

OPEN LETTER TO THE DIRECTOR OF CORPORATE ENFORCEMENT

Ian Drennan
Director,
Office of the Director of Corporate Enforcement,
16 Parnell Square,
DUBLIN 1

Dear Mr Drennan

In June 2011 - as you will know, since it was on your Office's application - the High Court ordered the disqualification of a former CEO of NIB from acting as a company director for 9 years. Other NIB senior personnel have also been disqualified. The basic reason was the bank's misconduct when directed/ managed by the individuals in question - mainly its role in sophisticated tax- evasion schemes.

The loss to the State from these schemes was shocking at the time, but would barely raise an eyebrow today.

Nearly 5 years after nearly all of the State's banks were exposed as insolvent, no legal action has been taken against the vast majority of those who steered their companies from great wealth to multi-billion euro deficits, in the process doing cataclysmic damage to the finances of the State and of its citizens, as well as impoverishing many shareholders.

It is said, with justice as far as we can tell, that no crimes were committed. More questionably, it's said that no individual broke any term of his or her employment contract. It is even claimed - or at least implied - that not one bank director was in breach of his/her duties as a director even as they all managed their banks into insolvency and ruin.

The new managers and shareholders of the banks either share these remarkably benign views of the stewardship exercised by their predecessors or (more likely) assign a low priority to what they consider a mere "blame game".

However, in our view, this is not good enough. We are surprised that you appear to think that it is. Your office is responsible for ensuring that company directors, auditors and senior managers meet minimum standards of behaviour and probity. It is extraordinary to the point of scandal that there has been no visible action taken in this regard, and there is no indication of any intent to do so. This point has already been made to your Office privately, but you have felt unable to respond meaningfully. Your office has been a model of prompt and courteous communication, but we remain dissatisfied that nothing of substance has been said.

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Your lack of visible action makes it difficult to avoid the conclusion that you are not going to do anything beyond what you have already in train in regard to Anglo. Our view is that those proceedings address relatively trivial matters and/or events which represent consequences rather than the causative failures of governance.

This letter is to formally request you, as a matter of urgency, to seek disqualification of every auditor, senior manager, and director (of relevant subsidiary companies, as well as main board members, and including shadow directors) of all banks licensed in the State. Again, it will be as obvious to you as it is to us, but some individuals will have little difficulty in showing that disqualification would not be appropriate for them. We suggest that it would serve the public interest for this to be confirmed, after full consideration, by you or by the High Court. It would also, arguably, be of benefit to the individuals in question. It would only be fair to allow those who performed their duties to the required standard to show the world that they did so.

We understand that protocols have to be followed. For example, in the case of NIB, Inspectors were appointed and your Office based its applications largely on the findings made by the Inspectors. Whether the same needs to be done for - to name but one - AIB plc, given the comprehensive reports already in the public domain and others apparently available to current management, is questionable, but if it does need doing, it is long overdue.

Yours sincerely

Fergus O'Rourke, *Lawyer & former banker*

Karl Deeter, *Irish Mortgage Brokers*

Michael Hennigan, *FinFacts*

Seamus Carrick, F.C.C.A., *Trinity Accountants*

James Lee, *solicitor*

Eoghan O'Leary, *company owner*

Declan O'Toole, *solicitor*

Brian Lucey, *TCD*

Constantin Gurdgiev, *TCD*

Arthur Doohan, *Consultant*

Gerard Sheehy, *Financial Adviser*

Kealan Flynn, *Public Affairs Adviser*

Deirdre de Burca, *former Senator*

Danny Keohane *FRIDE, Brussels*

Colm Fitzgerald, *actuary*

Dermot Conway, *solicitor*

David Hall, *Irish Mortgage Holders Organisation*

