

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO: FSD 0152 OF 2011

BETWEEN:

(1) VALIANCE SPECIAL OPPORTUNITIES FUND OF FUNDS LIMITED PLAINTIFFS
(2) VALIANCE SPECIAL OPPORTUNITIES CO-INVESTMENT FUND LIMITED as General Partner for and on behalf of VALIANCE SPECIAL OPPORTUNITIES CO-INVESTMENT MASTER FUND LP

AND:

CHEYNE NEW EUROPE FUND INC.

WRIT OF SUMMONS

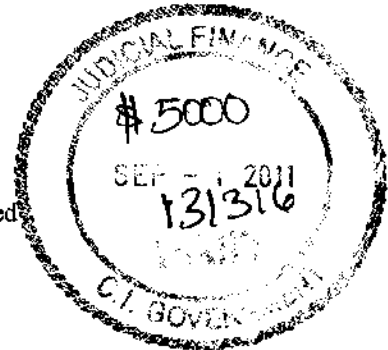
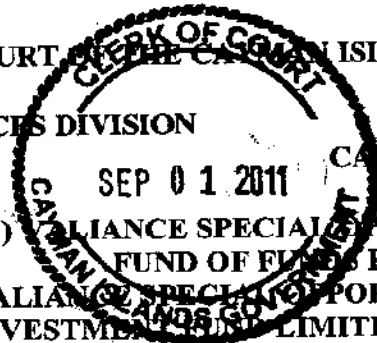
TO: Cheyne New Europe Fund Inc
c/o Mourant Ozannes Corporate Services (Cayman) Limited
Box 1348
3rd Floor Harbour Centre
North Church Street
George Town
Grand Cayman KY1-1108

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, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment 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 1st day of September 2011.



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 Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

The Parties

The Valiance Parties

1. The First Plaintiff (“Valiance Fund of Funds”) is an exempted company formed under the laws of the Cayman Islands. It is registered with the Cayman Islands Monetary Authority and regulated by the Cayman Islands Mutual Fund Law.

2. The Second Plaintiff is an exempted company formed under the laws of the Cayman Islands. It acts as General Partner of Valiance Special Opportunities Co-Investment Master Fund LP (“Valiance Co-Investment”) which is an exempted limited partnership formed under the laws of the Cayman Islands. It is registered with the Cayman Islands Monetary Authority and regulated by the Cayman Islands Mutual Fund Law. The Second Plaintiff brings these proceedings as General Partner for, and on behalf of, Valiance Co-Investment.

3. When no distinction is to be drawn in this Statement of Claim between Valiance Fund of Funds and Valiance Co-Investment they will be referred to collectively as “Valiance”.

4. The shares in the Defendant subscribed for by Valiance are held by Citco Global Custody NV (“Citco”), a company incorporated under the laws of Ireland which holds the bare legal interest in the shares on trust for Valiance. The shares are registered at CNEF in the name of “Citco Global Custody NV ref Valiance Spec Opp Fund of Fund” and “Citco Global Custody NV ref Valiance Spec Opp Co Invest Fund respectively”. The beneficial interest in the shares is owned by Valiance. By assignments dated 29 June 2011, Citco, as legal owner of the shares and registered shareholder in the Defendant, assigned such rights to the claims made by the herein as it might have to Valiance Fund of Funds and Valiance Co-Investment.

The Cheyne Party

5. The Defendant ("CNEF") is an exempted company formed under the laws of the Cayman Islands. The share capital of CNEF comprises Class A shares denominated in US Dollars and Class B shares denominated in Euros. The assets of CNEF other than cash or cash equivalents are its investments in Cheyne New Europe Fund LP ("Cheyne LP").

Other material Cheyne entities

6. Cheyne LP is an exempted limited partnership formed under the laws of the Cayman Islands.
7. CNEF and Cheyne LP operate together as an integrated investment structure and were referred to in formal offering documents addressed to prospective investors as The Fund. The Fund was set up in May 2007.
8. Cheyne LP's general partner is Cheyne New Europe General Partner Inc ("CNEGP") which is an exempted limited partnership formed under the laws of the Cayman Islands.
9. CNEGP appointed Cheyne Capital Management Limited (UK) LLP ("CCML") as investment manager with responsibility for day to day management of Cheyne LP's assets and indirectly the assets of Cheyne. CCML is a limited liability partnership regulated by the UK Financial Services Authority.
10. Cheyne Capital International Limited ("CCIL") acts as investment advisor to CNEF. CCIL is a limited liability company formed under the laws of Bermuda.
11. CCML acts as investment manager for a number of other Cheyne funds ("Cheyne Managed Funds") including, in particular, Cheyne Specialty Finance Fund ("CSFF") which was established in 2005.

12. CSFF is an exempted company formed under the laws of the Cayman Islands.

CNEF Investment objective and investments

13. CNEF's and the Fund's investment objective was to seek to achieve attractive rates of total return by gaining exposure to a diversified portfolio of land and real estate investments predominantly in Central and Eastern Europe including Romania.

14. CSFF was a multi-asset fund targeting non-traditional asset-based opportunities including real estate in Europe. CSFF's portfolio and investment targets included the same category of investments as were intended to be acquired by CNEF. CSFF's board of directors and investment manager, at all material times, had the expertise necessary to take over and realise the potential value of the assets held by the Fund and, in particular the value of the Brasov Site as more particularly referred to hereafter.

15. As well as CNEF and CSFF both having the same or similar investment objectives and investment portfolios they both retained CCML as investment manager and CCIL as investment advisor. Further, the boards of directors of CNEF, CNEGP and CSFF were the same and were composed of the following individuals:

- a. Andrew Galloway;
- b. Danicle Hendry;
- c. Philippe Lette;
- d. James Lieber;
- e. Declan Quilligan;
- f. Ralph Woodward.

The CNEF and Cheyne LP Private Placement Memorandum dated 4 May 2007

16. In May 2008 Valiance disclosed to CNEF through CCML its interest in investing in the Fund by subscribing for shares in CNEF. A Private Placement Memorandum

dated 4 May 2007 ("the PPM") was sent to Valiance by CNEF and/or by CCML on its behalf.

17. In further considering whether or not to subscribe for shares in the Fund, Valiance also conducted specific due diligence in the course of which CCML answered Valiance's enquiries on behalf of the Fund (being CNEF and Cheyne LP) and, in particular, on behalf of CNEF.
18. The PPM was a solicitation by CNEF of Valiance to buy shares in CNEF and was an offer made by CNEF to sell shares in CNEF to Valiance.

Representations made by CNEF to Valiance

19. The PPM set out details of and explained all those matters relating to the Fund which CNEF considered had to be or should be disclosed to and made the subject of specific representations to prospective investors in order to give a true and fair view of the Fund and of the potential advantages and disadvantages for a prospective investor of making an investment in the Fund whether by means of the purchase of shares or of limited partnership interests.
20. By its conduct in issuing the PPM and making specific disclosure of the matters contained in it, CNEF came under a duty to disclose and make representations of every fact the withholding of which would render any statement expressly made and contained in the PM so incomplete and defective as to amount to either a misleading statement or the presentation of an untrue and unfair view of the Fund and the potential advantages and disadvantages for a prospective investor of making an investment in the Fund.
21. In the PPM, CNEF was and (rightly) considered itself to be subject to a duty to make representations to potential investors concerning the existence and/or potential existence of circumstances giving rise to actual and/or potential conflicts of interest, namely conflicts between the interests of actual and potential investors in CNEF and

the Fund on the one hand and the interests of CNEF, CCML, CMIL or other Cheyne managed funds such as CSFF on the other hand.

22. Valiance will refer at trial to all of the PPM and other documents relating to CNEF and/or the Fund for their full terms and legal effect. The contents of the PPM make specific representations relating to such actual and potential conflicts which include inter alia the following:

Under heading

**RISK FACTORS AND CONFLICTS OF INTEREST – RISK FACTORS –
GENERAL**

- a. [Page 40] *Purchase of Investments from Other Cheyne Managed Funds* – the Fund may purchase assets from affiliates of the Investment Manager, including other investment funds managed or advised by the Investment Manager or members of its group and this may include entering into total return swaps or other derivative transactions with such funds in order to gain exposure to the relevant assets. The market for such investments is likely to be illiquid, with the consequence that regular traded prices are generally not available for such investments. Further, there may be no industry standard agreed methodology to value such investments. Although the Investment Manager will seek to carry out the fund's transactions with affiliates of the Investment Manager on an arms length basis, there can be no guarantee that the Fund is not paying a higher price than it may have paid if it could have purchased the investments elsewhere.
- b. [page 41] *Leverage, Interest Rates and Margin* – The Partnership will borrow funds from brokerage firms, banks and other financial institutions (including but not limited to on-balance sheet term loans) in order to increase the amount of capital available for investment...Consequently, the level of interest rates at which the partnership can borrow will affect the operating results of the Fund.

In addition, the Partnership may in effect borrow funds through entry into repurchase agreements and may 'leverage' its investment return with such instruments as forwards, futures, options and other derivative contracts...Any limitation of the availability of borrowing facilities will have a detrimental effect on the Fund's ability to maintain its intended level of leverage.

- c. [page 42] – *Conflicts of Interest* – The prospect of the Performance Allocation may lead the General Partner and/or Investment Manager to make investments that are riskier than would otherwise be the case. Other clients of the... Investment Manager may have similar investment objectives although the General Partner, the Investment Adviser and/or the Investment Manager, in particular in relation to the allocation of investment opportunities, will act fairly as between all of its clients.

Under heading

CONFLICTS OF INTEREST – The following inherent or potential conflicts of interest should be considered by prospective investors before investing in the Fund:

- d. [page 45] - *Other Clients* – The General Partner, the Investment Manager and/or the Investment Adviser may act as general partner, adviser, broker or investment manager to other clients (including funds) now or in the future. The investment objectives of such clients may be identical, similar or different to those of the Fund. They may additionally serve as consultants to, partners or shareholders in, other investment funds, companies and investment firms. Certain investments may be appropriate for the Fund and also for other clients advised or managed by the General Partner, the Investment Manager and/or the Investment Adviser... In such event, such transactions will be allocated among the Fund and clients in a manner believed by the General Partner, the Investment Manager and/or the Investment Adviser to be equitable to each. Purchase and sale orders for the Fund may be combined with those of other clients of the General Partner, the Investment Manager and/or the Investment

Adviser. In effecting transactions, it may not always be possible, or consistent with the possibly differing investment objectives of the various clients and of the Fund, to take or liquidate the same investment positions at the same time or at the same prices.

- e. [page 46] - *Interests in Servicing Companies* – The Investment Manager or funds managed or advised by the Investment Manager or members of its group may hold equity or debt securities or similar interests in companies that provide services to and receive servicing, administration or other fees from the entities in which the Fund may invest. This may pose a potential conflict of interest between the Fund and the Investment Manager and/or other funds managed or advised by the Investment Manager or members of its group.

- f. [page 46] - *Other Activities* – The General Partner, the Investment Manager and/or the Investment Adviser engage in other business activities and manage the accounts of clients other than the Fund. The General Partner, the Investment Manager and/or the Investment Adviser are not required to refrain from any other activity, or account for profits from any such activity, whether as partners of additional investment companies or otherwise or to devote all or any particular part of the time and effort of any of its or their partners, officers, directors or employees to the Fund and its affairs. Investment strategy for such other clients may vary from that of the Fund. The Directors may act as directors of, or otherwise be interested in, other funds in which the Fund may invest in now or in the future. The Investment Manager may utilise its own brokerage services or the services of other brokers in its group. The Investment Manager will be involved in valuation of the Fund's assets and will also receive a fee based on the performance of the Fund. This may act as an incentive for the Investment Manager to manipulate the value of investments. To the extent that there are other conflicts of interest on the part of the General Partner, the Investment Manager, the Investment Adviser the Administrator, the Prime Broker and/or the Directors between the Fund and

any other account, company, partnership or venture with which it or they are now or later may become affiliated, they will endeavour to treat all of such entities equitably.

23. The representations in the PPM were continuing representations made from the time that the PPM was first sent to Valiance until the time that Valiance invested in the Fund as set out in more detail below.
24. Further the representations constituted representations made to Valiance to the effect and representing that, for the purposes of Valiance's consideration as to whether to subscribe for shares in CNEF, there were no other material actual or potential conflicts of interest between the entities referred to in the PPM and, in particular, between the Fund and any other Cheyne managed fund including CSFF or affecting the board directors as directors of the Fund and as directors of any other fund including, in particular, CSFF or affecting the Investment Manager and/or Investment Adviser as manager and adviser of the Fund and as manager and adviser of any other fund including, in particular, CSFF.
25. In the course of due diligence carried out by Valiance in May 2008, CNEF or CCML as Investment Manager on its behalf had the opportunity to draw to Valiance's attention any changes in the position relating to conflicts of interest since the date of the PPM in May 2007.
26. For the purpose of the 2008 Due Diligence CCML produced a written report ("the 2008 Due Diligence Report"). The 2008 Due Diligence Report disclosed the following matters:
 - a. Since the date of the PPM the Fund had acquired a 120 hectare site in Brasov in Romania ("the Brasov Site") which had been used as a tractor factory together with intellectual property rights and other property belonging to the former owner of the site. The Fund intended to develop the site pursuant to a

long-term development scheme which involved a masterplan to rezone the land for residential, commercial and light industrial uses;

- b. For the purpose of the re-zoning for planning purposes and the redevelopment of the Site, the Fund had entered into a partnership with local Romanian nationals trading as Centerra Capital Partners Inc (“Centerra”) who headed a team of real estate professionals with specialized local knowledge and expertise;
- c. The Brasov Site accounted for about 42% of the entire assets of the Fund and was illiquid and was intended to be held to maturity i.e. the completion of the development or at the earliest the date when the Brasov Site could be sold with the benefit of rezoning and permission for residential, commercial and light industrial use and could realise its full potential value. It followed from that that the development was an investment with a medium to long term investment horizon;
- d. All the debt financing for the investments was done on a non-recourse level at the underlying SPV level.

27. In a document entitled “Overview of Cheyne Alternatives Business” (“the Overview Document”) which was presented to Valiance for and on behalf of CNEF and the Fund, it was represented to Valiance that:

- a. CNEF could provide *“full transparency to investors to meet their information requirements and can tailor monthly reporting to meet the needs of the investors’ own reporting/risk monitoring requirements”*;
- b. That the Fund would have *“moderate leverage at the asset level rather than fund level with long-term financing to ensure no asset-liability mismatch”*;

- c. That the Fund would have *“Moderate leverage at an asset level rather than fund level, typically with no recourse to the fund and long term (>2 years) to match the maturity/ liquidity of the asset”*.

28. The representations concerning conflicts of interest, financing and investment horizon were material and were relied upon by Valiance. In an internal report by Valiance dated 15 May 2008, the following points were noted:

- a. The Brasov Site was the most significant investment representing about 47% of AUM;
- b. That the acquisition of the Brasov Site for €77m was funded with €45 equity from the Fund and the remainder of mezzanine debt;
- c. That the Fund was only half way through the planning process and zoning was not expected to be completed until at least the first quarter of 2009.

29. Further, the Brasov Site was the asset in the Fund which particularly attracted Valiance to invest by subscribing for shares in CNEF.

30. Because of the long term nature of the assets in the Fund it was agreed that the Fund should be transformed from an open-ended fund to a closed-ended fund with a maximum 3 year life span. This was to align the interests of the Fund, its investment manager and investors. This change was made to the constitution of the Fund shortly after the initial investment by Valiance.

31. Further, Valiance had been told by CNEF that there was considerable interest from other knowledgeable and experienced investors with a potential total value of €65m.

32. The matters set out in paragraphs 19 to 28 and 31 above constituted express and/or implied representations made by CNEF to Valiance in, inter alia, the following terms:

- a. By making the express representations referred to and identified above it was impliedly represented that there were no actual or potential conflicts of interest between the interests of Valiance and CNEF or other Cheyne managed funds including, in particular, CSFF other than the matters specifically set out and identified in the PPM;
- b. Further, it was impliedly represented that there were no actual or potential conflicts of interest arising between the interests of Valiance and the interests of any other Cheyne managed fund including, in particular, CSFF arising by reason of any relationship of creditor/debtor and/or the holding of any security over the assets of the Fund as between CSFF and CNEF which might affect or prejudice any investment by Valiance in shares in CNEF and/or the Fund;
- c. It was represented that any lending to CNEF and/or the Fund was mezzanine lending from third party lenders;
- d. In making the representation referred to (c) above, it was impliedly represented that the lender of acquisition finance would not have or would not be likely to have any or any relevant expertise to enable it to repossess the Brasov Site and exploit its value for its own purposes thus making any enforcement of the security less likely to occur;
- e. It was expressly represented that any lending to CNEF and/or to the Fund was structured in such a way as to match the medium to long term maturity of CNEF's and/or the Fund's assets;
- f. It was expressly represented that investors, who were described by Petteri Barmann of CCML as "*very savvy*", were interested in investing in the Fund.

Reliance by Valiance on the representations

33. In reliance on and induced by the representations made and matters disclosed thereby in the PPM and in the 2008 Due Diligence Report and the other documents referred to above, Valiance subscribed for shares in CNEF and acquired an interest in the Fund as follows:

- a. on 1 August 2008 Valiance Fund of Funds subscribed for 45,381.11 Class A1 unrestricted shares for US\$5m;
- b. on 1 August 2008 Valiance Co-Investment subscribed for 45,381.11 Class A1 unrestricted shares for US\$5m;
- c. on 1 September 2008 Valiance Fund of Funds subscribed for 22,820.21 Class A1 unrestricted shares for US\$2.5m.
- d. on 1 September 2008 Valiance Co-Investment subscribed for 22,820.21 Class A1 unrestricted shares for US\$2.5m.

34. The shares are held in the name of Citco and as from 1 March 2009 the shares were redeemed and switched to Class B1 unrestricted shares in the total amount of €15,020,681.44.

35. As at the date of these proceedings Valiance holds 245,241.06 Class B1 shares in CNEF. The shares are held by Citco. All and any rights of Citco in or over the claims made herein have been assigned by Citco to Valiance Fund of Funds and Valiance Co-Investment as set out in paragraph 4 above.

Falsity of representations

36. The representations referred to above were false.

PARTICULARS OF FALSITY

- a. Contrary to the representations made concerning Risk Factors and Conflicts of Interest there was a major actual structural conflict of interest which was not

disclosed to Valiance. The conflict was created by the fact (undisclosed to Valiance) that CSFF had entered into a lending facility on 9 August 2007 with Flavus Investments Limited (“Flavus”) (the SPV owned by the Fund to hold the Brasov Site) pursuant to which it had lent €34.5m to Flavus as a senior secured lender. The conflict was not disclosed to Valiance until early 2009 and was evidenced *inter alia* by a letter from CSFF to CNEGP dated 23 February 2009 which proposed an extension of the original maturity date of one year. The maturity date of the facility was 29 August 2009 which did not match the maturity or investment horizon of the Brasov Site. The interest rate for the facility was 16% per annum which was not consistent with long term funding at the date the facility was put in place in August 2007. As at February 2009 the loan balance was €36.3m. The facility was secured with a first charge over all the movable and immovable assets of Flavus and a pledge over the shares in Flavus held by the Fund. There was a proposal to extend the term of the facility to August 2010 on the payment of €4m by 27 February 2009 and an increase in the rate of interest from 16% to 18%.

- b. The fact that CSFF had made a secured loan to CNEF for the purpose of acquiring the Brasov Site to CNEF/the Fund rendered the representations that had been made about actual and/or potential conflicts of interest so incomplete and defective as to amount to a misleading statement and the presentation of an untrue and unfair view of the Fund and of the potential advantages and disadvantages for a prospective investor of making an investment in the Fund.
- c. The disclosure of the loan revealed a major and structural conflict between the interests of Valiance as holder of shares in CNEF and as investor in the Fund and the interests CSFF. There was, further, an irreconcilable conflict of interest and duty between the interest of CSFF and the duty of its directors to act bona fide in its interests and the interests of CNEF and CNEGP and the duty of their boards of directors (who were the same as the directors of CSFF) to act bona fide in the interests of CNEF (and its investors including Valiance)

and CNEGP. The conflict generated by the loan facility was obviously prejudicial to Valiance's interests in that the value of the Brasov Site (and all the preparatory work done in connection with it) was liable to be lost to the Fund in the event that it could not repay the loan to CSFF and/or comply with the terms of the facility granted by CSFF and/or reschedule the payment date by agreement with the lender. The loan facility was advantageous to CSFF as it potentially enabled it to enforce its security and acquire the Brasov Site after the preparatory work had been done at the expense of CNEF and/or the Fund. Further, unlike a third party lender, CSFF had the knowledge and expertise to enable it to exploit the value of the Brasov Site on its own.

- d. The terms of the loan facility were materially inconsistent with the representations made in the 2008 Due Diligence Report and in the Overview Document in particular the terms of the facility granted by CSFF was secured and did not represent "moderate" leverage in the context of a long-term and illiquid investment such as the Brasov Site.

37. But for the making of the representations referred to above Valiance would not have subscribed for shares in CNEF and it would have made other alternative investments.
38. The representations referred to above were made carelessly and without reasonable grounds for believing them to be true in that CNEF and/or CMIL on its behalf knew that the representations had been made and there were no reasonable grounds for making them.
39. On disclosure of the CSFF loan being made Valiance was entitled to consider the position which had been created by the misrepresentations in which the value of its investment was at risk of being annihilated by the need to repay the loan.
40. The proposal to extend the repayment date of the CSFF loan facility to August 2010 was accepted by CNEF and/or the Fund in that they were in a position to direct the

decision of Flavus. The repayment date for the facility was extended to August 2010 on terms that €4m was paid and the rate of interest was increased to 18%.

41. At the time that the CSFF facility was disclosed to Valiance it was expressly acknowledged in the letter dated 23 February 2009 by CCIL on behalf of CNEF that the facility created a conflict of interest. The acknowledgement of the conflict of interest constituted an admission that the existence and terms of the facility should have been disclosed to Valiance.

Further Subscription for shares

42. In 2010 it became necessary to address the fact that the payment of the CSFF facility was going to fall due. Details of negotiations between CNEF/the Fund and CSFF were not disclosed to Valiance.
43. In April 2010 Valiance was informed by or on behalf of CNEF that Flavus required €40m of new equity to enable it to pay €17.5m to CSFF, the balance being necessary to cover expenses for 2010-2011, realise Phase 1 of the commercial development and certain proposals were made by CNEF and/or the Fund. Valiance was further informed that CSFF was expected to agree to further extend the facility on payment of 50% of what was outstanding, an extension of 18 months for the repayment date at a reduced rate of interest of 9% with a further 18 month extension being possible at 18% thereafter. Valiance was entitled to treat the information as to CSFF's attitude to extension of the repayment date as reliable and true as the boards of directors of the two companies were the same.
44. Accordingly, it was represented by CNEF that if additional equity was raised pursuant to the information given, CSFF would agree to extend the repayment date to February 2012 with an option for a further extension to August 2013.
45. In June 2010, further information was given by CNEF/the Fund in an information memorandum dated 15 June 2010 to Valiance as to the CSFF facility. In June 2010

the requirement for new equity was stated as being €30m in order to pay €22m in respect of the CSFF facility. Agreement to subscribe for new equity was required within 6 days by 21 June 2010.

46. As a disincentive to Valiance to decline the additional share offer it was proposed that such new equity should be raised on the basis of a discounted equity offering. If Valiance did not take up its pro rata new equity its existing shareholding would be diluted by over 50% (post share offering, the existing shares would only have represented approximately 43% of the total value of the company, compared to 100% prior to the share offering). Further, as an incentive to take up the new share offer, CNEF/the Fund promised that new consultants, Chelsfield Advisors LLP, who were a prominent UK-based developer would provide expertise in real estate development to CNEF.
47. In reliance on the representation that CSFF would agree to extend the repayment date as set out above and in order to mitigate the losses which had already been sustained by Valiance by reason of investing in CNEF/the Fund and in order to avoid the significant dilution of its existing shareholdings, Valiance agreed to participate in the raising of new equity.
48. On 1 July 2010 Valiance Fund of Funds subscribed for an additional 70,108.52 shares at €1,329,951.53. Valiance Co-Investment subscribed for an additional 70,108.52 shares at €1,329,951.53.
49. The representations made as to CSFF's agreement to extend the repayment date of the loan were false. They were made carelessly and without reasonable grounds for believing them to be true in that CNEF knew that the representation had been made and that there were no reasonable grounds for making it.
50. Contrary to the representations made in March and in June 2010, CSFF refused to extend the repayment date beyond a short extension to December 2010. Thereafter,

CSFF enforced the security it held and the Brasov Site together with the benefit of all CNEF's investment in and expenditure on it was transferred to CSFF for no payment to CNEF. As a consequence CNEF/the Fund and all the investors in CNEF/the Fund including Valiance have lost the entire value of that part of their investment represented by the investment in the Brasov Site.

Remedies claimed by Valiance

51. By reason of the matters set out above Valiance is entitled to and by these proceedings does rescind the agreements to subscribe for shares in August and September 2008 and in July 2010 and is entitled to and demands repayment of €17,680,584.50 being the funds paid to CNEF pursuant to the subscriptions for shares referred to above.
52. Further or in the alternative, Valiance has suffered loss and damage and is entitled to damages in lieu of rescission pursuant to section 14(2) of the Contracts Law (1996 Revision) such damages being the difference between the present value of the shares in the Fund and the amounts paid by Valiance in 2008 and 2010.
53. Further, or in the alternative, Valiance has suffered loss and damage and is entitled to damages pursuant to section 14(1) of the Contracts Law (1996 Revision) such damages being the difference between the present value of the shares in the Fund and the amounts paid by Valiance in 2008 and 2010.

Negligent Misstatement

54. Further or in the alternative, in providing information concerning CNEF/the Fund to Valiance, CNEF assumed a responsibility in favour of Valiance to provide accurate, true and fair information to Valiance in respect of CNEF/the Fund relating, in particular, to the existence of any potential or actual conflict of interest arising out of the existence and/or terms of any loan made to CNEF/the Fund or to any SPV held as an asset by CNEF/the Fund and secured on the assets of CNEF/the Fund.

55. Accordingly, in respect of such information, CNEF owed Valiance a duty of care in respect of the provision of such information.
56. In breach of such duty of care and negligently, CNEF failed to make any disclosure of the existence and terms of the loan made by CSFF to Flavus which is referred to above. In connection with this claim Valiance repeat the allegations made above as to the conflict of interest constituted by the CSFF loan facility.
57. By reason of CNEF's breach of duty and negligence Valiance has suffered loss and damage and is entitled to damages such damages being the difference between the present value of the shares in the Fund and the amounts paid by Valiance in 2008 and 2010.
58. In respect of its claims for damages pursuant to sections 14(1) and/or 14(2) of the Contracts Law (1996 Revision) and breach of duty, the best particulars that can be given as to the value of the shares in the Fund is the amounts paid on 1 August 2008, 1 September 2008 and 1 July 2010 totalling €17,680,584.50 and the current sale value which Valiance puts at nil.
59. In respect of all sums claimed herein Valiance claims interest pursuant to Section 34 of the Judicature Law (2007 Revision) or alternatively in equity at such rate and for such period as the Court shall determine.

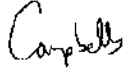
**Francis Tregear QC
Campbells**

AND THE PLAINTIFFS claim:

1. The said sum of €17,680,584.50;

2. Interest as aforesaid;
3. Costs; and
4. Such further and/or other relief as this Honourable Court deems appropriate.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of €17,680,584.50 plus interest and costs further proceedings will be stayed. The money must be paid to the Plaintiffs or their Attorney.



CAMPBELLS
Attorneys at Law for the Plaintiffs
1 September 2011

THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM is issued by Campbells, Attorneys-at-Law for and on behalf of the Plaintiffs, whose address for service is 4th Floor, Scotia Centre, George Town, Grand Cayman (Ref: JRM/13558-18302).