Super Fund Trusteeship and AI

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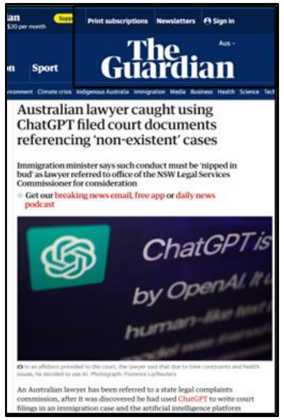
Why would a super fund trustee be attracted to using AI?

- ✓ Fast
- ✓ Rigorous (on its terms)
- ✓ Sophisticated
- ✓ Appears cheap
  - Public model (costs are hidden)
  - Bespoke model (exchange variable for fixed costs)
- ✓ FOMO

Risks of AI

- BS (not hallucinate, nor lie)
- Opacity
- Historical bias, incl stationarity
- Scheming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Australian lawyer caught using ChatGPT filed court documents referencing 'non-existent' cases

Immigration minister says such conduct must be 'nipped in bud' as lawyer referred to office of the NSW Legal Services Commissioner for consideration

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An Australian lawyer has been referred to a state legal complaints commission, after it was discovered he had used ChatGPT to write court filings in an immigration case and the artificial intelligence platform


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Marisa Garcia Senior Contributor

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Trusteeship is qualitatively different …

- Required to give **real and genuine** consideration to all exercises of power
- Must exercise discretion **personally** unless expressly authorised to delegate

And the onus of proof in relation to breach may shift:

- Generally, in the event of falsification
- In super, may be required to adduce evidence that they acted in beneficiaries' best financial interests to rebut adverse presumption (s220A, *SIS Act*)

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How might AI be employed?*

Investment tasks

- Investment “strategy”
- Investment management
- Private market valuations
- Mandate compliance
- Risk identification

“Admin” tasks

- TPD claims
- Death benefit payments
- Risk identification (incl scams)

Stakeholder communications

- Regulator interactions, incl reports
- Members and other beneficiaries (incl personal and general advice)
- Mandated disclosure

Source: www.hirematch.ai/post/smart-money

* ie, these are things I have already heard people are using it for …

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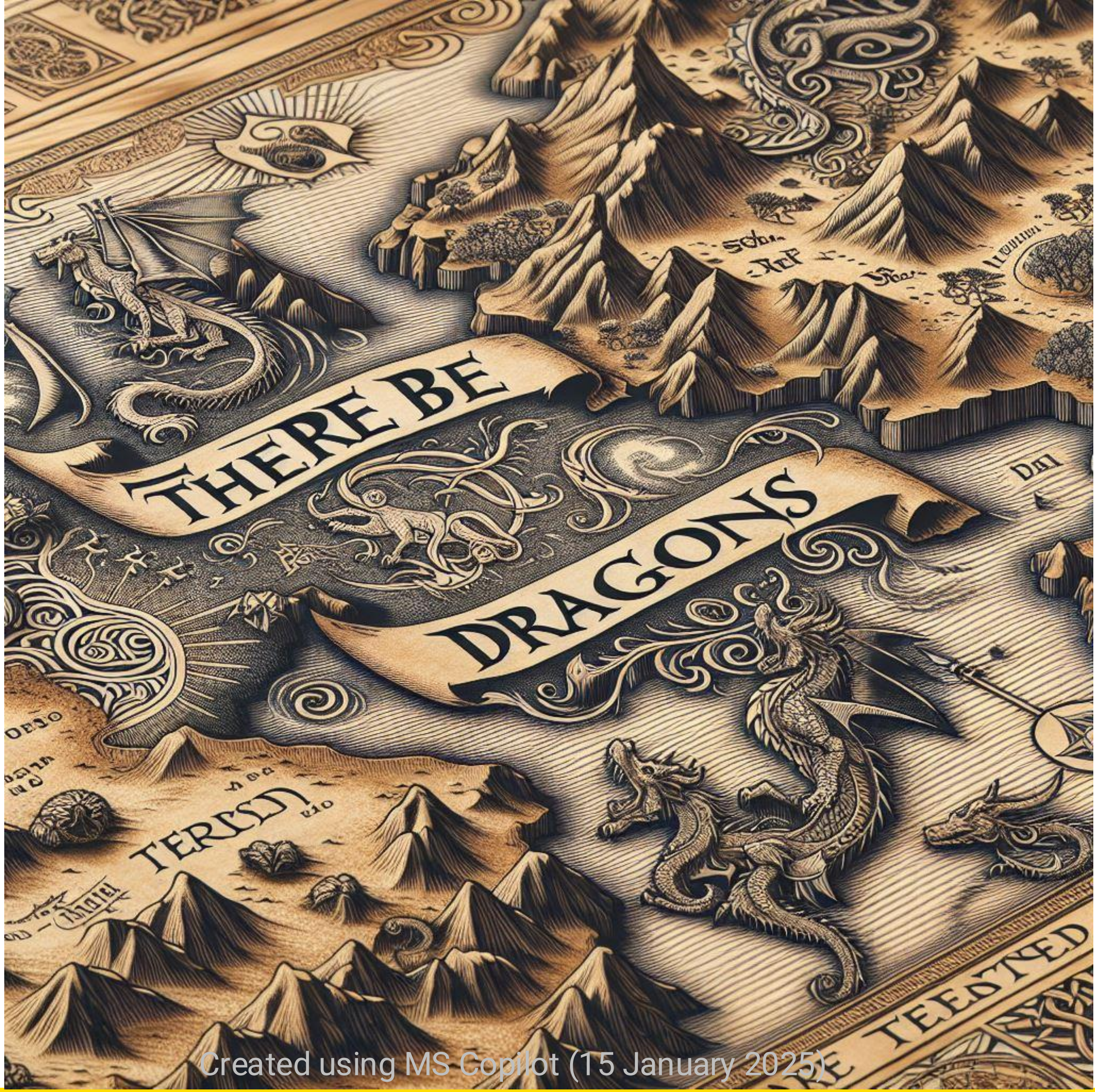
So what?

Risky applications of AI for trustees

- Quantitative member reporting
- Regulatory reporting
- Investment strategy
- Infrequent exercises of discretion
- Legal/regulatory summaries
- Board meeting minutes

Basically any time that a lack of accuracy has negative consequences or where an explanation of reasoning might be required



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So what?

Opportunities for trustees to use AI

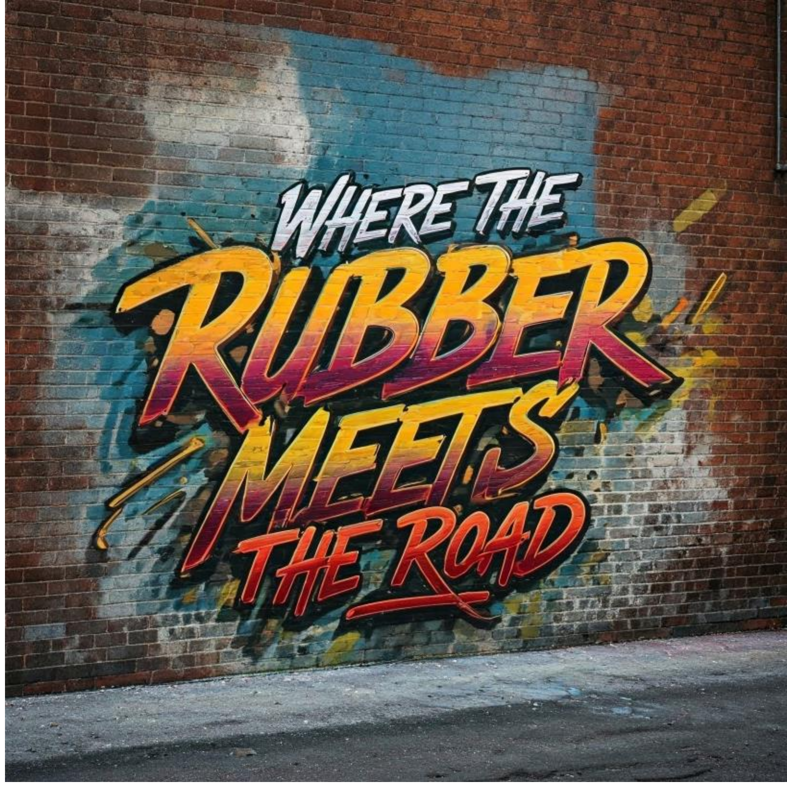
- Qualitative stakeholder* communications
- Data collation to inform decision-making

* essentially members, the public and regulators

An un-heralded innovation: Velcro-ed briefcases keep your hands free for the important things … ☺

The bottom line(s) …

- AI is most risky when substantive accuracy is required
- Consider carefully how processes of human ‘review’ are positioned
- Don’t underestimate the challenge of fully defining a bespoke model
- Specialist AI expertise will be needed to demonstrate due care
- Beware the reversal of onus in s220A and falsification



In some circumstances (trusteeship, public administration(?) …) the criteria that determine ‘good’ decision-making shift. Speed, cost, ‘accuracy’ remain objectives, but value is also accorded to:

- Transparency, explicability and accountability
- Fairness (however conceived)
- Humanity and legitimacy