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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

105CV035531

TAT INVESTMENT ADVISORY LTD. and
SANDS BROTHERS VENTURE CAPITAL,

Plaintiffs,

v.

DAVID L. FELDMAN, ZF MICRO DEVICES,
INC., a California corporation, ZF MICRO
SOLUTIONS, INC., a Delaware corporation,
and DOES 1 through 1000, inclusive,

Defendants.

CASE NO.

**VERIFIED COMPLAINT FOR
DISSOLUTION OF CORPORATION,
BREACH OF FIDUCIARY DUTY,
FRAUDULENT TRANSFER AND FOR AN
ACCOUNTING**

Plaintiffs TAT Investment Advisory Ltd. ("TAT") and Sands Brothers Venture
Capital ("Sands") (collectively, "Plaintiffs") complain against Defendants David L. Feldman
("Feldman"), an individual, ZF Micro Devices, Inc., a California corporation, ZF Micro Solutions,
Inc., a Delaware corporation, and Does 1 through 100, inclusive, as follows:

GENERAL ALLEGATIONS

1. TAT, a Netherlands Antilles Limited Partnership, is a venture capital firm
that invests in early stage and established companies in the United States and Europe, focusing on
technology-based companies. TAT is duly authorized to conduct business in the State of California
and its main office in the United States is located in the City of San Jose, County of Santa Clara.

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1 2. Sands, a limited liability company organized under the laws of the State of
2 New York, is a venture capital firm that is duly authorized to conduct business in the State of
3 California and its main office in the United States is located in the State of New York.

4 3. Defendant ZF Micro Devices, Inc., was, and now is, a duly organized and
5 existing California corporation, with its principal place of business located in Santa Clara County,
6 and has been authorized to do business in California since July 26, 1995. ZF Micro Devices, Inc.
7 ceased operations in 2002.

8 4. Defendant ZF Micro Solutions, Inc., was, and now is, a duly organized and
9 existing Delaware corporation, with its principal place of business located in Santa Clara County,
10 and has been authorized to do business in California since March 4, 2002.

11 5. Plaintiffs are informed and believe, and thereon allege, that at all relevant
12 times alleged herein defendant Feldman was, and is, a resident of Santa Clara County. Feldman
13 was, and is, an officer, director and shareholder of ZF Micro Devices. Feldman was, and is, an
14 officer, director and shareholder of ZF Micro Solutions. At all times relevant herein, Feldman was,
15 and is, the sole director and was, and is, in control of both ZF Micro Devices and ZF Micro
16 Solutions. Feldman is the owner of 12.3% of the outstanding shares of ZF Micro Devices.

17 6. The true names and capacities, whether individual, corporate, associate or
18 otherwise, of Defendants Does 1 through 100, inclusive, are unknown to plaintiffs at this time.
19 Plaintiffs are informed and believe, and thereon allege, that each of the Defendants designated
20 herein as Doe is, in some manner, responsible for the events and happenings hereinafter alleged,
21 and caused or contributed to the damages to plaintiffs as set forth in each cause of action. Plaintiffs
22 will seek leave of court to amend this complaint to allege the true names and capacities of the Doe
23 Defendants when the information has been ascertained pursuant to section 474 of the Code of Civil
24 Procedure.

25 7. At all times herein mentioned, Defendants, and each of them, were, and now
26 are, the agents, servants, and employees of each and all of the other Defendants acting within the
27 scope of their authority as such agents, servants or employees, with the permission and consent of
28 said other Defendants.

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1 8. TAT owns or is the duly authorized agent for owners of 21.7%, of the
2 outstanding shares of ZF Micro Devices. Sands owns or is the duly authorized agent for owners of
3 10.4% of the outstanding shares of ZF Micro Devices. Thus, together Plaintiffs own or are duly
4 authorized agents for owners of 32.7% of the outstanding shares of ZF Micro Devices.

5 9. ZF Micro Devices designed and developed a custom micro chip (the "Chip"),
6 and entered into a Product Development Agreement with National Semiconductor ("NSC") to
7 manufacture the Chip.

8 10. On or about March 1, 2002, Feldman, acting as sole director of both ZF
9 Micro Devices and ZF Micro Solutions, caused ZF Micro Solutions to assign certain "Causes of
10 Action" against NSC to ZF Micro Devices purportedly in exchange for payment of a portion of the
11 proceeds of any judgment resulting therefrom (the "Assignment").

12 11. The Assignment was made without the full disclosure by Feldman to, and
13 without the knowledge of, and without the approval of, the shareholders of ZF Micro Devices.

14 12. On April 25, 2002, ZF Micro Solutions filed an action against NSC in the
15 Santa Clara Superior Court entitled *ZF Micro Solutions, Inc. v. National Semiconductor*
16 *Corporation, et al.*, Case No. 1-02-CV-807339 (the "NSC Lawsuit").

17 13. The complaint filed by ZF Micro Solutions in the NSC Lawsuit alleges that
18 ZF Micro Solutions is "just the continuation of ZF Micro Devices."

19 14. Pleadings filed jointly by ZF Micro Devices and ZF Micro Solutions in the
20 NSC Lawsuit state that ZF Micro Devices was "later renamed ZF Micro Solutions."

21 15. At all times herein mentioned, ZF Micro Solutions maintained the same
22 principal place of business as ZF Micro Devices, *viz.*, 1000 Elwell Court, Suite 134, Palo Alto,
23 California, and has the same telephone number, facsimile number and the same website address.
24 The online information on ZF Micro Solutions' website describes the company's history using the
25 phrase "ZF Micro" without distinction between ZF Micro Devices and ZF Micro Solutions.

26 16. In the NSC Lawsuit, NSC contended that ZF Micro Devices could not
27 prosecute the Causes of Action because the claims belonged to ZF Micro Solutions.

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1 17. On or about April 10, 2004, Feldman solicited the shareholders of ZF Micro
2 Devices and requested their consent to the Assignment to ZF Micro Solutions that had been made
3 two years earlier on March 1, 2002.

4 18. On or about April 10, 2004, Feldman, writing on ZF Micro Solutions
5 letterhead, expressly promised ZF Micro Devices shareholders that ZF Micro Solutions would
6 “offer the creditors and each of [the shareholders of ZF Micro Devices] pro-rata participation in the
7 new ZF entity or any recovery received by that entity from National [Semiconductor].”

8 19. On or about April 20, 2004, Feldman declared under oath, “It is my intention
9 to pay [ZF Micro Devices] creditors and shareholders a pro-rata portion of any recovery from
10 [National Semiconductor] from available funds (after deduction of certain costs and expenses) after
11 trial or settlement.”

12 20. In an effort to persuade TAT to consent to the Assignment, on or about
13 April 23, 2004, Feldman represented:

14 It is my intention to treat TAT Capital Partners the same as all other
15 shareholders of ZF Micro Devices (“ZFMD”), should ZFMD or ZF
16 Micro Solutions (“ZFMS”) prevail in the litigation against NSC.
17 Specifically, I intend to share, pro-rata, the recovery (after deduction
of attorneys fees and litigation costs) first with ZFMD’s creditors and
then with ZFMD’s shareholders. I enclose a copy of a declaration,
previously submitted to the Court, which states this.

18 21. In reliance upon Feldman’s express written representations and his
19 declaration, on or after April 23, 2004, TAT and Sands consented to the Assignment to ZF Micro
20 Solutions by ZF Micro Devices of the Causes of Action against NSC.

21 22. Plaintiffs are informed and believe, and thereon allege, that in December
22 2004, a settlement was reached in the NSC Lawsuit whereby NSC would pay jointly to ZF Micro
23 Solutions and ZF Micro Devices the sum of \$20,000,000 in full and complete settlement of all
24 claims (the “Settlement Funds”).

25 23. On or about December 17, 2004, Feldman informed TAT that the NSC
26 Lawsuit had been settled but that there would be no funds available for distribution to ZF Micro
27 Devices shareholders.

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1 24. On or about January 11, 2005, TAT made a written demand that Feldman, ZF
2 Micro Devices and ZF Micro Solutions provide an accounting of the proposed disposition of the
3 Settlement Funds. Feldman did not respond to this request.

4 25. Plaintiffs are informed and believe, and thereon allege, that the Settlement
5 Funds were delivered via wire transfer by NSC to ZF Micro Solutions, ZF Micro Devices and Does
6 1 through 10, inclusive, and 26 through 35, inclusive, on or about February 4, 2005.

7 26. Plaintiffs are informed and believe, and thereon allege, that all or substantial
8 portions of the Settlement Funds were disbursed to Feldman and Does 1 through 100 by or at the
9 direction of Feldman, ZF Micro Solutions, ZF Micro Devices and Does 1 through 10, inclusive, and
10 26 through 35, inclusive, on or about February 4, 2005.

11 27. Plaintiffs have received no portion of the Settlement Funds.

12 28. Plaintiffs have not been given an accounting with respect to the disbursement
13 of the Settlement Funds.

14 **FIRST CAUSE OF ACTION AGAINST ZF MICRO DEVICES**

15 **(Dissolution of Corporation)**

16 29. Plaintiffs reallege and incorporate herein by reference each of the allegations
17 set forth in Paragraphs 1 through 8, inclusive, and 10 through 28, inclusive, above, as though set
18 forth in full.

19 30. Defendant is not subject to the Banking Law, Public Utilities Law, Savings
20 and Loan Association Act, or Sections 1010-1062 of the Insurance Code.

21 31. Plaintiffs are shareholders holding a combined total of not less than 33 1/3%
22 of the equity of the ZF Micro Devices, exclusive of the shares owned by Feldman, who has
23 personally participated in the transactions complained of herein. Plaintiffs are thus entitled to
24 demand the dissolution of ZF Micro Devices pursuant to Corporations Code section 1800.

25 32. The grounds for the dissolution of ZF Micro Devices are that Defendant ZF
26 Micro Devices has abandoned its business for more than one year.

27 33. The grounds for the dissolution of ZF Micro Devices are that Feldman, who
28 is in control of the corporation, has been guilty of and has knowingly countenanced persistent and

1 pervasive fraud, mismanagement and abuse of authority and persistent unfairness toward Plaintiffs
2 and some of the other shareholders of ZF Micro Devices in that (a) Feldman has not caused ZF
3 Micro Solutions to distribute the Settlement Funds in accordance with the pro-rata distribution
4 promised to the shareholders of ZF Micro Devices in return for their consent to the Assignment, (b)
5 Feldman has failed to account to the shareholders of ZF Micro Devices for the Settlement Funds;
6 and (c) Plaintiffs are informed and believe, and thereon allege, that Feldman plans to distribute or
7 has distributed the Settlement Funds in a manner that favors certain shareholders of ZF Micro
8 Devices, including himself and others, to the disadvantage of other shareholders of ZF Micro
9 Solutions, including Plaintiffs to whom Feldman intends to pay, and has paid, nothing.

10 **SECOND CAUSE OF ACTION AGAINST FELDMAN AND DOES 1 THROUGH 40,**
11 **INCLUSIVE AND 51 THROUGH 90, INCLUSIVE**
(Breach of Fiduciary Duty)

12 34. Plaintiffs reallege and incorporate herein by reference each of the allegations
13 set forth in Paragraphs 1 through 5, inclusive, and 8 through 28, inclusive, above, as though set
14 forth in full.

15 35. Feldman, as the sole officer and director of ZF Micro Devices, and Does 1
16 through 40, inclusive, and 51 through 90, inclusive, owed fiduciary duties to the shareholders of ZF
17 Micro Devices.

18 36. Feldman breached the fiduciary duties he owned to Plaintiffs and other
19 shareholders of ZF Micro Devices by, without limitation, the following acts and omissions:

20 a. Failing to prosecute the Lawsuit in the name of ZF Micro Devices
21 rather than in the name of ZF Micro Solutions;

22 b. Failing to distribute the Settlement Funds pro-rata as represented to
23 shareholders of ZF Micro Devices, including Plaintiffs, who relied upon by such representation in
24 consenting to the Assignment; and

25 c. Failing and refusing to provide shareholders of ZF Micro Devices
26 with an accounting of the Settlement Funds.

27 37. As a proximate result of Feldman's breaches of his fiduciary duties to
28 Plaintiffs, Plaintiffs, and each of them, sustained damages in excess of the minimum jurisdictional

1 limits of this Court in an amount to be established at trial according to proof.

2 38. Plaintiffs are informed and believe, and thereon allege, that the conduct of
3 Feldman, as herein alleged, was willful, malicious and oppressive, thereby justifying an award of
4 punitive damages against him in an amount to be determined at trial.

5 **THIRD CAUSE OF ACTION AGAINST FELDMAN, ZF MICRO DEVICES,**
6 **ZF MICRO SOLUTIONS AND DOES 1 THROUGH 50, INCLUSIVE**

7 **(Fraudulent Transfer)**

8 39. Plaintiffs reallege and incorporate herein by reference each of the allegations
9 set forth in Paragraphs 1 through 28, above, as though set forth in full.

10 40. Feldman, ZF Micro Devices, ZF Micro Solutions and Does 1 though 50,
11 inclusive, caused the Assignment of the Causes of Action to be made by ZF Micro Devices to ZF
12 Micro Solutions without consideration and without receipt by ZF Micro Devices of reasonably
13 equivalent value, which constitutes a fraudulent transfer within the meaning of Civil Code section
14 3439.04.

15 41. Feldman, ZF Micro Devices, ZF Micro Solutions and Does 1 though 50,
16 inclusive, caused the disbursement of the Settlement Funds to be made by Defendants to persons
17 other than ZF Micro Devices for less than reasonable equivalent value, which constitutes a
18 fraudulent transfer within the meaning of Civil Code section 3439.04.

19 42. At the time of each of the transfers described above, ZF Micro Devices was
20 insolvent.

21 43. At the time of each of the transfers described above, Defendants knew that
22 ZF Micro Devices was insolvent.

23 44. As a proximate result of the Assignment of the Causes of Action and the
24 disbursement of the Settlement Funds by Defendants to persons other than ZF Micro Devices,
25 Plaintiffs sustained damages in excess of the minimum jurisdictional limits of this Court in an
26 amount to be established at trial according to proof.

27 45. Plaintiffs are informed and believe, and thereon allege, that the conduct of
28 Defendants, as herein alleged, was willful, malicious and oppressive, thereby justifying an award of

1 punitive damages against Defendants in an amount to be determined at trial.

2 **FOURTH CAUSE OF ACTION AGAINST FELDMAN, ZF MICRO DEVICES,**
3 **ZF MICRO SOLUTIONS AND DOES 51 THROUGH 100, INCLUSIVE**

4 (Accounting)

5 46. Plaintiffs reallege and incorporate herein by reference each of the allegations
6 set forth in Paragraphs 1 through 28, above, as though set forth in full.

7 47. Plaintiffs are informed and believe, and thereon allege that Feldman, as the
8 sole director of ZF Micro Devices and ZF Micro Solutions, and Does 51 though 100, inclusive,
9 received the Settlement Funds from NSC and at all times herein mentioned, were and are in control
10 of the Settlement Funds.

11 48. Plaintiffs are informed and believe, and thereon allege, that Feldman and
12 Does 51 through 100, inclusive, have either disbursed or caused ZF Micro Devices or ZF Micro
13 Solutions to disburse all or a portion of the Settlement Funds to parties other than Plaintiffs,
14 including to Feldman himself, or in the alternative, that Feldman and Does 51 through 100,
15 inclusive, at all times herein mentioned were and are in control of all or a portion of the Settlement
16 Funds that have not yet been disbursed.

17 49. The facts with respect to the proper allocation of the Settlement Funds and
18 the actual allocation and disbursement of the Settlement Funds are solely within the knowledge of
19 Feldman, ZF Micro Devices, ZF Micro Solutions and Does 51 through 100, inclusive.

20 50. Feldman, ZF Micro Solutions, ZF Micro Devices and Does 51 through 100,
21 inclusive, have the obligation and the ability to account to the shareholders of ZF Micro Solutions,
22 including Plaintiffs, for the Settlement Funds.

23 51. There is no adequate remedy at law and thus an accounting with respect to
24 the Settlement Funds is necessary to preserve Plaintiffs' rights.

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PRAYER

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows.

On the First Cause of Action:

- 1. That the Court decree a winding up and dissolution of defendant ZF Micro Devices;
- 2. That the Court entertain such proceedings as may be necessary for proper for the involuntary winding up or dissolution of ZF Micro Devices and, in that regard, make such orders for winding up and dissolution of ZF Micro Devices as justice and equity require;
- 3. That the Court appoint a Receiver to take possession of the Settlement Funds pending a judicial determination as to the proper distribution thereof;
- 4. That the Court order ZF Micro Devices, ZF Micro Solutions, Feldman and Does 1 through 10, inclusive, and 26 through 35, inclusive, and their respective agents to deliver and turn over to the Receiver any and all of the Settlement Funds;
- 5. That the Court enjoin ZF Micro Devices, ZF Micro Solutions, Feldman and Does 1 through 10, inclusive, and 26 through 35, inclusive, and their respective agents from disbursing any portion of the Settlement Funds until further order of this Court and in accordance therewith;
- 6. For costs of suit; and
- 7. For such other and further relief as the Court may deem proper.

On the Second Cause of Action:

- 1. For compensatory and exemplary damages against defendant Feldman and Does 1 through 40, inclusive, and 51 through 90, inclusive, for breach of fiduciary duty according to proof;
- 2. That the Court appoint a receiver to take possession of the Settlement Funds pending a judicial determination as to the proper distribution thereof;
- 3. That the Court order ZF Micro Devices, ZF Micro Solutions, Feldman and Does 1 through 40, inclusive, and 51 through 90, inclusive, and their respective agents to deliver

1 and turn over to the Receiver any and all of the Settlement Funds;

2 4. That the Court enjoin ZF Micro Devices, ZF Micro Solutions, Feldman and
3 Does 1 through 40, inclusive, and 51 through 90, inclusive, and their respective agents, from
4 disbursing any portion of the Settlement Funds until further order of this Court and in accordance
5 therewith;

6 5. For costs of suit; and

7 6. For such other and further relief as the Court may deem proper.

8 On the Third Cause of Action:

9 1. For compensatory and exemplary damages against Defendants for fraudulent
10 transfer according to proof;

11 2. That the Court appoint a receiver to take possession of the Settlement Funds
12 pending a judicial determination as to the proper distribution thereof;

13 3. That the Court enjoin ZF Micro Devices, ZF Micro Solutions, Feldman and
14 Does 1 through 50, inclusive, and their respective agents from disbursing any portion of the
15 Settlement Funds until further order of this Court and in accordance therewith;

16 4. For costs of suit; and

17 5. For such other and further relief as the Court may deem proper.

18 On the Fourth Cause of Action:

19 1. That Feldman, ZF Micro Devices and ZF Micro Solutions be ordered to
20 account to Plaintiffs for the Settlement Funds;

21 2. That the Court appoint a Receiver to take possession of the Settlement Funds
22 pending a judicial determination as to the proper distribution thereof;

23 3. That the Court order ZF Micro Devices, ZF Micro Solutions, Feldman and
24 Does 51 through 100, inclusive, and their respective agents to deliver and turn over to the Receiver
25 any and all of the Settlement Funds;

26 4. For a judicial determination as to the proper distribution of the Settlement
27 Funds;

28 5. For costs of suit; and

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6. For such other and further relief as the Court may deem proper.

DATED: February 13, 2005

JEFFER, MANGELS, BUTLER & MARMARO LLP
RICHARD A. ROGAN
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MATTHEW S. KENEFICK

By: Richard A. Rogan
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VERIFICATION

I, Mark Putney, declare:

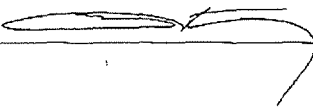
I have read the foregoing VERIFIED COMPLAINT FOR DISSOLUTION OF CORPORATION, BREACH OF FIDUCIARY DUTY, FRAUDULENT TRANSFER AND FOR AN ACCOUNTING and know its contents.

1. I am a party to this action. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

2. I am an Officer a partner, a TAT Investment of Advisory Ltd., a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. I am informed and believe that the matters stated herein are true.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on February 12th, 2005, at San Jose, California.


SIGNATURE