

10.4 LIST OF DOCUMENTS CONSIDERED BY THE PANEL

ABSA Bank Ltd v Hoberman and others NNO, Cape Provincial Division, (1996) November 8 and December 19

Amalgamated Banks of South Africa (ABSA) Limited (1992): Circular to shareholders relating to the proposed merger between ABSA and Bankorp; the proposed disposal by ABSA of a 30 per cent interest in Momentum Life Assurers Limited; an increase in the authorised share capital of ABSA; and Notice of a general meeting of shareholders of ABSA, 3 April

Amendment of Regulations framed under Section 36 of the S A Reserve Bank Act, No. 90 of 1989

Banking: The Road to destruction, by the Editor (no date or source)

Bankorp Group - List of top management

Bankorp Group: list of abnormal write-offs, 28 August 1991 (translated from Afrikaans)

Banks Act, No 23 of 1965

Business Day, 28 June 1991: Banking secrets

Business Day, 22 September 1995: Afbank should be saved - curator

Business Day, 26 October 1995: Bailing out Afbank

Business Day, 6 February 1996: Banks fight secrecy in Tollgate case

Business Day, 28 February 1996: ABSA may increase risks with transparency

Business Day, 12 February 1996: ABSA "overcharged Tollgate but did not cause its collapse"

Business Day, 27 February 1996: Bankorp aided for seven years as debts grew

Business Day, 27 February 1996: Stals defends Reserve Bank stance on rescue packages

Business Day, 13 May 1998: Stals asked for Bankorp probe, says Manuel

Business Day, 2 February 1999: Heath "to summons Stals, Liebenberg"

Business Day, 3 February 1999: Heath Unit stalled on banking probe

Business Day, 18 March 1999: Heath Unit oversteps the mark, says ABSA

Business Day, 6 August 1999: A hard road but, looking back, a rewarding one

Business Day, 3 November 1999: Bank to launch lifeboat inquiry

Business Day, 29 November 2000: Court brings Heath's crusade to an end

Business Day, 29 November 2000: Law on Heath unit to change

Business Day, 29 November 2000: Supreme irony

Business Day, 29 November 2000: There are limits to what is permissible

Business Day, 25 January 2001: Panel set to meet again on Bankorp rescue loan

Business Day, 26 January 2001: Clarity on role of Bank Supervision Department

Business Day, 29 January 2001: Bank statement expected today

Business Day, 6 February 2001: Reward sought from SARS for tip, by Bonile Ngqiyaza and SAPA

Business Report, 16 October 1995: Afbank decision still to be made

Business Report, 2 September 1999: Special Report: Banking: The rescue of struggling institutions is not all that phenomenal, but SA has done it better than others: Historical precedent, best practice ... and chance

Business Report, 3 September 1999: Special Report: Banking: The Reserve Bank intervened to ward off potential disaster; and ABSA has never been allowed to forget it: Lifeboat lessons test resolve for future rescues

Commission of Inquiry into the Affairs of the Masterbond Group and Investor Protection in South Africa by the Honourable Mr Justice HC Nel (November 1997): Extract of certain pages

Draft document for discussion: Letter/Note from the Governor, S A Reserve Bank addressed to Banks, Mutual Banks and Branches of Foreign Banks, dated 2 December 1999, regarding Policy statement on the lender-of-last-resort function of the S A Reserve Bank

Draft document: Core principles for effective banking supervision (Basel Core principles)

Draft document: Policy statement on the role of the S A Reserve Bank as lender of last resort

Draft document: Road map to the Banks Act (Act No 94 of 1990) and consolidated regulations

Evaluation of S A Reserve Bank packages for Bankorp/ABSA in relation to central banking principles, February 2001

Extract from a legal opinion - E Bertelsmann, SC: The Reserve Bank: Various "life boats"

Extracts of certain pages from: Broadway, DJ (1994) *Lessons for management from recent bank failures*. MBA thesis, University of the Witwatersrand

Extracts of certain pages from: *Commissioner's Report: Tollgate Holdings Limited* (in liquidation); Adv J Browde SC, Johannesburg, 2 September 1998

F & T Weekly, 8 May 1998: Heath begins ABSA investigation

Fax from Adam Harris & Associates and an extract re the "lifeboat" afforded by the Reserve Bank to ABSA Bank Limited and its subsidiaries (Tollgate Commission of Enquiry)

Fax from Mr Pieter Strydom from Ernst & Young, addressed to Mr Jannie Rossouw, dated 15 March 2001, regarding Mercabank's management

Fax from Peter Clive Soller (Attorney), addressed to Mr TT Mboweni, Governor of the S A Reserve Bank, dated 31 January 2001 regarding Mr Soller's fax to the SA Revenue Services

Finance Week, 12 November 1999: Three core values for bank clients

Finance Week, 13 February 1992: Legal action against Pickard

Finance Week, 13 February 1992: Reign of silence: Has the Reserve Bank given Bankorp a R1bn lifeboat?

Finance Week, 13 February 1992: Tight lips, open hands

Finance Week, 20 February 1992: Take off the wraps

Finance Week, 20 February 1992: Too big to fail

Finance Week, 27 August 1992: Masterbond and the Bank

Finance Week, 8 January 1998: Watching the watchdog

Finance Week, 26 February 1998: Chris Stals taken to task

Finance Week, 9 November 1998: When a loan isn't

F&T Finance Week, 5 November 1999: Thirty years of banking problems

Financial assistance to Mercabank/Santam Bank by the Reserve Bank - Summary of events: 10 April 1985 to 29 June 1987 (undated document) (translated from Afrikaans)

Financial Mail Supplement, 30 August 1991: A Small world

Financial Mail Supplement, 30 August 1991: In a new frame

Financial Mail, 31 May 1991: The wood for the trees

Financial Mail, 13 September 1991: Behind closed doors

Financial Mail, 19 June 1992: Reserve Bank may face R20m claim

Financial Mail, 26 June 1992: Depositors' luck

Financial Mail, 3 July 1992: Total simulation

Financial Mail, 10 July 1992: Secrecy over claims

Financial Mail, 31 July 1992: Following the paper chase

Financial Mail, 12 March 1993: For whom the bell tolls

Financial Mail, 18 March 1994: Pickard blocks Miba deal

Financial Mail, 25 March 1994: Ham in Pickard's sandwich

Financial Mail, 1 April 1994: Pickard Jnr vs the Bank

Financial Mail, 1 April 1994: Steep curve

Financial Mail, 4 November 1994: Banking: Stals's prime conundrum

Financial Mail, 20 January 1995: Prima Bank/Unibank - In the open

Financial Mail, 3 February 1995: Prima: Where's that missing R5m?

Financial Mail, 3 November 1995: Tollgate: Will there be ABSA-lution?

Financial Mail, 16 February 1996: Beneficiary of secret rescue of ailing bank

Financial Mail, 8 March 1996: Sanlam: Come on, pay up

Financial Mail, 20 March 1998: Mr Askin, we presume

Financial Mail, 15 May 1998: Bankorp ghost haunts Stals

Financial Mail, 11 September 1998: This mustn't be the last word on Tollgate

Financial Mail, 4 December 1998: Here's a conspiracy theory

Financial Mail, 12 February 1999: The lifeboat begins to sink

Financial Times, 3 February 1999: Bank governor may face tribunal over Bankorp

Financial Times, 13 September 1999: Bank corruption probe widens

Financial Times, 2 November 1999: South Africa drops bank fraud inquiry

Focus, November 1999: The Reserve Bank and its naughty children

Government Gazette No. 10564: Regulations framed in terms of the Banks Act, 1965

Government Gazette No. 17115: Banks Act, 1990 (Act No. 94 of 1990): Regulations relating to Banks

IMF Working Paper WP/00/79: Emergency Liquidity Support Facilities by Dong He

IMF Working Paper. Central Banking Department: The Argentine Banking Crisis of 1980, prepared by Tomas JT Balino, 17 November 1987

IMF Working Paper. Monetary and Exchange Affairs Department: Banking Crises in Latin America in the 1990s: Lessons from Argentina, Paraguay, and Venezuela, prepared by Alicia Garcia-Herrero, October 1997

International Monetary Fund: *Occasional Paper 161*: The Nordic Banking Crises: Pitfalls in Financial Liberalization?, by Burkhard Drees and Ceyla Pazarbasioglu (pages 22-35)

International Monetary Fund: *Staff Papers*, Vol. 44, No. 3, September 1997: Determinants of Banking System Fragility: A Case Study of Mexico

Lender of last resort - International discussions

Lender of last resort assistance, Opinion furnished to the S A Reserve Bank by Adv Philip Ginsburg SC, dated 26 May 1998

Letter from Dr CJ de Swardt, Deputy Governor, S A Reserve Bank, dated 18 July 1990, addressed to Mr PJ Liebenberg, Executive Chairperson, Bankorp (translated from Afrikaans)

Letter from Dr CJ de Swardt, Registrar or Bank, S A Reserve Bank, dated 29 June 1987, addressed to Mr CG Erasmus, Managing Director, Bankorp (translated from Afrikaans)

Letter from Dr CL Stals, Governor of the South African Reserve Bank, dated 1991-06-28, addressed to Mr PJ Liebenberg, Bankorp (translated from Afrikaans)

Letter from Dr CL Stals, Senior Deputy Governor, S A Reserve Bank, dated 30 May 1985, addressed to Mr CG Erasmus, Managing Director, Bankorp (translated from Afrikaans)

Letter from Dr DC Cronje, Chairman, ABSA Group, dated 14 March 2001, addressed to Mr JJ Rossouw, Secretary of the Governor's Panel, regarding the financial assistance package to Bankorp

Letter from Dr Gerhard de Kock, Governor, S A Reserve Bank to Mr WP Cooke, Bank of England dated 18 October 1985

Letter from Dr Gerhard de Kock, Governor, S A Reserve Bank to Mr G Blunden, Deputy Governor, Bank of England dated 14 February 1986

Letter from Dr Gerhard de Kock, Governor, S A Reserve Bank, dated 18 April 1986, addressed to Dr LA Porter, Managing Director, Finansbank (translated from Afrikaans)

Letter from Dr Gerhard de Kock, Governor, S A Reserve Bank, dated 18 April 1986, addressed to Mr CG Erasmus, Managing Director, Bankorp (translated from Afrikaans)

Letter from Dr Gerhard de Kock, Governor, S A Reserve Bank, dated 20 June 1986, addressed to Dr P Morkel, Managing Director, Volkskas Group Limited (translated from Afrikaans)

Letter from Dr Gerhard de Kock, Governor, S A Reserve Bank, dated 5 May 1986, addressed to Mr G Liebenberg, Managing Director, Bolank Bank (translated from Afrikaans)

Letter from Dr Gerhard de Kock, Governor, S A Reserve Bank, dated 6 July 1989, addressed to Dr CJ van Wyk, Chief Executive Officer, Bankorp (translated from Afrikaans)

Letter from Dr Gerhard de Kock, Governor, S A Reserve Bank to Mr Paul McGonagle, Senior-Vice President, First National Bank of Chicago dated 31 October 1988

Letter from Dr LA Porter (Managing Director) and Mr HR van der Merwe (Executive Director), Finansbank, addressed to S A Reserve Bank (Ref Dr J Jacobs). [No date on the letter, but it was filed between February and March 1986] (translated from Afrikaans)

Letter from Hongkong Bank (W Purves) to Dr F Leutwiler dated 1 November 1985

Letter from KPMG/Ernst & Young, dated 8 November 1995, addressed to Dr CJ de Swardt, S A Reserve Bank

Letter from KPMG and Ernst & Young Chartered Accountants (SA), dated 21 January 1999, addressed to Dr CJ de Swardt, S A Reserve Bank regarding the Report of the Joint Independent Auditors of ABSA Group Limited to the S A Reserve Bank in connection with exposures in Bankorp Limited and related write-offs

Letter from Mr CG Erasmus, Chairperson, Mercabank, dated 5 December 1986, addressed to Dr AS Jacobs, Senior Deputy Governor, S A Reserve Bank (translated from Afrikaans)

Letter from Mr CG Erasmus, Managing Director, Bankorp, dated 10 April 1985, addressed to Dr Gerhard de Kock, Governor, S A Reserve Bank (translated from Afrikaans)

Letter from Mr CG Erasmus, Managing Director, Bankorp, dated 20 March 1986, addressed to Dr de Kock, Governor, S A Reserve Bank (translated from Afrikaans)

Letter from Mr Harun Ebrahim, Attorney at Law, addressed to the Governor of the S A Reserve Bank, dated 28 March 2001, and Mr JJ Rossouw's reply

Letter from Mr MC Janse van Rensburg, Deputy General Manager, S A Reserve Bank, addressed to Mr J Luttig, Rooth & Wessels, dated 19 March 1998

Letter from Mr J Luttig, partner at Werksmans Attorneys, addressed to Mr Jannie Rossouw, S A Reserve Bank, dated 30 January 2001

Letter from Senior Deputy Governor, S A Reserve Bank, addressed to the Chief Executive Officer, Finance Bank Limited, dated 5 October 1988 (translated from Afrikaans)

Letter from Standstill Co-ordinating Committee to Dr CL Stals, Chairman, dated 1 November 1985

Letter from the Director Corporate Finance, Dr ARP Hamblin, addressed to Dr AS Jacobs and Mr HB Bester dated 4 September 1985

Letter from the Director-General: Finance, Department of Finance to Dr Gerhard de Kock, Governor, S A Reserve Bank dated 27 March 1986

Letter from the Minister of Finance, BJ du Plessis, Ministry of Finance to Dr Gerhard de Kock, Governor, S A Reserve Bank dated 27 March 1986

Letter from the Registrar of Banks (S A Reserve Bank), dated 6 July 1998, addressed to Mr S J Barkhuizen, Heath Special Investigating Unit, East London

Letter from the Registrar of Banks, S A Reserve Bank, dated 31 October 1997, addressed to the Ministry of Finance (Attention: Mr John Solomon)

Letter from the Senior Deputy Governor, S A Reserve Bank, addressed to Mr Derek Keys, Chairperson, Bankorp Group, dated 13 November 1989 (translated from Afrikaans)

Letter from the Senior Deputy Governor, S A Reserve Bank, addressed to Mr BJ du Plessis, Minister of Finance, dated 22 January 1987 (translated from Afrikaans)

Letter, dated 3 August 1990, from S A Reserve Bank to Mr PJ Liebenberg of Bankorp (translated from Afrikaans)

Mail and Guardian, 19 July 1996: Stals's secret hearing

Media release by ABSA regarding tax on Bankorp aid, dated 7 February 2001

Media release by Mr TT Mboweni, Governor of the Reserve Bank, on the findings of the Heath Special Investigating Unit into the financial aid package to Bankorp/ABSA – 3 November 1999

Media Release No 8 of 2001 by the South African Revenue Service re Bankorp/ABSA - taxation issues

Media statement by the Governor's Panel - 29 January 2001

Meeting of the Governor with the management of the Bankorp Group on Wednesday, 1 August 1990 (translated from Afrikaans)

Memo from Mr CF Wiese, Registrar of Banks, dated 22 November 2000, addressed to Mr JJ Rossouw, Secretary of the Governor's Panel, regarding banks that received Reserve Bank assistance

Memorandum - Members of the Standstill Co-ordinating Committee

Memorandum from Mr A Bezuidenhout, Deputy General Manager, Bank Supervision Department, S A Reserve Bank, addressed to Mr JJ Rossouw, dated 15 February 2001 regarding draft documentation for Governor's Panel, and including copies of Memorandums on depositor protection addressed to the Standing Committee for the

Revision of the Banks Act dated 18 September 1996, and the Governors' Committee dated 14 October 1996

Moody's Investors Service - Global Credit Research, South Africa Banking System Outlook, February 2001

Notice of civil proceedings to be instituted in the Special Tribunal: Notice in terms of rule 5 of the rules to regulate the conduct of proceedings in a Special Tribunal made under section 9 of Act 74 of 1996, read with regulation 7 made under section 11 of Act 74 of 1996

Offer by ABSA to acquire all the ordinary shares in the capital of Bankorp for shares in ABSA and incorporating an offer by Sankorp Limited to acquire the entitlements of Bankorp shareholders to such ABSA shares for cash, date of issue: 7 April 1992

One page with four letters from Stals, Murray and two from Faul as well as an article in *Millennium Magazine*, November 1996: Absagate (document incomplete)

Policy statement on the role of the Hong Kong Monetary Authority as lender of last resort - June 1999

Press release by the Heath Special Investigating Unit - no date

Regulations framed in terms of S A Reserve Bank Act, No. 29 of 1944

Report of the Working Group on Strengthening Financial Systems, October 1998

Republic of South Africa, *Debates of Parliament*, Fifth Session, Ninth Parliament, 1 to 4 March 1993

Republic of South Africa, *Interpellations, questions and replies of the National Assembly*, First Session, Second Parliament, 3 to 7 November 1997

Resolution from the Minutes of the Governors' Committee meeting held on Monday, 21 October 1996 in Pretoria, Minutes No 13/1996

S A Reserve Bank Act, No 29 of 1944

S A Reserve Bank Act, No 90 of 1989

S A Reserve Bank: Brief history of banking supervision in the S A Reserve Bank

S A Reserve Bank (1999): Bank Supervision Department: Annual Report

S A Reserve Bank: Extract from Minutes No. 132 - Governors' Committee meeting held on Friday, 14 February 1992 (translated from Afrikaans)

S A Reserve Bank: Extract from the Minutes of a meeting of the Board of directors held on Friday, 27 April 1990

S A Reserve Bank: Extract from the Minutes of a meeting of the Board of directors held on Friday, 15 November 1996

S A Reserve Bank: Extract from the Minutes of a meeting of the Board of directors held on Friday, 27 April 1990

Sanlam's financial exposure and cash flow in respect of Bankorp (on various dates, not adjusted to constant values) - document dated 24 October 2000

Second supplementary opinion - E Bertelsmann, SC: The ABSA Lifeboat and the S A Reserve Bank

Secret Agreement for the Amendment of Assistance Agreements between the S A Reserve Bank, ABSA Bank Limited and Sankorp Limited (19 June 1995) (translated from Afrikaans)

Secret Assistance Agreement between the S A Reserve Bank, ABSA Bank Limited, Sankorp Limited, Banbol (Proprietary) Limited, Bankorp Controlling Limited and Bankorp Limited (31 January 1994) (translated from Afrikaans)

Secret Assistance Agreement between the S A Reserve Bank, Banbol (Proprietary) Limited, Bankorp Limited, Sankorp Limited and Bankorp Controlling Limited (2 September 1991) (translated from Afrikaans) with three Annexures

Share prices: Bankorp and indices for the financial sector as from January 1984 up to June 1992 received from Mr Johan van der Schyff, S A Reserve Bank

Sowetan, 26 January 1999: Heath probe looks into "lifeboats"

Speech given by Sir Edward George, Governor of the Bank of England: The Second Bank of England/LSE Lecture at the London School of Economics on Thursday, 18 November 1993

Statement issued by the S A Reserve Bank, 12 September 1985

Statement issued by the S A Reserve Bank, 29 May 1986

Statement issued by the S A Reserve Bank, 5 September 1985

Submission by Dr CL Stals, Governor of the S A Reserve Bank, to the enquiry in terms of section 417 Companies Act into the affairs of Tollgate Holdings Limited

Summary of expert witnesses (and copy of business cards) Heath Special Investigating Unit

Summary of reports on the International Financial Architecture, October 1998

Sunday Argus Business Report, 28 January 2001: Reserve Bank dawdles where Heath feared to tread

Sunday Times, 15 March 1998: Bank defends itself in face of "lifeboat" allegations

Sunday Times, 31 January 1999: Askin vows to continue "war" with ABSA despite court ruling

Sunday Times, 18 June 2000: Reserve Bank to refloat probe into Bankorp's R1,5bn lifeboat

Tape 1: Interview with Mr Liebenberg 29 June 1997 (translated from Afrikaans): Heath Special Investigating Unit

Tape 2: Interview with Mr Liebenberg 29 June 1997 (translated from Afrikaans):
Heath Special Investigating Unit

Tape 3: Interview with Dr Stals 29 June 1997 (translated from Afrikaans): Heath
Special Investigating Unit

Telefax from the Senior Deputy Governor, S A Reserve Bank to the Minister of
Finance, dated 20 December 1989 (translated from Afrikaans)

Telex from Dr Gerhard de Kock, Governor, S A Reserve Bank to Mr Jerry G Franzen,
Vice-President and Manager, Europe, Middle East and Africa Div, Texas Commerce
Bank dated 23 June 1986

Telex from Mr Stanley Wright from the Office of Dr Fritz Leutwiler, Price Waterhouse
and Partners to the Standstill Co-ordinating Committee, dated 6 June 1986

The Banks Act, 1990 (Act No. 94 of 1990, as amended)

The Citizen, 24 November 1997: Reserve Bank to aid Islamic Bank clients

The Economist, 25 March 1995: Please, governor, can you spare a billion?

The Star, 12 August 1997: Prima Bank pay-off revealed

The Star, 3 March 1998: ABSA is in the clear on R6bn Reserve Bank lifeline

The Star, 22 April 1998: ABSA waits for Heath inquiry to clear "slur"

The Star, 7 September 1999: Reserve Bank is more iceberg than lifeboat

The Star, 3 November 1999: Bank acted legally, says Mr Mboweni