

Trusts Intensive

1-2 June 2023

Online

8 CPD hours





Welcome

This year's Organising Committee are excited to bring you the 2023 Trusts Intensive.

Running over two days from 1-2 June 2023, this online intensive will feature expert presenters who will highlight practical issues when dealing with trusts in 2023, including:

- Important developments in case law
- Getting trust distributions right
- Tips and traps for advising your client when setting up a trust
- Passing on control of your trust
- Residency – Inbound Foreign Trust Issues
- Property & State Taxes issues impacting trusts

A special thank you to our speakers and committee for their commitment and effort in putting together what I believe is a fantastic program.

We look forward to seeing you all at the upcoming event!



Kim Reynolds, CTA
Chair, Trusts Intensive Organising Committee

Early bird pricing offer
Register on or before Friday, 5 May 2023 to save!

Technical program

Day 1 Thursday, 1 June 2023

Time AEST	Session
10:25–10:30am	Welcome and opening address
10:30–11:30am	<p>Session 1: Trust cases</p> <p>Speaker: Dr Philip Bender, ATI, Victorian Bar</p> <p>Dr Philip Bender will consider recent jurisprudence and administrative approaches relevant to trustees, including:</p> <ul style="list-style-type: none">• Recent scrutiny of a trustee’s discretion under the general anti-avoidance provisions (<i>Minerva Financial Group Pty Ltd v FCT</i> [2022] FCA 1092) and having appropriate regard to the nature and purpose of the trust and to the circumstances of potential beneficiaries (<i>Owies and Owies v JJE Nominees Pty Ltd</i> (ACN 004 856 366) (in its capacity as trustee for the Owies Family Trust) [2022] VSCA 142)• The rule against perpetuities, having regard to statutory modification of the perpetuity period and whether a trust deed contained a ‘date certain’ (Application by <i>Perenna Nominees Pty Ltd</i> [2022] VSC 193)• What happened when a company bought back its shares from a trust which then sought to distribute a fully franked dividend to a corporate beneficiary and retain an amount as corpus? (<i>BBlood Enterprises Pty Ltd & Anor v FC of T</i> [2022] FCA 1112); and• Increasing regulatory focus (including by the Australian Taxation Office Tax Avoidance Taskforce – Trusts) on tax avoidance and evasion arrangements using trust structures.
11:30am–12:30pm	<p>Session 2: What’s that? My distribution is invalid?</p> <p>Speaker: Daniel Smedley, CTA, Sladen Legal</p> <p>Actions of trustees in administering trusts are increasingly being challenged by beneficiaries. Such challenges often come to light with disputes as to the validity of amendments to trust deeds and the identity of the appointor. What are the flow-on consequences of these and other actions against the trustee in relation to distributions of trust income? How is this addressed when the invalidity may only be discovered some considerable time after the event?</p> <p>This session will blend technical trust and tax law content with practical examples to address these issues. Daniel’s presentation will consider:</p> <ul style="list-style-type: none">• What are the obvious and not so obvious reasons why a trust distribution may be invalid?• Consideration of recent cases on trust formalities; and• Taxation of distributions where there is an invalid appointment.
12:30–1:00pm	Delegate break

Technical program

Day 1 Thursday, 1 June 2023 continued

Time AEST	Session
1:00–2:00pm	<p>Session 3: Property and state taxes issues Speaker: Duncan Bedford, ATI, McCullough Robertson</p> <p>Over the last few years, there have been a myriad of changes to the state taxes landscape when it comes to the use of trusts. This session aims to provide a practical refresher of the factors advisors need to consider when establishing and using trusts for the purpose of holding property, including:</p> <ul style="list-style-type: none">• Changes in beneficial ownership• Duty on the acknowledgment of trusts• Transfer duty and land tax surcharges; and• Implications for the use of trusts and access to various duty and land tax concessions.
2:00–3:00pm	<p>Session 4: Tips and Traps for advising your client when setting up a trust Speaker: Lisa To, CTA, Bartier Perry Facilitator: Scott McGill, CTA, Pitcher Partners</p> <p>It is important that professional advisers dealing with trusts understand the terms of the deed. When a client establishes a trust, it is vital that advisers work together to ensure that the trust deed will be fit for purpose for the trustee and the potential activities to be conducted by the trust. This session provides tips and traps for lawyers and accountants when considering what the terms of a trust should be when setting up a trust. The focus of the session will be to discuss:</p> <ul style="list-style-type: none">• The importance of understanding the client's intentions and customising the deed to meet the client's needs• Explore potential pitfalls and the importance of asking the right questions of the client before setting up a trust• Consider the potential consequences of setting up a trust that is not fit for purpose and able to be adapted for changing circumstances; and• Strategies for changing trustees and addressing appointer succession.

Technical program

Day 2 Friday, 2 June 2023

Time AEST	Session
10:30–11:30am	<p>Session 5: Rule of perpetuities / vesting of trusts</p> <p>Speaker: Dr Pip Coore, Hemmant’s List, David W Marks KC, CTA, Queensland Bar</p> <p>This session will cover the following:</p> <ul style="list-style-type: none">• What does it mean to “vest” a trust? How do you vest a trust? Does it happen by operation of law, for example, under a clause of the deed? Analysis of TR 2018/6• When you vest a trust, does the trust end? What happens to powers to make discretionary allocations? What happens to allocations accidentally made after the trust has vested? Can you sue to recover them? Who do you sue?• Reform in South Australia, and more recently New Zealand and Queensland. What does it mean if there is no rule against perpetuities, or the maximum length before vesting is 80 (or 125 years as in NZ, UK and shortly Qld)?• How do you make sure your trust is validly made under the law of a particular state/country? Does it make a difference if you are dealing with land, as opposed to shares or money as trust property? and• Changing proper law: e.g. Re Perenna Nominees (2022).
11:30am–12:30pm	<p>Session 6: Passing on control of your trust</p> <p>Speaker: Linda Tapiolas, CTA, Cooper Grace Ward Lawyers</p> <p>Trusts have been used in family businesses for many generations as an effective structure that can meet current business and family objectives, provide flexibility, and also allow for the succession of the family assets between generations. This session will investigate the ways in which control of trusts may be passed between generations in a family and business succession context, including:</p> <ul style="list-style-type: none">• Effective separation of the assets held on trust between family members as part of a succession plan – including via distribution, vesting cloning, trust splitting• Access to CGT rollover relief and the potential impact on access to the 50% CGT discount as considered in <i>Paule v Federal Commissioner of Taxation</i>, <i>Hart v Federal Commissioner of Taxation</i> [2019] FCA 394; and• Consideration of the succession plan on family trust elections.
12:30–1:00pm	Delegate break

Technical program

Day 2 Friday, 2 June 2023 continued

Time AEST	Session
1:00 – 2:00pm	<p>Session 7: Residency – Inbound foreign trust issues Speaker: Denise Honey, CTA, Pitcher Partners</p> <p>The trust environment for private groups remains complex domestically, but also when crossing the border. This session will focus on issues affecting foreign trusts, including:</p> <ul style="list-style-type: none">• Changes in residency• Section 99B• CGT (including the application of Div 152 to foreign assets); and• Estate planning considerations.
2:00 – 3:00pm	<p>Session 8: Testamentary trusts – Practical implications Speaker: Mark Streeter, Streeterlaw</p> <p>This session will cover:</p> <ul style="list-style-type: none">• What happens if you have testamentary trusts in your will• Practical issues around advising clients on trust deed decision-making• Appointors – conflict around appointors who are also beneficiaries• Transferring control and understanding implications – how to manage challenging circumstances• How to draft a will which incorporates testamentary trusts; and• Examples of testamentary trusts in practice for beneficiaries encountering family law, insolvency or disability.

Presenters

Duncan Bedford, ATI, is a partner in the McCullough Robertson tax team with a focus on State taxes, transaction structuring and implementation. Duncan has a background in general commercial law and brings a practical approach to the advice he provides to clients. Duncan also specialises in foreign investment into Australia.

Dr Philip Bender, ATI, is a barrister at the Victorian Bar. He is the author of Bender's Australian Stamp Duties, published by the Tax Institute. He acts in Federal and State taxation, superannuation, and trusts and estates matters for taxpayers and revenue authorities. In the trusts area, he has acted in many taxation disputes involving trusts issues, and has acted in many trusts matters involving, amongst other topics, trust deed and will interpretation, alleged breaches of trust; trustee removal applications; judicial advice; charitable trusts; and superannuation death benefits disputes.

Dr Pip Coore of Hemmant's List, practices predominately in the areas of equity, trusts and succession law. She has also appeared in taxation appeals and administrative law matters. Pip has appeared as

counsel in Queensland's Court of Appeal, Supreme Court, Magistrates Court and in the Federal Court of Australia. Pip has been recognised in Doyle's Guide as a Leading Wills and Estates Litigation Junior Counsel in Queensland. Prior to being called to the Bar, Pip was the Senior Associate to the Honourable Justice Edelman of the High Court of Australia. Pip holds a DPhil in Law and a Master of Studies in Legal Research from the University of Oxford. Pip holds a Bachelor of Laws (Graduate Entry) (Hons) from Queensland University of Technology and a Bachelor of Journalism and a Bachelor of Communication, majoring in Public Relations, from the University of Queensland.

Denise Honey, CTA, is an International Tax Partner/Executive Director with Pitcher Partners. She has many years of experience providing tax and structuring advice to corporate and trust groups and their key stakeholders. Denise also helps such taxpayers deal with internationally focused ATO reviews. Denise is an Accredited Tax Law Specialist with the Law Institute of Victoria, a member of the Treasury BEPS Tax Advisory Group, a member of The Tax Institute's Corporate and International Tax Committee and a

regular presenter at the Institute's events.

David W Marks KC, CTA, is a commercial Silk at the Queensland Bar practising principally in tax. He has a broader practice in commercial litigation, trusts and estates, and administrative law. David has appeared in applications by trustees to amend trust deeds, including to move jurisdiction to avoid vesting, as well as lost deed and judicial advice matters. He contributes to the life of the profession through his committee work for The Tax Institute and other professional bodies. He is a Chartered Tax Adviser and a registered Trust and Estates Practitioner. He received The Tax Institute's Meritorious Service Award in 2013, and is on TTI's Editorial Board. David serves on the disciplinary panel of an international practitioner association. He also serves on the awards committee of a professional body in Australia.

Scott McGill, CTA, is a Partner at Pitcher Partners Sydney where he focuses on taxation, business, structuring and succession issues for a wide range of clients including high net worth and large private SME's. He is closely engaged in the property industry across income tax, GST and state taxes and actively involved

number of technical forums including the Property Council, Retirement Living Council and CAANZ taxation working groups. Scott does not shy away from complex issues or disputes and has a reputation for achieving commercial outcomes.

Daniel Smedley, CTA, enjoys solving complex taxation and trust law issues for private enterprise clients. He is also a trusted confidant in planning the succession of his client's personal and business affairs. Daniel is a Chartered Tax Advisor with The Tax Institute, accredited as a specialist in Taxation Law with the Law Institute of Victoria and is recognised by his peers in Doyle's Guide as a leading lawyer in Taxation. He is also recognised in respect of tax law in the Best Lawyers list published in the Australian Financial Review. Daniel is a regular presenter at state and national industry conventions, conferences and workshops.

Mark Geoffrey Streeter assists his clients with Estate Planning, Wills, Wills incorporating 'Testamentary Trusts', Enduring Powers of Attorney and Deeds of Enduring Guardianship, Advance Care Directives and other incidental documents such as Statements of Intention and Family Agreements. Mark has appeared

Presenters

for parties both as Applicants and Respondents in applications for Family Provision under the Succession Act 2006. Mark advises and assists clients with Business and Succession Planning and structuring and advises in respect of the interpretation, construction, amendment and enforcement of Trust Deeds. Mark has appeared as a solicitor advocate and as a Separate Representative in the Guardianship Tribunal (now Guardianship Division of the NSW Civil and Administrative Tribunal) since 2005 and Protective Division of the Supreme Court. Mark has assisted in the resolution of a number of complex and difficult disputes; particularly cases involving company, trust or property arrangements and the interaction between the Guardianship Act, Powers of Attorney Act, Trustee Act, Family Law Act, Equity and the Corporations Act. Mark was the solicitor for the Plaintiff, Mr Daniel Katz, in the widely reported Supreme Court of NSW proceedings of *Katz v Grossman* [2005] NSWSC 934 which was a complicated and difficult dispute regarding the construction and application of the Trustee Act 1925 in the context of a self-managed superannuation fund. Mark is the immediate past chair of STEP NSW and continues as a committee member STEP NSW Inc.

Linda Tapiolas, CTA, is a Partner in the Cooper Grace Ward Lawyers Commercial team. She provides a range of support services to accountants, financial planners, and other professional advisers. This includes technical advice on complex tax, CGT and Div 7A issues, as well as acting on business sales and acquisitions to ensure clients achieve commercial and tax-effective outcomes. Prior to joining Cooper Grace Ward, Linda worked as an accountant for 18 years advising clients on capital gains, business acquisitions and restructuring. She also conducted seminars and training sessions on various topics including CGT small business concessions.

Lisa To, CTA, is a Partner at Bartier Perry Lawyers and has over 20 years' experience in federal and state taxation, superannuation, trusts, estate planning and business succession. She provides clear advice to accountants, advisers and clients across all aspects of trusts, wealth protection, tax and succession strategies including resolving disputes with the ATO and State Revenue authorities. Lisa thrives on cutting through the complexity of tax and trusts to get the results her clients need. Her passion for influencing legal policy means she is engaged with evolving legal issues from new developments in tax law to examining the

ATO's risk review focus. Lisa is an SMSF Specialist, committee member for the Law Society of NSW's (LawSoc) Revenue NSE Liaison Committee, LawSoc's Elder Law & Succession Committee, Vice-Chair of the NSW Engagement Committee with the Tax Institute and recognised as a Leading Lawyer in both Tax Law and Estate & Succession Planning with Doyle's Guide.

Event information

Confirmation of registration

Please note you will receive two separate emails in the form of a tax invoice at the time of payment and a confirmation email at registration completion.

Continuing Professional Development (CPD)

Attendance at the intensive counts for 8 CPD hours with The Tax Institute.

The Tax Institute's attendee hub

This event will be accessible to all delegates via our dedicated attendee hub. Program information, materials (technical papers and presentations), survey forms and more will be available via The Tax Institute's virtual attendee hub. All delegates are encouraged to access the platform prior to the event. Technical papers and PowerPoint presentations will be available on the attendee hub to all participating delegates approximately five days before the event. Delegates will receive instructions on accessing the virtual attendee hub by email.

Delegate list

A delegate list will be included on the attendee hub to assist with networking. Please indicate at the time of registration if you do not want your name to be included. Alternatively, you can edit your profile visibility settings in the virtual attendee hub at any time during the event.

Cancellation policy

The Tax Institute reserves the right to alter, amend or cancel all or any of the arrangements contained in the program. Should a face-to-face event be cancelled due to an event beyond The Tax Institute's reasonable control including 'an act of god', 'pandemic', 'health-related event' or 'government requirements', we will endeavour to transition the registration to the new date or transition their registration to another event, provide a full refund or hold the amount as credit to be used in the future. If a registered delegate is unable to attend as a result of a diagnosis of COVID-19 or they are experiencing symptoms of COVID-19, a full refund will be offered with the provision that a medical certificate is produced explaining the diagnosis or a summary of the appropriate action to be taken i.e. a COVID-19 test and medical advice.

It is a condition of acceptance of registration that an administration fee of 20% of the registration fee be charged for cancellation if you can no longer attend the event. Cancellations must be received in writing by The Tax Institute five working days prior to the event. No refund will be given for cancellations received within five working days of the event. A replacement may be nominated. If the replacement is not a member, the non-member registration fee will apply. CPD hours will be allocated to the designated attendee.

The Tax Institute cannot accept responsibility for delegates' late transport arrivals or non-arrivals due to delays.

Privacy

We take your privacy seriously, and our policy can be viewed at: <https://www.taxinstitute.com.au/about-us/privacy-copyright-disclaimer>.

Enquiries

For further information regarding this event, please contact the Events Team on 1300 829 338 or nationalevents@taxinstitute.com.au.

For registration enquiries, please contact customeradmin@taxinstitute.com.au.



Registration

Registration inclusions

Online access to
presentations and
technical papers

Online registration

This registration option entitles one delegate to attend the entire event.



Discounts

Early bird registration

All registrations received and paid for on or prior to Friday, 5 May will be entitled to an early bird discount.

Group discount

Purchase three full registrations (early bird or standard) and receive a fourth full registration for free. The free fourth registration must be of equal or of less value to the four paid registrations. This offer cannot be redeemed in conjunction with any other promotional offer or code. All attendees must be from the same firm and all registration forms must be submitted together. For further information please contact the national events team on 1300 829 338 or nationalevents@taxinstitute.com.au.

Register now!



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included in this brochure



A tax invoice and confirmation letter will be sent on receipt of your registration. Please photocopy for additional delegates and retain original copy for your records. All prices quoted are in Australian dollars and include GST where applicable. ABN 45 008 392 372.

1 Registration

Please see page 10 for registration inclusions.

Full registration – 8 CPD hours

	Member	New member*	Non-member
Early bird registration Received on or before 5 May 2023	<input type="checkbox"/> \$1,050	<input type="checkbox"/> \$1,390	<input type="checkbox"/> \$1,350
Standard registration Received after 5 May 2023	<input type="checkbox"/> \$1,250	<input type="checkbox"/> \$1,590	<input type="checkbox"/> \$1,550

☐ I understand that the registration fees do not include printed materials. Access to materials will be electronic.

Promotional code:

*Become a member and save!

Not a member of The Tax Institute yet? Sign up for membership along with your event registration and save with:

- up to **50% off membership** to 30 June 2024
- member-only prices to this and future events
- free access to member-only technical resources.

Find out more about membership at taxinstitute.com.au/membership

I hereby apply for membership of The Tax Institute and declare that I am a person of good fame, integrity and character. I agree to be bound by the Constitution of The Tax Institute.

Signature:

Date of signature:

JOIN TODAY

2 Delegate contact details

Member no.:

If your member details are up-to-date, you can skip this section.

Title: ☐ Mr ☐ Mrs ☐ Miss ☐ Ms

Date of birth:

First name:

Last name:

Position:

Company:

Address:

Suburb:

State:

Postcode:

Telephone:

Mobile:

Email:

☐ Please tick this box if you do not wish your name to be included on the delegate list provided to all attendees for networking

3 Payment summary

Registration fees

\$

Total payable

\$

Please note: The Tax Institute cannot accept responsibility for delegates' late flight arrivals. Transfer costs are non-refundable and non-transferable.

4 Payment method

Please note: all registration payments must be made prior to the event, unless other arrangements have been made with The Tax Institute.

☐ **Cheque payable to The Tax Institute** (in Australian dollars)

☐ **Credit card** Card type: ☐ AMEX ☐ Visa ☐ MasterCard ☐ Diners

Name on card:

Card no.:

Expiry date:

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signature:

For our refund, cancellation and replacement policy visit taxinstitute.com.au/professional-development/event-policy.

For event enquiries, please contact the National Events Team on **1300 829 338** or nationalevents@taxinstitute.com.au

For registration enquiries, please contact customeradmin@taxinstitute.com.au

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To register

Email customeradmin@taxinstitute.com.au

Mail L37, 100 Miller Street North Sydney NSW 2060

Online taxinstitute.com.au

Thank you.

The Tax Institute gratefully acknowledges the generous assistance of members of the Organising Committee:

Kim Reynolds, CTA, Vincents (Chair, Trusts Intensive Organising Committee)

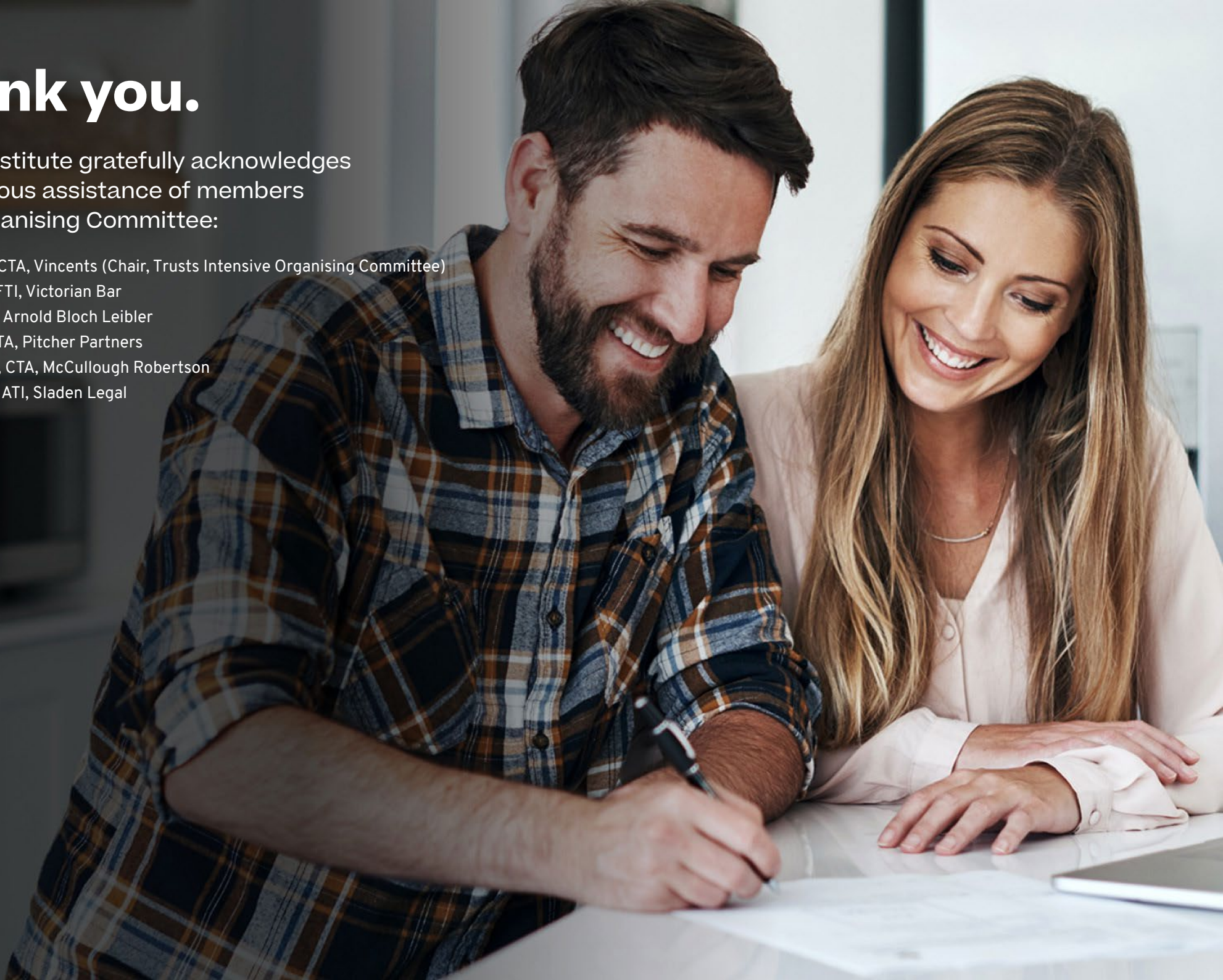
Mark Gioskos, FTI, Victorian Bar

Greg Judd, ATI, Arnold Bloch Leibler





Scott McGill, CTA, Pitcher Partners

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