

Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
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Parliament House  
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30 July 2009

Dear Secretary,

My name is Patrick Loughnan. I 'm a 39 year old self employed civil contractor solely supporting my wife and two children aged 4 and 2.

On 18 March 2008 I placed a share holding I had in Reed Resources, then worth \$243 000 with ANZ Nominees via the stockbroking firm Opes Prime. On 27 March 2008 (JUST A FEW DAYS LATER!) I was advised by my stockbroker Mr Tim Reed of Bell Potter Securities that Opes Prime was in receivership and my shares in Reed Resources were seized. My Reed Resource shares, were sold by ANZ 8 April 2008 for approximately \$180 000.

### **Background**

My stockbroker Mr Tim Reed of Bellpotter Securities, introduced me to Opes Prime as a provider of a margin lending facility. His father, Mr David Reed and his brother, Mr Christopher Reed, are directors of a mining company that I had invested in: Reed Resources. Reed Resources had promoted Opes Prime on their company's website to shareholders as a margin lending facility provider.

Reed Resources promotion of Opes Prime on their website:

*"February 20, 2008*

*RDR now an approved Margin Lending stock*

*RDR shareholders wishing to borrow against their shareholding, or alternatively, borrow funds to increase their shareholding are now able to do so using Opes Prime Margin Lending facility. Enquiries should be directed to either Catherine McAuliffe or Mark Rice."*

The fact my stock broker and Reed Resource directors, whom I trusted and believed had already conducted reasonable investigations into the Opes Margin Lending facility gave me the confidence to join. This coupled with my knowledge that Mr David Reed is a 40 year veteran of Australian equities markets further cemented my decision.

Tim Reed and Reed Resources did not, in my view conduct investigations into Opes Prime that they ought to have done. They promoted Opes to me without due regard to

various matters, including but not limited to my own risk profile. Both my broker and the company I held shares in also failed to explain the particular nature of the dealings in the "margin lending scheme", which was in fact equities financing where all shares placed with Opes came under the ownership of ANZ.

Tim Reed admitted to me in April 2008 after the Opes collapse that he failed to attend a meeting he had organised with Mr Lirim Emini (former head of Opes) while in Melbourne in February 2008. Tim stated that had he attended this meeting he would have "smelt the rat". This statement was made in the presence of IMF Litigation Chief Mr Hugh McLernon. Tim was aware at the time I signed over my shares there was another margin lender, Tricom (based on a similar model) which had collapsed.

Tim's only risk management advice was that should the value of my shares fall, I may be exposed to a margin call. Tim advised because of the market capitalisation, share trading volume and value of Reed Resources projects the company's securities could be used for a margin loan.

Upon signing the agreement Tim failed to explain the complexity and ramifications that I could lose all of my shares should Opes Prime go into receivership. Tim entered into the same arrangement with Opes Prime and is in the same situation as myself, which strengthens my belief that even he didn't fully understand what he was promoting.

It wasn't until I attended an AMEC conference in May 2009 and spoke with Mr Simon Hicks, Investor Relations Manager for Reed Resources, that I discovered Reed Resources had not conducted any investigation before promoting Opes on their website. Simon advised that he had scheduled a meeting with an Opes Prime representative, but that meeting never took place because the company was in the process of collapsing. He also advised me that Reed Resources was a "punt stock", which confused and angered me as David Reed has always presented himself and his company to the contrary. With a Medal of the Order of Australia, Mr David Reed has marketed his company as a highly respected mining house and his reputation as an astute business leader, with considerable mining and stockbroking expertise.

Upon challenging Mr Steven Cole, Deputy Chairman of Reed Resources about their endorsement of Opes on their website a disclaimer appeared promptly in September 2008:

*"REED RESOURCES LTD AND ITS SUBSIDIARIES DO NOT ACCEPT LIABILITY FOR THE VIEWS EXPRESSED ON THIS WEBSITE. NONE OF THE INFORMATION PROVIDED IS TO BE TAKEN AS INVESTMENT ADVICE. ANY DECISION TO INVEST SHOULD BE MADE IN CONSULTATION WITH A LICENSED INVESTMENT ADVISOR."*

Together with Reed Resources promotion of Opes Prime on their website and Tim Reed's recommendation of the scheme I signed up. On the 18 March, with the company in turmoil (and only one day after the head of Opes, Mr Lirim Emini had been asked to leave by other Opes company directors), I received a letter signed by Lirim Emini officially welcoming me to Opes Prime.

At what point should Opes have discontinued new applications for investors?

**It is evident the funds I placed with Opes Prime were purely for the benefit of ANZ to cover loan arrangements that were in default for Opes.**

In fact Mr John Lindholm liquidator for Ferrier Hodgson had been asked on the 17<sup>th</sup> March 2008 by other directors of Opes Prime to test the solvency of Opes Prime. Mr Peter Gilooly the Chairman of Opes Prime received information on the 17<sup>th</sup> March about trading irregularities at Opes which resulted in him resigning from Opes on the 18<sup>th</sup> March.

Furthermore, to my disgust, Mr Michael Smith head of the ANZ bank appeared on Channel 9's Sunday programme announcing that those investors involved in the collapse of Opes "were not mum and dad investors".

In summary, I ask the committee to consider my position, taking into the account the attached report by The Age, 19 April 2008 "Eye's wide shut on Opes", which addresses the timeline of actions (and inactions) taken by each stakeholder (ANZ & ASX) in the lead up to Opes' collapse.

It was clear that as early as February 2008 ANZ executives, including Mr Antony Cahill were well aware that Opes was in serious financial difficulty and had a gaping deficit in its securities lending agreement.

The question therefore remains considering ANZ's knowledge of Opes' circumstances, why did ANZ continue to accept new small mum and dad investors like myself when they knew where the company was heading?

Surely the value of my transaction made whilst the company was in this precarious state of financial collapse should be reversed. At what point is it illegal to accept an investor's shares when senior management in the ANZ, Opes and the ASX were fully aware that Opes was about to 'go bust'?

Upon attending the Opes Prime Creditor's meeting on the 24 July 2009, I asked the Liquidator, Mr John Lindholm to reverse my transaction on the basis that he had knowledge that Opes was in a precarious state and about to collapse.

I produced a letter at that meeting which was signed by Mr Laurie Emini CEO Opes Prime Stockbroking Limited, dated 18 March 2008 welcoming me to Opes. Mr Emini had already been removed from Opes Prime on 17 March 2008 for reportedly hiding losses on some accounts which lead to Opes's collapse.

I also ask if it is permissible for a mining company such as Reed Resources to endorse a financial product without holding an Australian Financial Services Licence?

As a small mum and dad investor who has been sold a sophisticated product which was unsuitable for my circumstances and falsely promoted as a margin lending scheme, I would greatly appreciate if the Committee could advise me if any government agency could assist me in taking some action to recoup my losses and recover some of the equity from my house that I placed with the ANZ bank.

Thank you for considering my submission.

Kind Regards,

Patrick Loughnan