
From: Nick Smith
Sent: 16 March 2010 15:36
To: Dave Anderson; Donald McGougan
Subject: Appeal

Incidentally, I am not sure that I agree with Richard's assertions re the appeal and I have asked him to get McGrigors touch on this in their report for completeness. It does not follow that because the Hunter adjudication decision was agreed to not be binding upon Wilson that it negates any argument by BSC that by not appealing it tie have accepted the judgement terms. Just because it wasn't binding on a later adjudicator doesn't mean that the fact that tie did not appeal couldn't be used as evidence that tie tacitly accepted it.

Not a big point and questionable whether it would have been worth appealing in any event, but one is left wondering whether this was truly considered at the time or whether this is a convenient explanation as the appeal deadline has expired. In any event we are where we are, but I asked Richard to ask McGrigors to add in a piece about their consideration of the issue.

Kind regards

Nick

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Please note that I am not in the office on a Monday