

SUBMISSION TO AFCA REVIEW

Submission of Tony Graham

26/03/2021

Once again as with all Reviews, Inquiries, Senate hearings, and even the Royal Commission, anything to do with complaints about financial services, those responsible (exactly who are they) for writing the TOR (allowed by the Government) have deliberately avoided the most controversial issue with regard to AFCA at this stage LEGACY COMPLAINTS. As with all avenues to try have redress, again those responsible for the TOR for the AFCA's legacy complaint handling have thrown the legacy case victims to the courts and the banks directors and executives' plausible denial system of keeping their lying lawyers (both in house, mega firm and indemnity) between them and the victim.

Myself and my wife are victims of Bendigo and Rural Banks, misleading and deceptive conduct, unconscionable conduct in connection with financial services and negligence, both by their agents representations prior to our relationship and then worse still by the bank once they realized their agents representations and misconduct. The conduct by the bank then turned from breaches of the trade practices act to fraud upon fraud upon fraud all to conceal the original frauds, and once again concealment of the fraud on the court by Customer Advocate when we put our legacy case to AFCA. There is document evidence of all of this and we sued the bank and the agent in the Supreme Court QLD after receivership was terminated by the bank. The bank simply counter claimed that we still owed \$4.2ml out of a term loan of \$4.5ml then ran us out of money over three years in the Supreme Court, then offered to mediate with their false counter claim as a threat to continue the litigation. This was unconscionable conduct to force us to allow our solicitor to sign a so called settlement. The frauds on the court the customer advocate has concealed from AFCA are the created documents and documents which show the concealment of documents, which were filed as the evidence of fraud in the Supreme Court (Gra 9 to Gra 21) application to set aside the Settlement and release agreement on various grounds including fraud.

The story goes on to the Senate inquiry into agri- lending, where my public submission was changed and any adverse comment was taken out along with reference to evidence documents and the names of people and what they had done. The people receiving the submissions have claimed the submission was not cleared in time, therefore Ruralbank couldn't respond publicly in time, therefore they didn't have to. (They can respond now if there is nothing to hide) The Royal Commission was next. Bendigo bank misled the Royal Commission (indictable offence under the Royal Commission Act 1902) The CEO of Rural Bank either misled the Royal Commission in the hearing or someone provided her with misleading information (indictable offence RC act 1902) Next was the 8th April 2019 Senate inquiry constitutional affairs/ Resolution of disputes with financial service providers within the justice system. All involved need to read and consider the TOR of this and the Recommendations and whether and why they have simply been ignored by Government to date.

Note recommendation 10, 3.45 - The committee recommends the establishment of retrospective compensation scheme independent of the AFCA to allow victims of alleged misconduct by banks who received a past external dispute resolution or court judgement that was manifestly unjust to apply to the scheme to have the matter reviewed with the consent of the bank

This is the most important recommendation. Why is Government ignoring?

ASIC RG 267 and Corp act 1051, 1052, 1017, national consumer credit act and other mentioned in RG267

AFCA review Tor 1.1 1.2 1.3 none of these Tor are relevant to legacy complaints.

Fair and independent cannot be when the bank customer advocate responds with the claim that the dispute has been settled as final and conceals the EVIDENCE of fraud (documents Gra 9 to Gra 21) from AFCA and states other lies to AFCA. AFCA does not care about any of your allegations or evidence documents provided, only that they can deem you to be outside TOR. They deliberately stop you from being able to provide further evidence by stating it is not necessary for AFCA to view these documents because of several and any excuses that exclude the complaint.

██████████ states. I consider that AFCA is not the appropriate entity to address the complaint. Rather the complaint would be more appropriately dealt with by the Court or other organizations such as ASIC. So send us back to the corrupt court which we have provided the EVIDENCE of the FRAUD on the court (documents Gra 9 to Gra 21) to her even though customer advocate has concealed them from AFCA. That's fine given they can claim the dispute is settled. However I decided to lodge our dispute with AFCA only because of ASIC RG 267 and the Corp act 2001 sections mentioned in RG267. Back to ██████████ statement, other organizations such as ASIC.

ASIC RG 267 section C

Oversight of AFCA sets out how ASIC will administer the reporting requirements of AFCA including AFCA obligations to:

Refer matters to appropriate authorities;

Refer settled complaints

Refer systemic issues and

Report on scheme statistics

ASIC RG267 reporting requirements:

RG 267.38 – section 1052E (1) requires that AFCA must give particulars of a contravention, breach, refusal or failure to APRA, ASIC or the ATO, the regulators, as appropriate, if it becomes aware, in connection with a complaint under the AFCA scheme, that;

- (a) A serious contravention of any law may have occurred;

Serious contraventions:

RG267.40 – AFCA must refer contraventions and breaches to appropriate authorities; S1052E

Also refer to RG267.41. RG267.42, RG267.43, RG267.44, RG267.45, RG267.46 AFCA must comply with all through to RG267.50

Financial Firms must self-report breaches as per RG267.51 and RG267.52

3.

APRA review TOR 2

The monetary limits on claims were never anywhere near adequate. Why if there is a claim that can be quantified by forensic expert and can be proven that the damages were caused by the banks conduct should the complainant only get the compensation limit decided by someone obviously in collusion with the Banks.

AFCA review TOR 3 and 4

It appears as if by ASIC RG 267 that ASIC is to oversee AFCA with regard to these points and also as to this review.