

28 June 2009

SUBMISSION TO SENATE COMMITTEE INQUIRY

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Yours Sincerely

Doug Bailey

History of Investments with Australian Capital Reserve Limited A.C.N. 089 187 502 -
P.O. Box 6011 Baulkham Hills DC N.S.W. 2163 – A.C.R.

1. One hundred thousand dollars invested 19 July 2003 – interest 8.75% - renewed annually – unsecured deposit notes.
2. Executive directors – Samuel Pogson – Murray Lapham.
3. Phoned A.C.R. July 2004 regarding security of fund, as a consequence invested another \$25,000 – compound interest.
4. Invested a further \$20,000 in July 2006 bringing the second investment portfolio to almost \$50,000.
5. Again I queried the security of fund as I believed a Mr Paul Clitharoe (TV personality) has made adverse comments about A.C.R., and the funds interest rate was declining.
6. In March 2007 the Australian Securities and Investment Commission (ASIC) prevented ACR from issuing another Prospectus and placed in hands of Administrators.
7. A.C.R. was among 26 companies in the Estate Property Group (EPG) which had 21 projects under way in N.S.W. and Victoria.
8. Administrators – Price Waterhouse Coopers (PWC).
9. Attended Administrators meeting in Brisbane June 2007, but I was not enthused by their report when a 60 cents in the dollar may be recovered with some \$300 million owing.
10. There is evidence that ACR was taking investor's money when storm clouds appeared on the horizon – possible when they accepted my final \$20,000 payment.
11. August 2007 Administrators entered into a “heads of agreement” with Becton Property Group Ltd (Becton) for \$202 million, paid to noteholders in three instalments December 2007, July 2008 and December 2008.
12. I elected to take the Becton offer for \$50,000, and the three cash instalments for the \$100,000 investments.
13. Because of financial difficulties Becton faulted on the payment (December 2008) and offered three payments in 2009 instead.
14. Just to clarify the value of my two investments – the \$100,000 becomes \$60,000 (60 cents in dollar) and the \$50,000 becomes \$31,500 (63 cents in dollar).
15. On December 2008 Becton advised interest rates dropped from 8.7% to 4%.

16. With great difficulty I managed to contact Becton Office to query the interest decrease and was advised that the Fund Manager had authority to cancel interest rates altogether.
17. I immediately requested withdrawal forms as I cannot live without an income – seven months later and the forms have not arrived.
18. My wife and I are in our eighties, therefore we cannot recoup our losses, as younger couples may do, and being part pensioners we expect a return on our investments. It was also my understanding that the interest rate of 8.7% was to be paid for the life of the fund when it expired in 2014.

Comments:

From the discussions at the Brisbane Meeting of Noteholders held on June 2007, it was my view that "blind Freddie" could see why ACR had collapsed. The EPG kept building residential housing whilst selling a low percentage of units – they simply run out of finance.

My main concern in this case is the apparent lack of concern, and a full appreciation, of the devastation being experienced by Noteholders. Its almost impossible to make written or phone contact with any of the offending parties.

In desperation I phoned ASIC direct and the response was very disappointing. The woman gave me the impression that I had no right to phone them to ask questions regarding ACR. I asked would ASIC be investigating media reports on A.C.R. activities – re transferring assets to family – selling a 4 million block of land to a Directors wife for \$700,000 etc – she disconnected the phone line.

In spite of my efforts and offer to financially back any legal action against ACR Directors (within reason). P.W.C. seems reluctant to pursue this avenue. They believe the cost of litigation will outweigh the financial benefit. In fact it seems PWC administrators agree with ACR Directors that ASIC was to blame for its collapse. Not only has investors lost their savings but two years after they went there is no closure.

According to PWC advice, because ACR returned 60 cents in dollars, ASIC will not pursue legal action against its Directors in the Courts. If this is the case, how can investors expect justice and/or satisfaction. There is no deterrent to prevent this happening again in a few years.

Recommendations:

ASIC or another officiated body must be formed to fully investigate the collapse of similar investment companies as ACR. Almost weekly now there are reports of collapse of various investments causing hardships of honest retirees. Life savings are lost with little or no chance of recovery whilst Directors such as ACR seem to go unpunished and allowed to retain their financial windfall.

Dedicated self-funded retirees, who were proud of the fact they saved their money and do not have to rely on a Government Pension, are now in some cases, lost their homes. If retirees are forced on to a Government Pension perhaps this reason alone is sufficient to cause the Government to recognise the problem and spur them into taking action against any such Directors who have shown incompetence in their duty in controlling such investment properties.

It's my view the Investors are the only victims. The company Directors end up millionaires with cash and assets – the Banks have their capital returned plus interest and the Administrators and associates get a windfall by extending the process by several years.