Story Overview

DIRTY LITTLE SECRETS REVEALED IN INFORMATION RECEIVED FROM GREAT SOUTHERN GROUPS OFFICIAL LIQUIDATOR.

ITS LONG BUT YOU MUST READ THIS

An open letter to all those affected by Great Southern Group and Bendigo and Adelaide Bank Limited.

Story Details**Story Of:** Damien Warren
Bank Involved: Other Australian Banks
Bendigo Bank Limited
Bank Malpractice Type: Corruption
Unconscionable Conduct
Other Bad Banking Behaviour
Year Trouble Began: 2008
Government Involvement: ASIC (Australian Securities & Investments Commission)
FOS (Financial Ombudsman Service)
Police
Court Case
Did You Receive Effective Help?: No



Bad Banking Experience - Full Story:

An open letter to investors in Great Southern Group and Bendigo Bank Loan Clients

To whom it may concern.

My name is Damien and I was an investor in Great Southern Group back in the 2008 year.

Although I had heard of Great Southern, I was introduced to the suite of Great Southern Investments through an employee of the Great Southern Group, whilst working from an accounting practice in Melbourne.

The timing of this was just before the end of financial year 2008 and I decided to enter into 2 separate investments with Great Southern for Plantation Units and 2 Investments for the Land Parcels.

I entered into these in my second meeting with the Great Southern Representative, after an initial meeting and then a meeting with my accountant between these 2 meetings to discuss the pros and cons of the investment strategy.

The scheme that I invested in was the 2008 Great Southern Renewable Fibre Project / Scheme.

After all was completed, and between June 2008 and Feb 2009, I received various correspondence from Great Southern including, but not limited to the usual welcome letters, loan contracts that were signed under “Power of Attorney”, investment certificates etc.

In February 2009 it was started to be reported through the ASX that Great Southern was in financial difficulty.

In early May 2009, I received correspondence from Bendigo Bank dated 30th April stating that there was an agreement between Great Southern and Bendigo Bank and all loans were transferred from Great Southern Group back to Bendigo Bank and the date of this occurrence was the 30th April 2009.

On the 7th May 2009, Great Southern Group announced to the ASX that it was seeking a trading halt. This would be the last time that Great Southern shares would trade on the ASX and Great Southern was placed into administration on the 19th May 2009.

It is widely known to many that over the years there has been several legal actions against the Great Southern group and Bendigo Bank (as the major backer of Great Southern Group of Companies).

I was party to one of these actions and that being a large class action headed by MacPherson Kelley Solicitors, which was not successful due to various reasons that I still do not fully understand to this day.

Fast forwarding to September 2016, the net result of these failed proceedings is that **my business of 13 years was forced into liquidation by Bendigo Bank after I was grilled for almost an hour by a judge in the Adelaide Supreme Court and far as I was concerned, I felt I was treated “as a liar, a criminal and a moron” by that presiding judge.**

In the 2 years period prior to this court appearance in September 2016, I had been seeking specific information from both Bendigo and Adelaide Bank and from the Liquidators of Great Southern group.

In November 2016, I finally received a reply from the Great Southern Liquidators that I had been chasing and it confirmed one aspect that I had suspected to be correct and it alerted (and alarmed me) to other points that I suspected but could never prove correct.

The words were to the affect “The Company’s records indicate that the 2008 Renewable Fibre Project, DID NOT PROCEED”

This now further confirmed my suspicions and tied up a lot of the information I already held and justified the chasing of further information and for good reason.

For the record, the actual **information that I was seeking was a copy of the fully signed and executed land and management agreements.**

I received confirmation that the agreements could not be located and may not exist by the Liquidators of Great Southern and I received a secondary email from Bendigo Banks legal department also stating that they did not have copies of the said land and management agreements.

So neither party held copies of documents that were specifically noted and explained (and required) in all of the Product Disclosure Statement, The Loan Application Forms

and the Loan Documents themselves.

Why are the Land and Management Agreements (LMA) so important?

a) These were the agreements that the growers (The Investors) were putting money into as an investment, not specifically the trees themselves.

b) The land and management agreements were the agreements that set out the terms of reference and signed between the land owners, the investors (Growers) and the controlling entity (Great Southern Management Australia Limited) outlining the control, management and costs amongst other things and these needed to be in place before the scheme could commence.

Without these documents, the scheme technically **could not commence** and **DID NOT COMMENCE.**

I will now outline other glaring questions that need to be answered in regard to Great Southern Groups dealings and those with Bendigo Bank also.

Trust funds, loan draw downs and possible fraudulent documents

To date, these are other queries which **have not** been proven or provided by the Liquidators of Great Southern and/or Bendigo Bank and I believe for good reason:

1) Neither Bendigo Bank or the liquidators for Great Southern have been able to sufficiently prove the exact date that loans were “drawn down” or how they were funded and by whom funded them.

2) The liquidator to date has not provided the actual dates of and provide proof of the transfer of funds to the trust account once investment monies were received and when those funds were transferred out of the trust accounts to Great Southern Managers. **(The trust accounts were to hold all investment funds until the Land and Management agreements were completed and ratified).**

3) **The liquidator has refused to comment on why the directors of Great Southern issued “investment certificates” for a scheme that did not commence and which the documents that were needed to start the scheme cannot be located.** These investment certificates were issued 2 ½ weeks before the final trading halt on the ASX and within this actually period, Bendigo Bank took over the loans.

4) If the loans were funded by Bendigo Bank and were never correctly drawn down, then from an accounting point of view, I believe what we have is a loan between Bendigo Bank and Great Southern Group and that goes not further.

5) Section 5 of the Loan Contact Schedule clearly states:

“DATE FEES PAYABLE TO GSMAL AND DATE OF ADVANCEMENT OF LOAN”

“In case of the Renewable Fibre Project, the date of the Renewable Fibre LMA’

If there are no LMA (Land and Management Agreements), then technically there is no initial date of advancement of loan funds and if there has been loan funds advanced, **then these funds have been incorrectly advanced.**

6) Section 3.1 of the actual loan contract states"

3.1 Lender not obliged to provide Funds unless documents received.

The Lender is not obliged to provide funds unless the Lender is satisfied the GSMAL has received all the documents required for the borrowers involvement in each project, in a satisfactory form and substance.

My question is - How was the lender satisfied that all documents were in place if neither Bendigo Bank or Great Southern can provide proof of the Land and Management agreements?

The Time Line – The Facts do not lie!

To give myself a clear picture, I created a time line and tried to list as many major events and milestones to get a proper understanding of the collapse of Great Southern.

Although it is firmly believed that the problems with Great Southern lead back before my time line involved with Great Southern (possible 2006), I can only go on the facts I have to hand in regard to my own situation.

So saying that, this is how I believe the collapse unfolded.

Late June 2008 Indicated that I wish to proceed with investment and met with David from Great Southern at the accountant practice I worked from to complete the application forms. I had completed most of the application forms and David completed the rest of the application (x2) as evidenced by the different handwriting in the application forms

6th August 2008 - Great Southern Approval letters (Copy received)

25th August 2008 - Term of Deed contracts signed under power of attorney, back dated to 1st July interest start date.

30th September 2008 - Great Southern (End of Financial Year) - $64Mil Loss recorded.

Date unknown - Commission by Great Southern to URS to ratify shortfall in funding position and $7Mil in negative cash flow as per Management Cash Flows as acknowledged by McGrath Nicol in Investor Circular.

Date unknown - Response from URS Australia into above figures.

26th August 2008 - Great Southern launch bid to have Investors from 1998 to 2003 Investment years transfer their investments to Great Southern Shares.

13th January 2009 - Great Southern announcement that investors have rejected the offer to revert their Projects to shares (That being 1998 – 2003 Plantation projects)

19th February 2009 - Great Southern AGM was held.

February 2009 - As per fact sheet from Bendigo Bank. A decision was agreed between ABL and GS that all loans would be transferred to ABL along with the management of those loans.

8th April 2009 - Great Southern Announcement – Expect $120 - $130 Mil loss for half year to March 2009.

14th April 2009 - Woodlot certificates Issued from Great Southern (even though it appears that the project never commenced)

30th April 2009 - Letter from Adelaide and Bendigo Bank stating they have taken over the ownership of the loans. (as at this date)

30th April 2009 - Trees Coupon Payments (Trees2 and Trees3) were due (not paid) and had to be paid no later than 11th June 2009 or default clauses then activated.

7th May 2009 - Trading Halt – Great Southern Trees request to the ASX

11th May 2009 - Official Suspension of Trading on ASX

19th May 2009 - GS officially in Receivership

21st May 2009 - Letter from Adelaide and Bendigo Bank Limited stating Great Southern and associated Companies are now with receivers appointed, but our loans will stay the same

25th June 2009 - Letter from Adelaide and Bendigo Bank re-iterating that the original loans have been taken over on 30th April 2009 and monies were owed to them and that personal guarantees are also still in place.

The upshot of this timeline

Great Southern took in investments for the 2008 Financial Year offerings as per normal practice.

In September 2008, Great Southern Group announced a sizable trading loss to the stock market (ASX).

Further to this loss, according to the Mcgrath Nicol's first circular to Investors (dated Jan 2010), it states that Great Southern had produced management cash flows that showed an $8mil negative cash position for the next 6 months trading.

Although I cannot get an actual date on these figures, I have assumed them to be for the period October 2008 – March 2009, which would have been normal practice for a publicly listed company to have budgets in place for the next 6 months trading.

To double check these management figures and perceived shortfall in cash flows, Great Southern commissioned URS Australia (an external consultancy firm) to check over the figures. I have endeavoured to gain the exact dates of commissioning these reports from OECOM Limited (the new owners of URS Australia) but they have declined to produce information without court orders.

On a very basic level, the date they commissioned URS Australian to check and ratify these figures can be taken as the date that they could have perceived themselves technically **INSOLVENT**, The date that URS Australia responded, could be taken as the date **INSOLVANCY** could be perceived to be confirmed.

Upon this realisation, I believe that the directors of Great Southern Group unsuccessfully tried to rescue the situation and company.

They devised a plan to convince past investors in Great Southern Group's older investment schemes (being 1998 to 2003) to convert their investments into Great Southern Group shares.

If this had been successful, it would have freed them of the burden of the continued managing of those early schemes and also freed them up for possible sale of those forests assets once the investment / share swap went through and they would then be able to "prop the business up".

On the 13th January 2009, this proposal was rejected by the investors and this was announced by Great Southern to the general market.

I believe that this last effort to relieve the company woes was the last hooray and they knew beyond all doubt that Administration was the final and only resolution.

So as at 13 January 2009, the group it would appear was totally unfunded and this was confirmed by McGrath Nicol in its circular to investors (Jan 2010).

I believe that there were no funds left to plant trees for the 2008 investment scheme (my scheme), let alone manage all the previous schemes, provide wages and general running costs and on top of that, Great Southern also still required to pay interest payments on the TREES2 and TREES3 capital raising scripts that was due as at the 30th April. 2009.

By its own publishing, Bendigo Bank confirmed it had discussions in “Feb 2008” and it was agreed that all loans were to be transferred back to the Bank and “Great Southern would concentrate on its core business of managing the trees”. Mind you, these discussions took place after the January announcements that the Share / Investment offer had been rejected.

I am firmly of the belief that both Great Southern Group alerted Bendigo Bank to the grave situation and it was decided within those meetings it would be in everyone’s best interest (being the Great Southern Board and Bendigo’s) to enter an exit strategy that protected the directors of Great Southern and also the large loan books of Bendigo Bank.

Bendigo Bank have repeatedly denied any knowledge or wrong doing and claim to be an “innocent third party”.

Great Southern by all rights should have sought an administrator as at the 19th January 2009 and should this have occurred, Bendigo Bank would have had to fight with any future receiver / manager or liquidator in regard to the loan books and the validity of those books thereof.

It was then publicised that Great Southern were going to transfer loans to Bendigo Bank and concentrate on tree management, even though they knew this would not have been viable on the basis of the above time line.

In regard to my investment scheme (the 2008 Renewable Fibre Project), it had not yet even commenced and I am of the belief that Great Southern would have had to produce certificates of investment to mask the fact the scheme did not commence and allow the transfer the loan books.

Over the last twenty or so working days before final suspension on the stock exchange, the investment certificates were issued and the loans were transferred to Bendigo Bank and luckily for them, they took over these loans with three working days to spare.

Dirty Little Secrets

The reason I have titled my open letter “Dirty Little Secrets” is that I am of the firm belief that Great Southern and Bendigo Bank were aware three to four months prior to Great Southern collapse and they worked in unison to protect each other and their respective interests, at the cost of the investors and greater community.

I believe the meetings (published by Bendigo Bank in one of its circulars) confirming these were held in February 2009, would have had Great Southern requesting Bendigo Bank for a rescue package / additional funds to continue trading and full disclosure would have taken place to Bendigo Bank

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Not that I have totally been able to confirm this point, but do have in writing from Great Southern Groups liquidator that there was a fully signed and ratified Origination Agreement (and variations) between Bendigo Bank and Great Southern Group, which is another name for an agency agreement.

Subject to a legal request to sight these documents for which I have been requested to obtain, I assume that these agreements usually include reviews and disclosure arrangements such as financial statements, cash flow forecasts.

It was conceivable that Bendigo Bank confirmed that it could no longer provide additional funding to continue trading and that an exit strategy was then the only option to lessen the impact to the two parties.

For this reason, I believe Great Southern continued trading for the last 3 or so months with the sole purpose to try and limit the damage to itself and the Bendigo Bank.

My actions so far are as follows:

1) I have placed an official complaint and listed it with ASIC and provided as much of this information and the evidence to back up my complaint. They have closed my complaint twice and had to reopen it each time with new information.

2) I have a placed an official complaint with the Major Fraud Squad of the Western Australian Police Force, citing possible mass corporate fraud and aiding and abetting corporate fraud.

3) I have two complaints, one for each of my loans with the Credit Ombudsman Service.

4) I have contacted Senator Nick Xenophon and sent him this information as well as another unnamed Liberal politician, as well as my local Labor Representative and Bob Katter.

If any of the information that I have listed in this letter applies to you also, I implore you to take the time and also follow these avenues to seek a full disclosure of exactly what went on and bring either closure or these people to justice.

Kindest Regards

Damien Warren

How My Life Has Been Affected:

This has pretty well taken 10 years off my life and sent me close to both bankruptcy and suicide. My current relationship is less then healthy because of this case and I have been regularly been seeing a Psychologist over the last 8 years.

I am a finance broker by trade and I had a credit license with ASIC to write mortgages and consumer finance and I ran my business for 13 years under a trading name of Mortgage and Lease.

I have had to let this name disappear by a liquidator, I have lost this credit license and also had existing trail books taken away from me, thus have lost near $100K a year in revenue.

I have tried a lot of difference avenues to have this investigated and have someone either uphold these alleged breaches (in what I call blatant fraud), but no-one seems to care or they seem intent to sweep it under the table and it appears too hard to take on a financial institution that is intent on spending as much money as it can to defend this position.

Hopefully I can get this case before the Royal Commission and I have messaged Bob Katter stating I want to give evidence.

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