

From: [paul](#)
To: [EDR Review](#)
Subject: Submission in response to: EDR Supplementary Issue Paper
Date: Monday, 26 June 2017 7:20:56 PM

Members of the External Dispute Resolution Inquiry Panel,

Whilst it appears that what I am to relay to you below should probably have been submitted as part of the original stage 1 report (that I was not aware of at the time), I would appreciate it if you could take the time to consider what I am submitting. I will make it a brief summary of what has occurred since 2007.

1. In February 2007, I was advised by a home loan broker, in conjunction with an accountancy firm, and the [REDACTED], to set up a company and family trust in order to purchase a 66 acre property on which I was to run my small transport business which consisted of four semi trailer type trucks and three employees.

2. This company / trust was in fact set up, and two weeks later (without any financial information re income of the company/trust being requested by the [REDACTED]) a loan for \$815,000 was approved to buy the property. This loan was only granted on the proviso that I used my then family home as collateral so the loan could be split into two separate loans (\$815,000 , plus stamp duty etc). I was told at the time that this was required as I could not qualify for the full amount under the company name. Much later I realised that this was organised so that the [REDACTED] could claim my existing family home if something went wrong with the loan for the second property which was to be our main family residence (at the time there was my wife and five children). The existing family home was to become a rental, supplying extra income to service the loan(s).

3. As well as the [REDACTED] requiring our first home as part of the deal, they also required my wife and myself to sign up as guarantors which meant we were / are each liable for \$657,196.

4. No financial information regarding our personal incomes at the time was requested and we were urged by the broker to sign the papers and that he would deal with the rest of the paperwork later. Myself being a boilermaker / truck driver and my wife being a mother and part time nursery worker were unfamiliar with the legalities of all this and trusted that the broker and the [REDACTED] (being a trusted family name type bank) would "do the right thing" and perform all the necessary checks required by the Banking Code of Practice, ASIC, APRA and all the other Government departments / regulators. We were not aware that there were other documents we should have filled out ourselves or at least confirmed the details thereon.

5. Some years later (around 2010 /2011) a series of things went wrong and the loan became too much for us to service. This has since become apparent to me to be an "engineered default" type setup. We asked for help under the hardship provisions etc.

6. It was around this time that I was advised to ask for the original Loan Application Form from the bank. This document is not supplied to the borrower as a rule and although I understand that she was not supposed to supply us with the LAF, a staff member from a local branch did in fact print me out a copy of the LAF (although it was an incomplete and true copy).

7. It was only when i read this (incomplete) copy of the LAF that I realised the [REDACTED] and or the broker had completed the income and asset sections of the LAF with completely false income and asset figures such as to state that my wife and myself were each earning \$150,000 a year, that I had \$25,000 in superannuation, \$30,000 in personal tools and chattels, the existing family home was over way over valued (\$350,000 at the time of the loan approval) etc. The LAF had also had sections re-written by someone at the [REDACTED] so that the LVR (loan to valuation ratio) was changed to "make the figures fit". It is my understanding there was / is something called a loan calculator / calculating formula used by the banks to adjust whatever figures are supplied to make sure the loan application "ticks all the boxes" and ensure the loans approval. As from points 2 and 4 above, no personal / company income figures or tax returns etc were requested by the [REDACTED].

8. After various legal dealings with the [REDACTED], including being falsely told twice by the [REDACTED] that they had been granted a default judgement decision by the Supreme Court, I applied to the FOS to investigate the matter and case number 297560 in the name of the company / trust was commenced. In short, the FOS found that the [REDACTED] had been "guilty" of maladministration, had broken several sections of the banking code of practice etc and that the company/trust (and therefore myself and my wife) had been damaged to the amount of \$572,000.

9. However the FOS decided that we were somehow 50% responsible for the fraudulent LAF, and after deducting other amounts that they decided we had benefited from, they eventually arrived at a figure of \$280,000 that the [REDACTED] were to reduce the loan amount by. I later found out that this figure fitted nicely within the maximum monetary amount of compensation that the FOS was able to apply to such cases. If I had of agreed to this decision I would still have to have handed back the property to the [REDACTED] and paid any outstanding amounts if the sale of the property failed to cover the loan amount. This would have been despite the fact that I had also paid for lenders mortgage insurance (\$5000+) that would have paid out the [REDACTED] in the case of any sale shortfall.

10. I accepted the finding of the FOS re the fact that we had been damaged to the amount of \$572,000, but i would not accept the solution - hand back the property and pay any outstanding amounts minus \$280,000, therefore it was judged that I had refused the FOS finding in total.

11. I then initiated two further FOS enquiries in both my own name and my wifes name as guarantors (case numbers 385152 and 435621) and even though the facts of the matter in all three cases are / were identical, the FOS refused to make findings in the second and third complaints, instead stating that I should take the [REDACTED] to court. What a joke - which everyday working person can afford that when lawyers costs start at around \$400 - \$600 per hour (almost a weeks wages for some)?

12. The [REDACTED] continued with legal action but made several fundamental mistakes with their case and in 2016 they ended their case (CIV 1369 Of 2013)

13. Later in 2016 the [REDACTED] initiated a new court case (CIV 3058 of 2016).

14. CIV 3058 of 2016 is on going, however I now find I have to employ a lawyer to represent the company / trust. I have had to borrow \$4000 just to be able to have the company apply to have a default judgement set aside, let alone defend the case further. I will then have to somehow defend myself and my wife in our personal capacities as guarantors.

15. To finish, it is my opinion that not only are the FOS absolutely unable to properly help the thousands of Australians who find themselves in similar circumstances as myself, neither are any of the other alphabet government departments such as ASIC, CCC, APRA, ACCC etc. Several people I know have even taken the proof of the fraudulent bank behaviour to various Police departments such as the fraud squad and in at least one instance that I am personally aware of, the Police commenced an investigation only to have then (as I understand it) recieved a call from ASIC and shut down the investigation leaving the people involved to carry on fighting their lender, which they have so far successfully done for five years despite the courts reluctance to hear the evidence of the fraudulent bank behaviour. These people have now been granted a sum of money from the Federal Attorney General to allow them to hire professional legal help to run their case as a "public interest matter".

I certainly know that my case is not an isolated one and if your inquiry is able, can you put your weight behind either a Royal Commission or, preferably, a Parliamentary inquiry with the proper and complete powers to investigate the fraudulent behaviour that seems to be rampant in the banking industry and make the banks compensate the victims of their fraudulent behaviour, or at least put us back in the positions we were in before the fraud and maladministration (as per the FOS's own charter)? Thousands of ordinary Australians have, and still are at this very minute, losing their homes, their lifes work, their families and in some cases, their lives to suicide. I myself am very close to losing all I have ever worked for and at 53 years of age, I don't hold out any hope of being able to start again.

Thanks for your time,

Paul Topping. [REDACTED]