

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Securities and Investment Commission

Question: BET 80

Topic: Out-of-Court settlement with the Bank of Queensland

Reference: Hansard page no. 27 - 03 June 2015

Senator: Ketter, Chris

Question:

Senator KETTER: For the \$20 million settlement, as I understand, there were other actions that were taken. What other parts of the original claim were not pursued as a result of this out-of-court settlement with the Bank of Queensland?

Mr Tanzer: We undertook a very broad range of inquiries into the Storm matter as a whole; the Bank of Queensland aspect of this was part of the Storm investigation. As I say, our key focus was on looking at obtaining compensation for investors. That was based on our best assessment of the evidence at the time and the public interest in being able to take that type of action. I will take on notice and I will check whether there were any particular aspects of the claim that were dropped as part of the settlement of the action, but I do recall that at the time we made that settlement, we considered that the settlement that was achieved appropriately dealt with the concerns we had raised at the time.

Answer:

In December 2010, ASIC commenced proceedings in the Federal Court of Australia against the Bank of Queensland (BoQ), Senrac Pty Ltd (the owner of BoQ's North Ward branch) and Macquarie Bank, claiming compensation on behalf of Mr and Mrs Doyle for breach of contract (and the 2004 Banking Code of Conduct), unconscionable conduct and liability as linked credit providers of Storm under s73 of the Trade Practices Act 1974. The proceedings were settled in May 2013 on a without admission of liability basis against all parties and in respect of all causes of action, by the payment of \$1.1m in compensation to Mr and Mrs Doyle.

In December 2010, ASIC commenced proceedings in the Federal Court against BoQ, CBA and Macquarie Bank alleging that Storm operated an unregistered management investment scheme and that each of the banks were knowingly involved in that alleged unlawful scheme. ASIC settled its action against the CBA in September 2012 by which the CBA agreed to make up to \$136m available to Storm borrowers in compensation (which was in settlement of all actions against the CBA by ASIC). Following the court's approval of the settlement negotiated with Macquarie group by the Richards class action (in which ASIC had intervened), ASIC's action against Macquarie Bank was dismissed in September 2014. And in March 2015, following the court's approval of the settlement of the Lee class action against BoQ (ASIC was involved in the negotiations), the court dismissed ASIC's action against BoQ which finalised those proceedings. All settlements with the three banks were on the basis that no other action would be brought by ASIC against them arising out of the collapse of Storm Financial.