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Club Membership Deposits in Bankruptcy

As noted in our blog post “Club Membership Deposits -- From Gold to Paper” posted on Aug. 4, 2011, many membership deposit clubs have resorted to bankruptcy to restructure their membership deposit debt liability. Below are descriptions of how the membership deposits have been restructured in four bankruptcies.

Dominion Club. Members will receive in full satisfaction of their membership deposit claims, distributions pro rata from an escrow account to be funded in part from future new membership sales proceeds and certain contributions from a club owner affiliate. Each member had the option to receive in lieu of distributions from the escrow account an upfront payment equal to 11% of the member's membership deposit.

Amelia Island. The purchaser of the multiple golf course club and resort entered into a lease/purchase agreement with a club member entity with respect to one golf course and clubhouse. Members received in satisfaction of their membership deposit claims membership rights in the member owned club. Under the new Membership Plan, a golf member who converted to equity membership by paying \$2,000 was to receive a refund of 30% of the membership deposit after resignation from available funds, increasing to 80% over a seven year period. Golf members who did not convert to equity membership were to receive a refund of 30% of their membership deposit after resignation from available funds.

Palmas del Mar. A government affiliated entity that acquired the club established a fund to pay, first, administrative claims and a tax claim, and then, if any amount remained, members would receive a pro

rata share of the balance based on the present value of their membership deposit liability. It was expected that club members would be paid a very small percentage of their membership deposits.

PGA West. Membership deposits payable after resignation and reissuance will be paid at 50% of the total membership deposit; starting two years after the date of the reorganization plan, the refund percentage will increase by 5% each year. Members retain their right to 100% of their membership deposits at the end of 30 years and after death subject to annual caps on the total amount of payments under such provisions.

The individual circumstances for each club impacted the final provision governing the membership deposit restructure.

Membership deposits must be restructured so that members as a class of creditors vote in favor of the reorganization plan or the bankruptcy court determines that the reorganization plan does not unfairly discriminate and is fair and equitable. The club governing documents and the economics of the restructure must be carefully reviewed.

Author

This GT Alert was prepared by:

- [Glenn A. Gerena](#) | +1 954.768.8223 | gerenag@gtlaw.com

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