

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION



CAUSE NO: CIV 0303 OF 2013

BETWEEN:

CAYMAN ISLANDS DEVELOPMENT BANK

PLAINTIFF

AND:

KEVIN HARLEY WATSON

1<sup>st</sup> DEFENDANT

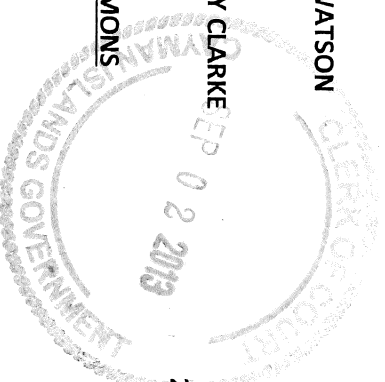
AND:

TIMOTHY STANLEY CLARKE

2<sup>nd</sup> DEFENDANT

WRIT OF SUMMONS

TO:  
Kevin Harley Watson  
AND:  
Timothy Stanley Clarke



**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, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this      day of August 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.

**STATEMENT OF CLAIM**

1. The Plaintiffs are bankers carrying on business at their branch on Dr. Roys Drive, George Town, Cayman Islands.
2. On or about the 11<sup>th</sup> September 2010 the Plaintiff offered to lend to the 1<sup>st</sup> Defendant the sum of CI\$25,000 and the said offer was accepted by way of signed acceptance on the 15<sup>th</sup> September 2010.
3. The salient terms of the agreement between the parties were as follows:
  - 3.1 the plaintiff will loan the sum of CI\$25,000 to the 1<sup>st</sup> defendant subsequent to signing of the requisite loan documentation.
  - 3.2 That the 1<sup>st</sup> defendant will repay the principal together with interest by monthly installments of CI\$507 over a period of 60 months commencing 30<sup>th</sup> November 2010.
  - 3.3 The 1<sup>st</sup> and 2<sup>nd</sup> defendants will enter into a guarantee to repay the loan in the event of default of the 1<sup>st</sup> defendant.
  - 3.4 That interest shall be charged at the rate of base plus 1.55% to an effective rate of 8% on the principal amount disbursed and outstanding.
4. The plaintiff agreed to the terms of the loan and an agreement was entered into in writing by the Plaintiff and 1<sup>st</sup> Defendant on the 15<sup>th</sup> September 2010.
5. In consideration of the plaintiff entering into the said agreement, the 2<sup>nd</sup> defendant by written agreement evidenced by his signature on a Guarantee, signed by the 2<sup>nd</sup> defendant on the 15<sup>th</sup> September 2010 guaranteed the payment to the plaintiff of the said sum of CI\$25,000. A copy of the signed Loan Offer, Acceptance and Guarantee are annexed to this statement of claim as evidence of the entire terms and conditions and obligations of all parties.
6. In accordance with the terms as set out at paragraph 3 above and with the said loan agreement the Plaintiff lent to the 1<sup>st</sup> Defendant the sum of CI\$25,000.
7. In breach of the agreement the 1<sup>st</sup> Defendant failed to make repayments on the said loan in accordance with the repayment schedule and on the 19<sup>th</sup> July 2013 the Plaintiff demanded repayment of the entire sum owing of \$31,290.22 from all defendants but none of the defendants have paid to the plaintiff the sum owing.
8. In the premises, the Defendants are joint and severally indebted to the Plaintiff in the sum of CI\$31,537 as of the date of the 28<sup>th</sup> August 2013.

Particulars	
Principal	\$26,859
Interest	\$4,678.48

A copy of the loan account particularising the interest and principal amount is annexed to this statement of claim.

9. The Plaintiff also claims interest on the said sum owing at 7% per annum from the date of demand of repayment.

10. **STATEMENT REGARDING INTEREST**

- a) The Plaintiff seeks pre and post judgment interest from the date of issue of proceedings at the contractual rate of base plus 1.55% to an effective rate of 7% on the unpaid balance until payment and in accordance with the provisions of the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
- b) The interest rate claimed is 7% or in the alternative as per the Judgment Debt (Rates of Interest) Rules at 2 3/8% per annum.
- c) Interest is claimed on the sum claimed from the 28<sup>th</sup> August 2013.
- d) The amount of interest owing at date of issue of this Plaintiff is \$12.09.
- e) The amount of interest accruing each day following the issue of this Plaintiff is CI\$6.04.

**AND THE PLAINTIFF CLAIMS:**

- (i) The said sum of CI\$31,537.48.
- (ii) Pre and post judgment Interest on the said sum in accordance with the terms of the agreement and the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
- (ii) Costs or alternatively fixed costs in the sum of CI\$150.00 plus filing fees and bailiff's fee for service



**Samson & McGrath**

**Attorneys for the Plaintiff**

**Endorsement**

If within the time for returning Acknowledgement of Service the Defendants pay to the Plaintiff's Attorneys-at-Law the total amount claimed of CI\$31,537.48 and all filing fees, ad valorem fees, and all interest claimed all further proceedings will be stayed.

**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 4955G, 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 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 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 installments 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 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.



CAYMAN ISLANDS DEVELOPMENT BANK

September 11, 2010

Kevin H. Watson  
P.O. Box 11900  
Grand Cayman KY1-1011  
CAYMAN ISLANDS

Dear Mr. Watson,

OFFER LETTER

The Cayman Islands Development Bank ("CIDB") is pleased to offer you a loan of CI\$25,000.00 on terms and conditions summarized below. The loan is being offered in accordance with the laws of the Cayman Islands.

**TERMS AND CONDITIONS OF THE LOAN**

**Borrower:**

Kevin H. Watson

**Purpose of the Loan:**

- 1) To assist with financing the costs associated with repairing heavy equipment (\$18,084)
- 2) To provide working capital (\$3,670)
- 3) To finance dump truck insurance premium (\$2,246)
- 4) To finance fees associated with loan (\$1,000)

**Loan amount:**

CI\$25,000 (Twenty Five Thousand Cayman Islands Dollars.)

**Interest:**

Base plus 1.55% per annum (effective rate for the time being 8.0%)

The rate of interest charged, and also the monthly instalment on this loan may be subject to variation from time to time in the future, in accordance with market forces on the rate for similar loans at CIDB. Such variation may be made upon three months prior written notice by CIDB and delivered to your last known mailing address as recorded on our files.

**Monthly Instalments:**

\$507.00 (Five Hundred and Seven Cayman Islands Dollars).

**Moratorium:**

2 Months (principal only) Starts: Sept 2010      Ends: Oct 31, 2010

**Period of Loan:**

5 years (60 months)      Starts: Nov 30, 2010      Ends: Oct 31, 2015

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Base is currently 6.45% and shall be reviewed at a least twice annually on January 15<sup>th</sup> and June 15<sup>th</sup> respectively.

**SECURITY:**

- (a) A Bill of Sale over 1995 Ford L9000 Dump Truck License# 90853 for the loan amount. *Pool*
- (b) A Bill of Sale over 2004 Chevrolet Silverado for \$15,000.00.
- (c) Assignment of a comprehensive insurance policy over 1995 Ford L9000 Dump Truck.
- (d) Assignment of a comprehensive insurance policy over 2004 Chevrolet Silverado.
- (e) Bank Lien over 1995 Ford L9000 Dump Truck.
- (f) Bank Lien over 2004 Chevrolet Silverado.
- (g) Personal Guarantee for the loan amount from Timothy Stanley Clarke

**OTHER CONDITIONS:**

- (a) CIDB reserves the right to provide financial assistance to the borrower during the implementation period of the loan. *Vehicles were released and Sold.* B will not be held responsible for the quality or the content of the rendering such advice.) *Sold.* in by its technical staff when
- (b) Trade and Business Licence is to be kept up to date. the loan, renewed and a copy submitted to CIDB on an annual basis.
- (c) The borrower may not access any loan funds from any other financial source during the currency of this agreement for the same purposes of this loan without the express written consent of CIDB.
- (d) The borrower is requested to maintain proper accounting records on the operations of the business (which will be open for inspection by CIDB or its assignee(s) from time to time). Notwithstanding the foregoing, full year-end or interim accounts must be submitted to CIDB on an annual basis.
- (e) The borrower will open and/or operate a dedicated current account at an approved commercial bank so that cash inflows and outflows from the business may be properly monitored by the Company and by CIDB.
- (f) The borrower's business will be subject to an annual review by CIDB.

**CONDITIONS PRECEDENT TO THE DISBURSEMENT OF FUNDS:**

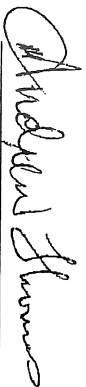
Fees and charges to be paid in cash or by certified cheque, include but are not limited to the following:

(a) Commitment Fee	-	CI\$375.00
(b) Stamp duty, Bill of Sale & other fees	-	CI\$625.00 (approximate)
Total		<u>CI\$1,000.00</u>

Please confirm your acceptance within thirty (30) days of date of this letter, otherwise our offer of financing will automatically lapse and the loan will have to be renegotiated.

We thank you for doing business with CIDB and look forward to a long and fruitful relationship with you.

Sincerely,



Andrew Thomas  
Manager of Credit



**ACCEPTANCE OF OFFER OF THE LOAN**


I, Kevin H. Watson, accept the offer of a loan of CI\$25,000.00 approved under the Terms and Conditions as stated in ~~his~~ letter of Offer.



Kevin H. Watson

15/9/10  
Date:

As Guarantor:

  
Timothy Stanley Clarke

15/9/10  
Date:



**GUARANTEE**



By one or more persons or by a company

**CAYMAN ISLANDS DEVELOPMENT BANK** (hereinafter referred to as "the Bank")

In consideration of the Bank or continuing to give time credit banking facilities or other accommodation to

**KEVIN H. WATSON, of P.O. Box 11900, Grand Cayman KY1-1011, CAYMAN ISLANDS**  
(the Debtor)

**NOW**

**TIMOTHY STANLEY CLARKE of 101 Bay Island, George Town, P.O. Box 11353, Grand Cayman KY1-1008, CAYMAN ISLANDS**

(the Guarantor(s))

hereby jointly and severally guarantee on demand to pay to the Bank all monies advanced to or paid to for or on account of the Debtor and interest and charges thereon remaining unpaid and discharge all obligations and liabilities whether actual or contingent now or hereafter incurred to the Bank by the Debtor whether on account of monies advanced, bills of exchange, promissory notes, guarantees, indemnities, interest, commission, banking charges or any instrument or agreement whatsoever from time to time entered into by the Bank with or at the request of the Debtor (whether incurred solely, severally or jointly and in whatever style, name or form and whether as principal or surety) together with interest (as well after as before any demand or judgment) to date of payment at such rates and upon such terms as may from time to time be payable by the Debtor (or which would have been so payable but for the liquidation, bankruptcy or other incapacity of the Debtor or the unenforceability of any term or condition of any agreement or instrument) and all commission fees and other charges and all legal and other costs and expenses incurred by the Bank in relation to the Debtor or this guarantee or any other guarantee indemnity or security for any monies, obligations or liabilities hereby guaranteed on a full indemnity basis.

Provided that the total amount recoverable under this Guarantee shall not exceed

**CI\$25,000.00 (TWENTY FIVE THOUSAND CAYMAN ISLANDS DOLLARS)**

with interest and commission thereon, and all costs, charges and expenses referred to above, and in addition thereto, interest and charges thereon (as well after as before judgment) from the date of demand by the Bank on the Guarantors at the rate payable by the Debtor (or which would have been payable but for the liquidation, bankruptcy or other incapacity of the Debtor or the unenforceability of any term or condition or any agreement or instrument).

THE GUARANTORS agree and confirm as follows:

1. The Bank may without any consent from the Guarantors and without affecting the Guarantors' liability hereunder renew, vary or determine any accommodation given to the Debtor, hold over, renew, release or modify any term or condition of any security or guarantee now or hereafter held from the Debtor or any other person in respect of the obligations and liabilities hereby secured and grant time or indulgence to or compound with the Debtor or any other person and this Guarantee shall not be discharged nor shall the Guarantors' liability under it be affected by anything which would not have discharged or affected the Guarantors' liability if the Guarantors had been a principal debtor to the Bank.

2. This Guarantee shall be additional to any other guarantee or security now or hereafter held from the Guarantors in respect of the obligations and liabilities hereby secured, and the Bank shall not be required to exhaust its recourse against the Debtor or any security it may hold before being entitled to payment hereunder.
3. This Guarantee shall be a continuing security and shall remain in force notwithstanding any disability or the death of the Guarantors until determined by three calendar months' notice in writing from the guarantor or the Personal Representatives of the Guarantors but such determination shall not affect the liability of the Guarantors for the amount recoverable at the date of the expiration of the notice.
4. The Guarantors have not taken and will not take without the written consent of the Bank any security from the Debtor in connection with this Guarantee and, notwithstanding the foregoing, any security so taken is hereby declared by the Guarantors to be held in trust for the Bank and as security for the liability of the Guarantors to the Bank hereunder.
5. In respect of the Guarantors' liability hereunder the Bank shall have a lien on all securities or other property of the Guarantors held by the Bank whether for safe custody or otherwise. The Bank shall further be entitled (as well before as after demand hereunder) to set off against any credit balance in any account of the Guarantors with the Bank (whether current or otherwise or subject to notice or not) the liability of the Guarantors to the Bank hereunder.
6. This Guarantee shall apply to the ultimate balance owing by the Debtor to the Bank (as previously described) and until such balance has been paid in full the Guarantors shall not be entitled to share in any security held or money received by the Bank on account of that balance or to stand in the place of the Bank in respect of any security or money nor until such balance has been paid in full shall the Guarantors take any step to enforce any right or claim against the Debtor in respect of any monies paid by the Guarantors to the Bank hereunder or have or exercise any rights as surety in competition with the Bank.
7. In case this Guarantee shall be determined, or called in by demand made by the Bank, the Bank may continue its account with the Debtor notwithstanding the determination or calling in and the Guarantors' liability in respect of the amount due from the Debtor at the date when the determination or calling in takes effect shall remain regardless of any subsequent dealings in the account.
8. This Guarantee shall not be discharged nor shall the Guarantors' liability be affected by reason of any failure of or irregularity defect or informality in any security given by or on behalf of the Debtor in respect of the obligations or liabilities hereby secured nor by any legal limitation disability incapacity or want of any borrowing powers of or by the Debtor or want of authority of any director manager official or other person appearing to be acting for the Debtor in any matter in respect of the obligations or liabilities hereby secured and such obligations or liabilities will be recoverable by the Bank from the Guarantor as sole or principal debtor.
9. Where there is more than one person comprised in the term the Debtor references to the Debtor shall where the context admits take effect as reference to such persons or any of them and where the Debtor is a firm shall include the person or persons from time to time constituting the firm whether or not under the same style or firm name and generally where the context so admits the singular will include the plural.
10. Where this Guarantee is signed by more than one person (other than as agent for a named principal) the agreements and obligations on the part of the Guarantors herein contained shall take effect as joint and several agreements and obligations and all references to the Guarantors shall take effect as references to the said persons or any of them shall be released from liability hereunder by reason of the Guarantee ceasing to be binding as a continuing security on any other or others of them.

11. A certificate by an officer of the Bank as to the amount for the time being due from the Debtor to the Bank shall be conclusive evidence for all purposes against the Guarantors.
12. Any demand hereunder shall be made in writing signed by an officer of the Bank and if such demand is sent by post it may be addressed to the Guarantors by name at the address or place of business last known to the Bank and shall be considered as having been duly made whether or not the same be returned undelivered and notwithstanding the death of the Guarantors.
13. This Guarantee is and will remain the property of the Bank.
14. Any settlement or discharge between the Guarantors and the Bank shall be conditional upon no security or payment to the Bank by the Debtor or any other persons being avoided or reduced by virtue of any provisions or enactments relating to bankruptcy or liquidation for the time being in force and the Bank shall be entitled (subject to any limit in the total amount recoverable under this Guarantee) to recover the value or amount of any security or payment from the Guarantor subsequently as if such settlement or discharge had not occurred.
15. This Guarantee shall be construed in accordance with the laws of the Cayman Islands. The Guarantors hereby irrevocably submit to the non-exclusive jurisdiction of the Bank.

SIGNED by   
TIMOTHY STANLEY CLARKE

Witness:   
{Justice of Peace/Notary Public}

Date: September 15, 2010



CAYMAN ISLANDS DEV.BANK 36B DOCTOR RO

GEORGE TOWN  
CAYMAN ISLANDS,BWI.

CURRENCY KYD

CONTRACT: 3301788

STATEMENT PERIOD: 10/09/10 TO 30/08/13

LOAN STATEMENT

WATSON KEVIN  
P.O.BOX 11900  
GRAND CAYMAN KY1- 1011  
CAYMAN ISLANDS

LOAN PURPOSE: BUSINESS LOAN INT PDM: 5.89

DATE	TRAN. DESCRIPTION	DEBIT AMOUNT	CREDIT AMOUNT	PRINCIPAL BALANCE
10 SEP 10	Advance			0.00
15 SEP 10	Advance	25,000.00		25,000.00
30 SEP 10	Int. -scheduled calc	82.19		
30 SEP 10	Interest payment		75.00-	
12 OCT 10	Late fee Int Calc	25.00		
31 OCT 10	Int. -statement date	169.86		
01 NOV 10	Int. -scheduled calc	5.48		
11 NOV 10	Late fee Int Calc	25.00		
30 NOV 10	Princ payment due	507.00		
30 NOV 10	Int. -scheduled calc	158.90		
10 DEC 10	Late fee Int Calc	25.00		
31 DEC 10	Princ payment due	507.00		
31 DEC 10	Int. -scheduled calc	169.86		25,000.00
31 JAN 11	Princ payment due	507.00		
31 JAN 11	Int. -scheduled calc	169.86		
01 FEB 11	Int. -statement date	5.48		
28 FEB 11	Princ payment due	507.00		
28 FEB 11	Int. -scheduled calc	147.95		
10 MAR 11	Blended payment due	2,937.58		
31 MAR 11	Int. -scheduled calc	169.86		