

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION



CAUSE NO. FSD 0052 OF 2013

BETWEEN: APR 25 2013



CARIBBEAN ISLAND DEVELOPMENTS LIMITED  
(in Official Liquidation)

- and -

FIRST CARIBBEAN INTERNATIONAL BANK (CAYMAN) LIMITED



**WRIT OF SUMMONS**

**TO:** FIRST CARIBBEAN INTERNATIONAL BANK (CAYMAN) LIMITED  
C/o Walkers Global  
FAO: Lisa Embleton  
190 Elgin Avenue  
George Town, Grand Cayman KY1-9001  
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out in summary on the next page.

Within 14 days after service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or 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 25<sup>th</sup> day of April 2013.

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.

## GENERAL INDORSEMENT

1. The Plaintiff (“**the Company**”) is a Cayman Islands company and was at all material times engaged in the development of a plot of land (the “**Property**”) into a five star luxury condominium development and/or hotel. The Company is now in official liquidation. The Defendant (the “**Bank**”) is a bank that carries on business in the Cayman Islands and which lent the Company US\$1.1 million (the “**Loan**”) secured by a first registered charge over the Property. The charge was subsequently varied to reflect an increase in the borrowing from the Bank by the Company, to US\$1.5 million (the “**Charge**”).
  
2. The Company defaulted on the Loan and the Bank took steps to exercise its power of sale pursuant to the Charge, first by applying to Court by Originating Summons for sanction of an intended sale by private treaty, and subsequently, by arranging and holding a purportedly public auction. At the auction one purchaser (“**Lauren**”) attended (pursuant to previous arrangements having been made to ensure their attendance), to which the property was subsequently sold for US\$2.5 million.
  
3. By the manner in which it exercised its power of sale pursuant to the Charge, and in light of the steps that it took in furtherance thereof, the Bank breached its statutory and/or equitable obligations which it owed to the Company, the Bank sold the property at an undervalue and/or the Bank did not act reasonably in accepting Lauren’s offer.
  
4. In the premises, the Bank has caused the value of the Company’s equity of redemption in the Property to be diminished and the Company has suffered loss and damage.

### **AND THE PLAINTIFF CLAIMS:**

- (1) Damages;

- (2) Alternatively, an inquiry into the sum that the Defendant ought to have obtained in the exercise of its power of sale together with an order that the Defendant do account to the Plaintiff for the said sum;
- (3) Such further accounts and/or inquiries as the Court thinks just;
- (4) Equitable compensation;
- (5) Interest pursuant to s.34(1) of the Judicature Law (2007 Revision) and/or the Court's equitable jurisdiction at such rates and for such period as the Court in its discretion thinks just.
- (6) Further or other relief;
- (7) Costs

  
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**HARNEY WESTWOOD & RIEGELS**  
**Attorneys-at-law for the Plaintiff**

THIS WRIT was ISSUED by HARNEY WESTWOOD & RIEGELS, Attorneys-at-Law for Caribbean Island Developments Ltd (In Official Liquidation), whose address for service is 4<sup>th</sup> Floor, Harbour Place, 103 South Church Street, PO Box 10240, Grand Cayman KY1-1002, Cayman Islands (Ref: DWH/AMA/043260.0001).

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, PO Box 495GT, 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 of for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

**See over for notes for guidance**

**Please complete overleaf**

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further set 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO. FSD OF 2013

BETWEEN:

CARIBBEAN ISLAND DEVELOPMENTS LIMITED  
(in Official Liquidation)

Plaintiff

- and -

FIRST CARIBBEAN INTERNATIONAL BANK (CAYMAN) LIMITED

Defendant

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ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS

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

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

yes  no

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3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick appropriate box)
- yes                       no
- 

Service of the Writ is acknowledged accordingly

(Signed).....

**Please complete overleaf**

**Notes on address for service**

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Plaintiff's Attorney (or be Plaintiff if suing in person) of his name, address and reference, if any in the box below.

Harney Westwood & Riegels  
4<sup>th</sup> Floor, Harbour Place  
103 South Church Street  
P.O. Box 10240  
Grand Cayman KY1-1002  
Cayman Islands  
  
**(Ref: DWH/AMA/043260.0001)**

Indorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below).