

UNITED STATES BANKRUPTCY COURT

PROOF OF CLAIM

Name of Debtor: The Cliffs Club & Hospitality Group Inc. U.S. Bankruptcy Court, District of South Carolina

Case Number: 12-01220

RECEIVED

MAR 26 2012

BMC GROUP COURT USE ONLY

NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property):

CHARLES J. KIRCHER JR.

Check this box if this claim amends a previously filed claim.

Court Claim Number: (If known)

Filed on:

Name and address where notices should be sent:

Charles Kircher 83 BUTTERCUP LANE SO. GRAFTON, MA 01560 Telephone number: 774-293-1336 email: thekirchers@yahoo.com

Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.

Name and address where payment should be sent (if different from above):

Telephone number: email:

1. Amount of Claim as of Date Case Filed: \$ 20,000.00 TWENTY THOUSAND DOLLARS.

If all or part of the claim is secured, complete item 4.

If all or part of the claim is entitled to priority, complete item 5.

Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.

2. Basis for Claim: REFUND of KEOWEE VINYARDS GOLF MEMBERSHIP (See instruction #2)

3. Last four digits of any number by which creditor identifies debtor:

K-58 MEMBERSHIP NUMBER

3a. Debtor may have scheduled account as:

(See instruction #3a)

3b. Uniform Claim Identifier (optional):

(See instruction #3b)

4. Secured Claim (See instruction #4)

Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.

Nature of property or right of setoff: Real Estate Motor Vehicle Other Describe:

Value of Property: \$

Annual Interest Rate % Fixed or Variable (when case was filed)

Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any:

\$

Basis for perfection:

Amount of Secured Claim: \$

Amount Unsecured: \$

5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.

Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).

Wages, salaries, or commissions (up to \$11,725\*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. § 507 (a)(4).

Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5).

Amount entitled to priority:

Up to \$2,600\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7).

Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8).

Other - Specify applicable paragraph of 11 U.S.C. § 507 (a)( ).

\$



\*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)

**7. Documents:** Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

**8. Signature:** (See instruction #8)

Check the appropriate box.

- I am the creditor.       I am the creditor's authorized agent.       I am the trustee, or the debtor, or their authorized agent.       I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)  
 (Attach copy of power of attorney, if any.)      (See Bankruptcy Rule 3004.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: CHARLES J. KIRCHER JR.  
 Title: \_\_\_\_\_  
 Company: \_\_\_\_\_  
 Address and telephone number (if different from notice address above): \_\_\_\_\_

Charles J. Kircher Jr.      18 MARCH, 2012  
 (Signature)      (Date)

Telephone number: \_\_\_\_\_ email: \_\_\_\_\_

*Penalty for presenting fraudulent claim:* Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

**INSTRUCTIONS FOR PROOF OF CLAIM FORM**

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

**Items to be completed in Proof of Claim form**

**Court, Name of Debtor, and Case Number:**

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

**Creditor's Name and Address:**

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

**1. Amount of Claim as of Date Case Filed:**

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

**2. Basis for Claim:**

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

**3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:**

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

**3a. Debtor May Have Scheduled Account As:**

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

**3b. Uniform Claim Identifier:**

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

**4. Secured Claim:**

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

**5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).**

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

**6. Credits:**

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

**7. Documents:**

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

**8. Date and Signature:**

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

Support

Material

for

Claim —

Charles I. Kinchen Jr.



May 16, 2008

Mr. Chuck Kircher  
83 Buttercup Lane  
South Grafton, MA 01560

Dear Mr. Kircher,

It is with regret we write at this time to confirm acknowledgment of your resignation of your **Cliffs at Keowee Vineyards Golf Membership** with The Cliffs Golf and Country Club. Your resignation is effective with the receipt of your written resignation notice and will be effective May 15, 2008. You are obligated for payment of dues for the month in which we received the notice. Your refund will be processed in accordance with the refund policies and procedures as outlined in the Master Membership Plan. If you need a copy of this document, please let us know. In summary, the refund is processed as follows:

- Your Keowee Vineyards Golf Membership refund of \$20,000 is placed in a priority waiting list based on the classification and location of your membership; you are currently 8<sup>th</sup> in line. The Master Membership Plan outlines the refund procedure and explains that such refund will be paid within a reasonable period of time following such re-issuance of the original membership, consistent with the Cliffs Clubs processing of accounts payable, and will be processed only on the basis of one (1) refund for every five (5) memberships issued by the Club from its previously unissued memberships within the same classification as the original membership.

As part of the acknowledgment of your resignation, the club requires the following conditions to be met prior to the issue of any refund:

- Your Member account needs to be paid in full and show a zero balance.
- Please return any membership card(s) by mail.

I wish you the best in your future endeavors. If you have any questions regarding the procedures as outlined above, please call the Membership Office at 864-660-1160.

Kind regards,

Nate Weyand  
Membership Director

The Cliffs Golf and Country Clubs  
Membership Office  
3598 Highway 11, Travelers Rest, South Carolina 29690  
(864) 660-1100  
[www.cliffscommunities.com](http://www.cliffscommunities.com)



**RE: RE: Membership refund**

Tuesday, December 27, 2011 4:56 PM

From: "Ashley Blevins" <ablevins@cliffscommunities.com>  
To: "chuck kircher" <thekirchers@yahoo.com>

Mr. Kircher,

You are still in the 7<sup>th</sup> position. Unfortunately the list is tied to real estate and membership sales. If sales are down, then the movement of the list suffers.

I am sorry that I do not have better news for you.

Kind regards,  
Ashley

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**From:** chuck kircher [mailto:thekirchers@yahoo.com]  
**Sent:** Saturday, December 17, 2011 2:41 PM  
**To:** Ashley Blevins  
**Subject:** Fw: RE: Membership refund

Dear Ashley,

I sent the below message to Meghan Boggs and she informed me I should contact you for an update on my Membership refund.

Can you please update me on the status of my membership refund.

Also, has the refund policy changed since I sold my property? such as number of new memberships/refund? It appears as though there is very little advancement. Are there other factors slowing this rate of refund.

For example, if someone purchases a property and the membership is "included" in the purchase price as an incentive or bonus, does this count towards the "New membership" count related to refunds? Are these type deals being made to encourage sales?

Thank you for your help  
Chuck Kircher

--- On Sat, 12/17/11, chuck kircher <thekirchers@yahoo.com> wrote:

From: chuck kircher <thekirchers@yahoo.com>  
Subject: RE: Membership refund  
To: "Magan Boggs" <mboggs@cliffscommunities.com>  
Date: Saturday, December 17, 2011, 10:17 AM

Dear Megan,

Can you please update me on the status of my membership refund.

Also, has the refund policy changed since I sold my property? such as number of new memberships/refund? It appears as though there is very little advancement. Are there other factors slowing this rate of refund.

For example, if someone purchases a property and the membership is "included" in the purchase price as an incentive or bonus, does this count towards the "New membership" count related to refunds? Are these

type deals being made to encourage sales?

Thank you for your help

Chuck Kircher

--- On Fri, 6/24/11, Magan Boggs <[mboggs@cliffscommunities.com](mailto:mboggs@cliffscommunities.com)> wrote:

From: Magan Boggs <[mboggs@cliffscommunities.com](mailto:mboggs@cliffscommunities.com)>

Subject: RE: Membership refund

To: "chuck kircher" <[thekirchers@yahoo.com](mailto:thekirchers@yahoo.com)>

Date: Friday, June 24, 2011, 11:33 AM

Hi Mr. Kircher,

You are currently 7th in line for your Keowee Vineyards Golf Membership refund.

Thanks,

Magan

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**From:** chuck kircher [<mailto:thekirchers@yahoo.com>]

**Sent:** Thursday, June 23, 2011 7:25 AM

**To:** Magan Boggs

**Subject:** Re: Membership refund

Dear Magan,

Can you please update me on the status of my membership refund.

Thank you

Chuck Kircher

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**From:** Magan Boggs <[mboggs@cliffscommunities.com](mailto:mboggs@cliffscommunities.com)>

**To:** "thekirchers@yahoo.com" <[thekirchers@yahoo.com](mailto:thekirchers@yahoo.com)>

**Sent:** Thursday, October 22, 2009 9:14 AM

**Subject:** FW: Membership refund

Hi Mr. Kircher,

Thank you for your email, please allow me to respond. You are currently 10th in line for the refund of your Keowee Vineyards Golf Membership. According to the 5 in, 1 out process we need to sell 3 more Keowee Vineyards Golf Memberships and you will move up a spot.

If you need anything further, please let me know.

Thanks,

Magan

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**Magan Boggs**

*Membership Services Assistant*

864.371.1047 | office

864.371.1538 | fax

800.371.1000 | toll-free

[mboggs@cliffscommunities.com](mailto:mboggs@cliffscommunities.com)

[www.cliffscommunities.com](http://www.cliffscommunities.com)