

in Economic Consulting

Fairmont Hotels & Resorts et al. v. Organización Ideal S de RL d CV et al.



IMPACT:

ICDR Tribunal Rules in Favor of FTI's Client

A sole arbitrator appointed in an International Center for Dispute Resolution arbitration largely sided with Fairmont, awarding damages that matched Mr. Taylor's calculation exactly.

The Tribunal awarded total compensation of \$12.9 million plus pre-award interest of \$1.4 million, for a total amount of \$14.4 million. In doing so, the Tribunal dismissed in their entirety every criticism leveled by the opposing side's damages expert which attempted to halve the amount claimed.



It was a great experience all around working with Greig and his team. We're especially pleased that the tribunal accepted his analysis and awarded the full amount of damages he calculated. That was not surprising, though, given the quality of his written report and oral testimony, including particularly his defense of his position and pointed responses to the opposing expert's position.

- Peter Sherwin
Partner, Proskauer Rose LLP



Situation:

FTI Consulting expert, Mr. Greig Taylor, was retained by FHR México Management Company, S.A. de C.V. and Fairmont Hotels & Resorts (U.S.) Inc. ("Fairmont") to provide expert testimony on the economic impact of Owners' unlawful breach of the hotels' management agreements.

Fairmont and Owners (Organización Ideal, S. de R.L. de C.V. and Impulsora de Revolcadero, S. de R.L. de C.V.) had entered into long-term management contracts for two hotels in Acapulco, Mexico. Owners unlawfully terminated the contracts early, and Fairmont claimed damages for breach of contract.

Mr. Taylor was engaged to assess the economic damages suffered by Fairmont as a result of Owners' unlawful termination of the contracts.

Mr. Taylor quantified the damages on the basis of Fairmont's lost profits, which equate to profits that Fairmont would have earned under the contracts, had they not been unlawfully terminated. In doing so, Mr. Taylor projected future cash flows and discounted them using the weighted average cost of capital.

The Tribunal agreed with Mr. Taylor's selected methodology and computation of lost profits that Fairmont would have earned if it had kept running the hotels through 2050. The Tribunal awarded damages that matched Mr. Taylor's

calculation, stating "**The Tribunal finds that Mr. Taylor's quantification of Fairmont's damages is accurate and therefore awards damages (lost profits) in an amount of US \$12,705,349. The Tribunal considers that Mr. Taylor's quantification is reliable..."**

Mr. Taylor successfully presented that all incumbent risks had been captured by his risk-adjusted cash flow projections and choice of discount rate, and so no adjustments were required to his calculations.

Mr. Taylor was assisted by Sangjoon Lee and Sheng Bi in FTI Consulting's New York office. FTI Consulting worked with a legal team led by Peter Sherwin of Proskauer Rose LLP.

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