

**Submission to the Senate Parliamentary Joint  
Committee on Corporations and Financial Services**

Inquiry into the Collapse of Trio Capital

by Philip L Keffe

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## Introduction

My name is Philip Lewis Keeffe. I am 68 years of age. I reside at [redacted] NSW

My self-managed superannuation fund (SMSF) was established in 1998 with a trustee company appointed. That trustee company was Commercial Nominees Australia (CNA).

When the directors of CNA misappropriated funds from those whose accounts were accessible to them, my fund lost approximately \$25,000. In 2002 90% of this loss was compensated by actions determined by the then Assistant Treasurer, Senator Helen Coonan.

Nine years later my superannuation fund has again become the victim of fraud with a loss of over \$70,000 through the collapse of Trio Capital. This loss came about through an investment in the Astarra Alpha Strategic Fund (Astarra Strategic) made on the recommendation of my financial adviser.

Following the collapse of Trio Capital and the demise of Astarra Strategic, my SMSF will receive no compensation, although 5385 investors in Government-regulated superannuation funds have received full compensation for their losses through Trio Capital.

This shift in government policy as determined by the current assistant treasurer, Bill Shorten means that I will have to continue in the workforce for an extra two years despite declining health and any desire to do so.

It also means I have lost my faith in the superannuation system, in the government's mechanisms of fiscal regulation, and in the ALP. But that's not what the Inquiry's about.

## Background

Complete documentation of my superannuation fund's investment in Astarra Strategic is available on request. I have only attached specific elements of often longer documents for your information.

The first time Astarra Strategic was brought to my attention was in a recommendation from my financial adviser dated 29 May 2008 (attachment 'A').

It was recommended as part of a 'balanced' portfolio as an element of the Symetry platform proposed by the adviser. The amount recommended to invest was \$40,000.

The next time it was brought to my attention was in another document prepared by my financial adviser received 26 August 2008 (attachment 'B'). The recommended investment was described by the adviser as:

“The latter investment is regarded as a defensive asset that is capable of producing net returns of 8-10% p.a. in difficult investment market conditions and 12% + returns in better investment market conditions. Over the last 12 months since the global credit crisis has impacted markets worldwide the fund has only had one negative month of -0.45% and has returned 8.4% p.a. over this period.”

This time the recommended amount of the investment in Astarra Strategic had risen to \$73,500.

An accompanying document described the operating 'philosophy' of Absolute Alpha Strategic Fund saying: “The Manager’s investment team has an extensive track record in advising and investing in hedge funds and benefits from longstanding relationships and institutional clout, which gives the fund an indirect access to leading managers in the hedge fund industry.”

At the time I conducted online research and found many positive media reports plus a summary of the investment offering on investsmart.com.au (attachment B1) which confirmed the high returns achieved by the fund in the previous two years.

As the Investment Portfolio Report dated 30 September 2008 shows (attachment C), I accepted the financial adviser’s advice and committed to an investment of \$70,863.18 in the Astarra Alpha Strategic Fund.

Move ahead to 31 March, 2010 when my financial adviser sent me an Investment Portfolio Report (attachment D). It shows that the value of my investment in Astarra Strategic Fund has remained as it was at the end of 2009 - \$77,840.70.

The document also shows that the value of the investment has risen from a purchase price of \$1.27 per unit to \$1.40 per unit.

On 30 June 2010 I received an Investment Update from my financial adviser (attachment E) that outlined the critical situation with Astarra Strategic Fund and advised investors that the value of the fund had been written down to one cent per unit by the portfolio manager, Multiport.

In April 2011 media reports summarised the situation. The whole Astarra Strategic Fund, managed by Trio Capital, had been a giant fraud. Some investors would get their money back; SMSF investors would get nothing.

### Conclusion

I would not suggest any fraudulent activity by my financial adviser. I do, however, feel he was negligent in making strong recommendations for an investment that was so soon afterwards proven to be a \$125 million fraud.

This accusation of negligence must also be directed to the regulatory authorities that supposedly watch over investment funds, to the National Australia Bank that

transferred the Astarra Strategic Investors' funds overseas without seeking details of the transfer, and to the Commonwealth Government that has surely had sufficient time to put in place a regime that protects all superannuation fund investors.

And, I also recommend this for your consideration: When I approached Prentice Parbury Barilla to confirm that my superannuation fund was on record as an investor in Astarra Strategic they were unable to do that.

I then asked my (now former) superannuation adviser to look into this. His reply was (as in attachment F):

"In your case, your funds have been invested into the Symetry Delegate Service by your Self Managed Super fund and as such your investment is not through an APRA regulated Super fund.

The only prospect of a recovery for you rest with the Govt. review which due out by June 30 and or any actions through the liquidator PPB. Your units continue to be held as we have outlined/you have detailed below.

1. Investment in Symetry Investment Delegate was made on 22/09/2008 from the SMSF's Macquarie CMT and is banked to the trustee/custodian's account 'Avanteos Investments Ltd'.

2. In line with the investment instructions provided (initial Symetry Application Form's Investment Authority) Avanteos then used its sub custodian Ausmaq to settle the trade with the Astarra Strategic Fund on 31/10/2008. This trade involved Ausmaq using \$70,863.18 provided to it by Avanteos to purchase 55,688.01166 units in the ASF @ \$1.272503 per unit.

3. The units in the ASF are to this day still being held by Ausmaq on behalf of Avanteos who are holding them on behalf of the Phil Keeffe Super Fund."

I have no idea how I can actually prove that I have lost over \$70,000 in the Astarra Strategic fiasco. I also note that there are a large number of parasites feeding off every dollar intended to help older Australians in their retirement years.

By taking money from all those who put money into superannuation, which includes both employers and superannuation fund contributors, the Commonwealth Government has a responsibility to ensure that these investments are secure and will work for the benefit of those who intend to provide for themselves in retirement.

That the Commonwealth has failed to create a secure environment for these investors, as well as failing to compensate them for losses when following the advice of licenced investment advisors and putting funds into licenced investment vehicles, is simply shameful.

Philip Lewis Keeffe *PLK*  
9 July 2011

E

[original received 30/6/2010]

## Investment Update on the Astarra Strategic Fund (ASF)

### Summary of Events

- On October 2, 2009, ASIC launched an investigation into the valuation of the fund's assets and the statements made in the Product Disclosure Statement (PDS).
- On October 16, 2009, ASIC issued a stop order on the PDS and a few days later (when it hit the press), sought orders freezing the assets of the fund. The responsible entity Trio Capital Ltd could not process new investments or facilitate redemptions into or from the fund.
- Prior to these orders being made we placed sell trades on the Symetry platform against this fund and arranged clients who invested directly into the fund to lodge redemption requests with Trio Capital
- On December 17, 2009 Trio Capital was placed into external administration along with the investment manager Astarra Capital. Trio and Astarra continue to be under the control of Stephen Parbery, Neil Singleton and Nicholas Martin of PPB. ASIC then promptly suspended the Australian Financial Services License of Trio Capital under which it acted as responsible entity of the Astarra Strategic Fund and 23 other managed investment schemes.
- PPB will act as responsible entity to the fund and will assist ASIC's investigation in establishing the existence and valuation of the fund's assets that are held by British Virgin Islands based EMA International. EMA had Deferred Purchase Agreements with five hedge funds, three of which are based in Hong Kong.
- It is understood, Shawn Richard, an investment principal of Astarra that oversaw the management of the Deferred Purchase Agreements is actively working with ASIC to substantiate documents and the existence of the fund's assets.
- On March 19, 2010 the Supreme Court of NSW issued orders that Trio and the ASF be wound up with PPB entitled to receive fees from the recovery of assets on behalf of investors. The effect of these orders is that should assets be recovered at a later date, investors will be entitled to future distributions less PPB's costs.
- On April 19, 2010 PPB issued an Explanatory Memorandum to Unit holders in the ASF. This 50 page document plus supplements outlines PPB's investigations to date into the ASF. In summary PPB have been unable to determine whether the supposed investments in the underlying funds actually exist and whether the investments in the DPA contracts are recoverable. They therefore conclude there is unlikely to be any significant recovery of assets on behalf of investors. PPB concedes that it is yet to receive full co-operation from the entities involved in

investing the funds and that further information may come to hand from the ASIC investigation which also draws upon the assistance of overseas regulators.

**Why was this fund recommended for your Investment Portfolio?**

- It provided portfolios' with diversification benefits i.e. returns that did not follow those of equity markets.
- It performed well throughout the global financial crisis unlike other fund of funds hedge funds that fell between 20-30% in value. There were only three negative monthly returns over the last 3 ½ years and the average returns were in the range of 8-12% p.a. over this time period.
- It had been rated Australia's No.1 Fund of Funds Hedge Fund by a number of leading investment fund research agencies over the last two years and had attracted strong investment flows and remain opened to both new applications and withdrawals unlike a number of its competitors.
- We were supplied with regular monthly investment updates on the fund's progress and were in regular contact with Astarra's principals.
- The investment principals of Astarra demonstrated an extensive track record in advising and investing in hedge funds and therefore the fund would likely benefit from longstanding relationships and institutional clout, which enabled it to have indirect access to leading managers in the hedge fund industry.

**Outlook**

- The investment principals and individuals connected with them, remain confident that the existence and value of the assets within the fund will be proven. According to PPB the complexity is that the hedge fund holdings are held through as many as 15 different entities that reside 'in exotic locations outside of Hong Kong and the British Virgin Islands'.
- Once the assets of the fund have been verified and valued the administrator will then deal with the parties involved with a view to recovering their value for the benefit of investors. Some of the agreements with the underlying hedge fund managers are likely to have extended liquidity clauses and so it may take some time for the fund to be wound up.
- At this stage it is extremely difficult to estimate the timing or the extent of the likely recovery if any of the assets within the fund and therefore the ultimate return that you will receive on your investment. We note that Multiport unlike Symetry, based on PPB's Explanatory Memorandum will write down the value of your super fund's investment in ASF to \$0.01 per unit.

- We will attempt to keep you updated with the progress of the ASIC investigation and the administrator as more information comes to light along with possible legal avenues in which your funds in the ASF maybe recovered by PPB or a litigator.