



PROPERTY DEVELOPMENT ENTERPRISE
TETBURY PTY LTD
ACN 002 294 519
THE EVANIAN FAMILY TRUST

www.evaniangroup.com.au

Without Prejudice save as to costs

This document is in response to “Engineered Defaults by Banks”

Abbreviations Used:

CBA = Commonwealth Bank of Australia – ACN 123 123 124

BWA = Bank of Western Australia - ABN 22 050 494 454

TET = Tetbury Pty Ltd – ABN 98 002 294 519

TRE = Tressedar Pty Ltd – ACN 003 377 642

Introduction

In 1993 we had approval from CBA to build a shopping centre to be repaid principal and interest over 15 years. After making repayments for 3 years David Murray decided to “restructure” the bank. I was then told out of the blue that I had been defaulted and my file was being sent to credit recovery. I asked for the reasons which I had been defaulted and CBA’s response was “continuous absence from the country”. In fact I had only been absent from the country for 3 weeks over Christmas. I took my passport and shoved it in his eye.

This is direct evidence of a manufactured default and the resultant loss caused to me and my companies was \$25,000,000 in damages, forced sale of assets and loss of a thriving business. I swore I would never work with this bank again, until, in March 2006 I received a letter from Mr _____ (including an admission that the bank should have better handled my files) with an invitation to renew my banking relationship with CBA. Attached is this letter.

In 2006 my companies entered into facilities with Bankwest for \$20million to construct a 39 Apartment development. Facilities commenced 9 March 2007. The raw site was purchased for \$7.5Mn with no Development Approval.

A tripartite deed with Bankwest was entered about October 2007 an essential term being that the borrower cannot terminate the building contract without the prior consent of the mortgagee being obtained inter alia that the consent to terminate would not be unreasonably withheld.

- Unreasonably Withholding Consent to Terminate Builder under provisions of the Tripartite Deed
- Bankwest refused to terminate the non performing builder from first request in January 2008
- The Banks delays in acting on decision was the main cause of default
- 6 November 2009, two years later, Tresedar received notification that the bank had now consented to the termination of the existing builder.
- Head of Credit Committee said to us that the site would continue – in 2010 we were placed into manufactured default and accrued interest at 18.75%.
- Delays from Credit Asset Management who advised the project would continue after terminating builder, and then changed their mind.
- 4 separate proposals of Equity injections through equity funding where rejected due to delays and frustrated investors, we also proposed to sell the site and the bank also refused
- Without proper notice Bankwest appoints receiver
- Property purchased and costs equating to \$17Mn was sold by receivers for \$6Mn
- Bankwest stopped Tresedar from paying suppliers causing damages on legal fees and court appearances.
- Tresedar then sold a property in Bondi Junction to pay its suppliers and the Bank put a caveat on this sale even though the Bank had no security over this site. The purchaser was frustrated and walked away from the sale.
- Delays by the receiver and the bank were accruing interest at default rates of 18.75% \$50,000 per month
- Under commercial duress the bank made us sign guarantees and mortgages over all the assets of the Group. There were 61 properties at that time.

- Remaining properties refinanced - condition of the facility was that further properties have to be sold
- The Head of Credit at that time advised us to fix the interest rates (8.75%). The facility of \$12,000,000 was costing us \$35,000 more a month for 36 months due to this advice causing damages of \$1,260,000.
- We sold the the roof of the shopping centre for a lump sum of \$1,750,000 to pay the \$400,000 in break costs and return to variable 8.75% to 5.5%. This would have saved us \$30,000 a month in interest. Bankwest would not allow the site to be sold and would not allow us to pay the break cost. The bank's main motivation is to strangle liquidity in the hands of a victim who will then be able to litigate.
- The Banks forced asset sales have caused the group's asset to decline to two properties, one of them being my home which is soon to be auctioned.
- One of the properties sold was my brother's home. He was so stressed from the process that his health rapidly deteriorated and he passed away in 2014 from stress. His last words were "curse Bankwest for what they did to us"
- I am now selling my home to pay back the debts left on us by the Bank.
- Forced Asset Sales are as follows
 - 4 Villas – Hancott St, Ryde
 - 4 Townhouses –Wheatliegh St, Crows Nest
 - 12 Townhouses – Burns Rd, Turramurra
 - 39 Apartment site sold half complete for less than its value
 - 1 Terrace – Bondi Junction
 - 1 Family Home – Willoughby

Damages Caused By the Bank.

The Gordon property was sold by PPB on 20 January 2011 for \$7.9Mn and app \$10Mn of presales where rescinded.

Refinance of the remainder of debt and Settlement - Commercial Duress

<i>Damages Resulting From Manufactured Default</i>		
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Loss on Sale of Gordon Land	-	\$ 6,300,000
Loss of Profit Gordon Project	-	\$ 18,000,000
Loss of Profit Turramurra Project	-	\$ 10,000,000
Loss on Sale of Bondi Junction	-	\$ 500,000
Legal Fees	-	\$ 3,500,000

Direct Damages	\$ 38,300,000	
Lost Opportunity - Town Centre	\$ 139,000,000	
Total Damages and Lost Opportunity		\$177,300,000

Chris Evanian

