

WEEK 1 – *Salomon v Salomon & Co Ltd* – **separate legal entity** – corporate veil b/w coy and SH/Dir = limited liability, cannot be pursued personally for debts. **Benefits of LL** = encourage investments+ risk+ free liquidity of share cap. **Dis of LL** = shift risk to creditors; limited exposure to claimants in tort (*James Hardie*).

Lee v Lee's Air Farming Ltd – as coy is SLE, merely because someone is Dir is no barrier to acting dually as employee and thus contracting with coy. *Macaura v Northern Assurance Co Ltd* – insurers not liable = contract covered Macaura (ind), not SLE coy

Corporate veil **pierced** through **fraud/improper** conduct (*Gilford Motor Co Ltd v Horne + Jones v Lipman* [where coy was device/sham] + *Prest v Petrodel Resources Ltd*).

Veil pierced by **agency** - coy carrying business on principal P's behalf, not its own – allows creditors to access assets of holding coy [but not ind Dirs], instead of being denied due to SLE - *Smith Stone and Knight v Birmingham Corp* – 6 relevant considerations – were profits tested as P's; did P appoint persons conducting business; was P brain of venture; did P govern adventure + decide what should be done; did P make profits by own skill/direction; was P in effectual+ constant control of agent? If deemed agent, P has veil lifted + creditors claim compensation. **BUT** *Briggs v James Hardie* – Rogers J said *SSK* incorrect as challenging *Salomon* – however, *SSK* still good law, as not yet dismissed.

WEEK 2 – SH primacy model = mgmt duty to maximise SH wealth as firm's owners – they bear firm's ultimate risk, postponed after creditors in winding up; SH monopoly of voting rights. But pluralist model = balance interests of SH, emp, suppliers, community – but who articulates corporate standards + legitimacy of mgmt power?

WEEK 3 – coy's incorporation cert = conclusive evidence that incorp requirements complied (s1274(7A)). **Share capital** = amount coy members agree to perm contribute in capacity as members. **Shares** = rights to participate in financial distributions made by coy, eg receive dividends + participate in coy governance + decision-making + vote + mtgs.

Types of coys (s112(1)) – (i) **limited by shares** = liability limited to unpaid amt on shares; (ii) limited by guarantee = for non-profit activities, limited to amounts members undertake to contribute to coy property, and contribution required only upon winding up; (iii) unlimited = no limit placed on ind liability for debts (s9); (iv) no liability = mining (s 112(2)) = aimed at equity of treatment, proportionate to # of shares held, not amount paid up (s254W(4)).

Pty coys = must have <50 members excluding employees; must not engage in activity requiring lodgement of prospectus or disclosure doc under Ch6D (s113). If contravened, ASIC direct pty to change to public coy (s165). Benefit of pty = may register with 1 SH and 1 Dir (s114(1)); not required to hold AGM (s250N); may pass SH resolutions without meeting (s249A). **Small pty coy** requires 2 of following = consolidated rev <\$25m, consol gross assets <\$12.5m, or <50 employees. Benefit of small pty = normally no preparing FS.

WEEK 4 – repl rules in s141 re internal mgmt. of coy. Coy's own const will displace inconsistent repl rule. Coy can adopt const on registration s136(1)(a), or after rego if coy passes special res (75% member votes) to adopt const – s136(1)(b). Coy has 3 options: (i) no const, rely only on repl rules, s 135 (simplicity); (ii) have const, and wholly/partly displace repl rules, s 136; (iii) if created prior to 1/7/98, use const to exclusion of inconsistent repl rules, s 135.

Contract: const and RR has effect as **contract** between (i) coy+ each member s140(1)(a) - *Eley v Positive Govt Security Life Assurance*; (ii) coy+ each Dir and coy secretary s