ABSTRACT

This is a comprehensive case study of the collapse of BES that failed in 2014 and prompted the government to draft and implement a resolution plan for BES in which they created NOVO Banco, a bridge bank to transfer all the healthy operations of the bank and left the toxic assets in BES to be liquidated.

BES collapsed after 145 years of existence after it founded by Jose Maria do Espírito Santo e Silva, who started in Lisbon in 1869 as a moneychanger. This study aims to study the causes of the collapse of BES and discuss the corporate governance mechanism that has gone wrong.

This study also examines the evidence of clan culture in BES which is probably one of the core strength of the BES and the ES family that helped the bank to survive 145 years, both world wars, dictatorship regimes and nationalisation.

The case of BES gives the opportunity to understand that corporate governance rules and recommendations are just as relevant in family businesses as they are in other businesses.

Our study found that the desire to diversify the operations of the ES family by investing into many business sectors through its non-financial **companies**, combined with the economic recession put significant pressure on Ricardo Salgado, who with his status in the family and his power on the board of directors of BES used fraudulent financial reporting and related parties transactions to hide the bank's toxic assets made mainly of debt instruments of its holding parent.

We also found the clan culture in BES gave significant decision powers to Ricardo Salgado. At one point, he was CEO of BES and chairman of the group, which was likely to have intimidated directors on the board of BES.

Our main finding on this study is that the collapse of BES could have been avoided if the corporate governance in BES emphasised on accountability and integrity of financial reporting.

KEYWORDS

- Bankruptcy
- Corporate Governance
- Banco Espirito Santo
- Corporate Fraud
- Family Business failure

JEL CLASSIFICATION SYSTEM

- G. Financial Economics : Financial Crisis
- G.3 Corporate Finance and Governance: Corporate Finance, Corporate Governance

To Father and Mother

Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that.

Martin Luther King, Jr.

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LIST OF ABBREVIATIONS

- BES : Banco Espirito Santo
- ES: Espirito Santo
- ESI: Espirito Santo International
- ESFG: Espirito Santo Financial Global
- BESA: Banco Espirito Santo Angola
- CEO: Chief Executive Officer
- ESC: Espirito Santo Control
- GES: Grupo Espirito Santo
- COSO: Committee Of Sponsoring Organisation
- EEA: Europeean Economic Area
- AGM: Annual General Meeting
- NASDAQ: **N**ational **A**ssociation of **S**ecurities **D**ealers **A**utomated **Q**uotations
- BNU: Banco National Ultramarino
- BIC: Banco International de Credito
- BESCL: Banco Espírito Santo e Comercial de Lisboa
- RTP: Rádio e Televisão de Portugal
- ACCA : Association of Chartered Certified Accountants

I. INTRODUCTION

The fall of BES is the tragedy of a bank that collapsed after 145 years of existence. It had survived the two World Wars, dictatorship, revolution and nationalisation in Portugal. It was the crown of the ES family and a giant in Portugal. Its failure in 2014 caused panic on the Euronext Lisbon and other European stock markets and brought serious doubts on the health of the banking sector in Europe. BES was controlled by the ES family and was founded by Jose Maria do Espirito Santo e Silva. He started as money changer and grew to become a banker. Apart from growing his fortune he successfully did what other family business owner usually fail to do, which is how to manage succession. His children and grandchildren successfully managed the business after him and made it an international bank. The ES maintained their reputation as bankers and had always had a significant influence in the economy and politics in Portugal. Under a Decree Law of 1975, the bank was nationalised and the ES family was prevented from doing business in Portugal. The family exiled and had a meeting of its high council in London where it decided to create holding companies to manage their fortune and control their remaining businesses. The Espirito Santo family returned in Portugal in 1985 and successfully recovered their bank from the government. Soon after Ricardo Salgado became the CEO of BES and patriarch of the family. A discreet, charismatic and powerful person, Salgado already was an experienced banker when he became CEO of BES. Under his leadership the bank grew in wealth and activities and the ES family diversified its activities significantly in Portugal. Nicknamed “Dono Disto Tudo”, Ricardo Salgado was known as one of the most influential persons in Portugal. He was respected and feared in the ES family. The collapse of BES and its holding parents ruined the family along with thousands of investors, and prompted the government in Portugal to implement resolution plan for BES in which they created NOVO Banco, a bridge bank to transfer all the healthy operations of the bank and left the toxic assets in BES to be liquidated.

Our objective in studying this case is to understand the reasons of BES’s failure and to evaluate if a good corporate governance could have saved it. Our study focuses on the corporate governance of BES in the year prior to its failure.

In this case study, we will be using the books “O fim da era Espírito Santo”, written by Maria Teixeira Alves, “Em Nome do Pai e do Filho…” written by Luciano Amaral, and “O Último Banqueiro” written by Maria João Babo & Maria João Gago.

We will also be using newspapers publications, and articles from the web to gather information for our analysis. This method of research offer the advantage of being cost effective and overcome the difficulties of gathering primary data, especially on high profile cases like the collapse of BES where prosecutions are in progress. We would start our study with a review of the relevant literature, then a presentation of the case and its analysis and finish with our findings.

II. LITTERATURE REVIEW

1. AGENCY THEORY OF CORPORATE GOVERNANCE

Companies and governments nowadays strain to have a high level of corporate Governance. It is no longer enough for a company to merely be profitable these days. The issue is being discussed in all sectors, including; in politics, economics, and healthcare. Everyone needs to demonstrate good corporate citizenship through environmental awareness, ethical behaviour and sound corporate governance practices (Brink, 2011).

Defined as a system of rules practices and processes by which a company is directed and controlled. The main goal of corporate governance is to improve stakeholders' value through strong accountability and better risk management.

The governance theory that lies behind moderating corporate governance performance is called agency theory. And what agency theory says, is that the role of the board of directors is to be the independent intermediary or broker, and referee between the principal people who contribute resources to the corporation and the agent the people who utilize those resources to get things done (Onetto, 2007)

Therefore, shareholders and managers have different needs, different expectations and different interests. The role of corporate governance is to lay out ways of aligning the interests of management responsible for the day to day management decision on allocation of resources with those of the shareholders who are the providers of equity.

Fundamentally, Corporate Governance involves balancing the interests of the many stakeholders in a company.

Increasingly institutional investors have shown to their interests on good corporate governance practices and some have published minimum corporate governance mechanism they require in order to invest in a company. Likewise, after the scandals of 2002 credit ratings agencies Standard & Poor's and Moody's announced that they would factor in governance in their future analyses (Minow, et al., 2004).

Unfortunately, corporate Governance often becomes the centre of discussion only after the exposure of a large scandal.

However, before corporate governance is introduced in the corporation, we have to first look at the agency theory.

Problems caused by the separation of ownership & control usually stem from a
Conflict of interest and attitudes towards risk. This occurs when cooperating parties have different goals and division of labour (C.Jensen & H.Meckling, 1976). An agency relationship is one where one or a group of persons (the agent) works on behalf of another person or group of persons (the principal). This relationship create an agency problem as the agents' interests and attitude toward risk are in conflict with those of the principal. Specially, agency theory is directed at universal agency relationships, in which one party (the principal) delegates work to another (the agent), who performs that work. One can attempt to describe this relationship using the metaphor of a contract (C.Jensen & H.Meckling, 1976).
As corporations grow bigger over time, more economic power in term of control of physical assets tend to be concentrated in the hand of few corporate managements, while on the other hand ownership become more dispersed (Berle & Means, 1932). In the corporate world, conflict of interests between directors and shareholders arise from the selfish desire of each group to maximise its own interest. Directors desire among others higher remunerations, private jets and the prestige of managing larger firms or business empires, while shareholders desire higher dividend, higher stock prices and efficient risk management. These desires conflict in the sense that resources used to satisfy the desires of one party is at the expense of the other party. For example increasing directors' remunerations without a proportional increase in profit reduces the amount of profit available for dividend sharing.
To tackle the agency problem, some authors have proposed realignment of interests of directors and shareholders using remuneration tools like stock option and golden parachutes to encourage directors to have a long term view of the company. The rationale behind this is that by linking directors' remuneration to the long term success of their company they would care about the long term performance of their company and shareholders' wealth would be preserved. Equity ownership provide a powerful incentive for managers to act in the interest of shareholders (C.Jensen & H.Meckling, 1976). Fama and Jensen (1983) found that boards of directors can be used as monitoring devices for shareholders.
Corporate governance is defined in the Cadbury report as the system by which companies are directed and controlled

i. Accountability of directors.

The Cambridge dictionary defines accountability as a situation in which someone is responsible for things that happen or can give a satisfactory reason for them. This means that someone is accountable if they are responsible for what they do and give a satisfactory reasons for what they do. The agency relationship gives the power to the agent to act on behalf of the principal. In the case of corporations, directors obtain the right to use the resources provided by the shareholders to create value that would be either distributed as dividend or retained in the company for reinvestment. In return of this, directors have the fiduciary duty act in the best interests of shareholders, a duty of skill and care and statutory duties imposed by companies' legislation. To act in the best interest of shareholders, directors need to be made accountable of their actions and decisions to stakeholders of the company.

One of the first elements of accountability of directors is the law on eligibility of directors, especially the statutory restrictions form acting as a directors. In the UK, the Companies Directors Disqualification act 1986 is the principal source of statutory restrictions on acting as a director. In its section 11, the act provide that persons who are undischarged bankrupt or subject to bankruptcy restriction order may not act as directors of limited companies (ACCA, 2007). In Portugal directors of companies that file for insolvency are restricted from managing other people's assets which de facto restrict them from being appointed as companies' directors. In addition they have a liability towards creditors for the claims left unclaimed throughout the insolvency proceedings.

Companies' directors are made accountable by companies laws through their statutory obligation to produce and publish financial statements that produce a true and fair view of the financial position, financial performance and cash flow of companies for which they act as directors. The international Accounting Standards Committee (IASBC), in its IAS 1 lists the complete set of financial statements which comprise a statement of financial position as at the end of the period, a statement of profit or loss and other comprehensive income for the period, a statement of changes in equity for the period, notes comprising a summary of significant accounting policies and other explanatory information, and a statement of financial position as at the beginning of the preceding comparative period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements. Financial statements provide information to shareholders about the stewardship of directors. The fact that the reappointment of directors by shareholders is largely dependent on the financial results of their company, financial statements are subject to misrepresentation. Companies in the EEA area are required to prepare and publish every year annual accounts which should comprise at least a profit and loss account or statement of profit and loss and other comprehensive income, and a balance sheet or statement of financial position, with notes to those statements and directors reports. Listed companies are generally required to prepare and publish additional statements comprising remuneration reports to show the remuneration received by each directors, and an audit report presenting the auditors' opinion on the truth and fairness of the assertions made by management in the financial statements.

Another duty of directors is to maintain internal controls systems and accounting information system ensure that financial statements produced are free from material misstatements whether due to errors or fraud, and that ensure compliance with policies, plans, procedures, laws and regulations which could have significant impact on operations and reports, and determine if the company is in compliance (Eisenberg, Melvin A., 1997). This risk management duty of directors is overseen in public listed companies by an Audit committee composed of independent non-executive directors that oversee the work and maintain a close relationship with internal and external auditors.

Another element of accountability of directors is in the composition of the board of directors. The board of directors is a group of people voted by shareholders to manage the company on their behalf. Most definition of corporate governance focus on the board of directors, when others include firm's ownership structure (Denis & McConnell, 2003) (Colpan, et al., 2010, p. 671). Codes of corporate governance require members to be voted by shareholders or nominated by the board and confirmed by shareholders at the next annual general meeting. CMVM's recommendation 5-A states that "The board of directors should include a sufficient number of non-executive directors, whose role it is to continuously monitor and assess the management of the company by the executive members of the board. Members of other corporate bodies may exercise ancillary roles or, at the very most, substitute board members, if the supervisory powers involved are equivalent and exercised in fact" (CMVM, 2017). Board must have enough independent non-executive directors to ensure a proper oversight of and challenge of executive directors and ensure that's shareholders' interests are safeguarded. Boards of directors in many countries of the world are unitary board with executive directors mainly tasked with strategy design and management of the company and non-executive directors responsible for ensuring that the company has an adequate system of internal controls and a good system of risk management in place.

In Germany, two tiers boards are predominant and are made up a management board chaired by the CEO and responsible of the day to day running of the company and a supervisory board made up of employees' representatives, bank representatives and members elected by shareholder at AGMs.

The most popular type of board is the unitary board. The majority of studies done on boards of directors examine the role and effectiveness of non-executive directors in protecting shareholders' interests and increasing investors' confidence on corporate governance. The importance of outside directors is widely debated in the literature of finance. Bhagat, Brickley, and Coles (1987); Fama (1980); Fama and Jensen (1983); Gibbs (1993) and others argue that outside directors promote the interest of shareholders (Block, 1999). Their desire to maintain their reputational capital as well as a fear of dissident stockholder lawsuits tends to ensure that they will properly monitor the actions of management (Block, 1999). However, Mace (1986), Patton and Baker (1987), and Jensen (1993) suggest that outside directors are likely to be aligned with management, not only because top management has a major say on who sits on the board, but also because outside directors tend to have a smaller equity position than other directors (Block, 1999). Codes of corporate governance put a significant emphasis on non-executive directors and their proportion compared to executive directors. The proportion of non-executives on the board is significantly positively related to firm performance (Mura, 2007). Audit committee members are required to be all independent non-executive directors by the majority of corporate governance codes. Likewise, the majority of Nomination and remuneration committee members are required to be independent. The good proportion of non-executive members on the board does not however guarantee their effectiveness. In addition to their majority on the board, the most important characteristics of effective non-executive directors were incisive thinking, the ability to size up a complex issue clearly, the ability to make a beneficial contribution to the company inside and outside the boardroom, practical business experience, Interpersonal skills, international experience and lateral thinking (O'Higgins, 2002). Furthermore, boards need to have a minimum number non-executive directors with expertise in the business of their company and at least one director with the required level of financial expertise to be able to chair the audit committee, challenge executive directors' assumptions and valuations in the financial statements.

Corporate governance and regulations emphasise also on the quality of internal controls and financial statements preparation, the independence of auditors and the quality of their audit.

The central focus of agency theory lies in a separation of ownership from control, so that the firm's top executives have minimal or no equity in the companies they manage (Berle and Means 1932; Fama and Jensen 1983) (Colpan, et al., 2010, p. 672). While this is predominantly true in the United Kingdom and the USA, the majority of large corporation in the world are typically controlled by families or the state (Laporta, et al., 1998), which suggests that the principal agency problem in large corporations around the world is that of restricting expropriation of minority shareholders rather than that of restricting empire building by professional manager accountable to shareholders (Laporta, et al., 1998). In family business groups, the concern is that managers may act for the controlling family members rather than for all shareholders, or that some family members may take advantage of other family members (Morck & Yeung, 2003). One of the core assumption of the agency theory is self-maximisation. However Hofstede (2001) examined among other variables the self-maximisation and time orientation of members of more than 50 countries and found that the likelihood of this self-serving behaviour and time orientation vary across nations (Colpan, et al., 2010). This suggests that the significance of the agency problem could vary across countries, suggesting that codes of corporate governance might need to reflect these differences. More study is needed to support these cultural differences as Hofstede's model on these cultural differences has been criticised for discursively constructing a world characterized by a division between a 'developed and modern' side (mostly 'Anglo-Germanic' countries) and a 'traditional and backward' side (the rest) (Fougère & Moulettes, 2007).

The cultural differences suggested by Hofstede (2001) would be enhanced by the institutional theory that firms in a given setting gradually become more homogeneous with time and increasingly adopt common processes and structures, not necessarily because these attributes are competitively desirable, but because there are political and social pressures to conform to institutional norms (DiMaggio and Powell 1983; Meyer and Rowan 1983; Colpan, Hikino, & Lincoln, 2010).

Understanding family businesses success factors is very inportant as by their number, assets, turnover and the number of people they employ, they form the backbone of the economy of almost every country.

While many people agree on the fact that corporate governance codes and regulations in the world are tough enough to help protect shareholders value, they have a different view about whether these codes are sufficiently implemented.

2. CORPORATE FRAUD

Bankruptcy is a legal protection that businesses can apply for when they cannot pay their debts. This protects them by stopping legal actions from creditors to collect their debts, while the company is put under administration or liquidated. The fast moving business environment, the intense international competition and the huge amount of money invested daily create the need for investment decision tools that can assist financial institutions and investors to make fast and safe decisions (Gounopoulos and polemis, 2012).
The main causes of corporate bankruptcy are poor strategy, overtrading, fraudulent and or misstated financial statements.

In 2014 Bahran Soltani analysed three American companies(Enron, WorldCom and HealthSouth and three European countries, to examine corporate fraud within a broad theoretical framework by using a comparative analysis of several multinational groups His primary motivation of his study was to analyze the major causes of financial corporate failures. Their aim was to show differences arising from environmental contexts and regulatory frameworks. For his study, he identified six majors' causes of corporate fraud. Theses causes are

- Ethical climate;
- tone at the top;
- accountability, control, audit and governance;
- fraudulent financial statements;
- personal interests and compensation packages;
- Bubble economy or market pressures.

i. Ethical climate

The concept of ethical climate is viewed by Victor and Cullen (1988) as the prevailing perceptions of typical organizational practices and procedures that have ethical content. This means that Victor and Cullen view ethical climate as the normative system that guide organisational decision making and systemic response to ethical dilemmas. The ethical climate is set by top executives like the CEO, CFO, the chairman and the audit committee. Overly dominant and aggressive executives who do not give as much a priority to the integrity of financial information as to building a corporate empire are likely to set an ethical climate where the end justify the means, which build an environment where the risk of corporate fraud and bankruptcy is very likely.Using the fraud triangle Murphy et al. (2012) examined the role of ethical climate in organizations when fraud is present and found that It is associated with motives such as pressure from bosses and rationalizations such as ‘‘the organization is to blame for my fraud”. Soltani (2014) and Duh et al. (2010) studied the importance of core values, culture and ethical climate in the context of family versus non-family businesses and concluded that family as well as nonfamily enterprises maintain positive attitudes towards the core values with ethical content. However, with respect to the type of enterprise culture, the results of this study demonstrated a stronger presence of clan culture characteristics in family than in non-family enterprises (Soltani, 2014) . This is of interest to us as our study is about Banco Espirito Santo and we would look at the contribution of clan culture in its failure, as there are well documented cases (Nomura, Parmalat, Royal Ahold, Etc.) where clan culture contributed to corporate failures.

ii. Tone at the top

It is the tone set by the most powerful actors within an organisation. It is therefore interlinked with the concept of ethical climate and ethical behaviour (Wimbush and Shepard 1994). The tone at the top sets an organisation’s guiding values and ethical Climate; it is the foundation upon which the culture of an enterprise is built. The tone at the top or control Environment is the set of standards, processes, and structures that provide the basis for carrying out internal control across the organization. The board of directors and senior management establish the tone at the top regarding the importance of internal control including expected standards of conduct. It is one of the components of the COSO framework developed to enable organisation to achieve their operating, control and compliance objectives. It is the set of standards, processes, and structures that provide the basis for carrying out internal control across the organization. The board of directors and senior management establish the tone at the top regarding the importance of internal control including expected standards of conduct. Management reinforces expectations at the various levels of the organization. The control environment comprises the integrity and ethical values of the organization; the parameters enabling the board of directors to carry out its governance oversight responsibilities; the organizational structure and assignment of authority and responsibility; the process for attracting, developing, and retaining competent individuals; and the rigor around performance measures, incentives, and rewards to drive accountability for performance. The resulting control environment has a pervasive impact on the overall system of internal control. (Deloitte, 2017)

iii. Accountability, control, audit and governance

Accountability, control, audit and governance are terms that relate to how those responsible for managing the organisation are held accountable to their agents and to the public. Codes of corporate governance, companies' laws and stock markets regulatory codes all put the responsibility for producing reliable financial information on the board of directors. For boards to carry out their advisory and monitoring roles they need to be independent and competent. The balance of board of directors is generally measured by the proportion of non-executive directors, compared to executive directors. The independence of directors positively contributes to achieving the responsibilities of board of directors because it gives them the ability to objectively challenge the CEO and other executives' decisions. The competence of boards members enable them to properly discharge their responsibilities to their agents in terms of managing operations, building and implementing short and long term strategy and managing short and long term risk. Organisations' board of directors plays a critical role in overseeing an enterprise-wide approach to risk management. Because management is accountable to the board of directors, the board's focus on effective risk oversight is critical to setting the tone and culture towards effective risk management through strategy setting, formulating high level objectives, and approving broad-based resource allocations.

In its monitoring role, the board of directors is the first contact point of both internal and external auditors through its audit committee, charged with ensuring that companies have adequate and functioning internal controls and risk management procedures.

iv. Personal interests and compensation packages

Personal interests are what the directors of an organisation can benefit from, for their position in that organisation. These could be their shareholding, their salary, bonuses, pensions, health insurances, share options; "golden parachutes", Etc. personal interests and remuneration packages are important elements of motivation to commit fraud. Because compensation packages are linked to performance and therefore the results in financial reports, they influence the risk of financial statement fraud.

v. Bubble economy or market pressure

An Economic bubble is a “market phenomenon characterized by surges in asset prices to levels significantly above the fundamental value of that asset” (NASDAQ). The value of financial assets can be based on their book value or their fair value. Fair value is more related to the market value, which itself is based on the confidence the investors have about the expected future income they would derive from the assets and the changes in the economic environment that could affect those earnings. In a bubble market stock prices increase and go beyond the present value of future earning and expectations are highly exaggerated. A bubble economy puts pressure on companies’ executives to report higher profits to satisfy investors and stand out in the executives’ community and keep their jobs. A bubble market also put pressure on executives to report higher earning to earn higher salaries, bonuses and exercise their share options.

These major causes of fraud identified by Soltani (2014) shows that while fraud can be difficult to detect in a company a lot can be done by the board of directors to prevent and reduce significantly the risk of fraud by ensuring that all the elements identified in corporate governance codes are in place to enable them to discharge their responsibilities toward shareholders and other stakeholders (Soltani, 2014).

In His book “Financial Fraud Prevention and detection” Michael Young explores the path to corruption of financial statements and finds that although it is easy for professional when a fraud have been publicly uncovered, to identify quantitative figures in financial reports that would contend and should have clued everybody to the existence of fraud, it is quite another thing to uncover fraud as it lies undetected beneath layers of deceptive entries, forged documents, and lies. These findings put more pressures on board of directors, and internal and external auditors to look beyond the numbers and take a qualitative approach to identifying risk of fraud and or uncovering fraud (Young, 2014). According to Michael Young, a better solution lies in the examination of the environment to identify the common characteristics of companies where financial fraud is the most likely to occur. He identifies these characteristics as

- Overly aggressive target setting
- A tone at the top that views a failure to achieve those targets as unforgivable.

His findings are similar to those of Soltani (2014) where he founds that poor ethical climate, the wrong tone at the top, pressures from market and self-interests are the main factors of corporate fraud.

Soltani (2014) finds that there was clear evidence of poor ethical climate and lack of commitment to ethical principles and deontology within both the American group and the

European group of bankrupt companies studied by their research. Looking at the hierarchical characteristics, they found that all these companies where characterised by strong egoism, power abuse, and influential and authoritative position. This further shows the need for companies to have non-executive directors that are sufficiently powerful to challenge decisions made by the CEO and the chairman. The history of big financial scandals and corporate failures reveals that they generally happen after a period of genuine growth where their CEOs are viewed as visionaries and innovators that rapidly become experts in a making money and gaining market shares. In most cases this supposed expertise allows them to gain more freedom from their board due to the board’s lack of expertise and or boldness to question and challenge their decisions, or the overconfidence of shareholders on their CEOs. We intend to look for indicators of poor ethical climate in our study of the failure of Banco Espirito Santo and understand if and to what extent the characteristics of their top executives contributed in creating that tone at the top.

Soltani (2014) further finds that the historical background of family run companies in their study (HealthSouth, Parmalat, Royal Ahold) showed the existence of “clan culture”, where decisions are made on the basis of personal actions and interpersonal relationship. A clan culture reinforces the culture of individual interest, intimidation, abuse of trust, domination, abuse of power, emotional abuse, and obedience among the employees, particularly when the independence of the accounting department and control mechanisms (internal auditor, internal controller) is at stake. This finding is relevant for our study, as Banco Espirito Santo was family owned and run company, and therefore such clan culture could have existed in it and could have reinforced the dominant position of the person of authority, reduced the likelihood of their decisions being questioned and weakened the power of their board of directors.

3. FRAUD TRIANGLE

In his article “Why do trusted persons commit fraud?” published in 1951, Donald Cressey found that Trusted persons become trust violators when they conceive of themselves as having a financial problem that is non-sharable, are aware that this problem can be secretly resolved by violation of the position of financial trust, and are able to apply to their contacts in that situation verbalizations which enable them to adjust their conceptions of themselves as users of the entrusted funds or property (Cressey, 1951, pp. 576-581). His work laid the foundation of the fraud triangle that identifies three core pre-requisite to fraud which are motivation (non-sharable pressure), opportunity and rationalisation.

Fraud is an intentional act which uses deceit to cause a financial loss to another person while resulting in a financial gain to the fraudster. The logic behind the fraud triangle is that for fraud to occur, an ordinary individual must be or believe that he/she is under a financial pressure that they think they need to deal with alone, that there exist some ways of committing the fraud without being caught and he/she must be able to find a reason why they choose to commit the fraud. In the corporate world, various situations can allow these elements of fraud to exist.

i. Pressure or motivation

This can result from the fear of losing a job or not getting promoted, the willingness on not meeting markets expectations, luxurious lifestyle or a gambling need.

ii. Opportunity

Opportunity is the ability of the fraudster to carry out the fraud successfully. It depends on the internal controls in place in the organisation and their strengths. When internal controls in place in the organisation are strong and the tone at the top emphasises the integrity of financial statement, there is less opportunity to commit fraud. On the other hand poor internal controls or overrides of good controls increases the simplicity of committing fraud and also increases its attractiveness.

iii. Rationalisation

This is the ability of the individual to justify the fraudulent act to himself. This suggests that the stronger ethical values of the individual, the more pressure they need to commit fraud.

Using Accounting and Auditing Enforcement Releases from 2003 through 2010 to form a sample of 103 firms with violations and comparing their characteristics to a matched sample of control firms, Roden et al. (2016) found significant explanatory variables representing all three sides of the fraud triangle, including opportunity, pressure and rationalization. Additionally, they found that SEC violations are more likely when the board of directors has fewer women, longer tenure, more insiders, and the CEO is also the chairperson. They also found that when managers and directors are compensated with stock options and when there has been a recent auditor change, fraud is likely to occur (Roden, et al., 2016).

The studies of Thorburn (2013) on the value of female presence on corporate board suggests that gender-balanced boards take their monitoring role more seriously than boards with few or no women (Thorburn, 2013). Likewise, Adams & Ferreira (2009) found that female directors have better attendance records than male directors, that male directors have fewer attendance problems as boards become more gender-balanced, and that women are more likely to join monitoring committees (Adams & Ferreira, 2009).

4. CORPORATE GOVERNANCE AND BANKRUPTCY RISK

Bankruptcy is a legal status that an individual can obtain when they cannot pay their debt. In their study on corporate governance and bankruptcy risk, Darrat, et al. (2014) found that having larger boards reduces the risk of bankruptcy only for complex firms and they further suggested that the proportion of inside directors on the board is inversely associated with the risk of bankruptcy in firms that require more specialist knowledge and that the reverse is true in technically unsophisticated firms (Darrat, et al., 2014). This finding suggests that although having a large board potentially increase board expertise, its potential to prevent bankruptcy depends on the balance of inside and outside directors, in relation to the required level of specialist knowledge on the board.

Wang & Lin (2010) found that the rules of governance have a significant nonlinear impact on bankruptcy risk, and that in general, the likelihood of default is negatively related to the number of governance provisions, which allow managers to defend themselves against challenges from shareholder if they are unable to pay their debts (Wang & Lin, 2010). These researches looked more at the size of board in relations to their complexity and susceptibility.

5. BANKRUPTCY PREVENTION AND PREDICTION

In his 1968 work “financial ratios, discriminant analysis and the prediction of corporate bankruptcy”, Edward Altman developed a discriminant model that proved to be extremely accurate in predicting bankruptcy correctly in 94 per cent of the initial sample with 95 per cent of all firms in the bankrupt and non-bankrupt groups assigned to their actual group classification. They also obtained a similar accuracy in several secondary samples introduced to test the reliability of their model (Altman, 1968). Later on Altman et al. (1977) developed another model that they named the ZETA model, found that their it significantly improved the accuracy of bankruptcy prediction over the existing failure classification models (Altman, et al., 1977).

III. RESEARCH QUESTIONS

In our research, we aim to answer these questions

RQ1 – What factor of financial statements fraud existed in BES and what was their extent?

RQ2 – Did a clan culture existed in BES and if yes to extent could that be attributed to its failure?

RQ3 – Was the corporate governance arrangements in BES fully in line with the recommendations of the CMVM 2013 or the codigo de governo das sociedades January 2014?

RQ4 – Could the bankruptcy of BES have been reasonably prevented by a fully functioning board of directors?

IV. RESEARCH METHODOLOGY

Our methodology in this research is a case study. The case study methodology is well established in the Social Sciences, where its role become important when the researcher is concerned about the limitations of quantitative methods in providing holistic and in-depth explanations of the social and behavioural problems in question. A case study enables a researcher to go beyond the quantitative statistical results and understand the behavioural conditions through the actor's perspective (Zainal, 2007). Through case study methods, a researcher is able to go beyond the quantitative statistical results and understand the behavioural conditions through the actor's perspective.

By including both quantitative and qualitative data, case study helps explain both the process and outcome of a phenomenon through complete observation, reconstruction and analysis of the cases under investigation (Zainal, 2007).

Our case study we examine data available about BES to understand how it collapsed and the role governance played in it.

To conduct our case study, we used secondary sources of information. This method of research offer the advantage of being cost effective and overcome the difficulties of gathering primary data, especially on high profile cases like the collapse of BES where prosecutions are in progress.

We collected relevant information from books written on BES. These books are "O Fim da Era Espírito Santo" by Maria Teixeira Alves, "Em Nome do Pai e do Filho" by Pr Luciano Amaral, financial newspapers, annual financial reports and any other source about BES's bankruptcy. We use secondary sources of information We also used the CMVM code of corporate governance, the codigo de governo das sociedades, the UK code of corporate governance and the Sarbanes Oxley Act for the purpose of comparison of the corporate governance in BES with recommendations of these codes.

The data available on most of the allegations of fraud, money laundering and many other financial crimes are at this stage allegations still investigated by courts in Portugal for which there has not yet been any convictions. This means that future study on this case might provide better fact based on results on investigations on experts committed by courts. Due to the sensitivity of some data in this case, its high profile nature case and the ongoing court investigations, it has been in many cases impossible to find corroborating information to ensure the accuracy of the data collected. In some cases as where the Wall street journal published about Eurofin, allegedly created by the ES family to manage the groups's debts, and being one of the key to understanding the collapse of the bank, we found that almost all sources that mentioned Eurofin cited the Wall street journal as their reference in spite of the fact that the newspaper has never revealed its sources for that matter and no other newspaper we read has ever mentioned Eurofin based on its own sources.

V. CASE STUDY

1. INTRODUCTION

The collapse of the second largest bank in Portugal in 2014 was the biggest shock in the history of the Portuguese economy. In fact, after it survived the two financial crisis , one in 2005 and the second in 2008 , the both privatizations which plunged the country in the difficult situation during the 20th century; the succession conflict was maybe the most or as some people says the stone that made the castle collapse in the ES family.

President of the Espirito Santo Group and Chief Executive of the Espirito Santo Bank Ricardo Salgado was the subject of several charges among which money laundering, transfers of doubtful money, creation of new businesses for the purpose of hiding funds and laundering money, most of them located in Tax haven financed with doubtful investment money and forgery of accounts to mention only that.

To rescue the bank and also the group, the Bank of Portugal Bank suggested to the board of the Espirito Santo Group to change its chairman of its executive board and also not to interfere anymore with the administration of the BES . The family started a long succession conflict. Meanwhile, as the rumours became known by the Luxembourg’s government which asked for an audit and the European Central Bank obliged the BES to refund the €10.000 million BES was ruined, bankrupt. Salgado knowing that, transfer his goods to his wife and sons account (Amaral, 2015).

As a result, the Governor and the BDP decide to split the BES in two parts, the good part became a new bank Novo Banco and the bad stay BES. This move which was seen by many people in Portugal as using the taxpayers’ money to clean-up the messes caused by one of the richest families in the country enabled the government and the bank of Portugal to avoid the collapse of the country’s financial system, but on the other hand raised a controversy on the basis on which they decided to divide the debts between Novo Banco (“Good bank”) and Banco Espirito Santo (“Bad Bank”).

2. BES ORIGINS

After the civil wars and crisis which stroke the country in the 18th century, the population of Portugal faced a level of poverty that was so high that almost everyone was poor. It is in the middle of this chaos that older and younger men will decide to unite their efforts to and strength to rebuild the country. This time of regeneration gave birth to “new men” with outstanding realizations and spirits of entrepreneurship, talented with the understanding of the importance of economic expansion and modernization. One of that men was Jose Maria Do Espirito Santo e Silva, the founder of the Groupo Espirito Santo.

i. From Money changer to Banker

Jose Maria Do Espirito Santo e Silva began his activity in 1869 in a sensitive and unstable financial sector and founded a currency exchange house. With time, he grew from a money changer to a banker, with investments in real estate. He inaugurated his first change bureau de change branch in 1884 and named it “Beirão, Silva Pinto e C[a]”. But in 1889 he stopped all financial activities to focus on real estate. This initiative can be revealed like a providence, because from 1891 to 1892 Portugal faced one of the most important crisis never known in its history (Amaral, 2015, p. 17).

In 1916, Jose Ribeiro Do Espirito Santo e Silva, son of Jose Maria Do Espirito Santo e Silva took the lead and founded Banco EspiritoSanto & C[a]. Having completed his studies, he took control of the family business by firstly putting the accounts up to date and he allocated the inherited shares. Also, due to its creativity, he decided to open branches all over the country. For more safety, he made secure deposits in foreign banks. After the First World War 1, Europe was under reconstruction, the young and innovative Ribeiro was full of new projects. In May 1918, he inaugurated in Lisbon a section of insurance in his bank named “Tranquilidade Portuense-Companhia de Seguros SARL”. Two years later in April 1920, Banco Espirito Santo SARL was founded and headquartered at Praça do Comercio. This transformation gave the family the opportunity to strengthen its connections with influent business people in the country as they were invited to become shareholders of the bank. Among which Lisbon fund brokers, and members of fiscal council and members of general assembly of several government entities. Therefore, the constitution of this Bank was alarming because all these influent people could use their power to give the bank an unfair advantage on the financial market. (Carlos Alberto Damas; Augusto De Ataíde, 2004)

ii. The Growth

From 1930 to 1970, the second son of Jose Maria Do Espirito Santo e Silva, Manuel Ricardo made his goal to transform Banco Espirito Santo SARL into the largest bank in Portugal. He spread and expanded it all over the country. At the end of the First World War, the country faced a period of deficit with an inflation rate of 120%. BES was the only commercial bank over 17 which were created in 1920 to survive to the crisis. In order to achieve this development and expansion of the bank, the part played by its connections with government officials was crucial that Ricardo, the second son and brother of Jose Ribeiro Espirito Santo was in good term with Salazar, the Emperor at the time. Throughout that period the regime was corporatist, authoritarian and nationalist, meaning that the government had control and regulations over all aspect of the economic, political and religious life. The state had control on the price of all products, taxes and licenses. Due to those control and regulations, 5 banks became bankrupt and the Banco Espirito Santo SARL found the opportunity to rank as the 2nd largest commercial bank in the county behind the BNU (Banco National Ultramarino). More than ten years later, the country showed a great stability and improved wealth while all the Europe was facing a political and economic turbulence. This lead the country to become a safe destination for investments and foreign refugees.

After the World War II, the bank became the largest in the country by merging with the BCL (Banco Commercial de Lisboa) and became BECL (Banco Espirito Santo e Commercial de Lisboa). An opportunity came when the German refugees were looking for Portuguese banks to save theirs funds and fortunes, as many German had taken refuge in Portugal because Portugal had adopted a neutral stance toward the war. BECL, with its history and experience of currency exchange, was the first on the list to process and receive a massive amount of money from the German refugees. As the end of the war was not favourable for Germany, the new regulations stipulated to cease doing business with the Germans. By that time the BECL had already ascended to the top with a solid market share of 12%

It is well after the World War II that the GES started to diversify its activities, not just in the banking sector, real estate, colonial agriculture, but also in oil. The Espirito Santo family had huge interests in colonies like exploitation of oil in Angola and agriculture in Brazil and Mozambique. The family was one of the founders of SACOR, the first firm of oil in Portugal (Amaral, 2015, p. 31), but this was not lucrative for the family. he family expanded in tourism (Sodim), car import (MOCAR, SANTOMAR), telecommunication, wine, agriculture (Sugar cane in Mozambique) and tire production (MABOR). (Amaral, 2015, p. 39). The military coup of 25th April 1974 led to the nationalization of economic groups that had developed during the “second republic” that governed from 1933 to 1974. Therefore, the relations between the revolutionary authorities and “the great leaders” were hostile as they asked these wealthy oligarchs to listen to their employees’ claims and improve their working conditions. During the nationalization, Banco Espirito Santo e Commercial de Lisboa was nationalised and the

Espirito Santo family was almost integrally expropriated. (Amaral, 2015, p. 59). The bank, the SACOR, Herdade da Comporta (Radio Marconi) and all the wealth made by the colonization was returned to the newly independent countries or to the state. Only the Ritz Hotel, car import and Firestone escaped from this expropriations because the capital was mostly from foreign countries. The nationalisation did not only imply the transfer of assets to the state but also a deep reorganization of companies usually leading to increase in their size and dominance over the market. These extensive mergers reduced considerably the number of companies in the country of which most were banks. This happened at a time when Economists and governments worldwide where increasingly in favour of privatisation. However in Portugal, the political and economic environment was dominated by the pro-communist revolution and the general resentment of rich company owners seen as oppressors to be sent to jail. The Espirito Santo patriarch of the time, Manuel Ricardo, did not escape from this wave of arrests. However after being bailed out of jail in June 1974, He fled the country and organised in London the first meeting of the family to start what would later be a restructuring of what was left of their empire, using overseas holding companies and various partnerships with foreign investors (Morais, 2015).

iii. Privatisations

In 1985 the Espirito Santo family returned to Portugal after a decade of exile as a respond to the socialist government that had called for estranged capitalists to return in the country, in an attempt to save the collapsing economy. Most of the companies that returned to private ownership did so on different names than what they were before their nationalisation. In almost all sectors, between nationalization and re-privatization, the number of companies operating in the respective markets had reduced, due to several mergers under the state ownership, in such a way these public companies that had to be competitive to survive in their market before April 1974 under private ownership had become one with the state and enjoyed the monopoly usually possessed by state companies in sectors of activities where the state has an exclusive right. It was in these conditions that the public companies were put up for sale from the 1980s to the 1990s (Amaral, 2015, p. 62). The privatisation was dominated by nationalist ideologies to have strategic companies owned by Portuguese and promote national entrepreneurship. This means that the privatisation was beyond the reach of foreigners.

In year 1987 the Portuguese government decided to privatize some companies that were nationalized during the 1974 revolution. BESCL merged with the bank house Manuel Mendes Godinho &Filhos, which was asked to take part in the privatization operations, he was compensated and thus took possession of almost all his former possessions. As for the ES family, they recovered their most important assets, namely BESCL, and Tranquilidade, their insurance company. (Amaral, 2015, 81).

iv. The return to Portugal

With the nationalization of 2nd March 1975, the leader of the bank Manuel Ricardo ES, cousin of Ricardo Salgado was arrested. He was joined in jail by the brother Jorge Luis ES, besides Antonio Ricciardi cousin for affinity and José Roquette who had become the president's right arm. (Babo & gago, 2014, p. 22)

With the relations of the grandfather uncle who was decorated by the French state, Ricardo and Maria Mosqueira do Amaral made the calls to release the members of the clan that was imprisoned. From Paris with the help of Giscard d'Estaing, in New York with David Rockefeller who the help was considerably important highlights Mosqueira do Amaral during an interview for the book *Excomungados de Abril* (Babo & gago, 2014, p. 23) and the prince Bernado form Holland and also Calouste Gulbenkian.

It was thanks to them that they were released from prison in exchange for a security deposit of 500 escudos in July. The Espírito Santo then fled to Spain and then spread to the United States, England and Brazil, waiting for a good time to return to Portugal. But they did not wait with their arms crossed: Ricardo Salgado, 30, entered the group of five people who worked for the recovery of Group Espírito Santo. They remained internationalization, a plan where David Rockefeller was also indispensable.

The decision to return to the country was not peaceful. "all the members weren't convinced, there were those who defended at the highest level that while the indemnities were not paid they should not return," Ricardo Salgado recalled the magazine *Expansão* in the 1990s. (Babo & gago, 2014, p. 25). The strategy of return of the family passed through the separation of the two areas of business of the group. It has created ES resources in the Bahamas to integrate interests in agriculture, hospitality and real estate. Financing businesses were grouped in Luxembourg-based ES Financial Holding. (Babo & gago, 2014, p. 26). In 1985 the group launched the first project in the financial sector in Portugal with the purchase of an investment company, which would later give rise to BES Investimento. The following year, he founded Banco International de Credito, which marked the beginning of the alliance with credit Agricole in the Portuguese market. But the focus was on privatizations. It was with the French strategic partner that in 1989 and 1990 they regained the insurance company Tranquilidade.

After the death of Manuel Ricardo, Ricardo Salgado assumed the presidency of the financial area, concentrated in ES Financial Holding and Antonio Espírito Santo, the non-financial businesses grouped in ES Resources. At ESI, the parent company was also led by Antonio Espírito Santo. In 1999, BESPAR (Sociedade Gestora de Participacoes Sociais, S.A. is based in Lisbon, Portugal, operates as a subsidiary of ESFG) was created as company that until 2014 was the largest shareholder of BES (name that was introduced after the reacquisition of BESCL). Despite having only 5%, Credit Agricole was the passport that assured the ES the control of BES. Despite the changes in the management structure, the family wanted to continue to decide collegially. "The collegiate decision within the hard core of the group was one of the law that has been in force for the last 15 years and will prevail in the future," said Antonio Ricciardi in conference April 10, 1991. The choice of leader was facilitated by the fact that Ricardo Salgado during his exile in Brazil continued to work on the bench until he founded the first bank that the family launched after the nationalizations. On July 9, 1991, the financial arm of the ES Group, led by Ricardo Salgado, secured the purchase of 23% of BES. Through BESPAR, which made the alliance with credit Agricole with Luxemburgish Credit bank and through ES Financial Portugal, the family repurchased more than half of the 16 million shares of the bank, or 40% that the state had put up for sale. (Babo & gago, 2014, p. 29) This was the bank that Ricardo Salgado received when, in April 1992, he became the executive president of BES. At age 47, the youngest member of the group's top board became the strong man of the bank founded by his great-uncle. (Babo & gago, 2014, p. 30) After ES recuperate BES, as the bank and the CEOs have been asserting themselves, inside and outside the family circle, Ricardo Salgado was assuming increasingly a model of leadership in the figure of the CEO. (idem, s.d., p. 31) The top council was then Antonio Ricciardi symbolic leader of the group since 1991, Ricardo Salgado was a strong man of the financial area. During the vote, Ricardo Salgado presided to have a number two, not pointing to a successor who could be seen as his school for leadership of the bank. In addition to bringing together the decision-making power of the group, the branches of the family in the higher council are also the main shareholders of ES Control, the holding company that since 1976 has concentrated the shares that the members of the clan have in the group. At the beginning of 2014, Maria de Carmo Moniz was the main shareholder, with more than 19%, Jose Manuel ES controlled 18.5%, Antonio Ricciardi 17.8%, Ricardo Salgado 17% and Mosqueira do Amaral 15.6%.

3. BES'S POWER

Having a close relationship with important people and high place in the government can prove to be inventive for some but very advantageous for others. In the first decade of the 21st century that the ES family reach its highest level of influence in the Portuguese economy and society after 25 April.

i. Bank of all regime

The former Portuguese banker usually gives this response when confronted with the accusation that BES is the bank of the regime. "We are in dialogue with the governments and politics" We were in the monarchy, in the implantation of the republic, in the Dictatorship, in the nationalizations we stopped being because we had to emigrate, when we return with the privatizations we continue to dialogue with all the governments, be it of one party or another "he said in an interview with RTP in the end 2010 (Babo & Gago, 2014, p. 75).
The relation starts with Ricardo Espirito Santo in 1900 with Oliveira Salazar, or Manuel Ribeiro Espirito Santo (1908-1973) with Marcelo Caetano, with the financing of the PSD (Social democratic party) of Francisco Sa Carneiro in 1974-75, until the last but not least near relationship with Cavaco Silva the former president and Mario Soares are the examples of the past far o the ES family (Fernandes, 2014). It is thanks to the latter, former president of Portugal that Rigardo Salgado has the most consideration. It is to him that the ES family owes him the recovery of the bank in the early 90s, without his intervention and also with the support of François Mitterrand by the use of Credit Agricole nothing would have so far the group does not would never be rebuilt. (Babo & Gago, 2014, p. 87)
Indeed, in recent history, BES was in the 1990s associated with the main privatizations, such as Petrogal and PT, and was very close to the business of public-private partnerships in health and public works. And already in the government of Antonio Guterres (28 of October of 1995 to 6 of April of 2002) was accused of being much attached to the government, especially since the bank had business with Moura Santos, brother-in-law of the prime minister. (Idem)
To José Socrates, Ricardo Salgado never gave his explicit political support. But he never had as much attachment with another directed as with the former first-ministry.The ideas of Socrates settled like a glove in the concept that the banker always had for the country. The technological leap and the great public works were music to the ears of Salgado, who always left behind a "Portugal dos pequeninos".

The evolution of telecommunications, which the prime minister aspired to, required the support of Portugal Telecom's largest shareholder. (Babo & Gago, 2014, p. 88), where GES owns 2, 7%. The relationship of the group help him to obtain shares during the privatisation time. Starting by the Portugal Telecom. Then the group continue by creating ES Saude, where they extend their action through healthcare. This action become in few years the most powerful company in his area in the country. And was sold to Fidelidade in October 2014 at 460 million €. (Fernandes, 2014).More interested on the private public sector investment industry, the group during the time of Jose Socrates, create with Montagil "Ascendi" to manage all the public construction road, and to delegate the job to "Opway" to construct the road.

The Espirito Santo group always participated in the constitution of the capital of other entities. But never did it with arrogance to conquer everything, Ricardo Salgado insists in the fact that "the relationship that he has is financial, whether to priest a service to company or to help to extend a business" for example the case of Telecel with a Petrogal or also the privatisation of Portugal Telecom to mention only that, which the group just appear in the administration in that companies. This philosophy was so evident, but in 2005, the power of the group became more relevant when he turns more politic with the government of Santana Lopes, Durao Baroso and the ex-prime minister Jose Socrates. The journal O Publico wrote that fifteen years after it gained a great position after its nationalization, GES stood out with financial assets and non-financial assets evaluated in € 7 million, approximately 5.4% of GDP and employed more than 20 thousand people in Europe, in Africa and Latin America (Fernandes, 2014).In Portugal the group employs more 15000 people, Ricardo Salgado is the unique figure in the country.

Table 1: Evolution of BES from 1992 to 2013

	1992	2013
N. Counters	240	643
N. Employees	6426	7371
N. customers	1,4 millions €	2,2 millions €
Market share	8,5%	19,7%
Liquid asset	1,742 mil millions €	80,608 mil millions €
Growth rate credit	743 millions €	49,722 mil miillions €
Growth rate deposits	1,1 mil millions €	36,8 mil millions €

Source: (Fernandes, 2014)

In her publication at the journal Publico, Cristina Ferreira mentioned the fact that, even Ricardo Salgado wasn't the leader of GES he was the executive president of BES, therefore he was using strategy supported with a corporate network in more than 20 countries from which

holdings are born in Switzerland and Luxembourg, and with the fact to not be in the perimeter of consolidation he has the facility to realise cross operations (Fernandes, 2014).
As mentioned, to perform their strategy of expansion strategy, BES was at the centre of the table, which reinforce the capacity of corporate indebtedness of universe ES to extend his interest everywhere sometimes with the alliance of the public sector. It is a wide range of business covered by the group and the Portuguese state: Tourism, real estate, farming, healthcare, the defence and also utilities.

ii. Corporate structure of the empire

a) **Espirito Santo Control** (**ESC**)

Espírito Santo Control, SA is based in Portugal. As of December 5, 2013, Espírito Santo Control, SA operates as a subsidiary of Group Espírito Santo S.A. The five branches below on the figure controlled actually 88, 32 % of the holding BES Control (Fernandes, 2014).On March 2011, the capital from 60 million to 130 million at 8 euro per shares. Were issued 8 750 000 new shares and the capital was represent with a total of 16 250 000 shares with a value minimal of 8 euro per shares.
In 2013, they sold at 14 euro per share, meaning 224 million € of ES Control. (Fernandes, 2014)

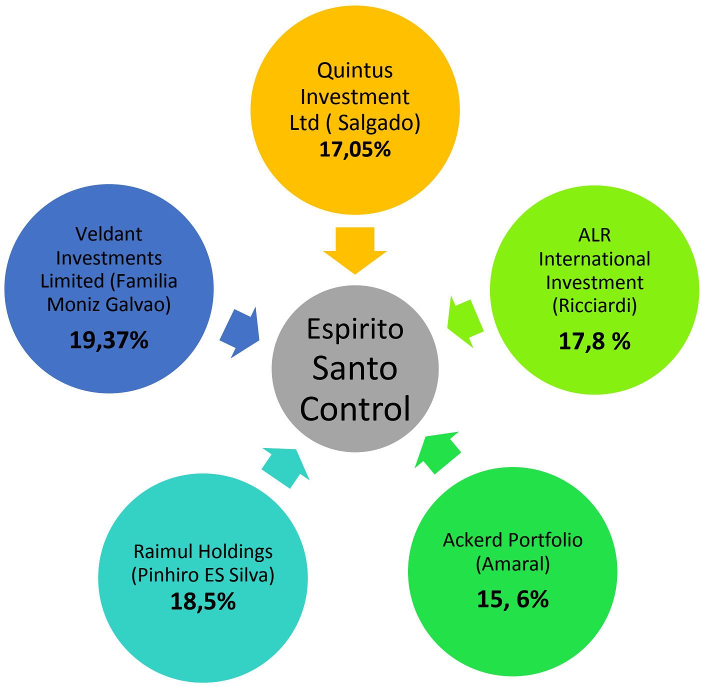

Figure 2: ES CONTROL (Fernandes, 2014)

b) **Espirito Santo International** (**ESI**)

Espirito Santo International S.A., through its subsidiaries, provides services which include corporate and retail banking, insurance, investment banking, brokerage, asset management, and also operates in the agriculture, hotel, and real estate industry. The company was formerly known as Espírito Santo International Holding S.A. and changed its name to Espirito Santo International S.A. in August 2003. The company was incorporated in 1975 and is based in Luxembourg (Bloomberg.com). ESI resided far from the view and heart of the Banco de Portugal, it had many administrators, there were seventeen, but after all, only three men knew that the holding, which had the purpose of managing social investments in the group companies, did not present the true accounts. They are, their RS administrator, the commissaire aux comptes, and the financial controller Jose Castella (Alves, 2014).On second of May 2011, the increase of the capital for almost 400 million €, before that in October 2003, the Totta Bank & Santander sold his participations of 7, 63% of ESI. Today, ESI has a capital market of 46,4millions € distributed at 10 euro per shares meaning s 46 040 000 shares. (Fernandes, 2014)).

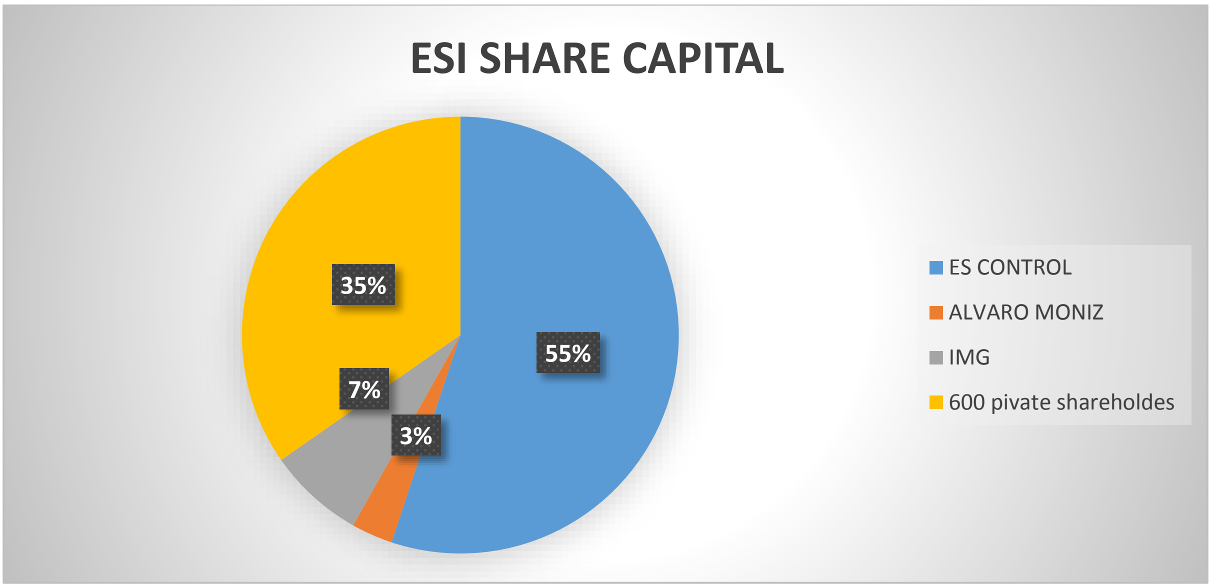

Figure 3: ESI share Capital, Source: (Fernandes, 2014)

At a certain time, ESI ask for a restructuration and called the lawyer Luxemburgish firm Arendt & Medernach to advise the restructuring after the result of the evaluation made by the Bank of Portugal. In March 2014, the lawyers suggest to the administrators of ESI to present to the Luxemburgish authorities a bankruptcy protection nowadays ESI is in liquidation.

c) RIOFORTE

Holding company, detente by ESI for 100% which through its subsidiaries operates in real estate, tourism, agriculture, energy, health, and other business areas worldwide. The company engages in property development, project management and coordination (of real estate investment funds), project supervision, logistics, and real estate marketing and brokerage services with a focus on residential, retail, tourism (hotels), commercial, and office projects. It also operates hotels with various amenities, such as rooms and resorts; holds tourism destinations with apartment hotels, tourism villages, holiday homes, and golf courses; and operates as a tour operator that provides travel and tourism services. The company produces soybeans, rice, citrus fruits, sugar cane, eucalyptuses (wood), soy and cotton products, wheat, corn, sunflowers, oranges, and lemon products; and engages in cattle breeding operations that produce beef calves. It also generates electric energy via hydroelectric and biomass (thermal/steam) projects to industrial clients; offers geo services, and land seismic and environmental diagnosis survey services to the oil and gas industry; and provides mineral and oil prospecting services, and maritime seismic and infrastructure services. The company operates hospitals, out-patients clinics, residential hospitals, and senior residences for elderly population, as well as offers public-private partnership programs. It also engages in various activities ranging from paper and cellulose manufacturing to fuel, gas, and chemicals distribution activities. The company was incorporated in 2007 and is based in Luxembourg. The company has operations in Portugal, Spain, Brazil, Paraguay, Angola, Mozambique and Congo-Brazzaville, and internationally. Rio Forte Investments, SA operates as a subsidiary of Espirito Santo International S.A. Rio Forte Investments, SA is in liquidation

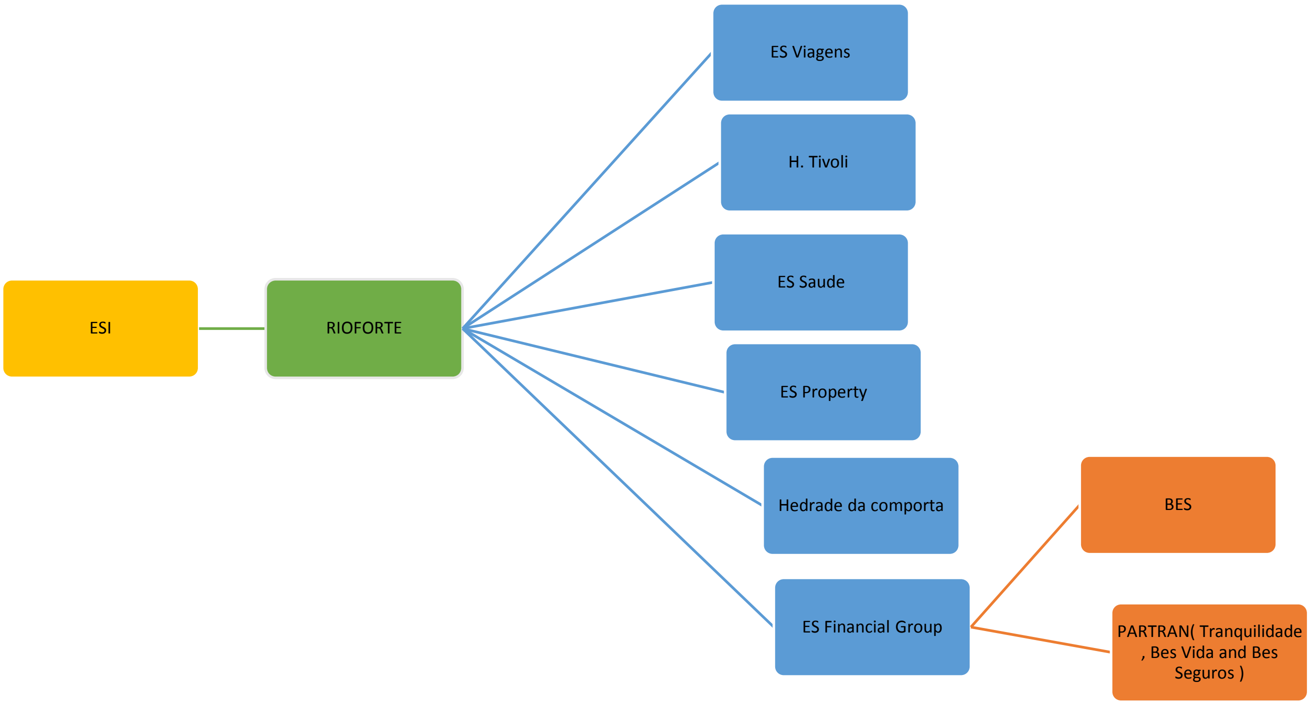

Figure 4: Rioforte, Source: (Fernandes, 2014)Patran

d) **BANCO ESPIRITO SANTO** (**BES**)

Banco Espírito Santo, S.A. provides various banking products and services. The company was formerly known as Banco Espírito Santo e Commercial de Lisboa and changed its name to Banco Espírito Santo, S.A. in 1999. Banco Espírito Santo, S.A. was founded in 1869 and is headquartered in Lisbon, Portugal. (Bloomberg.com) At home, Banco Espírito Santo operates the largest single integrated network of branches, with over 479 locations spread throughout Portugal. In its move towards building up an integrated financial group, BES has major holdings in a number of banks and companies, among which the following are of particular importance: Banco International de Crédito, based in Lisbon, whose core activities are commercial, mortgage and private banking. Expanding into areas complementary to traditional banking has enabled their Group to provide specialized corporate products and services such as capitalization instruments. His product area are: Routine Management, savings, tax benefit, credit, services (European Banking Resources EBRS).

Banco Espirito Santo was a leader of the market in a world made by companies, holdings and investment vehicles based on debt. On 30 of April 2014, the bank propagandized she was the biggest national bank quoted in Portugal by capitalisation (5127 million €) and the second private financial institution in Portugal base on assets (80, 6 millions € on 31 Dec 2013), also she is present in over 4 continents and had present activities in more than 25 countries with a total of 10.000 employees. (Fernandes, 2014)

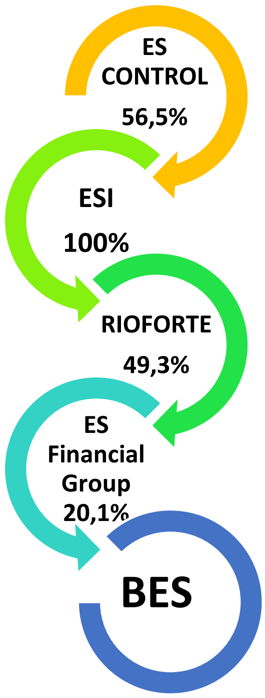

Figure 5 : Banco Espirito Santo , Source: (Fernandes, 2014)

Banco Espirito Santo increases his market share since the privatisation from 8, 5% in 1992 to 19, 5% at the end of 2013 this was calculated over the average arithmetical between the market shares for several products see table below:

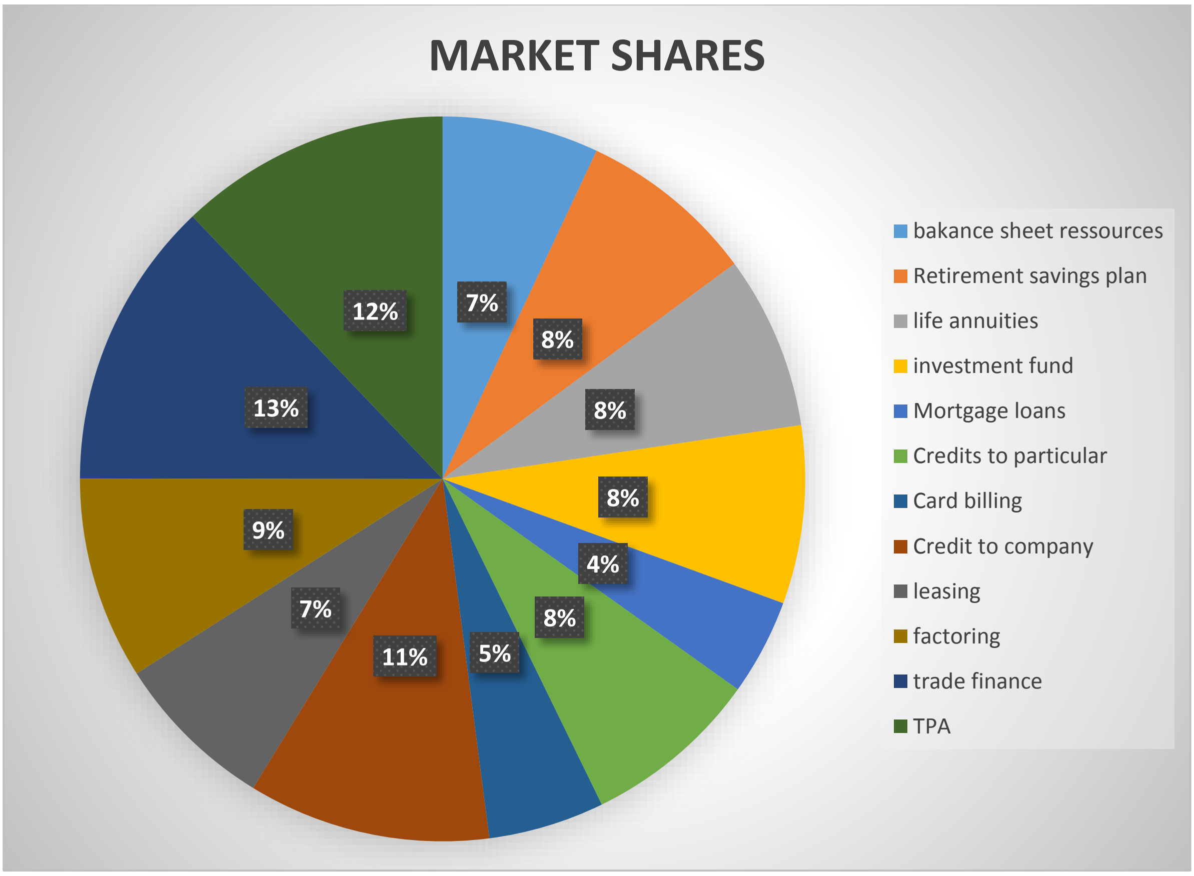

Figure 6: BES MARKET SHARES end of 2015 Source: (Fernandes, 2014)）Prospecto do aumento de capital, Maio， 2014p.11）

e) BES' SUBSIDIARIES

At the end of 2012 the family company had to receive 1,281 million of its subsidiaries and investees, and in turn had to pay to subsidiaries and investees, not necessarily the same, 829 million euros. ES Control, a company owned by the five family branches and ESI's largest shareholder, owed 241 million to group companies. (Alves, 2014)

For its part, Rioforte had received from family businesses at least 486 million euros and owed BES 150 million euros. Another case is ESFIL, an ESFG company that manages the banking business in Switzerland and abroad and which ended up in the protection of creditors, had to receive 808 million euros and pay 434 million. (Alves, 2014)

Everyone owes everyone. In the prospectus of the commercial paper program, the ESI heart of the empire showed a loss of 22 million and evaluated the actions in the ESFG in 1.28 thousand million euros, but neither of them, nor by far these numbers were real. (Alves, 2014). The figure below shows the bank that BES has controlled.

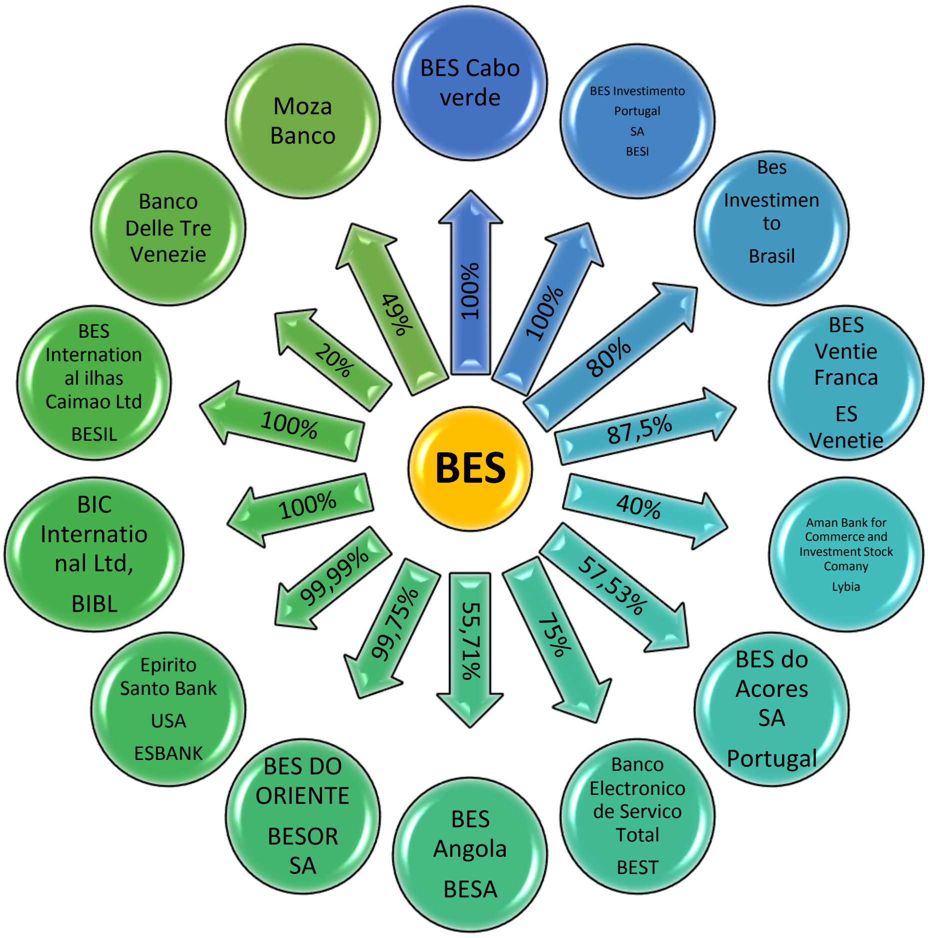

Figure 7: subsidiaries of BES Source: (Fernandes, 2014)

4. THE COLLAPSE

Ricardo Salgado gave an interview to a newspaper (Journal de Negocios) where he confessed that the process of insolvency will last at least three years due to several factors, among which the geographical expansion and complexity of the entities of the group, and the huge devaluation caused by the financial crisis (Alves, 2014).

i. Hidden debts

In December 2013, the fifth biggest banks of Portugal met to discuss over the increase of Capital of the BES. The failure of Banco Espirito Santo, that cause huge losses to large institutional investors as well as thousands of small investors and retail customers of the bank started when it was revealed that its parents were going bankrupt. BES had sold its parents' debts to it retail customers and a huge proportion of its assets was made of loans to its parents. Furthermore despite calls by the bank of Portugal to BES to reduce its exposure to its parents, the bank continued financing the Espirito Santo family's non-financial entities through its holding parent companies. The family needed money to finance the diversified number of its operations and benefited from this unlimited capacity to raise capital through BES (Alves, 2014).Also, the auditor pointed out the fact that ESI didn't audit its accounts and did not have a requirement to present consolidated accounts. (Alves, 2014)

ii. Increase of the capital

At the beginning of the month, the bank prepared a document of 30 pages for investors for the increase of capital with the ironic title "Wisdomland", which made a metaphor with the history and the reputation of the family. . In this prospectus, BES included a warning over "reputational risks associated with the potential deterioration or perception of deterioration of the financial position of ESI or its subsidiaries". It said that ESI's difficulties "may affect BES's reputation and the price of its shares", partly because some BES and ESFG board members had also previously been members of the ESI board (Financial Times, 2014)
The value of this share issue was 1.045 million and Amilcar Morais was the man of the situation. He succeeded with his credibility to convince investors to subscribe to new shares of BES. (Alves, 2014). The Espirito Santo family and credit agricole which were the biggest shareholders were expected to dilute their share, and the right issue had been made at discount, so these further increased the skepticism of investors. The ESFG audit committee also had identified materially relevant irregularities in the holding company's accounts about a debt of €1.2 Million that ESI had not recorded in its accounts for 2012. Ricardo Salgado attributed the error to the accountant (Fernandes, 2014)At this point there were already tensions in the Espirito Santo Family over choosing a successor for Ricardo Salgado.

iii. Capital increase reveals colossal debt

Before the increase of capital BES was estimated at €640 million according to Brand Finance in March 2014. In May 2014, BES announced an increase of capital with the emission of 1607 million new shares at 0.65 euro each, to raise a total of €1,045 million (Fernandes, 2014).Later on, the newspaper Expresso revealed that the CMVM had requested further clarification and detailed information on relevant market-related facts, especially with the guarantee given by the Angolan state, the accounts of ESI and the provisions of €700million ESFG had to record for debts on the commercial paper sold by BES. When criticized for letting BES go ahead with their share issue, the CMVM argued that they didn't have power to forbid an increase of capital approved by the shareholders of BES and the Bank of Portugal (Alves, 2014)The prospectus documents issued by BES for the share issue mentioned some eventual risks for investors, but was more of an overly optimistic view of the true situation (Alves, 2014).The regulator's concern was to ensure that if the various non-financial companies of the Espirito Santo group such as ESI were unable to repay the commercial papers previously sold to BES customers it would be a disaster. The capital increase prospectus also stated that ESI had a program to reorient its group and deleverage to rebalance its financial position and to repay its liabilities. (Fernandes, 2014).

5. THE FALL OF THE BES

At the end of 2013, the magazine Sábado published an interview of Nicolas Figueiredo, manager of Akoya (the company that allegedly was used by Salgado to launder money) about the operation "Monte Branco", where he mentioned Ricardo Salgado was a customer, and also that the value of transactions involved in this money laundering wasn't only 8.5millions euro, but 14 million euros. (Amaral, 2015, p. 181) In the same period, Ricardo was interviewed about the acquisition of 2 submarines for which he received €30 million commission fees from Escom in 2004. It seems that from this €30 million, €5 million was distributed to the member of the council of the Espirito Santo family. The weekly newspaper SOL published an article according to which Ricardo Salgado had received €8.5 million euros as consulting fees in Angola in 2011 from Jose Guilherme, a civil constructor, which he didn't declared (Amaral, 2015). These were not the only scandal he was allegedly involved in.
In 2012, the group was being suspected in three different cases:

- Caso Portucale
- Caso Mensalao
- Operacao furacao or operacao Monte Branco

i. Eurofin

Registered in Switzerland, Eurofin played a key role in the scandal of the ES Empire. Created in 1999 to managing a growing fortune of the ES family, it gradually expanded into offering wealth-management to other rich families. Eurofin managed several investment funds that were sold to clients of Espírito Santo's Swiss private bank. When BES created Tulipa, a Lisbon trading desk with a main mission to sell debts issued by various entities of the ES family, it turned to Eurofin to act as a third party involved between the transations between the entities of the ES family and Tulipa (Kowsmann, et al., 2014)

In September 2014, the Bank of Portugal told Banco Espírito Santo to reduce its exposure to other Espírito Santo companies, and it requested that KPMG LLP audit Espírito Santo International's books (Johnson & Wise, 2014). In April 2013, Rioforte, which holds the family's nonfinancial investments, had announced plans for the Comporta ine forest near the beach, featuring a luxury hotel and spa built by the Aman Resorts chain. Comporta Dunes was also to have 51 vaca-tion homes to be marketed mainly to German, Austrian, and Swiss buyers. The problem wasn't with the businesses, but with the way the holdings were financed. When the financial crisis hit, borrowing costs soared. The family avoided raising money from outside investors, which would have diluted its control, it borrowed more. It kept on postponing the problems by rolling over debt with short maturi-ties and at higher interests.

In the second half of July 2014, some external operations were identified by the external auditor. The issuance of two comfort letters addressed to non-resident institutional investors and a clear violation of the internal approval procedures of the type of operations and of the Bank of Portugal's order to BES to stop mixing the affairs of the bank with those of the Espirito Santo Empire. This disobedi-ence was typical of Ricardo Salgado. He had carried out operations of issuance and repurchase of its own obligations, involving BES, GES and a company named Eurofin Securities, (Alves, 2014)which had resulted in a loss in BES's ac-counts for a total amount of € 1.249 million, as at June 30, 2014. This was a com-plex world of financial engineering. The bonds had been issued at an interest rate of 7%, 7.5%, with a maturity of 30 years, the game did not look anything ab-normal." These obligations of BES were sold at a lower risk than the public debt. Financial operations that were not seen by other managers in the bank's ac-counts, and which had been made under Ricardo Salgado's management plan, had a negative impact of about €1.5 million euros in the 1-month profit and loss account. "Faced with the losses made, BES no longer complied with the mini-mum capital ratios in force, verifying a Common Equity Tier 1 ratio of 5 per cent, below the minimum of 7 per cent required by the Bank of Portugal and the minimum of 8 per cent. The institutions that enter into the exercise of compre-hensive assessment promoted by the ECB ". Isabel Almeida told the Executive Committee of BES, before presenting the results, as was the financial engineer who had just been discovered by KPMG. The head of the financial markets department, a subsidiary of Morais Pires, had issued bonds from Luxembourg, London and Panama using a holding company in Switzerland, Eurofin. The op-erations were made with interest rate mismatch, producing a fictitious profit in favor of the holding companies of GES and to the detriment of BES. This is be-cause the profit with the obligations of BES at the time of the circuit was used to buy debt from GES companies. That is why Amilcar Morais Pires had chosen her as administrator, from a list that never went beyond a role and the dreams of Ricardo Salgado.

6. THE CONFLICT

i. With Pedro Queiroz Pereira

In 2001 the distance between Pedro Queiroz Pereira (PQP) and GES was increased and in 2005 the first Jewish investigations appeared in which BES Group managers were involved or mentioned as in the cases of the submarines and the white mount. In 1992, shortly after BES was recovered by the family from the government, Pedro Queiroz Pereira expressed by letter his willingness to join the "high council" of the Group. This request was rejected and Pedro Queiroz was offered a position in the administration of BES. At the turn of the century, the possibility of a merger between secil and Cimpor arose, with the aim of creating a national cement manufacturing company. In 1997 Ricardo Salgado in an interview excluded the possibility of a change of Semapa by Cimpor, mentioning that the "Cimpor Group" was esteemed within BES, but that they were a partner of the Queiroz Pereira Group and did not have the habit of betraying friends" (Fernandes, 2014).

However, Pedro Queiroz did not fall for this Florentine strategy of Ricardo Salgado, who was secretly determined to reach his goal as long as he felt that it would please the various powers, namely the political one. In 2000, Pedro Queiroz Pereira allied with the Swiss Holder bank to launch a takeover bid for Cimpor, in which the partner of the transaction was Santander, because, according to Pedro Queiroz, it was a requirement of the holder bank, which would disburse about 70% of the €4 .5 million required for the acquisition. Being the sole financier in this move was another guarantee of secrecy. On the day of IPO, he informed BES that the Spanish bank Santander would be the leader of the banking syndicate, but that it had safeguarded a position of co-leader in the IPO. There were signs of politicking coming from the finance minister Joaquim pina Moura, so that Ricardo Salgado could take on resistance to OPA by Pedro Queiroz on Cimpor. BES came soon after, to support the French company Lafarge in the purchase of 17% of the national cement manufacturer, which contributed to the OPA being stopped.

Pedro Queiroz considered that GES was "against a partner with whom he had been in business for 70 years and accused Ricardo Salgado and Serzedelo de Almeida of betrayal. It was the third episode in which Pedro, who had never been fan of Ricardo Salgado, considered that his family had been disrespected. (Fernandes, 2014).On June 9, 2001, Pedro Queiroz Pereira gave an interview to the Express in which he broke up with Group Espirito Santo, announced that he would leave the administration of BES and called Pina Moura, the then Minister of Finances a liar. In an interview Ricardo Salgado said that in the Group they had the greatest respect for Cimpor, and thought that a multinational from Portugal was a good outcome. Pedro Queiroz Pereira felt that they were passing him a rope around his neck and that he could soon lose control of the Semapa Group (Fernandes, 2014).

In August the war was taken to the pages of the newspapers and grew in intensity. The business newspaper wrote Pedro Queiroz Pereira was in war with Ricardo Salgado, and he revealed the secret of the family holding company of GES. In order to support his allegations, Queroz Pereira formed team of people to whom he gave all the documents and accounts that could serve as weapons ready to be provided to newspapers and even the courts. In early November 2012, Pedro Queiroz Pereira separated the Semapa group from GES, in which the former sold its 7% stake in ESC and acquired the shares of GS in Cimigest (19.62%) and Sodim (40.76% %), Holding companies that control Semapa, and the Pension Fund of BES retained the 10% it owns in Cimigest. The negotiation was mediated and financed by BESI / BES and BPI (which was on the side of Queiroz Pereira) (Fernandes, 2014).

ii. With Ricciardi

In 2013, an attempt of Jose Maria Ricciardi, president of BESI and cousin of the leader of the group, to remove Ricardo Salgado, the Patriarch and highest figure of the family failed when he tried to gain support from the family high council to succeed to Ricardo. Although they knew Ricciardi as a potential leader, Salgado was too influential. Ricardo Salgado thought then that he had won the battle, but the war was still far from over. The ambition for power put an end to the collegiality of decisions which was the rule of the clan’s supreme body set up to lead the rebuilding of the group after the 1975 nationalizations (Babo & Gago, 2014, p. 15). In addition to the fact that no one showed any opposition to Salgado at family meetings were most of the important decisions were taken, Riccardi did not agree with Salgado’s strategy to borrow money at a time that interest rates were soaring, by selling debts of the ES family to BES customers (Reuters, 2014).

iii. The fight for the Succession

In November of 2013, the newspaper negocios announced that Ricardo Salgado had told the family that he would be could not imagine Jose Ricciardi as his successor. A few days before this announcement, the two cousins had had some intense discussions on the succession. It had been indeed months since the president of the BESI has ceased to trust Salgado as a leader who was still able to defend the interests of the group. In order to do so, he did not hesitate to openly criticize the actions of Salgado in the presence of other members of the Council. His ambition was clear, he wanted to become the successor of Ricardo Salgado.

Ricciardi was already aware of the embezzlement that was taking place in the group and which will be publicized by the audit of 2014. He was revolted by this situation which led to a court investigation, he was angry about the €8.5 million that his cousin would have received in Angola (Alves, 2014)

7. THE END OF BES

The end of GES does not have a simple explanation. Many things contribute together in this decision, from the traditional practices of financing the group's entities by indebting BES to the struggle to retain power, through the sequence of scandals involving Ricardo Salgado.

But perhaps mistake that led to the fall of the rest of the dominoes was the decision to refuse state aid for bank recapitalization, which the government of Portugal had received from the Troika to help sustain banks (Amaral, 2015, p. 163).

After a sequence of the formal requests made by the former Prime Minister Jose Socrates on in April 2011, the country had obtained €78 million euro (approximately 50% GDP) to sustain banks. This measure had some conditions attached to them which were difficult to follow, which prompted BES to look for its own alternative solution which proved fatal for the group ((Alves, 2014)

8. BES CULTURE

"The Banco Espírito Santo Group holds as the core objective of its activity to create value for its Shareholders, Clients and Employees. The Group has set as its first and key mission to align a strategy that aims at the constant and sustained reinforcement of its competitive position in the market with total respect for the interests and wellbeing of its Clients and Employees.

The Group believes it is its duty at all times to give an increasingly far-reaching and proactive contribution to the social, cultural and environmental development of the country.

For Banco Espírito Santo Group the main pillar for development and strategic differentiation lies in the excellence of service and permanent focus on the needs of each client. As a universal financial group serving all individual, corporate and institutional customer segments, BES Group offers a full range of financial products and services that meet their needs through distinctive approaches and value propositions.
The Group's positioning thus has at its core three basic factors: in-depth knowledge of the needs of each customer segment, development of the offer in accordance with the needs identified, and proposing the solutions that best suit each customer segment." (Banco Espirito Santo, 2013)

The above is an extract of BES statement on its core values, one would recognise easily words implying high moral and ethical values. Having a written codes of ethics like having a mission statement can guide people and serve as a framework in shaping the kind of behaviour and belief present in an organisation but this need to be supported by commitment to those values by everyone starting from the management.

i. ES Group: a pyramidal business group

The structure of the Espirito Santo group under a controlling unit and holding companies that are private companies and located in offshores jurisdictions with lower reporting with the role of managing shareholding in resources allocation in subsidiaries engaging in activities that diversified from each other, is typical of pyramidal business groups.

VI. CORPORATE GOVERNANCE IN BES

1. THE POWER OF THE LEADER

It is not only the longevity of the BES that makes Ricardo Salgado the last of the great Portuguese bankers. A network of very influential people, many of whom is a legacy of its predecessors, is another of its assets. During his reign as the patriarch of the ES family, Ricardo Salgado was always ready to get involved in the next activity that he thought would be profitable, which earned him the nickname “O Dono Disto Tudo” which translates as “The Owner of It All”.

"We are a group internationally at home," said the banker in March 1994 " (Babo & Gago, 2014, p. 115) Ricardo Salgado as very active in recovering the family’s assets from the government. He helped the family recover the bank. It managed BES to raise capital to grow and strengthen its solidity. Its intervention was decisive in fighting for the Lisbon Stock Exchange to integrate the international capital markets platform. It guaranteed the success of Portugal Telecom's offensive in Brazil. He facilitated several government decisions. For example, in the mid-1990s, when the Lisbon Stock Exchange looked for international lobbyists, the presidency of BES was in charge of the capital market in the direction of the APB. Tirelessly, he had meetings with the president of the New York Stock Exchange, he knew the president of the stock exchanges of Paris and Sao Paulo. A former head of the Lisbon Stock Exchange shared his surprise about the quality of the contacts that Salgado had and the respect that the people had for him Exchange (Babo & Gago, 2014).

2. THE KEYS PLAYERS

i. The regulators: CMVM and Banco do Portugal

During the increase of capital, the CMVM informed that the deliberation of capital was for the social organ of the entity and they haven’t the ability or the authority to influence this deliberation or to prevent his concretisation. (Alves, 2014) Basically, knowing that the operation wasn’t correct they can’t stop tat.

ii. Troika

On 6 April 2011, the minister dropped the bomb: in the face of this difficult situation, which could have been avoided, I believe that it is necessary to use the financial mechanisms available in the European framework. The finance minister forced Jose Socrates to react, at a time when the prime minister remained irreducible to the request for troika aid. Two days after Jose Socrates had let himself be persuaded to ask for outside help, Ricardo Salgado assumed he had a key role, he did not like the idea of asking the troika for help.

The impositions for the reinforcement of the solidity were the heavier ones. By the end of 2011, national institutes had to increase their solvency more demanding for a minimum of 9% two percentage points above the previous threshold. And at 31 December 2012, this same indicator would have to be set at, at least, 10%. But the troika booklet for the bank was not here. It was necessary to reduce the imbalance between the credit and the deposits of an average that at that time surpassed 160%, to a maximum of 120%, in a period of little more than three years. An imposition that forced the banks to close the credits. From the first moment after the arrival of the troika, it was finally established that eight major national financial groups would still be subject to an assessment by independents under the guidance of the troika and the bank of Portugal. The aim was to fine-tune the banks' credit portfolios to see if they were properly assessed or whether there was a need to recognize losses, known in the industry as impairments. Ricardo Salgado dismissed the use of state aid as a way to meet the new demands of solidity. On April 28th, BES had taken one of its first steps to strengthen its solidity without needing state money. 4% sale of the Brazilian bank Bradesco also in August, sold the position it had in the bank Saxo Bank. BES spent the first summer of troika m Portugal to increase participation in PT. (Babo & Gago, 2014)

iii. Angry investors

As key players appeared before the government inquiry into the collapse of BES, 485 shareholders banded together to sue the Governor of the Bank of Portugal over damages they claimed to have suffered in the bank's catastrophic collapse. They took civil actions to the administrative court of Lisbon on what they called "grave failings in supervision" that led to the "progressive financial degradation and lack of liquidity of BES". They also cited the misleading statements from Carlos Costa in the weeks and days leading up to the bank's collapse (Babo & Gago, 2014)

The action, elaborated by legal firm Pereira de Almeida e Associados, maintained that Costa could not have been unaware of the situation of BES" and knew perfectly that he was preparing the (bailout) resolution that he announced on August 3, 2014.

According to them, Costa's guarantees to the market and public constituted gross negligence, with some investors stressing that it was likely that institutional investors had received some inside information that had allowed them to sell their shares in time, while others bought them relying on the assurance given by Carlos Costa (Babo & Gago, 2014)

As media in Portugal had been continuously reporting on the developments of the ongoing parliamentary inquiry, these angry investors thought that clear that auditors KPMG had warned the Bank of Portugal that Espírito Santo International (the GES holding company that owned Rioforte) had huge debts months before the whole hideous financial debacle came tumbling down (Babo & Gago, 2014)

Newspapers report that Costa, the state and the Bank of Portugal have all been contacted this week to place their arguments against the civil claim.

iv. The Banks: Credit Agricole

In 2011, BES lost half of its value and the persistence in the tenancy of the title ended up forcing the CA to recognize in its accounts this devaluation. Twenty years after helping the Espirito Santo recover the bank, the French group had a turnover of almost 370 million euros in accounts this year. At a time when operations in Greece and Italy were suffering losses, and that holdings in Portugal and Spain were obliged to register almost 1,000 million impairments, credit Agricole announced to the international markets a plan to clear accounts.

The French banker Jean-Paul Chefflet, CEO of Credit Agricole admitted to selling the position at BES and did not intend to invest more money in Portugal and his intention was to leave BES. By that time, the Portuguese partners were drawing up a plan that would allow the bank to increase the capital in which Credit Agricole would participate but without spending money however o BES buy the shares detent by CA in the insurance company BES Vida. Four months later the president of the CA admitted having sold the 20% that he had in the Portuguese bank and Ricardo Salgado, he agreed to participate in the capital increase. But Jean-Paul Chifflet did not spend a cent. The ES were able to raise the capital and meet a further requirement of solidity, for all intents and purposes, with the support of Credit Agricole. (Babo & Gago, 2014, p. 132)

v. Liquidation

In August 2014, the Portuguese authorities submitted a report to the Bank of Portugal assessing various options for the resolution of BES from an operational and a financial viewpoint. Due to the absence of buyers, the creation of a bridge bank was considered as the only remaining solution for safeguarding the stability of the financial system in Portugal. Selected assets and liabilities were to be transferred to a bridge bank (Novo Banco), while the remaining assets and liabilities were to be resolved the healthy operations of BES was transferred a newly formed “good bank” called Novo Banco and the toxic operations to remain in BES which was to be liquidated. This operation cost the Portuguese tax payers €4.9 Billion. In 2014, Apollo Global Management LLC bought the insurer Companhia de Seguros Tranquilidade SA from Novo Banco. The following year, Banco Espirito Santo’s investment arm was sold to China’s Haitong Securities Co. and Thailand-based Minor International bought the group’s Tivoli Hotels & Resorts in Portugal and Brazil.

VII. ANALYSIS OF THE CASE

Banco Espirito Santo failed as a result of the bankruptcy of its holding Parents owing the bank as well as its retail and institutional investors. ESI's problem was revealed when the central bank of Portugal order an audit to KPMG, which later revealed accounts irregularities. The complex financial system put in place by GES to sell ESI debts to BES at inflated prices and which helped BES to survive the financial crisis without taking government bailout money was set up to deceive customers. We can justify that by the fact that those debts were routed throughout offshore companies before they ended up to the institutional investors and retail clients of BES. This was done by the ES group to avoid raising any suspicion that their companies were struggling financially and to remove proximity between those debts and the group.

Based on this on this study, we raised four questions that we are going to answer on after another.

VIII. RQ 1: WHAT ARE THE FACTORS OF FINANCIAL STATEMENT FRAUD THAT EXISTED IN BES AND WHAT WAS THEIR EXTENT?

1. Market pressure to meet targets

Michael Young in his book Financial Fraud Prevention and Detection writes that financial statement fraud is more likely to surface in an environment where the corporate activity is driven forward by excessive pressure to meet aggressive targets and a tone at the top that views failure as unforgivable (Young, 2014). The manoeuvers that initiated the scandal at BES happened over a period where the global financial crisis had caused a lot of contraction on Portugal’s economy, a very low demand, huge credit defaults and panic on global markets. The ES family’s non-financial companies were struggling as demand in Portugal was contracting and were as a result in need of financing. This pressure from the external environment was enough to create the pressure to commit fraud. GES was a group with many financial and non-financial companies in Portugal, Brazil, Angola and Mozambique. They were present in so many sector and the patriarch of the family, Ricardo Salgado was always ready to get involved in the next activity that he thought would be profitable, which earned him the nickname “O Dono Disto Tudo” which translates as “The Owner of It All”. The danger when companies expand fast is that as they grow the need to invest huge funds in fixed assets and working capital if they don’t want to run out of liquidity because of overtrading. In Portugal alone GES’s non-financial entities operated in agriculture, tourism, construction, healthcare, transport, Etc. These activities require huge investments in fixed assets and also incur huge overheads, however the financial crisis contracted spending, increased unemployment, reduced investments, etc. meanwhile financial activities had reduced significantly, so even its financial arms were still to recover from losses from credits defaults and uncollectable accounts. All of this explain the financial pressure mentioned above.

2. A trusted and intimidating CEO

In corporate governance, the board of director is the central element. It is the middleman between the shareholders who have invested in a company and the managers responsible for the control and management. The purpose of directors under the law is to safeguard the assets of the corporation and to promote long-term sustainable growth. Espirito Santo’s entities, like many family companies had a strong family control on its companies through a strong presence of its family members on its boards. The control of the Espirito Santo Family on the board of BES represented a great advantage for its other shareholders because it increased the chance of the board directing the company for the best interests of its shareholders. However, because

Banco Espirito Santo was a subsidiary of the Espirito Santo conglomerate, this also increased the chances of the bank being managed and directed in a way that would profit more the Espirito Santo's other businesses at the expense of other shareholders. Banco Espirito Santo's 2013 annual report shows a board of directors of twenty five directors. Ten of its directors were executives and 15 were non executives. Some of its non-executive directors held executive positions in other entities of the group, which significantly reduced or totally annihilated their independence. Ricardo Espirito Santo Silva Salgado, the chairman of the executive directors and vice chairman of the board of BES, was also at the same time the chairman of the board of Espirito Santo Financial Group which was the parent company of BES. This clearly suggests the he had more power on the board of BES than Alberto Alves de Oliveira Pinto, the then chairman of Banco Espirito Santo. Such a situation where the independence of the chairman might be compromised significantly weaken the board's effectiveness to protect shareholders value. It is not unusual to find such board's arrangements in family controlled businesses where the controlling family allocate strategic positions to family members. This is generally not a problem as the shareholders' theory "principal-agent" relationship problem is far less critical in a family business due to the high proportion of family owned share capital, the concentration of the family's fortune in their businesses, the heavy reliance on own funds to finance the business and the higher purpose of protecting the family's name and transferring the ownership from one generation to another. An examination of the Banco Espirito Santo's funding structure as at 31 December 2012 and 2013 shows an equity ratio of 9% of assets which clearly shows that the shareholder theory assumption that board control in family businesses significantly reduce the principal-agent relationship problem was not relavant for Banco Espirito Santo because of its high proportion of external funding, which in this case makes the stakeholder theory more relevant. This suggest that in the banking sector or any other sector with a relatively low equity ratio, corporate governance and market regulations should have a stakeholder's perspective.

The CEO in a company is the most influential executive. He sets the strategy of the strategy of the company and oversee its implementation. He is the leader and is responsible for the results and operations of the company: He is the captain of the ship. CEOs that manage by intimidation, display unjustified optimism by setting absurd targets, disregard disciplined financial reporting are more likely to engage among other frauds in financial statements fraud (Young, 2014) The CEO of BES, Ricardo Salgado, the patriarch of the ES family, the man under whose leadership BES grew to become a multinational multi-billion Dollars institution dominated decision making in BES according to insiders (Schwass & Glemser, 2016). Salgado was at one point considered as the most influential person in Portugal. He had been under investigation in Brazil for corruption before he stepped down from his position of CEO of BES. He is has been under investigation since the scandal at BES for money laundering, insider trading, tax fraud. At one point in the struggle to save ESI, Salgado signed a “letter of comfort” on which BES guaranteed the full payment of the money owed to the Venezuelan state oil company by its holding parent, in violation of the regulators warning to stop mixing the ES’s family business affairs with those of the bank. Interviews about this letter showed that Salgado consistently blurred the line between the interests of his family and those of the bank. This shows that Ricardo Salgado to some extent had a disregard to the rule of law and fair business dealings which coupled his status of patriarch of the family increased the chances that he could carry out financial statement fraud.

3. The audit committee

Although the audit committee is supposed to be a powerful tool of corporate governance to deter unethical management and ensure proper risk management by directors. However to achieve this mission the audit committee must be sufficiently independent from the CEO, must be have the financial sophistication required to understand the financial transactions and accounting policies and procedures of the company, and must its members must attend board meetings as well as audit committees meetings. Our study of BES shows that the audit committee was made of non-executive directors who appeared to be independent, although there could exist some private familiarity between its members and the executive board, we have not been able to find any information suggesting inappropriate relationship between them. The members of the audit committee of BES were all people with a high degree of financial literacy with two public accountants with extensive experience in auditing and one with a PhD in management. We could not have data about frequency of attendance at board meetings. Our opinion is that based on data available to us, the audit committee, in terms of its composition did not present any abnormality that could increase the risk of financial statement fraud. However, the fact that months before the collapse when problems at ESI started to emerge did not trigger any reaction from the audit committee to order an audit of the parent suggests that members of the audit committee did not sufficiently plays its oversight role.

IX. RQ 2: DID A CLAN CULTURE EXIST IN BES?

The clan culture is the model of human relations of the organisational theory, where the emphasis is on flexibility and change and which is characterised by strong human relations, affiliation and orientation towards internal organisational relations. For family businesses, a clan culture means giving strategic position to family members only and sticking to family values and the founder's vision. (Marín, et al., 2017). Marin, et al. (2017) found that family firms have a strong orientation towards a clan culture, characterised by internal, emotional-paternalist values. In BES, the family was heavily represented on the board, their name was assimilated with banking in Portugal and in all the countries they had their business, their family's "high council" was always called when there were strategic decisions to be made and they viewed BES not simply as a company they controlled but it was the family's property in spite of the fact that BES had hundreds of minority shareholders. This clearly shows that there was a clan culture in BES. This clan culture is probably one of the core strength of the BES and the ES family that helped the bank to survive 145 years, both world wars, dictatorship regimes and nationalisation, and their family council was critical to the continuity and survival of family firms. However this clan culture that help them to survive more than a century might have been the root of their downfall of BES and the ES empire because BES collapsed as a result Ricardo Salgado having the mind-set of a Patriarch on a mission to save, expand and make the family empire prosper rather than viewing his role in BES as responsible management of the bank by taking decisions that would ensure its growth and survival, the protection of interests of all shareholders, etc.

X. RQ 3: WAS THE CORPORATE GOVERNANCE IN BES COMPLIANT WITH THE CMVM 2013 AND CGS 2014?

Looking at the corporate governance in BES, it is difficult to see what was wrong. For example its board of directors had a good balance of non-executive directors (66% in 2012), although we have not been able to know if they were independent from the executive directors or not. We think that Ricardo Salgado's status as the Patriarch of the family and a very influential and trusted person in the banking sector internally and Portugal at the time gave him the ability to impose his views on the board without much resistance. In substance we can argue that despite the "façade" view that corporate governance arrangements in BES were good, BES was managed as the property of the ES family and Salgado could do whatever he wanted. The non-executives directors seemed to be intimidated to ask the right question and demand for the right answers. When during the last decade of its existence on many occasion, accusations of money laundering, fraud and other financial crimes surfaced the audit committee and other non-independent directors did not put pressure on the executives to understand what was going on. BES accounts were given a "true and fair" opinion every year by KPMG and it is still not clear how they missed the mounting of debts of ESI and RIOFORTE toward BES and its customers. We think that the argument given by the auditors about the fact that they requested to have more evidence on the financial position of ESI without any success is not sufficient as BES collapsed as a result of the bankruptcy its holding parents, which mean that their debts towards BES was highly material in respect of the financial statements. In auditing when the auditors cannot obtain sufficient evidence about a material and pervasive account, they qualify their opinion by issuing a "disclaimer of opinion "rather than an unqualified opinion.

XI. RQ 4: COULD THE BANKRUPTCY OF BES BE REASONABLY PREVENTED BY A FULLY FUNCTONING BOARD OF DIRECTORS?

We mentioned that the presence of non-executives with an acceptable level of objectivity and independence on the board of BES would have made discussions on the board more balanced and less biased toward the ES family views. It is however important to point out that the network of influence of Ricardo Salgado was very powerful in all the strata of government in Portugal and internationally, which was also likely to intimidate the average non-executive directors. Salgado received prestigious awards (Grande Oficial da Ordem Nacional do Cruzeiro do Sul, Commander's Cross Order of Merit of the Republic of Hungary, Lifetime achievement in Financial Markets in Investor Relations and Governance Awarded by Deloitte," Chevalier de la Légion D´Honneur" by the French Republic, Etc.,) and as the leader of the controlling family was able to easily gain enough voting right to fire any director he did not like. We therefore think that a body of more sceptic and challenging non-executive directors, ready to use all their power to achieve their mission was likely to prevent the bankruptcy of BES even though we acknowledge challenges this position implied.

XII. DISCUSSION RESULT

Our study of the collapse of BES has shone more light on the importance of how poor corporate governance and lack of robust oversight of management can make a multibillion Euro business worthless, cost huge losses to investors and shareholders, turn a 145 year old company into an artefact, Etc.

The case of BES gives the opportunity to understand that corporate governance rules and recommendations are just as relevant in family businesses as they are in other businesses. About the factors of financial statement present in BES before the collapse, we find that the power and status of Ricardo Salgado on the board of director of BES gave him the freedom to take decisions without much challenge from other boards members. We found that the strategy of expanding and financing the ES's family non-financial businesses increased further the pressure that was on the bank caused to the financial crisis and economic recession. This pressure, combined with the ease Salgado and his family members had to direct the bank in the direction they wanted meant that there was nothing that could stop Ricardo Salgado to commit fraud if he wanted. Based on accusations in the many investigations pending on him, one could argue that all the elements of the fraud triangle were satisfied to put BES at a high risk of financial statement fraud. We also found that there was a clan culture in BES, whereby important decisions were taken by a group of family members and persons close to the ES family and that the family had a unanimous vision of preserving the empire's wealth, and transferring its ownership and management of it to future generation . Evidence about clan culture in family businesses in the literature shows that family business culture tend to be stronger, sustainable over a longer period of time. We think that this clan culture was one of BES's strengths and especially after its nationalisation in 1975 when the family fled the country and decided after meeting of the family's high council to create a holding company in Luxembourg to manage their family's wealth. We believe however that this decision to create holding companies parents that would protect and controls its businesses was because the family believed that their companies in Portugal could not have nationalised had they been subsidiaries of a foreign Luxemburgish holding company. With these holding companies the family saw an opportunity to finance its businesses by channelling funds through its holding companies. The holding companies being registered in Luxembourg meant that they did not have to publish and audit its financial statement, which means that no one could tell the origins of funds that the company invested in its subsidiaries. The leadership of Ricardo Salgado helped the family to expand into many business sectors in Portugal and internationally, and ability to control the strategy of BES to serve as a finance motor for this expansion. This expansion caused a huge investment in fixed and working capital, which the family could finance. However the global financial crisis caused a serious recession in Portugal that threatened the survival of its subsidiaries, which prompted BES to use all the possibilities to rescue them, including fraudulent financial statements. When the government offered EU bailout fund to banks in Portugal, BES was the only one of the three largest bank to refuse to refuse the offer. Banks that accepted the government bailout used them to strengthen their liquidity and improve their financial position. However we believe that BES did not seek these funds because if they had accepted, the government would have wanted to keep an eye on their accounts and how they had used the funds, which would not have allowed them to channel the funds to the struggling businesses of the group. BES invested so much money to keep its non-financial business functioning, while cash-starving BES. Mechanism of corporate governance that existed in BES did not work to prevent its failure because strategic decisions about BES were dominated by Ricardo Salgado who in essence dominated the board of director and did not faced any challenge from other directors. Although auditors argued that they were never given sufficient information about the financial statements with BES parents, they did not qualify their audit opinion on the financial statements of BES in spite of the fact that their debt to BES were material and pervasive to the financial statements. We believe that the bankruptcy of BES could have been prevented if its non-executive directors and audit committee had challenged more its accounting policies and strategic choices and if their auditors had been ore sceptic in their audit engagements in BES.

XIII. CONCLUSION

This case study of BES enabled us to reach the objective of our research which was to find the causes of the collapse of BES and evaluate of a good corporate governance could have prevented it. Our conclusion is that BES failed because of a lack of accountability of its CEO to its board, the use of fraudulent financial statements to misrepresent its financial position and performance to investors, its use in the ES family as a "cash cow" to finance other ES entities and a persistence of the ES family to maintain a presence in almost all business sector of Portugal which put serious financial pressure on the group as the economy fell into recession.

Being a high profile case with prosecution still in progress meant that getting information from primary sources was in many areas impossible. We believe that our main limitation in this research was our inability to access some information like BES minutes of board meetings, minutes of Annual General Meetings, reports of government enquiries in the collapse, and direct interviews of BES directors in office at the time of collapse. We would recommend for future research is a study of the efficiency measures taken in Portugal and the EU to avoid similar occurrences in the future.