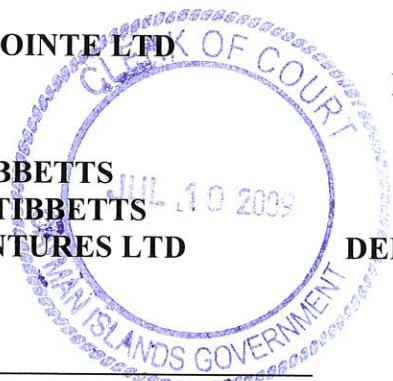


**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO. 331 OF 2009**

**BETWEEN: (1) WINDMILL POINTE LTD** **PLAINTIFF**

**AND: (1) LONNY L. TIBBETTS**  
**(2) SAMANTHA TIBBETTS**  
**(3) LEGACY VENTURES LTD** **DEFENDANTS**



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**WRIT OF SUMMONS**

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**TO: LEGACY VENTURES LTD**  
PO Box 31160 SMB  
40 Lakeforest Way  
George Town  
Grand Cayman KY1-1106  
CAYMAN ISLANDS

**LONNY L. TIBBETTS**  
PO Box 31160 SMB  
40 Lakeforest Way  
George Town  
Grand Cayman KY1-1106  
CAYMAN ISLANDS

**SAMANTHA TIBBETTS**  
PO Box 31160 SMB  
40 Lakeforest Way  
George Town  
Grand Cayman KY1-1106  
CAYMAN ISLANDS



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 9<sup>th</sup> day of July 2009.

NOTE - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form.



### Notes on address for service

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

*Indorsement by Plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.*

Campbells  
Attorneys-at-Law  
4<sup>th</sup> Floor  
Scotia Centre  
George Town  
GRAND CAYMAN, KY1-1103  
Cayman Islands  
  
Ref: AJW/BJH

*Indorsement by Defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.*

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE**  
**OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman KY1-1106.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

**See over for notes for guidance**

**Notes for Guidance:**

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a **FIRM** and an attorney is not instructed, the form must be completed by a **PARTNER** by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual **TRADING IN A NAME OTHER THAN HIS OWN**, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO. OF 2009**

**BETWEEN: (1) WINDMILL POINTE LTD**  
**PLAINTIFF**

**AND: (1) LONNY L. TIBBETTS**  
**(2) SAMANTHA TIBBETTS**  
**(3) LEGACY VENTURES LTD** **DEFENDANTS**

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**STATEMENT OF CLAIM**

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1. The Plaintiff (“Windmill”) is a limited company, company registration number 59225, registered in the Cayman Islands.
2. The First Defendant (“Mr. Tibbetts”) is a resident of the Cayman Islands and was, at all material times, a director of the Third Defendant.
3. The Second Defendant (“Mrs. Tibbetts”) is a resident of the Cayman Islands and was, at all material times, the secretary of the Third Defendant.
4. The Third Defendant (“Legacy”) is a limited company, company registration number 133830, registered in the Cayman Islands and is, and was at all material times, the registered proprietor of two condominium units registered at the Cayman Islands Land Registry under title numbers Registration Section George Town South, Block 14E Parcels 735H2 and 735H4 (“the Units”).
5. In or about late 2006/early 2007, by an agreement made between Windmill and/or an agent of Windmill and Mr. Tibbetts, as a director of Legacy, Legacy agreed to sell the Units to Windmill or its nominees for the following sums namely:
  - (a) Unit 2 : CI\$240,000.00; and
  - (b) Unit 4 : CI\$213,750.00.

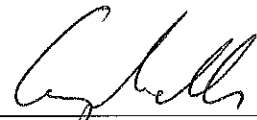
6. Following Legacy's agreement to sell the Units, an agent of Windmill delivered to Mr. Tibbetts, on behalf of Legacy, a cheque for CI\$453,750.00, payable to Mr. Tibbetts. The cheque was then cashed and/or deposited by Mr. Tibbetts.
7. It was expressed, alternatively implied, by all parties that unencumbered title to the Units would pass to Windmill or its nominees on payment of the sum of CI\$453,750.00.
8. In 2007, the First and Second Defendant signed transfer of land forms, as director and secretary of Legacy respectively, in an attempt to transfer title of the Units to Windmill.
9. Despite Windmill providing payment in full, transfer of title of the Units to Windmill or its nominees never occurred. The Units remain registered in the name of Legacy, subject to a legal charge in favour Legacy's lenders.
10. In the circumstances, the consideration for the payment of the sum of CI\$453,750.00 by, or on behalf of, Windmill has wholly failed.
11. Further, Mr. Tibbetts and/or Mrs. Tibbetts and/or Legacy have had and received Windmill's money for their own use, and Windmill is entitled to its return.
12. Further or alternatively, the facts and matters set out above give rise to a proprietary estoppel, in circumstances in which it would be unjust and inequitable for Mr. Tibbetts and/or Mrs. Tibbetts and/or Legacy to deny the existence of the agreement and/or the requirement to transfer unencumbered title of the Units to Windmill or its nominees.
13. Further, Windmill seeks and is entitled to interest, pursuant to section 34 of the Judicature Law (2004 Revision) at such rate from such date and on such amount as the Court thinks fit alternatively, compound interest in equity at such rate from such date and on such amount as the Court thinks fit.

**AND THE PLAINTIFF CLAIMS:**

- (1) Repayment of the sum of CI\$453,750.00, plus interest at the statutory rate;
- (2) Alternatively, damages in lieu of specific performance, together with all necessary accounts and enquiries;
- (3) Statutory alternatively equitable interest to be assessed;
- (4) Costs; and
- (5) Such further and other relief as the Honourable Court deems just.

DATED this 9<sup>th</sup> day of July 2009

FILED this 9<sup>th</sup> day of July 2009



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**CAMPBELLS**

Attorneys-at-Law for the Plaintiff