

Press Release
Victims of Financial Fraud (VOFF Inc)
April 1st 2018

Open letter to the Hon Kelly O'Dwyer MP.

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Dear Ms O'Dwyer MP,

Critical weaknesses in the Australian financial system were highlighted by the Trio Capital Limited fraud. The perpetrators of the fraudulent scheme set up and operated beyond the reach of the financial regulators and the resulting systemic failure of the Australian financial system warranted the need by you to establish in 2015 the Serious Financial Crime Taskforce (SFCT).¹ The SFCT dismantled two sophisticated tax frauds in the last two years. The Michael Issakidis and Anthony Dickson tax fraud and the Operation Elbrus that uncovered the Plutus Payroll scam.

In your April 1st 2016 media release regarding Trio you said *"The Government considered the action taken by the financial regulators, ASIC and 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."*

You have given no reasoning or explanation for your decision for non payment of Compensation to Trio victims, you just said **NO**, absolutely nothing to support how you got to that conclusion. Many victims are very well educated people and would question where your evidence came from and how you supported that decision. Your explanations are frankly not good enough from a government representative.

Mr Shorten then compensated non SMSF clients (under the Part 23 of the Superannuation Industry (Supervision) Act 1993 (SIS Act)) because it was deemed that Trio was in fact a fraud not a collapse, just because the vehicle of investment was different to Industry funds it doesn't make the fraud any different. Had ASIC and APRA done their jobs properly there would be no reason for this letter, yet you say, "they carried out their roles and responsibilities" when the evidence shows, and it is well documented that they clearly did not.

VOFF Inc vehemently rebut the governments' claim and urge that the SFCT investigate ASIC and Mr Shorten's handling of the Trio matter because they covered-up regulatory failures by distracting attention from the Trio crime toward unrelated issues like "poor financial advice" and then allowed vested interests and union bias to influence outcomes.

Mr Shorten, while he was the Minister of Superannuation and Financial Services and in charge of the Trio investigations, never disclosed his history with the AWU, or that the AWU 'Officers Election Fund' was exposed to the Trio fraud. Mr Shorten's office delivered a directive to ASIC, "to bring down" (words to this effect) the financial planner who had recommended Trio to the Officers Election Fund. The directive is perceived as personal revenge. Not what's expected in a proper investigation of an International financial fraud.

ASIC withheld important evidence from the Parliamentary Joint Committee's inquiry into the Trio fraud and withheld important evidence from the Trio perpetrator's trial in the NSW Supreme Court. In both

¹ 7 News Brisbane March 29th 2018
<https://www.facebook.com/7NewsBrisbane/videos/2062601173764005/>

instances, it is perceived that the beneficiaries from withholding information are the perpetrators of the Trio fraud and ASIC. For ASIC, the shocking details about how easy it was to scam the Australian financial system remains a secret.

The SFCT's achievements in crimes against the Commonwealth are well and good but what about crimes against ordinary Australians citizens? The Australian cricket team's tampering scandal is demonstration that people want the institutions we value to have moral leadership. It's time the government reassess, to all stakeholder's satisfaction, how the regulators carried out their roles in Trio and call for an investigation into just what Mr Shorten and ASIC orchestrated in regards to the Trio matter.

Labor recently announced it will create a two-tier system in which the only pensioners denied the full value of franking credits will be those with self-managed superannuation funds.

*"Critics say Labor has therefore sharpened its attack on SMSFs while bestowing a lucrative advantage on pooled funds such as those jointly owned by unions and banks."*²

Mr Shorten's union bias dates back to when he was the national secretary of the Australian Workers' Union (2001 to 2007). When Bob Kernohan approached Mr Shorten about the AWU "slush fund" he was told "its best to forget about it".³ That Mr Shorten had advised Mr Kernohan to forget about the AWU fraud, concerned VOFF that the same might apply to Trio. VOFF expressed their concern over this matter in a letter dated January 28th 2014 to the Commonwealth Ombudsman.

VOFF perceive that Mr Shorten's use of Part 23, was used to destroy market competition between the union run industry funds and the SMSFs (to assist some victims at the expense of others). Part 23 became a tool, creating a market-signal. The collateral damages of the SMSFs became a deterrent to superannuation newcomers from opening a SMSF account. Similarities of Mr Shorten's union bias can be found elsewhere, such as in the AWU - Cleanevent deal that cost 5000-odd workers as much as \$400 million⁴ and the attempt to destroy the small business trucking industry by forcing the little guys to join the trucking giants.⁵

Another Responsible Minister may have represented all the citizens affected by the fraud, equally and without discrimination. Another Minister may have paid more attention to the systemic failure of the financial system and questioned why the serious financial crime against 6,090 consumers occurred undetected.

Public servants in trusted positions have over the years arrived at a point where they had to face their actions, such as the Border Force chief Roman Quaedvlieg and former deputy tax commissioner, Michael Cranston. Mr Shorten needs to explain his actions in the Trio matter.

Also, it's time Federal Government acknowledge the Trio victims in the context of the systemic failure of the Australian financial system.

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² Joanna Mather Self-managed superannuation funds to bear brunt of Labor changes Mar 27 2018

<http://www.afr.com/news/policy/tax/selfmanaged-superannuation-funds-to-bear-brunt-of-labor-changes-20180326-h0y041>

³ <http://tinyurl.com/y7d3jxlg>

⁴ Anthony Klan 'Cleanevent staff lost \$400m under deal by Bill Shorten's AWU' July 8, 2015

<http://tinyurl.com/hwqmqa>

⁵ Grace Collier Union, Gillard rules driving owner-truckers out of business March 5, 2016

<http://tinyurl.com/19nsuxw>