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Joint Committee of Inquiry into the Banking Crisis

Witness Statement of

Ethna Tinney

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¹ See s.37 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013

Witness Statement of Ethna Tinney

Further to the direction of the Joint Committee of Inquiry into the Banking Crisis to make a statement in writing on the following lines of inquiry relating to my role as Non-Executive Director of the EBS Building Society (referred to below as EBS) I say as follows:

To Quality of the business model setting process (B1c)

There was no such process as the business model had been set prior to my joining the board.

In 1985 when I wanted to buy a house the rules of EBS were clear. Ninety percent of the purchase price was the maximum you could borrow and two and a half times your salary. If you had a spouse or overtime, half of what each of these brought in annually could be added. Documentation had to be produced to verify applications. All Irish banks had similar rules.

By the time I joined the board of the society fifteen years later in December 2000 those rules had been abandoned, not just by EBS but by most, if not all, lending institutions. Mortgage applicants' declared incomes were sometimes well in excess of reality and up to six times the applicant salary was approved.

This happened gradually as the price of houses went out of the financial reach of most people, had the old rules still applied. I paid up to 14% per annum on the mortgage I held from 1985-1996 but, in the new euro scenario, interest-rates had plunged which seemed to even out the risk. The risk of jobs being lost was not factored in, largely due to the country's booming economy.

The induction to my new role as an EBS non-executive director was pleasant. The staff were delightful, and the managers who explained their processes to me equally so. However, I was uneasy when I was introduced to the idea of securitisation.

In simple terms this is a way of packaging up mortgages into an asset and selling them on to a new layer of investors, who agree to pay a percentage of the nominal value of the loans in return for an agreed interest so that their money can be lent on again for new mortgages.

It is ingenious in its way, as it is a system that seems to offer limitless working capital for a lending institution. But there is nothing to stop the new investors selling on their asset at a profit, and so on ad infinitum. Viewed that way it has the look of a pyramid scheme, and all depends on the original mortgages continuing to be serviced, and becoming more expensive for the mortgagees. I could not get the image out of my head of a shark eating its own entrails. As time went by I became ever more doubtful of the fundamental banking concept of loans as assets, and indeed of debts in any business as assets. The only asset that reassures me is something I can control and I cannot control the repayment of debt owed to me.

To Adequacy of board oversight over internal controls, managed and monitored (B1d)

Unfortunately this proved inadequate, which became apparent when the board of EBS was finally advised that an employee in the treasury department had illicitly engaged in proprietary trading strictly against the rules of the society. Strangely, this same employee had been previously present with his manager at a board meeting when non-executive directors had probed the possibility of just such an illicit trade being made. The board was reassured at the time by the executive directors that such a thing could not happen because of so-called “back-room controls”. These evidently failed and EBS sustained a significant loss. Similar scenarios unfold in other banks all over the world from time to time.

But far more damaging was the decision by the board to sell the headquarters in Westmoreland Street owned by the society in order to transfer to a rented premises in Burlington Road. Over time it became apparent that this was a catastrophe and the full board did not have oversight of the implications of the decision.

To Appropriateness of property-related lending strategies and risk appetite (B2a)

Lending large sums to developers was new to the society. The senior management in EBS, as in most of the lending institutions, were taken-in by Ireland's so-called developers and also by their professional and other advisors. So were the members of the board, including me. The belief that there were substantial profits to be made for the society from those developments led us to emulate our peers, although we had been cautious about joining the bandwagon. There was a sort of feeding-frenzy as the banks clambered over one another to get a piece of the action, especially as new foreign banks had entered the market as competitors.

To Appropriateness of credit policies, delegated authorities and exception management (B2b)

I was taken off the nominations committee at the end of 2006 and put on the credit committee. In the period from December 2006 to April 2007 I was inundated via email by proposals from EBS senior management on behalf of "developers" for quantities of cash in the tens of millions which appeared to be asset-backed and also to contain personal guarantees. Typically, as a member of the credit committee, your approval or lack of it had to be sent also by email to EBS by close of business the same day or the next day. The rationale was that if EBS did not facilitate the "developer" another bank would and we would simply be losing out on the business. All these proposals seemed fail-safe.

It did occur to me many times that the EBS credit committee should be meeting about each of these large proposals but my colleagues on the committee seemed happy to do the business this way, and as I had clashed with the majority of the board over several matters at this stage I had no appetite for further confrontation.

To Adequacy of the incentive and remuneration arrangements to promote sound risk-governance (B5a)

The bonus system in banks is crazy. You get a bonus for lending money out. There is no incentive to get it back in. Such a system encourages greed and recklessness. It is no wonder that banks go bust from time to time.

To Appropriateness of the bank guarantee decision (C3b)

Probably until the last syllable of recorded time this will be argued by politicians, economists and journalists. My personal view as a citizen of the Republic of Ireland, perhaps to some extent influenced by hindsight, is that it was indefensible for the government in September 2008 to in effect yield the sovereignty of this country in order to shore up a banking system that is entirely of and for itself and will never change. I do accept, however, that many grave problems would have arisen if one or more banks had failed and that the full extent of the bad debts were not known at the time.

To Analysis and consideration of the response to contrarian views (R4c)

I incorporate below in italics a letter I insisted on sending to the members of EBS Building Society in advance of the Annual General Meeting in 2007.

29th March 2007

Dear Member

Your EBS 2006 Summary Statement contains on the Notice of Annual General Meeting the following words:

“Ethna Tinney retires in accordance with the Society’s Rules and offers herself for re-election. (Members should be aware that the Society’s Board of Directors does not support Ms Tinney’s re-election as a Director)”

There are three reasons why the Board does not support my re-election.

In the years 2003 and 2004 the Board was intent on pursuing a deal with a foreign bank. This deal was characterised by the executive as a bold transformational play. I saw it as selling the family silver without giving the money to the family-you, the members. I opposed the deal from first to last. Ultimately the deal collapsed, but not before millions of euro of your money had been spent pursuing it.

In 2005 the Society advertised for new non-executive directors. I was a member of the Nominations Committee. Ten candidates were shortlisted through an external recruitment process. All ten were vetoed without any reference to me. I objected in the strongest possible terms. Last December I was removed from the Nominations Committee.

In 2006 the Board fractured over corporate governance. Three members, including me, became unhappy about aspects of senior executive remuneration and the payment of a multi-million euro sum into the Senior Manager’s Pension Fund without reference to the Board.

Am I right or wrong to oppose matters which appear to me to be against the interests of you, the members? If you believe that independent judgement exercised without fear or favour is a good thing on your Board then come to the AGM on April 16th or send your proxy to arrive not later than April 9th at EBS Building Burlington Road Dublin 4 and re-elect me.

Ethna Tinney

This letter does not mention that I had repeatedly raised concerns about the size of mortgages we were lending to people. Nor does it detail my explosive response at a meeting in early 2007 to a proposal by the executive to get involved in sub-prime lending. A non-executive director colleague told me in front of the board that my response was “intemperate”, although the sub-prime industry in the US was already beginning to implode. Contrarian views were not tolerated on the board of the society.

To Appropriateness of the relationships between Government, the Oireachtas, the banking sector and the property sector (R5d)

I have never had a relationship with any member of the Government, nor the Oireachtas, nor the property sector. I do not golf, do not visit tents at racecourses and am not invited to dinners. But my sense, as a citizen of Ireland and as a director of EBS for nine years, is that there is a deeply unhealthy relationship between all four.

Conclusion

I wish to emphasise that this witness statement refers specifically to my time as a non-executive director on the board of EBS in the period December 2000 to April 2007 when I was removed from it. By the time I was re-elected onto it in 2008 there had been many changes to its composition and a new Chief Executive Officer had been appointed. Sadly, it emerged during the next three years that EBS was irrecoverable. I retired from the board at the end of my third three-year term in May 2011.

Ethna Tinney