



**CIVIL COURT
FIRST HALL**

**THE HON. MR. JUSTICE
JOSEPH ZAMMIT MC KEON**

Sitting of the 11 th February, 2013

Citation Number. 553/2012

**Advocate Simon Galea Testaferrata (I.D. 468670M) for
and behalf of absentee Theresa Scaramuzza, holder
of British Passport No. 706395411**

vs

**Advocate Patrick Valentino and Legal Procurator
Melissa Anastasi who by decree of the 31 May 2012
were appointed as curators to represent Peter Vogel,
holder of The Netherlands Passport No. NNP4FK8K4
and Triple S Consultancy Limited (C44549) and by
decree of the 8th November 2012 the decree of the 31st
May 2012 whereby the curators were appointed was
revoked and by a declaration of the 8th November
2012 Peter Vogel assumed the acts of the cause in his
own name**

The Court :

Having seen the sworn application that was filed on the 31st May 2012 which states stated as follows –

1. *That the applicant lent Mr. Peter Vogel the sum of GBP 8,997.19 equivalent to €11,269.00 ;*

2. *That the applicant had also lent defendant company the sum of GBP 33,1875.43 equivalent to €41,565.00 ;*

3. *That defendant company is effectively owned by defendant Peter Vogel ;*

4. *That therefore the applicant lent the defendants together the global sum of €52,834.00 ;*

5. *That Mr. Vogel acknowledged the loan taken out personally, as well as the loan taken out against the defendant company, and despite having undertaken to return the monies lent, he has failed to do this to date ;*

6. *That this debt is now long overdue, and despite having been called upon to settle on numerous occasions, defendants remain non-complaint without any valid reason at law ;*

7. *That therefore the defendants are debtors of the applicant in the global sum of €52,840.00 insofar as €11,269 is owed by defendant Peter Vogel, whilst €41,565.00 is owed by defendant company ;*

8. *That this debt owed by the defendants to the applicant is certain, liquid and due in terms of article 167*

Informal Copy of Judgement

of the Code of Organisation and Civil Procedure (Chapter 12 of the Laws of Malta) and that in the applicant's opinion defendants have no defence to raise ;

9. That he is informed of these facts and authorized to make this declaration ;

In view of the above the defendants are thus called upon to declare why this Court should not :

Declare the defendant Peter Vogel a debtor of the applicant in the sum of €11,269 and the defendant company Triple S Consultancy Limited a debtor of the applicant in the sum of €41,656.00 ;

Order the same defendants, namely Peter Vogel to pay the applicant the sum of €11,269 and the defendant company Triple S Consultancy Limited to pay the applicant the sum of €41,656.00 ;

Decide this lawsuit by summary proceedings in terms of Article 167 of the Code of Organisation and Civil Procedure (Chapter 12 of the Laws of Malta).

With interests according to law from date of loan, and with costs, including those for the garnishee order issued against the defendants, against the said defendants who are hereby summoned on oath.

Having seen the list of witnesses that plaintiff intends to produce in evidence and the list of documents in support of his claim.

Having seen the decree given at the hearing of the 16th July 2012 whereby the Court ordered the removal of the sworn reply filed by defendant curators.

Having seen its order given at the same hearing whereby the Court directed that the cause be conducted according to the ordinary procedure and not any longer summarily and consequently granted defendant curators a period of twenty (20) days to enter a sworn reply.

Having seen the *note verbal* of the hearing of the 1st November 2012 ; in particular the probability that absentee Peter Vogel of Danish nationality was resident in a member of the UE in which case the appointment of the official curators could result as invalid according to law.

Having noted the presence of Peter Vogel at the hearing of the 8th November 2012 where he confirmed that he was a Dutch national resident in The Netherlands.

Having seen the decree given at the same hearing whereby this Court declared as invalid according to law the appointment of curators and therefore revoked the decree of their appointment of the 31st May 2012.

Having noted that Peter Vogel assumed the acts of the cause in his own name as defendant at that same hearing.

Having ascertained that defendant Peter Vogel was duly served with a translated copy of the sworn application.

Having satisfied this Court that defendant Peter Vogel had a *prima facie* defence in law and in fact to contest the action on the merits, this Court by decree of the 12th November 2012, granted defendant Peter Vogel twenty (20) days to enter a sworn application.

Having noted that defendant Peter Vogel did not present a sworn reply as directed by this Court.

Having noted that defendants did not appear at the hearing of the 5th February 2013.

Having noted plaintiff's evidence at that same hearing.

Having seen the acts of the proceedings.

Whereas the evidence produced by plaintiff is not in any manner contradicted by defendants.

Whereas this Court considers that plaintiff's claims have been proven according to law.

Therefore this Court decides as follows –

1) Declares defendant Peter Vogel to be a debtor of plaintiff Dr. Simon Galea Testaferrata, for and on behalf of absentee Theresa Scaramuzza, for the sum of eleven thousand two hundred and sixty nine Euro (€11,269).

2) Orders defendant Peter Vogel to pay plaintiff Dr. Simon Galea Testaferrata, for and on

behalf of absentee Theresa Scaramuzza, the sum of eleven thousand two hundred and sixty nine Euro (€11,269), with legal interest with effect from the 12th November 2012.

3) Declares defendant Triple S Consultancy Limited to be a debtor of plaintiff Dr. Simon Galea Testaferrata, for and on behalf of absentee Theresa Scaramuzza, for the sum of forty one thousand six hundred and fifty six Euro (€41,656).

4) Orders defendant Triple S Consultancy Limited to pay plaintiff Dr. Simon Galea Testaferrata, for and on behalf of absentee Theresa Scaramuzza, the sum of forty one thousand six hundred and fifty six Euro (€41,656), with legal interest with effect from the 12th November 2012.

5) Takes no further notice of plaintiff's third demand.

6) Orders defendants to pay all costs *in solidum*.

< Final Judgement >

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