

SUBMISSION TO THE SENATE INQUIRY INTO FINANCIAL PRODUCTS AND SERVICES IN AUSTRALIA

To: Committee Secretary

Parliamentary Joint Committee on Corporations and Financial Services

P.O. box 6100

Parliament House

Canberra ACT 2600

Australia.

I have been happily married to _____ for 42 years and our financial affairs are in joint names. I am 63 years of age and _____ is 62 years of age. I was employed by Tyco Australia group for 42 years until June 2004. Due to inappropriate actions by my employer, I suffered a major depressive illness in December 2005. I was on sick leave for three months before commencing Work Cover in March 2004. My Work Cover Qld payments ceased after 2 years in March 2006 and a confidential out of court settlement was agreed between Work Cover Qld and me due to my Employers unlawful actions which are the cause of my current medical problems. My current income is \$60,000 per annum due to permanent disability from my salary income protection insurance policy which ceases in October 2010 when I reach 65 years of age. My wife is unable to work due to a permanent physical injury plus she suffers from chronic depression. Her income is nil per annum.

I worked continuously from 1962 until 2004 to support and provide my wife and four children who are now adults and self supporting. I have no investment experience, with the only investment made by me being the purchase of a rental property in 1991. My superannuation, residence, and rental property were my only major assets when I ceased work in 2005.

In June 2006, at the recommendation of a relative, I went to Storm Financial to seek professional financial advice to map out a financial plan to provide financial independence for myself and my wife during retirement. I had not previously received any professional advice from a financial planner. I attended several one on one meetings with a Storm Financial Advisor plus an information seminar with Storm Financial between June and November 2006. During this time I provided full financial details of my assets, liabilities, and expenses to my Storm Financial Advisor.

During this time, I raised several major items of concern to me with my Storm advisor as follows:

1. How safe is the Storm investment plan?
Answer: Very safe. We work on the 100 year average of the All Ordinaries Index of 12% per annum. The 1930 depression and World War 2 would not have been a problem under our plan.
I was then given a graph of the 100 year All Ordinaries Index as confirmation.
2. What happens if Storm provides bad financial advice?
Answer: Storm Financial is a licensed Financial Planner and a member of The Financial Planning Association of Australia. We carry professional indemnity insurance in the unlikely event that this should happen. To date we have had no claims.
3. Has any investor ever been placed in Margin Call?
Answer: Only one and that was because he did not follow our advice. We were however able to negotiate with the margin lender so that his margin loan was not called in. The margin call for our plan is 85% L.V.R and we operate your margin loan between 40% and 60% L.V.R.
4. Should I take out insurance against home loan repayments in the event that I lost my salary protection income?
Answer: Not necessary. This is allowed for in your plan.
5. Why do you recommend selling my rental property and investing this money in the Storm/Challenger All Ordinaries Indexed fund?
Answer: Property is not a liquid asset and values are expected to decline over the next decade. My rental property is too high a percentage of assets to have in this area. Investing in the All Ordinaries Indexed Fund still provides for property investment but the risk is distributed over many companies

In November 2006, I was provided with a Financial Plan prepared by Storm Financial which I accepted.

Since the collapse of Storm Financial, I have lost all superannuation, rental property, and motor vehicle. I am left with a \$550,000 mortgage on my home which I need to sell before October 2010 as I will not be able to meet any loan repayments when I turn 65 years of age and will need to survive on a pension.

I have prepared this submission due the financial ruin I have suffered at the hands of Storm Financial and the banking system. I have lost all my superannuation, investment property and life savings. After a life of continued employment during which I planned to be a self funded retiree, I will be forced, along with my wife, to be a tax funded pensioner.

In June 2007, the debt on my home was \$88,000.00 which was on a Line of Credit account. In accordance with the advice received from Storm Financial, this was increased to \$552,000.00 mortgage account with the Bank of Queensland who was my current banker. Storm Financial had initially recommended ANZ bank for my home mortgage and had arranged joint accounts to be opened for my wife and myself which we accepted. When the ANZ bank attempted to transfer my accounts from the BOQ, I received a call from my BOQ manager asking why I was changing banks. I explained that this was in accordance with financial advice from Storm Financial and suggested that BOQ contact them for any information. The following day I received a call from my Storm

Financial advisor who said that loan finance was now being provided by BOQ. He explained that ANZ would only lend 60% of the value of my home under a low doc's loan as the ANZ would not consider my salary continuance payments as income. BOQ on the other hand did consider my salary continuance payments as income and would lend 80% of the value of my home under a standard mortgage account.

In accordance with advice from Storm Financial, I purchased a new motor vehicle valued at \$122,000.00 in February 2007, fully paying for it at the time of purchase. This was to be refinanced for 100% of its purchase price once my Storm Financial plan was put into place. This was carried out in May 2007 and the finance was organized by Storm Financial with Capital Finance. After the collapse of Storm Financial, I was forced to sell this vehicle for \$90,000.00 in June 2009. The payout figure to Capital Finance was \$17,407.00 more than the sale price of the vehicle which I was able to meet from prepaid interest refund received when I closed my Macquarie Bank margin loan.

My Macquarie margin loan was organized by my Storm Financial advisor and opened in June 2007. The initial loan amount was \$186,000.00 with a credit limit of \$500,000.00. By December 2007, the loan amount was \$760,170.00 with a credit limit of \$850,000.00 which had been organized by Storm Financial with Macquarie Margin Lending on my behalf. By September 2008, the loan amount was \$1,047,886.00 with a credit limit of \$1,300,000.00, again organized by Storm Financial on my behalf.

On the 23rd. of October, Storm Financial sold 100% of my Challenger portfolio for the sum of \$919,984.00 and deposited the cash in my Macquarie Cash management account as a pledge against my margin loan. This was carried out by Storm Financial in accordance with the Authority that we signed at Storm's request on the 8th. October 2008. This Authority allowed Storm to sell up to 100% of our Challenger Portfolio without obtaining our prior approval. Storm's advice was that they may need to move quickly if the Share Market dropped in order to prevent a margin call on my Macquarie Margin loan.

I sold my motor vehicle which was under finance with Capital Finance, on the 29th. May 2009 for the sum of \$89,950.00. This left a shortfall of \$17,407.22 against the payout figure of 107,357.22 to Capital Finance.

I received a letter on the 12th. July from Financial Index Australia Pty. Ltd. Dated the 6th. July 2009. This unsolicited letter advised that FIA were the purchaser of Storm Financial client servicing rights and welcomed me as a client of FIA. This letter gave me 21 days to contact FIA if I wanted to be removed from their client list. If they did not hear from me within 21 days they would transfer my client file and information to FIA. Following is my reply which addressed my concerns:

*Financial Index Australia Pty. Ltd.
P.O. Box 501 Collins St. West
Melbourne Victoria 8007*

Attention Michael Wilkins

Dear Sir,

Re: A warm Welcome to Financial Index

We acknowledge receipt of your letter dated 6th. July announcing your purchase of Storm Financial client servicing rights.

We find this letter to be offensive, misleading, predatory, and an attempted breach of our privacy.

With regard to your comment about being removed from your client list, "We will either have to":

- Choose another financial services provider to look after our affairs; or*
- Remain as a Storm client.*

We make the following comments:

- 1. We do not have to do anything that you advise.*
- 2. In accordance with your letter, Storm is in Liquidation so your option of remaining as a Storm client is ridiculous. It is public knowledge that Storm terminated the employment of all their staff and their FPA licence cancelled.*

We have another option and this is to manage our own affairs, and this is what we intend to do. This will be quite easy for us as after our Storm experience we now have nothing left to manage.

Your advice that "If we do not hear from you at the end of the 21 day period, we will proceed on the basis that you have consented to our proposed arrangements. It will only be at this point that Storm will transfer your client file and information over to Financial Index".

We find this to be offensive and unethical. There are many reasons why we may have been unable to reply to your letter within the 21 day period, such as Mail not received, or being absent from home for an extended period. In this event we would have been presented with a fait accompli and our financial records transferred from Storm to Financial Index. Our Financial records are subject of our privacy and as such should not be made available to anyone without our written consent.

In Conclusion:

WE DO NOT WANT OUR FINANCIAL RECORDS TRANSFERRED FROM STORM TO FINANCIAL INDEX.

WE DO NOT WANT ANY FINANCIAL ADVICE FROM FINANCIAL INDEX.

Please acknowledge receipt of this letter and confirm that Financial Index will not obtain or attempt to obtain our Storm Financial details or any other information pertaining to us.

My points and questions for consideration by the enquiry are as follows:

At the age of 63 years and while on a permanent disability payment which ceases when I reach the age 65 years, I sought the advice of a Licenced financial planner to manage my

financial affairs. This was to secure financial independence for my wife and myself once I reached the age of 65 years. Due to my disability, I have difficulty with managing financial matters. Both my financial planner and my local bank manager were aware that I was receiving a disability payment which ceased when I reached 65 years of age. During the 18 months that I was a client of Storm Financial, I paid \$115,940.00 in fees to Storm Financial. I invested \$850,000.00 with Storm Financial and I am now left with a \$550,000.00 mortgage on my home which I am unable to repay.

1. I believe Financial Planners are required to carry professional indemnity insurance to cover client losses due to inappropriate or wrong advice. From my question raised on this subject at my initial meeting with Storm Financial, and prior to accepting Storm Financial as my Financial Planner, I believed that I was protected against the losses that I have occurred.

It appears that this protection is inadequate or perhaps not available at all. I understand that Storms professional indemnity insurance had a limit of \$20M and may not have been current at the time that they went into receivership. I believe that the \$20M cover would not be adequate to pay for the losses incurred by Storm Investors due to bad advice from Storm Financial.

What is the point of having professional indemnity insurance if it does not guarantee protection?

Legislation needs to be either strengthened or introduced to ensure that financial institutions have a guaranteed Professional Indemnity Insurance policy with a sufficient level of cover to meet financial obligations commensurate with the size of their business.

2. In my case, I have lost a lifetime of superannuation which I believe was exposed to a total loss situation by Storm Financial, even though I was advised by Storm that my investment was low risk. I realise that the value of superannuation rises and falls in accordance with the financial market, however the long term aim is to provide financial security in retirement, and they should not be exposed to total loss situations.

What is the point of rolling over superannuation from one plan to another and only to suffer a 100% loss due to incorrect or inappropriate advice?

Financial planners or institutions are currently required to be licenced, however I do not believe that sufficient safeguards are in place to protect superannuation investments. Legislation needs to be either strengthened or introduced to better protect superannuation capital, and to ensure that superannuation can only be placed with institutions that comply with protection of capital requirements.

3. I believe that Storm Financial had a close and suspicious relationship with the Bank of Qld Townsville Branch. I had a line of credit account for my home loan repayment, along with several other accounts with my local BOQ branch. When Storm Financial instigated a loan on my behalf with BOQ, my line of credit account was changed to a home mortgage account and my file for this account transferred to BOQ Townsville branch without my knowledge. My other accounts remained with my local BOQ branch.

Why was my home mortgage account file transferred from my local BOQ branch to BOQ Townsville Branch when I became a client of Storm Financial, (Brisbane Office)?

On the 28th of February 2009, I submitted a formal request for a copy of my loan application form applicable to my home mortgage loan from the Bank of Qld. After considerable follow up requests to the BOQ, this information was provided to me by the BOQ on the 7th of April

2007.. My loan application, which I had not previously sighted, was unsigned and incorrect in many areas such as:

- Stated that I was employed full time, when in fact I am on a permanent disability payment.
- My household assets were stated as nil when in fact they were approximately \$200,000.00.
- Stated that my monthly income was \$16,000.00 when in fact it was approximately \$4,000.00.

How can a Bank provide a loan without the signature of the applicant on the loan application and without verifying that the information contained in the application is correct?

I believe that Storm Financial compiled and submitted my unsigned loan application to The BOQ Townsville Branch which was accepted and finance provided.

Legislation if not already in place, needs to be either strengthened or introduced to ensure that banking institutions do not provide finance against loan applications that are not signed by the applicant and that the applicants ability to repay the loan is confirmed.

4. Storm Financial arranged for a chattel mortgage to be taken out on my motor vehicle in the amount of \$122,400.00 in May 2007. Storm dealt with a Brisbane based broker to obtain this loan from Capital Finance. On the 27th of February 2009, I requested a copy of my loan application from Capital Finance. In accordance with my request, I received a copy of an unsigned statement of my financial position and an internal memo which also referred to an e-mail from Storm Financial confirming my income. I was not provided with a copy of this e-mail, so I assume that this was \$16,000.00 monthly as per item 3 above.

How is a financial lender able to provide finance without a signed application from the borrower?

Legislation if not already in place, needs to be either strengthened or introduced to ensure that financial lenders do not provide finance against loan applications that are not signed by the applicant.

5. On the 28TH. Of November 2008, Storm Financial deposited \$51,766.00 into my Macquarie Margin Loan account to prevent a margin call being made.

On the 18th Of December 2008, I attended a meeting with my Storm Financial advisor in their Brisbane office. At this meeting, I raised several questions with regards to my investments. These are as follows:

Q1. What is the situation with regards to the recent Sunday Mail article concerning Storm Financial?

A. The CBA broke an agreement with Storm with regards to Margin Call. Storm is looking at taking legal action against the CBA. For further details, see the article in the Townsville Bulletin.

Q2. What is my current risk with regards to recovery of my lost funds?

A. Low, with Storm's help.

Q3. How secure is Storm?

A. Storm is very viable. Emmanuel and Julie will sell their assets to help clients if necessary.

Q4. How do I recover financially when I have nothing left?

A. Use the market with seeding funds from Storm. Place \$50,000.00 in a geared indexed fund which would equal \$100,000.00 invested.

Q5. Why do I still have a margin loan when I no longer have any shares?

A. Storm will now arrange to close this loan. It was left in place for a short time to see if it was needed.

Q6. What happens in six months time when my tax refund cash runs out? How do I continue to pay my home and car loans?

A. One word, Storm. Storm will meet your loan repayments if necessary. Repay Storm when your financial situation allows it.

I closed my Macquarie Margin Loan on the 22nd of January 2009 and received a credit of \$21,269.00 of prepaid interest after payment of a \$19,592.00 break fee.

Storm Financial were attempting to recover my financial position as evidenced by their transfer of funds to my margin loan to prevent a margin call. They also advised of a plan going forward to assist in the recovery of my financial position.

I believe that The Commonwealth Bank of Australia, when faced by legal action from Storm Financial due to improper selling of their clients portfolios against margin calls from Colonial First State, called in Storm Financials business loan. I further believe that this was done to force Storm into receivership in an attempt to prevent any legal action against CBA or its subsidiaries. It is now public knowledge that CBA have acknowledged some wrongdoing in regards to their clients and are working towards compensating their affected clients.

I believe that the actions of CBA are a contributing factor to my current financial situation as their actions have removed any opportunity for Storm Financial to assist in recovery of my losses.

6. As detailed above, Financial Index Australia acted in what I believe to be a predatory and unethical manner to obtain my file and details from Storm Financial. I consider this to be a serious attempt at invasion of my privacy to obtain my confidential financial records without my written consent.

How is a financial institution able to obtain confidential and private personal records from a third party without a signed authority from the person to whom the records pertain?

Legislation if not already in place, needs to be either strengthened or introduced to ensure that financial institutions cannot obtain confidential and private personal records from a third party without a signed authority from the person to whom the records pertain.

7. Who is to blame for my financial devastation?

- Myself? I do not blame myself. I sought out an established, licenced financial planner, checked insurances, and queried the safety and security of my financial plan to the best of my ability with Storm Financial. I trusted the validity of Licenced Financial planners and I trusted the security of the Australian banking system. I consider that I have been let down by both.
- Storm Financial? I consider them Partly to Blame. They formulated a plan for me that was not safe and secure like they made out. They arranged for my margin loan to reach a very high risk level. They were too slow in converting my portfolio to cash which has left me with no hope of recovery.
- My Bank? I consider them partly to blame. They provided an increase of my home loan from \$40,000.00 to \$550,000.00 without a signed application form from me and without verifying my ability to repay the loan. I consider this to be a failure in their duty of care.
- My Finance company? I consider them partly to blame. They provided a chattel mortgage of \$122,000.00 to me without a signed application form from me and without verifying my ability to repay the loan. I consider this to be a failure in their duty of care.

I hope that my submission is of some assistance to the Senate Inquiry and enable legislation to be introduced applicable to the financial and banking system of Australia so that nobody in this country will face the financial devastation that I have experienced

Yours Sincerely,