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Senate Standing Committees on Economics

1.1.14

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## Supplementary Material for Submission Number 232 to Senate Inquiry 2013 - The performance of the Australian Securities and Investments Commission

I would like to update the Senate on the progress of my dispute with the National Australia Bank. As you will recall I am in dispute with NAB because the bank maladministered loans to a family member in 2004 and 2005. The loan recipient clearly did not have the assets or income to manage the loans given. Put bluntly the NAB engaged in unconscionable predatory lending which has caused significant and prolonged financial and emotional damage to my family. This would not have occurred if the government and its regulatory authorities – such as ASIC were effectively doing the job required of them – including stamping out the use of incomplete, falsified and fraudulent Loan Application Forms.

I write again to you now in order to present new evidence and to give you the opportunity to make a real difference – not just to my family - but the many thousands of other families that have been similarly harmed.

### Key Point:

I have collected enough evidence to prove beyond doubt that NAB has engaged in criminal conduct regarding the loans given to my family. Up to now NAB has refused to offer you a general formal submission to this inquiry – as reported here:

<http://www.financialstandard.com.au/news/view/36033641>

May I respectfully suggest that you request Mr Cameron Clyne (NAB CEO) to appear at your inquiry and ask him the following simple questions regarding my case and several other questions regarding NAB's business practices? I do know the answers but I also know that what happened to my family is not an isolated event. Therefore I think it important that you and the Australian public also hear his answers. I am certain that this will in some way contribute to the process of cultural change needed in the finance sector and – just as importantly - in ASIC. As the CEO of NAB Mr Cameron Clyne is ultimately responsible – along with the Directors of NAB (see Enclosure 2 below) - if there is systemic fraud occurring in NAB's lending operation. Mr Clyne cannot shirk his responsibility by hiding behind the NAB Resolve team. Mr Clyne refuses to answer me and the many others that have tried to get satisfaction from him regarding their experiences of NAB's predatory business practices. However, Mr Clyne cannot hide from you – the Australian people's representatives in the Senate.

### Questions for NAB CEO Cameron Clyne re: Brandson Case – Submission 232

Mr Clyne - is it acceptable to you that a NAB Loan Officer falsified the client's Loan Application Forms in the following manner?

1. Increased the listed assets value by \$300,000?
2. Included assets that did not exist?
3. Used a ludicrous monthly income figure of \$24,917 - concocted from a single draft tax return showing a one off Capital Gain?

4. Falsified figures to show a Loan to Value Ratio of less than 80% - when the true figures would show it to be over 100%?

5. Additionally – Mr Clyne how was it possible for NAB to approve loans that were rejected by not only another bank – ANZ in 2004 - but also NAB's own assessor in 2005 (even with the use of the manipulated fraudulent figures)?

6. And finally – Mr Clyne how do you think the bank appears when clients who have been victims of bank malpractice are given the run-around trying to get satisfactory justice and compensation? This includes your ludicrous denials; meaningless meetings; pathetic form letters used to sideline angry victims - and all of this on top of weak, bank friendly responses from ASIC and its External Dispute Resolution schemes such as FOS and COSL.

In addition - NAB refused to answer several other important questions I posed – considering them “commercial-in-confidence.” The relevance of these questions is very clear. If the internal procedures have changed it indicates that previous bank business practices were not acceptable or perhaps not even legal. Also, the way NAB rewards loan officers could create perverse incentives whereby the interests of the loan officer will trump the interests of the client.

7. Have the loan approval processes changed since 2004? If so in what ways?

8. Would the loans given to \_\_\_\_\_ be approved if they were applied for today?

9. What are the bank's Key Performance Indicators for branch managers?

10. What are the procedures NAB has in place to manage any conflicts of interest between bank staff trying to meet the KPI and the interests of clients?

**Senators** - I am prepared to appear before you with all the evidence I possess. This includes: three NAB Customer Particular Reports / Loan Application Forms which clearly demonstrate falsification and fraud regarding – income and asset values (and thus LVR manipulation); the 2004 Draft Tax Return used to justify a falsified income; and other supportive documentation. I presented this material to NAB's \_\_\_\_\_ at a ninety minute meeting on 17.12.13. He disregarded it. He attempted to make me feel ignorant and ill informed. I was flabbergasted by his attitude - to use a medical analogy – his response was akin to a Doctor saying “no problem here, just get back to bed everything is OK” - after seeing a moribund, rapidly breathing, dehydrated child with a stiff neck, a fever of 40 degrees and the classic meningococcal skin rash. Senators - I will require less than thirty minutes to present the facts and material to your inquiry. Banks cannot be allowed to get away with this sort of behaviour any longer.

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Mr Cameron Clyne has refused to respond to these very simple issues in my communications with him. Instead he sent NAB's head of NSW and ACT – \_\_\_\_\_ - to speak to me. Once this charade was performed – see Enclosure 1) below - Mr Clyne had a NAB employee send me a form letter – the very next day – also attached below – in a very poor attempt to wash his hands of the matter. This is a standard procedure NAB uses to silence disgruntled clients. Many people would have given up right there but - as seen in early press coverage of my case – “I am not copping it.”

<http://www.batemansbaypost.com.au/story/1803926/eurobodalla-doctor-campaigns-for-change/>

I never expected much help from your inquiry but I am prepared to be pleasantly surprised. I have significant evidence - I believe you can use this opportunity to further investigate how ASIC's performance could be improved. Judging by some of the submission you have received – particularly – but not only - **Submission 345** from **an ASIC whistle-blower** – there is ample reason to believe that financial institutions don't have much need to worry about ASIC at present.

In addition you have been sent a comprehensive submission from the **Banking and Finance Consumers Support Association (BFCSA)** – I am not connected with the organisation but do value – as you should - its contribution to the issue) – **Submission Number 156**. This contribution to your inquiry clearly demonstrates - with a decade of evidence - widespread banking malpractice involving the criminal manipulation of Loan Application Forms. I have also enclosed below specific examples of NAB banking malpractice and malfeasance – including references to cases that have been submitted to you such as the **Priestly case (Submissions 394 and 397)**; and the **Cornell case (Submission 285)**.

Despite this information being known to the regulatory authorities – ASIC – FOS – COSL – the authorities refuse to take the matter seriously and take the necessary action. Why do you think this is? Under the circumstances – **if you genuinely want to help prevent Australian citizens being deliberately financially and emotionally crippled by bank malpractice - the only reasonable option is for you to instigate a wide ranging Royal Commission.** There is no excuse for the Senate not to take action. If you do not act the only conclusion the Australian people can make is that you are aiding and abetting criminal activity in the finance sector. That is not acceptable - and will not be tolerated by fair minded people who will hold you accountable.

Let me make this perfectly clear to you. I have now researched case after case of unconscionable NAB predatory business practices. Do not tell me and the people of Australia that there is no problem. Do not tell me that the Courts are functioning well and penalising corrupt banks. Do not tell me that ASIC is looking after the interests of people that have been harmed by NAB or other banks. Here is a document from [NAB whistle-blower John Salmon](#). Mr Salmon and Dr Evan Jones show how NAB uses a parallel set of books to engineer defaults and foreclosures. If you only review one of the many links I have provided to you - read the case of [NAB and the Troiani family](#).

When you have corporations, governments and the judiciary effectively colluding against the interests of the people you set the scene for people to take matters into their own hands. Do I need to remind you that we enjoy in this country certain principles that are designed to give us honest and stable democratic government? These principles - a thousand years in the making include: the British Common Law; the Separation of Powers; Magna Carta. These are what make our nation great. These principles are why we have a country that is envied by many. When these principles are challenged or undermined our people suffer. In cases I have reviewed it is clear that we need to focus on separating the influence of big business on the judiciary and on the government. Having trial judges preside over cases involving not only their own bank - but banks where they may have hundreds of thousands of dollars' worth of shares is absolutely not acceptable.

**Real crimes require real penalties. The only way to stop predatory bank behaviour is to fully compensate the victims** – i.e. the bank must return the client to the position they would have enjoyed if the crime had not been committed - plus pay a significant penalty on top of that – to the victim - not the government. **Do you think bank CEOs would allow corrupt criminal behaviour if the bank faced real penalties? Do you think people would be ripped off like the Troiani family - left penniless by NAB - if the bankers involved faced a twenty year jail term?**

I am not taking NAB to Court because the way the law is at present - while I would have a very good chance of winning (unless there were certain Judges involved in the proceedings) - I'd be lucky to get just a full refund of the interest and penalties I have paid out over ten years - on a loan that was given using incomplete, bank falsified Loan Application Forms. I told both Mr Clyne and \_\_\_\_\_ that nothing less than full restitution, full compensation plus a penalty are adequate. NAB will compensate me for every minute of my time that has been required to sort this issue out. Every additional expense that I have had to bear will be reimbursed to me by NAB. And I will only be satisfied when every Australian that has been harmed in the way that my family was can get exactly the same justice. Senators – if you are working in the interests of Australian citizens that will also be your position.

**I would like to emphasize this critical issue:** Many Australian citizens have been given inappropriate loans – often in association with Loan Application Form fraud – but they do not know it, suspect it or understand it. This is why the Senate and ASIC must take this very seriously and why you must act on the information presented here. **Just because an Australian citizen doesn't know they have been harmed by criminal banking practices does not mean the crime has not been committed.** It is up to you to see that essential reforms are introduced and that the regulatory authorities function in the way properly informed people would expect them to function.

**Senators** – After reviewing this document - particularly Enclosure 3) Additional Material demonstrating NAB systemic and systematic malpractice and malfeasance. **Please consider:** Any other business with this record would be out of business. Any business that regularly treated its clients in this way would be out of business. Why is NAB still in business? There are five key reasons which effectively shield the banks:

1. There is [limited competition](#) in the Australian banking industry.
2. It is costly and difficult to [switch banks](#).
3. The regulatory environment is set up to suit the industry. The law enables NAB to get away with these sorts of business practices. This is why you must act to reform ASIC. Real crimes require real penalties – simple as that.
4. The banks provide [donations to political parties](#) – see Enclosure 4) NAB Donor Return 2011-2012
5. And - as discussed in my initial submission – [the banks are effectively permitted to print money](#).

A company would have to be extremely incompetent and corrupt to go out of business under these conditions.

Let me be very clear again. You must make sure the five bank protections listed above are neutralised. The truth is that banks rely on these to get away with criminal business practices. This is why the banks do not want genuine reform. My solutions are on my [website](#) but it is not my job or responsibility to sort this out – it is yours. The solutions are very simple. All that is needed are the guts and decency to do the job. You can stand with the people and do it – we will support you. Or you can stand with the banks. Justice will be done whichever way you stand.

The campaign I mentioned in my initial Submission has now officially commenced. It is generating significant interest in the media and the wider community because I have had to resort to publicity stunts to draw attention to the issue of predatory lending – an issue which should be investigated and stamped out by you and the rest of our Government. I should not have been put into the position of needing to do this – I am angry - and I do resent it. I have had to put my money where my mouth is – I intend to give one of my campaign supporters the \$2.6 Million property that NAB attempted to repossess. This is just the first of such events that I have been developing. Once again - a citizen of Australia should not have to resort to these sorts of manoeuvres to seek and attain justice. My campaign supporters have effectively joined a legal action but without a Court – the People versus the Banks. It has been a long time coming but the time is now right. I have committed to a [Precedent and a Promise](#). It will be very welcome if the Senate assists but an important precedent will be set and the promise Australians deserve will be kept with or without your help.

In my initial Submission ([232](#)) I explained the relationship between people, power and money. For your convenience I have also enclosed below an excerpt from the 2011-12 Australian Electoral Commission return. There is a natural human tendency to feather one's own nest. No problem with that - as long as citizens and corporations don't use force, fraud or coercion against clients or other individuals. It is the government's job to make sure unsavoury people and businesses can't get away with the use of force, fraud and coercion to enrich themselves. This is the purpose of the Law. In this and other submissions to your inquiry it has been clearly demonstrated that the NAB has used and continues to use force, fraud and coercion in its business dealings. It is up to the Senators of Australia to recognize this and act on it to stop it.

Thank you once again for your time,

Dr Peter Brandson.