Submission to the Parliamentary Joint Committee on Corporations and Financial Services

Inquiry into issues associated with recent financial product and services provider collapses such as Storm Financial, Opes Prime and other similar collapses.

SUMMARY

- The speed and the depth of the fall of the market caught out the financial advisors, the credit suppliers and the unit trust Trustees and they were not equipped in staff, hardware or software, to handle it.

- Emmanuel Cassimatis, in saying that Storm Financial had measures in mind or in place to handle market downturns, was either deliberately lying, and deserves to face court action, or truly believed that he had financial backing to handle the situation. In such case his backers may have a case to answer regarding breaches of contract – written or implied. Significant numbers of people still believe that Emmanuel Cassimatis is an honest man.

- When Colonial First State closed down the Storm-badged market linked unit trusts, with no apparent warning to the investors, losses were crystallised. Many investors would like to know who bought these cheap units and how much profit they have currently made.

  Emmanuel Cassimatis has stated on at least one occasion that there was another group prepared to take over the trusteeship of these units, but that Colonial First State, ultimately an arm of the Commonwealth Bank of Australia, would not permit that to happen. Why?

- One of the points that Emmanuel Cassimatis made at least once, but possibly a number of times, was that investment in units linked to the ASX-200 or ASX-300, (as our units were) were investments in the business heart of Australia, and essentially could not fail, even though over-all values may go up and down.

- One thing that most distressed and possibly disadvantaged Storm Financial clients was the gagging of Storm Financial advisors by the Australian Securities and Investments Commission just before and after the Christmas period in 2008. If nothing else it made for a very stressful Christmas for significant numbers of people. At the first meeting of Storm Financial clients at Margate, Queensland, which saw the formation of the Storm Investors Consumer Action Group, a representative of ASIC denied that the regulator had gagged Storm Financial. This was later shown to be not true.

  An explanation for these two actions (the gagging and the denial) would appear to be necessary.

- We had always believed that we were protected by law in that if we followed the advice of our financial advisor, and that advice proved to be negligent or incompetent our, capital would be protected.

We are professionally qualified people. We are both 68, having been born in 1941.
My wife has permanently retired from her profession.

My wife and I are, or were, clients of Storm Financial – a company which went into voluntary administration and then receivership early this year (2009), and which has since been wound up.

We entered investments through Storm Financial in January of 2003. At that time our adviser was Mrs Nancy Seymour (who retired from the business in March 2005), and the business went under the name of Ozdaq Securities. The business name was changed to Storm Financial early in 2004. Nancy was based in Holland Park, Brisbane, Queensland. After her retirement from the business we came under the advice of Mr George Cassimatis in the Storm Financial Brisbane office in Newstead, Brisbane.

Nancy Seymour was, and still is, a personal friend whom we have known since 1968. Her strong recommendation encouraged us to consider looking at the Storm Financial (then Ozdaq Securities) investment model.

Perhaps one of the greatest tragedies of the failure of Storm Financial was that it was a business which depended very largely on "word of mouth" recommendations. Parents recommended it to their children and vice versa. Investors recommended it to their family

and friends. I recommended it to my brother who became involved, and though him to my step-mother. My wife recommended it to her two brothers who almost became involved right at the very last minute when Storm Financial was still accepting clients. In this way people have developed deep senses of failed responsibility in their care of family and friends.

Having gone through the "education" process, a series of two lecture nights being exposed to the philosophies of the Ozdaq founder, Emmanuel Cassimatis, we commenced investing through Ozdaq, with a margin loan of $300,000.00 (Three Hundred Thousand Dollars) with Westpac Banking, which later came under the banner of the BT Financial Group. This sum, with an extra $50,000.00 of previously saved personal funds, was invested in what was then a Colonial First State Ozdaq badged market linked trust.

The margin loan was secured by various equities which we owned, jointly or singly.

During the time of our considering signing up as Ozdaq clients, we wrote a letter to Ozdaq, through Nancy Seymour, in which we stressed our requirement not to lose capital, and in which we questioned "one size fits all" statements in the first of the "Statement of Advice" books that we received. We received an answer from Julie Cassimatis about our questions that was mildly condescending in tone, but essentially reassuring us that all was in order.

One of the Storm Financial educative processes was to use the metaphor of "chickens and eggs". The capital (the various Indexed Trust Fund units) was "chickens" and the interest and dividends were "eggs". One did not sell "chickens", that is Trust units, without putting in more cash from somewhere to buy more "chickens" as replacements. Since a lot of this cash actually came from increases in the margin loan as the values of stocks rose, the Loan to Value Ratio (LVR) could mount quite quickly. We had stated that we were most comfortable in the 45% to 50% LVR situation. Towards the middle of 2008 we (or Storm Financial) began to lose control of the LVR. For instance were advised to increase the margin loan by $321, 780.00 (Three Hunded and Twenty One Thousand, Seven Hundred and Eighty Dollars) in January 2008. When we commented about the rising LVR we were advised that the investment was a good step to take advantage of the fallen market and be there when the market rose again.

This following excerpt is from the "Statement of Advice" referring to that meeting:-

> "Should you proceed with this recommendation, we estimate that your margin loan LVR, following the step will increase to 63.70%. Any further falls or gains after midday today will change your margin ratio.
>
> You may also see that your margin loan ration is quite high compared to where you would normally be sitting. This is due to the falls pushing the LVR higher through market movement. This step is a minimal change to your existing ration and accordingly does not change the risk of your investment strategy by any material level."

Up to 30th November 2005 when the margin loan was still with BT Financial Group, the margin loan was increased 4 times, and the investment loan of the house increased once (by $92,000.00 – Ninety Two Thousand Dollars).

From 30th November 2005, the margin loan was transferred to Macquarie Margin Lending on the advice of George Cassimatis. In the period of time from then, to the collapse of Storm Financial in January 2009, the margin loan was increased six times for investment and three times for the purpose of pre-paying the margin loan interest, and the investment loan on our house was increased once more, by $120,000.00 (One Hundred and Twenty Thousand Dollars), bringing the total house mortgage to $440,000.00 (Four Hundred and Forty Thousand Dollars).

The various fees charged by Storm Financial, that we can identify during the period of our association, totalled $130,783.75 (One Hundred and Thirty Thousand Seven Hundred and Eighty Three Dollars and Seventy Five cents). The various Trail Fees and commissions that the advisors also received are difficult to track. For this money we expected, and initially appeared to receive, quality advice. It is an important point that, as we were not well grounded in the finer points of finances and investment, we PAID those we saw as experts, licenced financial advisors, to look after our investment affairs.

We were vaguely aware of the conditions attached to margin loans, and had received various documents and product disclosures, but in hind-sight were not sufficiently aware of how quickly the position can change in a falling market. **Certainly over the period of time with George Cassimatis as our investment advisor we were always assured that we were going well – which up to mid-2008 we undoubtedly were – and as the market turned we were assured that there were/would be strategies in place to avoid serious consequences.**

In the period between our becoming clients in 2003, and the beginning of 2008 Emmanuel Cassimatis frequently stated that no client of Storm Financial had ever had a margin call since they had started the financial advisor business, despite various well known down-turns that the market had been through. He stated that the business model he used was designed to cope with downturns and the model was constantly being refined in the light of new developments. On any occasion that we brought up concerns about facing any downturns and any risks of serious loss of capital Storm advisors dismissed the concerns as of no great significance. George Cassimatis and Stephen Halsall were two of these.

Other Storm Financial clients speak of the same sorts of assurances from their advisors.

This leads to two possibilities:-

(1) Storm Financial administration (Cassimatis) truly believed that they had backing arrangements in place that allowed them to pursue aggressive market strategies even in the market that most advisors should have been aware was likely to plunge. This would mean that they believed they had arrangements, probably with banks, and probably in large measure with the Commonwealth Bank of Australia, to fund deficiencies, for the period required. If this was so, it would seem that the banks ultimately failed to honour that agreement. If this was so, the banks need to be called upon to explain the failure, and possibly be called to account, probably in court.

OR (2) Storm Financial administration (Cassimatis) was lying, and simply hoping for a turn-around before the markets reached the levels which eventually destroyed our investments. If this was so, then Storm Financial administration (Cassimatis and directors) need to be called to account, probably in court.

We did go into margin call on one occasion, on 18th November 2008, and we were informed of this by a gentleman called "Mark" who rang from Macquarie Margin Lending in Sydney to say that we had to put in $111,371.00 within a period of 72 hours. "Mark" stated that Storm Financial was aware of the situation – therefore Storm Financial was advised of the situation at exactly the same time as, or before, we were. This, apparently, was handled by Storm Financial through the Brisbane and Townsville offices and the position was returned to "in order".

I say “apparently” because we received no confirmation either from Macquarie Margin Lending or from Storm Financial as to exactly what was done to correct the situation, although it eventually showed on financial records that indexed fund units had been sold to cover the amount.

The margin call was quite a surprise as we had been regularly tracking the status and level of our Macquarie margin loan, and our Macquarie Cash Management Trust account on the Internet**.**

The Macquarie Margin Lending margin loan figures published on the Internet always seemed to lag the true position, and it was difficult to be fully aware of just how close a margin call might be. We feel this contributed significantly to the position in which we now find ourselves. We may have been able to agitate for remedial action had we been more aware of the true position, although we also depended on Storm Financial to keep us in the picture, and we believed that they would institute their “processes” when it became necessary.

We did receive, on **12th October 2008** – a Sunday - an e-mail which requested us to sign, urgently, an authority to sell shares – up to 100% of the share holdings if necessary – in order to finance a retreat to cash to strengthen the position of the margin loan in avoiding further deterioration. We signed these forms and returned them on the same day by fax, since urgency seemed to be critical. In hind sight it seems that many people were doing the same thing, and **the Trusts were not equipped to handle the mass of sales, so that some days were lost, during which the value of our units fell even further.**

Recent postings on at least one Internet site (Aussie Stock Forum) suggest that nothing was actually done at that time, to implement these authorities. Why not?

We do have various communications and “Statements of Advice” and “Statements of Additional Advice” recommending what to do to continue the various loans, and letters from the lenders confirming the continuations at various times. Towards the last months the statements of advice lacked the detail that they originally had. In fact, the last “Statement of Advice” that we had is dated 11th April 2008, although we had several other meetings after that date.

Initially, emphasis was placed on “trigger points”, which were set at 10% above and below the index level at which new investments had been made. At these points we were to contact our advisor, or vice versa, to review the situation and perhaps take advantage of an improvement or consider balancing a reversal. In the initial stages there were, in fact, no reversals.

After Mrs Nancy Seymour retired, and our advisor became George Cassimatis, the issue of trigger points was largely ignored, although trigger points were listed in the “Statements of Advice” we were the only ones to initiate meetings based on trigger points – not our advisor. Closer attention to these points may have given us or, more particularly, our advisor tighter control over our investments.

Before the last increase in the house mortgage, Emmanuel Cassimatis, at an “Investor Update” in late February 2008, suggested that we should have our houses re-valued to put any increased equity into the market. We did this, and suggested that our estimate for the house was $500,000.00 (Five Hundred Thousand Dollars). The bank approved the value as $550,000.00 (Five Hundred and Fifty Thousand Dollars), although on what basis we are not sure.

The March 2008 application to the Westpac bank for an increase in the investment loan is concerning in that it seems incomplete. We have a copy of this document. We did sign it, and in retrospect it seems naïve of us that we did, but it seems that it is really not complete, although the Westpac Bank certainly approved the loan.

We obtained a copy of this document from the electronic records of Storm Financial after requesting all material relating to us from KordaMentha, the administrators for Storm Financial. We asked for **all** files relating to our dealings with Storm Financial. In that there are no office memos, e-mails, or many communications to other parties regarding our dealings with and through Storm, we believe we did not receive all of the communications held by Storm Financial regarding our business with them and the various other parties, and we wonder if material which should be present in the files of Storm might clarify what really happened.

Where my, and my wife's, occupation is listed is written "retired", which was correct at the time, but there is no listing of income, just assets and liabilities in brief form. Of course, at that time the only income that we did have was the result of our investments in what we saw **as solid and liquid equities.** We have since found that index-linked trust units are **not** regarded as liquid. It seems that more care should have been taken by both Storm Financial and the Westpac Bank to ensure that the loan was justifiable, in view of the conditions that were becoming obvious to financial researchers at that time (and before). Certainly we had no dealings with a bank officer, except that a Westpac representative (or someone who said they were a representative) rang our home and spoke to my wife asking a few questions regarding the construction and size of the property. To the best of our knowledge no one actually sighted the property.

In addition, when we applied for this particular loan, Mr George Cassimatis said it was likely that the bank would only approve 60% of the approved value of the house in loans, since we were no longer employed. We were quite accepting of this situation, since our investments as they stood were apparently working well. When the loan was approved, George Cassimatis very proudly said that Storm had negotiated with the bank to allow a loan total of 80% - which had us $110,000.00 deeper than we might otherwise have been, although I have to admit we did not refuse it at the time.

In the process of recognising the downturn of the market, in early August of 2008, we queried George Cassimatis about anything we might need to do if we received a margin call while we were away overseas (which was planned for August/September of 2008). **He again assured us that Storm Financial had plans in place in the event of a margin call.** We were touring with a group of Storm clients and advisers and I imagine it would have been reasonably simple to convey information back and forth, and for a significant part of that South African trip both Emmanuel and Julie Cassimatis were present. Julie Cassimatis was present in the tour for the whole time.

After our return to Australia in September 2008 we also made a number of calls by phone, e-mail and fax – some of which were unanswered – seeking assurance that our finances were still in reasonable shape. Apart from suggesting that we should tighten our belts and restrict unnecessary expenditure, and that I should perhaps seek part-time work, **no mention was made of the dire situation which was just around the corner, and of which someone in Storm Financial must have been aware at that time.**

We also sold some of the shares which we held in an unlisted company for a total of $63,100.00 (Sixty Three Thousand One Hundred Dollars) to add to cash reserves.

The amounts that we contributed to the overall investment, apart from the loans which have been previously listed, are as follows:-

All of our superannuation – i.e. - $300,000.00 (Three Hundred Thousand Dollars) from myself, and $327,352.00 (Three Hundred and Twenty Seven Thousand Three Hundred and Fifty Two Dollars) from my wife.

$800 (Eight Hundred Dollars) per month for 37 months – a total of $29,600.00 (Twenty Nine Thousand Six Hundred Dollars).

All dividends from listed shares – at least $6705.55 (Six Thousand Seven Hundred and Five Dollars Fifty-five cents) – back to 1/3/2006 plus the extra shares which were allocated by Dividend Re-investment Plans (instead of dividends) where this was possible.

The bulk of all tax refunds – a total of $75,808.00 (Seventy Five Thousand Eight Hundred and Eight Dollars).

$40,000.00 (Forty Thousand Dollars) of personal money on 13/10/08 in case of a margin call.

Macquarie Cash Management Trust interest income – at least $24,361.77 (Twenty Four Thousand Three Hundred and Sixty-one Dollars and Seventy-seven cents) – back to 1/3/06.

The total of direct fees paid to Storm Financial is $130,783.75 (One Hundred and Thirty Thousand Seven Hundred and Eighty Three Dollars Seventy-five cents) plus assorted trails and commissions, which are complicated and not easy to calculate.

The brief details on the amounts in the Investment Loans which were taken out using our house as the security were:-

15/1/03 - $228,000.00 (Two Hundred and Twenty Eight Thousand Dollars)

18/2/04 - $92,000.00 (Ninety Two Thousand Dollars)

14/5/08 - $120,000.00 (One Hundred and Twenty Thousand Dollars)

One of the most frightening things which happened was the gagging of Storm Financial by the Australian Securities and Investments Commission just before Christmas 2008. We had already had some trouble getting in contact with our advisor (George Cassimatis) on occasions leading up to that, however we assumed that it was because of the body of work which Storm Financial was doing to protect our investments. **To be suddenly told, in that immediate pre-Christmas period that no-one at Storm Financial could talk to us, with no other explanation, ignited the sense of abandonment, fear, treachery and confusion which has been transformed into the determination of the members of the Storm Investors Consumer Action Group to find the truth of what happened and where to apportion any blame.**

When asked, in early 2009, at the Margate meeting at which SICAG was formed, whether ASIC had gagged Storm Financial, a representative of ASIC denied that they had.

It was later revealed that ASIC had, in fact prevented Storm Financial from giving any advice to clients, in the nightmare period from just before Christmas 2008 to 5th January 2009, when Storm re-opened "after the Christmas break".

The role of ASIC in all of this, and apparent attempts to deny that role, also needs to be defined and questioned.

At our last meeting with George Cassimatis, which was on the 6th January 2009, he seemed more concerned that he would have to sell his car and move out of the valuable rental accommodation he was in, than dealing with our concerns. He suggested that we should consider any or all of, applying for a pension, taking in a boarder, or finding a job. There was still no warning that were on the brink of losing all of our investments. The people who followed us in meeting with him that day (whom we know) also reported a similar experience on the SICAG website.

"………and we were passed over to George Cassimatis The last time we went in after everything had collapsed I was very offended by his lack of responsibility and set about telling us we were better off than some .He was lamenting the fact that he was working for only a fifth of his former income and would have to find alternative accommodation as where he was renting was too expensive .As you can imagine I was so sympathetic(LOL),when I think about it all now I wish I had have said what was on my mind but I was just so devastated I couldn't think straight ."

Also on that day, we reported to George that we had an appointment with another advisor the next day (contact with a financial advisor had been suggested when Storm Financial was out of contact over Christmas) and he said words to the effect “Oh, well, you won’t need that will you? You’ve seen me!” This was a couple of days before Storm Financial went into voluntary administration.

Our total personal assets when we started with Storm Financial were $1,097,989.00 (One Million and Ninety Seven Thousand, Nine Hundred and Eighty Nine Dollars) and total liabilities were $98,300.00 (Ninety Three Thousand Three Hundred Dollars). In April of 2008, the last written down assets and liability statement we have, our assets were calculated at $ 4,243,789.00 (Four Million, Two Hundred and Forty Three Thousand, Seven Hundred and Eighty Nine Dollars), and our liabilities at $2,234,158.00 (Two Million, Two Hundred and Thirty Four Thousand, One Hundred and Fifty Eight Dollars), and this was at a point where the market had already been going down

We cannot understand how Storm Financial did not take quicker action to retreat to cash in our margin loan to have the chance of keeping us out of trouble, particularly when they had, all along, stated to clients that they had systems and plans to deal with downturns in the market. We also find it hard to understand that, in the face of a market which had other commentators becoming very cautious about trends in the early part of 2008, Storm Financial could encourage us to take out a further home mortgage in March 2008. **We had always stated to our two advisors (Nancy Seymour and George Cassimatis) that we could not afford to lose our capital. We did however believe that, if we followed our advisor’s advice fully, we would be protected, legally, if that advice proved to be faulty.**

Since the collapse of Storm Financial, a number of commentators have spoken about a “one size fits all” policy in Storm’s strategy, and it does seem as if our advisor – particularly in the last year or so of our involvement - was sticking to a formula without much attention to our tendency to be what we considered to be comparatively cautious in investing.

Based on the information being exchanged in the Storm Investors Consumer Action Group (SICAG), it seems that many people have stories similar to ours, perhaps varying only in degree.

I have now returned to work after a retirement period of eighteen months, and my wife has a part-time job as a "Weight Watchers" team leader.

Dated: 1st July 2009