



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO: FSD OF 2022 ()

BETWEEN

(1) FRABRAN HOLDINGS CO LIMITED

(2) HUSKY TRADING CO LTD

PLAINTIFFS

-AND-

DAVENTREE TRUSTEES LIMITED

DEFENDANT

WRIT OF SUMMONS

TO:

DAVENTREE TRUSTEES LIMITED of 36 Lord Byron Avenue, Nicosia Tower Center, Nicosia 1056

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

Within 28 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 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 28th day of September 2022

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 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. The Plaintiffs are companies registered under the laws of Cyprus each with its registered office at Pandora 21, Hadjimatheou Yiannouri Court, 2nd Floor, Flat 10, 6042, Larnaka, Cyprus.
2. The Defendant is a company incorporated under the laws of Cyprus and at all material times was the Trustee of two Cypriot trusts known as the HPH Settlement ("**Trust 1**") and the HPH Distribution Settlement No.2 ("**Trust 2**").
3. In 2003 the Plaintiffs commenced a claim (the "**Proceedings**") before the Nicosia District Court (the "**Cypriot Court**") for a detailed accounting in respect of the Trusts and payment of their respective entitlements thereunder.
4. In 2005 the Cypriot Court placed the assets of both Trust 1 and Trust 2 under the control of a Receiver whose appointment was subsequently recognised by the Grand Court of the Cayman Islands in Cause 94 of 2005.
5. The Receiver was for the avoidance of doubt subsequently discharged by the Cypriot Court in a judgment dated 3 January 2022, an appeal against such discharge remaining pending.
6. The Cypriot Court was a court of competent jurisdiction in relation to the Proceedings for each of the following reasons:
 - a. First, the Defendant was present within the jurisdiction of the Cypriot Court when the Proceedings were commenced.
 - b. Secondly, prior to the commencement of the Proceedings, the Defendant agreed to submit to the jurisdiction of the Cypriot courts in relation to the subject matter of the Proceedings. Clause 68 of the trust instrument in respect of Trust 1 provides that "*The Settlement is established under and shall be governed in all respects by the International Trusts Law 1992 and the other laws of the Island and its courts shall be the forum for its administration*", and the word "*Island*" is defined in Clause

1.16 to mean the Republic of Cyprus. Clauses 68 and 1.16 of the trust instrument in relation to Trust 2 are in the same terms.

- c. Thirdly, following the commencement of the Proceedings, the Defendant voluntarily appeared in the Proceedings and defended the claims on the merits.
7. The Defendant participated in the Proceedings and appeared by its legal representatives, and as submitted to the jurisdiction of the Cypriot Court, which had jurisdiction to hear the Proceedings and was duly constituted in accordance with Cypriot law.
 8. On 25 April 2017 the Cypriot Court found the Defendant liable to pay the First Plaintiff US\$690,000 and the Second Plaintiff US\$5,514,756 in respect of their respective interests in Trust 1 (the "**Judgment**") in addition to legal costs assessed at US\$500,000. The Plaintiffs' claims in respect of Trust 2 were dismissed
 9. Simple interest accrued on the Judgment pursuant to Section 33 of the Court of Justice Law from the date of filing of the action at the following rates prescribed from time to time pursuant to the Unified Public Default Interest Rate Law (as amended):
 - a. 8% from 11th December 2003 to 14 October 2008;
 - b. 5.5 % from 15 October 2008 to 31 December 2009;
 - c. 5.35% from 1 January 2010 to 31 December 2010;
 - d. 5% from 1 January 2011 to 31 December 2012;
 - e. 4.75% from 1 January 2013 to 31 December 2013;
 - f. 4.5% from 1 January 2014 to 31 December 2104;
 - g. 4% from 1 January 2015 to 31 December 2016;
 - h. 3.5% from 1 January 2017 to 30 December 2018;
 - i. 2% from 1 January 2019 to 31 December 2019; and
 - j. 1.75% from 1 January 2020 onwards.

amounting to US\$633,982.40 in respect of the First Plaintiff's claim and US\$ 5,067,418.63 in respect of the Second Plaintiff's claim as at 30 September 2022

10. The sums payable pursuant to the Judgment were stated to be due and owing as soon as the respective Plaintiff had complied with clauses 15.2 and 15.3 of the instrument

governing Trust 1 by way of providing discharges, indemnities and details of bank accounts for the transfer of funds. Such documents were provided promptly by both the First and Second Plaintiff and as such all preconditions to the Judgment have been fulfilled.

11. Subsequently the Defendant filed an appeal against the Judgment to the Supreme Court of Cyprus. That appeal remains outstanding and the Judgment has not been stayed. As such the Judgment is due and owing.
12. To date, the Defendant has not made payment of the sums owing under the Judgment and as such is indebted to the Plaintiffs in the sums of US\$ 1,323,982.40 and US\$10,582,174.60 respectively in respect of the Judgment, and a further US\$500,000 in respect of costs.
13. The Plaintiffs further claim interest pursuant to section 34 of the Judicature Law and/or the equitable jurisdiction of the Court from the date of this writ or until sooner settlement at the rate of 2.375% per annum (accruing in respect of each Plaintiff's claim at US\$86.14 and US\$688.56 per diem respectively and upon costs at US\$32.53 per diem) alternatively at such rate and for such period as the Court shall think fit.

AND THE PLAINTIFFS CLAIM

- a. Payment of the said sums of US\$ 1,316,200.52 and US\$10,009,995.20 and US\$500,0000;
- b. Interest as aforesaid; and
- c. Costs

DATED the 28th day of September 2022

Walkers (Cayman) LLP

WALKERS (CAYMAN) LLP
Attorney for the Plaintiffs

THIS WRIT was issued by Walkers (Cayman) LLP, Attorneys at Law for the Plaintiffs, whose address for service is 190 Elgin Avenue, George Town, Grand Cayman, KY1-9001, Cayman Islands.

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**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.

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

State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

yes

no

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 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.

Walkers (Cayman) LLP Attorneys at Law KY1-9001 190 Elgin Avenue George Town, Grand Cayman FAO : Nicholas Dunne

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

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF
WRIT OF 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 Courts Office, PO Box 495GT, George Town, Grand Cayman.

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.

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

Notes for Guidance

Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Court's office.

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.

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*)".

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.

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.

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.

Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.

A Defendant acting in person may obtain help in completing the form at the Court's office.