
From: Anthony Rush [rush_aj@[REDACTED]]
Sent: 27 September 2010 06:14
To: Fitchie, Andrew
Subject: Re: BSC Letter-

A little too - strident?

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Sent using my BlackBerry® from Orange

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Bow Tel [REDACTED]
Mobile [REDACTED]
email rush_aj@[REDACTED]

-----Original Message-----

From: "Fitchie, Andrew" <Andrew.Fitchie@dlapiper.com>
Date: Sun, 26 Sep 2010 23:11:03
To: <rush_aj@[REDACTED]>
Cc: <Richard.Jeffrey@tie.ltd.uk>; <david_mackay@[REDACTED]>; <steven.bell@tie.ltd.uk>; Glover, Joanne<Joanne.Glover@dlapiper.com>
Subject: BSC Letter-

Legally privileged and Foisa exempt

All

Draft

We respond to you letter of 22 September. We do not understand your use of "Without Prejudice". You make no offer. We reason that you are not convinced of what you assert.

We shall disregard the lame and self serving opening observations about your limited ability to progress. Our fault on utilities is long admitted and analysed but the prime example of where you progressed unhindered and on your terms - with no design- is Princes Street.

Your disingenuous and unprofessional approach to estimation has been exposed as serial by DRPs which you wrongly cite (real numbers).

We find your statements about Project Carlisle confused and roundly unhelpful. You provided us with your letter of 11 September 2 hours before the meeting on 13 September. Your representatives at that meeting indicated that your letter should be put aside in order for Project Carlisle to move ahead.

That is what we have done and it is your choice to engage on our revised Proposal. We regard this as more important than posturing about each other's behaviour now in any case overtaken by events.

You have been paid very substantial amounts of money as advance payment and Preliminaries related to site presence to support notional construction operations with which, in 30

months, you have installed less than ()% of the Infracore Works comprising the original Construction Works Price.

It is therefore arithmetical none sense to assert that you are funding the Project by engaging on Project Carlisle which concerns an agreed System truncation and significant scope omission. The non-payment of Preliminaries has no origin whatsoever in Affordability; it is squarely to do with your lack of entitlement.

It is further utterly unrealistic for you to expect further payment under the PSSA when the central works are patently defective and have no approved and integrated assured design.

It is futile here to go beyond pointing out that we have no remaining confidence in your Estimates and your use of term" goodwill" stretches credibility to breaking point. There is little of what you perform or calculate which equates to our view of "fair value".

If you cease instructed work or delay progress at will, we will invoke immediately relevant contractual sanctions. You appear to be indignant about tie using its rights, though you have not been shy to assert your version of yours with the result being the misery you cite.

Nothing in our actions as Employer prevents Project Carlisle being pursued. We commenced this initiative with your reluctant help. Through Mr Kitzman's effort it has survived and evolved. We are determined to bring it to an end point and representatives of our choice are ready to meet.

Y/f
Andrew Fitchie
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