



Australian Citizens Party

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MEDIA RELEASE

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Sterling Inquiry report: Senator Roberts demands full and immediate compensation

The final report of the dramatic Senate inquiry into the Sterling Income Trust fiasco reveals how the federal corporate regulator and WA consumer protection agency betrayed 130 elderly and vulnerable victims. They have been left financially ruined, 20 have passed away and many others are terminally and chronically ill, and they all face eviction and homelessness. In response to the evidence, one participant in the inquiry, One Nation Senator Malcolm Roberts, issued the following clear recommendation:

“All factors considered, including ASIC’s regulatory negligence, and the advanced age and vulnerability of the Sterling and Silverlink tenant victims who are being evicted, the Commonwealth Government, which is responsible for ASIC and its regulatory philosophy, should immediately compensate the 130 victims for the full \$18.554 million they lost, plus interest and expenses.”

Senator Roberts’ recommendation is the only reasonable, and indeed moral, response to the evidence presented to the inquiry. The Australian Securities and Investments Commission Chairman, Joe Longo, complained during the hearings that it was a big inquiry for a relatively small corporate collapse, but the reason for the inquiry was that the Sterling collapse revealed the systemic failings of ASIC, *and that they were by design*. ASIC’s operational philosophy, called *caveat emptor*—let the buyer beware—is that it isn’t responsible for policing the financial system, whereas Australian consumers assume that it is. The inquiry heard evidence that even when ASIC took action against the Sterling Group for false and misleading promotions, it didn’t bother to adequately inform consumers of its concerns, so Sterling was able to lure in even more victims before its final collapse. Although both ASIC, and the federal government that is responsible for its operational philosophy, should admit liability in this case, they won’t; however, common decency and good will dictate that the government should immediately make an Act of Grace payment through the Department of Finance, which doesn’t require admission of liability, to fully compensate the victims so these elderly, sick and dying victims are not forced out of their homes in their final years.

Major parties major fail

Senator Roberts’ participation in the Sterling inquiry demonstrates why it is so important to have minor parties in the Parliament who are not obligated to the major vested interests that manipulate politics. The biggest of these are the banks, which employ an army of lobbyists to patrol the halls of Parliament, and have revolving doors through which officials pass back and forth from key government and party positions to plum jobs in the banks. It is the banks that want to keep ASIC weak and ineffective as a regulator, and the two major parties too often bow to their position. In contrast to Senator Roberts’ clear recommendation, the official recommendations of the report, from the majority Labor Party members, are too weak and do not match the seriousness of the evidence. The Liberal Party’s dissenting report is even worse, given that Liberal Senator Paul Scarr heard all of the testimony, knows how badly ASIC let the victims down, but put his name to a statement denying the victims any federal compensation.

The actual evidence from the inquiry, acknowledged in the report, leaves no doubt that two government agencies, the federal regulator ASIC and the WA state Department of Mines, Industry Regulation and Safety (DMIRS) are responsible for the financial ruin of the Sterling victims.

The report gives this damning assessment of ASIC:

“4.105 That said, the committee also has serious concerns about the performance of ASIC with respect to the Sterling Group matter, including its under-assessment of the gravity of the risks, the timeliness of its response, and its failure to act proactively. The committee is mindful of the requirements for ASIC to obtain proper evidence and follow due process before undertaking investigations and enforcement actions. The committee is also conscious that ASIC’s regulatory role does not involve preventing all consumer losses or ensuring compensation for consumers in all cases where losses arise. However, in this instance the committee believes that ASIC had sufficient evidence and grounds for concern in 2017 to refer the matter to its enforcement division for investigation.

“4.106 In fact, the issues identified in ASIC’s Statement of Concerns were serious and appeared to establish possible contraventions of the *Corporations Act 2001* (Corporations Act). Furthermore, these

concerns should have been further strengthened when ASIC was provided with a qualified audit report from the auditor of the SIT which raised a 'material uncertainty' over the trust's ability to continue as a going concern on 29 September 2017. Despite these matters, ASIC did not commence a formal investigation until 29 May 2018."

In attempting to deflect blame from the Commonwealth government, Senator Paul Scarr identified the WA government's clear shared culpability:

"1.11 To be clear, the tenants had signed a Payment Direction Deed which (on its face) provided protection for their continuing right of occupancy in the event that the income from the Sterling Income Trust was insufficient to meet rental payments (as became the case). However, sections of the *Residential Tenancies Act 1987* (WA) operated to make the provision void and of no effect.

"1.12 Why was this fatal flaw in the protection of the tenants arising under the *Residential Tenancies Act* of WA not identified by WA DMIRS? This was not in the purview of the Commonwealth—it fell four square within the jurisdiction of the WA Government."

The evidence is in—ASIC and DMIRS betrayed vulnerable elderly consumers. Now it's time to put it right. While the ALP is right to call to expand the Compensation Scheme of Last Resort to include managed investment schemes, that is not a solution for Sterling victims. The Commonwealth and WA governments are liable, and the victims must be compensated immediately.

Join the call for the Commonwealth government to make an immediate Act of Grace payment to save the Sterling victims, and overhaul ASIC into a strong and effective regulator feared by financial predators.