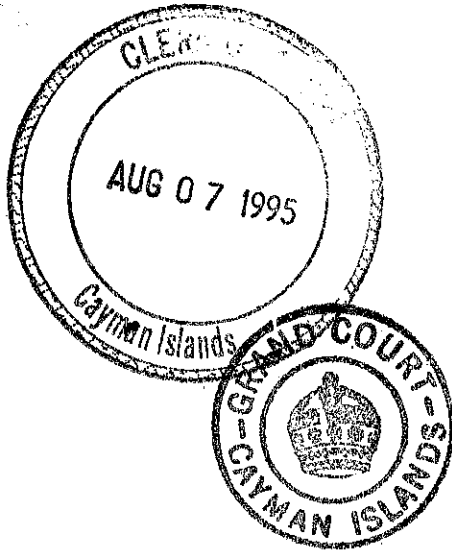


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 336 OF 1995



In the matter of
HEMISPHERE MANAGEMENT (CAYMAN)
LIMITED

- and -

In the matter of
THE COMPANIES LAW (Revised)

PETITION

To the Grand Court

The humble Petition of Hemisphere Management Limited of Hemisphere House, Church Street, P.O. Box HM 951, Hamilton HM DX, Bermuda, a member of the above-named Hemisphere Management (Cayman) Limited SHOWETH as follows:-

Preliminary

In this Petition the following terms mean:

"Company"	Hemisphere Management (Cayman) Limited
"Petitioner"	Hemisphere Management Limited
"Hemisphere Group"	Hemisphere Group Limited
"Hemisphere Fund"	Hemisphere Fund Managers Limited
"The Inspector"	The Inspector of the Cayman Islands Financial Services Supervision Department, Mrs. Jennifer Dilbert
"Mr. Wetherhill"	Christopher Wetherhill
"Mr. Rowe"	Lewis Denton Rowe

"Ms. Bodden"	S.A. Bodden
"Ms. Yeomans"	Wendy Yeomans
"Ms. Silich"	Toni Silich
"Ms. Every"	Margaret Every
"Mr. Kelly"	Joseph Kelly
"Mr. Johnson"	Christopher D. Johnson, Senior Partner, Coopers & Lybrand
"Mr. X"	is that client of the Company separately identified
"Mr. Y"	is that client of the Company separately identified

All documents mentioned in this Petition will be referred to at the trial for their full terms and true effect.

1. The present nominal and issued share capital of the Company is as follows:-

Hemisphere Management Limited	140,000 Ordinary Shares
Lewis Rowe	140,000 Ordinary Shares

Short Particulars of the Petitioner

2. Your Petitioner was incorporated in Bermuda in 1981. Your Petitioner advises clients on the potential benefits of establishing corporations, in conjunction with the client's legal tax and other professional advisers. It is involved in the planning of the corporate structure, obtaining the necessary approvals for the incorporation of companies, managing the incorporation of companies, appointing the board of directors and selecting banks, lawyers and accountants. Your Petitioner generally provides directors for the company, corporate secretarial services, and administration which includes the passing of resolutions, preparation of minutes and related matters, together with the day to day administration and accounting. Your Petitioner liaises with legal counsel, accountants and tax advisers acting for the client company and its parent. The three cornerstones of your Petitioner's philosophy are Proactive Management, Focus on Client Relationship, and Qualified Personnel. Your Petitioner operates on the fundamental principle of "know your client" and will only manage companies that pass a stringent due diligence . In May 1992, your Petitioner became a wholly owned subsidiary of Hemisphere Group Limited incorporated in Bermuda,

which in November 1994 became a public company. Your Petitioner has grown from a small operation to a company with 45 staff members and forecasted revenues of over US\$4.1 million for year ending June 30, 1995. This growth is evidence of the reputation which your Petitioner enjoys for management expertise and integrity.

Short Particulars of Hemisphere Management (Cayman) Limited

3. As the business of your Petitioner in Bermuda expanded your Petitioner began to receive inquiries from clients interested in establishing companies in the Cayman Islands. As a result your Petitioner incorporated the Company as a wholly owned subsidiary for the purpose of incorporating and managing companies in the Cayman Islands in accordance with the high standards set by your Petitioner.

4. Mr. Wetherhill, the President and Chief Executive Officer of your Petitioner first met Mr. Rowe in 1985, when Rowe was appointed an associate director with responsibility for the Caribbean for a subsidiary of a United Kingdom fund management company. In 1989 Mr. Rowe advised your Petitioner that his employer was closing down its operations. At that time your Petitioner proposed activating the business operations of the Company. Your Petitioner was advised by its lawyers Bruce Campbell & Company that the Company required a licence under the Companies Management Law, and Bruce Campbell & Co. and Mr. Rowe advised your Petitioner, quite wrongly as it turned out, that there was little hope of the Company obtaining a Companies Management licence unless the Company had Caymanian participation. Mr. Rowe offered his services to your Petitioner to secure the Caymanian participation for the Company and your Petitioner through Mr. Wetherhill offered Mr. Rowe employment in the Company.

5. It was agreed by your Petitioner and Mr. Rowe that the paid up share capital of the Company be increased from the 1000 shares issued to your Petitioner, to 30,000 shares, to provide the Company with the minimum paid up capital required by the Companies Management Law, 1984. Your Petitioner paid into the Company \$30,000 for the issued shares of its capital. Although your Petitioner paid for all the outstanding shares in the capital of the Company the understanding between your Petitioner and Mr. Rowe regarding the share capital was that Mr. Rowe would contribute his time to the Company without salary until your Petitioner's initial expenditure and the whole amount of the share capital subscribed by your Petitioner would be reimbursed although it was not determined specifically whether this reimbursement from Mr. Rowe should be by dividends or profits, etc. At the date of the filing of this Petition your Petitioner has not received any consideration from Mr. Rowe for paying up all the share capital of the Company. It was however agreed between your Petitioner and Mr. Rowe that the Company would be beneficially owned as to 50% by your Petitioner and as to the other 50% by Mr. Rowe.

6. The Company was originally incorporated in the Cayman Islands on February 2, 1988. On incorporation the authorised share capital of the Company was US\$900,000 divided into 900,000 Shares of US\$1 each. Your Petitioner subscribed for 1000 shares which were held for its benefit by Campbell Nominess Limited. On February 2, 1988 the directors of the Company approved the transfer of the said shares by Campbell Nominess Limited to your Petitioner.

7. The registered office of the Company was situated at the offices of Campbell Corporate Services Ltd, The Bank of Nova Scotia Building, P.O. Box 268, George Town, Grand Cayman, British West Indies, and now is situated at Zephyr House, Mary Street, P.O. Box 1561, George Town, Grand Cayman, British West Indies. The objects for which the Company was established are *inter alia*:

"to form, constitute, promote, manage and maintain Cayman Islands or foreign companies, corporations, associations and undertakings of all kinds and to provide management, nominee and secretarial services for such companies, corporations, associations and undertakings."

8. The Articles of Association of the Company were registered with the Registrar of Companies on February 2, 1988, when the Company was incorporated. Since the Company's incorporation there has been no alteration to either the Memorandum or the Articles of Association of the Company, other than with regard to the share capital mentioned in paragraph 41 below.

9. On February 2, 1988, the following entities were appointed as the first directors of the Company: Campbell Directors Limited, and Campbell Secretaries Limited. On February 2, 1988 Campbell Secretaries Limited resigned as a director and Mr. Wetherhill, the President and Chief Executive Officer of your Petitioner, and Mr. Rowe were appointed as directors of the Company. Mr. Wetherhill was also appointed as President of the Company.

10. On June 2, 1989, the following additional shares were issued in the capital of the Company. Mr. Rowe 6,000 shares, your Petitioner 5,000 shares (in addition to the one thousand shares held by your Petitioner), and Hywel Davies 18,000 shares. Thereupon Hywel Davies executed an undated nominee agreement whereby he undertook to hold 9,000 shares for your Petitioner and 9,000 shares for Mr. Rowe. All of the issued shares of the Company were paid up by your Petitioner.

11. On November 7, 1989 the Company was granted a licence under the provisions of the Companies Management Law, 1984.

12. By a letter dated February 26, 1990, Mr. Rowe suggested to your Petitioner that the capital of the Company held by Hywel Davies, (18,000 shares), be transferred to one Ms. Bodden, whom Mr. Rowe referred to as "a charming Caymanian lady whose

brother is a Member of the Legislative Assembly, and who has given us invaluable help in the past with our licence, work permit and local information." Mr. Rowe also suggested to your Petitioner that Ms. Bodden be appointed a director of the Company. Mr. Rowe did not disclose to your Petitioner that Ms. Bodden was the same person known to your Petitioner as Aileen Bodden who had formed a romantic relationship with Mr. Rowe at that time.

13. Without being aware of the relationship between Mr. Rowe and Ms. Bodden, your Petitioner agreed to Ms. Bodden's appointment as a director on March 22, 1991. From March 1991 to the wrongful removal of Mr. Wetherhill as a director by Mr. Rowe and Ms. Bodden, the 3 directors of the Company were: Mr. Wetherhill, Mr. Rowe and Ms. Bodden. In late 1992 Mr. Rowe employed Ms. Bodden on a full-time basis without consulting your Petitioner. In early January of 1993 Ms. Every discovered Ms. Bodden was the same person with whom Mr. Rowe had established a relationship. When your Petitioner and Mr. Wetherhill questioned the non-disclosure of the identity of Ms. Bodden and the wisdom of her appointment, Mr. Rowe responded by stating that his personal relationship with Ms. Bodden was unconnected with her professional capabilities. Then in 1994 your Petitioner learned that Mr. Rowe and Ms. Bodden had in fact been married for several months.

Understanding and Agreement between Petitioner and Mr. Rowe

14. Both in its conception and in its incorporation, and at all times thereafter to the filing of this Petition the Company was in substance a partnership between your Petitioner and Mr. Rowe and the de facto rights and obligations were that the respective positions of your Petitioner and Mr. Rowe, including their respective rights to participate in the management of the business and affairs of the Company, were equal in all respects.

15. At this time, and indeed at all material times, the trust and confidence reposed in each other by your Petitioner and Mr. Rowe was the fundamental basis for the existence and operation of the Company.

16. This mutual trust and confidence derived from the participation of your Petitioner and Mr. Rowe in the affairs of the Company, and the desire of your Petitioner and Mr. Rowe that they should together be jointly responsible for the management of the Company and such client companies as the Company might have.

17. At all material times, Mr. Rowe was primarily responsible for control of the day to day affairs of the the Company in the Cayman Islands and your Petitioner introduced business and provided advice.

18. At all material times the following were accepted and honoured by your Petitioner and Mr. Rowe as the principles governing the business relationship between them:

- (1) that no major decision would be taken by or on behalf of the Company other than pursuant to the agreement of both of them; and
- (2) your Petitioner should be provided with and should be entitled to receive regularly and promptly all financial and other information concerning the Company and any client of the Company.

Early disagreements between the Petitioner and Mr. Rowe

19. During 1991 Mr. Rowe changed auditors against your Petitioner's wishes from Morris Brankin & Co. to Deloitte & Touche in the mistaken belief that Deloitte's would produce business for the Company. This proved to be unnecessary and expensive. However as a result of Mr. Rowe's inability to prepare accounts the Company had to continue with Deloitte's and your Petitioner's concerns were justified as it proved embarrassing and expensive. As a result of this it was decided between your Petitioner and Mr. Rowe that the Company's 1992 accounts should be prepared by your Petitioner in Bermuda.

20. During 1992 Mr. Wetherhill hired Ms. Yeomans in an attempt to improve communications between your Petitioner and Mr. Rowe and also to establish a computer link between your Petitioner and the Company. During Ms. Yeomans' time correspondence was generally directed to her. Unfortunately Mr. Rowe took exception to Ms. Yeomans' appointment (despite concurring with the original decision to appoint her) and constantly tried to intercept all communications Ms. Yeomans was supposed to receive from Bermuda, and ultimately denied her access to the accounting records. Mr. Rowe persuaded Mr. Wetherhill that the Company should dismiss Ms. Yeomans on the grounds that there was a clash of personalities and that Mr. Rowe could not get on with Ms. Yeomans. Accordingly Mr. Wetherhill on behalf of the Company dismissed Ms. Yeomans on Mr. Rowe's recommendations.

21. As a result of your Petitioner's concerns over events highlighted in paragraphs 22 to 28 the Company agreed to hire Ms. Silich as an accountant in early 1993. Again Mr. Wetherhill interviewed Ms. Silich and with Mr. Rowe's agreement employed her as the Company's accountant. Unfortunately as with Ms. Yeomans, Mr. Rowe was unable to work with Ms. Silich and in due course she resigned. These employment problems that Mr. Rowe had with competent and reputable professionals caused your Petitioner mounting concern.

Laundering of small drafts through Mr. Rowe's Personal account

22. It was mutually agreed between Mr. Rowe and Mr. Wetherhill that the financial statements for the Company for the year ended 30 September 1992 should be prepared by the Petitioner's staff in Bermuda. The 1991 statements had been prepared by a firm of chartered accountants in Cayman, a situation which your Petitioner found to be extremely embarrassing (21 above). During the preparation of the financial statements the Petitioner's staff discovered that a sum of \$60,000 had been transferred from the Company's bank account to pay for investments in two mutual funds. Mr. Rowe never informed your Petitioner of this fact. On raising this point with Mr. Rowe, your Petitioner was told by Mr. Rowe that it was an error on the part of your Petitioner's staff and that a contra entry for \$60,000 existed in the cash records of the Company. No such contra entry was found and as a consequence the matter was investigated further. It was discovered that a certain Mr. X, a citizen of the United States, had sent to Mr. Rowe a series of postal orders adding up to US\$58,800 for the purpose that the said sums be invested in mutual funds managed by the Company. Mr. Rowe had deposited the funds into his own personal account. Mr. Rowe subsequently admitted that the funds were in his account and repaid the funds to the Company.

23. On November 18, 1992, Mr. Rowe wrote to your Petitioner concerning the missing US\$60,000 from the the Company's bank account. He said:

"The mystery of the two bank drafts of US\$25,000 and US\$35,000 has been resolved.

The postal orders received from X were made out to both Hemisphere and L.D. Rowe and were banked accordingly. When it was time to do the investments, the funds deposited with Hemisphere were transferred to L.D. Rowe's account, and it would appear that the two bank drafts should have been taken from L.D. Rowe's account and not Hemisphere's, hence there being no entry of the bank drafts in Hemisphere's cash sheets.

Regrettably, I did not notice this for it was at the time we were moving offices from Eliizabethan Square to Zephyr House and things were a bit chaotic, and also bank statements for Savings Accounts are issued only every 3 months.

I have therefore transferred US\$60,018 to the Hemisphere Bank account."

Mr. Rowe's explanation does not accurately correspond with the facts as set out in paragraph 22.

24. The above facts caused the management of your Petitioner to be greatly concerned with regard to the honesty of the business dealings of Mr. Rowe in which the Company had been implicated.

25. In connection with the investigation the following documents were discovered:

March 1, 1992, a note from Mr. X in New York enclosing 14 postal orders each in the amount of US\$700 totalling US\$9,800.00.

March 2, 1992, a note from Mr. X in New York enclosing 14 postal money orders each in the amount of US\$700 totalling US\$9,800.00.

March 3, 1992, a note from Mr. X in New York enclosing 14 postal orders each in the amount of US\$700 totalling US\$9,800.00.

March 4, 1992, a note from Mr. X in New York enclosing 14 postal orders each in the amount of US\$700 totalling US\$9,800.00.

March 5, 1992, a note from Mr. X in New York enclosing 14 postal orders each in the amount of US\$700 totalling US\$9,800.00.

March 6, 1992, a note from Mr. X in New York enclosing 14 postal orders each in the amount of US\$700 totalling US\$9,800.00.

26. The total funds sent by Mr. X from the United States to Mr. Rowe in the Cayman Islands in a six day period was US\$58,800. The government of the United States has enacted legislation as part of its efforts, both domestically and internationally, to control money laundering. The United States' Currency and Foreign Transactions Reporting Act requires the filing of a currency transaction report with respect to cash or monetary instruments of US\$10,000 or more, imported or exported into the United States. Cayman residents, such as Mr. Rowe are well aware of these requirement because whenever they enter the United States they are required to file a United States Customs declaration, upon which is printed a clear warning

Currency and Monetary Instruments

The transportation of currency or monetary instruments, regardless of the amount, is legal; however, if you take out of or bring into (or attempt to take out of or bring into) the United States more than \$10,000 (U.S. or foreign equivalent, or a combination of the two) in coin, currency, travelers checks or bearer instruments such as money orders, checks stocks or bonds, you are required by law to file a report on Form 4790

with the U.S. Customs Service. If you have someone else carry the currency or instruments for you, you must also file the report. FAILURE TO FILE THE REQUIRED REPORT OR FALSE STATEMENTS ON THE REPORT MAY LEAD TO SEIZURE OF THE CURRENCY OR INSTRUMENTS AND TO CIVIL PENALTIES AND/OR CRIMINAL PROSECUTION.

27. It is also an offence in the United States if a person for the purpose of evading the reporting requirements of filing a currency transaction report to structure or assist in structuring, or attempts to structure or assist in structuring, any importation, or exportation of monetary instruments. Given the facts surrounding the transaction regarding the US\$60,000, particularly the fact that the moneys were deposited to Mr. Rowe's personal account, it is evident that the series of postal orders sent by Mr. X were structured to avoid the United States reporting requirements, and there is a real fear on the part of your Petitioner that Mr. Rowe's action may have exposed management of the Company and the Company itself to criminal prosecution in the United States. Your Petitioner has no knowledge of the source of Mr. X's funds.

28. Mr. Rowe has refused to permit the Petitioner, or the director appointed by your Petitioner to the board of the Company permission to examine the files of the clients who Mr. Rowe has introduced to the Company, and given the above facts which are known to your Petitioner as a result of investigations which took place during the audit of the Company's financial statements, the confidence reposed by your Petitioner in Mr. Rowe was very seriously shaken. There is a fear that internal procedures to ensure that prospective clients are subject to a due diligence investigation to ensure their legitimacy has broken down. Mr. Rowe has consistently refused to provide information on any clients who he has introduced to the Company. Mr. Rowe has denied Pat Robinson, who was appointed by your Petitioner, to represent Hemisphere Fund's interests, access to the filing cabinets containing correspondence between the Company and its clients. Your Petitioner is wholly owned by a public company and its lack of knowledge or control over the type of clients introduced by Mr. Rowe is a dangerous and untenable position for a public company.

29. On February 1, 1993, the Bank of Butterfield International (Cayman) Limited requested, without explanation, that all the accounts of the Company be closed. Initially Mr. Rowe by a memorandum to your Petitioner dated February 1, 1993, and headed Re: Bank of Butterfield International (Cayman) Limited, tried to give the impression that it was he who had closed the accounts with the Company's bankers. He said "Will you please note, and will you kindly inform all staff in Bermuda that we have severed all connection with the above named bank and have moved all our accounts over to Bank of Bermuda (Cayman) Limited." Mr. Rowe was later forced to admit that the request came from the Bank of Butterfield Limited. Your Petitioner continues to enjoy a banking arrangement with Bank of Butterfield Limited in Bermuda and has whenever requested received bank references from Bank of Butterfield in

Bermuda. As a consequence the confidence which your Petitioner reposed in Mr. Rowe was further seriously diminished, because your Petitioner has drawn the inference that the Bank of Butterfield International (Cayman) Limited terminated the Company's banking relationship because of concern with the legitimacy of banking transactions which Mr. Rowe was placing through the company's clients' accounts with Bank of Butterfield International (Cayman) Limited.

30. By a memorandum dated September 22, 1994, your Petitioner conveyed its concern to Mr. Rowe. The letter from Mr. Wetherhill, the President of your Petitioner states:

"As a result of my visit to Cayman last week, I wish to express concern regarding some clients for whom you have recently incorporated companies.

As you know it has always been a Hemisphere policy to know who our clients are and to satisfy ourselves as to their background. Further, we seek references either written or verbal from existing introducing clients or the lawyers of potential clients confirming the bona fide of these clients. I do not wish to jeopardise Hemisphere's reputation either in Bermuda or Cayman by taking on clients with which we are not entirely comfortable or knowledgeable. It appears that we have no control over the activities of such clients once their companies have been incorporated.

I am also concerned at your apparent willingness to provide tax advice to these clients. We are not tax experts in any jurisdiction and should defer tax planning matters to qualified onshore attorneys. I believe we are extremely vulnerable if we portray ourselves in such a manner."

Mr. Rowe providing U.S. Tax advice and promoting the services of another Company

31. During the later part of 1994 or early 1995, your Petitioner obtained a copy of a letter which Mr. Rowe wrote on the letterhead of the Company, to Mr. Y in the United States, from a reading of this letter it appeared to your Petitioner that Mr. Rowe was giving advice with respect to United States taxes and Asset Protection Planning which was outside the scope of the Company's business and outside the expertise of Mr. Rowe and the Company. The letter makes reference to a United States "S" type corporation and suggests that the shares of the "S" type corporation be transferred to a Cayman Islands trust, which appears to overlook the fact that an "S" type corporation for United States tax purposes cannot have non-U.S. citizens, e.g. foreign trustees, as shareholders. In the same letter, dated September 14, 1994, Mr. Rowe advised Mr. Y:

Of course, you may think me prejudiced because the Company's job is to incorporate companies, but outside the auspices of Hemisphere, I have a Trust Licence in partnership with one of the doyens of the legal profession in Cayman, one Bruce Campbell, called The Campbell Trust Company Limited, and so we are able to supply both services for the provisions of Asset Protection and Estate Planning.

32. Your Petitioner had no knowledge of The Campbell Trust Company and a check with the Superintendent of Financial Services has confirmed that no such company exists. As a consequence the confidence which your Petitioner reposed in Rowe was further shaken, because the Company and its management could be subjected to civil suit in giving improper advice and, since it appears that Mr. Rowe, under the name of the Company is giving advice in connection with asset protection trusts and United States Estate Planning, which is an extremely complex subject. The Company can be subject to civil action and criminal actions for conspiring to avoid the provisions of the United States Bankruptcy Code and conspiring to evade United States Federal and State taxes.

33. Lehman Brothers Inc. has been a client of your Petitioner since 1988. In 1993 your Petitioner and Lehman Brothers Inc. discussed the possibility of Lehman Brothers Inc. establishing a trust company in the Cayman Islands. It was agreed between your Petitioner and Lehman Brothers Inc. that the Company act as the registered office and managers for the trust company to be formed by Lehman Brothers Inc. in the Cayman Islands, subject to the consent of the Financial Services Supervision Department. On March 14, 1994 on the letterhead of the Company Mr. Rowe wrote to the Managing Director, Office of Chief Counsel of Lehman Brothers and stated :

"As I mentioned in our telephone conversation this morning, I, in partnership with a senior lawyer of the Cayman Islands, am about to form a company unconnected with Hemisphere Management, to hold a restricted trust licence. A restricted trust licence means that we cannot undertake trust business for persons other than those listed in the undertaking accompanying our application for the licence."

Now, if a restricted trust licence in the name of Lehman Brothers Inc., was sufficient to your needs and,

if Hemisphere Management (Cayman) Limited were not considered suitable to act for Lehman Brothers Inc. because of its lack of a trust licence, and, if you do not wish to employ your own staff with attendant costs of office, rent, furniture, services, etc.

It may be possible and acceptable for the Lehman Brothers Trust Company to employ my new trust company, which would list the

Lehman Brothers Trust Company as one of its persons for whom trust business would be undertaken.

The paid up capital for a restricted trust licence is US\$24,000.00 as opposed to a full trust licence which is US\$480,000.00.

I put the above suggestion to you as a possible alternative method of operating your own trust company as economically as possible, and if there is any merit in it, please let me know.

With kind regards"

34. Then on March 31, 1994, again on the letterhead of the Company, Mr. Rowe wrote to the Managing Director, Office of Chief Counsel of Lehman Brothers Inc. and amongst other matters suggested:

" ... that everything contained in my previous (March 14, 1994) letter is relevant and has been fully discussed and approved by the Inspector, namely:

- (1) Lehman Brothers Inc. apply for a trust licence, circumstances already in progress through Maples and Calder.
- (2) Lehman Brothers Inc. use Hemisphere Management (Cayman) Limited as the registered office and manager for a 6 monthly period. The Inspector has said that this period could be extended, if necessary.
- (3) Lehman Brothers Inc. then establish their own registered office (a continuation of their office on the Hemisphere Floor in Zephyr House) and employ my new trust company as their manager.

I think you will find the above arrangement both convenient and flexible, for, if the project should prove to be non viable then your outgoings had been minimal, whereas should it be successful, and from what I see of other companies in a similar business it should be successful, then you could either continue with us or set up a completely self-contained unit of your own.

With kind regards"

35. In behaving in the manner described herein, Mr. Rowe has acted in breach of the fiduciary duties (and in particular the duty of good faith) which he owed both to your Petitioner and to the Company and with a conspicuous and highly reprehensible lack of probity.

36. The effect of such behaviour, when your Petitioner eventually learnt of the true facts, has been to dissipate such trust and confidence as your Petitioner then still felt able to repose in Mr. Rowe in relation to the affairs of the Company.

Loans to Mr. Rowe

37. A purported meeting of the board of directors of the Company was held on October 18, 1994, attended by Mr. Rowe and his wife Ms. Bodden. Mr. Wetherhill, the director of the Company appointed by your Petitioner had notice, but on several occasions objected to the agenda and the meeting being held without your Petitioner's consent or any representation on behalf of your Petitioner. Mr. Rowe and Ms. Bodden resolved to grant a loan to Mr. Rowe in the amount of US\$200,000 "at an annual rate of interest, the same rate as the normal three monthly bank deposit rate, such interest to be paid quarterly in arrears". Up to April 19, 1995, Mr. Rowe confirmed he had not paid any amount to the Company whether as payment of principal or interest. By a letter dated January 18, 1995, Mr. Rowe proposed to re-pay the outstanding loan from the Company's funds once "permission has been given for the reduction of share capital and a dividend is declared". The said loan to Mr. Rowe was not approved by a resolution of the shareholders of the Company, and, despite repeated requests by your Petitioner, Mr. Rowe has (up to April 19, 1995) failed to pay any amount of the loan to the Company whether as principal or interest. So far as your Petitioner is aware no loan document has been executed by Mr. Rowe with respect to the loan and no security has been given to secure the loan which your Petitioner now understands was used by Mr. Rowe to purchase a home for himself and Ms. Bodden.

38. As late as February 1995 your Petitioner requested repayment of the US\$200,000.00 loan. On January 15, 1995 Mr. Rowe confirmed that it would be repaid. To the best of your Petitioner's knowledge Mr. Rowe has still not repaid the said loan nor any interest thereon.

39. In September 1993 Mr. Rowe requested that the Company provide finance for a new motor car and it was finally agreed between Mr. Rowe and your Petitioner that the Company should loan Mr. Rowe the money at an interest rate equal to 3 months deposit. Mr. Rowe without informing your Petitioner obtained a Lexus and as far as your Petitioner is aware did not pay any interest up to 30th September 1994, nor is your Petitioner is aware that he has paid any of the interest since that date. At the October 18, 1994 meeting, Mr. Rowe transferred ownership of the car to the Company and cancelled the loan.

Mr. Rowe's refusal to appoint Petitioner's Nominee Ms. Every as director of the Company

40. As stated herein throughout the relationship between your Petitioner and Mr. Rowe, it was intended that your Petitioner and Mr. Rowe have equal responsibility for the overall management of the Company. To give effect to this fundamental interest your Petitioner resolved to appoint an additional director to the board of the Company. Accordingly, your Petitioner through Mr. Wetherhill submitted an application to have Ms. Every appointed as a director of the Company to Mr. Rowe and asked him to make the appropriate application for Government approval to her appointment to the Financial Services Supervision Department. According to Mr. Rowe these papers "never arrived". Your Petitioner subsequently re-applied through its attorneys, Paget-Brown, Quin & Hampson, to the Financial Services Supervision Department for approval for your Petitioner's nominee Ms. Every to be appointed as a director of the Company. On October 28, 1994 your Petitioner advised Mr. Rowe that the Financial Services Supervision Department had given permission for your Petitioner's nominee Ms. Every to be appointed as a director of the Company and requested that Mr. Rowe arrange for the appropriate meeting to appoint her. Notwithstanding his agreement that both your Petitioner and Mr. Rowe be equally represented on the board of directors of the Company, Mr. Rowe has refused to appoint your Petitioner's nominee Ms. Every as a director up to the date of the filing of this Petition. Mr. Rowe has consistently refused to hold a meeting to elect Ms. Every, a position he confirmed at a subsequent meeting with the Inspector on April 20, 1995, as he "would not be able to get anything done".

Attempts by your Petitioner to reconcile differences and application for Mutual Fund Licence

41. In 1993 the Cayman Islands Government introduced new legislation regarding the administration of Mutual Funds. By this time your Petitioner had provided the Company with a number of Mutual Fund clients and it was clear that the Company must apply for an Administrators Licence under the Mutual Funds Law 1993. The clients that your Petitioner provided for the Company were all serviced from Bermuda where there existed a qualified staff and sophisticated technical capability. In order to acquire the Mutual Fund Administrators Licence the Company needed a share capital of US\$480,000.00. Your Petitioner proposed that it invest US\$200,000.00 into the Company in the form of redeemable, non-voting preferred shares and the Company would capitalise retained earnings for the balance. Mr. Rowe agreed and the Licence was obtained on March 9, 1994. As there was no need to tie up US\$200,000.00 in Cayman your Petitioner proposed that this be loaned back from the Company to your Petitioner which had provided the funds. Mr. Rowe contended that your Petitioner had tied up his share capital in a part of a business for which he received no benefit. Accordingly, your Petitioner suggested that the Company receive higher corporate fees

in certain cases and 10% of the billings.

42. In 1994 Mr. Wetherhill decided to take your Petitioner public on the Bermuda Stock Exchange with its subsidiary companies. The holding company for your Petitioner and its subsidiary companies was Hemisphere Group. In an effort to reconcile the differences between Mr. Rowe and your Petitioner, Mr. Wetherhill proposed to Mr. Rowe on a visit to the Cayman Islands between July 2 and 5, 1994, that Mr. Rowe exchange his shares in the Company for approximately 8% of Hemisphere Group and a seat on the main board based upon a valuation of the two companies. Mr. Rowe rejected this proposal and asked for 20% (the same interest as Every and Kelly) of Hemisphere Group. Your Petitioner did not accept Mr. Rowe's counterproposal and suggested that the Company be valued by an independent valuer, namely, Mr. Johnson, the senior partner of the Cayman office of Coopers & Lybrand. However, your Petitioner learnt that Mr. Rowe had visited Mr. Johnson and submitted to Mr. Johnson that the results of the Company were adversely affected by the cost of excess office space. Your Petitioner considers that this was an attempt to manipulate the valuation and was concerned by the duplicity exercised by Mr. Rowe which could have had an adverse affect on the public offering of your Petitioner. After further protracted negotiations between your Petitioner and Mr. Rowe it became apparent that there was no satisfactory resolution.

43. On July 8, 1994 Mr. Rowe indicated that the Company was not a Mutual Fund Administrator nor did it wish to be one. Mr. Rowe expressed concern that the Company was spending time on Mutual Fund matters that it knew nothing about. Mr. Rowe stressed that the Company's role was company formations and company management and intimated that he would relinquish the Company's Mutual Fund Administrators Licence. As a consequence of the direct threat to your Petitioner's mutual fund clients by Mr. Rowe relinquishing the Mutual Fund Administrators Licence, your Petitioner decided to set up Hemisphere Fund which was incorporated as a Cayman Islands company on October 5, 1994.

44. As a further consequence of Mr. Rowe's letter of July 8, 1994, and his attempt to influence Mr. Johnson, your Petitioner gave up any further attempts to negotiate the acquisition of Mr. Rowe's shares. At a meeting on September 16, 1994 in the Cayman Islands Mr. Wetherhill informed Mr. Rowe that your Petitioner was no longer interested in purchasing Mr. Rowe's shares in the Company and Mr. Rowe threatened Mr. Wetherhill and stated "I am warning you, I am a Cayman resident and I can set up my own company and take this business away."

45. On November 12, 1994 your Petitioner through Mr. Wetherhill proposed that when Hemisphere Fund obtained its Mutual Fund Licence the Company could then relinquish its Mutual Fund Administrators Licence and transfer the Mutual Fund business to Hemisphere Fund. The sequence of steps which your Petitioner proposed to Mr. Rowe were:

- (i) Hemisphere Group would repay the \$200,000.00 loan from the public offering proceeds.
- (ii) The preferred shares would be redeemed and the \$200,000.00 would be transferred to Hemisphere Fund.
- (iii) The share capital of the Company would be reduced.
- (iv) The Company would continue its business of company formations and company management and Hemisphere Fund would focus on Mutual Fund business.
- (v) The Company would declare a dividend and consequently Mr. Rowe's capital would be released.
- (vi) Mr. Rowe would repay the \$200,000.00 he had taken from the Company.

46. Mr. Rowe again rejected your Petitioner's proposals. Hemisphere Fund then obtained a Mutual Fund Administrators Licence which was granted with effect from November 15, 1994. When it became obvious that Mr. Rowe would not agree to the proposals your Petitioner decided to apply for a full management licence to protect all its clients and their interests.

47. Your Petitioner in one final effort to resolve the deadlock met with the Inspector on April 18, 1995. Your Petitioner through Mr. Wetherhill and Mr. Rowe had a second meeting with the Inspector on April 20, 1995 and again tried to resolve their differences but these further discussions proved to be of no avail.

48. On April 20, 1995 Mr. Wetherhill and Mr. Rowe had another meeting over dinner when Mr. Rowe informed Mr. Wetherhill that he [Rowe] felt that Mr. Wetherhill was guilty of a breach of fiduciary responsibility and threatened to have him removed as a director. On April 21, 1995 Mr. Wetherhill received a faxed letter from Mr. Rowe enclosing minutes of a meeting of the Company held on April 21, 1995 confirming that Mr. Wetherhill was relieved of his position as a director of the Company by Mr. Rowe and Ms. Bodden and alleging that Mr. Wetherhill was acting against the best interests of the Company and was guilty of a breach of fiduciary responsibility towards the Company.

Conclusions

49. For a considerable time Mr. Rowe has exercised complete control over the conduct of the day to day affairs of the Company, has completely excluded your Petitioner from participation in those affairs, and has deliberately ensured that your Petitioner was not provided regularly or promptly (and in several instances was never provided) with financial and other information about the Company and particularly clients of the Company introduced by Mr. Rowe.

50. It is no longer possible for your Petitioner to repose any trust or confidence in Mr. Rowe in relation to the affairs of the Company, and this situation has been caused, wholly or in part, by the conduct of Mr. Rowe.

51. The conduct of the Company's affairs has for a considerable time been and still is completely paralysed as a result of the deadlock existing, at the level of General Meetings, between your Petitioner and Mr. Rowe and/or their respective interests, and there is no prospect whatsoever of any end to this deadlock.

52. In behaving in the manner described above, Mr. Rowe has acted oppressively and unjustly to the Company, in breach of the fiduciary duties (and in particular to duties of good faith), honesty and loyalty which he owed to the Company and your Petitioner, and in flagrant disregard of the principles which had long governed his business relationship with the Company.

53. The overriding objects of Mr. Rowe's behaviour in relation to the Petitioner and the Company have been to further advance his own personal interests at the expense and to the detriment of those of your Petitioner and the Company.

54. It is in any event desirable that there should be a winding-up of the Company in order that liquidators of your Petitioner may conduct a full investigation into the clients of the Company and the Company's affairs, and may decide in the light of such investigation whether any and if so what proceedings they should be taken or procured to be taken.

55. As a result of the matters described herein, the mutual trust and confidence between your Petitioner and Mr. Rowe irretrievably broken down.

56. Because of the facts mentioned herein it is just and equitable that the Company be wound up.

57. In the event of a winding-up of the Company, after payment of its debts and liabilities, and of the costs, charges and expenses of such winding-up, there would be a surplus for distribution amongst its shareholders.

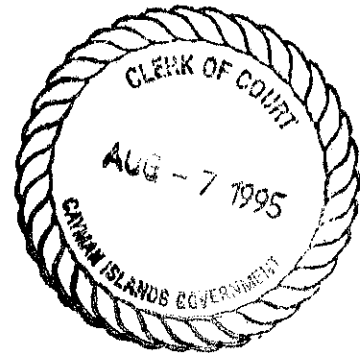
AND YOUR PETITIONER therefore humbly prays as follows:-

- (1) That Hemisphere Management (Cayman) Limited may be wound up by the Court under the provisions of the Companies Law (Revised).
- (2) Or that such other Order may be made in the premises as shall be just.

AND YOUR PETITIONER will ever pray

DATED this 7th day of August, 1995.

Paget-Brown Quin & Hampson
PAGET-BROWN, QUIN & HAMPSON



NOTE: This petition is intended to be served on Hemisphere Management (Cayman) Limited and on Mr. Lewis Rowe and on Ms. S.A. Bodden

This Petition was presented by Paget-Brown, Quin & Hampson, whose address for service is Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman, Attorneys for the Petitioner.