

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**CAUSE No. FSD 174 of 2020 ( )**

**BETWEEN:**

**ADAMAS HEALTH CARE FUND**

**Plaintiff**

**-and-**

**(1) ADAMAS CAPITAL MANAGEMENT LTD  
(2) DOV MALNIK**

**Defendants**



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**WRIT OF SUMMONS**

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TO: (1) Adamas Capital Management, CIBC Bank and Trust Company (Cayman Limited), PO Box 694, CIBC FirstCaribbean House, 25 Main Street, George Town, Grand Cayman KY1-1107  
(2) Dov Malnik, c/o Mascall Management AG, 1 Rue Etienne Dumont, CH-1204 Genève, Switzerland

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff c/o Harneys, PO Box 10240, 3<sup>rd</sup> Floor Harbour Place. 103 South Church St, George Town Cayman Islands KY1-1002 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 31<sup>st</sup> day of July 2020

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.

## GENERAL INDORSEMENT

The Plaintiff's claims are for

- (1) A declaration that the Plaintiff is not in default of its obligations to the Defendants under Clause 9.2 the Management Agreement dated 15 August 2014 (**Management Agreement**) to indemnify the First Defendant against losses, claims, damages and liabilities, costs and expenses arising from or in connection with proceedings commenced by the Securities and Exchange Commission (**SEC**) in the Southern District of New York the short title and reference being *Securities and Exchange Commission v Feingold and Malnik* Civil Action No 20-cv-1881 (**SEC Action**) claimed on behalf of the Defendants in a letter to the Plaintiff dated 6 April 2020 whether as alleged or at all.
- (2) A declaration that the Plaintiff is not in default of its obligations to the Defendants under the Management Agreement because the Defendants did not act in good faith and/or in a manner reasonably believed to be in and/or not opposed to the best interests of the Plaintiff when the Defendants engaged in the conduct set out in the SEC's complaint in the SEC Action in violation of the Securities and Exchange Act 1934 48 Stat. 881 [15 USC] and in breach of duty to the Plaintiff thereby exposing the Plaintiff to claims by the SEC and loss and damage.
- (3) Damages and/or compensation for loss caused to the Plaintiff by the First Defendant's breach of contract and/or breach of fiduciary duty and/or negligence which breaches of duty involved conduct by the Defendants acting otherwise than in good faith and/or in a manner reasonably believed to be in and/or not opposed to the best interests of the Plaintiff.
- (4) Damages and/or compensation for loss caused to the Plaintiff by the Second Defendant's breach of his duty of care which breach of duty involved conduct by the Second Defendant acting otherwise than in good faith and/or in a manner reasonably believed to be in and/or not opposed to the best interests of the Plaintiff.
- (5) Further or other relief.
- (6) Costs.

Dated this 31<sup>st</sup> day of July 2020

A handwritten signature in blue ink, appearing to read "Harry Wood King". The signature is written in a cursive style with a large initial 'H' and 'K'.

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**Harneys**

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.

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**Plaintiff**

**-and-**

**(1) ADAMAS CAPITAL MANAGEMENT LTD  
(2) DOV MALNIK**

**Defendants**

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**ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS**

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If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important: Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

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

**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.

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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.

**Harney Westwood & Riegels**  
Attorneys-at-Law  
3rd Floor, Harbour Place  
103 South Church Street  
PO Box 10240  
Grand Cayman KY1-1002  
Cayman Islands  
Ref: 051491.0002

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