
From: Mandy Haeburn-Little
Sent: 07 January 2010 11:16
To: Alastair Richards
Subject: RE: Meeting with David Darcy

Very interesting comment A – don't think anyone else had picked this up!

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From: Alastair Richards
Sent: 07 January 2010 09:48
To: Richard Jeffrey; david_mackay@[REDACTED] Graeme Bissett (external contact); rush_aj@cqm.co.uk; Steven Bell
Cc: Mandy Haeburn-Little; Stewart McGarrity
Subject: RE: Meeting with David Darcy

Richard,

My take on this apparent change of approach links it to one specific item only in the latest adjudication, possibly because I was just reading it yesterday having been forwarded it so it was fresh in my mind.

In my reading the adjudicator has said that BSC are not protected on time for delays associated with failing to agree an estimate or change, this I think exposes them both on and off-street more than they thought that they would be. Therefore the removal of the barriers off-street and desire to reach agreement (but not necessarily start work) on-street are the best solution for them to mitigate this exposure. They will then expect the 6 months costs/ 9months relief deal to be back on the table, and I think they may seek to grab this.

Regards,

Alastair

From: Richard Jeffrey
Sent: 07 January 2010 08:40
To: david_mackay@[REDACTED] Graeme Bissett (external contact); rush_aj@cqm.co.uk; Steven Bell
Cc: Mandy Haeburn-Little; Stewart McGarrity; Alastair Richards
Subject: Meeting with David Darcy

Some context first!

Our last two conversations have been much more aggressive and terse, and we ended agreeing that we couldn't work with each other and it was time for discussion around a 'mature divorce'. This conversation was as is those others had never happened, a casual observer might have thought we had a few minor differences! If you recall we had very encouraging conversations in November, very depressing ones in December. Throughout the conversation every time I turned up the aggression, David became more submissive. I attacked (in my own non aggressive way), he absorbed and deflected but did not defend, he did not attack once. So to the detail..,

I explained the tone of the December board meeting and the anger/frustration/concern, and the background to the chairman's letter. He said he understood and that his board was equally concerned and that the CEO was taking a personal interest and that he (David) now has to do a weekly report to Kenneth Read on this project, so he agreed things need to change. To the end he is now proposing that they will mobilise and get on with all the off-street works without waiting to agree all the BDDI-IFC issues, but that of course we would still need to resolve these issues, but it was silly to hold up the job whilst we did this "it is much easier to have the commercial disputes against a background of progress" – this is exactly what he said in November. I said we need to document this approach.

We can all speculate as to why this about turn, of course it is probably my excellent negotiating skills, but of course it could be that, following the latest adjudications, they now feel pretty confident that they will win a sufficient portion of the BDDI-IFC issues, that they are under pressure from Siemens to guarantee workflow, this is a delaying tactic to give us reduced grounds for divorce, he is playing games with us – a smiling assassin or

He also said he felt we were working well on agreeing a programme, I said I did not share his optimism, he said it was too early to be pessimistic and he felt sure that, once we got into the mitigation debate we would be much happier with the programme, "We are bleeding money on this job, £0.5m per month that we are not recovering, so it is in our interest to get the job done as quickly as possible, that is the direction I have from my board" He wanted to make sure we put every effort into agreeing a programme, it was impossible for him to manage the job without an agreed programme, and one of the reasons they are progressing with the off-street is because if they don't, the programme would be meaningless anyway.

I then said that, all things considered (progress, BB DNA, too many false dawns etc), I felt I had no option other than to adopt a more commercially assertive strategy and that this had been endorsed by the board, he said he understood why we would be doing this and hoped that by progressing the job he could prove that they were genuine, and that in the meantime we could preserve the personal relationship. "look, I know we are not perfect, we have done many things wrong on this job, we just need to get on with it now and sort out any commercial issues as we go, progress is the key"

I said we would be auditing because we felt there was much info that was unseen to us, he agreed and said he would help wherever he could with the audit, especially around design "I know we have not managed the designer properly here, but neither did you, and frankly the designers have got away with murder, this is a theme we have identified at BB because we suffer from it all over the world, BB has approved the appointment of a new design manager for BB corporate at a senior level to reflect how important we think this issue is, SDS have lot to answer for"

He then stressed the importance of getting the on-street supplemental agreed and is keen to do this this week and feels we are nearly there. I said I thought there were still some significant gaps, he said that maybe the way forward to was put any unresolved issues (e.g. the planning drawings) into dispute but not let this hold up the conclusion of the agreement. I said it was not just about agreeing the credit, my big concern was about the risk transfer, which I explained. He said he sympathised with this concern and said that we did need to address this to get me comfortable, "perhaps some sort of GMP or target price arrangement"

We agreed to meet again this pm to take matters forward.

Happy to discuss.

R

Richard Jeffrey
Chief Executive

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