

**Senate Select Committee on  
Superannuation and Financial Services**

**Main Inquiry  
Reference (a)**

**Submission No. 120**

**Submittor:** Name withheld

[REDACTED]

3 May 2001

The Secretary  
Senate Select Committee on Super. & Financial Services

Dear Sir/Madam

PIGGOTT WOOD & BAKER  
CONTRIBUTORY MORTGAGE SCHEME  
KRUSHKA FAMILY TRUST No.3 SUNNY HILLS ESTATE

I refer to my telephone conversation of 28 April with Sue Martin.

The following is a summation of events relative to the investment of monies in the above mortgage with Piggott Wood & Baker, Solicitors, 199 Macquarie St. Hobart. Monies invested in other mortgages with P.W.B., although in default for some time have been repaid and do not form part of this summation.

The investment of \$30000 is in the name of [REDACTED] for whom I am acting.

- 1 In June 1998 investors funds were loaned to Krushka on property mortgaged and valued by a valuer for \$ 4,512,000
- 2 The loan advanced was \$3,006,000
- 3 The borrower failed to meet the first interest payment due in August 1998
- 4 The property was sold in April 2000 for \$828,000
- 5 After deduction of expenses the amount distributed to investors was \$435,862
- 6 The capital returned to us was \$4,349
- 7 At the date of distribution the balance of capital and accrued interest was \$30,164

At the time we deposited monies we were not provided with any written conditions relating to the mortgage but in common with other investors were given to understand that in case of default by the borrower interest would be paid by the solicitor and in the case of misapplication of funds by the solicitor the Law Society would be accountable. P.W.B. paid the first interest due in August but then reneged on the undertaking.

From 30 November 1998 we sent many letters to P.W.B., in particular one requesting a rate payment for [REDACTED] down to

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previous correspondence they were ignored. I finally hand delivered a letter to a senior partner advising that I would lodge a complaint with the Law Society unless they responded. They again failed to reply. As a consequence I lodged a complaint against them on 5 February 1999, copy to the Legal Ombudsman, for unprofessional conduct and requesting an audit of their lending practices, possible maladministration of their mortgage fund, and whether they were in breach of any of the rules governing mortgage funds.

A letter was finally received from P.W.B. but the lack of any meaningful information and correspondence continued to this date.

It is now known that at the time the loan was advanced to Krushka other lending institutions were refusing to do so because of his poor credit rating vindicated by the fact that he was in default from the date the loan was made.

The gross overvaluation of the property should have been apparent to P.W.B. In December 2000 P.W.B. advised legal proceedings had commenced in the Supreme Court against the valuer for negligently preparing the valuation. No further information has been provided as at this date.

Two senior members of P.W.B. during this time are no longer partners in the firm and have been brought before the Supreme Court to answer charges of professional misconduct. A decision is expected to be handed down early in June.

#### THE LAW SOCIETY

As indicated above a complaint was lodged against P.W.B. on 5 February 1999. Up until 28 November 2000 when we were advised that Supreme Court proceedings had commenced any request for information was met with the standard reply "investigations are still proceeding". Despite having asked we have not been told precisely what the nature of the offences are covered by the term unprofessional conduct. For creditors at least more information should be provided.

Finally I believe that any lending practitioner approved of by a regulatory authority should be subject to random audits by a completely independent body.

I believe also that practitioners should contribute to an insurance scheme, funded perhaps from a percentage of interest monies, to protect investors from the failure of those practitioners to properly administer their business.

Yours faithfully

