

Business

This was published 11 years ago

Commission's inaction leaves insolvency industry free from adequate regulation

Adele Ferguson

September 26, 2011 – 12.00am

As the Gillard government digests a set of submissions on how to clean up the insolvency industry after a Senate inquiry found the Australian Securities and Investments Commission was not regulating it properly, Senator John Williams has put the spotlight back on the commission using parliamentary privilege to do so.

In a hard-hitting 15-minute speech inside the protected walls of Parliament, Senator Williams tabled statutory declarations (behind statutory declarations are sworn statements) and detailed a litany of alleged abuses, some of which have been the subject of writings by this columnist in the *Herald*.



"Williams believes white-collar crime is systemic, it is growing and innocent people are losing their livelihoods from crooks." MICHELE MOSSOP

He made some serious allegations against a liquidator and a Sydney businessman using parliamentary privilege. Their names are now in Hansard for all to see. It is now incumbent on the commission to use its extensive powers to investigate these allegations and give these individuals a chance to clear their names. If the allegations are proven correct, the commission should take appropriate action; if they are proven false, these individuals will be exonerated.

Senator Williams's speech was part of a campaign to overhaul the insolvency industry and the regulator after a Senate inquiry two years ago. The inquiry was damning of the regulator and found many problems with the insolvency industry. It recommended some radical changes, including stripping ASIC of its powers.

Last Thursday, Senator Williams put the issues back on the agenda when he tabled a statutory declaration from Kevin Jacobsen, a well known entertainment promoter, who alleges that Sydney businessman Ian Lazar stole his car and fraudulently charged \$84,000 to his Amex card. He said Mr Jacobsen had a successful business but needed some assistance with a company dispute over the lease at the Entertainment Centre. Williams alleged that since Ian Lazar, whose birth name was Ian Rogut, met Jacobsen a year ago, he has lost all his businesses and had all his trading companies placed in liquidation. "He has had his car stolen by Ian Lazar. Mr Jacobsen told me how he told Mr Lazar he would like to sell his Lexus. Lazar said: 'Give it to me. I am a licensed dealer. I will get rid of it.' It has just disappeared like flatulence in the wind ... He has lost access to all funds paid to the Sydney Harbour Foreshore Authority to cover the breaking of the lease. Mr Jacobsen has lost a \$6.1 million sale of rights over a musical because Mr Lazar has placed a false charge over Kevin Jacobsen Pty Ltd, the company which is now in liquidation," Senator Williams said.

He then made some allegations about the liquidator Andrew Wily of Armstrong Wily. "Within one hour of arriving to meet Jacobsen at the entertainment centre, Wily's staff had emptied all the cash out of the ATMs, and the cash appears not to have been seen again. Wily then charged \$250,000 in fees for six days' work. Mr Jacobsen has no knowledge of any work carried out by Wily," Senator Williams alleges.

Both Andrew Wily and Ian Lazar deny all allegations. Wily said yesterday all the allegations made against him and Armstrong Wily were completely untrue. "I vigorously deny them. The allegations made are complete and utter rubbish. Someone is trying to create trouble," he said.

David Hurst, a partner at Armstrong Wily, said there was about \$70,000 collected from the ATMs and that was used to pay wages and the receiver's legal fees. He said the \$250,000 in fees includes outstanding legal fees. He said Armstrong Wily had not been paid.

In a statement to the *Herald* last week, Lazar said the vehicle that Jacobsen mentioned did not belong to Jacobsen, but a company in his name that had gone into receivership. He provided emails he had sent to the police saying Jacobsen was not the legal owner of the car.

Senator Williams outlined another case to demonstrate the alleged inaction of the commission. The case involved the Webb family, who he alleges lost a successful business of 25 years after appointing a business adviser to restructure it. Using sworn affidavits he alleges the business adviser John Brickwood set about destroying the business and selling the assets. "After sale of a factory owned by Tony Webb where the purchaser paid \$335,000 in GST, Brickwood placed the money in an unrelated company ... he controlled. It was supposed to be paid to the tax office as BAS statements and GST. It has never been paid," Williams said.

He said when Armstrong Wily was administering or liquidating Vertex Trading Pty Ltd, Adam Webb told Wily that Brickwood had stolen \$1.5 million from Vertex and transferred it to his

own company. He was told by a representative of Armstrong Wily they could not take any action to get back the stolen money as they were not in charge of Vertex. The Webbs lodged formal and written complaints to ASIC, the IPA and the Institute of Chartered Accountants about Wily. "They received no assistance from any of these bodies, and that is no surprise to me," he said.

The government is weighing up options to clean up the insolvency industry. It released an options paper in June and gave the public two months to make submissions. We sit and wait.