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30th July 2009

Committee Secretary
Parliamentary Joint Committee on
Corporations and Financial Services
Department of the Senate
PO Box 6100 Parliament House
Canberra ACT 2600
corporations.joint@aph.gov.au

Dear Sir/Madam,

Re: Storm Financial Pty Ltd and Pierre and Monica Martini

I am an authorised representative of Quadrant Securities Ltd (Australian Financial Services Licence No. 244320).

Monica and Pierre (the Martini's) have requested that I make a submission to the Parliamentary Joint Committee on their case, to illustrate how the devastation of a rampant planner, with obvious coercive power over its associated providers, has impacted and wrecked their lives and those of many others. Although not prevalent, the impact of such behaviour is also a negative blow to consumer confidence in the financial planning industry. The Martini's and I hope that the Committee is able to deliver a just outcome for such behaviour and apply its best endeavours with improved regulation to stamp-out such practice. The Martini's consent for inclusion of their case in the Committee's deliberations is at the foot of this letter.

The Martini's approached me in January 2009 as semi-retired persons in distress, having lost their entire life savings and facing absolute financial ruin with a large mortgage on their home, and as persons in receipt of minimal income, with no means of servicing the loan. They are another victim of the reckless and irresponsible behaviour of Storm Financial Limited (Storm) and as a consequence now find themselves in a destitute predicament. Their association with Storm has cost them in excess \$740,000 at this time. Given their dire position my advice at this time has been limited to:

- Applying their remaining investment assets to repay a large margin loan with Macquarie Bank;
- Representation to ANZ Bank Limited (ANZ) Ombudsman regarding alleged negligence by the bank's in providing its facilities. I am also seeking hardship relief on their home mortgage repayments;
- General financial counselling and strategies regarding the ultimate sale of their home and for building a future hope beyond this catastrophe.

As a member of the Financial Planning Association and for persons in distress, I have provided my services free of charge, but due to their current financial predicament and still unresolved contractual obligations with ANZ, advice by nature is limited at this time.

I am deeply distressed for the reputation of my industry to learn of the errant behaviour of a fellow financial planner, to structure and offer such products of this nature to any person, but particularly for persons who had had no prior exposure to the stock market or indeed leveraging. The clients are basically illiterate in financial products and most certainly don't have a speculative investment risk tolerance. For semi retired persons nearing the end of the wealth accumulation stage of their lives, I submit that the advice provided was grossly irresponsible.

Naturally, I am disappointed that my clients accepted the offers and as such must bear some responsibility, but in reality they were 'hoodwinked' with spiel and complex jargon they did not comprehend. It is my contention that Storm ignored the basic and fundamental rule of financial planning the 'know your client' rule. It appears that Storm's sole motive was to sell products for personal gain, not provide financial advice. The client's needs and circumstances were secondary.

I have discovered all known documents in relation to the Martini's dealings with Storm and associated facilities provided by Macquarie Bank Limited (Macquarie), ANZ and Challenger Managed Investments Limited (Challenger).

Storm provided advice and implemented the recommendations of the advice.

Macquarie provided a margin loan facility of \$1.5m that was drawn down to \$960,310 in December 2008, and later a Cash Management account where cash was held following the sale of equity investments.

ANZ were the providers of a home investment loan initially for \$345,000 but later refinanced and increased to \$420,000.

Challenger was the investment vehicle and provider of specifically tailored Storm investment products, which included Storm Australian Technology Indexed Trust, Storm Australian Industrials Indexed Trust and Storm Australian Resources Indexed Trust.

At the time of being introduced to Storm, the Martini's sole liquidity assets were cash investments of \$320,000 plus an unencumbered home estimated to be worth \$700,000. Their combined income from casual work was about \$21,000pa at that time.

Storm issued the Martini's with the following documents:

- Statement of advice – dated 7th December, 2006;
- Statement of additional advice – dated 15th May 2007;
- Statement of additional advice – dated 30th July 2007, and
- Statement of additional advice – dated 22nd January 2008.

The Martini's accepted all but the document of January 2008, by signing an authority to proceed and initialling all pages as having read and understood the content (they obviously didn't). The initial document was 109 pages, but does not contain critical information such as 'their current position' (prior to advice). In addition Storm created a false sense of security for the clients by providing an exaggerated income stream sourced from equity assets funded by leveraged products in order to service a home loan debt, which was also applied as leverage to acquire some of the portfolio assets. In addition all Statement of Additional Advice documents relate to additional borrowings to meet obvious 'margin calls', but such words (or warnings) are not included in any of the documents. Indeed it is suggested in the document of July 2007 that *'buying in time of volatility spikes can make a positive difference to your portfolio..'*

As mentioned above, the Martini's peak margin loan exposure was \$960,238, plus they had a home investment loan of \$420,000. Storm received fees totalling \$110,264 for the progressive investment implementation of the plan. In addition it also received a loan trail on the Macquarie and ANZ facilities, an investment trail on the Challenger investment and a share of the management expenses on the Challenger facility. Many of the fees collected were not disclosed to the clients.

In reviewing the overall plan, its implementation was only possible with the support of Macquarie, ANZ and Challenger. I suggest that all organisations were complicit in the implementation of this irresponsible advice and as such, Macquarie and ANZ neglected prudent lending practices and abandoned due care and responsibility during the process. This neglect was detrimental to the clients, but it facilitated Storm's aims. It is apparent that all participants were eager to be part of the 'cream run' and facilities as specified by Storm, which were readily accommodated and adjusted at its request; without question.

Upon establishment Macquarie had a margin loan gearing ratio (loan to asset value) of less than 50%, but this progressively increased to 83.93% by September 2008. Due to the share market decline, the gearing position continued to deteriorate despite margin calls and the injection of a further \$75,000 in capital. As margins were breached it should have prompted Macquarie to examine the overall financial position of its client. Had it done so, it would become apparent that a high leveraging position was unsustainable for the client. It neglected this fundamental signal and therefore did not extend due care in providing and administering its facilities.

ANZ allege that its loans were granted under the provisions of a 'lo-doc' facility; I refute this claim as no reference for such a facility is contained within its loan contract documents, nor has it been able to provide documentary evidence to substantiate this claim. At no time did the Martini's meet or speak with an officer of the Bank during the loan application, approval or settlement processes. All loan applications and supporting documents were prepared by Storm; the initial loan direct with ANZ branches at Nambour and Buderim, the refinance with a broker. Client income and asset detail submitted by Storm to ANZ is false. The client's income was 'engineered' on the basis that loan serviceability could be sustained on the assumption that investments (funded by debt) would return and average 10.5%pa. This is absolute speculation and was not verified by ANZ. Had it applied prudent lending practice, it would have required the clients to submit the past two financial year's tax returns, two recent wage slips, plus evidence of investments and debt as a basic requirement. No such information was requested nor furnished. ANZ appears to have relied upon false unauthorised written evidence from Storm therefore it has not applied due or responsible care.

Had the lenders, and in particular ANZ, applied their normal prudent credit process in assessing the loan applications, they would have extended due care to the Martini's as consumers, provided a check and balance on Storm and importantly cut out the rot at the outset. It is self evident that they acted in Storm's interests, to the detriment of the consumer.

It is a proven fact that the Australian community has benefited from responsible financial advice, but irresponsible behaviour by providers such as Storm do irreparable damage and severely tarnish the financial planning profession. Unscrupulous behaviour in exploiting the vulnerable will unfortunately never be eliminated, but my industry does deserve better protection from such unsavoury participants having authority to act.

As the Australian people's House of Review, I request that:

- a) Storm and its facility providers be held accountable for their lack of due care and responsibility, and as necessary be required to provide due compensation for damages as a corrective action, and
- b) Participants in the Financial Planning Industry are appropriately licensed to provide financial advice on a fee for service basis and that investment fees and trails in the manner practiced by Storm on financial products are eliminated.

Yours faithfully,

Tom Crothers
CFP® Dip FP. Grad Dip Man. JP

We agree to the submission and consent to its inclusion in the Parliamentary Joint Committee hearing.

Pierre Martini

Monica Martini