

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN

CAUSE No. 219 of 2004

BETWEEN

HAWKINS & HAWKINS INVESTMENTS LIMITED

PLAINTIFF

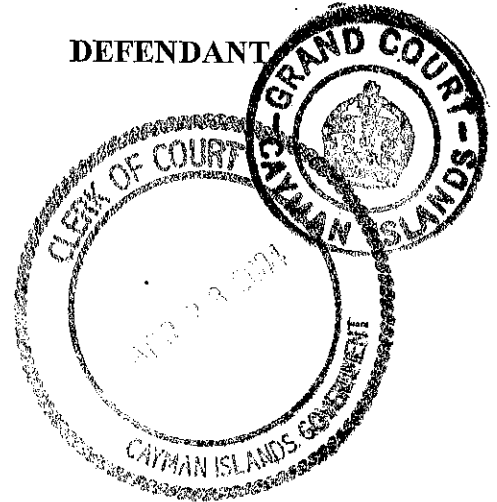
AND

DONOVAN MC FIELD

DEFENDANT

WRIT OF SUMMONS

TO: **Donovan Mc Field**  
P.O. Box 100  
Savannah  
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 attached 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 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 without stating that you intend to contest these proceedings, the Plaintiff may proceed with the action and Judgment may be entered against you forthwith without further notice.

Issued this 28<sup>th</sup> day of April, 2004.

**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 herein, unless renewed by the order of the Court.

**IMPORTANT:** Directions for Acknowledgment of Service are given with this form.

## STATEMENT OF CLAIM

1. The Plaintiff is a limited liability company which is registered and incorporated pursuant to the laws of the Cayman Islands having its registered office situated at Woodward Terry & Company, P.O. Box 822, George Town, Grand Cayman.
2. The Defendant, Donovan Mc Field, is an individual residing in Grand Cayman, Cayman Islands, and at the material time was a customer of the Plaintiff
3. The Plaintiff and Defendant entered into an agreement on or around 24<sup>th</sup> April 1995, the terms of which are as follows;
  - (a) The principle sum loaned by the Plaintiff to the Defendant was to be Four thousand dollars CI \$ 3000.00
  - (b) The interest rate of the loaned sum was to be 5% per month, payable by regular monthly installments of \$250.00 on the 24<sup>th</sup> day of each month.
  - (c) In default, the principle sum and interest thereon was to be paid on demand at the instance of the Plaintiff.
  - (d) Should the Plaintiff seek assistance in the recovery of outstanding debt, the Defendant shall indemnify the Plaintiff against all action, cost and court expenses
4. In breach of the terms of the Agreement the Defendant despite making some initial payments on the said debt has not done so on a regular basis as was stipulated by the Agreement.
5. On the 10th November 1998 a formal demand was made for the amount owing which totaled CI\$ 5,3999.36. The Defendant promised to resume regular payments and the Plaintiff accepted his assurances. However, the Defendant payments was once again not regular and very delinquent.
6. On the 28<sup>th</sup> August 2002 the Defendant meet Attorneys for the Plaintiff to discuss the amounts outstanding to the Plaintiff and he agreed that he still owes the monies to the Plaintiff and was willing to sign a promissory not on the verification of interest calculated and copies of accounting records from the Plaintiff.
7. By letter dated 29<sup>th</sup> August 2002 copies of the accounting records was sent to the Defendant, confirming the outstanding balance as at the 29<sup>th</sup> August 2002 as CI\$ 7588.44 and prepared a promissory note for repayment of the said amount which the Plaintiff signed on 16<sup>th</sup> September 2002.
8. The terms of the promissory note entered into by the Plaintiff and Defendant on or around 16<sup>th</sup> September are as follows;
  - (a) The Defendant will be liable for repayment of the sum of CI\$7088.44 plus legal fees of \$500

- (b) The Defendant will make monthly repayments of \$200 payable at the offices of Messrs Brooks & Brooks on or before the 30<sup>th</sup> day of each month beginning October 2002
- (c) In default of such payments, the whole balance then unpaid with interest of 6¼% becomes payable
- (d) And, the Defendant agrees to indemnify the Plaintiff of all reasonable legal fees in connection with enforcement and recovery of monies owed.
9. Since signing the promissory note the Defendant has made two payments totaling CI\$800.00, the first payment on 12<sup>th</sup> November 2002 of \$200 and second payment on 4<sup>th</sup> April 2003 of \$600.00 representing payments for December 2002, January, 2003 and February 2003. The Defendant has not made any further payments since 4<sup>th</sup> April 2003 and despite several demands and letters to the Defendant to make his installment payments and his promise to come into pay, he has failed to honor his commitment to the Plaintiff.
10. As at the date the commencement of this proceedings 28<sup>th</sup> April 2004, total interest outstanding is CI\$ 424.25
11. The fees incurred or to be incurred for which the Defendant is liable on an indemnity basis in accordance with the agreement as pleaded in paragraph 8 (d) are as follows:
- |                          |                   |
|--------------------------|-------------------|
| Fees                     | CI\$ 500.00       |
| Disbursements            |                   |
| Issuance of proceedings: | CI\$ 150.00       |
| Service of proceedings : | <u>CI\$ 50.00</u> |
|                          | CI\$ 700.00       |
12. Accordingly, the Defendant is indebted to the Plaintiff in the sum of CI\$7912.69

**AND THE PLAINTIFF claims;**

- 1) Payment of the principal amount, interest and cost outstanding of CI\$7912.69 to 28<sup>th</sup> April 2004;
- 2) Interest at the statutory rate of 3% from the date hereof to the date of final judgment;
- 3) Cost and attorney fees;
- 4) And further or other relief as this Honourable Court deems just.



**BROOKS & BROOKS**

Attorneys at Law for the Plaintiff

**NOTE: PLEASE NOTE that if within the time for returning the Acknowledgment of Service (i.e. 14 days) the Defendant pays the total amount claimed of CI\$7212.69 plus fixed cost of CI \$500.00 and disbursements of CI\$ 200.00 (total CI\$7912.69) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorneys at Law.**

## FORM 8

### Acknowledgement of Service of Writ of Summons Rule (O.12 r.3)

#### DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

#### **IF YOU INTEND TO INSTRUCT AN ATTORNEY TO ACT FOR YOU GIVE HIM THIS FORM IMMEDIATELY**

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 signed by the Defendant and his Attorney (if any) and must be delivered or sent by post to the Law Courts, P.O Box 495 GT, George Town, Grand Cayman.
2. A Defendant who states in his Acknowledgment 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 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 acknowledgement of 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 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 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 14 days after his Acknowledgment, 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 money by instalments or otherwise.

*See over notes for guidance*

*Please complete overleaf*

## Notes for Guidance

1. Each Defendant ( if there are more than one) is required to complete an Acknowledgment of Service form and return it to the Courts Office.
2. For the purposes of calculating the period of 14days for acknowledging service, a summons 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 mane 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 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 of 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 someone authorised 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 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.

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**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.

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1. State the full name of the defendant by whom or on whose behalf the service of the Writ of Summons is being acknowledged

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2. State whether the Defendant intends to contest the proceedings ( tick appropriate box)  
 yes  no

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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 .

Service of the Writ of Summons is acknowledged accordingly.

\_\_\_\_\_  
**Attorney for the Defendant**

\_\_\_\_\_  
**Defendant**

Dated the      day of                      2004.