

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION

Cause No FSD 0098 of 2014

IN THE MATTER OF THE COMPANIES LAW (2013 REVISION)  
AND IN THE MATTER OF WEAVERING MACRO FIXED INCOME FUND  
LIMITED (IN LIQUIDATION)

BETWEEN:

(1) IAN STOKOE

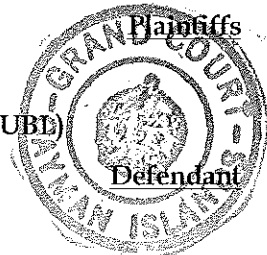
(2) DAVID WALKER

(AS JOINT OFFICIAL LIQUIDATORS OF WEAVERING MACRO FIXED  
INCOME FUND LIMITED)



-and-

SKANDINAVISKA ENSKILDA BANKEN AB (PUBL)



WRIT OF SUMMONS

TO: Skandinaviska Enskilda Banken AB (publ),  
106 40 Stockholm, Sweden

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs 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 29<sup>th</sup> day of August 2014.

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.

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Cause No FSD of 2014

IN THE MATTER OF THE COMPANIES LAW (2013 REVISION)  
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LIMITED (IN LIQUIDATION)

BETWEEN:

(1) IAN STOKOE

(2) DAVID WALKER

(AS JOINT OFFICIAL LIQUIDATORS OF WEAVERING MACRO FIXED  
INCOME FUND LIMITED)

Plaintiffs

-and-

SKANDINAVISKA ENSKILDA BANKEN AB (PUBL)

Defendant

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STATEMENT OF CLAIM

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**Introduction**

1. On 19 March 2009 Weaving Macro Fixed Income Fund Ltd ("the Company") was placed into voluntary liquidation and the Claimants were appointed as voluntary liquidators of the Company. By an order dated 3 April 2009 made by the Grand Court of Cayman Islands ("the Court"), the liquidation was ordered to continue subject to the supervision of the Court, and the Plaintiffs were appointed as official liquidators of the Company ("the Liquidators"). For the purposes of the *Companies Law* the Company's liquidation is deemed to have commenced on 19 March 2009.
2. At all times prior to the commencement of the Company's liquidation, the Directors of the Company were Hans Ekstrom and Stefan Peterson.

3. The Investment Manager of the Company was Weaving Capital (UK) Limited ("WCUK") which was indirectly owned and controlled by Magnus Peterson (the stepson of Hans Ekstrom and brother of Stefan Peterson). Magnus Peterson, through WCUK, managed and controlled the Company.
4. Pursuant to the Articles of the Company ("the Articles"), a member of the Company who held shares in the Company could redeem some or all of its shares in the Company at the Redemption Price (being the Net Asset Value ("NAV") per Share) on the next applicable Redemption Day. "Redemption Day" was defined as the first business day of each calendar month. Redemption requests were subject to a minimum 30 day notice period and the Company's Offering Memorandum provided for redemption payments generally to be made within 30 days.
5. Pursuant to Articles 38 and 39, the Directors of the Company could suspend the determination of the NAV.
6. Pursuant to Article 51, the Directors of the Company had the power to refuse to redeem shares (or scale down the amounts to be redeemed *pro rata*) if the Redemption Notices were received which in aggregate exceeded a percentage of the NAV of the Company.

#### THE DEMISE OF THE COMPANY

7. The Company traded in derivatives, financial instruments whose value derives from the values of underlying variables, such as stock exchange price, exchange rates or interest rates. The Company's trades were mainly in interest rate derivatives, which can be traded on a public exchange or "over the counter" ("OTC") arranged between individual parties to transactions. The credit risk with an OTC transaction is that the particular counterparty to the derivative transaction may not be able to fulfil its obligations under it.

8. From August 2003, the Company began to make losses on exchange traded transactions. However, at Magnus Peterson's instigation, the Company sought to cover such losses by what seemed to be gains through OTC transactions with a company incorporated in the British Virgin Islands called Weaving Capital Fund Limited ("WCF"). WCF was owned and entirely controlled by Magnus Peterson. Its directors were Stefan Peterson and Hans Ekstrom with Magnus Peterson replacing Stefan Peterson as a director in 2006 and its investment manager was WCUK. WCF had no realisable assets and did not trade other than as a counterparty to the OTC transactions with the Company. The OTC transactions were initially forward rate agreements which by March 2004 represented nearly 40% of the Company's reported NAV. Thereafter, between February 2005 and February 2009, the Company entered into 30 interest rate swap transactions ("IRS") with WCF as the purported counterparty.
9. The market value attributed to the IRSs in calculating the Company's NAV rose from US\$15.9 million at the end of 2005; to US\$86.8 million by the end of 2006; US\$195.6 million by the end of 2007; and US\$626.6 million by the end of 2008. Further as a percentage of the Company's reported NAV the value of the IRSs was generally more than 70% from mid 2006 onwards. However, in reality, the IRS's were sham transactions and were worthless as Magnus Peterson was aware.
10. Following the collapse of Lehman Brothers in September 2008, the Company began to receive a large number of requests from investors for redemption of their shares in the Company. The Company could not meet those redemption requests and went into liquidation as aforesaid.

#### THE REDEMPTION PAYMENTS TO SEB

11. Skandinaviska Enskilda Banken AB (publ), a division or unit of which was called SEB Merchant Banking, ("SEB") subscribed for shares in the Company and became a member of the Company.

12. During the month of October 2008, the Company received redemption requests totalling US\$138.4 million, including redemption requests from SEB in the amount of US\$8,217,761.54. Those redemption requests were processed on the 1 December 2008 Redemption Day (being the next Redemption Day following the requisite 30 day notice period), and calculated in accordance with the Company's published NAV at that time and pursuant to the Company's Offering Memorandum would, in the normal course of its business, be paid within 30 days of 1 December 2008.
13. Additional redemption requests were received by the Company from other shareholders in November 2008 and December 2008, for processing in accordance with the January 2009 and February 2009 Redemption Days (being 2 January 2009 and 2 February 2009 respectively). Those redemptions totalled approximately US\$54.7 million and US\$30.0 million respectively, as calculated in accordance with the relevant published NAVs.
14. The following redemption proceeds were paid to SEB pursuant to its aforesaid redemption requests:-
  - (1) US\$1,096,903.58 on or about 19 December 2008;
  - (2) US\$1,780,214.49 on or about 2 January 2009; and
  - (3) US\$5,340,643.47 on or about 11 February 2009 (together "the Payments").

#### SECTION 145(1)

15. Section 145(1) of the *Companies Law* provides:-
  - "(1) *Every conveyance or transfer of property, or charge thereon, and every payment obligation and judicial proceeding, made, incurred, taken or suffered by any company in favour of any creditor at a time when the company is unable to pay its debts within the meaning of section 93 with a view to*

*giving such creditor a preference over the other creditors shall be invalid if made, incurred, taken or suffered within six months immediately preceding the commencement of a liquidation."*

#### THE CLAIM

16. Each of the Payments was an invalid preference.
17. Each of the Payments was made within 6 months immediately preceding the commencement of the liquidation of the Company.
18. Each of the Payments was made when the Company was unable to pay its debts within the meaning of section 93, and was thus insolvent. More particularly:
  - (1) The Company had received redemption requests totalling US\$138.4 million for the 1 December 2008 Redemption Day. This sum became a debt of the Company as and from that day; and
  - (2) At the time of each of the Payments, the Company did not have:
    - (a) sufficient funds to meet those redemption requests; or
    - (b) sufficient other assets from which an in specie distribution could have been made in order to discharge the debts created by these redemption requests (particularly as its major assets at the time were the IRSs which had been valued at US\$626.6 million but were shams and worthless).
19. At the time that each of the Payments was made, Magnus Peterson was aware that the IRSs were a sham and that the Company was insolvent.
20. Each of the Payments gave SEB a preference over the other creditors of the

Company.

- (1) The payment of US\$1,096,903.58 on or about 19 December 2008 amounted to a preference over all the other unpaid or partly paid creditors of the Company who had submitted redemption requests prior to 19 March 2009 and/or 19 December 2008 (including the other redemption requests processed on 1 December 2008) and the other creditors of the Company;
  - (2) The payment of US\$1,780,214.49 on or about 2 January 2009 amounted to a preference over all the other unpaid or partly paid creditors of the Company who had submitted redemption requests prior to 19 March 2009 and/or 2 January 2008 (including the other redemption requests processed on 1 December 2008 and those processed on 2 January 2009) and the other creditors of the Company; and
  - (3) The payment of US\$5,340,643.47 on or about 11 February 2009 amounted to a preference over all the other unpaid or partly paid creditors of the Company who had submitted redemption requests prior to 19 March 2009 and/or 11 February 2008 (including the other redemption requests processed on 1 December 2008 and those processed on 2 January and 2 February 2009) and the other creditors of the Company.
21. Further each of the Payments was made with a view to giving SEB a preference over the other creditors of the Company.
- (1) Each of the Payments was made at the direction of WCUK and, in particular, Magnus Peterson, who managed and controlled the Company's decision making process in relation to redemption payments during this period and whose knowledge, intentions and actions in relation to the payments are to be treated as those of the Company's and/or imputed to the Company.
  - (2) Each of the Payments was made at a time when the Company was unable

to pay its debts (and was insolvent), as Magnus Peterson knew.

(3) Each of the Payments was made at a time when Magnus Peterson knew that:-

(a) The identity of the counterparty to the IRSs (which had by then been expressly referred to in the Company's Administrators' Quarterly reports) and the true value of the swaps were almost certain to be discovered soon.

(b) That discovery would inevitably (or alternatively probably) lead to the revelation of the true financial position of the Company and the liquidation of the Company.

(4) Further each of the Payments was made at a time when the financial markets around the world were in severe crisis following the collapse of Lehman Brothers. Magnus Peterson, WCUK and the Directors of the Company were all aware of that and the resulting large number of redemption requests that were being received (and were likely to be received in the future) by the Company (which had been presented to investors as a highly liquid fund) and the huge demands those redemption requests made on the Company which meant that the Company could not comply with all those redemption requests and therefore was unable to pay its debts as they fell due.

(5) Therefore each of the Payments was made when Magnus Peterson knew that the Company was likely to go into liquidation and at a time when he knew that the calculation of the NAV should be suspended pursuant to the power to do so in Articles 38 and 39 and redemption payments stopped pursuant to Article 51.

(6) Each of the Payments was made at a time when Magnus Peterson knew (or should have known) that they should not be made and that there was

a very real possibility (and in fact a likelihood) that the effect would, in the event of a liquidation, be to prefer those creditors over the other redeeming creditors.

(7) Further each of the Payments was made at a time when the Directors of the Company should have known that the counterparty to the IRSs was WCF and that the IRSs were shams and knew or should have known the facts and matters set out in sub-paragraphs (2), (3), (5) and (6) above.

(8) There was no compelling reason to make the Payments rather than suspending all redemption payments other than a refusal by Magnus Peterson and the Directors to acknowledge the precarious financial position of the Company and the reasons underlying that.

(9) The payment to SEB that was made on 19 December 2008 was made along with payments to select Swedish investors who were going to reinvest the redemption proceeds in another fund managed by WCUK and based in Sweden, namely the Rantehedge Fund, rather than to any other shareholders who had applied to redeem their shares at the same time. Further the payment made on 19 December 2008 was paid before the expiry of the 30 day payment period provided in the Company's Offering Memorandum. In the premises the aforesaid payment was made with the intention that SEB (and the other investors who intended to reinvest in the Rantehedge Fund) be paid in preference to the other investors who had applied to redeem at the same time but who did not intend to reinvest in the Rantehedge Fund, an intention that Magnus Peterson attempted to fulfil again the following month.

(10) The Company sent a letter to investors dated 31 December 2008 that stated that the Company intended to pay only 25% of existing redemption requests. Further in Board Minutes of a Directors' Meeting allegedly held on 22 February 2009 it is recorded that *"using the powers under Article 50 the Directors determined on 30<sup>th</sup> December that redemption payments due by the*

*end of December would be deferred to such time as liquidity returned to the fixed income markets."* However, despite that letter and the determination of the Board of Directors of the Company, from which it is apparent that the Company appreciated that it was not in a position to pay redemption requests in full, the Payments were paid to SEB resulting in SEB being paid 100% of its redemption requests in preference to the other creditors who had applied to redeem their shares but were not paid at all, or were not paid at the same time as SEB, or only received part of the sums due to them.

(11) Further the Company paid investors who had made smaller redemption requests (such as SEB) in preference to investors who had made larger redemption requests (a policy recorded in the Board Minutes dated 22 February 2009), thus deliberately preferring those smaller investors over the larger investors.

(12) In the premises, each of the Payments was made with the dominant intention of and with a view to preferring SEB over the other unpaid or partly paid creditors of the Company.

22. On 5 May 2014 the Plaintiffs (having previously put SEB on notice that the Payments may be required to be repaid to the Company) demanded repayment of the aforesaid sums from SEB but SEB has refused to repay those sums.

23. Further the Plaintiffs claim interest on the aforesaid sums pursuant to section 34 of the Judicature Law (2013 Revision).

**AND THE PLAINTIFFS CLAIM:-**

(1) A Declaration that each of the Payments is invalid as a preference over the other creditors of the Company.

(2) An Order that Defendant repay the following sums:-

(a) US\$1,096,903.58;

(b) US\$1,780,214.49; and

(c) US\$5,340,643.47.

(3) Interest pursuant to section 34 of the Judicature Law (2013 Revision).

(4) Further or other relief.

(5) Costs.

Dated this 29<sup>th</sup> day of August 2014

Mourant Ozannes

Mourant Ozannes

Attorneys-at-law for the Plaintiffs

This Writ and Statement of Claim were issued by Mourant Ozannes, Attorneys at Law for the Plaintiffs, whose address for service 94 Solaris Avenue, Camana Bay, PO Box 1348, Grand Cayman KY1-1108 (ref: 8008118/60751361/2)

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS

1. 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, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

See over for notes for guidance

## NOTES FOR GUIDANCE

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of ..... 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.
3. 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 Writ of Summons)".
4. 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.
5. 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.
6. 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.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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AND IN THE MATTER OF WEAVERING MACRO FIXED INCOME FUND  
LIMITED (IN LIQUIDATION)

BETWEEN: (1) DAVID WALKER

(2) IAN STOKOE

(AS JOINT OFFICIAL LIQUIDATORS OF WEAVERING MACRO FIXED  
INCOME FUND LIMITED)

Plaintiffs

-and-

SKANDINAVISKA ENSKILDA BANKEN AB (PUBL)

Defendant

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ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS

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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.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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

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2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)  
 yes  no

- 
3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (*tick box*)
- yes  no
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Service of the Writ is acknowledged accordingly

(Signed) .....

..... [Attorneys for the Defendant]

Address for service: (*See overleaf*)

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## 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.

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Mourant Ozannes  
Attorneys at Law  
94 Solaris Avenue  
Camana Bay  
PO Box 1348  
Grand Cayman KY1-1108  
  
ref: 8008118/60751361/2

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