

Chris and Claire Priestley
438 Miralwyn Road
Carinda NSW 2831

16 September 2014

Mr David Murray AO
Chairman
Financial Systems Inquiry
GPO Box 89
SYDNEY NSW 2001

Dear Mr Murray,

RE: FINANCIAL SYSTEMS INQUIRY – OUR BANK LETTERS

During the past few months we have sent complaints to our Bank's Chairman, without response. It is frustrating but supports our position that the Bank has no intention of investigating dishonest banking practices.

There is something comical about conspiracy theories in this day of tabloid and social media. And to suggest there is financial corruption occurring on a daily basis that involves Australia's 16 major banks, 2½ million small businesses, 1 million farmers and 22 million customers seems farcical. It would be easy to dismiss such a claim as sensationalism and turn to the next document. However, history shows that such silent conspiracies have not only occurred, but in other parts of the world, have been discovered.

This submission is a case study, which provides evidence of banking misconduct, and knowingly corrupt and unconscionable behaviour being carried out by senior banking executives at the expense of businesses and individuals. Yet this case adequately introduces the truly vast array of evidence that can be used, and is available, showing the 16 participating banks knowingly created a corrupt and unconscionable situation that would enhance their monopoly profits and leave small and agricultural businesses without any rights, and in this case, without their livelihood or finance. The attached annexures supply an overview of the vast collection of evidence available in this matter and gives an intimation of the depth of evidence available to investigate further accounts of misconduct carried out by the banks over a 10 years period.

Letters to the Chairman

Upon being denied a further business loan, regardless of the collateral we had in our property, myself Claire, and my brother, Chris Priestley, made a formal complaint to our bank verbally. After being denied the right to view the earlier complaint after it was written out by our local banker, we ensured further complaints to our bank were put in writing. Attached and marked ANNEXURE A are copies of the three letters sent to the Bank's Chairman.

28 July 2014

We sent this letter outlining our experiences that led to the sale of our farm at a heavily discounted price. The letter also outlines the ways in which the Bank was in breach of its contract, as our complaints had never been investigated.

4 August 2014

We once again wrote to the bank outlining our complaint in respect of their corrupt banking practices and placing another call for an investigation into our concerns to be conducted. In response, we received nothing.

12 August 2014

We sent a detailed letter outlining the documentation the bank had access to that clearly showed a web of deception that had been formed to prevent any complaints from being investigated, and denying us our rights under our agreement with the Bank.

To this date, our complaints have still not been investigated, although we are guaranteed investigation of all complaints under the Banking Code, which we were informed by our Bank was a contractual agreement.

Evidence of Contractual Nature – Letter of Offer

The Bank's Agribusiness Manager signed the Letter of Offer on 2 April 2008, which allows the Bank to change the agreement we made with them in establishing the terms of our business loan. Attached and marked ANNEXURE B for a list of the changes the Bank can make at any time. Interestingly, all the possible changes needed a level of transparency that gave our business confidence that we would not be the victims of corruption.

For example, clause 15.1, section (i) states the Bank can, "change any of the other provisions of this Agreement as a result of a change to any law affecting this agreement." This was understandable and meant that we simply needed to be aware of changes to the law as it related to finance. Even the more non-specific sections, (c) and (j), stated respectively that the Bank can, "introduce a new fee, charge or premium, vary the amount of a fee, charge or premium, the way in which it is calculated or when it is charged" and, "change any other provision of this Agreement." As the contract we signed ensured the Banking Code protected us, it meant we could lodge a complaint if the Bank made any changes in an unfair or unexpected manner and this would be investigated.

Specifically, clause 20 stated, "Code of Banking Practice: [the bank] has adopted the Code of Banking Practice and relevant provisions of it apply to these facilities if you are an individual or a small business customer (as defined by that Code)." We knew that we could not be denied access to the protection provided by the Code as clause 15.5 of the agreement stated, "Variation: Unless otherwise provided, the terms of this Agreement may only be varied by written agreement of the parties."

Thus, we understood from the Agreement that no changes could be made without our approval or reasonable knowledge of the reason for the changes. If the reason for the changes was unknown, the Banking Code ensured that we could lodge a complaint and have that complaint investigated in an unbiased, transparent manner and a solution could be found. The Agreement ensured that we are an active financial partner in the Agreement between the Bank and ourselves.

Code of Banking Practice

Of course, perusal of the first letter in ANNEXURE A provides details of the circumstances that saw the destruction of our business and livelihood. When engaging in the aforementioned behaviour and manoeuvring, the Bank simply broke an endless number of the tenants set out in the Code of Banking Practice. See annexure marked C for a more substantive summary of the Code. However, the following are a series of points that the Bank clearly disregarded when engaging with us after we lodged our first complaint.

Clause 2.1, section (d) states the bank will, "provide information to you in plain language ..." Obviously, no information was provided to us as our complaint was never investigated. Rather, we received a series of instructions outlining what our next action must be which led us to mediation, then court. None of this information was in plain language.

Clause 7, sections (a) and (b) state the bank will, "ensure our staff ... will be trained so that they:

- (a) can confidently and efficiently discharge their functions and provide the banking services they are authorised to provide, and
- (b) have an adequate knowledge of the provisions of this Code."

Obviously, the fact that our initial complaint was promised to us in written form by our local banker, but was then denied to us, is representative of the fact that the Bank's staff were not well trained and did not know the provisions of the Code.

Clause 34, section (a) states that the bank agrees, "to participate in establishing a Code Compliance Monitoring Committee (CCMC) comprising:

- i. 1 person with relevant experience at a senior level in retail banking in Australia, to be appointed by banks that adopt this Code;
- ii. 1 person with relevant experience and knowledge as your representative, to be appointed by the consumer and small business representatives on the Board of Directors of the BFSO."

At no time throughout our negotiations with the Bank were we offered the opportunity to meet with the CCMC, nor were we ever provided the opportunity to have a professional representative and all of the relevant documents. By the time we went to court against the Bank in December 2012,

the Bank were aware we were in such a poor financial situation that we were not even able to employ a lawyer to represent us.

Clause 35.7 and 35.8 state, "Our dispute resolution process is available for all complaints other than those that are resolved to your satisfaction at the time they are drawn to our attention." Also, "We will provide you with the above information in writing unless it has been mutually agreed that it can be given verbally." Obviously this was plainly untruthful, there was no dispute resolution process followed when dealing with our complaint and no information was provided to us in writing or verbally relating to the outcome of any Bank investigation.

Code Compliance Monitoring Committee Association's Constitution

Such obvious and intentional dismissal of a Code by the 16 Banks that they optionally entered into and had as a term of their contracts with individual and business customers defies belief. It also leads to question under what guise these Banks felt they were able to engage in this blatant, and seemingly unconscionable and unlawful dismissal of the Code. In late 2012, we discovered the answer to this was set out in the Code Compliance Monitoring Committee Association (CCMCA). Kept from us throughout this experience was the CCMCA's conspiratorial constitution the Banks had developed.

The members of the CCMCA were the Chief Executive Officers (CEO's) of the 16 participating banks, or a representative who had signed confirmation from their CEO that they represented their bank. Significant points within the CCMCA's constitution can be viewed in ANNEXURE D. However, the following is a sample of the corruption that the 16 Bank CEO's and their constitution made possible. Clause 3.1 of the constitution states the, "objectives of the CCMCA are to establish and to make provision for this operation of the CCMC."

Yet, the same constitution goes on to restrict the ability of the appointed Code Compliance Monitoring Committee members to see any complaints, in effect making them, at best, a 'toothless tiger' and at worst a fantasy espoused to keep governments and the public ignorant of a financial conspiracy in action. Clause 8.1 states, "The Code Compliance Monitoring Committee must consider any complaint alleging that a member [bank] has breached the code except that the Code Compliance Monitoring Committee must not consider a complaint:

- (a) To the extent that the complaint relates to a CCMCA member's commercial judgement about lending or security. However, the Code Compliance Monitoring Committee may consider a complaint alleging a breach of the code arising from maladministration by the CCMCA member in arriving at a commercial judgement." As the public was never made aware of the CCMCA's constitution, how did they expect anyone to make a claim of maladministration by the CCMCA?
- (b) "If the Code Compliance Monitoring Committee is or becomes aware that a complaint is being or will be heard in another forum and the

forum may make a final determination as to whether a breach of the Code, or [the complaint] was heard by another forum and the forum has determined whether the breach of the code has occurred." This particular point of the CCMCA's constitution explains why in our own case, the Bank bullied us into mediation and then forced us to court. This ensured that our case was heard in two other forums and prevented any possibility of our complaints being heard by the Code Compliance Monitoring Committee.

- (c) "If the Code Compliance Monitoring Committee thinks there is a more appropriate forum to deal with the complaint." This clause ensures that if a complaint does somehow make it to the Code Compliance Monitoring Committee, it can still be refused an unbiased investigation, as there are so many other forums that could consider it, in effect all complaints could be constitutionally dismissed.
- (d) "The complainant was aware of the events to which the complaint relates or would have become aware of them if they had used reasonable diligence and more than one year before the complainant notified the Code Compliance Monitoring Committee in writing."

Obviously, these points are so vast as to ensure that no complaint ever made it to the Code Compliance Monitoring Committee.

However, the final act of collusion in the CCMCA's constitution was the clause related to indemnity. This clause sought to ensure that the individuals responsible for the underhanded and corrupt constitution would never be held personally accountable for their actions. Clause 14.1 states, "Each Code Compliance Monitoring Committee Member shall be indemnified out of the assets of the CCMCA and (to the extent that they are inadequate) by each Association Member against all liabilities arising out of the discharge of their responsibilities as a Code Compliance Monitoring Committee Member." Thus, the Code Compliance Monitoring Committee members were indebted to the 16 subscribing Banks for protection.

Bank of America Case

On 21 August 2014, the American Department of Justice announced that the Bank of America would pay \$16.65 Billion for financial fraud leading up to and during the Global Financial Crisis. Attached and marked ANNEXURE E is a copy of the media release that cited a number of reasons for the culpability of the Bank of America. Specifically, it found the Bank had acted deceptively, not fully enclosing all information to customers. Further, that it had arranged secret deals with others in the financial sector to increase its profit, at the expense of its customers.

A major aspect of the settlement was not just the financial cost to the Bank of America, but also the fact that it was required to publically admit its corrupt behaviour. Of particular significance to the Australian situation was the fact that, "the bank made admissions concerning their conduct, including they were aware ... that loans they had made to borrowers were defective ...

representations and warranties ... about the quality of the loans were inaccurate."

As yet, the 16 colluding Australian banks have not been forced to make such an admission. US Attorney Anne M. Tompkins for the Western District of North Carolina stated, "Even reputable institutions like the Bank of America caved to the pernicious forces of greed and cut corners, putting profits ahead of their customers. Today's settlement makes clear that my office will not sit idly while fraud occurs in our backyard."

My brother Chris and I sincerely request that this Financial Systems Inquiry does not sit idly by and allow such underhanded and corrupt practices to continue in the banking sector of this nation. Being a victim of this banking fraud has lead me to give up my career, my financial assets and my health in discovering this greed by the Bank we trusted.

I now, more than ever, need your assistance to ensure that change is made and no individual, small business or farmers are ever treated as collateral by a financial institution that was, from the start of our arrangement, meant to be a partner.

Thank you for receiving and reading this submission.

Yours Sincerely,


Claire Priestley