



## **Rebecca Conoulty, Director, Sapere Forensic**

### **BIO/SUMMARY**

Rebecca Conoulty joined Sapere Forensic (formerly LECG) in March 2008. She is a chartered accountant with twenty five years' experience, nineteen of those in the forensic accounting field primarily focusing on disputes and litigation consulting. Rebecca specialises in calculating complex economic loss claims, disputes involving business valuations, accounting issues and disputes in the pharmaceutical sector.

Rebecca has been instructed as expert accountant as to damages, account of profit, disputes involving business valuations and for the purpose of expert determinations. Her experience includes intellectual property disputes, franchise disputes, class action disputes, disputes relating to injunctions and damages undertakings in the pharmaceutical sector, disputes in the fast food and restaurant industry, telecommunications sector, waste sector, and the financial services sector.

Rebecca is on the Board of Sapere Research Group Ltd. She has given presentations on technical aspects of intellectual property and class action disputes at major law firms, has organised and hosted round table lunches for major law firms on issues concerning expert evidence and presented at the national forensic accounting conference. Prior to joining Sapere Forensic, Rebecca was a Principal in LECG's Forensic Services Division and prior to that an Associate Director in Ernst & Young's (and formerly Arthur Andersen's) Fraud and Forensic Services practice.

### **EDUCATION**

Bachelor of Business  
University of Technology, Sydney

Member, Institute of Chartered  
Accountants in Australia

Member of Forensic Accountants Special Interest Group  
Member of Business Valuations Special Interest Group

## PROFESSIONAL EXPERIENCE – Representative Projects

### *Accounting, Fraud and Professional Negligence Disputes*

- Instructed as expert to provide accounting opinions in a dispute between an insurer and a company providing administration services to industry superfunds. The dispute concerned the correct accounting treatment for prior period errors, revenue and provisions;
- Instructed as expert to give an opinion on the financial position of a company including the analysis of various director loan transactions and the sale of a business and whether the company had the capacity to remit a payroll tax liability;
- Instructed as expert to quantify the amount misappropriated from certain trust accounts and calculate the financial benefit obtained from alleged fraudulent activities;
- Opinion as to the correctness of a deferred payment adjustment in a dispute between ASIC and a vocational education and training company. Involved considering the revenue recognition accounting standard, prior period error accounting standard and accounting for provisions and subsequent events;
- Consideration of accounting and stock valuation issues for an investor class action against a company in the wine industry;
- Analysis of trading activities and profits and losses made for the purpose of an insider trading case;
- Determination of the source of funding for various expenses and assets including shares. This matter involved tracing the funds through more than ten margin loan and business cheque accounts;
- Assistance on liability and quantum issues in a claim by a manufacturing company against auditors and financial advisers of a failed listed company to which the bank had lent money;
- Assistance on the liability issues in a claim against a major accounting firm relating to the audit of Bond Corporation;
- Assistance on the quantum issues in a claim against a major accounting firm relating to the audit of HIH

***Economic Loss & Intellectual Property Disputes***

- Instructed as expert to determine the accuracy of monthly project claims for two major mining projects;
- Instructed as expert to calculate the economic loss suffered by a transport company due to the loss of a Prime Mover;
- Instructed as expert to calculate the economic loss suffered by investors as a result of a share trader allegedly not following the instructions of those investors when managing the portfolios;
- Instructed as expert in a dispute between a principal and contractor with respect to the reimbursable costs incurred on a construction project. Included two independent expert reports and a joint expert report;
- Instructed as expert to evaluate the economic loss suffered by an aircraft charter company as a result of a faulty engine;
- Instructed as expert to calculate the loss suffered by lot owners and a hotel group due to future building rectification requirements;
- Instructed as expert to calculate the present value of costs required to rectify defects in a dispute between the owners of a strata plan and a developer;
- Instructed as expert to assess the Account of Profit arising from copyright infringement;
- Calculation of the reasonable royalty payable for simulcasting radio broadcasts;
- Calculation of the reasonable royalty payable for the licence to use the name of an Australian rock band;
- Calculation of the loss of earning capacity arising from an alleged conspiracy to exclude an individual from the demolition sector in Sydney (Ballard v Multiplex [2012] NSWSC 426);
- Calculation of loss in a dispute between a distributor and supplier of heating and air-conditioning equipment;
- Calculation of an account of profit arising from patent infringement for a ship building company (Stena Rederi Aktiebolag v Austal Ships Sales Pty Ltd & Ors (2011));
- Evaluation of a claim for lost profits arising from the termination of the franchise agreement between Hungry Jacks and Burger King;

- Evaluation of a claim for lost profits arising from the design and installation of a computer hardware and software system;
- Evaluation of the economic loss suffered by a major heavy machinery distributor due to the termination of its distribution agreement;
- Evaluation of the economic loss of a large battery manufacturer arising from reliance upon certain advice, in the period leading to its listing on the ASX;
- Evaluation of the economic loss of a property developer arising from the incorrect zoning applied to the property by the council;
- Calculation of the economic loss suffered by a company providing liquid waste collection and treatment services as a result of misrepresentations made by an alternative treatment provider;
- Calculation of the economic loss suffered by a telecommunications provider as a result of the publication of an article published in an Australian newspaper;
- Calculation of the quantum of damages arising from the infringement of a patent for a data storage device;
- Estimation prior to election as to both the Damages suffered and the amount that would be payable under an Account of Profits arising from patent infringement in the medical device sector;
- Calculation of the loss suffered by a chain of restaurants as a result of the theft of confidential information by a former employee;
- Calculation of damages arising from the alleged failure of a machine in the agricultural sector (*Olivaylle Pty Ltd v Flottweg GMBH & Co KGAA (no 4) [2009] FCA 522*);
- Evaluation of the economic loss suffered by a petroleum company due to the faulty implementation of an electronic payment system;

### ***Examples of Pharmaceutical Industry Disputes***

- Instructed as Review Expert to determine disputes as to damages arising from a pharmaceutical product recall in the pharmaceutical sector;
- Instructed as consulting expert in a dispute between the Commonwealth and a pharma company with respect to compensation arising from an Undertaking as to Damages.
- Calculation of damages arising from alleged misleading and deceptive advertising in the pharmaceutical industry;

- The calculation of damages arising from patent infringement in:
  - Bayer Pharma Aktiengesellschaft v Generic Health Pty Ltd [2017] FCA 250; and
  - H Lundbeck A/S & Ors v Alphapharm Pty Ltd & Ors FCA NSD 643,644, 645 & 647 of 2014 (ongoing);
- The calculation of an account of profit arising from patent infringement in H Lundbeck A/S & Ors v Alphapharm Pty Ltd & Ors FCA NSD 643,644, 645 & 647 of 2014 (ongoing);
- The calculation of compensation arising from an Undertaking as to Damages in:
  - Apotex Pty Ltd & Ors v sanofi-aventis Pty Ltd & Ors (FCA NSD 1639 of 2007);
  - Apotex Pty Ltd v Wyeth Australia Pty Ltd;
  - Alphapharm Pty Limited & Ors v Wyeth & Anor FCA NSD 596/2009;
  - Apotex Pty Ltd v AstraZeneca AB & Anor (FCA NSD 673/2011 and 1916/2011); and
  - Servier ats Apotex Pty Ltd (FCA NSD 51 of 2012);
- The calculation of damages arising from a breach of contract in a cross claim made by Sandoz Pty Limited in the matter H Lundbeck A/S & Ors v Alphapharm Pty Ltd & Ors FCA NSD 643,644, 645 & 647 of 2014 (ongoing);
- The consideration of the relative difficulties in calculating damages or the compensation arising from an Undertaking as to Damages in Eli Lilly and Company & Anor v Generic Health Pty Ltd (FCA NSD 1902/2013);

### ***Class Actions***

- Instructed as Review Expert to determine disputes as to damages arising from a pharmaceutical product recall in the pharmaceutical sector;
- Consideration of damages incurred by a class of investors in a structured finance company due to the misclassification of current debt;
- Valuation of an Australian company providing retail property ownership and management services for the purpose of a class action dispute;
- Analysis of the movement in analyst valuations of an Australian property company for the purpose of a class action dispute;
- Calculation of the loss incurred by business owners as a result of the failure of the Governments Home Insulation Project;
- Calculation of damages in an investor class action concerning margin lending activities Sherwood & Ors v Commonwealth Bank of Australia, FCA NSD 811 of 2010, as to damages;

- Consideration of accounting and stock valuation issues for an investor class action against a company in the wine industry;

### ***Disputes Involving Business Valuation***

- Instructed as expert in a dispute concerning the valuation of a drilling and blasting company. Included independent expert report and joint expert report;
- Instructed as expert in a dispute concerning the valuation of a printing and graphics company;
- Instructed as expert in a dispute concerning the value of the Nespresso trademark and IP to an entity and group of café's and the damages suffered after its use was withdrawn;
- Instructed as expert to value the shares in a company operating in the sheet metal product manufacturing industry, for the purpose of a minority shareholder dispute;
- Instructed jointly as expert to provide an opinion as to the appropriate methodology for determining the value of the copyright subsisting in certain Pacific Brands (including Bonds, Sheridan and Yakka);
- Valuation of a mining company (including the value of business, shares, tangible assets and goodwill) for the purpose of determining the value of taxable Australian real property (TARP) assets (Resource Capital Fund IV L.P. v Commissioner of Taxation NSD 276/2014; Resource Capital Fund V L.P. v Commissioner of Taxation NSD 277/2014);
- Post-acquisition dispute involving the valuation of a company in the food and beverage industry as a result of alleged misrepresentation (Asahi Holdings (Australia) Pty Ltd & Anor v Pacific Equity Partners Pty Ltd & Ors, FCA VID 87 of 2013);
- Valuation of Gough and Gilmour, a major heavy machinery distributor where the distribution agreement with Caterpillar contained a 90-day termination clause. The assignment included assisting Counsel during trial with provision of materials for cross-examination and opening and closing addresses;
- Valuation of a major Australian manufacturing company, including its five business divisions, for the purpose of a dispute in the Federal Court involving the Australian Taxation Commission. The valuations were prepared on both a discounted cash flow basis and a capitalised maintainable earnings basis;
- Valuation of a large battery manufacturer for the purposes of calculating the economic loss suffered by it as a result of its reliance upon certain advice, in the period leading to its listing on the ASX;

- Comparison of the valuation of total property of an Australian pipeline company for stamp duty purposes, with the total assets recorded in the completion accounts of that company. This engagement involved reviewing and verifying the valuation prepared for stamp duty purposes and explaining why that valuation would differ from the assets recorded in the completion accounts;
- Valuation of a hardware distributor for the purpose of calculating the economic loss that would be suffered on termination of the Distributor Agreement;
- Valuation of a holding company both immediately before and immediately after the issue of a preference share for the purposes of a tax dispute;

### ***Examples of Tax Disputes***

- Instructed jointly as expert to provide an opinion as to the appropriate methodology for determining the value of the copyright subsisting in certain Pacific Brands (including Bonds, Sheridan and Yakka);
- Valuation of a mining company (including the value of business, shares, tangible assets and goodwill) for the purpose of determining the value of taxable Australian real property (TARP) assets (Resource Capital Fund IV L.P. v Commissioner of Taxation NSD 276/2014; Resource Capital Fund V L.P. v Commissioner of Taxation NSD 277/2014);
- Valuation of a holding company both immediately before and immediately after the issue of a preference share for the purposes of a tax dispute;



#### OTHER POSITIONS HELD

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| 1 June 2015       | Member of the Board of Sapere Research Group                   |
| July 12 – Current | Director, Sapere Forensic                                      |
| Jan 11 – June 12  | Principal, Sapere Forensic (formerly LECG Limited)             |
| May 08 to Dec 10  | Principal, Forensic Services LECG Limited                      |
| Apr 06 to Apr 08  | Principal, Forensic Services, CRA International Pty Ltd        |
| May 02 to Apr 06  | Associate Director, Fraud and Forensic Services, Ernst & Young |
| Apr 99 to May 02  | Manager, Litigation Consulting Services, Arthur Andersen       |
| Apr 98 to Apr 99  | Portfolio Accountant, Funds Management, Bankers Trust          |
| Mar 93 to Apr 98  | Consultant, Audit Division, Deloitte                           |

#### CONTACT DETAILS

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