

Dr. Peter M. Brandson

Senate Standing Committees on Economics

PO Box 6100, Parliament House, Canberra ACT 2600

Phone: 02 6277 3540. economics.sen@aph.gov.au

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Submission to Senate Inquiry 2013 - The performance of the Australian Securities and Investments Commission

I thank the Senate for holding this inquiry. I qualify this by saying that it is far from appropriate or adequate to hold an inquiry when most people affected by corporate malpractice - and ASIC's poor response to it - have never heard about it. Irrespective of how many submissions you receive – corporate governance is one of the biggest issues affecting people's lives. Please understand – giving the appearance of caring while only appearing to do something is not acceptable. Only your actions matter. The people you represent; the people who pay you; the people who vote for you will not be impressed or satisfied if you don't take effective action. This is your moment to shine and achieve – please use it wisely and fearlessly.

In my work as a rural doctor I often counsel patients who are in extreme financial difficulty, some on the verge of suicide. Often they have been deliberately put into this sort of hardship by banks that maladminister loans; banks that engage in unconscionable conduct; banks that use predatory lending.

It is the government's responsibility and duty to insure that corporate criminals are not tolerated. Australia requires corporate watchdogs with teeth. The impression many have is that the laws favour white collar criminals. The institutions - for example ASIC and the Financial Ombudsman - that are supposed to investigate corporate criminal behaviour appear to have terms of reference and an entrenched culture that favours the criminals.

In this submission I will be taking a wide ranging view because my concern is the system. ASIC and its inadequate performance is part of a wider problem which is political and structural. Limited terms of reference are often used to limit the appropriate investigation and hide issues of import. Without proper investigation there is no hope of a proper solution. Your aim should be the establishment of a wide ranging Royal Commission into the finance system, the way the banks operate and the way ASIC can provide effective oversight and protection of citizens from corporate criminals.

Look at your own terms of reference – are you really interested in hearing from citizens and the problems they have experienced? Or are you more interested in seeing submissions from the legal teams of banks and other corporations? Fortunately Term (f) "Any related matters" enables the discussion of a range of significant issues associated with corporate behaviour and its proper governance.

In addition to the material presented here I have provided an Appendix which gives examples of where ASIC has not acted to protect citizens from unconscionable corporate behaviour.

We live in a market based economy and some commentators believe that it is inappropriate to interfere – this is not the case. There are legitimate reasons for proper oversight of the market by bodies such as ASIC. The structures need to promote honesty and integrity in the market while preventing and prosecuting fraud.

Firstly I would like to review some basic concepts regarding markets and important truths about human nature particularly as it relates to money.

The solutions that most people and organizations put forward show that there is a poor understanding about what a market is and how it operates and interacts with people. Due to this misunderstanding the solutions that are proposed have little chance of working and will often make problems worse.

Markets – what are they and how do they work?

Some people and organizations have an aversion to markets. What they fail to realise is that the markets aren't good or bad they just are. A market really is just a reflection of the sum total of the millions of decisions that people make on a daily basis when dealing with each other. You cannot control or abolish markets without damaging people in some way. Markets in fact are much like a natural law – like gravity. The power of markets exists no matter what people do or say about them. While ever people have goods or skills that others need or desire people will work out ways of trading – ideally in a mutually beneficial way.

One of the many benefits of living in freedom is that people can interact with each other without interference. In a civilised society the law's primary purpose is to ensure that these interactions are voluntary and free from the use of force, fraud or coercion.

The terms free trade and free markets are often bandied about – there is no such thing as a totally free market. Government policies and regulations should aim to keep the market honest. In Australia ASIC is one of the most important mechanisms put in place to keep the market honest.

Pricing in the market helps determine the best use of resources. The supply of - and demand for resources helps to set the price. This feedback loop is very effective but distortions can sneak into the picture – crime or government regulation will change market conditions. Market adjustments to the new conditions may in certain circumstances even bring negative results to people or in some cases results the exact opposite of what was intended by the manipulation.

Negative end results in a particular market are often due to poor decisions and choices of the people involved. The market just reacts to the environment it is operating in. These types of results should not be considered market failure.

For example if people demand to eat junk food you will find places that supply junk food on every street corner.

If people refuse to pay the price needed for clean production of goods we will live and suffer with a polluted environment.

If people demand high wages in their own country without increasing their productivity - and at the same time choose to purchase products supplied with the use of slave labour from authoritarian (and usually poorer) countries they will find their jobs hard to hold onto.

People, Power and Money.

Most people understand that to really prosper and get ahead financially it is necessary to work hard and smart at making a living – this usually involves supplying goods or services to satisfy the needs and desires of others in the community. Unfortunately there is a large subgroup of able bodied people who will do almost anything for money – except work honestly. This group can be described in many ways - parasites, conmen, criminals are just some of the terms commonly used.

Now there are the petty fraudsters and criminals who would steal \$50 from your grandmother or a teenager's new bike – but the colourful characters we are concerned with here are in a whole different league. Basically the way they operate is simple – any place where large amounts of money are concentrated in a savings or investment arena - they will be there - and any place where large amounts of money are ready for spending - they will be there. Many of these types are what we refer to as corporate criminals. These sociopaths will masquerade as businessmen, lawyers, book-keepers, bureaucrats, workers' union representatives and even

politicians – but they are really just abusing their position of power and influence in order to access other people's money – legally and illegally.

Several examples of the sorts of *saved* money these creatures congregate around include: superannuation funds, corporate profits, investor's funds and charities.

Money for *spending* that attracts these people includes private building projects, government infrastructure projects and military spending.

Another favourite way for unscrupulous “businesses” to increase their profits is to capitalise the profits and socialise the costs of production. Thus we see companies produce goods and make super profits because they are not held responsible for the social, economic and environmental consequences of their business practices. The classic examples include industries that pollute the air and water – they get the profits of production but the people bear the health and financial costs of disease and disability or the cost of cleaning up via government (taxpayer) funded solutions.

An example particularly relevant to this Senate submission is that of the banking industry.

Banking Business Practices.

If we look in detail at the history of the relationship between powerful business interests and governments we will find many unsavoury dealings that have resulted in hardship and often tragedy to the people.

Probably the worst outcome of past practices is the privileges bestowed on the banks by governments.

As mentioned earlier - wherever there is money being spent or saved by someone there will be found some sort of parasite plotting to get its cut. Banks have the legal backing of governments to siphon money away from the middle classes by a corrupt banking system. This is how it is done.

Book Entry Credit – How the banks get away with fraud and counterfeiting.

It is the regulatory environment created by governments that has enabled banks to rip the people off – decade after decade. Governments have essentially bestowed privileges upon the Banks that are not in the interests of the people or the nation. These privileges enable banks to make unreasonable and unrealistic profits - while at the same time causing great damage and hardship to our people.

A corrupt banking system has been allowed to develop. It is so pervasive that most people just accept it as the way it is. But it does not have to be this way. There are alternatives.

Below is a simple explanation using a real-life example that applies to anyone wanting to buy a home.

Book Entry Credit is how the banks operate and profit. If you or I do it – it is called counterfeiting (also known as fraud) - and it is illegal.

For every dollar that is deposited into a bank - the banking system enables banks to lend out a multiple – say 10 times the amount (the figures vary – the key point is that the government allows this). So if a bank has \$50,000 deposited it can in effect lend out \$500,000 – say to you. If they charge you 10% interest they will expect to be paid \$50,000 per year. It's a great business – see how the banks make such profits? They are not really getting 10% interest - they could be getting 100%. But the worst bit is that they have your property mortgaged to guarantee the loan – the property will be valued at around \$625,000 (if they have lent you 80% of the mortgaged property's value). Now you may have been happily paying your debt and if you slip up - even if you have already paid back say 400% (of the \$50,000 the bank really used to give you the loan) after 4 years – the bank can take your \$625,000 property.

Now almost everyone knows that if the government puts extra money into the economy via policy changes or by turning on the printing presses (also known as “pump priming” or “quantitative easing”) it leads to inflationary pressure – due to a larger amount of money chasing the same amount of goods and services. The same thing happens when the banks create money to lend you at the click of a mouse.

Watch carefully – you have just seen how the profits are capitalised. Now look how the costs of bank business practices are socialised – the government has the Reserve Bank intervene in the financial market to keep inflation low – under 3%.

The spending of the bank created money increases the money supply and leads to inflation – the Reserve Bank puts up interest rates. The people are fleeced to support the racket. If the rates go too high people can't afford the payments – the banks either get the properties or they finance someone else's purchase of the properties.

This racket is part of the reason for the accentuated boom bust cycles we see in the economy. Also note that even if you don't have a loan the system steals your income by decreasing its value. Prices for everything are far higher than they need to be. You have to work much longer and harder than you would need to without this racket running. In a nutshell when rates are low people are encouraged into debt. They appear to be building wealth and then the crunch comes and their wealth is transferred to the corporate pirates.

On top of this: when this house of cards – Ponzi scheme – mafia-style racket – falls apart and large institutions go down - the government comes in to save the banks with huge taxpayer funded rescue packages. The criminals at the top of the operation keep their pay, profits, shares, bonuses and wealth while the ordinary workers lose their jobs, homes and sometimes families. What has ASIC been doing while all this has been going on?

Now just a simple thought experiment to really hit home what is being done to all of us. Picture yourself having only \$1,000. What would happen to you if you used your computer to copy that money and then loaned out \$10,000 to some mates who were to pay you back with 10% interest? You'd get rich pretty quick – if you could get away with it. But you wouldn't get away with it. You'd be in jail. Just like the upper echelons of the finance industry should have been after they generated the Global Financial Crisis.

Don't get the wrong idea – the solution is not a violent revolution. The solution is reform – demanded by the people and implemented by governments that want to preserve and grow prosperity in a Liberal Democracy. This banking racket was devised hundreds of years ago so don't blame the politicians - most of them don't know how this works and many haven't got the experience needed to understand it. Though, once you do understand, it is necessary to act – we must push for reform.

Many of the world's reserve banks are actually private corporations. In reality this is not a major concern. It is the corrupt regulatory environment and the privilege granted to them and the banks by governments that causes the problems. Money is just a convenient way of people exchanging goods and services. The key thing is that the people need sound money. They need to have confidence in the system. Collusion between government and business against the people is not acceptable. The financial system is not the only area where there is collusion against our interests – but that is a story for later.

The regulation of banking should be aimed at providing a stable currency - not for enriching the manipulators of money. In reality the banking sector is not really a very profitable industry. It is made profitable by the regulatory environment it operates in. Think about it like the illegal drug industry. If currently illicit drugs were legal they would be sold with normal mark-ups at the local pharmacy. Criminals prefer them to be illegal because that regulatory environment allows them to make super profits. Providing a sound monetary system is not very profitable - it is the government granted privileges and regulations that make banking as we endure it now so profitable - and that's why the bankers will kick and scream when essential reforms are introduced.

Another way to look at it – banking, as we have come to know it, is really a criminal operation. It is unfair, unconscionable and extremely damaging to people and their society. There are plenty of examples of business practices that were once accepted by society later becoming unacceptable as a society matures – owning slaves; adding cocaine to soft drinks are just two simple examples.

Reform is urgently required – we need to come up with an alternative savings and loan model. We also need to strengthen the corporate watchdogs. Banking in its current form should be recognised for what it is – a criminal operation. ASIC should do what it is supposed to do – protect citizens from the actions of corporate criminals.

Additional comments and related matters

Corporations are aided in corrupt behaviour by their links to political parties. Political donations are an associated area that requires reform. Firstly we need to be clear that no business or corporation gives money to a political party without expecting the gesture to be helpful in some way to their business. I propose that no individual can donate more than \$1,000 per year to the party of their choice – and they should only be able to donate to one party.

Businesses (and, by the way – unions) should not be able to donate at all. Fundraisers such as \$20,000 per plate dinners where a businessman can sit at a minister's or shadow minister's table are not acceptable. The beauty of this system is that the only way for parties to raise donations is by actually earning trust and respect from ordinary voters. This is done by displaying integrity, honesty and wise policy formulation - good for our democracy and good for our people.

ASIC's role needs to be expanded to include oversight of corporate interactions with governments, parties and politicians.

Also good for our democracy would be reform of political advertising – political parties should not be permitted to use advertising companies at all. We don't want the party with the best ads on TV to govern us. We need the party with the best people and policies. Advertising should only consist of ministers discussing policies and facts – simple and clear. If a politician (and party) cannot do this without a slick marketer holding his or her hand they clearly are unsuited to the job.

The Global Financial Crisis is not over

If governments continue to make it easy for corporate criminals to operate with virtually no fear of the law you will continue to find people being ripped off and lives destroyed. You will also set the stage for even worse financial turmoil than was experienced in 2008 – indeed it will be worse than 1928. The upper echelons of industry - for example the CEOs and Directors of banks - must be held accountable. This can only be done if ASIC has the necessary powers and the willingness to use those powers in the interests of citizens. See the Appendix for examples of ASIC's failure to act.

During the last boom between 2003 and 2007 many businesses and families were deliberately targeted by financial institutions. In my own case my family was severely damaged by the National Australia Bank and its predatory lending practices. The NAB was one of the worst offenders but all the banks engaged in these sorts of criminal activities. I won't go into details of my case here because I do not have the time to wait for politicians and their inquiries to make a difference. I also do not have the patience or masochistic streak required to use the legal system to seek justice for my family.

I am in the fortunate position of being able to negotiate with the NAB directly. The only real concern of corporations is the Court of public opinion and its effect on brand value and the bottom line. My own campaign for restitution and compensation will be seen by far more people than your inquiry. The bank's poor and deceitful response to the Ombudsman was clearly not taken seriously. I have been advised by the Ombudsman that it was their terms of reference that prevented them from taking further appropriate action. The Ombudsman

and NAB's lawyers know that the situation my family was placed in was a textbook case of unconscionable predatory lending.

Suffice it to say that the loan was to a family member who did not have the assets or income to justify a loan of the magnitude given. The NAB gave the loan with knowledge of my earning capacity and my relationship to the borrower. The loan was not in my name. I was not a signatory or guarantor to that loan.

There are many people who have been placed in a similar position. Interestingly many of these people still do not know that they were deliberately targeted by the banks with inappropriate loans. These people were keen to get a loan and some actually feel like it is an honour or achievement if a bank is good enough and respectful enough and trusting enough to give them the money. It can be looked at as a self-esteem or ego issue. So when things go sour and the bank gouges penalties and fees and maybe takes their home or business many people roll over and accept it – they might even blame themselves – when in reality they might have been targeted by the bank just like my family was.

The business model used by NAB was very simple, is not acceptable, needs to be investigated and reformed:

Bank representative identifies an appropriate target - or one who is, in some significant way, related to a high income earner.

Inappropriate loan is given.

Commissions are earned.

Profits are taken.

Dividends are paid.

However for the so called client –

Interest is paid.

Fees are paid.

Penalties are gouged.

Assets are seized.

Families are destroyed.

How many bank executives has ASIC sent to jail? There are numerous examples where ASIC should have acted. Many have been sent in for your consideration - during this very inquiry into the performance of ASIC. In addition there are some very good examples listed in my Appendix. I hope to see whistleblowers from ASIC and the banks become much braver and forthcoming in the next 12 months or so. The stakes for our country are far too high now for people with inside knowledge to remain silent.

If people want action we have to force politicians to act. See my website for more details: www.bankreformnow.org Amongst other things this campaign calls on the government to instigate a wide ranging Royal Commission into how the banks operate and how the corporate sector is monitored and policed – this includes the way bodies such as ASIC operate. In addition to altering how banks create credit we will be seeking appropriate laws and penalties for corporate criminals – this includes asset seizures (using proceeds of crime laws) and 20 year jail terms. This is the only way to change the corporate culture that causes so much suffering to the Australian people – the people that you are supposed to represent.

As previously mentioned - I have seen so much heartache in many of my patients caused by banking malpractice. I have decided that as part of my forthcoming settlement with the NAB I will negotiate a contribution of a significant sum by the bank toward suicide prevention in rural Australia. Rural communities have well and truly seen the consequences of financial pressure and poor bank behaviour - particularly on farmers.

As a society progresses, develops and becomes more prosperous its people should find it easier to look after their needs. They should find it easier to have more free time. It should be easier to get the balance right between work and family.

Market based economies have delivered the goods to a certain extent – we all have the potential for better lives – far better than those our grandparents knew.

So why is it so hard for people to get ahead and improve their lives right now? Why has the progress that Capitalism promised not been delivered? Simple – we have been robbed! The parasites have followed the money and are stealing it from right under our noses. Regulatory bodies like ASIC have let the people down. The banks are involved in a racket which is really legalized theft. If it wasn't for the corrupt financial system and its interaction with poor government policy the cost of living would be around 30 to 50% less than it is now.

Reform is required but it must be done thoughtfully and carefully to avoid a significant reduction in property values. I would suggest that if house values go down the banks should bear the losses as part of the reform process – not the people who have been ripped off by the corrupt operation the banks have been running. This is a tough job but it must be tackled using wisdom, compassion and bravery. Has Australia got the leadership that can do this?

Key Points:

1. ASIC is not fulfilling its legislative responsibilities and obligations. The issues discussed in this paper and detailed in the Appendix prove that abuses are occurring on a daily basis and the banks are probably the most important offenders that need effective oversight and powerful penalties for criminal behaviour.
2. ASIC is not held accountable for its failures and its culture which so often allows banks to get away with serious abuses. In particular – but not limited to – predatory lending.
3. ASIC does not collaborate and work effectively with other regulators and law enforcement bodies. The examples in the Appendix show how often the different regulatory bodies just fob off distressed clients – referring them off to each other i.e. victims of banking malpractice “get the run around.”
4. ASIC's complaints management policies and practices are not effective. The aim seems to be to let the dissatisfied victim - who has had little help in actually seeing justice done - let off some steam and then be left to pick up the pieces of their shattered life while ASIC neatly files the complaint.
5. Corporate and private whistleblowers are dissuaded from coming forward because they have seen in the past how the regulatory bodies do not give them the respect or protection they are due.
6. The banks are abusing their powerful position. ASIC has not protected the people as it is supposed to. This Senate Inquiry must act decisively and effectively by instigating a wide ranging Royal Commission into how the banks operate and how the corporate sector is monitored and policed – this includes the way bodies such as ASIC operate. In addition to altering how banks create credit we will be seeking appropriate laws and penalties for corporate criminals – this includes asset seizures (using proceeds of crime laws) and 20 year jail terms.

Words of Wisdom & Warning

First they ignore you, then they laugh at you, then they fight you, then you win – **Gandhi**

The issue which has swept down the centuries and which will have to be fought sooner or later is the people versus the banks - **Lord Acton**

Our whole monetary system is dishonest, as it is debt-based... We did not vote for it. It grew upon us gradually but markedly since 1971 when the commodity-based system was abandoned - **The Earl of Caithness**

Let me issue and control a nation's money and I care not who writes the laws - **Mayer Amschel Rothschild**

The few who understand the system will either be so interested in its profits or be so dependent upon its favours that there will be no opposition from that class, while on the other hand, the great body of people, mentally incapable of comprehending the tremendous advantage that capital derives from the system, will bear its burdens without complaint, and perhaps without even suspecting that the system is inimical to their interests - **The Rothschild brothers**

Banks lend by creating credit. They create the means of payment out of nothing - **Ralph M Hawtry**

It is well enough that the people of the nation do not understand our banking & monetary system, for if they did, I believe there would be a revolution before tomorrow morning - **Henry Ford**

I am afraid the ordinary citizen will not like to be told that the banks can and do create money. And they who control the credit of the nation direct the policy of Governments and hold in the hollow of their hand the destiny of the people - **Reginald McKenna**

History records that the money changers have used every form of abuse, intrigue, deceit, and violent means possible to maintain their control over governments by controlling money and its issuance - **James Madison**

The modern banking system manufactures money out of nothing. The process is perhaps the most astounding piece of sleight of hand that was ever invented. Banking was conceived in inequity and born in sin. Bankers own the Earth. Take it away from them but leave them the power to create money, and with a flick of a pen, they will create enough money to buy it back again. Take this great power away from them and all great fortunes like mine will disappear, for then this would be a better and happier world to live in. But if you want to continue to be the slaves of bankers and pay the cost of your own slavery, then let bankers continue to create money and control credit - **Josiah Stamp**

We have, in this country, one of the most corrupt institutions the world has ever known. I refer to the Federal Reserve Board. This evil institution has impoverished the people of the United States and has practically bankrupted our government. It has done this through the corrupt practices of the moneyed vultures who control it - **Congressman Louis T. McFadden**

The process by which banks create money is so simple that the mind is repelled - **John Kenneth Galbraith**

I believe that banking institutions are more dangerous to our liberties than standing armies. If the American people ever allow private banks to control the issue of their currency, first by inflation, then by deflation, the banks and corporations that will grow up around the banks will deprive the people of all property - until their children wake-up homeless on the continent their fathers conquered. The issuing power should be taken from the banks and restored to the people, to whom it properly belongs - **Thomas Jefferson**

All that is necessary for the triumph of evil is that good men do nothing – **Edmund Burke**

Senators of Australia – it really is time to act. Be bold – be brave.

Yours faithfully,

Dr Peter Brandson

Also, see attached - **Appendix to Brandson Submission - Senate Inquiry into ASIC – 2013**. This details 14 years of banking malpractice by NAB as reported in the Australian media.

More information can be found at - www.bankreformnow.org

Additional Resources re: Bank Reform Now – Launching December 2013



<http://bankreformnow.blogspot.com.au>



<http://www.youtube.com/user/BankReformNow>



<https://twitter.com/BankReformNow>



<https://www.facebook.com/bankreformnow>