

Shangyu Sunfit Chemical Company

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Brooks Pierce attorneys Beth Langley and Kim Marston were members of the legal team that secured a \$75 million verdict for Chinese manufacturer Shangyu Sunfit Chemical Company Ltd. (Sunfit) in the United States District Court for the Middle District of North Carolina. Sunfit was the defendant in a suit brought by its former distributor Hongda Group Ltd. LLC, but also filed its own claims against Hongda and its three principals, Gary McKnight, Raymond Perkins and Wei Xu.

In 2011, Hongda agreed to be the exclusive U.S. distributor of Sunfit's N-(n-Butyl) thiophosphoric Triamide (NBPT), a chemical used in fertilizers. Hongda later alleged that Sunfit was supplying other companies with the chemical in breach of the contract. Sunfit countered that Hongda was not paying what it owed and that the three individual defendants had secretly imported NBPT from other suppliers.

Before the trial, U.S. District Judge N.C. Tilley, Jr. ruled that Hongda had breached its contract with Sunfit, but left the question of damages for the jury. The case was tried before U.S. District Judge Catherine C. Eagles.

Following approximately two hours of deliberation, the jury found that Hongda owed Sunfit roughly \$9.87 million for what it failed to pay under the contract and that Hongda had fraudulently transferred \$2.75 million belonging to Sunfit. The jury also found that Hongda had entered the deal with Sunfit with the intent of breaching the contract and that McKnight, Perkins and Xu had engaged in deceptive behavior. The jury found the three individual defendants had created another company to sell NBPT in North America and developed a plan in China to circumvent Sunfit's rights as its exclusive supplier. The jury awarded \$9.8 million in breach of contract damages and found Sunfit suffered \$6 million in damages for Hongda's unfair and deceptive conduct. The jury also found that the conduct of the third-party defendants was unfair and deceptive, damaging Sunfit in the amount of \$15.87 million. After concluding Hongda and the third-party defendants' conduct was unfair or deceptive in violation of North Carolina law, Eagles trebled those damages, awarding Sunfit more than \$27.8 million against Hongda and more than \$47.6 million against the third-party defendants, bringing the total verdict to more than \$75 million.

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