

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 384 OF 2002

IN THE MATTER of the Declaration of Trust dated the 18th January, 1993

AND IN THE MATTER of Section 48 of the Trusts Law (2001 Revision) and Order 85 of the Grand Court Rules

BETWEEN:

CITITRUST (CAYMAN) LIMITED

Plaintiff

- AND -

DANIELA MARGARETA PURCAROIU

Defendant



ORIGINATING SUMMONS

TO: Madame Dr Daniela Margareta Purcaroiu (aka Marie Glisci), of Traversa dei Martiri di Via-Fani, Palazzo San Gervasio, Italy.

(who is, or may be, beneficially interested under one or more of the trusts of the above mentioned Declaration of Trust)

LET THE DEFENDANT attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the 16th day of July 2002, at 9³⁰ o'clock on the hearing of an application by the Plaintiff in the terms set out herein.

AND LET THE DEFENDANT, within 14 days, after service of this Summons on her, counting the day of service, return the accompanying Acknowledgment of Service to the Courts Office, PO Box 495 GT, George Town, Grand Cayman.

By this Summons, which is issued on the application of the Plaintiff, Cititrust (Cayman) Limited of P.O. Box 1170 GT, CIBC Financial Centre, George Town, Grand Cayman (who is the trustee under a Declaration of Trust ("the Declaration of Trust") made by the Plaintiff (as trustee) and dated 18th January 1993, as the same has been amended pursuant to an instrument dated 9th January 1996 ("the First Amendment") and a deed dated 24th October 2000 ("the Second Amendment") true copies of which are exhibited to the affidavit of Clark Steven Kall intended to be sworn herein, the Declaration of Trust as amended by the First and Second Amendments being herein referred to as "the Trust") the Plaintiff seeks the following relief, namely:

1. For directions as to whether any and, if so, which other persons should be joined as a party to, or be served with notice of, this application and the means of service thereof;
2. That the Defendant be appointed to represent all persons who may be interested as beneficiaries under the Trust.
3. For directions as to whether the Plaintiff as Trustee as aforesaid:
 - (1) should or should not distribute or otherwise deal with the whole or any part of the capital or income of the Trust in accordance with:
 - (A) any direction or instruction that may be received hereafter from the Settlor of the Trust, Madame Margareta Nedelcu ("Madame Nedelcu") pursuant to her powers under Articles II A, III and IV of the Declaration of Trust;
 - (B) any direction or instrument that may be received hereafter from Madame Nedelcu pursuant to her powers under Articles 2, 7.10, 8.10 and 14.00 of the Second Amendment;

- (C) any direction or instrument that may be received hereafter from the Defendant pursuant to her powers under Article 4 of the Second Amendment; or
 - (2) should or should not distribute to the Second Defendant the sum of US\$50,000 pursuant to her request of 3rd January 2001 and, if so, whether out of the capital or the income of the Trust.
 - (3) be at liberty to distribute the whole or any part of the capital or income of the Trust pursuant to the Trustee's powers under Articles 2.20 and 2.30 of the Second Amendment.
 - (4) should pay or apply any part of the capital or income of the Trust for or towards the maintenance of Madame Nedelcu and, if so, what part or how much thereof.
4. For directions as to whether the Plaintiff ought to make application to the Court for a declaration as to whether or not:

(1) Madame Nedelcu:

- (A) had the mental capacity to execute the Second Amendment as at the date it was executed by her and as at the date it was executed by the Plaintiff; or
- (B) at the present time has the mental capacity to exercise any of the powers reserved to her pursuant to Articles 2, 7.10, 8.10 and 14.00 of the Second Amendment or (if the First Defendant did not have the mental capacity to execute the Second Amendment) under Article II A, Article III and Article IV of the Declaration of Trust.

and

- (2) (if Madame Nedelcu did have the mental capacity to execute the Second Amendment) upon the true construction of the Second Amendment, Madame Nedelcu is presently under a “disability” as therein defined.

5. If the Plaintiff is directed to make the applications referred to in paragraph 4 above, that:
 - (1) in relation to the applications, directions be given as to the persons to be made defendants thereto or to be served with notice thereof, and as to service;
 - (2) the Plaintiff be indemnified out of, and be authorised to raise and pay or retain out of, the property subject to the trusts of the Trust and the income thereof all proper fees, costs and expenses incurred by the Plaintiff in connection with or in relation to those applications.

6. That the Plaintiff, as trustee under the Trust, be authorised to take all such steps as it considers reasonably necessary in seeking to:
 - (1) obtain from Dr. Bertrand Pertuiset of the American Hospital in Paris, 63 Boulevard Victor Hugo, 92200 Neuilly-sur-Seine, Paris, France or from such other suitably qualified physician as the Trustee may select, an explanation of the meaning and effect of the conclusions drawn by him in relation to Madame Nedelcu as recorded in his medical certificates dated 25th October 2000 and 17 January 2001;
 - (2) arrange for Madame Nedelcu to be examined by a suitably qualified physician with a view to assessing her mental capacity both presently and as at the date the Second Amendment was executed by her and as at the date it was executed by the Plaintiff;
 - (3) retain counsel on behalf of Madame Nedelcu, conversant in both French and English

and able to explain to Madame Nedelcu the present position regarding the Trust, and instruct them to meet with Madame Nedelcu and secure such further instructions, if any, in relation to the Trust as Madame Nedelcu is minded to give.

7. If the Plaintiff is authorised to take all or any of the steps referred to in paragraph 6 above, that the Plaintiff be indemnified out of, and be authorised to raise and pay or retain out of, the property subject to the trusts of the Trust and the income thereof all proper fees, costs and expenses incurred by the Plaintiff in connection with or in relation to the said steps.
8. That the Plaintiff be indemnified out of and be authorised to raise and pay or retain out of, the property subject to the trusts of the Trust and the income thereof all proper fees, costs and expenses incurred by the Plaintiff during the period from 3rd January 2001 to date in response to the certificates issued by Dr Pertuiset dated 25th October 2000 and of 17th January 2001 and, otherwise, in relation to or in connection with the Plaintiff's attempts to (i) establish the meaning and effect of the said certificates issued by Dr Pertuiset, (ii) establish the mental condition of Madame Nedelcu and (iii) explain to Madame Nedelcu the present position regarding the Trust and to obtain from her fresh instructions in relation to the Trust.
9. For directions that the Plaintiff as Trustee as aforesaid be authorised to terminate the Trust in exercise of its powers pursuant to Article 14.10 of the Second Amendment or Article IX A. of the Declaration of Trust.
10. That the Plaintiff be authorised to extend to the Trust the application of Sections 13 to 15 of the Trusts Law (2001 Revision) pursuant to Section 110(4) of the said Law (insofar as those sections do not already extend to the Trust).
11. That all further and necessary directions may be given.
12. That provision be made for the costs of this application.

13. Further or other relief.

If the Defendant does not acknowledge service, such judgment may be given or order made against or in relation to her as the Court may think just and expedient.

DATED this 30th day of May, 2002

Maples and Calder

Maples and Calder

NOTE - This Summons 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 that date unless renewed by order of the Court.

IMPORTANT

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

This Originating Summons was issued by Maples and Calder, Attorneys-at-law for the Plaintiff whose address for service is Uglan House, P.O. Box 309GT, George Town, Grand Cayman.