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## Case Update: WH Holding Ltd v E20 Stadium LLP [2025] EWHC 140 (Comm)

### [WH Holding Ltd v E20 Stadium LLP \[2025\] EWHC 140 \(Comm\)](#)

**Date:** 27 January 2025

#### **Key Words:**

*Expert Determination, Manifest Error, Concession Agreement, Stadium Premium Amount, Qualifying Transaction, Adjusted Consideration, Anti-Embarrassment Clause, Contractual Interpretation, Reasoned Determination, Final and Binding, Extrapolation, Blended Calculation*

#### **Summary**

This case concerns a dispute between WH Holding Limited (WHH) and E20 Stadium LLP (E20) over the interpretation of a 2013 Concession Agreement [1,2]. The agreement included an **anti-embarrassment clause**, ensuring E20 shared in gains from WHH's shareholders if they sold or transferred interests in West Ham United Football Club Limited [3]. The dispute arose from transactions between WHH shareholders and 1890 Holdings AS, particularly a put-and-call option agreement [4,5]. An expert ruled in favour of E20, stating WHH owed a £3.6 million **Stadium Premium Amount** [5]. WHH challenged this, arguing "manifest errors" in the determination, and sought a declaration that it was not binding [1]. The **High Court upheld WHH's challenge**, finding that the expert had made manifest errors, making the determination non-binding [73, 86, 87].

#### **Key Themes:**

1. **Expert Determination vs. Arbitration:** Experts can conduct independent investigations, unlike arbitrators, who rely on presented evidence [13-16].
2. **"Manifest Error" Exception:** The case examines the level of error required to challenge an expert's determination [6, 17, 18, 20].
3. **Contractual Interpretation:** The dispute focuses on interpreting Concession Agreement clauses, particularly regarding the Stadium Premium Amount [4-6, 11, 30vi, 31, 32].
4. **Conclusive Evidence Clauses:** The ruling explores their role and limits within contracts [22-24].
5. **Clear Reasoning in Expert Determinations:** The judgment stresses the importance of well-reasoned expert decisions [22, 24-27].

## Background

1. **The Agreement (2013):** E20 granted WHH a 99-year concession to operate events at London Stadium, which also became West Ham United's home ground [2].
2. **Anti-Embarrassment Clause:** Clause 20 required WHH to pay E20 a Stadium Premium Amount if certain shareholder transactions occurred [3,4]. This applied to shareholders, including David Sullivan and David Gold, who held indirect shares in WHH [2,3].
3. **The 2021 Transactions:** In November 2021, WHH shareholders engaged in transactions with 1890 Holdings AS, including share sales and a put and call option agreement, triggering the dispute [5,27]. E20 claimed a Stadium Premium Amount was due [5].
4. **Expert Determination:** Per Clause 50, the dispute was referred to an expert, who ruled that WHH owed £3.6 million [4-6, 61].

## Legal Issues and Analysis

- **The Central Issue:** The key legal question was whether the expert's determination contained "manifest errors," making it non-binding [1, 6, 17, 18]. The court examined the **contractual framework, legal principles, and the expert's reasoning** [22, 23, 7, 12, 24(32)].
- **The Meaning of "Manifest Error":** The court defined a manifest error as one that is "**obvious or easily demonstrable without extensive investigation**" [24(31)] and "**so obvious and obviously capable of affecting the determination as to admit of no difference of opinion**" [20(31), 24(32), 70, 83]. It confirmed that reviewing the expert's reasoning and essential documents was permissible to identify errors [26, 27].
- **WHH's Claims of Error:** WHH alleged two key errors [62, 63]:
  - **Incorrect Calculation:** The expert wrongly combined two different notional valuations of WHH, misinterpreted "or" as "and," and blended the **Share Sale Adjusted Consideration and Option Adjusted Consideration** [47, 48, 63, 64, 70, 71, 84i-ii]. The court agreed.
  - **Incorrect Classification of Transactions:** The expert **incorrectly treated the share sales and the option agreement as a single transaction** [63, 72]. The court found this was due to an **incorrect calculation approach** [77-78].
- **Court's Analysis:**
  - The expert erred in **blending Adjusted Consideration figures** without contractual support [71, 84].
  - The expert wrongly **treated separate transactions as one** [63, 79, 80].
  - The errors were **manifest**, because they were obvious and outcome-altering [84]. The court rejected the idea that a manifest error must be a "howler" or "blunder" [81-83], instead finding that **misreading "or" and an impossible calculation sufficed** [84].

## Conclusion

The court found WHH had proven **two manifest errors** in the expert's determination:

1. **Miscalculation of the Stadium Premium Amount, and**
2. **Incorrect classification of transactions** [62, 63, 84i-ii].

It declared the expert's determination **non-binding** [86-87].

## Key Takeaway:

Expert determinations can be challenged for "**manifest errors**"—**errors that are obvious and affect the outcome** [70i-iii, 82-84i]. This case underscores the **importance of clear contractual language** [85ii] and that the court's role is **not to review legal correctness but to assess whether the expert's interpretation was obviously wrong** [31-32]. Experts must provide **clear reasoning** and adhere strictly to the **contract's wording** [24(34), 25, 26, 12(2.8(1)-(3), 2.10)].

## Parting Thoughts

While parties agree to be bound by expert determinations, **the "manifest error" exception provides a safeguard** against misinterpretations or deviations from contractual terms. The court does **not act as an appeal court** but ensures the **expert's interpretation was not obviously wrong**. The case highlights that **experts must stay within the contract's language rather than attempt an equitable outcome**.