

6.10.16

Loan Account # 1160122

Amount of Loan: \$750K

Date of Loan: 21/12/ 07

Chairperson External Dispute Resolution Review
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Sirs,

Re: External Dispute Resolution Review and the review of our complaint by COSL (now CIO)

I am writing this letter on behalf of my husband and myself and it constitutes a formal complaint to you against COSL in relation to its handling of our complaint against (now) by not vigorously pursuing our Lender who we say engaged in Imprudent Lending, Asset lending, maladministration in lending and unconscionable conduct to get loans across the line.

We further say that in coming to its decision in our matter, by declaring the Broker as being the agent of the borrower COSL blatantly chose to set itself above the legal precedents set by the higher Courts in our country. This decision has added to the trauma and destruction we were already feeling in our lives when we appealed to them and has left us feeling that the very body supposedly set up to defend consumers has no interest in anything but defending the interests of its members i.e. the Lenders.

Our Story

In our complaint to COSL we alleged that , it's Principals and Agents who, by their Imprudent Lending practices have destroyed mine and my husband's lives by putting us in a position whereby we lost our family home, our investment property which was to be our retirement nest egg and everything we have worked towards for over 40 years to secure a self-funded, comfortable retirement. Instead, we are broken mentally and physically and are now looking at a life of dependence on the old aged pension and an unnecessary drain on the public purse (the very thing we have worked our whole lives to avoid!).

For the first time our lives we sought "Professional Financial Advice" to assist us to get my husband retired as soon as possible as his physical health was starting to fail. We were persuaded by the Financial Advisor to withdraw most of the considerable equity in our family home and give it to him to invest on our behalf. He introduced us to a Mortgage Broker who secured a No Doc loan for us (my husband was/is a self-employed carpenter and I was retired at the time of the loan. ATO Notice of Assessments for the previous year showed he earned \$38,114 and mine was \$9,045 from distributions as we are both Directors of our Pty Ltd Company).

When we asked the Lender in our complaint with COSL how they assessed our ability to repay a \$750,000 loan on repayments of \$5,694/month they responded, "The purpose of the Complainant's taking out the loan was to refinance existing loans and borrow funds for investment purposes as recommended by their Financial Planner. As the Complainant's Loan was for an unregulated Fastdoc 70 loan type, the Fastdoc Declaration of Financial Position was the only document required for assessment purposes....."

When we stated in our complaint to the Lender and again via COSL that all that this disastrous mess could all have avoided by a simple phone call to us by the Lender and asked the Lender why they did not contact us to ascertain the veracity of the Loan Application Forms, they said "The Lender is not required to contact the borrower and discuss the information outlined in the Loan Application..... and that their position is that the Lender at all times made reasonable inquiries in respect to the Complainant's capacity to fulfil their obligations under the loan contract". They also said the Broker was our agent, and yet based on evidence obtained by the Banking and Finance Consumer Association of which we are members we believe that like other Brokers he was paid by the Lender, he had his own password to access the Lenders computing systems, the Broker was instructed by the Lender on how to get various loans across the line and operated under their systems and instructions in such loan applications. He was only interested in getting his commission, the Lender's capital and interest and potentially the title to our home valued at the time as \$1.3million. We have been scrupulously honest in all our financial disclosures with everyone involved in this process and yet the Lender conveniently took the attitude that if it didn't ask us our incomes it wouldn't get an answer it didn't want which would jeopardise it issuing this loan. It did this in the full knowledge of the value of our family home! But COSL were not interested in any of this information.

How can COSL as a supposedly "independent" EDR allow this to happen to average, honest, hardworking Australians? We trusted our "Professional" Financial Planner, the Broker and the Lender on the understanding that they operated under strict legislation and Codes of practice in "a very stable Australian Banking System" as it was explained to us at the time. This misplaced trust has destroyed our lives.

Amongst a plethora of personal and financial information requested and supplied to COSL we supplied the following to them as following in our written complaint;

"Our Loan Application Anomalies

Serious issues/anomalies we have become aware of since receiving our LAF including but may not be limited to:

- Imprudent lending, asset lending, maladministration in lending and unconscionable conduct in relation to our home loan from ;
- Our case was an asset lend of \$750K using a No Doc loan settled 21/12/2007;
- At the time the loan was approved my husband was earning \$38,114 per annum as a self-employed carpenter (working Director of our Pty Ltd Company). I was retired from the work place and earned \$9,045 in distributions from our Company as a Director of that company in the previous financial year;
- Our incomes were shown as N/a, my employment was listed as Director (it omitted to say I was retired);
- The Application Form was mostly filled in with someone else's handwriting,
- We only signed a few of what seems to be a 38 page document;
- Our Company was shown as valued at \$150K (my husband was/is a self-employed carpenter who goes from job to job, he does not have/never had a business as such that could be on sold at a value of \$150K);

- Our line of credit was listed as for Investment - this was always to be for personal use as per our previous loan with _____ ;
- Our superannuation worth \$237K was shown as \$250K;
- At no time were we contacted by _____ to verify any details on our LAF;
- At no time did the Broker contact my husband via a “telephone interview” to verify LAF details (It was only me who visited him in his Sydney office, my husband was at home working on Magnetic Island);
- We were not given a copy of our LAF until we requested it recently when we found out that we should have been given it at the time the loan was applied for.

Our Financial Position Before This Loan was Approved

We owed approx\$180K on our loan from _____ before we entered this loan and were looking forward to a comfortable retirement and now we have been forced out of home in order to rent it out, I have been forced back to work in order to pay this huge mortgage, and we are dependent on the generosity of friends to survive. Our health has suffered and our hopes for a self-funded retirement have been destroyed.

These facts would seem to highlight a case of Imprudent Lending on the part of _____ as a result of non-affordability and possible LAF fraud.

We noticed in a recent ASIC release references to the new NCCP laws 1 July 2010. We understand ASIC have had significant powers available from the past decade or more regarding IMPRUDENT LENDING, ASSET LENDING, Maladministration in Lending and unconscionable conduct. Our case was an Asset Lend. The recent High Court decision in Firstmac Limited & Ors decided 22/6/2012 referred to these pieces of legislation.”

COSL found against us and closed off our file.

Summary

We say that by COSL refusing to act on our behalf while we still had our home to vigorously pursue Lenders who engage in Imprudent Lending practices and use fraudulent loan application forms to get these loans across the line, they have failed in their obligation to act as an independent Dispute Regulator, specifically failing to pursue their own Members when they breach their obligations under the Legislation and Banking Code to protect the public against imprudent lending and it’s disastrous consequences to the individuals involved.

Alas it now too late for us as the buffer loan _____ lent us ran out and we have had to sell our beloved family home at a significant loss as we couldn’t afford to wait for the market to pick up in order to prevent us falling into default in our mortgage repayments (we have never defaulted on anything in our lives and are very proud of our excellent credit rating). We were also forced to sell our investment property at a giveaway price.

As a result of these forced sales we have gone from having neigh on \$1million equity in our family home, an investment property and some superannuation in the bank to trying to scrape together enough money to buy a block of land and my husband building us a kit home so that we have a roof over our heads in our retirement which is now years away instead of imminent. This has resulted in us needing to use the full amount of my husband’s superannuation even though he is a carpenter and is doing everything himself except for the electrics and plumbing and me needing to continue to work to furnish it as we live on an

Island and had to sell our family home fully furnished in order to make the sale. We are both terrified of what the future holds needing to survive on the Aged Pension.

Given nature of the loan approval methods by our Lender and the seriousness of the allegations put forward, we are hoping you can use your powers to ask CIO why COSL simply denied any wrongdoing by our Lender and closed our case.

Further we ask that you insist that CIO uses its power to re-open our file and put us back into a position as if we had never met this Lender or its agents and officers by extinguishing the mortgage completely (now paid in full from the sale of our home), and all interest, fees and charges be reimbursed to us as _____ cannot profit from Imprudent Lending or fraud. This would allow us to try to put the distress and trauma of the last few years behind us and at least give us a chance to get along with our lives. I am currently 62yrs and my husband is 66yrs old. We are desperate and need you help to receive full compensation for our losses PLEASE! Until all the facts are brought out into the public arena by forcing the Lenders to come clean with their activities by a Royal Commission there will be no justice for ordinary Australians like us who are caught up in this mess.

Thank you for your consideration of our concerns.

Yours Sincerely