Ter Yin Wei *v* Lim Leet Fang
[2012] SGHC 82

Case Number : District Court Appeal 40 of 2011

Decision Date : 20 April 2012

Tribunal/Court : High Court

Coram : Quentin Loh J

Counsel Name(s) : Anthony Wee and Pak Waltan (United Legal Alliance LLC) for the appellant; Netto Anthony Leonard (Nettowon LLC) for the respondent.

Parties : Ter Yin Wei — Lim Leet Fang

Contract – contractual terms – rules of construction

20 April 2012

Quentin Loh J:

1 At about 9.35 am on 12 December 2008, a motor vehicle driven by the Appellant, Ms Ter Yin Wei ("Ms Ter") collided into another vehicle driven by the Respondent, Mdm Lim Leet Fang ("Mdm Lim"). Mdm Lim was the plaintiff in the trial below and Ms Ter was the defendant. Ms Ter did not dispute liability. Mdm Lim's car was damaged and, although she did not initially disclose that she had suffered any personal injuries, she had visited a Polyclinic the day after the accident and was diagnosed with whiplash and lumbar ligamental injuries 5 days later.

2 It is axiomatic that under liability policies, as was the vehicle insurance policy in this case, there are insured and uninsured losses. Insurance practitioners know that when settling or compromising a case being pursued under subrogation or an assignment, they must not compromise the insured's right to claim for uninsured losses from the tortfeasor when settling the insured losses. Otherwise they would be answerable to the insured for their professional negligence. The same principle applies to lawyers who receive instructions from motor workshops in motor accident claims.

3 This forms the sole issue on appeal, *viz*, did the hapless lawyer who was acting on instructions from the motor workshop in settling the repair claim for the damage to Mdm Lim's car (including a loss of use claim) compromise Mdm Lim's right to claim for her personal injuries?

4 The learned District Judge ("DJ") decided that the settlement agreement reached between solicitors instructed by Mdm Lim's workshop and Ms Ter's liability insurers (see [8] *infra*) did not prejudice Mdm Lim's claims for personal injuries. Ms Ter, or I should more correctly say her liability insurers, appealed.

5 After hearing both parties, I allowed the appeal. I was asked by both counsel to issue a written judgment. As requested, I now set out the reasons of my decision.

Relevant Facts

6 Mdm Lim alleged that the pain, which indicated she had suffered an injury, only began 3 hours after the incident. However, in the Accident Report filed on the following day, 13 December 2008, in answer to the question: "Was anybody injured in the Accident?" Mdm Lim inexplicably wrote: "No".

Mdm Lim did not disclose that she was suffering from pain although such pain had allegedly manifested itself the day before. As noted above at [1], Mdm Lim visited a Polyclinic directly after filing the Accident Report, and was diagnosed with whiplash and lumbar ligamental injuries 5 days later.

7 Following the usual practice, Mdm Lim sent her car to the workshop and signed the usual papers which would have included a fairly standard assignment. Again following the usual practice, her car would have been repaired by the workshop and returned to her together with payment of a sum of money for the loss of use of her car during the period of repair. I pause to note that loss of use is an uninsured loss but the practice of the workshops is to include this sum to encourage custom.

8 The workshop instructed Messrs Teo Keng Siang & Partners ("TKSP") to pursue the repair claim. TKSP sent a letter of demand dated 5 February 2009 to Ms Ter's insurers, HSBC Insurance (Singapore) Pte Ltd ("HSBCI") claiming for:

> [L]oss and expense, particulars of which are as follows:
>
> - Cost of Repair $3,600.00
> - Loss of use (5 x $60) $300.00
> - LTA search fee $8.00
> - GIA search fees $29.00
> - Survey report fee $333.00
> - Costs $856.00
>
> Total $5,126.00

This letter was copied to Ms Ter. Correspondence then ensued between HSBCI and TKSP negotiating an acceptable settlement sum. On 18 February 2009, TKSP made an offer to settle at $4,491 after compromising on some items, including reductions in (i) the cost of repairs to $3,300; (ii) loss of use to $250 (5 days at $50 a day); and (iii) costs to $600. HSBCI gave a counter-offer of a global sum of $4,200 all-in. Following this there was a telephone conversation and a settlement was reached between TKSP and HSBCI on 25 February 2009 ("the Settlement"). TKSP wrote:

> We write to confirm settlement in a global sum of $4,300 (all–in) as full and final settlement. Kindly let us have your discharge voucher and cheque within 7 days from the date hereof.

9 HSBCI sent its standard Discharge Voucher ("DV") to TKSP on 25 February 2009 and asked that it be signed and returned, whereupon HSBCI would make payment. It should be noted that although the DV had Mdm Lim and Ms Ter's names printed out in the text, the bottom had spaces above and next to the notations "Signature of Claimant" with the "Name" and "NRIC/Passport No." left blank and to be filled in. TKSP returned the duly signed DV to HSBCI on 16 March 2009. There was a signature appended to the DV above the description "Signature of Claimant" and Mdm Lim's name and NRIC number were written in the blank spaces below. The DV was in fact not signed by Mdm Lim but by Ms Liew Sun Kiap ("Ms Liew"), a representative of the workshop. There was no averment or dispute that Ms Liew did not have the authority to compromise the claim [note: 1]. The DV stated, *inter alia*:

> We/I LIM LEET FANG hereby agree to accept the sum of S$4,300 ... *in full and final settlement of all claims we/I have or may have against* [HSBCI] and/or their insured TER CHAI SENG ... in respect of an accident involving SGH 3575M and SFF 4293S at/along BUKIT TIMAH RD & CASHEW

RD which occurred on or about 12.12.2008 ... *Upon* our/my *receipt of such payment [HSBCI] and their Insured shall be fully discharged from all claims we/I have or may have in respect of the incident.*

... We/I also agree to indemnify [HSBCI] and their Insured against any claim whatsoever made against them by any person on my behalf in respect of the incident.

I/We further authorize you to pay the above settlement sum directly to [TKSP].

[emphasis added]

10 The ambit and construction of the Settlement embodied in the DV was disputed. HSBCI and Ms Ter claimed that the sum of $4,300 was accepted in full and final settlement of all claims Mdm Lim had or may have had in respect of the accident. [note: 2] HSBCI claimed at the trial below that Mdm Lim's cause of action for personal injury had merged with the settlement agreement in the DV and the DV discharged HSBCI and Ms Ter from all claims which Mdm Lim had or may have had. On the other hand, TKSP and Mdm Lim contended that the agreement only referred to the workshop claim for damage to the car and could not include a discharge from the personal injury claim.

The Decision below

11 The DJ ruled in favour of Mdm Lim. He placed great weight on the initial letter of 5 February 2009 and correspondence leading up to the Settlement, which only referred to the vehicular damage. He found that the Settlement was reached on 25 February 2009 when TKSP accepted HSBCI's global counter-offer in respect of the property damage. There was no mention of Mdm Lim's personal injuries, and therefore, no basis to imply that the parties' settlement also included these personal injuries. In any case, such an implied term did not lend any business efficacy to the settlement agreement. The DV was something that came after the parties' agreement on 25 February 2009. [note: 3]

12 The learned DJ relied on the Court of Appeal decision in *Projection Pte Ltd v The Tai Ping Insurance Co Ltd* [2001] 1 SLR(R) 798 ("*Tai Ping Insurance*") as being very instructive and quoted *Tai Ping Insurance* at [21] for the proposition that a discharge voucher "was no more than an acknowledgement of the receipt of the sum in full and final settlement of the claim". [note: 4] The DV therefore could not to be taken into account in construing the compromise or agreement that was reached; rather, the correspondence and intentions of the parties were decisive.

13 The learned DJ also distinguished *Kitchen Design and Advice Ltd v Lea Valley Water Co* (1989) 2 Ll.L.R. 221 ("*Kitchen Design")* as being appropriate where there is a settlement in the course of litigation of a property damage claim and the omission of a loss of profit claim. [note: 5] The learned DJ felt that the judge in *Kitchen Design* telescoped considerations belonging to *res judicata* to the issue of compromise when the proper consideration of the compromise reached should have been by way of an objective and contextual measure of the written and, where applicable, oral terms of the compromise, citing *Zurich Insurance (Singapore) Pte Ltd v B-Gold Interior Design & Construction Pte Ltd* [2008] ("*Zurich Insurance*") SGCA 26 and *Sandar Aung v Parkway Hospitals Singapore Pte Ltd (trading as Mount Elizabeth Hospital) and another* [2007] 2 SLR(R) 891. [note: 6]

Reasons for Allowing the Appeal

14 With respect, I could not agree with the learned DJ's reading of *Tai Ping Insurance*. The issue

being addressed in that case was totally different, *viz*, whether the parties had reached an agreement on settlement. That case arose in the context of a building contract. A retaining wall had collapsed during construction, causing damage to surrounding property. The main contractor made a claim under his Contractor's All Risk Policy. There were protracted negotiations for settlement. Eventually, the insurer wrote to the main contractor's agents on 31 March 1999, referring to previous correspondence and discussions, and agreeing, after adjustment, that "the final figure payable is $553,560.98." They enclosed a discharge voucher, which the main contractor signed and returned but added the words "this full and final settlement shall be limited to the aforesaid incident only".

15 It is important to note the arguments raised by the insurer before the Court of Appeal in *Tai Ping Insurance*. First, it disputed that a compromise agreement had in fact been reached. Secondly, it argued that its letter of 31 March 1999 was an offer, which was not accepted in accordance with its terms, given the addition of the words penned by the main contractor. It argued, therefore, that there was no concluded compromise agreement. Further, the insurer required the signatures of both the main contractor and the owner of the project to the discharge voucher to conclude an agreement. The Court of Appeal held that, on the facts, a clear compromise agreement had been reached to indemnify the main contractor up to $553,560.98 for the incident. The insurer's letters of 9 December 1998 and 31 March 1999 were set out in full at [18] and [19] of the Judgment in *Tai Ping Insurance*. Paragraph [21] of *Tai Ping Insurance* therefore had to be read in the context of the insurer's contentions, which included an argument that a properly signed discharge voucher was a condition of the settlement. There was no issue on the width and ambit of the words used in relation to a full and final settlement of all claims the insured had or may have had. *Tai Ping Insurance* was certainly not authority that a discharge voucher is only an acknowledgement of the receipt of a sum of money.

16 With respect, I also could not agree with the DJ's construction and understanding of the DV. The DV was not a receipt *simpliciter*. On its face, it recorded payment of a sum of money in respect of an accident, and it stated in clear and unambiguous language that:

(a) the payment was in *full and final settlement of all claims* that the recipient *had* or *may have had* against HSBCI and/or their insured, Ms Ter; and

(b) upon payment, HSBCI and their insured, Ms Ter, *shall be fully discharged from all claims* the recipient *has* or *may have* in respect of the incident or accident.

There was no other construction of the DV other than that, with the payment, it was a full and final settlement of, and full discharge from *all* claims that the recipient *had* or *may have had* against the insurer and the insured driver. The word "have" in the DV [note: 7] referred to all claims that the recipient possessed or had put forward at that time. The phrase "may have" in the DV [note: 8] clearly referred to claims that had not been put forward at that time, or claims that might arise in the future. Such a construction is reinforced by the second paragraph of the DV, which provided that the recipient indemnified the insurer and the insured driver against any claims that may be brought by any other person on the recipient's behalf in respect of this same accident or incident.

17 The practice of insurers recording a full and final settlement and obtaining a full discharge and indemnity on the terms set out in the first two paragraphs of the DV or on terms very similar to that has been around for at least half a century. The practice of obtaining discharge vouchers on the terms used and referred to above are of very long standing use and is very familiar to those who practise in the industry. TKSP themselves dealt with numerous DVs in their dealings with HSBCI, a fact which I shall return to later.

18 This long standing use of certain words or phrases in documents of this nature has also acquired a certain legitimacy over the years as they have been endorsed by the courts. The following passage in David Foskett, *The Law and Practice of Compromise*, 7th ed. (Sweet & Maxwell, 2010) at [5-21] is apt:

> It is important to emphasize also that reference to cases in which the court has reached a particular conclusion in relation to a particular word or phrase will be of limited assistance in other cases. In this area, in particular, authorities 'must be read in the context of their peculiar facts'. That having been said, *certain phrases, hallowed by long and frequent usage, are likely to receive substantially the same response by way of construction in most compromises in which they appear. An obvious example would be the well established formula "in full and final settlement of all claims that [C] has or may have arising from the accident.*
>
> [emphasis added]

Again, at [2-08]:

> Parties frequently seek to compromise "potential" issues between them even if those issues have not yet been elevated to the status of an actual dispute. A familiar and well-established formula for settling disputes is in the following (or similar) terms:
>
> > "A agrees to accept from B the sum of [figure] in full and final settlement of all claims which he has or may have arising from [the specified incident or other state of affairs."
>
> The intention of wording of this nature is plain. It is intended that the payment should discharge finally all claims that have not merely already been advanced, but also those which might subsequently be advanced in connection with whatever incident or state of affairs had brought the parties into dispute. It follows that the intention of the agreement underlying the use of this formula is that an issue not yet identified or formulated is also to be regarded as comprehended in the settlement.

19 With respect, I could not agree with the learned DJ's reading of *Kitchen Design* either. In that case, the plaintiff's insurers made a subrogated claim for property damage which was settled by a payment. The relevant phrases used in the DV were very close to that used in *Kitchen Design*:

> [I]n full satisfaction, liquidation and discharge of all claims we have or may have against Lea Valley Water Company in connection with a burst water main in High Road, Finchley, London N. 12. on 1st February 1984.

Subsequently, the plaintiff's insurers brought another subrogated claim arising from the same incident for loss of profits. Phillips J disallowed the claim and held at 224 that:

> The formula "all claims we have or may have" was clearly designed to cover, not merely claims actually advanced in relation to the burst main, but other claims not advanced which might be advanced. *The fact that the respective adjusters were only negotiating in respect of specific items of physical damage cannot detract from the natural meaning of the phrase*; nor can I see any justification for restricting the phrase to claims in respect of which Q.B.E. already enjoyed rights of subrogation as opposed to claims in respect of which they might acquire rights of subrogation in the future.
>
> [emphasis added]

The issue of *res judicata* was never raised in this case. The earlier claim was compromised out of court and without any admission of liability. With respect, I could not understand how Phillips J was said to have telescoped considerations belonging to *res judicata* into the issue of compromise. Again with respect, Phillips J construed the clear words of the settlement and discharge voucher set out above; he did not and did not have to imply a term into the settlement.

20 I find that *Kitchen Design* was directly on point. It had nothing to do with *res judicata* and was not reasoned on that basis, but on the basis of an interpretation of the terms used when the first claim was settled. The court took into account the context in *Kitchen Design*, but found that it was not enough to displace the clear meaning of the words in the discharge voucher. On the contrary, I found that *Kitchen Design* directly supported my views set out above.

21 This same approach is found in *O'Boyle and another v Leiper and another*, The Times Law Reports, January 26 1990. Through his negligence, a vendor's solicitor caused the completion of the sale of his client's property to be delayed by one year. The vendor L's initial letter of claim to her solicitors in November 1982, also requested an indemnity for any claim that the purchasers of the property may bring against her due to the delay. Her solicitor did not agree and thereafter only desultory correspondence and negotiations took place until March 1984 when fresh negotiations re-started which only related to her direct pecuniary loss. In June 1986 L sent a draft statement of claim to her solicitors which only pleaded her claim to damages for strict pecuniary loss. In August 1986, L accepted an offer from her solicitors for £20,000 paid "in full and final settlement" of her claims "arising out of this matter." Unfortunately, in October 1987, just three weeks before the expiry of the limitation period, the purchasers sued L and she issued a contribution notice against the solicitor. The Court of Appeal upheld the trial judge's holding that the natural inference from the correspondence and the draft statement of claim was that the compromise was intended to include all of L's claims against her solicitor. In comparison, the phrases used in the DV before me were more all encompassing and comprehensive.

22 I agree with the learned DJ's comments on *Brunsden v Humphrey* (1884) 14 QBD 141 at [17] of his judgment. However I would point out that *Dattani v Trio Supermarkets Ltd* [1998] IRIR 240 ("*Dattani*") must be read with care. The appellant there brought a claim for unfair dismissal before the industrial tribunal. It was only in giving details of his complaint that the appellant alleged he had never been paid the level of wages which had been agreed; he had raised the question of money owed to him on numerous occasions and that he had been dismissed when he raised the matter yet again. Before the end of the tribunal's proceeding, the parties settled the matter. It is important to note that the only relevant contemporaneous document related to the compromise is a handwritten document addressed to the appellant; it read: "In consideration of your accepting the sum of £5,000...*in settlement of your claim for unfair dismissal*" [emphasis added]. The industrial tribunal recorded: "This case has been settled on the basis that the respondent pay the applicant the sum of £5,000". The basis of the settlement was therefore limited in scope and did not contain any of the words or phrases used in the DV before me nor was there an accompanying indemnity.

23 The fact that the correspondence between TKSP and HSBCI only mentioned property damage and loss of use is insufficient to displace the clear and unambiguous meaning of the words "all claims we/I have or may have in respect of the incident" in the DV. The words of the DV were clear and unambiguous. It was not legitimate on the facts of this case to go into the context and then read into clear and unambiguous words something contrary to what those words plainly mean. Nor was it permissible to imply a term to the effect that the DV was without prejudice to Mdm Lim's right to claim for her personal injury.

24 There was no claim for rectification. In fact, there could not have been any such claim. TKSP

had dealt with HSBCI many a time prior to this particular accident. The exchange of a discharge voucher was routine, and Mr Teo Keng Siang ("Mr Teo") of TKSP accepted it as "market practice". [note: 9] In TKSP's letter dated 23 February 2009 to HSBCI, TKSP made an offer and stated: "Kindly let us have your discharge voucher and cheque if you are agreeable". [note: 10] It was TKSP who asked for the DV. TKSP did so again in their letter dated 25 February 2009 to HSBCI when they confirmed the settlement at $4,300 all-in. [note: 11]

25 TKSP's Mr Teo stated in cross-examination that he dealt in a similar way with "all" insurance companies in Singapore. [note: 12] During the trial, HSBCI produced other discharge vouchers processed and signed by TKSP's other clients with similar motor accident claims but who also had personal injury claims and on these discharge vouchers TKSP had caused to be stamped: "Signed without prejudice for any personal injury claim", [note: 13] or with "this indemnity is signed without prejudice to my rights to claim for compensation for my personal injury" [note: 14] typed in. Mr Teo affirmed under cross-examination that this was indeed their regular practice when dealing with such insurance claims. [note: 15] Mr Teo also admitted under cross-examination that he had handled other claims where there were no personal injuries involved and he did not stamp the reservation on the discharge voucher signed by his "clients". [note: 16] TKSP was therefore, on its own evidence, very familiar with the practice of having their clients sign discharge vouchers. The regularly-used terms of such discharge vouchers were also very familiar to TKSP. If there was a personal injury claim to be made, they would reserve those rights for their clients.

26 It was clear that TKSP had, very unfortunately, slipped up in this case. Mr Teo was asked this very question and gave a rather long and convoluted answer, in which he effectively admitted that they would normally stamp their reservation of rights for the personal injury claim if there were such injuries. [note: 17] In this case, Mr Teo all but admitted that he was aware of the existence of a possible personal injury claim at the time the correspondence with HSBCI commenced. In admitting under cross-examination that there was no mention of a personal injury claim in the correspondence, he went on to clarify that: [note: 18]

> The plaintiff has another cause of action in personal injury and she has a three year time limit to mount a claim for personal injury. Because she is undergoing either physio [sic] or Chinese sinseh treatment in Johore Bahru, we normally have to see whether there was a lapse of time before seeing whether there is permanent disability. However, we have to clear the workshop claim because of repair fast. That's why pages 20 to 32 are for property damage claim only. This is why we have no mention of personal injury because we have no idea how long treatment will take. And we do not want to delay the other cause of action, which is the workshop claim for property damage.

If that was true, and TKSP had a practice of stamping a reservation on the standard form DV, then unless there had been a slip up, I could not understand why that reservation had not been made. The truth seemed to be this: TKSP, in acting for and under the instructions of the motor workshop, and in pushing for a speedy recovery for the repair costs already incurred by the motor workshop, most unfortunately forgot to reserve Mdm Lim's personal injury claims, and thereby compromised her right to make such a claim.

27 Mdm Lim's reliance on *Zurich Insurance* and arguments on the contextual approach are, with respect, quite misplaced. I agree *Zurich Insurance* ruled that ambiguity is not a pre-requisite for looking at the context, however the Court of Appeal did not suggest that a party could bring in

contextual evidence without limitation. On the contrary, the Court of Appeal was very careful to lay down quite a few restrictions and limitations, especially given the provisions in the Evidence Act (Cap 97, 1990 and 1997 Ed). The Court of Appeal also said a first and foremost consideration was the essence and attributes of the document being examined. This was repeated very recently in *Master Marine AS v Labroy Offshore Ltd and others* [2012] SGCA 27 at [34]. Where it is a standard form for commercial circulation, as this DV undoubtedly was (and was used frequently by TKSP and others in their dealings with insurers in Singapore), the courts would usually be more restrained in their examination of the context as there is a need for contractual certainty. The Court of Appeal was careful to say in *Zurich Insurance* that extrinsic evidence must be used to explain or illuminate the written words and not to contradict or vary them. The words of the DV were clear and unambiguous and with a meaning that was plain and fixed. The key phrases used there – 'full and final settlement', 'fully discharged' and 'claims I have/may have' – are in their internal and external context intrinsically clear. Further, they have been construed consistently, upheld time and again and have acquired a certain meaning in law. Through long usage and judicial endorsement, there is no penumbra as the light is now sharply focussed in one bright circle of light, and solicitors, acting on the instructions of other parties, like insurers or assignees of limited rights, ignore the interests of the true litigant or insured at their peril.

28 "The law loves compromise" wrote Lord Bingham LCJ in the foreword to the 4th Edition (1996) of David Foskett, *The Law and Practice of Compromise.* There are good public policy reasons for this. It cuts down the number of trials and saves valuable court time. In the foreword to the 1st Edition (1980) of that same book, Lord Lane, LCJ wrote: "If it were not that a high proportion of cases are compromised long before they reach court, the administration of justice would soon grind to a halt; the courts would be overwhelmed by the volume of work." For the parties, it avoids the expense of litigation, the expenditure of non-productive time and the anxiety, risk and uncertainty inherent in a trial. To encourage this process, the offer-to-settle procedure in O 22A, Rules of Court (Cap.322, R 5, 2006 Rev Ed) was introduced some time ago to complement existing machinery like payment into court and *Calderbank* letters. Today, in aid of the same aims, alternative methods of dispute resolution are encouraged and supported. The overarching principle is that litigation should be the last resort. The law therefore encourages settlements and upholds compromises. As Mummery LJ stated in *Dattani* at 241: "The law, in its promotion of finality and certainty in dispute resolution, loathes litigation about compromises." However, as experience shows, disputes over compromises do occur and in such cases the courts have to deal with it. But, on the facts and circumstances here, this is, by far, not such a case.

29 This is not a case of a lay person being misled into signing something, see *eg*, *Saunders v Ford Motor Company Ltd* [1970] 1 LIL.R 379, or signing something she did not understand or signing a document in a language she was unfamiliar with. There was no claim for *non est factum*. There was also no claim of a lack of authority by the workshop's Ms Liew to sign the DV. I accordingly was of the view that Mdm Lim, by giving Ms Liew authority to sign the DV on her behalf, was bound by her signature on the DV and by its plain and unambiguous terms. Any subjective understanding that only the property damage claim was compromised "cannot have been relevant and admissible evidence, in the absence of any plea of mistake or rectification"; see *Capon v Evans* (1986) CAT 413.

Conclusion

30 For the reasons given above, I allowed the appeal and set aside the judgment below and the order for assessment of damages for the personal injury. I also entered judgment for the Appellant.

31 I also set aside the order of costs below. My understanding of [29] and [30] of the learned DJ's Grounds of Decision was that he had awarded costs to Mdm Lim but reserved quantum therefor to the

deputy registrar hearing the assessment. I order costs here and below to the Appellant, who was the defendant at first instance, to be agreed, and if not agreed, to be taxed.

[note: 1] Record of Appeal, Vol. 1, pg 8, 10 and 11.

[note: 2] RA, Vol 1, p 139.

[note: 3] RA, Vol 1, p 17.

[note: 4] RA, Vol 1, p 18.

[note: 5] RA, Vol 1, p18.

[note: 6] RA, Vol 1, p 19.

[note: 7] RA, Vol 1, p 139.

[note: 8] RA, Vol 1, p 139.

[note: 9] RA, Vol 1, p 44 (Notes of Evidence, 8 August 2011, p 23).

[note: 10] RA, Vol 1, p 133.

[note: 11] RA, Vol 1, p 136.

[note: 12] RA, Vol 1, p 36 (Notes of Evidence, 8 August 2011, p 15).

[note: 13] Agreed Bundle of Documents ("ABD"), pp 42-43.

[note: 14] ABD, p 44.

[note: 15] RA, Vol 1, pp 35 – 39 (Notes of Evidence, 8 August 2011, pp 15-18).

[note: 16] RA, Vol 1, p 47 (Notes of Evidence, 8 August 2011, p 26).

[note: 17] RA, Vol 1, pp 44 – 45 (Notes of Evidence, 8 August 2011, pp 23-24).

[note: 18] RA, Vol 1, pp 41 – 42 (Notes of Evidence, 8 August 2011, pp 20 – 21).