



Australian Citizens Party

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MEDIA RELEASE

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Paradise Regained for white-collar criminals

How many politicians will stand by while the Treasurer and corporate regulator deliberately unleash the big banks and all other financial predators onto unsuspecting Australians? Although there are still tens of thousands of ruined victims who remain uncompensated for the myriad financial abuses that led to the 2018 banking royal commission, Treasurer Josh Frydenberg's handpicked appointment to chair the Australian Securities and Investments Commission (ASIC) is loudly proclaiming to the financial sector that *caveat emptor*—let the buyer beware—is back. The clear message Joe Longo is sending to the banks etc. is if you rip off unsuspecting grandmothers, ASIC's default assumption will be that it is the victim's fault.

Longo delivered his message in a 21 September speech to the Association of Financial Advisers conference, but it would have been heard in every bank boardroom in Australia—hell, the speech was probably written in those boardrooms. Under the headline, "ASIC to investors: 'take responsibility'", that day's *Australian Financial Review* reported:

"Oversight of the financial advice industry would 'not increase' under his watch, he said, breaking with predecessors seen as hostile to the industry and unsympathetic to the rising costs of doing business." This was a reference to Longo's predecessor James Shipton and his deputy Daniel Crennan, who in 2019 had said of ASIC's relationship with the banks: "We should be feared." There's no danger of that anymore. Longo has already said that Commissioner Kenneth Hayne's "why not litigate?" directive that Shipton and Crennan had taken seriously, by stepping up prosecution of bank crimes in court, has "had its day"; now his message to the sector is go your hardest.

AFR continued: "He announced ASIC would release new guidelines to help the industry ditch its 'unduly conservative' approach to compliance and stop producing unnecessarily long-winded legal documents to clients. But he warned that a more deregulated market put the onus on investors to be informed about the advice they receive and the risk of market losses. 'When a consumer comes to seek financial advice there needs to be some effort on their side to understand the risks involved in any investment,' Mr Longo said. 'People who seek advice have a responsibility to inform themselves.' The legal obligation is not 'all on the advisers', he added."

The doctrine of *caveat emptor* means "let the buyer beware"; when it comes to handing over your life savings, of course every "buyer" is wary, but if they are dealing with financial predators they are unfairly matched. The entire financial system from top to bottom is based on scheming ways to extract financial flows from everyday people and essential services. As UK peer Lord Forsyth of Drumlean memorably observed in a 2013 House of Lords debate: "investment bankers are extremely adept at getting between the wallpaper and the wall." At the top you have bankers like those at the Macquarie Bank "millionaire factory" who extract enormous profits from persuading governments to let them whack tolls on essential infrastructure; at the bottom you have sales staff chasing targets and bonuses, and get-rich-quick schemers, who have perfected the art of persuading vulnerable grandmothers to hand over their nest eggs.

In the case of the collapse of the Timbercorp managed investment scheme, investors were unaware that Timbercorp was paying commissions to the financial advisors who were talking them into ploughing their savings into the scheme. In the current case of the collapse of the Sterling First rent-for-life scheme, the directors targeted the 140 or so elderly pensioners and retirees with very sophisticated pitches, offering them all the reassurances in the world and cajoling them into signing paperwork that they thought were rental agreements but was actually a managed investment scheme in disguise, with a product disclosure statement that the company hid from the victims. Yet the victims didn't know they were investors, and had no intention of becoming investors. Some even contacted ASIC first to ask if there were any red flags they should know about, only to be reassured by ASIC that there weren't any, despite ASIC knowing that Sterling directors had a history of failed financial schemes. For those victims, *caveat emptor* is an excuse for letting the predators get away with it.

Disgustingly, at this same conference where Longo signalled to the financial sector that the leash was off, the government, through Senator for Bankers Jane Hume, delivered a message to financial victims that they would have to jump through hoops to ever get compensated. Hume emphasised that the new Compensation Scheme of Last Resort (CSLR) will be very hard to access. "[The scheme] is a final safety net in the compensation arrangements framework", *AFR* quoted Senator Hume. "That is, a

CSLR should only be called on to provide compensation after a consumer or small business has exhausted all other avenues." All other avenues being their bank accounts, their sanity, and often their lives.

Paradise Regained

In 2014 then ASIC chair Greg Medcraft admitted that Australia was a "paradise ... for white-collar [criminals]". As much as anyone, it was Longo himself who contributed to Australia becoming so. In "[New ASIC Chief is Frydenberg's white-collar defender](#)", the *Australian Alert Service* documents Longo's history, first as a lawyer for Alan Bond who complained bitterly about the then Australian Securities Commission's "over-reaction" to corporate misconduct, who then went to work for ASC/ASIC in the 1990s as head of enforcement. How did that go? Consider the headlines from the time:

- "Corporate watchdog: more bark than bite" (1996);
- "ASC verdict: this watchdog lacks bite" (1998);
- "The watchdog no one fears", a blistering assessment by Adele Ferguson in the 1 September 2000 *AFR*.

Longo next spent 17 years at scandal-wracked Deutsche Bank, but now he's back at ASIC for a second stint as poacher-turned-gamekeeper, with the same intent to weaken enforcement that he brought the first time.

If the expectation was that the banking royal commission meant Paradise Lost for white-collar crime, under Frydenberg and Joe Longo it is well and truly Paradise Regained—victims be damned. Don't stand by while they do this: support the fight for a Senate inquiry into ASIC, and cases like Sterling First.

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