

From: [REDACTED]
To: [AFCA Review](#)
Subject: AFCA Review
Date: Friday, 26 March 2021 10:01:24 PM
Attachments: [REDACTED]

Attention: Director at AFCA Review Secretariat

I attach my submission for your AFCA Review.

Plus I enclose an example of letter from AFCA [REDACTED] dated 05/03/21 that does not address queries and questions associated with an AFCA Determination.

Further I attach my response sent today and another reply from [REDACTED]

AFCA simply will not address issues.

For your information and attention.

As mentioned in my submission, I am available for additional clarity if required.

Selwyn Krepp

[REDACTED]



Australian Government
The Treasury

TSY/AU

Review of the Australian Financial Complaints Authority

Terms of Reference and guidance for submissions
19 February 2021



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Consultation Process

Request for feedback and comments

Closing date for submissions: 26 March 2021

Email AFCAreview@treasury.gov.au

Mail
Director
AFCA Review Secretariat
Financial System Division
The Treasury
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Terms of Reference

Section 4 of the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* (the Act) requires the Minister to establish an independent review of the operation of the amendments made by the Act. The Act also requires the Minister to table the review report in the Parliament within 15 sitting days after receiving the report.

The Treasury is to undertake this review and is to report to the Minister for Superannuation, Financial Services and the Digital Economy by no later than 30 June 2021.

The review provides an opportunity for feedback on the operation of the Australian Financial Complaints Authority (AFCA) since its establishment and to consider whether further enhancements should be made to ensure the external dispute resolution (EDR) **scheme is appropriately calibrated and operating effectively.**

Legislation requires the review to consider whether AFCA has been effective in resolving complaints in a way that is **fair, efficient, timely and independent.** In doing so, the review will take account of feedback provided by consumers and small businesses and by financial firms.

Legislation also requires the review to examine the appropriateness of the monetary limits on claims that may be made to, and remedies that may be determined by, AFCA in relation to disputes about credit facilities provided to primary production businesses, including agriculture, fisheries and forestry businesses.

The increased internal dispute resolution (IDR) transparency changes made by the Act will not be considered by the review as these are currently being implemented, with time being provided to affected financial firms to make necessary system changes to collect standardised IDR data and the Australian Securities and Investments Commission to consult on and determine IDR reporting requirements.

Submissions for AFCA Review:

Submissions are due by Friday, 26 March 2021. Submissions should address the following:

Delivering against statutory objectives

1. Is AFCA meeting its statutory objective of resolving complaints in a way that is fair, efficient, timely and independent?

Resp: NO

46 weeks for a sub-standard Preliminary Assessment to issue with numerous questions not replied to (and possibly not investigated) by Case Manager and a further 44 weeks for a 'rubber stamped' Determination with additional and multiple issues not addressed. New evidence (x 3) identified and filed after the Preliminary Assessment were submitted and reportedly placed on file and attracted no feedback as was same for a Service Complaint (725573) submitted and this was placed on file/or referred (hand-balled) to Ombudsman Panel for review – again no feedback (lapse of 44 weeks)

There is nothing fair, efficient, timely or independent with AFCA's operations.

They believe they are immune to redress and recourse.

Fair is based on being impartial, reasonable, objective, unbiased, honest, understanding and working together for a compromised outcome; AFCA – NO

Efficient also includes meeting expectations, effectual, effective, competent, resourceful, proficient and keeping the client informed; AFCA - NO

Timely is respecting and treating others in a similar manner you would like to receive and be considered as equal as appropriate. Displaying and understanding to feel valued and worthy with creditability ;apt, judicious and well-timed.

AFCA – NO, they look down on complainants. Also, perform with poor time management skills.

Independent, - NO way!!! AFCA shows bias to their voting Members. AFCA forms opinions and many based on imperfect assumptions. AFCA portrays often with a circumvented and hidden agenda with their approach and their record keeping plus their constant failure to answer questions and queries.

They function as an affront to The Rule of Law.

1.1. Is AFCA's dispute resolution approach and capability producing consistent, predictable and quality outcomes?

Resp: AFCA staff are the [REDACTED] problem for poor consistency, predictable and quality outcomes. Any staff who have come through the ranks and from a FOS (predecessor) background, cannot let go of the FOS - DNA culture (*we are always right and complainants – just wrong!!!*). [REDACTED]

For Bank victims, AFCA is not timely in their processing (85 + weeks for a determination); unfair in the way they gloss over pertinent and relevant items – will not 'bat' for the complainant and act too frequently as the "voice", [REDACTED] for Banks; highly inefficient with their poor time management and scheduling of work prioritising; as for independence, yet to see it performed and demonstrated. [REDACTED]

I have had files in FOS/AFCA for greater than 5 years. They just don't get in the trenches, roll-up their sleeves and immerse their hands in the real nitty gritty of the situation. They too often – simply, *just don't get it*, lacking life experiences and appropriate expertise.

Invariably they seem over whelmed with issues and with additional external pressure from voting Members, Case Managers revert to a predetermined solution and on the majority of occasions, rule substantially in favour of their Member. Member's loyalty is rife and exists with AFCA. Complainants are restricted from becoming members of AFCA – just, not wanted. Therefore, there is a gross imbalance of membership with NO representation from the people *off the street* (i.e., Mr & Mrs Average); this position must be amended/corrected to improve greater representation. Common sense is also lacking with performance. Case Managers need '*hand-holding*' and then they are unable to make a fair and reason decision.

For the records, I experienced five (5) unfavourable rejections by FOS and the FSP commercially settled with me months later. Regretfully, ex-FOS employees have luggage to these events and no doubt suffer with secret resentment of a complainant proving them wrong at a later time.

Quality, fair and reasonable outcomes are exceptional for complainants.

AFCA staff lack negotiation capabilities and their written work is far from being prudent, diligent and skilled professionals.

Essentially, they are *round-pegs* operatives trying to adequately service and fill a *square hole*; unachievable.

They escape scrutiny as there is no 'Watch-dog' to measure their performance and they will not provide a Customer Service Survey Score Cards for complainants to contribute and/or acknowledge performances.

- 1.2. Are AFCA's processes for the identification and appropriate response to systemic issues arising from complaints effective?

Resp: No.

AFCA hide the obligations and responsibilities when questioned on systemic issues.

██████████ denies any fiduciary duty and obligations with his performance and that of AFCA.

AFCA acts as a protected species and safe guard themselves from any explanation.

Any escalation to Senior Management – Board Chair, CEO & Deputy CEO would unlikely to attract interest or awareness of accountability - as previously experienced with other matters, they avoid involving themselves with operational &/or administrative tasks; they consider and believe their in-house *plebs* to do that kind of stuff!!!!

Any time Senior Management/Executives are called upon or challenged with issues, they constantly take the 'high road' approach and flaunt that their staff are beyond reproach.

They readily position themselves with high-ranking self-righteousness.

- 1.3. Do AFCA's funding and fee structures impact competition? Are there enhancements to the funding model that should be considered by AFCA to alleviate any impacts on competition while balancing the need for a sustainable fee-for-service model?

Resp:

I am not adequately versed with alternate competitors.

Therefore, I am unable to elaborate on this topic.

Please provide specific examples or case studies to support your responses. These may be provided to Treasury confidentially with any personal details of complainants and case references numbers omitted.

Resp: Please to refer to attachments. CRef: 634354 summary documents clearly illustrate a highly unperforming AFCA.

2nd attachment for CRef: 736323, similar to the above

3rd attachment again provides AFCA's approach with hand-balling CRef:725573.

(All file documents and attachments are available on request)

Monetary jurisdiction in relation to primary production businesses

2. Do the monetary limits on claims that may be made to, and remedies that may be determined by, AFCA in relation to disputes about credit facilities provided to primary production businesses, including agriculture, fisheries and forestry businesses remain adequate?

Resp: AFCA's complete fee and compensation structure forms no deterrent to FSP – whether agricultural, rural, commercial or small businesses as they are totally inadequate. As are all fixed compensation payments; they remain laughable.

Fees and remediation should be unlimited. The designers of AFCA remediation payments fail to acknowledge and evaluate the duration of the journey and time many complainants have endured. Travel, transport, stationery and accommodation far exceed paltry compensation payments as they stand.

Complainants are not whingers and many have suffered significant financial and legal injury through corrupt Bank behaviours. AFCA shows little awareness or resemblance of empathy or compassion to victims. Banks have paid hefty fines recent times and committed to numerous Enforcement Undertakings due to their dubious and dishonest conduct, surely their DNA must reflect and be included in antecedents and character (honesty, integrity & professional as a minimum) with all field investigations and complaint files.

For example – CBA:

- **February 2021 – Federal Court – ‘Misled’ customers 12,000 times for Overcharged Interest. CBA did not defend for breaching general obligations & ASIC Act.**
- **June 2020 – Conflict remuneration of \$22M received from Colonial First Investments**
- **June 2020 - `Fined \$5M for failures with Agri-Advantage plus Package. Remediation - \$8.08M.**
- **2019 – Fine \$1.25M for guilty plea of Hawking Insurance**
- **2019 – Recalling of CBA Customer Service Staff bonuses.**
- **September 2018 - CommInsure heart attack definition and CBA fined for gouging and roting of cover**
- **August 2018 – CBA guilty of 13,000 policy holder’s abuse by CBA/Colonial First State & CML**
- **July 2018 – Four (4) Enforcement Undertakings settled with ASIC from unacceptable Bank performance**
- **July 2018 – CBA Superannuation scheme/scandal of A-Z client review comprising wrong behaviours and self-serving product selling.**
- **June 2018 - \$700M fine imposed by Federal Court and payable to AUSTRAC for breaches enabling criminal laundering (53,700 illegal transactions)**
- **June 2018 - \$25M fine to ASIC for CBA over BBSW.**
- **May 2018 – APRA’s Promontory Report on CBA’s governance; \$1Bil required to be lodged as security for a program of work to be undertaken.**
- **May 2018 – after being hidden for 2 years, CBA announced they had lost 19.3 Million customer records.**
- **Plus: Aussie Home Loans and dodgy Broker Discounts; Credit Card Insurance; Dollar-mite accounts and falsified records; Comminsure protection racket & Commonwealth Bank Financial Planning & Wealth Package rorts.**

More fines are at large....

Disingenuous, deceitful and dishonest conduct is prominent with CBA and AFCA need to be very mindful of these anomalies.

Today 26/03/21 – CBA abuse of staff and their workplace conditions.

AFCA acts obliviously to these wrong doings and CBA's performance is untarnished in the eyes of AFCA in respect of missing file notes, overcharging dishonesty and the list goes on.

CBA's character record is not good or healthy; AFCA does not have any caring aspect for these anomalies and indiscretions.

Internal review mechanism

3. AFCA's Independent Assessor has the ability to review complaints about the standard of service provided by AFCA in resolving complaints. The Independent Assessor does not have the power to review the merits or substance of an AFCA decision.

Is the scope, remit and operation of AFCA's Independent Assessor function appropriate and effective?

Resp: NO.

AFCA's Independent Assessor is a "Johnny come (too) lately"!!!

Meaning after the event; too late to be of real value and prevent Bank from commencing realisation of real property in the event of an adverse Determination for a complainant.

In my own situation, my Legal Counsel/Case Manager openly admitted that she was tired, had excessive work load and huge work volumes. She failed dismally to deep dive and fact find with CBA for information She further would not seek to obtain critical and vital documents. She would not respond and answer my queries or questions; she denied examining additional submissions (with new evidence) and hand-balled it the Ombudsman Panel; three unrelated complaints submitted in June/July 2020 were bundled into the parent complaint after the Preliminary Assessment was issued – emanated from Bank's records and files that conveniently arrived 14 days after the Preliminary Report issued and after having been on request for 18 (+) months. Case Manager was also privy under her watch to the unauthorised release of my files to an unknown third party – resulting in a breach of our privacy and confidentiality – no apology will compensate for reckless and careless behaviour. My Case Manager was also across the loss of documents by OAIC received from CBA. Too many coincidental systematic failures and convenient breaches in my affairs with the involvement and overview by AFCA.

After 80 (+) weeks of my file being at AFCA, I sought a work-in-progress status of my parent complaint – ideally, I was seeking responses I had asked in my rejection letter to the Preliminary Assessment plus feedback to my submissions with new evidence and further feedback to three (3) new complaints sent to AFCA. All I received within

3 weeks was a “padding” Determination of bank policies and what can only be referred to a rubber stamping of Case Manager’s Preliminary Assessment.

Ombudsman Panel denies identifying their members and therefore I am shallow as to the expertise, skills and competency of Panel Members; tribunal members are generally known for most situations in advance as are referees and judiciary known on the day – why is AFCA’s Ombudsman Panel kept in private. AFCA’s Ombudsman Panel is viewed without ownership and accountability for their decision-making. This must change!!!!

AFCA functions as a law unto themselves, when in reality AFCA is an affront to The Rule of Law. Complaint CRef: 634354 is an example of AFCA’s flawed and unaccountable processes and policies.

This must be corrected.

The participation and involvement of the Independent Assessor is too belated.

Scope, remit and operation of AFCA’s Independent Assessor function is not appropriate or adequately effective.

In my Preliminary Assessment, Case Law was used. I queried my Case Manager for specific Court details. Information was suppressed for 7 months and was only provided with AFCA’s Determination; I was given 30 days to respond.

4. Is there a need for AFCA to have an internal mechanism where the substance of its decision can be reviewed? How should any such mechanism operate to ensure that consumers and small businesses have access to timely decisions by AFCA?

Resp: In an initial response – **YES!!**

Mechanism could be on the structure of a Tribunal and consist of a diverse team of life experienced operatives who may have already endured Bank conflicts and away from lawyers and solicitors who market themselves the entire time for new clients.

Participating members should include laypersons and not necessary lawyers and AFCA staff, but generally those ‘life-experienced’ and those who have walked a mile in similar shoes as to complainants/victims.

I am not confident current AFCA staff currently have adequate support or ongoing training to meet the varying and changes of demands with their jobs

Requirements change and not always are staff able to adjust to new demands owing to significant upgrading and ongoing variations without one-on-one tutoring.

General:

AFCA operates as a 'closed society', sect or clan – they lack accountability and integrity; professionalism and client diplomacy is void in their modus operandi.

I hold a document to illustrate the above; it could be presumed doc is a draft only without ownership (no signature).

I have progressively requested a Customer Service Survey Score Card from multiple AFCA staff and they continuously deny my request. The only way to improve performance and/or receive affirmation is to gather intelligence from users and complainants; AFCA fears this approach.

AFCA is a soiled and tarnished EDR organisation with deficiencies in timeliness, fairness, efficiencies and all encapsulated with unconscionable behaviours and conscious bias in their processes and their performance which renders them void of being independent. They consider they are immune from recourse and redress.

Submissions made by complainants to AFCA can remain idle for weeks without commentary or feedback and if & when AFCA gets around to seeking information, complainants are required to respond often within 7 days. This is not always do-able and often if compliance is not responded to, threats of file closure are made; this tactic is nothing lesser than bullying and emotional blackmail/abuse. This practice must cease. AFCA is promoted as being timely and fair – this quality is frequently remiss.

It is with regret that I see the need to challenge, query and verify their qualifications of EDR Officers; many of their actions and their decision making is not always sound and therefore are *not fit for proper purpose* as AFCA personnel. Ombudsman Panel members are concealed and therefore individual's identity and accreditation become circumspect when panel members are not prepared to identify themselves. The process lacks honourability and ownership with their decision making and reporting.

A Trust Deficit remains over AFCA's modus operandi. Operatives fail to function in a timely manner, they are unreasonable and therefore not fair, efficiencies do not exist in their performance(s) and evidence lacks with their decision making and independence. They dismally fail to deep dive into matters and become oblivious to fact finding. Too frequently will accept information from a FSP and deny verifying the content and subsequently believes it is factual in every sense; information provided is considered policy. AFCA staff look away from the 'root cause' of a complaint and go

in search of 'red herrings' to bring into the file; many of their choices and opinions are ill-fated, lack goodwill and their assumptions are made prove to be imperfect.

Often AFCA decisions are highly bias in favour of Banks without any conscious motive and by incompetent behaviours (deliberate or intentional) their decision moves into an arena of collusion which ultimately transfers into corrupt practices, resulting in an avalanche of devastation and destruction for complaint's – similar to conspiring to rein supremacy, regardless of bare facts. Recent Federal Court decisions made against CBA for misleading information and overcharging of fees, were not defended by CBA. Complaint files adequately investigated by AFCA would reveal similar Bank treatment of customers and borrowers.

AFCA are not fit for proper purpose.

Additional supporting documentation is available (on request) for the statement above.

AFCA acts as a "firewall" for protection and shielding of wrongful activities.

Leadership is absent at AFCA. [REDACTED] will not respond or reply to correspondence and has not done so since being Chair. Plus, her role at [REDACTED] will no doubt be a fulltime distraction from AFCA; she needs to be replaced. She must go.....!!!

[REDACTED] adds little value; just a tourist visiting Australia – more interest with galahs at the sandy beaches than the galahs working in Wesley Towers (CBD Melb.) [REDACTED] will not get into the trenches, roll his sleeves up and immerse himself in the nitty gritty of the day-to-day business. *He has never walked a mile in the shoes of complainants.* If in fact he inherited 'deadwood' from FOS, professionally speaking he must complete the exercise of *draining of the swamp* and be freed of passengers. [REDACTED] reportedly is more concerned about his public profile and his imagery to Members as opposed to timely, fair, efficient and conduct of independence for reasonable and balanced outcomes for complainants.

Essentially, the job at AFCA is too big for Locke &/or Locke is not big enough for the role.

[REDACTED] dearth with skills of customed service and client diplomacy; will always support her staff without any merit review of complainant's file. She will not always acknowledge, reply or respond to items on request directed to her. She is selective to what she gets involved in with operational measures. She requires urgent re-training &/or 'performance managed' out from AFCA. She is responsible for misleading statements to victims. I am able to testify to this statement.

There appears no *checks & balances* are conducted on AFCA's performance, therefore how does Management learn of improvements required.

I have requested several Customer Service Survey Score Cards for completion, but they are withheld by AFCA from being provided with feedback.

AFCA operate in their own 'worldly bubble' and are immune from constructive criticism and lessens their likelihood of affirmation for good deeds.

In conclusion, AFCA needs overhauling and revamping; a change of leadership and Senior Executives.

AFCA's structure to be better constructed. Move away from voting Membership funding per each complaint and Bank's pay a handsome levy collected by the Government.

Currently AFCA is too reliant on Banks – and vice versa; not a healthy EDR construct.

Too much hiding behind the Corporate banner by AFCA.

All named in this document must be removed.

Apologies for this late submission. However, I was waiting on a Preliminary Assessment to issue and promised for 22/03/21 (CRef: 736323; it has not arrived. File has been alive for 43 weeks and does oppose or contest loan debt. Its more about release of certified copies of Mortgage loan Contract. I believe AFCA is withholding their report till the cut-off date of 26/03/21 to ensure that I do not include their material in my submission.

I seek special mention to include and adverse rulings from CRef: 736323 at a later date.

AFCA has learnt from Banks in being devious, dodgy, disingenuous, deceptive, dubious and deviant in the way they perform.

Footnote:

I am available to add greater clarity on topics I have mentioned in this report. Plus, I can provide documentation to support statements I have made.

Many thanks,

Selwyn Krepp



To: [REDACTED]
Cc: [AFCA Service Complaints](#)
Subject: Case number: 634354 Complaint number: 772727
Date: Friday, 5 March 2021 5:19:24 PM
Attachments: [REDACTED]

Good afternoon Mr Krepp

Please find attached a response to your post determination correspondence.

As mentioned in my letter, I assist the Chief Ombudsman in considering complaints raised about our service. I have had the opportunity to review these matters in full and provide my response. While our review has been completed, it is open to you to approach the Independent Assessor, now that you have received AFCA's final response.

Regards

[REDACTED]
Case Manager

Free Call 1800 931 678

www.afca.org.au



AFCA continues to provide fair, independent and effective solutions for financial complaints during the COVID-19 pandemic.

Keep us updated – if your situation changes or you need more time to provide a response, please contact your case worker or send an email to info@afca.org.au

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5 March 2021

CRef: 772727

Mr Selwyn Krepp
[REDACTED]
[REDACTED]

Dear Mr Krepp

Case number: 634354

I refer to your correspondence provided to AFCA, after your complaint against the Commonwealth Bank of Australia (the Bank) was subject to a determination in November 2020.

Your correspondence provided your views about the determination and our service. I assist the Chief Ombudsman in considering complaints raised about our service and have had the opportunity to review these matters in full.

Submission to Treasury – AFCA Review

You have confirmed that you intend to provide a submission to Treasury for inclusion in its review of AFCA. We understand that Treasury is interested in hearing from stakeholders and obtaining any feedback about our service.

We welcome Treasury's review and will assist in any way it considers we may productively contribute.

How your complaint was progressed

Prior to responding to your concerns about our service, it was important that I considered how your case was progressed. This provided me with the opportunity to understand the issues you raised in context of our handling of the case.

Importantly, it also gave me the opportunity to understand whether you were provided all opportunities afforded under our Rules, to provide information and documentation, in support of your case at each stage of our process.

It is clear from your correspondence that you disagree with how your case was handled, including how it was progressed.

It is not my intention to change your view about our service. My intention is solely to consider your concerns after a full review of how your case was handled and provide an informed response.

Your complaint (634254)

Your complaint against the Bank was lodged with our service in April 2019.

After your complaint progressed through AFCA's initial stages and considerable correspondence was exchanged between the parties, AFCA provided the parties with a summary of its understanding of the complaint and an opportunity to clarify any aspects.

On 9 September 2019, you wrote to AFCA's Chief Ombudsman and indicated that the complaint was tracking along, as per AFCA's process. Your letter expressed your views about the Bank and confirmed that you had sent multiple letters and emails with direct questions, to its CEO.

From this stage, the parties provided multiple submissions over an extended period.

On 29 January 2020, the case manager handling your complaint called the parties and provided a summary of her recommendation. The recommendation was issued later that day.

On 31 January 2020, you emailed the case manager and copied in AFCA's Chief Ombudsman and others. You indicated that someone had advised you of the case manager's legal professional qualifications and you also referred to a legal professional body. You indicated that if you found issue with the case manager, you would bring this matter to their attention and that any repeated issues would be reported.

No issue or allegation was raised by you at that time.

On 1 February 2020, you emailed the case manager and asked her to provide you with her personal financial information.

On 22 February 2020, you emailed AFCA and asked for an extension and for AFCA to obtain certified copies of specific loan and other documents from the Bank. In a separate email that day, you emailed the case manager and others and again asked the case manager to provide her personal financial information.

On 27 February 2020, you emailed the case manager and thanked her for the extension to 13 March 2020, in order to respond to the recommendation.

On 28 February 2020, AFCA's Chief Ombudsman wrote to you to address several matters you had raised. The Chief Ombudsman asked that if you had specific concerns, to raise them directly. However, he also informed you that we take our staff's well being seriously and asked that you refrain from communicating with our staff in the manner you had in your email of 31 January 2020.

The Chief Ombudsman also informed you that we respect our staff's right for their own personal information not to be used by consumers and that AFCA had robust policies and procedures to ensure our staff act impartially and with independence.

On 12 March 2020, AFCA received your submission rejecting the recommendation.

On 17 March 2020, you emailed AFCA and confirmed you were seeking an undefined extension. You also referred several attachments for AFCA's 'attention, action and/or confirmation' that mentioned documents you wanted from the Bank.

On 2 April 2020, the case manager emailed you and provided a final extension to 16 April 2020. In relation to any further information, the case manager confirmed it would be up to the ombudsman to decide if any further information or submission was required.

AFCA received a further submission from you on 16 April 2020. The complaint was then progressed to the decision stage of our process.

Further submissions were made by you between that time and when the Panel's determination was issued in November 2020. These submissions were exchanged and considered by the Panel.

The above is only summary of the progression of the file. The parties provided substantial submissions during this time and you raised several concerns about our service that you escalated to senior AFCA delegates.

Based on a full review of the case file, I am of the view that you were provided with appropriate opportunity to submit information and argument in support of your position.

You were also provided with:

- multiple significant extensions of time to make submissions
- several explanations about our service and process
- several responses in relation to your escalated concerns, from senior AFCA delegates, and
- information in response to your privacy request.

Issues requiring clarification

While your complaint was progressed appropriately, there clearly remains a divide between what you expect AFCA to provide as a service and what our role is as an independent not-for profit external dispute resolution service. There appears to be several core divides in expectations that you repeat in your correspondence.

I will address these matters below.

AFCA's role

As confirmed in previous responses to you, AFCA's role is to assess whether or not a financial firm has breached its obligations in the provision of financial services to you, as outlined in your complaint. It is not an open-ended review of the financial firms conduct.

Our role is not to simply ask the questions you want answered or obtain the documents you seek. AFCA is not a court or a regulator. AFCA asks questions of the parties and request documents when there is a nexus to the issues in the complaint. The questions and the documents must be relevant to the issues in dispute. These are matters for AFCA staff to decide, not the parties to a complaint.

Submissions provided by the parties are exchanged by AFCA, and appropriate opportunity is provided for the other party to submit information and argument in response. These submissions can and often do, include strong views about what information AFCA should obtain in order to consider the complaint.

It appears that the core of your concerns relate to your comment that AFCA and specifically the Panel that determined your complaint 'is not authorised and [is] without discretionary delegation to select what documents they think I require and need for my complaint.'

AFCA does not impede parties from communicating with each other throughout the course of a complaint and direct communication between the parties in your complaint was substantial. However, our role does not extend to obtaining all information or documentation that parties request we obtain from each other.

I appreciate that you have confirmed your understanding that AFCA's role is inquisitorial and not adversarial in nature.

While you have requested that AFCA obtain certified copies of documentation submitted by the Bank, these requests do not form our complaint resolution process. In relation to the authenticity of documentation, the Panel in its determination confirmed that:

If the complainant distrusts the documents the bank has provided because they are not certified copies, he will need to go to court where original documents can be subpoenaed and parties can be cross examined under oath about the validity of the documents provided.

AFCA has no reason to doubt the authenticity of the documents the parties have provided. In any event, AFCA does not have jurisdiction to pursue allegations of fraudulent or criminal conduct against individual bank employees who have provided documents during our investigation.

Feedback on submissions

On several occasions you asked that AFCA provide you with feedback about your submissions to AFCA and correspondence you sent directly to the Bank and raised concerns when we did not provide this feedback. This issue appears to have formed several requests for extensions, as you were awaiting these responses.

As an independent external dispute resolution service, AFCA does not advocate for any party. Our process does not include providing feedback on each submission provided by the parties. AFCA's views on the issues in dispute, having regard to all relevant information, are appropriately provided at key stages of our process, in accordance with our Rules and Operational Guidelines.

AFCA Panels

You have expressed concern that the Panel which determined your complaint is unnamed.

Each panel that is formed to decide a complaint will normally have three members – a Chair (an AFCA ombudsman), an industry representative and a consumer representative. This is how the Panel in your complaint was formed.

All Panel members are appointed by the AFCA Board. AFCA has a large pool of Panel members covering consumer and industry specialist experience to draw on to ensure that the correct expertise is applied to each complaint. All consumer and industry panel representatives are listed on AFCA's website.

The Chair of a Panel is an AFCA ombudsman and is appropriately named in the determination. Information about AFCA's ombudsman, including the named ombudsman that chaired the Panel that determined your complaint, is listed on AFCA's website.

Date of your letter that was the subject of award for non-financial loss

You have asked for a copy of your letter to the Bank dated 13 October 2013, as referred to on page three of the Panel's determination.

The Panel's reference to your letter related to an award of non-financial loss to you. The Panel found that your letter should have been treated by the Bank as a request for financial difficulty assistance.

The initial reference to the date of your letter in the determination was an error. The date of your letter was later correctly stated on page 27 of the determination as 13 October 2018. We apologise for this error and confirm that it does not in any way affect the Panel's decision to award you non-financial loss, for the reasons explained in the determination.

Merged case files

In between AFCA issuing a recommendation and a determination in your complaint against the Bank, you lodged multiple other complaints against the Bank. We carefully reviewed your submissions and supporting information in relation to these cases.

Having completed our review, we considered that many of the issues raised in your further complaints related to matters which had been investigated in case 634354 (the current case). Based on this conclusion we elected to close these cases and merge them with case 634354.

Our letter dated 17 September 2020, explained the reasons why we were closing and merging these cases and how we would proceed.

Systemic issues

In your correspondence you refer to matters that you consider relate to the broader conduct and actions of the Bank.

As an external dispute resolution service, AFCA has several unique and separate roles. Our main role is to consider individual complaints lodged by consumers and small business about the conduct of financial firm members of AFCA. This role requires direct participation of the parties.

AFCA's systemic issues function is separate from our complaint resolution role. If we identify that the issues in a complaint may have affected other customers, or that the identified conduct requires notice to a regulator, our systemic issues team will independently investigate these circumstances.

These investigations are separate to and broader than an investigation into an individual consumer or small business complaint. Further, these investigations do not impact a decision by AFCA about the specific circumstances presented in an individual complaint.

While we appreciate that you may have interest in these investigations, we are unable to provide you with information about any matter that we investigate and/or report to regulators in this role. Our obligation in this context is to the relevant regulators. However, information about our systemic issues function, including statistics and examples of issues identified and reported, can be found in our Annual Review (located on our website).

The Determination

The Panel's determination was issued in November 2020.

Your letter of 1 February 2021 confirmed that you did not accept the Panel's determination. As determinations are AFCA's final decision on the issues in dispute and you elected not to accept the determination, our involvement in the case has ended.

In response to issues raised in your correspondence about specific references in the determination:

- a) the Panel's reference that you were the sole director and shareholder of R Pty Ltd (the company), was based on the available information. Your comment that you were not the sole director of the 'borrowing company' does not alter the Panel's Determination, that was based on the information available to the Panel.
- b) As referred above, the Panel's reference to a letter dated 13 October 2013 was an error and later addressed in the Determination. The date of your letter was 13 October 2018.
- c) It is unclear what you mean when you say that there were no 'borrowings' that were 'styled Personal Loan.' The Panel referenced the last three digits of the Personal Loan referred to in the Determination. All information that formed the Panel's determination was exchanged with the parties.
- d) The Panel's determination was based on a robust and considered review of all available information.

- e) You indicate that the Panel said you wrote to the Bank on 30 November 2018 and you seek a copy of your letter. Upon review of the Determination, the Panel referenced that the 'complainant said he wrote to the Bank on 30 November 2018'.

There is nothing within your post determination correspondence that alters the finality of the Panel's determination. It was open to the Panel to reach the conclusions it did in the circumstances, having regard for all the relevant information.

You are free to pursue the matter in another forum but you cannot have it further considered by us. While I regret this is not the outcome you are seeking, we cannot assist you further with the concerns raised.

Your engagement with us moving forward

I have reviewed the extensive responses provided to you by our Chief Ombudsman, Deputy Chief Ombudsman, General Counsel and Service Complaints Manager in relation to our staff. As part of these responses, we have previously informed you that the case managers conduct was appropriate and consistent with our expectations.

Further, our concerns about how you communicated with AFCA staff in the past has also been made known to you. I am therefore concerned that your submission received on 1 February 2021, included very personal and upsetting remarks about the case managers mental health.

There is no doubt that issues raised by complainants with AFCA are of a personal nature and can cause significant upset. As previously mentioned, AFCA has a responsibility to ensure the safety and wellbeing of its people, and to ensure that stakeholders deal with us in a respectful way. The enormous difficulty that can come with managing financial issues does not excuse poor conduct and behaviour that negatively impacts our people.

Despite your views, we have endeavoured to accommodate and work collaboratively with you throughout our assessment of your case and the issues you have raised with us.

Next steps

Notwithstanding the typographical errors referred to above, the determination dated 26 November 2020 represents AFCA's final decision of the facts and circumstances of case 634354.

Please tell us within 14 days if you intend to accept or reject the determination. If we do not receive a clear acceptance of the determination by **18 March 2021**, we will assume that, in accordance with your previous rejection, you do not wish to accept the determination and case 634354 will be closed without further extension.

It is apparent that your expectations of the AFCA do not align with our role as an independent dispute resolution service. You are free pursue any future concerns you have via other avenues.

It is also open to you to raise any service complaints issues you have with AFCA, with the AFCA Independent Assessor. Details of the Independent Assessor's role below for your information.

Yours sincerely



Case Manager
Australian Financial Complaints Authority

The Independent Assessor

If you remain dissatisfied with our response to your complaint about our service you can lodge a complaint with the Independent Assessor.

The Independent Assessor independently considers complaints about the standard of service provided by AFCA. The Independent Assessor does not consider the merits or the substantive outcome of a complaint, such as a determination or other finding issued by AFCA or a predecessor scheme about the merits of a complaint.

In most circumstances the Independent Assessor will only consider a service complaint after the case with the financial firm is closed, unless exceptional circumstances exist.

A complaint must be lodged with the Independent Assessor within three months of AFCA's response to a service complaint being received.

You can find further information about the Independent Assessor, including how to lodge a complaint via afca.org.au/independent-assessor.

5 March 2021

CRef: 772727

Mr Selwyn Krepp
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr Krepp

Case number: 634354

I refer to your correspondence provided to AFCA, after your complaint against the Commonwealth Bank of Australia (the Bank) was subject to a determination in November 2020.

Your correspondence provided your views about the determination and our service. I assist the Chief Ombudsman in considering complaints raised about our service and have had the opportunity to review these matters in full.

Submission to Treasury – AFCA Review

You have confirmed that you intend to provide a submission to Treasury for inclusion in its review of AFCA. We understand that Treasury is interested in hearing from stakeholders and obtaining any feedback about our service.

We welcome Treasury's review and will assist in any way it considers we may productively contribute.

Resp: In the absence of AFCA meeting complainant expectations to forward a Customer Service (Survey) Score Card, it was inevitable Treasury would be required to investigate and receive feedback for this obscure and protective AFCA practice.

I have experienced Customer Service Survey Score Card ratings in my corporate employment in Australia and I do not see reasons of AFCA being an exception/exclusion.

Positive &/or negative Customer Service feedback can only enhance or correct performances in achieving and meeting consumer expectations.

I will be requesting in my submission for all reporting to be made public on Treasury's website.

AFCA's efforts to block complainants on Social Media accounts is further reinforcement of AFCA not wanting to receive feedback on their performance.

How your complaint was progressed

Prior to responding to your concerns about our service, it was important that I considered how your case was progressed. This provided me with the opportunity to understand the issues you raised in context of our handling of the case.

Importantly, it also gave me the opportunity to understand whether you were provided all opportunities afforded under our Rules, to provide information and documentation, in support of your case at each stage of our process.

It is clear from your correspondence that you disagree with how your case was handled, including how it was progressed.

It is not my intention to change your view about our service. My intention is solely to consider your concerns after a full review of how your case was handled and provide an informed response.

Resp: Without much further ado, essentially all I required was constructive and genuine answers to queries and questions I proposed to my Case Manager; same I requested from AFCA's Preliminary Assessment; again, responses to **new evidence I filed after the receipt of much overdue and highly travelled documentation comprising a journey of 18 months; interim questions and similar from the Ombudsman Panel Chair – why are my requests pushed aside and ignored?????**

I now assert AFCA has breached a mandatory requirement of its core elements under the AFCA Act (2018). A matter on referral to the AFCA Review Panel.

Questions escalated to Deputy CEO were not adequately answered, whilst not overlooking a response for CRef :725573 > Service Manager. I have not been told or instructed my complaint is finalised or closed and therefore file remains open in my affairs.

All unfinished business and now AFCA wants to step away from accountability to respond to my queries.

I also contend Deputy CEO has misled me in recent communications.

Does a hidden agenda exist or is it concealed resentment towards me owing to my unsophisticated letter writing style with fundamentals of the truth?

Please advise why?

Your complaint (634254)

Your complaint against the Bank was lodged with our service in April 2019.

After your complaint progressed through AFCA's initial stages and considerable correspondence was exchanged between the parties, AFCA provided the parties with a summary of its understanding of the complaint and an opportunity to clarify any aspects.

On 9 September 2019, you wrote to AFCA's Chief Ombudsman and indicated that the complaint was tracking along, as per AFCA's process. Your letter expressed your views about the Bank and confirmed that you had sent multiple letters and emails with direct questions, to its CEO.

Resp: This approach is encouraged during any investigative process in bona fide efforts to obtain a resolution; fact finding and deep diving all have merit.

AFCA failed in this process.

From this stage, the parties provided multiple submissions over an extended period.

Resp: I was always pressured to meet timeframes. CBA was provided extended leniency for compliance. I query – why was CBA granted favoritism for their replies.

I was disadvantaged to hurriedly perform; CBA was not!!!

I requested an extension to make submissions in early stages of COVID-19 when stay-at-home policies were introduced in Victoria, my request was denied.

On 29 January 2020, the case manager handling to your complaint called the parties and provided a summary of her recommendation. The recommendation was issued later that day.

Resp: AFCA missed several chronological events in their reporting; coincidental and/or deliberate are all issues up for review.

Case Manager failed to respond to queries and questions prior to her issuing the Preliminary Assessment.

Case Manager did not meet deadlines proposed to prior to Xmas, or did she inform me to the contrary that she was unable to meet deadlines with any communications in 2019.

An urgent escalation was sent a.h. to the Chief Ombudsman on 20/12/2019 originating from contact from a Sydney journalist. No direct feedback was forthcoming from an urgent escalation until 2nd week January 2020.

I endured suffering of anxiety, anguish, elevated stress and all harmful thoughts whilst waiting for information on my Escalation. Case Manager & Chief Ombudsman contributed significantly to my stress and frustration. Lack of AFCA's actions caused extreme inconvenience and I was disadvantaged from taking leave (during Xmas & New Year), not knowing the true situation of my complaint.

On 29 January 2020 my Case Manager complained about her personal workload, her work scheduling and the fact she was tired; she did not sound of being in a good mental state. Admissions were made of job dissatisfaction.

On 31 January 2020, you emailed the case manager and copied in AFCA's Chief Ombudsman and others. You indicated that someone had advised you of the case managers legal professional qualifications and you also referred to a legal professional body. You indicated that if you found issue with the case manager, you would bring this matter to their attention and that any repeated issues would be reported.

No issue or allegation was raised by you at that time.

Resp: I asserted of some statements made by my Case Manager were done on behalf of Bank and claiming as to their 'commercial decisions' not to release information in the absence of any inbound/outbound copy correspondence, could imply AFCA was acting as the 'voice', gate-keeper' and 'mouth piece' for CBA. This is viewed as unacceptable behaviours by and from AFCA.

Surely [REDACTED] and others should not need reminding of the protocol associated with being a registered Victorian Lawyer and the compliance associated with the Administration of Justice and in particular:

Fundamental duties of solicitors

Paramount duty to the court and the administration of justice

3.1 A solicitor's duty to the court and the administration of justice is paramount and prevails to the extent of inconsistency with any other duty.

Whilst it is unknown by AFCA of what action I took; further options do remain open to me and will be excised as appropriate.

Circumstances pertaining to the above could have been averted, if high level professionalism and unquestionable integrity had been demonstrated; I do not believe this is the case with my affairs.

In addition, I note you make no referencing in your letter as to breaches of my confidentiality and privacy of my file and affairs whilst under the watch of my Case Manager and the unauthorised release of my document to a third party.

The above action could be considered as deliberate and intentional to cause further injury to me.

Apologies are an admission of guilt and wrongful conduct; possibly competence's, carelessness and negligence also are contributing factors.

Complainants should not be expected *just to suck up* AFCA's continued failings and breaches.

On 1 February 2020, you emailed the case manager and asked her to provide you with her personal financial information.

Resp: Acting on legal advice I was simply exercising a process of validation/elimination to remove any doubt for any conflict of interest. And my questions remain.

I have sighted evidence from other Bank victim's files of their Case Manager's exchanging information with a FSP that I deem as inapt and lacking professionalism; essentially displaying inappropriate expertise.

Hence, I simply was trying to avoid a repeat scenario.

Silence can be viewed as acceptance and sanctioning of statements and claims made in respect to file activity as being true and correct.

AFCA should be guided accordingly.

On 22 February 2020, you emailed AFCA and asked for an extension and for AFCA to obtain certified copies of specific loan and other documents from the Bank. In a separate email that day, you emailed the case manager and others and again asked the case manager to provide her personal financial information.

Resp: My email 22/02/2020 makes it perfectly clear of the reasons for my request.

I note [REDACTED] did not respond. Silence in some circumstances can be viewed further as an admission of statements made as being true and correct, particularly without any denial.

I also requested referral to AFCA's specific workplace policies and procedures – this was also denied.

My entire file is shrouded with too many coincidences, misdeeds and misquotes. Therefore, I have become isolated from the truth by all stakeholders and in defiance of the existence of a tripartite agreement.

On 27 February 2020, you emailed the case manager and thanked her for the extension to 13 March 2020, in order to respond to the recommendation

On 28 February 2020, AFCA's Chief Ombudsman wrote to you to address several matters you had raised. The Chief Ombudsman asked that if you had specific concerns, to raise them directly. However, he also informed you that we take our staff's well being seriously and asked that you refrain from communicating with our staff in the manner you had in your email of 31 January 2020.

Resp: My position remains. In the absence of documentation supporting several AFCA's statements – the only conclusion is that AFCA is acting as the 'voice', 'gate-keeper' and 'safe guard' for Banks; this is not AFCA's role.

“Firewall” is another commonly referred to expression of AFCA's performance to look after their voting Members; an in-balance with procedural fairness is becoming very evident. AFCA Staff, Case Managers and Panel members are always out to provide coverage and protection for voting Members.

██████ email was viewed as an expression of revenge on me as I had 'called' him out on his lack of performance and follow-up to my escalation in December 2019.

Nowhere in this epic journey has consideration been given to me and my feelings of disrespect, anxiety experienced, anguish endured, hurtful delays, mistreatment, breaches and the list of 'anti-complainant' sediments continue.

AFCA lacks communications with their performance.

██████ effort was totalitarian in his own protection, secondly - AFCA's.

Merely, a risk of a fundamental departure from defining safeguards of the accusatorial system of procedural fairness and justice.

██████ and others act with a privileged sense of immunity; complainants can only trust the AFCA Review will enlighten this continued wrong doing by AFCA.

Loyalty to voting Members ranks over and above your procedural fairness to complainants who are exempt/forbidden from being financial voting Members.

The Chief Ombudsman also informed you that we respect our staff's right for their own personal information not to be used by consumers and that AFCA had robust policies and procedures to ensure our staff act impartially and with independence.

On 12 March 2020, AFCA received your submission rejecting the recommendation.

On 17 March 2020, you emailed AFCA and confirmed you were seeking an undefined extension. You also referred several attachments for AFCA's 'attention, action and/or confirmation' that mentioned documents you wanted from the Bank.

On 2 April 2020, the case manager emailed you and provided a final extension to 16 April 2020. In relation to any further information, the case manager confirmed it would be up to the ombudsman to decide if any further information or submission was

required.

AFCA received a further submission from you on 16 April 2020. The complaint was then progressed to the decision stage of our process.

Further submissions were made by you between that time and when the Panel's determination was issued in November 2020. These submissions were exchanged and considered by the Panel.

The above is only summary of the progression of the file. The parties provided substantial submissions during this time and you raised several concerns about our service that you escalated to senior AFCA delegates.

Based on a full review of the case file, I am of the view that you were provided with appropriate opportunity to submit information and argument in support of your position.

You were also provided with:

- multiple significant extensions of time to make submissions
- several explanations about our service and process
- several responses in relation to your escalated concerns, from senior AFCA delegates, and
- information in response to your privacy request.

Resp: All the above were a part of the process and many could have avoided if AFCA had maintained their key elements of being timely, fair, efficient and independent.

AFCA's failure to answer questions as prudent, diligent and skilled operatives, has generated much follow-up correspondence.

Numerous queries remain without responses. My dilemma is do I commence listing all non-responded letters of request sent to AFCA by me or it an AFCA expectation I should not further expose AFCA's poor conduct and performance.

Regardless, I would appreciate feedback on AFCA's- [REDACTED] – as per my email request 17/03/20.

Itemisation of unanswered correspondence is proposed and will for part of my AFCA Review submission.

Issues requiring clarification

While your complaint was progressed appropriately, there clearly remains a divide between what you expect AFCA to provide as a service and what our role is as an independent not-for profit external dispute resolution service. There appears to be several core divides in expectations that you repeat in your correspondence.

I will address these matters below.

Resp: I will refer your over accentuated commentary (above) of being a not-for profit external dispute resolution service, direct to the Minister for his immediate attention. I will by-pass all the bureaucrats in Treasury (now referred to as a Swinger's Club) to ensure your statement receives the very best and most appropriate attention. I am meeting with the Treasurer.

My action will remove the need for AFCA to lobby their position to Treasury.

AFCA's role

As confirmed in previous responses to you, AFCA's role is to assess whether or not a financial firm has breached its obligations in the provision of financial services to you, as outlined in your complaint. It is not an open-ended review of the financial firms conduct.

Resp: It is considered an unlawful and willful foreclosure in the absence of arrears, defaults and breaches and ahead of a forward loan expiry date, would fit your select criteria as mentioned above.

CBA breached a fundamental term of lending.

Our role is not to simply ask the questions you want answered or obtain the documents you seek. AFCA is not a court or a regulator. AFCA asks questions of the parties and request documents when there is a nexus to the issues in the complaint. The questions and the documents must be relevant to the issues in dispute. These are matters for AFCA staff to decide, not the parties to a complaint.

Resp: I dispute your statement.

The failure to seek document discovery is a major coup for any FSP.

Banks, and particularly CBA are notorious for concealing material facts as was demonstrated at the Hayne Banking Royal Commission. Deceit is CBA's millstone for success, until caught out. And when taken to the Federal Court, CBA will not defend their actions as highlighted in two recent Court Hearings (February 2021) involving overcharging and misleading customers.

There is a genuine need for AFCA to expand their thinking and rationale' when it comes to document discovery; stop making shortcuts and circumventing procedural fairness. At this stage it could be perceived of AFCA being afraid to perform thorough investigations with fact finding techniques and deep diving of product material. Therefore, Bank's escape scrutiny due to a fearful AFCA.

Submissions provided by the parties are exchanged by AFCA, and appropriate opportunity is provided for the other party to submit information and argument in response. These submissions can and often do, include strong views about what information AFCA should obtain in order to consider the complaint.

It appears that the core of your concerns relate to your comment that AFCA and specifically the Panel that determined your complaint 'is not authorised and [is] without discretionary delegation to select what documents they think I require and need for my complaint.'

Resp: One of my concerns being the right of AFCA to reverse the acceptance of CBA's [REDACTED] of (no) typing error being included in Bank's letter (14/11/2013) with the correction and statement of other facts. Case Manager made this decision. CBA did not prove their innocence to my claims. CBA failed to provide documentation. Whilst sanitation in Banking is a common feature, it does not rule out events occurred. The three main Bank personnel across my lending have all now left CBA as I continue to mount pressure on their performances.

Foolishly, the Ombudsman Panel rubber-stamped the Preliminary Assessment in what appears a bundled process without complete merit review.

I again maintain my view of the documents required in my matter. Bank's reluctance to release items bearing my name and/or signature are in Breach of Banking Code of Practice Ch 37. (AFCA staff should surely know the Code.)

Commissioner Hayne also reaffirmed during the Royal Commission into Banking, any document with a borrower's name appearing on it, is a shared instrument.

So, I further question, have all Ombudsman Panel members read the final report by Commissioner Hayne?

Please advise.

It may be difficult for AFCA to engage in the reading of the final FSRC report, knowingly the *bollicking* FOS (your predecessor) scored on performance; a total discrediting as witnessed (on site) by now AFCA staff [REDACTED]

However, facts are facts and AFCA should not hide from these findings.

AFCA does not impede parties from communicating with each other throughout the course of a complaint and direct communication between the parties in your complaint was substantial. However, our role does not extend to obtaining all information or documentation that parties request we obtain from each other.

Resp: This principle (local policy) needs reviewing by AFCA. Currently it is seen as a loop-hole in your system and Banks would be infinitely aware of your limitations in serving complainants.

Complainant's requests need to be respected and every effort should be excised to secure all information – particularly documentation. Too often Case Managers have a predetermined outcome and therefore conjure a fixation on their desired outcome, and vet selectively only on material that will weight and support their decision. CRef: 634354 is a text book model of what I have described.

I appreciate that you have confirmed your understanding that AFCA's role is inquisitorial and not adversarial in nature.

While you have requested that AFCA obtain certified copies of documentation submitted by the Bank, these requests do not form our complaint resolution process. In relation to the authenticity of documentation, the Panel in its determination confirmed that:

If the complainant distrusts the documents the bank has provided because they are not certified copies, he will need to go to court where original documents can be subpoenaed and parties can be cross examined under oath about the validity of the documents provided.

AFCA has no reason to doubt the authenticity of the documents the parties have provided. In any event, AFCA does not have jurisdiction to pursue allegations of fraudulent or criminal conduct against individual bank employees who have provided documents during our investigation.

Resp: I ask AFCA to respect my values and cease with their malevolent dominance manner in the way I do business. Copy documents can be purchased worldwide and off-shore. Certified documentation has (almost) undisputable characteristics of a true instrument and usually prepared by persons of senior ranking. Copy docs are produced in a different sequence. Getting it right *first time* is a prized quality and not always found in Customer Service – hence the significance and importance of my request for certified documentation.

AFCA has little right to direct me ... stating I will need to go to Court; AFCA is wrong on this assumption. AFCA's creation was to eliminate the need to go to Court. The very fact that AFCA suppressed copies of their own documentation for 7 months and then requested a response in 30 days – reflects arrogance by AFCA and without dignity and respect of me.

Westpac provided certified copies of Bank documentation without the need to go to Court. Therefore, why is AFCA so protective of CBA and their voting Member?

Please advise.

AFCA – let's stop playing around with your statement of fraud and criminality. If such events are identified within any AFCA process, this becomes a reportable offence and needs to be referred to the appropriate authority by you. AFCA failure to do their obligatory role with fiduciary obligations and in the best interest of the Australian Public, is a breach of a Trustee's responsibilities.

I repeat, getting certified documentation is to eliminate and lessen the chances of receiving falsified documentation; it's all about limiting re-work and this is remiss within AFCA.

Feedback on submissions

On several occasions you asked that AFCA provide you with feedback about your submissions to AFCA and correspondence you sent directly to the Bank and raised concerns when we did not provide this feedback. This issue appears to have formed several requests for extensions, as you were awaiting these responses.

As an independent external dispute resolution service, AFCA does not advocate for any party. Our process does not include providing feedback on each submission provided by the parties. AFCA's views on the issues in dispute, having regard to all relevant information, are appropriately provided at key stages of our process, in accordance with our Rules and Operational Guidelines.

Resp: Many thanks.

Another topic I will refer to the AFCA Review on 26/03/21 and primarily based on inaction by AFCA and their failure to follow up with their financial Member.

Answers are simply not requested and or received from Members; protection and shielding are obvious from within AFCA.

AFCA Panels

You have expressed concern that the Panel which determined your complaint is unnamed.

Each panel that is formed to decide a complaint will normally have three members – a Chair (an AFCA ombudsman), an industry representative and a consumer representative. This is how the Panel in your complaint was formed.

All Panel members are appointed by the AFCA Board. AFCA has a large pool of Panel members covering consumer and industry specialist experience to draw on to ensure that the correct expertise is applied to each complaint. All consumer and industry panel representatives are listed on AFCA's website.

The Chair of a Panel is an AFCA ombudsman and is appropriately named in the determination. Information about AFCA's ombudsman, including the named ombudsman that chaired the Panel that determined your complaint, is listed on AFCA's website.

Resp: Please respond direct to my question.

All that is required is the names of those who formed part of the decision-making Panel.

As stated in my claim of my correspondence dated 01/02/21.

To now receive push back would imply Panel members have something top hide and are not honorable, alternately lack the appropriate expertise and specialist skills that is promoted of them.

If no policy exists or Rules cannot be sanctioned, then shame and doubt is created within the entity of AFCA.

Just another meaningful referral to the AFCA Review process.

Date of your letter that was the subject of award for non-financial loss

You have asked for a copy of your letter to the Bank dated 13 October 2013, as referred to on page three of the Panel's determination.

The Panel's reference to your letter related to an award of non-financial loss to you. The Panel found that your letter should have been treated by the Bank as a request for financial difficulty assistance.

The initial reference to the date of your letter in the determination was an **error**. The date of your letter was later correctly stated on page 27 of the determination as 13 October 2018. We **apologise** for this error and confirm that it does not in any way affect the Panel's decision to award you non-financial loss, for the reasons explained in the determination.

Resp: Getting it *right first time* in customer service is a quality I value.

Misquotes, misdeeds, typos, un-authorized release of documents, privacy breaches, apologies for shoddy work practices, timeline failures, unanswered questions, process abuses, emotional blackmailing and AFCA expect that I should sit back and suck-up all their discrepancies and misdemeanours; when may I exercise my right of reply?

AFCA's failures cause complainant dissatisfaction and consumer dissention.

Please provide your feedback. If too hard, simple acknowledge and clearly state - too hard &/or too challenging &/or rudely ignore the questioning which has been common of AFCA. Again, silence is fraudulent conduct and another topic for the AFCA Review. Alternately, it could be viewed as insider trading activities between AFCA and CBA.

Merged case files

In between AFCA issuing a recommendation and a determination in your complaint against the Bank, you lodged multiple other complaints against the Bank. We carefully reviewed your submissions and supporting information in relation to these cases.

Having completed our review, we considered that many of the issues raised in your further complaints related to matters which had been investigated in case 634354 (the current case). Based on this conclusion we elected to close these cases and merge them with case 634354.

Our letter dated 17 September 2020, explained the reasons why we were closing and merging these cases and how we would proceed.

Resp: All matters were identified after receiving CBA documents that had been on request since July 2018.

My Case Manager was very much aware of the overdue documents; strangely they arrived on 12/02/20 and after the issue of the Preliminary Assessment dated 29 January 2020.

As explained, the content of all material in the three (3) new complaints did not form part of the “root cause” of complaint CRef: 634354.

The complaints need to be deconsolidated and become a stand-alone complaint - individually. Consolidation has caused confusion within AFCA and subject matter is not being treated on merit.

Please action accordingly and advise.

Please also refer to my email dated 3 March 2021 –

I look forward to AFCA’s settlement.

Systemic issues

In your correspondence you refer to matters that you consider relate to the broader conduct and actions of the Bank.

As an external dispute resolution service, AFCA has several unique and separate roles. Our main role is to consider individual complaints lodged by consumers and small business about the conduct of financial firm members of AFCA. This role requires direct participation of the parties.

AFCA's systemic issues function is separate from our complaint resolution role. If we identify that the issues in a complaint may have affected other customers, or that the identified conduct requires notice to a regulator, our systemic issues team will independently investigate these circumstances.

These investigations are separate to and broader than an investigation into an individual consumer or small business complaint. Further, these investigations do not impact a decision by AFCA about the specific circumstances presented in an individual complaint.

While we appreciate that you may have interest in these investigations, we are unable to provide you with information about any matter that we investigate and/or report to regulators in this role. Our obligation in this context is to the relevant regulators. However, information about our systemic issues function, including statistics and examples of issues identified and reported, can be found in our Annual Review (located on our website).

Resp: Noted. Your feedback is appreciated.

The Determination

The Panel's determination was issued in November 2020.

Your letter of 1 February 2021 confirmed that you did not accept the Panel's determination. As determinations are AFCA's final decision on the issues in dispute and you elected not to accept the determination, our involvement in the case has ended.

In response to issues raised in your correspondence about specific references in the determination:

- a) the Panel's reference that you were the sole director and shareholder of R Pty Ltd (the company), was based on the available information. Your comment that you were not the sole director of the 'borrowing company' does not alter the Panel's Determination, that was based on the information available to the Panel.

Resp: AFCA got it wrong.

- b) As referred above, the Panel's reference to a letter dated 13 October 2013 was an error and later addressed in the Determination. The date of your letter was 13 October 2018.

Resp: AFCA got it wrong again and/or failed to proof read their outbound correspondence.

- c) It is unclear what you mean when you say that there were no 'borrowings'

that were 'styled Personal Loan.' The Panel referenced the last three digits of the Personal Loan referred to in the Determination. All information that formed the Panel's determination was exchanged with the parties.

Resp: I am correct.

I had no lending captioned "Personal Loan".

Why would you expect CBA to correct your writings; they are not smart enough on detail – hence why I seek certified copy documents.

- d) The Panel's determination was based on a robust and considered review of all available information.

Resp: Panel merely rubber-stamped the Case Manager's Preliminary Assessment and process would report on CRef:725573 and supposedly to be considered by the Panel; I am yet to receive any feedback. Just another mystery in AFCA's - EDR processing.

Lack of commentary on new evidence submitted to Case Manager and New Complaint's (x 3) feedback is unacceptable as complainant's efforts have gone unrecognised. Material in complaints sit outside of parent complaint. Therefore, why no investigation?

Please advise.

(c) You indicate that the Panel said you wrote to the Bank on 30 November 2018 and you seek a copy of your letter. Upon review of the Determination, the Panel referenced that the 'complainant said he wrote to the Bank on 30 November 2018'.

Resp: More of the same – carelessness by AFCA, their Panel and why would the complainant have confidence in your operations, processing, staff, fact finding and thorough investigations.

AFCA has performed dismally.

Unanswered questions and queries epitomise the strength, breadth and knowledge of all operatives across my file; commitment and dedication are also revealed (in the negative).

I note the seriousness of your actions to make no commentary on AFCA Rule failures and breaches in your correspondence and this is another reason for me to believe past wrongful AFCA decisions were intentional and deliberate (what once I referred to incompetence – I have since been told I was too generous, particularly with the work of ██████ collusion translates between AFCA and the FSP and further leads to corrupt acts/practices with scenes of conspiracy and secret resentment. This is picture perfect of CRef: 634354.

AFCA staff, simply just did not get the essence of the complaint. Time lapse by Bank and their straw-man's theory (5 years later) had little relevance to what ██████ determined and believed was right in her mind.

Bank's multiple written apologies went without recognition.

Preliminary Assessment was not fit for proper purpose and the process was rubber-stamped by the Ombudsman Panel. Appropriate expertise was void on all occasions

There is nothing within your post determination correspondence that alters the finality of the Panel's determination. It was open to the Panel to reach the conclusions it did in the circumstances, having regard for all the relevant information.

You are free to pursue the matter in another forum but you cannot have it further considered by us. While I regret this is not the outcome you are seeking, we cannot assist you further with the concerns raised.

Resp: Your own commentary is very deficient with facts and I believe the findings reflect a very poor acknowledgement with expertise and skills.

Fears from your voting Member, over shadows AFCA's performances.

Your engagement with us moving forward

I have reviewed the extensive responses provided to you by our Chief Ombudsman,

Deputy Chief Ombudsman, General Counsel and Service Complaints Manager in relation to our staff. As part of these responses, we have previously informed you that the case managers conduct was appropriate and consistent with our expectations.

Further, our concerns about how you communicated with AFCA staff in the past has also been made known to you. I am therefore concerned that your submission received on 1 February 2021, included very personal and upsetting remarks about the case managers mental health.

Resp: Facts are facts and I should not be condemned for relaying a message that was told me by your staff. AFCA should not bury their “heads” into matters that require judicious management; often perception is reality.

Because I am honest, I should not be ostracised by AFCA. It is not a sin to be honest. A quality of professionalism is honesty.

I have been treated unfairly by AFCA. I have been duded by AFCA’s acceptance of my Case Manager’s *conduct was appropriate and consistent with our expectations*. Therefore, I am to believe that unanswered queries, AFCA’s breaches of a complainant’s privacy (and unauthorised release of documents), excessive time delays and further unanswered escalations & letters of request are considered ‘business as usual’ in AFCA’s environment?

It would be very foolish, irresponsible and unreasonable of AFCA to think a 71 y.o. complainant who has recovered from a total ‘write-off’ of assets in 1994 (overseas) though volcanic activity and has re-built an investment portfolio through ‘hard slog’ to now be subjected and exposed to unimaginable losses through EDR failing processes and procedures in alignment with corrupt Banking.

My family advocate elements of jealousy and secret resentment could and maybe a role in CRef: 634354

There is no doubt that issues raised by complainants with AFCA are of a personal nature and can cause significant upset. As previously mentioned, AFCA has a responsibility to ensure the safety and wellbeing of its people (**and complainants too????**), and to ensure that stakeholders deal with us in a respectful way. The enormous difficulty that can come with managing financial issues does not excuse poor conduct and behaviour that negatively impacts our people.

Despite your views, we have endeavoured to accommodate and work collaboratively with you throughout our assessment of your case and the issues you have raised with us.

Resp:

Complainants expect a Case Manager to be moderately robust and resilient to bear the normal degree of inconvenience, particularly when statements and claims of such topics are introduced by them.

Complainants also expect Case Managers to take reasonable steps to manage the situation plus illustrate integrity and professionalism in the way they serve the public.

Customer Service and customer diplomacy are qualities required when dealing with people management and complainants from diverse backgrounds.

The very fact the you need to make mention of the Chief Ombudsman, Deputy Chief Ombudsman, General Counsel and Service Complaints Manager – all who have been ‘*called out*’ on what can only be best described as sub-standard performances. And when brought to their attention for correction, animosity presents itself. “*Putting the Consumer First*” could be a ready reminder of the obligations and responsibilities contingent to the AFCA Act 2018 (Cwlt).

██████████ needs to revisit his presentation to the Senate Committee in March 2019 and apply some of the promoted AFCA ideals. ██████████ must refrain from misleading consumers with correspondence and another example being her email dated 05/03/21 (sent 6.17 pm). ██████████ is only required to answer inbound correspondence sent to her which now is deemed as unfinished business whilst ██████████ is required to provide an update and feedback on an aged complaint of 40 weeks – CRef:725573

All of the above is in my defense and I request AFCA revisit their Customer Score Card rating of me and re-assess. I am not a difficult person. I am passionate about each and every task. No chore should be undertaken unless done correctly and getting it *right first time*. I am “big” on keeping all parties suitably and regularly informed and updated. Pride in acknowledging and replying to correspondence and requests in timely manner, with consideration of fairness to each event, exercising efficiency and wellbeing all-inclusive of queries levelled at me and more so demonstrate honesty, transparency and be independent without any hidden agenda or double-standards.

I have not journeyed thus far in life with across-the-board living experiences to be undone by a devious and dishonest FSP. History and DNA of CBA spells out clearly of a disconnected and high dysfunctional organisation, operating with contempt to good corporate citizens rules and industry codes. CBA ‘s own admissions at the FSRC will reinforce several statements made by me and this material was provided to my Case Manager; ██████████ would not acknowledge she read and listened to the referenced material I provided in my submissions to her.

AFCA may want to review their untimely processes, non-fairness of keeping the complainant informed, astute efficiencies of answering all queries and a display of impartiality and independence with decision-making with complaint CRef: 634354

Next steps

Notwithstanding the typographical errors referred to above, the determination dated 26 November 2020 represents AFCA’s final decision of the facts and circumstances of case 634354.

Please tell us within 14 days if you intend to accept or reject the determination. If we do not receive a clear acceptance of the determination by **18 March 2021**, we will assume that, in accordance with your previous rejection, you do not wish to accept the determination and case 634354 will be closed without further extension.

Resp: Determination is further rejected and an extension is requested to receive answers and replies to all outstanding queries that have to date - ignored.

Further I seek a full and comprehensive response to my covering email.

It is apparent that your expectations of the AFCA do not align with our role as an independent dispute resolution service. You are free pursue any future concerns you have via other avenues.

Resp: I make no concession for possessing high and valued standards and I am disillusioned of AFCA not being able to equalise and assimilate with me on basic commercial protocols. I do not consider that I am excessive with my expectations.

The disconnect does not mean I am wrong. The non-alignment further does not mean I have to accept a lesser quality of performance and professionalism from a non-profit Government entity and/or body. It also does not mean that I should be silenced over irregularities and anomalies as identified that impact on my wellbeing and financial status.

The removal of disrespect to me by AFCA must be sanctioned immediately. I have a clear conscience in this matter; therefore, I seek similar reassurance from AFCA. What you may see, read or hear from me is 'as is, where is' with common sense and no tolerance for fools and time wasters.

I should not be suppressed with my views and particularly when I have identified unacceptable conduct and performance by AFCA staff; I should not be rated unfairly and judged as being difficult because I have raised issues of deep concern and I feel totally disrespected because I bring matters - some obviously embarrassing, to your attention.

The very fact that AFCA will not provide Customer Service Survey Score Cards on the closure of each process and/or at the close of each file, sends alarms bells of AFCA not be open to feedback. Complainant's need to know why the pushback for removal of any stigma associated with the AFCA's closed-door society conduct?

The content you submit above and it not being in alignment with my expectations, please clarify the Case Manager's role prior to 26/03/21. The material will be an inclusion to my AFCA Review and will form part of my scheduled meeting (one-on-one) and the agenda with the Minister – Josh Frydenberg.

Failure to respond in a timely manner will create further doubt on the role and genuine purpose of AFCA and their staff, together with their product knowledge and as subject matter experts (SME).

I do not profess to be a SME, but I do pride myself on mental alertness, timeliness, fairness, efficiency and impartiality with decision making. As tri-lingual, I have an advanced sense of understanding and wellbeing for dealing with people from diverse back-grounds. Common sense and the privilege to serve are further strengths. Deep diving and fact finding are also specialties with my investigative skills. These qualities are not exceptional but practical as a prudent, diligent, skilled, life experienced family person. I do not suffer fools and/or self-righteous persons who ideally position themselves to be above the common cause of their duties and role.

I will leave the above statement open to your own interpretation, but it could imply AFCA is not fit for proper purpose &/or

- AFCA is a dysfunctional organisation, lacking in ongoing training and leadership &/or
- AFCA experiences undue pressure and external interference in the way they do business &/or
- AFCA is exercising their power as a “Firewall” for Banks and to remain loyal to their voting Member and “master”; essentially not being able to function on it's own merit with impartiality - &/or
- AFCA believes they are immune from redress and recourse.

Respect is key in many dealings and regrettably I find the element missing throughout the ‘100 week’ journey of my complaint with AFCA; I have been treated constantly without respect. The consolidation of three (3) new complaints in June/July 2020 is an example of abuse when all matters were only identified and proven after receipt documentation following the issuing of AFCA’s Preliminary Assessment. The complaints include Bank breaches with compensation for inconvenience, rebates and refunds from overcharging of interest and maladministration failures and these require to be assessed on merit – not after the event of a Preliminary Assessment and Determination of parent file CRef: 634354.

From the very outset, AFCA had a fixation that I was wrong and CBA was always going to be correct. My failure was providing too much detail and information, I seriously doubt that all my documentation was read and absorbed. Essentially it was too heavy and intenseand therefore it was easier and simpler to collect information from CBA and make it into (undisputable???) policy; complainant had no rights. I was prejudged by AFCA.

It is my well-founded belief that my Case Manager – *just did not get it!!!* She toiled with documents and information she eventually received from CBA and juggled the data to support and further enhance her unquantified views; many assumptions, and many imperfect!! Material supplied by me was in conflict with Case Manager’s desired outcomes and therefore delays, upon delays were extended to frustrate me and the eventually produce an unfair Preliminary Assessment.

I called out AFCA's performance. It was not timely – delivery dates were missed. The process was not fair or efficient with my file; impartiality absent.

AFCA acted as the voice for CBA - this is in conflict with rules for any registered Legal practitioner in Victoria. I do not see why I have been condemned by AFCA for holding my views; it is not my problem, more so your employee's, so why am I banished from expressing my rights?

For your information. I have taken external advice on your letter and it identifies your writing as a document of malice and retaliation. This is in response clearly to my asserting flaws, weaknesses and non-delivery of specific material in AFCA's processes and procedures.

In addition, I have been informed your letter further aims to discredit me and in doing so as an EDR, you have breached client protocols and diplomacies and further discriminated against me in a 'tag-team' approach with strong tactical ideals associated with hoodwinking and bullying. Not a good image going into an AFCA Review with the total and complete absence of procedural fairness.

I should not be made out and painted as the augur in this file, considering –


- [REDACTED] - has shame and is guilty when dealing with me, due to his non action of 20 days (+) of an Escalation in December 2019**
- AFCA's Deputy CEO breached protocol, privacy and confidentiality in March 2020 and further mislead me with her email dated 05/03/21.**
- AFCA's General Counsel 'tag-teamed' with my Case Manager and after being questioned on various issues, she denied a response – meaning unfinished business**
- AFCA's Service Manager hand-balled a complaint CRef: 725573 (July 20) and misled me of the Ombudsman Panel would assess.**
- AFCA's Ombudsman Panel Chair refers my Determination letter dated 1 February 21 to a Service Manager, presuming as a complaint with an added CRef (772727) created and no responses to my queries; that's *passing the buck* as a Chair – not delegation. A very dim and poor reflection of AFCA's Ombudsman service.**

Confirmation of ASIC Reg 165 compliance by CBA would also be appreciated for CRef: 634354

I will leave these issues for you to assess and make the necessary corrections.

It is also open to you to raise any service complaints issues you have with AFCA, with the AFCA Independent Assessor. Details of the Independent Assessor's role below for your information.

Yours sincerely



Case Manager
Australian Financial Complaints Authority

Independent Assessor

If you remain dissatisfied with our response to your complaint about our service you can lodge a complaint with the Independent Assessor

The Independent Assessor independently considers complaints about the standard of service provided by AFCA. The Independent Assessor does not consider the merits or the substantive outcome of a complaint, such as a determination or other finding issued by AFCA or a predecessor scheme about the merits of a complaint.

In most circumstances the Independent Assessor will only consider a service

complaint after the case with the financial firm is closed, unless exceptional circumstances exist.

A complaint must be lodged with the Independent Assessor within three months of AFCA's response to a service complaint being received.

You can find further information about the Independent Assessor, including how to lodge a complaint via afca.org.au/independent-assessor.

From: [AFCA Service Complaints](#)
To: [REDACTED]
Cc: [AFCA Service Complaints](#)
Subject: Case 634354 (Closed) - Service review of the case (Closed)
Date: Friday, 26 March 2021 1:00:49 PM
Attachments: [REDACTED]

Good afternoon Mr Krepp

We refer to your email received today in response to our service complaint review and letter dated 5 March 2021 (attached).

We have recorded your rejection of determination 634354, as confirmed by your legal representative on 23 March 2021. Upon receipt of your rejection notice, the case has been closed.

In relation to your service concerns, the Deputy Chief Ombudsman wrote to you on 12 March 2021 (attached) and confirmed that as we have completed our service complaint review and provided our response, and given she and the Chief Ombudsman had previously written to you about these matters, there is nothing further that we can constructively add.

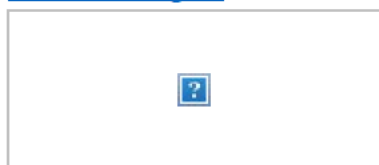
It is clear however that you continue to be of the view that your service concerns are not resolved. While our service review has completed, it is open to you to approach the Independent Assessor if you remain dissatisfied with our responses. The Independent Assessor's contact details have previously been provided to you.

Regards

Service Complaints Team

Free Call 1800 931 678

www.afca.org.au



AFCA continues to provide fair, independent and effective solutions for financial complaints during the COVID-19 pandemic.

Keep us updated – if your situation changes or you need more time to provide a response, please contact your case worker or send an email to info@afca.org.au

AFCA acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past, present and future.

IMPORTANT The contents of this email (including any attachments) are confidential and may contain privileged information. Any unauthorised use of the contents is expressly prohibited. If you have received this email in error, please notify us immediately by Telephone: 1800 931 678 (local call) or by email and then destroy the email and any attachments or documents. Our privacy policy is available on our website.

From: [REDACTED]
To: sakrepp@gmail.com; info@afca.org.au
[REDACTED]
Subject: RE: [EXTERNAL] FW: Customer Dissatisfaction and Dissention - Re Complaint CRef: 736156
Date: Thursday, 18 March 2021 12:14:20 PM
Attachments: [REDACTED]

Good morning Mr Krepp

Thank you for your email of this morning. I attach again for your reference our letters to you of 5 March and 12 March 2021. [REDACTED] have not failed to correspond with you.

As mentioned in my letter to you of 12 March 2021, your concerns about our service across your many emails to us were considered in full as part of a service complaint review. After completing our review, our response was sent to you by letter dated 5 March 2021.

We have completed our service complaint review and provided our response, and as the Chief Ombudsman and I have previously written to you about these matters, there is nothing further that we can constructively add.

If you remain dissatisfied with our service response, you can lodge a complaint with the Independent Assessor. Information about the Independent Assessor has previously been provided to you.

I also understand you have been made aware that the Independent Assessor's Terms of Reference does not extend to reopening your determination or reinvestigating your complaint against the Bank.

It is important that you turn your mind to your final opportunity to decide whether to accept determination 634254, that was issued in November 2020. I understand you have engaged Albrecht Burrows lawyers and that we have granted an additional extension of time to close of business Wednesday 24 March 2021 to a clearly accept or reject AFCA's determination. If we do not hear by then we will assume that you have not changed your previous notice rejecting the determination. Your case will be closed without further extension at the completion of the final extension period.

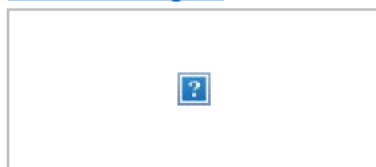
We have endeavoured to accommodate and work collaboratively with you throughout our assessment of your case and the issues you have raised with us. We look forward to receiving your decision about whether you accept the determination.

sincerely

[REDACTED]

T. 03 96137353 | Free Call 1800 931 678

www.afca.org.au



AFCA acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community.

We pay our respects to elders past, present and future.

From: [REDACTED]
Sent: Thursday, 18 March 2021 8:45 AM
To: Info@afca.org.au

Subject: [EXTERNAL] FW: Customer Dissatisfaction and Dissention - Re Complaint CRef: 736156

[EXTERNAL]

[REDACTED]
I refer to my email below.

I further note your failure to acknowledge my correspondence and secondly provide a reply. Your work practices challenge the ethos of AFCA's EDR efficiencies and effectiveness; goodwill and good faith are absent.

And your performance is dedicated to exposing financial services quackery.

AFCA's non respectful conduct is causing deep hurt to me and effecting my wellbeing with anguish, elevated stress, malaise with your malevolent behaviours.

My matters are very simple; all that is required is action and follow through by any diligent, prudent and skilled operative.

I demand a reply to my inbound request within 7 days.

Failure to receive a response within the time frame, will ultimately see file included as case history with my submission for AFCA Review at Treasury.

Be guided accordingly.

Mr S A Krepp

AFCA Complaint

#equaljustice

#consumersfirst

From: [REDACTED]

Sent: Wednesday, 24 February 2021 7:37 AM

To: 'Info@afca.org.au' <info@afca.org.au>

Subject: Customer Dissatisfaction and Dissention - Re Complaint CRef: 736156
[REDACTED]

I refer to my CRef: 736156

I make the following commentary.

Justice delayed is justice denied.

I have been deprived of civil liberties by the actions of AFCA and their poor and remiss handing of this file.

The above complaint was consolidated to my parent compliant file (634354) against my instructions and consent and after a Preliminary Assessment was issued.

Events and circumstances in CRef: 736156 were stand alone and unrelated to root cause of File 634354.

I have always respected AFCA as the 'college of knowledge' and leader in fairness; this is no longer the situation.

AFCA's Case Manager failed me with their investigative skills and answers – most questions remain outstanding; AFCA's Ombudsman Panel has done similar with the amalgamated Complaint Ref:736156 and inadequate feedback; plus CRef 725573 remains in quandary?????

For your information I have secured answers to the material sought in file 736156 with CBA confessing they are unable to locate my Certificates of Title (which is a myth), Mortgages remain a mystery and other documents requested withheld under the Australian Privacy Principle. Meaning I got answers after 18 months of consistent hard-slog and tracking and CBA breaching the Banking Code of Practice Ch 37.

AFCA protected and shielded their member (CBA) in not pursuing initial follow-up in this matter. Incompetency leads into collision and then transfers into corrupt practices resulting in conspiring

not to assist the general public for bona fide complaints.

This has demonstrated allegiance and loyalty between AFCA & their Members (Banks) and remains rife in the financial industry.

Therefore I seek of AFCA compensation and remediation for inconvenience and unimaginable losses in terms of my complaint correspondence and submission dated 9 June 2020.

I propose to include the above story and facts (& AFCA's failings) in my AFCA Review submission to Treasury (due 26/03/21)

Note AFCA's CEO & Deputy CEO have been copied into this message for their information and with the premise of complainant dissatisfaction of customer service received from AFCA.

Please acknowledge receipt of this email and within 14 days advise payment details for my compensation.

Many thanks.

S A Krepp

#equaljustice

#consumersfirst

12 March 2021

CRef: 772727

Mr Selwyn Krepp

Dear Mr Krepp

Case number: 634354

Thank you for your email to me dated 9 March 2021.

It is clear from your email that you remain dissatisfied with the service provided to you by AFCA in your complaint against the Commonwealth Bank of Australia (the Bank).

It was important that your concerns about our service were considered in full as part of a service complaint review. After completing our review, our response was sent to you by letter dated 5 March 2021. In addition to addressing specific issues you raised, the response importantly provided context around what you were asking from AFCA and what our role is as an independent not-for profit external dispute resolution service.

Given we have completed our service complaint review and provided our response, and as the Chief Ombudsman and I previously wrote to you about these matters, there is nothing further that I can constructively add. It would be unhelpful for me to repeat this information.

I understand from your email that you are unclear if the response dated 5 March 2021 adequately addressed your service concerns. If you remain dissatisfied with our service response, you can lodge a complaint with the Independent Assessor. Information about the Independent Assessor has previously been provided to you.

I also understand you have been made aware that the Independent Assessor's Terms of Reference does not extend to reopening your determination or reinvestigating your complaint against the Bank. Therefore, it is important that you turn your mind to your final opportunity to decide whether to accept determination 634254, that was issued in November 2020.

If a clear acceptance of the determination is not received from you by **18 March 2021**, we will assume that you have not changed your previous notice rejecting the determination. Your case will be closed without further extension at the completion of the final extension period.

We have endeavoured to accommodate and work collaboratively with you throughout our assessment of your case and the issues you have raised with us. We look forward to receiving your decision about whether you accept the determination.

Yours sincerely



**Deputy Chief Ombudsman
Australian Financial Complaints Authority**

5 March 2021

CRef: 772727

Mr Selwyn Krepp
[REDACTED]

sakrepp@gmail.com

Dear Mr Krepp

Case number: 634354

I refer to your correspondence provided to AFCA, after your complaint against the Commonwealth Bank of Australia (the Bank) was subject to a determination in November 2020.

Your correspondence provided your views about the determination and our service. I assist the Chief Ombudsman in considering complaints raised about our service and have had the opportunity to review these matters in full.

Submission to Treasury – AFCA Review

You have confirmed that you intend to provide a submission to Treasury for inclusion in its review of AFCA. We understand that Treasury is interested in hearing from stakeholders and obtaining any feedback about our service.

We welcome Treasury's review and will assist in any way it considers we may productively contribute.

How your complaint was progressed

Prior to responding to your concerns about our service, it was important that I considered how your case was progressed. This provided me with the opportunity to understand the issues you raised in context of our handling of the case.

Importantly, it also gave me the opportunity to understand whether you were provided all opportunities afforded under our Rules, to provide information and documentation, in support of your case at each stage of our process.

It is clear from your correspondence that you disagree with how your case was handled, including how it was progressed.

It is not my intention to change your view about our service. My intention is solely to consider your concerns after a full review of how your case was handled and provide an informed response.

Your complaint (634254)

Your complaint against the Bank was lodged with our service in April 2019.

After your complaint progressed through AFCA's initial stages and considerable correspondence was exchanged between the parties, AFCA provided the parties with a summary of its understanding of the complaint and an opportunity to clarify any aspects.

On 9 September 2019, you wrote to AFCA's Chief Ombudsman and indicated that the complaint was tracking along, as per AFCA's process. Your letter expressed your views about the Bank and confirmed that you had sent multiple letters and emails with direct questions, to its CEO.

From this stage, the parties provided multiple submissions over an extended period.

On 29 January 2020, the case manager handling your complaint called the parties and provided a summary of her recommendation. The recommendation was issued later that day.

On 31 January 2020, you emailed the case manager and copied in AFCA's Chief Ombudsman and others. You indicated that someone had advised you of the case manager's legal professional qualifications and you also referred to a legal professional body. You indicated that if you found issue with the case manager, you would bring this matter to their attention and that any repeated issues would be reported.

No issue or allegation was raised by you at that time.

On 1 February 2020, you emailed the case manager and asked her to provide you with her personal financial information.

On 22 February 2020, you emailed AFCA and asked for an extension and for AFCA to obtain certified copies of specific loan and other documents from the Bank. In a separate email that day, you emailed the case manager and others and again asked the case manager to provide her personal financial information.

On 27 February 2020, you emailed the case manager and thanked her for the extension to 13 March 2020, in order to respond to the recommendation.

On 28 February 2020, AFCA's Chief Ombudsman wrote to you to address several matters you had raised. The Chief Ombudsman asked that if you had specific concerns, to raise them directly. However, he also informed you that we take our staff's well being seriously and asked that you refrain from communicating with our staff in the manner you had in your email of 31 January 2020.

The Chief Ombudsman also informed you that we respect our staff's right for their own personal information not to be used by consumers and that AFCA had robust policies and procedures to ensure our staff act impartially and with independence.

On 12 March 2020, AFCA received your submission rejecting the recommendation.

On 17 March 2020, you emailed AFCA and confirmed you were seeking an undefined extension. You also referred several attachments for AFCA's 'attention, action and/or confirmation' that mentioned documents you wanted from the Bank.

On 2 April 2020, the case manager emailed you and provided a final extension to 16 April 2020. In relation to any further information, the case manager confirmed it would be up to the ombudsman to decide if any further information or submission was required.

AFCA received a further submission from you on 16 April 2020. The complaint was then progressed to the decision stage of our process.

Further submissions were made by you between that time and when the Panel's determination was issued in November 2020. These submissions were exchanged and considered by the Panel.

The above is only summary of the progression of the file. The parties provided substantial submissions during this time and you raised several concerns about our service that you escalated to senior AFCA delegates.

Based on a full review of the case file, I am of the view that you were provided with appropriate opportunity to submit information and argument in support of your position.

You were also provided with:

- multiple significant extensions of time to make submissions
- several explanations about our service and process
- several responses in relation to your escalated concerns, from senior AFCA delegates, and
- information in response to your privacy request.

Issues requiring clarification

While your complaint was progressed appropriately, there clearly remains a divide between what you expect AFCA to provide as a service and what our role is as an independent not-for profit external dispute resolution service. There appears to be several core divides in expectations that you repeat in your correspondence.

I will address these matters below.

AFCA's role

As confirmed in previous responses to you, AFCA's role is to assess whether or not a financial firm has breached its obligations in the provision of financial services to you, as outlined in your complaint. It is not an open-ended review of the financial firms conduct.

Our role is not to simply ask the questions you want answered or obtain the documents you seek. AFCA is not a court or a regulator. AFCA asks questions of the parties and request documents when there is a nexus to the issues in the complaint. The questions and the documents must be relevant to the issues in dispute. These are matters for AFCA staff to decide, not the parties to a complaint.

Submissions provided by the parties are exchanged by AFCA, and appropriate opportunity is provided for the other party to submit information and argument in response. These submissions can and often do, include strong views about what information AFCA should obtain in order to consider the complaint.

It appears that the core of your concerns relate to your comment that AFCA and specifically the Panel that determined your complaint 'is not authorised and [is] without discretionary delegation to select what documents they think I require and need for my complaint.'

AFCA does not impede parties from communicating with each other throughout the course of a complaint and direct communication between the parties in your complaint was substantial. However, our role does not extend to obtaining all information or documentation that parties request we obtain from each other.

I appreciate that you have confirmed your understanding that AFCA's role is inquisitorial and not adversarial in nature.

While you have requested that AFCA obtain certified copies of documentation submitted by the Bank, these requests do not form our complaint resolution process. In relation to the authenticity of documentation, the Panel in its determination confirmed that:

If the complainant distrusts the documents the bank has provided because they are not certified copies, he will need to go to court where original documents can be subpoenaed and parties can be cross examined under oath about the validity of the documents provided.

AFCA has no reason to doubt the authenticity of the documents the parties have provided. In any event, AFCA does not have jurisdiction to pursue allegations of fraudulent or criminal conduct against individual bank employees who have provided documents during our investigation.

Feedback on submissions

On several occasions you asked that AFCA provide you with feedback about your submissions to AFCA and correspondence you sent directly to the Bank and raised concerns when we did not provide this feedback. This issue appears to have formed several requests for extensions, as you were awaiting these responses.

As an independent external dispute resolution service, AFCA does not advocate for any party. Our process does not include providing feedback on each submission provided by the parties. AFCA's views on the issues in dispute, having regard to all relevant information, are appropriately provided at key stages of our process, in accordance with our Rules and Operational Guidelines.

AFCA Panels

You have expressed concern that the Panel which determined your complaint is unnamed.

Each panel that is formed to decide a complaint will normally have three members – a Chair (an AFCA ombudsman), an industry representative and a consumer representative. This is how the Panel in your complaint was formed.

All Panel members are appointed by the AFCA Board. AFCA has a large pool of Panel members covering consumer and industry specialist experience to draw on to ensure that the correct expertise is applied to each complaint. All consumer and industry panel representatives are listed on AFCA's website.

The Chair of a Panel is an AFCA ombudsman and is appropriately named in the determination. Information about AFCA's ombudsman, including the named ombudsman that chaired the Panel that determined your complaint, is listed on AFCA's website.

Date of your letter that was the subject of award for non-financial loss

You have asked for a copy of your letter to the Bank dated 13 October 2013, as referred to on page three of the Panel's determination.

The Panel's reference to your letter related to an award of non-financial loss to you. The Panel found that your letter should have been treated by the Bank as a request for financial difficulty assistance.

The initial reference to the date of your letter in the determination was an error. The date of your letter was later correctly stated on page 27 of the determination as 13 October 2018. We apologise for this error and confirm that it does not in any way affect the Panel's decision to award you non-financial loss, for the reasons explained in the determination.

Merged case files

In between AFCA issuing a recommendation and a determination in your complaint against the Bank, you lodged multiple other complaints against the Bank. We carefully reviewed your submissions and supporting information in relation to these cases.

Having completed our review, we considered that many of the issues raised in your further complaints related to matters which had been investigated in case 634354 (the current case). Based on this conclusion we elected to close these cases and merge them with case 634354.

Our letter dated 17 September 2020, explained the reasons why we were closing and merging these cases and how we would proceed.

Systemic issues

In your correspondence you refer to matters that you consider relate to the broader conduct and actions of the Bank.

As an external dispute resolution service, AFCA has several unique and separate roles. Our main role is to consider individual complaints lodged by consumers and small business about the conduct of financial firm members of AFCA. This role requires direct participation of the parties.

AFCA's systemic issues function is separate from our complaint resolution role. If we identify that the issues in a complaint may have affected other customers, or that the identified conduct requires notice to a regulator, our systemic issues team will independently investigate these circumstances.

These investigations are separate to and broader than an investigation into an individual consumer or small business complaint. Further, these investigations do not impact a decision by AFCA about the specific circumstances presented in an individual complaint.

While we appreciate that you may have interest in these investigations, we are unable to provide you with information about any matter that we investigate and/or report to regulators in this role. Our obligation in this context is to the relevant regulators. However, information about our systemic issues function, including statistics and examples of issues identified and reported, can be found in our Annual Review (located on our website).

The Determination

The Panel's determination was issued in November 2020.

Your letter of 1 February 2021 confirmed that you did not accept the Panel's determination. As determinations are AFCA's final decision on the issues in dispute and you elected not to accept the determination, our involvement in the case has ended.

In response to issues raised in your correspondence about specific references in the determination:

- a) the Panel's reference that you were the sole director and shareholder of R Pty Ltd (the company), was based on the available information. Your comment that you were not the sole director of the 'borrowing company' does not alter the Panel's Determination, that was based on the information available to the Panel.
- b) As referred above, the Panel's reference to a letter dated 13 October 2013 was an error and later addressed in the Determination. The date of your letter was 13 October 2018.
- c) It is unclear what you mean when you say that there were no 'borrowings' that were 'styled Personal Loan.' The Panel referenced the last three digits of the Personal Loan referred to in the Determination. All information that formed the Panel's determination was exchanged with the parties.
- d) The Panel's determination was based on a robust and considered review of all available information.

- e) You indicate that the Panel said you wrote to the Bank on 30 November 2018 and you seek a copy of your letter. Upon review of the Determination, the Panel referenced that the 'complainant said he wrote to the Bank on 30 November 2018'.

There is nothing within your post determination correspondence that alters the finality of the Panel's determination. It was open to the Panel to reach the conclusions it did in the circumstances, having regard for all the relevant information.

You are free to pursue the matter in another forum but you cannot have it further considered by us. While I regret this is not the outcome you are seeking, we cannot assist you further with the concerns raised.

Your engagement with us moving forward

I have reviewed the extensive responses provided to you by our Chief Ombudsman, Deputy Chief Ombudsman, General Counsel and Service Complaints Manager in relation to our staff. As part of these responses, we have previously informed you that the case managers conduct was appropriate and consistent with our expectations.

Further, our concerns about how you communicated with AFCA staff in the past has also been made known to you. I am therefore concerned that your submission received on 1 February 2021, included very personal and upsetting remarks about the case managers mental health.

There is no doubt that issues raised by complainants with AFCA are of a personal nature and can cause significant upset. As previously mentioned, AFCA has a responsibility to ensure the safety and wellbeing of its people, and to ensure that stakeholders deal with us in a respectful way. The enormous difficulty that can come with managing financial issues does not excuse poor conduct and behaviour that negatively impacts our people.

Despite your views, we have endeavoured to accommodate and work collaboratively with you throughout our assessment of your case and the issues you have raised with us.

Next steps

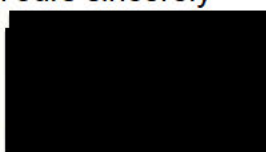
Notwithstanding the typographical errors referred to above, the determination dated 26 November 2020 represents AFCA's final decision of the facts and circumstances of case 634354.

Please tell us within 14 days if you intend to accept or reject the determination. If we do not receive a clear acceptance of the determination by **18 March 2021**, we will assume that, in accordance with your previous rejection, you do not wish to accept the determination and case 634354 will be closed without further extension.

It is apparent that your expectations of the AFCA do not align with our role as an independent dispute resolution service. You are free pursue any future concerns you have via other avenues.

It is also open to you to raise any service complaints issues you have with AFCA, with the AFCA Independent Assessor. Details of the Independent Assessor's role below for your information.

Yours sincerely

A large black rectangular redaction box covering the signature of the Case Manager.A black rectangular redaction box covering the name of the Case Manager.

Case Manager

Australian Financial Complaints Authority

The Independent Assessor

If you remain dissatisfied with our response to your complaint about our service you can lodge a complaint with the Independent Assessor.

The Independent Assessor independently considers complaints about the standard of service provided by AFCA. The Independent Assessor does not consider the merits or the substantive outcome of a complaint, such as a determination or other finding issued by AFCA or a predecessor scheme about the merits of a complaint.

In most circumstances the Independent Assessor will only consider a service complaint after the case with the financial firm is closed, unless exceptional circumstances exist.

A complaint must be lodged with the Independent Assessor within three months of AFCA's response to a service complaint being received.

You can find further information about the Independent Assessor, including how to lodge a complaint via afca.org.au/independent-assessor.

From: [REDACTED]
To: [AFCA Review](#)
Subject: Treasury Review - Additional and Supplementary information.;
Date: Thursday, 8 April 2021 11:30:32 AM
Attachments: [REDACTED]

Attention: AFCA Review

Further to my supplementary submission on **06/04/21**, I enclose additional information in support of my previous documentation and statements.

I attach a copy a recent media article (**dated 07/04/21**) of CBA's overcharging interest to customers.

I submitted a complaint to AFCA on **22/06/20** (after receipt of documents from CBA) and I captioned it as Unjust Enrichment (CRef: 733752); referring to interest charging of 17.94% in this existing climate on my loan account.

My complaint was submitted (4 months +) after receipt of AFCA's Preliminary Assessment on my parent file was issued on **29/01/20**.

AFCA's Operational & Case Support Units, Support and Allocation [REDACTED] unwisely chose to consolidate CRef: 733752 to my parent file without my consent. Subject matter was not related to the "grass-root" cause of my parent complaint. I opposed his decision making; it meant nothing to him. It was unfair and obviously for AFCA's own convenience. It was not a timely process. [REDACTED] decision to consolidate my CRef: 733752 and amalgamate into my parent complaint after a Preliminary Assessment was issued prior, was not independent or respected my stand-alone complaint for another matter.

Purportedly, [REDACTED] was to consider and assess CRef: 733752 in her Determination report that was issued on **26/11/20**; [REDACTED] failed to factor into her decision making the relevance of CRef: 733752.

On reflection of the media release, AFCA – [REDACTED] [REDACTED] [REDACTED] have denied me of justice with file (CRef: 733752) and their consolidation, plus failure to thoroughly investigate. I have been further denied of any remediation and/or any interest rebate or refund. AFCA is merely an affront to THE RULE OF LAW.

I have not referred or escalated my concerns of AFCA's failings [REDACTED] knowingly the lack of interest by [REDACTED] [REDACTED] and their own personal agendas; [REDACTED] putting out 'bush- fires' at Crown Resorts, [REDACTED] not wanting to get his hands dirty with known AFCA failures and [REDACTED] protecting her incompetence workforce (box tickers) with complete ignorance to AFCA's mandatory compliances and observance of AFCA Act 2018 (Cwth) with *Putting Consumers First*.

AFCA is guilty of emotional abuse and a party to financial controlling of my affairs; in family law this is a criminal offence. Corporative behaviours through wrong doings by individuals should not escape scrutiny of like-for-like conduct.

AFCA is a “Firewall” for all Banks; predominantly viewed as answerable to all Banks, for all Banks, with Banks & by (buy??) Banks.

For your information and attention.

S A Krepp



ees will be offered jobs.

Administrator Gayle Dickerson said all redundant staff would be paid their full entitlements "in weeks, not months" and praised them for their "commitment and passion", which was vital to salvaging the heritage brand.

The return to creditors is yet to be confirmed.

The total figure depends on final stock numbers, while McWilliam's 2021 vintage is being fully costed.

McWilliam's entered into voluntary administration in January last year, 12 months after the company had to seek an urgent capital injection and pursue asset sales after it breached some of its lending covenants.

Ms Dickerson said a report would be provided to creditors in about two weeks.

decision to keep interest rates on hold.

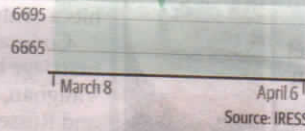
The benchmark ASX 200 index rose 57.2 points, or 0.84 per cent, to close at 6885.9 points, while the All Ordinaries gained 69.7 points, or just under 1 per cent, to 7133.9.

Travel stocks lifted after April 19 was set as the starting date for the trans-Tasman travel "bubble" between Australia and New Zealand.

Qantas rose 3.14 per cent to \$5.26, Flight Centre 4.4 per cent to \$18.67, Sydney Airport 2.8 per cent to \$6.24 and Webjet was up 4.7 per cent to \$5.53.

Air New Zealand was the best-performing travel stock, rising 8.2 per cent to \$1.71.

Flight Centre chief executive Graham Turner said the proposed travel bubble would be a much-needed boost, given the two-way tourism



trade was worth billions of dollars to both countries. He said there would be a need for co-operation to ensure contact-tracing systems could be relied on to keep both countries safe from COVID-19.

Mr Turner said once the NZ market was opened up, others such as Pacific island nations, Singapore and the UK, were expected to follow over the next few months. Vaccine passports would probably be necessary, he said.

Banking stocks had a mixed day of trading. ANZ shares gained 0.4 per cent to \$28.35, National Australia Bank 0.5 per cent to \$26.23

nor Philip Lowe noted that Australia's economic recovery was "well under way" and stronger than expected.

Dr Lowe said unemployment was "still too high", and wage and price pressures were "subdued and are expected to remain so for some years".

He reiterated that "given the environment of rising housing prices and low interest rates, the bank will be monitoring trends in housing borrowing carefully and it is important that lending standards are maintained".

"The board will not increase the cash rate until actual inflation is sustainably within the 2 to 3 per cent target range," Dr Lowe said.

"For this to occur, wages growth will have to be materially higher than it is currently."

CBA fined \$7m for customer overcharge

COURTS

CLIONA O'DOWD

THE Commonwealth Bank has been hit with a \$7m penalty in the Federal Court for slugging business customers with incorrect interest rates on overdrafts more than 12,000 times.

Between December 2014 and March 2018, CBA charged more than 1510 customers a 34 per cent interest rate per annum — more than double the correct 16 per cent rate.

The total overcharged interest exceeded \$2.2m over that period. But the issue went



back further. It had been overcharging from as far back as 2011 and became aware of the issue in 2013.

It began notifying customers in late 2016 and first told the Australian Securities and Investments Commission of the breach in 2018.

CBA said the penalty should be in the range of \$4m-\$5m. But Justice Michael Lee sided with ASIC's submission for a \$7m penalty, saying CBA's delay in resolving the issue and notifying customers was "particularly troubling".

Cleanaway to pay \$2.5bn for Suez's Aussie assets

DEALS

VALERINA CHANGARATHIL

ASX-listed waste management giant Cleanaway will pay \$2.5bn for French group Suez's Australian recycling and recovery business.

Shareholders responded by lifting Cleanaway's share price by almost 16 per cent, or 35c, to a close of \$2.55.

Cleanaway told investors it entered into a deal with Suez on April 5, subject to an equity raising and other conditions including a possible termination if Suez is taken over. Suez is fighting larger rival and shareholder Veolia,

which has initiated court actions in France and Australia against the sale.

Veolia recently warned Cleanaway to "carefully consider" any deal to buy Suez's local assets, following a fresh regulatory warning by France's financial regulator, Autorite des Marches Financiers, about potential breaches by Suez.

Cleanaway and Suez have agreed that Suez may terminate the deal if it gets an unmatched, superior offer for its assets by April 26. Suez's recycling and recovery business generated \$1.4bn in revenue last financial year.

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OUTLOOK

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