

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 758 2002

In the matter of THE COMPANIES LAW (2002 REVISION)

And in the matter of Velox Capital Markets Inc

AFFIDAVIT OF H. JONATHAN KAHLBERG

I, H. Jonathan Kahlberg, chartered accountant and forensic services director of Forensic Services at E & Y Restructuring Limited of 4<sup>th</sup> Floor Bermuda House, British American Centre, Dr. Roy's Drive, George Town, Grand Cayman, MAKE OATH and say as follows:

1. I am one of the Joint Official Liquidators of Trade & Commerce Bank ("the Bank"). I was appointed along with G. James Cleaver on 29 August 2002, having previously been Joint Provisional Liquidators, appointed on 5 July, 2002. I am authorised by Mr. Cleaver to make this affidavit and save where otherwise stated, the matters to which I depose are within my own knowledge and I believe them to be true.
2. I make this affidavit in support of the Winding-up Petition issued against Velox Capital Markets Inc. a copy of which is now produced and shown to me and marked "HJK 1". I verify that the contents of this are true to the best of my knowledge and belief.
3. There is now produced and shown to me marked "HJK 2" a copy of a letter from Campbells, attorneys-at-law for the Joint Official Liquidators of Trade & Commerce Bank, to Velox

Capital Markets Inc. serving a statutory demand, claiming the sum of US\$2,766,118.16. This was served at the registered office of the company on 30 August 2002. No response and no payment has been received from the company in response to that demand.

4. Velox Capital Markets Inc. and Trade & Commerce Bank are part of a large group of companies that, until recently, was owned and managed by members of the South American Peirano family. The Group comprised a number of banks in South America, Trade & Commerce Bank and interest in supermarket retail chains in South America. Central Bank regulators have intervened in the South American banks. As indicated above, Trade & Commerce Bank is in liquidation. The interest in the supermarket retail operations has effectively been lost, as they had been used as security for debts due to third parties.

5. The liquidation of Trade & Commerce Bank is proving difficult and time consuming. Much of the accounting records are having to be re-created and it appears that there is a massive discrepancy between both assets and liabilities. There is serious doubt as to whether the true financial position of Trade & Commerce Bank was ever made known to customers, the Cayman Islands Monetary Authority and its auditors. Initial investigations carried out by the Liquidators of Trade & Commerce Bank indicate that much of its assets were paid out to members of the Peirano family either personally or through corporate vehicles registered in the Cayman Islands and elsewhere.

6. The amount shown in the statutory demand is a sum shown in the accounting records for Trade & Commerce Bank as being due and owing to it from Velox Capital Markets Inc. It is not yet clear what other assets may have been transferred into Velox Capital Markets Inc. although there is a strong belief based on information obtained from recent visits to Uruguay that Velox

Capital Markets Inc. may have interest in a fund run or managed by a company called Peagus Venture Capital or Peagus V.C. Partners I LP, a Cayman Islands Limited Partnership. Copies of correspondence and documentation relating to this are now produced and shown to me marked "HKJ3".

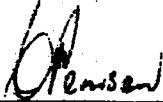
7. The value of any investment in the fund is unknown but there is a serious concern that if the Peirano family remains in control of Venture Capital Markets Inc., any assets that may remain in its name will be removed and/or dissipated and placed out of the reach of its creditors, including Trade and Commerce Bank.
8. In the circumstances, an Order is sought appointing Mr. Cleaver and I as Joint Provisional Liquidators of Velox Capital Markets Inc. to ensure that any assets that it may have in its name are secured for the purposes of satisfying debts due to creditors pending the hearing of the winding up petition.
9. I should draw to the attention of this court that Velox Capital Markets Inc was formerly audited the accounting firm of Pistrelli Diaz y Asociados Sociedad Civil ("Pistrelli Diaz") in Argentina. This firm was the former representative of Arthur Andersen in Argentina. There have been discussions between the partners of Pistrelli Diaz and the firm of Ernst & Young in Argentina with a view to the partners of the former firm joining Ernst & Young. As yet this has not happened. I do not believe that this places either Mr Cleaver or I in a position of conflict in acting as Provisional Liquidators of Velox Capital Markets Inc but confirm that in the event

that any possibility of a conflict may arise, this Court will be informed immediately.

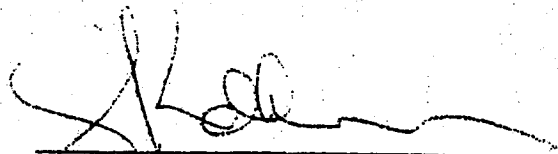
Sworn this 16<sup>th</sup> day of October, 2002 )

at George Town, Grand Cayman )

Before me )



NOTARY PUBLIC

  
H. JONATHAN KAHLBERG

This Affidavit is filed by Campbells, attorneys-at-law for the Applicants, whose address for service is 4<sup>th</sup> Floor, Scotiabank Building, P.O. Box 884, George Town Grand Cayman (Ref AJW)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 2002

In the matter of THE COMPANIES LAW (2002 REVISION)


And in the matter of Velox Capital Markets Inc

This is the Exhibit marked "HJK 1" referred to in the affidavit of H. Jonathan Kahlberg sworn this day of October, 2002

Sworn this 16<sup>th</sup> day of October, 2002 )

at George Town, Grand Cayman )

Before me )



NOTARY PUBLIC

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 2002

In the matter of THE COMPANIES LAW (2002 REVISION)

And in the matter of Velox Capital Markets Inc

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PETITION

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To: The Grand Court

The Petition of Trade & Commerce Bank shows that:

1. Velox Capital Markets Inc (hereinafter called the "Company") was incorporated under the Companies Law.
2. The address of the Company is at P.O. Box 390, Uglan House, South Church Street, George Town, Grand Cayman, Cayman Islands, B.W.I.
3. The grounds upon which the Petitioner seeks to petition for the winding up of the Company are that a statutory demand dated 30th August was served on the Company at its registered office claiming the sum of US\$ 2,766,113.16 being monies due and payment by the Company to the Petitioner. No payment has been received from the Company.
4. In the circumstances the Company is insolvent and it is just and equitable that the Company should be wound up.

THE PETITIONER THEREFORE PRAYS THAT:

- (1) The Company may be wound up by the Court under the provisions of the Companies Law (2002 Revision).

- (2) G James Cleaver and H. Jonathan Kahlberg, of E & Y Restructuring, Ltd., P.O. Box 1102 GT, 4<sup>th</sup> Floor, Bermuda House, British American Centre, Dr Roy's Drive, George Town, Grand Cayman, be appointed Joint Official Liquidators of the Company with power to act jointly and severally (the "Official Liquidators")
- (3) The Official Liquidators shall not be required to give security for their appointment.
- (4) The Official Liquidators shall have power:
  - (a) to bring or defend any action, suit, prosecution or other legal proceedings, whether criminal or civil, by way of court process or arbitration, in the name and on behalf of the Company.
  - (b) to take possession of, collect and get in all property or assets (of whatever nature) to which the Company is or appears to be entitled;
  - (c) to do all things as may be necessary or expedient for the protection of the Company's assets;
  - (d) to do all things (including the carrying on of the business of the Company) so as may be necessary or expedient for the beneficial realisation of the property or assets of the Company (including power to borrow money);
  - (e) to appoint attorneys, solicitors and other professional qualified persons both in the Cayman Islands and elsewhere to assist them in the performance of their duties;
  - (f) to appoint agents both in the Cayman Islands and elsewhere to do any business which they are unable to do themselves or which can more conveniently be done by an agent and power to employ and dismiss officers and employees of the Company;

- (g) to make any power which is necessary or incidental to the performance of their duties;
- (h) to open and maintain bank accounts in the name of the Company or themselves anywhere in the world as may be necessary for the better performance of their duties;
- (i) to exercise and execute all the powers set out in Section 109 of the Companies Law (2002 Revision) without sanction or intervention of the Court and unprejudiced by the generality hereof;
- (j) to compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the Company and any contributory or alleged contributory or alleged contributory or other debtor or person apprehending liability to the Company, upon receipt of such sums payable at such times and generally on such terms as may be agreed upon, with power to take securities for the discharge of such debts or liabilities and to give complete discharges in respect of all or such calls, debts, or liabilities; and
- (k) to do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets;

and for the avoidance of doubt the powers bestowed on the Official Liquidators may be exercised by them within and outside the Cayman Islands.

- (5) The Official Liquidators be at liberty to apply for further directions relating to the winding-up of the affairs of the Company and the distribution of its assets.



- (6) The reasonable costs of the Petitioner of and incidental to the Petition be paid forthwith from the assets of the Company to be taxed if not agreed.
- (7) The Official Liquidators be at liberty to and do pay themselves, their agents, employees, attorneys, solicitors and whomsoever else they may employ or instruct, remuneration and costs in priority to all other debts of the Company pursuant to section 123 of the Companies Law (2002 Revision), and:
- (i) the remuneration of the Official Liquidators and their staff instructed in connection with the performance of their duties be paid at such reasonable rates as may be approved by this Honourable Court from time to time;
  - (ii) the remuneration of any other agents, employed or instructed by or on behalf of the Official Liquidators in connection with the performance of their duties be fixed and approved at the rate or rates in the country in which such person is ordinarily employed or engaged in practice;
  - (iii) the Official Liquidators be at liberty to pay their agents, employees, attorneys, solicitors and whomsoever else they employ or instruct either weekly or monthly or at such other intervals as they consider appropriate;
  - (iv) the Official Liquidators be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties;
- and for the avoidance of doubt all payments made pursuant to paragraphs 7(i)-(iv) above shall be made as and when they fall due out of the assets of the Company and shall be expenses in the Liquidation.
- (10) Such other orders and directions may be made as the Court thinks fit.

DATED this        day of October, 2002.



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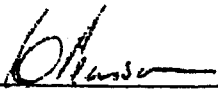
And in the matter of Velox Capital Markets Inc

This is the Exhibit marked "HJK 2" referred to in the affidavit of H. Jonathan Kahlberg sworn this day of October, 2002

Sworn this 16<sup>th</sup> day of October, 2002 )

at George Town, Grand Cayman )

Before me )



\_\_\_\_\_  
NOTARY PUBLIC

Chm. Act  
Bar Act  
Direct. Bank  
Direct. Cinc.

ATM  
awalters@campbells.com.ky  
(345) 914-5551

30 August, 2001

BY HAND

Velox Capital Markets Inc  
P.O. 309 GT,  
Ugland House,  
South Church Street,  
Grand Cayman

Dear Sirs,

**RE: Trade and Commerce Bank (In Official Liquidation)**

We act for the Joint Official Liquidators of Trade and Commerce Bank. We enclose by way of service a statutory demand for the sum stated. If you fail to pay the sum demanded within 21 days then a winding up order could be made in respect of your company.

Yours faithfully,

  
CAMPBELLS

**Warning**

- \* This is an important document. This demand must be dealt with within 21 days after its service upon the company or a winding-up order could be made in respect of the company.
- \* Please read the demand notes carefully.

**DEMAND**

To: Velox Capital Markets Inc

Address: P.O. Box 309 GT, Ugland House, South Church St., Grand Cayman

This demand is served on you by the creditor:

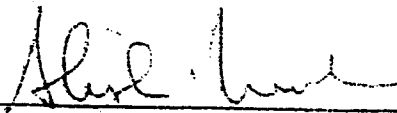
Name: Trade and Commerce Bank

Address: Campbells, P.O. Box 884, George Town, Grand Cayman

The creditor claims that the company owes the sum of US\$2,766,118.16 full particulars of which are set out on page 2.

The creditor demands that the company do pay the above debt or secure or compound for it to the creditor's satisfaction.

Signature of individual



Name: ALISTAIR J. WALTERS

Date: 30<sup>th</sup> August 2002

Position with or relation to creditor: Attorney

I am authorised to make this demand on the creditors behalf.

Address: Campbells, 4th Floor, Scotiabank Building, George Town, Grand Cayman

**Notes for Creditor**

- \* If the creditor is entitled to the debt by way of assignment, details of the original creditor and any intermediary assignees should be given in part B on page 3.
- \* If the amount of debt includes interest not previously notified to the company as included in its liability, details should be given, including the grounds upon which interest is charged. The amount of interest must be shown separately.
- \* Any other charge accruing due from time to time may be claimed. The amount or rate of the charge must be identified and the grounds on which it is claimed must be stated.
- \* If signatory of the demand is an attorney or other agent of the creditor the name of his/her firm should be given

### Particulars of Debt

These particulars must include (a) when the debt was incurred, (b) the consideration for the debt (or if there is no consideration the way in which it arose) and (c) the amount due as at the date of this demand).

The Debtor is indebted to the Creditor in the sum of US\$2,766,116.16 being the amount lent or credited to the Debtor by the Creditor, which sum is due and outstanding.

### Notes for Creditor

\* Please make sure that you have read the notes on page 1 before completing this page

**PART A**

The individual or individuals to whom any communication regarding this demand may be addressed is/are:-

Name: ALISTAIR J. WALTERS

Address: Campbells, 4th Floor, Scotiabank Building, George Town, Grand Cayman

Telephone Number: 345-949-2648

Reference: AJW/ste

**PART B**

For completion if the creditor is entitled to the debt by way of assignment

	Name	Date(s) of Assignment
Original creditor		
Assignees		

**How to comply with a statutory demand**

If the company wishes to avoid a winding-up petition being presented it must pay the debt shown on page 1, particulars of which are set out on page 2 of this notice, within the period of 21 days after its service upon the company. Alternatively, the company can attempt to come to a settlement with the creditor. To do this the company should:

- \* inform the individual (or one of the individuals) named in part A above immediately that it is willing and able to offer security for the debt to the creditor's satisfaction; or
- \* inform the individual (or one of the individuals) named in part A immediately that it is willing and able to compound for the debt to the creditor's satisfaction.

If the company disputes the demand in whole or in part it should:

- \* contact the individual (or one of the individuals) named in part A immediately.

**REMEMBER!** the company has only 21 days after the date of service on it of this document before the creditor may present a winding-up petition.

In the matter of THE COMPANIES LAW (2002 REVISION)

And in the matter of Velox Capital Markets Inc

This is the Exhibit marked "HJK 3" referred to in the affidavit of H. Jonathan Kahberg sworn this day of October, 2002

Sworn this 16<sup>th</sup> day of October, 2002 )

at George Town, Grand Cayman )

Before me )



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NOTARY PUBLIC





# CONSOLIDATED STATEMENT

ACCOUNT		DATE
9482		01/07/02

CALL ACCOUNT		CURRENCY: US DOLLAR
	AMOUNT	AMOUNT TODAY (USD)
SubAccount 0	-3,288,702.74	-3,288,702.74

TOTAL BALANCE (US DOLLARS)	-3,288,702.74
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Page:

Errors and questions should be directed to your account officer within 15 calendar days of this statement.

**INFORMACION DE ENVIO**

**CUANTAS Y P.**

ESTADOS VENTURE CAPITAL  
 ENTZ DE COMPO 000  
 PLANTA BAA - OPCION 002  
 CIUDAD BUENOS AIRES

**SEMPRE SEAL DE LA CUENTA**  
**INFORMACION SUPLENIR**  
**INFORMACION DE ENVIO**