

RESOLUTION

The Newsletter of ARBICON ADR Ltd



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- How to get your money

Arbicon Team

Ian J Purser
Director

Jon Nugent
Director

Jack Kirk
Senior Consultant

Mike Norrish
Senior Consultant

Tim Dyson
Senior Consultant

Derek Wakefield
Senior Consultant

Virginia Browne
PA to Directors

Louise Steel
Marketing Manager

Arbicon ADR Ltd would like to wish you all a Merry Christmas & a Happy New Year.....

Are you feeling the financial pinch? Let us help you.....



The credit crunch is biting and we are officially in a recession. The outlook all round is pretty gloomy. And whilst the construction industry is used to the boom and bust cycles few firms will prove completely immune.

During the current financial climate it is imperative that businesses can recover all payments owed to them and that they are in the best position possible to prevent successful adjudications against them. We thought it would be useful to look again at why you would want to use adjudication and how to ensure getting your money through the adjudication process.

Why Use Adjudication?

Adjudication is a contractual process which provides an interim "quick fix" solution to disagreements between contracting parties. It involves the appointment of an adjudicator, normally takes around 35 days to complete and the resulting decision is binding between the two parties. In an industry where one in five contracts end in dispute this is fast becoming an invaluable process.

Case study

"We were frustrated by an unreasonable Main Contractor who was unwilling to pay us for works he had instructed and he knew we had done. Frankly we were running out of ideas, barring the courts. Arbicon advised us of our rights and explained the Housing Grants Act, issued a notice and we were into an adjudication! Fortunately Arbicon led the process from

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or visit our website at www.arbicon.co.uk





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start to successful conclusion, and we are now wiser and £30,000 better off thanks to their tenacity and professionalism. We simply wanted what was rightfully ours and Arbicon got it for us, at a sensible and affordable cost”

Tribute by Steve Pearson of P.I.C.

Steve went on to say that "I would personally recommend Arbicon to other construction companies in a similar position to ourselves. We shall certainly use them again in the future should the need arise and we have already asked them to review our systems and records to minimize disputes in the future."

Arbicon Director, Ian J Purser, was personally involved in the resolution of this dispute and is grateful for this tribute.

Adjudicators decisions and getting the money

How do you get your money?

You've got your adjudication decision but the other party still won't pay you, what can you do? You'll be advised to enforce the decision - but how? The Construction Act says nothing at all about enforcement, merely

makes it a condition that it is binding. So how can the opponent be obliged to pay? Isn't this lack of clarity open to all manner of defences? The difficulty is answered in the first adjudication case that came before the courts - *Macob Civil Engineering Ltd Vs Morrison Construction Ltd* (Feb 1999). In this case many different defences were used to avoid paying the sum of £302,366 plus vat awarded. The court held that the conventional way to enforce an adjudicator's decision would be through an application for a **summary judgement** in court. The court also stipulated that the normal timetable set out in CPR rule 24 be dispensed with to provide no means of delay - in short enforcement will be swift. Arbicon can help you obtain a summary judgement - by appointing us you would have access to a solicitor on our panel specialising in this area of law. Contact us on 01480 426560 or via email to advice@arbicon.co.uk and see what we can recover for you.



Successful 3rd Seminar of 2008

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24 November saw us host our third Seminar of 2008. The seminar was attended by a cross-section of local construction companies and explored the subjects of Risk Management and Dispute Resolution strategies that may be used by construction companies with the help and support of our team.

The seminars run by Arbicon have a proven track record. As well as providing invaluable free advice they have also led to the successful conclusion of adjudications for a number of the attendees.

During the current financial climate it is imperative that you as a business can recover all payments owed to you and that you are in the best position possible to prevent successful adjudications against you.

If this seminar sounds like it might have been of interest you, or indeed someone you work with, please do not hesitate to contact us for more information and future dates, or to arrange for a bespoke seminar for your company and staff. Contact us today to find out how we can help you by calling 01480 426560 or via email to advice@arbicon.co.uk

Next Seminar March 2009 SIGN UP NOW.....

Arbicon ADR is

regulated by the Royal Institution of Chartered Surveyors (RICS)

Arbicon is a leading provider of Professional Quantity Surveying and Cost Management Services and Alternative Dispute Resolution Services including the following:

Pre-Contract Services

- Cost planning
- Estimating & tendering (including audits)
- Bills of quantities preparation and production
- Commercial audits and reports
- Budget and cash flow forecasts
- Quantity and procurement checks
- Material scheduling
- Contract procurement
- Drafting of Employer's Requirements

Post-Contract Services

- Preparation of final accounts
- Contractual procedures advice
- Re-measurement
- Cost reconciliation reports
- Sub-contract account management
- Valuations for interim payments
- Variation and day work account valuation and control
- Extension of time claims
- Loss and expense claims
- Dispute resolution, mediation, adjudication and arbitration
- Support in litigation
- Risk management and dispute prevention
- Expert witness

Current Opportunities

Arbicon currently has the following opportunities:

- Quantity Surveyors

Arbicon are actively seeking to recruit high calibre staff to join their expanding team. If you are interested and would like to be considered for any of our vacancies please send a copy of your latest CV to us at advice@arbicon.co.uk, or for more information please call the Directors on 01480 426560.

CALL US NOW ON

01480 426560

or email us at

advice@arbicon.co.uk

**TO SEE HOW WE CAN
HELP YOU TODAY**



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