



Last man standing

The Trio Capital collapse in 2009 saw about 6000 investors lose approximately \$176 million in superannuation. It was the largest theft of super in Australian history. Most were compensated but one group was left out in the cold. A decade later, the fight for justice continues. **Elizabeth McArthur** writes.

John Telford was riding his bicycle to university in 1985 when he was hit by a car. He had a broken neck and a broken back and spent eight months in hospital.

In 1998, 13 years after the accident, Telford was awarded \$1.4 million in compensation in the Supreme Court.

After a long period in and out of hospital recuperating from his injuries, Telford had been left with recurring pain which impacted him every day. The accident was life changing and the compensation he received from the driver's insurer reflected that.

Along with the favourable judgement, Telford was given clear instructions that this money was supposed to last him a lifetime.

"I was informed that I was required under law to place my money into superannuation and set the fund up so that I would be provided an ongoing disability pension," Telford says.

"The money was to last me the rest of my life. Because of the compensation they introduced a preclusion period, which meant I could not go onto welfare until 2026."

At the time of the settlement, Telford says he completely agreed the preclusion period which would stop him accessing Centrelink was fair. He says himself that he lives modestly - getting by on \$1.4 million seemed perfectly reasonable to him.

In fact, he would have to make do with much less.

Telford lost about \$600,000 of that compensation money in the collapse of Trio Capital.

Part of his money had been invested in Trio after he found a financial adviser to help him set up a self-managed super fund, as he had been advised to do after winning his compensation case.

He looked into a few financial advisers before settling on one who had good credentials to his name.

However, the financial adviser's qualifications weren't the only consideration of importance for Telford. He also chose the adviser because he was in a town nearby and the carpark was right outside his office door.

"Even 30 years since the accident, I still have considerable pain. Everything I do, I have to consider whether I can sit down and what transport is available," Telford explains.

"He had accreditation to his name. But one of the reasons I chose him was availability."

At first, when it became clear that the money was gone, Telford blamed this financial adviser. But now he says he knows better. In fact, he now believes the adviser was a victim of the fraud too.

"The nature of the fraud was that it was out of sight," he says.

Financial advisers who put clients in Trio often had money in the scheme themselves, they often advised friends and family into it - and they had no way of knowing what was really going on, he says.

The advice from ASIC at the time of the Trio

collapse was that those who lost money in SMSFs or as direct investors should seek legal advice and consider legal action against their financial adviser.

When Telford first heard this he thought about it in the terms of his car accident. But, he found out the process is actually "degrading" and destroys the livelihood of the financial adviser - often seeing them publicly named and shamed.

"I'm okay. I live very conservatively. I haven't had a holiday since the day I was compensated," Telford says.

"But that's not the point. The point is that, whether someone has lost \$600,000 or \$5000, the issue at hand is still valid. I know people who lost \$10,000 and that amount is enormous, life altering to them."

Telford met other people who had lost money in the Trio collapse, he started following what ASIC and politicians had to say about it and he started doing his own research.

The Victims of Financial Fraud (VOFF) group was soon formed; meeting regularly in what was originally a fight for compensation. At first, it was a fight they seemed likely to win.

Trio Capital fell apart in earnest in 2009. It is considered one of the three big financial collapses in Australian history, the others being Westpoint and Storm Financial.

Over 6000 investors were affected by the collapse. The federal government compensated about 5000 investors who had been exposed to



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Trio Capital through APRA regulated super funds to the tune of about \$55 million.

VOFF represents part of a group of the 1000 or so investors that were left uncompensated. A decade after the collapse, they're still fighting. Many others have given up.

Telford has become an investigative reporter in his quest for answers. In 2018, he penned the Trio Fraud Manual. It is a 118 page long document detailing the political complexities that circle around the Trio collapse and the people involved.

Don Fox lost money from his SMSF in the Trio Capital collapse, though he no longer likes to say how much.

Fox was part of a group called the Association of ARP Unitholders (ARP), which worked alongside VOFF. None of the group had any success getting their money back, nor did they have much success getting answers on how the collapse happened under the regulator's nose.

About three years ago, Fox saw the writing on the wall and accepted that compensation was likely never going to materialise for him or for other SMSF and direct investor victims of Trio.

"It just went on and on and on. We were led up garden paths. There were no return phone calls," he says.

"But I take my hat off to John Telford. He's still in there fighting and we wish him all the luck."

The ARP group members were mostly based north of Sydney and were "business people, not mugs", as Fox says. Some of the members lost such significant savings in the collapse that they ended up on Centrelink.

The fight for Telford and VOFF has always been, and remains, not just about compensation but a fight for recognition.

The actions of ASIC and then Assistant Treasurer Bill Shorten were salt in the wound for those who lost their retirement savings in Trio Capital.

Shorten would become Minister for Financial Services and Superannuation and see the APRA-regulated super funds that lost money in Trio Capital compensated.

Meanwhile, those in SMSFs and direct investors were told by Shorten that they were "swimming outside the flags".

This comment still stings for many of the victims – and it also doesn't really make sense.

Telford points out that he was told to set up a super fund with his compensation money that could pay him a disability pension for the rest of his life – how then, he asks, could he have been swimming outside the flags?

Another VOFF member, who spoke to *Financial Standard* but preferred not to be named, had worked in banking her whole career and still found herself caught up in Trio Capital. She says there were no warning signs.

Tens of thousands were wiped from her SMSF. She describes the stress as crushing.

Yet, she too, empathises with the financial advisers who advised people into Trio. She highlights the story of Ross Tarrant as being the story of another victim – not, as it was portrayed by ASIC, that of a perpetrator.

Tarrant owns an accounting and financial advice business in Wollongong. The firm had more than \$23 million of clients' money in the Astarra Strategic Fund, promoted by Trio Capital. He was banned by ASIC for a period of seven years in 2011.

In 2015, an appeal by Tarrant to the Federal Court to overturn the ban was dismissed and he was ordered to pay ASIC's legal costs.

Tarrant declined to speak to *Financial Standard* for this story, sharing that he had a negative experience of the media after ASIC's press releases about him.

But Telford and other VOFF members say that Tarrant was unfairly thrown under the bus. Telford says Tarrant was one of 155 advisers in Trio and has suggested that perhaps he became a scapegoat because he had recommended Trio to the Australian Workers Union.

The VOFF members say they now harbour no ill-will to financial advisers, including Tarrant.

In the lead up to the Royal Commission, Telford set himself to researching (not that he ever stopped) so that he could make submissions. He made a Freedom of Information Request (FOI) in relation to the lawsuit brought against Tarrant by ASIC.

Telford managed to get a copy of correspondence between the solicitors representing Tarrant and the Attorney General's office. He said this offered insight into how aggressive ASIC's handling of the case had been.

Eric Koelmeyer, a financial adviser at CK Partners, is a fan of Telford's work and of his compassionate approach to the financial advice profession.

Koelmeyer, despite being a financial adviser and well educated in the financial system, found himself the victim of a scheme. He lost about \$90,000 in the Timbercorp collapse of April 2009.

"John's personal story and that of his friends is heartbreaking. They all trusted the regulator," Koelmeyer says.

"If you wanted to run an investment scam, the best place in the world to do it is Australia it seems."

His experience has left him deeply concerned for the welfare of consumers.

"ASIC needs to go after the people who came up with these schemes that have collapsed, and it needs to use the bankruptcy laws and the criminal laws of each state and at a federal level to find the assets that they have squirrelled away and thieved from investors," Koelmeyer says.



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For Telford, there's no intention to stop the fight. VOFF still holds meetings about twice a year and roughly 60 people still turn up to each one.

Their stories are heartbreaking. Telford says he knows of two suicides directly related to the Trio collapse.

As part of his investigative work, he put in an FOI to try and find out whether ASIC knew about these deaths. He thought if the regulator had knowledge that lives were lost as a result of financial fraud, surely they would have to do something.

The FOI, which Telford shared with *Financial Standard*, says the family of the victim who died shared that he felt betrayal, despair and shame after the Trio fraud.

Telford wanted to know whether the government or ASIC would acknowledge suicide deaths caused by financial frauds.

He got a reply saying that no documents were in the scope of his request.

"It's swept under the carpet," he says.

The stories of how the fraud impacted people vary, but there is a common theme – shame. Koelmeyer felt that pain too.

"When you've been punched in the guts like that the honest truth is there's a part of you that feels like a failure, you feel absolutely tied up in knots. There's a part of you that is just so tired of fighting," he says.

While Telford dove in to investigating and organising, he witnessed the many ways other VOFF members have been impacted.

"I know one lady who is part of our group who keeps the money she lost a secret. She's embarrassed, she doesn't want anyone from her church group to know about it," Telford says.

The Royal Commission was cold comfort for VOFF. Telford says he was not surprised by the stories of institutional misconduct.

"The Royal Commission had 27 case studies, there are thousands of people around the country with stories though," he says.

But, one silver lining of the commission was that it connected VOFF with other groups such as the Bank Warriors. They've found a united purpose in advocating for consumer rights and more transparent regulatory action.

One thing Kenneth Hayne said, in a speech he gave after the Royal Commission, has stayed with Telford. Hayne described a Royal Commission as independent, neutral, public and yielding a reasonable report.

An independent, neutral and public report on what happened with Trio is what Telford wants to see.

"If there was a group of people who could produce that independent report that might be something that lays down a better way to proceed in the future if there's a crisis," he says.

"The way the government handled Trio, it's like they can get away with anything." **FS**