

Attention: The Committee Secretary,  
Parliamentary Joint Committee on Corporations and Financial Services,  
Department of the Senate,  
PO Box 6100,  
Parliament House,  
Canberra, ACT 2600

Please accept our submission to this Senate Inquiry into the Financial Products and Services in Australia.

## **Submission to the Parliamentary Joint Committee on Corruptions and Financial Services into Financial Products and Services in Australia**

### **Background:**

We are a couple (aged 59 and 56 years) who in 2006 acquired our first family home with a small mortgage.

As a recently married couple, we did not have much in superannuation between us, and we were looking at ways to invest in an additional property, without too much risk to our family home.

Our wish was to provide financial stability for ourselves in our retirement, with a small moderate income from rental income to supplement our superannuation contributions, which we only started saving towards in the late 1980s.

In September 2007, on the advice of a broker/planner, we were given a Financial Management Strategy to purchase an undeveloped block of land, with the view to subdividing and building two homes on the land.

We had never done this type of investment before, and we were assured by our broker/planner, this was the best option to give us the financial stability that we desired. Upon the broker/planner's advice, we took out a 'No Doc' equity loan with a lender through an aggregator who acted as the lender's mortgage/investment manager

When we took out this 'no doc' loan, we were told by the broker/planner that, although the lender as well as the aggregator had the property details of our family home and the investment land to be purchased, only the investment land purchased would be held as security – our family home would not be at risk if the market turned against us. Secondly, as the investment land had a market value of at least half the value of our residential home, there

would be ample funds in which to draw down in order to build on the investment land. Thus, once fully developed, we could sell and 'repay' all that is owned, leaving our residential home totally freehold, with extra funds for more investing.

The broker/planner also told us that we would need an Australian Business Number (ABN) for the 'No Doc' application to be submitted for approval. We informed broker/planner that our accountant would arrange an ABN once we took over a business that we had purchased in December 2007. The broker/planner also asked for our pay slips, which at the time we felt was normal, as we thought the lender would need to verify our income before lending the finance to purchase the investment land. We were very surprised about a month later to receive a sole trader ABN from the Australian Taxation Office, the result of an online application, which was never made by either of us or by our accountant for this type of product.

At the time, we trusted the broker/planner that she was giving the best advice available to us and were never advised to get a legal opinion or other financial planning advice. Secondly, neither the broker/planner, lender nor aggregator met with us to go through the terms of the 'No Doc' application or mortgage contract, the latter we were told just to get it witnessed when signing and return it to the broker/planner. Thirdly, we were not told what our monthly 'interest' payments under this 'No Doc' loan arrangement. If we had known about how much the interest was going to cost us, we would have never proceeded with accepting the 'No Doc' loan product offered to us.

With the Loan Application Form (LAF), we were told to sign it, and she, the broker/planner, would fill in the rest of the details. We were never given a completed original copy of this LAF by the broker/planner or by the lender and aggregator upon signing the LAF, which is a requirement by law.

For months we tried to get a completed original copy of the LAF, through either of the broker/planner, lender or aggregator with no avail. Each party would tell us that they did not have it, that the original would be with the lender or aggregator.

It was not until the activities of the broker/planner became subject (and still is) to a major Western Australian Fraud Squad investigation did we manage to get an electronic copy of the LAF from the aggregator.

Upon receiving the copy, we noticed there was a lot of important information 'missing' from the LAF, and secondly, it was not the hand written original copy of the LAF. We approached the aggregator again and insisted that they send the original hand written copy of the LAF; they informed us that they did not have it, as applications are only received electronically from the broker/planner, that we should contact the broker for this. To date, we still do not have a hand written copy of the original LAF.

A few simple checks by the lender and aggregator would have shown that we did not have the income to meet the 'loan' repayments. We are now fighting to hold onto our family home. This

whole financial process by the broker/planner, lender as well as the aggregator has left us in a position which we should never have been placed in.

***Our submission, hopefully, will support the inquiry into issues associated with the review into the financial products and services offered in Australia. Thus, making sure people in our situation are not placed at such high risk in the future would be most welcome.***

## **Terms of Reference**

### **1. Role of financial advisors:**

In 2005, as a married couple, we started going to a few seminars, which addressed possible ways in which people like us could get involved in investment products, of which property investment was part of the presentations.

Most of these presentations painted a very ‘beautiful’ picture, pointing out mainly the positives of investing in the manner that they suggested. Very few presenters tackled the negatives of the products they promoted. In hindsight, these seminars were not a balanced view of the real world of investing. We sat on the fence and took our time, and as first time investors, we wanted to have as much peace of mind before we proceeded with an investment strategy.

In about June 2006, we met with broker/planner, who acted more like a financial advisor, who came across as being very genuine in her efforts to help us to reach our goals of being self funded retirees within 5 years. Once again, a very ‘beautiful’ picture was painted in the form of a Financial Management Strategy presented to us. We trusted the broker/planner of that the investment advice given and the financial product applied for was the best option for us.

When application was made to the aggregator and lender by the broker, we were told to sign the Loan Application Form (LAF) and the broker/planner would fill out the relevant details. At no time did we ever sight the completed LAF before it was submitted to the aggregator and lender, even when we contacted the broker/planner. Our requests would only come back with a comment that there was ‘nothing to worry about’.

When the LAF was submitted by the broker/planner to the aggregator and the lender for approval, at no time did the aggregator or lender contact us by letter, phone or e-mail to verify that the details, including the employment and income details submitted on the LAF were correct prior to their approving the ‘No Doc’ Loan product to us. We gave in our pay slips to the broker/planner and assumed that this is what was used for income on the LAF. We were shocked to find that the LAF we finally got from the aggregator contained income details which were different to those that we provided. Secondly, when we signed the mortgage documents, we were just told to get them witnessed as we signed them. At no time did the broker/planner, aggregator or lender make any effort to make an appointment with us to go over the mortgage documents prior to our signing of them.

***Recommendation:***

***More regulation of the finance industry is needed to ensure that all lending procedures are followed that promote honesty and integrity.***

***(We, as first time investors, have suffered financially, due to unethical procedures not being followed.)***

**2. The general regulatory environment for these products and services:**

When we took out the ‘Low Doc’ loan product, we were never advised by the broker/planner, aggregator or lender that we, as borrowers, should seek independent advice as to our legal standing with regard to the product if we accepted it.

Secondly, we are aware that some contracts involving some form of property do have a ‘cooling down’ period in some States and Territories in Australia before such contracts become legally binding. However, in the case of the ‘Low Doc’ Loan application that we signed, it appears there was no such cooling down period – not that we were aware of. If there was, we, applicants/borrowers, were never informed.

***Recommendations:***

***That the rights of the borrower be fully protected under Federal law for all financial products and services involving the main residential real estate property as collateral for investment type loans that financial institutions provide to their customers under the guise of ‘No or Low’ Doc Loans.***

***Secondly, it must be mandatory for financial institutions to contact the applicant(s) of such loans to verify that all details on the Loan Application Form are correct before a decision is made by that financial institution to approve such applications.***

***Thirdly, there must be a mandatory ‘cooling down’ period in all States and Territories in Australia, where by the borrowers must seek independent legal/financial advice as to the product that the borrowers are accepting – say one month.***

***(If such procedures were in place before we accepted our ‘No Doc’ loan from the lender, through the aggregator, we would have been more informed.)***

**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 advisors:**

Whilst we as borrowers, realise that commissions are paid to brokers/planners for a successful Loan Application Form submitted – we all deserve an income. However to make the process fairer and honest, the broker/planner should disclose that he/she/they will receive a commission, especially if the broker/planner acts independently of the lender and is not employed that lender. In the case of our situation, such disclosure was not made.

Some broker/planners do act independently with regard to the product/services they promote or sell. However, some broker/planners will promote or sell a product, which they will benefit from personally, rather than that product/service which would better suit the buyer/borrower's circumstances.

***Recommendations:***

***Remuneration or commission payments need to be on a sliding scale, similar to those made to real estate agents, depending on the amount financed. There also needs to be a maximum amount paid to the broker/planner, irrespective of the amount of monies borrowed by the borrower.***

***Secondly, it must be mandatory for all broker/planners to disclose to the borrower in a signed affidavit of their particular interest with a particular lender and or real estate property or settlement agency that the brokers/lenders are promoting or financing – such an affidavit needs also to be lodged with a federal regulatory body, which administers the activities of brokers/planners.***

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

We first sought the advice of a broker/planner in mid 2007. We wanted to be very conservative investors by starting out with an investment portfolio that we could manage, given our joint average income.

We, as investors, only wanted to build upon our limited equity, with view to providing an additional income from a rental property that we could manage without too much risk using the part of the equity in our family home.

The broker/planner 'talked' us into investing in a block of land that we could build two homes on and be totally cashed up within under five years. The advice tendered to us was that virtually all requirements to subdivide the land would be in place within three months of us purchasing the investment block of land, and secondly, we would have draw down facilities with the lender to finance the investment real estate development.

The advice given to us by the broker/planner was totally false information. Only the approval for rezoning by the relevant government authority had been applied for by the developer. This took nearly 12 months to obtain. Application to subdivide was a separate issue. There was also no drawn down facilities to build, which different to what we had been told by the broker/planner.

If the broker/planner has been up front with us, we would have not proceeded with the purchase of the block of land.

***Recommendation:***

***That through mandatory regulation, financial institutions and brokers/planners have to be totally up front and truthful with all information for consumers to make informed decisions.***

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

At the time we invested in an investment product, namely a block of land, with a view to building duplex dwellings, we thought we knew the pitfalls.

Unfortunately, we did not know enough..

***Recommendation:***

***That the senate inquiry investigate the reasons why the “buffers” we assumed were in place, did not prevent the fiasco that followed the sub prime market collapse. People will never want to invest for their retirement unless there are guarantees that their investment portfolios are secure.***

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

At the time we were given and invested in an Financial Management Strategy, we assumed that the broker/planner was covered by their insurance that we, as client investors, could claim upon if the advice that we were given should turn sour. We found out afterwards that such cover held by brokers/planners did not ‘cover’ individual client decisions based on wrongful advice received by the consumer from the broker/planner.

***Recommendation:***

***That the senate inquiry investigates ways in which customer's investment decisions can be protected by law when advice received from financial institutions as well as brokers/planners has intentionally misled the consumer.***

**9. The need for any legislative or regulatory change:**

People are at the mercy of these financial institutions and broker/planners who misled 'everyday' lay people, such as ourselves, in their investment and financial decisions.

***Recommendation:***

***The government, at all levels of government needs to legislate that proper safeguards need to be put in place that protects all parties involved in any form of investment decisions.***

**Conclusion:**

We realised that the market did drop, however this submission, hopefully, draws attention to the unethical methods that some financial institutions and some brokers/planners have doped unsuspecting investors to invest in products that appear on the surface to be ethical and honest investments.

Yours faithfully,

Mr D. W. and Mrs C. V. Hogg