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# The Nicholsons

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*By email*

*July 27 2011*

Parliamentary Joint Committee on Corporations and Financial Services  
CANBERRA, ACT

## **To Whom It May Concern,**

*Re: Inquiry into the Collapse of Trio Capital*

As a member of the former Trio Capital Superannuation and Allocated Pension Funds I wish to offer the following comments to the Committee following an invitation in the Press to do so.

### *My background:*

- Full name: Malcolm Nicholas Nicholson
- Joined Astarra Funds in late April 2006 following my retirement from corporate life. All my superannuation/pension requirements were under the custody of Astarra. I did not pursue self-managed arrangements.
- My referral to Astarra was from \_\_\_\_\_ had been referred to me by a former work colleague who had used \_\_\_\_\_ for investment schemes and was soon to use \_\_\_\_\_ for superannuation planning advice.

### *Issues to raise:*

- External Auditors of the Funds – since the early Press allegations against Trio, and thereafter, there has been minimal comment on the diligence and expertise of the External Auditors. As the sorry tale unwound it was obvious that the Auditors were ‘verifying’ a significant amount of balance sheet items which did not in fact exist. I am sure that many Trio Fund members were a little uneasy during the drop in market performance of many other funds in 2007/8 which did not seem to materially affect Trio. I recall my own reflections and conversations with others that the Trio Funds were audited externally and drawing comfort and reassurance from that. No doubt the Auditors will have much to say about the reliance they placed upon others during their audit work – it is a common defense. The recent decision against Centro clearly identifies that responsibility can’t ultimately be assigned which leaves the Trio Auditors with a case to answer.
- Duty to disclose – during a 2007 six monthly meeting with \_\_\_\_\_ I was asked by \_\_\_\_\_ whether I wanted to participate in a more speculative venture he was arranging. He quite rightly described the risk profile as higher risk/higher return than all my other investments and suggested around 20% of my Superannuation investment as a likely venture contribution. There was no ‘hard sell’ to join in this venture although some prior successes were quoted. In a recent Press column I note that \_\_\_\_\_ is alleged to have been given a lifetime ban in 2004 from managing an investment scheme. I was not aware of this allegation/finding and I have concluded that the duties of disclosure by those in the financial planning/management sector are inadequate.

● *Page 2, Inquiry into the Collapse of Trio Capital.*

- Astarra/Trio restructure – in approximately Qtr 3/2009 I received correspondence from Astarra Capital that it had restructured and the new administration business was to be called Trio Capital Limited. The communication was poorly expressed and I think late in its timing. On a number of occasions since then I have wondered whether this change was an attempt to quarantine individuals and/or documents from the regulatory scrutiny that would have been known to be imminent by ‘insiders’. It would be useful to determine whether this restructure did in fact provide relief to certain individuals since that time.

Yours sincerely,

**MAL NICHOLSON**