

Office of the Australian Information Commissioner (OAIC)  
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1 August 2024

Victims of Financial Fraud  
Secretary John Telford

**OAIC reference: MR21/00057**  
**Agency reference: FOI 21-36**  
**VOFF FOI No 499**

Dear Information Commissioner,

Victims of Financial Fraud (VOFF) thank you for your 23 July 2024 letter and the APRA 18-page document titled, "Submissions to IC Review FOI 21-36 - June 2024 (with Schedule)".

APRA say it received the Millhouse letter in 2012. VOFF understands the letter was handed to the Astarra board in 2005 and Mr Millhouse resigned from Astarra after delivering the letter to his former work colleagues. APRA should have had access to the letter in 2005 through the regular prudential review process. APRA should have seen the letter during its diligence investigations pursuant to the grant of the Astarra RSE licence. The letter would have been in the boards' correspondence files.

In 2011, APRA informed the PJC it had formed the impression that the Trio directors were a 'bunch of incompetents'.<sup>1&2</sup> Does APRA's 2006 impression reflect the Millhouse letter?

According to Mr Millhouse, APRA issued him with an Enforceable Undertaking in October 2013 but made no attempt in 2012 [when APRA say it received the letter] to interview him. The EUs in the Trio matter simply added to the lack of transparency. Lack of transparency leaves questions unanswered such as did APRA fulfil its obligations and responsibilities under Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)? Under the AML/CTF Act, it's a criminal offence when laundering is associated with other criminal activities. Certain identifiable activities in the Trio scheme included "fraud", "income tax evasion", and "theft" (secretly diverting superannuation into shell companies where the ownership of the real source of the money becomes concealed). Did the Trio Capital scheme carry out such fraudulent activities? Was the construction of the scheme and its operating purpose a conspiracy to defraud? Nearly \$200 million disappeared from the Trio Capital scheme and both ASIC and APRA ignored criminality.

In regards to potential breaches of the AML/CTF Act, the Australian Securities and Investment Commission Chairman Mr Greg Medcraft and Minister for Superannuation Mr Bill Shorten allegedly created a false narrative of the Trio matter. In the absence of information and lack of transparency about the alleged crime, Mr Medcraft and Mr Shorten politicised the Trio matter and turned a financial crime into an issue about 'financial advice'.

Data released earlier this year shows ASIC for example, investigates less than 1% of the 12,000 to 15,000 complaints it receives annually. In 2018 and 2019 both the Productivity Commission and the Banking Royal Commission found ASIC and APRA reluctant to act against misconduct in the financial sector. Such findings suggest APRA would not have bothered to act against the complaints raised by the Mr Millhouse. The Parliamentary Joint Committee Inquiry into the Trio

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<sup>1</sup> July 5, 2012 VOFF delegation attended a meeting APRA's office in Market St. attended by the then Superannuation Minister, Bill Shorten, APRA's Ross Jones and ASIC's Greg Medcraft.

<sup>2</sup> Hansard, Parliamentary Joint Committee on Corporations and Financial Services, Collapse of Trio Capital. (30.8.2011) - Sydney Page 38

Fraud found ASIC and APRA failed to communicate or share information with each other, so even if APRA did see Millhouse's warnings as prescience to a fraud, doubtful APRA would have informed ASIC.

Did Mr Millhouse point to serious breaches of corporate governance? If so, should such information remain secret? Hard-earned savings of millions of Australians flowing from union run APRA-regulated superannuation funds into Labor's coffers. Just another secret? [See clip below from The Australian, dated 12 Sept 2023.](#)

Senator Andrew Bragg regards the funnelling of union run superannuation funds into Labor's coffers as, "... an illegal scheme designed to syphon retirement savings from super funds to the unions."

Bragg says that, "The lack of enforcement action has become a joke."



In 2003 APRA helped write Part 23 of the Superannuation Industry (Supervision) Act 1993. The meeting on the 17 July 2003, called *Review of Part 23 of the Superannuation Industry (Supervision) Act 1993 - Industry Consultation* consisted of 16 people. APRA and Treasury had 4 attendees each. [See document released under Freedom of Information. Page 3 of this letter.](#)

The second meeting on 21 July 2003, called *Review of Part 23 – Industry Roundtable Meeting* consisted of 10 attendees. No one represented the self-managed superannuation fund trustees or direct investors. No one consulted this sector about the extremely important decisions that directly related to financial security and safety. [See attendees on page 4 of this letter.](#)

The financial market was not informed that Part 23 legislation only protected the union run APRA-regulated superannuation funds. Union funds benefited from the Trio matter as the market signal that resulted from the collateral damage to SMSFs boosted union fund members. Mr Shorten made a distinction without a difference. He said the consumers in union-led industry super were "**victims who are victims through no fault of their own**"... but said the consumers in self-managed super funds put their money "**directly into troubled funds.**"<sup>3</sup>

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<sup>3</sup> Washington, Stuart SMH 'Fraud victims get \$55m back, but some left empty-handed' April 13, 2011 <http://www.smh.com.au/business/fraud-victims-get-55m-back-but-some-left-emptyhanded-20110412-1dcpn.html>

**REVIEW OF PART 23 OF THE SUPERANNUATION INDUSTRY (SUPERVISION)  
ACT 1993 - INDUSTRY CONSULTATION**

**Time and Venue**

Thursday, 17 July 2003, at APRA, Level 26, 400 George Street, Sydney

**Agenda**

Introduction

Operation of Part 23

Concluding comments

**Attendees**

Section 22

APRA

APRA

APRA

APRA

Association of Superannuation Funds of Australia

Association of Superannuation Funds of Australia

Australian Institute of Superannuation Trustees

Corporate Super Association

Institute of Actuaries

Investment and Financial Services Association

Law Council of Australia

Treasury

Treasury

Treasury

Treasury

Trustee Corporations Australia

The above attendee list is from a 6-page FOI document of the first meeting [17.07.2003] the rest of the document was fully redacted, citing Section 22 of the FOI Act.

**COMMERCIAL-IN-CONFIDENCE**

Document 1

**NOTE FOR FILE**

21 July, 2003  
**File:** 2003/01053

**REVIEW OF PART 23 - INDUSTRY ROUNDTABLE MEETING**

Section 22

**COMMERCIAL-IN-CONFIDENCE**

6

**ATTACHMENT A**

**Roundtable Attendees**

Section 22

APRA  
APRA  
APRA  
APRA  
Association of Superannuation Funds of Australia (ASFA)  
Association of Superannuation Funds of Australia (ASFA)  
Australian Institute of Superannuation Trustees (AIST)  
Corporate Super Association (CSA)  
Law Council of Australia (LCA)  
Trustee Corporations Australia (TCA)

The above attendee list of the second meeting [21.07.2003] was released under FOI. Single page.

Mr Shorten's shameless union bias allowed one group to benefit at another groups' expense. Such as,

- When he was the Australian Workers' Union National Secretary he kept quiet about the Australian Workers' Union slush Fund. Money was inappropriately used for home renovations.<sup>4</sup>
- The secret side-deal the Australian Workers Union had with the cleaning services company Cleanevent is an example where the AWU saved Cleanevent millions of dollars in wage costs in exchange for making a "donation" to the union. The downside was that 5000 workers lost \$400 million in wages because they were forced to accept below award wages.<sup>5</sup> [See Herald Sun article page 6 of this letter.](#)
- The attempt by the Gillard government to destroy the small business trucking industry by forcing the little guys to join the trucking giants.<sup>6</sup>



**End of the road for self-reliance**

Before 2012, for about a decade, the Transport Workers Union consistently ran a public campaign about trucking safety and pushed for more regulation of our road transport sector. This campaign, at first blush, appeared genuine and, indeed, a component of it probably was. Who wants the roads filled with truck drivers high on drugs? Who can disagree that good safety practices are essential? Who can argue against the need to reduce accidents and save lives?

[Left - clip from The Australian.](#)

The Gillard government tried to push a bill that seeks to control the price of trucking across the nation. The consequence of the passing of the bill would be a significant increase in the cost of road transport, a decline in productivity in the sector, lower incomes for truck drivers and a huge power grab by the Transport Workers Union.

Ken Phillips The Australian Business Spectator 23 Dec 2011

<sup>4</sup> <http://tinyurl.com/y7d3jxlg>

<sup>5</sup> Anthony Klan 'Cleanevent staff lost \$400m under deal by Bill Shorten's AWU' July 8, 2015 <http://tinyurl.com/hwqmqaq>

<sup>6</sup> Grace Collier Union, Gillard rules driving owner-truckers out of business March 5, 2016 <http://tinyurl.com/l9nsuxw>

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## Yet another of those dirty deals made by Shorten's union

Andrew Bolt

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*Former Australian Workers Union boss Paul Howes has claimed he can't remember signing a 2010 agreement between the union and a cleaning company that failed to pay penalty rates for low-paid workers, adding it was not his "role to personally analyse" the "adequacy" of the deal. Mr Howes, who succeeded Bill Shorten as National Secretary of the AWU in 2007, gave written testimony to the trade union royal commission today but does not explain why he signed off on the now infamous memorandum of understanding that left Cleanevent cleaners with below-award wages. The 2010 deal extended a WorkChoices era industrial agreement. Unbenownst to the cleaners under the agreement the AWU also struck a secret side-deal with Cleanevent, who would pay the union \$25,000 a year for three years for union membership for its casual workforce. In his statement, Mr Howes testified he also had no knowledge of the side-deal until it was exposed by the trade union royal commission in May.*

Mr Shorten claimed SMSFs were "swimming outside the flags". His misleading characterisation made one sector of the market feel like they were outside of the law. Mr Shorten's 'flags' analogy infers the uncompensated Trio investors deliberately disobeyed rules and regulations by swimming "outside the flags". Mr Shorten said, "they are responsible for their own choices", inferring that the Trio victims made a conscious decision to venture outside of the flags. SMSFs

followed the law, rules and regulations. Mr Shorten achieved the politicizing of the Trio 'crime' by inflammatory, invective and highly offensive comments. Any evidence that is held by APRA that could offer the public a better understanding of the criminality behind the Trio fraud should be made publicly available.

Stephen James Parbery in the capacity as one of the liquidators of Trio Capital Limited, Astarra Fund Management Pty Limited, and ASI Administration Pty Limited was well placed to have an in-depth understanding of the Trio fraud. On 16 May 2012 on ABC Radio, Mr Parbery said, *"It is unfortunate that the relevant minister appears to have tried to sweep this under the carpet by saying things like, 'I've compensated people who - in one category, but everybody else was, in essence, in his words, 'swimming outside the flags'." That is not an accurate characterisation of what happened"*.<sup>7</sup>

Former Senator Mathias Cormann said in 2011, *'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>

Five hundred former clients of financial adviser Mr Colin Warne, over 90% were in APRA-regulated superannuation funds, lost their saving in the Ualan property fund under Trio Capital. APRA refused to help.

The acting trustee Mike Hill of ACT Super Management, appointed by APRA, submitted a 200-page report to APRA in 2014. The report found fraudulent conduct by one of the fund managers but APRA rejected this submission on the grounds that the person in question had made bad investments (therefore it wasn't a fraud). In 2014 the Ualan victims formed a group called VOICCE and they wanted to have the new evidence they collected reviewed. However, APRA informed Mr Warne it feared a Part-23-claim by VOICCE would open the floodgates. APRA refused to engage in dialogue with VOICCE, saying it is unable to discuss specifics due to strict secrecy provisions under the APRA Act of 1998.

As APRA couldn't (wouldn't) help VOICCE, the Finance Minister's Chief of Staff suggested they take the matter to the Australian Federal Police. The AFP informed VOICCE that it had no authorisation to investigate the matter. It advised VOICCE to make a submission to ASIC. ASIC declined to review VOICCE's new evidence, saying the matter was old and not in the greater public interest. ASIC had not even seen the acting trustee Mike Hill's claim.

Mr Warne sent letters to politicians, and in particular to the Minister of Superannuation Stephen Jones. Mr Jones ignored requests for a meeting. No one showed any interest that VOICCE had discovered new evidenced of "fraud".

According to Mr Warne, consumers in APRA regulated funds are totally dependent upon the trustee to submit Part 23 compensation claims. If the trustee refuses to submit the claim to the Minister, the members are powerless to appoint a new trustee as trustees are appointed by APRA.

August 2021, Ben Dolman, Assistant Secretary Retirement, Advice and Investment Division, The Treasury, (letter dated 2/8/2021) replied to Mr Warne's request for the Government to review

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<sup>7</sup> Rebecca Baillie Australian Broadcasting Corporation Broadcast: 16/05/2012.

<http://www.abc.net.au/7.30/content/2012/s3504474.htm>

<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>

the Trio Capital collapse. Mr Dolman writes, (on behalf of the Minister for Superannuation), *"In relation to Ualan Property Trust related losses, the Government could not consider a payment of compensation under Part 23 of the SIS Act because no application for compensation was made by the trustee of the fund, ACT Super Management. In 2014, ACT Super Management released notices explaining its rationale for not proceeding in making a claim and has since been wound-up. The PPB Advisory liquidator's report did not report any fraud in relation to the operation of the Ualan Property Trust"*.

Christopher Sheehan from APRA wrote to Mr Warne on 15 May 2023 to confirm Ualan losses were not clearly related to fraud but, in APRA's view, were the result of poor business decisions. The final words to Mr Warne *"APRA will not respond to requests for any further meetings on this matter"*.

APRA do not accept there was fraudulent activity in the Ualan fund. Mr Warne got the run-around by ASIC saying it's a Federal Police matter. The AFP said it's an ASIC issue. ASIC say it's up to APRA to accept that "fraud" occurred. Then APRA refuse to look at the evidence.

Authorities handling the Trio matter diverted attention away from regulatory failure, weaknesses in legislation, and regulatory conflicts of interests. ASIC covered up evidence, disseminated misinformation, and politicized the Trio crime. Certain selected Trio victims were blamed for the loss of their savings to the Trio fraud.

The Minister for Financial Services Stephen Jones no longer subscribes to the view of blaming the victim. In his address to National Press Club he said, *"It was convenient for governments and institutions to hide behind this description of a scammer and their victim. This is both a simplistic and outdated view."*<sup>9</sup>

Unlike the false narrative details disseminated by Mr Shorten and ASIC, the Millhouse letter is unlikely to be corrupt.

VOFF ask the Information Commissioner if the Millhouse letter cannot be publicly released, would the Attorney-General's Department support a case before the courts and make the contents of the letter available to an independent forensic accountant?

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<sup>9</sup> Address to National Press Club, Fighting scammers, fighting for Australians Canberra 31 July 2024  
<https://ministers.treasury.gov.au/ministers/stephen-jones-2022/speeches/address-national-press-club-canberra>