

**SUBMISSION TO PARLIAMENTARY INQUIRY INTO
FINANCIAL PRODUCTS & SERVICES
ISSUES ASSOCIATED WITH RECENT FINANCIAL PRODUCT AND
SERVICES COLLAPSES SUCH AS STORM FINANCIAL, OPES PRIME
AND OTHER SIMILAR COLLAPSES**

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**SUBMISSION TO PARLIAMENTARY JT COMMITTEE ON
CORPORATIONS & FINANCIAL SERVICES
ON ISSUES RELATED TO STORM, OPES PRIME AND SIMILAR
COLLAPSES**

Background: We are a working couple, ages 42 and 50, who consider ourselves well-educated and experienced in a range of diverse financial investments, including property and stock – both of which we have successfully managed and dealt with, profitably, in the past. We had previously worked with a licensed advisor who we felt successful set us on the right track, but they left the state, and we decided to follow our plan without further support. After a few years, and changes in personal circumstances we needed to review our financial plans, and get updated advice so we began the search for a new advisor. Broadly speaking, our plans were to continue building and managing our wealth (we had a diversified portfolio of property and shares creating income) so that my husband could get out of shift work in the next 2-3 years and spend more time with the family, and long term that we could retire comfortably.

In 2005 we attended a series of Storm educational sessions. At that time, we had been researching new Financial Advisors and Planners and were had spoken with at least 4 in the previous 2 years who had tried to “sell us” managed funds without any real regard for our personal financial situation and goals. After having spoken with Yvette Daniels and John Schulter, Storm's Managing Director in the Mackay Office, we agreed that they were “on the same page” as us: They listened to our long-term financial goals, and personal need to invest conservatively, understanding that their long-term strategies, with many “buffers” would help to ensure our goals would be met. From the onset, our primary concern was that our principle place of residence be unencumbered by debt within the next 2 years (at the time, we had reduced our home mortgage from \$350,000 to \$80,000 in less than 3 years, purely by being financially prudent). We were assured,

as we would be time and again, that our house was never under financial threat. Before signing our first agreement with Storm, we researched their licence status and registration with the appropriate professional organisations. Yvette and John, as well as all members of their Mackay Office staff presented themselves as professional and competent people whenever we met in their office or were contacted by phone. Before this collapse, we never had any reason to question their expertise; after all, *we were paying them as experts.*

Terms of reference:

1. The role of the financial advisor

Our understanding of a financial advisor is an “expert” in the knowledge of finance; expert in the knowledge of a wide and diverse range of financial products and services and their associated risks and benefits; expert in assessing individual financial circumstances and contexts and how these might be impacted by personal circumstances or financial products. In our circumstances, initial discussions with Storm included our statement of personal goals and feelings of risk aversion, etc. However, to our knowledge, although we felt they understood this information, in retrospect, we never had it restated or presented to us in a fashion that would reflect clearly how this fit into “the Storm Model”. In the majority of our dealings with John and Yvette, who were extremely personable, we felt Storm had our best interest at heart. However, in hindsight, knowing so many other Storm stories, we now understand how we were fit into the “one size fits all” model with no regard for our personal need for security and generally low levels of risk tolerance.

Does the role of the financial advisor need to be reviewed?

Possibly not the role itself, but the qualifications and expectations attached to those who qualify to call themselves advisors. Professional standards are in place and the public have a right to expect that these are adhered to. More importantly, the public pay for “expert advice” which means (1) Advisors should have the appropriate level of entry qualifications to deal with decisions they are assisting others with – higher qualifications – upgrading- with

increasing level of money or risk? (2) Advisors are being paid, so they should be accountable. *Much frustration for the public lies in the public perception that licensure and insurance equal accountability – The general public are not idiots. Most people would have done some basic check on the Advisor, checking licences, etc before handing over some money - BUT when it comes down to it, license and or insurance don't seem ensure accountability, why not?*

Do customer Investments need to be protected? Should there be a code of ethics for advisors?

We thought our investments were protected on several levels, unfortunately, many of these levels fall under “self-regulated” codes of practice which obviously can not be trusted: (1) we thought our capital was indirectly protected, generally, by the “buffers” and other inbuilt strategies that Storm provided. (2) We thought the banks and other associated businesses would act ethically because they had what we understood as a “duty of care”. (2a) We always worked on the assumption that the bank managers would act conservatively enough to provide an extra step in the process preventing us from becoming “over burdened with debt.” This assumption was based on our past experiences with banks and investment loans which had always previously included personal discussion/interviews with the manager or loan officer overseeing our applications at the time. This was clearly not the case in this instance, as Commonwealth worked in partnership with Storm to “over – leverage” our properties – advising us to access equity time and again as our properties were revalued –an initiative not known to us at the time. (2b) Macquarie worked in partnership with Storm to increase our Margin Lending facility by \$100,000 over our initial contract without our knowledge at the time. (2c) Challenger did not act ethically when it failed to notify clients of margin calls that were activated and then acted upon Storm without client knowledge.

It's reasonable to expect that there be a code of ethics for advisors, and it is “understood” that this exists because of the license requirements for advisors. What we need is accountability to the public and paying customers.

It's hard to believe that "short-time" periods can act as an excuse for lack of communication in this day and age when banks and fund managers have the technology to blanket text the majority of their customers. I believe that activity like this, non-communication- is unethical. If an entity does not have the capacity to support the systems upon which it conducts business, it is not ethical to offer the service or product.

2. The general regulatory environment for these products

We contacted ASIC and researched Storm prior to signing on with them. No information from publically accessible regulators, etc revealed anything negative. Having ASIC approval was one of the reasons we went ahead with Storm. *What is the role of accountability for ASIC in this regard?* Do there need to be regular updates, reviews, self-submissions to keep an entity in good standing with ASIC to further support their backing?

3. The role played by commission arrangements relating to product sales and advice ... conflicts of interest ...disclosure ... remuneration model - related to ethics again; and bank practices

Storm's marketing and advertising met a high professional standard. Their "Statements of Advice" outlined fees and services related directly to the investments, but these were complex and difficult to understand. When questioned, we were assured that the high, *upfront fees were directly related to "deal" that would advantage us with the associated investment funds and lenders – Macquarie and Challenger*. These deals were always described as beneficial to the client, but in retrospect, there were greater benefits to other parties, particularly the banks and managed funds – in increasing business. "Behind the scenes" conflicts of interest, deals etc. were definitely not fully disclosed, but have since come to light. For example, Commonwealth branches in our area (including Townsville) were said to have "hit record levels for home lending services" according to one CBA employee – a direct result of the relationship between Storm and CBA.

In retrospect, an area where we lacked information and discloser that should have been both the responsibility of managed fund as well as advisor is that a

fund can STOP trading on their call, and that our funds can be sold with out specific requirement for us to approve this action – many things went wrong at this point in time – and many people would have recovered much of their loss if these steps had not occurred. After all, we were in it for long-term investing- but we were short changed!

Storm disclosures did include information about their “holiday” commission.

We engaged Storm as professional advisors with the understanding that we would pay for expert advice. We paid over \$100,000 (including an initial fee of over \$70,000) for about two years worth of advice. The most frustrating part of this revelation was our inability to access our advisors when we most needed advise. *We were told that regulatory bodies had prevented Storm from communicating with clients – all when we were losing our life savings.* On top of this, there were general statements floating around the media advising Strom Clients to get another financial advisor to clean up the mess! What did we pay for? How would we ever trust anyone with “professional, expert” advice again? I believe we should be reimbursed for the majority of advisory fees in this case because Storm was clearly negligent, and could not meet the obligation attached to the fees for service. Who should pay? We, as many other believed, that insurance would pay if the company went bust. This would be a reasonable outcome.

Also, when our managed funds were sold down – without our consent- who brought them out? Someone would have made LOTS of money following the model that Storm proposed, acting on these misfortunes of all those individuals who LOST big! There had to be a conflict of interest there somewhere- banks? Managed funds? Super funds? Who’s the watchdog at that end of the scenario? This should definitely constitute an area of further investigation.

If you don’t get what you pay for should you be reimbursed?

In future, maybe companies need to pay a percentage of their investment portfolio per client in insurance – this should be disclosed upon retention of

service of advisor. We assumed that insurance would cover our loss in this area, only to find that there is probably inadequate insurance to cover all client losses. Clients should be able to access this information, including limitations, before choosing to employ services.

4. Marketing and advertising campaigns

Marketing and advertising for Storm were always presented at a high standard. They targeted their marketing, in many ways, at a wide range of investors, by offering “educational” seminars before you were actively engaged in investing – giving the illusion that you clearly understood their model of trading. I would suggest that most people would have needed to attend several sessions, even though the information is repeated, as their model is “contrary” to most, and needs clarification and continued support to convince investors. It was always stressed that the Storm model was a long-term proposition leading the investor to the direction of wealth creation to sustain retirement. Examples and events that were presented gave evidence to support this.

Consumer education

Consumer education and understanding would be better serviced with more access to public information seminars like those of Storm, but less biased. I think we are in the midst of a cultural shift where a generation of baby boomers were forced to save with super, but for many this forced savings came too late to support their lifestyles. The government needs to take a clear stand and send a clear message that it won't be supporting retirees as it has in the past. This is a huge change in mind set, but it is largely a government responsibility.

Was there any false advertising involved?

We were definitely misled. Storm presented a “lifestyle” where their advice would assist you in creating wealth and help keep you on that track. In reality, what they sold was a “one size fits all model”. Their presentations were also misleading in regard to risk levels. They continually marketed themselves as low risk because their strategies had in-built support systems. The Storm

model presented contingencies such as “buffers” and cash dams; it presented worst case scenarios like 9/11 where historical data supported their strategies. Unfortunately, their presentations, however they mentioned volatility of the stock market, NEVER MENTIONED what would happen if other entities involved with the investments failed to operate in certain circumstances. This might be a reasonable oversight in “normal” circumstances. But, *given the “partnerships with the other entities who had interests in our investments, I believe it was Storm’s responsibility to examine and present such associated risks. They didn’t and this was misleading by omission.*

6. Appropriateness of information and advice

The advice given to us, and now we know many others, was clearly inappropriate. In some cases, including ours, I would go so far as to classify it as negligent. Our current financial position burdens us with overwhelming debt with little to no relief in sight. None of our personal financial goals have been met, as a matter of fact, most have been undermined. I can say with our personal circumstances, financial situation, and risk tolerance HAVE NOT BEEN CONSIDERED, and the information and advice received by Storm has been very inappropriate.

8. Adequacy of professional indemnity insurance

Reviewing the outcomes, it is clear that in Storm’s case there has been the equivalent of malpractice; in the bank’s case lack of ethical responsible practice, in some cases where loans were given without client ability to service future debt - malpractice. These events should be accounted for, and the logical place is the bank, or associated entities where possible, and indemnity insurance to cover the rest. In the case of Storm information to date leads us to believe that their insurance was inadequate. There was no way that we knew of to find out this possibility before we invested. *The government move to insure levels of bank deposits is a step in the right direction, this under riding guarantee might be appropriate for some of these types of managed funds and related products – it would go a long way in re-establishing people’s faith in super annuation funds, etc.*

9. Need for change

In most cases I believe that you will find people involved with Storm were motivated by the need for financial security, particularly in regard to being self-funded retirees. The irony is that these very people may now be more reliant than ever on government handouts because of the events that have unfolded.

How could these people be put back into a position heading toward self-sufficiency? *What if we were not involved with Storm? Insurance for what was malpractice should be required to pay us back the difference.* Below are some suggestions for further consideration:

Do:

- Increase accountability for Advisors – in cases where they go insolvent, possibly through insurance;
- Increase accessibility and responsibility for disclosure of certain information such as indemnity insurance – what does this mean to me as an individual if you go bust?
- Require disclosure of “deals and partnerships” or possible perceptions of in relation to any entities associated with investment of client – We would have looked at things differently if we knew about CBA and Storm, etc.
- Increase accountability for professional regulators and organisations in regard to what business need to do to keep in their good standing and “be recommended” (examples: ASIC and FPA).

We see this experience as an expensive lesson to be learned and support the inquiry into these issues as a way forward, not just for victims of these events, but prevention of future victims.

Names supplied but withheld