

**SUBMISSION ON POLICY ISSUES RAISED IN ROUND 5**

Submitted By: andrew shine

Email: [REDACTED]

Phone Number: [REDACTED]

Submission for: Another Person

Name of other person, business or organisation: [REDACTED]

Do you agree to your submission being published: Yes

Do you agree to your full name being published: Yes

Your submission:

I have a ton of supporting documentation and evidence that I can supply in due course but am currently working Interstate without access to my files. In summary, the case I am presenting is for the [REDACTED] (SMSF) which affects my wife [REDACTED] and myself. We arrived in Australia October in 2004 and were not familiar with Australian superannuation. I was sponsored in and my (then) boss suggested I use the company financial adviser (we were a small company of 12 people). The adviser in question was called [REDACTED] and he set up an SMSF under our names and we duly transferred our UK and Irish personal pensions into it too. The SMSF ran without any issue and every FY, upon request, we would be issued a statement listing our investments and how much they were worth. All seemed to be very well. In Dec 2013 we received a letter from an administrator advising that [REDACTED] and all his investments were bankrupt. It appears he had been trading insolvent and ASIC had been keeping an eye on him for several years but nothing was done. It now transpires that some [REDACTED] people had lost [REDACTED] through [REDACTED]. The exact figure will never be known because by the time the administrators gained access to [REDACTED] files most had been destroyed. Despite investigations it appears [REDACTED] had no assets. A rented house, rented car etc despite a lavish lifestyle that the rich and famous would be envious of! He was convicted of [REDACTED] charges of fraud and imprisoned for [REDACTED] with parole eligibility after [REDACTED]. Meaning he will serve [REDACTED] days in prison per persons life he has ruined. No monies were ever recovered by the administrators or ASIC. I hope you are still with me. The above is background information which I am not expecting any involvement from the RC. Now going back to the annual statements that [REDACTED] issued, they listed around 5 companies on our statement showing the value of our investments. The 2 biggest were [REDACTED] entities and the administrators had already confirmed that they were bankrupt and had zero in them despite what the balance shows. Approx \$400-\$500,000 was gone. The others showed balances of a few thousand to \$20,000 (can't recall exact figures but data available). I contacted those companies and requested to withdraw what was left and placed into a new industry superannuation fund as organised by the administrators. As an aside, I was now educated about the difference between an SMSF and industry superannuation fund. Up until that point, I had no idea of the difference between the two and have since become absolutely horrified that if an industry superfund broker loses the plot and the money invested there are numerous protections in place - but with an SMSF - you are on your own. It appears that around 500 people per year (according to the ATO) lose their SMSF in Australia this way with no support. I digress - let me get back to companies that held my investments and were not [REDACTED] owned and operated entities. I managed to get my cash back from them but when I contacted one called [REDACTED] they advised that they were not an investment per se but in fact a bank. 100% owned subsidiary of [REDACTED]. So, I had a bank account with [REDACTED]. Fast forward a series of emails and letters, it appears that [REDACTED] and his firm had been transferring funds through my account and [REDACTED] others in a classic ponzi style that the bank decided not to get involved with despite their own staff raising suspicions according to ASIC. The bank also feels that they are not obliged to ever make contact with their customers. In the 10 years I held that account I had never received a statement, an email, their PDS, a phone call or access to this account. Instructions to move money in and out of my account were conducted by numerous of [REDACTED] staff by simple email. Eg: Please take \$30,000 out of this account and transfer to another account etc. Further investigative work we managed to secure copies of the [REDACTED] bank account set up forms that [REDACTED] had completed. he had used data that was false along with forged signatures and glaringly obvious mistakes on the forms that the bank had failed to question and simply accepted. Even though these errors were consistent on all set up forms I have seen and the bank has admitted there were errors in them, they failed to act on them. Even things like driving licence numbers in a format that was not Australian did not raise suspicions to the bank. Each and every one of these [REDACTED] bank accounts had the same address for correspondence, a PO Box managed by [REDACTED]. Again, the bank feels this is not suspicious nor the fact that not one of the account holders had even contacted them and/or gained internet access. [REDACTED] had full control of these accounts as he had set them and ticked every box that enabled him full control It soon became obvious to us and many of the other victims that the bank was grossly negligent or collaborating with [REDACTED]. The evidence to this effect was overwhelming and unequivocal. It took us many months to gain full access to all our transaction history and account set up forms and we (all victims) have been horrified to discover what was happening without our knowledge or consent. It was clear that while [REDACTED] was rightfully convicted of fraud, it was the banks that opened the door and had left it open for him to pilfer the [REDACTED]. They were asleep at the wheel for sure! Anyway, we

engaged some law firms that scrutinized the evidence and decided to undertake a class action against ██████████ which was commenced in ██████████. It was a mammoth task to plough through all that data of over 10 years of transactions of ██████████ peoples accounts combined with missing information and the banks ever increasing reluctance to be forthcoming with answers and evidence. So, we finally get our day in Court ██████████ as the bank refuse to mediate or discuss an out of court settlement. ██████████ was put on the table by the bank and of course the class action funder will get 33% and the class action lawyer 33% meaning there is only ██████████ to be shared between the ██████████ victims that lost ██████████. This is despite the bank announcing a profit of some ██████████ at the end of FY17. The banks offer of ██████████ is of course indicative of their guilt or they would not have to pay anything. The judge declared nothing that the bank did nothing illegal which I suppose indicates collaboration is ruled out so I guess it was just gross negligence! But why ██████████ and not ██████████? I hope you are asking yourself! Good old Australian outdated law! It appears the Statute of Limitation is the trump card pulled out by the bank. Apparently, any issues you have with regard to financial transactions MUST be questioned within 6-years of them occurring or you cannot make a claim against them. This is what we need the RCs help with! Not to overturn the law (but it should), but to force the bank to compensate adequately when they know they were in the wrong. The CEO of the bank describes how "we" (the victims) "chose" to commence proceedings in ██████████ and so the small payout is of our own doing! However, like most other victims, I was not aware of the existence of this account until early 2013 and did not get evidence of the transactions until later that year. Combine that with getting a class action initiated is not a quick process. Indeed, we do not "choose" to initiate proceedings in ██████████ that was simply the earliest we (or anyone else) could have. So, it appears that all the fraudulent set up forms used to open my account and then the transactions made without my knowledge, permission or consent prior to March 2010 are irrelevant and my misfortune. Any after that date the bank will make some amends for. ie; they are compensating for transaction made after that date but not before because "they don't have to". The judge referred to this payout as one of the worst he has ever seen but rather than stand up for the victims and fight this ridiculous statute, he rubber stamped the deal. The bank is clearly laughing! They got away with an almost identical crime a few years ago with ██████████. It's not a bad deal when you think about it, the bank rakes in millions during the rort and only pays out a pittance in compensation by cleverly ensuring that the crimes remain hidden for >6 years. We would like the RC to make an example of ██████████ and insist they compensate us fully. This ██████████ self funded retirees who worked hard and paid taxes and put money in their SMSF as per what is expected. Only to have the banks let us down. It is akin to a bank robber stealing from the bank and when you go to get your money out the bank saying, "Oh, a robber stole that money >6 years ago. Sorry. You have lost it." (except they have not said sorry). Do not let the bank get away with this. PLEASE