DEFINITIVE EXPERTISE

FTI CONSULTING™

as Expert Witnesses

When the Indian engineering and construction company Punj Lloyd was sued by a petrochemicals company, SABIC UK Petrochemicals Ltd, we were able to bring together three experts specialists with expertise in quantity surveying, the chemicals market and finance to help assess the fair value of the damages that could be claimed.

In 2006, the petrochemicals specialist SABIC UK contracted with a company called Simon Carves to design and build the world's largest low density polyethylene plant on Teesside. The project was a troubled one, with many delays, and in late 2008 SABIC decided that Simon Carves was not proceeding satisfactorily towards completion. It terminated the contract and completed the project itself.

SABIC then claimed for damages in two broad areas. Firstly, the costs that it had incurred in finishing the work itself. Secondly, the potential revenue that it had missed out on because the plant was finished later than planned. In 2011, Simon Carves went into administration, and under a Parent Company Guarantee, the main defendant became its parent company, Punj Lloyd.

SABIC's initial damages claim was for more than £40million. Punj Lloyd asked us to provide an expert witness who could help to establish what sum could be justified. Peter Brooker began to work on the case. He has over forty years of experience in construction, including several very similar chemical plants. Working with SABIC's expert, Peter combed through the costs that SABIC had incurred.

Ultimately, all expert witnesses have a duty to the court, not to the people paying them.

Their job is not to influence the outcome, but to help the court to understand the facts of the case in their specialist area. What conclusions should be drawn is for the court to decide.

Peter and SABIC's expert had differing views on some points, but they were able to present a joint statement that agreed on a great deal. This said that the part of the claim that concerned costs that SABIC had actually incurred should be a much lower figure. The judge later praised them for their co-operation, which had saved a lot of the court's time.

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It was clear that the second aspect of the claim, the missed revenue, required different expertise. So Peter advised our client and its legal team to appoint another FTI expert with a financial background, Andrew Wynn, and an FTI Consulting petrochemicals expert, Arvind Aggarwal, who advised on the market for low density polyethylene. Supply exceeded demand in Europe at the time, which of course affected the sales that SABIC could have expected.

Andrew's role was crucial. He used his financial expertise to analyse the principle which SABIC had used to calculate the revenue it had lost, and to identify some errors in the calculation. Applying the method that Andrew felt was appropriate reduced the value of this part of the claim by more than 50%.

OUTCOME

AS A RESULT OF OUR ANALYSIS, PUNJ LLOYD WAS ORDERED TO PAY SABIC £12M.

It may seem an odd success story which ends with the client paying out so much money, but without our input the figure would have been very much higher.

INVESTIGATE EVALUATE COMMUNICATE

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CRITICAL THINKING
AT THE CRITICAL TIME™

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FTI Consulting, Inc. is a global business advisory firm dedicated to helping organisations protect and enhance enterprise value in an increasingly complex legal, regulatory and economic environment. FTI Consulting professionals, who are located in all major business centres throughout the world, work closely with clients to anticipate, illuminate and overcome complex business challenges in areas such as investigations, litigation, mergers and acquisitions, regulatory issues, reputation management and restructuring. www.fticonsulting.com

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