

WFW SECURES IMPORTANT AGENCY DISPUTES WIN FOR BCP

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Watson Farley & Williams LLP (“WFW”) has successfully defended Bangchak Corporation Public Company Limited (“BCP”) and secured a victory for them in a multi-million US dollar claim brought against them in the Thai Courts by a distributor of BCP’s lubricant products. The long-running case was eventually decided in BCP’s favour after almost five years.

BCP, a leading manufacturer of refinery petroleum products, is listed on the Thai Stock Exchange. In 2016, two separate claims were brought against it by one of the distributors of its lubricant products, alleging that BCP was in breach of its distribution agreement. The two claims were later consolidated into a single proceeding in the aggregate sum of approximately US\$25m.

In this case, the critical issue turned on whether BCP was in breach of its obligations under each of the distribution agreements entered into with the claimants when the sale of BCP lubricant products fell through after the potential buyer agreed to purchase BCP lubricant products from an alternative legitimate distributor. BCP prevailed in the Court of First Instance. However, this favourable judgment was subsequently overturned by the Thai Court of Appeal.

Since 2015, filing of an appeal against the judgment of the Court of Appeal to the Supreme Court, the highest-tier court in Thailand, is subject to a permission from the Supreme Court. Obtaining leave to appeal was in itself a procedural hurdle that BCP had to overcome. Not only did WFW successfully obtain leave from the Supreme Court to file an appeal against the judgment of the Court of Appeal, it also eventually obtained a favourable judgment in early February 2021 which dismissed all claims made against BCP in their entirety. The final judgment of the Supreme Court has established a legally sound and commercially viable precedent for petroleum industry participants.

The WFW Bangkok team that represented BCP was led by Dispute Resolution Partner Ratthakarn Boonnua, supported by Associates Rachapol Sirikulchit and Molthida Songcharoen.

Ratthakarn commented: “We are delighted to have achieved this successful result for BCP, especially given that the Supreme Court’s decision appears to have set an important precedent for Thai petroleum industry practices”.

Jaran Thamma from Legal Department at BCP said: “We are very pleased to cooperate with your team and thankful for your assistance, especially taking care of proceedings in the courts and helping our company to achieve favorable outcome in this case”.

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