



**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO:      OF 2022**

**BETWEEN                      STERLING MORTGAGE INCOME FUND LTD                      PLAINTIFF**

**AND                                      DAVID NELSON                                      DEFENDANT**

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**WRIT OF SUMMONS**

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**TO:      DAVID NELSON** of 27 Viers Close, Spotts, 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, PO Box 495G, George Town, 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 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                      day of September 2022

**NOTE** - This Writ may not be served later than four calendar months (or, if leave is required to effect service out of the jurisdiction, six 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.

**CONCISE STATEMENT OF NATURE OF CLAIM**

The Plaintiff claims the principle debt falling due from the Defendant pursuant to the contract between the Plaintiff as lender, Indigo Bay Development Ltd as Borrower and the Defendant as guarantor dated 30 September 2019 (**Contract**), together with contractual interest pursuant to those unnumbered clauses in the Contract governing interest at the agreed contractual rate of interest defined in the Contract as:

*"15% or WSJ Prime Rate + 9.75% whichever is greater, calculated monthly (the "Interest"). Interest is payable monthly in arrears on the first day of each month. The Interest will be adjusted six (6) months from the initial advance or at the time the Senior Lender funds, whichever occurs first, to 20% or WSJ Prime Rate + 14.75% whichever is greater, calculated monthly. Interest will accrue monthly on a simple non-compounded basis and will be payable at Maturity."*

Pursuant to the Contract, the Plaintiff duly served on the Defendant as guarantor a Notice of Demand dated 23 August 2022 (**Demand**) in which it demanded payment forthwith of US\$19,819,189.74 (**Demanded Sum**). The Demanded Sum includes the principle debt, interest to the date of the Demand and the costs and expenses associated with the enforcement of the principle debt as set out in the Demand.

Interest is claimed at the contractual rate to the date of the Demand (such sum is included in the Demanded Sum), plus US\$9,751.09 per day from 24 August 2022 to the date of payment.

Further, the Plaintiff claims its legal costs of and associated with the enforcement of the Principal Debt against the Guarantor, which to date amount to US\$237,732.63 and are continuing.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of US\$20,056,922.37 (including interest to 23 August 2022 and costs) together with further interest of US\$9,751.09 for each day that has elapsed since the 23 August 2022 to the date of payment, further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.

*Appleby (Cayman) Limited*

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**APPLEBY (CAYMAN) LTD.**

**THIS WRIT** was issued by Appleby (Cayman) Ltd, of 71 Fort Street, PO Box 190, Grand Cayman KY1-1104, Cayman Islands, Attorneys-at-Law for the Plaintiff, whose address is Sterling Commons West, Suite 200, ! Marina Drive, PO Box N-181, Paradise Island, Bahamas (Ref. THW/444368.0019).

**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 if 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 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.

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 instalments or otherwise.

See over for Notes for Guidance

Please complete overleaf

**Notes for Guidance**

3. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
4. 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.
5. 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)".
6. 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.
7. 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.
8. 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.
9. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
10. A Defendant acting in person may obtain help in completing the form at the Courts Office.



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

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11. State whether the Defendant intends to contest the proceedings (tick appropriate box)

YES

NO

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12. 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 (tick box).

YES

NO

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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.

Appleby (Cayman) Limited 71 Fort Street PO Box 190 Grand Cayma, KY1-1104 Cayman Islands (Ref. THW/444368.0019)
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Indorsement by Defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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