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

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 it 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,

. 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.

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.

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 it 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 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, 1

The FOS claims that its conciliation decisions can only be set aside in 'exceptional circumstances'.

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

The FOS should have applied the high-level sound reasoning, logic and integrity that its position of trust requires,

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 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 it member, and dismissed or ignored all other factual information provided to it. The FOS is failing in its duties to consumers

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

David Bibo
16 December 2016

28 June 2016

Dear Mr Bibo

Applicant(s) **Mr David Bibo**
Service provider [redacted] **Financial Services Australi**[redacted]
Case number [redacted]

I refer to the above dispute wi[redacted] Financial Services Austra[redacted]
[redacted]

Background

On 2 June 2016 a decision was made to set aside a settlement agreement in response to a complaint made about the conduct of a conciliation conference you participated in on 13 May 2016.

[redacted] has objected to this decision on the basis it wasn't afforded the opportunity to present information in support of its position that the settlement agreement should not be overturned.

FOS is required to act fairly and transparently

FOS as an external dispute resolution service is required to deal with disputes in a cooperative, efficient, timely and fair manner. It is essential that FOS acts transparently when making decisions that affect the rights of parties to a dispute.

The decision made on 2 June 2016 was not fairly made becaus[redacted] was not given the chance to say why the settlement agreement should not be overturned before the decision was made.

FOS will make a decision about the settlement agreement

It is fair tha[redacted] is given an opportunity to provide information in support of its position that the settlement agreement should not be set aside by FOS.

It is also fair that you are given an opportunity to provide further information in support of your position.

An ombudsman will made a decision about the settlement agreement based on the information provided by you an[redacted]

The issue to be decided

The issue the ombudsman will decide is:

1. Should the settlement agreement be set aside?

The FOS approach

FOS will not usually further consider a dispute where it has been settled. This is because the FSP's liability is usually discharged by the settlement.

FOS may further consider a dispute even though it has been settled where the applicant can demonstrate exceptional circumstances such as:

- the settlement is harsh, oppressive or unconscionable
- the settlement was obtained by misleading or deceptive conduct
- the applicant agreed to the terms of settlement while under duress.

To prove duress, it is necessary to show that illegitimate pressure was applied and you had no choice but to agree to the settlement.

You may give us further information

FOS invites you to provide any information you would like the ombudsman to consider showing exceptional circumstances requiring the setting aside of the settlement agreement.

Please provide that information to me by **close of business Wednesday 6 June 2016**.

Remember, we will exchange this information with [redacted] We will also exchang[redacted] information before the ombudsman makes their decision.

Any questions?

If you have any questions or want more information about our process please quote the case number when you:

- call: 1800 367 287
- email:

Yours sincerely

Legal Counsel
Financial Ombudsman Service Australia

Legal Counsel
Financial Ombudsman Service Australia
E:
Your R[redacted]20 July 2016.

Dear

My dispute was conciliated by the FOS (the service) on 13 May 2016. Despite acknowledging the 'opportunity cost' of the incorrect financial arrangements tha[redacted]fraudulently imposed upon me the conciliator refused to take this into consideration. His flawed decision was based on 'when we compare the financial arrangements that [redacted]made for you with the financial arrangements tha[redacted]made for you, you haven't suffered any disadvantage.' This is bizarre, nonsensical, circular logic. The correct way to assess my complaint is to compare wha[redacted]**did** with wh[redacted]**should** have done. The conciliator seemed to lack basic relevant knowledge and appeared unable to comprehend this important distinction and would not explore it at all.

During the conciliation the conciliator did not display independence and placed undue pressure upon me to resolve the dispute, including by raising his voice and speaking angrily to me to the point of bullying, harassment and intimidation. He and the other party indulged in, on a number of occasions, the petty behaviour of remaining totally silent for extended periods of time[redacted]d the conciliator engaged in a game of attrition so that they both achieved their desired outcome - make the complaint go away with a token payment made.

The conciliator and[redacted]Regional Head, violated the agreed conciliation procedure by speaking with and being influenced by a person who was not directly involved in the conciliation process,[redacted]anaging Director o[redacted]was not informed of this until after the fact and was not given the same opportunity [redacted]seek outside counsel and advice. Why did the conciliator, I a[redacted] agree that 'we were the only people in the room' when[redacted]en had the advantage of bringing another more senior person into the conciliation process without my knowledge or consent?

[redacted]nd[redacted]pparently now claim to be concerned about the fairness of the decision to set aside the conciliation decision but are apparently equally unconcerned about the unfairness of them and the conciliator misleading me on the day of conciliation by violating the integrity of the service that they now seek to rely upon.

It is not acceptable for the conciliator to seek out and inappropriately speak to an additional person -[redacted]who was not and should have not been involved in the conference call, and then after speaking with that person to then bully me into submission. Incidents like this do not inspire confidence in the FOS, its processes or conciliators.

Based on my experience it now appears that financial service providers may be free to exert undue influence on the FOS including, but not limited to, by ignoring agreed basic conciliation rules. It is interesting to note that[redacted]ow has concerns about due process when its representatives[redacted]ated the due process of the service that their employer voluntarily belongs to. How can other consumers, or other service members, have confidence in the FOS when on this occasion it is a service member's employees who have violated the integrity of the service that is meant to help protect consumers and reputable financial advice providers from the unscrupulous ones?

On a number of occasions[redacted]ised and confirmed that he was 'the only one in the room' and he had 'authority to act'. We now know this not to be tru[redacted]did not announce he was 'in the room' and despite not being named as a participant in the conciliation process he interfered in it and as the most senior representative o[redacted]was him and not his subordinate[redacted]who had 'authority to act' and make any final decision.

Given their senior employment positions and familiarity with the service neither or n deny that they knew of the correct procedure and method of conciliation. id not hold proper authority to act and make decisions during the conciliation he should not have been pretending to act as if he did and ould have stood in his place and announced himself properly.

Interference and undue influence on the apparently inexperienced conciliator, by demonstrates a desperate desire by him and t to have this matter fully and competently examined.

apparently now concerned about the transparency and fairness of the service bu d e the individuals who apparently had no concerns about these features of the service when they blatantly ignored the fact that they should apply equally to me. Unfortunately this displays a gross lack of honesty and integrity by senior ployees and can only be regarded as unconscionable conduct by them.

It is extremely unfortunate if senior employees of highly sophisticated financial service providers are able to abuse the trust of clients and then abuse, ignore and interfere with the integrity of the service that those consumers then seek remedy through, with the deliberate or negligent assistance of the conciliator who allowed and indulged in their blatant abuse of the service and conciliation process.

It would rightfully be of deep concern to consumers, government and other stakeholders if it was perceived that the service was operating in such a way that allowed its members to undermine, or be perceived as being allowed to undermine, the very scheme that is meant to protect consumers from unscrupulous financial service providers such as

Further, the conciliator misled and deceived me about the types and amounts of compensation payments that may have been made to be when it was found that ad not provided me sound, relevant financial advice. For example, 'the most we have ever paid is $2000 and that was when someone lost their house, so you should think yourself lucky that you are getting $1000.'

After the conciliator advised me that he had spoken to bot n a number of occasions during the conciliation I asked him why he had done that and he advised me that ad advised him that he didn't have the authority to make a final decision in relation to the conciliation. He then went on to add words to the effect that 'anywa s said that he will never give you more than $1000 so you should just accept that is all you are ever going to get'. This in itself gives the real or apparent perception that there was at least some degree of collusion between the conciliator and

I then asked the conciliator why the agreed conciliation rules weren't adhered to and why I wasn't told as in involved in the conciliation and why I was actually told the opposite i.e. tha as 'the only one in the room'. I also asked why I wasn't afforded the equal opportunity of being allowed to seek support, advice or counsel whe d he Managing Director o ssist and support him. The conciliator acknowledged that the agreed rules had not been honoured but despite me seeking to elicit a reasonable explanation from the him about these matters he refused to provide a meaningful answer and once again indulged in the petty behaviour noted above of remaining totally silent.

I did accept the decision made on the day of the conciliation, however, this was made under the duress of the above, including the conciliator demonstrably not being independent by, among other things, placing undue and grossly inappropriate pressure upon me to resolve the dispute, including raising his voice and speaking angrily to me to the point of bullying, harassment and intimidation. And, of him, rking together to achieve their desired outcome and not the fair, reasonable, justifiable, untainted outcome that all parties are entitled to expect and receive when they participate in the service.

The three way conversations between the conciliator, s told by to me by the conciliator, provide d its representatives with an unfair and unbalanced advantage that they were not entitled to.

On reflection I felt that is was necessary to advise the FOS of what had taken place so that its independence and integrity does not continue to be undermined by deliberate or unintentional collusion between conciliators, and financial service providers ignoring the rules of the service that they have joined and agreed to abide by.

Following the conciliation I raised my concerns with the FOS so it was aware of these matters and the possible negative impact and reputational damage that matters like it that could have on the perceived integrity and independence of the service, if service members feel relaxed and emboldened enough to openly and blatantly, easily and effectively sway decisions in their favour.

Acting together [redacted] exerted undue interference and infected and tainted the conciliation process and unfortunately the conciliator aided and abetted them in doing so by misleading and deceiving me and yielding to their inappropriate exertion of power.

Given the above, the settlement arrived at is harsh, oppressive and unconscionable. It was obtained by misleading and deceptive conduct and only agreed to while under the cumulative and compounding duress of the conciliator acting in a coordinated way with two senior executives [redacted] elieve that the FOS decision to set aside the flawed and unsound conciliation decision is correct and should remain. To do otherwise would be to undermine trust and confidence in the FOS.

With reference t[redacted]tter of 8 July 2016

The decision to overturn the settlement can only be made by FOS in exceptional circumstances where there is a compelling reason for FOS to review the dispute. Exceptional circumstances include:
The necessary exceptional circumstances do exist and are detailed below.

1. the settlement was harsh, oppressive or unconscionable;
2. [redacted]isled or deceived the applicant in order to agree to the terms; or
3. the applicant agreed to the terms under duress.

The settlement is, in particular, unconscionable a[redacted] mislead and deceive me by lying about who was 'in the room' and who was participating in the conciliation process. And, the Conciliator did place me under duress.

All negotiations during the conciliation occurred between the FOS conciliator and the applicant, and between the FOS conciliator an[redacted] no time during the conciliation di[redacted]nd the applicant communicate directly. As a consequen[redacted]f the view that there cannot be any complaint of harsh, oppressive or unconscionable conduct aga[redacted]

[redacted]gain, being misleading; he and I spoke directly to each other on a number of occasions. Irrespective of that there was unconscionable behaviour demonstrated by senior representatives o[redacted]r the reasons noted above.

With respect to the ability of the applicant to consult with a third person during the course of the conciliati[redacted]efers to the terms of reference provided by the FOS's 'Guide to Conciliation Conferences' which is publicly available. The applicant chose not attend the meeting with any supporting parties.

On the day of conciliation I was advised by the Conciliator that I could not have a support person with me and he asked me if I was alone.

The applicant received compensation fro[redacted]at was over and above any loss the applicant suffered. I refer you to my previous correspondence to FOS dated 21 April 2016 which outlines this to

It cannot be said that I have received compensation over and above any loss I suffered [redacted]as repeatedly refused to quantify that loss in a meaningful and verifiable way.

both the applicant and FOS (copy of my letter to FOS is **attached**). The initial position [redacted] was that the applicant was not entitled to any compensation, however, after genuine consideration and consultatio[redacted]d to settle the complaint for $1,000 in an effort to resolve the matter. At all stages of the complaint and conciliation[redacted]s made efforts to be open and reasonable.

At all stages of my complaint and the conciliatio[redacted]as constantly and consistently been evasive, misleading and deceptive, and incomplete and inaccurate. Despite its repeated hollow claim[redacted]s never engaged with me in an open and honest way, this is further demonstrated b[redacted] [redacted]ceptive behaviour on the day of conciliation.

[redacted]s acknowledged on many occasions that the applicant's experience as a client was below the usual standards th[redacted]s itse[redacted] compensated the client for this experience and any loss suffered, and provided transparent explanations to both the applicant and FOS[redacted]previously provided its position to both the applicant and FOS, and maintained this position during the conciliation. In these circumstance[redacted]es not consider that it in anyway misled or deceived the applicant.

[redacted]s never provided transparent explanations, or calculations, to me. It has, however, consistently remained misleading and deceptive and incomplete and inaccurate.

The Operational Guidelines to FOS's Terms of Reference states that there may be duress if the FPS puts the applicant under "*illegitimate pressure*". This must be more than just the normal commercial pressure which is the natural part of any negotiation.

There was 'illegitimate pressure' placed upon me by the Conciliator, which may have been as a result of the combined forces o[redacted] a[redacted] placing illegitimate pressure upon him.

The claim of duress would suggest that the applicant did not have any other option but to agree to the proposed settlement. The applicant had the opportunity to reje[redacted]offer on 13 May and proceed to a decision by FOS. The applicant did not sign the Deed of Release until 17 May 2016, which allowed the applicant a further opportunity to consider his position prior to signing and returning the Deed of Release.

The duress was applied by the Conciliator after h[redacted] and [redacted]isled and deceived me about who 'was in the room'.

It should also be noted that the applicant thanked the conciliator for assisting in reaching an agreement and commented on the professional way in which the conciliator conducted the call. These actions present as completely incongruent to those of someone placed under duress.

[redacted] again, being misleading. The recording provided does not reflect what he now claim[redacted] attempts to verbalise me. That in itself, however, is irrelevant as just because I remained polite and civil to the Conciliator does not disqualify me from commenting upon the flawed decision arrived at or the abuse of the conciliation process by[redacted] and [redacted]as senior representatives o[redacted]

[redacted]o notes that the 'Guide to Conciliation Conferences' provided by FOS states "*if you have any concerns about the terms of agreement you must contact us within 7 days*". The applicant had numerous opportunities to lodge a complaint if he was unhappy with the conduct of the conciliation (including before signing the Deed of Release), but did not so until well after the timeframe.

The FOS sought feedback from me about its service and conciliation process. I provided feedback and as a result the FOS set the decision aside. I, of course, support that decision as it w[redacted] and [redacted] who abused the conciliation process and undermined the integrity of the FOS.

The applicant entered into the settlement agreement and executed the Deed of Release of his own freewill. Additionally, did not communicate directly with the applicant at any stage during the conciliation, there cannot be any claim t sed duress to the applicant.

Yet aga ing misleading; he and I spoke directly to each other on a number of occasions during the conciliation. I note that he makes no mention of the extended periods of silence he and the Conciliator indulged in.

As su not consider that the applicant only agreed to the terms as a result of duress. There was unconscionable behaviour demonstrated b the reasons noted above and the Conciliator did place me under duress apparently at the behest o

A TTR / TRIP strategy is claimed to provide a particular cohort of people, of which I am one, with demonstrable, clear and distinct financial advantage promoted this to me and told me that is what they were setting up for me. They now claim that I suffered no disadvantage under the bodgey Ponzi like scheme that they fraudulently arranged for me.

In simple terms, a TTR / TRIP strategy either provides a distinct advantage to people in particular circumstances, or it doesn't.
If it does provide those advantages then I have been disadvantaged fraudulently not arranging my financial affairs correctly.
If it doesn't provide those advantages why ming that it does and promoting it to its clients?
The simple way to resolve these questions is to comp provide a side by side comparison of what it did do compared with what it should have done. However, despite numerous requests over many month uses to do this. This leads a reasonable person to assume they have much to hide. This is further demonstrated by its consistent misleading and deceptive, incomplete and inaccurate responses which lack honesty and integrity.

has always been desperate to avoid a side by side comparison and this goes some way in explaining unwarranted and unjustified abuse of the FOS conciliation process, which consumers and other stakeholders are entitled to consider as sacrosanct.

Given this gross abuse of the FOS process by its own membe and its senior management representatives, the decision by the FOS - not me a pts to imply – to set aside the tainted conciliation decision is a correct one and it should stand.

Yours sincerely

DavidBibo

David Bibo
21 July 2016

FOS FINANCIAL OMBUDSMAN SERVICE AUSTRALIA

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22 September 2016

Dear Mr Bibo

Applicant(s) **Mr David Bibo**
Service provi[redacted] **nancial Services Austral**[redacted]
[redacted] **nancial Services Australia**[redacted]
Case numb[redacted]

I refer to your dispute with the FSP.

This letter addresses your request to have the settlement agreement reached at the conclusion of a conciliation conference set aside and your dispute reopened.

Your concerns

I understand that you want the settlement agreement set aside because of your concerns about how the conciliation was conducted and that you were treated disrespectfully and unfairly by the conciliator. In particular you claim:

- that FOS conciliator engaged in a course of conduct that amounted to bullying or intimidation during the conciliation conference
- the FSP's representative was able to consult with his managing director during the course of the conciliation and you were not given the same opportunity to consult with external parties
- the FSP 'bullied' you into settlement
- the FOS conciliator misled you about the compensation that could potentially be awarded to you by FOS

I take the concerns you have raised very seriously. In particular the matters raised about the conduct of the conciliator.

The relevant events

I have reviewed the audio recording of the agreement made between the parties on the date of the conciliation and have read the material related to the dispute held on our file.

My understanding of the relevant events is as follows:

- the conciliation was conducted on 13 May 2016
- you agreed that the settlement terms as read to you by the conciliator on the day, reflected the agreement reached by you and the parties and that you were prepared to settle on those terms
- written settlement terms were received by you on 17 May 2016

- you executed the settlement terms on 17 May 2016
- you emailed the executed settlement terms to FOS and acknowledged you had sent the document to the FSP on 18 May 2016
- the FSP paid you $1,000 in accordance with the settlement terms on 18 May 2016
- you raised concerns with FOS about how the conciliation was conducted and asked for the settlement agreement to be set aside on 24 May 2016, and
- you have since returned the $1,000 paid by the FSP at the request of FOS.

INCORRECT

The handling of this matter by FOS since the conciliation

At the outset I want to express my disappointment at the confusing process which FOS has adopted since the conciliation took place. In my view it has not been consistent with our usual service standards.

That being said my role as Lead Ombudsman – Investments and Advice is to decide whether or not in all of the circumstances FOS should set aside the settlement agreement between the parties and reopen the dispute.

FOS' approach to setting aside settlement agreements

FOS considers that settlement agreements entered at the conclusion of conciliation conferences are binding upon the parties, unless it can be shown:

- the settlement is harsh, oppressive or unconscionable
- the settlement was obtained by misleading or deceptive conduct, or
- the applicant agreed to the terms of the settlement while under duress.

My approach

I consider in all of the circumstances that it is not fair or appropriate for FOS to reopen this matter or to set aside the settlement agreement.

In forming this view I note in particular that:

a) you seem to clearly express your agreement to the settlement terms on the audio recording. That audio does not indicate to me that you were subject to any duress at the time.
b) you were asked during that audio recording by the conciliator whether or not you agreed with the settlement terms, to which you said "I do".
c) the conciliator clearly outlined on that tape in a considered tone the agreement terms and next steps. The conciliator clearly asked both parties whether they agreed to the terms.
d) you raised concerns during the conference with the conciliator about whether or not he had any conversations with the FSP's managing director during the course of the conference and you were clearly advised that he had not.
e) a letter to you of 17 May 2016 following the conference attached the draft agreement and asked for any changes you would like made. That letter also advised that once signed, both you and the FSP would need to do what was agreed. The agreement clearly also advised that it would not take effect unless it was signed, but that once it was, it would be binding.

INCORRECT

f) you returned those settlement terms which were executed by you within 24 hours of receipt without comment.
g) it was not until after you received the payment of $1,000, some nine days after the conciliation conference on 24 May 2016 that you complained to FOS about the conduct of the conciliator and how the conciliation was conducted.
h) the settlement amount agreed to at the conciliation was in addition to previous sums paid to you by the FSP as a result of this dispute.

* FOS SOUGHT FEED BACK

I understand your concerns that the FSP's representative sought instructions to make a settlement offer from the FSP's CEO during the course of the conference. These types of conversations can sometimes occur during a conference and in this instance it was a reasonable course of action. It is our preference that FSP representatives come to conciliation conferences with the authority to act on behalf of the FSP, but this does not always occur. I am unable to identify any detriment to you in this conduct.

There is also no evidence before me that would suggest that the settlement was obtained by misleading or deceptive conduct or that the settlement was in all the circumstances harsh, oppressive or unconscionable, such that I could set aside the agreement.

On that basis the settlement agreement is in my view is binding on the parties and the dispute will not be reopened.

You may seek your own advice about any other legal rights or entitlements you may have.

A copy of this letter will be provided to the FSP, together with a request that it now proceed to make full and final payment pursuant to the settlement agreement.

Your sincerely,

Lead Ombudsman – Investments and Advice
Financial Ombudsman Service Australia

Financial Ombudsman Service Australia
GPO Box 3
Melbourne VIC 3001
E: info@fos.org.au

Dear

We acknowledge receipt of your belated letter of 22 September 2016. We also note that while the Financial Ombudsman Service (FOS) places deadlines upon consumers that are at times onerous it, however, does not apply the same standards to itself.

You say that you take my concerns seriously but then ignore them or at best make passing reference to them. You express your disappointment at the confusing process which the FOS has adopted since the conciliation took place but do not apologise for it or offer any explanation for the self-contradictory information and actions I have received from your colleagues.

Your letter is factually incorrect, as you appear to be unaware of relevant information or to have deliberately and simply ignored it. If you are aware of all the relevant information it appears that you have cherry-picked from it and referred to only that information which suits your purposes so as to support your decision that the decision of your colleagues to set aside the flawed resolution is now incorrect.

This is consistent with my belief that the 'settlem[illegible] that was reached was largely predetermined, or at least agreed upon at [illegible] the time, through collusion between the conciliator and [redacted]. The treatment that I received from the conciliator was different and placed me at a disadvantage, as he acknowledged himself, compared to how he dealt with [redacted]. This is not his role as a conciliator.

To delay, ignore, evade and avoid is a technique used by [redacted] and others so as to force consumers, through a process of attrition, to give up on their valid concerns. It now appears that the FOS indulges in the same behaviour and that it has an apprehended bias towards its own members [redacted] and the FOS appear to be of the view that if they ignore or hold back relevant information from consumers then the scams they foist, and allow to be foisted, upon consumers can safely continue in perpetuity.

Financial service providers (FSP) like [redacted] are free to operate in the comfortable knowledge that they can scam consumers and if the consumer reports the matter to the FOS then the FSP can through a process of attrition and with the deliberate or negligent assistance of the FOS, and its poorly trained or negligent conciliators, bully complainants into submission, so that the FSP can continue to get away with deliberately inappropriate advice and service. We note with particular interest, that the FOS *never* dealt with the core issue of my complaint and that [redacted] knew that it could rely upon the fact that it never would.

It is my firm view that you did not examine this matter in its totality and instead deliberately prioritised your member's interests over those of others. As you are aware, this is not the role of an ombudsman. The independence, integrity and role of the FOS must now unfortunately be called into question.

As a final courtesy to you, please be advised we intend to raise this matter with the Minister for Finance, Senator the Hon Mathias Cormann, and the Shadow Minister for finance, Dr Jim Chalmers MP, and we look forward to making a comprehensive submission to any financial services industry inquiry that may be announced.

In summary, the FOS has become part of the problem not part of the solution and corrupt FSPs lik[redacted] kn[illegible] this.

Yours sincerely

David Bibo

David Bibo
30 September 2016

320 / 240 Bunda Street Manhattan Building Canberra City ACT 2601 E: dcbibo@gmail.com

N.B: Note to other readers. The name of the FSP has been redacted due to the terms of the flawed 'settlement'. DB 4 October 2016

FINANCIAL OMBUDSMAN SERVICE AUSTRALIA

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4 October 2016

Dear Mr Bibo

Applicant(s) **Mr David Bibo**
Service provider [redacted] **Financial Services Australia** [redacted]
[redacted] **Financial Services Australia** [redacted]
Case number [redacted]

Thank you for your letter of 30 September 2016.

As outlined in my previous letter to you, FOS can only overturn a signed settlement agreement and re-open a dispute in extremely limited situations. As a matter of public policy and the law, these agreements form a contract between the parties and should not be interfered with unless exceptional circumstances exist.

It is part of my role as Lead Ombudsman Investments and Advice to assess requests made by the parties to have a dispute re-opened. That is what occurred in this instance. The matter was handled in accordance with our terms of reference and the parties were afforded appropriate opportunity to put forward any information and argument in support of their positions before the assessment occurred.

As outlined in my letter, I formed the view on the basis of the material before me that there were no grounds on which FOS could overturn this particular agreement. This meant that the dispute could not be re-opened. Written reasons for my decision have been provided to you.

I accept that you do not agree with my assessment. You may seek your own advice about any legal rights or entitlements you may have to overturn the agreement outside of our jurisdiction. It is now a matter for the parties. We would expect the FSP to make payment pursuant to the settlement agreement, if you so choose.

INCORRECT DETAIL

As Lead Ombudsman, it is also part of my role to review concerns made by parties about the handling of investment and advice disputes and whether our process has been followed. This matter has raised some important issues for us about consistency in our handling of post conciliation matters. I accept our

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FOS IN'T AS SET ASIDE

communication with the parties about whether or not the matter would be re-opened and the process we would adopt to resolve this issue, was confusing. I apologise. We could have and should have done better in this regard. These issues have been reviewed by management and we have taken action to ensure we handle requests like this more consistently going forward.

A copy of this letter will be provided to the FSP.

As the dispute is now closed, I do not believe that there is anything further I can add at this time.

Yours sincerely

Lead Ombudsman – Investments and Advice
Financial Ombudsman Service Australia