

# Submission to the Senate Inquiry.

**Nashaat Sedhom**

**17 May, 2012**

**Economics References Committee  
PO Box 6100  
Parliament House  
CANBERRA, ACT, 2600**

Dear Senators,

Please find attached and enclosed my submission that relates to how I and my business was treated by Bankwest after it was acquired by the Commonwealth Bank of Australia during the GFC in late 2008 and following.

My name is Nashaat Sedhom I am a Civil Engineer and builder/developer in Sydney, I reside at \_\_\_\_\_ where I have lived with my family for 28yrs.

I have worked in Sydney since 1984 as a Civil Engineer and builder, I have full registration with the Institution of Engineers Australia **Membership No.** and I am also registered with the Department of fair Trading as a contract builder **Member No.**

I have raised and educated my three children and put them through university paying for all their expenses.

I have worked overseas as an Engineer/Builder from 1969-1983 (14yrs), I then came to Australia in 1983 with my family and my own savings to start a new life here in Australia.

It was in 1985, I began my own company called Kirova Holdings Pty Ltd, and began to develop and build units and villas and continued to do so right up to 2011.

### **Introduction:**

In 1997, I began and built a Child Care Centre called Hammondville Child Care Centre at 109 Walder Rd Hammondville NSW (the centre covered an area of 3000 square meters, pictures enclosed)

### **Detail:**

1. My company Kirova Holdings owned and built this Child Care Centre which was the biggest centre in the area at that time and was approved for 79 children and could be extended to around 90 children. (**Attachment, "A" is Certificate from DOCS with approval**).
2. I ran my Child Care Centre from 1998-2003 without any problems, I had 79 children at this time nearly at full capacity.
3. The problem began in November 2003, when I had paid \$8.400 to my insurance company for my staff workers compensation insurance for that year.
4. I then gave a further \$5000 by cheque to my accountant to pay the balance of \$3.500 for the year 2003, and the balance of \$1500 was to be paid in advance for the following year of 2004.
5. The mistake made by the insurance clerk was that the \$5000 cheque was all used to pay W.C.I. for the year 2004, leaving a debt of \$3.500 for the year 2003.

6. This caused me to be in arrears for W.C.I. 2003 and a certain lawyer for the insurance company began bankruptcy proceedings against me this was all taking place without my knowledge, as I was away in Queensland on a business trip.

7. I returned from Queensland to find that bankruptcy procedures were in progress on my Child Care Centre at 109 Walder Rd, Hammondville.

8. A liquidation company was engaged by this lawyer and began to winding up my Child Care Centre and they came and closed my Centre on 28<sup>th</sup> November 2003, despite the fact that I paid the workers compensation insurance.

**(Attachment "B" is a copy of the Newspaper story).**

9. That day all the parents (mainly officers from Holsworthy Army Barracks) of 79 children had arrived at the Centre only to find it was closed and they were turned away by the liquidator, with no prior warning and no where to take their children.

10. On that day the local newspaper had arrived to report on the events surrounding my Child Care closer, the Liquidator stated wrongly also to the Sydney newspaper that the Centre had a health problem and that's why it is closed.

11. My Child Care Centre remained closed for a further 2months until I went to the Supreme Court of Australia before a Justice X, he blamed the Insurance Clerk, the Lawyer, and the Liquidator, with very strong words that they did wrong to my company and had ordered them to re-open my Child Care Centre.

12. Justice X said he would make this case a lesson to all professionals in NSW and would not allow something like this to happen again, (the transcript of this case has disappeared.)

13. I re-opened on the 8<sup>th</sup> February 2004, and only 5 kids had came back I had to start from scratch again to which my Child Care Centre never fully recovered.

14. The enrolment from February 2004 – November 2004 increased to between 15-20 kids per/day.

15. On November 2004, my Lawyer at that time put me in a bad financial position that I had to sell to him the Child Care Business; he ran it until February 2007.

16. He did not pay a fair price for the Business only \$50.000 deposit, with a further \$150.000 when the Centre had 40 kids per day, and a balance of \$100.000 when 60 kids per day were in attendance.

17. This agreement was never achieved, I only got \$50.000 from him, he never paid me the correct rent for the building, and later I had to buy my Child Care Centre back.

18. I bought the Centre back from him in 7<sup>th</sup> February 2007, I payed him \$450.000 which I had to borrow from the Bank of Western Australia (Bank West). **(Attachment "C" of is a copy of the agreements of 2006 and 2008 between me and Bankwest.)**

19. The Bankwest sent a valuer from a large firm and he valued the Centre at \$2.4 million with 32 Children per/day, a 41% occupancy at that time, he stated in his report that if the attendance increased to 90% capacity the value would \$3.0 million and more. **(Attachment "D" is a brief copy of his report).**

20. According to that report, Bankwest gave me two loans 1. Kirova Holdings Pyt Ltd, for the real estate and building of \$1.138 million.

21. Kirova Holdings as a result of the bankruptcy proceedings of 2003 had to pay the previous lender Provident Capital Pty Ltd. This means I started to pay interest only for the both loans of nearly \$10.000 per month, I began to pay from the 7<sup>th</sup> February 2007-2008.

22. In the year 2008 the same valuer come to the Centre by "Order from Bankwest" and said the Centre had improved its ratio of occupancy to 70% and in his report the value of the Centre is now \$2.0 million only, he neglected his report of 2007 with a 41% occupancy. **(Attachment "E" is a copy of his report).**

23. I received a letter from Bankwest to say I should pay \$500.000 cash to my loan of \$1.138.00 which I didn't have. I said to the bank, "I have a development site at 26 French ave, Bankstown when I finish the development, I will pay Bankwest more than \$500.000".

24. The Bankwest waited until 2009, and started taking from our business account \$7.500 from the principle + the interest on the balance, this put me in a position that I was unable to pay the interest for Kirova Holdings of \$6000-7000 per month, which Previously I had paid this interest amount for 2 years.

25. The managers of the bank handling my file changed 2 times until another came and sent me a letter saying, I have 2 defaults. 1) \$500,000 should pay soon for Kirova and 2) Three or four months not paid interest for Kirova, and suggested that I should sell the Centre through the Child Care Real Estate.

26. I put the Centre in the C.C.R.E. and within two weeks we informed the bank of an offer of \$2.0 million that had been received by agreement through the C.C.R.E. **(Attachment "F" is a copy of the email from C.C.R.E.)**

27. I informed the Bankwest manager of the offer by telephone and by email on the 16<sup>th</sup> November and he was happy about that, and said there would be money left over for me and my family.

28. But he did a round about turn and sent the receiver without notice on the 17<sup>th</sup> November and took money from my bank account around \$4000 that I had borrowed from a friend to pay for my medicine and food etc. **(Attachment "G" is a copy of the receiver documents).**

29. He also scared of the buyer because he asked him to pay GST of which the Centre has exemption, so the sale was not finalized. **(Attachment "H" is a copy of letter from the receiver about the GST).**

30. The receiver started to put on my loan \$28.000 per month (fees and interest) from the 17<sup>th</sup> November 2010 until he sold the Centre 6 months later.

31. After 7 months he sold the Centre for a figure that I was not informed off, and now asks for a further \$212.000 from my son who was guarantee for the loan, ( my son has no assests) also the bank took from my business partner \$600.000.

32. When the bank put the receiver on my building, on Kirova Holdings another financial institution that funded 26 French Ave, started to be worried about his money.

33. He then put another receiver to sell the building by himself, and sold the building by auction in Pitt street Sydney for less than what they were worth.

**“Attachment “I” is a copy of letter from the second receiver).**

34. The two receivers took all the money and did not leave one cent for me and my family.

35. The second mortgage people lent me money to finish the building in French ave, they sold my house to secure there money and left me with nothing.

36. I and my wife are now on a Centre link Pension since the last 7 months for the first time in our lives.

37. Just recently Centre link sent me a letter to try and cut me off my payment which I live on for medicine, food, and utilities, because they want to know what is happening with Kirova Holdings, also the tax office sent me a letter to ask for \$304.000 + penalty, for GST on 26 French Ave, Bankstown which went into receivership. **(Attachment “J” is a copy of these two letters”).**

38. I ask the government to change the laws to increase the statue of limitations to more than 6 years. To allow Legal Aid assistance for commercial business borrowers and personal matters, not just for criminal matters.

39. To allow ASIC to have more control over Valuers, Liquidators and Receivers, so as not to harm commercial borrowers and wind up their Company’s for small amounts of money.

### **Impact and Conclusion:**

1. Since 2003 I was a financially independent worker contributing to the community and Australia as a whole, by developing and building homes for Australians.

2. As a builder and Civil Engineer, I rely on professional people to support and provide work and do their job in an honest manner.

3. But, the opposite was the case, these professional people lawyers, accountants, Liquidators, receivers, which led me to the bankruptcy procedures and the jaws of Bankwest.
4. Slowly over time and without my knowledge or approval they began to misrepresent me, which amounted to nothing more than professional misconduct, negligence and possibly fraud.
5. I have lodged complaints with the relevant agency's that register accountants and lawyers
6. The accountant that I engaged in to act on behalf of my Child Care Centre, failed to correctly ensure my workers Comp, insurance was up to date, thus, leading to the closer of my C. C. C. and default of my loan.
7. Lawyers also failed in their professional duty of care to me neglecting to put the interests of me and my company first, but rather, how can they benefit from my losses.
8. Also, forcing my C.C.C. and Kirova Holding companies into receivership these people and Bankwest had plundered my business and assets and brought me to nothing, now dependant on Centre link.
9. I came to this country in 1983 (as I mentioned already) as a professional and successful engineer only to have my businesses, robed and taken from me by unscupulise professionals and Bankwest.
10. The behaviour of these people and others have destroyed me and my family's lives and caused us to have a separation and family breakdown.
11. I put all my children through uni at my expense, bought my own house with my own money, I am now having to rent back my own home from a second mortgage, of which I can't even pay this due to financial hardship.
12. All my assets and saving have all been taken, by them that have taken advantage of me, rather than doing their job, when I needed them the most, to help finish my developments.

13. Bankwest pulled the plug on my development at 26 French Ave, and Child Care Centre at Hammondville, they pulled the rug from under my feet, at the crucial time.

14. Bankwest asked me to pay overnight money I just didn't have, and their professionals took absorbent fees for nothing in return, not doing their job at all.

### **SUMMERY:**

1. Acting in his own interest, a lawyer bought my Child Care Centre, which is conflict of interest, the amount he paid was pittance to what the business was worth.
2. The insurance company had started bankruptcy procedures for \$5108, which I had already paid in advance.
3. My child care centre was closed down for no valid reason.
4. Professionals neglecting to do their jobs, not putting the clients interest first, basically this is nothing short of Commercial Criminal Behaviour.
5. Bankwest has destroyed many people lives and their family's leading to divorce, suicide and children with distressed and mental trauma.
6. Liquidators coming into my business and taking money out of my pocket and petty cash, and money parents paid to me.
7. I went into receivership and liquidation. It seems the same story over and over to many people in similar position; they are taken advantage of by Bankwest.
8. The system seems a valuation is done on a development, a Bankwest loan is approved to borrowers, some time later the bank does another valuation, much lower than the first one, borrowers then told to pay the difference, then Bankwest sends in the receivers and liquidators, the project is hijacked, then sold for a pittance of what it is worth, the borrowers are then made bankrupt, and end up on the centre link payments.



9. This is unscupulise behaviour by Bankwest, just to clear the commercial books and ruin people lives, causing families to breakdown.

10. I call upon the government to put these wrongs to a right and close this loophole that Bankwest is exploiting, and bring about laws to protect borrowers.

11. The government needs to protect the small business people that provide and build the "Great Australian Dream", to have your own home.

12. My Child Care Centre was to be my retirement nest egg, when I was no longer able to work as an Engineer/builder, I would continue to run my C.C.C.

### **FINALLY:**

1. I ask the government? To bring about changes to the laws to restrict Banks, liquidators and receivers powers, which come in and ruin company's, for small amounts of money.

2. I ask the government? To hold Bankwest to account to keep their agreements that they have made with borrows, just like they expect borrowers to keep their agreement.

3. I ask the government? The peoples elected to do something to stop Bankwest acting in this commercial criminal way, and return those that have been destroyed by Bankwest to a position they were in before Bankwest put their hand into these companies and made it impossible for them to succeed.

4. I ask the government to make Bankwest and or the Commonwealth Bank to compensate those that have suffered lose.

5. I had lost a total of around \$6.0 million in assests including my family home.

The Banks are run by people, which are not above doing the right treatment to their customers.

Thank-you for hearing my submission,

I would be happy to attend any future hearing to explain and discuss my situation, (that possibly represents many other people in the same condition), not to mention those that just walked away thinking they couldn't do anything to Bankwest.

**Yours Sincerely,**

*17-05-2012*

**Nashaat Sedhom.**

Enc: Attachments