

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 284 2000

BETWEEN:

(1). **BANK OF AMERICA, N.A.**
(formerly NationsBank, N.A.)

(2). **BANC OF AMERICA INVESTMENT SERVICES, INC**
(formerly Nationsbanc Investments, Inc.) (formerly NationsSecurities)

PLAINTIFFS

AND

(1). **NEASDEN LTD**

(2). **MERRILL LYNCH BANK & TRUST CO (CAYMAN) LTD**

DEFENDANTS



WRIT OF SUMMONS



TO:

(1) **Neasden Ltd. whose registered office is at:-**
P.O. Box 1164 GT,
British American Tower Building,
Grand Cayman.

(2) **Merrill Lynch Bank & Trust Co. (Cayman) Limited whose registered office is**
at:-
P.O. Box 1164 GT,
British American Tower Building,
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, PO Box 495G, 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 judgment may be entered against you forthwith without further notice.

Issued this day of , 2000.

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.

INDORSEMENT

The Plaintiffs claim against the First Defendant:

1. The First Defendant is a company incorporated under the laws of the Cayman Islands as an ordinary company on 30th January 1996. The First Defendant was formerly known as Branch & Associates Ltd.

2. In or around July and August 1996, the First Defendant and/or one or more of Harbinder Singh (Harry) Branch, Declan McCarthy, Branch & Associates (an unincorporated association in England), Terry V Koontz, Larry K White, Herbert Marcus III, Global Marketing Consortium Inc. (the "Tortfeasors") conspired to defraud and did defraud Finmeccanica, S.p.A., a company incorporated under the laws of Italy (Finmeccanica) by inter alia inducing Finmeccanica through fraud, deception and forgery (including infringement of the Plaintiffs' trademark) to transfer into an account/s held with the Plaintiffs and which were controlled by one or more of the Tortfeasors the sum of US\$12,775,000 which sum was subsequently removed

from the aforesaid accounts and paid to or for the benefit of the First Defendant and the Tortfeasors. In particular, the First Defendant received inter alia the following payments/money and securities representing part of the proceeds of the fraud and which are or were held on behalf of the First Defendant by Merrill Lynch Pierce Fenner & Smith Inc. ("MLPF") under reference account no. 154-07624:

- i. US\$36,000 on, 1st August 1996
 - ii. US\$36,000 on, 13th August 1996
 - iii. US\$638,750 on 16th August 1996
 - iv. US\$729,500 on 19th August 1996
 - v. US\$638,750 on 26th August 1996
 - vi. US\$100,000 on 6th April 1998
- (the "Transfers").

3. As a consequence of the fraud and/or deception of the First Defendant and the Tortfeasors, Finmeccanica commenced legal proceedings against the Plaintiffs in 1997 before the United States District Court, Middle District of Florida under Civil Action No. 97-2246-Civ.-T-24E (the "US Proceedings") alleging negligence on the part of the Plaintiffs in failing to discover the fraud, thereby causing Finmeccanica loss.
4. The Plaintiffs have already suffered loss and damage as a result of the actions of the First Defendant and the Tortfeasors amounting to approximately US\$ 1.2 million in relation to that loss and damages and to the extent that the Plaintiffs may be found to

be liable to Finmeccanica in the US Proceedings, the Plaintiffs seek an indemnity and/or contribution for such loss and damage from the First Defendant.

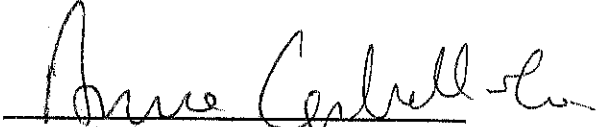
5. Further, or alternatively a Declaration that all assets held by or to the order of the First Defendant, whether legally or beneficially, representing or derived from money received by the First Plaintiff from or on behalf of one of more of the Tortfeasors, Biofarm Inc., Biofarm Holdings Plc., Keith D. Beckmeyer, Burlington Chamber and James Ltd. or any other person or entity whether or not acting on their behalf including but not limited to money and securities received by the First Plaintiff and held by Merrill Lynch Pierce Fenner & Smith Inc. ("MLPF") under reference account no. 154-07624 as a result of the Transfers are held on constructive trust for the Plaintiffs jointly and severally having been paid by one or more of the Plaintiffs under a mistake of fact caused by fraud on the part of one or more of the Tortfeasor.
6. A Declaration that in respect of the proceeds of the Transfers the Plaintiffs either jointly or severally are entitled to trace such money and/or the proceeds thereof and/or any assets which have derived from the said sums into the hands of the First Defendant and/or any other party found to be in possession of them.
7. Orders that the First Defendant and/or any other party found to be in possession of the proceeds of the Transfers or assets which have derived from such proceeds do pay the Plaintiffs the equivalent of the Transfers or do deliver up to the Plaintiffs all such assets as are derived from the proceeds of the Transfers.

8. Such further tracing and/or proprietary remedies and/or other equitable relief against the First Defendant as shall to the Court seem just.
9. An order that the First Defendant do pay interest on the proceeds of the Transfers pursuant to equity or alternatively section 34 of the Judicature Law (1995 Revision).
10. Further, or in the further alternative, damages, reasonable attorneys' fees and costs of suit pursuant to Section 1962 (c) of the United States Racketeer Influenced and Corrupt Organisations Act.
11. Further, or in the further alternative, damages, reasonable attorneys' fees and costs of suit pursuant to Section 1962 (c) and (d) of the United States Racketeer Influenced and Corrupt Organisations Act.
12. Further, or in the further alternative, damages and accounting and disgorgement of the First Defendant's profits from the use of the NationsSecurities Service mark pursuant to 15 USC Section 1114.
13. Further, or in the further alternative, damages for unfair competition pursuant to 15 USC Section 1117 (a).
14. Further, or in the further alternative, damages for common law infringement and unfair competition.

15. All such further accounts, enquiries, orders declarations, relief and directions as may to the Court seem just and appropriate.

16. Costs.

The Plaintiffs claim against the Second Defendant discovery only.


BRUCE CAMPBELL & CO
Attorneys-at-Law
for the First and Second Plaintiff s

This Writ of Summons is filed by Messrs. Bruce Campbell & Co., of 4th Floor, Bank of Nova Scotia Building, George Town, Grand Cayman, Attorneys for the First Plaintiff whose address is 400 North Ashley Drive, Suite 1500, Tampa, Florida 33602, USA, the Second Plaintiff whose address is 101 South Tryon Street, Charlotte, North Carolina, USA