



Finger pointed at liquidators

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Partners at large insolvency firms are earning between \$4 million and \$6 million each year by virtue of monopoly conditions in the industry, a Senate inquiry heard yesterday.

There were 663 registered liquidators in 2009 who shared 14,580 appointments, about 22 per person, corporate barrister Geoff Slater also told a Senate economics committee in Sydney.

The committee heard strict admission requirements under corporate law meant insolvency roles are restricted to accountants, unlike in Britain, the US or Europe.

Disgraced liquidator Stuart Ariff, who was disqualified for life by the NSW Supreme Court last year and ordered to repay \$4.9 million, featured heavily in questioning by the committee and is broadly viewed as the catalyst for the inquiry.

It is understood he appeared before the inquiry at the end of yesterday's hearing in a closed session.

The committee heard from Mr Slater that Mr Ariff had earned \$3 million, \$2.3 million and \$2.2 million for work as a liquidator in 2005-06, 2006-07 and 2007-08, respectively. He was eventually declared bankrupt facing more than \$11 million in claims lodged with his trustee.

Delays in deregistering liquidators are a key concern for the committee,

which has heard the Australian Securities and Investments Commission became aware of Mr Ariff in 2004, but he was not disqualified until 2009.

The committee is also reviewing claims of excessive fees and lax regulation by ASIC.

Labor senator Louise Pratt said the committee heard evidence of liquidators paying large sums to their solicitors, and then a management fee for managing these solicitors.

Mr Slater told the committee he had witnessed a "cascading effect", where liquidators' bills are inflated by disbursements, such as \$300 an hour charges for clerical and tea and coffee staff and \$2 per page photocopies and emails. Such practices supported an "entire colony of people sucking off the corpse" of an insolvency, he said. He once met with a "Top Five" insolvency firm that charged for providing coffee at creditors' meeting at about \$80 a cup, Mr Slater said.

His submission says he is aware of "many principles" of insolvency firms "earning well over \$4 million per annum".

Vanda Gould, a registered liquidator since 1983, told the committee he spent \$1.2 million fighting ASIC's 48 claims against him over eight years, and the vast majority of which, he said, led to no adverse finding.

When he said the law prohibited him from recovering costs from

ASIC, Liberal senator Alan Eggleston said cost recovery from ASIC would be one of the committee's recommendations.

The Companies Auditors and Liquidators Disciplinary Board (CALDB), which disciplines liquidators, has no investigative powers and relies on referrals from ASIC.

Mr Gould said ASIC was "highly selective" about whom it prosecutes, and some practitioners and insolvency firms with a close working relationship with ASIC "are never prosecuted".

Barrister Stephen Epstein, SC, recommended a judge be appointed on CALDB panels.

Troubling perceptions in the industry were that ASIC was, in effect, CALDB's only client, CALDB's proceedings were kept secret, and ASIC had a great insight into the workings of CALDB while the practitioners it prosecuted did not, he said.

CALDB chairman Donald Magarey said immediate suspension of registration would breach the rule of innocent until proven guilty.

KEY POINTS

- A Senate committee was told of a 'cascading effect' of inflated bills.
- Such practices are said to support an 'entire colony of people sucking off the corpse' of an insolvency.