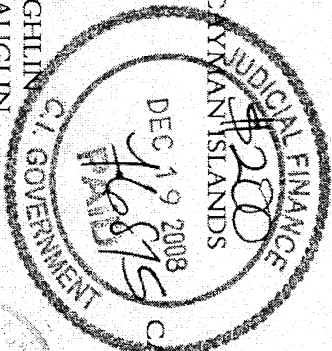


IN THE GRAND COURT OF THE CAYMAN ISLANDS



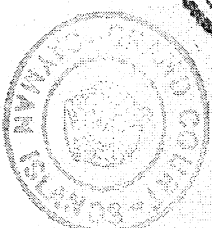
CAUSE NO: **G0593** OF 2008

B E T W E E N:

1. DOORLY H. MCLAUGHLIN
2. ROSWORTH L. MCLAUGHLIN

AND

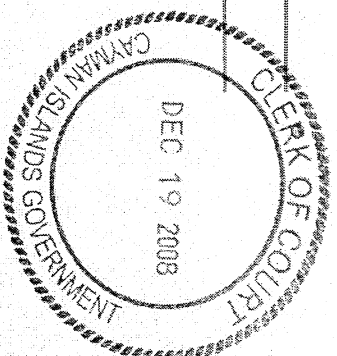
R. ANTONIO HAWKINS



Plaintiffs

Defendant

WRIT OF SUMMONS



TO: R. Antonio Hawkins
 P.O. Box 206
 Grand Cayman KY1-1101
 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, PO Box 495, Grand Cayman, KY1-1106 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 Acknowledgement 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 December 2008

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 First Plaintiff is an individual residing in the Cayman Islands and having an address of 118 Fairbanks Road, George Town, Grand Cayman. For the purpose of this proceeding his address for service is in care of his attorneys, Appleby, of P.O. Box 190, Grand Cayman, KY1-1104, Cayman Islands.
2. The Second Plaintiff is an individual residing in the Cayman Islands and having an address of 430 Northward Road, Grand Cayman. For the purpose of this proceeding his address for service is in care of his attorneys, Appleby, of P.O. Box 190, Grand Cayman, KY1-1104, Cayman Islands.
3. The Defendant is an individual residing in the Cayman Islands. He is a businessman, developer and contractor.
4. The Plaintiffs have operated a trucking business in the Cayman Islands since on or about 1971, now operating under the trade name of "Mack & Son Trucking". The trucking operation involved heavy trucks and trailers travelling to and from the business operation. The access to the business required a road of sufficient quality to enable such traffic without deterioration causing disruption to the business operation.
5. In or about 1997, the Plaintiffs determined that they required a property from which to operate the trucking business. The preferred location would be in the industrial section of George Town. The First Plaintiff was aware that the Plaintiff had property interests in this area and approached the Defendant to discuss the possibility of the Plaintiffs acquiring property.
6. In or about May 1997, the First Plaintiff and the Defendant had discussions relating to the possible acquisition by the Plaintiffs of a portion of the property owned by the Defendant described as Registration Section George Town Central Block 13D Parcel 282 (the "Property"). This parcel was later subdivided and the property which the Plaintiffs

intended to acquire became Block 13D Parcel 324. During those discussions the Plaintiffs informed the Defendant of their interest and intention to acquire property for the purpose of operating the trucking business. The Plaintiffs informed the Defendant that they required property with suitable access to the major Cayman road infrastructure and a road of suitable design and construction to facilitate heavy truck traffic without significant deterioration.

Particulars

7. The Particulars of the discussions are as follows:
 - a. The discussions occurred during the early months of 1997 prior to May of 1997;
 - b. The discussions took place between the First Plaintiff and the Defendant;
 - c. There were approximately 5 or 6 discussions;
 - d. The discussions took place at the Government dock, the premises of National Cement and at or near the location of the Property;
8. During the above discussions, the Defendant advised the First Plaintiff that the Defendant had an agreement with the Public Works Department of the Cayman Islands for road access to the by-pass which was to be completed. The road access to the "Harquail Bypass" was to be over Block 13D Parcels 285 & 277. The Defendant also advised that the road access could be used by the Plaintiffs to access the Property over adjacent or proximate properties over which legal rights of way were or would be established.
9. The Defendant also stated that a road of suitable quality would be constructed to permit heavy vehicle traffic without substantial deterioration of the road surface. The Defendant stated that a surfacing technique known as "chip and spray" would be employed to construct the road over the rights of way giving access to the Property.
10. Further, during the above stated discussions, the Defendant advised the Plaintiffs that the Defendant was or would be obtaining for access to the Harquail By-Pass then under construction. The access would be over Block 13D Parcels 285 and 277 and would be for the benefit of the Property in addition to other properties in the area.

11. During the above stated discussions, the Defendant informed the Plaintiffs that if they purchased the Property, the Defendant would:
 - a. register a rights of way over properties then described as parcels 284, 278, 283 and 279 of Block 13D);
 - b. construct and a chip and spray road over the rights of way which ;
 - c. obtain access to the Harquail By-pass over Block 13D) Parcels 285 and 277 and that the Plaintiffs would enjoy the benefit of such access.

12. The Plaintiffs relied upon these representations in entering into an agreement dated 1 May 1997 (the "Agreement") the terms of which the Plaintiffs plead and rely upon. Paragraph 5 of the Agreement stated:

The Vendor shall procure that the land over which the said rights of way enjoyed by the Parcel and to be extended to the Property over parcels 284, 278, 283 and 279 of Block 13 D of Registration Section George Town Central, shall be covered by a layer of chip and spray no later than the date of completion of the access road to the Harquail Bypass over parcels 285 and 277 of the said Block 13D. This clause shall not merge on completion.

13. As a result of the representations made by the Defendant to the Plaintiffs and the terms of the Agreement, the Defendant was under a legal obligation to obtain access to the Harquail Bypass and to construct a chip and spray road over the rights of way agreed to.
14. The Defendant did not obtain access to the Harquail Bypass for the benefit of the Property or at all and it is unknown to the Plaintiffs whether access to the Harquail Bypass was applied for by the Defendant. As a result, the Defendant breached the Agreement and is liable for damages or for specific performance requiring the construction of the chip and spray road.

15. Alternatively, the Defendant materially misrepresented either his right to access to the Harquail Bypass or his ability to obtain access to the Harquail Bypass. The material misrepresentation is that the Defendant had the right of access to the Harquail By-Pass at a time when he had no such right. As a result of the misrepresentation, the Plaintiff is entitled to damages.
16. The Defendant did not construct a chip and spray road over the rights of way agreed to despite numerous requests by the Plaintiffs to do so. The Defendant has stated to the First Plaintiff on numerous occasions since 1997 and as late as 2007 that the Defendant would construct the chip and spray road in accordance with the representations made prior to entering into the Agreement and as provided for in the Agreement.
17. The Particulars of such discussions are as follows:
 - a. The First Plaintiff has spoken with the Defendant about 4 times each year since the completion of the Property acquisition;
 - b. Such discussions occurred either at or near the National Cement business or by telephone;
 - c. On each occasion, save for December 2007, the Defendant repeated his commitment to complete the chip and spray road;
 - d. In January & March 2007, the First Plaintiff spoke with the Defendant, the latter time at the Mack & Son premises, at which time the Defendant stated the chip and spray road would be completed upon the Defendant completing some arrangements with some Chinese investors;
 - e. In October 2007, the Defendant advised the First Plaintiff that the road would be completed but he was waiting on the completion of business dealings with some Chinese investors;


f. In December 2007, the First Plaintiff at Paradise Grill attempted to discuss the road with the Defendant who at that time refused to discuss it.

18. The Defendant's failure to construct a chip and spray road is a breach of the Agreement and the Plaintiffs are entitled to either specific performance requiring the Defendant to construct the chip and spray road or, alternatively, damages.
19. Alternatively, the Defendant materially misrepresented that he could or would construct a chip and spray road over the rights of way and is liable to the Plaintiffs for damages.
20. The Defendant deliberately concealed from the Plaintiffs that the Defendant either could not or would not secure access to the Harquai By-Pass and deliberately concealed that the Defendant either did not have the intentions or ability to complete the chip and spray road as represented and contracted.
21. Since the purchase of the Property by the Plaintiffs, the access road had been a rough compacted fill road which has sustained substantial deterioration and has required repeated repairs and maintenance which would not have been required, or not required to the same extent, had the road been a chip and spray surface.
22. As a result of the stated breach of the Agreement and material misrepresentation the Plaintiffs have suffered and continue to suffer the following losses:
 - a. Loss of value of the property between the actual value of the property and the value of the property had the access to the Harquai Bypass been established;
 - b. Loss of value of the property between the actual value of the property and the value of the property had the chip and spray road been constructed;
 - c. Cost of repairs to the road due to it not having a chip and spray surface;
 - d. Loss of profit of Mack and Son Trucking due to the decrease in business resulting from the deteriorated road.

23. As a result of the above, the Plaintiffs are entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF claims:

- a) Specific Performance;
- b) Damages as pleaded herein;
- c) Pre judgment interest calculated in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- d) Pre and post judgment interest in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- e) Costs on an indemnity basis or standard basis in accordance with the Court Costs Rules 2001; and
- f) Such further and other relief as this Court may deem just.


APPLEBY
Attorneys for the Plaintiff

This WRIT OF SUMMONS was filed by Appleby, Attorneys-at-Law, for and on behalf of the Plaintiff whose address for service is Clifton House, 75 Fort Street, PO Box 190, Grand Cayman, KY1-1104, Cayman Islands (ref: WAS/112452.002)

Acknowledgment of service of writ of summons (O.12, r.3)

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 each Defendant or by each Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO Box 495 GT, 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 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 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 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

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 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 authorised 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.