



Case & Project Experience

Carbon Emissions Trading: NERA's Role in CF Partners' Lawsuit Against Barclays Bank over Misuse of Confidential Information

The Situation

In 2010, Barclays Bank PLC bought Tricorona AB, a developer of projects to reduce greenhouse gas emissions and trader of carbon credits. Barclays later sold the company for a substantial aggregate profit. CF Partners (UK) LLP, a former Barclays client, alleged that Barclays misused confidential information gained while the bank advised CF Partners on an earlier possible bid for Tricorona and breached obligations of exclusivity it owed to CF Partners. In particular, CF Partners had identified the prospect of considerable profit from the acquisition and monetization of Tricorona's large portfolio of carbon credit projects (known as Certified Emission Reductions). CF Partners contended that Barclays used and exploited this information for its own profit, including by itself acquiring Tricorona.

NERA's Role

In 2012, NERA Associate Director Daniel Radov was instructed on behalf of CF Partners to provide expert analysis and testimony in the case, to be tried in the Chancery Division of the High Court of Justice of England and Wales. The case was identified by *The Lawyer* magazine as one of the top 20 cases in 2013. Mr Radov explained the features of the international carbon market to the Court, focusing on the mechanisms established by the Kyoto Protocol as well as the EU Emissions Trading System. As part of his analysis Mr Radov examined market attitudes and government policy towards a controversial—and therefore difficult to value—type of carbon credit (from large hydroelectric projects) to determine how market understanding and credit values developed over time. The NERA team analysed and quantified the degree to which market participants generally understood the value of the confidential information about the carbon credits at the heart

of the dispute. NERA also valued Tricorona's carbon credit portfolio and the cost of bringing projects and credits to market.

The Result

In September 2014, Mr Justice Hildyard ruled that Barclays had misused confidential client information, and awarded CF Partners damages of €10 million. Mr Justice Hildyard relied extensively on Mr Radov's analysis in determining the value of the claim. In his ruling, the judge noted that Mr Radov was "by some way the most reliable of the experts," and observed that "he spoke with a wealth and variety of experience as well as calm assurance."

About NERA

NERA Economic Consulting (www.nera.com) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

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