

27 May 2012

**Economics References Committee**

**Parliament House**

**Canberra ACT 2600**

**Inquiry into the Post - GFC Banking Sector**

Dear Senators,

I wish to lodge the following submission to bring to your attention the actions of Bankwest pre and post CBA takeover.

Bankwest through their actions in providing loan facilities and subsequently with drawing those facilities has had immense impact on the wellbeing and quality of life of my wife and I. Evidence reveals Bankwest and the Commonwealth Bank of Australia's conduct is not only questionable but unconscionable, as I will detail this conduct culture has evolved into the agents appointed by Bankwest.

My submission details Bankwest's conduct in approving loans to me prior to the Commonwealth Bank of Australia take over and, subsequent actions taken by Bankwest and its appointed agents after the takeover, those agents being valuer, solicitor, administrator and real estate agent. The Bankwest actions reveal the intention of the CBA to shut down Bankwest commercial loan facilities. The manner in which this was done is in breach of the many acts applicable to the Financial Services Industry.

I provide below evidence of the administrators deliberate actions delaying selling my properties, it is reasonable to assume both Bankwest and the administrator did not wish to return my company with credit funds. Media reports have now revealed a systemic issue of fire sales of assets leading to companies not being returned with funds so those people not having resources to commence legal action.

Additionally, I wish to bring to your attention the lack of intervention by the Australian Securities and Investments Commission, Financial Ombudsman Service and the Insolvency Practitioners Association of Australia where I provided many detailed documents complaining of the conduct of Bankwest, CBA, the administrator, solicitor and real estate agent, **not only as those actions took place, but issuing prior warning to those parties of the impact of their actions on the bottom line.**

The reasoning why ASIC and the FOS fail to implement applicable Financial Services Legalisation Acts when complaints are lodged must be questioned. A culture of non-action by these regulatory authorities is wide spread as I will provide evidence of a complaint I lodged with ASIC, FOS and ASX relating to Ord Minnett Limited.

I provide below a chronological out line of events, in which I provide relevant comment. I have attached documents relating to my statements.

- 1) In September 2005 my Bankwest Relationship Manager Coffs Harbour Mr X approved loan facilities to construct 10 units at Parkes Street Nambucca Heads.

Mr X was previously my business manager at NAB Macksville and had moved to a new Bankwest branch in Coffs Harbour.

- 2) In March 2007 my Bankwest Relationship Manager Mr X approved loan facilities to construct 9 units and commercial space at Bowra Street Nambucca Heads. No sales of the first 10 completed units at Parkes Street and no presales for the new loan approved units at 6 Bowra Street were in place.

There is reasonable cause to suspect the loan application prepared by Mr X was in part false.

Mr X stated to me on a number of occasions he had a facilities target to write each month.

- 3) On the 19 November 2008 Mr X received a valuation for my properties following his appointment of Magann O'Rourke Property Consultants. Mr X told me the CBA wanted valuations bought up to date so they could see where the market was at.
- 4) On the 20 November 2008 Bankwest solicitors Middletons issued a "notice of default and demand"
- 5) On the 20 November 2008 CBA took ownership of Bankwest
- 6) On the 1 December 2008 I telephoned the issuer of the default notice at Middletons Solicitors Mr W, who was unavailable, I left a message for him to return my call.
- 7) On the 3 December 2008 I received a telephone call from Mr X questioning why I had called Middletons Solicitors
- 8) On the 3 December 2008 I received a copy of the valuation from Mr X
- 9) On the 4 December 2008 I wrote to Mr X stating "it would not be unreasonable to think the bank had a secret agenda" and "the valuations are misleading, grossly unprofessional [the use of hearsay] and have numerous mistakes.

**10)** On the 19 December 2008 I received a letter from the Bankwest Chief Executive, Bankwest Business stating CBA had purchased Bankwest and “there will be no disruption to your service” and “there will be **no change to your relationship manager**”

**11)** On the 26 January 2009 I wrote in a letter addressed to Mr X and his senior, Bankwest business development manager Mr Z confirming Mr Z’s telephone advice **Mr X had resigned.**

I request clarification as **to why a 20K fee** for a new variation of facilities is being charged. Why an 8% margin on the bill rate is being charged when at a previous meeting in early November Mr Z had stated 4% on bill rate fee would be charged. The LVR < 73% I reaffirm my **concerns with the valuations impact on the LVR**

**12)** On the 29 January 2009 I wrote to my **replacement** Bankwest Relationship manager Coffs Harbour Mr Y and his senior manager Mr Z confirming the previous day’s meeting. I confirm my concerns about the valuations I had expressed at that meeting.

**13)** On the 11 August 2009 I received a request from Mr Y for strata title status of completed units

**14)** On the 1 September 2009 I wrote to Mr Y stating he had not responded to repeated requests to clarify penalty interest

**15)** On the 3 September 2009 I wrote to Mr Y protesting the direction to sell my own home at a below market figure.

**16)** On the 4 September 2009 I received an email from Mr Y relating to the sale of my own home, stating he was not able to comment about the value of the property or any valuation performed.

**17)** On the 6 September 2009 I wrote to Mr Y stating I **was shocked that he could not confirm in writing** the directions he had previously given

**18)** On the 7 September 2009 my own home contracts were unconditionally exchanged

My home was in the name of my wife and I, Bankwest would have had to apply to the court to become Mortgagee in possession if it had not been sold. I would have defended the application on the grounds of Bankwest’s conduct. However now sold all other assets were in my company name.

- 19) On the 22 September 2009 I received a telephone call from a Bankwest appointed administrator Rodgers Reidy to inform me they had taken possession of my company
- 20) On the 27 September 2009 I wrote to Mr Y stating Bankwest had misled me and kept me totally in the dark as to what was happening with our facility. I detailed the sales in place which were reducing the facility to \$1,826,986.00 with seven units remaining three of these penthouses.
- 21) On the 18 October 2009 I wrote to Mr Y stating Rodgers Reidy had removed my properties from local real estate agencies and Rodgers Reidy had not responded to a purchaser I had directed to them.
- 22) On the 25 October 2009 I wrote to Mr Y stating Rodgers Reidy were slowing the sales process.
- 23) On the 1 November 2009 I wrote to Mr Y stating Rodgers Reidy were not following up sales
- 24) On the 8 November 2009 I wrote to Mr Y stating Rodgers Reidy were delaying sales and the reason was Bankwest charging further capitalised default interest. It was now six weeks since Rodgers Reidy's appointment with no point of contact for prospective purchasers.
- 25) On the 17 November 2009 I received correspondence from Middletons solicitors stating I should **not direct** my complaint correspondence to Bankwest or Rodgers Reidy
- 26) On the 22 November 2009 I wrote to Mr Y and Middletons stating **I would keep the bank informed of their agent's actions** and 9 weeks had passed with no marketing.
- 27) On the 20 December 2009 I wrote to Mr Y stating advising 13 weeks had passed with no marketing.
- 28) On the 3 January 2010 I wrote to Mr Y stating 15 weeks had passed with no marketing or point of contact for prospective purchasers.
- 29) On the 10 January 2010 I wrote Mr Y stating Rodgers Reidy had appointed Ray White real estate Nambucca Heads to auction my properties and had Rodgers Reidy performed due diligence. Mortgagee in possession had appeared in media advertising which I pointed out was not correct and would devalue the properties in

prospective purchaser's minds. Also unit 4 & 6 at Bowra Street are **able to terminate their contract if surrounding units are sold at fire sale prices**. I direct my relationship manager Mr Y to pass my letter to the **Chief Executive Officer of the Commonwealth Bank of Australia**.

- 30) On the 17 January 2010 I wrote to Mr Y stating advertising had been changed however extensive print media ads had been distributed.
- 31) On the 26 January 2010 I wrote to Mr Y stating the sign Mortgagee in possession had been removed from Bowra Street and requesting Saturdays auction (30 January 2010) be recorded by an independent person.
- 32) On the 29 January 2010 I received correspondence from Middletons solicitors stating the auction would not be recorded
- 33) On the 7 February 2010 I wrote to Mr Y stating unit 5 at Bowra Street **had been sold at \$360,000.00** and my **exchanged contract** for unit 6 adjoining for **\$525,000.00 may be terminated** by the purchaser. My correspondence out lines factors influencing the auction results.
- 34) On the 14 February 2010 I wrote to Mr Y out lining concerns with advertising by Ray White real estate Nambucca Heads.
- 35) On the 16 February 2010 I received correspondence from Middleton's solicitors denying any wrong doing by the Bankwest and their agents.
- 36) On the 21 February 2010 I wrote to Mr Y out lining deficiencies in marketing
- 37) On the 28 February 2010 I wrote to Mr Y stating the purchaser of unit 6 at **\$525,000.00 has terminated his contract** the reason being the adjoining unit 5 sold for \$360,000.00 at auction. My correspondence details my advices relating to the previous auction and unit 4 sold by me for \$495,000.00 is attempting to terminate his contract. **(subsequently unit 6 was sold at \$342,000.00** in August 2010 and unit 4 had to settle as he exchanged days after the administrators appointment)
- 38) On the 1 March 2010 I received correspondence from Middleton's solicitors denying any wrong doing by the Bankwest and their agents.
- 39) On the 7 March 2010 I wrote to Mr Y expressing my concerns about marketing the remaining properties.

- 40)** On the 7 March 2010 I lodged a complaint with the Financial Ombudsman Service Reference Case No 210171
- 41)** On the 14 March 2010 I wrote Mr Y expressing my concerns about marketing.
- 42)** On the 20 March 2010 Rodgers Reidy lodged a section 524 return with ASIC
- 43)** On the 21 march 2010 I wrote Mr Y outlining the slow sales process.
- 44)** On the 28 march 2010 I wrote to Mr Y detailing concerns with property marketing.
- 45)** On the 5 April 2010 I wrote to Mr Y detailing concerns with property marketing.
- 46)** On the 11 April 2010 I wrote to Mr Y advising it was now 30 weeks since Rodgers Reidy were appointed by Bankwest. Ray White real estate Nambucca Heads had been appointed by Rodgers Reidy to conduct another (second) auction, and Ray White real estate Nambucca Heads have the same Bankwest Relationship Manager Mr Y at Coffs Harbour. I raise concerns with property marketing and the first auction only **selling 2 of 24** properties offered.
- 47)** On the 25 April 2010 I wrote to Mr Y advising Middletons solicitors had not investigated or addressed my complaints and as advised by the auctioneer, properties were not offered for sale as prepared contracts had problems. It was now 30 weeks since Rodgers Reidy's appointment.

Hindsight now allows the reasonable conclusion default interest was being charged by Bankwest and it was to cancel any prospect of a credit at the end of the administration, additionally Bankwest have kept the default interest. It is not unreasonable to consider Bankwest's conduct questionable.

- 48)** On the 1 May 2010 I wrote to Mr Y and advised I had concerns with Ray White real estate Nambucca heads advertising, had the relationship manager Mr Y sort independent legal advice as I have placed in previous correspondence and had the relationship manager forwarded my complaint to the CEO of the CBA.
- 49)** On the 1 May 2010 I wrote to Mr Y and advised I had concerns with advertising just posted by Ray White real estate Nambucca heads
- 50)** On the 8 May 2010 I wrote to the CEO and Board of directors of the CBA to formally complain of my relationship manager Mr Y failing to investigate my concerns and not

forwarding my complaints to the CBA as I had requested. I attached my correspondence to the relationship manager Mr Y being 35 (Thirty Five) letters

51) On the 9 May 2010 I wrote to the FOS stating I had not received a reply to my complaint and attached correspondence to the CEO and Board of the CBA dated 8 May 2010

52) On the 11 May 2010 I received correspondence from the EDR Service Quality Coordinator for Bankwest acknowledging my correspondence to the CEO and Board of directors and stated Mr W from the CBA has directed my correspondence be referred to Bankwest Service and Quality for investigation. The correspondence requests I provide a "sample of your letters"

The question arises, firstly as to what did my Bankwest Relationship Manager Mr Y do with my extensive correspondence, and **it appears my complaints may not have been recorded in the Bankwest internal system**. Secondly Mr W from the CBA has not forwarded my attached letters (Thirty Five).

It may reasonably considered complaints by Bankwest customers are not being recorded which would allow the conclusion when Bankwest advise the governing bodies of complaint handling numbers and adherence to procedures **a systemic culture of complaints is not revealed**.

53) On the 17 May 2010 I wrote to the EDR Service Quality Coordinator for Bankwest attaching 43 (Forty Three) letters to my Bankwest relationship manager Coffs Harbour Mr Y, Middletons and Rodgers Reidy

54) On the 27 June 2010 I wrote to Middletons, my correspondence refers to an inquiry to Rodgers Reidy by my wife and subsequent response by Middletons. My wife was distraught and depressed at the reply. My reply documents, statements which may be reasonably considered to be misleading. I forwarded this correspondence to the EDR Service Quality Coordinator for Bankwest.

55) On the 27 July 2010 I received correspondence from the EDR Service Quality Coordinator for Bankwest acknowledging the additional information, and a reply would be to me by the end of next week, and "this is not to say that I do not want to hear of any further developments"

56) On the 4 July 2010 I lodged additional information with the FOS as requested.

- 57) On the 9 July 2010 I received a letter from Middletons stating in part “our clients do not intend to respond in detail to any further correspondence, unless you raise fresh matters” and “continue to deny any improper conduct”
- 58) On the 18 July 2010 I wrote to the EDR Service Quality Coordinator for Bankwest and advise as a matter of courtesy the FOS have agreed to investigate my complaint
- 59) On the 27 July 2010 I received correspondence from the Service Quality Coordinator Bankwest stating in part “the matters you raise appear to be queries which should be properly directed to the receiver” and “I respectfully request you please send any further correspondence to Mr A of Middletons Solicitors”
- 60) On the 25 August 2010 I received correspondence from the EDR Service Quality Coordinator for Bankwest forwarded to the FOS as a reply to my FOS complaint stating in part “the Bank is not in a position to consider returning Paoli to you”
- 61) On the 29 August 2010 I wrote to the FOS outlining flaws in the FOS response by the EDR Service Quality Coordinator
- 62) On the 7 September 2010 I received correspondence from the Head of Service Quality Bankwest responding to my reply of the 29 August 2010 the correspondence directs me to contact Middletons Solicitors if I require issues to be addressed.
- 63) On the 11 September 2010 I wrote to the FOS, my correspondence outlines the conduct of Bankwest, additionally I quote the public statement made by Mr Ralph Norris the CEO of the CBA at the recent CBA AGM referring to Bankwest, “I am annoyed about the blowout, which results from **systemic issues** in the portfolio. **Some people have paid with their jobs**”
- 64) On the 12 September 2010 I lodged a complaint with ASIC Reference No 5441590 relating to the conduct of Bankwest, I attached a sample of recent correspondence.
- 65) On the 10 October 2010 I wrote the Head of Service Quality Bankwest, I state in part “My frustrations dealing with Bankwest continue” and “questions I have raised have not been answered”
- 66) On the 11 October 2010 I received correspondence from the Customer Advocacy Manager, Customer Relations Bankwest replying to my correspondence of 10 October 2010 stating in part “the FOS has written to you” and “Bankwest is comfortable that this complaint is dealt with in this forum”



- 67)** On the 11 October 2010 I wrote to the FOS outlining my concerns Bankwest conduct was questionable.
- 68)** On the 31 October 2010 I wrote to Mr A of Middletons Solicitors my correspondence outlines Bankwest's conduct and complains of the immense emotional distress and hard ship suffered by my wife and I. The correspondence was Cc'd to my Bankwest Relationship manager Mr Y and the Service and Quality coordinator Bankwest.
- 69)** On the 2 November 2010 as recorded on ASIC 524 return the last of my properties settled
- 70)** On the 5 November 2010 I received correspondence from the FOS advising a case manager will be appointed to investigate, however we have a very high case load and there may be some delay.
- 71)** On the 6 November 2010 I provided 31 items of my correspondence to Bankwest, to the FOS as requested
- 72)** On the 7 November 2010 I wrote to Mr B a Federal Government Minister outlining what had and was taking place and seeking Mr B's assistance
- 73)** On the 13 November 2010 I wrote to the Head of Service Quality Bankwest referring to my correspondence of 27 July 2010 and directions I direct my complaint to Mr A of Middletons Solicitors. I outline the non-response and statements made by Mr D of Ray White real estate Nambucca Heads relating to me personally and my properties.
- 74)** On the 21 November 2010 I wrote to Mr E of Rodgers Reidy outlining their actions and conduct during the Administration and the fact I had documented those actions and kept Bankwest informed. Additionally the ASIC 524 form lodged on the 6 October 2010 stated Rodgers Reidy would hold my company in administration for another 12 months, I state "all properties are sold".
- I state "I demand the immediate return of Paoli, if the bank has instructed you to deregister the company I wish to be advised by you so I may appeal yours and the bank's actions".
- 75)** On the 28 November 2010 I wrote to Mr A of Middletons Solicitors I outline the actions taking place are an attempt to gain more interest from my company depriving me of funds to have the matter heard in the appropriate arena.

76) On the 28 November 2010 I lodged a complaint with ASIC, ASIC acknowledged the complaint on 29 November 2010 and had appointed an officer.

77) On the 28 November 2010 I lodged a complaint with the Insolvency Practitioners Association relating to Rodgers Reidy, attaching relevant correspondence.

78) On the 30 November 2010 I received correspondence from Mr E from Rodgers Reidy informing me he denies the various allegations in my letter and **“All assets subject to the banks mortgage have now been realised. We are now in a position to finalise the matter and subsequently retire from our appointment”**

79) On the 2 December 2010 I wrote to Mr E of Rodgers Reidy in part stating the response does not address the extensive issues I have raised and requested the following;

I require you to account to me disclosing the following:

- 1) Itemised account of all moneys received during your administration
- 2) Itemised account of all monies disbursed during your administration
- 3) Your storage address and convenient time so I may collect the company records I provided to you

80) On the 11 December 2010 I wrote to Mr E of Rodgers Reidy stating I had not received a reply to my request of the 2 December 2010 and provided detail of applicable sections of the Corporations Act

81) On the 11 December 2010 I wrote to the Service Quality Coordinator Bankwest advising of parties' non-response and relevant Acts applicable to these actions.

82) On the 12 December 2010 I wrote to the managing Director and Board of the CBA outlining I was informing the CBA of the actions of Bankwest customer service and agents appointed. I request the Board intervene to resolve the matter.

83) On the 14 December 2010 I wrote to Mr E of Rodgers Reidy referring to a response I received on the 13 December 2010 incorporating a letter dated 10 December 2010 in which Mr E stated “We note your comments in your letter and will provide you with a response in due course”

My response related to conduct.

- 84) On the 15 December 2010 I received correspondence from Mr E of Rodgers Reidy attaching section 524 returns for 21 September 2009 to 20 March 2010 and 21 March 2010 to 20 September 2010 and stating **“with the banks permission we anticipate retiring from this role shortly”**
- 85) On the 15 December 2010 I wrote to Mr E of Rodgers Reidy stating he had not answered my correspondence questions, I repeated the requests. I raise the issue of conduct.
- 86) On the 19 December 2010 I wrote to Mr E of Rodgers Reidy stating I required authorisation to act on behalf of my company Paoli Pty Ltd to commence proceedings against Bankwest and CBA. I provide copies of the relevant sections of the Corporations Act.
- 87) On the 26 December 2010 I wrote to Mr E of Rodgers Reidy the correspondence raises my concerns relating to conduct.
- 88) On the 31 December 2010 I wrote to Mr E of Rodgers Reidy stating I had not received authority to commence proceedings and I advise of discrepancies in the ASIC 524 returns, additionally I pose 30 questions relating to his actions during the appointment.
- 89) On the 31 December 2010 I provided the Insolvency Practitioners Association with a chronology of events from the appointment date of Rodgers Reidy
- 90) On the 5 January 2011 I received correspondence from Mr E of Rodgers Reidy referring to my letters of 14, 19, 26 and 31 December 2010 and stating in part “we continue to deny the various allegations in your letters” and “your letters add to the cost of the receivership” and “we are confident we are complying with all our duties” and **“we anticipate retiring from the role in the next fortnight”** and “the company’s books and records will be returned to you upon our resignation” and “we will not respond to any further correspondence unless they contain fresh matters that we accept require specific response”
- 91) On the 7 January 2011 I received correspondence from Mr F Legal Adviser Bankwest responding to my letters to the CEO and Board of the CBA, Middletons, Rodgers Reidy and Bankwest Customer complaints. In part Mr F states “it does not appear there is **any substance** to your complaints”
- 92) On the 7 January 2011 I wrote to Mr F Legal Adviser Bankwest, my response provides “substance to my complaint”

- 93) On the 7 January 2011 I wrote to Mr E of Rodgers Reidy the letter relates to conduct and outlines relevant Acts.
- 94) On the 13 January 2011 I received short correspondence from Mr F Legal Adviser Bankwest “the Bank remains of the view that it has not breached the legislation you refer in your letters”
- 95) On the 16 January 2011 I wrote to the ASIC investigating officer drawing his attention to the ASIC Section 524 returns lodged by to Mr E of Rodgers Reidy not balancing.
- 96) On the 16 January 2011 I wrote to Mr F Legal Adviser Bankwest the letter is relating to conduct
- 97) On the 16 January 2011 I wrote to the Managing Director and Board of the CBA attaching correspondence from Mr F Legal Adviser Bankwest and asked for their intervention
- 98) On the 19 January 2011 I wrote to Mr E of Rodgers Reidy my letter relates to conduct and advises of the emotional distress my wife is suffering.
- 99) On the 19 January 2011 I wrote to Mr N of the Insolvency Practitioners Association stating I have not received his view of the relevant actions “I and seek your urgent stance “
- 100) On the 20 January 2011 I received an email from Mr N Legal Director of the Insolvency Practitioners Association stating “I have been looking at this. I will write to you in the next few days”
- 101) On the 23 January 2011 I wrote to Mr F Legal Adviser Bankwest the letter is relating to conduct and the actions of Rodgers Reidy
- 102) On the 23 January 2011 I wrote to Mr A of Middletons Solicitors stating he had not acknowledged my correspondence of 31 October and 28 November 2010 and **Bankwest had stated Middletons would answer correspondence.**
- 103) On the 24 January 2011 I received correspondence from the Head of Customer Relations Bankwest stating in part “the Bank remains of the view that it has not breached the legislation you refer”

- 104)** On the 26 January 2011 I wrote to Mr E of Rodgers Reidy stating he had not responded to my request for authority to commence legal proceedings against Bankwest and CBA also I outline conduct.
- 105)** On the 26 January 2011 I wrote to the Head of Customer Relations Bankwest and outlined the conduct of Rodgers Reidy
- 106)** On the 30 January 2011 I wrote to Mr N of the Insolvency Practitioners Association detailing the conduct of Rodgers Reidy and “I seek your urgent intervention”
- 107)** On the 3 February 2011 I wrote to Mr N of the Insolvency Practitioners Association **detailing the statements on the IPA web site relating to the conduct of their members**, and “perhaps my complaint to you is misdirected”
- 108)** On the 9 February 2011 I wrote to Mr E of Rodgers Reidy stating it was now 5 weeks and my company has not been returned, I outline conduct and my wife’s emotional state
- 109)** On the 9 February 2011 I wrote to the Head of Customer Relations Bankwest and stated I had not received a response to my correspondence of the 26 January 2011 and advised I had concerns with Rodgers Reidy’s conduct. I copied my correspondence to Rodgers Reidy of the 9 February 2011
- 110)** On the 20 February 2011 I wrote to the Managing Director and Board of the CBA relating to the conduct of Bankwest and CBA officers
- 111)** On the 20 February 2011 I wrote to the Head of Customer Relations Bankwest and outlined the non-response to my correspondence and the conduct of Rodgers Reidy
- 112)** On the 20 February 2011 I wrote to Mr E of Rodgers Reidy stating in part it was now 7 weeks and my company has not been returned, conduct and applicable professional legalisation.
- 113)** On the 20 February 2011 I wrote to Mr N of the Insolvency Practitioners Association stating **“I am somewhat confused as to the IPA standing as the membership regulator”** and provide comment on Rodgers Reidy’s conduct.

- 114) On the 20 February 2011 I wrote to Mr A of Middletons Solicitors stating he had not acknowledged my correspondence of 31 October, 28 November 2010 and 23 January 2011, outlining conduct.
- 115) On the 20 February 2011 I wrote to Mr Y Bankwest Relationship Manager Coffs Harbour and requested bank statements for Paoli Pty Ltd from 18 September 2009 to 21 February 2011 as they had not been provided.
- 116) On the 22 February 2011 I received correspondence from the Head of Customer Relations Bankwest stating in part “the Bank remains of the view that it has not breached the legislation you refer”
- 117) On the 24 February 2011 I wrote to Mr E of Rodgers Reidy outlining conduct.
- 118) On the 24 February 2011 I wrote to the Managing Director and Board of the CBA relating to the conduct of Bankwest, Middletons and Rodgers Reidy.
- 119) On the 26 February 2011 I wrote to Mr Y Bankwest Relationship Manager Coffs Harbour as I had not received bank statements requested in my correspondence of 20 February 2011.
- 120) On the 26 February 2011 I wrote to Mr E of Rodgers Reidy relating to conduct and stating **“as administrator / managing controller make available Paoli Pty Ltd’s books and financial records for either me personally, or my agents inspection”** and “I direct you respond by 5.00 pm 28 February 2011”
- 121) On the 27 February 2011 I wrote to the Managing Director and Board of the CBA relating to the conduct. I Cc the correspondence to Bankwest, Rodgers Reidy and Middletons solicitors.
- 122) On the 27 February 2011 I received correspondence on behalf of the Head of Customer Relations Bankwest stating in part “it has been agreed by the Commonwealth Bank that Bankwest provide you with any responses”
- 123) On the 28 February 2011 I received an email from Mr Y Bankwest Relationship Manager stating “given the statements date back nearly 18 months it will be a few more days before we can provide copies to you”
- 124) On the 2 March 2011 I wrote to the investigating officer at ASIC outlining my request to Rodgers Reidy dated 26 February 2011 to inspect my company books and records and quoting **applicable legislation** to permit me to do so.

- 125) On the 2 March 2011 I received correspondence from the ASIC investigating officer stating in part “this matter is taking longer than expected. Please be assured that we are continuing to examine your concerns”
- 126) On the 6 March 2011 I wrote to Mr E of Rodgers Reidy stating in part I had not received a reply to my correspondence of the 19 & 26 January 9, 20, 24 & 26 February 2011, it is approaching 9 weeks and my company has not been returned, the bank statements released by Mr Y Relationship Manager show a nil balance and my concerns relating to conduct.
- 127) On the 6 March 2011 I wrote to Mr Y Bankwest Relationship Manager acknowledging receipt of the bank statements I raise concerns about the amount owing.
- 128) On the 6 March 2011 I sent an email to Mr N of the Insolvency Practitioners Association raising concerns relating to Rodgers Reidy’s conduct and attaching correspondence to Rodgers Reidy dated 6 March 2011.
- 129) On the 8 March 2011 I received correspondence from Mr E from Rodgers Reidy stating in part “we will not respond to correspondence from you unless it contains fresh matters that we accept require specific response” and “**we have encountered issues with the Australian Taxation Office**” and “we anticipate being in a position to resolve the matter shortly”
- 130) On the 10 March 2011 I wrote to Mr E of Rodgers Reidy stating in part “I remind you, you have not answered any of my evidenced complaints since your appointment” and I raise “fresh matters” in part referring to the Bankwest statements showing “unused credit limits” provided by Mr Y and **why a major insolvency firm has issues with the ATO** and “I remind you of my correspondence of the 26 February 2011” in which **I request inspection of my company books and records.**
- 131) On the 10 March 2011 I wrote to the investigating officer at ASIC I raise concerns **I have not been allowed to inspect my company’s books and records** and outline **relevant legislation.**
- 132) On the 13 March 2011 I wrote to Mr Y Bankwest Relationship Manager raising concerns my correspondence of the 6 March 2011 has not been answered and outline relevant legislation.

- 133)** On the 13 March 2011 I wrote to the Managing Director and Board of the CBA relating to the conduct of Bankwest and agents and quoting public statements made by the CBA relating to Bankwest.
- 134)** On the 15 March 2011 I received correspondence from the Head of Customer Relations Bankwest stating in part “I refer to your letter to Mr Y dated 13 March 2011” and “CEO of the CBA”
- 135)** On the 22 March 2011 I received correspondence from the FOS stating in part “your file is in a queue awaiting allocation to a case manager for investigation”
- 136)** On the 23 March 2011 I received correspondence from ASIC stating in part **“your complaint has been referred to one of ASIC’s specialist teams for further inquiry”**
- 137)** On the 28 March 2011 I wrote to Mr E of Rodgers Reidy and Mr G ( Mr G is noted on the deed of appointment to my company and appears a more senior person to Mr E) relating to conduct and **access to my company records**
- 138)** On the 28 March 2011 I wrote to Mr N of the Insolvency Practitioners Association stating in part “I provide continuing evidence of Rodgers Reidy’s conduct, would you kindly indicate as to the stage your investigation is at. As you will observe the actions recorded are \_\_\_”
- 139)** On the 29 March 2011 I wrote to Mr Y Bankwest Relationship Manager my correspondence relates to conduct.
- 140)** On the 3 April 2011 I wrote to Mr E and Mr G of Rodgers Reidy my correspondence relates to conduct and **access to my company books and records.**
- 141)** On the 3 April 2011 I sent an email to Mr N of the Insolvency Practitioners Association attaching 3 April 2011 correspondence to Rodgers Reidy’s and stating in part ‘I have not received a reply from you to my email inquiries. I raise concern **as you are witnessing the ongoing actions of Rodgers Reidy”**
- 142)** On the 5 April 2011 I wrote to Mr E and Mr G of Rodgers Reidy my correspondence follows me obtaining a copy of the lodgement of ASIC 524 form on the 1 April 2011 by Rodgers Reidy. I detail the figures on the 524 returns dated 20 March, 20 September 2010 and 20 April 2011 not balancing, additionally the 20 April return reveals **Middletons solicitors were paid \$53,466.66** for an in line settlement, I state “write to Middletons and request a **refund of at least \$44,000.00”**



- 143) On the 5 April 2011 I sent an email to Mr N of the Insolvency Practitioners Association attaching 5 April 2011 to Rodgers Reidy and stating in part “substantial evidence is revealed as to the conduct of Rodgers Reidy”
- 144) On the 5 April 2011 I wrote to the Managing Director and Board of the CBA relating to their non-response to my 8 letters, conduct of the Bank’s agents and attach letter to Rodgers Reidy dated 5 April 2011
- 145) On the 6 April 2011 I received correspondence from ASIC stating in part “ASIC is looking at your complaint in **conjunction with similar complaints from other people**” and ‘ASIC’s decision to **take action** will be influenced by whether there is **evidence of systemic** concerns, and whether it is in **the public interest** to take action, after the consideration of all relevant concerns”
- 146) On the 10 April 2011 I wrote to the investigating officer at ASIC outlining concerns relating to Bankwest conduct, fees charged by Rodgers Reidy and Middletons solicitors, ASIC form 524 not balancing. I also advise as recorded on the internet on the 15 May 2007, **Mr Daniel Civil as a partner of Rodgers Reidy entered an enforceable undertaking with ASIC**, in part the agreement under “summary” and “concerns” states; perform adequately and properly duties of a liquidator, failed to pay tax due to the ATO, **lodged ASIC form 524 containing incorrect information.**
- 147) On the 10 April 2011 I forwarded the above ASIC correspondence to FOS with a covering email.
- 148) On the 12 April 2011 I sent an email to Mr E and Mr G of Rodgers Reidy stating “I note you have resigned from my company” and “As director, **I direct you provide me with all information and answer all of my questions and complaints since your appointment of the 22 September 2009**”
- 149) On the 13 April 2011 I wrote to Mr N of the Insolvency Practitioners Association advising Rodgers Reidy had retired from the appointment. I outline conduct and state “I am puzzled as to **why you have not acted to correct the actions you have witnessed taking place**, since my complaint was lodged with you on 28 November 2010”
- 150) On the 16 April 2011 I wrote to Mr Y Bankwest Relationship Manager my correspondence relates to conduct and non-response for information I had previously requested.

- 151) On the 21 April 2011 I received correspondence from Mr E of Rodgers Reidy advising "As previously advised, we encountered issues with the ATO **which required resolution prior to our appointment being finalised**" and "I have resigned as joint and Several Receivers and managers"
- 152) On the 23 April 2011 I wrote to Mr A of Middletons Solicitors stating he had not acknowledged my correspondence of 31 October, 28 November 2010, 23 January and 20 February 2011. My correspondence relates to conduct, concerns ASIC 524 returns not balancing with bank statements and fees charged by **Middletons being \$176,584.00 equating to \$ 16,053.00 per unit conveyance.**
- 153) On the 23 April 2011 I wrote to Mr Y Bankwest Relationship Manager my correspondence relates to conduct and non-response for information I had previously requested. I request copy of accounts operated by Rodgers Reidy and Bankwest in my companies name and state relating to bank accounts "show a substantial discrepancy compared to Rodgers Reidy's figures"
- 154) On the 23 April 2011 I wrote to Mr E and Mr G of Rodgers Reidy outlining my request for books and records and stating "I have received bank statements which reveal there is in excess of \$2,000,000.00 discrepancy between **you and the bank's figures.**
- 155) On the 24 April 2011 I wrote to the Managing Director and Board of the CBA relating to the conduct of Bankwest, Rodgers Reidy and Middletons
- 156) On the 24 April 2011 I wrote to the investigating officer at ASIC attaching the above correspondence.
- 157) On the 24 April 2011 I wrote to Mr N of the Insolvency Practitioners Association stating "I have not received a response from you to **the serious issues I raised regarding the conduct of Mr E and Mr G**"
- 158) On the 27 April 2011 I wrote to Mr E and Mr G of Rodgers Reidy stating "I again, as per your written invitation, direct you provide me with all information and answer all of my questions and complaints since your appointment of the 22 September 2009"
- 159) On the 2 May 2011 I received correspondence from Mr N of the Insolvency Practitioners Association stating in part "I am writing to say the IPA **does not uphold your complaint against Mr E** " and "it is not the IPA's role to assess the commercial and professional judgement of Mr E "and relating to the return of company books

and records “That may allow you to more closely examine what he has done and it may answer many of your questions”

**160)** On the 11 May 2011 I wrote to Mr E and Mr G of Rodgers Reidy stating in part “I have received the records you dispatched to \_\_\_\_ Conveyancing in 1 (one) box for my collection” and “**The documents you have returned are brochures and redundant building plans** which are described in the attachment to your correspondence” and “I again **formally request you provide the complete history of my company’s books and records which are in your possession**” I provide a copy of the Corporations Act Section 421.

**161)** On the 11 May 2011 I wrote to the investigating officer at ASIC attaching the above correspondence and complain of the conduct.

**162)** On the 11 May 2011 I wrote to Mr N of the Insolvency Practitioners Association and **reminded him of his statement** relating to the return of company books and records “**That may allow you to more closely examine what he has done and it may answer many of your questions**”

**163)** On the 15 May 2011 I wrote to Mr N of the Insolvency Practitioners Association stating in part “I refer to your findings correspondence, the said correspondence does not address the issues I raised” I outline the **public IPA web site statements relating to conduct of members** and noting the dates of correspondence I provided to him totalling 20 ( twenty)

**164)** On the 13 June 2011 I wrote to the Commissioner of Taxation. This followed a telephone call I made to the ATO to find out if there were any issues with my company and the ATO. The officer I spoke to forwarded me correspondence relating to Rodgers Reidy which related to a fine for **late lodgement of GST subsequently being cancelled.**

The reason used for Rodgers Reidy requesting the ATO to have the fine for late lodgement cancelled, in my view required the ATO to again review on new evidence I provided from my accountant. I found there was reasonable cause funds were not remitted on time as **either Bankwest or Rodgers Reidy retained the funds.**

**165)** On the 13 June 2011 I wrote to the investigating officer at ASIC attaching the above correspondence and complain of the conduct

**166)**

- 167) On the 10 July 2011 I wrote to Mr Y Bankwest Relationship Manager my correspondence relates to conduct and non-response for information I had previously requested.
- 168) On the 8 July 2011 I received correspondence from the ASIC investigating officer stating in part "ASIC is not automatically obliged to investigate every matter and we exercise our discretion to do so" and Following consideration of the issues you have raised, **ASIC has decided not to take any further action at this time**"
- 169) On the 24 July 2011 I wrote to the investigating officer at ASIC stating in part "I have provided extensive detailed correspondence to ASIC **as events unfolded** since 12 September 2010" I outline the Bankwest / CBA conduct is a systemic issue.
- 170) On the 2 August 2011 I received correspondence from the FOS the correspondence advises they accept the investigation and "I have not determined the case to be outside the Ombudsman's monetary jurisdiction"
- 171) On the 21 August 2011 I replied to FOS with details requested in the 2 August letter.
- 172) On the 30 August 2011 I received correspondence from the FOS the correspondence advises the claim is outside their jurisdiction as it exceeds \$500,000.00 The FOS provide correspondence from Bankwest dated 6 September 2011 stating "At the present time the amount owing on the **Paoli facilities is in excess of \$800,000.00**"
- 173) On the 25 September 2011 I responded to the FOS extensively detailing the discrepancies and on my balancing of accounts, my company should have been returned with approximately **\$ 175,000.00 credit** which is within the FOS jurisdiction. I also outline conduct of Rodgers Reidy
- 174) On the 27 September 2011 I received email correspondence from the FOS "I will discuss the matter with the Ombudsman and inform you of his discussion regarding the officer's further involvement in due course"
- 175) On the 3 October 2011 I wrote to the investigating officer at ASIC stating in part "I have not received a response from you, please advise me if your investigation is ongoing" I copy my previous correspondence.

**176)** On the 3 October 2011 I received an email from ASIC stating “I sent a letter to **you in the post** on the 23 August 2011. I am sorry if you have not received it. A copy is attached”

The attached correspondence dated 23 August 2011 states in part “ASIC has made its decision on the information available. If you have concerns about ASIC’s management of your matter you can lodge a complaint with the Commonwealth Ombudsman”

**177)** On the 9 October 2011 I wrote to the Commonwealth Ombudsman outlining ASIC had investigated and Systemic issues were identified.

**178)** On the 18 October 2011 I received an acknowledgement and request for additional information from the Commonwealth Ombudsman.

**179)** On the 23 October 2011 I wrote to the Commonwealth Ombudsman and provided copies of extensive documentation.

**180)** On the 3 November 2011 I received request for additional information from the Commonwealth Ombudsman

**181)** On the 1 December 2011 I received correspondence from the Commonwealth Ombudsman stating in part “I have considered the information you have provided and have made the decision **not to investigate** your complaint”

**182)** On the 13 December 2011 I received I correspondence from the FOS stating in part “While **I accept** that the information contained in the Receivers statements **does not exactly match** the amount owing to Bankwest, it is not the role of this office to investigate **that discrepancy**”

The correspondence has attached a letter dated 8 November 2011 from Bankwest to the FOS. The correspondence attempts to justify the **discrepancy between the Bankwest and the Receivers amount outstanding**. The letter is signed by the Bankwest Senior Case Manager.

The correspondence also had attached selected pages from Rodgers Reidy to Bankwest detailing expenditure and amounts received for units. The pages do not contain an issue date as they are selected pages, however all units are sold and discussion of fees owed are stated. Of note is the statement “**Please note we have**

**written of an amount of \$24,797 (including GST) to allow the matter to be finalised”**

- 183)** On the 2 January 2012 I wrote to the FOS I further detail discrepancies between Bankwest and Rodgers Reidy’s amount owing not balancing and stating in part “with respect, you may not close my file until a figure has been established with **supporting evidence**” and “simple arithmetic will tell us \$2,940,000.00 taken from the stated debt to the bank of \$2,706,351.00 leaves **a surplus of \$244,619.00**. Very distant from **a debt of \$781,122.50**” and “Mr Dean Civil partner of Rodgers Reidy entered an enforceable undertaking 27 April 2007 ASIC Ref 017029209 not to continue as a partner the firm. The undertaking related to false statements on ASIC form 524” and “The FOS have no alternative but to reopen my file to forensically examine the discrepancies so the **correct amount of the loss (if any)** may be revealed”

I also provide copies of relevant Acts applicable to these actions.

- 184)** On the 5 January 2012 I received an email from the FOS Legal Counsel stating in part “I am satisfied that as at 8 December 2010, the **amount owing to Bankwest was \$781,122.50**. I have based this conclusion on the bank statements **provided by Bankwest**”.

- 185)** On the 9 January 2012 I wrote to Mr N of the Insolvency Practitioners Association stating in part “Rodgers Reidy has failed to allow me **access to my books and records**”

- 186)** On the **10 January 2012** I received correspondence from the ATO advising receipt of my correspondence of the **13 June 2011** and **17 July 2011**.

The ATO have not reviewed my correspondence as of the date of this submission.

- 187)** On the 10 February 2012 I wrote to the Managing Director and Board of the CBA relating to the conduct of Bankwest, Rodgers Reidy and Middletons and the Board had not responded to my correspondence of 8 May, 25 August, 12 December and 16 January 2010, 20, 24 & 27 February, 13 March, 5 April and 24 April 2011

- 188)** On the 10 February 2012 I received an email from CBA Customer relations acknowledging my above correspondence.

- 189)** On the 10 February 2012 I received correspondence from Mr N of the Insolvency Practitioners Association stating in part “Please advise in what way you

say Rodgers Reidy are failing to allow you access to your books and records? If that is the case I can ask them for an explanation”.

I draw the reader’s attention to the fact Mr N received (was copied) all of my correspondence from 28 November 2010 sent to Rodgers Reidy. Correspondence prior was attached as a summary Chronology.

**190)** On the 4 March 2012 I received an email from CBA Customer Relations confirming our telephone conversation and advising a complaint number CF-400814C and “I will be in contact with you on Thursday 8 March 2012 with an update”

**191)** On the 4 March 2012 I sent an email to CBA Customer Relations stating in part “Thank you for your telephone call and following email Thursday afternoon, just to confirm my statements to you, my extensive correspondence to the CBA is outlining the actions of **not only Bankwest staff but panel appointees and their sub agents.**

All correspondence is addressed to Mr \_\_\_\_\_ and the Board of Directors with exception of the latest letter which has Mr \_\_\_\_\_ and Mr \_\_\_\_\_ addressed.

I also confirm my statement, as CBA own Bankwest the Board have penultimate responsibility of those staff members actions, including panel appointees and their sub agents”.

**192)** On the 9 March 2012 I received correspondence from Mr F Senior Legal Advisor Bankwest Legal stating in part “As you are aware the Bank, Middleton’s Lawyers and Rodgers Reidy have all provided you with various responses to your letters and complaints raised during the last four years” the letter requests a face to face meeting so “the parties can make attempts to reach an amicable resolution to ongoing matters”

**193)** On the 16 March 2012 I received an email from CBA Customer Relations stating in part “Thank you for taking the time to speak with me today. As per our discussion, your letter is currently being reviewed by Mr E, General Manager, Group Customer Relations.

**194)** On the 18 march 2012 I sent an email to Mr F Senior Legal Advisor Bankwest Legal of a meeting time 10am on Thursday 22 March 2012 and my wife will attend along with the principals of Unhappy banking.

**195)** On the 20 March 2012 I received an email from Mr F Senior Legal Advisor Bankwest Legal stating in part “ the Bank does not believe that it would be appropriate

for Mr \_\_\_\_ ( principal Unhappy banking) to attend the meeting as an observer and is of the view that you should attend with your own independent adviser who will be able to assist the parties attempt **to reach a compromise based on the facts of this case**. I confirm that your proposed meeting time of 10am on Thursday 22 March 2012 is workable and suggest that the meeting be held at the **offices of Middletons Lawyers** at the following address”

**196)** On the 20 March I emailed Mr F Senior Legal Advisor Bankwest Legal stating in part “I proposed that both Mr \_\_\_\_ and Mr \_\_\_\_ (Unhappy banking principals) attend, as you know I am not represented. You have objected. I was prepared to attend at the bank office. You have moved the meeting venue. Now the meeting is scheduled at the office of your companies lawyers. At this stage I note that both bank officials and the bank lawyers will be in attendance. This appears one sided to me. In light of your proposals I advise that I will not be attending the meeting on Thursday. It should be cancelled. The meeting that you propose is weighted heavily against me, although I note you were kind enough to invite my wife”.

And “I take this opportunity to formally thank you for your efforts to date, however I feel compelled to advise that your invitation to meet, without support, given the array of personnel that you have invited to represent the interests of the bank is, I believe, typical of the intimidatory attitudes of the bank”.

**197)** On the 20 March 2012 I received an email from Mr E CBA General Manager, Group Customer Relations acknowledging my correspondence to the CBA Board of 10 February 2012 and stating in part “**Whilst I note your frustration** with the experience you have described to date, the CBA is required to refer you back to the internal dispute resolution process within Bankwest. I will ensure that a copy of your letter is provided to them. Thank you again for contacting CBA. If you are unhappy with Bankwest’s response to your complaint, you can contact the Financial Ombudsman Service, **a free and independent** resolution service.

I draw the Senators attention to the fact **Mr E is a Board Member of the FOS**

**198)** On the 21 March I received an email from Mr F Senior Legal Advisor Bankwest Legal stating in part “Our only firm and reasonable view is that Mr \_\_\_\_ (Unhappy banking principal) should not attend as he is not related to these matters. And “you may have had an alternate lawyer available as you provided a name in the event the **Bank were ever to serve any legal documents**.

The information I have provided above is supported by written documentation, Bankwest, CBA, Middletons, Rodgers Reidy and the IPA have not in any of my correspondence attempted to answer **the points of my complaints**. I have, as events unfolded **notified**



**Bankwest and the CBA Board of those actions**, a duty of care exists for Bankwest / CBA to monitor appointees to insure they **act fairly, impartially and within the bounds of the Law**.

Middleton's solicitors have **acted on behalf** of Bankwest, Rodgers Reidy and agents appointed. A conflict of interest allows the reasonable assumption Middletons would protect the interest of their clients, however Middletons are not impartial, I have raised conflict of interest in my above correspondence.

This strategy of non-written responses from my Bankwest relationship managers Mr X and Mr Y is to be noted, raising a reasonable question, were they instructed not to record correspondence only converse verbally.

It may be reasonable to question a strategy was in place of not recording complaints so they were not then shown on APRA returns or systemic issues not appearing and therefore not disclosed to ASIC.

The non-intervention of ASIC must be questioned I provided information as events unfolded of conduct which provided evidence allow ASIC to use its power to inspect or seize records, those records would allow clarity as to what has taken place during Rodgers Reidy's appointment.

The non-intervention of the FOS must be questioned, firstly I provided evidence of a systemic issue with the CBA and Bankwest and actions taken. Secondly conduct of Bankwest agents is questionable along with clear evidence the amount of money alleged to be owed to Bankwest is questionable.

I have stated in item 197 above, the CBA General Manager, Group Customer Relations is on the Board of the FOS. This appears to be conflict of interest.

I draw your attention to a matter I am involved, relating to Ord Minnett which the FOS has just concluded on correspondence dated 23 May 2012 they will not take action. The FOS actions in this matter provide evidence of a culture of conducting lengthy investigations which give the complainant false hope as they do not prosecute.

I note another Board member of the FOS represents stockbrokers. This is also appears to be conflict of interest.

The Ord Minnett complaint related to a Gold Coast broker trading accounts in high risk options trading (against our submitted trading profiles). We provided a forensic accountants report from Haines Norton dated 30 October 2006 with Haines Norton writing to the FOS confirming their audit on correspondence dated 28 March 2011.

Our group of 14 accounts lodged complaints with the FOS.

We informed the FOS Ord Minnett had settled a number of litigated matters relating to the option trading technique. We highlighted one which was a class action settlement of 150 people recorded on the Brisbane Court site and headed Barnett and Others –V– ORD Minnett Limited. The successful Solicitor in this matter was Forde Knapp Marshal. Forde Knapp Marshal was acting for our group and had appointed Haines Norton.

Ord Minnett made a settlement offer to us dated 12 November 2010 to us of legals only which we rejected, we provided this evidence to the FOS

The FOS has found **no systemic issue** and has used the 6 year time frame for notification as reasoning to reject our complaint. We have vehemently complained most of the losses are within time and it is not unreasonable relevant Acts have been breached which if on investigation found to have occurred the time limit would be extinct. The FOS does not agree.

The FOS refused to acknowledge ANY "exceptional circumstances" to the time limit, despite several strong reasonable actions taken on our behalf during the time, including financial hardship.

We have informed the FOS, the Brisbane class action case has been settled proving liability, also we provided the brokers client list account details (the broker emailed a complete list of his clients' accounts daily status when they were all becoming insolvent), this provides grounds a systemic breach. The question must be raised why does the FOS not intervene?

A complaint was lodged with the ASX, at that time the Ord Minnett Chairman of directors was a director of the ASX and held 2.2 Million ASX shares. A prominent ORD Minnett person was the largest shareholder of the ASX with 2.5 Million shares.

The ASX dismissed the complaint. This appears to be conflict of interest

The complaint was also lodged with ASIC, ASIC found no breaches

By revealing the Ord Minnett matter and Bankwest / CBA, a picture emerges of non-intervention by the FOS and ASIC my initial complaint to FOS and ASIC is not a one off.

**The FOS site when researched for prosecutions and determinations is void to the what must be huge number of complaints lodged.**

The non-intervention of the Insolvency Practitioners Association must be questioned, the public web site advertises professional conduct, the IPA investigates complaints against members. The manner in which my case was investigated **reveals no intention to investigate** in an impartial manner member's actions. The conduct of the IPA may be reasonably questioned.

The **length of time taken by the ATO** to investigate my complaint; I lodged the complaint on 13 June 2011, as of this submission date not received a ruling, the possibility may reasonably considered the ATO are bias toward Receivers and Administrators actions during appointments. I provided this information to ASIC and FOS with no response.

When an Administration leaves you with no funds to appoint legal representation as is the case I have described above, the only recourse is to seek the help of the regulators to achieve a just resolution. As you will note in my case (which there is many similar) ASIC, FOS & IPA led me on. **Quite simply put this is unconscionable conduct.**

### **Damage inflicted on me and my family by Bankwest's actions;**

I was the President of the Nambucca Heads Chamber of Commerce and Industry and on many local government committees and previously a federal government committee. I was frequently interviewed in my capacity as Chamber of Commerce President by Local TV stations, Radio stations and print media.

My Dad was a builder I grew up in a building environment, I had been self-employed for 36 (thirty Six) years until 3 months prior to Bankwest appointing an Administrator to my company. My speciality was multi-unit small developments which involved coordination of design, local government approval and construction. The last 15 years had been in Nambucca Heads.

Having an Administrator appointed and selling my assets at fire sale prices tarnishes my reputation and community standing immensely. I will not be able to return to my lifelong passion of professional building construction.

### **Reasons;**

Banks will not lend funds to developers that have been in administration, if they were to do so a risk margin will be applied to the interest rate. Trades and suppliers will also be cautious providing credit terms which mean rates for goods and services costing more. Additionally selling agents and purchasers would be cautious knowing a stigma from a developer that has had an Administrator appointed.

Bankwest's actions mean I am unable to return to the Nambucca, as the stigma now attached to me and my family would be difficult for the community to accept us. This upsets me greatly. Put yourself in the shoes of a community member if I was to walk down the main street of Nambucca Heads what would your thoughts be?

My current demise, working, employed where is my future?

I am unable to give my wife a home which she deserves, our home which we were forced to sell, our home, uprooted and basically driven out of town and now are in nowhere land.

Where will I live when I can't work anymore?

Senators all anyone wants is a fair go in life, the actions of Bankwest have taken that basic Australian right away from us. Senators, legislation needs to be in place to insure Regulatory Authorities are impartial and enforce legislation.

At this point Bankwest and their agents have, in full view of CBA, ASIC, FOS and the IPA, as I have informed them of events as they took place, detailed in my correspondence above. These actions may be reasonably considered to be covered by the term unconscionable conduct.

Yours faithfully

Ken Winton