

IN THE GRAND COURT OF THE CAYMAN ISLANDS

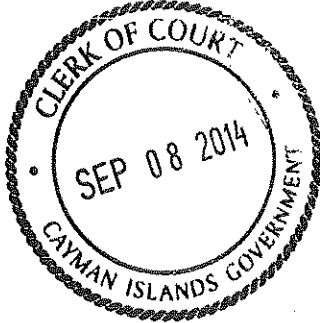
G0204

CAUSE NO. OF 2014

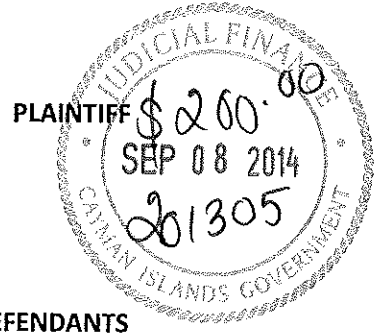
BETWEEN:

STEVEN SIM YUAN NING

AND:



- (1) LEYOU, Inc.
- (2) LAWRENCE KUNG



DEFENDANTS

WRIT OF SUMMONS

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 fourteen (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, PO Box 495, George Town, Grand Cayman KY1-1106, Cayman Islands, 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 of Service within the time stated, or if you return the Acknowledgment of Service 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 8th day of September 2014

NOTE: This Writ may not be served later than four (4) calendar months (or, if leave is required to effect service out of the jurisdiction, six (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

PARTIES

- 1 The Plaintiff is a natural person with offices at SOHU.com Media Plaza, Block 3, No. 2 Kexueyuan South Road, Haidian District, Beijing 100190, People's Republic of China.
- 2 The First Defendant, Leyou, Inc. (*the Company*), is a company incorporated in the Cayman Islands with company number 102579 with registered offices at Maples Corporate Services Limited, P.O. Box 309, Ugland House, South Church Street, George Town, Grand Cayman, KY1-1104, Cayman Islands.
- 3 The Second Defendant, Mr Lawrence Kung (*Mr Kung*) is a natural person with offices at 4/F, Section A, Building 1, Zhubang 2000, 100 Balizhuang Xili, Chaoyang District, Beijing 100025, People's Republic of China.

BACKGROUND

- 4 The Plaintiff was at all material times a resident of the People's Republic of China (*PRC*) and former chief financial officer (*CFO*) of the Company and its affiliated group (*Group*) in the PRC.
- 5 The Company provides infant and maternity products and services in the PRC.
- 6 Mr Kung is the executive chairman of the Group.
- 7 The Plaintiff was working at Deloitte in Beijing (*Deloitte*) as manager and had completed a MBA at INSEAD when he came to be acquainted with Mr Kung and the Company. At the material time, the Plaintiff's former supervisor at Deloitte introduced the Plaintiff to Mr Kung, who was looking to recruit a CFO for Leyou in connection with the company's plans to achieve an initial public offering (*IPO*) of its shares on a recognised stock exchange in the United States.
- 8 After several rounds of interviews and negotiations, Mr Kung offered the Plaintiff the opportunity of employment with the Company. The Plaintiff entered into an employment agreement (*the Employment Agreement*) dated 15 April 2011 on the

understanding that he would be better remunerated than he was at Deloitte. The Employment Agreement provided, *inter alia*, that:

- (a) the Plaintiff was to be employed as the CFO of the Company from 16 May 2011;
- (b) the Plaintiff would receive an annual pre-tax salary of RMB 970,000 (*Annual Salary*), of which RMB 700,000 was to be paid to the Plaintiff annually, and, as an incentive to remain in continuous employment with the Company, a lump sum of RMB 810,000 was to be paid to the Plaintiff at the end of three years employment.
- (c) the Plaintiff was to be granted options under the Employee Stock Option Plan (*ESOP*), equivalent to 1% of the Company's current equity; and
- (d) as a further incentive to remain as an employee of the Company, 75% of the Plaintiff's granted options would vest three years after the date of the Employment Agreement, with the remainder to vest after another year.

9 The Plaintiff entered into the Employment Agreement in reliance on its terms, and also in reliance on separate representations made by Mr Kung to the Plaintiff at the time that the Plaintiff entered into the Employment Agreement. Mr Kung represented to the Plaintiff that:

- (a) the management and owners of the Group were committed and motivated to achieve a successful IPO of the Company by no later than May 2014;
- (b) the Company would provide the Plaintiff with a better remuneration package comprising of the Annual Salary and the right to be issued shares in the Company upon the successful IPO of the Company and/or in any event before May 2014; and
- (c) that the right to be issued shares in the Company would be available to the Plaintiff until May 2015

(the *Representations*, and together with the Employment Agreement, the *Contract*).

- 10 Despite several requests made by the Plaintiff to Mr Kung to have the terms of the Contract written formally into a document, Mr Kung represented to the Plaintiff that there was no need and that the Plaintiff could trust him to honour his word.
- 11 Further, Mr Kung had represented to the Plaintiff that the Company would pursue an IPO and it would then be open to the Plaintiff to sell the Shares on the open market. This together with Mr Kung's earlier representations persuaded the Plaintiff that he did not need to insist on having the terms of the Contract formalised into a written contract.;
- 12 On or around May 2011, and further to the Employment Agreement and the Representations, the Plaintiff entered into an option grant agreement with the Company (the *Option Agreement*). The option granted to the Plaintiff gave him the opportunity to purchase 96,584,882 ordinary shares in the Company (the *Shares*) priced at US\$0.011318207 per share (the *Option*). The Option Agreement provides, *inter alia*, that:
- (d) the Option will not vest until 20 May 2014;
 - (e) the Option will become vested and exercisable as to 75% of the Shares on 20 May 2014, and that thereafter, on the day of the 12 succeeding one month anniversaries, the Option will become vested as to an additional 1/12th of the remaining shares until the Option is 100% vested;
 - (f) the Option shall expire on 20 May 2021;
 - (g) the Option cannot be exercised before the Company's IPO or acquisition by a third party; and
 - (h) if the Plaintiff is terminated for any reason other than death, disability or cause, the Option, to the extent that it would have been exercisable by the Plaintiff on the date of his termination (the *Termination Date*), may be exercised by the Plaintiff no later than three months after the Termination Date, provided that the post-IPO lock up period for the Company is over.

- 13 Although the Option Agreement provides that the Option is forfeited three months after the Termination Date, at the material time, Mr Kung represented to the Plaintiff that the Option would be available to him until 20 May 2015.
- 14 The Plaintiff only entered into the Employment Agreement in the expectation that he would benefit from the Option. The Plaintiff would not have accepted the offer of employment with the Company on the basis of the Annual Salary alone, and this was common ground between the Plaintiff, Mr Kung and the Company.
- 15 At the last valuation in March 2013, the Shares were valued at US\$ 0.2259 per share.
- 16 In reliance on the representations made by the Company and Mr Kung and on the Contract, and on the advice of the Company, the Plaintiff transferred all of the Shares, including those unvested at the time, to a BVI company incorporated in 2011 and wholly owned by the Plaintiff. As a result of this, the Plaintiff paid RMB 480,000 (US\$78,184.18) as a personal tax obligation to the PRC Tax Administration.
- 17 In or around June 2013 the Plaintiff embarked upon negotiations with Mr Kung and the Company to revise his remuneration package. The Plaintiff drafted a written contract and presented it to Mr Kung (the *Revised Agreement*). The Revised Agreement provided, *inter alia*, that:
- a) The Plaintiff would be employed as the CFO of the Company and as director of Leyou Hong Kong Limited (*Leyou Hong Kong*).
 - b) The Plaintiff would receive an annual salary RMB 600,000, payable in monthly instalments, in lieu of his services as CFO of the Company.
 - c) The Plaintiff would receive an annual salary of RMB 680,000, payable quarterly in instalments, in lieu of his services as director of Leyou Hong Kong.
 - d) The Plaintiff would also receive a variable bonus of not less than 35% as determined by the board of directors if net income target was achieved (the *Bonus*).
 - e) The Plaintiff would be considered for further option grants in the ESOP.

- f) The Plaintiffs employment with the Company could be terminated by either the Plaintiff or the Company giving one month's written notice or one month's salary in lieu of notice.
- 18 Mr Kung never signed the Revised Agreement on behalf of the Company; however, he indicated his acceptance of it by email in November 2013.
- 19 Despite the increased salary provided for in the Revised Agreement, the Plaintiff's remuneration package as outlined had not surpassed the remuneration he had previously received as Manager of Deloitte. It was common ground between the Plaintiff, the Company and Mr Kung that the Plaintiff's total remuneration package would exceed that which he was previously entitled to.
- 20 It was also common ground that the value of the Shares at the time of the grant of the Option was part of the total remuneration package that was agreed between the Company and the Plaintiff.
- 21 As a consequence of clause 3 of the Option Agreement, which provides that the Option cannot be exercised before the Company's IPO, and because the Company has failed to complete its IPO within the timeframe represented to the Plaintiff, the Option is incomplete and therefore the Plaintiff has been unable to exercise it.
- 22 The Plaintiff completed three years continuous employment on 15 May 2014 and the Plaintiff ceased to be an employee of the Company on 31 May 2014.
- 23 In the circumstances, the Plaintiff has suffered the loss of the value of the Option and the Company is liable to make good the value of the Option to the Plaintiff.
- 24 As at May 2014, the value of the Shares was estimated to be US\$ 816,584.10 (less the exercise price). The Defendants are liable to the Plaintiff in lieu of the Shares owing to him under the Option for this sum, and in cancellation of the Option (the *Sum Owning*).
- 25 In spite of repeated demands made by the Plaintiff to the Company, a letter from the Plaintiff's lawyers, Harneys Westwood & Reigels (*Harneys*), to the Company dated 25 July 2014, and further correspondence between Harneys and the

Company's lawyers, Simpson Thatcher & Barlett LLP, in July 2014, the Defendants have neglected and/or refused to make payment of the Sum Owing to the Plaintiff.

PARTICULARS OF BREACH OF CONTRACT

- 26 The Company and Mr Kung have committed the following breaches:
- a) in breach of the Contract, the Company aborted its contemplated IPO in or about February 2013.
 - b) in breach of the Contract, the Company has failed to provide the Plaintiff with the opportunity to exercise his rights under the Option.
 - c) in breach of the Contract, the Company has failed to provide the Plaintiff with a benefit in kind to the one he is contractually entitled to.
 - d) in breach of the Revised Agreement, the Company has failed to pay the Claimant the Bonus.

PARTICULARS OF BREACH OF FIDUCIARY DUTY

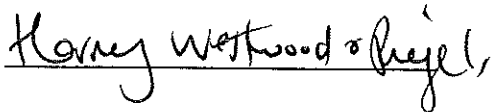
- 27 As his employer, the Company and Mr Kung owed the Plaintiff a duty of good faith and of confidence.
- a) in breach of his duty of good faith, Mr Kung made the Representations to the Plaintiff to induce him into entering into the Employment Contract.
 - b) in breach of his duty of good faith, Mr Kung misrepresented to the Plaintiff that he did not need to have the Representations precisely worded in a formal contract.
- 28 As a result of the aforesaid breaches, the Claimant has suffered loss and damage, namely:-
- a) the sum of US\$ 78,184.18 as a personal tax obligation paid to the PRC Tax Administration when the Plaintiff transferred his shares to a BVI Company;
 - b) the sum of US\$ 816,584.10 being the value of the Shares owing to the Plaintiff under the Option; and

- c) the sum of US\$ 92,498.50 representing the loss of opportunity the Plaintiff has suffered, calculated by reference the salary the Plaintiff would have been entitled to had he negotiated his remuneration package less the Option.

AND THE PLAINTIFF claims:

- 1 US\$ 987,266.78, alternatively such sum as the Court thinks fit;
- 2 Interest on the said sum to be assessed;
- 3 Further or other relief; and
- 4 Costs.

If, within the time for returning the Acknowledgment of Service, the Defendants pays the total amount claimed of US\$816,584.10 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or his attorney.



Harney Westwood & Riegels

Attorneys-at-Law for and on behalf of the Plaintiffs

THIS WRIT was issued by Harney Westwood & Riegels, Attorneys-at-Law for the Plaintiff, whose address for service is 4th Floor, Harbour Place, 103 South Church Street, PO Box 10240, Grand Cayman KY1-1002, Cayman Islands (Ref: JNW/045806.0002)

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, PO 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 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

Please complete overleaf

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 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.
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 set 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.

BETWEEN:

STEVEN SIM YUAN NING

PLAINTIFF

AND:

(1) LEYOU, Inc.
(2) LAWRENCE KUNG

DEFENDANTS

ACKNOWLEDGMENT OF SERVICE OF WRIT OF 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.

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

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

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 appropriate box)

yes no

Service of the Writ is acknowledged accordingly

(Signed).....

Attorneys-at-Law

Please complete overleaf

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.

Harney Westwood & Riegels
4th Floor, Harbour Place
103 South Church Street
P.O. Box 10240
Grand Cayman KY1-1002
Cayman Islands

(Ref: JNW/045806.0002)

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

