

From: john telford
Sent: Friday, 19 August 2011 8:19 AM
To: Committee, Corporations (SEN)
Subject: attached letter
Attachments: August18,11-toDPP.doc; ATT00001.htm

Categories: Orange Category

Dear Sir,

Please find attached letter concerning the sentence handed down to Shawn Richard on Friday 12 August 2011 in the NSW Supreme Court, by judge Justice Peter Garling.

This letter can be added with my concerns

Thank You
John Telford

Mr. John Telford

The Office of the Commonwealth Director of Public Prosecutions
Head Office - Canberra

18 August 2011

reg. two years six months jail for stealing \$180 million.

Dear Sir,

On Friday 12 August 2011 in the NSW Supreme Court, judge Justice Peter Garling sentenced former Trio Capital fund manager Shawn Richard to serve at least two years six months jail for his role in Australia's largest superannuation theft.

The judge noted that 'Mr Richard is guilty of serious crimes of a high order,' and 'the dishonest conduct, which led to Australian investors losing a "staggering" \$26.6 million, only came to light when the Trio Capital Group failed.'¹

I do not know why Richard was connected to only \$26.6 million of the missing superannuation money in Trio Capital, the total is estimated at \$180 million.² The judge made a contrition deal with Richard in which jail time was reduced because Garling accepted that Richard may have been naive and gullible when he first started working with Jack Flader.

Jack Flader is a Hong Kong businessman and his company had a central role in placing Astarra Strategic's money (part of Trio Capital) in the offshore hedge funds, the money trail can not be traced.³

Flader and Richard have been business partners for the past 11 years, getting involved with unlicensed stock brokering firms in the south of Spain, Manila, Taiwan and Hong Kong. Their working relationship is laid on a foundation of fraud and boiler room scams.

Richard & Flader's history;

- Pacific Continental Securities (UK) in the early 2000s with estimated losses of £300 million (\$520 million).⁴

- In 2001 Richard was named by the New Zealand Securities Commission as being an

¹ <http://www.sbs.com.au/news/>

² <http://www.smh.com.au/business/1m-secret-payments-for-shawny-cash-court-hears-20110722-1hs31.html>
\$1m secret payments for 'Shawny Cash', court hears by Stuart Washington July 22, 2011

³ <http://www.brisbanetimes.com.au/business/fund-money-gone-to-dodgy-dealer-20100301-pdgy.html>
Fund money gone to dodgy dealer Stuart Washington & John Garnaut March 2, 2010

⁴ <http://www.smh.com.au/business/murder-intrigue-and-missing-millions-20100110-m0s1.html>
Murder, intrigue and missing millions Stuart Washington January 11, 2010

associate of the unlicensed broker Millenium Financial which operated in the Philippines.

- In 2005 Richard and Flader attended the Thai beach resort conference in Pattaya where at least five of the men at the meeting already had a history of run-ins with securities regulators. - Seven were named by securities regulators or were the subject of damning findings from industry self-regulation bodies.⁵
- Flader involved in the US court case over a \$US234 million fraud.⁶
- 2009 the largest theft in Australian superannuation, the Trio Capital fraud with an estimated loss of \$180 million where both Richard & Flader have involvement.
- Flader recently sold his Hong Kong company to two Liechtenstein businessmen who have been fined \$157 million each for their part in a huge US loan scam.⁷

In addition to Richard's illegal business dealings, he topped up his own bank account in Liechtenstein depositing more than a million dollars of money which did not belong to him.⁸

Richard also provided a large commission to _____, to encourage the firm to place its clients into his fraudulent fund.

Justice Peter Garling had these facts available in the court hearing on July 22, 2011 which makes me unconvinced that Justice Garling gave into Richard's naivety or gullibility on grounds that he may actually be naive and gullible.

I believe the reduced jail time is connected with Richard providing ASIC and APRA with information. To lighten his sentence was a privilege bestowed upon him but no deals were offered to the victims. How can a deal be offered to a criminal (overlooking the magnitude of stealing \$180 million) and no communication made with the victims (overlooking their hurt and loss)?

Richard proved himself a conman who robbed hard working Australian's of their life's savings (money remains unaccounted for) and sentenced thirty months imprisonment in protected custody, an extremely slight reprimand and a message to criminals worldwide that we will be considerate if they rob Aussies.

I certainly paid more personally for Richard's crime and my punishment continues my lifetime. Richard was given a deal, no one offered me a deal.

I could not attend the court case on Friday 12 August, so I do not know what unfolded in the proceedings. The newspaper coverage made no mention about a defense standing-up for the victims of this horrendous crime. ASIC and APRA did not present the suffering and anxiety Richard's devastating crime caused to the elderly retirees - some too old or

⁵ <http://www.smh.com.au/business/murder-intrigue-and-missing-millions-20100110-m0s1.html>
Murder, intrigue and missing millions Stuart Washington January 11, 2010

⁶ <http://www.smh.com.au/business/super-thief-caught-up-in-us-fraud-20100810-11y3t.html>
Super thief caught up in US fraud Stuart Washington August 11, 2010

⁷ <http://www.smh.com.au/business/flader-link-to-father-and-son-in-1b-scam-20110124-1a2v0.html>
Flader link to father and son in \$1b scam by Stuart Washington January 25, 2011

⁸ <http://www.smh.com.au/business/funds-manager-admits-lying-20100713-109fz.html>
Funds manager admits lying by Stuart Washington July 14, 2010

⁹ <http://www.smh.com.au/business/kickbacks-kept-coming-as-trio-manager-sent-investors-funds-offshore-20100714-10b3r.html>
Kickbacks kept coming as Trio manager sent investors' funds offshore Stuart Washington July 15, 2010

infirm to reenter the work force. It is shameful that ASIC recently commissioned a study by Sydney's Susan Bell Research which

examined the social impacts on investors who were not compensated for significant loss after the failure of managed investment schemes, or because of inappropriate financial advice.¹⁰

Had ASIC shown its own findings to the court, such as;

'It found some investors suffered "catastrophic loss", which meant "their life will never be the same". Some felt prolonged anger, uncertainty, worry and depression. Several lost their homes and many had been seriously ill since the loss. Many went without food on occasion and avoided heating or cooling their home. Those who were ashamed to tell others of their plight had isolated themselves from friends and family, and the impact had created long-lasting marital strain.'¹¹

such evidence could have illustrated the harm Richard's fraudulent crime caused and continues to have its impact.

ASIC plays many roles in its involvement in the Trio debacle. ASIC and APRA were responsible for providing a business license to an international fraudster who had ties with other international fraudsters and allowed them to have access to Australian superannuation money. ASIC was required by law to ensure financial planners carried adequate insurance to cover their clients in the chance something like this fraud event was to happen. ASIC's minimal insurance is inadequate to cover the 101 clients who are presently pursuing a professional negligent class action case against ASIC.

ASIC are the sole investigators in this Trio debacle. Therefore on the one hand ASIC was implemented in this fraud event happening in the first place and on the other hand they are defending the victims. This adds to my confusion as to why Richard received such a light sentence.

One certainty is apparent, the law has failed the victims of the Trio debacle.

Could you please give this case consideration to see if the laws were exercised to their potential.

Thank You
Yours Sincerely

John Telford

¹⁰ <http://www.illawarramercury.com.au/news/local/news/general/investors-gutted-by-financial-losses-study/2178201.aspx>

Investors gutted by financial losses - study by Nicole Hasham May 30, 2011

¹¹ <http://www.illawarramercury.com.au/news/local/news/general/investors-gutted-by-financial-losses-study/2178201.aspx>

Investors gutted by financial losses - study by Nicole Hasham May 30, 2011