

Open Letter to Federal Treasurer Josh Frydenberg & Senator Jane Hume  
the Assistant Minister for Superannuation, Financial Services and  
Financial Technology – 11 June 2021

Dear Mr Frydenberg & Senator Hume,

In August 2011, the Supreme Court of New South Wales stated that American lawyer Jack William Flader Jr. was the architect and ultimate controller of the Trio Capital (Trio) scheme. The court relied on Canadian national, Shawn Richard's signed statement (December 2010) in which he declared Trio used "Flader Controlled Funds"; "Flader Vendor Companies"; and "Flader Funding Companies". The Australian Securities and Investments Commission (ASIC) accepted this version of events. Evidence of Mr Flader's control has never been made public.

Many official documents name Mr Flader, [court cases, Mr Richard's Enforceable Undertaking and the PJC's Report (May 2012)] inferring he enabled the network of Trio overseas funds to conceal a fraudulent operation. In the public's best interest, Victims of Financial Fraud (VOFF) shared Australian, United Kingdom and United States court documents that named Mr Flader with the State Bar of California (early May 2021).

The State Bar of California *'is responsible for managing the admission of lawyers to the practice of law, investigating complaints of professional misconduct, prescribing appropriate discipline....'* - Wikipedia

On 24 May 2021 the State Bar replied. See clip below of the State Bar's letterhead followed by a paragraph from the 2-page letter.



The State Bar  
*of California*

OFFICE OF CHIEF TRIAL COUNSEL

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May 24, 2021

John Telford  
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RE: Case Number: 21-O-05650  
Respondent: Jack W. Flader Jr.

Dear Mr. Telford:



Based on our evaluation of the information provided, we are closing your complaint. It is misconduct for an attorney to commit an act involving moral turpitude, dishonesty, or corruption. Although the claims of fraud against Mr. Flader and his corporations are acts of moral turpitude, it is our understanding that Mr. Flader was acquitted in the criminal proceedings in the United Kingdom. Further, it is our understanding that Mr. Flader was dismissed from the United States lawsuit. Lastly, although Mr. Flader is mentioned in the Australian matters, he is not a party to the actions. For these reasons, the State Bar is closing this matter.

Despite all the court documents, there was insufficient material for the State Bar of California to form a complaint!

This raises the question about the integrity of Mr Richard's story and of the Supreme Court and ASIC's support of the story given that Mr Richard lied to ASIC about his credentials when he commenced the Trio business. As a manager he lied to his work colleagues, auditor, custodians, financial advisers and consumers over the proceeding 5-years while operating Trio. When the fraud was uncovered, Mr Richard served 30 months in prison for dishonesty. Oddly, his sentence was reduced because he pointed blame at Mr Flader.

Did the judge know that ASIC had withheld vital information about Mr Flader's Hong Kong based company, Global Consultants and Services Limited (GCSL)? Did the judge know that an overseas Trio fund manager offered to help ASIC with the Trio investigation, but ASIC refused?

It could be argued that these vital details (and there are more) could have influenced the sentencing of Mr Richard.

Withholding vital evidence from the courts and PJC Inquiry possibly benefited Mr Richard and Mr Flader but certainly denied natural justice for the Trio victims.

Both sides of government have denied the victims justice by the politicisation of the Trio crime. The Labor Party made a distinction without a difference when it said, one group lost money through no fault of their own while the other group invested their savings into troubled funds. The Liberal Party covered up the damning report about ASIC that surfaced just weeks before the Treasury announced that ASIC acted appropriately in the handling of Trio.

On 30 May 2021, VOFF received a 22-page document to a Freedom of Information request that had asked for an ASIC or third party document to show why there was insufficient evidence to prove Mr Flader breached Australian law. The 22-page document is the Enforcement Committee Meeting, held in February 2016, when various Government agencies came together to discuss the **TRIO/Flader** matter. [See image below].

Mr Frydenberg and Senator Hume, if your life savings were stolen, would you be satisfied with a redacted document in which you couldn't see what ASIC did or didn't do to protect your superannuation?



**The unredacted text in the above Trio/Flader document,**

Discloses nothing about why there was insufficient evidence to prove Mr Flader breached Australian law. The available text is ASIC's general account of Trio that can be found on ASIC's website - nothing to do with the FOI request.

**In 2013, ASIC's press release of Trio/Flader notes,**

*'Jack Flader Jr is allegedly the Trio Group's ultimate controller.' ... 'ASIC, the Australian Federal Police (AFP) and our overseas regulatory counterparts have sought to obtain extra evidence to establish that Mr Flader breached Australian law. However, despite this work, there is insufficient evidence to prove Mr Flader breached Australian law. In the circumstances, ASIC is now finalising its investigation into Mr Flader.'*<sup>1</sup>

<sup>1</sup> 13-294MR Update on Trio investigation 29 October 2013

<http://asic.gov.au/about-asic/media-centre/find-a-media-release/2013-releases/13-294mr-update-on-trio-investigation/>

**In 2018, Journalist Ben Eltham wrote about Trio/Flader,**

*'Name a corporate scandal in this country, and you can probably identify complacency or ineptitude at the corporate regulator. Storm Financial? Tick. Opes Prime? Tick. Trio Capital? CommInsure? Bank-bill swap fixing? Tick, tick, tick.*

*My favourite remains the Trio Capital debacle, where corporate crooks siphoned nearly \$200 million from superannuation accounts to secret bank accounts in the Caribbean. Despite being notified about the crime, ASIC was too slow to stop the money disappearing; it also failed to keep the federal police or prudential regulator APRA in the loop. To add insult to injury, ASIC then decided not to pursue Trio's ringleader, Jack Flader.'<sup>2</sup>*

**The government can make a difference,**

All types of financial industry misconduct, bad products and systemic issues are blamed on the principle of caveat emptor - let the buyer beware. In regards to Trio, the Government used a wide range of dubious reasons why people lost their savings. 'Swimming outside the flags', 'poor financial advice', 'secret commissions' are some that come to mind. Australia's financial authorities and law enforcement agencies haven't / unable to identify exactly what happened to Trio, yet laws state it's mum and dad investors' responsibility to know. Why bother having authorities and agencies?

**VOFF's recommendation,**

The Australian Financial Complaints Authority (AFCA) can't/wont help the Trio victims. That leaves a huge void in justice. Victims of systemic issues or financial crime deserve justice. What's needed is a Compensation Scheme of Last Resort where a determination can be made by an impartial, independent body that has the power to investigate (without conflict, vested interests or intention to politicise a crime) and make an accurate finding based on evidence. Superannuation is too important to carry on with misinformation, lies and cover-ups.

Dear Mr Frydenberg and Senator Hume,

The editor of this letter made a remark that I decided to include. I believe the comment expresses the frustration of all Trio victim's after a decade of being humiliated, misled and then ignored.

*"Just something I'd like to expand on.*

*Why didn't they check Flader out more thoroughly before sentencing Richard? If they didn't have enough evidence to charge Flader, Richard should have got a longer term, it seems Richard and his cronies win both ways, what a load of bullshit."*

John Telford Secretary VOFF Inc

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<sup>2</sup> Ben Eltham Capitalism Out Of Control: Keeping The Banking Bastards Honest Has Proved Impossible April 26, 2018  
<https://newmatilda.com/2018/04/26/capitalism-control-keeping-banking-bastards-honest-proved-impossible/>