

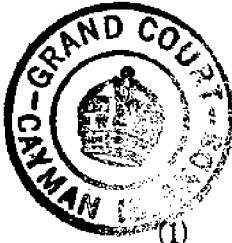
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 38 OF 2004

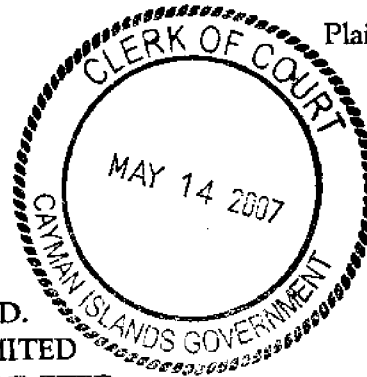
BETWEEN:

KTH CAPITAL MANAGEMENT LIMITED

Plaintiff



AND



- (1) CHINA ONE FINANCIAL LTD.
- (2) MSP CHINA HOLDINGS LIMITED
- (3) MS/KTH ADVISORY CORP LIMITED
- (4) ZHONGJIN FENGDE HOLDINGS LIMITED

Defendants

AMENDED WRIT OF SUMMONS

- TO:
- (1) China One Financial Ltd., of CARD Corporate Services Ltd, Zephyr House, Mary Street, P.O. Box 709 GT, Grand Cayman, Cayman Islands
 - (2) MSP China Holdings Limited, of M&C Corporate Services Limited, Uglund House, South Church Street, P.O. Box 309 GT, Grand Cayman, Cayman Islands
 - (3) MS/KTH Advisory Corp Limited, of M&C Corporate Services Limited, Uglund House, South Church Street, P.O. Box 309 GT, Grand Cayman, Cayman Islands
 - (4) Zhongjin Fengde Holdings Limited, of 24 Zixin Road, Xuanwu District, Beijing, People's Republic of China

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days (24 days, in the case of the Fourth Defendant) 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 GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the 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 20th day of January 2004

Reissued this 7th day of June 2005

NOTE - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

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

AMENDED STATEMENT OF CLAIM

The Parties

1. The Plaintiff ("KTH") is an exempt company incorporated in the Cayman Islands with registration number 102766 on 27 July 2000. At all material times, KTH was owned and controlled by Vivian Li and Du Wang.
2. The First Defendant ("China One") is an exempt company incorporated in the Cayman Islands with registration number 115314 on 21 January 2002. At all material times, pursuant to a shareholders agreement dated 12 March 2003, China One was owned as to 17.46% by KTH, as to 3% by International Finance Corporation, as to 19.4% by Lehman Brothers Opportunity Holdings Inc. ("LBOH"), as to 19.4% by Salomon Brothers Holding Company Inc. ("SSB"), and as to 40.74% by MSR Capital Ltd. ("MSREF", a subsidiary of Morgan Stanley); and controlled by a board of directors comprising 2 representatives designated by MSREF, 1 representative designated by LBOH, 1 representative designated by SSB, and 1 representative designated by KTH.
3. The Second Defendant ("MSP") is an exempt company incorporated in the Cayman Islands with registration number 117232 on 22 April 2002. At all material times, MSP was owned and controlled by Morgan Stanley Asia Limited.
4. The Third Defendant ("MS/KTH") is an exempt company incorporated in the Cayman Islands with registration number 118931 on 19 July 2002. At all material times, pursuant to a shareholders agreement dated March 2003, MS/KTH was owned as to 60% by MSP and as to 40% by KTH; and controlled by a board of directors comprising 3 representatives designated by MSP and 2 representatives designated by KTH.

5. The Fourth Defendant (“Zhongjin”) is a company incorporated in the People’s Republic of China in 1998. At all material times, the General Manager of Zhongjin was Xianping Luo.

The Joint Venture

6. The First to Third Defendants were incorporated for the purpose of a joint venture arrangement in connection with the purchase, management and realisation of a portfolio of non-performing loans in the People's Republic of China.
7. In furtherance thereof and pursuant thereto, inter alia, the following agreements were executed:
 - 7.1 On or about 18 November 2002, a joint venture contract was signed by and between China One and China Huarong Asset Management Corporation (“Huarong”), the purpose and effect of which, inter alia, was to establish a joint venture vehicle by the name of First United Asset Management Company Ltd (“First United”), to which China One would contribute a portfolio of non-performing loans purchased from Huarong.
 - 7.2 On or about 17 December 2002, MS/KTH and Zhongjin signed a joint venture contract and articles of association to establish a company in the People’s Republic of China by the name of Beijing Kaili Assets Servicing Co. Ltd. (“Kaili”).
 - 7.3 On or about 12 March 2003, a shareholders agreement was signed by and between KTH, LBOH, MSREF, SSB, International Finance Corporation and China One, the purpose and effect of which, inter alia, was to purchase shares in China One, to acquire debt and equity in and to contribute assets to First United, and to enter into the participation agreement referred to in paragraph 7.4 below.
 - 7.4 On or about 12 March 2003, a participation agreement was signed by and between China One and KTH, the purpose and effect of which, inter alia,

was for KTH to purchase an interest in a tranche of the said portfolio of non-performing loans.

7.5 On or about 13 March 2003, an agreement on the form and execution of documents ("the Agreement") was signed by and between all the Defendants, KTH and Vivian Li.

8. By and under the Agreement, MS/KTH agreed that immediately following the legal establishment of Kaili, as evidenced by the issuance of Kaili's business license by the relevant State Administration of Industry and Commerce or its local division:

8.1 MS/KTH would cause Kaili to execute the following agreements:

8.1.1 an asset servicing agreement between First United and Kaili in the form attached hereto as Appendix 1 ("the Asset Servicing Agreement");

8.1.2 a performance fee agreement by and among China One, Kaili, Zhongjin, KTH and MSP in the form attached hereto as Appendix 2 ("the Performance Fee Agreement");

8.1.3 a technical services agreement by and between Kaili and Morgan Stanley Properties (China) Co., Ltd. ("MSP China") in the form attached hereto as Appendix 3 ("the Technical Services Agreement");

8.1.4 an employment agreement for Vivian Li's employment with Kaili in the form attached hereto as Appendix 4 ("the Employment Agreement");

8.1.5 a consulting services agreement between Kaili and KTH in the form attached hereto as Appendix 5 ("the Consulting Services Agreement");

- 8.1.6 a sub-servicing agreement between Kaili and KTH in the form attached hereto as Appendix 6 (“the Sub-Servicing Agreement”);
- 8.1.7 a non-solicitation of seconded employees agreement issued by MSP and acknowledged by Kaili, KTH and Zhongjin in the form attached hereto as Appendix 7 (“the Non-Solicitation of Seconded Employees Agreement”);
- 8.1.8 an asset servicing agreement side letter issued by China One and acknowledged by Kaili in the form attached hereto as Appendix 8 (“the Asset Servicing Agreement Side Letter”); and
- 8.1.9 a shareholder loan agreement between MS/KTH and Kaili in the form attached hereto as Appendix 9 (“the Shareholder Loan Agreement”).

8.2 MS/KTH would:

- 8.2.1 execute in its own name the Shareholder Loan Agreement; and
- 8.2.2 acknowledge, as per the terms therein, the Employment Agreement.

9. By and under the Agreement, MSP agreed that:

- 9.1 immediately following the legal establishment of MSP China, as evidenced by the issuance of MSP China’s business license by the relevant State Administration of Industry and Commerce or its local division, MSP would cause MSP China to execute the Technical Services Agreement; and
- 9.2 immediately following the legal establishment of Kaili as aforesaid, MSP would:
 - 9.2.1 execute the Performance Fee Agreement; and
 - 9.2.2 issue the Non-Solicitation of Seconded Employees Agreement.

10. By and under the Agreement, Zhongjin agreed that
 - 10.1 Zhongjin would cause Kaili to execute the agreements set out in paragraphs 8.1.1 to 8.1.9 above immediately following the legal establishment of Kaili as aforesaid; and
 - 10.2 Zhongjin would execute in its own name the following agreements:
 - 10.2.1 the Performance Fee Agreement; and
 - 10.2.2 the Non-Solicitation of Seconded Employees Agreement.
11. China One agreed that immediately following the legal establishment of Kaili as aforesaid, China One would:
 - 11.1 execute the Performance Fee Agreement;
 - 11.2 cause First United to execute the Asset Servicing Agreement; and
 - 11.3 issue the Asset Servicing Agreement Side Letter.
12. On or about 27 June 2003, it was agreed between the parties that the terms of the Employment Agreement should be varied, and that the parties' obligations by virtue of and under the Agreement were thereby varied accordingly, such that inter alia MS/KTH would:
 - 12.1 cause Kaili to execute the Employment Agreement in the form attached hereto as Appendix 4A; and
 - 12.2 acknowledge the Employment Agreement in that form as aforesaid.
13. KTH will rely on the Agreement at trial for its full terms and effect.
14. Kaili was legally established on or about 6 June 2003, and MSP China was legally established in or about June 2003.

15. At all material times, KTH has been ready willing and able to perform its obligations under the Agreement, in particular to execute:
 - 15.1 the Performance Fee Agreement;
 - 15.2 the Consulting Services Agreement;
 - 15.3 the Non-Solicitation of Seconded Employees Agreement; and
 - 15.4 the Sub-Servicing Agreement.

16. At all material times, Vivian Li and Du Wang have been ready willing and able to perform their obligations under the Agreement, in particular to execute the Employment Agreement.

17. In breach of the Agreement, and despite demand made of them by KTH, the Defendants and each of them has failed and refused to perform their respective obligations under the Agreement. In particular:
 - 17.1 MS/KTH has failed and refused to:
 - 17.1.1 cause Kaili to execute the agreements referred to in paragraphs 8.1.1 to 8.1.9 above;
 - 17.1.2 execute in its own name the Shareholder Loan Agreement; and
 - 17.1.3 acknowledge the Employment Agreement.

 - 17.2 MSP has failed and refused to:
 - 17.2.1 cause MSP China to execute the Technical Services Agreement;
 - 17.2.2 execute the Performance Fee Agreement; and
 - 17.2.3 issue the Non-Solicitation of Seconded Employees Agreement.

 - 17.3 Zhongjin has failed and refused to:

17.3.1 cause Kaili to execute the agreements set out in paragraphs 8.1.1 to 8.1.9 above;

17.3.2 execute in its own name the Performance Fee Agreement; and

17.3.3 execute in its own name the Non-Solicitation of Seconded Employees Agreement.

17.4 China One has failed and refused to:

17.4.1 execute the Performance Fee Agreement;

17.4.2 cause First United to execute the Asset Servicing Agreement; and

17.4.3 issue the Asset Servicing Agreement Side Letter.

18. Certain of the agreements referred to in paragraphs 8.1.1 to 8.1.9 above (the "Kaili Contracts" provided for remuneration and other benefits to be paid to the Plaintiff. By reason of the breach of the Agreement, the Kaili Contracts have not been executed. In the premises, the Plaintiff has suffered loss.

Particulars of Damages

(A) Performance Fee Agreement ("PFA")

19. Under section 2.01(a) read with 2.01(c) of the PFA, China One is required to pay the Plaintiff a performance fee of 34% of an amount equal to the sum of:

(a) 15% of the net distributable recoveries by China One that exceed the amount of distributions needed for the China One shareholders, as a group, to earn between 15 to 30% p.a. return on their investment (capitalised quarterly); and

(b) 30% of the net distributable recoveries by China One that exceed the amount of distributions needed for the China One shareholders, as a

group, to earn more than a 30% p.a. return on their investment (capitalised quarterly).

20. Under section 2.01(b), such performance fees were payable by China One within 70 days of the end of each calendar year. Annual performance fee payments, if made, were to be treated as an advance against the final performance fee required to be paid within 15 days after the Final Recovery Date (defined in the PFA to mean the day on which the last NPL is collected, realised, disposed of or settled). Such annual performance fees accordingly accumulated if not paid.
21. Pending further discovery, the Plaintiff's best estimate is that over the duration of the Huarong deal, net collections by First United (after expenses) are estimated to realise RMB1,729,817,000 of which RMB136,732,000 would be payable to the PRC Government as tax, leaving a net distributable balance of RMB1,593,085,000. On this basis, China One's net realisations as 80% shareholder of First United are estimated to amount to RMB1,274,468,000 or US\$154,199,000.
22. Pending further discovery, the Plaintiff's best estimate is that over the duration of the Huarong deal, China One's expenses (including purchase price and loan repayments) are estimated to amount to US\$75,364,000, providing a net distributable profit to the China One shareholders of approximately US\$78,835,000. The final performance fee payable under the PFA is calculated according to this figure.
23. Based on the above estimates, but for the Defendants' breach of the Agreement aforesaid, the Plaintiff would have been entitled to a performance fee of 34% of 15% or 30% (as the case may be) of US\$78,835,000 totalling approximately US\$7.803 million. A projected performance fee calculation based on the above estimates is attached hereto as Appendix 1. The assumptions on which the projected performance fee calculator is based are attached hereto as Appendix 2.
24. The estimated net collections and expenses to be made by First United were based on a thoroughly researched and conservative Business Plan prepared and agreed by

the Consortium members (the "Business Plan"). To the extent that the net distributable profit to the China One shareholders does in fact amount to less than US\$78,835,000, the Plaintiff claims, in the alternative, that had business been properly conducted in the manner contemplated under the Business Plan, such net distributable profit would have been readily capable of achievement. But for the Defendants' breach of the Agreement aforesaid, collections and expenses would have been kept in line with or better than the Business Plan projections. In the circumstances, the Plaintiff has suffered loss of at least US\$7.803 million regardless of the actual performance achieved.

(B) The Consulting Services Agreement ("CSA")

25. Under Section 2.01 and 2.02 of the CSA, Kaili is required to pay the Plaintiff a monthly fee of US\$26,667 plus reasonable expenses during the duration of the Contract, for consulting services and assistance provided by the Plaintiff to Kaili in connection with the collection of the NPLs.

26. It is estimated that the Huarong deal will have been finalised, or substantially so, by the end of 2006, and that the CSA would have remained in force during this time.

27. In these circumstances, but for the Third Defendant's breach of the Agreement aforesaid, the Plaintiff would have been entitled to a consulting fee of US\$26,667 per month over 48 months (July 2003 to June 2007) totalling US\$1,280,016.

(C) The Sub-Servicing Agreement ("ASSA")

28. Under Section 2.09 of the ASSA, Kaili is required to pay the Plaintiff an annual servicing fee for servicing assistance provided by the Plaintiff to Kaili in respect of the IC Pool as follows:

- (a) US\$218,000 for the first twelve after months Closing of the Huarong deal (i.e. after 12 March 2003); and

- (b) For each subsequent 12 month period during which the ASSA is in force, that portion of the servicing fee paid to Kaili under the Asset Servicing Agreement ("ASA") which is attributable to the 1C Pool, plus Agreed Reimbursable Expenses (as defined in the ASSA).
29. The servicing fee payable to Kaili under the ASA for the second and subsequent years after Closing is calculated at 3% of the Implicit Assets Value of the assets serviced. The Implicit Assets Value of the assets serviced is calculated by dividing the aggregate of the Closing Schedule Prices and Revised Schedule Prices of assets held by First United on the first day of any such twelve month period, by 0.8.
30. Pending discovery, the best estimate that the Plaintiff can give is that the 1C Pool will have remained wholly uncollected until June 2007 and that the ASSA will accordingly have remained in force during this time. The Closing Schedule Price for the 1C Pool was RMB47,320,000 giving an Implicit Assets Value of US\$7,156,598 ($47,320,000 \div 8.2651 \div 0.8$). The annual servicing fee payable to Kaili in respect of the Implicit Assets Value of this 1C Pool for the second and subsequent years after Closing is US\$214,698 ($3\% \times \text{US}\$7,156,598$). Under the ASSA, these sums are accordingly due and payable by Kaili to the Plaintiff.
31. In the circumstances, but for the Third Defendant's breach of the Agreement aforesaid, the Plaintiff would have been entitled to a sub-servicing fee of US\$218,000 for the first twelve months after Closing and US\$214,698 per annum for the following 3 years and 3 months, totalling US\$915,769.

(D) Employment Agreement

32. Under Article 3 of the amended Employment Agreement, Kaili is required to pay a monthly salary to Du Wang of US\$6,666.67 over the term of the contract, defined as 84 months or as may be extended, in consideration for Mr Wang acting as General Manager of Kaili.

33. Under Article 4.1 of the amended Employment Agreement, Kaili is also required to pay Mr Wang a housing allowance of US\$11,500 per month and other benefits provided for expatriate senior executives with comparable positions in China, including a pension programme, unemployment and medical insurance which additional benefits are estimated to amount to approximately US\$1,000 per month.
34. Under Article 3.3 of the amended Employment Agreement, Mr Wang is responsible for the payment of all PRC taxes levied on Mr Wang's remuneration. The Plaintiff's best estimate is that an annual tax of US\$17,368 would have been levied on Mr Wang's annual remuneration of US\$230,000.
35. Alternatively, in the event that the terms of the Employment Agreement appended to the Agreement were not amended by agreement of the parties as pleaded at paragraph 12 of the Statement of Claim, the benefits and liabilities described in paragraphs 15-17 above are payable to or by Vivian Li.
36. In the circumstances, but for the Third Defendant's breach of the Agreement aforesaid, Mr Wang alternatively Ms Li would have been entitled to net remuneration of US\$1,488,424 under the Employment Agreement, as amended.
37. By letters of assignment dated 11 April 2005, Ms Li and Mr Wang assigned the full right, title and interest in and to their respective claims for damages under the Employment Agreement, if any, to the Plaintiff. The Plaintiff accordingly claims the aforesaid sum of US\$1,488,424 as damages due to the Plaintiff.

AND THE PLAINTIFF claims:

1. An order for specific performance of the Agreement on Form and Execution of Documents
2. An order that that each Defendant performs its obligations under the Agreement on Form and Execution of Documents and executes forthwith the agreements referred to therein

3. All further necessary or appropriate declarations, orders and such other relief as the Court shall think fit, so as to give effect to the Agreement on Form and Execution of Documents
4. Damages in addition to or in lieu of specific performance, alternatively damages for breach of the Agreement on Form and Execution of Document, as follows:
 - A) As against all Defendants:
 1. Damages in the amount found to be due to the Plaintiff under the Performance Fee Agreement;
 2. Alternatively, damages in the amount which would have been due to the Plaintiff under the Performance Fee Agreement had the Agreement been properly and fully performed
 - B) As against the Third Defendant:
 1. The sum of US\$1,280,016 in respect of damages due to the Plaintiff under the Consulting Services Agreement;
 2. The sum of US\$915,769 in respect of damages due to the Plaintiff under the Sub-Servicing Agreement;
 3. The sum of US\$1,488,424 in respect of damages due to the Plaintiff under the Employment Agreement, as amended
5. An account of profits and all further necessary or appropriate accounts, inquiries, declarations, orders and such other relief as the Court shall think fit, so as to assess the damages due to the Plaintiff
6. Such further or other relief in equity as the Court thinks fit

7. Interest on all sums found due to the Plaintiff, pursuant to section 34 of the Judicature Law (1995 Revision), from the date hereof until judgment, alternatively at such rates and for such periods as the Court shall think fit
8. Costs

Dated the 20th day of January 2004

Re-dated the 14th day of May 2007



~~HUNTER & HUNTER~~ APPLEBY

THIS WRIT was issued by Appleby Hunter & Hunter of The Huntlaw Building, Clifton House, 75 Fort Street, P.O. Box 190 GT, Grand Cayman, Cayman Islands (Ref. JW/10093.001), Attorneys-at Law for the Plaintiff, whose registered office address is at #36C Bermuda House, Dr. Roy's Drive, P.O. Box 513 GT, Grand Cayman, Cayman Islands.

APPENDIX 2

Assumptions made on the performance fee calculation:

1. All First United assets fully resolved by mid 2007.
2. 1 USD = 8.2651 RMB.
3. Net cash collection by First United of:
 - a. Closing-Dec 2002: 534,875,000 RMB.
 - b. Jan-Oct 2004: 396,783,000 RMB.
 - c. Nov-Dec 2004: 100 million RMB.
 - d. Year 2005: 500 million RMB.
 - e. Year 2006: 198,159,000 RMB.Total: 1,729,817,000 RMB.
4. First United tax paid:
 - a. Year 2003: 0.
 - b. Year 2004: RMB14,174,000.
 - c. Year 2005: $15\% \times \text{RMB}500,000,000 = \text{RMB}75,000,000$.
 - d. Year 2006: $24\% \times \text{RMB}198,159,000 = \text{RMB}47,558,000$.Total: RMB136,732,000.
5. China One expenses:
 - a. Closing payment: US\$1,070,000.
 - b. Payments to Huarong: $3 \times \text{US}\$16,907,000 = \text{US}\$50,720,000$.
 - c. Repayments to IFC: US\$22,500,000.
 - d. Corporate expenses: US\$1,074,000.Total: US\$75,364,000.

6. Timing of First United dividend payments to China One:

- a. 2nd quarter 2005: US\$25,000,000.
- b. 2nd quarter 2006: all distributable cash received by First United by year end 2005 less US\$25 million (projected to be US\$56,646,000).
- c. 2nd quarter 2007: all remaining distributable cash received by First United by year end 2006 (projected to be US\$14,477,000).