

EDR Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

A Walton
PO Box 5356
Q Supercentre QLD 4218
27 June 2017

ATTENTION: The Secretary

Re: Submission to the EDR Review Secretariat sent by email Mon. 26/6/17

Enclosed (as promised) is a hard copy of my submission No. 33 sent to the Senate Standing Committee on Economics for your perusal, as mentioned in my abovementioned submission, lodged on 26 June 2017. I urge the Committee to read this brief but concise document.

Yours faithfully,
A Walton.

Senate Economics
Committee

17 FEB 2017

The Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600



8 February 2017

Dear Sir/Ms,

Re: Submission to Senate Standing Committee on Economics
An Inquiry into "Consumer Protection in the Banking, Insurance and Financial Sector".

Please find attached my submission that relates to how my business and I were very poorly treated by Bankwest, Comminsure and CBA and their associated employees and executives.

I trust that this submission is subject to the same parliamentary privilege as with previous submissions upon being published on the Committee's web site.

TERMS OF REFERENCE:

In my opinion, this submission abides by and addresses your terms of reference. I will let you determine its adequacy.

BACKGROUND:

I was a property developer in Sydney, and carried out many small to medium size developments since 1988. This included both land subdivision and building, including industrial, commercial and residential developments. I suffered a heart attack in 2000 and from this time I have received benefits from my Comminsure income protection insurance policy, which provides me and my family with our sole source of income to live off. Since falling ill, I had been winding down my development business and the development to which I specifically refer was to be my last development in NSW. It was a property I had held for many years and was to be the culmination of my lifetime of hard work and sacrifices over many years. I now live on the Gold Coast with my family, having moved here in 2005.

INTRODUCTION:

Bankwest became my main banker in mid 2003 and provided all my finance from that time. In early 2005, they provided funding for a development site in Leura, consisting of twenty townhouses (in 3 stages), a nursery and a large existing (refurbished) house. Bankwest agreed to provide construction finance for the entire development over the next few years.

The ongoing facilities were continually rolled over and were due for further roll over once again on 30 June 2007. I met with my then Bankwest bank manager, at his request, on site on 1 June 2007, to facilitate this roll over process. He had been the only manager handling all my business affairs for Bankwest, organizing all my loan facilities and signing my many loan offers and the Bankwest correspondence I received. From 30 June 2007, Bankwest, via my bank manager and their actions, continually promised that these facilities would be provided and construction monies (sometimes in excess of the approved limits) were continued to be advanced, albeit slow at times.

Then came the turnaround. On 12 December 2007, an email arrived from my manager advising of the promised roll over and increased facilities and an increased LVR but with an higher interest rate and a "renegotiation fee" of \$200,000.00 (also referred to by Bankwest as a penalty fee or success fee) payable in the event that all facilities were not repaid in full by 28 February 2008. (This was impossible given that I did not receive the letter of offer for the roll over and increase of these facilities until 8 February 2008 and the offer could be accepted up until 1 March 2008. The bank knew full well that I could not repay almost \$14m in such a short time frame of twenty days). The LVR, using inaccurate security valuations and facility amounts which were never drawn, were manipulated to show the LVR to be greater than 80% and therefore, according to the bank, high risk. Not surprisingly, the LVR figures were miraculously calculated as 80.43%. This LVR apparently provided the bank, in their eyes, with the justification to charge the higher interest rates and apply the renegotiation fee. Shortly thereafter, on 13 December 2008, a meeting was held on site and my Bankwest manager, without any prior notice, advised that he would no longer be handling my company account and that it would, in future, be handled by managers from Bankwest head office. I knew neither.

I was contacted by one of these Bankwest head office managers on 18 February 2008. During this phone conversation I was threatened that if I did not immediately sign and forward the acceptance of the abovementioned loan offer, no further construction funds, with which to complete the first stage of the development, would be forthcoming. I could not permit this to happen (no matter what) as I was so close to completing and selling stage 1. Little did I know, at this stage, that the bank never had the intention or the funds to provide the monies to finish the first stage of the Leura development.

These actions by Bankwest, particularly the slow funding and the need to pull back as many loan funds as possible, along with their attempts at capital raising, to improve their cash position, were due to the parent company, HBOS, suffering an enormous cash flow problem due to the downturn in wholesale lending markets overseas.

As a consequence, following my failure to refinance the loans due to the short notice (I did obtain a loan offer to refinance all the Bankwest facilities, from Australian Unity on 28 March 2008, only to have it withdrawn two weeks later as their lending book was suddenly closed as a consequence of the commencement of the GFC in Australia and subsequent Federal Government intervention) and repay the Bankwest facilities, Bankwest proceeded to:

- Appoint receivers to my business in October 2008;
- Charge the excessive \$200,000.00 "renegotiation fee";
- Charge penalty interest on the loan facilities;
- Sell my 24 unit investment property (rented on a 10 year lease to DOH) for less than market value (real value was around \$7.7m and Bankwest sold it for \$3.66m);
- Evict my family from our Broadbeach home in June 2009;
- Sell my Broadbeach, Gold Coast, home for less than market value (real value was around \$4.8m and Bankwest sold it for \$2.995);
- Sell my security property (previous residence in Sydney) for less than market value (market value was \$760,000 and Bankwest sold it for \$540,000);
- Sell my nearly complete development property in Leura for less than market value (real value was around \$8.0m and Bankwest sold it for \$2.1m);
- Leave me without a penny when, in December 2007, I had real equity in my properties in excess of \$10m;
- Proceeded to litigate in 2008 as plaintiff in NSW Supreme Court proceedings, when Bankwest applied to the court for summary judgment against my company and me (as guarantor), but were unsuccessful.

INVOLVMENT OF THE COMMONWEALTH BANK:

The acquisition of Bankwest by CBA settled in December 2008 (but was contracted much earlier in '08), and it was imperative to both entities that Bankwest "tidy" its loan book prior to this date.

On 30 December 2008 CBA called for my file URGENTLY from Bankwest. On the top of this file was all the information regarding my personal income protection, as I was personal guarantor to the loan. The benefits from this policy, paid due to my heart attack in 2000, were my only source of income. Coincidentally, my income protection insurance is held with **COMMINSURE**, a company wholly owned and ultimately controlled by CBA. On 5 February 2009, Comminsure wrongfully stopped the payment of my benefits immediately and without any notice. I commenced litigation, which went on for over 18 months. Because Comminsure had no legitimate or legal defence to this action, they capitulated only days prior to the court hearing. My benefits were, as a result, fully reinstated.

It is obvious that CBA influenced the actions of its subsidiary company, Comminsure, for its own selfish gain and to cut off any form of cash flow to the defendant in the abovementioned litigation proceedings. The CBA conducted itself in a willful and malicious attempt to exert undue influence and pressure on me both financially and health wise. CBA thought that by depriving me of any financial resources and income they would prevent me, and subsequently my company, from ever contesting Bankwest for their actions in court. How wrong they were.

At the suggestion of the insurer, I was advised that I could complain about the treatment I received from Comminsure by taking my complaint to CBA Customer Relations, [REDACTED] which I naively did. I was led to believe that they were acting completely independently and offered the customer a fair and unbiased "policing" of Comminsure, without delay, on behalf of the CBA Group. Contrary to their policy and in breach of the Insurance Code of Practice, CBA Customer Relations saw fit to remain silent for several months on this issue and then incredulously concurred fully with the insurer's unconscionable actions. Their conduct, [REDACTED] was in itself unconscionable. This also exhibits the questionable influence by the CBA.

I several times wrote to [REDACTED] about the conduct of Comminsure and the CBA in general, only to be ignored. I believe that this was not the sort of conduct one expects from someone in this position.

QUESTIONS TO BE ANSWERED:

When reading this submission the following rhetorical questions must be asked and the answers, of course, are obvious:

1. Why did Bankwest continue to fund this development in the latter half of 2007 when the loan was not rolled over on 30/6/2007?
2. Why did Bankwest fund this project hundreds of thousands over and above the approved limit in the latter half of 2007?
3. Why did Bankwest continue to promise funding would be rolled over during the latter half of 2007 if they wanted me out by 28/2/2008?
4. Why did Bankwest refinance this project in February 2008 if they considered it such a high risk?
5. Why did Bankwest use valuations that were prepared as far back as 2003 to arrive at this "high risk" LVR when they were ordered by WA in July 2007 to revalue security properties where the valuations exceeded 12 months?
6. Why did Bankwest manufacture a default based on this "high risk"?
7. Why did the bank's bosses order the Bankwest managers to tell the client he was required to repay the loan by the end of February 2008, when they never did?
8. Why did Bankwest send out a "claytons" default letter (but not demand any monies) on 8/10/2007?
9. If the bank is so convinced their strange actions are correct, why has litigation continued for nearly 8 years (with the bank, who are the plaintiff, stalling and fighting so hard)?
10. Why is the bank fighting so hard against "discovery" and spending so much money on litigation?

11. Why did Comminsure stop my income protection payments with no justified reason and why did they squander so much money on litigation doing this?
12. Why did the GM of CBA Customer Relations ignore me and how did his department arrive at their ridiculous and misguided decision?
13. Why did Comminsure CAPITULATE only days before the matter was due to go before the Supreme Court of NSW if they were so correct in their actions and having spent so much money?

The answer is **BANKWEST WANTED TO CONSTRUCT A DEFAULT** and had no money and their parent company was broke (a fact that can be confirmed by the APRA reporting).

I wrote about this unconscionable conduct exhibited by CBA and Bankwest and reported these events (for further investigation) to the board of directors of CBA, including the Chairman, CBA CEO, CBA counsel, CBA management, Comminsure management, and CBA Customer Relations including the GM, only to be ignored for the most part. They cannot say they were unaware of these circumstances but they obviously have seen fit, for some reason, to take no action.

There is no doubt that the CBA Group has acted unconscionably, as was found recently by the Parliamentary Joint Committee on Corporations and Financial Services and reported by your learned colleague the Hon. Phillip Ruddock in Parliament, yet this fact appears to have escaped everybody's attention.

And the unconscionable actions of Comminsure have been recently reported and are the subject of many press releases and documentaries. Even the CBA CEO has seen fit (and the necessity) to apologise for the actions of Comminsure.

Some new information has come to hand and was made obvious during the recent inquiry and parliamentary committee review into the four major banks. It appears that the Chief Risk Officer for the CBA was one of the original signatories, No. 6, who swore the Banking and Finance Oath (BFO) and indeed was a member of the Banking and Finance ethics Panel in 2010, which assisted in establishing the wording of this Oath in 2011. Also, the GM Customer Relations, at the time, was also a signatory to this Oath.

Along with the Chief Risk Officer CBA, the BFO was endorsed at the time by a CBA Director, who is also a signatory to this Oath, and the current CBA CEO said on 4 October 2016, "*I agree completely with the content (of the BFO)*" and "*I have absolutely no issue at all with any aspect of what the Oath sets out to do*". Unfortunately, it appears that the Chief Risk Officer and the GM Customer Relations, who signed the Oath, did not commit to it and did not abide by this Oath and its content.

Further, the Ombudsman for Small Business, Ms. Kate Carnell, found the banks guilty of the above activities and of breaching their Code of Practice and dragging their feet to take action against these things happening again. Because of the slowness in implementation by the banks, she has made recommendation to put things in place to avoid similar activities to those mentioned above from occurring again.

I have previously reported this malfeasance and unconscionability to ASIC, along with corresponding fines but surprisingly, no action has yet been taken.

Could you please confirm your receipt of my submission?

Yours faithfully,


Alexander Walton