

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE No. 217 of 2018

BETWEEN:

OAKHAM TOWERS LIMITED

AND:



PARABEL LIMITED



Plaintiff

Defendant

WRIT OF SUMMONS

TO: Parabel Limited  
PO Box 10240  
4<sup>th</sup> floor Harbour Place  
103 South Church Street  
KY1-1002  
Grand Cayman  
Cayman Islands



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff c/o Ogier, 89 Nexus Way, Camana Bay, Grand Cayman KY1-9009, Cayman Islands 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, PO Box 495 GT, 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 13<sup>th</sup> day of November 2018

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.

---

## STATEMENT OF CLAIM

---

### A. The Parties and Other Relevant Persons

- 1 The Plaintiff, Oakham Towers Limited, is a company incorporated in the Cayman Islands on 10 April 2013, whose registered office is at Cayman Corporate Centre, 27 Hospital Road, George Town, Grand Cayman, KY1-9008 Cayman Islands ("**Oakham**"). Oakham is an investment vehicle, as particularised below insofar as is material to these proceedings.
- 2 The Defendant, Parabel Limited is a company incorporated in the Cayman Islands on 5 December 2012, whose registered office is at c/o Harneys Fiduciary (Cayman) Limited, PO Box 10240, 4<sup>th</sup> floor Harbour Place, 103, South Church Street, George Town, Grand Cayman, KY1-1002, Cayman Islands ("**Parabel**"). Parabel is an exempt company within the meaning of the Companies Law (2018 Revision) of the Cayman Islands.
- 3 Parabel is involved in the development and production of Lentein, a vegan protein, which is used as a food supplement for human consumption in the United States and worldwide. Parabel was at all material times raising capital in pursuit of this objective.
- 4 Dhabi Cayman One Limited is a company incorporated in the Cayman Islands whose registered office is at Walkers Corporate Limited, Cayman Corporate Centre, 27 Hospital Road, George Town, Grand Cayman KY1- 9008, Cayman Islands ("**Dhabi**").
- 5 PA LLC is a limited liability company incorporated in Delaware, whose principal office is at 1901 S. Harbor City Blvd., Suite 600, Melbourne FL 32901 USA ("**PA LLC**").

### B. The 2013 Stockholders Agreement & Option Agreement

- 6 On 23 January 2013, PA LLC and Dhabi entered into an agreement with Parabel concerning PA LLC and Dhabi's holdings in Parabel (the "**Stockholders' Agreement**"), to which reference is made in the Option Agreement as defined below.
- 7 On 10 June 2013, Oakham entered into a written agreement with Parabel pursuant to which Oakham was granted an option to purchase 6,780,000 of shares of common stock in Parabel (respectively the "**Option Agreement**", the "**Option**" and the "**Shares**").
- 8 It is an express term of the Option Agreement that:
  - (a) the Option price is \$1.11 per share.
  - (b) the Option vests:
    - (i) quarterly over a three-year period, with 40% of the Option (2,712,000 shares) vesting evenly over the first four consecutive quarters, 30% of the Option

(2,034,000 shares) vesting evenly over the subsequent four consecutive quarters, and 30% vesting evenly over the final four consecutive quarters, or

- (ii) in full and immediately upon the event of:
  - (A) a change of control as defined in the Stockholders' Agreement (a "**Change of Control**"); or
  - (B) an IPO as defined in the Stockholders' agreement.
- (c) The Option Agreement expires on 23 January 2023 (10 years).
- (d) Prior to the expiry of the Option, Oakham may exercise all or a portion of the Option, to the extent vested, by giving notice to Parabel specifying the number of the Shares as then vested to be acquired by Oakham at the Option price (the "**Portion of the Shares**"). Unless Cashless Exercise applies, Oakham must at the time of the exercise of the Option pay the aggregated price for the Portion of the Shares ("**the Aggregate Option Price**") to Parabel, who upon receipt of the same must issue the Portion of the Shares to Oakham within two business days.
- (e) In the alternative, Oakham may elect to effect a "**Cashless Exercise**" whereby, following a valuation of the Shares in accordance with Clause 19 of the Stockholder's Agreement, the number of Shares required to be issued by Parabel to Oakham would be reduced by the number of Shares having a value equal to the Aggregate Option Price (calculated using the method set out in clause 19 of the Stockholder's Agreement). Parabel must then issue the Portion of Shares, so reduced ("**the Reduced Portion of the Shares**"), to Oakham within two business days of the valuation of the Shares.
- (f) Any portion of the Option that has not vested shall be forfeited upon either:
  - (i) the sale or transfer by Dhabi of all (and not part only) of the shares and notes held by it in Parabel;
  - (ii) termination by written agreement between Dhabi and PA LLC of the Stockholders' Agreement, pursuant to clause 20.1.1 of the same;
  - (iii) termination of the Stockholders' Agreement due to any one Stakeholder as defined therein acquiring more than 95% of the shares and notes in Parabel, pursuant to clause 20.2.2 of the same; or
  - (iv) termination of the Stockholders' Agreement as a result of a binding order or an effective resolution to wind up Parabel, pursuant to clause 20.2.3. of the same.

(together, the "**Triggering Events**").

- (g) If, at the time that one or more of the Triggering Events occurs, some or all of the Option has vested, Parabel will be deemed to have received from Oakham a valid notice of Cashless Exercise for that Portion of the Shares, and Parabel must issue the Shares to Oakham immediately before the effective date of the relevant Triggering Event(s) (subject to additional terms that are not material to these proceedings) (the "**Deeming Provision**").

### **C. The Change of Control**

- 9 On 17 February 2015, Parabel wrote to Oakham to advise them that:
- 9.1 There had on or around 19 September 2014 been a Change of Control within the meaning of the Option Agreement; and
- 9.2 The Option had vested in full (6,780,000 shares).
- 10 In the premises, the Option vested in full and immediately on or around 19 September 2014.
- 11 On 10 April 2016, the board of directors of Parabel resolved and thereby approved, authorised and consented to reduce the Option price under the Option Agreement from \$1.11 to \$0.55 per share. The board meeting in question was attended by Anthony Tiarks, Eugene Grin, Michael Buchen, Stephen Mallet, and Larissa Waters, each of whom was a director of Parabel.
- 12 In the premises, the Option price, and any Aggregate Option Price for the purposes of Cashless Exercise or otherwise, was thereafter reduced from \$1.11 to \$0.55 per share.

### **D. The Triggering Event**

- 13 In 2016, Dhabi elected to divest itself of its investment in Parabel at the price of \$0.31795 per share. In particular by:
- (a) a letter of undertaking dated 3 March 2016, Anthony Tiarks and Michael Buchen agreed to pay to Dhabi within the next 12 months the sum of US\$22,180,481 in exchange for return of 69,759,062 of Dhabi's shares in Parabel; and
- (b) a termination deed dated 24 May 2017, Dhabi surrendered its 69,759,062 shares in Parabel to Lebarap Ltd in consideration for payment of the sum of US\$22,180,481
- (the "**Dhabi Sale**").
- 14 At the time of the Dhabi Sale, Anthony Tiarks was both (a) the sole director and shareholder of Lebarap Ltd and (b) a director, shareholder and the CEO of Parabel.
- 15 In the premises, the Dhabi Sale constituted:
- (a) a distressed sale;

- (b) a transaction with an affiliate of Parabel; and
  - (c) a Triggering Event under the Option Agreement.
- 16 In consequence of the above-mentioned Triggering Event, from the time of the Dhabi sale and thereafter, Parabel was and remains deemed to have received from Oakham a valid notice of Cashless Exercise for the Option and was and is required to issue the Shares to Oakham in accordance with the Deeming Provision.

#### **E. Relief Sought**

- 17 In the premises, Parabel is obliged to and must in accordance with the terms of the Option Agreement:
- (a) acknowledge its deemed receipt from Oakham of a notice of Cashless Exercise pursuant to the Deeming Provision;
  - (b) obtain an independent valuation of the market value of the Shares in accordance with Clause 19 of the Stockholder's Agreement; and
  - (c) within two days thereafter, issue the Reduced Portion of the Shares to Oakham.
- 18 In the alternative, in breach of the Option Agreement:
- (a) Parabel has failed or refused at the time of or after the Dhabi Sale to perform the Option Agreement as particularised in Paragraph 17 immediately above;
  - (b) On 19 June 2017, by an email from Anthony Tiarks of Parabel to Gary Wilson of Oakham, and in further and continuing breach of the Option Agreement, Parabel notified Oakham that the Cashless Exercise provisions of the Option Agreement had been triggered by the Dhabi Sale, the Vested Options were no longer valid or exercisable and that Parabel had forfeited the Vested Options.
  - (c) On 24 December 2017, by an email from Anthony Tiarks of Parabel to Michael Buchen of Oakham, and in further and continuing breach of the Option Agreement, Parabel again advised Oakham that the Option was no longer valid.
- 19 By reason of Parabel's breach or breaches of the Option Agreement, Oakham has suffered loss and damage in the amount of the market value of the Reduced Portion of the Shares, to be determined by an independent valuation in accordance with Clause 19 of the Stockholder's Agreement.
- 20 On 21 August 2018, Oakham's attorneys, Ogier, sent a letter to the board of directors of Parabel, disputing Parabel's contention that the Option had been forfeited, asserted Oakham's rights under the Deeming Provision and requesting Parabel's consent to an independent valuation of the Shares as at the date of the Dhabi Sale by close of business on Friday 31 August 2018.

21 Neither Oakham nor Ogier have received a substantive response to the letter of 21 August 2018 and Parabel remains in breach of the Option Agreement.

**AND THE PLAINTIFF CLAIMS: -**

- (1) An interim order that Parabel be restrained from treating the Option as invalid and/or forfeited pending resolution of these proceedings.
- (2) An order for the appointment of an independent expert valuer to determine the market value of the Shares pursuant to clause 19 of the Stockholders' Agreement.
- (3) An order that Parabel do issue the Reduced Portion of the Shares to Oakham, as determined by the valuation expert identified at paragraph (2) above, within 28 days of completion of the valuation.
- (4) Costs; and
- (5) Such other relief as the Court deems fit.

Dated this 13<sup>th</sup> day of November 2018

  
\_\_\_\_\_  
**OGIER**

Attorneys for the Plaintiff

**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 495GT, 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.**

**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 of 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 his 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE No. \_\_\_\_\_ of 2018

BETWEEN:

OAKHAM TOWERS LIMITED

Plaintiff

AND:

PARABEL LIMITED

Defendant

---

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 of Summons is being acknowledged.

2 State whether the Defendant intends to contest or otherwise participate in 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

Service of the Writ of Summons is acknowledged accordingly.

---

Attorney for the Defendant

Address for service:

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 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.

**Ogier**  
Attorneys-at-Law  
89 Nexus Way  
Camana Bay  
Grand Cayman KY1-9009  
Cayman Islands  
  
(Ref: 426202.0001/MKS/GEL)

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