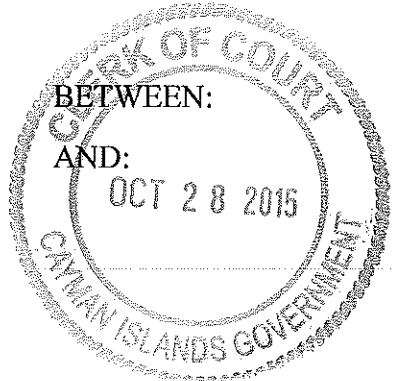




G0192  
of 2015

IN THE GRAND COURT OF THE CAYMAN ISLANDS CAUSE No. of 2015



BETWEEN:

WILLIAM HELFRECHT

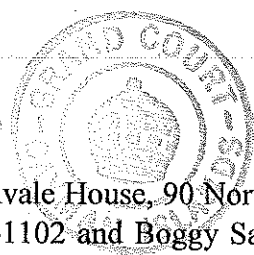
PLAINTIFF

AND:

JAMES CHAPMAN

DEFENDANT

WRIT OF SUMMONS



TO: JAMES CHAPMAN, c/o Turners, Attorneys-at-Law, Strathvale House, 90 North Church Street, PO Box 2636, George Town, Grand Cayman KY1-1102 and Boggy Sand Road, West Bay, Grand Cayman KY1-1303.

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 Acknowledgement 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 enter against you forthwith without further notice.

Issued this 27<sup>th</sup> day of October 2015.

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 month) 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. By an agreement in writing dated 24 June 2014 made between and signed by the plaintiff and the defendant (the "agreement") the plaintiff and the defendant agreed terms for the settlement of proceedings commenced by the plaintiff against *inter alia* the defendant, the short reference to the title of which is *William Helfrecht v James Chapman et al, Grand Court Cause No. 69 of 2013*.
2. The agreement to which the plaintiff will refer as may be necessary for its full terms, meaning and effect, provided as follows: -
  - (i) The defendant would pay to the plaintiff the sum of US\$1,175,000 divided into instalments and payable by bank transfer to the plaintiff's bank account at Butterfield Bank, Governor's Square, Grand Cayman as follows:
    - (a) the amount of US\$350,000 (the "Initial Payment") to be paid on or before 1 September 2014; and
    - (b) the amount of US\$850,000 (the "Balance Payment") to be paid by 36 equal monthly instalments of US\$22,917 on the first day of each month commencing on 1 July 2014 together with the interest payment then due as calculated in accordance with clause 3 of the agreement.
    - (c) Clause 2.2 of the agreement provided that the monthly instalments of the Balance Payment and interest payable in accordance with clause 3 of the agreement would be averaged over 36 month as set out in Annex A to the agreement, such averaged monthly payment being US\$23,313.53, comprising a monthly principal repayment of US\$22,917 and monthly averaged interest of US\$396.53 ("averaged interest").
  - (ii) Clause 3 of the agreement provided that simple interest would accrue on the unpaid part of the Balance Payment and be payable by the defendant in arrears on the first day of each month commencing 1 August 2014 at the rate that, when annualised, was equal to 50% of the pre-judgment and post-judgment interest rate prescribed from time to time for United States Dollars by the Grand Court Judgment Debts (Rates of Interest) Rules then in force ("simple interest").
  - (iii) Clause 4.1 of the agreement provided that in the event of late payment of any monthly instalment, the interest rate payable on such monthly instalment would be doubled

with effect from the day following the due date of such instalment until the date of payment of that instalment and all interest then due (“default interest”).

- (iv) Clause 4.2 of the agreement provided that if any monthly instalment and applicable interest remained unpaid for 28 days after the due date for payment and provided the plaintiff gave the defendant 5 business days’ notice to remedy such default, the plaintiff was entitled to declare by written notice to the defendant that the Initial Instalment and/or the outstanding amount of the Balance Payment and all interest then due be immediately payable on demand and that the interest on such total amount should accrue at the prevailing pre-judgment and post-judgment interest rate for United States Dollars prescribed by the Grand Court Judgment Debts (Rates of Interest) Rules.
- (v) Clause 19.1 of the agreement provided that any notice under the agreement or other communication should be in writing and served by delivering it personally or sending it by registered post, with a copy of the notice sent by email, in each case for the attention of the relevant party, as prescribed by clause 19.2 of the agreement.
- (vi) Clause 19.2 of the agreement provided that the physical and email addresses for service on the defendant for the purposes of clause 19.1 would be c/o Turners, Attorneys-at-Law, Strathvale House, Grand Cayman, KY1-1102.
- (vii) By Clause 20.3 of the agreement, the plaintiff and defendant both irrevocably consented to any legal proceedings arising out of or in connection with the agreement being served on each of them in accordance with the provisions of clause 19 of the agreement.

3. Pursuant to the agreement, the defendant paid monthly instalments of the Balance Payment, the monthly averaged interest and made voluntary default interest payments on the dates and in the amounts set out below:

<u>Date</u>	<u>Principal</u>	<u>Averaged Interest</u>	<u>Default Interest</u>
01-07-2014	US\$22,917	US\$396.53	---
08-08-2014	US\$22,917	US\$396.53	---
06-10-2014	US\$45,834	US\$793.06	US\$1,372.94
19-11-2014	US\$22,917	US\$396.53	---
05-01-2015	US\$45,834	US\$793.06	US\$1,372.94

13-02-2015	US\$22,917	US\$396.53	---
30-03-2015	US\$45,834	US\$793.06	US\$1,372.94
01-06-2015	US\$45,834	US\$793.06	US\$1,372.94
14-07-2015	US\$22,917	US\$396.53	US\$686.47
<b>TOTAL</b>	<b>US\$297,291</b>	<b>US\$5,154.89</b>	<b>US\$6,178.23</b>

4. In breach of clause 2.1(b) of the agreement, the defendant failed by 29 August 2015 to pay the monthly instalment of the Balance Payment due on 1 August 2015.
5. By a notice in writing pursuant to clause 4.2 of the agreement dated 31 August 2015 and served on the defendant in accordance with the provisions of clause 19 of the agreement on the same date, the plaintiff gave the defendant notice that the defendant had until 7 September 2015 to remedy his default by paying the aforesaid instalment of the Balance Payment.
6. The defendant failed by 7<sup>th</sup> September 2015 to pay the monthly instalment of the Balance payment due on 1 August 2015.
7. By a notice in writing pursuant to clause 4.2 of the agreement dated 7 September 2015 and served on the defendant in accordance with the provisions of clause 19 of the agreement on the same date, the plaintiff declared that the outstanding amount of the Balance Payment and all interest then due was immediately payable and demanded payment thereof.
8. As at 7 September 2015 the outstanding amount of the Balance Payment was US\$527,083.33 and simple interest (as opposed averaged interest) had accrued at that date amounting to US\$9,048.39.

Particulars of Simple Interest

<u>Date</u>	<u>Balance of Principal Due</u>	<u>Simple Interest Due</u>
01-08-2014	US\$779,166.67	US\$793.73
01-09-2014	US\$756,250	US\$771.05
01-10-2014	US\$733,333.33	US\$748.37
01-11-2014	US\$710,416.67	US\$725.69

01-12-2014	US\$687,500	US\$703.02
01-01-2015	US\$664,583.33	US\$680.34
01-02-2015	US\$641,666.67	US\$657.56
01-03-2015	US\$618,750	US\$634.98
01-04-2015	US\$595,833.33	US\$612.30
01-05-2015	US\$572,916.67	US\$589.63
01-06-2015	US\$550,000	US\$566.95
01-07-2015	US\$527,083.33	US\$544.27
01-08-2015	US\$504,166.67	US\$521.59
01-09-2015	US\$481,250	US\$498.91
TOTAL		US\$9,048.39

9. Pursuant to clause 4.1 of the agreement, the plaintiff is entitled to and claims default interest in the amount of US\$4,182.54 on monthly instalments of the Balance Payment not paid by the defendant on their due dates.

Particulars of Default Interest

- (i) Default interest on the sum of US\$802,083.33, being the Balance Payment outstanding on 1 August 2014, at the rate of 1.1875% from 2 August 2014 to 8 August 2014, being 7 days at US\$26.10 *per diem* and amounting to US\$182.70.
- (ii) Default interest on the sum of US\$779,166.67, being the Balance Payment outstanding on 1 September 2014 until 5 October 2014 being 34 days at US\$25.35 *per diem* and amounting to US\$861.89.
- (iii) Default interest on the sum of US\$779,166.67, being the Balance Payment outstanding on 1 October 2014, at the rate of 1.1875% from 2 October 2014 to 6 October 2014 being 5 days at US\$25.35 *per diem* and amounting to US\$126.75.
- (iv) Default interest on the sum of US\$733,333.33, being the Balance Payment outstanding on 1 November 2014, at the rate of 1.1875% from 2 November 2014 to 19 November 2014 being 18 days at US\$23.86 *per diem* and amounting to US\$429.48.

- (v) Default interest on the sum of US\$710,416.67, being the Balance Payment outstanding on 1 December 2014, at the rate of 1.1875% from 2 December 2014 to 5 January 2015 being 35 days at US\$23.11 *per diem* and amounting to US\$808.85.
  - (vi) Default interest on the sum of US\$710,416.67, being the Balance Payment outstanding on 1 January 2015, at the rate of 1.1875% from 2 January 2015 to 5 January 2015 being 4 days at US\$23.11 *per diem* and amounting to US\$92.44.
  - (vii) Default interest on the sum of US\$664,583.33, being the Balance Payment outstanding on 1 February 2015, at the rate of 1.1875% from 2 February 2015 to 13 February 2015 being 12 days at US\$21.62 *per diem* and amounting to US\$259.44.
  - (viii) Default interest on the sum of US\$641,666.67, being the Balance Payment outstanding on 1 March 2015, at the rate of 1.1875% from 2 March 2015 to 30 March 2015 being 28 days at US\$20.88 *per diem* and amounting to US\$584.64.
  - (ix) Default interest on the sum of US\$595,833.33, being the Balance Payment outstanding on 1 May 2015, at the rate of 1.1875% from 2 May 2015 to 1 June 2015 being 31 days at US\$19.38 *per diem* and amounting to US\$600.78.
  - (x) Default interest on the sum of US\$550,000, being the Balance Payment outstanding on 1 July 2015, at the rate of 1.1875% from 2 July 2015 to 14 July 2015 being 13 days at US\$17.89 *per diem* and amounting to US\$235.57.
10. In the premises, the amount owed by the defendant to the plaintiff as at 7 September 2015 was US\$540,314.26, made up as follows:
- (i) US\$527,083.33, being the amount of the Balance Payment then outstanding;
  - (ii) US\$9,048.39, being accrued simple interest; and
  - (iii) US\$4,182.54, being default interest.
11. The following sums fall to be deducted from the figure of US\$540,314.26 referred to in paragraph 10 hereinabove:
- (i) US\$1,995.69, being the amount of default interest paid by the defendant in excess of the amount due as calculated in paragraph 9 hereinabove;
  - (ii) US\$71,313.53, being the total of payments of US\$48,000 and US\$23,313.23 made by the defendant respectively on 9 September 2015 and 1 October 2015, following service on the defendant of the notice and demand referred to in paragraph 7

hereinabove and after the expiration of the deadline for payment of the monthly instalment due on 1 August 2015.

12. Save as aforesaid, the defendant remains indebted to the plaintiff.

AND THE PLAINTIFF CLAIMS:

- (1) US\$467,005.04, being the amount claimed in paragraph 10 hereinabove after deduction of the amounts referred to in paragraph 11 herein above.
- (2) US\$1519.50, being interest on the sum of US\$467,005.04, at the contractual rate of 2.375% per annum [the pre-judgment and post-judgment interest rate for United States Dollars prescribed by the Grand Court Judgment Debts (Rates of Interest) Rules], amounting to US\$11,091.27 *per annum* or US\$30.39 *per diem* from 7 September 2015 to the date hereof.
- (3) Interest on the sum of US\$467,005.04, at the contractual rate of 2.375% per annum (or the pre-judgment and post-judgment interest rate for United States Dollars prescribed by the Grand Court Judgment Debts (Rates of Interest) Rules in force from time to time), amounting to US\$11,091.27 *per annum* or US\$30.39 *per diem* from the date hereof until payment in full of the amounts claimed by the plaintiff.
- (4) Costs.

Dated this 27<sup>th</sup> day of October 2015.

HSM chambers  
HSM Chambers  
Attorneys for the Plaintiff

THIS WRIT was issued by HSM Chambers, Attorneys-at-Law, for and on behalf of the Plaintiff, whose address for service is: Buckingham Square, 720 West Bay Road, PO Box 31726, Grand Cayman KY1-1207 [Ref. No.SJA.418921.0001].

**Acknowledgment of service of writ of summons (O.12, r.3)**

**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 each Defendant or by each Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO Box 495 GT, 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 instalments or otherwise.

*See over for notes for guidance*

*Please complete overleaf*

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2015

B E T W E E N:

WILLIAM HELFRECHT

Plaintiff

AND

JAMES CHAPMAN

Defendant

---

---

ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS

---

---

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, **THIS FORM MAY HAVE TO BE RETURNED.**

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

- 
1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.  
James Chapman
- 
2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)  
 yes  no
- 
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 box*).  
 yes  no
- 

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for  
[Defendant in person]  
Address for service:

*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 communication for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

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

HSM Chambers Attorneys-at-Law Suite 3 Buckingham Square 720 West Bay Road PO Box 31726 George Town Grand Cayman KY1-1207 CAYMAN ISLANDS  Ref: [ ]/[ ]
--

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

--