

## The Personal Property Securities Act strikes again

### - \$1.4m of plant lost.

#### *Spiers Earthworks Pty Ltd – WA Supreme Court CIV 2245 of 2013 - 16 April 2014*

Another PPSA landmark case has just been handed down where the owner of excavation equipment has lost the lot when his hire customer, Boddington Earthmoving, collapsed last year. Spiers Earthworks' failure to register on the PPS Register meant they lost partly paid plant with a historic value of more than \$1,400,000.

Boddington's Receiver obtained a Court Order not only confirming he was entitled to retain and sell Spiers' equipment in his possession, but Spiers had to return all of the gear they had repossessed prior to the Receiver's appointment. Collecting your property prior to the appointment of a Receiver may not save you. Only correct PPSR registration can ensure you keep your property.

The hire agreement with Spiers started in 2010, well before the PPSA. But like many, Spiers failed to comply with the Act.

Spiers' explored two new defenses to justify why it had not needed to register, both failed. In simple terms, there is no sensible alternative to compliance with the PPSR. Spiers could have protected its position for \$16.

Spiers is just one more example of an owner losing its hire plant to an Insolvency Practitioner. There is a simple lesson – comply with the PPSA, but make sure you get it right. When you know what you're doing compliance is cheap and easy.

If you want practical, no-nonsense advice on how to deal with the PPSA ring EDX. We're owned and operated by former Insolvency Practitioners (I've 25 years experience) – helping protect you from people like us.

If you think you're already compliant take advantage of our free Desktop Compliance Review – we'll let you know how you're going.

To arrange an appointment contact Simon Read or Lisa Keen – (08) 6313 3946

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