

Bank's Illegalities Regarding Foreign Currency Loans -

How they defrauded their Clients.

- 1) The "Westpac Letters" as written by Paddy Jones, which utterly condemns Westpac, must be read. He was a senior lawyer with the bank's own lawyers Allen Allen and Hemsley (probably the most senior law firm in Australia at the time).
- 2) Banks, for example, Westpac and the Commonwealth Bank, representing and forcefully promoting to small business people and farmers requesting a loan, that an unhedged foreign currency loan was suited to their needs. At that time the banks were fully aware that similar borrowers had already lost all their assets through a F.C.L. and the risks were still the same. The bank was also aware (but did not advise the client) that any losses made by the client became tax-free profit (capital) to the bank.
- 3) Setting of untrue exchange rates favourable to the bank at Draw-down. Often, rates contained a secret commission of up to 0.7% or \$7,000 per million dollars, additional profit to the bank.
- 4) Contracts stipulated Foreign Currency Loan interest rates as being 1.5% or 2% (as agreed) over S.I.B.O.R. (Singapore Inter-bank Offer Rate) or L.I.B.O.R. (London). Banks took advantage of borrower's lack of knowledge to charge them far in excess of these rates.
- 5) Through the course of the loan, large illegal secret commissions or points were taken by the bank on all foreign exchange transactions. This applied also to the very last transaction when the loan was ultimately re-converted to Australian dollars.
- 6) Banks pretended the loans were made from Singapore when clearly all decision making and production of documents and correspondence emanated from Sydney or Melbourne (Head Office). This was done to obtain the very low (10% or nil) tax rate in Singapore. The cost to the Australian Tax Office (Tax-Payers), was millions of dollars in lost revenue.
- 7) Compelled the borrower to pay them an additional sum as Withholding Tax even though their own legal advisors told them it was illegal to do so - as being in contravention of Tax Law 261. Discovered inter-bank memos between senior bank officers note this advice but elect to charge the tax anyway.

At least one High Court Judge has stated the bank's action regarding the tax, can be regarded as fraudulent.
- 8) Evidence indicates that little if any, of the Withholding Tax extracted from borrowers, ever found its way into the Tax Office. In spite of the bank's obligation (under the rules of discovery) to supply borrowers in litigation with this information, banks have failed to do so.
- 9) Banks induced their officers to lie under oath in Foreign Currency Loan litigation. Even the General Manager of Westpac was condemned by judges in two separate cases (not F.C.L.) for lying under oath.
- 10) Nothing less than a Royal Commission into this whole nefarious scam will achieve any measure of justice for the unfortunate victims, reimburse the Australian tax-payers and reconstruct any degree of popular faith in the integrity of the major Australian banks.

As senior banker Andrew Thompson M.P. said on A.B.C. 7.30 Report (20/12/95) in his earnest call for a Royal Commission into the illegalities of Foreign Currency Loans: "Until the area (of

F.C.L.'s) is cleared the banks could not be trusted. There is great suspicion that villainy took place and could take place again, unless there is some sort of public act which demonstrates to the public that this will not happen again”.

Compiled by Ian Fisher.