

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 459 OF 2009

IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)

BETWEEN:

SCOTIABANK & TRUST (CAYMAN) LTD

AND

1. WALLING WHITTAKER
2. MELODY WHITTAKER



Plaintiff

Defendants



ORIGINATING SUMMONS

TO:

Walling Whittaker
PO Box 151
Grand Cayman KY1-1501
CAYMAN ISLANDS

Melody Whittaker
PO Box 151
Grand Cayman KY1-1501
CAYMAN ISLANDS

LET THE DEFENDANTS of the address set out above attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the _____ day of _____ 2009 at 9:30am on the hearing of an application by the Plaintiff of PO Box 689, Grand Cayman, KY1-1107, Cayman Islands for the following orders:

1. That a declaration be made that the Defendants are in default of payment of the principal sum payable under the following:
 - First Charge registered on 18 May 1994 and shown by instrument #2786/94;
 - Varied on 7 November 1994 and shown by instrument #6688/94;
 - Varied on 29 April 1997 and shown by instrument #3109/97;
 - Varied on 23 February 1999 and shown by instrument #1740/99;
 - Second Charge registered on 1 February 2001 and shown by instrument #772/01; and,

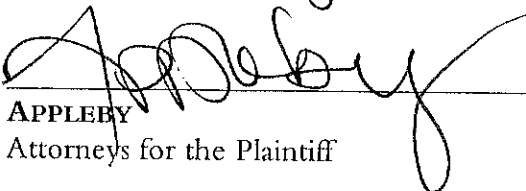
- First and Second Charges varied and consolidated on 19 May 2004 and shown by instrument #4724/04.

made between the Defendants and the Plaintiff, Scotiabank & Trust (Cayman) Ltd (the "**Charge**"), by virtue of which the property in the Registration Section **Lower Valley, Block 32C, Parcel 211** (the "**Property**") was charged by the Defendants by way of legal charge in favour of the Plaintiff to secure the principal sum of CI\$495,000.00 and interest at the rate specified in the schedules thereto.

2. That the Defendants deliver possession of the Property to the Plaintiff.
3. That the Charge be enforced by the sale by private treaty of the Property (as well as by Public Auction).
4. That the terms and conditions of sale by private treaty be determined, if any.
5. That leave be granted to issue a Writ of Possession with respect to the Property.
6. Such further or other relief as the Court thinks fit.
7. Costs.

AND LET THE DEFENDANTS within 14 days after service of this summons on them counting the day of service, return the accompanying Acknowledgement of Service to the Courts office.

DATED: 5 August 2009



 APPLEBY
 Attorneys for the Plaintiff

- NOTES:**
1. This Summons 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 above date unless renewed by order of the Court.
 2. If the Defendants do not attend personally or by their attorney at the time and place above-mentioned such order will be made as the Court may think just and expedient

IMPORTANT

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

This ORIGINATING SUMMONS was issued by Appleby, Attorneys-at-Law, for and on behalf of the Plaintiff whose address for service is Clifton House, 75 Fort Street, PO Box 190, Grand Cayman, KY1-1104, Cayman Islands (ref: NB/10187/318)

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF ORIGINATING SUMMONS

The accompanying form of Acknowledgement 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, PO Box 495, Grand Cayman, KY1-1106, Cayman Islands.

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. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. For the purpose of calculating the period of 14 days for acknowledging service, an Originating Summons served on the Defendant personally is treated as having been served on the day it was delivered to him.
4. 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 Originating Summons)".
5. 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.
6. 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.
7. 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.
8. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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B E T W E E N:

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Plaintiff

AND

- 1. WALLING WHITTAKER
- 2. MELODY WHITTAKER

Defendants

ACKNOWLEDGMENT OF SERVICE OF ORIGINATING 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.

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

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- 2. State whether the Defendant intends to contest or otherwise participate in the proceedings (*tick appropriate box*)

yes

no

Service of the Originating Summons is acknowledged accordingly

(Signed).....

[Attorney] for
[Defendant in person]
Address for service:

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 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.

<p>Appleby Clifton House 75 Fort Street PO Box 190 Grand Cayman KY1-1104 CAYMAN ISLANDS</p> <p>Ref: NB/00138.857</p>

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

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