



11 September 2017

RE: Bank Victims Submission

1. The attached document outlines statements provided to the Australian Small Business and Family Enterprise Ombudsman. For the Australian Securities and Investment Commissions' benefit, we have listed paragraph numbers.
2. A Bank Victims research associate was fortunate to have a respectful conversation with [REDACTED] and [REDACTED] of your office on Friday, 8 September 2017.
3. We now understand your role as Ombudsman does not provide you with necessary investigative powers to make any statements in relation to individual small business cases; and your office cannot make determinations in relation to unconscionable and dishonest banking practices.
4. We accept the Australian Small Business and Family Enterprise Ombudsman's Act (the Act) notes you have advocacy and assistance functions (preliminary Part 1 Section 3 of the Act):

"Under the assistance function, the Ombudsman responds to requests for assistance by an operator of a small business or family enterprise... The Ombudsman must transfer a request for assistance to another Commonwealth, State or Territory agency, if that agency could deal with the request and it would be more effective and convenient for that agency to do so. The Ombudsman may also work co-operatively with other agencies...

The assistance requested may relate to a dispute with another entity. In that case, the Ombudsman may recommend that an alternative dispute resolution process be undertaken. If an entity does not undertake that process, or withdraws from that process, the Ombudsman may publish that fact."
5. Section 15 (b) and sections 66-71 elaborates these principles.
6. Although Bank Victims did not formally request assistance through its submissions, it noted the farmers who were involved in disputes and lost their farms anticipated their submissions might provide an opportunity for your office to assist or direct them to an appropriate institution, independent of the major banks. They request a review that makes recommendations in relation to their cases.
7. Small businesses and farmers understood your office could review the submissions as an independent party. If the banks' practices were premediated

and calculated in relation to pure asset lending, the banks might accept they will have to resolve their differences with customers.

8. We understood your office was set up by the government in 2015 to assist and refer genuine cases to the government for independent examination. Since neither Bank Victims nor farmers have sufficient expertise to interpret the relevant clauses within the Act, you might advise whether, under the Act, you can investigate practices by the ABA and its directors, the FOS and the CCMC, if there is evidence they failed to act appropriately and professionally since the 2004 Code was introduced.
9. The Bank Victims' submissions claim farmers' contracts were bound by the 2004 Code, and not by the recently discovered Constitution. The farmers believe banks, by concealing documents, significantly damaged them when they attended FDM. The submissions provide your office with an opportunity to determine whether the concealment of the Constitution since 2004 was deceitful.
10. When our clients signed loan contracts their banks knew they had sizeable equity in their farms. The banks provided loans to them knowing they could not meet contract terms to make regular payments during or following the natural disasters (or due to cognitive disability). These are pure asset loans, and therefore predatory.
11. We attach a memorandum that illustrates our clients' views that these practices were initiated when codes and self-regulation were introduced in the banking and finance sectors.

Russell Cousins
Director
Bank Victims Pty Ltd