

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 334 OF 1995

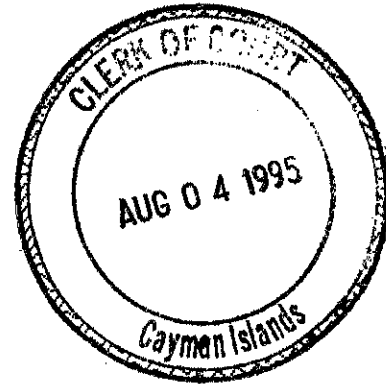


BETWEEN: THE SHELL COMPANY (W.I.) LIMITED Plaintiff
AND: (1) BREEZE CONSTRUCTION COMPANY LIMITED
T/A GENERAL LUBRICANTS CAYMAN
(2) MR. DAVID PEYNADO Defendants

WRIT OF SUMMONS

TO: Breeze Construction Company Limited
T/A General Lubricants Cayman
c/o P.O. Box 1870
George Town, Grand Cayman

AND TO: Mr. David Peynado
c/o Collins Broadhurst & Furniss
Attorneys-at-Law
Elizabethan Square, George Town.



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 Fourteen days [14] 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 ^M day of August, 1995.

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

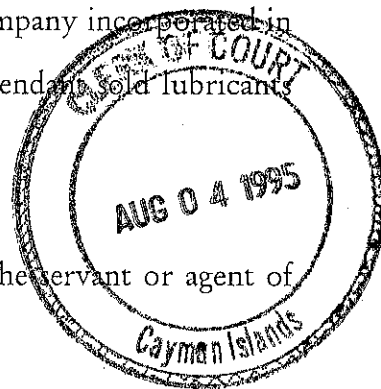
Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM



1. The Plaintiff is and was at all material times a limited liability company with offices in Jamaica which is engaged in the sale and distribution of petroleum products and chemicals.

2. The First Defendant is and was at all material times a company incorporated in the Cayman Islands. At all material times the First Defendant sold lubricants by way of business but has now ceased to trade.



3. The Second Defendant is and was at all material times the servant or agent of the First Defendant.

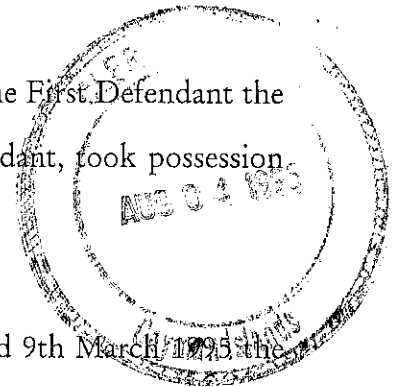
4. By a agreement between the Plaintiff and the First Defendant ("the Agreement") entered into on or about early February 1994, the Plaintiff agreed to sell and the First Defendant agreed to purchase certain petroleum products ("the Goods") amounting to the sum of US\$35,841.90. Pursuant to the said Agreement, on or about the 25th February, 1994 the Plaintiff delivered to the First Defendant the Goods priced at US\$35,841.90 in the Plaintiff's export price list. The cost of freight was US\$2,062.00 and the cost of shipping insurance was US\$820.19.

5. On or about the 25th February, 1994, the Plaintiff supplied to the First Defendant an invoice dated the 25th February, 1995 numbered E/43, containing full particulars of the Goods and requesting payment for them and payment of the freight and shipping insurance charges in the total sum of

US\$38,724.09. The Plaintiff will refer to and rely upon the said invoice at trial for its full terms and effects.



6. It was *inter alia* an express term of the Agreement that the price paid by the First Defendant for the said lubricants would be that given in the Plaintiff's export price list, as from time to time amended.
7. It was *inter alia* an implied term of the Agreement that the First Defendant would bear the cost of freight and shipping insurance for the lubricants.
8. At or about the date when the Goods were delivered to the First Defendant the Second Defendant, as servant or agent of the First Defendant, took possession of them.
9. By a letter from its attorneys to the First Defendant dated 9th March 1995 the Plaintiff demanded payment of the said sum of US\$38,724.09 or alternatively the return of all the Goods.
10. By written notice dated 7th April 1995 from its attorneys to the Second Defendant the Plaintiff required the Second Defendant to deliver up the Goods to the Plaintiff.
11. The Second Defendant continues to hold the Goods for and on behalf of the First Defendant. The First Defendant has not paid to the Plaintiff the said sum of US\$38,724.09 or any part thereof.



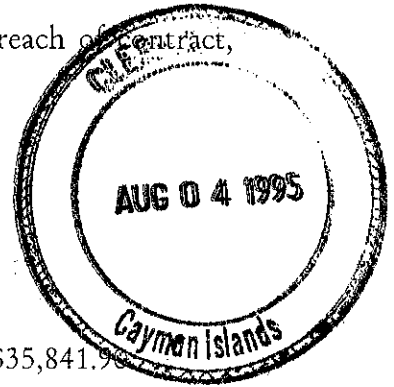
12. In the premises the First and Second Defendants have wrongfully failed and refused to deliver up the Goods to the Plaintiff and have thereby converted the same to the use of the First Defendant and wrongfully deprived the Plaintiff of their use.



13. Further or alternatively, in the premises the First and Second Defendants have wrongfully detained and still detain the Goods from the Plaintiff.

14. Further or alternatively, in the premises the First Defendant is in breach of the Agreement.

15. By reason of the said conversion, and/or detinue, and/or breach of contract, the Plaintiff has suffered loss and damage.



PARTICULARS

Goods	US\$35,841.90
Freight	US\$ 2,062.00
Insurance	US\$ 820.19
	<u>US\$38,724.09</u>

Damages representing the cost of freight and insurance are sought only in respect of the claim for breach of contract.

15. Further, the Plaintiff claims interest pursuant to the Judgment Debts (Rates of Interest) Rules 1995 at the rate of 8 3/8 % per annum:

- (1) On the said sum of US\$35,841.90:
- (a) From 27th March 1994 (493 days), amounting to US\$4,266.18 at the date hereof;
 - (b) Alternatively, from 9th March 1995 (140 days), amounting to US\$1,150.80 at the date hereof;
 - (c) Alternatively, from 7th April 1995 (117 days), amounting to US\$961.74 at the date hereof;



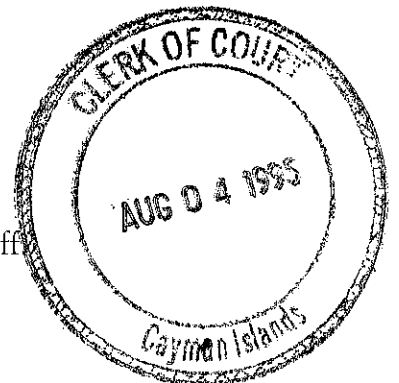
and continuing hereafter until judgment or sooner payment at the rate of US\$8.22 per day;

- (2) On the said sum of US\$2,882.19 (= US\$2,062.00 + US\$820.19) from 27th March 1994 (493 days), amounting to US\$325.38 at the date hereof, and continuing hereafter until judgment or sooner payment at the rate of US\$0.66 per day;

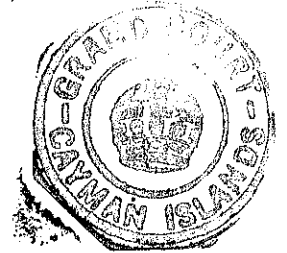
Alternatively on the amount found to be due to the Plaintiff at such rate and for such period as may be just.

AND THE PLAINTIFF CLAIMS:

- (1) A declaration that the Goods are the property of the Plaintiff



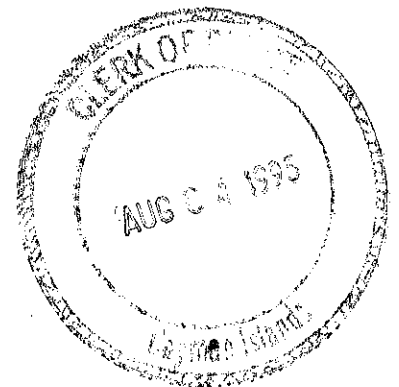
- (2) An injunction to restrain the First and Second Defendants, or either of them, by themselves, their servants or agents, or how otherwise, from selling, disposing of or in any way dealing with the Goods or any of them without the written consent of the Plaintiff.
- (3) An order for the delivery up by the First and Second Defendants to the Plaintiff of the Goods, or payment of US\$38,724.09, their value.
- (4) As against the First and Second Defendants, damages for conversion and/or detention of the Goods; further or alternatively, as against the First Defendant, damages for breach of contract.
- (5) Interest as aforesaid pursuant to the Judgment Debts (Rates of Interest) Rules, to be assessed.
- (6) Such further or other relief as may be just.



DATED this 4th day of August, 1995

Paget-Brown Quin & Hampson

PAGET-BROWN, QUIN & HAMPSON
Attorneys-at-Law for the Plaintiff



THIS WRIT was issued by Messrs. Paget-Brown, Quin & Hampson, Attorneys-at-Law for the Plaintiff, whose address for service is Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman, B.W.I.