

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 168 of 2019

BETWEEN:

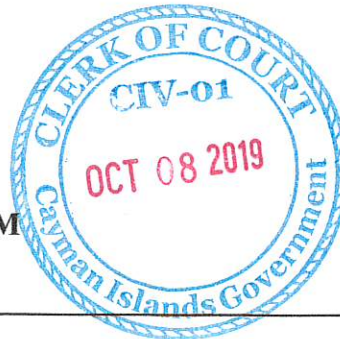
CALTON EBANKS

PLAINTIFF

AND

NATHANIEL DAVID WISDOM

DEFENDANT



WRIT OF SUMMONS



TO: Nathaniel David Wisdom
PO BOX 12192
16 Bush's Street, West Bay
Grand Cayman, KY1-1010

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 8th day of October 2019.

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.

THIS WRIT is filed by H. Phillip Ebanks, Attorneys-at-Law for the Plaintiff, Calton Ebanks whose address for service is that of his said Attorneys, namely 19 Walkers Road, George Town, PO Box 10134 Grand Cayman, KY1-1002 Cayman Islands.

STATEMENT OF CLAIM

1. On the 31 August 2016, the Defendant and Borrower executed and delivered to the Plaintiff Lender, promissory note dated 31 August 2016 ("the Note") in the sum of twenty-five thousand dollars and eight cents (KYD 25,000.08).
2. A copy of the Note is attached hereto and marked "A".
3. Terms of the Note include:
 - (i) at paragraph 2, that "Payment shall be made in 24 consecutive monthly payments of KYD1,041.67 commencing in August 2017 (on or before the last day of the month) and thereafter monthly not later than the last day of each month until the Principle Amount has been paid in full." and,
 - (ii) at paragraph 5, that "Debtor shall pay late charges of 5% on any Installment due which is not paid by the due date and shall on default also be liable to payment to pay interest on the unpaid balance of this note as at the date of default at rate of 1.5% per month until payment in full of this note."
 - (iii) at paragraph 6, that "... Nonpayment for more than 3 days after the due date for payment of any amount which is due under this note shall constitute a default and the Lender shall be entitled to immediately and without further notice or warning exercise his rights to the Remedies For Default set out herein.
 - (iv) at paragraph 7, that "On any default under this Agreement, all remaining amounts on the note shall as at the date of default together with any interest accrued under this note, become immediately due and payable, and Lender may call in the full amount due under this note and exercise his rights and remedies under Cayman Islands Law."

4. The Defendant did not pay any amount to the Plaintiff under the terms of the Note by the 28 March 2018 and the Plaintiff's attorney served a letter of demand (of same date) on 29 March 2018 (the "Demand").
5. The Demand is attached hereto and marked "B"
6. Despite the Demand, the Defendant has to date failed to pay the sums due under the Note or at all to the Plaintiff and has not responded to the Demand.
7. The amount outstanding on the Note is:
 - (i) The Principle Sum – **KYD 25,000.08**;
 - (ii) Interest on the Principle Sum/Unpaid balance at rate of 1.5% per month for the period from 3 October 2017 to 3 October 2019 – **KYD9,000**

AND THE PLAINTIFF CLAIMS

8. In the premises, the Plaintiff is entitled to and claims:
 - (1) the principle sum of KYD \$25,000.08 together with;
 - (2) interest, as provided under the Promissory Note amounting to KYD 9,000 as at 3 October 2019.
 - (3) Further interest in accordance with the Promissory Note until payment in full accruing at daily rate of KYD 12.32.
 - (4) Court fees and Bailiff Fees \$250.
 - (5) Costs.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of KYD34,000.08 (including fees and interest, in accordance

paragraphs 8 and hereof, and costs of KYD4,000, further proceedings will be stayed. The money must be paid to the Plaintiff's Attorney at his office at 19 Walkers Road, George Town, Grand Cayman, Cayman Islands.

Dated: 8 October 2019



H. Phillip Ebanks
Attorney at Law for the Plaintiff

The following documents follow:

1. Promissory Note, marked "A" and
2. Demand Letter of 28 March 2018 and emails of 28 March 2018 and 7 October 2019

"A"

PROMISSORY NOTE

This Promissory Note ("Agreement") is made and effective on this 31 day of August 2016

BETWEEN: CALTON EBANKS, (the "Lender"),

of: PO Box 126, West End, Cayman Brac KY2-2001;
Email: westex@candw.ky; Phone: 345 948 1338

AND: NATHANIEL DAVID WISDOM (the "Debtor"),

of: 16 Bushs Street, West Bay, PO Box 12192, Grand Cayman KY1-1010
Email: wiseauto@live.com; Phone 1 (personal cell): 345 924 8622;
Phone 2 (Work Cell): 345 324 2917

1. For value received in the form of a loan made by the Lender to the Debtor and borrower, the Debtor promises, undertakes and agrees to pay to the Lender the sum of twenty-five thousand Cayman Islands Dollars and eight cents (KYD25,000.08) ("Principle Amount") and any interest due under this note in accordance with the Payment Terms herein.

PAYMENT TERMS

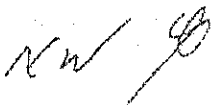
2. Payment shall be made in 24 consecutive monthly payments of KYD1,041.67 commencing in August 2017 (on or before the last day of the month) and thereafter monthly not later than the last day of each month until the Principle Amount has been paid in full.
3. The Debtors shall make payment to the Lender's address West End Texaco, West End Cayman Brac or in such other place or manner as the Lender may direct in writing. Where payments are made to West End Texaco address they will be made by way of local draft on a Cayman Islands Bank or cash unless otherwise agreed in writing.
4. For avoidance of doubt, there will be no prepayment penalty. Further, subject to clauses 5, 6, 7 and 8, no interest is to be paid on the Principle Amount.

DELINQUENT PAYMENTS

5. Debtor shall pay late charges of 5% on any Installment due which is not paid by the due date and shall on default also be liable to payment to pay interest on the unpaid balance of this note as at the date of default at rate of 1.5% per month until payment in full of this note

DEFAULT

6. The Nonpayment for more than 3 days after the due date for payment of any amount which is due under this note shall constitute a default and the Lender shall be entitled to immediately and without further notice or warning exercise his rights to the Remedies For Default set out herein.



REMEDIES FOR DEFAULT

- 7. On any default under this Agreement, all remaining amounts on the note shall as at the date of default together with any interest accrued under this note, become immediately due and payable, and Lender may call in the full amount due under this note and exercise his rights and remedies under Cayman Islands Law.

- 8. In case of the Debtor failing to pay the Lender all amounts due within 15 days of the default and of being notified by the Lender of the amount then due to be paid under this note, the Debtor hereby agrees that he shall be liable to the Lender for all fees incurred by the Lender in enforcing this Agreement, including all attorney fees and court fees and related expenses of up the amount of 50% of the Principle Amount.

WAIVER

- 9. No delay by Lender in the exercise of any right or remedy under this note and Agreement shall operate as a waiver of the same, and no single or partial exercise by Lender of any such right or remedy shall preclude other or further exercise of the same or the exercise of any other right or remedy.

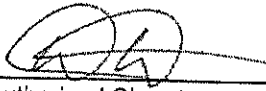
JURISDICTION AND LAW

- 10. This note and Agreement shall be interpreted in accordance with the laws of the Cayman Islands.

- 11. The rights and privileges of Lender under this note and Agreement shall enure to the benefit of its successors and assigns.

IN WITNESS WHEREOF, each party to this Agreement has caused this Agreement to be executed at George Town, Grand Cayman, on the date indicated above.

DEBTOR




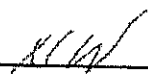
Authorized Signature

NATHANIEL DAVID WISDOM, MR.

Print Name and Title

Witness: 

Full Name: DIANA BODDEN

Promissory Note


LENDER



Authorized Signature

CALTON EBANKS, MR.

Print Name and Title

Witness: 

Full Name: DIANA BODDEN

"B"

iks

Philip Ebanks | Premier Solutions Group
Wednesday, March 28, 2018 7:33 PM
To: 'wiseauto@live.com'
Subject: Promissory Note Demand
Attachments: 180328 ltr to Nathaniel Wisdom (Calton Ebanks promissory note).pdf


Dear Mr Wisdom,

Our letter of today for your urgent attention.

Regards,

Phillip

COPY

 H. Phillip Ebanks
Attorney-at-Law


WE HAVE MOVED TO: 19 Walkers Road

Directions: 19 Walkers Road is located near the Walkers Road/Hospital Road junction. It houses both this firm and "Caymanian Times" newspaper

PO Box 30422, Grand Cayman KY1-1202

Office: 1345-749-8082

Email: pebanks@premiergroup.ky

 H. Phillip Ebanks
Attorney-at-Law

19 Walkers Road
George Town
PO Box 30422, Grand Cayman KY1-1202
Phone: 1345 749 8082 (office) | skype: philipebanks
Email: pebanks@premiergroup.ky

Nathaniel Wisdom
Wise Auto
Red Bay, George Town
Grand Cayman

COPY

28 March 2018

BY HAND
& BY EMAIL to: wiseauto@live.com

Dear Mr Wisdom

Demand Letter: Non-compliance with terms of Promissory Note

Matter Reference: Our client Mr Calton Ebanks

Dear Mr Wisdom,

As you are aware we represent Mr Calton Ebanks in the matter of the Promissory Note issued on August 2016 ("Note") to you as Borrower.

We raised the matter of non-payment with you last week but there has been no resolution of the issue or payment received.

The Note provides:

"PAYMENT TERMS

1. *Payment shall be made in 24 consecutive monthly payments of KYD1,041.67 commencing in August 2017 (on or before the last day of the month) and thereafter monthly not later than the last day of each month until the Principle Amount has been paid in full.*
2. *The Debtors shall make payment to the Lender's address West End Texaco, West End Cayman Brac or in such other place or manner as the Lender may direct in writing. Where payments are made to West End Texaco address they will be made by way of local draft on a Cayman Islands Bank or cash unless otherwise agreed in writing.*

3. *For avoidance of doubt, there will be no prepayment penalty. Further, subject to clauses 5, 6, 7 and 8, no interest is to be paid on the Principle Amount.*

DELINQUENT PAYMENTS

4. *Debtor shall pay late charges of 5% on any installment due which is not paid by the due date and shall on default also be liable to payment to pay interest on the unpaid balance of this note as at the date of default at rate of 1.5% per month until payment in full of this note."*

In the circumstances you ought to have since end of August 2017 been making a monthly payment of KYD1,041.67. We note that in light of your non-payment, you have also incurred a late fee of 5% of sum (i.e. KYD52.08) per month. The monthly payment together with the late fees (for the months of August 2017 through February 2018) is KYD8,697.92 as at the end of March 2018.

In the circumstances, I am instructed to demand payment pursuant to the Note urgently. If payment is made by end of March 2018 the sum due will be KYD8,697. with a further KYD52.08 to attach if the March payment is late.

In the circumstances we place you on notice that if the payments as set out above are not made within 14 days, legal action will ensue for default of the note. In such circumstances, in addition to claim of the full amount under the Note, legal costs will be claimed, and we will rely on this letter of demand.

We point out that if you are uncertain as to this letter or how it may affect you, you may wish to consult with an attorney.



H. Phillip Ebanks

Phillip Ebanks

From: Philip Ebanks | Premier Solutions Group
Sent: Monday, October 7, 2019 6:19 PM
To: 'wiseauto@live.com'
Cc: 'WEST END TEXACO'
Subject: FW: Promissory Note Demand
Attachments: 180328 ltr to Nathaniel Wisdom (Calton Ebanks promissory note).pdf

Dear Mr Wisdom,

We note that despite letter (attached) and your subsequent indications to Mr Calton Ebanks to pay the sum due under the attached Promissory Note, that you have failed to make payment.

In the circumstances, unless payment in full is made within 7 days hereof, I am with instructions to issue proceedings.

Kind regards

Phillip Ebanks


From: Philip Ebanks | Premier Solutions Group <pebanks@premiergroup.ky>
Sent: Wednesday, March 28, 2018 7:33 PM
To: wiseauto@live.com
Subject: Promissory Note Demand

Dear Mr Wisdom,

Our letter of today for your urgent attention.

Regards,

Phillip

 H. Phillip Ebanks
Attorney-at-Law

WE HAVE MOVED TO: 19 Walkers Road

Directions: 19 Walkers Road is located near the Walkers Road/Hospital Road junction. It houses both this firm and "Caymanian Times" newspaper

PO Box 30422, Grand Cayman KY1-1202

Office: 1345-749-8082

Email: pebanks@premiergroup.ky

DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

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

After completion it must be delivered or sent by post to the Law Courts, PO 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 not endorsed 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 Acknowledgement, 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 overleaf for notes for guidance

Please complete overleaf

Notes of 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 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 form 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 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. The Defendant acting in person may obtain help in completing the form at the Court Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: of 2019

BETWEEN:

CALTON EBANKS

PLAINTIFF

AND

NATHANIEL DAVID WISDOM

DEFENDANT

**ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

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

2. **State whether the Defendant intends to contest the proceedings.**

_____ **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.**

_____ **Yes**

_____ **No**

Service of the Writ is acknowledged accordingly.

(Signed).....

Attorney for _____

Please complete overleaf

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.

H. Phillip Ebanks
Attorney-at-Law
19 Walkers Road, George Town PO
Box 10134, Grand Cayman, KY1-1002
Cayman Islands

Indorsement 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 indorsement]

THIS WRIT is filed by H. Phillip Ebanks, Attorneys-at-Law for the Plaintiff, Calton Ebanks whose address for service is that of his said Attorney at 19 Walkers Road, George Town, PO Box 10134 Grand Cayman, KY1-1002, Cayman Islands