IN THE GRAND COURT OF THE CAYMAN ISLANDS CAUSE NO. 566 of 1996

BETWEEN: H. FREDERICK JOHNSTON PLAINTIFF

AND: ARBITRIUM (CAYMAN ISLANDS) HANDELS, AG DEFENDANT

WRIT OF SUMMONS

TO: Arbitrium (Cayman Islands) Handels, AG
C/O Caledonian Bank & Trust Co. Ltd.
Caledonian House
Mary Street
George Town
Grand Cayman
Cayman Islands
BWI

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 28th day of October 1996.

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

IMPORTANT

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

STATEMENT OF CLAIM

1. The Plaintiff is a U.S. citizen. The Defendant is a company incorporated in the Cayman Islands.

2. In 1983 the Plaintiff and one Miklos Vendel ("Mr. Vendel") agreed to make a joint purchase of Statek Corporation Inc."(Statek"), a company incorporated in California and carrying on business there in the field of high technology research and development.

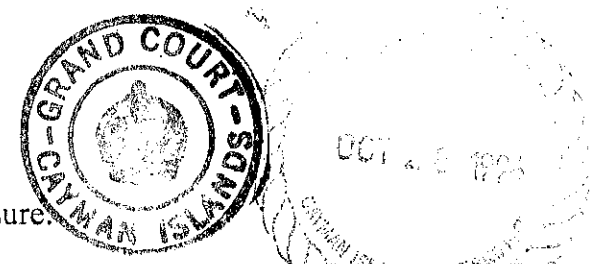
3. In the purchase the issued shares in Statek were, by agreement, transferred not to the Plaintiff and Mr. Vendel personally but to a company incorporated in Delaware (which carried on business in Connecticut and provided management services) known as Technicorp International II Inc., ("TCI II"). The Plaintiff was at all times from the date of TCI II's acquisition of Statek until 5 January 1996, the Chief Executive of TCI II.

4. The issued shares of TCI II have at all material times been held by the Plaintiff and by the Defendant as nominee for Mr. Vendel. Mr. Vendel has at various times times acted as the Defendant's agent in all matters concerning his interest in TCI II and Statek pursuant to a power of attorney granted to him by the Defendant. But Mr Vendel had no part in the day-to-day management of TCI II or Statek which until 5 January 1996 was undertaken by the Plaintiff.

5. In the course of 1984 Mr. Vendel, acting on behalf of himself and the Defendant, agreed with the Plaintiff that the Plaintiff should cause TCI II from time to time to pay company funds to the UTO Bank Zurich Switzerland (the "Bank") to the credit of the Defendant's account on terms that the Defendant would cause 50% of the money so transferred to be lodged in a personal investment account with the Bank which the Plaintiff opened for this purpose.

6. Pursuant to the agreement referred to in paragraph 5 above, the Plaintiff caused TCI II to make payments to the Defendant over the period from 1984 to 1992 by means of cheques drawn in favour of the Defendant and sent to the bank which amounted in the aggregate to US$1,080,590. Particulars of the dates and amounts of all such payments are set out in the Plaintiff's Affidavit. In the premises one half of the money transferred to the Defendant, viz US$540,295 should have been deposited in the Plaintiff's said account.

7. The Plaintiff closed his account with the Bank some time in late 1991 or early 1992, though he is not able to recall precisely when. On closing the said account he received cash (representing moneys transferred into the account by the Defendant in the approximate amount of US$300,000, leaving a shortfall before interest, or other return on investments made on Plaintiff's behalf. In addition, over the period of the operation of the account the Plaintiff had made no withdrawals. Consequently, any interest due for the deposit period would, or should, have yielded compound interest. At no time during the operation of the account or since the time of its closure has the Plaintiff received any statement or account from the Defendant or the Bank showing the amounts transferred into the Plaintiff's account by the Defendant or otherwise explaining the discrepancy between the amount which should have been paid into the account and the



funds actually received by the Plaintiff on its closure.

8. The Plaintiff will contend that in breach of the agreement referred to in paragraph 5 thereof the Defendant has wrongfully retained for its own use or has wrongfully paid to Mr. Vendel moneys which should have been paid to the Plaintiff. The Plaintiff is unable to give particulars of the amounts involved until after discovery herein or the taking of the account hereinafter requested.

9. In the premises the Plaintiff is entitled to the relief hereinafter claimed.

AND the Plaintiff claims:

(1) An Account of all moneys received by the Defendant as trustee or agent for the Plaintiff and of the manner in which the Defendant dealt with such moneys.

(2) An Inquiry as to what balance of the said moneys were not paid to the Plaintiff.

(3) A Declaration that the Defendant is liable to make good all sums of money received by it as trustee or agent for the Plaintiff and not duly accounted for to the Plaintiff with interest at such rate or rates as the Court may think fit.

(4) An Order that the Defendant do pay to the Plaintiff such sum as may be found due on taking such Account and making such Inquiry with interest thereon as aforesaid.

(5) All such further accounts, inquiries and directions as the Court may think fit.

(6) Further or other relief.

(7) Costs.

Orren Merren & Company.
ORREN MERREN & COMPANY
Attorneys-at-Law for the Plaintiff

This Writ was issued by Messrs. Orren Merren & Company, the attorneys-at-law for the Plaintiff, whose address for service is Kirk House, Third Floor, Albert Panton Street, P.O. Box 481G, Grand Cayman, Cayman Islands, British West Indies.

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 installments 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.

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AND: ARBITRIUM (CAYMAN ISLANDS) HANDELS AG DEFENDANT

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.

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

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

☐ yes ☐ no

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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

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

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.

Orren Merren & Company Attorneys-at-Law P.O. Box 481G Third Floor Kirk House Albert Panton Street Grand Cayman, B.W.I.

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