

Defining the Difference #104



H.S. Grace & Company, Inc.

4615 Southwest Freeway, Ste. 625
Houston, Texas 77027
713.572.6800

100 Park Avenue, Ste. 1600
New York, NY 10017
212.644.8620



BREACH OF LOAN AGREEMENT AND AGREEMENT TO PROVIDE

An adverse economic climate heightens the likelihood of commercial litigation and business disputes as well as shareowner lawsuits. This includes stress from drop in oil prices and environment-related lawsuits.

ALLEGATIONS

Plaintiff Private Investor and defendant U.S. Oil Company (HSG client), the owner of a major oil field in Indonesia, entered into an agreement pursuant to which Private Investor agreed to fund and provide remediation services for the field and to loan money to U.S. Oil company for purchase of an oil storage vessel. Private Investor subsequently sued U.S. Oil Company for moneys allegedly due under the loan agreement and for possession of the crude oil storage vessel under the terms of a collateral marine agreement. U.S. Oil Company counterclaimed contending that Private Investor had materially breached the loan agreement by failing to fund and provide the remediation services. U.S. Oil Company retained HSG to investigate the allegations and to analyze the economic damages suffered by U.S. Oil Company as a result of Private Investor failure to fund and provide the remediation services, which would have resulted in substantial increased production from the field.

ANALYSIS

1. Private Investor appeared to have intentionally breached its obligations to fund and provide remediation services to U.S. Oil Company so that U.S. Oil Company would be unable to repay its loans in a timely manner. Private Investor did this in an effort to force U.S. Oil Company to sell the field to Private Investor at a diminished price.
2. U.S. Oil Company was damaged by Private Investor's failure to provide the agreed upon funding and remediation services.
3. U.S. Oil Company's damages included two components, i.e. lost production revenues through the date on which U.S. Oil Company sold a majority interest in the field to a third party and the diminution in the sale price of the field upon the sale to the third party.
4. Using Private Investor's estimates of increased production from the field to be achieved by the remediation operations, HSG calculated a range of damages at various production levels, oil prices, and capital costs.

RESULTS

A resolution satisfactory to HSG's defendant client was reached after expert reports were filed.

If you would like to know more...

If you would like to know more about this case, or about the kinds of business-based analysis of claims and damages that can be obtained from [H.S. Grace & Company](#), you are invited to contact members of our group, [Al Fenichel](#), [Charles Fischer](#), [Steve Grace](#), and [H. Stephen Grace, Jr.](#), at (713) 572-6800.

H. S. Grace & Company, Inc. (HSG) is a litigation support and consulting firm established in 1993 that works with in-house counsel, outside counsel, insurance carriers and corporate attorneys, as well as company boards and senior management. HSG specializes in assisting clients both before and during litigation in analyzing and assessing the validity of claims involving representations and warranties, directors and officers responsibilities, financial reporting, business judgment, merger and acquisition disputes and other complex issues. The firm provides expert testimony from our detailed analyses of the business decisions and actions, issues reports of how the actions of all parties involved affect causation and evaluation of damages and provides guidance to support settlement strategies and negotiations. HSG has approximately 30 consultants, including experienced testifying experts, who have had significant experience as senior executives (e.g., CEOs, COOs, CFOs, SVPs, Treasurers, technical professionals and board members), many of whom hold advanced degrees and professional certifications. Our experienced team members look deeply into claims and allegations to determine not only what happened, but how and why, to speak authoritatively about appropriate business practices, and to assist clients in achieving favorable outcomes. HSG has represented banks and other financial institutions, real estate partnerships, energy companies, pharmaceutical firms, healthcare companies, insurance carriers, retailers, technology companies and others in a broad array of complex commercial litigation.

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