EXTERNAL

DISPUTE

RESOLUTION

REVIEW

FINANCIAL SYSTEMS

SUBMISSION

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ABSTRACT.

This submission identifies the Interim Report with a known incorrectly handled situation arising out of Government identified circumstances not or inadequately supported by the Banking Ombudsman, Australian Securities and Investment Commission(ASIC), Australian Prudential and Regulation Authority (APRA) with the Australian Competition and Consumer Commission prohibited. This failed support continued in court jurisdictions including the High Court and eventually the affected customer supported an ASIC inquiry into and the facts were identified. The customer, lost his property, his reputation and future through false bank debt.

1. The interim report acknowledges the need for Dispute Resolution in financial matters.

   Whilst lawyers have a demand professionally to exercise skill;

   A key requirement at the heart of lawyers' professional duties, whether to clients, the court, or the administration of justice, is competence. A single incident of incorrect advice arising from a failure to know the relevant law or to conduct proper research into it was held to be unsatisfactory professional conduct. The practitioner was publicly reprimanded and ordered to pay the Legal Service Commission's costs.

   Lawyers offering and delivering professional legal services must ensure they are skilled in their areas of practice.[1]

2. In dispute resolution is competence by the dispute resolver (ombudsman) regarded to have the same skills. Or is it more of a negotiated settlement with those holding the purse strings the major winner? The criticisms at Page 13 of the report are restricted to past attempted fixes. Reality is the ombudsman schemes have no real teeth when it comes to major problems.

3. A simple example is the "Shadow Ledgers" Inquiry of 2000. This Senate inquiry identified incorrect bank statements and the use of improvised accounting where the banks in debt recovery and court proceedings used certificates and affidavits of debt. That system is still current. In one particular instance the
   produced the following correctly numbered bank statement of the account, two incorrectly appropriated and entered original format statement, two, Memorandum account statements, with the same numbers as the customers incorrectly numbered account, separate sheet number, a copy of the receiver's account showing incorrect sales of property belonging to persons and clearly paid for by them through transfers by the between accounts and not mortgaged to the
   but left in trust, on the mortgaged property.

4. Each one of the bank statements including the one issued in the ordinary way was incorrect since 1993. Obviously because the bank kept issuing replacements but these were served and according to law the first was binding. It showed an overcharge when transferring accounts from a previous financier. Ordinarily the customer would not be aware of the overcharge but on this occasion the refund was made direct to the customer because the previous financier was aware that the funds could be paid to a

[1] McMurdo, Margaret PQSCA, QUEENSLAND LAW SOCIETY SENIOR COUNSELLORS' CONFERENCE 2013, 25 OCTOBER 2013, 9.10 AM, OLIVER'S ROOM, PULLMAN BRISBANE, KING GEORGE SQUARE

manager's suspense account or other account in the bank not being the customer's account. The second mistake was an undercharge of interest. This was non-refundable pursuant to appropriation where in Australia and England the bank is responsible for appropriation of its interest charges. A recent situation in Britain was the made a series of undercharges in mortgage accounts and then demanded the payments be upgraded and capital payments adjusted. [2] The bank also failed to inform over 5000 customers they were eligible for refunds after the bank unlawfully debited their accounts.[3]

5. The Australian ombudsman issued a document proclaiming the circumstances but not covering the above circumstances the Australian Competition and Consumer Commission (ACCC) issued an identifying document proclaiming mediation under the circumstances but this was taken from ACCC control and given to The Australian Securities and Investment Commission and the lid quietly placed on claims for correct bank statements. The courts accepted the bank certificates of debt and affidavits even when they knew they were not correct. The High Court supported this process and when eventually the evidence was found to proceed under an Equity Account in the courts the Court refused. So there is currently in Queensland and Public Policy generally no opportunity to have incorrect bank accounting corrected in the courts in Queensland, Federally or State.

6. This leaves the Ombudsman schemes open to the corporate culture of the financial corporation concerned. The ombudsman's statistics on correction of incorrect bank statements may not have been produced

7. In 2004 as part of the $350M forex scandal the banks' corporate culture was identified and interpreted as the cover-up of all things not appropriate. At the same time the bank was required to consent to an Enforceable Undertaking on the 20 October, 2004. However in March 2004 the bank had denied false accounting in the account history stated above.

8. The account holder advised ASIC and the Australian Prudential Regulation Authority (APRA) that the Bank had issued false bank statements and had falsely charged Debit Tax, Interest, Default Interest and Fees against customers' accounts. This knowledge arose out of an investigation where the had acknowledged these practices unofficially in 1970 and were still in bank practices in 2004 except debit tax that was limited to 1982 commencement.

9. The refunds continued until the end of the Enforceable Undertaking in 2011 but were only paid back for six years from the date of the refund not from the Date of the

[2] https://www.fca.org.uk/ Clydesdale Bank PLC, Final Notice, 24 September 2013.
[3] https://www.fca.org.uk/ Clydesdale Bank PLC, Final Notice, 24 September 2013.
3

advice to ASIC and APRA.

and so many thousands of bank customers possibly lost refunds. In order to stop the person identifying the incorrect evidence in his cases now being enforced by the enforceable undertaking provisions, the bank applied to have him made vexatious before it made its first admissions of the false facts at its' annual company meeting in November 2005.

10. When the vexatious proceeding was heard the bank lawyers stated the quoted facts handed to ASIC and APRA were false and again at Appeal manipulated evidence through now moved on court staff. When this was made a complaint, with the correct evidence and handed to the Federal Court Chief Justice all that happened was the true facts and dates of the hearing for vexatious proceedings was taken off the Federal Court Judgements to hide the true circumstances. No investigation of the lawyers or witness circumstances was generated and when it returned to Court the Judiciary refused the case be heard on once again false evidence of debt making the bankruptcy and vexatious proceedings unlawful.

11. Should in these circumstances the Ombudsman conduct an independent inquiry? Whilst the writers of books on Equity say that Equity Accounts are available for all bank customers and in particular mortgage holders, at least in Queensland, that is denied by courts. Yet these circumstances identified and the "Shadow Ledgers" Inquiry relevance is indisputable. The in its submissions in writing to the Impaired Loans Inquiry in 2016 admitted the facts relied on by the bank against the customer was his Loan to Valuation Ratio was inappropriate. However the Asset Structuring person handling the situation admitted the correct debt should have been $770,000 not $1,020,000 as claimed and used in Bankruptcy. The customers properties were sold for $990,000 + and incorrect interest on the account would have more than outweighed the extra $30,000.

12. The summary of the principles taken from Simonovski v Bendigo Bank Ltd[2005] VSCA 125; state

(a) A bank has a duty to its customer to keep the account accurately and to render accurate statements;
(b) Where the bank has failed in that duty, and by such failure has induced the customer to act to the customer's detriment by overspending, the bank cannot recover, provided the customer is not at fault:
(c) The customer will not be allowed to retain an amount which the customer knew was an overpayment at the time it was credited:

The corollary to (b) would seem to be that, if the bank discovered its mistake, and claimed the overpayment before the customer had acted to the customer's detriment by spending it, then the bank could recover.

This does not apply from the above circumstances above when the bank overcharges customers' accounts

13. This stimulates an argument for the overseeing of Ombudsman decisions and directing of Ombudsman services to investigate these matters because of the failure of ASIC to investigate individual complaints and the most affected bank customers were the identified small business customers.[4]

14. In the Senate Inquiry into Exceptional Circumstances at Submissior the circumstances of how banking errors are not corrected and how the facts of exceptional circumstances are not corrected by banks and how the accounting of farmer viability has been deceived by bank actions,[6] was explained and how the Commonwealth Administrative Appeals Tribunal could be involved.

15. In the Senate inquiry into Family Business at submission credit control and endogenous money are discussed with the regulatory requirements for consumer and small business protection. The outcome is that the problems associated with capital use by these categories are regulated by the Australian Prudential and Regulatory Authority and fail the test. The same bank that's lends the money to purchase an overvalued asset is the same bank that forced up the asset value by its desire to flood the community with credit, and the same bank that will recover cash against the asset by its sale. After the same bank created that credit through endogenous money and secured the loans to achieve more credit creation by a Collateral Debt Obligation or by selling the debt to a third party. Thereby reinforcing its balance sheet and satisfying an appetite for further credit creation by multiplying asset value through further endogenous money.

16. In these circumstances where finance corporations and banks have had hundreds of years with the use of their own supplied credit to create laws unto themselves consumers need protection against all facets of the lender, including rogue staff, predatory lending, bad accounting, bad legal practice and influence on the consumers own experts by those financiers requiring many situation reports against the consumer who only requires his own (one).

17. An example in the Australian Small Business and Family Enterprise Ombudsman's hearings was the admitted, in the representatives' eyes the customer was aware of the date his facilities were due for renewal and should have taken the steps to renew irrespective of the bank officers involved. However in 2005 the same bank identified it did not renew customers' facilities on time and made

[4] Page 13, clause 3 of the Interim Report of the 6 December, 2016.
[5] BANKRUPTCY AMENDMENT (EXCEPTIONAL CIRCUMSTANCES EXIT PACKAGE) BILL 2011, submissio
[6] McDonald v. Holden [2007] QSC 54 (15 March 2007)
[7] PJCCFS-Inquiry into Family Business-2012. Submission

refunds. To illustrate the above the bank with held payment of the refunds until late 2006 and by that act avoiding paying refunds or making admissions on the style of the problem until after certain court cases had been judged and the bank won those same cases using the refunds, as customer debt for the purpose of the customers' bankruptcy etc. It also saved refunds for the period 1992 to 1999 and in particular, September1998 to November, 1999 period by the delay in payments to customers of one year.

18. In 2012 the had their lawyers deny the facts of the situation in the Federal Court supposedly to avoid a class action against the bank. In other words that customer was destroyed by bad court practices[8] to advantage at the banks' will. In the ASBFEO inquiry the spokesman stated the bank was made responsible for provisions under the banking code of practice unfortunately he failed to identify to the ombudsman, the bank had been through all its guarantees of debt contracts and adjusted all contracts to avoid the provisions of the Code identified as breached by the bank in the court. As breaches of guarantees where the guarantor accepts liability for unlawful acts are exercised, the contract itself is a breach of public policy; the writer is very interested to observe future outcomes especially with the provision of unlawful credit, in the Corporations Act. Will the new private law in the Banking Code of Practice apply?

19. Last Resort Compensation Scheme: accepted and agreed.

20. Page 15- Industry ombudsman schemes are working well. Clearly the material above shows the debt collection and governance of debt and accounting of credit in this country is controlled by a mismatch of legal practice. This is not avoided by the Ombudsman schemes the issue is until the were forced to make some refund by no means complete or correct or mistakes no proof of false accounting in debt facilities was available on a general industry practice scale. The issue is the matters of "Shadow Ledgers" and false accounting was virtually ignored for 4 years until 2004 and then the bank would not correct accounts they knew they had falsely bankrupted and gained judgments on those false debts in Queensland and Federal Courts.

21. The ombudsman's service did nothing to support the problem and ignored the process because it could not correct court evidence because of the practice of not being involved in court actions. So all a bank has to do to cover-up an untenable position is falsify the debt to outside the ombudsman values and issue court action. The falsifying of accounts is proven above the desire to repair those falsifications is reluctant at best. In actual fact the report has missed the most important issue of debt recovery and ombudsman services the quantum of the debt involved and the circumstances of its calculations. The statement the ombudsman system is working well therefor has to be rejected, especially if the overcharged

[8] https://independentaustralia.net/..

in a six year period an estimated $1bn in refunds from 400,000 customers. Did the ombudsman or ASIC oversee these payments and check the correctness of the process obviously not if the bank was withholding payment for years when they knew of the problem and only refunding the six years prior to payment not from the date of the banks' knowledge.

22. At page 16; significant reform is needed; the facts are the current system takes care in some ways of the supervision problem associated with large ombudsman services. I have already discussed the expertise issue at "1." and combining the services would fail this important issue. Whilst it would suit the banks and credit providers to combine the services they could maintain and increase their influence on outcomes by controlling the one entity only. Clearly the evidence above shows the facts the fragmentation and expertise is needed to correct across the board mistakes in accounting, accountability and process. How many guarantor situations before the ombudsman services were corrected in line with the court judgment referred to by the Strategic Services Representative in the ASBFEO Ombudsman Inquiry before or after the judgment? If before did the ombudsman service advise the bank customer or changed circumstances within the 6 year limit of their claim?

23. Even split services cannot provide the necessary support to consumers so how will a multi- functioning ombudsman service cope with this style of corrupt practice where a bank denies a legal situation and that is corrected on judgment and the Ombudsman has accepted the bank's incorrect position and refused the customer's claim.

24. There are gaps in the framework; Accepted and from the material above understated.

25. Page 17; To Position the Framework for the Future;

    Efficiency- The only advantage is negated by the facts the Ombudsman does not follow up on either Government Inquiries (Shadow Ledgers" or court cases in the case of Code of Practice Judgments as stated in the ASBFEO Ombudsman Inquiry.

    Equity; In terms of ownership the schemes are already owned by the banks etc. and the Ombudsman has changed the system not to give himself the last decision on the claim, but the bank concerned, so in fact the FOS is just a method of prosecuting the bank's accepted outcome and this could be made more for convenience than by fact and law. So the customer may be forced to accept the bank's offer rather than the true value for various reasons including bank bullying and this is identified through the value of claims accepted and completed.

26. Page 20; Report of the House of Representatives Standing Committee on Economics. The recommendation of a Tribunal:

In view of the circumstances associated with "Shadow Ledgers", and appropriate court judgments and banks changing their contracts immediately to avoid the fallout, over time, immediately bring into focus the necessity of a Tribunal.
Clearly from the material by the ombudsman in Shadow Ledgers and the failure by the courts to accept the PJSCCS October 2000 Report and the issue with
and court judgments identifying the Banking Code of Practice with evidence provided means the Ombudsman service and the banks and ASIC and ACCC are not providing the supervision to industry required.

27. If industry and government claim the interpretation of these practices are to be highlighted by academics, then supervision and processes need to be put in place such as the APRA Guidelines. The Ombudsman bulletins are insufficient and not adequate for the circumstances to guide consumers unknowing of the relevancy, being asked to new agreed contracts on behalf of a financial institution and their method of customer's fault approach.

28. In the submission to the Exceptional Circumstances and Bankruptcy Act Amendments (2011) the approach was to have the circumstances assessed by the Commonwealth Administrative Affairs Tribunal. The existing Bankruptcy Act 1966 (Cth) at Section 60(2) gives all choses in action to the Bankruptcy Trustee however the Banking Code of Practice proposes a new method of Arbitration all be it one controlled by the Banks. These parts of private law could easily be interpreted to remain open after Bankruptcy by an interpretation already in progress that Section 60(5) avoids private law under contract and there is no distinction on the date of the contract either before or after Bankruptcy. This was previously included in the Banking Code but denied by the banks and misapplied by some judges for convenience.

29. Problems under "Shadow Ledgers" proposed in the Mediation Agreement proposed by ACCC may have come under this interpretation and the
would have avoided the refund of $1bn to 400,000 customers by just dealing with those falsely bankrupted. Now with the highlighting of this situation where they avoided payments to individuals in courts, whose accounts were closed etc. The banks false evidence in courts becomes an issue and points to the inadequacy of the present system.

30. It is clear a Tribunal to appeal Alternative Dispute Resolution decisions is necessary and if it is to be fair it must be constituted as part of the Commonwealth Administrative Affairs Tribunal and that process must be one of private or administrative law and avoid sections 60(2) of the Bankruptcy Act 1966 (Cth) and follow on the interpretation even if needed to be enacted the interpretation of an action at 60(5). It has to be clear of the Banking Code of Practice but may work in conjunction. The facts are it is the experience of this writer that the Code enforcement body is stymied by the willingness of the complaint defendant to cooperate. A bank

can withhold evidence or swamp the Code compliance body with documents to achieve a distorted result.

31. At Page 33; Chapter 2 Alternative Dispute Resolution; At 2.10 *Commonwealth Tribunals are purely administrative; between 2.11.and 2.14* are based the material of the comparisons of Tribunals and Ombudsmen. If we are finding judgments in courts where banks are denying facts of account and trying to avoid the banking code of practice in contracts then the conciliatory process of ombudsman is not being used properly. From the material in this part of the report it would appear that Tribunal awards may be able to fit the processes described pursuant to Sections 60(2) and 60(5) of the Bankruptcy Act 1966 (Cth). This will most certainly give more credibility to the ombudsman's process and stop the banks from having the controlling influence.

32. To demonstrate this practice the British Financial Conduct Authority in its Final Notice to on 24 September 2013, followed up all possible ways of avoiding the true situation and not paying accounts that had been closed or left the Bank, refunds for misleading and deceptive conduct with bank statements and bank mistakes of interest charging.[9] It is identified by that in the "Shadow Ledgers" refund process, certain refunds were made to charity and not the customer yet the customer was not informed or details of payments published. This blatant misuse of other persons' funds would not be tolerated by the Financial Conduct Authority in its report at Section 5, *Failings* it states at 5.1 Principle 6 : *A firm must pay due regard to the interests of its customers and treat them fairly."* Charitable refunds suited the bank administrative practices and did not identify certain entities affected and allowed the bank to make donations at the expense of the customers. This is an example of the arrogance exhibited towards the customer by the and disregard for appropriate financial organisation practice. The report goes on at 5.2 to highlight the shortcomings and deception of all of which are practiced in Australia by and many of which can be identified if required from the one customer's accounts.

33. This brings the issue of accountability and transparency to the point of financial penalty at what stage does financial penalty and report to Government of breaches of public policy reported by regulators the ombudsman or other entity. The sad facts are that these duties are not taken up by the Financial Ombudsman or ASIC except in a very few circumstances but may be necessary and active with the Superannuation Ombudsman. Documents table in Queensland Parliament by Elizabeth Cunningham on 21 February, 2002 that no true accountability for customer's debt was forthcoming before or after bankruptcies. This means that not only is the bank customer disadvantaged but so is every other entity dealing with that customer before bankruptcy.

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[9] O'Donovan, James 2nd Edition *Lender Liability*, Pyrmont, Thompson Reuters Australia, 2005 P 591. Tyree, Alan *Banking Law in Australia 7th Edition,* P 81-84.

34. At page 22: the report recommends a panel to handle disputes and its compilation. Here the same problem will become apparent with Arbitrations Internationally where only about 15 people handle 55% of the Arbitrations in varying capacities. We see the USA objecting to the TPP because this will take 28% of world trade under International Arbitration to 80% under the control of 15 persons with the ability to overrule Governments. Whilst this is International the same affect will occur with unregulated panels with the banks providing all manner of inducements to panel participants. In looking at this process certain Federal Court judges took up a offer of 8000 shares on an Escrow agreement about 2000. Certain court Officers resigned after it was shown had given them investment loans at the time of sensitive cases where the court Officer controlled evidence detrimental to the case and this evidence was withheld through the court officers' authority. That at least one Judge made decisions supporting where the evidence was brought before him when he had accepted submissions in a previous action that the evidence did not exist. The bank asked him to excuse himself because their receiver was affected by the evidence but did not ask him the same question in the previous case where the Judge said the evidence did not exist. All these material facts of evidence tampering and incorrect court submissions need to be avoided by the new system.

35. One issue if the banks' bully Judges and Court Officers what are they doing to the Ombudsman Service where the banks by providing the funding have partial permanent control of that service.

36. The draft recommendations at Page 24 have been dealt with above and noted for further consideration.

37. The draft recommendations at page 25 have been dealt with the suggestion of an overseeing Tribunal out of the Commonwealth Administrative Affairs Tribunal. Anything less than that will eventually fail especially if the intention is to rely on better ASIC supervision. The "Shadow Ledgers" example above shows the ASIC ability to control wayward bank policy.

38. The recommendation for Debt Management Firms to be licensed is too sketchy to be worthwhile as the forms of debt management are fragmented. It is suggested if that is the case then Debt Management Firms receive a style of Money Lenders License to allow accumulation of customers' debt, dealings and refinance if necessary.

39. Page 30; Comparability of outcomes; Whilst consistent outcomes are desirable the change in circumstances where a financier states a particular outcome and that is changed by a court very soon after leaves a situation where the financier has used their weight to force an incorrect outcome. No proposal has been made to deal with that situation.

40. Ombudsman schemes generally are controlled by the major industry players as the largest contributors and the Ombudsman and staff; have to be mindful of complaints against their service and them, so quite often these factors become the guiding light. It must be remembered

    Does this sound like an independent decision making organisation or one being controlled by the big losers, will? I am reminded that it has been announced in AFR Weekend 21-22 January, 2017, that the banking culture changes have been held up in implementation because of complexity.[10]

41. Unfortunately Ombudsman schemes in the financial sector need better regulatory support and more considered involvement than currently exists in Australia. ASIC does not follow up on situations and complaints to the same extent as the British Financial Conduct Authority (FCA) and whilst the FCA may be silent on legal practice in situations it does not appear to leave consumers without representation in unlawful situations. Whilst ASIC is regulated to a role in both Internal and External financial dispute resolution it avoids many of the positions where complaints need its' regulatory powers. It is undisclosed where the system fails this necessary part of regulatory supervision of ADR services.[11]

42. At page 48; ASIC's powers are limited so that no direction to deal with Parliamentary Reports into Financial Services recommendations for remedial action is enforced or regulatory approval of changes overseen by ASIC as part of business. This is a major failing and Australian consumers associated unpaid and not dealt with properly through the quoted "Shadow Ledgers" program should be outraged because of legislated inaction.

43. At page 50; is the regulatory guide; this could be upgraded to include a right of appeal to a commonwealth tribunal where the decision is classed administrative only and consequently does not attract bankruptcy provisions for consumers. This may take out of the process the last resort referral to the financier concerned.

44. Page 53- 96 is addressed hereunder: The FOS processes for determination have already been identified as allowing the financier the last say and ability to veto an ombudsman decision before it is in writing. One need go no further than the "Shadow Ledgers" Inquiry and Report to identify the failure to control industry dispute resolution both internal and external. It was 4 years after the Report and many court cases referring to incorrect bank accounting including the High Court, the facts of falsification of accounts and false bank statements and profits for emerged, when a member of the public refused court process, because of false

[10] Eyers, James, *AFR Weekend* 21-22 January, 2017 "Deadlines for bank culture reform slide" P. 21
[11] Chapter 3. Overview of the dispute resolution framework in the Financial System at Page 47.

representative statements, on the subject in the court informed ASIC and APRA at the same time ASIC and APRA were negotiating the enforceable Undertaking under the ASIC Act. This is a fundamental failure of the whole process of IDR, EDR, Courts and Ombudsman Service continued credibility on bank accounting was given to despite Parliamentary and customer identification in all those forums. To the casual observer the object of the process was to support corruption of accounts to cover up other related mistakes in the account concerned and that was in fact what happened.

45. There are others that can be mentioned but at this stage they will be subject of court action. All the identified practices in the report did not identify had a system of incorrect bank statements where had a system where bank under payments were identified and customers forced to refund the bank but bank mistakes or deliberate charges were not refunded to customers including government schemes and collections such as debit tax.

46. The British Financial Conduct Authority identified the corruption mentioned above, imposed a penalty accepted by Bank at first instance and had all accounts corrupted corrected and refunds made. We have the same style of process why cannot that be done in Australia? Is there is no appetite for fairness beyond lip service to bank customers and that allows the falsification of accounts. Small amounts of incorrect deductions; over a period of time from many accounts is profit for corrupted account keeping when an individual does it they are charged criminally, including bank employees. However we have not seen any overseeing of that process from the Ombudsman, APRA, ASIC and the ACCC was stopped. Any argument by big banking under these circumstances is to continue the process and not correct previous inaction. Will we see this issue of incorrect credibility on account keeping, addressed under procedures in the future final report?

47. Page 99- 101: Jurisdiction; unfortunately, there is no competition beyond Ombudsman services but a service that gives consumer choice. If there is overlap of jurisdiction then to reduce consumer choice without a substitute may be giving power to an identified overpowerful service. If there is an intention to combine the services and that prevails and there is no right of appeal then the Government will have to face criticism and justifiably. The right to appeal to a Commonwealth Tribunal as stated previously may be a suitable replacement for consumer loss of choice.

48. Page 105-112; Small Business, attached is a copy of a submission to the Family Business Inquiry, the facts of that report are still current and it illustrates the small business dilemma. The fact is FOS cannot represent small business. There is a reason it never has because the financiers use small business mainly to convert their endogenous funds to currency. Just ask any farmer pushed out by banks since 1992 and before their credit funds and in most cases endogenous sourced mortgage funds were converted to currency when these were repaid to the bank from the sale of their

properties or refinanced with another lender. There does not appear any future in FOS having small business negotiation powers with its own financiers (Banks). FOS is financed by possible endogenous funds repaid to the financial institution when ombudsman complaints fail and the bank receives cash settlement or cash converting settlement in the case of secured facilities. There has to be proper appeal processes put in action and even then administrative safeguards are necessary by just using the Impaired Loans Inquiry submissions and in the case of submission admitted it used Loan to Valuation Ratio to default the customer. The customer showed his bank account read a debt of $1,020,00M and all interest was paid some in advance when demand was issued and the bank then admitted the debt should have been $770,000 but did not reduce the quantum for court process. Selling the property of the customer for $990,000 or thereabouts a cool $220, 000 profit. How often has this been repeated by and how often has FOS stopped the process for consumers?

49. That customer has become involved in debt management and finds the bank processes unbelievably tilting towards customer responsibility even for bank accounting mistakes a totally unlawful approach in Australia. The qualifications concerned are Master of Business Administration (Advanced) Diplomas in Agriculture and Rural Business Management and older qualifications in Supply Management and Accounting. The customer sometimes appears in court for clients and is given leave in some cases for trials in the Supreme Court daily for a 5 day trial. Yet he was made vexatious by because he could identify to the Queensland Attorney General the representatives' false evidence in his and other cases and the same evidence was proffered by the bank legal representatives. He also identified how the false evidence in bank accounting was being used in law and the same bank denied these facts but the bank at its annual meeting in 2005 admitted the same facts all denied by the Ombudsman between 2001 and 2004.

and this cost the Bank a known $32.25M in payments to the Queensland Government for false claims in Government schemes.

50. Would licensing Credit Support Services stop a bank from targeting a provider with false claims, I doubt it. All it will do is allow banks and credit providers to cry foul on false evidence anytime it suits the credit provider.

51. Page 114: Compensation scheme of last resort: This is a necessary adjunct to the present and future processes but how will it be assessed. It is here that a process of appeal or application to a Commonwealth Administrative Affairs Tribunal will come into its own.

52. Page 155: Future Directions; if future directions are to be controlled as it appears to the benefit of the credit providers then claims are going to be rejected by the unwritten providers veto as determined by the FOS process now in force. A massive complaints bureaucracy has been shown in this report the existing FOS to be a failure when Parliamentary identified systemic credit provider problems exist. I can imagine FOS saying this was just one of those unidentified areas of misdirection. In the meantime was collecting and maintaining the funds of 400,000 customers thereabouts directly to the bank general fund as clear profit. The bank directors were responsible for this process in Ireland, Britain and other places especially with taxation where ordinary taxation process were converted to subsidiary fees and interest as payment for money laundering.

53. This report does not address the future corruption of accounting, customers' facilities and bank processes to stop those practices by creating a huge Ombudsman service.

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ANNEXURES.

1. Financial Conduct Authority "Final Notice" 24 September, 2013 to

2. The Law relating to banker and customer in Australia "Statement of Account" [3, 8050-3.8060] principles of over payment.
3. Queensland Parliament tabled 21 February, 2002.
   a. Letter to the Chief Justice of Queensland re: Shadow Ledgers, Inquiry.
   b. Letter to Judge White re; Evidence at Appeal unlawfully withheld by the Registrar 27.11.2001.
   c. Judgment FCA v Freeman (Bankruptcy) where was not required to supply the correct bank statements in the Bankruptcy Court. 10.12.2001.
   d. Affidavit in the Federal Court by Bank Solicitor, asking for Bankruptcy before the Qld Supreme Court Appeal was heard. 2 May 2001.
   e. Facsimile Message showing the misappropriation of the accounts and a request to increase the Office limit on 10.4.98 so the bank could use unlawful interest rates against the Bills involved increasing the debt further.
   f. Copy of the Shadow Ledgers and the Provision of Bank Statements to Customers Report.
4. Tyree, Allan. *Banking Law in Australia 7th Edition.* Page 81-84 Appropriation, Page 111-112 Legal effect of the Statement.

5. Freeman v 2001, the court refused to hear an action when statement of accounts were shown incorrect after the original judgment.
6. Submission (9) into Exceptional Circumstances and Bankruptcy Act Amendments (2011). Senate Economic Committee.
   Annexures; Wardill, Steven *Courier Mail* Article April, 2005 *Minister Agree to disagree.*
7. Attorney General; The obligation to Assist: Model Litigants in Administrative Appeals Tribunal, seminar. 26 August, 2009.
8. – Past refund activities – undertaken more than 6 months ago commencing 25 August, 2005 up to 3 June, 2010
9. Submission to the PJCCFS Inquiry into Family Business 2012. 9 November, 2012.