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EDR Review Secretariat  
Financial System Division  
Markets Group  
The Treasury  
Langton Crescent  
PARKES ACT 2600

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Dear Sir/Madam,

**RE: Review of the financial system external dispute resolution framework**

**BACKGROUND**

I am a [redacted] and [redacted] financial planning and insurance white collar crime victim.

In 2004, I obtained an insurance policy with [redacted] (part of [redacted]), which was sold to me by an [redacted] (part of [redacted]) agent / financial advisor [redacted]. The financial advisor had advised me to cancel my other existing, perfectly OK and suitable life / TPD and Income Protection life insurance policies I had held through my employers, and to replace them with the [redacted] protection policy. He convinced me the [redacted] product was superior to any other product on the market. As it turned out, it was just a product pushing exercise for the financial adviser on behalf of [redacted] and [redacted].

[redacted] and I filled out an application form together on 5 October 2004, which I signed and left it with him for lodgement with [redacted]. I obtained a photocopy, which I took home that night.

In 2005, I increased my cover, by filling another application form, which my advisor lodged with the insurer. Both, the original policy and a subsequent increase were approved.

I was paying thousands of dollars in premiums each year for about five years, when in 2009 I got injured at work. [redacted] initially decided to start paying me monthly benefits, but as soon as I was diagnosed with some serious chronic diagnoses (including the incurable Meniere's disease with loss of balance and hearing loss, IBS, GORD etc), [redacted] realised they would be liable to continue paying me my insurance benefits until the age of 65. So, in order to save itself money, it decided to cancel / repudiate my policy in 2010.

[redacted] It accused me of prior medical history non-disclosure - which was a made up excuse to artificially deny my claim. I disclosed everything to my financial advisor verbally and in

writing, but in 2004 he decided not to pass everything to the insurer (including an email where I told him about my visits to a psychiatrist).

Essentially, \_\_\_\_\_ and \_\_\_\_\_ and the financial advisor have joined forces against me, trying to get away from honouring my policy.

They have even fabricated / made up some evidence against me, or at the very least have twisted the truth, using it to muddy the waters and further delay paying me my claim.

They have abused and harassed my elderly 78 yo mum too, even though she had nothing to do with my insurance policy. They have done so in order to put an additional pressure on me and my family to force me give up on my claim and walk away.

What they are alleging is that in 2004 I deliberately answered one question on the application form incorrectly, in order to defraud them five years later in 2009. They are saying that even though they very well know I had had a number of complimentary Life / Income Protection and TPD group policies allocated to me automatically through my various employers, which I could have retained without having to fill out any application forms or disclose any of my prior medical history. They know I was offered automatic coverage elsewhere and that I did not need to engage in any alleged fraudulent conduct against \_\_\_\_\_.

As it turned out, the \_\_\_\_\_ financial advisor \_\_\_\_\_ fraudulently altered my application form behind my back before the lodgement with \_\_\_\_\_ in 2004, without my presence, knowledge or consent. After comparing a copy of the signed application form that I obtained in 2004 after signing the form and a copy of the actually lodged form (obtained after 2009), it was apparent and also admitted by the financial adviser, that some answers were altered in the advisor's own handwriting.

The financial advisor \_\_\_\_\_ himself was sacked by \_\_\_\_\_ in 2007 for some kind of financial misconduct - only one month after \_\_\_\_\_ performed an audit of his file. He himself sued \_\_\_\_\_ in Supreme Court in 2007. That matter has been finalised.

The \_\_\_\_\_ financial advisor \_\_\_\_\_ failed an audit in 2007 by \_\_\_\_\_ for reckless and incompetent financial service practice and for breaches of the Corporation Act.

Of most alarm, is the fact that \_\_\_\_\_ and \_\_\_\_\_ have never reported the financial advisor \_\_\_\_\_ to ASIC or any other appropriate agency, but instead permitted \_\_\_\_\_ to continue to provide financial services on their behalf in circumstances where he was not meeting critical, yet basic elements, of providing financial advice and was in breach of the Corporations Act. They simply did not care about doing the right thing.

The financial adviser simply went to another financial services firm, (part of \_\_\_\_\_), and he is now authorised through them to provide financial advice to unsuspecting members of the public. The financial adviser has suffered no consequences what so ever. His offences have remained a secret. Members of the public cannot and do not know anything about his past.

On top of everything, there is a useless, misleading, financial advisers' register on the ASIC's Money Smart website, which is manipulated by the advisers and their licensees. It is

impossible for a member of the public to have any influence over it, but instead it is left to the licensee to record accurate information. It would be an equivalent of a sex register being maintained by sex offenders themselves - simply ridiculous.

Further, all three, \_\_\_\_\_ and the \_\_\_\_\_ financial advisor now claim they no longer have the original application forms, and they are unable to explain what happened to those. In addition, all parties, \_\_\_\_\_ and \_\_\_\_\_ no longer have my client file - it has mysteriously 'disappeared'. It is obvious it has been destroyed to cover up all the wrongdoings and fraud in relation to my policy, so that it becomes impossible for me to prove anything.

\_\_\_\_\_ and \_\_\_\_\_ condone a behaviour that is fraudulent, reckless, deceitful and potentially criminal - to avoid paying me my insurance benefits.

**I have been fighting \_\_\_\_\_ and \_\_\_\_\_ since 2009.**

I cannot afford essential treatments and medications anymore. In the meantime, \_\_\_\_\_ and \_\_\_\_\_ continue delaying (for more than five years) paying me my benefits. They have unlimited funds and life spans, unlike me.

They have made up groundless and false accusations against me. For example, \_\_\_\_\_ and \_\_\_\_\_ have said that I never sent an email in 2004 to my financial advisor disclosing my prior medical history, even though I have a copy of the email. I no longer have the computer used to send those 2004 emails. Irrespectively, \_\_\_\_\_ forced my mum to hand over a laptop computer to them in 2014, which was purchased in June 2010 (six years after the emails were sent in 2004).

\_\_\_\_\_ and \_\_\_\_\_ sent me to some dishonest doctors who openly lied in their reports, stating I had said certain things to them during the examinations, even though I had not said those alleged things. Those so called 'independent' examiners are paid thousands of dollars for their favourable reports, and they know very well that the insurers control their payrolls and that they have to write favourable reports if they want to get more business from the insurers.

In addition, the lawyers for \_\_\_\_\_ and \_\_\_\_\_ openly pressured some doctors to change their opinions to enable the insurer to easier decline my claim.

Although there is clearly no relevance between the emails sent in 2004 and my mum's computer purchased in 2010 (and only invented/designed in 2009), the defendants insisted on a forensic investigation of that computer anyway, which has delayed my claim by at least 2.5 - 3 years. Essentially, they forensically examined a wrong computer, and all the forensic reports (more like Steven Spielberg movie script) are based on the examination of a wrong computer. It would be like examining a 5 year old car for any evidence of a car accident which occurred 11 years ago, when the 5 year old car did not even exist. A judge determined there was no evidence of any wrongdoing on my side.

I should not have to be dragged into fighting for something that is rightfully mine, at my weakest point, especially after all the misconducts by the advisor, \_\_\_\_\_ and \_\_\_\_\_. I should be allowed to concentrate on getting better.

I have informed all [redacted] executives and board members, including [redacted] etc about my case, white collar crime, their wrongdoings, fraud, wrongful financial advice, forgery, application form altering, deception, dishonesty, appalling, disgraceful, unconscionable and criminal conduct against me. I have also informed all [redacted] heads including [redacted], etc about the same. They all chose to do nothing. See attached my letters to [redacted].

I have reported the above wrongdoings to APRA, ASIC and NSW Police, but they have all been passing the buck unwilling to lift a finger.

I complained to FOS about the adviser's misconduct and it told me to go to ASIC. ASIC told me to go to APRA and NSW Police. NSW Police and APRA told me to go to ASIC, and ASIC finally told me it was not in a 'broader public interest' for it to investigate misconduct and fraud allegations.

I also lodged an internal dispute with [redacted] and [redacted] over a compensation for my Income Protection Insurance Policy, and they either totally refused to respond or lied in their responses. I then lodged a dispute with FOS: FOS refused to deal with it as my claim was likely to exceed \$500,000. FOS did not even want to deal with misconduct matters and it was totally useless.

### **SUMMARY OF MISCONDUCTS AND WHITE COLLAR CRIMES**

The [redacted] and [redacted] have committed the following unethical, dishonest and criminal conducts in order to avoid paying me my insurance benefits:

- Destroyed / deleted my insurance file, in order to cover up various wrongdoings and frauds on my case and documentation, including forgery, and to make it virtually impossible for me to prove anything;
- Acted unconscionably against me and my family;
- Fraudulently altered my application form behind my back and without my knowledge, presence or consent, after I had already signed and left it with the adviser;
- Suppressed the information provided to them at the time of the application process;
- Cherry picked doctors to write favourable reports;
- 'Artificially' declined my claim, after it had initially been accepted;
- Made up false / artificial and baseless accusations against me;
- Fabricated some evidence against me;
- Pressured doctors and other 'independent' experts to change their reports or to write favourable ('cash for comment') reports to support the insurer's objectives;
- Provided me with a negligent, reckless, dodgy and deceitful financial advice;
- Enabled the financial adviser to continue providing financial advice, after financial misconduct and breaches of the Corporations Act;
- Failed to act after I had informed all their executives and board members of the misconduct acts, frauds and crime;
- Fabricated evidence and made up false accusations against me in order to muddy the waters and falsely attack my credibility;
- Bullied and harassed me and my family, including my fragile and elderly 78yo mum;

- Distributed (the adviser did it) pornographic material, potentially involving minors, via a financial adviser;
- Threatened me through their lawyers against speaking up;

I have reported the wrongdoings, misconducts, crimes, fraud and dishonesty to APRA, ASIC and NSW Police, but they have all been passing the buck unwilling to lift a finger.

I have reported the wrongdoings, misconducts, crimes, fraud and dishonesty to the \_\_\_\_\_ and the \_\_\_\_\_ executives and board members, urging them to right the wrongs caused to me. They have not only ignored my request, but have threatened me through their lawyers.

Even though \_\_\_\_\_, the head of the \_\_\_\_\_, and \_\_\_\_\_, said during the Senate estimates hearing last year words to the effect that they would be more than happy to pay more compensation, that has proven to be false and a total lie. \_\_\_\_\_ and \_\_\_\_\_ continue rejecting to pay me out my insurance benefits, let alone any compensation.

My financial adviser, \_\_\_\_\_, who fraudulently altered my application form and provided me reckless and deceptive advice, and who was sacked by \_\_\_\_\_ for misconduct and breaches of the Corporations Act, still works as a financial adviser, having faced no consequences what so ever, because ASIC and APRA failed to act, despite me bringing the above offences to the attention of the ASIC and APRA's executives (see attached the letters to ASIC and APRA).

My and my family's lives are totally destroyed by the \_\_\_\_\_ and \_\_\_\_\_ criminal and unethical conduct. I cannot even afford the necessary treatments and medications, while the executives of the \_\_\_\_\_ and \_\_\_\_\_ (ie the members of your body) are earning millions. I have been tormented by the \_\_\_\_\_ and \_\_\_\_\_ at my weakest and lowest point.

I have been robbed by the \_\_\_\_\_ and \_\_\_\_\_. They have destroyed my life. They have been fighting me for more than six years.

**It is clear from the above that the \_\_\_\_\_ and \_\_\_\_\_ have engaged in unethical practices to avoid paying me my insurance claim. They behave as real criminal enterprises. An ordinary person would be jailed for committing all these misconduct matters.**

They do not know even what an ethical conduct looks like. It is impossible to teach them, so it must be enforced onto them. It would be an equivalent of teaching a blind person what yellow looks like.

I have lodged a fraud report with the NSW Police, against all \_\_\_\_\_ and \_\_\_\_\_ executives. The investigation has been difficult as \_\_\_\_\_ and \_\_\_\_\_ have destroyed all the evidence, and the adviser is not willing to answer any questions to the detectives.

### **NEED FOR IMPROVED OVERSIGHT**

It is clear that in practice there is no effective oversight what so ever. ASIC and APRA are non - existent and unwilling to act, and FOS seems to be biased and corrupt (ie it is funded by

the banks and insurers themselves) and has a jurisdiction of up to \$500,000 only, which is far less than many life insurance products - including TPD and Income Protection.

A stricter and more thorough oversight is required. Currently, there is no body / agency dealing with misconduct matters involving financial advisers and bankers. When you go to ASIC, they are not interested, stating that they either have limited resources and can ONLY deal with matters involving a broader national interest, or they just say a bad conduct is not the right sort of a bad conduct for them to investigate. I reported my financial adviser for forgery, deceitful conduct, altering my application form, destroying my insurance file etc etc, and ASIC still found a way to avoid any action.

### **LIFE INSURANCE INDUSTRY CODE OF CONDUCT**

A strict enforceable code of conduct is needed, but it must NOT be governed and policed by the insurers themselves. They cannot be trusted.

### **ROLE OF ASIC, APRA and FOS**

ASIC has proved to be ineffective and impotent in dealing with insurance scandals. APRA is even worse.

FOS, which is funded by the insurers and banks, has no credibility what so ever, and its powers and jurisdiction are limited. People are discouraged to go to FOS, as they know that most likely FOS will protect the banks and the insurers - similar to ASIC and APRA.

There should be an independent body established, which could not be controlled/influenced by the insurers and their interests (unlike FOS), and which would strictly and promptly enforce a strict code of conduct and deal with insurance disputes for the benefit of ordinary people, not the insurers. Such a body should deal not only with claim disputes, but also with misconduct matters by the advisers and banks. Such a body should have powers punish bad behaviours by financial advisers and bank executives, and to order banks / insurers to pay out insurance benefits.

### **RECOMMENDATIONS:**

1. A new tribunal / body must not have any monetary limits in relation to life / TPD / income protection claims. The FOS limit of \$309,000 / \$500,000 is wholly inadequate.

Most life / TPD policies are above that limit and those policies can go in excess of \$4mil. People who have those high value policies should not be prevented by a tribunal to have their cases determined by the tribunal on the basis of some kind of outdated monetary limit.

Just because someone has a high value policy does not mean that person can afford going to Supreme Court. The limit should be at least the value of the currently highest insurance policy on the market and be in line with the Supreme Court monetary limits. In other words, there should be no monetary limits;

2. A new tribunal must be able to hear the older cases such as mine. I have been fighting against \_\_\_\_\_ since 2009. Old claimants should be provided with justice retrospectively. The tribunal should hear all cases in order to clear up the mess accumulated from the past;
3. A new tribunal must be able to consider the cases previously heard by courts, as no litigants will ever obtain a full value of their claim (after deducting legal costs), and be able to award the difference between a full value of a claim and what litigants actually obtained / didn't obtain through a court system;
4. A new tribunal must have powers to deal not only with claims / compensation matters, but with misconduct matters too. The tribunal should have powers to persecute and jail, or refer banking executives and financial advisers to DPP, otherwise the bankers and financial advisers will never change their behaviour.

Banking executives and financial advisers should not be deprived of the opportunity to experience some time in a slammer in order to correct their behaviour.

We should follow the best practice developments from overseas, particularly from the UK and Iceland, which have started jailing their corrupt bankers.

See the links below for more information:

[<http://wearechange.org/iceland-sentences-26-corrupt-bankers-to-74-years-in-prison/>]

[<http://www.neonnettle.com/news/1632-uk-follows-iceland-s-example-as-mass-arrests-of-bankers-begin>]

I would be happy to assist with any of your inquiries, public or otherwise, to testify in person before any Senate Committee, or to assist in any other shape or form. I can provide evidence to substantiate my allegations upon request.

Regards

Damien Beslic