

Batge, Shona (SEN)

From: Dianne Grey [REDACTED]
Sent: Friday, 12 September 2008 2:34 PM
To: Committee, Corporations (SEN)
Subject: FW: Bank and Franchisor's collusion.

I send the following copy of email sent to the ACCC, to which I recieved no reponse, as my submission to the Federal enquiry into franchising.

I would be grateful of you acknowledgement of this submission.

Thanking you Dianne Grey

From: Dianne Grey [REDACTED]
Sent: Tuesday, 16 October 2007 1:52 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Bank and Franchisor's collusion.

Dear Mr Samuel,

We also are a family devastated by our association with [REDACTED] and [REDACTED]

My husband and I purchased [REDACTED] Terrigal with the intention of working hard for 5 years to secure a financial future for ourselves and our two children aged 6 & 7 years. Instead of this we lost in excess of \$150 000 in 12 months.

We purchased our store in April 2005, [REDACTED] claim to the [REDACTED] that [REDACTED] was under prior management at the time of their claim are therefore unjust.

The purchase price of the store was \$280 000 + \$50 000 "key money" that [REDACTED] paid to the previous tenant to vacate the store. This Key money amount was to be paid by us in 5 years time or upon sale of the store. Whilst working our business and befriending other business owners in the area we learnt that the most anyone had paid in "key" money was only \$15 000

In August 2005 we alerted [REDACTED] management that we were in desperate financially difficulty, turning over only \$5000 pw when our business plan, which was calculated on figures provided by [REDACTED] projected that we would turnover at least \$12 000 pw.

At the time of our final interview, prior to opening the store, we were told that \$12 000 pw was "very conservative and that we would do these figures standing on our head"

[REDACTED] advised us at our meeting in August that [REDACTED] would pay the rent on the store. We advised him that this would still not provide enough for the business costs and very basic living expenses. He said we would have to trade for a full 12 mths before he would consider any options.

We again met in the following February 2006 when [REDACTED] then advised that he would arrange for a feasibility study of Terrigal (this astounded us as we assumed that this would have been done prior to a store being opened and that such a study would have been part of the \$280 000 we paid for the store.)

[REDACTED] then advised that he would close the store and assured us that we would not lose our family home.

It was not until April that we met with him again. We were offered only two options.

A refund of \$200 000 or the Glendale store (previously owned by the [REDACTED]). We rejected the offer of another store and pleaded that we be given a full refund of the original purchase price.

[REDACTED] advised that it was \$200 000, The Glendale store, or nothing. Needless to say we took the \$200 000.

The [REDACTED] store was offered to us prior to them being given any money for their store (classic attempt of churning on the Franchisors part)

Coincidentally I phoned [REDACTED] 2IC at the time) when we first realised that our store was failing. He advised me to hang in there and that he knew how hard it was. He then went on to say that he was at the Glendale store and had to go. When I went to make another phone call I could hear [REDACTED] and other [REDACTED] management speaking. They were discussing the problems at the Glendale store and said that the only option was for them to purchase a new coffee machine. I then heard Chris say he had left his phone on. I can therefore confirm [REDACTED] claim that [REDACTED] sold the store to the [REDACTED] with faulty equipment.

The problems we encountered with our new store are numerous. Inadequate refrigeration, sunlight on the cake windows causing the cakes to melt (we have photo evidence of this). We addressed these issues prior to purchase and were assured that we would have no problems.

I have many other issues to share with you which will confirm the unprofessional, unethical and fraudulent operations of this company and would be glad of the opportunity to do so.

[REDACTED] COLLUSION.

We were referred to [REDACTED] at the time of purchase as [REDACTED] stated they were a "preferred lender." We had no prior association with this bank as I had worked for the Commonwealth Bank for 20 years and they were our bank.

We assumed that [REDACTED] meant that they would offer better loan rates than other institutions so applied for our loan through the Terrigal branch of [REDACTED]. The lender there gave us \$40 000 more than the purchase price as she stated that we may need this for set up costs. She was also lovely enough to bring us a bunch of flowers on our opening day. Perhaps this was to eliviate the guilt she felt for lending on this business as in our first few days of opening we also had a visit from the business liasion officer of the Terrigal branch of [REDACTED]. He bought a coffee and then proceeded to tell us how bad business was in Terrigal and that all his customers were struggling.

We had great belief in [REDACTED] and that our business would be successful. Therefore we purchased a house in Terrigal with a 6 months delayed settlement. Allowing us time to sell our home in Leonay were we moved from to take on this business. When the 6 months was almost up and we had not sold our Leonay property we again approached [REDACTED] to provide finance. They rejected this application even though we had ample security in both properties at the time. We were left with no alternative than to borrow from a non complying lender. We have since sold our home at Terrigal and moved back to Leonay where we were well known and had more opportunity of obtaining employment. The Terrigal property has been sold at a great loss with the "non complying lender" writing off an amount of \$25 000.

I contacted [REDACTED] as soon as our business ended and they were not prepared to assist at all. Instead stating that we would need to also sell our Leonay home without giving us a chance to establish employment after losing the business that they helped us buy.

We went to Sydney and met with the managers of the loans department personally. We requested that they refund the \$86 000 unsecured business loan which we paid out of the refund money from [REDACTED] (the rest of the money borrowed is secured by our home) or at least reduce the interest rate to a housing loan rate rather than business loan.

[REDACTED] have rejected both these requests and we are still paying the loan at a business rate.

Prior to us purchasing this store we had a mortgage of \$160 000 with equity in our home of \$400 000. We now have a mortgage of \$393 000 which we are paying at \$650 per week (still at business loan, interest only, rates). Although we are both working with such high repayments and two small children to also support, we have fallen into arrears with our repayments to [REDACTED] and they have advised that they are about to commence legal action.

During our time in our store we became associated with many other [REDACTED] franchisees. One in particular who owned The Entrance store and lived in Terrigal said he advised [REDACTED] not to open a store in Terrigal as it would not be successful.

[REDACTED] was in managment with [REDACTED] prior to going to [REDACTED]. The [REDACTED] franchise in Terrigal closed prior to our store and we have been advised they had been stuggling for a long time. [REDACTED] would have therefore been well aware of the poor trade in Terrigal.

Mr Samuel I beg that you look at our case against this Franchisor and [REDACTED] and stop this greedy, heartless company and bank from financially and emotionally devastating the lives of any more decent, hardworking Australian families.

Thanking you

Dianne Grey

From: george and Ruth nimbalker [REDACTED]
Sent: Saturday, 13 October 2007 1:52 PM
To: geebung; graeme.samuel@accg.gov.au
Cc: peter@switzer.com.au; John Farrell; Ian Kirkwood; hwellings@seven.com.au; Ron Andersen
Subject: Bank and Franchisor's collusion.

Hi Beatty and Mr Samuel

Please find two articles that will justify my claim that the banks are in collusion with the franchisor. The article on the Anderson, the other family we trained with, who also have a bank loan with [REDACTED] and have been misled and deceived by the franchising system. Mr Samuel you have to come to our aid.....
you need to stop this corporate crime....

Regards

Ruth

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