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SUITS



JAMES MCGUIRE
(SHEPPARD, MULLIN)

FINAL ANALYSIS COMMUNICATION SERVICES V. GENERAL DYNAMICS CORPORATION ET AL.

In the high-flying days of the Internet boom, a subsidiary of defense contractor General Dynamics Corporation and aerospace engineering company Final Analysis Communication Services, Inc., teamed up to build a fleet of satellites for wireless communications. But as the market soured, so did the relationship between the two companies. They parted ways in 2001, only to meet again in court, where Final Analysis claimed General Dynamics failed to uphold its end of their contracts.

On September 7 a jury in a U.S. district court in Greenbelt, Maryland awarded Final Analysis approximately \$160 million in damages and \$8 million to General Dynamics based on counterclaims it had filed.

In the contracts in question, General Dynamics Advanced Information Services, Inc., the subsidiary, agreed to design and build 30 satellites whose data transmission capabilities would be sold by Final Analysis. Final Analysis lacked the capability to build the entire fleet, but held one of a limited number of Federal Communications Commission licenses for satellite building. In exchange, General Dynamics would give Final Analysis

30 percent of the face value of the contract, roughly \$133 million, and become a minority shareholder in the smaller company.

Several months after the last agreement was inked, top officials at the parent company claimed they were unaware of the specific terms of the contracts agreed to by their subsidiary. As the market grew rockier and Final Analysis continued to postpone a bond offering that would have financed the project, the possibility of reconciliation dimmed. General Dynamics terminated the contract. Shortly thereafter, the FCC declared that since Final Analysis had no major construction projects in the works, its satellite license would be revoked.

In 2003 Final Analysis filed suit against General Dynamics and its subsidiary for breach of contract claiming General Dynamics had signed on as a long-term strategic partnership and had not included any exit clauses in the contracts. General Dynamics filed counterclaims on the grounds that three test satellites had been launched and that it had made good on some of its equity promises. The jury found in favor of Final Analysis on all its claims, setting actual damages at \$68 million and

consequential damages at \$92.75 million; however, General Dynamics was awarded \$8 million on breach of contract counterclaims. Final Analysis is in the process of appealing to the FCC to have its license reinstated.

FOR PLAINTIFF FINAL ANALYSIS COMMUNICATION SERVICES, INC. (LANHAM, MARYLAND)

SHEPPARD, MULLIN, RICHTER & HAMPTON: James McGuire and associates Mark Berube, Vincent Filardo, Carl LeSueur, Jr., and Elizabeth Rotenberg-Schwartz. (All are in New York.) Sheppard Mullin represented Final Analysis in previous contract litigation.

FOR DEFENDANT GENERAL DYNAMICS CORPORATION (FALLS CHURCH, VIRGINIA)

JENNER & BLOCK: Partners Michael Doornweerd, Susan Levy, Linda Listrom, Craig Martin, Thomas Perrelli, and Matthew Thomas (All are in Chicago). —D.K.D.

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