

SUBMISSION T0:

Committee Secretary Parliamentary Joint Committee on Corporations and Financial Services
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In Brief:

We were clients of Brian Royes & Associates in Rockhampton since 2000. In 2005 we decided to sell our share of a business after 23 years. Brian was by then in the process of becoming part of Storm. We investigated for many months before finally deciding to invest the proceeds of the sale with Storm.

We knew there were risks in investing in the stock market but were told and shown there were checks and balances in place. We were told that being in business was more like putting all of your eggs in the one basket whereas investing in the storm funds were like having your eggs in 200 baskets.

When the market really began to plunge in late 2008, we wanted to get our money out of the market and pay down the debt. We are angry at being stalled by Storm and it seems Colonial and Challenger would only take direction from Storm and Storm refused to issue those directives. We still believe we did not appoint Storm Townsville as our advisor, the margin loan we took out in 2002 had Brian Royes, Rockhampton listed as our advisor so still feel our local office and ourselves should have been notified of our position not the Townsville office. That was something that was not made clear in the beginning - that our local guy no longer had authority. Colonial to date have not been able to supply a document that authorises only the Townsville office to act on our behalf without notifying us as well.

Thus we were stuck between a rock and a hard place - unable to take action but not being able to get out of the market. Little did we know that there was an "agreement" between Storm and CBA. This "agreement" seems to have sealed our fate without us being privy to it. If this agreement is proven to be in existence then surely those who signed this deal should be made to pay for the losses the clients have suffered through no fault of their own. It seemed the local guys wouldn't or couldn't do anything unless getting the OK from head office in Townsville, and they were only worried about keeping their income stream intact. The more money that was invested the more they made: if we pulled our money out their income dried up. They acted in their best interests and bugger the client.

When we had a video link up Emmanuel Cassimatis on November 28th we had been told by Ash Dowie of Storm Rockhampton that we had 75% of our portfolio sitting in a cash account and still had 25% of funds in the market. We were repeatedly told that we could recover from our position. Such supposed reassurances all turned out to be lies. When we began the video link with Emmanuel and a stand in advisor (For Ash), Karen McTier, he began with his usual summary of what had happened in the market and after 15 minutes or so he told us Colonial had in fact sold our entire portfolio and we still owed them \$185,000 (this amount turned out to be \$195,000 by the time CBA contacted us by phone on 8th Dec, it seems they could just pluck a figure out of the air and we would just cop it sweet) but we then asked what about the loans we have with ANZ against our property.

He looked at us and said “Well then you’re screwed” Of course he quickly recovered from this comment and said he would be going to Sydney the following Monday to confront CBA/Colonial and that they were in the wrong to wait until we were in a negative position to sell us down and that they had in fact moved the goalposts. I assume he was referring to the “arrangement” he thought Storm had with CBA/Colonial.

Many investors have lost money in the recent downturn but the difference for Storm Investors is we haven’t been kept informed and been allowed to make informed decisions like being able to service a margin call or take out funds to minimise loss. Storm and their preferred lenders had special arrangements in place but it seems those arrangements weren’t for the benefit of their mutual clients but only for themselves.

Response to address the terms of reference and what I believe should be looked into from the point of view of someone who has seen the results of this so called “profession”.

1. The role of financial advisers.

Our first foray into investing outside of our business was overseen by our trusted accountant that was way back in 1996 when we commenced our Self Managed Super Fund. When supposedly tougher regulations came into being which no longer allowed accountants to offer financial advice. Financial Planners came to be the only ones who could give financial advice. I would suggest therein lies the problem, suddenly someone could hang their shingle up as a financial planner where prior to that these people were simply salespeople. When I told our storm planner in April/May 2008 that our accountant was concerned at our level of gearing he laughed said something to the effect that “Accountants are just number crunchers they don’t know how to make money.” I feel the financial planning industry should be held to the same standard as accountants. They are after all responsible for our financial wellbeing. When I investigated storm and found they were members of FPA I believed this was the equivalent of an accountant being a CPA. The Financial Planning Association is nothing more than a show pony. Their way of dealing with Storm was to simply set them loose and wiped their hands of the whole fiasco. They had no supervisory capacity, just a mouth piece. The FPA needs to be exposed for what it is. Membership is simply bought and no regulatory requirements. In fact I have had a conversation with a planner who refuses to part of the FPA because of its inadequacies.

2. The general regulatory environment for these products and services;

Judging from my experience the regulatory environment is one of ineptitude and a case of closing the stable door after the horse has bolted. The rules and regulations that are in place offer little safe guard for the consumer. I expect that the big players and those “cowboys” such as storm have worked the system ensuring they do just enough to satisfy the regulations and still find a way around them. I would suggest there would be more qualified people than myself to offer the solution but making sure the consumer is protected should be the main goal and perhaps making simpler but more transparent regulations. Perhaps more weight should be given to complaints from ordinary people and not waiting until an event such as the total collapse and demise of so many peoples

wealth before a particular company is looked at by the powers that be. ASIC should have the capacity to investigate and place a warning on strategies that come to their attention. The consumer should be able to go to ASIC or another body who can actively investigate these products and advice and have an evaluation done. Not just a reply that it ticks their boxes and therefore is legal. It should be made clear that the company meets certain regulatory standards but that does not mean the advice they give is safe for each individual investor. True independent evaluation by a regulator should be available.

3. The role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers.

The commission arrangement is one of the major flaws in the whole system and perhaps the biggest reason for the entire situation we find ourselves in. If the assumption I have that Storm was receiving a kickback from lenders and that the practice was endorsed by any regulator then I am appalled that could have been seen as being best practice. I asked my advisor directly and he emphatically denied knowledge of the practice and said he would be horrified himself if it was happening as he was told that was not the case. I now suspect the lenders were in fact paying leads to Storm for borrowed funds. Is that the reason borrowing heavily was uppermost in Storm's model?

I believe disclosure is of little consequence. If they all do it and if it is industry standard then you have little choice but to go with the flow. I believe if all Financial Planners were remunerated as are Accountants ie. Fee for service and no commission at all, the "profession" may then weed out the salespeople masquerading as professionals and leave the industry to those that are there to provide a quality service and not getting a continual stream of income regardless of the outcome for the client. If my assumption is correct that financial advice is not a tax deductible expense then the ATO needs review that ruling and have the advice claimable as is the professional fees from accountants and lawyers. Perhaps this would then lend a more "professional" approach from financial planners rather than just being salespeople on a commission.

4. The role played by marketing and advertising campaigns.

I see no problem with marketing and advertising as long as it is proven to be honest and reliable. The role of these tools is to get you in the door. It is what is said and done once you are in the door that needs to be looked at. I do however consider endorsements from people such as sports stars are inappropriate for financial products and services. I believe Storm's rapid growth was not through marketing or advertising but through the active purchasing of existing private operators whereby the trust had already been developed by the planner and the client went along with the recommendations due to the ongoing trust which had already been established. They also relied heavily on introductions from existing clients to family and friends. Becoming part of the Storm family was heavily promoted.

5. The adequacy of licensing arrangements for those who sold the products and services.

Whatever licensing is in place isn't worth the paper it's written on. It doesn't seem to have any bearing on whether they would act in the best interests of the client. It has become abundantly clear that licensing of the product and service providers was inadequate and ineffectual.

6. The appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served.

There are guidelines in place such as the "know your client" rule. They gathered all of our information and cajoled us into believing what was in our plan was specifically designed for each client. As it turned out there was one basic rule. Gear to the nth degree and use the banks to "double gear" to achieve the highest level of debt you could eek out of each person whether it was appropriate or not. I have been told by an ex ANZ Financial Planner that they do not allow their planners to double gear their clients but ANZ was more than willing to do so for the Storm client. I have come to the conclusion that the other banks saw how much the CBA was raking in with property secured lending and knew that the only way the loans could be serviced was by the market continuing to go up and in the event of the inevitable downturn they would simply sell off the securing assets. There was no way they could lose and each of the branches or those responsible for securing the loans would also be in line for a nice bonus. It seems all the professional money people have prostituted themselves at the expense of the consumer. Our biggest error seems to have been to trust that the planners, bankers and lenders were all ethical. They are not. The interests of the consumer would be best served if the banks and lending institutions were held to a code of responsible lending not just one which rewards the lenders for getting their consumer to borrow beyond their debt serviceable level. These banks have to be held accountable for placing their clients in loans that could only be serviced from the profits from the share market. How can share market profit be seen as reliable income especially at the height of a lengthy bull market?

7. Consumer education and understanding of these financial products and services.

The question I would ask with regard to the consumer education is who would provide this education. That was part of Storm's spiel that there was education so that we understood what was involved. The problem was that they educated us with their warped perspective and told us just enough to gain our trust and to make us believe that they were doing was the best for our financial independence. What Storm was doing didn't seem to be that different to other planners in the beginning it was ever increasing level of debt that was our undoing. I don't believe we were uneducated we just took our eye off the ball and went to a level of debt that became unsafe. Perhaps an "investor beware leaflet" could be produced or more appropriately a service from ASIC where the investor

can have the plan looked at from a regulator and which must be given to the client pointing out the pitfalls in simple language.

8. The adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers;

It seems there is a pittance of professional indemnity insurance held by the planner in relation to the amount of debt and losses we have been exposed to and my understanding is that while they held the industry standard amount that amount does not reflect in any way the level of funds they administered/controlled. Another example of how the regulations and guidelines for the financial industry have failed the consumer.

9. The need for any legislative or regulatory change.

I believe that not only does the financial planning industry require an entire change in how they are both regulated and how they procure payment for advice but also the banking sector need to be pulled into line. The government has bailed the banks out by guaranteeing the funds held within them but have allowed the banks to get away with irresponsible lending while aiding and abetting the unscrupulous practice of a rogue financial planner. The banks seem to be untouchable and are holding both the consumer and the government to ransom.

The biggest fault with our current system seems to be the kickbacks the Financial Planners get from the fund managers and lenders. This incentive scheme is almost surely the single most critical factor in all financial planners encouraging people to put their money in funds and then borrowing further. The Financial Planning industry should be more like accountants and lawyers.

Simple format for Statement of Advice. - Storms statement of advice had so much “education” information in it that the actual detail was buried. When such a large volume of information is thrust in front of you, it is more than probable that the reader will begin to skim details. I spent many hours pouring over our Statement of Advice and found numerous details that were incorrect. I was told those details are insignificant in the big picture.

I also believe the loans that have been taken out against property to be invested with storm where the banks have taken the figures supplied by storm and not directly by the client should be deemed to have been obtained by coercion and those who are in negative equity should also be compensated by at least the amount to where the client should have been notified of the margin call that being at LVR of 80%. At the very least, there should be a freeze placed on the payments of these loans until the legalities are sorted out. Not just a “holiday” on the payments whereby the interest is just added onto the loan thereby paying interest on the interest and the only one who wins is the bank. That just delays the inevitable and does nothing for the client, only for the bank.

At least CBA seem to be attempting to right the wrong. I hope their attempt is genuine and not just a PR exercise. Now we must also get the other banks to admit their wrongdoing and have them brought to answer for their abhorrent behaviour. In our case the ANZ must also be asked to explain their involvement in the demise of Storm Financial clients.

In Summery

We are in our 40's and have come to the realisation we must start again after loosing what we have worked for over the past 20+ years. For those who are of retirement age and beyond there is little chance to recover and the only lifeline the CBA is offering is let them live in their homes until they die and then take it as long as they don't pursue them through the courts. They are holding a gun to the head of these elderly people who are currently in such a state of shock that they can not make clear decisions. The CBA is only trying to sweep the problem under the carpet with these bully boy tactics. Shame on you CBA and shame on all those banks (Bank of Queensland, ANZ, NAB & Westpac) who have only sought to feather their own nests by any means possible and to hell with the little people. I am still an ANZ shareholder but can not condone using underhanded, unethical and immoral acts to make a buck.

After dealing with the lies and incompetence of Storm I have also come up against the inability or perhaps just unwillingness of the lenders and other "financial service" providers to assist. I suspect they have been very busy sanitising their records to try to make our problem go away. Had we not banded together to form SICAG these fine upstanding institutions would have simply steamrolled us into rolling over and doing as they dictate. I lay the blame at the feet of the following institutions. CBA , Colonial Margin Lending, Macquarie Margin Lending, ANZ, NAB, Bank of QLD, Westpac, Challenger and all those who knew what was being done was wrong and who not only stayed silent but willingly went along for the ride. They are just as guilty as the founders of Storm Financial.