

Meeting at Windford Manor – Newsletter

Excellent meeting and for those who couldn't attend, below is the agenda – although it did go slightly awry with extra speakers taking part so that we didn't manage the Q&A session.

2.00PM NICK GOULD – Opening and Chairing the meeting

2.00PM NIKKI TURNER - Introduction and overview of meetings with FCA, Dominic Lindley, Parliamentary Roundtable and Finance Watch (EU Lobby group about banking serving society). The SBF - small business fund. Help and ideas. The book.

2.30PM NICK GOULD – Civil dossier from Gunnercook for SME Alliance.

2.45PM This slot was for Nigel Henderson to talk about the progress being made in Scotland with a group of members. Sadly Nigel cannot make it so we will read out the notes he sends us.

3.00PM CLIVE MAY – the 'simple brickie v Goliath!' How it's going.

3.15PM STEVE MIDDLETON – FCA, regulation and appropriateness.

3.30PM ANDY KEATS – RBS – ROSS MCEWAN (Nikki to read out the letter we sent to Ross) – the ongoing FCA investigation – focus for next year FCA-ICO and how the fund will assist.

4.00PM Q&A Session

5.15PM NICK GOULD closing the meeting.

Rather than go through the specific points of the agenda and for the purposes of this newsletter, I am giving an overall round up as many of the things Andy, Steve and I were talking about overlapped.

As I think everyone knows, our last meeting at the FCA was on 3rd November and this was subsequent to a meeting Andy Keats and I attended with Karina McTeague, Head of Retail Banking, who had simply refused to look at the evidence Andy had collated showing how RBS have been manipulating and falsifying clients' central files.

I covered the 3rd November meeting in the last newsletter but while we were in Bristol we were able to explain in more detail what happened and how the matter has progressed. Andy, Steve Middleton, and I have all been slightly (very) disappointed by the approach the FCA appear to be taking to the allegations and there has been endless correspondence, especially between Steve and David De Souza over the last few weeks. Contrary to their insistence they do not look at individual cases, the FCA would appear to be breaking our evidence down into exactly that – individual cases which they can then not deal with!!

Additionally Steve has identified some potentially very serious breaches of FSMA whereby unauthorised people have been selling products to clients when they are not allowed to. Again, Mr De Souza has had some strange replies to Steve's allegations and again this begs the question – what is the point of FSMA, the FCA Principles for business and the need to be authorised if the banks can run a coach and horses through them? As much of what Steve has uncovered is highly technical I will ask him to do a members update – although I know he's in London this week celebrating a big birthday!!

HAPPY BIRTHDAY STEVE!!!!

Unfortunately our barrister has been snowed under with work and, various developments about RBS cases have had to be included and considered in his opinion. So we still haven't sent the opinion to the FCA and we hope to do so by the end of this week. However, while we have been waiting to send the opinion and continue discussions with the FCA about the allegations, the situation was aggravated by Ross McEwan publicly announcing on LBC radio that the information and evidence Andy Keats presented at the Cambridge symposium is "just not true." He said this to Ian Fraser who was a caller on the programme. Here's a transcript of what he said:

RM Patience for businesses coming up, but again let's see what happens in the next couple of months.

RH We go to other callers, this is Ian in Edinburgh, you're on the radio Ian.

IF Hi Ross, I'm Ian Fraser, the author of the book called 'Shredded inside RBS' the bank of Great Britain. I respect what you're trying to do with RBS in terms of rebuilding trust, you know turning round the retail bank, abolishing teaser rates etc, etc. But there are some huge issues which have been establishing in recent weeks, particularly with the relation to the alleged falsification by RBS of business customer's files.

RM [Laughs]

IF Central files you hold, on business customers. These were documented at the Cambridge symposium on financial crimes in September by a guy called Andy Keats, they're also been documented in the Times and various other internet and national newspapers and the allegations basically are that RBS is on a kind of industrial scale falsifying the core files on SME customers which; and these falsifications of the files are allegedly enabling RBS to then win against these customers, which whom is in dispute and who allege the bank and who allege that you're ??? to be removed...

RH I've got to move you to a question Ian, so is the question is this true or what or is it to just sum up? but he'll stay on the line but I'll need a question here.

IF How concerned are you Ross, about these very credible allegations of deliberate falsifications of customer files?

RM Ian can I just push back on this, because every time I get trapped on this, and people say, you know I'm; we've looked at each of those and I'm sorry but you keep saying that they were allegations but that's what they were but no one has proved these things, we've looked through these files, had 8 of them across the desk and I'm sorry. They're just not true. So you know this is where people...

IF I've seen the files, I've seen the lot of them.

RM Yes and so have I Ian and I understand but I'm going to push back, you show me where it's gone wrong and show me what difference it would of made to the actual case that was held and the outcome of it. That's the piece, because people, there are a number of people are having a go at this bank consistently and I don't mind facing them face to face, we've done that but they've got to put it on the table.

IF I'd be very happy to meet with you and bring the evidence.

RH Alright okay, Ian take, we'll take your details and if Mr McEwan wants to pursue that, we will.

I should point out that Clive, Andy and Mark Wright also called LBC to talk to Ross but were unable to.

Subsequent to this extraordinary broadcast (because some might say he is actually publicly calling Andy a liar) Andy wrote to Mr McEwan requesting a meeting and didn't even get a reply. We then wrote a letter from SME Alliance requesting a meeting and, as Nick has said, we didn't just offer him an olive branch, we offered an olive tree. But to no avail – here's a copy paste of our letter and the reply from Ross McEwan:

Dear Mr McEwan,

Further to your comments on LBC radio on 20th November and specifically your conversation with Ian Fraser, I would like to make the following points on behalf of members of SME Alliance:

- 1. Neither Mr Keats nor, to the best of our knowledge, anyone connected with SME Alliance, is making allegations **which are unfounded or not true**. We have a team of professional advisers and we also have the assistance of a barrister who has considered the allegations we put to the FCA on 3rd November about falsification of documents and transcripts by RBS. We would not make allegations if they could not be substantiated as it would be damaging to our reputation.*
- 2. As an organisation we have asked on several occasions to meet you with absolutely no success. We have met with Mr Collins (general counsel of RBS) and Mr Lucker (Head of litigation) and had hoped that would progress to a meeting with you.*
- 3. It is not our intention to damage RBS or its reputation. However, as we are repeatedly thwarted in starting to find resolutions for our members because of denials of fact by certain employees of your bank, we have necessarily had to report our findings to the regulatory bodies and the press in order to stop serious misconduct going unchecked and also to try and protect members from further serious misconduct. This, in an effectively regulated industry should not be our role, but the role, in the first instance, of senior managers or the board and ultimately the regulators. The roles of directors are set out very clearly in Company law and the numerous corporate governance and other codes.*
- 4. We are aware you are a busy man. However, we are also aware from our dealings with other banks, it is not uncommon for the CEO of a bank or indeed the Chairman, to either be unaware of matters being dealt with at other levels, or to be given more "convenient versions" of what actually happened . We do not necessarily wish to suggest that you or your senior management (at board level) are deliberately misrepresenting facts but we are concerned you may be unaware of the facts to which we are referring.*

This is why we would welcome the opportunity to meet you. We would like to present you personally with the evidence we have. We would like your opinion of how we and members of SME Alliance who feel they have been mistreated by your bank, could find common ground to reach a resolution without costly litigation. It may appear a strange suggestion, but we would like to develop a relationship with RBS, such that where we have serious issues and allegations, they can be dealt with directly between us and the bank again attempting to avoid the massive costs which often arise when outside parties are involved.

Possibly our suggestion will seem like pie in the sky to you and the idea of SMEs negotiating realistic outcomes via SME Alliance will not appeal. However, we would say direct contact with the highest officers of banks is a logical and long over due process that could save everyone concerned time, money and further unpleasantness. The distress of many of our members is palpable and there is no real reason why it needs to continue indefinitely. Please bear in mind SME Alliance is first and foremost looking for realistic solutions. We are certainly not looking for out and out warfare (it does neither we nor RBS any good at all) and, even if the outcome of any meeting was that we could not find a mutual accommodation, at the very least we would all understand the grounds upon which we disagree. In addition you would have a better understanding of why we believe many people have a very strong case against RBS.

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We accept any actual negotiation would be down to lawyers but I suggest it would be an original and inspirational way forward if the professional bodies were given a conciliatory position as opposed to the general litigious stance.

I hope you will agree to meet with the directors of SME Alliance for a without prejudice meeting at your earliest convenience.

Yours sincerely

Nikki Turner- director For and on behalf of SMEalliance Limited

Here's the reply:

Dear Ms Turner

Thank you for your email.

We take the recent allegations of falsification of documents very seriously. As I mentioned on Friday's LBC show, we have investigated all such allegations and have found them to be wholly without merit. I'm aware that some of these allegations were made by members of the SME Alliance.

We will of course investigate any new complaints made by your members or other customers, or review any new evidence provided. I cannot however agree to meet your organisation, particularly as you have already had the opportunity to discuss these issues with John Collins and William Luker.

Regards

Ross McEwan

The reply is factually incorrect but it does raise some interesting points. If Mr McEwan has indeed seen all the evidence – where did he get it from? It can only be the FCA and, as yet, Andy has not got permission from all those who submitted evidence for the FCA to share it with 3rd parties. So in this instance, the dreaded Section 348 has been completely ineffectual! Obviously we are replying to Mr McEwan and Andy has already replied personally.

This leads me on to an announcement Nick Gould made at the meeting. With his Gunnercooke hat on Nick is going to prepare a dossier of information and one page case studies to present to the new Chairman of RBS. The object being to give this new boy on the blog such substantial and comprehensive evidence, he might finally agree to start a dialogue. And where as all our work with the FCA and the ICO is about the regulatory side of things, Nick will be approaching it from the legal (but not criminal) side. This is hugely important because that is the battle ground most of our members are having to fight on. Nick is doing this pro bono which is fantastic and has now been instructed by SME Alliance. He plans to use about 10 cases and Rachel Gibbs and Paul Clarke are contacting members about this.

Some members at the meeting asked if this approach is being limited to RBS? It is for the time being not only because we have to start somewhere and, thanks to Ross McEwan's comments and the amount of information Andy and Steve have collated on RBS, we have a real window of opportunity with RBS. Hopefully we can expand this to other banks next year – but RBS is a good one to start with.

While we were at the meeting and discussing the other regulatory body we've been trying to meet – the ICO, we received an email in reply to our letter requesting a meeting. They have agreed to meet and I have now spoken to Richard Sykes at the ICO and arranged a meeting at the beginning of the new year. This is very important because it seems that, at present, there simply is no hard and fast rule about what anyone should receive when they submit a DSAR. We need this clarification or the banks can just continue to send out what ever they want and in any format!

Clive may gave us a very entertaining update on where he is with his case. Two things I would point out – one, I bet both RBS and the FCA rue the day they took on this “simple brickie” and two, Clive is well on the way to becoming a public speaker and has developed an excellent technique! He seems to have found a hidden talent. As I didn't have either Sophie or Laura at this meeting (party poopers) I don't have comprehensive notes so I'm going to ask Clive to write his own update for members which I will then send out separately.

Very sadly, Nigel Henderson who was going to talk us through the various update and breakthroughs of SME Alliance Scotland, had a puncture on the way to the airport and missed the plane by ten minutes. I know he was absolutely gutted to miss the meeting as were we, when he didn't make it. However, he did send this update by e-mail for members:

Notes for Bristol re meeting of

SME Alliance members in Perth 11th November 2015

There were 7 victims of RBS present at the meeting, all but one of which had their business driven into bankruptcy by RBS

One is hanging on by his fingernails, having been under GRG for last 5 years and seen his business starved of cash and hence investment.

The meeting agreed to support my (Nigel's) complaint to police. The problem is that we believe the Crown Office, like the prosecutors in England, are standing back from pursuing RBS or indeed any bank.

It was agreed that everyone present would lodge a complaint with Police Scotland at the Dundee office where there is an economic crime unit. Nigel has an ongoing dialogue with the police there and they appear supportive, but also extremely frustrated at the lack of willing shown by Crown Office.

To date, 3 members have lodged complaints and are waiting a suitable date for being interviewed.

*One of the members was bankrupted by RBS in 1992 and the bank deliberately extended, and then extended again, his discharge from bankruptcy for **FOURTEEN YEARS**. During that time he obtained consent from the courts to pursue a private prosecution of RBS in Scotland. This is unheard of.*

He has not been able to do so because of the cost of doing this which will not attract any legal aid.

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The meeting agreed unanimously to support this private prosecution with funding for the initial legal advice and presentation of the prosecution papers to be lodged at court and we are currently waiting for a quote as to how much this will cost.

It is hoped that if this proceeds all of those at the meeting who believe there is a genuine complaint for fraud to be pursued, will be able to run in on the back of this prosecution and certainly provide our own evidence and testimony exposing RBS' conduct.

*When the police were advised that the courts had consented to a private prosecution with the Bill of Criminal Letters being agreed to, they were very taken aback and confirmed that they would most certainly inform the Crown Office of this. Perhaps, this information **MAY** make the Crown Office more persuaded to conduct a full investigation as if the Private Criminal Prosecution does proceed, it will make the Crown and the Lord Advocate look very stupid and incompetent indeed..*

As with so many things going on at the moment it is sometimes difficult to document everything without jeopardising individual situations or cases. I know Nigel and other members are doing some great things in Scotland that may be helpful to us all and I will ask him to update us when he can.

It was good to see Jonathan Maskew from Shensmiths Barristers at the meeting and he has some good ideas for our social media sites and how we can build. I know Andy Keats has followed up on this. One idea is we must have add a hastag to all our tweets which will drive people to the site. Andy has suggested #bankfraud and unless anyone can think of something catchier, I think we should give it a try. On the subject of social media, our stats are dropping and I know this is partly because there's not always enough space in 140 characters to add @SMEAllianceLtd to every tweet. But please do try as members are not getting a chance to join in conversations or debates. Alternatively, add #bankfraud and look out for other tweets with this.

Stephen Harvey QC from Shensmiths has offered to speak at our next meeting and, in the meantime Jonathan is doing a blog for us on the benefits of direct access barristers. I think this is so important because so many people by pass this effective and often money saving route. In so many instances we see cases of people coming to the SME Alliance advisers having already spent tens of thousands of pounds on lawyers who don't have the specific knowledge needed for there cases and by the time they do get to see a barrister, they have no money left! This is not a pop at lawyers by the way – one way or another we all need lawyers if we're in business. But there's a big difference between the lawyer that draws up your contracts or helps with business deals and lawyers who are genuinely experts on derivatives of financial fraud. I'm sure they are out there but ultimately they invariably need a barristers opinion to take a case forward. If we can get more and more advisers to get cases into a good format for a direct access barrister, we could save people a fortune. And then, if the case does need to go to Court, it's down to the barristers to say what lawyers he or she needs to help prepare the case (so you're even getting advice on which lawyers are best). In short everyone wins.

Having said that, we are now completely focused on building our fund which will help us with things like judicial reviews, individual cases and victim support and we have two important meetings coming up before Christmas. I will keep you all posted.

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Re meetings – Andy and I attended a Parliamentary Round table a couple of weeks ago hosted by Baroness Kramer. Quite a lot of political bod there (but no Conservatives). The meeting was held under Chatham House Rules so I can't say much – although I will say the debate over the future of RBS is far from over. Most of all this meeting was useful from a networking point of view and as a result I was invited to a lunch with some very interesting people from Finance Watch. The primary mission of this organisation is:

- To act as a counterweight against the private interest lobbying of the finance industry.
- To strengthen the voice of society in the reform of financial regulation.
- To advocate public interest outcomes in financial regulation.

In short, exactly the kind of organisation we want to be involved with and especially as it has offices all over the EU including London but it's not London based. We will definitely be progressing this contact as EU financial regulations may be slightly less biased towards the big banks than UK regulation!

Other things we spoke about include general housekeeping. I know everyone is busy (boy do I know) and I made the point that, great as all the meetings we now get invited to are, they leave little time for things that were done on a regular basis. For example, Laura is happy to add news, blogs or what every members want on the site but I haven't had much time to give her content. So please, it's important, if you have any news (general or about your own case) or if you can contribute a blog – please, please do. Even if it's just a few lines giving an update or making a point.

I know, for example, Tesh has had a good result lately and I am hopeful he will have a transcript of decision he got in Court which will have a good knock on effect for many others. I have asked Laura to put some time aside every day from 5.00pm to post members news, blogs or anything else – so please do send us things.

The meeting finished not as predicted but with Alun Roberts and his colleague Cash (I didn't get the surname) giving a presentation about LPA Receivers and they had prepared a very interesting chart about the system of destabilisation and who and how banks have been targeting their victims. I will ask Alun if he has a digital version of the chart and if he has, I'll post it.

I hope to have some more news from the RBS/FCA camp before Christmas and will do another newsletter if this is the case.

Best wishes to allegations

Nikki