Submission to the Parliamentary Joint Committee
On Corporations and Financial Services

Issues associated with recent financial product and services provider collapses, such as Storm Financial, Opes Prime and other similar collapses.

Submitted by:
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We became clients in March 1998, whereby the first 5 years we often wondered if we had made the right decision as the markets had very little movement. We had a 7 year plan and realised we had to be patient. When the market started to move upward we then took gradual steps to increase our portfolio and during these steps the understanding of our portfolio and margin lending became clearer. With the events leading up to October 2008 and from there on, our understanding of margin loans, fund managers, banks and financial advisors has certainly become clearer.

Overview of course of events from October 2008 to December 2008:

8/10/08 – Storm notified that a margin call may come given the rapid downturn in the market.
9/10/08 – Signed authority approving sell down to 50%. Confirmed receipt of authority by Storm and that it had been sent to Colonial Geared Investments (CGI) for processing.
14/10/08 – notified by Storm that 50% may not be enough and we approved 100% sell down. Also approved $30,000 from cash dam to be transferred if needed. Signed authority sent to Storm and again confirmed receipt of authority by Storm and confirmation that it had been forwarded to Colonial. Neither sell downs occurred at time authorities were forwarded.
28/10/08– Cash Accelerator account (ACA)opened with the Aitkenvale Branch of CBA as this is where the cash from the sell down will be held as security to cover the margin loan.
31/10/08 – Rang CGI – spoke to Kamhal who advised $400k sold to cash, but still had some funds in the managed fund and LVR at 89.8%. At this stage arranged internet access to our CGI account to monitor the situation ourselves. Once access was established,(took about 5 days) the CGI site did not appear correct. I managed to gain contact with our advisor at Storm and asked if I understood the CGI site correctly, as the balances did not appear to be right. Our advisor confirmed that we were reading the site correctly and that is was not up to date. At this point she advised that she was unable to assist us any further, as they were viewing the same information as us and as it was not up to date any information given would be incorrect, misleading and not be of any benefit to us. I also confirmed with CGI that I was reading my account correctly. Scott from CGI also said the information was behind as they were extremely busy with the share market's rapid fall, and with all the transactions being processed the systems were not updated. Systems had been shut down for 4 days to catch up on the processing and when re-opened the market had fallen dramatically which aggravated an already devestating situation.

From here on, we monitored our own portfolio in the CGI internet site with constant calls to CGI to confirm our position. During one of the phone calls to CGI (Scott) he said we were in a better position that a lot of others as there was much blood spilt on the floor. (*Did they not realised the consequences of their actions at this point which were to follow in the ensuring months)*

19/11/08 - $30,000 transferred from Macquarie cash dam to top up position.
During the month of November the internet site did not improve. Our fixed rate loan was visible, but the variable portion of our loan was now in credit due the to $30,000 transfer. Phone call to CGI to correct this transaction as this was not earning any interest, i.e. a loan balance paid out and going into credit?
28/11/08 – Above correction finally processed and back dated at my request. We were still in positive equity supported by cash in the ACA and personal shares which were also held as security. <u>No Margin Call.</u>
5/12/08 – Our MLC redeemed and variable loan again put in credit. Same time all our personal shares redeemed and transferred to the variable loan portion on our CGI margin loan. Another phone call requiring the credit balance be transferred to the ACA. Redemptions done without our knowledge or approval.
18/12/08 – Balance of Storm funds closed. Spoke to Paul at asking CGI not to close our margin loan as we had ample security in the ACA to secure the margin Loan. Interest was prepaid on the margin loan and there was no variable portion to our loan and the cost to break the margin loan was extremely high, hence our request to keep the loan open. We were sold down at 97.77%, never went into margin call or negative equity, had available cash to top up the security position if further required so why were we closed down? This would have allowed us to stay in the market and be able to take advantage of the market as it recovered. From this comment, the conversation with Paul continued regarding getting back into the market when it improved. He mentioned the LVR required with re-entering the market and what our position was and stated that we would need to transfer to another advisor as the Storm Fund was now closed. He recommended the CBA. Offer declined.

<u>**Questions that need to be answered:**</u>

Questions for the Banks:

1. What Code of Banking Practice did the banks follow with regard to their lending practices?
2. How were the banks allowed to lend monies to people with repayment capacity?
3. How/why did the banks lend monies to people that they never interviewed?
4. How were valuations carried out on homes without the owner's knowledge or consent?
5. Where is the Duty of Care shown to the clients of these Banks?
6. Where is their compassion and Duty of Care now?
7. How were people allowed to gear so high particularly when the home/investment loan, and the margin loan were with the one bank i.e. CBA. Even if the home/investment loan was with another bank, did the Margin Lender not take this extra liability into account?
8. Under what regulation/authority/term of condition did CGI have to close down the Storm Index Fund?

9. We know of other financial advisors that had clients with margin calls, but they were not closed down. Their margin calls were conducted in accordance with their Terms & Conditions and through the right channels. This, therefore appears to be a personal issue between CBA & Storm Financial. An explanation – please?
10. Given the advanced Information and Technological systems available in today's economy why was the CBA system behind and never up to date? Why did they shut their systems down for 4 days when upon reopening the situation was catastrophic?
11. Why did Colonial First State (Fund Manager) and Colonial Geared Investments (Margin Lender) show different values on their end of month statements for exactly the same securities (shares) held? As both departments come under the CBA and held common security (share portfolio and personal shares) would the share value not be the same as at close of business at end of month? Both ends of month statements should have read the same balances? Is this because their computer systems were outdated or a processing error or is there another *logical explanation?*
12. With the sell off of the Storm Index Fund, who bought the shares, where did the money go, and how much did the CBA make from this transaction?
13. Did the CGI stop to think of the consequences of their actions and the resulting domino effect on home loans that this would have, particularly given many of the home loans were/are held by their counter party CBA?

Relationship between Storm and the Banks:

1. Was this relationship in a written agreement?
2. Was this relationship compliant with guidelines of best practices and codes of conduct?
3. Was this relationship monitored throughout the course of the arrangement to remain compliant?
4. Who approved the relationship?
5. Who broke the relationship and why?
6. What was the basis of this relationship and to what extent did the parties involved profit?
7. How much of this profit (if any) was passed onto the clients? (being us)
8. Is this a relationship that banks enter into with anyone or just selected organisations like Storm?
9. Shouldn't this relationship be disclosed to us the clients?
10. Did this relationship have a Conflict of Interest attached to it, which resulted in us the clients not being contacted directly by the CBA at a crucial time?
11. No contact either by Storm Financial, but given they were viewing the same system that held no current/updated information as we were, Storm's advice would not have been of much assistance!

Questions for Storm Financial:

1. Why were all investors put into the same category: i.e. Retirees, people with 10 years working life remaining, 20 year old and 30 year old investors etc.?
2. Should a Risk Analysis have been carried out as further steps were approved, especially when circumstances changed as people advanced to retirement?

3. Was it made clear to clients that they had to be aware of 2 LVR's – one on the margin loan and the other over their houses? In all our reviews, mention was made only on the margin loan LVR, whereby we calculated a combined LVR when we had reviews for our own purposes.

We sincerely hope the above questions are answered through the Parliamentary inquiry and the ASIC inquiry to help shed some light on this devastating incident and give us some closure to this horrible event.

Response to Terms of Reference:

1. Role of financial advisers should be fully transparent with full disclosure of every aspect of financial advice including commissions, fees, banks, securities, taxation, margin lending and product disclosure.
2. The general regulatory environment for these products and services has become very slack and obviously not monitored closely. The industry has grown very quickly over the past decade and the guidelines appear to have been forgotten. If policies and procedures were updated with the ever changing industry and monitored more prudentially maybe this situation would not have occurred as severely as it did.
3. This role needs to be made very transparent, with detailed explanation and evidence of all points mentioned. The commissions system needs to be reviewed and may be replaced by fee for service. This may stop some of the more aggressive advisors within the industry.
4. Marketing and advertising needs to be realistic with the complete picture portrayed including highs and lows allowing consumers to make an informed decision.
5. Every person involved in the bank/finance industry should be properly trained and licensed to give advice and sell the products and services. The process should involve at least 2 highly qualified persons, being either the interviewer, the person submitting the application, the approver and or credit manager and fully supported by the correctly completed and executed documentation. In the case where one of the processors may be of a more junior role, application and recommendations should be supported/overseen by a senior person.
6. All information and advice should be provided to consumers who are considering investing. This information should be relevant to their current situation and tailored to their specific needs in going forward. Everyone is different and should not be categorised into the same structure. The client's best interests should be looked after and should be given the worst case scenario to consider at time of investing. Clients need to be aware that worst case scenario can happen and if so, what procedures are then put in place to counteract worst case scenario. If clients understand this process they can make an informed decision for themselves thus being responsible for their own decisions. At no time should anyone make a decision under duress.
7. Education and understanding of the financial industry is not at a sound level. A more detailed explanation in layman terms showing the highs and lows of investing needs to be offered to the consumer before accepting any offers. This comes back to the level of competency and experience of the advisor and banker. Full disclosure of all fees/commissions and how the products work

and the services offered by all associated counterparts needs to be further explained and understood. Being given a Terms & Condition to take home and read does not compensate for a full understanding of what is being offered.

8. Professional indemnity should be more than adequate to cover the advisors requirements. This should be updated regularly as required with the growth of the advisors related business. This should also be regulated and checked by a governing body and if under insured for his business level, steps be enforced to cover consumers for exceptional circumstances.
9. Immediate legislative or regulatory change needs to be put in place so this current situation does not happen again. Prudential controls and due diligence checks need to be enforced and maintained to a high standard buy governing bodies who actually have control over outcomes that can have a devastating effect on the every day Australian.