

To: Committee Members
The Financial System Inquiry

24th August 2014

Submission

To: The Financial System Inquiry - 24.8.14

From: Patricia White

I have read your preliminary report and believe that it ignores the most critical issues regarding our Financial System; Banks and Financial Industry being:

- Trust
- Accountability by ASIC; Banks; and lending institutes
- Predatory unconscionable lending practices by Banks and lending institutes
- Mortgage Brokers; staff of banks; and lending institutes who engage in unconscionable lending practices
- Lack of Enforcement of Legislative requirements by the authorities
- Penalties including prosecutions/jail for fraudulent acts
- Lack of funding by the government to enforce legislative requirements

There is an **urgent** need for a ***Royal Commission*** into Banking and financial industry practices (including mortgage brokers and financial planners) in Australia.

For too long banks and lending institutions have been allowed to engage in unconscionable lending practices and not been held accountable for their actions. I am aware of many predatory, fraudulent and unconscionable loans given to clients where no action has been taken by the authorities. Listed below are several notable cases/matters:

1/ ***Disabled Pension with a brain injury causing mental incapacity and physical disability***

A male gentleman (Jeff) who received a sever hit to the head and underwent brain surgery several times. Jeff was left with a severe physical disability as well as a brain injury. Medical Professionals provided detailed reports for a compensation case, where he was awarded substantial funds. Jeff purchased a property to live in with his boys that was unencumbered (free from any debt).

A mortgage broker encouraged him to borrow against the property and become involved with a property development the mortgage broker wanted to undertake. The broker physical took him to the ANZ Bank and arranged a loan over the counter with the local Bank Manager, where Jeff walked out of the bank with \$100,000.00. The broker then took Jeff to another lending institution to deposit the funds into an account in the name of the Broker, his partner and Jeff. The Broker repeated this scenario on multiple times.

In addition, the Broker took Jeff to his Solicitor for advice on the proposed development. The broker advised Jeff his Solicitor would arrange everything, no independent legal advice was required and he would save legal costs.

Jeff was receiving a basic disability pension at the time, however, paperwork obtained details Jeff as a businessman earning over \$85,000 per year with multiple assets. Jeff did not have the means to even pay the interest for the loans or repay the debt.

Subsequently, the broker placed Jeff in bankruptcy to repay the debts the Broker had incurred for his property developments. The broker had secured loans over Jeff's assets and these were sold to payout the debt.

Jeff tried to fight the matter in court but did not have the financial means. Solicitor's advice to Jeff was he had a strong case against the Broker.

Jeff now lives on the street in a van whilst the broker and his partner live in a beach front home.

The ANZ Bank manager was removed from the bank in day by the ANZ management when numerous complaints were made of a similar nature. This Manager personally knew Jeff and his health conditions and brain injuries, but still advanced the funds. The relationship between the Bank Manager and Broker is also questionable.

Jeff also made complaints to his Bankruptcy Trustee; however, the Trustee was not interested in his compensation monies nor the predatory lending practices and fraudulent documents.

Jeff now has to rely on public funding for his health, housing, income and trustee's fees.

According to the legislative framework, in my opinion, Jeff should never have been given the loans due to his mental capacity to understand the mortgage documentation; it's effect on his property and assets; his limited income and capacity to be able to work and ***without independent legal advice.***

In addition, how did the Bankruptcy Trustee enter Jeff into bankruptcy with his disability and mental capacity, and not protect his assets. Again this Trustee is regularly used by the mortgage broker to place people into bankruptcy. The bankruptcy Act provides the legislation for disabled and mental capacity of people but the Trustee failed to observe the legislation. Why?

How does the financial framework legislation protect people like Jeff, and if the framework to protect Jeff is in place, why doesn't it work and who is accountable?

It is obvious in this case (like many others) the financial system and bankruptcy legislation has simply not worked and the authorities did not want to listen.

2/ Accountants; Mortgage Brokers and Lending Staff falsifying documentation

These cases involve a Mortgage Broker who engaged unregistered unqualified accountants to prepare financial documentation for lending institutions for clients to obtain funds from banks.

The documentation was false and misleading; loan applications contained false information and falsified signatures of clients.

These so called Accountants created a business name and premises and opened to the public. A reasonable person in the community would believe that they were registered accountants and capable of handling taxation, accounting and financial matters.

Again, many loans were transacted with the ANZ Bank and people's personal tax matters were handled by these so called accountants that have proven to be false and misleading to both financial institutions and ATO.

Under current legislation, this I believe is deceptive misleading conduct. Again, it seems to be too hard for the authorities to investigate and enforce current legislation.

A royal commission into the Banking financial industry and mortgage brokers would identify the wrongful practices of Accountants and Solicitors that falsify documentation for loans and support predatory unconscionable lending practices and deceptive conduct.

3/ **Payouts of Loan Facilities**

I have recently be made aware of several cases where bank clients have questioned loan documentation to be false and the bank has refused to give a payout figure or allow the loan to be paid out without the client signing a waiver to the bank indemnifying the bank against any legal damages or legal proceedings from the client or others.

In these cases, interest has been accruing and the loans are in default. Banks are trying to foreclose on the mortgage documentation/security and bankrupt the clients. By bankrupting the clients, they are unable to pursue legal action against the bank, as most Bankruptcy Trustees will not allow legal proceedings.

Again this is predatory practices for the banks to protect themselves.

4/ **Criminals like Skase and others**

For over 30 years the banks have been involved with predatory lending practices. I was a senior employee of a bank in a specialist lending area between 1983 and 1994.

The bank practices I witnessed made my skin crawl. The lending practices to people like Christopher Skase and others; the loan securitization; lending practices for payment of commissions and bonuses; and predatory lending have not changed.

These practices today are only known by a different name.

Of interest, I recently listened to a person who gave evidence at the Royal Commission into Sexual Abuse. His story and comments led to cold blood running through my veins. He said

“If only the government had listened to him in 1990, his first complaint almost 25 years ago, the people who committed these heinous atrocious sexual crimes could have been prosecuted; further victims would have been saved from sexual abuse; and proper compensation paid.

Now they are either dead, too old to be prosecuted and no compensation funds are available.”

When is enough, enough? How long do we have to wait for the government or an inquiry to act and call for a Royal Commission. How many more victims to predatory lending and financial advice do we need to have?

The problem is that bank staff are rewarded for increasing their loan book and mortgage brokers and financial planners are paid excellent commissions. Week pay, bonuses, promotions and commissions are dependent on getting increased business for the bank on a daily basis.

The bigger the loans and the more of them they generate the better off they will be. This puts in place an incentive for bankers, brokers and financial planners to work in their interests and often actively against the interests of their client.

Up to now CEOs and Directors have turn a blind eye to maladministration of lending because the bank's profits and their own pay also depends on inappropriate and predatory lending.

Why do governments, their regulatory authorities and their intermittent inquiries also turn a blind eye to these activities and government legislations?

The above few matters are the tip of the ice berg of the criminal activities involving:

1. Banks and lending institutions
2. Mortgage Brokers
3. Financial planners
4. Accountants, Solicitors and property developers

Government Legislation has been put in place over the last 10 years, to stop these lending practices but it is not working. Why?

General Comments:

Mainstream media is filled with of stories of criminal activities involving banks, financial planners and mortgage brokers.

But let's ask ourselves over the last 30 years just how many have been jailed for their criminal activities. Is it all too hard for the authorities to implement legislation? What measures need to be put in place - is it lack of funding; protection at all costs; or simply no one cares. A royal commission will find the answers.

Thousands of investors and home owners have been ripped off by the banks however; the banks still record huge profits that seem to grow each year. From my experience in the banking industry and listening to people's stories, the lending and financial practices usually involve vertically integrated arrangements with all levels of bank staffing from the teller to the CEO and outside forces from mortgage brokers and financial planners. We are talking about fraud and forgery in everyday bank business activities.

I appreciate that the inquiry is looking at better banking and financial practices; however, unless true action is taken to enforce the changes to regulations and legislation, you are just wasting time and money on the inquiry. When are people going to be compensation for past wrong doings by banks and who is going to make them accountable for these payments.

Do you understand how much anxiety, depression, mental stress and heartache exists in our communities due to financial stress? What is the true cost to the taxpayer on banks, mortgage brokers and financial planner's predatory, fraudulent and deceitful actions? The costs are worn by all tax payers in health and hospital costs, housing costs, Centrelink benefits, bankruptcies and I can go on – just how many people have ended their life due to banks and lending practices?

In my undertakings to assist people who have fallen victims of predatory lending and investments, I am surprised at the number of professional people who have fallen victims to the bank crimes. These people are now prepared to stand up to this serious issue; the cover ups and whitewashers with reducing interest rates, saying we made a mistake or asking victims to contact the bank to prove their case (as in the recent CBA Financial planning criminal acts) will no longer be tolerated.

The public is now well informed of the banks activities; the crime on a grand scale and the systematic failure of corporate governance by the banks, financial industry and the government.

It is with interest I look at the two recent Royal Commissions the federal government has instigated:

1. Royal Commission into the Pink Batts Scheme
2. Royal Commission into the Unions

These matters are important to the government, however, only a limited number of people are affected by the pink batts scheme and unions (less than 12% of population) and only a few people requested the inquiries.

The banking and financial industry affects every citizen of Australia (over 20 million people) and should be of more importance to the government. What does the banking industry have to hide?

This Inquiry will not be taken seriously if it does not properly address the criminal culture and ethical behaviors that have existed in the finance and banking industry for more than 30 years to my knowledge.

Recommendation:

A ROYAL COMMISSION INTO THE AUSTRALIAN FINANCE AND BANKING SECTOR.

I strongly recommend the royal commission to identify the issues and move the banking financial sector into lawful ethical behaviors.

I thank the Committee for giving me the opportunity to make a submission to the inquiry. I am available to meet with the committee and/or provide documentation to confirm the statements made in this submission.

Thank you

Patricia White