

**Senate Select Committee on
Superannuation and Financial Services**

**Main Inquiry
Reference (a)**

Submission No. 99

Submittor: Mr Spencer Bell
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20th March, 2001

The Secretary
Senate Select Committee on Superannuation and Financial Services
Parliament House
Canberra ACT 2600

Submission in Respect of the Superannuation Trustee:
Commercial Nominees of Australia Limited

Background

In July 2000, my wife and I agreed with the advice of our financial planner Saxby Bridge Financial Planning Pty Ltd, to establish a small APRA Superannuation Fund (Bell Family) with Commercial Nominees of Australia Limited as the Trustee. It was further agreed that we would rollover our existing superannuation benefits held with public super funds into this new fund.

We chose an APRA fund structure because the use of an APRA Authorised Trustee Company would ensure that our legal and regulatory obligations would be met. In addition the ongoing operation of the fund would continue to be supervised by APRA giving us a sense of security.

A comprehensive investment strategy for the rollover's into our Bell Family Superannuation Fund was developed with Saxby Bridge and provided to the Trustee in July 2000. We received a letter from the Trustee dated 1 August, 2000 welcoming us as a member of the new family super fund.

The rollovers into the Bell Family Superannuation Fund were acknowledged as received by the Trustee during August and early September 2000.

Problem 1

Through negligence or otherwise, it has been confirmed that the investment instructions for our rollover's were ignored by the Trustee and that all our rollover funds were instead placed into an Enhanced Cash Management Account (ECMT).

Problem 2

The asset value within the ECMT account has been found to be seriously impaired leaving our retirement planning in disarray if the Government, through its regulatory bodies, does not act swiftly to restore the full value of our accrued superannuation benefits.

Actions to Date

I was first advised by Saxby Bridge via a phonecall and subsequently in their letter dated 14 November 2000 of a problem with Commercial Nominees of Australia Limited (CNAL) and my superannuation fund. In the letter they indicated that:

1. they had advised the Australian Securities and Investments Commission and had requested their advice and intervention.
2. they believed that the Directors of CNAL had been working with APRA to submit a report to me. This was never received.
3. they had sought legal advice to determine, and if necessary to initiate, appropriate action to resolve the situation as quickly as possible.

In a letter dated 20 December 2000, CNAL provided a preliminary assessment of the current asset value of the ECMT account and the extent of the potential write down.

On 14 February 2001, the Acting Minister for Financial Services and Regulation issued a media release indicating CNAL had been removed as trustee of some 500 small APRA superannuation funds.

In a letter dated 15 February 2001, Ferrier Hodgson Management Services Pty Limited advised that they had replaced CNAL as Trustee of the ECMT.

In a letter dated 9 March 2000, Oak Breeze Pty Limited advised that on 13 February 2001, they had been appointed acting trustee of the Bell Family Superannuation Fund by APRA, replacing CNAL.

In the letter they also state that under the terms of the appointment, the acting trustee is to prepare and give to APRA, within 90 days of its appointment, a plan setting out the course of action for the management of the fund that the new trustee considers would be in our best interest.

It is now almost 7 months since my our superannuation rollovers were received by CNAL and we are still have a further 2 months before the report to APRA is due.

Observations / Recommendations

The Federal Government has made Superannuation the cornerstone of its "saving for retirement" strategy through compulsory contributions for/by all workers into a strongly regulated financial environment

It is essential for all Australians to have confidence in the management and control of the superannuation system and it is therefore imperative that the Government and Regulators act quickly and decisively to protect members if a problem occurs in the day to day management and control of the funds. This is quite separate to the financial performance of the funds which is clearly a commercial matter.

Commercial Nominees of Australia Limited was an approved Trustee pursuant to Part 2 of the Superannuation Industry (Supervision) Act 1993 and as well as the normal protections under the Act, the Trustee was required to effect and maintain in force Professional Indemnity Insurance to protect the interest of members.

The time has come for the Regulator APRA to invoke these protection provisions to fully compensate members affected by the Trustees' failure and to allow them to get on with planning for and/or enjoying their retirement.

The investigations into what has gone wrong and agreement on actions necessary to fix it for the future may take several months and it is not acceptable that affected fund members are left in suspense not knowing whether their life savings are safe or have vanished leaving them in a more desperate state.

Spencer Bell

Attachments
not authorised for publication.