

October 2013

The Australian Securities and Investment Commission, as it has reigned to date, is ineffective and injurious. It has lacked the necessary skills and ability and has failed miserably in doing its job properly.

I am a mother and single parent of a now, teenage boy. My son was only starting school, 6 years of age, when this unrelenting, still unfolding saga started. He is now 14 and in his second year of high school. The domino of effects has pervaded every aspect of our existence.

Our story needs to be told for the extent of tyranny and the worm hole of ramifications to be fully understood. For improvement, remedy and the avoidance of future reckless harm and danger to innocent people and families, to make sure this kind of thing doesn't happen again, for the welfare of society and the responsibility to the nation and in the eyes of the world.

For the past 8 years I have attempted to redeem capital lost through no fault of my own.

What transpired through the drastic neglect by ASIC is nothing short of a modern day holocaust. The very sad and disturbing truth is, we are not alone.

The company responsible for repayment was insolvent at the time the investment was made. Associated entities were in receivership, shareholders on the 1st Prospectus had not been paid out, there was an extra-ordinary amount of insolvency indicators (Judgement FCA 348 paras 625 - 658) including Statutory demands and bank demands in the millions of dollars, incomplete financial records and multiple registered mortgages (ASIC's reason to the public for commencing action, a number of years later), and an absence of financial documents with the last financials filed with ASIC in 2004.

The dealer group Wealthsure Pty Ltd failed to take steps to ensure that its adviser Mr Bertram complied with his obligations under s 945A. (FCA 348 Judgement and Orders 18042013 Selig –v- Wealthsure Pty Ltd para 903). Bertram and Wealthsure contravened ss 945A and 945B of the Corporations Act.

Besides a multitude of insolvency indicators, the Prospectus document was flawed. But the company continued to operate.

Navigating the defective processes within the Australian Securities and Investment Commission, the flaws flowed on causing further devastation as financial advisers and dealer groups, regulated by the same commission, negligently recommended a product without doing their own due diligence and research, failing miserably in providing due care and attention to its clients.

ASIC failed to act, ignored complaints and turned a deaf ear to my outcries. "... ASIC has decided that we will not take any further action in the issues raised at this time. ... We have recorded the information you have provided in our confidential internal database. This information will assist us **if we receive further similar complaints.**"

When ASIC took action, it was too late, inefficient and its movement too slow.

***Even if you are a minority of one, the truth is the truth. Mahatma Ghandi***

As a result of ASIC's incompetence my son and I lost our home, my business, my career, the full extent of my superannuation and my credit rating has been trashed.

As ASIC fails to do its job, it in fact paves the way for the innocent to be raped and pillaged.

My son and I, like many others, have been victimized and caused great harm and hardship not only in financial and material form but in ways unseen, via significant mental anguish, grief and emotional torture. Questionably this harm could be argued intentional.

ASIC's initial and consistent subsequent negligence has placed me in the situation where, without access to legal resources, I had to self represent in court matters through both the Magistrates Court and Federal Magistrates Court consequential to an investment product that should never have been allowed to be registered with ASIC in the first instance, offered by insolvent companies that should not have been operating and financial advisers who should not have been licensed.

How can this regulatory body not be held responsible and accountable?

In the wake of ASIC's reign quality of life, lifestyle and meaning for life diminished. Left with no other option but to relocate to re-establish my life, I endured a process where I almost lost the one person most dear to me, my child.

**The Senate, Economics Committee  
Inquiry**

**The performance of the Australian Securities and Investments Commission**

**Submission by Dianne Mead  
Queensland**

It has taken 8 years for my complaints to be realized in a court of law but the gatekeeper the Australian Securities and Investment Commission should never have enabled the saga.

Over the years I have been repeatedly stonewalled by ASIC and other services in the financial industry including the dealer group Wealthsure Pty Ltd, financial adviser David Bertram, now bankrupt, and QBE the insurer for Wealthsure Pty Ltd, to the extent that my complaints and claims, first filed no more than 2 years after the capital loss, has now been pushed outside the statute of limitations.

ASIC deficiencies have not only facilitated companies but other arms such as banks, financial advisers, fund managers, insurance companies, credit companies, fund managers and their collectors, to exploit the public, as self serving, immoral and criminals within these entities via vehicles of laundering, which ASIC overlook, turn a blind eye to and/or refuse to investigate or have been incapable of comprehending, utilize the statute of limitations as a get out of jail free card or for extortion, whichever takes their fancy.

***Law and order exist for the purpose of establishing justice, and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress. Martin Luther King***

In April 2005, under the advice of a financial adviser David Bertram, a representative of the dealer group Wealthsure Pty Ltd, I refinanced my home property and borrowed against the equity to invest on a 2<sup>nd</sup> Prospectus in Neovest. 8 years later, 2013, it would come to light that the investment was illiquid, the Prospectus was flawed, associated entities were in receivership and along with other contradictions and unlawful acts, the dealer group told advisers the investment was not to be borrowed for.

On 17 May 2005 ASIC issued a Stop Order on the company (approximately 6 weeks after the 2<sup>nd</sup> Prospectus was registered with ASIC and 4 weeks after the issue of a share certificate to me). But it was not until 2007 that a check of financial records was collated by the Australian Securities and Investment Commission.

Despite a history of associated entities in receivership and the issue of the Stop Order of 17 May 2005 ASIC only commenced surveillance activities in the affairs of Neovest on or about 21 February 2006 "... after similar surveillances were performed on related companies, Neolido Holdings, Neo Lido and Mango Capital."

It took 2 years for ASIC to take action and check the financials for Neovest, despite ASIC having had "... a proactive program where ASIC looked for entities that might be showing signs of insolvency." [REDACTED], senior accountant employed by ASIC in its National Insolvency Coordination Unit (NICU), Queensland Regional Office at Brisbane.

It was not until October 2007, that [REDACTED] conducted a search of the databases maintained by ASIC for the documents lodged with ASIC and noted that the last report lodged by Neovest was for the financial year ended 30 June 2004, and that no subsequent financial reports or directors' reports had been lodged for the financial years ending 30 June 2005 and 30 June 2006."

It took 3 years (in February 2008), from the date of the Stop Order, for ASIC to obtain an order for the company to be wound up. To this day the company is still in the process of being wound up whilst any assets of the company are squandered away on legal and liquidator's fees notwithstanding that ASIC has been paid a petitioner's award.

250 persons held redeemable preference shares in Neovest, according to a search of the investor register produced to ASIC pursuant to a notice issued by ASIC on 13 May 2005.

The investment loss has caused not only financial and property damages but also stress injury from very real situations, frequently experienced over a long duration of intense magnitude, culminating in post traumatic stress disorder symptoms and physical health problems. A string of misfortune and heartbreak that would never have happened had ASIC performed and carried out its purpose of regulation.

If this isn't enough I recently discovered the balance of my superfund, arranged by the same financial advisers, had been frozen by the company (REIF /RECAP) for at least the past 3 years. Self regulating all this time, the company has now decided to go into liquidation.

My requests for copies of notices issued by ASIC to Neovest prior to the Stop Order, under the Freedom of Information Act have not been satisfied, whilst ASIC's legal department challenge wording and dance around semantics, over what can reasonably be implied.

Complaint and request to ASIC for further information regarding REIF/RECAP and the ASIC processes have been unanswered yet a phone call from ASIC Melbourne office this year confirmed both the Brisbane and Melbourne offices were aware of 4 matters I had lodged. A few weeks after that phone call I received an email which I replied to and stated, among other things, that I believed ASIC was attempting to mitigate its responsibility. I received no reply and another email to that address bounced back undelivered.

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ASIC has assisted the criminal racket to prosper within the financial service industry weaving into each and every codependent branch supported under the umbrella of financial services which then utilize the law to carry out further plunder. One arm supports the other within the industry while the watchdog, ASIC, sleeps and public perception cascades to view ASIC as a toothless tiger.

**CONCLUSION**

An overhaul of the Australian Securities and Investment Commission has been too long coming.

Deficiencies within ASIC have fed the corrupt, made a mockery of the justice system, allowed innocent people to be raped and frustrated fair, just and reasonable treatment.

It has taken an unconscionable time for facts to be revealed exposing the grave defects and negligence within the financial service industry (in our story alone), the full extent of which has yet to be uncovered insofar as the Australian Securities Investment Commission's accountability.

***No amount of time regardless of statute erases wrong doing or remedies injury or gross consequential damage. Dianne Mead***

ASIC's initial defects and neglect, compounded by its delay in taking corrective action, in my view gives rise to further action against it on the face of facilitating the company Neovest and financial advisers recommending the product to continue to make promises of return to its shareholders. The continued promise of return subsequently creates a legal ambiguity as to a pause of the statute of limitations. But unfortunately this grey area, one that requires Court action, is the scapegoat which in this case, Wealthsure Pty Ltd, a service provider in the same industry, is utilizing to deny its liability and avoid fair and just remedy notwithstanding that I for one reserved my rights from as early as 2007, voiced concerns with ASIC and despite liability in law under a Judgement issued this year.

With court the preferred last step for recovery the public have little choice but to fall back on the already taxed , insufficient and inadequate Ombudsman Service. A service which bears little weight, restricted legal standing and very limited remedy with no compensation for injury. Certainly in our case the losses far exceed the capped sum for damages let alone compensation.

The actions and non-actions of the Australian Securities and Investment Commission have meant that indicators and alarms have been missed, overlooked and sailed through numerous obvious checkpoints a competent accounting system and logical database process would eliminate. Not to mention the written complaints, statutory bodies and demands by associated services within the financial family that could have been cross referenced.

My son's and my anguish and suffering, like many others, has been a cruel and drawn out affair, perpetually relived as flow on damage continues.

The defects, unprofessional conduct and gross neglect within the Australian Securities Investment Commission not only initiated harm and caused damage, it has prolonged and reared injury.

Unlike a natural disaster that the country pulls together to remedy and rebuild, the devastation caused through the financial services industry is leaving people marooned and barren.

Reformation of the financial services industry is long overdue. I truly hope this information is utilized to better the industry and protect people and families, the nucleus of society.

Only experience teaches us how to make things better but we need to act.

**Dianne Mead  
QUEENSLAND**

**Sources**

1. Neovest updated January 2008, para's 6 and 7
2. ASIC letter 18 March 2010
3. email DM to ASIC 31.Oct 2012
4. letter DM to ASIC 21 Nov 2012
5. email ASIC attempting to mitigate responsibility
6. email to same person and email address 07092013 bounced from email address
7. multitude letters to financial adviser and dealer group
8. Federal Court of Australia - Judgement and Orders FCA 348 dated 18 April 2013
  - a. – copious indicators of insolvency paras 625 - 658
  - b. [REDACTED], ASIC (NICU) - FCA 348 para 605
  - c. inaccuracies of prospectus– FCA 348 para 754 and 758 with back reference to paras 463 to 477

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- d. indicators of insolvency, statutory authorities FCA para 625 and 641
- e. surveillance 21 February 2006 FCA para 662
- f. search of data bases 18 October 2007 FCA para 668
- g. redeemable preference shares in Neovest were held by approximately 250 persons FCA para 669
- h. ASIC had a proactive program FCA para 672

## CHRONOLOGY

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2004

1 January – (7 months after incorporation) Neovest entered into loan agreement with Neolido Holdings  
January – contract financial services guide issued by Wealthsure Pty Ltd  
3 February – Neovest lodged first prospectus issued  
30 June – first prospectus stalled (para 195)  
Administration of associated entities Judgement  
16 September – email Wealthsure Pty Ltd to advisers not recommending Neovest for borrowing  
23 September – unlawful resolution (para 744)

2005

Some time before March – ASIC became aware of Neolido  
29 March - Registration 2<sup>nd</sup> Prospectus  
29 March - Neo Lido and Neolido Holdings were insolvent (para 747)  
29 March – ASIC began surveillance activities of the Neolido Groups  
31 March Prospectus No 2 lodged with ASIC  
4 April – cheque drawn to Neovest  
13 April – cheque presented and paid to Neovest  
9 May – dividend \$1,000 distributed  
17 May - ASIC issued Stop Order  
7 June, 15 June, 23 June and 25 October 2005 ASIC issued interim orders that no securities be offered issued, sold, or transferred to or by Neovest.  
25 November 2005 Holdings and Neo Lido were wound up

2007

Neovest directors, Perovich and Spencer, declared bankrupt  
ASIC filed

2008

January - Neovest update advising administrator appointed 2007  
10 January - McLeod & Partners appointed administrators of Neovest  
5 February – Order Neovest to be wound up and McLeod & Partners appointed

2009

Superannuation suspended (REIF/RECAP)  
29 May – email to ASIC re company records

2010

Withdrawal of superannuation  
**Complaint DM to ASIC – Neovest Ltd, Greener Investments Pty Ltd, Neo Lido Pty Ltd, Norton Capital Pty Ltd, Wealthsure Pty Ltd, Jonathan Paul McLeod and David Bertram**  
**18 March - Letter from ASIC –not taking any further action**

2012

Federal Magistrates Court hearing

2013

18 April – Judgement Federal Court of Australia Judgement 348  
David Bertram declared bankruptcy  
REIF/RECAP winding up (after 4 years voluntary administration – questionable correlation with Neovest and Neolido Groups)  
**Complaint DM to ASIC Wealthsure,**  
**Complaint DM to ASIC REIF/RECAP**  
Letter DM to ASIC requesting information regarding ASIC administration process for investigation