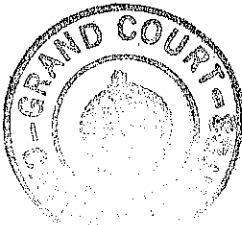


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 397 OF 1996

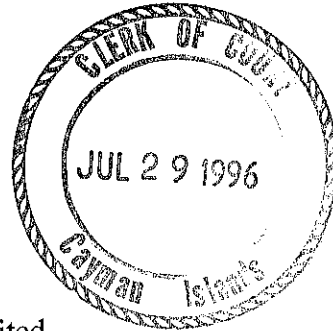
BETWEEN: GUINNESS MAHON GUERNSEY LIMITED PLAINTIFF

AND: ZELLNER MANAGEMENT CORP. DEFENDANT



WRIT

WRIT OF SUMMONS



TO: Zellner Management Corp.
c/o Euro American Trust and Management Services Limited
P.O. Box 3161, Road Town, Tortola, BVI

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 28 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 495G, George Town, Grand Cayman, 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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 29th day of July, 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.

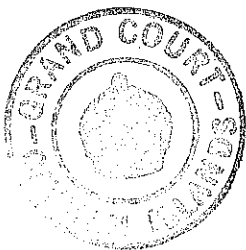
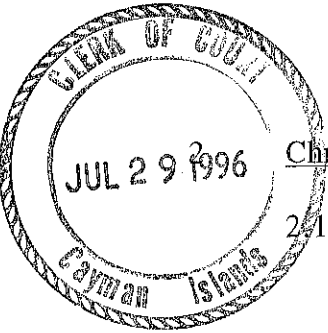
STATEMENT OF CLAIM

1. Introduction

- 1.1 The Plaintiff ("Guinness Mahon") is incorporated in Guernsey and carries on business as a bank.
- 1.2 The Defendant ("Zellner Corp.") is a company which was incorporated in the British Virgin Islands on the 16th August, 1994 upon the instructions of Michael Anthony Chmiel ("Chmiel"). Zellner Corp. does not now and never has carried on any honest or legitimate business. Chmiel is the sole beneficial owner and controller of Zellner Corp. In September 1994 Zellner Corp. established accounts at Bank of Butterfield International (Cayman) Limited ("Butterfields") under customer reference number 32567 ("the Zellner Corp. Account").
- 1.3 At all material times until the end of 1993 Chmiel was employed as a broker by the firm of Paine Weber. From the end of 1993 until May 1996 Chmiel was employed as a broker by MBM Investment Corporation ("MBM").
- 1.4 MBM was a firm of financial intermediaries which carried on business in Houston, Texas until the 3rd June, 1996 when the United States District Court for the Southern District of Texas made an order upon the application of the Securities Investor Protection Corporation for the appointment of a trustee for the liquidation of its business.
- 1.5 Guinness Flight Fund Managers (Guernsey) Limited ("Guinness Flight") is an affiliate of Guinness Mahon which carries on business as a mutual fund manager. From 1992 to 1995 Chmiel referred three groups of customers to Guinness Flight, all of whom made investments in various Guinness Flight funds.

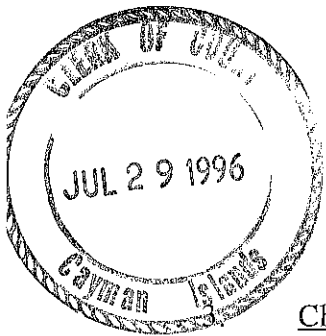
Chmiel's Fraud in Relation to K-ZAR, Inc. ("K-Zar")

- 2.1 In or about August 1994 Guinness Mahon received an application for a loan from Chmiel who purported to act on behalf of K-ZAR. In the knowledge that K-ZAR was an existing customer of Guinness Flight and in the belief that Chmiel was duly authorised to act on its behalf, Guinness Mahon offered to make available a loan facility of US\$500,000 upon the terms and conditions set out in a letter dated 26th August, 1994 which Chmiel purported to have delivered to K-ZAR.
- 2.2 On or about the 15th September, 1994 Chmiel delivered to Guinness Mahon a letter of acceptance by which K-ZAR purported to accept the terms of the loan facility offer based upon a resolution of its board of directors purportedly passed on the 2nd September, 1994. Chmiel also delivered to Guinness Mahon a security agreement dated 15th September, 1994 by which K-ZAR purported to charge all its shares in its Guinness Flight funds to Guinness Mahon as security for the loan and an authority to transfer dated 15th September, 1994 by which K-



ZAR purported to authorise Guinness Flight to transfer its shares in Guinness Flight funds to Guinness Mahon Guernsey Nominees Limited pursuant to the terms of the security agreement.

- 2.3 In or about March, 1995 an application to increase the amount of the loan facility was received from Chmiel who purported to act on behalf of K-ZAR. By letter dated 23rd March, 1995 which was purportedly delivered by Chmiel to K-ZAR, Guinness Mahon offered to increase the amount of the loan facility to US\$700,000. Chmiel subsequently delivered to Guinness Mahon a letter of acceptance dated 20th April, 1995 by which K-ZAR purported to accept the offer of an additional loan.
- 2.4 Guinness Mahon acted in reliance upon the documents referred to in paragraphs 2.2 and 2.3 above in the belief that they had been approved and executed by a director of K-ZAR and that Chmiel had been duly authorised by K-ZAR to deliver the same to Guinness Mahon. In fact, Chmiel had never been authorised to seek and obtain a loan on behalf of K-ZAR whose directors had no knowledge of the said documents, all of which were forged by Chmiel.
- 2.5 On the 26th September, 1994 and the 9th June, 1995 Guinness Mahon received wire transfer instructions dishonestly forged by Chmiel by which K-ZAR apparently instructed Guinness Mahon to transfer the sums of US\$500,000 (less fees) and US\$200,000 to Butterfields' account with the Bank of New York for the credit of "Reference 32567". Guinness Mahon acted upon the instructions not knowing them to have been forged and transferred the sums of US\$484,620 and US\$200,000 to Zellner Corp.'s Account in the mistaken belief that they had been given by or on behalf of K-ZAR.



Chmiel's Fraud in Relation to Lauri Sordani and Ernst Homberg ("Sordani/Homberg")

- 3.1 In or about July 1995 Guinness Mahon received an application for a loan from Chmiel who purported to act on behalf of Sordani/Homberg. In the knowledge that Sordani/Homberg were existing customers of Guinness Flight and in the belief that Chmiel was duly authorised to act on their behalf, Guinness Mahon offered to make available a loan facility of US\$700,000 upon the terms and conditions set out in a letter dated 11th July, 1995 which Chmiel purported to have delivered to Sordani/Homberg.
- 3.2 On or about the 17th July, 1995 Chmiel delivered to Guinness Mahon a letter of acceptance by which Sordani/Homberg purported to accept the terms of the loan facility offer. Chmiel also delivered to Guinness Mahon a security agreement dated 17th July, 1995 by which Sordani/Homberg purported to charge all their shares in their Guinness Flight funds to Guinness Mahon as security for the loan and an authority to transfer dated 17th July, 1995 by which Sordani/Homberg purported to authorise Guinness Flight to transfer their shares in Guinness Flight



funds to Guinness Mahon Guernsey Nominees Limited pursuant to the terms of the security agreement.

- 3.3 Guinness Mahon acted in reliance upon the documents referred to in paragraph 3.2 above in the belief that they had been approved and executed by Sordani/Homberg and that Chmiel had been duly authorised by Sordani/Homberg to deliver the same to Guinness Mahon. In fact, Chmiel had never been authorised to seek and obtain a loan on behalf of Sordani/Homberg who had no knowledge of the said documents, all of which were forged by Chmiel.
- 3.4 On the 11th August, 1995 Guinness Mahon received wire transfer instructions dishonestly forged by Chmiel by which Sordani/Homberg apparently instructed Guinness Mahon to transfer the sum of US\$700,000 (less fees) to Butterfields' account with the Bank of New York for the credit of "Reference 32567". Guinness Mahon acted upon the instructions not knowing them to have been forged and transferred the sum of US\$677,455.00 to Zellner Corp.'s Account in the mistaken belief that they had been given by or on behalf of Sordani/Homberg.

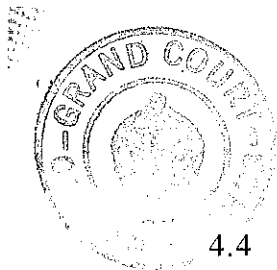
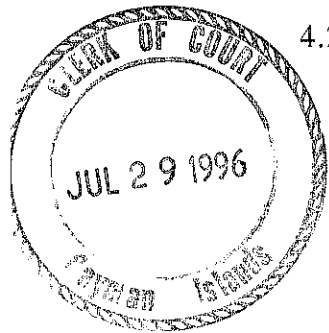
4. Chmiel's Fraud in Relation to Odedra Corporation ("Odedra")

- 4.1 In or about June 1995 Guinness Mahon received an application for a loan from Chmiel who purported to act on behalf of Odedra. In the knowledge that Odedra was an existing customer of Guinness Flight and in the belief that Chmiel was duly authorised to act on its behalf, Guinness Mahon offered to make available a loan facility of US\$500,000 upon the terms and conditions set out in a letter dated 5th June, 1995 which Chmiel purported to have delivered to Odedra.

- 4.2 On or about the 9th June, 1995 Chmiel delivered to Guinness Mahon a letter of acceptance by which Odedra purported to accept the terms of the loan facility offer based upon a resolution of its board of directors purportedly passed on the 9th June, 1995. Chmiel also delivered to Guinness Mahon a security agreement dated 9th June, 1995 by which Odedra purported to charge all its shares in its Guinness Flight funds to Guinness Mahon as security for the loan and an authority to transfer dated 9th June, 1995 by which Odedra purported to authorise Guinness Flight to transfer its shares in Guinness Flight funds to Guinness Mahon Guernsey Nominees Limited pursuant to the terms of the security agreement.

- 4.3 Guinness Mahon acted in reliance upon the documents referred to in paragraph 4.2 above in the belief that they had been approved and executed by the directors of Odedra and that Chmiel had been duly authorised by Odedra to deliver the same to Guinness Mahon. In fact, Chmiel had never been authorised to seek and obtain a loan on behalf of Odedra whose directors had no knowledge of the said documents, all of which were forged by Chmiel.

- 4.4 On the 18th July, 1995 Guinness Mahon received wire transfer instructions dishonestly forged by Chmiel by which Odedra apparently instructed Guinness



Mahon to transfer the sum of US\$500,000 (less fees) to Butterfields' account with the Bank of New York for the credit of "Reference 32567". Guinness Mahon acted upon the instructions not knowing them to have been forged and transferred the sum of US\$483,820.00 to Zellner Corp.'s Account in the mistaken belief that they had been given by or on behalf of Odedra.

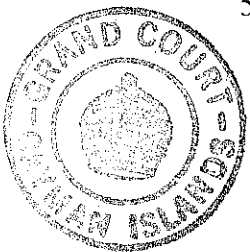
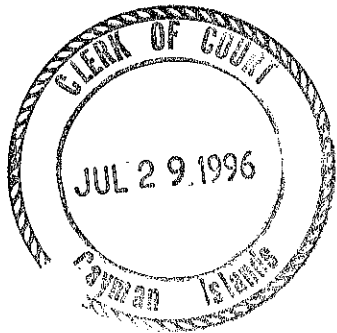
5. Chmiel's Fraud in Relation to Glorb Inc. ("Glorb") and Barfe Holdings International Inc. ("Barfe")

5.1 At a meeting which took place in a hotel in Guadalajara, Mexico sometime in the second half of 1994 Chmiel recommended to the directors of Glorb and Barfe that their investments should be leveraged. At a later meeting, also held in a hotel in Guadalajara, the directors of Glorb and Barfe authorised and instructed Chmiel to arrange for Glorb to borrow US\$620,000 and for Barfe to borrow US\$384,000 from Guinness Mahon which would then be reinvested by increasing the companies' respective holdings in Guinness Flight funds. At a third meeting, also held at the hotel in Guadalajara, Chmiel gave to the directors of Glorb a letter dated 10th October, 1994 and gave to the directors of Barfe a letter dated 19th October, 1994, by which Guinness Mahon offered to make available to Glorb and Barfe loan facilities of US\$800,000 and US\$500,000 respectively secured upon their respective Guinness Flight funds. The directors of Glorb and Barfe authorised and instructed Chmiel to borrow the sums of US\$620,000 and US\$384,000 pursuant to the terms of the said letters (which the directors had not read because they are unable to read English) and reinvest the said sums in Guinness Flight funds.

5.2 In breach of his instructions, on the 20th October, 1994 Chmiel dishonestly forged a letter of acceptance on behalf of Glorb whereby it committed itself to borrowing the sum of US\$800,000 from Guinness Mahon, rather than the sum of US\$620,000 which Chmiel was authorised to borrow. Further, in breach of his instructions, Chmiel dishonestly forged a draw down instruction to the effect that US\$150,000 be paid to Zellner Corp.'s Account.

5.3 In breach of his instructions, on the 27th October, 1994 Chmiel dishonestly forged a letter of acceptance whereby Barfe purportedly committed itself to borrowing the sum of US\$500,000 from Guinness Mahon, rather than the sum of US\$384,000. Further, in breach of his instructions, on the 7th November, 1994 Chmiel dishonestly forged a draw down instruction to the effect that US\$100,000 be transferred to Zellner Corp.'s Account.

5.4 Guinness Mahon acted in reliance upon the documents referred to in paragraphs 5.2 and 5.3 above in the belief that they had been approved and executed by directors of Glorb and Barfe. Guinness Mahon acted upon the draw down instructions not knowing them to have been forged and transferred the sum of US\$150,000 and US\$100,000 to Zellner Corp.'s Account in the mistaken belief



that they had been given with the actual authority of Glorb and Barfe respectively.

5.5 Guinness Mahon has agreed with Glorb and Barfe that the losses caused to them by Chmiel's fraud should be shared equally.

6. Guinness Mahon's Right to Trace

6.1 The total sum of US\$2,095,895 misappropriated by Chmiel from Guinness Mahon has been credited to Zellner Corp.'s Account. No other money has been credited to Zellner Corp.'s Account except interest and trading profits earned on Guinness Mahon's money.

6.2. In the premises:

- (a) Zellner Corp. is liable as constructive trustee to account to Guinness Mahon for the said sum; and/or
- (b) Guinness Mahon is entitled to trace the said sum and Zellner Corp. is liable to make restitution thereof; and/or
- (c) Zellner Corp. has had and received the said sum to the use of Guinness Mahon and is liable to repay them.

AND THE PLAINTIFF claims:

1. A declaration that the total sum standing to the credit of the Defendant's account (Customer Reference No. 32567) with Bank of Butterfield International (Cayman) Limited and/or the total sum paid into Court derived from the said account and is held upon constructive trust for the benefit of the Plaintiff absolutely.

2. Further, and alternatively, a declaration that the Plaintiff is entitled to trace and the Defendant is liable to make restitution of the sum of US\$2,095,895.

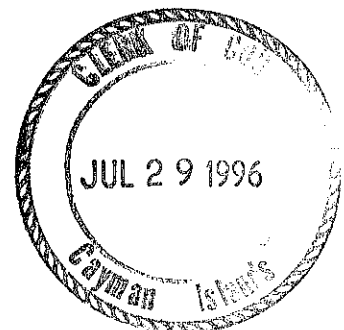
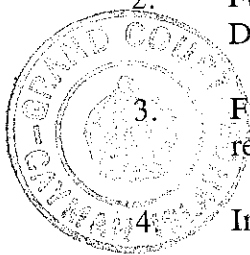
3. Further, and alternatively, judgment for the sum of US\$2,095,895 being money had and received by the Defendant to the use of the Plaintiff.

4. Interest pursuant to statute.

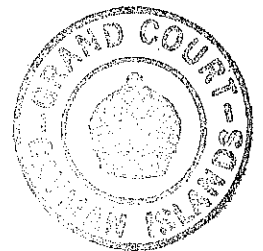
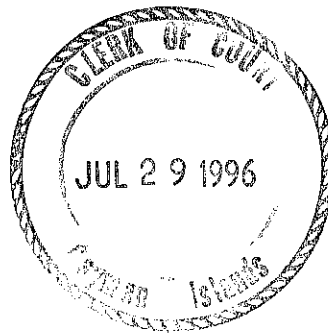
5. Costs.

Maples & Calder

Maples and Calder



If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of US\$2,095,895 (plus court fees of US\$8,899.48 and costs of CI\$500) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.



THIS WRIT was issued by Maples and Calder, Attorneys for the Plaintiff, whose address for service is Ugland House, P.O. Box 309, George Town, Grand Cayman.