

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 298 OF 1996

BETWEEN: BANK OF BERMUDA (CAYMAN) LTD.

PLAINTIFF

AND: (1) TIPTREE SPREAD LIMITED
(2) PATRICK HINES
(3) SHAMROCK INVESTORS LIMITED

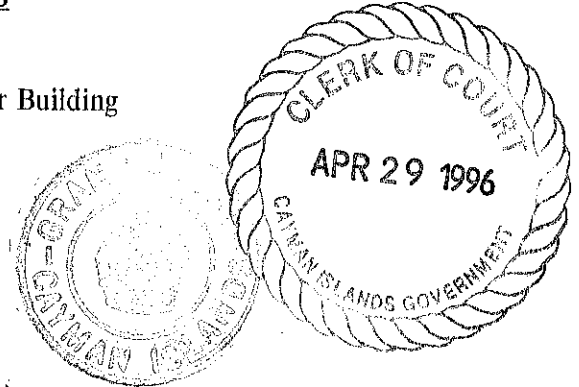
DEFENDANTS

WRIT OF SUMMONS

TO: (1) Tiptree Spread Limited
P.O. Box 513, British American Tower Building
George Town, Grand Cayman, B.W.I.

(2) Patrick Hines, 1765 Beach Ave.
Jacksonville, Florida 32233
U.S.A.

(3) Shamrock Investors Limited
P.O. Box 1561, Zephyr House
George Town, Grand Cayman, B.W.I.



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs 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, George Town, Grand Cayman B.W.I., the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

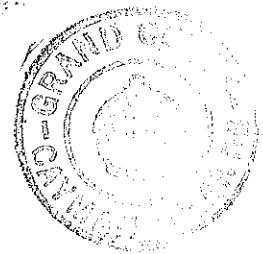
If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 29th day of April, 1996.

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.

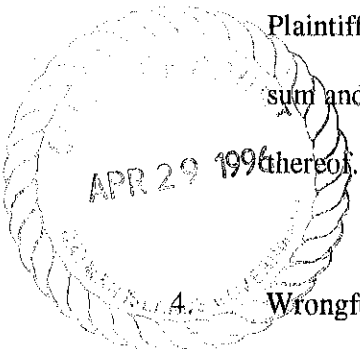
IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.



STATEMENT OF CLAIM

1. At all material times the Plaintiff has carried on business as a banker in the Cayman Islands. Since in or about July 1994 the First Defendant has been a banking customer of the Plaintiff, the First Defendant's account with the Plaintiff being numbered 75016760. Similarly, since in or about May, 1991 the Third Defendant has been a banking customer of the Plaintiff, its account being numbered 75007800.
2. At all material times the Second Defendant was the beneficial owner of the shares in and/or the assets of the First and Third Defendants.
3. On or about 18th January 1995, the Plaintiff mistakenly credited to the First Defendant's said account which at the time had a credit balance of approximately US\$78,993.06, the sum of US\$244,800.00 to which the First Defendant was not properly entitled. The First Defendant thereby received the said sum to the use of the Plaintiff and is liable to repay the same to the Plaintiff. Further or alternatively, the Plaintiff remained the true beneficial owner of the said sum and the First Defendant is accountable to the Plaintiff for the same as a Constructive Trustee thereof.



4. Wrongfully and in breach of trust, between about 8 and 13 February, the First Defendant on the instructions and or directions of the Second Defendant made or caused to be made the following payments out of the sums mistakenly credited to its said account as aforesaid:

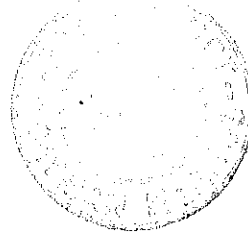
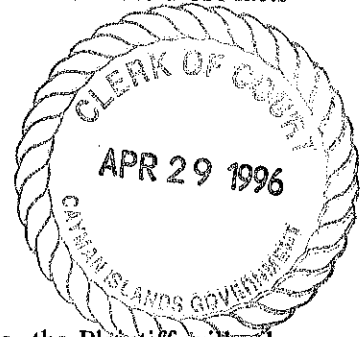
(1) 8 February 1995, US\$50,000.00 to Mr. John J. Hines, a relative of the Second Defendant.

- (2) 8 February 1995, US\$50,000.00 to the Third Defendant as a credit to its said account with the Plaintiff.
 - (3) 8 February, 1995 US\$50,000.00 to the account of American Telecom Inc. at Nations Bank of Florida, Neptune Beach, Florida.
 - (4) 13 February 1995, US\$100,000.00 to the Third Defendant as a credit to its said account.
5. At all material times the Defendants knew that the sums paid to it by or at the direction of the First Defendant as aforesaid represented money mistakenly credited by the Plaintiff to the said account of the First Defendant as aforesaid, which said money remained the beneficial property of the Plaintiff. Further or alternatively, the Defendants were recklessly indifferent to those facts or ought reasonably to have known the same.

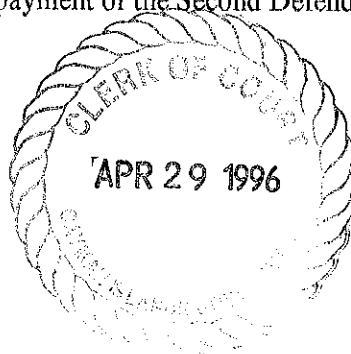
PARTICULARS

Until after completion of discovery and/or the administration of interrogatories, the Plaintiff will rely upon the following facts and matters:

- (1) The matters set out in paragraph 2 above.
- (2) The said credit was made and was stated in the First Defendant's bank statements to have been made at the direction of Prudential Securities "Arbitral Fin Ref Margin Fund", with which the First Defendant did not have and/or is not known to have had any relevant dealings and could not therefore have been expected to make any payment to the First Defendant.

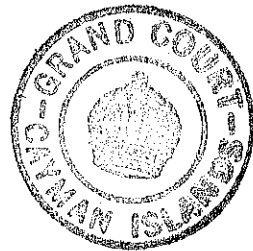


- (3) The said credit became known to the First and Second Defendants on or about the 30th January, by virtue of the receipt of a bank statement showing the same.
- (4) The said credit was the largest single credit made to the said account, exceeding by more than US\$140,000.00 the previous largest credit thereto, itself made as the opening credit to the First Defendant's said account from the Third Defendant's said account on or about 20 September, 1994. Otherwise individual credits thereto since October, 1994 had not exceeded US\$5,000.00 or thereabouts.
- (5) Prior to the dates of the said payments referred to in paragraph 4 hereof, the previous largest individual debit to the First Defendant's said account had been a sum of US\$20,917.84 made on or about 10 November, 1994 in favour of a payee identified in the First Defendant's bank statements as "Paine Webber". The substantial majority of other debits had been for sums less than US\$10,000.00.
- (6) Within the period of about 26 days up from about 18th January, 1995 to about 13 February, 1995, the First Defendant paid or caused to be paid US\$297.374.00 or thereabouts, including the payments set out in paragraph 4 hereof.
- (7) Of the US\$150,000.00 paid to the Third Defendant on the 8 and 13 February 1995 as aforesaid, US\$50,000.00 was paid to Mr. John J. Hines on the 17th February, 1995 and a further sum of US\$50,000.00 was paid to him (John J. Hines) on the 28th February, 1995 and the balance was used by the Second Defendant for the payment of the Second Defendants credit card accounts and for the Second Defendants benefit.



6. By reason of the matters aforesaid, the Defendants or one or more of them are accountable to the Plaintiff as constructive trustees of the said sums respectively and activity ceased shortly thereafter on the accounts of the First and Third Defendants, held with the Plaintiffs.
7. The Plaintiff further claims interest upon any monetary relief granted to it in this action at such rate or rates and for such period or periods as to the Court seems just, pursuant to the rules of equity and or pursuant to the Rules of the Grand Court, 1995.

AND the Plaintiff claims:



(A) Against the First Defendant and the Second Defendant:

- (1) The said sum of US\$244,800.00 as money had and received to the Plaintiff's use;
- (2) Interest on the abovementioned sum of US\$244,800.00 at the statutory rate of 8 3/8% from 18th January, 1995 until the date of filing of this Writ being the sum of US\$26,271.69 and thereafter interest at the aforementioned rate until the date of payment calculated at US\$56.17 per day.

(3) further or alternatively, an account of the said sum;

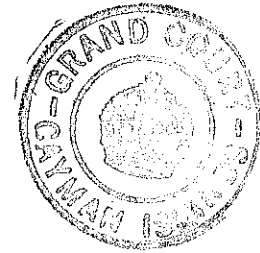
(B) Against the Third Defendant:

- (4) An account of the said sum of US\$150,000.00 received by it as aforesaid;



(C) Against all Defendants:

- (5) All necessary or consequential accounts, inquiries, directions and orders;
- (6) Costs;
- (7) Further or other relief.
- (8) costs to be agreed and/or taxed.



If within the time for returning Acknowledgment of Service the First and Second Defendants pay the total amount claimed of US\$276,071.69 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiffs or their Attorneys-at-law.

MYERS & ALBERGA

Per:

A handwritten signature in cursive script, appearing to read "Myra A. Myers".

Attorneys-at-law for
the Plaintiffs



THIS WRIT was issued by Myers & Alberga, Attorneys-at-Law for and on behalf of the Plaintiffs whose address for services is One Regis Place, Fort and Mary Streets, P.O. Box 472, George Town, Grand Cayman B.W.I.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS

1. The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

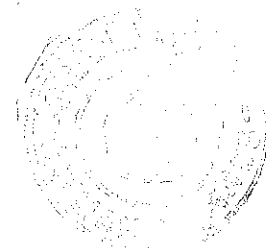
See over for notes for guidance

Please complete overleaf



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.



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PLAINTIFF

AND: (1) TIPTREE SPREAD LIMITED

(2) PATRICK HINES

(3) SHAMROCK INVESTORS LIMITED



DEFENDANTS

**ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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

[First Defendant in person]

[Second Defendant in person]

[Third Defendant in person]

Address for service:

Please complete overleaf

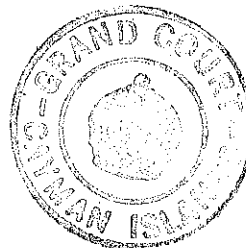
Notes on address for service

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 if suing in person) of his name, address and reference, if any, in the box below.

Myers & Alberga
One Regis Place
P.O. Box 472
George Town
Grand Cayman
B.W.I.



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

[Empty rectangular box for defendant's indorsement]

