

Summary Submission To The Parliamentary Joint Committee On Corporation & Financial Services

5 July 2009

Committee Secretary

Dear Sir

My name is Nelson Raymond Hubbuck age 64 and my partners name is Catherin Fulton Moran age 61

We are residents at Cairns, North Queensland.

Like thousands of other people we have been caught up in the collapse of the former Storm Financial Company and have been left with no financial future.

History

I have a superannuation policy with MLC Ltd and in 1997 I was advised that my former MLC agent Mr Robert Waters was retiring and Mr Gus Dalle-Cort would be taking on my former agent's client list. I subsequently made an appointment to see Mr Dalle-Cort along with my partner. We discussed my account and agreed that I should keep on paying into the account as I was self employed.

By chance I met Mr Dalle-Cort early in 2004 and complained to him that my superannuation balance had gone backwards in recent times due to the share-market downturn. He advised me at that time that he was no longer with MLC but had joined a financial advice company and that I should come in to see him. He explained to me that there was no cost involved and that there was an education course to be completed first before committing to any long term commitment.

I discussed this meeting with my partner and we agreed to go to the education programme with Storm Financial Ltd. After the three night course we were suitably impressed that "Storm" were a very professional company and supplied them with all our financial details so that they could assess our suitability to invest into the share market.

Our goal was to become self funded retirees within 7 years. We did not expect to become very rich but to have enough financial security to retire comfortable in the knowledge that we would not have to rely on the government old age pension.

At this stage we were in the process of paying a mortgage on our town house and both employed.

I lost both my parents between late 2000 and early 2002 and was left an inheritance of approx \$150.000. My partner had a considerable number of "Woolworths" shares as she was 20year plus employee. So we had a modest sum to invest plus the equity in our mortgage.

Investment with Storm Financial Pty Ltd

After supplying Storm Financial with all our financial details we were given our first "Statement of Advise" on the 28 July 2004 to study and if satisfied we could sign the documents and all the recommendations would be put into effect.

This was a 98 page double sided A4 document and very professionally presented. It went to great lengths to explain "Storms" investment strategy and recommendations to us.

We arranged a meeting with Mr Dalle-Cort to discuss the document as I had several reservations regarding some of the borrowing options and risks. The collapse of the HIH Company was uppermost in my mind and the effect it had on their investors. Also the risk of us is losing our home. Storm had proposed that we borrow a very considerable amount of money against the equity in our home. We asked him if there was any chance that we might loose our home. Mr Dalle-Cort explained in great detail that this could never happen as "Storm" had an extra safety buffer built into its model so we would **never** be put in that position. "Storm" would constantly monitor our portfolio and if the LVR rose, steps would be put into effect to correct the ratio. I was also concerned that a sizable portion of the available funds in my superannuation were to be accessed to use in the investment strategy. I was assured that this was not a risk as the investment would be far more productive than leaving it in the super fund.

At the end of this meeting, my partner and I agreed to sign an authority to proceed with the recommendations put forward by Storm Financial Pty Ltd and this document was dated 12 August 2004.

An amendment to the agreement was proposed to us by Storm on the 18 September 2004, where the borrowings were increased and the funds allocated to the three "Storm" branded indexed funds and

we signed off on this proposal on 8 October 2004. Storm Financial then made all the arrangements with Colonial geared Investments and Challenger Financial Services to enact the borrowings and allocating the funds into the "Storm" branded shares.

By early March of 2005, we were contacted by "Storm" to make a progressive "step" as our investments had increased in value and we were required to borrow more money to be invested into our share portfolio. We signed off on this proposal on the 14th March 2005.

Shortly afterwards I had a meeting with Mr Dalle-Cort where he introduced me to a Mr John Fuller. Mr Dalle-Cort explained that as his business was expanding he would be handing over our file to Mr Fuller and that he would be our "advisor" in the future but that he Mr Dalle-Cort as principal at the Cairns office would still retain ultimate control over our portfolio. We naturally assumed that Mr Fuller was an accredited financial planner and that the advice he gave us was backed up by the Financial Planning Association of Australia and that he was a member of that organisation to be able to give such advice.

Over the following years we continued to make progressive "steps" increasing our borrowings in line with the recommendations put forward to us by "Storm". We would also pre pay the interest on these loans. We always kept our Loan Variation Ratios at manageable levels.

I cannot remember the exact date but I believe in late 2006 we were asked by our advisor to have our Town House re-valued As property values had increased substantially. Storm arranged for this to be done and shortly afterwards we were advised that the property had indeed increased in value and that we should increase our borrowings against the increased equity. At that time we were paying monthly interest on borrowings of \$136,000.00 this was increased to \$172,000.00 and the extra monies used to purchase more shares.

In February 2008 we decided to sell our town house. Settlement was effected in June 2009 the equity loan we had taken out with Suncorp Metway Ltd was paid out from the proceeds of the sale. On the advice, of Mr John Fuller. From a residual sum of \$70,000 we were encouraged to invest a further \$55,000 into our portfolio with the balance of funds to go to our Mcquarie Bank cash trust account.

We attended all the update seminars held in Cairns by "Storm" and I constantly monitored my portfolio and had regular checks with Mr John Fuller for advice as to how our portfolio was performing. Our portfolio took some losses during "Asian Financial Crisis" in 2005, but we weathered that crisis and all was looking fine until the "Sub Prime Crisis" in America started to have serious effects on the Australian Stock Market in mid 2008.

Concerned about these disturbing effects about the decline in the share market I arranged a meeting with Mr Dalle-Cort in July 2008 to discuss our portfolio and to see if Catherine could retire at this point in time. We were advised that it would be better if Catherine continue to work on and to come back in December when he would have another look at our position.

The share market continued to decline and then on a Sunday morning I believe was the 5th October 2008 Mr John Fuller telephoned us at home asking for us to come into the Cairns office urgently. On enquiring why? He advised that we were needed to sign important documents. On arrival at the Cairns office the entire staff was there and obviously very busy. Mr Fuller explained that to protect the critical mass of our portfolio they needed us to sign an authority for them to sell 100% of our shares and convert them to cash. A special account with the Commonwealth was to be opened in our name and the funds would be deposited to this account. Believing that our best interests were their primary concern we signed the authority and left the office believing that our funds would be safe.

In the latter part of October 2008 we received a statement from the Commonwealth Bank in Townsville. This was a statement for an "Accelerator Cash Account". The statement was dated 23 Oct 2008 and showed an account number but the balance was Nil.

In the first week of November Catherine received a letter from "CommSec". This was a SELL Confirmation Contract Note advising that on the 30th October 2008, all 455 shares in Woolworths had been sold and the settlement date was the 5 November 2008.

We always believed that these shares formed part of our secure assets held as security by the margin lender Colonial Margin Lending. On receipt of this advice I immediately went to see Mr Fuller asking why and who's authority were the shares sold and where were the funds deposited? His answer was that the shares were sold down by Storm to prevent us going into margin call and that they had the authority to take such action and the share value went to Colonial. I asked to have a look to see where our LVR was

at that time and it was in the high 80% range but below margin call level.

At this time we had funds in a Mcquarie Bank Cash Management Trust account. This account was set up when we entered into our contract with Storm Financial by Storm themselves on their advice to act as a "buffer". If our LVR was rising it was these funds that were to be used to correct the LVR ratio and not the sale of securities. I expressed my disappointment with 'Storms' action but was fobbed off with the answer that "they knew what they were doing".

In late November we attended a seminar at a venue in Cairns along with several hundred other investors arranged by Storm Financial where Emanuel Cassimatis gave a talk about the current financial crisis and how the management were working tirelessly on our behalves and asking us to stay with them and ride out the crisis secure in the knowledge that our funds were safe in the cash accounts set up by them. There was a lot of anger in the audience and Mr Cassimatis was obviously uncomfortable as he could not give specific answers to questions from the investors. His only plea was to ask the audience to stay with 'Storm' as our investments were safely in cash.

On the 9th December 2008 we were advised in writing from Colonial Geared Investments that on instructions from the Principals of Storm Financial, all accounts geared higher than 90% were to be redeemed and the sale of all equities within our margin loan be sold by the 5 December 2008 and cash proceeds be deposited to our margin loan. At this point in time we believed our LVR was in the mid 80% range and we had not received a margin call.

Very late in December a day or so before Christmas I had a call from the office of Storm Financial in Cairns advising that the advisors could not talk to any investors and that we were to contact the Financial Planning Association of Australia if we needed help and that the Cairns office would close on the 24th December and reopen on Monday 12th January. The reason for this was I believe that "Storm" was under investigation by ASIC.

On the 13th January 2009 I called into the Cairns office of Storm Financial and met with Mr Dalle-Cort. At this meeting Mr Dale-Cort was visibly in a distressed state. I asked him to give me an appraisal of where we stood regarding our portfolio/cash account. He advised that I stay with "Storm" and that when the share market recovered to near 4000 points we would gradually be eased back

into the market. His manner and demeanour distressed me. I immediately left his office and went to see the office staff.

I asked the office staff for a computer print out of our current position. I was shocked to see that our account balance had almost halved from its previous balance in September 2008 prior to the sell down and that our LVR had blown out to 98.82% with margin call at 100%. I immediately took steps to close down the account to prevent going into margin call. Interest on the margin loan had already been prepaid. I contacted the Commonwealth Bank and advised them to break the contract. They in turn advised that there would be a considerable fee to take this action and not to act in haste.

The Commonwealth Bank/ Colonial Margin Loans stalled in taking action on my request, still charging daily interest and after repeated phone calls to their office in Brisbane they finally closed the account three days later on Friday 16 January.

The end result after 4 years with Storm Financial Ltd is that we are now left without our home that we previously owned. We have lost all the cash funds we originally invested. I have lost a very substantial part of my superannuation. Catherine has lost all her shares in Woolworths.

Conclusion

Whilst accepting the risks inherent in investing in the Australian stock market. We thought that by using a registered financial planning company and taking the advice of registered financial planners we would be shielded from the many pitfalls often associated with this type of investing.

After the collapse of "Storm" I contacted the Financial Planning Association of Australia to report the actions of Mr Gus Dale-Cort and Mr John Fuller.

I was advised that I had sufficient cause for them to investigate Mr Gas Dalle-Cort actions. But to my utter surprise I was also advised that Mr John Fuller was **not** licensed by their association. This was a person employed by Storm Financial to give advice to clients. On whose authority was this man allowed to give financial advice?

I believe that the Financial Planning Association needs to take some responsibility for the advice given by its members as they obviously approved of the advice otherwise "Storm" would not have been allowed membership of that organisation.

The Commonwealth Bank and its lending arm Colonial Margin Lending are by far the most responsible for the debacle that occurred. The amount of monies that were approved to be lent to clients was out of all proportion to the client's ability to repay in the event of a margin call. Not once did we see an officer of the bank authorised to approve such loans or completed paperwork prior to signing the application for loans.

Colonial's web site where clients could monitor their portfolios was in the later part of December 2008 at least three days out of date. Quite obviously the rapid speed of daily developments on the stock market proved too much for the software of that site as it had not been stress tested. This gave investors wrong information. Had the program been accurate we might have had the option of pulling out before we lost the majority of our investment.

A simple phone call was all that was needed to advise the clients that they were close to margin call, to prevent the catastrophic losses incurred because we were not advised. It has also transpired that "Storm" did not convert our shares to cash prior to sell down. Why? Very serious questions must be asked of both parties at the Senate Enquiry.

It has now been announced in the media that the CEO of the Commonwealth Bank, Mr Ralph Norris, has admitted wrongdoing "Actus Reus" in its dealings with the clients of Storm Financial. This now puts a whole new perspective on the debacle. Its admission which is unprecedented in banking history opens the door to the "Pandora's Box" of questionable banking practice which is at the heart of the matter.

Recommendations

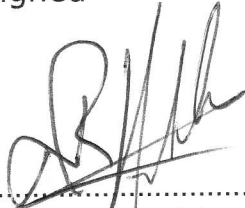
The most **desirable** outcome from the enquiry would be that the "Storm" investors have their funds returned as they were prior to the sell down. The losses incurred prior to that point would be acceptable as it's the expected volatility loss we could expect in such a market as it was in late October 2008.

The very **least**, we could expect, is that we all be returned to the point financially, when we signed up with "Storm".

Compensation for the emotional stress that we have all experienced is another matter altogether. How can you put a monetary value on the roller coaster of negative emotions we have been put under? Through it was no fault of our own. We are both now severely depressed and our relationship has deteriorated as we have no future to look forward to other than working past our retirement age until we are forced to go onto the government age pension.

We respectfully present this submission to the enquiry believing it to be a true and factual account of our experience.

Signed

A handwritten signature in black ink, appearing to be 'N. R. Hubbuck', written over a dotted line.

Nelson R Hubbuck

A handwritten signature in black ink, appearing to be 'C. F. Moran', written over a dotted line.

Catherine F Moran