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**From:** Anthony Rush [rush\_aj@██████████]  
**Sent:** 27 April 2010 15:55  
**To:** Richard Jeffrey  
**Cc:** Fitchie, Andrew; david\_mackay@██████████  
**Subject:** RE: Correspondence from Richard Walker

Richard,

Below my draft – I am not happy with the ending – maybe you can think of something appropriate.

Andrew will ring me later when we will talk about the reply to PM – although I am inclined not to rush to a reply.

Tony

I cannot agree that it can be said my letter is written with the intention of being biased or to improperly influence others to come to an unfair opinion on Infraco's behaviour, or for that matter on the behaviour of any individual Infraco Party. My advanced copy of the letter was shared with you, its recipient, and the other two individuals at the meeting. I do not pretend that it is a minute of our meeting or that I sent it with the intention that you would correct it prior to it being formally issued. Although I did assume that if you, and those to whom it was copied, had any substantive comment or objection I would be emailed right back – hence my reference to the formal letter having precedence.

It is for you to decide whether what you say or how you behave or what you write may influence others to form impressions and opinions of your behaviour. My letter records for your attention and reflection the impressions you made on us at our meeting, whether you intended to or not. In our opinion, the impressions you gave are not inconsistent with the factual record of how Infraco Parties are performing, or not performing, their obligations.

I can confirm that **tie** very much regret that we did not hear you make any constructive approaches, whether they were intended to “rescue this project” or not. Your reference to rescuing the project is not easily understood – it implies that you believe that the project has failed, whereas you maintain a position that you have acted correctly and blamelessly, moreover that you have been abused by **tie**. Just who or what are you wishing to be rescued from?

The stakeholders in **tie** are also pleased to hear that you intend to “seek” constructive approaches and would welcome your constructive approach and response to the various initiatives we have proposed and also some “proposals” from you. Because, despite assurances being given by senior people in Infraco Parties to our Chairman, little in the way of constructive proposals has emerged from Infraco and you have made no attempt to engage in those which have.

At the end of the day it is the facts which speak for themselves and as you are aware **tie** and its stakeholders do not agree with your analysis of the facts. One of the principal issues, maybe the essential issue, is your constant refusal to accept your obligation under Clause 34.1 - to act on our instructions. This Clause could not be clearer in its meaning and the Contract provides for you to be compensated for loss and delay.

My letter was intended to outline how you may reconsider your current approach so that we can take this project forward in the manner the Contract requires – in partnership - thereby removing the obstacle of mistrust and suspicion which dogs our efforts to resolve the issues.

The four of us are once again meeting on Friday - to attempt to find a constructive way of resolving the issues -we have been constructive and have instigated processes which we believe you should engage with. We intend to promote constructive dialogue with Infraco if you permit it.

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**From:** Richard Jeffrey [mailto:Richard.Jeffrey@tie.ltd.uk]  
**Sent:** 27 April 2010 14:55  
**To:** Fitchie, Andrew; Anthony Rush  
**Subject:** RE: Correspondence from Richard Walker

Any further comments?

Also, any comments on the timing of sending this, and its impact on the Friday meeting if it is received before then?

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**From:** Fitchie, Andrew [mailto:Andrew.Fitchie@dlapiper.com]  
**Sent:** 27 April 2010 13:39  
**To:** Anthony Rush  
**Cc:** Richard Jeffrey  
**Subject:** RE: Correspondence from Richard Walker

**Legally privileged and FOISA exempt**

Tony

I read this and found it churlish and depressing. But it needs to be faced that it is be counterproductive if Richard Walker is having meetings in fear that he will be misrepresented and that tie's only purpose in the meetings is to somehow score points for future use.


Perhaps there should be an approach to have certain designated meetings under 'non reliance' rules -but these are in fact meetings with Michael Flynn.

The letter frames a picture of absolute lack of trust, unfortunately.

Please see my comments on your draft below.

kind regards

**Andrew S. Fitchie**  
**Partner, Location Head Finance & Projects**  
DLA Piper Scotland LLP  
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M: +44 (0) [REDACTED]  
F: +44 (0)131 242 5562

 Please consider the environment before printing my email

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**From:** Anthony Rush [mailto:rush\_aj@[REDACTED]]  
**Sent:** 27 April 2010 11:16  
**To:** Fitchie, Andrew  
**Cc:** Richard Jeffrey  
**Subject:** RE: Correspondence from Richard Walker

Andrew

My thoughts on the reply – I will work on it later this afternoon.

Tony

- ***I cannot agree*** that ***my*** letter is written with the intention of being biased or to improperly influence others to come to an unfair opinion on Infraco's behaviour, or ***for*** that matter any Infraco Party ***'s behaviour*** . ***My opinions in this letter are shared with you, its recipient.***
- It is for you to decide whether what you say or how you behave or what you write ***may*** influence other to form impressions and opinions of your behaviour. My letter records for you the impressions you ***made on us*** at our meeting whether you intended to or not.
- In our opinion, the impressions you gave are not inconsistent with the factual record of how the ***Infraco*** are performing, or not performing, ***its*** obligations.
- ***I regret that we did not hear you make*** any constructive approaches , whether they were intended to "rescue this project" or not.
- Your reference to rescuing the project is informative – ***it*** implies that you believe that ***the project*** has failed whereas you maintain a position that you have acted correctly ***and blamelessly*** .
- ***I am*** pleased to hear that you intend to "seek" constructive approaches and would welcome your constructive approach and response to the various initiatives we have proposed and some "proposals" from you.
- did not intend to issue a minute of our meeting ; ***I*** intended to outline how you may reconsider your ***current*** approach so that we can take this project forward in the manner the Contract requires – ***in partnership*** .
- At the end of the day the facts will speak for themselves and ***I regret very much that in our efforts to achieve resolution, we confront the obstacle of obvious mistrust and suspicion.***

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**From:** Julie Smith [mailto:Julie.Smith@tie.ltd.uk]

**Sent:** 26 April 2010 15:48

**To:** Alastair Richards; Dennis Murray; Frank McFadden; Mandy Haeburn-Little; Richard Jeffrey; Steven Bell; Stewart McGarrity; Susan Clark; Andrew Fitchie (andrew.fitchie@dlapiper.com); 'Anthony Rush'

**Cc:** Elaine Ross; Hazel Kennedy; Julie Thompson; Linda Melville

**Subject:** Correspondence from Richard Walker

Dear All,

Please see attached letter from Richard Walker.

Ladies – can you please upload this onto to system – thanks.

Kind regards

Julie

**Julie Smith**

*PA to Mandy Haeburn-Little - Director of Customer Services and Communications*

*PA to Susan Clark - Edinburgh Tram Deputy Project Director*

**Edinburgh Trams**

*Citypoint*

*65 Haymarket Terrace*

Edinburgh  
EH12 5HD

Tel: (+44) (0)131 [REDACTED]  
Email: [julie.smith@tie.ltd.uk](mailto:julie.smith@tie.ltd.uk)

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