

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
Email:
Phone: +61 2 6277 3540
economics.sen@aph.gov.au
23 November 2021

To Committee Secretariat,

ASIC's response to Questions on Notice - document (186.ASIC - Trio Capital.pdf) – is posted next to the Sterling matter and could potentially harm consumers with misleading information. Part of the problems around Sterling was the alleged deceptive behaviour in the selling of products to the elderly. ASIC's response document falls in this same category.

Starting in early July, Victims of Financial Fraud wrote to the Standing Committees on Economics and then to ASIC, trying to fix the perceived contempt of Parliament by ASIC but the Committee and ASIC refused. A complaint was made to The House of Representatives Standing Committee of Privileges and Members' Interests (REPS) but it was unable to help.

Part of the correspondence:

Attachment 1

8 September 2021 letter to ASIC about its misleading response to Questions on Notice.

Attachment 2

22 September 2021 reply from ASIC and it refuses to fix.

Attachment 3

27 September 2021 letter to The House of Representatives Standing Committee of Privileges and Members' Interests (REPS) including article by Mike Taylor.

Attachment 4

25 October 2021 reply from REPS

Attachment 5

26 October 2021 letter to REPS

Attachment 6

4 November 2021 REPS replied saying,
'The Committee of Privileges and Members' Interests does not have the power to consider complaints of contempt of the House unless they are referred to it by the House under standing order 51 or 52.'

John Telford
Secretary
Victims of Financial Fraud

Attachment 1

The following is the letter sent to ASIC on the 8 Sept 2021 via ASIC's online web form.

Victims of Financial Fraud request ASIC to correct or remove ASIC's response to the PJC's questions on notice (Published on PJC's website 9 July 2021 See item 186).

There are too many examples of incorrect and misleading information throughout ASIC's 12-page document to fit in this limited web form.

Journalist Mike Taylor's article on ASIC's response document, published on 13 July 2021 alarmed VOFF because he repeated ASIC's inaccuracies. It's one thing to have ASIC's inaccuracies emailed to my email address but to see and realise that the highly respected financial commentator Mr Taylor could be deceived by inaccuracies meant that the public would be much more easily misled. VOFF wrote to the PJC and the PJC recommended VOFF write to ASIC.

An example. Mr Taylor quotes ASIC,

"Investing through an APRA regulated fund is likely to be more appropriate for an investor who does not want to be actively involved in managing their fund or who do not have the skills or experience to do so."

The Trio victims did invest in an APRA regulated fund. The Astarra Strategic Fund was an APRA regulated fund. Did ASIC mean to write an APRA-supervised fund?

Other alarming inaccuracies throughout ASIC's response document need to be fixed. VOFF can provide a list of what needs fixing. A prompt respond is highly recommended because if a highly respected financial journalist can repeat ASIC's inaccuracies, what chance has the PJC, consumers, or the public have to see what ASIC state as being correct or misleading?

Regards
John Telford
Secretary VOFF

In answer to ASIC's web form question – what outcome do you seek?

To ASIC

The outcome VOFF seek is for a transparent, accurate evidence based resolution. Due to ASIC's control of information, ASIC has been able to run a misleading narrative and the Trio victims know too well how misinformation has harmful effects. Australia doesn't have an accurate account of the Trio Capital fraud. This means that superannuation funds remain at high-risk to another Trio type fraud. A transparent and accurate account of what actually happened would be very much in the public's best interest.

Regards
John Telford
Secretary VOFF

Attachment 2



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 7, 120 Collins Street,
Melbourne VIC 3000

Mail address for Melbourne office:
GPO Box 9827,
Brisbane QLD 4001

Tel: +61 1300 935 075
Fax: +61 1300 729 000

www.asic.gov.au

Mr John Telford
10 Dixon Street
FAIRY MEADOW NSW 2519

Our Reference: CAS-76410-W4L2V8

By email: john.t@1earth.net

22 September 2021

Dear Mr Telford

TRIO CAPITAL LIMITED (IN LIQUIDATION) (TRIO CAPITAL)

I refer to your complaint to the Australian Securities and Investments Commission (**ASIC**) on 8 September 2021, lodged via our online complaints portal. Your complaint has been forwarded to me for a response.

You have asked that ASIC correct or remove ASIC's response to the Parliamentary Joint Committee on Corporations and Financial Services' (**PJC**) question on notice published on the PJC's website on 9 July 2021.

ASIC's response to the PJC and to you sent on 31 July 2014, 12 December 2017 and 7 March 2018 was based on the material gathered during its extensive investigation. In those circumstances, ASIC does not consider it necessary to correct any of these responses.

In relation to the publication of this material by the PJC, ASIC understands that the PJC had obtained your consent to that publication. Should you have any questions regarding that publication you may wish to contact the PJC directly.

In your complaint, you have also stated that the Astarra Strategic Fund (**ASF**) was an Australian Prudential Regulatory Authority (**APRA**) regulated superannuation fund. The ASF was not an APRA-regulated superannuation fund. Rather, the ASF was established as a managed investment scheme in 2005 and Trio Capital was appointed as the responsible entity for the ASF ([Page 10, Treasury report Review of the Trio Capital Fraud and Assessment of the Regulatory Framework \(April 2013\)](#)).

Further as noted in ASIC's letter to you dated 7 March 2018, financial assistance pursuant to Part 23 of the *Superannuation Industry (Supervision) Act 1993* was only provided to members of APRA regulated funds that invested in the ASF. There is an express prohibition on self-managed superannuation funds seeking compensation under these legislative provisions.

As indicated in ASIC's previous correspondence to you, ASIC considers that there are no further outstanding issues in relation to Trio Capital to be addressed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'JBalding', with a small dot above the 'i'.

Jennifer Balding
Senior Executive Leader
Corporations & Corporate Governance Enforcement

Attachment 3

To The Secretary
House of Representatives Standing Committee of Privileges and Members' Interests
PO Box 6021
Parliament House
Canberra ACT 2600
Email: Interests.Reps@aph.gov.au

From John Telford
Secretary, Victims of Financial Fraud (VOFF Inc)
Email: johnt@1earth.net
Phone: 0404 388 525
27 September 2021

Dear Committee Secretariat,

Victims of Financial Fraud (VOFF) submitted a 'right of reply' to the Parliamentary Joint Committee on Corporations and Financial Services (PJC) concerning inaccuracies in the Australian Securities and Investments Commission's (ASIC's) response to 'questions on notice'. An attempt was made to correct ASIC and prevent a potential 'contempt of Parliament'. The following is a summary of that correspondence.

1. On 23 March 2021, Victims of Financial Fraud (VOFF Inc) responded to concerns held by Guernsey residents over a Trio Capital fund manager (Mr Carl Meerveld) who now is a resident in Guernsey. The Guernsey residents discovered he is mentioned in Australian court documents, liquidator reports and Enforceable Undertakings. Mr Meerveld was never questioned by ASIC or the Guernsey authorities, despite his offer to assist in the ASIC investigation. The Guernsey residents suggested to VOFF to provide the Financial Action Task Force (FATF) in France, - a global money laundering and terrorist financing watchdog - with information about the Trio fraud. A copy of the letter to FATF was sent to the PJC. This sparked the PJC to ask ASIC 'questions on notice'.
2. On 7 July 2021 the PJC informed that it, *"...proposes to publish the response and attachments as answers to questions on notice.*
Please advise by COB 14 July if you do not wish any of the attached letters from ASIC to you to be published.
3. On 8 July 2021 VOFF asked to please redact Mr Telford's private home address.
4. On 9 July 2021, the PJC published ASIC's 12-page response document.¹ Fearing a misleading impression, VOFF sent a 3-page letter to the PJC to clarify some points.

¹ ASIC's response document. Published on PJC's website 9 July 2021, See item 186.
https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/No1of46thParliament/Additional_Documents

5. On 14 July 2021 in a 2-page Open Letter to the PJC and ASIC, VOFF expressed concern that ASIC's omissions of facts delivered a misleading narrative.

6. On 13 July 2021, VOFF discovered that financial journalist Mike Taylor had written an article based on ASIC's response document. See attached article. This led VOFF to write (22 July 2021) to Mr Tim Wilson MP, Chair of the Standing Committee on Economics to declare – a citizen's right of reply "*must demonstrate that the person or corporation that has been named or is readily identifiable*".

<https://www.parliament.act.gov.au/visit-and-learn/resources/factsheets/citizens-right-of-reply>

The names, Mr Telford and VOFF, are readily identifiable in ASIC's 12-page response document. See item 186 at following website.

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/No1of46thParliament/Additional_Documents

7. The PJC's reply (18 August 2021) ignored the 'right of reply' function and said, "*the committee does not have a role to adjudicate your dispute with ASIC....*"

8. On 23 August 2021 VOFF stressed its situation fitted exactly with the requirements as stated in, "Infosheet 17 - Citizen's 'right of reply'".

9. On 6 September 2021 the PJC wrote, "*The committee has determined that if you wish to seek a right of reply to ASIC you are welcome to write to ASIC or seek to have ASIC's handling of your matter considered by the Commonwealth Ombudsman.*"

10. On 10 September 2021 VOFF wrote to ASIC and requested that the response to the PJC's questions on notice be corrected or removed. VOFF included Mr Taylor's quote from ASIC's response document,

"Investing through an APRA regulated fund is likely to be more appropriate for an investor who does not want to be actively involved in managing their fund or who do not have the skills or experience to do so."

VOFF reminded ASIC that the Trio victims did invest in an APRA regulated fund named Astarra Strategic Fund. Only APRA-supervised funds were entitled for compensation. Did ASIC mean an "APRA-supervised fund"?

VOFF informed ASIC of other alarming inaccuracies throughout its response document and VOFF has compiled an 8-page list of what needs fixing.

11. On 22 September 2021 ASIC said, "*ASIC does not consider it necessary to correct any of these responses.*"

For over a decade ASIC has failed to be accurate about Trio. Its Media Statements contain inaccuracies, as well as correspondence to VOFF. However, in the case of ASIC's 12-page document, it contains the names, Mr Telford and VOFF, and if VOFF don't challenge the document's integrity, by the omission to act would wrongly infer that VOFF and Mr Telford have either agreed with or accepted ASIC's document.

Without transparency in the financial system, consumers cannot fulfil proper due diligence. Without the proper due diligence, consumers risk being exposed to malfeasance.

VOFF gave the PJC and ASIC the opportunity to removed the misleading document from the PJC's website, or publish VOFF's 'right of reply' document alongside. Both the PJC and ASIC declined to act.

ASIC in its last letter to VOFF, dated 22 September 2021, state, *"In relation to the publication of this material by the PJC, ASIC understands that the PJC had obtained your consent to that publication. Should you have any questions regarding that publication you may wish to contact the PJC directly."*

ASIC has attempted to turn the matter into a petty thing, as if consent one day can't be overruled by evidence of contempt of Parliament another day.

VOFF did give permission for publication (apart from private address details) but 4 days later Mr Taylor published his article. It was Mr Taylor's article that became the 'smoking gun', an example of how misinformation can mislead even a highly respected financial commentator. If Mr Taylor was misled, then the PJC and the public are highly vulnerable to be also misled. That the document is published on the PJC's website is prima facie success of ASIC's obfuscation and misinformation.

ASIC finished its 22 Sept. letter by saying, *"... ASIC considers that there are no further outstanding issues in relation to Trio Capital to be addressed."*

ASIC simply dismiss its inaccuracies, leaving VOFF with no option other than to inform the House of Representatives Standing Committee of Privileges over this serious matter. Please let me know if you want a copy of VOFF's 8-page 'Right of Reply' document [correcting ASIC's inaccuracies].

Awaiting your reply.

John Telford
Secretary VOFF

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Why ASIC told burned SMSF investors to use a financial adviser


Mike Taylor | [Follow](#)
 Managing Editor/Publisher, Fi...

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At the height of the fall-out from the Trio/Astarra collapse the Australian Securities and Investments Commission (ASIC) told affected investors that among the reasons the regulator encouraged people to take financial advice is because they might later take action against the adviser.

Documentation provided by ASIC to a Parliamentary Committee has revealed the advice which was provided to the highly vocal Victims of Financial Fraud (VOFF) group which mainly represented self-managed superannuation fund (SMSF) investors hit by the Trio/Astarra fraud. The ASIC documentation, provided to the Parliamentary Joint Committee on Corporations and Financial Services, suggested that SMSFs "might not be appropriate or suitable for all investors noting "for some investors, given their personal circumstances, investing in an APRA-regulated superannuation fund may be more appropriate".

"Investing through an APRA regulated fund is likely to be more appropriate for an investor who does not want to be actively involved in managing their fund or who do not have the skills or experience to do so," the ASIC document said.

"ASIC encourages people to seek personal financial advice from a licensed financial adviser.

This is because:

- Advisers can play a significant role in assisting investors make informed decisions, including informing investors about the benefits and risks of investing in a given financial product, and
- If investors, including SMSF investors, suffer loss as a result of bad, inappropriate, or misleading advice from a licensed financial adviser they may be able to achieve compensation through pursuing dispute resolution or take legal proceedings against the adviser."

Many of the members of VOFF were upset that members of superannuation funds regulated by the Australian Prudential Regulation Authority (APRA) were compensated out of a specifically-designed Government scheme while those within SMSFs were not.

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Published By


Mike Taylor | [Follow](#)
 Managing Editor/Publisher, Finan...

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3 comments



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Attachment 4

From: Reps, Members' Interests (REPS) Members.Interests.Reps@aph.gov.au
Subject: RE: VOFF to HRSCPM 27.09.2021 [SEC=OFFICIAL]
Date: 25 October 2021 at 5:37 pm
To: John Telford johnt@1earth.net, Reps, Members' Interests (REPS) Members.Interests.Reps@aph.gov.au
Cc: Jennifer Butler jenniferbutler2@bigpond.com



OFFICIAL

Dear Mr Telford,

Thank you for your email, attaching a letter for the attention of the Committee of Privileges and Members Interests, and a media article.

I provided the letter and article to the Committee for its consideration. The Committee asked me to respond to you, thanking you for the letter and advising you that unfortunately, the House's right of reply procedure does not apply to the proceedings of parliamentary committees.

The procedure is established by a resolution of the House, available here: https://www.aph.gov.au/Parliamentary_Business/Committees/House/Privileges_and_Members_Interests/Right_of_Reply. The Committee has made guidelines under clause 9 of the resolution, available on the same webpage. Paragraph 7 of the guidelines states: "applications should not be considered from persons who wish to respond to a statement or remarks made in connection with the proceedings of a standing or select committee - such persons should contact the committee direct on the matter".

I trust this information is of assistance to you.

Regards,

Peter Banson | *Deputy Clerk*

Secretary, House Committee of Privileges and Members' Interests

Department of the House of Representatives

PO Box 6021 | Parliament House | Canberra ACT 2600

Ph. (02) 6277 4222 | www.aph.gov.au

-----Original Message-----

From: John Telford <johnt@1earth.net>

Sent: Thursday, 30 September 2021 10:30 AM

To: Reps, Members' Interests (REPS) <Members.Interests.Reps@aph.gov.au>

Cc: Jennifer Butler <jenniferbutler2@bigpond.com>; Interests.Reps@aph.gov.au

Subject: VOFF to HRSCPM 27.09.2021

Dear Committee Secretariat,

Please find enclosed:

- letter from Victims of Financial Fraud and
- article by journalist Mr Taylor

- cc to VOFF Executive member Mrs Butler.

Thank you
John Telford

Attachment 5

To Peter Banson
Deputy Clerk
Secretary, House Committee of Privileges and Members' Interests
Department of the House of Representatives
Email: "Reps, Members' Interests (REPS)" Members.Interests.Reps@aph.gov.au

Dear Peter Banson,

Thank you for your letter.

The letter to The House Committee of Privileges and Members' Interests Department of the House of Representatives by Victims of Financial Fraud (VOFF Inc) was not about the right of reply but to inform of the alleged contempt of parliament by ASIC.

How can the REPS committee reach a conclusion without seeing the information that supports VOFF's allegation?

How can a conspiracy to deceive the Standing Committee on Economics be ruled out when the REPS didn't request the evidence held by VOFF?

Now that the political process has been exhausted, do you suggest we refer the matter to the press and the Police?

Please reply by 14 days.
John Telford
Secretary
Victims of Financial Fraud (VOFF Inc)

Attachment 6

MR

From: Reps, Members' Interests (REPS) Members.Interests.Reps@aph.gov.au
Subject: RE: Please explain [SEC=OFFICIAL]
Date: 4 November 2021 at 8:38 am
To: John Telford johnt@1earth.net, Reps, Members' Interests (REPS) Members.Interests.Reps@aph.gov.au
Cc: jennifer Butler jenniferbutler2@bigpond.com

OFFICIAL
Dear John

The Committee of Privileges and Members' Interests does not have the power to consider complaints of contempt of the House unless they are referred to it by the House under standing order 51 or 52. The Committee's functions and powers are established by standing order 216. You can find the standing orders here:
https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/House_of_Representatives_Standing_Orders.

Regards

Peter Banson | Deputy Clerk
Secretary, House Committee of Privileges and Members' Interests
Department of the House of Representatives
PO Box 6021 | Parliament House | Canberra ACT 2600
Ph. (02) 6277 4222 | www.aph.gov.au

-----Original Message-----

From: John Telford <johnt@1earth.net>
Sent: Tuesday, 26 October 2021 2:15 PM
To: Reps, Members' Interests (REPS) <Members.Interests.Reps@aph.gov.au>
Cc: jennifer Butler <jenniferbutler2@bigpond.com>
Subject: Please explain

To Peter Banson
Deputy Clerk
Secretary, House Committee of Privileges and Members' Interests Department of the House of Representatives
Email: "Reps, Members' Interests (REPS)" Members.Interests.Reps@aph.gov.au

Dear Peter Banson,

Thank you for your letter.

The letter to The House Committee of Privileges and Members' Interests Department of the House of Representatives by Victims of Financial Fraud (VOFF Inc) was not about the right of reply but to inform of the alleged contempt of parliament by ASIC.

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Now that the political process has been exhausted, do you suggest we refer the matter to the press and the Police?

cc to VOFF Executive member Mrs Butler.

Please reply by 14 days.
John Telford
Secretary
Victims of Financial Fraud (VOFF Inc)