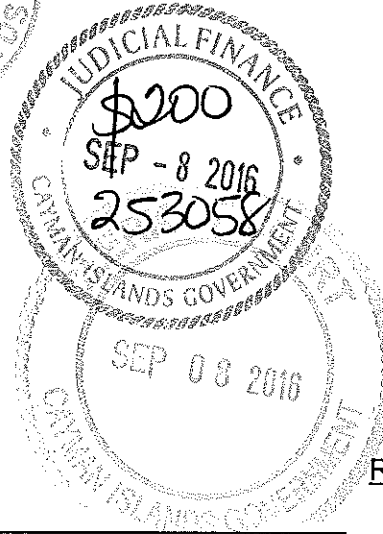
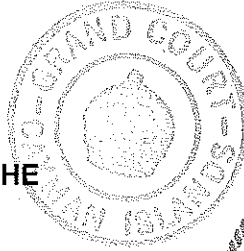


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: **G0168** OF 2016

BETWEEN:

- (1) BDO CAYMAN LTD
- (2) DELOITTE AND TOUCHE
- (3) ERNST & YOUNG LTD
- (4) KPMG
- (5) PRICEWATERHOUSECOOPERS



Applicants

AND

- (1) THE GOVERNOR IN CABINET
- (2) THE ATTORNEY GENERAL

Respondents

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To the Clerk of the Court Law Courts, George Town, Grand Cayman, Cayman Islands	
Name, address and description of applicant(s)	<p>BDO Cayman Ltd a duly incorporated company having its registered office at Floor 2 Building 3, Governors Square 23 Limetree Bay Avenue George Town PO Box 31229 Grand Cayman KY1-1205 Cayman Islands</p> <p>Deloitte and Touche A Cayman Islands partnership having its principle place of business at One Capital Place, Shedden Road P.O. Box 1787 Grand Cayman KY1-1109 Cayman Islands</p>

	<p>Ernst & Young Ltd. A duly incorporated company having its registered office at PO Box 309 Ugland House, South Church Street Grand Cayman KY1-1104 Cayman Islands</p> <p>KPMG A Cayman Islands partnership having its principle place of business at 2nd and 3rd Floor, Century Yard Cricket Square P.O. Box 493 Grand Cayman KY1-1106 Cayman Islands</p> <p>PricewaterhouseCoopers A Cayman Islands partnership having its principle place of business at 18 Forum Lane Camana Bay P.O. Box 258 Grand Cayman KY1-1104 Cayman Islands</p>
<p>Judgment, Order, decision or other proceeding in respect of which relief is sought</p>	<p>Decision made by the Governor in Cabinet to dismiss appeals made under s.17 of the Trade and Business Licencing Law (2007 Revision) (in force at all material times)(the "Law"), as communicated to the Applicants by letters received on, or after, 10 June 2016 (the "Decision").</p>
<p style="text-align: center;"><u>Relief Sought</u></p> <p>1 An order of certiorari to quash the Decision.</p> <p>2 A declaration that the Applicants are not liable to pay a fee of CI\$2,000 under item 1 of the Schedule in the Law (then in force) for every accountant they employ (the "Per Accountant Fee") in addition to the "per firm" fee for "Accountancy Firms" calculated and paid by reference to the number of accountants or other professionals within the firm (the "Per Firm Fee") under item 2 of the said Schedule.</p> <p>3 A declaration that that the term "Accountant" in item 1 of the Schedule of prescribed fees under the Law (then in force) does not include accountants who have already been counted within the number of accountants or other professionals for determining the Per Firm Fee payable by Accountancy Firms.</p>	

4	A declaration that the Applicants are not required to pay any additional fees, and are entitled to refunds for the overpayment(s) of any Per Accountant Fee paid in respect of their trade and business license renewals between 2002 and 2012.
5	Such further or other relief as the Court thinks fit.
Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant	Maples and Calder of PO Box 309, Uglan House, South Church Street, George Town, Grand Cayman KY1-1104, Cayman Islands
Signed: <i>Maples and Calder</i>	Dated: 8 September 2016

Grounds on Which Relief is Sought

- 1 Unlawfulness: the decision maker made an error of law in making the Decision.
 - 1.1 On the plain and ordinary meaning of the language in sections 12 and 14 of the Law (then in force), and the Schedule to the Law, the only fee payable in respect of an application for a trade and business licence for accountancy firms, such as the Applicants, is the Per Firm Fee under item 2 of the Schedule.
 - 1.2 There are a number of different ways the legislature could have clearly expressed a requirement that Accountancy firms are to pay two sets of fees. These include referring to applicable "fees" within the Law (then in force), or including a specific reference to the Per Firm Fee being payable in addition to the Per Accountant Fee.
 - 1.3 This Law was subsequently changed on 1 January 2016, when the definition of "Accountancy firms" in the Schedule was amended to include an express requirement that the Per Accountant Fee is payable in addition to the Per Firm Fee. This amendment changed the ordinary meaning of the Law, which previously required the Applicants to pay only the Per Firm Fee.
 - 1.4 The Decision amounts to a breach of the principle of doubtful penalisation pursuant to which laws that interfere with or restrict economic interests including the carrying on of a trade or business (and which are unclear) should be construed in favour of the fee payer.
- 2 Unreasonableness/irrationality:
 - 2.1 The wording of sections 12 and 14 of the Law (then in force) and the Schedule to the Law is so clear and unambiguous, - i.e., that only one fee is payable in respect of a trade and business license for an "Accountancy firm" - that the Decision is plainly wrong and no reasonable decision maker could have made the same decision.
- 3 Breach of natural justice:
 - 3.1 Natural justice requires that every tribunal is required to follow basic principles of procedural fairness, which includes:

- (a) giving each party an equal and reasonable opportunity to present its case; and
- (b) Ensuring that each party is fully apprised of any arguments against it and is given a reasonable opportunity to comment.

3.2 In refusing the express requests of the Applicants to be heard, and/or to make legal submissions through their representatives and/or attorneys-at-law, Cabinet infringed upon the basic principles of procedural fairness and the Decision amounts to a breach of natural justice.

Maples and Calder
Attorneys for the Applicants