

## INFORMACIJA

o potrebi angažovanja finansijskog eksperta  
u arbitražnim postupcima protiv Crne Gore

Pred Međunarodnim centrom za rešavanje investicionih sporova (ICSID) u toku su tri arbitražna postupka koja su pokrenuta protiv države Crne Gore:

1. arbitražni postupak koji su MNSS B.V. i Recupero Credito Acciaio N.V, (zajedno označeni kao "Tužioci"), pokrenuli protiv Crne Gore, kao tuženog, u skladu sa Dodatnim pravilima ICSID-a (Međunarodnog centra za rješavanje investicionih sporova u Vašingtonu) povodom navodnih kršenja Sporazuma o podsticanju i uzajamnoj zaštiti ulaganja između Savezne Republike Jugoslavije i Kraljevine Holandije, a u vezi sa štetom koju su navodno pretrpjeli u vezi sa svojim investicijama u Željezari a.d. Nikšić,
2. arbitražni postupak koji su protiv Crne Gore, Fonda za razvoj Crne Gore, Zavoda za zapošljavanje Crne Gore, Republičkog fonda za penzijsko i invalidsko osiguranje Crne Gore, Kombinata aluminijuma AD Podgorica i Rudnika boksita AD Nikšić (zajedno označeni kao "Tuženi") pokrenuli CEAC Holdings Limited ("CEAC") i En+ Group Limited (zajedno označeni kao "Tužioci") dopisom od 12. novembra 2013. godine u skladu sa UNCITRAL Arbitražnim pravilima a u vezi sa, između ostalog, Ugovora o poravnanju zaključenog dana 16.11.2009. godine između Fonda za razvoj Crne Gore, Republičkog fonda za penzijsko i invalidsko osiguranje, Zavoda za zapošljavanje Crne Gore, Države Crne Gore, CEAC-a, En+, Kombinata Aluminijuma Podgorica a.d. i Rudnika Boksita Nikšić a.d,
3. arbitražni postupak koji je protiv Crne Gore pokrenuo CEAC Holdings Limited, (označen kao "Tužioc") svojim zahtjevom od 7. marta 2014. godine pred Međunarodnim centrom za rješavanje investicionih sporova (ICSID). Tužilac tvrdi da je osnov za pokretanje investicione arbitraže protiv Države Crne Gore navodna povreda odgovarajućeg bilateralnog investicionog sporazuma, odnosno Sporazuma između Srbije i Crne Gore i Republike Kipar o uzajamnom podsticanju i zaštiti ulaganja ("BIT"), a u vezi sa ulaganjem Tužioca u Kombinat aluminijuma Podgorica AD.

Državu Crnu Goru u sva tri arbitražna postupka zastupa advokatska kancelarija Schonherr Rechtsanwalte GmbH Beč, Austrija sa kojom je, u skladu sa zaključkom Vlade Crne Gore br:08-231/4 od 6. marta 2014. godine, Predsjednik Tenderske komisije za privatizaciju Branko Vujović koji je i predsjednik Radnih grupa koje je Vlada formirala u cilju efikasnijeg praćenja i stvaranja boljih pretpostavki za povoljan završetak predmetnih arbitražnih postupaka, po Zaključku Vlade br: 08-231/5 od 3. aprila 2014. godine, u ime Vlade Crne Gore potpisao Ugovor o pružanju usluga pravnog savjetovanja.

Pravni savjetnik preduzima sve neophodne aktivnosti u cilju efikasnog sprovođenja pomenutih arbitražnih postupaka. Imajući u vidu značaj pomenutih sporova kao i predstojeće potrebe postupaka za što efikasniju pripremu odbrane, pravni savjetnik je predložio angažovanje finansijskog eksperta i spoljnog pravnog savjetnika koji bi sa njima

učestvovali u oba arbitražna postupka koji se trenutno vode protiv Države pred Međunarodnim centrom za rješavanje investicionih sporova (ICSID), a koji bi bili angažovani kao podugovarači pravnih savjetnika Države. U informaciji koju u prilogu dostavljamo, pravni savjetnik je dostavio obrazloženje ovog predloga kao i procjenu troškova angažovanja finansijskog i pravnog podugovarača.

Do danas, stranke u ovom postupku su razmijenile inicijalne podneske, odnosno Memorijal i Kontra-Memorijal, a u skladu sa utvrđenim procesnim rasporedom, 21.06.2014. godine Tužioci MNSS su podnijeli novi podnesak koji se odnosi na pitanja nadležnosti arbitražnog tribunala, merituma spora i obrazloženja visine štete. Tom prilikom, Tužioci MNSS su priložili i izvještaj eksperta finansijske struke, Brattle Group-e i pravnih eksperata prof. Vladimira Pavića i dr Miloša Živkovića.

Tužena Država će imati prilike da odgovori na ovaj podnesak Tužilaca MNSS do 20.09.2014. godine, pri čemu će biti neophodno da se odgovori i na pomenuti izvještaj finansijskog eksperta angažovanog od strane Tužilaca MNSS.

Imajući ovo u vidu, pravni savjetnici Države su u 30.04.2014. godine otpočeli postupak selekcije finansijskog eksperta koji bi bio angažovan na strani tužene u ovom postupku i koji bi dostavio svoj izvještaj u pogledu postojanja i visine štete navedene od strane Tužilaca MNSS.

Na osnovu izloženog iskustva u investicionim arbitražama, iskustva sa industrijom metala, pokazane profesionalnosti i integriteta, ponuđene cijene usluga, i utiska ostavljenog tokom samih sastanaka, napravljen je uži izbor kandidata koji su činili:

1. Navigant Consulting Inc;
2. Frontier Economics Limited;
3. PricewaterhouseCoopers; i
4. Ernst & Young LLP.

Navedena četiri eksperta su ponovo kontaktirana i proslijeđeni su im Memorijal Tužilaca MNSS i Kontra-Memorijal Države, kako bi na osnovu detaljnijeg uvida u predmet eksperti mogli bolje da procijene naknade za usluge koje bi eventualno pružali Državi u ovom postupku.

Prema kriterijuma, navedenim u prilogu, Navigant Consulting Inc. predstavlja najboljeg ponuđača pa se predlaže angažovanje Navigant Consulting Inc. kao eksperta finansijske struke u predmetnom arbitražnom postupku. U prilogu ove informacije, dostavljena je i kopija inicijalne ponude koju je Navigant Consulting Inc. uputio u odnosu na MNSS Arbitražu.

U prilogu dostavljamo:

- Informaciju o potrebi angažovanja finansijskog eksperta za potrebe arbitražnog postupka protiv MNSS B.V. i Recupero Credito Acciaio N.V. pred Međunarodnim centrom za rešavanje investicionih sporova ("ICSID") ("MNSS Arbitraža") i spoljnog pravnog savjetnika za potrebe MNSS Arbitraže i arbitražnog postupka protiv CEAC Holdings Limited pred ICSID-om i proširenja angažmana pravnih savjetnika Države Crne Gore koju je pripremio pravni savjetnik – advokatska kancelarija Schonherr;

- Kopija inicijalne ponude predloženog finansijskog eksperta - Navigant Coconsulting INC. (u odnosu na MNSS Arbitražu).

Radne grupe su smatrale, i o tome obavijestili Ministarstvo ekonomije, da je neophodno Vladi Crne Gore, u što kraćem roku, dostaviti informaciju o gore navedenom i zahtijevati saglasnost za angažovanje finansijskog eksperta budući da je neophodno što skorije započinjanje rada na daljim koracima u Arbitražnim postupcima.

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Faza		Rok	Procenjeni iznos naknade
1	Izrada ekspertskeg izvještaja, odnosno nalaza i mišljenja u vezi sa pitanjima naknade štete;	od 27.06.2014 do 20.09.2014	U rasponu od 250.000,00 do 270.000, EUR
2	Savetovanje u procesu izrade i podnošenja zahteva za dostavljanje dokumentacije u vezi sa visinom štete;	od 20.06.2014 do 27.09.2014	
3	Svedočenje na ročištu zakazanom za drugu polovinu januara 2015. godine.	od 12.01.2015 do 23.01.2015	

<sup>1</sup> U skladu sa predloženim angažovanjem, prema e-mail-u od 23.06.2014. godine u 9:24 ujutru.



STATEMENT OF QUALIFICATIONS  
TO SERVE AS DAMAGES EXPERTS & CONSULTANTS FOR:

THE STATE OF MONTENEGRO

CONCERNING AN INTERNATIONAL ARBITRATION CLAIM

BROUGHT BY: MNSS B.V. & RECUPERO CREDITO ACCIAIO N.V.

4 MAY 2014



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Washington, DC 20036 Phone:  
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## A. INTRODUCTION TO NAVIGANT CONSULTING, INC.

Navigant Consulting, Inc. ("Navigant") is an independent consulting firm providing specialized professional services to assist clients in identifying practical solutions to the challenges of uncertainty, risk, and distress. We focus on large industry sectors that are typically highly regulated and/or are undergoing significant change.

Our professionals provide expert testimony and consulting services in litigation, arbitration, regulatory and alternative dispute resolution forums. Our depth and strength in the litigation environment has allowed us to develop broad industry expertise in areas such as financial services, construction, energy, healthcare, telecommunications, manufacturing, and business services. Our staff of more than 1,900 professionals in three dozen offices internationally includes former industry executives, certified public accountants, chartered financial analysts, economists, certified fraud examiners, certified business appraisers, certified insolvency and reorganization advisors, professional engineers and information technology specialists. For over 30 years, Navigant professionals have assisted clients with regulatory, financial, economic, accounting, engineering, large-scale data and information technology issues affecting their businesses.

Our ability to chart a course through the maze of litigation and arbitration demands results from Navigant's decades of experience with thousands of clients and tens of thousands of successful projects. We have the ability to field a team that combines the required industry knowledge with substantial skill in modeling financial damages and providing expert witness testimony.

Our Disputes and Investigations (D&I) practice, the largest segment of the firm, has considerable prior experience in international arbitration matters. This experience includes valuation and financial damages work throughout Europe, Asia, Africa, South America, Central America, and North America. We have experts in the field of valuation, an essential qualification in international arbitration and we have been retained to offer valuation and damages conclusions and expert testimony in support of Claimants and Respondents in more than 90 international arbitrations.



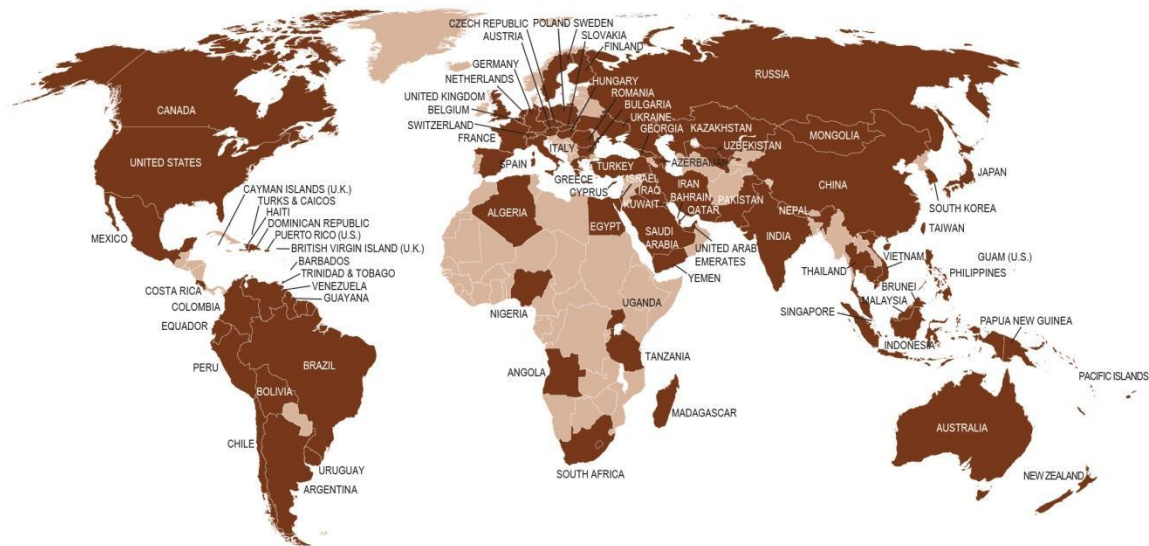


## B. GENERAL INTERNATIONAL ARBITRATION AND EXPERT WITNESS EXPERIENCE

Navigant has experience with thousands of damages analyses, claims and other forensic projects. Most of our more than 1,900 professionals have worked on projects involving litigation, arbitration or other contested proceedings, and several hundred of us have served as expert witnesses. Navigant's damage claims experience includes the areas of antitrust, intellectual property, commercial contracts and torts, government contracting disputes and treaty disputes involving issues of public international law. We have provided expert testimony in state and federal courts, numerous regulatory forums and in private arbitration matters before ICSID, SCC, PCA, NAFTA, UNCITRAL, ICC, CEPANI, LCIA, and AAA panels.

The map below represents the locations of our clients or their adversaries on dispute resolution projects in which Navigant has offered expert testimony. Our international arbitration experience and perspective is truly global in nature and covers several industries including oil & gas, power, mining, financial services, chemicals, tobacco, healthcare, shipping, manufacturing, and retail.

### Navigant International Dispute Projects



## C. EXPERIENCE IN VALUATION AND DAMAGES IN INVESTOR-STATE ARBITRATIONS

When it comes to important or large monetary disputes, parties look to Navigant as the expert firm of choice. Navigant has been very successful in advancing claims on behalf of investors as well as defending claims on behalf of states before international tribunals.

Navigant is the most experienced expert services firm when it comes to bi-lateral or multi-lateral investment treaty disputes as well as high profile commercial disputes. We have served (or are currently serving) as experts in more than 90 international arbitrations. Navigant has developed a reputation as being among the most objective experts. The depth and balance of our experience enables us to bring superior value to our clients because we are not only familiar with the type of loss theories considered by Claimants and Respondents (Counter- Claimants), we have credibility with arbitration panels and tribunals as independent, unbiased experts.

Below is a listing of our case experience international arbitration matters.

Num	Claimant	Respondent	Appointed by:	Involving	Type
1	President Allende Foundation	<i>Republic of Chile</i>	Respondent	Newspaper	BIT
2	<i>GAMI Investments, Inc.</i>	United Mexican States	Claimant	Sugar Mills	NAFTA
3	Noble Ventures, Inc.	<i>Romania</i>	Respondent	Steel Mill	BIT
4	Saluka Investments B.V	<i>Czech Republic</i>	Respondent	Financial Services	BIT
5	<i>National Property Fund of the Czech Republic</i>	Nomura Invesments plc	Claimant	Financial Services	Breach of SPA
6	<i>CIT Group, Inc.</i>	Argentine Republic	Claimant	Financial Services	BIT
7	<i>Duke Energy International</i>	Republic of Peru	Claimant	Electricity Production	LSA
8	<i>Electroquil S.A.</i>	Republic of Ecuador	Claimant	Electricity Production	BIT
9	<i>UEG Araucaria</i>	COPEL	Claimant	Electricity Production	Breach of PPA
10	Plama Consotium Ltd	<i>Republic of Bulgaria</i>	Respondent	Oil Refinery	ECT
11	Nreka	<i>Czech Republic</i>	Respondent	Retail	BIT
12	Glamis Gold	<i>United States of America</i>	Respondent	Mining	NAFTA
13	<i>Tecnicas Reunidas</i>	Republic of Ecuador	Claimant	Oil Refinery	BIT
14	EDF Services	<i>Romania</i>	Respondent	Retail	BIT
15	I&I Beheer	<i>Republic of Venezuela</i>	Respondent	Financial Services	BIT
16	<i>Cargill, Inc.</i>	United Mexican States	Claimant	HFCS Mill	NAFTA
17	<i>Azpetrol</i>	Republic of Azerbaijan	Claimant	Retail	ECT
18	<i>ChevronTexaco</i>	Republic of Ecuador	Claimant	Oil Production	BIT
19	<i>Red and Finstone</i>	Republic of South Africa	Claimant	Mining	BIT
20	Rumeli & Telsim	<i>Republic of Kazakhstan</i>	Respondent	Telecom	BIT
21	<i>Fuchs</i>	Republic of Georgia	Claimant	Pipelines	BIT/ECT
22	<i>Kardassopoulos</i>	Republic of Georgia	Claimant	Pipelines	BIT/ECT
23	AES	<i>Republic of Hungary</i>	Respondent	Electricity Production	ECT
24	Electrabel	<i>Republic of Hungary</i>	Respondent	Electricity Production	ECT
25	Grand River Enterprise	<i>United States of America</i>	Respondent	Retail	NAFTA



Num	Claimant	Respondent	Appointed by:	Involving	Type
26	Walter Bau AG	<i>Kingdom of Thailand</i>	Respondent	Toll Road	BIT
27	Chemtura	<i>Canada</i>	Respondent	Chemicals	NAFTA
28	<i>Nova Scotia Power</i>	Republic of Venezuela	Claimant	Electricity Production	BIT
29	<i>Task Force Argentina</i>	Republic of Argentina	Claimant	Financial Services	BIT
30	<i>Carpatsky</i>	Ukraine	Claimant	Gas Production	Breach of Contract
31	<i>Mercuria Energy Group</i>	Republic of Poland	Claimant	Energy Trading	ECT
32	CODACSA SA	<i>Dominican Republic</i>	Respondent	Toll Road	Breach of Contract
33	<i>Murphy Oil Corporation</i>	Republic of Ecuador	Claimant	Oil Production	BIT
34	<i>Segei Paushok</i>	Republic of Mongolia	Claimant	Mining	BIT
35	<i>Vattenfall AB</i>	Federal Republic of Germany	Claimant	Electricity Production	ECT
36	<i>Anadarko &amp; Maersk</i>	Sonatrach	Claimant	Oil Production	Breach of PSC
37	<i>Maersk Olie</i>	Republic of Algeria	Claimant	Oil Production	BIT
38	<i>Chevron Corp</i>	Republic of Ecuador	Claimant	Oil Production	BIT
39	<i>Yukos Universal</i>	Russian Federation	Claimant	Oil Production	ECT
40	<i>Hulley Enterprise</i>	Russian Federation	Claimant	Oil Production	ECT
41	<i>Veterans Petroleum</i>	Russian Federation	Claimant	Oil Production	ECT
42	<i>HICEE</i>	Slovak Republic	Claimant	Health Insurance	BIT
43	<i>Tidewater Inc.</i>	Republic of Venezuela	Claimant	Oil Services	BIT
44	<i>BP America</i>	Repsol YPF	Claimant	LNG Trading	Breach of Contract
45	<i>Gold Reserve Inc.</i>	Republic of Venezuela	Claimant	Mining	BIT
46	RosUkrEnergo	<i>NJSC Naftogaz Ukraine</i>	Respondent	Gas Trading	Breach of Contract
47	United Coal Company	<i>Gerdau A.G</i>	Respondent	Coal Supply	Breach of Contract
48	<i>Quiborax</i>	Republic of Bolivia	Claimant	Mining	BIT
49	Sojitz Corporation	<i>Prithvi Info Solutions Ltd.</i>	Respondent	Telecom	Breach of Contract
50	RosUkrEnergo	<i>EMFESZ</i>	Respondent	Gas Trading	Breach of Contract
51	<i>Petrobras Americas</i>	Larsen Oil & Gas	Claimant	Oil Services	Breach of Contract
52	Reinhard Unglaube	<i>Republic of Costa Rica</i>	Respondent	Land Development	BIT
53	Marion Unglaube	<i>Republic of Costa Rica</i>	Respondent	Land Development	BIT
54	Sabafon	<i>Republic of Yemen</i>	Respondent	Telecom	Foreign Inv. Law
55	Italia Ukraina Gas S.p.a.	<i>NJSC Naftogaz Ukraine</i>	Respondent	Gas Trading	Breach of Contract
56	<i>Phillip Morris International</i>	Republic of Uruguay	Claimant	Retail	BIT
57	<i>Owens-Illinois</i>	Republic of Venezuela	Claimant	Industrial Manufacturing	BIT
58	<i>TECO</i>	Republic of Guatemala	Claimant	Electricity Distributor	CAFTA
59	<i>Woodgroup &amp; SIMCO Corp.</i>	PDVSA	Claimant	Oil Services	Breach of Contract
60	Convial	<i>Republic of Peru</i>	Respondent	Toll Road	BIT
61	INVAR & TALEX	<i>Zorlu</i>	Respondent	Electricity Production	Breach of Contract
62	<i>Unique IDC</i>	Republic of Venezuela	Claimant	Airport	BIT
63	SWATCH	<i>Tiffany</i>	Respondent	Retail	Breach of Contract
64	<i>Devas</i>	Antrix	Claimant	Telecom	Breach of Contract
65	Levy	<i>Republic of Peru</i>	Respondent	Financial Services	BIT
66	<i>ConocoPhillips</i>	Sonatrach	Claimant	Oil Production	Breach of Contract
67	EDF International	<i>Republic of Hungary</i>	Respondent	Electricity Production	ECT
68	Bosca	<i>Republic of Lithuania</i>	Respondent	Retail	BIT
69			Claimant	Retail	BIT
70			Claimant	LPG Trading	BIT
71			Claimant	LPG Trading	BIT
72			Claimant	Oil Production	BIT
73			Claimant	Electricity Production	BIT
74			Respondent	Waste Management	BIT
75			Respondent	Mining	BIT
76			Claimant	Mining	BIT
77			Respondent	Retail	NAFTA
78			Claimant	Electricity Production	NAFTA
79			Claimant	Telecom	BIT



Num	Claimant	Respondent	Appointed by:	Involving	Type
81			Claimant	Mining	BIT
82			Respondent	Retail	NAFTA
83			Claimant	Electricity Production	NAFTA
84			Claimant	Telecom	BIT
84			Claimant	Mining	BIT
85			Claimant	Retail	BIT
86			Claimant	Mining	BIT
87			Claimant	Financial Services	BIT
88			Respondent	Financial Services	BIT
	<u>Consulting</u>				
1	CSOB	Slovak Republic	Claimant	Financial Services	BIT
2	Flag Telecom	VSNL	Respondent	Telecom	Breach of Contract
3	Redevco	TANESCO	Claimant	Electricity Production	Breach of Contract
4	Invesmart	Czech Republic	Respondent	Financial Services	BIT
5	MTD	Republic of Chile	Respondent	Land Development	BIT
6	Verizon Wireless	Clarity Partners	Claimant	Telecom	Breach of Contract
7	Cable & Wireless	Worldcom	Respondent	Telecom	Breach of Contract



#### D. EXPERIENCE IN VALUING INDUSTRIAL MANUFACTURING ENTERPRISES

NCI has significant experience performing valuations of various industrial manufacturing enterprises including steel mills, glass manufacturing plants, ammonia/urea plants, cement plants, pesticide plants, sugar mills, high fructose corn syrup plants, pulp mills, cigarette plants, cosmetics plants, and oil refineries in investor-state arbitrations. These disputes include some of the largest arbitrations in terms of the scope of damages claimed.

Below is a sample of the related disputes involving our valuation work of industrial manufacturing companies.

Noble Ventures v. Romania: (Bilateral Investment Treaty Dispute, ICSID); Prepared and submitted two expert reports (January 2004, August 2004) on the failed privatization and value of a steel mill operation in defense of an expropriation claim brought by a US investor before an arbitral tribunal established under the International Center for Settlement of Investment Disputes. Damages sought exceeded US\$ 400 million. Oral evidence given in October 2004. The tribunal issued an award in favor of Romania on all counts. (Engaged by respondent, expert and consultant).

GAMI Investments v. United Mexican States: (NAFTA Chapter 11 Dispute, UNCITRAL); Prepared and submitted two expert valuation reports (February 2003, February 2004) on behalf of a US investor to a NAFTA arbitral tribunal on the valuation of a minority stake in a company operating five sugar refineries in Mexico. Damages sought exceeded \$25 million. Claimant did not prevail on the merits in part because the Mexican Supreme Court declared the expropriation unconstitutional and ordered the government to return the sugar mills before the oral hearing in the NAFTA arbitration. (Engaged by claimant, expert and consultant).

Plama Consortium Limited v. Republic of Bulgaria: (Energy Charter Treaty Dispute, ICSID); Prepared two expert reports (July 2006, July 2007) on the financial performance, turnaround strategy, and fair market value of an oil refinery that was allegedly expropriated through various acts of the State before the International Center for Settlement of Investment Disputes. Damages sought exceeded \$300 million. Oral evidence given in February



2008. The tribunal rejected all of claimant's legal claims and reached a view consistent with our view that claimant's business and financial strategy was flawed and that strategy caused the investment's failure (Engaged by respondent, expert and consultant).

Cargill, Inc. v. United Mexican States: (NAFTA Chapter 11 Dispute, ICSID AF); Prepared two expert reports (December 2006, June 2007) quantifying the value of Claimant's high fructose corn sweetener ("HFCS") investments in Mexico and the related losses it suffered following various governmental acts which reduced the demand for HFCS in Mexico. Damages sought exceed US\$ 100 million. Oral evidence given in October 2007 (Engaged by Claimant, expert and consultant). The tribunal adopted our damages model and made 3 modifications which reduced damages to US\$ 77,329,240 (plus pre-award interest). This is the largest award under NAFTA Chapter 11 to date.

Chemtura v Canada: (NAFTA Chapter 11 Dispute, UNCITRAL); Prepared an expert report (October 2008) on the fair market value and alleged losses suffered by an investor in agricultural pesticide products after the product was de-registered following a scientific review of its safety. Oral evidence given in September 2009. Damages sought exceeded US\$ 80 million. The tribunal found Canada not liable for breaches of the NAFTA (Engaged by Respondent, consultant and expert).

Grand River Enterprises Six Nations, Ltd., Jerry Montour, Kenneth Hill, and Arthur Montour Jr. v United States of America: (NAFTA Chapter 11 Dispute, UNCITRAL); Prepared two expert reports (December 2008, April 2009) on the fair market value of a tobacco manufacturing enterprise and its US distributor, as well as the impact of certain regulatory actions on those values, before a NAFTA arbitration panel. Claimant declined cross examination. Damages sought exceed US\$250 million. All claims were dismissed on jurisdictional grounds or the merits (Engaged by Respondent, consultant and expert).

TSG5 L.P. v Beauty Care Professional Products, S.A.: (Breach of Contract, ICC); Prepared an expert report (June 2011) quantifying the fair market value of a beauty care products company headquartered in Spain. Oral evidence





given in January 2012. The tribunal awarded claimant US\$ 135 million (Engaged by claimant, expert and consultant).

OI European Group B.V. v Bolivarian Republic of Venezuela: (Bilateral Investment Treaty Dispute); Prepared two expert reports (August 2012, June 2013) on the fair market value of Claimant's economic interest in two glass manufacturing plants that were expropriated by official decree. Oral evidence given in September 2013 (Engaged by claimant, expert and consultant).

Gambrinus, Corp. v Bolivarian Republic of Venezuela: (Bilateral Investment Treaty Dispute, ICSID); Prepared two expert reports (November 2012, August 2013) establishing the fair market value of a fertilizer production plant subject to an official expropriation decree. Oral evidence given in March 2013 (Engaged by Claimant, expert and consultant).

Vladislav Kim et. Al v Republic of Uzbekistan: (Bilateral Investment Treaty Dispute, ICSID); Prepared an expert report (April 2014) regarding the fair market value of investments held by Kazakhstan nationals in cement plants in Uzbekistan that were impacted by government actions (Engaged by Claimant, expert and consultant).

Mercer International Inc. v. Government of Canada: (Bilateral Investment Treaty Dispute, ICSID); Prepared an expert report (March 2014) measuring the impact of the differential treatment received by a pulp mill to sell its self-generated green energy and buy regulated utility power on the fair market value of the mill (Engaged by Claimant, expert and consultant).



**E. INTERNATIONAL ARBITRATIONS INVOLVING COMPANIES IN CENTRAL AND EASTERN EUROPE AS WELL AS THE BALKAN REGION**

Navigant has been involved (or is currently involved) in several international arbitrations involving investors operating and states in Central and Eastern Europe as well as the Balkans. As will be discussed in the following section, our involvement in arbitrations in this region has been balanced between state and investor appointments as expert. Specifically, we have been involved or continue to be involved in arbitrations involving companies operating in:

- Lithuania (alcohol distribution)
- Ukraine (various natural gas matters)
- Poland (fuel wholesaling)
- Slovak Republic (health insurance and banking)
- Czech Republic (banking and real estate)
- Hungary (power generation and gaming)
- Romania (steel production and retail airport operations)
- Bulgaria (oil refining and refuse concessions)
- Serbia (banking)
- Croatia (natural gas)

Additional detail regarding the nature of the disputes handled in the above countries can be found in Mr. Kaczmarek's CV.





## F. EXPERIENCE PLUS BALANCED APPOINTMENTS EQUALS RESULTS

Our reputation for presenting credible, robust, and defensible damages analyses is unmatched in the international arbitration arena and is demonstrated via the decisions tribunals have reached in cases involving our participation. For example, we authored expert reports for claimants who received the largest known Energy Charter Treaty award (US\$ 90 million), the second largest bilateral-investment treaty award (US\$ 878 million) and the largest NAFTA award (US\$ 78 million). We also have been involved as claimants' experts in international arbitrations which have settled for amounts in excess of US\$ 5 billion.

Our success is not limited to our work on behalf of Claimants. We have had great success on behalf of Respondents as well. While Respondents may often win cases on the legal merits alone, we firmly believe that the quantum work surrounding the claim can have a considerable effect on tribunal's perception of the alleged wrongdoing. In other cases, the quantum work can lead to a direct legal determination on the merits by a tribunal. For example, Navigant was appointed by the US State Department to provide its expert opinion on the value of a gold mining license following the introduction of new reclamation regulations. Claimant alleged the license was rendered worthless. Navigant opined that the license was still worth US\$ 21.4 million. The tribunal reached the conclusion that the license was worth "more than \$20 million" and thus rejected Claimant's legal claims for expropriation.

Below is a table of cases that have been decided on the merits where Navigant testified on quantum. As the table reveals, substantial damages (in excess of 65 percent of the amounts claimed) have been awarded where Navigant was appointed by the Claimant and no or very little damages (less than 8 percent) have been awarded where Navigant was appointed by the Respondent.



## Navigant Case Results for International Arbitrations

Case	Industry	Prevailing Party	Amount Claimed million US\$	Amount Awarded million US\$	Issue
<b><u>Claimant Appointed</u></b>					
GAMI v Mexico	Sugar Milling	Respondent	26	0	Received Restitution
Cargill v Mexico	Sweetener Distribution	Claimant	100	77.3	
Kardassopoulos/Fuchs v Georgia	Energy (oil transport)	Claimant	90	90	
Chevron-Texaco v Ecuador	Energy (oil)	Claimant	1,100	699	
Duke Energy v Peru	Energy (power)	Claimant	35	18.4	
Paushok v Mongolia	Gold Mining	Respondent	NA	0	Lost Merits
Mercuria Energy v Poland	Energy (trading)	Respondent	438	0	Lost Merits
HICEE B.V. v Slovak Republic	Health Insurance	Respondent	1,000	0	Lost Jurisdiction
Duke Energy v Ecuador	Energy (power)	Claimant	24	11	
CPC v UKRNAFTA	Energy (gas)	Claimant	471	157	
CSOB v Slovakia	Financial Services	Claimant	1,150	880	
<b><u>Respondent Appointed</u></b>					
IUGAS v Naftogaz of Ukraine	Energy (gas)	Claimant	187	12	
Electrabel v Republic of Hungary	Energy (power)	Respondent	NA	0	Lost merits
Unglaube v. Republic of Costa Rica	Real Estate	Claimant	20	3	
GRE et al v United States	Tobacco	Respondent	300	0	Lost merits
AES v Hungary	Energy (power)	Respondent	36	0	Lost merits
Chemtura v Canada	Chemicals	Respondent	83	0	Lost merits
Saluka v Czech Republic	Banking	Claimant	Settled by Expert Determination		
Rumeli & Telsim v Kazakhstan	Mobile phone	Claimant	458	125	
EDF v Romania	Services (Duty Free)	Respondent	132.5	0	Lost merits
Walter Bau v Thailand	Toll Road	Claimant	150	30	
Glamis Gold v USA	Gold Mining	Respondent	50	0	Lost merits
Plama v Bulgaria	Energy (oil refining)	Respondent	122	0	Lost merits
Pey Casado v Chile	Services (Media)	Claimant	515	10	Damages Annulled
Noble Ventures v Romania	Steel Mill	Respondent	353	0	Lost merits

We elaborate on some of these case results below:

**Glamis Gold v. USA:** Navigant served as valuation and damages experts on behalf of the United States Department of State in a NAFTA arbitration concerning the alleged expropriation an open pit gold mine in California. A Canadian investor (Glamis Gold) claimed its mining rights were rendered worthless when California passed legislation requiring mandatory backfilling of all open pit metallic mines. Navigant's valuation analysis demonstrated that the mine was economic even after the passage of the legislation and concluded that the mining rights were worth US\$ 21.4 million. The tribunal



accepted virtually all of Navigant's valuation assumptions and arguments and ultimately decided that the mining rights were worth "more than US\$ 20 million" after the legislation was passed. As a consequence, the tribunal determined the United States had not expropriated the investor's mining rights and dismissed Claimant's damages claim in its entirety.

Cargill v. Mexico: Navigant served as the financial and damages experts for Cargill against Mexico concerning investments made in the distribution of high fructose corn syrup (HFCS) in Mexico. Navigant calculated Cargill's loss after Mexico imposed a tax on products sweetened with HFCS rather than sugar. Navigant quantified damages of US\$ 100 million. The tribunal accepted Navigant's damages model and made two minor changes to the assumptions contained therein. As a consequence, Cargill was awarded US\$ 77 million – the largest ever award under NAFTA Chapter 11. This award was also noteworthy because Cargill was compensated not only the losses suffered by its distribution subsidiary in Mexico but also for the losses suffered by the parent company in the US on sales to its Mexican subsidiary.

Kardassopoulos/Fuchs v. Georgia: Navigant served as the valuation and damages experts for two Claimants (Fuchs and Kardassopoulos) in an Energy Charter Treaty (ECT) arbitration concerning their investments in an oil pipeline development project in the Republic of Georgia. Navigant quantified total damages of US\$ 90 million while Respondent's expert argued that damages were no greater than US\$ 11.7 million. The tribunal accepted Navigant's valuation and damages calculation in its entirety and awarded Claimants US\$ 90 million plus all costs of the arbitration (this is the largest ever ECT award).

CSOB v. Slovakia: Navigant served as damages experts for a Czech bank (CSOB) in an ICSID case against the Slovak Republic. The arbitral tribunal reduced Navigant's damages analysis as of 1997 by only 2 percent and awarded CSOB US\$ 877 million (the largest ever ICSID award).

Chevron/Texaco v. Ecuador: Navigant served as the damages experts for Chevron and Texaco in a denial of justice claim under at BIT against Ecuador. The principal amount of the damages calculated by Navigant was US\$ 365 million. Respondent said the principal amount of the damages were only



US\$ 28 million. The tribunal awarded Claimants US\$ 355 million in principal damages plus an additional US\$ 343 million in interest in a partial award.

Duke Energy v. Peru: Navigant served as the damages expert for Duke Energy in an international arbitration against the Republic of Peru. The case involved the cancellation of certain tax incentives granted during the privatization process for the country's power plants. The tribunal upheld 1 of the 2 claims advanced by Duke Energy and accepted the damages Navigant calculated for that claim (US\$ 20 million) without any adjustment.

Pey Casado v. Chile: Navigant served as the financial and damages experts for the Republic of Chile concerning the 1973 expropriation of a newspaper company by former President Pinochet. Navigant calculated the damages to be US\$ 7 million. Claimant claimed more than US\$ 700 million. The tribunal awarded Claimant US\$ 10 million.



## **G. COOPERATION WITH INTERNATIONAL LAW FIRMS**

Navigant has worked alongside more than two dozen international law firms. This unique vantage point has enabled us to see many styles, approaches, arguments, and strategies in presenting damages and valuation issues before arbitral tribunals. Navigant can bring this experience to bear. Navigant has worked with the following international law firms and government agencies on international arbitration matters (references are provided in a later section of this proposal):

**Skadden Arps Slate Meagher & Flom** (London and New York)

**White & Case LLP** (Washington, New York, Paris )

**King & Spalding LLP** (Houston and New York)

**Shearman & Sterling LLP** (Paris)

**Freshfields Brukhaus & Deringer LLP** (Washington, London, Paris)

**DLA Piper LLP** (New York)

**Sidley Austin LLP** (Washington DC)

**Weil Gotshal & Manges LLP** (Washington DC and Prague)

**Arnold & Porter LLP** (Washington DC and London)

**Squire Sanders & Dempsey LLP** (Cleveland and Prague)

**Jones Day** (London and Washington DC)

**Herbert Smith** (London)

**Latham & Watkins** (London)

**McDermott Will & Emory** (London)

**Covington & Burling** (Washington DC)

**Fulbright & Jaworski LLP** (Houston and Washington DC)

**Reed Smith Richards Butler** (London)

**Mayer Brown & Rowe LLP** (Washington DC and  
Houston) **Salans** (Paris)

**Cuatrecasas, Goncalves Pereira** (Madrid)



**Mannheimer Swartling** (Stockholm)

**M&M Bomchil** (Buenos Aires)

**Dickstein Shapiro** (New York)

**Hunton & Williams LLP** (Washington DC)

**Eversheds** (London, Paris)

**Burnet Duckworth & Palmer LLP**

(Calgary) **Frank Advokatbyra** (Stockholm)

**Webber Wentzel Bowens** (Johannesburg, South Africa)

**Setterwalls** (Stockholm)

**Lawin** (Vilnius, Lithuania)

**Winston & Strawn LLP** (Washington DC)

**Torys** (Toronto)

**20 Essex Street Chambers** (London)

**Essex Court Chambers** (London)

**Gomez-Acebo y Pombo Abogados** (Madrid, Spain)

**Bofil Mir Alvarez & Jana** (Santiago, Chile)

**Volterra Fietta** (London)

**Weinhold Legal** (Prague, Czech Republic)

**Tomov & Tomov** (Sofia, Bulgaria)

**Tuca Zbarcea & Asociatii** (Bucharest, Romania)

**Luther Rechtsanwaltsgesellschaft mbH** (Hamburg,

Germany) **Miranda & Amado Abogados** (Lima, Peru)

**Coronel y Perez Abogados** (Quito, Ecuador)

**SAI Abogados** (Mexico City, Mexico)

**United States of America** (Department of State, Department of Justice)

**Government of Canada** (Department of Foreign Affairs and  
International Trade)



## H. EXPERIENCE TESTIFYING BEFORE INTERNATIONAL ARBITRATORS

Given Navigant's significant depth in the international arbitration arena, it should not be surprising that Navigant has presented expert evidence and/or testified before over 100 distinguished international arbitrators, many on multiple occasions (noted parenthetically below). Some of these individuals have also retained Navigant as experts when representing their own clients as advocates. Consequently, the Navigant name is well known and respected in the international arbitration arena. Below are the names of arbitrators Navigant has provided written and/or oral testimony before:

Abi-Saab (2)	Derains (5)	Lever	Rowland
Aguilar-Alvarez (2)	Dupuy (6)	Levy	Rowley (4)
Al Kosheir	Edlund	Lowe (6)	Runeland (2)
Albert de Fina	Feliciano	Magnusson	Sachs
Ali Kahn	Fernandez-Armesto (2)	Matthews	Salans
Alvarez (4)	Fontoura	McLachlan	Schuetze
Anand	Fortier (8)	McRae (2)	Schwebel (4)
Anaya	Franco	Morales Godoy	Segeser
Barker	Gaillard	Mourre (2)	Stern (8)
Bedjaoui	Garro	Nairman	Tawil
Behrens	Gharavi	Naon (3)	Tercier (3)
Berfreund	Gomez-Pinzon	Nikken	Thomas (2)
Berman (4)	Greenwood	Oreamuno (2)	Tomka
Bernadini (4)	Haigh	Orrego-Vicuna (3)	Tomuschat
Bishop (2)	Hanotau (6)	Park (2)	Valaisathien
Bocksteigel (5)	Heiskanen	Pataki	van den Berg (7)
Bond	Hossain	Paulsson	Van Houtte
Born	Hubbard	Peter	Veeder (5)
Boyd	Hunter	Poncet (3)	Vinuesa (4)
Brower (10)	Hwang	Price (2)	Wallgren-Lindholm
Cafilisch	Jarvin	Pryles (2)	Watts
Caron (3)	Kaufmann-Kohler (8)	Ramberg	Wennerholm
Collins	Kessler (2)	Reisman	Williams (4)
Crawford (2)	Lacarte	Rigo Sureda	Wobeser (4)
Cremades (2)	Lalive	Rivkin	Young
Crook (2)	Lalonde (7)	Rovine	Zuleta (2)
De Ly	Lau		



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## J. PROPOSED NAVIGANT TEAM

Navigant is proposing a team consisting of professionals from our International Arbitration practice led by **Mr. Brent Kaczmarek** and either **Mr. Gerard Maglio** or **Mr. Matthew Shopp**. This team spends 100 percent of its time on valuation and damages assessments for international arbitrations.

**Mr. Kaczmarek** is a Managing Director in the Washington DC Disputes and Investigations division of Navigant Consulting, Inc. and leads the firm's International Arbitration practice. Mr. Kaczmarek has been retained as a financial, valuation, and damages expert in more than 100 international arbitrations, including more than 80 investor-state arbitrations in which he has represented investors and states in nearly equal proportion. He has represented both Claimants and Respondents in some of the largest arbitrations conducted to date with over ten cases where amounts claimed are in excess of US\$ 1 billion. Mr. Kaczmarek received the internationally recognized designation of Chartered Financial Analyst from the CFA Institute (formerly, the Association of Investment Management and Research) in 1998. The CFA designation is awarded to individuals demonstrating superior competence in international investment analysis.

**Mr. Gerard Maglio** is a Director in the International Arbitration practice at Navigant Consulting, Inc. He has an MBA from New York University and has worked with Mr. Kaczmarek for more than 15 years on bilateral investment treaty matters.

**Mr. Matthew Shopp** is a Director in Navigant's Disputes and Investigations practice. His primary focus at Navigant has been in the firm's International Arbitration practice. Mr. Shopp holds a MBA with a concentration in Finance from the Pennsylvania State University. He also holds a Bachelor's Degree in Statistics from the Pennsylvania State University.

The detailed CVs for Mr. Kaczmarek, Mr. Maglio, and Mr. Shopp are attached to this proposal.



## K. PROFESSIONAL RATES & BUDGET

We bill for our services by the hour at rates that reflect the experience level of our professionals. Our current rates for 2014 are listed below as well as the discounted rates we are willing to offer to Montenegro.

Level	Regular Rates	Discounted Rates
Directors	US\$ 700	US\$ 550
Managing Consultants	US\$ 575	US\$ 450
Consultants	US\$ 400	US\$ 350

Our fees on international arbitration cases (for all phases of the arbitration including preliminary negotiations, the submission of two expert reports, testimony at the hearing, and post-hearing support) have varied significantly, as each case is unique and entails a different level of complexity and sophistication.

For the current arbitration as well, the magnitude of the effort will depend upon the amount and quality of information available, the number of expert reports that need to be submitted to the arbitral tribunal, the scope of the expert reports, and the timing of the submissions, etc.

While our understanding of the current arbitration is limited, the publicly available information allows us to provide a range of possible fees. We would reiterate that it is difficult to budget these arbitrations as there can be additional unanticipated work such as joint expert conferences and joint expert reports with the opposing side. Nevertheless, given our experience, we believe the following range to be reasonable.

US\$	Low	High
First Report	250,000	325,000
Second Report	200,000	250,000
Hearing	75,000	75,000
Total	525,000	650,000



#### L. CURRICULUM VITAE

Enclosed are the CVs and Mr. Brent Kaczmarek and Mr. Gerard Maglio. If we are retained, and once we know when you would like us to commence work as well as the exact scope of work, we would propose to introduce you to the other team members that will assist you on this important matter.



## **Brent C. Kaczmarek, CFA**

**Brent C. Kaczmarek, CFA**  
Managing Director

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**Washington, D.C. 20036**  
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### **Education:**

June 1993  
Bachelors of Science in Commerce  
Concentration in Finance  
University of Virginia

### **Professional Credentials & Memberships:**

September 1998 -Present  
Chartered Financial Analyst

April 1997 - Present  
CFA Institute, Member  
Washington Society of Investment  
Analysts, Member

### **Employment:**

Navigant Consulting,  
Inc. 2002 to present

Arthur Andersen  
LLP 1998 to 2002

LECG, Inc.  
1997-1998

Arthur Andersen  
LLP 1993-1997

Mr. Kaczmarek is a Managing Director in the Dispute & Investigative Division and leads the firm's International Arbitration group. Mr. Kaczmarek serves as an expert and consultant on issues involving business and investment valuation, finance, accounting, and economics in a wide range of industries such as financial services, manufacturing, energy, utilities, telecoms, mining, healthcare, luxury goods, and business services.

Mr. Kaczmarek has been appointed as a financial and valuation expert for private companies as well as sovereign states in more than 100 disputes including more than 100 international arbitrations, and more than 80 investor-state arbitrations. He has been appointed as an expert in more than 20 cases where damages claimed exceeded US\$ 1 billion (including 7 matters where damages claimed have exceeded US\$ 10 billion).

The disputes Mr. Kaczmarek has helped clients and arbitral tribunals resolve have been in North, Central and South America; Western, Central, and Eastern Europe; the Commonwealth of Independent States; the Russian Federation; Southeast Asia; the Caribbean; Africa; and the Middle East. Mr. Kaczmarek received the internationally-recognized designation of Chartered Financial Analyst from the CFA Institute in 1998.

### **Expert Engagements in International Arbitration or Foreign Litigation**

Mr. Kaczmarek has served as financial expert and/or consultant in the following international arbitrations and foreign litigations:

Vladislav Kim et. Al v Republic of Uzbekistan; (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (April 2014) regarding the fair market value of investments held by Kazakhstan nationals in cement plants in Uzbekistan that were impacted by government actions (Engaged by Claimant, expert and consultant).

Mercer International Inc. v. Government of Canada; (*Bilateral*

*Investment Treaty Dispute, ICSID*); Prepared an expert report (March 2014) measuring the impact of the differential treatment received by a pulp mill to sell its self-generated green energy and buy regulated utility power on the fair market value of the mill (Engaged by Claimant, expert and consultant).

LSF-KEB Holdings SCA, LSF SLF Holdings SCA, HL Holdings SCA, Kukdong Holdings I SCA, Kukdong Holdings II SCA, Star Holdings SCA, Lone Star Capital Management SPRL, and Lone Star Capital Investments S.à.r.l. v Republic of Korea (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (March 2014) addressing the impact of various measures on the fair market value of a banking enterprise (Engaged by Respondent, expert and consultant).

Fábrica de Vidrios Los Andes, C.A. and Owens-Illinois de Venezuela, C.A. v Bolivarian Republic of Venezuela; (*Bilateral Investment Treaty Dispute*): Prepared two expert reports (July 2013, March 2014) valuing Claimant's economic interest in two glass manufacturing plants that were expropriated by official decree (Engaged by claimant, expert and consultant).

Philip Morris Brands Sàrl, Philip Morris Products S.A., and Abal Hermanos S.A. v. Oriental Republic Of Uruguay; (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (March 2014) measuring the impact of various measures on the fair market value of investments made in the Uruguay cigarette sector (Engaged by Claimant, expert and consultant).

Dunphy, Masfen, Sturgess Arbitration: (Shareholder Agreement Dispute, New Zealand Arbitration Law); Prepared two expert reports (February 2014, March 2014) on the fair market value of Greymouth Group Holdings, Inc., a New Zealand oil and gas producing company, for purposes of resolving a shareholder dispute. Oral evidence given in April 2014.

Karkey Karadeniz Elektrik Uretim A.S. v The Islamic Republic Of Pakistan; (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (January 2014) value of two powerships and other losses suffered by claimant as a result of the cancellation of a power purchase agreement and the detention of the ships in the Port of Karachi. (Engaged by respondent, expert and consultant).

Pac Rim Cayman LLC v Republic of El Salvador; (*Foreign Investment Law Dispute*); Prepared an expert report (January 2014) measuring the fair market value of a gold mining project (Engaged by respondent, expert and consultant).

Novera AD, Novera Properties B.V., and Novera Properties N.V. v Republic of Bulgaria; (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (November 2013)



assessing the losses and value of a sanitation services concessions that were terminated (Engaged by respondent, expert and consultant).

Baggerwerken Decloedt En Zoon NV v The Republic of the Philippines: (Bilateral Investment Treaty Dispute, ICSID); Prepared an expert report (August 2013) assessing the banking, financial, and operational data associated with a dredging project and an opinion on the proper manner in which damages ought to be quantified for a second project that ultimately did not move forward. Oral evidence given in March 2014 (Engaged by respondent, expert and consultant).

Agility For Public Warehousing Company K.S.C. v The Islamic Republic of Pakistan: (Bilateral Investment Treaty Dispute); Prepared an expert report (August 2013) calculating the fair market value of a customs processing enterprise that was terminated by respondent. (Engaged by claimant, expert and consultant).

Tidewater Investment SRL and Tidewater Caribe S.A. v Bolivarian Republic of Venezuela: (Bilateral Investment Treaty Dispute, ICSID); Prepared two expert reports (July 2013, January 2014) determining the fair market value of an offshore supply vessel company that was expropriated by official decree. (Engaged by claimant, expert and consultant).

Progas Energy Limited, Progas Holdings Limited, Sheffield Engineering Company Limited v The Islamic Republic of Pakistan: (Bilateral Investment Treaty Dispute, UNCITRAL); Prepared two expert reports (July 2013, March 2014) determining the fair market value of bulk liquids import terminal that failed due to energy price regulation. (Engaged by claimant, expert and consultant).

Orascom Telecom Holdings S.A.E. v People's Democratic Republic of Algeria: (Bilateral Investment Treaty Dispute, ICSID); Prepared two expert reports (June 2013, March 2014) regarding the fair market value and of a mobile telecom operator and the alleged damages it suffered from alleged treaty violations (Engaged by respondent, expert and consultant).

Republic of Philippines v PIATCO: (Court of Appeals, Third Division Manila, Philippines); Prepared an affidavit (August 2013) on behalf of the Office of the Solicitor General of the Philippines regarding the proper approach to determine the replacement cost of an airport terminal (Engaged by Plaintiff, expert and consultant).

Fraport AG Frankfurt Airport Services Worldwide v Republic of the Philippines: (Bilateral Investment Treaty Dispute, ICSID); Prepared two expert reports (June 2013, August 2013) regarding compensation issues and potential money laundering activities. Oral evidence given in September 2013 (Engaged by respondent, expert and consultant).

Adel a Hamadi al Tamimi v Sultanate of Oman: (*Free Trade Agreement Dispute, ICSID*); Prepared two expert reports (June 2013, March 2014) regarding the fair market value of a limestone quarry allegedly affected by violations of a free trade agreement. (Engaged by respondent, expert and consultant).

Ali Allawi v The Islamic Republic of Pakistan: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared an expert report (March 2013) determining the fair market value of bulk liquids import terminal that failed due to energy price regulation. (Engaged by claimant, expert and consultant).

Rusoro Mining Limited v Bolivarian Republic of Venezuela: (*Bilateral Investment Treaty Dispute, ICSID AF*); Prepared an expert report (March 2013) to determine the fair market value of various operating and exploration gold mining properties in the Bolivar state of Venezuela and other losses suffered by claimant as a consequence of alleged breaches of a BIT and the nationalization of the gold mining sector. (Engaged by claimant, expert and consultant).

HQ AB v Mats Qviberg, Stefan Dahlbo, Curt Lönnström, Thomas Erséus, Mikael König, Johan Piehl, Carolina Dybeck Happe, Anne-Marie Pålsson, Pernilla Ström, Johan Dyrefors, KPMG AB, and Investment AB Öresund: (*Breach of Fiduciary Duty, Stockholm District Court*); Prepared an expert report regarding improper valuations prepared by a bank under IAS 39 and IFRS 7 in its derivative trading portfolio (Engaged by claimant, expert and consultant).

Vigotop Limited v Republic of Hungary: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (January 2013, September 2013) regarding the fair market value of planned mega-casino and leisure resort outside of Budapest, Hungary that was allegedly cancelled in violation of a BIT. Oral evidence given in November 2013 (Engaged by respondent, expert and consultant).

Renee Rose Levy de Levi and Gremcitel S.A. v Republic of Peru: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (December 2012, June 2013) regarding the impact of the designation of certain lands as being historical on the fair market value of an early stage development project. Oral evidence given in November 2013 (Engaged by Respondent, expert and consultant).

First National Petroleum Corp. v OAO Tyumenneftegas: (*Breach of Contract Dispute, SCC*); Prepared two expert reports (December 2012 and April 2013) calculating the historical cash flows and current fair market value of various oil fields in Russia subject to a joint venture agreement. Oral evidence given in July 2013 (Engaged by Claimant, expert and consultant).

Gambrinus, Corp. v Bolivarian Republic of Venezuela; (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (November 2012, August 2013) establishing the fair market value of a fertilizer production plant subject to an official expropriation decree. Oral evidence given in March 2013 (Engaged by Claimant, expert and consultant).

Türkiye Petrolleri Anonim Ortaklığı v Republic of Kazakhstan; (*Energy Charter Treaty Dispute, ICSID*); Prepared two expert reports (November 2012, September 2013) assessing the impact of changes in the tax regime applicable to oil and gas producers on the fair market value of certain oil fields under a joint venture agreement (Engaged by respondent, expert and consultant).

E.D.F. International v Republic of Hungary; (*Energy Charter Treaty Dispute, ICSID*); Prepared two expert reports (October 2012, October 2013) on the financial impact of termination of power purchase agreements on the fair market value of a gas-fired power generator following a European Commission investigation. Oral evidence given in December 2013 (Engaged by Respondent, expert and consultant).

OI European Group B.V. v Bolivarian Republic of Venezuela; (*Bilateral Investment Treaty Dispute*); Prepared two expert reports (August 2012, June 2013) on the fair market value of Claimant's economic interest in two glass manufacturing plants that were expropriated by official decree. Oral evidence given in September 2013 (Engaged by claimant, expert and consultant).

Nova Scotia Power Inc. v Bolivarian Republic of Venezuela; (*Bilateral Investment Treaty Dispute, ICSID AF*); Prepared an expert report (May 2012) on the fair market value of Claimant's intangible rights to purchase coal at prices less than market prices (Engaged by claimant, expert and consultant).

Luigiterzo Bosca v Republic of Lithuania; (*Bilateral Investment Treaty Dispute; UNCITRAL*); Prepared two expert reports (March and June 2012) quantifying the fair market value of an alcohol production facility and the losses associated with an opportunity to acquire a shareholding in the facility. Oral evidence given in September 2012. The tribunal found Lithuania to have breached the treaty, but did not award any damages (Engaged by respondent, expert and consultant).

The Swatch Group Ltd. & Tiffany Watch Company Ltd. v Tiffany and Company, Tiffany (NJ) Inc., and Tiffany & Co.; (*Breach of Contract, Netherlands Arbitration Institute*); Prepared two expert reports (March 2012 and August 2012) quantifying the fair market value of a luxury watch manufacturing enterprise and related losses incurred by Respondents for alleged breaches of agreements to manufacture and distribute luxury watches. Oral evidence given in October 2012 (Engaged by respondent, expert and consultant).

Devas Multimedia Private Limited v Antrix Corporation Limited: (*Breach of Contract; ICC*); Prepared two expert reports (February 2012, March 2013) on the fair market value of a multimedia company planning to offer mobile audio/visual and broadband wireless interest services through a hybrid satellite-terrestrial system. (Engaged by claimant, expert and consultant).

Invar International Inc. v Zorlu Enerji Elektrik Üretim Anonim Şirketi: (*Breach of Contract, Geneva Arbitration Association*); Prepared three expert reports (February 2012, July 2012, and November 2012) identifying and quantifying the unknown profits made by a subcontractor in the construction of two natural gas-fired power plants in the Moscow region and assessing the impact of cost overruns and financing on the fair market value of the plants. Case settled prior to an oral hearing (Engaged by respondent, expert and consultant).

Renee Rose Levy de Levi v Republic of Peru: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (January 2012, September 2012) containing an analysis of the cause of a commercial bank failure in 2000 and a rebuttal of the fair market value of the bank and the damages claimed by the investor from the bank's failure. Oral evidence given in November 2012 (Engaged by respondent, expert and consultant).

ConocoPhillips Algeria Ltd. v Sonatrach S.P.A.: (*Breach of Contract, UNCITRAL*); Prepared two expert reports (January 2012 and August 2012) quantifying the loss suffered by claimant due to respondents alleged failure to implement an equity determination in a unitized oil field in Algeria. (Engaged by claimant, expert and consultant).

The Attorney General of the Turks & Caicos Islands v Salt Cay Devco Ltd., Salt Cay Estates Ltd., Salt Cay Golf Club Ltd., & SC Hotel Management Ltd.: (*Fraud and Bribery Claims, Supreme Court of Turks & Caicos*); Prepared three expert reports (December 2011, March 2012, and May 2012) quantifying the fair market value of an early stage, hotel and resort development project on Salt Cay island and the losses claimed by both parties. (Engaged by respondents, expert and consultant).

Flughafen Zürich A.G. and Gestión e Ingeniería IDC S.A. v. Bolivarian Republic of Venezuela: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared four expert reports (October 2011, August 2012, February 2013, and August 2013) quantifying the fair market value of a concession to operate the second largest airport in Venezuela on Isla Margarita that was allegedly subject to various treaty violations and analyzing the performance of the airport after a takeover by the state. Oral evidence given in June 2013 (Engaged by claimant, expert and consultant).

TECO Guatemala Holdings, LLC v Republic of Guatemala: (*DR-CAFTA Dispute*); Prepared an expert report (September 2011 and May 2012) quantifying the impact of an

altered regulatory framework on the fair market value of the largest electricity distributor in Guatemala. Oral evidence given in March 2013. The tribunal ruled in favor of Claimant but awarded only historical damages (Engaged by claimant, expert and consultant).

Convial Callao S.A & CCI-Compania de Concesiones de Infraestructura S.A. v Republic of Peru: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (July 2011 and February 2012) on the fair market value a toll road project subject to alleged violations of a BIT. Oral evidence given in March 2012. The tribunal determined that Peru did not breach the treaty (Engaged by respondent, expert and consultant).

TSG5 L.P. v Beauty Care Professional Products, S.A.: (*Breach of Contract, ICC*); Prepared an expert report (June 2011) quantifying the fair market value of a beauty care products company headquartered in Spain. Oral evidence given in January 2012. The tribunal awarded claimant US\$ 135 million (Engaged by claimant, expert and consultant).

Italia Ukraina Gas S.p.a v NJSC Naftogaz of Ukraine: (*Breach of Contract, SCC*); Prepared two expert reports (June 2011 and August 2012) concerning the gas trade between Russia and Europe and the appropriate methodology to determine the price of possible gas exports from Ukraine at the western border with Slovakia. Oral evidence given in September 2012. The tribunal awarded Claimant US\$ 12 million of the US\$ 180 million claimed (Engaged by respondent, expert and consultant).

SIMCO Consortium and Wood Group Engineering (North Sea) Limited v PDVSA Petroleo S.A.: (*Breach of Contract, ICC*); Prepared three expert reports (March 2011, September 2011, February 2012) quantifying the losses claimed under a long-term contract involving water injection and treatment services in Lake Maracaibo, Venezuela. Oral evidence given in April 2012. The disputed was subsequently settled (Engaged by claimant, expert and consultant).

Yukos Universal Limited v Russian Federation: (*Energy Charter Treaty Dispute, UNCITRAL*); Prepared two expert reports (September 2010, March 2012) quantifying the fair market value (and related losses) of claimant's investment in Yukos Oil Company OJSC and/or the merged YukosSibneft under various scenarios for alleged violations of the ECT by Russia. Oral evidence given in October 2012 (Engaged by claimant, expert and consultant).

Hulley Enterprises Limited v Russian Federation: (*Energy Charter Treaty Dispute, UNCITRAL*); Prepared two expert reports (September 2010, March 2012) quantifying the fair market value (and related losses) of claimant's investment in Yukos Oil Company OJSC and/or the merged YukosSibneft under various scenarios for alleged violations of



the ECT by Russia. Oral evidence given in October 2012 (Engaged by claimant, expert and consultant).

Veteran Petroleum Limited v Russian Federation: (*Energy Charter Treaty Dispute, UNCITRAL*); Prepared two expert reports (September 2010, March 2012) quantifying the fair market value (and related losses) of claimant's investment in Yukos Oil Company OJSC and/or the merged YukosSibneft under various scenarios for alleged violations of the ECT by Russia. Oral evidence given in October 2012 (Engaged by claimant, expert and consultant).

Petrobras America Inc. v Larsen Oil & Gas Ltd: (*Breach of Contract Dispute, ICC*); Prepared three expert reports (December 2010, March 2011, and July 2011) quantifying claimant's losses as a result of the late delivery of an offshore drilling rig. Oral evidence given in August 2011 (Engaged by claimant, expert and consultant).

Yemen Company for Mobile Telephony – Sabafon v Republic of Yemen: (*Investment Law Dispute, UNCITRAL*); Prepared an expert report (October 2010) assessing the performance of a CDMA operator owned by the government and the alleged impact of alleged preferential treatment granted to a state owned competitor on the fair market value of telecommunications provider. The dispute was subsequently withdrawn (Engaged by respondent, expert and consultant).

Gold Reserve Inc. v Bolivarian Republic of Venezuela: (*Bilateral Investment Treaty Dispute, ICSID AF*); Prepared four expert reports (September 2010, July 2011, May 2013, June 2013) to determine the fair market value of two gold/copper mining properties in the Bolivar state of Venezuela. Oral evidence provided in October 2013 (Engaged by claimant, expert and consultant).

Rozukrenergo AG v EMFESZ kft: (*Breach of Contract, SCC*); Prepared two expert reports (September 2010, December 2010) assessing the position respondent would have occupied in the Hungarian gas trade, but for claimant's alleged failure to fulfill its long-term supply agreement with respondent. Oral evidence provided in January 2011. The tribunal ruled in favor of Claimant (Engaged by respondent, expert and consultant).

Chevron Corporation and Texaco Petroleum Company v. Republic of Ecuador: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared an expert report (September 2010) quantifying the changes made to the financial framework of a concession agreement signed in 1964 between Texaco, Gulf Oil, and Ecuador and the actual and but for economic benefits the parties received under the concession contract. The tribunal ruled in favor of Claimant (Engaged by claimant, expert and consultant).

Marion Unglaube v Republic of Costa Rica: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (August and December 2010) calculating the fair market

value of undeveloped coastal land and the losses Claimant incurred as a consequence of the creation of a national park. Oral evidence given in February 2011. The tribunal awarded Claimant US\$ 3 million of approximately US\$ 20 million claimed. (Engaged by respondent, expert and consultant).

Reinhard Hans Unglaube v Republic of Costa Rica: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (August and December 2010) calculating the fair market value of undeveloped coastal land and the losses Claimant incurred as a consequence of the creation of a national park. Oral evidence given in February 2011. The tribunal awarded Claimant US\$ 0. (Engaged by respondent, expert and consultant).

Sojitz Corporation v Prithvi Information Systems Ltd: (*Breach of Contract, LCIA*); Prepared an expert report (June 2010) quantifying the claims of both parties for alleged breaches of an equipment procurement contract. Oral evidence given in September 2010 (Engaged by respondent, expert and consultant).

Maersk Olie, Algeriet A/S v Peoples Republic of Algeria: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (June 2010, May 2011) on the fair market value of hydrocarbon rights that were lost as a consequence of windfall tax legislation passed by the government. The case settled before an oral hearing on the merits with Claimant receiving US\$ 2.2 billion in additional oil over the life of the contract (Engaged by claimant, expert and consultant).

Rozukrenergo AG v NJSC Naftogaz of Ukraine: (*Breach of Contract, SCC*); Finalized an expert report (April 2010) quantifying the fair market value of 11 billion cubic meters of natural gas in underground storage facilities in Ukraine. (Engaged by respondent, expert and consultant).

British Petroleum America Production Company v Repsol YPF S.A. (*Breach of Contract, AAA*); Prepared an expert report (March 2010) quantifying the losses claimant suffered due to alleged breaches of a contract involving LNG supplies from Trinidad & Tobago to Spain. The case settled before an oral hearing on the merits (Engaged by claimant, expert and consultant).

HICEE B.V. v Slovak Republic: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared an expert report (February 2010) on the fair market value of two health insurance companies operating in the Slovak healthcare market following new legislation which rendered them not-for profit companies. The tribunal rejected jurisdiction in the arbitration (Engaged by claimant, expert and consultant).

Anadarko Algeria Company LLC & Maersk Olie, Algeriet AS v Sonatrach S.P.A.: (*Breach of Contract Dispute, UNCITRAL*); Prepared two expert reports (February 2010, December 2010) on the fair market value of interests held by Claimants in a production sharing

agreement for the exploration and exploitation of liquid hydrocarbons in Algeria. Oral evidence given in July 2011. The case settled before the issuance of an award with Claimants receiving US\$ 6.6 billion in additional oil over the life of the contract (Engaged by claimant, expert and consultant).

Quimica e Industrial del Borax Ltda. and others v. Republic of Bolivia: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (September 2009, August 2013) on the fair market value of a non-metallic mining concession in Bolivia that was the subject of an expropriation decree. Oral evidence given in October 2013 (Engaged by claimant, expert and consultant).

Concesionaria Dominicana de Autopistas y Carreteras, S.A. v Dominican Republic: (*Breach of Contract Dispute, ICC*); Prepared three expert reports (June 2009, December 2009, July 2010) quantifying the fair market value of a toll road concession and the losses claimed by Claimant and Respondent due to delays in the completing the construction of a toll road and critiquing claimant's damages analysis. Oral evidence given in November 2010. The tribunal ruled in favor of Claimant, but relied upon our evidence and awarded US\$ 35 million (Engaged by respondent, expert and consultant).

Murphy Exploration and Production Company International v Republic of Ecuador: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared three expert reports (March 2009, January 2010, and September 2012) valuing Claimant's interest in various oil fields in the Republic of Ecuador under the assumption that a law, which significantly reduced the profitability of the oil production activities, was a breach of the relevant BIT (Engaged by claimant, expert and consultant).

Chevron Corporation and Texaco Petroleum Company v. Republic of Ecuador: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared two expert reports (April 2008, November 2008) on the losses suffered in the oil production industry in the Republic of Ecuador for an alleged denial of justice claim. Oral evidence given in April 2009. The tribunal provisionally awarded Claimants US\$ 699 million subject to adjustment in a further proceeding on taxes and interest (Engaged by claimant, expert and consultant).

Carpatsky Petroleum Corporation v OJSC Ukrnafta: (*Breach of Contract, SCC*); Prepared two expert reports (December 2008 and August 2009) quantifying the value of a natural gas field in Ukraine and the damages allegedly suffered by claimant for being denied the right to fully participate in the co-development of the field. Oral evidence given in September 2009. Claimant was awarded US\$ 145.7 million for its interest in the gas field (Engaged by Claimant, consultant and expert).

Electrabel S.A. v Republic of Hungary: (*Energy Charter Treaty Dispute, ICSID*); Prepared two expert reports (May 2009 and December 2009) regarding the historical profitability of



a regulated power generator in the Republic of Hungary to assess the economic justification of a rate cut. Oral evidence given in February 2010. The tribunal agreed with our analysis which justified the rate cut (Engaged by Respondent, expert and consultant).

Mercuria Energy Group Limited v Republic of Poland: (*Energy Charter Treaty Dispute, Stockholm Chamber of Commerce*); Submitted two expert reports (April 2009, October 2010) quantifying the fair market of a wholesale fuel business in Poland and the related damages suffered by one of the largest independent energy traders due to the imposition of a fine on the Claimant's. Oral evidence given in February 2011. The tribunal found that Respondent had not breached the ECT (Engaged by Claimant, expert and consultant).

Grand River Enterprises Six Nations, Ltd., Jerry Montour, Kenneth Hill, and Arthur Montour Jr. v United States of America: (*NAFTA Chapter 11 Dispute, UNCITRAL*); Prepared two expert reports (December 2008, April 2009) on the fair market value of a tobacco manufacturing enterprise and its US distributor, as well as the impact of certain regulatory actions on those values, before a NAFTA arbitration panel. Claimant declined cross examination. Damages sought exceed US\$250 million. All claims were dismissed on jurisdictional grounds or the merits (Engaged by Respondent, consultant and expert).

Abaclat et al. v Argentine Republic: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared five expert reports (November 2008, May 2009, November 2012, July 2013, and November 2013) regarding the manner in which data was gathered, organized, and analyzed for more than 180,000 Italian investors in defaulted Argentine bonds. Third report quantified the losses the remaining 60,000 claimants suffered as a consequence of Argentina's alleged breaches of a BIT. Oral evidence given in April 2010. The tribunal upheld jurisdiction and agreed with our testimony that the data was sufficiently organized to proceed with a mass claim (Engaged by Claimants, consultant and expert).

Chemtura v Canada: (*NAFTA Chapter 11 Dispute, UNCITRAL*); Prepared an expert report (October 2008) on the fair market value and alleged losses suffered by an investor in agricultural pesticide products after the product was de-registered following a scientific review of its safety. Oral evidence given in September 2009. Damages sought exceeded US\$ 80 million. The tribunal found Canada not liable for breaches of the NAFTA (Engaged by Respondent, consultant and expert).

AES Summit Generation Limited and AES Tisza Erömű Kft v Republic of Hungary: (*Energy Charter Treaty Dispute, ICSID*); Prepared two expert reports (July 2008, February 2009) on the financial performance of a regulated electric utility from its privatization in 1996 to 2007 to assess the economic justification of a rate cut. Oral evidence given in March 2009. Damages sought exceeded US\$ 20 million. The tribunal reached a

conclusion consistent with our financial evidence that the utility was generating excessive profits, thus justifying a reduction in its capacity fees (Engaged by Respondent, expert and consultant).

Piero Foresti, Laura De Carli and others v. Republic of South Africa: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared three expert reports – a commercial report assessing the impact of the Mineral and Petroleum Resources Development Act and other legislation on the granite producing industry in South Africa; and two reports concerning the impact of the legislation on the fair market value of two major granite producing companies in South Africa (July 2008). Damages sought exceeded US\$ 50 million. The case was withdrawn by Claimants after their applications for new order mining rights was approved and other matters agreed upon with the Department of Minerals and Energy (Engaged by Claimants, expert and consultant).

Sergei Paushok, CJSC Golden East Company, and CJSC Vostokneftgaz Company v The Government of Mongolia: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared two expert reports (July 2008, November 2008) evaluating the cost structure of a gold mining company and the impact of windfall tax legislation on the company. Oral evidence given in April 2009. The tribunal sustained one liability claim, but claimant did not pursue a damages phase for the claim (Engaged by claimant, expert and consultant).

Electroandina S.A. (Chile) v YPF S.A. (Argentina): (*Breach of Contract, ICC*); Prepared an expert report quantifying the contractual damages suffered due to an alleged breach of a long-term natural gas supply contract. The case was withdrawn by claimant before submitting its written pleading (Engaged by Claimant, expert and consultant).

Walter Bau AG v Kingdom of Thailand: (*Bi-lateral Investment Treaty Dispute, UNCITRAL*); Prepared two expert reports (May 2008, August 2008) on the losses allegedly suffered by a German investor on a build, operate, and transfer toll road project in a Bangkok. Oral evidence given in October 2008. Damages sought exceeded € 120 million. The tribunal awarded Claimant €29 million plus interest from November 2006 based upon a joint calculation from the experts (Engaged by Respondent, expert and consultant).

Ioannis Kardassopoulos v Georgia: (*Energy Charter Treaty & Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (January 2008, July 2008) on the valuation of a mixed capital oil pipeline company and a state-owned pipeline management company as estimates for an investor's losses for alleged breaches of the ECT and BIT. Oral evidence given in March 2009. The tribunal awarded Claimant 100 percent of the amount set forth in our reports (Engaged by Claimant, expert and consultant).

Ron Fuchs v Georgia: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (January 2008, July 2008) on the valuation of a mixed capital oil pipeline company

and a state-owned pipeline management company as estimates for an investor's losses for alleged breaches of a BIT. Oral evidence given in March 2009. The tribunal awarded Claimant 100 percent of the amount set forth in our reports (Engaged by Claimant, expert and consultant).

Rumeli Telecom A.S. & Telsim Mobil Telekomunikasyon Hizmetleri A.S. v Republic of Kazakhstan: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (May 2007) on the valuation of a mobile telecommunications company in Kazakhstan. Damages sought exceeded US\$ 300 million. We opined the company was insolvent and poorly run by Claimant and valued Claimant's shares at US\$ 0 under a liquidation analysis. Oral evidence given in October 2007 (Engaged by Respondent, expert and consultant). The tribunal issued an award concurring with our financial assessment of the company and its management, but awarded Claimant US\$ 125 million for its shares without supporting analysis.

Saluka Investments B.V., Nomura Principle Investment plc, and the Czech Republic (*Settlement Procedure Related to the Arbitrations Concerning the Collapse of IP banka*); Appointed as a valuation expert by the Czech Republic to prepare an expert report on the restructuring and valuation of IP banka a.s. (April 2007) under the settlement terms agreed between the parties for submission to an arbitral tribunal. Oral evidence given in March/April 2008. Claimant's valuation was CZK 68.4 billion and our valuation was CZK 27.4 billion. The Tribunal's award set the value at CZK 34.2 billion.

Cargill, Inc. v. United Mexican States: (*NAFTA Chapter 11 Dispute, ICSID AF*); Prepared two expert reports (December 2006, June 2007) quantifying the value of Claimant's high fructose corn sweetener ("HFCS") investments in Mexico and the related losses it suffered following various governmental acts which reduced the demand for HFCS in Mexico. Damages sought exceed US\$ 100 million. Oral evidence given in October 2007 (Engaged by Claimant, expert and consultant). The tribunal adopted our damages model and made 3 modifications which reduced damages to US\$ 77,329,240 (plus pre-award interest). This is the largest award under NAFTA Chapter 11 to date.

EDF (Services) Limited v Romania: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared two expert reports (October 2006, March 2008) regarding the value of a concession to operate the commercial spaces in Romania's international airports and the damages allegedly sustained by the former concession holder from the United Kingdom. Damages sought exceed \$80 million. Oral evidence given in September 2008. The tribunal issued a decision finding Romania not liable on all counts (Engaged by Respondent, expert and consultant).

Glamis Gold, Ltd v. United States of America: (*NAFTA Chapter 11 Dispute, UNCITRAL*); Submitted three expert reports (September 2006, March 2007, August 2007) on the fair

market value of a gold mining project in California at three different points in time. Claimant alleged the mining licenses were indirectly expropriated when new reclamation regulations affecting metallic mining were passed in 2002. Damages sought were US\$ 50 million. Oral evidence given in August 2007. We opined the mining claims were still worth US\$ 21.5 million immediately after the new regulations. The tribunal dismissed the expropriation claim finding the mining claims were still worth “more than US\$ 20 million” (Engaged by respondent, expert and consultant).

United Coal Company v Gerdau S.A.: (*Breach of Contract Dispute, ICDR*); Provided expert and consulting services regarding alleged breaches of a coal supply agreement. Case was amicably settled before any pleadings were exchanged (Engaged by respondent, expert and consultant).

Azpetrol International Holdings, Azpetrol Group & Azpetrol Oil Services Group v Republic of Azerbaijan: (*Energy Charter Treaty Dispute, ICSID*); Retained as the quantum expert to value an oil services and retail fuel distribution company that was allegedly expropriated by the Republic of Azerbaijan. The parties settled after a hearing on jurisdiction (Engaged by Claimant, expert and consultant).

I&I Beheer B.V. v Bolivarian Republic of Venezuela: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an expert report (September 2006) analyzing certain financial instruments allegedly issued by an agricultural bank in the early 1980s and critiquing the calculation of investment losses claimed by a Dutch investor in those financial instruments. Damages sought exceed US\$ 400 million. Case was discontinued after Claimant failed to file a Reply Memorial on the merits (Engaged by respondent, expert and consultant).

Técnicas Reunidas, S.A. and Eurocontrol, S.A. v Republic of Ecuador: (*Bilateral Investment Treaty Dispute, ICSID*); Prepared an initial quantification of the losses suffered by an engineering consulting firm contracted to overhaul the Esmeraldas oil refinery in Ecuador. Case settled before proceeding to the pleadings stage (Engaged by claimant, expert and consultant).

Plama Consortium Limited v. Republic of Bulgaria: (*Energy Charter Treaty Dispute, ICSID*); Prepared two expert reports (July 2006, July 2007) on the financial performance, turnaround strategy, and fair market value of an oil refinery that was allegedly expropriated through various acts of the State before the International Center for Settlement of Investment Disputes. Damages sought exceeded \$300 million. Oral evidence given in February 2008. The tribunal rejected all of claimant's legal claims and reached a view consistent with our view that claimant's business and financial strategy was flawed and that strategy caused the investment's failure (Engaged by respondent, expert and consultant).

Nreka v. Czech Republic: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Prepared four expert reports (June 2006, August 2006, October 2007, November 2007) on the value of commercial property in Prague, Czech Republic and the alleged economic harm suffered by a Croatian investor due to the cancellation of certain leasing arrangements before an ad hoc arbitral tribunal employing the UNCITRAL rules of arbitration. Damages sought were approximately US\$ 1.7 million. Oral evidence given in October 2006 and February 2008. We opined that damages correctly calculated would be US\$ 0.5 million. The tribunal issued an award for approximately US\$ 1.25 million (Engaged by respondent, expert and consultant).

Duke Energy International Peru Investments No. 1, Ltd v. Republic of Peru: (*Legal Stability Agreement Dispute, ICSID*); Prepared two expert reports (June 2006, December 2006) on the effect certain tax regulations had on the value of various assets in the electricity sector of Peru that were privatized and the consequential damages resulting from a change in such regulations to an investor in the power generation sector before the International Center for Settlement of Investment Disputes. Damages sought exceed US\$ 35 million. Oral evidence given in May 2007 (Engaged by claimant, expert and consultant). The tribunal issued an award in favor of Claimant for US\$ 20 million on one of its two claims and accepted our calculation of Claimant's loss on the successful claim without adjustment.

CIT Group, Inc. v. Argentine Republic: (*Bilateral Investment Treaty Dispute, ICSID*);

Submitted two expert reports (October 2005, February 2008) quantifying the fair market value a leasing enterprise in the Argentine Republic in the aftermath of its economic crisis before the International Center for Settlement of Investment Disputes and

claimant's investment losses in that enterprise. Damages sought exceed US\$ 100 million. Claimant and Respondent agreed to discontinue the arbitration in May 2009 (Engaged by claimant, expert and consultant).

Duke Energy Electroquil Partners and Electroquil S.A. v. Republic of Ecuador: (Bilateral Investment Treaty Dispute, ICSID); Submitted two expert reports (August 2005, January 2006) quantifying the claimant's investment losses in a diesel-fired power plant in Ecuador due to Ecuador's alleged default on a sovereign guarantee and contract mishandling before the International Center for Settlement of Investment Disputes. Damages sought exceed US\$ 25 million. Oral evidence given in April 2006 (Engaged by claimant, expert and consultant). The tribunal issued an award in favor of Claimant on some of its claims and awarded damages exceeding US\$ 10.7 million.

The National Property Fund of the Czech Republic and the Czech Republic v. Nomura Principal Investment plc: (Share Purchase Agreement Dispute, Zurich Chamber of Commerce); Prepared two expert reports (August 2005, December 2005) on behalf of the Czech Republic regarding the costs to transform the Czech banking sector in its transition to a market economy with emphasis on the cost to bailout the third largest Czech bank after its collapse. Total damages sought by Claimants exceeded US\$ 5 billion. Oral evidence given in April 2006 (Engaged by claimant, expert and consultant). The case settled before an award was issued

UEG Araucaria Ltda. v. Companhia Paranaense de Energia: (Breach of Power Purchase Agreement, ICC); Prepared two expert reports (May 2005, December 2005) for the International Court of Arbitration on the value of a gas-fired thermal power plant in the Brazilian state of Parana and losses sustained by a consortium of investors contracted to build it. Damages sought exceeded US\$ 2 billion. Oral evidence given in January 2006 (Engaged by claimant, expert and consultant). The case settled before an award was issued.

Saluka Investments B.V. v. Czech Republic: (Bilateral Investment Treaty Dispute, UNCITRAL); Prepared two expert reports (February 2005, March 2005) to an arbitral tribunal organized by the Permanent Court of Arbitration on the cause of failure for a large Czech financial institution. Damages sought were estimated at US\$ 1.4 billion. Oral evidence given in April 2005. (Engaged by respondent, expert and consultant). The case settled before a damages phase was scheduled.

Noble Ventures v. Romania: (Bilateral Investment Treaty Dispute, ICSID); Prepared and submitted two expert reports (January 2004, August 2004) on the failed privatization and value of a steel mill operation in defense of an expropriation claim brought by a US investor before an arbitral tribunal established under the International Center for Settlement of Investment Disputes. Damages sought exceeded US\$ 400 million. Oral



evidence given in October 2004. The tribunal issued an award in favor of Romania on all counts. (Engaged by respondent, expert and consultant).

GAMI Investments v. United Mexican States: (NAFTA Chapter 11 Dispute, UNCITRAL); Prepared and submitted two expert valuation reports (February 2003, February 2004) on behalf of a US investor to a NAFTA arbitral tribunal on the valuation of a minority stake in a company operating five sugar refineries in Mexico. Damages sought exceeded \$25 million. Claimant did not prevail on the merits in part because the Mexican Supreme Court declared the expropriation unconstitutional and ordered the government to return the sugar mills before the oral hearing in the NAFTA arbitration. Attended hearing, but was not called to provide oral evidence (Engaged by claimant, expert and consultant).

Victor Pey Casado and the President Allende Foundation v. Republic of Chile: (Bilateral Investment Treaty Dispute, ICSID); Prepared two expert reports (January 2003, March 2003) on behalf of the Republic of Chile on the 1973 value of an expropriated newspaper company before the International Center for Settlement of Investment Disputes. Damages sought were US\$ 515 million. Our damages calculation was US\$ 7 million plus 5.8 percent interest. The tribunal found in favor of Claimant on liability and awarded US\$ 10 million plus 5 percent interest. Not called to provide oral evidence. Provided a third expert report (October 2008) regarding Claimant's Request for Revision. The damages award was subsequently annulled (Engaged by respondent, expert and consultant).

Ceskoslovenska obchodni banka v. Slovak Republic: (Bilateral Investment Treaty Dispute, ICSID); Assisted in the preparation of two expert reports (August 1999, October 2001) on accounting and valuation issues associated with the restructuring of the third largest bank in the Czech Republic and quantified the amounts owed to the bank by the Slovak Republic due to their participation in the restructuring. Expert reports were submitted to arbitral tribunal established under International Centre for the Settlement of Investment Disputes. Award issued (December 2004) in Claimant's favor for \$877 million in damages and costs (Engaged by claimant, consultant only).

MTD Equity Sdn. Bhd. and MTD Chile S.A. v Republic of Chile: (Bilateral Investment Treaty Dispute, ICSID); Advised the Ministry of Economy of the Republic of Chile regarding the proper amount due to the Claimant given the tribunal's award on the merits and quantum (Engaged by Respondent, consultant).

Invesmart v Czech Republic: (Bilateral Investment Treaty Dispute, UNCITRAL); Provided consulting services regarding the hypothetical restructuring and valuation of a Czech commercial bank that was the 5<sup>th</sup> largest in the country before it failed (Engaged by Respondent, consultant only).

RDEVCO, L.L.C. v Tanzania Electric Supply Company, Ltd. (*Breach of Contract Dispute, ICC*); Providing consulting services regarding the alleged breach of a power offtake agreement for an emergency 100MW natural gas fired power project in Tanzania. (Engaged by Respondent, consultant only).

United States of America v Government of Canada: (*Trade Dispute, LCIA*); Retained in a state to state arbitration to provide an expert report on the quantum of compensatory adjustments that should be paid due to a breach of a trade settlement agreement over softwood lumbers exports from Canada to the United States. (Engaged by Claimant, consultant only).

Investor v European State: (*Energy Charter Treaty Dispute, ICSID*); Finalized an expert report quantifying the impact of construction delays and incremental permit restrictions on the fair market value of a 1,700 MW coal-fired power plant. Prior to claimants' submission of its Memorial on the merits, the case was settled (Engaged by Claimant, expert and consultant).

Investor v North African State: (*Bilateral Investment Treaty Dispute*); Advising an investor on the fair market value of natural gas infrastructure and other losses (Engaged by claimant, expert and consultant).

North American Investor v South American State: (*Bilateral Investment Treaty Dispute*); Prepared a preliminary report on the fair market value of exploration property containing metallic resources. (Engaged by claimant, expert and consultant).

Investor v South American Government: (*Bilateral Investment Treaty Dispute, ICSID*); Providing expert and consulting services regarding the fair market value of a coffee roasting and distribution enterprise subject to alleged violations of a BIT (Engaged by claimant, expert and consultant).

Investor v CI State: (*Energy Charter Treaty and Bilateral Investment Treaty Dispute*); Providing expert and consulting services regarding the fair market value of manufacturing plants subject to various measures allegedly in violation of a BIT. (Engaged by claimant, expert and consultant).

Asia Investor v South American State: (*Bilateral Investment Treaty Dispute*); Providing expert and consulting services regarding the value of metallic mine. (Engaged by claimant, expert and consultant).

Investor v State: (*North American Free Trade Agreement Chapter 11 Dispute, UNCITRAL*); Providing expert and consulting services regarding affected investments in the pharmaceutical sector. (Engaged by respondent, expert and consultant).



Asian Investor v Asian State: (Bilateral Investment Treaty Dispute); Providing expert and consulting services regarding the value of a telecommunications enterprise. (Engaged by claimant, expert and consultant).

Barbados Investor v South American State: (Bilateral Investment Treaty Dispute); Providing expert and consulting services regarding investments in an oil field (Engaged by claimant, expert and consultant).

Eastern Europe Investors v Eastern Europe State: (Bilateral Investment Treaty Dispute); Providing expert and consulting services regarding affected investments in the banking services sector. (Engaged by claimants, expert and consultant).

CORFO v RWE Thames Water: (Shareholder Agreement Dispute); Provided an analysis of the diminution in value of the shares of Essbio (the third largest water works company in Chile) on behalf of CORFO (the state business development agency in Chile) to resolve a shareholder dispute between CORFO and RWE Thames Water following an investigation into contract irregularities. The analysis indicated a loss of value to CORFO of at least US\$ 11.7 million. The arbitration was settled via a payment from RWE Thames Water for US\$ 11.1 million.

Slovakia Bankruptcy Proceeding: (Breach of Contract); Prepared a loan valuation report (January 2000) on behalf of Ceskoslovenska obchodni banka for a bankruptcy court in Slovakia to quantify a bank's claims against its insolvent client. (Engaged by claimant, consultant)

Government of Guatemala: (Privatization); Provided valuation expertise, due diligence support and bid package construction in the 1997 privatization of the national phone company in Guatemala – Guatel.

Ministry of Finance Guarantee: (Post-privatization Assistance); Reviewed and verified an Eastern European bank's loan accounting for a defaulted loan. The review was used as the basis for the issuance of an amended sovereign guarantee over the loan. The original guarantee was required by a strategic foreign investor seeking to purchase the government's majority shareholding in the bank.

#### **Expert Engagements in US Litigation or Arbitration**

Mr. Kaczmarek has served as financial expert and consultant in the following US litigations and/or arbitrations:

Tiffany & Company and Tiffany (NJ) LLC v Costco Wholesale Corporation: (Trademark Infringement); Prepared an expert report (November 2013) quantifying the economic

benefits enjoyed by defendant for its use of the Tiffany name in marketing and selling engagement rings. Deposed in November 2013.

Hex Partners, et al. v. Mason N. Carter, Edward H. Cohen, Fernando L. Fernandez, Joel H. Goldberg, Ludwig, G. Kuttner, Timothy P. McCann, Arthur A. Oliner, Harold A. Raveche, Merrimac Industries, Inc., and Crane Co.: (*Breach of Fiduciary Duty, Superior Court of New Jersey*); Prepared an expert report (September 2012) regarding the comparability of a bid and indication of interest to acquire a public company. Deposition taken in 2012. Case settled shortly thereafter (Engaged by defendants, expert and consultant).

Chevron Corporation v. Stephen Donziger, et. al.: (*RICO, Southern District of New York*); Prepared an expert report (July 2011) on the history of the oil industry in the Republic of Ecuador and proportion of value the Republic of Ecuador reaped from the first oil find. Deposition not taken. (Engaged by plaintiff, expert and consultant).

Metamor Worldwide v. Peter Noce, et al.: (*Breach of Contract, Eastern District of Virginia*); Submitted an expert valuation report on the fair market value of a content website, eBusiness consulting firm and telecommunications consulting firm. Deposition taken in 2000. (Engaged by defendant, expert and consultant)

Columbia/HCA v. Texas Workers Compensation Commission: (*Breach of Contract, Eastern District of Texas*); Provided expert testimony on the amount of unpaid workers compensation claims for fifty hospitals over 6 years after a legislative change to the reimbursement formula for providers was subsequently determined to be unconstitutional. Deposition taken in 2000 (Engaged by plaintiff, expert and consultant)

#### **Consulting Engagements in Domestic Litigation**

Mr. Kaczmarek has served as a financial consultant in the following US litigations and/or domestic arbitrations:

GTE v Worldcom: (*Antitrust Claim*); Evaluated and quantified the cost synergies for the planned merger of the second and third largest U.S. long-distance providers in an attempt to prove the merger would not result in lower prices for consumers (Engaged by claimant).

Internet Backbone Transaction: (*Post-Acquisition Dispute*); Helped rebut a multi-million dollar claim for lost business value in a dispute related to the divestiture, sale and transfer of a large internet backbone (Engaged by defendant).

Water Utility Investment Analysis: (Breach of Fiduciary Duty); Valued several interest rate swaps and assessed the cash flow impact of selling those swaps for a Southern California Water District to rebut claims by the water district that advice given by an investment bank constituted a breach of fiduciary duty. (Engaged by defendant).

Investment Pool Analysis: (Breach of Fiduciary Duty); Performed duration calculations on several exotic fixed income securities to measure the risk and leverage factors for a large Southern California County investment pool. The analysis was used to demonstrate the imprudent management of the pool by the fund manager. (Engaged by defendant).

CSU, et al v. Xerox: (Antitrust Claim); Analyzed the claims of more than 2 dozen independent service organizations against Xerox for monopolizing the service market of high speed copiers and printers by controlling the distribution of replacement parts. The case is often cited as a landmark case in intellectual property rights v. antitrust behavior. (Engaged by defendant).

Xerox v. CSU: (Intellectual Property Dispute); Developed an expert report on damages suffered by Xerox for patent infringement against replacement parts, trade secret violations for password and theft, and copyright infringement for software and user manual theft and reproduction. (Engaged by claimant).

Plaintiff v. Senior PGA Tour: (Antitrust Claim); Prepared an expert report on behalf of the Senior PGA TOUR to a Federal Court that defined the relevant market for senior professional golfers and refuted allegations by a player that the rules and practices of the TOUR were anticompetitive (Engaged by defendant).

Columbia Central Florida Laboratory v. Winter Park Healthcare Group: (Breach of Contract); Supported a Florida hospital in defense of a breach of contract dispute regarding the termination of outpatient laboratory billing contracts (Engaged by defendant).

Diesel Engine Manufacturer Dispute: (Predatory Pricing Claim); Conducting cost accounting analysis to assist a U.S. diesel engine manufacturer refute allegations that its sales prices were predatory in the Southern California market.

Gedeon Wales, et al. v. Jack M. Berry, Inc.: (Breach of Contract); Reviewed the accounting records for more than 500 migrant workers and prepared an analysis and expert report on the underpayment of wages and bonuses to those workers over three harvest seasons (Engaged by claimants).

Electronics Dispute: (Antitrust Claim); Analyzed and defined the relevant product market for a global manufacturer of polymeric-positive temperature coefficient devices to refute allegations of anti-competitive behavior (Engaged by defendant).

## **Investigations**

Anti-Money Laundering Investigation: (*Violations of AML and BSA Regulations*); Recovered millions of transactions in deposit, trust and securities accounts for Embassy and international banking clients of a troubled Washington D.C. bank and evaluated those accounts and transactions for suspicious activity as required by a consent order issued by the Office of the Comptroller of the Currency.

DOJ / OIG Investigation: (*Medicare and other Federal Health Program Fraud*); Assisted Columbia/HCA, an owner of more than 300 acute care hospitals in the US, develop strategies, quantify exposure, and negotiate settlements regarding Medicare and other governmental program claims of fraud brought by the Department of Justice, Office of Inspector General and the Department of Health & Human Services. (Engaged by defendant)

DOJ / DEA Investigation: (*Narcotics Inventory Violations*); Developed financial models and forecasts for a national institutional pharmacy company to help assess bankruptcy risk and successfully negotiated a federal fine on behalf of the company for DEA violations stemming from improper oversight of narcotics inventories.

Medicare Cost Report Review: (*Medicare Reimbursement Assessment*); Reviewed aspects of the reimbursement received by more than 300 hospitals over 5 years in an effort to resolve how much money CMS owed the hospital system due to delayed audits pending a fraud review (Engaged by claimant).

Puerto Rico Department of Health: (*Fraud Investigation*); Evaluated the enrollment policies and procedures of the Puerto Rico Medicaid office and investigated more than 500,000 Medicaid beneficiaries applications for fraud. The review found that more than 100,000 beneficiaries were fraudulently receiving services. Those beneficiaries were removed from the program saving the DOH millions of dollars in monthly premiums (Engaged by claimant).

Health Plan Revenue Recovery: (*Underpayment Analysis*); Developed and executed a methodology to assist more than a dozen Health Maintenance Organizations recover years of unpaid premiums (total recoveries exceed more than \$120 million to-date) from the Federal Employee Health Benefits Program. Findings led to a contractual revisions between all health plans participating in the program (Engaged by claimants).

Medicare Reimbursement Reviews: (*Revenue Assessment*); Reviewed low-income patient statistics for more than 30 Puerto Rico hospitals to determine if the hospitals had been properly reimbursed by Medicare. Reviews led to more than \$15 million in additional revenue recoveries (Engaged by claimants).

Medical Device Manufacturer: (*Failed Technology Implementation*); Assisted an international medical device and software company perform an internal review of its implementation services for intensive care monitoring devices by independently reviewing the facts surrounding the failed implementation.

Loan Review: (*Fraud Investigation*); Performed a financial review of a \$12 million dollar loan portfolio for a regional bank accusing its contracted service agent of improperly disposing of loan assets and other fraudulent activities.

Real Estate Partnership Review: (*Fraud Investigation*); Assisted a Texas law firm in uncovering fraudulent activities of several wealthy Mexican investors that siphoned millions of dollars from the limited partners of a real estate partnership.

#### **Other Management Consulting Assignments**

Provided troubled company and turn-around management consulting to a global manufacturer of co-generation plants and valve and fitting devices and successfully secured critical financing needed to avoid bankruptcy.

Provided advice to a national trade association in valuing an internet software division and assisted management in making strategic decisions regarding the future of the division.

Developed a management reporting system to help two large hospitals reduce operating costs and improve profitability.

Prepared a statistical sampling plan to be used annually in determining both profitability and taxable income for a trade association with for-profit and non-profit activities.

Assisted the nation's largest long-distance telecommunications company in analyzing and streamlining departmental functions within the environmental health and safety division.

Identified and measured an appropriate cost base to calculate landing fees at a major U.S. international airport.

Conducted annual surveys of lodging rates for the General Services Administration in more than 500 markets nationwide to determine the appropriate rates to reimburse government employees traveling on official business such that a sufficient level of room supply is available each night to meet overall demand.

### **Speaking Engagements**

*Dealing with Damages in International Arbitration: International Bar Association* – Panelist in a mock arbitration about dealing with damages issues – October 2011.

*Damages in ICSID Arbitrations* – Prepared a presentation to the ICSID Secretary and senior counsel on ideas the institute could undertake to improve how damages are dealt with in ICSID arbitrations – February 2010

*Asia Pacific Economic Communities: Workshop on Investor-State Arbitration* – Panelist discussing methods of approaching compensation and damages – November 2008.

*Damages in International Arbitration: Strategies, Techniques & Presentation* – 19<sup>th</sup> Annual ITA Workshop organized by the Institute for Transnational Arbitration and the Center for American and International Law – June 2008.

*Remedies in Commercial, Investment and Energy Arbitrations* – Panelist at the Conference sponsored by the University of Texas School of Law, the Permanent Court of Arbitration, and the Houston Arbitration Club – April 2008.

*The Role of the Quantum Expert in International Arbitration* – Guest lecturer at Georgetown University Law School – December 2006 and November 2007

*Applying the Unity of the Investment Principle to Determine Compensation for Complex Investments* - International Bar Association, Investment Treaty Workshop – September 2006

*Compensation for Non-Expropriatory Treaty Violations: An Analytical Framework* - International Investment Law at a Crossroads, Harvard Law School – March 2006

*Quantum Matters in International Investment Arbitration*, The Hague, Netherlands – June 2005

*Medicare's Improper Application of Section 1886 of the Social Security Act Pertaining to Puerto Rico Hospitals*, Simposio Anual Del Sector Salud de Puerto Rico, March 2005

*Valuing International Investments*, Washington DC Bar Association – October 2004

### **Technical Competencies**

Proficient in relational database packages such as MS SQL Server, Microsoft Access, FoxPro, and Paradox.

Proficient in data mart or cube technologies such as QueryObject Systems and Microsoft OLAP Services.

Familiar with object oriented programming languages including VBA and PAL. Also familiar with VB 6.0 and C++, HTML, Java, VB Script, and Active Server Pages.



## Gerard E. Maglio, MBA

### Gerard E. Maglio

Director

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### Service lines

International Arbitration  
Litigation & Investigations  
Financial & Claims

### Education

Masters of Business Administration  
Stern School of Business  
New York University  
Concentration in Finance and  
Economics

Bachelors of Science  
McDonough School of Business  
Georgetown University  
Concentration in Finance

Trinity College  
Oxford University  
Tutorial in European Business

### Professional Credentials & Memberships

May 2005  
District of Columbia Bar Association  
Attorney / Client Arbitration Board  
Arbitrator

September 1998  
Association of Certified Fraud  
Examiners, Member

### Employment

Navigant Consulting, Inc.  
2002 to present

Arthur Andersen LLP  
1997 to 2002

Mr. Maglio is a Director in the Washington DC Disputes and Investigations practice of Navigant Consulting. Mr. Maglio has served both international and domestic clients involving issues such as banking, financial investigations, business valuation, accounting and economics. Mr. Maglio's foreign investment and financial consulting has included corporations, foreign nationals, and sovereigns in the United States as well as Central and Eastern Europe, South America, and the Caribbean. Mr. Maglio received his Masters of Business Administration with a concentration in Finance and Economics from New York University and his Bachelors of Science in Finance from Georgetown University.

### *International Arbitration and Investigation*

Luigiterzo Bosca v. Republic of Lithuania: (Bilateral

Investment Treaty Dispute); Prepared two expert reports regarding alleged discrimination by the Republic of Lithuania during the privatization of a winery.

Flughafen Zürich A.G. and Gestión e Ingeniería IDC S.A. v. Bolivarian Republic of Venezuela: (Bilateral Investment Treaty Dispute, ICSID); Prepared an expert report regarding the value of an airport project at the second largest airport in Venezuela that was subject to various treaty violations.

Italia Ukraina Gas S.p.a v NJSC Naftogaz of Ukraine: (Breach of Contract, SCC); Drafted an expert report (June 2011) concerning the gas trade between Russia and Europe and determined the appropriate price of possible gas exports from Ukraine at the western border with Slovakia.

Petrobras America Inc v Larsen Oil & Gas Limited (Breach of Contract, ICC); Quantified liquidated damages and "cover cost" claims related to the failure of Respondent to deliver a deep seas oil drilling rig in accordance with the terms of the Drilling Contract.



Sojitz Corporation v Prithvi Information Solutions Limited (*Breach of Contract, LCIA*); Drafted an expert report refuting a damages claim and quantifying a counter-claim regarding the alleged breach of a procurement contract for the provision of telecommunications equipment from a Japanese trade financing company.

Yemen Company for Mobile Telephony – Sabafon v. Republic of Yemen (*UNCITRAL Arbitration Rules*); Represented the Republic of Yemen in a dispute alleging that Yemen has breached its obligations under Yemen’s Investment Law by repudiating Sabafon’s tax rights and allegedly offering preferential treatment to Yemen Mobile, a competitor to Sabafon in the wireless mobile phone market.

Rozukrenergo AG v NIS Naftogaz of Ukraine: (*Breach of Contract, SCC*); Drafted an expert report quantifying the value of 11 billion cubic meters of natural gas in underground storage facilities in Ukraine on behalf of the state owned natural gas company.

HICEE B.V. v Slovak Republic: (*Bilateral Investment Treaty Dispute*); Led a team in the preparation of an expert report and damages analysis totaling over US\$ 1 billion related to the valuation of two health insurance companies operating in the Slovak healthcare market following new legislation which rendered them not-for profit companies.

Chemtura Corporation v. The Government of Canada: (*Multilateral Investment Treaty Dispute*); Prepared an expert report on alleged losses suffered by a US investor concerning the manufacturing of crop protection products containing the banned pesticide lindane.

Giovanna A. Beccarra et al. v Argentine Republic: (*Bilateral Investment Treaty Dispute*); Prepared a reply expert report regarding the manner in which data was gathered, organized, and analyzed for more than 180,000 Italian investors in defaulted Argentine bonds.

Electroandina S.A. (Chile) v. YPF (Argentina): (*Breach of Contract*); Prepared an expert report quantifying contractual damages suffered due to alleged breach of a natural gas supply contract for presentation to an ICC Tribunal.

Nreka v. Czech Republic: (*Bilateral Investment Treaty Dispute*); Provided expert testimony on the alleged economic harm suffered by a Croatian investor due to the cancellation of certain leasing arrangements before an ad hoc arbitral tribunal employing the UNCITRAL rules of arbitration.

Plama Consortium Limited v. Republic of Bulgaria: (*Energy Charter Treaty Dispute*); Prepared an expert report on the valuation of an oil refinery that was allegedly expropriated through various acts of the State before the International Center for Settlement of Investment Disputes.

EDF (Services) Limited v Romania: (*Bilateral Investment Treaty Dispute*); Provided financial consulting services regarding the damages allegedly sustained by an investor from the United Kingdom in a project to develop and operate commercial spaces in Romania’s international airports.

Saluka Investments B.V. v. Czech Republic: (Bilateral Investment Treaty Dispute); Investigated the failure of a large Czech financial institution and uncovered its offshore scheme to strip assets from the balance sheet through a complex series of offshore transactions in the Cayman Islands. Prepared expert reports outlining the cause of the failure for an arbitration hearing conducted in front of a Permanent Court of Arbitration tribunal.

National Property Fund of the Czech Republic and the Czech Republic v. Nomura Principal Investment plc and Saluka Investments B.V.: (Share Purchase Agreement Dispute); Prepared an expert report on behalf of the Czech Republic regarding the costs to privatize the banking sector and rescue the third largest bank after a failed privatization for a dispute in front of a Swiss arbitration panel.

Noble Ventures v. Romania: (Bilateral Investment Treaty Dispute); Rebutted a business valuation report presented by a US investor seeking damages related to the alleged expropriation of a steel mill. Prepared an expert report on damages, valuation theory and forensic account review filed with the International Centre for the Settlement of Investment Disputes.

Ceskoslovenska obchodni banka v. Slovak Republic: (Bilateral Investment Treaty Dispute); Valued a portfolio of defaulted upon loans totaling over US\$1 billion arising from the dissolution of the former Czechoslovakia. Prepared expert reports in support of oral testimony provided during arbitration hearings with the International Centre for the Settlement of Investment Disputes.

Victor Pey Casado and the President Allende Foundation v. Republic of Chile: (Bilateral Investment Treaty Dispute); Provided a business valuation of a local newspaper company expropriated from a foreign investor during the 1973 coup against the communist government. Prepared expert reports refuting a damage claim of over US\$350 million filed with the International Centre for the Settlement of Investment Disputes.

GAMI Investments v. United Mexican States: (Multilateral Investment Treaty Dispute); Valued the lost business proceeds owed an international investment firm due to the expropriation of five sugar mills by the government of Mexico. Prepared an expert report in support of future expert testimony for review by the NAFTA tribunal.

Finnish Helicopter Company: (Mediation Proceedings) Computed financial damages incurred by a Finnish commuter helicopter operator after a fatal accident off the coast of Tallinn, Estonia.

Investor v Republic of Hungary: (Energy Charter Treaty Dispute) Providing consulting services regarding power purchase agreements affected by new legislation

Middle Eastern Head of State: Audited the \$45 million refurbishment of a privately owned Boeing 747 aircraft. Drafted expert reports summarizing the costs, cost control procedures, and cost overruns associated with the year-long refurbishment.

### *Financial Institutions*

San Diego City Employees' Retirement System (SDCERS): Investigated allegations of wrongful acts in the management and oversight of the organization's US\$3.6 billion pension plan. Reviewed business documents and financial information to evaluate causes of the US\$1.4 billion under-funding of the plan.

Insolvent North Carolina insurance company: Managed the acquisition process for over US\$2 billion worth of life and annuity business. Supported the National Organization of Life and Health Insurance Guarantee Associations with the solicitation and valuation of bids to assume the insolvent business.

French Reinsurance Company: Audited premiums collected and death benefits paid over a three-year period. Drafted a report detailing conclusions of the audit for an international tribunal and for assistance in commutation negotiations.

Texas insurance company: Evaluated the company's current financial position to determine the risk of the company becoming insolvent and potentially requiring the assistance the National Organization of Life and Health Guaranty Associations.

Insolvent Pennsylvania insurance company: Quantified post-liquidation cash flows and analyzed asset quality of the remaining portfolio. Assisted individual state Guaranty Associations in quantifying exposure related to covered policyholder obligations arising from this insolvency.

### *Domestic Litigation*

Hex Partners v. Mason N. Carter, et al. (Civil Action in the Superior Court of New Jersey): Assisted in the preparation of testimony related to the alleged breach of fiduciary duties of the Board of Directors for a technology company related to the acceptance of a tender offer for the purchase of the company's shares.

Fortune 500 Company: Assisted in the rebuttal of a breach of contract claim brought forth by former employees. Supervised a team of consultants designing financial models to quantify the incremental earnings related to the breach and supported legal counsel during settlement negotiations.

United State's largest for-profit health care company: Refuted allegations related to improper Medicare billing for home-health services. Quantified the annual nation-wide billings related to home-health services for use in settlement negotiations with the Department of Justice.

The Tobacco Industry: Provided litigation support by analyzing and tracking characteristics of all lawsuits brought against tobacco companies during the past 40 years. Supported expert testimony in relation to allegations of industry-wide fraudulent misconduct.

E-Commerce Consulting Company: Refuted a breach of contract lawsuit filed by industry competitors. Analyzed financial performance of all industry competitors to quantify market share assuming the alleged breach never occurred.

Florida Hospital System: Constructed a discounted cash flow valuation of a privately-held phlebotomy business. Supported expert testimony related to the business valuation during American Arbitration Association hearings.

*Financial Services*

U.S. General Services Administration: Conducted a survey of lodging rates in more than 500 markets nationwide to determine the appropriate reimbursement rates for government employees traveling on official business such that a sufficient level of room supply is available to meet overall demand.

## Matthew Shopp

**Matthew Shopp**  
Director

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**Education:**

May 2004  
Masters of Business Administration  
Concentration in Finance  
Pennsylvania State University

May 2003  
Bachelors of Science  
Concentration in Statistics  
Pennsylvania State University

**Employment:**

Navigant Consulting  
2004 to present

Mr. Shopp is a Director in Navigant's Disputes and Investigations practice. His primary focus at Navigant has been in the firm's International Arbitration practice. He advises clients on issues involving business valuation, finance, accounting, and economics in industries such as oil and gas, mining, manufacturing, infrastructure development, telecommunications, consumer products and financial services. He has worked on numerous international arbitrations for corporations, foreign nationals, and sovereign nations in North America, South America, Russia, Central Asia, Central and Eastern Europe, East Asia, and Africa. His experience also includes a number of engagements in the United States and the Middle East with Navigant's government contracting practice. Mr. Shopp received a Master's of Business Administration with a concentration in Finance from the Pennsylvania State University in 2004. He also holds a Bachelor's Degree in Statistics from the Pennsylvania State University.

### International Arbitration

Baggerwerken Decloedt En Zoon NV v The Republic of the Philippines: (*Bilateral Investment Treaty Dispute, ICSID*); Assisted in the preparation of an expert report focused on an evaluation of banking, financial, and operational data associated with a completed dredging project and providing an opinion on the quantification of damages for a second dredging project that ultimately did not move forward. (Engaged by Respondent)

Türkiye Petrolleri Anonim Ortaklığı v Republic of Kazakhstan: (*Energy Charter Treaty Dispute, ICSID*); Assisted in the preparation of an expert report assessing the financial impact of a change in the oil & gas tax regime on an oil producer that is jointly owned by Kazakhstan and Turkey's state oil companies (Engaged by Respondent).

Gambrinus, Corp. v Bolivarian Republic of Venezuela: (*Bilateral Investment Treaty Dispute, ICSID*); Assisted in the preparation of an expert report valuing Claimant's interest in a joint-venture nitrogen fertilizer production facility (Engaged by Claimant).

OI European Group B.V. v Bolivarian Republic of Venezuela: (*Bilateral Investment Treaty Dispute, ICSID*); Assisted in the preparation of an expert report valuing Owens-Illinois's glass bottle manufacturing and distribution subsidiary in Venezuela (Engaged by Claimant).

Fraport AG Frankfurt Airport Services Worldwide v Republic of the Philippines: (*Bilateral Investment Treaty Dispute, ICSID*); Assisted in the preparation of expert reports regarding compensation issues and potential money laundering activities. (Engaged by Respondent)

ConocoPhillips Algeria Ltd v Sonatrach S.P.A. : (*Breach of Contract Dispute, Conciliation Proceedings*); Performed a damages analysis to be used in conciliation proceedings related to Sonatrach's collection of crude oil from ConocoPhillips to fulfill a windfall profits tax imposed by the Republic of Algeria. (Engaged by Claimant).

ConocoPhillips Algeria Ltd v Sonatrach S.P.A. : (*Breach of Contract Dispute, UNCITRAL*); Assisted in the preparation of two expert reports involving ConocoPhillips and the Republic of Algeria's state oil company Sonatrach quantifying the loss suffered by Claimant due to Sonatrach's failure to implement an equity determination for a unitized oil project. (Engaged by Claimant).

Anadarko Algeria Company LLC, Maersk Olie, Algeriet A/S v Peoples Republic of Algeria and Sonatrach S.P.A. : (*Bilateral Investment Treaty Dispute, ICSID and Breach of Contract Dispute, UNCITRAL*); Assisted in the preparation of multiple expert reports for parallel commercial and investor state arbitrations involving Anadarko and Maersk Oil and the Republic of Algeria and its state oil company Sonatrach. Valued interests held by Claimants in a production sharing agreement for the exploration and exploitation of liquid hydrocarbons in Algeria and the valuation of hydrocarbon rights that were lost as a consequence of windfall tax legislation passed by the government. The arbitrations settled before an oral hearing on the merits with Claimants receiving compensation valued at over US\$ 8 billion. (Engaged by Claimants).

Yukos Universal Limited, Hulley Enterprises Limited, and Veteran Petroleum Limited v Russian Federation: (*Energy Charter Treaty Dispute, UNCITRAL*); Assisted in the preparation of two expert reports for investor state arbitrations involving Yukos Universal Limited, Hulley Enterprises Limited, and Veteran Petroleum Limited quantifying the loss claimants suffered from investment in Yukos Oil Company OJSC due to alleged violations of the ECT by Russia. (Engaged by Claimants).

Zorlu Enerji Elektrim Üretim A.Ş. v Invar International Inc.: (*International Commercial Arbitration*); Assisted in the preparation of three expert reports for commercial arbitration involving two power plants in Moscow that were built as a joint venture

between a Turkish energy conglomerate and a Virginia-based investment company. (Engaged by Respondent and Counter-Claimant).

TSG5 L.P. v Beauty Care Professional Products: (*International Commercial Arbitration, ICC*); Assisted in the preparation of an expert report for commercial arbitration involving the failed acquisition of a Spanish haircare and beauty products company. (Engaged by Claimant).

Rozukrenergo AG v NJSC Naftogaz of Ukraine: (*Breach of Contract, SCC*); Assisted in the preparation of an expert report quantifying the value of 11 billion cubic meters of natural gas in underground storage facilities in Ukraine. (Engaged by Respondent).

Chevron Corporation and Texaco Petroleum Company v. Republic of Ecuador: (*Bilateral Investment Treaty Dispute, UNCITRAL*); Assisted in the preparation of two expert reports on the losses suffered in the oil production industry in the Republic of Ecuador for an alleged denial of justice claim. The tribunal provisionally awarded Claimants US\$ 699 million subject to adjustment in a further proceeding on taxes and interest (Engaged by Claimant).

Carpatsky Petroleum Corporation v OJSC Ukrnafta: (*International Commercial Arbitration*); Assisted in the preparation of an expert report related to the damages associated with Claimant being denied the right to fully participate in the co-development of a natural gas field in Ukraine. (Engaged by Claimant)

Grand River Enterprises Six Nations, Ltd., Jerry Montour, Kenneth Hill, and Arthur Montour Jr. v United States of America: (*NAFTA Chapter 11 Dispute*); Assisted in the preparation of an expert report regarding the value of a US-Canada tobacco manufacturing and distribution enterprise and the financial impact of certain regulations affecting tobacco products. (Engaged by Respondent)

Ioannis Kardassopoulos & Ron Fuchs v Georgia: (*Bilateral Investment Treaty & Energy Charter Treaty Dispute*); Assisted in the preparation of two expert reports regarding the valuation of oil and gas export pipelines in the Caspian Sea region. (Engaged by Claimants)

Mercuria Energy Group Limited v Republic of Poland: (*Energy Charter Treaty Dispute*); Provided consulting services and assisted in the preparation of an expert report related to the damages suffered by an independent energy trader due to a fine imposed by Poland. (Engaged by Claimant)

Cargill, Inc. v. United Mexican States: (*NAFTA Chapter 11 Dispute*); Assisted in the preparation of two expert reports regarding the impairment to a US investor's



investment in the Mexican high fructose corn syrup industry caused by various tax and trade related acts of the Mexican government. (Engaged by Claimant)

Glamis Gold, Ltd v. United States of America: (NAFTA Chapter 11 Dispute); Provided consulting services and assisted in the preparation of two expert reports regarding the valuation of gold mining claims that were allegedly expropriated when new regulations affecting metallic mining were passed in 2002 by the State of California. (Engaged by Respondent)

Piero Foresti, Laura De Carli and others v. Republic of South Africa: (Bilateral Investment Treaty Dispute); Provided consulting services and assisted in the preparation of an expert report quantifying damages suffered by investors in South Africa's granite sector due to the Mineral and Petroleum Resources Development Act and other legislation. (Engaged by Claimants)

Saluka Investments B.V. v. Czech Republic: (Bilateral Investment Treaty Dispute); Assisted in the preparation of an expert report on the restructuring and valuation of a large Czech financial institution. (Engaged by Respondent)

Walter Bau AG v Kingdom of Thailand: (Bilateral Investment Treaty Dispute); Assisted in the preparation of an expert report regarding the alleged expropriation of a BOT toll road concession in a major metropolitan area in East Asia. (Engaged by Respondent)

Rumeli Telecom A.S. & Telsim Mobil Telekomunikasyon Hizmetleri A.S. v Republic of Kazakhstan: (Bilateral Investment Treaty Dispute); Provided consulting services and assisted in the preparation of two expert reports regarding the valuation of a GSM mobile telecommunications company in Kazakhstan. (Engaged by Respondent)

Plama Consortium Limited v. Republic of Bulgaria: (Energy Charter Treaty Dispute); Assisted in the preparation of two expert reports on the valuation of an oil refinery that was allegedly expropriated through various acts of the State. (Engaged by Respondent)

Global Pharmaceutical Company v. Joint Venture Partner: (International Commercial Arbitration); Provided consulting services related to a breach of contract dispute regarding the distribution of pharmaceutical products in Western Europe. (Engaged by Respondent)

## **Government Contracts**

Audit of Procurement Function for Major Government Contractor: (Violations of FAR and DCAA Regulations); Provided audit and process improvement consulting services related to the procurement function of a Fortune 500 government contractor working for the



United States military. Served as country manager for a team of Navigant employees located at various client sites throughout the Middle East.

Preparation of Incurred Cost Submission for Government Contractor (DCAA Audit of Incurred Costs): Provided finance and accounting consulting services related to the preparation of an incurred cost submission for a government contractor involved in a dispute with the DCAA.

#### **Technical Competencies**

Extensive experience with Microsoft Excel, Microsoft Access, and other Microsoft Office applications

Familiar with oil & gas economics and decline curve software packages

Proficient in numerous statistical software packages including SAS, SPSS, Stata, and Minitab

Experience with risk analysis and decision-making software such as @Risk and Crystal Ball

Familiar with C++ programming language and MATLAB numerical computing environment