



Australian Citizens Party

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MEDIA RELEASE

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ASIC's caveat emptor on trial

The financial security of all Australians is at stake today, with the beginning of the Senate Economics References Committee's hearings into the collapse of Sterling First. The 140 elderly victims of Sterling First, 17 of whom have died waiting for justice, are the tiniest tip of the iceberg of Australians whose lives have been ruined by financial schemers who treat the regulator, the Australian Securities and Investments Commission (ASIC), as a joke—because it is! In recent decades, financial schemers have cost more than 200,000 Australians more than \$40 billion of their life savings.

The submissions to the inquiry show that ASIC bureaucrats—the self-styled “tough cops on the beat”—looked on calmly while Sterling's directors targeted and fleeced vulnerable elderly pensioners and retirees. ASIC knew there were complaints about Sterling, and knew there were legal problems with Sterling's promotion of its “novel” product. But ASIC's actions were, at best, bureaucratic, pedestrian, legalistic, and completely disconnected from the fact that, meanwhile, the company was continuing to target extremely vulnerable elderly people. And then when ASIC did finally act to put a stop order on Sterling selling the product, it then did nothing while the same directors continued selling the same product to elderly people, just under the new name Silverlink. Sterling fleeced \$7 million from elderly people; *after* ASIC “acted” in 2017, Silverlink fleeced \$11 million until the scheme collapsed in 2019.

In a disgustingly callous conclusion to the Executive Summary of its submission to the inquiry, ASIC states: “While there is always room for improvements to the financial services regulatory regime and how it is administered by ASIC, sometimes investment vehicles fail and consumers suffer substantial or complete losses.” In other words: tough!

Systemic

This case is much, much bigger than Sterling First. It shows, following the Hayne Banking Royal Commission, that ASIC is still a deliberately dysfunctional regulator, not fit-for-purpose in a financial system that is regulated in favour of the predators, not the victims. As the Citizens Party has documented, immediately following the royal commission, then-ASIC chair James Shipton and his deputy Daniel Crennan attempted to step up its regulation so, as Crennan said, the banks would “fear” ASIC; however, Treasurer Josh Frydenberg used a contrived expenses scandal to force them out and replace them with “business-friendly” current Chair, Joe Longo. By these actions, Scott Morrison and Frydenberg have rigged the system to ensure that ASIC continues the charade of faux regulation that has allowed financial predators to run riot in Australia, fleecing everyday Australians at will.

In a letter to politicians this week reported by the *Australian Financial Review*, the Association of Independently Owned Financial Professionals (AIOFP) captured the scale of the systemic fleecing of Australians on ASIC's watch:

“Commissioner Hayne wanted all managed investment schemes and other bank [and financial institution] products involved in the CSLR catchment zone to comprehensively protect consumer savings”, AIOFP executive director Peter Johnston wrote. “[The government], however, wants to defy Commissioner Hayne's recommendations by precluding banks and their MIS products ... and not backdating its commencement—an astonishingly conflicted position to take against consumer best interests.” (CSLR is the Compensation Scheme of Last Resort, a compensation scheme with such a narrow scope that it excludes many victims.)

AFR added: “The AIOFP provided politicians with an updated list of frozen and failed funds issued by managed investment scheme operators. Its analysts estimate that as many as 200,000 investors have lost a total of \$40.23 billion in troubled products that are outside the scope of the scheme, including the \$18.5 million collapse of Sterling Group.”

The sheer scale of these losses borne by 200,000 everyday Australians—more than \$40 billion—demonstrates that ASIC presides over an unlawful system. Peter Johnston sheets home the blame for these losses to the shift from the old Australian Securities Commission to ASIC in 1998, which included adopting the doctrine of *caveat emptor*—let the buyer beware. Instead of regulating products, as the ASC previously did, ASIC adopted a check-list system such that as long as new schemes met five formal criteria, ASIC registered the scheme without assessing the merit of the product, and it was up to the investor to ascertain the risks themselves. The problem is, everyday Australians are not aware

that while every other section of the economy has strong consumer protections, the financial sector is a deliberately lawless zone, hence the scale of the losses.

In this morning's hearing, ASIC chair Joe Longo excused ASIC's Sterling First failings with this statement: "We must follow due process before we can intervene." While due process is important, the question Australians must demand an answer to is why does ASIC's concern for due process only apply to the predators, not the victims? Why did they move so slowly to check on Sterling First's compliance with the law, when they knew the scheme was targeting elderly, vulnerable people? Unless these questions are answered, and unless this case becomes the catalyst for a comprehensive overhaul of ASIC and all financial regulation, to make the banks and financial schemers fear the law, all Australians will forever be at risk, not of mere mistakes, but from financial predators who deliberately scheme to fleece unsophisticated people of their life savings.

ASIC appeared this morning, and will appear again on Thursday afternoon, after the victims have had their say. From today's hearing it is clear that ASIC is intending a cover-up, not least because current ASIC chair Joe Longo is answering the questions, even though he wasn't at ASIC when the scandal played out. Where are the WA-based ASIC investigators, who handled the case, and made the decisions that allowed Sterling/Silverlink to continue to prey on the victims—why aren't they appearing before the hearing? Hopefully this question will be asked.

The trial continues—stay tuned!