Supplementary Submission 1:

Introduction:

Thank you for the opportunity to speak at this inquiry. [i.e. 6 Sept in Thirroul]

My name is Shayne and this is my wife Tracey. We have been married 15 years. We have both lived our entire lives in Wollongong, and we were raised in middle class blue collar families.

I have worked for 21 years in the Port Kembla steelworks, which is now facing the loss of 800 employees and hundreds of contractors. I am currently working as an electrical maintenance coordinator. Tracey completed chemistry and pharmacy degrees at Wollongong and Sydney universities, and is now working as a pharmacist.

We have two daughters, Tara is 8 and Kate is 5.

We have worked very hard to get to where we are. Our strategy was to build up as much equity in our house as we could, make sensible investments using this equity, raise our kids and give them a better life than we had and maybe even give them a head start. We then planned to retire on our own savings, without drawing a pension. We made plenty of sacrifices along the way to achieve this.

Advice from Tarrants:

In October 2007 we first went to see Tarrants, a well known and successful financial planning business in Wollongong. We had previously been customers of Tarrants when Ross was working as an accountant. We also had relatives that were Tarrants customers.

Tarrants advised us to set up structured investments, which were designed to be self funding, with the aim of growing wealth with 15-20 year plan. Tarrants set up super and non-super investments for us. Their advice also included estate planning and insurances. We didn't take life insurance through Tarrants, however they pushed hard to ensure we covered ourselves.

Tarrants advised us to create a self managed super fund so we could invest our accumulated superannuation in property, shares and eventually the Astarra Strategic Fund. They also advised us to invest directly in Astarra via margin loans.

Tarrants charged us implementation and ongoing fees for investments under management, they took no commissions, etc. Any commissions received were passed on in full to clients. We were also fully aware they were receiving a marketing allowance from Astarra as it was disclosed in our statements of advice and discussed with us in person.

We considered ourselves aggressive investors, prepared to take some risk to potentially accumulate more over the long term, and also prepared to have some losses. We did not believe it was possible to end up in this position, given that we were investing in government regulated investments.

What is our position:

Astarra has pretty much wiped us out. We had $169k stolen from money invested by our self managed super fund, and $57k stolen from money directly invested in Astarra.

Superannuation: Our previous super balance was approx. $300k. This was 20 years of putting maximum payments into super. We thought this was something to be proud of for a couple in their 30's. After the $169k was stolen, we then had to sell our superannuation share portfolio at a loss to pay margin calls. We are now left with a balance of about $60k in super. We also had to contribute extra cash into our superannuation to prop up the other investments, otherwise we would have lost them too. Of course now we can't access the extra contributions until we reach retirement age.

At no stage were we aware that we had no safety net when we were advised to set up a self managed super fund. We believed the same protections applied to self managed super funds as applied to regulated funds. Our advisors never made us aware of this and we can't see how we could have known about the extra risk we were taking. We believed all superannuation was the same. For the government to create a framework for self managed super funds then include a clause removing all protection is setting people up to be caught out.

Direct investments outside of super: We originally borrowed $150k as an investment loan. This loan has now grown to $295k. Our investments survived the global financial crisis with no margin calls until ASIC finally responded to the Astarra fraud. From this point on all of our investments have effectively been wiped out. Without the returns from Astarra we had to personally contribute to cover margin calls. These were multiple lump sums of $15-$30k and monthly contributions of $2500. We reached the position where we needed to redeem investments well before their maturity dates, incurring early release fees, etc. We effectively have no investment assets left but still have a $295k investment loan to pay off. This is on top of our $372k home loan.

We haven't lost our house yet but we are living from month to month. Every couple of months we are reviewing our budget to see whether we can continue or need to sell up. We downsized our car and family holidays have been scrapped. It is very hard explaining to our kids why life has changed so much. To them it is simple, if someone stole money from us then why don't the police or government get it back for us? How do you explain to your kids that even though we did nothing wrong there is no-one helping us get our money back? They are also struggling with their Mum and Dad not being around as much these days. We are both working extra hours and for the last couple of months Tracey has gone from working 27 hours per week to now doing up to 65 hours a week to get us back in front. So our kids are being punished too.

Responsibility:

Where do you start?

APRA admitted to this very inquiry last week that they did not respond when Trio could not provide valuations. This occurred multiple times. If APRA had acted when they first did not receive valuations, we would never have invested in Astarra. Our money was invested well after APRA failed to act.

ASIC licensed Shawn Richard. In hindsight it seems clear that this should never have happened based on his past.

Research houses gave glowing reports on Astarra.

Auditors signed off on Trio. KPMG signed off on the most recent audit a few weeks before ASIC froze the fund. Trio directors are currently in front of the courts because of the way they ran their business and yet the auditors were telling us back then that Trio was compliant.

We did everything we could to determine this investment was legitimate, even in hindsight I don’t know how we could have possibly known something was not quite right. Regulated super funds couldn’t detect a fraud either.

How can we have regulators admitting they were not carrying out their core functions, then we as investors have to face such great losses? What are the repercussions for APRA after they continued to let Trio take money from investors even though they never received valuations? Are they going to refund our money? My guess is they will do the same thing that ASIC, the auditors and research houses are doing, pretend like nothing happened and hope the problem will go away. Maybe slap a few directors on the wrist. They certainly aren’t accepting any responsibility for the part they played in this mess, and they are not doing anything to assist the people that they helped to wipe out.

Take for example ASIC handing out enforceable undertakings to Trio directors. They have either been grossly negligent or criminal, however their punishment is they can't work in the industry for a few years. Most investors have lost hundreds of thousands of dollars. How is that fair?

Conclusion:

We no longer have faith or trust in the investment industry. None. ASIC has failed in its charter.

Regulators, research houses, auditors have all let us down. We have been haemorrhaging money since Astarra was frozen but who do we turn to for help? Our local politicians tell us it was our fault because we set up a self managed super fund and we knew the risks, Assistant Treasurer Bill Shorten doesn't even bother replying to our plea for help. Our letter to the Assistant Treasurer was previously submitted to this inquiry.

We have now paid to be part of a class action. We can't afford to pay for the legal costs but we also can't afford to not be part of it. Now it appears the class action may not go ahead as they can't get a litigation funder to pay for the class action, as while it appears a class action would be successful, the likelihood of actually getting any money back from Trio or Trio directors is slim. ACE insurance have so far denied liability. How can all these organisations be allowed to have insurance that can't hope to cover potential losses? We are entitled to compensation as part of the corporations act however our advisor's business went into liquidation and professional indemnity insurance was immediately cancelled.

We also struggle with the argument that APRA regulated fund members have been reimbursed because they pay levies to protect against fraud, but then the Trio levy has been applied retrospectively to pay the $55M compensation. Why then can't a retrospective levy be applied to SMSF's?

This is not just about the money that has been stolen, this has had a knock on effect on our other investments, resulting in substantial losses. We had $226k stolen from us however our net losses to date are $360k. If you add on the interest from the investment loan, then by then time we pay everything off we will have lost around $600k. It will take us another 30 years to pay back our loans and we will still end up on a pension. All because our government completely let us down instead of doing the right thing. We believe the government have a moral obligation to compensate all Trio investors.

Thank you.