

IN THE GRAND COURT OF THE CAYMAN ISLANDS

592  
CAUSE NO. OF 2009

BETWEEN:

CAYMAN NATIONAL BANK LIMITED

PLAINTIFF

AND

EMAC INVESTMENTS LIMITED  
EDLIN MYLES

DEFENDANTS

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**WRIT OF SUMMONS**

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**TO:** Emac Investments Limited of PO Box 1300, 51 Croton Lane, Tropical Gardens, George Town, Grand Cayman KY1-1108.

**AND TO:** Edlin Myles, PO Box 1300, Grand Cayman KY1-1108

**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 service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman KY1-1106, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

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

ISSUED this 25<sup>th</sup> day of November 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 Acknowledgement of Service are given with the accompanying form.

### STATEMENT OF CLAIM

1. The Plaintiff is a Bank carrying on business at 200 Elgin Avenue, PO Box 1097, Grand Cayman KY1-1102 and the Defendants have, and at all material times have been, customers of the Plaintiff. Furthermore the Second Defendant has, and at all material times has been a guarantor.
2. On or about 15<sup>th</sup> February 2008 the Plaintiff agreed to lend and the First Defendant agreed to borrow the sum of CI\$59,500.00 pursuant to a signed Letter of Offer ("the Agreement").
3. The Second Defendant signed the Agreement and was a guarantor unlimited as to amount.
4. It was a term of the Agreement that the loan was repayable by blended payments of principal and interest amortized over a period of 84 months and that all advances remained repayable on demand at the Plaintiff's discretion.
5. The Agreement provided that the Plaintiff may at any time demand immediate repayment of the loan and that the loan facility would thereupon terminate.
6. In or about July 2009 there was default in payment to the Plaintiff and since that date no deposits to the account have been made.
7. Despite written demands made to the Defendants on the 4<sup>th</sup> November 2009 by the Plaintiff's attorneys demanding payment the sum outstanding has not been repaid.
8. It was an express term of the Agreement that the interest rate applied to the loan would be 4% per annum above CI Dollar Prime Rate, namely 7.25% per annum, a daily rate of CI\$10.51. Interest is payable from 2<sup>nd</sup> November 2009.
9. The Defendants are indebted to the Plaintiff in respect of the said loan in the total sum of CI\$51,942.83, made up of CI\$51,703.07 by way of principal and CI\$239.76 by way of interest.
10. Interest on the above principal sum continues to accrue at 7.25% per annum, a daily rate of CI\$10.51 until payment.


### AND THE PLAINTIFF CLAIMS:-

1. Payment of the principal sum of CI\$51,703.07 together with interest on this sum as set out at paragraph 8 above in the sum of CI\$239.76 and continuing from the date hereof at the daily rate of CI\$10.51.

2. Fixed costs of CI\$500.00 together with the prescribed court fees of CI\$617.03, alternatively costs to be assessed.
3. Further or other relief.

If, within the time limited for acknowledging service of these proceedings, the Defendants pay to the Plaintiff's attorneys the total amount claimed (including interest and costs) further proceedings will be stayed.

Dated the 25<sup>th</sup> day of November 2009

  
\_\_\_\_\_  
**RITCH & CONOLLY**  
Attorneys at Law for the Plaintiff

- TO:** The Clerk of the Court
- AND TO:** The First Defendant of PO Box 1300, 51 Croton Lane, Tropical Gardens, George Town, Grand Cayman KY1-1108
- AND TO:** The Second Defendant of PO Box 1300, Grand Cayman KY1-1108

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EDLIN MYLES

DEFENDANTS

ACKNOWLEDGEMENT 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 Judgement 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.

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

Yes

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 judgement entered by the Plaintiff (*tick box*)

Yes

Service of the Writ is acknowledged accordingly

(Signed) .....

[Attorney] for

[Defendant in person]

Address for service:

*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.

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

Ritch & Conolly  
Queensgate House  
113 South Church Street  
PO Box 1994  
Grand Cayman KY1-1104  
  
Ref: MSB/CNB/11882

*Endorsement 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 endorsement]

**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, 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 endorsed 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**

**Please complete overleaf**

## 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.