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Mr Michael Chaney
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22 December 2010

Dear Mr Chaney

I write to you in your role as Chairman of the Board of the National Australia Bank. I am writing to the UWA address because I cannot be assured that this correspondence will reach you via the NAB.

This letter concerns what the evidence supports as longstanding and ongoing NAB unconscionable practices towards small business / family farmer borrowers. I have, against my will, been drawn into this arena over the last decade in my research, writing and advocacy (and would dearly like to leave it behind to enjoy a more productive retirement). The evidence indicates that NAB management is committed to carrying on indefinitely with this unsavoury dimension of its operations.

I wrote a letter to CEO Cameron Clyne on 29 July 2010 regarding this matter, copy to you via NAB email. I received a response from James Stafford, Office of the Customer Advocate, on 9 August 2010 advising that everything was in perfect working order and that, respectfully, I was quite wrong on my estimates of the experience a range of foreclosed customers. Bollocks.

You can honour my self-respect by not instructing this PR flak to respond to this letter with the usual banalities. I would prefer that you mull over its contents and take appropriate action.

I note from casual inspection of my files that one bank victim, Alan McMinn, wrote to you in 2005 when you were on the Board but before you had assumed the chairmanship. McMinn also mentioned in passing that I was the author of a 2004 dossier summarising eight cases of NAB victimisation (7 small business/farmers, 1 guarantor) ranging from 1984 to 2001. You also were

the addressee on correspondence from another victim, Paul Buckman, in October 2008. You have also been the recipient of (email) correspondence from a victim, Rosie Cornell, in June-July of this year. Cornell was blessed with the usual response from said Office of the Customer Advocate (sic) – that is, go away.

Clearly, a Board Chairman can hardly be concerned with the details of particular complainants. But when disgruntled customers are forced to write to a company chairman, effectively as a last resort, bells should be ringing.

There is currently a healthy number of NAB victims in your own state of Western Australia. A bank victim (courtesy of CBA, in cahoots with WA establishment institutions Freehills and KPMG) recently told me that the inability of bank victims to get justice before the partisan bench in WA appears to be now possibly being redressed with a new broom under the new Chief Justice. There are also a couple of local lawyers with hardened experience of NAB practices assisting current victims. Rare good news. It would appear to be an appropriate time for reappraisal of the bank's practices in your home State in which 'spivs' and 'shonks' are said to be now ancient history.

An exchange last week during the Senate inquiry into banking competition is instructive. From page E69 of Hansard, 13th December:

Senator XENOPHON—Finally, I attended, as did Senator Williams, for much of a day a mediation between the bank and three individuals—Ozzie Inak, Memhet (sic) Ali Kay and Memhet (sic) Canli. This was in relation to what I think you could say was quite an ugly dispute that ended up in the New South Wales Supreme Court before Justice Rothman, where certain findings were made against the bank. Fortunately, that matter was resolved as a result of the intervention of senior bank officers—and all credit to you for that. But it was a long, drawn out dispute; it was very ugly, it was very unfortunate in terms of the personal impact it had on a number of those individuals. What can be done so that these sorts of things do not get out of control? Again I emphasise that fortunately it has now been resolved. How do you prevent things from going haywire in the first place so that you do not have that enormous toll on the individuals and also the resources of the bank tied up in that sort of long-running dispute?

Mr Clyne—Obviously, it would be inappropriate for me to comment—

Senator XENOPHON—Just in terms of the systemic issues.

Mr Clyne—We have over three million customers in Australia and inevitably, given the millions of interactions we have with those customers, there are going to be situations where we do not do the right thing by them. What we have been trying to drive is, I think, evidenced by our push on the fee front. We have been heavily criticised for that by a range of people who suggest that we are trying to drag the industry down. What we are trying to do—and what we are saying—is: 'No. We want to provide a competitive offering. At the heart of that is our desire to have a better relationship with our customers. There will be situations—not wanting to comment on the specifics of that case—where we do not do the right thing by our customers. I think what we have to do as an industry,

and certainly what NAB is committed to doing—is step up, acknowledge where we have made a mistake and try to rectify it. We deal in a regulated industry as well and, in many cases, you have to deal in black and white. You have to be very clear in the terms that you are providing and in the nature of the contract you have between the bank and the customer. Inevitably, when there is a dispute, there is grey. Unfortunately, those things often take time to resolve because you do not want your bankers dealing in grey. You need to do most of what you do in black and white in order to make it fair and transparent for the customer, and sometimes it does need to be escalated, unfortunately, where people make a pragmatic and common sense assessment on individual cases. We would like to see that resolved more quickly in most cases, but that is generally, unfortunately, what drives it. It gets to a situation where there is a dispute and an element of grey. Generally, it has to then go to more senior members in the bank to try and—

Senator XENOPHON—Although, in this case the Supreme Court said that it was black and white.

Mr Clyne—I cannot comment on the individual details of that case.

Here we have Mr Clyne effectively perjuring himself, or at the least dissembling to the Committee. Which action, to put it diplomatically, is manifestly disrespectful of the protocol of Parliamentary hearings.

As Senator Xenophon intimated, *Kay v NAB* is black and white – nothing ‘grey’ about it all. And I have greater familiarity with this case than does the worthy Senator. As I have separately communicated to the Senators, if the bank had played bank and not loan shark from the beginning of the relationship in 2003, this court case adverse for the bank (and creating another significant legal precedent) would never had come to pass.

Mr Clyne’s response and the NAB’s unrepentant belligerence following the judgement of Rothman J indicates that the NAB intends to carry on with business as usual – that the Rothman judgment was an irritating hurdle to be brushed aside. But *Kay et al* had two aces with which the NAB was unaccustomed – the benefit of supportive media coverage, and an income stream that brought them to and kept them in the courts – assets not typically possessed by NAB’s victims who thus never make it into the spotlight.

An article that heralded your appointment to the Board and impending assent to the NAB chairmanship (*The Age*, 26 June 2004) includes the following:

But Chaney will be influential in suffusing NAB with cultural and ethical standards, and he expects management to do likewise. "(At Wesfarmers) I say, 'Ethical behaviour is a non-negotiable'," Chaney said. "If you achieve high shareholder returns by cheating, you have lost the plot, and we don't accept it. We don't tolerate it."

Ditto the July 2005 ABC interview upon your becoming chairman:

"It's a great institution. It did stumble and it needs to be seen as a great Australian organisation, as a great corporate citizen, and I'd like to have a part in that process," says

the WA based businessman. ... "The banks need to focus very much on the employees and the culture of their organisation."

It continues to stumble and the desired cultural and ethical standards doesn't seem to have taken root. Instead we have evidence pointing to a longstanding dysfunctional culture merely being reproduced. I have traversed this phenomenon in the accompanying document 'Illusion and Reality at the National Australia Bank'.

Board Chairman Charles Allen followed the hapless Frank Cicutto out the door for less than best practice operations leading up to the trading desk fiasco. Board Chairman Graeme Kraehe followed in less than 18 months for essentially the same reasons. The avuncular John Stewart, merely reinforcing the dysfunctionality, should have gone sooner. Indeed, he should not have been hired in the first place. My impression is that John Schubert as Board Chairman drew his pay while ignoring the dysfunctional character of CBA culture.

Your position as Board Chairman is inevitably implicated in the disparity between promise and performance. Your responsibility is enhanced given your substantial role in the fashioning of the current senior management, not least the appointment of Mr Clyne as CEO. And you have directly inserted yourself in mediating the response to complainant Rosie Cornell.

Who knows whether Mr Clyne has explicitly decided that business will be as is customary in this domain or whether he is an innocent abroad (comparable to US President Obama?), carried along by entrenched forces. But, at the least, Mr Clyne's exchange with Xenophon is worth a conversation and, as you note in an interview (18 September with *The Australian*), he is 'only ever minutes away'.

Your stellar career is impressive. Frankly, the NAB is beneath both your talents and your reputation. The bank may be beyond redemption. And, again frankly, while you continue to be significantly associated with this less than admirable company there must be some who think it inappropriate that you simultaneously hold a distinguished role with an academic institution whose byword must necessarily be intellectual integrity.

Yours sincerely

(Dr) Evan Jones