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Ousted Directors Fight Back, Seeking Help from State, Court

Hanalei Bay Resort owners and four directors ousted by Celebrity Resorts Management have sought help from Hawaiian Senate Majority Leader Gary Hooser and the Court in seeking to regain control of the resort.

According to the Petition filed by the ousted directors, their removal from the Board of Directors was masterminded by Celebrity in response to the directors raising "issues and concerns" alleging Celebrity's mismanagement and self-dealing.

The luxury oceanfront resort was built in 1975 and managed in recent years by Quintus Vacation Management, headed by Gary Grottke. Grottke, who owns a unit at the resort, was one of five Board members, with the other four having been elected by the owners. However, at the time the management contract was made with Quintus, Grottke controlled the Board. As a result, the management contract is automatically renewed annually unless a majority of owners authorize the Board to cancel the agreement.

In August, 2008, Grottke sold the management rights to Celebrity Resorts Management. Prior to the sale, Peter Somerville, Richard Schweickert, David Nicholl and Don Finch had been elected to the Board and, according to their court Petition, their standing as duly elected directors had never been questioned by Grottke or Quintus, which had administered the elections.

In April, 2009, Celebrity and Grottke notified the other four directors that they had not been properly elected and that four new directors (all connected to Celebrity) had been appointed. Somerville, Schwe-



ickert, Nicholl and Finch then filed a Petition in the Hawaii Circuit Court seeking to have the court remove all five directors and oversee an election of the directors. In addition, the ousted directors and other owners sought help from Senate Majority Leader Gary Hooser, who wrote to the Department of Commerce and Consumer Affairs and the Attorney General, urging them to look into the situation:

"Your prompt review and evaluation of the below information is greatly appreciated. The below data and allegations originate from numerous telephone and email communications with interval owners at the Hanalei Bay Resort. I have not spoken directly with the owner of the management company or others involved and named below, nor have I verified any

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RCI Settlement Hearing

After hearing arguments from the attorneys for the plaintiffs and RCI urging that the class action settlement agreement should be approved, U.S. District Court Judge Peter G. Sheridan reserved his decision and requested the attorneys to submit briefs.

Attorney Susan Collins, representing herself and a number of other owners, argued that the attorneys should go back to the negotiating table because the proposed settlement is unfair to owners in permitting RCI to use deposited weeks for rental purposes after holding them for only 31 days for exchange. Shep Altshuler, TimeSharing Today's Publisher, argued that the owners had not received adequate notice about terms of the settlement.

NEW SCAM ALERT

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Ousted Directors Fight Back

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of the all legations.

“However; it seems clear to me that there is serious conflict going on between parties that involve ownership rights that are governed by state law. It is further obvious that this situation is of an urgent nature as the financial impacts to all parties involved may be significant.

“It has come to my attention that the management company of the Hanalei Bay Resort, Quintus Resorts LLC and its successor, Celebrity Resorts, may have, apparently without owner notice or approval, replaced the members of the Hanalei Bay Resort Vacation Owners Association Board of Directors (VOA Board), and installed its own board. Timeshare owners, many of whom maintain their own businesses and have owned their properties for years, are understandably upset, and have sought my assistance.

“Pilikea [*Hawaiian for trouble*] such as this affects not only our reputation as a tourist destination but Kaua’i owners and residents who work at the Resort.

“I understand from my constituents that they have peppered your offices with inquiries and requests for assistance to resolve these matters, and to restore control of Hanalei Bay Resort to its owners.

“Though I do not have firsthand knowledge and I have not verified the statements and allegations stated in the above letter, it is clear to me that there is an urgent need for an independent evaluation of this situation by the Attorney General’s office and or the Department of Commerce and Consumer Affairs.”

An investigation by the Department of Commerce and Consumer Affairs is now reportedly under way.

The “issues and concerns” alleged by the Hanalei Bay Resort Board included the following actions and failures by Celebrity:

- (a) Without authorization from the Board, cancelled the contract with the long-term insurance broker and signed a contract for insurance brokerage services with an affiliate of Celebrity Resorts Management located in Florida;
- (b) Failed, neglected and refused to prepare the 2009 budget in a timely manner;
- (c) Failed, neglected and refused to provide information requested by the Board regarding the location and amounts of all bank accounts and only provided such information after repeated requests over several months;
- (d) Failed, neglected and refused to provide to the Board an accurate and complete list of Interval Owners, including their contact information;
- (e) Rented out the intervals of delinquent or defaulted interval Owners and collected the rent for its own account rather than the account of the owners association
- (f) Failed neglected and refused to provide the Board with detailed condition reports with respect to all Interval Units, as promised;
- (g) Failed, neglected and refused to provide the Board with any Information regarding a substantial tax audit involving the Hawaii general excise tax payable for the resort;
- (h) Failed, neglected and refused to create and generate the Project website as promised to the Board;
- (i) Contrary to the direction of the Board, prepared and sent mailings to Interval Owners without first providing a draft to the Board and failed to include in such mailings and items the Board had specifically instructed Celebrity to include;
- (j) Subsequently sent additional mailings without even providing any copies thereof to the Board;
- (k) Failed, neglected and refused to send out the 2009 Annual maintenance fee bills to the interval Owners on a timely basis and when it did send out such bills in an untimely manner, it failed to include any deadline for payment by the Interval Owners;
- (l) Hired an assistant manager at the time the resort was operating at an annual deficit without the approval of, or without even providing prior notice to, the Board;
- (m) Paid the real property taxes on the Interval Units after the due date, incurring penalties and interest;
- (n) Failed to aggressively pursue the collection of delinquent maintenance fees from Interval Owners despite Instructions from the Board;
- (o) Unilaterally changed the rules without the approval of the Board or the Interval Owners to prohibit interval Owners from reserving a specific Unit with their reserved week, which is contrary to the Declaration and the long-standing custom and practice of the owners association.

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