



Harriett Baldwin MP
Treasury Select Committee
House of Commons
WESTMINSTER
SW1A 0AA

National Crime Agency
PO Box 8000
London
SE11 5EN

8th February 2023

Dear Harriett,

As you are aware, in July 2019 the Treasury Select Committee (TSC) requested that the NCA engage directly with the Bank Signature Forgery Campaign (BSFC) to review their claims and investigate if there was evidence of serious and organised crime.

The NCA has engaged with the BSFC over the last three years and reviewed 26 lever arch files received between September 2019 and July 2021. Our review included a breakdown of the material to assess individual matters, as well as looking for evidence of conspiracy alleged by the Campaign.

After careful and thorough examination we have not found evidence of serious or organised crime, or conspiracy to commit fraud or forgery offences that warrant further review and investigation, so will not be taking any further action in relation to these allegations of bank misconduct. The breakdown of the material does not support the central allegations made by the BSFC, nor does the material identify dishonest intent and gain by UK financial institutions.

We know this will come as a disappointment to many of the individuals who have taken the time to share their material with the BSFC.

The below provides more detail on the factors that support our decision.

BSFC Material

The lever arch files received contained allegations from 53 individuals. 52 of the individual matters were contained within 423 reports and the remaining 281 reports were related to one individual, or were reports not relating to individual matters. Of the 53 individuals, 34 were alleging signature forgery. (We are aware that the Campaign called for signatures to be submitted for comparison, even if an individual did not believe themselves to be a victim.) The remaining allegations relate to a broader range of non-signature related issues including disputed document details or loan terms and conditions. Allegations were non-recent ranging from 1975 to 2020; with the more recent allegations referring to disputed loans secured over a decade ago.

A significant number of the allegations had been previously assessed by another law enforcement agency either with regard to signature forgery or in relation to wider allegations against UK financial institutions. As far as we have been able to ascertain, 16 of the individuals had engaged with or had their matters reviewed by police forces, and 15 had reported their matter to another national organisation including the Financial Conduct Authority (FCA), Serious Fraud Office (SFO), Financial Ombudsman

Service and the Solicitors Regulation Authority. In nine matters there had been assessment by at least two agencies prior to submission to the NCA. The majority of previous referrals have led to no further action.

A previous unsuccessful submission to other enforcement bodies poses significant challenge for a national criminal investigation. If a law enforcement body has reviewed material and concluded that it does not support the commencement of an investigation, this decision would be disclosable in any future criminal proceedings.¹ It is reasonable to expect this to render potential prosecutions at risk of failure.

Campaign material also included individuals whose matters had been tested in civil proceedings either for signature forgery or in relation to wider allegations against UK financial institutions. There were 13 individuals that in part or fully raised their allegations of criminality or inaccuracies in documents in defence. Nine were unsuccessful; the remaining four appear to have been successful in part, but in relation to disputed loan arrangements as opposed to the veracity of signatures on documentation. For the majority we identified there was no dispute that individuals benefitted from the loans secured, that there was non-payment in contravention of the terms of the agreement, and therefore that the relevant UK financial institutions were within their rights to pursue the debt.

Where a matter has been tested in civil proceedings but not been successful this would also be disclosable to any future criminal proceedings. The burden of proof in civil cases is on the claimant and the standard required is that they prove the case against the defendant "on a balance of probabilities" which is a lower burden than criminal cases that being "beyond reasonable doubt". If a matter has been unsuccessful at the lower burden of proof, there is extremely limited prospect of the material being sufficient for a criminal proceeding.

NCA action

The NCA was asked by the TSC to review the claims of the BSFC and investigate as appropriate.

NCA tasking is an operational decision for the Agency and is aligned to organisational priorities in accordance with the Agency's statutory functions focusing on the high-end of high-harm serious and organised crime. Any decision whether to assign investigative resource is taken in the context of these wider operational priorities.²

The threshold for an investigation into the BSFC allegations was necessarily high, both in terms of the seriousness of the offending and the value of alleged loss. A much

¹ The Criminal Procedure and Investigations Act 1996 (CPIA) and associated Code of Practice sets out the duty to retain, review and reveal any relevant material to the prosecutor who has a general duty to disclose that material to the accused where it might be considered capable of undermining the case against the accused or assisting the case for the accused.

² Whilst there is not a statutory definition of serious and organised crime (SOC) for the purposes of the Crime and Courts Act 2013 (the framework legislation for the NCA), the latest Home Office Serious and Organised Crime Strategy (2018) defines SOC as "*individuals planning, coordinating and committing serious offences, whether individually, in groups and/or as part of transnational networks*".

caveated estimate of the total value of the core matters referenced by the BSFC is approximately £12 million between 1975 and 2020.³ Although value is rarely a sole consideration, this has to be put within the context of other fraud demands on the Agency. Action Fraud reporting last year recorded losses of £2.35billion.⁴ By way of comparison for NCA casework, a current fraud investigation has over 1,500 known (and linked) UK victims, with estimated losses running at nearly £5 million a year.

The review covered potential criminality linked to signatures, and looked to identify geographical business areas or offices to identify a link that demonstrated conspiracy or bank collusion i.e. anything that indicated a 'controlling mind'.

The Agency sought to engage with all complainants where our initial triage of the material indicated that their matter warranted further review or required clarification. Allegations where there had been previous law enforcement or court engagement were not further reviewed at this stage, although there was an option to revisit these in light of findings from investigators. It should be noted that the initial triage itself represented a significant and resource heavy exercise, undertaken manually over a protracted period due to the both the staggered & voluminous submissions by the Campaign and the varied nature of the material provided.

12 cases were reviewed by specialist fraud investigators; statements were taken from three individuals in 2021 and further complainants were provided with a set of questions in 2022, the answers to which assisted in our assessment of serious and organised crime.

Signature forgery

Where the NCA has reviewed individual allegations of forgery we have considered details of the allegation including on what documentation forgery was alleged to have occurred and evidential considerations regarding forgery itself, including the necessary intention.

In the scenarios reviewed, an alleged forged signature does not in itself support escalation of an investigation. Considerations included the difficulty in demonstrating which signature (if any) is forged in a comparison between the signatures (especially in cases where comparisons appear to be between routine business correspondence and legal documents), and that differences between signatures of themselves are not definitive evidence that a criminal offence such as forgery or fraud has occurred.

The material provided tends to suggest, even if a signature could be proven to have been used inappropriately on a particular document, that this was done for administrative convenience rather than in relation to a conspiracy to defraud.

In relation to routine correspondence for example, proving the intention was to cause the recipient to act or not act to anyone's prejudice (a key element of the offence⁵), in

³ This figure is made up of commercial lending with personal guarantees linked to homes and retail properties including buy to let mortgages, or mortgage extension for development or investment.

⁴ Figure from the 2020-21 Annual Assessment Fraud Crime Trend report by Action Fraud; total derived from 875,622 reports received by Action Fraud, CIFAS & UK Finance

⁵ See, for example, section 1 of the Forgery and Counterfeiting Act 1981

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particular by reason of a purportedly false signature, would be extremely difficult. These letters are intended for notification or information purposes and not intended to cause an act or omission. For example, one submission included routine letters from a mortgage provider regarding repossession proceedings; eight letters were signed off with the same signature attributed to eight different employees. No further action was taken in relation to these allegations as no action or omission was solicited as a result of these signatures being used and therefore no forgery offence could be identified, nor was it evidence of a fraud or other offence, for the same reason.

If a forged legal document was provided to a court by a financial institution, it could reasonably be concluded that the intent was to prejudice the court to act in favour of the financial institution. In matters where an alleged forged signature was on a legal document and they warranted further review as detailed above, these were considered by an investigator. Following this review, the NCA did not identify evidence in any signature matter it examined to support a criminal investigation.

Conspiracy

The material provided did not suggest organised, dishonest or conspiracy aspects in relation to any potential offences; we found no evidence to link any of the cases or anything that suggested bank collusion. In order to be able to attribute offences to a corporate entity it would need to be established that there is some criminal action or intention by a senior officer with responsibility for directing staff i.e. a controlling mind. This has not been seen in the material.

The BSFC has been keen to draw parallels between its allegations and those that resulted in a federal-state civil settlement in the United States (US). The US settlement was as a result of a wide-ranging multi-agency investigation which made several findings in relations to a number of violations including but not limited to signature forgery. One element of this matter resulted in an individual (not a bank employee but a 3rd party document process centre employee) pleading guilty to conspiracy to commit mail fraud and wire fraud. This was in relation to directing employees to forge or falsify signatures of authorised personnel on mortgage-related documents that were prepared and filed with local county property recorder offices. We have seen no evidence that provides any link between the US matter and any UK matter and our review has not indicated the likelihood of an individual holding the requisite intent as in the US case, or an indication of any controlling mind directing an industrial scale of forged signatures.

Conclusion

We are satisfied that our enquiries were necessary and proportionate to complete our assessment, and we found no evidence indicative of serious and organised crime, and therefore no appropriate grounds for the NCA to progress an investigation. Matters reviewed did not enable us to reach a position where our belief or suspicion allowed for an escalation in our approach, for example, the use of more intrusive powers such as production orders or the acquisition of communication data. It should be noted that in the instances we know of where individual BSFC-related matters have used such powers by local police forces, the results have not led to further action being taken.

The loans and debt do not appear to be disputed in most cases, indicating a lack of dishonest intent by the banks, a requisite element of proving a fraud offence. As mentioned, in some individual cases we are aware allegations of employee signature forgery have been made in civil possession proceedings, and this has not altered the

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outcome. Whilst the seriousness of some individual allegations is noted, the courts have ruled banks were entitled to pursue the debt on the basis of the terms of the loan as agreed.

The FCA and SFO also conducted reviews of BSFC material. The SFO independently concluded that there was no evidence to support claims of a systemic fraud in banks. The FCA independently found that there was no evidence of forgery in the documents provided. However, it found instances where firms had issued communications to customers that had been signed with the same digital signature attributed to different teams and staff. It has not seen information to suggest that the practice is ongoing, and has written to the firms where it identified these instances reminding them to ensure communications are signed consistently and accurately.

Next Steps & Recommendations

We are in the process of informing complainants and the BSFC of the outcome. We will ensure that any relevant information is appropriately accessible to law enforcement, and individual isolated matters that may warrant consideration by a relevant law enforcement agency will be disseminated by the appropriate gateways. We are engaged with the City of London Police as the hosts of Action Fraud to ensure new, or previously unreported material, is directed towards the appropriate reporting body.

Although we find that the material supplied suggests that, to the extent that discrepancies have been identified, signatures were being used for administrative convenience rather than to commit any criminal offence, we do believe the BSFC material highlights matters relating to signatures that need to be addressed.

The National Economic Crime Centre will be recommending to partners that a transparent policy position be put in place with regard to the use of digital signatures on customer facing correspondence originating from the banks and their representatives. This should be supported with clear advice available to customers about who to contact if they have queries or complaints in relations to these signatures.

I welcome opportunities to further discuss matters in this letter so please do not hesitate to contact me if you require any further detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robert Jones', written in a cursive style.

Robert Jones CBE

Director General National Economic Crime Centre