

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 181 OF 2000

BETWEEN: I.A.N. WIGHT AND M. W. PILLING, JOINT OFFICIAL  
LIQUIDATORS OF FIRST CAYMAN BANK LTD.  
(IN LIQUIDATION)

Plaintiffs

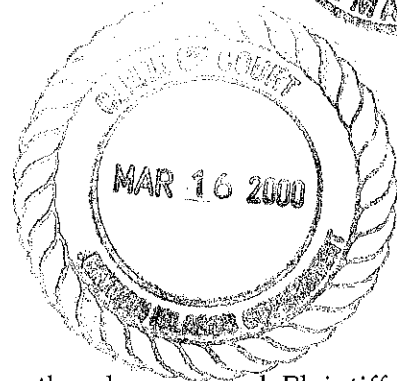
AND: ACTION REALTY

Defendant



WRIT OF SUMMONS

To: ACTION REALTY  
P.O. BOX 30540  
SEVEN MILE BEACH  
GRAND CAYMAN  
CAYMAN ISLANDS



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 Fourteen days [14] 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 495, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 16<sup>th</sup> day of March, 2000

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 Acknowledgement of Service are given with the accompanying form.

## STATEMENT OF CLAIM

1. The Plaintiffs are the Joint Official Liquidators ("the Liquidators") of First Cayman Bank Ltd. (In Liquidation) ("the Bank"), whose address is P.O. Box 1113, George Town, Grand Cayman, Cayman Islands. The Bank has at all material times lent money to the Defendant.
2. The Defendant's address is P.O. Box 30540, Seven Mile Beach, Grand Cayman, Cayman Islands and the Defendant was at all material times the recipient of money lent by the Bank.
3. The Defendant maintained a chequing account, on his US dollar account number 210-107-843, with the Bank and on or about 23<sup>rd</sup> December 1996 the Bank agreed to extend an overdraft facility to the Defendant as the account became overdrawn, which the Defendant agreed to replay. The facility was subject to normal banking terms and conditions including the right to repayment on demand.
4. It was also an express term of the facility that the Defendant would pay interest on the overdraft at the rate of 3% above the Bank's best lending rate.
5. Pursuant to the overdraft facility, the Plaintiffs paid the Defendant by way of allowing the said current account to go into overdraft.
6. The Defendant repaid the Bank the total sum of US\$72,636.74 on account of the said overdraft.

## PARTICULARS

US\$ 9,000.00	7 <sup>th</sup> day of January 1997	by cheque
US\$ 8,750.00	16 <sup>th</sup> day of January 1997	by cash
US\$ 17,560.97	11 <sup>th</sup> day of February 1997	customer deposit
US\$ 14,646.34	17 <sup>th</sup> day of March 1997	customer deposit
US\$ 300.00	24 <sup>th</sup> day of June 1997	customer deposit
US\$ 22,079.43	31 <sup>st</sup> day of July 1997	transfer from fixed deposit account

US\$ 300.00 10<sup>th</sup> day of October 1997 customer deposit

7. Since the 10<sup>th</sup> day of October 1997 the Defendant has made no further payments. As a result, when the Bank went into liquidation on the 20<sup>th</sup> day of October 1997 the account was overdrawn in the sum of US\$20,552.19. The Plaintiffs claim the sum of US\$28,125.70 being the balance due on the overdraft facility as at the 15<sup>h</sup> day of December 1999 including interest which is accrued thereon

AND THE PLAINTIFFS CLAIM:

1. The said sum of US\$28,125.70 being the balance due on the overdraft facility extended to the Defendant by the Plaintiff on the 23<sup>rd</sup> day of December 1996 which remains due and owing.
2. The Plaintiffs claim further interest on the said sum as aforesaid from the date hereof until judgment or sooner payment at the daily rate of US\$11.17.
3. Alternatively, the Plaintiffs claim pre-judgment interest pursuant to Section 34 of the Judicature Law (1995 revision):
  - (i) At the rate of 7½% from the 23<sup>rd</sup> day of December 1996 to the 31<sup>st</sup> day of January 1998;
  - (ii) At the rate of 7½% from the 1<sup>st</sup> day of February 1998 to the 31<sup>st</sup> day of December 1998; and
  - (iii) At the rate of 7% from the 1<sup>st</sup> day of January 1999 to the date of this Writ.
4. Further and alternatively the Plaintiffs claim interest at the rate of 7% pursuant to Section 34 of the Judicature Law (1995 Revision) from the date hereof until judgment or sooner payment.

5. Costs.

If within the time for returning Acknowledgment of Service the Defendant pays the total amount claimed of US\$28,125.70 (excluding the costs of any additional interest accruing) further proceedings will be stayed. The money must be paid to the offices of the Plaintiffs' Attorneys-at-Law.

Quin & Hampson  
Quin & Hampson  
Attorneys-at-Law for the Plaintiffs

To: Clerk of the Court

And to: Action Realty  
P.O. Box 30539 SMB  
Grand Cayman  
Cayman Islands

THIS WRIT was issued by Messrs. Quin & Hampson, Attorneys-at-Law for the Plaintiffs whose address for service and correspondence is P.O. Box 1348, Third Floor, Harbour Centre, George Town, Grand Cayman, B.W.I.

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 Acknowledgement of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiffs (or on the Plaintiffs 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 Plaintiffs 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, 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*

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement 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 his 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.

BETWEEN: I.A.N. WIGHT AND M. W. PILLING, JOINT OFFICIAL LIQUIDATORS OF FIRST CAYMAN BANK LTD. (IN LIQUIDATION) Plaintiffs

AND: ACTION REALTY 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 Plaintiffs (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 Plaintiffs' Attorney (or by Plaintiffs if suing in person) of his name, address and reference, if any, in the box below.*

Messrs. Quin & Hampson  
Attorneys-at-Law  
Third Floor, Harbour Centre  
P.O. Box 1348  
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.*