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Attorney Part of Solution to Keep Panama Canal Project on Track

Jerry Brodsky
Peckar & Abramson

There were many angry parties in the deadlocked Panama Canal construction project in 2014. The Surety firm holding a performance bond seemed to have the best chance of negotiating the escalating dispute, but needed a construction lawyer with a multi-cultural background to handle legal matters while they mediated.

The surety, Zurich North America, called on Miami lawyer Jerry Brodsky, director of the Latin America practice group with Peckar & Abramson.

Zurich held a \$400 million performance bond on the \$5.25 billion dollar Panama Canal expansion project. As the insurer, Zurich became the key link between the warring parties in Panama.

The relationship between the Canal Authority and its European contractors had been deteriorating for a long time. By February 2014, the contractors suspended work on the new locks for the canal. They wanted compensation for \$1.6 billion in cost overruns. The situation was tense. The citizens of Panama were angry and wanted the contractors dumped. The Canal Authority had a month to make a deal.

"We had a dying project. The construction activities had crawled to a halt," Brodsky said. "It appeared inevitable this project was going to end up



J. ALBERT DIAZ

Jerry Brodsky was called to represent Zurich North America, which held a \$400 million performance bond and became the key link between the rival parties in Panama.

stuck for a long time, and the parties were going to have a war. That was the situation on the ground when we first got involved."

The Surety, with Brodsky's assistance, became a key influence in break-

ing the deadlock and putting in place financing to get the canal expansion back on track.

Brodsky traveled weekly to Panama. The legal team included partner Neal Sklar, who also assisted directly in the

Panama negotiations. Partner Melinda Gentile worked on factual and legal aspects of the pending issues and documentation.

By March 2014, the negotiators found alternative financing. By September the lawyers had a complex deal in place as a Memorandum of Understanding and the surety got back its \$400 million on the performance bond.

Brodsky said he was hired because Zurich needed a deep understanding of construction issues combined with the cultural background.

"It was not just a stopped project. It was a stopped project in a highly politically charged environment. Panama had elections months later. This was front-page news morning, noon and night editions, TV and radio. This is the only project I ever worked on where there was Paparazzi. We would come out of the meeting, and there was a mass attack of reporters wanting to know what was going on."

In three months the situation was turned around, and ended up in a MOU. "I am not the one who signed on the dotted line. A lot of people had to come together for this, but it would have taken only one party to not participate in the process for it not to work," Brodsky said.

The negotiated deal foresees the work on the canal finishing in December 2015.