

# SUPPLEMENTARY SUBMISSION FOR PARLIMENTARY INQUIRY

## Dennis and Ruth Fontaine

My husband is an electrician, if you want your electrical appliances checked you contact a professional electrician, if he doesn't do his job properly and someone is killed ...he can be charged with murder. If you go to a doctor and he doesn't do his job properly he can be charged and sentenced. They are all professional people who take their jobs very seriously 1. because they want to and 2. because they have to they don't have a choice.

If you go to a professional financial planner for advice can tell you anything they want to , can they murder your finances, your financial future, your lifestyle and your life and hide behind the law. Are they defended on every level? Why do we, the financially naïve go to a financial planner, because we are not financially savvy enough to know what to do ourselves.

The financial experts tell us '**go to a financial planner take their advice and they will make your money work for you etc etc etc.**'. [Protecting yourself financially -The Australian Securities and Investments Commission \(ASIC\) has urged Australians approaching retirement to seek advice from licensed and professional financial advisers, as part of Financial Planning Week. "The decision about when you stop work and how you plan for retirement is one of the most important financial decisions you can make,"said ASIC spokesperson Delia Rickard \(this information was copied from ASIC\)](#) - This is the advice offered by the financial experts.

Well that's what we all did, we went to a licensed and professional financial adviser and we took their advice just like the financial experts told us to do...and we have all been financially ruined by Storm Financial and all of the Banks who supported them.

I have no doubt that the 'ideas' person was Emmanuel Cassimatis, the owner and director of Storm Financial, but the advisers were financial planners as well and they could not have advised us to borrow so much money and promise that it was a safe secure investment in the long term if the CBA and Macquarie had not backed them. Storm Financial, the company, and our advisers here in Mackay were members of the Financial Planning Association of Australia so they obviously approved of their financial advice. ASIC had investigated Storm Financial and approved of their financial advice.

- The CBA put rental income as part of our income we never had a home rented. (see attached form)
- The CBA revalued one of our properties to 7 times it's original valuation and didn't tell us. (supported in an affidavit by Yvette Daniels of Storm Mackay)
- We were never warned or advised whether we had a margin call and we don't know to this day whether we had one for sure.
- We never had any contact with either bank other than bank statements.
- Bank interest alone was over \$100 000 per year or double both our wages per year.
- Since April 2009 the CBA have been accruing interest on our loan. We never asked them to do this. We did not want the principal to increase. They haven't given us a choice.

The CBA also lent Storm the company a large amount of money

The CBA and Storm have been reported as having a particularly close working relationship

When this relationship broke down and the market crashed the CBA insisted on Storm paying their debts within a short amount of time thus closing Storm down and destroying our investments.

The CBA are responsible for destroying the investments of all Storm clients **not** just those with a loans through the Commonwealth Bank. These clients have loans and now their investments have been destroyed. Are the CBA going to take responsibility for their loans as well. These people would not be in the position that they are if the CBA had left the business ride through a rough patch.

This recession is hard enough to be going through without the added financial and emotional stress of being financially ruined and having to sell up your home and being left with nothing expect a huge debt to try and pay off forever. At our age we will never be able to pay it off.

Why did the CBA lend us so much money at our age. Retirees have been lent a fortune on the old age pension. Where is the CBA's duty of care. Storm may have recommended that these people borrow excessively but the bank must have guidelines for borrowing. When we got our first home loan through the CBA we had to prove that we had the capability to repay our loan before they would consider lending to us. Why weren't these rules applied to us all just because we were with Storm. We paid our first home loan back early and never missed a repayment. We have an impeccable credit rating and we save well. We are incapable of repaying this huge loan, we are incapable of repaying the interest. How are we ever going to repay the principal. The CBA knew this before approving this loan. We on the other hand were told by Storm that they would manage it. When the CBA closed Storm down they took that away from us. They now have to take responsibility for their irresponsible lending and extinguish these loans.

If margins calls were made when they should have been and the experts had watched what was happening with the market none of this would have happened. Where were the buffers that were supposed to prevent this happening.

When things go wrong, ie after we've taken the financial planners advice, what are we told.

- You have to decide if the advice is suitable or not for your needs –we did it sounded ok to us after we were told that it was safe investment and would be monitored at all times after all the storm staff said that all their investments were in the same place as ours and 'we want to make sure that they do well'. I found this information particularly reassuring. Our adviser said that the markets would go up and down but not to worry as they would take advantage of these rises and falls by taking money out of the market when it was high and putting this money in the dam and using that money to put back into the market when the market fell thus 'growing' our investment.
- You have to look after /monitor your own portfolio on the Storm website, we were given details of how to get onto the storm website by Yvette in January 2008 we could get onto the home page but not the market information –well a lot of storm victims did look after their own portfolios, despite paying storm a fortune in fees to do it, and guess what storm wanted no part of it –victims were told 'don't follow the herd' –if they had followed the herd or storm had done what a lot of victims wanted –they might/would be financially ok today. Storm didn't want to sell off the shares when clients wanted them to and talked them out of it. Storm told us that their team of experts would monitor our investment and we were warned by them not to tell them when to take the money out or put the money into shares. Yvette Daniel from Storm in Mackay told us in January 2008 'if you do as we tell you you'll do better than if you try to tell us when to do it' so we did as she asked every time they sent us 'the next step' we followed their advice. We always watched what the market was doing but we left the monitoring of our investments to the experts.
- You have to this and you have to do that – the list of what we should have done goes on and on –why weren't we told this by the financial experts BEFORE -why wait until it's too late before you tell us this information.

- Why should we go to a financial planner - can they be trusted?
- Why should we go to a financial planner - are they protected by the present laws?
- Are our company laws outdated and designed to protect the owners of a company that can destroy their clients finances and their lives as Storm and the CBA bank have done?
- If we'd known that we had to do it all ourselves we wouldn't have bothered going to a financial planner.
- Why do the experts ask us to see a financial planner if they can destroy us and we have to look after our own investments?
- We wouldn't have paid them over one hundred thousand dollars to set up an investment portfolio for us –we thought we were paying these fees so that the experts would look after our investments and we wouldn't have to as we don't know how to do it as well as they do..
- Our last Storm meeting with Emmanuelle Cassimatis was in October 2008. He said 'mistakes have been made and where they have been made they will be fixed up' or words to that effect. Mistakes have been made when are they going to be fixed???
- I have seen no evidence to date that protects or supports the victim of a financial planner.
- We have been told that 'we are responsible for this'. We aren't but somebody is?
- We have had little support since the crash.
- SICAG have been the best organization that has been set up to support us and the committee have done an outstanding job.
- Since Storm's collapse we have been criticized for going to a financial planner.
- We have been told that to borrow money to put into this type of investment is dangerous.
- If this is true why weren't we told this by storm or the banks? Were we lied to?
- Reading financial advice columns in the last couple of months I have seen where some experts advise you to borrow against the equity in your home and others who say never to do it. What is the right answer?

- Now we are told the worst financial advice is to 'put your eggs into one basket'  
ie Don't put all of your cash, property and investments in the one portfolio..  
Storms advice – 'It's easier to put all of your cash, property and investments into one place as you get older because it's easier for you to look after and you haven't got money, property and investments all over the place.' 'Your property is a valuable asset and it isn't earning you any money so you need to borrow against the equity of your house so that you've got money to work for you'. 'We can safely borrow up to 60 percent of your valuation' that's what we were told and what did Storm do –they borrowed 60 percent of our valuation from the CBA and 60 percent of our valuation from the Macquarie Bank. This is 120% of our

valuation if up to 60% only is safe why did Storm borrow 120% and why did the banks involved allow them to do it. Both of these banks had been dealing with Storm long enough to know their investment strategy Both banks knew how dangerous this could be. Neither bank saw any of Storms clients face to face. Neither bank sent out any paperwork to our home address so that we could read it and get advice before going into Storm to sign any of the banks paperwork.warning us against borrowing this amount of money for investment purposes and what the consequences would be for us should things take a downward spiral, which they all know happens from time to time. The CBA bank sent out a covering letter with a warning to seek independent advice –to Storm. I don't remember even seeing this letter before and yet obviously we have as we've signed it???? I don't remember seeing or signing a similar letter from Macquarie. We were never given any terms or conditions from either bank that I'm aware of.

I didn't even know that we had borrowed money from the Macquarie Bank until mid January 2009, I thought that we had borrowed 60 percent from the Commonwealth Bank only and that money and our cash was put into an account, the dam, at Macquarie to buy and sell shares for our portfolio. We were told that the money was going into a 'dam'. I had no idea what a margin loan was or that we had one. I don't remember having this explained to me and neither does my husband, before we signed up for this investment plan. If it was explained to us it obviously wasn't explained very well when neither of us knew about it. There was a lot of paperwork to sign but this was an extremely important and dangerous step to take and yet I don't remember being warned not to do it, nobody said it's VERY RISKY. Now that things have gone wrong everyone is saying it –all the financial experts, all the banks –why did they all wait until we had signed up and lost all our money before they told us this??? We were taking in a lot of information that was new to us when we went to Storm and I suffered from 'information overload' but the margin loan should have been explained to us in a way that we understood exactly what storm were doing. I believe it was Storm policy to play down the margin loan information so that we didn't know too much. I have heard of a margin call and knew that if the investments dropped below a certain level that they could call the money in, Yvette explained this to us in January 2008.

We had all of our property valued by the CBA and we have recently sold a block of land in Charters Towers for 55 thousand dollars, Storm originally told us that the bank had valued this property at 50 thousand dollars. **When we were selling it we found out that the bank had revalued it for 350 thousand dollars (7 times its original valuation )**, we had a phone call from someone saying 'but isn't it worth 350 thousand dollars' and I said 'No', I was so flabbergasted by that phone call and I can't remember who it was from but it was the first time that I began to suspect that it had been revalued. An ex storm employee in Mackay has said in an affidavit that the CBA revalued this land for 350 thousand dollars and we were never told about this by the CBA who have done it so that Storm could borrow more money against our name.

When Storm Financial crashed I had NO IDEA what to do or where to start. When we joined Storm we were inundated with paperwork, books, financial statement etc etc etc. I looked at them and tried to work out what was happening financially but I had trouble trying to work it all out so I used to just file it into a folder and take it into the accountant at the end of the financial year. I always looked at the statements and the value of the portfolio but I had no idea whether they were performing well or not. I don't know how to monitor my share portfolio but I always looked at the value of the portfolio. However, we always looked at the market reports and knew everyday how the markets were performing we just left the day to day running of our investments to our financial experts. I knew the day the market crashed that our investments would be down but thought that Storm would have enough money in our dam to take advantage of this dip and put money in thus growing our portfolio as they said they would. They didn't we got a letter asking us to convert our portfolio to cash to prevent further falls. We signed this and returned it on the 15 October 2008.

We had no option at this point but to go to another financial planner to work out how we stood financially. I rang the Financial Planners Association and they recommended Mr Steven Lowry from Almans Planning in

Mackay. We went to him with all of our paperwork and he worked out how much money we had lost we were just devastated. He told us 'you are the worst affected that I have seen, get rid of those shares (we still had some shares left with Challenger) and if you asked for a balanced investment portfolio I would find myself a good lawyer I think that you have an excellent case, for anyone to recommend this level of borrowings at your age and on your wages is just ludicrous' He got his secretary to write out a form asking Challenger to cash in our shares and asked us to fax it to Challenger straight away. We took his advice and cashed in our shares. If we had left those shares in the market instead of cashing them in they would now be worth more they were when we were advised to cash them in but with the market as volatile as it was at that time we didn't know what to do so we did as we were told. We had to pay a break fee of \$11000 plus to cash the shares in and pay out our margin loan with Macquarie Bank and the balance of the money we put into a savings account as the CBA said that they would charge us a \$16000 break fee if we paid the money off the loan before it came off a fixed rate loan on the 20<sup>th</sup> June 2009.

From being financially on track in 2007

- We owned our own home outright
- We owned an investment property outright
- We owned a block of land outright
- We had 200 thousand dollars in the bank
- We had three life insurance policies worth about \$45,000 plus
- ALL of this went into the Storm Investment Plan
- PLUS two years of my wages worth about \$26000
- WE HAD NO DEBTS AND WERE SAVING EVERY CENT WE COULD FOR OUR RETIREMENT AND DOING VERY WELL ON TWO SMALL WAGES

In 2009 after taking Storms advice

- We have lost the 200 thousand dollars in cash
- We have lost our three life insurance policies worth approx \$45000
- We have lost \$26000 of my wages
- We have lost our investment home
- We have lost the block of land
- We have a debt in excess of \$200 000 on our own home
- We don't have a spare \$200,000 to save our own home
- AND STORM AND THE BANKS TAKE NO RESPONSIBILITY FOR IT!!!!!!
- It's our fault .....apparently

Storm Financial were able to borrow

- \$584,000 from the CBA
- \$580,000 from Macquarie Bank

We have never been able to borrow a quarter of this amount.

How could Storm do it and why did the banks lend it to them?

Our combined nett wages at the time were a little over \$50,000 per year.

Our interest repayments on the CBA loan were approx. \$50 000 per year.

Our interest repayments on the Macquarie loan were approx \$50 000 per year.

Storm, the CBA and the Macquarie Bank all knew that one these small wages that we would be incapable of meeting the interest repayments should things go wrong and yet Storm recommended this amount of borrowing and the banks involved were only too happy to lend it to them.

Both banks would have known that we would lose our home if the market crashed as we were not earning enough to cover the interest repayments. Our interest repayment alone have been \$100 000 per year. Why didn't the banks provide us with copies of all documentation when requested, there is no documentation on valuation of our property, what other documentation didn't they give us? How can the bank justify lending us this amount of money and expecting us to maintain this level of debt in a fluctuating market? We have applied for copies of our Storm documentation they haven't arrived as yet. Storm called our debt a Claytons Debt –well its not a claytons debt now and the repayments aren't claytons repayments either!!!! There has been a total disregard for our rights as consumers. We have been double geared and leveraged far too high by Storm and the both banks involved knew it. None of the parties involved had our interests at heart , none of them cared whether we lived or died financially.

Now that we owe the CBA bank a substantial debt \$584.000 what has been their advice to us -

1. The CBA in Mackay offered us a free consultation with one of their financial planners, he couldn't offer us specific financial advice but he did suggest that we could use the 200;000 dollars that we would get when we sold what shares we had left over to pay the interest on the loan and then we could stay in our own home for another four and a half years before they took it off us. What advantage would this suggestion have been to us, in four and a half years time the debt would still be the same and we would have wasted \$200,000 on interest repayments.
2. I went in and asked to speak to the CBA bank manager in Mackay his suggestion was the same as the CBA financial planner
3. Then I found out the CBA had a hardship team in Sydney so I rang them and spoke to David Walker, on the phone he offered us a 'holiday' on interest repayments for six months but interest would accrue on the principal for that six months, which would have meant that the amount of debt would have increased by somewhere between 20 and 30 thousand dollars. What advantage was that when you're in dire straights financially? We turned this offer down.
4. Then I rang the Hardship team in Townsville and on the phone they offered us a 'deal' to pay off the loan at 2% interest for life if we signed a disclaimer to say that we would never take legal action against them. We turned this offer down as well.
5. Then we received the next offer by telephone, this was followed the next day by an email (see copy attached) which said the same thing that the team had said to us the day before, the CBA would take the \$200.000 off our \$584,000 loan, they would waive any accrued interest and split the loan into two. Loan number one would be for \$180,000 at SVR less 1% interest until we sold our investment home. We could sell the land and keep the proceeds. Loan number two for \$200,000 we would pay no interest for life and get to stay in the house for life (this life tenancy has many restrictions associated with it) and they would take our house and sell it to recoup the debt when the last one of us died. We are not legal experts but when I looked at the paperwork for the offer it looked very different to the offer that we had received via email. My husband took the paperwork to a local solicitor who advised us not to sign it, so we sent it to Slater and Gordon to look at. We haven't heard back from Slater and Gordon as I only sent it to them last week but the CBA bank have been told that we have sent it to Slater and Gordon and they will get a financial planner to look at it and give us some advice. We also had to sign a disclaimer saying that we would never take action against the CBA. Why do they want us to sign this disclaimer. If they knew they were innocent of any wrong doing they wouldn't bother doing this ...why would they? Does this mean they have

something to hide???? What are they guilty of that they want to shut us up so that we cannot take legal action against them???? Can they legally take away our legal rights as well as I time when we are under duress? If we decide not to take this deal we may have to sell our home if we cannot afford the repayments on our wages, then we will be totally ruined. If we can afford the repayment s until we retire the CBA will sell our house once we retire and we will still be left with nothing. At the moment we are between a rock and a hard place it is just a nightmare.

6. Mr Norris from the CBA has recently announced that the CBA ‘[offered an apology regarding it’s involvement with the clients of failed financial planning group Storm Financial; he identified ‘shortcomings’ in how we lent money to our customers involved with Storm Financial’](#). The bank said that it would ‘[immediately suspend repayment obligations until 31 August 2009 for all loans made to customers in relation to Storm Financial](#)’ A SICAG member, who emailed me, rang the bank and the CBA are still accruing interest and have been given no instruction to stop interest accruing, she said they knew nothing about Mr Norris’ comments. Is this true???

At 58 years of age we were on track to have enough money to retire at 65 years of age and we hoped that we had enough money to visit our children but we weren’t sure. How much do you need for retirement??? Friends advised us to see a financial planner. We said ‘we don’t know anything about financial planners; My friend said ‘Today you can’t afford not to see a financial planner’ So we took her advice and went to see the same financial planner that my son was seeing.- Storm Financial.

At 60 years of age we have no money, no life insurance, no investment home, no land, two years worth of lost wages and very shortly we will have no home as well-the CBA will have stripped us of everything that we own. I live 40 klm from where I work and my car has 182,000 on the clock if and when it dies I will need another car to keep on working where is the money going to come to pay for a new car. My husband works 35 klm from where he works and owns a 1983 Toyota which is starting to rust and will need replacing at some point if he is to keep working. We had the money before Storm to replace our cars Storm assured us that when we wanted a new car that the money would be there to buy one –there isn’t. Storm assured us that when we needed a new computer that the money would be there to buy one –there isn’t. What if we need to replace any of our essential household items – will we ever have the money to replace them??? Will we ever have the money to visit our children and grandchildren overseas – and this was the one thing we asked of Storm we had to have enough money in retirement to visit our children. Our children are married, paying off a home and have children they don’t have the money to come over to see us on a regular basis and we will never have the money to go and see them.

The CBA with their excessive lending have destroyed our family. Since the collapse of Storm I have suffered from depression, have been on medication for depression, medication to help me sleep, I have spent a lot of money going from one doctor to another to try and find one who understands what I am going through they have no idea they have never met anyone before who has lost this much money, I don’t know anyone who has lost this amount of money. I don’t have any relatives or friends here to talk to so I was talking to the ladies that I work with. One day one of them said to me ‘you have to realize that you have done this to yourself; I was devastated once again. This is what people out there think that we have all done this to ourselves –well it certainly isn’t true and I hope that this parliamentary inquiry proves that we are not responsible for our demise. We have been called greedy –why is it greedy to want enough money to retire on so that you don’t have to draw on the government pension –what is wrong with wanting to enjoy life once you retire and having enough money to do that. We had that and now it’s all been taken away from us...

I have also been having counseling with a psychologist. Everybody is telling us that ‘we will get over this.’. They don’t understand that we will never get over this because we will be financially ruined for the rest of our lives and we will never be able to afford another home it is too late for us to recover. What future do we

have I hate having to live this nightmare every day and every night. I know that I will rarely if ever see my children and grandchildren and I am totally destroyed by this. The banks aggressive lending has destroyed my life. My husband and I have been happily married for 37 years this year and my husband not only has to cope with being financially ruined but he has to try and live with a wife who is physically and emotionally distraught as well. Life at the moment is a living nightmare for both of us.

The first thing that I said when we first went to Storm Financial was 'We have two daughters who live overseas and we have to have enough money to go and visit them and their children. Whatever you suggest HAS to be safe' We have a daughter and her family in New Zealand and another daughter and her family in the United Kingdom. This was the MOST IMPORTANT THING TO US. We had to fill out a form at Storm Financial about what level of investment we wanted – we asked John Schluter what level we would need to tick for a safe balanced investment and we ticked the one that he suggested. From memory there were five levels to pick from and we ticked the middle one which should have given us a balanced investment, we certainly didn't want an aggressive risky investment, we were wary about investing our money and weren't sure what to do, we didn't want to lose our money. We went to see Storm Financial about August or September 2006 and we thought about it for several months before we went back to see them and it was only after asking them and being reassured how safe this investment strategy of theirs was that we finally agreed to do it in mid 2007.

In 2007 before joining Storm I asked several Storm clients at one of their seminars how happy they were with their investments with Storm and they all said that they were happy with their investments had done well financially with them and they all reassured me that Storm would look after us. In hindsight maybe we shouldn't have asked Storm clients maybe we should have asked an accountant and a lawyer but I thought asking existing Storm clients would give me a good idea how happy their present clients were. One lady that I spoke to said that she and her husband had been with them since 1999 and were very happy with Storm she said the only thing that she regretted was not going to them sooner. We have one child, a son, in Australia he is 26 years old and was with Storm for five years. He now feels guilty for advising us to go to Storm and is now in debt at an age when he is trying to save for a home. Had Storm not crashed he may have/would have had a deposit for his home. Now he has to pay the debt before he can even begin to save for a home.

I asked John Schluter at Storm Financial in Mackay what qualifications he had and he said he had a degree in financial planning and was studying for his masters. When we first went to Storm in Mackay we asked John as many questions as we could think of about the investment plan, about the safety of the plan, about when we could expect to retire and make a living from these investments etc but I didn't know exactly what questions to ask so I asked him if there was any other questions that we should be asking and he said 'No that we had just about covered everything' We found that we were trying to take in a lot of information that was all new to us and I felt bamboozled/information overload by having to take in so much information all at once. There may have been questions that we should have asked but we couldn't think of any more.

The staff at Storm Financial were always very approachable and always wonderful to us when we went into see them. We saw John Schluter before we signed up. Once our plan was in place I don't think we saw him again for an update. We saw Yvette Daniel in January 2008 for an update and I think that was the last time that they asked us to come in to tell us how our investments were going. We always felt that we could have approached them for advice at any time. After the October crash we received a letter telling us to call in and see them if we were worried about our investments. I didn't approach them because I knew that they would contact us if there was a problem. They didn't – now we are hearing that they were gagged from talking to us – is this right? We received regular emails from Ashleigh at Storm assuring us that the company was still viable and we had nothing to worry about despite the adverse publicity surrounding the company in November and December. I tried ringing Storm Financial during December and once after they went into receivership but they never answered the phone however when I sent them an email they always responded.



Once the company went into receivership we received one more email from Ashleigh. We also received an email from Emmanuelle Cassimatis explaining his investment policy. When we received our additional Statements of Advice they came in the mail we never saw the staff to discuss them and they never asked to explain them to us.

**We never asked Storm Financial to borrow over one million dollars to invest in the stock market.**

**What did we ask for - 'a safe investment that would grow and take us into retirement.'**

**We have been duped and lied to.**

**We are talking possible major fraud here.**

**We are victims.**

**If they had suggested that we borrow \$1,164,000 to invest in the stock market we would have 'run a mile' from that suggestion and they knew it that's why they didn't suggest it and yet that's what they have done.**

**The banks involved lent them this money willingly to do this.**

**This is outrageous.**

When the Storm adviser in Mackay advised us to borrow up to sixty percent of our valuation we asked him how safe this level of borrowing was and he said 'You have chosen a very safe level and if you are prepared to wait the 5 to 7 years until you retire you will be ok'(or words to this effect) he also said that 'the whole Australian economy would have to crash before we even ran into trouble.' I felt reassured by this knowledge and we put our faith and our trust in the Storm Financial personnel to look after and monitor our investments, we paid them a lot of money in fees to do this. Did we get value for money paid in fees??? Despite the fact that we are in a recession the Australian economy is still not too bad and we've been 'dead in the water' financially since the 9<sup>th</sup> January 2009, only eighteen months after joining Storm Financial. If the CBA bank had been willing to ride out the down times with Storm then Storms advice to us that we would be ok in 5 to 7 years may very well have come true but the CBA bank deserted us all when we needed them most. They made sure that they stayed very close to Storm in the good times but as soon as there was a downturn they demanded their money that Storm owed them forcing Storm into receivership and **all** of their clients into a living breathing nightmare.

## **WHO IS RESPONSIBLE FOR FINANCIALLY RUINING THOUSANDS OF INNOCENT PEOPLE WHY – BECAUSE THEY WENT TO A FINANCIAL PLANNER AND TOOK THEIR ADVICE**

- **the CBA's willingness to lend us an excessive amount of money through Storm ,**
- **the Macquarie Banks willingness to lend us an excessive amount of money through Storm,**
- **the CBA's willingness to add rental income that we weren't earning**
- **to CBA's willingness to revalue our property for seven times it's true value**
- **the CBA 's willingness to lend Storm the company an excessive amount of money**
- **the CBA pulling the plug on Storm and all of Storm's clients when things took a downturn for the worst.**
- **Storm Financial and their advice**
- **The other banks involved who have lent their clients excessive amounts of money through Storm**

If the CBA bank had supported all of us through those down times from October 2008 until June 2009 we would all still be in the market, we would all be down on paper, but we would all be in there with our portfolios still intact and the market is coming back just as Storm said it would, it may take a long time to come back to what it was but at least we would have been in there with a fighting chance. When the CBA deserted us in our hour of need they destroyed us financially and I for one want to see some compensation for

this destruction of our finances and our future lives. Our lives have been totally ruined, where do we go from here at 60 years of age. Who were the 'team of experts' who were supposed to be monitoring our investments. I read in the newspaper recently that 'they' consisted of one man in Sydney on a computer, is this true or not???

We rang Slater and Gordon and we hope that at the end of the day that there may be some restitution for us. We have just started going to another financial planner who has recommended that we take out life and disability insurance to cover the debt should anything happen to either one of us, at our age this is extremely expensive and will get more expensive every year, one quote was for \$17000 per year to cover the cost of our debt and there are two of us to cover we just won't be able to afford that sort of money on our wages plus the interest to the bank. At the end of the day we are working to pay bank interest, money for insurance and have just enough to survive if we are lucky, we are now unable to save anything. It is soul destroying going to work knowing that all of your wages for the next 5 or 6 years are all going out on bank fees so that you can live in your own home for the next 5 or 6 years and then they are going to sell it on us once we retire.

Where do we go, what do we live on, this situation should never have occurred and it wouldn't have if the CBA bank had been more responsible with their lending to Storm Financial. Going to another financial planner has restored our faith in the financial planning industry somewhat we know now that we should have sought a second opinion but we didn't know that at the time and hindsight is a wonderful thing. We all make mistakes and we have made one big mistake in going to Storm Financial and taking their advice but do we have to pay the ultimate price –total financial devastation –someone or maybe several people are responsible for this and it wasn't us. The stress that we have been under can cause life threatening disease – heart attacks and cancer being two primary examples. In five years time we will see a majority of Storm victims suffering serious illness.

What crime did we commit to end our lives in financial devastation after working and saving hard all of our life???

We took the experts advice and went to see a licensed and financial planner and took their advice????

Do you think we need to be compensated??? I do.

I cannot move on with my life while this nightmare hangs over my head.

If we do not receive some sort of compensation so we can visit our children and live in some comfort in our old age I don't want to go on like this. The banks irresponsible lending to Storm has destroyed me financially and emotionally and they couldn't care less and the CBA have made this very plain in the last few months. We were lucky that we had enough to pay out our margin loan at the Macquarie Bank.

The CBA have given us inappropriate loans they have made mistakes in their lending practices and they need to extinguish these loans and give us back the mortgage for our homes. They need to accept that it was their irresponsible lending and lending practices that have put us into this position. We will be 91 years old before we can repay back this loan and that's only if we had the money to pay it back. This is not going to happen on the old age pension which is the only thing that we will have to live on in our retirement.

The Macquarie Bank need to accept that they have given us inappropriate loans, inappropriate lending practices and compensate us for their part in our financial demise.

Storm Financial have no funds as the CBA funded them to the hilt and now they are broke. However they had public indemnity insurance to protect us. Storm clients have reportedly lost \$3 billion in total. Storm

Financial it has been reported had insurance for 20 million. The insurance company knew Storms strategy and should have insisted on an insurance policy to cover all of their clients. They insured Storm in case anything happened to the company and it's clients. Now that it has they need to compensate us for our losses. That's why Storm had insurance. They also need to explain why they insured Storm for so little when they would have known how much Storm needed insurance for.

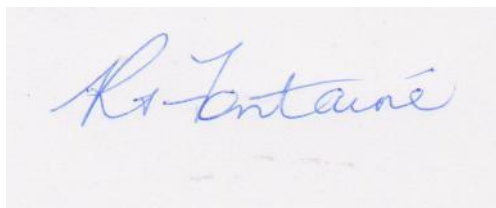
If the CBA compensated everyone that would be 3 billion dollars. They made 4 billion dollars in profit last year. They could compensate us and still make a profit during the biggest depression/recession in recorded history. Maybe they will think twice before doing this to anyone else again. Who were the people at the top of the CBA who made the decision to close Storm and it's clients down. They have caused a disaster here. Who were they and what action is going to be taken against them. They have a responsibility to do the right thing ...they didn't.

Something needs to be done to prevent this happening again to anyone else.

Some suggestions that I would like to see considered are:

- a pamphlet put out by the Financial Planning Association/ASIC/Government that all potential clients of financial planners have to receive and it needs to be written in simple everyday language that ordinary people understand so that we know what we should and shouldn't be doing **before** we sign up for a financial plan and we need to take it home and read it, and if we don't understand it tell us who to take it to, to explain it, and sign it only when we understand it. It's no good finding out afterwards what we should have done. Financial people know this but the ordinary person seeking financial advice for the first time doesn't and yet they are very critical of us for not knowing.
- After we seek financial advice, it should be a legal requirement to go to an independent person (it needs to say what qualifications this person needs to have eg accountant or maybe it needs to go to the Financial Planning Association for approval) for verification so that we know exactly what we are getting into in case the financial planner doesn't give us a suitable financial plan. AND we need to get it signed off by an independent person who then also takes responsibility for explaining the plan to us.
- I would also like to see the financial planner give the client a list of exactly what and when they propose so there are no 'surprises' like our margin loan at a later date.
- The 'Statement of Advice' needs to be very different to the cumbersome book that Storm gave us. I am hopeless at reading and understanding financial and legal books and I want it explained simply. I could not read their 100 page Statement of Advice but I did try reading it all and I found it difficult to read so much and understand and remember everything that I was taking in. Can the FPA devise a simpler Statement of Advice that all financial planners have to use or isn't this feasible?
- If there are risks involved tell us simply what they are don't provide us with a 100 page book to read it's not fair.
- Financial Planners need to have adequate insurance.
- Financial Planners need to be made to give us regular financial updates. Ours didn't.
- Some serious thought given by the Financial Planners themselves to prevent this type of situation from ever reoccurring.

I acknowledge that the above information is true to the best of my belief

A handwritten signature in blue ink, reading "R. Fontaine", on a light-colored background.

Ruth Fontaine

Date: 20 June 2009

*Dennis Douglas Fontaine  
& Ruth Heather Fontaine*

Ms Leona Murray  
Commonwealth Bank of Australia  
North Queensland Area Office  
Level 1, 281 – 285 Ross River Road  
Aitkenvale Qld 4814

13 April 2009

Dear Ms Murray

**Complaint - Home Loan - Name of Dennis Douglas Fontaine & Ruth Heather Fontaine**

We are former clients of Storm Financial who obtained a loan from the Bank to invest in Storm, as you would be aware this investment has now failed and we are left a home loan in the amount of \$584,000.

We have received your correspondence dated 8 April 2009 regarding the Bank's offer in response to our request for hardship relief. You will appreciate that we will need some time to assess this offer however in the meantime we wish to lodge a formal complaint against the Bank with regard to the original approval of our loan.

It should be noted that during the whole loan approval process we did not speak to anyone from the CBA and all communication was via your agent (Storm). We did not complete any of the forms (other than signing them) with all required financial information supplied to Storm who provided same to your Bank.

Given Storm was a licensed financial adviser who had an ongoing business relationship with the CBA we believed they would provide accurate information to you for the purposes of assessing the loan.

We have received a copy of some of our loan information and note there are significant deficiencies in the loan application, which need to be addressed, namely:

**Use of Rental Income**

The use of rental income for our property was inappropriate as this property was/is used by a family member for no charge. This was clearly pointed out to your agent and while use of this unverified income seems to be in line with your policy the fact remains no income was ever going to be generated from this property.

**Use of unverifiable dividend income**

The income of \$2433.33 pm (gross) has been used with no indication of origin, notes from assessing officer may indicate however I do not have these. My adviser has calculated this as follows and assumes that this is the methodology used by your Bank:

$$\begin{aligned} \$584,000 \times 5\% &= \$29,200 \\ \$29,200 \div 12 &= \$2433.33 \end{aligned}$$

This indicates that the Bank either assumed that we would borrow \$584,000 at 6.99% to invest at 5% or you decided to ignore the usual Storm investment strategy. Given your Bank's intimate knowledge of the investment strategies your agent employed we find it disingenuous that you would assume the former simply to get our loan approved.

We note that using the former complies with your policy for proposed investment income by using the deeming rate however the fact remains that you made allowances for an investment strategy that was completely different to what occurred. Furthermore it conveniently ignored the margin loan for \$580k that was to be established.

To be even remotely accurate fees at 7% that were to be paid to Storm should have been deducted, so even by this measure the investment amount available should have been reduced to \$543k. This would have reduced the income to \$2,263.

Clearly, using a 'made up' income figure simply to ensure loan serviceability is not appropriate.

#### **Absence of Diligent Credit Assessment**

Given your ample knowledge of the 'Storm model' it seems incongruous that we would be the only customers in Australia not to have a margin loan, furthermore the omission of the future investment strategy ensured that loan serviceability would be evident.

The only conclusion to be drawn is that the full investment strategy was deliberately ignored to ensure the loan would be approved.

In summary, the inclusion of non-existent rental income and omission of the true nature of the investment strategy has enabled us to get a loan we could never afford.

It is considered the way your Bank has assessed our loans was flawed and ultimately unconscionable, the simple fact of the matter is that we should not have received this loan and therefore request that the loan be set aside with the mortgage released for no consideration.

Yours sincerely

Dennis Fontaine

Ruth Fontaine

cc CC Banking and Financial Services Ombudsman GPO Box 3 Melbourne Vic 3001

Hello Dennis and Ruth

Thank you for taking the time to talk with Mark and myself last night.

I confirm that the Bank is prepared to assist you because of the hardship that has ensued followed your investments with Storm Financial. It's clear you are experiencing difficulty with the credit facilities you have with the Bank.

In terms of our discussions, I summarise the following offer which the Bank is prepared to make to you in respect to your current Investment Home Loan No 616046218 – Current Balance of \$578,465.70 (including accrued interest of \$4,465.70 on 08/04/09)

The offer is summarised as follows:

- You make a lump sum payment reducing your loan balance to \$380,000 (the Bank will waive accrued interest to the date of restructure)
- The Bank will discharge its mortgage over your 33 Cambridge Road, Lissner land and allow you to retain all sale proceeds.
- The \$380,000 residual amount owing would then be split into 2 loans as per below

#### Loan 1

- Loan Amount - \$180,000
- Interest rate – The Bank's Standard Variable Rate (currently 5.64%) less 1%
- Monthly interest only repayments for 10 years. At the expiration of the 10 year period, (which commences from the date the loan is restructured), the loan will be again re-structured in accordance with the current interest rate/repayments and term applicable to like loans at that time.
- If you sell the 31 Cambridge Street, Lissner property, sale proceeds will be used firstly to clear Loan No 1 with any residual balance to be paid to reduce Loan No 2.

#### Loan 2

- Loan Amount - \$200,000
- Interest rate of 0% - no interest will accrue on this loan.
- No repayments are required although you are free to make special repayments in reduction of the principal at any time
- Life time tenancy to apply.

The Commonwealth Bank will cover all Early Repayment Adjustments and set up costs for the new loan facilities. This offer is on the understanding that the Bank will retain the existing mortgages over your properties at 66 Mick Ready Road, Grasstree Beach Qld and 31 Cambridge Street, Lissner until the restructured debts are repaid in full.

I confirm that if you elect to accept this offer, the Bank will set out the details in a Deed which I will ask you to sign after you have obtained independent legal and financial advice. The Deed will include a clause that will preclude any future legal claims against the Bank in relation to your current loan, any past margin loan with a Bank company or the collapse of Storm. Because the parties' legal rights would be changed by the proposed arrangements, the offer is made on a "without prejudice" basis.

Can you please let me know if you are interested in the offer within 7 days of this e-mail. I'll then get formal documentation prepared. I'm not asking for a final commitment from you at this stage; that will occur at such time as you sign a Deed.

Kind regards

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**Commonwealth Bank**

Kathy Hamilton  
Manager, Customer Assistance Unit  
Townsville Qld  
P – (07) 47270706