

BCCI trial collapses

John Willcock

The longest and most expensive trial in British history collapsed on 2 November when the liquidators of Bank of Credit and Commerce International (BCCI) unexpectedly dropped their case against the Bank of England.

The liquidators from Deloitte said their legal costs for the 256-day case were about UK£38 million (US\$65 million). They face a hearing on Friday 11 November where the Bank has declared it will pursue them for its own costs of about UK£70 million (US\$120 million).

The Judge Mr Justice Tomlinson said on Wednesday he may also make a further statement at that hearing about the way the liquidators pursued the case.

After hearing of the liquidators' shock decision on Wednesday morning, Mr Justice Tomlinson said the documentary evidence and witness statements from former Bank officials had "left me in no doubt that the very serious allegations of impropriety and dishonesty ... are wholly without foundation".

The Judge added that he had been surprised throughout the year of the trial that it had continued so long.

BCCI was shut by regulators led by the Bank of England in 1991 following decades of corruption and hidden losses, which left it owing creditors over UK£10 billion (US\$17 billion).

Deloitte pointed out this week that even with this week's set-back, the liquidation has been a spectacular success. So far, Deloitte has paid out 75 per cent of the £4.1 billion (US\$7 billion) it has recovered to creditors and will pay back another 6 per cent by

December. It estimated in 1991 that it would recover about 10 per cent of BCCI's losses, whereas now it is set to pay creditors about 80 per cent.

In dramatic scenes at the High Court in London on Wednesday, Nicholas Stadlen QC, for the Bank, described the news of the liquidators' withdrawal as a "the most remarkable and humiliating climb-down in the history of England litigation" and declared triumphantly: "This is unconditional surrender."

The allegations centred on 22 Bank officials who the liquidators claimed knew BCCI was in a bad state long before its crash and failed to take steps to prevent what has been described as the largest banking collapse in modern history. They also alleged the Bank knew it should never have granted a licence to BCCI in 1980.

Regulators the world over cannot be sued for negligence, so the liquidators were forced to sue for the much more serious allegation of misfeasance in public office – that is, acting in a knowingly dishonest manner in order to deceive the public.

The Governor of the Bank, Mervyn King, who was coincidentally sitting at the back of the court on Wednesday, said he was "delighted" at the outcome. He said: "There has never been a shred of evidence to support these disgraceful allegations, and the case has collapsed as we always said it would."

"The foolish determination to pursue a hopeless case for so long has also led to a huge waste of creditors' and taxpayers' money, and I hope everyone concerned will take a close look at how and why such a very weak case took 12 years to come to an end. The Bank will be seeking the largest possible compensation for its costs," said King.

You can read the full transcript of the sensational last day in court, as well as the liquidator's subsequent press statement, by clicking on

www.globalturnaround.com/resources/BCCItranscript

www.globalturnaround.com/resources/BCCIdeloittstatement

The BCCI trial Firms & Faces

Counsel for the Bank of England

Nicholas Stadlen QC of Fountain Court led a team including **Mark Phillips QC** of 3/4 South Square, **Bankim Thanki QC** of Fountain Court, **Ben Valentin**, **Henry King** and **Tom Smith**.

Their solicitors were Freshfields, which had a team of at least ten on the case at any one time. The team was led by **John Goddard**, **Philip Croall** and **Jonathan Rawlings**.

Counsel for the liquidators

The liquidators' case was headed up by **Gordon Pollock QC** of Essex Court, with **Clare Montgomery QC**, **Dominic Dowley QC**, **Barry Isaacs**, **Nathan Pillow** and **Lord Patrick Neill of Bladen QC**, who made some submissions on the law.

The solicitors were Lovells led by **Christopher Grierson** and assisted by **Neil Dooley**.

The original liquidators of BCCI SA in England appointed in 1991 were **Christopher Morris**, **John Richards**, **Stephen Akers** and **Ralph Preece** of Deloitte & Touche. Morris has since retired from Deloitte, although he remains an office holder, while Akers has moved to Grant Thornton and is no longer a liquidator.