

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 582 OF 1999

BETWEEN: TROPICAL REAL ESTATE LTD. PLAINTIFF
AND: BRIAN R. GOLDSTONE FIRST DEFENDANT
AND: CONDOCO GRAND CAYMAN RESORT LTD. SECOND DEFENDANT

WRIT OF SUMMONS

TO: Brian R. Goldstone, P.O. Box 481, George Town, Grand Cayman, Cayman Islands
AND TO: Condoco Grand Cayman Resort Ltd. P.O. Box 481, 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, 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 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 22nd day of September 1999.

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.

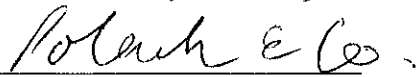
STATEMENT OF CLAIM

1. The Plaintiff are licensed realtors operating as Tropical Real Estate in George Town, Grand Cayman.
2. The First Defendant was at all material times the authorised agent and/or employee of the Second Defendant.
3. The Second Defendant is the developer of the Ritz Carlton project on West Bay Road, Grand Cayman and vendor of apartments in the said development.
4. On or about 23rd February 1999 the First Defendant acting on behalf of the Second Defendant executed a multiple listing agreement with the Plaintiff to pay a sales commission of five per cent of the sale price of Unit No. 215 described in the said agreement as US\$ 3,750,000 and being a sales commission of US\$ 187,500 payable on the first disbursement of funds.
5. By letter of 10th June 1999 the First Defendant advised the Plaintiff that Unit No. 215 had been sold and the Plaintiff could expect payment of the agreed sales commission.
6. By letter of 5th August 1999 the First Defendant advised the Plaintiff that it had received a payment of US\$ 1,125,000.
7. Since 5th August 1999 the Plaintiff has made repeated request for payment of their sales commission of US\$ 187,500 to no avail.

AND THE PLAINTIFF claims:

1. The sum of US\$ 187,500.
2. Interest pursuant to the Judicature Law at the prescribed rate of 7 7/8 % p.a. from 5th August 1999 for a total amount of US\$ 1,941.60 at 22nd September 1999 and a daily rate of interest of US\$ 40.45.
3. Fixed costs of CI\$ 1987.50 (US\$ 2,385)

If, within the time for returning the Acknowledgment of Service, the Defendant says the total amount claimed of US\$ 191,826.60 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.


POLACK & CO.

THIS WRIT was issued by POLACK & CO. whose address for service is No. 15 Pasadora Place, Smith Road, George Town, Grand Cayman. Attorney for the Plaintiff.

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 installments 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 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 Court Office.

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PLAINTIFF

AND: BRIAN R. GOLDSTONE

FIRST DEFENDANT

AND: CONDOCO GRAND CAYMAN RESORT LTD. SECOND DEFENDANT

**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 I 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 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.

**POLACK & CO.
P.O. Box 10906 APO
No. 15 PASADORA PLACE
SMITH ROAD
GEORGE TOWN
GRAND CAYMAN**

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

[Empty box for defendant's attorney indorsement]