

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: <sup>543</sup> OF 1998

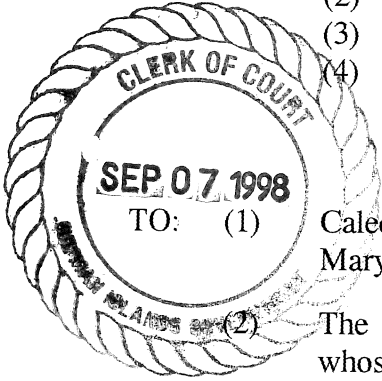
BETWEEN: BANQUE SAFRA LUXEMBOURG S.A

PLAINTIFF

AND: (1) CALEDONIAN BANK & TRUST COMPANY LTD.  
(2) THE BERKSHIRE KOREA TELECOM FUND, LTD.  
(3) BERKSHIRE CAPITAL PARTNERS LTD.  
(4) DAVID A.X. BAKER

DEFENDANTS

WRIT OF SUMMONS



TO: (1) Caledonian Bank & Trust Company Ltd. of P.O. Box 1043, Caledonian House, Mary Street, George Town, Grand Cayman

(2) The Berkshire Korea Telecom Fund, Ltd., a British Virgin Islands company whose registered office is c/o CITCO BVI Limited, CITCO Building, Wickhams Cay, Box 662, Road Town, Tortola, British Virgin Islands

(3) Berkshire Capital Partners Ltd., a British Virgin Islands company whose last registered office was c/o CITCO BVI Limited, CITCO Building, Wickhams Cay, Box 662, Road Town, Tortola, British Virgin Islands

(4) David A.X. Baker of Westport, Connecticut in the United States of America

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 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 7<sup>th</sup> day of September, 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 Acknowledgment of Service are given with the accompanying form.

**INDORSEMENT**

AND THE PLAINTIFF claims:


1. An injunction to restrain the Second, Third and Fourth Defendants and each of them, whether in the case of the Fourth Defendant by himself or his servants or agents or any of them or otherwise howsoever and whether in the case of the Second and Third Defendants by their directors, officers, subsidiary companies, servants or agents or any of them or otherwise howsoever, from removing from the jurisdiction of this Court or from disposing of transferring, charging, dissipating, diminishing or in any way howsoever dealing with any of their respective assets within the jurisdiction so as to reduce the value of such assets within the jurisdiction below the sum of US\$3.45 million in respect of each Defendant.
2. A declaration that all sums standing to the credit of account number 7730 in the name of the Second and/or Third and/or Fourth Defendants at the First Defendant, up to a limit of US\$3.45 million plus the interest accrued thereon, represented the proceeds of subscription money fraudulently obtained from the Plaintiff and were held by the Second and/or third and/or Fourth Defendants and are now held by the First Defendant upon trusts for the benefit of the Plaintiff absolutely.
3. An order that the First Defendant do pay to the Plaintiff sums standing to the credit on the said account number up to the aforesaid limit of US\$3.45 million plus interest accrued thereon.
4. Further or alternatively, a declaration that the Plaintiff is entitled to trace and Second Defendant is liable to make restitution of the said sum of US\$3.45 million plus the aforesaid interest.
5. Further or alternatively, a declaration that all sums standing to the credit of any other accounts or held at the First Defendant or any other bank in the Cayman Islands in the

name of, held on behalf of or otherwise directly or indirectly owned by the Second, Third and Fourth Defendants or any of them up to a limit of US\$3.45 million plus interest accrued thereon are held upon constructive trusts for the benefit of the Plaintiff absolutely

6. Further or alternatively, a declaration that the Third and Fourth Defendants knowingly assisted in a breach of trust by the Second Defendant and are liable to pay to the Plaintiff US\$3.45 million plus interest accrued thereon as aforesaid.
7. Further or alternatively, an order that the Second, Third and Fourth Defendants or any of them account for and do pay the sum of US\$3.45 million plus ordered interest.
8. Further or alternatively, an order for the rescission of an agreement made on 4<sup>th</sup> February, 1998 whereby the Plaintiff subscribed for the issue of 851.79 shares of the Second Defendant's price of US\$2 million ("the First Subscription Agreement").
9. An order for the rescission of an agreement made on 23<sup>rd</sup> March, 1998 whereby the Plaintiff subscribed for the issue of 977.8 shares of the Second Defendant's price of US\$2.5 million ("the Second Subscription Agreement").
10. Further or alternatively, against the Second Defendant an order for the return of the sum of US\$3.45 million plus aforesaid interest being the balance of the money paid by the Plaintiff to the Second Defendant pursuant to the First and Second Subscription Agreements.
11. Further or alternatively, damages against the Second, Third and Fourth Defendants for fraudulent or alternatively reckless or alternatively negligent misrepresentations contained in information memoranda dated 31<sup>st</sup> December, 1996, 1<sup>st</sup> January, 1997 and 1<sup>st</sup> October, 1997 issued by the Second, Third and Fourth Defendants.

12. Further or alternatively, against the Second Defendant damages for breach of the First and Second Subscription Agreements.
13. All necessary inquiries and accounts, preservation of property and discovery orders.
14. An order that the Second, Third and Fourth Defendants do pay interests at such rate and for such period on all sums held to be due by them to the Plaintiff as the Court shall determine.
15. Such further or other orders as the Court shall think fit.
16. Against the Second and/or Third and/or Fourth Defendants costs.

If, within the time for returning the Acknowledgment of Service, the Second, Third and Fourth Defendants pay the total amount claimed of US\$3.625 million (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or its Attorney.

  
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Maples and Calder

THIS WRIT was issued by Maples and Calder, Attorneys for the Plaintiff, whose address for service is Uglan House, P.O. Box 309, George Town, Grand Cayman