

SUBMISSION
FOR A
LEGACY COMPENSATION
FUND

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INTRODUCTION

Australian's are ageing.

An enormous burden on the Commonwealth not only in terms of an older population but one with diminished superannuation.

The common man thought superannuation was supposed to be a fail - safe mechanism. They could enjoy retirement with the knowledge that they would have their superannuation to fund their lifestyle with the pension as a moderate contribution. A reward for their sacrifices.

The self-managed superannuation was an effective tool to put all of their savings in to. The dream was their retirement would be well worth the toil. Investments were carefully chosen. Most were not sophisticated investors. They went to a financial advisor to assist them with the best possible strategy to achieve the best result. Retirement – where they could support themselves. Where their years of hard work would pay off. Fun in the sun.

But..... the financial advisor was a crook. Deceptive and misleading to a fault. The money simply vanished. Disappeared in a whirl wind of disbelief and fear. What would they do when they retired?

They never expected to live on the modest pension. Was it not a reward for having saved?

In July 2017, former Coalition Treasurer Peter Costello said the words:

“We thought they would be dead, we expected them to die before they reached the pension”.

This underscores the purpose of this paper and the case study included to validate a claim.

A scheme of arrangement of the last resort is not adequate for these types of people. They are not one-time investors. They are serious participants in what should have been the time of their life. They have forfeited any lifestyle advantages so as to have a retirement of their dreams.

They are from all walks of life. They are battlers. Good Australians. They have tried to alleviate the Commonwealth having to look after them.

The Commonwealth must now do the heavy lifting.

I have decided to not take you through a series of what ifs.....instead I am going to tell you a factual story. I am going to take you through the series of events, all the efforts these 81 people and 40 entities (totaling 121 clients) have taken to get their money back.

It is exhausting to think there has been no where they could have gone. It is, however, the full amount of work that must be done before they tap in to a Legacy Fund. In saying that they pass the baton over to the Commonwealth to take over the recovery work they have initiated.

██████ – THE STORY

The scope of work done to recover money is exhaustive. The extent of work done to date must be the bench mark for anyone to tap in to the Legacy Fund.

Restitution of all their losses plus interest plus disbursements for recovery action must be paid.

The Commonwealth in paying out these victims takes over the recovery action. Any funding of the Legacy Fund should require no less. The Commonwealth has access to the Australian Government Solicitors and the Attorneys Generals Department to do the required work.

The fund needs to go back twelve years to cover the loss of the financial treachery that Mr. ██████ caused.

Background:

██████ incorporated ██████ Financial Services 2002. Over the course of the next several years he expanded his sweeping empire to incorporate further companies all within the ██████ Group. His specialty was to target groups of people – all with the common thread – they had well-funded self-managed superannuation funds, investment portfolios and their primary residence was unencumbered. These people had worked all of their life to fund their retirement without being an impost on the Commonwealth. Through his well-crafted Ponzi scheme he amassed \$400 million under management. Like all Ponzi schemes – they run out. This one took a little longer because of the sheer size of it. Please refer to the Bibliography.

121 people and entities have embarked on a journey to try and find justice and in so doing restitution. They have spent, in many cases, the last money that they have. Now is the time they received their substantial losses back and the Commonwealth took over the journey of recovery.

Here is what they have done:

They have pursued [REDACTED] through 2 public examinations.

They have removed the Liquidator of all the [REDACTED] related companies after his failure to properly investigate multi - million dollar schemes, managed funds and other bogus transactions.

They have pursued through [REDACTED] (for the [REDACTED]) failed investments).

They have pursued [REDACTED] through [REDACTED] lawyers.

They have pursued FOS for deceptive and misleading conduct.

They have pursued [REDACTED] lawyers for a pay out from [REDACTED]).

They have pursued [REDACTED]) for instalment warrants which not one of them knew about.

Here is what happened:

The public examinations turned up valuable evidence. Mr. [REDACTED] was discharged from bankruptcy at the time of the PE. Much was turned up and is worthy of investigation.

The Liquidator was embroiled in the [REDACTED] bogus affair. He was instrumental in taking fees from third parties associated with [REDACTED] related transactions and other affairs. The incumbent Liquidator would like to investigate him.

[REDACTED] gave suspect advice to them about [REDACTED]. A test case has been run in the Supreme Court of NSW. The full complement of the 121 victims could run their case now.

[REDACTED] is ready to be pursued for their negligent advice.

FOS has granted jurisdictional review to all members. The Attorney-Generals department are funding a test case challenging the Justice [REDACTED] (December 2014) case.

■■■ settlement scheme via an ■■■ finally came out 30 June 2017. ■■■, despite intervention from ASIC and the Federal Court, indemnify a whole raft of people. This indemnification precludes the ■■■ matter from proceeding and ■■■.

There are a number of sources which will yield well in excess of the money claimed. The ■■■ clients are out of puff, out of money and more importantly out of time.

They need the Commonwealth to recognise all of their efforts, pay them restitution and then take over the heavy lifting.

Following:

Justice ■■■ Federal Court Australia, Orders made ■■■ 2015

Justice ■■■ Federal Court of Australia, Orders made ■■■ 2016.

WHAT THE FUND SHOULD LOOK LIKE

The architecture of the Legacy Fund must be set with predetermined guidelines. As with any member or group of members the pre-qualification should take into account the fact that they have exhausted every possible angle. Pre-determination into what allocation of 75 – 100% restitution applies should take account the level of potential recovery that is available to the Commonwealth.

The 121 members of the [REDACTED] list have polarised into a Unit Trust ([REDACTED] Pty Ltd). This Unit Trust is enabled to be the manager or agent of the disbursements. This means that one lump sum can be placed into the Unit Trust acting as the discretionary manager. All restitution expressly must be on a tax-exempt basis.

In exchange for the compensation funds the party (or in the case of [REDACTED] Recoveries) hands over all entitlement to claim or make recoveries in other jurisdictions. This should be in a form which will then permit the party (or in the case of [REDACTED] Recoveries) to subrogate its rights to the Commonwealth.

THE CLAIM FOR 121 [REDACTED] VICTIMS

Total claimed	\$ 50,104,424.06
(allow for 5% contingency)	\$ 2,505,221.20
TOTAL	\$52,609,645.26

Footnote:

The contingency is not to be paid but it is only to be used as guideline in the event of a shortfall.

THE DETAILS OF THE CLAIM

(See attached excel spreadsheet)

SUMMARY

As can be seen these clients (totaling 121) have exhausted all avenues available to them. They have set up:

Public Examination of all [REDACTED] Group of Companies. This brings about action against – the previous Liquidator; others who have profited from creditors and other known sources, [REDACTED] and a lengthy list of cohorts (including real estate and other assets); [REDACTED] – for loss of commissions; other actions. The cost of this Public Examination and the Liquidators fees are in excess of \$1.5 million. The return will be in excess of \$30 million.

Litigation against [REDACTED] to yield approximately \$20 million

Litigation against [REDACTED] to yield approximately \$12 million

Litigation against [REDACTED] to yield approximately \$50 million

This will be subrogated to the Commonwealth in exchange for the total payment of losses approximately \$50 million.

It has been a long long journey for these victims of [REDACTED]. They have done everything that is possible with in their limits.

The Commonwealth through its Legacy Fund now must take over.

CONCLUSION

This document outlines a Legacy Fund, how it will work and a case study that demonstrates its effectiveness.

A Legacy Fund is just that. One that leaves a lasting and indelible memory for all associated with it.

Have you exhausted all avenues that are available to you ✓

Have you exhausted all legal avenues that are open to you ✓

Have you taken all reasonable steps to implement reform, change and redemption ✓

Are there procedural recovery actions available ✓

Is there any left to do (save for the procedural recoveries)if the answer is NO ✓

Please proceed to the Legacy Fund.

REFERENCES:

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