

355

B E T W E E N :

TASARRUF MEVDUATI SIGORTA FONU

Plaintiff



-and-

(1) MERRILL LYNCH BANK AND TRUST COMPANY (CAYMAN) LIMITED

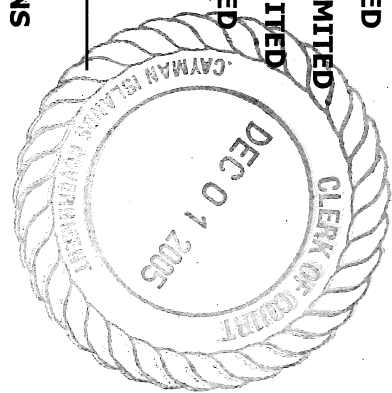
(2) KAFFEE LIMITED

(3) BARLA FINANCE LIMITED

(4) CUNUR CASH LIMITED

(5) MEDRO LIMITED

Defendants



WRIT OF SUMMONS

TO: (1) MERRILL LYNCH BANK AND TRUST COMPANY (CAYMAN) LIMITED, (2) KAFFEE LIMITED, (3) BARLA FINANCE LIMITED, (4) CUNUR CASH LIMITED and (5) MEDRO LIMITED, the registered office for all of which is PO Box 1164 GT, 4th Floor Harbour Centre, North Church Street, George Town, Grand Cayman.

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 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 1st day of December 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 Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1 The Plaintiff ("TMSF") is the Turkish state's insurer of banks and was formerly a division
of Bankacilik Düzenleme Ve Denetleme Kurumu ("BDDK"). BDDK was established on 23
June 1999 as a public legal entity to supervise and regulate the Turkish banking sector.
TMSF ceased to be a division of BDDK on 26 December 2003 when it became
henceforth independent under the Turkish Bank Act of 12 December 2003, No 5020.

2 Under Article 3 of Turkey's "Provisional Articles and the Effective Date and Enforcement
articles of the Bank Act, No. 5020" dated 12 December 2003 ("Article 3"), TMSF is
entitled to bring in its own name and receive the proceeds of all proceedings issued
against third parties to recover losses or property sustained by banks whose
shareholding rights (except for the rights of dividend) and/or management and
supervision have been transferred to TMSF.

3 On 25 October 1998 (pursuant to Ministerial Approval of the same date, number
71581), the Turkish Treasury transferred the management and supervision of Bank
Ekspres AŞ ("Bank Ekspres"), a Turkish Bank, to TMSF.

4 Accordingly TMSF is the appropriate plaintiff to recover the money misappropriated
from Bank Ekspres in the manner particularised below.

Appropriation of moneys from Bank Ekspres

5 In September 1998 Egebank AŞ ("Egebank"), a Turkish bank, was controlled by one
Yahya Murat Demirel ("Demirel").

6 At the same time Bank Ekspres was controlled by one Korkmaz Yiğit ("Yiğit"), who was
also a director of Bank Ekspres.

7 As a director of Bank Ekspres, Yiğit owed a fiduciary duty to Bank Ekspres to apply or
authorise or cause the application of Bank Ekspres's money only to purposes that were
so far as Yiğit was aware in the best interest of Bank Ekspres ("Yiğit's Fiduciary Duty").

8 It is to be inferred that at some time prior to 9 September 1998 Yiğit and Demirel
entered into a dishonest conspiracy ("the Conspiracy") by which they agreed as follows:

(1) that in about September 1998 Yiğit would cause companies controlled by him,
namely Kare İnşaat AŞ ("Kare"); Boyut İnç Ve Diş Ticaret AŞ ("Boyut"); Üçgen

Insaat Malzemeleri Ticaret AŞ ("Ügger"); and Kelebek Turistik Tesisleri AŞ ("Kelebek") (together, "the Yigit Companies") to apply to Egebank for loans totaling US\$ 30 million in value, ostensibly for the purpose of raising export trade finance;

- (2) that Demirel would use his authority and/or influence within Egebank to ensure that the aforesaid applications were approved;
- (3) that at approximately the same time Demirel would cause companies controlled by him, namely Dempanel Entegre Orman Urunleri Sanayi Ticaret AŞ ("Dempanel"); Dempanel Demser Nakliye Ve Depo Isletmeciligi AŞ ("Demser"); Demyapi Insaat Ve Pazarlama AŞ ("Demyapi"); and Demeks Ithracat Ticaret AŞ ("Demeks") (together, "the Demirel Companies") to apply to Bank Ekspres for loans also totaling US\$ 30 million in value, also ostensibly for the purpose of raising export trade finance;
- (4) that Yigit would in breach of Yigit's Fiduciary Duty use his authority and/or influence within Bank Ekspres to ensure that these applications were approved;
- (5) that neither the payments made by Egebank further to the loan applications from the Yigit Companies, nor the payments made by Bank Ekspres further to the loan applications from the Demirel Companies, would be repaid;
- (6) that the Yigit Companies and the Demirel Companies would all be shell companies with no assets against which any liability resulting from their receipt of the payments could be enforced;
- (7) that the proceeds of the payments made by Egebank to the Yigit Companies would be diverted to Yigit personally; and
- (8) that the proceeds of the payments made by Bank Ekspres to the Demirel Companies would be diverted to Demirel personally.

9 Thereafter Demirel and Yigit executed the Conspiracy, in that applications for finance were made by the Demirel Companies and the Yigit Companies to Egebank and Bank Ekspres as agreed.

10 On 9 September 1998 the Board of Directors of Egebank having received the aforesaid applications from the Yiğit Companies, approved the following payments to them which were made on the following dates and in the following Turkish Lira equivalent amounts:

<u>Company</u>	<u>Date payment made</u>	<u>Amount</u>
Kare	22 September 1998	US\$ 8,000,000
Boyut	22 September 1998	US\$ 7,000,000
Üçgen	22 September 1998	US\$ 9,000,000
Kelebek	22 September 1998	US\$ 6,000,000
		US\$ 30,000,000

11 On 22 September 1998 Bank Ekspres, having received the aforesaid applications from the Demirel Companies, approved the following payments to them which were made on the following dates and in the following amounts ("the Bank Ekspres pseudo-loans"):

<u>Company</u>	<u>Date "loan" made</u>	<u>Amount</u>
Dempanel	22 September 1998	US\$ 8,000,000
Demser	22 September 1998	US\$ 7,500,000
Demyapi	22 September 1998	US\$ 7,500,000
Demeks	22 September 1998	US\$ 7,000,000
		US\$ 30,000,000

12 As Demirel at all times well knew, the Bank Ekspres pseudo-loans were payments of Bank Ekspres's money that were procured by Yiğit in his capacity as a director of Bank Ekspres in breach of Yiğit's Fiduciary Duty.

Particulars of breach

(1) Yiğit knew that the Bank Ekspres pseudo-loans were not being made for any proper commercial purpose and that the stated purpose, that they were for export trade finance, was not the true purpose.

(2) Yiğit also knew at all material times that the Bank Ekspres pseudo-loans were not being made for the benefit of Bank Ekspres in any way, but for his own

benefit in that they were Demirel's reward for procuring the payment of US\$ 30 million of Egebank's money to Yiğit himself.

(3) Yiğit knew at all times that the Bank Ekspres pseudo-loans were nothing more than a means of appropriating money (namely the US\$ 30 million thus removed) from Bank Ekspres and that the loan documentation was wholly a sham.

(4) Yiğit knew, in short, that the sole purpose of the Bank Ekspres pseudo-loans was to further the Conspiracy but procured them to be made in any event.

13 It is to be inferred from the facts that the Demirel Companies:

(1) were not bona fide trading entities; and/or

(2) had no legitimate purpose to which the pseudo-loans could be put; and/or

(3) were at all times vehicles for Demirel's personal purposes; and/or

(4) operated entirely under Demirel's direction and control and were aware through Demirel of the facts and matters pleaded at paragraphs 5 to 12 above at the time when they received the Bank Ekspres pseudo-loans.

14 Therefore, none of the Demirel Companies could conscionably retain the benefit of the pseudo-loans for any period.

15 Accordingly, from the moment when the pseudo-loans were received by the Demirel companies, that portion of the Bank Ekspres pseudo-loans that each of the Demirel Companies received was held by it on constructive trust for the money's true owner, Bank Ekspres.

16 On 22 September 1998, the very day on which the Bank Ekspres pseudo-loans were made available to them, each of the four Demirel Companies instructed Bank Ekspres to convert the sum lent into Turkish Lira and thereafter to pay it into the same company's account at Egebank.

17 This instruction was complied with on the same day. Sums in Turkish Lira were paid into the accounts of the Demirel Companies at Egebank on 22 September 1998 as follows:

Company	Sum (Turkish Lira)
Dempanel	2,212,000,000,000
Demser	2,073,750,000,000
Demyapi	2,073,750,000,000
Demeks	1,935,500,000,000

18 These sums were the proceeds of property held on constructive trust for Bank Ekspres and accordingly were themselves subject to constructive trusts in favour of Bank Ekspres, the money's true owner.

19 Thereafter, on 24 September 1998, each of the Demirel Companies instructed Egebank to transfer the same sum in Turkish Lira from its account to the account at Ekspres Bank of another company controlled by Demirel, Demyon Holding AS ("Demyon").

20 Egebank complied with this instruction on 24 September 1998 by making electronic funds transfers of the sums referred to in paragraph 17 above from each of the accounts of the respective Demirel Companies to the account of Demyon at Bank Ekspres.

21 Thereafter between 25 and 29 September 1998 the moneys paid into Demyon's account at Bank Ekspres together with all accrued interest thereon were withdrawn in cash by Egebank's cashier, Gökmen Altuntas, and paid into Demirel's personal account at the central branch of Egebank as follows:

Sums withdrawn in cash on 25 September 1998 (TL)	1,215,000,000,000	861,000,000,000	224,000,000,000
Sums withdrawn in cash on 28 September 1998 (TL)	3,000,000,000,000		
Sums withdraw in cash on 29 September 1998 (TL)	3,052,635,000,000		
Total	8,352,000,000,000		

22 The money paid into Demirel's personal account represented the proceeds of trust property and was therefore itself subject to a constructive trust in favour of Bank Ekspres, the money's true owner.

The Defendants

23 The First Defendant is trustee of a trust created in 1997 and of a further two trusts created in 1999 of which Demirel was the settlor ("the Trusts"). Two of the Trusts were referred to as between the First Defendant and Demirel as The Dolphin Trust and The Mana Trust.

24 At the request of Demirel, the First Defendant in about 1997 or 1999 formed or
acquired some companies (the precise number whereof is unknown to TMSF) the
shares of which were held by the First Defendant on trust for Demirel on one or more
of the Trusts.

25 Among these companies were the Second to Fifth Defendants, which are incorporated
in the Cayman Islands and whose registered address is in every case given as "Merrill
Lynch Bank and Trust Company (Cayman) Limited, PO Box 1164 GT, 4th Floor, Harbour
Centre, North Church Street, Grand Cayman, which is the address of the Fifth
Defendant.

26 The Second to Fifth Defendants were formed or acquired by the First Defendant for the
intended purpose (such intention being possessed by the First Defendant and by
Demirel) of holding assets that were the proceeds of money provided by Demirel.

27 After the Second to Fifth Defendants had been acquired by the First Defendant and the
shares in them held on the Trusts for Demirel, Demirel paid and/or caused to be paid
large sums of money to the Second to Fifth Defendants.

28 TMSF does not know what sums were paid overall, but documentation obtained by
TMSF shows that as at 29 September 1999 the Second Defendant's account with Merrill
Lynch International Bank, no. M002-11059, was in credit to the extent of US\$
5,042,595.36. On the same date the Fifth Defendant's account with the same Merrill
Lynch entity, no. M002-16527, contained US\$ 4,292,360.40. No data were available for
the accounts of the Third or Fourth Defendants but it is clear that the sole reason for
their existence was and is to hold money and/or other assets.

29 It is to be inferred that:

- (1) all the money ever received by the Second to Fifth Defendants was ultimately
received from Demirel; and
- (2) the moneys so received were, and/or were the proceeds of, the sums paid
into Demirel's account at the central branch of Egebank on 25 to 29
September 1998 as pleaded in paragraph 21 hereof; and
- (3) the moneys and assets presently held by the Second to Fifth Defendants are,
and/or are the proceeds of, the moneys so received.

30 Accordingly:

- (1) the moneys and assets of the Second to Fifth Defendants are held on trust for their true owner TMSF, which demands that all such money and assets be made over to it in accordance with the relief claimed herein; and
- (2) to the extent that any money or other assets are held subject to any of the Trusts by the First Defendant, having received the same from Demirel or being the proceeds of money or assets received from Demirel, it is to be inferred that such money or assets are, or are the proceeds of, the money paid to Demirel's account at the central branch of Egebank between 25 and 29 September 1998, and are accordingly subject to a constructive trust in favour of TMSF, which demands that all such money and assets be made over to it in accordance with the relief claimed herein.

31 Further, Demirel's purpose in creating the Trusts and in causing the First Defendant to create and/or acquire and retain the Second to Fifth Defendants was to prevent the proceeds of the unlawfully misappropriated trust moneys paid to Demirel from being recovered by Bank Ekspres and/or TMSF.

32 As a result of its assuming the status and functions as trustee of the Trusts, and of creating and/or acquiring and maintaining the Second to Fifth Defendants, and of receiving money and other assets from Demirel and transferring them for the Second to Fifth defendants and/or holding them itself, the First Defendant has (albeit unknowingly) assisted in Demirel's attempts to achieve that purpose

33 TMSF has obtained in the Turkish courts an in personam judgment against Demirel (decision no. 2001/1461) in the sum of US\$ 30,000,000, ("the Judgment") which was given in a claim arising out of the appropriation of US\$ 30,000,000 as is particularised herein, and which Judgment it has been unable to enforce.

34 The First Defendant is liable to disclose to TMSF all information that it possesses about:

- (1) the Trusts; and
- (2) the Second to Fifth Defendants; and
- (3) the financial affairs of Demirel

that will assist TMSF in its attempts to recover the proceeds of the money appropriated from Bank Ekspres on 22 September 1998 and/or to enforce the Judgment.

35 TMSF claims compound and/or simple interest on all sums found to be due to it pursuant to the equitable jurisdiction of the court at such rates and/or pursuant to Section 34 of the Judicature Law (2004 Revision) and with such rests as the court thinks fit.

AND the Plaintiff claims from the First Defendant:

- 1 A declaration that all sums together with all interest thereon and all other assets held by it subject to the Trusts are held on constructive trust for the Plaintiff.
- 2 Payment of all such sums and interest thereon as claimed in the body of this pleading, together with delivery up of all other such assets.
- 3 An order requiring the First Defendant to provide the Plaintiff with the following information and documents:
 - (a) an account of all sums received by it from Demirel to hold on trust for any person;
 - (b) all details known to the First Defendant of the source of such sums;
 - (c) an account of what has become of all such sums;
 - (d) full details of all moneys and other assets now held by the Trusts, including the location and value of all such moneys and assets and full details of any bank accounts;
 - (e) all documents or information in its possession or power that relate to the assets and/or the affairs of any of the Trusts;
 - (f) an account of all moneys paid to the Second to Fifth Defendants so far as the First Defendant is aware or as it is in the First Defendant's power to ascertain;
 - (g) all documents or information in its possession or power that relate to the assets and/or the affairs of any of the Second to Fifth Defendants;

(h) full details of all moneys and other assets now held by the Second to Fifth Defendants, including the location and value of all such moneys and assets and full details of any bank accounts;

(i) to the extent that the First Defendant knows or suspects that there exists in the hands of any third party information or documents relating to any of the matters pleaded in subparagraphs (a) to (h) above, but it does not have power to obtain from that third party, details of the information to which this knowledge or suspicion relates, and the identity and address of the third party in question.

AND the Plaintiff claims from the Second, Third, Fourth and Fifth Defendants:

- 4 A declaration that all sums together with all interest thereon and other assets held by them are held on constructive trust for the Plaintiff.
- 5 Payment of all such sums and interest thereon as claimed in the body of this pleading, together with delivery up of all other such assets.

Dated this 1st day of December 2005.



CAMPBELLS

Attorneys-at-Law for the Plaintiff

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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: F 2005

555

BETWEEN :

TASARRUF MEVDUATI SIGORTA FONU

Plaintiff

-and-

(1) MERRILL LYNCH BANK AND TRUST COMPANY (CAYMAN) LIMITED

(2) KAFFEE LIMITED

(3) BARLA FINANCE LIMITED

(4) CUNUR CASH LIMITED

(5) MEDRO LIMITED

Defendants

ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS

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

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

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

1 State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

2 State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes no

3 If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)

yes no

Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

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 plaintiffs Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Messrs. Campbells
Attorneys-at-Law
Fourth Floor,
Scotiabank Building,
P.O. Box 884,
George Town,
GRAND CAYMAN

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



[Signature of Plaintiff or his Attorney]

THIS WRIT is filed by Campbells, of 4th Floor, Scotiabank Building, George Town, Grand Cayman, Attorneys for the Plaintiff whose address is P.O. Box 884GT, George Town, Grand Cayman (AJW)