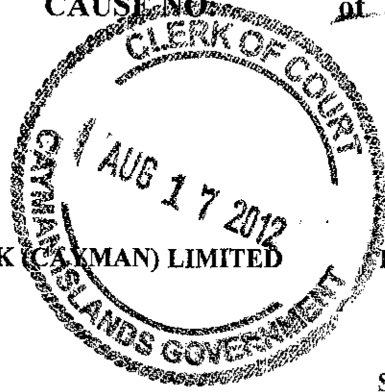
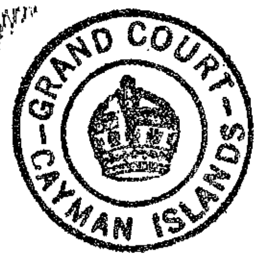
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO. 266 of 2012



BETWEEN:	PHILLIP HYRE and KEVON HYRE	FIRSTPLAINTIFF SECOND PLAINTIFF
AND:		
	FIDELITY BANK (CAYMAN) LIMITED	FIRST DEFENDANT
	AND	
	PAUL SIMON	SECOND DEFENDANT
	AND	
	SATIN WOOD GATE	THIRD DEFENDANT
	AND	
	SIMON WATSON	FOURTH DEFENDANT



WRIT OF SUMMONS

TO: Fidelity Bank (Cayman) Limited
Cayman Financial Centre
36A Doctor Roy's Drive
P O Box 914
Grand Cayman, KY-1102
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs 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, P.O. Box 495GT, 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 day of 2012 .

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

The Plaintiffs claims are for:

1. An Injunction restraining and prohibiting the First and the Third Defendant whether by himself, his servant or agent or otherwise, from any and all action pursuant to section 64(2) of the Registered Land Law (2004 Revision) the objective of which is to proceed to develop property identified as George Town East, Block 20E Parcel 83 REM 1, and to sell houses built on the said property, over which the First Defendant holds first legal charge.

2. An Injunction restraining and prohibiting any and all action, pursuant to section 64(2) of the Registered Land Law (2004 Revision) the objective of which is to proceed to sell Block 22E Parcel 412 H8 & Block 22E Parcel 412 H1, properties over which the First Defendant holds first legal charge.

3. General, Compensatory and Exemplary damages, to be assessed and arising from Breach of Contract, which resulted in pecuniary loss being sustained by the Plaintiffs and directly caused by the actions of the First, Second,Third and Fourth Defendants.

4. General, Compensatory and Exemplary damages to be assessed and arising from Misrepresentation by the First, Second, Third and Fourth Defendants.

5. General, Compensatory and Exemplary damages to be assessed and arising from actions of Deceit and Fraud by the First, Second, Third and Fourth Defendants.

6. An Order to Rectify the Land Register pursuant to section 140(1) of the Registered Land Law (2004 Revision) and a further Order granting Possession to the Plaintiffs, restoring to them the Legal and Beneficial title relating to George Town East Block 20E Parcel 83 REM1.

7. An Order for the Plaintiffs to be re-registered as the Legal and Beneficial title owners of George Town East Block 20E Parcel 83 REM1.

8. At all material times The Second, Third, and Fourth Defendants were servants and or agents of the First Defendant.

9. At all material times the First Defendant was a financial institution, engaged in the business of offering loans to persons whom the First Defendant deemed qualified for that facility, and as such, had granted to the Plaintiffs, a personal loan in the sum of CI$2,580,000.00 and at all material times thereafter, the Plaintiffs were clients of the First Defendant.

10. The First Defendant at all material times, oversaw, supervised and was vicariously liable for the activities of the Second, Third and Fourth Defendants, (hereinafter all together jointly referred to as "the Defendants").

11. On Thursday March 11, 2010 the Plaintiffs met with the First Defendant, at the First Defendant's offices situated at Fidelity Bank (Cayman) Limited, Doctor Roys Drive , Georgetown Grand Cayman. The purpose of the meeting was to discuss, negotiate and resolve how the First Defendant would proceed to consider the business of consolidating the Plaintiffs company, Hycam Ltd's loan overdraft facility; with the Plaintiffs personal loan facility. At that meeting, and in furtherance of justifying the need, as well as demonstrating the ability to honour any terms and conditions which might be attached to the proposed consolidation facility to be negotiated, the Plaintiffs presented architectural drawings of a proposed housing development to the First and Second Defendants collectively, during which meeting the Plaintiffs asked the First Defendant, whether they would, in their capacity as lenders, be willing to finance the proposed housing development on Georgetown East, Parcel 83 REM 1. The First Defendant having viewed the housing development proposal, expressly stated to the Plaintiffs, that in their professional opinion, it would be beneficial to both parties if the said property could be developed as proposed by the Plaintiffs, and proceeds from the sales used to service and liquidate the existing loan; as it would be of no benefit to either party to do otherwise. It was verbally agreed that the First Defendant would approve and grant a refinance facility. The Plaintiffs waited in excess of two months without hearing from the First Defendant.

12. On May 27, 2010 the Plaintiffs received from the First Defendant, an approval letter of agreement, issued by the First Defendant, purporting to be granting a Mortgage Loan contract ("the Mortgage) with the First Defendant. This letter was dated April 26th, and purported to establish a credit facility, in the amount of CI$2,563,500.00. It was clearly apparent at the time, that the date for "REPAYMENT" to commence, being May 26th 2010, would have effectively been passed, as this "April 26th 2010" dated letter, only came to hand on May 27 2010. This letter of April 26th 2010, bore the signature of one Pierre Claasens, Manager Credit, but was never signed by the Plaintiffs certifying or adopting an acceptance of the contents of the said letter, and this letter has remained unsigned by the Plaintiffs to date.**(see letter marked produced and exhibited as PH 1)**

13. This said commitment letter dated "April 26 2010", was then resent to the Plaintiffs on June 2 2010, purporting to replace the "April 26th 2010" letter, however, the date of "April 26 2010"; still remained the same on this June 2 2010 letter. The Plaintiffs were not in agreement with some of the terms and conditions in the commitment letter issued by the First Defendant and dated April 26, 2010, which had only been received on May 27 2010. The replacement letter that was received on June 2 2010 differed in aspects of content, from the letter that was received on May 27, 2010. The differences were as follows (a)the loan amount was changed from CI$2,563,500.00 to CI$2,580,000.00, (b)the repayment amount was changed from CI $13,351.56 monthly to CI$13,437.50 monthly, (d)starting May26th, 2011-such amount necessary to repay the loan and interest within the term at present CI $18,737.34 and payment was changed to CI $19,360.27 monthly, (e)Under the heading of SECURITY TO BE OBTAINED page one, paragraph

one stated: First Charge to be varied from CI$498,000.00 to CI$2,263,500 over property described as George Town East, Block 20E, Parcel 83REM1 was changed to CI$2,580,000.00 for the said property (f)Under the heading of SECURITY TO BE OBTAINED on page one, paragraph two stated: Life insurance to be increased in the amount of CI$2,565,500.00 on the lives of Phillip Hugh Hyre & Kevon L. Hyre to be assigned to Fidelity (Cayman) Limited and kept in effect during the Term, was changed to read: the amount of CI$2,585,000.00, (g)under the said heading of SECURITY TO BE OBTAINED section (5) was changed from Promissory note to be signed by the borrower(s) to section (6) of the new agreement and (h)a new section(5) was put into the new agreement, stating that Guarantee and Postponement of Claim to be signed jointly and severally by Phillip Hugh Hyre & Kevon L. Hyre for the full liability. Page two of the said agreement, under the heading of OTHER TERMS AND CONDITIONS (a) section (5) stated that "this offer shall be deemed lapsed if not formally accepted within 30 days from the date of this letter of the offer. The loan amount must be drawn within 60 days of the date of this letter failing which this offer will be withdrawn". Clearly, since the thirty days for acceptance would have already passed when the Plaintiffs were given the letter, this condition was made impossible by the First Defendant, to be adhered to by the Plaintiffs (b) section (7) stated "The first of your monthly payments shall be paid on May 26, 2010 and thereafter on the 26th day of each month or the next following business day". Again, the First Defendants had failed to deliver the commitment letter within the appropriate time frame. **(see letter is marked produced and exhibited as PH2).**

14. The Plaintiffs wrote a letter dated June 7 2010, expressing concerns with certain terms contained in this letter and requested that the First Defendant consider, whether these concerns could be addressed and be dealt with prior to the Plaintiffs signing. **(see letter marked produced and exhibited and as PH3).** These concerns were never dealt with, nor indeed addressed by the First Defendant. As well, the commitment letter date marked April 26 2010 was never signed by the Plaintiffs and the First Defendant, signifying an agreement by the Plaintiffs, to the stipulated terms of that letter. Indeed, to date the said letter has not been signed by the Plaintiffs, nonetheless the First Defendant went ahead and consolidated the Plaintiffs business loan and business overdraft facility, making it overall, a part of the Plaintiffs personal loan arrangement; in the absence of any verbal, written consent or agreement by the Plaintiffs, authorizing the First Defendant to do so. This resulted in the Plaintiffs being indebted to the First Defendant in the sum of (CI$2,580,000.00), when prior to that consolidation happening, the Plaintiffs were indebted to the First Defendant in the sum of $498,000.00 for a first charge and a second charge of CI$300,000.00 making it a total charge of CI$798,000.00 on the property described as George Town East, Block 22E, Parcel 83REM1 the Development Property, and first collateral charge for CI$498,000.00 over property described as Prospect, Block 22E, Parcel 412H1 & H8 and second Collateral charge for CI $300,000.00 over property described as Prospect, Block 22E, Parcel 412H1 & H8 this made it a total of approximately CI$1,596,000.00, and that was the only amount that was personally owed by the Plaintiffs to the Defendant.

15. The main purpose for which the March 11 meeting was convened, was specifically for the Plaintiffs and First Defendant to negotiate a further and extended credit facility, to

assist with the refinancing of (a) raw land described as George Town East, Block 20E, Parcel 83REM 1 and additionally, the proposed plans to construct homes for low income earners, within a price range of CI$200,000.00. (b) A two bedroom apartment described as Prospect, Block 22E, Parcel 412H1 and (C) A two bedroom apartment described as Prospect, Block 22E, Parcel 412 H8. This credit facility was repayable upon the rate of interest which was based on the First Defendant's Base Lending Rate, plus 3% per annum. At the material time, the current total effective rate was 6.25% per annum.

16. During the discussions between the Plaintiffs and the First Defendant, it was agreed that the payment plan for the proposed extended loan facility, was to be interest only for 12 months, to commence May 26th, 2010 until April 26th, 2011 (CI$13,437.50 monthly), and starting May 26, 2011- Such amount necessary to repay the loan and interest within the Term. The loan was for a term of 20 years, and during those discussions, the Plaintiffs were given the impression, that the monthly payments would have been approximately CI$10,000.00 interest only per month, until such time as when the development was started

17. The security /collateral suggested by the First Defendant, in order to facilitate and secure the extended loan facility as requested by the Plaintiffs, were as follows: (a) first charge was varied from CI $498,000.00 to CI $2,580,000.00, over the property described as George Town East, Block 20E, Parcel 83 REM 1. (b) Life insurance was to be increased in the amount of CI $2,585,000.00 on the lives of Plaintiff's, to be assigned to the First Defendant and kept in effect over the Term. (c) Evidence of strata insurance for the replacement cost of Prospect, Block 22E, Parcel 412 H1 and H8. (d) Construction insurance was to be assigned as well, to the First Defendant, over property described as George Town East, Block 20E, Parcel 83 REM 1, for the full replacement cost of works to date. (e) Guarantee and Postponement of claim, to be signed jointly and severally by Plaintiff's. (f) Promissory note to be signed by the borrower (s). The Plaintiffs were given charge documents around June 2, 2010, to increase the first charge over the raw land known as George Town East Block 20E, Parcel 83 REM1 from CI$498,000.00 to CI$1,782,000.00. This was around the time that the second commitment letter was handed to the Plaintiffs. This document was signed by the Plaintiffs on June 8, 2010 and returned to the First Defendant on or before the 13th June, 2010. The said document was received by the Lands and Survey Treasury department for registration on July 26, 2010. **(see Variation of charge document marked produced and exhibited as PH4).**

18. On June 22, 2010, the Plaintiffs received a letter from the First Defendant, in response to the Plaintiffs letter of June 7, 2010.**(see letter marked produced and exhibited as PH 5)** In this letter, among other things, the First Defendant stated that the Plaintiffs were now "over a month in arrears, as of May 25, 2010", and as a result the First Defendant expressed the opinion, that the Plaintiffs were now in default of their obligation to repay the monies owing to the First Defendant, and that this letter therefore constituted the First Defendant's demand of the principal and interest that had accrued to the various facilities afforded to the Plaintiffs. The assertion by the First Defendant that the Plaintiffs were "over a month in arrears as of May 25, 2010" was clearly a mis-statement, as the "offer

letter" to the Plaintiffs had clearly stated that "REPAYMENT" was "to commence May 26th2010...". The First Defendant purported to make the demand under Section 72 of the Registered Land Law (2004) Revision. The fact that the "letter of offer" dated 26 April 2010, was only delivered to the Plaintiffs on May 27 2010, made it nigh impossible for the Plaintiffs, to "formally accept within 30 days from the date of this letter of offer". The fact that, the First Defendant must have recognized this impossibility, of a timely response from the Plaintiffs, based on the timing of the delivery of the said letter to the Plaintiffs; is made evident by the fact that the First Defendant later sent to the Plaintiffs, the said "April 26th 2010" letter **again**, on June 2 2010. The actions of the First Defendant clearly was designed and deliberate, as they sought to penalize the Plaintiffs, for a demand that they themselves frustrated, and made physically impossible; any chance of compliance by the Plaintiffs.

19. The First Defendant further stated that, in the event, the Plaintiffs failed to make the payment of CI$2,603,743.34 outstanding as at date of letter, the First Defendant shall proceed, to realize its security under the charges held by it. It must be noted that at this stage, that the Plaintiffs could not have been in arrears as stated by the First Defendant. This was due to the fact that (a) the Plaintiff had only received the commitment/offer letter on May 27, 2010 to sign, exactly a month and a day, after it had been issued by the First Defendant, and yet another of the said date, April 26th 2010, on June 2 2010 (b) neither the Plaintiffs nor the First Defendant had signed either of the letters and (c) the Defendant did not address the issues of concerns raised by the Plaintiffs in his letter of June 7 2010, and sent to the First Defendant; in response to the First Defendant's letters received May 27 and June 2 2010. The foregoing facts therefore rendered the First Defendants "demand" for $2,603,743.34, unmeritorious, disingenuous and unconscionable. On August 10 2010, the Plaintiffs received a further demand letter from GIGLIOLI & COMPANY Attorneys-at-law on behalf of the First Defendant. **(see letter marked produced and exhibited as PH 6)**

20. Meetings were held at Fidelity Bank premises, between the Plaintiffs and First Defendant during the months of October and November 2010, and despite the conduct demonstrated by the First Defendant up to that point. During, and over the course of these several meetings, the Plaintiffs reiterated their proposal for a joint venture with the First Defendant, comprising the housing development project, and enquired about the feasibility and interest of the First Defendant, committing to financing the project named Hyre Point Oasis, which was under active consideration for development by the Plaintiffs.**(see proposal marked produced and exhibited as PH 7).** This housing project development of affordable homes was proposed by the Plaintiffs to the First Defendant, as the Plaintiffs had come to consider and conclude, that the proceeds from the sale of the homes to be constructed, would be more than adequate to satisfy the outstanding monies owed to the First Defendant, as well as secure a profit to themselves. The Plaintiffs also made known to the First Defendant that there existed every likelihood,

that this project could have been made to materialize, with a substantial amount of cost savings to all the stakeholders, because the Plaintiffs had a crew of construction workers, who were ready willing and able to build the proposed houses. Having reviewed the architectural plans for the proposed development, the First Defendant agreed that this would be the way forward, as the idea of foreclosure would not have been an attractive alternative nor indeed beneficial to either party. The Plaintiffs informed the First Defendant that a feasibility/marketing study had been conducted and that a dire need for affordable housing of the kind proposed by the Plaintiffs, had been identified, especially in and around the George Town area. The Plaintiffs had held a previous meeting with the National Housing Development Corporation, which entity revealed that there were in excess of eight hundred persons in line, who had been pre-approved for housing grants by them. The Plaintiffs also presented the First Defendant with a Proposed Development costing assessment, dated November 10, 2010, that the Plaintiffs had themselves commissioned at the Plaintiffs expense.

21. The Plaintiffs also presented to the First Defendant, a letter dated 17 November 2010 and addressed to the First Defendant, from Cayman Real Estate Company in support of the project, which letter verified the feasibility and potential for success in selling the houses, in effect, confirming what the Plaintiffs had earlier intimated to the First Defendant. **(see letter marked produced and exhibited as PH 8)**

22. The First Defendant informed the Plaintiffs, during one of the meetings with several shareholders of the First Defendant, who had travelled from overseas and were in attendance, with the most senior among them being one Mr. Anwer, that the project seems viable and that they too would prepare a proposal, based upon the Plaintiffs feasibility study; to their Board for approval. The First Defendant at that meeting thanked the Plaintiffs for the brilliant suggestion as to the way forward, at the same time reiterating to the Plaintiffs that this would create a possible "win win" situation for all the stakeholders. The First Defendant stated once more that it was not the intention of the First Defendant to destroy the good name of the Plaintiffs, who hitherto had been, excellent clients of the First Defendant and good citizens. The First Defendant was advised in that meeting by Mr. Anwer, (speaking at the time to Mr. Brett Hill, President) that he should ensure that that the First Defendant stay in touch with the Plaintiffs. The Plaintiffs were subsequently put into contact by Mr. Hill of the First Defendant, with one Mr. Linval Johnson, a senior official of the First Defendant, and who the Plaintiffs were told, would act as the liaison officer between the Plaintiffs and the First Defendant. The Plaintiffs and Mr. Johnson were in constant communication thereafter. Mr. Johnson of the First Defendants, told the Plaintiffs on several and diverse occasions, in person and via telephone; that he was of the firm view that the First Defendant's Board would approve the Plaintiffs development proposal, but would most likely do so in the coming year 2011. During the months November 2010 to January 2011, the Plaintiffs had several further discussions with Mr. Johnson, with regard to the project. During this said period,

Mr. Johnson requested of the Plaintiffs, and was provided with, a copy of the architectural plans which were then in the possession of the Plaintiffs. These were forwarded via email to Mr. Johnson, on Thursday, February 3, 2011 at 11:13 am. **(see email correspondence marked produced and exhibited as PH 9)**

23. On Thursday, March 24, 2011 at 4:31 pm, the Plaintiffs emailed Mr. Johnson, asking him to provide an update on progress or otherwise, with regards to the approval of the proposal made by the Plaintiffs to the First Defendant concerning the development project.**(see email correspondence marked produced and exhibited as PH 10)**

24. On Monday April 4 2011 at 4:05 pm, the Plaintiff s received an email with an attachment from Mr. Johnson. This email had an attachment revealing the fact that the Plaintiffs proposal was sent to the First Defendants Board for approval. Mr Johnson of the First Defendant stated in his email "The attached is strictly private and confidential and should be used for information purposes <u>only</u> by Kevon (the Second Plaintiff) and you exclusively. Please do not share it with anyone else." The First Plaintiff called Mr. Johnson by phone after reviewing a **"Project Funding Proposal Phillip and Kevon Hyre",(marked produced and exhibited as PH 11)** which was the attachment accompanying the email, and commissioned by the First Defendant. The Plaintiffs intimated to Mr. Johnson that, having had sight of the Project Funding Proposal, the Plaintiffs were of the opinion that the Plaintiffs should properly be in receipt of a greater profit margin than shown in the Proposal. Mr. Johnson expressed the professional view that he agreed with the Plaintiffs and that he would suggest this to, and pass on the Plaintiffs concern/observations to Mr. Anwer of the First Defendant.

25. On Wednesday April 6 2011, the Plaintiffs were informed by Mr. Anwer of the First Defendant, who spoke to the Plaintiffs as representative of the First Defendant, that the First Defendant's Board had approved the project proposal that was submitted by the Plaintiffs, and that the First Defendant had appointed a Management Team, to give oversight of the project. Mr. Anwer of the First Defendant further said that the next step would be for Mr. Brett Hill, President of the First Defendant, to arrange for the Plaintiffs, to meet with the Management Team that the First Defendant's Board had appointed to oversee the project, in order for the Plaintiffs, to go over the plans, projections and related issues; as well as discuss the way forward in executing the project. It was agreed by all involved, that the project would be successful, considering the current demand for affordable housing. The Plaintiffs had done all the necessary feasibility studies and met with the various and several local authorities, so as to preemptively guarantee the projected and expected success of the project. The First Defendant additionally stated, that the First Defendant would in its capacity as a lending institution, provide financing for qualified buyers of houses built, and that this strategic move in of itself, would further ensure/enhance the prospects for a successful venture.

26. The First Defendant additionally requested of the Plaintiffs, that the Plaintiffs use other construction companies that were clients of the First Defendant, to execute the project, particularly one Mr. Harry who had a trucking business. The rationale advanced for this request by the First Defendant to include such persons as part of the work team, was that these persons were experiencing financial hardship due to lack of work. The particulars of this stipulation were also highlighted on page 6 of the **Project Funding Proposal** under the heading **Special Conditions.(see exhibit PH 11)** The Plaintiffs agreed to do so and as a result met with one of such persons, namely M & R Construction. During the meeting the Plaintiffs also told the First Defendant that they would like the project name to remain Hyre Point Oasis Development, and that the Plaintiffs Real Estate Company *Hycam Realty*, be the selling agent for the houses built. This was discussed in previous meetings, between the Plaintiffs and the First Defendant. Also discussed was the fact that the Plaintiffs had fifty workers on standby to commence work on the project. At the conclusion of that meeting Mr. Anwer of the First Defendant walked the First Plaintiff, Phillip Hyre to the door and assured him that everything will be fine. He however added that something has to be in it for him (meaning Mr. Anwer) and that he could possibly have the project done privately through private investors instead of through the Fidelity bank.

27. On Thursday April 7, 2011 the Plaintiffs met with the proposed management team. The management team was comprised of Brett Hill, President, CEO, of the First Defendants; Derek Serpell, owner of Evolving Island Management Company along with his wife Amanda Serpell; and Simon Watson, Fourth Defendant, a Director of Charterland Ltd who had previously been commissioned by the Plaintiffs, and had valued the raw land Block 20E, Parcel 83REM 1 in October 27, 2009 for CI $2,500,000.00 **(see valuation marked produced and exhibited as PH 12).** During this meeting, there was no review of the plan, nor was there any discussion as to the way forward with the execution of the project, nor indeed projections in regards to the project's execution. The only conversation that took place in regards to the project was when Derek Serpell, the owner of Evolving Islands Management Company, asked the Plaintiffs, for how much would the Plaintiffs sell the land. Incidentally and of major significance, was the Plaintiffs discovery that, **Satin Wood Gate Limited, which was the name given to the "management company", which the First Defendant had intimated to the Plaintiffs, was to be set up, at the instigation of the First Defendant, ostensibly to preserve the interests of the First Defendant in their capacity as financiers of the agreed housing development project, had as its Secretary, Bodden Corporate Services Ltd, an affiliate company of Bodden & Bodden, Attorneys-at-Law, of which firm the Second Defendant Paul Simon, was/is legal counsel for the First Defendant, at all material times. Derek Serpell of the Third Defendant, was/is a part of the management team of the company Satin Wood Gate Limited, which entity are now currently registered as the owners of the development property Georgetown East, Block 20E Parcel 83 REM1.** Lyn M. Bodden, a share holder /lawyer of Bodden and Bodden law firm it was

also discovered, is a Director of Bodden Corporate Services Ltd, which it was discovered, is also the Secretary, for the company of the Third Defendant and the Fourth Defendant Simon Watson of Charterland Ltd, the he being the person who had previously valued Georgetown East, Block 20E, Parcel 83 REM1, for CI$2,500,000.00, on October 27, 2009, being commissioned to do so by the Plaintiffs. **(see valuation marked produced and exhibited as PH 12).** It was discovered as well, that Bodden Corporate Services, was also Secretary for Chisha Development Ltd, a company also owned by the Third Defendant Derek Serpell, which company had also done one of the design and feasibility studies, earlier commissioned, by the Plaintiffs; for the Plaintiffs Hyre Point Development. The Plaintiffs made it known to Mr. Serpell in that meeting, that the purpose of the Plaintiffs attendance at said meeting, was not intended to involve any discussions about the prospect or otherwise, of the Plaintiffs "selling" the land, on which the housing development project had been agreed between the First Defendant and the Plaintiffs. The Plaintiffs made it clear that they were informed by the First Defendant, that the purpose of the meeting was simply to discuss the way going forward, on what at all material times, the Plaintiffs were of the view, was a joint venture between the Plaintiffs and the First Defendant. Derek Serpell then made another very startling announcement to the Plaintiffs, to the effect that Georgetown East, Block 20E Parcel 83 REM1 only had a sale value of CI $682,000.00, and that this was the valuation, that had been provided by Simon Watson, owner of Charterland Ltd. The Plaintiffs had never been given or shown a valuation, suggesting the value of $682,000.00, for Block 20E Parcel 83 REM1. In fact the Plaintiffs had been aware for some time, during discourse with the First Defendant, who had in fact brought this fact to the attention of the Plaintiffs, that there had been another valuation done by DDL Studios on behalf of the First Defendant, and dated November 4 2010, which showed a value of CI $1,586,000.00. **(See valuation marked produced and exhibited PH13).** The meeting ended without any further discussions. The Plaintiffs left the meeting with disappointment, leaving all the other persons behind, and who it appears, continued with further discussions.

28. On Monday, April 11, 2011 at 02:53 pm the Plaintiffs wrote an email to Brett Hill of the First Defendant as follows: "Hi Mr. Hill and Mr. Johnson, I was disappointed with the meeting held with the proposed management team on Thursday April 7, 2011. I was informed by Mr. Anwer at the meeting held on Wednesday April 6, 2011 that I would meet with the proposed management team to look at plans, projections and discuss the way forward, in doing the project which is a viable project. Instead I was asked what I would sell the land for and nothing was shown to me by way of projections, plans or even how we would possible proceed forward with the project. I have done my research and I have looked at a number of scenarios and this is definitely a project if given the opportunity to do in stages would maximize the potential profits and pay off the debt with a substantial amount of cost savings. I have already over fifty workers on standby for this project and base on my calculations; I could get the house completed under 100

dollars per square foot. Despite what has happened already I do not see the point of selling the land, as this was not given to me as an option by Mr. Anwer. I look forward in being able to develop the land as agreed in the meeting with Mr. Anwer. **(see email marked produced and exhibited as PH 14)**

29On Monday, April 11, 2011 Mr. Hill of the First Defendants wrote to the Plaintiffs: "Phil, The purpose of the meeting was to assess how you and Derek's companies might work together and to assess the extent to which you would be able to assist or would like to get involved. The question raised by Derek regarding the transfer of the land was to determine if it might be beneficial from a structural point of view to have the land in a separate development company to facilitate the land transfers as the strata lots are sold, and nothing more. At this stage we are simply weighing the options. Mr. Hill of the First Defendant continued: "As I have indicated to you, our Board has appointed Derek's company to look after our interests and he is happy to include you in the project. However, before I get the final go-ahead from our board, I need all of the relevant agreements in place. At this time we are simply dealing with how the arrangement will be structured in order for us to move forward and how the various parties to this will participate. You need to appreciate that before we are allowed to advance the additional funds required to complete this project, we will make sure that the bank's interests are fully protected. In that regard we still have a few hurdles to clear before we get down to the detail of the project. Brett" **(see email correspondence marked produced and exhibited as PH 15)** The Plaintiffs responded by asking Brett Hill of the First Defendant, when was the next meeting scheduled, to discuss the way forward and to see the Management Team's proposal. The Plaintiffs later came to find out that the Bank interest was actually, something else. The property was transferred to the Third Defendant, Derek Serpell's company Satin Wood Gate Limited, who Brett Hill of the First Defendant had certified in his email of April 11 2011, to the Plaintiffs, was supposed to simply assist the Plaintiffs to succeed in the project, and protect the First Defendants interests in the process.

30. On Monday, April 18, 2011 Mr. Johnson of the First Defendant emailed the Plaintiffs asking that the Plaintiffs call him by phone. The Plaintiffs called Mr. Johnson of the First Defendant as requested, and was informed by Johnson, that the First Defendant along with its legal team, would like to meet with the Plaintiffs, in order to sign the necessary documents required for the project to progress, as discussed in the previous meetings. On Thursday, April 21, 2011the Plaintiffs asked Mr. Johnson of the First Defendant, what was the payout figure for the loan, the subject of which prompted in the first place, the discussions of a joint venture between the Plaintiffs and the First Defendant. **(see email correspondence marked produced and exhibited as PH16)** This was due to the fact that the Plaintiffs had at that point, interested investors, who were ready, willing and able to pay off the existing balance of the Plaintiffs loan, to the First Defendant, and thereafter proceed to doing a joint venture with the Plaintiffs.

The First Defendant was informed of this new development, but did not grant the request made by the Plaintiffs for the loan payout figure, instead the First Defendant asked the Plaintiffs to come to a meeting with the First Defendant and the First Defendant's lawyer (the Second Defendant). The Plaintiffs duly attended the said meeting, and were advised, by the First Defendant and the Second Defendant, without the benefit of their independent legal advisor, nor any suggestion or urgings by the First Defendant or the Second Defendant to seek such independent legal advice; the Plaintiffs were invited to, and told to follow a certain course of "signing" of documents, that the Plaintiffs were told, was necessary to be done, in order for the joint venture between the First Defendant and the Plaintiffs to proceed. It was represented to the Plaintiffs, by the First and Second Defendants that this would be the course of action geared towards, and a necessary component of what was required; in order to get final approval from the First Defendant's Board to finance the joint development project being undertaken by the Plaintiffs and the First Defendant. The Plaintiffs relied upon this representation made by the First and Second Defendants, and without the benefit of legal advice, proceeded to sign the documents presented to the Plaintiffs, by the First and Second Defendants. Both the First and Second Plaintiffs were asked to sign the documents presented to them. The Second Plaintiff, who is the wife of the First Plaintiff, was never advised, urged or encouraged by either the First Defendant or indeed the Second Defendant, that she in particular should seek independent legal advice.

31. Prior to the meeting the Plaintiffs had met personally with Mr Johnson of the First Defendant and informed him again, that the Plaintiffs would like to get the final payout figure for the Plaintiffs existing loan, because the Plaintiffs had secured interested investors, who were willing to do the project, and could he please inform the First Defendant of this development. Mr. Linval Johnson of the First Defendant then advised the Plaintiffs, that he did not think this would be a good idea, to do so at that time, as he was of the opinion, that the First Defendant's Board had approved the project and to inform them at this time of new investors would very likely confuse the issue. During a meeting subsequently held between the Plaintiffs and the First Defendant, the Plaintiffs were informed that The First Defendant needed to appoint a receiver for the Plaintiffs properties, which were the subject of the discussions, in order to progress the joint venture and more importantly, satisfy the requirements of the First Defendant's Board, as well as secure the First Defendant's interests. The First Defendants maintained at all material times during this meeting, that the planned project, to build and sell affordable housing on the property identified as Georgetown East Block 20E Parcel 83 REM1, either as standalone houses or strata lots or some combination of both, to be determined by the developer that would be agreed; was on going. At this said meeting the Plaintiffs were presented with an Affidavit, sworn on the 26th April 2011 by the Credit Manager, Pierre Claassen of the First Defendant.**(see document marked produced and exhibited as PH 17)** This along with an Originating Summons, which named the Plaintiffs as Defendants, was served upon

the Plaintiffs,(**see document marked produced and exhibited as PH 18)** as well as an Acknowledgement of Service Form. **(see document marked produced and exhibited as exhibit PH 19)** In paragraph 2 of that Affidavit, it was stated that the Plaintiffs had "entered into a letter of agreement" with the First Defendant," on August 26, 2010"…"to borrow the sum of CI $2,563,500.00 for construction on land registered under the Registered Land Law (2004 Revision) (hereinafter the "RLL") being Registration Section George Town East, Block 20E, Parcel 83 REM1 (hereinafter "Property 1")". This statement by Mr. Claassens of the First Defendant, was incorrect on the matter of the date stated, as being that of the commitment Letter. That letter to which he referred, was in fact dated **April 26 2010** and was handed to the Plaintiffs on **May 27 2010.** This also was the said letter, which was later replaced by the other letter, delivered on June 2 2010, but which even then, still bore the April 26th 2010 date. The commitment letter was never signed by the First Defendant or Plaintiffs.

32. In the said Affidavit under Part Two, and entitled **Default by the Defendants and Notices Given**, at paragraph11 Mr. Claassens of the First Defendant declared: 'Attached to this affidavit, as exhibits "PC 7" and "PC 8", respectively, are the said demand letters dated 22 June 2010 and 10 August 2010. The Plaintiff's representatives also have met with the Defendant Phillip Hyre to discuss the amounts outstanding and the possible way forward to settle the debt. To date, no payment has been made pursuant to the demands nor pursuant to such meetings."**(see page 7 paragraph 1 of exhibit PH 17)** This is an untrue statement made by Mr. Claassens of the First Defendant, as both the First Defendant and the Plaintiffs had agreed going forward, that payments for the outstanding balance would have been paid from the sales of the houses which were to be built as the joint development project agreed between the First Defendant and the Plaintiffs. The only demand letters that were relevant to these proceedings, were one issued by Pierre Claassens of the First Defendant, and one from a lawyer also on behalf of the First Defendant, **(see PH 4 and 5)** and these were delivered to the Plaintiffs **prior** to the commencement of the entire discussions between the Plaintiffs and the First Defendant, on the matter of the joint venture. In fact it was the delivery of these letters which formed the catalyst for the suggestion by the Plaintiffs, to the First Defendants, of collaborating on the housing development project in the first place.

33. The Plaintiffs then, at the urging of the First and Second Defendants, signed all the documents that were presented by the First Defendants and Paul Simon the Second Defendant, the Plaintiffs relying at all material times upon their representation and with the belief that in so doing, the Plaintiffs were simply facilitating the progression of the joint venture proposed between the First Defendant and the Plaintiffs and having the project done. **(see document marked produced and exhibited as PH 20)**This particular document was signed by the Plaintiffs, prior to the presentation to them of another document by Brett Hill and Linval Johnson of the First Defendant,

along with the Second Defendant.**(see document marked produced and exhibited as PH 21)**This document was dated the 28th of November 2011, and categorized as an "agreement as a deed". The Plaintiffs acted honestly, innocently and in good faith believed, and relied upon the several representations made by the First Defendant, that by agreeing and signing the necessary documents presented to them, that this was simply a part of the process, that the First Defendants Board had required and agreed to being done by the Plaintiffs, as a precursor to secure the granting of approval, for the joint venture between the First Defendant and the Plaintiffs, and the Plaintiffs at all material times, entertained no doubt whatsoever, that they the Plaintiffs, still retained the status of partner with the First Defendant going forward with the development. At no time whatsoever and even up to this point, has the Plaintiffs ever been told by the First Defendant that the Plaintiffs were no longer a part of the development. Had the Plaintiffs known otherwise, they would have exercised their right and pursued the option of other investors, who had demonstrated a settled interest in doing the development with the Plaintiffs as full partners.

34. Just prior to the act of signing by the Plaintiffs, and in anticipation thereof, Mr. Hill of the First Defendant had thanked the Plaintiffs for signing and for making the process easier, for the purpose of executing the joint housing development. The First Defendant reiterated to the Plaintiffs, that this was to the benefit of the Plaintiffs and the First Defendant. The Plaintiffs at the end of signing the documents, in turn thanked the First Defendant for the act of what the Plaintiffs ill-perceived then, was a re-negotiating of the terms of their indebtedness, and that in reality, the First Defendants purported act of "relieving" them of the debt of CI$2,500,000.00, was simply the First Defendants exercise of their skill, expertise, experience and good judgement, as represented to the Plaintiffs, in matters that clearly lay within the First Defendants power, professional experience and knowledge to execute, for the purpose of facilitating the proposed joint venture. Up to this point the Plaintiffs were of the opinion that they were still a part of the "new company" that was formed, namely Satin Wood Gate Limited, which the First Defendant had re-assured the Plaintiffs, was simply being formed to oversee and secure the First Defendants interests, and was purportedly now being made to assume the debt of CI$2,500,000.00, by the First Defendant, and that the status of the Plaintiffs had remained unchanged, as far as ownership of the land and partnership in the agreed joint venture housing development was concerned. This assumption on the part of the Plaintiffs was confirmed in their belief, by the conduct and the several representations which were made by Brett Hill of the First Defendant, via email correspondences, during the period spanning **11 April 2011 to 21 April 2011 (see document marked produced and exhibited as PH 14, 15 &16)** At the end of signing the documents the Plaintiffs had asked the First Defendants where do they go from here and what role would they effectively play in the agreed housing development as discussed, between themselves and the First Defendant. The First Defendants told the Plaintiffs that they would have

to contact and speak to Derek Serpell of the Third Defendant, as to what role he would like to have them play in the Development. The Plaintiffs again reminded the First Defendants that they the Plaintiffs, expected to continue to be part of the agreed development going forward as planned.

35. Mr. Leonard Ebanks, a past President of Fidelity bank was appointed as Receiver on behalf of the First Defendant. **(see document marked produced and exhibited as exhibit PH 22)**The Plaintiffs were told to contact Mr. Ebanks if they had any questions as to what was taking place. At all material times and up to this point, the Plaintiffs were trusting the expertise and professional experience of the First Defendant, and accepted all the attendant formalities presented to them, as being part of the **required** formalities needed to be put in place, prior to and in order that, the joint venture become a reality. The Plaintiffs contacted Mr. Ebanks by phone and asked Mr. Ebanks what if any update he might be able to provide, in regards to the joint development project proposed to be undertaken between the First Defendant and the Plaintiffs, as the Plaintiffs had been instructed to do by Mr. Linval Johnson of the First Defendant, as well as to determine from him, what was the sum of the benefits to be acquired by the Plaintiffs, in relation to the joint venture going forward. Mr. Ebanks told the Plaintiffs that he could not at the time make any specific declaration, and that he would be sure to inform the Plaintiffs as soon as he was possessed of that information. Mr. Ebanks went on to say that his terms of reference, was to ensure that the interests of both the Plaintiffs and the First Defendant were preserved. The Plaintiffs never heard from or saw Mr. Ebanks since that telephone discussion, and at no time were the Plaintiffs formally introduced to Mr. Ebanks as the Receiver.

36. The Plaintiffs verily believe that George Town East Block 20E 83REM 1 was deceitfully, dishonestly and fraudulently transferred to the Third Defendant Satin Wood Gate Limited, which company was incorporated on 27 September 2011,**(see document marked produced and exhibited as PH 23)** and this incorporation, significantly, took place, **after** written approval had already been granted by the First Defendant's Board, to finance the joint development agreed between the Plaintiffs and the First Defendant. This act was clearly done, for the purpose of cheating the Plaintiffs out of the financial benefits, that they were assured would be acquired by them, and which financial benefits had been, at all material times , alluded to and certified to the Plaintiffs, by the First Defendant. The First Defendant had initially assured the Plaintiffs that the transfer by them of Georgetown East, Block 20E, Parcel 83 REM 1, from "Phillip Hyre and Kevon Hyre" (the First and Second Plaintiffs) name, would result in the said transferred land, being placed into a newly formed company, which the Plaintiffs would be members of, as well as the Plaintiffs would effectively retain ownership of the said land. The Plaintiffs were also assured, influenced by the representations of the First Defendant, that Derek Serpell of the Third Defendant, who also was the owner of Evolving Island Limited, was being

brought in simply to ensure that the First Defendant interests were preserved and protected, and that this was to be effected through the forming of the company Satin Wood Gate Limited.

37. The Plaintiffs were later astonished when they received information in the form of a copy of a notice, from the owner of property adjoining Georgetown East, Block 20E, Parcel 83 REM 1, to the effect that an application had been tendered for a development to Planning Department, for the approval of the very same joint housing development project that had been agreed between the Plaintiffs and the First Defendant; without the Plaintiffs knowledge. (**see document marked produced and exhibited as PH 24)**The application read: "Notice of application for planning permission from (Kariba) Chisha developments Limited (P.O. Box 30612 KY1-1203) on behalf of the owners of Block 20E Parcel 83 REM 1". Interestingly it was noted that, Derek Serpell of the Third Defendant, is listed as the Director of the company serving the Planning Permission notice, and as well it was noted that Bodden Corporate Services Ltd. was listed as the Secretary for Chisha Developments Limited.

38. It was also discovered, that by a letter dated November 25 2011, the First Defendant wrote to the Registrar of Lands, sanctioning the transfer of George Town East, Block 20E, parcel 83 REM 1 to satin Wood Gate Limited ("Satin Wood") providing the charges stay in place. This action started to raise the concern of the Plaintiffs and they were concerned as to the real reasons that were driving these formalities, and whether the First Defendant's actions were to be deemed ethical in the several respects, since the property had effectively been transferred from Phillip Hyre & Kevon Hyre, (the Plaintiffs) on the instructions of the first Defendant. Even at this late stage, the Plaintiffs understanding up to this point, was that all that had so far transpired, was simply for the purpose of facilitating the joint housing development project, agreed to be undertaken by the Plaintiffs and the First Defendant. **(see document marked produced and exhibited PH25).**

39. The Plaintiffs also came to discover a document entitled "Declaration on Conveyance Preceding Agreement" which documents was shown to suggest that the Third Defendant had purchased Georgetown East Block 20E, Parcel 83 REM1, and appeared to have been signed on 25 November 2011. Significantly, this document asserts that the transaction of "Conveyance/ Transfer of Land is executed without prior written agreement between the Vendor and the Purchaser". Indeed the Plaintiffs had not consented to any sale of their land. **(see document marked produced and exhibited PH26)**

40. The Plaintiffs wrote to the First Defendant on Friday February 13, 2012 at 4:31 pm as follows. "Dear Mr. Hill, this note is in regards to the 28 November 2011agreement. Paragraph six of the said agreement states that: "On the sale of Properties 2 & 3, the

liability of the Hyres will be limited to the amount of principal and interest then outstanding on the said loan of CI$ 304,000.00, the fees and charges associated with the assumption by Satin Wood of the said liability and the fees and cost associated with the sales now that Satin Wood have taken over the project ,what would be the monthly payments of the said CI $304,000.00 since to our understanding the CI$ 304,000.00 constitute the only liability we owe to your bank? Will you please also include the interest rate and the number of years amortized. Your earliest reply would be appreciated. Kind regards.

41. Mr. Johnson of the First Defendant responded four days later on Monday February 13, 2010 at 4:31 pm. "Hi Kevon and Phillip, Wishing you and family all the best for 2012. In response to your query and with reference to clause 6 of the agreement , "the Hyres will be limited to the amount of principal and interest then outstanding on the said loan of CI 304,000.00 plus the fees and charges associated with the assumption by Satin Wood of the said liability and the fees and cost associated with the sales. "We are currently in the process of finalizing these figures and will advise the revised loan balance within the next few days. At the same time we will provide the additional details on the repayment terms. Regards, Linval Johnson.**(See document marked produced and exhibited PH 27 email dated February 13 & 17, 2012)**

The Plaintiffs remained of the settled opinion, that they were still a part of the development project, to be done jointly with the First Defendant. This notion was predicated on the fact that, all of the fees and charges applicable to ongoing formalities, and without the express consent of the Plaintiffs, and associated with the assumption by Satin Wood of the Plaintiffs related liability, as well as related to the project itself; were being charged against the Plaintiffs account held with the First Defendant. This fact led the Plaintiffs to the inescapable inference, and the Plaintiffs did verily believe, and at all material times relied upon this assertive conduct and representations made by the First Defendant, to the Plaintiffs, that the fact of their being held accountable for the said applicable fees, were all part and parcel of the First Defendants exercise of their fiscal knowledge, professional expertise and experience, in fulfilling the formalities to materialize the assertion of partnership, that the First Defendants had assured the Plaintiffs, they both were embarking upon, as a means of the Plaintiffs discharging their outstanding financial obligations to the First Defendant. and that the fees and cost associated with these processes, remained the responsibility of the Plaintiffs, and the Plaintiffs had in fact been billed for the said fees associated with, as it turned out; the First Defendants deceit. **(See emails date February 13 & 17, 2012 exhibited PH 27 and exhibit PH 28)**

42. The Plaintiffs became aware, on Friday May 1 2012, via an advertisement on page 27 of the Caymanian Compass news paper, that the First Defendant was in partnership

with Satin Wood Gate, for the development and sale of the housing project, previously agreed to be undertaken as a joint venture, between the Plaintiffs and the First Defendant. The far left bottom corner of the ad in the Caymanian Compass showed the email address to be satinwood@fidelitycayman.com. By virtue of this development, the Plaintiffs became convinced that it was always the intention of the First Defendant, to deliberately and knowingly mislead the Plaintiffs into believing that Satin Wood Gate Limited, was only being set up, to assist in moving forward the project and securing the interests of the First Defendant, when all along the true intention of the First Defendant, was to act in a manner, detrimental to the interests of the Plaintiffs, without regard for the truth, honesty and integrity. The Plaintiffs verily believe that the Defendants induced them to do the variety of acts performed by them, urged and or otherwise influenced by the First Defendant, whereas had the true facts and intentions of the First Defendant been known to the Plaintiffs, they would not have done. **(see document marked produced and exhibited PH29).**

43. The First Defendant failed in their professional, fiduciary and moral duty owed to the Plaintiffs, as a Banking and Financing Institution, and at all material times, undertook and demonstrated the role of real estate broker and developer. This was confirmed by the statement attributed to the First Defendant in an email response to the Plaintiffs, that it was not traditionally, in the best interest of the First Defendant to act in the capacity of developer, since Cayman Islands Monetary Authority (CIMA) regulations, forbid such practices.**(See paragraph two on page two of an email response of the First Defendant to the Plaintiff which the First Defendant highlighted his response in red to the Plaintiff's statement written in black of the same paragraph)** Nonetheless for all intents and purposes, the First Defendant did act in the capacity of real estate broker and developer, taking into account, the cumulative conduct of the First Defendant, as relates to their interaction with the Plaintiffs, regarding the proposed joint venture housing development, which had been proposed to be executed between the Plaintiffs and the First Defendant.**(See document marked produced and exhibited PH 30)**

44. On Friday March 30, 2012 the First Plaintiff spoke to Mr. Bret Hill of the First Defendant in an effort to arrange a meeting, to discuss the way forward with the proposed joint venture housing project. This call was prompted by the fact that, it was becoming more and more apparent to the Plaintiffs, that it did not appear as though matters, as discussed previously between the Plaintiffs and the First Defendant; were progressing in the agreed manner. The intent of the Plaintiffs, was to inject some degree of certainty, as to what stage the plans were at and to discuss proposals for going forward, and to resolve any outstanding issues. The First Plaintiff received no response from Mr. Hill of the First Defendant, as a result, a voice message was left for Mr. Hill of the First Defendant, to contact the First Plaintiff.

45. On Monday April 2, 2012 Mr. Linval Johnson of the First Defendant, contacted the First Plaintiff by telephone, and informed him that he had been instructed to call him on the behalf of Mr. Hill of the First Defendant, to discuss matters with him Johnson, as Mr. Hill is off for a week. A meeting was set for Wednesday April 4, 2012 between the First Plaintiff and Mr. Linval Johnson of the First Defendant. The First Plaintiff sent an email to Mr. Johnson of the First Defendant, to confirm the time and date appointed for the meeting. On April 3, 2011 Mr. Johnson of the First Defendant emailed the First Plaintiff, confirmed the date and time of the meeting. **(See document marked produced and exhibited PH 31).**

46. On Wednesday April 4, 2012 at 10:00 am, the First Plaintiff went to the First Defendant's offices and there had a meeting with Linval Johnson of the First Defendant. The purpose of the meeting was to have a discussion and derive a clear understanding, as to what was taking place or had taken place, in regards to the agreed joint project, Hyre Point Oasis Development, at George Town East, Block 20 E Parcel 83 REM 1. The First Plaintiff took notes of the discussions engaged in at the meeting, and later emailed Mr. Johnson of the First Defendant, confirming the nature and content of what the First Plaintiff had recorded and understood from what had been discussed between them, during the said meeting. It was during this said meeting, that the First Plaintiff was made fully aware, that the First Defendant had in fact, handed over full control of the previously agreed joint housing development between the First Defendant and the Plaintiffs, to Derek Serpell, the owner of the newly formed company, Satin Wood Gate Ltd, which company the First Defendant had certified to the Plaintiffs, was merely being set up, to oversee and manage the agreed project, as a condition of extending the Plaintiffs loan facility, to satisfy the First Defendant's Board, and to ensure and protect the First Defendant's interests in the project. It was at this meeting therefore, that the realization of the real state of affairs, was uncovered and realized by the Plaintiffs, and revealed the fact that, as matters stood at that time, the sole owner of the Hyre Point Oasis development was Satin Wood Gate Ltd; to the total exclusion of the Plaintiffs.(**Please refer to exhibit PH 30).**

47. At this said meeting Mr. Linval Johnson of the First Defendant gave to the First Plaintiff, a copy of the land valuation done by DDL Studio, in relation to Block 20E Parcel 83REM 1.On that valuation the said land was valued at CI$1,586,000. **(Please Refer to exhibit PH 13Valuation report dated November 4, 2010).** During that said meeting, Mr. Johnson of the First Defendant, gave to the First Plaintiff, a copy of the 28 November 2011 Agreement, made out as a deed, between the First Defendant and Phillip & Kevon Hyre, the Plaintiffs,**(Please Refer to exhibit PH 21 dated 28th November 2011)** along with a copy of a document showing invoices for various costs amounting to a total of $65,504.29; **(Please refer to document marked produced and exhibited as PH 28)**which he said would be added to the amount of

$304,000.00 making it a total of $365,504.29 owing by the Plaintiffs to the First Defendant, and that this figure was representative of the total amount owed to the First Defendant by the Plaintiffs. Mr. Johnson also certified to the Plaintiffs, that the First Defendant would make out a new loan agreement, which he was at the material time putting together. Mr. Johnson of the First Defendant further certified to the Plaintiffs, that there would be no monthly payments, and the Plaintiffs would be given two years in which to market and sell the project, for what sum they could market them. He also certified, that any outstanding balance remaining thereafter, would be written off and the Plaintiffs would be free and clear from all debt owed to the First Defendant. It was also discovered by the Plaintiffs, that all charges relating to the new situation, which was for all intents and purposes were instigated by the First Defendant, the invoice amount, description and satisfaction of funds owed for the various processes undertaken at the instigation of the First Defendant, had been charged to the Plaintiffs account; for services that the Plaintiffs never engaged, authorized or was even made privy to, prior to them being undertaken, nor for which they were in receipt of any benefit as they related to the development project. **(Please refer to document marked produced and exhibited PH28).**

48. The First Plaintiff, Mr. Hyre, emailed Mr. Johnson of the First Defendant, to confirm what was discussed in the meeting. Mr. Hyre then informed Mr. Johnson that had it been made fully known to them the Plaintiffs, that it was the intention of the First Defendant to usurp the Plaintiffs position in the agreed joint venture and to take the Development Project away from, and to exclude them in the deceptive manner as demonstrated by their eventual conduct, they would have pursued other investors, who were willing and able to finance the project. The First Plaintiff also reminded Mr. Johnson of the First Defendant that it was he Johnson, who had advised the First Plaintiff not to pursue the path of other investors because he Johnson had advised the First Plaintiff, that he was of the opinion that the Board had already approved financing for the project, and that informing them at that stage, about other investors would likely confuse the issue. It was as a result of the said advice that the Plaintiffs did not pursue other investors. During that said meeting Mr. Johnson of the First Defendant, showed to the First Plaintiff, an electronic copy of the letter of approval for the development which was dated August 5, 2011. It was of noteworthy significance to the First Plaintiff, that this approval had been granted, and the letter of approval was done, before the forming of the company Satin Wood Gate Ltd. Following on from this correspondence, Mr. Johnson of the First Defendant responded by email and telephone to the First Plaintiff. (**Please refer to exhibited PH 30)**

49. Mr. Johnson of the First Defendant subsequently called the First Plaintiff, by phone and requested of the First Plaintiff that he leave off and avoid mentioning, the fact that he had had sight of the Board's letter of approval for the development dated

August 6, 2011. Mr. Johnson told the First Plaintiff, that he Johnson had a concern that having had sight of the letter, this might be interpreted by the First Defendant as he Johnson having divulged confidential information to the First Plaintiff. The First Plaintiff in his email response to Mr. Johnson, reminded Mr. Johnson that prior to seeing the electronic copy of the First Defendant's Board approval letter, he the First Plaintiff had long since been aware, as he the First Plaintiff had been informed by Mr. Anwer of the First Defendant, that the project had received approval. The Plaintiffs were never ever given a hard copy of the said approval letter. (see **document marked produced and exhibited PH 32)**

50. On Friday April 20, 2012 the First Plaintiff wrote to the First Defendant expressing how disappointed the Plaintiffs were, concerning the unwarranted, deceitful and unilateral conduct of the First Defendant, which had culminated in the unconscionable turn of events, instigated and executed by the First Defendant, whose representations, the Plaintiffs at all material times, were acting in full reliance upon. The Plaintiffs suggested to the First Defendant that the balance $304,000.00 as well as the other expenses and interest cost that were secured by registration Section Prospect, Block 22E, Parcel 412H1 (Property 2) and registered under the RLL being Registration Section Prospect, Block 22E, Parcel 412H8 (Property 3), should be freed from all encumbrances, as an act of good faith and effort by the First Defendant to rectify that which, on any objective and impartial view, the First Defendant's conduct thus far was clearly fraudulent, dishonest, deceitful and unconscionable.
(See email and letter to Brett Hill dated April 20, 2012 marked produced and exhibited as PH33).

51. On Tuesday May1, 2012 Brett Hill of the Defendant responded to Plaintiffs letter.
(See email and letter from Mr. Brett Hill marked produced and exhibited PH 34)

52. On Wednesday May 2, 2012 the Plaintiffs emailed Mr. Hill of the First Defendant, expressing disappointment in him not acting on the behalf of the First Defendant, to right the very obvious wrong being propagated against the Plaintiff, and his being clearly dismissive of the points and concerns raised by the Plaintiffs, in their letter of April 20 2012, as well as the Plaintiffs follow up communication, particularly as it related to the suggestion/request by the Plaintiffs, of releasing the properties in question. **See Document marked produced and exhibited as PH 35)**

53. On Thursday May 3, 2012 the Plaintiffs again wrote the First Defendant expressing a desire for the First Defendant to release any encumbrances on the said properties, the subject of the communication of April 20 2012. **(See document marked produced and exhibited as PH 36)** That same day, one Michael Joseph served on a tenant of the Plaintiffs, who was occupying an apartment located on one of the said properties, a letter on behalf of the First Defendant. The letter dated May 4 2012 read,

"Dear Sir/Madam

Please accept this letter as notice that I have been appointed as the listing Agent of Hyre Point Gardens Unit #1 which has been placed into receivership by Fidelity bank to Leonard Ebanks.

We request that if you are in fact the tenant of Unit #1, that you contact our offices as soon as possible to provide your contact details and a copy of the lease for your unit together with copies any rental payments which you have recently made and confirmation to whom is in receipt of the rental payments.

Please note that if we have not received any communication from you within 7 days of the date of this letter, Friday 11 May 2012, that the locks on the doors will be changed.

Please do contact me as soon as possible.

Kind regards,

Michael." **(See Document marked produced and exhibited as PH 37)** A foreclosure sign was also placed at property Block 22E Parcel 412H1&Block 22E Parcel 412H8.**(see Document marked and exhibited as PH38)** Both the letter from Michael Joseph and the foreclosure signs came as a shock to the Plaintiffs and once again this demonstrated further proof of the deceitfulness of the first Defendant. The Plaintiffs properties could not and should not have been the subject of any foreclosure process, primarily due to the fact that, no new agreement had been given to the Plaintiffs by the First Defendant, as to the terms and conditions of the new loans arrangement.

AND THE PLAINTIFF claims:

1. Summary judgment and/or

2. An Order (Injunction)restraining and prohibiting the First Defendant whether by himself, his servant or agent or otherwise, from any and all actions pursuant to Section 64(2) of the Registered Land Law (2004 Revision) the objective of which is to proceed to develop and or sell the several properties namely Block 20E, Parcel 83 REM1; owned by the Plaintiffs prior to, and which property the First Defendant held a legal charge over, and in relation to which, the First Defendant's made a misrepresentation, knowingly, without belief in its truth, or recklessly, to the Plaintiffs, which misrepresentation was manifested by fraud and deceit, practiced by the First and Second Defendants, and which caused the Plaintiffs to unwittingly sign documents, the effect of which was to transfer the legal and beneficial title of the property identified as Georgetown East, Block 20E,Parcel 83 REM1to the First Defendant, and who thereafter transferred the said property to the Third Defendant.

3. An Order (Injunction)restraining and prohibiting the Third defendant whether by himself, his servant or agent or otherwise, from any and all actions, the objective of which is to proceed to develop the property known as Georgetown East, Block 20E Parcel 83 REM1 and to build dwelling houses thereon, and thereafter to sell the said dwelling houses.

4. An Order (Injunction) restraining and prohibiting the First Defendant from any and all actions, pursuant to section 64(2) of the Registered Land Law (2004 Revision) the objective of which is to proceed to sell or otherwise deal with the properties identified as Block 22E Parcel 412H8 and Block 22E Parcel 412H1, properties over which the First Defendant holds a legal charge.

5. Exemplary damages to be assessed, against the First Defendant and arising from Breach of Contract, and breach of the duty of mutual trust and confidence which the First Defendant at all material times, failed to protect and secure the best interests of the Plaintiffs, consistent with the reliance reasonably placed in the First Defendant, by the Plaintiffs and which breach resulted in pecuniary loss being sustained by the Plaintiffs and was directly caused by the actions of the First Defendant.

6. General, Compensatory and Exemplary damages to be assessed and arising from misrepresentations made by the First, Second, Third and Fourth Defendants, and by which the Plaintiffs sustained pecuniary loss.

7. General, Compensatory and Exemplary damages to be assessed and arising from actions of Deceit and Fraud committed jointly by the First, Second, Third and Fourth Defendants, to the detriment of the Plaintiffs.

8. Exemplary and Compensatory damages against the Second Defendant for Deceit and Negligence by his failure to inform the Second Plaintiff of her right to seek independent legal advice prior to her signing the documents presented to her by the Second Defendant and which had the effect of transferring the title for Georgetown East, Block 20E, Parcel 83, REM1, to the First Defendant.

9. Compensatory and Exemplary damages against the Fourth Defendant for Fraud and Deceit practiced by the defendant and demonstrated by his devaluation of Georgetown East, Block 20E, Parcel 83, REM1, to the detriment of the Plaintiffs and for the benefit of himself, the First and Third Defendants.

10. An Order to rescind the agreement signed by the Plaintiffs, and dated 25 November, 2011, on account of the fact that, the said agreement was signed by the Plaintiffs, only because of their belief and reliance upon misrepresentations, deceit and fraud, made by the First and Second Defendants to the Plaintiffs, in the form of several assurances, among them

development housing project, between the First Defendant and the Plaintiffs. Reliance upon this negligent misstatement and or misrepresentation was manifested by the deceitful actions of the First and Second Defendants, and which deceit caused the Plaintiffs to sign all documents presented to them by the First and Second Defendants, in the absence of the Plaintiffs having the benefit of, or being advised by the First and Second Defendants to seek, independent legal advice.

11. An Order to Rectify the Land Register pursuant to section 140(1) of the Registered Land Law (2004 Revision) and the Land Adjudication Law (1977 Revision) by removing from the said Land Register, the name of Satin Wood Gate, as the registered title holder of Georgetown East, Block 20E Parcel 83 REM1.

12. An Order granting possession to the Plaintiffs, and for the Plaintiffs to be re-registered as the legal and beneficial title holders of Georgetown East, Block 20E Parcel 83 REM1.

13. An Order rescinding the transfer of Georgetown East, Block 20E, Parcel 83 REM1, by the First Defendant, to Satin Wood Gate Ltd.

14. An Order for pre-judgement and post-judgement interest on General, Compensatory and Exemplary damages in accordance with the Judicature Law and at a daily rate of interest established at the discretion of this Honourable Court, together with Court costs and legal fees

15. Such further and other relief as this Honourable Court may deem just and equitable.

PHILLIP HYRE & KEVON HYRE
PLAINTIFFS

This generally endorsed Writ of Summons was prepared and issued by Phillip Hyre & Kevon Hyre, the Plaintiffs whose address for service is House # 24, Apt. 1 Poinsettia Lane, Tropical Gardens, P. O. Box 1671, Grand Cayman, KY1-1109, Cayman Islands.