

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE No. 170 of 2019 ()

BETWEEN:



SINNALBA GROUP LIMITED

First Plaintiff

-and-

DINOSCO GROUP LIMITED

Second Plaintiff

-and-

DIRK VAN DAELE

Defendant



WRIT OF SUMMONS



TO:

Mr. Mr Dirk van Daele, Zelglistrasse 30, 6390 Engelberg, Switzerland

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs in respect of the claim set out on the following pages.

Within 28 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 6th day of September 2019.

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

Background – First Plaintiff and Second Plaintiff

1. The First Plaintiff is a consultancy business specialising in providing project management services, strategic corporate advice and support for funding and transactional projects in the renewable energy and advanced technology industries. The First Plaintiff is based in Scotland, but focuses on providing consultancy services for projects and commercial activities in China and also worldwide.
2. Acting through the First Plaintiff's wholly-owned subsidiary, Sinalba (Cyprus) Limited, the First Plaintiff incorporated the Second Plaintiff in the Cayman Islands in April 2018. At all times, the First Plaintiff has been the beneficial owner of the Second Plaintiff and has fully funded the Second Plaintiff's commercial activities. The incorporation of the Second Plaintiff occurred after the First Plaintiff had planned, since around late 2016, the development of the business to be operated by Second Plaintiff.
3. The development of the Second Plaintiff's business commenced in earnest from the middle of 2017. The business being developed was intended to be a repeatable project, where the First Plaintiff would form a special purpose vehicle (**SPV**) through which it would build, through acquisition, and develop a cluster of high-technology companies with complementary intellectual property, processing and/or manufacturing capabilities in a particular technology or industry. Under the planned business model, each SPV would be funded and/or acquired by an investor, and the business plan of the SPV would be tailored to the investor's mandate.
4. The Second Plaintiff was established as the first SPV, intended to create a global leader in intelligent sensor technologies with manufacturing and design operations in Europe, before expanding into China. The plan was to acquire several companies identified by the First Plaintiff following extensive research by the First Plaintiff into hundreds of potential targets. The objective was to obtain funding from a Chinese investor (or investors) with the ultimate aim of listing the Second Plaintiff on the Hong Kong Stock Exchange.
5. The First Plaintiff has invested approximately GBP 6.6 million in the Second Plaintiff (both via direct investment and preparatory research and planning) since it initiated the concept.
6. Dinosco Germany Holdings GmbH (**DGHG**) was incorporated in Germany in August 2018 to effect the acquisition of a listed German company, in line with the Second Plaintiff's business plan. DGHG is wholly-owned by the Second Plaintiff. While the Defendant was not formally contracted to or appointed

as a director of DGHG, the activities of DGHG were part of the business being undertaken by the Second Plaintiff.

7. The First Plaintiff is the holding company and its subsidiaries are Sinnalba Limited (Dubai), Sinnalba (Cyprus) Limited and Sinnalba (HK) Limited. The Second Plaintiff is a subsidiary of Sinnalba (Cyprus) Limited and DGHC is a subsidiary of the Second Plaintiff (the **Sinnalba Group**).

Background – Defendant

8. The Defendant was appointed as Deputy Chairman of the Second Plaintiff via a letter of appointment between the Second Plaintiff and the Defendant dated 16 May 2018 (**Service Agreement**). The appointment commenced on 16 May 2018. The Defendant signed and returned the Service Agreement on 17 May 2018.
9. The Defendant's appointment was for an initial term of three years unless terminated in accordance with the terms of the Service Agreement. The Defendant was also appointed as a statutory director of the Second Plaintiff via a board resolution on 16 April 2018.
10. The Service Agreement provided that the Defendant would be paid an annual fee of EUR 200,000 (payable in quarterly instalments) for his services, as well as reimbursement for reasonably incurred expenses.
11. The Defendant was appointed as director and Deputy Chair of the Second Plaintiff only. His remit was therefore to act as a director of the Second Plaintiff, but ultimately the activities of the Second Plaintiff are determined and controlled by its owner, the First Plaintiff. The Defendant's obligation was to carry out his duties in the best interests of the Second Plaintiff with regards to the interests and directions of the Second Plaintiff's members (here, those of the First Plaintiff) and to promote the success of the Second Plaintiff for the benefit of its members as a whole (here, the benefit of the First Plaintiff).
12. The Defendant also signed the NDA with the First Plaintiff on 21 March 2018 which was intended to protect the First Plaintiff's confidential information on the basis that the Defendant would have access to this through his role with the Second Plaintiff.

Background – Circlo 3 Limited (CL3)

13. CL3 is a company that was registered in England and Wales on 8 February 2019. The Defendant is listed as a director of CL3. The sole shareholder of CL3 is listed by Companies House as Tetra House Europe S.A.R.L (**Tetra**) a company registered in Luxembourg of which the Defendant is also listed as

a director. The Plaintiffs understand that Tetra changed its name to Circlo3 Group S.A.R.L. on 25 April 2019.

14. The Defendant made a disclosure to the Second Plaintiff on 15 May 2018 noting his involvement in Tetra House. The Defendant disclosed that he owned Tetra in "*joint partnership*" with Mr Guy Dubois and described his involvement at a very high level. He did not disclose any potential or actual conflict. The Defendant is the beneficial owner of CL3 but did not declare this or make any other disclosures to the Plaintiffs regarding the existence of or his role with CL3 to the Plaintiffs when the CL3 entity was formed, when he was appointed a director of CL3 or at any other point during his appointment by the Second Plaintiff.

Summary of Claims

15. The First Plaintiff claims against the Defendant for:

- a. breach of contract, by reason of the Defendant's breach of confidentiality obligations under a non-disclosure agreement between the Defendant and the First Plaintiff dated 21 March 2019 (NDA); and
- b. breach of the Defendant's common law duties of confidentiality.

16. The Second Plaintiff claims against the Defendant for:

- a. breach of contract by reason of the Defendant's breach of terms relating to performance of duties and confidentiality set out in the Service Agreement
- b. breach of fiduciary duty, in relation to the Defendant's appointment as a director of the Second Plaintiff; and
- c. breach of the Defendant's common law duties of confidentiality.

Jurisdiction of the Courts of the Cayman Islands

17. The Second Plaintiff is incorporated in the Cayman Islands.
18. Under the terms of the Service Agreement, the Defendant agreed that his appointment with the Second Plaintiff, and any dispute or claim arising out of or in connection with it, would be governed by and construed in accordance with the law of the Cayman Islands. The Defendant and the Second Plaintiff agreed in the Service Agreement that the courts of the Cayman Islands would have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Defendant's

appointment. The courts of the Cayman Islands therefore have jurisdiction to hear the claims of the Second Plaintiff.

19. By reason of the claims against the Defendant by the Second Plaintiff being brought in the Cayman Islands, the appropriate jurisdiction to bring its claims against the Defendant is also the Cayman Islands.

The Defendant's Obligations

As a director

20. The Defendant owed various fiduciary duties to the Second Plaintiff in his capacity as a director of the Second Plaintiff including, but not limited to, the following:

- a. to promote the success of the Second Plaintiff, that being to act in the way the Defendant considers, in good faith, would be most likely to promote the success of the Second Plaintiff for the benefit of its shareholder;
- b. to avoid conflicts of interest, specifically his duties:
 - i. to avoid situations in which he has or can have a direct or indirect interest which conflicts with, or may conflict with, the Second Plaintiff's interests;
 - ii. not to exploit information or an opportunity for personal gain at the expense of the Second Plaintiff;
 - iii. to promptly disclose to the Second Plaintiff any conflict or potential conflict of interest; and
- c. not to use confidential information obtained by him in the performance of his duties as a director for any purpose other than for the benefit of the Second Plaintiff and the Sinalba Group.

21. Further, as a director, the Defendant owes a continuing equitable duty of confidence to the Second Plaintiff and, to the extent pleaded below the First Plaintiff, including each of their clients, specifically a duty not to use this confidential and proprietary information for any purpose other than in the legitimate discharge of his duties as an officer of the Second Plaintiff.

Under the Service Agreement

22. Under the terms of the Service Agreement the Defendant had the following obligations:

- a. to set the Second Plaintiff's values and standards and to ensure that its obligations to its shareholders and others were met (clause 3.2.3);
- b. to perform his duties faithfully, diligently and to a standard commensurate with the functions of his role and his knowledge, skills and experience (clause 3.3);
- c. to have particular regard to the general duties of directors including the duty to promote the success of the Second Plaintiff under which all directors must act in way that they consider, in good faith, would be most likely to promote the success of the Second Plaintiff for the benefit of its members as a whole (clause 3.5);
- d. to have particular regard to good corporate governance obligations in respect of the role of the board and the role of the directors of the Second Plaintiff (clause 3.6);
- e. to advise and support the Second Plaintiff in securing finance and developing and maintaining a robust financial structure;
- f. upholding high standards of integrity and probity and supporting the chair and directors of the Second Plaintiff in instilling the appropriate culture, values and behaviours in the boardroom and beyond (clause 3.7.7);
- g. exercising relevant powers and abiding by the articles (clause 3.7.10);
- h. disclosing the nature and extent of any direct or indirect interest he may have in any matter being considered by the board or committee meeting and, except as permitted under the articles, not vote on any resolution of the board, on any matter where he has direct or indirect interests (clause 3.7.12);
- i. immediately report his own wrongdoing or the wrongdoing or proposed wrongdoing of any employee or other director of which he becomes aware to the chair or to a senior independent director of the Second Plaintiff (clause 3.7.13);
- j. demonstrate ethical leadership in his role as Deputy Chair and promote the highest standards of integrity, probity and corporate governance throughout the Second Plaintiff and particularly at board level.

23. In addition to the Defendant's fiduciary duties, he was obliged under the Service Agreement to inform the chair, or in the absence of the chair, the board, in advance of any changes to his declared commitments as identified at clause 7.1 of the Service Agreement. Further, under clause 7.2 of the Service Agreement, he was obliged to disclose to the chair and secretary, or until a chair and secretary

were elected and appointed, a senior independent director, as soon as he became aware of any potential or actual conflict of interest, and if appropriate seek the agreement of the board.

24. "Confidential Information" is defined under the Service Agreement as:

...any commercial, financial, technical or other information of a confidential or proprietary nature in any medium or format, relating to, or used in, the Company's business which is disclosed to, or otherwise obtained by, you as part of your role in the company (whether or not (i) in tangible or documented form or communicated orally (ii) labelled or otherwise identified as confidential) and any other confidential information concerning the Company's business, products, services, transactions, affairs and/or finances, which should reasonably be considered confidential or proprietary, which may be disclosed to, or otherwise obtained by you. For the avoidance of doubt, Confidential Information shall include, without limitation:

- 8.4.1 *information relating to the business methods, corporate plans, management systems, finances, new business opportunities, research and development projects, marketing or sales of any past, present or future product or service;*
- 8.4.2 *secret formulae, details of software code (source code and object code) processes, ideas, developments, improvements, designs, drawings, know-how, discoveries, trade or business secrets, technical specifications and other technical information relating to the creation, production or supply of any past, present or future product or service of the Company;*
- 8.4.3 *any or all Inventions or Works (as defined in the Service Agreements);*
- 8.4.4 *lists or details of customers, potential customers or suppliers or the arrangements made with any customer, potential customers or supplier including, but not limited to, the terms of business, pricing or fee arrangements; and*
- 8.4.5 *any information in respect of which the Company owes an obligation of confidentiality to any third party.*

25. The Defendant agreed under the terms of the Services Agreement that all Confidential Information was confidential to the Second Plaintiff, and that he would undertake to keep such Confidential Information strictly confidential, not to release, communicate or disclose Confidential Information to third parties or use it for any reason other than in the interests of the Second Plaintiff, and not to use Confidential Information for any reason other than in the interests of the Second Plaintiff, during or following the termination of the Defendant's appointment (clause 8.1).

Under the NDA

26. The NDA describes "Confidential Information" as:

"any commercial, corporate, technical or other proprietary information – including (but not limited to) business and trade secrets – whether provided in oral, visual, written, digital or other form, marked or communicated as 'confidential' or which otherwise under all the circumstances ought reasonably to be treated as confidential and provided directly or indirectly by the Discloser to the Receive, regardless of whether it relates to the Purpose."

27. Under the terms of the NDA:

- a. the First Plaintiff agreed to disclose Confidential Information to the Defendant on the condition that he complied with the terms of the NDA;
- b. the Defendant agreed to keep the Confidential Information secret and confidential at all times, and not to disclose the Confidential Information, reveal its existence, or allow it to be disclosed in whole or in part to any third party without the First Plaintiff's prior consent (clause 2);
- c. the Defendant agreed not to use the Confidential Information for any purpose other than the agreed purpose (defined in the NDA as business discussions) under the NDA, with use or exploitation for any other purpose being prohibited without the First Plaintiff's prior written consent;
- d. the Defendant agreed to immediately notify the First Plaintiff in writing should he become aware or have any reason to believe that any unauthorised party had accessed the Confidential Information.

The Defendant's Conduct

28. Following extensive research and planning by the First Plaintiff from late 2016, the Second Plaintiff was incorporated by the First Plaintiff via its subsidiary in Cyprus in April 2018.
29. Prior to the incorporation of the Second Plaintiff, the First Plaintiff had already commenced detailed discussions with a target investor in Inner Mongolia, China. From April 2018 onwards, the Defendant was actively involved with preparing for and participating in those discussions on behalf of the Second Plaintiff.
30. In August 2018, DGHC was incorporated by the Second Plaintiff, in relation to planning for the acquisition of a German listed company as part of the Second Plaintiff's investment plan.

31. Following extensive further planning and discussions between the potential investor and representatives of both the Second Plaintiff and the First Plaintiff, the potential investor from Inner Mongolia withdrew at the end of 2018 for their own reasons.
32. In around December 2018 or January 2019, the Second Plaintiff commenced discussions with a government official from Jinan City, Mr Xie, which led to the involvement of a second target investor, the US-China Green Fund (**USCGF**). It was intended that both the Defendant and his fellow director, Mr Tim Harper, would be actively involved with these discussions.
33. Mr Jing, an agent of the key decision maker for the USCGF, visited the United Kingdom in March 2019 to progress discussions regarding their proposed investment in the Plaintiffs' project. Mr Jing visited Edinburgh between 2-6 March 2019, meeting with representatives of the Plaintiffs including the Defendant and Mr Harper. The primary business purpose of Mr Jing's visit was to conduct due diligence on the Plaintiffs, in order to confirm their legitimacy as potential investment partners. During these discussions, Mr Jing made it clear to the representatives of the Plaintiffs that USCGF would not proceed with the investment unless they were satisfied of the legitimacy of the Plaintiffs, and unless Mr Zhai, the Senior Investment Director and Assistant to the Chairman of USCGF, was "happy" with the project.
34. Immediately following his above mentioned visit, Mr Jing contacted Mr Ming Yin, the First Plaintiff's Chief Administration Officer, and Ms Zhang Qiong, the First Plaintiff's Policy and Regulation Manager for China, and requested that neither the Defendant nor Mr Harper be permitted to have direct contact or communications with USCGF, due to lack of confidence in them.
35. In response to the above, Mr Richard Sowter, the First Plaintiff's Chief Executive Officer, arranged for all future communication between the Plaintiffs and the representatives of the USCGF to be made exclusively through Mr Ben Lee, the First Plaintiff's agent in China. On or around 6 March 2019, Mr Ben Lee, on behalf of the Plaintiffs, provided an assurance to Mr Jing that they would follow his request accordingly.
36. Also on or about 6 March 2019, Mr Richard Sowter informed Mr Harper of Mr Jing's feedback by telephone and asked Mr Harper to brief the Defendant on the situation and the arrangements made by Mr Sowter for communication with USCGF.. Other than these arrangements, there was no suggestion or representation by Mr Sowter, nor by anybody else at this time, that would otherwise have excused the Defendant from his responsibilities as Deputy Chairman of the Second Plaintiff.
37. During the period from Mr Sowter's discussion with Mr Harper on or about 6 March 2019 until USCGF withdrew from the project in May 2019, the Defendant's engagement with activities relating to the Second Plaintiff's business, the First Plaintiff and the Second Plaintiff's consultants, advisers and

personnel, other than with Mr Harper appeared to be extremely limited. The Defendant became increasingly unresponsive to requests by the First Plaintiff and the Second Plaintiff's consultants, advisers and personnel for information and assistance, and his contribution to and involvement in Second Plaintiff's activities, including its discussions with USCGF, diminished substantially. It will be the Plaintiffs' case that during this time the Defendant began pursuing other interests, including but not limited to undisclosed activities with CL3 and Mr Amid Juba (see section below on Mr Juba), to the Plaintiffs' detriment and expense.

38. It had been planned that representatives from the Plaintiffs (including the Defendant and Mr Harper) would travel to Beijing to meet with the Jinan City investor and with representatives of USCGF. The Defendant was not intended to be the point of contact for USCGF (for the reasons discussed above) but was otherwise to be involved in these meetings, such as by preparing and delivering presentations for USCGF, and in the overall project.
39. This trip was planned for the week commencing 18 March 2019. On 13 March 2019, before this meeting took place, Mr Harper breached protocol by sending the Second Plaintiff's investor presentation and information pack (the **Pitch Book**) directly to Mr Zhai, the principal of USCGF. This breach of protocol was in direct contradiction to the directions issued by Mr Sowter to Mr Harper, and relayed to the Defendant, on or about 6 March 2019. The Plaintiffs understand that the Defendant was well aware of and complicit with Mr Harper's decision to communicate with Mr Zhai. The Plaintiffs have seen email correspondence between Mr Harper, the Defendant and Quest Corporate (an advisor to the Plaintiffs) (**Quest**) discussing and preparing the Pitch Book and this email demonstrates that the Defendant was part of the discussion regarding sending this to USCGF.
40. While the Defendant was copied to Mr Harper's above email, key personnel from the First Plaintiff and the Second Plaintiff were not. Further, Mr Harper sent this email to Mr Zhai's email address with his previous employer (CMS Securities) and not to his USCGF email address.
41. As a direct consequence of Mr Harper's email, Mr Zhai immediately cancelled the planned meetings in Beijing between representatives of the First Plaintiff, the Second Plaintiff and USCGF, which had the consequence of delaying progress in securing investment in the Second Plaintiff at a crucial time in the development of the business. Mr Zhai contacted the Plaintiffs' appointed contact, Mr Lee, and made it clear that he was insulted and offended by Mr Harper's approach. Mr Lee reassured Mr Zhai that the Plaintiffs' would take appropriate action and that neither the Defendant nor Mr Harper would directly contact Mr Zhai or the USCGF.
42. The Defendant was informed of this discussion by Mr Marcus Noble of Quest, on the Plaintiffs' behalf. The Defendant subsequently represented to Mr Noble that he had spoken to Mr Harper and that Mr

Harper had agreed, as the Defendant had, to "step back" from any direct communications with representatives of USCGF.

43. Between 15-17 March 2019, Mr Harper's wife, Ms Hailing Yu, repeatedly attempted to contact Mr Zhai of USCGF by telephone. In her messages to Mr Zhai, she held herself out as an agent of the Second Plaintiff who was responsible for "Investor Relations", which she was not and has never been. This caused further and substantial damage for the Plaintiffs, particularly with regard to their credibility with USCGF as a potential investment partner. Despite the First Plaintiff's CEO, Mr Sowter, providing Mr Zhai with a personal apology and assurance that Ms Yu's activities would stop on 15 March 2019 on the Plaintiffs' behalf, these communications only ceased on 17 March 2019, after several requests from Mr Zhai to Mr Lee that executives of the First Plaintiff intervene.
44. It is the Plaintiff's case that these communications took place at the suggestion, and, in any case, with the knowledge, of the Defendant and Mr Harper, representing a clear and deliberate breach of the protocols which had been put in place for communications with Mr Zhai and other executives of USCGF. The Plaintiffs submit that the actions of Ms Yu were initiated by the Defendant and Mr Harper with the specific intention of damaging the Plaintiffs' credibility with USCGF, and of negatively impacting the prospects of the Plaintiffs securing investment from USCGF.
45. Further to letters of apology by Mr Sowter to Mr Zhai, Mr Zhai agreed to meet the First Plaintiff's representatives in Germany in April 2019. In light of the harm caused to the Plaintiffs as a consequence of Ms Yu's actions, the First Plaintiff decided that neither the Defendant or Mr Harper should attend this meeting. The Defendant and Mr Harper were therefore directed not to attend but to otherwise support the Plaintiffs in preparing for the meetings with Mr Zhai.
46. In May 2019, the Plaintiffs discovered that the German listed company, which was a target company for USCGF, as part of its planned acquisitions for the Second Plaintiff/DGHG had entered into negotiations with a view to potential acquisition by a third party investor. The Plaintiffs immediately informed USCGF, who subsequently informed the Plaintiffs that it had decided not to proceed with its investment in the Second Plaintiff. It then ceased discussions with the Plaintiffs about the Second Plaintiff.
47. On 28 May 2019, the board of the First Plaintiff resolved to cease funding of the Second Plaintiff and to commence taking steps to wind up the Second Plaintiff's and DGHG's operations.
48. Pursuant to the winding-up process, Harry Bocker, the Finance Director of the First Plaintiff and a director of the Second Plaintiff, called the Defendant on 4 June 2019. He informed the Defendant of the First Plaintiff's decision and asked the Defendant to volunteer his resignation as a director of the Second Plaintiff. He confirmed his disclosure and request in an email sent to the Defendant at 4:23pm

on the same date. The Defendant responded to Mr Bocker's email on 7 June 2019, advising Mr Bocker that his three year contract with the Second Plaintiff was not terminable and that the Defendant wanted payment of €425,000 for "*the remainder of the term*". Further, the Defendant sought to blame the First Plaintiff for the difficulties faced by the Second Plaintiff and accused the First Plaintiff of excluding the Defendant from meetings with the potential client. This was despite the Defendant being well aware that the First Plaintiff had decided to remove the Defendant and Mr Harper from direct contact with the Jinan City investor and USCGF at Mr Jing's recommendation and then at Mr Zhai's insistence.

49. It was at this time that the First Plaintiff first became aware of the existence of CL3 after seeing an email sent on the Defendant's behalf from an @circlo3 email address. After making further enquiries on Companies House, the Plaintiffs verified that:
- a. CL3 had been incorporated on 5 February 2019, before the visit of Mr Jing to Edinburgh in March 2019;
 - b. the Defendant was appointed as a director of CL3 on 5 February 2019;
 - c. the Defendant held (and continues to hold) the position of Non-Executive Chairman of CL3;
 - d. the sole shareholder of CL3 is Tetra, a Luxembourg-registered company of which the Defendant is a director;
 - e. the second director and Chief Executive Officer of CL3 is Mr John Behar
50. The Plaintiffs knew that the Defendant had a beneficial interest in Tetra. However, at no point did the Defendant disclose his interest in, nor intention to incorporate and launch the business of CL3.
51. The Plaintiffs subsequently located and reviewed the website established for CL3 (www.circlo3.com). The page was first posted on 30 December 2018. The website identifies CL3 as "*formally launching in Q1 2019.*"
52. The CL3 website describes the business operated by CL3 as "*a mediation platform for investors and growth stage companies*", and as a "*regulated capital arrangements company with a platform approach to the business of raising investor capital for growth stage companies*", identifying CL3 as an appointed representative of Prospect Capital Limited (**PCL**), of which Mr Behar is a director and a shareholder.
53. The purported activities and objectives of CL3 pose an unmistakable risk of a conflict of interest with those of the Second Plaintiff and DGHG. As a result, in accordance with the Defendant's obligations regarding outside interests under clause 7.1 of his Services Agreement, full disclosure to and

agreement from the board of the Second Plaintiff was required before he could establish and pursue such an undertaking. No such disclosure was made.

54. The Defendant's failure to make such a disclosure and seek such agreement is a clear breach of his obligations to the Second Plaintiff. The Plaintiffs suspect that the Defendant has pursued additional currently undisclosed business interests and activities to the detriment of the Plaintiffs, at the expense of the Plaintiffs, during his tenure with the Second Plaintiff.
55. After discovering CL3 and the Defendant's involvement with it, the Plaintiffs identified the following communications from Mr Harper:
 - a. Communications between the Defendant and Mr Harper suggesting that the Defendant and Mr Harper were actively pursuing alternative commercial activities to the detriment of their responsibilities to the Second Plaintiff;
 - b. Communications in February and March 2019 between Mr Harper and Ms Diana Footitt, the Chief Executive Officer of Artemis Associates. Artemis Associates is a reputation management business based in Hong Kong with whom the First Plaintiff had engaged in discussions in 2017 regarding a potential role in the Dinosco project. Officers and executives of the First Plaintiff had introduced Mr Harper to Ms Footitt in relation to the Dinosco project.
 - c. Email exchanges with representatives of MCM Partners, who were introduced to Mr Harper by Ms Footitt on 22 February 2019. MCM is a Hong Kong-based merchant bank. Ms Footitt confirmed in her email of 22 February 2019 that the introduced representative of MCM *"would be delighted to talk about the Defendant's fundraising objectives"*.
 - d. An email exchange between the Defendant and Mr Harper on 13 March 2019 referencing the meetings discussed above.
56. It is the Plaintiff's case that the Defendant had originally planned these meetings without disclosure to or authorisation from the Plaintiffs, which raises concern over whether these meetings were truly planned for the benefit of the Plaintiffs, during the scheduled (but ultimately cancelled) visit to Beijing on 19 March 2019
57. More recently, an email exchange took place between Mr Harper and Adrian Valenzuela of MCM Partners on 11 June 2019, relating to an *"update on [the Plaintiffs']project"* that Mr Harper had given Ms Footitt of Artemis Associates, with the purpose of setting up a meeting to *"reconnect"* over this. It will be the Plaintiff's case that the Defendant's involvement with Mr Harper's previous dialogue with MCM Partners and Artemis Associates implies the Defendant was aware of and complicit in this more recent dialogue, which occurred after the Defendant and Mr Harper were informed by Mr Bocker on 4

June 2019 that the First Plaintiff would no longer fund the Second Plaintiff. It will be the Plaintiff's case that Mr Harper sought to delete these emails from his Dinosco account shortly after they were transmitted.

Communication with Mr Juba

58. Mr Amid Juba was, until November 2018, engaged by the First Plaintiffs through Mr Juba's company Ecohomes Limited FZE, as an advisor to the First Plaintiffs. Mr Juba's role under this engagement was to liaise with one of the First Plaintiff's business contacts in China and to seek further business opportunities for the First Plaintiff. It will be the Plaintiff's case that, since late November 2018, Mr Juba has been working against the interests of the Sinalba Group.
59. Representatives of the Plaintiffs advised the Defendant in December 2018 that, from that time, there would be no approved communication between the Plaintiffs and Mr Juba. The Defendant was fully aware that it would not be appropriate for him to have any contact with Mr Juba or his associates, and that the Defendant was not to disclose any confidential information to the same.
60. On 17 June 2019 an email communication was sent on the Defendant's behalf by his Executive Assistant at CL3 on 17 June 2019 to Mr Harper and to Mr Juba, arranging a meeting between the Defendant, Mr Harper and Mr Juba in London. It will be the Plaintiff's case that Mr Juba's reply to that email suggested that Mr Juba is very familiar with both the Defendant and Mr Harper. When asked directly by Mr Finlayson in a telephone conversation in April 2019 whether the Defendant had been approached by Mr Juba or his associates, the Defendant declined to comment. The Defendant did not disclose that he had been in contact with Mr Juba until, following correspondence on this matter between the Plaintiffs' and the Defendant's respective attorneys, the Defendant made admissions to having had conversations with Mr Juba.
61. Subsequently, on 20 June 2019, the date of the proposed meeting between the Defendant, Mr Harper and Mr Juba, the First Plaintiff received a proposal from a group of the First Plaintiff's shareholders (with whom the Plaintiffs understand to have been and to be working in cohort with Mr Juba) proposing to appoint the Defendant and Mr Harper to the board of the First Plaintiff. That proposal was subsequently withdrawn by the shareholders in question.
62. In correspondence between the First Plaintiff and its shareholders on 4 June 2019, the shareholders who had proposed to appoint the Defendant and Mr Harper as directors of the First Plaintiff claimed to have had sight of a board resolution dated 17 April 2019 which resolved to appoint Mr Sowter, Mr Finlayson and Mr Lee as directors of the Second Plaintiff, which was confidential and should not have been available to these shareholders at that time. It will be the Plaintiff's case that the Defendant,

either alone or in concert with Mr Harper, disclosed this resolution, either directly to these shareholders or via Mr Juba.

63. In correspondence with the Defendant's solicitors, Penningtons Manches Cooper on 12 July 2019, the Defendant:
- a. stated that the Plaintiffs describe Mr Juba as a "*shadow director*" and "*was the person who established the Sinalba group of companies*". As far as the Plaintiffs are aware, Mr Juba has only ever been described as a "*shadow director*" in a petition filed by Messrs Sowter, Bocker and Finlayson, in their capacities as shareholders of the First Plaintiff, on 10 July 2019, in which they state their belief that Mr Juba "*finances and directs [two of the First Plaintiff's shareholders] and that, through them, he operates as a shadow director of the [First Plaintiff]*". Mr Juba is not, and has never been described by the First Plaintiff, as being a shadow director of the Second Plaintiff, as the "*founder of the group*" or as "*the person who had established the Sinalba group of companies*". The Plaintiffs submit that at the time of the Defendant's discussions with Mr Juba, he was aware that Mr Juba was not a member, director, employee or agent of the Sinalba Group and had no reason to conclude that Mr Juba could have been a shadow director of the same.
 - b. admitted that he did have conversations with Mr Juba. He claims that this was because he was concerned about wrongdoing by three executive directors of the First Plaintiff – Mr Sowter, Mr Finlayson and Mr Bocker. However, the Defendant has provided no further details or evidence of the alleged wrongdoing or why he felt that he needed to discuss these concerns with Mr Juba.
64. It is the Plaintiffs' case that the meeting with Mr Juba proposed for 20 June 2019 represented only an example of what had in fact been extensive activity by the Defendant and Mr Harper in colluding with Mr Juba and his associates to cause damage to the Plaintiffs' interests for the Defendant's own benefit, and for the benefit of others outside the Sinalba Group. It will be the Plaintiff's case that the Defendant engaged in this unlawful activity from February 2019, if not earlier.
65. It will be the Plaintiff's case that the Defendant's conduct described above, and in particular the approach taken by the Defendant in his conversations with Mr Jing, the Defendant's involvement in Ms Yu's harassment of Mr Zhai, and the Defendant's failure to constructively engage in activities relating to the Second Plaintiffs' business from mid-March 2019 onwards, was deliberately intended by the Recipient to disrupt, delay or otherwise sabotage the Plaintiffs' project, and undertaken by him at the instruction of Mr Juba or his associates, in return for a financial inducement.

66. In summary:

- a. since at least December 2018, the Defendant, in concert with other parties (including Mr Juba and Mr Harper), had been planning, establishing and pursuing other business interests (including CL3);
- b. the Defendant failed to disclose this business and these activities to the board of the Second Plaintiff or to any other authorised Sinnalba Group Executive (other than to the Defendant's co-conspirator, Mr Harper), let alone seek authority or consent for these activities;
- c. not only did the Defendant neglect his contractual and fiduciary obligations under the Service Agreement and as Deputy Chairman in favour of actively pursuing his own interests and those of Mr Juba, Mr Harper and CL3, the Defendant took active steps to damage the Dinosco business;
- d. the Defendant wrongly used and may still be wrongly using confidential and proprietary information of the Sinnalba Group (of the First Plaintiff and the Second Plaintiff in particular) in his activities with Mr Juba, Mr Harper and/or CL3, for the Defendant's benefit and for the benefit of those other parties, to the detriment of the Plaintiffs.

Dismissal of the Defendant

67. On 21 June 2019, the board of the Second Plaintiff's parent, Sinnalba (Cyprus) Limited resolved to remove the Defendant as a statutory director of the Second Plaintiff with immediate effect and, on the same date, summarily terminated the Service Agreement.

The First Plaintiff's Claims

Breach of Contract

68. The Defendant's conduct described in this claim, and the Defendant's wrongful use without consent of Confidential Information (as defined in the NDA) developed by and the property of the First Plaintiff for the Defendant's own benefit (including for the benefit of Mr Juba, Mr Harper and CL3, benefits to whom constitute benefits to the Defendant) was in direct breach of the Defendant's obligations under clauses 2 and 3 of the NDA.

Breach of Duty of Confidence

69. As a director of the Second Plaintiff, the Defendant owed an equitable duty of confidence:

- a. to the First Plaintiff with regard to confidential information of the First Plaintiff provided to the Defendant in his capacity as an officer of the Second Plaintiff; and
- b. to the Second Plaintiff with regard to confidential information obtained by or provided to the Defendant in the course of the discharge of his duties as a director of the Second Plaintiff.

70. For the reasons pleaded above, the Defendant wrongly used highly confidential information obtained from the First Plaintiff and the Second Plaintiff (the development and/or adaption of such information having been financed by the First Plaintiff) for his own benefit and the benefit of Mr Juba, Mr Harper and/or CL3.

The Second Plaintiff's Claims

Breach of Contract

71. The Defendant's conduct, as described in this claim, constitutes serious fundamental breaches by the Defendant of the Defendant's contractual obligations to the Second Plaintiff as set out at clauses 3.2.3, 3.3, 3.5, 3.7.7, 3.7.10, 3.7.12, 3.7.13 and 3.9.6 of the Service Agreement.

72. Further, in breach of the requirements of clauses 7.1 and 7.2 of the Service Agreement the Defendant failed adequately or at all to inform the board in advance of changes to the Defendant's originally declared external commitments and the Defendant failed adequately or at all to disclose to or seek the agreement of the board prior to the pursuit of the Defendant's activities with Mr Juba, Mr Harper and CL3 as described above. It is the Plaintiffs' case that the Second Plaintiff would never have agreed to such a proposal, and the Defendant's disclosure of the Defendant's activities would have caused significant alarm at the Sinalba Group.

73. Further, for the reasons set out in this claim, the Defendant wrongly used and the Defendant continues to wrongly use Confidential Information (as defined in the Service Agreement) other than (if not actively against) in the interests of the Second Plaintiff. The Defendant's conduct is in clear breach of the requirements of clause 8.1 of the Service Agreement.

Breach of fiduciary duty

74. The Defendant's conduct described in this claim constitutes clear and flagrant breaches by the Defendant of his fiduciary duties to the Second Plaintiff as owed to the Second Plaintiff, specifically:

- a. to promote the success of the Second Plaintiff, that being to act in the way he considers, in good faith, would be most likely to promote the success of the Second Plaintiff for the benefit of its shareholder;
- b. to avoid conflicts of interest, specifically his duties:
 - i. to avoid situations in which he has or can have a direct or indirect interest which conflicts with, or may conflict with the Second Plaintiff;
 - ii. not to exploit information or an opportunity for personal gain at the expense of the Second Plaintiff;
 - iii. to promptly disclose to the Second Plaintiff any conflict or potential conflict of interest; and
- c. not to use confidential information obtained by the Defendant in the performance of his duties as a director for any purpose other than for the benefit of the Second Plaintiff and the Sinnalba Group

75. Further, as a director the Defendant owes a continuing equitable duty of confidence to the Second Plaintiff and, to the extent pleaded below, the First Plaintiff.

76. For the reasons pleaded above, it will be the Plaintiffs' case that the Defendant wrongly used highly confidential information obtained from Sinnalba Group companies, in particular the Plaintiffs, for his own benefit and for the benefit of Mr Juba, Mr Harper and/or CL3.

Breach of Equitable Duty of Confidence

77. During the Defendant's appointment as Deputy Chairman he had full access to highly confidential and proprietary information and data developed and adapted for the businesses operated by the Second Plaintiff and DGHG. Specifically, the Defendant had access to:

- a. all information relating to the planning for the establishment of the businesses operated by the Second Plaintiff and DGHG, as well as the business and marketing plans themselves
- b. full details of the identified potential investors in the Second Plaintiff and DGHG (**Target Clients**), which were identified following extensive research by the First Plaintiff, and consultants engaged by the First Plaintiff, with detailed information compiled on each of these targets;

- c. all information about negotiations with Target Clients;
- d. all strictly confidential and proprietary advice and information provided by professional, financial and legal advisers of the First Plaintiff, the Second Plaintiff and DGHG for the benefit of the Second Plaintiff and DGHG's business;
- e. the names and details of companies identified as suitable targets for acquisition or other role in the Second Plaintiff's business model (**Dinosco Target Companies**);
- f. research and planning information developed by the Second Plaintiff and the First Plaintiff relating to the Second Plaintiff Target Companies, including acquisition strategies, post-acquisition planning; and
- g. financial information relating to the business activities of the Second Plaintiff.

78. A substantial amount of this information, in particular the information about clients referred to above, was sourced and/or adapted from confidential and proprietary information held by the First Plaintiff. From March 2018, the Defendant was briefed on the business project for the Second Plaintiff by the First Plaintiff. In light of this, and prior to the confirmation of the Defendant's appointment as Deputy Chairman in April 2018, he entered into an NDA with the First Plaintiff in March 2018.

79. Each Plaintiff claims interest pursuant to s.34 of the Judicature Law (2017 Revision) upon such sums as are found to be due to each or either of them at such rate and for such period as the Court finds fit;

AND the Plaintiffs Claim:

80. Consequent upon the totality of the above pleaded conduct or any combination or individual act thereof, the First Plaintiff seeks the following remedies:

- a. Damages in the sum of GBP 6,460,519.00 representing the monies it invested into the Second Plaintiff for its operating expenses and / or its business activities or any portion thereof found ultimately to be wasted by reason of the Defendant's defaults;
- b. In the alternative, Damages in the sum of GBP 3,314,538.00 representing the monies it invested into the Second Plaintiff pre-incorporation or any portion thereof found ultimately to be wasted by reason in whole or in part of the Defendant's defaults;
- c. Damages for past use of the First Plaintiff's confidential information in an amount to be determined;

- d. Equitable accounting for such profits as were made and / or are to be made by the Defendant or any entity which was used or otherwise complicit in his above conduct and that were realized as a result of and / or in connection with his said conduct;
- e. Injunction to restrain the Defendant from using the First Plaintiff's confidential information in the future;
- f. Interest pursuant to s.34 of the Judicature Law (2017 Revision) upon such sums as are found to be due to the First Plaintiff at such rate and for such period as the Court finds fit;
- g. Costs;
- h. Such other or further relief as the Court finds fit.

81. Consequent upon the totality of the above pleaded conduct or any combination or individual act thereof, the Second Plaintiff seeks the following remedies:

- a. To the extent not recovered by the First Plaintiff, damages for breach of contract and / or breach of fiduciary duty in the sum of GBP 3,145,981.00 representing the monies invested in it by the First Plaintiff following incorporation and then spent by the Second Plaintiff in its business activities, which were wasted in whole or in part as a consequence of the Defendant;
- b. Damages for breach of contract and / or breach of fiduciary duty to be assessed for loss of expected revenue from the business operations of the Second Plaintiff caused by the above pleaded conduct of the Defendant;
- c. Damages in the sum of EUR 50,000.00 for breach contract between the Second Plaintiff and the Defendant, representing payments made by the former to the latter during the period of the Defendant's default;
- d. Damages for past use of the First Plaintiff's confidential information in an amount to be determined;
- e. Equitable accounting for such profits as were made by the Defendant or any entity which was used or otherwise complicit in his above conduct and that were realized as a result of and / or in connection with his said conduct;
- f. Injunction to restrain the Defendant from using the Second Plaintiff's confidential information in the future;

- g. Interest pursuant to s.34 of the Judicature Law (2017 Revision) upon such sums as are found to be due to the Second Plaintiff at such rate and for such period as the Court finds fit;
- h. Costs;
- i. Such other or further relief as the Court finds fit.

DATED this 6th day of September 2019



Dinner Martin t/a Dentons
Attorneys for the First and Second Plaintiffs

To: The Clerk of the Court

And To: The Defendant

THIS WRIT and Statement of Claim was issued by Dinner Martin Attorneys t/a Dentons, attorneys for the Plaintiff s, whose address for service is 3rd floor, One Capital Place, Shedden Road, George Town, Grand Cayman, Cayman Islands.

BETWEEN:

SINNALBA GROUP LIMITED

First Plaintiff

-and-

DINOSCO GROUP LIMITED

Second Plaintiff

-and-

DIRK VAN DAELE

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 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 box)
 yes no

Service of the Writ is acknowledged accordingly.

(Signed).....

Attorney for

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.

Dinner Martin Attorneys t/a Dentons
3rd floor, One Capital Place
Shedden Road, George Town
Grand Cayman, Cayman Islands

Ref.: Michael Wingrave

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

[Empty box for defendant's Attorney indorsement]