Richard Willis
Secretary, Council Committees
Department of the Legislative Council
Parliament House
Spring Street
East Melbourne, 3002

Dear Richard

I wish the Inquiry into Builders Warranty Insurance to hear my story, which demonstrates how bad the building industry is. If the builder does a bad job, you have nowhere to go for help. I tried the builder and the Building Commission, but the builder is now not contactable and the Building Commission Inspection and Report came to nothing. Now, more than 2 years after we signed the contract, we have to live with all the defects.

I hope the Inquiry will consider this story and how owners are simply ripped-off when they enter into a building contract. The builders know that they can take your money and run. Also many of the sub contractors are not paid and they also have no recourse to get their money. It is quite simply a shameful system, which should be changed to protect owners and those who work for these dodgy builders.

Our Story

Our story began well over 2 years ago. On October 22nd 2007, we signed a contract with a Registered Builder (George Salloum of The Golden Eagle Design and Construction) to undertake a renovation to our home. The renovation covered the whole house with the back section being demolished. Those rooms included the kitchen, bathroom, toilet and laundry. The initial costing was $157,950 prior to the many variations.

As this was my grandparents home, it was a major task to clear this house fully, but our dream was about to come true – a fully renovated home.

The work was to take 6 months. Our Architect gave the builder’s name to us and the Architect was to be the project Manager. Work did not start in earnest till late November. The builder stated that security fences and cameras would be in place during the work. No temporary fences ever appeared – nor did the cameras.

The work progressed well, I would get calls from the builder regularly, asking me to come and visit the site, so initially communication with him was good. One major thing that did concern me was there was no Portable Toilet on site – he brushed this aside when asking him why repeatedly.
I elected to have my own kitchen company install the kitchen. The cupboards installed - then the painters (Builders painters) started work – they sprayed everything throughout the house without using drop sheets, my new cupboards were covered in spray. Door-handles, floor tiles, everything had a mist of paint covering the surface.

The usual amount of problems happened along the way. Then the time came to move back in – the night before moving back in I came and cleaned the house from top to bottom as the students employed by the builder were not given the right equipment to clean the house, as it should have been done prior to us moving back in. The person cleaning the windows for example was using a rag from the yard with some cold water in an old filler container, no decent broom, etc.

On morning one of being in our newly renovated house, I opened the blind and noticed a paint run from ceiling to floor; the builder happened to be there at the time and immediately made a call to the painter. During the day, more and more paint runs became evident. I had not been able to enter the house during the final few days whilst the floors were being polished and the paintwork finished off.

We had moved back in on June 22nd 2008, the painter arrived at approximately 5pm, a quick sand and paint. This happened 6 times and it was always arriving late afternoon. By this time, the paintwork looked terrible, so many patches everywhere. We had purchased 2 new items of furniture when we moved back in, both of these items now had paint on them – I don’t think these painters knew what drop-sheets were. My tiles in the wet area – well, it’s hard to find the words to describe how they looked, so badly covered in paint, so rough almost making it impossible for me to see what colour they were. Spray from the rollers was on the polished boards. The six times the painter came back, the more frustrating it became. As for the wall tiles in the bathroom, thinking it was grout on tiles, but no it was more paint – until this day I am still not able to remove the paint from the grout.

Being in the house, the faults were becoming more evident, a list was compiled for the builder, E.g: bubbling paint on the exterior of the house, sliding doors that did not meet, a bearer not replaced, paint peeling from around chimneys showing that the damp-courses – had not been completed correctly. The decking posts that wobbled and the railing so dangerous – that once someone leaned against it – it would move away from the upright supports. The extra support piece to stabilise the stairs, that was measured up and we paid for as one of the many variations – never arrived. The electrical work, power points not brought through the plaster, dimmers not installed. Power points installed, but not level, etc. Bad external boards not replaced, as they should have been. The uneven chimneys had curved skirting boards. Missing ant-caps. Rubble left onsite. Then there was the shower that leaked – the list was growing! Moreover, of course the horror internal paintwork was visible everywhere, and where the paint should not be.

The builder was notified and shown; “yes” he would come back and fix everything so he said. **That was 19 months ago.**

As the builder was only coming occasionally and either looking or dropping of material to fix a problem, our patience was stretched. How could I place pictures on
the walls when there were little red dots everywhere – indicating the many flaws and faults? (Friends joked that it looked like a child’s puzzle – “join the dots”. How could I even unpack fully, knowing that if the job was to be finished properly, those things would only need to be packed away again, so as not to hinder the builder doing his job correctly? And of course, there was the need to also safeguard my items. It is extremely hard to contact the builder, as he does not answer his phone or has it turned off. I do know this to be true, as he has done it in my presence when he did not want to take a call. Despite his promises, it is clear that the builder will never return to complete the work and fix the defects.

As I look back on our experience, we had a difficult builder, an Architect who did not do his job as Project Manager, a Solicitor who gave poor advice and charged like there was no tomorrow and the Building Commission who did not help us - a system that was against us as owners. We considered the VCAT, but decided against it, as we know from past personal experience that you cannot expect a fair and impartial judgement. We also know that in the building area it is very expensive and you have to spend a lot of money without any real chance of getting back the expenses, aside from the money to rectify all the defects to the house – we have friends who have horror stories to tell and they have told us that there is very little chance of a fair and just outcome. The VCAT system is not a solution. Therefore, we have decided to give up and pay out to do the rectification works ourselves.

As I write this, I have just had an electrician in (managed to get on New Years Day) because the safety switch installed originally was tripping. The electrician after checking every power point in the house, decided to check the safety switch in case it was faulty and found that there were 2 wires, not one, as should have been entering the safety switch. It had impacted on many power points, including the refrigerator, the computer and the shower (this is on the very hot New Year’s Eve) and having a totally cold shower was no fun. And also we had to contend with how to find an electrician to come on New Year’s Day – this was not an easy task in the midst of the holiday period. We had to have new switch installed, to take one of the two wires but there are still problems. To this day, we do not know what the source of the electrical problem is (this is on top of all the other defects we have.)

I now find out that we should not have signed the contract until we had a copy of the Insurance cover (it was against the law for the builder to ask us to sign without having received the Insurance cover). But we signed the contract and the Warranty Insurance was issued after the contract was signed, and as stated above it proved to be worthless.

The whole experience has been devastating. My brother had a heart attack and the stress with the builder (taking so long to even commence building) was a contributing factor. The extension is not at all what we hoped it would be – so much for the dream! We are now in the process of completing the work and rectifying the damage, and of course we are paying a second time for what we have already paid for.

The carpenter told our Project Manager that this extension would never be finished. He obviously knew from experience with the builder that he normally behaves this way. We now know that it is simpler to rob people and walk away at the end when you are owed a small amount, much less than the cost of rectifying all the defects.
And that is what happened in our case. So sadly we are left with a poorly built extension, which requires much work and we have had to start on fixing the problems and paying out again ourselves, as we know after so long that the builder does not intend to come back and honour his obligations. It is so wrong that the builder can just walk away and we cannot access any warranty.

**The Building Commission**

By February 2009, when nothing was happening to conclude this, we contacted the Building Commission and arranged to have an Inspector come and look into the problems. With the builder also present at this meeting, all our concerns were sighted. The entire time the Inspector was here, the builder kept saying this was a waste of time, but trying to keep the lines of communication open, we pointed out if the work had been done, then none of this would be needed. Once the Inspector left, the Builder asked what we wanted to do, seemingly a strange question. He laughed while the Inspector was there – he obviously thought the whole process was a bit of a joke. He then said we could sit down and talk and forget about the report that would be forthcoming. **He stated these reports meant nothing and could say anything.** We declined his offer to talk more, saying that we had done lots of talking, we had had 9 months to talk and he was unwilling to discuss or negotiate on any of the many defects.

The Report arrived in March 2009 – the majority of defects found in our favour. The builder was also notified, given 2 weeks to organize work and 4 weeks to complete it. The builder had the upper hand and he did not immediately contact us. The time frame was almost up before he did phone. It was clear that he knew the Building Commission Report and powers were meaningless and he would ignore both the Report and the Commission.

The Report stated the work was to be finalised in 6 weeks. Sounds great but alas, to this date items on the BC report still remain defective – what are we supposed to do when the Report states: **"Neither the Building Commission nor the Inspector can direct the builder to carry out the rectification work."** I have rung the Building Commission numerous times only to get a message, to leave your name and number and someone will call you back. That has never happened – so much for the concern of the Commission – the staff have not returned any of my phone calls!

So we had a Report from the Building Commission, but they are not interested in any follow up and we have been unable to get the builder to complete work and fix all the problems.

**Other issues**

Whilst the house was being renovated, I saw quite a few of the Sub-Contractors who would ask me to pay them directly, as the builder had not paid them. I repeatedly said I was sorry, but my contract was with the Builder. Only once and in the presence of the Builder, did I pay one of the Sub-Contractors (electrical) for variations and that was on the Builders advice, as the Electrician would not do any further work on my home. I normally paid any variations to the Builder.

In October 09, I answered a knock at the door, it was the sub-contractor that had done the concreting, he was asking for the full name and address of the builder, as he had
not been paid for work done on my house and others, so he stated. I did not hesitate to provide any details I had, as I had the Builder for these works.

I have heard similar stories from other people. It seems that not paying sub contractors is a common story with dodgy builders.

As stated above, we had a Project Manager, our Architect Kevin McManus to oversee all work carried out. He did not do the work he was paid to do. Thankfully, a very diligent Engineer that was so insistent that a new wall be built, rather than just joining the new to the older section of house came to the property to see if his instructions were carried out as the builder had mentioned the wall was not needed. It was whilst the engineer was here, that he noted the following; Following inspections on the 2b/1212007 and 21/12/2007, I make the following observations regarding non compliance with the structural drawings and specifications:

(i) No ant caps installed — this could lead to possible litigation if termites were to infest the residence.

(ii) The footing founding material not inspected
     — Hopefully the Building Surveyor has approved the base of the footing at a minimum depth of 700mm —
     must have written notification of such occurrence.
     - Suggest that it is possible to drill next to stump pads to confirm depth of base of pads is at least 700mm.

(iii) Contractor used green F8 Hardwood bearer along the west side of residence. I specified the use of 2/100*45 SMARTFRAME RED ALLERT H2 Nail laminated bearers to overcome the 8% to 10% shrinkage
     that green hardwood undergoes as it dries out. This translates to a 8mm to 10mm shrinkage over the 100mm depth of the bearer. The specified bearers is also termite tolerant.
     - Suggest to replace the green hardwood bearer with the specified 2/100*45 SMARTFRAME RED ALLERT
     H2 Nail laminated bearers.

The above concerns were emailed to the Project Manager who contacted the Builder – Was this work corrected – NO.

The carpenter employed by the builder, alerted us, that hardwood timber skirting and architraves were being removed from inside the house to be used outside, whilst the inside was replaced with MDF. Just one of many shortcuts I am sure

**Conclusion**
The builder had a really good sales pitch – if only he could have delivered as well as his marketing spiel promised. **Sadly his work was very poor and he left the job unfinished.**

An architect who never fulfilled his obligations. **Had he fulfilled his job as Project Manager, these faults would not exist now.**
Employing a Solicitor to press the Project Manager to do his job, a costly task that achieved us nothing, other than our bank balance diminishing further.

We thought that we had Warranty Insurance and we thought that we were covered if the builder turned out to be difficult and unwilling to fix the many problems. But like many owners we were naïve and inexperienced. We found out the hard way that the Warranty Insurance has no value at all. The builder took advantage of us and he knew that we had no one who could make him do the job he had promised.

We heard about the Building Commission and thought this organization would help us. But once again we learned that the Building Commission have no commitment to help owners. The Inspector was keen to point out that we had a genuine case, but after the Report was sent to us, I could not even get anyone from the Commission to reply to my many phone calls. It was clear that the builder had the upper hand and he knew that he had all the power. He ignored the Commission’s Report and refused to fix the defects. Now we think that this is unbelievable, but we know it is true.

Our experience, like many others, has been very negative. The current system is unfair and urgently needs to be changed.

Kathy Frost
18 March 2009

Robert Frost
2 Kiama Road
FLEMINGTON VIC 3031

Dear Mr Frost

Case No: C/09/0103
Property: 2 Kiama Road, FLEMINGTON
Owner: Robert & Kathy Frost
Builder: George Salloum

I refer to the Domestic Building Inspection undertaken at the above address on Wednesday 11 February 2009 by Nick Kukulka in accordance with Section 44 of the Domestic Building Contracts Act 1995.

Please find enclosed a copy of the Inspection Report for your records. In the "concluding comments and recommendations" at the back of the report, the Inspector nominates a timeline for the builder to complete the rectification work.

Neither the Building Commission nor the Inspector can direct the builder to carry out the rectification work. Section 179(1)(fb) of the Building Act 1993 provides that the Building Practitioners Board (BPB) may hold an Inquiry into the conduct of the builder if the builder has failed to carry out the recommendation's contained in the inspection report, however, neither the Building Commission nor the Inspector will monitor whether the builder has carried out the work. If you believe that the builder has failed to carry out these recommendations, you may ask the BPB to hold an Inquiry. You should address your request to:

The Registrar
Building Practitioners Board
PO Box 536
MELBOURNE VIC 3001
Fax 03 9285 6490

The Inquiry will only deal with the conduct of the builder and this process will not guarantee the rectification work will be carried out. The BPB does not have jurisdiction to order a building practitioner to rectify defects or pay compensatory monies which is a civil matter. The BPB would look into the conduct matters affecting registration of the building practitioner only. It may be necessary for you to take other action in relation to your dispute with the builder, such as making an application for a hearing at the Victorian Civil and Administrative Tribunal. The Building Commission does not give legal or procedural advice in relation to the conduct of your case at the Victorian Civil and Administrative Tribunal.

If there are plumbing defects, contact your plumber to ensure those defects are rectified. If you require assistance in the rectification of plumbing works, you may contact Paul Harris at the Plumbing Industry Commission on 9889 2211.