

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

**Main Inquiry
Reference (a)**

Submission No. 181
(Supplementary Submission)

Submittor: A. D & M. Oldham
1418 Grasstree Hill Road
RICHMOND TAS 7025

Received
24/05/01

1418 Grasstree Hill Rd.,
Richmond 7025

22nd May 2001

The Secretary,
Senate Select Committee on
Superannuation & Financial Services,
Parliament House,
Canberra,
ACT 2600

Dear Sir / Madam,

At the Senate Inquiry in Hobart on Friday 18th May, Mr Jackson quoted part of a letter we wrote to the Law Society. To put the record straight we enclose copies of letters in which we tell the Law Society what we were told when we went to see Nigel Henry on 6th September 1994, Mr Henry's letter in which he denied lying to us and had no recollection of even seeing us and the suggestion from Mr Henry and the Law Society that we should seek separate legal advice.

We simply could not afford to take the matter any further and seemed to have come to the end of the line we had been pursuing. In giving up, we were in fact not at all satisfied, just intimidated.

We take this opportunity to thank the Senate Select Committee for bringing the mismanagement of Solicitors' mortgage funds to the attention of the public.

Yours Sincerely,



A.D. & M. Oldham

A.D & M. Oldham

COPY

1418 Grasstree Hill Rd.,
Richmond. Tas. 7025

10th April 2000

The Law Society,
GPO Box 1133,
Hobart. 7001

Ref: C99/71: JMM/VMC

Dear Madam,

Referring to your letter of the 1st February in which you indicate that the Investigations Committee's powers are to investigate and determine whether there has been any misconduct on the part of the practitioner. In the accompanying letter from Nigel Henry's firm, they clearly state that there was a major problem and that it was in the process of being sorted. We would like to ask why this problem arose in the first place? Who's made a mistake? Or was it misconduct? Either way, we are unfortunate to be on the receiving end of all this, or to be more precise, the unreceiving... It is now 2 years and 2 months since we have had interest from (sum of money) that this firm lent to McKays.

We believe this firm specializes in property conveyancing and the mistakes made over the Body Corporate and the Titles on which these units were built should not have occurred.

Mr Henry told us that he personally inspected the borrower's house on which the mortgage was placed and he assured us he only lent the borrower 60% of the value of the mortgaged property. He also said that if the borrower defaulted, he would not hesitate to sell his property to recover our funds lent. In fact it couldn't be safer. We believed him.

When we received S. Law's letter we find that the mortgage was never on McKay's house, but on the units being built with the borrowed money. If we had known this was going to be the case, we would not have lent Mr Henry our money. In fact we were lied to.

There was never anything in writing to say what was mortgaged to secure our funds,

In S. Law's letter paragraph 4 he states that the Law Society is fully aware of the situation in relation to one of these units.

You may be aware but we are not!
The reason we did not reply to your last letter was because we were waiting to hear from S. Law the outcome of the problems and if the units were for sale or being auctioned.

If you can't help us further with these matters, what makes you think another solicitor would do any good?

Yours Sincerely,

A.D. & M. Oldham

THE LAW SOCIETY

O F T A S M A N I A

28 MURRAY STREET, HOBART 7000, G.P.O. BOX 1133, HOBART, 7001
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Our ref: C99/71JMM/JB

26 May 2000

Mr and Mrs A Oldham
1418 Grass Tree Hill Road
RICHMOND Tas 7025

Dear Sir and Madam,

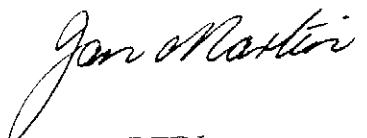
COMPLAINT AGAINST HENRY WHERRETT & BENJAMIN

I refer to your letter of 10 April 2000 a copy of which was forwarded to Mr. Henry on 12 May 2000.

Mr. Henry has now replied and I attach a copy for your comments. In particular the Society's Investigations Committee would like details of just what you allege Mr. Henry said to you of which he states he has no recollection. The Investigations Committee would also like to know if you agree with the comments in the second last paragraph of Mr. Henry's letter.

The next meeting of the Investigations Committee is scheduled for 5 June 2000 and your response prior to that date would be appreciated.

Yours sincerely,



JAN MARTIN
EXECUTIVE DIRECTOR.

E. R. HENRY, WHERRETT & BENJAMIN

BARRISTERS & SOLICITORS

SCOTT W. LAW, B.COM., LL.B.

YOUR REFERENCE

VICTORIA CHAMBERS
9 VICTORIA STREET
HOBART, TASMANIA 7000

CONSULTANT:
NIGEL RUTHERFORD HENRY

BOX 612F, G.P.O.
HOBART, TASMANIA 7001

ASSOCIATES:
WENDY A. INNES, LL.B., DIP.ED.
DAVID M. REES, BA., LL.B.
GARITH STEVENS, BA., LL.B.

IN REPLY PLEASE QUOTE

NRH:MF:29226

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19 May 2000

The Executive Director
Law Society of Tasmania
28 Murray Street
HOBART Tasmania 7000

Dear Sir

RE: MR & MRS OLDHAM

Thank you for your letter of the 12th instant enclosing copy of letter from the abovenamed dated the 10th April last.

In relation to the matters raised in the second paragraph of their letter, we would advise that it has still not been possible to effect sales of the remaining units and until this is done we are not in a position to advise a final outcome.

In relation to the matters referred to in the third paragraph of that letter, the writer has no recollection of the statements alleged to have been made by him. If the complainants would be good enough to indicate the date and place where they claim the alleged statements were made, whether the same were made in this office or on the telephone, further consideration can be given to this matter.

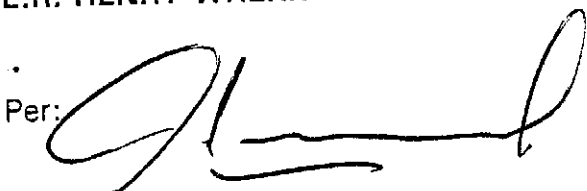
The allegation that the complainants were lied to is categorically denied. It is surprising that such an allegation is made only now, when Mr. & Mrs. Oldham were notified of the default in June 1998 whereupon they inspected the mortgaged property and further that the allegation was not included in their initial complaint in August 1999 or the further correspondence to the Society thereafter.

With the greatest possible respect, there are other more appropriate remedies available to the complainants which they could take in the event that they consider there has been any negligence on the part of this firm.

Yours faithfully,

E.R. HENRY WHERRETT & BENJAMIN

Per:



N. R. HENRY.

19 May 2000

COPY

1418 Grasstree Hill Rd.,
Richmond 7025

30th May 2000

The Law Society,
GPO Box 1133,
Hobart 7001

Ref: C99/71: JMM/VMC

Dear Madam,

Thank-you for your letter of the 26th May.

We have come to the conclusion that everything is in order now and that the units are on the market and waiting for buyers. Therefore our complaint against Henry, Wherrett & Benjamin has been rectified.

If Mr Henry could be reminded of our initial meeting with him in his office on the 6th September 1994 when we were told that he himself inspected the borrower's property on which the mortgage was placed and he only lent the borrower 60% of the value of his mortgaged property. He also talked of his travels in China, asked us if we liked his newly acquired painting and explained the scratch marks on his desk. However, no one can prove exactly what was said. We assumed the said property mortgaged was the borrower's residence and we were too green to ask further questions of Mr Henry.

The reason we didn't mention this misunderstanding before, was the fact that until we received Mr Law's letter of the 12th January 2000 we were unaware that the units were the mortgaged property. Up until then we thought that there was property belonging to the builder of the units, which could be sold to recover funds if there were any problems. You will understand this from our letter to your office dated 27th September 1999 when we asked questions relating to the mortgage property.

We will now wait for the sale of these units with more patience.

~~You~~s Sincerely,

Allan & Mary Oldham