

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**IN THE MATTER OF THE REGISTERED LAND LAW (1995 REVISION)  
AND IN THE MATTER OF LOWER VALLEY, BLOCK 31A, PARCEL 51**

**BETWEEN: CAYMAN NATIONAL BANK LTD PLAINTIFF**

**AND: DESMOND ELIJAH WILLIAMS DEFENDANT**

**ORIGINATING SUMMONS**

**TO: Desmond Elijah Williams whose address for service is 112 Carmen Boulevard, Bodden Town, Grand Cayman.**

**LET THE DEFENDANT**, Desmond Elijah Williams, within 14 days after service of this Summons on him, counting the day of service, return the accompanying acknowledgement of service to the Court office, P. O. Box 495 GT, George Town, Grand Cayman.

**BY THIS SUMMONS** which is issued on application of the Plaintiff, Cayman National Bank Ltd., the Plaintiff seeks relief pursuant to the Registered Land Law (1995 Revision).

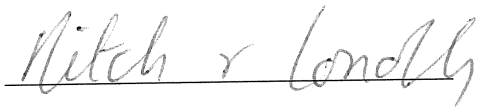
1. On 28<sup>th</sup> September 2000 the Plaintiff as Chargee, and the Defendant as Chargor executed a legal charge ("the Legal Charge") in respect of the land registered at the Lands and Survey Department as Lower Valley, Block 31A, Parcel 51 ("the Property").
2. The Charge provides, inter alia, that:
  - 2.1 The Plaintiff would lend and the Defendant would borrow the principal sum of Forty-Seven Thousand, Two Hundred Cayman Island Dollars (CIS\$47,200.00) ("the principal sum") secured as a charge on the Property.
  - 2.2 Interest on the principal sum would accrue at the rate of 3% per annum above the Cayman Islands Dollar base rate as determined by the Plaintiff from time to time.
  - 2.3 The Defendant will repay to the Plaintiff on demand the principal sum together with any interest then due. Pending such demand, the Defendant will repay to the Plaintiff such monthly or other sums as the Plaintiff shall from time to time specify.

- 2.4 Immediately upon default by the Defendant in payment of the principal sum, or of any interest payable thereunder, or in the performance or observance of any agreement, expressed or implied therein, the Plaintiff will be entitled serve on the Defendant a notice to pay the money owing and if the Defendant does not comply within one month of the date of service of this notice the Plaintiff may appoint a receiver of the income of the property or sell the property by private treaty as well as by public auction, without further notice.
3. It was specified by the Plaintiff in the Charge that the Defendant would repay the principal sum together with any interest then due on 30<sup>th</sup> September 2004.
  4. In or about October 2000 the Defendant failed to pay the monthly instalments due in respect of the principal sum and interest, and has failed to make any subsequent payments of either principal or interest.
  5. By letter dated 28<sup>th</sup> May 2001, sent by registered post to the Defendant, the Plaintiff duly served Notice on the Defendant pursuant to the Registered Land Law (1995 Revision) demanding payment of the balance of the principal sum and accrued interest which, as at that date, amounted to CI\$45,242,72 (principal) and CI\$409.05 (interest and other charges).
  6. On the same date, a further demand under the Registered Land Law (1995 Revision) was served demanding the same sums. Such demand was made pursuant to Section 72 of the Registered Land Law (1995 Revision), as amended by Clause 11 of the charge.
  7. On 6<sup>th</sup> August 2002 the Plaintiff, through its attorneys, served a final notice on the Defendant demanding payment of the sums outstanding within one month of the date of the notice.
  8. Despite service of these three Notices, the Defendant has failed to pay the balance due of the principal sum and accrued interest.
  9. The provisions of the Registered Land Law (1995 Revision) provide that once a Notice of Demand has been served pursuant to Section 64 (2) the principal and interest becomes payable three months after service of that demand and the Plaintiff avers that the letter dated 28<sup>th</sup> May 2001 served on the Defendant by registered post constitutes Notice under Section 64 (2) of the Registered Land Law (Revised).
  10. Section 72 of the Registered Land Law (1995 Revision) provides that if default is made in payment of the principal sum, or any interest, and continues for one month, the Chargee will then acquire a power to sell the property by public auction after three months have elapsed, from service on the Chargors of a second notice demanding payment. Such provisions are subject to variation with the approval of the Court to allow the Chargee to sell by either private sale or public auction, and to serve a second shorter notice period. The Legal Charge in this action contains such a

provision in Clause 11, as set out at paragraph 2.4 above. The relief the Plaintiff therefore seeks in these proceedings is an Order of the Court that:

- 10.1 the variations in the charge to the provisions of the Registered Land Law (1995 Revision) be allowed, so that the Plaintiff is entitled to avoid the requirement to serve any further notice, having served notice under Section 64(2) of the Law and notice under the terms of the Legal Charge;
- 10.2 the Plaintiff be entitled to sell the property and that such sale be by either private treaty or public auction in good faith and having regard to the interests of the Defendant;
- 10.3 for the purposes of any such sale, the Plaintiff be entitled to possession of the property;
- 10.4 after the sale of the said property in accordance with the order sought herein, should there be any shortfall in the amount due and owing to the Plaintiff that the Plaintiff be at liberty to enter judgment against the Defendant for the said shortfall, together with interest and costs;
- 10.5 the costs of these proceedings be added to the principal and interest due from the Defendant and be deducted from the proceeds of sale.

Dated the            day of October 2002.



**Ritch & Conolly**

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

**NOTE:** This Summons may not be served later than 4 calendar months (*or if leave is required to effect Notice out of the jurisdiction, 6 months*) beginning with that date, unless renewed by Order of the Court.

**IMPORTANT:** Directions for acknowledgement of service are given with the accompanying forms.

This Originating Summons was issued by Ritch & Conolly, Attorneys-At-Law for the Plaintiff, whose address for service is P O Box 1994 GT, Queensgate House, 113 South Church Street, George Town, Grand Cayman, Cayman Islands, BWI.