

Jean Andersen

5 August 2015

Submission into the Parliamentary Joint Committee on Corporations and Financial Services – the impairment of customer loans

The respective offices of _____ and _____ have encouraged me to make a submission to this Committee.

Summary of submission: Extinguished full-documentation investment loan, 108% LVR, improvident lending, asset lending, CBA mobile lender, attempted repossession of security, direct losses, consequential losses, alleged fraudulent loan application, systemic conduct of irresponsible lending across three financial institutions, no accountability.

My submission primarily relates to irresponsible home loan lending by Commonwealth Bank of Australia (CBA) in December 2008 that has recently been the subject of a Financial Ombudsman Service (FOS) investigation, a Police investigation and civil proceedings in the Federal Court. My submission also reveals a pattern of irresponsible lending by CBA, Australia and New Zealand Banking Group (ANZ) and National Australia Bank (NAB).

The FOS investigation revealed “improvident” lending by CBA (refer to **page 3**: FOS internal memo dated 12/9/13), during which FOS acknowledged the “inconsistencies” in the loan application (refer to **page 4**: FOS internal email dated 6/11/13). CBA calculated the loan to value (LVR) ratio was in excess of 108% (refer to **page 5**: A calculation spreadsheet). It was also revealed that my property portfolio valued by the bank at \$1.3M was used to secure this loan of \$190,150. CBA had made three offers to settle the FOS dispute (refer to **pages 6-7**: CBA’s email dated 2 April 2013 outlining the first two offers). The FOS Ombudsman advised the Determination [a formal process] would be in my favour but suggested I accept CBA’s latest offer to settle (refer to **page 8**: FOS email dated 8/11/13). CBA’s third offer was subsequently accepted (refer to **page 9**: Confirmation of Settlement). CBA’s lawyers _____ had incorrectly attempted to repossess my other properties that were used as security for this loan and there was an additional settlement for this CBA _____ mistake (refer to **page 10**: Resolution Agreement).

Based on the outcome of the CBA loan complaint lodged with FOS, I subsequently lodged complaints to FOS regarding similar lending by ANZ, CBA and NAB with respect to credit cards that were issued or increased after the irresponsible CBA loan (refer to **page 11**: Credit schedule), all of which resulted in monetary settlements (refer to **pages 12-15**: ANZ and CBA settlement agreements, and **pages 16-22**: FOS’ Recommendation [a formal process] regarding the NAB complaint). These compensation amounts closely-matched the total interest I had paid against the respective account. I note that NAB had previously made two offers, the later of these two offers being a \$4000 credit toward the debt (refer to **pages 23-24**: email correspondence of offer dated 10 December 2014); these offers by NAB are completely unreasonable and misguided given FOS’ Recommendation which NAB subsequently accepted. The evidence produced along with the settlements reveal systemic conduct of irresponsible and predatory lending across three of Australia’s largest financial institutions.

In November 2013, I lodged a complaint of fraud to Queensland Police (Police reference: QI 1400 106 768) regarding the CBA employee (a Mobile Lending Manager) who had prepared the loan application form and other bank documents. This complaint is still under investigation (refer to **pages 25-31**: Letter to Police). The last update I recently received was that FOS, having been satisfied that the

matter that FOS investigated may have grounds for a criminal complaint, was forwarding all documentation to Police for the review of documentation disclosed under the FOS process. Based on all the available documentation, I am very confident that criminal charges will be laid once Police have reviewed all the material.

In December 2014, a civil lawsuit was filed in the Federal Court against the CBA employee who had prepared the loan documentation on the basis of misleading and deceptive conduct. The public documents of the case are available here:

<https://www.comcourts.gov.au/file/Federal/P/BRG1146/2014/actions>. CBA recently offered to settle the matter on behalf of its employee and I was advised to accept the offer or risk having my legal representative withdraw on the basis that it seemed a reasonable offer, which ultimately prevented CBA and its employee from being made accountable through the court process. Given the terms of settlement, CBA has succeeded in suppressing the conduct of its employee and shielding itself from public scrutiny and other claims of similar conduct, thus giving rise to concerns over CBA's transparency (refer to **pages 32-45**: Deed of Settlement and Release). Surprisingly, CBA required that I transfer my accounts to another lender as a condition of settlement.

CBA's terms of settlement hide questionable conduct that ought to be publicly-disclosed so that: Other Australians – particularly, or at least, customers who have had loans orchestrated by the same employee – are made aware that their loans are at risk of having been maladministered; and To raise awareness that full-documentation lending is not exempt from the issues of maladministration that have been widely-reported by the media.

I thank the media for its strong exposure around low-documentation lending which pre-empted my questioning the loan and engaging FOS (as I had thought the loan was a low-documentation loan, which was later revealed as full-documentation); I was completely trusting of the banks and would never have thought they would use questionable or potentially-illegal measures to get loans or credit approved. I have been unable to find any cases similar to mine where full-documentation loans are concerned and where the evidence is overwhelming, but I consider it imperative that the public be aware that full-documentation loans *are* at risk and everyone should review their loan documents for accuracy, regardless of loan type. This new issue concerning full-documentation loans complements other scandalous behaviour in the financial industry involving low-documentation loans and bad financial advice, demonstrating a wider-scale problem.

For background, I was 51 when I was approved the questionable loan. I have no superannuation so the portfolio of four properties I had was to be my retirement fund. The loan had caused me to sell two of those properties and I now have two properties left, one of which is my home. My accountant had prepared a report on the losses associated with the irresponsible loan, and estimated an amount exceeding \$200,000.

I am aware that many other Australians have lost much more than I have, at the hands of our banks, and the banks must be held accountable. It certainly is not reasonable that the banks produce billions of dollars in profit while they cover up misconduct and lack transparency. I can only wonder how many other Australians have been gagged from revealing similar issues in the financial industry and what the extent of impairment of customer loans is to Australians and the economy as a result of the serious issues within the industry.

I have not included all documentation as it would be in the hundreds of pages. All the evidence is available and I am happy to provide such evidence at a public hearing.

Sincerely,

Jean Andersen