

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

Question: BET 11

Topic: Global Capital Wealth Case

Hansard Page: Tuesday 4 June 2013, Page 92

Senator LUDLAM asked:

Senator LUDLAM: You posted a press release on 22 March that had a bit of pickup, at least in the Fairfax and the online tech press on subsequent days, about the global capital wealth case, which is the one that was subject to be overblocking. When did you first hit 'send' on your fax machine on the global capital wealth instance—on what day?

Mr Mullaly: I would need to have a look at the exact dates. I should say, in relation to global capital wealth—and this gives an indication of the sort of thing that we are up against—there were four locations, as far as I know, under different guises, that that criminal organisation had websites up on, trying to defraud Australian consumers.

Senator LUDLAM: Yes. What date did you initiate that block request?

Mr Mullaly: I am not aware of the exact date. I will have to take that on notice.

Senator LUDLAM: On what date were you aware that you had overblocked by a factor of about 1,200?

Mr Mullaly: I think we were made aware of that on 11 April. That was not in relation to, as far as I am aware, the notice served on 22 or 26 March; it was in relation to a notice served, I think, on 3 April. I clarify that it was a request made. We do not serve notices. It is a request made.

Senator LUDLAM: But it is pursuant to the law of the land. It is a fairly uncompromising request. You are not asking nicely; you are saying, 'You are legally obliged to block this content.' Right?

Mr Mullaly: The reading of the section is that the telecommunication carrier has to give reasonable assistance. They have the ability to consider whether or not it is reasonable assistance and they could come back to ASIC or to any other requester and raise an issue with us.

Senator LUDLAM: In the 10 notices—I do not know whether to refer to them as notices, but you know what I mean—

Mr Mullaly: Requests.

Senator LUDLAM: that you have issued in the last 12 months, have you ever had an instance of an ISP coming back and saying, 'Thanks, but no thanks'?

Mr Mullaly: Not that I am aware of.

Senator LUDLAM: Could you check that on notice, just in case that turns out to be the case? I will bring this to a close.

Answer:

ASIC commenced its investigation into the activities of a cold calling investment fraud known as Secured Private Wealth ("SPW") on 11 October 2012. The scam had netted the offenders over \$1 million by the time the matter came to ASIC's attention. On 16 October 2012, ASIC requested telecommunications providers to block the SPW website which was being used to facilitate the fraud. This request was for one month's duration in an attempt to disrupt the fraudsters and protect Australian investors. On 18 October 2012, ASIC obtained ex parte interlocutory injunctions in the

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

Queensland Supreme Court against 3 companies and their directors linked to the SPW scam. The orders also froze \$273,000 held in three bank accounts. The three directors had been 'recruited' to act as directors by person/persons which they refused to identify.

[12-265MR - ASIC obtains orders freezing bank accounts of Brisbane 'cold callers']

In early December 2012, ASIC obtained information that revealed that the SPW fraudsters had commenced using a company and website called Prestige Private Wealth in their cold calling. On 19 December 2012, ASIC requested telecommunications providers to block the Prestige Private Wealth website which was being hosted in the Netherlands and on 20 December 2012 issued a Consumer Alert regarding this variation of the SPW scam.

[12-329MR - ASIC warns consumers about Prestige Private Wealth]

In mid-March 2013, ASIC received further information which revealed that the SPW fraudsters had commenced another iteration of Secured Private Wealth and Prestige Private Wealth this time called Global Capital Wealth and Global Capital Australia. As they did with Prestige Private Wealth, the offenders used the ABN, ACN and AFSL numbers of a legitimate and unrelated AFS Licensee, Global Capital Resources Pty Ltd. On 18 March 2013, ASIC requested telecommunications providers to block the Global Capital Wealth and Global Capital Australia websites which were being hosted in the US and Netherlands. On 22 March 2013 ASIC issued another Consumer Alert regarding this further variation of the SPW scam.

[13-061MR - ASIC warns consumers about Global Capital Wealth]

On 28 March 2013, ASIC received further information from a complainant who had invested with Global Capital Wealth that their website was again accessible. ASIC determined that the website was now being hosted at another IP in the US and, on 3 April 2013, requested telecommunications providers to block that IP. In the evening of 11 April 2013, AAPT advised that ASIC that it appeared that connectivity to the website of the Melbourne Free University had been impacted by ASIC's blocking request. ASIC requested telecommunications providers to immediately lift the block and the connectivity issue was resolved. The Global Capital Wealth website had in the meantime ceased to operate.

On 24 April 2013 in the Queensland Supreme Court ASIC obtained the appointment of liquidators to the three SPW companies. The \$273,000 in frozen funds will in due course be distributed to investors in the SPW scam.

[13-089 MR – ASIC obtains Supreme Court orders against unlicensed and fraudulent Gold Coast based financial services business]

In respect to the 10 section 313 requests made by ASIC to telecommunications carriers, no telecommunications carrier has, to ASIC's knowledge, ever declined to action a request.