



**GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**CAUSE NO: FSD OF 2022 ( )**

**IN THE MATTER OF THE COMPANIES ACT (2022 REVISION)**

**AND IN THE MATTER OF WALKERS CORPORATE LIMITED**

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

**WALKERS CORPORATE LIMITED**

**PLAINTIFF**

**-and-**

**(1) THE MINISTER OF FINANCIAL SERVICES AND COMMERCE**

**(2) THE REGISTRAR OF COMPANIES**

**(3) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS**

**DEFENDANTS**

**ORIGINATING SUMMONS**

**TO:**

**(1) THE MINISTER OF FINANCIAL SERVICES AND COMMERCE, Suite 126, Government Administration Building, 133 Elgin Avenue, George Town, Grand Cayman KY1-9000, Cayman Islands**

**(2) THE REGISTRAR OF COMPANIES, Ground Floor, Government Administration Building, 133 Elgin Avenue, George Town, Grand Cayman KY1-9000, Cayman Islands**

**(3) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS, Office of the Attorney General, 4<sup>th</sup> Floor, Government Administration Building, 133 Elgin Avenue, George Town, Grand Cayman KY1-9000, Cayman Islands**

**LET THE DEFENDANTS**, within 14 days after service of this Originating Summons on them, counting the day of service, return the accompanying Acknowledgment of Service to the Courts office, P.O. Box 495G, George Town, Grand Cayman, KY1-1106, Cayman Islands.

By this Originating Summons, which is issued on the application of Walkers Corporate Limited of 190 Elgin Avenue, George Town, Grand Cayman, KY1-9008, the Plaintiff seeks the determination of the Court as to the meaning and effect of Section 255 and Section 281D of the Companies Act (2022 Revision) (the "**Companies Act**"), by means of the following orders and declarations:

1. A declaration that, on the proper construction of Section 255 of the Companies Act, the expiry or renewal from time to time of a passport, driver's licence or other

government-issued document for any “registrable person” is not a “relevant change” within the meaning of that section.

2. In the alternative, a declaration that, on the proper construction of Section 281D of the Companies Act, the Registrar is aware of any breach referable to any such “relevant change” on the expiry date of the relevant passport, driver’s licence or other government-issued document as entered in the beneficial ownership register.
3. The costs of and incidental to this Summons be paid by the Defendants.
4. Such further consequential or other orders as to this Honourable Court seem just.

**AND TAKE NOTICE** that the grounds of this Application are as follows:

1. Walkers Corporate Limited (“**WCL**”) is a corporate services provider in the Cayman Islands. It provides corporate, regulatory, compliance and fiduciary services to corporate and institutional clients internationally. Such services include, *inter alia*, support to ensure compliance with the beneficial ownership registration regime contained within the Companies Act.
2. By reason of its role as corporate services provider, WCL is further required, *inter alia*, to keep the beneficial ownership register of companies for whom it acts and to consider the issue of restriction notices pursuant to Section 265 of the Companies Act in the case of apparent non-compliance with the beneficial ownership regime.

3. The First Defendant is the competent authority within the meaning of section 246(1) of the Companies Act (the "**Competent Authority**"). The Second Defendant is the authority responsible for the imposition of administrative fines pursuant to Part XVIIIB of the Companies Act.
4. On 14 January 2022, WCL received from the Competent Authority over 500 separate letters to WCL and to clients of WCL, each of which was stated to be a request for information pursuant to Section 279A of the Companies Act (the "**Request Letters**"). The Request Letters each (i) assert that there is a "*relevant change*" for the purposes of Section 255 of the Companies Act upon expiry of the passport, driver's licence or other government-issued document for any "registrable person"; (ii) demand details of correspondence with each registrable person in respect of the said expiry and any restriction notice issued in consequence; and (iii) threaten administrative fines of C\$5,000 in the absence of a response within a stipulated timeframe.
5. In fact:
  - a. Sections 255(1) and (3) of the Companies Act provide, insofar as material, that:

*“(1) If a company to which this Part applies becomes aware of a relevant change with respect to a registrable person whose required particulars are stated in its beneficial ownership register, the company shall give notice to the registrable person, as soon as reasonably practicable after it learns of the change or first has reasonable cause to believe that the change has occurred, requesting confirmation of the change.*

...

(3) *For the purposes of this section, a relevant change occurs if –*

...

*(b) any other change occurs as a result of which the required particulars stated respecting the registrable person in the company's beneficial ownership register are materially incorrect or incomplete."*

b. The expiry or renewal from time to time of a passport, driver's licence or other government-issued document for any registrable person is not a "relevant change" for the purposes of Section 255 of the Companies Act. It is not a "change"; further or alternatively, it is not "relevant" and further or alternatively it does not render the required particulars "materially incorrect or incomplete".

6. Moreover, Section 281D of the Companies Act further provides, insofar as material, that:

*"(1) The Registrar shall not impose a fine after the expiration of six months after the date on which the Registrar became aware of the occurrence of the breach.*

*(2) For the purposes of subsection (1), the Registrar becomes aware of the breach when information is first received from which the breach could reasonably have been inferred."*

7. The "date on which the Registrar became aware of the occurrence of the breach" for the purposes of limitation under Section 281D of the Companies Act, in respect of any breach of Section 255 of the Companies Act consequent on the expiry or renewal of any passport, driver's licence or other government-issued document,

was and/or is the relevant expiry date as entered in the beneficial ownership register.

If a Defendant does not acknowledge service, such judgment may be given or order made against or in relation to him as the Court may think just and expedient.

DATED the 7<sup>th</sup> day of February 2022



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**WALKERS**  
Attorneys-at-Law for the Plaintiff

NOTE – This Originating Summons 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 that date unless renewed by order of the Court.

**IMPORTANT**

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

This Originating Summons was issued by Walkers, Attorneys-at-Law, 190 Elgin Avenue, George Town, Grand Cayman KY1-9001 for the Plaintiff whose address for service is care of their said Attorneys-at-Law.

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF ORIGINATING SUMMONS**

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, PO Box 495GT, George Town, Grand Cayman.

### 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. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. For the purpose of calculating the period of 28 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.
4. 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 Originating Summons)".
5. 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.

6. 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.
7. 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.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.

**Please complete overleaf**

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(3) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

DEFENDANTS

ACKNOWLEDGEMENT OF SERVICE  
OF ORIGINATING 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.**

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

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2. State whether the Defendant intends to contest or otherwise participate in the proceedings (*tick appropriate box*).

yes

no

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Service of the Originating Summons is acknowledged accordingly.

(Signed) .....

[Attorney] for

[Defendant in person]

Address for service:

**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 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.

Walkers  
Attorneys at Law  
190 Elgin Avenue  
George Town  
Grand Cayman KY1-9001  
  
Ref: ND/AG/175572

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

