

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

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
FRIDAY, 7 JULY 2000**

**SESSION 1 OF 2**

**Members**

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

**WARNING: Publication or disclosure of any evidence given to a committee before the evidence is reported to the Legislative Council may:**

- (a) constitute a contempt of the Legislative Council; and**
- (b) mean that the publication or disclosure of the relevant material is not subject to parliamentary privilege.**

**Committee commenced at 10.35 am**

**READ, MR SIMON ANDREW,  
Liquidator, Global Finance Group Pty Ltd (in liquidation)  
PPB Ashton Read,  
Level 1, 5 Mill Street,  
Perth, examined:**

**HERBERT, MR JEFFREY LAWRENCE,  
Supervisor, and Joint and Several Liquidator of Global Finance Pty Ltd  
PPB Ashton Read,  
Level 1, 5 Mill Street,  
Perth, examined:**

**CHAIR:** You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

**The Witnesses:** Yes.

**CHAIR:** These proceedings are being recorded by Hansard. To assist the committee and Hansard, will you please quote the full title of any document referred to during the course of this hearing for the record. A transcript of your evidence will be provided to you after the hearing.

Even though this is a private hearing, I advise that the committee may make your evidence public at the time of its report to the Legislative Council. If the committee does decide to make your evidence public, you will first be informed of this determination. Your evidence should not be disclosed to any other person. This is a private hearing. It is our intention for this to be only a matter of background and not to be used as evidence in the final report, so it will all remain private evidence. The committee has already decided that the purpose of today's hearing is gathering information rather than evidence. Therefore, what we discuss today will not be used in our report and will always remain private.

**Mr Herbert:** Is evidence given privileged?

**CHAIR:** Yes, it is. If we go into areas where we think we need more evidence as part of our deliberations, then we would ask you to attend again to give evidence as part of the public process.

As I mentioned earlier, we have asked you to come along today to give us the opportunity to talk particularly about term of reference No (3), which requires us to ensure that we do not interfere with or obstruct any inquiry being conducted by any other inquiries, and particularly any liquidator or supervisor of any company. The intention is to have an informal discussion about where your inquiries are going and ways in which we can keep ourselves informed, and to have lines of communication between us so that we do not breach that term of reference. Perhaps you could commence with a brief outline of your inquiries, what has been done so far and where it is intended to go in the future.

**Mr Herbert:** We act in two capacities - one is as supervisor and the other is as liquidator. I am

acting as supervisor and Simon is acting as liquidator. Separate sets of issues relate to each of those capacities. I can talk about the issues relating to supervisor, and Simon can talk about the issues relating to the liquidator's function. Should I kick off and talk about the supervisor's function?

**CHAIR:** Yes. Do you think it is more appropriate to start with the supervisor side of it?

**Mr Read:** It will probably be easier to give some background information.

**CHAIR:** We received your letter regarding the evidence given to the Gunning inquiry and have all read that.

**Mr Herbert:** We prepared a brief background paper for the Gunning inquiry, really about what we have been doing as supervisors. That took the format of some overhead slides. We tried to keep it reasonably brief in size, because there is obviously a wealth of information that could cause confusion. I believe the committee has a copy of that.

**CHAIR:** Yes. We appreciate that.

**Mr Herbert:** The function of the supervisor is set out in the Finance Brokers Control Act and is reasonably limited. Our legal advice from solicitors appointed by the Finance Brokers Supervisory Board is that, as set out here, we should concentrate on investigating the records of the company, determining entitlements to the funds, looking for problems which have arisen in the way that moneys in trust accounts have been administered and then finally distributing the moneys back to the people who are entitled to those moneys. Most of the functions really relate to the conduct of the trust account and who is entitled to the moneys there. We have concentrated on that. Peripheral issues have arisen in the course of the duties we have carried out. Those relate to such things as Global Finance's retention of title deeds, the release of those on settlement, and complicated issues which have arisen from the fact that moneys were mixed between project accounts, which is described in here.

We were appointed in July 1999. When first appointed we spoke to lawyers and thought we might be able to find our way through the maze of issues. We were familiar with them already because we had previously been appointed as voluntary administrators in February of that year. We thought we might be able to find our way through the maze of issues by October or November 1999, and put up recommendations which the court would endorse so we could get distribution of moneys to people by December 1999. We were of course conscious of the fact that many investors needed the money badly and that while everything was blocked, distress was being caused to many people in many ways.

It has been very difficult to meet that time schedule, for a number of reasons. One is that there has been opposition to the general scheme for the distribution of the moneys we have put forward. We distributed a model for distribution of moneys. That was opposed by Doug Solomon, principally on the basis that the moneys in the trust account had been inextricably mixed in a way which made the determination of individual entitlements, on the basis of the accounting records, impracticable. He is proposing, because of that problem, that the money be distributed pro rata. There are two models. Ultimately, these are very complex issues which only a court can decide. The delay between the anticipated date for the finalisation of all of this

and the current date has really been a result of the various processes one must go through to run these sorts of arguments in the court.

To date we have gone back and prepared some additional information. We have a draft report which sets out a detailed account of the background to Global, the complications which arise and our recommendations for the resolution of all that. That is more comprehensive than the report we prepared about October last year. Doug Solomon identified a few additional issues we had not looked at then, but which we have now looked at. This is ready to be used now, either in court proceedings or, as the basis for a scheme that the Government could propose under section 78 of the Finance Brokers Control Act. The advantage of the latter course of action is that it avoids some of the procedural delays of going through complicated court processes. The problem with court processes is that courts, because of the precedents which apply to cases involving problems of this sort, may have to take fairly inflexible approaches to complicated legal questions. We have still to decide whether to go down the first route or the second route, and we will make that decision on the basis of legal advice which we will take, again, based on all the information we have.

**CHAIR:** Is it a decision for yourselves, or is it a decision for you in consultation with the Government?

**Mr Herbert:** We would make a recommendation based on legal advice to the Government, and the Government would have to decide whether it wanted to go with that.

**CHAIR:** Take up section 78.

**Mr Herbert:** Yes. As I see it at the moment, the advantage of the section 78 scheme is that it avoids some of the legal traps that you can otherwise become involved in. You can take a more commercial and robust view to the resolution of some of these very complicated and difficult problems. That is where we are at the moment. Of course, investors are concerned about delays. As time passes, I suppose they become philosophical. That is just one of the many things that have happened in Global that worries them. As Simon can elaborate on later, a lot of them have lost a lot of the money they have invested. Some of them will lose up to 80 per cent of the money they have invested in Global. All sorts of issues about what happened in Global - breaches of trust and so on - are spelt out in the documents we have circulated, and I will be happy to talk about that if you want more information. We have a letter from the fraud squad - that is in Simon's court more than mine. It is looking at particular transactions. As you know, some charges have already been laid against Mr Margaria and others involved in some of the schemes, and in time other charges may also be laid against other people.

**CHAIR:** Is the report you mentioned a document you would be prepared to provide to the committee and would you want it to be kept as confidential?

**Mr Herbert:** I think so, subject to legal advice, but I cannot see a problem with that. It will come into the public forum, we hope at some stage.

**CHAIR:** But until then you would like it kept as a confidential document?

**Mr Herbert:** Yes.

**Mr Read:** The question is where to start. The position of Mr Margaria, as director, is as good a place as any to start. As liquidator, my role essentially is to investigate the affairs of the company. When I believe there have been any transgressions, particularly committed by the directors of the company, I follow those up. In respect of the director John Margaria, my investigations have centred on one particular type of transaction, and that involved significant transfers of moneys from Global to related entities of Mr Margaria and also himself. Throughout the history of Global significant funds were transferred to these related entities and were subsequently invested by those entities into properties and assets.

Since our appointment we have seen some of those assets being dissipated and they are continuing to be dissipated, and it is an issue we are trying to address. Unfortunately, our legal advice is that we can do very little at this point in time. We believe that the recent fraud charges brought against Mr Margaria will assist us to obtain some injunctive proceedings to try to stop those assets from further dissipation. The main focus of my early investigations was looking at the money flow - where the money went and why it went. During those investigations it became patently obvious that Global, over a period of time, has seen significant misappropriation of funds, that were likely to have involved the director, and that third parties, more particularly borrowers, have been specifically involved in some of those misappropriations of funds. As a result of those early investigations, I have had continuing discussions with the fraud squad and we have allowed it access to all our records, files and reports. We have been working closely with the fraud squad since our appointment, and as a result Mr Margaria has been charged with fraud. That relates to only one particular investment, but we believe further charges will be laid. Certainly, our investigations indicate that perhaps they ought to be laid.

One of the issues that faced me as liquidator was funding for my investigations into the director and the attempt to recover funds from those related entities. I sought insurance funding. You may not be aware, but liquidators are now capable of obtaining funding from insurance funders to fund actions where there is a high probability of success in recovering moneys. Unfortunately, the insurers thought that my actions against Mr Margaria and the related entities, at the stage at which I advanced them to the insurers, were not sufficient to merit their investment, if you like, in that particular action. Nevertheless, I have continued with my investigations into Mr Margaria and, as I say, we are continuing to discuss those investigations with the fraud squad. There will certainly be further developments in that regard.

Perhaps the most successful area of my investigations has been in relation to the conduct of the auditors. I will give you a little background on the role of the auditors involved in mortgage broking firms. The Finance Brokers Control Act requires that the audit of the trust account be performed each calendar year. That was done for Global for every year that it has been in existence. With one minor exception, those audit reports have been unqualified. Following our investigations into the affairs of the company, it surprised me greatly that there were no audit qualifications in respect of some of the transactions that we had clearly identified and certainly the significant misappropriation of funds, which was quite obvious in my casual perusal of the records of the company. My investigations have continued for some time in respect of the auditors, and I have been successful in obtaining insurance funding to allow me to conduct a public examination of the auditors. That public examination is set down for Monday, 10 July, and over the last three to four weeks I have had access to the auditors' work papers.

Obviously, this is an area that I would like to keep as confidential as possible. It is an area in which we believe we will be making further claims against the auditors. Obviously, if I can maintain the confidentiality I would appreciate that, until such time as we actually bring any further claims against the auditors. Certainly from the point of view of returning funds to the investors, and to the creditors of Global, which in essence is my role, we believe that this is the most likely source of funding for the shortfall to investors. As Jeff alluded to in his discussion, the investors will suffer significant losses, and this has been one of the problems in the administration; it is almost impossible at this stage to guesstimate what those losses might be. When we were appointed there was approximately \$62m in funds under management, and we have estimates that between 40 per cent and 80 per cent of investors' funds may be lost; that is, anywhere between \$20m and \$40m of the \$60m could actually be lost. We cannot be any more certain than that, because it really is a matter of the individual investors who have now taken control of their security, having the first mortgage over the property they invested in, dealing with that property. One of the difficulties we have faced is that unfortunately, as liquidators, we have no real role to play with the investors. We have found that over the duration of our appointment there are around 174 different property syndicates, all with different investors, who are all independently taking action to recover their loans against the secured property. This makes it very difficult to control and coordinate that group; in fact, at the moment the control and coordination is done internally within each group. It is only when they realise their security that we can provide a quantifiable estimate of the actual losses that have been suffered, but they will be significant.

One of the other areas my investigations have led me to review of the position of the valuers, and certainly the Press has been full of stories of overvaluations. My investigations in that area are concluding at the moment, and I am awaiting legal advice on whether we have further claims to make against certain valuers. At this stage my preliminary opinion is that the valuations in many cases do not appear to correctly reflect the underlying value of the property. It may be that those valuations were obtained only to ensure that funds would be advanced to the level required by the borrower, without a great deal of reality. Certainly that aspect of my investigations is subject to legal opinion, and I expect to receive legal opinion within the next two weeks.

Another area of investigation which was brought to my attention by investors was the involvement of Global's lawyer in the affairs of the company. Some investors felt that that involvement went beyond the normal client-lawyer relationship. Our investigations have indicated that in certain circumstances there was a great deal of conflict of interest between the lawyer and Global, and we do not believe the lawyer took the appropriate steps when advised of the potential conflict of interest. Once again, I am awaiting legal advice on our ability to make claims there. I think they will be limited.

Essentially, they are the four main areas I have been looking at. As I said before, every day brings something new in respect of Global, and almost every loan account we have looked at has some form of suspicious transaction or involves individuals of a suspicious nature. That is all being communicated to the fraud squad. From recent meetings with the fraud squad it is quite clear that it has a significant amount of work on its table in relation to not only Global, but also Grubb and there is a backlog of complaints. I think at the end of the day further charges will be laid against the directors of Global and, possibly, borrowers of Global.

**CHAIR:** I want to clarify something you said about claims against the auditors; obviously, you

would claim damages against them for their actions. Who are the auditors?

**Mr Read:** The auditors are Marsden Partners, which is a firm of certified practising accountants.

**CHAIR:** Would you claim against their professional indemnity insurance?

**Mr Read:** Yes, it may also involve the assets of the partners of the firm. Our claim arises through negligence or breach of contract. We will claim both. There are many issues yet to be resolved with respect to our ability to make a claim against the auditors. The funding I have received allows me to complete my investigations and take them to the stage of public examination, which will be conducted next week. Following the public examination, we will re-assess whether we have a claim and in what manner we will make that claim. The insurers have agreed to fund the second action, which will be the claim against the auditors specifically. The insurers will fund that, provided the public examination does not to reveal anything unusual or unexpected and the claim still exists. Our opinion at this stage is that the claim has become much stronger since the investigations began into the auditors' role. The claim would be against their professional indemnity insurance policy and may, in fact, extend to personal assets.

**CHAIR:** Funds would then be available for the creditors of Global Finance. The investors would then have to take action against Global Finance, for the money to eventually come back to the investors..

**Mr Read:** It is not as simple as that. One of the issues involved is our standing to make a claim against the auditors, in that those who have suffered the damages are the investors who have yet to claim against the company. Our approach at the moment is to seek an investor to join our action. If the court finds that we do not have standing - we, being Global - to bring a claim, we will drop away and allow that investor to take the action further to get judgments ordered against the auditors.

**CHAIR:** The investor needs to be funded. Perhaps section 78 would come into play, because then the action could be taken as a group.

**Mr Read:** If an investor joins our action, the lawyer has agreed that the legal costs involved will not be charged to the investor. If an adverse cost order were awarded against the investor, that is where a problem possibly would arise. Many of the investors have no funds whatsoever. Certainly, that is a very important part of the action. We hope that no defence will be offered in respect of our standing to claim. Certainly, in the past in similar cases there has been no arguments on standing, and we believe we will be successful in mounting the claim as Global. In that case, if we are successful the action will be brought against the public indemnity insurance and the funds will flow through to us, as liquidators, on behalf of the creditors of the company. Obviously, we must then wait until the creditors suffer a loss and the investors could make a claim against Global. For the purposes of our appointment, we have treated them as contingent creditors. We believe they will have standing to bring a claim against Global.

**Hon G.T. GIFFARD:** Can you explain briefly what the public examination of the auditors involves?

**Mr Read:** As liquidators we have pretty broad powers of investigation under the Corporations

Law. One of those powers is to cause a public examination of anyone who we believe has anything to do with the business. In fact, we are also publicly examining Mr Margaria, and we intend to publicly examine other participants of Global. With respect to the public examination of the auditors, to a certain extent that will assist us in forming our claim against them. As an examinee, the auditors cannot have legal representation intervene in our questioning, and it provides us with an opportunity to seek answers to questions that we have considered in our investigations. Perhaps to a large extent it will help us firm our opinion on whether we have a case. It is a very powerful tool of the liquidator.

**Hon G.T. GIFFARD:** In that sense you have a private meeting, at which you are conducting the public examination.

**Mr Read:** In fact, the examination is conducted by us as liquidators of Global. It is a public hearing, so it is open to the public to attend if they wish to do so.

**CHAIR:** Is that on Monday?

**Mr Read:** It is on Monday, 10 July.

**CHAIR:** Is the auditor not aware of that at the moment?

**Mr Read:** The auditors are aware of the examination. Confidentiality relates to issues such as our standing to claim. I cannot raise certain issues because of confidentiality agreements I have signed, specifically in relation to personal assets and also the indemnity insurance policy. I am aware of the contents of that policy, but I cannot provide any further details. It relates to certain issues. If we are asked to come back before the committee, and the committee raises specific questions about the audit function, I will have to be very mindful of the fact, and I would ask the committee to be mindful also, that if an action is to be brought, I would rather keep my claims hidden for the moment until we get to trial.

**CHAIR:** This is obviously a private hearing and we would lose our jobs if we repeated any of this outside the committee. We can either go into private session or, if you believe it would impact on your inquiries, you could argue that the questions asked are outside the committee's terms of reference.

**Mr Read:** That would be for another day.

**CHAIR:** If you come before the committee for a public hearing, you have those two options. You can either ask for a private hearing or indicate that answering the questions would have an impact on your inquiries or investigations.

**Mr Read:** That is what I did with the Gunning inquiry. The session was held in camera..

**CHAIR:** With regard to the related entities, are we better getting a list of those you are inquiring into from the police? You have identified them and handed over a list.

**Mr Read:** I should probably explain that a little better. The related entities investigations are mine only at this stage. The investigations are based on funds that were transferred to those



companies over the duration of Global's operations. Defences do exist, and certainly those related entities have claimed to have performed services for Global. Obviously, we question the validity of those services. We are currently looking at ways and means of recovering those transfers, and much will depend on the question of whether Global was insolvent at the time those transfers took place. The fraud squad at this stage is not looking specifically at those related parties; it is concentrating specifically on individual borrowers and individual syndicates, or groups of investors, many of whom have already lodged complaints with the fraud squad. Much of the direction of its investigations is towards representations made by the directors to investors, to entice them to put their money into Global. In addition, the fraud squad is looking at specific examples of misappropriation of significant funds from Global to borrowers, for purposes other than the purpose for which the investors had placed their money with Global. That is a very common situation.

**CHAIR:** That also ties in with the valuations.

**Mr Read:** That certainly ties in with the valuations.

**CHAIR:** I have also heard a comment about stooges as mortgagees; that people invested and their names were placed on the mortgage documents, and then their names were taken off the documents and they were given a payout some time later. Have you come across that?

**Mr Read:** There is a common term "stand-in", and we have seen numerous instances of people being identified in the accounts of Global as stand-ins. You are correct in saying that generally they were involved for only a short period of time, provided significant funds at the commencement of an investment, and may have been used to entice other investors to invest their moneys. They were certainly paid out in very quick order, often within six months of the creation of the facility. That obviously then left other investors exposed.

**CHAIR:** Are you inquiring into other aspects, or have you passed that to the police to inquire into?

**Mr Read:** I have not seen instances in which the remaining entities have acted as stand-ins. However, I certainly have seen examples of related entities which invested in certain borrowings by certain borrowers. My feeling is that the related entities had funds, borrowers required funds to cover deficiencies in loan accounts, the related entities acquired an asset from the borrower, and the borrower used those funds to meet other claims. It is a vicious circle.

**CHAIR:** Are further inquiries being made into these matters in your area, or are they matters for the police?

**Mr Read:** I am conducting those inquiries. They will be raised with the police if we think a criminal issue is involved. We look for the recovery of funds. At the same time, we advise the fraud squad if anything appears to be of a criminal nature. We are duty bound as liquidators to report to the Australian Securities and Investments Commission under section 553 of the Corporations Law. I provided a preliminary report to the commission on our initial findings, and will continue to report further developments. I have been holding relatively frequent discussions with ASIC on our findings.

**CHAIR:** Is it possible to provide the names of those people and a list of those transactions on a confidential basis?

**Mr Read:** I see no problem with that. The related entities are essentially public information anyway. The related entities are Walbrook Investments Pty Ltd, which is a trustee company acting for the Margaria family trust; a company known as Alpha Super Co Pty Ltd, which is a trustee for the Margaria superannuation fund; and an unincorporated entity known as Thirlmere Consulting Services. Mr and Mrs Margaria personally benefited from the transfer of funds. Essentially, Walbrook Pty Ltd and Alpha Super Co are the main two beneficiaries from the transfer of funds from Global over four years.

**CHAIR:** Are they all basically companies controlled by or associates of Margaria?

**Mr Read:** They are companies 100 per cent controlled by Margaria and his family.

**CHAIR:** Have you identified the stand-ins yet?

**Mr Read:** We have seen examples of stand-ins which have often involved borrowers; I refer particularly to Mr Casella and some of his entities. These were identified as stand-ins, or at least were recognised in the record of Global as stand-ins; that is, the term is used in the records.

**Hon RAY HALLIGAN:** Have the stand-ins signed documents; that is, they were not ghost names?

**Mr Read:** For all intents and purpose, they are real investors. Perhaps they need to look like that anyway - they need to be seen to be acting as an investor. Whether that was used to entice other investors to that investment, or to prop up an investment without sufficient funds, is very difficult to determine on the information we are looking at. It is certainly an aspect we are considering.

**Hon RAY HALLIGAN:** Your investigations are obviously ongoing regarding these aspects?

**Mr Read:** To be honest, our investigations will be ongoing for some time. Jeff alluded to the fact that this is a complex administration. We are looking at literally tens of thousands of transactions which have passed through those books. For example, the trust itself, and the manipulation of funds within the trust, occurred by way of journal entries. In the last year, \$45m-worth of journal entries went through the trust. A number of those were clear misappropriations of funds. It is a significant administration and will take some time to investigate fully.

**CHAIR:** I want to get to know how far your investigation will go in that area. Some allegations suggest that the stand-ins were to be paid to entice people. Once they got 10 people in at \$30 000 each, they were given a payment and sent on their way. Will you look at that matter, or should this committee consider that aspect?

**Mr Read:** It is something we are looking at. We will provide matters to the fraud squad as well for it to investigate. Unfortunately, these things by their nature take time. To a certain extent, we have a backlog as does the fraud squad in particular. The liquidator's role from the point of view of creditors is to try to recover funds. That is the main emphasis of our work. When we

see a breach of Corporations Law or common law, or other breaches identified which do not necessarily result in funds being returned to the liquidator, we advise the appropriate authorities, whether it be ASIC or the fraud squad.

**Mr Herbert:** An issue which affects the matter of which I spoke regarding the trust account, is the registration of mortgages to a number of titles to an associated company of Global Finance called Global Mortgage Investments. How Global Mortgage Investments was registered on these titles is complicated. An argument is whether Global Mortgage Investments' interests in mortgages is held in trust for third parties whose moneys ultimately came in. Global Mortgage itself never invested in mortgages. It went onto titles through receipt of money from third parties or other circumstances. It is a complicated question. Global Mortgage is on a number of titles. For example, should Global Mortgage's interests in mortgages be sold up and the money be chucked in a pot to be distributed pro rata? We say that Global Mortgage held its interest in trust for third parties, who can be identified. It did it for a variety of reasons. Global Mortgage Investments is on a number of different titles. It did not do that as a stand-in, but by and large as an administrative device. From what we have seen as supervisor - correct me if I am wrong, Mr Read - few examples are found of blatant manipulations of the sort to which you refer in the set up involved. The document we have here, among other things, sets up the modus operandi; that is, contacting borrowers in the first place, contacting investors, putting a proposal to them and then setting up the deals. All sorts of irregularities are involved, but I am not aware in the course of my dealings of many blatant cases of gross manipulation of that process. Many irregularities occurred in many other respects, but it was not that much of an issue with this administration in Global's case.

**Hon RAY HALLIGAN:** You mentioned the fact that Global Mortgage had its name on the mortgage for more administrative reasons. Is that the same kind as, say, a shelf company by which a solicitor's name may appear on the title until such time as the directors are appointed?

**Mr Herbert:** Yes. It is a complicated question. I can refer you to various sections in the document which deal with GMI and the circumstances involved. By and large, it came about as an administrative device rather than a manipulation of the position.

**CHAIR:** If you can provide that document, the committee can get back to you if it has further questions.

**Mr Read:** To clear up the issue of stand-ins the best I can, Global Mortgage Investments - it is related to Global Finance - did not act as a stand-in; it was done very much as an administrative procedure that was necessary while other investors were sourced for a particular project. I refer specifically to investors identified in the accounts by the expression "stand-in". That did not involve GMI and the stand-ins were paid out fairly shortly after the loan had been fully obtained from investors. My feeling in respect of those stand-ins is not so much that they were there to entice other investors, but because Mr Margaria could not raise sufficient funds from investors to cover the demands of borrowings. Therefore, a stand-in was obtained until such time as he found other investors. That is my feeling. Certainly it is subject to investigation, but I do not believe Mr Margaria, in making his representation to investors, unless he did it verbally, would point out that, "Mr X is an investor in this syndicate and therefore you should be because he is an astute investor." I do not believe that is the case. I believe it is more a matter of Global being unable to obtain sufficient funds for the borrower, using other funds when they became available

and referring to those as stand-ins. When new investors brought their funds into it, those stand-ins would be paid back.

**Hon RAY HALLIGAN:** You mentioned I think that between 60 and 80 per cent of the investors' moneys may be lost.

**Mr Herbert:** That is not in aggregate, by the way. That is in extreme cases.

**Hon RAY HALLIGAN:** That is what I wish to clarify. That is on the properties alone, and the properties which can be found, and the like. I take it that has nothing to do with any claims against the auditors and valuers.

**Mr Read:** That is right.

**Hon RAY HALLIGAN:** Once those claims are able to be clarified and quantified, more importantly, that percentage should decrease.

**Mr Read:** In fact, we are now finding that some investors have been paid out in full, from the realisation of their securities. We have tried to obtain an estimate of what this is going to be, and numerous investors have provided their own personal picture of their projected losses. In some cases where they have multiple investments, they estimate they will lose 20 per cent in some investments and as much as 80 per cent in other investments. It is very difficult to quantify. I know the Press is attempting to do that. We have more information than the Press has, and we are certainly not in a position to provide anything other than an estimate.

**Mr Herbert:** To give the flavour of the worst sorts of examples that happen, investors put \$1m into a particular project. They expect that, through Global, the money will be used to purchase a property, subdivide it, have buildings erected and sold off, and then they will be paid from the proceeds of the sale of the properties. Normally the loan is rolled after 12 months - they are repayable after 12 months. What Margaria did regularly was write to people and say the period of the loan had expired but, owing to the exemplary nature of the conduct of this loan by the borrower, he recommended that it be rolled over. This may have happened for a number of years. During the time this went on, investors got their interest on the money invested. When the balloon went up they thought, justifiably, that the \$1m put in by them had been used to buy the property, erect buildings and meet the associated costs. However, they found that the land had been bought but nothing had been built; that no interest had been paid by the borrower and that the money going back to them, which they were receiving as interest on which they were paying tax, was the return of their own capital. Instead of there being \$800 000 in the trust account, there was \$200 000. To make matters worse, some of the money they put in may have been siphoned off within particular borrower groups - that is a term used here - between projects in, let us say, the Casella group. Therefore \$200 000 of their \$1m had gone into another project within the Casella group of companies.

The people who will suffer the worst losses are those who put their money in most recently, where there has been a maximum amount of dilution of funds through the mixing of moneys between project accounts and borrower groups, where nothing has happened and they may have got some money back in interest. They may lose 80 per cent of their money. Of the moneys they have put into a trust account, which should be intact because very little was done to develop the

property, there might be very little left. They may receive a percentage of that but what they get from the sale of the property, which is the subject of their security, may be minimal. Those are the extreme sorts of cases we have.

**Hon RAY HALLIGAN:** Do you believe it is possible that claims will be able to be made against the valuers as well as the auditors?

**Mr Read:** I am not a lawyer and I am awaiting legal advice in respect of the valuers. It may be that some claims can be made against the valuers. From a commercial point of view, I do not believe that they will result in a significant return of funds to my administration but actions may be brought against them to stop them from doing this again.

**Hon G.T. GIFFARD:** Mr Herbert, you said that those people who might suffer the greatest exposure would be the more recent investors. When you say "recent" what period are you talking about?

**Mr Herbert:** People who put in their money closest to the date at which the company went into voluntary administration.

**Hon G.T. GIFFARD:** Which was when?

**Mr Herbert:** February 1999.

**Hon G.T. GIFFARD:** Late 1998 or even early 1999?

**Mr Herbert:** Correct. Probably not very much damage would have been done if they had put their money in in 1999, but if they had put it in around the middle of 1998 there could be severe problems.

**CHAIR:** To complete the issue about how this committee can continue to communicate with you to ensure we do not breach term of reference (3), at this stage we have only an acting advisory research officer, but we hope one will be appointed next week on a permanent basis. That will be the main point of contact for this committee. Do you have any suggestions on how we can best communicate with yourselves to try to avoid us interfering with or obstructing your investigations? Should the committee talk directly to yourselves?

**Mr Read:** I think that is the best idea, yes.

**Mr Herbert:** Yes. I suppose the board would have to give me clearance. I will write to the board for clearance. I can give the committee a copy of this report. So far as the trust account is concerned, it will give you as comprehensive a brief on those issues as the committee will need. If questions arise from that, the committee can give me a call.

**CHAIR:** Let us know how it goes. If you ask the board for permission to give that to us, we would appreciate it. Thank you very much for your time. We will be in touch.