

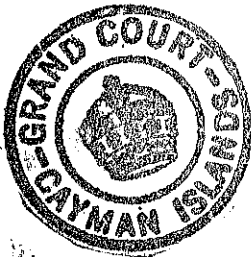
IN THE GRAND COURT OF THE CAYMAN ISLANDS
CAUSE NO. 230 OF 2004

BETWEEN: MAGNUM GLOBAL INVESTMENTS, LTD.

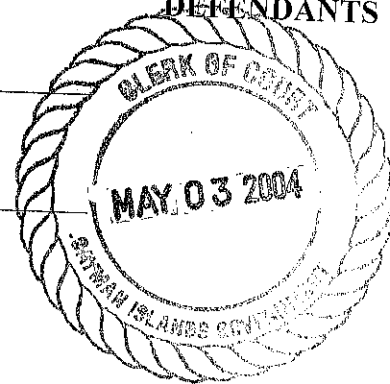
PLAINTIFF

- AND:
- (1) ZULAUF EUROPE LDC
 - (2) ZULAUF EUROPE FUND USD LTD
 - (3) ZULAUF EUROPE FUND EURO LTD
 - (4) ZULAUF EUROPE FUND L.P.
 - (5) ZULAUF ASSET MANAGEMENT AG
 - (6) BISYS HEDGE FUND SERVICES (IRELAND) LTD
(Formerly Hemisphere Management (Ireland) Ltd.)

DEFENDANTS



WRIT OF SUMMONS



- TO: ZULAUF EUROPE FUND LDC,
PO Box 30362 SMB
3rd Floor Harbour Centre
Grand Cayman, Cayman Islands
- AND TO: ZULAUF EUROPE FUND USD LTD,
PO Box 30362 SMB
3rd Floor Harbour Centre
Grand Cayman, Cayman Islands
- AND TO: ZULAUF EUROPE FUND EURO LTD
PO Box 30362 SMB
3rd Floor Harbour Centre
Grand Cayman, Cayman Islands
- AND TO: ZULAUF EUROPE FUND L.P.
PO Box 30362 SMB
3rd Floor Harbour Centre
Grand Cayman, Cayman Islands

AND TO: ZULAUF ASSET MANAGEMENT AG
Grafenauweg 4
PO Box CH-6301
Zug, Switzerland
Attn: Felix Zulauf, Esq

AND TO: BISYS HEDGE Fund Services (Ireland) Ltd
(Formerly Hemisphere Management (Ireland) Ltd)
4th Floor Block A
George's Quay
Dublin 2, Ireland
Attn: Ronan Daly, Esq

NOTE:

1. The First, Second, Third and Fourth Defendants are represented by WALKERS of Walker House, P.O. Box 265 GT, Mary Street, George Town, Grand Cayman, Cayman Islands, which firm has been authorised to accept service of these proceedings on their behalf.
2. It is intended that an application will be made to the Grand Court for leave to serve the Fifth and Sixth Defendants out of jurisdiction.

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim indorsed hereon and attached hereto.

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 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 3rd day of May 2004.

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 8.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CAUSE NO OF 2004

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AND:

- (1) ZULAUF EUROPE LDC
- (2) ZULAUF EUROPE FUND USD LTD
- (3) ZULAUF EUROPE FUND EURO LTD
- (4) ZULAUF EUROPE FUND, L.P.
- (5) ZULAUF ASSET MANAGEMENT AG
- (6) BISYS HEDGE FUND SERVICES (IRELAND) LTD
(Formerly Hemisphere Management (Ireland) Ltd.)

DEFENDANTS

STATEMENT OF CLAIM

I. INTRODUCTION

1. In these proceedings the Plaintiff claims against the Defendants damages for breaches of a hedge fund sponsorship agreement whereby the Plaintiff was deprived of the opportunity of marketing the fund and introducing investors. The Plaintiff also claims the fees due to it on investors it introduced which were not paid by the First to Fourth Defendants but were misappropriated by the Fifth and Sixth Defendant or alternatively damages.

2. The Plaintiff ("MGT") has carried on business as a promoter and sponsor of hedge funds and hedge fund managers since April 1994 by assisting in launching funds and thereafter marketing them to qualified, wholesale or professional investors.

- (1) At the initial stages this typically involves MGI engaging lawyers and tax advisors, procuring the incorporation of the legal entities and assisting in the preparation of agreements and corporate documents as well as offering memoranda.
 - (2) MGI would thereafter launch the funds which it had initially funded and incubated using its goodwill and reputation and applying its own resources to market and promote them to investors for example by contacting investors, organising meetings and by including the funds in regular bi-monthly newsletters, on its web sites and in industry data bases.
3. Since starting up in business MGI has been able to gain expertise and establish substantial goodwill and valuable reputation enabling it to attract wholesale and institutional investors. It has promoted and sponsored numerous hedge funds and, raised significant sums of money for these.
4. Felix Zulauf ("**Mr Zulauf**") was a hedge fund manager who operated through his Swiss investment management company, Zulauf Investment Management AG ("**ZIM**") and who had established a fund, the European Focus Fund Ltd ("**the Focus Fund**"), denominated in German DEM.
5. In 1996 Mr Zulauf sought MGI's assistance in opening the Focus Fund up to offshore USD denominated investors and US taxable persons and investors.
6. In consideration for a 70% share of the management and 30% share of the performance fees evidenced by a written agreement dated 1 November 1996 entitled "fee sharing agreement", MGI agreed to sponsor and thereafter market the fund to the pool of professional investors who formed part of MGI's client base and potential client base.

7. Pursuant to the Focus Fund agreement MGI caused the legal fund documentation and placement memoranda to be produced and procured the formation of the European Focus Dollar Fund Ltd in the British Virgin Islands and Zulauf European Focus Fund LP in the US as feeder funds.
8. Thereafter MGI marketed the feeder funds to professional or wholesale USD investors in the US and elsewhere by making its existing clientele aware of the feeder funds, sending bi-monthly newsletters, visiting potential investors, arranging for Mr. Zulauf to be a speaker at various hedge fund conferences, making telephone calls to potential investors and hosting meetings at which the Focus Fund and/or ZIM and/or Mr Zulauf were promoted.

II. THE 1998 ARRANGEMENTS BETWEEN THE PARTIES

(i) The 1998 Agreement between MGI and Zulauf Asset Management

9. In about October 1997 a dispute arose between Mr Zulauf and his fellow principal, Jorgen Chidekel, which resulted in the closing of the Focus Fund and all of its feeder funds.
10. Soon afterwards in about November 1997 Mr Zulauf approached MGI with a request for MGI to collaborate in establishing a new hedge fund on similar terms to those of the Focus Fund, to be known as the Zulauf Europe Fund, consisting of a Master Fund and Feeder Funds which MGI would then sponsor as it had sponsored the Focus Fund and its feeder funds. MGI was to be entitled to a share of the management and performance fee based on investors which it had introduced.
11. Between about January 1998 and June 1998 the following matters were agreed in a series of discussions between Mr Zulauf and Mr Dion Friedland and Mr David Friedland of MGI:

- (1) MGI would act as sponsor for the Zulauf Europe Funds, advise on the appropriate fund structure and help to incorporate the fund entities. MGI would thereafter promote and market the Zulauf Europe Funds. The Fifth Defendant ("ZAM") was to be appointed investment manager of the Zulauf Europe Funds, and was to instruct its own lawyers to prepare and execute the necessary legal documentation.
- (2) As to marketing it was agreed that MGI would have the following marketing rights:
 - (i) MGI would be permitted to market and promote the Feeder Funds to seek investors.
 - (ii) The Fifth Defendant ("ZAM") and the Zulauf Europe Funds would provide reasonable cooperation and assistance in relation to the marketing activities of MGI and its attempts to raise money from investors.
- (3) As to MGI's interest it was agreed as follows:
 - (i) The management fee payable by the Funds would be 1.5% p.a. of investments introduced (an increase on the 1.25% management fee payable under the Focus Fund Agreement) and the performance fee would be 20% of the increase in net asset value.
 - (ii) MGI and ZAM would share management fees and performance fees attributable to all investors introduced by MGI as follows:
 - (a) 63.3% of the management fee would be paid to MGI and 36.6% to ZAM.

- (b) 30% of the performance fee would be paid to MGI and 70% to ZAM.
- (iii) To facilitate this division of fees two share classes would be maintained for the Feeder Funds and any other feeder fund subsequently established throughout the duration of the Master Fund.
- (a) The Funds would seek to ensure that shares designated as "M" shares would be allocated to all those investors introduced by MGI and all other investors would receive "Z" shares.
- (b) In the event that any investor introduced by MGI was invested into the Z shares instead of the M shares, MGI would be entitled to receive its share of fees on such investor and/or insist that such investor should be treated as having been allocated M shares.
- This M and Z classification was not to affect the rights of shareholders.
- This classification is reflected in and evidenced by the Articles of Association of the Feeder Funds.
- (iv) The administrator of the Master Fund and the Feeder Funds would give effect to the apportionment of fees and ZAM would ensure that the administrator would account directly to MGI for payment of MGI's share of fees.

(v) In the event that ZAM or the Master Fund procured the formation of any further feeder funds, MGI's right to introduce investors and share performance and management fees attributable to such investors would be extended to such further funds.

(4) MGI, ZAM, the Master Fund and the Feeder Funds would be parties to the agreement.

The aforementioned arrangement between MGI and ZAM (adopted on formation by the Master and Feeder Funds as set out below) was evidenced by a written fee sharing agreement executed in August 1998, the Articles of Association of the Feeder Funds and Directors' resolutions for the Funds prepared in August 1998.

MGI will refer to the arrangements made between it, ZAM and the Zulauf Europe Funds hereafter as "**the 1998 Agreement**".

12. Further, the following were express or alternatively implied terms of the 1998 Agreement in that they were obvious and/or necessary to give business efficacy to the 1998 Agreement:

(1) ZAM and the Zulauf Europe Funds would at all material times act in good faith and/or fairly in their dealings with MGI and/or with actual and/or potential investors in the Feeder Funds and any future feeder fund.

(2) ZAM and the Zulauf Europe Funds would not obstruct or undermine MGI's attempts to promote the Master Fund or to introduce investors to the Feeder Funds and any new feeder fund.

(3) ZAM and the Feeder Funds would use reasonable care to identify investors introduced by MGI and ensure credit was given to MGI for the introduction of such investors.

- (4) ZAM and the Feeder Funds would cause the share registers of the Feeder Funds to be rectified in the event that investors introduced by MGI had been allocated Z shares.

(ii) **Ratification of the 1998 Agreement by the Funds**

13. The fund entities were set up pursuant to the 1998 Agreement as follows:

- (1) A limited duration company, the First Defendant was incorporated on 29 June 1998 as an exempted limited duration company under the laws of the Cayman Islands to become the master fund ("**Master Fund**"). Its only investors were to be the "feeder funds".

- (2) One feeder fund denominated in US\$ and one feeder fund denominated in German DEM, the Second and Third Defendant respectively (referred to collectively as the "**Feeder Funds**") were incorporated on 29 June 1998 as an exempted limited duration company under the laws of the Cayman Islands.

- (i) The Second Defendant (the "**USD Feeder Fund**") was formed to attract USD investors. Its share capital was divided into founder shares and 5,000,000 participating shares.

- (ii) The Third Defendant (the "**DEM Feeder Fund**") was formed to attract European investors. Its share capital was divided into founder shares and 5,000,000 participating shares.

- (3) The Master Fund and Feeder Funds (referred to collectively as the "**Zulauf Europe Funds**") which expression shall include the LP Feeder Fund referred to in paragraph 21(9) below) took the form of open-ended investment companies.

14. The Feeder Funds opened for subscription in August 1998. On 1 January 1999 the denomination of the DEM Feeder Fund was converted from DEM into Euros. As a result a new Information Memorandum was prepared for investors.
15. On or shortly after their respective incorporation the Zulauf Europe Funds adopted or ratified the terms of the 1998 Agreement insofar as it related to each of them. Until discovery the best particulars which MGI can give of such adoption or ratification is to be inferred by reason inter alia of the following:
 - (1) The Master Funds and the Feeder Funds were parties to the Fee Sharing Agreement executed in August 1998 which evidenced the terms of the 1998 Agreement between the parties as set out in paragraph 10 above.
 - (2) The Master Fund and the Feeder Funds entered into an Investment Advisory Agreement on or about 19 August 1998 with ZAM under which ZAM was to receive an annual management fee of 1.5% of the net asset value of the participating shares and a performance fee equal to 20% of the increase in such net asset value.
 - (3) On 6 August 1998 the directors of each of the Feeder Funds resolved inter alia to designate the participating shares as M and Z classes and to issue the M shares to investors introduced by MGI, acknowledging it to be the "sponsor and distributor" of the Feeder Funds, "distributor" meaning promoter.
 - (4) It was further resolved on or about 6 August 1998 by the directors of each of the Feeder Funds that separate share classes would be created such that "M" participating shares would be issued to investors introduced by MGI and "Z" participating shares would be issued to investors introduced by ZAM.

(5) Thereafter each of the Zulauf Europe Funds took the benefit of MGI's efforts to raise capital for the Master Fund through feeder funds and caused Hemisphere to pay MGI fees in accordance with the 1998 Agreement.

(6) The Zulauf Europe Funds recognised MGI's marketing rights at least until December 2001 and assisted MGI in marketing and promoting the Zulauf Europe Funds and in allowing MGI to circulate information memoranda and brochures to potential investors.

(iii) **Hemisphere's Role**

16. At Mr Zulauf's request an administration agreement was concluded with the Sixth Defendant, then known as "Hemisphere Management (Ireland) Ltd" ("**Hemisphere**"), for it to become the administrator of the Zulauf Europe Funds.

(1) As such Hemisphere was responsible for the following matters:

(i) sending subscription documents to potential investors who might request them from the administrator.

(ii) managing subscriptions received and allocating M or Z Class participating shares.

(iii) organising redemptions of participating shares in the Feeder Funds and the Master Fund.

(iv) accounting to MGI for its share of the fees due in respect of the M class of participating shares.

- (2) Ronan Daly and Stuart Drake both of Hemisphere became directors of the Feeder Funds (“the Hemisphere directors”). Mr Dion Friedland of MGI was also appointed a director of each of the Feeder Funds.
17. MGI will contend that, when Hemisphere received funds from investors in respect of M shares it held an amount equivalent to MGI’s fees on trust to be paid directly to MGI. MGI contends that such a trust arises by virtue of the agreed instruction to Hemisphere and accepted by it.
18. MGI will rely on the instruction from the Zulauf Europe Funds to Hemisphere contained in the written Fee Sharing Agreement by which Hemisphere was to pay to MGI its share of fees directly out of the fees due under the Investment Advisory Agreement between ZAM and the Zulauf Europe Funds.
19. MGI will further contend that by the end of 2001 at the latest the Hemisphere directors were accustomed to act in accordance with directions given by ZAM or Mr Zulauf. Until discovery the best particulars which MGI is able to give is that such influence is to be inferred from the following:
- (1) When accepting the office of directors the Hemisphere directors placed themselves in a position of potential conflict as:
- (i) Hemisphere was beholden to ZAM and Mr Zulauf who had been responsible for bringing to it the business of administering the Zulauf Europe Funds.
- (ii) It was in any event necessary for Hemisphere directors to defer to advice of Mr Zulauf and/or ZAM on a number of matters under the Administration Agreement.

- (2) Mr Zulauf told Mr Dion Friedland in December 2001 that he was to resign as director of the Zulauf Europe Funds. The fact this direction came from Mr Zulauf evidences his and ZAM's inappropriate influence on matters of corporate administration. Mr Friedland had not had any prior disagreement with the Hemisphere directors and no indication from them or investors that they wanted his resignation.
- (3) Mr. Dion Friedland refused to resign. Nevertheless, thereafter the Hemisphere directors acted alone, did not consult with Mr Friedland, provided none of the information to which they had access and gave no notice of any meetings if such meetings were held.
- (4) MGI will also rely on the conduct of the Hemisphere directors and Hemisphere at the time when MGI and ZAM began to dispute the allocation of shares and ZAM sought to repudiate its arrangement with MGI (as more particularly set out below). In particular:
- (i) The Zulauf Europe Funds and Hemisphere allowed the proportion of fees due to MGI in respect of investors introduced by MGI after September 2002 to be paid to ZAM without first entering into any discussion with MGI.
 - (ii) The payment of MGI's share of fees to ZAM without reference to MGI was a serious misappropriation of funds undertaken purely for ZAM's own benefit.
 - (iii) The Hemisphere directors had no reason to participate in a scheme to pay MGI's share of fees to ZAM when they themselves did not gain from this directly and, it is to be inferred, would not have done so unless ZAM was in a position to influence Hemisphere to do so.

III. IMPLEMENTATION OF THE 1998 AGREEMENT

20. Pursuant to the 1998 Agreement ZAM and MGI took steps to establish the Master Fund and Feeder Funds by advising on the structure, helping to incorporate the fund entities and assisted US and Cayman attorneys in the preparation and review of the necessary legal fund documentation (such as the investment advisory and management agreement, articles of association and placement memorandum). All documents were finalised in the first part of August 1998.
21. From January 1998 (even before the Funds opened in August 1998) until January 2003 MGI marketed and promoted the Zulauf Europe Funds, Mr. Zulauf and ZAM to professional, institutional or wholesale investors. From the period January 1998 until about December 2001, ZAM and the Zulauf Europe Funds cooperated in these marketing efforts inter alia in the following manner:
 - (1) MGI made its existing clientele aware of the Feeder Funds, distributing by post and e-mail its bi-monthly newsletters each of which had feature stories describing the strategy and results of the Zulauf Europe Funds and many of which included articles authored by Mr. Zulauf. By 2001 these newsletters had a circulation of about 10,000 potential investors. This was all done at MGI's expense.
 - (2) MGI hosted lunches and dinners and other meetings at which the Master Fund and/or the Feeder Funds and/or ZAM and/or Mr Zulauf were promoted and at which Mr. Zulauf was invited to speak ensuring the attendance of 30-50 major, interested, hedge fund investors at each event. These lunches and dinners were organised and paid for by MGI.
 - (3) MGI's website contained a substantial section promoting the Feeder Funds which provided access to articles on the Zulauf Europe Funds, the monthly

shareholder reports and performance of the Zulauf Europe Funds. The cost of maintaining the website and updating the information weekly was borne by MGI.

- (4) MGI organised speaking appearances at numerous hedge fund and investment conferences at which Mr Zulauf was able to address substantial numbers of professional investors.
- (5) MGI sent monthly performance updates to every hedge fund database operator from the commencement of the Zulauf Europe Funds until November 2002, at which time ZAM requested that MGI cease doing so.
- (6) MGI sent in data relating to the Zulauf Europe Funds weekly and paid for regular listings in financial papers such as the Financial Times, the International Herald Tribune, The Wall Street Journal Europe and Asia.
- (7) MGI provided ZAM with regular updates on its efforts to promote the Feeder Funds and encouraged ZAM to assist in these efforts.
- (8) MGI produced 2 brochures (one in colour) for the Zulauf Europe Funds each of which was, at MGI's expense sent to about 6000 professional and institutional investors and handed out to hundreds of investors at hedge fund conferences.
- (9) In February 2001, having been encouraged to do so previously by MGI, ZAM requested MGI to form a new feeder fund, the Fourth Defendant, to attract US taxable investors. Accordingly,
 - (i) MGI instructed US attorneys in Dallas, Texas to prepare the information memorandum and legal documentation necessary for

the formation of a Cayman Islands limited partnership for US investors, Zulauf Europe Fund LP (“**LP Feeder Fund**”).

(ii) MGI worked closely with the said US attorneys in preparing the limited partnership documentation. Initial drafts of the documents were prepared by MGI at its own expense.

(iii) In order to procure a discount in fees for the LP Feeder Fund, MGI advanced the attorneys’ fees in full on behalf of the Zulauf Europe Funds, which were later repaid to MGI by the LP Feeder Fund without interest only after the LP Feeder Fund had commenced trading.

22. Until December 2001 ZAM cooperated with MGI on its efforts to promote investment in the Feeder Funds, for example, by providing articles for inclusion in MGI’s bi-monthly newsletters which in 2001 had a circulation of 10,000, by causing Mr Zulauf to speak at conferences, to speak to MGI clientele who were interested in investing in the Feeder Funds via conference calls and to attend meetings with MGI clientele who were interested in investing in the Feeder Funds.

IV. OBSTRUCTION OF MGI’S INTRODUCTION OF INVESTORS

(i) **Obstruction and Failure to Cooperate with MGI’s attempts to effect Introductions**

23. From about January 2002 ZAM prevented and obstructed MGI from exercising its marketing rights and/or from making further introductions of investors to the Zulauf Europe Funds and otherwise undermined its efforts to make such introductions and/or caused the Zulauf Europe Funds to do so.

PARTICULARS

Until discovery or the administration of interrogatories the best particulars of the attempts to prevent or obstruct attempts to introduce investors or promote the Zulauf Europe Funds by MGI are as follows:

- (1) In January 2002 ZAM drastically reduced its marketing support given to MGI and caused the Zulauf Europe Funds to do likewise. From August 2002 until 13 December 2002, all marketing support to MGI was withdrawn.
- (2) In December 2001, on a telephone conversation Mr Dion Friedland questioned Mr Zulauf about his pending trip to New York. Mr Zulauf told Mr Friedland that ZAM was looking for others to market the Zulauf Europe Funds and asked Mr Dion Friedland to resign as director of the Feeder Funds to facilitate that. Mr Dion Friedland refused to resign, but nonetheless was removed from the board of directors against his will.
- (3) Thereafter the Hemisphere directors acted alone on the instructions or request of ZAM and without reference to Mr Dion Friedland. Mr Dion Friedland was not supplied with any of the information available to the Hemisphere directors after January 2002.
- (4) Despite an assurance given by Mr Zulauf to MGI in November 2001 that if he travelled to New York in January 2002, he would allow MGI to organise a dinner meeting with 30-50 potential investors (as MGI had previously done on many other occasions), he went to New York without telling MGI so that no such meeting could be organised.
- (5) In a telephone conversation on 14 January 2002 and in a subsequent e-mail on 16 January Mr Zulauf told Mr David Friedland that ZAM was

“dissatisfied” with the results of the fund raising process, was seeking to “re-arrange” the marketing and “instructed” MGI to cease marketing the Zulauf Europe Funds.

- (6) Shortly afterwards also on 16 January 2002 Mr Zulauf e-mailed Mr David Friedland and instructed him to “remove” an article about the Zulauf Europe Funds in MGI’s newsletter despite the fact that this article had been agreed by ZAM several weeks earlier. Mr Friedland responded that this was not then possible as the newsletter was in the process of being printed.
- (7) ZAM instructed MGI to refrain from producing any further written articles about the Zulauf Europe Fund in any of its future newsletters. On 18 January 2002 Mr David Friedland sent a response to Mr Zulauf in which he protested that ZAM had no right to terminate MGI’s entitlement to market the Zulauf Europe Funds whilst shares in any of the feeder funds remained open for subscription.
- (8) On 29 January 2002 in a letter to Mr David Friedland, Mr Zulauf maintained that the Zulauf Europe Funds were entitled to terminate their arrangement with MGI if its *“performance had been as weak as [MGI’s] had been”* but that he would revert to discuss MGI’s role once the discussion with a new Distributor had *“matured sufficiently”*.
- (9) MGI continued to promote the Zulauf Europe Funds. However, between January 2002 and August 2002 ZAM reduced marketing support significantly by being unresponsive to MGI’s e-mails and telephone calls, by making themselves available only occasionally for meetings or conference calls with potential investors, and by refusing to allow MGI to publish any articles on the Zulauf Europe Funds in MGI’s bi-monthly newsletters. ZAM withdrew their marketing support entirely in August

2002, thereby further frustrating and undermining MGI's marketing efforts.

- (10) On 19 May 2002 Mr Zulauf, Daniel Koppel and Nicolas Mathys of ZAM met at the ZAM office, with one Peter Frohlich of Coastal Funds Inc and Darren Spencer and Nick Griffiths of Aon Consulting Sydney, Australia. Coastal Funds Inc had previously been introduced to the Funds by MGI and had invested in M shares. Mr Zulauf, suggested to Mr Frohlich that as he had now met Mr. Zulauf and his associates, Coastal Funds should in future invest in Z shares notwithstanding the fact that the introduction to and meeting with ZAM had been arranged by MGI.
- (11) In June 2002 Mr David Friedland spoke to Mr Zulauf on the telephone. During the course of the conversation Mr Zulauf told Mr Friedland that if MGI agreed to lower its share of the fees to 20% of the management and performance fees (from 63.3% and 30% respectively), ZAM would provide MGI with the same marketing assistance it provided to its other marketers of the Funds, and that it had provided up until December 2001. Mr Zulauf repeated this same offer to Mr David Friedland in a subsequent telephone conversation in July 2002.
- (12) In July 2002 Mr Zulauf had again made arrangements to travel to New York to meet investors without first telling MGI. Had Mr. Zulauf provided reasonable notice of his trip to New York, and set aside more time to meet with MGI clients, MGI would have been able to arrange numerous meetings and an investor lunch or dinner which would have afforded MGI the opportunity to have 30 to 50 of its potential investors meet with Mr. Zulauf at one time. Instead, Mr Zulauf said he only had time to meet with one of MGI's prospective investors.

- (13) On 29 July 2002 ZAM cancelled a planned conference call which had been arranged with Dexia which was considering an investment in the Zulauf Europe Funds.
- (14) In e-mails on 1 August 2002 and on 7 August 2002 to MGI, ZAM indicated that it was not prepared to have any further conference calls or meetings with any investors introduced by MGI until the unspecified "open topics"/ "issues" had been resolved. ZAM cancelled two further conference calls with potential investors introduced by MGI.
- (15) In a letter dated 20 August 2002 Maitland & Co., attorneys acting on behalf of MGI, informed ZAM that MGI considered itself to have a continuing entitlement to promote the Zulauf Europe Funds and invited ZAM to resume its marketing support and offered a reduced profit sharing arrangement.
- (16) No new arrangement was agreed (although ZAM did attempt to negotiate the reduced profit sharing arrangement with MGI) and after August 2002 ZAM refused to provide any marketing support to MGI and sought to frustrate all attempts by MGI to introduce investors to the Zulauf Europe Funds and caused the Zulauf Europe Funds to do likewise.

(ii) The Abrupt Closing of the Fund to Additional Subscriptions

24. It was foreseeable to the Defendants that once the Zulauf Europe Funds announced that they were reaching the point when they would close to new subscriptions, this would be an opportunity for MGI to attract substantial further investment from potential investors, provided they were given adequate notice of the last date on which subscriptions would be received.

25. The Zulauf Europe Funds were closed to further subscriptions on 24 January 2003 without any prior notice to MGI and in a manner which frustrated many of the introductions which would have been effected through MGI's marketing efforts had due notice been given:

(1) MGI was incorrectly told by ZAM in the course of a conference call in about mid January 2003 that the closing was anticipated to be in mid February 2003. Without any attempt to give MGI fair and proper notice that the closing would be much earlier, the funds were closed on 24 January 2003.

(2) As a result MGI had not notified any of its potential or existing investors of the need to ensure their investment was made by 24 January 2003. When MGI discovered from one of its clients on 23 January 2003 that the Zulauf Europe Funds were being closed on the following day, it was nevertheless able to ensure that some investors tendered subscriptions before the closing date.

(3) Because MGI did not know that the closing had been brought forward to 24 January 2003 until the preceding day, it was deprived of the opportunity of ensuring that a number of other investors would take up subscriptions. A significantly larger number of investors would have invested in the Funds as a result of introductions by MGI, had MGI and its potential investors been given more notice.

(4) The Hemisphere directors on behalf of the Zulauf Europe Funds rejected or cut back several subscriptions received on or shortly after 24 January 2003 for the M shares and for shares in the LP Feeder Fund from investors introduced by MGI. In excess of USD6.3 million was rejected or cut back.

- (5) The Hemisphere directors and/or Hemisphere on instructions from ZAM refused or failed to act on requests by MGI to extend the closing date for specific investors in the M shares to the 1st February 2003. Notwithstanding the fact that the Zulauf Europe Funds were supposedly closed to new subscriptions, ZAM instructed or asked Hemisphere to accept additional subscriptions totalling USD25 million from investors seeking to subscribe for Z shares and from investors who had been introduced by ZAM seeking to subscribe in the LP Feeder Fund, a full week after the M shares were closed to further subscriptions.

(iii) **ZAM's Liability**

26. ZAM had no entitlement to seek to suspend or terminate the 1998 Agreement with MGI or to obstruct, frustrate or undermine MGI's attempts to promote the Zulauf Europe Funds or its attempts to effect introductions of investors to them or to cause the Zulauf Europe Funds to conduct itself in such a way as to frustrate or undermine those attempts.
27. Alternatively, MGI was entitled to reasonable notice of any attempt to terminate its rights to market the Zulauf Europe Funds and will contend that by 2002, given the resources MGI had expended in marketing the Funds since January 1998 and the lengthy relationship MGI had with Mr. Zulauf that had extended back to July 1996, such notice should have been at least 12 months. No or no proper notice of termination was given.
28. Further ZAM's obstructive conduct throughout the period beginning in January 2002 to January 2003 and the abrupt closure of the Zulauf Europe Funds to further investment without notice to MGI set out in Section IV (i) and (ii) above constituted:

- (1) a failure to cooperate with MGI's attempts to promote the Zulauf Europe Funds and to introduce investors in accordance with the term pleaded in paragraph 11(2) and
- (2) a breach of its obligation pleaded in paragraph 12(2) above not to obstruct or undermine attempts to promote the Zulauf Europe Funds and to introduce investors and
- (3) a breach of its contractual obligation of good faith towards MGI pleaded in paragraph 12(1) above

PARTICULARS OF BAD FAITH

The best particulars which MGI is able to give until discovery or the administration of interrogatories are as follows:

- (i) MGI had in fact for many years devoted substantial resources to marketing the Zulauf Europe Funds as set out above. ZAM had never expressed any general dissatisfaction with MGI's marketing previously until January 2002.
- (ii) By the end of 2001 the Zulauf Europe Funds had a 3.5 year track record which had improved during the fourth quarter of 2000 and during 2001. 2001 was the first year since inception that the Zulauf Europe Funds had enjoyed good performance throughout the year.
- (iii) By January 2002 ZAM was proposing to cause additional marketers to be instructed to promote the Zulauf Europe Funds because ZAM would be able to avoid sharing the Investment Advisory fees with MGI by marketing the Zulauf Europe Funds

itself or through other marketers who would be willing to charge lower fees.

(iv) ZAM showed its desire to alter the level of agreed fees twice during 2002 when Mr Zulauf told Mr David Friedland of MGI that he would continue to provide marketing support if MGI reduced its fees to 20% (presumably the same fee they were paying their other marketers).

(v) It is to be inferred that ZAM's principal purpose, when withholding marketing cooperation and/or when undermining MGI'S marketing efforts was its desire to re-write the terms of the fee sharing arrangement it had concluded as part of the 1998 Agreement, by reducing MGI's share of the fees to 20%.

(vi) MGI will also rely on the fact that ZAM suggested to investors such as Mr Frohlich of Coastal Funds Inc and others who had been introduced to the Feeder Funds by MGI that any investment should be made in Z shares as set out in paragraph 23(10) above and thereafter concealed this investment from MGI without making any attempt to assert an entitlement to act in this manner.

(iv) The Liability of the Zulauf Europe Funds for the obstruction of MGI's attempts to introduce investors and the abrupt closing of the Zulauf Europe Funds to additional subscriptions

29. When the Zulauf Europe Funds agreed to implement the abrupt closure of the Funds to additional subscriptions on 24 January 2003, they did so in discussion with ZAM but without giving fair or reasonable notice to MGI, knowing that this meant MGI could not introduce the investors to whom it had marketed the Zulauf Europe Funds. This was in breach of the Funds obligation pleaded in paragraphs

11(2), 12(1) and (2) above to allow MGI to market the Funds and to act in good faith.

30. Prior to the closing on 24 January 2003 and in breach of the terms pleaded at paragraphs 11(2) and 12(1) and (2) the Zulauf Europe Funds permitted or allowed ZAM to obstruct or undermine MGI's attempts to introduce investors or otherwise to promote those funds, as set out in Section IV(i) and (ii) above.

PARTICULARS OF BAD FAITH

Until full discovery or the administration of interrogatories the best particulars which MGI is able to give are as follows:

- (1) It is inconceivable that ZAM concealed from the Hemisphere directors its desire to freeze MGI out from further participation in the Funds from the moment when ZAM had demanded the resignation of Dion Friedland and thereafter persuaded the Hemisphere directors to ignore Dion Friedland.
- (2) Despite M Shares, and shares in the LP Feeder Fund having been designated as having been issued to MGI investors between 17 September 2002 and 24 January 2003, Hemisphere and/or the Feeder Funds failed to pay MGI its fees in respect of M Shares or shares in the LP Feeder Fund subscribed for by investors introduced by MGI, issued during that period.
- (3) Since Hemisphere was to account for a share of the fees directly to MGI out of the funds available to the Zulauf Europe Funds and any new feeder funds, Hemisphere must have realised that the failure to pay such fees was or might be a serious misapplication of those funds by Hemisphere. Such misapplication was known to the feeder funds through the Hemisphere directors.

- (4) No attempt was made by the Zulauf Europe Funds or the Hemisphere Directors to seek MGI's agreement to this diversion of funds or to interplead between ZAM and MGI. The Zulauf Europe Funds and the Hemisphere Directors studiously avoided contact with MGI about the intended diversion of funds to ZAM.
- (5) MGI will also say that bad faith of the Zulauf Europe Funds and the Hemisphere directors towards investors introduced by MGI rather than ZAM is also apparent from the biased and partial attitude taken towards MGI when: -
- (i) the Zulauf Europe Funds were abruptly closed on 24 January 2003 for subscriptions at the request of ZAM without notice to MGI
 - (ii) the Zulauf Europe Funds accepted late subscriptions from investors which they considered to have been introduced by ZAM but not from investors introduced by MGI.
- (6) It is to be inferred that the Zulauf Europe Funds would only have behaved in this manner if they were prepared:
- (i) to ignore the 1998 Agreement and leave ZAM to obstruct or undermine attempts by MGI to introduce investors in breach of the 1998 Agreement to which they were a party and/or
 - (ii) to accept ZAM's instructions to assist in that obstruction at the time of the closing on 24 January 2003 and/or
 - (iii) to accept ZAM's instructions to withhold information from MGI and to assist in the obstruction of attempts by MGI to introduce investors.

MGI will say that conduct falling within (i) to (iii) would constitute bad faith.

(v) **Damage caused by obstruction**

31. By reason of ZAM's conduct in obstructing and/or frustrating and/or undermining MGI's attempts to market the Zulauf Europe Funds and to introduce investors to the Feeder Funds and the LP Feeder Fund and the participation of the Zulauf Europe Funds and/or Hemisphere in that conduct, MGI has suffered loss and damage namely the loss of the opportunity to effect introductions, and the consequent loss of annual income that would have been earned as a result of those introductions.

PARTICULARS OF LOSS AND DAMAGE

The best particulars which MGI is able to give at the date hereof until full discovery and/or administration of interrogatories are as follows:

- (1) Had MGI been permitted to market the Zulauf Europe Funds with ZAM's support instead of its said conduct, MGI would have been able to effect introductions and/or obtain subscriptions for a substantial number of M shares and shares in the LP Feeder Fund.
- (2) MGI estimates that during 2002 it should have been able to effect introductions of approximately an additional USD50 million had it received proper marketing support from ZAM as it had previously received prior to 2002, and as ZAM had been providing to its other marketers.

- (3) Instead MGI's efforts to introduce new investors to the Zulauf Europe Funds were significantly impaired and many of the investors who had already been introduced by MGI were targeted by ZAM and/or ZAM's other marketers and it is to be inferred a number of them invested directly or indirectly in the Z Shares of the Feeder Funds.
- (4) Had MGI obtained adequate notice of the closing of the Feeder Funds and the LP Feeder Fund to further subscriptions, or been allowed an extra week to finalise subscriptions, just as investors in the Z shares had been allowed, it would have been able to ensure that applications for at least another USD 20 million would have been made in respect of introductions it had effected.
- (5) The loss of revenue from those introductions consists of the annual management and performance fees due on a growing fund. An example of the loss calculated on investments of USD10m over 10 years, assuming a composite growth rate of 20% appears in the table set out in Schedule 1.

V. MISAPPLICATION OF FEES DUE TO MGI AND MISALLOCATION OF INVESTORS

- (i) **Fees due in respect of investors acknowledged to have been introduced to the Zulauf Europe Funds by MGI**
32. MGI is entitled to its share of fees on introductions effected by it to the Feeder Funds. The Zulauf Europe Funds and/or Hemisphere and/or ZAM have wrongfully and/or in breach of duty failed to make full payment to MGI of the fees due to it in respect of investors introduced by MGI to the Zulauf Europe Funds.

33. Further or alternatively such payments as were made to ZAM amounted to a breach of trust and/or misapplication by Hemisphere of funds due to MGI. ZAM has knowingly received such funds.
34. Fees were not paid in respect of investors acknowledged to have been introduced since 17 September 2002. Between 17 September 2002 and 24 January 2003, at least USD 22,522,362 and EUR 5,450,625.57 of funds were received and accepted by, the Feeder Funds into the M shares, and by the LP Feeder Fund, and acknowledged as investors introduced by MGI. MGI has not received any payment of fees on account of this. A schedule identifying the investors who provided these funds is annexed hereto as Schedule 2.
35. The Zulauf Europe Funds and/or, ZAM and/or Hemisphere are obliged to account to MGI for the sums due to it and/or which at the trial herein shall have continued to accrue in MGI's favour by reference to all M shares that were issued and to those who subscribed for shares in the LP Feeder Fund and were acknowledged to have done so as a result of introductions effected by MGI. Particulars are set out in Schedule 2. Alternatively, MGI is entitled to damages for the failure to account.
- (ii) **Fees due in respect of Investors who should have been (but were not) acknowledged to have been introduced by MGI**
36. In breach of the fee sharing agreement, MGI's share of fees was also not paid in respect of numerous investors who were introduced by MGI but not acknowledged as such by Hemisphere, the Zulauf Europe Funds or ZAM.

PARTICULARS OF INVESTORS MISALLOCATED

The best particulars which MGI can give until discovery and/or the administration of interrogatories is as follows:

- (1) At least a further USD14.35m and EUR 9.12m of funds from investors introduced by MGI were wrongly received and accepted by, the Feeder Funds into the Z shares and into the LP Feeder Fund that were wrongly designated as investors introduced by ZAM.
- (2) MGI has never received any payment of fees on account of this. A schedule identifying investors who made these subscriptions is annexed hereto as Schedule 3.
- (3) All investors who were identified on a list submitted by MGI to ZAM on 28 June 2001 were and/or are to be presumed to have been introduced by MGI. ZAM is estopped from asserting otherwise by reason of the following facts and matters:
 - (i) In June 2001 during a telephone conversation:
 - (a) Mr Zulauf indicated to Mr David Friedland that ZAM wanted to agree a means of avoiding disputes about the classification of investors as "M" or "Z".
 - (b) Mr Zulauf asked Mr Friedland if MGI could produce a list of those investors with whom it had regular direct contact about the Zulauf Europe Funds.
 - (c) Mr Friedland indicated that such regular contact had been maintained with about 5% [*i.e. 477 out of a wider list of 10000 that received MGI's bi-monthly newsletters*] of the investors on MGI's mailing list.
 - (d) It was agreed that such a list would be provided by Mr. David Friedland and that investors identified on that list would be

presumed to be investors introduced by MGI unless ZAM established otherwise.

- (ii) At ZAM's request on 28 June 2001 MGI sent a list to ZAM identifying 477 investors with whom MGI had been in regular contact about the Zulauf Europe Funds and to whom it had sent monthly information about the Zulauf Europe Funds.
- (iii) Mr Zulauf acknowledged receiving this list and made no attempt to dispute any of the contents and thereby impliedly represented that it would be presumed as between ZAM and MGI that M shares should be allocated to those investors to the extent they subscribed into the Zulauf Europe Funds.
- (iv) In reliance on this representation MGI continued to promote, publicise and market the Zulauf Europe Funds to the investors on this list and to expend money and devote resources into doing so.

Accordingly ZAM is estopped from denying that the investors identified on the list sent on 28 June 2001 should be presumed to have been introduced by MGI.

- (4) Furthermore, MGI will rely on the fact ZAM and/or the Feeder Funds improperly suggested to investors whom they knew to have been introduced by MGI that they should take up Z shares instead of M shares in order to conceal from MGI that such investors in the Feeder Funds had in fact been introduced by MGI. MGI repeats the allegations made in paragraph 23(10) above.

(iii) **The Defendants' Role in the Misallocation of Investors**

37. Further, or alternatively, the failure by the Zulauf Europe Funds to recognise investors as having been introduced by MGI or the failure to allocate M shares to such investors (action which it should have taken by itself and/or acting through Hemisphere by virtue of the powers conferred under the Administration Agreement) amounted to a breach by the Zulauf Europe Funds of the terms of the 1998 Agreement pleaded at paragraph 11(3). Alternatively, such failure was negligent and/or in breach of the terms pleaded in paragraphs 12(3) and 12(4) above and/or not in good faith in breach of the term pleaded at paragraph 12(1) above.

PARTICULARS OF NEGLIGENCE

The best particulars which MGI is able to give until discovery or the administration of interrogatories are as follows:

- (1) The Zulauf Europe Funds and/or Hemisphere failed to make inquiry of MGI of the investors whom MGI would have argued ought to have been treated as introductions effected by it when these investors were on the list supplied to ZAM in June 2001 discussed above in clause 36(3).
- (2) MGI has pointed out to the Zulauf Europe Funds, ZAM and Hemisphere numerous instances when investors to whom Z shares were allocated ought to have been issued M shares. The Zulauf Europe Funds refused or failed to change the classification of those investors and made no or no adequate inquiry to conclude that the classification was correct.
- (3) The Zulauf Europe Funds uncritically and without further investigation accepted the information provided by ZAM to them and to Hemisphere

when they ought to have appreciated that MGI's claim would give rise to a liability on the part of the Feeder Funds.

- (4) Whenever the Zulauf Europe Funds, ZAM or Hemisphere were asked for subscription documents by investors they provided them with subscription forms for Z shares regardless of whether the reason for this request was an introduction effected by MGI or ZAM. Had the Zulauf Europe Funds, ZAM or Hemisphere been concerned to observe MGI's rights under the Fee Sharing Agreement, they would have asked the investors if MGI had introduced such investors to the Zulauf Europe Funds and sent M share subscription documents when that was the case.

PARTICULARS OF BAD FAITH

The best particulars which MGI is able to give until discovery or the administration of interrogatories are as follows:

- (5) MGI made numerous requests to rectify the share register by moving investors who had been introduced by MGI but who had incorrectly been issued with Z shares into the M shares, or by crediting MGI in respect of investors introduced to the LP Feeder.
- (6) The Zulauf Europe Funds failed to consider MGI's complaints or take any or any proper steps to investigate these.
- (7) Bad faith is also to be inferred from the bad faith towards MGI set out in paragraphs 28(3) and 30 above.

38. Further, or in the alternative, ZAM or Hemisphere wrongfully procured the breaches of duty by the Zulauf Europe Funds pleaded in paragraph 37 above.

Alternatively, ZAM acted in breach of its obligation of good faith pleaded in paragraphs 12(1) above in failing to prevent those breaches.

PARTICULARS OF PROCUREMENT

The best particulars which MGI can give of the positive acts of procurement until discovery or the administration of interrogatories are as follows:

- (1) MGI repeats the particulars given under paragraph 37 above mutatis mutandi.
 - (2) MGI will say that the conduct of the Zulauf Europe Funds particularised in paragraph 37 above must have been encouraged by ZAM (who had a vested interest in misallocating investors when the funds did not) or by Hemisphere for the reasons set out in paragraph 19 above.
39. The Zulauf Europe Funds and/or, ZAM and/or Hemisphere are obliged to account to MGI for the sums due to it and/or which at the trial herein shall have continued to accrue in MGI's favour by reason of the introductions which it effected of investors who were incorrectly classified as investors in Z shares or who subscribed for shares in the LP Feeder Fund as a result of introductions by MGI but were incorrectly not acknowledged to have done so. Particulars of all those investors who MGI alleges should have been classified as M shareholders or acknowledged to have subscribed in the LP Feeder Funds are set out in paragraph 36 above.
40. Alternatively, MGI has suffered loss and damage by reason of the mis-allocation of Z shares to investors who had been introduced to the Feeder Funds by MGI and to whom M shares should have been issued, or by reason of the failure to account to MGI for fees in respect of investors introduced by it to the LP Feeder Fund particularised in paragraph 36 above. The mis-allocation was caused by the

negligence and/or the breaches of duty of the Zulauf Europe Funds set out in paragraphs 37 above and/or the breaches of duty of ZAM and/or procurement of the breaches of the Zulauf Europe Funds by ZAM and/or Hemisphere set out in paragraph 38 above.

VI INTEREST

41. MGI is entitled to interest on such sums as may be recovered by it pursuant to section 34 of the Judicature Law (2002 Revision) and sections 4 and/or 5 of the Judgment Debts (Rates of Interest) Rules 1995 (as amended from time to time) or at such rate and/or for such period as the Court finds to be just or alternatively equitable interest under the inherent jurisdiction of the Court.

AND MGI CLAIMS

1. An account or inquiry as to the identity of investors and the amount of investment subscribed in the Zulauf Europe Funds as a result of introductions made by MGI.
2. Payment by the Defendants of all sums due to MGI in respect of investors introduced to the Zulauf Europe Funds by MGI and/or an account from ZAM and/or Hemisphere of all sums so due to MGI but paid to ZAM.
3. A declaration that MGI is entitled to further payment in the future of its share of fees in respect of introductions effected by it.
4. Further or alternatively damages from ZAM and/or Hemisphere and/or the Zulauf Europe Funds resulting from the misallocation of investors.
5. An order requiring the Zulauf Europe Funds to correct their registers so as to record all those investors introduced by MGI as M investors.

6. Damages from ZAM and/or Hemisphere and/or the Zulauf Europe Funds for the loss of opportunity of introducing investors to the Feeder Funds and the LP Feeder Fund during 2002 up to the closing to additional subscriptions in 2003.
7. Interest.
8. All necessary accounts and inquiries.
9. Further or other relief.
10. Costs pursuant to the Judicature Law (2002 Revision) and to the Cayman Islands Grand Court Rules 1995.

DATED this 3rd day of May 2004

SETTLED: THOMAS LOWE
 Wilberforce Chambers
 8 New Square, Lincoln's Inn
 London WC2A 3QP

Ritch + Conolly

RITCH & CONOLLY
 Attorneys-at-Law for the Plaintiff,
 Magnum Global Investments, Ltd.

TO: **The Clerk of the Court**
 Courts Office, Grand Cayman

AND TO: **Walkers**
 Attorneys-at-Law for the 1st, 2nd, 3rd and 4th Defendants
 Walker House, PO Box 265GT, Grand Cayman
 Attn: Ms Ingrid Pierce

AND TO: **Zulauf Asset Management AG**
 Grafenauweg 4, P.O. Box CH – 6301
 Zug, Switzerland
 Attn: Felix Zulauf, Esq

AND TO: **BISYS Hedge Fund Services (Ireland) Ltd**
 (Formerly Hemisphere Management (Ireland) Ltd.)
 4th Floor Block A George's Quay
 Dublin 2, Ireland
 Attn: Ronan Daly, Esq.

This Writ and Statement of Claim is filed by Ritch & Conolly, Attorneys-at-Law, for and on behalf of the Plaintiff herein whose address for service is that of Queensgate House, 113 South Church Street, P.O. Box 1994, George Town, Grand Cayman.

SCHEDULE 1

These fees are calculated on the monthly/quarterly/annual appreciated value of the investments held by investors they introduced. The table below illustrates the annuity income stream of income that MGI would generate for every \$10 million it had introduced to the Zulauf Europe Funds over the ensuing 10 years.

Year	Value of Investment*	Management Fees due to ZAM 36.6% of 1 ½% per year	Management Fees due to MGI 63.3% of 1 ½% per year	Performance Fees due to ZAM 70% of 20% gain each year	Performance Fees due to MGI 30% of 20% gain each year	Total Management and Performance Fees due to MGI
2003	\$10,000,000.00	\$55,000.00	\$95,000.00	\$350,000.00	\$150,000.00	\$245,000.00
2004	\$12,000,000.00	\$66,000.00	\$114,000.00	\$420,000.00	\$180,000.00	\$294,000.00
2005	\$14,400,000.00	\$79,200.00	\$136,800.00	\$504,000.00	\$216,000.00	\$352,800.00
2006	\$17,280,000.00	\$95,040.00	\$164,160.00	\$604,800.00	\$259,200.00	\$423,360.00
2007	\$20,736,000.00	\$114,048.00	\$196,992.00	\$725,760.00	\$311,040.00	\$508,032.00
2008	\$24,883,200.00	\$136,857.60	\$236,390.40	\$870,912.00	\$373,248.00	\$609,638.40
009	\$29,859,840.00	\$164,229.10	\$283,668.50	\$1,045,094.40	\$447,897.60	\$731,566.10
2010	\$35,831,808.00	\$197,074.90	\$340,402.20	\$1,254,113.30	\$537,477.10	\$877,879.30
2011	\$42,998,169.60	\$236,489.90	\$408,482.60	\$1,504,935.90	\$644,972.50	\$1,053,455.20
2010	\$51,597,803.50	\$283,787.90	\$490,179.10	\$1,805,923.10	\$773,967.10	\$1,264,146.20
Total		\$1,427,727.40	\$2,466,074.80	\$9,085,538.70	\$3,893,802.30	\$6,359,877.20

*assuming growth at 20% net per year

SCHEDULE 2

Invested in Zulauf Europe Fund EUR Ltd. "M Shares" after September 17, 2002:

		EUR
28-Sep-02	Somers Nominees (Far East) Limited A/C 513945	1,250,000.00
2-Nov-02	Somers Nominees (Far East) Limited A/C 513945	175,000.00
9-Nov-02	Valora S.A.	250,000.00
23-Nov-02	Williams & Glyn's (IOM) Nominees Ltd A/C 76596/1	101,816.93
30-Nov-02	Bank of Bermuda (Lux) SA Re: Everest DSF Ltd	98,784.00
21-Dec-02	Dr Alkier GmbH	100,000.00
21-Dec-02	Dr Alexander Hoyos	100,000.00
1-Jan-03	valora	217,000.00
11-Jan-03	Philippe M. Lacorne	200,000.00
11-Jan-03	Schneider Privatstiftg -	100,000.00
18-Jan-03	Rahn & Bodmer Banquiers	1,000,000.00
25-Jan-03	MMIP International Fund Limited	346,324.34
25-Jan-03	Banque De Luxembourg	240,000.00
25-Jan-03	Vivat Trustees Ltd ATF WES002	200,000.00
25-Jan-03	Lombard Odier Darier Hentsch & Cie	100,000.00
25-Jan-03	Mrs. Sadayo Baba	145,500.00
25-Jan-03	New Millennium Fund Ltd	100,000.00
18-Jan-03	Dr Weisstub transfer from Z Class	126,200.30
25-Jan-03	Banque de Luxembourg transfer from Z Class	600,000.00

Invested in Zulauf Europe Fund USD Ltd. "M Shares" after September 17, 2002:

		USD
23-Nov-02	Arnold Kur c/o magnum Administrator	248,125.00
23-Nov-02	Williams & Glyn's (IOM) Nominees Ltd A/C 76597/1	2,029,237.30
30-Nov-02	Cass & Co. Magnum Tech Fund	70,000.00
14-Dec-02	Omni Loan Company Limited	3,500,000.00
1-Jan-03	ZCM Asset Holding Company (Bermuda) Limited - Client Account Fairfax Fund Limited Subject to a pledge	1,000,000.00
11-Jan-03	Robinson & co A/c 0273920	1,500,000.00
27-Jan-03	ZCM Asset Holding Company (Bermuda) Ltd	1,000,000.00
27-Jan-03	Citco Global Custody NV- CASH	250,000.00
27-Jan-03	Rica & Co Ltd FBO Winter Vest Global Growth	175,000.00
27-Jan-03	Sperry Complete Manager Fund	500,000.00

SCHEDULE 2 CONTD

Invested into Zulauf Europe Fund LP (in USD) after September 17, 2002 and designated as having been introduced by Magnum:

	<u>USD</u>
Global Diversified Investors Class 1	7,000,000
Aspen Grove Fund L.P	500,000.00
Topeka Community Foundation	500,000.00
Morris Animal Foundation	1,000,000.00
Kansas Masonic Foundation	1,250,000.00
Mark & Betty Morris Foundation	1,500,000.00
Kansas Childrens Service League Foundation	500,000.00

The Plaintiff is unable to determine the exact dates these were made, but all were made between January 1, 2003 and January 24, 2003.

Total Amount invested - US\$22,522,362 and 5,450,625.57 EUR

SCHEDULE 3

The following are investors in the Z shares who were introduced by Magnum and should be switched into the M shares.

1. Banque Franck - \$750,000 on June 29, 2002 – 4,034.536 Shares
\$200,000 on Nov 30, 2002 – 963.684 Shares
2. Coronation Global (Investment held under JPMB (I) as Trustee for Coronation Global Fund – 5,000,000 EUR invested on Feb 1, 2003 (note this is one week after apparent closure) – 45, 723.065 Shares
3. Fix Family Office – Investment held under Citco Global Canary \$1 million made on Jan 27, 2003 - 4,615.612 Shares
and Citco Global Oxford \$500,000 made on Jan 27, 2003 – 2,307.806 Shares.
4. International Asset Management - Investment made under Guernroy Limited of \$2 million on Jan 27, 2003 – 9,231.224 Shares.
5. Vonwiller SA – investment under the name Banque Morval and Cie made on Jan 1, 2003 for \$1 million – 4,653.132 Shares.
6. Compagnie Bancaire Geneve – investment under CBG Compagnie Bancaire Geneve made on Jan 11, 2003 for 1,891,500 EUR – 17,319.367 Shares
7. Fox and Co. – invested 150,000 EUR on Nov 16, 2002 – 1,416.07 Shares
8. Dr. Alfred Steinmann – invested 150,000 EUR on Jan 25, 2003 – 1,360.532 Shares
9. Bank Morgan Stanley – invested 500,000 EUR on Jan 18, 2003 – 4,533.420 Shares

10. Citco Global Custody NV – Cash – invested 150,000 EUR on Nov 23, 2002 – 1,396.362 Shares
11. Citco Global Custody NV – Cash – invested 300,000 EUR on Jan 25, 2003 – 2,721.064 Shares
12. Citco Global Custody NV – Cash – invested 150,000 EUR on Sept 16, 2002 – 1,543.48 Shares
13. EFG Private Bank – invested 125,000 EUR on Nov 2, 2002 – 1,214.134 Shares
14. Gestion Alternative – 200,000 EUR invested on July 20, 2002 – 2,057.359 Shares
15. Credit Agricole Indosuex Luxembourg SA A/C/ CDC Falcon – 500,000 EUR invested on Jan 25, 2003 – 4,535.106 Shares
16. Starview Capital – investment under the name Nautical Nominees Limited f/b/o Starview Opportunities Offshore Fund, L.P. of \$4,500,000 on January 27, 2003. In addition, they made an investment into the US LP under the name of Starview Opportunities of \$4,400,000 on January 24, 2003.

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.

Acknowledgement of service of writ of summons (0.12, r.3)

**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 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.

RITCH & CONOLLY
Attorneys-at-Law for the Plaintiff
4th Floor Queensgate House
113 South Church Street
PO Box 194 GT
Grand Cayman
Cayman Islands

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