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Mr Cameron Clyne
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Dear Mr Clyne

I write to highlight a striking anomaly in the public persona of the National Australia Bank.

On the one hand, there is the strategy devoted to selling the bank as friendly, customer-focused, socially responsible, etc. On the other hand, there is an ongoing stream of ex-customers, mostly small business and family farmers, taken to the cleaners.

From the April 2010 submission to the Senate Inquiry on *Access of Small Business to Finance*, we read:

NAB's commitment to provide direct finance to Australian small businesses is unmatched by any other financial institution. Over the past two years, NAB has invested heavily in customer facing relationship roles to assist and support small business owners, and prospective small business owners.

The blanket advertising by your firm early this year claims that NAB 'has the best reputation in business banking.' Then there's the current product of marketing genius, 'more give, less take'.

In principle, the ACCC could have you in the courts under s.52 of the Trade Practices Act. (That is, of course, were not the ACCC, and latterly the ASIC, supine in the face of bank

unconscionability.) The TNS survey of May has the NAB as the lowest ranked of the big four (which means the lowest ranked including the second tier as well), having fallen furthest amongst the big four rankings in the previous twelve months. East & Partners surveys of the SME constituency have long found the NAB lacking. East & Partners has recently, of course, reported favourably on the NAB's atypical support of SME customers through the early part of the recent crisis, but the support has evidently been selective.

TNS executive Glenn Wealands notes (as reported) "Tactics such as strong customer support during periods of stress and error-free service are regarded as valuable in improving a bank's satisfaction ranking." In the same vein, an article in the *Australian Financial Review* of 12 July is titled 'SMEs value loyalty more than rates'. Exactly. Yet the NAB appears to be continuing to take advantage of customers 'during periods of stress' while simultaneously upping the public relations budget. What mastermind is directing this strategic orientation?

I am aware of a mortgagor currently being taken down who appears to have been the victim of a 'sting' operation (the name given by a colleague to this class of malpractice), in the process relieving this customer of multiple properties under cover of misrepresentation and documentary non-discovery on a substantial scale. The origins of this takedown appear to lie in a branch manager's imprudent and deceptive attempt to expand his loan book, but the NAB has chosen to back the errant manager to the dramatic detriment to the customer. (In this latter respect, a practice exemplified in the late 1980s Somerset/Kabwand case, a blatant case of branch manager fraud, remains an integral part of the bank's arsenal of malpractice.) And this case is being heard before a judge who acted for the NAB before his elevation to the bench!

I am aware of a farming family currently being taken down who appear to be the victim of an engineered default. The self-evident approach to dealing with farming families, the group most subject to 'periods of stress', is at worst to nurture them through to ultimate sale on their terms for maximum benefit (under the circumstances) to both borrower and lender. On the contrary. Representative of the adverse environment in this case is uncooperative and unprofessional local staff, and a consultant who disappears into the ether – warned off or bought off? Add a rorted mediation process. What appears to be in the offing is default and foreclosure, forced rapid sale of the property without attention to market conditions and under value, leaving the family with nothing. The process will be facilitated (as per normal) by the fabrication of a residual debt – helped along by usurious penalty interest rates and the unconscionable conflation of facilities following default on the overdraft. Forced bankruptcy follows, coupled with the not accidental deprivation of the ex-customer to channels of legal redress.

The property sold under value will naturally privilege the lucky buyer who, without needing too many brains in this case, is already waiting in the wings. It wouldn't be the first time that a third

party has been the major beneficiary from the NAB taking down one of its own customers (Troiani/Wide Bay Bricks being the imperial unit in this domain).

Of relevance is a spread, titled 'Champion of family farms', in that august record of the rural climate, *The Land*, on 7 February 2008. Khan Horne, general manager agribusiness, is reported as "fiercely passionate about Australia's family farmers and is confident they will remain the backbone of the rural sector, despite increasing numbers of corporates and city-based investors sniffing around the bush looking for properties to buy." This particular situation appears likely to fall dramatically foul of Mr Horne's optimistic outlook. Indeed, it appears to vitiate Mr Horne's formally significant role within the enterprise.

I am aware of a would-be farming couple recently taken down who appear to be the victim of predatory lending. The branch manager fabricates prospective income to gain loan approval. Lend funds on a transparently dud proposition, take security, foreclose on the hapless borrower/s and appropriate their assets *in toto*. Somerset/Kabwand again is the model. Alas, this is not banking of any description, leave alone best practice.

I am aware of a builder not long ago taken to the cleaners. Borrower vulnerability is enhanced then abused. Portion of a loan quantum previously agreed upon is deliberately withheld. There are further spurious delays with forced use of consultants. Usurious interest rates again – a familiar story. Cognate parties of the borrower switch to de facto acting in the bank's interests. Options existed for lender and borrower to benefit, but no. The borrower left with nothing, then bankrupted. An element of sadism here as with other cases.

I am aware of a case of small-time property developers who have borne the brunt of bank staff incompetence and mendacity. An inappropriate facility, terms broken by the bank, once again usurious 'penalty' rates imposed for problems of the bank's making.

I am aware of a retail business with a minor problem of cash flow after an unpredicted weak period of summer trading who is currently being harassed by NAB managers, in spite of adequate assets. In this case, a mere excess of ego at middle management level ('who is in charge here?') appears to threaten a hitherto functional bank-customer relationship.

And so on. '... the best reputation in business banking'? I don't think so. Alongside an admirable banking practice, the bank is running what is essentially a racket on the side. Given that the practices have been in place for over twenty years, the commitment to the racket appears unrepentant.

Worse. When the bank is confronted with public exposure of the casualties' stories, the bank remains unrepentant. Witness the bank's response to a 2006 Today Tonight program on three victims (I use the word advisedly); the bank responded with:

All of the material put to NAB by these customers and Today Tonight has been the subject of exhaustive investigation many times by ourselves and by multiple courts of law. In each case the courts have found the allegations to be unfounded.

'Exhaustive investigation', by the bank or by 'multiple courts of law'. I don't think so. But these are the words of a flack employed for the explicit purpose of misrepresentation. Consider the summary judgements against Troiani (March 2001), one of the three subjects of the Today Tonight program, and Bernstrom (September 2001). Both scandalous. The whole point of summary judgements, which should be inadmissible in banking litigation, is to close down exhaustive investigation. But then again, we're talking about Queensland, the 'wild west' of opportunity for banks in their litigation against defaulted borrowers, and a State in which the NAB has enjoyed a field day in the courts.

From a detached outsider's perspective, the arrival of a new broom at the top of a large corporation would appear to bring the mandate, indeed imperative, to clean out the cobwebs. The fact of the new broom at the NAB is precisely because of persistent debacles in the past.

The bank has accumulated a considerable mass of small business/farmer casualties whose economic livelihoods have been destroyed, who are hurting, and who are deeply bitter. The parlous status of these people is, in many cases, of the bank's doing.

In my view there is a good argument for a strategic reorientation of reconciliation towards these people. Compensation is in order. What is several hundred million dollars (perhaps even a billion) if the bank were to clean the slate and build a new reputation on competence and rectitude? The bank would be home clear indefinitely for dominance in the SME/family farmer market.

Whatever the immediate cost, there are ready savings and significant long term profits to be had.

The savings? If the bank had not recently rushed insensibly into CDOs during the recent boom, with the ensuing substantial write-downs, it would already be ahead of the game.

As to expendable ongoing expenses, the bank spends a motza on public relations; it has pursued a public omnipresence and it has succeeded. But is the product saleable? A reputation built on substance rather than chutzpah would reduce the annual public relations budget dramatically.

Then there is the legal bill, both in-house and external. Build the SME book on competence and integrity, and the mammoth time and expensive legal resources devoted to fighting off and destroying the victims could also be dramatically reduced.

Not to mention recovering the personal integrity of the myriad players complicit in the current sordid game – bank staff, receiver/managers, valuers, the legal profession and the judiciary itself.

(An ancillary social benefit would be the significant savings to the public exchequer. Less SME/farmer victims thrown onto public welfare support. Less manufactured ‘bad debts’ written off at the taxpayers’ expense. Less legal expenses claimed against tax. And finally, less publically-funded costs of maintaining the expensive judicial system devoted to presiding over avoidable bank-related litigation. In these latter respects, Idoport remains the gold standard of the costs to the public purse of bank maladministration.)

It’s a no-brainer really.

In the meantime I’m concerned about borrowers who are currently under the gun with the traditional rough house treatment.

A revolution in the bank’s culture regarding the SME/family farmer constituency can’t come fast enough.

Yours sincerely

(Dr) Evan Jones

cc. Michael Chaney, Chairman of the Board