

EUFA

‘Exposing Unacceptable Financial Activities’

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(This document 20 Pages)

RE: BNZ /IRD - Tax evasion and serious interest overcharging.

The Bank Customer Action Collective (BCAC) was formed in the late 1990s as a result of Gray Eatwell's discovery of serious interest and fee overcharging of his accounts by the BNZ.

In 2003 the BCAC became aware of identical practices of illegal charging being investigated by the Irish High Court, where the BNZ sibling Bank, the National Irish Bank,(NIB) had been exposed, illegally overcharging customers and complex tax avoidance.

The subsequent Irish High Court report provides details of practices that indicate a systemic dishonest ethic of the National Australia Banking group of formulating complex methods of secretly bleeding off funds to the Bank's profit line.

Given the BCACs exhaustive efforts to expose the improprieties of the BNZ to every authority in NZ, the ruling of the High Court against the BNZ for dodging over \$300 Million in tax last week, is no surprise. However we must question why the authorities continue failing to uphold their statutory obligations to investigate the overcharging of the Banks customers on a similar scale.

If indeed there have been no sinister actions against the Eatwell's and many other BNZ customers, it would be a simple matter to redeem themselves, so why has every office of responsibility refused to do so?

EUFA members are ignored and treated with disregard by the Government authorities over the finance companies actions, in the same way as have transpired over the banking industry issues.

The following letters (copied below) were written alerting the Authorities and Government of their statutory obligations. The BCAC correspondence was either

ignored or treated with disregard. WHY? (No effective remedy was granted/ made available to victims)

The IRD has to be commended for taking the tax evasion issues seriously. However The interest overcharging total may add up to more than the tax evasion, something that wont be known unless a full investigation is held.

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1st August 2005

CORRESPONDENCE FROM BCAC TO RECIPIANTS

Introduction

Media

- **Media Information**
29th September 2003

National Irish Bank Exposed Systematically Overcharging Customers

The National Irish Bank (owned by National Australia Bank) has been exposed, by the international media, purposely overcharging of “certain customers’ accounts”.

As reported; “The nightmare for NIB began in late January 2002. An RTE news report claimed that the bank had facilitated tax evasion by some of its favoured customers.

Naturally NIB were none too happy at this report and the interference by nosey journalists. Through a combination of court injunctions and bullying statements (accusing RTE of pillorying and harassing the bank), they attempted to keep the lid on something even more damning.

The whistle was about to be blown on something the NIB had been attempting to cover up since the early 1990s. NIB had been operating a relatively simple but yet ingenious scam. As the computer printed out customers’ statements an official would examine the interest due on each one and select certain customers for overcharging.

Bogus interest charges and fees were taken from these accounts, the statement amended and the original destroyed. NIB have admitted to this stealing having taken place in “a small number of branches”. However so widespread was the practice that a special software package had been developed for the task.

Nor was it the case that senior management was unaware of the goings-on.

In the full knowledge that sums of money had been stolen from customers’ accounts, no attempt was made to re-pay the stolen money. It seems as if the bank had hoped to rely on customers’ ignorance. As one bank manager wrote at the time “...we were certain that we were safe in applying the additional interest charges. No queries ever came back from customers whose interest was loaded”.

The revelations about the NIB shocked a great many people – even if elements of the media and politicians attempted to play the ramifications down in the initial stages. “The Irish Times” for example headlined a report “NIB admits improper taking of money from customer’s accounts”.

It is unlikely to be coincidental that while the Irish account overcharging was being committed the NAB owned BNZ were also overcharging “certain customers”. For example one BNZ customers’ accounts were loaded over \$7,156.41, between April

1994 and April 1995. (The overcharging continued until noticed by the customer some years later). The BNZ example is identical to that of the NIB.

BNZ customer statements inspected have revealed procedural discrepancies at the commencement of overcharging, i.e. the loaded statements are different. As found in the Irish case the loaded charges have also been found to be indiscriminate, an event that could not occur within normal banking computer software programs.

Ends.

(Issued by Bank Customer Action Collective)

Letter 1

- **Serious Fraud Office**
26 February 2004

26th February 2004

David Bradshaw
Director
Serious Fraud Office
P.O. Box 7124
Wellesley Street
Auckland.

Dear Sir

Further to earlier correspondence relating to matters of illicit interest and other charging made against customer's accounts by managers of the Bank of New Zealand.

Evidence has come to light that substantially reinforces the need for an inquiry by your office into the facts of this matter.

The Bank of New Zealand is owned by the National Australian Bank (NAB).

We now have information of admissions made by the National Irish Bank (NIB), (also owned by NAB) of deliberate "interest loading of selected customers accounts" that circumstantiates the mirrored procedures of the BNZ to which there is solid proof.

As reported, the NIB operated a scam where customers were selected for deliberate overcharging. The CEO of NIB was aware of the practice for which a special software package had been developed.

The Irish High Court appointed inspectors to investigate the contrived practice (as admitted by managers of NIB), a fact advertised in the Irish press.

Given that documented evidence proves the BNZ has employed "interest loading" practices in an identical pattern and time frame, while the NAB management have a proven record of conspiring to develop fictitious and illegal schemes, it would be naïve to accept that the actions of the BNZ could be unrelated.

Accordingly we strongly recommend that you reassess the obligations of your office to investigate our claims further.

Letter 2

- **Commerce Commission**
10 March 2004

10th March 2004

Catherine Butterworth
Chief Adviser
Fair Trading Branch
Commerce Commission
P.O. Box 105-222
Auckland.

Fax (09)920-3481

Dear Catherine

Further to our phone Conversation yesterday.

It would be prudent for your Manager, Graham Gill to be aware of the circled content of the following letter written in 1998. We would recommend this be read in conjunction with the Irish High Court report into improper practices of the Bank of New Zealand sibling the National Irish Bank. In particular, the time lines and procedures involved should be noted.

Given the criminality of the practice of systematic overcharging being exposed by the Irish High Court there will undoubtedly be ramifications in New Zealand.

There are clear statutory obligations on your Commission to ensure the public has proper access to effective remedies in such matters.

Yours sincerely

Letter 3

- **Serious Fraud Office**
27 March 2004

27th March 2004

D J Bradshaw
Director
Serious Fraud Office
P.O. Box 7124
Wellesley Street
Auckland.

Dear Mr Bradshaw

Re your reply letter 4 March 2004 involving requested investigation into Bank of New Zealand over-charging practices.

We are not satisfied that your office may not investigate the serious matters we have alerted you to.

It is a fact that the Bank of New Zealand knowingly loaded customer's accounts with excessive charges. It has also been publicly admitted that the National Irish Bank deliberately practiced interest and other loading of its customer's accounts, while using computer software to disguise the wrongful actions taken.

As sibling companies, and given the identical time lines and patterns of illicit loading of accounts these actions are highly unlikely to be unrelated.

There have been strong suggestions made that the computer software employed by the Irish bank was indeed developed and trailed in New Zealand by the Bank of New Zealand. The evidence of the overcharging we hold would circumstantiate this claim.

Members of Parliament from whom advice has been sought by this organisation have confirmed that your office has the resources, mandate and obligation to investigate this matter.

We trust this will be done.

Yours sincerely

Letter 4

Commerce Commission

2 December 2004

2nd December 2004

Catherine Butterworth
Chief Adviser
Fair Trading Branch
Commerce Commission
P.O. Box 105-222
Auckland.

Dear Ms Butterworth

Re: Undisclosed Bank Fees/Irish High Court Report re improper charging of Bank Customers.

As discussed by phone, please find enclosed evidence of improper charging applied by the Bank of New Zealand (BNZ) during the period covered by the Irish High Court investigation into practices of the BNZ's sibling the National Irish Bank (NIB). (Owned and directed by the National Australia Bank).

We trust you accessed the Irish High Court report published by the Irish Director of Corporate Enforcement, Paul Appleby, via the link e-mailed to you yesterday. However a condensed copy highlighting improper practices and factors common to the BNZ is enclosed within this dossier.

The enclosed example bank statement including undisclosed interest charges is particularly focused on parallels to the exposures of the Irish High Court precedent.

- The example workings supplied are laid out with the objective of graphically demonstrating the precise calculations required for a customer to identify improper charges. Emphasising the extreme difficulty of detection. (see response given to Inspector, page 122 Irish High Court report)
- Customary Chartered Accounting procedures do not identify the practice of improper charging of interest disguised as per example.
- To detect improper charges, every single day's final balance must have the correct interest applied at the end of the following day and added up for the period in order to identify the discrepancies. (A very time consuming, pedantic task).
- The example workings enclosed indicate that the improper interest charge could not be caused by electronic error.

- The example statement has to be a retyped document (see Page 121 Irish High Court report). The format also had to be manually altered to prevent the Customer being aware of the loaded interest charge.
- The example documents disclose no legitimate reason for an increased interest charge. (See page 122 Irish High Court report).

Illegitimate charging of the example account continued following the introduction of the practice as exemplified, resulting in improper charges gradually escalating to a peak of a \$1039 overcharge applied in September 1994. In the ten months prior to closure of the account the improper charges made against it totalled over \$4,000.

The example account chosen for this exercise relates to a primary industry business working account. The business turnover was \$1.5M in the year exemplified, while the business had an established seasonal program of utilising overdraft facilities in the running of the growing enterprise. The account was opened in December 1993 and had experienced no interest loading prior to the exemplified statement period.

The enclosed copies of correspondence written to other business customer's of the BNZ are intended to illustrate the wider practice of improper charging detectable only by a customer reworking their bank statements as per the example as afore mentioned.

The interest loading detected in each case was not disclosed in the Customer documents.

As stated previously; with the benefit of the template of the duty of care demonstrated by the Irish High Court actions, an investigation commensurate with this Irish civil responsibility must properly be instigated here.

We believe a study of the full report of the Irish Director of Corporate Enforcement would be most useful in setting out guidelines to follow when investigating the practices of the Bank of New Zealand.

Thank-you for your attention to this matter.

Yours sincerely

Letter 5

- **National Bank of Australia (NAB)**
10th August 2004

10th August 2004

Mr John
Chief Executive Officer
National Australia Bank
500 Bourke Street
Melbourne
Victoria 3000
Australia.

Dear Mr Stewart

Please see the enclosed copy of news item as explanation.

This organisation has communicated with this office on several occasions since 1998 relating to practices of the Bank of New Zealand (BNZ) involving customer overcharging and other serious improprieties.

Given the detail of the Appleby report (of which we hold a copy) it is imperative that you be aware of the implications the findings will have on the BNZ case.

As opposed to the suggested inadmissibility of evidence in a criminal trial in the National Irish Bank case, the evidence held by this organisation in proof of the actions of the BNZ has no such barriers.

It is a serious matter that unlike the Irish case the BNZ has promoted key managers involved in the malpractices of the said period to the highest level and this factor alone will undoubtedly distort the information you receive.

The express objective of this organisation is to see compensation for the significant losses of our members caused by the malpractices of the BNZ; therefore we believe it would be appropriate for you to communicate with us at this juncture.

With the obligations that the Appleby report will invoke on the New Zealand authorities implicated in this matter, prudence would suggest that you make contact with us with urgency.

Our intention is respectfully to withhold further official action in order to allow you reasonable time to communicate with us.

Yours sincerely

Letter 6

- **BNZ Director**
12 August 2004

12th August 2004

Mr T.K. McDonald
Chairman
Board of Directors
Bank of New Zealand
34 Amritsar Street
Khandallah
Wellington.

Dear Mr McDonald

[Report of Ireland's Corporate Enforcement Director, Paul Appleby.](#)

Please find enclosed highlighted copy of news item taken from the Christchurch Press issued 3rd August 2004.

When considering the file of correspondence with you between this organisation (and others) relating to malpractices of the BNZ, we suggest you may wish to read the Appleby report prior to this matter advancing further.

It is very unfortunate that in contrast to the NIB the BNZ has advanced a manager focal to recognised bad practices of the bank to be its CEO.

As always we welcome your dialogue with us in seeking resolution for the sake of all parties involved.

Yours sincerely

Letter 7

- **Minister Commerce**
20th August 2004

Hon Margaret Wilson MP
Minister of Commerce
Parliament Buildings
Wellington.

Dear Ms Wilson

Report of Irish Director of Corporate Enforcement Paul Appleby/ NAB owned NIB

It is essential that you read the enclosed copy of an unanswered letter addressed to the previous Minister of Commerce, particularly in light of the recent release of the above mentioned report. (NB; There is a copy of an internal Parliamentary letter relating to the enclosed letter on our file.)

We strongly recommend that the Minister should access the Appleby report on the malpractices of the National Australia Bank owned National Irish Bank.

This organisation has a raft of correspondence with your Ministry dating back to Hon Max Bradford through a number of Ministers, clearly warning Government of identical malpractice of the Bank of New Zealand, as has now been echoed by the Paul Appleby report into practices of the NIB.

It is of deep concern that New Zealand authorities may ignore actions of the BNZ that Irish Authorities have strongly condemned its sibling bank for and now demands accountability.

As opposed to the Irish case for example, the Directors of the BNZ have been well advised of the illicit practices of their bank, while the Appleby report states the Irish Directors were not. Whereas, while the Appleby report commends the NIB for subsequently changing its management, amazingly the BNZ has promoted a manager involved in administering the New Zealand banks bad practice to be its CEO.

Prudence and good governance would dictate that the Irish lead must be heeded.

As always our information is at your disposal.

Yours sincerely

Letter 8

- **Director of Corporate Enforcement -Dublin (Paul Appleby)**
22nd September 2004

Paul Appleby
Director of Corporate Enforcement
16 Parnell Square
Dublin 1
Ireland.

Dear Mr Appleby

Thank-you for your reply to our letter of 31st August 2004. We are most grateful that you copied that correspondence to the Irish Financial Services Regulatory Authority.

The level of criminality involved in the practices of the Banking group including the National Irish Bank is of deep concern to this organisation, as the practices of the Management of the NIB (clearly exposed within your report) identifies some direct interaction within the group globally. This commonality of abnormal procedures being used could only be possible by an overall directive from the parent organisation.

It is estimated in New Zealand, that the practice of interest loading of customers as only one of the practices employed has created large sums of capital for the Bank of New Zealand. The practice succeeds simply by the fact (as you discovered) that the vast majority of effected customers are unaware they have been disadvantaged by their Bankers dishonest actions.

The dramatic fall in the National Australia Banking Groups profits, since it has taken a position of damage control, is indicative of the levels of income it has previously taken by the illicit tactics being deliberated.

You are most welcome to contact us at any time to assist in achieving a full disclosure of the facts involved.

Wishing you every success.

Yours sincerely

Letter 9

- **National Bank of Australia (NAB)**
22nd September 2004 NAB

22nd September 2004

Mr John Stewart
Chief Executive Officer
National Australia Bank
500 Bourke Street
Melbourne
Victoria 3000
Australia.

Dear Mr Stewart

Appleby NIB Report

We refer to our letter of 10th August 2004.

Direct dialogue with the Irish authorities deliberating over the investigations into practices of the National Irish Bank have been opened, giving particular emphasis to the universal nature of the bad practices of the whole Banking Group including the Bank of New Zealand.

As it appears that you are not interested in our offer of assistance to inform you of the detail we represent, our files on this matter are now open to the Irish, New Zealand and other authorities.

Yours sincerely

Letter 10

- **Acting Minister of Finance**

12 October 2005

12th October 2004

Hon Trevor Mallard
Acting Minister of Finance
Parliament Buildings
Wellington.

Dear Mr Mallard

Re Your letter of 5 October 2004.

Subsequent to the letters addressed to Dr Cullen to which you replied to as acting Minister, the Minister and his senior staff have received comprehensive information via email and the internet relating to the Irish High Court investigation into the National Irish Bank's activities.

By the content of your letter it is clear that you have not been availed of the detail relating to the criminality involved as it pertains to the New Zealand situation.

The Irish revelations of illegal practices identical to those evidenced as being practiced by the Bank of New Zealand (a sibling to the NIB), sets a precedent that must be observed.

We trust the Ministry will investigate the information supplied, as it clearly renders non-action to be a legislatively improper response.

Accordingly your further attention to the matter will be duly appreciated.

Yours sincerely

Cc Dr Cullen.

Letter 11

- **BNZ – Director**
25th November 2004

25th November 2004

Mr T.K. McDonald
Chairman
Board of Directors
Bank of New Zealand
P.O. Box 1665
Wellington.

Dear Mr McDonald

On 28th June 1999 you committed to the Rt Hon Winston Peters MP, that if this organisation “provides facts which possibly suggest there is an issue that the bank (BNZ) should address” that you would communicate with us.

Accordingly we consider it is appropriate to communicate with you at this juncture.

Facts relating to undisclosed overcharges made against Bank Customer accounts have been exposed in the Irish High Court report into practices of the National Irish Bank commenced 30th March 1998 that was released 31st July 2004.

Given past notification offered to you detailing systematic overcharging of customers of the Bank of New Zealand during the same time line of the practices providing the focus of Irish High Court Investigation, a sensible discussion is warranted.

Due to the global duty of care involved, the report has been furnished to the New Zealand Regulatory Authority at the Irish Bank’s request.

Your notification as to an appropriate time to properly discuss this matter further will be valued.

Yours sincerely

Cc Rt Hon Winston Peters MP.

Letter 12

- **Reserve Bank**
25th November 2004

25th November 2004

Dr A.E.Bollard
Governor
Reserve Bank of New Zealand
P.O. Box 2498
Wellington.

Dear Dr Bollard

Re; Irish Director of Corporate Enforcement report.

On 31st July 2004 the Irish Director of Corporate Enforcement released his report on the High Court Investigation into practices of the National Irish Bank.

Schedule VII of the High Court report lists eight Regulatory Authorities internationally to be furnished with the High Court Inspector's report.

Schedule VII lists the Reserve Bank of New Zealand as one such Regulatory Authority.

Paul Appleby the Irish Director of Corporate Enforcement has communicated his position directly with us, accordingly we trust you will appreciate the global civil duty intended by ensuring you are fully informed of the detail involved.

With the benefit of the information within the Irish High Court report, actions of the Bank of New Zealand previously reported to the Governor as "accounting and control errors", have now been identified as improper actions. Practices exposed in the Irish report have crystallized the practice of the BNZ systematically taking undisclosed charges from customer's accounts as a criminal practice.

It is clear that any institution secretly taking money from its customers may not claim this action as a commercial right by any legal description.

Therefore, given the legal implications and the impact on public interests surrounding this matter, would you please advise us of the appropriate Office of Compliance in New Zealand that holds the statutory duty to investigate the Bank of New Zealand's practices in line with the Irish example?

Thank-you for your attention to this matter.

Yours sincerely

Letter 13

- **Deputy PM – Min Finance**
15 Dec 2004

15th December 2004

Hon Dr Michael Cullen
Deputy Prime Minister
Minister of Finance
Parliament Buildings
Wellington.

Dear Dr Cullen

Thank you for your letter on behalf of yourself and the Prime Minister dated 10 Dec 2004.

In reality our natural right to an effective remedy in resolution of our dispute with the Bank of New Zealand (BNZ) has not been available by the process you recommend in your letter.

We had followed Ministerial advice to involve the Office of the Banking Ombudsman and by this involvement our fundamental right to an effective remedy via the Court system was directly obstructed.

Disregarding this fact however, you have previously acknowledged that the Court process is fundamentally defective in cases where a Bank takes disputed actions against individuals, due to an unreasonable financial imposition. Accordingly it must raise a serious concern for you to learn that the foundation of the well documented dispute (for which a right to competent adjudication is sought); involves high levels of long term systematic undisclosed overcharging of our accounts by the BNZ.

The facts involved remain unheard.

The criminality of the improper practices inflicted on us by the BNZ has been clearly identified by the Irish High Court investigation into the National Australia Bank (NAB) owned and directed National Irish Bank (NIB). While in New Zealand improper charging of unjustified undisclosed fees against customer's credit card accounts are currently subject to legal action brought against the offending banks (including BNZ) by the Commerce Commission.

You have previously stated that the Banking Industry in New Zealand is "governed by a comprehensive regulatory regime"; however in contrast to the Irish authorities, for example, (as per Irish High Court report into practices of NIB) under identical circumstances, no compliance enforcement has been invoked here.

Nationwide evidence proves the illegal practice of overcharging customers (as a policy to boost the profit levels of the BNZ) is systemic within some areas of the organisation, consistent with the findings of the Irish High Court investigation into the sibling Bank NIB.

Within the 2004 Irish High Court report it is recorded that the Executive Director and Chief Operating Officer of the NAB was informed of the bad practices used by NAB's Irish Bank in March 1999 via an internal audit report, (copy published within Irish High Court report). In October 1998 the previous Chief Executive of NAB was advised of improper overcharging practices of the BNZ. As no remedial action followed your under Secretary of Revenue wrote a "Please Explain" to NAB in March 2001.

No remedial action was taken.

It is a very serious matter that unlike the Irish scenario, the highest level of BNZ Management and the Board of Directors has failed to properly observe the legal obligations when advised of the illegal practices of their Bank.

Comprehensive and thorough remedial action is currently being undertaken in Ireland, while the "Comprehensive Regulatory" Authority in New Zealand continues to discharge the obligatory duty held.

We can only ask why?

As individuals we are entitled as a fundamental Human Right to the protection of the State from illegal actions imposed by a Bank registered under the New Zealand statute, therefore we respectfully request that you reassess the matter of duty to ensure the enforcement to which we are rightly due.

Yours sincerely

Cc Rt Hon Helen Clark.

Letter 14

- CEO National Australia Bank (NAB BANK)
1st August 2005

Ahmed Fahour
Chief Executive Officer
National Australia Bank
500 Bourke Street
Melbourne
Victoria 3000
Australia.

Dear Mr Fahour
Re; Overcharging Practices of the Bank of New Zealand.

In response to newspaper articles of recent days exposing further cases of historical overcharging customers of your bank, we draw your attention to important facts of which you appear to be unaware.

This organisation has made several representations to past Chief Executives of the National Australia Bank(NAB) dating back to 1998, (with the most recent having been addressed to Mr John Stewart in August 2004) relating to the proven systematic overcharging practices of the Bank of New Zealand (BNZ)

There has been no reply to that correspondence focusing on parallels of the BNZ overcharging practices to those of the then NAB owned National Irish Bank, as reported by the Irish High Court in July 2004. The documented results of overcharging practices discovered by BNZ customers are circumstantiated within the Irish Director of Corporate Enforcement's report, to which explanations are warranted.

Unfortunately, the Bank of New Zealand and your predecessors have not demonstrated the good "**principles**" you boast, as the reaction to our past correspondence (and personal representations at your Melbourne offices) has definitely been to "**sweep things under the rug**" by ignoring every approach made to remedy this matter.

The facts surrounding the Bank's reaction to complaints of the systematic overcharging are rather more serious in this instance due to the lack of remedial action taken by the Bank's Chief Executive, Company Directors of the BNZ and the highest level of management of the National Australia Bank, as owners.

It has been clearly noted that this matter should be addressed directly with your customers rather than through the media, however we are unable to present the case, while your organisation continues to ignore the long-term professional approaches being made to you. An urgent reply would be helpful. – Yours sincerely