

SHANNON, Mr Geoffrey, Private Capacity

[09:57]

CHAIR: I welcome Mr Geoffrey Shannon. I note from your submission that some of the issues with your own case are subject to court proceedings at the moment. I remind you that we are not in the business here of investigating individual cases. So if we can keep it fairly general in terms of the principles you are raising with the committee, that would be appreciated. If there are specific individual things, we always have the option of going in camera. But, in general, we are not here to try your case for you. Would you like to make an opening statement?

Mr Shannon: I would like to thank the senators for inviting me here today. To start, I think I need to give you a general picture of how we got here today. I am here today because I have had enough. I have had to fight Bankwest for something that was not my fault. The fact is that the bank stopped funding me. I have come from the mid-North Coast of New South Wales where my father and I were builders. We employed, directly and indirectly, between 70 and 80 people, people who worked with me for many years. They were my mates. I built houses for people. The people who bought my houses became my mates. I was offered the Dockside project in 2006. I bought the land without Bankwest. I only used Bankwest for the construction—a \$6 million drawdown facility. I gave them an unencumbered site valued at \$3.2 million, with an end valuation of just over \$13 million. I started work on the site six months before Bankwest paid the first drawdown in February 2007. It was a beaut project. There were to be 16 townhouses, of which I had 10 presold—the bank only required five. The presales would have more than covered the borrowings. My buyers were either prior clients or referrals from other clients. The project was estimated to be completed within an 18-month time frame. Everything was going great. Then, suddenly, the bank stopped paying me. There were no complaints and no warning. They just stopped paying me in May 2008. I did everything I could. I begged them and I pleaded with them. I tried everything. I could not continue. I was forced to place the company into administration on 26 September 2008. On 30 September, the administrators, being PPB, advised me that the bank did not want the company in administration. The credit manager at Bankwest stated that he was pulling his hair out because they were selling the bank and did not want 33 Electra in administration. When I questioned PPB, 'What happens now?' he said: 'Don't worry. I will draft a document and it is yours again.' I then asked for my other companies back and he said no, I could not have them.

It now has been made public by comments from Treasury that at the time of my collapse Bankwest were in dire straits and faced being wound up. However, Bankwest stated that they stopped paying me because of a buyers caveat. Four years and six—six!—statements of claim later, they have dropped the caveat story and now allege new defaults. The bank now say my first breach was placing the companies into administration—but I only did that because Bankwest forced me. I have been fighting since then. It has cost me a fortune physically, emotionally and financially, and it has taken the last 4½ years of my life.

Since I started fighting, I started to hear stories of other unhappy Bankwest borrowers. At the beginning, I thought I had done something wrong, but I did not know what. The other people had complaints similar to mine, those being progress claims being stopped et cetera. As I found others, I realised I was not the only unhappy person with Bankwest.

A website was built as a place where other affected people could share their similar stories. This website is known as Unhappy Banking. I have been overwhelmed by the number of people who have contacted me and have

complained. The stories are the same. Since the formation of Unhappy Banking we have witnessed 400-plus members who have joined.

I have a tender bundle here that I make reference to regarding the CBA's comments that I had a lot to do with the Senate submissions. These are just the emails from the people who joined who just put their initial stories in. I did not even know them. They just wrote in and put their stories there. They approached me for help, simply through the publicity voicing my plight. The Unhappy Banking customer base was created by Bankwest actions, not by me. Bankwest created a group of extremely unhappy customers. I listened to their stories, which were all similar to mine, and I wanted to help them.

I now draw your attention to the warranty provision provided by HBOS—Lloyds—to the CBA. This apparently was advised yesterday by the CBA, effectively only up until 18 December. I put it to the Senate committee that the CBA felt duped by the amount of impaired loans initially declared by the vendor HBOS, and a subsequent review of that was dealt with in the first part of 2009. I tender supporting evidence of that meeting, which goes against CBA's comments yesterday that this matter was finalised in December 2008 and that no further price adjustment took place. That is the document. Although the details of the meeting are detailed as confidential, this document suggests that a warranty provision was still active across the commercial loan book beyond 2008. I also tender a document from HBOS annual reports and accounts in 2008. That describes the warranty provision. I suggest that the Senate committee consider asking Bankwest the following question this afternoon: was this warranty period, or a variation thereof, extended beyond 2008?

The 2008-09 figure for the impaired loans is estimated at around \$850 million—\$620 million or so as the discount of the purchase price, and a further \$200-plus million in that first part of 2009. The 2009-10 figure for the impaired loans was another \$754 million—I state that figure again: \$754 million—as a result of an internal Bankwest audit known as 'Operation Magellan', a code named operation. This figure of \$750 million is on top, I repeat, of the previous impairment charge of around \$850 million.

I also suggest that the Senate committee consider asking Bankwest if these impairment charges had any impact on the commitment of the \$17 billion owed to HBOS and Lloyds in respect of the loan book. The reason I say that is that I have it from a very good source that Mr Jon Sutton was in a mad panic to get as many loans as possible into the impairment section prior to June 2010. I can disclose this source in an in camera conference. I seek an in camera session for this.

CHAIR: Do you have those details in a document?

Mr Shannon: No, I have not been able to disclose them. I could only disclose them—

CHAIR: If you have got them written down, you could actually provide that to us in confidence.

Mr Shannon: I am rather—

CHAIR: You would write the details of the person down. Is that all you want to put to us in camera?

Mr Shannon: And I was going to disclose further—

CHAIR: Okay, it is your call. We could clear the room. It is your call.

Mr Shannon: I can carry on. I do not want to put you at any—

CHAIR: No, we want to make sure that we get the best evidence that we can. There are two alternatives. One is that you could submit it to us in confidence, and we could keep that confidential. Alternatively, at the end of your session, we can just go in camera at the end for the last few minutes and deal with it then.

Mr Shannon: Okay, that is good.

CHAIR: Okay.

Mr Shannon: Motivation: it appears to me that, for at least the \$850 billion figure, there was a dollar-for-dollar reward for these impaired loans. This is where it gets very interesting. The benefit in structure to Bankwest is threefold. Firstly, Bankwest receives its value back on the loan through the warranty clause in the share sale agreement. That is part of that document I tendered. Secondly, Bankwest—or the CBA, because it is a wholly owned subsidiary—receives tax concessions against its operating income. Thirdly, the key thing for the committee to consider is that Bankwest still has the asset that originally secured the loan. This is the inducement I refer to. When Bankwest sells the asset that secures the loan, it is 100 per cent profit. This directly contradicts the Commonwealth Bank's assertion that it is not in their interest to impair loans. This process could be described as double dipping and then some. Could this scenario better explain the bank's aggressive behaviour? Perhaps this is another question for Bankwest this afternoon.

Bankwest have mastered the art of implementing penalty interest where they can through various technical defaults. I tender to the committee a transcript of a recorded message left on a commercial borrower's phone by two business development managers of Bankwest. The most interesting part of the transcript occurs after the point where the Bankwest managers thought they had successfully terminated the phone call, but it was still on. I point out to you their subsequent conversation, which of itself constitutes unconscionable behaviour—a pattern apparent in the hundreds of case studies I have reviewed through our Unhappy Banking member base. I am reading from the transcript: 'John: I will have to talk to my colleagues'—John is the BDM of Bankwest—'and my colleagues have something to think about. We've got 16 default rate.' There is no emotion about the fact that that is hurting. 'If you're going to write off money, that 16 per cent doesn't reduce your write-off; it increases it probably.' That sentence alone highlights that the bank knowingly use the default interest rate as a tool to force customers to go broke.

Penalty interest rate: I have a set of facility terms here that nowhere identifies penalty interest rates as being two times, sometimes three times, the normal rate.

Another tool that Bankwest uses in an unconscionable manner is the term 'breach of LVR'. This is the most common. I hand up document F, that being an email from a Bankwest manager to another Bankwest manager. The paragraph that I refer to in this email reads: 'I have spoken to the valuer again Friday to gauge his opinion and I suggested a reduction of, say, 20 per cent of the existing valuation. He was of the opinion that this was a bit bullish and maybe 10 to 15 per cent is nearer the mark. He did comment that if he revalued he would be utilising the existing presales for the five units, as these contracts are in place and have been verified by the client's solicitor that they are still valid and the discount would only apply to the remaining units.' The email goes on to simulate the effect of the reduced price on the LVR position of the project. I tender that document.

I also tender to the Senate committee a valuation and facility terms of Mr Ken Winton's project at Nambucca Heads, wherein the valuer describes two methods of establishing a valuation price. Method one, as is, gives the current market value of this particular project as \$4.3 million. Method two, in one line, gross realisation, gives the value for the same project as \$2.8 million. I highlight that that is two different values for the same property on the same day and on the same page. This is understandable, given the alternative sales options individually versus in one line. However, I draw your attention to the fact that the facility terms at the time of entering the loan contract describe the method that is required to be adopted. So why did Bankwest obtain a second valuation via the second method?

I believe that Bankwest is instructing the valuers to value the property using different—and lower—valuation methods to those outlined in the original facility terms. This would mean that the bank has breached the client's loan contract by opting for an alternative method to that stated in the facility documents. Furthermore, Bankwest state in their submission that valuers must not act in a way that may result in a conflict of interest. Do these examples follow this code?

The trick, though, is that the bank does not normally hand over the valuation they rely upon to force the people off their properties. The bank tools of trade are receivers, administrators, solicitors and valuers. They are the apparatuses that the banks use to do what they need to do. I would like to bring your attention to documents where PPB have stated—this is a receiver—that they no longer hold the files and work in progress in relation to the CDC group of companies as they got wet in the shed and then the documents were left out to dry and then the rats ate them. I have that document here in the tender bundle. I also hand up a letter from the Queensland Law Society and evidence from Coomera police station which states that files relating to my case were stolen from my lawyer's office.

In litigation alone I face not one but six—that is right: six—statements of claim. From the outset we have defended the six separate statements of claim, and we are expecting the seventh. We have maintained all the way along that the most likely reason the bank breached the loan contract with me was because they could not fund it.

My experience of Bankwest includes all of the above and more. It would take me a full day to explain the horrific process of what has happened. It would be remiss of me not to include the human cost of this experience. In this final stage of my submission I would like to briefly convey to you the personal toll upon my family and myself. I share it on behalf of all Unhappy Banking members. Each has their own story. Although all stories are unique, we share one thing: the horrific toll that Bankwest actions have taken.

It is measured in tears, sleepless nights and dark times. It is measured in the fear in my wife's eyes, the depression in my daughter and my own dark moments. I will not share the private details of the effects of this matter upon my beloved family members. However, I will state that we were also dealing with the diagnosis of my wife's brain tumour through this time. The toll upon my physical and mental health resulted in me being admitted to a private clinic for two weeks in a suicidal state—something I am not proud of, but I have learnt not to be ashamed to speak of it. It is a place that I never thought I could end up. But that is the depth, the lowest of the low, when you bottom out and the process just seems to make no sense, when a man feels that he has lost everything including hope.

Unfortunately, some have gone further into the depths of despair than I did. They can never tell their stories. It can never be allowed to happen again. I have spent the last 4½ years staying alive, financially and physically. I did not choose this fight. I was not given a choice; I had to fight the bank's vast resources with my next to nothing. There is no end to their relentless pursuit of me. What I struggle to make sense of every the day is how the bank that stopped funding me because it went to the wall can somehow turn the tables to paint me as a bad guy. I will keep fighting my fight on principle. I have got this far, but I invite the Senate committee to step in and stop in this unfair fight against my members and all those affected by Bankwest's actions, as outlined in my submission. I am unhappy; I am Unhappy Banking.

CHAIR: Thank you very much, Mr Shannon

**Senator WILLIAMS:** Thank you for your presence today, Mr Shannon. On your last request, I cannot see how parliament can stop disputes in the courts. The parliament is a separate from our court structure and legal structure. We may set

the boundaries to operate businesses to this country, but as far as legal work goes I do not see that as the job of this committee. We are here to see that our banking and financial institutions are strong and well regulated. I think you would realise it is vital we have strong banks in this country.

Mr Shannon: Yes, I understand.

**Senator WILLIAMS:** We do not want to go down the road of Spain. I did push hard for this inquiry when my office was getting swamped with complaints about Bankwest. You would have heard the arguments here from our previous witness about what Mr Cohen of CBA said yesterday. It is getting quite confusing.

I want to take you to the issue you mentioned of \$850 million of impaired loans. I will keep it simple—I am just a simple person. HBOS—Halifax Bank of Scotland—got into serious financial trouble. They owned Bankwest. I believe \$17 billion of loans were to be rolled over in Australia. HBOS did not have the money. They were taken over by Lloyds of London in conjunction with the UK government. Bankwest was put on the market and the Commonwealth Bank of Australia bought Bankwest on 18 December 2008.

I am alarmed when we have witnesses like our first witness this morning who were pursued by the bank to get their business on a long-term commitment of 20 years. I have spoken to people such as Ken Brundell, who owns a hotel in St George, not far down the road from Senator Barnaby Joyce's office, who was courted as well: 'We'll lend you the whole lot, 100 per cent, we're here for the long term.' I have had many discussions with him. My question is: why, with the takeover by the Commonwealth Bank of Bankwest after the collapse of HBOS, was there such a change in the attitude of Bankwest who were there for the long commitment and who sought out these people, developers, hoteliers, for loans for their businesses. Why was there such a 180-degree backflip by Bankwest to say, 'We want you off our books'?

Mr Shannon: You will find that a lot of the loans they mentioned that were impaired at 18 December they have probably still got, that there would still be a few on the books. I am one that is there, and I am still fighting. You have to understand that the impairment is not the point when they kick the people off their properties; they do that later. The impairment is when the bank diagnoses that that loan is deemed impaired. They then go down the path of the recovery, which is the third phase in my submission today. You have to understand that \$620 million of the impairment at the first stage in that 200—

**Senator WILLIAMS:** Just run us through that again slowly.

Mr Shannon: With the \$620 million of loans, they actually held all the assets still, but they got the dollar-for-dollar value off the purchase price.

**Senator WILLIAMS:** Let me stop you there. The bank settled on 18 August 2008. Then you are saying there is a period through to July 2009 where the Commonwealth Bank went through the loan book of Bankwest to see if these were good loans or bad loans, would they make their way, were the LBRs too high et cetera. Are you saying to me that when they went through those books they discovered a lot more of the loans were impaired?

Mr Shannon: They wanted more in there.

**Senator WILLIAMS:** You are saying they wanted more of the loans in that loan book impaired because they had a clawback off the price—

Mr Shannon: A warranty.

**Senator WILLIAMS:** of the \$2.1 billion price they paid?

Mr Shannon: Yes. I think it would come off the commitment receivable, which would be the \$17 billion for the loan book.

**Senator WILLIAMS:** We can ask Bankwest today, of that \$17 billion that had to go to take out the loans of HBOS, how much was paid.

Mr Shannon: Yes, because of that share sale document. That is why we need the Senate to ask Bankwest to deliver that, even if it is in private and you can get to view it yourselves. The way I see it, it is like mortgage insurance in the residential loan book where, if the loan is faulty, they can call in on this insurance, which is a mechanism built into the share sale agreement which is a warranty, clawback, whatever you want to call it. It is called a warranty and it is for the commitment receivable. So they were induced to park as many loans in there as they could, because they got the value of those loans taken off the amount of money they were to pay HBOS. Whatever they had, that loan—say, a \$10 million loan—

CHAIR: You are saying it is a different thing to clawing it back against the purchase price?

Mr Shannon: Yes.

CHAIR: You are suggesting that maybe that is where the Commonwealth Bank yesterday did not fully disclose?

Mr Shannon: Yes.

**Senator WILLIAMS:** The Commonwealth Bank and Mr Cohen said yesterday they paid \$2.1 billion for Bankwest. They then had to add another \$26 million, they are saying, to the cost when they went through the loan book. Are you telling me in relation to the \$17 billion that the Commonwealth Bank had to come up with to pay HBOS when they handed the book over that they would have come up with \$17 billion minus \$680 million or something? Is that where the windfall is?

Mr Shannon: We are getting close. The sale price originally was \$2.72 billion. There was \$620 million recognised as impaired loans. They agreed—

**Senator WILLIAMS:** Are you saying the original sale price of Bankwest—

Mr Shannon: \$2.72 billion.

**Senator WILLIAMS:** Hear me out—slow down. Are you telling me that the original sale price of Bankwest to the Commonwealth Bank of Australia from HBOS was \$2.73 billion?

Mr Shannon: It was \$2.72 billion, from what I have found through discovery, through documents that the bank promoted to their shareholders. HBOS advised they wanted to know the impairment value. The impairment value was \$620 million. There was a document drafted, being the share sale agreement, where they received dollar for dollar off the impairment value, off the \$17 billion. They elected to take the 620 off the original purchase price, which was \$2.72 billion. That is why it is \$2.1 billion.

They then got to review in 2009, because they found another \$200 million or so. I ask the Senate to ask them was there any variation to that agreement in that private meeting in 2009, because the following year they hoovered up as many impaired loans as they could. They even called it Operation Magellan. That was in 2010. As I said before, I have good belief that there was massive panic to get as many into that in 2010 as possible. It was a staggering \$754 million.

**Senator WILLIAMS:** We heard from Mr Cohen of the Commonwealth Bank yesterday that there is no benefit to a bank when they shut down one of their clients, for whatever reason. They say they lose about 30 per cent through rushed sales, receiverships et cetera. That would appear common sense to me. If you have security from a customer, whether it be their house or a commercial building or whatever, if you are going to shut them down and send in a receiver, we all know what receivers charge—well, we do not know, but we know it is very expensive.

Mr Shannon: They do not care.

**Senator WILLIAMS:** The point I make is: why was there such a huge pulling of the plug on Bankwest customers during this 2009-10 period when it is clear Bankwest sought business from customers, wined and dined them, and then 12 months later they said they want them out, even though, as in the case of our first witness here, they had never missed a payment. Why is this?

Mr Shannon: When they do remove the people from their properties they have already written off the money.

**Senator WILLIAMS:** Are you telling me they write off 100 per cent?

Mr Shannon: Yes.

**Senator WILLIAMS:** Why would you write off 100 per cent of a building when, even though it may have devalued somewhat, it is still worth some value?

Mr Shannon: It depends what the impaired value is? If they have impaired the loan, if they have put it in their books and impaired it, that is it.

**Senator WILLIAMS:** Just slow up a minute. Let us get an example. Bankwest lends someone \$1 million. They have got a property security of, say \$2 million, so it is 50 per cent, a safe lend. If that \$1 million loan or impaired for some reason, what would happen then? The property is value at \$2 million for security. Give me an example.

Mr Shannon: A perfect example is the email where the bank requested the value for a 20 per cent discount on that particular property. That was valued at \$13½ million. There was a couple of million dollars to spend to complete it. It had a valuation of about \$8 million, with that reduced figure of \$6.7 million from the discount that was applied. When the bank's receivers came in, and I have a file note here that I can tender to show you, the receivers requested not even to use that valuer: 'Do not use that valuer'—that was Colliers—'use someone else.' The next valuation they got in was \$1.1 million.

**Senator WILLIAMS:** Run this past us again. I am not familiar with what you are talking about. The business was valued at \$13.5 million?

Mr Shannon: On completion. It needed—

**Senator WILLIAMS:** Was this a construction?

Mr Shannon: Yes.

**Senator WILLIAMS:** Was it in your construction?

Mr Shannon: Yes.

**Senator WILLIAMS:** Okay. Let us go through it as it might give us clear example. You bought a block of land at Harrington Waters, was it?

Mr Shannon: Yes. It was valued at \$3.2 million.

**Senator WILLIAMS:** You paid cash for it?

Mr Shannon: Yes.

**Senator WILLIAMS:** You gave the bank the security of that \$3.2 million block?

Mr Shannon: Yes.

**Senator WILLIAMS:** Then you were going to build how many units?

Mr Shannon: Sixteen.

**Senator WILLIAMS:** How does this work? As you start building blocks the bank gives you payments to pay your builders, for concrete and everything else?

Mr Shannon: Yes.

**Senator WILLIAMS:** You get progressive payments?

Mr Shannon: Yes.

**Senator WILLIAMS:** How many of those 16 blocks did you have presold before you started building the buildings?

Mr Shannon: We had five for the bank, presales, but we had another five—we had 10 presales.

**Senator WILLIAMS:** Signed up on contracts?

Mr Shannon: Yes.

**Senator WILLIAMS:** Signed up on paper?

Mr Shannon: Yes.

**Senator WILLIAMS:** Deposits paid?

Mr Shannon: Yes.

**Senator WILLIAMS:** So you are building 16 units, you have got 10 of them signed, basically sealed and delivered?

Mr Shannon: Yes.

**Senator WILLIAMS:** Are you sure of that?

Mr Shannon: It depends on what time. At the initial start we had, I think, five or six and then by mid-2007 we would have had the other five.

**Senator WILLIAMS:** So what you are saying is that when you started building you only had five or six sold and as the building progressed you sold more?

Mr Shannon: Yes.

**Senator WILLIAMS:** How much had you borrowed off the bank?

Mr Shannon: We had approval for \$6 million plus a \$100,000 overdraft facility.

**Senator WILLIAMS:** You had a \$6 million loan, you paid a bit more than \$3 million cash for the land. Six million to build the buildings, the 16 units, so it is going to cost you, say, 9½ to complete the project.

Mr Shannon: Yes.

**Senator WILLIAMS:** The 16 units completed were valued at what?

Mr Shannon: 13.305.

**Senator WILLIAMS:** So about \$4 million up your sleeve?

Mr Shannon: Yes.

**Senator WILLIAMS:** How far did you progress through the building before Bankwest said they were not paying anymore?

Mr Shannon: On the bank's QS report it was between 70 and 80 per cent complete.

**Senator WILLIAMS:** What is a QS report?

Mr Shannon: Quantity surveyor.

**Senator WILLIAMS:** I am not a builder.

Mr Shannon: The bank sends in a quantity surveyor each month to assess the amount of work done.

**Senator WILLIAMS:** So you are saying the project is 70 or 80 per cent completed?

Mr Shannon: Yes. It is disputed before the court, because the bank—

**Senator WILLIAMS:** I am not worried about that; I am just using it as an example. The courts are courts. We are not lawyers or judges. I am a broken-down shearer. So you had 70 to 80 per cent completed the project and you get told there will be no more money?

Mr Shannon: Yes. There was an argument over a caveat. They kept on saying, 'We're not funding; the caveat's on.' I dealt with the people who had the caveat and

they put that off. The manager from Bankwest spoke to the caveator for 18 minutes or so on the phone—which they denied, but I have the telephone transcripts—and after that phone call the caveat was back on. Anyway, they have walked away from that argument because it could not be sustained.

**Senator WILLIAMS:** Let us get to the point. Was the project completed?

Mr Shannon: No; it was 70 or 80 per cent completed at the time.

**Senator WILLIAMS:** So the receivers were sent in on a development program.

Mr Shannon: Yes.

**Senator WILLIAMS:** The buildings were 70 to 80 per cent completed.

Mr Shannon: Yes. We had 16. Eleven of them were all up with the roofs; the other five were built but the roofs needed to go on—the tiles were on the site at the time. We had fixed out the majority of the units in gyprock and we had the air conditioning in and things like that.

**Senator WILLIAMS:** You had about 10 presold at this stage.

Mr Shannon: Yes.

**Senator WILLIAMS:** In the final wash-up the receiver came in and sold them off.

Mr Shannon: I was forced to go into administration on 26 September 2008 because I could not get any more drawdowns. The bank rang me and said, 'Our hands are tied.' I got advice to put my own administrator in. I did so. That was on 26 September—right in the middle of HBOS, Bankwest's owner, collapsing on 17 September and 7 October when the CBA announced they were taking it out. I got a phone—

**Senator WILLIAMS:** Hang on. Are you telling me that you had the supply of funds cut off when HBOS fell over?

Mr Shannon: Yes. The beautiful thing about this Senate inquiry is we get an admission from the Treasury of what I have been trying to say for 4½ years.

**Senator WILLIAMS:** Were these 16 units eventually completed?

Mr Shannon: Yes. Not through me, because the banks—

**Senator WILLIAMS:** Some of them. Were they sold off as an uncompleted site?

Mr Shannon: Yes.

**Senator WILLIAMS:** How much were they sold off for?

Mr Shannon: \$2.2 billion for the whole thing.

**Senator WILLIAMS:** The whole box and dice. The land?

Mr Shannon: The land and buildings and the marina berthing.

**Senator WILLIAMS:** But you paid \$3.2 million for the vacant land.

Mr Shannon: Yes.

**Senator WILLIAMS:** And you are saying it was about \$6 million to build the projects. If they were 60 per cent completed, that is \$3.6 million worth of work gone into it plus the \$3.2 million. I am up to \$6.8 million now if I have my figures right. How much was the whole complex sold for?

Mr Shannon: \$2.2 million; but, as I said, the receivers got a different valuer in and it was valued at \$1.1 million. This is where this impairment issue comes in—the warranty.

**Senator WILLIAMS:** Let us go to the valuers. We know what the land was worth when you set out to do the project because you paid \$3.2 million. I assume you are not a fool who paid three times the value of the land. You thought that the building project was a \$13 million scheme. You completed the 16 units. When Bankwest put

pressure on you saying, 'We're going to turn the tap off as far as completing this development,' who valued it then?

Mr Shannon: I have this through discovery. Colliers did the 20 per cent discount. They knocked that back—it was 10 to 15 per cent. They were the valuer from day one. On 26 September I was forced to put the companies into administration. On 30 September I was advised that it was mine again; they did not want it in. But then—

**Senator WILLIAMS:** They gave your company back.

Mr Shannon: Yes.

**Senator WILLIAMS:** When a company goes into administration, who has the power to give it back to you?

Mr Shannon: It has to go to a creditors' meeting.

**Senator WILLIAMS:** Did that happen?

Mr Shannon: No.

**Senator WILLIAMS:** So how many of your companies are you are telling me the liquidator or administrator put into administration?

Mr Shannon: I only wanted to put 33 Electra in.

**Senator WILLIAMS:** That was one of your companies—33 Electra. How many other companies did you have?

Mr Shannon: I had five, but—

**Senator WILLIAMS:** In total?

Mr Shannon: Yes, in total. I only wanted to put 33 Electra into administration because that is the one that I had problems funding. The other companies had unencumbered assets. They were building companies. But when I went to David Leigh, who was Stacks/The Law Firm's friendly administrator, I was told he would not accept 33 Electra on its own. He wanted \$500,000 cash. I said, 'I ain't got 500 grand. You know I ain't got 500 grand.' He said, 'Well, give me all your other companies.' My wife was there. Anyway, we signed up all the companies that afternoon.

**Senator WILLIAMS:** All the companies went into administration?

Mr Shannon: Yes.

**Senator WILLIAMS:** Then are you telling me that one company was given to you?

Mr Shannon: Yes. On 29 September, the receiver—

**Senator WILLIAMS:** Hang on. A company was given back to you. It was put in administration and just handed back to you—

Mr Shannon: Yes. I did not know it was illegal. I only got advice from my solicitor after that.

**Senator WILLIAMS:** I will follow that up. Let us get back to your project. How much was it sold for in the end?

Mr Shannon: \$2.215 million. It was never going to get any more than that because they got this low valuation of \$1.1 million and they promoted the project—

**CHAIR:** On the date the project was sold, were the 10 presold contracts still on foot?

Mr Shannon: They never even queried that. The receivers and bank did not even question anyone.

**CHAIR:** Were they still on foot? Would those people still have been obligated to buy those units once completed?

Mr Shannon: Yes. They were still contracted to me.

CHAIR: What was the cumulative value of the presale contracts?

Mr Shannon: I got good prices because it was a good thing.

Senator WILLIAMS: How much, roughly, for each unit?

Mr Shannon: Around \$800,000 or \$850,000 to \$900,000.

CHAIR: So you had presale contracts for \$8.5-odd million.

Mr Shannon: They could have got out of them because I went into administration. That was an event of default, so people could have walked away from their contracts. But when this happened I went back to the bank. They qualified all my buyers. A buyer went there and came to me; they went to buy it off the bank but the bank—the receivers and the agent—would not talk to these people. They were willing to pay out the bank's debt.

Senator WILLIAMS: You have \$8 million worth of sales stitched up—or they would have been stitched up—but the receiver, PPB, has come in. This block of ground—\$3.2 million worth of dirt—had \$6 million spent on it. Who, then, valued that uncompleted property—the total 16 units? Who was the valuer?

Mr Shannon: Flanagan and Reed valuations at Port Macquarie. Do not quote me; I would have to check the exact name.

Senator WILLIAMS: Approximately, yes.

Mr Shannon: \$1.1 million.

Senator WILLIAMS: For the total project.

Mr Shannon: Yes—that is right. When they gave me the company back it sat there for nine months. I could not build or anything, because they had my building company in administration.

CHAIR: If we still want to go in camera, we will probably need to do that.

Mr Shannon: There is one other thing I brought along. I think it is in my submission. From the members that have come forward I have heard lots of issues and lots of stories of Bankwest's actions. I would like to tender a statutory declaration from a Mr Wong from Adelaide. In the statutory declaration he reports a \$100,000 bribe offered to him by the Bankwest manager to stop his companies from going into receivership. I have that stat. dec. there. I forgot to mention it before.

CHAIR: We will receive it and consider it in a private meeting.

Senator WILLIAMS: We want a clean and honest banking system. Sadly, this is not always the case. Wherever you have money and people, not everyone will be a shining light. I think Westpac is a very good bank and has helped build our state and the nation but we found that out yesterday that sadly they have had some rogues in there. This exists. We are not here to police every rogue in the country, but the point I make is this: white-collar crime is systemic in this country. I have called for a deeper inquiry into that for a couple of years now.

My concern is this: what do we as regulators or legislators have to change to make our banking system better? Do we have to have a deeper inquiry instead of just these three days—Wednesday, Thursday and today—into the whole banking and financial institution? What would you suggest to this committee? We are hearing personal stories. I have spoken to people—I was with a lady last night. We are not here to be judge, jury and executioner of who did what and what bank said what. We need a strong banking system. I want to ask you, with your experience and the people you have dealt with, where you see the flaws in our regulation and legislation, and the boundaries that banks have to work in?

I have seen a document where the bank manager at Bankwest has emailed the valuer and said, 'I suggest you devalue these properties by 20 per cent'. That is wrong. I put this to the Commonwealth bank yesterday: where, in the structure of

our regulations in this country, do we need to look to ensure that our system is strong, or even perhaps better, for the future? Can you help me with that?

Mr Shannon: Yes, I can. It is not just Bankwest. Other people have come to us now that we are helping. I brought the Westpac matter to Senator Williams' attention. I went and met with 40 people at a speech and I mentioned that I would bring it to the attention of the government. I thank you for taking care of that matter. Westpac were fantastic here in accepting what went wrong. I applaud Westpac for their comments yesterday. They put their hand up and said, 'We will fix the problem.' That is a good bank. From what I can see they had a rogue operator.

The issue is that the industry has an external dispute resolution system which is called the Financial Ombudsman Service or the Credit Ombudsman Service. It is a fantastic system. This is a great unit; however, there are modifications that need to be dealt with because the banks are appointing receivers far more quickly now than they ever were before. In appointing receivers, the receivers are not obligated to be scrutinised by the Financial Ombudsman Service.

**Senator WILLIAMS:** So if the customer has a problem with the bank they can go to the Financial Ombudsman Service, put their argument and delay things. But you are saying that, if the bank appoints a receiver, that goes directly around the Financial Ombudsman Service and shortcuts cuts straight to doomsday.

Mr Shannon: Yes. That is why you are seeing more receiverships now—because they have worked out this pattern. The receivers are not members. That is all that needs to happen: the receivers need to be members of the external dispute resolution scheme.

**Senator WILLIAMS:** FOS is made up of members of financial institutions—banks et cetera—who are members, and their customers can take their complaints to the Financial Ombudsman Service.

Mr Shannon: Yes. It is great because no Australian should have to go through what I have gone through. We have spent millions defending my matter. No one has got that. That is why they have come to our Unhappy Banking. They are buggered. They have taken their livelihoods out. The first thing that banks do is attack their cash flow. They seize the asset that has the cash flow.

**Senator WILLIAMS:** This is one problem that I see in our country. If you think you have been harshly treated by anyone in a civil case—it might be a bank, a real estate agent or anyone—and you are broke, you cannot seek justice because it costs so much money. Is this something the committee should perhaps look at? I hear that in France they have a court system of seven pages. If you have a problem with someone you lodge a claim in court on seven pages. The someone you are going after puts their defence in on seven pages. The judge sits there with seven pages here and seven pages there and, in one day, there is a decision. The claims process in Australia goes on for years and people bleed. Is that something the committee needs to suggest?

Mr Shannon: You are exactly spot-on, Senator Williams. I have the evidence here—six different statements of claim served on me. This FOS thing is fantastic for our people—except I make the recommendation that the Senate look at amendments.

CHAIR: Mr Shannon, we are running out of time for your evidence if we do want to go in camera.

Mr Shannon: Okay. I do not need the in camera now, I do not think.

CHAIR: Are you happy?

**Senator WILLIAMS:** You do not need to go in camera.

Mr Shannon: I do not think I need to now because I know that you have accepted what I have said about the rush on that second round of impairment.

CHAIR: Senator Williams, you have another couple of minutes if you like.

Mr Shannon: The other thing is ASIC. We have talked about FOS. ASIC mentioned the other day that they have only had four Bankwest complaints. There were four people in that room that I knew had complained.

**Senator WILLIAMS:** When we had ASIC in front of us they had only had four complaints from Bankwest customers.

Mr Shannon: There were four in the room. Not all my members were there. I have not had any feedback from ASIC from any complaint, other than to say, 'Don't contact us; we'll contact you.'

**Senator WILLIAMS:** That is a common problem and I am sure the Chair is well aware of this. I have seen the problems of liquidators. People complained to ASIC for four years. Nothing was done until the media reported on something and then there was action taken. The liquidator is now in jail. A common complaint we get is about the auto response when you email a complaint to ASIC. I agree that that needs a shake-up.

Mr Shannon: I do not propose to our members, or people who come to us, that they make a complaint to ASIC, because nothing happens. So we do not even bother there. We go through the FOS, the Financial Ombudsman Service, or the Credit Ombudsman Service. But, like I say, they are proactive with appointing receivers now, because of the loophole.

**Senator WILLIAMS:** Well good luck Mr Shannon and thank you for being here.

Mr Shannon: Thank you.

CHAIR: Thank you very much and thank you for your evidence and suggestions.

Proceedings suspended from 10:45 to 11:00