



PROCEDURE AND PRIVILEGES COMMITTEE

REPORT ON COMPANY REFERRED TO
IN THE LEGISLATIVE ASSEMBLY

MFA FINANCE PTY LTD

Laid on the Table of the Legislative Assembly

REPORT

The Speaker of the Legislative Assembly referred to the Procedure and Privileges Committee a letter from MFA Finance Pty Ltd, seeking to use Standing Order 165A to respond to statements made on 16 November 1999 and 14 March 2000 by Mr Jim McGinty MLA, Member for Fremantle.

The Committee has agreed to the attached response proposed by MFA Finance Pty Ltd.

In accordance with Standing Order 114 the Committee has not considered or judged the truth of any statements made in the Legislative Assembly or in the submission.

Recommendation

Your Committee recommends -

That a response by MFA Finance Pty Ltd in the terms specified in the Appendix to this report, be incorporated in *Hansard*.

CHAIRMAN

Response by MFA Finance Pty Ltd
Agreed to by MFA Finance Pty Ltd and the Procedure and Privileges Committee
pursuant to Standing Order 114

MFA Finance Pty Ltd (MFA Finance) wishes to respond to allegations made on 14 March 2000 by the Member for Fremantle, including a statement that MFA Finance is a “company which can be best described as a group of gangsters”. (*Hansard* 14 March 2000 p4670.)

MFA Finance also makes the point that by not responding to earlier claims made in Parliament in respect of the company, it should not be construed that the company, its officers and directors accept the truth or validity of any of these allegations. However, MFA Finance does wish to make the point that there has been no conspiracy to defraud anyone or rob anyone, either alleged or at all.

There has been widespread media coverage of the statement made on 14 March 2000 by the Member for Fremantle.

On 22 March 2000, MFA Finance submitted to the Speaker in writing under its common seal a request that MFA Finance be able to incorporate a response to that statement in *Hansard* pursuant to Standing Order 114. This was the day after the *Hansard* report of proceedings from 14 March 2000 was available and was therefore the first day on which the request could be made.

The Oxford Dictionary defines the term “gangster” as meaning “a member of a gang of criminals or toughs” and implies involvement in crime.

MFA Finance and its directors and officers deny that they are “gangsters” or criminals, or that the company conducts its affairs in a manner that would justify that extreme and extraordinarily damaging description.

MFA Finance was incorporated on 20 February 1995 and has been engaged in the business of finance broking since that time. The company has an executive director, Ross Fisher, and four non executive directors, Ken Court, Russell Hawkins, Neil Pinner and Michael Brennan. Messrs Fisher, Court and Hawkins have no shareholding or other beneficial interests in MFA Finance. Mr Ken Court is the brother of the Premier of Western Australia, the Hon Richard Court MLA.

The main business of MFA Finance has been broking loans secured by property assets. Prior to the default in late 1999 of loans made to various entities associated with Mr Greg Kennedy (the “Kennedy loans”), investment loans brokered by MFA Finance had never lost any money. Previous loans that had defaulted had always been resolved in the normal course of business without any loss of principal or interest.

MFA Finance is an operating company (unlike some other finance brokers that have been referred to in Parliament over the last few months) and is commercially responsible and prudent, having in place appropriate safeguards for the protection of investors’ funds. The company voluntarily disclosed full details of the Kennedy loans to the Australian Securities & Investments Commission (ASIC) in May 1999. During that check ASIC did not require changes to any of MFA Finance’s practices and procedures.

Allegations by the Member for Fremantle in November 1999 about the Kennedy loans were referred to the WA Police Service, with whom MFA Finance has been in contact.

MFA Finance regrets that the Kennedy loans have defaulted in circumstances where valuations of the mortgaged properties from suitably qualified and experienced valuers are now being questioned.

In these circumstances MFA Finance objects in the strongest possible terms to the use of the word “gangsters” and the unjustified, unwarranted, outrageous and damaging implications that it carries.

But for the attack on MFA Finance by Mr McGinty in Parliament on 16 November, the company may have been able to find satisfactory commercial solutions to the Kennedy loans and to look after the interests of investors in those mortgages, all of which have been disclosed to ASIC and the Ministry of Fair Trading.

Unfortunately, the focus on finance broking resulting from the allegations about the collapse of larger firms spread to MFA Finance. Once it was widely publicised that there were problems with the Kennedy loans, there was an immediate adverse effect on the values of the properties concerned. This was the direct result of revealing information normally regarded as market sensitive and signalled likely losses for investors, Mr Kennedy and the company.

Other matters involving MFA Finance were specifically mentioned in the Legislative Assembly on 14 March 2000 and we believe it is therefore appropriate in this forum to confirm that:

- ❑ Two loans advanced against shares in listed companies were repaid in full, prior to Mr McGinty mentioning them in Parliament on 14 March 2000. The investor was informed and his accountant had been advised in writing that the full proceeds including interest had been banked to Mr Crew’s personal account.
- ❑ Loans advanced to Australian Limestone will be substantially repaid following settlement of a residential security property in East Fremantle that was sold immediately after auction on Sunday 19 March 2000. The balance is secured by a first mortgage over another residential property and management of this has now been taken over by another party. MFA Finance sees no reason why the balance will not be settled in due course with the investor receiving all funds with full interest, plus penalty interest. Mr McGinty’s further claim in Parliament on 22 March 2000 that MFA Finance had not acted in the investor’s best interests was made after the company had taken appropriate steps well before the auction, and before its management had been transferred to another party, to achieve the best return for all parties.
- ❑ Re Mr Eric Crew, the company has always acted professionally and honourably in a long-term relationship with Mr Crew. The Member for Fremantle claimed in the Legislative Assembly (*Hansard, 14 March 2000, p4670*) that:

“...MFA Finance colluded.....to defraud Eric Crew of \$55,000....”

“.....engage in that unconscionable behaviour to rob a blind, elderly man of \$55,000....”

“...(Mr Crew) has been viciously exploited by a company which can best be described as a group of gangsters....”

Reference was made to a power of attorney MFA Finance held from Mr Crew. This was solely for the purpose of executing documents to discharge mortgages, collect principal and

CHAIRMAN OF COMMITTEES TO PRESENT -

Mr Speaker -

I have for presentation the Procedure and Privileges Committee's Report on a Company Referred to in the Legislative Assembly.

The report is as follows -

REPORT

The Speaker of the Legislative Assembly referred to the Procedure and Privileges Committee a letter from MFA Finance Pty Ltd seeking to use Standing Order 114 to respond to statements made by Mr J.A. McGinty MLA, Member for Fremantle on 16 November 1999 and 14 March 2000.

The Committee has agreed to the attached response proposed by MFA Finance Pty Ltd.

In accordance with Standing Order 114 the Committee has not considered or judged the truth of any statements made in the Legislative Assembly or in the submission.

Recommendation

Your Committee recommends -

That a response by MFA Finance Pty Ltd in the terms specified in the Appendix to this report, be incorporated in *Hansard*.