John A. Salmon

27 July 2009

A PUBLIC SUBMISSION
WHICH INCLUDES RELEASE
OF ALL EXHIBITS:

Dr Shona Batge
Secretary
Parliamentary Joint Committee on
Corporations and Finance Services
P O Box 6100
Parliament House
CANBERRA
A C T 2600

Dear Dr Batge

Re: Inquiry into Financial Products and Services

Ref: Further to my Submission of 17 June 2009

This submission goes forward with multiple aim. One of those aims is in the knowledge that your Chairman, Mr Ripoll wants to ensure that he covers all aspects of the Storm Financial disaster from individual cases right up to the practices of banks and margin lending. Mr Ripoll has expressed the keen desire, "Rest assured that we will get to the bottom of all the facts in relation to their roles in facilitating Storm Financial, Opes Prime and other collapses.

Mr Ripoll further stated on the ABC's Midday Report on 24 June 2009 as follows: "We want to best understand what is taking place, where the system has failed individual depositors and where we can improve the system to make sure it does not happen again. There is a lot of unanswered questions.....and hopefully out of that process we will get a better understanding ever exactly what did take place.

I would suggest however, that the significance and import of this inquiry (to the public and the national interest) goes much, much wider.

Relevant and responsible Ministers of previous governments, both in office and in Opposition, have shown an almost total reluctance to match their political "hype" with action, to

take on the major banks and allied financial institutions and to bring a halt to the scams, ripoffs and "sting" operations which has been rife in these financial sectors for the past 30 years. This is despite numerous largely ineffectual public inquires and a veritable avalanche of evidence of unsavoury, unethical and plainly immoral practices indulged in on an almost daily basis, by these institutions, all these years... and especially in the last two decades.

Is this to become another similar inquiry with similar results and outcomes?

In purely money terms alone, the cost of all the aforementioned fiscal chicanery to thousands of Australians runs into millions of dollars...possibly billions! But the biggest cost has been the crippling personal and psychological impacts inflicted on thousands of individuals, their families and their private businesses which have simply crumbled under the onslaught of the obscene and morally indefensible deception and corrupt behaviour of our morally bankrupt banking and financial institutions.

What figure or cost could you accurately put on the lives lost permanently due to the stress related illnesses caused by these shenanigans...the suicides caused...the psychological scars inflicted...and so on?

This committee now has the opportunity to take a meaningful stand - and initiate meaningful action - to address these wrongs, to see that they are never repeated, ever again, as part of an orchestrated endemic culture of corruption in parts of our banking and finance sectors.

The people responsible for the corruption in these sectors must be called to account for what they have done and the massive damage to peoples' lives they have caused, right round Australia, for far too long!

It is time for this inquiry...this government...the community today...to say to these people..."enough is enough!" It stops now!

There are far too many so-called "ordinary Australians" (affected by these people and their corrupt activities) who - but for the actions of banks and other financiers they wrongly trusted - could have achieved extraordinary things ...not for themselves and their families, but for the country too.

This submission specifically directs attention to the bank's involvement, more particularly the CBA. I would like you to treat this submission as an interim one as I anticipate receiving further documentation in due course, which I trust will enable me to come to a more definitive

conclusion as to what has transpired. I can then raise supplementary submissions.

. The status of the Storm Financial disaster vide published material:

Storm Financial had over 12,000 clients and employes 115 staff; they had apparently had access/control to over $2 billion in clients' funds.

Storm Financial referred about 2,500 clients to the CBA who provided their clients with a margin lending facility; the CBA's exposure was said to be $500 million while the average loan extended to $200,000.00. It is noted that the Bank of Queensland had provided a margin loan to 319 Storm Financial clients.

Banks publicly named to date are: ANZ, CBA/Colonial Geared Investments, NAB, Westpac, Bank of Queensland, Colonial State Bank and Macquarie Bank.

Some known reported losses by Storm Financial clients are, $15-20 million, $4.3 million and lost everything.

. In my submission of the 17 June 2009, I pointed out that there was a common denominator of words, viz: "its advice was all a con", duped by financial advisors", "are criminal offences", "obtaining money by false pretences" and "Storm Financial was all a con". I then proceeded to say that if that was the case, it may be representive of a "sting" operation.

It follows of course that if those Storm Financial victims who have come to those conclusions as mentioned above are correct, then it means that Storm Financial has engaged in fraudulent process. If that is proven, then it could well be revealed that referred contractual arrangements entered into by the CBA may also be fraudulent.

In simple terms, both Storm Financial and the CBA - and other banks as named above, ANZ, NAB, Westpac, Bank of Queensland, Colonial State Bank and Macquarie Bank have gained a financial advantage by deception; it means greed and profiteering. In particular has the CBA, their directors or their employees at the various levels breached corporate criminal responsibility?

There are two obvious matters which arise as vital matters of concern and they are the Margin Lening to Valuation Lending Ratio and the question of arriving at the Market Value of the bank's securities for lending assessment purposes.

(a) The Lending to Valuation Ratio issue (LVR's):

This issue and how it has been dealt with by the lenders highlighted most submissions to date. The import of the adverse movement in the LVR is illustrated in one submission to the committee when the adverse movement of 22%, from 80% to 102% represented a loss to the client amounting to "about $800,000.00".

When one bears this fact in mind and finds that share assets were sold down by the banks and lenders at the following percentge levels, viz: 143%, 137%, 126.3% and various rates down to 102%, the situation becomes very serious indeed, losses can be catastrophic.

This is further illustrated when one reads the following paragraph from one submission, "Initially when we joined Storm we were retire, self-funded, debt free, owned our own home, owned four income producing investment properties (no mortgages), a 5 acre block of land, cash to the value of $973,000.00, $78,000.00 in shares and $150,000.00 in superannuation. Today we are unemployed and have $1,500,000.00 debts."

This status speaks for itself, however is this victim one of fraudulent process?

It seems to me that that the bank's aim of the day is to see their clients in a state of permanent debt so that it will be difficult for those clients to mount a litigation action for the purpose of seeking compensation for their losses at the time of product failure.

This view is enforced by the fact that on the 8 December 2008, the CBA's Customer Service Officer, Angus Cameron advised Sean McArdle that during the months of October and November 2008 that 500 hundred clients were into margin call of which 200 were highly valued clients.Angus Cameron then proceeded to inform McArdle that at the time none were sold up or had their position adjusted. Significant irregular negative equity resulted.

The CBA's policy in October and November 2008 as described in the foregoing paragraph support my thinking that the bank's modus operandi is to ensure that a residual assets to liabilities deficiency will eventuate so that their victims cannot mount legal action against the bank.

As it stands at the moment, the Chairman and his Committee are aware that there are no restrictions on a bank's etc margin lending product. As is illustrated above, this policy can lend itself to abuse in a banker's hands due to their treachery of process.

While it is not known by the writer when banks in this country first introduced the margin loan product, banks have been lending against the security of shares listed

on the Australian Stock Exchange for over forty years at least. I can first recall examining an NAB customer file in the very early 1960's where the Line of Credit so approved recorded a purpose of purchasing shares while existing shares of the customer were held as security.

When the NAB introduced the Regional Management concept in Australia in the late 1960's, it gave those employees holding a Delegated Lending Authority the ability to approve a Line of Credit Application with the bank holding security over shares listed on the Australian Stock Exchange.

This was the NAB's policy in May 1984 as described in its Lending Manual : Application for Lines of Credit, Lending could be approved with security being, Shares and Stock Units - listed on the stock exchange, readily saleable, quoted at par or better where the facility so approved did not exceed 60% of the Bank Value allowed. (Please refer Exhibit "AJS1" which is a copy page of the NAB's lending manual of the day.)

The NAB's Bank Value is a figure assessed by deducting a margin from the current realisable value (market value) as a contingency against realisation under adverse condition which is often referred to as a forced sale situation. If a share listed on the Australian Stock Exchange recorded a last sale of say $10.00, then the Bank Value would extend to $8.00, then the Branch Manager or an employee holding a Delegated Lending Authority could lend under Category 'A' the sum of $4.80, ie 60%.

It is certainly fair to say that the NAB's lending policy was very conservative in May 1984; financial deregulation has replaced that approach with an anything goes mentality.

As someone who has followed retirement investment for the past twenty years, I have strong reservations as to whether prospective investors in retirement or those in close proximity to retirement should be sold this margin lending product, one of the key issues being considered by the committee.

My recommendations would be that retirees should be precluded from investing in the Margin Lending Product and at the same time, their own residential house property should never be subject to encumbrance for investment purposes.

(b) The question of the CBA inflating the Market Value of their real estate security for lending purposes:

Submissions to the committee and my discussions reveal that this issue is a major matter of concern to many aggrieved victims of the Storm Financial/CBA saga. I would like to reiterate some of those concerns:

- "they had borrowed 120% of our valuation at the two banks concerned".

- "our assets were overstated by approximately $700,000.00 and it showed that we had $200,000.00 in the bank we have never dealt with".

- "the Commonwealth Bank initiated a process whereby all Storm Financial client's properties were re-valued automatically using a computerised method. These new values were forwarded to Storm Financial who initiated further borrowings on the property for investment in the share market".

- "the value of the client's assets declared to the banks by Storm. I suspect that you will find irregularity".

- <u>VAS Computer Valuation System</u>:

In March 2008 a system was developed by the CBA and linked to Storm Financial's computer systems to allow the bank to conduct remote valuations of all assets of joint clients of Storm and the CBA.

If the valuations showed that clients had sufficient equity a recommendation would be made by Storm for them to borrow more money.

The sole aim of this process was to generate more loans meaning more fees and income for the CBA and Storm Financial.

I find these facts to be highly disturbing. This conclusion is readily confirmed when one becomes cognisant of the following facts. On or about March 2008, the CBA provided to Storm Financial a spreadsheet of valuations of properties of all mutual clients. A copy of this document was passed on to one of Storm Financial's associated financial advisors. There were valuations of many properties on the spreadsheet which were recorded in the client's records.

The financial advisor noted immediately that one entry recorded the Market Value of a client's property at $350,000.00. The financial advisor's client records recorded in October 2007 that the Market Value of this

property was $50,000.00. The client did not hold a formal valuation.

The financial advisor queried the valuation with Storm Financial pointing out that the CBA's figure was a very over inflated price. The CBA's response was that they had double checked the figure and that their system was happy with the valuation as it stands.

Like the bulk of Storm Financial's victims, the victim in this instance was forced to sell their property which the CBA's system valued at $350,000.00. The REIQ contract for Houses and Residential Land dated 2 May 2009 records that the purchase price for this vacant block of land was $55,000.00. Settlement date was stated to be 15 June 2009.

At this point in time, it would not be difficult in the light of what has transpired to realise that the CBA has been engaged in a mammoth scam which also means that the status of many of the CBA's borrowers are the victims of a CBA "sting" operation.

So that the reader will not think that the CBA's actions on over inflating the Market Value of bank security for lending purposes is unique as far as the Australian Banks are concerned, let me relate briefly the case histories of two NAB "sting" victims.

(i) Exhibit "AJS2" herewith is a hard copy of a speech delivered by Senator Paul McLean on the 12 November 1990 which illustrates generally what transpired. Broadly, the NAB bank manager increased the Market Value of the strawberry farm for lending purposes from $210,000.00 to $575,000.00 in the space of four months to January 1985. Realisticaly the upper Market Value of the strawberry farm was $310,000.00.

The bank manager's actions represented fraudulent process. The bank manager had permitted the vendor's overdraft to increase to a dangerous level despite his superior's instructions of some months ago that the debt was not to escalate. It so transpires that the bank managerwwas on friendly terms with the vendor, while the vendor had also made personal contact with the branch manager on over sixty occasions from March 1984 to October 1984.

The Somersets settled for the strawberry farm in March 1985 and walked off the property in December 1985. The venture proved hopeless. The bank manager revalued downwards the strawberry farm at the direction of his superiors and recorded a Market Value of $350,000.00 in the bank's records in December 1985.

The whole scenario speaks for itself, the bank manager informed the Somersets that the strawberry farm was generating profits of $50,000.00 per month 'as is' in preliminary discussion. It was a clear case of fraudulent misrepresentation. The Somersets were declared bankrupt on the NAB's petition No 60 of 1990 claiming to be judgement creditor for the sum of $590,970.40. The NAB had acknowledged that the Somersets held a surplus in excess of $1 million on 6 November 1984. For the past twenty one years the Somersets have relied on the aged pension for sustenance purposes.

The bank manager's actions in overvaluing bank security ensured that there was an eventual residual debt in the borrowers name; bankruptcy would then take place and the NAB's action would preclude the Somersets from mounting legal action against the bank for fraud.

(ii) The second case history: In 1992/3, the NAB agreed to make a Line of Credit available so they could acquire Lynton NC Freeman's banking business from the CBA. The NABtook security over Freeman's grazing property and gave same a Market Value of $2,000.000.00 for lending purposes.

Some four to five years later the manager raised spurious reasons in advising Freeman that the bank considered his grazing property was no longer viable despite the fact that a State Government Interest Subsidy had been approved for $54/55,000.00. Prior to this situation arising, the NAB had reduced the Market Value of their security to $1,750,000.00.

Once the NAB had determined the non-viability factor, they then set about engineering Freeman's downfall which would mean loss of his life's accummulation of wealth. At that time, Freeman's monetary surplus exceeded $1 million.

The task ahead proved no difficulty to the NAB. The NAB employed the services of professional valuers, Herron Todd White who progressively decreased the Market Value of Freeman's grazing property downwards from $1,400,000.00 to $1,260,000.00 and finally to $850,000.00. The property was eventually sold following auction. The auction was a sham arrangement arranged by the NAB, that was the way I interpretated the events.

Chairman of Herron Todd White, Gary Hulcombe is reported to have stated, "The fallout of banks in the US in some instances can be traced back to the relationships banks had with valuers - valuers being too close or valuers being owned by finance firms or brokers. Banks (here in Australia) are reviewing valuation policies and the use of desktops or kerbside (valuations) are coming under

greater scrutiny. Banks want to ensure that they have robust credit in place, and valuers play an important part in that. Please refer Exhibit "AJS3" being Courier Mail published article on Sat 22 Nov 2008 titled, "Valuers are hot property" by Amanda Horswill.

The name of Herron Todd White has figured in many case histories which I have had cause to examine over the past twenty years. It has become more evident to me during this period has conspired with the NAB on many occasions so that the NAB can consumate a "sting" operation.

So when Herron Todd White Chairman Gary Hulcombe stated in November 2008 that "banks want to ensure that they have robust credit in place" is simply a contradiction of reality and therefore it is nothing more than trumpery. Herron Todd White have always been subservient to the NAB's cause.

The NAB's fraudulent actions of process ensured that both the Somersets and Freeman would be made bankrupt because the bank had engineered that there be a residual debt in the bank's records following receipt of proceeds from bank security.

(The Somersets and the Freeman case histories were summarised in the Working Paper titled, The Banks and small business borrowers: case studies in adversity, authored by Dr Evan Jones, Department of Political Economy, University of Sydney.)

It can be seen from the two case histories as mentioned above that the manipulation of the Market Value of a bank's securities can virtually ensure that a bank will always win the day.

All committee members will acknowledge that the valuation of a bank's real estate security plays a very important role in the assessment of credit line limits to be approved.

The role played by registered valuers is vital to the cause where their services are involved. This is illustrated in the published article in The Weekend Australian, 14-15 October 1995 with the title, "Macquarie Bank takes property agent to court over valuation, refer Exhibit "AJS4".

It will be seen that the dispute in hand relates to "grossly excessive valuation". "Excessive" means that we will get the business, while the reverse means that the aim for the bank is to get rid of the business.

Until such time as the Macquarie Bank discovers their documents, their victims are unlikely to know what that bank's policy with respect to real property valuation.

We certainly know at this stage that the CBA's policy was to eliminate client's equity.

. The Australian Prudential Regulation Authority (APRA):

On the 21 December 2004 it was reported in the Financial Review that APRA, under the Chairmanship of John Laker, was reviewing the property valuation practices of the big banks, ie ANZ, CBA, NAB and Westpac. Chairman Laker had announced that this area had become "an area of complacency" and that he wanted to ensure that their methods were "robust".

I raised a twenty two page report addressed to Chairman Laker together with forty pages of exhibits which included twenty nine pages of bank discovered documents. My submission to Laker included the details of three NAB case histories, viz Somerset and Freemen (as mentioned above) and the Walter Family.

I consider that all these three NAB former borrowers were the victims of an NAB "sting" operation. I spelt out to Chairman Laker that the tern prudent management by the NAB was certainly foreign as far as that bank was concerned.

Chairman Laker's Secretary, Thea Rosenbaum acknowledged my letter and advised that I would receive a formal response as soon as they had carried out an investigation of the issues which I had raised. I never received any further response from APRA.

My knowledge gleaned over the past twenty years reveals that when substantive complaints are made to ACCC, APRA, ASIC and the RBA concerning our major banks, they have refused to mount any action of a positive nature. These bodies seem to be in general fear of the banks. For confirmation of my thinking here, I refer your Committee to the published article of Michael West in the Sydney Morning Herald on Monday, June 29 2000 which was titled, 'The Corporate Watchdog (ASIC) that just won't bite' with the sub-heading, 'ASIC quakes at the thought of an action against the Big End of Town'.

The Committee is aware from the oral evidence given by ASIC on 24 June 2009 with the Reference: Financial Products and Services in Australia, Chairman, Mr Tony D'Aloisio stated, "We need to be careful that we do not take some of the exceptions, where losses have occurred and are less significant to the investors, as the norm, when overall the industry's working advice is being given. 'Can it be improved?' is the question for you I guess."

I find it hard to digest that Chairman D'aloisio's remarks, viz: "We need to be careful that we don't take some of the exceptions where losses have occurred" as genuine. Of course the operative word is 'exceptions'; one needs to be cognisant of the fact from my preliminary observations that over 3000 Storm Financial clients have lost a substantial portion or all of their net worth. I am led to believe that a high percentage of victims are in negative status while many have high debt on the family home. In one instance, a client has gone from a no debt situation to an accummulation of debt reaching $1,000,000.00, which includes the family home.

Some significant issues which I consider should be pursuant to the Chairman and his Committee's Inquiry:

- Should a Financial Planner be recommending to retirees and those nearing retirement to mortgage the family home? Many would have spent up to twenty years or more in oaying off their housing loan.
- From margin loan statements I have perused, the levied interest rate from 2007 to 2008 has progressively increased by the bank. Was the client made aware of this in advance? Was the client treated as a 'captive' client meaning that the client was not in a position to bargain and consequently, the bank applied all charges etc without consultation?
- Margin loan bank statements record monthly interest payments and no other bank charges. Have banks applied other charges to these margin loans, e,g. service fees etc.
- One margin loan bank statement reveal that this client was subject to an applied interest rate of 11.1%. How were rates of this nature determined?

I question the suitability of this type of investment for a retiree because it is acknowledged by finance specialists that the long term return from Australian shares listed on the stock excahnge is 8%. (Reference: Clitheroe talking money, 4BC on 3 July 2009.)

The fact is that when Storm Financial's commission application fee, margin loan bank interest plus additional charges are taken into consideration to arrive at the all up cost of the facility, it clearly indicates lack of feasibility. This feasibility does not take into consideration the vacillation of the Australian Stock Market.

- I would like to refer to page 11 of the Sean and Paula McArdle No2 of 3 Index to Parliamentary Submission Addendum which incorporates a photocopy of a document titled, "3. Client Advisor Details - Advisor to Complete" with a second section titled, "4. Credit Limit".

  In Section '4' there is provision for insertion of the Credit Limit Applied For in the box provided. On initial observation, the figure revealed is $3,000,000.00. However on closer inspection, the photocopy reveals to to me that in all probability the original figure inserted was $2,000,000.00.

  It is clearly obvious that the original insertion figure amount has been altered and there are no initials to amendment.

  Sean McArdle informs me that it was his understanding with Client Advisor, Trevor Benson that the joint limit was $2,000,000.00. Following peristence request, the CBA released this document to him in May this year. He was very disturbed when he examined this document. McArdle also informed me that the CBA permitted his margin loan debt without his authority and now believes that both he and his wife are in residual debt status with the CBA.

  The question of Credit Limt alteration without the clients' knowledge needs to be subject to a full investigation. As it stands at the moment, the alteration to the limit could have been undertaken by either, Financial Planner, Trevor Benson, a Storm Financial Employee or a CBA employee.

- Banks generally did not have direct contact with clients and this fact enabled the banks in the facilitation of their deceptive process. This is supported by the fact that banks were not called upon to explain their own documentation.

  These actions enabled the banks to succeed in their scam and "sting" operations and maximise profits.

General comment:

It is my considered view at this stage that the CBA has been involved in a bank scam operation. Since a high percentage of these victims have a status deficiency on an asset - liability exercise; it can readily be construed that they are also the victims of a bank "sting" operation. This means that a residual bank debt remains in the bank/ customer records and this situation represents a tool for the bank to instigate bankruptcy proceedings if the need arises.

To explain a bank's methodology in a "sting" operation, I am enclosing Exhibit "AJS5" which is a Report raised by myself under the date of May 2009 titled, "Problems Experienced by Bank Litigants in the Jurisdiction of the Supreme Court of Queensland".

In my Report I illustrate to the reader the case histories of five victims of a bank "sting" operation. I specifically draw the reader's attention to the Anita Bernstrom and Sante and Rita Troiani/Wide Bay Brickworks Pty Ltd case histories which are dealt with in some detail. It will be seen from this material that the NAB has perfected the "sting" operation which has resulted in bankruptcy. All major banks are capable of "sting" operations.

The fact of the matter is that our banks in this country have been engaged in scams for the past thirty years. We have the Foreign Currency Loans fiasco of the 1980's where the CBA was heavily involved. We proceed to the the late 1990's and we find the CBA heavily involved in the two tiered real estate property scam ; the ANZ was also heavily involved.

Queensland properties were sold by marketeers at vastly inflated prices. The two tiered marketing refers to the practice of having two prices or tiers in real estate market. One price was for the locals who know local values, and one for people from another area who don't. The real estate marketeers and the banks stitched up thousands of victims who were ripped off.

In a Courier Mail published article on 29 November 2001 by Hedley Thomas it was disclosed that a Cairns, NQ'land couple purchased an investment property under intense pressure for the sum of $164,900.00 on the Gold Coast. Funds to purchase were made available by the CBA who got a valuation on the property of $100,000.00, but did not reveal it to the purchasers. Most victims were forced to mortgage the family home as collateral.

The CBA maintained that they were under no obligation to tell the customer/victim anything about their valuation. I concurr with the published article that said, "it was an orchestrated conspiracy which dudded mum and dad investors". It was further stated that the financial cost to the CBA could be massive - Courier Mail published article headed, 'Which bank's property woes' by Hedley Thomas on 15 March 2003.

In 2001, the Australian Competition and Consumer Commission took the property marketing cartel and the CBA to court. The statement of claim filed by the ACCC in the Federal Court of Australia charged the CBA and other parties with, "unconscionable, misleading and deceptive conduct" contrary to the Trade Practices Act and

Queensland's Fair Trading Act.

The outcome of the litigation was that Justice Kiefel let the CBA 'off the hook', the charges were not proven as far as the bank was concerned. This despite the fact that the bank knew the marketeering techniques were misleading and known for achieving selling prices well in excess of local value.

It was reported in Hedley Thomas's article, titled "Court condemns marketeers" on 19 December 2003 confirmed the judge's decision as far as the CBA was concerned. In this article, it was reported that a Brisbane solicitor, Tim O'Dwyer who helped hundreds of marketeering victims stated, "An awful lot of banks are no doubt breathing a sigh of relief." O'Dwyer proceeded to say that the ACCC had "failed miserably" with what was "more an embarrassing show trial than any ground-breaking test case".

An so, once again the CBA and other banks involved are "let off the hook".

One particular bank scam, applicable to the four majors is Interest Rate Manipulation where banks automatically increase the approved rate to a Line of Credit facility by way of concealed surcharge. This is happening all over Australia today. The major difficulty for the customer/borrower is that he is not only unaware that he is being ripped off, but very few have the ability to calculate the correctness of the bank's records, and so it goes on. as an illustration of this, I refer you to Exhibits "AJS6" and "AJS7" being articles published in the Sunday Mail on June 18, 1989 authored by Noel Whittaker titled, "Gravy train ending for banks" (the 'gravy train' has never stopped running for banks and it has continued to accelerate) and the Sydney Morning Herald published on July 1, 2009 titled, Mortgage springs a leak by Lesley Parker.

Content of both these articles is self explanatory. However I wish to say with respect to the Lesley Parker article that errors of this nature which banks respond to as 'human error' and 'honest mistakes' is highly misleading in my view. In the early 1990's I was asked to check the bank's interest on a business overdraft account where eight company business accounts were subject to a set off arrangement. My calculations revealed that the bank had overcharged the customer thousands and thousands of dollars throughout a two year period. When a written explanation was sought from the bank, they admitted that their computer sysyem was not capable of calculating the interest due.

Chairman Ripoll's committee presently has the opportunity of bringing our banks into line and stopping their scams, stings and rip-ff mentality once and for all. The fact is that any further disclosure of unethical conduct requires

the most severest penalties, that being loss of license to operate.

It was reported in The Australian on Thursday June 18 2009 under the title heading, "CBA in backflip as Storm breaks", by Messrs Gluyas and Rich, that CBA's Chief Executive, Ralph Norris conceded there were 'shortcomings' in the way the bank lent money, and further stated, 'We are not proud of our involvement in some of these issues and we are working towards a fair and equitable outcome for our affected customers'.

Before Ralph Norris can proceed down the line from that point of view, his bank has to come 'clean'. They must lay all their records/documents etc on the table. Ianbility to do so will mean that his assurances are a sham. Norris has stated that where his bank and the victim cannot agree on a satisfactory term of settlement, then former High Court judge, Ian Callinan will act as independent arbitrator.

That policy may be satisfactory to the CBA; however will it be satisfactory to the bank's victim? When I look back at what took place in the Foreign Currency Loans saga when this single bank nominated settlement procedure eventuated, it was a disaster. The bank held all the cards and many were faced downwards.

The ideal settlement process would be for a panel of three to preside where the victim would have the same rights in nomination as the bank. In my view the CBA/Callinan process, is 'one way traffic' and it is not the victim's way.

Chairman Ripoll has the opportunity now to give the banking consumer in Australia a fair go. I would like to point out some public criticism of the banking industry over recent years;

Former Australian Democrat Senator, Paul McLean told the Senate on 12 November 1990 of the NAB's "fraud, deceit and greed" with respect to customers who lost their life savings at the hand of corrupt bank employees.

In July 1994, the Sunday Telegraph published an article titled, "Top cop to target business frauds" with Federal Police Commissioner saying, "I have a real interest in those crimes which impact on Australia in the wider sense - and its hidden crime, like corporate fraud, which so often cannot be normalised."

Just over twelve months later we find that Australian Democrat Senator, Robert Bell, issuing a media release under the date of 28 August 1995 under the heading: "Bell, on corrupt bankers - we must get the bastards."

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In July 1999 we have an article published in The Australian raised by James Duncan wherein he told readers, "I think banks have a dark side, like a movie character who is hiding a terrible secret."

One month later we have Janet Holmes a Court incorporating a statement in her address to the Brotherhood of St Laurence (The Australian, Misha Schubert 10 August 1999) that she held banks to be, "Bad corporate citizens, make as much money as humanely possible."

The first leader of the Australian Democrats, Don Chipp highlighted to readers in his Sunday Telegraph article of 17 September 1995 titled, 'Standards of our morality in free fall, "At the corporate level, criminals in white collars (too few of whom are now in jail) CONSPIRED WITH CROOKED BANKERS (none of whom is now in jail) to rip off millions of dollars of innocents' savings."

My background experience clearly indicates that the comments of these prominent Australians as outlined above are 100% correct. For confirmation in this regard, one only has to read the contents of my Report, Problems Experienced by Bank Litigants in the Supreme Court of Queensland - exhibited herewith as "AJS5".

Before listing my interim recommendations, I would like to quote an extract from the NAB's September 2007 employee magazine, 'the Star' which states under the title heading, "fraud matters";

> 'Fraud is a crime that can destroy lives. We all have a responsibility to detect and report fraud in the workplace.
>
> What is fraud?
>
> It can take many forms but put simply fraud occurs when somebody knowingly acts or lies in such a way as to obtain financial benefit by deception to which they are not entitled.'

Does the NAB practice what it preaches? and what was the financial benefit to the CBA and other banks involved in this Storm Financial fiasco

MY RECOMMENDATIONS:

. A thorough investigation is required into the Storm Financial disaster.

  This means that the CBA and all other banks involved must make available all relative documentation. This

would include all policy records which would incorprate all internal file notes and diary records. It would also include all relevant sections of the bank's lending manual. It should also include a record of interest changes for margin loans, particularly from 1 January 2008 onwards.

- Every bank involved in the Storm Financial disaster should be requested by the committee to furnish a comprehensive report on their involvement, which would include statistics.

  Banks should be instructed that this report should NOT be submitted as 'confidential'.

- Every bank should autonatically make available for examination all documents which were orginally confirmed by the client. These would include Application Forms, Statements of Position and any form of Authorisation by a third party, e.g. Financial Planner for a Line of Credit Facility, e,g, Margin Loan Limit.

  The banks must provide up to date bank statements for all loans NOW. If a bank statement supplied by the bank is a 'shadow ledger' statement, it must be stated so.

  If the bank confirms that the bank statement so furnished is a 'shadow ledger' statement, then the bank must also supply to the borrower their main frame computer statements since the last issue.

- At this preliminary stage, it is possible that it may be be proven that banks may be found guilty of fraudulent conduct - as described in NAB's employee magazine and the bank/s may be guilty of a conspiracy to defraud. (It must be reiterated that published material alleged in the two tiered property scam that, "it was an orchestrated conspiracy which dudded mum and dad investors".

  If those allegations were proven, then it is my contention that banks may not be entitled to a bad debt write off for taxation deduction purposes for their written off debts.

  There need to be investigation by the Australian Taxation Office as to whether these tax write offs are legitimate. Does the deduction so claimed breach the Crimes Act 1914? If the answer is in the affirmative, then it must also be in breach of the Income Assessment Act 1936 (as subsequently amended).

- At this preliminary stage, I think that virtually all victims of this disaster consider that they are the victims of false, misleading and deceptive conduct, while many believe that banks have engaged in fraudulent process.

Gross income gained by the banks from the scam will most probably never be known. However you can rest assured that, the banks will not lose because the amounts they will disgorge to compensate victim's losses will be minor when off set against income.

I therefore believe that when the Reserve Bank of Australia is formally informed by say, APRA, ASIC or the ACCC, that a bank has engaged in false, misleading or deceptive conduct, then the Reserve Bank of Australia will have the power to fine the banks for their deceitful activity. This fine would be levied upwards from $50 million.

In the light of the previous paragraph where the Reserve Bank of Australia is informed that a bank has engaged in false, misleading or deceptive conduct, if the Reserve Bank of Australia is formally advised that it is considered that a bank has engaged in fraudulent process then, the Reserve Bank would have the power to suspend the bank's license for 24 hours. No more than five days notice would need to be given. Multiple days suspension could apply which would be determined by the scope and seriousness of the activity.

- A special investigation needs to be instigated to ascertain the exact role played by the CBA with respect to Storm Financial. Once again it is vital that all relevant documents be examined, which of course includes diary notes and file notes concerning discussions between CBA emplyees and Storm Financial employees and directors.

  Special attention should be given as to whether the CBA offered any inducements to Storm Financial employees and whether these inducements were accepted.

  e.g. Did the CBA extend a favorable credit line to a St orm Financial employee to purchase shares when the company was floated on the Australian Stock Exchange?

  e.g. Did the CBA meet the cost of travel expenses either within Australia or overseas for Storm Financial employees or Financial Planners who were referring client's business to Storm Financial?

  Was there also inducement by CBA senior management to subordinate employees to encourage or engage in outside of normal guideline procedure?

- In the investigation into the CBA's involvement, special attention needs to be given to the bank's "VAS Computer Valuation Scheme." On the limited information available this scheme seems to be highly fraudulent.

I have highlighted in this submission that bank's have been manipulating the Market Value of their real estate security for lending purposes in a highly unethical and fraudulent manner for the past twenty five years and despite a suggested investigation by APRA in 2004, nothing has eventuated to this day to deal with a bank's treachery in this regard. Please refer page ten of this submission where I refer to APRA and the matter of valuation practices.

In my report to APRA dated 12 January 2005, I made the following recommendations:

(z) A full investigation needs to be carried out with respect to the accounting implications when a bank decides to sell and/or receives proceeds representing sale of bank securities from Receivers and Managers Appointed.

I would imagine that the Australian Taxation Office would need to be consulted in this investigation.

Why won't banks discover their Realisation Account bank statements?

(y) The valuation relied upon by the bank of their securities for lending purposes MUST be disclosed to the customer.

(x) Any changes with respect to (y) above MUST be disclosed to the borrower.

(w) The current policy of the Federal Court of Australia (they have ultimate control of bankruptcy proceedings) wherein they refuse to force a bank to enter into the discovery process.

(It would have been preferable at the time if I had inserted the Federal Magistrates Court of Australia.)

(v) Are there latent sales of bank securities where a profit is derived and if so how is that profit dealt with in terms of the Income Tax Assessment Act?

(Note, this recommendation was included at the time because it had come to my attention on three occasions that, a bank had multiple securities under their control who had been subject to default process.

In the wind-up of the sale of their former borrower's securities, all would be sold with the exception of one. This residual one would be retained for maybe two years after the last security had been sold.

This concluding sale was always sold in highly suspicious circumstances. For instance, the real estate

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property was sold to either bank employees or known bank acquaintances. The bank would never provide any statement detail.

My recommendations to APRA as above in January 2005 remain current and I consider it an imperative that your committee adress the matter of bank manipulation of security values for lending purposes.

The evidence indicates that the CBA was heavily involved in the two tiered price real estate scam on the Gold Coast scam in the late 1990's and then we find ten years later the CBA heavily involved in another scam which also involves manipulation of security values for lending purposes.

In closing, I would like to highlight a subject article contained in the February 2009 New Letter of Jackson Lalic Lawyers of Clarence Street, Sydney as follows, "IS YOUR BANK MAKING YOU ILL? Litigation details were mentioned where a Plaintiff suffered psychiatric illness at the hands of the bank.

I believe that the actions of bank employees have caused illness to Storm Financial/Bank victims in gross. The symptoms will be felt for many years to come.

I hope that the contents of this submission will prove useful to your committee.

Sincerely

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John A SALMON