

To the Honourable Kenneth Madison Hayne AC QC,
Royal Commission into Misconduct in the Banking,
Superannuation and Financial Services Industry

John Telford
Secretary
Victims of Financial Fraud
(VOFF Inc)

February 12th 2018

Submission by Victims of Financial Fraud (VOFF Inc) to The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

Dear Commissioner,

In early 2009 the Sydney Morning Herald contacted the custodian of the Trio Capital Limited scheme, the National Australia Trustee, to enquire about the Astarra Strategic Funds' assets. The bank provided a statement confirming that the assets were indeed in the safe custody of the bank. The statement quelled any concerns by the Herald. But the bank had made a mistake and had simply passed on information given to the bank by the Trio scheme.¹ The mistake suggests the custodian was not fulfilling its role as an independent gatekeeper as required under legislation. By incorrectly confirming that assets were indeed in the safe custody of the bank, the Herald was inadvertently prevented from possibly discovering the fraud months before it was eventually discovered. In terms of money flowing into the ASF during this critical period (a figure could be calculated if documentation was made available), VOFF estimate the figure to be in the tens of millions of Australian dollars.

Sending the Herald journalist away with incorrect banking data is like saying there are no people in the house that's on fire. On October 6th 2016 VOFF submitted a Freedom of Information request to the Australian Securities and Investment Commission (ASIC) seeking information about the investigation of this particular event. On November 3rd 2016 ASIC refused under Section 24A of the FOI Act – meaning no document could be found or does not exist.

This event is one of the many injustices against the victims of the Trio fraud. ASIC ignored the structural weaknesses of the financial system, which added up to a systemic failure of the Australian financial system, to cast blame on financial advice.

Thank You
John Telford
Secretary VOFF

¹ PJC Report 2012 *Op. cit.* page 34 ref. Mr John Hempton, 'A dark privatised social security story: Astarra, the missing money and how examining a fund manager owned by Joe Biden's family led to substantial regulatory action in Australia', Bronte Capital, 2 January 2010, <http://brontecapital.blogspot.com.au/search?q=trio> (accessed 17 April 2012).