Senate Inquiry Submission

Inquiry into the post-GFC banking sector

By National Hotel Property Pty Ltd
ACN 120 460 620

This submission is based on my experience with Bankwest and Taylor Woodings and is true and accurate.

My submission addresses terms of reference in relation to our business experiences:

c) The need for further considerations of the state of the Banking sector:
Unconscionable conduct: Bankwest and their Receivers seem to be able to charge whatever they want in fees with no justification given.

d) Other relevant matters:
Behaviour of Bankwest and their appointed Receivers Taylor Woodings and lack of accountability.

Bankwest has stated in its submission to this Inquiry (page 7): Complaint handling:

> ***"Where customers have grievances or complaints they wish to raise with the bank they have access to a number of avenues to have their matters addressed…… the Financial Services Ombudsman (FOS) provides an external dispute resolution service available to all Bank customers free of charge. When a complaint is made to the FOS, the matter is initially referred to the bank to resolve the complaint directly with the customer. If the matter is not resolved, and it is within the terms of reference, the FOS will then deal with the matter."***

Our experiences disprove Bankwests statements:

10th April 2012 Our Company lodged a complaint to the Financial Services Ombudsman (FOS) regarding Bankwest and their appointed receiver Taylor Woodings.

11th April The FOS acknowledged our complaint and said Bankwest had 45 days to respond, that is until 26th May 2012.

16th May The FOS advised us that if the dispute with Bankwest is unresolved by 26th May 2012 we needed to provide them with:

- A copy of the response received from Bankwest
- An explanation of why the dispute remains unresolved
- Copies of documents to support our claim

We have at no time received a response from Bankwest or Taylor Woodings to our dispute other than an email from Bankwest acknowledging we had lodged the complaint.

23rd May We advised the FOS the dispute was unresolved.

25th May FOS advised us they will assess if the dispute is within their terms of reference.

18th June (today and almost ten weeks after I lodged my complaint) the FOS advised us that:

"The FOS is unable to consider the dispute for the following reasons:

1. ***The Company is currently under (Bankwest) Receivership and we have not received the authority of the Receivers (Taylor Woodings) to consider the dispute.***
2. ***We are unable to review any claims in relation to the actions of the Receivers, Taylor Woodings, as it is not an FSP which is a member of our service.***
3. ***We cannot consider a claim of losses which exceed $500,000.***
4. ***We cannot review the actions of a third party of the dispute or compel Bankwest to take any actions against a third party"***

I have provided the full letter from the FOS as proof of the above statements.

Further to this in the time since our complaint was lodged Bankwests appointed receivers Taylor Woodings have:

1 Sold the property for $3.6m (so I believe) when they had previous offers which they rejected for $3.85m and $4.5m and when the selling agents were telling us our offer needed to be at least $5m and cash to be accepted. (I have written proof of this).

2 Advised us they have charged us $161,817 to administer the sale of the property with legal fees of $133,468 totalling $$295,285. (And now Bankwest is charging us 18.81% on that!!)

3 Sold materials with the property which they did not own and had no charge over and were advised by our lawyers of this. This is in our view theft.

4 Advised us when we requested details of their fees that ***"The Receivers (Taylor Woodings) consider that any invoices, bills of costs and recharge schedules in connection with the fees, costs and disbursements are subject to legal professional privilege and, on that basis are documents to which you are not entitled."***

Bankwest has subsequently refused to provide us explanations of what's happening, the fees being charged, and have gone so far as to say the behaviour of their appointed receivers Taylor Woodings is not their responsibility of Bankwest but rather they act for the company they are appointed to. I am a director and Shareholder of that company but they refuse to answer to me. It appears they are accountable to no one and that there is no regulatory body to control them.

The point I would like to make as a result of the above is:

1) The Regulators (FOS) seem powerless to regulate Bankwest.

2) Bankwests statements that customers have a number of avenues to air complaints is quite misleading.

3) It appears Bankwest and their receivers are in a position where they can do what they like, charge whatever they want, keep the customer in the dark as to what's going on and worst of all be accountable to no one.

It appears that Bankwest by appointing Receivers has effectively got around the requirements of the regulators.

I sincerely hope this Senate Inquiry exposes what's going on and that people are brought to account and laws changed if necessary to stop this happening to others in the future.

If required I would welcome the opportunity to appear before the Inquiry and to provide evidence of my experience with Bankwest.

Yours Sincerely,

Sean Butler
Director and Shareholder
National Hotel Pty Ltd