UNANIMOUSLY a number of changes to the Association's constitution at an EGM held on 12 November. The first resolution removed the requirement for Council to be represented on the IPA's regulatory committees, and indeed prevents a Council member from now serving on a regulatory committee. Council proposed these changes in order to more clearly distinguish Council's role in setting the rules and regulations by which the committees and IPA members operate, from the task of applying those standards which is undertaken by the regulatory committees. The second resolution sought to clarify that every elected Council member, with the exception of the current President, Vice-President, Deputy Vice-President and Immediate Past President, is in principle eligible to be chosen by Council to take office as the Deputy Vice-President at the conclusion of the next AGM.

Revised procedure for selecting the Deputy Vice-President

IN ADDITION TO ENSURING that Council members who would otherwise be due to retire by rotation at the next AGM are eligible to be chosen as the Deputy Vice-President elect, Council has revised the procedure by which it chooses that person. So if your ambition is to be President of the IPA do take note!

The IPA's constitution already provides that its three senior officers - the President, Vice-President, and Deputy Vice-President - must be elected members of Council; it also presumes that the Deputy Vice-President in one year will become the Vice-President in the next, and the President in the year after that. Council is required to choose the person who will become the next Deputy Vice-President at its penultimate meeting of the Presidential year, which generally takes place in January/February. Council is assisted in making its choice by an advisory committee of IPA Past Presidents which usually meets in November.

In order to improve the transparency of the procedure, Council has asked the committee to consider the suitability of every eligible (and willing) Council member to be chosen as Deputy Vice-President elect by reference to a number of criteria centred on the role of IPA President. The committee is asked to report back to Council in time for its New Year meeting, when Council will make its choice.

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Insolvency Practitioners Association

IPA
Valiant House, 4-10 Henegate Lane,
London EC3A 5DQ
Tel 020 7623 5108
Fax 020 7623 5127
email.secretariat@insolvency-practitioners.org.uk