

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

31st May, 2012

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

Dear Senators,

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

Introduction:

Our family business commenced trading with Bankwest when it first opened in Melbourne and we have had successful banking arrangements with Bankwest for some fourteen years, no defaults, no aggravation what so ever. We had an excellent working relationship where we trusted the bank and it gave their advice freely. Our arrangements with the bank were based on an exposure of approx 40-50% against security, this included business acquisition, public company IPO float, public company take over's, land acquisition development and sale of vacant land blocks and townhouses.

We had acquired a development property on Burwood Highway, Ferntree Gully and applied for development finance in April 2006. The security for the proposal was in place and the loan granted in July 2007, in October 2007 bank management suggested that a more flexible arrangement could be provided by the bank for future purchase and sale of properties if we established with the bank a Land Bank which would give us flexibility to withdraw property for sale and acquire additional properties without hold up as we had established a Land Bank of securities with Bankwest. Accordingly we provided an unencumbered separately owned rural

property which did not form part of the bank's security as the Land Bank package promoted by the bank. The sworn valuation of this property owned by Murray Park Pty Ltd. was \$3.5 million sometime soon after this Land Bank was established approximately 50 days without any irregularities or default on our part Bankwest management began harassing our office and Peter McDougall in particular calling for reduction in our borrowings from the Bank. Senior Credit Controller advised the bank would be happy if we progressively sell down our holdings which we agreed to do, however bank management required an immediate sale simultaneously of our country security, our residential security and our industrial security details of which are supplied in our attachments all to settle on the same day. We immediately sought to replace the bank with another lender and to sell such properties as we were able to. The bank frustrated the sales ignored or frustrated the alternative finance which was available, advised us we were in default lifted the interest rate to 20% plus and generally made it impossible to pay the bank out. This position was maintained for approximately four years resulting in the debt almost doubling in spite of the fact that, if the bank had not frustrated the many settlements and ignored the offers of alternative finance we would have completed the payout of the bank facility by October 2008

Detail:

It should be noted that the bank through their Regional and State Manager approached our company and persuaded us to bank with Bankwest. I believe we were the first commercial customer in Melbourne and we maintained a cordially and profitable working relationship with the bank for some 14 years

The bank appointed an administrator without us being in default and before the time frame they had given us to reduce our exposure. We always had access to sufficient security or alternative funding to pay the bank out in full but they frustrated every attempt we made to settle the amount

Impact:

By imposing the accelerated interest rate and deliberately or by incompetence prevented us from paying out the loan. In one case delaying settlement on a property at Barooga for some 12 months. We suffered considerable loss and were eventually unable to meet the final payout to Bankwest which we contracted to do and the bank failed to give adequate notice prior to obtaining judgement against myself, company and family members as a Christmas present without notice on the 23rd December 2011. (This action being a breach of the settlement contract).

Finally the last security that the bank holds Murray Park Farm Pty Ltd was put up to tender with tenders closing 18 April this year. We submitted the highest offer with a deposit to be paid on the 5th May 2012 of \$60,000 settlement being 60days unconditional contract with alternative finance approved. On the 3rd May at 6.30pm via email the bank advised pay \$130,000.00 by bank cheque by 3.00pm 4th May or we will accept a 90 day settlement for a lesser amount of money and pursue you as guarantor for the difference

Conclusion:

- 1 I believe the bank to have acted unconsciously in advising me to start a Land Bank which I did not need, but which gave the bank additional security at a time when they knew or should have, known that this was outside of the banks normal lending practice and over securing their advances.
2. The bank frustrated every effort to pay down the debit and reduce the exposure I can only conclude that with the interest rate at 20% and a position of over security that it was in the bank interest to frustrate settlement.
3. The bank knew that the Murray Park Farm property was the principal supplier of raw material to a family business employing 6 people and operating profitably, annual profit in excess of \$120,000 and in spite of this acted capriciously unreasonably and caused maximum loss and damage to our family and its employees

Finally at all relevant times we had security or the ability to satisfy the banks requirements but have suffered hurt and hardship and sufficient loss resulting from their actions

I think in the interest of a successful business economy, lead and supported by small business that the bank should act reasonably responsibly and in accordance with their long established agreements with their clients.

I look forward to detailing my submissions should you require additional information

Yours Faithfully,

Peter McDougall

Attachments

1. Summary McDougall v Bankwest
2. Our account details
3. Tresscox letter dated 30th March 2011

To follow

- (a) Affidavit defence and counterclaim
- (b) Copy of instruction – by the Bank we could not sell assets unless all sales settled the same day. (This is a totally impossible request)