

SECURITISATION

Australian style

Federal joint house Standing Committee on Corporations and Financial Services

How Fraud against property and business owners is making big bucks for banks

The writers' extensive knowledge base includes law, politics, farming and business. They are part of a team working on a Class Action for the Victims of Securitisation in Australia.

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What is here disclosed is the biggest fraud on Australia and Australians, ever.

Thousands upon thousands of property mortgages given to secure bank loans and trading arrangements for perfectly viable home and business owners, have been secretly sold in a virtual 'black market' to reap lots of immediate cash paid direct to the lenders with no notice to you. You own it, they sell it, they keep all the money. Amounts greatly in excess of what is owed. A "quick buck." Then, as the 'banks' have sold all of their rights over the mortgages, they move fast to **illegally** get **you** to keep paying. Their illegal tactics involve selling up everything you might own.

This paper was prompted by and prepared for the Australian Parliament's Joint House Standing Committee on Corporations and Financial Services looking into what it has termed: "The Impairment of Customer Loans" with particular reference to "constructive default." This to date has been rather like an ant about to be run over by a Mac truck rig with 24 wheels, thinking that the problem is one wheel. The perception needs to be widened.

What has been going on here in Australia, in absolute secrecy, for nearly 20 years now, is a massive series of frauds on people's land titles. First, your friendly bank sells what is not theirs – the mortgage agreement over your property which you assigned to them in exchange for a loan or an overdraft facility. It is, was and always will be, yours. It is just one of a number of rights you as a property owner have and you choose what happens with your rights. Don't you? Well, yes. But now, when your bank steals those rights, they commit a criminal offence. You assigned your mortgage to a 'lender' to back up a loan – to provide security to ensure they get paid. Your loan, however will be for a lot less money than the property or the mortgage over it is actually worth. Banks will not do it any other way.

Legally, that extra security value in your mortgage is yours as well. In years gone by, people could use it sometimes to get a second or even a third in line loan backed up by another mortgage – from another lender but at a higher interest rate to allow for the fact that a subsequent mortgagee is second or third in line for security if you have to be sold up. They only get "the change" - what is left over once the First mortgagee gets fully paid. But you never did authorise your First lender to sell all of your mortgage to someone else without your knowledge or consent.

That is plain illegal, actually, stealing, **fraudulent. It is the first of many associated frauds.** And this is the reason why the many harsh recoveries by banks in recent times are happening.

Thousands and thousands of Australian farming families have been illegally tossed off their land, bankrupted and their lives destroyed when they had done nothing wrong. They were not even in default on their loans – their 'lender' was. These are the joys and fruits of "Securitisation."

Many property developers and business owners have been viciously and unlawfully sold up in the middle of normal or successful trading, for reasons we will explain, reasons the banks have gone to extreme measures to keep secret. Because they are flagrantly illegal **frauds**. But they are very profitable for the banks and no one goes to gaol for working frauds for a corporation. And a corporation itself cannot go to goal. We think it is time that Directors of criminally acting corporations did.

Fraud upon Fraud and no private lawyers or politicians or police have yet uttered a squawk about it or even talked about stopping it. This massive series of frauds is responsible for many thousands of good Australian families losing everything they owned, after doing nothing wrong. These frauds have also caused home prices to become very unaffordable to ordinary people. We will here explain this for you and provide sensible solutions that will rectify this huge mess of many billions of dollars obtained by **fraud** – by your "friendly" bank!

This whole picture in Australia is absolutely a duplicate of the massive frauds occurring in the USA, just a little bit sooner than in Australia. Why did our media not tell us? Why has nothing been done about this, to stop it?

This paper explains why banks have been selling up lots and lots and lots of undeserving Australians in the most brutal, illegal ways.

And what remedies can be applied for you. Terms you will have heard about the USA are the same as here: "housing crisis" "Sub Prime mortgages" "Worthless paper" "Global Financial Crisis" "Toxic mortgages" and the destruction of Lehmann Brothers in the USA. What is not generally known is that Australia's ANZ Bank – one of Australia's "Big Four" banks, was several years ago prosecuted in the USA by the American Federal government for **fraud**, convicted and fined tens of millions of dollars. What is significant, is that this did not stop that large corporation. It carried on the same **frauds** here, presumably reassured that none of its executives would actually go to gaol. We say that they absolutely should go to gaol and a much bigger fine imposed to stop the disgusting frauds all of our "Big Four" banks have been plaguing good Australians with whilst governments, our Reserve Bank, our Treasury Department, our Parliaments, our Courts and all Australian police have just stayed asleep and done nothing to help. Perhaps an appropriate punishment (and when you read what follows, we will be surprised if you do not agree) would be the cancelling by Parliament of some banking licences. We have government regulatory functions to protect the public, not to do nothing whilst many thousands of lives, families, farms and businesses are illegally destroyed just so insatiably greedy banks can make insane profits.

Be aware

Before anything, a note: Do not be misled by the many over-educated fools who abound in this area. Many of them are just crooks in suits, but many are also just fools spouting absolute rubbish. When we describe this scandal as a series of

frauds, that is exactly what it is, and no matter how many economics or law degrees he or she possesses, an educated fool is still just that. You cannot lawfully sell what is not yours. That is **fraud** and what someone with a profit to make sells as some sort of security either is, or is not security. What this paper deals with is deceptively described as "securitisation." It is actually the exact opposite. If it offers NO security, is just fool's gold and someone is going to get ripped off.

Have you been defrauded already?

At the end of this paper there is a link to a Glossary (dictionary) of terms (Page 79) used in this area. Do use it to avoid getting confused. The smarties **designed** all of these four hundred and one unknown terms or words to confuse you. Just one example: Everyone knows who a "borrower" is with a bank loan. A "Borrower" is now called an "Obligor" in securitisation circles, just so you don't know what they are talking about. The other 400 tricky changes to the English language to hide the securitisation **frauds** are in that Glossary. Do use it.

We know that all of Australia's big banks have for some years been securitising (secretly and illegally selling) many or most of the mortgages given to them by customers. For huge profits. Firstly, your mortgage is not theirs to sell. And not needing, in their great haste, to get sworn valuations, they are deceiving the investors in these imaginary investments by quite usually stating they are worth around six times their actual worth. This, of course, artificially inflates property values. Why this is merely the first of several **frauds**, follows. To fund these illicit purchases, a range of entities have been raising money to be designated "investments" in 'securitised' mortgages. These include companies featured as defendants in cases (including against the now defunct Lehman Brothers) successfully sued in the USA for many millions of dollars for **frauds** - for the same type of dealings as we are still seeing here, by the way When ANZ were successfully sued by the US government for millions of dollars in court imposed penalties in the United States – for exactly and precisely what this paper is about, clearly what that corporation did was very profitable and none of their staff went to gaol, so Hey. Why stop? The only difference is that no-one who matters in this country has yet been prepared to admit it is even happening here and deal with it.

So what happened?

Essentially, banks which had mortgages in place have been a little impatient to get paid back over some years. So they have found investors prepared (or conned) into paying far more than the cash flow due to come in over those years would ever be worth to them, theoretically to buy the rights to that cash flow. This neglects the clear legal requirement to get the written consent of the land title owner, who owns the 'mortgage' rights actually, before having any right to sell it. But hey, why do that? Most land owners would just refuse. Just do it in absolute secrecy to avoid punishment.

That investor money comes in immediately, for typically several times more money than the bank ever would have received on 'time payment'! Such overpayment is a **fraud**. How it has been achieved we will make clear, soon. In Law, the investors have no claim under the mortgages they purchased. That right, on the official land title documents still belongs to the original mortgagee as the land title record has never been changed to reflect a different 'mortgagee.' However, that original lender cannot seek to recover money or sue to recover anything guaranteed by that mortgage because they have sold it and all rights attaching to it. If they tried to move on such a mortgage directly, they would be putting on the public record that they are guilty of criminal fraud. So instead, they bring on the mafia like tactics to extract more money from the land title owners and con most of them into accepting a "new" mortgage by lying about the change just being a transfer to another lender.

Specifics follow. This paper is written in four parts, each revealing more details than the former.

Setting the scene

It used to be that economies were based on production – of goods and services and economists are still taught this. However, what follows will show you the foolishness of just assuming that all will continue to be all right without intelligent and responsible oversight by government authorities and Courts.

Due to rapidly advancing degrees of mechanisation, computerisation and robotics in farming, manufacturing, construction and transport in the last three decades in particular, the labour of people is far less needed. Some people have been freed up to plot frauds on the rest of us. The scant understanding of computer systems by those using them and the commercial and practical naïveté of the actual programmers has made all this too easy. Idiots in government still rabbit on about "creating jobs" towards full employment when that idea was outdated and left behind long ago. In a modern, developed economy, modern technology and equipment has replaced a huge proportion of the productive personal work hours previously needed to keep all people housed, fed and educated, even entertained. Why we are not all sharing the massive profitability of the modern economy and having all that we need and a lot less work to, will firm in your understanding as you read on.

To build a Rolls Royce car used to require the equivalent of one person's labour for a year. Now, a Toyota has less than one day's labour in it. Production of cereal crops has gone from plough horses to 30 tonne tractors with 12 wheels and from the first "Sunshine" harvesters cutting two metres wide to, now, harvesters cutting 15 metres wide at speed, reaping 400 tonnes of food a day. Over that period, the percentage of the labour force engaged in primary production (farming) has dropped from 26% to 6%. The difference is certainly not all "dole bludgers." The core social problem is the very unfair distribution of the super wealth coming from modern technology. Banks and their owners get most of it and most of us don't.

But politicians are still decades behind the times. At least, they want us all to believe this. (We, the authors, do not). In fact, too many people in the finance industry have time on their hands to plan and execute frauds, yes. But the massive frauds by lenders of money here disclosed, are (only apparently) still unknown to government agencies managing Land Titles, politicians and judges in Australia – one of the worst affected countries, despite being in plain sight for nearly two decades. Certainly, competence these days, in any field, is the rarest thing. It also may be that what has happened was known and understood by at least some in political circles, which begs the question: what kind of corruption was needed for this to even happen?

And whose silence and co-operation was bought?

Legislation is required to protect Australians from any repetition of this disgusting mess. [See the recommendations at the end of this document]

Before diving into the sewerage of modern commercialism we suggest you first widen your perspective along the following lines. Over the last three hundred years of commercial evolution starting with the Industrial Revolution, many mansions in Europe and many millions in British pounds, Dutch guilders and other currencies

went into the pockets of aristocrats by birth, from the pillaging of Africa, Asia and the "New World" (the Americas). This was led by the British and Dutch East India companies and the Spanish Crown. It involved armies and utilising cheap or free labour (slavery) and paying far too little for the fruits of mining such as gold, silver, diamonds, foodstuffs and natural resources as the inputs of industrial production.

This bred the newer variety of wealthy who bought their positions in society, and the banks and drug companies, now largely owned by them. The sheer impossibility of analysing the hugely complex web of cross ownership through freely traded shares in corporations on stock markets worldwide has allowed the aggregation of horrendous monopolies, worse even than during the lifespan of the Dutch and British East India companies. Do you believe this? Here is the proof:

America's annually published list of the "Fortune 500 Companies" a couple of years ago contained two facts. The analysis of those 500 most profitable companies in the USA mentioned the status of the top 10 earners. Eight of them were drug (pharmaceutical) companies. The profits of the 10, added together were greater than all of the profits earned by the other 490 top earning companies. The sins of those pharmaceutical companies; what they get away with, is only recently coming out. They manipulate governments, lie, cheat, bribe, deceive, sell dud products, hundreds of them never evaluated for safety and never get pulled into line. They have become too powerful.

And so it is with banks. But governments **do** have the capacity to stop them behaving criminally, as they are now doing flagrantly. **It is called legislation.**

The transition from the control of aristocracy into the control of big corporate money continued almost unnoticed, through until now. Aristocracy back then saw heads roll (as in the French revolution) but the phased in replacement power base – the aristocracy of wealth, crept in the side door. First they pillaged the "Third World." They still are victimising the labour in poor countries by being "multi-national" corporations and now, stealing the assets of people in "First World" economies by **fraud**. Major war is no longer needed, **fraud**, theft and the buying of governments does nicely.

Industrialists like the Henry Fords of the world were heroes for providing employment and cheaper goods and most politicians are that far out of date – 90 years! Now, we have rapacious banks and multinational corporations; an aristocracy of money, ruling everything, including virtually all national governments. The claimed to be vanguard of "progress" – the USA has, in just the start of this, the 21st century, seen their middle class, people of comfortable financial position built upon the productivity of the industrial revolution, demolished. Now, less than one percent of Americans control more than 60% of the wealth and most other people are on baseline survival.

Ten percent of them no longer have a house to live in and ten percent of homes in America are vacant. This is the brave new world of the power being money and its hold over everything and everybody, is positively galloping ahead. If you want to understand exactly **how** this is even possible, study "**credit creation**" and "**fractional reserve banking**" and "social credit" the way overdue answer to providing money and income fairness within a nation, just recently implemented by Finland. These things are in essence, simple concepts. Be ready to decipher what educated fools write

about these things and notice what they in fact just do not know.

[You are blessed to have the internet available to you. Use it]

What follows is one major example of the modern form of rape and pillage – by the financial institutions. Actually, literally, such crimes must be stopped by governments or this civilisation is doomed to sink into a very ugly police state. At the end of this paper there are a number of Recommendations for the consideration of the Joint House committee; things they could and should initiate to help remedy the present disaster and more usefully, put in place secure protective measures for the Australian public in future.

The **frauds** this paper reveals are running over our whole property market and economy and no one who matters with respect to protecting the community even knows of it yet. At least, plausible deniability allows them to claim ignorance.

The "respectable" white collared criminals, the men in suits and their lawyers, are not talking. They have been making too much easy money.

Please be aware that herein, references to "banks" are generic and are intended to include all 'lenders' of money secured by mortgages. You should also note that throughout this paper we frequently refer to "you." This seemed the best way to explain things simply – for you. We put you into the shoes of a bank borrower who needs to know what on earth is going on and why you might feel like a rape victim.

We have been informed that to date, no one else has comprehended or reported to this committee just **how** and **why** the widespread rash of extremely nasty and clearly illegal bank behaviour in causing the urgent selling up of landowners for a pittance, comes about. This committee just cannot do the task it has set itself without understanding these things. And the prime motivation: enormous, undeserved profits. Profits that now, are being done over and over again, using the same alleged assets called "mortgage backed securities" which offer no security at all. Far from being land, or a mortgage anchored, if you like, to the land, these fraudulent schemes float above the earth, in an imaginary state, offering no security to investors in them, and causing decent property owners, not in breach of their contracts, to be suddenly and unjustifiably asset stripped and bankrupted.

We explain what is causing this disgusting conduct banks and assorted 'lenders' have been dishing out to good clients, how exactly it is done, what it is about and how it must be unravelled and the white collared criminals with public personas, gaoled.

This is what the Federal Parliamentary committee is seeking to uncover. This destructive creature euphemistically and misleadingly called "Securitisation" is the greatest systematic fraud ever, except for the banking system itself. Now you have a name for it, so what is it?

As you will read here, massive amounts of money have been corralled by 'agents' of the banks and other lenders, into schemes which steal good people's property rights but which schemes give no actual security to the 'investors' in them. We have been successfully researching this for some considerable time and this last question to be answered points to three likely answers. Possibly all are true. This Parliamentary committee has a heavy responsibility to ensure the truth is not only found, but told.

Stupidity People investing in these fraudulent schemes have very smartly seen their 'investment'; disappear without even a puff of smoke. **Fraud** has created them losing all of their billions of dollars. On the face of it. However, these astoundingly bold frauds have educated us. We have learnt that where you see people (like banks) with access to large amounts of money seemingly throwing it away in stupid ways, **look for the hidden profits.**

Why are the 'robbed' investors not squawking? Billions of dollars have just disappeared. Many 'investors' have been massive pension or superannuation funds. There must be a reason. Big corporations are famous for incompetent mistakes, like not checking the security of where they invest their millions. Stunningly stupid though this may be, it does happen, quite often. We say this because although American "pension" funds (to an Australian this is a superannuation fund) claim to have lost money in these schemes, the utter stupidity of them putting large sums of money into an 'investment' with no security whatsoever just because somebody called it "securitisation" and signing up to contractual conditions excluding the promoters from any legal responsibility for anything, just boggles the mind. Possibly they are that stupid.

Money laundering We think it more likely that the funds contributed by investors were 'dirty' money needing 'laundering.' They want it laundered and property looks respectable. Would it please you to know that your mortgage had been secretly bought by an international (illegal) drug cartel? Or 'ISIL' (Islamic State / DAESH) stealing and selling Syrian oil via Turkey to no fewer than 20 countries for up to \$90 million a month in cash. And some of those countries may be sending their young soldiers in to risk death fighting an ISIL using all of the best military equipment money can buy. It is our mournful duty to let you know that this is entirely possible. In the beginnings of this scam called securitisation, some years ago, a lot of dirty money from Saddam Hussein's Iraq was laundered through the Australian Wheat Board ("AWB"). Later, a government enquiry was shut down by the Howard government before it obtained real answers. We expect that when that truth comes out, it may well be that that dirty money was laundered through the early phases of Australian securitisation.

More recently, are Australia's "Big Four" banks in particular, providing a money laundering facility in conjunction with these schemes? This could not be done in an entirely lawful way. That is simply not possible. Perhaps the money poured into these schemes in this country came from dirty deals for wheat, oil or illicit drugs.

Are those investment dollars being channelled into other accounts within the big four banks instead of just showing a loss, then reinvested in real real estate? Banks know no shame.

Was this done to launder it? The Federal Police should be required to find out. This cover up goes back as far as the Howard government with Peter Costello as Treasurer, but the expediency of covering up the failures of government is a luxury Australians can no longer suffer.

Are illegal drug dealers in South America, in the Golden Triangle or ISIL currently collecting profits from other investments on offer in the same bank as originally took their money in "securitisation?" That may well be your "friendly" bank. Sad to say, this may be the actual reason why these absurd and illegal schemes have thrived

(when you read on and understand the mechanics of 'securitisation') Securitisation as we here explain, is a phenomenon that has made it possible for Australia's "Foreign Investment Review Board," wildly fragile against corruption as it is, to be completely bypassed whilst massive amounts of Australian property is illegally sold up to "the market" as manipulated by banks and their servants such as liquidators. What we can say, just to elucidate that statement, is that one wholly owned subsidiary of ANZ Bank, Landmark (in various guises) procured the banking business of 10,000 farms in Australia, as clients. 4,000 of those mostly family enterprises have been illegally forced into what we call Engineered Default, destroyed and sold. All 10,000 farming enterprises have been harmed and have legal redress for Fraud, Breach of Contract and several other legal claims, available to them. Money talks, to most people these days, and the authors' lives are at risk, but somebody has to rectify this outrage.

In addition to the thousands of farmers, many more homeowners and business people in the cities, unbeknownst to them, have a "new" mortgagee with no actual rights to claim money from them. Although they may not have been sold up, their mortgages have been sold to 'secret' funders who have, effectively, already more than paid out those mortgages. This fact leaves no one with any legal right to claim more money – as soon as the closely guarded 'secret' about the bank dishonesty – the truth about this comes out. If the logical surmise we here put as to where all the naughty money went proves to be right, expect to find lots of money transferred between accounts within the big banks. Investment money, turning up in mortgages – clean real estate, put on the market by this scam.

After money is moved from a securitised investment "vehicle" which never showed a profit, just a total loss, we expect to find it turned into real real-estate. Successfully laundered!

There is no better or more profitable way to launder dirty money than what we here describe. The banks make huge (but absolutely illegal) profits from securitisation. They keep all Evidence of it strictly secret but we are well on the way with analysing their 'secret' documents. We have around 1,500 pages of legal obfuscation and trickery detailing and evidencing their criminal conspiracy. The victims, the ordinary Australian farmers, home owners, property and business owners, do not know what happened to them, let alone what they can do about it. And the shareholders in Australia's 'Big Four' banks (the four most profitable banks on the planet last year), are laughing all the way to their banks and they don't care how the money was obtained.

'Ponzi' Schemes Logically, there is another possibility that federal police should be investigating. Is this just a giant "Ponzi scheme? Nothing about it is any longer anchored in or even associated with land.

[Ponzi Scheme: a fraudulent investment operation where the operator, an individual or organization, pays returns to its investors from new capital paid to the operators by new investors, rather than from profit earned by the operator]

It certainly has the classic attributes of one, and police can just take the documents from the possession of the perpetrators under a Warrant and proceed with very appropriate prosecutions for the many species of criminal offences revealed.

A recent revelation is that time honoured, sensible processes of discharging a mortgage when a loan is paid off or refinanced, is not happening. Mortgages are not being discharged, instead thousands of mortgages are illegally transferred when in fact the actual titles they are based on should have been transferred. Of course, this is grossly improper and unsafe to protect Land Title holders too.

This development seriously raises this Ponzi Scheme possibility. Banks and others in this artificial 'market' are just repeating the frauds, over and over again.

Obviously, greed alone would drive this. Why make a million dollars when an easy billion is readily available? But this repetitive and fraudulent on-selling of the same tranche or batch of illegally possessed and onsold mortgages to new deluded 'investors' without any proper recording of land transfers at the State Titles offices does makes the Ponzi scheme possibility quite real. Are these repeated sales of the same mortgages, untethered to any mortgage rights in the real estate, being used to give the appearance of an investment return by using part of today's invested money to show a return on yesterday's invested money?

As detailed herein, later, there is a huge surplus of cash yielded by these frauds and only part of it would be enough to show an apparently reasonable return on an investment which in fact is not that; it is just a massive fraud.

Defrauding the State governments of huge amounts of tax.

We have recently confirmed that quite improperly, banks have been dodging enormous amounts of legitimate taxes. Transaction taxes of selling or transferring mortgages, and tax payable on transfers of land titles. This tax cheating has so far escaped the notice of the State governments now missing that money. We are telling them. The amounts thus owed in back taxes by the 'lenders' in the securitisation market will be many millions of dollars. On just one day in June 2006, 445 land titles were transferred in three batches. This was just done by a subsidiary of one bank, in one state, in a part of one day and it was by no means all that happened that day in that land registry. The owners of the land were not informed although the Law requires their written consent. Representing only three transactions we have had cause to investigate, it is likely that the average property amongst those will be worth around a million dollars each and the illegally evaded taxes would be more than five percent of the sale price. So: Perhaps the State government has been defrauded by one subsidiary of one major bank of 22.5 million dollars in just three (of many) bulk transactions on one day. How many other days and dollar amounts have been similar? *[A link to these documents is provided at the end of this paper.]*

Adding to the large amounts evaded by treating land sales as mortgage "transfers" (allegedly, but not actually tax free) instead of the discharge of one mortgage and the usual, simultaneous replacement with another mortgage from another lender when a property title changes hands, we have discovered something. Presumably to avoid leaving too much Evidence of their frauds, the banks have been not discharging mortgages when they do serial securitisations on one bundle of mortgages. For greed and wanting to hide their crimes with a minimal paper trail, we presume they are leaving mortgages in place whilst they 'transfer' the rights to those mortgages through a series of front companies, typically trustee companies recorded

on the title in their own right. They are not lenders and what they claim they 'purchased' is no actual rights. Quite improperly they purport to claim in court as a lender, when they are not. Not as trustee for a stated entity which might be valid. They often too, are failing to show on the official documents of title, any "Consideration" – the payment required to form a valid loan contract. These front companies have no entitlement in Law to sue the land owner, but the courts have been letting them get away with it.

On many such bulk transmissions of mortgages we have seen an idiot statement under the heading: "Consideration." This, in Contract law, is something of value paid in exchange for whatever the other party (person or company) involved is exchanging. For example: you buy a car. You pay, you get the car. The Consideration is your payment – given in exchange for the car. In the transmission of thousands of real property mortgages (used to evade the taxes on a land transfer) careless bank lawyers have dared to show the "Consideration" as: "An entitlement in Equity." In the law of Contract, you cannot pay, with part of what you are buying.

You must pay with something of yours. This above statement is idiotic. As ridiculous as you offering to buy something in a shop and then trying to pay with cash out of the shopkeeper's till.

Where real estate is concerned, any 'entitlement in equity' is merely part of what a landowner already owns. What is amazing, here, is that one State Land Titles registrar, the supposed protector of everyone's land titles, has instructed staff that unless this question on the standard form asking what the 'Consideration' – the payment was - shows "nil" or a zero, they are not to quibble, they are just to process the transfer. Which of course allows such idiotic stupidity as acceptance of the above.

This will be explained more fully later herein, but, not content with getting five or six times what a mortgage is worth, these clever little darlings are doing this multiple securitising several times in quick succession. They just do some paperwork to allegedly change the 'lender' (mortgage holder) by assignment to a new entity, then, as a straight **fraud**, securitise the same bundle of mortgages to another bunch of investors, then do it again, and again. The secret identifier – a "CUSIP" or "ISIN" number does not change. CUSIP stands for "Committee on Uniform Securities Identification Procedures" and ISIN is "International Securities Identification Number." Both relate to international registries of huge numbers of securitised mortgages the banks have illegally sold but so far have refused to allow governments or individuals any access to. We expect the taxes properly due to governments represent an enormous sum of money and our sympathies are not with the fraudster banks, rather, with beleaguered tax payers and the many victims of the bank **frauds**. Happily, the databases in each titles office, although deficient, should contain enough detail to enable government demands for payment to just issue to all errant lenders.

Our four major banks and a rash of other lenders are all involved in this scam.

We expect the respective state governments will soon be collecting their taxes. If these estimates are remotely correct, how much chaos will there soon be in the property market and how can the damage be minimised? One thing we are advocating is to stop the planned institutionalising of a national land title database at

this time, at least. It is far too risky and would only make more frauds easier.

In 2004, the Reserve Bank reported that \$160,000,000,000 (160 billion) dollars worth of mortgages over Australian homes had been secretly 'sold' and as far as can be ascertained, without the the legally necessary owners' knowledge and consent ever being sought or obtained. Westpac did once put a Public Notice in a newspaper, but no one ever otherwise advised their clients that their mortgages had been sold, let alone at a massive profit to the bank. What has happened since is only more and worse. The frauds involved appear to have peaked in 2009 although no recent figures seem to be available, not even from the Reserve Bank which has gone quiet on this issue in recent years and the total value of this actually illegal fraud in the Australian real estate market is now hard to obtain facts about.

The Reserve Bank economists themselves remain astoundingly unaware that this scam is just a scam. Real property has 'always' been used to provide security for loans. It still does. We are here, just dealing with a fraudulent add on, not actually attached to the land at all.

A new generation of shysters have created a whole extra superstructure on that base. Without adding anything to the core real estate security, the valuable real property underpinning of mortgages. They have built a whole artificial system to garner immediate cash payments for future mortgage payments supposedly falling due. This is the same money falling due under the first ranked mortgages already in place – secured by the same real estate base. These new "mortgage backed securities" as they are euphemistically and misleadingly called, are upon the exact same base. There is no additional or other security. Nothing useful has been added, no matter how many economists have been fooled. They are fictional deals, floating in the air above the real land, an imaginary superstructure of pure fantasy, above the real first ranked mortgages that were there before any of these super profitable 'securitisation' deals came along. Those deals are simply **frauds**, on multiple issues and it is time they were declared so. **What has happened is that all sorts of people who should know better have either been suckered for being astoundingly gullible or have been sharing in the enormous profits from this, the biggest series of systematised frauds ever imagined or seen in the modern world.**

Sadly, educated fools (or are they in on the deals?) in government departments like Treasury through its Office of Financial Management and the Reserve Bank itself have been using billions of dollars from the public purse to directly invest in these secretly planned and arranged to fail investments. We urge that suitable Questions on Notice need to be asked in the Parliament to discover how many billions (yes, billions) of dollars of government money have been invested by at least the above two government entities into purchasing what in America is now known as "worthless paper." These people, at best, could only be labelled educated fools. It is clear that, just like many judges in this country today, they either do not understand securitisation and the criminal miss-use it is being put to, or they are beneficiaries of the scam in some way. Perhaps they belong to the same club as the fraudsters and are protecting them as a favour. The Parliament should be asked : How much money was lost and how much would that money have grown to now, had it just been invested sensibly, for example, straight into first ranked mortgages as government banks used to do, not the mere smell of them – "Securitized paper."

One Annexure to this paper is the text of a speech delivered by the "CEO" of the

(Australian government) Office of Financial Management. Read it after you take in what you will learn here. You will be stunned.

Another illustration of Australian watchdogs being blind is the 2010 report of the Senate 'Economics References Committee' regarding "Access of Small Business to Finance." Those politicians abjectly failed to understand the securitisation fraud. If they had done, five years of even more Australians being robbed and families being wrecked could so easily have been avoided. This present committee had better step up to the plate and let all Australians know. Quoting from that 2010 Senate report, we have (from Page 46) :

"The Government's support for mortgage-backed securities

5.36 Initially, the programme of support for residential mortgage securitisation could have been attracting some lending to home lending at the expense of small business loans.

5.37 With the second tranche of the programme, Treasury regarded the scheme as supportive for small business:

...the Government's direct investment of up to \$16 billion in the residential mortgage-backed securities...market has enabled smaller lenders to lend at competitive interest rates and maintain a higher level of lending and market share than would otherwise have been possible. Applicants' small business lending commitments are taken into account under the second tranche of this initiative.... The extension to the RMBS program includes an additional objective of supporting lending to small businesses. Consequently, lenders who seek support under the RMBS program are encouraged to outline how active they are in lending to small business and to allocate part of the proceeds raised under the program to lending to small business. This is one of the factors that the AOFM assesses when deciding whether to support an RMBS deal.⁴¹"

This utter naïveté makes one wonder if Treasury and these Senators all believe in the tooth fairy too. They could have recognised that wishing will not make something true, that banks will always do what makes the most money and nowadays, need to be watched to prevent criminality as appropriate penalties for their directors just basically do not exist. Bothering to understand securitisation, instead of feeling obliged to believe deficient or lying 'experts' would have saved thousands and thousands of good Australian families from being wrecked in all ways, by a series of massive, actually obvious, corporate **frauds**.

If the government departments being stupid enough to invest \$8 billion of your money into "worthless paper" had any sense at all, that money could have been put direct into business loans and home mortgages for Australians, not powder puffs in the hands of international banks. Lending backed by real mortgages, not the mere smell of them on "worthless paper", to facilitate bankers stealing from us.

The Federal and State Police should have been investigating, prosecuting and getting a significant number of senior bank management personnel gaoled for what they have been doing that is criminal – to harm many thousands of decent Australian families. This Committee really must formally refer these matters to all police organisations in Australia. We have tried to do our public duty in precisely this way,

seeking to have police protect more people from in future illegally losing their properties, and only encountered unseemly defamation and nastiness from slumbering senior police and their Minister for disturbing them.

Let us be clear about the cessation of mortgagee Rights in 'securitisation.'

It is true that in 'securitisation' all rights to enforce payment have been sold by the original mortgagee (your 'bank') to the investors, but investors cannot act on them to sue or recover money or sell you up because the original "mortgagee" (lender) is still noted as such on the original documents held at the land titles office and no one else can take enforcement action in relation to that mortgage without exposing the **fraud**. None of the 'smarties' involved in selling these scams dare to register any change of mortgagee on the land titles as that would point to their guilt for the **fraud**. And the bundle of investors may have bought a bundle of mortgages, but none of their names are registered as the mortgagee on any one title.

Read this above (and the preceding) paragraph again. It is important.

The original registered mortgagee cannot enforce payment or it would be a fraud. They have sold all of their rights. The investors thought they were getting some actual security but did not get the right to sue. Neither can sue, so the property owners are then subjected to harsh and Unconscionable and completely illegal mafia style enforcement attempts. Sadly, judges across Australia have, without the requisite Evidence, and without recognising the above, simple, basic legal facts, have just continued to make unlawful Orders in favour of criminally acting banks, to sell thousands of family and larger businesses up. A First year Law student would know better!

A common tactic used, to hide the truth of what is clearly a **fraud** is to allege that the 'loan' has been purchased by some trustee company. But no rights to enforce collection of what the original lender undertook still exist.

Very recently, a further outrage has germinated and headed towards full flower. We have what the authors have called "other side of the desk" changes. Companies which trade mortgages into another name – at the same office address. Surely the police can investigate something so obvious. We have seen contemptuous names like "Seizr" (read it again) morph into something altogether else, like Echidna home loans. New letterhead, same address, and then the enforcers move in, with no more actual authority than the mafia. The fringe dwellers of the commercial world, some from good backgrounds as second hand car salesmen. They behave like the mafia, victimising people who just thought they had a mortgage, when actually their mortgage was sold, then a new name stuck on it by alleged transfer, then another round of rich money making through securitisation occurs. We have seen already, some mortgages tossed along between five successive entities. We suspect that this indicates five rounds of lovely securitisation. Where **are** the police when we need them?

Our inherited Law, developed over at least eight centuries did not envisage such blatant frauds as we here describe. Accordingly, these frauds do not and cannot fit within our Land Law system. Some aspects of these weird transactions must remain hidden or the truth will come out. We are uncovering the secret parts. The truth will out, a huge amount of dodged tax will be paid and there will be some people in goal who normally wear business suits to work.

To demand the money originally secured by the mortgage after it and all rights going with it have been sold and more than paid for, is a straight **fraud** for reasons we will explain. The banks just omit to tell their former clients this and then use 'mafia tactics' to collect what those banks are no longer legally entitled to.

The courts are lied to by habitually miscreant lawyers about the whole scenario and consistently fail to require proof that a valid, paid for transfer of the mortgage ever happened without which any contract of transfer is not valid. Not that the customers ever see such a document. The new entities just order "Possession and Sale" of the land involved. Often without even going to court, and always, illegally. Why the banks are getting no opposition in courts to these massively criminal dealings is a question we cannot presently answer. From experience, we can guess. **Be aware that lawyers at large are too afraid (or too friendly with other lawyers) to put up any sort of a fight for a mere client – the one who has to pay whatever they demand, right or wrong.**

After a battering for a time with the type of disgusting tactics this committee is looking into, and getting no help from solicitors and barristers who almost all are too ignorant or intimidated to do anything useful, most of the land title owners succumb to enormous pressure and get "negotiated" into a new mortgage with a new "lender" (often one directly associated with the previous lender) on very unfavourable terms leading to another contrived default. Lies are told and courts misled to the effect that the new mortgage only replaces the old one. Owners are typically told stories by a representative of the original lender about how the original lender's 'loanbook' has been 'sold' to another lender, "but nothing will change for you, just sign here, and here, and here."

Commonly, this is done on practically No Notice, giving the client no opportunity to get legal advice or consider options. This gives several legal grounds to have the deal declared void - dead.

We do not want to bore you with repetition, but we do want you all to 'get' what we are saying. We have found that the better educated people find it particularly difficult to comprehend that such outrageous **frauds could even happen.**

Right under everyone's noses. The truth these bank clients are not ever told, is that the old mortgage has been secretly sold and is 'dead.' But it has not yet been discharged at land titles departments and declared dead. To do that would reveal and display the fraud worked by secretly selling it without the agreement of the land owner. Then the 'new' mortgage is used to create another securitisation for lots of lovely cash – and so on. The other usual factors in these dealings are several – all unethical or, to a lawyer, 'vitiating.' That is, enabling a court to declare the deal dead and the mortgage discharged. Before more foreclosures and sales can go ahead. The common aspects to these dealings include:

- Not being told what you are agreeing to ahead of time on a loan contract;
- Not being told that the old mortgage is dead, it has been more than paid out by the 'investors' you never knew about, so why would you give a new mortgage and agree to pay all over again?

- Not being shown anything in a lengthy document of detailed legal Terms that you do sign;
- Not being given any opportunity to get legal advice. Whilst there is no time the law lays down as 'enough' for this, we would suggest that perhaps two weeks notice might be adequate;
- Not being told about another secret document called a "Memorandum" you were not shown or given copy of, or told or shown that you are about to sign to 'confirm' that you were told, and you did get a copy. This is commonly a nearly 50 page detailed document of legal Terms no sensible person would agree to, some of which no court would allow into the deal if asked. Your signatures are usually obtained hastily on some excuse or other, so you literally do not know what you are signing. These 'memoranda' usually only exist as **one** copy in the entire State and are lodged with the land titles department, never shown to you or copied to you. This document is where all sorts of 'unfair' moves are allegedly justified – like appointing a liquidator or selling you up without a court order

Now, we are seeing the legally impossible; land transfers where old mortgages are not cancelled when new ones are placed against a title. To cancel the old one would be acknowledging the **fraud** a lender does not want to be seen committing as then it cannot be linked to the new one as an 'exchange.' Any lawyer knows that competing mortgages over the same property must succumb to legal adjudication about priorities.

This would see the later mortgagee with second (or third or fourth) ranked priority – not something any sensible investor would invest in - unless lied to. That means the second ranked investor would only get the crumbs after the first ranked one sells you up. Oh dear! Where will it end?

It currently seems that quite apart from the strange and baseless allergy most Australian lawyers have to even speaking the word "**fraud**," the only lawyers who appear to know what we here make clear, are the bank lawyers and they are not talking. They actively and unashamedly mislead the courts.

Bank lawyers now lie and commit perjury without even blinking. Lawyers here in Australia need to comprehend that sometimes **fraud** can be the answer. And Courts need to punish the frequent perjury bank officers have been indulging in. To assist you, we should make clear to all concerned that in the above detailed aspects of these dealings, **there are several Grounds to enable you to defeat the bank in court. In particular, because Land Law is straight and pure Contract law, if you do not know what you are agreeing to, you are not 'bound' by such things. This is called "Lack of Terms Certain" and it can get any such Terms found and declared to be inoperative.**

So who knows about this, and who is doing something?

A review of all official government bodies relevant about these dealings has revealed only astounding naiveté. **Economists with their head stuck in theory need to be overridden by sensible people with their feet on the ground. People capable of comprehending that a second ranked non-right over land is basically worth nothing.**

Fools in at least two government agencies have arranged the government purchase of billions of dollars in worthless "securities" ("worthless paper") when the same money could easily have been provided to offer loans on first ranked mortgage security to Australians through a government bank. As used to be.

Who in their right mind in business would instead want a second ranked mortgage, illegally put in place, with no possibility of enforcement? This astounding ignorance and foolishness was exemplified in the following conclusion to a senior Reserve Bank official's recent speech. You need to be aware of the jargon. "asset backed securities" or "covered bonds" are the second hand, "securitised" bulk bundles of mortgages bought by investors who, (along with the Reserve Bank of Australia) are instantly in the position of having no asset backing, no security and no rights:

Conclusion

*In conclusion, the Australian securitisation industry continues to advance and on most metrics is doing relatively well. At the same time, **asset-backed securities are becoming an increasingly important part of the Reserve Bank's liquidity operations**, and therefore the Bank's balance sheet.*

*The Bank manages the risk of these securities (and our other collateral) to a very high standard. As you will be aware, this is the Bank's primary motivation for the new mandatory data reporting requirements for asset-backed securities that are eligible at the Bank. It is to the credit of the Australian Securitisation Forum and its members that they also saw this as an opportunity to promote improvements to market transparency. **"QED"***

This paper was delivered by Chris Aylmer, Head of the Reserve Bank's Domestic Markets Department. It is on their website, named as "Remarks to the Australian Securitisation Conference" Sydney - 11 November 2014

The **Bold** emphasis was added by these authors. Read that part again and shudder. Does 'house of cards' come to mind?

The rest of this paper is as follows and it is downloadable from :
"www.realjustice.org.au" and "www.beatthebanks.club"

INTRODUCTION

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PART ONE: OVERVIEW

How does this work – in simple terms?

This paper focusses on the plainly **fraudulent** sale at vastly overvalued prices, of real estate mortgages – not real estate. Just the mortgages. Mortgages already given by one party (a Registered Land Title owner) to another (a bank or other lender) and fully committed to that particular arrangement with any excess value remaining with the owner of the property. So how on earth can someone get away with buying and selling these without disturbing the arrangements these mortgages were created to accommodate? How can it be in any sane form of commerce that a surety fully committed to securing a debt, can acquire a monetary value out of thin air and be traded at a huge profit? Without selling the already committed worth of the surety; the asset backing it? Well, only an economist could believe it possible. But it has been said that we have too many of them in places that matter.

The answer is, actually, that cannot be lawfully done. But if there is enough easy money in it, it is amazing what can be done. Be prepared to be amazed. However, be aware that just as Australians are reputed to be prepared to bet on anything, even two flies crawling up a wall, so it is with securitisers. Easy money based on nothing has been just too enticing, too addictive to those in the scam. Especially since government authorities are all asleep to these massive frauds and have uniformly failed to have suitably protective measures in place. Even the Reserve bank in 2004 reported that a variety of cash flows – payments for anything due to come in over time- have been 'packaged up' as saleable "securities" and sold. Acknowledged examples include (apart from mortgages) repayments of any type of loan, the entirely nebulous 'commercial paper' and in the USA, student loans for education and even the income from parking metres. Even our Reserve Bank has been suckered into 'investing' government money into these vaporous rights.

The Reserve Bank of Australia defines Securitisation as :
"Asset securitisation is the process of converting a pool of illiquid assets, such as residential mortgages, into tradeable securities."

The core issue here is to understand that "illiquid" means specifically "not liquid." And how can you lawfully 'convert' something valuable that belongs to someone else? Surely that would be "Criminal Conversion" – punishable by a gaol term. The next point to comprehend is that "converting" means to remove and sell all attributes from the first ranked mortgage, in particular the Right to enforce payment. You simply cannot create a second mortgage with the exact same rights as in the first. Any law student knows this, as do all sensible people. They understand that you cannot spend the same dollar twice. This is where the frauds here addressed become clear. "Tradeable" securities here are actually worthless as security; there is no right to enforce payment.

The core problem is the rape and pillage of many thousands of Australian property owners by a simple process.

They give a bank or other 'lender' a mortgage to secure a borrowing – of the kind done for farms, businesses and private individuals forever. However, now, a quick cash in, better called a first round kill (because other rounds follow) is now being done within the opportunity created by public officials who just never thought it might

happen and provided no protection from it happening. The mortgage is sold off (quite illegally) for cash. Lots of lovely instant cash. Far more cash than the mortgage is actually worth. Behind the scenes, without the legally required knowledge and consent of the land title holder – the property owner.

The below explanatory example presumes that the banks make loans for half of the value of the property they take mortgages over. To confirm that we are dealing with realistic figures here, we can say that in 2008, for example, ANZ's Annual Report to Shareholders stated that their Loan to Valuation Ratio (what they had lent compared to the value of mortgaged assets held) was 39%. Banks are notorious for grabbing every bit of property possible when giving a loan of any size. Few people understand that this is because **your** asset, once mortgaged, goes straight onto **their** balance sheet as **their** asset, enhancing their merely theoretical liquidity. We have seen a bank manager crowing about getting more than 20 times the security needed from a customer needing a small advance.

Example

Let us proceed with an arithmetically simple example. Presume that lenders on average lend, say, half of the officially valued worth of the assets they demand a hold over through mortgages. What does this mean?

The stunning extra aspects to this inescapable fraud are this: Firstly, the "buyers" – the investors in these schemes, apparently have been told and believe that :

They are buying the cash flow from a loan. This is true (but they have no rights to enforce payment) And the figure told to them is not the amount of the loan, from which any cash flow will (theoretically) come, but the value of the land securing the loan, dishonestly inflated. Another deceit is that very often the 'loan' is not a mortgage with a term of years to run, but a business or farm overdraft which might end very much sooner than anticipated or suggested.

The loan is secured by a mortgage and an assumption is that the mortgage has an ascertained value. This again is true, but as said and further explained later herein, no useful rights go with the "securitised" purchase of a mortgage. As said above, mortgage security for a bank loan is always a significantly higher worth (or value) than the amount of loan given. Certainly with farms and commercial developments, it may well be that a million dollar valued asset is used to secure a loan of only half that - \$500,000 (or even less).

So that would mean that the purchaser of this artificial 'security' is already paying double what it is worth. They pay for the deal as if they are buying the cash flow from a loan for the same amount as the land value. But the cash flow being purchased will only be on a loan perhaps half as big as the security or mortgage value might be. So this already is a very bad deal for an investor.

The bank officers involved do not bother to get a 'sworn' or professional valuation. They just insert in the paperwork whatever figure for that that takes their fancy. Commonly, this figure might be triple what is real. Why would they not do this? Nobody is going to be looking or checking and if you write in three times the real figure, that just means the investors (through pooled funds) will pay three times as much lovely money as if you told the truth, so why would

the bank that employs you not want you to tell such porkies? The answer, of course, is greed, and it is not good.

This means that the loan providing the cash flow is only for half of the value of the security – the mortgage. Then some unqualified bank officer just writes in a value three times higher. The investor pool might pay around 70% to 75 % of that figure they have been presented with. So, a half million dollar loan with an accompanying mortgage over a million dollar valued asset, is sold **as** a three million dollar loan and the investor pool pays perhaps \$2.3 million for that! The naïve assumption being that they are getting a \$700,000 discount, which, even if repayment takes years, in a perfect world, it will produce a profit. Only very naïve investors would believe they might get a commercial return on that deal as it is. But wait, there is more. Built into these deals by the 'smarties' as we will call them are :

Up to six levels of management or service companies, all taking a slice of any cash coming in off the loans. There are underwriters, trustees, trust funds, managers, depositors, sellers and originators all built into a massive superstructure on an ordinary mortgage security base. And they all take fees.

Whatever cash flow remains after running the gauntlet of that farce is passed on to the investors, except always there are "A" and "B" class investors in the investment pool and one can assume that the 'mates' of the creators of these scams will get "A" class shares, leaving nothing for the "B" class people to get.

Then the cash flow suddenly stops. The original lender has sold its rights to demand money back from the mortgagor, so to get even more money before anyone relevant notices, they sell the mortgagor up. In a hurry, in a nasty, urgent and clearly illegal way. This is what the Parliamentary committee is tamely calling "constructive" (we say "Engineered") default, and it is hugely destructive. It is also criminal, a gaoling offence in every part of Australia.

Here, we make clear how and why it happens and round out a picture of what must be done to rectify this scam.

There is more to this, more frauds which are discussed later herein. However, for the purposes of this Parliamentary Committee enquiry, this explanation so far, does explain why banks and other lenders are doing so much to viciously and urgently sell up thousands of good bank clients. In ways plainly illegal.

What follows is vicious and illegal - to prevent any legal comeback from the victims.

With the sale of the mortgage in a euphemistically if not misleadingly named 'securitisation' process, go all rights to recover money, so to get more illicit profits, the original lender, in clear Breach of Contract with its own client, ceases providing the money contracted for with the bank customer (the Registered Owner of the mortgaged property) in exchange for the mortgage as security. There appears to be a difference in Australia compared to the USA, where all sorts of people with no real capacity to pay were signed up to what came to be known as "Toxic Mortgages." These were created simply so the banks there could sell that 'paper' for multiples of

its worth. An obvious fraud and a clear scam. Locally, in Australia, there were quite enough good, solid clients, so no need to groom and entice hopeless borrowers. They just sold up good solid, viable clients by the thousands, causing, amongst other effects, suicides by good people made desperate by these **frauds**.

Securitisation freezes the availability of business operating funds – the very thing the lender – the bank - promised in the first place. Then said lender fraudulently calls "default" by engineering one as described below. Soon after that, the original lender (whilst having no legal right to do it) gets ruthlessly nasty and forecloses, sells the property owner up for too little, gets the shortfall from an insurance policy paid for by the property owner which it does not disclose, and bankrupts its own good client to stop any legal comeback.

And no one in Australia is doing a darn thing about any of this. Too much money is being made, and not by the honest people involved.

For the lack of the publicly expected, proper government oversight, protections and controls, nothing and nobody has stopped these scammers (fraudsters in white collars with 'respectable' job titles and high salaries) from having no restraint on them in estimating the value of what they are 'packaging and selling.' In the mortgage part of this huge, utterly artificial edifice which has vastly inflated property prices to the point that ordinary people now cannot afford to buy real estate in their own country, property valuations have been bypassed and the asset value behind a mortgage backed loan has quite ordinarily been overvalued threefold or more by the stroke of a greedy lender's pen.

It means that **all** of the safeguards voters presume government has in place, are **not** working to protect (at least) Land Titles. Whilst 'experts' talk drivel, land titles are being stolen, wholesale. Literally. These scams are also massively inflationary. To the extent that comparing average weekly earnings to property affordability in Australia, we have the most expensive real estate, the least affordable homes in the world. And the massive illegal flow of securitisation sourced cash through banks and other lenders IS the cause.

To recap: Three times the asset valuation, purchasing the cash flow from a loan for half of the real value, simply means the investors are paying six times what the cash flow from that loan would ever be worth. Not exactly a good deal, but the smarties (as we here call them) in the banks and other lenders have seen to it that investors are on contracts that promise them nothing and appear to (but we say, do not actually) protect the lenders from any litigation by the investors.

And as usual, bank contracts go as far as possible to leave a bank client with no rights. However multiple avenues of legal redress do exist for them too, and we are preparing a massive law suit for many affected borrowers right now.

Our only comment on the rights of the "investors" is: the fact that none of these seem to be making noisy protests in Australia about being robbed, it becomes logical to expect that they are not – being robbed. As mentioned above, investigation will, we expect, reveal that what the banks have taken with one hand, they have given back in some form, with the other hand. Expect to find, internal to the major banks, money that should have been held in what ANZ, for example, characterises as "CP Warehouse Trusts", being passed on to other entities which involve investors'

interests. It would be simply fraudulent for the investors' aggregated investment monies' to not have been held upon the trusts allegedly promised.

We fully expect those massive amounts of money to have been transferred out of any "CP" type trust, into some backhanded reward to the "investors." Perhaps, just for example, an interest in a property trust. That would be a perfect result for interests seeking to launder dirty money. If it is dirty money, then a heavy discount would still leave the 'investors' with enough to keep them happy . Such investors came by their money too easily and the bank might still be left with plenty. Again, as mentioned above, this whole mess might also be a giant Ponzi scheme, where new investors' money is partially used to pay earlier investors to give the illusion of an actual return whilst the frauds gallop on until an eventual, inevitable collapse.

Bear in mind, the avalanche of double speak in and around securitisation.

[There is a whole dictionary of that foreign language though undefined acronyms to be found on an internet link which is annexed to this document.]

One such acronym is "CP" They could have used the words, but that would allow you to understand. "CP" means "Coupons for Payment" Do not think there will be a large warehouse securely holding investors' property or money. There may be a small computer holding some details behind a secure firewall and rapidly rotating password configurations. The point is, the huge amounts of money sitting in "CP Warehouse Trusts" would have been too tempting to the bank 'smarties.' They would have known the investors were never going to get paid anything. The "Coupons for Payment" always were going to be worthless, functionally identical to a "bouncing rubber" cheque. So who on earth would keep a warehouse full of those? Certainly not a bank officer smartie. He or she would transfer that money to another use.

Origins of the Scam

Like many not nice things, this fraudulent activity began as a twinkle in the eye of some shyster in the United States of America (USA) a few years ago. Even as far back as 2004 and before, Australian homes had been interfered with – mortgages were actually sold off to unknown "investors" who were conned into thinking they had bought "Mortgage Backed Securities." They thought that mortgages secured their 'investment.' They were conned. A warehouse full of mortgage documents is worthless unless your name is on the Land Title Register as the mortgagee.

If you cannot foreclose or otherwise claim or enforce payments falling due, what value do you have? And if you are a property owner, you may have been "foreclosed on" in a deliberately hasty, Engineered Default situation because your mortgage had been secretly sold off for cash up front and your 'lender' wanted to get even more illegally obtained money by keeping that stealing secret from you, and then scamming you again. **Probably twice more.**

How does that work?

A bunch of shysters (let us call them "smarties" because they thought they were) who worked for banks and other 'lending institutions' or brokers made a huge, undeserved profit. From three main sources. The following example should set out

clearly for you how this has been working. Before we widen the discussion to broader issues.

To cover the base ground again: Experience tells us that no one can normally get their head around this astounding set of frauds the first time and we want you to understand. So you can join the ranks of Australians suing banks to get justice and demanding that government ensure that this type of thing can never happen again.

Suppose that:

You have a property which in recent times (say within the last two years) has been valued at \$1,000, 000 by a sworn real estate valuer.

A 'bank' (Lender) agrees to lend you \$500,000 against a mortgage you give them over your property. It may be to buy that property or another, to finance a business, a real estate development, a factory or if it is a farm, to pay the costs of land preparation and the planting of a crop. The lender always did promise or reassure you at all stages that they would "look after you" as your previous lenders did. This 'pre-contractual Representation' was probably made to encourage you to do business with them. Legally, it can come back to bite them.

The Lender has, in a Contract, agreed to advance money to you. It may initially, do so, but before long, ceases, contrary to the Terms of your Contract with them. The early failure to deliver on this promise may create an additional ground to sue your lender and perhaps get the Contract declared "Void."

The previously unknown factor in this is that probably as soon as you put your signature on the mortgage document, your friendly 'lender' sold all rights to it to an unidentified pool of investors. Then comes the denial of the funding needed to do what you normally do, which quite quickly ruins your business, stops a farmer from planting his crop or a developer from completing his project and selling it, or whatever you planned to do; the reason why you ever gave the lender a mortgage over your property in the first place.

You start to get into financial difficulties. Most people do not understand that you at this stage may have a Right to sue the Lender for Breach of Contract and anyway, the lender is full of excuses for their lack of performance and they full well know that by now, you may not be able to afford a lawyer. After all, your lender has all of your financial details.

The lender contrives to get you into an "Engineered Default" situation. One example case is the farmer who for years had an overdraft at his bank for \$1,400,000. This was utilised each autumn when the rains come to pay the considerable costs of getting a crop planted on a very large property. At the end of the year, when the payment for the crop comes in, the farmer would usually pay a big chunk off the overdraft so that it would be available the next autumn to get the next crop in.

However, your 'smartie' banker (a person who usually has no qualifications, having only completed some of high school but who will do as instructed to avoid losing his or her job), in mid October writes to you alleging that, in his or

her totally unqualified opinion, your property is now worth only 40% of what it was recently valued at and accordingly, your overdraft is no longer "within bank Terms." The letter goes on to say (in this example) that you have "until the end of the month" to reduce your overdraft by \$1,000,000.

Of course, this is impossible to do at this time of year. Your crop cheque in a few weeks would do it, but right now, you cannot. Three weeks later – before you can do anything about the problem, that same 'bank officer' writes to you saying that "upon review" your overdraft is now approved to \$1,500,000 - above its previous limit. You relax, thinking a 'mistake' was made and common sense has prevailed without you having to create a fight.

Your "default" has just been engineered. But the banker lets you know that they are not presently going to do anything about it. You just do not see what is coming, out of this contrived artificial and legally Unconscionable "(Engineered) "default."

Interest rate penalties

From then on, unless you are vigilant, you will probably have a crushingly high additional rate of loan interest on top of the nominal 'base rate' plus 'margin' applied (it seems) to everybody's account. The 'margin' standard applied normally includes a charge for mortgage default insurance. (Bear in mind that banks fail to differentiate between a loan contract and the mortgage that might be guaranteeing repayments) More on this additional twist, later. After your all too common 'default,' another rate hike is also added. This is a penalty that most clients are made to feel sufficiently guilty about that they do not question it being added to their account for having a "non conforming loan" Often, these extra imposts are not legally justifiable. There are several possible reasons why this can be. These interest rate add on are often around 5% whereas on a million dollars or more of borrowed money, even an extra 1% is hugely affecting your business viability from there on.

Then, soon, the nasty 'foreclosure' process starts, for reasons set out below.
[The further ensuing frauds not yet in the purview of this committee are detailed later in this paper.]

This country, and in particular this Parliament, needs to grasp the magnitude of the problem **behind** the not nice treatment of bank customers and **do** something to curb it or our nation is in dire trouble. It already is apparent that the recent massive overheating of property prices in Australia is in large measure caused by what is here revealed. Our parents and grandparents could pay off their home mortgage in perhaps five years on one income. We, on the other hand, are now taking more like forty five years on family incomes representing nearly one and a half full time incomes, not one.

Why?

Immediately behind all 'big four' Australian banks and some lesser ones treating customers badly (which after all, is not new), is the Securitisation scam ("scam" is just a nicer word than **fraud**). Australian lawyers are afraid to utter that word, automatically and unthinkingly just believing "**Fraud** is too hard to prove." However, you decide if what we unravel here fits the best legal definition, which is:

"Fraud is dealing with the property of another (person) in a way intended to permanently deprive that person of the benefits of it."

Toxic mortgages in the USA

In the USA a lot of 'hopeless case' applicants for a mortgage were offered and coaxed into mortgages they clearly could not continue to pay for. These became known as "Toxic mortgages" because the banks signed them up and then appeared to lose out badly. And whilst the world wondered how they could be stupid enough to sign up such mortgages, as usual with banks, there was a good financial reason. The mortgages – long before there was any problem with them – soon after they commenced, were sold. Sold for much more money than they were worth. They were initiated only as fodder for the massive excess profits of the securitisation fraud.

Tree farms that "failed" in Australia

Whilst in Australia, most mortgages that were and are being securitised were good bank business, good people in viable businesses or homes who had viable loan servicing capacity, there was one clear exception: Tree schemes. A range of them, but let us take one clear example. Most victims of these famously insolvent schemes, such as the now defunct "Gunns" in Tasmania, still do not know what was done to them or why. It looked like stunning mis-management that ran out of money to continue, but that was only how it looked. It was just another money making fraud – of securitisation.

Typically these investors were small to medium business proprietors or professionals with earnings enough to want some tax minimisation in June – the end of the taxation year. Again, typically, their taxation accountants (on good rates of commission) sold them investments in tree farms. Small 'plots' of land amongst many others in which shares were sold, often for \$10,000 each. To grow timber for milling in as little as 15 to 20 years. What was not told to these investors was that most of the plots of land planted with seedling trees was farmland leased from farmers. Many of these people obtained a big tax deduction by borrowing ten times what they paid this year, on a contract requiring them to pay the loan back over ten years.

The finance company doing the lending was a subsidiary of Gunns – with exactly the same eight directors as Gunns itself. Hello?

Again, in a typical scenario, the trees were planted but before long were neglected, despite the investors paying an annual contribution for the necessary management of the tree "lots." Things such as fire and weed control and pruning off the lower branches so the trees would grow tall and straight with few knotholes in the timber when harvested. It all looked good. The problem was that there were impatient instigators of these schemes, impatient, not to harvest trees at all. Impatient to harvest their contrived and planned scheme by destroying the investors' investments. In order to earn multiples of their investors' money through securitising the whole scheme. Long before there could ever be a return to investors, they harvested the investors.

Bewildered investors could not understand why it was that within several years, strange things began to happen. Many still do not know and as far as we can ascertain, the official enquiries into this stunning "commercial failure" never did reveal the truth.

Perhaps four years in – to an investment planned to take up to 20 years to show a profit, suddenly, there was no money available to even pay the annual lease payments for the land itself. It was difficult at the time to ascertain the proportions of owned land to leased land, but in hindsight it appears that most of the land was merely leased. Owned land was accented in the beautiful, glossy prospectuses, but that was mostly gloss. Then, not long after an Essential (legal) 'Term' of the leases, called 'paying the rent' stopped being met, the farmers or whoever the property owners might have been, knocked over the baby trees and started to use their land again, for useful purposes.

Enter in from left stage, the 'reputable' legal firms, acting very much like mafia enforcement thugs. They very nastily set about harvesting the investors for more money. Demanding that remaining payments for the ten year loan contracts be paid, on time or penalties would apply and threatening court recoveries in the nastiest possible ways. These legal firms, it must be presumed, were on some sort of commission arrangement with the scheme managers to reel in as much further money as possible – to pay to the instigators of the whole schemes.

From investors who had no idea that the whole scam (sorry, we meant to say : Scheme) was set up to facilitate a rich harvest of securitisation. Even today, if you ask any senior bank officer, they will tell you that all securitisation documents are "confidential" as if that is true. However, when the word **fraud** is mentioned, they become very shy and reluctant to further converse. Then they begin to comprehend plain English when told: "That is rubbish. It is my money (or my mortgage) and if I subpoena the information in a court proceeding, you WILL disclose."

One of these present authors had multiple dealings with these matters and when bluffed with some legal realities stated, the threatening 'recovery firms' ceased agitating those particular investors for payment. Unfortunately, most investors probably were harassed into paying more money because neither they nor their lawyers seemed to understand that failing to maintain the trees was a Breach of Contract by the scheme manager. But failing to keep paying the lease money removed any possibility of a harvest of millable cabinet timber and that was Breach of an inevitably "Essential Term" of the Contract.

Although this is basic, basic contract law, it seems most lawyers did not recall it and did not name it and so their clients kept on paying for a deal that was legally and inevitably, dead, thwarted by the managers letting the very land go from their control, long before harvest would even have been possible.

It is to be suspected that no enquiry into this ever revealed these facts, or made any useful recommendations. Most people still do not know that "someone" pocketed a huge profit from securitising these schemes, probably for several times the money investors made available. How this could happen is explained later herein.

The remaining parts of this paper are designed so that you may read on until you feel that you have an adequate understanding. The facts are reiterated in

other language so that you may grasp what is going on, through one explanation or another. We suggest you at least scan all of the paper as many details and additional facts are covered in the later parts.

PART TWO: EXECUTIVE SUMMARY

This Parliamentary committee and nearly all Australians so far seem only to be aware of the middle part of three or more in this layer cake of **Frauds**. Before proceeding we should set for you a scale and a backdrop. Be aware that herein we refer to all 'lenders' as 'banks.' This is for simplicity, but banks can create their own money as "Authorised Deposit-taking Institutions" registered under the Banking Act 1959 administered by the Australian Prudential Regulatory Authority (APRA). Our national government has in recent years just dropped its Constitutional duty to create the expansion of our national money supply at no nett cost through government owned banks and largely ceased regulating all "Other" or "second tier" lenders.

ASIC (Australian Securities and Investment Commission) is supposed to exert some form of oversight and control over these, but you only have to be slightly cynical to hold the view that ASIC is too busy running big court cases only, at great cost to the public purse, and quite usually, losing. Delving slightly into the "think" within government on this issue, we have discovered that it is thought that anyone involved in a company is legally smart enough to understand or to get legal advice so they do not need government protection from fraudsters and scammers.

And this baseless 'religious' type belief subsists despite the glaring fact that our own Reserve Bank has itself been scammed by investing in securitisation. In fact, anyone with one toe in the commercial world would know that the vast majority of companies in this country are what has been affectionately dubbed "Mum and Dad" companies. Mostly very small, family held entities formed on a tax accountant's (questionably good) advice in a consultation lasting minutes each financial year. Such companies have no more 'smarts' about business or financial resources to hire lawyers than 'Mum and Dad.' Their protection against marauding corporations has recently just been abandoned by irresponsible government.

Standard and Poors (S&P), the world renowned reporting agency on financial matters stated two years ago that the exact same type of **frauds** by banks in the USA had already seen \$100 billion awarded by courts as Damages to victims for precisely the same **criminal fraud** offences as here. There, the scam was known as the "sub-prime" crisis. This was incomprehensible to the normal person as it was about lenders (let us call them banks) giving housing finance to hopeless case borrowers. Normal people probably thought that if a bank was that stupid, then they deserved everything they got, even if it was a total loss; nothing.

But, we should have known that banks are just not that stupid. They did it to make a profit behind the scenes of at least 300% of what they had 'lent.' Exactly as in Australia. Just read on and you will understand.

The 'big four' banks in Australia are as bad as each other and before you think or say anything by way of response to this statement, just realise something.

Corporations (companies) are not people friendly. They need to be controlled. Idiot

statements from economists and politicians and not quite bright journalists thinking that corporations doing well, are good for people, are quite irrational, even stupid. That idea essentially comes from the 100 years ago idea that "corporations create employment." However, corporations exist **only** to make as much money for their shareholders as possible. Ethical considerations are just not part of the corporation's world, and so long as bank staff acting criminally are never punished, just expect abuses as described below to keep happening. Until government gets actually responsible. And for the many officials who have difficulty understanding this concept, there is a simple, very workable definition: "If it goes right, or if it goes wrong, it is up to you."

To illustrate this degree of dumb ignorance: One State government recently expressed surprise that after 'privatising' its own, fully owned electricity generating authority for a quick cash top up, that the price of electricity sold to the public had quadrupled in only three years. Hello? What followed that farce was impotent political noise about asking the corporation nicely if it would reduce its high charges.

ANZ Bank from Australia, in conjunction with several subsidiary companies which also operate here, were several years ago convicted by a US court in an action brought by the US government for practices equally illegal here. They were fined millions of dollars by the court in the USA. However, that news was never told to the Australian public and S&P back two years ago gave a future estimate that Damages looming against 'securitising' corporations in the USA for law suits for **fraud** already filed in the courts, might be another \$104 billion.

So what has been going on?

To begin with, **why** this awful stuff is happening to so many Australians is not to be understood without its real causation in view. It should also be noted that the impact on the property and housing market here; the effect, is greater (in relation to size of market) than even in the USA, **fraud** central. And sadly but not surprisingly, our politicians, judges and our media are abysmally unaware of it still (or so they claim).

The above Parliamentary Committee has labelled the enormous recent spate of vicious bank "foreclosures" as "constructive default." This is far too weak a term. It is lawyerspeak, coming presumably from the legal terminology for a "constructive" (accidental result) with a trust. We prefer something that conveys the reality; a very deliberate, criminal intention to defraud property owners that is far from accidental. We call this fraudulent activity "**Engineered Default.**" It is absolutely deliberate, completely inexcusable and this committee must understand the wider context and why it is happening and inform the Parliament and public.

Clearly, a great deal of bank money has been spent on doctoring up layer upon layer of complex legal documents – not to do a workmanlike job of legitimate documentation, but to hide, obfuscate, confuse and ultimately defraud the good clients of all significant banks in the Australian property market. We can say this after examining well over 1,000 pages of such tricky dross from the perspective of having some expertise in "plain English" drafting of legislation and legal documents.

We have seen a Deed and two amendment deeds all dated for the same day. That is impossible to legally interpret without some additional facts. These very many

documents omit the usual definitions of terms – particularly acronyms used. This is a clear clue: the drafters do not want you to understand them.

It should be noted that already, these writers have encountered extreme prejudice: Harassment (including by police), Defamation planted by hackers in places that matter and worse, in relation to blowing the whistle on this disgraceful fraud on our nation. So much so that it is obvious that too many people in high places, in courts and Parliaments must have their fingers in the cash laden till coming from these **frauds**. People whose ethics are for sale and who clearly have been bought.

Further, this committee must recognise that analysing Engineered Default in isolation +of its context, gives nothing by way of explanation or cure for the absolute nastiness it embodies. There are three or more stages to the multiple frauds which (at the second stage) are merely facilitated by engineered default. That class of default merely precedes a further two or more stages of ripping off Australian property owners.

A massive series of these property frauds have been worked on many thousands of Australians across nearly 20 years and that fact is not yet public.

What is "Securitisation?"

Firstly, let us do what securitisation functionaries never do – define our language. We want you to understand; they do not. Here, we refer to 'lenders' and 'banks' interchangeably. They are the organisations offering and contracting to lend money. At the end of this paper is a list of links to further assist you. One is to an online internet address which defines over 400 terms, including the very many acronyms the smarties use to befuddle everyone about what is being done to them. For this purpose, these terms are as confusing as a foreign language. We have to presume this is deliberate. After all, when this truth comes out, the police will be forced to wake up and send some 'smarties' to goal.

Be aware that in this paper, we try to create understanding by repeating our message in more than one way. Throughout this paper, for simplicity and understandability we often refer to "you" being the borrower, the mortgagor.

The word "Securitisation" is used to camouflage a whole new type of corporate or 'white collar' crime. It is simply where your lender sells the mortgage securing your loan to someone else, for an instant, big profit. (Why wait for you to pay over years if they can get more money right now?) They don't tell you about this, instead just instantly contriving through unlawful means to call you "in default" and sell you up, to send you broke before you can come back at them for multiple legal wrongs. In the process, they also defraud some external investors who paid to get your mortgage along with perhaps 200 others in a "pool" of investments. **After this process is done, innocent persons at both ends of the deal lose – totally.**

You get little or nothing of what the lender promised and you get sold up for too, too little and bankrupted. They may well have pretended to pass your mortgage to another entity which proceeds to sue you – illegally as it never did lend you anything and paid nothing to claim you as a client. This is in Law an invalid contract done to camouflage the original lender's dirty dealings.

The unnamed "investors" who "bought" your mortgage without you even knowing,

get lied to by your original lender about values (which are vastly inflated, as further explained below). They consequently pay way too much for a pool of mortgages they will never get a return from. They seemingly don't know, but your original 'lender' will sell you up, and soon. [By using the illegal device we call 'Engineered Default.'] so the years of repayments of your loan they thought would be coming their way – don't.

They lose all their money, you lose everything, including your land, and the bank / lender has set it up in contract terms trying to ensure there is no comeback on them (hopefully, from their point of view) from either of you.

Of course, it is plain that people wanting to launder illegal, dirty or drug money into Australia could easily have arranged to "invest" in such schemes and perhaps be content to not get a profitable return. Their dirty money now being clean money in a bank account in Australia, compartmentalised, quarantined from the frauds of their genesis to avoid loss. Another facility to accomplish such a purpose if the "investor" wants it, is the fact that all 'securitisation' schemes have at least two classes of investors. Remember the 'A and B class shares? The A class investors may get returns but the B class ones are second ranked and are very unlikely to get anything. **Banks, having no conscience**, are very likely to arrange for preferred investors to remain unidentifiable whilst their money is safe and arrived here ostensibly as an "investment" in a "mortgage backed" investment.

We now understand this, and the parts of law that will bring these people in the banks to justice and get the parties negatively affected, paid. **This will be happening.**

Most people in the affected countries outside of the USA (except perhaps for South Africa) still know nothing of securitisation, let alone that it is having a massive impact on their communities as briefly covered, below. **More carefully administered governments, such as in Great Britain, have escaped most of these Frauds. Their systems to protect the public seem to just work.** Many Australians have heard of the Global Financial Crisis of 2008 and of American mortgage lenders having portfolios of "toxic" or "Sub-Prime" mortgages – non performing mortgages, now foreclosed on to the extent that 10% of American homes are empty whilst 10% of Americans are now homeless. You should also recall the demise of Lehman Brothers in the USA several years ago. Their problem was "too much toxic paper." **That means 'securitised' loans, where they bought not mortgages, not properties, but flimsy bits of paper promising a return on "mortgage backed securities."** Even our own Australian Government has bought billions of dollars of just this "toxic paper" through our mournfully inept Treasury Department. Specifically, through a Treasury body called "Office of Financial Management."

That body is dangerously ignorant. Senior staff there delivered speeches to associations of securitisers without knowing that lenders were engineering defaults, often within weeks, even days of your mortgages and all associated rights to recover money from you being sold off, behind the scenes, without your knowledge or legally required consent. They were sold to investors acting through 'pools' of investment who likewise, after the securitisation, lacked a capacity to force payment or failing that, to sell your property to get paid. Because the original lender's name was still on the Land Title record as "Mortgagee" and no one else has the right or capacity to enforce payment.

Neither the Registered Mortgagee (the 'lender') nor the investor pools thus have any post securitisation rights in relation to your mortgage. Neither can legally sell you up and the bank just walks away with an illegal, giant profit. We should have known banks aren't stupid enough to take on so many dud loans (as happened in America) without a good reason. However, Australia is different. The reason is giant profits behind the scenes and the legality of it all does not affect a corporation or its complicit staff for so long as government slumbers on.

We have tried to brief politicians and senior police on this, to at least protect the thousands of innocent Australians still due to be dispossessed illegally. All authorities perform backwards handspins to avoid knowing, and we have had to sue a Land Titles Office and a quasi judicial officer of a Supreme Court in one State to force some responsibility on them.

Australians have endured a closely parallel experience to the Americans, but the wash up is still to hit. This paper reiterates some core principles involved, to hopefully assist with your understanding.

One point to understand is that this process, 'securitisation' for reasons that will unfold below, explains the reason for "Engineered Default."

And why so many supposedly prudent "bankers" could be so apparently stupid as to lend many millions of dollars in mortgage monies to 'hopeless case' applicants with inadequate repayment capacity. This was more the case in America. Here, they just ravaged the overwhelmingly good bank clients. They were too tempted by an opportunity and entered into illegality, in the process going to inordinate lengths to hide what they had done. They even invented new names for everything involved. Even the well known bank lending designation "Borrower" was changed to become "Obligor" and a great many other Terms were redefined as acronyms. This was functionally creating a new language – to hide what the little darlings were up to. No good!

But there is a legitimate way of thinking, of assuming within corporations. Employees understand that government has left it (likely for reasons of donations continuing to flow to political parties) that no corporate employee ever need be worried about going to gaol. Certainly not for 'just helping' their employing corporation to make more profit. Perhaps this Parliamentary committee should demand that in future, a penalty that hurts should apply. The rest of us would have already gone to gaol for these dealings.

More relevantly for this Parliamentary committee are the large number of decent Australians who were not bad risks, but good bank customers drawn into this massive class of frauds. The very many of these who have had their mortgages secretly sold to unknown parties for instant exorbitant profit to the bank they thought they could trust, have since suffered the very thing that this committee is aware of – virtually instant, harsh, Unconscionable and actually Fraudulent "foreclosure" or selling up. This is certainly not inexplicable. It is just a natural consequence of your lender selling the mortgage which you gave them to ensure that you would repay money they agreed in a Contract to advance to you as and when required or as agreed. In fact, most involved 'lenders' did not honour – or 'perform' that obligation to you.

The hallmark of these dealings was that lenders soon entered into Breach of Contract by not advancing the money contracted for. Especially did they do this upon an alleged "refinancing." What we have seen recently is ongoing life in old mortgages. They are not discharged when the property title changes hands, instead the new mortgage just sits on the title, waiting to be relegated in a court tussle to second position. Then comes another round, presumably. The successive 'rounds' never see lender money advanced to the property owner. All they get is ugly, adamant foreclosure about five minutes after being dragooned into signing. So, it is obvious that if no funds are advanced, this process of viciously selling a land owner up could continue indefinitely, each round yielding a further absurd profit for the bank from further **frauds**.

Most clients did not understand what was happening until it was too late. All police are still abysmally ignorant of these obvious, irrefutable **frauds**. Most decent Australians did not understand that they had a Right to sue the lender, at the very least for Breach of Contract and the few who found money to pay lawyers, encountered lawyers who took their money but had no understanding of securitisation to assist with and never bothered to find out. The few lawyers brought into the situation had no idea what was going on and, typically for lawyers, if they did not know, did no research and lacked the simple courage to prosecute a client's Rights in a court of Law when the opposition was a bank - a corporation from the "big end of town" or a government department, for Fraud or Negligence.

Why the Engineered Default happened

Presumably there were three reasons for the financial facility promised to the land owner in exchange for the security of granting a first ranked mortgage, just ceasing being delivered to the mortgagors – the bank client.

1. During the 2008 "Global Financial Crisis" funds to lend for "second tier" lenders who did not have a licence to create money (as the ADI's do under the Banking Act 1959) were in short supply.

2. The opportunity created by no government supervision, not even the adequate recording of dealings on Land Titles, was enhanced by some 'smartie' realising that they could sell your mortgage for far too much money. Because no sworn valuation of your land was required. This was a golden opportunity, literally. But only for the bank.

They only had to lie on paper (no new valuation required) to get the investors to believe that the mortgage was valued at perhaps three times the true figure, even more. Investors were apparently conned that easily.

Adding to that radical imbalance was the fact that your original lender only lent you a fraction of true valuation. Your repayments would match the size of your loan, so your repayments might have only been on half or less of the true valuation. That means that the investors were expecting repayments to match the value of mortgage figure lied about – as said previously, about six times more than actual.

3. Internally, the banks' senior management would have been entirely aware of what was planned for the decent, entirely viable clients into whose faces they smiled and whose hands they shook. That was why the cash stream to the

investors stopped. It was criminally – fraudulently eliminated – by the lenders.

4. To quote a paper from South Africa:

"Once a bank securitises a loan, they lose all rights to the asset. In other words, banks are not allowed to appear in Court because they do not have locus standii (legal standing)."

This confirmation came from The Registrar of Banks at the South African Reserve Bank. [The link to this document "Securitisation: A Conspiracy of Silence" is at the foot of this paper.]

Those bank managers knew the above legal fact; they retained no rights after selling the mortgages. That is why they moved into legally fraudulent "Engineered Default" immediately following the 'securitisation.' To get more illicit cash. However, in Australia banks have tried to insulate themselves from the problem of facing a court without standing, having just committed a **fraud** on people's land titles, by bringing in a front company and pretending that said company (usually a wholly owned 'Trustee company') has just bought your mortgage. Another bit of absolute stupidity in this process is that the front company never did pay anything for its alleged 'rights' over you. The bank involved, despite its disgusting profiteering on your misery, was too tight to pay actual money through the front company to make the 'purchase' of the rights over you through your original mortgage even appear to be legitimate. Where this has happened, we suggest that you assert to any court that it must not order anything in favour of such a company unless and until it has proved beyond doubt that it actually paid to have you in its poisonous grasp.

Stupid things have been unchallenged in the courts, such as trustee companies of the above type, suddenly appearing on the official court record as a plaintiff in its own right – not as trustee for another person or company whilst it has no capacity to pay money to buy your mortgage or to itself, sue you. In court proceedings, expect to prove that such a company never paid anything to obtain the right to sue you. And in Contract (land) Law, that lack of payment creates an invalid contract. We have already pointed out that post securitisation, the "Investors" lack any right to sue on the mortgage you originally gave **your** lender, leaving no one with that right. Demand that such a pretend Plaintiff be declared to not be a Proper Party and be banished from the court empty handed.

To cap off this position, the last Annexure to this paper shows several bulk land title transfers to just such an illegitimate trustee company (this one controlled by ANZ Bank) which absurdly purports that payment (Consideration) was made as "An entitlement in Equity." Now this is a nullity, as said earlier. You cannot pay the holder of a mortgage over the Fee Simple (Freehold) on land, by offering something which they already own, such as an entitlement in equity. That is every bit as silly as saying you paid for someone's wallet by taking it and then offering them a bank note out of it.

In Australian courts, such front companies have 'fronted' Supreme Courts many times and many properties have been ordered sold when in fact these paper mache imitations of a company with a right to sue, have acted illegally and actively misled the court. We know how to undo this particular fraud and in some parts of Australia,

get your property back instead of just money as compensation.

After a secret securitisation, it might take months or a year before the good, perfectly performing clients (you – the borrower) were viciously and Unlawfully sold up. But sold up they would be after all of the bank's rights to their mortgages had been sold to strangers. They were left with no other way to further 'milk' you. It would have been known within the bank that a contrived shortfall would result, so Hey! Why give those clients (you) any more money now? It would not do them (you) any good in the end and if the bank kept that money – the money needed to run businesses or plant crops, the manager would be "saving money for the bank." Gee, he or she might even get a bonus for that.

This **all** happened as a natural consequence of "securitisation" and unforgiveable Negligence by various parts of the Administrative governments The 'lenders' either arranged it or became aware that Negligence by government agencies had left them with an enticing opportunity to cash in on a contrived, tertiary market in ordinary people's mortgages. They could sell the "derivatives" created (of course, with no guarantees) to gullible insurance companies, superannuation funds, even Australian government departments like Treasury and the Reserve Bank (which should have known better) invested along with hedge funds in the USA and who knows, perhaps drug dealers in South America. This last group would not even require a profit, just for their money to land in Australia and look legitimate, as if it was invested already in "mortgages." No facts relevant to these dealings were ever recorded at a land titles office. One such office never did record bank signatures so no reliable proof of the contract the bank or its successive nominees have sought to crucify you with, reliable exists. Do not accept in court mere photocopies of documents from a bank. We have seen them do the 'switcheroo.' Shuffle paper to use one signature page with other pages from a document issued up to twenty years later. Titles offices were and are 'responsible' to the public for keeping land titles safe. But when, as we recently arranged, are questioned in a Parliament as to why they do not do what common sense would require in that respect, mindlessly and irresponsibly chant: "We don't do that" as if that is an answer.

The 'securitisers' have gone to great lengths to hide who paid more money for your mortgages than ever they would get back. Just as they have kept secret what they did behind the scenes to offset the total losses suffered by the investors so that basically none of them (with only two exceptions), in Australia anyway, have complained about being ripped off. No sooner had your mortgages been secretly sold to unidentified "investors" with none of the legally required "Notice" to you and consent from you, than the bank (without telling you it had no remaining rights over the mortgage you gave to only them) rushed to contrive, to "Engineer" dishonestly, Unlawfully, Unconscionably and in pursuit of even more Unjust Enrichment, a technical "Default" as an excuse to sell everything you owned and get more undeserved money before anyone who mattered came to understand what had happened. You can understand the third major **fraud** by reading on.

Woefully inadequate protections by government are the root cause.

Had government agencies - prudential regulators federally and Land Titles offices at State level - been merely baseline competent, these massive Frauds could not have happened. It is no good trying to put a 'proper' gloss on these things. [Reread the definition of what is a fraud on page 22 to see if it fits] Control of "lenders" has

virtually evaporated in recent years.

All government owned banks – each state and the federal government used to have one, have been sold. To temporarily plug a hole in a current budget. This is best characterised as strangling the goose that keeps laying the golden eggs. This gave all "no cost" creation of new money to the privateers and left government having to borrow privately and pay absurd rates of interest on new (privately borrowed) money it used to just create at no cost. It also removed entirely the only effective brake on interest rates. Competition with government banks operating with lending rates not too much above operating costs. It is precisely why, as a nation we have rapidly, exponentially escalating government debt reducing the funds government has to use after paying its interest bill to foreign banks.

Now, only a handful of 'licensed' lenders, now known as "Authorised Deposit-taking Institutions " (ADI's) operate under the Banking Act 1959 and are supervised by APRA – a government instrumentality named "Australian Prudential Regulatory Authority." Recent changes by APRA requiring a small increase in the relatively small cash reserves held by ADI's have caused great consternation in bank board rooms. Those reserves are too small for any prudent small business to have. But each of the big four banks are currently having difficulties raising several billion dollars just to comply.

All other 'lenders' quasi lenders and unprincipled thieves operate with no real supervision by government. They do what they like. The lazy, official, idiotic assumption within government is that anyone in business is legally savvy or has ready access to quality legal advice. And pigs might fly. Anyone with a bit more experience would know that ASIC are quite usually hopeless at looking after people. They like big law cases only and their track record would suggest that they like losing them. Protection for the "little guy" is non-existent. The vast majority of Pty Ltd companies in Australia are what is affectionately known in relevant circles as "Mum and Dad" companies. And they generally have no more financial resources to pay for lawyers than Mum or Dad. If they want to take their slim chances of finding competent, unafraid lawyers.

Why has a massive series of frauds overtaken Australian property owners and enormously inflated prices? Simply because a huge profit could be obtained by doing what was done. And the organs of government being asleep did nothing to protect us and actually assisted the process no end. It is that simple, as will become clear.

What follows is a fairly brief and plain explanation. Then part three is the ramifications; the results, the other Frauds not yet in view of the committee, it seems.

This overwhelming ignorance has allowed the creation of a whole new industry of financial **fraud**, built upon imaginary things shysters and educated fools can waffle on about, when there is no tangible base, nothing productive, not even a productive service to point to as a valid claim for a share of the wealth of nations. Functionally, such people are pure parasites stealing massive amounts from all of us, and so long as politicians remain asleep, comforted with outdated ideas of what is, in the economy, governments will not stop this massive theft of our national wealth. We all remain poor until this problem is solved. But for this scam, we all might earn more

than double the dollars we presently get, working many less hours per week for it. Hands up those of you who are happy about this?

Overview in simple terms

Most of us presume that government and courts will keep our properties safe. This is no longer true. This section is a simplistic explanation, an overview in an example so the rest will make sense.

Suppose you are a farmer or business or home owner with a property that a proper, sworn valuer has recently valued as being worth

\$1,000,000

Suppose that you arranged to borrow money from a bank, say, \$ 400,000
And that the 'bank' took a mortgage over your land to secure the repayments you promised. [This proportion of loans as compared to valuations was actual for the ANZ bank in recent years]

Then, without your knowledge, 'your' bank just sold off the mortgage you had given them as security over your loan repayments to a bunch of investors whose funds were managed by one firm as a pooled arrangement. Only this time, they get around providing a sworn valuation and just write a figure that suits them into the documents given to the manager of the investor pool, say \$3,000,000

+In exchange for the dishonest illusion of having rights over a \$3,000,000 mortgage with all repayments to come to the investors, the investor pool manager pays Your 'lender' an immediate cash payment of \$2,300,000

Now of course, no sensible investor would spend that amount purchasing the income (the repayments) from a \$400,000 loan. It might take 100 years to get your money back, but that is what the investors bought. They were duped as surely as the Registered Owners of the original property who never were informed about all this, despite the Law definitely requiring it. Both parties have been defrauded. But we are initially dealing with the land title holders. The investors will also have rights to legal redress despite the best attempts of 'honourable' bank solicitors to have them contract out of all comeback.

The key to this whole business of 'banks' acting very badly indeed is that when they secretly sold your mortgage for far more than it was ever worth, for immediate cash, they sold all rights to enforce the repayments due on your loan. The original lender's name remained on the mortgage as the mortgagee – the only party with the right to enforce payment or sell up the mortgaged asset. Because of the illegality involved, all of this trickery was never recorded at the land titles office and the "mortgagee" named on your mortgage never changed. So the pool of investors paid for nothing. Their name was never on the mortgage and your original 'lender' who sold your mortgage along with all rights accompanying it, cannot chase you for payment without committing an obvious fraud. But they did have a plan for you over that little problem. See later herein.

What the lenders do is two more phases of ripping you and the investors off.

They tell no one that your mortgage and all of their associated rights with it, have been sold. They just get into an immediate vicious phase of FRAUD.

They get asleep judges to order a Possession and Sale Order based on their original piece of paper (the mortgage you gave them) , not announcing that their rights over you have all been sold for lots of lovely cash. This means they have no right to even go to the court; they are not what is known as a "Proper Party" to approach a court. They Engineer your alleged default, then get an Order to sell your land by misleading a court with lies and deceit – if they even bother going to court. They generally lay claim to you being legally bound by a supplementary contract document. This might be of up to 50 pages of small print, draconian terms put there to suit the bank; terms no sensible person would agree to. Terms you never even saw which amongst other things, state that they can call in liquidators without a court order. **This is why banks often do not bother to get court orders.** But that position is legally fraught with their incapacity to Evidence that you had any pre-contractual knowledge of the terms they want or presume to rely upon.

A Court will, sometime soon, overturn many such things. Most bank customers do not know this deceit is illegal too, for reason that the banks deliberately contrive to hide even the existence of the possibly 50 page document of obnoxiously unfair terms and conditions from you, whilst tricking you into signing an acknowledgement that you both know of it and had been given a copy. This disgraceful trickery also, may well provide a good legal defence against the bank.

On the other end of these scams, the poor old investors have been told that they have no legal rights against you OR the bank. The investors' contract, issued by the bank, says so. However, legally, this is just another lie. Investors do have legal rights and they can prosecute the criminally acting lenders who took their money. The "securitisation" contracts banks have given the "investors" has another little sting in its tail. There are always at least two classes of investor in the securitisation Contract. Let us simply call them "A" and "B" class shares in the theoretical returns from the pool of mortgages being purchased. So, if there ever is a return at all, the "B" class investors will never see one. It seems that any actual returns before you get hurriedly and nastily sold up by **fraud**, would actually go to the bank 'mates' involved – those investors given A class shares. However, after any cash flow actually received is passed through the likes of Trusts, Trustees, Depositors, Sellers,

Originators and Master Servicers, there is little or nothing left for investors, even the "A Class" ones.

Then your bank, 'your lender' sells you up in a hurry for not much – perhaps 30 percent of real value. The Law relating to the duties of Trustee requires them to get fair market value for your property but that is just ignored, because these bank smarties know that no court in Australia ever enforces the legally actionable Breach of Trust that a seriously under value sale in Law represents, especially if it is a "Private Treaty" sale rather than a suitably advertised public auction.

So why do banks sell you up for way too little?

Because built into their inflated extra interest rate (said to be because you were not a "standard risk" – and we suspect that no one ever is) is a cost for "Mortgage Default Insurance." That insurer then promptly pays the 'lender' the shortfall – in this

example the other 70% of what is owed. The alleged 'lender' is by this time laughing all the way to their own bank. [They are usually owned by that bank] They do not credit your account for that insurance payout, even though you paid for the insurance. **That** contract says (not that you ever saw it or agreed to it or even knew it existed) that you the Registered Owner and mortgagor must pay the insurer (the one owned by the bank quite usually) all of the shortfall on the sale of your property. Despite the fact that you have already been charged the premium for the insurance policy which fully paid your lovely honest lender out.

That leaves you still in pile of debt. That "insurer" pays the bank using the policy you paid for. Then, in a Contract you never saw and never agreed to if those terms were not presented to you ahead of you being asked to sign documents and you were given a policy document, you are supposedly required to pay that insurer back. This is precisely why many 'foreclosures' go ahead when the bank has already been paid in full. This Unjust Enrichment and worse. In Law it is actionable. But do not listen to most Australian lawyers about this. They are too timid to venture into unfamiliar legal territory, no matter how solid the case. Australian Law, notably the Competition and Consumer Act 2010 (CTH) now has attached to it the old Trade Practices Act 1974 (CTH) provisions. They require that no corporation may rope you into any ancillary deal without giving you a fair, prior opportunity to get competitive quotes and better contract if you can.

It may be justifiably suspected that internal bank "insurance policies" are either not lawfully underwritten in terms of the Insurance Contracts Act 1984 (CTH) or that no cover was put in place despite you being charged for it in your loaded interest rate as a "non standard" loan, or that an alleged contractual Term (you never having received a policy document, contrary to Law) which requires the insured (your friendly original 'lender' to claw back for its own internal 'insurer' whatever it can from the fire sale of everything you own. It is without doubt a contractual Term you would never have agreed to, which is why you were never told of it, but still secretly forced to pay for it. Unlike all other usual insurances, the payer of the premium cost of the policy, normally gets the proceeds of a claim. Except here, you pay and the bank gets. We say, unlawfully.

At this point, you or your company gets bankrupted or liquidated – for the artificially contrived shortfall. Probably, the smarties involved in buying such properties cheap (often by private sale, not public auction) have some connection to the lender. But it is only conjecture that there might be kickbacks for sales at very favourable prices, shortly followed by sales at considerably higher prices. And it is no good asking police to investigate **fraud**. They will always try to call it a "civil (Law) matter" so they do not have to do anything. And this not long after they probably accompanied whoever forcibly took possession of your property and goods, before there was any hint of the kind of problem that may have justified them being called in.. They are only legitimately allowed to "keep the peace." However, they standardly arrive, looking precisely as "Enforcers" when you get dispossessed. Quite without justification.

The third round of rip off

Not to stop there, "your lender" then makes another killing before stopping. And the recent practice in Land Titles offices to issue a new, first ranked mortgage to a new 'lender' without yet discharging the prior First Ranked mortgage makes us wonder

how many rounds of securitisation over one property there has to be before bank officers go to gaol and involved lawyers lose their licences to practise Law and Land Titles officers get nailed in Court for Negligence.

You are threatened with all sorts of strife unless you agree to a new mortgage with a new lender. In the cases we are dealing with, the original lender was owned by ANZ Bank, but no customer ever knew this. So, along comes the 'new' lender with a new "Letter of Offer" which is used to con you into signing a new mortgage – said to be just a "replacement" lender or "Our bank just purchased your previous lender's loanbook" so "Just sign here, it is a mere formality for you to continue your facility" This absolute lie comes with a sting in it. You swap a real, new mortgage for an old and legally dead one, not knowing the difference. You have been given the full on mushroom treatment (kept in the dark and fed bull...t)

In fact, the 'new' lender never did pay its fully owned subsidiary or hired (in house) Trustee company to purchase your loan, along with others in a "loanbook." Why bother? That would cost money. And the original bank already owns or controls the new lender. Or the other way around. What is overlooked is that telling this to a judge requires proof of payment. Because a valid Contract requires payment (known in law as 'Consideration'). However, as previously said, judges are mostly 'onside' or asleep and bank lawyers rely on this. One transcript we have has the 'judge' saying "Well I presume they had a mortgage." There was no valid mortgage; the substituted (alleged) lender did not even have the right to approach the court. Nothing was ever paid to 'purchase' that loan. This means that there was no valid Contract allowing the alleged 'new' lender to sue you. The original lender's name was still on the land title record, but that lender dared not come to court. It had fraudulently sold its mortgage for six times what it was worth. However, said 'judge' then ordered the forced sale of several very valuable farming properties. With no Evidence that there was payment of any 'Consideration' or that there even was a mortgage.

Strangely the Order doubled up. This is not unusual these days, by the way. Quite legally improper, but quite usual, too. It provided for the sale of the land – and everything on it or associated with it, with no qualification about selling only what was required to meet the alleged (but not even proven) debt.

This double barrelled Order was made three months after everything else: livestock, tools, equipment, tractors, ploughs, combine harvesters, all other machinery, irrigation equipment, silos, stocks of chemicals, fertilisers, household furniture, vehicles, everything had already been sold for a pittance or given away – thrown in with the deal for the land.

Replacement cost: \$2,800,000. This gross outrage was said to be allowed by a clause in that notorious "Memorandum of Special Provisions" that you never were even aware of and never got a copy to view or get advice on before signing. Meaning, that obnoxious clause was invalid as against you. Meaning that whatever subsequently happened was illegal, by the bank. **But no Australian Lawyer was ever, it seems, unafraid enough to run that claim in a court. When we do, there will be ructions in the courts and the bank board rooms. The benefit was thus unlawfully obtained: Your farming capacity was destroyed, so you would not ever again get enough money to sue the bank.** There were two small problems. The claimed 'contract' allowing of such behaviour was invalid; it had not been advised to the

farmer before contracting. The other small problem was that, despite cleverly selling thousands of acres of land by private treaty for exactly what was said to be owed, this meant that **all** of everything else that was sold, should not have been taken, and most definitely should not have been sold at all. Oh dear! **But never mind, practically nobody sues a bank, no matter what they do. (Except we do)**

Then, before the ink is even dry on it, your 'new lender' virtually instantly, securitises your new mortgage all over again and gets paid something like five or six times what it was worth. And that feat was accomplished by a middle ranking bank officer just writing on a form that your property is worth several times more than it is. **Why do little bank johnnies do this? Because they can.**

Interestingly, when a 'new' mortgage is signed up by material Pre-Contractual Misrepresentation, no more money is given to you. There is just instant, vicious, selling up of all that you own. Contract Law requires an exchange of something from the lender to justify what you have done for them, including by giving them a valuable mortgage and making what you are led to believe are 'repayments.' Without that, there is no valid contract, but Gee, that shouldn't be a problem. Farmers and small business owners are a pushover, aren't they? **Why this is done is simple.** Before a 'new' mortgage is completed, the original 'lender' having long ago sold your earlier mortgage and all associated rights, cannot lawfully accept payments of Principal. That would be an obvious, criminal **fraud**. So until you are tricked into signed a 'new' mortgage, they will continue to collect your monthly payments, but what you do not know is that your original lender is no longer in your life. **Now, they are acting as a commission agent, collecting your payments supposedly as agent for the investment pool that bought your mortgage. But they never tell you this. That might unsettle you and expose their crooked dealing.**

The investors are again not told that your loan is for less than half of the real valuation, let alone of the **fraudulently** overblown asserted value of your asset (then on the bank's balance sheet) for perhaps three times that. **And the whole fraud goes another round. The winners are the banks. The losers are both the unnamed investors and thousands and thousands of decent Australians, Australian families, Australian businesses, and Australia.**

THIS IS WHY PROPERTIES ARE SO UNAFFORDABLE FOR AUSTRALIANS.

How is this outrage even possible?

The lack of communication across government is a major problem. Horrendous abuses of not just niceties, but legal crimes of massive frauds have proceeded in this area for well over a decade and the various political and administrative government senior staff involved have been terribly naïve, **slack or complicit with those crimes.** Certainly, to date, no one who matters with respect to curbing this wave of property fraud is even admitting to being aware of it. Least of all politicians, judges and police. In fact, strident efforts to alert authorities by the writers have encountered such intense resistance, vilification, unlawful court decisions, defamation, **stonewalling and nastiness, that we can only assume that people in high places have had their snouts in this very smelly trough for some time.**

It is tolerably clear that in some States, Land Title Record departments have been "influenced" to do imprudent things with record systems to facilitate and conceal

these frauds. Interestingly, in at least one state, the lawyer's mantra about you cannot reverse a land transfer, only seek compensation, is plain wrong. The relevant legislation does allow for the reversal of property sales where **fraud** is involved, but lazy lawyers will never do any research and find this out.

It is also tolerably clear that judges in Supreme Courts are either complicit or just naively assume all is well with cases involving 'securitisation' before them. A long and extensive history is on the court record showing Judicial officers ordering the Possession and Sale of thousands of properties whose rightful owners have been subjected to **fraudulent "Engineered Default."** Then, when the proper party was not before the court and no-one who was before the court had any right to sue, these owners were still sold up. Many cases show idiotic assumptions by courts that the plaintiff – the bank - had rights, **when they did not.** We have seen orders for possession and sale made on assumptions **and no evidence.** Often. We have many times seen millions of dollars and a family's whole life evaporate in a pool of artificial, fraudulent debt. And cases where no judge was even involved. A mere Registrar who had no such power presumed to make Orders and even worse, many cases where a purported 'lender' who was not, brought in liquidators with no court orders at all.

It matters not why. Illegal conduct begets being sued and losing. We are suing a State government for the actions of a State Land Title repository and a "Master" (rather like a judge with reduced powers) with legal Negligence or Breach of Duty and more such cases, indeed a Class Action for hundreds of victims run by unafraid international lawyers will follow. We do know why practically no lawyers are uttering a squeak about this outrage, apart from the usual laziness and reluctance to get offside with the big end of town, and Money can buy almost anything to silence whistleblowers.

Attachments

To broaden your perspective on this issue we are attaching some land title printouts showing batches of 'secret transfers' of our real estate and providing internet links to cited documents, excerpts and links to online items of interest.

These are mentioned at the end of this paper, making several points and to enable further reading by those interested.

Including that educated fools with no Un-Common Sense have let the nation down badly on this issue. People who know what is happening but fail to grasp the context, the dynamics, the financial motivations this class of fraud allows, the shameful lack of control and proper oversight that has inevitably resulted in a perfectly predictable economic and social disaster. Were it not for the extreme naiveté of "educated" people, this mess could not have been facilitated and fuelled to descend upon Australia.

One such link is to an extensive "glossary" which defines many, many acronyms – you know, where several letters are used to replace several words. If you do not know what the letters stand for, you cannot possibly understand what is being written about; it may as well be a foreign language. **It is our submission that this massive overuse of undefined esoteric terms is deliberate.** The perpetrators of these frauds

did not want other people to understand. Gee Whiz! If they did, that could have landed the crooks in gaol !!!!

It still could.

PART THREE : THE MORE COMPLETE EXPLANATION

It should also be noted that identical misconduct by banks and other lenders (let us just call them 'banks') in the USA has resulted in \$100 billion dollars for **fraud** to be court awarded, and up to another \$104 billion dollars is expected to be awarded for cases already in the courts there. That is an estimate from Standard and Poor's some time ago. However, it appears that although this scam, this disgraceful fraud has been running for more than 15 years in Australia, none of our hundreds of politicians or any of our judges yet understand it. They just slumber on, do not bother to understand what is happening and allow thousands of property owners to be criminally dispossessed, causing immense social disruption to families and a rash of needless suicides by good people whom the authorities failed to protect.

Judges have been disgracefully lazy regarding these dealings. Many victims of these frauds have been sold up simply because too many judges have :

Not required Evidence. (Isn't that in the job description?)

Not required Accounting. When in thousands of cases,

(i) ALL of the debt has been more than paid by hidden investors ("securitised")

(ii) Penalty interest rates and hidden contractual terms have been applied when the Law does not allow it.

Not applied the basics of Law. For example, a person is not bound by a contractual condition they had no knowledge of.

Our three tiers of government – why they are all ineffectual

Supposedly, we have three separate levels of government, as follow, along with public news media which used to inform the public, but now run to make money as almost their only priority, especially since the healthy diversity of media has been sabotaged by successive governments (political parties) allowing the centralising of ownership, then succumbing to pleasing those who donate to them, such as large media companies. All major news media are virtually emasculated by this factor now and will not report what big business wants kept secret. The internet is the near future hope of decent people, but right now, what follows does explain why Australia has been thoroughly sold out over the last two decades and virtually no one knows about it except bank senior managers and their lawyers, acting criminally in concert and effete public servants who do not grasp the inevitable dynamics created by open invitations to taking fraudulent advantage.

This staggeringly huge crime against our nation, this "securitisation" has massively sold Australia out, and why our people have not known of it much earlier is

explained, below. The overarching factor is that career public servants and politicians and judges and lazy, not quite bright police, all fail to comprehend something.

Corporations - invented about 150 years ago in good ol' 'America' as a tax dodging device, for reasons that totally defy all sense – have been given what is termed "Legal Personality." All parents should teach growing children that adult "rights" come with responsibilities. If they do not, their children are likely to become a liability to the community. Corporations have no soul. They get conceded 'human' rights, but never can go to gaol and fines that are less than the profit generated are no disincentive to criminal conduct for corporations; they are just regarded as an expense of doing business; a tax deductible business overhead. Until political parties decide that going easy on their corporate donors and not legislating to gaol or heavily fine their directors where clear wrong is done, there can be no improvement in corporate conduct. The **frauds** this paper identifies still continue. In 'America' a jury would likely impose huge fines to hopefully get the criminally acting corporate directors to back away from continuing their crimes. More effective would be gaol for directors, but for so long as big corporations donate what is, to them, small amounts to political parties, that is not likely to be legislated. The ordinary people do not matter alongside of dollars for favours, politically.

Politicians have all been indoctrinated that political parties "Rule." What is not known by many people is that some organisation telling a Member of Parliament how to vote is actually committing a criminal offence in all parts of Australia. They are supposed to represent the wishes of the people in the area that elected them, not the funders of an external organisation of any name, not just "Party." The penalty for that crime around Australia varies from two to seven years gaol. It gets worse. Recently, all politicians belonging to parties have been told (and seem to just accept) that they must not speak out on anything; that they must refer everything to their particular party's spokesperson for that issue. So if two people – the two who speak for the two major parties - do not speak out, no one does. And Parliamentary privilege – the absolute protection from being sued for anything said in a Parliament is neither understood nor used. It exists to allow important issues to get raised, debated and suitably sorted out without fear of consequences. But it is not used. Nearly all politicians just accept such privileges being severely rationed by a 'party' when to do that is grossly illegal.

The ranks of Judges have been majorly infiltrated with persons belonging to similarly improper organisations. Many – a significant majority - are members of a 'club' which quite illegally directs them as to what decisions they make and many, now, are led astray in many cases by organised bribery, entrapment and ensuing blackmail. If you want to comprehend the reality, here, read that last sentence again. Apart from having direct knowledge of this, we see the proof, daily, that this is exactly true. To be a little kinder, they are wooed by big business who 'make friends' with them as well, creating favourable bias towards big business, in this case, banks. And that is perhaps why they appear to not listen to unrepresented persons in court, no matter how good their case. Lawyers at large now are too intimidated about being victimised, especially about losing their ticket to lots of lovely money; their "practicing certificates" if they stir up dissent by raising issues not 'approved of,' that they generally will not do it. They are happy enough to take a client's money, but not to strongly put their case.

The bureaucracy – the Administrative government. This part of things has become lazy and complacent and has also been infiltrated by corruption. Land Titles registries in several States have done things that are too crazy to be accidental. Like transferring wholesale batches of thousands of mortgages over Land Titles to new entities with no Notice to the landowners so affected. Like having processes that do not identify which of **seven** entirely different categories of transactions are involved when "Transfers" occur. Like not notifying Title Holders when mortgages over their land are transferred to new entities anywhere in the world with no checks as to whether or not those transfers involve real value to support a Contract or might just be laundering drug money.

Banks here are corporations. They do nothing to please anyone except their international shareholders – mainly other banks, HSBC, JP Morgan, Citibank and the like. It is not well enough understood yet that corporations have no conscience; they exist entirely to make profits. Yet governments still assume corporations' health is our people's, our nation's health, when the interests involved are diametrically opposed. Because of the above, massive **frauds** against Australian land owners have been occurring for years with obviously huge impacts on inflating land values, as will become clear, below.

And the police are useless.

Lazy, disinterested, non-comprehending and reluctant.

Lacking external oversight on misconduct and too many of them being compromised in the illegal drug trade, has created a hopelessly corrupt culture. The other element rendering police swamped with corruption, a place where the good ones leave years before any of them get promotion, is that (this is not a guess – it is verified) most of their recruits are of lower than average intelligence. This practice still lingers as the bright applicants are rejected "because they are considered to be discipline problems." That is, intelligent police officers in 95% of cases are not wanted; they tend to disrupt the lazy, corrupt, internal culture; one of "them and us" with the public.

The Parliamentary Enquiry

The Joint Standing Committee of the Australian Parliament is tasked with investigating "Corporations and Financial Services." It is looking into what it calls "The Impairment of Customer Loans" in which they have come up with a name for the totally illegal conduct of banks in what they lamely call "Constructive default". Our recent discussions with relevant people have revealed that about no-one knows **why** banks are behaving so badly, so obviously in Breach of their contracts with their own customers.

This committee is addressing the flagrant illegality in step Two of the three steps described above, without understanding the directly related Steps One and Three.

What is not known in this enquiry yet, is that the motivation and causation of this rampant problem is actually the straight **FRAUDS** involved in 'securitisation.' This is a 'nice little earner' for our 'big four' banks. This theoretically means that they must have happy shareholders, and to them, customers are fruit to be picked, not to be served and treated decently, so a lot of customers are not happy at all.

In fact, in the whole world, Australia's four biggest banks were not just high on the worldwide high earners list. No, only a year ago, they were actually ranked as numbers 1, 2, 3 and 4 on that list. Earnings substantially supplemented by actual crimes against thousands of decent Australians.

One obvious negative effect of "securitisation" is the inflation of the property market - major increases in real estate values due to the massive injection into the property markets of the fraudulently obtained monies from 'securitisation.' One recent change will slow this inflationary trend. The requirement for wealthy foreigners who do not live in Australia to divest properties they are no longer allowed to own is already reducing housing prices, particularly in the top end of the market. That helps, but the core unnatural boost to prices caused by securitisation, is still there. It needs analysis, but in Australia today, there is a new commercial television program showing Australians that land values here are so inflated ('overheated') in industry jargon, that selling a modest home here, as the program illustrates, would release enough money to purchase a veritable mansion in any of several European countries including Spain, Italy, France, Germany and Britain. Homes worth as much as three times their European price if bought in Australia. We do not wonder why, and we trust that by now, reading this, you do not either.

A proper evaluation will reveal to Australians that there are specific reasons why their grandparents could pay off a mortgage on one income in five years whilst they are taking fifty years. And why real estate values here are way higher in real terms than in Europe. In our grandparents' lives, about 92% of homes were owned outright – mortgage free. Now, that figure is basically reversed; about 92% of Australian homes are mortgaged. Such is the impact of artificially high interest rates – determined "commercially" with no government intervention whatsoever and fraudulent scams including 'securitisation' adding to the misery. How pathetic government has become is clear in the occasional frustrated bleat of a Treasurer impotently lamenting that the banks will not pass on an interest rate reduction to their customers. Who runs the show?

What is 'securitisation?'

This explanation is simple and clear. Just read on. All of those involved in this massive fraud on ordinary people have gone to great trouble to hide the facts from you. Because it is a **fraud**. However, because it is very profitable for their employing corporation, bank officers are in it up to their necks on behalf of their employers. They win approval from their senior management and get bonuses for earnings increases because shareholders love extra profit, don't they? And bank employees believe that they will never go to gaol for 'just following orders' although this may soon change. Also in this scam are some others, people with businesses doing nothing else but securitisation, along with taxation accountants and investment advisors.

Background

A lot of financial stuff rolls on without most people taking any notice. Most people feel they are not economists or do not understand, so do not even try to. Following a bit later here, is an explanation, looking at the evolution of the market in terms of time periods in which different lending schemes became part of it, ending up with 'securitisation.' In there it appears that 'securitisation' is just a further extension of

those. But it is not. It is **fraud** and the people doing it should be in gaol.

Bear in mind that the Australian "Banking Act 1959" requires about forty qualifying businesses to meet reasonably strict standards including holding cash reserves to obtain and retain a "licence" to operate as "Authorised Deposit-taking Institutions." They are monitored by a government body known as "APRA" (Australian Prudential Regulatory Authority). Talking to APRA executives, one gets the impression that they know nothing about 'securitisation. However, their published papers state the mechanics of securitisation explicitly, as do Taxation manuals. It may be though, that the over educated writers of those 'papers' fail to comprehend the miasma of criminal ripping off of good people this fraudulent scam has opened up. Certainly people in the Reserve Bank and Office of Financial Management appear to fit that description. It is news to them that the opportunities created in securitisation are being massively abused.

Recent discussions with relevant authorities have revealed that a few years ago, government withdrew from 'regulating' (that is, policing) the second tier lenders. That is, all lenders who essentially, are not "credit creating" banks as referred to, above. This was justified to the writers as an idiot assumption taken that anyone with a company was a savvy person of business with access to legal advice so they did not need government protection. Of course, the vast majority of companies in Australia are small "Pty Ltd" companies and a huge percentage of them are known anecdotally as "Mum and Dad" companies. This refers to small businesses (such as tradesmen in the building industry), generally created as a corporation by their plodding type accountants only to give some taxation relief through writing off some expenses. Most of these people have no business experience, do not understand legal "stuff" and many cannot even afford 'legal advice' or know when it might be prudent to get some. Most also presume in a sadly old fashioned way that the people they deal with, such as banks, are honest and can be trusted.

They were ripe for the picking by the fraudsters who were not particularly clever, only able to copy a template of criminal conduct dreamed up by greedy crooks wearing business suits in the United States of America. The only change they appear to have made in Australia is in corrupting Land Titles departments as to how they keep their records (this made it easier to defraud land owners in wholesale numbers). And getting their legal moves in front of corrupted, lazy or not quite bright judges who do not bother with requiring 'evidence' before throwing them client properties to sell when doing so is simply a clear **fraud**.

It appears that the evolution of this latest massive **fraud** on ordinary people by rapacious banks in particular, along with 'business people' with no conscience and a lot greed has proceeded over nearly 20 years without one politician (out of more than 800 in Australia) even learning it was happening. This opens up a huge opportunity for Class Action litigation which we are in the process of preparing. It seems no one else is going to do anything to obtain justice for the illegally dispossessed land owners, business people and the defrauded home owners. Additionally, bona fide investors, also shamelessly ripped off, may have a Class Action remedy.

Historical perspective

This overview shows a progression giving a context to this recent fraud. It may not be accurate in terms of detail, but it may serve to help you understand things.

Pay day lenders First let us start with the simplest thing, and it is likely that the others developed from this anyway. Ordinary working people in regular employment who for some reason run short of cash or need to pay a bill a few days before their payday can easily get some cash, secured against their promise to pay it back when they get paid their wages or salary. The interest and other charges are high and if they are late, even higher. The term of these loans is usually some days.

Bank overdrafts for cash flow stress. Typically, banks only give these on solid security, such as real estate. The account is most often used by small, often family run businesses to absorb delays in clients or customers paying for things purchased or work done for them. The use of overdrafts expands a lot in a credit crisis with artificially rising interest rates because customers who ordinarily pay on 30 day accounts are finding things tough, so drag out their payments to 60, 90, 120 days or even more. This forces their suppliers to arrange for or extend their own overdraft and businesses, their suppliers and their customers jostle for whose account the delay is loaded on, and thus who pays interest on the delays. Bank managers can reduce or remove or load up these 'facilities' with penalty interest rates at any time with not divulged or often talked about contract conditions.

Factoring - up to 270 days. In fairly recent years 'factoring' has grown substantially. Where a business is struggling to the extent that it cannot get or keep an overdraft, it will often move into this realm. Take an example. A panel-beater has to buy his parts and materials, do the work and pay his rent and staff before the job is finished. Bigger businesses like insurance companies use the pressure of the panel-beater not wanting to lose all work coming from that insurer's policyholders by refusing to pay except after a long delay. To stay solvent, the panel-beater may do business with a 'factor' often a wealthy individual who will take possession of invoices issued to the insurer by the panel beater and get the right to recover that money assigned to him or her (the factor). The factor then immediately pays perhaps 94% of the invoiced amounts to the panel-beater and proceeds to collect as quickly as possible from the insurer, hopefully quickly enough that the 6% 'discount' the panelbeater had to give the factor is enough to cover the delay and still give the factor enough profit for the use of his or her money. These arrangements can be flexible and can drag on for up to nine months.

Securitisation posing as just an extension of the above – but it is not.

Now, above you see a progression. Each facility came along later in time, essentially to handle problems that were not problems earlier in commercial history. In particular, punishing rates of interest or lack of availability of funds from wholesale lenders. Each arrangement runs for longer and longer periods of time. Perhaps in some people's minds securitisation is just the next step. In our submission it is more often and more accurately characterised as a fraud. It is shady practice, dressed up as normal commerce.

The modern world of commerce has a whole crop of people who are not to be trusted and who probably would not object to being called 'smarties.' But they have

outsmarted themselves when they commit clear **fraud** and it is to be hoped that at least some of them will go to gaol. We will again refer to these fraudsters as "smarties."

Just to make clear what sort of a deal the 'banks' have delivered to "investors" and their 'valued' customers in these schemes, let us take some rural customers. Just one rural part of ANZ's operations formerly known as "Landmark" was for years a rural lender for farmers. It ripped them off then sold them up, then it closed down. Only later did it become known as having for many years been a fully owned subsidiary of the ANZ Banking Group.

Landmark had about 10,000 farmer clients. About 4,000 of them were subjected to Engineered Default and illegally dispossessed of their farms, their family homes, their businesses and some of them, their lives through needless suicide. They precisely exemplify what this paper is about. As far as we know, all of these clients' mortgages were soon securitised. None of the clients were so informed. All of them were hit with disgustingly illegal Engineered Defaults. 4,000 were illegally sold up. As far as we presently know, all were charged for mortgage default insurance in unlawfully loaded interest rates. None of them were paid those insurance claims after they were sold out too cheaply. The bank quietly took that money on the side, then bankrupted them and wound their companies up. A nice little earner indeed!

Of course the young Turks of finance who think anything goes if you can get away with it, the smarties, have no compassion for these good people. We will see if Australian courts will tolerate them or gaol them in due course.

NOTE the below discussion refers to cashing in the cash flows from real estate mortgages. After this, the smarties 'securitised' all sorts of things, including car finance contracts, repayment of student loans (in the USA) and even the cashflow from parking metres. These things get catalogued under the tag "derivatives" which completely fails to define what is meant and practically nobody understands what is meant by that term. As is intended.

THE THREE STAGES OF 'SECURITISATION'

OR How to get three times the money you are due without going to gaol

We will answer not in our words (we might be wrong) but in Westpac Bank's official words. (Of course, a corporation cannot go to gaol. But soon, its directors might.) Then we may be able to unravel the jargon for you. Securitisation certainly is an action to deceive, using esoteric, deceptive language without defining what on earth it means.

Liberal use of meaningless acronyms, also not defined, has frequently been applied to befuddle clients who were being ripped off.

The following is an excerpt from a Westpac website :

This excerpt taken from the [WBK 6-K](#) filed Nov 13, 2009.

Securitisation

A securitisation is a financial structure where the cash flow from a pool of assets is used to service obligations to at least two different tranches or classes of creditors (typically holders of debt securities), with each class or tranche reflecting a different degree of credit risk (i.e. one class of creditors is entitled to receive payments from the pool before another class of creditors).

Securitisation transactions are generally grouped into two broad categories:

Traditional or true sale securitisations, which involve the legal transfer of ownership of the underlying asset pool to a third party; and

Synthetic transactions, where the ownership of the pool remains with the originator and only the credit risk of the pool is transferred to a third party, using credit derivatives or guarantees.

NOTE In parts, at least, of Australia, land legislation mandates that only "traditional" (as if this new fraud is an age old practice) 'securitisation' is legally possible. Because all rights must go with a mortgage transfer. Anyway, who in their right mind would pay for less than no rights in a "synthetic" transaction? (Yes, we did hear you answer: "Superannuation fund managers.")

It should be noted that a presumably intentional array of names for things involved, and not defined acronyms crop up throughout these dealings. One such misleading name in the financial literature is that 'securitisation' is, without explanation referred to as "covered bonds."

STAGE ONE : SECRET SALE OF YOUR MORTGAGE.

Greedy or desperate 'lenders' now have a way to get virtually instant cash. Especially during the 2008 Global Financial Crisis, secondary lenders (not so much the major banks who have a licence to create the stuff) had trouble borrowing money themselves. In this 'new market' the moment someone gives them a mortgage to secure a loan of some kind, they no longer have to wait 15 or 20 years to get their money back plus enough interest to make an acceptable profit.

This process involves the outright selling of the lender's rights as mortgagee to pools of investors, but this was not advised to the property owners, ever. Obviously because, if that legally necessary 'Notice' had been given, practically no one who had given a bank a mortgage would have agreed.

Amazingly, the 'investors' were manoeuvred into paying way too much. An example would be a property, say a farm or a business, with the land and what was on it valued at a million dollars. The maximum amount advanced to the farmer or business person against this would normally be 60% and often less. [For a reality check here: ANZ in 2008 advised in its annual report that its overall LVR was 39%. That is, for each million dollars of professionally valued property they held mortgages over, they had only lent 39% of that]

Based on the amount actually lent, (not the wildly inflated figure) it would take (calculated at actual recent lender interest rates of 9% and 11%) 15 years or 18 years before the loan might be repaid – and longer to make a profit. But that was on the amount lent. We should look at what the investors were told and what they were charged.

Selling your Equity without permission

What the 'smarties' have done, is to not only sell your mortgage, in a situation where perhaps half of its value was needed to secure your current borrowings, but they also sold your remaining equity in that mortgage's value. In the past, this excess equity could and sometimes was used to secure a second or third mortgage. You had it in reserve for any unexpected need. Sure, the interest rate was higher on mortgages with lower ranking in priority than "First." But that equity in the surplus value of the land your mortgage is over, surplus to present need. And it belongs to you, not them. In previous years you could access and use it. Many people used to do this. Depriving you of it – the use of your surplus equity in **your** property - is just one of the several additional frauds inflicted on you without your knowledge or consent as the smarties try to make the artificiality of "securitisation" fit within the strict and clear parameters of Land Law as it has 'always' been.

It never can fit, because securitisation is a grossly misleading term, it is a baseless superstructure conveying no security whatever to the people who 'invested' in it (including the Australian government, Office of Financial Management as well as the Reserve Bank, believe it or not). It was just tacked on top of clear, simple land Law. Shamefully, State government run Land Title offices around Australia have not taken their responsibilities seriously in recent years, they just drifted on, doing what they always did, whilst the smarties took you to the cleaners. So no protections against these frauds are in place. When your mortgage is sold off into the ether, to secret parties you are never supposed to know exist, let alone identify, no adequate records are created with your official land title. The most you can normally get is a print out showing if and when your title, probably in a batch of 200 or 300 others, was 'assigned' to a front company for your original lender. These batches for some reason get transacted for no cost, when if you were to do the same thing, one such transfer for one title might cost a fee of up to \$200.

When these batches of assorted mortgages are "transferred", the official document lodged at the Titles Office might typically show idiotic nonsense for the necessary "Consideration" (value) paid for receiving 'ownership' of all of those mortgages. Land law is pure contract law. No contract is valid without "Consideration" which to a lawyer means – some form of payment. Without that (and it is usually missing in these sweetheart deals with banks) the transfer is invalid. This is handy if you are suing to retain your land when they try to sell you up. The front company can be thrown out of court for not being a "Proper Party" – not entitled to even approach the court in the first place, as they have no valid contract giving them ownership or even any control over your loan and your mortgage.

Dudding the investors – but where is their pay back?

Some of these 'investors' paid up to 2.3 times the value of, not the amount you might have borrowed, but 2.3 times the value of your mortgaged property.

How this "too much" cash is fraudulently extracted from the investors is as follows. We did tell you that this stuff is totally artificial. You could be forgiven for thinking you were reading Alice in Wonderland. But whole national real estate markets have been subverted and criminally sourced billions of dollars extracted by white collar criminals here, in Australia - by robbing ordinary, decent people. Take this example (it is very close to the typical situation we have encountered) :

You are repaying a loan of, say	\$ 500,000
Your (mortgaged) property has been officially valued at	\$ 1,000,000

The second figure is the mere starting point for the 'smarties.' Remember you may have borrowed only half of the true value of your property. That is just well established commercial reality. A lender will never usually advance the full value of a mortgage security. Now, you cannot access that equity, that 'other half' of the value in your land. Because without your consent or knowledge, it has been sold. It is yours, but someone else sold it – without your permission. Some smarties in 'your' bank have secretly sold **all** of the equity in the mortgage over **your** land to the hidden investors. This variation of reality would mean that the cash repayments the investors are buying is only what you are committed to paying – for a loan which represents half of the valuation. Half what was implied to those investors to expect, is not ever coming to them.

But wait, there is more! We said this is weird, but unfortunately, real. It seems to be that because two or three hundred mortgages were being "transferred" without any record on the land titles as to where, to whom or what was paid to validate the contracts involved, the vast overpayment by investors was probably further facilitated by an unchecked process of fraudulent over estimation of the true property values. These things have been done in such haste that no valuations were or are required to be provided for the titles involved. The whole set of transactions are totally unsupervised by any government authority.

So the enormous temptation to tell lies is right there. Just say something is worth three times what it really is worth, and by next week you will get three times as much money as you would have obtained with a true figure. How nice! How tempting? **This is what has been happening.**

As soon as the opportunity comes their way - when they are "packaging" the bundles of mortgages to be sold to 'investors' the bank smarties do more, simply because no one is stopping them, **least of all your friendly Land Titles office which has a clear duty to protect you.** That full value - already doubled by calling the mortgage value the loan value (as above) is likely to be trebled with the stroke of a banker's pen – to make just more ill gotten gains in cash for the bank. Succumbing to that penalty free temptation every time, the bank **Johnnies win brownie points with their bosses by expanding what they can get**

out of **your** mortgage. To do this, they only have to write a figure on a piece of paper. It does not need to be verified or sworn to, or proved. Too easy, just write in three times the real figure.

This means that although your repayments remain on a \$500,000 loan, somebody has paid around 70% to 75% of what they were led to believe was the loan figure, \$3,000,000 as told to them by a (presumed to be honest) bank official. \$2,300,000 or thereabouts is thus paid for **your** future repayments. Based on the absolute, unchecked lie that not your property, but your actual borrowing was for \$3,000,000 and somehow the difference between alleged property value and the attaching quantum of repayments is lost in the translation. The figure put against your property in a batch of possibly hundreds, may be \$3,000,000. But this is not the amount the repayments are based on. **It is six times what the actual mortgage they are led to believe they are buying (without your knowledge or consent) will ever be worth.**

No wonder the 'smarties' are cashing in on this gilt opportunity whilst government is still asleep.

Then, to cover their fraudulent tracks and get even more money, the bank smarties immediately move to sell you up, bankrupt you, wind up your company, anything to destroy your capacity to sue them and get justice. Usually, within a year after "Engineered Default" you are sold up. This means that all of the above figures (except what the investors paid) fall in a heap. About a year after that happened, you are getting sold up and all of the future payments promised to and expected by the investors, stop dead, never to be revived, until hell might freeze over. **Not that your friendly bank or the other associated vultures care. They have a contract with the investors that says they cannot be held responsible – no matter what happens. This is what all average solicitors will baulk at, telling you that you have no rights remaining. Clever solicitors who remember their basic training would tell you that there are several Common Law grounds which allow you to sue the jackals anyway.**

This is why Engineered Default is happening.

But wait, there is more. The selling up of all that you own yields a further set of cash benefits, but not for you, for the fraudsters who are robbing you. More on this, below.

The next unanswered question is: **Why do 'duded' (defrauded) investors say nothing and do nothing about being robbed? Why? Why? Well, there is only one realistic answer to this.** Perhaps it is because they weren't really robbed. They got something out of the situation that makes them content, even if not deliriously happy. So what did they get? What concealed benefit do the investors get that causes them to just quietly accept being **fraudulently** lied to about the actual value of the mortgages they were told they were buying when they never get a brass razoo back?

When the smarties wanted to artificially contrive an alleged default, no one stopped them from just asserting that the above million dollar property, as formally valued, was only worth say, \$400,000. Then, in "selling" the pooled investments of many such mortgages to unfortunate "investors" it seems that

the same million dollar value property was counted in the mix as being worth, say, three million dollars. That would explain why 'investors' might have paid \$2.3 million (which has frequently happened) to purchase the rights to the capital and interest cashflow coming in from that particular loan. They were conned into believing they had property rights, lied to about the values involved, lied to regarding them actually having "mortgage backed securities" (impliedly giving them some rights) and were not told that they did not obtain any right to gain Possession and Sale court orders – to foreclose. On top of which, the investment they were told about was inflated in worth, quite usually by a factor of sixfold.

Because of the above Fraudulent contrivances with asserted land values, camouflaged within a "pool" of hundreds of dis-related others, the investors were conned into deals which would have required uninterrupted monthly payments to come in for perhaps 100 or more years before they could even recoup their capital, let alone make an 'investor's' profit. But the 'smarties' made sure the banks got a whole other profit from enforced, fraudulent and unconscionably "Engineered" default. Terminating the monthly cashflow from payments usually stopped that repayment cashflow in less than 30 weeks, not years.

The smarties proceeded with steps TWO and THREE, below, quickly. Usually within six months. Why not? The investors had signed up to having no rights against the sellers of the mortgage 'securities' and greedy middle management people do not generally have a good understanding of Law and how it can come back to bite them.

The new "Magic" market

A whole new 'market' was created to sucker "investors" into putting money into pooled investments with promises of "Mortgage backed Securities." A lot of this was money from affluent clients wanting a tax deductible investment with some degree of a possible profit as well. Either they did not do their "Due Diligence" or were misled by commission hungry 'brokers', or (it is conjectured) lots of international drug money was put in to launder it through something that looked like real estate investment in 'mortgages.' However, the smarties outsmarted them anyway and ran away with the cash.

Reserve Bank reports in 2004 quantify then securitised Australian homes at a value of \$160 billion. Bank Annual Reports of that day contain barely concealed glee that the "investors" had no comeback, no legal redress against the banks or others, such as brokers who had 'securitised' real estate mortgages. The smarties had engineered them into no comeback contracts. And it remains to be seen how much more of Australia has since been 'securitised.' The trade in securitisation just climbed steeply in quantum until 2009.

The Reserve Bank now pretends it does not have that data. One Question needing to be asked in the Parliament might be: "How much public money has the government, through agencies like the Office of Financial Management and the Reserve Bank invested into "securitisation" over what period and what losses can be attributed to those investments made using public money? And why was this money not instead put into first ranked mortgage security as

happened in the time honoured past as prudent conduct by government?"

The lender's rights attaching to the mortgage - including the right to 'foreclose' - to gain a court order for "Possession and Sale" as it is known in our courts, would normally have remained with the original lender, to be used only if the Mortgagor (property owner) failed to make the required payments on the loan. Unless there was a legitimate transfer of those rights to a new lender, which, if things were done properly, would see a discharge of the existing mortgage and a new mortgage registered with Land Titles. (And State taxes paid) Without that, only the original lender whose name was on the mortgage previously lodged with the Land Titles Office could foreclose.

Why there was no ongoing right to foreclose

In these dealings, no such transfer occurred OR a transfer went to a Trustee company which never paid anything for it and never lent any money and thus did not acquire any Rights to foreclose as in the Law of contract laid down. Nobody was informed, but the original sale of the mortgages in the 'securitisation' process saw the right to foreclose pass to the investor pool. It was a sale, not a partial sale of the rights attaching to the mortgage. The original mortgagee had sold the right to foreclose, and in the mechanism used, it passed to the purchasers – the investor pool. However, those rights were 'pooled.' No one investor had rights in relation to foreclosure over any one mortgage in the pool. And the pool, whatever it may be called, was not ever named on the land title register, so nor can it enforce any mortgagee rights. Oh dear! But that was the price for getting a fast buck. It had to be hidden, to not appear in a change on the Land Title register. Another form of securitisation, known as 'synthetic' where the right to foreclose does not pass to the purchaser was not used. Probably because, apart from Australian law not permitting it, the cash money paid for that, had it been saleable at all, would have been less.

STAGE TWO : ENGINEERED DEFAULT

It is now known that all of the 'Big Four" Australian Banks, along with many, many others - lenders of various descriptions, forced their borrowers into artificial default. The legal fact that after securitisation, nobody had the right to foreclose, was not only kept very secret, another fraud emerged, used to enable the original Bank or lender to act as if those rights still existed. Either in the hands of the original mortgagee or a successor who had allegedly received a "transfer." Here, the government Land Title departments were Negligent for not keeping adequate records and we are suing them for that and in one case we have sued a "master' in a State Supreme Court, also for Negligence. He is not a judge and although making similar decisions, he is able to be sued. Over many years he completely failed to get relevant Evidence before ordering the disposal of many millions of dollars in real estate and ruining the lives of a great many people, quite unlawfully. Had he required Evidence, as was his duty, it would have become clear that the party suing in many, many cases, had no right to do so. In Law they were not a "Proper Party" and had no right to even approach the Court.

To quote just one clear example. Take an Australian wheat growing farmer. After decades of successful cropping and professional farm management, this

large business had a low LVR (Loan to Valuation Ratio). Its assets were worth more than double the amount owed to the bank, based on recent professional valuation of the main assets – the farmland itself. With no knowledge of the farmer, his mortgage was sold to an investor pool. In fact his loan was for less than half the asset value mortgaged but the whole asset value was trebled by the bank on paper. This meant the loan repayments were for less than one sixth of what the investors were told. Exactly as in the previous hypothetical example. The Land Titles Department gave him no advice that this had happened, nor did it record that fact. It merely, several years later, recorded a "transfer" of mortgage to a trustee company which did not ask to have recorded on whose behalf it was acting, so it was not recorded. In fact, that 'trustee' company cannot act other than on behalf of another entity because it had no money to lend and no management capable of being a 'lender' administering a loan. It was just a shell, a front company for the enforcement soon to come. And in such cases you can expect to be able to prove to a court that nothing was paid for the transfer, making the asserted transfer null and void as a Contract.

(But as said above, this was no longer a mortgage with a possessory right anyway. Those Rights had been sold off.)

Wheat growing in most parts of Australia involves planting in April, May or June, depending on when the rains come. Planting involves quite a lot of expenses and many farmers use bank facilities to cover these costs. Harvest happens late in the year and payment for the crop happens in December or January. In a good year around seventy percent of the "wheat cheque" is profit after all expenses.

How the default was 'engineered'

This farming family had been running successfully for forty years. After expanding their size of farm operation it was normal for the family to run up the various costs of preparation and planting the crop on an overdraft and that had been running uneventfully for some years with an approved limit of \$1.4 M. Months after switching their banking business to Landmark (a rural lender) for a lower interest rate, approval for the crop money was delayed until it was too late in the season to even plant a crop. This was, of course, blatant Breach of Contract by the lender. (Another gambit used destroy other people's farm business' viability was to approve a substantially less than required amount for crop planting, or none at all.)

One year after switching to Landmark ,in mid October, about eight weeks before a million dollar plus crop cheque was due, with no warning, no consultation, a letter came from Landmark stating that the sworn valuations on the farm were 'overstated' and saying that a mere local manager, not a valuer, had decided that the property was now worth 40% of the sworn valuer's figure from less than two years earlier. There had been no reduction in local land values in recent times. Nevertheless, a little later another letter came, reducing the overdraft by one million dollars and demanding that this amount be paid to Landmark within three weeks. Two weeks after that, with no contact from the 'lender' and no application for anything lodged with the lender, another letter came from them, reinstating the overdraft limit at \$1.5M Months later, this contrived 'event' – no

more than the writing of two letters from the bank, was used to claim a 'default' under the already secretly securitised (sold off) mortgage. This was not some passive, accidental default to be found from accidental events, in Law called 'Constructive.'. This was a fraudulent scheme, planned and executed very deliberately. **Calling it "engineered default" is far more appropriate.**

These were deliberate machinations to get more money out of the above situation, by the bank **after** all of its rights secured by the mortgage had been sold off. This was blatant **fraud**. As stated earlier, **fraud** has been well defined as:

"Dealing with the property of another (person) in a way designed to permanently deprive that person of the benefit of that property."

Then, in the above typical case, months before there ever was a court involved, the machinery, tools, equipment and all other items on the farm, were sold by a liquidator. **That person was not court appointed. No. That person was 'appointed' by ANZ bank, which, it turned out, had owned Landmark all along.**

Of course, the farming family had no legal relationship with ANZ at all. ANZ had no legal rights – at all. **But it just presumed to do all this harm without yet going near a court. Further, ANZ falsely pretended to have those rights, knowing that the mortgage it was pretending still existed had already been sold off.** Sadly, in many such cases, banks call in gullible police to back their crooked agents up. **Why hire thugs when police are stupid enough to be available for free?**

This is common, but completely wrong of police. Their only proper involvement is to keep the peace. So calling them in before there is an event at all, is improper, but it is still commonly done. They come out to support criminals illegally taking possession of honest people's land. Why, is an enormous question requiring answers in Parliaments.

To camouflage the simple fact that no valid mortgage existed for the above farm, there was then a purported 'Transfer' of that false and long ago sold mortgage to an ANZ owned trustee company – in its own right. But in its own right, it had no rights. It did not lend any money, it could not. Nothing was paid for the 'Transfer'. Some absolutely ridiculous claim went on the transfer document which the Land Titles office just accepted, asserting the transfer had been paid for, when clearly it had not. We have seen that silly claim repeatedly – "an entitlement in equity." Any trained lawyer would know that this is absurd. You cannot purchase something by paying with part of what the seller is selling. But Land Titles staff have never been known to have queried this. Their attitude is "We don't have to." And upon investigation, unless a zero is inserted in that part of the form or it is left blank, staff will just process the transfer. That is how idiocy or fraud is just accepted, but we call this Negligence or Breach of Duty, both Grounds for legal Causes of Action.

Later, without the court looking into anything properly, despite it all being pleaded, it was ruled that the money claimed by the bank was correct, without any Evidence filed in court to prove that the vastly inflated figure was correct. There is a culture in Courts, decades out of date, that banks do not lie, so Evidence is commonly not required of them. That court, like others, proceeded

without any facts being proved, in Evidence before it. The inflated claim for the so called lender was artificially inflated with penalty interest rates there was no entitlement to claim – for nearly \$500,000 extra. When the farmer's barrister asked for proof to be produced, and proof that the trustee company had actually lent any money, he was just ignored, with the words: "I presume (the Trustee company) has a mortgage." In fact there was no valid mortgage and the trustee company was not entitled to even appear in court to seek orders, but it got them. One senior bank official, when queried as to the validity of an already transferred mortgage or its transfer to another entity smugly replied: That does not matter . We will just get the Supreme Court to order what we need." Too often, this happens. This kind of outrageous misconduct in courts is actually, now, commonplace. The vastly undervalue sale that followed is covered below, under the next heading.

What Australian Judges so far have plucked out of the sky, rather than establishing with Evidence (as their job description requires) is that securitisation, Australian style is only a lesser right, a mere "Equitable Right." This is because they just don't understand securitisation and probably lunch looked more interesting than legal research. **Wrong.** What we are dealing with in Australia is the kind of 'securitisation in which the Right to obtain a "Possession and Sale Order" (known as "foreclosure" in many parts of the world) is sold to the buyer in the "securitisation ' process; the deal. The original mortgagee, the original contracting party who promised to lend money to the property owner in exchange for repayment, or in default of payment being made, the sale of the 'security' (meant as that word originally meant) still has their name on the registered mortgage document. No change to that document has been made at the land titles office. It would make what happened a too obvious fraud to change the Land Titles record. And anyway, a whole lot of State taxes would have had to be paid for a title transfer. This is why there is all this secrecy around selling that right, then try to exercise it.

In turn, the pool of "investors" acquire what they have been led to believe are "mortgage backed securities". They were misled. But those bastions of decency, the securitising banks do not change the name on the original form at the Titles office, so the people who arranged the purchase of the bulk Mortgages also have no capacity, no right to be able to 'foreclose.' They thought they had, and told their investors they had "mortgages" to secure investors' money. But without foreclosure rights mortgages are essentially valueless. But the Contract between the selling bank and the buying pool of investors neatly provides no guaranteed return or performance or duration of the cash flow coming in off the mortgages. This is just cunning dishonesty, of course, but investors in droves have fallen for it whilst banks collect massive amounts of ill gotten cash.

Then, too neatly for words, the 15 or 18 years before the investors' clever investments will break even off the original mortgagor's regular repayments is cut short. This is without even taking account of the fact that around six times too much was paid for this "investment" anyway, based on a too easy, simple bank lie. The original mortgagee, the Lender whose name is still registered on the mortgage document at the Land Titles office then typically does two things.

ONE substitutes a replacement, a fake mortgage without saying the real one is

dead – sold. In this way the original mortgagor, (the bank customer the Title holder), whose financial help from the bank probably ceased long ago, in clear Breach of their Contract, gets a whole new headache. More monthly repayments for a loan that no longer exists for money no longer advanced, it having been replaced with a fraudulent "new" document.

TWO forecloses with the help of a lazy or corrupt court and sells you up for too little, the balance being made up from insurance you, the landowner unwittingly paid for in loaded interest rates but the bank keeps that insurance payout, then sues the Land Owner for that shortfall.

At this point, let us just ask you: How much criminality must we show you before you revise your parent's and grandparent's trust in banks?

Remember, back then, we still had a government bank, keeping the others honest.

These things are done within a short time, say a year. The purchasing investor pool then gets no more repayments, no more of the cash flow they thought they were investing in. Their 15 or 18 years to break even investment stops paying by the end of year one. And the bank contract says that the investors have no possible come back; no rights. And the banks laugh all the way to the banks, as the saying goes.

This disgraceful practice of Engineered Default has also been used on other businesses, such as property developers, trucking companies and many others, some of whom have been bankrupted in the middle of a viable project, losing everything, instead of making a good profit. These businesses may also have a case to run against their lender on multiple grounds including Unconscionability, Unjust Enrichment, fatal Breach of Essential Terms of Contract and last but not least, Fraud.

STAGE THREE : THE PROFITABLE SELL UP

The smarties have also found a way around an unprofitable sell up. Not content with double or triple the money they might in law be entitled to, the 'lenders' engaged in securitisation fraud have been going another round, to get even more undeserved money at the expense of their clients. The only problem with it is that it too, constitutes a fraud, or in more usual legal language, a Breach of Trust and Unjust Enrichment.

When ordering 'Possession' of client's property for a lender, as said, judges too often do not require the proof the law requires them to have before making any such order. The amount claimed by banks is usually padded with all sorts of fraudulent 'extras' including the banks' alleged but not verified legal fees, unauthorised penalty interest rates, fees and other unauthorised costs. Courts typically do not require proof of the mortgage contract. Often, this is non-existent because a 'front company' has been put up to camouflage what is going on and it quite usually paid no Consideration (payment) for getting what appears to be the First Ranked mortgage rights. Of course, land law is straight Contract law so no genuine "Consideration" means no valid Contract.

We have often seen the "Consideration" on land title records shown as "an

entitlement in equity." Any lawyer with their brain in gear (many seem to lack that capacity) would instantly see that this is a patent nonsense. To have a valid Contract, the party to whom the mortgage is transferred must pay something for it. The above idiot statement is rather like you offering to buy your friend's wallet, complete with contents for, say, \$50. Then you demand that your friend take \$50 out of the wallet and give it to you, so you can pay him or her with that same \$50 !!!! Land titles staff, even senior staff, do not agree that their duty is to protect you, as a land title Registered Owner from such frauds. So they do not. They just believe that all they have to do, is what they have always done; their jobs are safe. Nor does government at any level, including the foolishly trusted, supposedly learned, honest and incorruptible courts understand that they have a duty to apply the Law properly, not wantonly, corruptly, or at whim or will.

Liquidators : an Unregulated and unsupervised disaster

No checks are done to ensure that things are done properly or the prices reached for the property being sold are fair and related to market values, as is in Law required. Part also, of the government Negligence is its abject failure, going back decades, to supervise and control liquidators.

Neither ITSA (the government body known as "Insolvency and Trustee Service Australia") nor the judges of the State Supreme Courts do any checking on liquidators or agents for sale acting properly. They both are supposed to supervise these functions, one for the winding up of companies, the other for personal bankruptcies, but do not. No such checking has been done for decades and corruption and vast overcharging amongst liquidators is rife. Worse, it is now entirely normal.

In this case, like many others, liquidators were brought in without any court order legally appointing them, just on the 'say so' of a bank. The bank alleged that a clause in their extra 48 pages of "Common Provisions" allowed them to do this. However, despite sneaking one and a half sentences into the original contract of 28 pages, saying the client knew about that "Memorandum" and had been given a copy, this was always a lie. A bank local employee with no actual qualifications usually arrived with less than an hour's notice and showed the client part only, of three pages of the 28 where signatures were required, got them signed and left. This denial of the Right of a client to know what he or she was agreeing to and having time to get legal advice is an absolute legal requirement for the formation of a valid Contract. It is called "Terms Certain" and "Procedural Fairness." Without those things, the Contract may (and in Law must) be declared void by any court acting lawfully. Getting this done, of course, would stop bank moves to sell you up, dead.

The unlawfully appointed liquidators came, took possession of the farm, locked the gate and proceeded to sell all of the tools and equipment including tractors, livestock, seeding equipment, harvesting equipment and livestock. Basically everything needed to run the farm business. What was taken was at least \$2,800,000 worth of tools and equipment, accumulated over a lifetime and all of the livestock. No care was taken as to whether these things were owned by the company they were (merely told by the bank) they were liquidating. No care was taken to get a fair price for it. These things, apart from the fact of it being

theft and Criminal Conversion when done before there is a court order, had another problem, yet to be sheeted home to the contemptuous culprits. Breach of Trust by a liquidator who legally, stands in the shoes of and has the duties of a trustee. However, legal action for these things, or for the usual vast overcharging by liquidators, is virtually unheard of. That is why such vicious, criminal frauds have now become just 'normal,' cannibalising the assets of ordinary decent people and smart people in business alike.

Subsequently, the property – the farm was sold for about 60% of real value – just enough to exactly match what the bank said (but had not proved) it was owed. In that figure was a large amount not actually owed – for penalty interest not contractually payable, large sums for fees for all sorts of people and reasons not in law permissible. But the land was sold by private sale (no auction was held) for exactly what the bank said it was owed. A "sweetheart deal." However, in most cases the sale of the property is for a lesser percentage of value and not enough to satisfy a rapacious, criminally acting bank. So the sale of everything except the land itself is justified that way.

When, as in this case, all alleged debt was fully discharged by the land sale, the sale of everything else was entirely unjustifiable in law. Correctly, it is properly called **fraud**. Strangely, such issues never seem to reach the courts or get suitable orders for rectification or compensation made. It is quite obvious that these things are done mainly to chop your legs off, so to speak; to disable you completely, financially, so you cannot sue these bastards in a court and get justice. In the above case, we will plead an additional ground in what is known as **Detinue to win full compensation**; to get appropriate orders, and many more such cases will follow.

In this example case, everything that was unlawfully sold was not even accounted for. When approached to account for their actions and render detailed accounting of sales and fees and the like, the liquidator said to the farmer that they would give no such thing as the bank was their client, not him. This absurd statement totally ignores the legal duties incumbent upon a trustee. We know that no lawful, proper accounting took place. But rather that sue a liquidators who would predictably just declare bankruptcy rather than pay you what a court could order, we will be suing the bank that hired them and directed them into clearly illegal conduct. Those banks have what is known in the legal trade as 'deep pockets' and they cannot flee the country as their assets (actually, your assets) are all here Such trustees have been off the supervisory leash for decades – for so long that the present crop of trustees and liquidators in bankruptcies and insolvencies have known no supervision in living memory.

Such people are not even aware that, legally, they **are** a trustee with duties of proper, accountable conduct. Including keeping detailed records, obtaining of a best available price in any sale and treating the owner of the goods being sold as a client, not a criminal. Similarly, Courts now seem unaware that they have a clear duty to supervise trustees for proper conduct, because they never do it and have not, for decades.

Sales of property are now commonly ordered by courts when there is no legal right to "Possession and Sale." Billions of dollars in real estate have been securitised with **no** proper process used. Not the least of the procedural

defects is the fact that **no** land owner is ever told their mortgages are being securitised. It is rather like financial rape. And 'our' government is just allowing it.

Cash flows for 'friendly' crooks

All of which makes enabling what has been happening simple – another **fraud**. Properties are often sold to 'mates' for around 30% of market value. It is tolerably clear, in many cases that the buyers are 'arranged.' Persons known to the banker, liquidator, auctioneer (if one is used) or real estate agent involved. Especially when there is no properly advertised public auction, it is too easy for low prices to be agreed behind the scenes, beforehand. Remember that the banks don't care, because any shortfall in real prices, is insured by them and the secret payout flows into their hands. You just paid for that insurance, but did not know it even existed. And they get the payouts equal to any shortfall and do not tell you, so they don't care what the sale price obtained is. A low price just enables them to stand in line for generous kickbacks from the 'friendly' buyers. Subsequent sales at near market value leave plenty of profit in the deal for kickbacks to persons who facilitated the purchase at a bargain price. Or their wives, or family trusts. Overseas holidays, leisure boats for their adult children and parcels of shares at par value are just some of the illegal emoluments police should be investigating. Some judges are known to have received sizeable parcels of shares before their 'float' on the stock exchange. Shares which trebled in value when listed, one week later.

Unfortunately, this whole country is asleep to such possibilities of corruption. Which is precisely why they are proliferating.

To summarise: Why do the 'lenders' in this series of frauds let land be sold so much undervalue? Well for the absolute criminals working these schemes (banks in particular) there are three big advantages in low prices being achieved.

- Their 'mates' get bargains with surplus to hand around when the land is sold on at a higher, real price.
- The default insurance they made the clients (in this example case, the farmers) pay for, becomes a claim for the bank. It appears that these insurance policies are always involved and they reimburse the bank for any shortfall in the sale price achieved. So for the bank,. A fair price being obtained is of no actual interest.
- It is unheard of that banks ever reduce the debt they claim back from their clients to take into account the fact that an insurance company has paid any shortfall. If in fact it is insured externally to the lender. It could just be a another rip off by the bank - another **fraud**. Perhaps no insurance is ever put in place, despite money being taken from the borrower for that purpose. **No** documentation is ever issued.
- Banks' books never reduce client debt although the banks have secretly (ostensibly) received the balance of the market value, or

at least the rest of what the banks say is owed. Whilst it is alleged that such insurance claims are paid subject to a right to clawback monies paid from the client or client's assets, nothing – no Terms and conditions are ever notified to the client paying the premiums, no policy documentation is ever issued to the premium payer, contrary to the Insurance Contracts Act 1984 (CWTH). on several issues.

- There is no compliance, either, with the former Trade Practices Act (now a Schedule to the Competition and Consumer Act 2010 (CWTH)) which mandates that any (insurance or other) client is entitled, before entering into a contract, to a prior opportunity to negotiate the purchase of any goods or services with any supplier in the open market.
- Simplistically, if the land sale yields 30% of market value, then using the insurance policy against default which the client paid for, the bank gets the other 70% from the insurer and tells no one about it.
- Full disclosure, confirmed by client signature, should become mandatory for all mortgage default insurance covers and all elements built into bank rates of penalty interest, provably declared to the client in writing

The above 30% of value sale usually leaves the client owing still more. This is designed to be the case. Because, the bank will then quite usually bankrupt the client or their company or both under guarantees they obtained when the mortgage was first signed. The big advantage of this is the former business or farm or house is by then sold and gone. All of the client's tools, equipment and other possessions are also gone, so they cannot continue to earn money in their business.. And, being bankrupt or 'wound up' they have no remaining capacity to sue the bank. If they could find an honest lawyer.

It should be noted that recently, the ANZ bank and its subsidiary, Capel Court was prosecuted, found guilty and fined some tens of Millions of dollars in a case brought by the United States (of America) government for illegally contravening their laws in just the same way as they are breaking multiple Australian laws, and seeking to bluff their victims into believing no have no lawful redress.

Contriving with tricky contractual terms to imply to their clients and investors that they cannot access Common Law means of redress. Interestingly, local Australian media seemed not to notice this interesting event.

The following extract is from the prominent Law firm Clayton Utz's 78 page paper :
"A Guide to the Law of Securitisation in Australia - Fourth Edition"

The Elephant in the Room (our words)

"1.3.4 The enforceability of registered securities

"At general law, there is a principle known as privity of contract.

This means that only the parties to a contract can enforce it. With registered securities, investors are not a party to the instrument creating the debt obligation represented by their securities. This then raises the issue of how do they enforce the issuer's promise to pay interest and principal, when they cannot satisfy the privacy of contract rule?"

The paper goes on to describe convoluted trust documents trying to give a veneer of respectability (but falling short of enforceability) to these schemes.

The bottom line is two things with respect at least to both the farmer and investor victims of these schemes :

1. The mortgages so 'securitised' continue to have the original mortgagee noted on the land title record so no one else can enforce the "foreclosure" capability implicit in a first ranked mortgage; to obtain from a court an Order (in Australian terminology) for "Possession and Sale" of the land mortgaged if and when the original mortgagor might default on important or Essential Terms of the original Contract.

2. The 'smarties' in the issuing institutions (notably banks or their owned or controlled subsidiaries) have in thousands of cases doctored up what may be Unconscionable Contracts with the investors which have the effect of cutting the investors away from any primary right to sue for the kind or amoral or immoral conduct involved, in particular, the original mortgagor being sold up almost immediately to line the pockets of the 'banks' in a second wave of cash grabbing after the 'banks' have already sold off their actual security.

The farmers have been getting forcibly sold up, usually with great immediacy, within months. This leaves the investors with nothing, no return of invested monies and certainly no interest constituting a 'profit.' That would (as said) require many years of payments from the mortgagor to keep coming in (even if the values misrepresented ('sold') to the investors were not wildly inflated) and that farmer has been sold up with great haste, so no money comes in for the investor. The farmers also have a fundamental grievance. The 'banks' failed or refused to give them the finance contracted for, as and when needed. Their crop seeding money was typically too little and too late, if it was "approved" and given at all. This is, of course, a Breach of an essential term of the Contract with the relevant 'bank' whether written or unwritten.

Large property developers have also been victimised in the same way. Banks have been in such unseemly haste to 'securitize" their large loan security (mortgages, usually) that denial of funds, mid project (Engineered Default) has sent some of them broke. This destroys the businesses of the owners, and probably all else in their lives. Just so the bank can make a quick, **fraudulent**, entirely undeserved profit. This of course was a Breach of Contract enabling a farmer or business person to declare the Contract at an end, but most people having their land, their homes, business premises, equipment (their livestock if they are farming), their tools, equipment; all of their possessions illegally sold, may be forgiven for being unhappy and not knowing which way to turn. When their cash flow is then snaffled by the bank for alleged default, when farmers lose their crop cheques, their entire

annual profit is taken by the bank and understandably, they tend not to think of such things as how they might sue the bank.

Certainly, the law of Equity may yet save investors. The 'classes' or categories of Equitable claims at Law are not closed, so investors may be able to sue. Their 'investments' sold to them with Representations of being in "mortgage backed securities" and the representations that they had mortgagee rights was false and were not worth a crumpet, when the cash-flow from those mortgages was almost immediately and deliberately and illegally terminated by the very same 'banks' engaging in the second or third round of rip offs of the Mortgagors, such suckered investors will definitely have suitable rights, in Law, no matter their cunning clauses implying the opposite

Those facts destroyed any chance of the investors getting future cash flows from Principal and Interest repayments from the mortgagors (cash-flow to the pool of investors). This was supposed to keep coming in for many years – at least 20 years – before the investors even got their investment back, let alone any return or 'profit.' Provided the size of the mortgage was not misrepresented to the investors. The early, forcible selling up of the mortgagors by the banks was anything but accidental. It was also illegal, in fact fraudulent, as explained above.

Smug, gloating words appear in Annual Reports announcing that the investors have been outsmarted (cheated) and (it is naively assumed) have no comeback under the relevant contracts. One example is the ANZ Annual Report in 2004 at page 83 :

*"The (banking) Group does not hold any material retained interest in loans that **have been sold**. There is no recourse against the Group if cash flows from the **securitised loans** are inadequate to service the obligations of the SPE's (third party special purpose entities) "*

What SPE is code for is the pooled funds of the investors. Wonderful corporate citizenry in operation. All cash taken, but no responsibility.

So why have these thousands of farmers been sold up with great haste?

The reason is elegantly simple. Well, simply, money. Lots of it. Stolen, effectively by fraud, but lots of lovely, extra money. The 'bank' has already sold your mortgage, the Contract you signed, backing and supporting your loan arrangements with your bank, to someone you don't know and never will. They conned the investors on the other end of that deal and got paid more than what you owed. Your bank at the time, very probably, got four to five times what you owed. The investor/s were not conceded any right to sue to recover anything and your bank just sold their own right to sue you, ever. But of course, they never let you know this.

So, if you are a greedy and unprincipled bank, what to do to get more undeserved money?

Well, two or three things:

Firstly pretend that nothing happened but just con you into signing an "equivalent" loan document, touted to you as a "mere transfer" to a new lender. OR

Secondly Tell you they just assigned or sold your loan arrangement to a new entity, one of those not responsible, with no asset backing, trustee companies. That company cannot lend money so it continues to do what your bank did soon after you signed up with them – give you nothing. That was not the deal, of course, **but it is what they do. AND THEN**

Thirdly In the process of getting court orders to sell you up (if they bother, but to do it properly with land they must) by again lying about having the right to do so, this time lying to a Supreme Court judge. This part is made easy by judges being too lazy to get Evidence of the facts before just ordering whatever a bank asks for. Getting facts before making orders is what a judge is handsomely paid to do, but too many now, do not bother. After all, banks can be trusted, can't they? This, by the way, is no exaggeration. Some judicial officers are this bad, this slack, this irresponsible.

Many billions of dollars in valuable real property have been fraudulently misappropriated around Australia in just this way. Whilst intelligent people in responsible government jobs stayed asleep and did nothing to prevent or curtail these frauds.

The original loan Contract was an exchange. You agree to pay money back to the bank and pay interest until that is done. The bank agrees in the Contract between you to give you finance on known terms in known circumstances. Then it just stops doing that and very nastily moves to sell you up. Not just the land you mortgaged to back your side of the bargain, but everything you own. They are not even mindful about getting a court order to legitimise what they do first, and often do not even bother. They appoint "liquidators" without any legal right to do so and the liquidator sells everything except your land; your livestock, tools, equipment, machinery and the bank takes your crop cheques or business income by tricky devices like reducing your overdraft limit without notice, depriving you of all of your normal income. No wonder some farmers have suicided.

STOP PRESS: When a new mortgage is signed up and registered with the Land Titles departments after a securitisation has been done on the earlier mortgage, there should be a discharge of the 'old' mortgage. Should be. Used to be. Now, often, there is no discharge of that earlier mortgage, just registration of the 'new' one. This may be due to a reluctance of securitising agencies to leave an incriminating paper trail. It could also be so that both mortgages can be (or remain) securitised. OR, as we are now seeing, further crops of pooled investment funds being harvested by greedy banks "forgetting" to disclose that that particular batch of mortgages has already been sold to earlier investors. Gee, all of this is imaginary, pie in the sky stuff which has no rooting in reality like a first ranked, real mortgage over the land it is rooted in.

It seems to have dawned on these fraudster banks that there is no limit to how many bunches of investors can be sold the same batch of mortgages, so now we are seeing multiples. But who cares? It is all imaginary anyway. In any event, this leaves a time bomb of ugly litigation waiting to happen over priorities between multiple mortgagees on one property. The Law should care. This is blatant fraud. The perpetrators should be going to gaol, men in suits or not.

Corporate insulation from consequences

In Australian Law, no officer or servant of a corporation even gets a fine in usual circumstances, let alone a gaol sentence. Corporations, donating as many of them do to political parties, have been left alone for too long, their directors not subject to gaol for offences for which any ordinary person would be locked up for quite a long time. However, that may soon change because the smarties involved in these disgraceful contrivances to rob, have committed criminal Fraud.

Lazy, scared lawyers

What has been done to (we say again) many thousands of Australian farmers, developers, business owners and homeowners is outrageous and although redress at Law is now available, lawyers at large are too lazy to get their minds across the issue and too scared to annoy the "big end of town" or their local lodge to professionally represent clients wanting that done, to procure their rights.

Incompetent, asleep politicians

Government is disgracefully negligent for allowing rapacious corporations whose only reason for existence is profit, such an open opportunity. Australia must wake up. The very old fashioned presumption of decency and fair play in the modern corporate world is totally unreal and out of date. Whilst senior officers of the Reserve Bank over the last decade have been giving speeches on securitisation in the dens of securitisation associations, apparently such public servants float above the earth and either do not comprehend the wide open licence to rob that securitisation, Australian style offers, or have totally failed to correctly advise government to ensure the Australian public are protected.

The singular great lesson about the need for government to control rapacious corporations was ignored. In the late 1980's, after the particularly valuable Trade Practices legislation came into force, the government sued two transport conglomerates – Brambles and TNT for colluding to price fix. The result was the biggest fine ever imposed in Australia: \$55 million. The two organisations between them owned no less than 27 apparently separate and independent transport companies in the assumed to be "free market." However, being wholly owned subsidiaries of either TNT or Brambles, it only took a meeting of the top executives of those two groups to effectively control the transport market. Sales representatives of all companies in either group were instructed that when asked by a business to give a 'competitive' quote to a company using transportation services, they were to first find from the client who their existing supplier was. Then, it being usual that the supplier was owned within the same two groups, the representative was instructed to find out what rates the client business was being charged, then to quote a **higher price**.

The moral of this story is to be found in the bald fact that whilst virtually all Australian businesses were for some years paying too much for transport, adversely affecting everyone in the country, the \$55 million fine was touted to transport company shareholders at an annual general meeting as virtually just a business expense related to a profitable sideline. The extra profit from the illegal price fixing was said to be \$200 million. So, a net-profit of \$145 million was not a bad thing for shareholders, was it? It was reported that shareholders at an Annual General

meeting applauded this news.

Australian Court action so far

It needs to be understood that Land Law involves the legal principles of Contract Law and what is called "estates" or interests in land refers to lesser, ever reducing rights and powers. It is fundamental that the holders of lesser or reduced interests cannot transfer more than the rights those interests actually represent and the owners of those reduced rights cannot sue upon or pass to a new owner anything more. For example, the holder of a lease is not an owner of the land and can only pass on the same rights (or less) than his or her lease gives. If it is a five year lease, the owner of it cannot sell it as running for six years.

When a 'bank' sells your mortgage, it has sold all of its Rights that come from that mortgage, including the right to sue you for anything that mortgage used to allow.

Another issue that will surface in litigation, given that Land contracts are Contracts, so require the trading of things of value, is the frequently absent "valuable Consideration" as it is known in Law. Land Titles departments these days seem to check nothing; they are Negligent in their presumed public duty to protect Land Owners rights. We have obscenely stupid examples of "an interest in Equity" and other idiocies appearing on land transfers as the payment, effectively for the transfer. If a mortgage holder holds over the Fee Simple, that set of rights (or 'Estates' in the land) is the maximum possible, given that the "Rights reserved to the Crown" is the only diminution of those complete rights. This is commonly known as "Freehold Title." So how on earth can an alleged purchaser of that mortgage claim to have paid something of value to create a valid Contract with the above statement? It fails to pass the basic test of what is a contract. If you went into a shop and wanted to buy a box of chocolates, how successful would you be if you told the shopkeeper that you would pay with money out of his or her wallet or the till?

The holder of the Fee Simple has all available land rights, including all Equitable Rights. A purchaser must pay with something else from somewhere else. This particular thing has escaped notice within Titles offices many, many times, meaning that the alleged purchaser has no Contract, no legal right to sue the landholder for possession of the land. This is one of many causes of action that soon will be seen in the courts along with a demand that things be done properly according to Law. We suggest that Land Titles Departments be legislatively required to do what they used to do; keep adequate records (including of any securitisation matters or transfers of mortgages) and check documents for such silly invalidating errors as the above and so protect the public. We have found when questioning senior officers in land titles departments (including through Questions in Parliament) as to why they do such things, that their unashamedly unthinking, cavalier response is: "We don't do that" without any consideration of whether or not their conduct measures up to their public responsibilities.

Faulty Legislation and government Administration

The opportunity for the vicious, nasty and illegal foreclosures this committee is trying to understand comes in large measure from the complicity or co-operative corruption **created** by government. We have not yet checked processes in all States, but we can say the following. More than one State Parliament has made idiotically stupid

laws relating to the circumstances in which government Land Titles departments and Supreme Courts are permitted to 'foreclose' on mortgagors.

We have mentioned a legally obnoxious practice (allowed by Land Titles Registries) for a bank to simply lodge a "memorandum" of often obnoxious legal Terms and not ever let their customer know they even exist.

Then to get a court or even a title office to act on those unknown, undisclosed Terms. This contravenes the very fundamentals of the Law of Contract. Why are so many 'baby' solicitors not seeing this bald fact? It will come to a head, legally, but one of several pre-requisites of a valid Contract, is known as "Terms Certain." If you do not know what your deal involves, ahead of signing up, then any unadvised 'terms' are certainly Uncertain to you. And any court acting properly would have no choice but to declare it invalid; of no effect in your dealings. This absurd practice of allowing the lodging of one copy of what may be a 50 page legal document with a Land Titles office and then just presuming that all mortgagors in that State dealing with that lender, knew about it and had been given a copy is too stupid for words.

Mind you, how 'stupid' is the fact that many Australian courts do not anymore stamp (apply the court seal) and a date stamp to documents you file in court? This is simply giving a receipt so that all persons involved know for sure that a document was actually filed in court, and when. Even where the Rules of Court – as legislated by Parliament stipulate that this be done, staff are being instructed to never do it. Is this stupid too? Or is it more likely that such deviations from propriety are caused to make scams and frauds easier? Like with the banks, the question is: "Are the Courts that stupid?"

The presumption that a bank saying the customer was aware of a document the customer had no idea existed and that said customer was given a copy before signing their Mortgage, is ipso facto true without proof, is just obscene. Good people are being treated as if they were morons. Not having a law degree should not expose good people to being defrauded of everything they may have worked a lifetime for, by smarties employed by banks who are in reality major fraudsters - criminals, not yet goaled. Governments must lift their game majorly, and protect good Australians.

Banks are just like corrupt police in one key respect; why are they corrupt – why do they lie and commit perjury? Because lazy or corrupt judges choose to 'take their word' for something and do not require that mainstay of court processes – Evidence.

We don't of course believe this was just stupidity; it was calculated to trick property owners and permit hundreds and thousands of actually illegal "foreclosures" (Possession and Sale processes). We could muster hundreds of Statutory Declarations or affidavits from people who were rushed into signing documents they were given no opportunity to read or get legal advice on before signing. And that is aside from documents they did not even know existed which contained words purporting to bind all of these duped clients. This practice will have to be found deficient in upcoming court hearings. Parliaments will be found to have passed defective legislation or subordinate legislation on this issue and mortgagors will be getting rulings that they are not legally 'bound' by such disgracefully tricky, dishonest practices.

The big, unanswered question which warrants investigation, is whether these ridiculously leaky and unsafe processes were created by idiocy or design; and if by design, were **politicians and other public officers bribed to create and abuse these processes?** This is a fair and relevant question as the only alternative answer is that many public servants and officers are incredibly deficient in intelligence or responsibility.

Just one common result of such defective legislation and presumptive practices is Land Titles departments allowing the foreclosing on Registered Proprietors of land without anybody darkening the doors of a court house. Multiple matters that a court would require Evidence of are just assumed to be correct by petty officials because a bank asserts them. This obscenity must be curtailed and due process leading to court orders required before any foreclosure is even possible. Now, in some places, some government clerk just presumes that banks don't lie (when it is broadly known that often, they do) and just accept things a court would require **Evidence** of.

Just some of these are:

The borrower / bank client had prior knowledge of the Terms the bank demands be relied upon – such as the Common Provisions which say that the titles Registrar can order the taking of possession and sale of the land without reference to a court of law. That the borrower is actually in default, has been duly notified and failed to rectify the default. (A bank clerk merely asserting this **must not** be considered adequate). The required notices have been duly served on the registered Proprietor/s and a host of other issues which must be checked to the standard of proof only a court can provide. And finally, that no circumstances invoking the Law of Equity arise. **Only a court of Law acting judiciously can do this.**

Another serious Breach of propriety and Equity (fairness) is the recent 'encouragements' that banks are using to hold onto customers' mortgages long after their proper termination date. The only possible motivations for this are two fold. **To artificially pad out the bank balance sheet, to dishonestly pretend that a mortgage that in Law should have been discharged, is still an asset of the banks'. However, the recent phenomenon of securitisation makes it far more likely that such held over mortgages are used to back further rounds of fraudulent but profitable crimes – more securitisations. Nowadays, poor clients are often actively discouraged by bank personnel from discharging their mortgages. Nearly five hundred dollars is currently demanded in one State – between the land titles Office fee and a \$300 bank fee, just for a customer to get the Discharge recorded. We would recommend that no mortgagor (borrower) who has paid every penny owed and performed all duties the loan contract ever required, should be charged anything. Let the bank drop its fee and pay the fee to register a Discharge of Mortgage.**

It is now also common practice for multiple securitisations to occur, even after a customer has sold their property and their mortgage has not been discharged, cleanly, immediately and always when it should. The damage due to happen should our national land titling arrangements fail completely, would be horrendous. Banks are now putting through enormous batches of Mortgage "Transfers" with hundreds of titles involved, to dodge millions of dollars in State taxes payable on Title Transfers. Banks have also found ways to further minimise any record or reference to same appearing on Land title records. A proper investigation is needed and a tightening up of Land Title record keeping procedures put in place.

By whatever suspect processes, Parliaments, courts and government officials have in many places been persuaded or bribed or tricked into allowing of processes to strip people of their land **without Due Process**. This must be rectified by legislative change if required. The High Court should not be expected to act proactively to rectify what government had got badly wrong. Public service clerks must not have the capacity to sanction Possession and Sale of real property, no matter how "friendly" some bank clerks may be. Land owners are being bashed up by government agencies run amuck, including courts allowing non judicial officers to make court orders !!!!!.

Caselaw

Predominantly it seems, Australian judges have yet to be forced to get their minds around these issues. The only interesting caselaw on this relates to unrepresented litigants who often know more than the judges about securitisation. Unfortunately, such cases have involved some oral submissions which make some sense, but the parties, it seems, have failed to get Discovery or otherwise get relevant documents onto the Court record before hearing. In such situations, judges can get away with just ignoring their expressed grievances, and have consistently done so – so far.

It needs to be said straightforwardly, that in cases where self represented litigants who knew the issues well, have brought in lawyers at a late stage, their cases have been substantially weakened by amendments made by the lawyers. One must seriously question why this is, but the fact of it is clear. Another thread through these cases is a judicial assumption, not displaced by pleadings, that securitisation somehow is only an Equitable interest and on this basis cases were lost. The fact that the legal 'estate' in the mortgage has passed to another party means that the original party suing the landholder, has no lawful right to do so; they are an improper party to seek anything of the landholder.

Yet thousands of land titles and billions of dollars have been illegally taken whilst Australian courts (apparently) remain ignorant of the facts of securitisation.

The preparation for the imminent Class Action will include or allow of such errors.

'CUSIP' and 'ISIN' The hidden, secret registers of securitised deals

We have become quite used to all sorts of 'educated' people rabbiting on about how banks are 'private' and thus entitled to keep the details of whose mortgages they have sold, who to, when, and for how much, all entirely secret. What absolute rubbish! Recently, the authors were hearing this again from a very senior government official with a banking background. However, adamant truth tends to force such people to think. We know of shysters with access to the "CUSIP register" who demand \$1,500 US dollars in cash be sent in a plain envelope overseas to people who will then supply just the CUSIP number. What seems to have escaped everyone who knows, is this.

If it is YOUR mortgage that has been stolen and **fraudulently** sold, it is absurd to assert that you cannot know. A subpoena issued by a court hearing your legal action for justice against securitisers, must be complied with. The Court must issue it, the people running the register must disclose, and hopefully, the police will prosecute as well. Not complying with a subpoena can get a person goaled until they do. How dare they pretend that this is not our country and our courts may not access Evidence of criminal conduct. Sadly, though, a whole crop of younger people

just believe what they are told, including that records evidencing the theft of your property somehow, is not your business – just because their 'boss' said so.

CUSIP, stands for "Committee on Uniform Securities Identification Procedures" and this register predominates in the USA There is an international CUSIP register and there is also one in Australia.

ISIN stands for "International Securities Identification Number." This register is also world wide and appears to be based in Europe.

These two may have better security than any government database, but the management will soon discover that Australian courts can make them Discover (give access to) documents affecting Australians' Land Titles. Their extreme reluctance is based in their "members" criminality, and that is exactly what Australian courts should be finding out about.

When subpoenaing these records from the actual registry or any lender in Australia, expect resistance. Bank officers do not like the prospect of going to gaol, so are reluctant to comply with your subpoenas and will instruct their lawyers and subordinates to resist. For customers of the Commonwealth Bank, accessing their website will show you a raft of associated business names and the CUSIP or ISIN numbers registering your land title as a sold, a tradeable – which means 'liquified' asset. How absurd!

We suggest that you persist in your quest for facts. You are of course entitled to do so. Make sure to ask for all relevant documents, along the following lines. To obtain Evidence for a court to be able to make appropriate orders to clean up your situation after securitisation, simply and without expensive expert accounting, you will need two simple facts: the Date the monies were paid in and how much was paid. You may then compare this amount to what you may have owed a lender at that time and provided what has been paid for your mortgage is more than you owed at the time, you may in Law be able to demand a Mortgage discharge – and more.

The coming Class action will see to this for you, if you have been left with no money for legal fees. Bear in mind that you can only issue a court demand for documents – a 'subpoena' after you have started or responded to a relevant court action. However, fairness entitles you to demand the information anyway, so we encourage you to demand away. What you get will save legal fees later.

Seek documents using similar wording to:

"All documents containing Evidence of Fact pertaining to (insert your mortgage details) or in any way referring to or relating to dealings affecting this mortgage, including (but not exhaustively) CUSIP (Committee on Uniform Securities Identification Procedures) number/s and / or ISIN (International Securities Identification Number) number/s or ASX (Australian Stock Exchange) identifier/s and all information contained therein including (but not exhaustively) :

CUSIP number/s

Trust name / identifier

Issuance Date

ISIN number/s

Issuance Volume

Maturity date

<i>Coupon details</i>	<i>LIBOR data</i>
<i>Dealing Number</i>	<i>Subsequent Dealing Number</i>
<i>Account or facility details</i>	<i>Capital Account information</i>
<i>Currency Type paid in</i>	<i>Amount/s of investor contributions</i>
<i>Date of any such contributions</i>	<i>Itemisation of such monies</i>
<i>Facility</i>	<i>Current account number</i>
<i>Value paid for my mortgage by investors (or in the alternative, value paid by investors for the entire pool or tranche of mortgages)</i>	
<i>Value ascribed to my mortgage/s within the pool of same (or in the alternative, the aggregate of the most recent sworn valuations recorded against each and every mortgage in said tranche)</i>	

The above details to be provided in respect of the first as well as all subsequent securitisation dealings and transactions."

The Commonwealth Bank have a whole management team handling securitisation. If you are a client of theirs, they make this statement on their website at www.commbank.com.au/about-us/Securitisation/our-securitisation-team.html

"Our team is available to help you with your enquiries regarding securitisation. You can find their contact details below " (and they give full contact details)

* If you do go to the above webpage, look out for the euphemisms and doublespeak.

** Remember, these dealings all relate to your mortgage/s, which the bank involved has, effectively, stolen and sold, before hounding you with no authority, so do not be shy.

Extra perils to be aware of, things that can save your property in court.

Probably within days of you signing the mortgage document and sending it back to them, "your bank" sold your mortgage security for **cash** – lots of cash. They sold all of your rights in that mortgage to some group of strangers who you never get to meet, from somewhere else in the world. The fundamental grounds to prevent a court taking your property off you, and to force a court to compensate you if that has already been done to you through 'securitisation have been at least basically covered, above.

Other legal flaws committed by slack and complacent lenders could also save your property from the new usual carve up after securitisation. Lenders may have kept the page with the "lender' signatures on it, which presumably were put there after you signed your part and sent the document back to them. Contrary to all proper conduct, they probably did not ever send you a copy with the 'lender' signatures on it and research has revealed that at least one State Land Title Office has **never kept** the page of a mortgage with bank signatures on it. Why ? is an interesting question. Mixing and matching signature pages with new 'other' pages is one real possibility.

For any person engaging in litigation in this area, be aware of the "Best Evidence Rule." Do not allow a lender to present photocopied documents to a Court that are alleged to be true copies of a Contract you entered into with them. Demand that the original document be produced.

Banks have been well known for decades (by the few people with the relevant experience) to lose or to falsify such documents. They may use copy of a page containing your signature/s along with other pages you never saw, agreed to or signed to be bound by. We have seen signatures from a 20 year old document presented to a court AS the relevant signatures on a brand new document which was never seen or signed. Look for such things. **Banks are now utterly dishonest, even if your parents refuse to believe it. It is good advice to insist upon a true copy of such a document being produced by the Land Titles registrar in the relevant State.** If that cannot be produced, dated and complete with all relevant signatures, then your position in Court should be that the lender cannot produce their asserted Contract binding you.

The General Law (the unwritten Law) requires that you have prior notice of any contractual Terms before you are bound by them. Do not accept any "Memoranda" of General or "Special" or "Standard" conditions being used against you if you in fact had no prior notice of it, an opportunity to get legal advice about it before signing the Contract and if you unknowingly signed to confirm you received a copy of such a document when you did not. **Object to the Court proceeding with anything based on that document.** You may win on this point by getting other people also scammed by the same lender to give you affidavits confirming that they too, did not know and did not ever see or get the document a lender may be trying to rely upon.

Final Warning to Victims

Remember what we have taught you. If your 'bank' has securitised your mortgage, but not yet sold you up, **then listen carefully. DO NOT make an offer to settle the matter until you have a fully informed legal representative.** Your original lender has no retained rights. They sold them, illegally, remember? That means they would be committing an obvious **fraud** if they demanded anything from you. They will likely initiate meetings, discussions, mediations, conferences and harassment perhaps, all to get you to feel guilty and afraid they will crush you in court if you do not make a satisfactory offer to settle to them. **DO NOT.** They will legally be owed nothing by you. They are trying to mislead you, dishonestly. You will need competent, unafraid lawyers. These are rare, so choose carefully.

A major legal Class Action will soon materialise to take action over the above issues and the fraudsters will pay the full measure of Damages to every participant harmed. Participants in that action will not need money; it will be fully funded.

If government has not moved to provide fair results and future protections after allowing this massive scam to defraud many thousands of good Australians, **then that class action will, we expect, force that to happen.**

SUMMATION

We believe securitisation will here, just as in the USA, result in enormous payouts by the 'securitisers' to their ripped off victims for amounts in the billions of dollars. It is high time that we all woke up. Being decent and honest and trusting institutions has, in just a few years now, become unsafe. There are too many unprincipled people out there now – many in erstwhile respectable positions. We have not

underestimated the likelihood that some of the people acting dumb in these very smelly dealings, including government officials and judges are actually corrupt – perhaps receiving 'benefits' behind the scenes. It is just that without proof in hand, it is not considered 'proper' to suggest such things, so we have not. Perhaps you can add to this picture. And the police should.

There are limits the Law will apply to things. Causes of action such as (vitiating – allowing of termination) Breach of Contract and lack of Procedural Fairness will be litigated on these dealings, but usually only as subordinate claims of lower priority to actions for Fraud, Unconscionability, Unjust Enrichment, Breach of Contract and Breach of Trust. **Fraud, of course is criminal and no 'civil claim' time limit to approach the court applies.** This is otherwise, six years. And whilst Australian lawyers generally do not dare even think of **fraud**, due to mere folklore suggesting it is too hard to prove, in the USA, 100% of many cases have been and are being won on claims of **fraud**. The added advantage of **fraud** is that if you should have sued sooner and the six years has already passed, in a civil action you still may not be too late. When you should have sued is when an ordinary, reasonable person should have known it was time to commence proceedings. On the issue of securitisation, many people could persuade a court acting properly that they did not know sooner because the banks and others pushing securitisation schemes went to extraordinary lengths to conceal what they were doing. The limited time to sue does not start to run until you knew what had been done to you. However, **fraud, although harder to prove, has the benefit for many people of them not having to satisfy a court that they should have started in court sooner.**

RECOMMENDATIONS

The intention of these Recommendations is to restore public confidence and ensure proper judicial disposal of related issues in dealings with Land, with lending institutions, with Courts and government administration, so that public confidence may be both reinstated and maintained. To achieve that outcome, a substantial and public clean up is required, including criminal prosecutions and facilitated evidentiary disclosures to simplify and expedite court resolutions of securitisation cases.

That the Federal government either recommend to the States or legislate as may be required to:

1. Put true competition into the Australian banking market: **The Federal Government to purchase enough Commonwealth Bank shares to have a majority interest. Then to legislate to become the buyer of first option for any subsequent sales of Commonwealth Bank shares at market value.**
2. The Commonwealth Bank to have a board of more appropriate persons and to provide Housing and Business loans on a First Mortgage basis only in a new, special class of loan named appropriately as clearly separate from existing loan business, with interest rates set and varied from time to time to reflect the true costs. Not a fictitious "cost of funds" but a lending rate not more than two percent above actual running costs of the bank's new special loan portfolio as a proportion of total business overhead costs assessed as defrayed across the overall bank operations. To be subject to annual audit

and recommendations by the Commonwealth Auditor General.

3. Securitisation and criminal issues arising from it should be referred to all Police Commissioners in Australia with a comprehensive Brief and a recommendation and request that they do investigate, prosecute appropriately and refer back to this Committee and the respective governments all recommendations for legislative amendment.
4. All Police Commissioners in Australia be requested to train all staff that they should not involve themselves in any civil matter unless and until a breach of the peace has occurred.
5. Recommend that Land Titles Registries review and amend their practices and procedures and record keeping with a view to preventing any future possibility of Land Title Owners again being exposed to the risks revealed in this report.
6. Recommend that the respective Criminal law jurisdictions around Australia review and amend their laws to ensure that securitisers are suitably and specifically restrained from actions which are illegal and prosecute any identified perjurers.
7. Recommend that in alleged default involving a mortgage, no Order for Possession and Sale may be obtained without Due Court Process and no right to sell anything other than Real Property ought be permissible until there is a clear shortfall on what is proved to be owed.
8. Specific legislative provisions be created to enable the gaoling or imposition of personal heavy fines or other penalties on company directors where clear wrong is knowingly tolerated, sanctioned or done.
9. Recommend that all Contracts binding persons in respect of Land Titles require signed consent of all parties with initialling of all parties required on each and every page. A duly executed copy to be given to all parties and to the Land Titles Registrar who should retain same.
- 10 All lenders of money requiring a mortgage Contract be required to advise any borrower in writing and stand ready to formally prove same was done with not less than 14 days clear notice or else be legally denied reliance on same:
 - Make a true copy of all elements of the Contract available to a borrower not less than 14 days before execution.
 - Set out in that Contract all cost elements or alleged risk loadings built into bank rates of penalty interest and give specific Reasons suitable for Judicial Review as to why any loading is being imposed.
 - Not less than 14 days before any alteration to interest or fees charged, or Terms of Contract altered, lenders must provide a statement of fact explaining and justifying any increase in such charges or changes to Terms in a form suitable for a Court in Judicial Review.
11. Borrowers be given 14 days clear Notice before entering into mortgage default

insurance covers, such notice to suitably inform the borrower of the provisions of the Competition and Consumer Act 2010 (CTH) mandating that such insurance may be purchased from any insurer in the market. Proposal forms for same must also so advise and policy documents as duly issued must advise that the beneficiary will be the premium payer.

12. **Legislate to provide and Recommend to States** that no appointment of liquidators, receivers or managers over a person's affairs or real property be valid unless Court ordered after Due Process.
13. **Recommend that Liquidators** to be adequately educated about their duties and responsibilities as trustees and before being registered, sign a particularised document acknowledging and proving this has been done, the document signed being legislatively designed to be irrefutable proof that said liquidators knew and understood their trustee's duties and responsibilities.
14. **Supervisory duties regarding trustees and liquidators** should be re-considered and far more effective mechanisms created, including more effective oversight and severe penalties for misfeasance, malfeasance or Breach of Trust should be, legislatively implemented.
15. **Legislate (if necessary) to amend the Telecommunications Act (CWTH)** to ensure that all electronic communications regarding CUSIP or ISIN transactions be available to the Commonwealth and all Land Titles Registrars in Australia at any time and all paper records of same be at all times available to the Commonwealth to inspect. Include provision to the effect that if any such data registry be taken out of the jurisdiction, it becomes a Criminal Offence for any person to conduct this form of commerce in Australia.
16. **All records of CUSIP documents** and transactions involving Australian real property be copied to and regularly updated to the respective State and Territory Land Titles Registrars and Recommend that any registered owner of real property be provided with an adequate report of same affecting his or her land title at no cost upon request. The Commonwealth legislate to require the Registrar of the CUSIP Registry to pay any appropriate fees for this disclosure to the respective Land Titles Registrar.
17. **Amend the Federal Criminal Code** and / or the ASIC Act to add an additional penalty provision. Where a large corporation has earned the legal approbation of a "Circumstance of Aggravation" namely that it has qualified for an award of Punitive or Exemplary Damages, the following shall apply: The Court may award Punitive or Exemplary Damages of up to three fold the actual award of Damages to the successful Party. Beyond that, we say it is arguable, including for reasons of Public policy, that two factors apply:
 - a) No litigant could fairly expect more AND
 - b) Much more may be needed as an effective disincentive (in the public interest) to a large corporation. A much larger limit may apply – perhaps \$250,000,000, any such award to be evenly divided between the consolidated revenue account of the federal government and a charity or charities of the successful party's

choice.

Where a circumstance of aggravation applies for a director of a corporation with regard to ongoing misconduct by a large corporation – perhaps defined as having a threshold quantum of profit or turnover or number of staff – a Director may be substantially fined personally and goaled for up to (say) 10 years.

18. Legislation is required to make it an offence for a lender to not, when appropriate, forthwith Discharge their mortgage without cost to the client.

19. **Specific Questions on Notice** which need to be asked and answered in the federal Parliament. For example:

A) How many dollars in total, over the last 20 years, have federal agencies including (but not exhaustively) the Office of Financial Management and the Reserve Bank :

- a) Invested in Securitisation schemes?
- b) Have lost or (separately) are at risk of losing said Capital in securitisation schemes?
- c) What value in (i) assets or (ii) tangible security, does the government have or hold against the amount of money answered in a), above?

B) What is estimated to be the nett profit result had the above monies been invested directly into typical risk profile first mortgages over the same periods?

End of this paper. Links and Annexures follow

INTERNET LINKS AND BOOKS WHICH SHOULD BE AVAILABLE

- A **Neil Garfield** on Securitisation Very clear descriptions.
<https://livinglies.wordpress.com/>
- B **Banks (part) settle Securitisation for \$8.5bn**
<http://www.bbc.com/news/business-20935095>
- C **newera.org.za** "Securitisation: A Conspiracy of Silence"
This very clear document corroborates our findings in Australia.
www.slideshare.net/ChrisMercer1/securitisation-a-conspiracy-ofsilence-1
- D **Wikipedia** on securitisation - lame attempt at classifying it. Note how it fails compared to what you have just read. It is just fancy Fraud.

<https://en.wikipedia.org/wiki/Securitization>

- E **Hidden Secrets of Money** - Mike Maloney
<https://www.youtube.com/watch?v=DyV0OfU3-FU>
- F **"The Big Short"** January 2016 : New release movie featuring Brad Pitt
This is about, exactly, what is happening in Australia now.
- G **"Inside Job"** 2010 Acclaimed documentary about the 2008 "Global Financial Crisis" and the corruption behind it >> <http://www.sonyclassics.com/insidejob/>

H **Reserve Bank of Australia**: "Asset Securitisation in Australia"
<https://www.rba.gov.au/publications/fsr/2004/sep/pdf/0904-1.pdf>

- and "Whither Securitisation" by Guy Debelle
<http://www.rba.gov.au/speeches/2009/sp-ag-181109.html>
- and "The State of Play in the Securitisation Market" by Guy Debelle
<http://www.rba.gov.au/speeches/2010/sp-ag-301110.html>

- I **Office of Financial Management** (Australian government) on Securitisation
This government Treasury department naively defines Securitisation (per the theory) as : (Note the last sentence)

"Securitisation" *The process of converting a pool of assets into marketable financial instruments. The rights and obligations relating to the assets are assigned or transferred to a special purpose vehicle (typically a trust), which issues securities to pay for the assets. The cash flow from the asset pool is used to service the securities and any other costs of the special purpose vehicle.* [this last, being corporations, including the original 'lender' raking off a further lot of profit as fees]

What these 'experts' still do not know about is the smarties' instant destruction of the cash flow through selling up all of the mortgagor's properties. It took us some time to make the point that a sub-department of Treasury putting billions of dollars into "securitisation" with no security, was particularly dumb, when they could have 'stimulated the market' by just funding home loans direct and had first ranked mortgage security over the lot.

Do read the following CEO's speech to Securitiser's in 2008.

<http://aofm.gov.au/speech/the-aofms-investment-in-residentialmortgage-backed-securities/>

- J **Clayton Utz** (Large Law firm) 78 page manual for clients on Securitisation
http://www.claytonutz.com/docs/Securitisation_4thEd_Mar05.pdf

- K **"FRAUDCLOSURE"** Identical stories in the USA (on YouTube)
<https://www.youtube.com/watch?v=FnQEmH5jFO8>
<https://www.youtube.com/watch?v=xe98TG50AR4>
(in the USA "Note" means the loan agreement)

<https://www.youtube.com/watch?v=LSetPA-sklw>

L **"Confessions of an Economic Hitman"** [book] by John Perkins – (new edition - https://www.amazon.com.au/New-Confessions-Economic-Hit-Man/dp/1626566747/ref=dp_ob_title_bk)

Well worth reading. Inexpensive from the above site. Describes how economics now achieves what wars used to.

M **Glossary** http://www.securitisation.com.au/ASF_Glossary
The 'secret' language of the criminals designed to confuse you
401 esoteric "securitisation" terms defined

N **Land Title Printouts** – showing wholesale, unauthorised transfers and just some of the errors and inadequacies

Download from: <http://www.beatthebanks.club/landgateprintouts>
<http://www.realjustice.org.au>

LAND TITLE PRINTOUTS (from WA)

Showing the fraudulent transfer of 445 titles in just three batches for one bank on one day in 2006. The authors hereof know about some specific titles in these tranches and some individual titles are valued at more than Two Million Dollars

If the sampling we are aware of is consistent with the many other batches, then:

- *No owners were notified and*
- *Presumably all owners have been cheated, treated harshly and sold up in illegal acts –by the trustee company.*
- *"Consideration" is said to be "an entitlement in equity."*
- *The Mortgagee getting the transfer is a trustee company that cannot lend and never did.*
- *In the allegedly valid transfers, note that the same person signed for Both parties – transferor and transferee*
- *In the official Land title Registry records, there are no more details than these and staff say they*
- *Never advise a mortgagor when a title is securitised or transferred*
- *Never check the validity of what is written into these forms as "Consideration,"*
- *Never verify Powers of Attorney for signatories are valid,*
- *Never keep a certifiable True copy of a mortgage document and cannot produce to one anyone, even a Court:*
- *Signatures of bank officials on a mortgage or the Title records. Noting that banks have somehow 'arranged' to not provide customers with copies or advise them of even the existence of*
- *Massive, onerous sets of Terms in "Memoranda of Special Conditions" This titles office charges the Registered Owner a fee for obtaining a copy, as the bank never did and never will provide one, despite getting Courts to make orders based on what is written nowhere else but in that document.*