

**STATEMENT REGARDING HNAB ACTION GROUP (HNAB-AG)
CONCERNS REGARDING
ANZ / KORDAMENTHA (KM) AND TIMBERCORP**

Background – formation of HNAB-AG

I am Susan Henry, a founding member and Chair of the **HNAB Action Group**, called after the primary directors of various companies run by our former accountant / adviser **Peter Raymond Holt**. We formed in January 2011 after connecting through a meeting at GS Andrews, the Liquidator for one of Peter Holt's companies. We were aware of about 40 people prior to media this year and now comprise about 100 victims with a core group of 7 who have met monthly since we formed. We have worked tirelessly to bring matters of gross misconduct and fraud to the attention of the authorities including ASIC which banned Peter Holt although only for 3 years despite his conduct fulfilling ASIC's criteria for a minimum ban of 10 years through to Life which we maintain he should have received had a thorough investigation been undertaken. We provided ASIC with an outline of the key concerns and patterns of conduct in a PowerPoint presentation in a 3 hour meeting. While we were told this prompted the investigation none of our evidence was asked for and we understand it used only material provided by others, some of who are members of our Action Group. On meeting with ASIC and two of its lawyers about the information we had to challenge Mr Holt's Appeal, again no evidence was asked of us and we were told we should be pleased with the 3 year ban. About two weeks after that meeting Mr Holt, uncharacteristically, withdrew his application to the AAT to appeal.

The HNAB-AG is different from AGAG which Neil White and Andrew Peterson run. We are comprised entirely of victims. We did not sell Timbercorp and were not employed by Timbercorp or act in management. We do not charge a fee to belong and have funded every aspect of our efforts by the core foundation team. AGAG initially charged \$495 and in the last couple of weeks requires members to pay a further \$195 plus 1.65% 'success fee' on what people "save" in settlements with KordaMentha.

Ethically I have concerns with this as Mr White sold the product to his clients and Mr Peterson was a manager at Timbercorp. Whistleblowers come forward to assist victims, often at great personal cost such as has been incurred by Mr Jeff Morris. Whistleblowers

do not make money from victims. We have received many emails querying why their testimony was not forthcoming back in 2009 or earlier when concerns emerged.

Macpherson + Kelley Class Action re Timbercorp

As **Macpherson + Kelley** were running a class action which we were advised to join (by Peter Holt and various lawyers) we expected that our concerns would be covered. Regrettably, this did not transpire. Clearly, the law is not about justice in all too many cases.

In retrospect an alarm bell should have rung as we have been led to believe that Peter Holt approached M+K to set up the class action through one of his clients at the firm. The approach taken by the lawyers might therefore have been influenced by Peter Holt's agenda, including taking the heat off his misconduct and involvement in fraud.

Consequently, when the appeal failed early this year we became aware that **Timbercorp, Kordamentha and ANZ** now also required our focused attention along with the other numerous aspects of Mr Holt's misconduct that has devastated peoples' financial and entire lives, including well before the batch of victims of which we are part.

Involvement in the *7.30 Report* and *Lateline* co-incided with support from Industry Superannuation Australia which learned of our ordeal through two of our members who are its clients. We approached ISA wanting to support its efforts not to allow the FOFA Reforms to be diluted as inadequate safeguards and regulation are a significant part of what enabled us to be used as gambling chips for unscrupulous accountants, advisers and lending institutions.

This led to discussing our story with Mr Greg Combet and Ms Robbie Campo, Deputy CEO at ISA who assisted us with first meeting parliamentarians in Canberra in June. This contributed to Senator Whish-Wilson calling a *Senate Inquiry into MIS* and today's special Hearing with respect to Timbercorp called by Senator Dastyari.

We expected the lawyers running the class action would highlight the issues of concern. We had not anticipated the need to fight for justice ourselves with KordaMentha or ANZ until this year, amongst our other efforts with respect to massive white collar crime.

Alerts to, and Pleas for help from, KordaMentha and ANZ

We first alerted **KordaMentha** of our concerns about gross misconduct on **21 March 2012** when we wrote to **Mr Mark Korda** requesting that given Timbercorp was a major

creditor of Mr Holt, it not allow him to annul his evidently fake-debt bankruptcy (through a mechanism such as a Section 73 Composition) which we believed he intended to pursue.

We referred to placement of people in loans without their authority (believing we had purchased the product outright) or even their knowledge at all of having the product. We outlined fraud with respect to what we were told about Timbercorp in selling the product to us and concern that Mr Holt was heavily incentivized by enormous commissions of up to 15%. We outlined that Mr Holt was a predatory, rogue adviser who had ruined people financially in the past.

As we understood it, it was the Liquidator's role to expose fraud. We stated we were keen to meet with Mr Korda to discuss our request not to allow Mr Holt to annul his bankruptcy and continue to ruin lives. We included the PowerPoint presentation that we had prepared for ASIC in July 2011.

We did not receive a response from Mr Korda.

I have a document here to be tabled if the Committee wishes which outlines the matters at hand. It's titled "***Misconduct and Fraud related to Timbercorp and Peter Holt***".

We next wrote to **Mr Michael Smith, CEO of ANZ** on **2 June 2014** and copied in Mr Craig Shepard at KM and also Mr Gonski, Chairman of ANZ and two other representatives of ANZ. We outlined information about our Action Group; people being put in loans they weren't aware existed; advice against peoples interests; Mr Holt's connection to [REDACTED], a criminal lawyer and supposed major "creditor" in his fake-debt bankruptcy. These people, along with [REDACTED], the Trustee for his personal bankruptcy have had allegations against them in the Federal Court as being part of a fake-debt fraud ring. We also believe [REDACTED], an insolvency practitioner is involved.

We also notified ANZ of determinations by FOS and ASIC's findings. We specifically referred to Mr Smith's avowed "*heightened sense of duty and care*" to his "*customers and the communities*" the ANZ "*served*" and requested to meet urgently.

We received a reply 4 days later from [REDACTED] **in the Complaint Resolution Centre ANZ** which states ANZ had no connection with Mr Holt and had not appointed KM and directed us to contact KM.

We wrote again to **Mr Smith** on **11 June 2014** requesting that he communicate with us given the importance of the concerns. We outlined what we viewed as unacceptable in James Taylor's response on behalf of the ANZ. It distanced from the loan recovery process, ignored that ANZ was benefiting from Mr Holt's misconduct, dismissed concerns about admin processes re loans, and that ANZ was avoiding scrutiny of its role regarding loans and recovery. We requested ANZ provide guidance, as it has authority (and I would strongly argue the ethical and moral responsibility) not to pursue loans i.e. to waive debt related to victims of Mr Holt, and to repay amounts already settled and again, we restated our willingness to meet urgently. We also planned to pursue our conviction that all money paid to Timbercorp and commissions to advisers should be returned to the victims.

We wrote 6 more letters to ANZ copying in KM or vice versa (the last being 23 October 2014) that effectively repeated these concerns.

We received 2 replies from [REDACTED], **Head of Lending Services Institutional ANZ (23 June and 27 June 2014)** who took the position that the failed M+K class action meant our concerns had been "*fully examined and determined*" and that ANZ's handling of our concerns is "*entirely appropriate*". He claimed ANZ had no association with Mr Holt. He further rejected that ANZ "*owes duties to Timbercorp Finance borrowers*" – and reiterated we should seek legal advice. This is despite having previously outlined, clearly, that we had sought legal advice and why we could not pursue this avenue despite forensic examination concluding we had strong cases.

Terminology used as Spin by ANZ and KM to Blame Victims

In his second reply [REDACTED] claimed KM had "*offered*" "*discounted*" settlements. This wording is used continually by ANZ and KM as is referring to us as "borrowers" or "growers" or "investors" when we are victims of white collar crime in which the industry is complicit.

It denies that people's loans have effectively doubled on 2009 with penalty interest rates. More particularly, it is clever spin and distraction from the fact that a victim of white collar crime or fraud cannot be "**offered**" anything other than his or her money back with compensation. Further demands for more money fraudulently obtained is not a "**discount**" but a further injustice if it can be legally enforced while the masterminds and executors of the misconduct remain safe and sound – and scot free with our money.

Most of us have not been placed in "**hardship**" but have been financially obliterated – totally annihilated. The flow-on from all of this to every aspect of our lives is inextricably

interwoven in the theft of our money and homes to pay for the crimes against us for which we are held legally powerless to obtain justice. Words are thoroughly inadequate to convey the impact.

Being forced to pay on fraudulent loans, some you didn't even know existed as well as being given fraudulent "advice" on others designed solely to line the pockets of criminals in the financial industry and having to sell your home, lose your life-savings and having your health, work and personal life thrown into life-altering chaos is akin to the Nazi's taking over the homes of Jews and no-one in authority doing anything about it because it was the people in power committing the crimes while good people stood by and turned a blind eye or saved their own skins.

This is meant to be democratic Australia not Nazi Germany! Where is our Nuremberg?

To return to the only reply from **KordaMentha**, it was received on **29 October 2014** from **Lara Wiggins** after we asked for a reply two weeks after sending our letter of **6 October 2014** to Mr Korda and Mr Shepard. It begs the question whether we would have received a reply at all if Senator Dastyari had not previously been in contact with KordaMentha.

Ms Wiggins merely directed us to the ASIC website and claimed no information could be given about commissions for privacy reasons. Again, the culprits are protected and the victims are left burnt, traumatized and invisible to the ANZ and KM who hope we will just go away eventually when despair and distress wears us down.

I have a further document here for tabling which summarizes the correspondence between the HNAB-AG and ANZ and KM.

In summary:

- 1) The ANZ had been advised by the HNAB-AG in March 2012 of concerns about the Timbercorp loans and fraud: this is 2 years 8 months ago to date.
- 2) ANZ did not take up the repeated request to meet despite clear explanation of the nature of our concerns including either its apparent failure to know of the misconduct about TC loans, or else, its complicity. Nor did KM respond to requests to meet.
- 3) Direct requests to involve Mr Michael Smith who we expected would want to be informed of these concerns met with no response.

I can also assure the Committee that I personally wrote to ANZ and KM on 5 occasions since submitting my own case details on 25 August 2014 (two weeks short of 3 months ago). I was advised last Monday 10 November that it has now been referred to an independent accountant and could take up to a further 4 weeks to conclude.

However, my point is that I provided detailed information regarding my own loan documents and experience which supports the precise pattern of allegations made by the members of the HNAB-AG.

In conclusion

On behalf of the HNAB-AG, I am shocked that in Australia such extensive white collar crime can exist. The banks and financial services industry seem to be at the hub of executing and covering up colossal fraud and misconduct. How much of this comprises the multi-billion dollar profits made by the big banks?

We have contacted and written to countless organizations from the banks to the Legal Commission, to CPA Australia, to ITSA now AFSA, to the ATO, to ASIC as well as various individuals related to our concerns.

The failure of the regulatory and legal systems to provide justice after enabling these crimes against us to occur in the first place is far worse than being subjected to fraud and misconduct by Peter Holt, Bill Norman, Craig Baker, [REDACTED] and their associates. The loss of homes, life-savings, retirements and placement in insurmountable fraudulent debt - *not to mention the personal cost of health, family, relationships, work and careers* - is utterly life-altering and traumatizing. One of our members was also a victim of the Black Saturday fires losing his home in it. He said to me in 2010 when we first met at Maurice Blackburn that what Mr Holt has done and the failure of the regulatory and legal systems to assist has been far, far worse, than the catastrophic nightmare of the loss of his property in the fires that he endured.

We are only here today after 6 years of hell because a few good people in the financial services industry, amongst our parliamentarians and the media, have done their jobs with integrity, decency and commitment to what matters is a democratic society. While that gives us hope it is an appalling indictment of the systems supposedly in place to protect people in Australia.

We believe this will only change with a **Royal Commission** and the **establishment of a new organization with properly trained and resourced people to investigate and**

conclude cases and with the power to award restitution and compensation. This must occur in a timely manner and with an understanding of the terrible trauma victims suffer.

This Sunday, 16 November 2104, it will be 6 years since my own nightmare, in which I am still powerless to extricate financially, commenced. This is the case for most of the victims for whom I speak today.

If there is time, I would like to read a letter sent by one of our members who is a constituent of Senator Ricky Muir. It conveys what data and arguments cannot.

Thank you very much for being willing to listening to us.