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Public examination of 'fraudster' Peter Holt cannot come quick enough for victims

FEEDBACK



Later this month a banned financial planner described by Senator Sam Dastyari in parliament as a "crook, a criminal and a fraudster"



by Adele Ferguson

will face a public examination into his bankrupt estate.

The public examination, bankrolled by the liquidator of collapsed managed investment scheme Timbercorp, is the first in a series of events that will put the spotlight firmly on dodgy products, the need for a compensation scheme of last resort for victims who fall through the cracks and the Australian Securities & Investment Commission's (ASIC) banning powers.

Timbercorp collapsed in 2009 with hundreds of millions of dollars in debts. It left thousands of people financially ruined, some losing their homes after gearing their houses to invest in the flawed scheme.

The Australian Financial Review can reveal that a public examination into banned planner Peter Holt – one of the biggest writers of Timbercorp products – will call Holt, his wife, business partners and other relevant parties, to recover assets.

On Friday, Holt's bankruptcy trustee Nick Mellos from Grant Thornton wrote to creditors and victims group the Holt, Norman, Ashman, Baker (HNAB) Action Group, requesting information that might help his investigation.

His letter to HNAB, obtained by the *Financial Review*, says the public examination would look into any assets owned by Holt, assets other people may be holding on his behalf, income derived by Holt and any "significant" payments made to Holt before he went bankrupt or assets transferred to others just prior to bankruptcy.

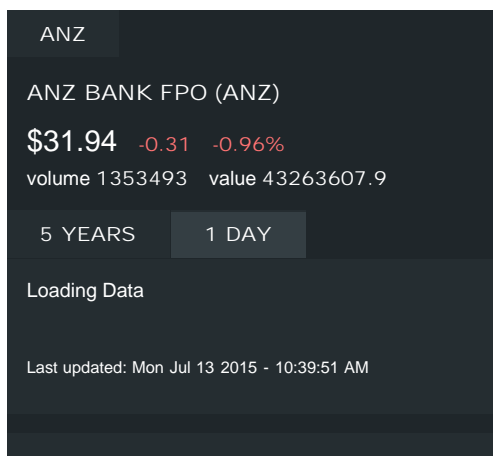
HUNDREDS OF VICTIMS

The HNAB group consists of hundreds of victims of Holt who had their lives destroyed after they were advised to invest in the high-commission paying Timbercorp, margin loans and other high-risk financial products. Some attempted suicide, some lost their homes, while others lost their retirement savings.

In the past year many of those victims have suffered the added pressure of being hit with writs by Timbercorp's liquidator to repay loans owed to creditors that include ANZ Bank. Some victims say they didn't know they had the loans that they say must have been fraudulently signed by their planners.

It was the disturbing tales of investors, including Naomi Halpern, who helped set up HNAB, which played a key role in the

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decision by Motoring Enthusiasts senator Ricky Muir and independent Jacqui Lambie to change their positions and block the Abbott government's attempt to water down reforms to Future of Financial Advice (FoFA) laws last year.

The public examination into Holt will kick off on July 24. It will ramp up in late August or early September, controversially just as his three year banning order is lifted by ASIC.

Holt, an accountant, still lives in a big home in Melbourne's leafy eastern suburbs. He is a bankrupt after requesting bankruptcy in June 2011 with debts of \$26.9 million, including \$2.5 million to Timbercorp Finance and \$14.7 million to a company called Dapal Ltd, which is registered in Hong Kong.

The examinations will be carefully watched by authorities who are investigating an alleged "fake debt bankruptcy fraud ring" which has become the centre of allegations of a network of lawyers, accountants, liquidators and bankruptcy trustees using sham debts to protect millions of dollars of assets from creditors and investors.

In December a document was lodged in the Federal Court that alleges the network of professionals stitched up a scam to protect the assets of a number of people including Peter Holt.

'FAKE DEBT' SCHEME

ASIC and the Australian Financial Security Authority are believed to be investigating people linked to the alleged "fake debt" scheme, which was detailed in a Federal Court affidavit filed by Timbercorp's liquidator KordaMentha. The Legal Services Commissioner is also believed to be investigating matters connected to the scheme.

An affidavit signed by KordaMentha partner Craig Shepard alleges that a group of lawyers, accountants and liquidators created a complex network that ultimately put more than \$20 million in properties, shares and other assets linked to Holt and other bankrupts out of the reach of creditors of Timbercorp.

The allegations in the affidavit have not been tested in the court, and Fairfax Media is

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not suggesting the allegations are true.

Shepard lodged the affidavit as part of an application to remove Holt's bankruptcy trustee.

Fast forward to today and the new trustee has applied to the Federal Court to issue summonses for examination of Holt, his wife and others who might help in an investigation into recovering assets for creditors.

The summonses have now been served, requesting Holt and others to bring the relevant documents, books and records to court on July 24. The next step will be public examinations a few weeks later.

The timing of the public examinations is smack bang when ASIC will lift Holt's banning order. His three-year banning order prompted federal politician Tony Smith to ask ASIC during a recent parliamentary inquiry "What do you have to do to get banned for life?"

ASIC banned Holt in September 2012 from providing financial services advice after it found he had breached a string of financial services laws. They included a failure to disclose the risks of switching a client's superannuation into high-risk products and a failure to ensure his company maintained professional indemnity insurance. Back then the company was Holt Norman & Co and in October 2009 external administrators had been appointed.

It will no doubt be raised at an upcoming senate hearing on August 5 and 6 into managed investment schemes, chaired by Senator Dastyari. "ASIC has the power to ban planners for life, what does someone have to do to warrant a banning for life?" he said.

VICTIMS OF HOLT

Victims of Holt held a meeting on Sunday in the north Melbourne suburb of Coburg to discuss Holt and the public examination. They have been meeting each month for years as a support group.

Halpern says after years of struggling many victims are feeling demoralised. "Some are suicidal due to the dire circumstances left waiting for a resolution," she says.

It is why more needs to be done to protect victims. ASIC should be tougher in its approach to banning orders. It should also become more transparent in the rationale for the length of a banning order.

And there needs to be a national compensation scheme of last resort set up that is retrospective to help those victims who can't seek redress.

Victims like Halpern cannot sue Holt because he is bankrupt and they can't claim from his company because from October 2009 it didn't have professional indemnity

insurance.

Senator Dastyari refers to people such as Halpern as the forgotten people. To this end he and a number of other senators are pushing to create a compensation scheme of last resort, bankrolled by the industry including the big four banks.

The banks have agreed in principal to chip in to such a scheme but the sticking point will be whether the fund that is created will be retrospective or start from now.

It is a difficult debate. To put it into perspective, in the past eight years more than 170 financial products representing \$38 billion of investor money have been frozen, failed or were fraudulent. Many victims got caught up and are suffering to this day.

For the victims of Holt, the public examinations can't come quick enough.

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