

ULSTER BANK/GRG BUSINESS ACTION GROUP SUBMISSION

23/1/2017

REPRESENTING

The Ulster Bank GRG Irish Business Action Group was set up as a result of over 2,000 Irish business's experiences of abuse, breach of contract, breach of fiduciary duties, and maleficence at the hands of Ulster Bank's GRG group, leading to a tsunami of receivers being appointed, business's closed and lives and families ruined.

We believe that Ulster Bank /GRG deliberately targeted and shut down viable businesses in a property grab strategy.

These businesses are representative of a wide range, incl. Industry, retail, property, farming, automotive, warehousing, distribution etc. from all around the country.

We represent 60 such businesses to date and the numbers are increasing on a daily basis. When their individual stories unfold it is obvious that there is a commonality through their experiences. From 2008 onwards all businesses were experiencing cash flow problems as business in general took a dive during the financial crash. RBS, the parent Group of Ulster Bank reported a loss of 24 Billion, and their share price fell by 66%.

The bank targeted UK and Irish Businesses with loans between one and 25 million. These businesses were removed from Ulster Bank's normal relationship managers and put into their GRG Group headed up by two special agents of the bank. The reasons given by the bank had a common theme. These special agents/managers were to restructure the company debt, guide the company through the recession, with cost saving strategies, better productivity, reduce interest rates etc.

GRG was sold to the business owners under the guise of the bank taking a special interest in the company in a caring partnership arrangement. Businesses did not suspect that GRG was a purpose vehicle designed to take down the company as was borne out in the UK disclosure.

In RBS/ Ulster Bank, GRG "Grab for cash" strategy (ref whistle-blower account BUZZFEED/NEWSNIGHT BBC2 .) attached. They targeted firstly companies who had a positive loan to value ratio. Easy targets essentially.

SNAPSHOT OF A BUSINESS. How Ulster/GRG engineered a default.

Our own Company Glencullen Holdings, (in receivership) was one such company.

We were a customer of Ulster Bank since 1990 and had never defaulted on a loan. The company was experiencing cash flow difficulties in 2009.

2010. The bank demanded further securities and pulled in all properties in the group. This gave them an overall cover of properties worth 65 million for a debt of €10.5 million and a €1.5 million overdraft.

October 2011. The company was put into GRG. They immediately started to squeeze the cash flow. Restricting trade, put a shadow director in charge and basically monitored every

move, every car that was bought and sold, parts, service etc. Every cheque payment had to be sanctioned by this shadow director. The bank grabbed all cash that was brought in through the company including the personal pension of the 100% shareholder and chairman. He had already invested 20 Million of his own money in the company. Still they wanted more.

April 2012. Just 6 months later, Ulster Bank pulled down the overdraft from €1.5 Million to €800 k

This lack of cash put our franchise terms and conditions contract under pressure and resulted in our having to pay “cash at the gate” for all vehicles and parts. At that time we were turning over 200 million and employed 200 people directly and so it was not possible to keep the business going without credit.

Attached Ref: **BUZZFEED /NEWSNIGHT** revelation of internal UB,GRG documents stating the following : “If the company has not defaulted. We can engineer one”

That is how Ulster Bank, GRG engineered our default.

July 2012 With the lure of cash, the insistence of UB/GRG, taking into account the understanding that the company could acquire other franchises, Glencullen decided to part company with their main franchise for the buyout price of €1.6 Million.

GRG managers/agents went into a frenzy. They were on the phone daily during the negotiations insisting “Take the cash”. Take the cash”. A portion of that payment €650 K had been earmarked by the company financial controller for the Revenue Commissioners. The bank agreed provided they got the balance.

AUGUST 2012. The final payment was paid in August 2012. The money was never passed to the revenue commissioners.

Sept 2012. We secured a stocking loan of €1.5 million from another bank. Ulster Bank refused to sign a standard letter as our main banker even though they had insisted that we give up our main franchise to get in the cash. Having done so they refused to support any new franchises for us to continue in business. Suddenly our two GRG relationship managers weren't available to sign the letter, our shadow director said he couldn't sign having previously said “there would be no problem” It became clear to us that Ulster Bank /GRG were renegeing on their promise. .

October 2012. We struggled on and tried to hold on to the business. The UB/ GRG managers were on the phone daily telling us we were insolvent and that we had to call in the receivers ourselves. At this time our property values outweighed our loans at least three to one. We now know that this was a requirement as legally they had difficulty in pulling the plug on a company that hadn't defaulted. They refused to pay the revenue in an attempt to force them to appoint a receiver instead.

Eleven months after GRG took over, the receiver was called in. They took everything, including all our documentation and back up receiver, leaving us nothing to fight them with. In the intervening 4 years they have totally refused to give us any documentation on our loans, or payment schedule, or bank accounts in spite of numerous requests. This systematic abuse of customers is mirrored across all the other business's we spoke to all across the country.

The motor industry has increased by 66 % since 2012 proving that a company such as ours was not only well able to survive with good franchises such as we had secured but would have thrived in an improving economy over the past 4 years. Having sold five of the prime properties for 8.1 million Ulster bank GRG had their money back as they had written the debt down to 8 million (as advised by GRG Manager). The remainder of the properties have been left derelict with no maintenance or security. They have been broken into and even set fire to and sold off to a vulture fund.

PREFERRED CLIENT DEALS.

Ulster/GRG gave a prepack deal to a competitor in a” **Right of first refusal** “arrangement along with a €12 million loan to expand his business. (Ref newspaper article). Airside our prime dealership was given to that preferred client, a competitor for that “Right of first refusal deal for €2 million”. The value of that building and site was €12 million.

This proves that Ulster Bank had confidence in the motor trade at that time. Ulster/GRG told us the opposite, that they had “No appetite for the motor business at present.”

That property lay empty for three years and was denied to us and other investors who approached to purchase it. Another prime dealership at Liffey Valley was taken over by the second “preferred client” and our customer data base used to write out to our customers telling them that they would be opening and looking after their needs. This was within weeks of receivership. (Ref Copy customer letter)

Personal loss

Aidan Cullen MD of our Airside dealership dropped dead from a stress induced heart attack 10 days after the receiver took over.

Loss to the exchequer.

Collectively and conservatively these 2141 businesses put into GRG employed over 20,000 people which is equivalent to several large multinationals.

Their tax contribution to the exchequer was in excess of €250 million per annum, taking the average salary of 35 K. That equates to over €1.25 Billion over the past 5 years.

The knock on effect to the economy was, and still is immeasurable.

The personal debt remains with those people as Ulster Bank sold the loans on to Vulture Funds for pittance and now the injustice continues as they have taken the bank’s place in pursuing the owners for 100 %.of the loan.

Ulster Bank lied to the Joint Oireachtas Committee during their submission in December 2016 saying they didn’t receive any complaints. They received many complaints from customers, our members included. They also committed to writing out to all customers. No letters have been received to date.

UK Precedent- Berg Banking report 2016

On 8th November 2016, RBS announced that despite its previous denials, it now accepted that it had failed some GRG business customers and would, as a result, be implementing a new complaints review process and an automatic refund of complex fees charged to GRG customers between 2008 and 2013. Following investigations into the conduct of RBS the Right Honourable Andrew Tyrie, MP, Chairman of the UK Parliamentary Treasury Select Committee labelled findings “shocking”, and demanded that the firms affected can be paid compensation. He said “Many businesses who deserve better have been at the wrong end of RBS conduct”. Dr Lawrence Tomlinson has also commented that the perverse incentives described in the Tomlinson Report did exist within GRG. He went on to comment that there were many questions for the bank and Regulator to answer. MP John Mann has asked the Serious Fraud Office to open an “urgent investigation into RBS.”

RBS files expose the bank’s secret scheme to boost revenues during the financial crisis by draining businesses of cash and stripping their assets. Key findings show That RBS files now reveal that, under pressure from the government, the largely tax payer owned bank ran down businesses in its restructuring unit as part of the deliberate, premeditated strategy to cut lending and bolster profits.

RBS/GRG managers encouraged employees to hunt for ways to boost their bonuses by forcing customers into loan restructuring in order to extract heavy fees as part of the profit drive nicknamed “**Project dash for cash.**” Firms that had never missed a loan payment were pushed into GRG under the bank’s secret policies for reasons that had nothing to do with financial distress, including: for telling RBS they wanted to leave the bank, falling out with managers or threatening to sue over mistreatment. Once in GRG, firms were hit with crippling fees, fines, and interest rate hikes that could run into seven figures, helping to net the restructuring unit a profit of more than a billion pounds in a single year. Auditors repeatedly warned about perceived conflicts of interest in GRG. The property division which amassed assets worth £3.3 billion during the crisis, was passed confidential information that was not available to other bidders when it wanted to acquire properties from businesses in GRG.

A vast proportion of RBS’s business loans were secured against real estate, and most agreements contained a “loan to value” covenant stipulating that the customers borrowing must not exceed 70 to 80% of the value of their assets. The dire economic outlook made it easy to argue that a fall in the value of properties put customers in breach of their loan to value covenants, and that meant the bank was able to break the deal. The problem for the bank’s customers was that property valuations are, and its executives later admitted in their evidence to parliament, “an art as well as a science”, and RBS often evaluated properties in a way that dispensed with any independent checks and balances. RBS managers need to only perform an internal “desktop valuation” – effectively just estimating how much its properties might be worth. RBS’s auditors raised concerns that the “valuation of properties might be manipulated as valuation is performed internally”. What is more, during the crisis, managers tended to assess the value of customers properties on the basis of how much they would fetch not in an ordinary sale but in a fire sale, with a short marketing window which further down valued the property.

So in conclusion it can thus be seen from the various UK Government and media investigations by the Buzzfeed/Newsnight teams and a review of the bank's own internal documents, that a deliberate process was adopted by the bank to improve its own position, at the cost of the banks customers, despite its reported claims to the contrary

Solutions/ Access to Justice

In order for fair play and justice against Ulster Bank GRG we need to level the playing field re costs of attaining justice. In accordance with the Irish Constitution and EU law every citizen is entitled to access to justice.

1. For many SMEs the timelines and costs associated with Court proceedings are of extreme difficulty, and impossible for most people. The judiciary need to deal with cases "justly and at a proportionate cost which includes
(a) ensuring the parties are on an equal footing" and properly considering the "financial position of each party". Put simply, the courts are required to manage cases in a way that places, the parties on a level playing field to promote the concept of "equality of arms." Affected SMEs that have been closed down by the actions of the GRG in Ireland should receive **free legal aid or be funded by Ulster Bank**. After all the banks costs are being paid from the customer's estate and are being added up against the customer's debt.
2. **Disclosure** is a clear part of the litigation process whereby clear and concise documents relevant to enable the Court determine issues within a case are provided to **save time and costs** so the process is not deluged by a cynical mass of irrelevant documentation which is par for the course by the banking sector to discourage claimants from pursuing justice. Agreeing from the outset what documents the bank are obliged to provide. This would avoid a situation whereby claimants are forced to guess at what documents are available, or they are forced to argue their case without the benefit of the available documents.
3. A relaxing of the disclosure rules to allow claimants to share relevant information across cases, if they are facing the same legal issues and/or dealing with the same bank witnesses. There could be a standard set of documents relevant to GRG claims or Libor actions. This would avoid the need for each individual claimant to incur costs, in seeking disclosure of the same. This would prevent the banks from having complete control over the flow of information, as is currently the case. Thus, for example, each bank will decide which cases to settle (subject to confidentiality), what disclosures to provide in each case, prevent employees from speaking out (whistleblowing) by again making their severance terms subject to confidentiality, and so on.
4. The banks can agree not to take limitation points against claimants who have been unable to pursue their claim within the stipulated six years. These claims should be heard on their merits rather than the expiry of a deadline.
5. A standard methodology agreed for calculating loss, and in particular consequential losses should be agreed.
6. Refund of complex fees as offered in UK is totally inadequate and is no match for the losses endured by GRG customers.
7. Central Bank and Financial regulator to take an active role in forcing Ulster Bank to compensate customers who have suffered at the hands of GRG and rescind their

banking licence pending an independent inquiry and a proper compensation package being put in place.

8. Reject out of hand the so called "Complaints " mechanism Ulster Bank have put in place, whereby one has to write into the bank to have their complaint evaluated by themselves. i.e. the abused customers are expected to once again enter the lion's den to complain about the lion!
9. The statement of claim from the Ulster Bank GRG Business Action Group is estimated to be in the region of €500 million to date and will rise accordingly as more companies join the group.