

## **Defective & Detrimental Administration Suffered by Taxpayers Desmond and Stephanie Lyons**

### **Preconceived Guilt**

██████████ (ATO Auditor) and his supervisor (██████████) had a preconceived opinion of our guilt and went out of their way to make us look as bad as possible (██████████ superiors always believed a report published by ██████████ and believed it to be correct without any reference to our evidence). He painted a picture that we had been 'systematically' under-reporting our turnover over a very long period. ██████████ (ATO lawyer at AAT) proved this in our mediation meetings, he had not bothered to look at our evidence because he fully believed ██████████ report without referring to our evidence, hence a very red face when our evidence was pointed out to him. The AAT found in our favour. All that we were guilty of, was not keeping our taxation lodgements up to date.

### **Denied Procedural Fairness, [the Auditor]**

From the out-set ██████████ discouraged us from having any professional representation saying we can work it out between us which would save us from spending a lot of unnecessary money. When ██████████ (our ex-ATO advisor) became involved ██████████ refused to meet with him on two occasions and he told ██████████ he was going ahead with the amended assessments and if he didn't agree with them he could then lodge objections, adding rudely 'do you know how to do that'. ██████████ had an idea that ██████████ have based his findings upon a "Gross Profit" percentage calculated by dividing food costs by our individual restaurant meals on our menu – without first removing the GST from our menu prices. This produced an inflated GP margin and purported turnover which did not exist.

### **Rushed the Audit Completion**

The allotted time for ██████████ to complete the audit was not until early August 2011, however ██████████ rushed completion because he was going on extended leave at the end of June 2011 and his supervisor wanted it finalised before he went. Our advisor, ██████████ tried to meet with ██████████ on two occasions, but a meeting was rejected each time. We believe he would not allow time for ██████████ to speak with him because he did not want any delay to the audit completion.

### **Referral to Prosecution lodged by Auditor**

Even though ██████████ believed we would lodge objections to his Amended Assessments he still tried to cause as much damage to us as possible by referring our case to prosecution. Had we not been able to find the auditor's mistake and prosecution went ahead we could have faced a long goal term even though we were innocent.

### **Continued Delays in Objections**

Our objection decisions were very drawn out with the appointment of multiple case officers plus waiting for other cases to finalise thinking the decisions could be used in our determinations. The main case they waited on had no relevance to our case at all. The 20 months of time taken accelerated the downturn in our financial situation which started from the very early issue of garnishee notices in June 2011, which stopped any further support from our bank.

### **Admission by the Last Case Officer**

██████████ (ATO Objection Officer) delivered our objection decisions in early 2013, only allowing part of our objections which we then had to take to appeal at the AAT. ██████████

[ex-ATO Adviser]

tracked down [ATO Objection Officer] after he had left the ATO and [redacted] asked him why he only allowed part of the objections and not all. [redacted] told [redacted] that while he knew that [redacted] [the Auditor] had made a large error (as previously pointed out to him by [redacted]), he was told by his superiors to find another way. [ex-ATO Adviser]

Obviously, they knew we were not guilty as claimed by [redacted] [the Auditor], but they did not care what damage was being done to us. Still wanting to collect a large sum of money which we did not owe.

### CDDA Submission Made

We lodged a claim for 'Compensation for Defective and Detrimental Administration' in 2015 which was largely ignored by the ATO, however we met with members of the ATO Legal Counsel [redacted] [redacted] in June 2016 to discuss our claim. [redacted] [ATO Legal Counsel] started the meeting by saying he did not want to discuss who was 'right or wrong' and admitted we had been treated badly and the meeting was all about the quantum of our claim. Our claim was for financial losses and costs to defend ourselves and pain and suffering. Our claim totalled \$6M and he said the ATO doesn't pay for pain and suffering, however he did offer \$200,000 (he even called it 'rough justice') and said he would make a payment to us within 7 days. We said it was not enough, he answered we would need more evidence to get more. He said the offer would remain on the table for us to consider with no mention of it being withdrawn. We made a further claim with additional evidence as suggested. A new person ([redacted]) from Legal Counsel reviewed our new claim and 3 weeks ago refused our claim with no compensation to be paid at all.

### After 7 ½ Years we are still Suffering at the hands of the ATO

They know they were wrong, as admitted by [redacted] [ATO Legal Counsel] at our last meeting in June 2016 when he said we had been treated badly and he wanted to fix it. So why have we had to suffer all this time without any compensation to put us back to where we were financially prior to the audit (this is what the CDDA claim is meant to do).

If they knew we had the money to take this issue to court, I believe they would have been pleased to *hush it up* and settle quickly for a more reasonable amount. They know they were wrong but are trying to bully their way through it regardless of the harm caused to innocent taxpayers.

I am almost 71yo and my wife is 68, we are not able to retire because of the money we have lost in this poor treatment by an unreasonable and arrogant government department which is a law unto itself. They have a Taxpayers Charter (which claims to treat taxpayers fairly) which is ignored, a CDDA scheme which is ignored, and they also seem to take little notice of the Inspector General of Taxation. They also claim to be a model litigant.

**Desmond George Lyons** [redacted]

**Stephanie Gail Lyons** [redacted]