

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 836 OF 1997

BETWEEN:

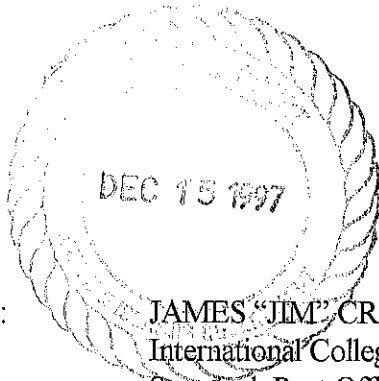
RUDY KUDRITZKI

PLAINTIFF

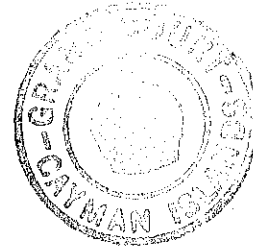
- and -

JAMES "JIM" CROCKETT

DEFENDANT



WRIT OF SUMMONS



TO: JAMES "JIM" CROCKETT  
International College of the Cayman Islands  
Savannah Post Office  
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 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 15<sup>th</sup> day of Dec 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.



**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.



**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO. 836 OF 1997**

**B E T W E E N :**

**RUDY KUDRITZKI**

**PLAINTIFF**

**- and -**

**JAMES "JIM" CROCKETT**

**DEFENDANT**

**STATEMENT OF CLAIM**

1. By an agreement made in or about July 1995, the Plaintiff agreed to purchase from the Defendant and the Defendant agreed to sell to the Plaintiff 50% of the issued share capital of Quabbin Dives Cayman Limited ("Quabbin"), a Cayman Company for US\$135,000.00.
2. The said Contract was completed on the 22nd August 1995 and is evidenced in part by a Contract bearing that date.
3. Pursuant to the Contract the Plaintiff has made the following payments to the Defendant:

26/07/93	US\$10,000.00
28/08/93	US\$25,000.00
02/10/93	US\$50,000.00
27/11/93	US\$20,000.00
19/02/96	<u>US\$15,000.00</u>
	<u>US\$120,000.00</u>

in accordance with Schedule 2 to the agreement dated 22nd August 1995.



4. In order to induce the Plaintiff to make and complete the said Contract and pay the said money, the Defendant represented to the Plaintiff and in consideration of his doing so warranted:-

- (i) that he was the sole owner of Quabbin;
- (ii) that Quabbin owned unencumbered assets of a value in excess of US\$300,000.00 including two diving boats and ancillary equipment valued at US\$200,000.00;
- (iii) that Quabbin's liabilities consisted of only trade liabilities of C1\$22,705.11 and US\$3,661.05;
- (iv) that for the preceding three years Quabbin had a monthly turnover of between 200 to 700 paying dive customers per month and that these turnover figures could be expected to continue or improve;
- (v) that Quabbin was financially sound and was a profitable business;
- (vi) that the Defendant wished to retire from the business and, having bought out a previous shareholder, Mr Atley Evans, wished to locate and introduce another investor with previous experience of the diving business to run Quabbin;
- (vii) that the purchase monies paid by the Plaintiff would be spent on Quabbin and in particular would be used to:-
  - (a) promote the business in the USA, Japan and Europe;
  - (b) meet the trade liabilities set out in 4(iii) herein;



- (c) overhaul the dive boats;
  - (d) purchase new diving equipment.
5. Acting on the faith and truth of the said representatives and induced thereby the Plaintiff paid the said sum of US\$120,000.00.
6. The Plaintiff has since discovered and the fact is that each of the said representations was untrue in that:-
- (i) the Plaintiff owned no more than 20% of Quabbin's issued share capital and the 20 shares referred to in the agreement dated 22nd August 1995 represented only 20% of Quabbin's issued share capital;
  - (ii) the assets of the Company were not worth the sum of US\$300,000.00 or anything like this amount, the Defendant in any event having disposed of one dive boat for US\$35,000.00 and failing to account for this sum. Further motor vehicles said to belong to Quabbin were charged to the Bank of Butterfield, which subsequently repossessed the same;
  - (iii) Quabbin was at the time of the representation substantially indebted to the Bank of Butterfield for a sum which the Plaintiff believes, subject to discovery, to have been in the region of US\$350,000.00;
  - (iv) following the representation the turnover of Quabbin never exceeded 300 paying dive customers per month and that, undisclosed by the Defendant, the figures provided had been achieved with 3 dive boats;
  - (v) the business was hopelessly insolvent, having accumulated a deficit of US\$571,010 and being unable to pay its debts as they fell due;



- (vi) the Defendant wished to raise capital to prevent the Bank of Butterfield from repossessing the Defendant's house in Cayman Kai;
  - (vii) the purchase monies were used by the Defendant to prevent the repossession of his house and were not expended for the purposes of Quabbin.
7. The Defendant made the said representations fraudulently and either well knowing that they were false and untrue or recklessly not caring whether they were true or false.
  8. The Defendant made the said representations in order to induce the Plaintiff to buy and become the holder of the shares in Quabbin.
  9. The said shares so purchased by the Plaintiff were and have ever since been worthless or worth much less than the price which the Plaintiff was induced by the said representations to pay and did pay for the same and the Plaintiff has lost the said US\$120,000.00 which he paid as aforesaid and the interest thereon and use thereof and was and is otherwise injured and he has thereby suffered loss and damage.

### **PARTICULARS**

Price of Shares	US\$120,000.00
Monies spent by the Plaintiff in promoting Quabbin in Germany, Austria, Switzerland and the Netherlands	US\$10,000.00

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

- (i) Damages;



(ii) Interest thereon at such rate and for such period as the Court deems fit;

(iii) Costs.

**DATED** this 12th of December 1997

  
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**RITCH & CONOLLY**

TO: Clerk of the Court

AND TO: The Defendant

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





