

**SUBMISSION to SENATE STANDING COMMITTEE
on ECONOMICS
December 5th 2014**

**PART A
TERMS OF REFERENCE**

1) The current level of consumer protections.

Probably only at a very small level for isolated cases. FOS, COSL, ASIC, and the BANKS seem to be bedfellows. Certainly, my experience is that ASIC always manage to come up with reasons why something isn't in their jurisdiction (which may or may not be true) and to basically say 'go away'. FOS have their pat answers, and close cases without seriously addressing the issues. The net effect in my experience, and others I have spoken with, is ALWAYS in favour of the *bank*, NOT the *consumer*.

2) The role of, and oversight by, regulatory agencies in preventing the provision of unethical and misleading financial advice.

If the regulatory agencies are really there to 'protect' consumers from unethical and misleading financial advice, then they have failed in their jobs. ASIC make themselves look good by quoting a few 'successes' - but they are a total waste of time and money and should be shut down - as should FOS and COSL. NONE of them are doing the job their propaganda tells us they are doing. The propaganda is there to make us *feel* like we must be being protected and that these are the 'good guys'. But the reality is that they do NOT protect consumers and have become the 'bad guys' in bed with the banks.

These agencies have NOT taken care to prevent several unethical and misleading practices in the financial and banking sector and as a result, tens of thousands of people across Australia have become victims. Many of these people don't know they are victims, but they are nevertheless suffering under the burden of the consequences of these practices and generally thinking it's their own fault. It's not generally 'their own' fault. People trust banks to be ethical, honest, model litigants, above reproach, and therefore believe what the bank representative tells them. It was an amazing wake up call to me to discover that I am a victim, on several counts, of unethical and misleading practices by the bank from which I was extended credit.

3) Whether existing mechanisms are appropriate in any compensation process relating to unethical or misleading financial advice and instances where these mechanisms may have failed.

Despite repeated appeals by many consumers, ASIC, FOS and COSL have failed to take consumers seriously. It's not a matter of 'instances where mechanisms have failed' - it's more a matter of 'where have the mechanisms *succeeded*?' I have been a victim of unethical practices by banks and all attempts to have this recognised by any regulatory body

have been rejected.

In fact, in the process of our long battle, we emailed and/or snail-mailed and/or phoned not just ASIC, but also APRA, ACCC, the Victorian Attorney General, the Australian Governor General, the Victoria Police, the Federal Police, the Victorian Premier, the Victorian Police Commissioner, some Parliamentarians, FOS, two others who I can't remember at the moment, and as a last resort we even wrote to the Queen.

Our regulatory agencies don't do their job - and none of the above care. I received no response from some. The State Police told me it was a Federal matter - and the Federal Police told me it was a state matter. Talk about passing the buck. Any responses I received were polite fob-offs. If those with authority won't force our regulatory agencies to do their job, it's no wonder they are lame ducks. Considering ASIC's abysmal track record, \$500M funding for 2013 was a travesty.

Any compensation I have heard being received is abysmal and usually doesn't bring the people back to where they were before. Damages should also be awarded.

4) Mechanisms, including a centralised register, that would ensure financial planners found to have breached any law or professional standards in their employment are transparent, for both the sector and consumers.

NO person who has worked for banks, or has been a judge in foreclosure cases, or who has a personal interest in protecting the reputation of banks, or anyone for whom there is a potential conflict of interest, should ever be offered any position in ANY financial regulatory body.

Also, the term 'financial planners' MUST include the BIG BANKS - not just the 'little' financial planning businesses who would be fair game. Going for the little guys, even if they did wrong, and not going for the BANKS would simply be a patronising, less than half hearted, attempt to fool the public into believing that 'something' is being done. Stop mucking round. Get to the root of the issue and deal with the BANKS. Only entrust people with the responsibility who have the guts to DO something and CHANGE the deceptive, misleading, stinking, rotting banking practices that are designed to strip people of their life savings, and home equity while paying bank executives ridiculous bonuses.

5) How financial services providers and companies have responded to misconduct in the industry.

So far, in my experience, most people in the industry continue to want to protect the industry. In fact, one lady who was a bank accountant and finished working with the banks over 20 years ago, passionately defended the banks when I told her some of the things the bank had done to us.

The quick answer to point E is 'Very poorly' - and that's being generous, as with many issues, the answer is '*What* response??' The financial services industry does NOT self-regulate and cannot be trusted to do so.

6) Other regulatory or legislative reforms that would prevent misconduct.

i. AMENDMENT OF THE TRANSFER OF LAND ACT (Vic) 1958 (and similar laws in other states) to reflect CURRENT banking practices including securitisation.

Banking practices have changes a great deal since 1958. Some amendments have been made to reflect these changes, but not enough.

Right now, tens of thousands of Australians are losing/have lost their homes on the basis of fraudulent claims by banks. When the banks securitise the loan and mortgage, even by way of a 'legal title program', they don't notify the Titles Office. This means that there is no change to the title documents to reflect the new mortgage interest. Whenever legal title changes to a property, the law requires that this be recorded at the Titles Offices. This is not being done by the banks - then they use this to their advantage when filing for possession of people's properties. Our loan and mortgage were placed into a Trust that involved 'legal title transfer'.

Further, a legal title transfer requires that they give express notification to borrowers. The bank did not notify us.

So, when it comes to applying for possession, the bank simply gets the now *incorrect*, and therefore fraudulent, copy of the title document from the Titles Office, and says, 'There you are judge wudgy. Here's the proof we have legal title to the property'. The judge of course doesn't listen to objections by us as typically, the judge too is very biased toward giving the bank everything they want. We are swept aside by the bank lawyers as being 'vexatious, frivolous, embarrassing' and the judge is all too ready to agree.

The Transfer of Land Act MUST be updated to require that ALL transfer of legal title is recorded at the Titles Office. Of course, the banks are getting more and more into 'equitable title transfers' - but don't be hoodwinked by their assurances that 'it's ALL done by equitable title transfer'. NOT SO.

The need to amend the Transfer of Land Act is urgent, but so far NO-ONE will listen on this matter.

ii. TOUGHER REQUIREMENTS RE THE LAF.

In order to stop the fraudulent changing of loan application documents that has gone on in plague proportions here in Australia, we must ensure there is clear legislation that requires that

a. ALL pages of a loan Application Form must be provided to the consumer at the point of signing. There are currently 11 pages, yet most people have only been shown 3

pages.

b. Borrowers must also be allowed to fill out the LAF in their own handwriting.

c. The banks must send a copy of the final LAF to the customer in a separate envelope.

iii. A ROYAL COMMISSION into the Banking System - overseen by people of integrity who have no conflict of interest in the subject matter.

iv. REFORM OF OUR MONEY SYSTEM.

As things stand, a 'loan' is NOT a loan but we, the public, have long been deceived that when we get a loan from a bank, they take money from their account, transfer it to our account, and are now at risk of loss - thus justifying the requirement of a mortgage over our property.

But, as the Bank of England article 'Money Creation in the Modern Economy' states, '*Whenever a bank makes a loan it simultaneously creates a matching deposit in the borrower's account thereby creating new money.*' That's a very hard fact to dismiss. A banking license is permission to create money out of nothing - and charge interest for it.

However, Money is a human, social institution, and the system by which it operates CAN be changed. It HAS been changed in the past, and it needs to be changed again. We currently live with a 'debt based' money system - which results in an ever widening gap between the amount of fiat currency in the economy and the amount of total debt (which 'debt' has in the most part been generated out of nothing - just with a few strokes on the computer keyboard), as well as an ever widening gap between the amount of total debt and the amount of interest being demanded. Our debt based money system creates a widening gap between the haves and the have-nots; increasing defaults on so-called 'loans'; hardship and misery for many; and lots of fat bankers.

The banks have a virtual monopoly over domestic credit creation, and when it comes to so-called 'loans', they are not exchanging value for value (no equal 'consideration') - the banks are creating something out of nothing then taking the deeds to family homes and businesses as 'security' for something that basically cost them nothing and for which they have no risk of loss whatsoever.

There are money systems that would take the stress from the families and small businesses of Australia, and that would bring renewed prosperity to our nation - just as happened in the first 12 year of the Commonwealth Bank . Why keep propping this system up?

7) Related matters.

I am only one of a rising tide of Australians who once trusted the banks to be above reproach, and who once trusted the people we elected to govern us to have our best interests in mind - but who learned a few years ago that I have been deluded.

People are becoming disillusioned, and as more and more accounts of people's betrayal by the banks emerge, and as these people's appeals to regulatory bodies and government for help are ignored, the disillusionment with the state quo will only go on to become worse. That's not a good place for our nation to be in.

'White collar' crime is still crime. These university educated bankers who manufactured the toxic products that have hurt so many Australians, including the suicide of many, need to be dealt with in the same way as the law would deal with a person who broke into your home and stole your valuables.

PART B

In 2002 we took out a lo-doc loan. In 2004, we re-financed with a different financial institution. In 2006 we obtained an extension on the 2004 loan.

* Three loans - all of them **illegal** for reasons I won't outline here. It wasn't until late 2011 that I learned that our loans were illegal. Neither of the financial institutions involved in our loans cared that there was an impediment on our Title that meant that the type of loans they gave were illegal. They are, by law, required to check the Title before providing loans, and would have been well aware of the impediment. However, their interest was in 'originating to distribute' - i.e. making loans with the intention of selling them, and the associated mortgages, into the securitisation industry from which they make huge profits. Further, in selling my loan and mortgage into the securitisation industry, they are required to guarantee that there is no impediment on the Title to the property connected with the loan and mortgage. They would therefore have lied when they signed off on this point.

* When the bank sold our home, they used the impediment on the Title as an excuse to sell our property cheaply. Clearly they were well aware of the impediment (which as I said, we weren't aware of until after they had sold our home).

* Three loans - all of them **predatory and/or imprudent**. It was a time when, as they say, 'anyone who could fog a mirror could get a loan'. We were naive enough to trust the bank's judgement; to believe they wouldn't make any unwise decisions on our behalf. But they did. We fitted the ARIP model. Asset Rich, Income Poor. They liked ARIP's. Provide the loan. Wait five years. Get the property. Keep all the payments. Keep the insurance payouts. Keep the profits from selling our loan and mortgage. Sell the property cheaply. Pursue you for an alleged shortfall. Leave you on the street and still with no fixed address three years later.

* All loans and mortgages were securitised. The 2004 and 2006 loans and mortgages were sold by **legal title transfer** into a Securitisation Trust, ultimately to the Security Trustee who has nothing to do with our loan and mortgage. So how did the Mortgagee have legal title to sell our property? They did it by NOT notifying the Title's Office of the legal title transfer in 2004 and 2006, and then using that fraudulent, out-of-date document to 'prove' to the court that they had legal title. Nor did they produce the original loan document and mortgage document to prove their claim. These of course, would no longer have been in their possession.

* The court didn't care about any of the 'legalities'. They were called 'frivolous', 'vexatious' and 'embarrassing' and dismissed.

* Our home had a written valuation by the SAME agent who the bank appointed to sell our home. That valuation was done about 9 months *before* the property was first advertised for sale. Real Estate Institute figures show that property values in the area were pretty much

the same in that time. The bank sold our property for *half* the agent's written valuation - and then pursued us for a 'shortfall'.

* The bank took all our possessions from our home and hid them away from us. They threatened to destroy and/or sell them. The bank refused to allow us to get personal belongings on the day of the eviction and assured us we would be able to access them as soon as they were in storage. They lied. For four weeks they wouldn't tell us where our belongings were, and we were left with just the clothes we were wearing and our computers. Our children couldn't get their school books or their sports equipment. The bank also didn't care about our two cats and refused to let us go onto the property and get them. With a vicious guard dog on the property 24/7, the cats became frightened and feral. A neighbour was ultimately able to catch them, but by then one was so bad it had to be destroyed.

* Enough for now.

Thankyou,
Susan Field