



1 IN CHAMBERS  
2 IN THE GRAND COURT OF THE CAYMAN ISLANDS  
3  
4

CAUSE NO: 226 OF 2002

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8 IN THE MATTER OF SECTION 94 (d) OF THE COMPANIES LAW  
9 (2002 REVISION)

10  
11 AND

12  
13 IN THE MATTER OF OPPORTUNITY EQUITY PARTNERS LIMITED  
14 (Formerly CVC/Opportunity Equity Partners Limited)

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16  
17 Before: The Honourable Madam Justice Levers

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19 **Appearances:**  
20 Mr. Roger Ellis, Q.C. instructed by Mr. James Chapman of  
21 Ogier & Boxalls for the Company  
22 Mr. Seamus Andrew instructed by Andrea Dunsby of Turner &  
23 Roulstone for the Petitioner

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25 **Heard:** April 21, 2005

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\_\_\_\_\_  
RULING  
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30 Levers, J.  
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32 This is the Company's application to discharge the Mareva  
33 Injunction granted on 21 June 2002. The application is made  
34 on the basis that there has been a change of circumstances,  
35 namely that:

- 36  
37 (1) The Petition has been stayed;  
38 (2) An agreement for sale concluded; and  
39 (3) \$5 million dollars paid into Court.  
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41 Mr. Andrew for the Petitioner objects to this on the grounds  
42 that the bona fides of the Company have been questioned by

1 at least three judges of this Court, and that his client's  
2 entitlement cannot be ascertained at this stage. What is  
3 true however is that a Mareva Injunction should not be too  
4 wide and when the \$5 million was agreed to, it was  
5 uncontested that this figure was a sufficient guarantee.  
6 Mr. Ellis for the Company makes the point that there is no  
7 evidence of dissipation and that there is no evidence that  
8 the Company would act in bad faith. He says that it could  
9 have run away with the money prior to its removal as general  
10 partner. Removal does not imply dissipation, he says.

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12 On a review of all the evidence and the fact that the  
13 valuation is hopefully forthcoming shortly, I hereby order  
14 that the worldwide Mareva Injunction be lifted save and  
15 except for the funds in the UBS House, Grand Cayman in the  
16 sum of \$17,409,649 which shall remain the subject of the  
17 Injunction. Costs of this application to the Company to be  
18 taxed or agreed.

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20 Dated this 28<sup>th</sup> day of April 2005

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23 Judge of the Grand Court

