

Senate Economics
Committee

09 SEP 2013

4th September 2013

Senate Standing Committee on Economics
PO Box 6100
Parliament house
Canberra ACT 2600

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The Committee,

I am a Chartered Accountant Company Auditor and am compelled to report many concerns as to the conduct of ASIC, drawn from 20 years experience as an ASIC approved Trustee until year 2000 (the old law), then Advisor, Compliance Manager and Internal Auditor, further to ASIC's promotion of Managed Investments Act and Chapter 5c, 7 and 9 of the new Act.

In the 1990's ASIC promoted Managed Investments and Financial Services on a false premise that a compliance regime could manage market forces and conflict of interest. I allege the Act has failed catastrophically and ASIC's desired supervision of the Market has failed catastrophically. Promoters of financial products and services who have been materially conflicted with related party transactions, have readily operated to usurp the law and Regulator to achieve their own financial needs over those of their investors.

Examples:

1. The Commonwealth Bank of Australia

- Lender to the Promoters of Financial Schemes
- Participation in financial schemes
- Provider of financial advice that "independently" provided advice to subscribe to schemes
- Provider of finance to investors in the schemes

The Australian Banking and Financial services fraternity is deeply involved in financing and promoting schemes and yet it is suing and threatening bankruptcy to investors who have lost their scheme property (to the bank etc) and are left with accumulating debt. The "Tax effective" schemes were approved in principle by the ATO and Treasury.

Investors losses in this area nationally significant.

2. The Rees Group Melbourne – an Accounting Practice set up to provide a "one shop" service:

- Finance and taxation advice, - Financial planning advice, - Superannuation advice
- with client funds in part being invested back into the Rees Group who in turn launders money back into the Rees Group directorate e.g.

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- GR Finance Limited, a debenture offer, in liquidation, significant client losses
- RAC Group Finance Pty Ltd financier, in liquidation (20-30c in the \$1 return)
- Group Finance Pty Ltd financier, in liquidation by ATO action
- Rees Managed Investments Pty Ltd – wound up with debt

The above were reported from ASIC in 2009 by myself, as compliance officer and internal auditor yet, ASIC took no action – client investor losses are mounting to a level of \$10 – \$15 million.

3. The Willmott Forest collapse – in principal, a good Australian company, developing an important natural timber resource as a Managed Investment provider. It is agreeable their business model was changing and the Board failed the challenge, but the Commonwealth Bank ruthlessly appointed a Receiver due to a breach in covenant lending, then, proceeded to attack investors scheme property and they then started attacking investors in the Schemes - A shameful outcome.

4. Property Trusts/Timeshare /Trusts

In the ASIC Corporations Law transition from the old law Chapter 5c trustee control (1990's) to the new Chapter 5c, investors scheme property was rolled to the new Responsible Entity. ASIC allowed control to vest from the original independent Trustee to the new concept of Responsible Entity - a systemically conflicted structure.

e.g. Investors in:

- Hillston Grove Vineyard Project
- The Cumberland Lorne Trust
- The Flexi Point Trust
- The Midfield Bullbeef Project
- The Club Premier Trust
- The Blue Diamond Deposit Trust
- Queensland Tomato Trust et al.

all lost their investments or suffered significant losses by self interested /conflicted promoters. ASIC sat on it's hands and did nothing re complaints to support the outgoing trustee and investors. The cases go on, the Regulator has failed in market supervision in my opinion.

In Summary

The 2001 Corporations Law is flawed re Managed Investments/ Financial Services

- The Prospectus needs to be reintroduced with Board responsibly and approved by ASIC
- Scheme Property needs to be defined and secured
- An independent Accredited Trustee must hold scheme property under pre determined rules. ASIC must work with the Trustee to protect investors scheme property.
- Product Salesman must not be "independent" Financial Planners – personal financial advice must only be given by independent non-conflicted financial advisors.
- ASIC must be reportable to the Senate via a specialist watchdog – the Commonwealth Ombudsman is toothless.
- Financial services licensing and management needs immediate ASIC licence suspension when non-compliance occurs to be reported by Trustees and Compliance Committees.

The ASIC designed/Treasury approved Chapters 5c, 7 and 9 of Corporations Law prescribes the above conflicted structures that have seen the appalling losses over the past 10 years. A financial manager cannot hold scheme property.

ASIC believes the creation of more rules, compliance and bureaucratic input will protect the market- the law needs simplifying and redrafting.

I have spent a considerable amount of my own funds defending scheme property and investors interests only to be put down by well funded developers and lawyers, of course using client funds! My integrity is in place, I don't believe ASIC is!

I would welcome a representation to the Committee.

Yours faithfully,

Ian R. Bond

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