

**Submission
No 42**

**INQUIRY INTO INQUIRY INTO THE OPERATIONS OF
THE HOME BUILDING SERVICE**

Name: Ms Diana Cornwell

Date received: 12/11/2007

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THE DIRECTOR
GENERAL PURPOSE STANDING COMMITTEE No.2
LEGISLATIVE COUNCIL

PARLIAMENT HOUSE, MACQUARIE STREET,
SYDNEY, NEW SOUTH WALES, 2000.

Honourable Members of Parliament,

I thank you for allowing me the opportunity to speak.
My name is Mrs Diana Cornwell. May I introduce my son
Henry and Henry's twin sister, Diana Elizabeth. My objective
is to show how my children and I have fallen through the cracks
of the system.

- Commencing 29th September, 2000, I paid \$20,000.00 to Architects and Project Manager,

AN AUTHORITY TO PROCEED letter from
States. he "will act as my supervising Architectural Consultant
and shall provide instructions to the Contractor on behalf
of myself."

I TRUSTED IMPLICITLY.
I NEEDED TO RELY ON THE SERVICES OF A PROJECT MANAGER
AND HERE WERE WHO CLAIMED THEY HAD A
HISTORY OF WORKING COBELY TOGETHER AS ARCHITECT AND
PROJECT MANAGER.

- Commencing 21st November, 2001, I paid \$2,336.00 to the recommended Structural Engineer,

I TRUSTED MR IMPLICITLY. MR NEILY CAME HIGHLY
RECOMMENDED BY THE ARCHITECT AND PROJECT MANAGER.
I BELIEVED HE WAS A PROFESSIONAL MAN, A STRUCTURAL
ENGINEER, WHO WOULD PROVIDE ALL THE NECESSARY
BUILDING CHECKS:

- Commencing 20th June, 2002, I paid our life savings, \$332,900.00 to the "nominated" Contractor,
Luís Santos Lopes of his Foreman
I TRUSTED BOTH BUILDERS IMPLICITLY. WORK
WAS KNOWN TO THE ARCHITECT AND PROJECT MANAGER.

I RELIED ON A LETTER STATING THAT LUIS SANTOS LOPEZ WAS THE ARCHITECT AND PROJECT MANAGER'S "NOMINATED" CONTRACTOR.

I RELIED ON THE DEPT. OF FAIR TRADING'S LICENSE CHECK and

- No Insurance Disputes
- No Warnings or Cautions
- No Outstanding Tribunal Orders
- No Prosecutions
- No Penalties
- No Cancellations.

I RELIED ON THE DEPT. OF FAIR TRADING'S 36-WEEK HOUSE BUILDING CONTRACT FOR ALTERATIONS & ADDITIONS OVER \$25,000. signed in the presence of the Project Manager and his nominated Contractor.

I RELIED ON THEIR INTEGRITY WHEN I QUERIED THE WORKING ON THE FRONT COVER " WORK VALUED OVER \$5,000 REQUIRES THE CONTRACTOR TO PROVIDE HOME WARRANTY INSURANCE TO THE OWNER" AND WAS ASSURED THE CONTRACTOR WOULD TAKE CARE OF EVERYTHING.

SO, WHAT WENT WRONG?

The contracted work only involved:—

EXTENSIONS TO THE GROUND FLOOR

Namely, a Bay window in which my elderly father could place his bed so he could see a district nurse arrive.

FIRST FLOOR ADDITIONS TO THE EXISTING DWELLING

Namely, three bedrooms for myself and the children as my partner had passed away before the Twins were born.

THE CONSTRUCTION OF A STUDIO ABOVE THE GARAGE

To keep paints out of hain's way and if necessary provide shelter for a country student, who may move the lounge, enabling me to spend more time with the children, who at the time, were only babies.

• FAILED IN HIS DUTY OF CARE as Project Manager. He rarely visited the site.

When I sought help from the Architects Association I learnt was not an architect.

- The Contractor didn't always call the Structural Engineer out, therefore Mr [redacted] couldn't inspect structural items and when he did, it was often by 'word of mouth' from the Contractor. When Structural Engineer, Mr [redacted], discovered he had issued Certificates for things not there, such as the piers under the existing house to support the first floor addition, all certificates were destroyed.

I NOW HAVE NO CERTIFICATES RELATING TO THE VARIOUS STAGES OF CONSTRUCTION TO HAND TO COUNCIL.

- The Contractor was frequently away. A check of the LEGAL PROCEEDINGS AGAINST [redacted] LOPEZ, REVEALED OFTEN IN COURT — THE CONSUMER, TRADER AND TENANCY TRIBUNAL — fighting the owners of 33 Elain street, Gordon.
(Reference :

- A check with ASIC, by the owners of [redacted] revealed the Contractor's Company, [redacted] being rapidly drained of financial resources, possibly in anticipation of a loss in the C.T.I.T. It was the first time I had heard the phrase 'A \$2.00 Company'?

- Meanwhile [redacted] was left speedily working on our site to his own devices (as none of his work, for example, the timber framing of the roof, follows the structural plans).

If the Dept. of Fair Trading's license check had been done on [redacted], it would have revealed all his licenses had been cancelled.

THE MAN WHO BUILT OUR ADDITIONS AND MADE ALTERATIONS TO OUR HOUSE HAD NO LICENSE AT ALL. THE CONTRACTOR WAS AWARE OF THIS KNOWLEDGETOTALLY FAILED IN HIS DUTY OF CARE.

DURING THE COURSE OF MY CONTRACT, AND BUILDERS AND SIX SUBSTANTIAL PROJECTS (WORTH MILLIONS OF DOLLARS) OPERATING SIMULTANEOUSLY — 50 PERCENT OF WHICH, ARE NOW IN THE HANDS OF THE DEPARTMENT OF FAIR TRADING.

Preferential treatment was given, by this trio, to South African clients in the hope of generating more business. Soft 'clients' sites, like ours, were left idle.

THE SHEER VALUE OF THE NUMBER OF PROJECTS SHOULD HAVE RUNG WARNING BELLS IN REGARD TO INSURANCE .

CONTRACTOR
HOME WARRANTY INSURANCE ON OUR PROJECT .
TOOK OUT NO

It is my belief the Contractor could not get insurance and never intended to. It appears my progress payments were simply used to pay his Barrister to fight the people from C.T.I.T. in the city.

EQUALLY DISTRESSING WAS THE BLATANT DISREGARD OF THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, COUNCIL-APPROVED PLANS AND DRAWINGS, MANUFACTURERS' RECOMMENDATIONS AND THE HOME BUILDING ACT OF 1989 .
THE WORK WAS SIMPLY NOT CARRIED OUT IN A TRADERSMAN LIKE MANNER .

SO, WHERE DID WE GET HELP ?

- ROUND TABLE CONFERENCES ON THE FRONT VERANDAH WITH THE
 It was laughed down with the comment from "What would you know... This is how the building industry works". This is certainly how operated with their current contractor and before that, a contractor named .

- WITHHOLDING PROGRESS PAYMENTS UNTIL THAT STAGE OF THE WORK HAD BEEN COMPLETED, FAILED.
 Bully - Boy tactics, such as packing up equipment and threatening to walk off the site were used.
 Progress Payments were asked for at strategic times, for example, when the roof had been removed and the children and I were subject to severe flooding.
 In the light of prolonged absence, even demanded I pay him directly.

IN HINDSIGHT, I REALISE THE FIRST PROGRESS PAYMENTS HAD BEEN SET ABNORMALLY HIGH TO ENABLE 20 PERCENT OF MY MONEY TO BE SECURED IMMEDIATELY.
 IN HINDSIGHT, I REALISE THAT WHEN IT CAME TO THE FINAL PAYMENT, IF I SUBBORNLY REFUSED TO PAY BECAUSE WORK WAS BELOW STANDARD AND INCOMPLETE, THE PLAN WAS FOR THE CONTRACTOR, TO TAKE ME TO THE C.I.T.T. "FOR THE FINAL KILL."
 FORTUNATELY, I BOUGHT A SECOND OPINION .

- ON THE 7th OCTOBER, 2003 (WEEK 68 OF THE 36-WEEK CONTRACT) INSPECTOR PAUL DUDENEY FROM KURUNG-GAI COUNCIL ISSUED A COMPLIANCE CERTIFICATE EFFECTIVELY CLOSING DOWN THE SITE UNTIL A REPORT HAD BEEN COMMISSIONED FROM AN INDEPENDENT STRUCTURAL ENGINEER AND THE DEFECTS RECTIFIED.
The result was that several steel beams, so necessary to support the first floor were now in place, although not all the defects were rectified.

- ON THE 13th MARCH, 2004 (WEEK 90 OF THE 36-WEEK CONTRACT) A COMPLAINT WAS LODGED WITH THE HOME BUILDING SERVICE IN THE HOPE THAT A RECTIFICATION ORDER MIGHT COMPLETE THE PROCESS.

The Contractor, ^{appeared willing to comply,} but the momentum was lost when Inspector Peter Stubbs came to our home and told the Contractor he could no longer work on the site because he didn't have insurance.

Bully-Boy tactics then began with the Contractor's Barrister drawing up a Deed to try and make me relinquish the contract.

Then in a complete back-flip, Inspector Stubbs issued a Rectification Order for the Contractor to rectify the incomplete work by the 2nd July, 2004.

CONSUMER PROTECTION

- The 2nd July, 2004, passed and Inspector Stubbs indicated there was no more he could do for me.

At my own cost, it was to commission a Report into our Building works, to date, and engage a legal team for representation in The Consumer, Trader and Tenancy Tribunal.

- On the 21st August, 2004 I invited past chair of the C.T.T.T and now private Building Consultant, Douglas Cornish of ^{to our home to give a quote} on such a Report. Mr Cornish anticipated fees for the Report were a staggering \$25,000.00. The fees for a Barrister in the Construction Industry to match that of my Contractor, were openended. I could not afford such costs.
- Six months later, on the 12th January, 2005, Inspector Stubbs sent Inspector Steve Masters to carry out a Report on our home. Inspector Masters was on site from 10.00 am to almost 3.00pm. and compiled a nineteen page document.

HONOURABLE MEMBERS OF PARLIAMENT

Unlike the owners of _____, Gordon, who received the maximum payout of \$200,000.00 for defective work from the Contractor's Home Owners Warranty Insurance, the children and I have no such recourse — despite the onus clearly being on the Contractor to provide such insurance.

Honourable Members of Parliament, I am appealing to you, for the sake of the children, to evoke special powers to enable the fine imposed by the Home Building Service to match the maximum payout of the insurance companies and for a portion of those monies to be used ex gratia to implement Home Building Service Inspector, Steve Masters' Report.

I would like to invite you to our home, but I'm too ashamed :—

- No windows, open to the elements
- Valleys that leak when it rains
- Tiles that have dislodged
- No guttering
- No heating
- No overhead lighting
- Two power points to run the refrigerator,
children's ABC programs and music for the God who Sings,
- One gas jet
- Two taps with extended geriatric hoses to fill the
washing machine and the children's bath
- No lockable exterior doors.

We have lived in this house for three generations.
My aim is to continue to live here with a happy disposition
and to somehow achieve lock-up — even if I have to train
as a builder myself.

Diana Cornwell.