



**Norfolk Pension Fund**  
Unit holder in the  
**ARP Growth Fund**

16 August 2011

Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Sir,

Re; Submission into the Collapse of Trio Capital and other matters.

My position is as a trustee of a self managed superannuation fund, that being Norfolk Pension Fund (Norfolk), which is an investor in the ARP Growth Fund (ARP). Trio Capital Ltd. (Trio) is the responsible entity (RE) for ARP with the investments for ARP managed by Mr Paul Gresham of PST Management Pty Ltd,(PST).

In late 1994 I began looking into retirement plans that could provide for a future life style that would accommodate our desires and needs. To this end I was introduced to Paul Gresham of PST Management P/L by a friend who was an existing member of the Pooled Superannuation Trust ( The Fund) that Paul Gresham managed. Over the ensuing sixteen months my wife and I studied information provided by Paul Gresham and other fund managers. Then in April 1996 we formed the Norfolk Pension Fund and became members of the PST Fund managed by Paul Gresham.

Our confidence in the PST Fund was heightened by the knowledge that the fund was regulated by APRA and the Trustees and Auditors were reputable organisations.

For the ensuing eight years the PST functioned normally without any issues that would have caused us any concerns. In June 2004 the trustee for our Fund was changed from the Trust Company Superannuation Services to Astarra Capital Limited (Astarra), now known as Trio Capital Limited (Trio). There was no change in procedures, we continued to receive our pensions along with monthly valuations for our various investments.

In March 2007 we received notice from PST Management that following a review by APRA, in December 2006, our Fund was to become a managed Investment Scheme (MIS) and that this scheme would be regulated by ASIC, additionally APRA had instructed that Astarra take over the day to day administration of the new scheme. PST was retained as the investment manager for the new scheme.

In June 2007 Trio issued a Product Disclosure Statement (PDS) which outlined the structure and investment philosophies for a new MIS, the ARP Growth Fund.

In May 2008 we received correspondence from PST advising that Empyreal Investments Pty Ltd, the investment manager for ARP's AU \$50 million offshore investment ( PPARP) were delaying updating valuations on this investment. After much prompting from investors Paul Gresham arranged for Philip York , the managing director of Empyreal, to come to Australia and meet with the investors at the North Sydney Rugby Leagues Club on the 11 August 2008.

At this meeting I was surprised to find that only a select number of fund members had been invited to meet with Philip York. Additionally I was shocked to learn that the PPARP investment had been leveraged even though there was no mention of leveraging in the Product Disclosure Statement of June 2007. We were also advised that there was no possibility of redeeming investments as all funds had been "gated" due to the Global Financial Crisis.

Trio Capital's financial licence was suspended by ASIC in November 2009 and PPB Partners were Appointed by ASIC as administrators for all of Trio's operations.

**Gentlemen, there are a series of issues that I would ask the inquiry to examine.**

*Issue 1;* How our investment in the PPARP Fund, which was our largest investment at AU \$50 million Dollars, was structured and how the investing and reporting of the PPARP operations were handled. Additionally who had the authority to transfer the funds overseas and how the oversight of these funds was conducted .

*Issue 2;* From mid October 2009 the Sydney Morning Herald's "Business Day" journalist Stuart Washington has written a considerable number of articles about Trio Capital and ARP Growth Funds and to date not one of the articles has been challenged and/or refuted by the Regulators, that is APRA and ASIC, or the Auditors, Custodians, Investment Managers or Directors of Trio.  
**Then is everything that has been written correct?**

*Issue 3;* Why did ASIC grant Australian Financial Service Licence to a number of participants involved in the Trio collapse and in particular to Shawn Richard, apparently without doing any background checks!

*Issue 4;* As mentioned previously, "I was shocked to learn that the PPARP had been leveraged". The administrators did not seek permission or advise the investors of their intention to leverage the fund . I would ask why the regulator ,ASIC, failed to uncover this contravention and take the appropriate action?

*Issue 5;* Would the inquiry examine the veracity of an article by Stuart Washington in the SMH of the 5/7/2011, "How the regulators missed a chance in the Trio debacle". This article claims that APRA was aware of problems within Trio dating back to 2005 and did **not** act on these issues.

*Issue 6;* Part 23 of SIS Act. Only trustees of APRA regulated superannuation funds can apply for Compensation from the Commonwealth in the event of theft or fraud.  
In July 2007 when we were moved from a pooled PST to a SMSF we were **not** advised by Regulators, Auditors, Custodians or Company Directors that we would be excluded from Commonwealth protection in the event of fraud or theft, there was nothing in the PDS advising us of future risk exposure either. **Why is it that the matter of Commonwealth sponsored protection is not advised in all PDS or prospectus documentation within the Superannuation Industry?**

*Issue 7;* Why the apparent failure of the Auditors and Custodians involved in the Trio Capital and ARP Growth to carry out their responsibilities and protect the interests of the investors occurred?

I thank you for the opportunity to submit my submission to you for your inquiry into this very serious matter and if I can be of any further service then please contact me directly.

Yours Faithfully

Warren Daley.