

Chris and Claire Priestley
438 Miralwyn Road
Carinda NSW 2831

14 August 2014

Professor Ian Harper
Chairman
Competition Policy Review
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Professor Harper,

Re: Complaint National Australia Bank's Agribusiness Contract

Further to my submissions to the Competition Policy Review of 4 July 2014 and 6 August 2014, I will bring to your attention the following documents, with points of reference below.

This may assist you when considering our submissions claiming the Agri-Business contracts we signed in 2004 and 2008 were unconscionable, and throughout this period the NAB relied on an undisclosed constitution to avoid having to investigate complaints.

The relevant documents in relation to the complaint include:

- A. 1 October 2004 letter from the NAB Agribusiness Manager to Mr Priestley and Miss Priestley titled, 'Farm Management Account Facility Approval Advice', "setting out agreement between you and the Bank for your Farm Management Account Facility" (attached and marked "A").
- B. River Station Partnership's National Farm Management Account Farmers Choice Statement starting 30 October 2004, and our NAB bank statement ending 30 November 2004 (attached and marked "B").
- C. National Australia Bank's Farmers Choice Package Agreement (version effective 31 May 2004) (attached and marked "C").
- D. 2 April 2008 letter, from the NAB Agribusiness Manager, to Mr and Mrs Priestley titled, 'Letter of Offer for Christopher William Priestley & Claire Milla Beverly Priestley, carrying on business under the name of River Staation Partnership ("you")' (attached and marked "D")
- E. 25 May 2010 letter from the NAB Manager, Office of the Customer Advocate, on behalf of the bank, to Mr and Mrs Priestley titled, 'Re: E-mail to – 19 March 2010' (attached and marked "E").
- F. 22 November 2012 letter from Claire Priestley to the National Australia Bank, titled, 'Re: Code of Banking Practice and National Australia Bank's breach of contract' (attached and marked "F").

- G. Affidavit of Claire Milla Beverley Priestley dated 5 December 2012 (attached and marked "G"), with annexure referred to in the affidavit as "H".
- H. Transcript of Garling J, Wednesday 5 December 2012 - 2011/292621, NAB v Christopher William Priestley and Claire Milla Beverley Priestley (attached and marked "H").
- I. Code Compliance Monitoring Committee Association's Constitution dated 20 February 2004 (attached and marked "I").
- J. Garling J, RFD SC's judgment of National Australia Bank Ltd v Priestley in the Supreme Court, New South Wales, Common Law Division (attached and marked "J").

Suggested points of reference in respect of the attached documents and marked:

A.

- "The Approval Advice is the agreement between you and the Bank for the Farm Management Account Facility ("Facility"), which is outlined in this advice." (Page 2)
- Credit Fees and Charges – "Application Fee: \$5000. The Application Fee is now due and will be debited from the account. The Application Fee is not refundable." (Page 5)
- The Code of Banking Practice: "The Bank has adopted the Code of Banking Practice and relevant provisions of the Code apply to this facility, if you are an individual or a small business customer (as defined by the Code)." (Page 7)

B.

- Farm Management Account Farmers Choice transaction details: 3 November 2004 Loan Application Fee debits \$5,000. (Page 1 of 2)

C.

- Terms and Conditions:
 - i. Clause 1. Agreement to open account. "You have requested that the Bank provide you with a Farmer's Choice Package ("Package") on the terms of this Agreement." (Page 2 of 11)
 - ii. Clause 15. Code of Banking Practice. "The Bank has adopted the Code of Banking Practice and relevant provisions of the Code apply to this Agreement, if you are an individual or a small business customer (as defined by the Code)." (Page 6 of 11)
 - iii. "Application Fee \$500.00" (Page 9 of 100)
 - iv. Annexure "A" "This is Annexure "A" referred to in the Farmers Choice package between Christopher William Priestley and Claire Beverley Priestley carrying on business under the name River Staation Partnership and National Australian Bank Limited ABN 12 004 044 937."

D.

- "Our offer is subject to the terms and conditions set out in...(b) the Specific Conditions (if any)..." (Cover page)
- Business Letter of Offer date 2 April 2008 (Page 1 of 36)
- Terms and Conditions:
 - i. General Conditions (Page 15 of 36)

- ii. Clause 20. Code of Banking Practice: "NAB has adopted the Code of Banking Practice and relevant provisions of the Code apply to these *facilities* if you are an individual or a small business customer (as defined by that Code)." (Page 25 of 36)

E.

- "This is the proper forum for the resolution of these matters and I trust it will bring about the right outcome for all involved."

F.

- "I now make a final demand that you bring to the attention of the Court complaints you failed to investigate as set out in the Code of Banking Practice and justify the reasons why you breached the Code. The Code was an important part of the contract we signed with the National Australia Bank (the Bank) in 2004, and as a director of the Bank and the Australian Bankers Association you must have known this."
- Complaint No. 1: "The bank failed to deliver on any promises in the Code of Banking Practice..."
- Complaint No. 2: "When referring to appendix "A", the complaint uppermost is Clause 2.2 when it said it will act fairly and reasonably towards us..."
- Complaint No. 3: "The bank stubbornly refused to investigate a [series] of complaints we referred to in 2010..."
- Complaint No. 4: Relevant clauses in the Code set out in points (a) – (h).
- Complaint No. 5: "[The above] demonstrates promises made by the Bank in 2004 were worthless."

G.

- Points raised in the affidavit relevant to the Code of Banking Practice:
 - i. Point 7: "An issue that we always wanted to deal with in our previous defences was the Code of Banking Practice, in particular its Dispute Resolution section." (Page 2 of 8)
 - ii. Point 8: "The bank failed to follow the Code of Banking Practice, that is part of the contract, in relation to complaints..." (Page 2 of 8)
 - iii. Point 16: "Instead of following the dispute resolution section of the Code of Banking Practice to deal with our complaints, the bank chose a forum in which we couldn't solve our complaints." (Page 4 of 8)
 - iv. Point 21: "The outcome of the mediation was that we entered into an agreement unwillingly because of the pressure on us to comply with the Farm Debt Mediation Act or face immediate court action." (Page 4 of 8)
 - v. Point 25: "The Code of Banking Practice is part of our contract, the contract makes no reference to Farm Debt Mediation. [It] was not the proper forum to deal with our complaints..." (Page 5 of 8)

H.

- "Ms Kuti for the Plaintiff, The Defendants appeared in person." (Page 1 of 17)
- References to the Code of Banking Practice, the Constitution and the Code Compliance Monitoring Committee:
 - i. Page 10, line 29: "CHRISTOPHER PRIESTLEY: We have been given a copy of the constitution that the Code of Banking Practice is actually

bound by an association that we did not know and that your complaints can never be heard..."

- ii. Page 11, line 1: "HIS HONOUR: What constitution are you talking about?"
- iii. Page 11, line 3: "CLAIRE PRIESTLEY: ... These are attachments that I was going to hand up."
- iv. Page 11, line 7: "HIS HONOUR: Are there more to be handed up?"
- v. Page 11, line 9: "CLAIRE PRIESTLEY: This is from last week, the affidavit."
- vi. Page 11, line 11: "HIS HONOUR: Best you hand that up, too. ([Affidavit] handed up.)"
- vii. Page 11, line 42: "CHRISTOPHER PRIESTLEY: ...the word forum is in the constitution but it is not in the pamphlet."
- viii. Page 12, line 11: "HIS HONOUR: ...What is it about the content of the constitution of the code and compliance monitoring committee that you say is relevant?"
- ix. Page 12, line 14: "CHRISTOPHER PRIESTLEY: I will hand it up."
- x. Page 12, line 19: "HIS HONOUR: Hand the constitution up. (Document handed up.)"

I.

- Clause 2.1 Definitions: "**Forum** means any court, tribunal, arbitrator, mediator..." (Page 2 of 24)
- Clause 8.1 Consideration of complaints about code breaches

The CCMC must consider any complaint alleging that an association member has breached the code, except that the CCMC must not consider a complaint:

(b) "if the CCMC is, or becomes, aware that the complaint:

(i) is being or will be heard...by another Forum...In such a case the CCMC must not consider the relevant complaint until the relevant Forum has determined, or declined to determine (for whatever reason), whether the breach of the Code has occurred..." (Page 14 of 24)

(c) "if the CCMC thinks there is a more appropriate Forum to deal with the complaint." (Page 15 of 24)

J.

- **Orders** by Garling J, point 46. (Page 9 of 9)

The above points demonstrate a pattern of deception that the bank should have investigated 10 years earlier. Further, we believe the director's conduct is under question as we had to trust the bank to investigate our complaints, and it failed.

When the bank failed to investigate the complaints we had no recourse, as it was a controlling agent and a principle financier of the Australian Bankers Association, the Financial Ombudsman Service and the Code Compliance Monitoring Committee.

All these bodies were aware of a dishonest and potentially fraudulent relationship between banks, including the NAB, and the Code Compliance Monitoring Committee Association's

undisclosed constitution, a document that must have been approved by the NAB directors in 2004.

Sincerely,

A handwritten signature in blue ink, appearing to read "Claire Priestley".

Claire Priestley

Attached and marked "A" – "J" are supporting documents available upon request