

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 811 OF 2002

BETWEEN:

MERGERS & ACQUISITIONS CORPORATION

Plaintiff

- and -

- (1) **MICHAEL RYAN**
- (2) **JOMICO INVESTMENTS LIMITED**
- (3) **R & R DEVELOPMENT GROUP LIMITED**
- (4) **GRAND CAYMAN RESORT VILLAS LIMITED**
- (5) **R.C. GRAND CAYMAN RESORTS LIMITED**
- (6) **R.C. GRAND CAYMAN RESORTS OPERATING LIMITED**
- (7) **R & R GRAND CAYMAN RESORT CONDOMINIUM LIMITED**
- (8) **R. C. GRAND CAYMAN RESORTS CONDOMINIUM OPERATING LIMITED**
- (9) **GRAND CAYMAN RESORT VILLAS LIMITED**
- (10) **ARABESQUE HOLDINGS**
- (11) **THE RYAN GROUP S.A.**

Defendants

WRIT OF SUMMONS

TO: MICHAEL RYAN
P.O. Box 32319 SMB
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: JOMICO INVESTMENTS LTD.
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: R & R DEVELOPMENT GROUP LTD.
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: GRAND CAYMAN RESORT VILLAS LTD.
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: R.C. GRAND CAYMAN RESORTS LTD.
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: R.C. GRAND CAYMAN RESORTS OPERATING LIMITED
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: R & R GRAND CAYMAN RESORT CONDOMINIUM LIMITED
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: R. C. GRAND CAYMAN RESORTS CONDOMINIUM OPERATING
LIMITED
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: GRAND CAYMAN RESORT VILLAS LIMITED
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: ARABESQUE HOLDINGS
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

AND TO: THE RYAN GROUP S.A.
C/O Caylaw Corporate Services Ltd.
P.O. Box 481 GT
Kirk House, 3rd Floor
George Town, Grand Cayman
Cayman Islands, B.W.I.

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 495GT, 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 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 day of November, 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.

STATEMENT OF CLAIM

1. At all material times the First Defendant has been and remains the developer of a substantial new hotel, villa and condominium complex (together with certain leisure amenities, including a golf course) on land along Seven Mile Beach, Grand Cayman, formerly occupied by the Holiday Inn, together with other land adjacent thereto, (the "development") using for different aspects of the development the various corporate bodies set out as Defendants (2) to (11) above and other corporate bodies unknown to the Plaintiff.
2. At all material times there are and were an underlying group of investors and proposed investors in the development and it was intended that such investors participate in the development through a corporation to be incorporated (the "Investor Group") and as shareholders of the Investor Group. At all material times, the Investor Group was represented by its agent, a Mr. John Van Leeuwen. At the relevant time the Plaintiff was intended to be a shareholder of the Investor Group and the Plaintiff advanced to the Defendants the sum of US\$1,800,000.
3. By an investment agreement dated with effect as of the 30th March 1998 and made between (1) Mr. John Van Leeuwen as agent of and on behalf of the Investor Group and (2) the First Defendant on his own behalf, and on behalf of all corporate entities concerned in the development (including all the other Defendants named above), certain terms were agreed for the

participation in the development of the investors (the "Investment Agreement").

4. Following upon the Investment Agreement and in connection therewith, there arose certain disputes between the Defendants and the Investor Group (the "disputes").
5. In the circumstances, negotiations took place between all the interested parties for the resolution between them, if possible, of all their disputes.
6. Following lengthy negotiations and by an oral agreement made on Friday the 1st May 1998 at the King Edward Hotel in Toronto between (1) the First Defendant on his own behalf and on behalf of all corporate entities involved in the development, including all the corporate Defendants named above and (2) Mr. John Van Leeuwen on behalf of the Plaintiff, it was agreed in consideration, inter alia of the settlement of all the disputes, mutual releases from any alleged existing breaches of the Investment Agreement and certain other good and sufficient consideration, that, inter alia, (1) the Defendants and each of them granted and transferred to the Plaintiff and would take all necessary steps to grant and transfer to the Plaintiff a 7.5% interest in the hotel element of the development, a 5% interest in the condominium element of the development and a 10% interest in the villa element of the development and (2) the Defendants and each of them agreed forthwith to pay to the Plaintiff the sum of US\$2 million (all hereinafter referred to as the "agreement").
7. By letter dated 6th May 1998, Messrs Morris, Rose & Ledgett wrote on behalf of the investors and the Plaintiff confirming the agreement but contrary to what had been agreed on the 1st May and in breach of that

agreement, by letter dated 22nd May 1998, Messrs Fogler Rubinoff wrote on behalf of the First and the other Defendants that “.....our client denies that a binding settlement agreement was reached”.

8. Thereafter and in breach of their agreement the Defendants and each of them have failed and refused to grant and transfer to the Plaintiff the interests in the various elements of the development as set out above or to pay to the Plaintiff US\$2 million. The Plaintiff and all others concerned have complied with and performed and remain fully committed to perform and honour all and any of their obligations under the agreement.
9. By reason of the Defendants’ breach of and refusal to perform their obligations under the agreement, the Plaintiff has been and is deprived of the various interests in the development and has suffered loss and damage. The Plaintiff seeks as its primary remedy specific performance of the agreement.

AND THE PLAINTIFF claims against the Defendants and each of them:

1. An order for specific performance against each Defendant that there be transferred forthwith to the Plaintiff a 7.5% interest in the hotel element of the development, a 5% interest in the condominium element of the development and a 10% interest in the villa element of the development:
2. All necessary orders, including any necessary declarations, so as to give effect to the agreement:

3. US\$2,000,000.00 under the agreement, together with interest to be assessed by the Court:
3. Alternatively to the Plaintiff's claim for specific performance, damages and an account of the profits of the above elements of the development so as to assess damages upon the percentages agreed.
4. Such further or other relief in equity as may be necessary, including interest upon any damages found due.

Dated this 1st day of November 2002


BROADHURST DACOSTA
Attorneys-at-Law for the Plaintiff

This Writ of Summons and Statement of Claim was issued by Broadhurst DaCosta, Attorneys-at-Law for the Plaintiff, whose address for service is 40 Linwood Street, P.O. Box 2503 GT, George Town, Grand Cayman, Cayman Islands, British West Indies.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495, 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 Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (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 installments or otherwise.

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 fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2002

BETWEEN:

MERGERS & ACQUISITIONS CORPORATION

Plaintiff

- and -

- (12) MICHAEL RYAN
- (13) JOMICO INVESTMENTS LIMITED
- (14) R & R DEVELOPMENT GROUP LIMITED
- (15) GRAND CAYMAN RESORT VILLAS LIMITED
- (16) R.C. GRAND CAYMAN RESORTS LIMITED
- (17) R.C. GRAND CAYMAN RESORTS OPERATING LIMITED
- (18) R & R GRAND CAYMAN RESORT CONDOMINIUM LIMITED
- (19) R. C. GRAND CAYMAN RESORTS CONDOMINIUM OPERATING LIMITED
- (20) GRAND CAYMAN RESORT VILLAS LIMITED
- (21) ARABESQUE HOLDINGS
- (22) THE RYAN GROUP S.A.

Defendants

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.

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

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

BROADHURST DaCOSTA
ATTORNEYS-AT-LAW
40 LINWOOD STREET
PO BOX 2503 GT
GEORGE TOWN, GRAND CAYMAN
CAYMAN ISLANDS, BRITISH WEST INDIES

Endorsement 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 endorsement]