

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: **G305** OF 2010

IN THE MATTER OF SECTION 77 OF THE REGISTERED LAND LAW (2004 REVISION)

AND IN THE MATTER OF A CHARGE ("THE RIP IX CHARGE") DATED 19 OCTOBER 2007 OVER THAT PARCEL OF LAND KNOWN AS SOUTH SOUND, BLOCK 7D, PARCEL 4

AND IN THE MATTER OF A CHARGE DATED 25 OCTOBER 2007, AND VARIED BY VARIATION OF CHARGE DATED 26 SEPTEMBER 2008 ("THE RIP X CHARGE"), OVER THAT PARCEL OF LAND KNOWN AS BREAKERS, BLOCK 56C, PARCEL 107

BETWEEN:



INT'L E-TRADE EQUITIES (04) LTD.

PLAINTIFF

AND:

RIP IX LTD.



FIRST DEFENDANT

RIP X LTD.

SECOND DEFENDANT

ORIGINATING SUMMONS

LET THE DEFENDANTS, C/o Stuarts Corporate Services Ltd, 4th Floor, Cayman Financial Centre, Dr Roy's Drive, P.O. Box 2510, George Town, Grand Cayman KY1-1104 attend before a Judge in Chambers at the Law Courts, George Town, Grand Cayman on the _____ day of 2010 at _____ a.m. on the hearing of an application by the Plaintiff of P.O. Box 1366, Grand Cayman KY1-1108 for the following relief:

1. An order pursuant to s.77 of the Registered Land Law (2004 Revision) (the "RLL") varying the application of ss.72 – 75 of the RLL in accordance with clause 7 of each of the RIP IX Charge and of the RIP X Charge (collectively the "Charges"), such that upon breach by the Defendants of any of the covenants or obligations under the Charges:

- (i) The whole of the principal sum and interest, and any other sums due under the Charges, becomes immediately due and payable;
 - (ii) The Plaintiff may proceed by way of power of sale, and/or appointing a receiver without further notice;
 - (iii) The Plaintiff has the right to sell the charged property in each case by private treaty or by public auction, or in part one way and part the other; and
 - (iv) The provisions for the receiver's remuneration under s.73(6) of the RLL, be varied from 5% to 10%.
2. Such further and other relief and directions as the Plaintiff may require as to the exercise of its powers and rights under the Charges; and
 3. The costs of this application.

ON THE FOLLOWING GROUNDS:

1. That the Defendants were repeatedly in default more than 14 days the payments due by them on the first of each month under the Charges.
2. That commencing 1 February 2010 the Plaintiff required the Defendants to pay interest at the default interest rate of 15% per annum.
3. That the Defendants failed to pay interest at the default interest rate in respect of the payments due under the Charges respectively on 1 February, 1 March, 1 April, 1 May 2010, and instead made payment at the non-default rate of 12% per annum and more than 14 days late in each case.
4. That commencing 1 June 2010, the Defendants have defaulted entirely in their payments under the Charges respectively, and have communicated that they are unable to make any further payments under the Charges.
5. That on 19 August 2010 the Plaintiff caused to be served on the Defendant at their registered office, Notices of Default under the Charges and requiring them to perform and observe the provisions of the Charges.
6. That the Defendants have failed to respond to the Notices of Default or to remedy their default under the Charges respectively.
7. That clause 7 of the Charges in each case makes provision for the variation of the application of ss.72-75 of the RLL to the Charges to permit the Plaintiff to exercise the rights and remedies set out at paragraph 1 of this Originating Summons.

8. That it is appropriate that such relief be granted, and the notice periods abridged to permit the Plaintiff to exercise the rights and remedies sought in this Originating Summons including the ability to list the charged property for sale by private treaty.
9. Such further and other grounds as are disclosed in the affidavit or affidavits filed in support of this Originating Summons.

AND LET THE DEFENDANTS within 14 days after service of this Originating Summons on them, counting the day of service, return the accompanying Acknowledgment of Service to the Court's Office.

DATED this 3rd day of September 2010

HAMPSON & CO.

Hampson and Company
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 that date unless renewed by order of the Court.
2. If a Defendant does not attend personally or by his attorney at the time and place above-mentioned such order will be made as the Court may think just and expedient

IMPORTANT

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

This Originating Summons is issued by Hampson and Company attorneys for the Plaintiff, whose address for service is that of its said attorneys, at Citrus Grove, Fifth Floor, Goring Avenue, P.O. Box 698, Grand Cayman KY1-1107, Cayman Island

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING SUMMONS**

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.

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, a writ 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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PLAINTIFF

AND:

RIP IX LTD.

FIRST DEFENDANT

RIP X LTD.

SECOND DEFENDANT

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.

-
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:

Indorsement by Plaintiff's attorney of his name, address and reference, if any, in the box below.

Hampson and Company
Citrus Grove, Fifth Floor,
Goring Avenue, P.O. Box 698,
Grand Cayman KY1-1107
Cayman Islands

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]