

Given our recent experience with a corrupt Financial Service Provider (FSP) and the Financial Ombudsman Service (FOS) we have watched the financial services oversight debate with great interest and refer you to the attached.

On 2 June 2016 the FOS set aside, on its own volition, a 'settlement' that I was involved in, because of the grossly flawed manner in which its conciliator conducted the conciliation and allowed the other party to conduct itself during the conciliation. I, of course, supported the FOS decision to set aside the flawed settlement, again made by it on its own volition, presumably because it knew how unsafe it was given how it had been arrived at.

To comply with the flawed settlement I have had to redact all reference to the FSP. A requirement that the FSP and the FOS rely upon so that they can continue with their corrupt collusion demonstrated in how this matter was dealt with. This enforced silence only serves to allow, encourage and exacerbate the wrongdoings of corrupt FSPs and allows the FOS to hide its bias towards them. It is matters like this that give the financial services industry the appalling reputation that it so rightly deserves.

The FOS act of setting aside the flawed settlement and then reversing its decision to do so, and its claimed reasons for doing so, can only be described as an Orwellian back flip. Consumers are reasonably entitled to better reasoning from the FOS: The FOS initially honestly and openly acknowledged its flaws and the behaviour of its conciliator, by setting aside the settlement arrived at, but then at the behest of its member conveniently and disingenuously ignored and manipulated the evidence and facts before it so as to suit its own and its member's purposes.

It is now apparent that the FOS and its conciliators are clearly more interested in achieving their KPIs, rather than fair outcomes, so that they can disingenuously claim that they are able to resolve matters brought before them. The bias of the FOS towards its corrupt members, over consumers, is blatant and disturbing in the extreme to any fair minded person.

The FSP never acted in my best interests and was allowed to get away with this, and there can be no doubt that it is continuing to do the same to other consumers. Instead of other consumers reasonably being allowed to be aware of this the FSP, through its collusion with the FOS, is allowed to hide its appalling behaviour and dangerously substandard 'advice'. This example of how the FOS is operating shows how widespread instances of illegal and unethical behaviour are deeply entrenched within the financial services industry and how the FOS and its members ignore their obligations, and their respective duty of care to consumers.

The apparent poor institutional culture and low ethical standards of the FOS and its members raise the question as to whether the FOS has any genuine intent or ability to identify, address and help prevent unconscionable, illegal and unethical behaviour of the type constantly and consistently indulged in by its members. The FOS is clearly biased towards its own members and a sham operation that regards itself and its members to be unaccountable to anyone.

The misconduct of the FOS in this matter shows that it fails to provide, and in fact ignores, best practice responses to the types of behaviour its members corruptly indulge in. The events outlined here provide a clear example of why a Royal Commission should be initiated without delay to ensure timely, fair and reasonable justice and compensation for victims of financial services industry misconduct, so as to help restore public confidence in an industry which has been justifiably and deservedly badly damaged by the string of ongoing scandals in past and recent years.

The FOS advises that 'Our service is free of charge for applicants, with the costs of running the service being met by our members ('our members include banks, insurers, credit providers, financial advisers and planners, debt collection agencies and other businesses that provide financial products and services). It is now clear that the FOS will not bite the hand that feeds it, and the worst that will happen to its corrupt members is a gentle urging to not get caught again.

The FOS claims to, 'resolve disputes between consumers and financial services providers:

- In a cooperative, efficient, timely and fair manner
- With minimum formality and technicality, and
- As transparently as possible, taking into account our obligations for confidentiality and privacy.
- This involves understanding all aspects of a dispute without taking sides, and making decisions based on the specific facts and circumstance of each dispute, and
- Claims to offer 'fair, independent and accessible dispute resolution for consumers'.

My experience shows that the FOS does none of these things. It in fact lies to consumers and is misleading and deceptive, incomplete and inaccurate, while lacking honesty in integrity in its words and actions towards consumers, while refusing to even consider the real and demonstrable financial costs imposed upon the consumer by its members behaviour. The FOS is clearly more concerned with its tick and flick KPIs rather than fulfilling its role of helping ensure that the decisions its conciliators reach are just, fair and aligned with the unctuous rhetoric of its now demonstrably false claims.

For the FOS to allow and support its conciliators and members to collude and lie to consumers is itself a mirror image of the unethical and unconscionable behaviour that brings its members before it. The FOS is bereft of honesty and integrity, characteristics that essential to its function and processes given that its members that come before it are also bereft of them.

For the FOS to claim that consumers 'agree' to resolutions after being bullied, misled, deceived and lied to by its conciliators and its members is to suggest that victims of any corrupt, criminal or bullying behaviour choose to be assaulted (financially or otherwise) by the perpetrator. This is grossly offensive to any reasonable person. For the FOS to allow and then enforce this shows how dysfunctional it has become. Its members know they can continue to operate in a corrupt manner with immunity perpetually granted to them by the FOS in the secure knowledge that their days of getting away with misconduct, whether it is a breach of law or not, are protected by the FOS, the organisation that is meant to help protect consumers from them.

Confidence and trust in the financial services industry has been constantly and consistently shaken by ongoing revelations of scandals, which have resulted in tens of thousands of Australians being ripped off, including those who have had their retirement savings gutted and families who have been rorted out of hundreds of thousands of dollars, the FOS knows, yet it allows and supports its conciliators and members to lie to consumers with the sole purpose and intent of 'make it go away'.

The FOS has become a corrupt organisation that now serves only its equally corrupt members. When confronted with that corruption it chose to enforce and entrench it. The FOS, its conciliator and senior management representatives of the FSP lied to me in calculated, coordinated, premeditated manner.

The FOS claims that its conciliation decisions can only be set aside in 'exceptional circumstances'. If its conciliators and members colluding and lying to consumers so that they can ignore, evade and avoid their obligations aren't exceptional circumstances what are? When the FOS itself initially set aside the decision when it became aware how it had been arrived at and how unsound and unfair it was the FOS representative said to me 'we love the easy ones'.

Why does the FOS ask for feedback, initially act on it in a proper manner because it sees how its own process was abused and then subsequently reverse its own review so as to cover up its own corruption and that of its member?

The FOS should have applied the high-level sound reasoning, logic and integrity that its position of trust requires, not the self-serving school yard justification that undermines its position of trust and confidence that consumers are entitled to have in it. It is apparent to the reasonable, untainted observer that openness, honesty, transparency and fairness only apply when FOS members aren't required to suffer any adverse consequences for their corrupt, misleading and deceptive conduct.

Despite its high obligation to always be open honest and transparent the FOS has failed in its duties to consumers and it has allowed its conciliator and the FSP to lie. The FOS ignored every point that I raised to support that its original decision to set aside the flawed and unsound 'settlement' was correct. The FOS was biased and selective in only considering this matter solely from its member's point of view, in order to self-justify its own corrupt collusive behaviour.

The FOS conciliator lied, bullied and used a process of attrition in conjunction with the FSP. The FSP lied to me and the FOS and its conciliator knowingly allowed this. The FOS allowed and supported this behaviour and by doing so encourages and reinforces it. The settlement arrived at was obtained by misleading and deceptive conduct, among other things, on the part of the FOS conciliator and the FSP representatives.

Apparently it is OK by the FOS if its conciliators bully consumers and refuse to examine issues in a meaningful way and to mislead and deceive consumers and to allow its FSP members to mislead and deceive. The FOS is the tick and flick division of corrupt FSPs who use it to declare that the forced, and false, 'resolutions' achieved are an indication that the system is working.

In reality the FOS is abusing its role and obligations so as to force consumers to 'go away' (and remain silent) so that corrupt FSPs can remain corrupt and other consumers can't be made fully aware if the entrenched scams that continue, with the support of a dysfunctional FOS.

We got scammed from start to finish by the FSP and the FOS. The FOS never considered the core issue of my complaint and in fact refused to do so. What is the point of the FOS when it refuses to even consider the actual loss, or the reason for that loss, that the consumer has suffered as a result of its own member's corruption? The FOS repeatedly favourably weighted its behaviours and decisions towards its member, and dismissed or ignored all other factual information provided to it. The FOS is failing in its duties to consumers and has been caught out pandering to its corrupt member. The FOS has become part of the problem not part of the solution. Consumers can have no confidence in a compromised FOS.

Who watches the watcher?

Yours sincerely

*David Bibo*

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