

## Supreme Court of Appeal of South Africa

### MEDIA SUMMARY– JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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#### Haslam v The State

In a judgment today the Supreme Court of Appeal has set aside the appellant's conviction of ten counts of fraud.

The appellant was employed as a relationship manager by Nedcor Bank Limited (Nedcor) at its Fox Street branch. In that capacity he was responsible for the accounts of various clients. Until the end of September 1998, the appellant, in his capacity as relationship manager, had a mandate to approve credit facilities up to a limit of approximately R150 000. With effect from October 1998, the credit lending mandate of all relationship managers was withdrawn. All credit applications had to be channelled to the credit department for investigation, consideration and approval.

The appellant was, inter alia, responsible for the accounts of Moonstar Commerce & Industry (Pty) Ltd (Moonstar). During 1999, Botha, on behalf of Moonstar, applied to Nedcor for credit in the form of letters of credit. Global Business Centre (Global), a unit within Nedcor, was primarily concerned with the processing and issuing of letters of credit. Moonstar's applications for letters of credit were submitted to the appellant and it is common cause that the appellant signed the credit application forms at the bottom right corner in the space marked 'approved (relationship/credit officer's signature)'. He also inserted his signature number on seven of the forms and his relationship number on a few others. During the

period January 1999 to June 1999, ten letters of credit (which form the subject of the ten counts of fraud) were issued by Global in favour of Moonstar. It is further common cause that the application forms in respect of the letters of credit had not been presented to and approved by the credit department prior to being issued by Global. Moonstar's account with Nedcor went into overdraft. It was unable to pay its debts, including the debt to Nedcor which arose in consequence of Nedcor making payment pursuant to the issue of the letters of credit. Moonstar was liquidated on 25 January 2000. Nedcor suffered considerable financial loss.

The SCA, in a judgment by Theron AJA in which Cloete JA and Cachalia JA concurred, held that there was no evidence to support a finding that the appellant intended to or took any steps, whether by action or inaction, to cause any of the applications for letters of credit to bypass the credit department.

The SCA further held that there was nothing improbable in the explanation put forward by the appellant that he signed the application forms simply to allow the applications to be processed by the credit department. The court reasoned that it was improbable that the appellant, a senior, highly respected and sought after banker, would, for no apparent personal gain (apart from the negligible gifts already mentioned) put his successful banking career on the line for a simple and unsophisticated series of frauds, which could and should easily have been detected.

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