

**SELECT COMMITTEE INTO THE  
FINANCE BROKING INDUSTRY IN WESTERN AUSTRALIA**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
FRIDAY, 28 JULY 2000**

**SESSION 4 OF 4**

**Members**

**Hon Ken Travers (Chairman)  
Hon G.T. Giffard  
Hon Ray Halligan**

**REICHHOLD, MR HEINZ,**  
**Retired,**  
**residing at Unit 36, 240 Burke Drive,**  
**Attadale, examined:**

**The CHAIRMAN:** I will just take the opportunity to introduce you. I am obviously Ken Travers and, if I can introduce my parliamentary colleagues, the Honourable Ray Halligan and the Honourable Graham Gifford. We would like you to welcome you to today's meeting and apologise for the delay. It is one of these things where you never quite get the timing right for hearing. To begin with, could I ask you to please state your full name, contact address and capacity in which you appear before the committee?

**Mr Reichhold:** My name is Heinz Burkhard Reichhold. I live at unit 36, 240 Burke Drive, Attadale. I'm retired. My reason for being here is trying to voice my opinion of the unsatisfactory responses and the conduct of the people involved in trying to currently solve the mess the mortgage-broking industry has created.

**The CHAIRMAN:** All right. You will have signed a document entitled "Information for Witnesses".

**Mr Reichhold:** Yes.

**The CHAIRMAN:** Have you read and understood that document?

**Mr Reichhold:** Yes.

**The CHAIRMAN:** Thank you. These proceedings are being recorded by Hansard. To assist the committee and Hansard, could you please quote the full title of any document you refer to during the course of this hearing for the record?

**Mr Reichhold:** Thank you.

**The CHAIRMAN:** A transcript of your evidence will be provided to you. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session before speaking about the matter. Further, the committee may of its own motion resolve to take evidence in closed session. The taking of evidence in closed session may be relevant where, for example, the committee believes the evidence may breach the committee's term of reference (3) of its inquiry. I will just briefly state that -

The committee in its proceedings avoid interfering with or obstructing any inquiry being conducted into related matters and in particular inquiries by -

- (a) the police;
- (b) any liquidator or supervisor of any company;
- (c) the Gunning inquiry;

(d) Australian Securities and Investments Commission; or

(e) any prosecution.

However, even if evidence is given to the committee in closed session, that evidence will become public when the committee reports on the item of business to the Legislative Council unless the Legislative Council grants an ongoing suppression order at the time that the committee tables its report.

I would like to invite you now if you have an opening statement you would like to make to the committee. We do have copies of the submissions that you have provided to the committee and we appreciate that, but is there any opening statement you would like to make to us to add to those?

**Mr Reichhold:** I looked at the terms of your reference and then I was surprised that I received an invitation because I feel my submission is more of a nature of trying to voice dissatisfaction with the dealings I had with the people appointed by the Department of Fair Trading which indirectly is a conflict of interest inasmuch as the same person is a supervisor and a liquidator or two principals with one company represent a supervisor and a liquidator and any time I deal with them, they run away and refer to the legal advice they get from the Department of Fair Trading or their employees. In my submission I quoted some instances which I believe were mischievous actions taken by the various parties, which cost me money on top of it. I refer to conversations I had with staff of the Ministry which was repeated to cause friction between investors; the unsatisfactory approach liquidators take to disposing of assets in which we, the investors, hold first mortgages. This in general terms is really what I would like to talk about before we get into details.

**The CHAIRMAN:** No, that is fine. I think one of the parts of our terms of reference includes avenues for legal redress for investors. I assume the issues that you are dealing with are going to the issue of the legal redress that you have in terms of the losses you have suffered. I think you made the comment that you were surprised that the committee had invited you. Obviously if it is not that, then it may be outside of our terms of reference.

**Mr Reichhold:** No, I sort of found that you were more interested in the administrative functions of the Department and where the whole industry had gone wrong rather than in the current problems. I am talking about current problems rather than what has happened in the past.

**The CHAIRMAN:** Are you still incurring losses as a result of that though?

**Mr Reichhold:** Yes, I do.

**The CHAIRMAN:** They are associated with the finance-broking industry.

**Mr Reichhold:** Definitely, yes.

**The CHAIRMAN:** Yes, the committee's term of reference is that the committee be appointed to inquire into and report on reasons for losses associated with the finance-broking industry in

Western Australia.

**Mr Reichhold:** Yes.

**The CHAIRMAN:** So long as the comments you make go to losses that you have incurred and the reasons for them - - -

**Mr Reichhold:** Incurred and still are incurring.

**The CHAIRMAN:** Are still in incurring.

**Mr Reichhold:** Yes.

**The CHAIRMAN:** As long as you are talking about matters along those lines, then it is well within the terms of reference of the committee to hear your evidence and to include it in any report that we may do at the end of the period.

**Mr Reichhold:** As I said in my submission, in one case we succeeded to get the certificate of title prior to Grubb going belly-up and we then run into next problem where the appointed supervisor attached a caveat to that certificate of title which we only could get to be removed through legal action. It cost us just around \$3000 to get to the point that we would get the caveat removed. When we went to court, the legal representative for the Supervisor which came from the Department of Fair Trading or the Ministry agreed to remove the caveat without any court action. The court awarded costs to us. We went into negotiations with the Department of Fair Trading to recover our costs. We were made an offer of \$700 where it was a true cost of \$3000. We were forced to go back to the court and we finally got an arbitration by the Master of \$2700 which still made us lose \$300 on a mischievous caveat which we never could understand why they had done so. Looking at the issue, it is my belief that it was done to overcome the possibility of running into a legal problem if we would have won our case in court because they when - when I say "they", the Supervisor and the Department went to court the next day and applied for the right to control all certificates of title involved in Grubb company which they succeeded in doing. If we would have won our case in an open court, then they may not have won the next day. So I think it was an indirect way of getting us out of the way and achieving what they wanted to achieve.

**The CHAIRMAN:** I am just not sure how. If the court gave them permission or gave them control over the certificates of title - - -

**Mr Reichhold:** They did that the following day.

**The CHAIRMAN:** Right.

**Mr Reichhold:** After they consented to remove the caveat from our title.

**The CHAIRMAN:** Yes. I am assuming that there were similar matters to be judged in both cases. Effectively it was about the liquidator or the supervisor - - -

**Mr Reichhold:** The supervisor.

**The CHAIRMAN:** - - - having control over those titles. The caveat was another mechanism for them having control over the titles.

**Mr Reichhold:** They wanted to get control of our title, yes.

**The CHAIRMAN:** Yes, and by putting the caveat on it, that applied some control by stopping you being able to sell the property until that caveat was dealt with in either the court or removed by them.

**Mr Reichhold:** We believe the sequence of the court cases made them to relent the caveat voluntary or remove the caveat voluntary because if the court - - -

**The CHAIRMAN:** I guess the point is that your view obviously must have been that they would have lost the argument for having the caveat in the court case on the day before.

**Mr Reichhold:** There was no doubt because the Supervisor was never involved in any actions which we had between Grubb and us, the mortgagees, because we recovered the title before Grubb closed down.

**The CHAIRMAN:** So then the next day they go in there. Was that in a private session that you were not represented?

**Mr Reichhold:** That was a hearing which no-one was aware of. We were not informed of that hearing.

**The CHAIRMAN:** Right.

**Mr Reichhold:** The investors never knew about that.

**The CHAIRMAN:** Are you trying to put to the committee that if you had known about that hearing and been able to represented, then you would have been able to put up legal argument that would have meant that the - - -

**Mr Reichhold:** The Supervisor, yes, Mark Conlan of Bird Cameron.

**The CHAIRMAN:** You say it was in the Supreme Court. Was it with a judge?

**Mr Reichhold:** Yes, it was in the Supreme Court.

**The CHAIRMAN:** With a judge or the Master?

**Mr Reichhold:** Judge; I believe it was Judge Owens.

**The CHAIRMAN:** Is the point your are making that if they had lost the case, then Judge Owens - - -

**Mr Reichhold:** They would not have succeeded the following day, for sure, because it was the same issue.

**The CHAIRMAN:** The same issue, and so the Judge would have to have given the precedent of the day before's decision and because you were not represented in that hearing on - - -

**Mr Reichhold:** The second day.

**The CHAIRMAN:** - - - the second day, they only heard the argument of the Supervisor.

**Mr Reichhold:** They would have heard the argument of the first day but they removed the caveat and there was no hearing.

**The CHAIRMAN:** Yes.

**Mr Reichhold:** It was only a matter of applying the costs.

**The CHAIRMAN:** Yes, but what I am trying to work out in my own mind and just get clear for the record, I guess, is the reason that you were not successful on the second day is you never knew it was on to be able to put the argument.

**Mr Reichhold:** That is correct.

**The CHAIRMAN:** So by them only having a one-sided argument.

**Mr Reichhold:** Yes.

**The CHAIRMAN:** There is no recourse other than expensive legal action for you to now go back in and get the control of the titles back to you as investors.

**Mr Reichhold:** I got a letter yesterday from the Supervisor where there is currently a hearing coming up regarding the rightful control of the titles and who has what and the list of lawyers involved is 51. When I saw the document, I only shook my head. Like I say, the current process in my opinion is totally out of control. If I would be a judge, I would not know what I would say to the lawyers coming into the court and trying to represent the investors and/or the Department and/or the Supervisor.

**The CHAIRMAN:** This is a hearing coming up fairly soon, is it?

**Mr Reichhold:** Yes.

**The CHAIRMAN:** There will be 51 parties or 51 individual lawyers?

**Mr Reichhold:** 51 lawyers' names on the document I received.

**The CHAIRMAN:** All right. Did you have any other comments you wanted to make?

**Mr Reichhold:** Yes.

**The CHAIRMAN:** I have interrupted you there but I just wanted to get that very clear in my mind.

**Mr Reichhold:** No. Actually the outcome of a conversation that we had with the Ministry employees in which we were trying to convince them to pay us the full costs was that we transgressed onto other subjects and one investor which I am involved with in another mortgage had purchased a secondary debenture of the St George Bank to allow him to appoint a liquidator for Rowena, one of Grubb's companies, which cost him \$450 000 or thereabouts and in the conversation I questioned the gentleman's intentions and I said, "No-one spends \$450 000 in their sound mind. There must be a secondary issue." The issue is that he is a good friend of Grubb and maybe he wants to save the assets for Graeme Grubb. Two days later the gentleman in question, Ken Dixon, which is a good acquaintance of mine approached me and said, "So-and-So, if you said to these guys" - and the conversation was repeated word for word to Ken what I had said to the employees of the Department in the conversation I had regarding the costs. I was most surprised and it was just pure luck that we were good friends and we did not get into each other's hair. I do not know what else to say to that. I do not even know whether it is relevant, but it appears to me that some people are continuously trying to cause conflict and delays and difficulties in trying to solve issues.

**The CHAIRMAN:** Again, I am not quite sure I follow that last bit. You had a conversation with people in the Ministry of Fair Trading?

**Mr Reichhold:** Yes.

**The CHAIRMAN:** That was repeated to?

**Mr Reichhold:** Mr Mitchell and Mr Harvey, and there was a third person present. I cannot tell you his name but it should be somewhere on the record.

**The CHAIRMAN:** Then they repeated that conversation to?

**Mr Reichhold:** Ken Dixon.

**The CHAIRMAN:** Are you implying that they put a spin on it that suggested you were attacking him?

**Mr Reichhold:** Yes. The reason I believe Ken was doing it is to save Graeme Grubb's assets because they were Graeme Grubb's private properties which were involved in that action. That is the way I put it to the people at the Ministry. That is the only reason I could see that Ken would do that, because even today I am still not even sure. Ken and I talked about it and we agreed that he was doing the correct thing. I am still not convinced. Why would I spend \$450 000 to buy secondary debentures?

**The CHAIRMAN:** Right, but the fact that you had that private conversation with Ministry officials - and that was Mr Mitchell and Mr?

**Mr Reichhold:** And Harvey.

**The CHAIRMAN:** Mr Harvey.

**Mr Reichhold:** Yes.

**The CHAIRMAN:** That conversation was then directly repeated to Mr?

**Mr Reichhold:** Ken Dixon.

**The CHAIRMAN:** Mr Dixon.

**Mr Reichhold:** And I knew two days later, so they must have repeated it to him within the next day because the second day later I knew about it from Ken.

**The CHAIRMAN:** What you are putting to us, I guess, is that that was somehow trying to drive a wedge between - were they aware of the fact that you were friends?

**Mr Reichhold:** We are not friends. We are co-investors in a different property. Yes, they were aware of that.

**The CHAIRMAN:** Sorry; that you were acquaintances?

**Mr Reichhold:** They were aware of that, yes.

**The CHAIRMAN:** And that you were working quite closely together then? Would that be fair?

**Mr Reichhold:** Yes, we had worked quite closely together and we are still working closely together because we solved some of our problems ourselves without any legal and other involvement., but that was another point in my submission, the difficulties we had with the supervisors and Global Finance. That is the property which Ken and I were involved in, plus another 11 other mortgagees. In that issue too the supervisor made the statement that it was not his place to take care of the property, take control of the property, dispose of the property or collect interest or rent, so we went ahead through steps to collect the rent on behalf of the owner, have it converted to interest and receive some income from the mortgage. It took us quite some time to find a buyer for the property. At all stages we kept the supervisor informed of what we were doing but they showed no interest. When they became aware that we were selling it, they said, "Hey, there exists a case of mixing," and I said, "What does mixing mean?" They tried to explain it to me and I said, "That is a new term in the commercial world." What had happened is that the principal and/or one of the employees of Global Finance had taken money out of one company and put it in another company to pay the investors in this mortgage which was held in the second company the interest, having to qualify that both companies were owned by the same person or mortgagor. They claimed the amount of mixing which had occurred was \$79 000. It was subject to a court ruling and we would have to put that money in a trust account. To get that property of ours back and get a clear desk, we had no choice but to agree so we agreed. When we got to the point of saying, "We have a settlement date and we are settling," that amount all of a sudden had increased to \$172 000. I do not know the exact amount. I would have to look at



the document. It is in the submission. I said, "Hey, hang on, hang on. What are you guys doing to us?" and the reason for that all of a sudden became that the second company which had the mortgage on one of our properties also had other properties with other mortgages and they had mixing too. Because we sold that one property, they told us, and I got it in writing, "Yes, you can sell the property. You put \$172 000 in the trust account. You can put it in a trust account of your own choice with your lawyer and when the other properties eventually will be sold, you can recover your money." Up front we had to pay 10 per cent interest on the moneys which were supposed to be mixing money. I wrote a letter to the supervisor asking six or seven specific questions regarding that \$172 000. I got some wishy-washy answers. I wrote a second letter and I am still waiting for an answer on that, but in the first answer they gave me they said all of a sudden, "We agree with you that the money really belongs to you and we are currently talking to the legal people of the Ministry and give the money to you. If in future court cases or legal actions the other party will sue you for the money, you may lose and may have to pay it back." In these words they told me, "Yes, you get the money," so before I came to the committee this week I called them and they said, "No, we withdraw that statement. Legal advice is to let it run and you are not going to get the money until it goes to court." It always seems that the supervisor and liquidator, which are both the same company or the same person, are told by the Department of Fair Trading what to do and what not to do. The difficulty is that if I would get justice or my right, whatever you call it, I would have to take legal action, which costs me money again, to defend all the mischievous actions which I see to get what I believe belongs to me.

**The CHAIRMAN:** All right.

**Mr Reichhold:** See, and some of it arises that the department has appointed people to do functions which do not really allow them to be fair, because you cannot be a liquidator and a supervisor for a company and do justice to your job. Is the guy working till 10 o'clock in the morning as a supervisor, swap hats and then become the liquidator? They are two totally different jobs. Right?

**The CHAIRMAN:** Yes. I think you have made the point in your submission about removing the conflict of interest which exists between supervisors and liquidators. Ray or Graham, do you have any questions?

**Hon RAY HALLIGAN:** I think Heinz has put it quite succinctly in his submission and of course he has just explained it very well indeed. It clarifies a few points that I had, and more so about other information that the committee had received, and at this point in time I do not have any further questions.

**The CHAIRMAN:** Graham?

**Hon G.T. GIFFARD:** Similarly, Ken, I am in the position where I think the propositions that Heinz makes in his submission are well understood, I think, and I think they are very much within the terms of reference of the committee and are noted and I thank Heinz for his submission.

**The CHAIRMAN:** Yes.

**Mr Reichhold:** I heard you earlier talking with the previous submission about brokers and clients. I have correspondence at home which refers to me as a client by the broker I do not care

what anyone else says, if a broker believes I was his client, I must say I was his client and anyone on the outside which had very little interest in what was going on until it collapsed has got very little chance of questioning whether I am a client or I am not.

**The CHAIRMAN:** We have certainly received other evidence from people where they believe quite clearly that they had an agency arrangement between themselves and the broker as the lender of the money and obviously that is an issue that as the committee goes through its deliberations it will need to consider as to whether or not the decision by the Ministry, or their interpretation was correct. As I think you probably heard me say to the previous person, I also think the use of the term "client" - I think we also need to look at whether or not some of the complaints that were made to the Board could have still been investigated under other sections of the Act rather than just as a breach of the code of conduct, but those are all matters that we will certainly be looking into and I appreciate your comments and if there was information you wanted to provide us on that point - but I can assure you we have already received a fair amount of evidence from people by way of submission and oral evidence today that goes very clearly to that point.

**Mr Reichhold:** When I earlier talked about the 51 lawyers being now involved at the upcoming hearing, one of the major issues in that exercise is that the supervisors believe that moneys which were paid into a trust account - consequently the trust account went into minus and then a mortgage was purchased with the money the investor put in the trust account - is not traceable. Banks, every evening, go on the short-term overnight money market, borrow hundreds of millions of dollars because they have to balance their books and they do not tell their customers the next day, "Hey, your money is lost. We do not know where it is." This is what the supervisors are trying to do today. Believe me, it is very frustrating when you hear things like that.

**The CHAIRMAN:** I agree with my two colleagues that I think you have given us a good outline of the issues that you want us to look into and from your perspective the problems that you face, so I very much appreciate that and your time this afternoon. Unless there are any other final comments you wanted to make, thank you very much for your time and for the two submissions that you have provided to us. They will be very useful for the committee in its work.

**Hon RAY HALLIGAN:** They will certainly be helpful.

**Mr Reichhold:** Thank you.

**Hon RAY HALLIGAN:** Thank you very much.

**Committee adjourned at 5.02 pm**