



Australian Citizens Party

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MEDIA RELEASE

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ASIC guilty—of criminal negligence that destroyed 140 elderly Australians, and an ongoing cover-up to protect system that profits the banks

Sterling First jury verdict:

Last week's Senate Sterling First inquiry hearings was "ASIC on trial", the Citizens Party said in its 16 November release. After two days of hearings, the jury verdict is: guilty! The hearings revealed the regulator stood by while financial scammers, whom ASIC *knew* to be repeat offenders, targeted vulnerable elderly with a dodgy product ASIC *knew* to be false and misleading. And now that the collapse of Sterling First has erupted into a major scandal, ASIC is trying to perpetrate a cover-up of its ideologically driven complicity in the robbery of 140 elderly victims who now face eviction and homelessness in their final years.

The worst and most disgusting aspect of ASIC's cover-up is that it is a double blow to the victims, as, under current arrangements, the excuses used by ASIC chair Joe Longo would deny them any chance at compensation. The Senators who participated in the hearings—Labor's Deb O'Neil and Louise Pratt, the LNP's Paul Scarr, and the Greens' Jordan Steele-John—must acknowledge, in their inquiry report, the government's liability for the financial devastation suffered by the victims, and recommend full and immediate compensation.

All Australians would have benefited from watching last week's hearings, to see for themselves how the corporate regulator thinks and acts. That alone would be a warning to never expect to be protected by laws when it comes to investing in Australia's financial system. ASIC was the opening and final witness in the hearings, but the difference between its two appearances was night and day: at the opening, ASIC chair Joe Longo was confident and patronising, with the message that ASIC followed due process, but people expect too much from the regulator. However, following witness after witness repeatedly showing that ASIC had multiple opportunities to intervene and didn't, even though it knew the scheme was targeting the most vulnerable people, in his second appearance Longo was in damage control, repeatedly making excuses while saying "I'm not making excuses, but...", and hiding behind the mantra of "due process" and "procedural fairness" for ... the scammers!

Cover-up

The first sign that ASIC attended the inquiry intending to cover up its complicity in Sterling First was that its main witness was Longo, who wasn't at ASIC when it caused the Sterling debacle—he joined the regulator only a few months ago. Where were the mostly WA-based ASIC managers who actually made the fateful decisions that gave financial predators free rein to target vulnerable elderly people? That said, Longo, a slick lawyer, was remarkably well briefed about Sterling, a good indication that ASIC is now prioritising this case, to cover up its liability. Although Longo wasn't at ASIC at the time of Sterling, he is an old hand at the regulator, having had a stint as head of enforcement in the late 1990s to 2000, at the end of which time investigative journalist Adele Ferguson summed up ASIC's performance in this 1 September 2000 headline in the *Australian Financial Review*: "The watchdog no one fears".

Whilst Longo is not to blame for the crime that allowed Sterling First, he is now to blame for the cover-up he is perpetrating at the hearings. His excuse that ASIC could only act within its powers under the law, and that there wasn't really anything more they could have done, was exposed by former ASIC investigator Niall Coburn, who offered a very different perspective. Coburn named the sections of the *Corporations Act* under which ASIC has the power to intervene merely on the suspicion of a contravention, which ASIC definitely had as early as 2015. He also emphasised the most important factor in the case, which should have forced ASIC to act: that Sterling First was targeting vulnerable elderly people.

"The most important stuff you have to do as an investigator ... is be fast off the blocks as soon as there is a smell in the air", Mr Coburn said. "Because these fraudsters are really good, they're sharp, you're dealing with pretty intellectual minds in terms of finance. As soon as there's a red flag ... [and] there'd be six or seven here, you've got enough to have an injunction, just to stop it. If you're waiting six months to a year, you're going to have a lot of bodies on the street.

“How many houses did they go to?” Coburn demanded. “How many did they speak to immediately? Often the answers are found very early on if you start interviewing witnesses and gather evidence. It seems to me that the evidence was there within ASIC but hadn’t been put together to make a decisive decision.”

Coburn’s testimony was followed up by [powerful accounts from the victims](#), and from victims’ advocate Denise Brailey, who conducted the investigation that ASIC should have. When ASIC reappeared on Thursday afternoon, Longo’s tone was very different, as he was in full damage control, acknowledging some of ASIC’s failings “with the benefit of hindsight”; however, revealingly, when [Greens Senator Jordon Steele-John offered him the opportunity](#), Longo refused to back up his expressions of sympathy for the victims with an apology—solely to avoid an acknowledgement of ASIC’s liability.

The immediate issue that arises from these hearings is full compensation for the victims. Yesterday, Financial Services Minister Jane Hume rejected calls to expand the Compensation Scheme of Last Resort to include managed investment schemes, so ASIC chair Joe Longo’s callous insistence on falsely calling the victims investors instead of tenants robs them of the chance for compensation under the CSLR. In his opening statement, former ASIC investigator Niall Coburn urged: “My first recommendation is that parliament should make a recommendation to compensate these investors because of the maladministration involved.”

Exactly! These victims are elderly Australians, who can’t start over, who all face eviction on to the streets, 17 of whom have already passed away—the Committee must acknowledge ASIC’s liability, and recommend the government pay full compensation immediately.