



IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

0057

FSD CAUSE NO OF 2013 ()

IN THE MATTER OF the Declaration of Trust dated 2 March 1998 Constituting the Diamond Trust and of the Supplemental Declaration of Trust dated 2 March 1998 as amended by a Deed of Amendment dated 25 September 2012

AND IN THE MATTER OF the Declaration of Trust dated 29 August 1998 constituting the Attila Unit Trust (formerly known as the G.O. Unit Trust)

AND IN THE MATTER OF an application by Trustcorp Limited under the Trusts Law (2011 Revision) and GCR Order 85 rule 2

BETWEEN

TRUSTCORP LIMITED (in liquidation)

and

HIDEO SETO THE TRUSTEE OF THE ESTATE
OF KENSHIN OSHIMA A BANKRUPT (1)

YURIKO OSHIMA (2)

KABUSHIKI KAISHA SIGMA (3)

Defendants



ORIGINATING SUMMONS

To: Hideo Seto Trustee in Bankruptcy of the Estate of Kenshin Oshima in Bankruptcy of Kawaguchiya Bldg. 2-12, Nihonbashi Muromachi 4-Chrome, Chuo-ku, Tokyo, Japan

And To: Yuriko Oshima of 1-9-20 Shoto Shibuya-ku, Tokyo, 150-0046, Japan

And To: Kabushiki Kaisha Sigma, of 2-2-B Minami Aoyama, Minato-ku, Tokyo, Japan

LET THE DEFENDANTS, within 14 days after service of this Summons on them, counting the day of service, return the accompanying Acknowledgement of Service to the Courts the Registrar, Financial Division, Court Office, P. O. Box 495 GT, George Town, Grand Cayman KY1-1106, Cayman Islands.

BY THIS ORIGINATING SUMMONS, which is issued on the application of the Plaintiff, the trustee of the "**Diamond Trust**" constituted by a Declaration of Trust dated 2 March 1998 and the Supplemental Declaration of Trust dated 2 March 1998 as amended by a Deed of Amendment dated 25 September 2012 and the trustee of the "**Attila Unit Trust**" constituted by a Declaration of Trust dated 29 August 1998 seeking the following relief pursuant to GCR O. 85 r.2(2)(a):-

1. Directions as to what steps the Plaintiff should take, if any, to defend or otherwise participate in the legal proceedings brought by Kabushiki Kaisha Sigma ("**Sigma**") against the Plaintiff, in its capacity as trustee of the Diamond Trust and in its capacity as trustee of the Attila Unit Trust, in the Grand Court of the Cayman Islands in Cause G0573 of 2012 (the "**Main Proceedings**") seeking, inter alia:
 - (a) a declaration that by reason of an instrument executed on 14 March 2003 by Kenshin Oshima ("**Kenshin**") and in the events which have occurred Sigma is beneficially entitled to and entitled to be registered as the holder of all of the "units" in the Diamond Trust currently registered in the name of Kenshin; and
 - (b) a declaration that by reason of an instrument executed on 14 March 2003 by Kenshin and in the events which have occurred Sigma is beneficially entitled to be registered as holder of all the "units" in the Attila Unit Trust currently registered in the name of Kenshin.
2. If the Court directs that the Plaintiff adopt a neutral position in relation to the Main Proceedings then entirely without prejudice to that direction, a direction that the Plaintiff be at liberty to participate in the Main Proceedings, and to take the following steps therein:-
 - (i) the filing of an Acknowledgement of Service;
 - (ii) the filing and service of evidence, whether that be by way of affidavits, or testimony or otherwise; and

- (iii) compliance with any discovery or other obligations and any order affecting the Plaintiff in the Main Proceedings.
3. In the alternative to paragraph 2 above, if the Court directs that the Plaintiff be at liberty to defend the Main Proceedings, specific directions as to what steps the Plaintiff should take, including directions as to whether or not the Plaintiff should seek expert evidence from local counsel in Japan to assist in the defence of the Main Proceedings.
 4. If the Court directs that the Plaintiff shall seek to defend or otherwise participate in the Main Proceedings, an order that the Plaintiff be indemnified against all and any costs and expenses arising out of, and incidental to, the Main Proceedings out of the assets of the Diamond Trust and out of the assets of the Attila Unit Trust on an equal basis.
 5. All further and necessary orders and directions as this Court shall think fit.
 6. That provision be made for the costs of this application.
 7. Further or other relief.
 8. Liberty to apply for further directions.

Dated the 6th day of May 2013


CHARLES ADAMS RITCHIE & DUCKWORTH
Attorneys-at-Law for the Plaintiff

If the Defendant does not acknowledge service, judgment may be given or made against, or in relation to him or her, as the Court may think just and expedient.

NOTE: This Originating Summons may be served not later than 4 calendar months (or if leave is required to effect notice out of the jurisdiction, 6 months) beginning with that date unless renewed by order of the Court.

IMPORTANT: Directions for acknowledgment of service are given with the accompanying forms.

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TRUSTCORP LIMITED (in liquidation)

Plaintiff

and

HIDEO SETO THE TRUSTEE OF THE ESTATE
OF KENSHIN OSHIMA A BANKRUPT (1)

YURIKO OSHIMA (2)

KABUSHIKI KAISHA SIGMA (3)

Defendants

**ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING SUMMONS**

If you intend to instruct an attorney to act for you, give him this form IMMEDIATELY.

Important: Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, **THIS FORM MAY HAVE TO BE RETURNED.**

1. State the full name of the Defendant by whom or on whose behalf the service of the Originating Summons is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

Yes No

Service of the Originating Summons is acknowledged accordingly.

(Signed)

[Attorney] for

[Defendant in person]

Address for Service:

Notes on address for service

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Plaintiff's attorney (or by Plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Charles Adams Ritchie & Duckworth
2^{nc} Floor Zephyr House
122 Mary Street
PO Box 709
George Town
Grand Cayman KY1-1107
CAYMAN ISLANDS

Indorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below.

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
FOR ORIGINATING SUMMONS**

The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person. After completion it must be delivered or sent by post to the Law Courts, George Town, PO Box 495, Grand Cayman, KY1-1106, Cayman Islands.

1. Each Defendant (if there is more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
4. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Originating Summons)".
5. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
6. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
7. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.