

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 443 OF 2002

BETWEEN:

(1) **JEAN-VINCENT J.M. FERRANDI**

(2) **DANIELLE J. FERRANDI** **PLAINTIFFS**

AND:

(1) **HEDLEY ROBINSON**

(2) **ARLENE ROBINSON**

(3) **SIDNEY ROBINSON**

(4) **CARIBBEAN CHAMPION DEVELOPMENT CO LTD.**

(5) **ARCHITEXTURA LIMITED** **DEFENDANTS**



WRIT OF SUMMONS

TO THE DEFENDANTS:

- | | |
|---|---|
| (1) Hedley Robinson
P O Box 2694 GT
Grand Cayman | (2) Arlene Robinson
P O Box 2694 GT
Grand Cayman |
| (3) Sidney Robinson
P O Box 2427 GT
Grand Cayman | (4) Caribbean Champion Development Co. Ltd
P O Box 10205 APO
Grand Cayman |
| (5) Architextura Limited
P O Box 10205 APO
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 495 G.T., 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

June 2002

JUN 26 2002

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.

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AND: (1) **HEDLEY ROBINSON**
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(4) **CARIBBEAN CHAMPION DEVELOPMENT CO LTD.**
(5) **ARCHITEXTURA LIMITED** **DEFENDANTS**

STATEMENT OF CLAIM

1. The Plaintiffs are and were at all material times the joint registered proprietors along with their two adult children of all that piece of land more particularly described as Registration Section West Bay North West, Block 3D, Parcel 109 on which they desired a single story private residence and guest house (“the Residence”) to be constructed.
2. The 1st Defendant at all material times held himself out as an architect and skilled in the design and supervision of construction projects.
3. The 2nd Defendant is the wife of the 1st Defendant.
4. The 2nd Defendant is the brother of the 1st Defendant.
5. The 1st Defendant is and was at all material times a shareholder and director of the 4th Defendant.

6. The 4th Defendant is a Cayman Islands registered company controlled at all material times by the 1st Defendant.
7. The 1st and 3rd Defendants are and were at all material times shareholders and directors of the 5th Defendant.
8. The 5th Defendant is a Cayman Islands registered company controlled at all material times by the 1st and/or 3rd Defendants.
9. The Plaintiffs entered into a contract with the 4th Defendant by which the 4th Defendant agreed to construct the Residence for the Plaintiffs (“the Construction Contract”).
10. The Plaintiffs instructed the 1st Defendant, and the 1st Defendant agreed, to act as architect in relation to the Construction Contract.
11. The Plaintiffs deposited a total of US\$1,530,000.00 (“the Fund”) into two bank accounts, namely account number 1304258 (“the Main Account”) and account number 3420441 (“the Savings Account”) at the George Town branch of Barclays Bank Plc.
12. The Fund was deposited for the purpose of providing funds with which the costs of construction of the Residence would be paid.
13. So as to facilitate the payment of the costs of construction of the Residence, in and about the last week of October 1999 – first week of November 1999, the Plaintiffs provided the 1st Defendant with authority to make payments out of the Fund.
14. The 1st Defendant was only authorised by the Plaintiffs to use the Fund to pay debts owed by the Plaintiffs in connection with the Construction Contract.
15. Accordingly, the 1st Defendant owed the Plaintiffs the following fiduciary obligations:

- i) To use the Fund to pay only the debts owed by the Plaintiffs in connection with the Construction Contract.
- ii) Not to release any of the Fund without proper confirmation that the money to be paid out was in fact due and owing.
- iii) Not to release any, particularly any substantial part, of the Fund without obtaining and preserving proper documentary evidence in relation to the payment.
- iv) Not to use the Fund for his personal benefit or for the benefit of anyone other than the Plaintiffs.
- v) Not to make a secret profit from the Fund.
- vi) To disclose any conflict of interest between himself and the Plaintiffs.
- vii) Not to allow any third party including the 3rd Defendant to have access to or control over the Fund.
- viii) Not to delegate his duties or powers in relation to the Fund to any third party including the 3rd Defendant.
- ix) To provide upon request by the Plaintiffs a clear and accurate account of all transactions in relation to the Fund.
- x) To provide upon request by the Plaintiffs sufficient supporting documentation to confirm the accuracy of any account provided by him.
- xi) To provide upon request by the Plaintiff documents relating to each of the withdrawals from the Fund.

- xii) To act with due diligence and reasonable care in the management of the Fund.
 - xiii) To act honestly and in good faith when dealing with the Fund.
16. Of the US\$1,530,000.00 sum referred to in paragraph 11 herein which made up the Fund, US\$1,085,516.66 (“the Removed Money”) has been misappropriated by him and/or paid out without substantiation. A detailed breakdown of this calculation is provided in the attached Schedule A.
17. The 1st Defendant is in breach of his said fiduciary obligations:

PARTICULARS OF BREACH

- i) The 1st Defendant used the Fund for purposes other than the payment of debts owed by the Plaintiffs.
- ii) The 1st Defendant released money from the Fund without proper confirmation that the money which he paid out was due and owing.
- iii) The 1st Defendant released substantial sums of money from the Fund without obtaining and/or without preserving any or any adequate documentary evidence in relation to the payment.
- iv) The 1st Defendant used money from the Fund for his personal benefit and/or the benefit of additional persons other than the Plaintiffs.
- v) The 1st Defendant misappropriated money from the Fund and made a secret profit from the Fund.
- vi) The 1st Defendant caused money from the Fund to be misappropriated to himself and/or the 2nd Defendant and/or to the 3rd Defendant and/or to the 4th Defendant

and/or 5th Defendant without first informing the Plaintiff that such payments would be made.

- vii) The 1st Defendant allowed the 3rd Defendant to have access to or control over the Fund.
 - viii) Despite request from the Plaintiffs, the 1st Defendant has failed to provide a clear or accurate account of all the transactions in relation to the Fund.
 - ix) Despite request from the Plaintiffs, the 1st Defendant has failed to provide sufficient supporting documentation so as to verify the 1st Defendant's assertions as to how the Fund has been spent.
 - x) Despite request from the Plaintiffs, the 1st Defendant has failed to provide supporting documentation relating to each of the withdrawals from the Fund.
 - xi) The 1st Defendant has failed to act with due diligence and reasonable care in the management of the Fund.
 - xii) The 1st Defendant has failed to act honestly and in good faith when dealing with the Fund.
 - xiii) Further particulars of the above allegations are set out in the attached Schedule A.
18. In breach of trust, some or all of the Removed Money was paid by the 1st Defendant to and/or for the benefit of himself and/or the 2nd Defendant and/or the 3rd Defendant and/or the 4th Defendant and/or the 5th Defendant. Details of this breach of trust are provided in the attached Schedule A, and the Plaintiffs reserve the right to plead further particulars upon discovery and when further enquiries have been completed.

19. The Defendants, and/or each of them knew or ought to have known that some or all of the Removed money was received by them or for their benefit in breach of trust.

PARTICULARS OF KNOWLEDGE

- i) The Defendants and/or each of them knew or ought to have known that payments of the Removed Money were being made for sums which were not due or owed by the Plaintiffs and which were not otherwise authorised.
 - ii) The Defendants and/or each of them knew or ought to have known that they were receiving payments in excess of what they were owed.
 - iii) The Defendants and/or each of them knew that they were receiving payments for sums which had never been properly invoiced.
 - iv) The 1st Defendant knew that the 3rd Defendant was not authorised by the Plaintiffs to have access to or control over the Fund.
 - v) The 3rd Defendant knew that the Plaintiffs had not authorised him to have access to or control over the Fund.
 - vi) Since the 1st Defendant was at all material times a shareholder and director of the 4th Defendant, his personal knowledge will be imputed to the 4th Defendant.
 - vii) Since the 1st and/or 3rd Defendants were at all material times the controllers of the 5th Defendant, their personal knowledge will be imputed to the 5th Defendant.
20. In the premises, any assets purchased by or on behalf of the Defendants or any of them with money wrongly removed from the Fund are held on trust for the Plaintiffs.

21. The Plaintiffs are entitled to interest at such rate as may be varied from time to time pursuant to the Judgment Debts (Rates of Interest) Rules on such sums as the Defendants or any of them are found liable to the Plaintiffs.

WHEREFORE the Plaintiffs Claim:


Against the 1st Defendant:

- (1) An account of the payments made from the Fund.
- (2) Such sums as are found due to the Plaintiffs upon the taking of the account.
- (3) Damages for breach of fiduciary duty.
- (4) Interest.
- (5) Costs

Against each of the Defendants

- (6) An inquiry as to the sums received by each of the Defendants in breach of trust.
- (7) Repayment of such sums as are found due upon the taking of such enquiry.
- (8) Delivery up of any assets held on trust for the Plaintiffs.
- (9) Such further or other relief as the Court thinks fit.
- (10) Interest
- (11) Costs

Filed **26th June 2002**



CAMPBELLS
Attorneys at Law for the Plaintiffs

SCHEDULE A

APPENDIX 1

CAS ACCOUNTS AND DOCUMENTS

US \$ FROM MAIN ACCOUNT # 1304258

I - Cheques from main US account to	Cheque #	Amount	Invoice	Not Substantiated
Caribbean Champion Devt.	1	6,000.00	No	6,000.00
AL Thompson's	2	1,292.69	No	1,292.69
Mourice Reyd	3	600.00	No	600.00
AL Thompson's	4	3,500.00	No	3,500.00
Mourice Reyd	5	1,000.00	No	1,000.00
AL Thompson's	6	475.61	No	475.61
Sydney Robinson	10	2,500.00	No	2,500.00
Flower & sons	11	3,073.17	2,304.88	768.29
E Banks & sons	13	409.63	No	409.63
Sidney Robinson	15	1,000.00	No	1,000.00
Erica S	17	3,500.00	No	3,500.00
Sidney Robinson	19	3,000.00	No	3,000.00
Sidney Robinson	20	1,500.00	No	1,500.00
Caribbean Champion Devt.	23	5,000.00	No	5,000.00
Sidney Robinson	24	1,000.00	No	1,000.00
Sidney Robinson	25	1,500.00	No	1,500.00
Caribbean Champion Devt.	28	5,000.00	No	5,000.00
Barclays Bank	29	5,000.00	No	5,000.00
Sidney Robinson	30	5,000.00	No	5,000.00
Paramount carpet	31	421.63	No	421.63
Cox	32	153.19	No	153.19
Cayman airconditionning	33	547.56	No	547.56
Ronald Bodden	34	1,524.36	No	1,524.36
Sidney Robinson	35	13,000.00	No	13,000.00
Flower & sons	37	54.88	No	54.88
Sidney Robinson	38	1,500.00	No	1,500.00
AL Thompson's	39	1,890.57	No	1,890.57
E Banks & sons	40	48.75	No	48.75
Sidney Robinson	41	3,500.00	No	3,500.00
P Frederick	42	3,500.00	No	3,500.00
Barclays Bank	43	5,528.00	No	5,528.00
Sidney Robinson	44	5,000.00	No	5,000.00
Great concrete mixers	45	2,043.02	No	2,043.02
Cox	46	57.28	No	57.28
Cox	47	79.62	No	79.62
Tertius Broderick	48	5,000.00	No	5,000.00

Arlene Robinson	49	1,500.00	No	1,500.00
Barclays Bank	50	2,995.00	No	2,995.00
Sidney Robinson	51	1,000.00	No	1,000.00
Richard D	54	1,000.00	No	1,000.00
Sydney Robinson	55	10,000.00	6,717.38	3,282.62
Watler & Hislop plumbing	57	617.23	No	617.23
National Cement	58	1,036.45	No	1,036.45
B E banks & sons	59	100.00	No	100.00
AL Thompson's	60	15.85	No	15.85
Sydney Robinson	62	10,000.00	No	10,000.00
Sydney Robinson	65	5,000.00	No	5,000.00
Sydney Robinson	71	10,000.00	No	10,000.00
Hamstead	74	300.90	No	300.90
Hamstead	76	62.81	No	62.81
Cox	79	372.86	No	372.86
Sydney Robinson	81	15,000.00	No	15,000.00
AL Thompson's	86	3,280.97	No	3,280.97
National Concrete	91	124.00	No	124.00
Sydney Robinson	92	12,500.00	No	12,500.00
Flower & sons	94	1,613.41	No	1,613.41
GKF Holdings	95	688.41	No	688.41
Sydney Robinson	98	10,500.00	No	10,500.00
Lloyd Hue	99	2,000.00	No	2,000.00
Haley Loften	101	1,219.51	No	1,219.51
Industrial Services	103	425.00	No	425.00
Sydney Robinson	107	20,000.00	No	20,000.00
Great concrete mixers	108	1,414.00	No	1,414.00
AL Thompson's	113	603.66	150.05	453.61
Sydney Robinson	115	15,000.00	No	15,000.00
AL Thompson's	116	1,360.87	No	1,360.87
AL Thompson's	118	10,368.59	10,115.70	252.89
Sydney Robinson	120	2,926.82	No	2,926.82
Cayman Engineers SWU	122	6,628.12	4,966.46	1,661.66
GT Automotive	124	50,000.00	No	
Sydney Robinson	125	15,000.00	No	15,000.00
ABG E.Com	126	5,333.75	No	5,333.75
AL Thompson's	131	477.62	No	477.62
Rollin E Banks	132	850.00	No	850.00
AL Thompson's	134	569.57	No	569.57
Sydney Robinson	135	17,000.00	No	17,000.00
AL Thompson's	138	916.83	No	916.83
Industrial Services	139	942.08	No	942.08
AL Thompson's	140	603.66	No	603.66
Derick Simpson	141	2,400.00	No	2,400.00
Sydney Robinson	143	17,300.00	No	17,300.00
AL Thompson's	144	1,313.82	No	1,313.82
AL Thompson's	145	166.95	43.90	123.05
Cox	148	302.89	No	302.89
Quarry	150	304.00	No	304.00
P. Broderick	151	5,000.00	No	5,000.00
Minnette Bodden	152	1,500.00	No	1,500.00

Sydney Robinson	154	17,200.00	No	17,200.00
AL Thompson's	155	56.78	No	56.78
AL Thompson's	159	811.65	749.08	62.57
Cox	161	4,831.78	No	4,831.78
Barnes	163	600.00	No	600.00
Kirk	164	156.00	No	156.00
AL Thompson's	166	1,341.46	No	1,341.46
E Hurlstone	167	780.50	No	780.50
Sydney Robinson	168	20,000.00	No	20,000.00
AL Thompson's	170	71.71	No	71.71
Cabble & Wireless	173	1,071.95	No	1,071.95
AL Thompson's	176	144.70	No	144.70
Barclays Bank	177	25,015.00	No	25,015.00
Sydney Robinson	178	18,000.00	No	18,000.00
AL Thompson's	180	1,375.00	No	1,375.00
Sydney Robinson	183	3,500.00	No	3,500.00
Quarry	185	1,006.09	No	1,006.09
Sydney Robinson	191	20,000.00	No	20,000.00
Kirk	192	181.10	No	181.10
Derick Simpson	193	1,829.00	No	1,829.00
AL Thompson's	197	15,000.00	No	15,000.00
Sydney Robinson	198	25,000.00	No	25,000.00
Cash withdrawal	200	17,195.12	No	17,195.12
AL Thompson's	201	439.90	No	439.90
Cox	203	490.55	No	490.55
AL Thompson's	205	5,914.63	No	5,914.63
Hitching Post	206	182.92	No	182.92
AL Thompson's	210	167.80	No	167.80
Arlene Robinson	211	500.00	No	500.00
AL Thompson's	212	646.34	507.19	139.15
Cabble & Wireless	215	1,014.80	No	1,014.80
Great concrete mixers	217	243.90	No	243.90
Cayman Engineers	221	3,814.02	No	3,814.02
T. Broderick	222	5,000.00	No	5,000.00
Cash withdrawal	224	17,073.17	No	17,073.17
Derick Simpson	227	2,500.00	No	2,500.00
Quarry	228	1,006.09	No	1,006.09
AL Thompson's	230	1,574.09	No	1,574.09
Scotts	233	853.65	No	853.65
AL Thompson's	237	204.88	No	204.88
Hurlstone	239	214.63	No	214.63
AL Thompson's	240	514.63	No	514.63
National Cement	241	1,093.39	No	1,093.39
AL Thompson's	243	716.60	No	716.60
AL Thompson's	244	1,657.80	No	1,657.80
Cash withdrawal	245	5,000.00	No	5,000.00
Cash withdrawal	246	13,414.63	No	13,414.63
AL Thompson's	247	24,400.00	No	24,400.00
AL Thompson's	253	492.68	No	492.68
Flords Hue	254	6,000.00	No	6,000.00
AL Thompson's	255	170.12	No	170.12

Quarry	256	1,006.09	No	1,006.09
Arlene Robinson	258	3,000.00	No	3,000.00
CUC	259	120.82	No	120.82
Scotts	260	853.65	No	853.65
3 Bro maintenance	261	256.00	No	256.00
National Concrete	262	1,457.83	No	1,457.83
AL Thompson's	265	1,200.00	No	1,200.00
Moxam's	266	1,121.95	No	1,121.95
Cable & Wireless	268	102.84	No	102.84
AL Thompson's	269	1,200.00	No	1,200.00
Massive equip rental	270	475.60	No	475.60
CI Govt	271	182.92	No	182.92
Horace IM	274	1,000.00	No	1,000.00
Sydney Robinson	275	605.00	No	605.00
Kevin Johnson	276	2,721.60	No	2,721.60
Body works & paint	277	312.00	No	312.00
Barclays Bank	278	8,927.10	No	8,927.10
Hedley Robinson	279	500.00	No	500.00
Kevin Johnson	280	900.00	No	900.00

TOTAL cheques not substantiated

584,693.41

II - Transfers from main US account to	Amount	Invoice	Not Substantiated
H. Robinson Amex acc	5,633.53	No	5,633.53
H. Robinson bus acct	8,000.00	No	8,000.00
Unknown debits	8,000.00	No	8,000.00
H. Robinson bus acct	9,000.00	No	9,000.00
H. Robinson bus acct	2,000.00	No	2,000.00
Unknown debits	5,115.25	No	5,115.25
H. Robinson bus acct	10,975.61	No	10,975.61
H. Robinson bus acct	2,445.02	No	2,445.02
Surasak Londson Boom	2,827.73	No	2,827.73
H. Robinson bus acct	3,670.55	No	3,670.55
H. Robinson bus acct	20,731.70	No	20,731.70
H. Robinson bus acct	6,109.55	No	6,109.55
H. Robinson bus acct	10,000.00	No	10,000.00
H. Robinson bus acct	15,000.00	No	15,000.00
Unknown debits	14,634.15	No	14,634.15
Unknown debits	17,195.12	No	17,195.12
Unknown debits	17,073.17	No	17,073.17
Unknown debits	23,000.00	No	23,000.00
H. Robinson bus acct	6,012.00	No	6,012.00
H. Robinsons Amex acc	5,025.00	No	5,025.00
H. Robinson bus acct	25,012.00	No	25,012.00
H. Robinson bus acct	12,000.00	No	12,000.00

TOTAL transfers not substantiated

229,460.38

US \$ FROM SAVINGS ACCOUNT # 1304258

Check - transfer to	Amount	Invoice	Not Substantiated
H. Robinson bus acct	18,292.68	No	18,292.68
Sydney Robinson	24,000.00	No	24,000.00
Sydney Robinson	4,000.00	No	4,000.00
Sydney Robinson	11,878.00	No	11,878.00
Sydney Robinson	13,178.05	No	13,178.05
H. Robinson bus acct	8,000.00	No	8,000.00
Sydney Robinson	13,902.43	No	13,902.43
Sydney Robinson	14,402.00	No	14,402.00
H. Robinson bus acct	8,000.00	No	8,000.00
Sydney Robinson	13,475.60	No	13,475.60
H. Robinson bus acct	7,500.00	No	7,500.00
Clifton Sinclair	2,531.70	No	2,531.70
H. Robinson bus acct	15,000.00	No	15,000.00
Sydney Robinson	14,268.00	No	14,268.00
Sydney Robinson	20,280.53	No	20,280.53
ABGE Ltd	12,000.00	No	12,000.00
H. Robinson bus acct	15,000.00	No	15,000.00
Sydney Robinson	13,024.39	No	13,024.39
Unknown debits	29,402.25	No	29,402.25
H. Robinson bus acct	12,195.12	No	12,195.12
H. Robinson bus acct	1,032.12	No	1,032.12

Total not substantiated

271,362.87

GRAND TOTAL NOT SUBSTANTIATED

1,085,516.66