

James Searby

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BACKGROUND

James Searby is a Senior Managing Director in FTI Consulting's economic and financial consulting practice, specialising in the assessment of quantum issues in contentious matters, in both litigations in national courts and international arbitrations. James's primary expertise is in the field of valuation, whether of businesses, contracts, damages, intellectual property or financial assets. Since 2011, he has led FTI Consulting's International Arbitration practice in the Asia Pacific region, where he has given evidence before both Courts and arbitral tribunals.

James has a broad range of experience in the assessment of complex damages in high-value international arbitration and litigation cases in matters involving, inter alia, alleged expropriation, breach of contract, patent infringement and shareholder disputes. The range of James' industry experience encompasses telecoms, oil and gas, chemicals, tobacco, infrastructure, healthcare, media, life insurance, retailing and banking. He has worked in EMEA, North America and the Asia Pacific region for governments, companies and individuals, whether as claimants or respondents on matters ranging in value from less than \$1m to more than \$2bn.

James has acted as instructor at the Masters in International Dispute Settlement programme at the University of Geneva, and as an expert witness at training workshops organised by the Foundation for International Arbitration Advocacy (FIAA). James holds a Master in Business Administration from Imperial College at the University of London and a B.A. in Modern History and Economics from the University of Oxford. He has been awarded Charterholder status by the CFA Institute.

EDUCATION & PROFESSIONAL

- CFA Charterholder
- Master of Business Administration, Imperial College, University of London
- BA (Hons) Modern History and Economics, University of Oxford

PROFESSIONAL EXPERIENCE

[A limited selection of previous engagements can be found below. Please enquire for further examples.]

Advice to the shareholders of an Australian junior gas E&P company: Advised the shareholders in a dispute with the administrators of an Australian gas E&P company as to the potential value of their shares both in the presence of and disregarding any financial distress. Delivered written and oral evidence in the Supreme Court of NSW.

Advice to Respondent as to damages for breach of contract: Currently advising the Respondent in an ICC arbitration as to the appropriate quantum of damages for breach of a distribution agreement in the medical devices industry.

Advice to Respondent regarding the appropriateness of its investor's decisions: Appointed by an educational provider to assess the reasonableness of the vetoes exercised by its PE investor. Respondent alleges that Claimant's vetoes prevented its achievement of the target IRR, leading to potential exercise of conversion rights.

Advice to the Claimant in relation to an intellectual property dispute in the beverage industry: Currently advising the Claimant, an Indian alcoholic drinks manufacturer, who alleges that the Respondent's unlawful claims about the ownership of its retail brands have affected its ability to raise finance on acceptable terms.

Quantum assessment relating to a joint venture in the luxury tourist industry: Currently assisting the quantification of the Claimant's loss relating to the alleged expropriation of its 50% interest in an Indian luxury tourism venture.

Damages assessment relating to a joint venture dispute relating to marine communications: Currently advising the Claimant in an ICC administered arbitration relating to alleged breaches of joint venture agreements to provide communication services to merchant vessels.

Preparation of expert reports in joint venture dispute in China: Appointed by the Respondent to perform an assessment of losses in a CIETAC-(Beijing) administered arbitration relating to a failed joint venture in the water technology industry. (Current)

Assessment of losses in a dispute relating to the supply of mobile telecoms equipment: Advised the Claimant in a dispute relating to the construction of a 4G mobile telecommunications network in southeast Asia. The alleged breaches relate to the terms and nature of the services to be supplied under a contract to build and operate the network.

Valuation of losses in an OEM supply agreement in the electronics industry: Currently advising the Respondent in a SIAC arbitration relating to alleged breaches of agreements to supply OEM machinery for resale under the Claimant's brand.

Quantification of loss in a coal processing project in southeast Asia: Currently advising the Claimants in a dispute relating to the termination of a joint venture relating to coal processing facility in Indonesia, to be arbitrated at SIAC.

Joint preparation of an expert report in a dispute in the hotel industry: Advised the Respondent in an HKIAC arbitration relating to the alleged breach of a suite of agreements relating to the management of a hotel in a major Asian capital.

Preparation of five expert reports in a contractual dispute in the office stationery industry: Appointed by the Respondents in an ICC arbitration relating to the alleged breach of a long-term supply contract for office stationery components. Submitted five expert reports and provided oral evidence.

Preparation of an expert report and oral testimony in a joint venture dispute in the petroleum pipe industry: Delivered two expert reports and oral testimony on behalf of Respondents in an ICC arbitration relating to the profits, dividends and share sale proceeds appropriately to have been received by the Claimant in its joint venture with the Respondents.

Valuation advice in a shareholder dispute: Currently advising the Plaintiff in a shareholder dispute in the beverages industry, to be heard before the High Court of Singapore. The matter requires, inter alia, the valuation of shares in a private company at a range of dates.

Preparation of an expert report in a post-acquisition dispute: In the Federal Court of Australia, the dispute related to the sale and purchase of a leading local consumer goods manufacturer. At issue was whether the representations and warranties made by the vendors fairly represented the financial position of the company and, if not, whether the acquisition price was appropriate. The dispute settled in Q4 2014.

Preparation of an expert report relating to the disposal of shares in an insolvency: The dispute (in the Supreme Court of the State of Victoria) relates to the sale of shares in a substantial industrial asset at an alleged undervalue. The key issues relate to valuation and also the appropriate valuation standard to apply to the asset. (Current)

Expert report on the valuation of damages in a post-acquisition dispute: The dispute (in the High Court of Singapore) relates to breaches of the representations and warranties made by the vendors of a company engaged in the healthcare sector in southeast Asia. Both written and oral evidence was provided.

Expert report on the valuation of damages in a joint venture dispute: The dispute (in the Hong Kong Court of First Instance) relates to a shareholder dispute between the partners in a joint venture engaged in the manufacture and sale of electric battery technology.

Valuation of the matrimonial estate in a "big money" divorce: Valuation of a leading luxury goods business forming part of the matrimonial estate in the context of a divorce settlement (High Court of England and Wales).

Expert report and oral testimony as to damages in an employment dispute: The dispute (in the High Court of Singapore) relates, inter alia, to the breaches of contract and conspiracy allegedly committed by a group of employees of an IT hardware manufacturer. The Court awarded FTI Consulting's client the sum calculated in my report following oral evidence.

Valuation of financial instruments in the context of a fund management dispute: The dispute (in the High Court of Singapore) related to restrictions, agreed by the fund's manager, over the marketability of a sizeable block of shares in a quoted, Singapore-listed company. The inability of the fund to liquidate its holding resulted in a substantial loss. The valuation report submitted was used in settlement negotiations between the fund's owners and manager.

Dispute relating to pharmaceutical distribution: Prepared an expert report in respect of the damages sustained by a supplier of pharmaceutical products to the US healthcare market. The damages claim related to business interruption sustained in the course of an injunction, subsequently lifted, and cross-undertakings given by the parties (High Court of England and Wales).

Oil refining: Led the valuation modelling of a west European petroleum refiner and its 14 subsidiaries for merger and acquisition purposes. In a separate context, analysed a Central European refiner's business case to support its leading bank lender's credit analysis.