SUBMISSION T0:

Committee Secretary Parliamentary Joint Committee on Corporations and Financial Services PO Box 6100 Parliament House Canberra ACT 2600 Australia

INQUIRY INTO FINANCIAL PRODUCTS AND SERVICES IN AUSTRALIA

INTRODUCTION

Terms of reference

1. The role of financial advisers;
2. The general regulatory environment for these products and services;
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;
4. The role played by marketing and advertising campaigns;
5. The adequacy of licensing arrangements for those who sold the products and services;
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;
7. Consumer education and understanding of these financial products and services;
8. The adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers; and
9. The need for any legislative or regulatory change.

INTRODUCTION

I had operated a successful business together with my wife for 30 years. Approx three years ago we decided to sell the business to reduce the stress in our lives and plan to retire. It was in December of 2006 after quite a few meetings with Storm Financial (Storm) we were presented with our **FINANCIAL PLAN THE BUSINESS OF MAKING MONEY.**

This document was presented to us by **Stuart Drummond** a very senior advisor within Storm and headed up the Brisbane office. Stuart always seemed to be a very genuine person or we were just too trusting. The financial plan was quite comprehensive and we were requested to sign all 105 pages of the document.

Neither myself or my wife had any great deal of experience with this type of investment hence our need to use the services of professional financial advisors.

There were aspects of the financial plan which we were concerned about in as much that we were questioned about every aspect of our lives and financial status. In particular we were advised to mortgage our debt free home and to include the funds borrowed against the home as part of the overall proposal. We were assured many times this was very safe with the structure of their investment plan.

Eventually in April of 2007 after many months of discussions, we decided to proceed with this investment.

We had meetings with Stuart on a regular basis (approx once every 5 to 6 weeks) and even more often towards the end of 2008. We relied totally upon the experience and credentials of our financial adviser who after all has a *Master of Applied Finance Degree from the University of West Sydney.*

The basis and principal on which the investment worked was explained to us in as much that a certain amount of the original loans were to be invested in an index fund (and in our case this was a special Storm Challenger index fund/s) and the remainder was to be retained in the so called dam for future investment as the market dropped. Yes the advice was to invest on the way down to pick up the gains on the way back up.

Stuart was given very clear instructions from myself and my wife from day one regarding our intentions for the future and our need to be assured of an income when I finished work in June 2008. This plan was indicated to us as being quite achievable and hence we agreed to do the following requests:-

- Allow all of our properties (4 in total) including our house to be valued and draw the maximum loan applicable to that valuation.
- This **principal loan** as **$1.4million** from the **Bank of Queensland.**
- We were then advised to take out a Margin Loan with Macquarie Bank which I believe we signed but were never introduced to any representatives from the Macquarie Bank. The initial amount of that loan which was used in the investment was $580,000 **but since then** I have noted on our paperwork that our credit limit was $3million.
- We were receiving rental at the time from some of our properties and we agreed to pay approx $4,000 per month towards interest repayments until I ceased working.

Our **initial fee paid to STORM** was approx $118,807.00 at the time of the first investment. I did question how all of these costs could be paid for, taking into consideration that the interest on loans was being added to the loans their fees were very high etc, but I was assured all was good and we would be pleased with the results.

We were told that in regard to their fees it was a one off fee and that all other trails and commissions were refunded to us as clients and added to our investment.

As time went on both myself and my wife became more and more concerned about the growing debt, but each time we had a meeting with Storm we were assured to keep investing and the market would correct itself.

One **major concern** I had was very late in 2008 approx August at a **meeting with Stuart Drummond.** In our discussions regarding the growing debt and lack of money to keep funding this financial strategy he requested that I take my superannuation and give it to him to combine in this investment strategy. Saying in his words **"Give me your super and I will make you a rich man"** This did not sit well with either of us and hence we still have our superannuation.

By this time I had been finished work some five months and managed to get a better understanding of what was happening with this total process.

By getting our login details for Macquarie Bank and Challenger I could see what was going on. We had been drifting in and our of what they **call BUFFER several times** and even had a **MARGIN CALL** which we were **not notified of by either STORM or Macquarie Bank**.

Eventually Storm requested we sign a form to allow our funds in Challenger Indexed fund to be sold and transferred to a cash management account were the bank would give us 100% as a margin on that secured money.

Stress is not something which is good for my health condition, but after several phone calls to STORM and actually receiving one call back from **Emmanuel Cassimatis telling me "Not to worry"** they had it under control and that extra funds were available if required to see all this through. He said to me **"I am doing my very best and you can be assured I will be the last person standing"**

It was at this point myself and my wife decided to pull the pin. I contacted Challenger and transferred all remaining funds to the Macquarie CMT Account. I then arranged to top up our account to ensure there was enough to payout the Margin Loan which had grown to $1.465M. This included paying **approx $30,000 break cost fee** just so I could pay back the loan. **Oh and a $200 fee to STORM** to which I have documentation. However I did get back the unused interest which we had prepaid until 30 June 2009. It then took me several days of emails phone calls and a lot of patience to have the CMT (cash management trust account) closed and the remaining money transferred to me.

A short time after this Storm went into administration.

Since this time I have concentrated on the **Bank of Queensland Debt being $1.4m**. Due the interest rate being fixed and not having an income I was forced to convert the loan from fixed interest which we were advised by STORM to enter into, to a variable loan for **which the BOQ charged me a fee**

of $75,000 for the privilege.

In an effort to reduce this debt we have sold properties as fast as possible and at this stage should be able to have a home to live in, be it that our original home of some 25 years will be sold and we will down grade so as to at least have some money on which to live.

It has taken me some time to write this submission and it is very harrowing to go back over the events which led to the loss of 30years of hard work for myself and my wife not to mention the fact that we never withdrew or received one (1) cent from our investment and to date it has cost us in the vicinity of $1.8m not including the fact I have sold properties at reduced prices to reduce debt.
My wife is only working about 20 hrs a week. I do not have a job and living off bank loans and we are not entitled to receive any government support.

1. The role of financial advisers

From the research I have done it is evident that minimal qualifications are required to become a **FINANCIAL ADVISOR.**

ASIC do have some requirements and rules also which are available on the attached web site.

http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rg146v1.pdf/$file/rg146v1.pdf

Given that there seems to be several different types of licences ie; one for the main company "Storm Financial" which I assume is held by the Director and/or Directors then the other advisor licences used under the head licence must be held by the advisors themselves.

In our situation I find it confusing that **our advisor Stuart Drummond** whose business card indicated he was the **Managing Director of STORM FINANCIAL [Two] Pty Ltd** and having the Australian Financial Services Licence **No 228905** (it would appear this was a subsidiary of the parent company) .

My point here is that if a person in this position who presumably had such a great influence over the way the business was run and did have a financial adviser's licence should at least be looked at by ASIC and not be allowed to continue in this line of work until cleared from any wrong doing. (Referring to my previous statement in the introduction.) "**Saying in his words "Give me your super and I will make you a rich man")**

There is no point in a governing body such as ASIC body having rules and not enforcing them.

2. The general regulatory environment for these products and services

In the past seven months I have taken particular note of the number of people in the general public who refer to themselves as financial advisors. It is evident there is always someone out there who is willing to sort out your financial affairs (for a fee) but do they really know what they are doing? It seems that ASIC only ever get involved once the damage is done possibly they should carry out an audit on these companies to ensure business and banks are being conducted in accordance with the guidelines set down.

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

We were told that any benefits gained in the way of trails and lower rates would be passed on to clients. As this may have been the case in regard to interest rates it was not the case when I went to close down my Macquarie

CMT Account and Margin loan. Neither of these accounts could be finalised until a fee of $200 had been paid to STORM. Keeping in mind that 7% (approx) had already been paid up front and no other fees were suppose to be paid. .
Fees should be transparent and upfront fees should not be allowed. Many Storm clients paid for future services which are no longer available. The industry should take note of this situation.

4. *The role played by marketing and advertising campaigns*

Quite a deal of expense was outlaid on the marketing and advertising and in reflection it was hype rather than informative. It seemed to me in the end that Storm wanted to stick by their motto being put money in as the market goes down regardless of the fact of whether this was best advice for the clients or not. In their marketing and particularly the one on one sessions there was always the indication that should any client be in the need for additional funds then the company (STORM) had additional funds to assist with the need.

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

Licensing is an issue which was poorly administered. We have a situation here where the head company operated under a licence but each of the individual financial advisors also had/or suppose to have a licence.

In this instance all documents are signed off by the company when really the individual advisor should take some responsibility, particularly if he/she is a director of the company and is allowed to resign from the company days before the collapse and possibly setup again as a financial advisor somewhere else.

If this person had a plumbers licence and worked for a plumbing company but installed substandard work his own individual licence could be questioned over and above the licence of the company for which he works.

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*

When a person seeks advice from a licensed financial advisor as a paying client one would expect the best of advice from that profession. While the systems and methods may be explained it is not always possible to learn and understand another profession in a short period of time. It would be like me turning a Financial Advisor into a Plumbing Consultant over a six month period - an impossible task. So to a large degree if one was told that the level of risk is low, medium or high, and in our case we were definitely not wanting to be in any high risk situation, then you can only really take that professional advice.

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

Hindsight is a wonderful thing and knowing what I know now I can see that the method of investment used was one based on the fact that you needed an endless supply of money behind you. On several occasions I did question the methods being used but was told to leave it to the professionals.

The investment system seemed to work and work well but that was all it was a system and towards the end when the system was in unchartered territory there was **no advice** when requested.

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

The issue of professional indemnity insurance is critical to this debate and reforms should be undertaken to ensure investors using financial institutions are covered by a mandatory insurance policy which will ensure clients of financial institutions are guaranteed of some protection if their assets are eroded away by malpractice.

As mentioned in Worrells report, Storm did carry professional indemnity insurance. This issue needs to be addressed in the light of Storm's collapse to see how it would best serve Storm clientele. If the insurance fails then the outcome should be noted and an adequate type of insurance cover be developed for the future.

9. The need for any legislative or regulatory change

Having been through this experience over the past twelve months and lost in the vicinity of $1.8 million dollars I believe there is definitely a need for change. If for no other reason to protect people from the decisions that are made by either themselves, Financial Advisors (knowing or unknowingly), banks and fund managers to a smaller degree possibly.

Having been in business for 30 years I do understand that we are all out there to make a dollar but when the $ is put before the client's best interests then the captain of the ship is not doing his job. In this situation the ship ran aground and clients lost their cargo.