

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO: FSD 0062 OF 2009

B E T W E E N:



CRC CREDIT FUND LIMITED



Plaintiff

AND



TENSOR ENDOWMENT LIMITED

Defendant

WRIT OF SUMMONS

TO: Tensor Endowment Limited, PO Box 852, George Town, Grand Cayman,
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff
in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you
must either satisfy the claim or return to the Court office, PO Box 495, George Town,
Grand Cayman KY1-1106, the accompanying Acknowledgement of Service stating
therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or
if you return the Acknowledgment without stating therein an intention to contest the

proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this day of December 2009.

NOTE - This Writ may not be served later than 4 calendar months (*or, if leave is required to effect service out of the jurisdiction, 6 months*) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form.

INDORSEMENT

The claim is for damages for breach of contract, a final injunction and consequential contractual indemnities arising from the Defendant's breach of its contractual agreement to the exclusive jurisdiction of the Grand Court of the Cayman Islands to determine disputes arising from the Defendant's investment in the Plaintiff and the subsequent wrongful bringing of suit in the Court of the State of New York as pleaded specifically in the Statement of Claim appended hereto.

STATEMENT OF CLAIM

1. CRC Credit Fund Ltd. ("CRC") is an exempt limited liability company incorporated in the Cayman Islands on 11 September 2002. CRC carries on business as a mutual fund under licence number 5928 granted by the Cayman Islands Monetary Authority on 25 September 2002.
2. Tensor Endowment Limited ("Tensor") is an exempt limited liability company registered in the Cayman Islands on 29 December 2005.
3. On or around 28 March 2007, Tensor subscribed for Class F shares in CRC to the value of US\$10 million. On or around 1 November 2007 Tensor subscribed for a further US\$5 million Class F shares in CRC (the "Subscriptions").
4. The Subscriptions were governed by written subscription agreements which were executed by Tensor (the "Subscription Agreements").
5. CRC will rely upon the terms of the Subscription Agreements for their full meaning, terms and effect. Without prejudice to the generality of the foregoing the Subscription Agreements contained the following clauses:

5. Indemnity

...[Tensor] agrees to indemnify and hold harmless the Fund, its agents or controlling persons, the Manager, the Administrator, and their respective, officers, employees, directors, partners, agents, legal representatives and controlling persons ("**Indemnitees**"), from and against any loss, expense, judgment, settlement cost, fee and related expenses (including attorneys' fees and expenses) due to or arising out of a breach of any representation, warranty or agreement of [Tensor] contained in this Subscription Agreement or in any other document provided by [Tensor] to the Fund in connection with [Tensor]'s investment in Shares...In addition, [Tensor] agrees to indemnify the Indemnitees and to hold such persons and firms harmless from and against, any and all loss, damage, liability or expense, including costs and reasonable attorneys' fees, to which they may be put or which they may incur or sustain by reason of or in connection with any misrepresentation made by the Investor with respect to the matters about which representations and warranties are required by the terms of this Subscription Agreement, or any breach of any such warranties or any failure to fulfill any covenants or agreements set forth herein or included in and as defined in the Memorandum...." (the "Indemnity Clause")

7. General

This Subscription Agreement shall be binding upon [Tensor] and the heirs, personal representatives, successors and assigns of [Tensor]. [Tensor] agrees that neither this Subscription Agreement nor any rights which may accrue to [Tensor] hereunder may be transferred or assigned without the consent of the Manager, which may be granted or withheld in its sole discretion. Notwithstanding the place where this Subscription Agreement may be executed by any of the parties, the parties expressly agree that all terms and provisions hereof shall be governed, construed and enforced solely under the laws of the Cayman Islands, without reference to any principles of conflicts of law (except insofar as affected by the state securities or "blue sky" laws of the jurisdiction in which the offering described herein has been made to [Tensor]). This Agreement shall survive the admission of [Tensor] to the Fund and shall, if the Investor consists of more than one person, be the joint and several obligation of all such persons." (the "Choice of Law Clause")

8. Jurisdiction

The courts of the Cayman Islands shall have exclusive jurisdiction over any action, suit or proceeding with respect to this Subscription Agreement and [Tensor] hereby irrevocably waives, to the fullest extent permitted by law, any objection that it may have, whether now or in the future, to the laying of venue in, or to the jurisdiction of, any and each of such courts for the purposes of any such suit, action, proceeding or judgment and further waives any claim that any such suit, action, proceeding or judgment has been brought in an inconvenient forum, and [Tensor] hereby submits to such jurisdiction. The parties hereby

agree that no punitive or consequential damages shall be awarded in any such action, suit or proceeding” (the “Jurisdiction Clause”).

6. On 30 November 2009, Tensor issued Complaint number 09603627 in the Court of the State of New York (the “US Complaint”). CRC was named as a defendant in the US Complaint. The subject matter of the US Complaint falls within the scope of the Jurisdiction Clause.
7. As a result of issuing the US Complaint, Tensor is in breach of the Subscription Agreements.
8. As a result of Tensor’s breach of the Subscription Agreements, CRC has suffered loss and damage namely that it has had to instruct attorneys in respect of the US Complaint. The costs of responding to the wrongful US Complaint are recoverable on a full indemnity basis as damages.
9. By letter dated 10 December 2009 from the CRC’s US attorneys, Reed Smith LLP, to the Tensor’s US attorneys, Shearman & Stirling LLP, Tensor was informed, *inter alia*, that:
 - (a) Tensor was not entitled to commence proceedings against CRC in any jurisdiction other than the Cayman Islands and requested that it voluntarily dismiss the US Complaint;
 - (b) The filing of the US Complaint was a breach of contract;
 - (c) Tensor was liable in damages for all costs incurred in respect of the US Complaint and those damages would be paid on the indemnity basis.

10. Despite the aforementioned letter, Tensor has not voluntarily dismissed the US Complaint and has accordingly intentionally continued to breach the Subscription Agreements.
11. Further by reason of the Jurisdiction Clause:
 - (a) CRC is entitled to an injunction permanently restraining the Tensor from taking any steps to prosecute or advance the US Complaint against CRC or from commencing any other actions in any other jurisdictions in relation to the subject matter of this action against CRC;
 - (b) CRC is entitled to a mandatory injunction requiring Tensor to enter a voluntary dismissal of the US Complaint as against CRC; and
 - (c) CRC is entitled to an indemnity from in respect of all monies claimed against CRC in the US Complaint and in respect of any consequential judgment of the Court of the State of New York.
12. Further the US Complaint names other defendants who are defined indemnitees under the Indemnity Clause, namely Christofferson, Robb & Company LLC, David Bree, Richard Robb and Don Seymour (the "Indemnitees"). CRC is liable to indemnify the Indemnitees for costs and expenses associated with the US Complaint. Further by reason of the Indemnity Clause, Tensor is liable to indemnify CRC for all sums paid to the Indemnitees arising from or as a result of the US Complaint.
13. In the premises CRC claims an indemnity for all sums paid to the Indemnitees arising from or as a result of the US Complaint.

14. Further CRC is entitled to interest on all monies claimed herein pursuant to Section 62(2) of the Judicature Law at 5% or at such rate on such basis as the Court deems fit.

AND THE PLAINTIFF claims:

1. A declaration that on a true construction of the Subscription Agreements, Tensor breached the Jurisdiction Clause of the Subscription Agreements by issuing the US Complaint;
2. An injunction permanently restraining Tensor from taking any steps to prosecute or advance the US Complaint or from commencing any other actions in any other jurisdictions in relation to the subject matter of this action;
3. An injunction requiring that Tensor enter a voluntary dismissal of the US Complaint as against CRC;
4. Damages for breach of contract including all costs and expenses incurred by CRC caused or occasioned by the US Complaint on an indemnity basis;
5. A declaration that CRC is entitled to an indemnity in accordance with the Indemnity Clause against all costs incurred in the US Complaint from the date of the issue of the US Complaint, in respect of all monies payable by CRC to the Indemnitees and in respect of any liability found in the US Complaint;
6. Such further or other relief as the Court shall deem fit;
7. Interest for such period and at such rate as the Court shall think just, on any amount found due; and
8. An order that the costs of this action be paid by Tensor to CRC on an indemnity basis.

Dated the 23 day of December 2009.

A handwritten signature in cursive script that reads "Appleby". The signature is written in black ink and is positioned above a horizontal line.

APPLEBY

THIS WRIT was issued on behalf of the Plaintiff by their Attorneys-at-Law, Appleby, of Clifton House, 75 Fort Street, PO Box 190, Grand Cayman KY1-1104, Cayman Islands (Ref. GHI/MH/10095.013).