

TO: Mr John Hawkins  
Committee Secretary

DATE: 8<sup>th</sup> February 2010

### INQUIRY INTO LIQUIDATORS AND THE ROLE OF ASIC

- (a) The Senate Committee must be cognizant of the external administration of the Corporations Act 2001, Section 459C, where the court must presume that a company is insolvent as advised by ASIC or ASIC's delegation.
- (b) The Committee must be cognizant of ASIC's business of delegation as prescribed in Division 3 of the ASIC Act.
- (c) The Committee must be cognizant of a member of ASIC appointment may be terminated when the member compounds with creditors or assigns remuneration or property for their benefit – Section 111 of the ASIC Act.
- (d) The Committee must be cognizant that in the course of winding up of a company, ASIC or ASIC's delegates (the liquidator) is the **appropriate officer** – Section 589(5)(a)(c) of the Corporations Act 2001.
- (e) The Committee must be cognizant that the Committee's duties are to inquire into ASIC's activities and report to both houses of Parliament, particularly item (c), where only both houses have the exclusive powers to terminate ASIC's member appointment for breaching the rules of natural justice for employees, or any other creditor.
- (f) The Committee must be cognizant to ASIC delegate's power of freezing the assets of cash management accounts for 300,000 Australians, as prescribed in the House Hansard dated Tuesday 25<sup>th</sup> November 2008.

ASIC is engaged in corporate asset stripping as highlighted in Hansard Senate on the 14<sup>th</sup> May 1998 – Senator Murray, page 2877.

I ask the Committee to be cognizant of their **duties** as prescribed in Section 243 of the ASIC Act.

A Bittmann  
Petitioner No. 11