

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON**

BETWEEN:

CARLA BELLA LTD

Plaintiff

-and-

**DARYL SANDS, PRICEWATERHOUSECOOPERS LLP and
PRICEWATERHOUSECOOPERS (W.I) INC.**

Defendants

AMENDED STATEMENT OF CLAIM

1. The Plaintiff, **CARLA BELLA LTD.** ("**Carla Bella**"), is a body corporate, incorporate pursuant to the laws of the republic of Vanuatu, carrying on business internationally as a developer of online data entry software and a provider of data entry services.

2. The Defendant **DARYL SANDS** ("**Sands**") is a resident of the City of Edmonton, in the Province of Alberta. Sands is a chartered accountant and is, and at all

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material times has been, a partner of the Defendant **PRICEWATERHOUSECOOPERS LLP** and an officer of the Defendant **PRICEWATERHOUSECOOPERS (W.I) INC.**

3. The Defendant **PRICEWATERHOUSECOOPERS LLP** is an accounting firm registered as a Limited Liability Partnership pursuant to the laws of Ontario, and is extra-provincially registered in the Province of Alberta, with a registered office in the City of Calgary, in the Province of Alberta.

4. The Defendant **PRICEWATERHOUSECOOPERS (W.I) INC.** is a body corporate carrying on business as an accounting firm in association with the Defendants **PRICEWATERHOUSECOOPERS LLP** and **PRICEWATERHOUSECOOPERS (W.I) INC.** are hereinafter collectively called (“PwC”).

5. On or about March 15, 2002, Carla Bella opened an Executive Corporate Account (the “Account”) with Bank Crozier Limited, a private bank incorporated, licensed and carrying on business as a Class I Offshore Bank providing a international banking service in Grenada (the “ Bank”).

6. It was an express term, or in the alternative an implied term, of the Account that Carla Bella would have unrestricted access to the funds in the Account, and that the Bank would forthwith transfer funds from the Account upon receiving Carla Bella’s transfer instructions.

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7. Unknown to Carla Bella, the business affairs of the Bank were under review by the **Grenada Minister of Finance (the “Minister”)** and the Minister appointed Sands as Controller of the affairs of the Bank pursuant to Section 20 of Grenada’s *Offshore Banking Act, 1996*, with effect from July 31, 2002. Sands’ appointment as Controller was renewed from time to time to and including July 23, 2003.

8. In his capacity as Controller of the Bank, Sands owed a duty of care and a fiduciary duty to depositors of the Bank to protect their rights and interest and to conduct the business affairs of the Bank in a competent and professional manner and to exercise prudence care and skill in carrying out his duties as Controller.

9. On or about March 14, 2003, one of Carla Bella’s customers transferred \$3,179,320 (€2,000,000 euros) into the Account, residing in an account balance of approximately \$3,815,184 ((€2,400,000 euros).

10. On or about April 8, 2003, Carla Bella directed the Bank to transfer \$3,292,989 ((€2,100,000.00 euros) from the Account to Carla Bella’s HSBC bank account in Hong Kong.

11. In breach of the aforesaid term of the Account, in breach of his duty of care and fiduciary duty to Carla Bella as a depositor of the Bank, and in violation of Carla Bella’s economic interest, Sands restricted the transfer of the said \$3,292,989 and authorized the transfer of only \$1,108,303 (€700,000). The said \$1,108,303 was transferred on or about

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April 16, 2003, leaving a balance of \$2,216,606 (€1,400,000) in respect of which transfer had been directed by Carla Bella but restricted by Sands (the “Claimed Funds”).

12. On or about April 22, 2003, Sands reported to the Grenada International Financial Services Authority that the bank was insolvent and Sands caused all accounts at the Bank to be frozen effective April 22, 2003.

13. In April of 2003 the Bank’s employee Cora Felix repeatedly misrepresented, or in the alternative negligently misstated, to Carla Bella that the transfer restriction on the Account was due to a routine audit, that the transfer restriction was temporary, and that the balance of the Claimed Funds would be transferred within a matter of days. As Controller of the Bank responsible for the day-to-day business affairs of the Bank, Sans instructed and directed Cora Felix in her representations to Carla Bella, thereby misleading Carla Bella, concealing from Carla Bella the Bank’s true state of affairs, and causing Carla Bella’s loss herein.

14. On or about April 25, 2003, the Minister issued a Notice of intention to revoke the Bank’s license.

15. On or about July 24, 2003, the Supreme Court of Grenada ordered the appointment of a third party as Liquidator of the Bank.

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16. Between April 22, 2003 and July 24, 2003, Carla Bella continued to demand transfer of the claimed Funds from the Account; however, none of the Claimed Funds were transferred and Carla Bella has not received the Claimed Funds or any part thereof.

17. In breach of his duty of care and his fiduciary duty to Carla Bella in his capacity as Controller of the Bank, Sands failed to conduct the business affairs of the Bank in a competent and efficient manner and failed to exercise prudence care and skill in carrying out his duties as Controller.

18. Particulars of Sands' negligence and breach of Sands' fiduciary duty include:

- a) failing to recognize the insolvency of the Bank prior to March 14, 2003, when he knew or ought to have known that the Bank was then insolvent,
- b) in the alternative, restricting the transfer of the Claimed Funds between April 8 and April 21, 2003 when the Bank was solvent, and
- c) Breaching the aforesaid term of the Account by restricting the transfer of the said \$2,216,606 without lawsuit authority or justification.

19. As a direct consequence of Sands' negligence and breach of fiduciary duty and Carla Bella's loss of use of the Claimed Funds, Carla Bella's business activities were

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immediately and severely restricted, whereby Carla Bella has suffered damages in respect of loss of anticipated profit from the period April 22, 2003 to April 21, 2005 in the amount of \$8,896,689 (€5,500,000), or such other amount as shall be proven at trial.

20. Further, and in the alternative, as a direct consequence of Sands' negligence and breach of fiduciary duty and Carla Bella's loss of use of the Claimed Funds, Carla Bella failed as a going concern and ceased business operations in or about July of 2004, whereby Carla Bella failed has suffered damages in respect of the diminution in capital value of Carla Bella's business interest in the amount of \$9,476,220 ((€6,000,000) or such other amount as shall be proven at trial.

21. Sands was appointed Controller of the Bank and at all material times acted in his capacity as partner and officer of PwC, and PwC is liable for the aforesaid acts and omissions of Sands.

22. The Plaintiff pleads the *Bankruptcy Act* of Grenada and the *Offshore Banking Act, 1996* of Grenada.

23. In the opinion of the Plaintiff, this action will likely not take more than 25 days to try.

24. The Plaintiff proposes that this action be tried at the City of Edmonton, in the Province of Alberta.

WHEREFORE THE PLAINTIFF CLAIMS:

- a) Judgment as against the Defendants in the amount of \$2,216,606.

- b) In addition, Special Damages against the Defendants in the amount of \$9,476,220, or in the alternative \$8,896,680 or such other sum as may be proven at trial.

- c) Interest on the aforesaid sums pursuant to the terms and provisions of the *Judgment Interest Act*.

- d) Costs

DATED at the City of Edmonton, in the Province of Alberta, this 21st day of April, 2005
AND DELIVERED by CLEALL PAHL, Barristers and Solicitors, 2500 Commerce
Place, 10155- 102nd Avenue, Edmonton, Alberta, T5J 4G8, Attention: Aran Veylan, Q.C,
Solicitors for the Plaintiff, whose address for service is in care of the said Solicitors.

ISSUED out of the office of the Clerk of the Court of Queen's Bench of Alberta,
Judicial District of Edmonton, this 13th day of April, 2003.

.....
CLERK OF THIS COURT OF QUEEN'S BENCH OF ALBERTA

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ENTERED
by SD

ACTION NO. 0503 06505

IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

CARLA BELLA LTD.

Plaintiff

- and -

**DARYL SANDS,
PRICEWATERHOUSECOOPERS LLP and
PRICEWATERHOUSECOOPERS (W.L) INC.**

Defendants

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**AMENDED
STATEMENT OF CLAIM**

**CLEALL PAHL
BARRISTERS SOLICITORS**

2500 Commerce Place
10155 - 102 Street
Edmonton, Alberta T5J 4G8

Attention: Aran Veylan, Q.C.

Telephone: (780) 425-2500
Fax: (780) 425-1222

File No: 5-71948

TO THE DEFENDANTS:

YOU HAVE BEEN SUED. YOU HAVE ONLY 15 DAYS TO FILE AND SERVE A STATEMENT OF DEFENCE OR DEMAND OF NOTICE. YOU OR YOUR LAWYER MUST FILE YOUR STATEMENT OF DEFENCE OR DEMAND OF NOTICE IN THE OFFICE OF THE CLERK OF THE COURT OF QUEEN'S BENCH IN EDMONTON, ALBERTA. YOU OR YOUR LAWYER MUST ALSO LEAVE A COPY OF YOUR STATEMENT OF DEFENCE OR DEMAND OF NOTICE AT THE ADDRESS FOR SERVICE FOR THE PLAINTIFF NAMED IN THIS STATEMENT OF CLAIM.

WARNING: IF YOU DO NOT DO BOTH THINGS WITHIN 15 DAYS, YOU MAY AUTOMATICALLY LOSE THE LAWSUIT. THE PLAINTIFF MAY GET A COURT JUDGMENT AGAINST YOU IF YOU DO NOT FILE, OR DO NOT GIVE A COPY TO THE PLAINTIFF, OR DO EITHER THING LATE.

THIS STATEMENT OF CLAIM IS ISSUED BY THE SOLICITORS FOR THE PLAINTIFF, WHOSE ADDRESS IS:

CLEALL PAHL
2500 COMMERCE PLACE
10155-102 STREET
EDMONTON, ALBERTA T5J 4G8

THE PLAINTIFF HAS A REGISTERED OFFICE IN THE REPUBLIC OF VANUATU. THE DEFENDANT DARYL SANDS RESIDES IN THE CITY OF EDMONTON, IN THE PROVINCE OF ALBERTA. THE DEFENDANT PRICEWATERHOUSECOOPERS LLP IS A LIMITED LIABILITY PARTNERSHIP AND IS EXTRA-PROVINCIALY REGISTERED IN THE PROVINCE OF ALBERTA AND HAS A REGISTERED OFFICE IN THE CITY OF CALGARY, IN THE PROVINCE OF ALBERTA. THE REGISTERED OFFICE OF THE DEFENDANT PRICEWATERHOUSECOOPERS (W.L) INC. IS UNKNOWN TO THE PLAINTIFF.

