

Judgement in Baring's case

Recently a judgement was given in the Baring's case involving the audit firm Deloitte Touche, who were auditors of Barings Singapore in 1992 and 1993. Before we discuss this judgement, some background information about Barings is discussed.

Barings collapsed in 1995 after Nick Leeson incurred losses of \$US 1.4 billion while trading in derivatives. Subsequently the 240-year-old bank collapsed (Quah, 2003). Deloitte Touche audited Barings Singapore in 1992 and 1993, and in 1994 Coopers and Lybrand audited the company. The original action against the two audit firms was for \$US 2.9 billion. Coopers and Lybrand settled in October 2001, leaving a claim of £130 million against Deloitte Touche Singapore (Quah, 2003).

This case illustrates the complexity of modern business litigation that can cause cases to drag over many years. Barings collapsed in 1995 and as noted below, this case is not finalised as yet. This complexity and the duration of legal cases will result in large legal costs that favour out-of-court settlements. Legal fees for this case are estimated as more than 40 million pounds (Dickson, 2003, p.24). It is unusual for a judgement to be given in an auditing case and this indicates that Deloitte Touche must have been confident of a favourable judgement.

Deloitte Touche was found negligent on 2 out of 23 allegations (Daily Mail, 2003, p. 73). The judge noted the audits were conducted with great thoroughness, for low fees (Tait, 2003, p. 5). Deloitte Touche estimate the maximum damages they will pay are £1.5 million (Daily Mail, 2003 p. 73). The judge allowed both parties leave to appeal and the calculation of damages and the issue of payment of costs has yet to be decided.

The most significant aspect of this case was that the judge apportioned blame between the auditors and Barings Futures Singapore and its management. In Australia, CLERP 9 recommends proportionate liability; a recommendation that, it seems, will be implemented. If this is implemented, apportionment will become a feature of Australian cases involving auditor negligence.

References

Dickson Martin, 2003, 'Barings bloodshed', *Financial Times (London)*, 12 June, p. 24.

Quah Michelle, 2003, 'Deloitte S'pore spared much of blame in Baring's case', *The Business Times Singapore*, 12 June.

Tait Nikki, 2003, 'High Court finds Deloitte Touche negligent in its audit of Barings', *Financial Times (London)*, 12 June, p. 5.

'Deloitte's low penalty for Baring's negligence', *Daily Mail*, 12 June, p. 73.