

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 428 OF 1998

BETWEEN: COMPAGNIE D'ESCOMPTES FINANCIERS CEF SA

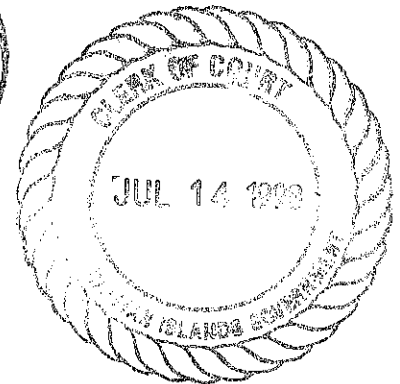
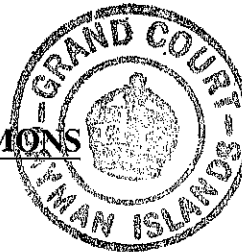
PLAINTIFF

AND: (1) GEORGIAN BAY HOLDINGS CORPORATION

(2) AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

DEFENDANTS

WRIT OF SUMMONS



TO: Georgian Bay Holdings Corporation
c/o Quin & Hampson, Corporate Services Ltd
Harbour Centre, PO Box 1348 G.T.
Grand Cayman

AND TO: Australia and New Zealand Banking Group Ltd
c/o Bank of Nova Scotia Trust Co. (Cayman) Ltd
Albert Panton Street
PO Box 501 G.T.
Grand Cayman

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 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, P.O. Box 495 G, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the acknowledgement without stating therein an intention to contest the

proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this 14th day of July, 1998.

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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff, Compagnie D'Escomptes Financiers CEF S.A. ("CEF"), is a company incorporated in Switzerland whose principal place of business is at Grellingerstrasse 75, CH-4020, Basel.
2. The first Defendant, Georgian Bay Holdings Corporation ("Georgian Bay"), is a company incorporated under the Companies Law (Revised) having its registered office at Quin & Hampson Corporate Services Ltd, Harbour Centre, PO Box 1348 GT, Grand Cayman. Georgian Bay is wholly owned by Gilbert Chartrand ("Chartrand").
3. The second Defendant, Australian New Zealand Banking Group Ltd., is a company incorporated in the State of Victoria, Australia ("ANZ Bank"), which carries on business as a bank through a world-wide network of branches and representative offices including a Cayman Islands branch whose registered office is at the office of Bank of Nova Scotia Trust Co. (Cayman) Ltd, Albert Panton Street, PO Box 501 G.T., Grand Cayman and a United Kingdom branch whose registered office and principal place of business is at Minerva House, PO Box 7, Montague Close, London SE1 9DH (hereinafter referred to as the "London Branch").

4. At all material times Georgian Bay was the registered owner of the voting shares of a number of mutual funds including Anchorage International Fund Limited and Dome Investment Fund Limited both of which were companies incorporated under the Companies Law (Revised) and registered under the Mutual Funds Law (hereinafter referred to as "Anchorage" and "Dome" individually and "the Funds" collectively). The Funds were managed by Liberty Fund Manager Limited (now dissolved) (hereinafter referred to as the "Fund Manager"). The Fund Manager was itself a company incorporated under the Companies Law (Revised) which was at all material times wholly owned by Georgian Bay and controlled by Chartrand. Thus, Chartrand was responsible for and did in fact manage the Funds at all material times until they were put into liquidation.
5. At all material times the non-voting participating shares of the Funds were owned by CEF.
6. By special resolutions passed on 6th June 1996, each of the Funds was put into voluntary liquidation and Christopher D. Johnson and Alun G. Davies were appointed joint liquidators. By orders of the Court made on 10th June 1996 (Cause Nos. 287 and 296 of 1996) it was ordered that the liquidation of the Funds continue under the supervision of the Court.
7. Anchorage and Dome maintained accounts (numbered 645473 and 660233 respectively) at the London Branch of ANZ Bank. Anchorage's account was maintained in the name of Anchorage International Fund Management Limited. Chartrand and/or Clive Munyard (an employee of the Fund Manager) were the authorised signatories to the said accounts.
8. Between June and August 1995 Chartrand and/or Munyard transferred a total of US\$1,787,856 from the said accounts of Anchorage and Dome to an account (number 666172) maintained at the London Branch of ANZ Bank in the name of Georgian Bay.

Particulars of Transfers from Anchorage's Accounts:

13-6-95 - US\$197,053.72

17-7-95 - US\$170,398.03

25-7-95 - US\$550,200.00

26-7-95 - US\$182,900.43

25-8-95 - US\$118,000.00

Particulars of Transfers from Dome's Accounts:

13-6-95 - US\$365,884.14

17-7-95 - US\$203,420.48

Total: US\$1,787,856

9. The said transfers were made for no consideration, without any proper authority and in breach of the fiduciary duties owed to the Funds by Chartrand, Munyard and/or the Fund Manager.
10. By reason of the matters aforesaid:
- a) Georgian Bay was liable as constructive trustee to account to the Funds for all the monies transferred from their respective accounts to account number 666172 with the London Branch of ANZ Bank and all interest thereon; and/or
 - b) The Funds were entitled to trace the monies transferred and Georgian Bay is liable to make restitution thereof; and/or
 - c) Georgian Bay has had and received the sum of US\$1,787,856 to the use of the Funds and is liable to repay it; and/or

d) ANZ Bank held the said sum of US\$1,787,856 and the interests accrued thereon upon constructive trust for the benefit of the Funds absolutely.

11. By a Deed of Settlement and Assignment made on 7th May 1998 between, *inter alia*, CEF of the one part and the Funds (acting by their joint liquidators) of the other part, all the assets of the Funds, including their rights of action against Georgian Bay and ANZ Bank, were assigned to CEF absolutely. By letters dated 8th July 1998, written notice of the assignment was given on behalf of the Funds to Georgian Bay and ANZ Bank.

AND THE PLAINTIFF claims:


1. Against the first Defendant:

- a) A declaration that the monies standing to the credit of its account number 666172 in account with the London branch of the second Defendant, up to a limit of US\$1,787,856 plus the interest accrued thereon, is held upon constructive trust for the benefit of the Plaintiff absolutely.
- b) Further and alternatively, a declaration that the Plaintiff is entitled to trace and the first Defendant is liable to make restitution of the said sum of US\$1,787,856.
- c) Further and alternatively, judgement for the sum of US\$1,787,856 being money had and received by the first Defendant.
- d) Interest pursuant to statute.
- e) Costs.

2. Against the second Defendant:

- a) A declaration that (i) the monies standing to the credit of its account number 666172 in account with the London branch of the second Defendant and/or (ii) any assets derived from the said monies which are held by the second Defendant as custodian for the first Defendant, up to a limit of US\$1,787,856 plus the interest accrued thereon, are held upon constructive trust for the benefit of the Plaintiff absolutely.
- b) An order that the second Defendant pay to the Plaintiff the monies standing to the credit of the said account number 666172 maintained with its London Branch and/or transfer to the Plaintiff the assets derived therefrom.
- c) Such further or other relief that the Court thinks fit.

Dated this 14th day of July, 1998



MAPLES and CALDER

This Writ of Summons was issued by Maples and Calder, attorneys for the Plaintiff, whose address for service is Uglan House, PO Box 309GT, Grand Cayman, Cayman Islands.