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Bahrain bank's appeal against Boustead gets thrown out

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THE Singapore High Court has dismissed an appeal by a Bahrain bank, Arab Banking Corporation, against engineering firm Boustead Singapore, Boustead said in a Singapore Exchange (SGX) filing on Friday.

It added that the Court of Appeal's decision on Thursday to throw out the case "finally and conclusively discharges the company's liability to Arab Bank under the facility agreements".

Arab Bank's appeal was regarding an US\$18.8 million dispute between it and Boustead that lasted four years. This started from a S\$300 million contract Boustead entered into in 2007 through a joint venture to build a township in Libya.

Boustead had at that time provided two separate counter-guarantees, via Arab Bank, for advance payment and performance to Libya's Bank of Commerce and Development.

Libya's Bank of Commerce and Development was then supposed to pay these amounts – US\$3.7 million for the advance payment guarantee and US\$15 million for the performance guarantee – to a government entity, Organisation for Development of Administrative Centres (ODAC), which had awarded the contract to the joint venture.

But when civil war broke out in Libya in February 2011, Boustead pulled out of the country, halted the project and invoked a

"force majeure" clause on its contract with ODAC.

Boustead also got a temporary injunction from the courts to stop Arab Bank from carrying out the guarantee payments.

Faced with pressure from Libya's Bank of Commerce and Development, Arab Bank demanded that Boustead cough up the sums under the facility agreement and sued Boustead.

However, the Singapore High Court ruled in March 2015 that Arab Bank was not to receive payment from Boustead, and was not to make payment to Bank of Commerce and Development. Arab Bank subsequently appealed.

But in its decision on Thursday, the Court of Appeal found that "Arab Bank acted fraudulently, in the reckless sense, in making the demand" for Boustead to pay, Boustead said in its statement.

The appellate court also said a "permanent injunction" was warranted on Arab Bank, Boustead pointed out. This indicates that Boustead does not and will not ever have to pay Arab Bank the sums demanded under the facility agreement.

Boustead shares slipped half a cent to finish at S\$0.80 on Friday before the announcement.