COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES

Reference: Financial products and services in Australia

TUESDAY, 1 SEPTEMBER 2009

CAIRNS

BY AUTHORITY OF THE PARLIAMENT

JOINT STATUTORY COMMITTEE

ON CORPORATIONS AND FINANCIAL SERVICES

Tuesday, 1 September 2009

Members: Mr Ripoll *(Chairman)*, Senator Mason *(Deputy Chair)*, Senators Boyce, Farrell, McLucas and Williams and Ms Grierson, Ms Owens, Mr Pearce and Mr Robert

Members in attendance: Senators Mason, McLucas and Williams and Mr Ripoll

Terms of reference for the inquiry:

To inquire into and report on:

Issues associated with recent financial product and services provider collapses, such as Storm Financial, Opes Prime and other similar collapses, with particular reference to:

1. the role of financial advisers;
2. the general regulatory environment for these products and services;
3. the role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers;
4. the role played by marketing and advertising campaigns;
5. the adequacy of licensing arrangements for those who sold the products and services;
6. the appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served;
7. consumer education and understanding of these financial products and services;
8. the adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers; and
9. the need for any legislative or regulatory change.

WITNESSES

Committee met at 10.15 am

CHAIRMAN (Mr Ripoll)—I declare open this public hearing of the Parliamentary Joint Committee on Corporations and Financial Services, part of a series of public hearings the committee will hold to inform its inquiry into financial products and services. The committee is inquiring into issues associated with recent financial product and services provider collapses, such as Storm Financial, Opes Prime and other similar collapses. In conducting its inquiry, the committee has made a decision to focus specifically on non-superannuation products and services.

Witnesses giving evidence to the committee are protected by parliamentary privilege. Any act which may disadvantage a witness on account of their evidence is a breach of privilege and may be treated by the parliament as a contempt. It is also a contempt to give false and misleading evidence to a committee. The committee prefer to hear evidence in public, but we may agree to take evidence confidentially. The committee may still publish confidential evidence at a later date, but we would consult with the witness concerned before doing this.

I just want to make a couple of opening remarks. Firstly, it is great to see a lot of people here. We do not normally get this many people at public hearings, but you are certainly all more than welcome. I will just set out a couple of ground rules to facilitate the good operation of what we are trying to do. As people coming in to watch the proceedings, you are not actually part of the proceedings, so you do not really have any right to speak, to interrupt or to contribute to what is going on with the committee, but you are very welcome. We do understand that this is a very emotional issue for a lot of people and that some people may have some strong views and so forth. What we decided as a committee to do to accommodate that as well as possible is that, if people could hold all of their thoughts, not everybody can come and sit up the front and be a witness, but at the end of this afternoon we will have an open microphone session. We are going to allocate a period of time at the end, still on the *Hansard* record, still as part of our official proceedings. We want to give you, members of the public, an opportunity if you want to ask some questions or if you want to make a statement. So please bear in mind as the day progresses that we are trying to give people a fair go. We do want to hear from everybody.

As you may already know, we have received more than 400 submissions to the inquiry, which is the largest number of submissions this committee has ever had and which I think is an indication of the level of interest in and the importance of what this inquiry does. Also, so you understand, this inquiry is not a court. We are not here to judge. We are not here to pass judgment. We are not a court. We are a parliamentary committee. We have a certain range of powers. We are inquiring very broadly into financial products and services and, as I said earlier, with a specific focus as well. Hopefully, if everybody can just observe a few rules so we can get through this, that would be great. This afternoon we will be giving people an opportunity to have their say as well.

[10.18 am]

DALLE CORT, Mr Gus (Gildo), Private capacity

CHAIRMAN—Welcome. Do you have any comments on the capacity in which you appear today? Then I will give you the opportunity to make some brief opening remarks.

Mr Dalle Cort—I am here to appear as a Storm representative. I was a director of Storm Nine in Cairns and I was a principal of Storm Cairns. I hold myself fully accountable for anything that may come out that goes against Storm to any extent, because I was part of the company, so anything that is negative towards the company is negative towards me. I would like to make a statement in relation to my staff. They have been relentless with their integrity to date in the way that they have treated people, and I would like to thank them very much as well.

There is a lot that I want to say today. I would prefer to answer questions, but if there is anything that is not covered may I perhaps make statements on that at the end. So, rather than go into any formal statement to start with, I would rather close with a few things. I am open to questions.

CHAIRMAN—That is fine. Would you describe your role as a managing director of Storm and tell us how involved you were with the day-to-day operations of Storm?

Mr Dalle Cort—We had a dozen staff in Cairns, including me. We met existing clients and new clients, and we had a process. We tracked everything at Storm, and the process for a client to do business with Storm Financial took, on average, 180 days. There are not too many financial institutions out there that take 180 days to do business with a client.

Senator WILLIAMS—What do you mean by 'doing business'?

Mr Dalle Cort—It took 180 days from the time the client came in to say hello to completing the business or entering the market.

Senator WILLIAMS—That was the average?

Mr Dalle Cort—Yes. Some took less time and some took more. That process entitled the client to a number of sessions. There would be half-a-dozen sessions with a client before they would even attempt to do business with us. This involved finding out not only their personal position but also their financial position and right through to having a number of banks quote on the business, whether it was margin lending or equity lending. The appropriate bank would be chosen, based on that bank's product.

We as a business did not go out and invent any products. We went to the marketplace. We selected the Macquarie Cash Management Trust, which we perceived to be the best cash management trust in the country. We asked, 'What vehicle will we invest in?' We invested in a vehicle called 'index funds', which attracts the basics of the market. Those were the vehicles we obtained. We did not invent the products. We had index funds with both Colonial and

Challenger. We then asked, ‘How does one make more money to expand on one’s capital base?’ So we used products that were available in the marketplace—that is, equity lending and margin lending that were available and all the banks. We did not invent any of these products at Storm Financial. We went to the open marketplace and obtained what was there.

CHAIRMAN—I appreciate that. Can you tell us what your qualifications are.

Mr Dalle Cort—I have a diploma of financial planning.

CHAIRMAN—So you are a managing director.

Mr Dalle Cort—The managing director of Storm Financial (Nine), which is a subsidiary of Storm Financial, which was the business that colluded in Cairns.

CHAIRMAN—Can you describe the Storm model to us?

Mr Dalle Cort—Could you define that question, please?

CHAIRMAN—If I came into Storm and said to you, ‘So what do you do,’ can you explain to me what the Storm model is?

Mr Dalle Cort—The Storm model was based on education. To start with, a client would come in and have a chat with them. We would ask them to attend a couple of educational sessions and, after the sessions, we would ask them to come back and have a chat, should they choose to.

CHAIRMAN—Can you describe what those educational sessions comprised?

Mr Dalle Cort—They were some 2½ to three hours of information. They were information sessions.

CHAIRMAN—What sort of information?

Mr Dalle Cort—Information based on markets and the psychology of investing. Markets go up and markets go down; there is volatility. There was a broad range of basic fundamentals of investing through cash.

CHAIRMAN—Would you say that you understood the fundamentals of investing—that is, markets go up and markets go down?

Mr Dalle Cort—I think that is a fair comment, yes.

CHAIRMAN—Can you describe for us how the company was structured? How was it set up—for instance, did you have regional offices or franchise-style models, or were they completely owned and directed by one group of people?

Mr Dalle Cort—The model at Storm Cairns was that it was a subsidiary of Storm Financial itself.

CHAIRMAN—So they all ran separately, did they?

Mr Dalle Cort—Yes, that would be the case. but everything fed back through to Storm Financial. It was not a case of independence. On our board in Cairns were Emmanuel Cassimatis and Camilla Richards.

CHAIRMAN—From that, how much control would you say you had over systems and processes? Could you independently make decisions? Could you change things, or was everybody directed back to the one system?

Mr Dalle Cort—Everything was directed back to the one system at Storm, from the way we developed our statements of advice to the process of quoting to banks. Everything was sent back to Storm central and farmed out from there. Our planning was done back-office, but our input from talking to a client and certainly a lot of our file notes were all sent to the one point.

CHAIRMAN—Did you yourself invest directly in the Storm model?

Mr Dalle Cort—I did. In relation to that, I am the biggest loser in Cairns. There is no-one in Cairns who lost more money than I did. If I was silly enough to go through the process and allow what happened to us along the traps—I would have to have been one sick, sinister person to throw myself in at the deep end. As a loser, in Cairns no-one lost more than I did.

CHAIRMAN—How does that balance up? As managing director how well did you actually understand the model itself, markets going up and markets going down? What is all that education worth if even the people who run the organisation cannot control what is happening?

Mr Dalle Cort—Certainly we had business partners, and those business partners had products that we purchased. Those products failed miserably at the end of the day. The people running those products failed miserably.

CHAIRMAN—How well did you understand the products you were selling to others? If the products failed—shouldn't you as the people who were selling the products have understood the products? Is it not part of your requirement and obligation under the Corporations Act to understand the products you sell?

Mr Dalle Cort—It does not matter what levels of protection one can put in place or what risk management tools one can put in place at the end of the day. It is impossible to factor in product failure from a bank as a risk to a management tool, for me or for any client. Do you understand that point?

CHAIRMAN—I understand what you are saying. Do not worry about what I understand or do not understand.

Mr Dalle Cort—It is important that you understand, because if you do not understand—

CHAIRMAN—I do understand. If you are selling a product you are obliged under the Corporations Act to understand the product. If you yourself invested in the product and lost, and now say that the product failed, can you explain to me how much you did understand about the product itself?

Mr Dalle Cort—We do not have enough time for me to go into every intricate detail.

CHAIRMAN—Give us a broad picture.

Mr Dalle Cort—When you hit a buffer point, when you hit a margin call point, it was certainly my 100 per cent acknowledgement that you should be informed of that point. That is the case: when one gets a margin call one should be informed. But it was impossible for one to be informed when at that point in time—in this case for over a month—the data being received directly from the banks, being Macquarie and Colonial Geared Investments, simply did not show that.

CHAIRMAN—So who was controlling your model and your investments? Was it the bank or you? Who was in charge?

Mr Dalle Cort—We did not own any products at Storm Financial. Challenger and Colonial ran the index trusts that we had. We had margin lending with St George, National Australia Bank, Macquarie Margin Lending, Colonial and a few other margin lenders.

CHAIRMAN—What did you do, first personally and then in terms of your clients? What did you do to monitor your own portfolio?

Mr Dalle Cort—I used the web. We also had an internal system called ‘Formula’ that tracked unit prices that came directly from the fund managers. We utilised that to track the clients’ position as well. For a period of time, over a month, that never changed. So how could we manage something that we could not manage?

CHAIRMAN—Surely you would not just wait for things to get worse and worse. Everybody saw the market falling. Storm as a company with lots of clients would have been doing its own work and research. You would not necessarily be waiting around for someone else to tell you what to do, would you?

Mr Dalle Cort—We were doing things such as having clients sign a piece of paper so that, when we were aware of data, we could reduce their exposure in the marketplace. Similarly, if you have a fever, you give a client penicillin but you do not know the end result until you know what has occurred with the person.

CHAIRMAN—So you really did not know at any given point what was happening with the particular product?

Mr Dalle Cort—It was not that I did not know; it was that we could not possibly know, because the data coming through from the banks was bizarre. It certainly was not showing what was real.

Senator WILLIAMS—So you are saying that the monitoring of the market from the banks was simply not keeping pace with the fall of the market at the time?

Mr Dalle Cort—Absolutely, without doubt. It sickens me that they continually state that there was no problem with their systems. It absolutely sickens me, and it would sicken to death the thousands of people that we deal with on a daily basis.

CHAIRMAN—But isn’t your responsibility as the person receiving very large upfront fees, plus other fees, to actually do the job on behalf of them? I can go to the internet and to check the market every day independently. I can tell you where the market is at any given point in time. Surely Storm would have had enough sophistication, research and people within its own ranks to independently—

Mr Dalle Cort—Undoubtedly, yes.

CHAIRMAN—You cannot have been completely reliant on someone else to provide all that information, otherwise what would you have been collecting the fees for?

Mr Dalle Cort—Fees are a totally different subject, so we will not go there for the moment. But certainly we had our own systems, and our systems were certainly not in line with what the banks were stating.

CHAIRMAN—At what point did you realise there was a mismatch of information?

Mr Dalle Cort—At the point that we were sold out of the marketplace without any indication—

CHAIRMAN—So you waited until it was all over? The sell-out point was right at the end. It was the last bit. I am just trying to understand this. Surely as the market was falling and people were losing their money and equity was disappearing alarm bells must have been ringing daily and someone must have been saying, ‘We are not just going to sit and wait; we need to do something.’ So what is it that you were doing?

Mr Dalle Cort—From my understanding, Storm central were looking to talk to the banks about the position that the clients were in. I was in the middle of it there. I knew that things were not right, but there was nothing I could do about it because—

CHAIRMAN—At the point that where is nothing you can do about it, what do you say to your clients?

Mr Dalle Cort—Exactly what I say to my clients is: ‘I don’t know your position. I don’t even know my own personal position, so I can’t act.’ If I do not know what something is, how can I possibly give advice? It is impossible to give advice if I do not know where to start.

CHAIRMAN—At that point, what do you do? If you can no longer act on people’s behalf, what do you do?

Mr Dalle Cort—One thing we did not do at the end of the day was run away and hide. I am not hiding today. I did not run away. We tried to prepare people for what was about to occur by ensuring what cash positions they had right across the board so that we could act when we had the ability to act.

Senator MASON—Mr Dalle Cort, thank you the making yourself available to the committee this morning. I know that all of us do appreciate it. Just going back to your first answer to the chairman's questions this morning, you simply said that Storm selected products such as Macquarie cash management trust and other products. So in a sense you are like so many other investment companies—is that right?

Mr Dalle Cort—Very much so.

Senator MASON—So you do not see herself as being very different from—

Mr Dalle Cort—Not at all.

Senator MASON—In your submission—and thank you for your submission—you say, for example, on page 3 that:

If every advisory firm in the country who offered Margin Lending to their clients had their loans managed the same way that the CBA treated Storm Margin Loans i.e. fail to notify of margin call resulting in Negative Equity, then all of these advisory firms would now be in Liquidation along with Storm Financial.

Mr Dalle Cort—Yes, correct.

Senator MASON—Then you say on page 14:

Storm Financial would still be in business today had our clients actually got a margin call.

Then on page 15 it says:

I had capacity to meet a margin call but yet never received a margin call from CBA—the product provider.

Finally, on page 15 it says:

Can someone explain to me in plain English WHY DID WE NOT RECEIVE A MARGIN CALL?

Would you argue that in effect what made Storm Financial different from other financial advisory companies was the conduct of the banks? Is that your argument?

Mr Dalle Cort—It is not my arguments; it is the facts. Storm went through a process of receiving margin calls from clients in 2003. Every single client that received a margin letter and call from the bank in 2003 was sold out proportionally to the size of their investment, and every single client still existed 12 months or two years after the event. We had a process set down so that, when markets did go to the extent that they broke the barrier, at the end of the day we could get clients out and get clients back in. Storm would still be alive and in the market today had its own margin lending not gone into negative equity of $1.8 million.

Senator MASON—Do you know why the banks behaved in this way? Can you offer any explanation?

Mr Dalle Cort—Other than to simply state that somebody must have switched the trigger off on Storm's BSB number, I simply do not know. As my submission says, they had an 'oh, shit' moment, they hung on to it and they dragged down clients to the nth degree and they demoralised them to the nth degree in their conduct after the event. The sickening part is that they have been allowed to get away with it for so long.

Senator MASON—What worries the committee is: why would Storm be so different? Why would the banks behave this way in relation to Storm?

Mr Dalle Cort—Because we were the biggest player in the country, I believe, in margin lending as an individual entity.

Senator WILLIAMS—Are you saying that it is too big to be managed properly by people like CGI and banks et cetera?

Mr Dalle Cort—I believe so—and Macquarie as well. We were too big to manage.

Senator MASON—Does Storm accept any responsibility for the advice they gave clients? Do you think the advice you gave to clients was appropriate in all cases? We will hear from these witnesses later on—Mr and Mrs Bates, and Mr and Mrs Grainer. Do you think the advice was always appropriate?

Mr Dalle Cort—The percentage ratio of debt that clients had was always rational at the point in time that steps were carried out or business was done. If we were allowed to carry through on a client's portfolio with the falls in the market, would we have changed numbers to where numbers sit today? I believe we would have because of what falls have occurred in the market, but there is not a single business or entity in a country that has not changed their numbers because of the falls that the whole market has incurred over the last 18 months. Every business has rationalised its numbers, and so would we have.

Senator MASON—In the case of, for example, Mr and Mrs Dale, on page 2 of their submission, it says:

At the height of the market in November 2007, the value of our portfolio was $2.9 million, however, our margin loan debt had grown to a staggering $1.8 million!

The point is that you say that the banks failed for some reason—and we are not sure why—to make the margin calls earlier, but you do not think that Storm gave any incorrect or reckless advice to clients. Do you stand by that?

Mr Dalle Cort—You mentioned two numbers there of $2.9 million and $1.8 million. At that point in time when advice was given I believe it was sound and, as I stated earlier, any advice that was given, if it was incorrect or rash, was part of the business and it would have to come back to me as being incorrect advice.

Senator MASON—So you are happy that you acted appropriately in all cases?

Mr Dalle Cort—We fed through the central process and I agreed to it at the end of the day, so how can I walk away from that statement?

Senator MASON—You can simply say that perhaps you should have been more judicious.

Mr Dalle Cort—At the point in time, I did not have a problem with where the numbers ran, where the market sat or what debt ratios a clients sat at.

Senator WILLIAMS—Mr Dalle Cort, thank you for coming along today. These margin loans were financed through various banks, such as the Bank of Queensland and Macquarie. I think you said St George earlier on; is that right?

Mr Dalle Cort—Yes.

Senator WILLIAMS—Do you believe that those particular banks endorsed the Storm plan and were very supportive of it?

Mr Dalle Cort—It would be ludicrous to think that the Commonwealth Bank did not endorse our process, not only through their close involvement with Storm but through their interest in buying Storm Financial at one point in time. It is not a false statement; it is a blatant lie if they state that they did not know the numbers we ran. If they did not know what process, what margin lending products or what equity lending we had with them at that time, which I believe was in excess of $1 billion with equity lending, in excess of $1.2 billion with marginal lending and, at one point in time, we had over a billion dollars in their index trust then, crikey, their risk management team would need to have something to do with their spare time.

Senator WILLIAMS—How long have you been a financial adviser?

Mr Dalle Cort—Nearly 10 years.

Senator WILLIAMS—I find it alarming when I read the submission of Mr and Mrs Dale where you advised them to apply for a $260,000 margin loan and to kick-start it with a $600,000 initial investment et cetera. Senator Mason raised the point that, in November 2007, the value of their portfolio was $2.9 million but they owed a massive $1.8 million. In your opinion were these people just geared too high?

Mr Dalle Cort—No, I do not believe they were at that point in time. What was their ratio, their marginal lending ratio at that point? My head is a bit of a scatter at the moment, but if we go back to their LVRs, their ratio would have been appropriate. If they got a LVR ratio and a marginal lending ratio of 55 per cent, and we have a top end ratio of 85 and 90 per cent then, depending on their cash reserves and other aspects, it is not an irrational point at which to place a client. If you are talking about debt as being the killer of this; debt is not a killer of an investment. The volatility certainly is at the end of the day. If points are taken and made in time where breaking points should have been got out, then these people would not have been destroyed completely like they are today.

Senator WILLIAMS—Did you, at all times, organise those loans for Mr and Mrs Dale? Did you handle that?

Mr Dalle Cort—Every single time a client obtained a margin loan, my name and my agency number went on the bottom of the application.

Senator WILLIAMS—So you prepared the documents for your clients, submitted the documents to the bank and virtually did all the work to establish that loan. Is that correct?

Mr Dalle Cort—No. My staff would prepare the documentation. All documentation would then go back to Storm central. Storm central would then send it on to all the margin lenders or to the equity lenders accordingly.

Senator WILLIAMS—The point I am making is that people who were actually making the loan had very little to do with the bank.

Mr Dalle Cort—Not very little; they had very little, if any, dealings with the bank.

Senator WILLIAMS—Is this because they put their total faith in Storm?

Mr Dalle Cort—Agreed—and in their product as well.

Senator WILLIAMS—In their submission, Mr and Mrs Dale said:

We never were contacted by any of the lenders, ANZ, BoQ and Colonial First State regarding our capacity to pay the loans back.

Mr Dalle Cort—Is that a Storm fault or a banking fault?

Senator WILLIAMS—That is a good question.

Mr Dalle Cort—The product came from the bank; it did not come from Storm at all. No products came from Storm. They all came from institutions out there, which companies, or an institution called ASIC, APRA or whoever, are supposed to govern to some extent.

Senator WILLIAMS—Part of your submission says:

Product failure is what killed the client allowing them to fall into Negative Equity. Margin lending—the product just doesn't allow for negative equity, CBA must be held responsible for their actions or in this case failure to act.

Would you like to expand on that comment of yours?

Mr Dalle Cort—I can very easily explain it. It is like a credit card. When I was in South Africa last year I spent $5,000 in a shop. Within two minutes of walking out of the shop, my credit card provider, the National Australia Bank, with due diligence, called me and asked if I had just spent $5,000 in South Africa, and I said, 'Yes, I did because my wife and I bought a few things.' When my loan went into buffer, into margin call of $5,000, I did not get a phone call—not personally, not through Storm, not through anyone, because they did not know it was, I would assume, $5,000 into negative equity. They did not call me at $105,000. At $205,000, after it went over and above the credit card limit, if you want to state that—I am stating that—they still did not call me. At $305,000 they could not pick up the phone and spend 50c to give me a call. At $453,000 they simply sent me a letter on that particular day, stating, ‘We sold you out of the market because your loan had expired by $453,000.’

Senator MASON—Did you ever make inquiries of the bank on behalf of yourself or any of your clients?

Mr Dalle Cort—Yes, and they gave me pathetic excuses. They have not challenged me one iota on the $453,000 that they are stating I owe them. When they had doggedly approached—

Senator MASON—By phone call or by email?

Mr Dalle Cort—By letter.

Senator MASON—How often did you contact a bank, either on your behalf or your client’s behalf, seeking information as to when there would be a margin call?

Mr Dalle Cort—Could you repeat the question, please?

Senator MASON—How many times, either on your own behalf as an individual or indeed on your client’s behalf, did you ask the banks when there would be a margin call, because you must have known it was likely as the market started to fall? What inquiries did you make?

Mr Dalle Cort—Personally, speaking to Kamal from CGI with a colleague of mine when the market was in a so-called ugly position. There was still no ‘What are we going to do about where we are at now?’ ‘Don’t know.’

Senator MASON—Did you send an email to the bank or phone the bank and made a note of the phone call and ask, ‘What is going on?’

Mr Dalle Cort—Not directly from my position, no.

Senator WILLIAMS—If I can go to another point, Mr Dalle Cort, you are claiming that ASIC gagged Storm Financial.

Mr Dalle Cort—I am not claiming; I am stating the facts as I see them.

Senator WILLIAMS—Could you briefly expand on that?

Mr Dalle Cort—An enforceable undertaking, per se, that ASIC tried to present to Storm at that point in time—when you are sitting in with the policeman at the end of the day and the police are saying that you cannot talk to your clients and present them with an enforceable undertaking, which to date ASIC has still denied.

Senator WILLIAMS—You did not do it, though—that is the bottom line. They asked you to do it and you just refused. You were instructed not to talk to anyone.

Mr Dalle Cort—We were instructed not to talk to our clients—

Senator WILLIAMS—By ASIC?

Mr Dalle Cort—No, by the directors Julie and Emmanuel Cassimatis. We were instructed by them not to talk to our clients. But when you get people like Hugh Copley email rhetoric with the point of view that you will never engage with your clients after negotiating to the point where you are supposed to be negotiating in an enforceable undertaking, engage with your clients. You have no contact whatsoever with your clients.

CHAIRMAN—You never did any of that. They asked you to do that but you never did any of that?

Mr Dalle Cort—We did.

CHAIRMAN—You never signed the enforceable undertaking. Storm made some decisions to do some things but the ASIC enforceable undertaking was never followed through. You never signed it; you never followed it through.

Mr Dalle Cort—Why put—

CHAIRMAN—I am just asking the question. Did you or did you not?

Mr Dalle Cort—It was never signed.

CHAIRMAN—That is all I want to know.

Senator McLUCAS—Thank you, Mr Dalle Cort, for your submission and for being here. I want to go back to the way that clients became clients of Storm Financial, or Storm Nine. Many clients did you have on your books in Cairns?

Mr Dalle Cort—We had about 1,000 clients.

Senator McLUCAS—Can I get an understanding from you about how those people came to you?

Mr Dalle Cort—I had an existing business when I was a proper authority holder of MLC Financial Planning and then I joined Storm Financial as a proper authority holder. Then Storm bought my business in Cairns. So I had existing clients—

Senator McLUCAS—How many?

Mr Dalle Cort—with them rolled up through advertising and the rest of it. Basically, clients became clients in that fashion.

Senator McLUCAS—As they moved from MLC type clients, that was your business to Storm clients—

Mr Dalle Cort—They came from AMP, Colonial; they were all sorts of clients.

Senator McLUCAS—So when your business was purchased by Storm, did all your clients move from your business?

Mr Dalle Cort—No.

Senator McLUCAS—What proportion didn't?

Mr Dalle Cort—Ninety-eight per cent of them.

Senator McLUCAS—So how many clients moved from MLC to Storm in that transition? I am just trying to get an understanding of the growth of the business over time from the point where the business was re-badged as Storm.

Mr Dalle Cort—I do not know. I would have to check the actual numbers.

Senator McLUCAS—From the time, then, that the business was badged 'Storm', how many new clients did you pick up?

Mr Dalle Cort—We had a steady increase in new clients over that period of time, certainly in the last couple of years. We took on a couple of hundred new clients over that period.

Senator McLUCAS—How would you have done an assessment when you had a new person walk through the door? When you asked them how they came to you, what did they say?

Mr Dalle Cort—Through media, word of mouth and advertising. Media and word of mouth were the biggest advocators, at the end of the day.

Senator McLUCAS—It has been put to me by a number of locals that you had to apply to join Storm—that is the language that people used in talking to me. That is not the usual way that someone would appear at a financial planner's office to receive advice.

Mr Dalle Cort—Those words 'apply to become a member of Storm' are foreign to me. Part of the process for Storm was that clients had to come to an educational session before we would really get into any depth with them.

Senator McLUCAS—So you have not heard people say—

Mr Dalle Cort—We did not have any application forms, Senator.

Senator McLUCAS—No, I understand that. Have you heard people say that they applied to become a member of Storm or to join Storm?

Mr Dalle Cort—Not at all.

Senator McLUCAS—Never?

Mr Dalle Cort—Not to become a member of Storm, no.

Senator McLUCAS—No, to join Storm.

Mr Dalle Cort—It is bizarre; I do not know where you are leading.

Senator McLUCAS—Okay, that is fine. It is interesting that you do not know that language but I do. Moving on to the educational events—where were they held?

Mr Dalle Cort—We had educational sessions in our office on a fortnightly basis. We held bigger educational sessions at the Hilton and at Cazalys on a number of occasions, but they were mainly in our office.

Senator McLUCAS—I know the chairman asked this question, but can you give me an understanding of what happened at those events?

Mr Dalle Cort—We would show the clients the difference between shares, cash and property. We would show them volatility and educate them on how different markets react and give them a broad based information session—only an information session. No advice was given on these evenings, just pure information. Should clients decide to come back and have a chat to us, they did that on an individual basis and we would explore their individual circumstances after that.

Senator McLUCAS—So, mostly, the educational event would be the first point of contact?

Mr Dalle Cort—Correct.

Senator McLUCAS—Then you go to a process of doing an assessment of the person's circumstances. How long did that take?

Mr Dalle Cort—On average, 180 days.

Senator McLUCAS—Sitting down with the client?

Mr Dalle Cort—It depends. When a client wanted to come back and have a chat we would have a profile and would certainly obtain all their financial data.

Senator McLUCAS—I am not talking about the average length of time. How many hours would you sit with a client to do an assessment of their financial situation?

Mr Dalle Cort—From start to finish, a client would spend a minimum of 10 hours with us.

Senator McLUCAS—To do their financial assessment? To do that first—

Mr Dalle Cort—That little step there?

Senator McLUCAS—Ten hours?

Mr Dalle Cort—No, not 10 hours for that individual component. It would be a minimum of an hour, and a lot of the time the client would have to go away and come back with lots of data, and we would expand on that.

Senator McLUCAS—So on average you would spend an hour to assess—

Mr Dalle Cort—A minimum of an hour.

Senator McLUCAS—And then how long would it take to develop the statement of advice that you are required to provide?

Mr Dalle Cort—If you are trying to break up each individual component, there are in excess of 20 hours—20 hours would be an absolute minimum that we would spend on any individual client, both in front of or behind the scenes.

Senator McLUCAS—You also say that you were selling products that were products you were buying off the shelf—

Mr Dalle Cort—Correct.

Senator McLUCAS—and they required, I think in all cases, either equity lending or margin lending. Were there any types of products that you recommended to—

Mr Dalle Cort—Superannuation products right across the board. They did not all require equity lending or margin lending. A number of our clients just had cash invested into the index trust without gearing attached to it.

Senator McLUCAS—Can you give me an understanding of the proportion of your clients who did not require margin lending in order to participate?

Mr Dalle Cort—Only about 30 per cent of our clients were actually investment clients. So 25 per cent or 28 per cent of clients.

Senator McLUCAS—And your clients participated in the bonuses that other clients, particularly in Townsville, participated in?

Mr Dalle Cort—I do not understand the question.

Senator McLUCAS—Travelling overseas?

Mr Dalle Cort—I still do not understand the question.

Senator McLUCAS—It was in the newspaper. People went overseas on holidays with Storm.

Mr Dalle Cort—Every single client who went overseas on holidays paid for their own trip.

Senator McLUCAS—Totally?

Mr Dalle Cort—Totally. Every single client who travelled overseas on any of the international trips that we had through Storm Financial paid for their own trip.

Senator McLUCAS—I think it is important that that is on the record—thank you.

Mr Dalle Cort—Any travel by a staff member from Storm Cairns, including me, on any of the overseas trips, was paid for by me personally.

Senator McLUCAS—That is a misconception that I certainly have had, and I appreciate that being—

Mr Dalle Cort—One of many misconceptions that you will read in the media, Senator McLucas.

Senator McLUCAS—That is why this committee is very useful. Can you explain how the people paid? Did they write a cheque out of their savings account or was it—

Mr Dalle Cort—The cash members trust, I would imagine, or a savings account—depending on where it came from. It would be too difficult to—

Senator McLUCAS—It was outside of their investment arrangements?

Mr Dalle Cort—We certainly factored it in as part of the cash flow, if that was the case.

Senator McLUCAS—I think that is where the misconception lies.

CHAIRMAN—Just to follow on from that: did they pay for 100 per cent of the total value of their portion of the trips? I am only guessing, but some of them looked fairly expensive.

Mr Dalle Cort—If we bought entertainment or a dinner for a client on a particular night, then no.

CHAIRMAN—That is fine. I just wanted to get some idea of it. I want to go back a bit. To me 180 days seems like a long time. It is nearly six months. It is a long time. Why did it take so long? One hour seems to be the critical point to at least do some profiling and, if someone is seeking advice—

Mr Dalle Cort—In a way, it is not the critical point. It is the continuation of talking to a client, then educating them, obtaining the data—

CHAIRMAN—Educating them to do what?

Mr Dalle Cort—Educating them on investing, on expanding their capital base and on looking at what they want to do. If they chose not to go down that path, then they did.

CHAIRMAN—It just seems odd; 180 days seems like a really long time.

Mr Dalle Cort—If you go to apply for an equity loan at a bank, it does not take you one minute or one week to obtain a loan.

CHAIRMAN—But it does not take 180 days either.

Mr Dalle Cort—But it does take time for you to approach the bank, to get a quote for the bank and go back to Storm Central and then give the client a profile of what four banks will give them as an interest rate and then go back to the bank and say, 'Yes, we'll choose your bank,' and then they go out and value the house, prepare the paper work to go back to the client and then sign off on. So, yes, it does take 180 days—and it did for us.

CHAIRMAN—Would you say that the model was based around gearing? What we have heard is that it is about margin lending and, within your own language within the Storm family as it were, it was this step gearing or step up. It was about the multiplying effect up.

Mr Dalle Cort—The model was all around making money for clients.

CHAIRMAN—Would you say you actually understand gearing? Would you say that you understand margin lending? Would you say that that is something that you—

Mr Dalle Cort—I answered that question earlier. I believe I do.

CHAIRMAN—You do?

Mr Dalle Cort—Yes.

CHAIRMAN—What if I put this to you: if somebody had $100,000 and they invested in the share market and the share market goes up 20 per cent, they will make $20,000 and if the share market goes down 20 per cent they will lost $20,000 and they are left with $80,000—pretty simple stuff. But if somebody gears up and they have $100,000 and they borrow another $200,000—that is $300,000—and there are the same numbers, it multiplies up, it is more on the way up but also three times more on the way down. With those numbers, if the market was to fall by just 33 per cent, which is significantly less than what the market fell during that period—

Mr Dalle Cort—How much was that?

CHAIRMAN—Thirty-three per cent. If the market fell by 33 per cent, it would actually wipe out 100 per cent of the investment.

Mr Dalle Cort—Correct; it would.

CHAIRMAN—I am just trying to understand what Storm were actually doing. We will get to the banks, but we are talking to you, so—

Mr Dalle Cort—You are assuming that a client walked in with $1 and then we advised them to borrow another $2 directly.

CHAIRMAN—I am not making any assumptions; I am just going on bits of information we have got and then I am asking you the questions. What I am asking you about is in terms of gearing. It seems that the people who got into trouble were the people who were geared—and the people who were geared were obviously geared very large.

Mr Dalle Cort—All clients at Storm felt the volatility of the share market. All clients in Australia felt the volatility of the share market—not just Storm clients.

CHAIRMAN—But not all of them lost all of their life savings, investments and some of their homes.

Mr Dalle Cort—Well, if your brakes do not work on your car, then you are going to smack into the other car in front of you. If your brakes do not work—

CHAIRMAN—But if the brakes do not work—

Mr Dalle Cort—If you just went to the mechanics and you applied new brakes and they never worked, who do you go and shoot? Do you shoot the mechanic or—

CHAIRMAN—We do not shoot anybody, but what you do is—

Mr Dalle Cort—At this point in time, there are a lot of people in Storm who are clients, including myself, who feel that way.

CHAIRMAN—So who is responsible? Are you saying it is all the banks' fault? But doesn't Storm, in collecting the fees and having the clients, take some responsibility and say, 'Hang on, in the end, we give the advice—

Mr Dalle Cort—Any client who walked into Storm Financials front door in having an association with Storm because of the product failure that came through from their lenders because they met Storm, because they knew me personally, are certainly a result of that, yes.

CHAIRMAN—Were they clients of Storm or clients of the banks? Whose clients were they?

Mr Dalle Cort—Were they clients of Storm or clients of the banks? You would state that they would have to be clients of both.

CHAIRMAN—So who is in charge? Who makes the decisions to buy or sell? Who makes the decisions as to how much to borrow? Who applies for the loans? How did that work? Did people individually go—

Mr Dalle Cort—If we go and apply for a loan and the bank decides to give us $1 million or half a million dollars, we can only utilise the product they will allow us to use or within the lending parameters that they allow us. It is either $1 million or half a million dollars. We do not point a gun at their head and say, 'Give me $1 million.' If this is what equity is available, this is what product is available—as a property or as a share or as cash to leverage against—and the bank lent money based on their assets.

CHAIRMAN—As the market fell, are you aware of whether at any point Storm actually tried to resist any margin calls and in fact were saying right up until the end and continue to do so now that, if you were not sold out, you would have come back, that, if they had ridden the market out—

Mr Dalle Cort—Not at all. If you are saying that no-one played God there, no—certainly I was not aware of that.

CHAIRMAN—Did Storm send a letter out to all their clients giving them advice about going to cash at any point?

Mr Dalle Cort—Correct.

CHAIRMAN—What was the intent or purpose of that advice?

Mr Dalle Cort—The intent was to liquidate a client to a position that they could hold and then look to re-enter back into the marketplace—which was the same process that Storm utilised in 2003.

CHAIRMAN—At what point in the market fall did this happen?

Mr Dalle Cort—I cannot answer that.

CHAIRMAN—Would you consider that, when you are dealing with personal advice, that each person is different and the whole idea of 180 days and then hours of time is to get to know the client and follow through on your obligations in the Corporations Act to understand that person's individuality? Everyone is different. Everyone has a risk tolerance, age and income. Was sending out just one letter to everybody asking them to do the same thing appropriate—as people might have had different capacities?

Mr Dalle Cort—Just because the zero is different from one client to another does not mean that you are going to give them any alternative advice.

CHAIRMAN—So it is the same advice for everyone regardless of the dollars?

Mr Dalle Cort—Why should we discriminate between someone who has $10 million and someone who has $100,000 or $10,000? Why should one person get different advice? Should we discriminate?

CHAIRMAN—As part of the advice you gave to people, would you say that there was a belief that, if you use somebody's home as equity or collateral, there is a possibility that a person could lose that home?

Mr Dalle Cort—I do not understand the question.

CHAIRMAN—If, as a guarantee or as some collateral, you use the family home as the equity base—that is, you include that as part of the whole investment portfolio—is there any possibility at all that you could lose the home?

Mr Dalle Cort—Of course there is a possibility if you have a debt against it.

CHAIRMAN—Did people understand that? Did you say to people, 'While markets are rising it is good but there is always a chance—a small chance but a chance—you could actually lose your home'?

Mr Dalle Cort—Any time there is debt included in anyone's portfolio, assets are at risk to some extent, and I believe that was all clearly defined.

CHAIRMAN—So everybody understood that? All Storm investors understood that you never know what will happen in the market—markets go up; markets go down—and they could lose their home?

Mr Dalle Cort—Certainly I do not believe that there were issues with clients in relation to that comment.

CHAIRMAN—There was no issue? No-one ever felt any fear that they might—

Mr Dalle Cort—I just stated that. They have certainly got fears. Everyone would have fears to that extent.

CHAIRMAN—Fears as the market was collapsing or fears as the market was rising?

Mr Dalle Cort—Both ends of the scale.

CHAIRMAN—So people feared they could lose their homes while the market was rising?

Mr Dalle Cort—Of course the fear does not subside because things are going up. There is still a fear there. If markets go down, that fear will increase.

CHAIRMAN—Who convinced them not to be scared?

Mr Dalle Cort—The word 'convinced' is the incorrect word.

CHAIRMAN—Who advised them that this was not a high enough risk to worry about? Who advised them that, while it was a risk, it was not a risk that they should be concerned about?

Mr Dalle Cort—If the numbers did not stack up at the end of the day then business would not be struck.

CHAIRMAN—Whose numbers, sorry?

Mr Dalle Cort—If the numbers that we ran on any individual client were not appropriate, were not within the right parameters that our compliance team had set down, then we would not meet those.

CHAIRMAN—In hindsight, now that there has been the collapse, how effective were your numbers, your compliance and your risk?

Mr Dalle Cort—As I stated to you before, certainly at a breaking point they should have been broken. Products should have been reduced to what they should have done at points in time and then we would not be having this conversation. But certainly for every single client that we have, when the numbers were run on them, we—along with every other company in Australia—have changed their numbers to where the markets sits today from what it sat at 18 months ago. So we were continually involved with their numbers.

CHAIRMAN—You did not believe the market could fall that far?

Mr Dalle Cort—I do not think anyone in Australia believed that the market would fall—

CHAIRMAN—So the markets have never fallen that far in the past?

Mr Dalle Cort—In this country?

CHAIRMAN—I am just asking you, because markets—

Mr Dalle Cort—We catered for the largest falls that had every previously occurred—correct—in everyone’s portfolios prior.

Senator MASON—Mr Dalle Cort, you mentioned in your opening oral testimony that you were the biggest loser of funds in Cairns.

Mr Dalle Cort—Yes.

Senator MASON—Did you make inquiries of the banks as to your own portfolio?

Mr Dalle Cort—We were always told that, as soon as we needed to act accordingly, Storm central, where apparently the information coming through from Colonial and Macquarie was being updated on a daily basis—

Senator MASON—But did you make inquiries?

Mr Dalle Cort—Let me make this point: Colonial—

Senator MASON—Forgetting your clients, did you make inquiries about just your own portfolio? You had more to lose than anyone else.

Mr Dalle Cort—Yes.

Senator MASON—Did you make inquiries of the bank about your portfolio?

Mr Dalle Cort—Only through to Storm central. I was relying on the information coming through from them and the website.

Senator MASON—So you are a financial adviser of 10 years standing and when the market started to fall you did not—

Mr Dalle Cort—I trusted the system. I, like my clients, trusted the system. Why should I not trust the system?

CHAIRMAN—Which system?

Mr Dalle Cort—The margin-lending system, the Storm system. I was relying on information to come through at an appropriate level. I trusted the system.

Senator MASON—You did not make calls when the market started to fail?

Mr Dalle Cort—Well, if—

Senator MASON—That would have been my inclination. I had money in the market too and, I tell you what, I was on the phone. I would have thought someone of your experience would be on the phone to say: 'I have a lot of money tied up here. What's going on?' It is a very human reaction, and I am not experienced like you.

Mr Dalle Cort—But if you read the monitor and the monitor says, 'The number is this,' you have to believe something at the end of the day. If you rang them you would get the same result.

Senator MASON—What do you mean by 'the monitor'?

Mr Dalle Cort—The website numbers, the unit costs on a daily basis.

Senator MASON—You must have been concerned about your own money. This is what worries me. I am sure you did lose a lot of money, and that is unfortunate, but you did not take action with regard to your own money—a man with 10 years experience in the financial sector—and you did not do it on behalf of your clients. You have given evidence that no-one made these calls. Didn't you ask the banks? There is no email trail. There is no phone call trail.

Mr Dalle Cort—Not from our department because that is the way we operated—through Storm central. And at that point they were dealing directly—

Senator MASON—Did they seek clarification from the banks?

Mr Dalle Cort—Certainly. The clarification I have in front of me here indicates that my portfolio on 3 December last year was at $62,000 of negative equity—that was the information transmitted through to Storm central—when in fact it was sold out on 26 November at $453,000 of negative equity. In fact I ran Kamal from CGI on the same day, or he rang me. He told me I had $181,000 of negative equity. What are you supposed to do? When I was ringing these people they did not even know what was going on.

CHAIRMAN—If I understand this rightly, you guys were just innocent bystanders—you were just the messenger. You collected fees and just shoved people into someone else's product—and whatever happens, happens.

Mr Dalle Cort—If it was as simple and as eloquent as that, Mr Chairman, then—

CHAIRMAN—I am just wondering. Surely as the market fell you must not have believed the numbers. Anyone looking at the market would have gone—

Mr Dalle Cort—There were hundreds of questions being asked, left, right and centre, at the end of the day, from clients. Clients were indicating that websites were incorrect. We were going back. At the end of the day, it was chaos. Their numbers did not show us what—

Senator MASON—It was chaos everywhere. Why is Storm so different?

Mr Dalle Cort—Because we were big players in the marketplace.

Senator MASON—No, you were not that big a player. There were many bigger players than you, Sir. This does not make sense.

Mr Dalle Cort—That is the point that I would really like to know as well—I would really like to know that point and I am sure thousands of clients would like to know that point.

Senator MASON—I just wonder why you as managing director did not seek further clarifications from the bank, either through an email trail, by letter or by phone. I am staggered that it did not occur. You say you read something on a monitor.

Mr Dalle Cort—Certainly there were phone calls to Storm central asking where the position was, undoubtedly.

Senator MASON—I would like to ask a question about ASIC. Did you have contact with ASIC prior to Storm's collapse?

Mr Dalle Cort—None.

Senator MASON—So you had no contact with ASIC at all prior to Storm's collapse in Cairns?

Mr Dalle Cort—Not that I can recall.

CHAIRMAN—On the subject of ASIC, ASIC did do an audit though of Storm that you are aware of, didn't they?

Mr Dalle Cort—I believe so, yes. They did.

CHAIRMAN—But you are saying not specifically Cairns.

Mr Dalle Cort—Correct.

CHAIRMAN—So there was some contact between Storm and ASIC but you do not know what they did or what they found?

Mr Dalle Cort—I know they went right through Storm when Storm produced a prospectus to go to the marketplace, and from all reports that we got it passed with flying colours.

CHAIRMAN—I terms of you going to the marketplace with a public listing, obviously you had a strategy in place and Storm wanted to go public and list. You had a number of underwriters and a number of major investors that would do that. Is that right?

Mr Dalle Cort—I believe so.

CHAIRMAN—Can you explain what happened—why it failed and why it did not make it through to market?

Mr Dalle Cort—My recollection on those points is a bit unclear at the moment. I could not tell you.

CHAIRMAN—Were there other people who did that? You did not do that as MD?

Mr Dalle Cort—When you go to the marketplace to that extent I am sure you employ professional people to do those jobs. So, yes, I was not really across a lot of the numbers at that stage.

CHAIRMAN—Were you surprised that it did not go ahead given at the time how successful Storm appeared to be? Were you surprised that the market did not take it up?

Mr Dalle Cort—After what I have endured over the last eight months nothing whatsoever surprises me that occurs in the marketplace.

CHAIRMAN—What did the market know that others did not know about Storm?

Mr Dalle Cort—I do not know how to answer that.

CHAIRMAN—On the issue of the banks, how would you describe your relationship, with any of the lenders but particularly with CBA? It certainly seems that the Commonwealth Bank of Australia was the closest, as it were. How would you describe the relationship and your interaction?

Mr Dalle Cort—Often it was at a social meeting whenever I met these people. It was a very close relationship. If CBA or Macquarie state that they did not have a good relationship then that is nothing but a porky pie.

CHAIRMAN—I am more interested in your view about whether you thought there was a relationship or not.

Mr Dalle Cort—I did not think. There was a great relationship between us and our business partners, being the banks.

CHAIRMAN—What do you mean by a great relationship?

Mr Dalle Cort—You do not have a $3 billion plus relationship without saying, 'G'day mate, how are you going,'—where you stay at each other's houses and the rest of it and where we pick you up from the airport.

CHAIRMAN—At what level was that? What does it go to? Was it just bank officers, loan approvers and margin loan approvers. Or does it go up higher to regional managers?

Mr Dalle Cort—If you are talking about collusion from individual people from—

CHAIRMAN—No, I am not talking about collusion; I am just trying to understand the relationship.

Mr Dalle Cort—or Storm profiling back to the CBA or other banks such as BOQ then I would stand very firmly behind any one of the Storm staff and the way that they conducted themselves with outside banks. I do not believe that they did collude, and I certainly was not advised to collude and never asked any of my staff to collude in any unsavoury fashion.

CHAIRMAN—When loan documents were being prepared, it was obviously not done by the clients individually. Was it done by Storm people?

Mr Dalle Cort—No, they were done by the banks. Loan documents were done by the banks not by Storm. I understand that they were all done by the banks.

CHAIRMAN—Could you explain that?

Senator WILLIAMS—Who filled them in?

Mr Dalle Cort—The bank. They were bank documents.

Senator WILLIAMS—Yes, but who filled the applications in for the loan documents? Was it Storm?

Mr Dalle Cort—If they came from the bank, they were all filled out and they just needed a signature from the client. So they were all filled out by the banks.

CHAIRMAN—So the bank would do it and send it back to Storm?

Mr Dalle Cort—Yes, correct.

CHAIRMAN—And then Storm would—

Mr Dalle Cort—To my understanding, that was the process, yes.

CHAIRMAN—Isn't that a bit unusual? Would you say that was unusual?

Mr Dalle Cort—Well, it either went directly to the client or it came to the office and the client had to sign the document there—or they had to take it away to a solicitor to get signed.

CHAIRMAN—Wasn't there a process at Storm where Storm organised the loan?

Mr Dalle Cort—Yes.

CHAIRMAN—You would advise, 'You will need this size loan. You will need to do this. You are going to invest this much.' Is that right?

Mr Dalle Cort—No, you would not advise on the size of the loan. We would say, 'This is what the bank is prepared to lend so we will go to this—

CHAIRMAN—How would the bank know what to lend unless you provided information?

Mr Dalle Cort—Correct, and then they go out and value the house and do all the things that that they do.

CHAIRMAN—So if the bank did all of that then what did you guys do for 180 days at the start? I just do not get it.

Mr Dalle Cort—We waited for the process—we waited for them to go and do all of that.

CHAIRMAN—So what were you collecting fees for? What were you actually doing? What did Storm actually do for people? I am just not sure now.

Mr Dalle Cort—We could spend a couple of hours on that.

CHAIRMAN—Try me in a couple of minutes. I am just trying to understand. You seem to be saying that the bank did all of that—the bank did this and the bank did that—so what did you guys do?

Mr Dalle Cort—You asked me about paperwork from the bank. You asked me about bank documentation. We did not prepare any bank documentation. We provided information to go to the bank. The bank prepared the bank documentation.

CHAIRMAN—You provided the information—so you provided the numbers.

Mr Dalle Cort—We provided what the client provided to us and what the bank required us to provide to them as a mediator.

CHAIRMAN—So you provided the information; you provided the details.

Mr Dalle Cort—The bank said, 'This is what we need,' and then we provided that to the bank. If we were missing something then we had to ensure that we got that for the bank.

CHAIRMAN—Just so that I have got this right, so the bank told you how much you could lend.

Mr Dalle Cort—Correct.

CHAIRMAN—How would they know what the client could borrow unless they had the details first?

Mr Dalle Cort—The bank would ask us for a list of things to obtain from their bank statements to their payslips to whatever income they had—there was a whole raft of things—which we would then provide to the bank. Then the bank would come back—

CHAIRMAN—So how could a bank knowing that somebody's only income was a DVO pension advise them—

Mr Dalle Cort—That is certainly a question for the bank.

CHAIRMAN—But how could you as their adviser agree to that as well—or did you play no role in that at all?

Mr Dalle Cort—I would have to understand the particular circumstances that you are talking about to try and rationally give you an explanation.

CHAIRMAN—There are a whole range of them and we have submissions that are on the public record.

Senator MASON—This is not just about the banks, Mr Della Cort. You are the financial adviser. Surely you take an interest in your client's background, and if you think they should not be borrowing so much money—the banks may want to give it, I accept that—then surely you say, 'This is an inappropriate lend.' Surely you would do that.

Mr Dalle Cort—Agreed, and I said to you, for any client who did business with Storm Cairns and for anyone who I had an association with, if something that I have done is untoward then I will cop it sweet. I have no problem with that.

Senator MASON—So you do accept responsibility?

Mr Dalle Cort—Somebody has to accept responsibility, at the end of the day. Certainly people have run away for six or seven months and said, 'No, we've done nothing wrong. We've done nothing wrong,' and then all of a sudden come out and said, 'Oh, we have a problem with a few things that we have done.' What I am saying there is in relation to the Commonwealth Bank.

CHAIRMAN—I am still not clear on this. If I was coming to you as a client and you were my financial adviser and you advise me—I am assuming you just had a limited number of products and they all revolved roughly around—

Mr Dalle Cort—We did not have a limited number of products.

CHAIRMAN—So you had many different products. But were they all roughly the same category? Were they all the same type of product?

Mr Dalle Cort—Whether you buy an indexed fund with company A, company B or company C, at the end of the day it is about the cost to run that—the ongoing cost. So you are talk about a limited range. Indexed companies whether you are with one company or another are the same product at the end of the day.

CHAIRMAN—So if you are selling the same product you are just doing the same as everybody else.

Mr Dalle Cort—Those are your words; they are not mine.

CHAIRMAN—No. I am just following the logic. What did you actually do for people? I am still not sure. What did you provide for the fees you received? You took a very large fee of seven per cent plus, plus, plus.

Mr Dalle Cort—You say a very large fee.

CHAIRMAN—Seven per cent is a large fee.

Mr Dalle Cort—Any client that walks in the front door does business for a minimum of five years. So if you rationalise what they were charged as a fee for service upfront over a period of five years, I do not believe there is another model in this country that is as cheap as Storm was.

CHAIRMAN—That is your view.

Mr Dalle Cort—It is not just my view. Calculate it. Every client was given the opportunity to pay either a larger ongoing fee or an upfront fee. Every single client chose the upfront fee because it was rational for them to choose that. That is not an irrational statement. It is a rational one, because they all existed for five years.

CHAIRMAN—How many people chose the other system?

Mr Dalle Cort—Zero.

CHAIRMAN—So what did you provide for the fees? What did you do for them? How did you advise them?

Mr Dalle Cort—If you go through a statement of advice and you look at the fee structure at the end, it gives you a break-up and a ratio for the fees charged.

CHAIRMAN—Did you have a statement of advice model? Did you have a plug and play or some sort of model for statements of advice, or were they uniquely individual?

Mr Dalle Cort—In every statement of advice that I have seen, not only Storm's but others, standard formats of disclosure are always included. But every client's personal point of view was inserted into all statements of advice that I was party to.

CHAIRMAN—If you have learned anything from this process, would you say that people were too highly geared or not geared highly enough?

Mr Dalle Cort—If I have learned anything out of the process it is that you should not trust business partners, even though they are thick with you.

CHAIRMAN—Which business partners?

Mr Dalle Cort—Banking business partners, at the end of the day.

CHAIRMAN—Why did you trust them in the first place?

Mr Dalle Cort—Because we are all expected to understand that banks are pillars of society. When the pillars of society come to you and they state that this is what they can do, we are expected to believe that.

CHAIRMAN—That is alright for you individually, but is that alright for your clients? If you want to do that and treat your money in whichever way you like, that is fine. It is a free country and you are allowed to do whatever you want. But is it satisfactory for you to say, 'Look, we just trusted them with your money'?

Mr Dalle Cort—If it is enough to trust them with my money individually—

Senator MASON—It is not, Mr Dalle Cort. You can be reckless with your own money but not with your clients' money.

Mr Dalle Cort—I agree. There is a huge moral responsibility on my heart about what has transpired in this.

CHAIRMAN—You have an opportunity. We are interested in the relationship with the banks and how that worked? I gave you an opportunity before but I am giving you another opportunity to talk about the relationship and the level at which the banks, whether it was the Commonwealth Bank of Australia, Macquarie Bank or others, pursued the business or inflated figures. What was happening? Obviously you had no indication. You felt that everything was fine?

Mr Dalle Cort—Mr Chairman, it was not done at our individual level, at the director of Storm (nine) level. It was certainly done at a higher level.

CHAIRMAN—By higher level you mean it was done by Storm HQ in Townsville, the Cassimatis and the board?

Mr Dalle Cort—Correct. And the compliance area. It was certainly done at that board level. It was not done at our level.

CHAIRMAN—I am just trying to understand. How were you directed to seek out the finance? Were you given leads? How did you get finance for your clients? How did you get margin lending for your clients?

Mr Dalle Cort—We would go to our banking component, which would farm it out to four different banks—that is, to the existing bank that a client was with plus three other banks—to get a profile of what was in the marketplace at that point in time. The banks would come back and say: ‘This is 10 per cent. This is 11 per cent. This is nine per cent.’

CHAIRMAN—So there were four banks and they all did roughly the same thing?

Mr Dalle Cort—The four pillars we mainly dealt with.

CHAIRMAN—So they all did the same thing in terms of doing the wrong call?

Mr Dalle Cort—No. There is a different product for a different amount of money. If you were a million dollar lend or a half a million dollar lend or if you were a residential property or a commercial property—

CHAIRMAN—They were all different?

Mr Dalle Cort—Every month a bank changes its product. So you have to be aware of what products are available at different banks.

CHAIRMAN—So how did all your clients end up in the same position if they were all with different banks and had different processes and different products?

Mr Dalle Cort—It is what amount of money one bank would lend against the value of the asset.

CHAIRMAN—So all the banks are wrong?

Mr Dalle Cort—Ask me a question. I do not know the question you are trying to ask.

CHAIRMAN—I am trying to establish some sort of pattern.

Mr Dalle Cort—The pattern was we would simply ask the banks. The banks would get a profile and they would come back to us with an amount of money—

CHAIRMAN—Would you say that there is some unique thing that happened at Storm where all of Storm’s clients lost their money? You are saying it is directly the banks’ fault, but if they are all different banks then all the banks were making the same mistakes That seems incredible.

Mr Dalle Cort—Commonwealth Bank have continually stated that only 30 per cent of Storm’s clients had exposure to them. That is half a lie. The only thing worse than the truth is half the truth. Yes, it was 30 per cent of Storm’s 14,000 clients, but it was 70 per cent exposure to the 3,000-odd clients that Storm had in investment.

CHAIRMAN—So you believe the Commonwealth Bank got the way they treated those particular margin loans wrong?

Mr Dalle Cort—My beliefs are not important right now. The facts at the end of the day collude there unbelievably.

CHAIRMAN—And those were the same mistakes of, for example, ANZ, which had a smaller exposure?

Mr Dalle Cort—If you had a banking product in which they said that they would lend X amount of money based on those clients' information then that is not a Storm product; that is a bank product.

CHAIRMAN—And that is the same mistake that Macquarie made as well?

Mr Dalle Cort—The same mistakes that Macquarie made were about the terms and conditions that people had with their margin lending. They called the loan too late.

CHAIRMAN—So all the different banks called the loans too late. How is it possible that all the Storm clients, if they were all in different products and different banks, ended up in the same position?

Mr Dalle Cort—Then what we did is collude to ruin everybody! We said: 'No, we're just going to wreck everybody here. Let's just throw them all in the deep end!'

CHAIRMAN—Are you claiming that the banks colluded to wreck everybody?

Mr Dalle Cort—I am stating that they simply did not have the back-office facilities to cater for what went down in October and November of last year.

CHAIRMAN—Did you have the back-office facilities—

Mr Dalle Cort—At the end of the day, if you sell a product to anyone and you do not have the service ability to back that product up, you cannot go and blame the person who sells it.

Senator MASON—But if you are a financial adviser, surely you make inquiries to the banks on behalf of your clients.

Mr Dalle Cort—Indeed—and we did.

Senator MASON—You said earlier on that you did not make many inquiries to the banks about margin loans.

Mr Dalle Cort—We went through the process that we had developed; we went through Storm central. I did not go direct—which was the question that you asked me—I went through the process that we developed at Storm.

Senator MASON—Through Storm Townsville?

Mr Dalle Cort—Correct.

Senator MASON—So all this is a problem with Storm Townsville. Isn't there a problem with your process if the information is not getting back to you? Didn't that ever worry you?

Mr Dalle Cort—Daily.

Senator McLUCAS—You said that, of the investment clients, 70 per cent had their loans with the CBA.

Mr Dalle Cort—They had an involvement with CBA.

Senator McLUCAS—I am interested in why there was such a large number with CBA as opposed to the other three majors.

Mr Dalle Cort—They gave more favourable product or lending requirements to our clients.

Senator McLUCAS—Was it in terms of interest rates or was it more than that?

Mr Dalle Cort—It was interest rates, fees—yeah.

Senator McLUCAS—I will talk to the bank about that. Thank you.

Mr Dalle Cort—I add that Storm never received one cent of commission or fees that I am aware of for any lending done with any bank.

CHAIRMAN—I have seen figures. You may not be aware of them, but they were percentages called a clip of the ticket. They were from every institution. You have not seen those figures?

Mr Dalle Cort—You are saying that Storm received a trail back to—

CHAIRMAN—A clip of the ticket, yes. I have the numbers for each individual transaction and loans with the banks as well. They are what Storm was receiving in fees apart from the seven per cent fee that they had in agreement with the banks. Is that not the case or were you not aware of it?

Mr Dalle Cort—I certainly was not aware of that whatsoever. So you are saying that Storm received income from a trail of debt that they had with all their—

CHAIRMAN—Yes. On top of the seven per cent of the total balance sheet up front, they received a clip of the ticket on every loan that was written as well.

Mr Dalle Cort—Is that right? That is new to me.

CHAIRMAN—I have the individual percentage figures of all of those provided.

Mr Dalle Cort—From every bank?

CHAIRMAN—We have all the numbers. I wonder if you knew about that or not.

Mr Dalle Cort—Absolutely not.

Senator WILLIAMS—You said that you would not advise your client on the size of a loan. Is that correct?

Mr Dalle Cort—I would like to be able to borrow $10 million, but I cannot. I do not have the capacity to borrow $10 million. But if my capacity were $10,000 then I might utilise $5,000 of that.

Senator WILLIAMS—Did you advise clients on what size loans they should take out to invest with?

Mr Dalle Cort—When we collated information from clients, that went through to Storm central and a model plan would come back from Storm central—

Senator WILLIAMS—And you would pass that advice from Storm central onto your client, who would be advised of how much to borrow and how much to go into debt and how much to leave—

Mr Dalle Cort—Correct.

Senator WILLIAMS—So, in other words, it was not your personal advice; that advice was coming from Storm central, if I could put it that way.

Mr Dalle Cort—Correct.

Senator WILLIAMS—In December last year, what was Mr Cassimatis saying to all of you Storm brokers? What was the information you were getting out from Storm central in early December last year? Was he saying to you, 'You are finished. You are buggered,' or was he saying, 'Hang in there. I am negotiating with the bank. We will get through this.'

Mr Dalle Cort—Certainly through the whole of November we were being told that they were negotiating with the banks as to where the market was and where the clients were at that stage. I was not privy to the detailed negotiations. But in December when I received the letter advising me that I was being sold out I knew it was pretty much the end of Storm at that point in time. It was pretty much the end of my portfolio at that point in time after being sold out. I was not, along with every single client, allowed to even react with the margin call because we never got one.

Senator WILLIAMS—Was it Kamal you contacted, did you say?

Mr Dalle Cort—Yes.

Senator WILLIAMS—I find it quite amazing that he said, 'You are in $105,000 negative equity,' but in actual fact you had been sold up a week prior to that with about $450,000 of negative equity. So why did he not know your position?

Mr Dalle Cort—That is bizarre. He said to me, 'Gus, you're $181,000 in negative equity.' My comment to him at that point in time was, 'Kamal, I think your numbers are incorrect. I think I am a lot more than that based on unit prices and where the market is at.' He rang me and told me that it was $181,000 and I said, ‘No, I think it is a lot more than that.’ Only my file notes from that particular conversation and an email that I received from Storm central in early January stating that they had received on my portfolio a $62,000 negative equity along with several other clients in that position advised us at that point in time that a client had floated into negative equity.

Senator WILLIAMS—So in early December last year you were obviously monitoring your own position.

Mr Dalle Cort—I was trying to monitor where I individually sat based on the information that we were able to view on monitors and through Storm and through the falls in the market. Yes, I was monitoring that.

CHAIRMAN—Mr Dalle Cort, thank you very much. We really appreciate your submission and your openness and frankness with the committee this morning.

Proceedings suspended from 11.32 am to 11.52 am

BATES, Mr Quentin Michael, Private capacity

BATES, Mrs Sandra, Private capacity

CHAIRMAN—Welcome. Would you like to make some opening remarks?

Mr Bates—Thank you. I am supported this morning by my wife, Sandra. In 2001 we first met Mr Gus Dalle Cort, who had purchased the MLC business from our friend and neighbour Mr Neville Rule. At that stage, we had no good reason not to continue our business with Gus. In early 2002 we asked Gus to formulate a retirement plan for us, as we wanted to, if feasible, retire in our mid-60s. Gus did that, and in 2004, when Gus joined Storm Financial, he advised us that we would be better off financially by joining him at Storm Financial. After several meetings and much deliberation we decided that we would go along with the Storm plan. It went on from there. At one of these meetings we were asked what type of risk-takers we were. We have never been risk-takers in the whole of our lives. We valued our dollar too much to take any risks. We were advised that there were three types of investors: minimal risk, moderate risk and high risk. We said, ‘We’re minimal risk-takers. We don’t wish to get too involved.’

In December 2005 Sandra retired from her job, and in February 2006 I retired. Financially, at that stage we were going along okay and we were reasonably happy that we could survive on the plan that Storm had formulated at the time. I still believe that we may have survived had the safeguards that were put in place been activated as they were supposed to have been—instead of running us into negative equity and then selling us down, leaving us no opportunity to recover. We still do not know who is to blame for this, as we had no contact from the margin lender whatsoever, and we believe that Storm were gagged at the time—or that is what we were told—and were not able to give any advice. Consequently, we were left financially devastated with nowhere to go.

Sandra suffered an open-heart surgery in February 2008, and at that stage I became her full-time carer until she was well enough to fend for herself. In December I decided that the only way we could survive after the market crash was to return to work, and this was much more difficult than I had imagined. Finally, I was able to get a part-time job as an office assistant with a legal firm, and I have been there for the last eight months.

I do believe that the banks have some responsibility in our demise, as not once did Colonial meet with us or interview us regarding our loans or how we intended—at our age—to repay approximately $1.6 million. If things went bad, as they did, we were as we are. Not once did they contact us regarding reaching a margin call, and we were given no opportunity or say in the matter. The first contact we had with Colonial was on 8 December, and by that time everything had been sold down. That, consequently, left us with nothing.

We had a phone call from Colonial on 8 December telling us that we owed them $16,000. The gentleman on the other end of the line said, ‘We want that cheque by the weekend or by Friday,’ and I said ‘Well, I am not going to pay any money until such time as I get this in writing.’ I received an email shortly afterwards. I looked at the email and saw that the $16,000 was not even in my name; it was in the name of another Storm customer. So, obviously, Colonial were not sure who owed whom what.

We did find out, when we received our bank statement on 12 December, that they had a debit of $15,000 on one statement and a credit of $15,000 on the other statement, so in fact we owed them nothing. It had been paid out and we were all square, but they were still chasing $15,000; they could not even look at their two accounts to see that one had a credit and one had a debit.

The Bank of Queensland, who mortgaged our home to the sum of $380,000, never ever contacted us to seek any particulars—no background et cetera—and, to this day, we have not met with anybody from the Bank of Queensland. Had they interviewed us when the application was made, they would have known that our income shown on the application was more than double what we were getting for our investments, and we do not know who filled out this amount on the application, but it was definitely not us. Had the banks interviewed us and taken all our particulars, I am sure things would have been a little different, as I am sure there would have been some questions raised about our financial status, and obviously they were not raised with Storm.

The only contact we have had with the bank of Queensland was when I rang them in May this year to try to organise something with our home loan so that we can continue living in our home. Currently we are struggling with this, and it looks like we will have to sell our home at the end of the year. However, this will not give us enough capital to buy anything, and we will probably have to live in our caravan, which is not something to look forward to.

All of this has had an enormous effect on our lives, of course. It has affected our health; we are suffering from bouts of depression, anxiety and nerves. It has had a marked effect on our relationships with our family and friends. To have lost everything that we have worked for over the last 50 years is certainly heartbreaking. Members of the committee, thank you for this opportunity to appear, and I hope that as a consequence of this some restitution may be awarded to those who have suffered. Thank you.

CHAIRMAN—Thanks very much. We appreciate just how difficult it is for you to be here to tell your story. We really appreciate it. I want to get a better understanding of the process and how you experienced Storm. I want to know what took place so that we can better understand what went wrong. You said that you had several meetings with either Gus Dalle Cort or Storm before you decided. Did that take 180 days?

Mr Bates—I think we first met with Gus in the January, and it was probably May that year that we decided to go ahead with it, so it would be close to 180 days, yes.

CHAIRMAN—Why did it take so long? Were you meeting weekly or daily?

Mr Bates—We wanted to be sure that we were making the right decision. With investments, obviously when you have worked so hard for so long, you do not want to give away your livelihood. As I said, we are not risk-takers and we wanted to look into it thoroughly. We talked it over between ourselves.

CHAIRMAN—You have said a number of times that you are not risk-takers. I am assuming that a lot of people in similar situations to yours were not risk-takers either. How did Storm determine what risk level you could tolerate? Did they just ask you? Was there a test or some sort of a survey? Did they spend a lot of hours determining your risk tolerance or did they just ask you and say, ‘How much risk do you want to take?’

Mr Bates—They were pretty thorough in the particulars that they took. They took all our financial details, what we were earning at the time, what we had invested with MLC, what we had in bank accounts and other accounts and the value of our belongings et cetera. I believe that they were reasonably thorough with everything that they did.

CHAIRMAN—If you are at the lower end of risk taking and you got sold that product, what was the next product up if you were a moderate risk-taker and what was the product above that if you were a high risk-taker?

Mr Bates—I am not sure.

CHAIRMAN—Was it the same product?

Mr Bates—I am honestly not sure.

CHAIRMAN—If what you got sold was at the bottom end of risk, I would hate to have seen what was at the top end.

Mr Bates—Probably the same product, only to a greater degree.

CHAIRMAN—Obviously you knew your home was being mortgaged.

Mr Bates—Yes.

CHAIRMAN—At any stage did you think there was the smallest chance you could use lose your home?

Mr Bates—Yes.

CHAIRMAN—Did you ask questions about that?

Mr Bates—Yes, we did.

CHAIRMAN—What responses did you get?

Mr Bates—We were told that the risk was minimal and that the world would have to fall in before that happened, which it obviously did. But, yes, we were told that there was a minimal risk.

CHAIRMAN—Based on what? How did they explain minimal risk to you? What does that mean? Obviously there was a discussion about it. It would have been a bit more than: ‘Don’t worry about it. It’s all good.’ I am just trying to understand what took place because we are getting different bits of information. The 180 days seems to me to be extensive. You said you are a low risk-taker. Most people are, because they do not want to lose their home.

Mr Bates—That is right.

CHAIRMAN—But you get put into the same product whether you are low, medium or high. You are obviously concerned about your house. What was the process there? Can you describe how you were convinced by them that this would be safe.

Mr Bates—I guess we took us Gus at his word. He was our financial adviser and we were paying good money for financial advice. We were advised to see a financial adviser, which we did, and that was the advice received.

CHAIRMAN—In your mind, who was in control of your finances? Was it your adviser? Who was in charge? Who did you lodge paperwork with and sign documents with? Who were the people that you saw regularly about your portfolio? Was it Storm or Gus Dalle Cort?

Mr Bates—It was Storm.

CHAIRMAN—I am just trying to establish the process. So you really had no contact with the banks? I find that odd.

Mr Bates—We had no contact whatsoever with either of the banks—at no time. I would have thought that, when we were borrowing that sort of money, surely they would interview us and get some idea of our background. Would you lend me $1.5 million and not know me?

CHAIRMAN—So where were the banks getting the information from?

Mr Bates—I really do not know.

CHAIRMAN—Somebody was obviously giving them information. If it wasn’t you, who do you think it was?

Mr Bates—It was either Storm or the banks were putting their own figures on the forms. We obviously signed the loan applications to get the loans, but—

CHAIRMAN—Who filled in the rest of the information?

Mr Bates—I do not know.

Senator MASON—Was the loan application form filled out in front of you? When you applied to borrow some money from both the Bank of Queensland and the Commonwealth Bank, that was done at Storm Financial, was it?

Mr Bates—We signed the forms at Storm Financial.

Senator MASON—Were the forms filled out while you were there, in front of you?

Mr Bates—No.

Senator MASON—Senator Williams asks: did you read them?

Mr Bates—Yes.

Senator MASON—All the particulars and all the different questions?

Mr Bates—On the loan form?

Senator MASON—Yes. Did you fill them out?

Mr Bates—No.

Senator MASON—They were filled out by someone else, but you signed the forms?

Mr Bates—Yes.

Senator MASON—And you never spoke to the banks at all?

Mr Bates—I have never spoken to the banks. The only time I have spoken to the bank was when was this guy rang me on 8 December. That was the Commonwealth Bank, or Colonial, and he was demanding $16,000, as I said, and it was not ours. The only time that I have spoken to the Bank of Queensland was recently when I asked them to send some forms to me.

CHAIRMAN—Can we be really clear because we need to understand this. When you signed the forms, were they blank, apart from your name and address, so key bits of information such as income, capacity to repay—

Mr Bates—There was no income on them.

CHAIRMAN—So they were blank?

Mr Bates—They were blank.

Senator MASON—And you signed them?

Mr Bates—Yes.

Senator WILLIAMS—As the chairman said, there were no figures, like your annual projected income, on those blank application forms?

Mr Bates—Not that I can recall.

Senator WILLIAMS—So you just trusted Storm, the banks or whoever did these applications?

Mr Bates—We trusted Gus and his staff, yes. We had no reason not to at that stage.

Senator MASON—So you had no relationship with the bank? You said you trusted your financial adviser to give you financial advice.

Mr Bates—Yes. That is what they get paid for.

CHAIRMAN—Did they also advise you to sign the form? Obviously they would have asked you. They would have said, 'Look, we've prepared this.' Can you describe that process to me? I am not sure what happens. Does your adviser, Gus, say: 'I've prepared the forms for you—just sign here'? How does that work? Please explain to me how that works.

Mr Bates—We got statements of financial advice from Gus and we read those, went through them. We had to initial each page to show we understood it. Then we went back and they prepared the bank loans or whatever on the figures they had shown us on our financial advice.

CHAIRMAN—Would you have known who to call at the banks if you needed to?

Mr Bates—No.

CHAIRMAN—You would not have known. You would always have gone back to your adviser and said, 'We've got this problem, that problem.'

Mr Bates—Yes.

Senator MASON—The issues therefore, Mr and Mrs Bates, are (1) who filled out the blanks, (2) whether in fact your financial adviser should have been aware of your capacity to repay the loan and (3) the fact that the banks failed to take any interest in the issue as well. Is that right?

Mr Bates—Yes, I certainly would not lend a third party $1½ million without getting some particulars from the person that I was lending it to.

Senator MASON—Maybe you would not, but if you had a relationship with Storm Financial perhaps you might.

CHAIRMAN—Were you concerned about how much money they lent you? Did you know how much money they lent you?

Mr Bates—Yes.

CHAIRMAN—Did you know how much you were applying for?

Mr Bates—Yes.

CHAIRMAN—How did you know that was reasonable? Was that on advice?

Mr Bates—We were trusting Gus once again. We were trusting our financial adviser.

CHAIRMAN—Were you given some scenarios or levels of risk to say, ‘If this happened, you would lose this much, if that happened you would lose this much, and if the world came to an end you’d lose everything, including your family home’?

Mr Bates—No.

CHAIRMAN—Nothing like that at all. Was that ever discussed so that you really understood that, yes, you could lose your home?

Mr Bates—We brought it up at probably several of our interviews and we were told that we were in a better position than most and not to worry about it.

Senator MASON—Did you ever feel vulnerable?

Mr Bates—Who doesn’t?

Senator MASON—You did, because you say in your submission:

Suddenly we were millionaires and it felt good after struggling for most of our lives.

Mr Bates—Yes, but that was obviously only on paper, wasn’t it? We did not have $1 million; it was only showing on paper. We felt vulnerable and we discussed that.

Senator MASON—But, again, you were assured, as the chairman just asked, that things were okay?

Mr Bates—Yes.

Senator MASON—Do you still have your Harley?

Mr Bates—That is the only thing that keeps me alive.

Senator MASON—I understand that.

Senator McLUCAS—Mr and Mrs Bates, our job in this inquiry is to make recommendations to government about what we can do so that your circumstances are not revisited by others. Is there are any advice you could give us about what would have assisted you to not walk down this path? For example, it has been suggested to us that financial advisers need to be a lot more clear when a mortgage is taken on the family home that you understand totally the risk that is being taken. Is there some way that we could regulate that would prevent these sorts of events occurring?

Mr Bates—I think that, had the bank interviewed us at that time, I am sure that they would have explained the risks, or backed up Gus's comments on that, that there was some risk, but the bank might have stated there would be a bigger risk than that. Obviously, they would have asked us how we were going to repay the loans, and possibly something would have come out of that as well, because they showed on the loan application that we were earning double or more than double what we were getting. Our only income was from our stocks and shares.

Senator McLUCAS—When you say that your loan application showed double the income that you were currently receiving, was that shown after you signed the blank form? When did you see that, and when did you identify the fact—

Mr Bates—After we had signed form. It was not on there when we signed the form.

Senator McLUCAS—So you signed the form; it did not have an income on it. Then it came back to you showing double what you were in fact earning. What did you do then?

Mr Bates—I did speak to Gus about it, and it was sort of waved aside. I was told not to worry about it.

Senator McLUCAS—But you had a signature on a piece of paper that was now not accurate?

Mr Bates—Yes.

Senator McLUCAS—And he said that was nothing to worry about?

Mr Bates—Yes.

Senator McLUCAS—When you indicated that you were a low-risk customer—as am I and, I think, everyone here—did he indicate to you that the package that was finally given to you was low risk?

Mr Bates—The package was given to us over a series—it was not just one package of that amount. It built up over a period of three or four years that we were dealing with Gus. So it started off at a reasonably low borrow and then extended as the share market obviously improved, so our margin loan grew. Likewise, with our home loan: our home loan started at $80,000 and then went to $312,000. Then we had our home revalued—and I believe the Bank of Queensland had that valued at the more recent one—and then they extended it to $380,000.

Senator McLUCAS—When they did the revaluation, they didn't come and see the house? It was just a drive-by valuation?

Mr Bates—No; they came and saw the house but they would not give us any indication of the valuation while they were there.

Mrs Bates—They just came and valued it when we first moved in, when we built our home. Our previous home had been paid for; we did not owe anything. So they borrowed against our new home. Then they came back about eight months later, when we had finished doing what we wanted to do, and revalued it again.

Senator McLUCAS—If there is any advice that you could provide us with about what recommendations we should be making, from a customer's perspective, if anything comes to you, don't hesitate to contact the committee. I think the value of having people like yourselves come before the committee is that you went through this, you know what happened, you know what advice you were given and your advice to our committee can really help us.

Mr Bates—In hindsight I would say perhaps seek several opinions on the same situation. As I said, we were happy with Neville and when Gus took over we were happy with the information that Gus gave us. But in hindsight now I would say that perhaps we should have gone and seen a couple of different advisers, perhaps three, just to check. That is easy to say in hindsight of course.

Senator McLUCAS—How could you as a consumer of financial advice have known that the package that was being given to you was not a low-risk package?

Mr Bates—Well, I do not think we could have.

Senator WILLIAMS—Mr Bates, would I be correct in saying that you just totally put your faith in your financial adviser and trusted him and that was the road you went along?

Mr Bates—That is correct, yes.

Senator WILLIAMS—In your submission you say that you were advised that there was an opportunity when the market had dropped some—your adviser advised you to borrow more and to invest more. I assume your adviser was Mr Dalle Cort.

Mr Bates—Yes, that is correct.

Senator WILLIAMS—So your situation now is that you have a large mortgage on your home owed to the Bank of Queensland?

Mr Bates—That is correct.

Senator WILLIAMS—Have you had any negotiations with the Bank of Queensland?

Mr Bates—Yes, we were fortunate that, after everything was sold down, we did have some money left. The only way we could see that we could keep our house was to put that money into our home loan. We had $100,000, which we paid off on our loan to lower our monthly repayments to make it more manageable. Currently it is getting very difficult to manage the repayments. I can see that, in the foreseeable future, we are going to have to sell.

Senator WILLIAMS—Very obviously, when the Bank of Queensland lent you the money they would have been aware that it was for investment in Storm Financial.

Mr Bates—Obviously Storm organised the loan so they would have had some idea.

Senator WILLIAMS—I want to get to your point of LVR—when your shares were sold down. You were just notified afterwards that everything had been sold.

Mr Bates—Yes.

Senator WILLIAMS—And you still had a debt?

Mr Bates—The first we knew that everything had been sold down was when we had the phone call from the Commonwealth Bank on 8 December. Then on 12 December we received two bank statements showing that our money had gone into an accelerator account with the Commonwealth Bank. That was the first we knew about it.

Senator WILLIAMS—And you never opened that bank account? The Commonwealth Bank just put that money into an account they obviously opened for you.

Mr Bates—Yes.

Senator WILLIAMS—Do you know what LVR you were sold out at? Was it at 100, 105 or 95? Do you know roughly what LVR you were sold out at?

Mr Bates—I believe it was at about 101.

Senator WILLIAMS—Did your contract say that you could invest up to an LVR of 80 with a buffer of 10 to 90? In your contract was there a level that you would be taken out of the market at to preserve some equity?

Mr Bates—We understood it was 80 per cent but I think it was probably 90 per cent.

Senator MASON—When things started to go bad and the market started to fail, you were both aware of that just from the press, weren't you?

Mr Bates—Yes.

Mrs Bates—Yes.

Senator MASON—Did Mr Dalle Cort or anyone get in contact with you and were you concerned by this? Did you make inquiries?

Mr Bates—We were concerned. We were travelling at the time and we were phoned by Storm staff asking us to sign a paper to allow them to draw, if necessary, from our MLC investments to pay the margin shortfall. Then when we got back to Cairns—

Mrs Bates—We were travelling back to Cairns and they wanted this signed pretty well straight away. I said, 'We won't be back in Cairns until next week. If you can send the paperwork to Rockhampton then we'll sign the paperwork there on our way home,' which we did.

Senator MASON—And that was to allow a margin call to be met by your funds from MLC?

Mr Bates—If necessary.

Senator MASON—Other than that, what happened next? Did you hear again from Storm Financial?

Mr Bates—We met them in their office when we arrived back the following week.

Senator MASON—What were you told?

Mr Bates—That we had nothing to worry about.

Mrs Bates—I mentioned the house on several occasions, too, because the house means everything to me. I was told that everything would be okay. I asked if I could lose my home.

Senator MASON—What were you told?

Mrs Bates—Not very much. 'No, that's okay.'

Mr Bates—Not to worry.

Mrs Bates—Yes.

CHAIR—At any of those stages did you try to remove yourself? Did you try to get out at any particular point? Did you try to say, 'We've had enough of this; it's too risky,' or 'We're just to worried'? Did you try to leave the system in any way?

Mr Bates—No, not at that stage.

Senator MASON—Because you were told it was going to be all right.

Senator WILLIAMS—And afterward they were told to invest more.

Mr Bates—No, that was earlier on.

Senator MASON—After the meeting you had with Storm when you got back to Cairns and were told that everything would be all right, what happened? Who told you that you had lost your life savings? Was it the banks or was it Storm Financial?

Mr Bates—I am not sure who. There are so many conflicting stories.

CHAIR—Did you receive a letter, though?

Mr Bates—We did not receive a letter. That is one thing we did not receive. I know Cassimatis said every Storm customer received that letter. I do not know if it was because we were travelling at the time that we did not receive it, but we did not receive the letter that was advising people to sell down or sell 50 per cent of their stuff.

Senator MASON—But it was still after that, when you got back to Cairns and met Storm Financial that you were told it would all be okay. It was subsequent to that in any case.

Mr Bates—Yes.

CHAIR—There seems to be a contradiction there. There seem to be two stories. One is that everyone should just hang on and ride this thing out, and if that is the case then we would all be fine today. Another one seems to be that there was a letter that went out and said to everybody, ‘Go to cash; let’s get out now.’ I am not sure which one it is. Do you know?

Mr Bates—We never received a letter, so we must have been in the second category. We had enough in MLC policies to pay down our margin, so we squared our margin with the bank. That left us nothing to live on, so we closed the accounts and collected some money from the prepaid interest—which we are going to have to pay tax on now, so we are not going to be any better off.

CHAIR—And you were, we are assuming, at the lower end of risk, if there was such a thing.

Mr Bates—Yes.

Senator WILLIAMS—Because you have sold down, were you hit with a break fee from the bank?

Mr Bates—Yes.

Senator WILLIAMS—How much?

Mr Bates—Thirty thousand dollars.

Senator WILLIAMS—From which bank?

Mr Bates—Commonwealth Bank.

Senator WILLIAMS—So they sold your shares out without notifying you and then hit you with a $30,000 break fee?

Mr Bates—Yes. There was something like $75,000 in prepaid interest, and they took over $30,000. I think it was $32,000, to be exact.

Senator WILLIAMS—So you paid the interest upfront?

Mr Bates—We paid the interest upfront.

Senator WILLIAMS—And they took the $30,000?

Mr Bates—They did.

CHAIR—When all these things were happening, did you get any advice from your adviser? I am assuming you would have been going to them and asking what to do. What sort of advice were you getting back?

Mr Bates—We could not get any advice, because they told us they were not allowed to give us advice.

Senator WILLIAMS—Was that the bank or Storm?

Mr Bates—Storm.

Senator MASON—When were you told that they could not give you any advice?

Mrs Bates—I think it was at the beginning of December.

Mr Bates—About the same time that we received that phone call from the bank asking us for the $16,000. As soon as we got the email from the bank after the phone call, I emailed that to Storm. Simone there answered my email, but of course it was too late then. It was all done. And she was not supposed to answer the email; she did it out of good will.

CHAIRMAN—Is there anything that you want to add or anything that you want to let us know that perhaps we have not thought of asking, or is there anything extra that you think is important to our inquiry?

Mrs Bates—Do not borrow money on your house.

CHAIRMAN—We will take it on good advice, thanks.

Mr Bates—I hope that something comes out of this, if not for us then for future generations for sure. I thank you for your time and your effort in coming up here to hear our views.

CHAIRMAN—Thank you very much.

[12.26 pm]

GRAINER, Mr Francis John, Private capacity

GRAINER, Mrs Sandra Alice, Private capacity

CHAIRMAN—Welcome. You are appearing as private individuals. You are not representing anybody else or anyone else's views?

Mrs Grainer—No.

Mr Grainer—No.

CHAIRMAN—You are welcome to make an opening statement.

Mr Grainer—I have a brief letter to read out; it will take about three minutes. My wife, Sandra, and I married in 1971 and have lived a moderate lifestyle, with me working as a machinery operator and Sandra working part time as a registered nurse. Our focus was on raising and educating our two children, eventually enjoying the three grandchildren that they provided us with. In 1989 my wife inherited a property, which was sold in 1994. The sale of this land allowed me to scale down to part-time employment and my wife also to lessen her workload. Our aims were not to be rich but to be mostly independent in our older years and enjoy the company of our family.

Initially we had been receiving financial advice from our accountant, but we were told in 2000 that we had to find an accredited financial adviser as he, the accountant, was no longer legally allowed to give us advice. In 2001 Gus Dalle Cort contacted us as we had a superannuation policy with MLC and he had bought the business of Neville Rule, who had been our MLC representative. Gus was an accredited financial planner so we decided to stay with him.

In 2004 Gus convinced us that by joining Storm our asset base could be invested with them at minimal risk. The basis of the advice that Storm gave us was that our asset base was not large enough to provide a modest income of $35,000 to $40,000 per annum when, in fact, we were on track for $36,000 per annum for 20 years in retirement, according to our current financial adviser. In fact we are still unclear as to what projected level of income their strategies were to create.

We advised Storm at the outset that our investment time frame was five to seven years only and that we did not want to invest any more funds other than the initial amount, but we were approached several times in the 12-month period of 2007. We often raised questions about risk but were always assured the risks were minimal and well managed, to let them do the worrying and leave the risk management to them. During the decline in the markets we again expressed our concern about our investments but were assured that the strategies in place would always protect us. We signed a document giving Storm permission to sell our personal shares if absolutely necessary. Some of these were sold down at the bottom of the market when there was no reason to do so.

When we joined Storm, we had assets totalling $423,000 and had owned our home for 25 years. If we now repay the house mortgage, which Storm convinced us we needed, we will have $42,000 remaining in assets. The mortgage on our house is with NAB, and we believe the asset position stated on the loan application form is incorrect. We are still confused about the part the banks played in our demise. Our margin loan was with Macquarie, but at no stage were we notified of a margin call. We have been hearing about CBA's involvement in the demise of Storm Financial clients. We were not with the CBA, yet we find ourselves in the same situation. We would like to know whether this matter will be pursued with all the other banks involved.

Before joining Storm, we checked to see whether they were members of the Financial Planning Association, as we believed this gave them credibility. After sending the FPA a copy of a letter of complaint, the response we received from them was extremely disappointing. We also believed that the government watchdog, ASIC, was there to protect investors, yet we now feel that this is not the case.

The total destruction of our life savings has had a devastating effect on both of us and has put a tremendous strain on our health and wellbeing. It has had a detrimental effect on our confidence and willingness to participate in social activities. We now have less contact with our family because I have been forced back into full-time employment. I have been lucky to find employment at age 62. My wife has had to increase her hours of work as well. We would both like to express our gratitude for being given the opportunity to tell our story. Thank you very much.

CHAIRMAN—Did you want to add something, Mrs Grainer?

Mr Grainer—No, thank you.

CHAIRMAN—Thank you both. We do understand how difficult this is for you. You said that you had to find a new financial adviser, as your accountant, quite correctly, let you know that he could not legally provide you with that. That is correct?

Mrs Grainer—Yes.

CHAIRMAN—The Storm model found you through your superannuation with MLC.

Mr Grainer—Yes.

CHAIRMAN—You also mentioned that the numbers that you were given on how much you would need in your retirement were inaccurate and that later you had your own numbers done.

Mr Grainer—Yes.

Mrs Grainer—We were told that, on the projections, we did not have enough money on which to retire and to enjoy the lifestyle that we desired. At the time, we were living on $35,000 to $40,000 a year and we felt that that would be enough, but we were told that our asset base was not big enough.

CHAIRMAN—What work had been shown to you by Storm to determine that position?

Mrs Grainer—We did read our statements of advice but I cannot—

CHAIRMAN—Did they do some particular work on determining all of your asset, income and risk levels?

Mrs Grainer—We filled out a form that showed all our assets. At the time, Frank was still working part-time and so it also included our earning capacity.

CHAIRMAN—You also said that there was a time frame of five to seven years. Was that the time frame that you instructed them on, or was that the time frame that they gave you?

Mrs Grainer—That was the time frame that we indicated that we were looking at.

Mr Grainer—We set it.

CHAIRMAN—You said that Storm got you to sign a permission form or some sort of form like that to sell down your shares.

Mrs Grainer—We had shares with the Commonwealth Bank, Suncorp, CSR and Telstra.

CHAIRMAN—These are the market shares that you independently held; you had purchased them?

Mrs Grainer—Yes. We had then before we joined Storm. We said that, if need be, they could sell the shares to prevent us from going into a margin call, but we were never contacted by anyone before they were sold. It was interesting that it was just the bank shares that were sold. CBA and Suncorp shares were sold.

CHAIRMAN—Who sold those shares?

Mrs Grainer—We are not sure. We think it was Storm, but we are not sure.

CHAIRMAN—They gave you a letter or some sort of form to fill out that gave them authority over your shares?

Mr Grainer—Yes.

Mrs Grainer—At the time, there was more than that amount in the cash management trust fund to cover anything.

CHAIRMAN—To cover any shortfalls or margin calls?

Mrs Grainer—Yes.

CHAIRMAN—What was described would happen if there was a margin call by Storm? I am guessing, so correct me if I am wrong: you only had contact with Storm?

Mrs Grainer—Yes, that is right.

CHAIRMAN—What did they explain to you would happen if you went into a margin call?

Mr Grainer—They would manage the situation in conjunction with the banks and that we would be taken care of.

CHAIRMAN—They explicitly said to you that they would take care of that, and that is why they got you to sign a form giving them authority?

Mr Grainer—They were here for us; we were not there for them. We were constantly told that. Strategies were always in place.

CHAIRMAN—So did they explain what would actually happen if or when the market fell?

Mr Grainer—If we were to receive a margin call, we were told that some of our portfolio would be sold down to cover the margin call and that everything would be taken care of.

CHAIRMAN—So they said they would take care of it?

Mr Grainer—They did, yes—in construction with the banks. Apparently, this was a—

CHAIRMAN—Did you expressly seek out Macquarie or any of the other lenders to do what—

Mrs Grainer—No.

Mr Grainer—No.

Mrs Grainer—No, Storm set up all the loans that we had.

CHAIRMAN—Right. So you had no involvement directly with the banks in terms of what they did? As far as you were concerned, Storm were acting on your behalf with the banks, with your authority?

Mrs Grainer—Yes.

Mr Grainer—On our house loan, we had to actually go to the NAB in Mulgrave Road and sign the application form. All they said to us was, ‘You want this loan to invest in the share market?’ and we said yes, thinking they were going to give us a bit of direction as to whether we should or should not, but they just said: ‘Oh, yes. Read the document and sign it.’ There was no advice forthcoming, no warning. That was arranged by Storm and we just had to go to the bank. That was the only stipulation the banks put on our connection with them.

CHAIRMAN—As the market began to fall and it became obvious to everybody that there were problems, did you contact your adviser?

Mr Grainer—Yes. Yes, we were concerned.

CHAIRMAN—Many times or just once?

Mr Grainer—Several times.

CHAIRMAN—Tell me what happened.

Mr Grainer—We were told they could not give us advice.

CHAIRMAN—Why?

Mr Grainer—This was later in the piece. Initially we were told everything was fine.

Mrs Grainer—Before we realised that we were sold down, we did go to them and we were assured that we were okay. In fact, we were told we were in a better position than most.

Mr Grainer—Quite what was meant by that, we are not sure. We got little comfort from that. But we did express our concerns on many occasions.

CHAIRMAN—So you were just reassured at those points not to worry and everything would be fine?

Mr Grainer—Yes. 'The strategy's in place; we'll protect you. Leave the managing to us.'

CHAIRMAN—Okay. Thanks. Senator Mason.

Senator MASON—Mr and Mrs Grainer, can I just draw your attention to your submission and a point touched on by the chairman before. You say—and this has a direct bearing on what this committee has to do:

It is our opinion that there are many flaws in the general regulatory environment for Financial Planning products and services.

And that is what this committee looks at, the general regulatory environment.

One of the things that makes us feel so 'let down' by the government is that we were told 'by law' that we were required to seek financial advice from an 'accredited financial planner' and by doing so we have been 'wiped out'.

When you went to see an accredited financial planner, was it your understanding that you would receive independent financial advice?

Mrs Grainer—Yes.

Mr Grainer—We thought that was how they worked.

Senator MASON—Right—and that that person was not just selling products but would give you tailored financial advice, advice that suited your particular circumstances?

Mrs Grainer—Yes.

Mr Grainer—Yes.

Senator MASON—Right. And you would have been happy to have continued to receive financial advice from your accountant, for example?

Mr Grainer—He had served us well for a few years, yes.

Senator MASON—All right. So your view would be that if someone is an ‘accredited financial planner’, if they have that on their door, most people would think—as you did, and many other people would—that that particular accredited financial planner would be giving give you individual, tailored advice?

Mr Grainer—That is exactly right, yes.

Senator MASON—All right. The chairman touched on this before too. You had superannuation with MLC, was it?

Mrs Grainer—Superannuation.

Senator MASON—And I think you say in the attachment to your submission that you wanted a retirement income of $35,000 to $40,000 per year?

Mrs Grainer—Yes.

Senator MASON—Could that MLC investment have given you that?

Mrs Grainer—No. The property that we sold in 1994 gave us extra cash that in conjunction with the superannuation policy would have been adequate to give us the $35,000 to $40,000 a year.

Senator MASON—But you were advised to go for more—that that was not going to be adequate?

Mrs Grainer—We were told that the asset base that we had was not enough to sustain what we required, but they do not actually give the figures. We said we were happy with $35,000 to $40,000, and they said that our asset base would not give us that.

Mr Grainer—We would have to go their way and do whatever they told us to achieve our goals.

Senator MASON—Did you always have confidence in your financial adviser?

Mr Grainer—Yes, we did.

Senator MASON—That it would all be managed properly?

Mr Grainer—Yes. They were constantly assuring us of that.

CHAIRMAN—Were they your goals, or did you get the feeling at times that they might be someone else's goals?

Mrs Grainer—I think we got the feeling at times that they were someone else's goals. Our goals initially were $35,000 to $40,000.

CHAIRMAN—Are you saying you got the feeling—

Mr Grainer—Down the track we started to question; that is right.

CHAIRMAN—that they were no longer your goals but might have been the adviser's goals?

Mr Grainer—Exactly. It is like being caught on a rollercoaster.

Senator MASON—Mr Grainer, in the products you were investing in, were you aware of the commissions you were paying to your financial adviser?

Mr Grainer—Our upfront fees? Yes, we were aware of them. We thought at the time they were very high. But they went through the process of explaining to us what other people were doing and charging and how theirs were low.

Mrs Grainer—And why we were better off paying an upfront fee and how in the long run we would be better off.

Mr Grainer—That was explained to us, yes.

Senator MASON—It was upfront?

Mrs Grainer—Yes.

Mr Grainer—Yes, it was upfront.

Senator McLUCAS—Mr Grainer, earlier I think you said you contacted the financial planners association.

Mrs Grainer—Yes.

Senator McLUCAS—Could you explain why you did that.

Mr Grainer—We sent a letter of complaint in February about what had happened.

Senator McLUCAS—Right. But you did contact them earlier to ensure that Storm—

Mrs Grainer—Initially, because they were members of the financial planners association, that was an insurance policy for us. We felt that they were accredited.

Senator McLUCAS—So the letter of complaint has been this year?

Mrs Grainer—Yes.

Senator McLUCAS—Okay. We had evidence from FPA in Canberra last week that they had had no complaints prior to the collapse. I just wanted to confirm when that was.

Could I ask you the same question that I asked the previous witnesses. It is a hard question, I acknowledge that. I think, like the previous witnesses, you were looking for a low-risk investment and that you were looking for a modest return. You have ended up with what is regarded by many as a high-risk investment, but all the way you were comforted by your adviser that everything was going to be fine.

Mr Grainer—Quite so. We were told not to be afraid of debt so long as it is well-managed; that was what it was all about.

Senator McLUCAS—What could we as a committee do in terms of recommendations to the government about what to do to assist you to make a more informed decision, as people who are not looking for riches, and to work through the system in a way that makes you a strong partner in the relationship?

Mrs Grainer—Because they were members of the financial planners association, and because we had the idea that there were government bodies there—that someone was out there—to look after us, we feel that that has been one of the biggest let-downs. The government brought in a law to say that you must have a piece of paper to give advice, but we have since read that in general the education level of financial planners is not high. Maybe that is something that needs to be looked at. Also, the government bodies need to be doing the job they are supposed to be doing. We feel that that let us down as well.

Mr Grainer—We thought the regulators would be aware of the kind of advice that Storm were applying to their clients. We were too trusting, it seems.

Senator McLUCAS—I suppose the question I am asking is: you have signed the documentation to take on what is regarded as a high-risk product; what assistance could be provided to you to be able to make an assessment about the level of risk in the product that you actually purchased?

Mrs Grainer—I am not really sure.

Mr Grainer—No, we are not sure what to advise.

Senator McLUCAS—It is the issue that I am grappling with as well, because you do not want to regulate to the point where people on low and middle incomes cannot get advice; but we have to be able to provide a structure that allows you to be a more powerful partner in the relationship with a financial adviser.

Mrs Grainer—As Quentin Bates said, maybe we should have sought advice from other advisers. But the thing that stops you there is the cost each time you go to someone to get advice.

Mr Grainer—That is right. It is expensive.

Mrs Grainer—Especially if you are middle-income earners—that is a lot of money to be forking out.

CHAIRMAN—Just quickly following on with that. Did it take 180 days for you to—

Mr Grainer—No.

CHAIRMAN—No, it did not take 180 days? How long did it take you from the first phone call?

Mr Grainer—About two to 2½ months.

CHAIRMAN—Two and a half months?

Mr Grainer—Yes, something like that. It was about 60 or 70 days.

CHAIRMAN—And they worked on you every single one of those 60 or 70 days?

Mr Grainer—No.

CHAIRMAN—How many actual days were there? How many real days were there?

Mrs Grainer—We had a couple of days in their education system.

CHAIRMAN—So it was a day here and a day there?

Mr Grainer—Yes, that is right. And you would go away and think about it, do some investigative work, and then come back and talk a bit more.

CHAIRMAN—They did not tell you about a 180-day rule?

Mr Grainer—No.

CHAIRMAN—Nothing like that?

Mr Grainer—No.

Senator WILLIAMS—I am aware that the accountant could not give you financial advice because of regulations. Did you actually run any figures past your accountant seeking an opinion, not advice, about your whole Storm investment?

Mrs Grainer—Not the whole Storm investment. Before we joined up we gave him a statement of advice to look at but it was a couple of days before he was going on holidays and he just dismissed it.

Senator WILLIAMS—You obviously put a lot of faith in your financial planner at Storm. What institution were you borrowing through?

Mrs Grainer—Initially we had a house loan with the ANZ Bank and last year that was changed to the National Australia Bank. That was the mortgage on the house. Our margin loan borrowings were through Macquarie Bank.

Senator WILLIAMS—Do you know why your loan was changed from the ANZ to the NAB?

Mrs Grainer—We were told the Storm office here found it easier to deal with the NAB than the ANZ Bank.

Senator WILLIAMS—Did Storm do all the paperwork for you to change that loan and the application to NAB, or did you actually talk to the bank face-to-face?

Mrs Grainer—No, Storm did all the work. We just had to go in and sign the loan.

Mr Grainer—We had to go into the bank to sign.

Senator WILLIAMS—You just went in to sign the forms?

Mr Grainer—Yes, we just went to sign the forms.

Senator WILLIAMS—Your situation now is that you still owe money to the NAB as far as your house is concerned?

Mrs Grainer—Yes, we owe $260,000 to the NAB on our house.

Senator WILLIAMS—Have they been in contact with you about the debt?

Mrs Grainer—No.

Senator WILLIAMS—Have you tried to contact them?

Mrs Grainer—No, not about reducing the debt, no.

Senator WILLIAMS—I was not suggesting reducing the debt but rather just talking your way through it—and whether they had been in touch with you on a hardship issue?

Mr Grainer—Sorry, we did make contact with Amanda Shepherd and she restructured it. We put money into an NAB account, like an offset account, to reduce it. But that is all she set up. She did not give us any compassionate discounts or anything like that. Amanda Shepherd set up an offset account, we put money in to offset what we have to pay interest on and that is all the restructuring she did. There was no compassionate—

Mrs Grainer—They actually did give us a little bit of a break on our interest. We had pre-paid our interest and when we broke that we were going to be paying $13,000. The pre-paid interest on that loan was $25,000 and we were going to lose $13,000 but she reduced that to $7,000.

Mrs Grainer—I did all the paperwork—Frank has forgotten about it.

Mr Grainer—I am sorry. I was not aware of some of these things.

Senator WILLIAMS—Did you have an understanding of how the whole Storm double-geared investment worked?

Mr Grainer—No.

Mrs Grainer—No.

Senator WILLIAMS—So you are telling me that—as an analogy—if I was to sell you something like a Kenworth truck you were never taught how to drive it but you still bought it. If we can use that analogy, you went into an investment plan and you never had a clear understanding of how it actually worked. Is that true?

Mr Grainer—This is right. We trusted our adviser and we thought his advice was well founded.

Senator WILLIAMS—This is the thing that came to the committee last week in Canberra: the understanding that they were maybe sophisticated investments to unsophisticated people. One of the things we are told is that the actual investment should be explained to the investor in layman's terms so they understand it.

Mr Grainer—That is exactly right, yes.

Senator WILLIAMS—You did not understand the Storm plan and how it worked?

Mr Grainer—Well, they sort of explained it a little bit. We thought we understood. This was the problem. A lot of the clients thought they understood and signed off on that.

Senator WILLIAMS—Where you told that, if the market did go down and reached a level such as a 90 per cent LVR, you would be sold up and taken out? Was that never explained to you?

Mrs Grainer—No.

Senator WILLIAMS—Do you understand what an LVR is?

Mrs Grainer—Yes, a loan-value ratio.

Senator WILLIAMS—Exactly.

Mr Grainer—We were told that if we got into trouble Storm would manage all our situations and our problems—that they had strategies in place to take care of that.

Senator WILLIAMS—When you were finally sold down on your share portfolio do you know what LVR you were at?

Mr Grainer—Ninety-four or 95.

Mrs Grainer—I think it was above 90 per cent.

Senator McLUCAS—In your submission you talk about there being a meeting on 3 November at Cazalys at which you were probably misled. Can you explain that to the committee? What happened at that meeting?

Mrs Grainer—There was a question from the back of the room. Someone had said they had been sold down and they were struggling to make ends meet. We quite blissfully said, ‘We haven’t been sold down.’ We got the impression that that was the feeling from the general murmur from the floor, but there was no attempt by Emmanuel Cassimatis to make people aware that everyone had been sold down. We did not really find that out until we got a Challenger statement the following week. That is the only way we found out that we were sold out of the market. We got a Challenger statement to show that all our shares had been sold.

Senator McLUCAS—Do you think Mr Cassimatis at that time knew that everyone had been sold down?

Mrs Grainer—He must have known; he was the head of Storm.

Mr Grainer—We suspect so.

Senator WILLIAMS—Did you talk to Mr Dalle Cort about that?

Mrs Grainer—Yes, we made an appointment to see Gus the following week and I asked him who had sold us out. He either wouldn’t or couldn’t tell us who did.

Senator WILLIAMS—Wouldn’t or couldn’t or he didn’t know?

Mrs Grainer—We did not get an answer to that question. So we still do not really know who sold us down.

CHAIRMAN—Going right back to the start with the introduction, did you go through some sort of seminar or introduction process?

Mrs Grainer—We had been to a couple of Storm seminars and then we had a couple of sessions with Gus in his office.

CHAIRMAN—Could you describe a Storm seminar for us? What were they telling you?

Mrs Grainer—Just how good it was to invest in shares and why it was better than property or cash. There were always lots of graphs that were always positive.

CHAIRMAN—Did they ever talk about any risks or downside?

Mr Grainer—No, the risks were never dwelt on at all.

CHAIRMAN—Did they ever give any indication that if you mortgaged your home that you could lose your home?

Mr Grainer—No, we were told that we could not lose our home—

CHAIRMAN—Could not lose your home?

Mr Grainer—We could not lose our home.

CHAIRMAN—How was that expressed?

Mr Grainer—There was limited risk with the margin lending but when they approached us to mortgage our home we were told, ‘No, we’ll manage that. Trust us.’ Of course, you know. ‘There are strategies in place to prevent that happening.’

CHAIRMAN—That was the answer if you are concerned?

Mr Grainer—That is exactly right, yes. That was really our concern. We did not want to have our house involved at all. But they said that there were strategies in place to protect it.

CHAIRMAN—Were there any times where you just felt uncomfortable and you wanted to get out?

Mr Grainer—Oh, yes.

CHAIRMAN—Did you make any attempts to get out?

Mr Grainer—It was getting close to the crash time and by that time it was too late—everything was falling down around our ears. We wondered what the hell we had got ourselves into.

Senator McLUCAS—Before the crash did you actually approach the office here to withdraw?

Mrs Grainer—No.

Mr Grainer—No, we asked how we were placed and we were assured that we were okay. We thought, ‘How the hell do they work all this?’

CHAIRMAN—I am not sure if you heard earlier on, but we got evidence earlier on from Mr Dalle Cort that in fact he had no idea what was happening and could not tell from day to day.

Mr Grainer—He was our adviser, I am afraid. That is what we were going on.

CHAIRMAN—But was he telling you that it was all okay. Is that what you are saying?

Mrs Grainer—Even in the meeting on 10 November—and by then our shares had been sold—we were still—

CHAIRMAN—They were still telling you that it was all okay?

Mrs Grainer—Yes, that they had strategies in place. They were the words they loved to use frequently.

CHAIRMAN—But you just heard evidence earlier saying they in fact had no idea.

Mr Grainer—Yes, we know that to be the case now.

CHAIRMAN—Mr Grainer, Mrs Grainer, thank you very much.

Mr Grainer—Thank you.

CHAIRMAN—Could I just thank everybody. You have been really great. I know this is very hard for a lot of people and it is very emotional. We really appreciate everyone’s participation. We will get to an opportunity to give you guys a bit of a say this afternoon. Thank you very much for being here. At the same time, if I can ask people to leave the room. I am not trying to throw anyone out, but we need to have a meeting and we need to lock the room down for a number of things. We will be back here at about 1.30. Thank you again.

Proceedings suspended from 12.56 pm to 1.37 pm

DALE, Mrs Frances Norinne, Private capacity

DALE, Mr Jack Kenneth, Private capacity

CHAIRMAN—Welcome. Thank you very much for appearing. Is there anything you would like to add about the capacity in which you appear today?

Mr Dale—I am an ex-Storm client.

Mrs Dale—I am also an ex-Storm client.

CHAIRMAN—And you are both appearing as individuals—you are not representing anybody else?

Mrs Dale—No.

CHAIRMAN—Thank you. I now invite you to make an opening statement.

Mr Dale—My wife and I would like to thank you for the opportunity to speak here today and to give you a hearty welcome to Cairns. I will just brush across our situation today. We are currently living in a two-bedroom apartment after living in our four-bedroom family home that we owned outright. Our income is the Centrelink old-age part-pension and a part old-age pension from Canada. We can no longer travel to be in contact with our overseas family. We are on the edge of disaster if anything untoward, such as a health issue, should happen; if that were to come up we do not know how we would handle it. Our lifestyle has been drastically reduced. However, we have had a lot of help from family; dear friends and neighbours; other Storm victims; SICAG, which has been our Rock of Gibraltar; Slater and Gordon; and a number of other people. What I have discovered is that the heart of this country is in the hearts and the minds of the people, and that is why it is the lucky country.

I will move on to the options that we had early in 2009. We had two options to deal with our dire financial position. Option (a) was to advise the banks—the Bank of Queensland and the CBA, who we had loans with—that we had no intention of paying the house loan and the negative equity, and that, if they wanted us out in the street, well, they could come and get us. That was an option. Option (b) was to sell the family home and pay off the two bank debts. We chose option (b), so that we had peace of mind and could get rid of the fear factor that we had been living under since October 2008.

So we were forced to sell our family home to pay the two bank debts. On 19 March 2009 the house was sold and the Bank of Queensland debt was paid. It is a fact that the Bank of Queensland even charged us a $5,000 break free when we were financially bleeding. The other debt, of course, was the margin loan debt, the negative equity with Colonial First State. That was paid on 27 March. So the hard decision was made and we had to look forward, and that is what we have done.

I would like to mention that, on reading through the copy of the Bank of Queensland loan application form, our salaries were listed as $5,458 gross per month for each of us. In other words, that is over $120,000 a year—not bad for retirees! There was no mention of the approximately $8,000 monthly payment for the interest that we had to pay on the Colonial First State margin loan, and the Bank of Queensland loan was written up for a 30-year term for a 70-year-old retiree. The Bank of Queensland never contacted us about our ability to service the loan or about these anomalies.

On with the Colonial First State margin loan, the loan application dated 16 May 2006 has a lot of areas that were blackened on the page. There were eight pages blackened and all the rest of them looked normal. I do not know why it was like that. We do not know the reason for that. We were never contacted by Colonial about our ability to service the loan with them or the interest payments, and the margin loan at its height was $1.8 million and the interest payment was $10,000 a month.

That was the debt growth over the period of 4½ years. During those years, of course, our portfolio grew dramatically too, to $2.9 million in a rising market. On 9 October 2008 our portfolio LVR was 92.98, as we were informed by Storm. But we did not get a margin call. However, on 20 November our portfolio was totally sold down into a negative equity and we did not get a margin call from Colonial until 8 December 2008. These delays in the margin calls were instrumental in our financial demise. We certainly expected there would be dramatic falls in our portfolio value because of the dropping market—that was to be expected—but we never, ever thought that we would go into a negative equity, and we did.

Storm Financial advisers had always told us that our home and investments would be safe, and we felt secure in that from day one. That stemmed from the fact that our adviser had worked with us prior to him coming to Storm. So we had a system there with him already before he went to Storm. Storm Financial advisers always told us that our home and investments would be safe. It did not happen that way. The question is: what happened between Storm Financial and the Commonwealth Bank of Australia that caused the financial trauma that we find ourselves in now? Our hope is that, through the diligence of this inquiry and other investigations, the truth will be revealed and those responsible for our financial demise will face the full strength of the law.

CHAIRMAN—I am very interested in the loan documents and how you got through all that process, but before you get there I am interested in how you came to join Storm. What was the process there?

Mr Dale—The process there was—what was the name of the insurance company?

Mrs Dale—MLC.

Mr Dale—We were with MLC at the time. Gus Dalle Cort was our adviser with MLC—

CHAIRMAN—So you were existing customers already of—

Mr Dale—Yes, we were, for many years. As I approached retirement we set up a system there for us to retire on, and then Gus advised us that he was going to move to Storm and he suggested that we come over and take some of their classes that they put on, have a look at the idea and see whether or not we would decide to join them.

CHAIRMAN—And how long did that process take?

Mr Dale—I think we did about two of their seminars. But we submitted all of our identification documents and then, of course, it was a more than 100 page initial document that Storm made up based on all the information we had given them. Then we were to assess that and make the decision whether or not we would go in that direction. And that was over a period of four months.

CHAIRMAN—Did they assess your risk level tolerances at any particular point?

Mr Dale—I do not recall it happening.

CHAIRMAN—Did they ask you whether you wanted to take low risk, medium risk or high risk? Did they ask you what sort of risk takers you were?

Mr Dale—No, I do not believe that was mentioned. We talked about the debt and we were told that we were always going to be safe and that you need the debt for the muscle to push your portfolio along. The only other thing that I heard from Storm—and it was actually in one of the classes where they said this—was that if the market goes egg-shaped, do not worry. We have got insurance. We can bring you back to your initial investment. Well, how good can that be!

CHAIRMAN—Guaranteed!

Mr Dale—It did not work.

CHAIRMAN—We have heard from other people on this, but can you tell us the story about when you changed from being with MLC with Gus Dalle Cort and then went across to Storm. Did that involve a refinancing—new borrowings and debt? How did that work?

Mr Dale—Yes. What happened there is that both Frances and my supers were in MLC and what we had to do was sell that down and transfer it to Storm as our initial investment. Then Storm got a margin loan for us for $260,000 and put it with the $340,000 that we put in and we started off initially with Storm with a $600,000 investment.

CHAIRMAN—And who filled in all the forms?

Mr Dale—Storm did it all—even the MLC selldown. Then that money was transferred into our bank account. We took the money out of there, transferred it to Storm, and Storm had all the documents for the first margin loan and, of course, for our initial—

CHAIRMAN—Did you sign some sort of an authority to give them the power to be able to execute all of these transactions on your behalf?

Mr Dale—I do not know whether we did or not, because it was set up in such a way that we would be called in to the office and on all the documents that had to be dealt with there would be little 'sign here or initial' stickers. We just went through them all and did it.

CHAIRMAN—Did they explain at any point to you in going through that what it meant?

Mr Dale—There was a lot of information to cover there. Some points were discussed but the whole thing was quite daunting and overwhelming, even though we had taken a couple of the classes. We were starting to get a drift of it but for us to comprehend that thing totally—

CHAIRMAN—When you say you took a couple of the classes, what did they involve? What were the classes?

Mr Dale—The first one I took was an all-day class. It was nine in the morning until four in the afternoon and they explained the Storm system—how they wanted you to get these margin loans to force your portfolio along.

CHAIRMAN—So that is what they were teaching you during that day—how to take out margin loans.

Mr Dale—They did not teach us how to take them out. They did all that. But they taught us that this is what you need to do and this is how we operate to get you to grow your wealth.

CHAIRMAN—Did they ever talk about risk?

Mr Dale—No. It was never a big subject there because the Storm theory was that you are in safe hands and you can do no wrong here.

CHAIRMAN—When you signed the forms—and as you just described there were little sticky notes that said 'sign here'—did you go through each page? Was it explained to you what each page meant and what was actually involved in your signing?

Mr Dale—I would have to say no to that. There were so many of them. We could see at the top of the page it might have had a label or a name as to what it was, but no, there was not a full-blown explanation of every one of those.

CHAIRMAN—Did you fill out loan application forms?

Mr Dale—We signed loan application forms.

CHAIRMAN—You did not fill them out?

Mr Dale—No.

CHAIRMAN—Do you know who filled them out?

Mr Dale—We assumed that Storm did. I do not know who else could have.

CHAIRMAN—Did they tell you that they did?

Mr Dale—They just said, ‘All you need to do is sign where we have asked you to sign. We’ll do the rest and we’ll submit these forms.’

CHAIRMAN—So they said that they would do the rest?

Mr Dale—Yes. Then they would submit those forms to the lender.

CHAIRMAN—Did you know how much they were borrowing in your behalf?

Mr Dale—Yes.

CHAIRMAN—You knew fully?

Mr Dale—They told us exactly how much it was. I have never had a margin loan in my life. I did not even know what it was. When we put our $340,000 in I thought, ‘Well, that’s a start.’ But then they added $260,000 to it. I’ve never had a loan for $260,000 in my life. It was a bit daunting but it was explained to us. ‘This’ll get you going. Kick start, and you’re off.’

Senator MASON—Mr and Mrs Dale, you mentioned before that at, I think, a Storm information evening you were told about an insurance policy. In the first page of your written submission you say:

> This was our first venture into investing in the stock market and it was all new to us but Mr. Dalle Cort advised us that we were in safe hands and that even if the market went “egg shaped”, there was a Storm indemnity insurance policy that would ensure that our original investment would be covered.

Is that right?

Mr Dale—That’s correct.

Senator MASON—What did Mr Dalle Cort say to you?

Mr Dale—That’s what he said.

Senator MASON—It was as simple as that. Did he say that if things went badly you would be covered by this indemnity insurance policy?

Mr Dale—Yes. And we not only heard it from him but we went to other classes later on. We actually brought friends into these classes and we sat there ourselves to listen and the same thing occurred with the other instructors. They said, ‘If it goes egg shaped we’ll look after you.’

Senator MASON—So the limitations on that sort of insurance policy were not explained to you at all?

Mr Dale—We had no idea; no.

Senator MASON—You mentioned on page 2 of you submission, in the second paragraph:

As it turned out, we paid a total of $107,583 to Storm Financial in upfront fees during our time with Storm.

How long was your relationship with Storm?

Mr Dale—Approximately 4½ years.

Senator MASON—So you were paying about $25,000 a year in fees all up. Did you know that at the time?

Mr Dale—We knew it but it did not seem to impact on us, except that near the end of the show we started to see that our margin loan was rocketing in. It became quite a concern to us how big it had gotten. I think it says there that it was $1.8 million.

Senator MASON—You say:

... the value of our portfolio was $2.9 million dollars, however, our margin debt had grown to a staggering $1.8 million dollars!

Mr Dale—That's right.

Senator MASON—At the time, Mr and Mrs Dale, were you concerned about that? Did that strike you as a lot of money for retirees to be—

Mr Dale—We certainly were concerned, but through all our meetings with Storm and the advisers we still had this, 'You're safe, you're safe,' thing coming through. We actually talked to a lot of other Storm clients, not necessarily from Cairns, who had been in for 10 or 11 years. They were going well and we thought, 'Well, it looks all right.' So we thought we were fine.

Senator MASON—So, as the chairman has just spelt out, the risk was not necessarily pointed out to you.

Mr Dale—No.

Mrs Dale—No.

Senator MASON—Finally, on the final page, at the top paragraph you say:

To this day we have never heard from the head office of BoQ regarding our application for financial hardship assistance. How come the BoQ approved a $252,000.00 loan with a 30 year term against the family home to a retiree who was 71 years old?

Is that right?

Mr Dale—That is right.

Senator MASON—I would like to ask you questions about that. Thank you very much.

Senator McLUCAS—Mr Dale, I think you said that on your loan application there were bits blackened out.

Mr Dale—There were bits blackened. I cannot say they were blackened out, but they were blackened. I have them here if you want to see them.

Senator McLUCAS—Yes. I would like to see them, please.

Mr Dale—I received an email from the Commonwealth Bank with all our loan statements. We had requested them. When they came in, the first couple of pages looked like photocopies, but then we came across this thing where they were black. I do not know whether it is a copying thing or whether there is another reason that it has gone black.

Senator McLUCAS—Did you receive this from the Commonwealth Bank?

Mr Dale—I did, yes, as an email. We put in a letter of request for all our loan documents and that is what we got back.

Senator McLUCAS—Going back to your application forms, you say in your submission you had two loans against the family home and six margin loans with Colonial First State. Each time you applied for a loan you would have had to fill in a series of application forms.

Mr Dale—Yes.

Senator McLUCAS—We have heard evidence from a number of people earlier that they signed them with bits missing—for example, I assume predicted income and value of assets. Can you tell us about your experience with that application process?

Mr Dale—Yes, that was our experience also. If there was a new margin loan being applied for we would be asked to come in because the documents were ready. In the Storm lingo it was called ‘your next step’. The office in Cairns would put together a package to say, ‘Righto, we’re going to go for this margin loan.’ That would go to the head office in Townsville and it would come back in a package with instructions to sign—and that is what we did: we signed where we were told to sign.

Mrs Dale—And at some time we thought that they would be refused from the head office because we thought they were looking after us, but none of were ever refused and they always came back to Cairns with the instruction: ‘Sign here.’

Senator McLUCAS—They were not complete when you signed them?

Mr Dale—No, I do not think they were.

Senator McLUCAS—Did you see the completed form subsequently?

Mrs Dale—Not for a loan.

Mr Dale—I do not think so. We would have signed those loan documents where our signatures had to go. Storm would have completed them and sent them off to the bank.

Senator McLUCAS—But you were never given a final copy for your records?

Mr Dale—We have never had that.

Senator McLUCAS—You do not have one?

Mr Dale—No.

Senator McLUCAS—You have never had them.

Mrs Dale—But we requested the one that was blanked out from the bank.

Mr Dale—We requested it from the Commonwealth Bank.

Mrs Dale—That was after.

Senator McLUCAS—Was that after everything went egg shaped?

Mrs Dale—Yes. We requested it and part of what we got was blanked out like that.

Mr Dale—The rest of the loans looked really normal, but that one came looking different. I do not know how they did that.

CHAIRMAN—It looks like it is blacked out, but do you know whether the Commonwealth did it, whether somebody else blacked it out or whether it travelled already blacked out? Do you know any of that?

Mr Dale—The answer to my request was an email with an attachment, and the attachment was all the loan documents that they had on us for all the margin loans.

CHAIRMAN—Was it just that document there?

Mr Dale—The first thing I did was crank up the email to have a look at it. Then I ran across this and I thought: ‘How am I going to print that? There’s so much black in it.’ But I thought I would print one so you could have a look.

Senator McLUCAS—It does not mean very much to me, I have to say.

Mrs Dale—Some pages were all right. Some pages looked normal, but then there was this section.

Mr Dale—There may be nothing in it. I do not know.

Senator McLUCAS—Did this request to the Commonwealth Bank happen after the disaster?

Mr Dale—Yes.

Senator McLUCAS—And was your request of CBA at that point to provide you with all documentation to do with your file? What did you ask?

Mr Dale—We asked for every loan document that they held on us.

Senator McLUCAS—You did not ask for the application forms?

Mr Dale—Yes, we asked for the loan application forms.

Senator McLUCAS—So did you receive the application forms as well?

Mr Dale—Yes. That is it.

Senator McLUCAS—It does not tell you much. Do the ones that were not blackened out like this show what your projected income was?

Mr Dale—No.

Senator McLUCAS—My final question is the same as one you have heard me ask others. What can we do? What is your recommendation as to what this committee could do that would assist you to be a more powerful partner in the relationship with your adviser? These were very risky products. You were assured that your house was never at risk, when clearly it was. What can we do for people who are investing in whatever financial institutions or taking advice from financial planners?

Mr Dale—The thing I can see is that the industry is the people who run the whole financial setup. It is through the industry that you are going to be able to find out how that has to be changed so that people like ourselves are protected from these kinds of things happening. There needs to be a restructuring, but I think it has to come from the industry and you getting together to nut out a way that people like ourselves can have these things explained in more common language that we can understand and have a bit more time spent with us to say, 'Did you really understand that? If not, let's go over it again.' We did not get that.

Senator McLUCAS—Thank you very much for coming.

Mr Dale—You are welcome.

Senator WILLIAMS—Mr Dale, did you understand the Storm model and the margin loan? Did you have a total understanding of it?

Mr Dale—No. I would have to say no to that. We knew part of it. It was new to us, but over the years, as we kept going with our margin lending, we started to understand LVRs and how this thing worked.

Senator WILLIAMS—Yet you had been to many educational classes, if I can call them that, with Storm.

Mr Dale—I think I went to four.

Senator WILLIAMS—But you still did not have a complete understanding of it?

Mr Dale—No.

Senator WILLIAMS—Obviously, it was a sophisticated plan. In your opinion, would that be right?

Mr Dale—I would say so. It was not formulated for us in particular. I think everybody in Storm went down the same track.

Senator WILLIAMS—Following on from Senator McLucas's question, do you think that one thing that needs to come out of this inquiry is a system put in place to ensure that borrowers have an understanding of what they are doing?

Mr Dale—I think that would be very good.

Senator WILLIAMS—And that investors as a whole have an understanding?

Mr Dale—Yes.

Senator WILLIAMS—I commend you on your honesty. When I read your submission I wrote on the front of it 'a sad case'. I think you have been very upfront—

Mr Dale—Thank you.

Senator WILLIAMS—about the way you sold your house. As you said, you did not even get a thankyou from the Commonwealth Bank, and getting a $5,000 hit from another one for breaking a contract early seems to me to be putting the boot in while you are down, which is un-Australian in my opinion. But that is only my opinion. Do you know what your LVR was when they sold your shares out?

Mr Dale—I have to this: Storm advised us that our LVR had got to 92.98 per cent. However, I have just recently been in an ASIC interview and I discovered it was actually 110 per cent.

Senator WILLIAMS—So you were sold out at 110 per cent is your opinion today? In your contracts I believe that the Storm model was that you could borrow up to 80 per cent with a 10 per cent buffer, so the worst scenario should have been that you would be sold out at 90 per cent. I suppose it is pointless asking why you think you were left to go through to 110 per cent. Would you have any idea why that was the scenario?

Mr Dale—No. It is a question that we have had had right from the beginning. We do not know. We tried to sort out how it could have happened. We signed a document that we gave to Storm to sell us down 100 per cent. I think that was on about 11 October.

Senator WILLIAMS—Was that to sell your shares and bring it into cash?

Mr Dale—Yes—to go straight into cash and get right out.

Senator WILLIAMS—That never happened, did it?

Mr Dale—No.

Mrs Dale—We thought that is what would happen.

Mr Dale—By that time the fear factor for us was really growing and we were afraid. When Storm rang us on a Sunday and said, 'Please send that document, where you had previously signed for a 50 per cent selldown, we want you to change it to 100, and get it into our office right now.' It was a Sunday and we had a fax machine so I sent it. What we thought was, 'Thank goodness. We are going to get sold down next week.' It never happened.

Mrs Dale—Nothing happened.

CHAIRMAN—Just to follow on from that, Storm were actively pursuing to selldown. I am assuming you were not the only one and that they did not just single you out. I am assuming there may have been at least one more or others.

Mr Dale—There would have been. They were working that Sunday.

CHAIRMAN—This was the Sunday of 12 October.

Mr Dale—That would be it.

CHAIRMAN—They were actively selling you out?

Mr Dale—They were not selling us out. They were getting us to sign off to get into cash. They wanted us to sign the document and get it into the office so that they could sell us out. But something happened or perhaps something didn't happen, I guess.

CHAIRMAN—Can I just take you back and this may be a bit painful but I need to know to understand the process. You are saying that at the height of the market in November 2007 your portfolio was worth $2.9 million. That is a lot of money.

Mr Dale—It is a lot of money.

CHAIRMAN—Did you ever consider, 'Now might be a great time to cash in,' and go and enjoy things.

Mrs Dale—We should have.

Mr Dale—We could have. We could have cleared our margin loan and walked away with $1 million.

Senator WILLIAMS—Hindsight is a wonderful thing, isn't it?

CHAIRMAN—Did it cross your mind or did you discuss it with you adviser at all?

Mr Dale—At that time, I think it was November 2008, it was right up at the peak of things, and no-one in Storm was indicating that we have to start closing ranks and do some things to start protecting ourselves because something big was on the way here.

CHAIRMAN—Were you getting any advice from Storm approaching the peak of the market?

Mr Dale—No.

CHAIRMAN—It was just business as usual.

Mr Dale—They said, ‘You are going like a rocket.’ Then of course the market started to dip and of course the Storm advice was, ‘Don’t panic. It is fine. It will come back—it always has; it always will.’ So we watched it go down. Then the fear was setting in, but they said everything was fine.

CHAIRMAN—They were obviously trying to sell you down at 50 per cent then 100 per cent. Did they offer any explanation to go along with that advice? They were obviously providing you with advice and getting you to sign a document, so what came along with that advice?

Mr Dale—The advice to sell down?

CHAIRMAN—Yes.

Mr Dale—I think they used the term, ‘We are going to use a Storm inoculation. We are going to inoculate your portfolio. We will sell you down into cash. You can sit there on that cash until the market settles down and then you can go back into it.’

CHAIRMAN—This is at the bottom of the market?

Mr Dale—Yes.

CHAIRMAN—So they were going to sell you down at the bottom of the market?

Mr Dale—Yes.

Senator WILLIAMS—It was certainly low. It was at the bottom.

Senator McLUCAS—Mr and Mrs Grainer talked to us earlier about a meeting that was held at Cazalys on 3 November. Did you go to that meeting?

Mr Dale—Yes.

Mrs Dale—We were there.

Senator McLUCAS—Were you aware at that time that your stocks had been sold?

Mrs Dale—No.

Mr Dale—No, I do not think we were.

Senator McLUCAS—Mr and Mrs Grainer talked about there being an implication, if not a direct statement, that you were okay. Certainly advice was not given that people's shares had been sold.

Mr Dale—That is correct.

Senator McLUCAS—Do you think that is misleading by omission?

Mr Dale—I think that was 3 November, was it?

Senator McLUCAS—Yes, that is what Mr and Mrs Grainer have given us in evidence.

Mr Dale—It was on 31 October that 75 per cent of our portfolio had been sold down. We did not know that. We did not know it that night. The things that we observed at that meeting were that there were a lot of angry people there, and the CEO was trying to pacify a lot of people, and it was getting a bit rowdy. It finally did settle down but you could see there was a lot of animosity and it was not a pleasant place to be.

Senator McLUCAS—So people knew at that point that things were pretty dicey?

Mr Dale—Yes.

Mrs Dale—Some people

Senator McLUCAS—But everyone was reassured that they were inoculated or whatever the word is.

Mr Dale—Yes, we thought we were going to come out of it. We thought, 'We'll come out of this. We'll survive it.'

CHAIRMAN—I just want to try to understand better the point at which the Storm executive decided they would sell you down 50 per cent and then decided again that they would sell you down 100 per cent. I am assuming that they sold you down 100 per cent into cash.

Mr Dale—Yes.

CHAIRMAN—And they advised you so you could reinvest in the market. Is that what they were saying? Is that correct?

Mr Dale—That is correct.

CHAIRMAN—So they were not going to give you the cash?

Mr Dale—No, they set up with the Commonwealth Bank what they call an ACA account—an accelerator cash account.

CHAIRMAN—So they were still going to hold your cash—you were not ever getting your money back?

Mr Dale—That cash would go into that account and the amount that your margin loan was worth had a hold on that much of it. What happened with us, of course, when we got sold down was that we went into negative equity. So the cash that was in the accelerator cash account did not cover the margin loan. We could not touch that.

CHAIRMAN—So if I understand this correctly, Storm were trying to sell you down—let us say at 100 per cent of your portfolio because that is the last volume—so that it could go into a cash management account that they controlled. Did they have authority over your accounts or not?

Mr Dale—No, they did not. They set the account up for us.

CHAIRMAN—So they set up the account but had no—

Mr Dale—They could not touch that.

CHAIRMAN—Are you certain of that?

Mr Dale—I cannot say that I have seen documents that say they cannot, but the Commonwealth Bank put a hold on that money and it was untouchable.

CHAIRMAN—So it was untouchable for you?

Mr Dale—That is correct.

Mrs Dale—That is right.

CHAIRMAN—So somebody had control of it—whether it was Storm or somebody else—but in the end the advice to sell you down was not so that you would have cash. Is that right? I am just not sure about the purpose of selling you down. If the idea was to ride the market out then why would you sell at the bottom?

Mr Dale—If we had been sold down early enough then there would have been enough cash in that accelerator cash account to cover the margin loan and there would have been enough money for us to live on—to pay our bills and petrol; the lot—while the market was doing its thing.

CHAIRMAN—But if you could not access the cash because it was to pay the difference then how could you live off the money?

Mr Dale—The hold was on the amount of the margin loan.

Senator WILLIAMS—It was security.

Mr Dale—Yes, that was the security.

Senator WILLIAMS—In other words, you are saying that Storm wanted to sell you down in October to hedge you from further falls in the market.

Mr Dale—Yes.

Senator WILLIAMS—That did not happen and later on the bank sold you out and shut the book. Are you saying that on 3 November, when you met with Mr Cassimatis, you had already been sold out but you did not know it?

Mr Dale—I did not know that, no.

Senator WILLIAMS—So Mr Cassimatis or Storm wanted to sell your shares out in October to hedge against further falls in the market. That did not occur. Then when you came to your meeting on November 3 the bank had already sold you out?

Mr Dale—We do not know who sold us out because it was only 75 per cent. That is the question we have that we have no answers to. And what happened on 25 November was that the remaining 25 per cent was sold down in the major selldown of Storm.

Senator WILLIAMS—And you were with CGI at the time for your margin loan, were you?

Mr Dale—Yes.

Senator WILLIAMS—Have you spoken to CGI about it and asked them to give you the details and explain what they did?

Mr Dale—I have not asked them to explain what they did but we did get on the phone to them and ask them when our portfolio was sold down. They came back to us saying that 75 per cent was sold on 31 October and 25 per cent was sold on 20 November.

Senator WILLIAMS—When they sold you down 75 per cent on 31 October did they notify Storm?

Mr Dale—I have no idea.

Senator WILLIAMS—These are the questions we should be putting to CGI, surely—because they were obviously working very closely with Storm. They had a great partnership and a very close working partnership. Surely if CGI sold your shares at the end of October, you would think that they would have at least notified your financial adviser, Storm, to tell them what they had done?

Mr Dale—We did not know how the selldown of the 75 per cent got activated—whether it was Storm which got CGI to do it or whether CGI did it on their own. All they would tell us at the time when we asked was how much and when it happened.

Senator WILLIAMS—The point I am getting at here is that there is obviously a very close working relationship between the banks and Storm—until the wheels fell off the cart, when obviously there was very little negotiation or correspondence or relationship. I just find it amazing that Mr Cassimatis can meet with you on 3 November saying, 'We'll take this action,' when in fact 75 per cent of your portfolio had been sold. He must not have known about that.

Mr Dale—I do not know.

Mrs Dale—We thought that this 100 per cent selldown was going to happen and we did not find out about the 75 per cent and the 25 per cent until January, through other means.

CHAIRMAN—So they never explained to you why they did not sell.

Mrs Dale—There was no letter, nothing.

CHAIRMAN—So on 12 October Storm got the authority to sell you down 100 per cent but you never heard back?

Mrs Dale—We thought that the 100 per cent was going to go through and we were going to be all right.

Senator WILLIAMS—But the Storm sell-off on 12 October was not to sell you up and close your account; it was to hedge against further falls in the market. Obviously when CGI sold you up it was 'goodnight Irene'—it was permanent.

Mr Dale—Yes.

Mrs Dale—That is right.

Senator MASON—Mr and Mrs Dale, I would like to take you to attachment 3 of your submission. You detail there 14 separate loans you took out—three in 2004, two in 2005, three in 2006, four in 2007 and two in 2008; making a total of 14 separate loans. Given that you had only average incomes and you were both retirees, looking at that list of 14 separate loans, and you paid over $107,000 in fees to take those loans out, makes me go cold. That is so much money for people in your situation. Were you ever warned or did you ever feel insecure as you kept taking out more and more margin loans?

Mr Dale—We had sort of qualms about it, but of course I made this list up after the event. So even when I made the list up I was looking with disbelief that we had gone that far with it. But on the way through—

Senator MASON—It is an extraordinary tale, isn't it?

Mr Dale—It is.

CHAIRMAN—Did you instigate the loans or were these loans that were suggested to you? Was it your doing—did you say, 'We need to borrow more'?

Mr Dale—We took out some of the loans because we wanted to travel—we wanted to go and see our families overseas. So we needed $20,000 here or $50,000 there.

Senator WILLIAMS—So loan No. 4, for example, was not for an investment; that is what you are saying?

Mr Dale—Yes, if you have a look at No. 4 you see that there was no fee paid.

Senator WILLIAMS—Yes, and No. 7 and No. 8 were the same.

Mr Dale—It would have been a redemption of $20,000 there.

Senator MASON—But even so, even allowing for that, it still seems like a lot of money over a very short period of less than four years. It is an enormous amount of money for retirees.

Mr Dale—The thing about it is that if we wanted to redeem any money out of our portfolio—that $20,000, for example—we just thought we would go to Storm and say, 'Righto, we want $20,000 out of our account and the tax events that go with that we are willing to accept.' But Storm always said, 'Righto, we'll increase your margin loan another $20,000 to keep your portfolio going.'

Senator MASON—So your financial adviser never said to you, 'Hey, slow down.'

Mr Dale—No.

Senator MASON—You were retirees on average incomes with that sort of loan. That is like playing roulette to me.

Mrs Dale—The portfolio was going ahead, you see, and there was supposedly enough to cover it.

Senator WILLIAMS—In fact it sounds like quite the opposite—instead of your adviser telling you to slow down he was actually advising you to speed up.

Mr Dale—That is it.

Senator WILLIAMS—He was saying, 'Believe me, trust me; we'll lead you to the Garden of Eden.'

Mr Dale—Yes.

Senator McLUCAS—I would like to be very clear on this. So you went to Storm a couple of times and said, Look, we want to go back to see our family. We want some cash.'

Mr Dale—Yes.

Senator McLUCAS—And you expected that you would draw down on the asset but rather they said, ‘Take out another loan.’

Mr Dale—They said, ‘Oh, well, whatever you redemption is we’ll cover that with an additional margin loan so that your portfolio won’t be affected.’

Senator WILLIAMS—Looking at the list of loans there, it was obviously a river of gold for the banks to be able to issue all of those loans. There was $107,500 for Storm; they obviously did pretty well. I am just sorry that you did not do as well.

Mr Dale—I am sorry too.

CHAIRMAN—Mr and Mrs Dale, thank you very much. We really appreciate the time you have taken on your submission and your evidence today. They were really helpful.

[2.20 pm]

BOTH, Mr Mark, Private capacity

FOWLER, Mr Jason Robert, Private capacity

GRAINER, Mr Francis John, Private capacity

GRAINER, Mrs Sandra Alice, Private capacity

MACCOLL, Mrs Kathleen (Kate), Private capacity

McCLEAN, Ms Margaret Teresa, Private capacity

TUCK, Ms Joanne Mary Alice, Private capacity

WEIR, Mr Mark, Private capacity

CHAIRMAN—We will go to an open mic session. We want to give people an opportunity to tell their story or have their say. We do not want to limit anyone, but we have to get through a list of names, so try to restrict your remarks to what you feel is absolutely necessary. We are happy to listen to you and have it recorded. If you are willing to take some questions from us, that would be helpful to our process as well.

Welcome. Do you have anything to add about the capacity in which you appear today?

Mr Both—I was involved with Storm Financial for about a three-year period. I have some notes that I have written as you have gone through things, and I want to go through some of them. The question of whether we were margin called has been brought up; I still have no idea whether I was or was not. We were going into Storm Finance when the market was falling. Basically, I was told they had no idea where we were. They could not contact Macquarie. They were telling us what percentage the Macquarie loan that I had was in. They did not know—I do not believe they knew, anyway. That is certainly what I was getting told. When we finally did get sold out I was told I was lucky. I came out with about $20,000 in equity after I sold everything. My margin call level, I believe, was around 95 per cent. That is something I have calculated. It is not something anyone has told me; I tried to do the mathematics and figure it out.

As far as them knowing or not knowing, the only thing I can come back down to is that when I was trying out of my Macquarie loan I can recall at one stage getting off the phone, going to my wife and saying, ‘In the last 48 hours my break costs and payout fees have changed $3,000.’ I spoke to three different people, got three different figures and walked away from it for a while because I just could not handle that pressure. Forty-eight hours was three grand. Then some three months later I was able to pay that loan out and get more back. I do not understand that, to be quite honest. After I paid my interest in advance and went to get a break fee, three months later—hang on; surely I had to pay the loan for three months. How can I get more back? Those sorts of things did not make sense to me. Some of the people say they do not know. I understand that completely, because I have no idea.

As far as the level of risk is concerned, I always believed I had a margin call at 80 per cent. How it was explained to me was that there would be blood in the streets, you would not have a job and corporations would be falling over before it got to that level; and even if it did get to that level they would not have a choice—the bank will margin call me and I would be out. That was the worst-case scenario. I remember arguing for a long period of time about whether I would put up my house, because I went with Bank of Queensland for my house. The reason you did, as I understand it, was that the interest rate was lower. But the margin would always get you out and your house was never at risk, because they did not have a choice; the banks would sell you out. It was not Storm Finance saying, ‘You can go to 95, 90 or 100.’ Once it got to that level you were sold out. Let us make one thing very clear. I have been asked to go see other financial advisers in this town after the collapse of Storm Finance. I have been given that advice from other financial advisers. That is not just a Storm thing.

You have asked about things for the future. How I understand it—I could be wrong here—is that margin loan percentages are just based on the margin loan. If you are going to borrow equity as far as your house is concerned, I believe that should be classed into the margin loan. That may be something that could be positive.

Senator McLUCAS—I thank you for that recommendation.

Mr Both—You have certainly got a question of double gearing, as far as that is concerned. But, if you can take both loans into account, that might be helpful. With respect to the statement of advice, I can remember writing an email to Storm Finance, saying, ‘If I understood every page of this statement of advice that I have to sign I would be a financial planner, wouldn’t I?’ I use a theory, because I am an electrician. I can explain to you electron flow and normal flow, but can you sign off on it to say that you understand it? We were given 30- to 40-page documents. I have a rough idea of margin loans, but do I understand every detail of it? If I did, wouldn’t I have spent four years at uni?

Senator MASON—The document was too complicated, was it, or too detailed?

Mr Both—I do not know whether or not it was too detailed, but they go to university for four years to learn that, don’t they?

Senator McLUCAS—No.

Senator MASON—No.

Mr Both—I am obviously wrong there, again.

Senator MASON—The document did not mean much to you; that is really what the committee wants to know?

Mr Both—I certainly had a hard time trying to—

Senator MASON—That is the point.

Mr Both—The email went back. I would be a financial planner if I understood everything that was in the document.

Senator MASON—Sure.

Mr Both—A lot of other clients were coming to me asking me questions, because I would go in and ask more. It was one of those things. Interestingly, the comment was brought up about an 80 per cent margin call, plus a 10 per cent buffer. I was under the impression it was 70 and 10. Again, I am obviously mistaken there. I think that has covered everything I have noted down. If there are any questions, fire away.

CHAIRMAN—Thank you for also telling us your story. You say you had no idea whether the margin was ever called. Did you speak to your adviser, the people you were paying, to give you advice? Did they tell you anything at all?

Mr Both—When I went in there, they could not explain it to me. I believe the last statement from one of the secretaries on the floor was that I was lucky I got out with equity. I suppose I am lucky that I am 41 years old and I have a chance to go out and earn something to take care of my retirement, whereas a lot of other people in this room are in a lot harder situation.

CHAIRMAN—As you heard from Mr and Mrs Dale, they were asked to sign a 50 per cent selldown, then a 100 per cent selldown. Were you asked to sign a selldown?

Mr Both—I believe it was 50 per cent, 80 per cent, 100 per cent. I went through three documents.

CHAIRMAN—Was that carried out or you just do not know?

Mr Both—I do not know. I think there was something like $70,000-odd in the trust account that I had put aside, in a name, which was supposed to cover the interest for the following year. That has also been lost, as well as the percentages of what I had lost, as far as the fund was concerned.

CHAIRMAN—Just tell us the process with respect to loan documents. Did you fill them out—for example, income levels, all the rest of it—or did you just sign?

Mr Both—I cannot recall having a problem, as far as that is concerned. I remember debating over it for a long period. As far as going into Storm Finance was concerned, in my case that probably took four to five months. I was pushing Storm Finance towards the end because it was close to the end of the financial year and I wanted to have an interest payment done before that financial year ended. But it took a long time for me. There was a lot of debate, because I did not want to put my house at risk. I was finally convinced by a number of people that my house would never be at risk because I would always be margin called, because the banks had to do that. That was how it was sold to me. It took me a long time to get my head around it. My initial thought was obviously correct and my later thought was wrong.

CHAIRMAN—Can you just explain what Storm told you about themselves that was different. Why were they better than everybody else? What were they telling you in terms of their relationship with the banks and how they could get money? What were they telling you was different and special about them?

Mr Both—It was mainly the clients—I had a lot of people who were dealing with Storm Finance and the past track record was very impressive compared to other financial institutions.

Senator WILLIAMS—Just getting back to your margin call, did you have the belief that the bank would sell your shares and not let you get deeper into debt or did you think it was Storm which would manage that?

Mr Both—I believe Storm had an obligation up until the 80 per cent mark. Once I hit 80 per cent I was under the impression Storm did not have a choice and that the banks would automatically do it.

Senator WILLIAMS—Was that explained to you by Storm or just by friends?

Mr Both—By Storm. Also, as I said, I go back: I have had financial advisers outside Storm who are still giving me that same advice. The banks were the ones who were supposed to sell me out. I do not know and I still do not know whether that is right or wrong, because I have obviously got to a percentage where I have calculated 95 per cent. If the banks could not, who did?

Senator WILLIAMS—You chose to break fee?

Mr Both—Of about $20,000. As I said, when I was contacting them to pay those loans out and to try to resolve that situation, within a 24-hour period that break fee had changed by something like $3,000.

Senator WILLIAMS—That is right, I have read your submission. No, sorry, I read another one where someone was trying to determine a break fee and it varied day by day.

Mr Both—It varied hourly, not day by day. I called three different people within a two-day period and in the end I had to hang up, and I said to my wife, ‘I just can’t hack that.’ You cannot be put under the pressure of $3,000 over two days to figure out whether you want to or not. Then, something like three months later, they gave me more. I still cannot figure that out. We were something like three or four months into the financial and then something like eight months later, surely to goodness, I have to pay all the loan period. It was all paid in advance. Then I got more money back! The logic of that just does not make sense to me.

Senator WILLIAMS—Do not tell them.

CHAIRMAN—What contracts and documents did you hold at any point? You make a good point: you did not know. Did you have documents for the contracts of loans or anything like that? Who held those documents?

Mr Both—I would say Storm. I probably have some at home after the collapse of it. I have documents from the original signings.

CHAIRMAN—Did you deal with the one adviser? Who did you deal with?

Mr Both—I dealt with a number of advisers because I was moved around. Originally I wanted to see Gus. I got moved to James Mousa because Gus had too many clients. I then went to John Fuller with whom I had some personal disagreements, and I ended up back with Gus over a three-year period.

CHAIRMAN—What were those personal disagreements?

Mr Both—It was a personal thing about how people got on. I just did not see eye to eye with the man.

CHAIRMAN—Obviously it was on financial matters and not about the football, I assume.

Mr Both—Yes, how things were done. I did not take on every step. I probably went against a few things. I was sent out steps and I did not do step 4, and then there was a step I did do and then I did not do one, and then I did another one. I did not do every step along the way which is probably the norm.

CHAIRMAN—Okay.

Senator McLUCAS—I want to thank you for putting on the record those recommendations about plain English documents—

Mr Both—The other thing to look at is that financial planners actually get paid to do nothing sometimes. The people who have taken over Storm Financial's business at the moment are getting a commission sort of thing from my superannuation. I have not even met them yet. That might be another thing to look at. If they do not make money, do not pay them.

Senator McLUCAS—You said that they should go to university for four years. The training for a financial adviser is not a university based degree. I am not suggesting it should be, but I think you are suggesting that they need to be better at providing advice.

Mr Both—Or maybe not linked to the product directly. If they have to give advice, they have to go elsewhere to get that advice or that product.

Senator McLUCAS—Are you suggesting separating the adviser role and the seller of product?

Mr Both—Yes.

CHAIRMAN—Thanks very much, Mr Both. Mrs Maccoll?

Mrs Maccoll—I was a Storm client; I was not an investment client, although my husband and I were moving in that direction. Thank you for giving me the opportunity today to offer you a number of my insights that I believe have not been terribly evident in the 370-odd submissions that I have read to your inquiry—and thank you for posting those publicly so that they can be read. The first area I would to look at is privacy. The second is in regard to the devastation that has been wrought on our community, especially in the area of volunteering. The third and last area that I would beg your indulgence on is the networked nature of this tragedy.

First is my concern relating to privacy. I find it really interesting that when requesting documents from banks people I know have had forms sent them with their own personal information blacked out due to privacy concerns. I also find it very interesting that organisations such as banks have been able to send the so-called private information of one person to another totally unrelated person. Where is the privacy here? At odds with this is the fact that my own personal information and any of the commissions, trails or associated financial benefits that come with any of my accounts—small as they are—could be sold to a company in another state that I have no knowledge of and without my consent. Where in this process is my privacy being considered?

Now I would ask you to consider the cost of this tragedy to the community. One of the things that has not come through in these submissions—and I appreciate that part of that is due to the terms of reference of your committee—is the ruin that this has forced upon community organisations. I have an illustration of my point. My father is a vet. He has worked for many years in this field and he was and still is extremely well regarded in his profession. He had finally chosen to retire and devote a considerable amount of volunteer—that is, underpaid—time to the community as an executive member of the Queensland branch of the Australian Veterinary Association. At the time of the collapse of Storm Financial he was within weeks of stepping up as the president of the Queensland AVA. He had already invested a huge amount of time and energy in working with that organisation with government, councils, other members of animal industries and the public. Very early in 2009, my dad, with a huge weight on his heart, had to apologise to the organisation he had given a commitment to and tell them that he could not fulfil his commitment as he could not afford the financial impost nor the time that the position entailed as he needed to use that time to return to work and earn money to keep living. My dad was not the only one in this position. I know of Red Cross volunteers and community members who were readers in schools. I strongly suspect that there would be very few volunteer organisations in Queensland that are not touched by this through the loss of volunteer capacity.

To illustrate my final area of focus, the networked nature of this event, let me give you a brief outline—and it will seem unrelated at first—of my family tree. I am married and I have two young children. My daughter is seven years old and my son is four years old. My husband and I were Storm Financial clients. We had not moved beyond an education stage. We were collecting documents to take to Storm Financial's Cairns office at the time of Storm's collapse. Our direct connection to Storm was through a $44 per year life insurance policy that I had had since I was a small child and an MLC masterkey unit trust which is currently worth approximately $4,000. So we were not investment clients.

My brother and his partner were also in the early stages of looking into Storm Financial and investing. My parents were Storm Financial clients and are still working hard to try to keep ownership of their home. They were retired and both have had to return to work in their late 60s. My father's brother and his partner were Storm Financial investment clients. They are also working hard to try to keep hold of their home. My step-grandmother, who lives in Sydney and is in her 80s, was a Storm Financial investment client. We do not know how we will get her to meet her brand new great-granddaughter, born in July. We do not know how to continue to get her to be a meaningful part of my own children’s lives. Travel from Sydney to Cairns and vice versa is expensive.

Two of my mother’s brothers had been to education seminars and were on the cusp of investing their own considerable life savings using advice and products offered by Storm Financial. I know of an entire family on the tablelands—a retired mother and father, three of their adult children and their own children’s families—who were Storm clients. They are facing ruin, their farms for sale.

Storm asked people considering them to talk to others who were current clients. People like to share prosperity and they talked positively, even in glowing terms, about how they felt when they were securing their future. Now, after the fact, there are whole families who are caught up together. They have very few financial reserves that are not caught up in this to use to keep roofs over their heads. People feel morally devastated to have brought their beloved family and friends into such a terrible situation. This cross of financial loss is a big enough one to bear without additional concerns about having recommended it to others.

A representative of the National Australia Bank contacted my husband and I last week. They asked us to consider coming in and talking to one of their financial planners. My husband laughed and asked if it mattered if he swore on their recorded conversation. She asked why he might swear, and when my husband said, ‘We’ve been caught up with the Storm Financial debacle,’ she asked: ‘What is Storm? I don’t know what you’re talking about.’

My husband and I discussed the conversations later and the things that we have learned from this: one, do not trust banks or financial planners; two, do not risk things you cannot afford to lose, in dollar terms or emotionally; and, three, ask many, many questions and ensure that you get the answers.

I will finish with some images I would like you to keep in your heads as you investigate this matter: how do you look a seven-year-old in the eye and explain why nanna and poppa are sad at the happiest time of the year? Christmas is a magical time of the year; everyone should be happy. How do grandparents tell their son that they cannot afford to give his baby son a first birthday present, when previously, when they had money, they had given beautiful presents to their first two grandchildren? How does a nanna explain to her grandson, while on an excursion to the beach, that she cannot afford to offer the small ice-cream treat that has always been a normal part of outings with nanna because she might need that dollar to keep the roof over her head?

CHAIRMAN—Thanks, Kate, for your honesty. We can see how hard it was for you. Would it be all right if we asked you a few questions to better understand?

Mrs Maccoll—Yes.

CHAIRMAN—I am really interested that you looked at Storm. You said that you were Storm clients but you have not invested, which is slightly different to a lot of other things we have heard.

Mrs Maccoll—Yes.

CHAIRMAN—You looked at it for 12 months and you obviously asked a lot of questions. Why did you not invest with them after 12 months?

Mrs Maccoll—I would have jumped in as fast as I could jump in. My husband did not feel so confident. He had been to a different education seminar and asked a question of—I believe it was of John Fuller, but Peter is not here and I cannot be sure without asking him. One of the questions he asked was: ‘What happens if it all goes wrong?’ He was told, ‘If it all goes wrong, you sue us.’ That sentence made my husband nervous, and we sat and talked about it and looked at stuff. We just took our time. We had made the decision at about this time last year that we would start to collect the documents together and then—through good luck, in hindsight—we did not manage to make our appointment. We were expecting to go in in January this year, so it was just good luck really.

CHAIRMAN—Did you attend a so-called education or information session?

Mrs Maccoll—I attended at least one.

CHAIRMAN—Could you describe one to me. What was the feeling, the mood?

Mrs Maccoll—The session I attended was in the brand new Cairns office. It is a very nice looking office. I walked in by myself because my husband needed to look after our children. They had some very impressive graphs that showed that over a 100-year period, I think it was, the market had always continued to rise. If you compared any seven-year period in the 100 years, you would find that the endpoint at the end of that seven years was higher than the lowest point. They showed us some figures about how gearing worked—taking equity from your home, adding to that some money that you had invested through a loan and investing that in the stock market. I must admit, I did not walk away understanding that that risk was a two-way risk. My husband, who is very much more financially savvy, started to question that when he went to his seminar later. They explained that they would set trigger points through your process and those trigger points would be used to do things like bring you out of the margin loan. I am sorry I am a little bit fuzzy on this.

CHAIRMAN—That is okay. I just want your impression.

Mrs Maccoll—My impression was that they were a very professional organisation who seemed to really understand the product, and they also seemed to understand why people wanted to invest—that people had dreams that they wanted to achieve and finance was a way to do that for most people. They appeared extremely professional. They also appeared very interested in us as people, even as we sat in a room of maybe 100 people or whatever the capacity of the room was.

CHAIRMAN—Did they use certain words, such as that things were ‘safe’ or ‘guaranteed’?

Mrs Maccoll—I can’t—

CHAIRMAN—No, that’s fine.

Senator MASON—Thanks for raising the issue. I think you used the words 'the network nature' of the impact of the financial crash. We have not really heard evidence about that, but here today in Cairns and tomorrow in Townsville we will no doubt hear more about it—the fact that friends and neighbours and families recommended Storm to each other. That will generate, I suspect, other tensions. So thank you very much for that.

Senator McLUCAS—On that issue, I think you said that Storm asked people to talk to others. I tried to ask Mr Dalle Cort that question this morning and I do not know that he answered my question. Can you give me an example of where that was said and how you know that?

Mrs Maccoll—I know, for example, that my mum and dad, who made a submission to the inquiry—I cannot remember the number but you could probably find it—were asked if they could be used in a brochure. I do not think it happened in the end. I know that they were asked if Storm could refer particular people that they might know to them so that they could discuss their impressions. At the time I questioned my mother and said, 'I do not think that is a good idea. I do not think you should be doing that sort of stuff, particularly if they are telling you what to say.' And she said, 'No, they are not telling us what to say. They are just saying talk about it.'

I know that I had a phone call from somebody that I know in Cairns saying, 'We know that you have got a connection with Storm somewhere. What are your impressions?' I told them that my impressions were that it looked great. They got involved in Storm and—

Senator McLUCAS—Do you think that that phone call from the other Cairns resident was on recommendation from someone in Storm or that he or she had just found out that you were involved?

Mrs Maccoll—I do not know.

Senator McLUCAS—The first issue you raised was the question of privacy. You are suggesting that a bank has provided your personal information to another company. I am not following that very closely.

Mrs Maccoll—No. I believe what happened is that when Storm Financial collapsed and went into administration, or receivership, a receiver was appointed, I believe—

Senator McLUCAS—Yes.

Mrs Maccoll—And their job, I think, is to sell the assets of the company, and client lists are an asset of the company. I believe that my details were sold as an asset of the company to, I think, a Melbourne company, and I was since contacted.

Senator McLUCAS—Thank you.

Senator WILLIAMS—Thanks, Kate. You are a courageous lady.

CHAIRMAN—Yes. Thanks very much. We really appreciate it. Thank you. Could we hear from Margaret McClean, please?

Ms McClean—Thank you very much. I am here on an individual basis and also for my partner, who was unable to be here. Jan McLucas, in answer to your question, what we need to have are a lot more real checks by governing bodies on all banks and financial institutions, regularly, to see how they are operating and what they are up to, and we need more easily obtainable information on financial matters that all people can access more easily than they can access what is available at the moment.

Our situation is pretty much the same as everybody else's. My partner—his name is Bill—had superannuation with MLC. When Gus bought the MLC franchise here in Cairns, Bill then became his client. When he went to Storm in 2001, or whenever it was, Bill was invited to come along with that. He did and we started seeing Gus at his office and it pretty much snowballed from there with recommendations to become involved with Storm, which we did. It was all going very nicely until, I guess, the middle of last year. Bill had asked Gus a question some months prior to that about retiring, because the plan was that we would do all this investment and be independent, never have to claim a pension off the government and be able to look after ourselves. So he spoke to Gus about retiring, and Gus's comment was, 'If you want to retire now, Bill, you definitely can, and in a few months time, if you want to do a bit of part-time work, do it.' I am damn sorry now that we didn't. But Bill said: 'No, I'm not really quite ready yet. We'll do it down the track.' The plan was that he would retire last Christmas, so this was to be the first year of his retirement.

Then in around July Gus approached Bill. We already had, and still have, a margin loan worth over $700,000. Gus approached him about taking out mortgages on our three properties, which was something that we had previously discussed and Bill had said: 'No, I will never do that. I'm not going to risk our home.' However, after discussions with Gus he came home and ummed and ahed and said, 'All right, I'll do it, but this will be the final thing because I'm retiring at Christmas and we'll have that much extra,' which was the crux of the conversation that he had about taking out the mortgage loans. So he ended up taking out the mortgage loans.

When those mortgage loans were being set up through Storm—and, yes, they did all the paperwork; all he did was sign—they wanted to go with the Commonwealth Bank. We did not wish to go with the Commonwealth Bank. We are personal customers of another bank that we wanted to do the loans through. That bank agreed that, yes, they would do the loans for us—however, not to the extent that Gus was pushing for. They did valuations on our property twice, at Storm's expense, because when they rang us and said they were doing a second lot of valuations I said, 'Hang on, we're not paying for a second valuation; it's just been done.' They then paid for that.

Senator WILLIAMS—Excuse me, who are they—the Commonwealth Bank or the other bank?

McClean—As far as we are aware, Storm Financial then met the cost of the second valuation. Then it took three or four days of discussions between the manager of the branch that we bank with, Storm Financial and my partner—

CHAIRMAN—Who was the bank?

McClean—The one that we are with. We are with Bank of Queensland, as personal customers, and we are very happy with the branch that we are with. It is a franchise. But there were discussions that went on for three or four days. The manager of the Bank of Queensland went away to Mackay or somewhere but left his personal number. We were contacting him through that. However, at the end of the day Gus called Bill into the office and said, ‘We can get a much better deal with the Commonwealth Bank,’—blah, blah, blah—‘Sign here.’ Bill did—he signed there—and by August we had another $770,000 worth of loans with the Commonwealth Bank.

CHAIRMAN—Another $770,000?

McClean—Yes.

CHAIRMAN—So you have $770,000 plus—

McClean—So we are now in debt for $1.4 million.

CHAIRMAN—Gee!

McClean—Leading up to the actual collapse of all this, Bill had spoken to Gus a couple of times and it was the same scenario: ‘It’s safe as houses. Everything’s wonderful. If anything happens all the buffers are in place. We’ve got the strategies. Everything’s going to be fine. There won’t be any problems.’ Bill by then was starting to think, ‘Maybe I shouldn’t have taken that last step.’ As it turns out, he should not have, but none of us—nobody!—was to know that.

It got to a point, coming up towards Christmas, when it all started to fall apart. We attempted to make a number of contacts with Storm. By then, getting on towards Christmas, we kept getting assured, ‘Everything’s fine.’ They did get Bill to sign a paper in late October or early November to sell to cash if it was required. They gave the same explanation: they would sell it to cash and that money would sit in an account that they set up with the Commonwealth Bank to go back into the market once everything was back on track. That seemed quite reasonable to us at that point.

However, we then went away for a month and a half over Christmas and early January. That was generally when we got to go away for a while. We went away in that period, although I did ring Gus a couple of times on his mobile to ask, ‘What’s happening?’ ‘I can’t talk about it on the phone. Talk when you get back.’

We did not go to the meeting with Emmanuel Cassimatis. I heard someone mention a letter that went out. We never received a letter. As a matter of fact, we do not know if we ever went into margin call. We do not know what happened. We do not know who sold our shares, when they were sold or why. We know that it was left until everything was at the bottom of the market. So our shares, which were worth over a couple of million dollars, ended up being worth $800,000—nowhere near enough to pay both loans. Even if we were to pay one loan, we would still be left with $800,000 worth of debt, no properties and no money to live on.

Since this has all happened, my partner, who is 60 and very, very proudly played touch football every year until this year, has given up playing football for fear that he might injure himself and not be able to work. I am currently looking for work, which is very hard when you are over 55. My partner is now on blood pressure medication and has had to visit the doctor a number of times. He is not eating properly. I am kind of grateful that I am not working, really, because he needs someone there. He wakes up in the middle of the night with a nervous rash, and he just scratches into his skin. He has an old car, a vintage car, that took him a lot of years to restore, and he is now trying to sell it. I am trying to sell my car. The issue is: how far do we have to go and what do we have to do? At the moment we are all waiting on the Commonwealth Bank to find out how far we do have to go, and maybe there will be some light at the end of the tunnel. We all hope so. However, in the mean time, we have all had to go through all this.

Unless you were a financial expert, I do not think anybody completely understood the model. I think it was, as you said, too complicated and far too difficult. It all looked simple. When they tried to break it down or seemed to be breaking it down for people, you thought you understood. But when you look back at it, you did not understand at all. Another thing that we have just realised is that, because my partner could not retire and has had to continue to work, our accountant is having a hell of a job at the moment working out his tax. The implications this year for us are going to be devastating, I think, because of the shares being sold down at the bottom of the market, the money is now sitting in an accelerated cash account, which makes it look as if you have got money. However, you do not money because, on the other hand, you have got all the debt. It sets up a false impression. The tax office says, as we all know, there are no grey areas; everything is black and white. There is nothing to offset any of that any more, because you do not have shares and you are not paying interest. There are none of those things to offset the tax implications. So this year it could be absolutely horrendous for us, but we do not know yet. They are just some of the things that I do not think people considered.

I have two very quick comments that my partner wrote last night that he wanted me to put forward. He now feels that, yes, Storm did overcommit the clients when there were signs. We now realise that, when they got him to sign the mortgage, there were already signs of an impending world crash. He feels that they continued to get people to commit when the signs were already there—and they should have seen them. His other comment is that he feels that the CBA acted far too early on closing in on Storm because, eight months down the track, things are starting to return. Nobody knew whether that would be the case—it might have taken longer or, as a lot of people have predicted, it might not even be back on track yet and there might still be another collapse; we do not know—however, he feels that the Commonwealth Bank could have ridden it out for a time and let people keep their shares in order to try to recoup some of the losses before all this happened. As for who sold our shares, how and when, we have no idea. I would love to know. I would love to know who bought all that valuable stock at the very bottom of the market. That is about all I have to say.

CHAIRMAN—Thanks very much. We appreciate it. Ms McClean, you said that you wanted to stick with your bank, Bank of Queensland, and you wanted to go there for the extra margin loan. You said that Gus convinced you to go with the CBA because you could get more. What convinced you to not stick with the bank that you knew and to go to CBA?

Ms McClean—I think over the few days of discussion, which mainly was between Gus and Bill, Bill just got worn down and in the end said, ‘Just do it.’ One thing I did forget to mention was that when I contacted the Commonwealth Bank regarding all our paper work, I sent the form in on behalf of my partner Bill, because the loans are in his name. He signed the paper work and I filled it in and sent it off for him. I had a phone call from the Commonwealth Bank—and this was the first time that we realised that there was anything happening—saying that they needed to contact me, Margaret McClean, before the could release the documentation. That sounded quite odd to me, because my name is not on any of the documentation, and they do not have any financial records or anything to do with me personally. When I said, 'Yes, I am Margaret McClean. I am Bill's partner,' she said, 'Oh, well, you have to sign a privacy statement as well because you're the guarantor on the loan.' I have eight children, 13 grandchildren and a great grandchild, and I have got one Toyota Landcruiser—an old 1985 model. Guess what? I could not guarantee 7c let alone $700,000.

CHAIRMAN—If the CBA did not know you existed, who put your name forward as guarantor?

Ms McClean—We do not know. We are waiting—

CHAIRMAN—Can you take a guess as to who might have put your name forward?

Ms McClean—I am not even going to guess; I am going to say that Bill signed the forms and there was always in place at the Storm office an authority for me to collect and deliver paper work on his behalf and answer questions and do things for him, the same as he has with other places that we deal with—accounts and all sorts of things. I have an authority to act on his behalf; however, they have actually listed me not as an authority but as the guarantor of that loan.

CHAIRMAN—So they listed you?

Ms McClean—We do not know if it was Storm or the Commonwealth Bank, because we do not know who completed filling in the paper work, because there were some other things on there that were also wrong.

Senator MASON—Ms McClean, so you and your partner were heading towards retirement?

Ms McClean—Yes.

Senator MASON—What was your combined income each year?

Ms McClean—After tax and after business, probably about $60,000 to $65,000.

Senator MASON—And you had loans totalling $1.4 million?

Ms McClean—Yes.

Senator MASON—Did it ever strike you as being risky?

Ms McClean—Yes.

Senator MASON—Again, you were assured that—

Ms McClean—Yes. The whole conversation became quite a joke—not funny, but a joke—because Bill would go into the office and say to Gus, 'If I lose everything I am going to have to live in a bloody tent under the Barron River bridge.' Gus would say, 'Well, if that happens, I will be there in a tent beside you.'

Senator McLUCAS—I want to ask you about the point you made about the second lot of valuation on the properties. Why did they need a second valuation?

Ms McClean—Because, I believe, the first valuations were not good enough for the Commonwealth Bank to give the loan that they wanted us to have.

Senator WILLIAMS—When you say 'good enough' what do you mean?

Ms McClean—Not high enough.

Senator McLUCAS—Did you ever see the paperwork of the second lot of valuations?

Ms McClean—Not until after it was all done—actually, I have not seen the paperwork.

Senator McLUCAS—Do you know who did the second lot of valuations? You may not want to answer that question.

Ms McClean—Yes, I do, and it was exactly the same valuer that did the first set.

Senator McLUCAS—And how much did the properties differ in value?

Ms McClean—It was not a great deal but it was enough to show a difference.

Senator McLUCAS—We will pursue this on the record.

CHAIRMAN—Thank you for your evidence and for having the courage to speak up. Ms Tuck, would you like to make a statement.

Ms Tuck—I guess I am part of what is the collateral damage of Storm—that is, I am actually a financial planner. I have heard what a lot of these people have had to say today and my heart goes out to them. Not only that, a lot of planners in Cairns have been supporting a lot of ex-Storm clients. In our business we have only around about a dozen. I suspect that is because the office was not open over Christmas. I know there are some financial planners who had a lot of very difficult and tragic cases that came in over that time.

Of the clients that I am dealing with at the moment, some of them are what I would call 'rescueable'. We are doing a lot of work to try to get them back on the track, but I do not think I will ever get—well, hopefully, I will have their trust, but I suspect it is going to take a very, very long time to do that.

The thing about listening to Gus this morning is that I did not actually recognise his method of business. We do have CGI margin loans and we do have managed trusts. In November, and particularly around 24 November, as with a lot of planners we were very, very actively managing our margin loans. We would go on to the internet and look at the margin loan balances. We would go onto the internet and value the portfolios ourselves. The first thing I would do is look at where the markets went overnight, because that is the way I could tell what impact it may have in the next day. So when Gus mentioned that he could not get this information, I was absolutely flabbergasted because I do not know what their model was all about. His comment was that the product failed at the end of the day; I would say that the strategy failed at the end of the day.

The first time I became intimately aware of Storm was in 2005 when some people were referred to me by a client. He was 70 and his wife was in her early 50s. She was working and he was not, and he was not eligible for an age pension. When they came in they had been to Storm and they brought with them a statement of advice and asked me to have a look through it and make some comment. I thought that the only logical thing I could do was try to replicate what the strategy actually was. I spent a lot of time doing that because I love doing spreadsheets. We do a thing with margin lending that is called ‘stress testing’. I have to say, would I have picked a 40 per cent fall last year? No, I do not think I would have. We look at a 20 per cent fall and we also have a look at interest rates rising. From what I have seen—and not to put a funny spin on it at all because it is not—these clients were caught in a perfect storm. A lot of them had fixed and had prepaid their interest at around 9.75 and various rates, and to the end they had the market fall-off and were left totally exposed. I appreciate the comment made before about the ATO that a lot of them do not have interest to claim this year. A lot of them cannot prepay and, for a lot of them, it is not appropriate to prepay. That stress testing, I believe, made its way through to ASIC, and there have been quite a few financial planners who had put in comments about their concerns of this model.

In the past, a few financial planners here in Cairns have had the experience of putting in complaints about various problem areas. One was known as the Malanda project, which was basically a Ponzi scheme; another one is Elizabeth Parry, and of course there is the Storm one. We have had difficulties in establishing a decent complaints system because, let’s face it guys, we probably know better than anyone else—I think the comments come through very clearly—what is actually going on here. Some of it could be taken as sour grapes, but it is bloody well worth investigating. In reading through that statement of advice, I would have fallen off my chair before getting to page 40. There were something like 120 pages and every single page was signed, but it was clear that the client, and indeed the clients we have now, did not understand it.

Part of the problem that we do have is that under law we have to give a certain amount of information. How to get clarity and simplification is a struggle. I have been involved in the simplification of advice project that has recently been run with ASIC and the FPA, but it is a very, very difficult thing indeed to get. The point about education is a fascinating one because, in my opinion, when we talked about financial literacy several years ago, a whole generation have missed out, and these are the people sitting behind you now. Advisers have a duty to educate their clients but the public should have resources available to it across the board. If we are going to say to a generation, ‘You go out there and you fund your own retirement. Don’t care how you do it,’ that is just not playing fair. I think that as a country we need to put resources into financial literacy. At the moment we go to the schools and talk to the 15- and 16-year-olds to try and get them on board with it, and I suspect they are teaching their parents. It is something that we really need to be doing. The other thing that needs to happen is that we need to look very much as self-regulation. I suspect we are one of the very few professions that do not have a self-regulation route. The issue here is about other people trying to regulate you who do not know exactly what you are doing. I am sorry, I have my notes here and I hope you have some questions coming up.

Another thing that has come out of this is that this inquiry is not just to do with Storm; it is actually to do with our industry altogether. A comment came out, today I think, about ‘paid to do nothing’ and I suspect that is the commission system. It is not the be-all and end-all or the evil that it is probably seen as. I suspect it is probably an easy way of looking at a problem rather than going to the root of it. It actually enables us to help some people that we might not be able to. To produce a statement of advice, to produce a financial services guide and to provide all of those things that we need to do under law actually is an expensive process itself.

I do not know where the future is going to lie for us, apart from the fact that it lies in our personal relationships with our clients, and I think that is where our strength definitely is. But there are a lot of very good, dedicated and passionate financial planners out there. I hope that we are not going to be tarred with this incident because, on one side of it, we did something to try and prevent these people getting into this situation, and now we are probably going to suffer because of it. So, all in all, I think it has been pretty much an abrogation of responsibility. We are very responsible in what we do and believe in it. Thank you.

CHAIRMAN—Thank you very much. We appreciate your evidence. You said that the product did not fail—the strategy failed. Is that generally the case? My understanding is that any product will be good for some people and not for others, depending on their individual circumstances and how appropriate that product is for that individual. Would you say that that is an accurate statement?

Ms Tuck—Absolutely. Indeed, the problem here is that we saw this one strategy applied across everyone who I have come across, where they happened to be in their 70s—and I have seen those people—or in their 30s. That one strategy was applied across all. Particularly in a town like Cairns, you are going to have some people who are in their 20s and others who are in their 70s, and there should be a different strategy for all those people. It is about their appetite for risk. Your appetite for risk changes with the market, too. But part of that is really understanding your client, being a leader and keeping an eye on what is happening—the external forces—as well.

CHAIRMAN—Would you say that you know the Storm model? Do you think you know the Storm model or that you could explain it to us?

Ms Tuck—I think I do, but Storm may say that I do not!

CHAIRMAN—I just want your view. Everyone else can have their view as well, but we are certainly interested in your view. So how would you describe the Storm model and how it worked?

Ms Tuck—The issue, to me, was that when you borrow to invest you should have cash flow to support that. Essentially, this model borrowed the cash flow, and that is where everything started to tumble down. If I am doing margin lending and, indeed, if I am doing double gearing—and the gentlemen before said, ‘I do not think you should have it,’ but that would be my personal strategy out the window—I have got to have the cash flow to support it. The failing here was about borrowing to pay for it as well as to build that wealth to pay for their retirement lifestyle.

CHAIRMAN—If you have a financial advice business, all of your clients could fail, technically, and you could still be quite well off and the business could continue, because you are not tied to your client's success or otherwise. It is their money and their investment; it is not the business's investment. What was different about Storm that meant that their fortunes as a business fell with the fortunes of their clients?

Ms Tuck—I guess there are two issues here. One is that Storm was a licensed dealer in its own right. My and my partner's business is licensed via a licensed securities dealer who is owned, dare I say it, by a big bank. As you are well aware, there are several different ways that you can be licensed within Australia. The second thing is that my fortune actually is determined by what happens in the market. As the markets fell 40 per cent over the last year through to 9 March, our income did also, and that is part of the commission model. Some people do appreciate that you are tied into their success as much as you are tied into their failure.

You asked me about my working hours over the last 18 months. I, and other people who sit behind me, have been working bloody long hours. Indeed, I really felt for the previous woman, who was saying that her husband would scratch with the worry. You do, because you do take this on and you cannot abrogate it to anyone else.

CHAIRMAN—Could you say what has happened to your clients? Everyone has gone through the same market fall. What has happened to your clients—not in detail but generally speaking?

Ms Tuck—Generally speaking: we have just been through allocated-pension season, as we call it, in which we get all of our retirees, sit down with them, look at their portfolios, set their pensions for the next year, and talk about what has happened in the markets. A lot of them have been through a lot of stress, and our job is to keep them focused and to provide them with support. Generally, they are all looking a hell of a lot happier now. I think again it is part of this tragedy that—

CHAIRMAN—Why didn't they get sold out? Why didn't they get margin calls sold down? How come they are still around? What is the difference?

Ms Tuck—Because, firstly, you have the cash flow to support your margin lending; secondly, when you go into margin lending you need to make sure you to have a bit of buffer; and, thirdly, you actively manage them. For those people that we were getting close to a margin call, we made sure that additional funds were put into the investment before they got to that situation.

CHAIRMAN—You had a different strategy—same products but different strategy.

Ms Tuck—Exactly.

Senator MASON—In response to the chairman's question you said 'actively manage', which was precisely what the evidence was not this morning and that was the sad part about it. There was no active management. It was merely a passive engagement with the issues of the clients.

Ms Tuck—That is the thing, I guess, that I could not really understand. We were on the net every single day. The biggest winner in November was probably Telstra because of the amount of time we spent on the phone just making sure that everything was going to be planned. You would know several days ahead what was happening. You knew what was happening in the markets overnight and in New York. You then saw it flow down because it takes a couple of days to flow down into your managed funds, so you would know that those valuations would fall. Margin lending do not update their values every day.

CHAIRMAN—Did you have special access to special data that no-one else had?

Ms Tuck—No.

CHAIRMAN—This was public data?

Ms Tuck—As an adviser you have different access than you do as a client, but, yes, every adviser—

CHAIRMAN—So anybody else and every other adviser could have had the same data?

Ms Tuck—Yes.

Senator WILLIAMS—You talked about you stress testing the products earlier on. Surely it would have been in the interests of the financiers and the banks that are financing these, whether they were doing the home loan against the equity in the home and then that being a deposit for a margin loan—wouldn't they have stress tested these loans such as Storm? They have the most to lose.

Ms Tuck—It is an interesting point, that one. The other day I had a client that phoned up. He is an ambo. He said, 'I want to buy a new house'—he has been on at me for ages—'and I went to the bank and the bank said I could keep my old house and have a new house too.' I went, 'No.' So the issue is what is happening here. Are the banks responsible for determining the whole financial plan or are they responsible for saying, 'Well, given the assets, we could lend you X.' This is the part about who takes what level of responsibility, in my opinion. What we do is we have a look at all of the assets and the cash flow. It is the old adage: you pay your mortgage off first; investment debt is different again. That is part and parcel of what we do as financial planners.

To the people sitting behind me here—I am sorry to have my back to them—can I say that I do not how to get over that experience for them. I can tell you here that there are very good financial planners around who are prepared to help. Most of the people that have been helping over the last six months with Storm clients have done it for free. They are prepared to actually put money towards this as well.

Senator McLUCAS—Thank you, Ms Tuck, for coming along and investing this much time into our inquiry today. I would like to raise two questions quickly with you. Given we are a small town, we all heard stories about what was happening with Storm and some of the stories were extremely positive and others raised people's eyebrows. You said you made complaints. Was that prior to the collapse?

Ms Tuck—Yes. That stress testing that I did on one of the portfolios actually went through to ASIC via Sydney. Also, you would probably be better to speak to somebody else but I heard that direct complaints were made to ASIC or points were raised there.

Senator McLUCAS—We are going to take evidence from ASIC down the track. The other issue that we and the Financial Planning Association talked about was raised by one of the witnesses this morning. They looked at the financial planners list and Storm was on the list, so they felt confident that this was some sort of seal of approval. It is an issue that I know the FPA are concerned about. You went on to talk about self-regulation. Do we need to have a register of qualified financial planners? How do we make sure that when people look up a list they actually get some information rather than simply the information that a person is a member of the FPA?

Ms Tuck—One of the things that the FPA promotes is a certified financial planners branding, which means that you have to do various courses to get to that level. It is a higher education level, and I think that is part of the issue. I am not sure, and you would probably be able to tell me, whether or not every planner within Storm was a member of the FPA. I understand that Storm was a principal member. We have to have some sort of professional body, such as we have with accountants and solicitors, so that action can be taken against the planner as an individual for unconscionable conduct. There are a lot of new regulations that have come out now within our association to make sure that we are focused very much on the client first. That is probably more where the comfort would lie for the public rather than in just a list.

Senator McLUCAS—Sure. The other thing is that various and sundry people will approve someone being called a financial planner because of their training but they do not look at the products that they may be involved in—but unconscionable conduct potentially could, if that authority were given, say, to the FPA.

Ms Tuck—Yes.

Senator McLUCAS—The final question goes to the process that we have heard about from a number of witnesses today of a statement of advice being developed and as a result of that forms with blanks being signed. The name might be there but not the level of income expected or even the quantum of the loan that is being applied for. Do you find that to be expected behaviour?

Ms Tuck—Not at all. Indeed, if you signed something like that I would be really concerned. People came to me in 2005 precisely about that. They were asked to sign bank authorities with nothing filled out. That was one of their major concerns.

Senator McLUCAS—Was their concern the bank authority being able to act on someone's behalf on their account?

Ms Tuck—Yes. That was one of their major concerns at that time. The client needs to know. In the end it is their decision. It is their money; it is their ability to sleep at night. We have to to give them the tools and the leadership to be able to do those things, and they need to know what is happening along the way. Some clients do not want to know too much detail and other clients—quite often it is engineers and teachers—love to know the details. Everyone is a little bit different in that but they still need to understand the concept of what they are in.

CHAIRMAN—Obviously there was a customer base for Storm. There are people at the least sophisticated end but there are also people at the most sophisticated end. How does that work in terms of understanding? It seems that everyone got caught in the same problem. People have quite clearly told us: ‘I really didn’t know what was happening; I just trusted them’ and others were qualified financial planners themselves.

Ms Tuck—I do not honestly know how that would happen. In some ways—and someone mentioned it—it was about that network thing; you passed it on. That was the experience with the Malanda project as well. It was the fact that your friends were there. My doctor asked me about it, for instance. He was having a look at it. He said he had a few things he was not too sure about. It is probably that whole thing about: so-and-so is in it and they are doing okay so I want to get on board as well. I suspect that is probably more what happened rather than an intimate understanding of how markets may rise and fall.

CHAIRMAN—Thanks very much. We really appreciate your time.

Mr Weir—As you are probably aware, I am the Co-Chairman of the Storm Investors Consumer Action Group. I will be appearing before you at the Brisbane hearings, but I am taking this opportunity to provide clarification. Much attention was paid to the question of the selldown in October during Mr and Mrs Dale’s appearance. By way of clarification I would like to add some explanation as to what our experience was during that time. It was certainly a time of frantic activity from about 8 October through to about 13 or 14 October when we were encouraged to urgently sign an authority to redeem our funds—

CHAIRMAN—By Storm?

Mr Weir—Yes—with the view of having them sit in an account pending the recovery of the market.

It was on 17 October that we received—and when I say ‘we’ I mean what was probably a goodly proportion of Storm clients—a joint communication from Storm and Colonial pointing out that the number of redemptions that had been requested were clogging up the system and simply could not be undertaken in the timely manner that was expected. The wording in the circular from Colonial Geared Investments was along the lines of, ‘We regret that due to the high number of redemptions that were requested we have found that we have to implement an orderly selldown to enable everybody to be treated equitably.’ Following that, it has come to our attention through information provided by our members that there appeared to be a fairly large number of redemptions on 28 October and then another large number on about 21 November. The funds of those were paid into our cash accelerator accounts, which have been referred to, sometimes up to a week later. In fact, for the 21 November incident the funds for the most part went into the accounts on 28 November. I can provide the committee with copies of those documents, if you would like them.

I have one other comment. I would draw your attention also to a website, www.colonialfirststate.com.au/producteducation, where a number of market investment rules are outlined by Colonial First State. In the context of banks’ behaviour and how portfolios were treated, one I will refer to is:

Rule 4: Plan for the long term; don't react to the short term.

This is a vital rule to understand if you are trying to 'time' your entry into, or exit from an investment: it's time in the market not timing the market that counts. By taking a long-term view of investing, investors can ride out any short-term fluctuations in the market and take advantage of the potential growth over the long term. If you invest in a fund with a seven year timeframe but you decided to sell your investment after three years because of disappointing results you could lose out on four years of potential growth.

Rule 5: React now and you might regret it later.

It's common sense that before you make an investment you understand all the implications, risks and costs involved. Exactly the same is true before you withdraw from an investment. It's vital to know what the implications and costs will be. There are three major considerations which you should consider before you withdraw from a fund or other investment.

Crystallising losses

… … …

Losing the benefits of compounding

… … …

I regret that I do not have the third consideration. That is probably worth taking on board in the context of how all our portfolios were treated and dealt with in the end by Colonial Geared Investments and Colonial First State or the Commonwealth Bank.

CHAIRMAN—Just on that point, could you clarify whether you knew it was Colonial that sold you down at a particular point?

Mr Weir—That is a question that I would recommend you ask of somebody who will know and he might be appearing at the hearing on Thursday morning. That is one question that that individual may well throw some light on. I do not know.

CHAIRMAN—Why do you think Storm asked you for authority to sell you down at 100 per cent?

Mr Weir—It is our understanding that it was a strategy that they used in 2003 during the last period of global economic meltdown. At that time, Storm did redeem a lot of people, put the money aside and returned to the market. They also used the strategy of paying a lot of margin calls themselves, so I understand. You asked why Storm was treated differently on this occasion to other financial planning institutions. Once again, I believe that there are people who can with some authority provide you with a background as to what was going on behind the scenes to cause us not to get our margin calls. You will be aware of that agreement that existed between Colonial Geared Investments or Colonial First State that prescribed an arrangement whereby the bank and Storm would work together cooperatively in the unlikely event of a margin call to correct their clients' positions. It is a matter of history that that did not occur.

CHAIRMAN—You said that in 2003 Storm had actually covered the margin calls, that they tipped in the money.

Mr Weir—They did for quite a number of people.

CHAIRMAN—Do you know if they tried to do that again this time?

Mr Weir—I refer to the transcripts of the court case and the interlocutory injunction taken out by Storm and the first hearing on Christmas Eve in which it was alleged that there was a prima facie decision by Judge Greenwood to suggest that the bank had acted deceptively. Those transcripts revealed that Storm Financial did make overtures to the bank to go as far as providing them with equity in the Storm company to indemnify the bank against any further losses that might be incurred by the Commonwealth Bank in the event that the market deteriorated further. I cannot confirm it but it is suspected also that Storm had an agreement for a $20 million loan from the Commonwealth Bank already approved in August that was going to be used to prop up our margin calls and that was reneged on later by the Commonwealth Bank as the market circumstances deteriorated.

CHAIRMAN—Is that normal that somebody else would borrow money on your behalf to cover your calls?

Mr Weir—My initial reaction was that it was unconventional. However, looking on the positive side, if you can engage with a financial planner who is prepared to do that, you would go with him every time, would you not?

CHAIRMAN—Would you?

Mr Weir—If the longstanding relationship is robust then, yes. But, as you know, the rest is history as far as that relationship is concerned.

CHAIRMAN—That you, Mr Weir. We will see you again on Thursday. Sandra has already appeared before us but wanted to make a quick point.

Mrs Grainer—Thank you. I just wanted to make a point about the Macquarie Bank. We had our margin loan and we also had a cash management trust fund with Macquarie. In January we went to another financial adviser, who has been of great assistance to us. She tried to help us sort out our affairs. She rang Macquarie Bank on three different occasions and got three different amounts of money. When she rang the lending department, she tried to get information about our cash management trust fund but was unable to. In the end, she rang and said we wanted to close both accounts. When we got the paperwork, we saw that they had closed the cash management account but had taken three days to close the loan account and were going to charge us $2,000 in interest for the three days. She rang them and said, ‘This is not acceptable,’ and they gave us that money back. They were going to charge $2,000 for three days for a mistake that was theirs, not ours. We had already lost $28,000 with that bank when we broke our loans, and we had to do that or we would have been in even direr straits than we are now. I just wanted to make that comment on the banks. Thank you.

CHAIRMAN—Thanks. Mr Fowler, I will just let you know that we have to finish at four o'clock because people have to catch flights.

Mr Fowler—As I said to you earlier, thank you for coming to town to take the opportunity to talk to us. I appear in a private capacity, but I also act as director of an AFSL licensee. I have sat here all day and have listened to what has gone on, and I feel for the people that have spoken. But I wanted to touch on another issue in your terms of reference, which is quite possibly related but not completely related to what we have been talking about here—that is, the ability to provide appropriate information for consumers to make decisions. One of the greatest difficulties that we have—as I said, I am a financial adviser and a director of a licensee company—is actually getting adequate and accurate information so that we can analyse different situations for clients. It comes back to the issue of what I would call conflicted and non-conflicted advice. Most people's experience is made up of an advice component, an investment cost component and then in investment terms an admin or custody component. In most cases it is very unclear, through the product disclosure system, for a consumer. It is difficult for a financial planner to provide that information in a broken sense—that is, to give a true and current indication of what may be appropriate.

It is particularly complicated in the superannuation area. I want to touch on it quickly, because I know it is not completely part of the terms of reference. Even if it is appropriate through being able to get that information, if a structure is incorrect or is deemed to be incorrect on a cost structure, it is very difficult to actually move a client because of the tax impost within superannuation under our capital gains law. If there is a sale and a trustee or the custody service holds the assets on behalf of the client, in a non-superannuation investment we can simply move custody houses and trigger a tax bill. In superannuation that is currently not able to be done. So some clients are still in what I would call legacy products or products that, for cost reasons and maybe appropriateness reasons, are not correct but for tax reasons they are unable to move. I just wanted to bring that to the attention of the committee, given that it is in your terms of reference.

It is particularly difficult, when we are providing advice to the community, to identify those individual pieces and give consumers the ability to make appropriate decisions across platforms, products and financial planners. We all work in different ways. Should there be an hourly rate? Should there be set costs? Should costs be percentages of assets? I do not know that there is a correct answer. I think it should be a combination and each is appropriate for different circumstances. But if the consumer is unable to have clarity to make that assessment, in some cases in PDSs that information is six, seven or eight pages apart in an 80-page document. I read them more regularly than others, but they do tend to send a few people to sleep. I just wanted to bring that to the attention of the committee. I am happy to answer any questions if you want clarification.

CHAIRMAN—Were you familiar with the Storm model or strategy?

Mr Fowler—Yes.

CHAIRMAN—Can you describe it to us, from your view.

Mr Fowler—I think Jo did a pretty reasonable job.

CHAIRMAN—So you agree with what she described. Do you think it was appropriate as a model or strategy for everybody that was in it? I think that it was appropriate for some but I do not believe that a 'one size fits all' approach is appropriate for anybody.

Senator MASON—The chairman has put his finger on it. Section 945A of the Corporations Act says that where personal advice is provided to a retail client these obligations include making reasonable inquiries into the client's relevant personal circumstances to ensure that there is a reasonable basis for the advice given to that client.

Mr Fowler—In the old terms in the old act it was the 'know your client' and 'understand your product' rule.

Senator MASON—Indeed. That is the heart of the issue here.

Mr Fowler—That is the heart of the issue, I believe, in the Storm circumstance, from what we have heard today. I think there are some bigger issues in the market place, and under the terms of your reference there are issues other than that, but I certainly agree that that is a big issue.

Senator McLUCAS—What can we do then about fixing the product information material that we, as ordinary consumers, do not necessarily have to understand, but you as our advisor definitely have to understand?

Mr Fowler—I think we can regulate. We actually ask the question but are not told the information in certain circumstances—

Senator McLUCAS—By some providers?

Mr Fowler—by some institutions: some superannuation providers—

Senator McLUCAS—Why not?

Mr Fowler—Because they do not know the answer themselves, or the people at the end in their call centre do not know the information, because it is all wrapped up: 'We provide. You pay $2 a week and we give you a return. That's your return net of fees. That's what we do.'

Senator McLUCAS—But therefore you would not sell that product if you felt that you did not understand it.

Mr Fowler—I would find it very difficult to sell it because I cannot understand it in the first place but I am asked by an individual to assess that against a product or a service that I may want to sell. How am I able to give appropriate advice if I am not able to give the information? I have to make educated guesses. I do not like guessing anything so I have to say, 'Listen, I do not understand that. Here's a product I understand. This is exactly how it is going to work and I believe it is appropriate for your circumstances for these reasons.' But it is very difficult.

CHAIRMAN—Can you tell us, if you want to, what has happened to your clients through the market fall and where they are at now?

Mr Fowler—They have experienced falls like everybody else. We have a very small margin lending base. A couple were unable to ride the pain out with that part of their investment. Hopefully, I do not have any clients who are in some of the circumstances I have heard today. I have spoken to some of these people as late as Christmas Eve last year—even some of the people who were here presenting today. We cannot control markets. It is not my job as a financial adviser to control markets. My job is to explain to people what goes on, show them the implications and to take action and keep aware. But I cannot stop a market falling.

I left Japan for New York, the day before the market fell 770 points. The Dow crashed—I cannot remember the exact date—and I arrived in New York airport after the event. I had been on a plane for 11 hours. I was greeted by a 60-inch plasma television screen telling me that the market had absolutely destroyed Wall Street that day. I woke up to—I have it in my office—the *USA Today* paper that shows in red figures, 'Wall Street sinks,' and 'The greatest fall in history.'

I was in New York the next day when the market had bounced, I believe, 477 or 540 points—I don't remember exactly—and the media was telling the same story with different pictures. I came home and showed clients this. The message is confusing but it is part of our ability to try to help people through it. I cannot explain why the market fell 770 points. I cannot explain why it fell 450 points—45 per cent. Some of these things appear obvious after the fact. There was a lot of leverage everywhere in the world. It was not just in Storm.

Merrill Lynch and some of these big institutions like Bear Stearns came down because of leverage. Leverage is not a bad thing but leverage can do some big damage when it is not able to be managed. Those institutions ran out of money just as, unfortunately, some of the people we have heard from this morning did. And we have had to adapt people's expectations to that.

CHAIRMAN—Do you think perhaps in 20 years time you will be back giving the same evidence in a different context?

Mr Fowler—I hope not. I was first licensed in 1997. My father, who is sitting at the back of the room, has been doing this since the early seventies and he says to me, 'The more things change, the more they stay the same; they just come back in different bandages.' In the late eighties and early nineties we were having the discussion about geared property trusts and then unlisted property trusts. We are having it now about margin lending. I do not know what the next one will be. Hopefully, we have learnt some lessons along the way. I honestly believe that the investor, through this whole process, has been able to be better informed. Are we at the absolute point? I do not know the answer to that yet. I do not believe we are, but we are heading in the right direction, and the better information we can give, the better off we will be.

Senator McLUCAS—I have one last question. A lot of the witnesses have talked about how hard it is to understand margin lending and how hard it is to understand double gearing. Are you able to explain it to clients of yours whom you would recommend margin lending and gearing to?

Mr Fowler—I believe I am able to explain leverage. I remember a couple of years ago a client actually appointed me as her adviser because I was, in her words, 'the only person who told her something could go wrong'. Our whole belief around investing is: 'We will give you the market after fees.' That is if we are investing in the share market; if I am in cash, I will give you the cash return after fees. That is all I can do. I cannot control what that is, but if that is the expectation then that will lead to an outcome which may or may not be where they want to be but which I will have told them about upfront, and they can either accept it or not accept it.

Senator McLUCAS—But you think it is possible to explain the complexity of that type of investment arrangement?

Mr Fowler—It is no different to saying to someone, 'When you buy your first house very few people buy it with their own cash. They have to use somebody else's capacity to help them to do it.' The only difference between that and margin lending is that the bank in that circumstance generally does not value their asset on a daily basis. Those people will have experienced over time the value of their house moving. If they had the capacity to meet the payments it was not a problem. The difference here was that the asset value was moving quickly. The bank was using that—that is, they may or may not have been; our experience is different to that of some others—as a call for extra equity. They do not do that with home lending. The leverage is lending.

Senator McLUCAS—Thank you.

Mr Fowler—I hope that answers your question.

CHAIRMAN—Thank you, Mr Fowler, and can I thank everybody. We really appreciate your time. The hearing is now closed.

Committee adjourned at 3.57 pm