

Mr J. Telford
Secretary
Victims of Financial Fraud (VOFF Inc)
Mrs J. Butler
VOFF Inc Executive
March 8th 2018

OAIC reference: MR17/00003

VOFF reference: 450

Dear Sir,

Thank you for your letter dated 26 February 2018 in relation to the VOFF Freedom of Information request for the release of ASIC's Appendix 4 document. VOFF pointed out in their letter dated February 7th 2018 that due to ASIC and Mr Shorten's handling of the Trio matter, it would make good sense to release the Appendix 4 document. The Commonwealth Ombudsman (CO) said that the decision of the Information Commissioner, not to release the Appendix 4 document, was correct.

The CO pointed out that it is not authorised to investigate any actions taken by a Minister or to investigate Members of Parliament. Your letter is reminiscent of that on the 4 July 2014 when it was explained what the CO's role is in relation to ASIC's regulatory and investigation functions. The CO also recalled the telephone conversation it had with VOFF on the 1 September 2014 when it advised VOFF to provide the CO with details of a current, live issue (i.e. an action or decision) that indicated maladministration by ASIC.

- Now in 2018 VOFF can point to several of ASIC's examples of maladministration. For example, in early 2017 it came to VOFF's attention that ASIC may have withheld important evidence from the NSW Supreme Court. VOFF discovered this after we received in early 2017 the correspondence between the Guernsey Financial Services Commission (GFSC), Mr Carl Meerveld and ASIC. The letter by the GFSC is dated 2010.

Mr Meerveld was one of the directors who operated the Trio underlying fund. He was based in Hong Kong until 2008 then took up residency in Guernsey. In 2016 he applied to become a Deputy of Guernsey, then the citizens found out about Mr Meerveld's connection with the Trio fraud in Australia. To stem public concern, in 2016 Mr Meerveld released his 2010 GFSC letter showing that he attempted to offer ASIC his assistance but ASIC showed no interest in him. Mr Meerveld became the St Sampson's Deputy.

Once VOFF discovered that Mr Meerveld's willingness to assist ASIC was turned down, VOFF recognised the similarity to Mr Meerveld's Hong Kong work colleague, Jack Flader, who had in March 2010, provided the Sydney Morning Herald with information about Trio to set the public record straight. ASIC has kept silent over the information provided by Mr Flader, neither informing the Parliamentary Joint Committee assigned to investigate the fraud, or inform the NSW Supreme Court.

Meerveld and Flader's willingness to assist in the Trio investigation is an example of two of the key overseas Trio operators from the largest superannuation theft in Australia's history, offering their assistance to Australia in respect to an investigation into the missing money and ASIC showing no interest in seeing what they had to offer.

The August 2011 trial of the Trio perpetrator (Shawn Richard) in the NSWSC, (one year after Mr Meerveld offered to assist ASIC) noted that, Mr Richard had assisted ASIC by providing information that saved ASIC

from, 'significant time and resources seeking to gather independent admissible evidence, including evidence from uncooperative witnesses from numerous overseas jurisdictions'.¹

ASIC's failure to inform the NSWSC about the two cooperative witnesses from overseas jurisdictions who did indeed offer assistance, left the court in a position where it possibly overvalued the significance of Mr Richard's assistance to ASIC. The court rewarded Mr Richard's pleas of guilty, with a discount of 25% off his sentence with an additional 12.5% discount allowed for the utilitarian value of the pleas of guilty.² (This is not the first or last time ASIC assists the perpetrator).

- On Friday 27th October 2017 another issue came to VOFF's attention. VOFF received information that the Australian Workers Union (AWU) "Officer's re-election fund" (also known as the "slush fund") had invested into the Astarra Strategic Fund (ASF)/Trio Capital Limited Fund (Trio) in late 2008 early 2009. Perhaps it was the same slush fund established by the former Prime Minister Julia Gillard set up while she was a solicitor with the Slater and Gordon firm. VOFF passed the information on to The Australian Federal Police (AFP) & The Registered Organisations Commission (ROC) (October 30th 2017). VOFF are unaware if Mr Shorten during the period he was the Minister for Financial Services and Superannuation disclosed his personal interests with the AWU; his personal connections with the AWU slush fund; and that the fund was exposed to the Trio fraud.

The AWU exposure to the Trio fraud perhaps explains Mr Shorten's vengeance against 1 out of 155 financial advisors who had clients in Trio. The financial advisor targeted by Mr Shorten was Mr Ross Tarrant, he was the financial advisor who recommended Trio to the AWU "Officer's re-election fund". Mr Shorten's office gave a directive for ASIC to bring down the financial advisor who recommended the Trio product to the AWU. ASIC followed the directive, demonstrating it did not uphold its role as an independent agent.

"We are an independent Commonwealth Government body. We are set up under and administer the Australian Securities and Investments Commission Act 2001 (ASIC Act), and we carry out most of our work under the Corporations Act 2001 (Corporations Act)".³

The court case against Mr Tarrant, went before Mr Justice Duncan Kerr (a former Federal Labor MP) in the Administrative Appeals Tribunal (AAT). ASIC took two years to form a case against the advisor. The case relied on evidence from ASIC's key witness, the perpetrator Mr Shawn Richard - jailed for lying; he lied to get into Australia; lied about his qualifications; lied to obtain his unrestricted financial services licence; lied about the funds he established in Australia; and lied about where Australian superannuation and direct investment money was invested. Yet Duncan Kerr took his word above the evidence of 6 ordinary witnesses including ASIC's own witnesses contrary to the Briginshaw Standard.

In the AAT, ASIC changed repeatedly under scrutiny causing adjournment after adjournment. Duncan Kerr said the matter 'was the worst case of jurisprudential process that he'd seen on either side of the bar table.' ASIC's conduct throughout the hearing caused prejudice, unfairness and unnecessary enormous expense on the defendant. Ultimately, the adviser reached a point where he was unable to continue paying the financial costs of legal fees. ASIC's behavior prompted the advisors legal representatives to write two complaints made to the Attorney General's office on 28 October 2012 and 5 February 2013.

ASIC banned Mr Tarrant, from providing any financial services for a period of seven years. ASIC relied on Mr Richard, a convicted criminal, for evidence in 3 of the 4 allegations against Mr Tarrant. During the hearing ASIC seemingly misled the court:

1) ASIC said that the Astarra Strategic Fund (ASF) was high-risk investment.

¹ Regina v Shawn Darrell Richard [2011] NSWSC 866 (12 August 2011) before Garling J.

² Regina v Shawn Darrell Richard [2011] NSWSC 866 (12 August 2011) before Garling J.

³ ASIC website - Our role

<http://asic.gov.au/about-asic/what-we-do/our-role/>

- 2) ASIC encouraged the Tribunal to believe that ASF was a collapse and not a fraud.
- 3) ASIC withheld Mr Tarrant's research material consisting of monthly reports for two and half years which enabled him to determine the appropriate risk categorization of ASF.
- 4) ASIC withheld information that showed ASF was fixed interest and not a high risk fund.
- 5) ASIC withheld details from the Tribunal to illustrate the ASF money was never invested where it was suppose to have been invested but was used to cover up Mr Richard's growing fraud.
- 6) The withholding of important details enabled ASIC to claim Trio was about poor financial advice.
- 7) ASIC achieved this by keeping Australians and Justice Kerr in the dark.

Mr Shorten's misleading comments about Trio victims swimming outside of the flags invites questions over the way he appointed his ALP mate, who he made President of the AAT, to preside over ASIC's case against Mr Tarrant.

The focus on Mr Tarrant in the context of the paying less attention to the perpetrators of the crime raises more questions. For example, Eugene Lui, a Director of the Astarra Strategic Fund and like Shawn Richard, had lied about his qualifications in the PDS document, but Justice Kerr did not attend this important hearing in the AAT. Why would the advisor be of more concern to the President of the AAT than a suspected perpetrator of the Trio fraud?

Finally, Mr Tarrant ran out of money and ended up unrepresented. An adjournment was denied. Mr Tarrant's evidence was never admitted into his defense, nor were any of his witnesses called. As a result, investors remain under a cloud of being in receipt of "poor financial advice" – precisely what is perceived as Mr Shorten's intention. To knock down the Industry Funds competitors, the self-managed super funds.

ASIC and Mr Shorten attacked 1 of the financial advisors out of the 155, despite Justice Palmer, in the NSW Supreme Court stating, *'Yet even a competent and responsible financial adviser would have heard no warning bells sounding for these Schemes.'*⁴

The CO said in its 26 February 2018 letter that in the context of VOFF's letter it had considered the following three reports:

1. PJC Report 2012;
2. Treasury's Review 2013; and
3. APRA's Report 2016.

It is understandable that the CO would expect the above three documents to be an honest and accurate account on the subject of the Trio matter. However, at closer examination, flaws are present.

(1) The *Parliamentary Joint Committee on Corporations and Financial Services Inquiry into the collapse of Trio Capital May 2012 (204 pages)*.

Six years since the release of the PJC Report, there is now evidence to argue that the PJC's investigation was flawed. i) ASIC withheld vital evidence from the PJC inquiry; ii) submission by public servants with inside knowledge was ignored; and iii) some committee members made misleading comments that attacked and discredited the self-managed trustees and their financial advisors caught up in the fraud.

Many victims of the Trio fraud gave evidence at a PJC hearing in good faith thinking the purpose of the hearing was to learn about the fraud and perhaps the impact that the fraud had on consumers. Many consumers were shell-shocked by the fraud and later said they were naïve not to recognise that the hearing was a cover up the government's failures, making it necessary to turn 690 Australians into sacrificial lambs.

Apart from politicizing the crime, the PJC's work does provide unsurpassed information about the Trio funds and ten recommendations to fix the systemic failure of the financial system.

(2) The *'Review of the Trio Capital Fraud and Assessment of the Regulatory Framework' by Treasury 26th April 2013 (24 pages)*.

Treasury's review is heavily peppered with subjective information and fails to deliver accurate objective

⁴ Trio Capital Limited (Admin App) v ACT Superannuation Management Pty Ltd & Ors [2010] NSWSC 286 (16 April 2010)

details. To learn the basis of Treasury's statements, VOFF submitted 22 FOIs to Treasury⁵ but VOFF received no documents to learn how Treasury reached the conclusions it presented in its Treasury Review. Here are some of Treasury's statements and comment by VOFF.

Treasury write, *'Notwithstanding the conduct of some financial planners in Australia who appear to have been influenced by high commissions in recommending their clients into Trio Capital products, the fraud largely took place in off shore hedge funds.'* (page 5)

This statement is misleading. No high commissions were found. It is grossly misleading to seamlessly connect a separate issue with a crime.

Treasury write, *'The impact of the Trio Capital collapse has had a significant and detrimental impact on a number of Australian investors.'* (page 5)

No surveys were conducted or data collected to assess whether the funds that lost \$10,000 suffered more or less than the funds that lost double or even many times that amount.

Treasury write, *'The extent of personal losses suffered by investors was greatest amongst SMSFs. In some instances SMSF trustees had 100 per cent exposure to the fraudulent assets.'* (page 5)

The information is not fact, it's about discrediting the self-managed superannuation funds while at the same time, promoting the APRA-regulated funds. The Bernard Madoff investment scandal saw about 24,000 victims⁶ lose 17.5 billion dollars.⁷ That equals an average loss of \$729,166. The Trio fraud saw 6,090 victims lose 194.5 million dollars, which equals an average loss of \$31,937. The Madoff Ponzi losses per head are much greater than Trio but they did not come under the same attack that was directed at Trio victims. The international banks that lost the largest amounts of money in the Madoff scam, did not come under the same type of discrediting attack as seen against the Trio's SMSF investors. Some Troll-like commentators lashed out at the people who fell victim to Madoff's Ponzi scheme. Four of Madoff's victims took their own life⁸ including Madoff's son Mark. As of the 19th December 2017, Trustee of the Madoff matter has recovered 73% of \$17.5 billion in lost principal.⁹

Not a single cent of Trio's money was found or recovered. There are APRA-regulated funds that only received about 50% of their loss. Perhaps Australia would have been better off without the Part 23 of the SIS Act legislation as it has only distorted the facts; denied 690 Australians any form of justice; and two suicides making Trio more devastating in human costs than the Madoff Ponzi.

Treasury write, *'Overall, regulated superannuation funds had lower exposures to the fraudulent MIS due to higher levels of investment diversification — as required by APRA — than their SMSF counterparts.'* (page 5)

Treasury's argument is based on the amount of money a fund had invested in Trio. Treasury is inferring that the funds that had lower exposures were operating more appropriately than the funds that had a greater exposure. No literature supports this approach to investigating the impact of a crime. Treasury fail to properly acknowledge that whatever amount is lost is significant to each investor.

Treasury write, *'In their supervision of Trio Capital there was no evidence to alert the Australian Prudential Regulation Authority (APRA) or the Australian Securities and Investments Commission (ASIC) that there was a fraud occurring.'* (page 5)

Treasury fail to acknowledge that ASIC travelled to Hong Kong in 2002 to secure 100,000 documents in relation to a massive fraud against the Commonwealth case. The address where ASIC secured the documents was the offices of American lawyer Jack Flader and Scottish accountant James Sutherland. Both their names and address were already on ASIC's company registration database as they had a holding company registered with ASIC in 2001 and that holding company went on to purchase in November 2003

⁵ The VOFF FOIs are numbers 106 to No 118.

⁶ Jill Disis Madoff victims set to receive \$772 million payout Nov 9, 2017
<http://money.cnn.com/2017/11/09/news/bernie-madoff-government-payments/index.html>

⁷ Erik Larson Madoff Victims Near Full Recovery of Principal With Payout 19 December 2017
<https://www.bloomberg.com/news/articles/2017-12-18/madoff-victims-near-full-recovery-of-principal-with-new-payout>

⁸ Arden Dier 4th Person Connected to Madoff Commits Suicide, Father of four jumped from NY hotel Mar 28, 2017
<http://www.newser.com/story/240439/4th-person-connected-to-madoff-commits-suicide.html>

⁹ Erik Larson 2017 Op cit.

the Australian Trust Fund that became Trio. Fast-forward to 2011 and the Trio fraud matter, Justice Garling in the NSWSC, named Jack Flader as the 'ultimate controller' of the Trio scheme. ASIC had involvement with Flader in 2002 and his name was on ASIC's company registration database to purchase the Trio fund, giving ASIC plenty of evidence that a potential fraud was about to unfold. ASIC met Jack and James in 2002 and 7 years later, \$194.5m disappeared with their names on the fund.

The Treasury Review found '*that some SMSF trustees had an insufficient understanding and knowledge of the risks pertaining to their investments. Inadequate financial advice may have been a contributing factor.*' (page 15)

Treasury's Review carried an unfounded attack against the SMSFs Trio victims but failed along with ASIC and Mr Shorten to acknowledge the high level of financial skills held by some of the people that had SMSFs who were exposed to Trio. They also failed to acknowledge that some of the Trio perpetrators were not questioned.

(3) Report of the APRA Inspector pursuant to section 284 of the Superannuation Industry (Supervision) Act 1993 - 7 April 2016 (25 pages)

The third document the CO refers to is APRA's *Investigation into the failure of Trio Capital Limited, dated 8 April 2016*. VOFF understand this document to be the "*Report of the APRA Inspector pursuant to section 284 of the Superannuation Industry (Supervision) Act 1993 - 7 April 2016*" (Hereafter APRA's Report April 2016)

APRA's Report April 2016 states that "*its investigation into the failure of Trio Capital Limited (Trio)*" demonstrates in the document that "fraud" was found and enabled the APRA-regulated funds to be compensated.¹⁰ This dual labelling of a crime (fraud/failure) reflects the politicizing of the Trio matter and has become in-turn another fraud.

APRA's Report April 2016 is presented similarly to APRA's Enforceable Undertakings. APRA state that 'the acceptance of the enforceable undertakings from Trio's former directors was considered to be an effective regulatory response and an appropriate alternative to court based disqualification proceedings as it allowed APRA to achieve a more expeditious, certain and cost-effective resolution of its concerns'.¹¹ This benefit was never weighed up against court action where there would be transparency into what happened. Keeping the matter away from the courts is arguable a method to keep details covered up.

APRA's Report April 2016 is flawed in the sense that while the Investigation focussed on the conduct of Trio as a corporate trustee of the Trio Superannuation Entities and seized the companies' books including the examinations of individuals, the process does not take into consideration the background histories, in particular, the overseas entities. Furthermore, at no point in APRA's Report April 2016 are APRA's jurisdiction problems mentioned. Like ASIC, both regulators had limited powers to respond internationally, hence why the overseas Trio directors were never questioned.

VOFF tried to lodge a complaint over Mr Shorten and ASIC's handling of Trio.

During the last three years, VOFF lodged complaints to the Commonwealth Ombudsman, the Attorney General Office and the Independent Commission Against Corruption (ICAC) about Mr Shorten and ASIC's handling of the Trio fraud. The following correspondence examples highlight VOFF's frustration.

On January 14th 2014 Michael Smith & Bob Kernohan on 2GB radio discussed Mr Shorten's ties with the Australian Workers' Union slush Fund and how Mr Kernohan approached Mr Shorten over the AWU slush fund fraud, but was told its best to forget about it.¹² VOFF became concerned that Mr Shorten's handling of the fraud within the AWU might be repeated with Trio. VOFF wrote to the Commonwealth Ombudsman, letter dated January 28th 2014 of our concerns.

¹⁰ APRA releases Trio investigation report 8 April 2016

http://www.apra.gov.au/MediaReleases/Pages/16_13.aspx

¹¹ Report of the APRA Inspector pursuant to section 284 of the Superannuation Industry (Supervision) Act 1993 7 April 2016 page 7

¹² <http://tinyurl.com/y7d3jxlg>

On February 4th 2014 Waleria Siuta, Senior Investigation Officer said, *'The office of the Commonwealth Ombudsman's investigates complaints about the administrative actions of Australian Government agencies (that is 'Federal' or 'Commonwealth' Government agencies).'Please note that our office is unable to investigate the actions and decisions of Ministers or Members of Parliament. Complaints about legislation are best directed at the relevant Federal Minister or your local Member of Parliament. It is our office's role to investigate complaints about the administrative actions of Australian Government agencies, rather than the legislation that guides the actions of the agency.'*

On February 10th 2014, Waleria Siuta provided Section 5 (2) of the Ombudsman Act 1976, showing the reasons why the Ombudsman Office will not investigate our complaint.

On November 20th 2014 VOFF informed the ICAC of a meeting between 2 VOFF Executive members with the Executive Director of the Association of Independently Owned Financial Planners (AIOFP) at the Radisson Hotel Sydney. VOFF learnt at the meeting of Mr Shorten's demand for \$3,000 in cash in a paper bag. The issue of Michael Smith & Bob Kernohan on 2GB radio¹³ (January 14th 2014) talking about how Mr Shorten ignored the Australian Workers' Union slush fund.

On July 3rd 2015, JD Heydon, Commissioner, said, *'I regret that it is not possible for the Royal Commission to investigate Mr Shorten's conduct in this respect. Mr Shorten ceased to be a trade union official in 2007. His behaviour as Minister for Superannuation in 2012 is outside the commission's Terms of Reference.'*

On April 27th 2015 VOFF informed ICAC about potential corruption in superannuation and ASIC's failure to do anything. The example VOFF provided was how in 2007 Austcorp Group redeemed \$30 million for its 700 investors. Then in 2009, the Meat Industry Employees' Superannuation Fund lost \$30 million it invested into Austcorp. VOFF's letter provided a link to a 15-minute audio from VOX FM Radio that raised the concern.

On May 1st 2015 Linda Madgwick, Senior Assessment Officer said, *'that the Commission's role is to investigate and expose corrupt conduct in the NSW public sector, as defined in the Independent Commission Against Corruption Act 1988'. 'unfortunately, as the concerns you have raised do not involve a NSW public authority or NSW public official, we are not able to pursue it'.*

On March 24th 2016 a complaint about some of the weaknesses of the financial system was sent to Gabrielle Upton MP, at the Attorney General's Office. On April 20th 2016 The Attorney General's Office said, *'Unfortunately, the Attorney General is unable to assist in superannuation matters.'... 'It may also be appropriate for you to be guided by independent legal advice regarding any other options that may be available to you. I attach a factsheet on sources of legal assistance that may be of assistance to you'.*

On April 1st 2016 Kelly O'Dwyer MP, said in a media statement, *"The Government considered the action taken by the financial regulators, ASIC and the Australian Prudential Regulatory Authority (APRA), and is satisfied that in relation to the collapse of Trio, both regulators carried out their roles and responsibilities appropriately, in accordance with the law and the regulatory framework."*¹⁴
Ms O'Dwyer did not provide any evidence to back up her statement.

On October 23rd 2017 VOFF informed the Commonwealth Ombudsman that ASIC withheld important information about the Trio fraud from the NSW Supreme Court (NSWSC). On October 25th 2017 Elisha Hill, Acting Director from The Commonwealth Ombudsman's Office said, *'We cannot intervene in court matters. If you believe ASIC did not provide relevant information to the court, that would be a matter for the court and*

¹³ Anthony Klan 'Cleavevent staff lost \$400m under deal by Bill Shorten's AWU' July 8, 2015
<http://tinyurl.com/hwqmqaq>

¹⁴ Government decision on financial assistance relating to the collapse of Trio Capital
<http://kmo.ministers.treasury.gov.au/media-release/032-2016/>

the parties involved in the dispute. I can only suggest you seek your own legal advice or make further contact with Members of Parliament.'

The federal government has turned a blind eye to the manipulation and maladministration by some Labor politicians who have no apparent forensic or criminal investigative skills, but claim they know what happened in Trio:

- SMSFs put money into a collapsed fund, APRA-regulated funds had their money stolen for no fault of their own. (Shorten)
- SMSFs took greater risk but APRA-regulated funds were in conservative investment (same fund!).
- SMSFs lacked investment skills, but fund managers of APRA-regulated funds also were exposed to same fraud.
- SMSFs invested outside flags (Shorten), APRA-regulated invested between the flags (all funds were in same product and exposed to same fraud)
- SMSFs relied on a mindless financial planner (MP Stephen Jones) and
- MP Sharon Bird said to SMSF trustees to show they made the wrong choice because "not everyone put money into Trio."

The Serious Fraud Office (SFO) in the United Kingdom acknowledged the impact the crime had on the victims. For example here are what the newspapers reported and the news went worldwide, The "*Madrid-based scam that duped at least 1,000 investors*"..."*target elderly or vulnerable victims and bully them into buying fake or overvalued stock with high-pressure sales tactics*".¹⁵

*"The victims were deliberately charmed, lied to and bullied, whatever it took to make them send their money to these criminals,.....defrauded by these criminals, who caused substantial financial damage and hardship."*¹⁶

It is public knowledge that where there is a lack of transparency, corruption can occur. President Jacob Zuma's exorbitant spending of public money on his own home in South Africa and kept secret under 'national security' legislation is an example of closed and/or dysfunctional systems and/or bad governance that can lead to 'corruption'.¹⁷

William K. Black, author of *The Best Way to Rob a Bank Is to Own One* says,

*'Control frauds are a disaster on many different levels. They produce enormous losses that society (already poor in many instances) must bear. They corrupt the government and discredit it. They inherently distort the market and make it less efficient.'*¹⁸

As Australians citizens who live in what they believe is a democratic country simple want facts and not fiction about the Trio fraud.

ASIC and Mr Shorten misled consumers on many levels.

Mike Taylor, noted that the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services industry has been told that financial planners account for more than a third of serious misconduct identified by the Financial Ombudsman Service (FOS) since early 2012.¹⁹

¹⁵ Kirstin Ridley 'Britain convicts Madrid-based boiler room conmen' June 4, 2014
<http://uk.reuters.com/article/2014/06/04/uk-courts-sfo-idUKKBN0EF1VU20140604>

¹⁶ James Titcom 'Australian Jeffrey Revell-Reade convicted over boiler-room fraud in UK' June 6, 2014
<http://www.canberratimes.com.au/business/australian-jeffrey-revellreade-convicted-over-boilerroom-fraud-in-uk-20140605-39lvs.html>

¹⁷ Elgot, Jessica Nkandla, Jacob Zuma's private residence 31 March 2016
<http://www.theguardian.com/world/2016/mar/31/jacob-zuma-ordered-repay-upgrades-nkandla-home-south-african-state-funds>

¹⁸ Black op. cit. p 10

¹⁹ Mike Taylor Planners pin-pointed by FOS at Royal Commission 5 March 2018
<https://www.moneymanagement.com.au/news/financial-planning/planners-pin-pointed-fos-royal-commission>

In the case of the Trio fraud, it should be taken into account that ASIC and Mr Shorten advised the affected investors on how they can seek remedies. ASIC said,

Those who are not entitled to compensation should consider contacting the Financial Ombudsman

People who are not entitled to compensation may also wish to seek independent legal advice as to what options are available.

Those who took financial advice and are not entitled to compensation can consider taking their own action against the financial advisor involved....

Some of the financial advisory firms that recommended the Astarra Strategic Fund to their clients are now in liquidation. Their clients may wish to seek legal advice about the options available to them. The Corporations Act requires licensees to have adequate compensation arrangements in place. This generally includes adequate professional indemnity insurance.²⁰

Mr Shorten said ‘Those investors (uncompensated) could seek remedies through the courts or the financial ombudsman’.²¹

To victims of a financial fraud, ASIC and Mr Shorten’s advice was wrong and turned community against community. A financial advisor’s PI insurance becomes null and void where there is fraud. Suggesting that victims seek legal advice was another fraud as a couple of law firms quickly earned millions of dollars from traumatized victims for doing nothing.

Conclusion.

Politicizing the crime meant that the victims of the crime were denied natural justice; denied an accurate account of what happened; denied information to show what happened to their superannuation and investment savings; denied the opportunity to submit a Victims Impact Statement to the court; and denied legal recourse for redress. There is no evidence to show that Mr Shorten and ASIC carried out a proper investigation into the worst and largest superannuation theft in Australia’s history and the FOI Act has been ineffective to provide information to support the democratic process.

VOFF realise the CO has closed our complaint. VOFF reply to the CO because VOFF see a number of errors in the CO’s letter and if those errors are not rebutted then they become established. VOFF will submit this letter to The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, as it highlights the grievance of victims unable to expose the massive cover up of information surrounding Australia’s largest superannuation fraud. The cover up of evidence allowed ASIC and Mr Shorten to avoid terms like “fraud” or “crime”, scapegoat a financial advisor and turn the criminal event into an issue about ‘poor financial advice’.

Yours Sincerely
John Telford
Secretary VOFF Inc

²⁰ ASIC Grant of financial assistance

[http://www.asic.gov.au/asic/asic.nsf/byHeadline/Grant%20of%20financial%20assistance%20\(Trio\)?opendocument](http://www.asic.gov.au/asic/asic.nsf/byHeadline/Grant%20of%20financial%20assistance%20(Trio)?opendocument)

²¹ NICOLE HASHAM Trio rescue package brings joy, heartache APRIL 12 2011

<http://www.illawarramercury.com.au/story/635150/trio-rescue-package-brings-joy-heartache/>