

THE

Mediator

A Publication of the Office of the Financial Services Ombudsman

WORD FROM THE OMBUDSMAN

This issue looks specifically at financial prudence, financial accountability, financial planning and personal safety. The essence of our advice is TO BE CAREFUL IN ALL YOUR UNDERTAKINGS. There are specific areas that we wish to emphasize.

In addition to Christmas, the Carnival and Easter seasons tend to be another time when expenditure is at its highest. The OFSO advises that you secure your bank cards, identification cards and other legal documents. This is a time when WHITE COLLAR CRIMINALS seek out unsuspecting individuals. DO NOT BECOME A VICTIM.

Be aware of fraudulent schemes using the ATMs and others via emails requesting details of your personal and financial information. If you have not purchased a ticket or entered a competition, it is unlikely that you can win millions of dollars. Be careful at ATMs when depositing or withdrawing cash (this is a special call to our senior citizens). The elderly or incapacitated are being targeted especially after they leave the commercial banks. Use an ATM that is well lit and frequented by others. Avoid using these machines at night. DO NOT ACCEPT ASSISTANCE FROM STRANGERS or FRIENDS regarding the completion of your ATM transaction. Cancel the ATM transaction if it appears that the machine is not functioning properly or the message is unusual. DO NOT SHARE YOUR PIN NUMBER WITH ANYONE.

We continue to see a rise in road fatalities. BE CAREFUL ON THE ROADWAYS. Ensure that your motor vehicles are road worthy and that your Certificate of Insurance is valid. Remember, using your motor vehicle for purposes other than what is



Ms. Suzanne Roach
Financial Services Ombudsman

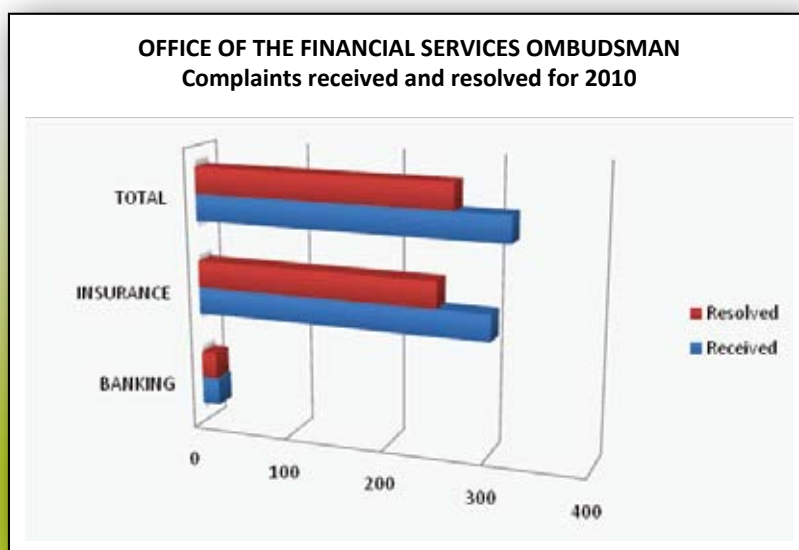
covered under the motor vehicle policy invalidates your claim should you get involved in an accident.

Ensure that you have funds or investments set aside for eventualities such as accident, sickness and death. Check out options available at various financial institutions regarding these types of circumstances mentioned above.

The Year in Review

As we look back on the year 2010 we note the changing of the guards as we said farewell to Ms. Ann Marie Narine. We resuscitated the Outreach Programme beginning with courtesy visits to BATT and ATTIC to introduce your humble servant, then to the branches of the insurance companies and then with the liaison officers of the insurance companies. We paid special attention to Tobago and met with 5 stakeholders including the Secretary of the Tobago House of Assembly.

The trend of complaints (as seen in the graph) continued to be weighted in terms of Insurance products and services as banking issues continued to decline. However, it should be noted that there has been an increase in the number of telephone calls regarding banking issues which is being tracked by our Office. Traffic on our website has increased and we have seen a direct correlation between our education seminars and the updates on our website.



Details of Complaints Processed by the OFSO in 2010

	Banking	Insurance
Brought forward from 2009	3	61
Complaints Received in 2010	15	241
Complaints Resolved in 2010	16	249
Complaints Carried Forward	2	53
Complaints Referred to FISD	0	50



OFSO OUTREACH

October - December 2010



University of the Southern
Caribbean



Sixth Biennial General Conference
of the Caribbean Ombudsman
Association (CAROA), Curacao,
October 31-November 5, 2010



OF SO OUTREACH

October - December 2010



Rotary Club of South
West Tobago



Trinidad and Tobago Chamber of
Commerce - Tobago Division



CASE STUDY



Denial of Liability:

Breach of Contract – “Vehicle not maintained in an efficient condition”

Mr. C was driving his vehicle along a Main Road, when another vehicle travelling in the same direction indicated to turn left. Mr. C maneuvered his car to overtake the vehicle but at the same time, the driver changed direction and pulled back right. To avoid a collision, Mr. C applied brakes and veered to the left, losing control of his vehicle and ran off the road. Mr. C having comprehensive motor insurance made a claim to his insurance company.

After several months, the insurance company advised Mr. C that his claim was denied on the grounds that one of the policy conditions was breached. This condition stated that the insured is required to maintain the motor vehicle in an efficient condition. Mr. C not satisfied with the outcome of his claim came to the Office of the Financial Services Ombudsman seeking assistance.

After a review of the complaint, the Ombudsman Office wrote to the insurance company enquiring as to their position on Mr. C’s claim. In their response, the company explained that the report submitted on the complainant’s vehicle by the Loss Adjuster indicated that the vehicle was outfitted with “.....smooth front tyres...” and the “.....tyre thread depth was 0.2mm, well below the legal minimum.....”

Given this information, the Ombudsman Office was of the view that the facts of the complaint, as presented by both parties, indicated that the company followed all the necessary steps in the discharge of its obligations and were within their legal rights to void the policy and deny the claim.

Subsequently, our Office advised Mr. C of the company’s final position. The complainant presented no further information/evidence to support his claim against his insurer and the complaint was eventually closed.

CASE STUDY

Disclosure of Pin

Ms. M on reconciling her bank statement discovered that there were two withdrawals that she could not identify. She subsequently visited the Bank to make enquiries regarding these unauthorized withdrawals. The Bank checked their records and indicated to Ms. M that both withdrawals were made through ATM transactions.

Ms. M advised the bank that on a previous occasion, when she was unable to use her card she had given it to her daughter to withdraw funds. However, she maintained that these specific withdrawals were not authorized and requested a full refund.

The bank agreed to investigate the matter further and told the complainant that they would advise her accordingly. After several unsuccessful attempts to get her matter resolved, Ms. M brought the matter to the attention of the Office of the Financial Services Ombudsman for assistance.

After a review of Ms. M's case, the OFSO held discussions with the bank regarding the complainant. In their response, the bank indicated that they would not be held responsible for Ms. M's losses since there was a clear breach of the Card Agreement by the complainant. As a result, she would not receive a refund of the monies lost. In support of their position, the bank submitted a copy of the Card Agreement outlining the conditions of use. They made specific reference to the provisions which stated that:

- The Cardholder will not allow any other person to use his/her Card and PIN and will be responsible for the care and safe preservation of both Card and PIN
- The Cardholder shall be liable for all indebtedness resulting from the use of the Card by any other person using the Card with the express or implied consent of the Cardholder.

The bank also provided evidence to show that the withdrawals were successfully made demonstrating that the PIN was used. The withdrawals were not fraudulent.

The Ombudsman's office held the view that based on the information submitted by the bank, they acted in accordance with the Agreement. Ms. M by her own admission disclosed her PIN to her daughter and in so doing had breached the cardholder agreement. The OFSO upheld the position taken by the bank and wrote to Ms. M advising her accordingly. The Office was unable to pursue the matter further and her file was closed.





HELPFUL HINTS



LOANS

- Resist borrowing for entertainment purposes. Don't let some moments of enjoyment keep you in debt for months to come.
- Instant gratification is short-lived. Payback lasts longer than an instant.



ROAD SAFETY

When driving,

- Consider the rights and privileges of others.
- Dip your headlights at night to all oncoming traffic.
- Never drive on a strange road as fast as on one that you know.
- Do not throw objects out of vehicles.
- Do not use the shoulder as a Highway.

BANKING

- At an ATM, always shield your pin from prying eyes. Use your body to block anyone's view of the key pad. Do this whether you are at an ATM, a gas pump or inside a store. Keep in mind that scammers need your PIN to make your card work. Guard it carefully.
- Memorise your PIN. Do not share it with anyone as far as possible. Do not write it down.
- Do not use an ATM if people insist on standing around.
- Use the same ATM for most of your transactions, it is easier to recognize when something is different with the machine. Be wary of changes. If the machine is in or affixed to a Bank, walk in and ask why the changes were made.
- Never take advice from "helpful strangers" about how to get your card back if an ATM keeps it. Report the incident to the bank as soon as possible so that the card can be deactivated if it was not kept for legitimate reasons.

A Seat Belt is a Life Belt USE IT AT ALL TIMES

- They keep you from being thrown from your car.
- From hitting the dashboard too hard.
- Gives you better control of your car.



The Office of the Financial Services Ombudsman was set up by the Central Bank in conjunction with the Banks and Insurance companies to investigate complaints from individuals and small businesses in respect of services provided by the financial institutions.

The aim of the Office is to render impartial and prompt resolution to complaints that customers have not been able to resolve satisfactorily with their financial institutions.

The Office is not a court of law. The process is relatively informal.

The Ombudsman's decision is based on four basic criteria:

- 1. overall fairness and equity**
- 2. general principles of best practice**
- 3. accepted industry standards and codes of conduct**
- 4. due regard to the law**

The recommendations of the Ombudsman are not binding except when an award is made by the Ombudsman and accepted by the customer.

The customer does not surrender his/her legal rights and is free, at any time, to explore other options for resolution of his complaint including taking the matter to court.

Complaints Process

Scope of Services

The OFSO can consider matters relating to a wide range of products and services offered by the banks and insurance companies. Generally, we will investigate issues such as:

Banks

- Deposit Accounts
- Loan Accounts
- Investment Services
- Trust Accounts
- Mutual Funds

Insurance

- Life policies
- Individual Annuity contracts
- Fire and general insurance
- Third Party Property Damage claims to a maximum of \$ 50,000.00, under a Motor Policy

Complaint Guidelines

Before the Ombudsman office can accept a complaint, the following guidelines should be considered:

- The matter must have first been referred to the institution at which the complaint arose and the complainant is still not satisfied with the outcome.
- The subject of your complaint must have first occurred on or after January 1, 2003 in the case of a banking complaint and after January 1, 2004 in the case of an insurance complaint.
- The complaint must not be related to the institution's general risk management policies, general rate of interest offered, or the pricing of products and services, such as premium rates, fees and charges.
- The matter must not currently be or have been before the courts or an arbitration body or any other dispute resolution process.

Making a Complaint

- The complaint must be in writing on the prescribed form. (Forms are available at our offices or can be downloaded via our website).
- The form must be signed by the Complainant and the authorized representative, if necessary.
- It must state the names and addresses of both the Complainant and the branch of the bank or insurance company.
- The facts pertaining to the complaint must be supported by any relevant documents. Also, you should include the nature and extent of the loss suffered and the relief being sought from the OFSO.

Resolution of Complaint

The Ombudsman Office will assess your complaint to determine whether it falls within its terms of reference. Thereafter, all attempts are made to settle the dispute by agreement between the two parties, that is, yourself and the financial institution.

If no agreement is reached, then a full investigation is launched into the matter leading to the making of a recommendation or finally to an award by the Ombudsman to settle the matter.

The complainant does not surrender his/her legal rights and is free, at any time, to explore other options for the resolution of his/her complaint including taking legal action. In this case the OFSO will consider the matter closed at that stage.

For Further information, you may contact or visit:

The Office of the Financial Services Ombudsman

Located at: First Floor, Central Bank Building, Eric Williams Plaza, Independence Square, Port of Spain

The OFSO Tobago office is located at the THA Conference Facility, Glen Road, Scarborough

Tel: 625-4921 Ext.2685/2681/2675/2650

• Email: info@ofso.org.tt

• Website: www.ofso.org.tt