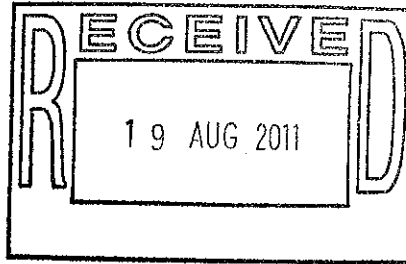


2<sup>nd</sup> August 2011



Mr Bernie Ripoll MP  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Sir,

As investors and with reference to the Trio Capital collapse, we would like to tender the following documents as evidence into the parliamentary inquiry of the affair.

The attached letters and complaints were forwarded to the relevant authorities and written out of pure frustration and disappointment of a system that had allowed our hard earned monies to end up in a superannuation company that was eventually proved to be fraudulent.

As indicated within the attached, the system has failed in its basic fiduciary responsibilities of protecting the superannuation investments of individual clients.

This event has certainly soured our thoughts on ever seeking advice from financial service institutions and what is extremely disappointing is that our adviser of the time, \_\_\_\_\_, had the audacity to defend Shaun Richard at a recent court hearing. Maybe he should have been defending himself or at least be given the same punishment as that of other directors rather than be allowed to walk away and still have investors wondering when we may recoup some of our monies.

We hope that the attached may give you an insight into the plight of many of those affected by the collapse.

Yours sincerely

Ian & Lorraine Callaway



**ASIC**

Australian Securities &  
Investments Commission

# Complaint form

## Read this first

You can use this form to make a complaint to ASIC about a person or company. If you want to make a complaint about our decisions or staff you should visit our website, [www.asic.gov.au](http://www.asic.gov.au) or phone us on **1300 300 630** for information.

Mr/Ms/Mrs

IAN & LORRAINE  
(given name)

CALLAWAY  
(family name)

Your address

Email ( )

Phone (02)

Mobile ( )

Fax ( )

Tell us your daytime  
telephone number as it is  
quicker to ask about your  
complaint by phone.

## Confidentiality

ASIC considers your complaint to have been given to us in confidence and we will not reveal the contents of your complaint without your consent unless we are required or authorised to do so under law.

When we receive your complaint, we read the material you have provided to decide whether it is a matter that ASIC should consider further. There are certain situations where it may be appropriate for ASIC to either refer your complaint to another organisation or agency, or where we need to make further inquiries relating to your complaint. To allow us to take action on your complaint as soon as possible, please answer the following two questions:

**More questions? Call us on 1300 300 630**

**Authority to release information**

**Q1** If we consider your complaint falls within the jurisdiction of another government organisation or agency, in Australia or overseas, do you consent to us referring your complaint information to us to that other government organisation or agency?

Yes

**No** (Circle one only)

**Q2** If we need to make further inquiries about your complaint, do you consent to us contacting the subject(s) of your complaint?

Yes

**No** (Circle one only)

**What best describes your connection with this complaint?**

- Anonymous
- Accountant
- Company officer (current)
- Company officer (former)
- Competitor
- Credit Consumer
- Creditor
- Customer
- Employee
- General public
- Investor/shareholder
- Lawyer
- Media
- Small Business Owner

**Where did the events that led to your complaint occur?**

- Australian Capital Territory
- Northern Territory
- New South Wales
- Queensland
- South Australia
- Tasmania
- Western Australia
- Victoria

**Tell us who you want to complain about.**

You can complain about a company or a person. Give us as much information as you can. If you want to tell us about more than two companies or more than two people please include the details of the other companies or people on a separate page. If your complaint is about a company and a person, include information about both.

**Companies**

---

**Company 1**

Name of company \_\_\_\_\_

Company or Organisation number, if known \_\_\_\_\_

**Address of the company**

Care of \_\_\_\_\_

Office, Floor, Building \_\_\_\_\_

Street number and street name \_\_\_\_\_

Locality \_\_\_\_\_ State *NSW*

Postcode \_\_\_\_\_ Country *AUSTRALIA*

Website address \_\_\_\_\_

Phone (02) \_\_\_\_\_

Fax (02) \_\_\_\_\_

**Company 2**

Name of company \_\_\_\_\_

Company or Organisation number, if known \_\_\_\_\_

Care of \_\_\_\_\_

Office, Floor, Building \_\_\_\_\_

Street number and street name \_\_\_\_\_

Locality \_\_\_\_\_ State \_\_\_\_\_

Postcode \_\_\_\_\_ Country \_\_\_\_\_

Website address \_\_\_\_\_

Phone ( ) \_\_\_\_\_

Fax ( ) \_\_\_\_\_

Give us as much information as you can. If you want to tell us about more than two people please include the details of the other people on a separate page.

**People**

---

**Person 2**

Mr/Ms/Mrs

\_\_\_\_\_

(given name)

\_\_\_\_\_

(family name)

**Address of the person**

Care of \_\_\_\_\_

Office, Floor, Building \_\_\_\_\_

Street number and street name \_\_\_\_\_

Locality \_\_\_\_\_

State \_\_\_\_\_

Postcode \_\_\_\_\_

Country \_\_\_\_\_

Email address \_\_\_\_\_

Phone ( ) \_\_\_\_\_

Mobile \_\_\_\_\_

Fax ( ) \_\_\_\_\_

**Tell us about your complaint**

To help us to understand whether we can help you there is some information we would like you to give us:

How much money or property is involved? AU\$ 527,627.00 PORTFOLIO VALUATION  
If no money or property is involved or the amount is unknown, write zero. AS AT 13/10/2009

Have you, or another person that you know of, started legal action over this complaint?  
Yes No (please circle)

Please tick any of the following organisations if you have contacted them about your complaint.

- Australian Competition and Consumer Commission
- Australian Federal Police
- Australian Prudential Regulation Authority
- Australian Taxation Office
- Consumer credit legal centre
- Credit/consumer counsellor
- Credit Ombudsman Service Limited
- Fair Trading or Consumer Affairs
- Financial Ombudsman Service Limited
- State Police
- Superannuation Complaints Tribunal

When did the events that led to your complaint happen?  
Enter Month and Year eg 01/2004 10/2009

**Tell us what happened**

Describe events in the order they happened. Include dates.

1. DUE TO EARLY RETIREMENT (REDUNDANCY) IN 1999 AND  
AS A RESULT WE ELECTED TO ROLLOVER OUR SUPERANNUATION  
WITH

2. AT THE TIME OF PLACING OUR FUNDS WITH  
INVESTMENTS WE STRESSED THAT WE WERE NOT  
PREPARED TO TAKE RISKS AND PREFERRED THAT  
OUR MONIES BE PLACED IN A LOW RISK, CONSERVATIVE  
PORTFOLIO (ATTACHED PROFILE ON INVESTOR TYPE).

3. THROUGHOUT THE TERM OF OUR INVESTMENT WE  
HAVE BEEN CONTINUALLY ADVISED BY OUR FINANCIAL  
ADVISED THAT OUR INVESTMENTS WERE PLACED IN LOW  
RISK AREAS. AS [REDACTED] OUR FINANCIAL ADVISER  
AND HIS [REDACTED] WERE MEMBERS  
OF THE ASTARRA INVESTMENT COMMITTEE (SEE ATTACHED)  
WE WERE LED TO BELIEVE THAT OUR INVESTMENTS WERE SAFE.

4. AS YOU ARE AWARE, IN OCTOBER 2009 TRIO CAPITAL (FORMERLY  
ASTARRA) WERE PLACED IN THE HANDS OF AN ADMINISTRATOR  
DUE TO IRREGULARITIES REPORTED WITHIN THEIR OPERATIONS  
AND PRODUCT DISCLOSURE STATEMENTS (PDS).  
AS A RESULT ALL MONIES REMAIN FROZEN AND INVESTORS  
ARE LEFT TO RIDE OUT THE STORM.

5. OUR COMPLAINT IS THAT WE BELIEVE OUR FINANCIAL  
ADVISED [REDACTED] AND HIS ASSOCIATES AT  
[REDACTED] HAVE FAILED IN THEIR BASIC  
RESPONSIBILITIES AND DUTY OF CARE AS FINANCIAL  
ADVISERS BY NOT RECOGNISING THE NOW OBVIOUS  
DISHONEST AND ILLEGAL FINANCIAL OPERATIONS OF  
ASTARRA SUPERANNUATION THAT HAS PUT OUR  
SUPERANNUATION CONTRIBUTIONS OF 40 YEARS IN JEOPARDY.

**Date**

What date did you post or fax your complaint? 13.5.10

**Documents**

If you have relevant documents (for example, statements or invoices) please send us a copy. **Do not send us the original documents now.** Keep original documents in a safe place in case they are needed later.

**What happens now?**

Thank you for telling us about your complaint.

When we receive your complaint we will write to you to confirm receipt. When you receive that letter you will notice that it also gives you a reference number for further inquiries, and will usually have contact details for the officer who is dealing with your complaint.

We deal with most complaints within 28 days, however, if we need to make external inquiries this may take longer. We will inform you of our decision in writing as soon as possible.

**Post this form**

ASIC Complaints  
Australian Securities and Investments Commission  
PO Box 9149  
Traralgon Vic 3844

**Or fax it to** (03) 5177 3749





# Complaint Form

COMPLAINT AGAINST AN FPA MEMBER

DATE: 16.03.2011

Date 2/8/11

Member of the FPA

Members name \_\_\_\_\_

Member's company name \_\_\_\_\_

Company address \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Complainant(s) details

Name IAN & LORRAINE CALLAWAY

Address \_\_\_\_\_

Telephone: \_\_\_\_\_

Are you, the \_\_\_\_\_

If acting on behalf of Complainant

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Relationship to Complainant \_\_\_\_\_

Summary of Complaint

AS INVESTORS OF THE COLLAPSED TRIO CAPITAL (ASTORRA)  
SUPERANNUATION SCHEME VIA \_\_\_\_\_

WE ARE  
EXTREMELY DISAPPOINTED IN THE AREAS THAT OUR  
SUPERANNUATION WAS INVESTED IN.

AS YOU MAYBE AWARE THIS DEBACLE HAS BEEN  
GOING ON SINCE OCTOBER 2009 AND WE HAVE RECEIVED  
LESS THAN 40% OF THE UNIMPAIRED ASSETS, NOTHING FROM  
THE GOVERNMENT COMPENSATION PACKAGE, AND STILL  
WAITING FOR A STATEMENT FROM THE ACTING TRUSTEE  
ACT SUPER.



# Complaint Form

COMPLAINT AGAINST AN FPA MEMBER

DATE: 16.03.2011

OUR COMPLAINT IS THAT WE BELIEVE [REDACTED] WAS DERELICT IN HIS DUTIES AS OUR FINANCIAL ADVISER BY PLACING OUR MONIES IN AREAS OF A HIGH RISK CATEGORY WHEN WE CONSISTENTLY REQUESTED THAT WE WERE NOT SOPHISTICATED INVESTORS AND THAT WE PREFERRED AREAS OF LOW RISK WITH MEDIUM RETURNS.

WE DON'T BELIEVE THAT OVERSEAS HEDGE FUNDS, PHARMACEUTICAL AND I.T. DEVELOPMENT AS WELL AS RESIDENTIAL PROPERTY DEVELOPMENT ARE APPROPRIATE INVESTMENT AREAS FOR LOW RISK INVESTORS.

UP UNTIL SEPTEMBER 2009 WE WERE UNAWARE OF ANY PROBLEMS AND AGAIN WE BELIEVE [REDACTED] FAILED IN HIS BASIC DUTIES OF NOT RECOGNIZING THE PROBLEMS THAT BROUGHT ABOUT THE COLLAPSE OF TRIO.

[REDACTED] WAS A REPRESENTATIVE ON THE INVESTMENT COMMITTEE.

TO RUB SALT INTO THE WOUND [REDACTED] WAS PREPARED TO GO ON RECORD TO DEFEND SHAUN RICHARD, A SITUATION WE FIND IS DESPICABLE.

Please consider providing copies of all relevant documentation to support your complaint above.

Signature of Complainant  
Or authorised representative of complainant

Please mail completed form to:

The Investigations Manager  
Financial Planning Association of Australia Ltd  
GPO Box 4285  
Sydney NSW 2001

Thank you

The Investigations Office at the FPA will contact you soon to discuss your complaint further.

20<sup>TH</sup> March 2011

The Hon Bill Shorten MP  
Minister for Financial Service and Superannuation  
PO Box 6022  
Parliament House  
Canberra ACT 2600

Dear Minister,

Further to our correspondence of 8<sup>th</sup> February 2011, to which we have not had a reply, can we again reiterate that the frustration and desperation that we emphasized in that letter has not receded and if anything it has increased because nothing seems to be happening.

We recently met with our Financial Advisers only to come away more confused and with no real update on where we were going as they themselves were unable to get further information from the acting trustee ACT Super. No updates have been posted on the ACT Super (Trio Capital) website since the 11<sup>th</sup> January 2011.

The transfer of unimpaired funds from ACT Super to the new successor fund AMP was supposed to be completed by March and was to take the form of three tranches but to this day only one of these transfers have been made. Our correspondence of 8<sup>th</sup> February made reference to the possibility of a claim being made under the Superannuation Act for financial assistance or compensation due losses incurred by fraudulent conduct or theft and we again ask if this claim has progressed and are we going to be compensated.

As stated previously, it is difficult to comprehend how this situation was allowed to develop given that all the necessary credentials of the Responsible Entity (Trio) had been checked by the relevant authorities (ASIC, APRA) and that the annual audits for the past five years conducted by auditors WRK and KPMG had been accepted without identifying any problems. Justice Palmer of the NSW Supreme Court in his judgment handed down on the 16<sup>th</sup> April 2010 made the statement (page 6 para 23) "deafening warning bells would have been sounded to any responsible and competent financial adviser" re some of the investments made by Trio.

We understand that you have many other commitments and more important tasks to deal with but this is our lifeline and we have been put on hold since October 2009 so it would be much appreciated if you could take the time to give us some feedback.

Thanking you in anticipation and we await your reply.

Yours sincerely

Ian & Lorraine Callaway

8<sup>th</sup> February 2011

The Hon Bill Shorten MP  
Minister for Financial Services and Superannuation  
PO Box 6022  
Parliament House  
Canberra ACT 2600

Dear Minister,

I again write in desperation and frustration, hoping that you may be able to assist or shed some further information with regard to the demise of the Trio/Capital Superannuation Fund of which we are members.

As you are probably aware the assets of Trio/Capital were frozen in October 2009 and at this point in time we have nothing to confirm that any of our life long savings are secure.

For something we were advised of and were led to believe was an administration problem with the then Astarra Superannuation PDS and that would be routinely fixed, to now have our assets frozen for fourteen months is incredible and surely must demand some explanation from the relevant authorities. These monies that are in jeopardy are in fact real monies, savings from a lifetime of work that we're to provide for a self funded and hopefully comfortable retirement without having to lean on the government to the day for pension payments.

Choosing a financial adviser and/or superannuation funds should not be like buying a lottery ticket, surely in this day and age and with the compulsory payment of superannuation the people of Australia need the assurance that their contributions or capital is secure.

Hopefully the recent inquiry into the Financial Products and Services by the Parliamentary Joint Committee recognized the deficiencies within the industry, not only in the professional indemnity insurance areas but also that of the financial adviser. It appears that there are no rules or accountabilities for financial advisers, they take their commissions and fees but at the end of the day if something goes belly up they do n't want to know about it.

We considered ourselves to be conservative investors, requesting minimum returns for security only to find parts of our investment were not placed in those categories but in fact were in higher risk areas where apparently the liquidity of these investments was not quantified.

As Minister for Financial Services and Superannuation, we would assume that your department has the ultimate responsibility of ensuring that all regulatory, compliance, auditing and ongoing monitoring of registered Superannuation Funds are in fact adhered to and are up to date via your regulating bodies i.e. APRA and ASIC. In the case of Trio/Capital this certainly does not appear to have happened.

26<sup>th</sup> July 2010

The Hon Chris Bowen MP  
Minister for Financial Services and Superannuation  
PO Box 6022  
Parliament House  
Canberra ACT 2600

Dear Minister,

Thank you for your reply of 16<sup>th</sup> July 2010 concerning our problems associated with the Trio Capital (formerly Astarra) Superannuation Fund.

Whilst it is comforting to know the Government is concerned about the situation, your reply does not provide us with the information we were hoping to get that would ease the uncertainty and frustration of where we are heading with Trio Capital and whether we will ever see any of our superannuation investments again. As mentioned in our letter of 5<sup>th</sup> May 2010, information from the Trustee and Administrator is sparse and as of today we are still in the dark as to where our monies are.

We, like many others that have been caught up in this web of deception and non compliance do not want to see our investments frittered away at the expense of administrators and legal action brought about by the regulating bodies. We feel there is an urgent need for the Acting Trustee to progress and inform investors of what is happening. Advice from our financial adviser has indicated there is a substantial amount of monies (40%) of the superannuation fund being held, if in fact this is true then why cannot these funds be distributed back to members, after all it is our money.

Information in your reply outlining the responsibilities of the governing regulatory bodies, APRA and ASIC (paragraphs 4 & 5) does little to reassure us that the superannuation industry is in good hands given the areas that have been identified during the court hearing requested by the administrators PPB, against Trio Capital (Astarra) Trustee/Investment Managers, Shaun Richards [redacted]. The further we progress into the investigation of the Trio/Capital (Astarra) superannuation fund, the more investors are confronted with a multitude of areas such as non compliance, no accountability, deception and fraud.

28<sup>th</sup> May 2010

Canberra ACT 2601

Dear Sir,

We are one of many who have been caught up in Trio Capital/Astarra Superannuation problems and I am hoping you may be able to shed some light on a situation that is becoming more frustrating as the days pass.

We have tried many avenues over the past month to get some updates ie; Financial Adviser, APRA, ASIC and PPB but with little result, hence I am requesting if ACT Super Management has any information that may help to alleviate the frustration, your last posting was on the 18<sup>th</sup> March which is over 2 months ago.

As stated in your notice of 18<sup>th</sup> March there are a number of schemes that have no exposure to the impaired areas and that a new RE was being sought, this was supposed to take place towards the end of April, has anything happened in this area and why is it that the liquid assets in this area are not being made available to those members wishing to opt out ??.

As you can imagine with our life savings of over \$500K involved we are deeply distressed and frustrated with the events so far and I am appealing to you for some direction or feedback.

Thanking you in anticipation and I await your reply.

Yours sincerely

Ian & Lorraine Callaway

4<sup>th</sup> May 2010

The Hon Chris Bowen MP  
Minister for Financial Services  
PO Box 6022  
Parliament House  
Canberra ACT 2600

Dear Minister,

We write in desperation and frustration, hoping that you may be able to assist or shed some light on our problem which is day by day turning into a nightmare.

Our problem relates to the debacle surrounding the Astarra Superannuation Service ( now Trio Capital ) of which we are investors to the tune of \$530K.

Hopefully you are aware of the situation with the above service provider and that since the 23<sup>rd</sup> October 2009 (6 months) all assets have been frozen by the governing regulators ASIC and APRA whilst they investigate some irregularities within the Product Disclosure Statements of Astarra (Trio).

Whilst we have been receiving some information from the now appointed Trustees (ACT Super Management) and the Administrators (PPB) we feel, as do many of the investors from this area that enough is not being done to secure and return the investors monies.

As you can imagine we are completely frustrated with the system, the monies we invested were the result of doing the right thing and paying superannuation throughout our working life and as an early retiree (through redundancy downsizing) it was compulsory to place our savings into a superannuation rollover scheme. As they are the only investments that we have to secure our future we are desperate to have some answers to why financial advisers and fund providers can fraudulently operate in today's environment when we have the governing bodies such as ASIC and APRA in place.

We were advised by our financial adviser [redacted] as late as mid October that all audits had been completed and were OK.

It seems ironic that the Prime Minister and Treasurer can put forward so many offers and guarantees within the superannuation area heading into the next election whilst our life is put on hold because there doesn't appear to be any fail safe infrastructure or guarantees within the current system that gives the consumer any protection.

As mentioned earlier we are completely frustrated and disillusioned with all areas of concern as we cannot get reassuring feedback from APRA, ASIC, ACT Super Management or PPB and in fact we were horrified to read in memo from PPB that approval had been given to remunerate them for work thus far to the tune of almost 2 million dollars which will no doubt come out of the investors pockets.

In conclusion we feel there is a need to have this investigation elevated to the highest level before it becomes the biggest superannuation crisis in Australian history.



**iancallaway**

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**From:** "ContactAPRA" <ContactAPRA@apra.gov.au>  
**To:** \_\_\_\_\_  
**Sent:** Tuesday, 18 May 2010 4:56 PM  
**Subject:** FW: Complaints System - Feedback on Superannuation Entity

Dear Mr Callaway

Thank you for your enquiry of 17 May, 2010.

The Australian Prudential Regulation Authority (APRA) is the prudential regulator of authorised banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies, and of superannuation funds (other than self managed funds and a number of Government funds).

Our mission is to establish and enforce prudential standards and practices designed to ensure that, under all reasonable circumstances, financial promises made to depositors, policy holders and fund members by institutions we regulate are met within a stable, efficient and competitive financial system.

Unfortunately, APRA is unable to assist with your particular enquiry as we are not the organisation responsible for regulating the provision of financial advice or information. The Australian Securities and Investments Commission (ASIC) regulates these financial intermediaries.

ASIC is responsible for the licensing of financial planners and for the operation of the market for financial services and products, including the disclosure of information by financial institutions in Australia.

ASIC can be contacted by telephoning 1300 300 630, or via their website, located at [www.asic.gov.au](http://www.asic.gov.au).

We appreciate you taking the time to write to us.

Kind regards,

\_\_\_\_\_

Australian Prudential Regulation Authority  
GPO Box 9836  
CANBERRA ACT 2601

Telephone – 1300 13 10 60  
Facsimile – 02 6213 5299  
[www.apra.gov.au](http://www.apra.gov.au)

-----Original Message-----

**From:** ContactAPRA  
**Sent:** Tuesday, 18 May 2010 11:25 AM  
**To:** \_\_\_\_\_  
**Subject:** FW: Complaints System - Feedback on Superannuation Entity

Dear Mr Callaway

Thank you for your enquiry of 17 May, 2010. A response from APRA will be forthcoming.

Kind regards,

19/05/2010

Australian Prudential Regulation Authority  
GPO Box 9836  
CANBERRA ACT 2601

Telephone – 1300 13 10 60  
Facsimile – 02 6213 5299  
[www.apra.gov.au](http://www.apra.gov.au)

-----Original Message-----

**From:** APRA Feedback  
**Posted At:** Monday, 17 May 2010 5:17 PM  
**Posted To:** Inbox  
**Conversation:** Complaints System - Feedback on Superannuation Entity  
**Subject:** Complaints System - Feedback on Superannuation Entity

Feedback has been received, please forward to the relevant persons.

\*\*\*\*\*

Name: Mr Ian Callaway

State: NSW  
Country: Australia

\*\*\*\*\*

Organisation: \_\_\_\_\_

Type: Superannuation

Details: Being one of the many thousands of people caught up in the Trio Capital debacle we (wife Lorraine) and I believe that our financial adviser, \_\_\_\_\_ has not acted in the best interests of our superannuation investments.

As an early retiree due to redundancy our superannuation was placed with \_\_\_\_\_ and at all times during the succeeding years we have continually stressed that we wished to only take part in low risk category type investments and Statement of Advices from our adviser indicated we had a lower than average tolerance to risk and were prepared to accept a conservative return from our portfolio.

With the above in mind we believe that Mr \_\_\_\_\_ has failed in his duties as a financial adviser not only to us but to his many other clients in a similar risk category by placing funds into areas that were doomed to failure as suggested by the Supreme Courts Justice Palmer. In our case we have \$527,000.00 at risk.

In conclusion we once again stress that our financial adviser has failed in his basic duties and responsibilities by not assessing and monitoring the type of investment to which our funds were allocated.

**IMPORTANT NOTICE:**

This e-mail is intended solely for the person or organisation to whom it is addressed, and may contain secret, confidential or legally privileged information.