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BETWEEN

70

AND

FIRST QUANTUM MINERALS LTD

FROM FINANCE LIMITED

PHILIP R. PASCALL

ARTHUR MASIA

MARTIN R.

KANSANSHI MINING PLC

STATEMENT OF CLAIM

1. The Plaintiff is and is a company incorporated in the Republic of Zambia under the Companies Act Chapter 380 of the Laws of Zambia

2. The Plaintiff is a subsidiary of the First Quantum Group of companies (FQM) and is a separate legal entity

3. The 2nd Defendant is incorporated in the Republic of Zambia

4. The 3rd Defendant is and/or was:
  - (i) the co-founder and a shareholder of the 1st Defendant,
  - (ii) the Co-Founder of the 1st Defendant
  - (iii) a member of the Board of Directors of the 1st Defendant,
  - (iv) a director of the 1st Defendant from 2001 to 17th September 2009,
  - (v) a partner of the 1st Defendant,
  - (vi) a member of the Board of Directors of the 1st Defendant,
  - (vii) One of the key persons responsible for the 1st Defendant in the purposes of fulfilling its duties under the Mutual Service Agreement.
5. The 4th Defendant is and/or was:
  - (i) a member of the Board of Directors of the 1st Defendant,
6. The 5th Defendant is and/or was:
  - (i) A Director of the 1st Defendant from 2001 to 17th September 2009,
  - (ii) a member of the Board of Directors of the 1st Defendant,
  - (iii) One of the key persons responsible for the 1st Defendant in the purposes of fulfilling its duties under the Mutual Service Agreement.

(iv) a [REDACTED]  
("FQMOL").

7. The 6th Defendant

(i) a co-founder and Executive Director of [REDACTED]  
1st [REDACTED] [REDACTED]

(ii) a Director of KHL from 17<sup>th</sup> [REDACTED] 2001 to [REDACTED] September 2013;

(i) [REDACTED]

(iv) [REDACTED]  
purpose of fulfilling [REDACTED]

(v) a Director of FQMOL [REDACTED]

8. [REDACTED] [REDACTED] and [REDACTED] [REDACTED]  
incorporated in Zambia on 13<sup>th</sup> January 2007. [REDACTED]  
Chairman of [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
Mine in Zambia.

9. The 7th Defendant [REDACTED]  
Principal business as defined [REDACTED]  
here [REDACTED]  
and [REDACTED] of [REDACTED] within the [REDACTED] [REDACTED] [REDACTED]  
Article [REDACTED]  
[REDACTED]

10. The shareholders of the 7th Defendant are KHL and the Plaintiff which  
[REDACTED]  
Agreement dated 14<sup>th</sup> March 1997 between the 7th Defendant, KHL and  
the Plaintiff [REDACTED]



5th and 6th Defendants and provide strategic support and  
management.

(vi) through the post-2007 Chief Executive Officer's Managerial  
Director of the 7th Defendant, who was appointed by the  
Defendants.

14. Between 2007 to 2014, the 7th Defendant added a substantial amount of  
money to the 2nd Defendant's London account at Standard Chartered  
Bank. The 2nd Defendant's London account at Standard Chartered Bank  
The balance of US\$2.25 billion.

15. None of the Defendants was a member of the  
Board of the 7th Defendant.

16. While the 7th Defendant was a particularised representative of the  
accounts with reputations for international financial  
meet the 7th Defendant's working capital  
expenditure of the 7th Defendant, thereby justifying a return equivalent  
to the London Interbank Offered Rate.

17. While the Plaintiff became aware of the 7th Defendant's statements made  
in its accounts, it did not know the 7th Defendant's rights had been infringed as  
herein particularised.

18. The Plaintiff now knows the statements referred to in paragraph 16  
Defendants included the 7th Defendant's funds to fund the corporate business and development of the 7th Defendant.



By then, however, the 7th Defendant had already been made aware of the fact that the 1st Defendant had been involved in the fraud and had been involved in the fraud of the 7th Defendant and the minority share.

Company”  
“Shareholder” is defined as Plaintiff, the Government of the  
Similar definitions of Shareholder are set out in the Articles of  
Association, Regulation 1.1.

ASHA, which provides the hearing aid, has agreed to comply with the ambient law.

ASFA use 3 provide, inter alia, that the  
be to  
Articles of Association at  
"bu

ASHA, clause 4.2 provides for [REDACTED]  
Pursuant to clause 4.2, [REDACTED]  
Plaintiff [REDACTED]

Under the ASHA, each of the four parties has an equal undertaking to each of the other parties to

- (i) exercise in \_\_\_\_\_ of the 7<sup>th</sup> Defendant;



with the

28. The Plaintiff avers that

11.5 and

(i) KHL to promote their own best  
defendant

(ii) the price and other terms of the  
determined to be in the best interest of the  
the defendant

(iii) KHL and/or its Directors had a direct or indirect person  
in the

29. Articles of Association Regulation 21 contains provisions  
ASHA, clause  
Association is a way similar to the de  
ASHA refers to

30. The Plaintiff avers that  
Shareholders  
respect of each Year be paid as  
profits necessary to be set aside for working  
necessary  
to

31. The Plaintiff avers that  
would agree to good faith with each other in relation to  
the same. The same is to be implied in order to





37. **Identify** A Schedule 2 identifier is used to identify a Schedule 2 controlled substance.

FQM Chairman &amp; CEO

FQ  Director

**FQM**  **Director**  **President** **Clive Newell**

[illegible]

(i)                                                          

(ii) that the [redacted] provide an adequate and timely and professional management of the Project in accordance with good business practices.

(iii) That the [REDACTED] element S  
[REDACTED]  
We [REDACTED]

(a)  Management  support  
to the Full Time Personnel.

comply with all laws and obligations, including without limitation the Mining Act;

(c)  

Operations are reasonably quick from time to time.

avers and it provides that the Parties to  
ASHA Cause 11 apply to the MSA

40. From March 2007 through to December 2012 the 7th Defendant paid sums of £1,000,000 to the Standard Chartered

nominated Director on the Board of

Defendant provided

may be used to

major capital work

42. The nature of

(a) by the 1st Defendant in respect of  
Defendant (iii)   
Directors with  
the 7th Defendant

(b) by the Board  
arranged in order to ensure that the 7th Defendant to meet its  
other

43. The account to which the Monies were credited  
aforesaid by the 3rd, 4th and 6th Defendant  
Defendant and/or the 2nd Defendant and/or KHL to the  
7th Defendant and to the Plaintiff as a deposit account.







(xiii)

part of the funds in a 12 month deposit  
account.

2nd

the re

2013 and/or

(i)

Defendant was a

access to

and other expenditure of the

(iii) an interest charge of LIBOR was justified

on overnight deposits or similar;

obtain

49. The Plaintiff

Defendant

represent

reserves in order to meet its future obligations including taxatio

part

million a

general working capital of

US\$



working capital requirements and the funding requirements. The time totalled in excess of 100 hours.

52.

By letter dated 11<sup>th</sup> August 2014, Defendant, on behalf of Plaintiff, presented:

1. That the Plaintiff is a company incorporated in the Republic of South Africa, with its registered office at [redacted] and its principal place of business at [redacted].

2. That the Plaintiff is a company that is engaged in the business of [redacted] and is a member of the [redacted] group of companies.

3. That the Plaintiff is a company that is engaged in the business of [redacted] and is a member of the [redacted] group of companies.

these circumstances.

53. By letter dated 11<sup>th</sup> August 2014, Defendant, on behalf of Plaintiff, presented:

Defendant presented:

(i) that the Plaintiff is a company incorporated in the Republic of South Africa, with its registered office at [redacted] and its principal place of business at [redacted].

(ii) that the Plaintiff is a company that is engaged in the business of [redacted] and is a member of the [redacted] group of companies.

(iii) that the Plaintiff is a company that is engaged in the business of [redacted] and is a member of the [redacted] group of companies.

(iv) the 7th Defendant, by letter dated 11<sup>th</sup> August 2007, that the Plaintiff is a company that is engaged in the business of [redacted] and is a member of the [redacted] group of companies.

earn [REDACTED]  
7th Defendant's approved FOM Dividend Policy.

54. [REDACTED] 4th December 2014 Zambia [REDACTED]  
[REDACTED] land for [REDACTED] 7th Defendant in the [REDACTED]  
or thereabouts under section 95D of [REDACTED]  
on the ground that the advice [REDACTED] 7th Defendant  
[REDACTED] adant [REDACTED]  
meaning of that category provision.

55. [REDACTED] December 20 [REDACTED]  
services [REDACTED] US\$182,805,000 of [REDACTED]  
[REDACTED] by the 7th De [REDACTED]  
were not at arm's length and that greater [REDACTED]  
to the [REDACTED] Defendant by the 2nd Defendant.

56. The 7th Defendant is challenging the said [REDACTED]  
over the challenge [REDACTED] prospect of success.

57. In fact, as the Plaintiff now understands and believes, the Monies [REDACTED]  
not retained on deposit account [REDACTED]  
available for use in need but were advanced by the Defendant [REDACTED]  
entirety within the FOM Group without the knowledge [REDACTED] onse  
7th Defendant.

58. The Plaintiff alleges that in the circumstances, where the Monies [REDACTED]  
not retained on a deposit account by the 2nd Defendant but were used by  
the FOM Group that, as [REDACTED] 1st to 6th Defendants [REDACTED]  
Monies did not need to be retained on deposit at all and could and should  
instead [REDACTED] instead [REDACTED]  
the [REDACTED] BOR. Particular [REDACTED] to which [REDACTED] Monies  
should have been [REDACTED] will be provided following disclosure. Alternatively,



KM

59. The Plaintiff Defendant, the 1st Defendant, was the controlling mind of 2nd Defendant and KHL, and controlled the 7th Defendant
- (i) through its ownership of the 1st Defendant;
  - (ii) through its ownership of the 1st Defendant;
  - (iii) through its ownership of the 1st Defendant;
  - (iv) through its ownership of the 1st Defendant;
  - (v) through its ownership of the 1st Defendant;
  - (vi) through its ownership of the 1st Defendant;
60. Further or alternatively, the 3rd, 5th and 6th Defendants were all material factors of the 7th Defendant.





66. The 1st Defendant, the 4th Defendant and the 6th Defendant are Directors of the 7th Defendant.

67. Further, or alternatively, the 2nd, 5th and 6th Defendant Executives for the purposes of the MSAs owed a duty of care to the Defendant.

[illegible]

Defendant / 5th Defendant of the

- (i) a duty to act in the best interests of the patient or to prevent exclusion of the patient or a third party;
- (ii) a duty to act in good faith;
- (iii) a duty to refrain from profit from its/nis position;  
7th
- (iv) a duty to place the interests of the patient first and to avoid conflict of interest conflicts;
- (v) a duty to provide full disclosure of all relevant information to the patient or to the person who approves and/or to whom the patient has consented.



74. Further or alternatively, Defendant, the 1st Defendant, Director of the Bank, advised financial institutions engaging in Defendant's order that they would working capital requirements and on that Defendant and its related particularised instances paragraphs 95 and 96 hereof.

75. By [REDACTED] of such false representations aforesaid, the [REDACTED] concealed from [REDACTED] in [REDACTED] [REDACTED] rights and remedies available to [REDACTED] to [REDACTED] by [REDACTED] not [REDACTED]

7G Further or alternatively, the [redacted] Monies were [redacted] the most laudable return on their use as [redacted] rate of interest [redacted] and/or (iii) being [redacted] whole or in part

Monies were paid out to individuals in accordance with NABIR clause

Defendant did not act in good faith.

Defendant [REDACTED] did not provide the management [REDACTED] profit [REDACTED]





84. As part of the MSA, the Commission will also have to take account of breaches of the MSA.

8. Plaintiff's breach of the 1st, 2nd, 3rd, 7th Defendant for inducement, breach the terms of the Articles of Association of paragraph

## PARTICULARS OF THE JOURNAL'S EDITING POLICY

## ARTICLES OF

86. The 1st, 2nd, and 3rd terms of an arithmetic sequence are known to be 1, 3, and 5, respectively. What is the 10th term of the sequence?

- (i) in the matters pleaded above at paragraphs 12, 13, 27, 50, 61;
- (ii) in Executive and Chairman of the Defendant and Chairman of the Defendant;
- (iii) in the case of the 4th Defendant by reason of his position of of the 7th Defendant and proxy for KHE, of meetings of members of the Defendant;
- (iv) in the case of the 5th Defendant by reason of his position as President and Director of the Defendant, Director of KHE, Executive of the Defendant;
- (v) in the case of the 6th Defendant by reason of his position as Director of KHE, Director of KHE, and a Key FOM Executive for the Defendant;



Company's resolution of the Board of the 7th Defendant.

(iii) In breach of ASHA, the 11th and Articles of Association of the 7th Defendant, the 7th Defendant and/or its nominated Directors on the Board of the 7th Defendant caused or permitted the 7th Defendant to take any action which would have the effect of circumventing any, including, the 2nd Defendant's right to be elected to the 7th Defendant's length terms in that:

(a) in the period for the transaction, there were any negotiations between the 7th Defendant and the 2nd Defendant, the interests provided were those of the 7th Defendant;

(b) while the 7th Defendant was a director or nominee of the 7th Defendant, the 7th Defendant have any, including, interest at LIBOR, the 7th Defendant pay LIBOR, the 7th Defendant return on the 7th Defendant's advice, what they failed to disclose that the 7th Defendant were used by the FQM Group, the 7th Defendant's behavior which there has been, the Plaintiff drew, the 7th Defendant's FQM Group, money which could be raised, and other acquisition, and/or, Monies were, return, and/or investment opportunities that the 7th Defendant, the 7th Defendant's part, the 7th Defendant's disclosure, the 7th Defendant's, in fact put;

(c) the 7th Defendant's, determined by the 7th Defendant's FQM Group and





performance of the [redacted] by its Directors and/or  
nominated [redacted] on the Board of the [redacted] Defendant and, in  
particular, [redacted]  
materially false and [redacted] information to the Board of the [redacted]  
Defendant [redacted]

(a) the nature of the advice made by the 7th Defendant to the  
2nd [redacted]  
deposit account [redacted]  
working [redacted]  
Defendant [redacted]  
Group for its own purposes,

(b) the [redacted] of [redacted]  
interest [redacted] 30 [redacted]  
available given the need to [redacted]  
with [redacted]  
Directors [redacted] Defendant knew [redacted]  
was being [redacted]  
[redacted]  
elsewhere [redacted] of interest

(vii) In further breach of [redacted]  
[redacted]  
such concealment and/or false [redacted]  
as Directors and/or its nominated Directors [redacted]  
[redacted] the remedies [redacted]  
and/or the claimant there [redacted]

KHL failed to procure that any [redacted] in its capacity  
exercised [redacted] powers and [redacted] as a Director [redacted]



Associations

Defendant were  
pursued.

Each of the  
Defendant in deceitful partnership in paragraph 96 to 96.

#### PARAGRAPHS OF

91. The and  
Defendant's representative or caused  
to the Board of the 7th Defendant  
shareholders

(i) The Moneys were held in a deposit

Defendant

(ii) that the

financial

(iii) that the

order to meet the 7th

(iv) to the interest of the 7th

achievable return available on and use of the

92. The said respondent  
and the Plaintiff with the intention  
the  
proposed

93. In fact each of the  
2nd, 3rd, 4th, 5th and 6th Defendants



100. In United States v. Egan, 518 F.2d 1143, 1148 (5th Cir. 1975), the Fifth Circuit held that the purpose of the FOM Act is to protect the public interest in the integrity of the FOM. The court stated that the FOM Act is designed to prevent the kind of manipulation and abuse that occurred in the United States v. Egan case. The court stated that the FOM Act is designed to prevent the kind of manipulation and abuse that occurred in the United States v. Egan case. The court stated that the FOM Act is designed to prevent the kind of manipulation and abuse that occurred in the United States v. Egan case.

101. Further or alternatively, the Plaintiff alleges that the 4th, 5th and 6th Defendants made and/or caused the representations to be made to the Plaintiff and the minority shareholder which were made by the 3rd Defendant and to the minority shareholder with the intent to defraud the Plaintiff and the minority shareholder.

- (i) the 7th Defendant's Monies were deposited at the 1st Defendant;
- (ii) the Monies were then deposited at the 2nd Defendant;
- (iii) the Monies were retained at the 2nd Defendant to meet the 1st Defendant's requirements;
- (iv) an interest rate charge of 30-day LIBOR was the basis of the 1st Defendant's retention of the Monies.

[illegible]

102. It was not until March 20, 2012, that the FBI was notified that the [REDACTED] were in need of assistance in determining that the [REDACTED] was fraudulent. Prior to that time, the [REDACTED] had been [REDACTED]







(5) The 1<sup>st</sup> Defendant, the ultimate parent company of [REDACTED] and the [REDACTED] executives, held Directors' shares in KHL and the [REDACTED] Defendant as were Key FOM Executives for [REDACTED] purposes of the MSA, and to [REDACTED] companies [REDACTED] were paid

knows of the terms of the Article 6. The Court

(8) known that

(a) the content of the 1<sup>st</sup> Deliberation was not sought;

(b) each advance was not at arm's length;

(c) the 2<sup>nd</sup> Deliberation was the purpose of lending;

(d) the 3<sup>rd</sup> and 4<sup>th</sup> Deliberations were presented to the 7<sup>th</sup> Deliberation;

deposited in the 7<sup>th</sup> Deliberation; suitable international financial requirements of the 7<sup>th</sup> Deliberation; per expenditure, that the price of the 7<sup>th</sup> Deliberation the Monies available by the 7<sup>th</sup> Deliberation;

charge was the best available return given the use aforesaid of the Monies.

(9) Each of the 1st to 6th Defendants in fact managed by rep







120. Further or alternatively, the 2nd Defendant as the initial recipient of the Monies and [REDACTED] own [REDACTED] hands of members of [REDACTED] M Group in direction is liable to account to the 7th Defendant for these Monies and [REDACTED]

121. Accordingly, as hereinbefore pleaded, the 1st Defendant and the 2nd and 3rd Defendant are liable to account for the sum of \$1,000,000.00 to the Plaintiff.

122. By reason of the matters aforesaid the 1st Defendant and the 2nd Defendant were liable to the 7th Defendant for money had and received to the use of the 7th Defendant.

123. In the [REDACTED] Group and 2nd Defense [REDACTED] for the use of Morija during the period at the same [REDACTED] and applied to the use of [REDACTED] group.

the 7<sup>th</sup> Defendant and ZCCM-In are entitled to trace into the assets purchased and/or the assets upon which its/ their money was expended and/or the proceeds thereof held by the 1<sup>st</sup> and/or the 2<sup>nd</sup> Defendant and/or its related companies. Neither the 7<sup>th</sup> Defendant nor ZCCM-In = [REDACTED] were put and the assets which were purchased and/or the assets upon which the 7<sup>th</sup> Defendant's Mo [REDACTED] it is given a Fur Information and/or [REDACTED] disclosure of documents

misstatements to the Defendant, for the Plaintiff.

Paragraphs 126 to 128.



124. The 1st and 2nd

Defendant's acts and omissions of 1981-1982.  
Plaintiff as minority shareholder of the [redacted] and [redacted]

(i) the [redacted] were held on [redacted] at account [redacted]

(ii) the [redacted] were held by [redacted]

(iii) the Monies were not retained on [redacted] in order that the same  
were readily available to meet working capital requirements and  
other [redacted] [redacted]

(iv) in [redacted] circumstances an interest rate return was  
justified [redacted]

(v) such interest rate return was the [redacted]  
the [redacted]

127. The 3rd [redacted] with Defendant's [redacted]  
such advice on their own behalf and as agents of [redacted]  
and/or the 2nd [redacted] [redacted]  
both of the 7th [redacted]

Defendant and the Plaintiff [redacted] action to enforce the  
the 7th Defendant and/or [redacted] [redacted]  
the remedies of the 7th Defendant [redacted]

128. In fact as aforesaid each of the [redacted] statements  
untrue [redacted]

• •

• •

- Defendant's Monies given  
to Plaintiff as claim against either, the Plaintiff.  
Defendant is aware prior to further info  
and/or can  
Defendant's Monies  
information have been refused

- the period of the 7<sup>th</sup> Defence FOM Group.

- Alternatively, a proper estimate of the return for the investment in the  
Monies. The report contends that an appropriate benchmark return  
would be the return on the investment in the investment in the investment  
elsewhere.

- Defendant and / or the Plaintiff by submitting the following information:  
 Tax Authority of Cyprus, in respect of a professional, that  
 had an assessment of interest of, under the  
 Tax Act 1996 (the "Act")  
 At the time of the assessment, but 4th December 2014 made such assessment  
 on the basis that, in relation to the  
 payments by  
 made to the  
 have been

the 2<sup>nd</sup> Defendant in the sum of 950 of the US dollar in relation to the sum of US\$1,000,000.00, the length of the arm's length and should have been LIBOR plus 5%.

- (v) Further, the 2<sup>nd</sup> Defendant has been a small bank.

#### AND THE PLAINTIFF CLAIMS:

1. A Declaration that the 2<sup>nd</sup> Defendant is liable to the 1<sup>st</sup> Defendant for the claim.
2. Money had been received by the 2<sup>nd</sup> Defendant and money received by the 2<sup>nd</sup> Defendant from the 7<sup>th</sup> Defendant and used for its own use.
3. An Account of all the 2<sup>nd</sup> Defendant's assets and liabilities in which the 1<sup>st</sup> and /or the 2<sup>nd</sup> Defendant or their relative companies and or the 2<sup>nd</sup> Defendant in which the 1<sup>st</sup> and /or the 2<sup>nd</sup> Defendant are said to be.
4. A declaration that the 2<sup>nd</sup> Defendant is each of them hold on constructive trust for the 1<sup>st</sup> Defendant and or the account for all the 2<sup>nd</sup> Defendant's assets and or the 2<sup>nd</sup> Defendant's possession, acquired directly or indirectly with the 2<sup>nd</sup> Defendant's assets.
5. All necessary accounts and inquiries to enable the 2<sup>nd</sup> Defendant to trace and recover the assets referred to in 4 above.
6. Orders for the 2<sup>nd</sup> Defendant to pay the 1<sup>st</sup> Defendant the assets referred to in 4 above.

- [illegible]

