Farmer Malcolm Taylor Takes on NAB In David Vs Goliath Battle

Summary:
NAB was facing a massive loss on a company it had funded. The company was trading insolvent and was soon to default and likely go bankrupt. So how did NAB manage its exposure and risk? Well it did what any crime syndicate would do. It found a victim with assets - a farmer - Malcolm Taylor - and then by using fraud and deception got Malcolm to borrow against his farms to purchase the doomed company. A shocking case illustrating how NAB operates.

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NAB - Not Off The Hook Yet..!!

This case is very significant. It demonstrates the criminal, corrupt, deceptive and treacherous tactics

NAB uses in its relentless quest for ever increasing profits. Malcolm Taylor is a community leader and former President of the Shire of Lower Chittering. He tells us his story here for the first time. In 1994 an abattoir known as Tip Top Quality Meats was to be shut down, the impact on his home town would have been profound. Several hundred workers would be sacked and forced to leave the district with the flow-on disaster of downsizing schools, policing and other essential services, effectively destroying the hub of their community.

Malcolm and two others sought to buy the abattoir to save their way of life.

They had to deal with NAB and the existing owner whose company structure was essentially insolvent.

In the period when negotiations commenced, NAB effectively concealed crucial information and assessments from the purchasers. NAB encouraged the sale to divest itself of a failed business which was without assets to cover its debts and pass their own exposure on to the buyers, of whom only Malcolm had substantial assets, his two successful wheat and sheep farms just south of Moora, a couple of hours drive north of Perth.

In a process of legal discovery Malcolm found documents from the period of negotiation.These included: bankers' notes; memoranda; and internal assessments. These notes had been taken from orderly files and deliberately scattered randomly to cause confusion. Malcolm asked for and was given permission to photocopy everything. He took his own copier into the law firm representing NAB whereby the question of client privilege was waived and confidentiality ceased to reside in these documents.

It thus became clear that NAB found the abattoir to be the worst managed company they had come across in many years of banking. At a meeting with the company Managing Director - Mr Watson - it was made clear that his company was insolvent, although when typed up the notes were altered to say - “whilst not technically insolvent …” etc.

The objective of NAB was to conceal the true situation by hiring and arranging payment for an investigating accountant whose covert purpose was to manipulate events for the bank so that a sale could ensue and who, thereafter, conveniently disappeared.

Basically there was an orchestrated scenario to dupe Malcolm into placing his assets in NAB's hands to replace the bankrupt owner's debts which clearly were never going to be repaid to NAB.

Part of the plan was to have a purported representative of the seller, who was secretly engaged by the bank, tout the abattoir as being valued at better than $15 million.

Banking notes revealed: "Whilst the Company may not be technically insolvent it surely is struggling to meet its obligations as and when they fall due. Our dissatisfaction with the company's financial reporting and monitoring was aired and we reiterate that for a company of its size and indebtedness it is amongst the worst we have encountered in our time in banking. … the quality of information we are being fed is poor and that there is a problem with existing accountant. … we should be turning up the heat on owner to sell. … Timing is now critical as with the lack of throughput our position is deteriorating each day. … we could not have orchestrated a better scenario to manage and service our exposure."

NAB offered to finance Malcolm's purchase of the abattoir's assets. However, unbeknownst to him at the time - NAB was in possession of a valuation of the abattoir and the business - a total of $3.8 million. It was ultimately bought for $4.5 million.

At settlement NAB acted as financier and settlement agent for both buyer and seller.

Instead of $4.5 million as per the agreement, $4.75 million was paid to the seller by NAB. The bank immediately took the cheque back and started disbursing funds from the additional $250,000 without authority.

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Consequently the new business was immediately under financial stress with little working capital. Notwithstanding this, NAB continued to withdraw unauthorised amounts from the abattoir accounts. The business was insolvent right from the start - and eleven weeks after Malcolm purchased it a receiver was called in.

Amazingly, it was not until July 2008 that Malcolm discovered by a search of Landgate records that the transfer of the abattoir land and assets had never taken place. This is critical - the stamp duty on the sale and the transfer of the land and business was never properly finalised.

Malcolm fought NAB's efforts to throw him off his farm. NAB used their vast legal team to harass him mercilessly. Eventually in 2006 Malcolm settled with NAB for much less than the bank was demanding. Malcolm also managed to regain complete control and ownership of his farms. NAB knew they were in big trouble over this deal - that's why they settled without taking Malcolm's property. NAB is not off the hook.

Fighting on, Malcolm applied for to the WA Supreme Court on 5 December 2008 for discovery of documents prior to issuing a writ so that he could assess whether he had grounds to proceed.

Malcolm sought only two core documents regarding the multimillion dollar transaction.These should have been easy for NAB to locate. NAB had a very big problem though - the documents crucial to the false acquisition, did not exist.

The Master of the Court refused the application out of hand. Such a small and easy request would, if granted, have pushed the bank into a declaration on oath that the documents could not be found. NAB could never have produced them.The Master was not on the side of the battlers but of the big and powerful bankers.

Bank Reform Now salutes Malcolm Taylor for his determination and perseverance. We will support him in his continuing fight for justice. If Malcolm wins - we all win. NAB and other banks behaving in this manner must be reformed. With your help they will be.

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