

**Debtors' Ninth Omnibus Motion to Reject Certain Unexpired Leases and Executory Contracts Pursuant to Section 365(a) of the Bankruptcy Code *Nunc Pro Tunc* to March 25, 2009 (the "Ninth Rejection Motion")**

By the Ninth Rejection Motion, the Debtors seek entry of an order authorizing them to reject certain leases and executory contracts (collectively, the "Contracts") that, in the Debtors' opinion, are either burdensome or unnecessary to their ongoing business operations. Specifically, the Debtors seek to reject the following Contracts, retroactive to March 25, 2009:

1. a settlement agreement between Debtor Communities Finance Company, LLC ("CFC") and two community associations, pursuant to which CFC had agreed, among other things, to construct certain improvements to the Cypress Island community (the "Settlement Agreement");<sup>1</sup>
2. a related construction and payment agreement with the third party to whom the Debtors assigned the Settlement Agreement, pursuant to which WCI agreed to construct and pay for the same improvements contemplated by the Settlement Agreement (the "Construction and Payment Agreement");
3. a personal property lease agreement for trailers that the Debtors previously used as office space but are now vacant (the "Trailer Lease");
4. a license and consulting agreement, pursuant to which the Debtors licensed, among other things, the right to use certain trademarks, materials and know-how provided by Le Cordon Bleu International BV ("Le Cordon") at the Debtors' One Bal Harbour property in exchange for a royalty fee (the "Licensing Agreement");
5. an endorsement agreement with Rick Smith Enterprises, Inc. relating in part to the use of Rick Smith's likeness for commercial endorsement purposes (the "Endorsement Agreement"); and
6. a personal property lease agreement in connection with six golf carts (the "Golf Cart Lease").

The Debtors also request that the relief requested by the Rejection Motion be severable as to each Contract, such that the Debtors, in their sole discretion, may modify or withdraw their request to reject any Contract at or prior to the hearing on the Ninth Rejection Motion, without prejudicing the relief sought with respect to the other Contracts.

After reviewing the Contracts, the Debtors have determined that they are not a source of value to the Debtors' future operations or the Debtors' estates. The Debtors estimate that rejection of the

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<sup>1</sup> WCI also guaranteed the performance of CFC's obligations under the Settlement Agreement. While the Settlement Agreement was subsequently assigned by the Debtors to a third party, the Debtors were not released from their obligations thereunder.

Contracts will save the Debtors' estates in excess of \$1.3 million in administrative expense obligations.

The Debtors assert that (i) as they are no longer selling homes in the Cypress Island community, the Settlement Agreement and the Construction and Payment Agreement are burdensome to their estates because such agreements potentially require the Debtors to spend money without obtaining any postpetition benefit, (ii) the trailers that are subject to the Trailer Lease are vacant and of no use to the Debtors' estates, (iii) Le Cordon has ceased providing services under the License Agreement and the costs associated with the License Agreement exceed the benefit it provides the Debtors' estates, (iv) the Debtors no longer need to use the likeness of Rick Smith under the terms of the Endorsement Agreement, and (v) the Golf Carts were designed for showing prospective purchasers home sites for sale in certain communities, and the Debtors no longer have use for such carts because they are not currently building homes in such communities.

The Debtors assert that they have not been able to find any party willing to accept assignment of any of the Contracts, despite the Debtors' diligent efforts. The Debtors have concluded that the Contracts are burdensome and unnecessary for the Debtors' successful reorganization and, therefore, rejection of the Contracts is in the best interest of the Debtors and their estates.