

SUBMISSION TO
PARLIAMENTARY JOINT COMMITTEE ON
CORPORATIONS AND FINANCIAL SERVICES
INQUIRY INTO FINANCIAL PRODUCTS AND
SERVICES

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1.0 STATE OF THE INDUSTRY

- 1.1 THE FINANCIAL PLANNING INDUSTRY AS WE KNOW IT TODAY IS EFFECTIVELY ONLY ABOUT 25 YEARS OLD. I BELIEVE THAT HUGE PROGRESS HAS BEEN MADE IN THAT 25 YEAR PERIOD BUT THERE IS STILL MUCH WORK TO DO.
- 1.2 THERE EXIST TWO LEGITIMATE ADVICE MODELS FOR ADVISORY SERVICE FIRMS. THAT IS INSTITUTIONALLY OWNED ADVISERS SUCH AS BANKS AND INSURANCE COMPANIES VERSUS INDEPENDENTLY OWNED ADVISERS.

THE INSTITUTIONALLY OWNED FIRMS CONTROL ABOUT 80% OF THE MARKET WHILE INDEPENDENTLY OWNED CONTROL THE OTHER 20%.

I BELIEVE THIS IS A GOOD MIX AND IT IS IMPORTANT THAT UNFAIR COMPETITION DOES NOT ALLOW THE INDEPENDENTLY OWNED SECTOR TO BE FORCED OUT OF BUSINESS. IN FACT THE CURRENT ARRANGEMENT IS A NATURAL FLOW AS FOLLOWS.

MANY ADVISERS START WITH INSTITUTIONALLY OWNED LICENSEES AND THEN BECOME DISILLUSIONED BY BUREAUCRATIC DECISIONS. THEY THEN JOIN INDEPENDENTLY OWNED FIRMS OR TAKE OUT LICENSES IN THEIR OWN RIGHT. AS THEY APPROACH RETIREMENT HOWEVER IT IS QUITE LIKELY THAT THEY WOULD THEN LOOK TO SELLING THOSE BUSINESSES BACK TO INSTITUTIONAL OWNERSHIP IF THEY CANNOT FIND A SUITABLE BUYER WITHIN THE SMALL LICENSEE COMMUNITY.

IT IS ESTIMATED THERE ARE 400 BOUTIQUE FINANCIAL PLANNING LICENSEES IN AUSTRALIA.

THEIR CHARACTERISTICS ARE –

- * FAMILY OWNED BUSINESSES.
- * EXPERIENCED LONG TERM ADVISERS.
- * EMPLOY TWO (2) ADVISERS PLUS 4 – 5 SUPPORT STAFF.
- * ENJOY VERY LOYAL CLIENTS

THESE ARE THE CURRENT THREATS TO SMALL LICENSEES:

- UNABLE TO OBTAIN PROFESSIONAL INDEMNITY INSURANCE AS IT IS NOW COMPULSORY. IT WOULD RESULT IN THE FORFEIT OF THE LICENSE AS HAS HAPPENED IN THE UK IN THE PAST.
- INCREASING FOS (FINANCIAL OMBUDSMAN SERVICE) JURISDICTION LIMITS BEING INCREASED TO A PROPOSED \$300,000. THESE SORTS OF FIGURES ARE OF NO THREAT TO A

MAJOR INSTITUTION BUT ARE A HUGE THREAT TO SMALL
LICENSEES.

2.0 REMUNERATION

2.1 THERE ARE A NUMBER OF LEGITIMATE REMUNERATION MODELS AS FOLLOWS:

- COMMISSION ONLY
- FEES – EITHER FIXED OR AS A PERCENTAGE OF FUNDS UNDER MANAGEMENT
- SALARIED.

2.2 WHAT DOES IT MATTER HOW AN ADVISER IS PAID AS LONG AS CLIENTS HAVE CHOICE AND THERE IS CLEAR DISCLOSURE.

2.3 EFFECTIVE COMPETITION IN THIS INDUSTRY IS VITAL. COMPETITION ACHIEVES THE FOLLOWING:

- IT KEEPS REMUNERATION IN CHECK
- IT KEEPS ADVICE STANDARDS HIGHER.

NOTE

WE MUST MAKE SURE THAT THE RETAIL SUPERMARKET PROBLEM DOES NOT HAPPEN TO FINANCIAL SERVICES. TWO GIANT SUPERMARKET COMPANIES NOW CONTROL 80% OF MARKET SHARE IN AUSTRALIA TO CONSUMER DETRIMENT.

2.4 PERSONAL INSURANCE COMMISSIONS ARE A SPECIAL MENTION. HISTORICALLY PERSONAL INSURANCE REMUNERATION HAS BEEN PAID ON A COMMISSION BASIS. COMMISSION HOWEVER IS NOW NOT SET. ADVISERS MAY DISCOUNT COMMISSION TO REDUCE PREMIUM COST TO THE CLIENT.

IF REMUNERATION CAN BE NEGOTIATED BETWEEN CLIENT AND ADVISER IS IT REALLY TRUE TO CALL IT A COMMISSION AT ALL?

BROKERAGE PAYMENTS OF 110% OF PREMIUM UPFRONT PLUS 10% RENEWAL ENCOURAGES REPLACEMENT/CHURNING ONE IN FIVE INSURANCE POLICIES IN AUSTRALIA ARE REPLACEMENTS.

60% UPFRONT AND 20% RENEWAL WOULD BE BETTER FOR CLIENTS AND FOR THE INDUSTRY.

2.5 EXIT FEE PRODUCTS SHOULD BE BANNED. THEY ARE DESIGNED TO DECEIVE CLIENTS.

3.0 REGULATION

3.1 THE STRESSES OF WORLD WIDE RECESSION ARE NOW REVEALING SHORT-FALLS IN REGULATION.

ASIC SHOULD RIGOROUSLY ENFORCE THE REGULATIONS AND PROSECUTE WHERE NECESSARY. I BELIEVE THIS HAS BEEN HAPPENING. FOR EXAMPLE:

- ENFORCEABLE UNDERTAKINGS - AMP FINANCIAL PLANNING.
- THE BANNING OF ADVISERS - THE BRANNELLY GROUP
- JAIL SENTENCES FOR EXTREME VIOLATIONS - e.g. FRAUD.

3.2 THE FINANCIAL PLANNING ASSOCIATION SHOULD SET EDUCATIONAL STANDARDS AND ETHICS BUT NOT BE EXPECTED TO PROSECUTE.

I USE THE RECENT EXAMPLE OF THE QUEENSLAND LAW SOCIETY. THE QUEENSLAND GOVERNMENT AND QUEENSLAND CITIZENS BECAME SO DISGRUNTLED BY THE LACK OF ACTION ON BEHALF OF THE QUEENSLAND LAW SOCIETY THAT THE QUEENSLAND GOVERNMENT EVENTUALLY STEPPED IN AND TOOK OVER MOST OF THE REGULATION PROCESSES.

3.3 THERE ARE A NUMBER OF FINANCIAL SERVICE AREAS THAT NEED TO BE BROUGHT UNDER FINANCIAL SERVICES REGULATION AS SOON AS POSSIBLE. MAINLY:

- MARGIN LENDING
- MORTGAGE BROKING
- REAL ESTATE ADVICE (PURE REAL ESTATE SALES WITHOUT ADVICE COULD BE EXEMPTED)

THE RECENT STORM FINANCIAL SITUATION HAS LEFT MANY QUESTIONS OVER MARGIN LENDING ADVICE BY ADVISERS AND ALSO BY BANKS PROVIDING FINANCE.

3.4 CONFLICTS OF INTEREST - IT IS IMPORTANT THAT THE FOLLOWING BE PURSUED:

- CLEAR REMUNERATION DISCLOSURE BY ADVISERS
- ADVISERS SHOULD BE FORCED TO REVEAL THEIR ULTIMATE LICENSEE OWNERSHIP.

THE MAJORITY OF CLIENTS HAVE NO IDEA WHO THE ULTIMATE LICENSEE IS. THEY BELIEVE THEY ARE DEALING WITH INDEPENDENTLY OWNED FIRMS WHEN IN FACT THEY ARE DEALING WITH INSTITUTIONALLY OWNED FIRMS.

FOR EXAMPLE ALL CORRESPONDENCE SHOULD READ:

JOHN ADVISER AUTHORISED REPRESENTATIVE OF
HILLROSS A WHOLLY OWNED SUBSIDIARY OF AMP
SOCIETY

NOT:

JOHN ADVISER AUTHORISED REPRESENTATIVE OF
HILLROSS FINANCIAL PLANNING.

ALSO:

JOHN ADVISER AUTHORISED REPRESENTATIVE OF
ST ANDREWS FINANCIAL PLANNING A WHOLLY OWNED
SUBSIDIARY OF COMMONWEALTH BANK OF AUSTRALIA

NOT:

JOHN ADVISER AUTHORISED REPRESENTATIVE OF
ST ANDREWS FINANCIAL PLANNING.

3.5 ASIC MUST DO MORE TO ENSURE THAT STORM FINANCIAL AND WESTPOINT SITUATIONS DON'T OCCUR AGAIN. METHODS:

- ENCOURAGE THE FPA AND THE INDUSTRY IN GENERAL TO DOB IN SUSPECTED OFFENDERS.

THIS CAN WORK JUST LIKE CRIME STOPPERS WITHIN THE GENERAL COMMUNITY.

- MAKE RESEARCH FIRMS (AS GATEKEEPERS TO PRODUCT) MORE ACCOUNTABLE.
- MAKE AUDITORS MORE ACCOUNTABLE.

3.6 STATEMENTS OF ADVICE HAVE BEEN SUCCESSFUL IN EVIDENCING THE QUALITY OF ADVICE. SOA'S ARE WIDELY USED BY ASIC, LAW COURTS AND FOS FOR LITIGATION.

THERE NEEDS HOWEVER TO BE A REFINEMENT/LIBERALISATION OF THE RECORD OF ADVICE REGIME. THIS WILL TAKE ADMINISTRATIVE PRESSURE OFF ADVISERS PARTICULARLY SMALL LICENSEES.

FURTHER, CRIMINAL PROVISIONS AND THE UNREASONABLE FIVE DAY WORKING RULE FOR STATEMENT OF ADVICE PROVISION NEEDS TO BE ELIMINATED.

3.7 THE FPA HAS CORRECTLY PRESSED THE INDUSTRY TO CLEARLY SEPARATE THE FOLLOWING FEES WITHIN STATEMENTS OF ADVICE:

- ADVICE FEES
- ADMINISTRATION FEES
- FUND MANAGER FEES.

PLUS ANY OTHER PAYMENTS OF:

- ALTERNATE REMUNERATION
- SOFT DOLLAR PAYMENTS.

NOTE

ASIC SHOULD REINFORCE THESE ACTIONS.

3.8 INDUSTRY FUNDS DENIGRATE ADVISER REMUNERATION. FOR EXAMPLE THEY LOBBY TO HAVE COMMISSIONS BANNED TO SUIT THEIR OWN ENDS. THEY THEN DIRECT SUPERANNUATION MEMBERS TO THEIR FINANCIAL PLANNING ASSOCIATES WHO ONLY RECOMMEND INDUSTRY FUNDS.

BY CONTRAST THE FPA VALUE OF ADVICE CAMPAIGN IS TO BE APPLAUDED. ANECDOTAL EVIDENCE REVEALS –

- * CLIENTS TAKING GOOD ADVICE HAVE LARGELY HELD THEIR NERVE THROUGH THE GLOBAL FINANCIAL CRISIS AND TAKEN A LONG TERM VIEW OF THEIR INVESTMENTS.
- * IRONICALLY THE ANTI-ADVICE CAMPAIGN OF INDUSTRY FUNDS HAS BACKFIRED AGAINST THEM.

ACTING WITHOUT ADVICE MANY SUPER MEMBERS HAVE PANICKED AND SWITCHED DIVERSIFIED PORTFOLIOS TO CASH.

THIS IN TURN HAS SQUEEZED THE LIQUIDITY OF MANY INDUSTRY FUNDS THAT HOLD CONSIDERABLE ILLIQUID ASSETS (E.G. UNLISTED PROPERTY FUNDS HEDGE FUNDS AND UNLISTED INFRASTRUCTURE FUNDS)

4.0 MINIMUM EDUCATION

- 4.1 RG146 AS A MINIMUM STANDARD HAS WORKED REASONABLY WELL UNTIL THE PRESENT. THE TIME HAS COME NOW TO GRADUALLY START INCREASING THOSE MINIMUM STANDARDS TO ENCOURAGE BETTER ADVICE FOR SPECIALISATION.

FOR EXAMPLE:

- CORPORATE SUPERANNUATION SPECIALITY
- BUSINESS INSURANCE SPECIALITY
- SELF-MANAGED SUPERANNUATION FUND SPECIALITY
- MARGIN LENDING SPECIALITY.