

## CHAPTER 2

### HAIRDRESSERS ASSOCIATION SUPERANNUATION FUND

#### Background

2.1 The Hairdressers Association Superannuation Fund is an industry superannuation fund for people in the hairdressing industry in Queensland. In 1994 it was recognised in the relevant Queensland awards as an appropriate fund. As at June 2000, the fund had about 4,500 members.

2.2 The fund suffered severe financial difficulties in the early to mid 1990s. Mrs Yvonne Bell, a consultant appointed to the fund from 1 January 1998 to assist its financial position, gave the Committee details of the fund's chequered history, as shown in the following table.<sup>1</sup> In particular, a massive negative return to members arose in 1994/95.

**Table 2.1: Hairdressers Association Superannuation Fund 1992/93 – 1999/2000**

<b>Year</b>	<b>Returns to members</b>	<b>Funds under management (\$m)</b>
1992/93	10.0%	2.65
1993/94	-0.8%	3.11
1994/95	-38.4%	2.88
1995/96	5.1%	4.32
1996/97	8.4%	6.16
1997/98	8.5%	7.78
1998/99	7.6%	9.28
1999/2000	10.5% (est.)	11.5 (est.)

2.3 Mrs Bell said in evidence to the Committee that the investment problems brought about in 1993-1994 were due to two large investments by the original trustees: one in November 1993 of \$300,000 in a private company venture and \$1 million in June 1994 in another private company.

2.4 Mrs Bell told the Committee that both companies had related parties and that the apparent dominant trustee was also a shareholder in one of the companies. The

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1 Committee Hansard, pp. 479-480.

debenture was to pay 17.5 per cent interest but the loan defaulted in September 1994. At that time the fund had assets of \$3.1 million, meaning that 41.95 per cent of its assets were invested in related private companies.

2.5 The Committee understands that APRA's predecessor, the ISC, investigated the fund and requested the appointment of a manager. This was carried out in 1994 and ultimately the ISC required replacement of the trustee. A new company, Hairdressers Association Superannuation Pty Ltd, was set up to assume that role with four directors: two employer representatives and two employee representatives. Following the ISC's request, the new trustee froze withdrawals from the fund from September 1994 to February 1995 pending valuation of the fund assets. During that time, asset write-offs and write-downs were undertaken to align members' stated balances with the market value of the fund. In 1994/95 the fund had a negative return of 38.4 per cent, as both companies were liquidated with no likelihood of recovering the funds. The write-offs had since given rise to capital gains tax losses.

2.6 Mrs Bell also told the Committee that the fund had also had a direct property investment in six units it had bought in 1991 for \$1.04 million. One of the units was apparently occupied by one of the then trustees. Rents were collected irregularly and no leases were in place. The units were finally sold in late 1999 for \$800,000, thus occasioning another substantial loss.<sup>2</sup> The fund also lost money in 1998 after being sued by the fund's previous insurer for several years' unpaid premiums. The original trustee had apparently formed the view that the insurance policy had lapsed and that therefore no debt was owing.

2.7 Mrs Bell told the Committee that the new trustee had considered suing the former trustees for breach of duty in respect of the large losses from the investment decisions. However, legal advice was accepted that an action would not succeed because the former trustees had divested themselves of assets. In addition, the trustee responsibilities under the SIS Act did not apply, since all of the relevant transactions occurred before that Act commenced and the previous prudential regime did not allow the same action to be taken against the trustees.

2.8 Mrs Bell listed the shortcomings identified prior to 1994/95, and the changes that had been made since that time:

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2 Committee Hansard, p. 481.

**Table 2.2: Hairdressers Association Superannuation Fund: identified shortcomings and subsequent changes**

Identified shortcoming prior to 1994/95	Changes
No formal investment strategy.	The fund has a formal investment strategy which is reviewed regularly.
Trustees did not use professional advisers.	The trustee has appointed a range of advisers with expertise in superannuation/ investment and advice is taken regularly.
Limited restrictions on party dealings under legislation prior to the SIS Act.	The SIS Act imposes significant regulation on related party dealings.
Significant related party dealings and lack of disclosure of these in annual reports.	There are no related party investment/ transactions.
Low member balances (average less than \$500).	Average member balance now over \$2000.

2.9 When asked why the decision had been made to persevere with the fund rather than to amalgamate with a larger fund, Mrs Bell referred to the desire to keep an industry-specific fund:

... the four new directors that came into the company were very keen to keep this fund alive as a fund for the industry ... these people had a lot of pride within their industry. They wanted to go in there, fix it up, save it and show the industry that it could run its own fund. Therefore it became really quite a goal and a dream to get this thing back on its feet for the Queensland hairdressers ... (T)hose directors did a lot of work within the industry to convince the employers – and some of the employers were larger group employers – not to take their staff out of the fund and to trust them ... Of course the biggest disappointment to all within the industry was that no action was taken against the previous trustees.<sup>3</sup>

2.10 In evidence to the Committee on 25 June 2001, a representative of APRA stated:

The problems which you were told about in Brisbane really happened back in 1991, 1992 and 1993 under previous legislation ... Once a new administrator was appointed and some new trustees were put in place, in about 1994-95, the advice they had was they would be most unlikely to be successful in actions against the previous trustees because the previous

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3 Committee Hansard, pp. 486-487.

legislation did not really provide the props to take that action. The fund has been visited a couple of times by our officers in the ensuing years and has been commented upon quite favourably.<sup>4</sup>

2.11 Accordingly no further regulatory action is anticipated in the foreseeable future.

### **Issues**

2.12 This case study is another demonstration of problems that can arise from poor investment decisions by trustees: the lack of a proper investment strategy, the lack of diversification of investments, with over 40 per cent at one stage in two related companies that were eventually liquidated; and dealings that were not always at arm's length.

2.13 It should be noted that the problems occurred prior to APRA's establishment in 1998, that new trustees were appointed after the intervention of the former ISC and those trustees appear to have turned around the fund's financial performance. Nevertheless, the case study underlines the need for effective supervision of trustees, particularly in relation to their investment strategy.

2.14 As in the case of the hospitality industry, the fact that the former trustees were able for some years to be less than rigorous in executing their fiduciary duties may point to a need to increase the information given to fund members. The hairdressing industry has many young workers whose patterns of employment may be short-term, as noted in evidence by Mr Jeffrey Osborne, one of the directors of the current trustee company:

We are a very fractured industry. We have something [like] 4,500 salons in Queensland in which employers employ probably four people ... they do not have any binding commitment to any one person or persons.<sup>5</sup>

2.15 He went on to describe the nature of the fund's membership:

Our industry is a very transient industry. The lifespan in our industry is probably from the age of 15 to 30. The majority are women, and at 30 they are usually married with babies. They do not come back into the industry, and if they do, they come back on a part-time basis. Our concern has been that 15-year-old to 30-year-old group. That is where we are picking [new members] up now.<sup>6</sup>

2.16 It has also been reported that few of the young members made voluntary contributions and that almost all of the money flowing into the fund came from employer contributions, pointing to a lack of members' interest in their

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4 Committee Hansard, p. 1290.

5 Committee Hansard, p. 486.

6 Committee Hansard, p. 487.

superannuation returns.<sup>7</sup> Mrs Bell also noted that many hairdressing salons are owner-operated and such owners are not eligible for membership of the fund.<sup>8</sup> She commented that the fund now had fewer members than when it was put into administration, at which time most of the accounts were found to be inactive and some to be negative.

## **Conclusion**

2.17 The Committee believes that this case study is another clear demonstration of the need for effective prudential supervision of the smaller superannuation funds, as identified in its First Report. As recommended in that report, APRA must improve its oversight of trustees. In particular, APRA must act to ensure that funds have an effective and adequately diversified investment strategy, and that members are better informed about the details of their fund's financial performance, especially where problems have arisen and inquiries have been made. APRA must also ensure that transactions are at arm's length and that good corporate governance procedures are in place.

2.18 The Committee notes that in this case legal action against the former trustees was considered to have little chance of success. Consequently, members of the Hairdressers Association Superannuation Fund have suffered substantial losses through the fund's large negative returns some years ago, even though the subsequent trustees appear to have improved the fund's performance to a remarkable degree. Whether and in what circumstances fund members should be able to receive compensation is an ongoing challenge for government and the industry.

2.19 The Committee did not receive any evidence in this case about the part played by the fund's auditors, in terms of identifying and drawing attention to the fund's potential financial problems. However, the Committee considers that auditors have a crucial role to play in helping to ensure that early warning signals are heeded. Accordingly the Committee has since held a round table with peak professional bodies and the regulators, to explore such issues as whether auditors should be risk assessors. The Committee will present a separate report on this issue in the near future.

2.20 The Committee notes that this case study also highlights issues pertaining to the long term viability of small industry-specific funds.

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7 M Laurence "Sad tale of neglect and poor practice", *Business Review Weekly*, 5 July 1999, p. 112.

8 Committee Hansard, p. 487.

