

## PARLIAMENTARY JOINT COMMISSION

### Ramsey Review

Firstly I appreciate the opportunity to lodge my submission into the Ramsey Review.

My name is David Bone I am 58 years of age and along with my wife Tracey we have two beautiful boys James and Samuel.

I was engaged in business since 1980 when I obtained my builder's licence.

In 1990 I formed a company called Gelrol Pty Ltd where my Dad and I were Directors. Later on Dad resigned as a Director but still has a small shareholding in the company.

Further business ventures followed including the building of "spec" homes/ villas for the over 55 age group which ceased in 2004.

During the same period I had around 24 years service to the building insurance repair sector, including my company Gelrol Pty Ltd (receivers and manager appointed) where it was chosen to work with the Disaster Welfare Service following the Newcastle earthquake in 1989.

In 1989 I purchased my first rural property and while I continued to run the building business, my passion for grazing grew due to my earlier childhood on my grandmother's farm.

In 1991 I purchased a prized property to which I made it my home for the next 15 years grazing cattle, improving the quality of the herd and improving the property until Bankwest appointed receivers in 2011.

Rather than go into the full story at this point I can say I have previously have had involvement with three Senate Inquiries since 2012 where my submissions were accepted. I can supply these if required at a further point upon your request.

Since 2015 I have pursued the Commonwealth Bank and the banks agent - receiver [REDACTED] who was a Director at Taylor Woodings in Court where they are currently both defendants.

This case is set to be heard in August 7<sup>th</sup> 2017 with 10 days allocated in the NSW Supreme Court.

The basis for our argument in this case is a breach of the Farm Debt Mediation Act (FDMA) where the Bank did not offer mediation and as such damages are being sort.

However in the FDMA there is no provisions for damages at this point and therefore there is no guarantee of recovering what has illegally been stolen from my family and myself. We are trying to set a precedent for all Australian farmers.

As part of the systematic defaulting of loans after the Commonwealth Bank purchase of Bankwest I have lost in excess of \$50 million to a twenty year plan by my Chartered Accountant of \$194 million in numerous assets to which I have extensive evidence including but not limited to Forensic Accountant reports and seven volumes of evidence.

I considered starting my building company up again after my builder's licence was dormant since 2005. At all times I paid the annual fee just to roll the licence over.

The stamping of the mortgage documents is for Primary Production, the purpose of the loan was to refinance existing farm mortgages. The loan was settled and Bankwest took over the mortgages I had previously obtained for the purpose of Primary Production this occurred in 2008

I have found that since my work as a builder is not possible because in NSW Department of Fair Trading ruling that if a builder or his company is placed into receivership they can not obtain the necessary Home Owners Warranty, which is a prerequisite for contract building.

Further as I was full time farming from 2005 until the appointment of the receivers in September 2011 by the bank I have had my angus herd (20 years of select breeding) sold and therefore no income has flowed since then.

This loss of income has made life extremely hard and I have had to rely on family members to assist in the supporting of my family while I assisted the lawyer in the extensive collection of documents which are being used in this case.

This also a restriction of trade as my source of income has been taken away by the appointment of the Bank's receiver.

As at this date I have not applied for unemployment benefits, which has made life difficult.

In order to run my case against the Bank I have had to assign the proceeds of the case should damages be awarded to a third party. This was due to the lack of funds that were exhausted in this process some time ago. I found I could not continue without doing this and as I am a person who considers himself to fight any wrong doings to my family, I had no option but to continue.

My young boys need to understand that its not the size of the opposition but its size of the fight within yourself.

I have decided to continue as I know what has happened and that if successful there will be a precedent for all Australian farmers.

Recently I submitted four points which would lead to improved protection for Australian farmers against Banks to the Rural Assistance Authority (RAA) this submission is available upon your request. Currently the RAA NSW is considering all submissions.

### **Court Process**

During the period when the claim was lodged in 2015 against the bank and its agent the receiver, I have found the Commonwealth Bank through its lawyers Ashurst Australia unwilling to consider a monetary settlement, despite mounting evidence.

- [REDACTED]

- [REDACTED]

- [REDACTED]

My elderly parents plight is unfortunately link to the case and they have demonstrated their ownership of their villa time and again, but the Bank's limited response is too little too late. My parents are aged 87 and 83 are in effect held without hostage with out any logical reason for the Bank to hold the property. The Bank's appointed receivers appointed Century 21 who tried to sell Mum and Dad's home in late 2011, this was able to be challenged. Both my parents have suffered health wise during this ordeal and indeed my Mum has had suicidal thoughts because of the length of time and hopelessness she is experiencing, this has been documented by her Doctor. My Dad is a former international soccer player for Australia and he is appalled as to what has transpired and cannot believe the Bank's vindictiveness..

### **Court Delays**

During this court process there have been several delays by the defendants in order to drag the process out, I believe in the hope that I would be declared bankrupt in the meantime. Under existing FDMA terms if a farmer is declared bankrupt then there would be no damages applicable even if the farmer won the case. Ref : Waller V Hargraves NSW .

The Bank's lawyers attempted to transfer the case into a different Court Division and out of the Equity division, the current Judge thankfully supported our requested to leave it where it is.

Further delays are of major concern as in September 2016 the Judge allocated during a directions hearing that a 10 day hearing be set for June 2017 to which both sides agreed. After agreeing to the time frame Ashurst Australia then requested a further delay until 7<sup>th</sup> August 2017 as their senior counsel was not available.

In the court directions the Judge told the defendants to have all their evidence on by October 2016. This did not happen until late December 2016 using the illness of one of their expert witnesses being the valuer was unwell.

How can the Bank show such disregards to the Court process by being over six weeks late submitting their evidence. How is possibly acceptable.

There is more than one valuer who could have undertaken this job and there are many valuation firms who could have undertaken the report.

Having received the valuations and their Forensic Accountant to which the defendants rely upon saying there is no damages due, this can be looked upon as highly unusual as not all sales evidence

was included. The property adjoining 3 off my properties for example sold more than **10 times** what the receivers sold the properties for, in a similar time frame. Same style of land etc. The contract, loan documents in that sale are all available.

The Bank's valuer noted he used the Australian Property Institutes methodology for valuing and that he states in Chapter 15 the valuer must use a "Direct Comparison Method". Clearly by not including that adjoining sale and many others which occurred in the same village he did not use the Direct Comparison Method and therefore his expert evidence is flawed and cannot be relied upon, despite the Bank's valuer stating that he used the Direct Comparison method.

I have an aerial map showing other sales not included, if they were used it would support the Forensic Accountant view on losses.

Despite the availability of documented sales evidence (to which they were made aware of even prior to appointing the receivers Taylor Woodings) this shows their argument is difficult to maintain.

The reason the FDMA was chosen instead of claiming a breach in the Corporations Act 420a (where it can be easily demonstrated) that I have witnessed the decisions by the Courts in not supporting the Bankwest victims (to which I reluctantly say I am one).

My lawyer suggested this narrow pathway using the FDMA as it shows at least a couple of breaches of liability by the Bank. Despite this as my former company Gelrol Pty Ltd and I have seen documented evidence that the defaulting of my loan fits in with the larger systematic defaulting of Bankwest clients after the takeover by the Commonwealth Bank and as such I would appreciate your consideration in the inclusion my matter which also sits in the bigger picture even though the NSW Supreme Court case is looming.

Thank you for your consideration

Kind Regards

David Bone

27<sup>th</sup> June 2017

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