Submission to the Parliamentary Joint Committee into Financial Products and Services in Australia from Troy and Mary McConnell

To whom it may concern,

We are another victim of the forced collapse of Storm Financial by the Commonwealth Bank of Australia, and have many questions regarding the Commonwealth Bank's role in this collapse.

Our story is not that much different from those that you have already heard, so we won't go into the whole debacle in the great detail that others have already provided.

We had been clients of Storm (and its predecessors) since 1994, and our adviser was Emmanuel Cassimatis throughout this whole period.

We were average working Australians, married without children, when we first started our investment portfolio. We were paying off our first house, and I remember that our first margin loan was only $30 000. Over the next 15 years, our loans grew to more that $1.6 million! This was a gradual process, and we rode out several market downturns. We were always comfortable with the philosophy that "the market always recovers". In hindsight, if we had ever had to work out the serviceability of the loans we ended up with, we would have been shocked. But it was made very easy for us to follow the advice to continue to capitalise the interest each year, and there was never any problem in doing this. All we ever had to do was sign the form, and it happened! Did the bank ever make any assessment of our ability to repay these loans if things went south? It doesn't appear so!

I want to make the inquiry aware of the past action taken by Colonial Margin Lending when we went into margin call in 2002.

We signed our original margin loan documentation with Colonial State Bank on the 29th April 1997. I refer particularly to the Risk Disclosure in this documentation. At Point 2, Margin Calls, the document states "if the value of the overall security held by us drops below a certain proportion of the loan (see pages 4 and 5) you will receive a margin call. You cannot just "wait out" any downturns in the market."

Subsequently, we received a letter, dated the 22 July 2002, from Colonial, stating that we were in margin call, and outlining the LVR's and action required to meet this margin call. In addition "This margin call must be met within the next five business days." Our adviser, Emmanuel Cassimatis also received a copy of the same letter, with this additional information on it " The following letter has been sent to the above named borrower(s) and also their guarantors if applicable. **It is for your information only."**(The bold is as per the letter). I am happy to provide copies for your perusal.

I think it is fair to say that this provides a precedent regarding what we expected would happen if we should ever find ourselves in margin call again. Unfortunately, as they say, the rest is history. We did not receive any notification from the bank that we had reached, or indeed passed, margin call territory, until the fateful day we received

a phone call to tell us we were at 113% negative equity, and to ask us how we were going to fix it!

We have since determined during a phone call with Colonial staff that our names first appeared on the infamous "list" of clients provided to Storm, whose LVR's were a problem, as early as September, 2008. In a letter to us from Brian Phelps of Colonial Geared Investments, dated 31st December, 2008, he states that they "provided notice of your Margin Loan going outside acceptable limits as early as 19th September, 2008, by e-mailing Storm". The letter goes on to state that "It is not standard practice for us to directly contact clients of a licensed financial advisor, like Storm Financial". **WHY NOT**?

This same letter also states "You authorised us to provide certain notices to Storm Financial (rather than to you directly) by Clause 4.3(a) of the Margin Loan Terms and Conditions." As I have already outlined above, this is simply not true. The document we signed in 1997 was not worded this way, and specifically states that they would contact us, which is what they did in 2002. So when did this policy change, and when were we notified of this change?

When I asked Kamal Arnaout, the Colonial staff member I spoke to about this situation on the 27th February, he told me that Storm had expressly forbidden them (Colonial staff) from ever contacting Storm's clients directly. I challenge Colonial to show us proof of this, in the form of a written document, as it sounds highly unlikely to me. What would be the point of this, from the perspective of Storm? And, surely, and agreement like this would effectively appoint Storm an agent of the bank!

So it seems that "five business days" to deal with a margin call, blew out to about fifty business days until the first direct communication to us from Colonial about the situation! How can any organisation, let alone one of "the four pillars of the banking industry in Australia" possibly think this is an acceptable business practice?

During this time, we also received a letter, dated the 30th September, from John Cloither, Head of Investment Lending Distribution, Colonial Geared Investments. In this letter he states that "the approved credit limit of $1,000, 000.00 has been reached." and "to allow further use of your margin loan you can apply for an increase in your credit limit. Please nominate the new credit limit you require on the attached Credit Limit Increase Form, sign it and send it back to our office, where it will be assessed for approval". We signed the form, nominated a new amount of $2 million, and sent it back. Please note the timing of this. According to the letter referred to above, we were already on the list of clients who were outside "acceptable limits" with this same margin loan. How then, was an increase of $1 million credit approved without any problems? Surely the bank should have questioned the situation we were already in (unbeknownst to us) and declined the increase!

In summary, all this documentation is available for perusal if you wish. It is obvious to us that there was a strong relationship between Storm and the CBA. As long as it is a win win situation for all involved, including the clients of both companies, I don't have a problem with this. We benefited from cheaper interest rates, and some sponsorship towards the holidays we enjoyed with Storm, (which, incidentally, we paid top dollar for). But these partnerships must cut both ways. Colonial let their

business policies ride, when they should have acted when clients passed margin call territory, because of this relationship. They let things go too far and then panicked over the negative equity that resulted because they didn't follow their own rules. They cut us all loose by closing down the Storm branded funds, regardless of each person's individual situation, and their ability to ride out the downturn. Since the CBA had been carrying the situation for more than 2 months already, they should have acted responsibly, and continued to absorb the $20 million or so, until the markets rebounded, which everyone knew would happen – and it has. If they had just continued to hold on, or worked with Storm to fix the problem instead if forcing them into receivership, we would all have ridden past this economic downturn, battered and bruised, but alive, and our portfolios would still be intact. I am not naive enough to suggest that we wouldn't still have some problems on our hands, facing the end of the financial year, but at least we would have had options, unlike the situation that we now experience, which is complete financial devastation.

I hope that this inquiry can get to the bottom of this whole situation, and that laws can be changed, where necessary, to protect investors in the future. Clearly, the bank that lends the money to the client has to be the party responsible for the health of that loan, and deal directly with their client with regards to the loan. And this should be the case from the application process, right through to the eventual repayment of the loan. The lender shouldn't surrender this responsibility to any third party, or be able to blame a third party for their own shortcomings. I hope these "grey area's" in our laws can be fixed, so no one else has to go through what we have been going through for the last six months, and face for the years ahead.

Troy and Mary McConnell