

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**Civil Division**

**Cause No. CIV 0332 of 2011**



**BETWEEN:            BAYSHORE PROPERTIES LTD.            PLAINTIFF**

**AND:            (1)    CALIFORNIA LTD.**  
**(2)    SHIVA WARREN**

**DEFENDANTS**

**WRIT OF SUMMONS**

**TO:            CALIFORNIA LTD. of Maricorp Services Ltd., PO Box 2075, #31 The Strand,  
                  46 Canal Point Road, George Town, Grand Cayman.**

**AND TO:        Shiva Warren of 256 Water Street, Savannah Grand Cayman.**

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 the 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 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 23<sup>rd</sup> day of August, 2011.

NOTE – This Writ 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. First Defendant is a company purportedly formed under the provisions of the Companies Law. At all material times the First Defendant was a tenant of that space known as unit B7 at the Bayshore Mall (“the Premises”) from which it carried on under the name “Pipino’s Pizza” the trade of a pizzeria and sale of soft drinks and Italian food specialties and purposes ancillary to those uses.
2. The Second Defendant is resident at 256 Water Street, Savannah. Since July 2009 the Second Defendant has been a shareholder of the First Defendant and the surety of the First Defendant’s obligations and liabilities pursuant to a lease of the Premises.
3. On or about 16<sup>th</sup> May 2006 the First Defendant executed a lease (“the Lease”) of the Premises for a period of 5 years commencing 1<sup>st</sup> February 2006 (the Plaintiff shall refer to the terms of the Lease at the trial hereof for its full terms and effect).
4. The Lease was originally guaranteed by Mssrs. Frank Davito and Francis Davito (“the Davitos”).
5. On a date unknown in July 2009 the Davitos, the Second Defendant and the Plaintiff entered a deed of release, discharge and substitution which was supplemental to the Lease (“the Deed”) (the Plaintiff shall refer to the Deed at trial hereof for its full terms and effect).
6. The following are terms of the Deed:-
  - 6.1 *the Landlord and the Buyer hereby accept the substitution of the Buyer as surety for the Lease and the Buyer hereby contemporaneously assumes all obligations, liabilities and guarantees under the Lease as previously assumed by the Surety, including but not limited to all obligations, liabilities and guarantees contained within clause 7 of the Lease with effect from the date of this Deed.*
  - 6.2 *The parties hereby agree that all references to “the Surety” in the Lease shall now be construed to mean the buyer with effect from the date of this Deed.*

7. In the Deed "the Landlord" is defined as being the Plaintiff and "the Buyer" is defined as being the Second Defendant.

8. The following are provisions of the Lease:-

(i) *"INTEREST" means interest at the rate of 4 per cent over the base rate of FirstCaribbean International Bank for the time being and from time to time (as well after as before judgment), or such other comparable rate as the Landlord may reasonably designate if the base rate ceases to be published, compounded at quarterly rests on March 31, June 30, September 30 and December 31 in each year*

(ii) *2.1 the Tenant PAYING during the Term:*

*2.3.1. the yearly rent of CI\$30,960.00 (subject to revision under Schedule 2) by equal monthly payments in advance on the first business day of each month the first (or a proportionate part) of such payments in respect of the period commencing on 1<sup>st</sup> February 2006.*

*2.3.2. as additional rent*

*2.3.2.1 the monies payable by the Tenant under Schedules 3 and 4 commencing on 1<sup>st</sup> February 2006; and*

*2.3.2.2 interest payable by the Tenant under the terms of this Lease.*

(iii) *3.1 Rent*

*3.1.1 To pay the yearly rent reserved by this Lease, free from any deductions and rights of set-off, at the times and in the manner required in Clauses 2.3.1.*

*3.1.2 To pay the additional rents reserved by this Lease at the times and in the manner specified in relation to each of them. Interest thereon pursuant to the terms of the promissory note at the rate of 9% per annum to the date of payment. At the date hereof the daily rate being US\$132.28.*

*3.2 Interest*

*3.2.1 To pay Interest on so much of the rents, reviewed rents, and other monies payable under this Lease as remain unpaid seven days after they have become due from the date that they became due until the payment is made to the Landlord.*

*3.2.2 To pay Interest under Clause 3.2.1 for any period during which the Landlord properly refuses to accept the tender of payment because of an unremedied breach of covenant of the Tenant.*

**3.3 Outgoings and contributions**

3.3.1 To pay Outgoings;

3.3.2 To refund to the Landlord on demand where Outgoings relate to the whole or part of the Shopping Centre or other property including the Premises, a fair and proper proportion attributable to the Premises, such proportion to be conclusively determined by the Landlord;

3.3.3 To pay for all gas water and electricity consumed on the Premises, all charges for meters, and all standing charges;

3.3.4 To pay to the Landlord on demand a fair and proper proportion (to be conclusively determined by the Landlord ) of the expense of cleaning, lighting, repairing, renewing, decorating, maintaining and rebuilding:

3.3.4.1 any party walls, lifts, fences, gutters, drains, roadways, pavements, entrance ways, stairs and passages, access ways and service areas which are or may be used or enjoyed by an occupier of the Premises or the Shopping Centre in common with any other person or persons; and

3.3.4.2 the structural parts, loadbearing framework, roof, foundations, joists and external walls of the Shopping Centre and Conducting Media in the Shopping Centre not exclusively serving the Premises.

(iv) **3.20 Expenses of the Landlord**

To pay to the Landlord on demand all expenses on an indemnity basis (including attorney costs, bailiffs' fees and surveyors' and architects' fees) incurred by the Landlord:

3.3.5 incidental to or in proper contemplation of the preparation and service of a schedule of dilapidations during or after the termination of this Lease even if forfeiture is avoided otherwise than by relief granted by the court;

3.3.6 in the recovery or attempted recovery of arrears of rent or additional rent due from the Tenant; and

3.3.7 in connection with every application for any consent or approval made under this Lease, whether or not consent or approval is given.

(v) **7. Guarantee provision**

**7.1 Guarantee**

7.1.1 The Surety guarantees to the Landlord that the Tenant will pay the rents reserved by, and perform and observe all the Tenant's covenants in this Lease throughout the Term and any extension by statute of the tenancy created by this Lease, and the Surety will pay and make good to the

*Landlord on demand any losses, damages, costs and expenses suffered or incurred by the Landlord by reason of any failure of the Tenant to do so.*

7.1.2 *The guarantee in clause 7.1.1 remains in force for so long as, and to the extent that, the Tenant is not released by law from liability for the Tenant's covenants in this Lease.*

7.1.3 *The Surety also guarantees to the Landlord that the Tenant will observe and perform its obligations under an authorised guarantee agreement to be entered into by the Tenant under the terms of this Lease, and will pay and make good to the Landlord on demand any losses damages costs and expenses suffered or incurred by the Landlord if the Tenant fails to do so.*

## **7.2 No waiver or release of liability**

*The Surety is not to be released from liability under these provisions by reason of:*

7.2.1 *any forbearance the granting of time or any other indulgence on the part of the Landlord, including (but without affecting the general operation of this clause 7.2) any granting or extension of time under or varying the procedure set out in schedule 2, paragraph 5; or*

7.2.2 *any variation of this Lease, whether or not made with the consent of the Surety, and the guarantee of the Surety in clause 7. 1 is to operate in relation to this Lease as it may be varied from time to time.*

## **7.3 Surety to accept new lease upon disclaimer**

7.3.1 *If this Lease is determined by re-entry by the Landlord or is effectively determined by disclaimer, the Surety shall, if the Landlord by notice within one month after the date of determination so requires, take from the Landlord a lease of the Premises*

7.3.2 *The lease to be granted to the Surety under clause 7.3.1 is to be on the following terms:*

7.3.2.1 *the term is to commence on the date of termination of this Lease and to be equal to the residue of the Term which would have remained unexpired at that date if this Lease had not then been terminated;*

7.3.2.2 *the yearly rent is to be the same as would have been payable under this Lease if it had continued undetermined and, if a rent review operative from a review date before the grant of the lease had not been completed, the Surety will complete the rent review with the Landlord as if it had been the Tenant under this Lease in order to establish the commencing yearly rent under the lease;*

7.3.2.3 *the lease is otherwise to be on the same terms and conditions as would have applied under this Lease if it had continued undetermined; and*

*7.3.2.4 the Surety is to succeed to the rights and assume the liability of the Tenant under this Lease as if the Lease had continued undetermined.*

**7.4 Subordination of rights of the Surety**

*7.4.1 The provisions of clause 7.4.2 are to apply unless the Landlord has no subsisting claim against the Tenant for non-payment of rent or for breach of obligation under this Lease.*

*7.4.2 The Surety may not:*

*7.4.2.1 seek to recover from the Tenant, or any third party, whether directly or by way of set-off lien counterclaim or otherwise, or accept any money or other property or security or exercise any rights in respect of any sum which may be or become due to the Surety on account of the failure of the Tenant to observe and perform the tenant covenants in this Lease;*

*7.4.2.2 in competition with the Landlord claim, prove or accept any payment in a winding-up, liquidation, bankruptcy, composition with creditors or other form of arrangement on the insolvency of the Tenant, for money owing to the Surety by the Tenant; nor*

*7.4.2.3 exercise any right or remedy in respect of an amount paid by the Surety under this Lease or any liability incurred by the Surety in observing performing or discharging the obligations and covenants of the Tenant.*

*7.4.3 The Surety warrants that it has not taken, and undertakes with the Landlord that it will not without the consent of the Landlord take, any security from the Tenant in respect of this guarantee and, if any security is nevertheless taken, it is to be held on trust for the Landlord as security for the respective liabilities of the Surety and the Tenant.*

9. After the Second Defendant acquired her interest in the First Defendant, the First Defendant in January 2010 fell into arrears with the rents payable under the Lease. Despite repeated demands to bring these payments up to date, the First and Second Defendants have failed to bring the rent current.
10. Prior to the expiry of the Lease on 31<sup>st</sup> January 2011 the Second Defendant requested that the First Defendant be permitted to hold over in the Premises. Again, assurances were made by the Second Defendant that the outstanding rents would be brought current.
11. In the premises, by reason of the First Defendant's breach of its covenant to pay the rent under the terms of the Lease and the Second Defendant's breach of the provisions of

clause 7 of the Lease and the provisions of the Deed, the Plaintiff has suffered loss. The details whereof are set out at Table 1.

**Table 1 – the debt due to the Plaintiff**

Customer ID Customer	Date	Trans No	Typ	Debit Amt	Credit Amt	Balance
101245	7/1/10	Balance Fwd				9,464.01
PIPINOS PIZZA - NEW	7/1/10	RENT July	SJ	1,290.00		10,754.01
	7/1/10	July C/Area Cost	SJ	415.59		11,169.60
	7/20/10	1/2 June RENT	SJ	870.63		12,040.23
	7/20/10	1/2 June A/Cost	SJ	224.25		12,264.48
	7/20/10	July RENT #2	SJ	1,741.25		14,005.73
	7/20/10	July A/Cost #2	SJ	448.50		14,454.23
	7/21/10	Jun CUC#1	SJ	360.13		14,814.36
	7/21/10	Jun CUC#2	SJ	300.11		15,114.47
	7/30/10	ChqUS\$6000.00	CRJ		4,986.00	10,134.47
	8/1/10	RENT Aug	SJ	1,290.00		11,424.47
	8/1/10	Aug C/Area Cost	SJ	415.59		11,840.06
	8/1/10	Aug RENT#2	SJ	1,741.25		13,581.31
	8/1/10	Aug A/Cost#2	SJ	448.50		14,029.81
	8/23/10	CUC#1 July	SJ	836.01		14,865.82
	8/23/10	CUC#2 July	SJ	321.54		15,187.36
	9/1/10	Sept RENT	SJ	1,290.00		16,477.36
	9/1/10	Sept RENT#2	SJ	1,741.25		18,218.61
	9/1/10	Sept C/Area Cost	SJ	415.59		18,634.20
	9/1/10	Sept A..Cost#2	SJ	448.50		19,082.70
	9/16/10	Aug CUC 1	SJ	445.00		19,527.70
	9/16/10	Aug CUC 2	SJ	311.42		19,839.12
	9/22/10	ChqUS\$6000.00	CRJ		4,980.00	14,859.12
	9/22/10	CUC overbilled	SJ		836.01	14,023.11
	9/22/10	July CUC correcte	SJ	385.85		14,408.96
	10/1/10	Oct RENT	SJ	1,290.00		15,698.96
	10/1/10	Oct RENT#2	SJ	1,741.25		17,440.21
	10/1/10	Oct C/area cost	SJ	415.59		17,855.80
	10/1/10	Oct Area Cost#2	SJ	448.50		18,304.30
	10/19/10	Sept CUC#1	SJ	440.90		18,745.20
	10/19/10	Sept CUC#2	SJ	303.10		19,048.30
	10/25/10	Home Gas Inv#994	SJ	2,566.37		21,614.67
	10/28/10	Home Gas Inv#994	SJ			21,614.67
	11/1/10	Nov RENT	SJ	1,290.00		22,904.67
	11/1/10	Nov RENT #2	SJ	1,741.25		24,645.92
	11/1/10	Nov C/Area Cost	SJ	415.59		25,061.51
	11/1/10	Nov Area Cost#2	SJ	448.50		25,510.01
	11/5/10	ChqUS\$6000.00	CRJ		4,980.00	20,530.01
	11/23/10	CUC#1 Oct	SJ	413.22		20,943.23
	11/23/10	CUC#2 Oct	SJ	285.16		21,228.39
	12/1/10	Dec "10" RENT	SJ	1,290.00		22,528.39
	12/1/10	Dec "10" RENT#2	SJ	1,741.25		24,269.64
	12/1/10	Dec C/Area Cost	SJ	415.59		24,685.23
	12/1/10	Dec Area Cost#2	SJ	448.50		25,133.73
	12/10/10	ChqUS\$5000.00	CRJ		4,150.00	20,983.73
	12/20/10	Nov CUC billing	SJ	402.90		21,386.63
	12/20/10	Nov CUC#2	SJ	308.00		21,694.63
	1/1/11	Jan 2011 RENT	SJ	1,290.00		22,984.63
	1/1/11	Jan 2011 RENT#2	SJ	1,741.25		24,725.88
	1/1/11	Jan 2011 A/Cost	SJ	415.59		25,141.47
	1/1/11	Jan 2011 A/Cost#2	SJ	448.50		25,589.97
	1/20/11	Dec CUC #1	SJ	444.62		26,034.59
	1/20/11	Dec CUC #2	SJ	254.07		26,288.66
	1/31/11	ChqUS\$8000.00	CRJ		8,000.00	18,288.66
	2/1/11	Feb RENT#1	SJ	1,290.00		19,578.66
	2/1/11	Feb RENT#2	SJ	1,741.25		21,319.91
	2/1/11	Feb C/ area cost	SJ	415.59		21,735.50
	2/1/11	Feb c/area cost#2	SJ	448.50		22,184.00
	2/17/11	Jan CUC#1	SJ	413.76		22,597.76
	2/17/11	Jan CUC#2	SJ	236.44		22,834.20
	3/1/11	March RENT#1	SJ	1,290.00		24,124.20
	3/1/11	March RENT#2	SJ	1,741.25		25,865.45
	3/1/11	March A/Cost #1	SJ	415.59		26,281.04
	3/1/11	March A/Cost #2	SJ	448.50		26,729.54
	3/16/11	Feb CUC#1	SJ	388.26		27,117.80
	3/16/11	Feb CUC#2	SJ	221.86		27,339.66
	3/31/11	ChqUS\$10 000.00	CRJ		8,300.00	19,039.66
	4/1/11	April RENT#1	SJ	1,290.00		20,329.66
	4/1/11	April RENT#2	SJ	1,741.25		22,070.91
	4/1/11	April A/Cost #1	SJ	415.59		22,486.50
	4/1/11	April A/Cost #2	SJ	448.50		22,935.00
	4/5/11	ChqUS\$5000.00	CRJ		4,150.00	18,785.00
	4/12/11	Home Gas 107961	SJ	3,437.75		22,222.75
	4/15/11	CUC March	SJ	488.00		22,710.75
	4/15/11	CUC#2 March	SJ	278.86		22,989.61
	5/1/11	May RENT	SJ	1,290.00		24,279.61
	5/1/11	May RENT#2	SJ	1,741.25		26,020.86
	5/1/11	May c/cost #1	SJ	415.59		26,436.45
	5/1/11	May c/cost #2	SJ	448.50		26,884.95
	5/11/11	return Chq 03/31/11	SJ	8,300.00		35,184.95
	5/11/11	return Chq 04/05/11	SJ	4,150.00		39,334.95
	5/26/11	charges return chq	SJ	121.95		39,456.90
	5/26/11	APRIL CUC	SJ	532.95		39,989.85
	5/26/11	APRIL CUC#2	SJ	266.47		40,256.32
	6/1/11	JUN RENT	SJ	1,290.00		41,546.32
	6/1/11	JUN RENT#2	SJ	1,741.25		43,287.57
	6/1/11	Jun area cost#1	SJ	415.59		43,703.16
	6/1/11	Jun area cost#2	SJ	448.50		44,151.66
	6/14/11	ChqUS\$7100.00	CRJ		5,893.00	38,258.66
	6/21/11	May CUC BILL	SJ	451.86		38,710.52
	6/21/11	May CUC#2	SJ	22.53		38,733.05
	7/13/11	1/2 Rent C/Area C	SJ	207.80		38,940.85
	7/13/11	1/2 Jul Rent	SJ	645.00		39,585.85
	7/21/11	CUC#1 Pípinos	SJ	551.44		40,137.29
	7/21/11	CUC#2 Jun	SJ	78.78		40,216.07

12. Clause 3.2.1 of the Lease requires Interest (meaning interest at 4% above the base rate of FirstCaribbean International Bank from time to time compounded with quarterly rests on 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September, and 31<sup>st</sup> December of each year on the rents and other monies payable under the Lease as remain unpaid 7 days after they become due until such date as payment is made to the Plaintiff) to be paid on overdue amounts.
13. By clause 7.1.1 of the Lease the Surety guarantees to the Plaintiff that the tenant will pay the rents reserved and perform and observe all the tenant's covenants in this Lease throughout the Term and any extension and that the Surety will pay and make good to the Plaintiff on demand any losses, damages, costs and expenses suffered or incurred by the Plaintiff by reason of any failure of the Tenant to do so. By clauses 2 and 3 of the Deed the Second Defendant accepted the substitution of the Second Defendant as the Surety (as defined in the Lease) and the Second Defendant assumed all obligations, liabilities and guarantees under the Lease as previously assumed by the Davitos. The parties to the Lease agreed that all references to the Surety (as defined in the Lease) shall now be construed to mean the Buyer [Second Defendant] with effect from the date of the Deed.
14. In the premises, the First Defendant and the Second Defendant (both jointly and severally) are obliged to pay the Interest (as the term is defined in the Lease) to the Plaintiff.
15. Particulars of interest are set out below.

**Table 2 – Particulars of Interest**

<b>Date</b>	<b>Balance</b>	<b>Interest Rate</b>	<b>No. of days</b>	<b>Interest</b>
1/1/10	3,615.49	7.25%	19	13.83
1/20/10	6,087.65	7.25%	0	0.00
1/20/10	6,439.97	7.25%	12	15.56
2/1/10	7,729.97	7.25%	18	28.02
2/19/10	8,145.56	7.25%	10	16.40
3/1/10	9,435.56	7.25%	0	0.00
3/1/10	9,851.15	7.25%	7	13.89
3/8/10	7,051.15	7.25%	14	19.88
3/22/10	7,403.87	7.25%	1	1.49
3/23/10	5,328.87	7.25%	9	9.66
4/1/10	6,618.87	7.25%	8	10.66
4/9/10	7,003.08	7.25%	22	31.03
5/1/10	8,293.08	7.25%	2	3.34
5/3/10	10,777.65	7.25%	11	23.88
5/14/10	5,305.18	7.25%	10	10.68
5/24/10	5,665.07	7.25%	8	9.13
6/1/10	6,955.07	7.25%	0	0.00
6/1/10	9,439.64	7.25%	6	11.41

Date	Balance	Interest Rate	No. of days	Interest
6/7/10	6,955.07	7.25%	10	14.01
6/17/10	7,386.06	7.25%	5	7.44
6/22/10	7,801.65	7.25%	0	0.00
6/22/10	8,217.24	7.25%	0	0.00
6/22/10	8,632.83	7.25%	0	0.00
6/22/10	9,048.42	7.25%	0	0.00
6/22/10	9,464.01	7.25%	9	17.15
7/1/10	10,754.01	7.25%	0	0.00
7/1/10	11,169.60	7.25%	19	42.74
7/20/10	12,040.23	7.25%	0	0.00
7/20/10	12,264.48	7.25%	0	0.00
7/20/10	14,005.73	7.25%	0	0.00
7/20/10	14,454.23	7.25%	1	2.91
7/21/10	14,814.36	7.25%	0	0.00
7/21/10	15,114.47	7.25%	9	27.39
7/30/10	10,134.47	7.25%	2	4.08
8/1/10	11,424.47	7.25%	0	0.00
8/1/10	11,840.06	7.25%	0	0.00
8/1/10	13,581.31	7.25%	0	0.00
8/1/10	14,029.81	7.25%	22	62.16
8/23/10	14,865.82	7.25%	0	0.00
8/23/10	15,187.36	7.25%	9	27.53
9/1/10	16,477.36	7.25%	0	0.00
9/1/10	18,218.61	7.25%	0	0.00
9/1/10	18,634.20	7.25%	0	0.00
9/1/10	19,082.70	7.25%	15	57.65
9/16/10	19,527.70	7.25%	0	0.00
9/16/10	19,839.12	7.25%	6	23.97
9/22/10	14,859.12	7.25%	0	0.00
9/22/10	14,023.11	7.25%	0	0.00
9/22/10	14,408.96	7.25%	9	26.12
10/1/10	15,698.96	7.25%	0	0.00
10/1/10	17,440.21	7.25%	0	0.00
10/1/10	17,855.80	7.25%	0	0.00
10/1/10	18,304.30	7.25%	18	66.35
10/19/10	18,745.20	7.25%	0	0.00
10/19/10	19,048.30	7.25%	6	23.02
10/25/10	21,614.67	7.25%	3	13.06
10/28/10	21,614.67	7.25%	4	17.41
11/1/10	22,904.67	7.25%	0	0.00
11/1/10	24,645.92	7.25%	0	0.00
11/1/10	25,061.51	7.25%	0	0.00
11/1/10	25,510.01	7.25%	4	20.55
11/5/10	20,530.01	7.25%	17	70.29
11/22/10	20,943.23	7.25%	0	0.00
11/22/10	21,238.39	7.25%	9	38.49
12/1/10	22,528.39	7.25%	0	0.00
12/1/10	24,269.64	7.25%	0	0.00
12/1/10	24,685.23	7.25%	0	0.00
12/1/10	25,133.73	7.25%	9	45.55
12/10/10	20,983.73	7.25%	10	42.26
12/20/10	21,386.63	7.25%	0	0.00
12/20/10	21,694.63	7.25%	12	52.43
1/1/11	22,984.63	7.25%	0	0.00
1/1/11	24,725.88	7.25%	0	0.00
1/1/11	25,141.47	7.25%	0	0.00
1/1/11	25,589.97	7.25%	19	97.92
1/20/11	26,034.59	7.25%	0	0.00
1/20/11	26,288.66	7.25%	11	58.24
1/31/11	18,288.66	7.25%	1	3.68
2/1/11	19,578.66	7.25%	0	0.00
2/1/11	21,319.91	7.25%	0	0.00
2/1/11	21,735.50	7.25%	0	0.00
2/1/11	22,184.00	7.25%	16	71.48

Date	Balance	Interest Rate	No. of days	Interest
2/17/11	22,597.76	7.25%	0	0.00
2/17/11	22,834.20	7.25%	12	55.18
3/1/11	24,124.20	7.25%	0	0.00
3/1/11	25,865.45	7.25%	0	0.00
3/1/11	26,281.04	7.25%	0	0.00
3/1/11	26,729.54	7.25%	15	80.75
3/16/11	27,117.80	7.25%	0	0.00
3/16/11	27,339.66	7.25%	15	82.59
3/31/11	19,039.66	7.25%	1	3.83
4/1/11	20,329.66	7.25%	0	0.00
4/1/11	22,070.91	7.25%	0	0.00
4/1/11	22,486.50	7.25%	0	0.00
4/1/11	22,935.00	7.25%	4	18.48
4/5/11	18,785.00	7.25%	7	26.48
4/12/11	22,222.75	7.25%	3	13.43
4/15/11	22,710.75	7.25%	0	0.00
4/15/11	22,989.61	7.25%	16	74.08
5/1/11	24,279.61	7.25%	0	0.00
5/1/11	26,020.86	7.25%	0	0.00
5/1/11	26,436.45	7.25%	0	0.00
5/1/11	26,884.95	7.25%	10	54.14
5/11/11	35,184.95	7.25%	0	0.00
5/11/11	39,334.95	7.25%	0	0.00
5/11/11	39,456.90	7.25%	15	119.19
5/26/11	39,989.85	7.25%	0	0.00
5/26/11	40,256.32	7.25%	6	48.64
6/1/11	41,546.32	7.25%	0	0.00
6/1/11	43,287.57	7.25%	0	0.00
6/1/11	43,703.16	7.25%	0	0.00
6/1/11	44,151.66	7.25%	13	115.59
6/14/11	38,258.66	7.25%	7	53.93
6/21/11	38,710.52	7.25%	0	0.00
6/21/11	38,733.05	7.25%	22	171.61
7/13/11	38,940.85	7.25%	0	0.00
7/13/11	39,585.85	7.25%	8	63.78
7/21/11	40,137.29	7.25%	0	0.00
7/21/11	40,216.07	7.25%	33	267.27
8/23/11				
<b>Total Interest:</b>				<b>2,401.72</b>

16. In the premises the Plaintiff seeks: -

16.1 An injunction restraining the Defendants from disposing of or transferring or otherwise dealing with any assets, including but not limited to a Land Rover LR3 motor vehicle belonging to the Second Defendant or the sale proceeds thereof and that property known as Savannah 27C 454 until further order of this Court.

16.2 C\$40,216.07 on account of the outstanding and unpaid rents and utilities due under the terms of the Lease.

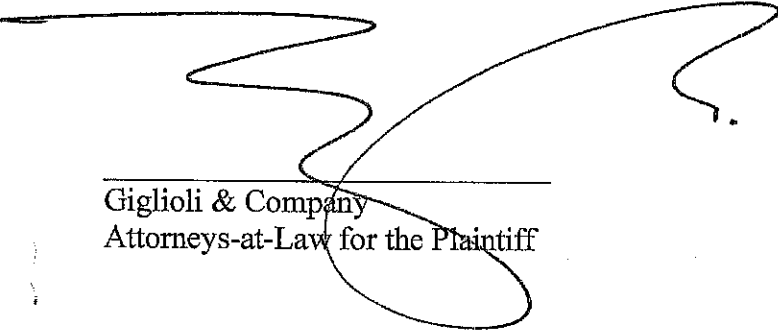
16.3 Interest thereon pursuant to the terms of the Lease at the rates set forth in Table 2.  
Interest to the date of issue of the writ on the aforesaid basis being CI\$2,401.72.  
At the date hereof the daily rate of interest accrues at CI\$8.10.

16.4 Such other relief as this honourable Court deems appropriate.

16.5 Costs

If, within the time for returning the acknowledgment of service, the Defendants pay the total amount claimed of CI\$40,216.07 (excluding interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or its attorney.

Dated 23<sup>rd</sup> August 2011



\_\_\_\_\_  
Giglioli & Company  
Attorneys-at-Law for the Plaintiff

**Notes on address for service**

Attorney: where the Defendants are 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 the communications for him should be sent. In the case of a limited company, "residence" means its registered or 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.*

Giglioli & Company  
PO Box 2505  
4F Kirk House, Panton Place  
George Town, Grand Cayman KY1-1104  
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.*

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**Civil Division**

**Cause No. CIV                      of 2011**

**BETWEEN:                      BAYSHORE PROPERTIES LTD.**

**PLAINTIFF**

**AND:                      (1)      CALIFORNIA LTD.**

**(2)      SHIVA WARREN**

**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 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 Defendants by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendants intend to contest the proceedings (*tick appropriate box*)

yes

no

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3. If the claim against the Defendants is for a debt or liquidated demand, AND they do not intend to contest the proceedings, state if the Defendants intend to apply for a stay of execution against any judgment entered by the Plaintiff (*tick box*).

yes

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Service of the Writ is acknowledged accordingly.

(Signed).....

[Attorney] for

[Defendants in person]

Address for service:

*Please complete overleaf*

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 any 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 used 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.