



THE Mediator

A Publication of the Office of the Financial Services Ombudsman

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A Word from the OMBUDSMAN



Ms. Ann Marie Narine

It is indeed my pleasure as the Financial Services Ombudsman to welcome you, the citizens of Trinidad and Tobago, to this inaugural issue of the newsletter from the Office of the Financial Services Ombudsman (OFSO). Our goal is to produce this Newsletter, The Mediator, quarterly to keep you

informed on what is happening at the OFSO and to give you the opportunity to provide us with feedback.

The OFSO celebrated five years of existence in May 2008 and we are quite satisfied that we have served the public well over this period. Indeed, our records show that we were able to resolve 90% of the complaints received. This, however, does not mean that we cannot do more and so this Newsletter serves as one of several ways that we will utilize to reach you the public.

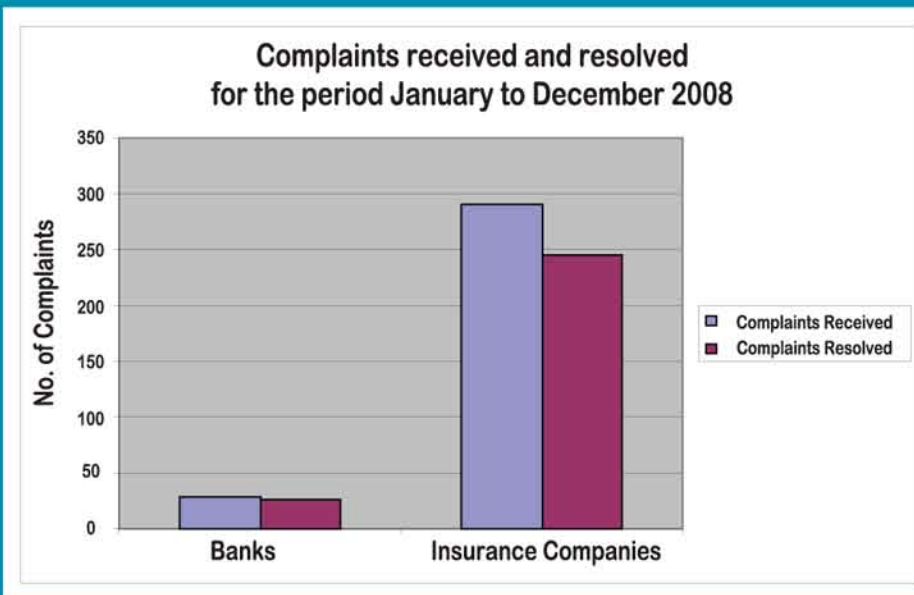
The Financial Services Ombudsman Services Scheme is a free, independent dispute resolution service for customers with a complaint against any of the 30 insurance companies and 8 commercial banks which are all members of the Scheme here in Trinidad and Tobago. The OFSO provides this service to small businesses with assets no greater than \$1.5 million and individuals who have not been able to settle certain complaints with their financial institutions. The service is as an alternative to the court process which can be quite costly and lengthy. Our brochures which can be found on our website or at our office provide you with all the details of the types of complaints you can and cannot make against a financial institution.

In resolving complaints, it is important that you the public understand that we use the mediation process to settle complaints impartially and to make what we believe are fair and balanced decisions based on the facts presented by each party.

When you contact us for assistance, our aim is to treat you with courtesy and respect and to treat your information with the strictest confidence. We recognize that the complaints you bring to us after seeking resolution from the financial institution will often cause you some anxiety and so it is our intention to provide you with an informed and accurate response in a reasonable and timely manner.

What then do we ask of you? We ask that you provide us with accurate and complete information. If you are not truthful then the correct advice cannot be given. Our motto is "We Can Help" which means that we will go the extra mile to assist you in resolving your complaint. You are however required to exercise patience in these matters as we must evaluate the information provided by both sides in order to reach a fair decision.

Finally, we thank those members of the public who have taken the time to send us thank you letters and cards for our assistance in resolving their matters.



Places we have been and People we have seen

Apart from the work that the OFSO does in settling disputes between customers and financial institutions, we also try to educate the general public further about our office and the services that we provide.

We do this by going into the communities where our complainants live, work and play.

Since assuming office in May 2008, the Financial Services Ombudsman has been busy with a number of speaking engagements, both on her own and along with the National Financial Literacy Programme (NFLP). These include:

- Cipriani Labour College in Valsayn
- The Arima Town Hall, and
- The Scarborough Centre for Youth Development

Other visits included a trip to Tobago to meet with the Tobago House of Assembly (THA) in August 2008; a presentation to TSTT Retirees in September 2008 and participation in Finance Expositions held by the THA in October 2008 and the Chaguanas Borough Corporation in November 2008.

Expositions



KUDOS

"We must express our many thanks for your support and assistance in this matter which has been totally resolved to our client's satisfaction." ~lawyer on behalf of his client

"I wish to extend my thanks to your office for the assistance you rendered me..."

Third Party Motor Claim

Mr. C. was driving his car along the Blanchisseuse Road, when he saw another car approaching from the opposite direction. He stopped, but the oncoming vehicle came across the roadway and collided with his vehicle. He submitted a third party claim to the other driver's insurance company seeking compensation for the damages to his vehicle.

After several months, the insurance company failed to settle Mr. C's claim and he then sought the assistance of the Office of the Financial Services Ombudsman to resolve the matter. The Ombudsman office wrote the company requesting settlement of Mr. C's claim. The company

responded offering settlement on a "50-50 contributory negligence" against both drivers, that is, both parties being held responsible for contributing to the accident. Mr. C was advised of the insurance company's position and did not accept their offer.

The Ombudsman office reviewed the reports from all parties and obtained professional advice and opinions on this case. It was concluded that Mr. C in no way contributed to the accident and that the insurance company's insured should accept 100% liability. This was communicated to the insurance company for a review of the claim, however they maintained their position. In order to have the matter resolved the Financial Services Ombudsman Office made an award to

Mr. C, which was paid by the insurance company.

Lesson of the Case:

This case should serve as a reminder to motorists that when driving on a road allowing for two way traffic, and there is an obstruction occupying **your side** of the road way, for example, a land slip, a parked vehicle or road works, you are under duty to exercise due care and attention and to proceed **only** when the opposite carriageway is clear or you are able to ascertain that any oncoming vehicle is giving way for you to do so.

Unauthorized ATM Withdrawal

The customer attempted to use his debit card at an ATM machine on a Saturday morning. There was no one else in the vestibule at the time, however, when he inserted his card into the ATM, it became stuck in the machine which then displayed a message 'Out of Service'.

While the customer was attempting to retrieve his card, a well-dressed lady entered the vestibule and offered to assist him. She offered to place a call to the bank's customer service hotline using her mobile phone. The customer, in his confused state, spoke with the person on the line, whom he believed to be to be a representative of the bank. He was told that in order to have his card ejected from the machine he should press 'CLEAR', then 'ENTER', followed by his PIN three times.

The customer followed these instructions carefully with the "good Samaritan" looking on all the while. Needless to say, the card remained stuck in

the machine and the person on the telephone advised him to contact his bank on Monday.

The customer went into his bank on Monday to report the matter, and discovered that practically all the funds in his account had been withdrawn. He then lodged a complaint at his bank seeking reimbursement of the unauthorized withdrawals. His request was denied by the bank on the basis that the customer breached the terms and conditions of the agreement under which the card was issued as he admitted to disclosing his PIN, albeit unknowingly. The customer then sought the assistance of the Office of the Financial Services Ombudsman in seeking redress, but after investigating the matter, the OFSO agreed with the bank that the agreement between the bank and the cardholder had indeed been breached and the customer had voluntarily disclosed his PIN to someone else, even though unknowingly.

The bank, through the use of promotional flyers in the vestibule of the ATM machine and in their bank halls, reinforces the proper use of the ATM cards with their customers and advises them that they should safeguard their PIN at all times. It also reminds their customers that if at any time during a transaction, they should feel uneasy due to the presence of other persons (inside or outside the vestibule), they should cancel the transaction and return at another time or choose another location where they feel safer.

Unfortunately, this customer had disclosed his PIN to a fraudster who appeared to be a 'good Samaritan'. In doing so, he breached the terms of the card agreement thereby relieving the Bank of any liability with respect to the missing funds.

Lesson of the Case:

Never disclose your PIN to anyone, even to a banking official.

Complaints Process at the OFSO

Scope of Services

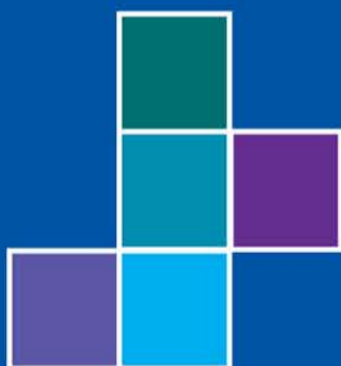
The OFSO can consider matters relating to a wide range of products and services offered by the banks and insurance companies. Generally, we will investigate issues such as:

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 \$ 25,000.00, under a Motor Policy



Complaint Guidelines

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

- The matter must first have 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 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** and/or finally to an **award** by the Ombudsman to settle the matter.

The Ombudsman's decision is based on the following criteria:

- overall fairness and equity
- best practice in the industry
- the accepted industry standards and practice
- standards established by industry regulatory bodies
- professional association of the individual financial institution where the complainant does business, and
- due regard for the law

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 the legal action. 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

• Tel: 625-4921 Ext.2685/2681/2675/2657

• Email: info@ofso.org.tt

• Website: www.ofso.org.tt