

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 368 OF 2004

BETWEEN

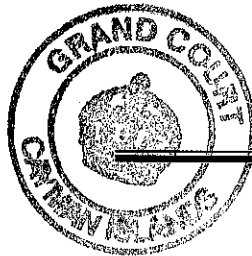
NIMITZ RANKIN

PLAINTIFF

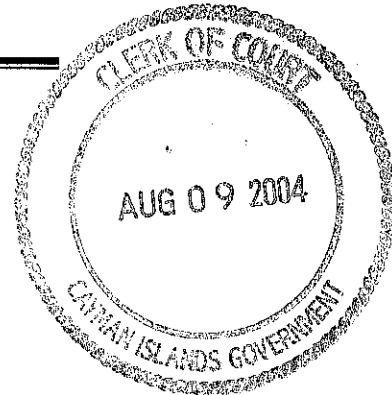
AND

JOSEPH ANDERSON

DEFENDANT



WRIT OF SUMMONS



TO: Mr. Joseph Anderson
P.O. Box 382 GT
C/o Inter-Island Realty Ltd.
Grand Cayman
Cayman Islands

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, 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 August, 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 unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff has known the Defendant for 22 years since he was 13 years old when the Defendant was the Plaintiff's chemistry teacher at Cayman Islands High School.
2. The Plaintiff began at that time to work casually for the Defendant after school and on weekends on ad hoc jobs, sometimes for pay but mostly without pay on the basis of goodwill and friendship.
3. The Defendant went to Turks and Caicos Islands in 1985 and the Plaintiff was employed by him to deal with various matters relating to his property in Grand Cayman but in 1988 the plaintiff ceased to work for the Defendant due to irregular and insufficient payments and went to work at Kirk Freeport Limited. However, the Plaintiff and Defendant were still in regular contact.
4. The Defendant returned to live in Grand Cayman in approximately 1989/1990 and asked the Plaintiff to come and work for him in a business for the provision of a public fax service called GOFAX ("the GOFAX Business"). The Plaintiff and the Defendant discussed the terms upon which the GOFAX Business was to be operated and it was agreed that they would be joint shareholders in Gofax Caribbean Ltd., the company set up to operate the business, and that apart from paying themselves for living expenses, all profits would be returned to the business in order to build it up. The Defendant stated to the Plaintiff that they were equal partners in the GOFAX Business and they were entitled to share profits equally.
5. The GOFAX business was not very successful but the Defendant was also by in or around 1990 involved in a property development business and set up companies for the construction (F.G. Construction Ltd.) development (Fern Garden Developments Limited) and sale and letting (Inter Island Realty Ltd.) of property ("the Property Development Business"). It was agreed between the Plaintiff and the Defendant that the Plaintiff would be involved in the development and operation of the Property Development Business and that the profits would be invested back into

the business as much as possible. The Defendant stated to the Plaintiff that they were equal partners in the Property Development Business and they were entitled to share profits equally.

6. On the basis of these statements made by the Defendant to the Plaintiff the Plaintiff worked with the Defendant for approximately 14 years promoting and running the GOFAX Business and the Property Development Business (hereinafter referred to collectively as “the Business”). Overall, the Business has been successful and significant profits have been generated but the Plaintiff has not drawn his 50% share of profits but rather left the majority of it in the Business to enable the Business to expand. During the time that the Plaintiff and the Defendant were in the Business together the Defendant repeated the statements to the Defendants that they were equal partners in the Business and they were entitled to share profits equally. The Defendant has also told various other persons, including the Plaintiff’s mother and employees of the Business, both in a business and social context, that he and the Plaintiff were equal partners in the Business.
7. The Plaintiff has accountancy training and so was responsible for keeping the financial records of the Business. As partners, the Plaintiff and the Defendant received such benefits from the Business as, amongst other things, payment of all health insurance and pension contributions, cars and other business related items.
8. Because of the long personal relationship between the Plaintiff and the Defendant, the Plaintiff relied on the statements made by the Defendant to him regarding the nature of their ownership of the Business and did not question arrangements such as properties being bought with funds from the business being registered in the sole name of the Defendant. The Plaintiff regarded the Defendant as a mentor and relied on the Defendant’s experience as an older man and placed his trust in the goodwill and friendship between them and did not seek to question the Defendant’s arrangements or seek to formalize the nature of the agreements between them regarding the Business.

9. On or around 17 October 2003 the Plaintiff and the Defendant had a discussion about the Business and projects that the Defendant was pursuing outside the Business. As a result of this discussion, which was acrimonious, the Plaintiff decided to leave the Business and duly notified the Defendant in writing of his decision on or around 22nd October 2003.
10. The Plaintiff is entitled to be paid by the Defendant a share of the value the assets and profits of the Business. The Plaintiff and the Defendant have corresponded about the sums due to the Plaintiff as a result of the termination of his involvement in the Business, but no satisfactory agreement has been reached.
11. In the circumstances it is to be inferred as a matter of fact and law:
 - a) That the Plaintiff and Defendant entered into agreements in about 1990 to conduct the Business in common with a view to profit (“the Partnership Agreements”);
 - b) That the Plaintiff and the Defendant carried on the Business as a partnership at will (“the Partnership”);
 - c) Further, or alternatively, that the Defendant holds the assets of the Business on trust for the Plaintiff and the Defendant.

AND THE PLAINTIFF claims:

1. A declaration that, by virtue of:
 - a) the Defendant having made several assurances and representations to the Plaintiff to the effect that the Plaintiff and Defendant were carrying on the Business in common with a view to profit;
 - b) the Plaintiff and the Defendant having agreed to carry on the Business in common with a view to profit; or
 - c) the Plaintiff and Defendant carrying on the Business in common with a view to profit, the Plaintiff and the Defendant were partners in the Business from in or about 1990 until the date of dissolution of the Partnership.
2. A declaration that the Plaintiff and Defendant were interested in the assets, profits and liabilities of the Business, including but not limited to those listed in Schedule A hereunder, in equal shares, alternatively, in such shares as the Court thinks fit.

3. An order that the Partnership between the Plaintiff and the Defendant be dissolved pursuant to section 35 of the Partnership Law (2002 Revision).
4. An order that the affairs of the Partnership be wound up;
5. Further, or alternatively, damages for breach of the Partnership Agreements;
6. Further, or alternatively, a declaration that by nature of the several assurances and representations made to the Plaintiff by the Defendant and by virtue of the Plaintiff's contribution to the operation of the Business there was a common intention on the part of the Plaintiff and the Defendant that ownership of the Business was shared equally and that the Defendant holds the Business, including but not limited to the assets listed in Schedule A hereunder, on constructive trust for the Plaintiff and the Defendant in equal shares, alternatively in such shares as the Court thinks fit;
7. Damages for breach of trust;
8. For the purposes aforesaid, an order that all necessary accounts and inquiries be taken and made;
9. An order for the payment by the Defendant to the Plaintiff of any sum found due to the Plaintiff upon the taking of such accounts;
10. In respect of such amounts as the Court orders the Defendant to pay to the Plaintiff, an order for the payment of interest thereon pursuant to Section 34 of the Judicature Law (1995 Revision) or at such other rates and for such period as the Court thinks fit;
11. Costs; and
12. Such further or other relief as the Courts thinks fit.

SCHEDULE A

- i) Glasgow Farm 1996 Ltd (Jamaica);
- ii) Block 13D Parcel 43H10 Dolphin Center Office Unit No. 10;
- iii) Block 25B Parcel 452 Orange Drive;

- iv) Block 24E Parcel 189 Hickory Drive, Prospect;
- v) Block 48E Parcel 74 Pease Bay;
- vi) Block 21B Parcel 1 off Bobby Thompson Way;
- vii) Block 14D Parcel 410 H1-H6 Anthony Drive;
- viii) Block 14CJ – 90 Elgin Avenue;
- ix) Block 25B Parcel 377 Evco Lane;
- x) Block 14D Parcel 373 Tempest Way, Georgetown;
- xi) Block 43D Parcel 22 REM1 Lakeview Drive, Bodden Town;
- xii) Cash at Credit Union;
- xiii) Block 25C Parcel 2 – Spotts; and
- xiv) Block 15B Parcel 304 H1-H9 Sandalwood Crescent, South Sound.

Solomon Harris

SOLOMON HARRIS
PLAINTIFF'S ATTORNEYS-AT-LAW

DATED this *9th* day of August 2004

THIS WRIT was issued by **SOLOMON HARRIS** whose address for service is First Caribbean Bank House, 2nd Floor, P.O. Box 1990 GT, George Town, Grand Cayman, Attorneys-at-law for and on behalf of the Plaintiff whose address for service is that of his said Attorneys-at-law.

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, 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 Defense must be served within 14 days after the time for acknowledgment service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claims is not indorsed on the Writ, the Defense 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 defense 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 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 the money by installments or otherwise.

See over for notes for guidance

Please complete overleaf

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 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 step 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.

BETWEEN NIMITZ RANKIN PLAINTIFF
AND JOSEPH ANDERSON DEFENDANT

ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

Important. Read the accompanying Delay may result in judgment being entered directions and notes for guidance carefully against a Defendant whereby he may have to before completing this form. If any pay the costs of applying to set it aside. information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

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

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 liquidation 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-at-Law
[DEFENDANT IN PERSON]

Address for service: []

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 the 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.

Indorsement by plaintiff's attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Solomon Harris
Attorneys-at-law
2nd Floor, FirstCaribbean Bank House
P.O. Box 1990 GT
Grand Cayman
Cayman Islands

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]