

## Opening statement to FinComm by Jonathan Sugarman

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Good morning, Mr Chairman, members of the committee, ladies and gentlemen. Thank you for giving me this opportunity to finally put on record, some of the contributory factors to the Irish banking crisis and how I believe these can be avoided in the future.

For those who do not know me, my name is Jonathan Sugarman and I was the risk manager for UniCredit bank (a €40 billion operation), which was located in the IFSC, and I joined the bank in May 2007. For those unfamiliar with the term 'risk manager' it is like a police man who works within a bank on behalf of the banking regulator, which in this case was the Central Bank of Ireland.

My job and that of all risk managers in all banks, regardless of where they are located, is to ensure that the regulations regarding how the bank is run are adhered to and upheld. If they are not it is my duty, not just to my employer, but also to the regulator to inform them of any activities which may not be within the limits of the regulations under which the bank operates. In 2007, the regulations under which I operated in UniCredit Bank, were unambiguous and very clear, as were the penalties for any infringement which might occur. In my case, failure to notify the central bank of a breach of these regulations could result in a mandatory fine and/or five years in jail. It is against this backdrop that I would wish to talk with you today.

I spent the first couple of months at the bank familiarising myself with the systems, products and internal control mechanisms. Having previously worked for two German owned banks in Dublin, I was familiar with the risk management practices and the regulations which govern them but approximately two months into my tenure I began to notice anomalies which were irregular, but happened with a frequency which suggested to me that they urgently required further investigation. Within a very short space of time it became commonplace for me to have a daily meeting with the chief executive officer of the bank to discuss the ever-increasing number of breaches of the regulations which I was observing. I was told not to worry that these were simply an IT related glitch and was nothing for me to worry about. I thought this somewhat unusual as being a risk manager I personally would suffer the full weight of the law if it were proved that I was aware of such breaches of the regulations and did not report them to the central bank.

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Needless to say, as a new employee in a new bank I went along with the instructions of my CEO for another week or two but there was no effort whatsoever being made to prevent or investigate the real cause of these glitches. It must be borne in mind that the relevant liquidity regulations came into force on July 1<sup>st</sup> 2007 (two months after I started) and I was only too well aware of the penalties for not complying.

I refer you to Item 6 (Requirements for the Management of Liquidity Risk), page 24. The extract below details the penalties applicable for any breach of the regulations which took place after 1st July 2007.

In particular, section 58 of the **Central Bank Act of 1971**, which refers to *Offences and punishments*, as amended by the substitution of section 9 of the Central Bank Act, 1989, states that a holder of a licence who commits by act or omission a breach of a condition duly imposed and which relates to a licence shall be guilty of an offence and shall be liable-

*(i) "on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both, or*

*(ii) on conviction on indictment, to a fine not exceeding £50,000 or, at the discretion of the court, to imprisonment for a term not exceeding 5 years, or to both,*

And further down the page you can read;

*if the contravention, breach or failure in respect of which he was convicted is continued after conviction, he shall be guilty of an offence on every day on which the contravention, breach or failure continues after conviction in respect of the original contravention, breach or failure and for each such offence he shall be liable.*

Section 60 of the 1971 Act contains an extension of the offending provisions. This states:



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*“Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate or an unincorporated body of persons and is proved to have been so committed with the consent or approval of, or to have been facilitated by any wilful neglect on the part of, any director, manager, secretary, member of any committee of management or other controlling authority of such body or official of such body, such person shall also be guilty of the offence.”*

There is no dispute of the fact that I reported a 20% liquidity breach to the Central Bank in late summer of 2007, and I urge you to understand the significance of such a breach and the following explanation should make it relatively easy to understand;

Regulation states that a breach of 1% should send alarm bells ringing and red lights flashing. The Central Bank must be notified immediately. In the context of driving a car, this would mean that there is a speed limit of 100 km/h. Driving at 101 km/h is a breach of law that has to be reported immediately to the authorities. UniCredit Bank Ireland only bothered to oblige the law and notify the regulator when we were speeding at 120 km/h.

The immediate question which should have been raised by the Regulator as soon I notified them of this breach should have been *How on earth did you get to a 20% liquidity breach? Were you not aware when you exceeded 5% or 10%? WHERE were you when you hit 15%?*

A breach of 20% implies that the bank came perilously short of liquid assets. The most liquid asset is cash. The events at UniCredit at the summer of 2007 occurred against the backdrop of the first run on a bank that Europe had seen since WW2. The entire branch network of Northern Rock in the UK had thousands of customers queuing at the door in fear that the bank was unable to return the cash they had deposited with it. In the meantime, the management systems at UniCredit Ireland were showing serious shortages of liquidity on a regular basis.

So gentleman, as you can see from the above section of the Banking Regulations, that it would not be just me as Risk Manager who would be liable for prosecution but also, the CEO

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of UniCredit and more importantly, I cannot stress this highly enough, any other controlling authority which in this case was and still is the *Central Bank of Ireland*.

What I find absolutely incredulous is that my life has been utterly destroyed because I did the right thing but the people who are jointly liable for the failure to adhere to the regulations, which this house formulated and passed into law, got off absolutely scot-free. There were no sanctions whatsoever placed on UniCredit or more importantly, the Central Bank of Ireland. I remind the committee that I have been unable to work for over ten years and am totally unemployable as a result of my upholding the law of Ireland.

Had the regulator done its job, it is my contention that the liabilities which were placed on the shoulders of the Irish nation, specifically the blanket guarantee which was given to all the Irish banks, overnight, which was effectively a blank cheque underwritten by every citizen in the state, would not have been necessary. A year after this, the country was saddled with a \$64 billion euro debt incurred by the banks which I had tried to warn the regulator about.

At the very heart of this matter is the fact that neither parent company in Italy nor the Italian central bank knew anything about this breach of regulation until 2010, as can be observed in the video clip provided (Item 14) in which Mario Draghi states this unequivocally. The Central Bank of Ireland should have notified both of them immediately.

The question now must be asked, how is it that the central bank was remiss, in carrying out its statutory function and nobody has ever been officially sanctioned because of it. My life was destroyed but the lives of those who work and worked in the central bank were not. You must ask why and only you can ask why and get the answers.

In the recent Banking Inquiry with which this committee and four members of this committee in particular are more than familiar, another whistleblower emerged. The particular investigation in which they were involved was the regulatory stream. The Banking Inquiry whistleblower made it very clear to members of the Joint Committee of Inquiry into the Banking Crisis that they were of the opinion that the Central Bank of Ireland was being deliberately obstructive in regard to the investigation and it was alleged that the Central Bank withheld certain documentation. This was later corroborated by a former employee of



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the Central Bank of Ireland. I am aware that the Banking Inquiry Whistleblower made several attempts to ensure that I would give evidence to the Joint Committee. I fail to understand why my attendance was prohibited at that time.

To conclude Mr Chairman, there are a number of threads of commonality which run through all of the banking systems in this country and that is most certainly the delay between matters of potential or actual financial malfeasance being reported and the time it takes for official Ireland to admit that it just "may have" an issue that must be dealt with.

The harsh fact of the matter is that official Ireland has absolutely and completely destroyed the lives of every single whistleblower who has come forward regardless from which organ of the state. It took Maurice McCabe 10 years of battling the State to finally begin repairing his life because the state made it as hard as possible for him and his family. The same goes for John Wilson and how he was treated. We should mention the Mary Boyle case and more recently the cover-up of the Grace scandal. The problem with this country is that official Ireland, those civil and public servants at the very top levels and have their hands on the levers of power seem to be completely immune from any form of sanction, while those who do the right thing are vilified and their lives destroyed. And finally, the reason why there is such a row about getting people to pay for water, or people lying on trolleys is because at the end of the day, the banks and their highly paid executives have always got to be paid and it'll always be the poor people of Ireland who will suffer the most unless this house finally has the guts to do what is right.

Thank you and I would be happy to answer any questions you may have.