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Friday 18 October 2019

19-285MR Former Brisbane financial adviser found guilty of fraud after three-week trial, sentenced to 12 years

Following an ASIC investigation and a three-week trial, former financial adviser Ben Jayaweera, of Mount Gravatt East, Queensland, has been found guilty of six charges of dishonestly causing detriment to clients, involving approximately $5.9 million. Mr Jayaweera has been sentenced to 12 years imprisonment, with a minimum period of six years to be served before becoming eligible for parole.

ASIC alleged that between September 2013 to October 2015, Mr Jayaweera, through his company Growth Plus Financial Group Pty Ltd (in Liquidation) (Growth Plus), induced various investors to transfer funds, including funds from their self-managed superannuation fund (SMSF), for investment into an unregistered managed investment scheme, known as the Australian Diversified Sector Income Fund (ADSIF). ASIC also alleged Mr Jayaweera invested some clients’ superannuation funds into ADSIF without the clients’ knowledge or permission.

Mr Jayaweera claimed ADSIF was a diversified fund investing in cash, property, shares, aquaculture and agriculture when, in fact, the only investment was a single project, an abalone farm in South Australia operated by entities under his control.

‘The majority of Mr Jayaweera’s clients were near or at retirement age and suffered significant financial harm from Mr Jayaweera’s actions. Financial advisors are entrusted with other people’s money. ASIC takes breaches of trust very seriously’, said ASIC Commissioner Danielle Press.

The abalone farm was subsequently wound up by receivers and the liquidators of Growth Plus advised there will be no returns available for ADSIF investors from Growth Plus.

In Court, Her Honour Justice Richards stated, ‘It was a calculated and callous scheme of dishonesty’. In sentencing Mr Jayaweera, Her Honour considered that the offending involved a high level of planning, sophistication and persistence, observing that the investors had been robbed of their retirement and Mr Jayaweera had committed a gross breach of trust.

The jury found Mr Jayaweera guilty of each of the six counts of dishonestly causing a detriment to various clients who invested approximately $5.9 million, which were directed to company bank accounts to make payments to the abalone farm and other third parties.

The matter was prosecuted by the Commonwealth Director of Public Prosecutions after a referral from ASIC.

Background

ASIC’s investigation found that between September 2013 to October 2015, Mr Jayaweera met with various clients based in Queensland. Mr Jayaweera, a financial adviser, through his company Growth Plus Financial Group Pty Ltd, told his clients he would be able to provide them with an investment opportunity to build their wealth towards retirement.

In October 2016, ASIC commenced civil proceedings in the Supreme Court of Queensland against Growth Plus and Mr Jayaweera. The civil proceedings have been adjourned until a date to be fixed ([16-338MR](https://asic.gov.au/about-asic/news-centre/find-a-media-release/2016-releases/16-338mr-asic-takes-civil-action-against-ben-jayaweera-and-growth-plus-financial-group-pty-ltd-in-liquidation/)).

In May 2018, Mr Jayaweera was charged with the six counts of fraud involving approximately $5.9 million ([18-153MR](https://asic.gov.au/about-asic/news-centre/find-a-media-release/2018-releases/18-153mr-former-brisbane-financial-adviser-charged-with-59-million-fraud/)).

ASIC also provided the liquidator of Growth Plus with funding from the Assetless Administration Fund (AAF) to prepare a supplementary report that was used to assist with the investigation.

More information about the Assetless Administration Fund is [here](https://asic.gov.au/for-finance-professionals/registered-liquidators/your-ongoing-obligations-as-a-registered-liquidator/assetless-administration-fund/#_blank).

Growth Plus was wound up on 11 March 2016. The liquidator is pursuing the former auditor of Growth Plus. If investors in the failed ADSIF scheme have enquiries in relation to the liquidation, they can contact Ms Kylie Lagerroth at Cor Cordis on (07) 3613 3600 or [brisbaneinsol@corcordis.com.au](mailto:brisbaneinsol@corcordis.com.au).

Podcast

Listen to ASIC’s Marita Hogan detail the case against Mr Ben Jayaweera, where he was found guilty after a three-week trial in the Brisbane District Court.