



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal  
Date: 2 December 2010  
Status: Immediate

*Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.*

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**DA SILVA V SLIP KNOT INVESTMENTS**

The Supreme Court of Appeal (SCA) today held that where the National Credit Act 34 of 2005 does not apply to an initial loan agreement, the Act also does not apply to a new agreement (credit guarantee) subsequently entered into to guarantee the obligations under the initial loan agreement.

Mr Joao da Silva and Mr Louis Dirk Boshoff argued that the new agreement entered into by them with Slip Knot Investments, in terms of which they had guaranteed the repayment of two loans advanced to R B Merit Investments (Pty) Ltd by Slip Knot, was void for failure to comply with the National Credit Act, because Slip Knot was not a registered credit provider. They argued that their obligations flowing from the new agreement were independent of the initial loan agreements and replaced their obligations under them. The new agreement was, so they argued, therefore a credit transaction and not a credit guarantee.

The SCA held that if the agreement was not a credit transaction at the time it was concluded, it could not have become one after R B Merit was released from its obligations. It further held that the obligations under the loan agreements and those under the new agreement were interdependent. This could only mean that the agreement was, in substance, an agreement to guarantee R B Merit's obligations under the initial loan agreements – and was therefore a credit guarantee to which the Act did not apply. It dismissed an appeal by Mr da Silva and Mr Boshoff against an order of the Johannesburg High Court.