COMPANY AND SECURITIES LAW JOURNAL

Volume 33, Number 5

August 2015

EDITORIAL 283

ARTICLES

Significant judicial guidance on the application of the continuous disclosure obligations – *Danielle McFarlane*

Historically, judicial guidance on the application of the continuous disclosure obligations has been limited. This is concerning as these obligations are critical to maintaining the integrity of the Australian securities market and yet they are inherently difficult to apply. A recent decision of the Federal Court of Australia in Grant-Taylor v Babcock & Brown Ltd (in liq) [2015] FCA 149 provides valuable guidance on the application of these obligations and is therefore a significant development in this area. 287

Delegation and reliance by Australian company directors – *Angela Gibbs* and *Jon Webster*

Under both the general law and the Corporations Act 2001 (Cth), Australian company directors owe certain non-delegable duties to their company, including the duty to act with care and diligence. To perform these duties, directors are entitled, and indeed expected, to delegate and rely on management, committees of the board and external advisers. This article examines the current state of the law as it relates to delegation and reliance by Australian company directors through an analysis of the relevant statutory provisions and case law. 297

Insider trading, general deterrence and the penalties for corporate crime – *Juliette Overland*

The Australian Securities and Investments Commission has recently called for increases in applicable maximum penalties for corporate wrongdoing in order to deter potential offenders from engaging in such conduct, and there have been resulting recommendations for such increases in the Final Report of the Financial System Inquiry. In March 2015, a record sentence of seven years and three months' imprisonment for insider trading was imposed on Mr Luke Kamay in the case of the Director of Public Prosecutions (Cth) v Hill [2015] VSC 86, while last year, in the case of Re Gay [2014] TASSC 22, Mr John Gay, a convicted insider trader who was not sentenced to a term of imprisonment, was granted leave to manage two private corporations. This article focuses on the particular corporate crime of insider trading and reviews ASIC's Report on Penalties for Corporate Wrongdoing in this context. The role of general deterrence in the sentencing of white collar criminals, particularly those convicted of insider trading, is examined and the impact of recent cases such as Commonwealth Director of Public Prosecutions v Hill and Kamay and Re Gay, is considered within this framework. 317

OVERSEAS NOTE: HONG KONG, SINGAPORE AND MALAYSIA – *Say Goo*

Confucianism and its theoretical application to the corporate world in China – *Charles KN Lam* and *Say Goo* 332

TAKEOVERS AND PUBLIC SECURITIES – *Simon McKeon* and *Jonathan Farrer*

Takeover dispute resolution in Australia and the United States – Takeovers panel or courts? – *Ian Ramsay* 341