

CORRECTED VERSION

LAW REFORM COMMITTEE

Inquiry into property investment

Melbourne — 12 November 2007

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Witness

Mr N. Jenman, consumer advocate and investigative writer.

The CHAIR — Thanks, Neil, very much for coming in to talk to us. We really appreciate your coming and also for sending the material that you have provided for us. The first thing I need to say to you is that the discussion takes place under the regime of the Parliamentary Committees Act, which means that anything you say here, or that we say, is subject to parliamentary privilege; but if you say the same things outside, then you will not be afforded that protection. But we hope everything will be nice in here.

Mr JENMAN — Do you mean this is one of the places where I will not be getting a defamation suit?

The CHAIR — Exactly, that's right. You are protected.

Mr JENMAN — That is great.

The CHAIR — You are protected inside this hearing. The reporters from Hansard are recording the proceedings, and you will be sent a copy of the transcript later; you can make minor changes to that. We have half an hour. We will leave it open to you to say whatever you would like to say in relation to the terms of reference and your work, and then we will have a bit of a discussion.

Mr JENMAN — Do you know what I do?

The CHAIR — We have briefing notes that Susan and Kerryn have put together. I will not read them out to you, but we have an idea.

Mr FOLEY — They are very flattering.

The CHAIR — They are very complimentary, but we would appreciate it if you would just say that for the record as well.

Mr JENMAN — I am a consumer advocate and an investigative writer who specialises in the property industry. I do not think it would be unrealistic to say that nobody would know more about the property spruiking or the property investment industry in this country than me. It is not something I am necessarily proud of, but that is just what has happened to me. I am writing a book at the moment about the property spruikers and it is to be called 'Stitched'. I am about halfway through. I am probably about 80 per cent of the way through my research. In that book I have a list of 137, at this stage, characters who are currently out there preying upon the public. I notice that one of the things you were trying to ascertain was how many Australians are affected by property spruikers.

The CHAIR — Yes.

Mr JENMAN — My estimation is that at least 33 000 people a year have been ripped off by property spruikers, and that is nationally, and over the last 10 years that would equate to about 300 000. Of course that encompasses families as well, and if you take a family of three or four, we are talking about quite a large effect on our community.

I have looked at some of the presentations that have been made to you. I do not mean this disrespectfully to the people who have made presentations — well, yes, I do mean it disrespectfully to some of the people who have made presentations to you. The presentations that have been made to the Committee make me laugh, and they make me cry. I am not saying it is an easy problem, but it is a relatively simple one. There are three phrases that describe the ways in which people are led into property investment. The first is the marketing — how property investment advisers, or spruikers, market themselves. The second one is the presentation they make when they are speaking to the potential investors, who are normally the mums and dads. And the third one is how they sign them up to close. That is it. There are three ways. There are glaring holes in legislation and enforcement in each of those three ways.

If you were to leave it to me, and I have only half an hour to speak to you here, in that half an hour I could solve most of Australia's property investment problems. First of all I would solve it by the way they market themselves. I would forbid them to market themselves on a basis pretending to be something they are not. For example, I will show you a typical case here. This newspaper advertisement is how they do it. They have an advertisement which is headed, say, 'Important financial notice'. They make out they are giving financial or retirement or that sort of advice. They say nowhere in this advertisement that they are actually selling overpriced property. That is the method by which they market themselves. They come in the same way that young men approach my teenage daughters: they ask them to dinner when they do not really want to go to dinner with them — they have other

nefarious motives, and that is a separate issue. But that is the analogy I make. We have to stop the way they market themselves. We have to say that by law they are not allowed to not make the offer of what it is that they are actually offering in the marketing.

The second thing is the presentation — what they do when they are out there and the things they say to the people when they are out there. They quote a number of misleading statistics, the most common being that property always goes up in value or the property over the last so many years has gone up by a percentage. They actually say that since the *Domesday Book* was written in 1066, real estate has increased by an average of 10 per cent per annum throughout history. Yet, funnily enough, nobody has ever got out a simple calculator and worked out that if real estate in England started at a farthing in 1066 and increased by 10 per cent per annum, what the average block of land would be worth today. The answer is that there would not be enough money on the planet to buy the average block of land. If real estate in Melbourne or Sydney had increased at the rates that the property advisers generally claim — and it is chiselled in stone — of 7 per cent to 10 per cent, then the average Melbourne home today would be worth about \$39 million. There are a number of false figures that are given in their presentations.

The third is how they close the people, how they sign them up, what they do. The way they sign them up is through a series of crooked mates and pals, from crooked accountants to what is really probably the most serious and the thing that makes me the most upset of all — the crooked lawyers they send them to. We could solve the first one by making sure that they declare what it is that they are selling. So when the Indian call centre calls, by law they must say, ‘The purpose of this telephone call is to sell you some real estate’, not to save you tax, not to assist you in retirement. Yes, perhaps there is that as well, but the ultimate purpose of this phone call is to sell you real estate. The ultimate aim of this advertisement is to sell you real estate.

The second thing is that at the close we need to take action which is already available under existing trade practices legislation against the false claims that they make. I have copies of their presentation kits, and I have transcripts of their sales meetings. There are horrible things you actually hear in the sales meetings such as, ‘We’ve got to target doctors, because doctors are extremely intelligent, but financially they are not intelligent at all, and they are very trusting’. Things like this are mentioned in the transcripts.

As far as the closing of it goes and the signing up of these people we could solve the rip-offs by just doing two things and making it law. The first one is that it should be illegal for unsophisticated investors to be allowed to use a lawyer that is connected to the property company or has any contact whatsoever. They must get independent legal advice. It should be law. It should be mandated in law. The second one is that by law they must get an independent valuation or, if they do not get an independent valuation, then the contract that they enter into can be set aside. That means a valuer that has no connection whatsoever to the property-spruiking company. That ends the thing. We have solved all the problems now, and I can go.

The CHAIR — But you are going to say more?

Mr JENMAN — Only if you want to ask me some questions. Pretty well, in a nutshell, that is it. To give you examples, I have brought you — it is a real pain to lug these around, but here is a classic of how they advertise. It says, ‘The government is giving away millions of dollars to help taxpayers to invest in property! This money does not have to be paid back’.

Mr FOLEY — What paper are we talking about here?

Mr JENMAN — This is a standard used across Australia.

Mr FOLEY — A local paper?

Mr JENMAN — Local papers. This particular one goes in the *Melbourne Age* and the *Sydney Morning Herald* when they have what are called distress rates. This spruiker is on stand-by for when they have distress rates. A full page in *The Age* might cost, say, \$30 000. When they have got a distress rate, they will sell it for \$5000, so he will book that. He is on stand-by for the distress rates.

The CHAIR — Neil, I appreciate that you are putting a book together, and clearly a lot of this information is part of your data gathering, but would you be prepared to share some of that with the Committee?

Mr JENMAN — Of course, I will share the whole lot with you.

The CHAIR — We will maybe do follow-ups on that.

Mr FOLEY — Through the research team perhaps, respecting the confidentiality.

Mr JENMAN — The only confidentiality I require sometimes is when I have been given sources or leaked information; that is the other side. But otherwise I have two types of files generally. I use purple files for the victims, and I use green files for the crooks themselves. I understand from a lady who helps me with my research that she has been speaking to Susan.

Ms BRENT — Yes.

Mr JENMAN — You wanted some actual examples of how people get ripped off and who these people are, so I have put a couple together here for you. The company's name is the Insight Group, so I call the article 'Insight into a property scam', and I have here the story of how they do it. Of course they call themselves Insight Lending or Insight Financial Services when they are selling overpriced properties.

Here is a photograph of the crook, and I have written here 'Trent Richards, crook, the Insight Group'; a photograph of the starts of their websites, which say pretty well nothing about property and just talk about planning for retirement. I have a detailed report on one particular young Victorian family that lost its home as a result of dealing with this company, then of course the standard threatening letters that I get from their lawyers and a photograph of the crooked lawyer. That is that one, and you can have this.

The CHAIR — With that and with the others, can you just describe to us the story?

Mr FOLEY — Or a story.

The CHAIR — Yes, not the whole thing.

Mr JENMAN — Pretty well what happens is that people answer the telephone and they get somebody on the end of the line saying, 'Would you like some free taxation advice? Would you like to save money on your tax?'. The questions that they ask are designed to only get a yes answer. It is a confirmed nod.

Mr FOLEY — The 'When did you stop bashing your wife' question?

Mr JENMAN — No, because you can say, 'I have not bashed my wife'. It would say such things as, 'Would you like your family to be more financially secure?', and people will say yes. 'Would you like to learn how to save some tax?'. Yes. 'Would like to set yourself up for retirement and be better off in retirement?' — questions that obviously lead to the yes answer. 'We have a representative in your area, and that representative will come around, no obligation, and it will not cost you anything'.

At this stage there is no mention of property, so that people think they are going to get some advice on how to retire. The representative goes out, and that representative's entire mission is to get them into a city office in front of a closer. The representative who goes out there says, 'We need to get our specialist to give you a free financial check-up'. Then an appointment is made, and they are brought into a city office where there are trained and skilled people who pretend to punch things into a computer and go, 'Ah, yes. Look, I think we would be able to do this. Oh, yes, you are in luck'. Then they put projections out on properties and how property increases. They say, 'I can give you these things. If you buy this property at \$300 000, in a year from now it will be worth \$330 000 and 10 years from now it will be worth \$1.2 million and so on'. I can give you these projections that were made 5 years ago that properties that were bought for \$300 000 are now worth \$200 000. That is the story in here of people who lost their homes, so that is a full case study in there.

The CHAIR — So you have done some work that actually tests the predictions on particular properties?

Mr JENMAN — Yes. Let me just say quite clearly here real estate does not increase in the way the community generally thinks it does. In fact, when you really think about it, it is impossible for it to continue to increase. Even the current surge in Melbourne just cannot continue, because you cannot have property increase at 50 per cent a year and wages increase at 2 per cent a year — because you run out of people who can buy it. It's simple. It is what is called in investing the strawberry box principle whereby the strawberries keep getting sold for higher and higher prices until one day somebody opens the box and says, 'But these are rotten' and the seller says, 'They are not for eating; they are for selling'.

They give themselves fancy names such as Harvard Securities and of course the real estate institutes will say, 'It has nothing to do with us; they are not real estate agents', but in many cases they are licensed real estate agents. Harvard Securities, for example, is a member of the Real Estate Institute of Victoria. Here is the crook who runs it — a fellow called Victor Altomare who is supposed to be, I have been told, "connected". I hope he is not sitting behind me. I said, 'What does "connected" mean?' and they said, 'You are naive, Neil, that means he is connected to the mob'. When I met him with a television crew, he did not treat me very nicely. They changed their name from Harvard when they ran out of names to Banc. You are not allowed to use the word 'bank'. Keibel Bank in the Westpoint scam got into trouble with this. So they used a 'c' instead of a 'k'. That is not illegal so they say Banc and they call themselves Banc Financial Services.

Here is one of the victims — just a 28-year-old mechanic, a decent fellow who earns \$40 000 a year who is losing his home as a result of dealing with this scum. Here he sets out exactly how he lost his money and what happened, and here are in the suburbs of Melbourne rows of houses that are built specifically for the rip-off market. These houses are built and sold to these battlers for, say, \$270 000 when they are worth \$170 000. Of course there is the membership of the Real Estate Institute of Victoria and once again, I am sorry, the standard Neil Jenman legal threat of exposing them.

The CHAIR — You said there is one pile that is the people who are facing detriment through this?

Mr JENMAN — There are two cases there both relating to Victoria.

The CHAIR — You said in the other folder you have — —

Mr JENMAN — In the other folder I have some information just about — —

Mr FOLEY — Who they are?

Mr JENMAN — No, generally speaking, my own code is green for the crook and purple for the victim. In this case I have kind of combined them together for you.

The CHAIR — And you will let us have those?

Mr JENMAN — Yes, I will let you have those. Those advertisements I have just shown you — I have books full of the type of advertising they use. That type of advertising needs to be nipped in the bud in the very beginning. When these advertisements appear, by law they should say what the people are actually selling. It is like a fruit shop advertising oranges but when you get there, there are no oranges and they are actually selling bananas. Let us have it stated what it is you are selling. When you told me who you were before I came in here, I got all this information about you. That is what should be declared up front.

The CHAIR — Neil, you mentioned earlier on when you talked about the extent of the issue, you said that something like 33 000 families per annum are harmed across Australia and you said that amounted to a total of about 300 000. Could you just tell us what your method was in putting that together?

Mr JENMAN — The way I did that was I have got about 137 characters that I am writing about in my book. I worked out that on average each one of these characters would be responsible for stitching up 20 families a month. That is 2740 a month, and I multiplied that by 12, which is 32 800 a year, which is 300 000 in 10 years. I actually think that is probably rather conservative because I have taken out some of the other bigger companies where we cannot do a lot to stop them being stitched up. When you see a full-page advertisement in the newspaper for a block of apartments and it says 'selling fast, only five left', you have to ask yourself why they would need to take out a full-page advertisement if it was selling out fast. These properties are normally overpriced and people get stitched into those, too. Here is a comment that I am happy to make and proud to make on the record: more Australians get ripped off in property investing than make money in property investing in Australia. More get hurt.

The CHAIR — In the course of the work of this Committee we have had difficulty getting in contact with people who have experienced detriment through the kinds of practices we have been asked to look at. One construction of that is that the very people who are harmed are probably the people who are least likely to see an advertisement in the newspaper that there is a parliamentary committee inquiring into it and whip up a submission or give an oral presentation.

We have heard that there have been limited complaints made to Consumer Affairs Victoria about it so they have the same problem but to be fair, Consumer Affairs Victoria did tell us that is not necessarily an indication of the quantum of the detriment.

Mr JENMAN — They are right. Many people do not know they have been ripped off.

The CHAIR — That was the next thing I was coming to actually — whether in that group you mentioned that people are aware of what has happened to them. That sounds a bit silly but that is exactly where I was going. So this is very valuable to us — the work you have been able to do and we would certainly appreciate being able to have a look at it. With those people, what is their profile? Who are they?

Mr JENMAN — Here is a profile. This to me is going to be the face of the man who gets ripped off in say the Westpoint-type scams. This is the retiree who loses all his money. That is him. In the more direct property investing scheme the profile would be this fellow here, a young family man who is literally just a decent, honest hardworking battler — a mechanic who, if he did to the lawyer's car what the lawyer did to him in property, would lose his mechanic's ticket. Yet the lawyer, whose photograph I have placed in here, is still allowed to practice.

It is your typical person; they are decent, hardworking, honest Aussies. They are the people who we really like in our society. They are not the Neil Jenmans, where people say, 'I don't like the look of him'. They are good folk. They are the Anzac-type people, lovely people. It is gut wrenching and heartbreaking. I was thinking, and often it is part of my nature when presenting to say, 'Here, I've got them lined up outside; if you like I can bring in some of them for you and let you see the terrible effect this is having in our society out there'.

There are a number of reasons why they do not come forward. They are ashamed, a lot of them; they are made to feel stupid in our society, whereas they are not — they are the victims of fraud, let us be blunt about it. The other thing is that a lot of them do not know that you exist. The third thing is that they do not know how to complain. The fourth thing is that when they do complain — particularly if you licence property spruikers, my goodness, you will be giving bandits badges, that is what will happen. That is a real worry that I have, because when they are licensed they will be able to get over it by saying, 'We are licensed agents, we are members of the Real Estate Institute of Victoria'.

So Enzo Raimondo, the Chief Executive Officer of the Real Estate Institute of Victoria, says, 'Always deal with a licensed agent; that way you will be safe'. Whooshka! In they go to that. I have a list of all the financial planners who put people into the Westpoint thing. ASIC says, 'Only deal with a licensed financial planner'. Seventy per cent of them were licensed financial planners.

These people come in here and tell you that you need to licence them, but what you will do is give dodgy characters the badges. Now I know that that is something that will probably throw you a bit off whack here. But there are people who have presented to this Committee who are on my list of crooks. And I can prove it, because I can bring their victims in. The difficulty is that there are eight of you here; there is just one of me, and my wife. You saw the thing on *Australian Story*, didn't you? You saw what it is I have to go through. My wife says to me, 'Why are you doing this? Stop doing this. There is not a lot of money in protecting consumers, you know'. But there is a lot of — —

Mr BROOKS — You just answered a question I have, which is around your views on the federal parliamentary Joint Committee's report, which you are probably aware of?

Mr JENMAN — Yes, I am.

Mr BROOKS — Where do you see that sitting within — —

Mr JENMAN — I saw some excellent parts and some parts that horrified me in that. First of all I will tell you that self-regulation never works. In history it has never worked. It did not work in the Middle Ages; it does not work here with the Victorian police; it does not work in any industry. You cannot have self-regulation; you need independent people. I have ticked 'yes' to whether the disclosure valuations by lending institutions to prospective borrowers be mandatory. To whether any loans for investment in property which is secured by home equity should be subject to a wainable 14-day cooling-off period, I ticked 'yes', but I also made the note that it is almost a sure sign of a rip-off and that if the investment property has to be secured by the lending institution against the borrower's home it means that the property is not good enough. The committee recommendation was that ASIC

conduct targeted advertising and educational campaigns to alert consumers, and I ticked 'yes' to that one as well. But you have got to do it.

ASIC and the CAV do advertising and they do marketing and things. But as you well know, the people who get ripped off watch *Today Tonight* and *A Current Affair*. They watch me getting punched on *A Current Affair*, which does more to stop the property spruikers than can ever get done at this stage. But you have the power, if you make those three recommendations, particularly those last two about independent valuers and independent legal advice — wow, that would be wonderful! It would be the same if you stopped people like this getting ripped off in Westpoint, by making it illegal for mum and dad investors to invest in those sorts of products — 'That's it, you cannot do it'. People ask, 'Shouldn't people have the right of choice?'. No, not necessarily. Incest is illegal, right? Some things need to be made 'full stop, can't be done'. And people should not be allowed to buy these investment properties unless they get independent legal advice and an independent valuation. That would stop 95 per cent of the scams. All right?

Mr FOLEY — Just one question, Neil, if any of the people that you have identified wanted to have a crack at you — and I am not suggesting for a moment that any of us are in that category — you are obviously writing a book, so a criticism could be made of you that it is in your interests to over-sensationalise, to point to the extreme cases and all of those factors?

Mr JENMAN — Yes.

Mr FOLEY — This will be on the public record; how would you respond to that sort of an accusation?

Mr JENMAN — Sure. My response to that is that Australian authors do not make a great deal of money, okay? If you look at what I was earning before I started doing this work and what I am earning now, I would be earning probably 20 per cent of what I used to earn — simple.

The CHAIR — I have one last question. It has to do with public awareness and education. What has come out from what you have said is that the average investor, however we describe that, probably does not understand the risks involved in property investment. Is there anything you think the government could do, other than the things you have already mentioned, that could help to educate the community about the risks involved?

Mr JENMAN — One of the things that you could do is a mandatory warning booklet which said, 'Here are some facts you did not know about property investing. Property does not increase in value by 7 or 10 per cent per annum. Property has, since Australia was founded, and even taking into account the current boom in Victoria, increased at 2.3 per cent' — I think it is — 'above inflation since we first came here'. So here is how people get ripped off. I think you can have a law that says, 'You are not allowed to have the conflict of interest lawyer situation; you are not allowed to have the conflict of interest valuer situation'.

I am sure you can have a law that says that, because that would solve it, with just those two things — and forcing them when they market themselves to declare what it is they are doing. Even if you want to take up the argument you made about the book — that is, Neil Jenman wants to sell his book. I say, 'Guilty. I hope you all buy a copy'. In fact, I brought you a copy which has the section on investment scams that I have already written about. You can have that for nothing. I have also brought you pamphlets on the fund that we have set up to protect consumers, with some details about it. I do not have a business card, so I brought you all some Post-it notes.

Mr FOLEY — You are an entrepreneur!

Mr JENMAN — I do not know if I quite like that word.

Mr FOLEY — I meant it in the nice way.

Mr JENMAN — Somebody asked me the other day, 'How would you like to be described?'. I would like to be described as a central Queenslander.

The CHAIR — We will think about that. Neil, the time is up. I very genuinely thank you very much for coming and providing us with a wealth of information that we will follow up. We will try to do our best by you and all the other people who have come in. You will be sent a copy of the transcript from Hansard.

Mr JENMAN — Of what everybody else has said or just what I have said?

The CHAIR — Just of what you have said.

Mr JENMAN — I know what I have said.

The CHAIR — We want to get what you have just said down accurately. What everybody else has said will also be on the website.

Mr JENMAN — So this will be on the website too, will it, including the names of the people I have just mentioned?

The CHAIR — Yes.

Mr JENMAN — Great! Can I read them all out? If I had known that, I would have read them all out.

The CHAIR — You did not listen carefully enough to my preliminary remarks, did you?

Mr JENMAN — No, I did not.

The CHAIR — Thank you very much.

Witness withdrew.