

BRIEF REMARKS BY THE HONOURABLE JUSTICE BELINDA ANG

AT THE INTERNATIONAL WOMEN'S INSOLVENCY & RESTRUCTURING CONFEDERATION (IWIRC) MEMBERS' LUNCH

Singapore, 3 April 2019

ADRIFT, Marina Bay Sands Hotel

1. Good afternoon, distinguished guests, members and friends of IWIRC.
2. It is my pleasure to be here this afternoon. To members of IWIRC from across the world gathered here today, a very warm welcome to Singapore, and to IWIRC Singapore, thank you for inviting me to join all of you at the IWIRC Members' Lunch.
3. I understand that IWIRC has a global membership of more than 1500 attorneys, bankers, corporate-turnaround professionals, financial advisors and other restructuring practitioners, and its global presence is ever-growing. This significant membership provides a strong and valuable network of mentors and contacts for female practitioners within the insolvency sector. As can be seen from the members' achievements and contributions in this area of insolvency and restructuring, IWIRC as an organisation can testify to the strides and momentum gained in the pursuit of gender equality in this field that is still male dominated but not as obvious today as compared to 20, 30 years ago.
4. IWIRC Singapore since its establishment in 2009 has worked with many of the other organisations in Singapore's restructuring and insolvency ecosystem to promote the interests and build the profile of its members. For instance, at the Law Society's Singapore Insolvency Conference 2018, IWIRC Singapore successfully organised and moderated an all-woman panel session.
5. A growing number of IWIRC Singapore members have also made their mark early on in the development of Singapore's jurisprudence on insolvency and restructuring laws since the passing of significant reforms to the Singapore

Companies Act in 2017. IWIRC member, Ms Lauren Tang of Virtus Law LLP, represented the successful applicants in *Re IM Skaugen SE*¹ which provided important guidance on moratorium relief under the new section 211B of the Companies Act. More recently, Ms Tan Mei Yen led a team comprising fellow IWIRC member Ms Thenuga Vijakumar of Oon & Bazul LLP to secure an order for US bankruptcy proceedings to be recognised in Singapore as a foreign main proceeding in *Re Zetta Jet Pte. Ltd.*², which is the first local case that examined the public policy exception under the UNCITRAL Model Law on Cross-Border Insolvency adopted in Singapore.

6. These are clear testaments to the capability and expertise of women professionals in the insolvency and restructuring space in Singapore, and I look forward to seeing more women making waves in this profession. By this, I do not mean just litigation in court. Mediation is one area worthy of note as it has been making significant inroads in dispute resolution over the years and it is by no means radical to hear of mediation in Chapter 11 cases in New York.

7. Judge James Peck delivered the SAL Distinguished Speaker Lecture 2019 on Monday, 1 April 2019. Judge Peck served as a United States Bankruptcy Judge for the Southern District of New York from 2006 to 2014. During his tenure, he presided over a number of major chapter 11 and chapter 15 cases. At the lecture, he shared with us his extensive experience as a mediator of high level sophisticated commercial disputes. For me, a takeaway key point is that mediation as a tool in restructuring is mostly possible even for complex business structures. The mediation of disputes between investors and distributing banks relating to Lehman Brothers-related products is just one prominent international example. Judge Peck drew attention to the need for professionals in this field to evaluate the efficacy of traditional approaches to the management and resolution of insolvency disputes as such approaches do not often capture and distribute value if the restructuring is protracted and costly.

¹ *Re IM Skaugen SE* [2018] SGHC 259

² *Re Zetta Jet Pte. Ltd. & 2 Ors* [2019] SGHC 53

8. Justice Ramesh in *Re IM Skaugen SE* planted the idea of mediation for a more constructive and measured approach to developing a restructuring plan. He sees enormous utility in appointing a mediator with the necessary experience and domain knowledge to play a role in building consensus between the debtor and the creditors in the development of the restructuring plan. Justice Ramesh also spoke of the appointment of a monitoring accountant or chief restructuring officer as a term of a moratorium if the court feels that it is necessary to give the moratorium greater efficacy. It is envisaged that such an appointment would assuage creditors' concern that the debtor applicant is not being adequately policed while it remained in possession. The Judge suggested that the role could be filled by an external party, for example, a member from the Singapore Mediation Centre's panel of insolvency mediators.
9. As women professionals claim victories in court, they should not be shy to assert their natural flair in seeking common ground and natural disposition to achieving collaboration – all vital attributes of a good mediator. I would therefore strongly encourage all – not just the lawyers amongst us today, but also the financial advisors, corporate-turnaround professionals etc. – to explore this more fully and add another dimension to your practice and portfolio by establishing yourselves as sought-after mediators in insolvency and restructuring matters. In this regard, I would like to point out that amongst Singapore Mediation Centre's panel of 15 specialist insolvency/restructuring mediators, we already have 2 women insolvency professionals.
10. In December last year, the United Nations General Assembly adopted the UN Convention on International Settlement Agreements Resulting from Mediation. This Convention will be known as the Singapore Convention on Mediation. The signing ceremony for the Convention will be held in Singapore in August this year. With this watershed development in the mediation landscape, we believe that cross-border mediations will increase significantly as parties will now have greater assurance that mediated settlement agreements have now an effective means for enforcement. Apart from the fact that women possess the potential to be natural mediators, and the manifold benefits of mediation for insolvency and restructuring matters, the UN Convention provides another reason to

embrace mediation. Indeed, there is therefore a natural fit for IWIRC to take a leadership role in mediation.

11. In closing, I would like to wish all of you a productive day ahead, and may IWIRC continue to grow from strength to strength. Thank you.