

## Press Release

### Victims of Financial Fraud (VOFF Inc)

### September 25<sup>th</sup> 2017

Farewell ASIC's Chairperson, Greg Medcraft – the Trio fraud remains unresolved.

The Australian Securities and Investments Commission (ASIC) under Chairperson Greg Medcraft demonstrated by the way it handled the Trio Capital Limited (Trio) fraud that its own crisis management control prevails over public interest. Not a single head rolled over ASIC's incompetence in Trio despite damning evidence. VOFF's September 2013 press release called for a complete restructure of ASIC and that Medcraft must resign. Nothing happened.

ASIC appear to have maintained its own regulatory creditability by misleading not only the public but also the NSW Supreme Court. New evidence suggests court statements made when the perpetrator, Shawn Richard was sentenced in the NSWSC in August 2011, are incorrect. The new evidence received by VOFF in early 2017 concerns a letter by the Guernsey Financial Services Commission (GFSC) that mentions correspondence between a Guernsey citizen, Mr Carl Meerveld and ASIC. The GFSC letter dated September 3 2010 points out that ASIC thanks Mr Meerveld for his offer of assistance but wish to hold off from taking up the offer.

Mr Meerveld had offered his assistance to help ASIC's Trio fraud investigation. The GFSC letter, released by Mr Meerveld in 2016, defends his previous position as a manager of one of Trio's underlying funds where millions of dollars disappeared. His connection with the Trio fund, discovered by Guernsey citizens, came to light after he applied to become a Deputy. The release of the GFSC letter demonstrated that ASIC's decline was like a clean bill of health, enabling Mr Meerveld to become the St Sampson's Deputy.

Mr Meerveld's willingness to assist ASIC is not the only example of an overseas Trio operator offering information. Mr Meerveld's Hong Kong work colleague, Jack Flader, in March 2010, sent information about Trio to the Sydney Morning Herald to set the public records straight. Here are examples where two of the leading overseas Trio operators from the largest superannuation theft in Australia's history, offer their assistance to ASIC in respect to the Trio investigation and ASIC show no interest. Furthermore, ASIC failed to inform the Parliamentary Joint Committee that were assigned to investigate the Trio fraud or inform the NSWSC of Flader and Meerveld's willingness to assist.

In August 2011 (one year after Meerveld's offer to assist) the NSWSC trial 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'***.<sup>1</sup>

ASIC failed to inform the NSWSC that two cooperative witnesses from overseas jurisdictions did offer assistance. Without the facts, the court 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.<sup>2</sup>

Mr Richard's assistance to ASIC is contained in a confidential document tabled - 'Exhibit B' - written by Mr Richard who was sentenced for *'providing misleading information to those entitled to accurate information'*.<sup>3</sup>

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

<sup>2</sup> ibid.

<sup>3</sup> ibid.

VOFF are furious that ASIC released inaccurate and misleading information concerning a serious financial fraud. From the very beginning in 2001 when arrangements were made by a group of international brokers to start up business in Australia, ASIC: i) failed to prevent known criminals from entering the Australian financial system; ii) failed to carry out background checks on the new owners of an Australian business; iii) failed to check people behind the licences ASIC approved for Trio; iv) failed to adequately regulate the Trio scheme; v) failed to investigate the crime properly once the fraud was discovered; vi) failed to provide accurate information when informing or updating the public about the Trio fraud; vii) failed to accurately provide facts to the PJC inquiry and the NSWSC; and viii) failed to safeguard the Australian financial markets from known weaknesses that *'enabled crime figures to open individual or company accounts or deposit funds with minimal or false identification, and quietly move millions of dollars'*<sup>4</sup> in Trio's case, the millions moved overseas to undisclosed locations.

VOFF perceive the compensating of 5,400 investors under Part 23 of the Superannuation Industry (Supervision) Act (SIS Act) relieved ASIC from the need to solve the Trio crime and provided the Minister of Superannuation, Mr Shorten with the opportunity to send a market-signal, showing the collateral damage done to self-managed superannuation fund (SMSF) trustees for "swimming outside the flags". VOFF perceive Part 23 was used as a way of destroying market competition between the APRA regulated superannuation funds (employing union and x-union staff) and the SMSFs. Such a market-signal would deter superannuation newcomers from opening a SMSF account. Similarities to Mr Shorten's union bias, that VOFF perceive occurred in Trio, can be found elsewhere, such as: i) The AWU National Secretary kept quiet about the Australian Workers' Union slush Fund;<sup>5</sup> ii) AWU - Cleanevent deal that cost 5000-odd workers as much as \$400 million;<sup>6</sup> and iii) Attempt to destroy the small business trucking industry by forcing the little guys to join the trucking giants.<sup>7</sup>

Senator Mathias Cormann echoes a similar concern to the Trio victims when he stated, *'Bill Shorten's problem is that he continues to let his union bias get in the way of his responsibility as a Minister to act in the public interest. It's the forgotten families of Australia who are being asked to pay the price for Bill Shorten's shameless union bias'*.<sup>8</sup>

Mr Shorten's alleged union bias was noted in a letter dated August 2017 to the Hon Michaelia Cash. Her Chief of Staff, Ben Davies, replied on 6<sup>th</sup> September 2017 saying, "the actions of Mr Shorten when he was the Minister responsible for Superannuation consistently fell short of the standards of unbiased conduct that Australians are entitled to expect."

Mr Shorten and Mr Medcraft's misleading comments about Trio denied Australian's the opportunity to learn any lessons from the Trio fraud. Had the comments about the Trio fraud been accurate in the first place, two people that ended their life as a direct result of the Trio fraud might still be alive today.

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<sup>4</sup> N McKenzie, R Baker, G Mitchell It's not just CBA: all the banks are exposed to millions in money laundering Sept 15 2017  
<http://tinyurl.com/yag9yk2l>

<sup>5</sup> <http://tinyurl.com/y7d3jxlg>

<sup>6</sup> Anthony Klan 'Cleanevent staff lost \$400m under deal by Bill Shorten's AWU' July 8, 2015  
<http://tinyurl.com/hwqmqae>

<sup>7</sup> Grace Collier Union, Gillard rules driving owner-truckers out of business March 5, 2016  
<http://tinyurl.com/l9nsuxw>

<sup>8</sup> Shorten to blame for workers' super losses 09/06/11  
<http://www.liberal.org.au/Latest-News/2011/06/09/Shorten-to-blame-for-workers-super-losses.aspx>