

The Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Dr Batge,

Please find attached my submission to your Parliamentary Joint Committee.

Thank you for this opportunity.

Yours sincerely,

Peter Pola.

I wish to make a submission to the Parliamentary Joint Committee on Corporations and Financial Services.

The reason for my submission is to support the long overdue overhaul of what has been, and still is, a pathetic industry that is loaded with lies and deceit, and the complete lack of integrity shown by those that continue to defend the past management of it.

My story shows my experience with a so called 'financial adviser' and the lack of professional values that I have found in the people that I have had contact with, within the industry. I will give my story in support of my submission. Looking back I should have known better but here is my story.

I am the son of a hard working migrant couple who were the victims of deceit many years ago. My parents crossed paths with a friendly AMP life assurance salesman who made certain representations, which resulted in a life assurance policy. They struggled to pay the premiums on this policy as they were led to believe that when it matured, life would be easier for their family. Some twenty years later, the representations made by this salesman were found to be false.

From my research, it would appear that the life assurance industry disappeared with the advent of superannuation, however the same deceit that existed within the life assurance industry now appears to be rampant within the superannuation industry, and this industry now also attracts salesmen with the same low ethical values. These conmen prey on the naive, the inexperienced mum and dad investors, the people with self pride and principles that are gullible enough to believe that others have the same values. As a result of the memories of my parent's experience, I placed superannuation in a capital guaranteed fund with a major bank. At a later stage I was made aware of excessive hidden fees on this existing policy and as there were fees involved in cancelling it, I instigated another capital guaranteed policy with a different financial adviser from the same bank. This caused a ruckus with the financial adviser from the first policy who complained that he was losing commissions to the second financial adviser.

Some time later, my accountant recommended that I put more money into superannuation. As I was not impressed with the bank financial advisers from my existing two policies, I felt in a dilemma. Someone close to me introduced me to a different financial adviser who worked with or for a different banking institution. I met up with this financial adviser and he recommended that I cancel my two existing policies to save on fees and invest my money with him at a slightly higher risk. He was very convincing and baffled me with his financial jargon. He suggested that I was a conservative investor and recommended that I increase my risk slightly to become a moderately conservative investor where the benchmark was 60% conservative such as bank or government fixed interest and the remaining 40% in growth or risk assets. I remember having a negative gut feeling about this financial adviser but I thought that perhaps I was being over cautious due to my past experiences.

I decided to go ahead with his recommendation, the following two points convinced me to do this.

Point 1 He was a licensed financial adviser, which to me meant that he had to meet certain professional standards.

Point 2 He stated 'Our goal is to maintain your investments across asset classes within your current investor range profile.'

As I had very little experience in this industry, I placed my faith in his professional integrity, which I believed allowed him to manage my super as per our written agreement and me to manage my own business. I signed his statement of advice in 2005 and did not have any reason to investigate my super until the financial market crashed in 2008 and I became aware that my super portfolio had reduced by some 27%. During this three year period I had no contact with him but I did receive correspondence from him that contained jargon that was not clear and easily understood. I did receive statements from the fund managers that showed my portfolio was increasing. I looked back over my records for this three year period to try to understand why I did not see the need to monitor his management of my portfolio. I came across the following four representations in his correspondence.

Representation 1 "Your fund continues to perform well to suit your risk profile."

Representation 2 "Should I recommend any changes then I will include an Authority to Proceed with these changes."

Representation 3 "Your file will be subjected to an external quality control review program that monitors compliance and professional standards."

Representation 4 "Your portfolio has been designed to suit your risk profile."

What better reassurances could one receive about their investment, shame they have shown to be just positive spin, with the usual intention, deceit.

When the financial market crashed, I wrote to him asking why my investment had reduced as much as it did. I received the following three statements in his reply.

Deceit 1 "Your portfolio was set up at 40% conservative and 60% growth- this was a risk profile of between defensive and balanced."

This statement was not true, our written agreement was 60% conservative and 40% growth.

Deceit 2 "Your initial super portfolio was set up slightly overweight property."

No such agreement took place.

Deceit 3 "Depending on market performance the growth portion would increase going forward."

Again no such agreement took place. As a result of these three false representations, I transferred my portfolio away from his control. I requested further clarification from him but his reply was, "We do not intend to enter into any further communication, your client file has been closed."

Further investigation revealed that my risk profile had been altered without my knowledge. My risk had been increased substantially from our agreement. I had not agreed to, or signed for any such changes.

I then followed the complaint process and submitted the following claim to the financial adviser's licensee group, AFS. "Your member failed to invest my portfolio according to my

agreed risk profile and this was instrumental in causing me loss. I wish to claim compensation for the loss caused by his professional failure". After a time consuming drawn out, wasted exchange of correspondence with the Compliance Manager AFS, he stated "We can see no grounds for any claim for compensation." Most questions put to AFS in relation to my claim have been ignored. They have responded by generalising and ducking and weaving from giving clear answers. Both AFS and their member have attempted to resolve the matter on the telephone, rather than by my preferred method, in writing. Why would they prefer to discuss my complaint verbally rather than have a record of the conversation?

On 20 November 2008, the Minister responsible for superannuation at the time, Mr Nick Sherry is reported in the media as stating, "I can say unequivocally that Australia's superannuation system remains robust and well regulated." If this was reported correctly, either the Minister came down in the last shower, or the entrenched deceit that exists in this industry, commences at the top and exists right through the money making food chain. How can the regulators sit on their hands and allow this industry to disclose only the brokerage fee to the client, not the full range of other fees that are shared by the licensed agent and the financial adviser. Someone has to be responsible for letting this system develop and continue.

On 25 June 2009, the head of ASIC, Mr Tony D'Aloisio is reported in the media as stating, "The Financial Services Industry is working well and does not require more power to do its job." This statement has to be proof of failure. One only has to look at the submissions to see the loss and hardship caused by his licensed dealers and their conflict of interest. If he considers that he does not require more powers to do his job, perhaps he could explain to the inquiry how the industry that he regulates, has failed to this extent. Mr D'Aloisio apparently further stated. "Investors have become more daring." The reality is, most investors have taken on more risk on the advice of ASIC's licensed dealers and have relied on the deceitful reassurances that ASIC have allowed and overlooked. A reasonable person would expect integrity from such a licensed professional.

These financial advisers and licensed agents have taken advantage of the fact that there has been little or no regulation in their industry and have herded clients into particular investments, without showing due diligence. They have given clients false security by stressing that they are licensed operators. From my own experiences, the safeguards promised in the licensed system do not exist. The following written safeguards were held out to me by the so called 'financial adviser' on the standard licensed AFS Statement of Advice;-

Representation 1 "The conduct of this engagement is in accordance with the standards and ethical requirements of the FPA and ASIC".

FPA and ASIC must have very low standards and ethical requirements.

Representation 2 "Your file will be subjected to an external quality control review program that monitors compliance and professional standards".

To date my request for the name of the person who conducted this review program has been ignored.

Representation 3 "Should I recommend any changes then I will include an authority to proceed with these changes".

My risk profile was increased dramatically without my approval.

Representation 4 "I recommend switches to your risk portfolio to ensure you have sufficient conservative funds available should the market decrease".

As a safeguard I agreed to this switch. The market did decrease and my investment still reduced by some 27%, a very big loss for a 60% conservative – 40% risk investor.

Representation 5 "Our goal is to maintain your investments across asset classes within your current investor range profile".

If that was their goal, they failed miserably. My risk was increased from 40% to some 63% without my authority.

Representation 6 "Your fund continues to perform well to suit your risk profile".

Shame my risk profile was changed.

Representation 7 "Under the Corporations Act, our primary responsibility is to you, our client".
You could have fooled me.

Representation 8 "If a financial product recommendation has been made, you will be provided with a PDS that will enable you to make an informed decision about the appropriateness of the product".

If I had this knowledge and understanding, I would not need a financial adviser.

Representation 9 "The inclusion of a product or service on our recommendation list is not dependent on support from a product supplier".

All research to date suggests that this statement is completely false. What a brazen dishonest statement to make, what sort of integrity do these people have?

Representation 10 "AFS is serious about providing a quality service and will try to resolve complaints quickly and fairly".

My complaints were answered with deceit and gobbledygook.

Representation 11 "Some product providers also provide a marketing fee that assists with mail outs etc. These fees are paid by the product provider from their resources and are not additional cost to the client".

What generous product providers. Shame this is just another example of the embedded deceit.

Representation 12 "Take the time and worry out of managing your retirement savings by using First Choice to access a range of carefully selected investment managers. The fees are highly competitive and easy to understand. We have selected First Choice due to the range of funds offered and the highly competitive cost structure."

Here are more statements structured to mislead clients and make them feel relaxed about such an investment.

I believe that all the above representations that were held out to me were false or deceitful. Why do these organizations have licenses from a regulator that suggest an ethical and professional standard, when there appears to be no control or regulation of this standard?

From my experience and research, I believe that a large percentage of people that claim to be 'financial advisers' are actually 'financial devisers'. These are people of low moral fibre that

devise ways to make more money for themselves, in whatever deceitful way possible, by reaching higher investment targets and obtaining larger kickbacks from the providers of investment products, with scant regard for increased risk to client investments. They would probably not have the intestinal fortitude to make an honest and transparent submission. The present system allows them to attach themselves to clients like leeches, for the life of the investment, through brokerage, commissions and undeclared back door kickbacks. Do these people have any conscience? With so much evidence showing the grief and hardship caused to their clients, how do they sleep at night?

It would appear that the existing system that ASIC apparently regulates, has allowed investors to be treated as mere commodities by the different levels of the money making food chain. Then there is the deceitful procedure that I am now aware of, that is known in the industry as 'churning'. The so called financial adviser hides this procedure under the banner of 'switching'. It is supposedly recommended for the benefit of the client, but this procedure is carried out to increase commissions on the movement of funds. When I became aware of this hidden agenda, I asked my so called financial adviser about the costs involved in this 'switching'. His answer was, "There is a buy/sell spread that ranges between .05% to .20%". This response was about as clear as mud to a person outside of the finance industry.

I believe that the corrupt system of allowing banks and other product providers to remove this unrecorded money from investor's income streams, to pay their secret commissions, has to be stopped. These banks and product providers set the scene for the conflict of interest, then FPA and ASIC's licensees do the dirty work for them, meanwhile the regulators have been asleep at the wheel. It beggars belief. As a previously trusting, but now cynical investor, one would have to ask, do the licensees only supply sleeping tablets to the regulators or are there secret payments here too?

Mr Kendall of Tupicoffs has shown in his submission where his integrity made him move away from the commission based deceit system, a long time ago. What standards do these licensees have to meet to obtain and retain their licence? What checks and prosecutions are made for breaches of these standards? With so many people prosecuted for other trivial offences, surely there is a law that covers breach of trust by intentional deceit of a client, where the result is loss and hardship. Confidence will not be restored to our financial market until the unproductive money sapping intermediaries are removed from our investment model.

As much as it would appear that the banks, product provider groups and their licensees would have encouraged and cultivated this situation of lack of regulation, to feather their own nest, ultimately it is the head of ASIC and his Minister who have to live with the fact that their dereliction of duty has been responsible for the trauma and collateral damage that has been caused to the people that they have been empowered to protect.

How can a government promote a system of superannuation that is flawed and unethical. Wasn't the idea behind it, we save for our retirement so that we do not become a burden on society. Up until it saw the need to appease this tsunami of public opinion, how has the government stood back and allowed the greed of those in this industry to put such a burden on the future finances of our country. We are now part of a financial crisis that had to happen, to clean up this greed and dereliction of duty.

Peter Pola