

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 045 OF 2009

BETWEEN:

- (1) C.L. FLOWERS & SONS LTD.
- (2) FRANK E. FLOWERS
- (3) EVE L. FLOWERS
- (4) DARA FLOWERS-BURKE



PLAINTIFFS

AND:

- (1) AMBIKA OUTAR (ALSO KNOWN AS ROOPWATTIE OUTAR)
- (2) TERRENCE OUTAR (ALSO KNOWN AS DOODNAUTH OUTAR)

DEFENDANTS

WRIT OF SUMMONS

- TO: (1) **AMBIKA OUTAR** (also known as Roopwattie Outar) of 21 Heatherbank Trail, Scarborough, Ontario, M1B 5M6, Canada.
- (2) **TERRENCE OUTAR** (also known as Doodnauth Outar) of Apartments 1 and 2 Moon Apartments, 81 Keturah Street, George Town, Grand Cayman.

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

Within *14 days* after the service of this Writ on you, counting the day of service, (or within 28 days in the case of those Defendants served out of the jurisdiction) you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands, 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 Plaintiffs may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this 31st day of August 2009.

NOTE: -This Writ may not be served later than 4 calendar 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.

INDORSEMENT

The Plaintiffs are, variously, members of the "Flowers Group" of companies and the "Flowers" family who have extensive business interests in the Cayman Islands. The 1st Defendant is employed by the 1st Plaintiff as its office/accounts manager and in that capacity she provided managerial services not only to the 1st Plaintiff but to all the other Plaintiffs as well. The 2nd Defendant is the 1st Defendant's husband who has also provided accounting services to the 1st Plaintiff. The Plaintiffs' claim for relief arises from the 1st Defendant's fraudulent misappropriation of their assets (variously) during the course of her employment with the 1st Plaintiff in breach of her fiduciary obligations to them causing the Plaintiffs loss and damage.

The Plaintiffs' claim for relief against the 2nd Defendant arises from their claim that the 2nd Defendant knowingly received and benefitted from the assets misappropriated from the Plaintiffs by the 1st Defendant and/or their claim to recover the proceeds of the fraud traceable to the 2nd Defendant and/or their claim that the 2nd Defendant was unjustly enriched by the receipt of monies and other benefits derived from the fraud.

The Plaintiffs discovered the 1st Defendant's fraud in the course of an internal investigation and an investigation conducted by KPMG which remains ongoing.

In addition to the relief sought arising from the fraudulent activities of the 1st Defendant, the 2nd and 3rd Plaintiffs also claim as against the 1st and 2nd Defendants the unpaid rent owing under the rental agreement for Apartments 1 and 2 Moon Apartments, 81 Keturah Street, George Town, Grand Cayman.

A. AND THE 1ST TO 4TH PLAINTIFFS CLAIM:-

1. Against the 1st Defendant:-

- (i) An account of all sums misappropriated by the 1st Defendant and paid away by her or at her direction from the Plaintiffs; and
- (ii) An order for payment to the Plaintiffs of all sums found due on the taking of the account pursuant to paragraph (i) above in accordance with their respective entitlement; and
- (iii) A declaration that the 1st Defendant holds all sums received by her in fraud of the Plaintiffs as constructive trustee for the Plaintiffs in accordance with their respective entitlement and an order that she pays those sums to the Plaintiffs; and
- (iv) A declaration that any assets upon which such sums or part thereof referred to in paragraph (iii) above has been expended or acquired thereby are held by the 1st Defendant as constructive trustee for the Plaintiffs in accordance with their respective entitlement; and
- (v) Damages in the tort of deceit; and/or
- (vi) Damages for conspiracy to defraud; and/or

(vii) Damages for breach of fiduciary duty.

2. Against the 2nd Defendant:-

- (i) A declaration that the 1st Defendant is liable to account to the Plaintiffs as constructive trustee on the ground of knowing receipt of monies paid in breach of the 1st Defendant's fiduciary duty; and
- (ii) An order that the 2nd Defendant pays those sums found due on the taking of an account pursuant to paragraph (i) above to the Plaintiffs in accordance with their respective entitlement; and/or
- (iii) A declaration that the 2nd Defendant holds all sums received by him in fraud of the Plaintiffs on trust for the Plaintiffs and is liable to account to the Plaintiffs for the same; and
- (iv) An order that the 2nd Defendant pays those sums found due on the taking of the account pursuant to paragraph (iii) above to the Plaintiffs in accordance with their respective entitlement; and/or
- (v) An order that the 2nd Defendant do make restitution to the Plaintiffs in accordance with their respective entitlement of all monies and/or other benefits which he received in fraud of the Plaintiffs and by which he has been unjustly enriched.

3. Against the 1st and 2nd Defendants:-

- (i) Such injunctive and ancillary relief as this Honourable Court deems just and appropriate.
- (ii) All necessary accounts and inquiries to enable the Plaintiffs to trace and recover the misappropriated funds including such orders for the delivery up or transfer of assets to the Plaintiffs as may be appropriate.
- (iii) Such other declaratory and/or equitable relief that this Honourable Court deems just and appropriate.
- (iv) Further or other relief.
- (v) Interest on all sums due to the Plaintiffs pursuant to Section 34 of the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules 1995 (as

amended) at such rate and for such period as this Honourable Court thinks just and/or in equity.

(vi) Costs.

B. AND THE 1ST PLAINTIFF CLAIMS

(i) As against the 1st Defendant damages for breach of her contract of employment.

C. AND THE 2ND AND 3RD PLAINTIFFS CLAIM

(i) As against the 1st and 2nd Defendants outstanding rent for Apartments 1 and 2 Moon Apartments, 81 Keturah Street, George Town, Grand Cayman in the sum of CI\$68,400.00.



Charles Adams Ritchie & Duckworth

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 495G, George Town, Grand Cayman.

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.

BETWEEN:

- (1) C.L. FLOWERS & SONS LTD.
- (2) FRANK E. FLOWERS
- (3) EVE L. FLOWERS
- (4) DARA FLOWERS-BURKE

PLAINTIFFS

AND:

- (1) AMBIKA OUTAR (ALSO KNOWN AS ROOPWATTIE OUTAR)
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DEFENDANTS

**ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

 2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

<input type="checkbox"/> yes	<input type="checkbox"/> no
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 3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)

<input type="checkbox"/> yes	<input type="checkbox"/> no
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Service of the Writ is acknowledged accordingly

(Signed).....
Attorney for the Defendants

Please complete overleaf

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

Charles Adams Ritchie & Duckworth
PO Box 709
2nd Floor Zephyr House
122 Mary Street
George Town, Grand Cayman
Cayman Islands, BWI
KY1-1107

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

[Empty box for Defendant's Attorney indorsement]