

# SUE JACOBS

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26 January 2020

Ms. K. Carnell,  
The Small Business Ombudsman,  
Insolvency Practices Inquiry,  
Australian Small Business and Family Enterprise Ombudsman,  
GPO Box 1791,  
CANBERRA, ACT, 2601.

Dear Madam and Mr. Williams,

## **RE: INSOLVENCY PRACTICES INQUIRY**

My submission to the Inquiry as a former small business owner is;

1. There should be an inclusion of Bankruptcy practices in this inquiry.
2. As is rightly said the actions of an insolvency practitioner and bankruptcy practitioner are in the interests of the creditors. That is unsatisfactory. They are also Trustees and there must be legislation that sets out in clear terms the duties of the Trustee to both parties including rights to challenge the amount and quantification of costs.
3. NOTICES - The Trustees must set out in writing to the owners or directors of a business either as liquidator or as bankruptcy practitioner their duties and the rights of the owners or directors together with a detailed statement of fees and an estimate of the likely costs.
4. There must be provisions for mediation in the case of disputes.
5. The fees charged are exorbitant and well beyond reasonable. I believe fees must be set by an independent body and not unilaterally by liquidators and bankruptcy practitioners.

Fees should be taxable by a registrar of the Federal Court by a process which is user friendly. Such fees have for a long time simply been a rort and approved only by creditors who have no interest in containing fees.

6. All proposes costs must be provided to the owners in detailed and particularised billing so that it is very clear how charges have been made.
7. The Court system is far too legalistic and the cost of lawyers often beyond the financial means of small business owners. The law should be simplifying and consideration of how it works overseas. The judiciary here are simply steeped in too much complexity, treat those before it in person poorly, arrogant, and the whole process may be very slow. Lawyers should be excluded where possible and a simpler system put in place which limits costs and time preventing matters of dispute being bogged down for sometimes years.
8. There is much to say for a state organisation which administers liquidations and bankruptcies and I would strongly submit there should be a proper inquiry into a complete change of this jurisdiction.
9. The psychological effects on individuals of the problems of liquidations and bankruptcy is shattering and breaks people. The only winners are the lawyers and practitioners. That is a matter of very great importance.

Yours faithfully,

**SUE OWENS**