

# **SENATE SUBMISSION**

## **Post Global Financial Crisis Banking Inquiry**

by

**FIONA JANE HOWSON/TANGFORD PTY.LTD**

**My name is Fiona Jane Howson. I have, for the most part, been a single working mother of 2 since 1991.**

**In September 2003 I purchased a ½ acre property with old cottage at 1056 Winn Road, Mt. Samson, Queensland for the purpose of construction of a childcare centre and general store. Having studied the childcare industry substantially for a good 10 years, been involved in minor property development in the form of renovating, moving and building domestic real estate I was experienced in this field. In addition, I was involved in medical device sales and other businesses of a trading nature. The property at Winn Road was right next to the Mt.Samson Primary School which was a rapidly growing school in a demographic of high dual income younger patrons building new homes and starting families. A demographic study was completed and it was clear that given the site was 14 kilometres from any other form of childcare or shop, the project was warranted. Community support was very strong. My Town Planner and myself vigorously liaised with local and state authorities for almost 3 years and gained a Development Approval for the aforementioned in June 2006.**

**Twice during 2007, I attended childcare conferences both national and state. Bankwest were exhibiting at both conferences and were very aggressive in their courting of me for my business both at the conferences and through 3 phone calls in 2007 by a Geebung based senior Bankwest officer specialising in childcare. He had been at the conferences and spoken with me. On December 6<sup>th</sup>, 2007, after having lost his best friend to suicide 18 months prior, his uncle to cancer 8 months later, along with the loss of another of his friends in a car accident, my son Mitchell took his own life by hanging on his 18<sup>th</sup> birthday. I was deeply, deeply shocked. Being of an artistic nature as he was, with no real interest in “organised academia” Mitchell and I had discussed him being able to hold a position in the general store so that he could further his artistic endeavours but have a source of income assisted by the family.**

**Mitchell’s death had me reassess the project.**

**Initially I intended to sell the development but family, friends, and my accountant, and my own need for forward momentum saw me continue with the project. I had the support of those same family members, along with the project management support of a childcare consultant and also the assistance of a finance broker I had previously used. Further to this, the builder was ready to start building and had allocated resources to begin building in New Year 2008. Understandably, Mitchell's death delayed the project. In April 2008 when it was clear that I needed to finalise funds for the project, I advised the broker that the Childcare consultant and myself had spoken with Bankwest at the childcare conferences throughout 2007 and gave him the name of the Geebung Bankwest contact I had. The broker had another Bankwest contact at Springwood and he desired to work with him as he had no relationship at the Geebung branch. And so it is that the deal with Bankwest was initially done through the broker before the childcare consultant and I took over negotiations with Bankwest when the broker left the brokerage company and moved away from Brisbane.**

**An offer was made by Bankwest to refinance the site at Winn Road, taking as security my owner occupied dwelling at Everton Park, (a new duplex) as well as the other duplex which was an investment property. Security was also taken over my 40 acre investment property with house at Cedar Creek which was subdividable.**

**A further investment house I had at Nundah as a half share held by Bankwest at that time was also mentioned in loan documents. I requested enough funds to refinance the above properties, borrow the full amount to build the centre with the capacity to pay down as and when the subdivision sales progressed, as well as interest for 12 months of interest only payments and was told that none of this would be a problem.**

**The property at Cedar Creek had preliminary development approval for the subdivision of two 5 acre plots of land and it was stipulated by Bankwest that the loan for the building of the centre would be divided into two equal tranches with the first tranche being made available to commence building and the second tranche becoming available when the subdivision development approval was finalised. I discussed this with my childcare consultant and we agreed the timing would be at least palatable. Since I already had several parties interested in buying the two blocks I knew that the sale and settlement of the blocks would be swift and so half of the funds being made available to me to commence the project (approx \$800,000 incl GST) would suffice. I also had over \$200,000 in cash held as contingency. I was working full time as a medical device sales person as well as a registered nurse in operating theatre permanent part time and earning well.**

**And so it is that on leaving Bankwest's Springwood office in April of 2008 both my consultant and myself understood that I had secured funds for the refinance of the properties from HSBC and NAB to Bankwest along with funds to fully secure the building and fit out of the childcare centre and to a lesser extent, the General Store which I was now going to lease. In time, when prudent, both HSBC and NAB were notified of my intentions to refinance with Bankwest and both did make attempts to hold onto the business. However, I had entered into a**

verbal agreement with Bankwest and they had given me all that I had asked for and more, albeit verbally.

By the end of April 2008 I was contacted by Bankwest to come to their offices in Springwood to sign the documents for the loan. There were some discrepancies with what had been discussed in the earlier meeting and what was in the documents and I was reassured that although the funds did not appear as if they would cover all of the building costs that these things were “fluid” with the advent of the sale of the blocks of land at Cedar Creek, which would inject more than \$850,000 cash into the loans. The words “review” and “renew” of the loan were used often. This was particularly relevant to the tranches which were stated as being approximately \$280,000 for tranche 1 and approximately 1.2mil for tranche 2.

I now ask the reader to understand that I have signed a lot of documents with banks in my lifetime. I have always been trusting (with care) of banks because as consumers we have little option but to place our faith in these institutions with the belief that they are closely regulated and answerable to not just the community but to Government agencies put in place as what the public believe to be “watchdogs” of the banking fraternity. Indeed the public believe that banks hold our interests alongside their own given that the banker/client relationship is what could be termed a “contractual partnership”. At 51 years old, I had never had any credit problem until my dealings with Bankwest, having found other banks in the most part, honourable.

On having been given reassurance by Bankwest that they were in full support of my project and my wish for forward financial and psychological momentum and mutual prosperity in the process, I signed with Bankwest looking forward to turning the first sod on site. Building commenced soon after. The first two progress payments were paid but within 8 weeks, a warning was given to the builder by Bankwest that no further funds would be made available since tranche 1 was fully drawn and they were waiting for the first block of 5 acres to sell and settle before releasing any further funds. I pleaded with the Bankwest officer by email in August of 2008 that this was costing me unnecessarily both financially as well as emotionally and indicated that Mitchells death was still fresh in my mind and this holdup was costing me dearly emotionally also. They were not interested. The suggestion was made per phone by the Bankwest officer that if I had more liquid funds (sale of property to release cash equity) then the project would be able to continue. Since I was concerned at the time delays, I sold my investment property at Everton Park and my owner occupied property also at Everton Park ( Units 1&2/44 Barrymore Street, Everton Park duplex's) to sure-up my contingency/ bank equity. But since the builder had to leave the site and the project due to these same delays, he was now obligated elsewhere and having trouble getting back on site stating that this issue had not been caused by him and so I will now have to be patient. With this circumstance and Christmas, the project was held up for almost 6 months.

**It was during this time that I moved my Bankwest file from Springwood to Geebung to be handled by the Bankwest officer who I had dealings with at the childcare conferences. I cited convenience as the main reason since the Springwood office was so far away for me, but in fact I was becoming increasingly alarmed at the nonchalant attitude toward my ongoing needs with the project by the Springwood office. Once I moved my file from Springwood to Geebung I had hoped that things would improve.**

**When I sold my owner occupied property it was agreed that the proceeds of the sale of the first block of 5 acres would be directed back to me for me to be able to purchase another owner occupied home so as to have little or no owner occupier mortgage. In fact, when the contract for the sale of the first block was becoming close to settlement, the bank announced that they in fact would take the proceeds of \$430,000 to pay down debt. On discussing the settlement of the first allotment with my accountant, it was made clear to Bankwest that the proceeds should not be paid into the low interest loan on the subdivision project but be paid into the higher interest construction loan.**

**Bankwest did not respect the directive and proceeded to pay down the low interest subdivision loan on Cedar Creek and not the high interest loan on the Mt. Samson childcare centre project. I was very angry about this but I reasoned there was very little I could do about it and again Bankwest agreed that the proceeds of the sale of the second allotment would be given directly to me for my owner occupied home purchase.**

**Building commenced again early 2009. A building variation surfaced in April 2009 which was negotiated with Bankwest and then another variation regarding civil works surfaced in October 2009. It was also around this time that unknown to me at the time, the party who was intending to take up the lease of the General Store in January 2010 became concerned at delays and was looking at other options. The first block of land had been sold and settled and \$430,000 cash injected into the loan. The second 5 acre allotment had a contract of sale on it and was waiting for civil works to be completed so that it could settle, the funds, as was agreed, to be directed to me for the purchase of another owner occupied house, as I was renting. I had by now, absolutely no intentions of ever funding any other property or business dealings with Bankwest, however I did not share this with anyone at Bankwest.**

**A "Letter of Variation" was emailed to me by Bankwest Geebung in October 2009 at the time of my mother being gravely ill and dying, an event that Bankwest was aware of. The covering letter was very clear about my urgent need to sign and return the letter "since Bankwest has already paid the builder". I opened the email close to midnight after an evening shift of nursing. I was by now working more than 14 hours almost every day to see my dream realised. I checked the amount and the rate of the variation funds. I also checked the fees related to the variation. I printed the paperwork off and signed the letter before photocopying it, filing it, and putting the original in an envelope to deliver to Bankwest the following morning. Building continued.**

The project was running behind time now because the builder was not going to compromise other more reliable projects that he had in his schedule prior to Bankwest being difficult at the onset of building. I understood this, but the childcare centre was not going to be open in January 2010 as had been planned. We aimed for April to open the centre and Bankwest were aware of this and seemed to be in agreement of timeframes.

Christmas came and went and 2010 rang in. Building commenced again mid January. The tenant for the General Store had notified me that she would not be taking on the lease since the building had not been completed by the agreed time and she had made alternative arrangements for her business. In March 2010 I received yet another emailed Letter of Variation from a Bankwest officer whom I had never met. I emailed her telling her that we were close to completion and that I had not presented any further building variations. She replied by email informing me that this was a variation letter relating to extension of my facility given that my facility was due to “expire” in April! On going through my files and finding the paperwork of the variation letter of October 2009 I noted with horror that Bankwest had altered my two loans from 18.5 years and 28.5 years to run, to 6 months indeed expiring in April 2010. Since this term change had not been verbally discussed with me, I was sick to the stomach.

I rang my regular Bankwest business manager to discuss and he assured me that it was structured this way so as to make it easier when he took me off the construction rate and altered/consolidated the loans to a lower fixed business rate. I recall the discussion very clearly because I objected to the prospect of the whole of the loan being fixed. I really wanted the capacity to be able to pay the loan down without penalty since I was planning to subdivide a third time at Cedar Creek and pay the funds into the loan. Furthermore, I wanted to give myself the option of refinancing to another entity/bank if I desired, given my experiences with Bankwest, however I did not share this with the officer of Bankwest.

At this time, March and April of 2010, Bankwest seemed to have so many hoops and requirements of me that I felt a great deal of pressure coming to bare because the centre was close to opening and the bank was quite demanding about inspecting the centre and financial reporting. However, I still felt at times, that I had a reasonable relationship with the bank in so far as it had been a long haul and they had acknowledged that in different emails along with reassurances of how they were looking forward to helping me grow the business and do further development of the site at a later date. My Bankwest business manager had also expressed a desire to have a stand at my “open day” to raise the banks profile in the community at Mt.Samson. However, on the settling of the second 5 acre allotment in April 2010, Bankwest again reneged on their agreement with me to funnel those funds back to me for an owner occupied property. I was again cornered by Bankwest and afraid to protest too loudly. The bullying had worked on me.

Finally the Mt. Samson General Store and 75 place Cross Country Kids Childcare Centre was open for business and although our registrations were a little light due to the delay in opening, registrations grew steadily over the next

**3months in line with my forecasts provided to Bankwest. In late July 2010 however, I received an email from Bankwest Geebung instructing me that a meeting was being organised for me to have discussions with Bankwest officers regarding my LVR and Bankwest's perception of my ongoing inability to service my facility even though I was not behind in my payments. Bankwest were requiring me to have my accountant and myself available at a time specified by them on July 27<sup>th</sup> 2010 and it was not negotiable. At this point I do not deny that there were moments in the first half of 2010 where I had overdrafts on my account mostly due to unforeseen fees and charges by Bankwest which were remedied as soon as possible and with no adverse reaction by Bankwest at the time. I now find myself wondering if a lot of this was orchestrated or engineered.**

**On arriving at the meeting with my sister and a friend who are both savvy in corporate financial matters we were met by my extremely nervous Bankwest business manager, the same Bankwest officer who had courted my business throughout 2007 at and after my Childcare Australia conference visits. After my file had been transferred from the Springwood Bankwest office to Geebung Bankwest, he became my new business banking manager. Another Bankwest officer more junior to the first who had in fact come out to inspect the centre toward in May 2010 was also present.**

**They began by requesting my colleagues to identify who they were and in what capacity were they involved in the meeting. They identified themselves and stated they were there as support for me as I was concerned at the tone of the email summoning me to this meeting. The Bankwest business manager wasted no time in placing a letter on the table which essentially indicated that Bankwest no longer wished to support me and my facility and was in effect "calling the loan in". I was baffled about why they would do this to a business which was 3 months old and growing, due to be profitable within 6 months. They cited my LVR as being 73% and all 3 of us protested that this was not the case. They were unwavering in their arrogance with regard to answering my questions. They merely kept repeating that "this is what the bank has decided". Bankwest were giving me 8 weeks (till September 30, 2010) to find all funds for repayment. When I asked what would happen if I chose not to sign the letter of understanding before me, and not seek to refinance, the bank officers said that if I chose not to sign the letter of understanding that "the bank could and may exercise its rights of power". When I asked them what that meant they would not actually say foreclosure but said again, "this is what the bank has decided". I then asked what would happen at the end of September 2010 if I did not repay the funds in full and they said the default interest rate of 18.5% would take effect. At this point I became catatonic and remember very little of what else was said, however my sister says the Bankwest officers ended the meeting abruptly thereafter.**

**I was given 24 hours to sign and return the letter and it seemed I had no alternative but to co-operate and sign the letter and return it to avoid them exercising their powers. I set about contacting all major banks only to find that they required 12 months trading figures for a possible refinance. I also contacted private lenders who required 6 months figures. I had only 3 months trading figures. Bankwest would have known this would be my dilemma.**

Approximately 1 week after the July 27 meeting, I wrote to that same business banking manager who chaired the meeting begging and pleading him to reconsider the treatment I was receiving and the predicament Bankwest were placing me in. I cringe when I read that correspondence now. The email went unanswered. Some days later I emailed again and this time got a reply saying that my request/file had gone to Eagle St Bankwest offices in Brisbane city for review. A meeting was organised for me for August 19<sup>th</sup>, 2010 at Bankwest Eagle Street offices which I attended with my sister and the same colleague I attended the Geebung meeting with on July 27<sup>th</sup>. The Queensland State Credit Manager for Bankwest and another party attended that meeting and delivered a stern tone to the meeting. Many things were discussed and at this time I did not want to inflame any situation by accusatory remarks. I was very frightened and they knew it.

They made it clear to me that they wanted to see a reduction in my debt. They wanted EVERYTHING I owned to be placed on the market to reduce debt. They would not enter into any discussion about remodelling my facility if I DID indeed reduce debt. They would not commit to abandoning the concept of the default interest of 18.5%. They would not commit to any kind of working relationship unless I reduced debt. With no options, I immediately put everything on the market. My Bendigo Bank funded property at Highgate Hill which was purchased as my owner occupier home was tenanted while I was working in the General Store and Childcare Centre businesses. The tenant broke her lease and moved out immediately after the For Sale sign was erected and I was unable to get a tenant for the same reason. Furthermore, when the Cedar Creek property was placed on the market, the tenant in that property also moved out leaving me \$970 per week out of pocket.

The childcare centre was listed and advertised on the internet by Chestertons Commercial Realty on September 1<sup>st</sup> 2010 and it was not long before I had parents and staff asking me if the centre was on the market. It was a dreadfully difficult time with people asking staff about the centre being sold and it set up an air of uncertainty which was hard to extinguish. At this point I sought legal advice. His advice was clear that the bank had been unconscionable in their conduct with me. We lodged a suit with the Supreme Court in Brisbane in November 2010 and along with lodging a defence in December 2010 Bankwest instructed PPB Advisory to do an audit and report on my businesses and inspect the building. Ongoing consultancy of the legal advisors cost me very dearly both in time and in cash-flow. This manifested itself in my having to hire extra staff in both the centre and the shop to cover my constant visits to the accountants, legal advisors, town planning advisors, childcare consultants, real estate advisors, banks regarding refinancing, consulting with valuers to not only satisfy a constant stream of information requests from Bankwest but also to collate information in attempts to refinance. I was also referred to a psychologist at this point as I was now beginning to unravel. Further to this I was holding down a 30 hour a week permanent part time position as a Registered nurse in operating theatres.

Clearly, something had to give. I had to close the general store to focus on the centre and certainly to maintain sanity. I loved the community and I loved the shop. I loved the staff I had working in the general store also and the community had come to rely on the shop for its daily necessities. The community was heartbroken and also baffled because they did not know the full extent of what was going on. I closed the shop in early December 2010.

With full co-operation from myself and my staff, PPB Advisory did their report. I was not privy to the full report and I protested that how can I know what they are reporting to Bankwest is accurate? Toward the end of February 2011 I got an offer on the house on 30 acres at Cedar Creek. It fell dramatically short of the \$800,000 valuation (without DA to subdivide again) which was done in October 2010. The offer was \$592,000 due to the word being out that I was under pressure from Bankwest. On March 8<sup>th</sup>, 2011 at 11.30am my solicitor notified Bankwest's solicitors via email that we had an unconditional contract for the aforementioned amount which would bring my LVR within the desired ratios for Bankwest, LVR'S which my solicitor regarded as questionable anyway. At 4.45pm on the same day Bankwest notified PPB Advisory that they required foreclosure to be carried out on the childcare centre business and building the next day.

On the following day, March 9<sup>th</sup> at 9.45am Bankwest officers from Eagle Street, Brisbane offices who had met with me in August and demanded I put all properties on the market and reduce debt, signed my fate by signing the documents of receivership with PPB Advisory. Two representatives from PPB came at 12midday on March 9<sup>th</sup> 2011 and exercised foreclosure on my childcare centre which was 2% off breaking even with occupancy of 53% in less than 12 months. At the time of foreclosure they assured me, in the presence of the childcare centre director and I, that they would continue to operate the business and honour 11 cheques that I had written two days prior. Although there were ample funds to cover, they did not honour those same cheques. They did not honour any of the debts, none of which were outstanding at the time of foreclosure but became overdue under PPB "management". The major creditor was Bankwest. All staff wages and superannuation and insurances were up to date as was insurances for the business and building. Those creditors then chased me albeit politely for their money. Although I referred them to PPB there was no satisfaction for them and I found I could not satisfy my creditors and applied for bankruptcy in May 2011. None of the funds through the operation of the childcare centre was directed toward my debt and of course the compound interest at 18.5% was mind boggling. Legal, accounting and receivership fees was continually being rolled into my mortgage and yet the centre was not placed on the market until October 2011. The centre was sold and settled March 9<sup>th</sup> and I have no knowledge of the price the building and childcare centre business was sold at. A lot of my personal furniture, fixtures, kitchenware etc was in the centre and I have been left with very little to live with. I have to start again.



## **IN CONCLUSION:**

**The ripple effect of this has been immense. The above sets out the circumstances relating to this matter but unfortunately it is not over as far as I or my family are concerned. The foreclosure on my assets by Bankwest has had ramifications which I believe will last a lifetime. I simply cannot do some things I used to find easy. My daughter, a prize winning flautist having studied classical music at both Brisbane and Sydney Conservatoriums, had a future in music but has had to abandon arrangements she had to further her music career in Europe as I can no longer assist her financially. Moreover, my daughter can no longer enjoy the music education she planned with the children at the childcare centre prior to the Bankwest foreclosure. If it were not for the website and connections I made through Unhappy Banking, I don't know where I would be. I do hope that the Committee will not view trusting people with good hearts as foolhardy when our only crime has been to put faith in an institution which is self serving and has people with possible questionable moral compasses involved in all of this.**

**On reviewing the events of the last several years I am convinced that I did nothing wrong except perhaps place my faith in a banking system that is seriously flawed and devoid of corporate morality. It is clear to me now that I did not get into trouble but rather the bank I was dealing with did. It is also clear that Bankwest found itself in trouble because of its overseas connections, who in turn found themselves in trouble and neither myself, or any other business person operating in Australia and outside of the financial services industries could have been aware of that. A takeover of Bankwest by one of the "big four" appears to have played a part also.**

**Furthermore, it is unreasonable to have the woes of these banking organisations vested upon innocent people. It is clear that morality does not seem to enter into situations such as this, but having happened it is now the responsibility of the financial service industry regulators to take heed of this situation and take corrective action. Taxpayer funded government guarantees does not seem to have altered that same code of moral conduct for the better.**

**The ability of a bank to extend finance for a definite period of time in full knowledge of the circumstances and to subsequently, and within a short period of time, unilaterally vary the time of the loan down by some 90% is unconscionable. To do so, along with the overbearing and intimidating tones regularly used, in the expenditure intense development period of a loan when income is either reduced or nil should be unlawful.**

**I consider that at all times I have acted prudently and professionally but it seems I am the only one within my field of operations that to date has done so. I make this submission to the Committee in the hope that I will be offered some avenue of redress and that recommendations will be made seeking both a review and tightening of the regulations pertaining to financial institutions. As it stands now, all banking is unilateral in the hands of the banks and they have shown that they are not up to this responsibility.**