

4 February 2014

12 Highland Way

Highton, 3216

Attn: Mr Chris Dawson APM

Chief Executive Officer

Australian Crime Commission

GPO Box 1936

Canberra City

ACT 2601

Dear Mr Dawson

RE: Operation Albert II

Australia's Worst White-Collar Crime

Please find attached three additional documents to add to the evidence and principles of law being provided to the ACC in relation to **Australia's Worst White-Collar Crime**.

The key fraudulent document bears the signature of Ken Jarrett who was the subject of three major investigations conducted by the former **National Crime Authority (NCA)**.

Mr Jarrett served a term of imprisonment for dishonest conduct.

The Australian public will not be surprised that Mr Jarrett was involved in **Australia's Worst White-Collar Crime**.

Yours Sincerely

Phillip Sweeney

{Victims' Action Group – The Provident Funds Fraud}

Attachments:

ACC #26 Principles of Law – How the Australian Crime Commission can confirm the fraud against the widows

ACC #27 Benefit Calculation Sheet – How the Australian Crime Commission can determine the typical loss incurred by victims of Australia's Worst White-Collar Crime

ACC #28 Australia's Worst White-Collar Crime – The Key Question that Needs and Answer

Appendix A

Schedule of Recent Evidence Provided to the ACC

ACC #1 Copy of consolidation Deed of Variation dated 6 May 1958 {Sent 19 May 2014 and received by the ACC on the 22 May 2014}

ACC #2 Copy of Deed of Variation dated 20 November 1974 { Sent 19 May 2014 and received on 22 May 2014}

ACC #3 Copy of "*The Cast*" {Provided 19 May 2014}

ACC #4 Copy of "*A Valid Deed of Variation*" {Provided 19 May 2014}

ACC #5 Copy of letter from *News Limited* {Provided 19 May 2014}

ACC #6 Copy of letter from former Fund Secretary dated 21 August 2009 {Provided 19 May 2014}

ACC #7 Copy of Amending Deed dated 14 March 2014 {Provided 2 June 2014}

ACC #8a Copy of purported Schedules to the Amending Deed dated 14 March 2014 {Provided 2 June 2014}

ACC #8b Copy of letter from the former Fund Secretary dated 21 August 2009 {Provided 20 July 14}

ACC #9 Copy of letter from the Attorney-General of South Australia dated 13 February 2013 {Provided 20 July 2014}

ACC #10 Evidence Sourced from the Parliament of South Australia {Provided 14 August 2014}.

ACC #11 Letter from RevenueSA dated 30 July 2013 {Provided 28 August 2014}

ACC #12 Extract from Trustee's Minute Book – First Meeting {Provided 28 August 2014}

ACC #13 Extract from Annual Report of Elder, Smith & Co Limited – 1958 {Provided 28 August 2014}

ACC #14 Letter from RevenueSA dated 30 July 2013 {Provided 28 August 2014}

ACC #15 Extract from Annual Report of Elder Smith Goldsbrough Mort Limited – 1974 {Provided 28 August 2014}

ACC #16 Extract from 1974 Regulations of **The Provident Fund** {Provided 28 August 2014}

ACC #17 CUB Memorandum dated 20 July 1984 {Provided 28 August 2014}

ACC #18 CUB Memorandum dated 27 October 1977 {Provided 28 August 2014}

ACC #19 "**Operation Albert**" Trustees – Annual Report Extracts

ACC #20 "**Operation Albert**" Trustees – Annual Returns to ASIC

ACC #21 "**Resolution**" dated 20 December 1982 attest by John Dorman Elliot {Provided 5 October 2014}

ACC #22 **Loss of Governance** {Provided on 7 October 2014}

ACC #24 Purported "**Resolution**" dated 18 June 1998 {1 December 2014}

ACC #25 Proving Australia's Worst White-Collar Crime {2 December 2014}

Appendix C

Evidence Previously Provided to the ACC

- Copy of "**Members' Handbook**" signed by John Dorman Elliott, with the disclaimer "**The Trust Deed and Rules must be the final authority in all matters relating to the Fund.**" {Received by the ACC on 24 April 2013}
- Copy of an unexecuted version of the consolidation Deed of Variation dated 6 May 1958 {Received by the ACC on 19 April 2013}
- Copy of the "**John Elliott Resolution**" dated 20 December 1982 {Attached to a letter dated 5 March 2013}
- Extract from Proceedings in the Supreme Court of Victoria making reference to the NCA Investigation known as **Operation Albert** [Anthony Charles Quinn v Carlton United Breweries Ltd No 7965 of 1996] {Attached to a letter dated 5 March 2013}

ACC #27 Benefit Calculation Sheet

How the **Australian Crime Commission** can determine the typical loss incurred by victims of **Australia's Worst White-Collar Crime**.

An occupational pension trust was established on the 23 December 1913 in the State of South Australia. This was one of the first in Australia for a non-government employer.

The trust and associated trust fund have been known by several names including **The Provident Fund** and the **Elders IXL Superannuation Fund**.

The "**authorised purpose**" of this fund is to provide "**pensions and benefits**" to certain "**male officers, their wives widows and dependents**". This authorised purpose has been confirmed by an Act of the Parliament of South Australia – the **Elder Smith & Co Limited Provident Funds Act 1963** (SA).

The pension formula provided by **Regulation 8** of the original Trust Deed was based on the classic pension formula used by many pension funds, namely

$$[1/60] \text{ times } [\text{Years of Service}] \text{ times } [\text{Pensionable Salary}]$$

This formula assumes that the member will remain a member of the fund until the early retirement age of 60. However many employees are retrenched before they attain the age of 60 or are forced to leave due to ill health.

Therefore the pension formula was amended by the consolidation Deed of Variation dated 6 May 1958 to include the "**Age when Leaving Service**".

The amended formula that took effect on 1 July 1956 is:

$$[\text{Years of Service}]/[\text{Age when leaving Service}] \text{ times } [\text{Final Average Salary}]$$

Where **[Final Average Salary]** was originally the average of the last 10 years of service however this was progressively reduced to the last 3 years of service by 1970.

The pension is payable to any male officer who completes at least 15 years of service and who does not voluntarily resign in order to take another job.

The pension is payable immediately in the event of the retrenchment of the male officer as confirmed by a Select Committee of the Legislative Council of South Australia.

The widow of a male officer would then receive pension of up to 55% of the pension of the male officer.

Example of Benefit

A survey of approximately 100 members of the fund no longer in the service of the sponsoring employer was recently conducted.

Approximately 75% of the members were retrenched before attaining the early retirement age of 60, with the average age of retrenchment being 52 years after the completion of 26 years of service.

Therefore a typical male officer is entitled to be paid a pension of 50% of his **[Final Average Salary]** from the time of his retrenchment.

Benefit Calculation Sheet

Taking a "**Final Average Salary**" of \$100,000 per annum including member superannuation contributions, a typical male officer would be entitled to a pension commencing at \$50,000 per annum.

The capital value of the pension benefit is more valuable to a married male officer than a single or divorced male officer. The capital value of an annuity purchased at the age of 60 can be used to determine the capital value of the total pension benefit.

Lawful Benefit Entitlement

Retrenched at age 52 after 26 years of Service

	Married Male	Single or Divorced Male
Pension from 52-60	\$400,000	\$400,000
Annuity Cost at Age 60	\$1,492,500 (#1)	\$1,250,000 (#2)
Value of Total Benefit	\$1,892,500	\$1,650,000

Notes (#1) and (#2): Based on a quotation from the *Challenger Life Company* for starting annuity of \$50,000 per annum

The entitlement provided by the genuine Deeds of the occupational pension trust established on the 23 December 1913 in the State of South Australia provides for a secure retirement, even if the male officer is not employed until the early retirement age of 60.

The "Jarrett Formula"

The document dated 26 August 1986 that bears the signature of the well known white-collar criminal, Ken Jarrett, purports to eliminate the survivorship pension for widows and purports to replace the life pension with a purported lump sum benefit based on the following formula:

[15%] times [Years of Fund Membership] times [Final Average Salary]

Benefit Calculation Sheet

The "**Jarrett Deed**" also included a "**Penalty Factor**" that reduced the entitlement if the male officer was retrenched before attaining the early retirement age of 60. For a male officer retrenched at the age of 52 the "**Penalty Factor**" is 88.5%

The [Years of Fun Membership] are also less than [Years of Service] since a qualifying period of employment had to be completed before formally becoming a member of the fund.

Therefore based in the "**Jarrett Formula**", the value of the retrenchment/retirement benefit has been reduced by around 80%.

The document that contains the "**Jarrett Formula**" is however void and ineffective. The lawful benefit remains the life pension benefit.

Comparison of Benefit Entitlements

Retrenched at age 52 after 26 years of Service

	Married Male	Single or Divorced Male
Genuine Deeds	\$1,892,500	\$1,650,000
"Jarrett Deed"	\$333,450	\$333,450
Loss due to Fraud	(\$1,559,087)	(\$1,316,550)
Percentage Loss	82%	80%