PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES
Collapse of Trio Capital

Response to adverse comment on Paul Gresham

I wish to point out that all unitholders in the Professional Pensions PST ("PPPST") were consulted to in writing throughout the 2004 financial year regarding the establishment of a special purpose BVI domiciled investment fund, Professional Pensions ARP Limited ("PPARP"), which was to purchase shares in the Archimedes and Pythagoras Segregated Portfolios of Empyreal SPC Limited ("ESPC"), a Segregated Portfolio Company licensed as a Professional Fund in the British Virgin Islands. ESPC was managed by Philip York (Managing Director of various companies comprising the Empyreal Group) who subsequently negotiated a "swap agreement" on behalf of these two portfolios with Bear Stearns.

Philip York ("PY") is managing director of Empyreal Investments Pty Ltd (investment manager of PPARP) and Empyreal Administration Limited (administrator of ESPC).

In December 2006, Empyreal Investments Pty Ltd issued a detailed investment report in respect of PPARP for the period ending October 2006. (attached as ***ARP report 200610-1201.pdf***).

This details the rationale for establishing PPARP, and details the quite good performance of the fund from January 2005.

In May 2007, I was concerned as both a director of PPARP, and administrator of Professional Pensions PST, about the continuing surge in world stock markets, in particular Australia, and most spectacularly, China. I therefore asked Philip York, the investment manager of ESPC, what impact a 25% collapse in those markets would have on the value of the ARP Divisions of Professional Pensions PST (ARP Growth Fund from 1 July 2007). Such an "Event" would be significant as ESPC represented 70% of those Divisions via PPARP.

His reply was as follows;

"Event risk is the most difficult type of risk for us to manage, especially as the world economies now inter-relate so closely.
That considered we are currently limiting equity exposure to about 15% and bond securities to 15-20%.
Also, most of that equity exposure (10% of each portfolio) is in energy pipelines which although exhibiting excellent performance, provide very stable cash-flows like utilities. Therefore, they are not so prone to collapse. Within those sectors, however, we do diversify extensively across the strategies employed and securities as we do in all the other sectors.
Further ameliorating this risk is the incorporation of short term derivatives exposure incorporating strategies that specifically capitalize on increases in market volatility.
Therefore, if we consider an event that may cause a 25% collapse in the stock and bond markets, it would be reasonable to expect that this could cause a significant hit on some of the portfolio components, ***but it would need to be an event that creates an unusual alignment of circumstances to impact our portfolio as a whole more than -5.0%****.*
Kind regards,
Philip York
21 May 2007"

It is important to realise the extent to which the success of PPARP rested on the management expertise of PY, whilst not ignoring my role as a director of PPARP.

Attached are two letters dated 30 June 2010:

PPARP30062010.PDF – from the Administrator stating the value of PPARP holdings in the Archimedes and Pythagoras funds (the "funds"), bases on valuations supplied by Empyreal Administration Limited ("EAL"). The second paragraph states;

"*Please note the valuations for Archimedes and Pythagoras include an allowance for losses expected from liquidation for the following calendar year."*

ESPC30062010.PDF – from EAL, signed by PY, stating that "*On 26 May 2010 the funds executed Settlement Agreements with JPMM, having successfully negotiated commercial terms for the wind-down of the assets (effectively mortgagee in possession)……..the funds have until 31 December 2011 to repay all monies outstanding to JPMM, at which point (termed the, "Positive Balance Date") the funds may pursue (under certain restrictions) transfer of underlying assets from JPMM…….At the current rate of cash-flow receipts the funds look to achieve a Positive Balance Date some time around 31 December 2011. However, with many of the swap exposures moving to liquidation share classes or simply coming out of lock-up, receipts are expected to rapidly accelerate into and through 2011."*

I am at this stage unsure that ASIC and/or PPB Advisory have these two letters in their possession. I will be tabling both to ASIC at a meeting on 1 November 2011.

In the light of these letters, I strongly urge that ASIC fund PPB to the extent necessary to ensure PPARP receive "transfer of underlying assets from JPMM" once the funds achieve a "Positive Balance Date some time around 31 December 2011."

Paul Gresham

31 October 2011