

SUBMISSION TO THE 2009 PARLIAMENTARY INQUIRY INTO FINANCIAL PRODUCTS AND SERVICES IN AUSTRALIA

We are former clients of Storm Financial who are submitting a joint statement as we believe it is important to record our perspective. We all sought financial advice as we were of mature age and concerned about inflation and limitations of the aged pension. None of us were wealthy, but we had worked throughout our adult lives and wanted to plan for retirement. We had basic goals such as becoming self-funded retirees or leaving an inheritance to our children. Since the demise of Storm, we have met dozens of ex-clients and ex-employees and have sought advice from alternative financial planners in Townsville. As a result, we have a good understanding of Storm's operations and its downfall.

We maintain that Storm advisers did not provide 'reasonable advice' and did not act in the interests of clients. Emmanuel and Julie Cassimatis, and their Storm advisers, claimed that they had a unique strategy which did not involve speculation even though large loans were involved. Clients were advised that there was virtually no risk as investments were in closely monitored index funds; and Storm's special relationship with lending institutions and fund managers of Colonial and Macquarie facilitated discounted loans and tracking of relevant data. We understood that share market levels fluctuated which is why investments were diversified and regular reviews of portfolios were supposed to occur. We all sought safeguards and were assured that Storm financial software ensured that trigger points would notify Storm of critical times to sell.

However, as the market fell in 2008, Storm directors seemed to be more focused on maintaining the company cash flow and trailing commissions and clients' interests were not foremost in their minds. When we raised concerns about our investments and asked about selling some of our portfolios, Storm advisers were dismissive of our worries and did not follow our requests (e.g. to withdraw funds to cover our home loans). We accept responsibility for our own actions in investing with Storm Financial, but none of us has a background in finance and we trusted this company to act in our best interests. Our families and hundreds of other people have lost life savings and been emotionally devastated due to Storm's actions. In the following pages we address the terms of reference and attach short summaries of our experiences of investing with Storm. Our aim is to assist the inquiry to help improve financial products and services in Australia and bring about justice and closure for ex-Storm clients.

Response to the Parliamentary terms of reference: (Note that information in *italics* below refers to Storm and responses in bullet points are changes we would like to see occur.)

1. The role of financial advisers:

"The role of a qualified Financial Planner is to look at all aspects of your lifestyle, goals and requirements and develop a financial strategy suitable for you. The recommended strategy should help you reach your goals effectively and efficiently. . . . The Statement of Advice (SoA, previously known as a financial plan) includes areas like cash flow management, insurance, estate planning, risk and return assessment, strategic asset allocation, superannuation, taxation and all other issues that impact your financial strategy. The SoA is a strategic and technical guide to any financial decisions you make." <http://www.outlookfs.com.au/index.asp?menuid=090.040>

The statement above is a holistic explanation of the role of financial planners but is not what clients received from Storm Financial. We have discovered that the Storm (100 page plus) Statements of Advice were essentially the same for all clients, except for figures regarding borrowings and other data. No risk assessment was undertaken and even if clients said they wanted low risk they were advised to invest in the share market. Clients were told to sell/cash in/ make available all assets (i.e. property, superannuation, allocated pensions, annuities, cash) to buy shares. Clients were badgered

throughout their years with Storm to borrow more (do 'step ups') – e.g. by extracting more equity from homes or withdrawing more superannuation and this allowed new fees to be charged. In fact, we were initially urged to sell our homes and rent, as this would have allowed maximum funds to be available (which none of us did but we know clients who have). The Storm plan is that you would enter retirement with huge debts and would be tied to them for life and never cash out your portfolio.

- A board of registration should be established which is a true monitor of financial planners.
- Appropriate academic qualifications for financial planners should be required and legislated.
- Financial planners/advisers (just as doctors, teachers and lawyers) require tighter regulation and reviews – perhaps a tier level with qualifications related to their legal ability to provide different kinds of advice.
- Disclosure of all fees, remuneration from various sources such as banks and funds should be explicit and product selling should be transparent and separated from financial planning.

2. The general regulatory environment for these products and services:

Storm was a business which seemed prosperous but there were serious problems and obviously regulation was not adequate. One conundrum is that total assets in statements of advice were listed as including debts/loans and were not accurate reflections of a client's worth. Advisers seem to have been trained to use standard responses, such as stating "It's safe" rather than answering clients' questions. Also, clients were told that the Storm approach was conservative; there was no risk to assets with their strategy; that fees were claimable on taxes; clients could never lose what had been borrowed against their homes; their advisers were the highest qualified in the industry; the fees were amongst the lowest in the industry. These oft repeated Storm responses can now be seen to have been blatantly untrue.

- ASIC needs to be overhauled – their own 2003 survey on the quality of financial planning advice found that 51% responded that their financial plan was borderline, poor or very poor ([http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/Advice_Report.pdf/\\$file/Advice_Report.pdf](http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/Advice_Report.pdf/$file/Advice_Report.pdf)); thus significant changes are necessary in the industry as we doubt views have changed.
- Financial advisers/planners need to have more rigorous licensing procedures.
- Selling of products needs to be separated from the business of planning and not be allowed to operate in disguise as financial advice.
- We want to know what the penalties will be as Storm Financial has breached a number of the six guidelines for financial advisers (ASIC Act and the Corporations Act) who must:
 1. not engage in unconscionable conduct or misleading and deceptive conduct;
 2. not make false or misleading statements;
 3. provide their services with "due care and skill";
 4. provide their services efficiently, fairly and honestly;
 5. have a reasonable basis for the advice that they give;
 6. provide a variety of documents such as financial services guides and statements of advice.

3. The role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers:

In regards to Storm and the banks involved there was collusion, and many of our loan documents were falsified. Banking officials referred clients to Storm and provided support for the business in stating that Storm had a good approach. Note real estate investment was totally frowned upon, as the Storm advisers would not get fees from such purchases. Advisers encouraged clients to continually borrow as then new fees (of over 7%) were paid (though this is in contradiction to claims their fees were for ongoing advice). Lenders like Macquarie and Colonial had special agreements with Storm so that margin loans grew to astronomic levels – hundreds of thousands or millions of dollars (no matter

what the clients' incomes). The advisers' remuneration levels were unclear and complicated by being listed in different areas and the entire statements of advice were confusing and unclear.

- There should be guidelines produced by the new financial registration board that delineate the material required in statements of advice; so that they are clear, concise, and in plain English.
- There should be a standard set of industry fees which should be regulated and scheduled – i.e. there should be a schedule of fees clients are shown and charges should be clear and perhaps by the hour.
- Banks love debt, and thus investment/margin loans should be better regulated and a true reflection of clients loan to value ratios (LVRs) to include all borrowings.

4. The role played by marketing and advertising campaigns:

Storm held workshops and investor updates which were purported to be educational but they were hours of repetitious, sales pitch-marketing, with cartoons, graphs and material that seemed to confuse rather than clarify things. It was even implied that the aged pension would not be available when we reached pension age, and it was explicitly stated that real estate was a poor investment as it was not 'liquid' and could not easily be sold and did not increase in value as much as shares. Many clients were convinced to go to Storm as a belief was seeded that one needed a financial adviser to ensure a future that would not leave us living below the poverty line. Storm claimed a single individual required \$50,000-\$60,000 per year to live on. Reading their website now reveals many ironic quotes: ("when clients do well, we do well – and the results speak for themselves")

<http://web.archive.org/web/20070828204959/www.stormfinancial.com.au/index.php>

- Those from the professional board of registration and regulators should attend financial planners' investor seminars and assess the level of accuracy of information.
- Top athletes, celebrities should acknowledge the fees and other concessions (such as interest free loans) they get paid to spruik for companies like Storm.
- There should be penalties for false advertising.

5. The adequacy of licensing arrangements for those who sold the products and services:

"Former head of the (US) Federal Reserve and one of the strongest proponents of the free market, Alan Greenspan, has said that his ideology of the free market does not work (given the collapse of the financial market)."

<http://ipower.ning.com/group/economists/forum/topics/greenspan-admits-the-free>

Storm displayed certificates and licenses which added to their credibility. Clients were referred by bank managers and accountants and displayed certificates from the Financial Planning Association. When phoned by prospective clients, ASIC was positive and informed us that Storm Financial and its practices, investment strategies and SoA were fine. Emmanuel Cassimatis's instructions were followed by all "advisers" of the firm and his name is on many bank statements – e.g. Macquarie loan documents, even if he was not our adviser. However, according to the Financial Planning Association (FPA), all but five of the advisers working for Storm Financial, were not certified financial planners.

- As per responses to term of reference 1.
- What was the level of assessment to grant Storm a license?
- What checks were made on their practices by regulators?
- Licensing should distinguish between financial advising and product selling.

6. The appropriateness of information and advice provided to consumers considering investing in those products and services and how the interests of consumers can best be served:

Many of the Storm clients we have met sought advice on the recommendation of banking officials, family and friends to secure their retirement, as they were over 55 years of age. What the majority seem to have in common is that pre Storm they were debt free, were not working or worked limited hours. We have been shocked at the levels of debt; the way Storm closed down the allocated pensions and annuities of clients; and obtained loans with fictitious figures and loan documents which were not an accurate reflection of assets and incomes. Storm advisers seemed unable or unwilling to provide information on superannuation, other avenues of investment, taxation, salary sacrifice, etc. One client told us that when he received a large inheritance (of hundreds of thousands of dollars), Emmanuel Cassimatis (who was not his adviser) phoned him wanting him to invest those funds and he felt coerced but refused to hand over the money to Emmanuel to invest.

- Separate the selling part from the remuneration for financial advisers.
- Have a financial services government body continually review practices, advice and publications from financial planners.
- Change the way bank and lending loans are calculated as our margin loans, and associated LVRs, did not take into account our home loans.
- There is evidence and that both the Commonwealth Bank and Bank of Queensland officials referred clients to Storm and/or promoted Storm. From a recent online BoQ statement: "Bank of Queensland today announced a normalised cash profit after tax of \$84.2 million for the first half of the 08/09 financial year, an increase of 29% on the prior corresponding period." With substantial profits like this in a year of worldwide financial hardship, encourage BoQ and Commonwealth to compensate Storm clients who followed lenders' advice and lost everything.

7. Consumer education and understanding of these financial products and services:

Storm chose to obfuscate and befuddle prospective clients, combined with a dose of fear about the inadequacy of pensions and other avenues of investment. Storm advisers dissuaded many clients from seeking second opinions, as Emmanuel Cassimatis claimed his strategy was so advanced others in the finance industry did not understand his fool proof and non-speculative conservative wisdom. They claimed any criticism was an example of the "tall poppy syndrome" and that others were just jealous of Storm's success.

- The FIDO website should have much more information on financial planning, margin loans, and specific cautions in regards to what has occurred with liquidated companies such as Storm.
- Workshops/updates such as Storm presents should be attended by and monitored by agents of a board of registration, government financial regulators, ASIC/FOS. .

8. The adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers:

Storm claimed that in a worst case scenario that they had adequate indemnity insurance. It is now obvious that Storm's insurance was grossly inadequate and a company in Townsville who do financial planning informed us they have \$200 million insurance for their clients – seemingly many times more than Storm had. What about the liability of the banks – Commonwealth, Macquarie, Bank of Queensland, ANZ, etc.?

- PI insurance should be directly related to the funds invested through a company like Storm.
- Adequate indemnity insurance based upon the size of the investments should be required and held accountable for the advice provided to prospective clients.

9. The need for any legislative or regulatory change:

Storm was in the business of selling financial products. Storm claimed there was good debt and bad debt – real estate purchases were deemed to be bad debt but good debt were loans you could increase and borrow against. If Emmanuel Cassimatis had had his way, all Storm clients would have sold everything and rented, to enable more funds to be put into the market. They were not acting in the best interests of their clients and all advisers should be named in the inquiry and made to account for their actions.

- In 2006, the Australian Government Institute of Criminology reported that, "Some of the largest and most complex instances of professional dishonesty in Australia's history have involved financial planners and advisers. . . . The time has come to review the range of responses that can be used to regulate the conduct of professionals and to make sure that the procedures which are used are matched closely to the nature and seriousness of the conduct in question." http://www.aic.gov.au/publications/rpp/57/11_sec7.html
- Legislative changes are clearly appropriate with the revelations of the practices of Storm Financial, Opes Prime, etc.
- A professional standards board should be set up.
- In obtaining loans it needs to be made explicit that loan to value ratios (LVRs) reflect all loans held by clients.
- Also, a clear delineation should be made between those selling a product and those offering financial planning advice.

Short summaries of our individual experiences with Storm Financial follow:

Barry & Deanna Doyle's story: *Prior to investing with Storm Financial, we were a retired couple in our 60s, who owned our own home, valued at \$600,000 and had Superannuation of \$640,000. QInvest were looking into setting up a pension of \$40,000 p/a for us – to last until we were 82 years old; but in the last few years that amount would reduce until we had nothing left. In 2003, we attended a Storm Seminar, and we were very taken with the sales pitch of Emmanuel Cassimatis and David McCullough. We had at least five meetings with McCullough and asked 130 questions; I kept diary notes of these questions and the answers. Storm guaranteed us an income of \$66,000 pa and unlike the QInvest strategy we thought we would be able to leave our house and a large principle to our children upon our death. McCullough, asked us to take a very large mortgage on our house to invest in the market but we procrastinated. When I asked if there was any chance that we could lose the house we were told, "Definitely not, provided you always do what we tell you" (in diary notes). The mortgage documents (for \$406,000) were drawn up with the Bank of Queensland (BoQ) and signed in the Storm offices as we were told that we did not need to go to the BoQ; as Storm arranged it all. Due to a spelling error on the document, we had to go into the BoQ branch at North Ward to sign fresh documents. We signed these documents in front of the BoQ Manager and he told us how good Storm was and he praised Storm's system. In 2008, McCullough encouraged us to have our house revalued and our mortgage increased to \$456,000. We were told by Storm that there was absolutely no risk and we were guaranteed that there were triggers in the software that would allow us to withdraw from any bad fall in the market and thus protect our investments. In late 2008, McCullough canceled three appointments at the last minute. When we first joined, we paid Storm fees of \$100,000 and over the next 3 years we paid more fees whenever we had more money invested. We were always advised that the Storm approach was conservative and it was stressed how Storm fees were lower than most financial adviser companies - more lies! We have lost all of our Superannuation as well as our house and are now living on the Government Pension with a small income from my part time work.*

Les and Noelene Hemmling's story: *In 1997, we were in our late 40s and owned our home and had no debts. We were introduced to Emmanuel Cassimatis through Kevin Williams, our MLC adviser who*

was an agent for Cassimatis Securities. We were advised by Kevin to take out a new home loan with the CBA and a margin loan with CGI totalling \$180,000. Our condition was that we wanted minimum risks in the medium to long term. After receiving the Storm SoA, we sought the opinion of our accountant who said it was a reasonable investment approach. At this initial signing up, our finances, assets and liabilities, insurances, superannuation, wages etc were thoroughly accounted for and the LVR was 48.55%. Apart from one further purchase of shares in 1997, all subsequent extensions in the margin loan to 2005 were to capitalize on prepaid interest. During this time, Kevin Williams left Cassimatis Securities, and our adviser then became Stuart Drummond and then Carey Fraser. Between 1997 and 2005 we were disappointed as our portfolio did not increase in value. From 2005 to 2008, additional steps were taken in purchasing shares in the Storm Indexed Fund; and a further CBA home loan against our city unit. In July/August 2008, we had a meeting with Carey Fraser who advised us to cash out Les's Superannuation of \$192,000 (he had now retired from the workforce) to pay out the non-investment CBA home loan and then apply for a further CBA investment home loan for more shares. We were very uncomfortable with this advice. Over several meetings, Carey assured us that now was the time to buy; she maintained that there would soon be a full recovery and rapid increase in the stock market. Carey and Emmanuel (in investor updates) were always 100% positive about the share market and their ability to know what movements would occur. So once again we trusted Storm and undertook to secure another CBA home loan. Carey Fraser phoned and advised us that somehow the CBA had found out that Les was not working and had refused our loan. When we told her that someone from the CBA had called us regarding Les's work situation, and we advised him that Les did not work, she became irate. To quote Carey, "He had no right to phone you, all enquiries are with us and not the client. Never mind there are more banks to source." We subsequently filled out 6 to 8 blank bank loan application forms that Carey later completed. Within a short period, we had a Bank of Queensland home loan of \$548,000 at 9.4%. After August 2008 the share market fell more and we often phoned Carey seeking reassurances; but all we got was a request to sign off on selling our portfolio and no acceptance of responsibility for losing our money. We lost our portfolio, and we still have a home loan of \$548,000. We have both gone back to full time work and are struggling to acquire skills and maintain new positions in the health field.

Lance and Susan Mayer's story: In 1994, when we were in our late 40s, we were referred to Emmanuel Cassimatis at Cassimatis Securities (later named Ozdaq; then Storm Financial). We had savings in the bank, a small house, a large parcel of land and no debts. Our first impressions of Storm were that it was a good way for us to build for our retirement and to secure our financial future. The fees of 6% (though later 7%) were claimed to average out to be lower than normal for the industry. Emmanuel dissuaded us from contributing to superannuation as he said that his approach was better than super; he stated that a disadvantage of super was that the industry was heavily regulated. Emmanuel Cassimatis arranged a loan for us after the Commonwealth Bank rejected our individual application with advice that his strategy of investing in the 'All Ords' was very low risk. Within two years, we found it difficult to make the monthly interest payments on the loans and the share market was not doing as well as we were told it would. We were worried and asked to reduce the portfolio; but instead Emmanuel reduced our repayments and increased the amount of our loans. Ultimately, we had a margin loan of \$1.6 million and a home loan of \$548,000. During our time with Storm, we changed advisers to Stuart Drummond and then Carey Fraser. We asked to change from Stuart as he refused to allow us to build up our cash reserves and failed to follow our instructions. In 2008, we repeatedly rang Carey with our concerns about our ability to service the margin loan and our dwindling portfolio. We were emotional and adamant about making sure our home was not in jeopardy and asked about covering our house by withdrawing funds; Carey firmly stated, "Your home is safe". When we asked to sell our portfolio at the Storm office after Colonial phoned and demanded payments, Carey told us, "They should not be phoning you and you should not be talking to them." Then we were told by Emmanuel, in an off handed manner in relationship to closing our margin loan, "You have the paper work and you can do it." Where was their care then? We also referred our sons who invested with Storm and we all have been financially ruined and left with large debts and no portfolios.

Steve Reynolds's story: *In 2004, a good friend, who was a Storm client and close to Emmanuel Cassimatis, referred me to Storm Financial. When I went to the seminars, I was suspicious of David McCullough's and Carey Fraser's slick sales pitch and did not commit to invest with Storm. At the time I was on a Vietnam War disability pension and was not working. For two years, Carey Fraser kept phoning me and badgering me; telling me that their advice was free and their clients were doing so well that I should really give Storm a go. To stop her phoning, I agreed to a consultation and early in 2006 I had a meeting with Carey. I told her I had no debt, owned my own home and had an investment scheme for my young daughters' future education. I also had funds of approximately \$300,000, which included a good proportion of superannuation. I was supplied with a long statement of advice; the strategy involving an indexed fund seemed to be safe and she sold me on it. I was urged by Carey to cash in everything (but held out some monies until final margin calls) and to mortgage my home with the Bank of Queensland (BoQ). I signed the forms in the Storm office and was told I did not need to go to the BoQ North Ward branch as Storm arranged everything and I should just sign the application. These BoQ home loan documents, which I obtained in 2009, have Carey Fraser's signature but much of the information is false. For example there is an inflated income listed; I told Carey that I was on a pension of \$800 per fortnight but the form showed an income of \$8,300 per month. In total I ended up with a Macquarie margin loan of about \$800,000 and a large home loan. I paid Storm fees of over \$80,000 in less than two years. In late 2008, my portfolio was cashed in and all my cash reserves taken. Currently I have debts of \$420,000 and am not able to pay interest on my home loan and face becoming a homeless single parent.*

Helen Rubin's story:

I was in my late 50s and I sought financial advice from Storm but took many years to decide to invest with them. In 2005, I was on my own, had chronic health problems/disability and was doing casual work. Initially I rejected the Storm approach as it was confusing and the fees seemed excessive. However, the sales pitch was very tempting – it was investing in shares through a unit fund and the adviser Carey Fraser claimed that there was very minimal risk and none to my house, if I borrowed against it. I got a second opinion through Matthew Buchanan, my Bank of Queensland manager, who told me that the Storm approach was sound. Carey said that trigger points would always be used to pull me out if the market dropped and the whole world economy would have to collapse for me to lose any money. Many of her statements turned out to be untrue – e.g. that I could claim Storm fees on taxes. Over the years I was often urged to increase the mortgage on my home and to put available cash into the share market, which I did not do, but I did increase my margin loan with a number of 'step ups'. When I questioned the gearing levels and enquired about withdrawing funds from my portfolio – especially in 2008, I was treated like a naïve person who wanted to follow the herd and sell when the market was low. Carey told me, "It's safe and you either trust us or you don't". Unfortunately, I did trust Storm to follow my advice and never leave me owing a mortgage; these were explicit instructions which were ignored. In three years, I went from being debt free to having massive loans and paid over \$50,000 for the advice. Now I have a large home loan debt and much less superannuation. I was highly geared and the LVR on my margin loan eventually went up to 99.7%; my home loan was never included in such figures.

Note: We would welcome the opportunity to expand on this submission when the parliamentary inquiry is held in Townsville on 2 September 2009:

Barry and Deanna Doyle, Les and Noelene Hemmling, Lance and Suzanne Mayers, Steve Reynolds, Helen Rubin.