



**Banking & Finance
Consumers Support
Association (Inc)**

Australia's 'Banking Cartel Scandal' The Rise of White-Collar Crime

**Senate Economics Standing Committee
2016 Inquiry into
'Penalties for White-Collar Crime'**

Denise Brailey

President

Banking and Finance Consumers Support Association (Inc.)

www.bfcsa.com.au

29th March 2016

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The Executive Summary

The First Part, Sections 1-3 of this submission specifically point out the dangers of regulatory wrong diagnosis and decriminalisation via erroneous classification of white collar crime. We detail the fervent attempts by those agencies charged with consumer protection, to camouflage the identification of crimes. The lack of enforcement of current laws is also of grave concern to consumers, given the reported magnitude of losses.

In Section 4, we answer the Committee's Terms of Reference regarding appropriate penalties to match the scale of criminal conduct and of criminal regulatory neglect.

Fine Detail of components of the Scams uncovered in mortgage lending: -
Annexures "A – F" Pages 64 – 73.

Hard evidence of criminal "asset-lending" engineered by the CEO's of our Major Banks is systematically being ignored by corporate regulators sworn to protect consumers. After repeated attempts for over a decade, by members of the public to warn our Parliament of criminal activity in mortgage lending, this Inquiry has renewed public calls for a Royal Commission into the Banking and Finance sector, and can no longer be ignored.

Lindsay David and Philip Soos from LF Economics have written experienced, quality submissions to Parliamentary inquiries during the past few years.

Egan and Soos' book *Bubble Economics* provides extensive analysis for the emergence of sub-prime lending and have identified those same Control Frauds in Australia. In addition, LF Economics' recent articles on the effects likely to impact Australia's economy, provide the narrative which ought to be cause for concern.

BFCSA has been collecting the raw data for over 15 years. Lenders have been systematically targeting ("ARIPs") older people who owned their own home, were on low incomes and were debt free. They were not told these "mortgages" were interest only loans. They were not informed the loans would implode within five years and they would become homeless.

No-one in Australia should be above the law. These criminal practices cannot be tolerated.

During Parliamentary questioning, our regulators have consistently down-played the instances of mortgage fraud and sub-prime lending in Australia. They have been coy, indeed misleading, as to the ratio of subprime loans to their total loan books. Of most concern is the apparent attempt by Lenders to demonise the consumer victims of Low Doc Loans.

Either the Australian regulators permitted Lenders to continue acting as a Cartel, and failed to advise Government, or are guilty of gross criminal negligence. ASIC are quick to unfairly blame brokers as seller/agents of the banks, after freely admitting: "Lenders are the engineers." Sellers of product do not approve loans. Lenders approve the loans. The crime committed was in the approval process, involving a universal and compulsory computerised calculator to exaggerate incomes. The Loan Mortgage Insurance Scam is another issue.

Seventeen Lenders, acting as a Cartel have been profiting from Ponzi Financing by selling sub-standard mortgage loan products. The duplicitous nature of the regulatory cover-up, only serves to anger victims. We understand the folly of bank driven “asset stripping.”

By defining the crimes committed we reveal details of the mechanisms employed by the engineers of toxic mortgage lending and highlight the magnitude of the losses and potential for greater losses to come. The most important consideration is the era of deregulation, essentially a regime of no-regulation.

These details contained in this report are necessary and critical in answering the Inquiry’s questions of what penalties for white collar crime, in terms of level of crime and suffering.

If one million people robbed a bank today and explained why, they would all be arrested and jailed. Our submission attempts to reason why there must be severe punishments in how we treat white collar crime and explain why seventeen members of the Cartel remain protected.

In order to protect future generations, we advocate strong penalties to prevent mortgage barons from contemplating sub-prime lending in Australia, in the future.

Our members do not know the identity of each other: therefore, there is no collusion. Their evidence is pure. All documents contain fraud and unaffordable lending practices, demonstrating a pattern of ‘intention to deceive’ in the actual lending approval process.

ASIC and its EDR’s and Lenders have hidden many of the crucial documents’ labelled as ‘commercially sensitive.’

The extent of this problem has most likely affected an estimated 600,000 families and close to 1.5 million persons. These estimates are based upon the bankers’ recent admittance of a \$200 billion exposure to sub-prime loans, expected to quickly rise to \$300 billion.

Our aim is to describe the nature of these Control Frauds, show the evidence of how and why they fester in the democratic world, with the potential to damage the national economy. The lessons learned from the American experience are interspersed throughout this report with a wide range of commentary from books written before as warnings and post the GFC.

We compare what is happening here to what is happening in America and other countries. Australian mortgage fraud is well hidden by Lenders.

We explain why Long custodial sentences are the only enforcement of law that can adequately punish white collar criminals, whose fear of jail is a most powerful deterrent.

BFCSA consumers will continue to seek truth and lobby parliamentarians for a Royal Commission into the Australian Banking sector. Predatory Lending and Ponzi Financing is rampant in Australia.

In this submission, we outline the reasons why consumer’s files must be examined by a person of great integrity as Royal Commissioner. We seek a firm recommendation of a Royal Commission into Banking and Finance with a wide Terms of Reference.

Key Issues List

The Key Issues in addressing white collar crime:

1. Initial identification of criminal activity ignored.
2. Faulty products intentionally manufactured for vulnerable consumers.
3. Extent of Cartel activity, how widespread are these crimes?
4. Lack of Enforcement of law in De-regulated market.
5. De-Regulation as a direct cause of Subprime Lending
6. Expansion of the problem over how many years?
7. Specific industry of banking and finance being at the heart of asset security rorts.
8. Effects on taxpayers, shareholders and the national economy
9. Effects on the property market and housing
10. Specific erroneous classification by ASIC of white collar “criminality” vs treated as a mere “wrongdoing.”

GRAVE CONCERNS REGARDING THE REGULATOR

11. The 18-year failure of ASIC to protect consumers involving retiree monies under threat relating to Managed Investment Schemes: Agri and Property Scams.
12. The 18-year failure of ASIC to protect consumers involving pensioners and low income families relating to Bank Lending and Financial Advice Scams.
13. Knowledge of ASIC in relaying serious dangers in the Banking and Managed Investment Industries and the failure of prevention of loss.
14. Knowledge of ASIC in relation to Trustee and Liquidators activities was not relayed onto consumers prior to expected events of massive loss born by consumers.
15. Failure of ASIC to be the Consumer Protector whereby 2003 \$5 Billion of savings and assets had been lost by vulnerable older persons aged 55 and above.
16. Failure of ASIC to be the Consumer Protector whereby 2010 \$80 Billion of savings and assets had been lost by vulnerable older persons aged 55 and above.
17. Failure of ASIC to demand a review of The Financial Ombudsman’s Services whereby the reviewers were permitted to speak with borrowers and other complainants.
18. Failure of ASIC to report all manner of these activities to Parliament.
19. Failure of ASIC to advise Treasury of Losses by vulnerable retiree and pensioner consumers, likely to surpass \$250 Billion in 2016.
20. Failure of ASIC to understand conflicts of interest principles in that losses reflect the incompetence or worse of ASIC: it cannot serve two masters: historically, industry takes preference and consumer financial well-being is left in ruins.

Regulatory ‘soft-touch’ has not only failed to prevent fraud and corruption in the Finance Sector, criminal negligence has been the most likely cause of the escalation in these products being sold on the Australian market and directly the cause of the Property Bubble.

De-regulation has created evil opportunities on a massive scale in the Banking Sector.

*This is the single biggest issue crippling our economy.
The effects of these practices will take generations to recover from.*

3. Crime & Punishment v wrongdoing: Erroneous Classification

Iceland sent several of its criminal banker's to jail. Regulators in the USA, the UK and here in Australia, described Cartel activities as mere 'Civil Wrongdoers' and permitted the offenders to continue.

Australian Parliamentarians ought to be reading the comparisons between the 6 years' aftermath of the United States, Great Britain, Iceland, Denmark and other countries to understand the Model universally used by the Banking fraternity. These crimes without borders are powerful enough to seriously impact the nation-states' economies. BFCSA Members have pooled their documentation and conducted and participated in surveys and we know of no other country where anyone had access to the private papers of borrowers.

In all studies of subprime lending no-one it seems had access to borrowers.

We can easily apply the research as to what appropriate penalties should be considered for those responsible for Ponzi Financing here in Australia, given the magnitude of losses expected. By following the path of other nations who have already experienced tragic downfalls and loss of homes, the Australian Government urgently needs to heed the warnings contained in submissions to this Inquiry and take action against all regulators who are incapable of understanding the magnitude of consumer losses.

Only by holding a Royal Commission can the nation be alerted to subprime lending of such proportions capable of damaging our national economy. Alarming, the toxic products identified as guaranteed to cause financial ruin, are still on sale today.

We the have evidence, these crimes transverse all States and spill into other countries. There is a distinct difference in doing something *criminal* to make a product more profitable as against simply getting things wrong in the pursuit of making money.

Strong penalties against bankers were sought and delivered by Iceland prosecutors in 2012, amid similar bank driven scandals. Icelandic investigators found their lenders guilty of criminal intent and jailed each executive offender for lengthy sentences. Icelanders showed zero tolerance to Control Frauds, and to ensure custodial sentences were to be used as a significant deterrent against those contemplating white collar crime at the highest offices of the banking sector. Zero tolerance and tough penalties should apply in Australia.

Yet tougher penalties without enforcement of law, render these laws impotent. We advocate for the toughest of penalties for white collar crime and a strong recommendation that every case be prosecuted and only then, are we able to claim strong deterrence is visible.

Australia must follow Iceland's lead by treating such Cartel activity as a serious criminal offence, recognised by expert economists, as being dangerous to the national economy.

After witnessing eight million people becoming homeless post the GFC, USA investigators found mere "*civil wrong doing*" and appear to have taken little or no action against their own Banking Cartel. Had journalistic writers had the opportunity to conduct studies at the grass roots level, along with critical access to borrower files, and permitted to examine individual

cases, they would have found the appalling mechanics of the Subprime scandal: the initial intention to deceive by the lenders is the substantive criminal offence.

The Bankers cleverly demonised the borrowers as a group, never expecting stoic Mums and Dads grouping together against a common foe. Lenders had created identical loans designed to implode within less than five years: long enough to repackage further toxic products then offload the evidence. Next the AAA ratings are bought and paid for. Those agencies have no access to borrowers. The mechanics are largely ignored by regulators.

Constant repackaging of the loans into derivatives, known as Contracts of Difference (“CDOs”) and Residential Mortgage Backed Securities (“RMBS”) enabled the bankers to keep their original criminal intentions free from any close scrutiny and secure a ‘respectable’ distance from the scene of the crime.

“The market or the capitalists who plied these financial products, had thought of clever ways to re-engineer securities; they had stripped balance sheets of their assets and mortgage banks of their mortgages. They had invented derivatives that let banks flip risks like baseball cards; they had lent long - borrowed short. They had overleveraged and, while their profits rolled, they had paid themselves astronomical and often shameful sums. They had invented mortgage products designed to circumvent the banking wisdom of the ages and they had peddled these mortgages with a wilful disregard, bordering on fraud, for whether their customers could afford them.”¹

Various commentators suggested no cases of ‘criminal intent’ were made out against the real culprits. The omissions in the investigations were proof of a massive cover up, with bankers branding their poverty stricken borrower customers as ‘Liars.’ Hence the label: ‘Liar Loans,’ and yes that may have happened in the minority 3% but not the entire nation. An impossible assumption, and yes lenders cleverly blamed the sellers. The fraud is in the ‘approval’ of loans, and only Lenders approved loans via computerised ‘tick-a-box’ systems. Yet all nations have legislation covering “prudent banking” laws which prohibit “unaffordable lending.”

“Liar Loans, so called because borrowers were not required to prove their incomes, were the most peculiar of the new products.” “Loan Officers did the overstating.” “As with other innovations this was all in the service of a simple mantra: the larger the house, the larger the loan, the greater the fees.”²

Lenders had demonised their own customers and accused them of lying on their own loan application forms at the behest of sellers. Banks accused everyone but themselves of course.

In all of the books I have read and the references extracted and gathered post GFC from credible expert’s, not one author admitted they had spoken to or conducted surveys with groups of consumers. Access was denied to such data.

The same applies for groups of sellers. There are references to regulators laying charges against a few ‘obligatory’ sellers. The entire narrative in the US, UK and other democratic

¹ Lowenstein: Roger (2010) p.272

² Stiglitz, Joseph E. (2010) p.86

countries concentrated on contrived media releases and reports re consumers as a ‘one-off story of sadness.’ In doing so, the actual fraud, the creation, engineering and marketing of intentionally toxic products remained largely unnoticed. Those conditions are mirrored here in Australia.

The initial products were known as subprime mortgage lending or NINJA loans, sold to those who could least afford to pay payments and had no assets or jobs. By way of example and according to analysts, the US political system altered when high profile bankers entered the White House. Timing of toxic products followed on from the Savings and Loans debacle.

“Reagan became the first President to hire a major Wall Street chairman to the post of Treasury secretary. Without having given the matter, much thought, Reagan united the power of Wall Street and the presidency into 100 percent alignment. “Regan was appointed to Merrill Lynch to run the scandal-riddled trading department in 1951.”³

And this from 1989 after the disastrous Savings and Loans scandals, in the US:

“The average sentence for an executive who defrauds an S & L is prison for three years.” “The problem (of white collar crime) challenges us as a nation. Our system has seen nothing unjust in slapping an inner city kid with a 20-year sentence for robbing a bank for a couple of thousand dollars whilst putting a white collar criminal away for only two years.”⁴

Historically, most countries affected by the GFC, powerful lenders continued to be a protected species. Regulators blamed the sellers and (hidden) borrowers and allowed the Banks and Engineers to walk free. The Securities Exchange Commission (“SEC”) and its counterparts, eventually concentrated on the second tier of the intended scams: destructive bi-products known as MBS’s and CDO’s, et al.

Banks were blaming borrowers and sellers; regulators were blaming government and policies suggesting the politicians had permitted the MBS scams to multiply out of control, leading to bail-outs. Meanwhile, at least 8 million Americans lost their homes and via sketchy data, 2.8 million consumers in the United Kingdom. Clearly, Mr Nobody was responsible for the carnage as the borrowers crowded into tents and caravans in their own country. Renowned experienced economists would shake their heads and start producing books of wisdom: -

“Inequality weakens our economy, undermines our democracy and divides our society.” America’s high level of inequality of opportunity – those who weren’t lucky enough to be born of parents of means – have little chance to live up to their potential.” “Increasing inequality is part of the explanation for the extraordinary slow recovery from the 2008 crisis – a crisis that inequality itself helped create.”⁵

We strongly suggest that most people are honest and would not risk jail; sellers and borrowers alike. There will always be a 3 percent ‘rogue factor’ but never 100 percent. However,

³ Prins, Nomi (2014) p.323

⁴ Pizzo, S, Fricker, M, Muolo, P. (1989) p.284

⁵ Stiglitz, Joseph E. (2015) p.213

consumers and sellers coped the blame in a Global campaign led by the regulators (members of IOSCO) at the behest of the lenders, who were most likely calling in favours.

BFCSA (Inc.) and its fore-runner started gathering borrowers together from 2001 onwards. All documents processed and recovered by BFCSA, formed a disturbing pattern of abuse by Lenders. Over 2000 case files are identical in the fraud used by the lenders. This astounding evidence can no longer be pushed aside. I presented 400 fraudulent Loan Application Forms (“LAFs”) to the Australian Senate in 2012, advising the document files were key indicators of Ponzi Financing. Since then, many more consumers have come forward and joined BFCSA, with similarities found in all documentation. In addition, patterns emerged and we uncovered much more detail regarding the mechanics of the lender fraud.

Confidence and trust in the banking sector cannot be maintained until the perpetrators of this lending scandal are finally brought to justice.

Such abuse by the privileged elites against the vulnerable cannot be permitted to happen here in Australia. BFCSA’s investigations, lasting over fifteen years, show these were definitely not Liar Loans. The once proud Aussie homeowner will become extremely angry when the truth of these ticking time bomb mortgages overflows into the public domain.

Prior to the American experiences of the GFC, the same questions were being explored in terms of “when” a market will collapse, and not “if.” We are only a small developed economy supported by a comparatively small population. Taxpayers cannot afford to bail out Australian banks. Hard evidence from consumer files demonstrates the criminal nature of these activities. Industry engineered frauds can no longer be ‘passed off’ as a mere ‘wrongdoing.’

“Some of the activity we found in these investigations as immoral and impossible to prosecute because it had been endorsed by the banks and the regulators. The Banks and Lenders formally agreed (as a Cartel) to pay brokers more via a “yield spread premium,” to convince a borrower to take on a higher interest subprime loan. In other words, lenders were paying brokers to steer unsuspecting borrowers into more expensive loans they had a less chance of being able to pay.” “the worse the mortgage was for the borrower, the more profitable for everyone else.”⁶

Professor Fiona Haines from The University of Melbourne explains: “regulators have long struggled with a classification scheme — by its very nature it is designed to exist in the shadows of the corporate world.”⁷

The Australian Securities and Investment Commission (“ASIC”) have managed to decriminalise the very activity that our Parliamentary Legislators classified as criminal intent featuring intention to deceive. One of the many transgressions in this debacle became the exemptions from law to Bankers for amortisation calculators in 2005.

The activities we have uncovered are deserving of charges being laid for criminal negligence.

⁶ Barofsky, Neil. (2010) p.15

⁷ Professor Haines, Fiona (2014)

Globally, unaffordable, unsustainable, unverified loans were considered the world over to be the bi-product of “sub-standard lending practices,” “and labelled as “subprime loans.” Australian lenders have cleverly managed to hide this insidious Ponzi Financing Scandal and cleverly named its product “Low Docs.” Sellers assured the customers, these loans were ordinary mortgages, “requiring less documentation, no deposit and, were cheaper.”

Australian Consumer Protection is non-existent in Australia and has been woeful elsewhere given the list of casualties and homelessness. “Our Wild West system of consumer protection was a national disgrace.”⁸

In fact, the statements made by the teachers of the sellers in a chain of command, from the CEO’s top-down were false in every detail. Low Doc Mortgages were intended by the Lenders to implode within five years. On average, people start to realise they have been lied to by the bankers after two - three years. The Banks merely “assist” their customers’ dilemma with additional offers of debt known as Buffers, Splits, LOCs and Top Up Loans, further increasing the overall debt. Major Banks increased profits considerably by using teaser rates. These are the most expensive loans generally used by businesses for short term borrowing. Australian victims of this scam, had no idea these “30-year loans were *interest only* and could never ever be paid off. Years ago, these high cost yet legitimate products were offered as one year ‘bridging’ loans.” Homeownership was a cruel misnomer. Profit before people became a major part of the dark culture at the very top of the banking sector, due to de-regulation.

These hideous products became the Banking Cartel’s favourite ‘milking cow’: bleeding the asset dry. The Australian Securities and Investment Commission has acknowledged that fact, behind closed doors and, on more than one occasion.

Yet, as in the USA, ASIC is suggesting the manufacture and marketing of intended toxic financial products are merely a case of “a civil wrong-doing and harmless marketing.”

Consumers depend upon the expected integrity and effective running of our corporate regulator. The proof of the regulators’ failure to protect consumers is contained in the original 2003 CCLS Report and the 2005 ATO report on Lenders and Loan Fraud and repeated in every loan file written since the late nineties.

Considering the consequences of damage to the economy, the erroneous classification by ASIC continues to be the greatest wrong-doing to consumers ever recorded in Australian history.

Due to the massive losses of minimum estimates of \$197 billion, as in loss of home, dignity and complete destruction of financial wellbeing, a classification of ‘criminal neglect’ should now be placed on the shoulders of every executive responsible for that prolonged negligence.

The Punishment must fit the crime, but the crime must be investigated thoroughly to enable punishment to be meted out to the offender. Fairly simple really.

⁸ Geithner, Timothy F. (2014) p.134

4. Inquiry Terms of Reference

“The inconsistencies and inadequacies of current criminal, civil and administrative penalties for corporate and financial misconduct, and/or blatant white-collar crime.”

BFCSA would like to make mention that the Terms of Reference for this inquiry are limiting the potential for important discovery if we are seriously to explore the critical issue of white collar crime in the Banking Sector.

Our contribution to the narrative can only be based on the evidence we have uncovered during the past 15 years of Low Doc Mortgage Fraud, Ponzi Scams and Ponzi Financing and, the existence of Banking Cartel activity. The primary crime in question is one of “asset stripping.”

The secondary, but equally abhorrent crime is that of APRA’s regulatory sustained neglect in reporting these activities to Treasury and, failure to reign in the Lenders.

On behalf of BFCSA members, our own recommendations are based on heavy custodial sentences as strong deterrents for the future. We collectively seek the most appropriate penalties to match the magnitude of damage to people’s lives, the homelessness, and the stress of financial loss. It is time to get serious for the sake of future generations in terms of housing and general financial stability.

As in any great scandal, it is the promoters who become very wealthy indeed. Everyone else loses, including the “sellers.” We all know that as being a fact.

Answering the Inquiry’s Terms of Reference:

b) The use and duration of custodial sentences.....	12
c) The use and duration of banning orders.....	13
d) The value of fine and other monetary penalties, particularly in proportion to the amount of wrongful gains.....	15
e) The availability and use of mechanisms to recover wrongful gains...	17
f) Penalties used in other countries, particularly members of the Organisation for Economic Co-operation and Development [OECD]....	18
g) Any other relevant matters.....	20

We respectfully ask the members of the Economics Committee, after 19 prelim inquiries, for which we are grateful for the work of the Senators to date, to now consider a recommendation of a Royal Commission into Banking and Finance Sector.

b) The use and duration of custodial sentences

“Civil penalties for white-collar offences are just not strong enough.”⁹

White Collar Criminals are driven by greed, power, lust for money and their own 10-star retirement plan. Success and profits at all cost, demonstrate a culture whereby there can easily breed a culture of no respect for laws. The problem emerges in the regulatory classification on what are essential white collar criminal activities. The crimes uncovered by BFCSA are, in law classified as *criminal*.

A major difficulty in identification of major crime in the banking sector is the continual suggestion by regulators, that Cartel activities be treated as “civil misconduct.”

The crimes referred to are of such magnitude as to shake the foundations of our economic stability. We are facing the well recorded: “Too Big to Fail” syndrome. Desire to be good corporate citizen is defeated by huge criminal gains and leads directly to a Cartel activity designed to steal assets and income from the poor. This activity on a large scale, impedes competition.

Purely motivated by greed the white collar criminal emerges, gathers other like-minded players together, displaying a willingness to step over the line, and take full advantage of slack enforcement policy.

There have been no prosecutions of lenders in recent memory. The only deterrent for power players is a custodial sentence. If we stopped all sub-prime selling today, the implosion timer is set for five years and Lenders will continue to profit from fraud for a further 5 years. To consider delay in action taken is criminal negligence in the sense of the knowledge and concealment of crime.

In the public interest and with the clear intention to stop these activities, we believe 25 years with a non-parole period is a fair sentence and a significant deterrent. Given the magnitude of the criminal intent, the Cartel activity and, the staggering loss of homes, which will continue well into the future, after the last Low Doc Mortgage is sold and signed up, no lesser sentence is adequate.

BFCSA Members also recommend 20 years with a non-parole period for regulatory executives found guilty of criminal neglect. In order to full expose all facets of this scandal, strong legislation is required to protect insider whistle-blowers after the complaint is raised. In the interest of Consumer Protection whistle-blowers must to be granted full immunity from prosecution.

⁹ Medcraft, Gregory. (2014)

c) The use and duration of banning orders:

Banning Orders: ASIC's third duty is to keep confidence and trust in the market place.

Our research shows there is only a potential 3% dishonest sellers which occurs in many industries. BFCSA shows Brokers have been targeted unfairly over the compulsory use of the bank computerised secret calculators. This particular issue has to be investigated by a Royal Commissioner to give industry members a chance to defend their own position against the dishonest Lenders.

The power of such an Inquiry will then deliver a chance for seller's and borrowers to bring in their evidence of concern to Parliament, as collective whistle-blowers. Too often crucial witnesses' voices are left unheard. Royal Commissions, providing the motives are pure, tend to open up the true extent of the problem, explored earlier by Senate and PJC Inquiries.

"Advising "on financial products requires explicit confidence and trust from the consumer. We have seen banning orders placed on some persons that ought to have been given life-ban given the losses re financial advice. However, these are in the minority.

The Financial Licencing system gives credibility that has not necessarily been earned if licensed planners and brokers are banned and then permitted to continue working in the industry. Confidence and trust is therefore lost when new clientele are unaware of previous problems. When dealing with members of the public, in matters relating to financial well-being there must be impeccable honesty and integrity. However, we must take care not to have lenders or regulators target those who are attempting to '*blow the whistle*' as we have seen in the past. A Report on Low Doc Lending 2003, wrongly defines the culprit as the sellers. No mention is made of the amortisation calculator or, of any investigation as to the lenders acting as a Cartel, yet the Cartel activity was well underway at this point. Those who would lose from this activity were sellers and borrowers. Those who made obscene personal bonuses from creation of the fraudulent product were the manufacturers and engineers of the product: the members of the Cartel.

ASIC clearly understands what fraud is:

"Fraud means an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage."

http://download.asic.gov.au/media/1337558/Finance_mortgagebrokers_report.pdf

The lenders are the culprits. For over a decade, both APRA and ASIC have been engaged in casting blame for mortgage scandals and other Ponzi Schemes onto anyone other than those whom they know to be directly responsible for these activities.

There is a level of deception on the part of the Regulator to portray the financial services industry as the culprit in terms of Planners and Brokers. Care needs to be taken here. Our main concern is the behaviour of Elite Lenders and not the sellers of product. It is the Lenders

who approved 'tick-a-box' bad loans: unaffordable and unverified loans. Elite Lenders developed the amortisation calculator for sellers to use "projected incomes," as a compulsory tool. Bank Officers instructed each of the sellers, suggesting "bank lawyers" had approved this system.

The same lawyers then drew up the contracts and post them to the agents. We have seen contracts breach laws (criminal conduct) in terms of "parental guarantee loans." These victims were not told they had strong legal remedies against the banks.

The regulators once again, buried several hundreds of these complaints. We have a large number of similar examples, mostly involving the major banks.

The diminishing of legal criteria by Lenders, in terms of consumer protection in exchange for greed and profit, is a devilish scam within a scandal and is singularly deserving of a Royal Commission. The only people privy to how all the pieces fitted together to reveal the criminal intent were the close-knit members of the Cartel.....until now.

Every 'bit-player' in this industry was simply following orders from the top, in the chain of command. I have to personally admit to being staggered by the length and breadth of these activities without the left hand crew, knowing what the right hand crew were doing.

Concealment of truth was vital for the biggest heist this nation has ever experienced to be successful. I believe the Cartel did not expect things to go on for as long as they did. That is precisely how we reach the 'Two Big to Fail,' scenario.

Banning Orders should not be used when dealing with criminal intent. If they are used in relation to sellers, then the number of years should match the magnitude of the individual case loss.

Executives who face custodial sentences should receive a LIFE BAN from re-entering the banking and finance industry.

d) The value of fine and other monetary penalties, particularly in proportion to the amount of wrongful gains;

The major point here is a fine for the wealthy is mere 'pocket money discipline' and not appropriate when dealing with white collar crime. As above, mere fines are inadequate and never serve as a proper deterrent for the determined and serious white collar criminal.

Fines can only every be an attachment to a custodial sentence. In fact, a fine for those earning \$5-10 million per year are an incentive to engineer even more diabolical and financially poisonous products in the future. Fines for spruikers onwards, with threats of further action, did not deter most of them as we saw many familiar faces reinvent themselves under a new banner, with regulators then suggesting we "wait until there are more victims; in the full knowledge there would be."

In terms of Lenders earning \$10 million per year, the fines are hopelessly inadequate. Institutions can be fined \$10 million for generating \$8 billion per year in toxic products.

The value of fines, and/or compensatory provisions are not in line with the tragic loss and damage we see every day in the mortgage scams and associated bank scandals.

Victim Impact Statements should be published on regulators' websites and on the websites of the perpetrators as a reminder to the public that the system of banking and finance indeed offers very poor consumer protection. Until this specific industry is cleaned up, no-one of good conscience can suggest consumers are protected.

Fines collected should go towards a consumer fidelity fund to pay compensation to the aggrieved. Neither Treasury nor, ASIC can be the beneficiary of a fraud. By default, that is exactly what happens, through corporate fees and charges and then lawyers paying for searches.

ASIC tell consumers we cannot assist you: "You have a right to engage a lawyer and take the lender to court." ASIC is disingenuous in this shameful approach and know this response to be inappropriate in the extreme. It is a fact, when people are mired in debt, there are no funds left to seek legal remedy in civil action via the courts.

Since these are criminal activities ASIC ought to be mounting compensation claims. As the regulator refuses to recommend criminal cases against the Lenders to the CDDP, they cannot be trusted to act in the consumers' best interests.

Therefore, the corporate regulator cannot be trusted with the responsibility for issuing banning orders and fines connected with mortgage lending complaints.

e) The availability and use of mechanisms to recover wrongful gains;

Mechanisms to recover wrongful gains should include a Fidelity Fund to benefit complainants, as suggested in d), Funding to ensure all cases of criminal intent are dealt with in the criminal courts and from that, compensatory claims can run simultaneously. White Collar Crime is not a “civil” matter. Early detection and identification is vital. The greater the Ponzi, the greater the financial damage to the economy and corresponding consumer claims.

Annexure “E” The Loan Mortgage Insurance Scam p.71

ASIC has repeatedly shown it harbours continual bias to its approach with investigations such as white collar criminal activities and is obviously incapable of dealing with grave matters of “asset-stripping” and Ponzi Financing. ASIC has in the words of Senator Coonan in 2005: “ASIC has plenty of Powers.”

We are all aware of ASIC’S reticence to use those powers. One reason for this is the well-known legal argument of “Serving two Masters.” ASIC has responsibility for Corporations, Consumer Protection, and Market Confidence. ASIC is doing badly in all three duties, due to the fact that as a regulatory body, it has been conflicted from inception in 1998.

ASIC has its own interests at heart in defaulting to the interest of the Elite at the Big End of Town. Evidence to Parliament verified this in April 2014, by witnesses to the ASIC Inquiry.

ASIC is currently claiming it will be getting tough with major bank “rate rigging.” Consumers have not benefitted from the “will-bees.” ASIC knew of this problem, years ago. Our Banks have been cheating at every level for over two decades of mortgage fraud. Consumers ask: “whom do we trust to carry out investigations and matters of recovery in a fair, unbiased and professional manner?”

Mechanisms to recover wrongful gains have failed due to repeated examples of regulatory criminal neglect. The Senate and other arms of Federal and State Governments have had to carry out at least 19 Inquiries into banking and finance issues.

Each time ASIC has attempted to oversee compensatory objectives, after debates in Parliament brought on by consumer anger, they have failed. Regarding the losses of a well-known Spruiker in 2003, ASIC asked the promoter/developer to sign an Enforceable Undertaking to suggest he would not mislead people in the future. This instrument was entirely inappropriate, given the millions in losses.

The Director had also undertaken to pay back all students whose claims were to be met during a six-month period. At the creditors meeting which I attended, I asked the question: “is ASIC present?” The answer was no. I asked: “Did any one receive payments last year as ordered by ASIC? The answer was “not one person had their claim paid.” ASIC waited for a further five months for the companies to collapse during which time, more people were drawn into the debt trap. The big winners were the Australian bankers who facilitated the loans and funded the venues.

A major spruiker whose companies collapsed this week, had first been reported to ASIC in 2001. Consumers of that's scandal now have to jump on the ASIC "merry-go-round." ASIC waited until the natural "collapse" fifteen years after the first complaints were handed in.

ASIC have mechanisms and tools to take action to recover loss at the point of complaint, but waiting for the "natural collapse" ensures there will be little chance of recovery and in many such cases, the insurance policies had lapsed and they do not of course, cover fraud.

I have attended over 200 creditors meetings. I always asked the same questions in relation to ASIC. The answers from the liquidators were the proof of ASIC's negligence and uncaring culture.

The last time ASIC became involved in claims (under media and intense public pressure) in the Westpoint and Storm debacle, ASIC ground compensation claims down to 20% or less.

ASIC is serving two masters and is involved in a massive conflict of interest. This biased and conflicted situation cannot continue. The ultimate health of the economy is at stake. Trust and confidence in the world of finance has long been thrown over the side of the ship.

The situation of ASIC means there is no consumer confidence in the regulator, a condition that has been subject of complaint and Inquiry for 15-years.

History has shown time and again, ASIC has neither the will, nor the intelligence to take action on behalf of consumers. They are incapable of identifying wrong doing until too late, and would not be trusted in managing attempts at recovery of wrongful gains.

See Annexure "F" The Mechanics of the Banking Scandal: p.73

I ask the same question, I wrote to Government asking: "how does the constant collapse of Ponzi Financing and Ponzi Structures, known to the regulator and not known to the public, benefit the economy if citizens are left in poverty and on welfare? "Self-funded retirees, spruiked into these schemes by some very high profile former government people, were left queuing on a pension. No-one deserves this treatment.

This biased and conflicted regulatory regime has managed to decriminalise, that which Parliament deemed criminal.

BFCSA Members respectfully ask this Committee and Chairman to unanimously agree to recommend a ROYAL COMMISSION into the Banking and Finance Sector with wide TOR.

f) Penalties used in other countries, particularly members of the Organisation for Economic Co-operation and Development [OECD]; and

In the United States over 8 million citizens lost their homes due to similar toxic loan scandals. Regulators in other countries as well as the USA referred to “wrong doing.”

“White collar crime is growth industry and the Justice Department’s small fraud task forces are not an adequate weapon against it.”¹⁰

Predatory lending practices in that market were already drawing attention. But by 2005, subprime lending amounted to 20 percent of all new mortgage lending, and total outstanding subprime mortgage balances had soared to around \$1.25 Trillion. Today data is hard to find on this issue the banks use a percentage on total loan book and not on the mortgage book. Its known as ‘creative accounting’ but the allegations we are making are much more sinister. The public has a right know the EXACT percentage of subprime loans to the TOTAL Mortgage Book. Quarterly figures would be helpful. DeRegulation suggests the banks can manoeuvre figures at will. Please ask each of the major lenders to send me the raw data figures and I will work out the percentages for them.

Bank CEO’s advised Parliament in 2012 that the level of Low Docs was no greater than 10% when speaking of RMBS packs ratio’s. I believe that few Full Docs were being granted and that the truthful figure would be above the figure mentioned by Adelaide Bank Chairman in a televised interview with an economist, a decade ago 60% of the Mortgage Book and as ore likely as high as 80%.

In 2013, asked Treasury where their bank data figures came.....answer APRA. I rang APRA with same question: answer the Banks. There is no oversight. APRA is suggesting 43 percent of loans are subprime. After 15 years of studying these activities the true figure could well be as high as 80%.

Only those who have studied the actual case files of borrowers, independent of the regulators, and conducted detailed surveys would understand how grave this situation is.

A few Elites, including former personnel, may find themselves in contempt of Parliament.

The lesson learned is to take the lead from Iceland, who conducted a thorough criminal investigation into the Bankers who were responsible for causing distress and market chaos. Nine were jailed as criminals in 2012. Icelanders did not view White Collar Crimes as being a mere wrongdoing. Iceland has led the way on dealing with global banking crime.

Australians should be following that lead with excellent assessments by experts and tough penalties for high powered white collar crimes.

¹⁰ Pizzo, S, Fricker, M, Muolo, P. (1989) p.319

g) Any other relevant matters

We are asking that the Economics Committee and this Inquiry into White Collar Crime to be understanding of the ramifications of wide spread looting in the banking sector. The reason we continue to ask that a recommendation be forthcoming for a long overdue Royal Commission into the Banking and Finance Sector, is because that is the next step. I am deeply grateful for the effort of all the Senators in granting all of these Inquiries but now for the sake of the economy, it's time to move this very serious issue into a much broader arena.

The Major Bank driven promotion of unaffordable, unverified and fraudulent Low Doc mortgages is a monstrous crime and cannot be passed off as a wrong doing. Any competent criminal lawyer will explain that without enforcement of law we can expect a continuation of more of the same losses. Ponzi Financing always ends in horrific collapse.

Enforcement is important as a deterrent, rather than consumer protection laws continually lying dormant on dusty regulatory shelves.

ASIC and APRA have been criticised time and again for failure to recommend significant bundles of consumer cases to the CDDP for criminal charges to be laid against the Lenders.

A Royal Commission will give consumers a chance to seek the truth and fulfil their objectives: -

- Restitution for those who have lost their homes.
- The truth to be aired in public and all vaults be opened for files to be examined.
- Exposure of the Banking Cartel activities.
- Justice for the aggrieved dating back to 1998 in the form of compensation and to experience justice being seen to be done via the criminal courts.
- Custodial sentences of long durations of 25 years' non-parole for convicted white collar criminals to show Australians that its Government will not tolerate White Collar Crime.
- Demonstrate a get tough approach on White Collar Crime by creating a new Federal Consumer Protection Agency.
- Restore confidence and trust in the Banking System by having these issues thoroughly examined by a Royal Commissioner with high level of integrity.
- Aim for young people to enter the market and purchase their first home for themselves to live in and raise families and become the new generation of the backbone of this nation.

In 1996 the Federal Treasurer suggested the new ASIC would be the best "Consumer Protection Agency in the World." I am once again informing this Committee the agency has been a dismal failure for consumers. Consumers need to have confidence and trust in the enforcement of law, to have confidence in the market place. The perpetrators need to fear the law, to remove temptation that greed brings with it.

5. Penalty Recommendations

The narrative must be changed from “*wrong doing*” to what is clearly known as “*criminal activity*” inside our banking and finance system.

Fraud is a crime featuring a key element: ‘*intention to deceive.*’ Legislative provisions are already in place for the nation to protect its citizens. However, laws collecting dust, and little nor no enforcement of law in the white collar sector produces widespread lawlessness.

“If our BFCSA members robbed a bank, all units would ensure prosecutions took place: they would be handcuffed and thrown over the bonnet of a car and handcuffed, all on the same day and end up on the nightly news.”

Penalties need to reflect the wishes of citizens and to match the magnitude of the crime with the magnitude of the losses over all states reflecting the nations outrage at fraudulent Cartel gangs. Non enforcement of law for the Elites is not an option. Iceland adopted that approach and Australians would want the same for its peace of mind.

Without punishment there is no incentive to play with a straight bat.

25 years’ non-parole for any or each of the following activities: -

- a) Engineering of a faulty financial product to intentionally place in the market place, promoted as safe and secure financial strategies.
- b) Member of a Cartel – adopting the agreed processes and collectively conspiring to avoid detection as to criminal activity. Acting in unison in order to commit fraud.
- c) Encouraging “sellers” of financial products/ and strategies to target vulnerable older persons to further advantage and enhance the profits of the engineers and manufacturers.
- d) Engaging in white collar criminal activities that promote wide range cheating.
- e) Promotion of financial strategies likely to cause life changing risk to current financial well-being of the consumer.
- f) Failure to protect consumers, by engaging in in criminal behaviour such as “asset-lending- stripping”.
- g) Intense lobbying by Banking sector consulted on their views as to what is best for Consumers.
- h) Offering donations to Political Parties.

- i) Bankers individual failure to respect consumer’s safety within the full meaning of “lending with integrity.”

In Addition:

- j) Custodial Penalties should automatically permit compensatory remedies and must represent twice the amount of the losses to allow for pain and suffering and stress over many years.
- k) The intention to deceive is clearly established as a key feature of establishing fraud has taken place and investigations by the Australian Federal Police must be mandatory rather than the selective system we have at the moment.
- l) That a proper Australian Consumer Protection Agency be established and funded by Government, with levies placed on the banking industry in order to have the agency properly funded.
- m) That no APRA, ASIC or banking, finance “friendlies” be appointed to the newly established ACPA Board.

6 Ponzi Financing: Intention to Deceive

Bank response letters written by legal counsel and sent to BFCSA describe some of the key elements listed in Annexure "A" as: "standard industry practice." I ask the Committee member to read the six Annexures for summaries of those key elements. Alarming, regulators and lenders are too quick to conveniently and intentionally throw blame on to the sellers and borrowers. The evidence exists in hundreds of client files that Bank CEO's have systemically been profiting from a massive Control Fraud run by the 17 members of the Banking Cartel. The evidence we have amassed shows clearly: Lenders were the mastermind.

A Ponzi is generally defined as robbing one person to pay another and stems from the exploits of American/Sicilian career criminal and banker Charles Ponzi. Yet these scams have been around for hundreds of years across many civilisations.

"The ability to construct what are in effect Ponzi Schemes is limited by the need to persuade potential 'customers' of the legitimacy of the enterprise and the 'security' of their investments." ¹¹

The Australian Cartel devised a Ponzi Financing scam whereby lenders rob the borrowers of their 'only' asset, their debt free home, using an improbable 'specifically engineered financial strategy.' Cartel Members pay massive bonuses into their own pockets.

By lending further debt to the intended victim with 'Top-ups and Lines of Credit ("LOCs"),' lenders can post huge profits for the bank. Essentially, this type of Control Fraud is based upon the elites preying upon those with one home as an asset and living on low incomes.

"We are still in the middle of a massive scheme. The first phase is over. The Governments bailed out the banks. Main Street paid for Wall Street excesses. But that does not mean the scheme is dead and finished with. It means that the public sector chose to swallow the private sector's debts. The debts are still there. The bad assets are still there. The same corrupt incentives are still in place. The same degree of profiteering. The same blindness to risk. The same astonishing tolerance for ever-increasing debt. Things are worse, much worse because of the Ponzi schemes merry-go-round nature. New people providing the influx of funds, to pay out other people, but with each cycle you need more people. Eventually, you run out of people." ¹²

FOS argues the LOCs used to mask the unaffordability of the loan are not covered under consumer protection. Banks are using a so-called loophole to conduct a crime. Yet fraud is covered in law, as is misleading, deceptive and unconscionable conduct. FOS fails to follow the lead of the courts and fails to apply the Bankers Code of Conduct, as evidenced in the hundreds of Determinations we have read.

Profits from these frauds appear to have escalated every year for 21 years. The first Low Doc Mortgages were launched around the mid-late nineties. Borrowers are paying mortgage

¹¹ Calivita, Pontell, Tillman. (1997) p.173

¹² Feierstein, Mitch (2012) p.8

payments with the bank's own money with additional debts and fees added to the consumer's mortgage account.

"No need to incite panic.....as long as they can entice more money into the market, the problem is resolved. Classic Ponzi." ¹³

The Low Doc Mortgage Lending scam ensures the lenders will take control of multi major assets within five years or less. Each asset stolen has been identified as a family home that people have worked 25 years to obtain.

Ponzi Financing is designed to separate ordinary home owners from their assets and is also known in criminal law as "asset stripping."

For example: An older couple who own their own home and are debt free are approached to make life a little easier than life on a pension. With suggestions of 'make the equity in your home work for you' a financial strategy is built around the purchase of a second property. An unaffordable, unverified mortgage is approved (despite a very low income) by using the security over an "investment" unit, and the borrower's own home. The investment property suggested is generally found to be over valued by \$100,000. (This practice ensure \$100k is stolen immediately) The Lender will then explain the mortgage is a Low Doc 30-year loan, but the borrower has no idea this is INTEREST ONLY. Nor are the borrowers told the loan will implode under the heavy weight of extreme costs and charges.

The borrower is immediately trapped into the cycle of the mortgage. There is no way out. The only exit is for the borrower to hand over the keys to the home he/she once owned and also the investment property, and in addition due to high cost, victims are left homeless with a minimum of \$100,000 debt.

The Lenders have snared control of the asset and covertly intend to strip them of this asset within 5 years. This is the example of a quintessential Control Fraud involving the finance, insurance, construction and real estate industries, known as the FIRE sector. The big beneficiaries of the asset-strip are the lenders, the construction industry and the property developers who are money-spinning clients of the Banks. The loan mortgage Insurers are banking on mortgage fraud being present to avoid payment of claims. Their 2001 policies suggest "if fraud present on the Loan Applications no claim will be payable." Insurance companies were aware of this fraudulent set up 15 years ago.

Evidence also exists of Banks underwriting their own loan mortgage insurances around 2008/9.

See Annexure "E" on Loan Mortgage Insurance Scam p. 72

Victims of Loan Fraud unwittingly become homeless after four – five years. Ponzi Financing produces economic side effects such as massive Property Bubbles in causing downward pressure on the wealth of the nation in economic terms. The only winners are Governments and those acting inside a Cartel, controlling the wealth by the use of a Control Fraud. The fraudulent process in 2000 is identical to the loans being approved to this very day. "Policy

¹³ Lewis, Michael. (2011) p.185

makers have not simply failed to learn from experience and been condemned to repeat financial crises, they made the world far more criminogenic. The incentives they created through Deregulation, De-supervision and de facto Decriminalization proved so perverse that they increased the epidemic of accounting control fraud.”¹⁴

On 8th August 2012, I warned the Senate of the toxicity in the AOFM’s investments of \$24 billion worth of taxpayer owned Residential Mortgage Backed Securities (“RMBS”) packs and suggesting “the Government cannot profit from a fraud.”

Ponzi Financing Scams are intentional acts and therefore the borrower files collectively provide compelling evidence of widespread criminal activity run by major lenders.

We have seen this all before: Big powerful Institutions covering up criminal activity in order to protect the Institution and its “image.” As in the United States and the 2008 GFC, the Australian Banking Industry image is likely to be tarnished. To do nothing just compounds the end damage. Our nation could take a decade or more to recover from the fall-out.

“Federal Reserve and Treasury were among the principle reasons such a tremendous number of toxic mortgages existed in the first place. Millions of people lost their homes.”¹⁵

Do we need to follow the American experience right to the doorstep of collapse? “Outsized home mortgages are 20% greater than the C. National Debt which exceeds \$16 Trillion.”¹⁶

In 2011, certain lenders asked broker/sellers to destroy the original LAFs. In 2014, FOS suggested to the Senate that Lenders were claiming “documents were missing.” The existence of the Ponzi Structure driven by the key members of the Cartel is evident over several years with all bad behaviour being carried out at the same time, as collectively adopted policy and procedures. If there was one rogue bank it would make more sense.

“If Bankers try to boost returns by selling worthless assets and phoney products, they need to be fired and probably prosecuted, and ideally have past bonus payments clawed back. Planet Ponzi is only three decades old. We start with Government.”¹⁷

“Predatory lending practices in that market were already drawing attention. But by 2005, subprime lending amounted to 20 percent of all new mortgage lending, and total outstanding subprime mortgage balances had soared to around \$1.25 Trillion.”¹⁸

In Australia, predatory lending practices were noted by me in 2001, ASIC obviously had the power and funds to observe the bizarre products, yet we are still waiting for some keen observers to suggest we have massive problems ahead of us. The Ponzi has been permitted to run on for over 15 years. Lender’s fear the thought of one million mortgagors, asking for a copy of their “hidden” 11-page Loan Application Form and the attached Service Calculator.

¹⁴ Prof. Black, William K. (2010) p.270

¹⁵ Howard, Timothy (2014) p.10

¹⁶ Howard, Timothy (2014) p.11

¹⁷ Feierstein, Mitch (2012) p.304

¹⁸ Blinder, Alan S. (2013) p.58

7. Control Fraud

“William K Black. Professor of economics and law at the University of Missouri-Kansas City, detailed the fraud committed by Savings and Loans management and helped clean up the industry. Black later developed the concept of Control Fraud whereby executives use the institution they manage as a mechanism to commit fraud.”¹⁹

The Australian Banking Scandal in fraudulent unaffordable and unverified interest only mortgages are precisely the description applied to Professor Black’s model of Control Fraud.

LF Economics have referred to Black’s work in relation to Ponzi Financing in Australia, in their previous submissions to Parliament.

BFCSA members have experienced first-hand, the “disturbing patterns” of collective Bad Bank behaviour involving a vast array of white collar crimes. They have sent detailed submissions to Parliament in past Inquiries. Our collective investigations along with extensive documentary evidence from member files, show an alarming nationwide crime scene.

A \$150 million Royal Commission into all facets of bad banking activity, cause by self-regulated policy, is entirely justifiable given the allegations of a \$300 billion fraud in Low Doc scandals that affects both our national economy and property markets.

“The Big Banks want a one-way ticket. They’ll take the bonuses when times are good but they want us to swallow the losses when their risky deals blow up.”²⁰

Control Frauds are being used by Elites in the banking sector as a grab for assets. Paul Egan and Philip Soos identified the use of lending as a mechanism essential to a control fraud in their book Bubble Economics (2014).

“According to the four-part strategy detailed by Black, it appears control fraud is present within Australia’s banking system. The mortgage loan book has rapidly grown over the last two decades, indicated by the exponential rise in the mortgage debt to GDP ratio. The big four have employed extreme leverage, especially against the residential loan book and have minimal loss reserves. Less data is known about the scale of predatory lending in the mortgage market.”²¹

The activities (attached in “A”) can no longer be justified or classified as “wrong doing.” Asset lending is a criminal offence. Fraud is captured by the Criminal Code in each Australian State. Section 25.1 of the Australian Bankers Code of Conduct was aimed at preventing unaffordable mortgage approvals. Yet neither FOS nor ASIC bothered to enforce the Code.

“With little capital of their own at stake, those who handle other people’s money in the casino society truly operate in a criminogenic environment.”²²

¹⁹ Egan, Paul D. and Soos, Philip. (2014) p. 645

²⁰ Cloutier, C. R. (2009) p. 70

²¹ Egan, Paul D. and Soos, Philip. (2014) p. 645

²² Calivita, Pontell, Tillman. (1997) p.172

Several pieces of legislation have been designed to protect consumers from just such perverse activities. Civil cases won by borrowers against the lenders have been heard by most Australian Supreme Courts and all the way through to the High Court of Australia. The civil precedent has been set but never instigated, nor funded by the regulator. Bankers were not simply lowering lending standards to a grave level of risk to borrowers, they conspired to collectively use deception to understate risks and the interest only component of the loan.

“Down-payment requirements were the first to go. Traditionally banks had required that borrowers put 20% of the property price down to secure a mortgage loan. History showed that the more money, or equity, borrowers had in their homes, the less likely they would be to default on their mortgages.” “Fannie Mae was a keen architect of the 1992 legislation (lowering standards) with mortgage lenders far more likely to buy riskier loans.”²³

The playing field is not even. Australian Banks record rising profits every year and no losses: a key feature of a Control Fraud in existence. Deregulation breeds bad behaviour and chaos, in the long run. Lenders and financiers are playing Russian roulette with Mum and Dad’s money and assets. The Government then suggests it has no plans for a Royal Commission, despite the magnitude of the losses; no oversight of the free-for-all Ponzi structures and wealth creation promoters. No policing of Banks and no policing of regulatory conflicts of interests is necessary?

“The mega banks used political power to obtain their license to gamble with other people’s money: taking that licence away requires confronting that power head-on. It requires a decision that the economic and political power of the new financial oligarchy is dangerous to both economic prosperity and to the democracy that is supposed to ensure the government polices serve the greater good of society.”²⁴

What has been noticeably absent are criminal actions against the manufacturers and engineers of these fraudulent mortgage loan products.

“The Big Banks want a one-way ticket. They’ll take the bonuses when times are good but they want us to swallow the losses when their risky deals blow up. Banks pay their sellers for short term results, even though the products on offer carry long term ramifications that can and do effect the entire nation.”²⁵

Not only are these loans wiping out the financial wellbeing for so many Australian homeowners whose lives are being torn apart by the stress of this scandal. Those affected are then made homeless in less than five years. The obvious lack of criminal action due to regulatory neglect, has seen the Elite members of the Banking Cartel continue to run these ‘profitable’ Control Frauds and at the same time profit handsomely from their crimes.

²³ Morgenson, Gretchen. Rosner, Joshua. (2011) p.26

²⁴ Johnson, Simon. Kwak, James. (2010) p.221

²⁵ Cloutier, C. R. (2009) p. 70

8. Banking Cartel

The Australian Lender Cartel have created massive property bubbles, causing real concern for professional economists. All Australians should make this problem their concern as it will not only affect all citizens but also future generations to come.

See Annexure “B” Model of Deceit -LAFs p. 66

See Annexure “C” Mechanics of Entrapment – Calculator Program p.67

By definition: A Cartel is a group of companies, countries or other entities that agree to work together to influence market prices by controlling the production and sale of a particular product.²⁶

Low Doc and No Doc loans were not designed with consumer safety in mind. These products were deliberately designed for sellers to target (“ARIPs”) labelled by bankers in Australia as ‘asset rich and income poor.’ Those identified as the ARIP target market are found to be pensioners or low income families aged 55 and above. Some are almost at the end of their working life and many others have already retired from the workforce.

“The ‘global savings glut’ produced more people looking for safe and secure places to put money, than there were safe secure places to put it.”²⁷

There is a presence of NINJA lending in Australia but in the minority. We have also found worrisome instances of JUMBO Loans (Loans to people whose incomes are less than \$50,000 and yet are encouraged to become developers and borrow \$2 million. Two years later these loans top \$3 million.

Lenders ensured payments were being made from further debt. Jumbo Loans commonly made to inexperienced and intentionally created ‘novice developers.’ These super loans inevitably lead to bankruptcy and grief.

Charlie Ledley: “I think there is something fundamentally scary with our democracy. People have a sense the system is rigged and it’s hard to argue with that.” “Banks somehow had conned the rating agencies into blessing piles of crappy loans and this has enabled the lending of trillions of dollars to ordinary Americans.”²⁸

The clear sign posts of the existence of the toxic lending system did not play out in the courts as refinancing scams became an amazing way to hide the criminal aspects of the Ponzi Financing for nearly two decades. Defaults or Credit Impairments are hidden in a variety of ways by the Cartel. In doing so the statistics remain low and give Treasury wrong assumption re the serviceability of these loans and that includes the Bond Holders.

“A deregulated market awash in liquidity and low interest rates, a global real estate bubble, and sky-rocketing subprime lending were a toxic combination.”²⁹

²⁶ www.investinganswers.com

²⁷ Irwin, Neil (2013) p. 102

²⁸ Lewis, Michael. (2011) p.242

²⁹ Stiglitz, Joseph E. (2010) p.1

“Even if predatory behaviour wasn’t the main cause of the crisis, even if some toxic products were sold without a full understanding of their toxicity, ordinary Americans deserved more protection from predatory behaviour and toxic products.”³⁰

“If we take our definition of organised crime, that is premeditated, motivated by personal gain, organized by networks, continuous and facilitated by the participation of public officials, then the corporate actors did engage in organised crime.”³¹

The Ombudsmen complaint handling services have also played their part in hiding the criminality of these loans.

Banks paid \$34 million per years for this cover-up process to continue. Control Fraud mechanisms leapt from every page viewed, yet time and again our Australian Parliamentarians have been deceived, whilst the lenders demonised borrowers, sellers and advocates willing to speak out and dig even deeper. Bankers have consistently blamed everyone but themselves and then raked in obscene profits and bonuses.

“Fraudulent lenders produce guaranteed, exceptional short term ‘profits’ through a four-part strategy: extreme growth (Ponzi-like), lending to uncreditworthy borrowers, extreme leverage, and minimal loss reserves. These ‘exceptional profits’ render ‘private market discipline’ perverse, often defeat regulatory restrictions, and allow CEO to convert firm assets to his personal benefit through seemingly normal compensation mechanisms. Fraudulent CEO’s that follow this strategy are guaranteed to obtain extraordinary income while minimizing the risks of detection and prosecution. Each element of the strategy dramatically increases the eventual loss. The record ‘profits allow the fraud to continue and grow rapidly for years which is devastating because the institution grows by making bad loans.”³²

These revelations are not merely the words of BFCSA members, these are words on a Global Tragedy that has invaded the most powerful nations in the world, rendering hard working homeowner citizens as the new homeless. We all enjoyed a type of protection from evil bankers 1933 – 1983 and to 1986 in Australia. Globally adopted banking regulations strengthened post the 1929 Great Depression, thanks to the genius of American Senators Messrs. Glass and Steagall. Then along came the cowboy De-regulators. From the moment self-regulation entered into each democratic zone, we all slide helter skelter back to the world of Buyer Beware.

No-one was spared the grief to follow: - NINJA’s, ARIPS, Innovative Novice Developers (“IND’s”) farmers and other small businesses.

“Bankers decoupled the profits from risky consequences: Profits by making loans to a borrower that could never be repaid. From then on ‘boom and bust’ was inevitable. Homeowners never had a chance.”³³

³⁰ Geithner, Timothy F. (2014) p.393

³¹ Calivita, Pontell, Tillman. (1997) p.173

³² Prof. Black, William K. (2013)

³³ Howard, Timothy. (2014) p.16

“Hundreds of billions of dollars of high risk mortgages over the previous five years are unlikely to be repaid. Most should never have been approved.”³⁴

America led the way for de-regulation of the banks after bowing to extreme lobbying by the banking sector in the early 80’s, ignoring the history lessons of just who caused the 1929 Wall Street crash with the Great Depression spilling into Australia and other nations. For 50 years, those who remembered those terrible years through the 30’s and beyond, never trusted Bankers again. The following generation also failed to trust the banking system.

“Mortgages with teaser rates (temporarily low rates that explode a couple of years later) and balloon payments (loans that had to be refinanced in five years) were particularly advantageous to the lenders. They entailed repeated refinancing. At each refinancing with the borrower facing a new set of fees, the lender has a new set of profits.”³⁵

By neglectful conduct ASIC decriminalised that which the Government had defined as criminal conduct. Laws were in place yet remained on dusty regulatory shelves and therefore became impotent.

Australia criminalised the practice of Cartel conduct in 2009 on the back of strong encouragement from US regulatory authorities. Cartel conduct is the anti-competitive practice of collusion and cooperation between companies to fix prices and manipulate a market. The practice typically involves price fixing, bid rigging and organised market sharing.

While the criminality of cartel conduct will be aimed at those at the corporate level, as yet, there have been scarce convictions under the law. The most extreme penalties for individuals involved in cartel conduct involve to 10 years in jail and/or fines of up to \$340,000 per criminal cartel offence.³⁶ Policy Makers ensured Consumers were left on their own and at the mercy of the notoriously untrustworthy banking fraternity. In 2001, I conducted an interview in Brisbane whereby I warned: “There is no consumer protection in Australia at this moment in time.”

“The seeds of disaster had been planted years earlier with such measures as: deregulation of the banks in the 1990’s: the push to increase home ownership, which encouraged lax mortgage standards, historically low interest rates, which created a liquidity bubble: and the system of Wall Street compensation that rewarded short term risk taking. They all came together to create the storm”³⁷

³⁴ Howard, Timothy. (2014) p.16

³⁵ Stiglitz, Joseph E. (2010) p.85

³⁶ : nicholas.whigham@news.com.au

³⁷ Sorkin, Andrew Ross. (2009) p.534

9 Consumers, Borrower and Seller Activism

The economy becomes infected with widespread Criminal Cartel movement when a vast network of cheating by Cartels, can become so powerful as to operate a Control Fraud.

The Cartels use this very mechanism to gain political power and thereby control Governments. I do not attempt to be an economist, nor an academic. I am a good researcher and am a professional criminologist, specialising in white collar crime. I am an educated woman and know how it feels to be a struggling single Mum and Nanna. I have devoted 25 years of my life to assisting consumers and won awards for my efforts. The integrity of my work was never in question.

Yet in encouraging consumers to speak out, the banks and regulators have been forced to account on occasions. Consumers can see the battle lines immediately being drawn by the regulators after years of turning their backs on consumer complaint. Yes, hundreds have lost their homes in the past few years, yet we have managed to keep many families in their homes for over four years with no payments made and then we have negotiated very different settlements to that which the Financial Ombudsman had been suggesting.

Over 400 homes have been saved. Banks try to bully consumers with confidentiality clauses. These clauses are worthless if used to cover up crime. Consumers have rights and powers and in large numbers they are extremely powerful.

Aggrieved customers are extremely timid during the first year and their grief is of loss, and bitterly felt. Eventually these feelings wear off and anger takes its place. Truth then has a delicious way of bubbling to the surface, despite the objects thrown in its path by the Control Fraud Leaders.

Some of the new complainants only signed their '30' year loans 12 months ago. They had no idea of the Low Doc Scandal or the immediate danger they now face. The so called new NCCP laws are pure farce and another 'smoke screen.' The loans are still being promoted and sold due to non-enforcement of law.

ASIC and APRA still permit these toxic products to be sold despite the known detriment to the financial well-being of consumers. There is an obvious inequality of knowledge regarding financial products and the level of their intended toxicity.

"In a simpler world, the adage 'caveat emptor' (buyer beware) might have been appropriate, but not in today's complex world. A regulatory agency for financial products is needed to prevent not just fraud but also abusive, deceptive and inappropriate products."³⁸

In my 25 years of advocacy work, I have never experienced the level of denials in Parliament as has been the case during the past decade. I had won awards in the property market three decades ago and had a healthy interest in the rise and fall of the property a market and a keen eye for white collar crime. I have simply used my gifts to make life a little easier for others by

³⁸ Stiglitz, Joseph E. (2012) p.192

utilising collectivism skills to gather people together and study their documentation. I do not pretend to have all the answers.

I am constantly focused on the big picture. To those who ask: why would I do this? I have no answer other than I was lucky enough to have decent parents who taught me right from wrong. People need help and that's what I do.

In perspective, I have often made the point in face to face meetings with ASIC Commissioners, Directors and Deputies and Ombudsmen: *"This is not my job."* Yet all the provided evidence I suspect, was buried the moment I left the building. The regulatory denials and excuses are quite extraordinary.

I sat in great sadness at the ASIC Inquiry hearings, waiting to be called to the stand. Over 100 members attended as they did in Canberra two years earlier, and on previous occasions. I noted the full bench of ASIC luminaries, including the Chairman and Deputy. I added up the salaries in my head, for taxpayers to support these seven men, amounted to over \$4 million.

Friends had pointed out the fact that after paying these people for ten years, \$40 million had been spent, yet not one shred of evidence of the existence of the Cartel, the Control Fraud and the devastating consequences of systemic mortgage fraud have been mentioned.

For over a shameful decade, ASIC has spent an approximate \$5 billion on preening itself and certainly achieved the best protection for bankers.

Sadly, there will be copycats, spivs, infiltrators and opportunists who jump on the consumer bandwagon, but my consumers are well informed and should not be underestimated.

"When Elizabeth Warren explained her theory of consumer protection to me, she made the correct observation that banks did not and could not make money on loans that consumers had no hope of repaying. The lack of financial prosecutions combined with the revival of financial profits have contributed to the belief that nothing has changed, that if anything the system is more dangerous."³⁹

Australian consumer victims of white collar crimes are receiving an extraordinarily cruel and unexpected and first-hand education on the workings of Government. Politics, Technology, Economics and Finance should be the four major things taught in High Schools. Only 5 percent of the population go on to tertiary education.

"The longer we delay in dealing with the underlying problems, the longer it will be before the world returns to robust growth."⁴⁰

Knowledge of these markets does not make me an expert on the economic fall-out which is around the corner. However, my experience tells me we are in for a financial Tsunami. Fifteen years ago, after reading countless non-fiction books on white collar crime and Ponzi crimes, I broadened my outlook by speaking with several economists and lawyers and few

³⁹ Geithner, Timothy F. (2014) p.504

⁴⁰ Stiglitz, Joseph E. (2010) p.25

had similar concerns. I asked L F Economics: “how will this affect the economy?” It is the Government that should be asking those questions.

L F Economics are the fore-runners of predicting what is in store for all Australians, including the shareholders of Banks, only 20% of whom have any idea what is about to occur in their lifetime. Why is that so? They have spent years watching what is going on, and focused on the borrowers.

“When you face a battle together with dignity, the truth will come out.” Member (anon.)

10. Property Bubbles and Market Chaos

Of recent times, LF Economics: Lindsay David and Philip Soos, started taking an interest in the evidence I had been bringing to Parliament for a number of years. It is their work that should be of paramount importance in understanding the damaging effects of a Control Fraud.

The property market is driven by Major Banks forming a Cartel of a minimum of 17 Lenders to create the false impression of competition. Developer clientele and distressed construction entrepreneurs who require a steady stream of “teams” employed. Normal ebbs and flows of the property market are seen to be in need of control to enjoy prosperity for all.

“In designing new financial products, appearance and associations not only matter, but are fundamental.”⁴¹

De-regulation destroys protective mechanisms that prevent property bubbles from forming. A ‘controlled fraud’ in a deregulated market is a recipe for economical disasters, due to the fact Bankers and Partners are in control of the nation-state.

“I wish I was on an island where everyone is equal and I alone was supreme.”⁴²

Free Market thinkers, have in fact caused the series of Global Crisis, all propelled by Control Fraud idealism and greed, run by non-elected barons, and manipulating the banking, finance and property Markets. These people are not acting in the best interests of the nation, but rather, harbour dark self-interested desires. The funds handed over by these elites as political donations is staggering on an annual basis. The spoils of banker vs consumer warfare.

“The understandable sense of disappointment and unease that so many Americans feel about their economic future has been accentuated by an acute sense of resentment and outrage about the rising fortunes of the wealthiest few.”⁴³

The 2014 book ‘Bubble Economics’ written by Paul D Egan and Philip Soos, provide a telling warning of chaos from a ‘creeping plutonomy’:

“Political and regulatory reticence to act on allegations of widespread lending fraud is a scathing indictment on the state of modern democracy. The creeping plutonomy is “further” leveraging its political influence to cement an untouchables financier status that pardons criminal activity. Regulatory capture has led government-appointed guardians refusing to take substantive action against the banking and finance sector offenders. Indeed, some Senators have expressed alarm about alleged systemic fraud and are calling for a Royal Commission to investigate the actions of the lenders and brokers.”⁴⁴

“Government agencies regulators and EDRs (ASIC, APRA, ATO, RBA, Treasury, FOS and CIO) have extensive political, economic and legal power to investigate the workings of the banking system and financial markets. Executive public employees with tax payer funded salaries of

⁴¹ Shiller, Robert. J. (2003) p.13

⁴² Anonymous

⁴³ Geithner, Timothy F. (2014) p.502

⁴⁴ Egan, Paul D. and Soos, Philip. (2014) p.647 - 648

over half a million dollars could wield their immense power and influence to carry out an extensive examination of the alleged fraud, but none appear to be willing to tackle the banking and finance sector heavyweights.” “The failure to conduct an investigation to date leads one to question why these organisations are funded if serious allegations of white collar crime, backed by thousands of evidentiary documents, are not taken seriously?”⁴⁵

There is chaos and economic fall-out is on its way: “Institutional investors stopped lending securities to one another.”⁴⁶ “It became impossible to refinance because house prices fell, unemployment set in, or banks had no money to lend.”⁴⁷

Words of wisdom from Former US Bank Board Chairman, Professor William K Black:

“The accounting Control Fraud optimization strategy hyper inflates and extends the life of the financial bubbles which cause extreme financial crises. The factors that that make a finance sector most criminogenic are the absence of affective regulation and the ability to invest in assets that lack a readily verifiable asset value. Unless those initial frauds are dealt with effectively by the regulators or prosecutors they will produce record profits and other firms will mimic them. When many firms follow the same optimization strategy in the same financial field, a financial bubble will arise, extend and hyper-inflate. The rapid rise in values allows the frauds to hide the real losses by refinancing the bad loans. Mega Bubbles can produce financial crisis.”⁴⁸

Black developed the concept of control fraud, whereby executives use the institution they manage as a mechanism to commit fraud.

The Elites running the Control Frauds in Australia are paid approximately \$10 million per year and are driven by these excessive salaries and particularly bonus structures of reward. Experts clearly understand the motivational drivers and, the inevitable fall-out from rampant white collar crime side-effects, that will cause damage to our national economy.

Stirred on by predatory lending practices, the packaging and repackaging of toxic derivatives, stemming from initial mass unsustainable mortgage lending, assures the market the property bubble will burst. The big question is ‘when?’.

“If many individuals had to sell their homes at the same time, say, because of a jump in unemployment, this would drive down house prices and burst the bubble.” There was no way out.”⁴⁹ Joseph E Stiglitz (2015) gives us a stellar insight into the concerns we speak of in: “Looking back on the Boom and bust cycles and the Great Depression”⁵⁰

Australia has never had the Glass-Steagall standard applied to our banking legislation. Our nation's previous banking protections was deregulated in 1983 and opened up to incredibly

⁴⁵ Egan, Paul D. and Soos, Philip. (2014) p.640

⁴⁶ Howard, Timothy. (2014) p.4

⁴⁷ Howard, Timothy. (2014) p.30

⁴⁸ Prof. Black, William K. (2013)

⁴⁹ Stiglitz, Joseph E. (2010) p.87

⁵⁰ Stiglitz, Joseph E. (2015) p.388

bad banking behaviour. Australia needs the Glass-Steagall standard. Consumers are calling out for re-regulation of the banking system.

These financial products of Interest Only Loans should be removed from sale immediately due to their known toxicity levels creating financial ruin for the buyer. Had this product been a faulty car that killed and maimed its occupants, it would have suffered immediate recall and removed from sale, the moment of discovery of the design fault.

Financially chaotic products must be removed from sale. If intention to deceive is found, then the engineers and manufacturers must be prosecuted.

“As we have seen, political fraud accompanied and made possible financial fraud... deregulation set the stage for the S & L disaster but also in shielding the offenders from regulatory scrutiny.”⁵¹ “The nation state not only failed to avert the crisis, it was complicitous in establishing the conditions in which it developed and in shielding thrift offenders from detection.”⁵²

No lessons learned from Americans suffering the 1981 - 1989 Savings and Loans debacle? When fast forward to Feierstein in 2012:

“The Senate Committee 635-page Report, (13 April, 2011) Chairman, Senator Carl Levin commented: “The report discloses how financial firms took advantage of their clients and investors, how credit rating agencies assigned AAA credit ratings to high risk securities, and how regulators sat on their hands, instead of reigning in the unsafe and unsound practices all around them. Rampant conflicts of interests are the threads that run through every chapter of this sordid story.”⁵³ NB: some 5800 documents were released with this report.

Australia has the knowledge of these disasters from many countries around the Globe. Our Government told the world we do not have a problem in Banking. Are we serious? Had victims lost their homes in a flood or fire, emergency services would have immediately swung into action. The only action that victims of banking cartels have seen is three porters cracking their knuckles at the entrance to the Major Banks. There has been no offers of counselling or assistance in dealing with the emotional stress.

“They were a deregulation-minded bunch of regulators who probably also got swept up in the euphoria of the day. Where did the bank regulators go so wrong? Their exceedingly permissive attitudes toward sub-prime lending. That grew even more inexplicable as more time passed.”⁵⁴

That bring BFCSA Members to question other members in other Countries. New Zealanders asked me to come over and assist them. In 2009, I travelled to New Zealand, gathered consumer/borrowers together and victims of MIS schemes run by developer clients of the Major Australian Banks in a series of nine meetings. We travelled to many towns and cities, meeting over 3000 victims. I had already discovered by then; the entire Ponzi Financing was

⁵¹ Calivita, Pontell, Tillman. (1997) p.174

⁵² Calivita, Pontell, Tillman. (1997) p.177

⁵³ Feierstein, Mitch (2012) p.171

⁵⁴ Blinder, Alan S. (2013) p.58

of the Bankers' making. I then came back to Auckland and spoke with sellers of this product and was astonished by what they told me, in terms of their training and instruction and the use of some type of computer program relating to incomes. One seller had resigned in disgust.

"Early in the housing bubble, it became clear that banks were engaged in not only reckless lending – so reckless it would endanger the entire economic system – but also in predatory lending, taking advantage of the least educated and financially unsophisticated in our society by selling them costly mortgages and hiding details of the fees in the fine print incomprehensible to most people."⁵⁵

Australia, had been attempting to say we had strict controls when we knew otherwise and the most profitable banks. For 21-years profits and risen outstandingly and with no declines.

In 2010, I started to receive calls not just from Australian consumers, but also Ireland, UK, America, and what a surprise: No LAF had been received at signing, only three pages presented and the other 8 or so pages added on ins secret without their knowledge or authority. Long lists of discrepancies and similar gasps of horror. Scotland Yard had already suggested publicly in 2012: "The bankers must have used gallons of white-out."

These loan files from other countries were all unverified, unsustainable and unaffordable. Australian spruikers were engaged to trawl the corridors of swish venues to entice people to use savings in unworthy Ponzi Schemes in Australia. Banks were involved of course with distressed developments and gleaned steady traffic of fresh Ex Pat consumers from Thailand, Hong Kong, Singapore, Malaysia and Britain. No surprises there. LM Investments collapsed and more consumers were demanding answers, particularly those who had been enticed by Australian lenders to borrow "investment" funds. The Australian Property Bubble became an Burst Bubble waiting to happen.

We are seriously heading into a Too Big to Fail Moral Hazard territory.....and at the same time our regulators are still tiptoeing through the tulips.

"Related to the theory that size caused the crisis, was the theory that moral hazard caused the crisis, that too-big-to-fail banks too on so much risk because they knew the Government would bail them out if they got into trouble."⁵⁶

"Moral hazard and too-big-to-fail assume that because of the protection of deposit insurance or the implicit promise of bail-out, due to the bank's size, banks take risks they would not otherwise. This extra risk taking is not often assumed to make the financial system more fragile or even to cause crisis."⁵⁷

⁵⁵ Stiglitz, Joseph E. (2012) p.191

⁵⁶ Geithner, Timothy F. (2014) p.392

⁵⁷ Gorton, Gary B. (2012) p.134

“Not only is there widespread agreement, that several financial institutions are ‘too big to fail’ but that this is not good for the financial system as a whole.”⁵⁸ “The best defence against a massive financial crisis is a popular consensus that too big to fail is too big to exist.”⁵⁹

Additional international phone calls and emails flooded in. Meanwhile I questioned: who are the buyers of our crappy Residential Mortgage Backed Securities – a complete misnomer? That is a story and challenge for the future. Who purchased these products in September 2012 and onwards?

“It was the interconnectedness amongst the nation’s financial institutions, buying mountains of mortgage backed assets from one another, that posed the biggest threat of all. Every bank was now dependant on the others, if one fell it would become a series of falling dominoes.”⁶⁰

“As (a banker) I think about the financial crisis and the events that led up to it, I cannot help but shake my head over the role of the Securities and Exchange Commission. Never has one agency done so little to protect so many from so few.”⁶¹

Armed with a bundle of borrower case files and investment files, I met with an Inspector from the Serious Fraud Office and handed over my research. I also met with then Minister of Consumer Protection. I conducted widespread media interviews warning the public of scams within the banking and finance sector and how they were identical to the Australian Models. The same discrepancies re Loan Application Fraud were everywhere. The same bank driven model was in full use with lenders specifically targeting ARIPS.

Yet the warnings post GFC were already being written, and ignored:

“Sometimes consequences of mistaken policies are not realised for years. It took a decade before the full implications of financial sector deregulation in the eighties, was felt in the United States.”⁶²

“I emphasize that the possible *systemic effects* are much more important than the loss of home values in a potential collapse of the real estate market. But if the rate of output in the economy fails, that is a real loss and not just a paper one.”⁶³

“At the height of the housing bubble, banks were eager to make home loans to nearly anyone capable of signing on the dotted line.” A month later they were given a Line of Credit to pay the first payment with. “Naturally home prices skyrocketed.”⁶⁴

“There have been repeated instances of such predatory lending giving rise to housing bubbles. It’s one of the reasons for regulation. Regulations serve many purposes. One is to stop the banks from exploiting the poor and vulnerable.”⁶⁵

⁵⁸ Johnson, Simon. Kwak, James. (2010) p.203

⁵⁹ Johnson, Simon. Kwak, James. (2010) p.221

⁶⁰ Sorkin, Andrew Ross. (2009) p.5

⁶¹ Cloutier, C. R. (2009) p. 57

⁶² Stiglitz, Joseph E. (2003) p.238

⁶³ Shiller, Robert J. (2008) p.105

⁶⁴ Sorkin, Andrew Ross. (2009) p.4

⁶⁵ Stiglitz, Joseph E. (2010) p.80

Feierstein likened the bankers to “Giants were unicycling on clifftops.” “June 2011, recovery rating agencies would place the Republic of Greece, birthplace of democracy, below Enron in the rankings of the bankrupt.”⁶⁶

Even when the home is lost the Banker Predators move in to fleece the last few dollars from their captured borrower victims: “Servicers also earn fees on foreclosures: when a home is sold in foreclosure, the servicers are typically paid all their fees and advance expenses before the owners of the mortgages get any of the proceeds from sale.”⁶⁷

No country has been left unaffected by these bank driven crimes. Yet we wish to call the activities as being ‘misdemeanours.’ Very profitable accidents of timing? Due to the fact those running the Control Frauds, profited enormously from bubble economics and had no conscience about stealing homes from elderly persons or financially crippling for life, the first home buyer market, the game plays on in Australia. Permitting Bankers to run amok with Control Frauds whilst handing out strategic donations from these titans is sheer madness.

“The conventional wisdom was that the financial crisis spelled the end of an era of excessive risk-taking and fabulous profits. Instead, we can now see that the largest most powerful banks came out of the crisis even larger and more powerful.”⁶⁸

I cannot see Australians taking this lying down. So many more homeowners will now suffer the bubble bursting, the downturn in the property markets and the average Aussie Castle will be worth less than the mortgage by up to \$100,000 or more. In fact, that is already the case according to our members in all states of Australia.

⁶⁶ Feierstein, Mitch (2012) p.213

⁶⁷ Barofsky, Neil. (2010) p.125

⁶⁸ Johnson, Simon. Kwak, James. (2010) p.203

11. Regulators, DeRegulation and Decriminalisation

In 2014, under pressure from yet another Senate Inquiry, ASIC Commissioners were compelled to face an Inquiry into ASIC. Senators had had enough of tricky answers from the hierarchy of ASIC. The Senators had a barrage of serious questions to ask the Chairman of Australian Securities and Investment Commission ("ASIC"), Mr Greg Medcraft, who is also Chairman of the International Order of Security Chiefs ("IOSCO") and former head of Banque Societe Generale.

ASIC justifiably copped mainstream media criticism. "At recent Senate and parliamentary committee inquiries the corporate regulator was accused of being too slow to act against dodgy financial planners, of lacking transparency and being too trusting of big business."

Mr Medcraft admitted ASIC had made mistakes, but said its capacity to investigate and pursue corrupt 'financial advisers' had been curtailed by a lack of resources. He continually fails to mention action against the manufacturers of faulty financial products, Lenders. He vowed to be more transparent about ASIC's enforcement actions and said the regulator would *"not be captive to the big end of town."*⁶⁹

The Chairman has acknowledged the role of the Big End of Town. The irony being, of course, ASIC is still captive to the activities of the Cartel. ASIC blame Government re the Lenders and deregulation. As the Chairman gave his evidence, his "evidence" did nothing for consumers who filled the room, and could only gasp in horror. I attended as a witness. It was as if all these aggrieved people who had travelled hundreds of miles to be there, did not exist. They were simply shadows on the walls.

Mr Medcraft admitted to the press: "This is a bit of a paradise, Australia, for white collar."⁷⁰ He retracted his quote a few days later. White Collar Crime: Now you see it now you don't?" Are the victims left with "peek-a-boo" regulatory oversight? Heavily criticised by aggrieved consumers, once again, Mr Medcraft admitted: -

"You have to lift the fear and suppress the greed," he said. "The thing that scares white-collar criminals is going to jail and that's what scares them everywhere in the world."⁷¹

For once the Consumers agreed with that quote and called for jail-time for lenders. This was backed by renewed pleadings to the Senate for a Royal Commission into the entire Banking Sector. The million-dollar man was doing his best. The problem is that ASIC has used the old: "not enough resources" line for every time they are under fire, since 1998. And, they are regularly ordered to attend Parliament House for another grilling.

Then the Chairman of ASIC suggested: "The penalties, particularly civil penalties, in Australia for white-collar offences are basically not strong enough, not tough enough. All you're doing is giving them a slap on the wrist [and] that is not deterring people."⁷²

⁶⁹ Medcraft, Gregory (2014)

⁷⁰ Medcraft, Gregory (2014)

⁷¹ Medcraft, Gregory (2014)

⁷² Medcraft, Gregory (2014)

The former CFO of Fannie Mae, Timothy Howard (2014) explains: -

“Banking regulators ignored these risks.” “Lenders were powerful enemies of allies to the Federal Treasury.”⁷³ “Regulators permitted full control of the largest credit market in the world.”⁷⁴

ASIC has been handing out fines and banning orders to the sellers. It’s merely a token effort, having no effect on the engineers of the Ponzi Financing who set up a cunningly computerised loan approval system. Chairman Medcraft knew ‘the dodgy seller story’ used by ASIC in 2003, to be mere window dressing. ASIC wanted consumers to blame the brokers and thereby protect the lenders. Yet Mr Medcraft has admitted the loans have been “verified by a computer for over a decade,” and that all loans in Australia are “approved by a computer.”

In other words, all loans are unverified and unaffordable. Brokers have long explained that BDM’s have advised: “no loans are rejected.” These words from over 40 sellers I have spoken to show the general concept of marketing within the mortgage lending system.

“As for the regulators, particularly the Federal Reserve, they had more or less abandoned any semblance of consumer protection during this time period and looked the other way at reporting instances of predatory lending.”⁷⁵

Over 2000 bank emails to the broker channel over 5 years’ period, we gathered from a private source showing “target older persons,” “good news, you can now do ABN’s for a day, no GST, no calculator, no income, etc.” These policy guidelines reflected the lowering of standards.” ASIC have known of this for years, but suggested: “it’s just marketing.” The plan has been for the lenders to be able to divide and conquer consumers by keeping sellers and borrowers apart, the sellers were also isolated as they rarely met each other except for say a small office environment.

“One of the greatest tragedies of the financial crisis is that bank regulators could have slammed the door on some of the more outrageous banking practices, but didn’t.”⁷⁶

Sellers had no idea of the mechanics of the scam, nor did they know the ramifications of home loss. Often they too were the buyers of the product and suffered the same fate. Then they call me.

“Did the regulators really believe that subprime mortgage lending could expand that rapidly without deterioration of quality?” More importantly, none of the banking regulators, not even the quartet as a whole, saw the complete sorry picture for what it was.”⁷⁷

⁷³ Howard, Timothy (2014) p.14

⁷⁴ Howard, Timothy (2014) p.12

⁷⁵ Barofsky, Neil. (2010) p.15

⁷⁶ Blinder, Alan S. (2013) p.58

⁷⁷ Blinder, Alan S. (2013) p.59

“Those in favour of deregulation in 1999, maintained their positions in face of criticism that they had let the fox into the hen house.”⁷⁸

The bankers’ worst nightmare was to have borrowers and brokers joining hands, and trading camp-fire stories. Deregulation is affectively no regulation and brings the nation into a 1960’s zone of buyer beware.

“There was another area where our weak and disjointed regulatory system, riddled with gaps and evasion opportunities, cried out for reform.” “The financial cops weren’t authorized to patrol the system’s worst neighbourhoods, and they weren’t aggressive enough about using the authority they had.”⁷⁹

ASIC’s inaction in 2003, in relation to Low Doc lending, demonstrated ASIC’s willingness to blame the sellers, in the full knowledge that bank officers wrote the greater number of these loans at that time (55%). Regulators have had ample opportunity to expose these practices but favoured protecting the very Institutions involved in the crime scene.

“In 2003, the SEC was definitely still asleep, allowing Wall Street to career forward, unchecked, unregulated and now unaccountable. Wall Street hoped the SEC would stay asleep.”⁸⁰

ASIC continued to assist with the criminal cover-up and ignored specific complaint files delivered to ASIC from almost 260 BFCSA Members in June 2012. ASIC told Parliament it was dealing with “18 complaints” regarding bank fraud, in August 2012.

“People know there is something wrong with the system but very few can put their finger on what the problem is.”⁸¹

I asked all consumer members (regarding bank sandals) to send letters to the Australian Prudential Regulation Authority (“APRA”). All of those letters were answered with further identical brush off responses. APRA and ASIC played ping-pong with consumer concerns and collectively those letters to both regulators ought to have sent signals to Treasury that Low Docs had already become our version of sub-prime lending with future GFC potential for property market and economic disasters.

“Sometimes consequences of mistaken policies are not realised for years. It took a decade before the full implications of financial sector deregulation in the eighties, was felt in the United States.”⁸²

Some consumers received no reply: “Denise, I wrote to Dr John Laker AO Chairman APRA on 25th October 2012. My complaint against NAB: [1] Application form filled in with someone else's handwriting. [2] Actual income overstated [3] Value of assets overstated. I Never

⁷⁸ Geisst, Charles R. (2005) p.274

⁷⁹ Geithner, Timothy F. (2014) p.394

⁸⁰ McDonald, Lawrence G., Robinson, Patrick. (2009) p.162:

⁸¹ Smith, G. (2012) p.250

⁸² Stiglitz, Joseph E. (2003) p.238

received a reply. I have acknowledgement from Australia Post that APRA collected our letter on the 31st. October, 2012. *Regards, Spencer M.*

Others say: I sent a letter to APRA in 2012 to Dr Laker, re fraud on our LAFs and loan unaffordable. I received a response containing a whole lot of hogwash about "secrecy provisions" contained in their ACT of 1998 and gave me the brush off. Why the secrecy if it's a crime? *Cheers Kerrie.*

It seems everyone in the hierarchy of banking was profiting from a fraud, including the Government. The mortgage backed security ratings needed to be seriously investigated as these bells started ringing in 2001, and then RMBS stories in 2009. In 2005, stories emerged of Low Doc disaster stories in main stream media. FOS were receiving loan complaints back in 2001. APRA and ASIC remained uncommitted to anything other than platitudes as Hansard reflects. In 2012, Major bank CEO's suggested there was "only" a 10% presence of sub-prime loans in the RMBS derivatives. Few believed that nonsense. Fraud appeared in the rubbery statistics, confusing all government agencies who had failed to examine these conflicted figures.

"The ratings agencies, today best known for their role in calling F-rated mortgages, A-rated securities also had a hand in sustaining fraudulent lending practices." ⁸³

We have seen unacceptable practices in relation to credit cards, the rate rigging scandals, the subprime mortgage scandals, the managed investments and shocking financial advice scandals, suggesting retirees could no longer trust their bank.

"Collectively the banks had managed to move 38% of the entire US stock market now traded in their dark pools and this is how they had done it. It's a façade that the market is interconnected. The big Wall Street banks wanted to trade their orders (exploit their orders) inside their own dark pools to boost the volumes in those pools, for appearances sake." ⁸⁴

Then came the derivatives scandals. More pain was on the way via products known as CDO's.

"Some of the profits were given back to the public but often the major impression was the market raiding tactics were acts of collusion, designed to outwit the smaller investors at every turn." ⁸⁵ "In 2007, Goldman continued to generate fees underwriting and selling mortgage-related securities at the same time the firm had made the corporate decision to hedge its bets and 'get closer to home.'" ⁸⁶

The collusion was obvious in the movement of these products: "No hard evidence of what these things were worth, so they were worth whatever Goldman Sachs and J P Morgan said they were worth." ⁸⁷ "Goldman Sachs happens to be warehousing a lot of this risk. They talk as if nothing has been seen in the mortgage pools." "Goldman Sachs happens to be

⁸³ Stiglitz, Joseph E. (2012) p.192

⁸⁴ Lewis, Michael. (2014) p.224

⁸⁵ Geisst, Charles R. (1997) p.6

⁸⁶ Cohan, William D. (2011) p.529

⁸⁷ Lewis, Michael. (2011) p.185

warehousing a lot of this risk. They talk as if nothing has been seen in the mortgage pools.”

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Banks did not even trust each other, as the bank scandal pile has reached new heights.

Whenever exotic financial products hit the financial markets, bankers made money, customers lost their homes and any savings. Far worse, the criminal gouging extended to leaving their victims initially coerced into borrowing more debt to keep the Ponzi Financing going longer, and then suffering extraordinary further painful loss, with lenders leaving the crime scene with an average \$100,000 debt.

“The Flash Order scandal: high frequency traders being allowed by the exchanges to see other people’s orders before anyone else, without any obligation to trade against them.”⁸⁹

“Often the (lender) executives used inflated appraisals to justify approval of even larger loans and justify bigger bonuses.”⁹⁰

“The move in LIBOR meant only one thing: banks no longer trusted each other in quite the same way. Countrywide was a shadow bank with \$300 billion worth of mortgages out there, and a lot of it subprime.....almost one in four mortgages was delinquent.”⁹¹

THE CDO and MBS SCANDALS:

In 2005, Wall Street came up with a new-fangled investment to keep the profit machinery turning. The creation of collateralised debt obligations as a sort of secret refuse heap for toxic mortgages created even more demand for bad loans from wanton lenders. CDO’s prolonged the mania, amplifying the losses that investors would suffer and ballooning the amounts of taxpayer’s money that would be required to rescue companies like Citigroup and AIG.”⁹²

“The housing disaster had knock-on effects at home and abroad. Through a process called securitization, the mortgages had been sliced and diced, packaged and re-packaged, and passed on to all manner of banks and investment funds around the country.”⁹³

” Kansas was home for the first blue-sky law, passed in 1911. A State bank commissioner first realised that many worthless securities were being sold in the state. The laws prevented promoters from selling worthless securities or capitalising the blue sky.”⁹⁴

“In October 2007, Merrill Lynch announced \$7.9 billion in mortgage-related losses, the largest write down in Wall Street losses. The bulk of Merrill’s losses came from “collateralised debt obligations, piles of mortgage-backed securities “where the income streams had been sliced

⁸⁸ Lewis, Michael. (2011) p.185

⁸⁹ Lewis, Michael. (2014) p. 111

⁹⁰ Pizzo, S, Fricker, M, Muolo, P. (1989) p.29

⁹¹ McDonald, Lawrence G., Robinson, Patrick. (2009) p.259

⁹² Morgenson, Gretchen. Rosner, Joshua. (2011) p.278

⁹³ Stiglitz, Joseph E. (2010) p.76

⁹⁴ Geisst, Charles R. (2005) p.55

up and repackaged into smaller stream known as ‘tranches.’ Merrill was a leading manufacturer of CDO’s and had made billions selling them to investors around the world.”⁹⁵

“Standards and Poor’s estimated a mere 0.12 percent chance that one of its AAA-rated CDO’s would fail to pay out over five years.” “The actual default rate was more like 28 percent; more than 200 times higher than S & P had predicted.” “The CDO’s perceived safety was based upon flawed assumptions, starting with the notion that housing prices would never fall simultaneously across the country.”⁹⁶

“CDO’s were often spliced together from geographically diverse piles of subprime mortgages, which was supposed to mitigate the effects of a housing slump in any one region.”⁹⁷

“Even if predatory behaviour wasn’t the main cause of the crisis, even if some toxic products were sold without a full understanding of their toxicity, ordinary Americans deserved more protection from predatory behaviour and toxic products.”⁹⁸

“AIG had operations in almost every corner of the world economy; the part of the company that now threatened to bring the whole thing down-was its financial products division.”⁹⁹

“In 2006, CDO production reached \$225 billion (up from \$50 billion in 2003). Since a record 20 percent of mortgages that year were subprime, the underlying asset quality was deteriorating even as the price was rising.”¹⁰⁰

Bankruptcies for low income people have been emerging for some time now. Bankers were able to hide the defaults via Deed arrangements, and hold back the potential bankruptcies. The Banking Cartel’s control levers could no longer manipulate the market by using multi plugged holes in the dam for too much longer.

The inhumanity of these crimes – stealing homes and life savings – cannot go unpunished.

The regulatory cover-up cannot go unpunished.

There is also evidence of the RMBS scams and now we ask: who were the buyers? These large overseas investors will not be amused.

ASIC Commissioners claimed in meetings with me, they have no power over bankers as the banks enjoy a self-regulated industry.

“The corporate executives who helped bring on the recession-went on to receive massive bonuses.” “Lax enforcement has been a godsend to the top one percent. The top one percent take in 25% of the national income.”¹⁰¹

⁹⁵ Geithner, Timothy F. (2014) p.133

⁹⁶ Geithner, Timothy F. (2014) p.134

⁹⁷ Geithner, Timothy F. (2014) p.134

⁹⁸ Geithner, Timothy F. (2014) p.393

⁹⁹ Irwin, Neil (2013) p.145

¹⁰⁰ Lowenstein: Roger (2010) p.55

¹⁰¹ Stiglitz, Joseph E. (2015) p.89

How does the rich getting richer and the poor getting poorer (due to high powered and concealed stealth), assist our Nation?

De Regulation appears to be the magnificent excuse to: “carry on, as you were boys.” Consumers have been doomed to exploitation for thirty years. The only ones making wealth, were those who created the Ponzi. Everyone else lost, including bank staff who were then dispensed with.

Lenders recently sent “approval processing overseas.” Mortgage approvals have been “tick-a-box” credit assessed and computerised for over 15 years. We can only assume the gate was left open, lenders have now bolted and thousands of Australian jobs went out the window.

“In 2006, CDO production reached \$225 billion (up from \$50 billion in 2003). Since a record 20 percent of mortgages that year were subprime, the underlying asset quality was deteriorating even as the price was rising.”¹⁰²

“In some states there were attempts to stop predatory lending. And in each of these instances banks used all their political muscle to stop states from enacting laws aimed at curtailing predatory lending.”¹⁰³

ASIC and APRA have displayed no appetite for warning consumers of the known dangers of homelessness and ruin. Even if they occasionally put a brief on their website it does not contain the sorts of detail you read in my reports. In any case consumers are still buying these products and that is a huge danger to the economy.

“There is plenty of blame to be shared in this crisis- we have seen the role that regulators and legislators, the Federal Reserve and the financiers, have all played.” Free market exponents and the economists, as disciples of Friedman, “failed in their basic tasks of prediction and forecasting.”¹⁰⁴

ASIC and APRA deflect “frequently asked questions” from consumers and we are still waiting for appropriate answers. So the endless Parliamentary Inquiries take place, whilst the bank scandal appears daily in the media. The setting is akin to” the *Emperor has no clothes.*”

By adopting this process of blaming sellers and handing out fines to very few people, has been a professionally created charade. The cries for help has recently slowed down the number of loans approved by the 17 members of the Banking Cartel, but only by 20%. ASIC have never denied the existence of these lending issues. They fully understand the model but see it as someone else’s problem and responsibility, not that of the regulator.

Conflict of interest and apathy are the biggest obstructions to genuine Consumer Protection.

“Glass-Steagall is a story of conflicts of interests gone out of control. These problems are endemic to the banking industry and have long been recognized.”¹⁰⁵

¹⁰² Lowenstein: Roger (2010) p.55

¹⁰³ Stiglitz, Joseph E. (2012) p.192

¹⁰⁴ Stiglitz, Joseph E. (2010) p.239

¹⁰⁵ Stiglitz, Joseph E. (2003) p.158

These power-players in regulation are the first to warn their own parents and family not to speak with bank funded property spruikers. ASIC simply collects data, yet no hard statistics on the number of Low Doc loans and the likely loss per loan at the end of the five-year cycle of these 30-year interest only loans which are the most expensive in the world and the public knew them to be “bridging loans.” Yet the clever Lender Cartel repackaged these loans to look like 30-year mortgages that were a lower (teaser) rate and lower payments as they lasted 30-years not 20-years. Few were told these loans were Interest Only. Most consumers had no idea they would never ever pay the loan off. Neither did many sellers.

Sub-prime mortgages relied upon mass trickery. The prize for the bankers of the Cartel was possession of a mass market of homes that were owned and unencumbered with debt. Laws re “asset-stripping” were not being enforced. Older persons as homeowners, were left in danger for two decades and are still in predatory danger of homelessness.

“In the subprime crisis mortgage borrowers accepted contracts put forward to them by those whom they consider experts.”¹⁰⁶

Without enforcement of law, we have lawlessness on a grand banking scale, and I fail to see how that assists the economy. Parking Fines are not the answer for white collar crime as they reward the perpetrator. We strongly refute the argument that was put forward recently that people obsessed with money would hate fines. How ridiculous is that? On \$10 million per year salary a mere fine is nothing. I agree with the Chairman of ASIC on this one point: White Collar Criminals fear the shame and humiliation of Jail.

However, for an insight into the machinations of ASIC “flick” letter process, we found that ASIC repeatedly engaged in deceiving consumers.

Prior to the National Competition and Consumer Protection Act (2009), ASIC had provisions for NSW consumer protection under the “unjust provisions” of the Contract Review Act. NSW (1980). There were also many provisions in the ASIC Act 2001 regarding unconscionable conduct. The 2001 Parliamentarians believed they had unleashed new powers for ASIC and provided a raft of legislation designed to protect consumers. So what happened?

Bizarre policies were used to shirk responsibilities. ASIC gave lenders a moratorium on the new 2009 NCCP Act being dormant until mid-2010 for non-bankers and January 2011 for Major Lenders (“ADIs”). This was not in the public interest, but in the interests of Lenders.

“Some mortgages were said to have negative amortisation, that is, by the end of the year, the borrower owed more than at the beginning. But again the borrower was told whilst he might owe more money, the rise in value of the house would exceed the additional amount he owed.” “Regulators should have been suspicious of 100% mortgages, they should have been suspicious of mortgages that left the borrower increasingly in debt and those who forced him to refinance and refinance.”¹⁰⁷

¹⁰⁶ Shiller, Robert J. (2008) p.133

¹⁰⁷ Stiglitz, Joseph E. (2010) p.86

The laws remain dormant in any case. Flick letters to consumers solved the problem of ASIC investigating borrower files to see if there were “systemic issues.”

“To restore confidence in the banking system, the overarching goals of the proposal are to bring securitization under the regulatory umbrella and to provide a system of collateral production that can back repo without being so vulnerable to runs.”¹⁰⁸

By reducing the size, profits and power of the big banks will begin to restore balance to both our economy and to our political system”¹⁰⁹

I prepared reports which were ignored. ASIC investigated nothing, reported nothing to Parliament and denied when asked the seriousness of BFCSA Member evidence to Parliament. Over 160 submissions were sent to the ASIC Inquiry from the aggrieved. Yet ASIC continued to receive complaint letters from BFCSA members and addressed directly to the Chairman of ASIC Mr Greg Medcraft:

For a Flick Letter example: An ASIC letter dated 1 October, 2015 to the Chairman: -

“Unfortunately, your letter does not contain sufficient information for us to ascertain whether your concerns suggest breaches of the legislation we administer.”

“In addition, the focus of ASIC’s regulatory action must be to address systemic misconduct in the public interest, and ASIC’s role does not extend to taking action against credit providers on behalf of individuals in relation to their private disputes.”

“Should the fraudulently altered loan application documentation suggest fraudulent conduct by your broker you may wish to raise the matter with the News South Wales Police Force.”

Signed by someone from “Assessment and Intelligence.”

The letter also quotes NCCP Act 2009. Yet ASIC had powers in ASIC Act for unconscionable conduct 2001 and NSW Contract Review Act 1980 for this person in NSW and did not attempt to use them. In this case as in all others ASIC admit the consumer complaint is regarding fraudulent LAFs and, borrowers are made to believe this is the fault of the sellers. ASIC then admit to me in meetings it’s all about the Lender Engineers, the faulty Products, and the dreaded *Fudged Income Inventor*: The Bank computerised amortisation compulsory calculator formula.

“When it comes to the Financial Industry, a major fallacy exists.....that Mom and Pop are not directly affected by the antics and conflicted practices of the industry. This could not be further from the truth.” “Who ultimately loses when the Greek Government trades derivatives with Goldman Sachs or J P Morgan to cover up its debt?” “Who ultimately losses when J P Morgan misprices IPO’s and billions of dollars of retirement and savings funds are lost?”¹¹⁰

¹⁰⁸ Gorton, Gary B. (2012) p.197

¹⁰⁹ Johnson, Simon. Kwak, James. (2010) p.220

¹¹⁰ Smith, G. (2012) p.247

ASIC then recommended these people apply to the Bank Funded EDR Ombudsman's system, who use "seconded bank officers" to assist and the hapless consumers "get done over a third time." Yet time and again the public are lied to regarding a suggested Consumer Protection Policy that is in reality a "cute phrase with no substance."

Whose lives are affected when a nation stand by and 1.5 million people lose \$300 billion dollars of assets, being their own homes and savings? Mum and Dad's that's who.

"Financial arrangements can be simply cancelled or otherwise frustrated by changing governments and history suggests, that long term financial arrangements have to confront political instability."¹¹¹

"By the time the first signs of the credit crisis surfaced, it was probably already too late to prevent a crash, for by then a massive correction was inevitable."¹¹²

The persons to whom the response letter was sent is about to be thrown out of their home into the streets before Easter, and with a hatred of bankers not seen since the Great Depression.

How can ASIC see systemic issues if it cannot, or refuses to, investigate individual cases?

"The people in a position to resolve the financial crisis, were of course the very same people who had failed to foresee it: Treasury Secretary's and the Federal Chairman."¹¹³

The regulators' role in all of the cover up activity needs the powers of the Royal Commissioner to demand all documents, notes, emails, from the Regulators APRA and ASIC.

Another proposal would be to line up Bankers in Martin Place – in stocks, as the colonials did with tomato throwing and a good flogging,' amid public gallery cheering.

If we are back to buyer beware and in a half a century time-warp, we may as well, go back 100 years in dealing with white collar crimes. Fines can only be used for misdemeanours at the bottom industry level in order to stop behavioural problems of a minor nature.

Bankers in self-regulated mode, turned the financial markets into a battle zone against the best interests of hard working consumers. From 1933 – 1986 we had peace from the ravages of banker greed. Fifty years of trust and confidence was shattered in 1986 with deregulation of the banking system.

To stop criminal behaviour, ASIC have often been criticised for the use of Enforceable Undertakings ("EU's") for major criminal intent in dealing with white collar criminals. The EU was put in place merely to curb/contain a one off 'behavioural' problem without destroying a business. EU's have been openly abused by regulators for over a decade. This tool has been demonstrated to be a miserable attempt to conceal relevant facts from the public,

¹¹¹ Shiller, Robert. J. (2003) p.15

¹¹² Sorkin, Andrew Ross. (2009) p.534

¹¹³ Lewis, Michael. (2011) p.258

extending the life of white collar crime. The use of EU's for serious activity involving huge losses must stop.

"Changes (in law) do not matter as much as headlines. Headlines bring change We need honest Government, honesty on Wall Street and honesty in the media. We need transparency and regulations that bite, and accountability that's visible."¹¹⁴

¹¹⁴ Feierstein, Mitch (2012) p.304

ASIC's Core Responsibilities: are to oversee of three major areas of control: -

- 1) Corporations (Institutions) 2) Market Confidence 3) Consumer Protection.

ASIC has effectively failed on each of its core duties. Fines were too easy a penalty and too easy to manipulate. If ASIC 'parking tickets' which I complained about in submissions in 2005, were an effective deterrent, we would not now be facing economic difficulties and pointed discussions. The narrative has changed. Politics have changed: there is one thing worse than the looney left, it's the looney right and free market policy as a 'legitimate' free-for-all.

Institutions: self-regulated with no oversight. Adoption of seller channels to promote and sell volume products unfit for consumer consumption. Loss of public confidence and trust.

"We all knew standards must be dropping. When there is heavy pressure to grow, those standards always drop." ¹¹⁵

Market Confidence and Trust: Confidence and Trust is broken. ASIC is blaming everyone but themselves and erroneously turning their backs on the consequences of long term damage to the Australian economy.

Consumer Protection: ASIC openly admits it consults with "Institutions, Industry leaders and law enforcement officers." Consumers have been sending serious criminal complaints against lenders to APRA, the Australian Federal Police and ASIC. Consumers are not consulted and as I wrote in 2005, "*These regulatory agencies do not know what a consumer looks like.*" There is little or no consultation with consumers who have been brushed aside at every turn.

"Our regulatory system remains a hopelessly outmoded patchwork quilt built for another day and age. The system has not kept pace with financial innovation and needs to be fixed so that we have the capacity and the authority to respond to constantly evolving global capital markets." ¹¹⁶

"Major lenders aggressively reached across the country for borrowers in 2005. The impact of the enormous increase in lending to facilitate purchases of second homes should have rang alarm bells." ¹¹⁷

The Consultation Process excludes consumers and the support group for mortgage borrowers, leaving consumers locked out of the consultation process. Yet it is consumers who are losing huge amounts of money and assets. Consumers deserve better than ill-written and thoughtless 'buzz off letters.'

ASIC decriminalises that which Parliamentarians have set in law. ASIC have been actively permitting exemptions in law which advantage the lenders, and then disadvantage consumers with devastating consequences: Loss of home.

¹¹⁵ McDonald, Lawrence G., Robinson, Patrick. (2009) p.159

¹¹⁶ Paulson, Henry M. Jr. (2010) p.439

¹¹⁷ Morgenson, Gretchen. Rosner, Joshua. (2011) p.230

ASIC'S failure to protect consumers from the damages and losses from white collar crime in Australia has turned current financial scams and lender generated scams into a national pastime. Regulators are paid handsomely to be diligent and avoid deception by these Giants on Unicycles. If regulators with their extraordinary powers in their toolkit, suggest they were deceived then try to explain that to consumer victims who were demonised by ASIC. The regulator as suggesting publicly that *consumers needed education on better managing their money!!* How insane is that? Borrowers say it's the regulators that need the education.

On half million dollar salaries, and one million for the bloke up the top, to specifically protect consumers: How does "lets blame the borrowers" even begin to assist the economy? It's a blokey world in there. My answer in the pre PC days would be: go and have a woman's look. I think it's the year of woman? It's a cultural problem and has been since inception at both APRA and ASIC. If you are captured by the banks or government, you need to start speaking truth to Parliament for a change.

American regulators claimed they had been deceived: "In the mid 1980's Insurance Giant AIG set up several offshore entities for the purpose of reinsuring AIG and its subsidiaries. The charge is that AIG repeatedly mislead regulators about the nature of its relationship with these entities."¹¹⁸

ASIC needs to understand: "The bigger the bubbles become the more damage they do."¹¹⁹

The ASIC culture of protecting white collar criminals and placing industry interest ahead of consumers has caused chaos and financial grief to over one and a half million innocent citizens. The frustration in terms of consumers dealing with ASIC and white collar crime is obvious, as is the existence of the elephant in the room.

The nation had never before seen such a huge percentage of homes sales consist of investment properties - the figure reached 40% - a clear indication of speculative activity. This also suggested borrowers were extracting the equity they had in their primary residences and deploying it to buy other properties – a dangerous game of leverage if the property market turned downwards."¹²⁰

America in September (2008) "it's a matter of days, Ben (Bernanke) said, before there is a meltdown in the financial system. He emphasized how the financial crisis could spill onto the real economy."¹²¹

Ours is just around the corner. Why do we believe that? Unsustainable loans. These loans are like a building of straw and due to collapse under the weight of debt, which is really measured by the weight of the rivers of gold for the lenders.

¹¹⁸ Shelb, Ron. Ehrbar, Al. (2009) p.185

¹¹⁹ Feierstein, Mitch (2012) p.173

¹²⁰ Morgenson, Gretchen. Rosner, Joshua. (2011) p.230

¹²¹ Paulson, Henry M. Jr. (2010) p.259

12. Financial Ombudsman's Service

Please see: Annexure "D" The Financial Ombudsman's Service ("FOS") Pg69

With collective budgets amounting well over \$1 billion, FOS, ASIC, APRA, ACCC, AOFM, RBA, ABA and Treasury were unable to find an ounce of evidence as to the criminal activity of the Banking Cartel.

Every one of these agencies failed to protect consumers from chronic and systemic "asset-stripping" and maladministration in lending.

FOS is part of the Control Fraud: \$5000 'per investigation' fees are paid by Bankers to FOS each year, aided by former bankers and bank lawyers, with assistance from hand-picked seconded bank officers. This system has to be through examined by a Royal Commissioner. Members are appalled at the low ball offers being determined by FOS, the threats of immediate closure of files, the dragged out cases, costing consumers an extra \$60,000 per case in fees, despite findings of maladministration in lending and fraud.

Both EDR systems, known as FOS and CIO (ex COSL), are by design, a major part of the problem and certainly not the solution. We have been road testing these systems for years. The continual pattern of bias is obvious. BFCSA recommends that a fully independent review panel be set up (no bankers or ASIC genepool to be acceptable) to review every case determined back to 2001. Two years ago, the parliament was told the limit for compensation was way too low as the average loss has climbed to \$550,000. The figure of \$309,000 agreed to by the lenders has consistently been whittled away to around 10-20 percent of that figure.

These gross manipulations of the complaint handling system, we reported to Parliament years ago when uncovering and exposing the ASC debacle of handing over consumer complaints to Law Societies, where kingpins were running the grievous plot to steal assets from retirees. Members of the Elite fraudsters were running the shameful "Solicitors Mortgage Scandal." Losses were recorded as \$1.5 billion by 1999.

These neglected activities by regulators are not in the Consumers best interests and deregulation is acting as an accelerant, not a deterrent to Bank Cartel members: Consumers are once again left purposefully unprotected.

Fraudulent financial products are the profit making machines invented in the 1990's by those running the Control Frauds. The latest Low Doc Interest Only loan was sold yesterday: more work for BFCSA in 2019 when the explosion of that loan will be felt by the victims in ways they never expected.

ASIC either reported to Treasury what they found, or they chose to say nothing, but the agency and its EDRs needs to be properly investigated and assessed for conflicts.

Nicely timed for the big bash for IOSCO in Sydney in 2019, when we play host to 189 Security Chiefs, most of whom have never exposed any of these frauds. Consumers are like the elephant in the room. I doubt consumers would be invited, but Taxpayers will foot a hefty bill for ASIC and Treasury to play host.

The first step for Consumer Protection is for the Government to abolish ASIC's unworkable EDR system. It is merely working as a front for those running the Control Fraud; as experienced and dually noted by its many dissatisfied end users. ASIC and/or FOS will not permit the reviewers to speak to borrowers. It's a closed shop with a manipulative system.

UK and American reviewers of systems were also denied access to borrowers. In Australia, BFCSA has taken up that role of consumer protector.

There will be a correction and yet at what price for all citizens when our Bankers, as in other countries ask it's citizens for a bail-out, or the government quietly seeks a bail-in?

"According to the four-part strategy detailed by Black, it appears control fraud is present within Australia's banking system. The mortgage loan book has rapidly grown over the last two decades, indicated by the exponential rise in the mortgage debt to GDP ratio. The big four have employed extreme leverage, especially against the residential loan book and have minimal loss reserves. Less data is known about the scale of predatory lending in the mortgage market."¹²²

Consumer Protection is fundamental to our economy and yet is viewed as worthy of neglect. Therefore, the solution rest with consumers in a growing period of lack of confidence in trust in the banking and finance system.

¹²² Egan, Paul D. and Soos, Philip (2014) p.645

13. Damaging Effects on People, Sellers and the Economy

The problem here is the sellers are not to blame. ASIC intentionally went after the sellers, meaning they understood the model and covered up for the Banks, or perhaps thick as two planks. It's the lenders who ensured the training was nothing more than sellers taught to source a continual stream of new clientele for the bank, using minimalist effort to fill in a form, collect ID documents, calculate a secret computer generated income, and fax to the bank for approval. Credit Cards are handed out as compulsory part of the mortgage package, to mask unaffordability for the first year. The cards have instant limits of \$25,000 to use to pay the mortgage payments. That's it.... like paying a home off on steroids, but banks knew what was "best for everyone," particularly hapless borrowers and sellers.

"Borrowers who signed 110% loans, were offered \$10,000 cash backs. Teaser rates would then increase fivefold and render the loan unaffordable. People who could not pay their payments were then offered refinancing, or a credit card with a million-dollar limit. When the borrowers called to activate the card they were sold another loan to pay off the loans they already could not pay."¹²³

Sellers were not skilled in risk averse issues. The main training given by bank officers, after interviewing 42 brokers, not known to each other, was simply to "make people happy" and convince older persons to use equity from the homes to invest in property to achieve higher incomes at a future date. As new recruits they were told: "practice on your parents, friends and family first." The banker spiel was specifically to target older persons and sell strategy that this was the "best financial solution" to being a little better off in retirement. In fact, it is disastrous for consumers and only benefits the greedy lenders.

The catchphrase universally used: "do not leave dead equity in your home.... make the home work for you.... etc."

Sellers did not know each other. How do you get 11,000 personnel all using the same spiel if they have never met and do not know each other? The bankers send out regular emails to the broker channel with a dazzling array of suggestions on how to "pump up the volume."

Money corrupts: To ascertain the probability of regulatory capture an independent team assisting a Royal Commissioner should be looking for the favours handed out and should be along these lines:

"Treasury Secretary Robert Rubin resigned his post in 1999. Whilst in office he favoured dismantling of Glass Steagall. Shortly after leaving political office, he decided to join Citigroup. Consumers reported his first year receiving \$45 million in bonuses etc....." Gramm joined UBS..... others benefitted from the removal of Glass Steagall."¹²⁴

A Royal Commissioner is needed to understand the big picture. Sellers did not suspect that some of these "tutorials" were in fact breaching a number of laws, yet sellers in all states

¹²³ McDonald, Lawrence G., Robinson, Patrick. (2009) p.122

¹²⁴ Geisst, Charles R. (2005) p.270

were largely unaware of that fact. The Cartel was able to control messages via its email service.

Sellers have suicided, lost their homes, their marriages, and often suffer the pain of “clawbacks” due to the model being used by the Lenders. In enticing their parents into these dastardly products, they have lost the inheritance for siblings. It really proves how little the sellers understood re the toxicity of the products they were selling and how much they had also been deceived by their own employers: The Cartel.

“Whilst the phrase ‘Liar Loans’ may suggest the borrower was lying about his income, our experience confirmed our theory: it was overwhelmingly the lenders that put the lies on the loans. Lenders engaged in accounting Control Fraud and deliberately made bad loans in accordance with the Control Fraud recipe for a lender.”¹²⁵

From several angry members having looked up the penalties: ‘Negligently causing serious injury: A person who by negligently doing or omitting to do an act causes serious injury to another person is guilty of an indictable offence. Penalty: Level 6 imprisonment (5 years maximum)’. “BUT it is the loss of our home that we have all been seriously injured. I suggest minimum 20 years, no maximum, no parole. And, forfeiture of their assets, same as a car thief.

The anger and resentment is quietly building as each BFCSA member, investigate their own cases and come up with horrific details of fraud and deception as an accepted ‘process.’

Startling Results by investigations carried out by BFCSA Members:

BFCSA Member files dispel the myth, that brokers are responsible for the wide spread looting and fraud in the mortgage market. The Lending Scandal Control Fraud is so ingenious that for almost two decades, the seller channel including bank managers (as sellers) could be blamed.

Ingenious because no-one in government initially spotted the mechanics of process.

See Annexure “E” for Loan Mortgage Insurance Scams p. 72

Brokers are sellers of product and they collectively represent only 52.8% of sales. Therefore, 36% of the market is sold by bank managers, officers and a further 11.2% by financial advisers, accountants and planners.

No Sellers approve loans. ASIC admits Bankers are the engineers and manufacturers of these faulty Low Docs Loan products. ASIC admits “no loan in Australia has been verified for over ten years.” “Loans are approved by a computer.” They tell me “yes Denise, banks are the engineers, no doubt about it.”

Globally, banks wormed their way into every conceivable crevice to seek out assets and take control of funds they had not worked for and had no right to attack and plunder.

¹²⁵ Prof. Black, William K. (2010) p.279

Australian bankers are no different judging by the breath-taking losses and the billions of dollars of asset-stripping that is yet to unravel. “1999: With the baby boomers in the world’s advanced economies in their peak earning years, pension funds were desperate for places to park funds too.”¹²⁶

An Amortisation Calculator is used by lenders as a “compulsory” tool for sellers to attach the printed calculator pages to the Loan Application Form (“LAF”) to deliberately and covertly provide “projected income.” The Bank computerised form states: *Do not show the borrower.*”

Sellers do not suspect this as criminal activity and neither do they suspect that bank employers would blame them for following bank protocol and training. Sellers source new clients for lenders and receive only 30 hours training to use a calculator program, fill in forms and fax to bank. That’s it. They are not trained to read contracts or give legal or financial advice. If sellers had superior knowledge they are no longer of use the Cartel as scapegoats.

It’s a high turnover industry. The commissions are hard earned, but then clawed back.

The members of the Banking Cartel were keen to hide the extent of sub-prime mortgage writing by sticking to 10 percent as a general ball-park figure.

American bankers settled for the ‘official’ 7 percent for years: “Subprime mortgages constituted a mere 7 percent of all mortgages granted in 2001.”¹²⁷

The collective unit of the Borrowers have discovered the mechanics and can see and understand, and be appalled by what is really going on. It’s a brand new education for over 2000 complainants to date. Sellers are starting to understand. Borrowers have only recently discovered the existence of these documents. Banks are now refusing to hand over the entire document known as the LAF and explain that the calculator form is “*commercially sensitive*” and cannot be given to the borrower. Yet this document is discoverable under s6 & s12 of the Privacy Act. Bankers continue to avoid compliance with our Federal laws.

“White-collar offenders are still perceived as ‘essentially decent people’ while organized criminals are ‘essentially nasty people.’”¹²⁸ Stereotyping promotes leniency.

The borrower files collectively gathered to date, bear witness to the fact the criminals are at the very top of banking system. Sellers who are “foot soldiers” are simply following orders and have no idea of the criminal aspects of the product and nor do they understand any of the risks. Award winning top representatives and middle management have no idea of the overall fraud. It is extremely clever.

“Many economists persisted in thinking of the financial crisis mainly as a problem for Wall Street.”¹²⁹

The amortisation calculator is the key to unlocking the mystery: How can you have 11,000 participants selling and administering to a product and not realise the entire schemes is

¹²⁶ Irwin, Neil (2013) p.101 “1999:

¹²⁷ Blinder, Alan S. (2013) p.58

¹²⁸ Calivita, Pontell, Tillman. (1997) p.174

¹²⁹ Lowenstein: Roger (2010) p.217

commitment of a massive criminal action? The explanation is now made very clear: each person in that sphere were given set of instructions and 'protocols.' Most people are honest and did not suspect their 'job' was merely a small cog in the overall process. Approval of loans no longer required calls to clients or checking of information. The futuristic incomes were accepted as orders from higher up. Each component of process was isolated and confined. One department had no idea what another was doing. The drones enjoy "their work."

On the other side of the coin, Sellers coached by bank officer's knowns "BDM's" are simply told to go out and "make people happy" and advise customers not to leave dead equity in the family home. The sellers were told almost two decades ago to "target" older persons and in particular Asset Rich and Income Poor ("ARIPs"): those who had worked all their lives, own their own home, had no debt and a coveted AAA credit rating.

To sum up the anguish from older persons, I receive these emails all too often: "I've been out looking for somewhere to live because the sheriff could be here any day." (21st Mch, 2016 11:38)

- 8 million homes lost in America via sub-prime lending in the GFC
- 3 million or more reported in the UK.
- 1.5 million (happening now in secret) in Australia

Lenders use back room deals to hide 'lost homes' statistics. Lenders do not record these as "impaired loans" as keys are handed over in secret arrangements. Some loans were impaired for four years before 'hand keys over' sessions. These loans are not dealt with via courts as the debt laden victims have no funds to defend. The EDR's have very few statistics on hand overs (unless agreed at that point re bully tactics), as they record only "file closed" with letter: "you have right to defend in civil courts."

ASIC handle no complaints and they fail to responsibly record statistics. They then misleadingly suggest "18 complaints." Thousands are sent flick letters and obviously unrecorded. ASIC data does not truthfully reflect the dire situation of defaults or repossessions. The title of the asset quietly changes hands by way of Deeds and Confidentiality.

14. Prosecutions: Strong Penalties as Deterrents

“Civil penalties for white-collar offences are just not strong enough.”¹³⁰

BFCSA is calling for tough penalties against lender CEO’s or regulatory executives. White-collar criminals fear being picked up, thrown over the boot of a car and handcuffed by Federal Police, and then appearing on the nightly news bulletins. They are terrified of spending time in jail. Custodial sentences are without doubt, an executive’s worst nightmare.

The Cartel members see themselves as invincible. Their behaviour is as if they own Government officialdom. They have the wealth to hire a flotilla of lawyers. That wealth has been stolen from the bank accounts and modest assets of ordinary Australian Mums and Dads. The victims have been left homeless and with continual debt. No funds are available to seek legal advice, let alone take defensive action against the lenders.

As indeed Iceland achieved jailing of bankers in 2012, Denmark is currently following suit. We need to send a clear message to the world, that Australians will not tolerate white collar crime. This message can only be delivered and seen to be affective if the sentences reflect the magnitude of those crimes and particularly in the cover up of Cartel activities. More importantly, we do not wish to attract the worst white collar criminal tsars the world has to offer. We need extremely strong deterrents.

The average Australian is not saying: “come down under and rip us off.”

By placing white collar crime at the bottom of the list of priorities for Government, we have placed our economy in grave danger, and indeed everything our young ANZAC men and boys were down in the trenches for and fighting for a place to all home.

¹³⁰ Medcraft, Greg. (2014)

Recommendations:

Strong Penalties and Remedial.

- ROYAL COMMISSION into BANKING and FINANCE: Our Members ask Senators to consider recommending an urgent ROYAL COMMISSION into the Banking and Finance Sector with a wide Terms of Reference.
- IMMEDIATE BAN all LOW DOC LENDING: All Low Doc products must cease immediately and any other financial products, deemed as risky and unsafe for consumers, be removed from the shelves, in line with any other faulty products in the market place.
- CONSULATTON: Consumer Groups dealing with borrowers, be consulted with on a regular basis, until a new agency of consumer protection is established
- HEFTY PENALTIES FOR CARTEL MEMBERS: Cartel Engineers and Leaders must attract a minimum 25-year custodial sentence with no parole.
- PENALTIES FOR REGULATORS: Regulatory Executives who have been engaging in cover-up of white collar criminal activity and failed to call in the Australian Federal Police should face a 20-year custodial sentence and no parole.
- FINANCIAL OMBUDSMEN: Ombudsmen who deliberately ignore evidence of criminal activity, act in the Lenders best interests and fail to report criminal activity direct to Treasury, the AFP and ASIC must face a 15-year custodial sentence and no parole. This system needs to be disbanded as unsuitable for real protection of consumer interests.
- CONSUMER PROTECTION AGENCY: A Federal Consumer Protection Agency, as called for by consumers in 2001, must be set up as soon as practical, yet urgently, and in good faith, with *no bankers, regulatory 'friendlies'* to be consulted or hired.
- CONFLICTED REGULATORS: ASIC and APRA cannot serve two masters and therefore cease to be responsible for consumers.
- WHISTLEBLOWERS: Legislators must be approached in order to draft strong whistle-blower protection laws to protect both the insider whistle-blowers and serve the best interests of consumers.

15. Conclusion

Australian lender behaviours, processing tools, marketing, is all part of the intention to profit from a Control Fraud on a grand scale. This is not merely a case of “lowering lending standards.” The uncovered deception runs far deeper and in need of professional and trustworthy scrutiny, no matter what the outcome. To ignore the problem is to guarantee more of the same, and place the next two generations in jeopardy of extreme poverty and homelessness. De-regulation is not the choice of consumers.

Here in Australia, our leaders should be immediately considering re-regulation. The RBA and APRA should be tightening lending standards. ASIC cannot and will not assist by digging into the truth of this disgraceful episode in the history of banking and finance.

“If the leaders of the Fed hadn’t been so wedded to the notion that there were no bubbles, it would have been so obvious to them (as it was to economists like Robert Shiller, of Yale, one of the leading experts on housing), the unprecedented rise in housing prices relative to incomes *almost surely represented a bubble.*”¹³¹

Consumers need a voice and a dedicated Federal Consumer Protection Agency run by experienced Police incorporating a properly funded Serious Fraud Office, and not inhabited by members of the banking, EDR and ASIC genepool. The proposed agency is critically important if we are to protect our economy in the future.

“We must put our political differences aside and fall back on immediately on a more basic social contract – one that dictates that we as a society will protect everyone from a major misfortune and keep existing problems from spreading further: that social contract is our most valuable protection.”¹³²

ASIC and APRA have permitted Lenders to form a Cartel and target the older group of people, known as ARIPs, and in doing so effectively decriminalise that which Parliament, since Federation, has deemed Criminal Activity.

“Geithner speech 2008: ‘The most important risk is systemic: if this dynamic continues, the result would be a greater probability of widespread insolvencies, severe and protracted damage to the financial system and, ultimately the economy as a whole. This is not theoretical risk, and it is not something the market can solve on its own.’”¹³³

Meanwhile, the back bone of this country are those who worked 25 plus years to own their own homes and made the sometimes tortuous *struggle street* journey to end up debt free with modest homes, yet extremely proud of their modest and decent lifetime achievements.

These older persons deserve the utmost respect from public servants and parliamentarians.

The regulatory system, tried and tested by so many victims, is in a shamefully dark corner right now and someone needs to shine a very large spotlight on banking. Each week there

¹³¹ Stiglitz, Joseph E. (2012) p.262

¹³² Shiller, Robert J. (2008) p.105

¹³³ Sorkin, Andrew Ross. (2009) p.59

are people contemplating suicide and we remember those who have already left us due to stress and/or simply lost their will to keep going.

Consumers are having to deal with trauma and then are forced to deal with regulators acting like Bank Buddies. There are people filled with enthusiasm who started small businesses only to find the banks gouged all their hard earned profits by the cruel imposition of excessive fees and sent small business operators to the wall and into caravans. Bankers, developers, property manipulators and construction partners, have no conscience and have no regrets in forcing citizens back to work at age 75.

And yes, there are war veterans and TPI pensioners, many with severe disabilities, who never thought *“they would see the day when.....”* Farmers are being thrown off their land and livelihoods in ruin, all due to these toxic loans.

One old timer: “I wonder what we fought for, really I do.....seems like I have to dig another trench whilst these bank b.....s live the high life.”

Stealing and theft today and the crime of stealing one’s horse in 2016 was been made a criminal offence and the penalties of hanging seemed a little severe. Now we see stealing of one’s home to be a favoured and profitable sport of the Australian Banking Cartel.

“Much of today’s inequality is due to the manipulation of the financial system, enabled by changes in the rules that have been bought and paid for by the financial system itself – one of its best investments ever.”¹³⁴

The Australian Property Market is now in full blown Bubble Mode and someone needs to start using their powers, as elected to do in the interest of our citizens, and to reverse this deplorable situation. Members have already reported their homes in ordinary outer suburbia have already fallen the past 12 months ‘back to 2007 prices.’

As suggested by two irate and homeless members: -

“Another proposal would be to line up Bankers in Martin Place – in stocks, as the colonials did with tomato throwing and a good flogging,’ amid public gallery cheering.” And this: “even one’s homelessness and leading the life of a scrambled egg, won’t stop me from writing a note to the Senators.”

We need to understand and take on board the wisdom of others: “The longer we delay in dealing with the underlying problems, the longer it will be before the world returns to robust growth.”¹³⁵

Calls for a Royal Commission are getting louder and re-action is long overdue. BFCSA Members respectfully ask this Committee and Chairman unanimously agree to recommending a ROYAL COMMISSION into the Banking and Finance Sector with wide TOR.

“This is the single biggest issue crippling our economy. The effects of these practices will take generations to recover.” Lee J Doyle.

¹³⁴ Stiglitz, Joseph E. (2015) p.91

¹³⁵ Stiglitz, Joseph E. (2010) p.25

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Cartel Conduct: nicholas.whigham@news.com.au

Annexure “A” List of Lender Process Triggers

Also see Annexure “F” p.72

The activities listed in annexure “A” cannot in good conscience be classified as merely being mass cases of “wrong doing” requiring civil action. That may have been activated a decade ago, but it’s far too later to consider that remedy today.

BFCSA Surveys have identified three specific groups of the target market:

- **NINJA Loans:** features no deposit. 100% LVR mortgages to young people who are renting and on low incomes, some of whom are on welfare as unemployed or on disability allowances and have no deposit. The First Home Owners Grant is used to pay upfront fees, taxes, etc. Hundreds of persons in this category are trapped in debt bondage.
- **Multi loans to 30-40 year olds:** targeted by the “creating wealth” advisory industry with lenders providing \$4 - \$6 million per person in unsecured loans. Hundreds of people have been caught in this trap.
- **ARIP Loans - Asset lending to pensioners:** Asset Stripping on low-income families who own their own home and have no debt. This is the largest group by far, affecting an estimated 600,000 people, given the number of loans and the average debt per loan from our surveys. LVR on their own home is av. 138%

A staggering 98% of borrowers interviewed by the BFCSA have no understanding that interest-only mortgages meant they could never pay off the newly purchased property. Had the loans been named “Bridging Loans,” some may have understood. The selling process, ensured the belief that as a borrower, the low doc loan was “a normal mortgage” and could be paid off in 30 years.”

No loan we have examined (over 2000) have we found borrowers lying on applications at the behest of sellers. That is nonsense emanating from unsubstantiated reporting. It may well have happened, but the fact we have not come across that scenario suggests it is rare indeed in Australia. In 2008, US lenders were quick to demonise borrowers as they were easy targets for abuse and had no cohesive support group.

Borrowers were well-hidden by the lenders. The American banks acted swiftly to christen the loans as *Liar Loans*, post the GFC. That situation does not occur here in Australia. I have warned analysts recently of this fact.

Numerous Australian sellers and insiders have explained: *“if we encouraged customers to lie on the forms, they would immediately see us cheats. The target market is very honest. The*

irony being the banks insist our conduct has to be impeccable. No-one wants to lie on forms and face jail. Who would risk that?"

On the following page we have produced a list of the main areas of deception used by the Lending Cartel. We have located these major points in consumer documents collectively examined in all states, and all lenders. The evidence shows a disturbing pattern of identical and yet corrupt processing practices.

The following facts are not being published by FOS or ASIC yet form a consistent pattern of manufactured and accepted *approval process* delivered by lenders.

Annexure “B” The Model Use of Deception:

Consistent, all States.

- No borrower in Australia is permitted to fill out their own form;
- Only three pages of the 11-page document are presented to the customer;
- Another 8 pages of forms are added to the 3 page LAF *a day after* the signature has been obtained and without the knowledge or authority of the borrower;
- No copies of the LAF are given to the customers;
- White-out and fax marks show manipulation of paper at approval level;
- No verification of data occurs, and only a credit check as ARIPs are marked A1 rating;
- Incomes are exaggerated by the compulsory use of a secret industry “amortisation” calculator intentionally dressed up as a “serviceability calculator”;
- The instructions between BDMs and sellers are standard: *“the calculator must not be shown to the borrower”*;
- Asset Rich but Income Poor older persons are industry promoted as “The Target Market”;
- Emails from lenders to sellers encouraged *“ABN’s for a day, No GST required”*;
- Valuations are manipulated at bank level; and
- Loan Mortgage Insurance is often noted (on file) as a hefty ‘Risk Fee’ showing banks are underwriting their own mischievous mortgages.
- Shareholders may not have been notified of their exposure to the insurance issue.
- LMI policies from 2001 state [wte] *“If fraud is found on the loan application, claim will not be payable.”*
- The list of evidence we have collected to date is extensive, alarming and ongoing.

The Lenders have engineered the perfect product to maximise profits and steal older persons’ homes. The targeted people are known to the industry as “Asset Rich and Income Poor.” The acronym “ARIP” is a bank generated term used to encourage sellers to prey on the vulnerable: *“people who own their own home and are debt free.”*

ARIPs are the largest of the three groups of identified borrowers. They are wrongly deemed to be *investors*, as the majority did not wake up one morning and decide to remove equity from their home. Quite simply, they were spruiked at the behest of the Lender Cartel Members.

In 2004, I personally attended one of the familiar bank sponsored target market rev-ups enticing 1000 Planners/Sellers to go after ARIPs.

Annexure “C” Mechanics of Calculator Entrapment Process: The Amortisation Calculator

This particular issue is evidenced by of the level of deceit incorporated into bank training sessions and selling techniques.

The sellers are kept in the dark, ordered to use a bank computerised **Serviceability Calculator** and “make people happy.” We warn that these are widespread practices to achieve bank set monthly quotas.

BFCSA has discovered the use of these calculators is to create “projected incomes.” Sellers are taught via emails from the bankers: *“the compulsory calculator must be attached to the LAF or we will not process your deal.”* Yet, this is not a serviceability calculator.

The “Amortisation Calculator” is designed to inflate incomes from \$40,000 up to \$180,000 and thereby create *“larger volumes of lending.”* Sellers then use the “projected” income and are taught to write the projections and other details onto Page 5 and 6 of the document *after the signature has been obtained on only three pages.*

Consumers have shown me many letters from Lenders stating (for example) “Congratulations, your loan has been approved for \$380,000.” Yet the loan applied for was only \$320,000.

Eight pages are added as a matter of process after the first three pages are signed. Insurance assessors have told me the LAF presented to them was only ever three pages. Consumers had no realisation that any of the above was occurring. They were never given a copy of the LAF and the financial calculator form attached to the LAF contains a printed warning for sellers: *“do not show the borrower.”*

Sellers have no idea the loans are toxic. It’s a high turnover industry. The criminality is found in the approval process, driven from the top down in the banking sector and activated during the bank receipt of documentation, pre-settlement period of pre-approval.

In 2012, the Lenders gave evidence in Parliament that only 10% of loans are sub-prime, yet this is false. Now the figures from APRA suggest 43% of mortgage loans are interest-only, suggesting the proportion of low-docs is higher than officially indicated. The global fraternity suggests a world average of 25%. Banks admitted years ago a level of selling low-docs in relation to full-doc mortgage lending is around 60%.

Late last year, APRA reported \$147 billion subprime loan book content, then a week later admitted a \$50 billion bank “error” in estimations showing the correct figure as being \$197 billion of the \$1.4 trillion mortgage loan book. So why does the bank report suggest it represents 43%? Why did one CEO admit to 60% subprime? Someone is fudging data for a very big reason. We believe the truth is closer to \$300 billion now.

When I mentioned this to Senators in 2012, regarding the \$100 billion problem, I was viewed with scepticism, yet media say I have never let them down with regards to research; the data is always backed by hard evidence and real peoples' stories and files.

As a consumer advocate and criminologist, I have engaged myself in banking and property market research for the past 25 years. White-collar crime on a grand scale can easily bring an economy to its knees and will invariably pick its own course for explosion in terms of timing.

BFCSA's research into mass borrower documentation aided by collective action has produced surveys demonstrating widespread bank-driven approval of toxic lending practices exists in large numbers here's in Australia.

I have lobbied for many inquiries during the past two decades. However, the overload of Parliamentary Inquiries failed to identify the 17 members of the operative banking cartel. We appreciate the effort by the Senators and MPs who did their best amid short time frames. The regulators and the CEOs found the questions being asked "too easy." Senators failed to truly grasp and understand "the model." Few could see the bigger picture of a looming Australian financial crisis.

In 2012, I warned the Parliament of the level of toxicity in the RMBS Bond Market and that the ratings were skewed to suggest: *"the Government cannot profit from a Fraud."* Federal Treasury acted quickly on this advice to ensure there was a sell-off of \$20 billion of these products. Most sellers are doing the right thing. So why is it, that every loan in our extensive files appears as a fraud? The evidence of criminal conduct is found in the approval process of all these loans.

Every facet of the Australian Banking Scandal is a key indicator of a 'Control Fraud' in play.

Annexure “D” FOS: The Financial Ombudsman’s Service

Consumers who were coerced into a “financial strategy” using the equity from their homes were not advised of inherent risks, neither were they told of the magnitude of systemic fraud. They had no idea of the existence of a well organised Cartel process. Coerced into signing on for a simple mortgage, consumers believed that there would be criminal sanctions against those engineering such financial products and practices.

People signed because they felt protected and expected a high level of regulatory oversight. Their expressed shock is a direct result of their horrific experience that no-one was engaging in protecting their specific interests. Consumers never dreamed that their mortgage would be the most expensive vehicle in the marketplace.

ASIC continues to be a true consumer “let-down.” ASIC advised complainants to go to FOS and CIO.

Then the second stage horror became obvious: The bias and corrupt practices of the EDR System.

In BFCSA members ‘experiences the EDR system of complaint handling such as FOS has been captured by the banks’ lawyers.

BFCSA investigations have found patterning of the model in play. The activities are controlled by the EDR to produce outcomes that specifically favour Lenders. Lenders pay \$5000 per investigation to the EDRs. Below is a list of known flaws in the Ombudsmen Determinations as gathered and experienced by BFCSA Members.

1. Determinations are flawed and inconsistent with good practice.
2. Determinations take no notice of the Bankers Code of Conduct
3. Determinations only use Gaden’s chosen authorities that advantage the banks.
4. Determinations do not take notice of the Lending Policy Guidelines, “where face to face meetings” must take place with bank officers.
5. Determinations then erroneously suggest the brokers (53% of sellers) are the agent of the borrowers, proving the Ombudsmen take no notice of the lead of the Courts.
6. The average loss to consumers is around \$400,000 yet the compensation is grossly inadequate as \$200,000 is added to these loans in interest, fees and charges.
7. The Bank lawyers are permitted to question the victims and (with at least five bankers in the room). The Bankers demand documents, yet banks when asked to provide discovery of vital customer documents, suggest “pages are missing.”
8. Bank Officers are seconded to FOS to rummage through the client files and in conversation deliver the banks position as if in a court of law. I have personally attended and experienced in these sessions. Of course the arguments are flawed and

weighted as the cases that have been won by consumers against the banks show Judges do not accept these same arguments.

9. The Ombudsmen with the power to award \$309,000 compensation for Maladministration in Lending, then deduct an average 75% (using twisting) from that limited figure of relief. The end result is the people are then left again at the mercy of the banks and mired in debt.
10. FOS suggests initially: "we aim to place you back in the position as if you had never dealt with the bank." [wte] FOS then uses strategic measures to ensure the opposite occurs.
11. FOS does not want to release the Bulletin 32 written in 2001 as a warning to the banks: "the broker is the agent of the bank, and to suggest otherwise in contracts may be challenged and lost in court" [wte]. From then on, Determinations say exactly the opposite: *The Broker is the agent of the borrower.*
12. Supreme Court Judges have ruled on Point 11 as being a nonsense using the well-defined 'argument of agency'. I provided a copy of an 'argument of agency' report to FOS in 2010. It was the Banking Ombudsman's choice to ignore the authority. "FOS take no notice of that argument."

We have copies of the Neave Bulletin. We have copies of the amortisation calculators. We have a huge collection of LAFs and registers of aggrieved people. We need to present this damning evidence to a Royal Commissioner with a view to having the truth properly examined by unbiased professionals. These testimonials should be presented without fear of being suppressed by FOS.

The EDR system licensed by ASIC is all about serving the best interests of the Lenders.

The average compensation claim agreed upon is usually a deduction of around \$50k for a \$400,000 asset lend which is a criminal offence for banks to approve and engage in. In a court of law these cases would be, by precedent already set, fully extinguished. Mired in debt there are no funds for further challenges.

Nothing in all the Determinations we have read, resemble fairness for consumers. It's a plot to have consumers bullied by banks and threatened by Ombudsmen into accept the preferred low ball offer and settle within 30 days or *we see you in court.*

The Banks pay \$5000 to FOS for every investigation with decisions invariably favouring the Banks and financially crippling the consumer, rendering them stressed, confused and some have resorted to suicide as the only door left open to them.

We have read countless Determinations that continually and blatantly favour the Banks. FOS receives an average of \$34 million from the banks to water down the seriousness of consumer complaints."

The entire complaint handing system is a national disgrace.

Annexure “E” The Loan Mortgage Insurance Scam

Some years ago I managed to get hold of insurance policies that banks had purchased to protect their interests. The two insurers were taking huge monies for mortgage insurance premiums. Banks would inflate these charges and the average cost in 2001 was around \$2500, perhaps a little higher dependent of course on the mortgage.

The cost would be higher on the settlement letter from the bankers’ lawyers to the clients. This cost was defined as Loan Mortgage Insurance (“LMI”). Seven years later, these statements to clients started to show the policy costs as being a \$9000 Risk Fee. I was told by regulators: “some lenders are underwriting their own risks.” The bankers had explained to ASIC; the fees would be lower for consumers by in-house insurance than going to the two main insurers. In reality, the lenders’ letters we recovered from members of BFCSA, showed the new costs as being \$6000 - \$9000. Given inflation that was indeed a massive hike.

People in Australia are mainly good citizens who work hard and save for 25-30 years to pay off their homes and OWN THEM. These people in their sixties and seventies are then spruiked by bank staff and agents, to suggest they will receive excellent financial advice from the bank planner. Consumers deserve to be and, expect to be protected from predatory financial advice that sees their nest egg being turned into JUNK BONDS or being coerced into borrowing debt in toxic mortgage lending. Covering up these crimes is bad for the economy.

I have collected records from over 2000 individuals who have suffered at the hands of these Bankers and on 8th August, 2012 I asked the Parliamentarians: *“I have 400 fraudulent loans here in my hand, do we wait until there are 10,000 angry people coming forward?”*

There are most likely, given the total of subprime loan books, more than one million Australians infected with renewed mortgage debt that never ends: the most expensive loans in the world. The targeting of ARIPs is the greatest bank heist this country has ever experienced.

The activities of the Australian Banking Cartel encompass mass criminal activity worthy of Al Capone and Charles Ponzi working in tandem to deliberately pollute our banking system in the name of personal greed.

This corruption of the banking sector, the blatant capture of the EDR services must be exposed and the Banker activities dealt with in the same manner as would be the case in a full scale crime scene investigation.

I would suggest, the longer predatory lending is allowed to continue, then the bigger the economic fall-out spilling onto the housing sector.

Annexure “F” The Mechanics of the Banking Scandal: ASIC

See also Annexure “A” Standard Industry Practices: p. 64

ASIC could not be trusted to investigate the pernicious Lender practices identified below.

ASIC and APRA have permitted Lenders to form a Cartel and target a specific group of people, known as ARIPs, and in doing so the regulators have effectively decriminalised that which Parliament, since Federation, has deemed Criminal Activity.

Meanwhile, the back bone of this country are those who have worked and saved for 25 years or more to own their own homes and made the sometimes tortuous ‘struggle street’ journey to end up debt free with modest home and proud of it. These older persons deserve the utmost respect from public servants and parliamentarians.

The regulatory system, tried and tested by so many victims, is in a shamefully dark corner right now and someone needs to shine a spotlight. Each week there are people contemplating suicide and those who have already left us.

Stealing and Theft and the crime of stealing one’s horse was been made a criminal offence and the penalties of hanging seemed a little severe. Now we see stealing of one’s home to be a favoured and profitable sport for the members of the Banking Cartel.

Consumers are having to deal with trauma and then are forced to deal with regulators acting like Bank and FOS Buddies. There are people who started small businesses only to find the banks gouged all the profits and sent small business operators to the wall and into caravans, and then back to work at age 75. And yes, there are war veterans and TPI pensioners, many with severe disabilities, who never thought “they would see the day when.....” Farmers are being thrown off their livelihood and land, due to these toxic loans. One old timer: “I wonder what we fought for, really I do. It seems like I have to dig another trench whilst this bank b’s live the high life.”

The Australian Property Market is now in full blown Bubble mode and someone needs to start using their powers to reverse this deplorable situation.

The activities I refer to and have been doing so for almost two decades, are criminal matters and yet the Terms in this section are asking the question regarding “wrongful gains.” The issue of “asset-stripping” is a criminal offence. Stealing is not simply “wrongful.”

ASIC had powerful mechanisms to identify systemic fraud, Lenders’ stealing of homes and, at the same time ASIC could implement policies to compensate consumers. Yet these same public servants continued for 18 years to deny there is a problem. They have failed to adequately compensate consumers and once again defaulted to the lowest figure they could think of and then “negotiate” down from there.

Worst of all was the failure in most cases, of not conducting follow up on whether funds were made available and if in a timely manner. ASIC created false hope and then portrayed abject laziness. ASIC remains reactive and definitely not proactive.

Mechanisms that could have been of assistance to consumers, such as funding criminal cases to the CDDP, were simply rusty tools left to rot in a damp garden shed.

Calls for a Royal Commission can only be getting louder.

ASIC have mechanisms and tools to take action to recover loss at the point of complaint, but waiting for the “natural collapse” ensuring there will be little chance of recovery and in many such cases, the insurance policies had lapsed and they do not of course, cover fraud.

ASIC’s negligence of “acting too late,” which is legendary in terms of the cases I have placed before the Commission since 1998, has been the root cause of many more people entering the Ponzi and therefore losing all financial security and confidence. Late comers could all have been saved (2000 – 2005).

In 1999, the regional directors had not heard of Mr Charles Ponzi. I wrote a paper for ASIC to benefit their intelligence, or “intel” as they refer to such things. They placed the article on their website. I gave files relating to Westpoint in May 2000 and again in July 2001. At that time the monies taken amounted to \$100 million. ASIC suggested they were concerned that if they took action, that money would be lost. ASIC waited for the inevitable collapse and \$680 million was lost. For a further 15 years they sat and waited for collapse after collapse of several companies using the same model, amounting to some \$80-100 billion in losses despite the very early complaints.

ACRONYMS:

“No Government wanted to keep stats; for no Government wants to admit...” Member.

ABA	Australian Bankers’ Association
ACCC	Australian Competition and Consumer Commission
AOFM	Australian Office of Financial Management
APRA	Australian Prudential Regulation Authority
ARIP	Asset Rich and Income Poor
ASIC	Australian Securities and Investments Commission
BDM	Business Development Manager (bank officers)
BFCSA	Banking and Finance Consumers Support Association (Inc) www.bfcsa.com.au
CIO	Credit and Investments Ombudsman Limited
EDR	External Dispute Resolution
FOS	Financial Ombudsman Service Limited
IOSCO	International Organisation of Security Chiefs www.iosco.org
LAFs	Loan Application Forms
LOC’s	Line of Credit
RBA	Reserve Bank of Australia
RMBS	Residential Backed Mortgage Securities
SEC	Securities and Investment Commission (USA)

ACKNOWLEDGEMENTS:

BFCSA (Inc) thanks all its Members for their efforts in scanning and sending thousands of documents to BFCSA over the years and assisting with amassing the largest collection of evidence on the Australian Mortgage Scandal and for supporting this consumer group through all its infancy back to RECA Members 1996 - 2007.

We thank LF Economics Lindsay David, and Philip Soos for their interest in this subject and their own expertise in compiling professional reports to lend further weight and research to these issues, in economic terms. We also would like to thank Paul D. Egan his previous editing, research and effort.

BFCSA would also give special thanks to our own research assistant Rhonda Fletcher for the hours she puts in each week in providing members with a newsfeed; and Lee J Doyle for his contribution and expertise in building and maintaining the website and electronic library.