

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**FINANCIAL SERVICES DIVISION**

**Cause No FSD 152 of 2011- PCJ**

**In chambers by videolink on 14<sup>th</sup> September 2012**

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

**AND: CHEYNE NEW EUROPE FUND INC** DEFENDANT

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**ORDER FOR DIRECTIONS**

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**UPON HEARING** counsel for the Plaintiffs and the Defendant

**IT IS ORDERED THAT:**

1. Discovery is to be made, save in respect of those documents relating to valuation issues, by exchanging Lists of Documents on or before 19 October 2012. Lists of Documents, if any, relating to valuation issues to be exchanged on or before 7 December 2012, to the extent any discovery is required on valuation issues.
2. There will be inspection of documents no more than 14 days after each exchange of Lists of Documents referred to in paragraph 1 herein. Inspection of documents shall take place at the London offices of Field Fisher Waterhouse LLP and Latham & Watkins LLP.
3. Witness statements, and hearsay notices where required, are to be exchanged by 25 January 2013.

4. Unless otherwise ordered, witness statements are to stand as the evidence in chief of the witness at trial.
5. As to issues relating to the fall in the Eastern European property market the Defendant to write to the Plaintiffs by 21 September 2012 with a view to clarifying and narrowing the issues relating to the Eastern European property market. The Plaintiffs to respond to the Defendant by 5 October 2012. The parties are to consider whether evidence as to the fall in the Eastern European property market can be adduced from independent published sources.
6. As to valuation of the Plaintiffs' alleged loss:
  - (a) The Plaintiffs to write to the Defendant by 28 September 2012 seeking an explanation as to the figures included in the calculations of the Net Asset Value of the Defendant and identifying specific queries and information required;
  - (b) The Defendant to respond to the Plaintiffs' letter by 12 October 2012;
  - (c) The Plaintiffs to set out to the Defendant its specific case on valuation issues, and indicating how the same can be decided and managed, by 26 October 2012;
  - (d) The Defendant to respond to the Plaintiffs by 9 November 2012; and
  - (e) The Plaintiffs to identify to the Defendant those valuation issues still outstanding by 23 November 2012.
  - (f) In the event that there remain outstanding valuation issues between the parties as at 23 November 2012, the Plaintiffs are to be at liberty to apply for permission to adduce the evidence of a valuation expert.
7. With regard to expert issues:
  - (a) The standard level of due diligence that would be usual for a fund of funds to carry out prior to an investment:
    - (i) The Plaintiffs to write to the Defendant by 17 December 2012 to propose a list of questions and a list of materials for the relevant expert to consider in drafting his report; and
    - (ii) The Defendant to respond to the Plaintiffs on their list of questions and materials by 11 January 2013;



- (b) Specialist in commercial property related lending:
    - (i) The Defendant to write to the Plaintiffs by 17 December 2012 to propose a list of questions and a list of materials for the relevant expert to consider in drafting his report; and
    - (ii) The Plaintiffs to respond to the Defendant on its list of questions and materials by 11 January 2013;
  - (c) Specialist in the Eastern European property market:
    - (i) In respect of any issues that remain outstanding after the correspondence referred to in paragraph 5 above the Defendant to write to the Plaintiffs by 17 December 2012 to propose a list of questions and a list of materials for the expert to consider in drafting his report; and
    - (ii) The Plaintiffs to respond to the Defendant on its list of questions and materials by 11 January 2013.
8. Signed reports of experts:
- (a) Are to be confined to three experts in total for the Plaintiffs and three experts for the Defendant;
  - (b) Are to be confined to the following issues:
    - (i) The standard level of due diligence that would be usual for a fund of funds to carry out prior to an investment;
    - (ii) Specialist in commercial property related lending; and
    - (iii) Specialist in the Eastern European property market;
  - (c) Are to be exchanged simultaneously; and
  - (d) Are to be exchanged not later than 22 March 2013.



9. Meeting of experts:

- (a) The meetings of experts are to be by 12 April 2013;
- (b) Joint memoranda of experts of like discipline are to be completed by 3 May 2013;
- (c) Any short supplemental experts' reports are to be exchanged simultaneously by not later than 24 May 2013.

10. The parties are to be at liberty to call as expert witnesses at the trial those experts whose reports they have exchanged pursuant to paragraph 8 above.

11. Preparation of trial bundles to be completed in accordance with the FSD Guide by not later than 4 weeks before the trial.
12. The provisional estimated length of trial is seven to ten days. This includes 1.5 days pre-trial reading time.
13. The trial to commence on Wednesday 18 September 2013, with pre-reading beginning on Monday 16 September 2013.
14. There is to be a pre-trial review to be fixed at a convenient date not earlier than 3 June 2013 and not later than 12 July 2013.
15. Save as varied by this order or further order, the practice and procedures set out in the FSD Guide are to be followed.
16. The Case Memorandum to be updated by 24 May 2013, or in advance of any application for further directions prior to that date.
17. The parties be at liberty to apply for further directions.
18. The costs of and occasioned by this application shall be costs in the cause.
19. Liberty to restore the Case Management Conference.

Dated 14<sup>th</sup> September 2012

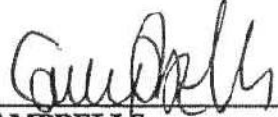
Filed 10<sup>th</sup> October 2012

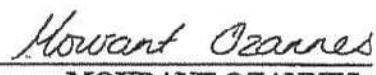
The Honourable Justice Cresswell  
Judge of the Grand Court




**THIS ORDER** is filed by Campbell's. Attorneys for the Plaintiffs, whose address for service is 4<sup>th</sup> Floor, Scotia Centre, George Town, Grand Cayman (Ref:JRM/KAH/sm/13558-18302)

Approved as to form and content:

  
\_\_\_\_\_  
**CAMPBELL**  
Attorneys for the Plaintiffs

  
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**MOURANT OZANNES**  
Attorneys for the Defendant

  
Dated.....October 2012

