

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 831 OF 2003

BETWEEN:

BANK OF BUTTERFIELD INTERNATIONAL  
(CAYMAN) LTD

Plaintiff



AND

TERRY FISHER



Defendant

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WRIT OF SUMMONS

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TO: Terry Fisher  
601 Cordova Blvd.  
N.E. St. Petersberg  
Florida 33704  
USA

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 GT, 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 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 30<sup>th</sup> day of December 2003

**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.

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## STATEMENT OF CLAIM

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1. The Plaintiff is a Class "A" bank registered and carrying on business in the Cayman Islands. Commercial mortgage lending is within the scope of its regular business lawfully conducted in the Cayman Islands.
2. The Defendant is a resident of the Cayman Islands. At all material times the Defendant was and is a shareholder of Cayman Inn Limited.
3. Pursuant to a Loan Agreement dated 19<sup>th</sup> September 1990 and a Supplemental Loan Agreement dated 31<sup>st</sup> December 1991 between, inter alios, the Plaintiff, Cayman Inn Limited and the Defendant, the Plaintiff agreed, inter alia, to lend Cayman Inn Limited US\$6,400,000.00 with interest, payable at a rate of 1.25% over the Plaintiff's US Dollar Prime Rate.
4. The loan was secured by a collateral charge granted by Cayman Inn Limited to the Plaintiff dated 19<sup>th</sup> September 1990 over property situated at West Bay Beach South Block 13B Parcel 195, Grand Cayman, Cayman Islands.
5. In consideration for the Plaintiff's grant of the said loan to Cayman Inn Limited, the Defendant provided a guarantee in writing dated 31<sup>st</sup> December 1991 to secure the liabilities of Cayman Inn Limited arising under the said loan in the amount of up to US\$4,800,000.00 ("the Guarantee"). The Plaintiff will at trial rely on the Guarantee for its full terms and effects.
6. By an order of the Grand Court dated 22<sup>nd</sup> July 2002 pursuant to an application by the Plaintiff, Cayman Inn Limited was adjudged to be in default of payment of the principal sum which then stood at US\$4,233,271.44 with accrued interest of US\$65,877.75 totalling US\$4,299,144.19 at that date.
7. By a letter dated 28<sup>th</sup> March 2003 to the Defendant, the Plaintiff demanded payment under the Guarantee. The principal sum then outstanding was US\$4,804,882.84 with accrued interest of US\$316,434.84 which made a total of US\$5,121,317.68 owed by Cayman Inn Limited to the Plaintiff at that date.
8. Insofar as it is material, the Plaintiff, pursuant to an order for sale dated 14<sup>th</sup> August 2003, has realised its security under the said charge by a sale of the charged property in the amount of US\$4,312,000.00 on 1<sup>st</sup> September 2003.
9. As at 30<sup>th</sup> September 2003, the principal amount outstanding was US\$4,653,252.00 with accrued interest of US\$472,429.00 which made a total of US\$5,125,681.00 owed by Cayman Inn Limited to the Plaintiff at that date. The

proceeds of sale of the charged property were then applied against the outstanding principal amount, resulting in a shortfall of US\$341,252 which together with the said interest of US\$472,429.00 made a total of US\$813,681.00 owed by Cayman Inn Limited to the Plaintiff at that date.

10. The amount therefore outstanding and owed by Cayman Inn Limited to the Plaintiff under the terms of the Loan Agreement, which is payable by the Defendant under the Guarantee, is US\$813,681.00 plus interest thereon at a rate of 5.25% per annum or US\$118.66 per day.
11. The Defendant has failed to pay the outstanding sum or any part of it.
12. Further, the Plaintiff is entitled to and claims interest pursuant to the Loan Agreement on the sum of US\$813,681.00 from 28<sup>th</sup> March 2003 at the rate of 5.25% amounting to US\$32,868.26 as at 30<sup>th</sup> December 2003 and continuing until the date of Judgment or sooner payment at the rate of US\$118.66 per day.
13. Alternatively, the Plaintiff is entitled to and claims interest pursuant to Section 34 of the Judicature Law on the sum of US\$813,681.00 from 28<sup>th</sup> March 2003 at the rate of 4.25% amounting to US\$26,527.20 as at 30<sup>th</sup> December 2003 and continuing until the date of Judgment or sooner payment at the rate of US\$94.74 per day.

AND the Plaintiff claims:

1. The sum of US\$813,681.00;
2. Interest pursuant to paragraph 12;
3. Alternatively interest pursuant to paragraph 13;
4. Costs

Dated the 30<sup>th</sup> day of December 2003



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HUNTER & HUNTER

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INDORSEMENT

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The principal amount claimed is US\$813,681.00 and costs of enforcement and US\$25,000 for a total amount of US\$838,681.00. The amount of the filing fees to commence the proceeding is US\$182.93 (CI\$150). If, within the time for returning the acknowledgement of service, the defendant pays the plaintiff or its attorneys-at-law the total amount claimed in principal, interest, contractual costs and the costs of issuing the writ of summons, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

THIS WRIT was issued by Hunter & Hunter of The Huntlaw Building, 75 Fort Street, P.O. Box 190 GT, Grand Cayman, Cayman Islands, Attorneys-at Law for the Plaintiff, whose address is Butterfield House, P.O. Box 705, George Town, Grand Cayman, Cayman Islands (Ref. AA/00138.063).