

**Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra, ACT 2600**

Dear Sir

The ability of consumers and small businesses to exercise their legal rights through the justice system, and whether they are fair, affordable and appropriate resolution processes to resolve disputes with Financial Service Providers , in particular the 'big four banks' considering:

- a) Whether the way in which Banks and other Financial Service Providers have used the legal system to resolve disputes with consumers and small businesses has reflected fairness proportionately, including:

- (i) Whether Banks and other Financial Service Providers have used the legal system to pressure customers into accepting settlements that did not reflect their legal rights,

Response: Pressure and other forms of financial abuse and financial control has frequently been used to bully consumers into accepting unfair settlements. Banks function on incentive for resolutions, as opposed to being fair and reasonable. Often consumers are financially embarrassed and unable to protect their pride and well being in the absence of Bank's common sense approach.

- (ii) Whether Banks and other Financial Service Providers have pursued legal claims against customers despite being aware of misconduct by their own officers or employees that may mitigate those claims, and

Response: This has commonly occurred. Bank's lack qualities of honesty, integrity and professionalism in dealing with consumers/borrowers; accountability and the pride to serve as diligent, prudent and skilled employees is often all remiss.

- (iii) Whether Banks generally have behaved in a way that meets community standards when dealing with consumers trying to exercise their legal rights.

Response: Outcomes from the Royal Commission clearly state all FSP /Banks failed dismally in meeting community standards and expectations. Self admissions by Banks reinforced this statement.

- b) The accessibility and appropriateness of the Court system as a forum to resolve these disputes fairly, including:

- (i) The ability of people in conflict with large financial institution to attain affordable, quality legal advice and representation,

Response: Large influential and high qualified Legal firms are - prohibitive with their fees & costs, or alternately have a familial pre-existing relationship with the major Banks. Therefore loyalty belongs to the Banks. Legal Aid Centres lack skills to defend against large Banks.

- (ii) The cost of legal representation and Courts fees

Response: Unaffordable by most victims facing Bank litigation – particularly if the consumers/borrowers source of cash-flow has been unlawfully removed by the FSP/Bank – usually by foreclosure.

- (iii) Cost risks of unsuccessful litigation and.

Response: A risk that not many consumers/borrowers are inclined to expose themselves to in fear of potential bankruptcy.

- (iv) Then experience of participants in s Court process who appear unrepresented:

Response: Fraught with extreme danger. An arena not well practiced by consumers/borrowers.

- c) The accessibility and appropriateness of the Australian Financial Complaints Authority (AFCA) as an alternate forum for resolving disputes including:

- (i) Whether the eligibility criteria and compensation threshold for AFCA warrant change,

Response: AFCA is a Bank sponsored agency. AFCA survives on Bank memberships, Banks paying an account opening fee for a complaint and then followed by levy costs applied to the duration of their internal inquiry.

AFCA is a Bank funded operation, where loyalty will always remain with the sponsor/employer/supporter (i.e.Banks).

In real genuine commercial terms, AFCA compensation is inadequate – but it will also mitigate Banks from paying fair and reasonable remediation for their past wrong doings.

It's a poor fix to a hugely inherent problem, created by dishonest and deceptive Banks.

- (ii) Whether AFCA has the powers and resources it need,

Response: The skill-set of operatives at AFCA are deficient. Those on transfer from FOS regretfully do not add value to AFCA operations.

Documents and outcomes sighted from AFCA – to date, support my assessment and statement.

- (iii) Whether AFCA faces proper accountability measures and

Response: Whilst early days in their performance, I have experienced incompetence's with their handling of matters. I am not encouraged on their capabilities on results and their outbound correspondence.

- (v) Whether the enhancement to their test case procedures, or other expansions to AFCA's role in law reform, is warranted:

Response: Whilst AFCA is in its infancy, outcomes to date warrant more specialists and qualified and skilled staffing. Too much of the same is being exhibited from the old days of FOS and current leadership with no engagement with specific letters of request or complaints.

AFCA to date – simply fail the 'pub test'.

- d) The accessibility of Community Legal Centre advice relating to financial matters :

Response: Community Legal Centre staffing lack product knowledge, life experiences and largely – common sense.

Community Legal Centre has a role – but extremely limited to domestic issues only. Commercial transactions and dealings far exceed their capability.

- e) Any other related matters

Banks have proven to be devious, dishonest and deceptive. They provide "lip service" at inquiries and HEC; regretfully they do not deliver on their statements of commitment.

Banks (CEO, GM's, and Dispute Resolution Teams), Bank Boards will not honourably or dutifully reply to letters of request.

I assert and contend a 'hidden agenda' exists with their behaviours and conduct.

Delay, denial and deferrals makes up the composition of their discharge of duty.

Promised discovery documents are held up in their release; deliberate and intentional actions forms part of their DNA.

Yes, yes, yes of co-operation before the Royal Commission and HEC, but thereafter disingenuous performance is experienced by victims.

The Financial Services Royal Commission into Misconduct failed to investigate 'conventional' banking, particularly in the SME sector into fraud, falsified documents, premature foreclosures and redress.

Evidence is available on request, as is clarity to all statements made by me.

Yours sincerely

Selwyn Krepp

26 February 2019