


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

## **Main Inquiry Reference (a)**

**Submission No. 169**

**Submittor:** Mr Charles Phillips  
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**COMPLAINT ABOUT CONTRIBUTORY MORTGAGE SCHEME OPERATED  
BY PIGGOTT, WOOD AND BAKER, SOLICITORS, HOBART**

In 1996, I invested \$30,000, the proceeds of the sale of my home, in the Scheme operated by the above firm of solicitors. Payment of interest proceeded according to our contract until 1998, when I was informed that interest was no longer being paid by the Krushka No 4 Family Trust, to which my money had been lent by way of mortgage on the security of a property known as the Bridport Resort. I immediately applied to withdraw my capital from the Fund in accordance with my contract. Years of effort have now passed in totally unfruitful attempts to either have my capital returned, or any further interest on it paid. I am a disability pensioner aged 65, and the effect on myself and my family has been profoundly damaging in many more ways than merely financial.

In March 2000, I engaged a Hobart solicitor to take legal action on my behalf. His efforts to date also have been met with refusal by Piggott, Wood and Baker.

It has now emerged that Piggott, Wood and Baker's difficulties with their mortgage scheme has become a major financial disaster for many others as well as myself. Action for recovery of sums in the millions of dollars and growing have been started in the Tasmanian Supreme Court, and I should imagine with any other agencies that could be of any possible assistance, including ASIC. The substance of this submission to the Senate Committee has also been submitted to the ASIC Mortgage Investigation Team operating out of Brisbane, and to the Tasmanian Police Special Task Force whose Inspector Michael Grant has opened inquiries with me.

As you are no doubt aware, in one case alone, involving 22 complainants and sums totalling \$6,016,301, proceedings have begun before the Chief Justice of Tasmania, Mr Cox. The Chief Justice, in an interim decision, summarises proceedings so far as seeking damages "for breach of contract, negligence, negligent misstatement, breach of trust or misleading and deceptive conduct" (Judgement Number (2000) TASSC 179).

My experience goes at least to the depths summarised by the Chief Justice, and I have many reasons for believing in my particular case to the extent where criminal, as well as civil sanctions should be considered. It is these aspects that have the attention of the Police, and which, among the more general problems, I wish to emphasise to your Senate Committee members.

In my particular complaint, Piggott Wood and Baker, by decision of the Court of 6/9/1999, were made beneficiaries of a Commonwealth Court bankruptcy ruling liquidating the Trust holding my mortgage security, along with all the rest of the Krushka Family's assets. Piggott, Wood and Baker after being asked to make the money available in part to investors, declined and said they had decided (unilaterally) to retain the money to defray their administrative costs and to help advertise the marketing of the Bridport Resort, the property in which they have repeatedly advised in writing that my \$30,000 has been secured. I certainly, as a direct investor in the resort, had never been asked my view on whether this was an appropriate course.

Piggott, Wood and Baker have taken not only the proceeds of the liquidation (\$100,000), but also have assumed, and appointed their own managers to control, full day to day operation of the Bridport Resort, a near-new vigorously promoted four star holiday complex on Tasmania's North-East coast.

In response to demands for information about this latest development in the application (or fate) of my \$30,000 and back interest, they have admitted in writing that they are trading profitably. This changed security situation has not led to any offer to discuss return of my \$30,000, or any part of it, or interest from profits accruing from the application of my investment in ways I have not approved or, in fact, even been consulted about.

Piggott, Wood and Baker have repeatedly advised since the Krushka bankruptcy that they want to sell the resort. Ostensible efforts at sale at widely publicly advertised prices around half the mortgage debt of \$2,139,000 have been many - all ending in the advice that alas, once again, this or that interested party (never identified) has failed to complete a purchase. In the meantime the resort trades profitably on - for "owner-operators" Piggott, Wood and Baker.....certainly not me or any of the other investors whose money built and equipped the resort. The only advice I have received is the oft-repeated pro-forma periodical "Status Report" from Piggott, Wood and Baker that invariably reminds me under the heading **Details of arrears:** *There have been no interest payments since the quarter ended 15/11/98.* I am only too painfully aware of that highly evident fact.

This is only the briefest outline of my complaint. There are many more points. Extensive files containing documentation of all points of grievance have been compiled by my solicitor and myself.

Regretfully, this documentation includes difficulties with the Law Society of Tasmania which only very latterly has advised it is taking action on my (and some of the other) complaints about Piggott, Wood and Baker. Two members of the firm, according to the Society's latest advice to me, face continued disciplinary action as a consequence of their conduct in the Mortgage Scheme. These two are facing charges of professional misconduct laid by the Society in the Supreme Court of Tasmania. Thus far proceedings have been conducted in Chambers.

The operations of Piggott, Wood and Baker have also come repeatedly to the attention of the Legal Ombudsman, and the State Attorney General has made a number of public statements about the conduct of mortgage schemes in Tasmania and shortcomings by the Society in dealing with complaints. I note that ASIC Website advice "**Mortgage schemes run by solicitors and finance brokers**" lists the Law Society of Tasmania as a "useful contact". In the light of my experience with this body so far in this sorry saga please forgive my reservations. My experience makes the Law Society an integral part of the problem rather than a help with any solution.

Unlike many of my fellow complainants about these matters, I have not taken action so far in the Courts, though Piggott, Wood and Baker have been given notice that we have that very firm intention should this become the most appropriate indicated remedy.

Please regard this letter as a formal reference of my case to your investigation into solicitors investment and mortgage schemes. I offer full co-operation and access to all information, documentation and experience I may have that could be of use. My address is **Charles Phillips, The Rectory, 37 George St, Cygnet, Tasmania 7112, telephone (03) 6295 0703.**

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I am happy to deal with email and correspondence by any other means, to attend any mutually arranged interviews, or to give any formal evidence.

This complaint comes from Charles Haddon Phillips, The Rectory, 22 George St, Cygnet, Tasmania 7112. Telephone (03) 6295 0703, email ***charphil@netspace.net.au***

Yours faithfully

**Charles Phillips**

Dated: **Thursday , May 17, 2001**