

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

**Main Inquiry
Reference (a)**

Submission No. 152

Submittor: Garrisons Pty Ltd
Mr Phil Creswell

SUBMISSION TO SELECT COMMITTEE RE SOLICITORS MORTGAGE FUND ISSUE

Garrisons Pty Ltd (Garrisons) is a Tasmanian based Licensed Dealer in Securities and a Registered Life Insurance Broker. In addition, the Garrisons Group operates a funds management company – Synergy Capital Management Ltd. The Garrisons Group is a 100% owned subsidiary of the publicly listed company – Challenger International Ltd.

Garrisons currently licenses approximately 110 advisers to act as Authorised Representatives. These advisers are located in Tasmania, Victoria, New South Wales, Queensland, South Australia and the Australian Capital Territory. Total client funds under advice by these advisers are in excess of \$2.5 billion relating to more than 16,000 individual clients. Garrisons also directly employs approximately 130 employees.

During the 1990's, a number of Southern Tasmanian representatives of Garrisons recommended that some clients invest in Solicitors Mortgage Funds (SMFs) in Tasmania. The product recommended was the SMF, a proven conservative investment class of long-standing. No specific underlying mortgages were recommended. These recommendations were often for investments outside of the area of superannuation, but in most cases the recommendations formed part of a diversified portfolio within a self managed superannuation fund.

In providing these recommendations, Garrisons' advisers relied on the lending rules as promulgated, enforced and monitored by the Law Society in Tasmania, and widely accepted by the public and the Australian Securities & Investments Commission (ASIC). In particular, the following safeguards were a key to recommending the SMFs:

- (a) The Law Society of Tasmania had a role in monitoring SMFs through appointed auditors.
 - (b) The Legal Practitioner's Act and the Rules of Practice were applied to solicitors offering SMFs.
 - (c) The Law Society of Tasmania administered the Solicitors Guarantee Fund which would compensate investors for any capital losses in the case of defalcation, misappropriation or misapplication of their funds.
 - (d) Professional indemnity insurance, being a mandatory requirement of all solicitors holding practicing certificates, would protect investors.
 - (e) Auditing was conducted on mortgage practices and the results were required to be reported to the Law Society of Tasmania.
 - (f) Conservative lending ratios (66% of valuation) and stable property prices, assuming proper valuations, reduced the risk of losses of capital.
 - (g) Lending took place only against first mortgages on real property in Tasmania, which have relatively less volatile prices than other parts of Australia.
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In December 1998, Garrisons first became aware that the legal firms of Piggott Wood & Baker and Lewis Driscoll & Bull were experiencing problems with their mortgage registers. Prior to that time, Garrisons was not aware of any evidence which suggested that the various SMFs which had been previously recommended to clients were experiencing financial difficulties.

Shortly after becoming aware of the difficulties with some loans within some of the SMFs which had been recommended, Garrisons contacted the majority of clients by telephone and correspondence, requesting that they make appointments to discuss their investments with their adviser. Subsequently, the advisers met with each client to discuss their investments with SMFs and recommended that they withdraw their funds from SMFs. Each of the law firms was instructed that clients required refund of their investments immediately.

Since this time, Garrisons has been actively working with their affected clients and other parties to assist with the process of recovering outstanding funds. Garrisons has been in regular contact with representatives of the legal firms and other parties who may be able to assist with recovery. The number of affected Garrisons' clients continues to reduce as monies are recovered and returned.

The specific areas where Garrisons has been active include:

- Ongoing meetings and discussions with our affected clients with investments in SMFs.
- Provision of formal, ongoing communication to all affected clients.
- Meetings and ongoing liaison with representatives of the affected legal firms.
- Receipt of formal legal advice on strategies and opportunities to provide further assistance to clients.
- Assistance with transferring clients' investments to other managed investment funds (e.g Tas Select Mortgage Fund).
- Meetings with the Law Society of Tasmania, the Justice Department and the Attorney General.
- Lodgement of a Freedom of Information request with the Law Society of Tasmania on behalf of affected clients.
- Assessment of severe financial hardship claims from some affected clients, and provision of support to these individuals.
- Meetings and ongoing discussions with the ASIC regarding the SMF issue.

Garrisons key objective from all its actions is to ensure that all affected clients have their investment monies returned. We have devoted, and continue to devote, significant dedicated resources to assist clients in effecting recovery. Garrisons is committed to assisting all its affected investors until this matter is completely resolved.
