

TO: The Committee Secretary, Parliament Joint Committee On
Corporate and Financial Services,
P.O. Box 6100, Parliament House,
Canberra, ACT 2600

FROM: Jack Kenneth and Frances Norinne Dale

DATE: 29 June 2009

Submission: To the Parliamentary Senate Inquiry into Corporation and Financial Services-
Failure of Storm Financial.

SUBJECT: Our personal experience on the failure of Storm Financial.

INTRODUCTION: My wife Frances and I have been retirees since July of 2002. My wife was a teacher at Cairns High School and I was an airworthiness inspector with the Civil Aviation Safety Authority, Cairns office. We both had had very successful careers and owned our own home. On retirement, we organised allocated pensions based on our super funds that we had with MLC. Our financial planner with MLC was Mr. Gus Dalle Cort. In 2004, he was moving over to Storm Financial and invited us to attend the client educational classes there to ascertain whether or not we would join Storm Financial. Regrettably, we did.

We brought over the \$340,000.00 MLC super funds to Storm financial and Mr. Dalle Cort advised us that he would also apply for a \$260,000.00 margin loan on our behalf from Colonial First State. The reason given for the margin loan was to "apply the muscle", as was the Storm lingo, to get the investment off to a "kick start" with a \$600,000.00 initial investment into the Storm badged funds with Colonial First State.

This was our first venture into investing in the stock market and it was all new to us but Mr. Dalle Cort advised us that we were in safe hands and that even if the market went "egg shaped", there was a Storm indemnity insurance policy that would ensure that our original investment would be covered.

So, over the next four and a half years, we stayed with Storm and took their advice. That was, "do everything we tell you to do and your wealth will grow". We had no second thoughts because we could see our portfolio growing in the ensuing rising market.

We were proud to be self funded retirees that did not take funds from the government for our living. The growth allowed us to travel overseas to our families in Canada and Thailand. We were enjoying our freedom of choice. We felt safe and secure with our finances.

Mr. Dalle Cort advised us that it was time to consider taking out a loan on our family home in order to get more money to put into the portfolio. We were hesitant about it but by then our portfolio growth had been positive and we thought that if things turned for the worse, that we could cover the house loan with the funds from the portfolio. The loan was approved on 08/12/2004 by the ANZ bank for \$210,000.00. At the same time, Mr. Dalle Cort advised us that we should also apply for another margin loan to add to the ANZ house loan. He suggested that an additional margin loan of \$200,000.00 needed to be added to the \$210,000.00 ANZ house loan to make a total of \$410,000.00 to be put into the portfolio. The margin loan from Colonial First State was approved. The debt was growing but based on the Storm philosophy, they were watching everything and keeping us safe. So, we were confident in the program.

Storm had some problems with ANZ and decided to go with the Bank of Queensland, so, the BoQ arranged an assessment of our family home and organised the pay out of the ANZ loan and approved a BoQ loan against the house for \$252,000.00. This was approved on 12/02/2008. We found out later that the ANZ refused to do further business with Storm which forced Storm to find another lender which ended up to be BoQ. We wonder why.

So, since the beginning of our time with Storm Financial, our margin loan debt was increasing as was our portfolio value due to the rising market and the injection of margin loan funds. When we questioned Mr. Dalle Cort about our concerns over our debt level, he always gave us a good story on how lucky we were to be with Storm and that we were not to worry about the debt and that we were on track for wealth growth. He advised that you must have debt to have growth in wealth. As it turned out, we paid a total of \$107,583.00 to Storm Financial in upfront fees during our time with Storm. Over the whole period, Storm had secured eight loans on our behalf. Two were loans against the family home and six were margin loans from Colonial First State.

We never were contacted by any of the lenders, ANZ, BoQ and Colonial First State regarding our capacity to pay the loans back. Every loan application went through quickly. We expected that some of the proposals put up by Mr. Dalle Cort for us would not be approved by the Storm main office in Townsville. We assumed that the large staff there would be using caution on our behalf and filter out some of the increases in debt that Mr. Dalle Cort had planned for us. But, that never happened and everything that Mr. Dalle Cort submitted, was approved by the Townsville head office. It appears in hind sight that getting the fees from the clients was the main goal of Storm Financial.

At the height of the market in November 2007, the value of our portfolio was \$2.9 million dollars, however, our margin loan debt had grown to a staggering \$1.8 million dollars! We now consider, in hind sight, that this debt level for retirees, was a huge error in the advice we received from Storm. The American financial crisis was starting to show on the Australian stock market and the market slide began.

Eventually, the decline was looking very serious and the fear factor had set in. We were very concerned but were always told by Storm that we will ride out this decline because the markets will rise again as history has shown, so, "don't worry, all was well". Finally, on the 9th of October of 2008, Storm requested that we approve a document that would allow Storm to sell down 50% of the portfolio to cash in order to preserve some of the equity in the portfolio. On the 9th of October, we were advised by Storm that our LVR went up to 92.98%. There was no margin call. If there had been a margin call, we could have salvaged what was left of the portfolio. Then suddenly on Sunday, the 12th of October, we got a phone call from Storm to change the previously approved document for a 50% sell down to a 100% sell down. We faxed that authority back to Storm on that Sunday, 12th October 2008. We were advised by Storm that the Storm CEO was negotiating with the CBA on behalf of all the Storm clients in order to preclude a disaster. There was no positive result from those negotiations. Signing the 100% sell down authority gave us a bit of relief from the fear that we had about our future because we expected that on the following week, our portfolio would be sold down 100% to cash and that we would have enough funds to cover our margin loan and in addition, a good lump of cash in the bank. Colonial First State announced on the 24th October 2008, that all funds would be frozen for 30 days!! More fear set in! Did we get sold down?

We found out later from Colonial First State that 75% of the portfolio was sold down on 31 October 2008 and that the remaining 25% was sold down on 20 November 2008! Who did that? How did that happen? We do not have the answers yet but hopefully, we will get them. We suspect that the 25% sell down was the Colonial First State complete sell off of Storm. The final Storm update by the Storm CEO at Cazaly's on 03 November 2008 in Cairns was a bad night. There were a lot of angry people that were getting caught up in the debacal and the CEO was trying to appease angry clients but we got nothing out of that meeting that would indicate that Storm had control of the situation.

On the 13th of November, the all ords fell another 5.5%, that was the death knell on our investment.

On the 8th of December, at 7 p.m., I received a telephone call from Mr. John Demko of Colonial First State to advise us that this call was a notification of a margin call and that we were in negative equity by \$105,000.00 and he wanted to know how and when we would pay the shortfall!! I was stunned and tried to comprehend the situation but all I could offer was that I would contact Storm for advice and let him know the outcome.

All our hopes and dreams of a secure future had just evaporated and we were left with little cash, stripped of our livelihood, and probably would have to sell the family home, which did happen. I contacted Mr. Dalle Cort by phone and explained the margin call we got from Colonial First State, he advised us to tell them that we would need two weeks to clear the shortfall but that we would like to know the exact date that the margin call occurred and the value of the Storm Badged funds in our portfolio at the time of the margin call. I did this by email to a Mr. John Clothier of Colonial who had emailed me regarding the shortfall. The email was never answered.

On 15th December 2008, there was a meeting of Storm clients and Mr. Gus Dalle Cort at the Cairns Storm office. He told us that some of us would never get into the market again and that some of us would lose our family homes. He advised that the Commonwealth Bank was to blame for the negative equities suffered by his clients and that Storm was taking the CBA to court. All bad news! That was the last contact we had with Storm Financial Cairns office.

We had already contacted Centrelink regarding aged pensions. While the applications were being assessed, we started to cancel all services in order to cut our expenses and try to survive until the aged pensions started.

On the 18th December 2008, I got another phone call from John Demko of Colonial First State and he wanted to know when we were going to acquit the \$105,000.00 shortfall. I told them that we were awaiting a direction from Storm. We never got one other than they said "don't pay the negative equity".

On 22 December 2008, I contacted Slater and Gordon to join the class action against Storm Financial. Centrelink rang to say that our aged pension payments would be finalised in January.

This was the worst Christmas that we had ever had. We could not function properly, could not make decisions or have clear thoughts on what to do, there were only other Storm burned clients that we could talk to. We were devastated and in a mind fog. We were totally mentally immobilised.

A very dear friend of mine offered to come over during the Christmas break and have a serious discussion about our position. He is the manager of a local accountancy firm and had seen the similar scenarios many times with some of his clients. He spelled it out in no uncertain terms, "it has happened, it won't go away, you have to look forward and make some hard decisions in order to get your life back in order which meant selling the family home and clearing our debts." It was a hard pill to swallow, but it was within two weeks that we finally came to the conclusion that we did not want the banks to control us or be in control of the sale of our house. Also, the monthly interest payments on the loans combined were approximately \$2700.00. We had no hope of coping with that monthly debt, so, we decided to put the house on the market in order to clear the debts, which totalled \$357,000.00.

I advised Colonial First State that we were about to put the house on the market but, that I needed the interest payments frozen while the house was on the market. They agreed to consolidate the interest payments for a three month period while the house was being sold. Never did Colonial First State offer any other ideas on how to manage our negative equity. They were very "close mouthed" and offered no other solutions or ideas and only discussed our proposal. Pretty bad for a major lender!

I also contacted the BoQ and submitted a financial hardship assistance form asking for the same three month freeze on the loan interest payments that we got from Colonial First State. I submitted the application which was to go to the Brisbane head office for assessment. I never received an answer from them. However, an officer from the Townsville branch of the BoQ who saw the application come through on it's way to the Brisbane head office, phoned me to advise that there may be ways to alter the existing loan in order to save the house. She

advised us to wait for the reply from the Brisbane office. We waited but finally I rang the Townsville BoQ office and spoke to the same lady and advised that we never got an answer from the Brisbane office regarding our application for financial hardship assistance. She was upset over that fact so she said that she would consolidate the interest payments for us for three months. Thank goodness for her assistance. To this day, we have never heard from the head office of BoQ regarding our application for financial hardship assistance. How come the BoQ approved a \$252,000.00 loan with a 30 year term against the family home to a retiree who was 71 years old? Another "pretty bad" for a major lender.

Preston Law, a legal firm in Cairns, offered, on our behalf, to approach the BoQ with a legal argument that the breaking fee and some of the interest on the house loan be set aside. However, the BoQ said "definitely no!" I thank Preston Law for their kind deed.

The family house was put on the market and the sale was completed on 19 March 2009. It was a sad day for us to be in this position. The settlement documents included the BoQ pay out of our \$252,000.00 loan. The pay out figure was \$259,148.47. This was made up of the principal of the loan, a \$5000.00 breaking fee for early payment and a monthly interest payment. There wasn't much cash left over from the sale of the house after all the debts were paid off.

I then advised the CBA that the house had sold and that I intended to pay off the \$105,000.00 negative equity. I requested a full reconciliation of the loan before payment. I received the reconciliation and paid the negative equity off on 27 March 2009. Mr. Michael Hyde of the CBA was handling our particular "bad debt" on behalf of the CBA. The relationship was a very cold and calculating one. We were never given a pat on the back by the CBA for doing the right thing and there was not even a thank you for your efforts. I still believe that we should not have been left in negative equity. How did this happen? Who was involved? The answers should come out in the Senate Inquiry.

We had to pack up and find a place to live. At the age of 72, it was not an easy task. We were able to find an apartment not far from the house we sold, so, our infrastructure did not change except that we had gone through a very harrowing experience in the last seven months and we are trying to get ourselves up and running but we still have our bad days.

Our only hope now rests with the upcoming legal actions that may allot us some kind of restitution. We have lost our original investment of \$340,000.00 and our \$420,000.00 family home and paid off a total of \$364,000.00 bank debts. All this action by us was for the satisfaction of the banks. We have been stripped of our livelihood and we are just on Centrelink life support! We need restitution to get our lives in order again.

Gratitudes

My wife and I owe our gratitude to many people. The following list will give you some idea of the support that we have been given over this time:

- 1) Dear family members, friends and neighbors that offered us accommodation, transport, food, cash, advice, storage space, hard work and a shoulder to cry on.
- 2) Dave Walters of Meridien Wealth, Cairns for professional advice and ongoing concerns.
- 3) Chris Leishman of TFS Financial Planning for professional advice.
- 4) James Mousa of BDO Kendals for professional advice.
- 5) Gerry Mier of KPMG for professional advice.
- 6) Tim Dobinson of Preston Law for a lot of hard work and professional advice.
- 7) SICAG committee members for all their hard work and support since the beginning of the Storm collapse.
- 8) SICAG members for their moral support and many kindnesses towards us.
- 9) Cairns Jazz Club members that rallied around us and lifted our hearts.
- 10) Natiesha Brischke of Steve Cordonos Real Estate for her professionalism in completing the sale of our family home and finding us a place to live.
- 11) Slater and Gordon Lawyers for long hours of work on our behalf.
- 12) Members of the Senate team who will, with their diligence, expose the truth.

Note :Please see the following attachments:

- 1) Notice of financial position to Colonial First State
- 2) Application for financial hardship assistance to the Bank of Queensland
- 3) List of loans, and fees paid to Storm Financial.

TO: COLONIAL GEARED INVESTMENTS

FAX NO. 02 8292 5252

REF: LOAN NO. 214822-NEGATIVE EQUITY-\$105,152.78

DATE: 12 JANUARY 2009

FROM: JACK KENNETH DALE

ATTENTION: MR. JOHN DEMKO

Dear John, this fax is an update for you about our situation.

Present Financial Situation.

In mid December of 2008, through no fault of our own, we were suddenly thrown into a dire financial position. We were left with little cash, stripped of our livelihood, no income and the probability of losing our family home, a negative equity of \$105,152.78 and a Bank of Queensland investment loan of \$ 252, 000.00 which was written against our family home. In addition, both debts attract monthly interest payments which puts us in a further dire financial position. We are not presently in a position to pay off the debts.

On the 06 January 2009, we took up the offer by the Commonwealth Bank to have an interview with an FPA rep. Financial Planner. We discussed our options with Mr. Chris Leishman of TFS Financial Planning and now have two options open to us.

- 1) Take legal action against Storm Financial and recupe our losses to pay the debts.
- 2) Sell the family home to pay off the debts.

We are currently exploring both options. We have had two local real estate companies give us market evaluations and we are organising two more. In addition, we are exploring the possibility of legal action with Preston Law of Cairns. We will be advised soon if Preston Law will take on the legal case.

On the 08 January 2009, we became eligible for the aged pensions from Centrelink. We now have a small income for survival. However, we are now faced with the monthly interest payments on the debts that we cannot pay whilst we explore our two options. We are not presently able to pay the interest payments.

REQUEST FOR ASSISTANCE

In order that we do not breach the interest payments on our debts, I approached the Bank of Queensland for assistance. They gave me an application for Financial Hardship Assistance where by the interest payments can be posponed for a specified period whilst pursuing our options to clear the debts. The interest arears would be paid on the final debt payment. That application will be submitted to the Bank of Queensland this week for approval.

Therefore, I seek your assistance in order for us to survive during the time it takes to see our options through to the final debt payment. I would ask that the interest payments on the negative equity of \$105,152.78 be posponed until we have seen our options through to final payment of the debt. I will negotioate the period once we know more about the legal option. I will get an idea from the lawyer when and if the legal action will start and roughly how long it will take. Whether it is option 1) or option2) or a combination of both options, we need your assistance in this matter.

In addition, I advise you that due to lack of funds, I have closed our Macquarie CMT account which you have a direct debit against for the interest payment. Therefore, because there are no funds in that account and it is closed, your interest payment due on 20th January 2009, is not available. Your assistance is an urgent matter.

I would be pleased to discuss this matter and any other options that you may have other than the posponement of the interest payments.

We are hoping to go forward and resolve this matter. Our world has collapsed around us and we are trying to fit the pieces of the puzzle together so that we can continue on with our lives.

Thank You and Regards, Jack Dale.

TO: Bank of Queensland Limited
Date: 14 January 2009

From: Jack Kenneth and Frances Norinne Dale

Reference: APPLICATION FOR HARDSHIP ASSISTANCE

COVER LETTER

Our Current position

We are ex-Storm Financial clients that have been left in a dire financial position. Our Storm Financial portfolio that was held by Colonial First State, was supposed to be sold down so that we would have funds to cover the margin loan held with Colonial Margin Lending and enough funds to cover living expenses and debts for a period of time, however, for reasons unknown to us, the portfolio was not sold down in time and we ended up with a negative equity of \$105,152.78.

We have been left with little cash, stripped of our livelihood and little income and two large debts of which one is the BOQ investment loan for \$252,030.00.

Days before this occurrence, we applied to Centrelink for the old age pensions and as of 09 January 2009, we are receiving the part old age pension worth \$410.00 each per fortnight.

We are now faced with the interest payments due on both of the debts whilst on the old age pension. Our cash reserves will allow us to carry on with the interest payments for approximately 2-3 months.

In order to resolve the debts, we have two options and they are:

- 1) Pursue legal action in order to recover compensation that will clear the debts.
- 2) Sell the family home in order to clear the debts.

These options were discussed in full with the FPA financial planner that the Commonwealth Bank offered to Storm clients that

were in negative equity. Mr. Chris Leishman of TFS Financial Planning in Cairns is assisting us with the options available to us.

At this stage, we do not know which option we will pursue. We are awaiting advice from Preston Law of Cairns. So,

1) If we take up the legal option, we will need the BOQ to suspend the interest payments on our investment loan during legal action.

2) If we take up the sale of the family home to resolve the debts, we will also need to have the interest payments postponed whilst the house is on the market and until the sale is completed.

If the BOQ would look favorably on this request, it would give us the opportunity to live without the pressure of the interest payments on our small income until we have the cash to resolve the debt from the options. We don't want to default on the interest payments.

It is a deplorable situation to be in at our stage in life, but, we have to look forward for a resolution. That resolution requires your assistance.

Yours Faithfully,

Jack Kenneth Dale

Frances Norinne Dale

Margin Loans with Colonial Geared Investments and investment loan with B.O.Q.

Fees Paid to Storm financial by Jack and Frances Dale

Period: from May 2004 to April 2008

Colonial Geared Investments Loan No.
Bank of Queensland loan account:

Date: 15 January 2009

<u>Amount of Loan</u> <u>Storm</u>	<u>Lender</u>	<u>Date Signed @ Storm Office</u>	<u>Fees Paid to</u>
1)\$260,000.00	Colonial	07/05/2004	\$31,753.00
2)\$210,000.00	A.N.Z	08/12/2004	\$25,360.00
3)\$200,000.00	Colonial	08/12/2004	
4)\$20,000.00	Colonial	12/05/2005	0
5)\$157,520.00	Colonial	06/10/2005	\$7,520.00
6)\$100,000.00	Colonial	13/02/2006	\$3,795.00
7)\$85,000.00	Colonial	16/05/2006	0
8)\$75,000.00	Colonial	27/11/2006	0
9)\$185,928.00	Colonial	10/05/2007	\$4,528.00
10)\$212,375.00	Colonial	02/08/2007	\$14,375.00
11)\$260,642.00	Colonial	21/08/2007	\$17,642.00
12)\$100,000.00	Colonial	31/10/2007	0
13)252,000.00	B. O. Q.	12/02/2008	\$2,610.00
14)\$75,000.00	Colonial	21/04/2008	0

Notes:

TOTAL PAID UPFRONT FEES: \$107,583.00

1) Loans 2) and 3) were simultaneous

2) Loan 13)-paid off ANZ loan of \$210,000.00 and put in \$42,000.00 into Portfolio.