Teathers Financial PLC (TEA)

Narrative regarding potential claim against former Directors

Version: 19 Aug 2016 Author David Kipling

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09 Nov 2016 Ben Turney, includes updates at the end of the document as new evidence emerged.

BACKGROUND

Jason Drummond joined the Teathers Financial Plc ("TEA") board of directors in August 2013 and resigned in June 2016. During this period the company raised circa £1.5m in new capital through equity issues, a property sale and the disposal of a business unit. Teathers was formerly called CA Sperati and was listed on the London Stock Exchange's main board. The company was a buttons manufacturer (the remnants of which was sold) and the property was the site of its old factory.

Drummond was brought into Teathers by Oliver Fattal and they were subsequently joined by Nilesh Jagatia in December 2013, who has long-standing business relationships with Drummond. Fattal brought Drummond into Teathers to remodel the company after the failure of the buttons business, based on Drummond's reputation as a successful technology entrepreneur.

The old CA Sperati vehicle was turned into a shell and admitted onto AIM in early 2014. The board renamed the company Teathers Financial Plc. The goal was to develop a mobile application (the "App") to give private investors the opportunity to participate in placements conducted by AIM-listed companies.

In December 2014 Teathers became an investing company, on disposal of the remains of the buttons business. In December 2015 Teathers was suspended by the AIM Regulation Team for failing to fulfil its investing policy, as described in the circular released in December 2014. Teathers lost its AIM listing in early June 2016 as a result of the previous board's continued failure to fulfil the investing policy, after a six month suspension. Subsequently Drummond resigned from the board and Jagatia and Fattal were voted off the board as a result of the EGM on 28 June 2016 called by the shareholder action group. The replacement directors are Ben Turney, David Kipling and Stuart Langalaan.

Teathers' net realisable assets are currently less than £100k, held in cash and a number of listed AIM securities. Teathers also has other "assets" through its £100,000 investment in an unlisted company (Kentucky Oil & Gas) and the money spent developing the App (currently showing on the last balance sheet provided by the former directors as an intangible asset of £334,000 plus £150,000 classed as an "investment"). The realisable value of these "assets" is nil.

The current board is conducting a detailed examination of Teathers' expenditure since August 2013 when Drummond joined the board. The board's concerns can be summed up in two key areas:

- **First**, several aspects of **poor/incompetent operational performance** that have cost the company considerably. Notable examples include loss of the AIM listing, excessive costs of the app development, poor investment decision making causing significant losses to the company's portfolio, as well as poor accountancy practice leading to fines, court summons and so forth.
- **Second**, **serious failures in corporate governance and probable dishonest acts** that raise questions regarding fitness to practice both as directors of publicly listed companies, and as a chartered accountant in the case of Jagatia. These include:

    - >£300,000 spent on related party transactions that were not in the company's best interests and were possibly dishonest. The two main areas of expenditure include the cross-subsidy of Gametech/Tactu via the office lease and significantly overpaying Tactu Applico for development of the App, having not sought competitive quotes
    - £25,000 paid to Drummond for 5 Teathers web domain names,
    - Possible misappropriation of company funds (cash withdrawals, "charitable donations", undeclared benefits in kind), totalling >£40,000
    - Excessive board expenses and remuneration (which was not approved by the company's nominated advisors)
    - Undeclared related party transactions (£34,600 paid to Ascend Capital which Jagatia was a director of and was Jason Drummond's brother's company & £2,500 paid to Jagatia)

Specific concerns the board has include, but are not limited to, the following:

- Teathers awarded the development contract for the App to Tactu Applico Ltd, a privately held company 55%-owned by Drummond, without seeking commercial competitive quotes.
- **Under the old board Teathers spent directly >£250,000 on developing the App and the indications are the company overpaid significantly for this.**
    - There are indications Teathers has further subsidised Tactu through the provision of an expensive office suite at a significantly reduced rate.
    - Initial indications are that Teathers significantly overspent on development of the App. This needs to be confirmed by third party software developers.
    - Tactu mainly employed contractors at £400-£500 per day to develop the App and charged Teathers £800 a day. Given Drummond's experience in the sector Teathers could have directly employed the contractors. Teathers overspent by £300 to £400 per day for each subcontractor employed.
- **Teathers entered into an expensive 3 year lease for large office space in Chelsea in December 2014 and incurred a significant amount of cost in refitting the office.** Teathers employed a maximum of 3 full time staff at any one time and the office space can accommodate up to 28 desks (as confirmed in the board minutes of 9/2/16). When Stuart Langelaan visited the office on 6 July 2016 there was one desk in place allocated to Teathers (supported by photographic evidence). The rest of the space has been used by two of Drummond's companies, Tactu Applico and Gametech. However Tactu Applico and Gametech have only paid for roughly two thirds of the cost of the space since the lease was entered into. **As of writing, the total gross cost to Teathers has been £178,445.98 (including rent, rates, cleaning, service charge and costs associated with fitting out the office), against which Gametech and Tactu have been re-charged £105,489.17 (£85,609.61 to Gametech and £19,879.56 to Tactu)**

    - According to the minutes of the board meetings on 28/10/14 and 27/11/14 Oliver Fattal questioned the need for the lease and was told first by Jason Drummond it was necessary and subsequently by Nilesh Jagatia that Teathers could afford it. At the EGM on 28 June 2016, while he was still a director of Teathers, and at subsequent meetings Jagatia claimed the office lease came to an end in December 2016. This was not true. There was a break clause in the lease during June 2016, but Jagatia did not action this, meaning that Teathers still has the liability of the office space until December 2017. Jagatia did not inform the new Teathers board of the break clause until 6/7/16, when he met Stuart Langelaan and handed over the signed copy of the lease.
    - Jagatia entered into a new sublet agreement with Gametech on 1 June 2016. This was after Teathers lost its listing. There is no justifiable commercial reason for Teathers why Jagatia did this, given the state the company was in.
    - As a result, Gametech continues to sublet the office space, but is only paying 2/3 of the cost. The sublease is a single sheet of A4 and the representative of the landlord confirmed she has not received nor approved any such sublease arrangement, which breaks the terms of the primary lease.
    - The Teathers board never informed the landlord or the landlord's agent about any sublet arrangements, thereby violating the lease.
- Teathers' former board awarded itself excessively generous service contracts, which included excessive pay, minimum working hours of only 2 days a week and excessively long notice periods
    - Verbal information suggests that Teathers former nominated advisor, Beaumont Cornish, was sacked in August 2015 because it objected to the service contracts, which were signed on 21 July 2015. If it hadn't been sacked Beaumont Cornish would have resigned.
    - Drummond's service contract has not been provided by the former board. We have copies of Jagatia's and Fattal's
    - Having awarded themselves a £15,000 bonus each in April 2015 (after a placement) and a significant pay increases in July 2015, the board increased its pay again in September 2015. There is no evidence the board consulted with the company's new nominated advisor, Grant Thornton, about this.
- The extremely poor operational delivery by the former board caused:
    - The loss of the company's AIM listing through the failure to implement the investment policy correctly, as described in the December 2014 circular. Specifically the company failed to secure a reverse takeover as it was specifically required to do.
    - The overspend on the App and the development of unnecessary features mean the App is not active and will require significant spending to reactivate it (c.£40,000). Additionally this work to reactive the App has required, in the word's of the developer, "writing from scratch" a significant portion of the code.
    - Significant financial loss (at least £350,000) on a number of share purchases made by the board in companies, which did not fit the investment criteria specified in the December 2014 investing policy. Specific purchases of concern include:
        - £50,000 participation in a placement in Octagonal Plc, a company which Jagatia is a director of
        - £100,000 participation in the Lenigas Cuba float, organised through Ascend Capital which Jagatia was a director of
        - £100,000 investment into the unlisted Kentucky Oil & Gas, organised through Ascend Capital which Jagatia was a director of. The current board will write this down to £0.

        - £50,000 participation in the MySquare Plc placement, which is an extremely illiquid stock.
    - Teathers to receive a number of fines relating to the failure to pay bills. The former board left a significant number of unpaid bills relating to the company's listing, strongly suggesting the former directors had little intention of bringing the company back from suspension.
- **A number of items suggesting illicit spending by the board including, but not limited to:**
    - **£25,000 paid to Drummond for the teathers.com domain name**
    - **£30,000 paid to Ascend Capital in undisclosed related party transactions.** Nilesh Jagatia was a director of Ascend Capital as was Justin Drummond, Jason Drummond's brother
    - Numerous charitable donations, which were incongruous with Teathers' business model and at least one of which was made in a director's personal name. **Total sum is greater than £15,000.**
    - **At least 72 ATM cash withdrawals (usually for £200 at a time) totalling £12,860.** Nilesh Jagatia appears responsible for these and the accounting of them is highly irregular. The narrative in Sage is not consistent with the so-called spending; there are no receipts and the transactions which these withdrawals were meant to pay for have not been included in VAT returns.
    - Excessive board expenses and hospitality expenses

CORPORATE GOVERNANCE CONCERNS

Tactu Applico

https://beta.companieshouse.gov.uk/company/07978034/filing-history

Transactions between Teathers and Tactu are a related party transactions since TEA ex-Chairman Jason Drummond is a Director of Tactu and is also the majority (55%) shareholder.

Tactu is a small, private limited company. Until recently Tactu was dormant, but is now functioning as a software company developing apps. It has two clients - Teathers, and Drummond's Gametech.

See Tactu's 2015 accounts:

https://beta.companieshouse.gov.uk/company/07978034/filing-history

4 Related party relationships and transactions

During the year the company sold services to Teathers Financial plc, a company of which Mr J Drummond is a director and shareholder, amounting to £89,465 (2014: £nil). The balance due from Teathers Financial plc at the year end was £12,000 (2014: £nil).

During the year the company sold services to Gametech Limited, a company of which Mr J Drummond is a director and shareholder, amounting to £46,259 (2014: £nil). The balance due from Gametech Limited at the year end was £42,000 (2014: £nil).

Tactu was charging Teathers App development at a rate equivalent to the daily rate of a big central London agency, despite Tactu being a tiny operation with no track record and no other clients. For example, **Tactu charged £800 a day for bringing subcontractors, who cost Tactu c.£400 a day.** ***Given that Drummond was executive chairman of Teathers the obvious question is why Teathers did not employ the contractors directly?***

No competitive quotes were obtained for the App development; instead Teathers simply used Tactu, a company 55%-owned by Drummond. The nearest Teathers got to getting comparator quotes was for Oliver Fattal to ask a Chelsea app development company (chelsea-apps.com) what their daily rate was.

Tactu started activity as an app development company in order to develop the Teathers app, and - one might argue - to receive monies from Teathers. As a side affect of this corporate structure, Drummond was able to benefit further from Teathers by the profits made by Tactu on worked commissioned by Teathers. Indeed, one might even suggest that the primary reason for establishing Tactu (as opposed to, for example, developing it via the Teathers-owned TFSL subsidiary) was to allow a mechanism whereby additional Teathers funds could be routed to Drummond (as the majority shareholder of Tactu). Certainly the generous rates paid by Teathers for work undertaken by Tactu gives a strong impression that diverting money via Tactu was a priority.

Furthermore, not only does Tactu appear to have been established in order to allow a second flow of monies to Drummond, it also caused a situation where it was in Drummond's personal interest for Teathers to spend as much money as possible on app development. **This lead to some very poor decisions regarding costly but**

unnecessary features on the App; by bloating the specification the result was to maximise revenue flow from Teathers into Tactu, and thus to Drummond.

As an aside, there appears to have been little control of work and expenditure undertaken by Tactu. The current board has repeatedly asked for copies of the Purchase Orders, Quotes and Specification Documents related to work undertaken. We have been informed that no such documents exist; despite the magnitude of the sums involved, the business relationship seems to have been based on word of mouth, with Tactu billing whatever it wanted, whenever it wanted.

There is no evidence of any documented project management during the development of the original App.

More broader this issue demonstrates an emerging theme, that Teathers, Gametech and Tactu were all viewed as one-and-the-same in the mind of Drummond, with little by way of formal relationship to regulate the interactions of the companies, and a loose flow of money raised by the Plc into Tactu and Gametech (and thus to their major shareholder).

Office space - Tactu and Gametech

There a second flow of money that again will have benefited Drummond as director and shareholder in Tactu / Gametech. This is the lease on The Plaza office. Teathers had little to no need for this office (and indeed the decision to take out the lease was questioned by Oliver Fattal at a Board meeting 28/10/16 but was over-ridden by Drummond). **Tactu/Gametech are using the office but have not reimbursed Teathers at a level appropriate to their utilisation of the office.** This has provided a de facto subsidy of Tactu/Gametech by Teathers, and thus benefit to Drummond. It has also provided for an unnecessary financial burden on Teathers for an office it does not need.

At no point did the Teathers board seek or receive shareholder approval for the company to become a property letting business.

A related matter is some £25k worth of IT and office equipment (and "office refurbishment") that was paid for by Teathers. Only £2k appears to have been recovered from Tactu/Gametech, despite all the equipment having been passed on to the latter. Again this extremely generous depreciation adjustment has been to the financial benefit of Tactu/Gametech and thus Drummond.

Again, the purchase of an expensive and unnecessary (for Teathers) lease and £25k of office equipment, which are then used to benefit Tactu/Gametech, is consistent with the theme mentioned above of these three companies all being treated as somehow under the same umbrella. Except of course that one of them (Teathers) was a Plc, owned by its shareholders.

Failure to disclose related party transactions

The previous board failed to disclose £34,600 plus share payments to Ascend Capital (owned by Justin Drummond, Jason's brother and where Nilesh Jagatia was a director at the time) as a related party transaction in the 2015 Accounts.

The board also failed to disclose a £25,000 purchase of the 'teathers.com' and four other Teathers domain names from Jason Drummond (personally), which again was a related party transaction. **The domains were bought when the company was called Sperati. Drummond bought teathers.com, then changed the name of Sperati to Teathers, and subsequently billed the company £25,000 to buy the domain name from himself.**

This was not declared as a related party transaction in the accounts and was clearly not in the best interests of the company.

Miscellaneous corporate governance issues

The **2015 accounts were not submitted to CH by the statutory deadline** (incurring a fine from CH and a Strike Off notice) despite SAGE showing them to have been completed in time. Wellbeck Partners, Teathers' auditor, has subsequently confirmed the accounts were prepared and ready for submission by 23 April 2016.

Possible **misuse of the company bank card** (repeated ATM withdrawals of amounts between £150 and £200, totalling at least £12,860. Nilesh Jagatia appears responsible for these and the accounting of them is highly irregular. The narrative in Sage is not consistent with the so called spending, there are no receipts and the transactions which these withdrawals were meant to pay for have not been included in VAT returns).

There were **several breaches of AIM Rules** as detailed in "TEA Evidence Chain document" (which can be provided separately).

Failure to maintain and transfer company records. These include incomplete Board minutes (many are missing), the shutting down of the OF@, JD@ & NJ@ email accounts after the EGM without permission of the board, and a failure to supply historical email archives despite repeated requests. Oliver Fattal also removed data from the company website without authorisation, after being removed as a Director of Teathers.

Misleading investors

The board appear to have lied to investors in several occasions. Note that all comments made by Fattal and Jagatia at the EGM were made as them acting as directors of the Company and were witnessed by shareholders.

- For example, Jagatia said that the board did not want to produce the 2015 accounts in order to save on the audit fee, yet analysis of the books shows that the audit fee had already been paid when this statement was made to shareholders. [This was in the run-up to the 2016 EGM and appears to have been a ploy to delay publication of the damning 2015 accounts as late as possible, in a last-ditch attempt to hide how bad things were and thus for the existing Directors to avoid being voted out].
- In the EGM circular the former board claimed that they had "suspended" fees on suspension of Teathers. This was not true as evidenced by payments being made to the board until February 2016, the 04 February 2016 board minutes, and most recently by their claim for accrued fees.
- **TFSL**. This subsidiary of Teathers does not appear to have been set up to be active (no bank accounts, no contracts, no IP officially assigned to it) despite it being presented to shareholders as the recipient of Teathers "investment" monies, and it being presented publicly as the company that was developing the app. Yet it had no money, made no transactions, had no staff, and no minuted board meetings. Despite this, the Teathers board agreed to pay Fattal £5,000 per month in additional fees to take on the duties of being Managing Director of TFSL, a company that undertook no activities, no transactions, and owned no assets/IP. One suggestion is that the TFSL vehicle was an attempt to circumvent AIM regulations that prevent an Investing Company from being an Operating Company (i.e. Teathers itself should not have been developing the app; it should have invested money into TFSL, and then TFSL [not

TEA] should have paid for app development out of the TFSL accounts). However although TFSL was set up, they did not activate it to function in this manner (the manner described to shareholders in repeated announcements) and it appears little more than "smoke and mirrors" to avoid censure from AIM Regulation.

MISMANAGEMENT TO THE DETRIMENT OF THE COMPANY

Failure to deliver the investing policy & loss of AIM listing

Teathers' investing policy was presented to and accepted by shareholders in November & December 2014 (copy available on request).

Teathers became an AIM Investing Company and so needed to "implement its investing policy" within 12 months or else lose its listing after a further 6 month suspension. This is indeed what took place; the various investments made were not deemed by AIM regulation to be sufficient to constitute an implementation of the investing policy. Their other option therefore was to do a Reverse Takeover (RTO); despite several attempts they were unable to bring any RTO to the NOMAD that were of sufficient quality for the NOMAD to approve them. TEA thus lost its AIM listing - a vitally valuable asset for a small growth company.

Poor investing choices

Teathers spent £450,000 on its listed companies portfolio, which was notionally worth less than half that figure when the new board took over (although the true value of the stock formerly known as Lenigas Cuba, now known as LGC Capital, reduces the portfolio value further).

Additionally, the £100,000 investment in unlisted KOG will be written down to zero in the 2016 audited accounts, by the new board. At least £350,000 pounds have been lost due to exceptionally poor investment choices.

Other issues

Corporate excess including a shooting party (£10,000), Botanist (£4,500), Tapas meal (£2,000)

There have been several **accounting / audit failures** that have triggered warnings from suppliers (e.g. late payment of rates, HMRC etc.)

Failure to terminate lease at The Plaza. With all the staff having been let go after suspension, Teathers has little use for even shared space in the Plaza unit and the correct business action would have been to terminate the lease so as to save funds. At the EGM on 28 June 2016 Nilesh Jagatia said that the lease terminated at Dec 2016, This was not true. Jagatia did not activate the break clause, despite it being obvious Teathers had no use for the space. Jagatia also failed to inform the new board of the break clause. The first handover the new board had with Jagatia for documents was on 6 July 2016. Additionally, on 01 June 2016 Jagatia signed a new office share arrangement with Gametech, whereby it would pay 66% of the office costs. Jagatia did not seek or receive permission from the landlord or the landlord's agent for this sublease arrangement.

POTENTIAL AREAS FOR A CLAIM

(or for disqualification as a UK Director / Chartered Accountant)

- Use of Teathers as a vehicle to raise money from shareholders and direct much of it to the Board and related parties, both by way of generous board fees and over-inflated payments to a company that was chosen as the app developer without competitive quotes from other suppliers, and is furthermore owned by the ex-Teathers Chairman.
- Incompetence in running an AIM Investing Company (portfolio over halved in value, failed to find any RTO that would pass NOMAD approval).
- Unreasonable board service contracts (12 month notice, 2 days per week contracted equating to FT salary of circa £200kpa each)
- Cross-subsidy of related party companies (office, office equipment, failure to re-charge fully)
- Inappropriate expenses (donations to football club, expensive taxis, lavish hospitality and sporting events for board including Chairman's wife)
- Destruction of company records post-EGM (emails, website)
- Use of company funds post-EGM when no longer directors
- £12,800 unexplained cash withdrawals made from the Plc current account.
- £25,000 domain name related party transaction (undeclared and not in company interest)

Note Post 19 September

- Nilesh Jagatia did not declare his related party interest with Ascend Capital for 2015 accounts
- Nilesh Jagatia did not inform us of the outstanding HMRC PAYE liabilities
- Nilesh Jagatia did not declare the £2,500 payment made to him for the buttons business sale either in his remuneration report or his related party transaction form for the 2014 accounts. The invoice was dated 1/11/14 and was for “Blass 15 Disposal of business”.
- Ben Turney sent Nilesh Jagatia a number of questions on a without prejudice basis (copy attached)
- Conversation with David Parlons (I followed up with an email to confirm this) of Kentucky Oil & Gas on 26/10/16 confirmed that the £100,000 KOG investment was arranged by Ascend Capital who were paid a £5,000 commission. This was not declared in the related party transactions. According to Parlons Justin Drummond (Jason’s brother) claimed to “have raised £millions for David Lenigas”. It seems propbable the failed Lenigas Cuba investment of £100,000 was also arranged through Ascend Capial.
- On 31 October 2015 Gametech (Jason Drummond’s company) owed Teathers £29,267.58 and this was not mentioned as a related party transaction in the 2015 accounts
- Transaction 62306 – Quote from Mario (the company bookkeeper employed by the new board) “This transaction was posted to the suspense bank account as a bank receipt and reversed as a deposit paid back to Gametech. I’m assuming we never physically received this money as it seems the transaction was deducted from their customer account, allocated to the suspense bank account and then subsequently reversed as “deposit paid to Gametech”. – Previously Teathers received a 2/3 share of the deposit from Tactu, which Nilesh paid back to Gametech through this transaction even though the lease is still active.There is no justification for Nilesh having done this as it means Teathers now has the full liability for the lease deposit.
    - When Teathers took on the lease it paid a deposit of £12,080
    - Tactu paid £6,040 as a contribution towards the deposit, since it was using nearly all of the office
    - On 31/5 Nilesh issued a sales receipt to Gametech for £6,040
    - He then appears to have netted this sales receipt off against the amount Tactu paid (i.e. he treated the deposit payment from Tactu as if it were a payment from Gametech for rent)
    - This means Teathers carries the full liability for the deposit on the lease.
-