

Submission to Senate Inquiry
"Effects of the GFC on the Australian Banking Sector"

Economics References Committee
PO Box 6100
Parliament House
Canberra, ACT, 2600

29 May 2012

Dear Senators,

Please find attached our submission that relates to how our business was treated by Bankwest after it was acquired by the Commonwealth Bank of Australia during the GFC in late 2008.

Introduction:

In 2006, we took out a business loan for the purchase of a gelato franchise. This loan was secured over our home and additional security was over part of the value of my parents' home. In early 2008, we were able to discharge my parents' property from the loan, but a \$50,000 guarantee was added to the mortgage to ensure sufficient security. During 2008, it became clear that our business was in difficulty, and my husband had numerous discussions in 2008-2009 with our "Relationship Manager" regarding this, including about our intention at that time to purchase a cheaper property to reduce the amount of payments. At one stage, we had an offer in on a property, which fell through. Much to our surprise, we later discovered the bank was counting that property AND our existing home as security.

From February 2009 onward, our business was struggling to the point that we were unable to pay ourselves any wages. We had to draw from our equity line facility to cover debit interest on the business loan on a monthly basis, as well as living expenses. Debit interest was increasing rapidly on both loans and the increasing debt was putting us in danger of losing our home. We placed the business on the market, and finally sold it in July 2010, for \$40,000 (after having paid \$380,000 to set it up, plus the interest we have paid on the loan). As we still had the business loan to pay off, and no income to pay it with, the debit interest and drawings on our equity line went through the roof and by April 2011, we had reached a point where the bank froze our account. Because the bank had made an error in 2008 when my parents' property was removed from the loan security, and failed to reduce the limit on our equity line facility to \$100,000 (despite it having advised us that it had done so), the equity line facility was allowed to go well in excess of the \$100,000 limit we should have had, which far exceeded the value of the property, based on the combined debts of the loans which it was security for.

At present, our case is still before the Financial Ombudsman Service. It appears that we will lose our home soon (and have already moved into rental accommodation, in anticipation of this), but are uncertain at present what further impact there will be.

Detail:

The business we purchased in 2006 was an Amano Gelato franchise store, making our own gelato and selling it to customers at Gateway Shopping Centre in Success, WA. This was a very new franchise, and seemed to offer an excellent new business opportunity, based on the documents and verbal information provided to us by the franchisors.

After examining the franchise business as thoroughly as we could manage for such a new business, we signed an agreement to open a store at the above centre, and then applied to a number of banks for a business loan for the purchase of equipment and shop fitting expenses. All but Bankwest knocked us back. In making its assessment of the suitability of this business for a loan, Bankwest:

- Relied solely on our business plan, which in turn relied heavily on figures supplied to us by the franchisor, for which there was no authentication available at the time. It is our conviction now that the franchisor made up fantasy figures, as no store in the franchise outside the original store (which was in a very different location to all other stores) has ever, to the best of our knowledge, had turnover that got close to the predicted figures.
- Took into account the income both of us had in our then-current occupations, despite our having indicated in the business plan that we would both be leaving our jobs to be able to operate the business.
- Did not appear to give due consideration to repayment ability.

- The loan was approved solely on the fact that their money would be secured by property, not on repayment ability.

After signing up for the business loan, we had the following accounts with Bankwest:

- Home equity loan over a property in Atwell.
- Business Edge loan for the Success store, with a mortgage over the Atwell property and a portion of my parents' Woodvale property.
- Bankwest Gold Visa card.

Timeline of events:

- 11/8/2005 Purchased house in Atwell, with Gold Equity Release mortgage with Bankwest, for \$310,000.
- 4/9/2006 Letter from Bankwest, confirming the offer of a \$320,000 for the gelato shop, (myself and my parents) as guarantors, and part of the value of their Woodvale property as additional security. Note that the successful completion of this documentation had taken several weeks longer than promised for Bankwest to correctly complete the paperwork – numerous sets of paperwork were returned to Bankwest by us, as the details were incorrect. This meant our store could not open at the planned time, causing the loss of several weeks of income.
- 20/10/2006 Variation letter from Bankwest, increasing the loan to \$340,000, after the promised costs of equipment and shop fitting arranged by the franchisor blew out. Still the bank was happy to proceed.
- 24/6/2008 Agreement to Vary Loan Contract – bank confirmed that the Credit Limit was reduced to \$100,000, after the property was removed from the mortgage (but a \$50,000 guarantee was agreed).
- February 2009 Business was struggling to the point that we ceased paying ourselves wages. We began to have to withdraw from our equity line facility to meet our financial commitments, including the interest repayments. We placed the business on the market shortly after this.
- July 2010 Business sold for \$40,000. We began to have to draw on our equity line facility to pay the business loan interest repayments. Interest was increasing on our equity line facility as the debt increased.
- 28/3/2011 Bankwest declines our application for financial hardship arrangements.
- April 2011 We lodge a complaint with the Financial Ombudsman Service regarding Bankwest's failure to offer financial hardship arrangements (confirmation letter from FOS, 8/4/11).
- 3 June 2011 Meeting with three officers of Bankwest, (myself and my parents). We had understood the meeting was to review our application for hardship arrangements. Instead, what happened was that we were subjected to intense pressure tactics

by Bankwest's officers to go bankrupt immediately and surrender the Atwell property, despite the fact that this would leave us nowhere to live. The bank gave various misinformation about the effects of bankruptcy. The bank gave us 2 weeks to respond.

However, as our personal finances were entangled with business finances (with a new small business in the process of opening at the time), we found it almost impossible to receive any accurate free information about the bankruptcy process, given that we could not afford to pay for legal or accounting advice. We pursued every option we could, but it took about 3 months to do this, rather than 2 weeks, as we frequently had to wait weeks to see someone only to discover they could not help, and then wait weeks for the next appointment with a different agency. We advised the bank of these difficulties.

Since the above meeting, there has been continual correspondence between ourselves, Bankwest and the Financial Ombudsman Service, and the case is still ongoing.

Bankwest's actions during the period of the above loans have significantly contributed to the financial difficulty we find ourselves in. Errors and failures by the bank include:

- Failure to exercise due diligence in giving us the loan in the first place.
- Inability to process the original loan documents (2006) in the time agreed – we had been told it would take about 6 days but was instead about 6 weeks. Paperwork was continually wrong and had to be sent back time and time again.
- Inaccessibility of a succession of “relationship managers.” We found that, in order to get a relationship manager to bother to reply to any correspondence or phone calls from us during the duration of the loan, we had to rely on a strategy of phoning the bank's 13 number and leaving a message that if we did not get an immediate call back, we would take our business elsewhere.
- Failure to conduct any review of our business loan at all during the duration of the loan. Any thorough examination by the bank from 2008 onward would have made it clear that we were in difficulty, and earlier action by the bank would have made it impossible for us to end up in the situation we had reached by early 2011.
- Failure to reduce the limit on our equity line facility to \$100,000 in 2008, despite our having received the paperwork confirming that this had taken place. This allowed us, in a time of extreme financial stress, to draw over and above this limit, taking the debt far above the value of the property.
- Inaccurately adding an additional property which we never owned to their list of the security over the above loans, causing them to believe the debt was adequately secured. What money they imagined we used to supposedly purchase this property is something we cannot comprehend, particularly given that my husband had made it clear in his discussions with the “relationship manager” at the time that the

business was not performing well, and that we were looking to sell our existing property to purchase something of lesser value in order to reduce our repayments.

- Applied inexcusable pressure tactics in the meeting of 3 June 2011. For example, although they made it clear that they intended to repossess our home, and despite my having made it clear to the bank that our total income at that time was \$350/wk in Centrelink payments, my fears that we would be left homeless were repeatedly described by one of the bank's officers as "getting overly emotional about this." This same bank officer swore at us, bullied us, made it clear that he hoped we would fail and gave inaccurate information about the effects bankruptcy would have on the business we were in the process of establishing at that time.

Prior to the Global Financial Crisis, Bankwest was falling over itself to lend us money. Since the GFC, and Bankwest's takeover by the Commonwealth Bank, the bank has been extremely unhelpful in assisting us to resolve our financial situation.

Impact:

The bank's failure to exercise its due diligence in giving us the business loan in 2006 led to a chain of events which has had catastrophic effects in our lives. Its ineptitude and lack of compassion since have ensured that we have endured extremely difficult circumstances.

We know that as soon as it is cleared to do so by FOS, the bank will repossess our home. We are living in rental premises at present (in anticipation of the bank taking the property very shortly), which is putting extreme pressure on our straitened financial circumstances. We are experiencing a constant battle to pay essential bills, such as gas, electricity and telephone, and have sought assistance in paying these bills and obtaining food from welfare agencies a number of times.

The stress of everything that has taken place has taken a toll on my husband's health. He was ill for a few months after we sold the business, as a result of the stress experienced to date, and has since experienced severe depression, for which he has been taking medication. His depression has been such that it has severely affected his capacity to start his new business. I have had to return to work (I gave birth to our son in 2009, and had back surgery in 2010, so had only worked infrequently in that timeframe), but my income is low, and the structure of Centrelink's system of reducing payments is such that almost all of any increase in income is swallowed up in lost Centrelink payments, so even working 4 days per week (with one day at home to help my husband with his business) has meant we are not improving our finances at all. I could not afford to work at all if it were not for our elderly parents looking after our son while I work. I am under a great deal of pressure, with a child, sick husband, work, study relating to my new field of work, household responsibilities and trying to manage the effects of our poverty at the same time.

We anticipate that we may have to go bankrupt soon, which will of course have numerous unpleasant consequences for our current and future situation. Even if we do not have to go bankrupt, we are concerned that we will never own a home again and that this will severely impact our retirement years.

The situation has not only caused us extreme stress and hardship, but has impacted our families as well, as they are very worried about us and our situation.

Conclusion:

The bank's numerous failings during the term of our business loan have had an impact on our lives which will almost certainly affect us in negative ways for the remainder of our lives. The bank has been quick to take our money, slow to act on problems, and has shown no compassion when things went wrong. We have done everything we could within the constraints of our situation to resolve the matter. We are thoroughly baffled by the bank's recent behaviour, particularly its incomprehensible unwillingness to settle the matter in a timely fashion. We have made offers to the bank through FOS to settle the matter three times now, and have been knocked back every time.

Bankwest has behaved in ways which were inept, unethical and predatory. Its actions will impact us until our dying day.

Should you need to contact us any further in this matter, you can call . We have numerous supporting documents available if required.

Yours faithfully,