

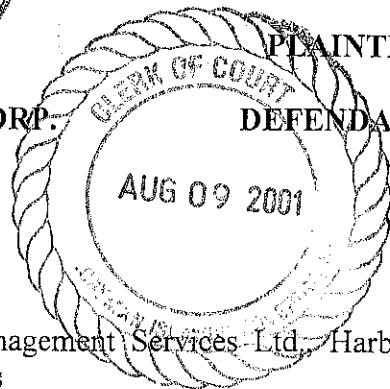
IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO. 483 OF 2001

BETWEEN: ABFAC, INC.

AND: GUARDIAN CONSULTANTS CORP.



PLAINTIFF

DEFENDANT

WRIT OF SUMMONS

TO: Guardian Consultants Corp., c/o International Management Services Ltd., Harbour Centre, PO Box 61GT, Grand Cayman, Cayman Islands

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 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 495GT, 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 9th day of August, 2001.

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 claim for relief by the Plaintiff against the Defendant arises out of and/or is connected with the receipt by the Defendant of US\$75,025 into its account no. 1782133 at Barclays Bank plc, George Town, Grand Cayman branch, as a result of wire transfers of US\$34,275 and of US\$40,750 made on or about 3rd December 1998 and 10th December 1998 respectively from account no. 003661142207 held in the name of the Plaintiff at Nations Bank NA for the benefit of the Defendant.

AND THE PLAINTIFF CLAIMS against the Defendant:

1. A declaration that in respect of the said sum of US\$75,025 of the Plaintiff's monies paid to the Defendant:
 - (a) the Plaintiff is entitled to trace such sum and/or the proceeds thereof and/or any assets upon which the said sum or any part thereof have been expended;
 - (b) such sum and/or the proceeds thereof and/or any assets upon which such sum or any part thereof have been expended are in equity the property of the Plaintiff;
 - (c) such sum and/or the proceeds thereof and/or any assets upon which such sum or any part thereof have been expended are held by the Defendant upon constructive trust for the benefit of the Plaintiff.
2. Restitution to the Plaintiff of the sum had and received by the Defendant referred to in paragraph 1 above.
3. Alternatively, the sum referred to in paragraph 1 above being money payable by the Defendant to the Plaintiff on demand for money lent by the Plaintiff to the Defendant, demand having been made on 30th July 1999.
4. Such tracing and/or discovery and/or injunctive and/or other equitable or other relief as this Honourable Court deems just.
5. Interest on all sums found due to the Plaintiff pursuant to Section 34 of the Judicature Law (1995 Revision) and the rules made thereunder and/or in equity at such rate and for such period as this Honourable Court thinks just.
6. Costs.



Charles Adams, Ritchie & Duckworth
Attorneys-at-Law for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 482 OF 2001

BETWEEN ABFAC, INC. PLAINTIFF

AND: GUARDIAN CONSULTANTS CORP. DEFENDANT

ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS

Important. Read the accompanying Delay may result in judgment being direction and notes for guidance carefully entered against a Defendant whereby he before completing this form. If any may have to pay the costs of applying to set information required is omitted or given it aside. wrongly, THIS FORM MAY HAVE TO BE RETURNED.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

2. State whether the Defendant intends to contest 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 is acknowledged accordingly

(Signed)

['Attorney] for

Address for Service:

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 or principal office.

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

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

Filed by Charles Adams, Ritchie & Duckworth, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is that of its said Attorneys-at-Law, P.O. Box 709, Zephyr House, Mary Street, George Town, Grand Cayman, B.W.I.

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 in 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 its 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.

BETWEEN: ABFAC, INC. PLAINTIFF
AND: GUARDIAN CONSULTANTS CORP. DEFENDANT

STATEMENT OF CLAIM

1. At all material times the Plaintiff acted as transfer agent for, and received subscription monies in respect of, the Physicians Guardian Unit Investment Trust ("PG Trust"), a unit purportedly formed under the laws of the State of Florida by Physicians Guardian, Incorporated ("PGI"), a company incorporated under the laws of the State of Florida, as trustee.
2. The Plaintiff is a company incorporated under the laws of the State of Florida and, together with the PG Trust and PGI, was placed in receivership by order of the United States District Court for the Middle District of Florida, Tampa Division dated 13th May 1999 as amended and clarified by further order of the said court dated 6th August 1999.
3. The Defendant is a company incorporated under the laws of the Cayman Islands.
4. At all material times the sole director and shareholder of the Plaintiff was one Howard Kratz (the "Director").
5. The Director, in breach of his fiduciary duties, caused or permitted the Plaintiff to pay for no *bona fide* commercial reason in aggregate US\$75,025 for the benefit of the Defendant into its account no. 1782133 held at the George Town, Grand Cayman branch of Barclays Bank plc by wire transfers on or about the dates stated below:
 - (a) US\$34,275 on 3rd December 1998; and
 - (b) US\$40,750 on 10th December 1998,in consequence whereof the Defendant is liable to account to the Plaintiff as constructive trustee for the said amounts and/or alternatively to restore the said amounts had and received by the Defendant to the Plaintiff.
6. Alternatively, the Plaintiff made a demand loan to the Defendant in an aggregate amount of US\$75,025 on or about the dates referred to in paragraph 5. By letter dated 30th July 1999 the Plaintiff demanded repayment of the said loan notwithstanding which the said loan remains unpaid.

7. The Plaintiff also claims interest on all sums found due or owing to it at such rate and for such period as this Honourable Court thinks fit, pursuant to Section 34 of the Judicature Law (1995 Revision) and/or in equity.

AND THE PLAINTIFF CLAIMS against the Defendant:

1. A declaration that in respect of the US\$75,025 of the Plaintiff's monies paid to the Defendant:
 - (a) the Plaintiff is entitled to trace such sum and/or the proceeds thereof and/or any assets upon which the said sum or any part thereof have been expended;
 - (b) such sum and/or the proceeds thereof and/or any assets upon which such sum or a any part thereof have been expended are in equity of the property of the plaintiff; and
 - (c) such sum and/or the proceeds thereof and/or any assets upon which such sum or any part thereof have been expended are held by the defendant upon a constructive trust for the benefit of the Plaintiff.
2. Restitution to the Plaintiff of the sum had and received by the Defendant referred to in Paragraph 1 above.
3. Alternatively, the sum referred to in Paragraph 1 above being money payable by the Defendant to the Plaintiff on demand for money lent by the Plaintiff to the Defendant, demand having been made on 30th July 1999.
4. Such tracing and/or discovery and/or injunctive and/or other equitable or other relief as this Honourable Court deems just.
5. Interest on all sums found due to the Plaintiff pursuant to Section 34 of the Judicature Law (1995 Revision) and the rules made thereunder and/or in equity at such rate and for such period as this Honourable Court thinks just.
6. Costs.

Dated this ^{9th} day of August, 2001

Charles Adams Ritchie & Duckworth

Charles Adams, Ritchie & Duckworth
Attorneys-at-Law for the Plaintiff

This Statement of Claim was filed by Charles Adams, Ritchie & Duckworth, Attorneys-at-Law for and on behalf of the Plaintiff herein, whose address for service is Zephyr House, Mary Street, P O Box 709GT, Grand Cayman.