

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE: . Case No. 08-11643-KJC
. .
. .
WCI COMMUNITIES, INC., .
et al., . 824 North Market Street
. Wilmington, DE 19801
. .
Debtors. . August 20, 2008
. 4:00 p.m.

TRANSCRIPT OF STATUS CONFERENCE
BEFORE HONORABLE KEVIN J. CAREY
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtors: White & Case
By: THOMAS E. LAURIA, ESQ.
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For Golden Hills Golf, Landis Rath & Cobb, LLP
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Wilmington, DE 19899

For the Creditors Akin Gump Strauss Hauer & Feld, LLP
Committee: By: DANIEL H. GOLDEN, ESQ.
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1 THE CLERK: Court is now in session.

2 THE COURT: Good afternoon, counsel. This is Judge
3 Carey. I scheduled this telephone conference as a result of
4 the filing of the emergency motion to compel rejection
5 concerning contracts with Golden Hills Golf, LLC and Castro
6 Realty. At this point, let me ask the movant where matters
7 stand.

8 MR. LANDIS: Thank you, Your Honor. For the record,
9 this is Adam Landis from Landis Rath & Cobb on behalf of Golden
10 Hills Golf, LLC and Castro Realty Holdings, LLC. The hearing
11 was scheduled or the status conference was scheduled to occur
12 at four and I received a call from debtor's counsel some time
13 before 3:30 making a proposal to move the hearing off or at
14 least put down the hearing on our motion for a schedule that
15 would have it occur on September 10th. And in the interim,
16 between now and September 10th, WCI would continue to operate
17 the club pursuant to the management agreement, which was a
18 concern that we raised in the motion and that we would move
19 forward to try to discuss position, try to work things out, if
20 possible, during the interim period of time. And if we
21 couldn't have a -- reach a resolution, the hearing -- a hearing
22 would go forward on September 10th.

23 I don't know that that fits with Your Honor's
24 calendar, but subject to a couple of other agreements that
25 we've been trying to work out, my clients would be satisfied if

1 the motion were set down for hearing on September 10th. If WCI
2 agreed to operate and manage the club pursuant to the
3 management agreement until the hearing, if they would
4 reasonably cooperate, you know, with my client regarding
5 operations of the club in anticipation of what looks like it
6 might be a transition and, you know, that we would agree not to
7 be litigating separately on extraneous matters other than the
8 motion during this period of time.

9 So that's where it stands. There are a couple of
10 little, minor, you know, points that we wanted to try to
11 clarify and that is that the operation of the club would
12 include the hiring of a chef because the chef of the club was
13 leaving today and that the operation of the club would include
14 the hiring of a regional manager regionally -- excuse me -- a
15 general manager, regional -- generally acceptable to my client
16 because the club has operated without a general manager since,
17 my understanding is, August 11th. And that, obviously, is not
18 a good way for a club to be operating.

19 So, subject to all of that, you know, we would agree
20 that schedule the hearing for the 10th and hopefully have
21 opportunity to talk during that period -- during the interim
22 and either work out a deal or go forward on the 10th on our
23 motion.

24 THE COURT: All right. Let me hear from the debtor.

25 MR. LAURIA: Good afternoon, Your Honor, this is

1 Thomas Lauria with White & Case for WCI Communities, et al. I
2 think counsel has fairly stated the discussion that we've had.
3 We, just to reconfirm, we have agreed that we would continue to
4 manage the club pursuant to the existing agreement through the
5 10th. We have agreed that the parties will cooperate with each
6 other with respect to operational issues in the meantime. We
7 are hopeful that we can continue settlement discussions and
8 find an agreed resolution to the issues that the motion raises
9 and perhaps other related issues.

10 We -- I can confirm on the record here that we have
11 agreed that the -- there's -- a chef candidate has been
12 identified by the movant that's acceptable to the company and
13 we intend to see that that person is hired and commence work as
14 soon as is practicable. And with respect to the GM, we
15 understand the importance of having a general manager involved
16 with the facility and are going to work in good faith to make
17 sure that that is dealt with promptly and appropriately. And
18 failing all that, we would have come back with, you know,
19 agreed dates for responsive pleadings and a discovery plan so
20 that we can have a hearing on the motion on September 10th,
21 assuming that given that that's an omnibus date in the case
22 that the Court is okay with setting it down for the 10th.

23 THE COURT: Yes, I'm okay with that date. Mr.
24 Landis, is that response in accord with --

25 MR. LANDIS: Well, we're pretty close. And, you

1 know, and I take on as good faith Mr. Lauria's, you know,
2 comments with respect to, you know, seeing the importance of a
3 general manager, you know, and getting it done promptly. We
4 have identified someone who used to be involved with the club
5 who, you know, is actually less expensive than the person who
6 left on August 11th. We'd like very much to see that person
7 hired. His name is Chris Wilson. And, you know, my hope is
8 that we'll get that done.

9 If we don't, Your Honor, and what I've asked is that,
10 you know, we have a date certain by which a GM acceptable to my
11 client is on board and, you know, Mr. Lauria has resisted that
12 and I understand, you know, he hasn't spoken to his client and
13 I conceptually understand the reason why. But I -- and I can
14 live with his commitment as we go forward, but I have to remark
15 that if we don't have a general manager who's acceptable to my
16 client in there by the end of the week, I suspect we may be
17 back in front of Your Honor asking for some relief because,
18 again, having a manager of this club is critically important to
19 its operation.

20 So, I think with that and with that statement I'm
21 willing to see how we are able to cooperate with one another,
22 you know, for the balance of the week, and hopefully we'll get
23 someone identified and on board. But -- so I do think that
24 works. And I want to say, Your Honor, I want to remark, and I
25 should have done so at the outset, that this is not the process

1 or procedure that we would have preferred to be in front of the
2 Court and we very, very much appreciate your time on an
3 emergency basis. I think the word emergency is used all
4 together too often in bankruptcy cases and in this instance we
5 really felt there was no other option but to prevail upon the
6 Court to set something up. We appreciate you doing it so
7 quickly.

8 THE COURT: All right. You're welcome. Mr. Lauria,
9 any further response? I will ask others if they care to be
10 heard, but let me see if I can just make sure the debtor and
11 the movant here are on the same page.

12 MR. LAURIA: No, Your Honor. I think everything else
13 that we need to say probably we need to say off the record and
14 try to see if we can get a settlement. And failing that,
15 we'll -- the rest of it we would have to say would be in the
16 context of the contested motion.

17 THE COURT: Okay. Does anyone else care to be heard?

18 MR. GOLDEN: Your Honor, good afternoon. It's Danny
19 Golden from Akin, Gump, Strauss, Hauer & Feld. We, along with
20 the Pachulski Stang firm are proposed counsel to the Official
21 Creditors' Committee which was recently appointed. I believe
22 that pro hac vice motions for me and others at Akin Gump are on
23 their way to the Court, as well as a proposed retention
24 application.

25 I only want to make two points here. Number one,

1 with respect to Mr. Landis' last statement about the hiring of
2 a general manager, while I think we can all appreciate why a
3 golf course needs a general manager, I don't know what more the
4 debtors can do other than to pledge in good faith to hire one.
5 That's a representation made by Mr. Lauria already. I assume
6 that the debtors will operate in good faith in trying to
7 identify or, if one has already been identified, come to terms
8 with a general manager. But I don't know that the movant can
9 ask the debtors to do any more than that. So I'm not sure I
10 understand Mr. Landis' point about having to come back to court
11 if that's not done by the end of this week.

12 The other general comment I'll make is that I'm sorry
13 that the two sides couldn't get together on this before without
14 the need and the cost for the filing of an emergency motion,
15 but sometimes I guess that's just unavoidable and I guess with
16 the prospect of having to confront the Court, I'm glad that the
17 parties could reach what seems to be at least a good temporary
18 agreement and hopefully the two sides with the Committee's
19 involvement will be able to reach a full and global resolution
20 to obviate a hearing for the 10th.

21 THE COURT: Does anyone else care to be heard? Okay.
22 Well, it sounds to me as if the movant and the debtor here are
23 on the right path at least for now, and I'll look forward to
24 hearing you on the 10th or hearing that you've made some
25 resolution. Is there anything further for today?

1 MR. LANDIS: Not from the movants, Your Honor.

2 MR. LAURIA: No, Your Honor.

3 THE COURT: All right. Thank you all for gathering
4 so quickly. That will conclude this hearing. Court will be
5 adjourned.

6 UNIDENTIFIED SPEAKER: Thank you.

7 UNIDENTIFIED SPEAKER: Thank you.

8 * * * * *

9 **C E R T I F I C A T I O N**

10 I, KELLI R. PHILBURN, court approved transcriber,
11 certify that the foregoing is a correct transcript from the
12 official electronic sound recording of the proceedings in the
13 above-entitled matter, and to the best of my ability.

14

15 /s/ Kelli R. Philburn

DATE: SEPTEMBER 3, 2008

16 KELLI R. PHILBURN

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