

IN THE GRAND COURT OF THE CAYMAN ISLANDS

828  
CAUSE NO. OF 2000

IN THE MATTER OF SECTION 48 OF THE TRUSTS LAW (1998 REVISION)



AND

IN THE MATTER OF THE HAYS FOUNDATION TRUST, THE BARRON FOUNDATION TRUST AND THE ELDER FOUNDATION TRUST

AND

IN THE MATTER OF CIVIL ACTION NO. SA-95-CA-1220-EP IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, SAN ANTONIO DIVISION

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**ORIGINATING SUMMONS**

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LET ALL PARTIES concerned attend before a Judge at the Law Courts, George Town, Grand Cayman on the 15<sup>th</sup> day of NOV, 2000 at 9:30 am/pm for the hearing of an application on the part of the Applicant, Paul Harris as Trustee of the Hays Foundation Trust, the Barron Foundation Trust and the Elder Foundation Trust respectively, for the following orders and directions pursuant to Section 48 of the Trusts Law:-

1. For directions as to whether the Applicant, as trustee of the Hays Foundation Trust should:

- (a). enter into the Conditional Settlement Agreement a true copy of which is appended hereto as Appendix 1 (the "Hays Conditional Settlement Agreement");
- (b). cause the directors of each of Inversiones Azteca SA de CV ("Inversiones") and Continental Mortgage Investors Inc ("CMI") to enter into the Hays Conditional Settlement Agreement;
- (c). cause the directors of Inversiones to pay to the Federal Deposit Insurance Corporation ("the FDIC") from the assets of Inversiones such sums as are necessary to comply with the provisions of Section 1A of the Hays Conditional Settlement Agreement.

2. For directions as to whether the Applicant, as trustee of the Barron Foundation Trust should:

- (a). enter into the Conditional Settlement Agreement a true copy of which is appended hereto as Appendix II ("the Barron Conditional Settlement Agreement").
- (b). cause the directors of each of Compania Inmobiliaria Mexicana SA de CV ("CIMEX"), Hillgate Holdings Inc., LDC ("Hillgate") and CMI to enter into the Barron Conditional Settlement Agreement.
- (c). cause the directors of CIMEX to pay to the FDIC from the assets of CIMEX such sums as are necessary to comply with the provisions of Section 1A of the Barron Conditional Settlement Agreement.

3. For directions as to whether the Applicant as trustee of the Elder Foundation Trust should:
  - (a). cause the directors of Essex Capital Corporation ("Essex") to enter into the Hays and Barron Conditional Settlement Agreements;
  - (b). cause the directors of Essex to forever forgive, release and discharge the indebtedness of CMI under a certain promissory note dated 31<sup>st</sup> March 1991 made by CMI in favour of General Mortgage Company which was assigned to Essex on or around 10<sup>th</sup> February 1992.
4. Such further or other directions as the Court shall think fit.
5. That the Applicants costs of this application be paid in equal part of the assets of the Hays Foundation Trust and the Barron Foundation Trust.

Dated this *2nd* day of *November*, 2000

Filed this *2nd* day of *November*, 2000

*Bruce Campbell & Co*

**Bruce Campbell & Co  
Attorneys at Law  
for the Applicant herein**

**Estimated time: 3 Hrs**

**TO: The Clerk of the Court**

**THIS ORIGINATING SUMMONS** is filed by Messrs. Bruce Campbell & Co., Attorneys at Law for the Applicant herein, whose address for service is 4<sup>th</sup> Floor, Scotiabank Building, George Town, Grand Cayman (Ref. JRM/DAS/5759)