



The Gaden Provident Fund  
As a Unit Holder in  
The ARP Growth Fund

14th August 2011

Committee Secretary  
Parliamentary Joint Committee on  
Corporations & Financial Services  
P.O. Box 6100  
Parliament House  
CANBERRA  
ACT 2600

Submission to the Inquiry into the collapse of Trio Capital  
And other related matters.

We write as Trustees for our SMSF, the Gaden Provident Fund ,(GPF), an investor in the ARP Growth Fund for which Trio Capital was the Responsible Entity until late 2009 when PPB Pty Ltd was appointed Administrator of all Trio Capital / Astarra Capital businesses.

On 22<sup>nd</sup> March 2010 and 20<sup>th</sup> August 2010 we wrote to ASIC outlining the history of the GPF's investments. In November 2010 ASIC's Officers visited us and took possession of all our files relating to the GPF since its formation in 1992. ASIC made copies of any relevant information retaining the originals and returned copies to us, but have made no further contact in the following 9 months.

GPF's investments were managed by initially as Corporate Pension Planning Pty Ltd in 1992 and subsequently under various names and structures including PST Management Pty.Ltd (Now in Liquidation).until the demise of the ARP Growth Fund. Please refer to the letter dated 27<sup>nd</sup> March 2007 which would be held now in ASIC's files.

Mr was also Investment manager of the ARP Growth Fund and under his control GPF, a SMSF, ceased to be a Superannuation Fund under the prescribed definition used by APRA the body responsible for overseeing the correct operation and management of Superannuation Funds. In this situation the GPF and others who invested in the ARP Growth Fund ceased to have the protection otherwise provided under the APRA umbrella.

At every meeting we held with Mr. we emphasized that we needed a low risk balanced investment portfolio and we were continuously assured by Mr. that this was the case.

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It would appear that the legislation under which APRA operates specifically precludes SMSF's in favour of Corporate and Institutional Superannuation Funds.

This situation surely discriminates against SMSF's offering little or no protection to the point where the legislation under which APRA operates may be unconstitutional.

Our view is that the Legislation was **never intended** to encompass the 74 SMSF's collectively investing in a MIS, (The ARP Growth Fund). The ARP Growth Fund was at all times under the control of Trio Capital, PST Management Pty.Ltd., and others or their predecessors **NOT** under the control of the individual 74 SMSF's.

The history of superannuation in the Private Sector came to the fore in the 1970's and 1980's when it became obvious that the pension liability of the tax payer through the Government would be enormous come the time the so called "Baby Boomers" and post WW 2 migrants retired. Government proceeded to promote and subsequently enact compulsory superannuation with the employer making contributions on behalf of each employees account / fund. Provisions were made for employees to top up or add to their individual funds in order that they could establish a capital base providing them with a standard of living they sought in later life from their allocated pension.

The fact that Trio Capital and perhaps others could move such large sums of superannuants' money for offshore investment without the regulatory authorities questioning such activity must raise the question of misleading and deceptive conduct or fraud.

In particular who effected the movement of \$40 to \$50 Million of ARP Growth Funds offshore **and** did that person or persons have the authority to do so ? We kindly request the Inquiry to further investigate and further pursue this matter.

The existence of two Government agencies, ASIC and APRA performing to a large degree similar roles would appear to let some issues fall through the cracks. Surely it would be better to have one organization with appropriate regulatory and penal authority offering consumers maximum protection and confidence.

We are also quite concerned at the apparent failure of all the Auditors and Custodians involved both with Trio Capital and the ARP Growth Fund. Again we would kindly request the Inquiry to investigate and pursue these issues to establish a conclusive finding(s).

In light of the Trio/ARP Growth Fund demise I am aware of some families suffering extreme stress and hardship to the point of health issues and some

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having to sell their homes and or seek Centrelink assistance. This was definitely not the intention of the sponsors of superannuation or the laws and rules that regulate it.

The average retiree, not qualified or confident to manage his superannuation portfolio, expects the Responsible Entity, Trustee, Investment Manager and Financial Advisor to whom he has placed his trust with his life savings to:-

- (a) act in his best interests
- (b) act on his express instructions
- (c) not breach his duty of care and
- (d) be the facilitator of his financially secure retirement

To receive anything less is unconscionable.

We look forward to a successful outcome by the Inquiry.

Yours Sincerely

~~E.J.Gaden~~  
Trustee

M.C.Gaden  
Trustee