

Senate Inquiry into Banking

Introduction

I welcome the opportunity of providing a submission to the Senate Economics Committee of inquiry into the banking and financial sector. I believe this is a good opportunity to put forward information about shortfalls I have directly encountered within the many protected unnecessary additional layers of “cotton wool”. As an end-user I have discovered to my detriment that those many added layers afford protection to those who need it the least for they manipulate the processes the best. These layers are what is directly utilised by the banking and financial sector to effectively play a game of “ping pong” with the end user of their services to tire them out and weaken any chance of anybody receiving an effective solution to whatever circumstance places them in the path of this sector.

As an individual who has been “run over” after being subjected to the overbearing abuse of power by the banking and financial sector, I have very little faith in “due process” being meted out equally therefore, I consider this submission to be no more of me doing my bit for “social duty”. Perhaps a cynical or jaded outlook however, this is directly derived from the unfairness I have been the first hand recipient of from an Australian Legal and Banking system that is adversarial rather than based on truth, fairness or justice.

The banks wield their power at will and in unequal measure, even when they themselves have made the error. In my case, the bank and the finance broker made the error right at the very beginning of the process. As the end user, the recipient on the end of that error, I got severely punished, pulverised and put through the wringer for the mistake made by them in a process that took nearly five years of fighting to have the wrong made right without any success. Everything has been taken from me. I have no home, my marriage of 23 years was ruined, my family completely torn apart and destroyed, my confidence shattered, I cannot get Centrelink because of my honesty and live below the poverty line, my health has suffered, my personal well-being and welfare suffered, and my reputation is now in tatters. But the one thing neither the bank nor the law firm, Slater and Gordon, have done is take away my right to speech. This is the same law firm who now wants to form a class action against this bank and they were the ones who sold me out,

. As stated, I do not believe this inquiry will go far enough.

In terms of recommendations, the main issues I believe that the Government needs to deal with is setting a greater level of accountability and responsibility within the banking and financial sector. I believe this is a priority because this sector has been changing far more dynamically than the Australian Governmental processes can keep up with. Legislation lags well behind the changing face of banking and has done so ever since this sector was de-regulated.

Past Senate Inquiries into this sector and each successive Inquiry makes minimal changes, essentially tinkering around the edges or adding in additional unnecessary layers that really only protect those who do not need it. At no point, has there been any real foresight or planning to keep this rampant industry in check. Rather, this industry becomes a political football to get kicked around when the annual Australian Federal Budget gets handed down or it becomes fodder for the media, both good or bad depending on the angle taken by the journalist at various times during the year. Time is well overdue for this Government via this Senate Inquiry to reduce those additional layers of protection, to streamline the overwhelmingly cumbersome processes the end user is forced to navigate, to remove the tools used by the banking and financial sector to play “ping pong” with the end user thereby ducking and dodging accountability or responsibility, to legislate and return this industry sector back to some degree of respectability instead of the raw capitalism that we witness each successive Annual Reporting Season.

Background of the bank's error

In my circumstance, the bank made the error with their paperwork before any documents were signed and these changes were never once brought to our attention. No matter how much due diligence we did, meeting their requirements which we continually paid for, nobody pointed out that our business loan package had been changed. We were conveniently overlooked.

From the time of our very first meeting with the first bank manager at the finance broker's offices in West Perth, we were always of the understanding that our loan package was being set up in a particular manner. The discovery of when it was changed without our knowledge only came to light after the second round with that toothless tiger then known as the Banking Ombudsman. At no point, despite months and months of persistence, would the bank nor the finance broker try to correct their error. The error was at their end of the process however, we as the end user were being held accountable.

On the evening we were requested to sign the loan documentation, which was some six months after we began negotiations, we had to travel into the Perth CBD for a 5.30pm meeting. There were two bank officers present and neither explained the paperwork to us. The male officer wanted to discuss the weather and the weekend. The female officer clearly did not know what she was doing and the paperwork was a muddled up mess. I have since discovered according to the Consumer Credit Code that the paperwork should have been explained prior to signing however, this bank breached that Code.

There was also nobody present from the finance broker's office to ensure that we understood what we were signing. And yes, there is another Code of Conduct that covers that process too however, the pointlessness of these Codes is that who is going to administer them as having been followed?

If someone had taken responsibility and advised us what the loan documentation was about then the changed loan package would have come to light at this point. Instead, we were misled and deceived by both the bank and the finance broker.

As it was, the bank could not get this process right. For the next two weeks following settlement, we were receiving faxed paperwork in the shop for this loan documentation to be resigned. I firmly believe at this point the bank had discovered and was covering up their or the broker from their preferred panel of brokers' mistake.

It was our accountant who discovered the loans to be incorrect. Four months into the business I had been to see him about how I had set up the financial business package, MYOB, and it was he who pointed out that there was something wrong with the loans. They were killing us and were not matching up with the cash flow forecasts he had provided for us based on the original business loan package details I had supplied him with. By this time, we were up to our fourth customer service manager with this bank and I immediately started to hit brick walls, getting fobbed off, receiving verbal lectures about being a responsible customer, taking responsibility for my business, etc when I first raised the questions about our loan package. The solution proposed by this bank was that I go back to the finance broker to have our deal rewritten. I was aware that this is termed "churning" and was certainly not about to do that. The mistake was their end and they had a duty to correct it however, this bank only wanted to protect their business relationship with this broker who was one from "their preferred panel of brokers".

After getting absolutely nowhere with this bank, I then tried then Banking Ombudsman and duly discovered how useless that process is. This department is very good at parroting your complaint back at you and finished off every letter with the threat to "close the file". They most certainly did not want to investigate any matter that looked like it was going to be hard or difficult to resolve.

While going through that process, I investigated four other banks to move our business away from this bank with no success. I received lectures about how we were set up on the wrong package; how our credit score affected us; how bad the finance broker was; and ended up becoming very disillusioned. This bank was also now actively pushing us to leave them and they were the ones who had placed us in this position due to their errors. I believed that they were hoping to extinguish the problem by making us go away.

I discovered how useless and pointless all those varying Codes of Conducts really are. They are ineffective. Self regulation does not work and nobody wants to oversee the processes. As an end user trying to navigate my way through the cumbersome quagmire related to the banking and finance industry, I learnt first hand how effectively the system is set up in favour of the banks and the finance brokers. After many phone calls, emails and printing and reading over these, I was bounced from office to office to department to organisation, being told many times over that this is not their area. In late 2009, I even discovered that because our business had been set up as a family trust, we fell through the cracks and not only that, this crack in the system is known about!

This bank foreclosed on us 30th October, 2008 providing less than 24 hours notice. This then exposed just as many flawed processes going through this step.

Up to this point, in the four years I had dealt with this nightmare of a bank there three bank managers, nine customer service managers, two branches and two finance brokers. It was a particularly unpleasant experience. Despite many efforts by myself, there was no way known that a mutually respectful banking relationship would ever be developed. With this bank, the traffic flow was all in one direction except when they made the mistake, that was expected to be shouldered by me, the end user.

The insolvency practitioner appointed by them treated us as though we did not exist. They then appointed a manager to run our business who was the wife of the business broker they appointed to sell our business. I discovered many untruths were being told by both the insolvency practitioners and the business broker and that they were protected by indemnities from the bank. Our business that we had built up 18% in the first year and a further 18% in the second year was run down by the insolvency practitioner and sold by the business broker in a “done deal” for a third of the price we paid for it. The sale price only came to light after having to get the law firm, Slater & Gordon write to demand some paperwork from the insolvency practitioners.

Once again, I discovered how pointless the Codes of Conduct really are. Industries protect their own and if the business happens to be indemnified by the bank, they become a law unto themselves. IPA make noises but are reluctant to investigate. REBA will possibly investigate and take a matter through a magistrates court which is pointless when the value related to the matter belongs in the district or supreme court.

After researching and reading through countless Codes of Conducts, the question must be asked, “Why are there so many?” If ASIC was not continually devolving itself of its responsibilities, they should be overseeing these sectors. Efficiency dividends put upon them by the Federal Government razor gang would have to be the reason this agency devolves and divests its duties. This is not what the Australian public or the end users such as myself are interested in. We want results. We want a simpler process so we are not buried under the current overwhelming process we are forced to navigate through.

Each and every cornerstone of the banking and financial sector appears to have a Code of Conduct that they hide behind. It is common knowledge to the masses (the Australian public), that self-regulation will only work when there is no problem however, self-regulation fails continually when vested interests are compromised as occurred in my own case.

If did not matter who I contacted, by phone or email, the answer was continually the same. If it was not a “put your complaint in writing and we will look at it” then it was “sorry, you will have to contact another department or agency or we cannot deal with that complaint”.

Another piece of learning for me was the screaming “conflict of interest” with regards to APRA and the Banking Ombudsman. These two entities receive a fair chunk of their funding from the banking sector. Unless they come directly under the Federal Government with their sole funding from them thereby maintaining independence, they will always be subjected to the assumption of a “conflict of interest” or “collusion with the banking sector”.

The one final irony for me has been the discovery that the lectures I received from this bank have been nothing short of hypocritical. All the while I was receiving them this bank was trading whilst it was itself insolvent being propped up by our taxpayer dollars and being protected by both the WA State and the Federal Government! Then further discovery was how misleading and deceiving they were operating. Being told “off the record” by a lawyer that your business was part of an industry this bank wanted out of thereby placing you on a “hit list” to be gotten rid of was very unpleasant.

As stated in my introduction, I consider this submission to be my contribution towards doing my “social duty”. Should I be called to give evidence in person, I have a files full of correspondence of who I spoke to, emailed, wrote throughout such a long drawn out process that backs up this submission.