

P O Box 24054
City East
CHRISTCHURCH 8141
Email – lisacowe@snap.net.nz

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Financial Markets Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140

SUBMISSION TO CONDUCT OF FINANCIAL INSTITUTIONS REVIEW

This is a submission for review of the Conduct of Financial Institutions.

Regarding this submission - as a bankrupt there is nothing in this submission that is confidential or private. Please publish it in full and without blackouts or deletions.

Evidence - I have referred to my situation as examples. If you wish to see actual evidence then I can let you know the police file number and you can obtain correspondence and court documents from their servers.

For many of us any changes to be made to financial institutions has come too late.

Let me explain how bank conduct works against people who are in default of debt. I use reference to the bankruptcy brought against me by BNZ to support my claims.

In 2017 I was bankrupted by BNZ. When I was paying back BNZ on a voluntary basis (because they refused to accept any payment arrangement), they were secretly passing the money I was making to them to their debt collector EC Credit Control NZ Ltd who on BNZ's behalf falsified the tribunal evidence which I tried to counterclaim. This fabrication continued with the banks solicitors, who have tried claiming further costs and applying GST to the outstanding debt which was originally bank penalties and interest of around \$6200. That debt has now turned in \$14,600.

I believe it is my duty as a NZ citizen to pay back debt that is owed, today I break the law by continuing to pay creditors outside of the bankruptcy regime because the courts and the insolvency office have refused me my rights in law. As a citizen of NZ I believe it is my duty also to bring to the attention of authorities when laws have been broken by entities who have a privileged place in our society, so their wrongs can be rectified so harm cannot be done to others by the malicious cruel acts of the agents acting on behalf of those entities.

I know you have read my earlier submissions, so I won't go over that all again, but what I will say is that you need to address the issue of debt that the banks onsell to debt collectors because it is their conduct also that needs to be addressed probably over and above everything else. Shortly I will spell out this loophole which you fail to address. I believe it is significant and as such the integrity of banking industry and its collection regimes, including the courts have lost their credibility. I have also spoken to and read many comments and articles by others whose rights have been violated by corporate bullies and who continue to be denied justice.

My life and the lives of others will never be the same because of how we are treated, which comes down to conduct of not just financial institutions but the courts and insolvency office as well. It is all to do with the way debt is collected in NZ. I am well aware that other countries have similar conduct and debt collection practices, some even worse than ours, but it doesn't make it right or lawful, and it does not justify NZ following the same standard.

Let me start by saying financial institutions should include debt collectors. If banks onsell debt to them, the debtor (borrower) is unknowingly forced into a new contract which absolves the original creditor (lender) of their obligation to the borrower, but now the borrower has harsher terms than they started with previously and now the borrower continues to make payment to them. Debt collectors are under no legal or lawful obligation to consider any hardship arrangement regardless of what NZ law states. BNZ's debt collector (who also collects debt for the NZTA and the ACC) wanted me to pay them 60% of my gross weekly wages. I believe I was bankrupted with the support of BNZ's solicitors Carlie Dowling who I spoke to on the phone when they revealed they also were acting also for BNZ's debt collector, while I was trying to get to the truth about the debt and who I owed it to. I also have received debt collection letters from ANZ's debt collectors actually in Australia. Obviously it is their offshore offices that hold our information. That means NZ laws won't apply.

Having worked a number of years in the chartered accounting industry (as a bookkeeper preparing draft financial reports and administration and tax) I can confirm that debt collectors approach accountants and other organisations including not for profit organisations looking for debtors. I can tell you from personal experience that debt collectors have no qualms about releasing personal information to others just because they can.

Companies like Vodafone sell or refer debt to debt collectors, who will contact a debtor by text and if they don't get a response will list debt on a credit report.

Credit reporting is also unregulated. When I make my report to the Reserve bank (a suggestion given to me by the banking association) I will show them how I have the same debt listed twice and how Veda (now Equifax) manipulated the ageing and score of the report they hold against me. Credit reporting needs some controls or conduct if you must allow that industry to continue. Least we not forget that Equifax suffered a substantial hack on their USA servers last year and they have had claims of privacy breaches against them in court. And you allow them free access to our very private information?

The loophole is that lenders can move debt to debt collectors who are not classed as financial institutions so any conduct you wish to impose on financial institutions may not apply to them. The other loophole, which it appears you are still not aware of that when a bank onsell a debt, the new "creditor" can claim to be only acting as an agent for the bank which changes substantially the legal rights of both the lender and borrower without the borrower knowing. This loophole is at the very heart of the banking and debt corruption in NZ. These very same debt collectors also collect debt on behalf of government agents. According to an employee of BNZ and their debt collectors they have said that debt actually falls outside of any Anti Money Laundering Acts.

In my report to the reserve bank I will be including the evidence that your High Court judges have said to me in court documents and judges' minutes, and I will include the evidence of the documents provided by BNZ and their agents and you might reconsider widening your scope of your investigation and any subsequent bills regarding banking and financial conduct.

You may ask, why would I be making a report to the reserve bank, when your government has stated that its looking to change the laws with debt and financial conduct already? Let me list the reasons.

1. Your scope does not go deep enough to get to the heart of the issues.
2. My complaints to the appropriate authorities have refused to investigate citing a lack of resources, or have deemed the issues to be resolved due to the bankruptcy. Even the privacy commissioner has stated I no longer have the same privacy rights as everyone else so they won't investigate either.
3. Christchurch shooter Brenton Tarrant has more rights and access to public money, including support than bankrupts do.
4. You won't make laws that allow every NZ person to hold at least one bank transactional account.
5. Your laws won't include resolving existing issues and complaints.

6. A lot of changes that your consultations and bills have suggested, are already included in other existing legislation or in case law including agency laws. The issue is they cannot be acted upon.

7. High Court judges will not allow the people who appear before them who are unrepresented any rights to present case law, or put forward a reasonable defence, nor will they ask creditors to negotiate with debtors instead of bankrupting them. Oh sorry, actually the disputes tribunal gave me six weeks to pay BNZ in full. Too bad they didn't need to consider my current financial situation, even when I proved I had no assets.

8. Tribunal referees in my case, once I agreed to BNZ's debt, they dismissed my counterclaim entirely, which opened the door for BNZ's debt collectors to bankrupt me. That truly is the lowest of the low!

9. Your formal insolvency regimes are not fit for purpose. The conduct of your official assignees is why I have made a formal complaint to the Parliament Ombudsman. If you would like to see what information the official assignee gave to a member of the Birkenhead Residents Association who was not even a creditor in the bankruptcy about me, I will provide it.

10. My privacy has been violated because of the information you are free to pass to others including how you now list my name, address and DOB on the public domain, including all other insolvents. I no longer feel safe, and having also been threatened by the official assignee with prison. I have no rights in law to defend your cruel bullying.

11. I have lost trust in the banks and the government because of your conduct and how you treat people like me. Your credibility has been ruined. My only goal is to ensure others will not be harmed by your continued lack of action.

Your report gave a lot of unsubstantiated opinions, like "when something goes wrong with financial products it can be catastrophic....." of course I am not disputing that but you need to show actual evidence and examples. Look what has been said about the Kiwibuild scheme. Mr Duncan Garner said to the camera "we have been played for fools.. you can't sleep in a slogan"

Yes consumers can't negotiate contracts, because lenders can say - no sorry, we'd rather sell your debt to an unregulated debt collector so we can keep them in business as well. Same with the courts and the tribunals. Once a person enters into debt, they lose many legal rights. They lose more of them once they become insolvent and finally they lose rights under privacy laws and the bill of rights once they are bankrupted.

Yes and the banks do lie to us and withhold information. Why do you think I keep asking for the issues and the bankruptcy against me be investigated. Do I not have the right to know the truth? The official assignee has also withheld information that might help resolve the outstanding issues in the bankruptcy against me.

Yes financial disputes and hardship can affect consumers environment and mental health and wellbeing. I will go so far to say that it causes permanent severe trauma and part of my research is to have formal insolvency recognised as a complex psychological trauma.

Holding financial institutions to account. I would like to know how you intend to do that. Nothing in any existing laws prevented the way both ANZ and BNZ tried to collect on the debt I owed them, to the point they could actually breach criminal law without any penalty. The draft document of the reserve bank has said its powerless to regulate bank conduct in law and has stated it will use market forces aka sunshine, and put complaints against banks into the public domain. That is all they can do.

Debt collectors are backed by substantial international public corporations, including Encore Capital Group and others. If your goal is to have customer focus be at the centre of a financial businesses, the only way that is possible is for you to address all complaints and overhaul substantially both lending and the insolvency regimes. I can tell you that as recently as October last year, BNZ closed the bank account I had with them and still refused to address the issues or apologise for the wrongs of their employees, their agents and their solicitors. ASB and SBS banks (who I

never had debt with) and ANZ also will not allow me to hold any bank accounts with them because I am bankrupt. That is a conduct issue and a discriminatory one. I have asked those banks to change their written policies to accept all customers for at least one bank account regardless of that person's financial circumstance. But they refuse. They have stated that they won't change unless the laws change. Your regulations won't make a difference.

Yes financial products are complex and also confusing, not just for the customers who have no choice but to sign the contracts that relate to them, but also for accountants including formal insolvency practitioners, tax agents and lawyers also do not understand debt contracts or the risk that individuals are taking on when they borrow money. Many also don't understand insolvency either. How on earth can you expect a consumer to understand what they are truly signing, if the so-called experts can't understand debt obligations and its risk either? Let me tell you that the banking ombudsman wanted me to sign an agreement with ANZ, had I signed it, it would have put me further into debt. BNZ in their debt claims against me referred to several different contract terms because they did not understand their obligations either. And the very bankruptcy against me, in their name is proof of that.

Regarding the unequal rights of lenders and borrowers. Recall in another submission I referred to lenders like Harmony for example, can state that the borrower is liable for all costs of collection? That is a violation of the Bill of Rights because it removes the right for people to obtain fair justice or consideration. And means no judge will consider any position of the debtor. Or is the Bill of Rights Act only for people who have criminal claims made against them?

You also need to look at offshore lenders who offer lending through the internet. They use .co.nz websites and people believe that the lender is based in NZ when in fact they are not. How do they fit into your laws?

In a bankruptcy the statement of financial affairs (bankruptcy contract) refers to three statute laws. The official assignee wouldn't give legal advice about it. And if we don't sign it, we will not be discharged after three years. I refused to sign the statement of affairs form presented to me, and I will never sign it under duress. Because I have no legal rights. That example of inequality between a bankrupt and the insolvency office quite literally out-does by a long shot, the unequal rights of a normal lender and a borrower. The official assignee is nothing more than a debt collector with some formal title that gives them rights in court.

Primary objectives - just what is the primary objective in bankrupting a person and increasing their debt by thousands, when it's well proven that the debtor never has or never will have the ability to repay existing debt, let alone substantial court costs and insolvency costs.

Conflicts of interest - would you be talking about solicitors who can act for both the original creditor and also the debt collector for the same debt? The lawyers that currently do this are:- Carlile Dowling Solicitors, SB Law, Turner Hopkins Solicitors. I also have evidence through court documents and letters that ANZ and BNZ both used Turner Hopkins (same law firm) to collect on their debt against me. This is why I am contacting the law society and why I have asked for the bankruptcy against me to be investigated.

Banning certain products or distribution - allow me to explain what that needs to be:-

1. Stop lending money to customers who wish to purchase lifestyle products and home purchases. All debt should be secured over an asset that can generate income. Cars and household appliances are not assets, because they do not directly or even indirectly bring in income.
2. Stop lending money to people and businesses who are clearly insolvent.
3. Stop banks from making unsolicited debt offerings to insolvent customers and then not providing any contracts until after the money has been spent.
4. Ban products and lending contracts that don't make it clear that business lending is actually personal lending in disguise.

5. Stop outsourcing collections and onselling debt (or mis-selling as you call it). Debt collectors can issue more than once invoice for the same debt under different account numbers. Once a debt collector obtains a debt from a bank it can be given to another debt collector. So now three different entities can each contact the debtor and each ask to be paid. Multiple entities can and do list the same debt on a credit report. And they use fictitious names also. Ban other parties and debt collectors from bringing claims on behalf of banks.

6. Ban banks from having a credit score threshold as a reason to refuse banking services to customers.

7. Ban the Salvation Army and other organisations from providing debt products to low income earners. Have you actually looked at their offerings. They are just resellers for BNZ.

8. Make public and transparent the agreements and memos of understanding that lenders, courts, IRD and other government agents have with the unregulated debt collection industry.

9. Ban bankruptcy and formal insolvency regimes or completely reform them.

10. Stop slandering us by allowing our personal information to be made public by your insolvency officers, courts and NZ Gazette. Yes that also means taking down all public listings from your websites.

11. Bring into law the right for each and every person to be able to hold at least one transactional bank account and including eftpos facilities, internet banking and debit cards (not credit cards).

12. Ban credit reporting and credit scoring - those products alone are expensive and enable others to discriminate against people because of their financial position. I am drafting a members bill to change our human rights act.

13. Ban government agents like the NZTA and ACC from referring or selling debt to debt collectors.

14. Insolvency law allows for the official assignee to invest for profit the money in a bankrupts estate. Where they are investing it needs to be made known to the bankrupt.

15. Ban the IRD from bankrupting people en-masse and stop them from adding interest and penalties and use of money interest to outstanding debt. That makes them no better than a loan shark. They also list debt with credit reporters. I deal with the IRD every day. They are a financial institution.

16. Ban the IRD (which means changing the income and gst acts) from cleaning out the bank accounts of individuals without due process or consideration.

17. Ban the courts and the insolvency office from forcing new debt onto a bankrupt, and abolish or reform the entire insolvency regime. It truly is not fit for purpose. Bankruptcy is another form of debt collection and the conduct of the courts and the official assignee needs to be included in your laws.

18. Stop banks and other businesses from forcing bankrupts out of the economy and out of their careers.

Access to financial advice - New Zealand doesn't have any suitably trained people or organisations. There is also a lack of financial advice available to business owners, even the ones who can afford the fees of a chartered accountant. Specialists in consumer financial risk need to be appointed for consumers because they are not being advised correctly of the risks associated with debt and insolvency. And also financial counselling services need to be set up for individuals and business owners. You also need to provide some dispute resolution service that will actually address and resolve all financial disputes and complaints. And that which include issues with banks, debt collectors and credit reporters.

Remuneration rewards and commissions. At the end of the day commission on its own made no difference to how I was treated by the banks, their debt collectors, solicitors, courts and the insolvency office. But I do know that BNZ passed or received money to and from their debt collectors, that may have been commission related. And the conduct of BNZ's debt collectors allowed them to create the same debt under two different account numbers and allowed BNZ to pass money I paid them to the debt collectors without me knowing, and also allowed BNZ to pass

their whole file they have on me to them. I wonder how much EC Credit Control paid for that information? I believe it was in the range of \$200-\$300. Does a banks debt collector pay for customer files? And why aren't borrowers allowed to know who they are legally in debt to. Have I tapped into an undercover debt black market? Certainly its worth considering that is a very real possibility.

As far as my bankruptcy is concerned, there was nothing unintended about that outcome from the banks point of view of what they wanted for me, and that includes the debt that I had with them prior. There is just too many wrongs and injustices, and too many others involved for their actions to have been entirely mistakes. Both banks knew exactly my financial situation for the whole time, including prior to me approaching the banks to try and sort out the debt. The courts knew also the intended outcome they wanted for me and so did the IRD. From communications that BNZ passed me, in lieu of a proper investigation, it has been revealed that it was BNZ's intention the whole time to bankrupt me. I only found this out last year.

Entity licencing - Ah hello, the royal commission in Australia??

Penalties for non-compliance - whose going to enforce it? Certainly the courts won't. You only have to sit and watch them bankrupt people in as little as 2 minutes. If debt is owed, no judge anywhere will place any penalty on a bank for its wrongful conduct. Already there is much case law whereby people have tried to defend claims, unsuccessfully. Lawyers have also told me they won't assist bankrupts because they can't win the cases for them.

Whistle blowing - Need to change the Lawyers and Conveyancing Act because they don't consider third party complaints.

How effective do I think your proposed changes will be? - Not once did you mention debt collectors, who are at the very heart of the issue. Enough said.

Kiwisaver - Yes I really did hold two Kiwisaver accounts at the same time and I was paying two lots of kiwisaver fees for 7 months. It took a complaint to the KS trustee before BNZ took action. Even when its formally on a 5 year holiday fees are still deducted every month. Least we not forget the bill that was before parliament asking that a working group be set up to try and combat the corruption with Kiwisaver providers. Because I am bankrupt the official assignee has stated in their letter that they can make claims for the money in it to be paid into the bankruptcy. In my case they haven't, but I still cannot afford that financial product. Its tainted and so is the money that is in it. There needs to be provision in the laws that allow people to leave the scheme if its not suitable. Its not a true financial product if we don't have any rights in it and fees continue to be deducted even when the fees offset any gains. Yes the decision to enter kiwisaver is another foolish financial decision that will stay with me for the rest of my life, or at least until I reach the age of 65.

Your submission states you may share information with other ministers or agencies. Please do so. The only hope I have left is that maybe you will read my submissions and one day things might change. I can never get back the life I had because of how you all have treated me. I know it is the same for many others.

Just look at all of the people involved in the debt against me, and maybe you will understand what I mean by Collective Corporate Bullying.

Regards



Lisa Cowe

A Victim of Collective Corporate Bullying in NZ