



ada



Dave Armstrong, Executive Director

welcome

ada hits expansion trail

With so much currently happening and about to occur both in the world of Armstrong Davis and the global construction industry, we thought it would be useful to produce a new newsletter that provides information and advice to our growing portfolio of clients.

In this issue, we take a brief look at just some of the projects in which we are currently involved and introduce you to some of the new people who have recently joined ADA.

We would welcome any feedback that you may have which will help us to provide you with the information and advice that you will find most helpful.

Dave Armstrong and Bob Davis

2006 has already seen significant developments within the organisation of global construction industry consultancy Armstrong Davis Associates (ADA) as it embarks upon a programme of expansion. "We have taken a decision to grow the business organically by investing in the recruitment of more high calibre people and in the development of our existing team," said Bob Davis who, along with fellow Director Dave Armstrong, formed the North East-based consultancy in 1999.

"Demand for our specialist services has seen a significant increase over the last year and our prediction is that this will continue for the foreseeable future. Accordingly, we have put plans in place to ensure that we are able to both maintain the quality of service that we currently provide to our existing customers and to ensure that we have the capacity to manage projects from new clients."

ADA has recently opened an office in Leeds (see left) which is the first in a number of new facilities planned by the consultancy over the next few years.

A warm welcome to this, the first issue of our regular newsletter which we hope you will find both interesting and informative.

Leeds office opens for business

March saw the opening of ADA's first 'satellite' office at Thorpe Park, Leeds, conveniently located close to junction 46 of the A1/M1 link.

This office is staffed by a team of 4 fee earners working under the direction of Bob Davis, who will share his time between Leeds and Stokesley.

"We already have a number of clients in West and South Yorkshire and opening this office

will enable us to improve the level of service that we provide to them," said Bob. "It will also enable us to access a larger pool of qualified staff and provide us with a platform to expand our share of the market in this important and fast-growing area."

Plans are now being laid for the opening of offices in the North West and in Continental Europe, where ADA is already currently active.

assessors in adjudication



Bob Davis

Since the introduction of Adjudication as we now know it via the Housing Grants Construction & Regeneration Act of 1996, the size and complexity of cases being referred to Adjudication has exceeded industry's original understanding of the process. However Referring Parties are rarely willing to extend the duration of the Adjudication to reflect such complexity which creates considerable difficulties for Adjudicators as the requirement for investigation of the disputed issues increases. This results in Adjudicators constantly finding innovative ways in which to quickly cut through issues in dispute because they simply do not have the time to deal thoroughly with all the issues before them.

One means open to the Adjudicator is to obtain expert advice. The power the Adjudicator has to do this can be found in the Scheme at paragraph 13(f) and can prove to be more significant than simply a delegation of duties without delegation of responsibility.

The obligation upon the Adjudicator prior to appointment of the assessor/expert is that he notifies the Parties of his intention to make such an appointment. A similar provision can be found in the 1996 Arbitration Act (S37(i) (a)) upon which the Scheme is based.

The Scheme and the Arbitration Act 1996 are relatively similar in the way in which they oblige the Adjudicator to act upon any information received from any expert, assessor or legal representative appointed:-

Section 37 (1) (b) of the Arbitration Act 1996 specifically provides that "the parties shall be given a reasonable opportunity to comment on any information, opinion or advice offered by such a person", unless otherwise agreed by the parties.

The Scheme on the other hand only deals with the appointment of an expert, assessor or legal advisor and is silent on the subject of the Adjudicator's conduct once an appointment has taken place. Case law has assisted in determining the Adjudicator's actions and also the Scheme at paragraph 17 stipulates that the Adjudicator must "make available to them [i.e. the parties] any information to be taken into account in reaching his decision."

One means open to the Adjudicator is to obtain expert advice.

Effectively both the Scheme and the Arbitration Act 1996 provide that the Parties to Adjudication/Arbitration must be given the opportunity to comment on any information obtained by the Adjudicator/Arbitral Tribunal via an expert, assessor or legal advisor. On reviewing the requirements set out within the Scheme a number of points require consideration.

At paragraph 13 of the Scheme you find the term "assessor". This term is not defined, however, it is clear that any assessor who is appointed to assess a claim does not do so in any decisive sense and having regard to the Adjudicator's obligation to inform the Parties the assessor's contribution could be no more than the provision of an opinion which the Adjudicator must decide to adopt or ignore after having invited the Parties views on such opinion.

In considering complex Adjudications, referred to within the opening paragraphs, within which the parties usually provide a mountain of data it may be nigh on impossible due to imposed

time constraints for the Adjudicator to read through and process it all, hence the need to seek some assistance.

An Adjudicator is primarily engaged to Adjudicate, an assessor however is not so restricted and thus is free to meet with the parties and/or their experts to try to cut through the detail and get to the heart of the dispute. By adopting such procedures the expert can reach an opinion which can then be taken into account by the Adjudicator in reaching his decision.

It can be seen that the role of the assessor within the Scheme is extremely useful in the event that the parties have not engaged experts as the assessor can provide useful expertise to the Adjudicator. It is also the case where the Adjudicator is deemed to possess sufficient knowledge on the issue(s) disputed; it may still be astute of him to appoint an expert to aid him in the Adjudication because it is the Adjudicator's job to simply Adjudicate and time may restrict him in analysing all relevant data provided by the Parties.

An advantage of using assessors can be the removal of any ground for challenge to the Adjudicator's decision insofar as the Adjudicator may have exceeded his jurisdiction by reaching his own conclusion using his own knowledge without inviting comment from the Parties. This has happened and may equally happen again if large-scale disputes continue to utilise Adjudication.

Complex Adjudications are here to stay as industry wants it that way and in my view, it may be in the Parties best interest to embrace the use of assessors in such complex disputes in order to enable an Adjudicator to focus on the issues in dispute and not get bogged down in detail.

ada's Isis field experience proves invaluable to Lundin



The FPSO Ikdam leaving Malta Shipyards in 2001

A team from ADA led by Dave Armstrong is currently providing specialist support to Lundin Petroleum Netherlands BV who are undertaking the refurbishment, modification and upgrading of the existing FPSO Ikdam facility.

The FPSO was producing from the Isis Field in the Gulf of Gabes off Tunisia's central south east coast before being moved to Malta Shipyard for upgrade and re-classification works. On completion of these works the vessel will move to the Oudna Field in the Gulf of Hammamet off Tunisia's north east coast, where a production and injection well were successfully drilled and completed earlier this year. Production is projected at up to 20,000 BOPD of premium 41 deg. API crude oil.

"We are currently contracted to provide ongoing strategic advice to the company in relation to the installation and shipyard contracts throughout the life of the Oudna project and into the operations phase," said ADA's Robert Brimacombe.

"ADA was involved in the original Isis Project and we are able to offer significant background knowledge, which has proved invaluable to Lundin," added Robert. "Our ongoing involvement means that when matters need to be reviewed independently of the project, they can be done so with the minimum of delay."

The success of the current contract has resulted in further discussions between Lundin and ADA over the provision of its services on other projects.

ada's expert witnesses are put to the test

The expert witness capabilities of Bob Davis and Dave Armstrong, have recently been put to the test – not in the familiar surroundings of a court room, but in the cloistered corridors of academe.

Bob and Dave have recently successfully completed the Bond Solon Expert Witness programme, which is accredited to diploma level by Cardiff University Business School (CUBS) – the first course of its kind to be accredited by a UK university. Although they are both experienced expert witnesses, ADA's directors took the view that completing such a course would add further credibility to their standing.

"There has been much debate within legal circles on the role of expert witnesses in trials following the recent Angela Canning case involving retired paediatrician Sir Roy Meadow," said Dave Armstrong. "While most of our involvement as expert witnesses is limited to civil actions within the construction industry, we felt it beneficial that our capabilities were formally recognised through an accredited qualification."

During the five-day course, Dave and Bob were required to write a court-compliant expert witness report and to undergo rigorous cross-examination in the witness box by an experienced barrister, which was videoed. Examiners from CUBS then assessed both the video and report.

"We intend to pass all of our senior people through this accreditation process in the future, as we feel it to be of significant value both in terms of a learning experience and the additional credibility that it brings to Armstrong Davis," added Bob.

ada's Bob Davis wins annual rics golf trophy

Bob Davis, Joint Principal and Executive Director of ADA, is the winner of this year's prestigious Royal Institution of Chartered Surveyors Presidents Cup.

This national golf competition, which dates back to 1907, reached its climax in April of this year when Bob was the winner of the 18-hole final played recently in Cambridge.

A proud Scot, Bob, whose home club is in Wakefield, has been playing golf after suffering a bad ankle injury at 22, which

prevented him from taking part in more athletic pursuits. He currently plays off a handicap of 5.

"I'm both delighted and honoured to have won this beautiful trophy, which I will treasure over the coming year," said Bob.

When he's not on the golf course, Bob specialises in dispute avoidance and dispute resolution, a skill which could prove very useful both on and off the course!



Bob Davis Executive Director

ada strengthens management team with key appointments

Armstrong Davis Associates has added further key personnel to its rapidly growing team.

RICHARD SENIOR has joined ADA as a Senior Consultant. Richard has been appointed to help ADA expand the capabilities of their Stokesley office and to assist the Directors in their Business Development roles.

As a Member of the Society of Company Secretaries and an ex-Davy Metals senior commercial executive, Richard brings considerable worldwide experience to the ADA team.

He also brings a significant level of expertise in industrial and engineering projects and, in particular, in international contracts. ADA will be seeking to utilise these skills as it embarks on the next phase of expansion.

ANDREW MILBURN joins ADA as a Consultant where he will take immediate responsibility for a variety of assignments, ranging from the project management of 24 houses in Yorkshire to various dispute-related assignments.

Andrew holds a BSc in Quantity Surveying and is currently completing an MSc in Construction Law at Leeds University. His appointment demonstrates ADA's continued commitment to expansion through the addition of high calibre, well-qualified staff with a significant background in building and civils project management.

ROGER JORDAN takes the next step on his career ladder having gained a BA in Geography at Durham University. Roger has joined ADA's front of office team as Office Administrator, assisting Natasha in running the many tasks that enable the offices to function effectively.

Roger is now usually the first point of contact when a customer calls ADA. His aim is to ensure that from that first call, a capable, courteous efficient and effective staff member assists a client and that this first contact sets the tone for all future dealings with ADA.

ada sponsors Kyra's MSc studies

ADA is sponsoring Kyra Reed, who joined the consultancy in February 2005 having previously graduated in quantity surveying at Loughborough University, as she studies for an MSc in Construction Law and Arbitration at Leeds Metropolitan University.

"The decision to embark on this course followed my most recent ADA appraisal, which identified a particular training need," said Kyra, who is extremely keen to broaden her skills. "The course provides me with a much wider perspective and helps me to understand more fully how what I currently do impacts upon the entire process."

"It is also helping me to develop a better understanding of how ADA delivers value to its clients, through the provision of processes and procedures that both improve profitability and minimise the potential for costly disputes," added Kyra.



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