

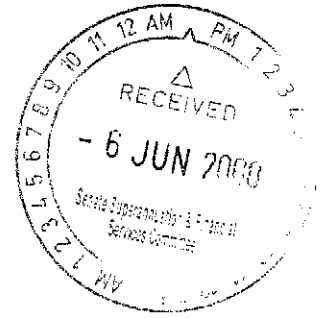
Senate Select Committee on Superannuation and Financial Services

Main Inquiry Reference (a)

Submission No. 48

Submittor: Ms Carmel Reading
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4 June 2000

The Secretariat
Senate Select Committee on Superannuation
And Financial Services
SG64
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

**Committee hearing in Brisbane 16 June into Queensland Law Society
Superannuation Fund**

I refer to my discussions on Friday 2 June with Ms Sue Morton and Ms Celia Tancred (my apologies if I have her name incorrect) and **enclose**:

1. Letter dated 7 April 2000 from Law Employees Superannuation Fund ("LESF");
2. Annual Report (of which the trustee is QLS Superannuation Pty Ltd) to members for the year ending 30 June 1999 which was an enclosure to the above letter;
3. copy of letter to LESF dated 9 May 2000 signed by me and 25 members of the Fund who are my co-workers at a large Brisbane law firm. Not all the employees are signatories to the letter, only those of us who expressed concern about the poor performance of the Fund;
4. my benefit statements for the 1998 and 1999 financial years;
5. 3 newspaper clippings regarding the Employees Productivity Award Superannuation Fund which sparked our interest because of the involvement of Mr Gerald Parker who as you will see from the correspondence was Secretary to the LESF; and
6. an undated Notice to all Members from QLS Superannuation Pty Ltd distributed to members of LESF in late 1998 regarding the 1997-1998 Benefit Statements.

As discussed on the phone, the first glimmer we had that something had gone wrong with our Fund was a newspaper report in early July 1999 following the Queensland Law Society Annual General Meeting when a solicitor at the meeting raised the loss suffered

4 June 2000

by our Fund in relation to a loan that went bad. I am not sure now what the report said about that issue but I think it was not debated for one reason or another or was gagged. At that point we did nothing because we know that we can't take what is in the newspapers as fact and made a decision to await our Benefit Statements and the Annual Report. We did not receive our Statements until January 2000 and were astounded and angry with the result - the crash from 15% to 2% in income.

I should mention that Brendan Frankcombe who is a member elected director is a co-worker of ours and when questioned about the poor performance of the Fund simply told us to '*wait for the Annual Report*'. As it turned out the Annual Report was not despatched to members until 7 April - 3 months after the Benefit Statements and 10 months after the end of the financial year. Our reading of the Annual Report led to our letter of 9 May enclosed. To this day we still have no answers to our questions and are completely in the dark in relation to matters surrounding the loan. We have not followed up on our letter because on page 28 of the Report under the heading '*Inquiries and Complaints*' it is stated they will be dealt with within 90 days.

One other matter of concern to us is the fact that the Trustee conducted elections of members' representative without communicating to members relevant information namely the failure of the loan of which it must surely have been aware at that time. You will see from the Report that directors are elected for a period of 3 years.

We are convinced the Queensland Law Society Superannuation Fund mentioned in the newspaper report to appear before your Committee's hearing in Brisbane on June 16 is indeed our Fund. The Trustee has not communicated to members the fact that Mr Peter Short is to appear before the hearing on June 16 and were it not for the newspaper report we would not know.

Would your Committee please consider this letter and its enclosures and let me know:

- (a) whether in fact the Queensland Law Society Superannuation Fund is the LESF;
and
- (b) whether we can be heard at your hearing in Brisbane on June 16.

Yours faithfully


Carmel Reading

9 May 2000

The Fund Secretary
Law Employees Superannuation Fund
GPO Box 2987
BRISBANE QLD 4001

Dear Sir

We wish to complain about the poor performance of the LESF ('the Fund') and investments made during the 1998/1999 financial year, to raise issues of concern to us and to seek further information.

There are a number of issues of concern to us:

- (a) the delay in receipt of Benefit Statements and Annual Report;
- (b) the poor performance of the Fund, dismissive tone of the statement under item 1 on page 4 of the Annual Report namely '*... investment results for all fund managers were significantly less than the year before ...*' and the lack of detail relating to poor performance. With all due respect to the Trustee, how other fund managers performed is irrelevant. The statement could just as easily have been made that some fund managers have performed very well indeed. What we are concerned with is the performance of the Fund; and
- (c) the decision of the Trustee not to reveal any information about the borrower of the defaulting loan other than to state that '*it is a commercial loan secured by Mortgage ... release of specific information ... may prejudice the party concerned*'.

Dealing with each in turn:

1. Delay

- 1.1 Why does it take over 6 months and 9 months respectively for the Fund to distribute Benefit Statements and Annual Reports to members?
- 1.2 The 1998/1999 financial is the second year in succession that such delays have been experienced although in his undated Notice to All Members, the Secretary advised that the delays for 1997/1998 were due to computer problems and the Benefit Statement and Annual Report would be received by 26 February 1999. No such explanation was offered for the delays experienced for the 1998/1999 financial year.
- 1.3 Why was there a three month delay this year between receipt of the Benefit Statement and the Annual Report?
- 1.4 Why did it take over 10 months for the members of the Fund to receive information that was known to some solicitors who raised it at the Queensland Law Society Annual General Meeting in 1999?

2. Poor performance of the Fund

- 2.1 Why did all 3 investments options perform so badly? The link between the Composite Investment Option and the Income Investment Option is obviously the 50/50 ratio of investment streams between the Composite Investment Option and the Income Investment Option both of which have direct loans as one option and consequently were affected by the defaulting direct loan. In relation to each:

(a) Equities Investment Option

- Both the Australian and International share markets performed well during the period.

- Although the property market was not performing as well as the share market, there were still spectacular gains in the southern property markets. In addition property trusts here in Brisbane performed well.
- With respect to cash, some Banks during the year was offering of the order of 5% for term deposits. With which Bank were the funds deposited?
- What was the income received from each investment strand of this Option?

The performance of this Option was a crash from 22.78% earnings rate to 3.73% - according to the table on page 25 of the Report.

(b) Composite Investment Option

- Given the link between this Option and the Equities Option we repeat the 4 dot point items in the Equities Option;
- With respect to the defaulting direct loan:
 - (1) Who is the borrower?
 - (2) Why was such a large proportion of the Funds total assets (9.6% or approximately \$2.4 million based on the 1998 assets figure on page 31 of the Report) committed to a single loan transaction?
 - (3) Was there more than one loan made to the borrower?
 - (4) On what date did the Trustee evaluate this loan and determine that it was in default?
 - (5) For how long prior to that date was the loan in default?
 - (6) What was the exact amount of the loan?
 - (7) What was the interest rate charged on the loan?
 - (8) We note this is a loan secured by mortgage. Was it a first registered Bill of Mortgage and was there any collateral security eg a Charge on a company's assets?
 - (9) Was the secured property vacant land?
 - (10) When was the loan made?
 - (11) If the borrower was a company were personal guarantees obtained from the directors of the company, if not why not and if so are they now being enforced?
 - (12) Who introduced the borrower to the Fund?
 - (13) Was there a mortgage broker involved in the granting of the mortgage?
 - (14) Did any director of the Fund (past or present), Mr Gerald Parker the previous Secretary of the Fund, the Trustee of the Fund or any members of his/her/their families have any relationship with or interest in the borrower or the assets secured by the loan?

- (15) What commercial procedures were observed before granting the loan, ie was a valuation obtained from an independent valuer and were any inquiries made into the credit history of the borrower and his/her/its capacity to repay the loan?
 - (16) What was the debt to equity ratio in relation to the loan?
 - (17) Who approved the loan?
 - (18) Who is the Receiver to the borrower?
 - (19) What is the state of the Receivership and what are the prospects of recovery of the loan amount and what percentage of it is likely to be recovered?
 - (20) Has any credit reference bureau been advised of the default by the borrower thereby identifying the borrower as a bad credit risk and if not why not?
- How many other loans are included in the \$1,900,000 Direct Loans figure on page 31 of the Report and are any of them made to persons/entities related to any of the past or present Directors of the Fund, the Trustee, Mr Gerald Parker the previous Secretary to the Fund, and members of their families or any company in which they might have an interest?
 - Has the Trustee and/or the Directors made any resolution that such large loans (9.6% of total Funds) are not to be made in the future under any circumstances, that in the future no individual loan is to exceed 5% of the total Funds and if not why not?

Once again we note the crash in earnings rate - 15.70% to 2.22% - according to the table on page 25 of the Report.

(c) Income Investment Option

This option is covered by the comments made in each of the other two options.

Another crash in yield - 8.62% to 0.70% - according to the table on page 25 of the Report.

3. Failure to disclose identity of borrower

- 3.1 With all due respect to the Trustee, surely its fiduciary duty is to members of the Fund and not the borrower. By declining to reveal the name of the borrower, we are of the opinion that the Trustee is seeking to prevent access to relevant information to which members of the Fund are entitled.

Generally

We note that the Provision for Bad and Doubtful Debts made in relation to the defaulting direct loan is to be borne by the whole Fund and not just the Composite and Income Investment Options where they form part of the listed investment streams. Why is it that Direct Loans which are only mentioned in the latter Options and form no part of the Equities Investment Option investment strategies but when they go bad they impact on that investment stream as well. We appreciate that this would impact even more on the income received from the Composite and Income Investment Options but would not expect that failure of the speculative options contained in the Equities Option to impact on the other two Options.

With respect to the earnings rates during the year in question these were not merely '*significantly less*' (page 4 of the Report) but a disastrous result for all members of the Fund and in particular the older members who do not have time on their side to try to recoup some of the losses made. The whole situation has a rippling effect

The Fund Secretary
Law Employees Superannuation Fund

9 May 2000

on each and every member of the Fund in that it affects the result that would have been achieved had this disaster not occurred every year until the last member who was a member of the Fund in the 1998/1999 financial year reaches retirement and exits the Fund - in some cases up to 40 years hence.

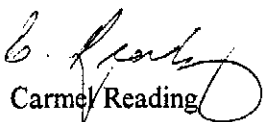
Was the Trustee aware of the poor performance of the Fund prior to the election of employee directors in 1999 and if so why were the members not made aware of that prior to voting?

We cannot understand how the results quoted were calculated. We have done the figures ourselves, taking into account the interest credited, deducted the administration fee and tax and then calculated that result as a percentage of the total funds held in an individual member's account and came to a net yield of 2.05 % to 2.08% in the composite option - an even worse result.

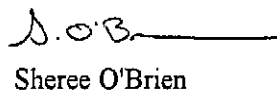
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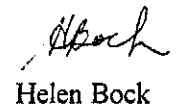
Mrs Carmel Reading
14 Tucker Street
CHAPEL HILL 4069

Yours faithfully


Carmel Reading


Leigh Boyce


Sheree O'Brien

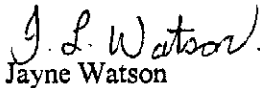

Helen Bock


Helen Czaplá


Joy Henderson

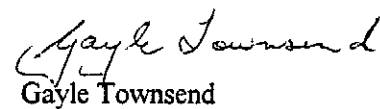

Pauline Graham

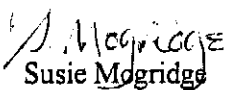

Helen Lake

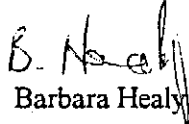

Jayne Watson

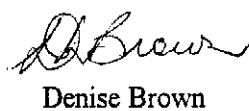

Shona MacDonald


Connie Curcio

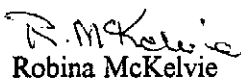

Gayle Townsend


Susie McGrigge


Barbara Healy

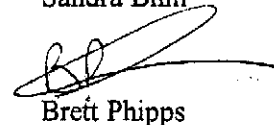

Denise Brown

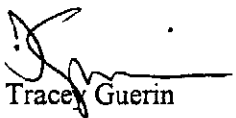

Sandra Blim

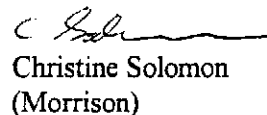

Robina McKelvie

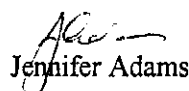

Kay Hansen


Megan Crowe


Brett Phipps


Tracey Guerin


Christine Solomon
(Morrison)


Jennifer Adams


Sue Kelly


Jane Milson


Nicole Hicks