

A Submission to the Inquiry into Financial Products and Services

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Background To Submission

In November 1998 we purchased an investment unit in Brisbane that with Associated expenses cost us \$117500. We were given a forecast that by 2008 The unit should be worth about \$200000. When we sold the unit in 2003, after two Years on the market we could only get \$85000 for it. In the main body of the Submission I will set out how it Happened and in my recommendations I will set out what I think needs to be done To prevent it happening to any one else In the future.

Main Body of Submission

Like many others we were caught up in a Property marketeering scheme that was at best Scandalous and at worst fraudulent and deceptive. Given our experience we think that the Second description is the most accurate. The Developer ,Devine Homes, recommended not Only the financier now part of Bendigo Bank But the solicitor as well. The highly suspect Arrangement was later shown to be almost Standard practice for those behind these schemes. Our suspicions were raised when we Attempted to refinance in 2001. We were informed that an independent valuation came To only \$75000 That was when we put the unit On the market and joined a class action claim With Carter Capner. In 2006 Carter Capner Withdrew from the case citing conflict of interest. In the meantime we had sold the unit For \$85000 after two years on the market with virtually no real buyer interest. Recently we were Told that the original value of the unit in 1998 Would have been. only \$50000.

This revelation raised the question of how a bank could lend \$117500 on a property that Was only valued at\$50000? The only Possible reasons could be at best a failure to Apply basic lending criteria or at worst the Existence of an improper business relationship With the developer. The other question is how Widespread was the two possibilities that I have Outlined As I have previously stated we were Only one of many who have in my view Been victims of organized fraud perpetrated By corrupt individuals and companies who use The law to put themselves above the law. I Can only hope that this committee will bring About changes that will punish the guilty and Protect the innocent in the future

Recommendations

What happened to us and so many others not only in Relation to property matters but the whole range of Investment products and schemes came about Because of fundamental weaknesses in state laws. Combined with the lack of effective national Legislation, this weakness has allowed corrupt Individuals and companies to commit their frauds In the knowledge that the chances of being Successfully sued by their victims or facing criminal Prosecution is minimal

It is ,I believe a matter of high priority that the relevant Commonwealth and state ministers meet To discuss the drafting of national legislation that Prevent such frauds in the future.If the states are Not willing to agree to this the Federal government Should use its powers to override the states.

Uniform national legislation is the only effective Way to force the corrupt elements out of the Financial service industry and to dissuade the rest From going down the same path

The new national legislation should cover the following important points

A permanent national body that would not only Monitor the whole financial services industry. But would have the power to suspend, or if Necessary cancel the licence of any person not Abiding by the requirements of the legislation

The establishment of a national compensation Fund that would provide the victims of such Frauds with financial compensation that fully Covers any losses and associated costs that Have arisen from the fraud of which they Have been a victim

The states should amend their own laws that make it Difficult to initiate class actions against individuals And companies. This difficulty assists the corrupt Elements as it makes it almost impossible for the Victims to sue as most victims cannot afford to Take legal action

Another problem is that even if the victim wins their case the amount of court ordered compensation may Not cover the legal fees incurred. This barrier to Victims of fraud obtaining justice must be removed

The biggest problem with the existing federal and State laws is that they are not being properly enforced. This basic failing is most evident by the Sorry state of affairs in the ACCC. For a body that Is supposed to protect the interests of the consumer, It has by any objective measure failed in its duty. The reason for its failure lie in the reality that it is Seriously underfunded. This underfunding leads to The inevitable result is that it lacks the required Resources to do its job. This is compounded by The fact that it cannot attract or retain the staff With the specialized experience in complex legal Matters and forensic accounting. The result is that Too many times they are no match for the corrupt Individuals and companies they are supposed to be Investigating. The seriousness of this situation was Highlighted by its failure in the case against Polar Krush Australia. The judges decision could and Should have been appealed but it was not. In stark Contrast is the fact that The National Federation of Inderpendent Business has been able to pursue Polar Krush and its British parent company to the point Where injuctions have been served in Australia, New Zealand and Britain. All of this has been done By a privately funded, non government group. Until The fundamental flaws in the ACCC are fixed as a matter of urgency this farcial situation will go on .

The lack of transparency in all types of investments
Has been exploited by corrupt individuals and
Companies to exploit their victims and then to make
it as difficult as possible for anyone wishing to sue
them. I firmly believe that there is a pressing need for
A national registry of all investment schemes .Such
A registry would show the names and addresses of
All individuals and companies that have a financial
Interest in any form of investment scheme offered
To the public.Anything less than full compulsory
Disclosure with penalties for noncompliance
Is simply not good enough.

While most franchisors are honest there are too
Many companies like Polar Krush who have no
Regard for the truth and have no notion of what
Integrity means.There needs to be a clear definition
Of what is or is not a franchise. Because of the lack
of clarity in this area too many people have been hurt

I believe that these recommendations will force out
The corrupt individuals and companies, and leave
The field to those who actually believe in the
Concepts of honesty and integrity when it comes
To dealing with the investing public.

Peter William Hansen