

SE News  
HD **I knew nothing, but was made an outcast**  
WC 2,145 words  
PD 26 November 2014  
SN Illawarra Mercury  
SC ILM  
ED First Recall  
PG 6  
LA English  
CY © 2014 Copyright John Fairfax Holdings Limited.  
LP

FORMER Trio Capital chairman David Andrews can still remember with absolute clarity the instant he realised his CEO, Shawn Richard, was a liar.

It was June 2010.

TD

Richard was testifying at his public examination in the NSW Supreme Court.

Mr Andrews was in the public gallery listening.

The Trio businesses had been frozen for months and were being wound up.

Tens of **millions** were said to have been lost. Thousands of ordinary Australians were clamouring to know if their superannuation was safe.

Words - horrible words, like Madoff and Ponzi - were being thrown around in the press.

Like everyone else, Mr Andrews wanted answers from this man.

Mr Andrews was hoping to make eye contact with Richard. In his mind he was playing through the conversations he was dying to have with him.

"At this stage I was still thinking maybe he just got the paperwork wrong or something," Mr Andrews said.

"I remember it so vividly, he was asked: 'Were you proud to have a bachelor of finance degree? Were you proud to tell people you had it?'"

"Shawn said 'Yes I was' ... and I'm thinking, 'Where is this going?'"

"Then he's asked: 'Did you have a finance degree?' Shawn Richard said 'No'.

"Well, you could have opened up the floor and I would have just fallen straight through it.

"It was at that point that I realised this guy's a liar."

Today, for the first time, Mr Andrews breaks his public silence about the \$176 **million** fraud that changed forever the lives of thousands of Australians, ruining his own career and reputation in the process.

The former Trio Capital Ltd chairman and non-executive director maintains he knew nothing of the scam that robbed investors of \$176 **million** in superannuation savings, saying that at the time he had trusted Richard, who was later convicted and jailed for dishonesty and fraud.

He also says that prior to the fraud unravelling, he had never heard of the alleged mastermind of the fraud, **Hong-Kong** based American Jack Flader.

Mr Andrews accuses the Australian Securities and Investments Commission (ASIC) and Australian Prudential Regulation Authority (APRA) of driving the Trio business into the ground in their quest for answers and treating him and other directors like they "must be in on it".

"Commentators keep on talking about the collapse of Trio.

"It collapsed because of the weight of regulatory action in my opinion," Mr Andrews told the Mercury.

"If that was the regulators' strategy, well, that was their strategy, but I'm not sure whether they'd thought it through.

"I'm not sure that when they started the process that they sat down and said, 'If we keep this up then of course the business will fail', but it did."

Australian Federal Police officers, acting on orders from ASIC, stormed the Trio Capital Sydney headquarters in 2009.

"The whole thing happened very quickly," recalls Mr Andrews, who was Trio chairman and chairman of the investment committee.

"Early October they raided the offices, by mid-December 2009 we couldn't continue the business, everything was frozen, we couldn't do anything," he said.

"Every time we wanted to pay someone's pension we had to give the regulators all the details, and the banks who were providing the overall business with loans to meet operating expenses started to get nervous.

"So from the inside, where I was, it felt like the regulators were driving the business into the ground."

Mr Andrews insists he had no idea the overseas hedge funds in Hong Kong, where the Australian money was being channelled, were dodgy. He insists he had never even heard of Flader, the scam's alleged mastermind.

"I'd never heard of him until this whole thing with ASIC started," Mr Andrews said.

"Way back at the beginning, when the raid had happened, I mean we were scared to death, we didn't know what was going on."

Trio's lawyers set up a meeting with ASIC and APRA officials, insisting they would do the talking. Even then, Mr Andrews says it was clear that APRA had an agenda. Mr Andrews felt ASIC were just following APRA's lead.

"It wasn't until one of the very last meetings with both regulators, after the show cause letter had been issued by APRA, that I really felt that ASIC were starting to figure out what they wanted to do," he said.

What they did do was take action against the five existing Trio directors.

"All the other people who were there when the whole thing was set up and the apparatus for the fraud was put in place, none of those have been dealt with by ASIC."

Mr Andrews was referring in particular to original directors Cameron Anderson and David Millhouse. APRA took action against the three, but ASIC has not.

Going back to the very early days, before Andrews' time, Richard, Anderson and Millhouse were involved in the purchase of Albury-based Tolhurst, which gave them an Australian Financial Services License and the opportunity to become a superannuation trustee.

Some of the money already there was used to feed three funds.

Richard handled the hedge funds, Anderson was in charge of direct property and Millhouse controlled the private equity fund. Other investments were placed with mainstream managers.

"They set all these investment flows for themselves and we inherited all of that. As the business grew the idea was that we were going to diversify away from those early party-related investments and we, as newly appointed, independent directors, were working with APRA on that basis."

Mr Andrews said that, initially, the board had a good working relationship with the APRA officials, who understood change couldn't happen overnight.

But in May 2009 a new team took over.

"The new guys didn't seem to have any patience for dealing with this. The original guys knew we couldn't do it overnight," Mr Andrews said.

"These were illiquid investments by and large, so it was a work in progress and we were having our six-month checks, then all of a sudden, we get these new guys with a different agenda."

Mr Andrews says dealing with the original Trio directors wasn't plain sailing either. From mid 2008, the **board** was demanding answers from Millhouse over redemption requests from his private **equity** fund, which weren't being met.

The **board** sacked Anderson - Shawn Richard's "best mate" - from managing the direct **property** portfolio "because we figured by that stage that he was incompetent".

"It is very hard to sack a manager who is supposed to be the best mate of the person who reckons he owns the **company** and we did that. We weren't just an inactive **board** sitting there saying everything is sweet.

"That's why it's a bit harsh of APRA to say we weren't serious about diminishing the importance of the related party investments. We had the redemption request in for Millhouse and we'd sacked Cameron Anderson from managing the direct **property** portfolio and the people that we put in found all sorts of problems."

Despite the challenges, Mr Andrews was still confident the business was above **board**, meeting the requirements of the regulators.

"Shawn presented himself as this guy who knew the area so well, he chose really good managers and with different strategies, different approaches, to achieve this perfectly balanced portfolio that will dribble out these steady returns.

"When those returns were questioned by a competitor, we sought more information on Shawn Richard's underlying managers and their portfolios," Mr Andrews said.

He says he went to Richard, saying: "We haven't got chapter and verse on the underlying investments from your fund managers."

He had lists of managers and amounts of money, but the **board** wanted detail to guard Trio against any accusations of wrongdoing.

"We were having trouble for some time, getting up-to-date information on the Exploration Fund," Mr Andrews said.

Richard came good with the documents, but "some of them didn't make any sense, some of them were out of date and some just really didn't help".

"Then I got a story from Shawn Richard that a lot of the deals these guys do are **commercial**, in confidence and there are illiquid securities involved and if somebody else knows their positions it can affect the valuation of the securities."

Despite being told he wasn't a hedge fund manager and wouldn't understand the complexities, Mr Andrews says he persisted and Richard was supposedly in the process of gathering more information and producing audit reports when "it all went bad".

He wonders to this day whether he would have uncovered the fraud had ASIC not come calling.

It wasn't until after the Astarra Strategic Fund freeze that Mr Andrews saw first hand what he was dealing with.

And it was at Richard's public examination in the NSW Supreme Court in June 2010 that the penny finally dropped.

How could Richard, who Mr Andrews describes as a "shy, uninteresting sort of a guy", be responsible for his world falling apart?

That question still keeps Mr Andrews awake at night. He recalls a stressful meeting in July 2009 with Richard, Trio director Rex Phillpott and APRA. It was three months before the freeze.

"I thought they are really giving us a tough time over something. I just kept thinking 'I wish they'd tell us what it was, what was their problem?'.

"We came out of the meeting and Shawn said, 'I think that went well, let's go for a beer'.

"I thought the meeting was terrible.

"These guys [APRA] thought there was something wrong with our operation and they wouldn't tell us what it was. A beer? I thought, 'no thanks, I'd rather go and jump off the harbour bridge.'

"I mean really, my head is spinning with what a rotten meeting this has just been."

The APRA officials were "talking about Madoff and all of that sort of stuff in the US".

In fact, APRA was responding to a tip-off from financial blogger John Hempton that Trio Capital was at the centre of a Ponzi scheme.

"At this stage, all that we knew was someone was making accusations that we believed had no foundation.

"If APRA at that stage had said, 'look we think there is a problem here, this is what it is', we could have worked with them.

"But I think the mindset of the regulators is that if there is something wrong then the directors are probably in on it. If instead of going to the media John Hempton had told me he thought there was a problem and at least asked the question ... I am 30 years in the business ... so why didn't he assume that I'm honest?

"After all, the strategy of treating the **board** members like criminals did not see any of the stolen money returned."

Prior to Trio, Mr Andrews was a diplomat with a distinguished career.

He is also an independent author and has penned countless works that give insight into his suffering.

One of the advantages of fiction, he says, is that he's been able to kill the offending characters who had a role to play in his nightmare.

Today, Mr Andrews calls himself collateral damage.

He entered into undertakings with ASIC and APRA, voluntarily excluding himself for 10 years from corporate governance roles in the financial services sector.

"As a **company** director, fraud is one of the worst things you could possibly go through, I couldn't think of anything worse."

Now, his writing is his therapy.

"The guy who said the most about all of this, Shawn Richard, is a liar," Mr Andrews said.

"The scary thing about all this from my point of view is newspaper reports become a matter of record, history, what people rely on.

"None of the **board** members have had anything to say. I thought really long and hard before I did.

"The reason Shawn Richard went to jail was because he lied. He misrepresented the facts to the investment committee and the **board** of Trio Capital. It is clearly appropriate for him to go to jail for telling me a lie.

"But why is it OK to condemn me for believing the lie along with almost everyone else? I don't get the logic."

Looking back, Mr Andrews is disappointed that his co-operation with the authorities was never recognised.

"Basically we are all outcasts now. We had positions of some merit in a very competitive industry that many people seek to work in," he said.

"Everybody was highly trained with terrific qualifications.

"Now we are outcasts."

ONLINE

[www.illawarramercury.com.au](http://www.illawarramercury.com.au)

**RE** austr : Australia | nswals : New South Wales | apacz : Asia Pacific | ausnz : Australia/Oceania

**PUB** Fairfax Media Management Pty Limited

**AN** Document ILM0000020141126eabq0001z