ADVANCED TRUSTS: THEORY AND PRACTICE

AVAILABLE ON A LEGAL PROFESSIONAL DEVELOPMENT (LPD), CROSS-INSTITUTIONAL OR NON-DEGREE BASIS

Sydney Law School
New Law Building (F10)
Eastern Avenue, University of Sydney
Semester 2 Intensive
2-5 September 2013

ABOUT THE LECTURER:

PROFESSOR RICHARD NOLAN
YORK LAW SCHOOL

Professor Richard Nolan of Your University, UK, formerly Reader at Cambridge University, is a leading scholar in the corporate law and trusts law. He is a barrister and Door Tenant at Erskine Chambers, Lincoln’s Inn. Professor Richard Nolan was previously fellow and director of studies in Law at St John’s College.

Specialising in Company Law, Commercial Law and Trusts, his research interests encompass barrister trusts, particularly express trusts, and equitable property. His other areas of special interest include corporate law; commercial aspects of fiduciary duties; securities regulation and jurisprudence.

He is one of York University’s ‘Anniversary’ professors. The ‘Anniversary’ professors are part of the University’s activities to mark its 50th anniversary next year. Sixteen new professors are being appointed, all of whom have been selected for their outstanding contributions to their fields of study.

OBJECTIVES

- The Advanced Trusts unit will offer theoretical perspectives on trusts and their use in commerce and finance, together with practical examples.

CONTENT

This course will examine a selection of uses to which trusts are put and which students will not have encountered in their undergraduate or foundational studies of trust law, as well as theoretical perspectives on those uses.

Session 1 will consider trading trusts. The use of trusts as a trading vehicle has attracted significant interest in Australia, principally because of perceived tax advantages in structuring business activity through a trust rather than a corporation. Yet trading through a trust exposes counterparties to many legal risks not encountered when dealing with a corporation. This session will investigate the relevant trust law, and proposals for reform. This session focuses on positive law, rather than the structure of the trusts themselves, as the key problems lie in that law.

Session 2 will look at another vitally important commercial use of trusts, and one which takes trusts far away from their “traditional” home as a family asset management device. This is the use of trusts in bond issues, as a device to facilitate creditor co-ordination. These trusts are driven by their beneficiaries, the bondholders, not by their trustees, in stark contrast to the traditional use and conception of trusts. In order better to explain these trusts, students will be provided with precedent documentation kindly made available by leading London law firms.

Session 3 will look at the use of trusts as a vehicle for collective investment schemes: unit trusts. This use of trusts has been important historically and remains so today. Again, relevant precedents and regulation will be provided to students so that they can better see and understand the structure and distribution of power within such trusts, and the role and rationale of regulation in trusts that are marketed to the public.

Session 4 will look at offshore developments in the law of trusts, such as purpose trusts, employed in securitisation structures, and the way in which trusts and trust law have been treated and developed as a competitive product by offshore jurisdictions, to be sold in the international market for wealth management. Again, relevant legislation and offshore precedents will be used in teaching, to bring the reality of trusts into the class room.

Session 5 will look at theoretical perspectives on trust law, to draw together themes that have been observed so far, and to consider how well these theoretical perspectives match and explain the law and practice studied so far. Quite deliberately, this session comes last in the course, so students can form their own opinions first and judge the usefulness of theoretical perspectives, rather than being channelled or even trammelled by them.
TIMETABLE
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ASSESSMENT
– Class Participation (20%)
– 8,000 Word Essay (80%)

APPLICABLE DEGREES
– Master of Laws
– Graduate Diploma in Law
– Master of Global Law
– Master of Business Law
– Graduate Diploma in Commercial Law
– Graduate Diploma in Corporate, Securities & Finance Law

FEES
– $3,810 (domestic students)
– $4,560 (international students)

LEGAL PROFESSIONAL DEVELOPMENT
You can enrol in this unit on an LPD basis. Seminars, courses and units of study offered under Sydney Law School’s LPD Program meet the necessary requirements of both the Law Society of New South Wales and the New South Wales Bar Association in relation to their individual members.

NON-AWARD ENROLMENT
You can enrol in this subject on a non-award basis if you do not wish to commit to a Masters or Graduate Diploma. You can continue to add units via this method, and provided you meet the relevant requirements and complete the assessment you can also qualify for a Graduate Diploma or Masters if you so wish.

SINGLE UNIT ENROLMENT
You can enrol in this unit on a single unit or seminar basis where you can attend classes but you do not have to complete the assessment.

CROSS INSTITUTIONAL STUDY
Subject to approval from the Associate Dean (Postgraduate Coursework), candidates in other Faculties at the University of Sydney or from other universities may be able to enrol in this unit.

APPLICATION
To apply online go to http://sydney.edu.au/law/fstudent/coursework/apply.shtml and follow the links.
You can also contact the Postgraduate Team:
T +61 2 9351 0351
E law.info@sydney.edu.au

Please note that the information contained within this flyer may be subject to change. Please contact the Sydney Law School to confirm the relevant details.