

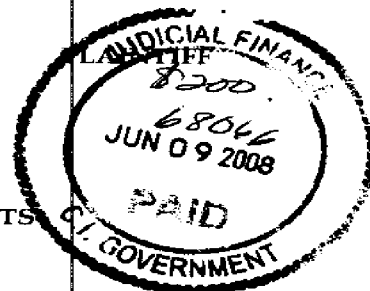
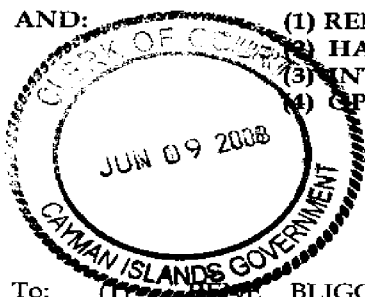
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁶⁰²⁷² OF 2008

BETWEEN: TERRA NEX ASSET MANAGEMENT

AND: (1) RENE BLIGGENSDORFER
(2) HARALD KARCH
(3) INTERNATIONAL CAPITAL ADVISOR LLC
(4) OPUS TRINITY SPC

DEFENDANTS



WRIT OF SUMMONS

To: (1) RENE BLIGGENSDORFER of Moslistrasse 22, CH-5626 Hermetschwil-
Staffein, Switzerland;
(2) HARALD KARCH of Dubai, United Arab Emirates;
(3) INTERNATIONAL CAPITAL ADVISOR LLC whose registered office is at
Untermuli 7, CH-6300, Zug, Switzerland;
(4) OPUS TRINITY SPC of SH Corporate Services Ltd., PO Box 61, Fourth Floor,
Harbour Centre, George Town, Grand Cayman KY1-1102.

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, in the case of the First, Second and Third Defendants, twenty eight [28] days and, in the case of the Fourth Defendant, fourteen [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 ^{9th} day of ^{June}, 2008.

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.

BETWEEN: TERRA NEX ASSET MANAGEMENT Plaintiff

AND: (1) RENE BLIGGENSDORFER
(2) HARALD KARCH
(3) INTERNATIONAL CAPITAL ADVISORS LLC
(4) OPUS TRINITY SPC Defendants

STATEMENT OF CLAIM

1. The Plaintiff is an exempted company incorporated under the Companies Law (2004 Revision) on 21 April 2006. At all material times prior to on or about 10 January 2008, the Plaintiff was the registered holder of the 20 voting non-participating management shares ("the Shares") in the Fourth Defendant, OPUS Trinity SPC ("OPUS").
2. The First Defendant, Rene Bliggensdorfer ("Dr Bliggensdorfer"), was, prior to his removal on 12 March 2008, one of the two directors of the Plaintiff. Prior to his resignation on 12 March 2008, the other director was Alain Girardet ("Mr Girardet"). At all material times, Dr Bliggensdorfer has been one of the two directors of OPUS.
3. The Second Defendant, Harald Karch ("Mr Karch"), has at all material times been the other director of OPUS and the sole director and beneficial owner of the Third Defendant, International Capital Advisors LLC ("ICA"), a company incorporated under the laws of Switzerland.
4. OPUS is an exempted segregated portfolio company incorporated under the Companies Law (2004 Revision) on 19 June 2007.
5. On 5 October 2007, the OPUS entered into an Investment Management Agreement ("the IMA") with the Plaintiff. On the same day, the Plaintiff entered into a Management Agreement ("the MA") with Terra Nex Fund Advisors WLL ("TNFA"), a company incorporated under the laws of Bahrain. The MA was also executed by OPUS and the Plaintiff will contend that, on its true construction, the MA operated as a novation of the IMA replacing the Plaintiff with TNFA as the investment manager of OPUS. At all events, after 5 October 2007, the Plaintiff rendered no services to OPUS in connection with the management or investment of the Fund.
6. At a meeting of the Board of Directors of OPUS held on 2 November 2007 and attended by the Dr Bliggensdorfer and Mr Karch, it was resolved, inter alia, as follows:
 - (1) that "the current contract with TNFA is not valid at least until a clear fully licensed entity is in place";
 - (2) that the Plaintiff should "give back" the Shares to Mr Karch "otherwise investors and Monetary Authorities have to be informed about current situation"

7. The reasons for the resolutions referred to in paragraph 6 were spurious. As to resolution (1), neither TNFA nor, in the premises, the Plaintiff required to be licensed pursuant to the Securities Investment Business Law (2004 Revision) or any other legislation of the Cayman Islands. Alternatively, if, which is denied, the Plaintiff required to be licensed, the situation could have been easily resolved by replacing the IMA and the MA with an investment management agreement entered into directly between OPUS and TNFA. As to resolution (2), there was no logical or any other connection between the licensing requirements for TNFA or the Plaintiff as the investment manager of OPUS and the identity of the holder of the Shares. The passing of the resolutions was the opening shot in a campaign orchestrated by Mr Karch, with the co-operation of Dr Bliggensdorfer, wrongfully to deprive the Plaintiff of the Shares and thereby obtain for ICA the benefit of investment management fees payable by the OPUS.
8. At some time between 7 November 2007 and the morning of 9 November 2007, Dr Bliggensdorfer, without reference to his co-director, Mr Girardet, and on the instruction of Mr Karch, signed an undated Share Transfer ("the First Share Transfer") purporting to transfer the Shares to the Mr Karch "subject to an Option Agreement". No such Option Agreement existed at the time the First Share Transfer was signed nor has ever existed. The consideration for the transfer was expressed to be €10.00, that is, a nominal consideration.
9. In the afternoon of 9 November 2007 Mr Karch attended upon Mr Girardet and requested him to sign the First Share Transfer. Mr Girardet refused. After approximately four hours of negotiation Mr Girardet signed a Share Transfer dated 9 November 2007 ("the Second Share Transfer") transferring the Shares to Mr Karch "subject to Amendment 1 to the present Transfer of Shares dated 09.11.2007". Amendment 1 envisaged that a new Bahraini company, Terra Nex Asset Management BSC (c) would, when incorporated, act as the investment manager of OPUS and that the Shares would be returned to the Plaintiff. The Plaintiff will refer to Amendment 1 at the trial of this action for its full terms and effect. The consideration for the Second Share Transfer was expressed to be €10.00. The terms of the Second Share Transfer were markedly different from the terms of the First Share Transfer.
10. At a meeting of the Board of the Directors of OPUS held on 10 December 2007 and attended by the Dr Bliggensdorfer and Mr Karch, it was resolved to approve the First Share Transfer which had been dated as of 10 December 2007 by Mr Karch. On or about 10 January 2008, the First Share Transfer was registered with OPUS and the Register of Members amended accordingly. Subsequently, on a date of which the Plaintiff is unaware, the Shares were transferred by Mr Karch to ICA.
11. At a meeting of the Board of Directors of OPUS held on 20 December 2007 and attended by Dr Bliggensdorfer and Mr Karch, it was resolved to appoint ICA as OPUS's investment manager. On or about 21 December 2007, OPUS entered into a Temporary Investment Management Agreement with ICA.
12. In purporting to execute the First Share Transfer on behalf of the Plaintiff, Dr Bliggensdorfer acted in breach of the fiduciary duties and/or the duties of skill and care which he owed to the Plaintiff. In particular, Dr Bliggensdorfer:

- (a) appreciated, or should have appreciated, that neither TNFA nor the Plaintiff required a license to continue as OPUS's investment manager;
 - (b) alternatively to (a), should have taken steps to ascertain the true position in relation to the licensing requirements of TNFA and the Plaintiff;
 - (c) appreciated, or should have appreciated, that the licensing position of TNFA and the Plaintiff, whatever that might have been, did not justify or require the transfer of the Shares to Mr Karch;
 - (d) failed to consult with his co-director, Mr Girardet, before executing the First Share Transfer;
 - (e) executed the First Share Transfer on the instruction of Mr Karch and failed to exercise any independent judgment as to whether the transfer of the Shares to Mr Karch was in the interests of the Plaintiff;
 - (f) executed the First Share Transfer on the instruction of Mr Karch notwithstanding that Mr Karch had an obvious personal interest in the transfer adverse to the interests of the Plaintiff;
 - (g) executed the First Share Transfer notwithstanding that the Option Agreement referred to therein did not exist;
 - (h) executed the First Share Transfer for a nominal consideration notwithstanding that, as he appreciated or should have appreciated, the Shares had significant value in that indirectly they controlled the appointment of the OPUS's investment manager;
 - (i) as he was or should have been aware, notwithstanding the potential loss to it of investment management fees payable by OPUS consequent upon the execution of the First Share Transfer, the Plaintiff would continue to be liable to make commission payments to third parties pursuant to agreements entered into between them which commissions had been funded by such fees.
13. At all material times, Mr Karch and, through him, ICA were aware of the facts and matters pleaded in paragraph 12 above. Further more, Mr Karch and, through him, ICA were aware that the terms of the First Share Transfer and the Second Share Transfer differed and that, accordingly, the directors of the Plaintiff were not in agreement as to the terms upon which the Shares should be transferred to Mr Karch. (For the avoidance of doubt, the Plaintiff does not admit that Dr Bliggensdorfer was not aware or did not become aware of the terms of the Second Share Transfer but at present makes no affirmative allegation in that regard).
14. In the premises, the Plaintiff is entitled to have the First Share Transfer set aside as against Mr Karch and ICA and OPUS's Register of Members rectified to restore the Plaintiff as the registered holder of the Shares.

15. In the premises, the Plaintiff is also entitled to damages as against Dr Bliggensdorfer for breach of the duties referred to in paragraph 12 and against Mr Karch for procuring that breach.
16. Further, the events pleaded in paragraphs 6 to 13 evidence and were part of a conspiracy, to which Dr Bliggensdorfer and Mr Karch were parties, to defraud the Plaintiff of the Shares. In the premises, the Plaintiff is entitled to damages as against Dr Bliggensdorfer and Mr Karch for conspiracy to defraud.
17. The Plaintiff claims interest on damages pursuant to Section 34 of the Judicature Law (2007 Revision) for such period and at such rates as the Court thinks fit.

AND the Plaintiff claims:

Against Mr Karch and ICA:

- (1) An Order setting aside the First Share Transfer;

Against OPUS:

- (2) An Order rectifying OPUS's Register of Members to restore the Plaintiff as registered holder of the Shares;

Against Dr Bliggensdorfer:

- (3) Damages for breach of duty;
- (4) Damages for conspiracy to defraud;

Against the Mr Karch:

- (5) Damages for procuring Dr Bliggensdorfer's breach of duty;
- (6) Damages for conspiracy to defraud

Against Dr Bliggensdorfer and Mr Karch:

- (7) Interest on damages pursuant to Section 34 of the Judicature Law (2007 Revision) for such period and at such rates as the Court thinks fit.

Against Dr Bliggensdorfer, Mr Karch and ICA:

- (8) Costs

Dated this 9th day of June 2008

Mourant du Feu & Jeune

Mourant du Feu & Jeune
Attorneys at Law for the Plaintiff

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

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 his 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. OF 2008

BETWEEN:

PLAINTIFF

AND:

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.

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

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.

Mourant du Feu & Jeune
Attorneys at law for the Plaintiff
Second Floor
Harbour Centre George Town
Grand Cayman, KY1-1108
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.

[Empty box for defendant's attorney indorsement]