PUBLIC SUBMISSION

Re: THE ROLE OF STORM FINANCIAL AND CBA/COLONIAL LENDING IN DESTROYING LIVES

BACKGROUND

Like most young couples, my partner and I have increasingly understood the need to ensure that we are financially secure in later life. In 2008, we invested with Storm Financial, about whom we had received glowing reports from friends and family regarding the handling of their finances. Being an active member of the Navy, and with my partner busy at work, we felt it to be prudent to undertake and pay for sound financial advice. At this time both my younger brother, younger sister, and mother were all invested via the Storm model. My mother only owed a small amount on her house and had borrowed a modest margin loan utilising her home-loan equity, with my brother and sister taking out smaller margin loans with CBA/Colonial noting they were not homeowners.

We made initial enquiries into Storm (North Sydney office), and agreed to attend one of their 'education' nights. During this evening, we were met by Bernadine Frawley, who extolled the virtues of using 'safe amounts of debt' to increase your future wealth via investing in index funds. Noting the linear gains made in Australian shares over a period of 80 plus years, this seemed at face value to be a valid investment plan. Not being homeowners (incidentally, investing in property was scorned upon by Storm), we took out a modest margin loan with Colonial. To service the loan, Storm set up a Cash Management account through Macquarie Bank. In this account we contributed $1000.00 per month to service repayments on the margin loan. Or so we thought.

At the time of this arrangement (Sep 08), we had (and this was listed on our profile on the Storm database) over $20000.00 in cash within a separate savings account, as well as shares outside of Storm (that we had invested ourselves) totaling over $10000.00. We also had over $8000.00 in our Macquarie Cash Management fund as we placed an extra $5000.00 in there to deal with any response that might arise in regards to the markets. We had the view that noting the telltale signs that were taking place in the US, it would be prudent to invest more money when the ASX index bottomed out. In short, we were well equipped to deal with any downward movements in the market. Again, so we thought.

In Oct 08, with the Global Financial Crisis starting to pick up pace, we were informed by Storm (in a letter signed by Emmanuel Cassimatis) that it was **strongly advised** that we convert our index funds to 100% cash in the event that we would be margin called. We were sent a form which enabled Storm to do so on our behalf with Storm citing that this would *'inoculate part of our portfolio from further falls in the market'*. This sounded like a valid strategy so we signed the form and returned it. It was also noted in this correspondence that *'the essence of this recommendation is to avoid a situation where one must dispose of assets or sell down assets in order to reduce debt. Such an action makes any subsequent recovery at best difficult, and at worst, impossible.'*

At this stage I rang my adviser (Nick Moloney) who told me that 'everything was fine' and thanked us for sending the form back. Apparently our LVR was well below the threshold, and that we had additional funds in the Macquarie CMA to drive the buffer between our LVR and the Margin Call threshold of 90% down and avoid margin call. My mother, sister and brother (living in Brisbane and dealing with their local Storm branch) all filled out similar forms.

THE PLAN UNRAVELS

On the 21st October, we were approached by our advisor and told that noting our excellent position and capacity to repay our margin loan, we should increase our borrowings by borrowing $25000.00 from the NAB in the form of a personal loan, and increase our margin loan by another $27000.00 from Colonial. Using this plan we would do the following:

1. Invest $45000.00 in our existing Storm-badged Index Fund,
2. Place $3100.00 of these borrowings in the existing Macquarie Cash Account, and
3. Pay $3,353.00 to Storm in fees for doing this.

The financial advice we were given was that this would *'increase the SIZE of our capital base…the QUALITY of our assets will be improved by increasing our exposure to the now low index of the ASX200.'* We agreed to this and signed willingly. At no stage during this application process did ANY representative from NAB or Colonial contact us personally, it was all conducted through Storm, and it was explained to us that Storm shared 'a great relationship with these institutions' and that 'these institutions trust what we tell each other.' As an aside, we were constantly given loan documents with large amounts of personal data (such as assets, incomes etc) missing. We found this strange noting that Storm had this information on their database. We always made a point of refilling this information out ourselves and initialling it, despite being told by our Storm adviser that 'it's OK, we'll fill that in.' Make of that what you will.

Accordingly, our LVR at this point was healthy, even noting the recent downturn in the market. At one point we had a 30-40% buffer, with the minimum buffer being reached at any stage being 21%. Over the month of November we were informed by Storm that our LVR was healthy and that 'we were well placed to ride out the crisis noting we had healthy cash reserves and we had bought in at the low end of the market which had minimised our losses.' At no point did Storm/Colonial indicate that we were in any position to be margin called. We received monthly statements from Colonial, and it is important to note that the last of these were received at the end of Sep 08 for that month. **No statements were received for the months of Oct-Nov 08, during which the new investment was made, and when we were later to discover, that Colonial sold our Storm Index shares without notice.**

During the halcyon months of Oct-Nov, we heard rumblings that Storm were in trouble. I called my adviser (Nick Moloney) and was informed that looking at our profile, we were in no danger of being margin called. Noting the cash reserves we had in the Macquarie CMA, and also for the fact that we had practically just entered the market at a low point anyway. We were informed sometime in Nov that Storm was unable to dispense financial advice in this time owing to an ASIC investigation. This was extremely frustrating, as we were practically in the dark regarding the nature of our investments. Noting we were paying regular payments to Colonial in regards to our margin loan, we assumed if there was any problem we would be contacted by a representative from Colonial Margin Lending as per any usual and reasonable business practice, and in line with the fact that we had been receiving monthly statements listing our LVR from Colonial. **At no stage did any Colonial/CBA representative contact us during this tumultuous period and we received no statements for the months of Oct-Nov,** despite frantic calls to Colonial. Any calls made to Colonial were met with derision, and a feeling from their end that we were second-class clients for being associated with Storm. This sentiment has been echoed by all of my family members, and friends that were also invested with Colonial. Many of these people now refuse to ever deal with the Colonial/CBA bank ever again.

Finally on 18 Dec 08, we were sent a letter from Storm (later to be revealed as Storm's dying breath) reassuring us on our position, and a reconciliation of any transactions conducted during the months since 08 Oct 08. To our abject horror, we found that our entire Australian Broadmarket Indexed Trust had been sold in two lots, one on 30 Oct 08, and another larger sell on 26 Nov 09 at the lowest point of the market, with no consultation; with the 'proceeds' used to pay off the Colonial Margin Loan. Of course this left us with a $25000.00 personal loan debt to the NAB, with the proceeds of the selloff of our investment only covering the margin loan. **No one to this day, can tell us why Colonial sold our shares at the lowest point of the market, with no consultation, despite us having assets to avoid margin call.**

As seems to be a recurring theme, for the sake of a phone call from Colonial, we could have placed more money against the Margin Loan to avoid the margin call. We have been left shocked and amazed by this turn of events, and are wondering why Colonial approved an increase to our margin loan, yet weeks later can sell up on us at a loss, with NO consultation or financial statement. In this time, my brother, sister and mother both had the SAME thing happen to them. My mother, being a homeowner and 'Stormified' found her nearly paid off mortgage to be back to square one.

Any consultation with Colonial since this occurred has been met with no empathy, and complete derision from their Margin Lending division. Their arrogance, their inability to admit wrongdoing on their behalf, and their insistence that 'we should have been monitoring our LVR each day' (despite having no mechanism to do so) is ludicrous noting the assurances in the Colonial/Storm documentation that they would advise us of any change to our investment. For a bank to grant an increase in our margin loan, and then to sell it down barely weeks later without any explanation beggars belief. All things considered, we made a loss of ~$11000.00 (notwithstanding the fall in the market) as a result of Colonial selling without offering us any way to remedy what we had been told was a healthy LVR.

THE INCOMPETANCE OF CBA/COLONIAL MARGIN LENDING

In the wake of the Storm collapse, Colonials' true colours and incompetence came out to shine. Forgive any emotive language in the below.

We found Colonial/CBA to be completely bereft of any form of financial trust in this entire debacle. What was most concerning was their staff's patronising demeanour when we had the temerity to ask a question about our account. You know, the type of honest communication and dialogue that a customer/company should share from time to time when dealing with large sums of money. On two separate occasions we informed their Margin Loan cell of a change of address, both via fax and over the phone. Until a few months ago, we still received mail to our previous address. On top of that, it was implied we were lying when we mentioned that this information had been contained in previous faxes. We surrender, they caught us in the act. We liked playing practical jokes on Margin Loan consultants, we had nothing better to do with our time afterall. Such was our level of disgust at this treatment, my partner refused to deal with them, and instead I was given the dubious honour of conversing with their staff.

To top this off, even when we were trying to separate ourselves from the Colonial, they were still unable to follow direction, nor communicate with us to ensure a smooth transaction. A fax that we sent in late Jan (which we still possess) detailed Colonial to pay the residue loan amount payable using the cash in our CBA Cash Accelerator account. Instead, they transferred all the cash from our ACA into my Australian Defence Credit Union account, and then tried to pay the margin loan off with the now empty

CBA Cash Accelerator Account. We were then given a $30.00 'dishonour fee', for assumedly failing to physically stand behind their staff when they received the fax and ensure that they were able to conduct basic reading comprehension.

When we tried to call their oxymoronically named 'Customer Service' division, any simple question such as 'what is the current balance of our account?' or 'will we receive a reimbursement for pre-paid interest when we close the account?' was met with a sigh of derision, as if the answer should be readily accessible to anyone with a basic grasp of mental telepathy. I should have apologised to them for taking an interest in our own affairs, maybe we should have simply sat back and adopted the Colonial credo of financial management and simply hit panic buttons repeatedly while klaxons sounded and a pattering of coins disappeared down the nearest sewerage outlet.

CONCLUSION

Storm's separate failures withstanding, we remain completely shocked that one of the 'four pillars' of Australian banking could act in this way. While our loss is in no way comparable to the heartache suffered by some of the leveraged Storm clients, it is symptomatic of the way CBA/Colonial completely washed their hands of all customers during the Oct/Nov 08 period. We are now left with a $23000.00 debt to the NAB, with barely $12000.00 of our initial investment remaining in the market. Had Colonial Margin lending had spent five minutes calling us, this could all have been avoided, and we would to this day have a significantly larger investment.

My brother has lost in excess of $30000.00, my sister has lost $23000.00 and my mother had the pleasure of watching her mortgage inflate from nearly paid off, to a $280000.00 debt, all because a bank could not be bothered contacting us. This is just one family amongst thousands Australia-wide who have suffered this level of financial loss. Another colleague of mine is now overseas in a military operational area trying to recoup losses when Colonial sold him out with no consultation either, despite his excellent financial position in terms of being able to avoid a margin call.

There are many people who are demanding their position is restored to what it was prior to their involvement with Colonial. Only a naïve person would believe that they weren't responsible for taking their own risks, and for the unexpected downturn in the market. Everyone I know that has been affected admits this, and takes responsibility for their own decisions. What we want to know is, why were NONE of the safety mechanisms that were in place triggered by the very institutions we were dutifully making monthly repayments to, which resulted in these losses being exacerbated to the point where recovery for most people was unachievable?

Our questions therefore are:

1. **Why did we receive no financial statements from Colonial during the tumultuous months of Oct/Nov 08?**

2. **Why were we granted a loan increase from Colonial at the end of October based on our 'excellent' financial position, yet were sold out in two lots <u>without any consultation</u> barely a week and then a month later at the bottom of the market resulting in unnecessary losses?**

3. **Who gave the order for these Index funds to be sold without taking into account each client's position and ability to avoid margin call?**

4. Is ASIC/Government going to find CBA/Colonial responsible for their reckless handling of Australian citizens investments, and will the losses incurred as a result of this random selling of funds with no consultation going to be compensated by the institutions involved? (Not inclusive of natural losses that were suffered as a result of the market falling.)

5. And lastly, how many documents were doctored at Storm's end without the client's knowledge and how many banks failed to acknowledge or investigate abnormal asset discrepancies in regards to amounts being borrowed?

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