Case Summary
The Bank Wants The Farm! Lewis' case demonstrates unlawful conduct by NAB, flaws in the justice system and anomalies in the mortgage market.

Lewis went to jail for ten months for attempting to protect his property with the only option left to him - by a justice system that has failed. If we don't want to see anarchy we must stop bank bullying and asset stripping of farmers.

Story Details**Story Of:** Lewis Tomcsanyi
Bank Involved: NAB
Bank Malpractice Type: Incompetent Business Practices
Corruption
Powermongering & Greed
Unconscionable Conduct

Video - Extend Banking Royal Commission:

Bank Victim Story Lewis Tomcsanyi (NAB)

Video of Bank Victim Story Lewis Tomcsanyi (NAB)

Overview Of Bank Victim's Case

Bank Story Overview:

NAB refusing to comply with courts, bullying, no justice

Lewis Tomcsanyi (LT) Farmer, WA – NAB

Case Summary

History

- 2009 LT accept letter of offer – the farmers choice package. Mortgage registered in NAB's favour.
- **2010 Dispute: over NAB reneging on financing second-year crop.**
- 2011 Commenced supreme court action Tomcsanyi V N.A.B. ClV1454 of 2011
- **2012 LT achieves 97% of the claim at mediation and sign a settlement deed composed by NAB's lawyers.**

Bank refused to accept the verdict and tries bully tactics

- **NAB refused to comply with settlement deed**
- 2013 LT refers the dispute to F.O.S and ASIC
- **2014 NAB appoint receivers who turned up without a court order. LT was charged with a firearms offence.**
- 2014 LT puts NAB on notice intending to sue for non-compliance of settlement deed.
- LT commenced supreme court action CIV1427 of 2014

Bank and courts in cahoots?

- 2015 Lewis Tomcsanyi was imprisoned for ten months for firearms Offences involving receivers.
- 7-2015 Released from prison on parole.
- 10-2015 Court action heard,
- **Judgement: NAB found to be in breach of the deed, but it was all LT's fault. Case dismissed.**
- 15-12-2015 LT appeals, and dismissed on the 27-7-2017
- **27-8-2017 LT appealed to the high court, no leave granted.**

Outcome

- **22-3-2018 Seizure and Delivery order granted to NAB**
- **25-7-2018 LT still in possession of the farm**
- **12-9-2018 LT arrested and removed from property (see notes & commentry section)**

Questions the Royal Commission should investigate regarding legalities of securitisation

Regarding the documentation a farmer signs (or is sometimes said to have signed)

- We have seen how NAB has set up the farmers choice packages, separated the debt and the security
- This leaves the debt unsecured (so it can be on sold, and that is why no value is placed against the security)

- **What point of law is used to dispossess farmers of property that is not collateral or security to anything?**
- **How many times has any bank disclosed securitising to a court order of discovery?**
- **Why are banks allowed to evade Taxes (G.S.T and Capital Gain Tax) when they have on sold or securitised a mortgage and then act as a service provider for a third party?**

Regarding Mortgages

- We have seen how NAB has separated the security from the registered Mortgage. Leaving mortgage unsecured.
- We have seen how NAB has tampered with a landgate document by removing para.6. from the notes.
- This is a criminal offence – Precedent – Acting master Gething [2015] WASC 448 para-152.

- **Why has NAB separated the security from the debt and mortgages – by not completing the mortgage documents properly and the removal of para-6 from the notes of WA landgate 'Cover Page'.**

- **What's the difference between the overdraft account and the transaction account when they share the same account no**
- **How do you know when the package no longer exists.**
- **In some cased NAB has sold all the farmers assets and not reduced debt or paid any surplus. Why is this?**
- **What power do receivers have knowing this new evidence?**
- **Why would NAB remove para-6 from the notes of landgate document when it is a criminal offence?**
- Are the banks above the law and can do as they please?

The Banking Royal Commission needs to address these questions.

Transcript - Video Q&A Interview

Leon Ashby (LA) Asks...:

NAB refusing to comply with courts, bullying, no justice

Extract From Video - Lewis Tomcsanyi (LT) Farmer, WA – NAB

Interview with Leon Ashby (LA) 18th August 2018 - Extending The Bank Royal Commission, recorded at Parliament House, Canberra ACT Australia.

LA: Lewis, did you have a dispute with NAB and go to court and won 97% of your claim?
LT: Yes

LA: Did NAB comply with that court decision?
LT: No

LA: Did NAB appoint receivers to then come onto your property attempting to take control of the asset?
LT: Yes

LA: Did you warn the bank you were prepared to defend your asset and you were later charged with a firearms offence which you pleaded not guilty to and spent ten months in Jail?
LT: Yes

LA: Another court hearing happened sometime later- what was the verdict?
LT: **NAB was found in breach of the court order, but it was all my fault – case dismissed.**

LA: Are you still in possession of your farm?
LT: Yes

LA: You described securitisation to me as the separation of the traditional marriage of the title to the debt. So instead of one agreement, there are now two.
The agreement with the bank and those that buy the debt and the agreement between the customer and the bank where the customer loses all their rights to their assets and the bank can sell them as they see fit and it does not relate to an amount of money at all – is that correct?
LT: Yes

Other Notes & Commentry

Notes:

Update (21/09/2018) - See part 2 Lewis Arrested **for trespassing on own farm property!**

****Urgent Action Required!****

Active As Of (12/09/2018) **-** Bank Victim Lewis Tomcsanyi, who spoke in Parliament house about his case on 14th August, has been put in a paddy wagon by police in WA while NAB attempted to seize his property.

Lewis maintains this is unlawful (see the video)

Rita Mazalevskis (Lewis' niece) has asked if our network of Bank Reform and bank victim supporters could urgently email andrew.thorburn@nab.com.au (NAB CEO) - and anyone else you wish to inform. We need to call for a cessation of this process. The matter must be dealt with through explanation of the legalities of the NAB loan ... not by force and abusing the legal system.

The legal arguments in Lewis' case are in dispute and need resolving. This case has wider implications that affect all of us.

Update (13/09/2018) **- Lewis was later released after being charged. He will either be found**

to be trespassing or that the bank has stolen his property.

Update (19.10.18) - Rita came to Canberra to see Andrew Thorburn appear at the Big Four grilling from the Economics Committee. She had a bonus prize - sitting in with BRN's Dr B and Leon Ashby to put Lewis' case directly to NAB's Andrew Thorburn and David Gall. Details are confidential for now but Rita was brilliant - she knows her stuff.

Update (23.11.18) - Lewis Tomcsanyi

NAB's CEO, Andrew Thorburn has continually denied my questions re the 'on-selling' (through Securitisation) of my loans. NAB also denied this through the Primary Production Senate Enquiry last year through my Submission No. 98.

If NAB can blatantly lie about not on-selling my loans, what else have they lied about? How could we possibly believe anything that Andrew Thorburn will say at the Royal Commission hearing next week, to be any way credible. My attached document 'Financial Service document' is proof that NAB did secretly on-sell my loan the day it was drawn down to DFAS - Defense Finance and Accounting Service an agency of the United States Department of Defense (DOD) who manage an $8.99 Billion fund.

Following excerpt from attached letter:

We have been instructed by NAB (and the office of its CEO, Mr Thorburn) to respond as follows:

2. NAB has considered the matters you have raised, and for the reasons explained in our letters of 11 July 2018 and 5 June 2018, considers that these allegations are factually and legally incorrect. In particular, NAB has confirmed that:

(a) your original loan was not on-sold as part of a bundle securities;
(b) neither your loans nor mortgage have been securitised; and
(c) the mortgage form used in respect of the property at 60 Woylie Road, Kordabup was in an approved form as at 23 February 2009, when the mortgage was executed and was accepted and registered as a valid mortgage by Landgate.

3. On that basis, NAB denies any fraud by NAB (or any officer of NAB) that you have alleged.

With the upcoming NAB independent review by Jeff Kennett, NAB has confirmed that any action with my property is currently on hold. I am currently due to appear in Court on the 6 December 2018 for the charge of Trespass on my own property when I was evicted on the 12 September 2018.

Personally, I would like to thank everyone for their messages of support and in assisting with the emails sent to Andrew Thorburn. I feel truly humbled by this experience.

Thank you,

Lewis

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File Attachments:

Lewis Tomcsanyi's - Case Cronology & Letters
Finance Service Document
Legal Letter to Lewis Tomcsanyi

More Information:

Bank Victims Horror Stories - Extend RC Series

Related Links:

What Can I Do? Banking RC
Part 2 Lewis Tomcsanyi - Arrest For Trespass

Source URL (modified on 23 Nov 2018 - 12:27pm):
https://www.bankreformnow.com.au/node/491

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