

To:

CAD-03125

Sir Adrian

From:

Nigel Peace

21.10.91

CAPARO

I attach as requested a copy of the relevant extracts of the Likierman Report on Professional Liability.

2 You asked how the Court of Appeal judgement differed from that of the House of Lords. The basis of the former is summarised in paragraphs 3.18 to 3.22 of the Report of the Auditors Study Team which is included with the extracts from the Likierman Report. The latter is described in the Coopers and Lybrand booklet which I sent you some time ago - I attach a further copy of chapter 1 and can supply the whole booklet if you need it.

3 The case comes down to this. Case law has established that duties can be owed in tort to third parties for negligent misstatement (Lord Denning in a minority judgment in 1951, and then the House of Lords in Hedley Byrne, 1964). However there must be a close and direct relationship of proximity between the parties to create liability. The Court of Appeal decided that such a relationship did exist in the case of Caparo; the House of Lords decided that it did not.

*Nigel*

NDP