19 August 2011

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

Dear Sir/Madam

INQUIRY INTO COLLAPSE OF TRIO CAPITAL

My wife and I decided to set up an investment portfolio in January 2009, both inside and outside of superannuation, taking investment advice to invest in international shares via a managed fund, and diversified direct Australian shares. We were aware of the risks involved in investing in growth assets but were willing to take the risk with a long term view and the knowledge that growth assets produce the highest return over a long period.

We invested using a margin loan, and the international portion of the portfolio was Astarra Strategic Fund. We understood that this managed fund was an investment that had produced positive and consistent returns and had much of its investments away from the stock markets. The fund was also a fund of funds in that there were at least six underlying fund managers in which investment funds were placed.

To find out that, after less than a year ASIC had frozen the funds and eventually ordered the fund to be liquidated, was devastating to us. We believed that the funds would be located by the liquidators of Trio, PPB, and returned the investors. Nearly two years later, with PPB having lost interest a long time ago due to funds drying up to pay their fees, we are left with the option of costly, lengthy and emotionally draining legal action, with a successful outcome a hope at best.

When I read that the government had announced a parliamentary inquiry into the collapse of Trio we were the happiest we have been since this whole nightmare began. We trust that you will take this opportunity to improve the processes involved around the licencing, regulation, audit and management requirements. We also are confident that you will restore the faith in the investment environment in Australia by implementing a compensation package to reimburse investors such as ourselves for the loss of significant hard earned money, both for personal investment outside of superannuation, as well as superannuation.

The Minister, Bill Shorten announced a compensation package, to be levied on retail funds, that will reimburse investors who lost money when investing in Trio funds through APRA regulated superannuation funds. He referred to investors in self managed superannuation funds, such as us, as “swimming outside of the flags”. We find this highly offensive, given that Astarra Strategic Fund was regulated by APRA and licenced by ASIC – please explain how this is swimming outside of the flags. We have not invested in fast cars, artwork or dubious property developments, but in government licenced and regulated managed funds. We accept that returns are not guaranteed, but a fraud on this scale should in no way be possible with effective regulation.

Our losses have come about by investing in a fund that was licenced by ASIC, a licence I understand was one of only 13 such licences granted, the other such licences being granted mainly to banks. This licence was given to Shawn Richard, a young Canadian traveller who claimed to have a finance degree from a Canadian university, later to be proven a false statement. For ASIC to grant such a licence I would have expected that this fact would be a basic aspect to be cross checked. The fact that Richard was also connected to several suspect companies, schemes and individuals who had already been involved in defrauding investors in many other countries, was also not investigated by ASIC prior to giving him such a licence. If it had then surely the licence to major investor funds would not have been granted.

If our money was invested in a fund that chose poor investments along the way, such as property schemes where valuations did not meet expectations and building costs exceeded estimates, or where a property downturn resulted in expected benefits evaporating, we could accept this as a risk taken and funds lost. But to invest in a fund where the performance had been steady over many years, rated as best in its class by three well respected (independent?) investment houses, audited by WHK the fifth biggest accounting firm in the country, have compliance manager as KPMG, trustees and custodians of NAB and ANZ, and on top of all that licenced and regulated by ASIC and APRA, and then for it to be proven and accepted by the government as a fraud, we find that hard to accept.

To be defrauded by a government licenced fund to us means that we have no faith in a financial regulatory system, which we thought was one of the best in the world. We also feel that the government has a duty to reimburse all investors in Trio Capital funds, given that a government body in ASIC has allowed this fund to operate under a licence granted by them. The fund has been acknowledged as a fraud by the Minister Mr Shorten when he announced the compensation package for investors through APRA regulated superannuation funds. Our view is further strengthened, and our disappointed heightened, when we learned that APRA and ASIC had concerns about the unit pricing of the fund on three separate occasions, all prior to us investing. If action had been taken and the fund frozen and investigated at that time then many of us would not have lost the money we have.

Investors should not have to fund their own legal action when defrauded by a government licenced fund. <u>ALL</u> funds, super and non super should be reimbursed by the government and the government should use their considerable resources to employ the best local and international authorities to bring these criminals to justice – an investment in our super system, I'm sure you would agree. Until this is done more gangs of criminals will see our superannuation system as a fertile ground for their schemes. If investor funds are not put back and regulations tightened, this will ultimately mean that the superannuation system the government has put in place will be ineffective and the ever increasing number of pensioners will rely of the social security system on which to live.

All we were trying to achieve was to pay off our home loan and set ourselves up for a retirement that we could fund without relying on the government. We were not motivated by greed, just self sufficiency.

For the record, our investments in Astarra Strategic Fund were valued at about $185,000 in superannuation and non superannuation in total. Due to the recent falls in the sharemarket I have been forced to sell my remaining investments in Australian shares as the loan to value ratio imposed by the margin lender exceeded the maximum allowed. I have taken the time to calculate that we would not have had to sell these shares if Astarra had not been a fraud. I had a conservative LVR of 40% when the Astarra fund froze and this would be at 51% now if Astarra was a legitimate value. This is about 30% away from a margin call, even after the dramatic falls in the markets we have seen in recent weeks. The need to sell our remaining Australian shares means that we now do not have the opportunity of any growth that will inevitably occur over a long period. We believe our portfolio should be put back to where it should be as part of the compensation package.

In summary we ask that you take the opportunity to glance back, put back lost funds to Trio investors, chase the perpetrators of this crime and then put in place measures to tighten the system we have to ensure this does not happen again. This should be done in consultation with experienced industry participants such as fund managers and financial advisors. Your inquiry and the FOFA initiatives should also look at the role of investment research houses, in that they are paid by the very people they rate. If this is not a conflicted process then I don't know what is.

We thank you for the opportunity to submit this to the inquiry and trust you will view our request for full compensation, of both non superannuation and superannuation, favourably.

Regards

Nick and Donna McGowan