

Inquiry into Financial Products and Services

1. My name is Mohsen Alirezai and attached please find my submission with particular reference to the the role of financial advisers.
2. I have lived in Australia for more than 30yrs. I have taken out citizenship, I have worked for many years and paid my taxes. I have never been in trouble with the law or done anything wrong. I was in my late 20's when I came to Australia and my English language skills were not very good. My ability to read and write were very poor at that time. My reading is better now but I still find writing very difficult. I have had to get help to prepare this submission as it is beyond my ability to put my thoughts down on paper.
3. After living in Australia for some time a friend of mine approached me to help him out with a business deal he had in process. My friend Joe, was shipping tallow from Australia to Iran and he needed to provide sufficient security for the bank to give him the credit needed for the short period before payment was made for the tallow. He asked me to provide him with this security. I agreed to do this for my friend as it was a short term proposal and where I come from trust and your word is as binding as any contract. I was sent a "Bill of Mortgage" and told to take this to my solicitor, which I did. The solicitor said this is a "Bill of Mortgage" I said this is what my friend sent me. I was sent away and told to come back in a few days which I did, the solicitor brought me a letter and told me to sign it, I signed it, I did not read it, the solicitor did not say what was in the letter or that I should read it. This scenario happened twice as my friend again requested another of my properties for security to set us (he and myself) up in a tallow exporting business. The business did not proceed. The first tallow shipment was paid and completed with no problems. My deeds for my properties where not returned to me and after some time I requested their return, they were not returned.
4. As a consequence of this action the bank took my properties as securities for all of my friend Joe's business. At no time was I told I was guaranteeing Joe's Business, I have never filled in a guarantee form or agreed to guarantee Joe's business. My business was with Joe only. I had had no direct communication with the bank until they sent me the first letter of acknowledgment (I did not acknowledge or sign) for Joe's bank debt and after that the letter of demand for the sale of my properties to cover Joe's business debts.
5. There is much more to my case than this brief summary and attached is fuller explanation of my case with the bank.

6. Thank you for this opportunity to lodge my submission with the inquiry into Financial Products and Services. I will address some of the following points:

1. the role of financial advisers:
2. the general regulatory environment for these products and services:
3. the role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers:
4. the role played by marketing and advertising campaigns:
5. the adequacy of licensing arrangements for those who sold the products and services:
6. the appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served:
7. consumer education and understanding of these financial products and services:
8. the adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers:
9. the need for any legislative or regulatory change.

7. The first point I would like to address is the role of financial advisers:

In my case I was clear as was my friend on the security for export arrangement we wanted to undertake with the bank. Joe went to the ANZ Bank to organize what he needed to do in order to get the security arrangement for a tallow shipment to Iran. Joe sent to me a bill of mortgage and told me to take it to my solicitor, (as my property was to be the security for this shipment) which I did. I took the documents to my solicitor who was too busy to deal with this matter and passed me on to another solicitor. I was attended to at the front counter by Mr Kennedy who was appointed as my solicitor and had been practicing as a solicitor for only a very short time, said to me "this is a bill of mortgage" I replied this is what my friend sent me. I came back several days later and signed the documents presented to me by Mr Kennedy. I did not read anything he gave me and nothing was explained to me about what I was signing. Before I came back to sign the documents Mr. Kennedy had on several occasions tried to contact the bank to find out dates and amounts for the security. He was not provided with any of these details by the bank. At no time before or during any of these proceedings was I asked to secure or guarantee all of Joe's business dealings. I was not spoken to by the bank nor by my solicitor. At no time was a guarantor form mentioned or presented to me for signature. It must have been very obvious to them that my command of the English language was poor at best yet unbeknown to me my properties were taken for security against Joe's business debts – of which I might add I had no idea of the extent. At no time before I signed the bill

or mortgage for my property was I contacted by the bank or anyone else to explain what I getting involved in. As a third party I was not given any information about Joe's business activities or the level of his debt or his financial standing. I was not informed by the bank what would happen when I signed the bill or mortgage or indeed what signing the bill of mortgage meant in terms of my financial responsibility regarding Joe's business. I was aware that if Joe was not paid for the tallow shipment I was financially responsible. Joe wrote a letter to the ANZ Bank clearly stating my role securing the tallow shipment only and when that deal was to be completed. Also our wish to begin a tallow exporting business only.

I feel the treatment of the bank toward me in my case was unconscionable and deliberately misleading . The bank in its banking manual sets out its regulations for dealing with third parties yet in my case none of these rules were followed. I was in an extremely vulnerable situation and all I could do was to trust those who were advising me. In my case I was not fully advised as to what I was signing and what signing these documents meant. The result of my trust has been the loss of my properties (the only assets I had, and all that I had worked for). I have also used all my financial resources and I have and borrowed from friends and family to try to get justice in this matter, to no avail

8. The second point I well address is the general regulatory environment for these products and services:

.What regulatory environment exists at present is clearly not nearly enough. The bank was asked to provide under subpoena in court their banking manual that sets out its regulations for dealing with third parties. The bank deliberately flouted the subpoena by not providing this document. They did not provide other documents that were called for and many documents were not disclosed that were asked for by our solicitors prior to the trial. The bank withheld documents as privileged. In response to our discovery request the bank replied "the documents are not in the defendants possession or we are unable to find or we will examine to determine whether they ought to be disclosed or some documents are in storage and some are destroyed,or the documents have been lost misplaced or destroyed. Some documents were simply not produced or "we will look in to that your Honour". Who is to say what is privileged and what is not surely the bank should not be the one to judge this as they could withhold any document that may be misleading or fraudulent or incriminating. Had there been regulations clearly setting out the banks obligation toward customers whether second or third party but particularly third parties there would not have been any misunderstanding as to responsibility. There should be strict regulation for financial institutions as the community must trust them to tell the truth and hold their interests as primary. When the bank in my case disregarded their own banking manual the consequences to me were devastating I have been left with nothing because in a vulnerable situation I had to trust the bank to do the right thing by me.

9. Duty of care toward me a third party was nonexistent. We also approached the bank for a realization statement as we were not informed of the sale price of

properties and how that affected Joe's debt. The bank statements that were shown to us showed only one transaction regarding the sale of a property. We could not find any entry relating to my properties. The bank refused to supply any information regarding the sales of properties and where the money had gone. The banks response was that these documents could not be released due to the privacy act. Regarding the realization of assets as security for the business debt, I searched for the date, sale and transfer of all the properties held as securities for my friend Joe's business, I came across two of the properties (Lot 2 and Lot 3 Russell Street Howlong) which were sold by mortgagee power of sale the property was subsequently transferred for \$1.00 from one entity to another and then the property went under mortgage. Both of the properties were on the one transfer. This seems very strange to me. I am not sure if this has direct relevance to my case but it may be that the ANZ bank continued to hold a mortgage. I feel that the bank may have retained control of this property long after the first transfer.¹ There were seven properties used as security I have been able to find a deposit after the sale of only one the these properties. Of the other six properties I have been unable to locate any of their sale deposits and the bank refuses to cooperate or communicate with me regarding this account realization.

10. The third point I will address is the role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers;

Commission arrangements relating to product sales and advice does not apply in my case as no finance was sort. In my case conflict of interest in another matter did take place. Prior to the bank using my property as security for the tallow shipment I had to have my properties valued. I used a registered valuer to value my property. On 4th /12/1991 my second property was valued at \$130,000.00 and again by Mr Carmichael a registered valuer on 26/07/1993 for \$160,000.00. This valuation was done for the purpose of setting up the Tallow exporting business with Joe. After the sale of the property the bank was questioned as to the value of the property. The property was sold for \$74,250.00. The bank subsequently had the property valued by a valuer for Heron Todd White valuers. The valuer, valued the property at \$84,000.00. the valuer ascertained the property was valued for litigation purposes which gives a different value than for security purposes. It seems incredible that a property can almost halve in value depending on how it is valued. I do not feel The valuer was objective in his valuation and his valuation was couched for the banks purposes in the litigation case.

11. The fourth point I will address is: the appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served:

In my case as you have already read. I was not informed of the ramifications of

¹ Department of Lands history and transfers for Lot 2 & 3 Russell Street How long

signing the documents I was given. The bank had a duty of care toward the third party which it did not provide to me. I was not in any way advised by the bank or indeed by my own solicitor what I was getting into. My intent was simply to help out my friend by securing first a single tallow shipment and then we were to set up a tallow exporting business. The business did not go ahead and nothing had been done to begin this business.

12. The fifth point I will address is: the adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers:

Those consumers who have been mistreated by the bank should be recompensed for their loss – definitely. But the major cost to consumers is the legal battle to prove their case in court and the bank has almost endless financial resources as its disposal. How can an ordinary consumer with little or no financial resources compete with that. Something has to be done to protect the vulnerable.

13. The final point I will address is: the need for any legislative or regulatory change: There is a great need for legislative and regulatory change. The banks and financial institutions are not regulated to an extent that protects the vulnerable in this society. Financial institutions should be held up as places of trust, somewhere you can go and know you will be well informed as to whatever you have gone to the bank for.

People need to know that their financial institution has integrity.

There must be regulatory change to insure full and proper disclosure is mandatory for derivative accounts and all third party dealings. The vulnerable must be protected, the financial institutions must be held accountable for their duty of care to their customers and anyone who has dealings with them either directly or indirectly as with third party dealings.

Please bear in mind I am very new at the submission process and I apologize for any inadequacies in its content or format.

Please do not hesitate to contact me if you require further information. I have all relevant backup information that may be needed. I am available to provide what ever is required of me to assist you in this inquiry.

Contact information:

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