

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 340 OF 2005

BETWEEN:

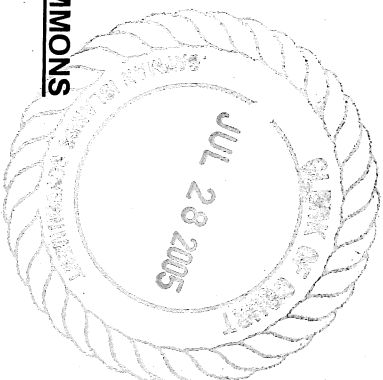
DOMO LIMITED



PLAINTIFF

AND:

LAS BRISAS LIMITED



DEFENDANT

WRIT OF SUMMONS

TO: LAS BRISAS LIMITED  
PO BOX 481 GT  
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 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 495G, 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 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 28<sup>th</sup> day of July 2005.

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. By an agreement in writing dated on or about 15 March 2001, and made between the Plaintiff and the Defendant (hereinafter called "the Agreement") the Defendant agreed to sell and the Purchaser agreed to purchase Residence No. 9 being a condominium to be constructed in the development known as the Crown Jewel comprising a third floor condominium of approximately 5370 square feet as shown outlined in red on the plan annexed to the Agreement as Schedule "B" together with the chattels specified in the specifications set out in Schedule "C" to the Agreement at the price of US\$2,800,000.
2. In pursuance of the Agreement by cheque dated 22 January 2001, the Plaintiff paid to the Defendant the sum of US\$10,000 which comprised part of the initial deposit referred to in paragraph 2(a) of the Agreement. By cheque dated 15 March 2001, in the sum of US\$130,000, the balance of the said deposit referred to in paragraph 2(a) of the Agreement was paid by the Plaintiff to the Defendant. Pursuant to clause 2(b) of the Agreement, by cheque dated 14 May 2001, the Plaintiff paid to the Defendant the sum of US\$280,000 referred to in paragraph 2(b) of the Agreement as a deposit also. Pursuant to clause 2(c), on 13 July 2001, the Plaintiff forwarded a cheque to the Defendant for the further sum of US\$280,000 in accordance with subclause 2(c) of the Agreement by way of deposit. The total deposit therefore paid by the Plaintiff to the Defendant was US\$700,000.
3. Pursuant to subclause 3(d) of the Agreement, in the event that either the Defendant had not commenced construction by 1 March 2001, or that the items set out in subclause 3(a) subparagraphs (i) to (iv) inclusive had not been achieved or were not available by 31 December 2002, then the Purchaser was entitled by notice in writing to the Vendor to rescind the Agreement. Subclause 3(d) went on to state that upon rescission the Defendant was liable to repay to the Plaintiff all monies paid under the Agreement.
4. The Defendant has not achieved or made available the items set out in subclause 3(a) subparagraphs (i) to (iv) of the Agreement.
5. By letter dated 2 August 2002, Hunter & Hunter, instructed on behalf of the Defendant, confirmed that sub-clause 3(d) of the Agreement provided that in the event that certain items (namely those set out in subclause 3(d) subparagraphs (i) to (iv)) were not achieved by the Defendant by 31 December 2002, the Plaintiff may elect to rescind the Agreement and receive a refund of all monies paid thereunder. The letter went on to say that in

the event that the Plaintiff rescinded the Agreement the Defendant would comply with the Agreement and return to the Plaintiff all monies paid. By letter dated 25 February 2001, Orren Merren & Co. on behalf of the Defendant confirmed the Defendant's agreement that in the event the Plaintiff elected to rescind the Agreement pursuant to Clause 3(d) thereof the Defendant would pay interest at 5% per annum on the stage payments.

6. Accordingly, by letter dated 6 January 2003, the Plaintiff notified the Defendant of its decision to rescind the Agreement pursuant to clause 3(d) thereof and sought return of the deposit together with all accrued interest.

7. Subsequently, agreement was reached between the Plaintiff and the Defendant for repayment of the deposit of US\$700,000 referred to in paragraph 2 above. By this agreement, a rate of interest of 10% per annum on the outstanding balance of US\$700,000 was agreed. On or about 16 March 2004 the Plaintiff paid the sum of US\$100,000 in part payment of the principal amount of US\$700,000. On 22 April 2004 the Plaintiff paid the Defendant the further sum of US\$400,000 leaving an outstanding balance of principal of US\$200,000. On or about April 2004 it was agreed between the parties that interest would continue to accrue on the outstanding balance of US\$200,000 at the previously agreed rate of 10% per annum. Further the Defendant agreed to continue to make instalment payments towards accruing interest monthly. It was also agreed that the Defendant would satisfy the balance of the principal sum, namely US\$200,000 by 16 April 2005 and that in consideration the Plaintiff would refrain from commencing any proceedings or other action to recover the balance of US\$200,000 until 16 April 2005.

8. Interest at the agreed rate of 10% per annum on the balance outstanding has been paid up to and including 15 March 2005.

9. Contrary to the Agreement referred to above the Defendant failed to pay the outstanding principal sum of US\$200,000 together with all accrued interest at 10% per annum as agreed by 16 April 2005. Accordingly, by letter dated 6 June 2005 the Plaintiff's attorneys notified the Defendant's attorneys of the expiry of the deadline and sought payment of the balance outstanding together with all accrued interest. Despite this demand, repayment of the balance outstanding and interest has not been made.

AND THE PLAINTIFF claims:

1. Payment of the said outstanding balance of US\$200,000;
2. All accrued interest at the agreed rate of 10% from 15 March 2005 until judgment or sooner payment;
3. Further or other relief;
4. Costs.

DATED the 28<sup>th</sup> day of July, 2005.



WALKERS  
Attorneys at Law for the Plaintiff

This **Writ and Statement of Claim** are filed by Walkers, Attorneys-at-Law, P.O. Box 265 GT, Walker House, Mary Street, George Town, Grand Cayman, for the Plaintiff whose address for service is care of its said Attorneys-at-Law.

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