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JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL
SERVICES

Reference: Financial products and services in Australia

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TOWNSVILLE

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**JOINT STATUTORY COMMITTEE
ON CORPORATIONS AND FINANCIAL SERVICES**

Wednesday, 2 September 2009

Members: Mr Ripoll (*Chair*), Senator Mason (*Deputy Chair*), Senators Boyce, Farrell, McLucas and Williams and Ms Grierson, Ms Owens, Mr Pearce and Mr Robert

Members in attendance: Senators Farrell, Mason, McLucas, Mason and Williams and Mr Ripoll and Mr Robert

Terms of reference for the inquiry:

To inquire into and report on:

Issues associated with recent financial product and services provider collapses, such as Storm Financial, Opes Prime and other similar collapses, with particular reference to:

1. the role of financial advisers;
2. the general regulatory environment for these products and services;
3. the role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers;
4. the role played by marketing and advertising campaigns;
5. the adequacy of licensing arrangements for those who sold the products and services;
6. the appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served;
7. consumer education and understanding of these financial products and services;
8. the adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers; and
9. the need for any legislative or regulatory change.

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Committee met at 9.45 am

CHAIRMAN (Mr Ripoll)—I declare open this public hearing of the Joint Committee on Corporations and Financial Services. This is part of a series of public hearings the committee will hold to inform its inquiry into financial products and services. The committee is inquiring into issues associated with recent financial product and services provider collapses, such as Storm Financial, Opes Prime and other similar collapses. In conducting its inquiry the committee has made a decision to focus specifically on non-superannuation products and services.

Witnesses giving evidence to the committee are protected by parliamentary privilege. Any act that may disadvantage a witness on account of their evidence is a breach of privilege and may be treated by the parliament as a contempt. It is also a contempt to give false and misleading evidence to a committee. The committee prefers to hear evidence in public, but we may agree to take evidence confidentially. The committee may still publish confidential evidence at a later date, but we would consult witnesses concerned before doing so. I would instruct the media that, for privacy and confidentiality reasons, they are required to leave during the evidence of two witnesses in particular; there can be no audio or video recording during those sessions. This afternoon we will give everyone an opportunity, in an open microphone session, the same as we did in Cairns yesterday, so people who are not listed as witnesses can tell us their stories. The media can stay. They just cannot record any audio or video. Written notes are permitted.

[9.45 am]

McCULLOCH, Mr David Robert, Private capacity

CHAIRMAN—I welcome Mr David McCulloch. I invite you to make a short opening statement.

Mr McCulloch—I am an ex-employee and ex-client of Storm Financial Limited.

CHAIRMAN—Are you appearing here representing yourself?

Mr McCulloch—Yes.

CHAIRMAN—Would you like to make some opening remarks?

Mr McCulloch—Thank you for the invitation and opportunity to address this inquiry. I would like to make an opening statement, and I apologise in advance for its length. My statement may go longer than you prefer, but if you indulge me this time it should answer a number of questions you may ask later. I will present my statement in a chronological order of events as best as I can recall. I may also be providing information in this opening statement of which the committee may not be aware.

My name is David McCulloch. I am an ex-employee and an ex-client of Storm Financial Limited. By way of background let me tell you a bit about myself and then my association with CBA and Storm. I am a lifetime resident of Townsville, married for 28 years with three children. I left school in 1974 and immediately commenced employment with the Commonwealth Bank in Townsville. I progressed through the ranks to a senior commercial lending manager at the time of my departure in 1999 to join Cassimatis Securities Pty Ltd.

I first met Mr Emmanuel Cassimatis and his previous wife in approximately 1987, when two branches in Townsville were merged and I inherited the management of the Cassimatis's accounts as a senior loans officer. At that time I approved some lending facilities for personal property investments. I relinquished this management role in about 1989, when I was promoted to an administration role within the North Queensland area office of the bank.

In the early 1990s I was again promoted to a business banking position in the restructured business banking cell of the bank in Townsville. I resumed my management of the Cassimatis's accounts at this time and by now Mr Cassimatis had remarried to Julie. At this time the Cassimatis business was known as Emmanuel Cassimatis and Associates, and was a well-known and highly successful MLC agency—life insurance, superannuation and some investment advice. I believe it was the leading MLC agency in Australia for quite a number of years running, and Mr Cassimatis showed me a number of MLC recognition awards.

In about 1993 I understand the Cassimatises relinquished their association with MLC, obtained their own securities dealer's licence and became an independent financial planner. The new business was then known as Cassimatis Securities Pty Ltd. This is the same business that went through a number of name changes and became known as Storm Financial. This business became a merger of Mr Cassimatis's business with some smaller MLC agents—Bernadine

Frawley and Stuart Drummond. These latter two became associates and initially formed the nucleus of the business management going forward for some 10 years. I should mention that the Cassimatis's business dealt with two major banks at this time—Westpac for the day-to-day account operations and the CBA for private commercial borrowings of the Cassimatises.

From about 1993 onwards I started receiving a number of investment home loan referrals from this business on behalf of their clients, initially about one a month, increasing to about two or three a week in the late 1990s. As an employee of the bank, I had a number of obligations. Firstly, to ensure that the applications received were assessed and approved under bank lending policy and, in particular, the ability to meet repayments. All clients were personally interviewed by me and my colleagues. My second obligation was to ensure that the bank received as much business as possible from its clients, and CBA staff were required to cross-sell the other bank services available, and in particular a referral of the clients to the bank's financial planning arm.

When Mr Cassimatis became aware of this he asked me to visit his office, where he complained strenuously about this practice of stealing clients. He said he would refuse to refer business if the CBA and others continued to steal his clients. The CBA team, Business Banking and Retail, received approval from the CBA's area manager to forgo these cross-selling approvals. It should be noted that failure to cross-sell could have been detrimental to staff career and bonus prospects. I should also clarify that, in the main, they were home lending. In my role of business banking, the majority were managed and approved by the retail arm of the bank, which is on a lower floor of albeit the same building.

In the late 1990s Emmanuel and Julie approached me in my role as a commercial lending manager to discuss substantial finance to assist with the expansion of the Cassimatis business operations. By this time a number of other MLC agents had left MLC and received an authority under the Cassimatis Securities licence. These businesses were in Townsville, the Sunshine Coast and Brisbane. The Cassimatis business was a strong cash flow business, and in the late 1990s the CBA had just introduced a new type of lending for businesses with strong cash flow, strong prospects, but little security. This facility was known as business asset finance—BAF.

I was instrumental in introducing the Cassimatis business application to the bank's investigating accountants in Brisbane for further appraisal. Senior accountants and credit officers visited Townsville from Brisbane to investigate the business operations and its model. In the end, the largest unsecured loan for the area was approved—\$2 million. As a result of my hard work and eventual understanding of the Cassimatis business dynamics I was constantly approached by the Cassimatises over this time to leave the bank and work in their business. On my 25th year of service I left the bank in 1999 and commenced work at Cassimatis Securities as the group's accountant and finance officer. My role included preparation of financial accounts, business cash flows, modelling and a liaison between the Cassimatises and the banks. By this time the business model of Cassimatis Securities—let me call it Storm from now on—was pretty well established. It was based on a synergy concept—seminar presentation of the foundations of generic financial planning and, in particular, the concept of using debt as a key part of financial planning, centralisation of advice, centralisation of operations, banking liaisons, statements of advice and the like. A key advantage of the model was that little paperwork, monitoring and back office operations were undertaken by individual advisers. They spent more of their time with clients, less time on paperwork, with advice and compliance monitored by the centralisation process.

The adviser's role was to obtain fact-finding information for those clients who were prepared to go beyond the initial group financial advice presentation, present financial plans and afterwards to undertake regular client reviews. No advisers were permitted to undertake their own financial planning modelling. Rather, their role was to explain the Storm financial planning model to clients who were interested and to ensure that clients who were not comfortable with this did not become a client. All modelling of plans were undertaken by Storm's compliance or cash flow modelling cell, headed up by Julie Cassimatis. To this end, I understand that only about 25 per cent of the people who approached Storm eventually became clients, and usually only after many meetings and about six months of prior contact. From 1999 to about 2006 I continued with my role as group accountant. I relinquished my role as bank liaison in the early 2000s, when Storm appointed other people to fulfil this role. In particular, Carmela Richards and later Kristy Devney, who are your next witnesses, took over this bank liaison role.

There was one particular Storm-Colonial arrangement entered into in the early 2000s that I will bring to your attention. One of the biggest service issues facing Storm was the slow to poor service given to the Storm banking cell by the various banks. Whilst a home purchaser could have finance approved and funded within a normal contact period of four weeks, any potential Storm client who already owned their own home tended to be treated as a lower priority by the banks. Oftentimes it would take six to eight weeks—sometimes longer—to have investment finance approved and funded. This prompted an approach to Colonial to seek speedier processes. Storm's head office was visited by representatives of Colonial's third-party origination team in the early 2000s with a view to establishing more formal and speedier arrangements. Senior Colonial executives and the head of credit visited Storm and spent three days thoroughly investigating and interrogating the Storm model. The end result was that a special lending policy was approved by the bank and there was a clear acceptance of the use of Storm's cash flow modelling as a basis for home approval, including for retired clients borrowing against their homes for the first time. This practice continued after the CBA merged with Colonial, but again when service levels fell away Storm's banking cell stopped referring and resumed referrals to local branches. It was about this time that Carmela and later Kristy, who you will hear from next, established service standards with local banks, and in particular the local area office of the Commonwealth Bank. Having said this, I did continue with the bank liaison role, but in a corporate role rather than client referral role.

In the early 2000s—I think about 2002 onwards—the principals were looking at continuing to expand the business operations throughout the eastern seaboard. This picked up pace from 2004 onwards, when a number of southern advisers joined Storm, the largest of these being the Jelich and Jones business from the Redcliffe Peninsula in Brisbane.

During this time many approaches were made to various financial organisations with a view to either a part sale of the business, private equity raisings or debt finance. Discussion papers were submitted, for example, to MLC, St George, Bank of Queensland, CBA and maybe some others. My role was to prepare budgets, cash flow forecasting and sensitivity analysis. I should point out here that Emmanuel and Julie Cassimatis were very protective of their business, and any ongoing dialogue about terms were undertaken by them solely.

In about 2004 or 2005 CBA was also one of these parties. I was present at a number of initial meetings with the CBA when the Cassimatises were having preliminary discussions regarding the equity or sale proposals. These discussions were with very senior representatives of the bank.

A lot of time was spent discussing how the Storm business model worked, the financial planning tools used, in particular home equity finance, supplementary margin lending and use of index funds based on the ASX300 Index. The corporate growth of Storm to this time was of particular note, with high compound growth for many years and a substantially higher than industry average EBIT—earnings before interest and tax.

I might digress a little here. It was not just the CBA that was shown the Storm model. The phenomenal growth of Storm was apparent to anyone who looked at its performance. Colonial First State investments had very strong inflows in growth in the Colonial First State index funds managed for Storm clients. Colonial Margin Lending, now known as Colonial Geared Investments, also commented that this small unknown firm in Townsville, North Queensland, was its most valued client and was the largest source of marginal lending for Colonial in Australia. Many visits were made by senior executives of these organisations on numerous occasions to Townsville, Brisbane and later Sydney offices of Storm. Two particular comments were made that I was aware of. Storm was the only financial planning business in Australia that had positive fund growth during the post 9-11 2002-03 share market downturn, and Storm's margin lending book with Colonial Marginal Lending continued to grow during these difficult times. The reasons for these achievements were explained on many occasions to senior CBA executives, that is, Storm acted on share market downward and upward triggers to increase margin loans and investments. These initiatives—whilst clients were perhaps apprehensive at the time—formed the foundations of strong portfolio growth over the next five years. This integral part of Storm's modelling worked very well at the time, was understood by all parties and continued to work well over the years on both share market upswings and downswings, including during the early part of the 2007-08 share market declines.

As part of their investigation into the Storm business, CBA executives arranged for its securities arm, CommSec, to conduct a comprehensive due diligence into the Storm model and whether there were opportunities for a CBA-Storm alliance. This due diligence went on for over six months with almost daily contact with senior bankers and analysts of the bank. At the end of these investigations a favourable report was written by CommSec, including a valuation pre and post acquisition of the Storm business. I do not know why the corporate alliance did not proceed; only Emmanuel and Julie have these answers.

In 2005 or thereabouts corporate finance facilities were finally granted by Challenger—\$10 million. Simultaneously, a strategic alliance was formed with Challenger. Challenger provided the funds for Storm's continuing expansion and in return undertook to develop and make available new Storm branded index funds and a Challenger margin lending product. Storm was also incentivised in two ways by Challenger. The more business that Storm directed Challenger's way the lower the interest rate they were charged on Storm's corporate debt facilities. In fact, the interest rate would drop by 0.5 per cent for every \$100 million provided and would reduce to nil per cent once \$1.5 billion was provided to Challenger. The other incentive was that the more business provided to Challenger then the lower the equity conversion taken up by Challenger on expiry of the \$10 million facility. For example, if business referral targets were not met, then Challenger would acquire 30 per cent of Emmanuel's and Julie's equity, or if business referral targets were met this equity take-up would drop to, I think, 15 per cent.

You will note from what I just said that both investment funds and margin lending were to be developed by Challenger. For whatever reason, Challenger was unable to provide Storm with a

margin lending product. This had serious repercussions for Storm as this component of the \$1.5 billion target was now not available. However, at Storm we were advised by Emmanuel and Julie that Challenger had established a relationship with Macquarie Bank and that, should Storm establish a margin lending book with Macquarie Bank, Challenger would permit the value of the Macquarie margin loans to be included as part of this \$1.5 billion target. As a consequence, Storm had another supplier of margin loans now with Macquarie Bank. This relationship was also established after many meetings between Emmanuel, Julie and senior Macquarie executives. At the end of the day Macquarie Bank entered into an agreement with Storm with similar terms, conditions, interest rates and security ratios as per the Colonial Margin Lending arrangements.

From about 2006 onwards I eased out of my accounting role into an adviser's role and as Emmanuel and Julie were frequently away from Townsville I was asked to represent Emmanuel and Julie for their many clients. At the same time, Storm employed a number of chartered accountants and a chief financial officer to take over my accounting role. Storm became an unlisted public company in 2007 and appointed an independent board of directors. During this time, my role as a senior executive reduced to a lower executive role. Dawn Collette, who was Julie's sister, was appointed as Storm's chief operating officer, and Anna Stathooules was appointed as Storm's general manager. Other staff members were appointed as managing directors of the various Storm subsidiaries, but I was not. Emmanuel told me at the time that other staff were preferred. Emmanuel believed that I was a soft manager and he and Julie wanted a harder management style for these other positions. Thus I became less and less aware of the corporate decisions taking place and my knowledge of the toings and froings of Storm's key decisions over this time is not as comprehensive as one might think.

As to what went wrong in late 2008, a lot of what I know now is anecdotal and hearsay. Suffice to say that the advisory team at Storm received many assurances from the senior executive that, whilst these were worrying times, the Storm model had stood up in previous testing times, the banks knew this, and clients who remained steadfast came through the process in a stronger position. There was initially a market fall of about 13 per cent between June 2007 and August 2007, during which time the Storm building portfolio actions were undertaken, that is, increases in margin loans to buy investments. Again, this method of enhancing wealth appeared to work when the share market rose to its highs of November 2007. Those clients who undertook these build steps in August 2007 experienced a rise of approximately 21 per cent in that short period. Whilst additional borrowings were undertaken by clients, this share market recovery saw client investments rise substantially and debt levels fall in ratio terms by November 2007. Thus, this model of using share market volatility continued to appear to work in the interests of Storm clients. Whilst clients may have more debt in nominal terms than ever before experienced, all client portfolios appeared to be in excellent shape, with most margin loan ratios in the mid-50 per cents.

We were constantly assured during the falls of early to mid-2008 that the business's cash buffers and reserves in place would be tested and used up to support clients approaching danger levels or needing living allowance support from Storm. Whilst downward share market pressure existed from December 2007, this was explained to advisers as normal share market volatility. In any event, should downward share market pressure persist, we were informed, and advised clients accordingly during 2008, that there were a number of levels of comfort available to Storm clients. These were pretty generous buffers to margin call, 90 per cent as agreed with Colonial

Margin Lending, and 85 per cent with Macquarie Bank. If someone was sitting at 60 per cent in early 2008—and I believe most were; and that is after the market had already fallen 15 per cent—they still had protection against a further market fall of around 35 per cent before a margin call would occur. At this time no-one was predicting a fall of this magnitude. Even if they did, along the way, client cash reserves could be used to support the portfolio. Failing this, we were advised that some of the portfolio could be converted to cash temporarily, with an undertaking by Storm to support clients re-entering the market by providing its own funds as supplementary margin loan security once a recovery appeared underway. After all, this is exactly what happened for some clients in the 2002-03 downturn and it worked well.

By mid-2008 we were informed that Storm was very strong financially, had high levels of cash reserves, had enjoyed a record year with record cash profits and had just negotiated substantial increased bank funding from the CBA for its corporate facilities. Should a worst case scenario eventuate, advisers and executives were informed and shown a letter from Colonial Margin Lending stating that in the case of a worst case scenario then Colonial would work with Storm and its clients throughout this crisis. In fact, this appeared to be a more formal ratification of protocols established in 2002-03 when, after discovery of a security recording error by Colonial Margin Lending, some Storm clients went into margin call and some into negative equity. That was back in 2002-03. This was an operational error on Colonial's part, and rather than sell down clients' portfolios at that time and crystallise losses Storm and Colonial worked together to allow time for clients to ease out of this delicate position. Some cash was provided by Storm at this time to support client portfolios, and all monies were repaid in 2005-06 as share markets recovered. This practice was questioned by Storm's auditors at the time, and Emmanuel and Julie responded to the auditors along the lines that so long as the corporate structure of Storm was not affected they would continue this practice in the best interests of Storm's clients.

The fact that no clients received margin call communications in 2008 and that Emmanuel stated that Storm and Colonial were in daily contact to work through the crisis gave a degree of comfort to advisers in allaying client fears. Furthermore, Storm principals were putting into practice what they said they would do—provide temporary loans to Storm clients to support living allowances and loan repayments until market recovery commenced.

In retrospect, the telling period for Storm clients appears to be around early October 2008. At this time, from what I call recall, a lot of client margin loan portfolios were sitting close to an 80 per cent loan ratio. What appeared to be the strength in the Storm modelling now became its Achilles heel, that is, the margin call at 90 per cent. I now know that actually most of the margin loan records, according to Colonial's records, had a recorded margin call ratio of 93 per cent to 95 per cent. Under normal margin lending arrangements, as existed with most or all other planners around the country, that is, 75 per cent to 80 per cent margin call ratios, at this time clients would have been margin called and at the very worst would have had about 20 per cent equity left in their portfolios—enough in most cases to clear home loan debts—but of course leaving Storm alone to account for lost values and client dissatisfaction.

Within a week or so in early October 2008 the share market All Ords fell about 18 per cent. Unfortunately, clients' true positions were unknown. This period coincided with the quarterly distributions made to clients by both Colonial and Challenger Funds Management. When quarterly distributions are made on clients' funds it can take up to two weeks for the correct unit prices to be made available. Thus, I believe that in fact a lot of clients may have been in a margin

call position, but records of margin lenders do not reflect this. Staff resources on everyone's part were thinly stretched during this turbulent week and month. Whilst intuitively there may have been concerns, the correct position was not known until after. This is when advisers were told that the spirit of the CBA-Storm leader would work and that principals would maintain close contact with the margin lenders during these times. Advisers were specifically told not to contact the margin lenders, leave it to Storm Central, as Colonial Margin Lending and Storm Central preferred one point of contact as resources were thinly stretched.

We now know the share market had temporarily recovered by around 15 per cent in late October to early November, and if ever the margin lenders were going to act now was the time. The fact they did not—and with assurances from the principals they were working closely with the lenders—gave assurances in the advisers' day-to-day client dealings. The rest, sadly for all concerned, is history. I have met many ex-clients who are now emotionally and financially destroyed. My personal situation is no different from many clients. I apologise for the length, but I felt it important to read that out.

CHAIRMAN—Thank you. We appreciate your comments. I would like to start with some basic questions, just to get some context around what you have told us. You say you are an accountant and a financial controller. Exactly what was your position at Storm?

Mr McCulloch—I am not a qualified accountant. I am not a CPA, but I was employed as the group's accountant, working in conjunction with the group's formal accountants, PricewaterhouseCoopers, during those early years.

CHAIRMAN—What qualifications do you have? Can you give us some context as to what your role was and your qualifications?

Mr McCulloch—I have 25 years banking experience. I am an associate of the Australian Financial and Securities Institute of Australia. I have a graduate certificate in applied finance and I have a diploma of financial planning.

CHAIRMAN—What would you say your main role/task was at Storm when you were employed there? What were you asked to do?

Mr McCulloch—Basically, an enhanced bookkeeper. It was probably more important than that. I was employed as the group's in-house accountant to do the monthly profit and loss statements, balance sheets, BAS statements, GST returns and prepare the financial accounts for end of the year tidying up by the group's formal accountants, Pricewaterhouse.

CHAIRMAN—Was it a job that only you could do or could anybody else have stepped into the position? I am not too sure what it entails, but maybe you could just explain this to me. Did you have a unique set of skills, such that only you could have done this?

Mr McCulloch—No, anybody could have done the job.

CHAIRMAN—Why do you think Storm particularly chose you to do that role?

Mr McCulloch—Probably because Emmanuel and Julie got to know me over a long period and they wanted somebody in that position they could trust. They wanted somebody who would look after their accounts and not blab around town about their personal position. From my dealings with them as a banker, the fact that I was dealing with very sensitive borrowing arrangements of the Cassimatis's, they knew that I do not go to the pub and talk, and they trusted my ethics not to disclose personal information.

CHAIRMAN—Did you ever get the sense that you were in that particular position because of the role that you played in the Commonwealth Bank of Australia—the position you had had at that particular bank?

Mr McCulloch—That probably was partly to do with it, but it was not the sole reason. Having dealt with the Cassimatises probably on a daily if not weekly basis over 10 to 15 years they got to know me pretty well and they got to know my personality.

CHAIRMAN—Would you say you understood how the two different models worked intimately—the investment model and the business model?

Mr McCulloch—Yes, I would say so.

CHAIRMAN—Could you briefly describe to us the relationship model, the business model as it were, and how that operated?

Mr McCulloch—The analogy used is probably similar to a Ford motor plant production line. The idea behind the business model was to do as much work with as few people as possible. This was achieved with the production line process, that is, a set area did the data input. Advisers did not do the data input. There was a team of people doing data input. Another team verified the data that was input. Another team solely looked after investment processing. Another team looked at the analysing of the data input and cash flow modelling. There was another team that actually typed up and prepared the statements of advice. There were specialist areas in the organisation.

CHAIRMAN—In this production line-type process do you think there was much capacity for individual advisers to a particular customer to have that real intimate knowledge about their personal circumstances to tailor to and work around their unique and personal needs?

Mr McCulloch—I believe so. The reason for that is that the nature of the first contact with Storm was as a bit of a weeding out process. The Storm model was introduced to clients initially in a group seminar format whereby presenters would explain to potential clients that Storm would be using share market investments based around the All Ords as the core foundation of their advice, but they also explained to clients that a key part of acquiring those investments would be the use of debt. That tended to scare a lot of people away. There were a lot of people who would not entertain that concept of financial planning. The processes were meant to have, at the end of the day, a certain core set of clients who were prepared to undertake that style of advice. I think Storm did its own statistics and there was about a 25 per cent take-up of the Storm financial planning advice.

CHAIRMAN—When you say ‘that style of advice’ what do you mean? Do you mean that style of risk?

Mr McCulloch—Yes, that style of risk; that style of using debt, mortgaging the home, using margin lending and using only share market investments.

CHAIRMAN—Would you say that the average person in the street would see that as normal risk or would you say it was slightly more? How would you describe the risk?

Mr McCulloch—The risk was presented to clients in the form of outcomes. There were certain outcomes that clients could entertain. One outcome would be not to take on that risk, and invest their money in an allocated pension-type product, which would give them a set amount of income over a set period of time and then at the end of that time the income would cease or be very low. The other outcome would be, ‘Well, that’s one style of risk. If you want to take on another style of risk, here is another outcome you could have by using your current wealth to acquire share market investments.’ The share market model was based on drawing down the income generated from those investments, rather than a progressive drawdown of capital over the life expectancy of that person. The risk was outlined. Clients were told that Storm was different from most other financial planners.

CHAIRMAN—Why was it different? How was it different?

Mr McCulloch—Traditional financial planning would involve the use of allocated pension-type products and perhaps balanced funds. The reason for that was to give a set amount of income available to clients over a set life expectancy. At the end of that life expectancy the allocated pension would diminish or disappear altogether.

CHAIRMAN—Was that also done to minimise risk?

Mr McCulloch—It may have been done to minimise risk, but Storm also portrayed that there was an alternative. You could obtain increased income through alternative investment styles, and this was the style that Storm wanted to present to clients.

CHAIRMAN—Do you mean there were alternatives at Storm?

Mr McCulloch—Not at Storm, no.

CHAIRMAN—While there were no alternatives, as you say, you really had one type or class of product?

Mr McCulloch—We had one class of investment advice, yes.

CHAIRMAN—I know there are lots of questions and we are all very interested in your experience. From the evidence that we have heard and from submissions made to us from a range of investors, people made it clear when they started with Storm that they had a low risk appetite; these people wanted very little or no risk and wanted safety. How does that sit with obviously the strategy and the business path that you have just described when these people now say, ‘We didn’t understand the risk. We asked specifically and were continually reassured that

there was little or no risk and that everything was covered or insured'? How does that balance out or sit?

Mr McCulloch—The risk was managed in a number of ways. To ensure low risk Storm stuck to the use of index funds only as its preferred investment product. Investment funds are based on over 100 years of share market returns and volatility. The volatility parameters associated with those investments are reasonably identifiable. Because Storm used the index funds approach there should not have been any risk of that capital disappearing. For that to happen all 300 companies invested in would have to disappear in value. The end risk was associated with a debt centred around those products. The actual product itself was quite safe. The index fund was quite safe.

CHAIRMAN—In your opinion, which does not have to be qualified by anything, if you ever place your home on the table, as it were, in terms of debt or anything else, is that considered to be low risk, some risk or no risk rather than leaving it aside and not including it as part of a portfolio? When you include the family home what does that do to risk?

Mr McCulloch—Provided you can meet the repayments it should be low risk.

CHAIRMAN—Thank you.

Senator MASON—We have heard evidence over the last few days and particularly in Cairns yesterday that Storm Financial would still be in business today if clients had actually received a margin call; that people's life savings could have been saved and indeed Storm Financial might still be operating. Who was responsible for making those margin calls to clients?

Mr McCulloch—From my experience, the margin lenders always made margin calls to clients.

Senator MASON—So, the banks?

Mr McCulloch—The banks, yes.

Senator MASON—The banks were responsible?

Mr McCulloch—Yes.

Senator MASON—I think we are going to hear similar evidence from Ms Devney and Ms Richards shortly, who also argue in their written submission that the CBA was responsible for margin calls to clients. You would agree that it was the banks that were responsible for the margin calls?

Mr McCulloch—Yes.

Senator MASON—I might ask you to traverse your oral evidence briefly. Let us go to early October 2008. You said that in most cases 75 per cent to 80 per cent was the usual standard for the industry, but in the case of Storm was 90 per cent to 93 per cent. Is that right?

Mr McCulloch—That is correct.

Senator MASON—Without going into the reasons for that difference, you said there was an 18 per cent drop in the share market?

Mr McCulloch—That is right.

Senator MASON—And that was within a week?

Mr ROBERT—Yes.

Senator MASON—Why were those margin calls not made? We live in an automated world. It would not matter if it was 18 per cent or 80 per cent in a week.

Mr McCulloch—Because I do not have access to the information I cannot be 100 per cent confident with my answer, but I will give it the best way I can. I do not think the Colonial margin records actually showed clients were in margin call.

Senator McLUCAS—Can you repeat that?

Mr McCulloch—I do not think that Colonial Margin Lending records showed that clients were in margin call. I qualified that beforehand by stating that this 18 per cent fall coincided with a distribution payment by the fund managers. When the fund managers make a distribution at the end of the quarter it can take one to two weeks. There is a period where the unit prices are not updated, because it takes time to work out—

Senator MASON—But it is not just Colonial, it is Commonwealth Bank and the ANZ.

Senator WILLIAMS—You are saying that when those payments were made to Colonial that brought the whole computer system to a standstill, basically?

Mr McCulloch—I would not say that it brought the system to a standstill, but the unit prices stayed the same for over a week. In reality, they were not the same value for over a week.

Senator MASON—Many banks, not just Colonial, were affected by this. The global financial crisis struck the entire world, and Storm was not the only one involved in margin lending. What was the problem in relation to Storm clients? No-one has given an answer to this. You did say—and the chair just reminded me; and he is dead right—that advisers were told not to contact margin lenders. In fact, Mr Dalle Cort yesterday in Cairns said he was asked not to contact the banks directly; that was to happen through Storm Central. What was happening? Why were the margin calls not made? We heard evidence yesterday that people never received margin calls even to this day.

Mr McCulloch—I was in margin call and I never received a margin call.

Mr ROBERT—With the greatest respect, margin calls is the most simplest form of bank mathematics. It works on a gate. You hold a certain amount of money worth of shares, the share

value hits a price and the gate comes crashing down. It does not get any simpler in banking terms than that. Why did the gate not come down? That is a very simple question.

Mr McCulloch—I do not have that answer.

Mr ROBERT—What did Storm do when the gate did not come down?

Mr McCulloch—I believe that Storm was in contact with the margin lenders. I can only infer this from past behaviour. This also happened in 2000—

Senator MASON—Do you think clients were being informed; Storm Central was in contact with the margin lenders and clients were being informed?

Mr McCulloch—I do not know if the clients were informed.

Senator MASON—You do not know?

Mr McCulloch—I was not informed.

Senator MASON—Either the banks chose—

CHAIRMAN—Can we let Mr McCulloch finish what he was saying—I think it is important for the record—in terms of what was happening at Storm Central? You were about to say what you believed on past experience was happening. We will let Mr McCulloch put some things on the record.

Mr McCulloch—What happened in 2000 and 2008, whilst it was 10, 15 or 20-fold, was exactly what happened in 2002-03. What happened in 2002-03 was that some clients went into margin call and some clients went into negative equity. For those clients who Storm was advised were in margin call we got the contact from either the client or Colonial Margin Lending. All clients who went into margin call in 2002-03 received a margin call letter.

Senator WILLIAMS—From the bank?

Mr McCulloch—From the bank in 2002-2003, and maybe Storm got simultaneous contact. That prompted dialogue between the client, Storm and the bank. The arrangement with the bank back then was that Storm would support these clients by offering up additional security if need be or, 'Please allow the client's position to remain in trouble because these are index funds.' The core style of advice or investment used by Storm were indexed funds. If Colonial was prepared to ride out the crisis, the index funds would bounce back and clients' positions would be restored. In hindsight, thank god that happened in 2002-03.

Senator MASON—It did not happen in 2008, though.

Mr McCulloch—We were led to believe that it was happening in 2008.

CHAIRMAN—By who?

Mr McCulloch—We would have been told by Emmanuel and Julie Cassimatis.

CHAIRMAN—The Cassimatises told you that was happening?

Mr McCulloch—Backed up by a letter that he showed us provided to Storm by Colonial Geared Investments.

CHAIRMAN—Do you have a copy of that letter or can you tell us what that letter said?

Mr McCulloch—Yes.

CHAIRMAN—If you are willing to table that letter it would be really helpful.

Mr McCulloch—Sorry, it is an extract from SIGAC's supplementary submission, which quotes verbatim what the letter stated.

Mr ROBERT—If the gate did not come down on the margin lending there was only one other way, which is for the bank to make a decision to ride out the issue with the indexed fund. Banks either want their money by calling a margin to get the balance back or they are happy to ride it out. Banks only play in those two ways, as you well know.

Mr McCulloch—It is black and white.

Mr ROBERT—It is very black and white with banks, which is not surprising. They did not close the gate. Therefore, the only other option is to ride out the index fund. Is there any indication of communication? Is there anything in writing from the bank or is it just that one document that the Cassimatises showed you?

Mr McCulloch—There was also a pattern of behaviour around that time that backed up that understanding.

Mr ROBERT—There was that document and a pattern of behaviour. Did Storm Financial inform their clients that the bank had agreed in writing now to work with Storm on the indexed funds and that Storm would prop up any losses in the short term through cash to ensure people did not lose?

Mr McCulloch—I think I said that to a few clients, yes.

Mr ROBERT—No. Did Storm write to all their clients? The stock market had catapulted 18 per cent. If it had kept going like that the stock market would have hit zero by Christmas. This is a massive loss. The banks should have been pulling in margin calls, but they did not. They are now saying, 'We'll work with you in the index funds.' Investors are scared. Did Storm write to their clients and say, 'We're working with the bank to ride through this'?

Mr McCulloch—No.

Mr ROBERT—Why not? Investors are scared. People have their houses on the line.

Mr McCulloch—In lieu of writing to clients, about this time Emmanuel and Julie conducted a series of investor meetings throughout the eastern seaboard where they informed clients about what was happening, what they were doing, and that they were working with the banks through this crisis. They were not advised in writing, but they were advised at these group investor meetings throughout the eastern seaboard.

Mr ROBERT—Who made the decision not to inform clients about what was going on?

Mr McCulloch—That decision can only be made by the head of compliance.

Mr ROBERT—Who was?

Mr McCulloch—Julie Cassimatis.

CHAIRMAN—Senator McLucas.

Senator McLUCAS—Is the investor meeting you are referring to the meeting we heard about yesterday in Cairns and which was held on 8 November? That date may not be accurate.

Mr McCulloch—It was around about those dates, yes. It was early November.

Senator McLUCAS—We heard there was some concern expressed at that meeting in Cairns on that date about whether or not portfolios had been sold. Yesterday we were told that for a number of investors their portfolios had, in fact, been sold but that was not communicated by the principals to the group that were there.

Mr McCulloch—I partly alluded to that in my answer to Mr Robert before where I said there was a pattern of behaviour that gave us confidence margin calls would not be made. The pattern of behaviour included, towards the end of October 2008, some sell-down instructions by Storm to the margin lenders, but the agreement with the margin lender was that they were happy for some margin loans to be 0.5 per cent to 1.5 per cent at a margin call. Those instructions that were sent to the margin lenders around that time I believe were acted upon by virtue of the written consents obtained by clients in early 2008 when markets started falling.

Senator McLUCAS—Do you think it would have been reasonable for the principals at those meetings held in November to be told that their portfolios had been sold down?

Mr McCulloch—Yes, I believe they should have been told.

Senator McLUCAS—Why wouldn't that have occurred? What was the reason for there not being that level of frankness at that time?

Mr McCulloch—That is a question you will have to ask Julie Cassimatis.

Senator McLUCAS—You spoke about the relationship between Storm and Colonial Mutual back in the early 2000s because of the need for more speedy loan application assessments. You stated that there were special lending approval arrangements with Colonial. Did that mean that

with Colonial Mutual there was never, from then on, any assessment by the bank of the capacity of the investor to repay those loans?

Mr McCulloch—There was a special policy written by Colonial Bank in the early 2000s which was based on the Storm cash flow model. Whilst that specific policy was not carried forward after we ceased the arrangement with Colonial, in one form or another that policy was adopted by the banks going forward. The banks had many meetings with Storm. I was at some of those meetings. Ms Richards and Ms Devney would have been at other meetings. The Storm cash flow model was clearly understood by the credit people who attended Storm and they knew that the investments were a major source of income to service both home loan debts and margin loan debts. The policy was adopted in one form or another, either formally or special dispensation would have had to be written by the internal credit people in the banks to accept the Storm cash flow model and the investment rates of return that Storm portrayed to the banks as being reasonable cash flow projections.

Senator McLUCAS—This explains to me the reason we had evidence from many investors that they had never been contacted by a bank. We had a lot of evidence yesterday that, ‘I never talked to the bank. I always talked to Storm.’ So, there was no assessment by the finance provider of the capacity for an investor to repay?

Mr McCulloch—I cannot speak on what the banks did or did not do, but I will say to you what we said to the banks in these meetings. When we spoke to the banks at these meetings we were trying to get them to understand the Storm cash flow model. We never, ever said to the bank that they should waive their normal credit procedures. All we wanted them to do was understand how the Storm cash flow model worked and that this was an adjunct to what the clients were either receiving in income already or, if a client was not working, here was how the Storm cash flow model worked, but it was up to them as a bank to decide whether to accept it or not. Yes, Storm did ask the bank to accept it.

Senator McLUCAS—Storm said to the various banks, ‘Please accept this model.’ Can I put to you that the next sentence would have been along the lines of, ‘And if you don’t we’ll take our business somewhere else’?

Mr McCulloch—It was not so much the model that prompted Storm to go somewhere else. If nobody would approve finance based on the model, we would just have to take what the banks gave to us. There were probably four or five sources of finance that the bank had available, and it ebbed and flowed. One bank gave excellent service and one bank fell by the wayside. When that bank fell by the wayside and was not getting referrals from Storm it would ring us up and say, ‘Can we come down for a chat? How do we get back in your good books by getting more referrals?’ It was primarily service that dictated the relationship with the bank, not the credit policy.

Senator McLUCAS—It was put to us yesterday by Mr Dalle Cort that, when an investor came to Storm and there was a discussion about an investment going forward, the application would be sent to a number of banks, including the bank that the client currently banked with. Is that your understanding as well?

Mr McCulloch—Yes, that is my understanding.

Senator McLUCAS—Was the selection of the bank always on the basis of the best interest rate or the best financial outcome?

Mr McCulloch—Not necessarily. A lot of the emphasis was based on the service; how speedily the bank could put through the application.

Senator McLUCAS—It was how fast you could get it done—

Mr McCulloch—That is right, yes.

Senator McLUCAS—irrespective of the financial outcome?

Mr McCulloch—It was a combination of many factors. Certainly it is based on the interest rate, the fees, the size of the approval, but also the service. Storm did not want to wait 10 weeks for an investment application to be processed if it could be done by another bank in three or four weeks. Even though it was over a lower amount, we would recommend that to the client and the reasons for that.

Senator McLUCAS—Thank you.

CHAIRMAN—Senator Farrell.

Senator FARRELL—I would like to go back to your evidence about what the Storm clients were first told. You mentioned that they were advised that there were, for instance, allocated pension products they could take out. Can you go back and clarify exactly what a Storm client or potential Storm client might have been told were the options in terms of investment alternatives?

Mr McCulloch—Clients or potential Storm clients were advised, ‘What you’re going to hear from Storm is what you’re not going to hear from any other financial advisers. We’re going to be talking about advice along a certain area. If you want to know about allocated pensions, whilst Storm can do it we prefer not to do so. If you want to have that style of advice, you should definitely see another adviser.’ I think that is incorporated in the statement of advice. That was what was stated to the clients.

Senator FARRELL—Did any client ever take up any other product?

Mr McCulloch—I believe so, yes. There were a number of allocated pension clients of Storm, but not many.

Senator FARRELL—What happened to those people?

Mr McCulloch—Storm purchased a business in Victoria called Victorian Families. A lot of those clients had allocated pensions. Unfortunately, a lot of the allocated pensions were invested in MFS, which was a fund that had its income frozen. Even an allocated pension actually resulted in a poor outcome for those clients. It was not a recommendation of Storm to go into MFS, it was an inheritance on our part.

Senator WILLIAMS—What was the compliance sell with respect to Storm Financial?

Mr McCulloch—That was one area that we, as advisers, were told was very strong.

Senator WILLIAMS—Were you part of the bank or part of Storm?

Mr McCulloch—Both. The compliance from a statement of advice or from an advice perspective was controlled by Julie's section, the compliance cell in Townsville, and any advice before presented to the client had to be signed off by the compliance cell. That was clearly written within Storm's internal policy procedures. The compliance around a client's portfolio was tightly controlled by the compliance cell headed up by Julie. There was also ancillary confidence given in relation to the compliance of Storm. The banks had obviously looked at Storm on many occasions and had never, ever raised any concerns about Storm's style of advice. Storm engaged an independent firm in Sydney—and I am sorry, but I have forgotten the name—to undertake a compliance audit of Storm early to mid-2008 in readiness of a pending ASIC investigation. The head of this firm was an ex-ASIC operative and he was recommended to us by ASIC. That firm gave Storm's compliance team a highly committed report on its compliance procedures. When this was passed down to us as advisers there was not any concern. It was all ticks here, there and everywhere.

Senator WILLIAMS—Who made up that compliance cell? Can you name the people who were on it? There was Julie?

Mr McCulloch—Head of compliance was Julie. Head of cash flow was Carmela Richards. There were other people with authority in the compliance cell, such as Jodie Geismann, Siobham Bock and one or two others.

Senator WILLIAMS—Obviously the gate did not come down on a margin call when it hit 90 per cent, which is a very generous buffer as far as Storm goes, given by the financiers, whether it be Macquarie, CBA or Colonial. Was it then the attitude to try to ride this through and is that why you had a meeting in Sydney with Emmanuel? You had a meeting in Sydney with the bank in December. What was the general attitude of the bank? Was there an attitude that the bank said, 'We'll take you through this rough ride'? What happened in that meeting in Sydney?

Mr McCulloch—That meeting in Sydney was in late November or early December.

Senator WILLIAMS—Yes, the 3rd or 4th, I think.

Mr McCulloch—I believe that Colonial Margin Lending wanted to have a talk with Storm in terms of that May 2007 letter where they wanted to call an extraordinary meeting to discuss arrangements. Up till that date we were led to believe that the arrangements and spirit, that is, working together, would work. I did not know what the meeting was about until I got there. When I got there the meeting was about how Storm was going to address all of this negative equity in the margin loans. But the damage had already been done. There was not anything to address.

I remember Mr Cassimatis saying to me beforehand, 'I'm a bit concerned about this meeting. I think Colonial is going to come down very hard on us', and I said to him, 'It can't just be Colonial at that meeting. It needs to be Colonial Margin Lending as well as the retail arm of the bank, because one depends on the other.' If Colonial sells down the funds people cannot pay

back their home loans. If home loans default they are going to have to sell down investments, which were not there, to clear the home loans. I think there was a left-hand/right-hand syndrome in relation to the bank's decisions at that time.

Senator WILLIAMS—What was the situation when you left that meeting?

Mr McCulloch—Halfway through the meeting I knew that what we thought we were going down for was not going to be the case. I thought it was going to be a continuation of the working hand in hand process. I know Mr Cassimatis was going to offer up additional cash funds of Storm to support clients' positions. Obviously that was going to put stress on Storm. He was talking on the way down about having to sack up to 60 staff, shut down Melbourne and Sydney and cut the operation of Storm back to the bare bones. Halfway through the meeting I knew there was not going to be a favourable outcome. I said to Mr Cassimatis, 'We need to have a five or ten minute pause.' We asked the bank for a five or ten minute pause. We went across the road for a cup of coffee and I said to Mr Cassimatis, 'The bank isn't going to allow this arrangement to continue. You have to go back to the bank and it's going to be a do or die offer. You need to let the bank know that they can't shut down the funds. If they shut down the funds the market won't bounce back, they won't restore clients' positions to a'—

Senator WILLIAMS—It would crystallise the losses.

Mr McCulloch—It would crystallise losses. 'You need to let the bank know that these are index funds. It might take a year to bounce back. What you need to do is let the bank know that the risk to these clients now needs to be passed to somebody else. If the bank is concerned about our clients' position, offer to take over all the debt owed by these clients to the bank.' We went back and Mr Cassimatis put to the bank a proposal, 'You are worried about these negative equity margin loans. You've got the debt on your books anyway. You might as well give it to Storm, a strong corporate entity. We will take on the debt and pay you back over two, three or four years when the markets eventually recover. That way the clients' portfolios will be out of margin call.' Clients will not be happy, by the way, but that was an issue for Storm to address. Clients' portfolios would be out of margin call. It would get the credit risk people within the bank off the people's backs and the debt is transferred from 400 people to one person, which is Storm, over which the bank already had a charge.

Senator WILLIAMS—You were very close to Julie and Emmanuel. You were obviously doing their books and they trusted you. Did Julie own a company called Ignite?

Mr McCulloch—Yes.

Senator WILLIAMS—Did that company charge rent for software to the Storm franchises and so on?

Mr McCulloch—Yes.

Senator WILLIAMS—Is Ignite still going today?

Mr McCulloch—I don't know.

Senator WILLIAMS—To your knowledge, was it a successful company that had a fair bit of dough in it—as in money?

Mr McCulloch—The company was initially established in early 2000 and originally called Ozdaq Research, then Storm Research and then Ignite Research. It has had a number of name changes as well. Certainly in the early to mid 2000s a lot of money was lent by the corporate entity of Storm Financial to Ignite.

Senator WILLIAMS—Lent to it?

Mr McCulloch—Lent to it. The money was used to develop software systems and product research. By the time I left the accounting role in 2006 I think Ignite was a breakeven entity. This is only a supposition on my part, but after 2006 it should have been pretty profitable because it was receiving royalty income from all of the funds under advice.

Senator WILLIAMS—To the best of your knowledge that company is still going today and it became pretty successful?

Mr McCulloch—I believe so, yes.

CHAIRMAN—Mr Robert.

Mr ROBERT—You said that Challenger lent \$10 million to the Cassimatises, Storm, and that the incentive was that when the client loan reached \$1.5 billion Storm's personal debt interest would go to zero per cent; is that correct?

Mr McCulloch—The referral of investment from the margin lending business to Challenger goes to \$1.5 billion, yes.

Mr ROBERT—At the peak how much margin loan business actually went to Challenger?

Mr McCulloch—Nil, because Challenger could not establish a margin lending product, but in lieu of the margin lending product with Challenger the relationship was established with Macquarie Bank.

Mr ROBERT—Was there any incentive between Macquarie and Storm similar to that being negotiated with Challenger?

Mr McCulloch—Indirectly. I said in my statement that Challenger allowed the margin lending book—so there are two separate entities—to be counted as part of the Challenger target. That would be an executive decision on Challenger's part. I do not know what the relationship was between Challenger and Macquarie Bank to allow that to happen.

Mr ROBERT—In allowing the book to be used, and to get to \$1.5 billion, did the Cassimatis's loan get to zero per cent interest?

Mr McCulloch—I think the size of that book increased to \$500 million to \$800 million. Don't hold me to that. Before it got to the \$1.5 billion Emmanuel and Julie Cassimatis negotiated a loan with Macquarie Bank to pay out the Challenger facility.

Mr ROBERT—As the amount of client funds rose in the Challenger facility the Cassimatises benefited from a lower interest rate. Was there conflict of interest that you saw in that?

Mr McCulloch—There was a conflict of interest. When I say 'conflict of interest', there would be an incentive for Storm to direct business Challenger's way. Emmanuel presented the rationale for that referral of business to Challenger from the perspective that the Challenger index funds were identical to the Colonial index funds, but the Challenger index funds had lower fee structures than the Colonial funds. Therefore, from a client justification perspective, whilst money was being directed Challenger's way, the clients were benefiting from a lower fee structure associated with those funds.

Mr ROBERT—Were Challenger's processes whereby they assessed a person's ability to pay off a loan commensurate with other providers, and was the time taken to do it commensurate with other providers?

Mr McCulloch—Challenger was merely a best product provider. When you say 'paying off the loans' do you mean the Cassimatis corporate facility or clients' loans?

Mr ROBERT—No. When Challenger assessed someone's ability to borrow and so on, was that system of their assessment the same as Colonial First State's or some other provider's?

Mr McCulloch—Yes.

Mr ROBERT—Do you believe there was any conflict of interest in the arrangement?

Mr McCulloch—I don't think so. There was a benefit to all parties. Whether that leads to a conflict of interest, I do not know. When I say a 'benefit to all parties', Storm benefited, Challenger benefited and clients benefited from a lower fee product. I suppose there was a conflict, but I think that conflict was disclosed.

Mr ROBERT—If the Cassimatises were benefiting from reaching zero per cent interest, why go to Macquarie?

Mr McCulloch—Because part of the Challenger arrangement was an equity take-up provision. This is the time where Storm was preparing to go public and was preparing its IPO. As the arrangement stood with Challenger, if Storm did go public Challenger would automatically obtain 30 per cent of the Cassimatis business. If it was worth \$200 million, \$300 million or \$400 million, it would be a nice take-up by Challenger. Emmanuel and Julie Cassimatis were very keen to extinguish a Challenger facility before the float. That way Emmanuel and Julie Cassimatis would keep all the business rather than giving up 30 per cent to Challenger.

Mr ROBERT—You said Challenger's fees were lower than the average market.

Mr McCulloch—Yes.

Mr ROBERT—Were Macquarie's fees of a commensurate level with Challenger or were they higher?

Mr McCulloch—For clients or for Storm?

Mr ROBERT—For clients.

Mr McCulloch—Challenger was an investment product provider. Macquarie was an investment loan provider. It is apples and oranges. Challenger did not have a loan. You compare the Macquarie loan to the Colonial loan. The Macquarie loan and the Colonial loan were fairly similar. There was not much difference between the two.

CHAIRMAN—The IPO and the listing was obviously a massive undertaking and cost a lot of money with lots of people involved. There are major underwriters and major investors, as you have described. Why did it fail?

Mr McCulloch—There were two parts to the actual listing. There was a private take-up by individuals and there was an institutional take-up. I think there were only two institutional take-ups of the offer and I think Storm needed five or six. It was a combination of two or three things. This is a time when the market had just started to fall. Storm's public listing was to take place on the same day that Westpac offloaded BT. There was a massive listing on the same day as Storm and I do not think the institutions were comfortable to take offers in the Storm float.

CHAIRMAN—Who told you this?

Mr McCulloch—I think that is anecdotal.

CHAIRMAN—You said before, 'We were told'. What were you told and by whom?

Mr McCulloch—Emmanuel certainly told us about the Westpac BT on the same day. I know Emmanuel was in telephone calls with various institutions on that day to seek a take-up.

CHAIRMAN—That is a pretty big mistake to make when you are floating such a large organisation for many hundreds of millions of dollars. One simple, 'Oops. If only we'd done it a day earlier.' It seems like a tiny problem in the scope of listing a billion-dollar company. Was that the only—

Mr McCulloch—No.

CHAIRMAN—So, plenty of individuals were happy to take it up but not many institutions?

Mr McCulloch—That is correct. And I think one of the stockbroking firms—

CHAIRMAN—What did the institutions know?

Mr McCulloch—Some institutions took it up, but not many. I think two or three took it up.

CHAIRMAN—Were the two that took it up involved with the model itself? Were they linked to Storm?

Mr McCulloch—I do not know for a fact.

CHAIRMAN—You talked about a number of negotiations with banks about deepening relationships and obviously the models coming together between some of the bank lending procedures and Storm. A number had either not accepted or they took quite some time to do due diligence. Was it complex?

Mr McCulloch—It was complex from the perspective that the Storm style was different from that of most financial planning businesses out there.

CHAIRMAN—What was complex? I just do not understand what was complex.

Mr McCulloch—I do not think it was complex, actually. They said it was complex.

CHAIRMAN—Was anybody sure, though, whether it was or was not complex? It seems the banks spent an inordinate amount of time and resources on something that could have been explained in five minutes. Was it that complicated?

Mr McCulloch—No, it was not that complicated.

CHAIRMAN—Why did the banks, with all their experience, have trouble understanding it and why did it take so long to do due diligence?

Mr McCulloch—I think it was a lack of belief in the outcomes that Storm was achieving.

CHAIRMAN—Was it just too good to be true?

Mr McCulloch—It was too good to be true, yes.

CHAIRMAN—We have heard evidence that Storm had a philosophy that they would not take anybody in unless they spent 180 days with them. That is a lot of time and does not seem to sit with the evidence that you have given that, ‘Storm were always in a hurry. They didn’t want to wait weeks for loan approvals. The normal process time was too long. They wanted shorter times.’ Why wait 180 days, be so patient and then try to ram something through in just a matter of weeks?

Mr McCulloch—By this stage clients are committed to the process. Clients have been in contact with Storm for two, three, four or five months and—until 2008 obviously—they had come to Storm for a discussion about the cash flow or about the model, they would look at the projections of the cash flows, they would go away, come back, go away, come back and ask questions. During this two, three or four months all they see is the market going up. In the two, three or four months that they have been waiting to make up their own mind they see that the market might have risen 5, 10 or 20 per cent. There was this pressure, once they finally made up

their mind, to say, 'Okay. We're ready to go. We've waited four months. Let's go', and now they are waiting two months for money to come through. There was a service issue at the end of the process.

CHAIRMAN—You also said that Storm never asked the banks to waive any normal credit conditions. That is what you said just before. Is it true that the ANZ actually would not agree to a formal approach by Storm for a relationship and the reason for that was Storm had a standard process that asked them to waive all normal conditions of loan approvals?

Mr McCulloch—That latter part is incorrect. Storm never, ever asked. The processes that Storm asked to be waived were in relation to collecting data. Storm would collect the data on the bank's behalf. If the bank wanted two recent payslips—

CHAIRMAN—The bank would have checked that data?

Mr McCulloch—Absolutely. There was never, ever a request by Storm not to check the data provided.

CHAIRMAN—Was that sufficient for Storm to walk away from a potential very big agreement with ANZ, just because they would not allow ANZ to do its normal credit loan processes? Was that enough of a reason?

Mr McCulloch—Storm had a relationship with the ANZ. It just wanted to formalise the relationship.

CHAIRMAN—With conditions attached, but the ANZ refused those conditions?

Mr McCulloch—What Storm wanted was a central point to refer ANZ business to.

CHAIRMAN—Storm wanted to be the one that vetted and did the information collecting?

Mr McCulloch—Storm was prepared to give the ANZ Bank whatever the ANZ Bank asked. The ANZ Bank wanted to have its individual branches throughout Australia—

CHAIRMAN—Storm would control the information and then it would pass on whatever information others wanted?

Mr McCulloch—No. The bank would control the information. They would tell Storm what they needed and then Storm would get that information and pass it on.

CHAIRMAN—Not from the clients?

Mr McCulloch—Not directly from the clients.

CHAIRMAN—That is fine. That is all I needed to know. On the issue of fees, the seven per cent fee model is widely acknowledged and, in fact, I have heard anecdotally that the Storm approach was to say to people, 'If you can find an adviser that charges more fees than us let me

know, because I'll charge you even more.' Was seven per cent a reasonable amount on total portfolio? Is that low, high, normal or somewhere in the middle?

Mr McCulloch—I did not do any research on this so I am going by memory here. Normal fees from an adviser might be four per cent, plus an ongoing adviser service fee of half to one per cent. In the first five years Storm fees were very expensive, but after five years it should even out, and after that clients should be better off.

CHAIRMAN—Was there any other income at all from any other sources apart from the seven per cent?

Mr McCulloch—Yes. Storm received 0.35 per cent trailing commission on the funds invested.

CHAIRMAN—They were receiving pass-through commissions based on bank lends. Can you describe those?

Mr McCulloch—Yes. The only additional sources of income received by Storm were for the investment or index funds placed. The fund managers, by their very nature, pass on commissions to advisers or dealer groups. Those commissions range from 0.3 per cent to 0.6 per cent. Storm's take of that ongoing trailing commission was 0.35 per cent. Storm received the upfront fee from clients and they received an ongoing fee from the fund manager.

CHAIRMAN—Senator Williams has one more question, but finally from me: there is a lot that seems to hinge back to this critical meeting in Sydney where, if I understand it correctly from your evidence, at that point the entity Storm was prepared to carry everybody else's debt. Is that a normal business thing to do, to just take it upon yourself with no guarantees or agreement from the people, to just decide to carry someone else's debt?

Mr McCulloch—It was probably a last throw of the dice by Storm.

CHAIRMAN—Is that a normal ethical standard; that anybody would decide for all these people to just carry their debt?

Mr McCulloch—The choice for the bank was to seek the money from the clients. The debt was already out there. Instead of the debt being owed to 400 people, Storm undertook to have the debt owed to itself. It would be Storm that would take on the commercial risk of that \$40 million or whatever the magic figure was. But Colonial was more worried about the margin lending negative equity than anything else. They were not worried about the home loans that were associated with it. They just wanted their money back for the negative equity.

CHAIRMAN—When Storm was saying they were prepared to carry the debt, whose money was it that they would carry the debt with? Did Storm have a stash of cash somewhere where it could just come in and go, 'Here's a big giant bucket of money and we'll carry the debt' or did they ask for more borrowings to carry the debt?

Mr McCulloch—They asked for more borrowings?

CHAIRMAN—They wanted somebody else to carry the debt for them and then they would carry that debt for others?

Mr McCulloch—Yes.

CHAIRMAN—Senator Williams.

Senator WILLIAMS—Taking you back to when you worked for the CBA, did you approve loans for the Cassimatisses that had been rejected by the bank's lending principals?

Mr McCulloch—No. I do not think there was ever a finance declined by the bank.

Senator WILLIAMS—You never showed any favouritism to the Cassimatisses when you were working with the bank?

Mr McCulloch—No—normal standard commercial business. Once a loan amount went over \$100,000 it was not my discretion to approve. I could only approve up to \$100,000 in those days.

Senator WILLIAMS—Did you leave the bank to work with the Cassimatisses of your own free will? Were you getting a hint that you were going to get speared by the bank?

Mr McCulloch—No.

Senator WILLIAMS—Thank you.

[11.10 am]

DEVNEY, Mrs Kristy Lee, Private capacity

RICHARDS, Mrs Carmela, Private capacity

CHAIRMAN—Thank you for appearing as witnesses today. Do you have any opening remarks?

Mrs Richards—Yes. As mentioned in our submissions, I worked for the Commonwealth Bank for 20 years, the last 13 of which were in the lending area. I left the bank to join Storm in January 2000 and I remained there until it was placed into administration in January 2009. I started with the CBA when I was 15 years old and I never thought I would work anywhere else, but the bank changed dramatically in my last five years or so and there was an extreme sales culture that left little time for client service, which was a major deciding factor in my decision to resign. I found Storm to be the total opposite, where clients were considered the most important thing and anything you could do to assist them in any way was strongly encouraged. This was a culture that was bred by Emmanuel and Julie who, contrary to current public opinion, have always held the belief that only by helping others and doing the right thing by them can you help yourself.

Despite the things that have been publicly stated in the media, Storm and its staff were very ethical and the directors believed in education and transparency. The Storm process was not a hard sell, nor a quick process. On average clients took 180 to 200 days to complete their first investment. Some clients took as long as two years before proceeding. During this period they had many opportunities to discuss their strategy and have their questions answered. No fees were levied for this. The fees were only payable when the investments were placed.

With regard to the bank lending, the bulk of this was dealt with by the lending cell in our Townsville head office. The staff did not lie about income or assets. Anything that was told to the bank was as advised to us by the clients and with appropriate supporting data provided to back this up. We did not have any approval delegations and each application was subject to each of the bank's own credit assessment policies. From the quotes we received, the lending was fairly consistent. The lending to retirees at the higher levels became more prevalent in the last few years, with the ANZ and the Bank of Queensland amongst the first to provide this sort of finance to the clients. However, the Commonwealth and the National followed suit in more recent times.

We were always very clear if the investment strategy was to provide servicing for any loans and/or provide a living allowance to clients. Given that the major banks and a lot of others were actively seeking the Storm lending business we had no reason to believe that it was not considered sound and there was added comfort in the fact that they were willing to provide these loans. As we all know, the advent of the global financial crisis resulted in very large and rapid market falls, particularly in October last year, on top of already large falls. The banks were happy to accept government bailouts and guarantees, which caused a flight from equities to cash. The bank with the largest exposure to Storm clients, and the one that had profited most from the relationship over the past 15 years or so, was the Commonwealth via home lending, margin lending and the investment fund management. Both Storm and the bank had played a part in the

position the clients found themselves in towards the end of last year. When the Storm directors approached the bank to ask for similar assistance and for them to work together to ensure clients' positions were restored, they chose not to do this but instead embarked on a campaign of blame and pointing the finger away from themselves, particularly in the margin lending area.

Colonial Margin Lending has stated that it was Storm's responsibility, not theirs, to action margin calls. The last time Storm had to deal with margin calls was in 2003 and then only a relatively small number. The bank's procedure at that time was to issue a margin call in writing to the clients and to advise Storm as well. If the procedure had changed so much, someone should have let us know what our perceived obligations were and provided training on how to deal with them to ensure that both of us were on the same page. I find it incredible that when the risk was so much with the bank, when they were the ones that stood to lose if not managed correctly, they would release so much control and responsibility without being sure that each party clearly understood/agreed their role and had the systems and training in place to deal with it.

The rapid deterioration of the market in October last year resulted in Storm recommending a lot of clients switch some or all of their portfolio to cash. The large volume of redemptions caused a suspension in Challenger and Colonial First State investment funds. Colonial First State also chose to pay a distribution to clients, which in the case of most meant additional units were issued. There was a period of limited inaccurate information being available for at least three weeks. Information started to trickle in around 13 November and even then could not be relied upon as some redemption proceeds were unaccounted for. It was a very difficult period and impossible to get a clear picture of where the clients stood.

My own belief, rightly or wrongly, is that the Commonwealth Bank also provided one-sided information to ASIC that resulted in Storm advisers not being able to talk to their clients in December and without any explanation being able to be provided. This left clients distraught, with no understanding of events and with nowhere to return. The bank has since taken further action to ensure that Storm was closed down permanently.

The Storm investment strategy was something we all believed in, and staff and advisers followed it to the same degree as the clients. A lot of us have found ourselves in a similar position to the clients. I sincerely regret the position that clients of Storm, including all of us, now find ourselves in and I hope this inquiry assists in providing understanding of the events that occurred and some resolution and relief to these people.

CHAIRMAN—Thank you. Could you individually describe for the committee the role that you played? Can you tell us what you did at CBA and your relationship with Storm and then how you progressed across to Storm?

Mrs Devney—Whilst I was at the Commonwealth Bank I was a personal lender and I dealt with the Storm clients whilst I was there. In 2007 I came back from maternity leave and I was placed as a personal lender at Thuringowa, where I was not exactly happy in a sales role. I had discussions with Storm over the years about leaving. It was never a good time, but after having my third child I believed that was a good time to leave the bank, because it was not what I wanted to do anymore. In May 2007 I left the Commonwealth Bank and went to work with Storm Financial. Whilst I was at Storm I was the head of lending in the lending cell.

CHAIRMAN—Can you tell us briefly your qualifications?

Mrs Devney—I do not have any qualifications. I did grade 12.

CHAIRMAN—I am sorry if somebody has the wrong idea. It is meant just to be a normal, polite question. I have asked the same question of everybody. I am not trying to put any pressure on you. I am just trying to understand your role.

Mrs Devney—I have 12½ years experience at the Commonwealth Bank.

CHAIRMAN—Thank you. Ms Richards.

Mrs Richards—I had 20 years with the bank, 13 of which were in retail lending, and then about three years in the business banking area. In the last couple of years I was with the bank I was on the other side of things. I was providing quotes for the Storm business and another financial planner who did a similar thing. I am just trying to remember, I am sorry.

When I left to join Storm I started initially as just a data processor, going through the system, inputting clients' details, preparing statements of advice—more on the processing side of things. I spent nine years with Storm and during that time I became pretty familiar with the processes of the business. I learnt a lot at the side of Julie and eventually was managing the compliance and cash flow cell area and overseeing the general processing side of the business.

CHAIRMAN—How would you describe the centralisation of all of the processes? We have heard from a range of people and submissions that everything was centralised.

Mrs Richards—That is pretty accurate. Townsville was the head office. The processing cell was in Townsville. It made it easier for us to ensure that Storm's own compliance arrangements were being dealt with, because everything was vetted and checked through Townsville head office. The descriptions that have been provided seem to me to be very accurate.

CHAIRMAN—You mentioned that staff did not lie about income and so forth and that it was all provided by the clients.

Mrs Richards—That is right.

CHAIRMAN—We have heard from some customers that they just signed forms that were blank and then somebody else would go and fill those out for them.

Mrs Devney—With the home loan applications that were sent to banks, as we have spoken about, the quotes were sent out, which was a profile given to us by the client. The information was taken from that to get the quotes. When the clients decided to go ahead with Storm a statement of advice was signed. Every bank has its own requirements. Westpac required a full application signed by both the borrower and the guarantor. The clients had to fill that out. It did not go past my lending department uncompleted in the 20 months whilst I was there. With the Commonwealth Bank we sent a go-ahead with supporting data that the client had provided to us. On our go-ahead we told the bank to contact the clients, gave them contact phone numbers—work, home and mobiles—and the address of the property of the security that we were taking. It

was up to the Commonwealth Bank to contact the clients. The same thing happened with the Bank of Queensland; the go-ahead and the profile were sent. They were to contact the client. It was a simple template that we used with the same information to go to all of the banks.

CHAIRMAN—Just so I understand this, you are saying that no empty forms left Storm? All the forms that left Storm were all filled in? You do not know who by, but they were all filled in?

Mrs Devney—They had to come to my department.

CHAIRMAN—Were they all filled in?

Mrs Richards—We did not complete bank applications. We would send our own form of advice listing the client's position. As far as I remember, all of the banks—and we have had discussions with them on many occasions over the years—were adamant that their credit policy was that they had to confirm that with the client, and that was perfectly acceptable. We understood they would either do a face-to-face interview depending on the bank or they would do it over the phone. As to the indications afterwards, we got a lot of feedback from them saying, 'We spoke to the client and this doesn't match.' Or, 'You said they earned this amount of income, but that's not really right.' There was feedback to suggest that was occurring so I am a little bit surprised to hear that it maybe was not.

CHAIRMAN—Can you give us a better understanding of the process? Whatever forms there were when you had them at Storm would leave Storm with the signatures and those signatures were—

Mrs Richards—No.

CHAIRMAN—Were they unsigned?

Mrs Richards—Yes, of course. It was not an application. The client would fill out a financial profile, which was all of their financial data, for us. Before we even decided to approach the banks we needed to have a complete picture of the client. They would fill out a financial profile, which was name, address, dependants, where they worked, how their health was, what sort of insurance they had, what their expenses were, what their income was and what their assets and liabilities were—the stuff that normal financial planners have to obtain. We would condense that information down into an Excel document, which was a summary of the client's position. That was submitted to the banks for them to provide a quote. There was a bank submission kit signed by the client which okayed for that information to be divulged, and the various banks each had their own privacy document the clients had to sign to okay them to talk to us. That was sent to the banks and then when the client decided to go ahead we would simply send them an email or a fax or something written to say, 'The client is happy to go ahead. Go ahead and do your application.' The application was generally completed by the bank.

CHAIRMAN—When you say 'generally', what does that mean?

Mrs Richards—The application was completed by the bank, apart from Westpac, who insisted that the client actually submit a formal written application, which was their standard document.

CHAIRMAN—Why would Westpac want the client to do that? So, that wasn't happening?

Mrs Richards—The banks have their own policies and their own credit procedures. I have no input into why they do that or why they do not.

Mrs Devney—That was Westpac's policy. They needed the application filled out.

CHAIRMAN—Westpac needed something in writing that was different from the others?

Mrs Devney—Yes, different from the others. The others would do the phone calls. I am pretty certain Alba*** used to call them as well. The Commonwealth Bank would call and had called for many years whilst I was there.

CHAIRMAN—If I understand it right, there were no loan applications—none—made at Storm?

Mrs Richards—It is never safe to say 'none'. The majority would not. There may have been one in the course of 15 years, but generally we did not fill out loan applications.

CHAIRMAN—So, clients did the loan applications themselves directly with the banks?

Mrs Richards—No, we did not say clients did the loan applications directly with the banks, I am sorry.

Mrs Devney—The banks should have called the clients and taken the application over the phone or had a face-to-face interview. That was our understanding. If the bank did not do that, I cannot help that. Whilst I was at the Commonwealth Bank, in the seven years that I was here in Townsville, I always had to confirm with the clients.

Mrs Richards—We cannot confirm what the bank did or did not do afterwards.

Mrs Devney—If we chased up why the application had not been processed, why we had not got a valuation amount back, the feedback that we were getting from the banks was, 'I'm waiting for the client to call me back' or 'I have to call that client', whatever the case may be. We were under the understanding that the customers were being called by the banks. The bank has their own internal policy that they need to deal with as far as contacting clients, but as far as we are concerned the banks that we dealt with should have been calling those clients.

CHAIRMAN—Thank you.

Senator MASON—Thank you for your evidence this morning. It is very valuable to the committee. You are obviously under pressure. No-one has sought to pressure you in terms of your written or oral testimony today, have they?

Mrs Richards—No.

Mrs Devney—No.

Senator MASON—Did you write your submissions yourselves?

Mrs Richards—Yes.

Mrs Devney—Yes.

Senator MASON—I would like to ask a question that I related to the previous witness about margin calls. On page 6 of your submission, in paragraph 4, you state:

The Commonwealth Bank has stated that Storm was adamant that as the customer's financial adviser it was its responsibility, not theirs, to action margin calls. This is not true.

Mrs Richards—That is not true.

Senator MASON—You then state:

Whilst Storm has always been happy to assist clients in Colonial with the margin call process, we understood the bank had their own processes for advising clients of margin calls.

Mrs Richards—That is correct.

Senator MASON—What was that understanding based upon?

Mrs Richards—In 2003 the clients were written to.

Senator MASON—In previous years?

Mrs Richards—In previous years the clients received a written advice from the banks stating, 'You are in margin call. You have X amount of time to deal with it.' Again, we had not had margin calls up until 2008. There was no revisiting the position. There was no discussions about who would do what. We just assumed they would continue to do what they had always done, and what we always did was ask that they let us know because otherwise the client would be ringing us anyway and we might as well work together as quickly as possible to resolve that.

Senator MASON—You would be informed by the bank before the bank phoned the client?

Mrs Richards—Or at the same time so that we knew what was going on.

Senator MASON—Were you concerned that margin calls were not being made?

Mrs Richards—To be honest, I did not think about it. We were very busy with the rest of it and I just thought everybody had their own part to play; they had their role, we had ours, we were doing our bit and they were doing theirs. Perhaps that was naïve of me, but we were very busy with a lot of other things.

Senator MASON—But you assumed that it was the bank's responsibility?

Mrs Richards—Definitely.

Senator MASON—And it had been in the past?

Mrs Richards—It had been in the past.

Mrs Devney—I had a Macquarie margin loan. I did not bring it with me today, but I went through and had a look and it clearly states that they will contact us, as the client, in case of a margin call. If they are unable to contact us they will contact a second person, which I assume would be our adviser, but they were to make contact direct with us. That is in the very first paragraph under margin lending.

Senator MASON—When you say ‘us’, what do you mean?

Mrs Devney—The client.

Senator MASON—I know we are running out of time, but I have a cultural issue to raise. We heard evidence this morning from the first witness that Mr Cassimatis has had a big part to play in the Townsville community over many years. Is that right?

Mrs Richards—Yes, he is well known in the community. He has been a large supporter of various charities. They are high profile, of course.

Senator MASON—So, many friends, relatives and so forth would have advised people to work with the Cassimatises both in previous iterations of his business and of course with Storm; is that right?

Mrs Richards—I would assume so, yes. A lot of our staff were hired from referrals from others.

Senator MASON—Was referrals a big part of your business?

Mrs Richards—Yes, very much so.

Mrs Devney—On the website it stated that 75 per cent of our client base was from referrals.

Senator MASON—Hence the number of people in this room. Thank you.

CHAIRMAN—Senator McLucas.

Senator McLUCAS—Thank you for appearing today. I would like to talk to you about something a little different from what we have been talking about earlier, although if we have time I might come back, because I am not following who fills the form in but we will get there. You are both former CBA employees. I want to talk about lending targets and how they work. I would like to seek your opinion about how that changed your practice as a bank employee. Can you talk to me about that?

Mrs Devney—The targets were set by higher than the area office. It comes from Queensland region and higher. It depends on the area and the amount of business that you are writing at the time. They do try to level it out amongst all areas evenly, but if one part is actually having a substantial amount of growth they may increase that. Whilst I was at the bank that actually happened one year; a little way into the financial year the target for the North Queensland area increased because they were doing so well and other areas of Queensland were not. How did this affect the staff? A lot of people left the bank. There are people in this room who are ex-Commonwealth Bank staff—one was in lending and one was a customer service officer. I believe that part of the reason they left was the sales targets that were put on people. You had to have so many mini finapps.

Senator McLUCAS—You had to have so many?

Mrs Devney—Mini finapps is what the Commonwealth Bank used to call it. You had to ask customers all these questions about their finance and what their goals were in the past few years. The customer service officers were taking on roles to get referrals to other areas of the bank. I guess that is part of their duty of care—cross-selling.

Senator WILLIAMS—You were virtually forced into a hard-sell situation—to sell money from the bank?

Mrs Devney—Whether it was a personal loan or whether you needed to go and speak to a financial planner about superannuation or whatever the case may be, people at the front line—let's take this away from lending—the front line tellers, have to have so many referrals to the customer service people to open up so many accounts. There are targets all throughout the bank. It starts at the bottom and works its way to the top.

Senator McLUCAS—Were they quota based?

Mrs Devney—Yes.

Senator McLUCAS—Each individual had to have a target for activity?

Mrs Devney—Yes.

Senator WILLIAMS—Each individual employee or each individual branch?

Mrs Devney—Individual employees.

Mrs Richards—When I left, which was nine years ago—I am trying to remember correctly—one of the things that really drove me crazy was that you had to do 18 finapps—financial analysis; that is, cross-sell so many products—and you had to report on it, which meant you had to break up your day and say how many you were going to do a day and work out who you were going to target to do this. I was very much service oriented and not sales oriented. To me sales comes as a result of service, but there was not a lot of time to do service.

Mrs Devney—Not only that; there was a team in Townsville, and I believe in other areas of Australia, for teleconsulting. They had a team set up of a night-time, based in the Townsville

area office, that did teleconsulting. They had the blue mini finapp cards that they had to write down the details of what the customer said, and fill out referrals to other people. It is not just lending, term deposits or financial planning. It is at the basis of the referrals and targets for the everyday teller; they had to sell.

Senator McLUCAS—Turning to the part of the branch where the loans were being sold, you said earlier that there was an increase on the target for the Townsville region.

Mrs Devney—I came in in 1999 and got into lending. I got my first personal lender job in 2000, and the targets were always increasing every year for this area. We had the No. 1 mobile lender in Australia in this area. Not only that; we also had the Storm referral, which was what I and others considered to be the biggest single referral in Australia—and which did not get paid.

Senator McLUCAS—The bank just continued to increase the target for the Townsville region, which was then allocated to each of the individual—

Mrs Devney—The Townsville region goes from Mackay out to Mount Isa and up to Ingham.

Senator McLUCAS—Each individual was given a personal target?

Mrs Devney—Yes.

Senator McLUCAS—What does that do to the behaviour of the bank officer if they have to reach a certain target?

Mrs Devney—You have to find ways and you have to motivate the staff to get you the referrals. The referrals often walk through the door quite easily, but you have to find ways to motivate the staff. You have to give staff incentives and things like that to motivate the staff to do that. As I said, people left the bank because they were not happy with having to have those sales targets and those pressures put on. A lot of people believed that service would bring referrals, and I believe that is the case as well.

Senator McLUCAS—Thank you.

Senator WILLIAMS—Thank you for coming along today. I know it is difficult for you, but feel relaxed; we are not vultures or animals.

Mrs Richards—I was waiting for you to bite.

Senator WILLIAMS—My bark is hopeless as well. In your submission you disagree with several things that the Commonwealth Bank has said in its submission. You state:

The Commonwealth Bank has stated that Storm was adamant that as the customer's financial adviser it was its responsibility, not theirs, to action margin calls.

You state, 'This is not true.'

Mrs Richards—We did not have the right to exercise a margin call. We did not have the right to issue a margin call to the client. We certainly helped with fixing it. We certainly reported on the action we were taking to help a client fix it, but we did not action a margin call.

Senator WILLIAMS—You say it was the responsibility of—

Mrs Richards—The bank, the margin lender. They carry all the risk. How can it not be?

Senator WILLIAMS—Would you agree that the banks, in plural—not just one particular bank—were great supporters and keen to lend into the Storm investments?

Mrs Richards—Without a doubt. We had so many organisations chasing us to be the main provider of our business and to try to get a slice of it—all the time. It happened for years. We would have so many people come and see us about it. That would indicate that the lending was reasonable. I do not know.

Senator WILLIAMS—The banks may have viewed Storm Financial as a river of gold for them to lend money and obviously to make money out of?

Mrs Richards—Pretty much.

Mrs Devney—Yes.

Senator WILLIAMS—Would the higher levels at the banks have had a clear understanding of the Storm plan and how it worked?

Mrs Richards—I believe so. As we said, there have been a number of executives who have gone through the model, the sources of funding for the investments and how everything worked. Mr Cassimatis was always very keen to explain that in detail to make sure people understood how it worked. Over the years there have been numerous representatives of the bank. I named some of them, but there were more. They have all had many discussions with Mr Cassimatis about that. If the various sections/areas did not somehow connect the dots I find it hard to believe.

Senator MASON—They knew the model—

Mrs Richards—Mr Cassimatis always went through the cash flow model with them.

Senator WILLIAMS—Do you think with the submission that the bank has put forward to our committee they are playing the blame game and simply blaming staff and people up here in Townsville?

Mrs Richards—I certainly do. That was one of the main reasons we decided to address it. We feel that they are blaming the Townsville staff, some of them specifically, and the area in general—

Mrs Devney—And us.

Mrs Richards—Yes, and ourselves as ex-employees as well. They are saying that a lot of it was the pressure that we exerted, that they did not realise the depth or extent of the relationship or the business. I find that very hard to believe. They would know to the cent how much profit they were making.

Senator WILLIAMS—Weren't staff here rewarded, say, taken to the Gold Coast on good weekends where they met with the CEO and were probably treated with a glass of champagne for their success?

Mrs Richards—They were.

Mrs Devney—As Mr McCulloch said, Storm's relationship has been around for a long time. I will specifically talk about the Commonwealth Bank. There was a gentleman from business banking by the name of Kevin Lefever.

Senator WILLIAMS—I am sorry, I missed that.

Mrs Devney—Kevin Lefever was a risk manager in business banking. When I first came to Townsville Kevin had to approve all of the lending for Storm. We did not go through this in the submission because it is long winded, but it is something that I need to bring up now. Kevin had a policy for Storm Financial clients and the lending. The loans had to be written over five years, with a five-year loan term. The everyday person could go into the bank and get a 30-year loan term. For the Storm clients, where it was for investment, it had to be for five years and five years interest only, which had to be reviewed. There was a letter that was done up by the legal department. I do not have a copy of it, but our clients had to sign it with their loan documents. That was one of the documents that the bank sent out to us. That document stated that the bank has not given them any advice on it and they would seek their own legal opinion and so on. Knowing that something may be wrong but, 'It's your responsibility to find that out.' I do not believe that anything was wrong with our lending or the model.

During Gavin Gribbin's time, who was the area manager here in Townsville, he went to the legal department and got that waived. I cannot remember the year that Gavin was here. It was 2003 or 2004—something like that.

Senator WILLIAMS—What was his surname?

Mrs Devney—Gavin Gribbin. It was changed for Storm's clients to be the same as every other client. There was no strict policy. They could have a 30-year loan term with a five-year interest only period. Again, the Storm letter had to be signed. In the consumer credit schedule—you know how we all get the eight pages in the loan contracts that we have to sign—at the bank, for the loans processing centre to do up the document, you had to put 'Storm clause' in section L. There was a special clause as well that went into the Commonwealth Bank's Storm investment loans and home loans. You can't sit there and tell me and they can't sit there and tell me that nobody knew about this when the legal department did up a special letter that loans processing centre had to put a special clause in, which had to come from the people here. It was called a Storm clause.

Senator WILLIAMS—A Storm clause?

Mrs Devney—It is a Storm clause, or Ozdaq clause. It changed over the years. That had to be put in. On your CBH11, which was a document you had to send down to LPC—talking bank jargon now—you had to put that in. That was a requirement.

Senator WILLIAMS—Didn't they even have their own BSB here for Storm clients that the bank had established?

Mrs Devney—That is only recently. A few years back, Storm's lending was put into North Queensland area mobiles, which was BSB4025. It tried to separate from being directed to one branch. What happened was the mobile lenders—I do not know how it came about—and 4025 came into play and that is where all Storm's business was going. I believe in 2008-09 the Commonwealth Bank gave Storm its own BSB. So, they had a way of tracking it. There is a number of ways they could have tracked it. I do not know how, but all the Storm clauses were in section L. LPC would have had that data. When the computer system was upgraded to COMC—I was on maternity leave—the lady who was doing the job, if there were any questions in relation to that client she could refer them all the Commonwealth Bank North Queensland area retail. That was what we did. The Commonwealth Bank here looked after everything for our clients. They looked after loan balances, savings account balances, loan switching forms, loan release forms and loan application forms. They did everything. Up until 2008 there was one or 1½ people looking after that portfolio. I will use the word 'portfolio' because that is what it was. They were doing all the maintenance for it.

In 2008 we had a visit from Leona Murray, who became the North Queensland manager of personal lending. She was in charge of all the North Queensland personal lenders. She had a meeting with Ms Richards, me and a couple of the girls from the Commonwealth Bank. During that meeting we explained to Leona what we wanted. Service was the big thing. Service at the Commonwealth Bank over the years was up and down, depending on who was doing the service.

I mentioned to Senator Williams that in 2005 I was on maternity leave. I went on maternity leave in January and I was on paid long-service leave. The lady who took over my position as being the Storm person got a position in business banking. They then put somebody else in that position by the name of Tanya Couch. Unfortunately, Tanya was not skilled enough and there had been complaints from Ms Richards directly to Sean McDonald, who was the area manager. I actually went back and worked for the Commonwealth Bank whilst on paid leave. I was working every Wednesday between 9.30 and 2.30 so I could pick my daughter up from prep, and I was also doing the quoting from home. During this time the bank's referral had decreased and they were worried about the amount of money it had decreased by. At the time I do not believe Storm was taking money away from the Commonwealth Bank as in refinancing any of their loans, but they were not getting new business. I believe the Commonwealth Bank knew how much Storm really put through.

Senator WILLIAMS—I am still confused on the loan applications. I have had Storm clients call my office, talk to me and say, 'We've seen our application. There's all these figures. We were pensioners and we had a \$100,000 income put down.' Who put those numbers on those application forms? Was it Storm or was it the bank themselves? It was not the clients, from what I have been told.

Mrs Richards—We did not fill out applications in general for clients. There may be the rare ones that we did, but in general we supplied an extract of information. That will be on every client file. If the investment strategy allowed for a living allowance to be drawn from the plan, we would state that it was a living allowance. If the plan was also expected to cover loan repayments we would say that.

Senator WILLIAMS—You have stated that where anyone relied on the income from their shares/investments to pay their loan you would stipulate that to the bank.

Mrs Richards—We would state that. As to what was put on the applications, the bank then extracted that information, did or did not speak to the clients and completed the application, from my understanding.

Senator WILLIAMS—Your understanding is that the bank filled those figures in on those applications?

Mrs Richards—They filled out the applications, yes.

CHAIRMAN—Then the clients would sign the form?

Mrs Richards—Then the clients would sign the form.

CHAIRMAN—At the bank?

Mrs Devney—The Commonwealth Bank did not need an application signed. That is not part of their requirements.

CHAIRMAN—There was no need to sign an application?

Mrs Devney—There was no need to sign an application. The Commonwealth Bank clients would never have seen an application, because there was no need for them to sign an application. The Bank of Queensland did have an application put through that the clients had to sign. I would like to just go back to a couple of the banks.

Senator WILLIAMS—I will just stop you there for a minute. You are telling me that if I came in off the street and saw you for some Storm advice and I wanted to make an investment, if we were going through the Commonwealth Bank you would give them the information and they may or may not ring me. They would fill in the figures on the application form and I would get that loan without even signing an application form?

Mrs Devney—That is correct.

Senator WILLIAMS—I just find that amazing.

Mrs Devney—If I go there as a client off the street and want to buy an investment property, I do not have to sign an application form. You have to sign personal loan application forms, but not home loan application forms. There is a difference. If we can go back to the banks for a

moment, the Bank of Queensland, for anybody who had any investments with Storm, needed us to do up Storm letters.

Mrs Richards—The Storm letters basically just said clients will have X amount invested, depending on what their plan was, were relying on growth of whatever amount for it to be viable; the share market has returned, say, 13.6 per cent over the past little while, and you would give them a graph to back it up. You would say, ‘This is what we’re working on. This is what we’re basing our analysis on.’ It was up to them whether they were happy to accept that or not.

Mrs Devney—That was with the Bank of Queensland. The Commonwealth Bank, at one stage, did accept that Storm letter for our retirees and then they said they would not. In 2008 we gave them our IRR page, which is a page of formula, that gave them an average rate of return for what that particular client had been receiving on their investments since being with Storm. I believe that was accepted by the likes of Steve English and Tony Pollock, who I have mentioned in our submission, for our retirees to receive borrowings.

CHAIRMAN—Did you do that for all the Storm clients—everybody?

Mrs Richards—Only when they asked for it.

Mrs Devney—It was mainly for the retirees.

CHAIRMAN—Who asked?

Mrs Devney—If they were retirees looking at extracting further equity from their properties.

CHAIRMAN—They would ask you to do that?

Mrs Devney—We would send it through. We had sample cases to see if these guys would accept it. We asked the credit officers on a number of occasions during my 20 months at Storm to come up and have a chat to us. They did not.

Senator WILLIAMS—Credit officers of the bank?

Mrs Devney—Yes. The National Australia Bank did. Mr McCulloch and I sat in there for a day with the credit officer from National Australia Bank going through our cash flows. Mr McCulloch went through the cash flow with the credit officers at National Australia Bank, and they were more than happy to accept that.

CHAIRMAN—Which cash flow?

Mrs Devney—Our clients’ cash flows.

CHAIRMAN—Is that for individuals?

Mrs Devney—Yes.

Mrs Richards—It is the individual cash flow for each client.

Mrs Devney—Mr McCulloch pulled up one and explained the cash flow to the credit officer. It meant that when we did bank lending for National Australia Bank the National Australia Bank wanted to see certain pages of our cash flow, which was fine. We agreed to that and we did it.

CHAIRMAN—And then they followed up with a formal relationship and did all the lending?

Mrs Devney—Yes. National Australia Bank called our clients. If the client was an existing National Australia Bank client we could sign them up in house with the loan documents. If they were not an existing National Australia Bank client they had to sign them up in their office.

CHAIRMAN—Senator Farrell.

Senator FARRELL—Thank you for coming along today. I just wanted to continue along the lines that Senator Williams was asking you, and this idea that the CBA was overstating people's income. Are you saying you knew that that was occurring?

Mrs Richards—No.

Mrs Devney—Not overstating the income; we cannot say that at all. We provided them with the information that we had, which was the IRR page. You have to remember, as per our submission, the Commonwealth Bank had regular quarterly audits. The 300 files which I was told in January had occurred were from a special audit. Obviously Storm was going down; the bank knew that. The bank was probably the first one to know that was happening, and they were scared. As far as I am concerned, they were scared and they wanted to make sure that they had all their i's dotted and their t's crossed. In here they say that we put pressure on them. The people that we were dealing with at the Commonwealth Bank had over 60 years of experience amongst them. It went from 1½ people in 2008 to five people after Leona Murray came and spoke to us. During the 2007-08 financial year we had up to eight or nine people working on our Storm files within the Commonwealth Bank. There was a lot of experience there, so for them to say that I put pressure on them, when they had over 60 years experience, is not acceptable. I am sorry, but I do not accept that.

Senator FARRELL—I am not saying you put pressure on them.

Mrs Devney—I probably put pressure on them in a business way, but seriously if you think one person who had 12½ years experience with the bank could put pressure on people with a combined experience of over 60 years, that is not right.

Senator FARRELL—There are reports that the bank was, in fact, overstating the incomes of the applicants.

Mrs Devney—We did not see the applications. Bank of Queensland applications came through me. We did not look at the applications because we were worried about documents and making sure that the documents were correct that our clients were signing. The bank has its own internal audit. We gave them the information. Again, it is part of the puzzle. They have their own

compliance to deal with. We have our compliance and they have their compliance. They have to deal with their compliance and take ownership for that compliance, as far as I am concerned.

Senator FARRELL—Were you ever aware of any instances where the bank did not follow its internal procedures?

Mrs Devney—No.

Mrs Richards—It is not something we have checked up on.

Mrs Devney—That is not up to me to follow up. I had my own job to do. We had five staff in my cell at one stage, so I had to make sure that they were doing the right thing. We have advisers calling us saying, ‘Why aren’t the customers in the market? Where are the bank documents? Where are the loan documents?’ We would go back to the banks and we would do that. We were just a liaison between the banks. Whilst we tried to get concessions for all our clients, that was always there. Bank of Queensland took away the concessions at one stage and so we were not getting any special concessions as we had previously due to the financial crisis. The Commonwealth Bank tried to take it away from us. Ms Richards and I literally sat there and said to them, ‘If we were a broker you would be paying us a lot more money than the discounts being passed on to our clients, and that is not acceptable to us.’ That is what Mr McCulloch was talking about. The Colonial special policy was Colonial Third Party, which is a brokering firm of the Commonwealth Bank.

CHAIRMAN—Mr Robert.

Mr ROBERT—You said there was some confusion over who was responsible for margin calls. Is that correct?

Mrs Richards—Yes.

Mr ROBERT—Central to the inquiry are any changes to the Corporations Act, especially with margin loans. In June 2008 there were 206,120 clients with margin loans and there were 1,000 calls a day happening. Up to September 2008 there were 2,000 margin calls a day. The system seemed to work well across the nation except for one area—between Commonwealth and Storm. That appears to be the only major breakdown. The Commonwealth seems adamant that you were adamant that you were responsible for them. You have indicated that is not the case. Therefore, in any of your Ts and Cs does it say that Storm was responsible for margin calls?

Mrs Richards—Not that I am aware of.

Mr ROBERT—Ms Devney, you have said that in your personal circumstances with Macquarie that Macquarie made it very clear in their Ts and Cs that Macquarie was responsible for making margin calls upon the client and would inform a second party. Is that correct?

Mrs Devney—Yes.

Mr ROBERT—In your combined experience of working with the Commonwealth Bank, if I went to do a margin loan with Commonwealth Bank what would the Commonwealth Bank's Ts and Cs say about whose responsibility it was for a margin call?

Mrs Richards—I cannot quote from that. I would have to get the brochure out and have a good look. I am sorry, I cannot quote that straightaway.

Mr ROBERT—Did you ever see the information that the banks provided to your clients with respect to margin calls?

Mrs Richards—We handed them the product disclosure statement. They had to have a product disclosure and their terms and conditions. That was always given to the clients, but truthfully I cannot say that I remember word for word what it says about margin calls.

Mr ROBERT—Do we have a copy of the PDSs from various banks?

CHAIRMAN—We can get those, but we do not have time to go through that right now.

Mrs Devney—What our clients received and what the Commonwealth Bank clients received should be the same thing. If you are using Colonial Margin Lending products it should be the same. Our clients should have received the same thing as if the client went to a Commonwealth Bank financial planner.

Mr ROBERT—What was Storm's written process? If a margin call occurred what would Storm do?

Mrs Richards—We did not have a written process for what we would do, but the process was that, if we were advised that a client was in margin call, we would have a look at it in the compliance area from the information that we had on the file already to see what we could do to fix it quickly and easily. As well as that, we would let the adviser know and ask the adviser to talk to the clients about it and see if they had any resources or anything that they could do to fix it as well. That was the general process. However, somewhere in the middle of October we had 600 clients theoretically go into margin call. If you looked at the Colonial Geared Investments website for any period after that for a number of weeks there were 600 clients in margin call, but that information was not correct. Colonial themselves, as far as I recall, did not give me any information on clients that were in margin call for that period for a good three weeks. Were we issued with margin calls? Yes, generally we were advised. Was it reliable to look at their website and understand who was in margin call and who was not in that period? No, it was not. Was Colonial actively following up on the margin calls during that period? No, they were not. The process is very hard. The normal process is easy. You let us know, we will deal with it, we will let the client know, we will have the adviser talk to them and we will give some advice about how to fix it and we will put it in writing once that advice is formalised. And a bit of toing and froing beforehand. But it was not normal in October.

Mr ROBERT—What protocols did the banks give to you as to how they would advise you on a margin call?

Mrs Richards—Generally an email with a spreadsheet.

Mr ROBERT—That was how they would do it. But in a business-to-business relationship I would have thought there would be a protocol that says, ‘I’m a bank. If this occurs we’re going to tell you in two days. Here is how we’ll tell you. Here is how we’re going to work. Here’s the relationship.’

Mrs Richards—As far as I am aware, and as to our responsibilities to deal with it, that is, that we are not going to tell the clients anymore or we are not going to provide it in writing, there was nothing given to us to say that that was the protocol from whatever period it was that they decided to stop writing out to the clients. There was no protocol for that.

Mr ROBERT—In summary, can I say there was no protocol from the banks to you on how margin calls would be called in or how they were to be dealt with?

Mrs Richards—Not that I am aware of.

Mr ROBERT—You had nothing in your Ts and Cs that said you were responsible for margin calls?

Mrs Richards—Again, not that I am aware of.

Mr ROBERT—It is your understanding that the banks were responsible, because they obviously held the risk, and there was no process in place to deal with it?

Mrs Richards—Yes, that is my understanding. If they had let us know, then we would, of course, do our best to work with them, but I do not believe there was a formal process ever documented. I could be wrong.

Mr ROBERT—Thank you.

Senator MASON—Was that from any bank?

Mrs Richards—A formal process? I do not believe so, no.

CHAIRMAN—Thank you very much. We know it was really difficult for you and we really appreciate your time.

[11.58 am]

QUINTON, Ms Desley, Private capacity

CHAIRMAN—Welcome. Do you wish to tell us your story and make some opening remarks?

Ms Quinton—Yes. I was recommended to Storm by a friend who was quite happy with the service she received. At that stage I fully owned my home in Cairns and I had a mortgage on the home I am in now. I went to Storm and spoke with Dean Thompson. He was the one who took over my portfolio development. His advice was to dispose of my property in Cairns, because it was a financial liability. I am in my fifties. I am in the sunset stage of my working path/career and I do not have the benefit of a long-term super. I thought, yes, I can transfer the sale of my home in Cairns and pay off my home in Townsville. His response to that made me feel like I was very old, antiquated and a fossil for having the view of home ownership as a support and security. He strongly suggested and recommended that I allow him to invest the money with Storm. At every stage I have said to Dean and the other staff that I have spoken with, ‘I am not a risky investor. I do not want to lose my option of home ownership. It is the only security I have.’ I was guaranteed every time that I would never be in a position to lose my home. I allowed them to take that money from my sale in Cairns. Dean invested it. Sometime later he said, ‘Come in. You’re making money. You can have another loan.’ In full faith I went in and did that.

Dean subsequently left. He went to Victoria to start up a branch down there. I had difficulty with timely responses from Dean so I was given the alternative of having a profile manager here in Storm. I went through about three or four. In the end, Emmanuel was my project manager, because I had been in contact with Brisbane. I rang up about a simple inquiry. I had to ring Brisbane and the fellow there said, ‘Do you realise that you are way over your lending capacity?’ That was the first I knew of it.

Senator MASON—When was that?

Ms Quinton—It is in my notes, but it is probably about 12 months later or not quite that. I said, ‘How did that happen?’, and he said, ‘I don’t know.’ I got back in touch with people here at Storm in Townsville and I sort of got a bum steer. I got nothing concrete so that I could understand how that occurred. To cut a long story short, I ended up having a teleconference link with Emmanuel. He described how it happened. I said, ‘To me it sounds like a subprime situation.’ He laughed and he said, ‘Actually it probably is.’ He said, ‘Do you realise how fortunate you are to have had this? This normally would not have occurred. You are in a really good position to have all this money for investment purposes.’ I said, ‘It frightens me. In the event that something should go wrong I am going to be left in a very awkward, compromising position.’ He said, ‘Oh, no, no, no’ and gave me huge assurances that I was fine. That reinforced what Dean had said to me when we set up my portfolio. He wrote on the whiteboard that in the worst scenario I would still have, in two years time, \$400,000 for my investment. I said, ‘What if the market drops?’ He said, ‘Factoring all of that in, with the worst market drop you will still have this much money.’ He said, ‘Ideally at this rate you will have \$800,000.’ I did not want to

be a burden on the community. I was not out there to make a million, just enough to survive as a retiree.

I eventually got in touch with Dean some months later and said, 'Look, how did this happen?' The whole time I had been in tears and I was depressed. There was all this money that I could never, ever pay back if something went wrong. Dean said, 'If you want to blame somebody blame me.' I said, 'How?' He said the lending authorities had not given them the proper figures when they took out the second loan.

Senator WILLIAMS—Who was the lending authority?

Ms Quinton—I was with Macquarie. I think it was Macquarie and Challenger. It is all beyond me who gave me what money, but I know I was with Macquarie and Challenger. That apparently was some subprime great deal that I had landed in and that was to my benefit. Storm pledged to keep my portfolio going or something to that effect. I had a second offer just prior to the whole thing collapsing where I was asked to come in and speak with a Storm representative about more financial advice. Not knowing how things were going, I spoke with David McCulloch. On three occasions in that conversation I was in tears saying, 'Please, I do not want to be in a position where I'm going to lose the security of home ownership.' He promised me three times that I would not be in a position to lose my home and at one stage I was tempted to say, 'How can you make a promise as grand as that?' I thought, 'He knows what he's doing. He's in the position he's in.' I had faith in his credibility and a belief that he was professional and had a moral code and that he would not lie to me. He promised me three times.

CHAIRMAN—Thank you. I appreciate your evidence. As to the guarantee, you said they promised you three times. How did they back that up? Was it just a verbal guarantee? Was there anything they pointed to in documents or did they talk about insurance or anything like that?

Ms Quinton—No. It was just the history of their progress and their status in the business community. I am not in that field. I have no cause to challenge, except to believe. When you saw the office that was a big factor, and all these cruises that they had taken people on. All that indicated that they really did have the viability and the credibility they espoused they did.

CHAIRMAN—You said it was all based on history. They talked about how good they were in the past and how good their history was. Did they ever mention to you something along the lines of, 'Past performance is no guarantee of performance in the future'?

Ms Quinton—No, I was assured that they had factored any of those past deficits in so that that would not occur this time.

CHAIRMAN—You obviously did not know how much you were borrowing. Obviously they knew how much you were borrowing, but they did not realise you had overborrowed? Is that what you are saying or are you not sure?

Ms Quinton—Storm did not tell me until this gentleman in Brisbane, another fellow named Dean, said to me, 'Do you realise you're too close to your margin loan?' or something. I said, 'What does that mean?' He said, 'You should never have got that second borrowing. I don't know how that happened.'

CHAIRMAN—Who applied for that second borrowing? You obviously did not.

Ms Quinton—Storm. Storm had brought me in and said that I was in a position to borrow more money.

CHAIRMAN—Did they initiate the loan for you?

Ms Quinton—I do not recall ever speaking to anyone from a bank or a lending authority. ‘Just sign the papers here.’

CHAIR—Where did you physically sign the papers?

Ms Quinton—In the Storm office.

CHAIRMAN—You actually signed the papers in the Storm office?

Ms Quinton—Yes.

CHAIRMAN—Do you recall whether the forms were completely filled out? Did you fill out the forms?

Ms Quinton—No. They were filled out on my behalf.

CHAIRMAN—They were filled out on your behalf? Is that what you are saying?

Ms Quinton—Yes. I would have signed them in there complete.

CHAIRMAN—Who could have possibly filled out those forms at that point?

Ms Quinton—I have no idea. I really could not tell you.

CHAIRMAN—But it was in the Storm office?

Ms Quinton—Yes. I signed them in that office, so one would presume that they had been completed in that office—actually filled out in that office.

CHAIRMAN—But you never went to the bank?

Ms Quinton—No. It was just such an easy process to do. The ease saved me a lot of angst, because I do not understand those processes. It was made apparently simple and easy.

CHAIRMAN—Senator Mason.

Senator MASON—This is a grim record of proceedings that you have put together here. Did you take contemporaneous notes of conversations?

Ms Quinton—I have a book and I log my business calls in that.

Senator MASON—Did you take a note of who you were talking to, what was said and so forth?

Ms Quinton—Yes.

Senator WILLIAMS—That is good stuff.

Senator MASON—That is a transcription, in effect, of those notes?

Ms Quinton—Yes. There were some calls I received at work. I did not get to put them in because when I would get home I would forget. But I did receive a couple of calls from the margin lending people. They were talking industry jargon and it was all beyond me. I said, ‘Talk to Storm. I don’t understand what you’re saying. They’re the people who set this up. Talk to them. They understand.’ The last gentleman I spoke with said, ‘We’ve tried to and they don’t return our calls.’ I contacted Storm and I said, ‘They’re saying you don’t return their calls.’ They vehemently denied that they would do such a thing.

Senator MASON—Let me get to that, because your evidence is a bit different. You did receive a margin call from Macquarie on 5 November 2008.

Ms Quinton—Yes.

Senator MASON—What was your understanding of what Storm was going to do? Did Macquarie tell you that they had rung Storm?

Ms Quinton—Not at that stage. That was when I had the third call. I said, ‘Look, you’ve rung before. I don’t understand.’ Oh, that was right. Storm had a meeting at Riverway and I asked about that. I said to Emmanuel in that public forum, ‘I’ve had the margin lenders contact me about whatever it is they talk to you about.’ I said, ‘Should they be doing that? Should they be contacting me?’, and he said, ‘No.’

Senator MASON—Is that what Mr Cassimatis said?

Ms Quinton—In the public forum he said, ‘No.’

CHAIRMAN—Did he say anything else?

Ms Quinton—No. Basically I said, ‘They’ve been ringing me and I tell them to ring Storm.’

Senator MASON—And yet Macquarie said that Storm was not, in fact, listening to what they had to say, either.

Ms Quinton—They said they were not returning their calls.

Senator MASON—Did Storm deny that?

Ms Quinton—Yes.

Senator MASON—You do not know the truth or otherwise of that?

Ms Quinton—No.

Senator MASON—You were caught in the middle?

Ms Quinton—Yes. Who do you trust? I do not know.

Senator MASON—You took a note on 2 January 2009:

Phone call from Macquarie—male informed me I still owed them money and that Storm didn't return their calls.

The chairman raised the issue of a 1 December 2008 conversation with David McCulloch.

Ms Quinton—Yes.

Senator MASON—You reported several things. You listed (a) through to (f); that Mr McCulloch reported that your portfolio had been converted to cash, with a margin loan debt of a bit over \$400,000, and so forth.

Ms Quinton—Yes.

Senator MASON—Was everything told to you by Mr McCulloch shown to be true later on?

Ms Quinton—I did not understand it.

Senator MASON—You did not understand what he was saying to you?

Ms Quinton—I understood the principles of what he was saying, but how that impacted on me I did not quite understand. All I wanted to know was that whatever happened with the numbers I would not be left without an option of home ownership. That was my primary focus. He presented me with a letter to sign about a pledge. I read it and I said, 'Are you giving me this money or are you lending me this money?' He said, 'No, it's a loan.' I said, 'The way it's written it doesn't indicate that. There is nothing here that says it's a loan.'

Senator MASON—Did he draft the letter?

Ms Quinton—He redrafted the letter and I signed that. I did not want to pledge that much money to them. I gave them \$10,000 of my cash so that I did not have that much money in debt.

Senator MASON—What has happened to your loan?

Ms Quinton—The original loan that I took out, that I wanted to use the sale of my property in Cairns to pay out, I still have and I will have until I am 86 or more. I am a nurse. I do not have a long time until I give up work. They will hire me, but I probably won't be very productive. I will lose my home when I can't pay the loan.

Senator MASON—Thank you.

CHAIRMAN—Senator Farrell.

Senator FARRELL—No questions.

CHAIR—Mr Robert.

Mr ROBERT—If you can think back to the loan documents that you signed with Macquarie, can you see the Ts and Cs with respect to margin calls, as in the terms and conditions?

Ms Quinton—Yes.

Mr ROBERT—Were you ever briefed on who was responsible for a margin loan? Were you ever briefed on what a margin loan was?

Ms Quinton—Yes, I was, but it was very overwhelming. It was a bit like information saturation. I was still grappling to understand that and the whole picture. It is probably very clear and succinct to you, but to people like me it is not. That is why I paid them to do it.

Mr ROBERT—Did Storm ever speak to you about the possibility of the bank calling in a margin loan?

Ms Quinton—Yes, he did. Dean alluded to something like that, but he said the way my portfolio was set up that would never be a problem.

Mr ROBERT—Did Dean ever tell you that if a margin loan occurred this is what would happen, this is how it would be structured?

Ms Quinton—He probably did, but it was too much information for me to actually get a good grip on. The security part was what I, as a layperson, was concentrating on; that you could demonstrate in some way that my safety was still assured. ‘How that happened is what you’re paid to understand.’

Mr ROBERT—Reading through your list of what happened, which is excellent, I do not see anywhere here where Storm provided you with a very plain English view of, ‘Here’s exactly what we’re doing. Here are the risks. Here’s what we’ll do.’ Did they ever provide anything like that to you?

Ms Quinton—They might have thought they did but, no, I would not say that. In hindsight I would say, no. At the time it would have seemed clear, but now with all these variables that have been factored in it probably was not as clear as it needed to be.

Mr ROBERT—With respect to when Macquarie called you on 5 November 2008 regarding the margin loan, and just reading through your written testimony here where you said ‘to call Storm’, what happened after that? They called you and you said, ‘Call Storm.’

Ms Quinton—Three times I said, ‘Call Storm. I don’t understand what this is all about.’ I actually said, ‘They are paid very well to understand this on my behalf and look after my interests.’ I said, ‘I don’t understand all of this. Talk to them and they can probably get back to me.’

Mr ROBERT—Did Macquarie call you again after that?

Ms Quinton—After that third one when they said they were not returning the calls, no.

Mr ROBERT—How did Storm then deal with you and this issue of the margin loan?

Ms Quinton—They assured me that it was all fine/okay and not to worry.

Senator MASON—You mentioned that on 2 January 2009 you did receive another call from Macquarie.

Ms Quinton—Yes. That last one was when he said, ‘We have, and they don’t return our calls.’

Senator MASON—Was that the last call?

Ms Quinton—Yes.

Senator MASON—On 2 January this year:

Phone call from Macquarie—male informed me I still owed them money and that Storm didn’t return their calls.

That is, Storm did not call Macquarie?

Ms Quinton—Yes.

CHAIRMAN—Senator McLucas.

Senator McLUCAS—This is a question I have asked a number of the former Storm investors yesterday at the hearing. Our job, as a committee, is to try to learn from this series of events. What measures do you think would be useful for us to put in place that would have saved you from the position you are in now? What could we do in terms of making a rule that stopped you from where you are now?

Ms Quinton—Possibly legislation that one entity, for example Storm, does not have so much control and power. There needs to be a better auditing system set up so that something like this does not occur. They had too much power and control. How simple do you have to write things for people to say, ‘Yes, I understand’? I understand there has to be a degree of sophistication in documentation, but I just think there need to be more checks and balances. How did my situation go on so long? In fact, as a bit of a payback for the stuff-up with my little subprime situation they did my tax as a payoff. They said, ‘We’ll do your tax for you in recompense for what happened.’ I took that as some sort of agreement that they had mucked it up.

I just think there need to be more checks and balances so that organisations like this are more accountable. Also, if they are going to hire advisers for God's sake let them have a degree or something that says they know what they are doing—some accountability. Do not just get people that have been in the job pushing figures for six years. That does not make you qualified.

Senator McLUCAS—What about to assist you to have more power in the relationship? I take your point that you made earlier that you paid them to do the worrying. In retrospect, do you agree that it would have been better if you understood more about what the Storm model was?

Ms Quinton—I thought I understood at the time. It is only since all of this has occurred that I realise how little I did understand. I do not know how you would fix that or how you could change that. I think that blind faith was there and that is my responsibility. I understand that. I don't know. I could not really answer that one.

Senator McLUCAS—Thank you for coming and also for your submission.

Senator WILLIAMS—If I could set the record straight, you went into a margin loan through Storm through Macquarie Margin Lending and you got an extra \$400,000 on your loan that you never wanted?

Ms Quinton—It is not a matter of wanting. They said to me, 'You have this borrowing capacity.' I got this great big wonderful—

CHAIRMAN—Who said that to you?

Ms Quinton—Whoever it was that rang me up.

Senator WILLIAMS—Was that someone at Storm or Macquarie?

Ms Quinton—No, Storm.

Senator WILLIAMS—Storm said, 'You can borrow this extra \$400,000'?

Ms Quinton—Yes. I am not sure, but I assume it was Dean Thompson that said that to me; that I had this capacity to borrow more.

Senator WILLIAMS—Hence they borrowed the extra \$400,000 and you basically were not aware of it? Is that true?

Ms Quinton—I was aware that it had been borrowed, but I was of the understanding I had the investment baseline to cover it.

Senator WILLIAMS—Mr Cassimatis said that you were very lucky to be able to get that money and it was going to treat you very well.

Ms Quinton—Yes. In fact, when I signed one lot of papers—I cannot remember who the lady was when I signed it—she said, 'I want to be with you when you get your first million out of

this.' I thought, 'A million dollars? That is much more than I thought I would ever get.' I was led to believe that this subprime thing was in my favour, because Mr Cassimatis told me it was.

Senator WILLIAMS—The interesting point you made today is that you took a margin loan through Storm with the Macquarie network of financiers and they contacted you on a margin call. Yet those who took investments through Storm with CGI or arms of the Commonwealth Bank never got a margin call. That is the interesting thing. Under the same broker, Storm, one institution issued you a personal margin call; the other did not.

Ms Quinton—I do not recall ever receiving anything in writing. They were phone calls.

Senator WILLIAMS—Thank you.

CHAIRMAN—Thank you. We really appreciate your time in coming in and giving us your evidence.

Proceedings suspended from 12.21 to 1.03 pm

DIXON, Mr Paul, Private capacity

DIXON, Mrs Jill, Private capacity

CHAIRMAN—Just before we get started, I should say if people want to participate in the open microphone session this afternoon, we will be trying to finish at about 4 pm, but we will be a bit flexible with time. If you want to speak we need you to write down your name and basically give us permission so that we can record what is happening on the *Hansard* record. I believe there is a table up the back where you can write your name and particulars.

I would like to welcome Mr and Mrs Dixon. Are you appearing here representing yourselves?

Mrs Dixon—Yes.

Mr Dixon—Yes.

CHAIRMAN—Would you like to make an opening statement?

Mrs Dixon—Yes. I have been told that you have read our submission so these are just a few thoughts that we wanted to add. Like the majority of victims caught in this financial disaster, we were made vulnerable by our desire to be independent in retirement. Sadly, at our initial consultation in 1997, we had set a time line for our investment portfolio of seven to 10 years. If we had not been persuaded otherwise we would not be here today. However, once in the Cassimatis system it was very hard to get out again, as many other clients have attested. We trusted these financial advisers to answer our questions honestly, but they did not. When we asked what would happen if there was another Great Depression, the reply had been that we had enough money in reserve to keep us going for two years.

Storm Financial supposedly had a research team studying and monitoring the stock market, so how did they get it all so terribly wrong? As for the banks, where was their duty of care to their customers? They were still approving investment loans to be serviced by income from shares, even as the market continued its downward spiral.

CHAIRMAN—The best thing to help us better understand what took place would be if you could describe how you were introduced to the Storm system and roughly when that took place.

Mr Dixon—A work colleague first mentioned to me that he was in the Storm system and was doing quite well. He talked me into getting involved in it. We attended three of their seminars which they normally give and met our future adviser. We had a meeting with her and went from there.

Mrs Dixon—We were advised that, having paid off our house, we had a certain amount a month that we could use for investing. They called it getting equity out of our home, which at the time we did not realise meant that it was another mortgage. It was only some months later when we were applying for a credit card and it asked for mortgage payments. I said, ‘Have we got a mortgage?’ I actually rang the financial adviser and said, ‘Have we actually got a

mortgage?’ She said, ‘Yes. I’m afraid you have’, which sort of implies that she had not really told us that it was a mortgage.

Anyway, we signed up and, as we said, our concerns about debts were allayed by them saying that, ‘Because you are borrowing for an investment it was a good debt, as opposed to a bad debt, which was for consumables only.’

CHAIRMAN—Did part of that process with the seminars and so forth before you got in involve some specific work with you to ascertain your tolerance to risk, how much risk you were prepared to take and some careful explanation of what that risk involved, including your family home? Did any of that really take place?

Mrs Dixon—They did mention risk and they said that the risk we would have with them would be manageable risk, as opposed to—what is that other kind of risk? Our risk was manageable as opposed to real risk, which is the unrecoverable loss of all assets. They implied that it was safe, that there would be no way that we would lose all our assets.

CHAIRMAN—Did you ever ask them about your family home, was there a chance you could lose your home? Did you ever ask them about what that risk involved?

Mrs Dixon—They told us that we could only borrow a percentage of the value of the family home and that we would always have enough capital to cover that debt if we had to pay down.

CHAIRMAN—In your submission you also talked about the insurance. You were told that everything was insured. Can you describe to us what you were told in terms of insurance?

Mrs Dixon—That came up mainly at the seminars where Emmanuel Cassimatis would say, ‘You are perfectly safe with us. If we were to give you the wrong advice you could sue us because we have insurance to cover that.’ Those were not his exact words, but it was something like that.

Mr Dixon—That was stressed a few times at the updates.

CHAIRMAN—Senator Mason.

Senator MASON—Good afternoon and thank you for coming. At the bottom of your submission on page 1 you state in the last sentence:

In February 2009 when CBA finally sent us a copy of our loan application (less two pages they didn’t want us to see) we noted our income (not from shares) listed as about \$80,000 per annum. Our home was also listed as an investment property when in fact it was our sole residence.

Did you have an income of \$80,000 per annum?

Mr Dixon—Only from the share market.

Senator MASON—Your home was listed as an investment property and, in fact, it was not; it was your sole residence.

Mr Dixon—That is right.

Senator MASON—Did you fill out the loan application?

Mrs Dixon—I am sorry?

Senator MASON—Who filled out the loan application?

Mr Dixon—We signed an application.

Mrs Dixon—Our adviser did and we just signed it.

Mr Dixon—We had to sign the last page to say that we were applying for a loan, but we did not read the previous four or five pages.

Senator MASON—You did not read it?

Mr Dixon—No. In fact, Jill had an appointment with CBA fairly recently. One of the CBA officials at that meeting said that even their people do not read the loan applications.

Senator MASON—Was this with the Commonwealth Bank?

Mr Dixon—That is with CBA.

Senator MASON—It was not with Storm. This was with the Commonwealth Bank and you made the loan application through them.

Mrs Dixon—No. I think it was about October 2007 the suggestion was made that we might have more equity in our home. What actually happened was that we were asked to sign this form which gave them permission to apply for bank loans or to look into a quote.

Senator MASON—Who asked you to do this?

Mrs Dixon—Our financial adviser.

Senator MASON—Storm?

Mrs Dixon—Yes, Storm. We signed that, it was sent off and they came back and said that the CBA would offer us a loan, but on condition that they came and had the house valued to make sure.

Senator MASON—The loan application was with the Commonwealth Bank?

Mrs Dixon—Yes. It was with the Commonwealth Bank.

Senator MASON—Did you sign it in their presence?

Mrs Dixon—No. I believe the paperwork came in the mail and it had all the flags on it saying ‘Sign here’.

Senator MASON—You did not read through the loan application form?

Mrs Dixon—We never saw the actual loan application. We only saw the loan offer where they say, ‘We will offer you this much’, and it is all laid out how much the payments are and so on.

Senator MASON—How long was that document?

Mrs Dixon—Probably 10 pages.

Senator MASON—You did not read it?

Mrs Dixon—We read it, but you do not really grasp it; you just sort of look at it.

Senator MASON—Believe me, I understand. I just want to find out what happened.

Mrs Dixon—You look at the figures and see the figures are right.

Mr Dixon—You do not actually analyse it.

Senator MASON—The second issue I want to touch on briefly, and I know my colleagues will as well, is in the first paragraph on the second page of your submission you state:

... there was nothing to worry about but in early October 2009 ...

I assume you mean October 2008. Is that right?

Mrs Dixon—Yes, sorry.

Senator MASON—Like the previous witness you did receive a margin call. Is that right?

Mrs Dixon—Not in October.

Senator MASON—No, in December. On 8 December 2008 you did receive a margin call from Colonial Geared Investments. Is that right?

Mrs Dixon—We received a phone call to say that we were in margin call, yes.

Senator MASON—What did you do?

Mrs Dixon—The man on the phone asked Paul whether we had money to pay the call, which was like over \$100,000 and Paul said, ‘I can’t talk to you. I’ve got to talk to my financial adviser.’ As everybody else has said, we thought you would talk to your financial adviser, not the bank, so we rang Storm and they gave us an appointment. We said, ‘We don’t know what to do. We’re really panicking’, so we had an appointment the same afternoon, but basically our adviser

said that the CGI will be breaking the loans. We did not really know what that meant. She said, 'When they do, just do whatever they tell you. Don't antagonise them.'

Senator MASON—Did you know what a margin call was?

Mrs Dixon—We knew it meant that we had to find this money to put it back into equity.

Senator MASON—Had it been explained to you in the past what a margin call meant?

Mr Dixon—No.

Mrs Dixon—No.

Senator MASON—Thank you.

CHAIRMAN—Senator Farrell.

Senator FARRELL—In your submission you talk about your surprise at the level of commissions that you were paying. Can you tell us what you were told about the commissions and how much you thought you were paying?

Mrs Dixon—When we were first signing up we were told there was a one-off fee to Cassimatis Securities, as it was then.

Senator FARRELL—How much did you think that amount of money was that you were paying?

Mrs Dixon—It was \$13,500, bearing in mind that was back in 1997. Basically it said that they would get other ongoing commissions, but they did not explain how that worked.

Mr Dixon—The commissions were also written as percentages, like 0.12 per cent, which does not mean anything in terms of how much money unless you sit down with a calculator and work it out.

Senator FARRELL—There was no document that you ever saw that set out the amount of money and how much it was actually going to cost you into the future?

Mrs Dixon—No. I think there was a little square on each statement of advice saying that the ongoing commission was such and such, and just a percentage, as Paul said.

Senator FARRELL—Thank you.

CHAIRMAN—Senator Williams.

Senator WILLIAMS—You are telling us that you paid an upfront fee to Storm to establish your margin loan and then there was a trailing commission?

Mrs Dixon—Yes, to establish our portfolio.

Senator WILLIAMS—You paid an upfront fee to establish your portfolio?

Mrs Dixon—Yes.

Mr Dixon—That is right.

Senator WILLIAMS—Then there was also a trailing commission that flowed on to Cassimatis after that?

Mrs Dixon—Yes.

CHAIRMAN—Mr Robert.

Mr ROBERT—You have been involved with Storm for over a decade. How much money, in aggregate terms, did you actually put in?

Mrs Dixon—That is a bit hard to tell. We did our proof of debt to Worrells which would have said everything. I cannot tell you an exact figure, but until Paul retired there was a monthly amount that we put into it. They advised us to borrow on our life insurance policies, which are now gone. They said borrow on them, but do not ever pay the interest and by the time we finished the interest exceeded what the policy was worth, so they are cancelled.

Senator WILLIAMS—Would it be over half a million?

Mrs Dixon—Easily. We worked it out to be something like \$2 million or so. Paul's superannuation went in as well.

Senator WILLIAMS—Did Storm ever explain to you the definition of a sophisticated investor?

Mrs Dixon—No. I do not remember ever hearing the term.

Senator WILLIAMS—Was that phrase ever explained or provided in writing as to the fact that with over half a million dollars you are a sophisticated investor and what that meant?

Mrs Dixon—No. We have never heard that term before.

Mr Dixon—We have never heard the term.

Senator WILLIAMS—Did Storm ever provide to you, in simple language, not financial-type disclosure statement language written by lawyers, but in simple language, 'Here is what you are doing. Here is how much you've put in. Here's how much is being borrowed. Here is your loan to value ratios. Here is what could happen if it all falls apart. Here is what margin loans and margin calls mean'?

Mrs Dixon—No, not all of that. When we used to go for our updates they would put it all up on a big computer screen and say this is this and this is that.

Mr Dixon—It was mainly them saying, ‘This is how much you’ve made in the last six months’, or something like that. It was more of a pep talk rather than an explanation.

Mr ROBERT—Thank you.

CHAIRMAN—Senator McLucas.

Senator McLUCAS—Thank you for coming along and sharing your story with us. I just want to follow on from that question. When you used to go for your little sessions, updates or whatever they were called, did you feel as if you were encouraged to understand?

Mrs Dixon—It is hard to say. They would say, ‘It doesn’t matter how many questions you want to ask, we will always answer them’, but you were still confused. The explanation was beyond our grasp a lot of the time.

Mr Dixon—Yes, I think so.

Senator McLUCAS—We had very similar evidence yesterday from former Storm investors that they did not really get it. As the member said, it is a very complex model of investment. We then had two witnesses later in the afternoon who are financial planners and basically they said, ‘Yes, you can explain it to people.’ That is why I was asking the question: do you feel as if you were encouraged to push to get the answers or, as one witness yesterday said, ‘We were told not to worry about it.’

Mrs Dixon—Yes. That came out a lot. ‘We’re the ones to worry about it. You just leave it all to us.’

Senator McLUCAS—Essentially you were not encouraged to understand? Is that reasonable to say?

Mr Dixon—It probably would be.

Mrs Dixon—Yes.

Senator McLUCAS—You may be able to give me some advice on this. We need to make recommendations to government around the way we regulate the financial services industry and advice. Is there anything that you think would have helped you, if we were to say, ‘We must do this to support an investor’? Is there something that you can tell us that would have been really useful?

Mrs Dixon—I do not know if it is at all possible, but I feel that our particular group—the aiming to be self-funded retirees—are the group that are most vulnerable to this sort of thing. Maybe there should be some way that only certain financial advisers give advice to this group of people and that it is scrutinised to make sure that it is appropriate. I do not know if anything like that would be possible, but that was just a thought I had. Then, of course, there are all the other

investors that are not of our age group and they have also suffered, so I do not really know what the answer is.

Senator McLUCAS—I do not think you are alone with your age in terms of being able to manage or deal with what happened. I do not think you should whip yourself about that. Thank you again for coming along.

CHAIRMAN—I would like to take you back to talk about the loan documents. I just want to clarify, for the record, that obviously you borrowed some money. Did you actually fill out, see or witness the loan applications themselves? Did you see the loan application form or documents?

Mrs Dixon—No. The first time we saw the loan application form was when we requested them from the bank, which was earlier this year. That is the first time we had seen that document that said that our house was an investment property and that we had this income.

CHAIRMAN—Was the document that you only just saw for the first time signed by you?

Mrs Dixon—Just the last page. There were two pages missing that we have never seen, which said that there was further information about our assets.

CHAIRMAN—Your recollection is that you never saw that particular document, but you had signed at least the last page.

Mr Dixon—Yes.

CHAIRMAN—When you did sign any forms where did that signature take place? What physical location did that signature take place?

Mrs Dixon—That would have been at Storm.

CHAIRMAN—Storm headquarters here in Townsville?

Mrs Dixon—Yes.

CHAIRMAN—Did you fill out the documents yourselves?

Mrs Dixon—No.

Mr Dixon—No.

CHAIRMAN—Do you know who filled out the documents?

Mrs Dixon—I would say that it would have been our financial adviser. She would have had all the records of all the information.

CHAIRMAN—Do you know whether those documents had travelled somewhere else and come back?

Mrs Dixon—They were in the bank's hands. The bank just wrote down the details. Somebody said that the Storm staff actually phoned the bank and gave them details over the phone, so I do not know.

CHAIRMAN—So you are not really sure as to who filled it out, but it was all done at the Storm headquarters.

Mrs Dixon—Yes. Any signature was at Storm headquarters.

CHAIRMAN—Just quickly also on the margin call, you did receive a margin call.

Mrs Dixon—Yes.

CHAIRMAN—Upon receiving that margin call you then contacted your adviser at Storm. Is that correct?

Mrs Dixon—Yes.

CHAIRMAN—What did they say to you?

Mrs Dixon—We were told by our financial adviser that CGI would be breaking the loans. As I said, we did not understand what that meant, and when they broke the loans just do whatever they said. When they did ring us and said, 'We're breaking the loans', we just said, 'Where does that leave us as far as finance goes?' They sent us an email with basically where the money had all gone and that there was a shortfall of \$64,000.

CHAIRMAN—Was that email from Colonial?

Mrs Dixon—Colonial Geared Investments, yes.

CHAIRMAN—They sent you an email to let you know you were in margin call.

Mrs Dixon—Yes.

CHAIRMAN—You rang your adviser, Storm, to seek some guidance. Did you get any guidance?

Mrs Dixon—No. They just said, 'Do whatever CGI says.' That was the end of it and then we never heard from them again, basically.

CHAIRMAN—You also said that you have been with Storm for 10 years. That is a long time. In that 10-year period obviously your portfolio would have grown in size and at the peak of the market or at some point in time it must have been worth quite a lot of money on paper?

Mrs Dixon—Yes.

CHAIRMAN—Did you ever consider taking all the money out and saying, 'That's enough'?

Mrs Dixon—We were persuaded that you never take money out. You never close your portfolio. You never pay your debt and you train your children to take it on after you die. It just goes on. That is what they told us.

CHAIRMAN—Is that what they said to you?

Mrs Dixon—Yes.

Mr Dixon—Yes, that is right.

Mrs Dixon—We were told that.

CHAIRMAN—Did you ever try to take some of your money out, even small amounts?

Mrs Dixon—Yes.

CHAIRMAN—You did?

Mrs Dixon—We wanted to buy our daughter and son-in-law's house, but we were told no, we were not to do that. We had to keep our portfolio.

CHAIRMAN—In the 10 years that you were with Storm I am assuming that you made more than one attempt to cash in or enjoy the benefits of your portfolio growth?

Mrs Dixon—As long as they were small amounts, that was okay. We could say we wanted a holiday or we had to buy a new car, but every time we actually drew from our portfolio they then increased the margin loan.

CHAIRMAN—You never cashed in; they just increased the debt?

Mrs Dixon—Yes.

Mr Dixon—Yes, that is right. I just want to mention that we were under the impression that when they said, 'We'll draw down the money', they were taking money out of a slush fund where our funds were being stored, when in fact they were actually increasing our debt. That was never explained to us.

Senator MASON—You referred to it as the Clayton's debt. What is that?

Mrs Dixon—In our first statement of advice it says twice that it is a Clayton's debt. A Clayton's debt is a debt you have when you are not having a debt.

Senator MASON—Except when it comes due; is that right?

Mrs Dixon—That is right.

Mr Dixon—Yes.

Senator MASON—The committee would be interested in that. Do you have a copy of the original statement of advice?

Mr Dixon—Yes, we do.

Mrs Dixon—Yes, at home. I nearly brought it with me, but I did not think you would want to see it.

Senator MASON—I am sure the chairman and the committee would be interested in a copy of that, if you do have it. Could you obtain that and send a copy to the committee?

Mrs Dixon—Yes, we can email it.

Senator MASON—That would be terrific. We want to investigate the Clayton's debt.

Mr Dixon—Do you just want the relevant pages or the whole document?

CHAIRMAN—Give us the whole lot.

Senator MASON—Thank you.

Mr ROBERT—You said that when you wanted to get \$20,000 out, which you thought was your money invested in whatever index fund, that you later found out that it was added on to the loan. Is that a fair synopsis of what you said?

Mrs Dixon—They said that we can draw down dividends—I think that is what we were doing—but we needed to replace whatever we had taken out of the market, so that was when they borrowed against the margin loan to keep the same level of shares in the market.

Mr ROBERT—Did they let you know they were doing that?

Mrs Dixon—Of course it would say in the advice, but at the time we did not realise what it meant. It is only because we have looked at the statements of advice over and over again for the last six months that we realised that that was what they were doing.

Mr ROBERT—What authority did you give them by way of a signed document for them to borrow on your behalf?

Mrs Dixon—They would have letters addressed to the person that does these things at CGI or wherever. They would have them already printed out and we would just sign. They would say, 'To Mr So-and-So, please draw down \$20,000', and then there would be another letter to Colonial saying, 'Please increase our margin loan by whatever.' It was the same amount.

Mr ROBERT—Did you ever say, 'No. I just want \$20,000 out. I don't want to increase the margin loan'?

Mrs Dixon—No, we did not, actually.

Mr Dixon—They encouraged you not to just take the money out. It was always, ‘Keep it topped up.’

Mr ROBERT—How did they encourage you to do that? We have heard this quite often.

Mr Dixon—Mainly by saying that it was to our advantage to not reduce the amount we had in the market.

Mrs Dixon—It might be in the first statement of advice that it says that if you take money out and do not replace it then you are eating your chickens; you need to keep all your chickens and not eat them—I do not know if you can follow that—meaning that whenever you took money out, if you did not replace it, then slowly your capital would deplete. If you wanted to keep that same level then you needed to keep it replaced.

Mr ROBERT—Out of interest is ‘eating the chickens’ your words or theirs?

Mrs Dixon—Their words. It is actually on that statement of advice.

Mr ROBERT—They actually wrote down ‘You’re eating the chickens’ on that document?

Mrs Dixon—Yes.

Mr ROBERT—Thank you.

CHAIRMAN—Senator Williams.

Senator WILLIAMS—Thank you for your presence. Who was your Storm agent?

Mrs Dixon—Adviser?

Senator WILLIAMS—Yes.

Mrs Dixon—Firstly it was Bernadine Frawley, who then became manager in Sydney, and in the last three years it was Carey Fraser.

Senator WILLIAMS—Thank you.

CHAIRMAN—We really appreciate the time and evidence that you have given us. It is very helpful.

[1.32 pm]

POWER, Mr Trevor Mark, Private capacity

CHAIRMAN—If anybody would like to participate in this afternoon's open microphone session, up the back Andrew is there and he will gladly take your names and so forth. We will just try to keep it as orderly as we can. We will try to give as many people as we can an opportunity on a limited time basis I now call the next witness, Mr Trevor Power. If you would like to make some opening remarks, you are more than welcome to do so.

Mr Power—I have a couple of pages I would like to read first. We did nothing wrong. Why did we lose our money? Our LVR was 84 per cent at market crash and we could easily have met the margin call. The bank sold our shares. We were told we owned our shares and could not lose them, provided we could pay the interest on the Clayton's loan and could meet the margin call. So why did we sell out?

Initially, we were never told our investment was a Storm badged, managed fund. Bernadine Frawley told us that we were going into the ASX300, shares were ours, no-one could take them off us, and they would rise and fall, as per the market—minimum risk. If you do not have the brains, buy them. Our original LVR was 36.37 per cent, in 2004. We were unemployed. This fluctuated over the next three years, never going over 55 per cent LVR. During 2007 we were regularly sent personal contracts, bordering on harassment. To sign these contracts on three to four occasions there were documents with a little tag saying, 'Sign here.' With a little bit of accelerant, we burned them. Finally, LVR, in 2008, was 84.61 per cent. Maximum LVR should have been 70 per cent. How come?

We capitalised interest on two occasions, as we were recommended to do so, despite the fact that we were adamant, on commencing our investment, that we did not want to capitalise the interest. Why were we recommended to do this? We were told that this was the way to go. The only investment advice we got was to contradict what we wanted and we were made to feel inadequate and stupid if we did not conform.

Our investment was not managed by Storm, as we never heard from them, except to tell us to borrow money—what they called the next step. When we talked about paying off the loan, we were discouraged. We were never given the opportunity to trade out of the downturn. The bank sold our shares. Storm were in a panic, due process was thrown out the window and Storm blamed the bank, saying they were being difficult to get along with. In the panic of October, we signed documents to turn our investment to cash, as advised. Later we had to fight to get that money transferred to our account, as it was somewhere in Storm's black hole. It was certainly not in any of our accounts. At this time we were also being pressed to pledge further monies to enable us to get back into the market. When we queried our investment being turned to cash, Fraser advised that the bank was instructed to do this, but they did not say it was important for us to get back into the market.

We were very confused by this time. Monies later turned up in our bank account in December, after much hassling. Who knows what was going on? When getting copies of paperwork from

Macquarie, I was sent a loan summary for Vincent-Jackson surname and a copy of a cheque belonging to Dean and Carol surname—a clear breach of confidentiality—and it makes me wonder where some of my confidential information may have ended up.

It is heartbreaking to hear the stories of people who have lost their houses, superannuation and life savings. In actual fact, I cry tears of blood for these people. But there are so many smaller investors who have lost all of their savings. We are now in the same financial position that we were in 1986. In my opinion, the whole Storm debacle revolves around Emmanuel Cassimatis having a disagreement with the banks and fund managers, who did not give a shit about clients during the battle of egos. The bottom line is: I want my money back from the banks. Thank you.

CHAIRMAN—Thank you Mr Power. You said in your introductory remarks and in your submission that on more than one occasion you had asked very specifically for Storm not to do certain things or to do certain things. Did they ever follow your instructions?

Mr Power—Only after adamant discussion. Right at the beginning, my partner and I were advised that we had a lot of equity in our home and we could turn that to cash, which would make a lot more money. Basically I told her to go and jump in the lake because that was my castle and no-one was ever going to take that away from me. I used Storm as a tool to supposedly better my financial future; being a physical worker in the Australian workforce, I did not want to be on the age pension. I would rather earn more than the age pension. Take a look in this room and have a look at the average age of everybody here. We are all baby boomers. We do not really want the pension. This whole thing was to set up, for every one of us, a fund that we would be able to survive on and then pass on to children, for those who have them. We were ripped off.

CHAIRMAN—How did that convince you to put your home—

Mr Power—They did not. I did not do it.

CHAIRMAN—You did not do it?

Mr Power—I did not do it, but the nest egg that we did have is gone. Like I said, we are back to the same place we were in 1987 and I am still working in the physical workforce—blood, sweat and tears.

CHAIRMAN—I assume that you received a number of documents from Storm?

Mr Power—Yes.

CHAIRMAN—You felt that they would harass you. What were they trying to do? Can you explain that harassment or what you felt?

Mr Power—They told us to borrow more money. Each one of those documents was to borrow another \$40,000 or another \$60,000. Initially, I said to Bernadine Frawley that I did not want to have an LVR of over 50 per cent, because that is our nest egg. I am a layman in this, but I know the financial situation, the stock market. I am across what happens in the stock market. I know it can go up and down. In 1987 I invested \$10,000 three weeks before it crashed; I stuck with it

and eventually it came up. I took that and I invested it in Storm. So I am well and truly across the rises and falls of the stock market. This is what I am really jacked off about. We were not given the opportunity of trading out of the situation. They did not allow us to.

CHAIRMAN—Did you have a margin loan?

Mr Power—Yes, I did.

CHAIRMAN—Do you know the details of how that came about in terms of loan documents and so forth?

Mr Power—Yes. Mind you, I never saw a bank employee.

CHAIRMAN—So it was all done at Storm?

Mr Power—It was all done at Storm, all Storm letterheads. I never once saw a bank document until we started getting statements, and it was Macquarie. So we did not even know we were with Macquarie Bank until we got the first statement.

CHAIRMAN—Senator Mason.

Senator MASON—Thank you very much for addressing the committee this afternoon. So you say that you were told that Storm's team of experts would monitor your portfolio regularly and that you would be advised long before you could possibly be in a margin call; is that right?

Mr Power—Yes, that is absolutely correct.

Senator MASON—You say also that you were both unemployed when you first invested with Ozdaq, which later became Storm. Your LVR was never to be above 55 per cent?

Mr Power—Yes, until it started to melt down.

Senator MASON—You had equity but you had no income; is that right?

Mr Power—At the time, yes, apart from social security.

Senator MASON—And you had a margin loan?

Mr Power—Yes. The margin loan was supposedly covered by the investment in the Storm-badged fund, as they explained it.

Senator MASON—So you had no income except for social welfare?

Mr Power—Yes.

Senator MASON—Any personal documentation that you refer to in your submission, as the Chairman has pointed out, was from Storm and was that relating to a request for loans, loan applications?

Mr Power—Yes.

Senator MASON—Finally, you did receive a margin call directly from Macquarie; is that right?

Mr Power—Yes, that is correct.

Senator MASON—You knew what a margin call was?

Mr Power—Yes, well and truly.

Senator MASON—Thank you very much.

CHAIRMAN—Senator Farrell.

Senator FARRELL—I would like to thank Mr Power for coming along. I am just a bit interested in when things started to unwind and you tried to convert your investment into cash. Can you tell me what you were told at that point, what you thought the instruction was that you had given Storm?

Mr Power—Storm advised us that it was not recommended to convert to cash at that point.

Senator FARRELL—But obviously you felt that there was some difficulty coming into the share market and so you wanted to convert your investment into a cash portfolio. Do I understand that correctly?

Mr Power—Yes.

Senator FARRELL—So who did you instruct to do that?

Mr Power—We were dealing with Carey Fraser at the time.

Senator FARRELL—So you gave them the instruction to convert your investment into cash. What happened to that instruction?

Mr Power—It fell into a black hole.

Senator FARRELL—The instruction was never followed through?

Mr Power—It was never carried out. Understanding the stock market, as I do, I was waiting for a margin call. I expected Storm to contact us and say, 'We have got a margin call; you need to pay the banks some money.' That is common banking practice.

Senator FARRELL—Yes.

Mr Power—We were very surprised when Macquarie rang us to say we were in margin call. We had been in margin call for 11 days, but we did not know that. We were waiting for our financial advisers to advise us.

Senator FARRELL—What would have happened if the instruction had been followed through? Did you have sufficient equity to have anything left to convert into cash at that point?

Mr Power—It would have been minimal, but we would have had money in the bank. We would not have had to pay them more.

Senator FARRELL—Thank you.

CHAIR—Mr Roberts.

Mr ROBERT—I note that you said that you signed all the documentation at Storm and that you did not see any documentation with any bank letterhead on it, which begs the question: you took out a margin loan, so what did you actually sign to take the money from the bank if everything was at Storm and there was nothing with a bank letterhead on it?

Mr Power—I have no idea.

Mr ROBERT—I am trying to work out by what authority the bank is allowing shareholders' money to go out that banking door without you actually signing a bank document.

Mr Power—That is between Storm and the bank. I cannot answer that, sorry.

Mr ROBERT—Let us take it as read that you did not sign any bank documentation for the range of dollars and cents that came through. On the second page of your written submission you indicate that you started to get documentation in the post with stick-on tabs saying 'Sign here' to borrow more money. Were they Storm documents or were they banking documents with banking letterhead?

Mr Power—No. They were all Storm documents. There were no banking documents amongst them.

Senator WILLIAMS—You never signed a document with the bank as far as a loan goes?

Mr Power—As far as I know, no.

Mr ROBERT—I have asked a few other people who have given evidence—not withstanding your financial literacy, which you have demonstrated quite well—did Storm provide you, in plain English, with a brief in a very simple précis form as to, 'Here's what you're doing. Here's what we're doing. Here's your money. It's going to go into an index fund in the ASX300. We'll do a margin loan. Here's what can happen'? Was that ever provided to you?

Mr Power—I would have to say yes to that because I was pretty much across it anyway. It was just going over stuff that I was already partially across anyway.

Mr ROBERT—Did they provide you with a simple précis or did they just talk to you and you knew it anyway by virtue of your knowledge?

Mr Power—They tried to explain it, but I do not think they did it very well. Bear in mind our monies were not great. We were not talking about hundreds of thousands of dollars. At the end we were talking about hundreds of thousands of dollars, but in the beginning it was not. I think they attempted to explain it, but they certainly skirted around the fact that it was a Storm-badged fund. When I went into this my partner and I specifically wanted to get into the Australian stock market, and simply the Australian stock market, not the international stock market. I wanted to support, with my money, Australian companies. That is another reason I am really dirty on the whole thing, because they have taken all that money out of those Australian companies.

Mr ROBERT—Can I assume that, whilst they explained things to you, they never gave you anything in writing in simple terms saying, ‘Here’s what’s happening’?

Mr Power—No.

Mr ROBERT—I am just looking at your first page of your written submission. You talk about Ms Carey Fraser and that, when asked about clarification, she would frequently state:

What can I state to make you understand? I don’t know how else to put it to make you understand. What don’t you understand about this, lovey?

I do not do well with ‘lovey’ either.

Mr Power—That is correct. It was quite belittling. I have had probably two or three stand-up arguments with Carey Fraser over quite major parts of our portfolio. When we did lever again the first levering we did was straightforward ASX300 and I said that was what I wanted to do again, yet she split it into three components—industrials, mining and Australian high tech. She tried to tell me that was the ASX300 and I said, ‘How come we’ve got four bits now? We’ve got the ASX300, and now we’ve got industrials, mining and high tech. You haven’t done what I asked.’

Mr ROBERT—When you were having that request for clarification and she was making these statements to you, did she ever provide or did Storm provide to you in writing, in simple enough terms, exactly what was going on and how it was working? Did they provide you with a degree of education that you could readily understand?

Mr Power—I would probably have to say yes to that, but it was very vague. It is just the fact that I was across it that I could understand it.

CHAIRMAN—Senator McLucas.

Senator McLUCAS—Thank you for your submission and for attending today. You say in your submission you never wanted the LVR to rise over 50 per cent. That was when you started,

so that was with Ozdaq. How did you communicate that with them at that time and did you continue to communicate that with Storm?

Mr Power—Every time we had a meeting, yes.

Senator McLUCAS—Would you just say, ‘What’s my LVR?’ Can you talk me through how you would do that?

Mr Power—You would go into the office and they would put it up on a screen and go through it. They would suggest that you are below that. At times we were in the 40 per cent mark, so they would say, ‘You can borrow some more and get up.’ We were always encouraged to get up around the 70 per cent mark. This is where I had these stand-up arguments. I did not want to go above 50 per cent, because it was a portfolio for me that was on its own. It is like going to the casino. You only take in your pocket as much as you are prepared to lose and, knowing the stock market, they said on numerous occasions that it was highly unlikely that it would fall, even at 70 per cent, and to have a margin call. That was their buffer. The model suggested this. Like I said, I went through the ‘87 crash so I knew exactly what was going on, yet they still recommended and pressured. It is only the fact that my partner and I were strong enough to say no and walk out that we did not lose. We lost; we lost our nest egg. We have been to the casino and it is gone. I am planting that squarely on the banks.

I do not know your knowledge of the whole thing, but Storm was closed down. I think my partner and I, and quite a lot of other Storm people, could have traded out of it, but we were not given the opportunity. This is where the regulation has to change. It cannot all be put into the one bag.

Senator McLUCAS—What do you mean by that?

Mr Power—That whole Storm-badge fund was sold out rather than individuals. If you are liquid, you are still viable. Everybody went down in that badged fund.

Senator McLUCAS—I understand what you are saying. It sounds like the relationship that you had with Storm was a bit testy. Is that a reasonable descriptor?

Mr Power—Absolutely. We wanted to draw some money out, but we were afraid to go there because they would say no.

Senator McLUCAS—It is your money.

Mr Power—Yes, exactly.

Senator McLUCAS—Why did you not go and say, ‘I don’t want to have a relationship with you anymore. I don’t like this’?

Mr Power—Because at the time it was running reasonable. We went against their whole Storm model and bought a block of land. That was absolutely against their Storm model.

Senator McLUCAS—But you had to push to do that.

Mr Power—We just did not tell them. We did not put it on our file. What else can you do?

Senator McLUCAS—I find the relationship between many of the investors and the organisation to be different from what I would expect it to be between an investor and a financial adviser.

Mr Power—These people are meant to know more than we do.

Senator McLUCAS—You are paying them commission.

Mr Power—Exactly, and lots of it. I said in my statement, ‘If you don’t have the brains, buy them.’ That has been my motto all the way along.

Senator McLUCAS—In terms of advice to the committee about what sort of recommendations we might like to make about protecting investors, other than what you have already said is there anything else that you would like to tell us?

Mr Power—I can only say stronger penalties. I think there are two things at play here. There is Storm Financial and the banks, or the bank that sold the whole portfolio. I think they need to be accountable. I said at the end of my statement, ‘I want my money back’, because we could have traded out of that. We were kicked off the bridge.

CHAIRMAN—How long were you with Storm?

Mr Power—We started in late 2003, 2004.

CHAIRMAN—Were there any times where you thought it might be a good time to get out, cash in and reap the rewards of your portfolio?

Mr Power—I had a feeling when the market got to around 6,000 that it was going to overheat and I had thoughts of pulling out, but never relayed them to Storm. It is that feeling you get that something is going to happen.

CHAIRMAN—In terms of the index fund, you do know something about that particular fund and the relationship between Storm, the fund and the banks. Can you describe that? I am interested to hear your story around that?

Mr Power—I think they were pretty cosy, to say the least. I was a bit perplexed about having a loan with a bank and not actually seeing a bank employee. I thought that was quite different and odd.

CHAIRMAN—Which bank? Were you with Macquarie?

Mr Power—I was with Macquarie Bank, yes.

CHAIRMAN—It is hard to ask that question without saying that. I should have asked: what was the name of the institution?

Mr Power—It was the Macquarie Bank, which is a fairly large one.

CHAIRMAN—How did you know that fund was sold out? How did you come across that information?

Mr Power—I think by the media.

CHAIRMAN—Did Storm ever advise you or anyone else advise you that the fund was being sold out, the fund had collapsed or that there was anything in terms of the fund?

Mr Power—No, I do not think so. After Josh from Macquarie had rung us and said that they wanted \$2,500 by the close of business, we rang Storm and were asked to pledge more money.

CHAIRMAN—Did Storm ask you to pledge more money?

Mr Power—Yes, that is correct. They wanted us to pledge what we had in the dam, which was the Macquarie account where the dividends and stuff were put into. We went in and signed documents to that effect.

CHAIRMAN—You actually signed documents to cover the shortfall?

Mr Power—Exactly, yes.

CHAIRMAN—So you did cover your margin loan?

Mr Power—Yes, that is correct.

CHAIRMAN—Who did you cover it with?

Mr Power—We pledged moneys from the dam.**CHAIRMAN**—Who did you sign the documents with?

Mr Power—Carey Fraser.

CHAIRMAN—At Storm?

Mr Power—Yes.

CHAIRMAN—Do you know if those documents ever made it beyond Carey Fraser?

Mr Power—I have absolutely no idea.

CHAIRMAN—I will just get that clear. A margin call was made to you.

Mr Power—Yes, from Macquarie Bank.

CHAIRMAN—You rang your adviser, Storm.

Mr Power—Yes. We were told to do so.

CHAIRMAN—You pledged and signed a document to cover that call.

Mr Power—Yes, that is correct.

CHAIRMAN—But then nothing ever happened.

Mr Power—No. We were just sold out with the rest. That is why I am angry.

CHAIRMAN—Did you ask your adviser what happened with that signed document? Have you ever asked them?

Mr Power—No. That would be absolutely pointless. We would get no answer, none whatsoever. It is a black hole.

CHAIRMAN—Thank you. We really appreciate your time.

[2.11 pm]

JACKSON, Mr Andrew, Private capacity

CHAIRMAN—I welcome Mr Jackson to the table.

Mr Jackson—I am appearing on behalf of myself, but I was a CBA employee up until 22 July.

CHAIRMAN—In what capacity were you a CBA employee?

Mr Jackson—I can go through that. Most recently I was area manager for North Queensland.

CHAIRMAN—We are happy to hear some opening remarks or a statement if you have got one.

Mr Jackson—I will just read from what I have prepared here. I joined the bank immediately after leaving school in 1990, commencing as a teller and have worked over a period of approximately 19 years in various positions throughout regional Queensland. In November 2002 I was promoted to the role of Manager, Sales Support, in North Queensland. It was at this time that I moved to Townsville. In April 2005 I was promoted to the role of Manager, Retail, North Queensland. My role there was primarily in connection with home lending. In October 2006 I was promoted to the role of Area Manager, Retail, North Queensland. In that role I was responsible for 14 retail branches of the bank in North Queensland and up to 180 staff. I had approximately 17 direct reports to me. I reported directly to the state manager of the bank and my role was focused on retail or domestic lending and banking. Commercial lending was not part of my scope of work.

Since April 2005 I have been manager one or manager two removed from the CBA Storm team, that is the team inputting the loans. I ceased working for the Commonwealth Bank on 22 July 2009.

I have some opening comments. I have only recently read the submissions to the parliamentary inquiry by the CBA, Christy Devney, Carmela Richards, Ron Jelich and some others. Although each writer has used facts to present their submissions, their submissions read much better for having left out some facts that do not add to their submission, or they are very cleverly worded in their submissions.

As I have been invited to attend the inquiry today I thought it important to make some comments to put forward the staff's side of the story. I am sure that you understand that, although a number of current North Queensland staff has been invited to attend today, none will attend as it is standard bank procedure that staff do not talk to media or publicly about confidential bank matters. If they were to make comments regarding Storm or CBA, they would either fear that they may breach confidentiality or lose their job and, as such, I will provide some comments.

This is in no particular order. There are submissions to the parliamentary inquiry. First of all there is Ron Jelich submission No. 54. In Mr Jelich's submission he states:

When Amanda Holmes from CBA Townsville heard that it was Andrew Symonds she indicated that she would lend Andrew 90% LVR rather than the 80%.

My recollection of this home loan is that prior to Mrs Holmes ever being made aware that Storm would be submitting a loan on behalf of Andrew Symonds, David McCulloch contacted me to inform me that Andrew O'Brien would be forwarding through an application on behalf of Mr Symonds and they would be seeking a 90 per cent lend on the loan for a particular reason. That reason is confidential and personal to him, which I am happy to discuss off the record, but not publicly.

CHAIRMAN—Thank you.

Mr Jackson—In addition to this reason I am of the understanding that Mr Symond's previous loan at his previous bank was already currently at a 90 per cent lend, so it was not something unusual, independent or particular to the Commonwealth Bank. I asked Mr McCulloch to send the loan through and said that we could not guarantee anything, but we would do our best.

I was previously unaware that there was a cricket bat presented to my staff. Upon becoming aware that Ms Holmes had received a cricket bat signed by Andrew Symonds I made some inquiries. My understanding is that as part of refinancing some home loans from Suncorp there were some particular time impediments and it was essential that the loan was refinanced within a short time frame due to Mr Symonds's impending departure overseas. It is my understanding that when Ms Holmes managed to get the loan approved at 90 per cent LVR and refinanced within the required time frame, she was contacted by Mr O'Brien thanking her for her great work and words to the effect, 'I'll see if I can get a signed cricket bat for you.' A few months after this Ms Holmes went on 12 months maternity leave. Shortly after her return she was contacted by a Storm staff member in Townsville asking her if she had ever received an Andrew Symonds cricket bat as a number of them had just arrived at the office. Within a few days, and approximately 15 months after the original home loan was completed, a cricket bat signed by Andrew Symonds arrived for Ms Holmes. For the record, the cricket bat was approximately 30 centimetres in height.

Mr Jelich's submission states that in March 2008 the CBA linked its computer system to Storm to allow use of VAS. Quite simply Storm had no access to the bank's VAS system. Mr Jelich states that he recalls that Storm would receive almost daily visits by Amanda Holmes. Ms Holmes commenced in North Queensland in approximately January 2006. She did not make daily visits to the office. It is my understanding that in 3½ years Ms Holmes may have attended their office a dozen times.

In regards to the Devney-Richard's submission No. 386, I have one comment. They talk about the pressure, which was certainly played down in their submission, but I believe from the staff's point of view they felt they were constantly under pressure to meet the demands of the short time frames around approvals, fundings and so on. Discussions were regularly held by team leaders and staff regarding what could be done to help staff deal with that pressure. The pressure was not

in the form of doing loans that should not have been approved, it was more time frames and those sorts of things.

In the CBA submission No. 357, in their recent annual profit announcement and also in other media releases the bank has used phrases such as ‘shortcomings’, ‘aberrant behaviour’ and ‘failure by some staff to follow policy’. In February 2009 I was informed by my manager, John Hoey, that the bank, through its credit management team, would be reviewing Storm home loans for compliance. This was in addition to regular compliance checks performed monthly by the CBA’s credit support monitoring team. In approximately February 2009 I received a phone call and an email from my manager, Mr Hoey, passing on congratulations and thanks from Nigel Butler in charge of the team reviewing the files. In the email Nigel asked Mr Hoey to thank Andrew and the team for the manner in which the files had been completed and the compliance rate of the files. At that stage, I believe, there were up to 600 files that had been audited. It would take a normal bank lender between 10 and 15 years to have this many files audited.

Around this time I also contacted the bank’s customer relations department about an unrelated Storm matter. The experienced staff member there, Maree Curren informed me that of all the home loan complaints and requests they had been receiving, which was a considerable amount considering the bank’s stance on early repayment fees on fixed rate loans, the Storm requests were the easiest to action because when they looked up the home loan files everything was on file and where it needed to be.

In February or March of 2009, when the hardship team arrived in Townsville, a question was asked by a staff member present on how the loans were approved. Phil Champ, who works in the risk area of the bank and is in charge of the team that writes the lending policy—so they report to him—answered that he had been involved in the recent audit and that all the loans reviewed had been approved within policy.

The question is: what are the shortcomings, aberrant behaviour and failure by some staff to follow policy? If it is the ‘identified and misuse of property evaluation assessment system’, known as VAS, which the bank has put on the table, I would argue that the staff working in the team did not use VAS in any way that is not standard practice by almost every lender in Australia. Being computer program staff restricted, to stay within the constraints of the program, there is no override button. If there was a problem with how they were using VAS then this would have been an issue for every lender in Australia. If it is to do with the loan approvals, loans were either decisioned by the bank’s computer system or, if required, referred to Sydney for a decision. Up until the removal of a product called the Viridian Advantage, 95 per cent of the loans were referred to Sydney for a decision.

By virtue of the fact that many banks have done home loans for clients investing in Storm-branded index funds, it is evident that these banks must have had a credit policy that allows their staff and clients to complete home loan applications for this purpose. Perhaps the question should be asked of each bank as to the appropriateness of their lending policies in this regard. Local bank staff are not qualified to answer this question.

CBA, like many banks, has been doing home loans for Storm since prior to 2002 when I arrived. I am aware of over 15 staff having worked in the CBA Storm team since I came to North Queensland in 2002. These staff were generally appointed to these positions based on their

lending experience or knowledge of policy. It is my understanding that all of these staff followed home loan policies when inputting loans or referred to Sydney for a decision.

By cleverly worded statements and innuendoes the bank has managed to convey to the public that the local staff in Townsville have not followed policy, thus placing the blame for this fiasco unfairly on them, but I must stress that these staff did not approve margin loans with LVRs of 90 per cent; they did not sell out margin loans at 120 per cent; they did not create the VAS system; and they did not use the VAS system or the bank's home loan program in a way that was not standard practice throughout Australia. They did not use it outside the constraints of the system and they did not write bank lending policy, policy which allowed home loans to be approved to Storm clients since 2002. They simply followed the process that was approved and referred to appropriate areas when required.

I have two final comments that I would like to make before finishing. In the past six weeks two CBA staff members, Darren Frakes and Graham Lynham have left the CBA, the bank again using cleverly worded and vague statements has, via innuendo, implicated both of these staff in the Storm fiasco. For the record, both of these staff were not involved in the writing of home loans for Storm clients.

Just finally, the media have constantly reported that the Storm loans were written by Aitkenvale branch, thus effectively branding the Aitkenvale branch manager and all of the branch staff as a reason for the Storm Financial demise. I have asked the bank to address this with related media and other parties, but as is their want, they have not addressed it and are not interested in the effect that it has had on their staff. For the record, neither the branch manager nor his staff has been involved in the writing of home loans for Storm clients. The CBA Storm team was located in the North Queensland lending cell. I know it is a lot easier to refer to it as Aitkenvale branch, but it does not help those staff that had nothing to do with the processing of loans. It does not help when they are dropping off their kids to soccer and copping abuse from other parents who are there. That concludes my opening statement. Thank you.

CHAIRMAN—It would be helpful for us if you could describe, in your view and your own words, what the relationship was between the Storm people and the Commonwealth Bank of Australia here in Townsville or anywhere else? What was the relationship between the two entities?

Mr Jackson—I have been asked to describe this before. There was a relationship there similar to a sort of relationship that you would have with a real estate agent that you might go out and visit. I guess the relationship was a mutual one where we provided a service to them. I believe one of the reasons that we got so much of Storm's business is that we had the capacity to provide service. We had the staff and the numbers and we also had computer systems that were always improving. I guess Storm looked at us as somebody who fitted in nicely with their approach and what they were doing. At the same time, we thought of them as a referral partner who could provide opportunities for us with their clients.

CHAIRMAN—How would you describe that? I just need to understand it. Was it just normal, standard, run of the mill?

Mr Jackson—I would say that it was a normal relationship, but one that obviously was very beneficial to both parties and grew as time went on. It certainly was not paid. There were no incentives. We were not paying Storm for the business and there were no incentives for us either to write the business offered by them.

CHAIRMAN—You say CBA linked its systems to Storm. Was that the VAS?

Mr Jackson—No, they did not link the systems to Storm, is what I said.

CHAIRMAN—They did not link any systems?

Mr Jackson—They did not.

CHAIRMAN—I just needed to clarify that. I thought you said they did.

Mr Jackson—In Mr Jelich's submission he thought that they had linked it. For the record, they did not. I apologise.

CHAIRMAN—We have heard a lot of evidence about loan documents and you have given us some testimony now in terms of saying that everything just followed through normal bank processes. Everything was approved in Sydney. Did you see any loan documents?

Mr Jackson—The process would be that the documents would be ordered from what we call a loans processing cell in Brisbane where they would draw up the contracts, put in the usual terms and conditions and those sorts of things into an envelope and they would be forwarded to our office. We would also put a letter on the front of that to the client—I do not know whether it has been tabled before—which basically advised the client that we were not involved in their financial advice they were given and so on and so forth. It had a statement down the bottom which got them to acknowledge and sign it.

CHAIRMAN—These were the loan applications?

Mr Jackson—No, they are the loan contracts.

CHAIRMAN—Were the loan contracts sent directly to people's homes?

Mr Jackson—No. They were sent directly to us. We put on that letter and we then forwarded them to the Storm financial planner who had done the plan for the client.

CHAIRMAN—You sent all those documents back to Storm.

Mr Jackson—That is correct.

CHAIRMAN—As the bank, you never sent any of those documents to individual clients.

Mr Jackson—There were occasions when the individual contracts were sent directly to the client, but the reasons behind that are to do with guarantors. If there was a guarantor involved in the loan the documents had to go straight to the guarantor.

CHAIRMAN—When loan applications were made, did you receive the application or did the branches up here in North Queensland receive some applications?

Mr Jackson—Maybe I can just talk about how it was initially introduced to us. Storm would fax or, eventually, email us what I would refer to as the opportunity to quote for the business. That email or fax went to a number of other—

CHAIRMAN—To an individual person?

Mr Jackson—An individual person, yes. Part of that initial letter and information that was sent to us had details about the clients and their assets, income and debts. We were asked to quote—that is the word that I will use—on the business. What I mean by that is to run an assessment on that to see if the client would be eligible for a loan.

CHAIRMAN—Just to be clear, you received a bunch of information about a person and you were asked to quote. The sort of information that you would have received would have been how much income they had and so on?

Mr Jackson—Yes.

CHAIRMAN—You took it that all that information was accurate?

Mr Jackson—That was the initial stage. We would run some calculations and assessments on that and provide a letter back to them quoting, ‘Based on the information you have provided to us, this is what the client would be eligible for.’ We would also quote an interest rate, fees and those sorts of things. If the client and Storm decided to go with the CBA they would then forward to us what we would call or term a ‘go ahead’, which would be the instigator for us to contact the client and get full details off them.

CHAIRMAN—Did you refuse any applications?

Mr Jackson—I was not personally involved in the applications.

CHAIRMAN—Do you know if any applications were refused?

Mr Jackson—Not that I can recall off the top of my head.

CHAIRMAN—At some point you must have seen applications, documents or something. Were you satisfied that people who were, for example, on widower pension, DVA pension or unemployed, had enough capacity to repay what seems to me to be very high borrowings? Was that satisfactory?

Mr Jackson—Again, I am not the lending person. I can say that if somebody was to forward through an application and they were retired then the income that would be used to assess the

loan would be obviously any income that they did have, whether it be a pension, still working part time or whatever that might have been. In addition to that, for example, if a client had a \$500,000 margin loan and they had \$700,000 worth of shares, the policy is that you can accept the amount over and above the margin loan. On that example you could take \$200,000 and use what is called the deeming rate of five per cent to calculate what income would be earned from those excess funds. Does that make sense?

CHAIRMAN—That makes sense. Was that done for all customers?

Mr Jackson—If above five per cent was ever used, it was referred to Sydney. I do not have access to policies so I will have to try and quote it, but the policy on when you could use above five per cent was that there needed to be historical evidence that the shares or the fund was earning the rate that you were asking Sydney to accept.

CHAIRMAN—Was there any consideration taken as to what the fund might do in the future, rather than what the fund did in the past?

Mr Jackson—I believe the policy's wording was around three years historical performance.

CHAIRMAN—Did that take into consideration the appropriate level of leverage and risk that an individual had the capacity to repay?

Mr Jackson—I do not believe so, no. There was no wording, little asterisk or a dot point down the bottom to say before submitting it for this, take into account the information that you just talked about then.

CHAIRMAN—Given the size of the amount of lending—substantial amounts of money in most cases—did the bank ever feel it was necessary to actually meet these people at all? Did you meet every single one of those applicants that came through?

Mr Jackson—I have spoken to the ladies and the people who were doing the loans for Storm and they assured me that they contacted 99 per cent of the clients by phone.

CHAIRMAN—Clearly, by that answer, you are saying that as the bank you never met the actual people?

Mr Jackson—No. There were a number of clients that we would have met, but the majority we did not meet.

CHAIRMAN—I will just finish here and pass over to the deputy chair. We have heard from a number of people that they are not sure what they received. They signed some documents, but they are not sure what they were. They signed some documents for something. It might have been a loan, it might not have been a loan. It might have been the authority to seek a loan. What we have heard as evidence from people is often they just signed documents which may have been filled in by somebody else or may have been blank altogether. Do you recall seeing any loan application documents signed with empty spaces that needed to be filled in?

Mr Jackson—I do not recall seeing any of those myself, no.

CHAIRMAN—So the answer is no.

Mr Jackson—Yes.

CHAIRMAN—Therefore, all the ones that you saw were filled in?

Mr Jackson—Yes. The go-aheads were sent through to us. Despite other comments, the girls then rang the people to get a full detailed balance sheet from those people. The reason for that is that the information provided by clients to Storm often, for example, might leave off a target card or a little credit card. One example I have is a gentleman informed my staff that he had \$100,000 at the Bank of Queensland that he did not tell Storm about because he did not want to give them that money as well. It was important for us to make that contact just to verify those details. If you left off a credit card and put it into the system, the system would actually identify that the client had a credit card, had not disclosed it on the application and it would actually decline the loan. It is like a CRA check.

CHAIRMAN—Am I to understand by that that you did not do the approvals and that 95 per cent of the loans were approved in Sydney? How did the Commonwealth Bank know that any of that information was actually correct?

Mr Jackson—As I said, by contacting the client. That is how I understand that.

CHAIRMAN—Who contacted the clients?

Mr Jackson—The ladies working in the CBA Storm team.

CHAIRMAN—Not the bank?

Mr Jackson—The Commonwealth Bank. I call them the Storm team. They are the Commonwealth Bank lenders.

CHAIRMAN—Just to be clear, I am not sure who the ladies are?

Mr Jackson—The staff working for the Commonwealth Bank. My lending team would contact those people.

CHAIRMAN—Are they the same people who then subsequently ended up being employed by Storm?

Mr Jackson—There was only one staff member in my time in North Queensland that subsequently ended up working for Storm, and that is Ms Devney.

CHAIRMAN—Thank you.

Senator MASON—You were the Townsville lending area manager, retail?

Mr Jackson—From April 2005 to October 2006 I was the North Queensland manager for lending and then from October 2006 until July 2009 I was the area manager for North Queensland.

Senator MASON—What are you doing now?

Mr Jackson—I am currently unemployed.

Senator MASON—You described what happened with respect to Storm as a fiasco; is that right?

Mr Jackson—I think that is the way I described it, yes.

Senator MASON—You would argue that you and the officers working with you simply followed the Commonwealth Bank's normal processes; is that right?

Mr Jackson—That is what I would argue and that is what the compliance checks in my time at the bank showed.

Senator MASON—You certified that. You had received accolades from the Commonwealth Bank in the past; is that right?

Mr Jackson—In regards to their recent audit of the Storm files I received an email and a phone call acknowledging the fact that a great number of files had been audited, found to be compliant and in good order.

Senator MASON—Would you say that it is unjust for the Commonwealth Bank to try to implicate local branches as being less than diligent in their processes?

Mr Jackson—Based on the evidence that I have, yes.

Senator MASON—You would say that the Commonwealth Bank might be arguing that this is not an issue of the bank's processes, rather this is an issue of a few less than diligent officers in a few less than diligent branches of the CBA. Would you reject that?

Mr Jackson—Yes.

Senator MASON—I would like to ask a question that puzzles me and I know it puzzles the entire committee. What is your understanding as to how margin calls would be actioned?

Mr Jackson—Obviously I would be going from what I have read in the papers because I was not involved in margin lending. I would expect that, by definition of margin call, if you get into that buffer zone that you have agreed to, then a margin call would be made. What I mean by margin call is that the bank initiates or makes steps to actually get you out of that margin territory.

Senator MASON—And the bank would contact the client? As you are bearing the risk you would contact the client and also, indeed in this case, contact Storm as well. Would that be right?

Mr Jackson—Again, I have no experience in margin lending at all, but I have asked one of my managers who has a margin loan as to how his worked and if he had ever had a margin call. That particular manager has done a margin loan through a broker, not through the Commonwealth Bank, but it then went through CommSec. He informed me that this year he has had three margin calls and when he was contacted about that, he was contacted by his broker, not by the bank.

Senator MASON—When you gave your oral evidence some members of the audience, it is fair to say, laughed or queried about the fact that the Commonwealth Bank had always made contact with Storm or indeed the clients with respect to margin calls.

CHAIRMAN—No, with lo-docs.

Senator MASON—Over the last few days we have heard evidence from several witnesses that they did not receive any margin call from the Commonwealth Bank. Can you explain why that would be?

Mr Jackson—Again, I am sorry. I am not involved in margin lending so I cannot comment.

Senator MASON—You would not have any idea?

Mr Jackson—It has been suggested to me by the bank that there was authority for the bank to contact their adviser when the client was in that buffer zone.

Senator MASON—Do you have any idea why that did not happen?

Mr Jackson—No, I do not know.

Senator MASON—That is the golden question and no-one can answer it.

Mr Jackson—I am sorry, I cannot answer that for you.

CHAIRMAN—Senator McLucas.

Senator McLUCAS—I would like to talk to you about lending targets and how that impacts on the operations of staff of any bank. How important were lending targets to your role?

Mr Jackson—The importance of lending targets over the years has changed. In the current environment that we are in deposits are very important. If you go back a number of years the home loan was the be-all and end-all, the most important thing we could do in the bank. That has probably changed a little bit over the last year or two since the banks are all looking to raise deposits themselves.

Getting back to the question about how important it is, for a lender it is very important. With a lender's remuneration or their bonus potential, it would be accurate to say that 100 per cent is based around the lending that they write. They are allocated a target at the start of the year and they need to hit that target before they are able to be rewarded with a bonus or those sorts of things.

In terms of the branches, it is watered down a little bit more because the branches, the branch managers and myself have a number of KPIs—we call them KPIs—around deposits, credit cards, financial planning, referrals for commercial lending and so on.

Again, if I went back to 2005-06 I would give it an importance of 30 or 40 per cent. More recently I would give it an importance of about 10 per cent.

Senator McLUCAS—What sort of bonus would someone be eligible for if they hit or exceeded the target? Is it a significant part of their wage?

Mr Jackson—There are significant bonuses that could be earned. If you exceeded your target by \$1 million you probably would not earn a lot in regards to bonuses. If you exceeded your target by \$50 million then you would obviously receive a much larger bonus.

Senator McLUCAS—Are we talking about \$10 or \$100? I just do not have any understanding of the remuneration in the banking industry.

Mr Jackson—I guess an average lender for the year could earn around about \$10,000 or \$15,000 in bonuses.

Senator McLUCAS—It is significant.

Mr Jackson—A very good lender could earn \$40,000 or \$50,000 plus.

Senator McLUCAS—It is a driver.

Mr Jackson—I would just state, for the record, that the ladies who were processing the loans for the CBA were not remunerated. They had no incentives. They were not remunerated by bonuses and that sort of thing. They could exceed the target I gave them by \$100 million and they would still get paid the same amount.

Senator McLUCAS—Why was that?

Mr Jackson—Because it was not a lending position as such. I guess the reason that a mobile lender or personal lender can be rewarded with a bonus is that they would be proactive. They would follow clients up. They would go to networking events. They would go out and visit real estate agents. They would train their staff in their branch on how to talk to clients about whether or not they were in need of a home loan and those sorts of things, whereas the ladies that worked for the CBA's team were basically receiving the information from Storm and doing that. I think there was a difference there in the work that they were doing.

Senator McLUCAS—I am glad you clarified that because that is important. How were the targets set for the North Queensland area?

Mr Jackson—In my time in North Queensland, in either the manager retail or the area manager positions, targets started at the top and filtered down. Queensland is allocated their target for fundings. By 'funded', I mean not just an approved home loan, it has to go through funding to be funded. We were allocated a target by the regional office or the regional manager

and certainly there were a number of times over those years where I objected to the increase in targets. Just to give you an idea—I will try to quote the years here—between the 2006-07 and the 2007-08 year my home lending funding target went up by approximately \$170 million.

Senator McLUCAS—It went up by \$170 million out of a total of what?

Mr Jackson—Let us say from \$550 million to \$730 million.

Senator McLUCAS—It was a significant proportion.

Mr Jackson—I did up an email or a submission to my regional manager about the fairness of that. That increase was amounted to the same increases for other areas put together. In terms of whether I felt that was fair or not, I really think that there was an expectation for North Queensland—and there was a case of there being an expectation around every other area in Queensland—that it had increased expectations. To give you an example, there was an official planning document created by the regional office in 2005-06 where every mobile lender in Queensland had to fund five loans per week. Every mobile lender in Queensland had five loans per week, but there were little asterisks in the pack that said, ‘Except in North Queensland, where they will be allocated 10 loans per week’, which is a 100 per cent increase.

I think the regional office, in terms of what it expected out of North Queensland, certainly had increased expectations on North Queensland as opposed to what was expected from other lenders.

Senator McLUCAS—You obviously had a discussion with the state manager about that.

Mr Jackson—Yes, but not particularly around that one. I did have a discussion about the increase of \$170 million. I was told that was the target. The state manager, John Hoey, and his assistant, Trevor Lidstone, contacted me and said they had received the email and wanted to talk to me about it. They took me through why the target was the target. They asked me how I had allocated it. They asked me how much was allocated to Storm. For that year I believe I allocated \$130 million. That was for the 2008-09 year, if I can put that on the record. I still said to them that the targets were too high, but they suggested to me that we were going into a difficult year of increasing interest rates at that time and that at the end of the year if Storm have not provided that business to me then they would take that into account and reduce my targets, and they did reduce it by a percentage of that original target allocated to me.

Senator McLUCAS—What happens if you are ahead of the target?

Mr Jackson—Generally speaking for all banks in North Queensland, not just the Commonwealth Bank, it has been a fairly prosperous time in North Queensland with great growth so I pretty much think every bank would be ahead of target. We were ahead of target in 2005-06, 2006-07 and 2007-08. In January of all of those years I was ahead of target and the bank gave me an increase to target in that month for the rest of the year. For example, it would not be unusual for the bank, after six months of the financial year and having a target to work towards, to then increase your target by, say, \$50 million for the year.

CHAIRMAN—Were there financial incentives attached to meeting or going above that?

Mr Jackson—Nothing increased, no. It was just, ‘Here’s another \$50 million.’ It was not, ‘Here, take this \$50 million, but if you get it we’ll give you this.’

Senator McLUCAS—They just moved the goal posts?

Mr Jackson—Yes.

CHAIRMAN—Senator Williams.

Senator WILLIAMS—On the targets, you said in this area in 2007-08 you had your lending targets raised from \$550 million to \$730 million or something similar.

Mr Jackson—Yes, that is right. I am just trying to make sure I have got the years right. I think it was for the 2008-09 year that it was a \$170 million increase on the 2007-08 year.

Senator WILLIAMS—These targets were set for you by head office obviously saying, ‘We need to lend more. We need to make more money. We need to make more profit.’ That is why the targets were set on your 14 branches.

Mr Jackson—That is right. I do not know if they used those words, but certainly the bank up here comes up with a figure via their calculations. It is probably a growth that they want and need to achieve if they are going to produce a certain profit, so that is then cascaded down to the regional offices who then allocate the targets to us. I have never had any input into the target that I was allocated.

Senator WILLIAMS—I want to ask you a question about the Storm-branded index funds. How was the income from the Storm-branded index funds used in regards to servicing the loans at the CBA?

Mr Jackson—The standard policy around using return from shares or investments is that you use the deeming rate which fluctuates, but it has been pretty much around five per cent for a long time.

Senator WILLIAMS—Are you saying franked dividends from shares is around five per cent average?

Mr Jackson—That is right.

Senator WILLIAMS—You could work on an average figure of five per cent?

Mr Jackson—That is right. In the policy it says that if you have evidence of a managed fund or a person’s investment that over a period of three years has returned a higher return, you may submit this down to what we call HLDC, or Sydney, for them to assess it using that income if that is what you want to do. With the Storm-branded index fund, and other managed funds for that matter, over 2005-06, 2006-07 and so on, certainly the share market was producing great returns and, hence, the historical evidence was probably there to suggest that the returns on those funds would be in excess of five per cent. In fact, the statements for the Storm-branded index funds showed higher returns. I think one that I saw showed about 23 per cent.

I had a conversation with David McCulloch and also with Kristy Devney about the Storm-branded index fund, their returns and the height of them. They asked me if I could go to the bank and say, 'Can we start getting eight per cent accepted if funds were returning 10, 12 and 15 per cent?' So I initiated an email in, say, March. It was over my head. I did not know a lot about policy.

Senator WILLIAMS—March this year?

Mr Jackson—It was March of 2008. I sent a letter to Sheree McKinnon, I think that is what the person's name was, and asked her if she could either, firstly, arrange to have a meeting with the people in Storm, because I knew that she had met with them years ago in 2002 along with some other people—Kathy Cummings and so on—because they wanted to talk about their process, goals, self-funded retirees and so on. I asked them to, firstly, arrange a meeting or, secondly, could they have a look at their request to start accepting the returns of the Storm-branded index fund. I believe I sent off that particular email in about March of 2008. It went backwards and forwards and all around the shop to different people. They had a teleconference in about June 2008 where myself and a lot of people from around Australia attended. It was decided on that teleconference that a guy by the name of Lou Chard would go away and have a closer look at it. That was in June. I think eventually by November, when Storm was just about effectively winding up, I received an email from—I will not quote a name because I am not sure; it was not Sheree McKinnon; it might have been Maree Sumertha—instructing me that not only could we not use an increased return on the Storm-branded index fund, but that we should immediately start using zero per cent, so not use any return from it. I am not sure whether that was a policy change or whether it was just instructions that I was asked to observe, particularly for Storm clients.

Senator WILLIAMS—This is November last year.

Mr Jackson—It was November 2008.

Senator WILLIAMS—In other words the hierarchy of the bank was saying to you, 'If you were to lend any money for Storm, don't factor in any return on it'?

Mr Jackson—Yes. I think the reason they may have come to that decision is that the business unit or the department doing the margin loans was not aware that Storm was borrowing against the house to start that initial investment. I am not sure, but there was an email that came back through to me and instructed me to cease using income from Storm investments.

Senator WILLIAMS—I just want to take you to the VAS system for valuations. Can you explain to me briefly what it is?

Mr Jackson—There seems to be a bit of confusion regarding the VAS. I think I have used VAS once or twice in the last seven years so I cannot profess to be the expert, but I will try to explain it. It is a computer system. You log on to a bank website. You type in your staff number so that it lets you into it. The VAS system, I believe, stands for Valuation Assessment System. We will call it that. Every loan done by the Commonwealth Bank, not just by these ladies, but every loan done by the Commonwealth Bank needs to use the VAS system.

Senator WILLIAMS—In Australia?

Mr Jackson—In Australia. You would log on to this system. For example, Senator Williams, if you came to me and said, ‘Andrew, I’ve got a house that I own. I don’t owe any money on it. I think it’s worth about \$500,000.’

Senator WILLIAMS—At say 22 Jack Street, Inverell or something?

Mr Jackson—I do not know if I would even put your name into it, but I would put in the address of the property and the owner’s estimated value of it. For example, I might say to you, ‘John, how much do you think it is worth?’ You might say \$500,000 or \$600,000.’ I will say, ‘Let’s start at \$500,000 and we will put in “owner’s estimated value \$500,000”.’ You need to put in something called a source document. A source document is evidence that the bank holds that gives an indication of the value of the property. The source document might be the sale contract when you bought the property; it might be a Valuer-General’s search or a rates notice—but we did not often use a rates notice because it only used the land value—or the most recent valuation that had been completed by what I call a panel valuer, such as Collins and Eales. People in Townsville would know those sorts of valuers.

You would put in there what the source document was and the date. I believe the VAS system is underpinned by recent sales evidence, suburb, data and those sorts of things. You would also put into the system how much the client was looking to borrow. In the example, you said that it was worth \$500,000. You want to lend up to 80 per cent of what your property is worth. It will ask how much is the client going to borrow. You would type in ‘\$400,000’. It would then generate one or two decisions. It would say, ‘Accepted. Accept the owners estimated valuation.’ That, again, is based on that RP data, recent sales evidence and so on, or it would say, ‘Not accepted’, or words to that effect, ‘Order a valuation.’

In cases where it came up, ‘Yes, accepted’, it was not unusual, for example, with a lender in a branch or a customer to say, ‘We will try for \$550,000 because I would really like to borrow more than \$400,000’, so you would go back in and enter the data again at \$550,000 and if it came up yes, then the customer might say, ‘Can you try \$600,000 because I would like to buy a boat as well.’ You would put in \$600,000 and it might say no, so then you work your way back down.

It is my understanding that even with lenders who first start out in the bank, when they go along to a lending course, that is how it is explained to them to use that, at least that is how it would have been explained to use it up until around about June of this year.

Senator WILLIAMS—Are you saying that things have changed since June of this year at the Commonwealth Bank?

Mr Jackson—Just going from memory, on approximately 4 June this year I and all the other area managers in Queensland received an email from the regional office—I cannot be sure who—that alerted us to a teleconference that was going to be held the next morning by the regional manager. The subject was not announced. Every branch manager and lender in Queensland had to attend that teleconference. It was not one teleconference. There were five or six run because you could only have so many people log on to one teleconference. There were

four or five teleconferences held on that day and it was explained on that teleconference to the branch managers and lenders as to how they should be using VAS going forward. One of the instructions was that they could only use it on one attempt. With the example that I gave you, if you said, 'It's worth between \$500,000 and \$600,000', the lender is now going to have to say, 'Listen John, you need to pick something. Is it \$500,000, \$550,000 or \$600,000 because we are only going to get one attempt at this?' However, it is my understanding that the system still allows you, even to this day, to have more than one attempt, but the bank is now monitoring that.

Senator WILLIAMS—I have a couple of final questions on auditing. You would have had your loan applications audited from head office in Sydney. With many of the audits here, when you lodged the papers, you would have them checked, at times, by the Sydney office. Is that correct?

Mr Jackson—Can I get you to ask that again?

Senator WILLIAMS—Your loans that went through the branches up here, they would have been audited by people in Sydney and higher office to see that everything was being done right when it came to loan applications?

Mr Jackson—The bank is restricted as to how many loan applications they can audit. Not every single loan application is audited.

Senator WILLIAMS—Did you not have about 300 audited up here?

Mr Jackson—Yes. We had a process where every month loan files for lenders would be audited. In addition to that, I was made aware in the early part of 2009—February or March of this year, and maybe even January—that the bank undertook a process of identifying Storm loans from a spreadsheet that was provided from my office to say, 'We don't have complete records, but here is a copy of the most recent information that we have.' The bank audited, I believe, 600 loans up until the end of March and I am also aware that they continued to audit perhaps another 200 loan files—up to 800—of which it was never brought to my attention that those files did not pass compliance. It was quite the opposite; there was an email, as I indicated earlier, sent to my boss to pass on thanks and congratulations on the compliance. That confuses me as to what is now being reported by the bank as being behaviour not following policy.

Senator WILLIAMS—They audited specific Storm files on those?

Mr Jackson—Yes.

Senator WILLIAMS—Why did you get the spear?

Mr Jackson—Again, when I left the bank they placed upon me certain confidentiality. I have been told the reason I have left the bank is confidential, between me and the bank. Am I allowed to discuss confidential stuff between me and the bank? Perhaps I can be as vague as the bank.

Senator WILLIAMS—If you are as vague as the bank, then we will not understand anything.

CHAIRMAN—Mr Jackson, just so you do understand, this is a public hearing. There are people recording. There is a whole range of different people in the audience. It is up to you what you want to disclose to us, it is not for us to make that decision on your behalf.

Senator WILLIAMS—I will just say this, without perhaps dumping you in hot water. You are a young bloke of 35. You are married with three children. You have had 19 years in the bank. You have done all this lending. You have met targets. You have obviously given a river of gold to the Commonwealth Bank for the loans out of this area. You are obviously very committed to the Commonwealth Bank. Going on the audits, you got a clean skin right through and commendation from Mr Hoey, the state manager, and then you find yourself dismissed. Do you think you are being used as a scapegoat?

Mr Jackson—I do not like to use those words. Other people have used the word ‘scapegoat’. As I stated, they audited 600 files and did not find anything wrong that was reported to me. They audited another 200 and I believe one file they found with my signature on it where they alleged that I had exceeded my authority in allowing the loan to fund.

CHAIRMAN—How many?

Mr Jackson—One.

Senator WILLIAMS—One file exceeded your authority.

Mr Jackson—It is a bit like a teller who has a \$10 discrepancy. Once you have a \$10 discrepancy they can say, ‘We’re going to make some allegations about that.’ That can make six allegations about that one discrepancy. ‘You took it. You breached your statement of professional practice by not knowing your job. You breached this, you breached that.’ I will put it on the record that in 19 years I have never been inspected, called into question or disciplined for anything else, so in terms of whether I am a scapegoat, I think my departure from the bank certainly serves a good purpose for the bank to now be able to come out and say that there are staff in North Queensland who have left.

Mr ROBERT—In your professional opinion, has CBA been negligent in any way?

Mr Jackson—I can only speak for the home loans. From my observations, I believe that the ladies in the Commonwealth Bank’s cell that did the home loans followed the policy and they used the system. They did not override the system; they acted within the constraints of the system, the same as every other lender would. That is why I had those ladies working in there, because they were very good at what they did. If there is a problem with the policy, then it is not those ladies that invented the policies. I do not have any information around the margin loans and the margin calls.

Mr ROBERT—One of the great concerns from many people is that they were not given the opportunity to exercise a margin call and trade their way out of a difficulty by virtue of the fact that the market has increased substantially since those times and many people would have been in a far better position. I think I have got your words, that you indicated, ‘There was an authority for the bank to contact Storm re margin calls.’

Mr Jackson—That is just what has been conveyed to me. I have never seen the authority. This is that magic question that somebody asked about earlier.

Mr ROBERT—What was conveyed? What was your understanding of the nature of this particular authority?

Mr Jackson—It was conveyed to me by somebody in Colonial, upon me ringing one day to help a client out with a margin call, that Storm clients had ticked a box saying, 'In cases where there is a margin call or where I am in the buffer, contact my adviser.' That is what was conveyed to me.

Mr ROBERT—We have asked today and indeed yesterday a range of questions about clients, their margin loans and margin calls. No-one has been able to indicate at all any box being ticked or any authority with respect to margin calls. Is there something hidden on page 321 of a PDS in six point font?

Mr Jackson—I would suggest that if there is such a box that has been ticked it would have to be in the client's margin loan application. I recall just a brochure with a margin loan application that I had looked at for myself years ago and I believe it has two boxes on it that in the event of a margin call or going into buffer zone I instruct the bank to (a) contact me or (b) contact my adviser. I cannot state that as fact, but from memory I recall that being in the application. I, like you, am confused as to why that cannot be produced for the clients. If we could have a look at those, and if that is what they have ticked, then it should not be that hard to find those applications.

Mr ROBERT—So on those 600 client files that the bank sent an audit team in to look at and cleared them all—

Mr Jackson—That is home loans.

Mr ROBERT—So, no comment on the margin loans. The next question is: why did the CBA sell up the Storm index funds?

Mr Jackson—I cannot answer that. Again, I have no experience with margin loans at all.

Senator WILLIAMS—I think we should be well aware here that Mr Jackson was the area manager of the Commonwealth Bank, hence lent loans to people against their homes who then went into margin loans with CGI, being the margin lenders. In other words, they were distant from you and you did not understand it?

Mr Jackson—That is correct.

Mr ROBERT—Granted you are the most senior Commonwealth Bank staff we have had today, hence your opinion is valid. In your professional opinion the margin loan documentations you have seen in a general sense have always had those two boxes?

Mr Jackson—I have seen one brochure. I have not seen any Storm applications, but I recall a margin loan booklet—prospectus, PDS or whatever you might call it—in the past and I believe there were those two boxes on it where you could tick one or the other.

Mr ROBERT—Thank you.

CHAIRMAN—I would like to clarify because I am not sure about something. Is CGI Colonial Geared Index?

Mr Jackson—Colonial Geared Investments.

CHAIRMAN—Investments, sorry. Do they lend money?

Mr Jackson—I think CommSec also comes into it as well. I think CommSec is the margin loan.

CHAIRMAN—CGI a lender?

Mr Jackson—No. I thought CommSec were doing the margin loans and CGI did the investments.

CHAIRMAN—It is really important information.

Mr Jackson—I believe CommSec did the margin loans. CGI did the investment for the indexed funds and we did the home loans.

Senator WILLIAMS—Are you saying CommSec did the margin loan?

Mr Jackson—That is what I believe, yes.

Senator WILLIAMS—The Commonwealth Bank would do the margin loan as well?

Mr Jackson—I am sorry, I am not aware of the different department that actually is responsible.

Senator WILLIAMS—That makes two of us.

Mr ROBERT—Colonial does margin loans.

CHAIRMAN—Thank you very much. We really appreciate your evidence and the time you have given us.

Mr ROBERT—Thank you.

CHAIRMAN—For those people who have indicated they want to speak I will just set out a couple of rules so that we are all clear on what is going to happen and how it is going to take place to make it as efficient as possible. The committee, the secretariat and a number of people

have got to leave at a particular time to be able to make connecting flights and so forth. We will try to finish by 4 o'clock. We do not want to cut people off. We do want to give people an opportunity. We have a list of names. There will be a roving microphone that will come out to you. We are happy to listen to your comments. We may or may not ask some questions. We will just see how we will go to try to fit everybody in. We ask you to restrict your comments to five minutes or under. It would be really helpful if you could do it in that time.

[3.07 pm]

LYNHAM, Mr Graham, Private capacity

CHAIRMAN—I welcome Graham Lynham. Would you like to make some opening remarks?

Mr Lynham—I worked for the Commonwealth Bank for 30 years. I was recently dismissed. I was a mobile lender in Townsville. Media reports came out linking me in association with the Storm lending; I do have feelings for those people who have been affected. That proved very stressful on my family, particularly with Ralph Norris failing to come out and dismiss any link with Storm.

I will just give you an idea of what my role was. This year I would have written \$250 million in home loans for the Commonwealth Bank, over 1,000 fundings. Last year I funded \$276 million. I had a support team of six. I worked on the floor where the Storm loans were actually carried out and many of my team migrated into that Storm team. Most of my business came from external referral. I basically worked very similar to what a broker would have worked, in a sense, and I got a lot of referral from existing clients and word of mouth. I paid for billboards myself and paid for local advertising home, loan kits and so on.

I just want to clarify a couple of quick issues that might explain some of these audit samplings that you have been talking about. The Storm audit of 300 to 600 files was done by the bank. I remember Mr Jackson mentioning that they were sampling these files. I believe there was also sampling done with Ernst and Young being involved between the Storm files and some sampling of the lenders' files from the area. I do not know what the result of that was. That was an off-the-cuff audit. Lenders in the branch network get a sampling of audits done every month. If they get between a 60 and 80 per cent pass rate on those files they will still qualify for bonus at the end of the year. I mention that so you are clear on that. I do not think the Storm team girls qualified for bonuses. There was no financial gain in this.

I am conscious of the time here. I actually did the first Storm home loans about 12 or 13 years ago. I remember names like Harveson, Withers, et cetera. That became too busy because Julie Cassimatis and Dawn ended up complaining about my service levels. I was also working as a mobile lender doing external stuff and the bank set up a cell way back then to service the Storm fundings because they realised effectively how much business could be generated.

In around 2000 or 2001 a new credit officer came to town. He challenged the Storm model and changed the home loan lending policy. I believe, and this was only innuendo off the floor, that around the time the bank took over Colonial alarm bells started ringing because the relationship with Storm was becoming fractured and Colonial realised the extent of the margin lending generated out of this small financial services office in Townsville called Cassimatis, subsequently called Ozdaq and then subsequently called Storm. I believe he was told to back down because he was threatening the relationship—that was only innuendo off the floor—but because of the relationship with the home loans and the fact that it contributed so much to the targets in the area, alarm bells rang all the way up the line. I believe, and this is only hearsay, that there was some issue in the relationship between Colonial and Storm at the time.

As I understand how it evolved—again, conscious of the time for you—Emmanuel Cassimatis ended up growing the business to the point where he went to Colonial and set up this CGI investment fund. I can assure you banks pay for referral. I had one paid referral source that generated \$8 million out of the \$250 million I wrote last year. In Victoria, mobile lenders were paying between 0.4 and 0.5 uncapped for a home loan to accountants, solicitors, et cetera to get the business on board. Cassimatis refused to take any referral fees. That was always the case and you will find even local lenders here probably have signed up referral fees that they still pay now. That was general practice in banking, not just the Commonwealth Bank.

My dismissal related to three first home owner files. They charged me. I went by myself the first time. I spoke to the state manager over five weeks and said, 'Do you still want me working?' He said, 'Yes.' I said, 'Does Graham Carney still want me working?' He said, 'Yes.' I wrote 125 home loans in that time for approximately \$25 million, which all went to funding. I then took my brother, who is a local criminal barrister here to the next meeting because I was melting down and I was still working weekends, nights, et cetera. I asked to be stood down at that meeting when they charged me with another charge, and not realising the way the Commonwealth Bank goes, once you are stood down you never go back. That is where that all led at the end of the day. I raised some counter-allegations against some other issues, but they never looked into those.

I was really upset about Ralph's comments. I have a 14-year-old and a 10-year-old. One goes to Pimlico where I went and one goes to Annandale State School. They have had comments made to them regarding my dismissal, 'your father's sacking' and all the rest of it. It was very upsetting that Ralph came out and still continues to mention two staff. I believe those comments are extremely misleading because the only staff member that I know that was dismissed was Andrew Jackson.

In relation to Mr Jackson's role, you need clarity on this, because I heard you making comments before about Mr Jackson and going 'ooh-ah'. Mr Jackson was an area manager responsible for about 130-odd staff. He ran an area from Mackay to Mount Isa up to Ingham. In between him there was a line manager. You would know her because some of you have spoken to her when all of this was melting down. Her name is Leona Murray. Under her were two team leaders that helped with my team and a staff of four or five experienced Storm staff.

The Storm processing was a factory. They faxed tenders through, even from the early days. I do not think the format changed much. The bank assessed the application, sent it back to Storm and said, 'Yes, we're willing to lend this much money', and then they would, in turn, send the verification back through. The stuff had to be verified. I know some of you were saying that you were not spoken to over the phone, and I cannot comment on that, but there were very heavy volumes and these girls were not incentivised with heavy bonus payments. Leona Murray would have qualified if she hit 100 per cent of target with 30 per cent of her salary and bonus for the year, but Mr Jackson had a line manager between him and the Storm clients and no-one seems to comprehend that. His role was about five per cent Storm, although he was responsible for, or the owner of, the target that John Hoey set him as an area or a region, and that was, of course, sent out of Graham Carney's office in Sydney. Some comments have been made by a senior manager saying that he should have been suspicious of what was going on in Townsville because there is nothing there. He has been up there and there is nothing there. I find that quite insulting, because

I was born in the town and if there is any place to start again, I am glad to be starting again in Townsville.

In terms of financial loss, I will just share this with you. I understand how much you have lost. I had \$190,000. I stayed in the old superannuation scheme and I lost \$190,000 in superannuation because I was dismissed for misconduct. That was what the bank had contributed over the last 30 years and I do not qualify for that. It is gone. I got basically my long service leave because I hardly ever took holidays.

Unidentified speaker—Do you have a home?

Mr Lynham—I have a home. I can understand that. I really understand where you guys are at. In relation to the Storm guys, I did see six clients that had melted down in March and April—I do not know whether some of them are here—because my accountant sent them to me as they had nobody to talk to. I did try to restructure them. The big problem that I found was the bank changed the way it charged early repayment fees on fixed rate loans on 21 October, which only you guys realise. They introduced a swap rate process and overnight clients went from having no penalty to \$5,000 to \$10,000. It made *A Current Affair* at one stage where clients were saying, ‘Why are penalties going up by the day? It was not conveyed to us. They had to issue a circular.’

In relation to the application forms, clients never sign application forms with the Commonwealth Bank. When you take a home loan application it is put into a mainframe system; it is scored or submitted. They sign their loan documentation subsequently and if they do not have an acknowledgment consent under the Privacy Act, that should be signed, but our process is not to have a signed application form. That seems to be lost on people here as well.

A comment was made about Andrew Symonds. I helped with the first comments on that loan about 2½ years ago. Banks weighed mortgage insurance. ANZ did it for doctors up to 90 per cent for a long time, but I do not know whether they still do it. Andrew Symonds was a cricketer for Cricket Australian; we were a sponsor and that was the angle that the girls took when I helped them with the comments at the end of the day. He was a high-profile sportsman. They would regard that as any other profession, for example, doctors. For any really high-income guys in strong financial positions they would have gone outside the square at times.

The VAS system was designed to make it easy for you guys to get money and it sort of failed you in a sense. From what I can understand, at the bank a few years we used to always order valuations. We built up a good relationship with Collins and Eales and they will not push valuations because they can be sued. I spoke to a friend of mine there two or three years ago and said, ‘The system’s changing. They’re now going to a software based valuing system.’ I would imagine it was designed purely to save money.

Secondly, obviously these new credit guys came on board—a couple of them were English—and were talking about this score card all the time. The theory they gave us at a lenders’ development day was that they stood up on the stage and said, ‘If a client comes in to you and they’ve got good conduct, good jobs and all the rest of it, and they say their house is worth \$450,000 and it’s only worth \$400,000, is there really any more risk to the bank? Are they likely to fall over in the first place? If they score on our score card a one or a two’—they have a rating up to five—’then effectively at the end of the day we’re never going to lose money on them

anyway. If their valuation is a bit out should we really be charging them mortgage insurance? No.' The system was tied into some back end system which we probably think was tied into a mob called ValEx, an independent valuing company that now outsources all our valuations. We think that is where the data comes from.

To give you an example, a friend of mine sold a house in Mundingburra recently. He had to release some security. He walked into one of the branches to release his security and they said, 'To get your deed back your house has to be worth \$415,000.' They put it in at \$415,000 and the VAS system accepts it. Unfortunately, he told me that the house is worth no more than \$380,000 to \$390,000. You have got to understand this is purely a software system and at the end of the day I believe there was no fail safe built in when the market started correcting.

I heard this case of a valuation in a country town—and I will not mention where it is because they will know where I got it from—where a person bought the house for \$295,000 and did some improvements on it. A valuer did a valuation and might have said it is worth \$340,000. He was queried by the valuing hierarchy saying, 'This house should be worth a lot more because our data evidence says there's been a market movement of 20 or 30 per cent in that area.'

No one seems to understand VAS. I can tell you it is hard to understand, but it is purely software based, and I stress that to you guys at the end of the day.

CHAIRMAN—I would just like to ask you one question. I am conscious of the time and we have a number of other people to get through. What do you think happened at Storm and with the Commonwealth Bank? What do you think went wrong?

Mr Lynham—In the early days the home loans, to me, were not really the issue, and you guys will condemn me for that. No-one seems to want to take the margin lending on. I had a margin loan and every time I had a margin call I had to put the money in. I read these articles in the paper about VAS and everything else. You guys have got the power. Subpoena Ralph Norris and ask him what happened that margin calls were not made.

I can show you my Colonial margin loan. I got called by Robert Hartman in Brisbane who said, 'You put money in or we're selling you out at two o'clock.' That is what happened to me. I had to scrape money up left, right and bloody centre. Ask my brother; the same thing happened to him. I just cannot understand why in the world someone in a senior position in margin lending is not being questioned. Andrew Jackson is not the person you should be questioning. I am assuring you of that. I feel very sorry. Andrew Jackson is a very decent guy with a young family. I know you have all faced losses here, but Mr Jackson will never get a job in this town again. That is the fact of it. He has been told by employment. I will survive. I love Townsville and I will die here. I will finish on this brief note now at the end of the day.

CHAIRMAN—What happened, in your view, between Storm and the Commonwealth Bank that made it all go wrong?

Mr Lynham—Someone used the term 'partnership' in the paper and I would never, ever have said that. I can tell you six months ago I was defending that at the end of the day. Storm were huge on service and they were no different to Dalle Cort. I can tell you that now. If I had a Dalle

Cort client come into me, I would send them back to them. At the end of the day you would hate to deal with them because they would give you so much grief as they control the client.

I had friends go to Storm. They tried to get out of them a year ago, and we were getting complaints because I referred them to one of our financial planners. Another local planner cashed them out at the top of the market. He spoke to me the other day about a job. He said, 'Do you want a job?' He said, 'They owe you a debt for the rest of their life. You got them out at the top of the market. They paid a bit of capital gains tax.' He said every Storm plan that he saw looked the same. He said they were a factory process.

I do not think Ms Devney, who no doubt Ralph Norris is referring to, manipulated the system. I do not know where Ms Devney got the values from, but in terms of valuation, she would probably have no great idea. Let us be honest, she is not a valuer; she is sitting in a Storm office; she is getting instructions from above her and she pumped through, it used to be a one by one email and then as I understand it they faxed through a mega list. Leona Murray took that list, distributed it to the staff and said, 'Can you put this through the VAS system.' The VAS system had no fail safe. Whether you call a partnership guys that get on well together, I can tell you real estate agents would ring me day and night, 'We've got a deal for you. We can't get it approved at another bank. Can you have a look at it?' That is what happens in reality and people are losing the fact that is what happens in business arrangements. That is what has happened here. If there was a partnership or a breakdown in the relationship, it was simply Storm wanting service because Emmanuel Cassimatis said if they did not answer the phone in three rings he would sack them and all this sort of stuff. They were pushing all the banks to get the service through quickly. We had a system that obviously had flaws in it, the VAS system. That money was then pumped into the market and they went and margin lent against it. That is what I keep saying. You cannot purely blame the home loan here.

You need to ask Ralph and when you are asking him that can you ask him to clarify the fact that two people were dismissed because of Storm. It was one. It was Andrew Jackson, on what I would regard as frivolous charges. I will let you know that one other staff member was apparently charged and she has kept her job. I know Leona Murray had no charges whatsoever.

Senator MASON—Why were you dismissed?

Mr Lynham—I took shortcuts for people on three home loan files. John Hoey explained to me through the process. I asked him did he want me to keep working. I work copious hours. I loved my job. I am telling you now, I miss it and I believe I helped a lot of people. I got 130 people off fixed rates in October when no other bank in town would do that. I started ringing clients to try to get them off them and that saved them a fortune and left some of my loans fixed as a result of it.

At the end of the day I honestly thought I could help everybody. I have a personality flaw in that regard. I stepped over the line and I was dismissed under the statement of professional practice, the same as Andrew.

CHAIRMAN—Thank you for your evidence.

[3.23 pm]

REYNOLDS, Mr Steve, Private capacity

Mr Reynolds—I am sorry, I will have to read this out. This refers to submission No. 125. I am a veteran on a war pension and a single parent of two teenage daughters. I joined Storm Financial in 2006 after a meeting with Carey Fraser in which I told her I was on a pension, had no debt and funds in superannuation of about \$300,000. I was urged to sell my home, rent and put all funds into shares. I refused to sell my home, but agreed to mortgage my home with Bank of Queensland. I signed the forms and was told I did not need to go to the Bank of Queensland as Storm arranged it all; I should just sign the application. The Bank of Queensland home loan documents obtained in 2009 with Carey Fraser's signature contain much false information. I told Carey Fraser I was on a pension of \$800 per fortnight, but the form said an income of \$8,300 per month. I ended up with a Macquarie loan of about \$800,000 and the LVRs did not include home loans. I paid Storm fees of over \$80,000 in less than two years. I now have a home loan of \$420,000 with the Bank of Queensland.

I had absolutely no contact with Declan Carnes and Matthew Buchanan, the Bank of Queensland managers in North Ward, and recently the Bank of Queensland actually accessed my savings account in another bank and emptied the account, leaving me with \$20 until the next pension day. After I threatened to take my story to the national press, the Bank of Queensland reversed one payment.

The last thing I would like to say is that Storm advisers got high fees for lousy advice and the Bank of Queensland managers in North Ward fed off the gravy train.

CHAIRMAN—Thank you, Mr Reynolds.

[3.25 pm]

AHERN, Mr Anthony Harry James, Private capacity

Mr Ahern—I, too, got a loan from the Bank of Queensland through Storm. We were retired at the time. I did not know at that time that you could not get a loan without a regular income. We only had our income from shares. We signed an application form, on which our name was spelt wrongly anyway. We only found this out when we got our application form back off the Bank of Queensland after the collapse of Storm. We never got any quotes from anyone. No-one ever took us through any quotes. The next time we came to Storm we signed our contract and we were not notified by the Bank of Queensland, either on the telephone or in person. We never saw anyone from the Bank of Queensland.

The last time we signed the contract it was a fixed loan at 9.18 per cent, which was 1.7 per cent above what my son and daughter-in-law were charged on a variable rate on a variable investment loan for a property. Of course, theirs went down when the interest rates dropped and ours stayed the same. It was 1.7 per cent above what the variable rate was for another couple. It does not sound good for someone who does not get a kickback off the banks and puts that into savings for the clients. I cannot see how it can be so far above another loan.

CHAIRMAN—Thank you. Just briefly, can you tell us what you think went wrong between Storm and the banks?

Mr Ahern—I do not know what happened between Storm and the bank.

CHAIRMAN—What went wrong with your investment?

Mr Ahern—We went to a margin call back in 2002, 2003 three times. Each time we went into margin call the bank sent us out a letter and they also sent Storm a letter saying we had gone into margin call. At the time we were down in South Australia and Storm notified us down there. They faxed us down forms, we signed them and we put \$30,000 cash in. They also sold down shares. At that time we had a margin call at 70 per cent and the shares were worth 70 per cent of the cash value. When you sold them into cash it became 100 per cent and that is how you lifted your LVR up. That is how we got our margin call. We sailed through that okay. We were a bit tight on cash, but we managed to get through okay. We were not scared of going into another margin call because with the checks and balances we had on that time we could survive.

Another thing that was wrong was that they changed our margin call LVR to 90 per cent this time, whereas it was 70 before. At 90 per cent you have only got 10 per cent left of your margin loan value.

CHAIRMAN—Who changed that?

Mr Ahern—I think it was negotiated between Storm and Colonial, as far as I know, and the other banks followed.

Senator MASON—Did you sign something to that affect?

Mr Ahern—No.

Senator MASON—You played no part in that. You were just told about it afterwards.

Mr Ahern—Yes. No-one told us, anyway.

Senator MASON—Did you get a margin call this time?

Mr Ahern—No, we did not.

CHAIRMAN—Do you know if there was a tick box, as Mr Jackson suggested?

Mr Ahern—No. When you apply for a margin loan there is a booklet. You sign the bottom of the page. Storm rip these pages out and then fill in the application form.

CHAIRMAN—You did not fill in the application form?

Mr Ahern—No.

CHAIRMAN—You do not know whether there was any other information provided or anything else?

Mr Ahern—No. That is about all I can add.

CHAIRMAN—Thank you.

[3.30 pm]

SCOTT, Mrs Cheryl Diann, Private capacity

Mrs Scott—In 2007 I had a financial adviser in Mackay and after a very bad accident I had to change to someone closer to home. I live in Ingham. That is how I ended up with Storm in mid-2007. As a widow with health problems, unable to work and had a portfolio of \$1 million in a tax free allocated pension, health care card, owned my own home and had no debt, I felt privileged.

I went to Storm, just like you go to a doctor, and trusted them. Storm knew that I had serious health problems. Carey Fraser had me cash in my portfolio of \$1 million and take out a home loan of \$249,000, which I was not really happy with. I always made it clear that I did not want at any time to be in a risk position and her answer was, 'If the bank agreed to lend me the money, they were okay with the strategy and no risk existed.' What a laugh! When Carey took out the home loan I just signed the end of the paper, but when I got the forms in 2009 it had that I was getting \$5,000 a month to live on and did not have anything else. In fact, I had a margin loan of \$1 million, so I had no income to repay this, and that was where I was getting my money to live on, from borrowings on my house, which I really did not know.

In December 2008, on my 1¼ hour drive from Ingham, Colonial phoned me and said I was in margin call for \$770,000. I was just shocked. They rang me again four times, saying sorry, that I was actually not owing anything and had \$15,000 left. Two phone calls later they rang and said I owed \$1,600. I went straight to Storm and gave them a cheque for \$1,600. I do not know where that ended up, but I have not heard from anyone since. I now owe \$249,000 plus interest to Bank of Queensland. I paid an upfront fee of 144 just to find myself in a completely hopeless position.

CHAIRMAN—you. I will just clarify? You said you paid an upfront fee of \$144,000?

Mrs Scott—Yes.

CHAIRMAN—When you got a margin call from Colonial you contacted Storm?

Mrs Scott—Yes, I did. I went straight to Storm.

CHAIRMAN—Why did you go to Storm?

Mrs Scott—Because I did not know whether I was coming or going. No-one had said anything about margin calls to me. This fellow was Josh and to hear that man talk a while ago, who was in Macquarie, and he got a phone call from Josh, so I do not know who Josh is.

CHAIRMAN—What did Storm tell you when you rang them?

Mrs Scott—They said, 'Come in and give me a cheque for the \$1,600.' That is all I had.

CHAIRMAN—Do you know whether they checked that was the right amount or did you have any documents?

Mrs Scott—No. I told them, ‘I’ve had five phone calls and every time it was a differing amount.’ It started off at \$770,000. You can imagine how I felt at the end of the trip.

CHAIRMAN—So Storm just took your word that whatever amount you told them was the amount you had to write a cheque for?

Mrs Scott—Yes.

CHAIRMAN—As far as you know Storm did not go and verify the amount, they just said, ‘Thanks for the money’?

Mrs Scott—Yes.

CHAIRMAN—Do you know what happened to your money?

Mrs Scott—No.

Senator MASON—You had a margin loan of \$1 million?

Mrs Scott—Yes.

Senator MASON—What was your income?

Mrs Scott—Nil. Early in my life my husband passed away and I had a cane farm, so I sold it and invested with a firm that was in Mackay that used to come along with the farming business. He got me into an allocated pension because I was just at that age. It was not a big deal, but I owned everything. When I had this big accident I could not drive from there so I changed, and I changed to Storm. What a bad mistake!

Senator MASON—You had a \$1 million margin loan. You had some equity, but you had no income. Is that right?

Mrs Scott—Yes. I owned my house, but I own nothing now.

Senator MASON—Were the fees \$133,000?

Mrs Scott—It was \$144,000.

Senator MASON—Thank you.

CHAIRMAN—Thank you very much. We really appreciate your evidence.

[3.36 pm]

ABDY, Ms Lorna, Private capacity

Ms Abdy—I am talking on behalf of my son, Raymond Abdy, who is on a disability pension. Raymond had an accident 11 years ago and, of course, he is on a disabled pension. He is 29-years old now. He did like the concept of the share market before his accident happened and it was always one thing that he wanted to do to get back and do some shares when he got out of hospital. We had spent 10½ months in a hospital. Raymond put in \$10,000 to start off and he worked his money up to quite a lot of cash. I was just putting his pension in and he had a job, but sadly that went by the wayside because the council decided he had a disability and they could not work with that.

Raymond worked his portfolio up to a good amount and then in 2007 he was offered a margin loan by Carey Fraser, which went through the Challenger Bank. I did not even know who the Challenger Bank was or where we had to go with him. We wrote in a complaint about that, but we have not received anything back just yet. The sad thing about it is that it has wiped out his whole portfolio. The margin loan has wiped that out. He had to pay an extra \$15,000 in cash to Storm. As was the case with that other lady, we do not know where that has gone.

In other words, he is a very frightened boy. He does not know where he is going to go. No-one wants to employ him because he has got a disability, and he has got no money working for him anymore because he is just on the pension that Centrelink gives him. Thank you.

CHAIRMAN—Thank you. Ms Abdy, just keep the microphone for a moment. You say your son paid \$15,000 to Storm. Can you tell us what that was for?

Ms Abdy—That was in the October that we got a phone call and that is when everything was going belly up.

CHAIRMAN—A phone call from whom?

Ms Abdy—Storm Financial.

CHAIRMAN—What did they say in that phone call?

Ms Abdy—Just that they needed extra money of \$15,000. We said that Raymond had money saved up again in the bank and, of course, it is at that bank that he has always put his money into, because that is his school account and he has always stayed with that bank. I do not know what it was for or anything like that.

CHAIRMAN—I am trying to understand whether Storm rang because there was a margin call or whether Storm just rang because they wanted an extra \$15,000.

Ms Abdy—First off, I think Raymond was going to put another investment in. He had some money there. They did not say anything about the thing going a bit funny and to keep it aside.

Then I redeposited back into the bank and had to pay a bank fee to put a bank cheque back into the bank, and then next thing they rang and said they needed that money again.

CHAIRMAN—Did Storm explain to you why they needed that money?

Ms Abdy—No.

CHAIRMAN—Did you or your son speak to them directly?

Ms Abdy—No.

CHAIRMAN—Thank you very much. I appreciate your courage to speak to us.

[3.40 pm]

RASMUSSEN, Mr Graeme Jorgen, Private capacity

Mr Rasmussen—I started in Storm in 1996. I owned my house. We borrowed a third of the money on the house to support a margin loan of a similar size. We built it up slowly to enable a modest retirement, after being made redundant in January 2008. In September 2008, when things were looking bad, I contacted Storm to find out what was happening. They said, ‘It’s not looking good, but there’s no margin calls yet.’ In early October they called us in to sign a document to maybe sell up to 50 per cent, which quickly changed to 100 per cent. They were ringing us daily. ‘Come in. No, don’t come in.’ They then offered us \$22,000. They said, ‘Sign this document.’ I said, ‘What’s that for, a margin call?’ They said, ‘No. It’s just to prop you up.’ I had this letter for \$22,000 and then the backside fell out of everything. I never, ever received a margin call. I had \$90,000 worth of personal shares. I probably could have put a bit on, but they did not want to do that. They told me the best thing for me to do with them was sell them. Why would you sell at the bottom of the market? I said, ‘I’m not selling them’. I said, ‘I’ll put them up for security to make my margin call good.’ Nobody told me how much I owed on a margin until 8 December. This is in October and on 8 December Colonial rang me and some bloke, Jim Maher I think, said, ‘You’re in negative equity. You’re in trouble.’ ‘How much?’ ‘Don’t know.’ ‘What can we do about it?’ ‘Well, you’ve got to pay about \$46,000, but we’re not sure.’ The next thing I get an email or a phone call from another bloke called Martin Johnson and he says, ‘You’re in trouble for \$46,000.’ I’ve already paid \$30,000 one week earlier of my own money. They took it out of Macquarie Bank, and that was my home loan payments for the next year. So we paid cash of \$30,000 and then Martin Johnson says to me, ‘You still owe \$46,000 in negative equity.’ I said, ‘What can I do?’ He said to me, ‘We’ll probably have to sell up all your cash from your margin loan and break the loan.’ I said, ‘How would I go about breaking the loan?’ He said, ‘I’ll send you an email on how to do that, what you’d get back and how much it will cost.’ He sent me back that I had \$46,000 pre-paid interest and when they sent it back to me I got \$22,000 of that back and the other \$24,000 went to costs because they were breaking the loan early.

To this day I am not sure whether I did the best thing, but we were lost. By then ASIC had apparently shut down Storm. I rang Storm and could not get any words out of them. They were shot, anyway, by that time.

CHAIRMAN—Who told you ASIC had shut down Storm?

Mr Rasmussen—It was in the media and there was someone else.

CHAIRMAN—You just read it in the paper?

Mr Rasmussen—Yes, it was going through the media. Anyway, I was contacted by ASIC themselves and some Indian lady wanted to know every in and out of a duck’s backside. I gave her all these bits and pieces. I was a bit worried about telling her that I had a \$22,000 letter signed from Storm, so I sort of hedged around that.

CHAIRMAN—Why were you worried about that?

Mr Rasmussen—I was not sure whether that was kosher to be honest with you and I thought, ‘Where are we going here?’

CHAIRMAN—Just be specific. I just need to understand what you mean by, ‘It wasn’t kosher’, that you had signed a letter for \$22,000?

Mr Rasmussen—I was not sure whether they were allowed to lend me money to prop up my stuff. I did have shares of my own and a bit of cash.

CHAIRMAN—You were concerned?

Mr Rasmussen—Yes. I was a bit worried that things were a bit shady. I did not know what was going on. That \$22,000, by the way never, ever got used. I went back to them then and said to them, ‘Give me back the letter and put on the bottom that I did not get it’, because I thought otherwise I would be up for another \$22,000.

CHAIRMAN—Was that from Storm?

Mr Rasmussen—Yes. I got Carey Fraser to sign a letter saying that I did not receive it and I was not in debt to them for \$22,000.

CHAIRMAN—You said you were with Storm since 1996. That is a really long time. Obviously there were ups and downs in terms of your portfolio. Did you ever think you could just cash out and maybe just enjoy your gains?

Mr Rasmussen—Yes, but it had not got a point where we really could live off it. We had \$1 million borrowed and I think at the very best it was probably worth \$1.5 million or \$1.7 million. You cannot get \$50,000 off that to live off pretty well anyway, so the plan was we just left it in there and took \$50,000 a year for retirement, which is about what they organised. There was no greed involved in my stuff. The government said they were going to can pensions and I did not like superannuation because they kept changing the rules every year, so I went into that investment with Storm.

CHAIRMAN—Who told you the government was going to, as you say, ‘can pensions’?

Mr Rasmussen—Remember when they brought in compulsory superannuation, they said that they were going to phase pensions out. That was their words. That was when I decided that I have got to look after myself.

Senator WILLIAMS—It was the Hawke-Keating government that brought in compulsory superannuation.

Mr Rasmussen—I do not care who it was. They are all the same, mate. They do not really care about me, I will tell you. There is a couple of other things. There was dough running around everywhere. I had two lots of \$400,000 cruising around and the lady said, ‘That will wash through.’ I’ve got this money running around and I am chasing bank accounts.

CHAIRMAN—Which lady?

Mr Rasmussen—Carey Fraser.

CHAIRMAN—From Storm?

Mr Rasmussen—Yes.

CHAIRMAN—I appreciate what you are telling us, but I just need to get it clear for the record. Which lady from where?

Mr Rasmussen—That was Carey Fraser. They were our financial people. I rang her to find out where my money was because it had gone out of Macquarie, it had gone out of Colonial and it had gone out of MLC. I rang her to find out where it was. She said, ‘There’s hundreds.’ She was nearly bawling on the other end. She said, ‘I don’t know.’ She said, ‘It’s gone into cyberspace. We don’t know where it is’, and they did not, and neither did Colonial. They did not have a clue. I did not even know what they had sold my shares for. They did not have a clue. That is where we are at. I have done the lot, virtually, and I still owe on my house now. I have still got my personal shares that they wanted me to sell, thank Christ.

CHAIRMAN—Who wanted you to sell them?

Mr Rasmussen—Storm, but nobody offered me a margin call. I emailed Clothier and I said, ‘Can you supply me with a margin call letter or some documentation that you and Cassimatis have done a deal with the margin calls or where is the documentation that I actually had a margin call?’ He said, ‘I didn’t get that email.’

CHAIRMAN—Who said that?

Mr Rasmussen—This is John Clothier from Colonial. This was on the phone and I had sent an email about three weeks previous. Clothier says to me, ‘Send it to me now and I’ll read it.’ I sent him the email asking him where the documentation was for the margin call to prove that I actually got one, because I do not reckon I did; I never got one myself. Cassimatis reckons he never got one. I have not heard hide nor hair of him since. They have just gone to ground. It is like that bank manager said, ‘The housing loans are a side issue; it is the Colonial margin lending that has done the shitty work.’ They need to be accountable for it. I want to know who benefited by putting our LVR up. It did not help me. If they had left it at 70 per cent like we started with in 1996, we would be laughing now. We would still have it. That was our buffer for our housing loan. We were not that stupid. It is just that they changed that. The only way I found out was that I got my September CGI statement in the start of October when the arse fell out of everything and there it was: 92.5 per cent.

Senator WILLIAMS—Is Mr Clothier still with CGI?

Mr Rasmussen—Yes, he is.

Senator WILLIAMS—It would obviously please the committee very much if, come October, Mr Norris and Mr Clothier appeared in front of the committee.

Mr Rasmussen—I would think so.

Senator MASON—Again, you did not agree to any change in the LVR?

Mr Rasmussen—No. They did not ask us. We did not sign anything. In my email to Colonial I said to them, ‘Who is your client, me or Cassimatis?’ I said, ‘As far as I know I’ve got the dough, I’m the one responsible, so I’m your client. I don’t care whether you tell him because if he’s too stupid to tell me, I’ll get rid of him, but you guys should have told me.’ I got a bad deal there.

I honestly think that if we did not have the Storm-branded products from Colonial we would have been sold out earlier because in 2002-03 they could not sell us out quick enough to keep our margin call in place, but we only had MLC then. Colonial and Cassimatis had a deal and they were the ones that were benefiting.

Senator McLUCAS—I would like to ask a question. I am interested in this changing LVR as well. A couple of witnesses have said very clearly that they had given direct, clear advice to Storm about what level of LVR they were prepared to go to. You are talking about 70 per cent. Was that ever on any agreement between yourself and Storm Financial?

Mr Rasmussen—No, but in CGI’s own paperwork my original contract for the margin loan was 70 per cent and the shares were only worth 70 per cent of their value like the previous witness said. If you sold your shares out, that transferred to 100 per cent value, because you were putting cash back into the system. They kept that in a special account that was hooked to the margin loan.

Senator McLUCAS—There is no formal agreement between a client, CGI or with Storm about what tolerance you will accept in terms of LVR?

Mr Rasmussen—No. I thought it was the bank that actually called the shots on that.

Senator McLUCAS—Yes.

Mr Rasmussen—They only agreed to 70 per cent originally and then it went up to 82 per cent at some time, which was not so bad, but then to go to 92.5 leaves you nothing, especially when you have got a housing loan worth \$400,000. You do not really want to be up that high, especially when you borrow \$1 million because that does not equate. We did not even know about that. That benefited them.

If anything comes out of this at all, I would like to see some sort of indemnity system. If the bank came up squeaky clean here I get nothing because Cassimatis has not got a ‘drooble’. Somebody said that he is covered for about \$20 million. I have got that cover for a dog falling up my steps; you know what I mean? I go skiing up the Ross River Dam; I have got to have \$20 million cover on my boat because I might run over someone and yet he has got \$4.5 billion worth of funds under management and he has got \$20 million indemnity. I am asking for some sort of compulsory type third party where it all gets based on the amount of money that he is dealing with. If he has got \$4.5 billion then he needs to have something that will cover \$4.5 billion. According to Slater and Gordon we probably will not get anything out of his insurance anyway, because they have got to prove that he was not negligent. He probably was negligent.

I reckon if you can come up with some sort of compulsory third party idea, where the government runs it, they put in the money year after year, or even like workers comp with something where we can get at the money whether they are right or wrong, because I really did nothing wrong.

CHAIRMAN—Thank you very much. We really appreciate everybody's involvement, the evidence that we have taken today, everyone's submission and participation. It really will go a long way to help us in deliberating and writing a report in terms of what took place. I will close the meeting.

Committee adjourned at 3.56 pm