

Blackmore Bond: what next?



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Remedies for the victims - NB I'm not a lawyer...

- Insolvency process will cost more, deliver less, than you hope
 - Criminals are good at hiding/spending the proceeds
 - Running a scam is expensive
 - IPs will have to do the FCA's job for it (investigating) so fees will climb. Embrace it!
- IFA, SIPP platform claims, then FSCS when in default, will work for some
- Write to John Glen requesting Independent Review under S68, 73 or 77 of the 2012 Act
 - FCA and Minister will resist/argue for delay - seek judicial review
 - Back up with political and media support
- Complain to FCA about regulatory failure
 - Do this as soon as possible!
 - Escalate to Complaints Commissioner when it rejects complaint, then apply for judicial review
- Sue the FCA for damages (maybe)
 - Use Human Rights Act or (if substantiated), bad faith carve-out
- Sue individual officer/s of the FCA for nonfeasance in public office (better)
 - Would likely lead to bankruptcy and career termination for those officers
 - Liability transfers to employer under doctrine of vicarious liability
- Pros and cons of each approach

Plan B: Argue problem's systemic, push for Royal Commission

- Huge weight of other cases
 - LCF, Connaught - reports already published, victims not compensated, genuine reform in doubt
 - IRHP redress scheme (Swift due summer '21); HBOs Reading (Dobbs will put focus onto FCA); GRG
 - P2Ps; Lendy, Collateral, Funding Secure
 - Park First, Store First
 - Basset & Gold; other 'mini-bond' scams
 - Dolphin Trust
 - PremierFX
 - Ecohouse, Ready2Invest
 - Pension liberation frauds: Capita Oak; Ark; British Steel etc
 - HFC/HSBC illegal recovery charges
 - RBS rights issue
 - Provident Financial
 - Buy2Let Cars
 - Woodford - the elephant in the room
- Blackmore Bond themes echoed in many of these failures
 - Ignoring whistleblower evidence
 - Authorised representatives regime
 - Section 21 offences not policed

Objectives of Royal Commission

1. Establish truth about backlog of misconduct/regulatory failure cases
2. Secure redress for victims
3. Prevent similar stuff happening in the future
 - a. Remove bad guys from industry and regulator
 - b. Fix the regulator - and the regulations

Context is crucial

- Blame-free discovery of fact
- Applies to perpetrators and enablers (regulator included) equally
- A protected environment: ‘fess up, pay up and leave the stage, and you’ll go free’
- Failure to disclose, or pay up, means protection falls away
- Where perpetrators can’t or won’t pay up, regulator/Treasury does
- Learning exercise: aim is to agree how to fix the regulations, and the regulator

How to achieve this

- Work with other action groups/scam victims to demonstrate systemic problems
- Engage with John Glen and his Shadow, Pat McFadden
- Help APPG on Personal Banking and Fairer Financial Services to make the case
 - Commons debate into how to fix the FCA
 - Call for evidence could prove transformative - collate testimony to demonstrate systemic failings
- Might TTF/action groups crowdfund judicial review of any government refusal?

Questions/comments?