

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Civil Division

Cause No. CIV 10 of 2017

BETWEEN: BAYSHORE PROPERTIES LTD.

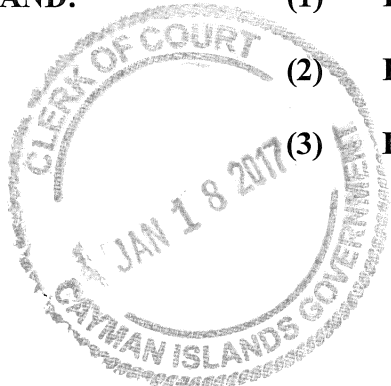
PLAINTIFF

AND: (1) ERVIN LEWIS INCORPORATED LIMITED

(2) LEWIS EBANKS

(3) ERVIN EBANKS (aka ERIMANDO EBANKS)

DEFENDANTS



WRIT OF SUMMONS

TO: ERVIN LEWIS INCORPORATED LIMITED of PO Box 10009, Grand Cayman KY1-1001

AND TO: LEWIS EBANKS of 189 Whirlwind Drive, Omega Bay, Grand Cayman

AND TO: ERVIN EBANKS (aka ERIMANDO EBANKS) c/o Cayman Dispatch Services Ltd., Owen Roberts Drive, George Town, Grand Cayman

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

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman KY1-1106 the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

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

Issued this 18th day of January, 2017.

NOTE – This Writ not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. First Defendant is a company purportedly formed under the provisions of the Companies Law. At all material times the First Defendant was a tenant of that space known as unit A3 at the Bayshore Mall (“the Premises”).
2. The Second Defendant and Third Defendant were sureties of the First Defendant’s obligations and liabilities pursuant to a lease of the Premises.
3. On or about September 2006 the First Defendant executed a lease of the Premises for a period of 5 years commencing 1st September 2006 (“the Lease”) and the Second and Third Defendants guaranteed the obligations of the First Defendant as sureties to the Lease (the Plaintiff shall refer to the terms of the Lease at the trial hereof for its full terms and effect).
4. The First Defendant’s obligations under the Lease were jointly and severally guaranteed by the Second and Third Defendants.
5. The following are provisions of the Lease:-
 - (i) *"INTEREST" means interest at the rate of 4 per cent over the base rate of FirstCaribbean International Bank for the time being and from time to time (as well after as before judgment), or such other comparable rate as the Landlord may reasonably designate if the base rate ceases to be published, compounded at quarterly rests on March 31, June 30, September 30 and December 31 in each year*
 - (ii) 2.3 *the Tenant PAYING during the Term:*
 - 2.3.1. *the yearly rent of CI\$51,570.00 (subject to revision under Schedule 2) by equal monthly payments in advance on the first business day of each month the first (or a proportionate part) of such payments in respect of the period commencing on 1st September 2006.*
 - 2.3.2. *as additional rent*
 - 2.3.2.1 *the monies payable by the Tenant under Schedules 3 and 4 commencing on 1st September 2006; and*
 - 2.3.2.2 *interest payable by the Tenant under the terms of this Lease.*

(iii) **3.1 Rent**

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

3.1.2 *To pay the additional rents reserved by this Lease at the times and in the manner specified in relation to each of them.*

3.2 Interest

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

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

3.3 Outgoings and contributions

3.3.1 *To pay Outgoings;*

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

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

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

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

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

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

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

- 3.1.1 *incidental to or in proper contemplation of the preparation and service of a schedule of dilapidations during or after the termination of this Lease even if forfeiture is avoided otherwise than by relief granted by the court;*
- 3.1.2 *in the recovery or attempted recovery of arrears of rent or additional rent due from the Tenant; and*
- 3.1.3 *in connection with every application for any consent or approval made under this Lease, whether or not consent or approval is given.*

(v) **7. Guarantee provision**
7.1 Guarantee

7.1.1 *The Surety guarantees to the Landlord that the Tenant will pay the rents reserved by, and perform and observe all the Tenant's covenants in this Lease throughout the Term and any extension by statute of the tenancy created by this Lease, and the Surety will pay and make good to the Landlord on demand any losses, damages, costs and expenses suffered or incurred by the Landlord by reason of any failure of the Tenant to do so.*

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

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

7.2 No waiver or release of liability

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

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

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

7.3 Surety to accept new lease upon disclaimer

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

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

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

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

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

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

7.4 Subordination of rights of the Surety

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

7.4.2 *The Surety may not:*

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

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

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

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

6. The Second and Third Defendants are the "Surety" defined in the lease.

7. In June 2008, the First Defendant fell into arrears with the rents payable under the Lease. Despite repeated demands to bring these payments up to date, the First Defendant failed to bring the rent current.
8. Prior to the expiry of the Lease on 31st August 2011 the Second Defendant requested that the First Defendant be permitted to hold over in the Premises subject to the terms and conditions of the Lease. Assurances were made by the Second Defendant that he personally would ensure the outstanding rents would be brought current.
9. In the premises and in reliance on the First and Second Defendant's assurances to bring the arrears current the Plaintiff allowed the First Defendant to remain in occupation of the Premises at the rents and upon the terms and conditions set forth in the Lease.
10. In or around April 2013 the Second Defendant requested the Plaintiff to grant a reduction of the First Defendant's rent. In reliance of the Second Defendant's further personal undertaking to bring the arrears of rent current the Plaintiff agreed to: -
 - i. reduce the rent to CI\$35.00 per square foot and the Common Area charge (CI\$445.35) excluding utilities and;
 - ii. to back date the reduced rent to 1st December 2012.
11. The Second Defendant made a number of payments towards the arrears however, never brought the First Defendant's arrears current. Further repeated requests were made by the Plaintiff to the Second Defendant to pay the outstanding arrears and the Second Defendant repeatedly assured the Plaintiff he would bring them up to date.
12. On or about 8th January 2016 the Second Defendant reconfirmed to the Plaintiff that he stood responsible for all outstanding rents and utilities for the Premises. Furthermore, he confirmed that the amounts that then were due and owing appeared to be correct.

Table 1 – The debt due to the Plaintiff

Date	Trans No	Type	Debit Amt	Credit Amt	Balance
12/1/06	Dec 06 Rent	SJ	4,297.50		4,297.50
12/6/06	ChqCI\$4297.50	CRJ		4,297.50	0.00
1/2/07	Jan07 Rent	SJ	4,297.50		4,297.50
1/5/07	ChqCI\$4297.50	CRJ		4,297.50	0.00
2/1/07	Feb 07 Rent	SJ	4,297.50		4,297.50
2/12/07	ChqCI\$4297.50	CRJ		4,297.50	0.00
3/1/07	March 07 Rent	SJ	4,297.50		4,297.50
3/6/07	ChqCI\$4297.50	CRJ		4,297.50	0.00
4/1/07	April 07 Rent	SJ	4,297.50		4,297.50

4/5/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
5/1/07	May 07 Rent	SJ	4,297.50		4,297.50
5/4/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
6/1/07	June 07 Rent	SJ	4,297.50		4,297.50
6/7/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
7/1/07	Rent for July	SJ	4,297.50		4,297.50
7/5/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
8/1/07	Aug 07 Rent	SJ	4,297.50		4,297.50
8/3/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
9/1/07	Rent for Sept.	SJ	4,297.50		4,297.50
9/10/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
10/1/07	Oct Rent	SJ	4,297.50		4,297.50
10/5/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
11/1/07	Rent Nov	SJ	4,297.50		4,297.50
11/5/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
12/1/07	Dec Rent	SJ	4,297.50		4,297.50
12/12/07	ChqCIS\$4297.50	CRJ		4,297.50	0.00
1/1/08	Jan 2008 Rent	SJ	4,297.50		4,297.50
1/10/08	ChqCIS\$4297.50	CRJ		4,297.50	0.00
2/1/08	February Rent	SJ	4,297.50		4,297.50
2/8/08	ChqCIS\$4297.50	CRJ		4,297.50	0.00
3/1/08	March Rent	SJ	4,297.50		4,297.50
3/10/08	ChqCIS\$4297.50	CRJ		4,297.50	0.00
4/1/08	April Rent	SJ	4,297.50		4,297.50
4/11/08	ChqCIS\$4297.50	CRJ		4,297.50	0.00
5/1/08	May rent	SJ	4,297.50		4,297.50
5/7/08	ChqCIS\$4297.50	CRJ		4,297.50	0.00
5/21/08	ChqCIS\$2883.32	CRJ		2,883.32	-2,883.32
6/1/08	June RENT	SJ	4,297.50		1,414.18
6/6/08	ChqCIS\$4297.50	CRJ		4,297.50	-2,883.32
7/1/08	Rent for July	SJ	4,297.50		1,414.18
7/9/08	ChqCIS\$4297.50	CRJ		4,297.50	-2,883.32
7/29/08	ChqCIS\$2883.32	CRJ		2,883.32	-5,766.64
8/1/08	August Rent	SJ	4,297.50		-1,469.14
8/4/08	ChqCIS\$1414.18	CRJ		1,414.18	-2,883.32
9/1/08	Sept Rent	SJ	4,297.50		1,414.18
9/9/08	ChqCIS\$4297.50	CRJ		4,297.50	-2,883.32
10/1/08	Oct Rent	SJ	4,297.50		1,414.18
10/6/08	payment error 5/21	SJ	2,883.32		4,297.50
10/6/08	payment error 07/29	SJ	2,883.32		7,180.82
10/7/08	ChqCIS\$1414.18	CRJ		1,414.18	5,766.64
11/1/08	Nov Rent	SJ	4,297.50		10,064.14
11/12/08	ChqCIS\$4297.50	CRJ		4,297.50	5,766.64
12/1/08	Dec Rent	SJ	4,297.50		10,064.14
12/6/08	ChqCIS\$4297.50	CRJ		4,297.50	5,766.64
1/1/09	Jan 09 Rent	SJ	4,297.50		10,064.14
1/10/09	ChqCIS\$4297.50	CRJ		4,297.50	5,766.64
2/1/09	Feb Rent	SJ	4,297.50		10,064.14
2/10/09	ChqCIS\$4297.50	CRJ		4,297.50	5,766.64
3/1/09	Mar 09 Rent	SJ	4,297.50		10,064.14
3/16/09	ChqCIS\$4297.50	CRJ		4,297.50	5,766.64
4/1/09	April RENT	SJ	4,297.50		10,064.14
4/9/09	CIS\$2883.31	CRJ		2,883.31	7,180.83
4/21/09	ChqCIS\$4297.51	CRJ		4,297.51	2,883.32
5/1/09	May RENT	SJ	4,297.50		7,180.82
5/8/09	payment error	SJ	2,883.31		10,064.13
5/11/09	ChqCIS\$4297.50	CRJ		4,297.50	5,766.63
6/1/09	June RENT	SJ	4,297.50		10,064.13
6/12/09	ChqCIS\$4297.50	CRJ		4,297.50	5,766.63
7/7/09	Jul RENT	SJ	4,297.50		10,064.13
7/11/09	ChqCIS\$4297.50	CRJ		4,297.50	5,766.63
8/1/09	Aug RENT	SJ	4,297.50		10,064.13
8/17/09	CIS\$CHQ	CRJ		4,297.50	5,766.63
9/1/09	SEP'09 Rent	SJ	4,297.50		10,064.13
9/16/09	CIS\$1,469.13 CHQ	CRJ		1,469.13	8,595.00

9/30/09	CI\$4,297.50CHQ	CRJ		4,297.50	4,297.50
10/1/09	OCT'09 RENT	SJ	4,297.50		8,595.00
10/30/09	ChqCI\$4297.50	CRJ		4,297.50	4,297.50
11/1/09	NOV RENT	SJ	4,297.50		8,595.00
11/30/09	ChqCI\$4297.50	CRJ		4,297.50	4,297.50
12/1/09	Dec RENT	SJ	4,297.50		8,595.00
1/1/10	Jan RENT	SJ	4,297.50		12,892.50
1/15/10	ChqCI\$4297.50	CRJ		4,297.50	8,595.00
1/29/10	ChqCI\$4297.50	CRJ		4,297.50	4,297.50
2/1/10	Feb RENT	SJ	4,297.00		8,594.50
2/26/10	ChqCI\$4297.50	CRJ		4,297.00	4,297.50
3/1/10	CI\$4,297.50/FEB26'10	CRJ		0.50	4,297.00
3/1/10	March RENT	SJ	4,297.00		8,594.00
4/1/10	April'10 Rent	SJ	4,297.50		12,891.50
4/13/10	CI\$4,297.50 CHQ	CRJ		4,297.50	8,594.00
4/30/10	CI\$4,297.50 CHQ	CRJ		4,297.50	4,296.50
5/1/10	May'10 Rent	SJ	4,297.50		8,594.00
6/1/10	RENT June	SJ	4,297.50		12,891.50
6/30/10	June 08 CUC	SJ	332.24		13,223.74
6/30/10	July 08 CUC	SJ	353.67		13,577.41
6/30/10	Aug 08 CUC	SJ	407.10		13,984.51
6/30/10	Sept 08 CUC	SJ	389.94		14,374.45
6/30/10	Oct 08 CUC	SJ	369.67		14,744.12
6/30/10	Nov 08 CUC	SJ	305.57		15,049.69
6/30/10	Dec 08 CUC	SJ	171.18		15,220.87
6/30/10	Jan 09 CUC	SJ	347.91		15,568.78
6/30/10	Feb 09 CUC	SJ	206.08		15,774.86
6/30/10	Mar 09 CUC	SJ	197.98		15,972.84
6/30/10	Apr 09 CUC	SJ	214.10		16,186.94
6/30/10	May 09 CUC	SJ	196.31		16,383.25
6/30/10	Jun 09 CUC	SJ	241.52		16,624.77
6/30/10	July 09 CUC	SJ	200.04		16,824.81
6/30/10	Aug 09 CUC	SJ	260.39		17,085.20
6/30/10	Sept 09 CUC	SJ	271.61		17,356.81
6/30/10	Oct 09 CUC	SJ	261.82		17,618.63
6/30/10	Nov 09 CUC	SJ	278.49		17,897.12
6/30/10	Dec 09 CUC	SJ	243.39		18,140.51
6/30/10	Jan 10 CUC	SJ	302.97		18,443.48
6/30/10	Feb 10 CUC	SJ	242.79		18,686.27
6/30/10	Mar 10 CUC	SJ	214.43		18,900.70
6/30/10	Apr 10 CUC	SJ	268.34		19,169.04
6/30/10	May 10 CUC	SJ	229.97		19,399.01
7/1/10	RENT July	SJ	4,297.50		23,696.51
7/16/10	CI\$4,296.50 Chq	CRJ		4,296.50	19,400.01
7/21/10	June CUC	SJ	253.88		19,653.89
7/30/10	ChqCI\$4297.50	CRJ		4,297.50	15,356.39
8/1/10	RENT Aug	SJ	4,297.50		19,653.89
8/23/10	CUCJ July	SJ	264.30		19,918.19
8/30/10	ChqCI\$4297.50	CRJ		4,297.50	15,620.69
9/1/10	Sept RENT	SJ	4,297.50		19,918.19
9/16/10	Aug CUC	SJ	261.50		20,179.69
9/24/10	ChqCI\$4297.50	CRJ		4,297.50	15,882.19
10/1/10	Oct RENT	SJ	4,297.50		20,179.69
10/19/10	Sept CUC	SJ	272.10		20,451.79
10/29/10	ChqCI\$4297.50	CRJ		4,297.50	16,154.29
11/1/10	Nov RENT	SJ	4,297.50		20,451.79
11/22/10	Oct CUC billing	SJ	301.99		20,753.78
11/30/10	ChqCI\$4297.50	CRJ		4,297.50	16,456.28
12/1/10	Dec "10" RENT	SJ	4,297.50		20,753.78
12/20/10	Nov CUC	SJ	282.40		21,036.18
12/31/10	ChqCI\$4297.50	CRJ		4,297.50	16,738.68
1/1/11	Jan 2011 RENT	SJ	4,297.50		21,036.18
1/20/11	Dec CUC Billing	SJ	244.20		21,280.38
2/1/11	ChqCI\$4349.91	CRJ		4,349.91	16,930.47
2/1/11	Feb RENT	SJ	4,297.50		21,227.97

2/17/11	Jan CUC	SJ	430.94		21,658.91
2/28/11	ChqCIS\$4297.50	CRJ		4,297.50	17,361.41
3/1/11	March RENT	SJ	4,297.50		21,658.91
3/4/11	ChqCIS\$5000.00	CRJ		5,000.00	16,658.91
3/16/11	Fec CUC	SJ	215.63		16,874.54
3/31/11	ChqCIS\$4297.50	CRJ		4,297.50	12,577.04
4/1/11	April RENT	SJ	4,297.50		16,874.54
4/11/11	Incorrect payment	SJ	4,349.91		21,224.45
4/11/11	corrected payment	SJ		4,297.50	16,926.95
4/15/11	CUC March	SJ	519.00		17,445.95
4/28/11	ChqCIS\$5000.00	CRJ		5,000.00	12,445.95
5/1/11	May RENT	SJ	4,297.50		16,743.45
5/26/11	APRIL CUC	SJ	526.17		17,269.62
5/31/11	ChqCIS\$4297.50	CRJ		4,297.50	12,972.12
6/1/11	JUNE RENT	SJ	4,297.50		17,269.62
6/21/11	May CUC	SJ	283.26		17,552.88
7/1/11	JULY Rent	SJ	4,297.50		21,850.38
7/8/11	CIS\$5,000.00	CRJ		5,000.00	16,850.38
7/21/11	CUC Jun	SJ	326.27		17,176.65
8/1/11	Aug RENT	SJ	4,297.50		21,474.15
8/5/11	ChqCIS\$5000.00	CRJ		5,000.00	16,474.15
8/17/11	Jul CUC	SJ	296.57		16,770.72
9/1/11	Sept, RENT	SJ	4,297.50		21,068.22
9/16/11	ChqCIS\$4297.50	CRJ		4,297.50	16,770.72
10/1/11	Oct RENT	SJ	4,297.50		21,068.22
10/14/11	ChqCIS\$4297.50	CRJ		4,297.50	16,770.72
10/19/11	CUC Sept	SJ	319.04		17,089.76
11/1/11	Nov RENT	SJ	4,297.50		21,387.26
11/3/11	ChqCIS\$5000.00	CRJ		5,000.00	16,387.26
11/18/11	Oct CUC	SJ	276.51		16,663.77
12/1/11	Dec RENT	SJ	4,297.50		20,961.27
12/14/11	ChqCIS\$4297.50	CRJ		4,297.50	16,663.77
12/15/11	Nov CUC billing	SJ	434.67		17,098.44
1/1/12	Jan 2012 RENT	SJ	4,297.50		21,395.94
1/16/12	Dec CUC billing	SJ	445.35		21,841.29
1/18/12	ChqCIS\$4297.50	CRJ		4,297.50	17,543.79
2/1/12	Feb 2012 RENT	SJ	4,297.50		21,841.29
2/1/12	Feb A/Cost	SJ	445.35		22,286.64
2/20/12	Jan CUCbilling	SJ	410.66		22,697.30
3/1/12	Mar RENT	SJ	4,297.50		26,994.80
3/1/12	Mar area cost	SJ	445.35		27,440.15
3/19/12	Feb CUC	SJ	221.90		27,662.05
4/1/12	April 2012 RENT	SJ	4,297.50		31,959.55
4/1/12	April A/ Cost	SJ	445.35		32,404.90
4/23/12	March CUC	SJ	340.60		32,745.50
5/1/12	May 2012 RENT	SJ	4,297.50		37,043.00
5/1/12	May A/ Cost	SJ	445.35		37,488.35
5/22/12	Apr CUC	SJ	161.19		37,649.54
6/1/12	Jun RENT	SJ	4,297.50		41,947.04
6/1/12	Jun A/Cost	SJ	445.35		42,392.39
6/27/12	CUC May	SJ	464.55		42,856.94
7/4/12	Jul RENT	SJ	4,297.50		47,154.44
7/4/12	Jul area cost	SJ	445.35		47,599.79
7/20/12	Jun CUC	SJ	466.54		48,066.33
8/1/12	AugRENT	SJ	4,297.50		52,363.83
8/1/12	Aug A.Cost	SJ	445.35		52,809.18
8/20/12	Jul CUC	SJ	480.42		53,289.60
8/31/12	ChqCIS\$4297.50	CRJ		4,297.50	48,992.10
9/1/12	Sept RENT	SJ	4,297.50		53,289.60
9/1/12	Sept A.Cost	SJ	445.35		53,734.95
9/18/12	Aug CUC billing	SJ	419.82		54,154.77
10/1/12	Rent OCT	SJ	4,297.50		58,452.27
10/1/12	Oct C.area cost	SJ	445.35		58,897.62
10/25/12	SeptCUC	SJ	429.59		59,327.21
11/1/12	RENT Nov	SJ	4,297.50		63,624.71

11/1/12	Nov C.Area Cost	SJ	445.35		64,070.06
11/19/12	OctCUC billing1	SJ	478.05		64,548.11
11/23/12	CI\$4,297.50	CRJ		4,297.50	60,250.61
12/1/12	DecRENT	SJ	4,297.50		64,548.11
12/1/12	Dec C.Area Cost	SJ	445.35		64,993.46
12/14/12	ChqCI\$4297.50	CRJ		4,297.50	60,695.96
12/18/12	NovCUC	SJ	285.06		60,981.02
1/1/13	Jan 2013 RENT	SJ	4,297.50		65,278.52
1/1/13	Jan C,Area Cost	SJ	445.35		65,723.87
1/25/13	ChqCI\$4297.50	CRJ		4,297.50	61,426.37
1/30/13	Dec CUC Bill	SJ	302.24		61,728.61
2/1/13	Feb 2013 Rent	SJ	4,297.50		66,026.11
2/1/13	Feb C.Area Cost	SJ	445.35		66,471.46
2/20/13	JanCUC	SJ	314.14		66,785.60
3/1/13	ChqCI\$4297.50	CRJ		4,297.50	62,488.10
3/1/13	MarRENT	SJ	4,297.50		66,785.60
3/1/13	Mar C.Area Cost	SJ	445.35		67,230.95
3/6/13	Dec RENT rediction	SJ		955.00	66,275.95
3/6/13	Jan RENT rediction	SJ		955.00	65,320.95
3/6/13	Feb RENT rediction	SJ		955.00	64,365.95
3/6/13	Mar RENT rediction	SJ		955.00	63,410.95
3/19/13	Feb CUC billing	SJ	288.14		63,699.09
4/1/13	AprRENT	SJ	3,342.50		67,041.59
4/1/13	Apr C.Area Cost	SJ	445.35		67,486.94
4/17/13	ChqCI\$5000.00	CRJ		5,000.00	62,486.94
4/22/13	Mar CUCbilling1	SJ	424.40		62,911.34
5/1/13	MayRENT	SJ	3,342.50		66,253.84
5/1/13	May Area Cost	SJ	445.35		66,699.19
5/10/13	ChqCI\$5000.00	CRJ		5,000.00	61,699.19
5/27/13	AprilCUC	SJ	442.48		62,141.67
6/1/13	JuneRENT	SJ	3,342.50		65,484.17
6/1/13	Jun Area Cost	SJ	445.35		65,929.52
6/11/13	ChqCI\$5000.00	CRJ		5,000.00	60,929.52
6/25/13	MayCUC1	SJ	419.90		61,349.42
6/28/13	CI\$5,000.00	CRJ		5,000.00	56,349.42
7/2/13	JulRENT	SJ	3,342.50		59,691.92
7/2/13	Jul Area Cost	SJ	445.35		60,137.27
7/19/13	JunCUC	SJ	385.44		60,522.71
7/30/13	ChqCI\$5000.00	CRJ		5,000.00	55,522.71
8/1/13	RENTAug	SJ	3,342.50		58,865.21
8/1/13	Aug C. Area Cost	SJ	445.35		59,310.56
8/22/13	JulyCUC	SJ	432.52		59,743.08
8/30/13	ChqCI\$5000.00	CRJ		5,000.00	54,743.08
9/1/13	SeptRENT	SJ	3,342.50		58,085.58
9/1/13	SeptC.Area Cost	SJ	445.35		58,530.93
9/19/13	AugCUC	SJ	410.28		58,941.21
9/30/13	ChqCI\$5000.00	CRJ		5,000.00	53,941.21
10/1/13	OctRENT	SJ	3,342.50		57,283.71
10/1/13	Oct C.Area Cost	SJ	445.35		57,729.06
10/17/13	Sept.CUC	SJ	469.99		58,199.05
10/31/13	ChqCI\$5000.00	CRJ		5,000.00	53,199.05
11/1/13	NovRENT	SJ	3,342.50		56,541.55
11/1/13	Nov C. Area Cost	SJ	445.35		56,986.90
11/20/13	OctCUC	SJ	728.26		57,715.16
11/29/13	ChqCI\$5000.00	CRJ		5,000.00	52,715.16
12/1/13	RENTDec	SJ	3,342.50		56,057.66
12/1/13	Dec C. Area Cost	SJ	445.35		56,503.01
12/17/13	Nov CUC	SJ	482.00		56,985.01
12/31/13	CI\$5,000.00 DEC	CRJ		5,000.00	51,985.01
1/2/14	RENT JAN'14	SJ	3,342.50		55,327.51
1/2/14	COMM AREA JAN'14	SJ	445.35		55,772.86
1/8/14	CUC - DEC'13	SJ	383.68		56,156.54
1/31/14	CI\$5,000.00	CRJ		5,000.00	51,156.54
2/1/14	COMM AREA - FEB'14	SJ	445.35		51,601.89
2/1/14	RENT - FEB'14	SJ	3,342.50		54,944.39

2/9/14	CUC JAN'14	SJ	562.46		55,506.85
2/28/14	CI\$5,000.00	CRJ		5,000.00	50,506.85
3/1/14	Comm Area - Mar'14	SJ	445.35		50,952.20
3/1/14	Rent - Mar'14	SJ	3,342.50		54,294.70
3/7/14	CUC FEB 14	SJ	283.67		54,578.37
4/1/14	RENT - APR 14	SJ	3,342.50		57,920.87
4/1/14	COMM AREA APR 14	SJ	445.35		58,366.22
4/7/14	CI\$5000.00	CRJ		5,000.00	53,366.22
5/1/14	CI\$5000.00	CRJ		5,000.00	48,366.22
5/1/14	COMM AREA MAY 14	SJ	445.35		48,811.57
5/1/14	RENT MAY 14	SJ	3,342.50		52,154.07
5/2/14	CUC MAR 14	SJ	448.14		52,602.21
5/7/14	CUC APR 14	SJ	451.91		53,054.12
6/2/14	COMM AREA JUN 14	SJ	445.35		53,499.47
6/2/14	RENT JUN 14	SJ	3,342.50		56,841.97
6/6/14	CUC MAY 14	SJ	446.16		57,288.13
7/1/14	COMM AREA JULY'14	SJ	445.35		57,733.48
7/1/14	RENT JULY'14	SJ	3,342.50		61,075.98
7/3/14	CI\$10,000.00	CRJ		10,000.00	51,075.98
7/9/14	CUC JUN'14	SJ	404.24		51,480.22
8/1/14	COMM AREA AUG'14	SJ	445.35		51,925.57
8/1/14	RENT AUG'14	SJ	3,342.50		55,268.07
8/8/14	CUC JULY'14	SJ	447.65		55,715.72
9/1/14	COMM AREA SEPT'14	SJ	445.35		56,161.07
9/1/14	RENT SEPT'14	SJ	3,342.50		59,503.57
9/10/14	CUC AUG'14	SJ	447.20		59,950.77
9/18/14	CI\$5000.00	CRJ		5,000.00	54,950.77
10/1/14	COMM AREA OCT'14	SJ	445.35		55,396.12
10/1/14	RENT OCT'14	SJ	3,342.50		58,738.62
10/7/14	CUC SEPT'14	SJ	451.96		59,190.58
10/30/14	CI\$5000.00	CRJ		5,000.00	54,190.58
11/1/14	RENT NOV'14	SJ	3,342.50		57,533.08
11/1/14	COMM AREA NOV'14	SJ	445.35		57,978.43
11/7/14	CUC OC'14	SJ	467.71		58,446.14
11/28/14	CI\$5000.00	CRJ		6,097.56	52,348.58
12/1/14	CORR DEP 11/28/14	CRJ		5,000.00	47,348.58
12/1/14	RENT DEC'14	SJ	3,342.50		50,691.08
12/1/14	COMM AREA DEC'14	SJ	445.35		51,136.43
12/1/14	REV DEP 11/28/14	SJ	6,097.56		57,233.99
12/4/14	CUC NOV'14	SJ	366.32		57,600.31
1/1/15	RENT JAN'15	SJ	3,342.50		60,942.81
1/1/15	COMM AREA JAN'15	SJ	445.35		61,388.16
1/11/15	CUC DEC'14	SJ	395.79		61,783.95
2/2/15	COMM AREA FEB'15	SJ	445.35		62,229.30
2/2/15	RENT FEB'15	SJ	3,342.50		65,571.80
2/6/15	CUC JAN'15	SJ	398.11		65,969.91
3/1/15	Comm Area - Mar'15	SJ	445.35		66,415.26
3/1/15	Rent - Mar'15	SJ	3,342.50		69,757.76
3/6/15	CUC FEB'15	SJ	327.12		70,084.88
4/1/15	Rent April 2015	SJ	3,342.50		73,427.38
4/1/15	comm area April'15	SJ	445.35		73,872.73
4/10/15	CUC MAR'15	SJ	338.24		74,210.97
5/1/15	RENT MAY'15	SJ	3,342.50		77,553.47
5/1/15	COMM AREA MAY'15	SJ	445.35		77,998.82
5/7/15	CUC APR'15	SJ	286.75		78,285.57
6/1/15	RENT JUNE'15	SJ	3,342.50		81,628.07
6/1/15	COMM AREA JUNE'15	SJ	445.35		82,073.42
6/13/15	CUC MAY'15	SJ	341.28		82,414.70
7/1/15	RENT JULY'15	SJ	3,342.50		85,757.20
7/1/15	COMM AREA JULY'15	SJ	445.35		86,202.55
7/17/15	CUC JUN'15	SJ	334.60		86,537.15
8/1/15	RENT AUG'15	SJ	3,342.50		89,879.65
8/1/15	COMM. AREA AUG'15	SJ	445.35		90,325.00
8/8/15	CUC JUL'15	SJ	338.34		90,663.34
9/1/15	RENT SEPT'15	SJ	3,342.50		94,005.84

9/1/15	COMM. AREA SEPT'15	SJ	445.35		94,451.19
9/8/15	CUC AUG'15	SJ	387.45		94,838.64
9/29/15	CI\$5000.00	CRJ		5,000.00	89,838.64
10/1/15	RENT OCT'15	SJ	3,342.50		93,181.14
10/1/15	COMM AREA OCT'15	SJ	445.35		93,626.49
10/9/15	CUC SEPT'15	SJ	238.68		93,865.17
11/1/15	COMM AREA NOV'15	SJ	445.35		94,310.52
11/1/15	RENT NOV'15	SJ	3,342.50		97,653.02
11/11/15	CUC OCT'15	SJ	307.06		97,960.08
12/1/15	RENT DEC'15	SJ	3,342.50		101,302.58
12/1/15	COMM AREA DEC'15	SJ	445.35		101,747.93
12/11/15	CUC NOV'15	SJ	326.04		102,073.97
12/30/15	CI\$5000.00	CRJ		5,000.00	97,073.97
1/1/16	RENT JAN'16	SJ	3,342.50		100,416.47
1/1/16	COMM AREA JAN'16	SJ	445.35		100,861.82
1/13/16	CUC DEC'15	SJ	299.50		101,161.32
2/1/16	RENT FEB'16	SJ	3,342.50		104,503.82
2/1/16	COMM AREA FEB'16	SJ	445.35		104,949.17
2/16/16	CUC - JAN'16	SJ	214.32		105,163.49
	COMM AREA -				
3/1/16	MAR'16	SJ	445.35		105,608.84
3/1/16	RENT - MAR'16	SJ	3,342.50		108,951.34
3/10/16	CUC FEB'16	SJ	282.24		109,233.58
4/1/16	RENT APRIL 2016	SJ	3,342.50		112,576.08
4/1/16	COMM AREA APR'16	SJ	445.35		113,021.43
4/15/16	CUC MAR'16	SJ	249.09		113,270.52
5/1/16	RENT MAY'16	SJ	3,342.50		116,613.02
	COMMON AREA				
5/1/16	MAY'16	SJ	445.35		117,058.37
5/12/16	CUC APR'16	SJ	233.31		117,291.68
6/1/16	JUNE'16 RENT	SJ	3,342.50		120,634.18
	COMM. AREA				
6/1/16	JUNE'16	SJ	445.35		121,079.53
6/15/16	CUC MAY'16	SJ	238.92		121,318.45
7/1/16	RENT JULY'16	SJ	3,342.50		124,660.95
7/1/16	COMM AREA JULY'16	SJ	445.35		125,106.30
7/13/16	CUC JUN'16	SJ	217.36		125,323.66
8/2/16	CI\$4000.00	CRJ		4,000.00	121,323.66
8/6/16	CUC JUL'16	SJ	234.99		121,558.65
9/8/16	CUC AUG'16	SJ	245.74		121,804.39
10/9/16	CUC SEPT'16	SJ	206.80		122,011.19
11/8/16	CUC OCT'16	SJ	189.42		122,200.61
12/8/16	CUC NOV'16	SJ	207.06		122,407.67
1/7/17	CUC DEC'16	SJ	242.65		122,650.32

13. Clause 3.2.1 of the Lease requires Interest (meaning interest at 4% above the base rate of FirstCaribbean International Bank from time to time) compounded with quarterly rests on 31st March, 30th June, 30th September, and 31st December of each year to accrue on the rents and other monies payable under the Lease as remain unpaid 7 days after they become due until such date as payment is made to the Plaintiff to be paid on overdue amounts (“Interest”).
14. Following the Second Defendant assuring the Plaintiff the arrears would be paid (which assurance the Plaintiff relied on in allowing the First Defendant to hold over). The First Defendant held over in the Premises on the terms and conditions of the Lease (as varied as

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Civil Division

Cause No. CIV

of 2017

BETWEEN: BAYSHORE PROPERTIES LTD.

PLAINTIFF

AND:

- (1) ERVIN LEWIS INCORPORATED LIMITED
- (2) LEWIS EBANKS
- (3) ERVIN EBANKS (aka ERIMANDO EBANKS)

DEFENDANTS

ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

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

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

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

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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

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

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

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

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

NO. 8

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 the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

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

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

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

See over for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is used as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

set forth in para 10 hereof) namely that interest arose on any arrears on the basis set out in the Lease.

15. The Plaintiff regularly provided the Second Defendant with statements showing the arrears and the Interest.
16. In the premises, the First Defendant and/or the Second Defendant jointly and severally are obliged to pay the Interest to the Plaintiff.
17. Particulars of Interest are set out below.

Table 2 – Particulars of Interest

<u>Date</u>	<u>Trans No</u>	<u>Type</u>	<u>Debit Amt</u>	<u>Credit Amt</u>	<u>Balance</u>
12/1/15	INTERST NOV'15	SJ	422.70		422.70
1/1/16	INTEREST DEC'15	SJ	434.73		857.43
2/1/16	INTEREST JAN'16	SJ	454.89		1,312.32
2/29/16	INTEREST - FEB'16	SJ	444.13		1,756.45
4/1/16	INTEREST MAR'16	SJ	501.77		2,258.22
5/1/16	INTEREST APR'16	SJ	505.44		2,763.66
6/1/16	INTEREST MAY'16	SJ	535.32		3,298.98
7/1/16	INTEREST JUN'16	SJ	552.16		3,851.14
8/1/16	INTEREST JUL'16	SJ	575.98		4,427.12
9/1/16	INTEREST AUG'16	SJ	561.76		4,988.88
10/1/16	INTEREST SEPT'16	SJ	547.12		5,536.00
11/1/16	INTEREST OCT'16	SJ	568.72		6,104.72
12/1/16	INT. MAR'16 REVERSED	SJ		507.77	5,596.95
12/1/16	INT. MAR'16	SJ	494.89		6,091.84
12/1/16	INT. APR'16 Reversed	SJ		505.44	5,586.40
12/1/16	INT. APR'16	SJ	498.51		6,084.91
12/1/16	INT. JUN'16 REVERSED	SJ		552.16	5,532.75
12/1/16	INT. JUN'16	SJ	537.73		6,070.48
12/1/16	INT. NOV'16	SJ	553.65		6,624.13
1/1/17	INTEREST DEC'16	SJ	575.34		7,199.47

18. In the premises the Plaintiff claims against the Defendants or any of them: -
 - 18.1 C1\$122,650.32 on account of the outstanding and unpaid rents and utilities due in respect of the Premises.
 - 18.2 Interest thereon pursuant to the terms by which the First Defendant held over in the Premises (and as against the Second Defendant by reason of his repeated undertakings to pay the Plaintiff the amounts outstanding from time to time) at the

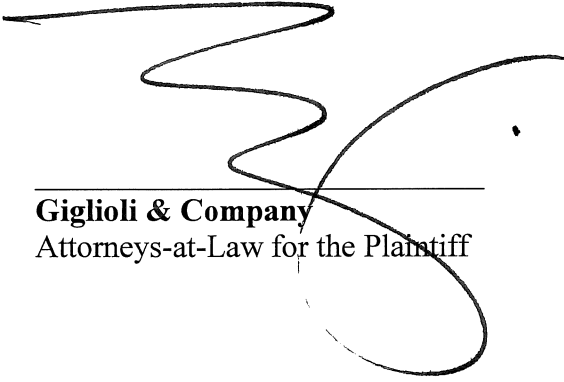
rates set forth paragraph 13 hereof (details of the interest appearing in Table 2). Interest to the date of issue of the writ on the aforesaid basis being CI\$7,199.47. At the date hereof the daily rate of interest accrues at CI\$18.50.

18.3 Such other relief as this honourable Court deems appropriate.

18.4 Costs

If, within the time for returning the acknowledgment of service, the Defendants pay the total amount claimed of CI\$129,849.79 (excluding interest from the date hereof and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or its attorney.

Dated 18th January 2017



Giglioli & Company
Attorneys-at-Law for the Plaintiff