



# Senate Select Committee on Superannuation and Financial Services

## Main Inquiry Reference (a)

Submission No. 162

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Senator John Watson  
Senate Select Committee  
Superannuation and Financial Services

Dear Sir

Thank you for the opportunity to make a submission to the Senate Select Committee into the Solicitors Mortgage Fund.

The company DW & IM Tapping P/L now in liquidation, lent private funds on first mortgage.

The Company was placed into liquidation following a Court case initiated by the ASIC and inaccurate and damaging publicity was reported in the Mercury and that report is now subject to a defamation case against five parties ( one party being the ASIC ).

All the following can be substantiated, with supporting documentation not included so that the submission can be kept to the bare essentials.

The Company fund was commenced in 1992 and in 1993 the ASIC Solicitor, Mr Brown, gave written approval as to the correctness of the way the fund was being conducted.

In December 1995 the Company lent funds to Coal River Processing P/L to purchase manufacturing equipment. A contract with Watties worth \$6M, was being negotiated.

It was not known at the time that an extremely damaging and inaccurate report on the manager of Coal River was illegally distributed by the ASIC to, amongst others, Watties. This report was obtained from Aust Federal Police confidential Intel Data Base.

As a consequence, the Watties contract fell through, Coal River went into liquidation and DW & IM received its first non performing loan.

Directors did not become aware of this until June 1997 when a report from the Cwth Ombudsman was received.

Directors also received negligent advice from solicitors.

The funds invested with the Company were repayable after 15 months and thereafter with 3 months notice. These funds would be replaced with funds from new lenders or the sale of the mortgaged property. This was understood by the ASIC Solicitor.

In June 1997 the ASIC stopped the Company advertising for new funds and one of the two avenues for repaying lenders, was removed.

Following an investigation by the ASIC Directors were advised to appoint an Administrator and Mr. Martin Green of Grant Thornton in Sydney was approved by all

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creditors. The ASIC still issued a Writ and took the Company to Court and appointed a Provisional Liquidator who had had no experience in liquidation of Mortgage funds whereas the administrator appointed by creditors had administered several Mortgage Funds.

To my mind the ASIC

- 1/ Approved the way the Company operated
- 2/ Illegally released information that resulted in the destruction of one of the Company's securities.
- 3/ Removed one of the main supports of the Fund ( Advertising ) and placed creditors security at risk.
- 4/ Defamed DW & IM Directors by providing inaccurate and in some cases false information to the Court.
- 5/ Employed an accountant to provide a report on DW & IM that proved inaccurate in a number of areas. Used that report as a basis for the Court case and then made certain that the author of that Report was recommended and then appointed

as the Liquidator of the Company.


I understand that the Government is providing \$5M to the ASIC to investigate the HIH Insurance Liquidation. HIH were apparently in trouble 5 years ago – What was the ASIC doing during that time? Does the Government have a Senate Committee overseeing the actions of the ASIC? The actions of the ASIC in my case and in a number of other cases I have heard of are extremely questionable and reveal a lack of ethics and business acumen. It seems that the \$5M would be better spent in supporting HIH casualties or funding a joint court case by policyholders against HIH Directors

Directors of DW & IM are currently consulting a QC as to whether or not there is a strong enough case against the ASIC for negligence to warrant the considerable expense of running the case.

Apparently Dennis & Co in Sydney are representing a group of affected policy holders. This could lead to an action against the ASIC.

I trust my comments are of assistance and constructive. Please do not hesitate to phone for any documents you may require that support any of the above.

Yours faithfully

  
IM Tapping