

## PAMPA ENERGÍA AND CIESA END LITIGATION

**Rachel Hall**

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Pampa Energía has announced that an agreement has been reached with Compañía de Inversiones de Energía (CIESA) over a debt restructuring which has taken years of legal battles to resolve.

CIESA sought counsel from Argentina's Marval, O'Farrell & Mairal to oversee the debt restructuring as well as Estudio Alegria, Buey Fernandez, Fissore & Montemerlo, which provided bankruptcy law advice, and US firm Wilk Auslander LLP for New York litigation matters. Pampa Energía turned to Argentina's Errecondo, Salaverri, Dellatorre, Gonzalez & Burgio and US firms Skadden Arps, Slate Meagher and Flom and Cleary Gottlieb Steen & Hamilton LLP. Errecondo Salaverri and Skadden Arps also advised AEI, which previously owned the CIESA debt before selling it on to Pampa Energía, on the New York litigation.

The litigation dates back to 2005, when CIESA restructured its financial debt with financial creditors holding US\$220 million worth of notes, which were led by Ashmore, now known as AEI Energy. As part of the agreement, CIESA creditors were to receive 50 per cent of the CIESA shares in exchange for the notes they held, subject to approval by the Argentine antitrust authorities, the CNDC, to be received by the end of 2008.

The deadline passed without antitrust approvals being obtained, which resulted in AEI terminating the agreement with CIESA at the beginning of January 2009. This prompted CIESA to file a declaratory action in New York, in which the company claimed that the statute of limitation under the notes had expired, as well as seeking damages for wrongful breach of the agreement by AEI and that the agreement be reinstated. AEI responded by filing counterclaims against CIESA and related entities and individuals before New York courts.

In February 2009 AEI filed a bankruptcy petition against CIESA in Argentina, which was initially accepted by the lower courts but later rejected by the Chamber of Appeals in Argentina in October 2009.

After several years of litigation, in 2011, Pampa Inversiones bought the debt from AEI. The battle finally ended on 13 July this year, when CIESA and its shareholders entered into a settlement agreement with Pampa that provided the mutual dismissal of all claims.

The terms of the settlement agreement include that CIESA cancel 100 per cent of its outstanding financial debt through the transfer to Pampa of 4.3 per cent of the class B ordinary shares in Argentine gas transporter Transportadora de Gas del Sur held by CIESA; the payment of US\$129 million of the principal owed under the financial debt; the pardon over the US\$152 million of principal and interest which was owed under the original financial debt; and the appointment of Pampa as beneficiary of the MSA Trust that holds a 40 per cent stake in CIESA, subject to CNDC approval which was obtained on 31 July.

For the MSA Trust, the Royal Bank of Scotland, formerly ABN AMRO Bank, acted as trustee and was also advised by Marval O'Farrell.

Simultaneously, using the funds obtained from the settlement agreement, Pampa also cancelled US\$70 million of a US\$90 million loan granted by Citibank and Standard Bank to finance the acquisition of CIESA's unpaid debt in 2011. Chadbourne & Parke LLP and Argentina's Bruchou, Fernández Madero & Lombardi provided legal counsel to the banks.

Marval O'Farrell partner Ricardo Beller highlighted the good relationship between the in-house counsel at CIESA and Petrobras, CIESA's controlling shareholder, and the external counsel as something which had enabled CIESA

to obtain “outstanding” results. “CIESA finally cancelled 100% of its outstanding debt in optimal terms and was able to overcome the bankruptcy petitions filed against it,” he says.

Errecondo Salaverri did not respond to requests for comment in time for publication.

## **Counsel to CIESA**

In-house counsel to Petrobras - Daniel Casal and Claudio Vazquez

In-house counsel to CIESA - Nicolás Mordegliá and Adrian Hubert

## **Argentina**

Marval, O’Farrell & Mairal

Partners Ricardo Beller and Martin Campbell, and associates Valentina Vullo, Agustina Ranieri and Milagros Abelenda

Estudio Alegria, Buey Fernandez, Fissore & Montemerlo

Partners Pablo Buey Fernandez, Héctor Alegria, Rodrigo Alegria, Gustavo Fissore, Miguel Montemerlo, and associate Leonardo Lucas

## **US**

Wilk Auslander LLP

Partners Jay Auslander and Natalie Shkolnik, and associate Julie Cilia

## **Counsel to AEI and Pampa Energía**

## **Argentina**

Errecondo, Salaverri, Dellatorre, Gonzalez & Burgio

Partners Diego Salaverri and Germán Wetzler Malbrán

## **US**

Skadden Arps, Slate Meagher and Flom

Partners Timothy Nelson, John Gardiner, Marco Schnabl and Julie Bedard, and associates Shannon Lazzarini and Erica Goodstein

## **Counsel to Pampa Energía**

## **US**

Cleary Gottlieb Steen & Hamilton LLP

Partners Juan Giráldez and Richard Lincer, and counsel Sandra Rocks, and senior attorney Charles Thompson, and associates Emilio Minvielle, Charles-Antoine Wauters and Heather Mackintosh, and international lawyer Karen Maulhardt

**Counsel to the Royal Bank of Scotland**

In-house counsel – Luciana Calia

Marval, O'Farrell & Mairal

Partners Roberto Silva, Jr. and Fermín Castro Madero

**Counsel to Citibank and Standard Bank**

**Argentina**

Bruchou, Fernández Madero & Lombardi

Partner Hugo Bruzone, and associates José Bazán, Carla Russo and Andres Chester

**US**

Chadbourne & Parke LLP

Partner Carlos Albarracín and associates Jean Migdal, Jorge Dominguez and Joseph Gianni