



Drawn and Prepared By:
[Signature]
K S Marshall

Attorney-at-law of
Alpha & Omega Law Chambers
1st Floor, Trident House
Lower Broad Street
BRIDGETOWN

IN THE HIGH COURT OF JUSTICE

2008 No: 110

CIVIL DIVISION

IN THE MATTER OF: *The Companies Act, Cap 308 of the Laws of Barbados, sections 228, 66, 169, 175 & 231*

AND IN THE MATTER OF: The Breakers Investment Inc., the company in question

IN THE MATTER OF: The application of Everton Leo Cumberbatch for relief under section 228 of the *Companies Act, Cap 308*

AND IN THE MATTER OF: *The Rules of the Supreme Court, Cap 117 of the Laws of Barbados, Order 90, Rules 2 & 6*

BETWEEN:

EVERTON LEO CUMBERBATCH Plaintiff

AND:

LARRY LESLIE TATEM Defendant No. 1

LEROY C. PARRIS Defendant No. 2

THE BREAKERS INVESTMENT INC. Defendant No. 3

ORIGINATING SUMMONS

LET LARRY LESLIE TATEM of Calais, Dover in the parish of Christ Church and island of Barbados and LEROY C. PARRIS of Airy Hill in the parish of Saint George and island of Barbados and THE BREAKERS INVESTMENT INC., a limited liability company incorporated and registered under the Companies Act, Cap 308 of the Laws of Barbados with its registered office situate at Charlton House, Whitepark Road in the city of Bridgetown and island of Barbados attend before the Judge in Chambers, at the High Court, Law Courts, Bridgetown, on the *9th* day of *June* 2008, at *9:30* o'clock, on the hearing of an application by the plaintiff Everton Leo Cumberbatch of Lot 3, Hillcrest Drive, Fort George Heights in the parish of Christ Church and island of Barbados that:

1. Defendant No. 2, Leroy C. Parris, be removed from the company in any capacity in which he was appointed;
2. The Board of Directors of Defendant No. 3 rectify the corporate records by removing the said Leroy Parris as director and/or shareholder as the case may be;
3. The corporate records of Defendant No. 3 held at the Office of Corporate Affairs & Intellectual Property be rectified by deleting the names Larry Leslie Tatem and Larry Pierre Tatem as directors and that Defendant No. 3 do prepare and file with the Registrar of Companies the Notice of Directors/Notice of Change of Directors on payment to her of the prescribed fee;
4. The corporate records of Defendant No. 3 held at the Office of Corporate Affairs & Intellectual Property be rectified by deleting "Charlton House, Whitepark Road, St. Michael" as the registered office and replacing it with "Suite 101, Building No. 8, Harbour Industrial Park, Harbour Road, St. Michael" and that Defendant No. 3 do prepare and file with the Registrar of Companies the Notice of Address/Notice of Change of Address on payment to her of the prescribed fee;
5. Defendant No. 3 repay to Defendant No. 2, the sum of US\$500,000.00 being monies allegedly paid by him to Grinsham Industries, on conclusion of the Fairy Valley project;
6. Defendant No. 3 repay to the Defendant No. 1 the sum of BDS\$2,000,000.00 after presentation to it by him of the duly executed Personal Guarantee and Promissory Note in favour of the firm known as Clico; and in default such monies as were paid by him for the benefit of the company in the sale and purchase of the parcel of land at fair Valley, Christ Church, on conclusion of the Fairy Valley project;
7. Defendant No. 3 repay to Sir Richard Cheltenham the sum of BDS\$2,000,000.00 after presentation to it by him of the duly executed Personal Guarantee and Promissory Note in favour of the firm known as Clico; and in default such monies as were paid by him for the benefit of the company in the sale and purchase of the parcel of land at fair Valley, Christ Church, on conclusion of the Fairy Valley project;
8. Defendant No. 3 repay to Dr. Patrick Antoine, the sum of US\$500,000.00 being monies allegedly paid by him to Grinsham Industries, on conclusion of the Fairy Valley project;

9. All internal management documents, including without limitation, the by-laws of Defendant No. 3, be delivered to the Plaintiff forthwith;
10. All title deeds of and relating to the parcel of land at Fairy Valley in the parish of Christ Church be handed over to the Plaintiff forthwith;
11. Defendants No. 1 and 2, whether by themselves, their servants or agents be restrained from carrying on any business in relation to the Fairy Valley project;
12. Defendants No. 1 and 3, whether by themselves their servants or agents be restrained from entering into any further agreement with Defendant No. 2 relating to the matters in issue or to seek to negotiate and/or conclude any unanimous shareholder or other agreement with him;
13. The Defendants be restrained from denying to third parties the Plaintiff's involvement in the Fairy Valley project;
14. The Defendants give to the Plaintiff full written disclosure of: -
 - (1) the registers and records of Defendant No. 3 such as within the meaning of section 170 of the *Companies Act*;
 - (2) the minutes and/or records of Defendant No. 3 such as are within the meaning of section 172 of the *Companies Act*;
 - (3) the financial records of Defendant No. 3 including without limitation its Balance Sheet and Statement of Income and Expenditure;
 - (4) all correspondence, memoranda, agreements and all other records and other the documents to and from, the Defendants, their servants and/or agents such as relate to the issues raised in this application and in particular the minutes of the first organisational meeting of Defendant No. 3 and all other meetings held by or in the name of the company;
 - (5) all discussions, agreements and conversations in any way related to the business and affairs of Defendant No. 3; and
 - (6) all discussions, agreements and conversations in any way related to the arrangements between the Defendants.
15. Such further or other relief as the court deems fit in the circumstances.

AND THE GROUNDS OF THE PLAINTIFF'S APPLICATION are that:

1. The business and affairs of Defendant No. 3 are being conducted in a manner which is oppressive to the Plaintiff and which unfairly disregards his interest in the development of the Fairy Valley project for which purpose Defendant No. 3 was incorporated.
2. The business and affairs of the company are being conducted in a way that unfairly disregards the Plaintiff's interest in the company in that Defendant No. 1 whether by himself his servants or agents has ignored the 'close' nature of Defendant No. 3 and has procured and/or acquiesced in the participation of Defendant No. 2 in the business and affairs of Defendant No. 3.
3. The business and affairs of Defendant No. 3 are being conducted in such a way that unfairly disregards the Plaintiff's interest in Defendant No. 3 in that Defendant No. 2 has arrogated to himself to the position of 'Chief Cook and Bottle washer' and has expressly demanded that the Plaintiff be excluded from further participation in the project.
4. The business and affairs of Defendant No. 3 are being conducted in a way that unfairly disregards the Plaintiff's interest in the company in that in furtherance of and on account of the above the Defendants have forced a profit sharing ratio upon the Plaintiff without discussion or negotiation with him and in complete disregard of his rights to and in the project in question.
5. The business and affairs of Defendant No. 3 are being conducted in a way that unfairly disregards the Plaintiff's interest in the company in that the meetings of the company and in particular the first organisational meeting of 26 April 2007, were and are being conducted in the absence of and/or without notice to the Plaintiff, one of its three registered directors and the project pioneer.
6. The business and affairs of Defendant No. 3 are being conducted in such a way that unfairly disregards the Plaintiff's interest in the company in that the Plaintiff has at all material times been sidelined from the business of the company by the Defendants;
7. The business and affairs of Defendant No. 3 are being conducted in such a way that unfairly disregards the Plaintiff's interest in the company in that no or little regard has been paid to or credit given for the time, effort, skill and acumen of the Plaintiff in mobilising and transforming the 32 acres of 'dead' land at Fairy Valley to a potentially lucrative holiday resort.
8. Sections 66, 169, 175 and 231 of the said *Companies Act*.

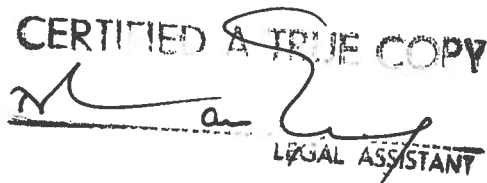
And let the defendant[s] within 8 days after service of this summons upon [them] counting the day of service, return the accompanying Acknowledgment of Service to the Registry of the Supreme Court, Law Courts, Bridgetown.

Dated the 9th day of May 2008

Note: - This summons may not be served later than 12 calendar months beginning with the above date unless renewed by order of the Court.

This summons was taken out by K S MARSHALL of Alpha & Omega Law Chambers, 1st Floor, Trident House, Lower Broad Street, Bridgetown, attorney-at-law for the said plaintiff whose address is as stated above.

Note: - If a defendant does not attend personally or by his attorney-at-law at the time and place above-mentioned such order will be made as the Court may think just and expedient.

CERTIFIED A TRUE COPY

LEGAL ASSISTANT

THIS **ORIGINATING SUMMONS** was filed on behalf of the Plaintiff Everton Leo Cumberbatch.