

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. *657* OF 1997

BETWEEN: THE HOLDING LIMITED PLAINTIFF

AND: (1) TORTUGA REALTY LIMITED FIRST DEFENDANT
(2) ERIC W BALL SECOND DEFENDANT
(3) SUSAN A BALL THIRD DEFENDANT



WRIT OF SUMMONS



TO: TORTUGA REALTY LIMITED
of P.O. Box 413
George Town, Grand Cayman, B.W.I.

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

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 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 *2nd* day of *September* 1997

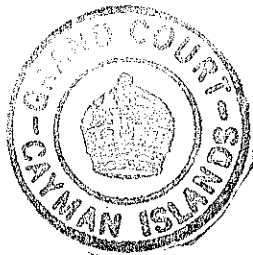
NOTE - This Writ may not be served later than 4 calendar months beginning with the date of issue unless renewed by order of the Court.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 657 OF 1997

BETWEEN: THE HOLDING LIMITED PLAINTIFF

AND: (1) TORTUGA REALTY LIMITED FIRST DEFENDANT
(2) ERIC W BALL SECOND DEFENDANT
(3) SUSAN A BALL THIRD DEFENDANT



STATEMENT OF CLAIM



1. The Plaintiff is and was at all material times a company incorporated in the Cayman Islands.
2. The First Defendant is and was at all material times a company incorporated in the Cayman Islands engaged in the business of estate agency.
3. In or about March 1990 the First Defendant through it's director Maynard Tibbetts ("Tibbetts") introduced to International Financing & Leasing Services Incorporated ("IFLS") a corporation incorporated in the State of Florida, through it's director Adele Tartaglia ("Tartaglia") the property Block 13B Parcel 143H/25 West Bay Beach South hereinafter ("Tamarind Bay 25") which the First Defendant was then instructed to sell by the registered proprietors, Eric W Ball and Susan A Ball ("the Second and Third Defendant").
4. IFLS was at the material time engaged inter alia in the business of introducing to offshore investors real estate investments in the Cayman Islands. Amongst its clients was a

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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.

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 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.

Messrs Ritch & Conolly
3rd Floor, Royal Bank Building
Cardinal Avenue
P.O. Box 1994
Grand Cayman

REF: RMC

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

company incorporated in the Cayman Islands registered under the name Rubinsky.

5. By an agreement made the 19th February 1990 entitled "General Sales Agreement" executed on the First Defendant's standard form, Rubinsky agreed to buy and the Second and Third Defendants agreed to sell Tamarind Bay 25 Tibbetts executing the agreement for Rubinsky as Purchaser and the Second Defendant executing the agreement for the Vendors. The agreement was confirmed by the Vendors signing a form RL1 "Transfer of Land" their signatures being witnessed by Tibbetts on the 20th May 1990.

6. Between the 2nd March and the 23rd June 1990, the First Defendant received for and on behalf of Rubinsky the sum of US\$375,000.00 being the purchase price of Tamarind Bay 25 the First Defendant receiving the monies as the agent of the Vendors and by way of cheque.

PARTICULARS

02/03/90	32,000.00
24/04/90	81,547.12
24/04/97	57,324.83
24/04/90	101,153.72
19/06/90	78,261.40
23/06/90	<u>1,712.93</u>
	<u>375,000.00</u>



7. By an agreement made the 20th May 1991 between Rubinsky and the Plaintiff Rubinsky transferred to the Plaintiff all it's estate interest and rights in Tamarind Bay 25 the First Defendant having received notice of the said transfer on or

before October 1991 and the Second and Third Defendants executing a further form RL1 in favour of the Plaintiff on the 28th August 1991.

8. By an instrument of transfer 5630/97 dated 28th July 1997 the Second and Third Defendants transferred ownership of Tamarind Bay 25 to Alan E Walker and Kathleen Walker, Alan E Walker being the former husband of Tartaglia "the Walkers".
9. By an instrument numbered 5992/97 dated 11th August 1997 Tibbetts and Eileen Tibbetts entered a caution on the land register to protect a contract of purchase of 25 Tamarind Bay by them from the Walkers.
10. In the premises the consideration for the payment of the said sum of US\$375,000.00 has wholly failed and the First Defendant has had and received the said sum to the use of the Plaintiff.
11. In the alternative if which is not admitted the First Defendant has paid the sum of US\$375,000.00 being the purchase price of Tamarind Bay 25 to the Second and Third Defendants, the consideration for the payment of the said sum of US\$375,000.00 has wholly failed and the Second and Third Defendants have had and received the said sum to the use of the Plaintiff.

AND THE PLAINTIFF CLAIMS against the First Defendant or in the alternative against the Second and Third Defendants jointly and severally:-

- (1) The said sum of US\$375,000.00.
- (2) Interest thereon pursuant to s62(1) of the Judicature (Amendment) Law 1995 from the 23rd June 1990 to the date

hereof at the rate of 8% per annum in the sum of US\$185,342.35 and continuing at the daily rate of US\$82.19 from the date hereof until judgment or sooner payment. Alternatively interest at such rate and for such period the Court deems fit.

(3) Costs.

DATED this 2nd day of September 1997

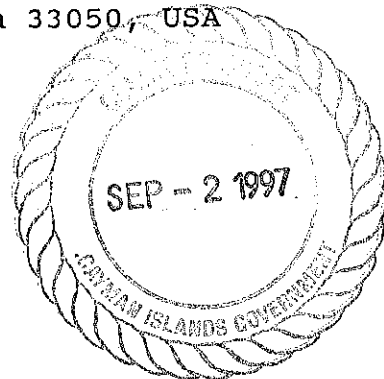


Ritch & Conolly
RITCH & CONOLLY

TO: The Clerk of the Court

AND TO: Tortuga Realty Limited
P.O. Box 413, George Town, Grand Cayman

Eric W Ball and Susan A Ball
P.O. Box 456, Marathon, Florida 33050, USA



FILED BY Messrs Ritch & Conolly, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is P.O. Box 1994, 3rd Floor Royal Bank of Canada Building, George Town, Grand Cayman, BWI.

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BETWEEN:

THE HOLDING LIMITED PLAINTIFF

AND

TORTUGA REALTY LIMITED
ERIC W BALL FIRST DEFENDANT
SUSAN A BALL SECOND DEFENDANT
THIRD DEFENDANT

WRIT OF SUMMONS

Messrs Ritch & Conolly
Attorneys-at-Law
3rd Floor
Royal Bank of Canada Building
P.O. Box 1994
George Town
Grand Cayman

TEL: (345) 949 7633
FAX: (345) 949 8652
REF: RMC

IMPORTANT

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

FILED BY Messrs. Ritch & Conolly, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is that of its said Attorneys-at-Law, P.O. Box 1994, 3rd Floor Royal Bank Building, George Town, Grand Cayman, B.W.I.

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ISLANDS

CAUSE NO. OF 1997

BETWEEN:

THE HOLDING LIMITED PLAINTIFF

AND:

TORTUGA REALTY LIMITED

	FIRST DEFENDANT
ERIC W BALL	SECOND DEFENDANT
SUSAN A BALL	THIRD DEFENDANT

STATEMENT OF CLAIM

Messrs Ritch & Conolly
Attorneys-at-Law
3rd Floor
Royal Bank of Canada Building
P.O. Box 1994
George Town
Grand Cayman

TEL: (345) 949 7633
FAX: (345) 949 8652
REF: RMC

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 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

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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.

