by Rob Hutchinson

In the past five years I have had my eyes opened to the world of litigation through repeated requests to review discovered documents attached to recent and current loan default litigations.

From each corner of our nation three cases that I have been presented with contained a recurrent and disturbing theme. Tess Lawrence v NAB, Rosie Cornell v NAB and a "third" v NAB which cannot be named.

From my observations all have followed the same path literally manufactured by the financier.

The key to my observations comes from the bank's own submission for credit, authored by their agents and representatives located in business banking centres in different states which may suggest that this problem is widespread rather than isolated.

These three examples of credit submissions prepared and subsequently approved by the bank exhibited the following issues :-

- the credit submission did not reflect the transaction. The transaction as described by the applicants was inconsistent to what was described in the submission.
- the credit submission was based on overstated incomes by the bank. No evidence of typical supporting documentation to support the submission was found in the discovery documents.
- the credit submissions lacked due diligence designed to protect the bank and its customer.
- two of the credit submissions expressed that the applicants did not demonstrate the capacity to meet their financial obligations. The mitigants put forward by the authors to justify approval of the submissions appear to be either unrealistic, misleading or fabricated.
- the credit submissions were favoured by the bank due to strong security positions rather than applicants ability or capacity to service the loan
- all loan applicants defaulted on the approved advances.
- all loan applicants found themselves immerged in litigation by the bank.
- All loan applicants HAD substantial financial positions prior to entering transactions with the bank.

Whilst the credit submissions were penned for approval or overview by higher authorities, the compilation of the credit submission was by an agent and representative of the bank and the bank cannot separate itself from their actions.

Two of the authors have left the employ of the bank and the third received an offshore posting and later repatriated home with an advancing career.

Of the three examples referred, two are found on both ends of the scale. The “third” was scheduled for trial prepared by an extremely competent legal force. The matter was settled at mediation just prior to trial with the bank swallowing a seven figure pill.

On the other end of the scale Lawrence v NAB has been a classic David & Goliath battle that has waged for the past five years. A self representing litigant with a genuine cause has been treated as the leather on the soles of the fancy shoes worn by Collins Street criminals.

In these past years, banks and regulators have worked to improve procedures and systems that would further protect banks and hopefully their employees, consumers and shareholders going forward. But what of the sins of the past ? What about applicants that have dreams turned into nightmares as the result of dereliction of duty ?

It makes you wonder, of all the loans advanced, of all the default cases in all courts nationwide past and present, is there a connection ? Was the appropriate due diligence applied at the outset ? Was the decision manufactured on the back of the bank holding a safe level of security ?

BIO DETAILS:
Rob Hutchinson is a former National Australia Bank Manager and had a 20 year career with the bank. At once stage he was Tess Lawrence's NAB bank manager. In her counter defence against the NAB Hutchinson has acted as Lawrence's Mckenzie Friend. Further, he has acted as a Forensic Analyst on her case, exposing a litany of incorrect accounting and misleading information tendered by the NAB. He continues to act as a consultant on her case.

He remains self-employed in the finance industry and works as a mortgage broker.