ASIC - "Not Enforcing The Law"

Summary:
Banks and brokers are involved in widespread fraud. Loans are being given out almost willy nilly - often to people who can't afford them. The loan officer gets a bonus and lines up for a promotion. The bank victims have their lives destroyed. ASIC and its external dispute resolution arms FOS and COSL look on. It's time they acted in the people's interests.

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Article: "There Are Predators In Our Own Backyard, But Where Are Our Financial Watchdogs?"

The level of sub-prime mortgages in Australia may be far in advance of what was previously assumed and provided for by banks. The story was broken on the ABC, and covered elsewhere. The revelations centred around two personalities: Kate Thompson and Denise Brailey.

Kate Thompson was a licensed mortgage broker at Mortgage Miracles in Western Australia. A highly regarded and award-winning broker, Thompson disbursed a veritable torrent of credit from bank and non-banking lenders to clients wanting funds to buy property, making around $5 million a year from upfront and trailing commissions.

She is now facing fraud charges for what amounts to predatory lending: providing credit to people with little to no expectation they will be able to repay the entirety of the loan. This fraud was achieved by fudging the income and assets of clients, making them appear much wealthier on paper than was the case.

Soon to face the State Administrative Tribunal in Western Australia, **Thompson will provide incriminating evidence that predatory lending is widespread throughout the industry.**

Denise Brailey is the President of the Banking & Finance Consumers Support Association, an organisation dedicated to protecting the public against predatory financiers. Having worked in this field for the last twenty years, criminologist Brailey has seen first-hand the financial and social wreckage wrought by a multitude of scams and predatory lending.

> Last week, Brailey gave explosive testimony before the Senate Economics References Committee alleging wide-scale fraud from banks to brokers.

While her testimony, which covers the period of 2008 to the present, was largely about low-doc loans, her claims extend into the mainstream of full-doc mortgages.

Certainly, what emerges is a shock to those who believe the claims of the RBA and regulatory agencies that Australia’s banking and financial system is a picture of prudence and reticence.

The term “non-conforming” denotes a mortgage to an owner-occupier or investor where the loan value does not match the fundamental borrower criteria of tangible assets and income. Low-doc loans are provided to those who have difficulty in proving their income, mainly the self-employed.

> In the desire to create bank assets, loans were granted to almost anyone who asked for them. For instance, it was recently revealed that three years ago, Westpac granted a $440,000 loan to a 98-year-old pensioner.

Brailey testified about the way these loans were conceived. Clients would approach a broker and complete a small form, detailing their current assets and income. Through an online “service calculator” created by the banks, the broker would enter clients’ details and create a highly-inflated figure. Amazingly, this would include the imputed rent (the rent that owner-occupiers pay themselves), even if the property being purchased was a vacant block of land.

Anticipated increases in the value of the clients’ principal place of residence - essentially, estimated unrealised future capital gains - are counted as current income. Banks’ own lending criteria suggests that for a low-doc loan to be approved, a person needs to have an ABN for a minimum of two years. Unbelievably, for those without an ABN, the banks were teaching brokers how to go online to create an ABN for a client within a day, often without lenders mortgage insurance (LMI). This was done in the back office after the form was signed, without the clients’ knowledge.

As the form passed through the back channels from broker to bank, the three pages morphed into a higher number, typically 11, up to a total of 39. These extra pages detailed the figures provided by the service calculator. Borrowers, however, never get to see these extra pages, and Freedom of

Information requests do not work on the private sector. When asked, banks and their law firms send borrowers on a merry-go round between them, and of course, low and moderate-income borrowers don't have the financial power to sue the banks to get them. Once the figures have been fudged, the loan is approved and the bank grants the mortgage to the client.

Brailey says she has over 4,000 documents relating to borrowers' loan applications and emails between the brokers and banks, clearly showing how incomes and wealth were grossly inflated. And this practice is continuing. Brailey contends that of 400 loan applications she has gathered in the last six weeks, not one was free from tampering.

> Appallingly, both banks and brokers targeted a segment of the population they called ARIPs: asset-rich, income poor.
>
> They identified pensioners, the disabled, retirees and single mothers in this group.
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> Incomes of $40,000 were transformed into $180,000 through accounting manipulation.

Interestingly, the banks provide generous commissions for the mortgage managers, originators and introducers, culminating in the broker at the end of the line. This happens to be a highly inefficient method of allocating mortgages to borrowers, as banks could simply hire more loan officers instead. The reason for this chain, Brailey testified, is to create "six degrees of separation" between the banks and brokers, in order to protect banks by outsourcing responsibility to the brokers to ensure they, not the banks, get the blame for fraud.

Why are banks lending out enormous amounts of credit to anyone who asks for it? The likely cause is the escalation of residential property values over the last 15 years, requiring larger mortgages for property purchases.

To maintain profitability, banks have to keep issuing ever-more credit. Unsurprisingly, the stock of mortgage debt has increased from $180 billion in 1996 to over $1.2 trillion today or 85% of GDP, a tremendous financial burden.

The other question is where the regulators have been in all of this. In 2005, Brailey met with Australian Tax Office investigators, but she contends her claims were referred to the Australian Securities and Investments Commission, which did not pursue them. As the financial regulator, it must investigate fraud, especially when substaintial evidence is provided.

> Accordingly to Brailey, however, "ASIC will not enforce the law. It has decriminalised that which parliament deemed criminal activity."

The Reserve Bank of Australia, while not strictly a regulator, has substantial political and economic clout. In its latest Financial Stability Report, one of the risks it sees is falling asset prices may expose credit quality problems - in other countries. The RBA concludes that Australia's financial system is stable (just as it did before the global financial crisis in 2008).

The Senate's report will be an interesting read, though only time will tell how this scenario will play out.

Websites For More Information: There Are Predators In Our Own Backyard, But Where Are Our Financial Watchdogs?
http://theconversation.com/there-are-predators-in-our-own-backyard-but-where-are-our-financial-watchdogs-8871

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