

IN THE CIRCUIT COURT  
OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

TIMOTHY PHILLPOTTS, SUSAN TAYLOR,  
BETHANN E. RITTER SNYDER, ERIC HILLIS  
and KAREN CONFER, each individually  
and as Class Representatives,

Case No.: 2017-CA-006570-O

Plaintiffs,

CLASS REPRESENTATION

vs.

GOLD CROWN RESORT MARKETING, INC.  
a Florida corporation,

Defendant.

---

**ORDER GRANTING PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT AGREEMENT**

THIS CAUSE came before the Court on March 18, 2021, upon the Joint Motion for Preliminary Approval of Class Action Settlement Agreement, and the Court having reviewed the record, heard argument from counsel for Plaintiffs, BETHANN E. RITTER SNYDER, ERIC HILLIS and KAREN CONFER, and counsel for Defendant, GOLD CROWN RESORT MARKETING, INC. (“Gold Crown”), and being otherwise fully advised in the premises, it is hereby,

**ORDERED AND ADJUDGED** that the Joint Motion for Preliminary Approval of Class Action Settlement Agreement is **GRANTED** as follows:

**Preliminary Approval of the Proposed Settlement**

1. The Court has subject-matter jurisdiction over the subject matter of this action, as well as the Settlement Agreement, and has personal jurisdiction over the parties and the Settlement Class.

2. The Court preliminarily approves the Settlement Agreement and finds that: (a) the proposed settlement resulted from extensive arm's length negotiations and was concluded only after Class Counsel had duly investigated Plaintiffs claims; (b) the proposed settlement of this action makes available valuable consideration commensurate with the alleged harm; and (c) the proposed settlement evidenced by the Settlement Agreement is sufficiently fair, reasonable and adequate to warrant sending notice of this action and the proposed settlement to the Settlement Class Members and holding a full hearing on the proposed settlement.

### **Preliminary Certification of the Class Settlement**

3. For purposes of settlement of this action (and only for such purposes, and without an adjudication on the merits or a determination of whether a class or classes should be certified if the settlement is not approved or does not otherwise become final), and pursuant to Florida Rule of Civil Procedure 1.220(b)(2) and (3), this action is preliminarily certified as a class action on behalf of the following Settlement Class, as more fully defined in the Settlement Agreement as follows:

Those **10,746 Gold Crown Members** who currently hold a membership status of 'Renewal Fee Due Disabled' or 'Enabled Member' and who purchased their lifetime or multi-year Gold Crown membership under a written Membership Agreement offered and sold by one of the forty-one (41) Former Authorized Affiliates of Gold Crown (specifically identified herein at Section 1.14).

Within the Settlement Class, there are **1,760 Gold Crown Members** who currently hold a membership status of 'Renewal Fee Due Disabled, and these Members shall comprise the Awards Sub-Class, and;

Within the Settlement Class, the other **8,986 Gold Crown Members** currently hold a membership status of 'Enabled Member' and these Members shall comprise the Injunctive Sub-Class.

The Court hereby preliminarily certifies the Settlement Class.

4. The Court further preliminarily finds for purposes of the settlement of this action (and only for such purposes, and without an adjudication of the merits or a determination of whether a class should be certified if the settlement is not approved or does not otherwise become final), that the requirements of the Florida Rule of Civil Procedure 1.220(b)(2) and (3), and any other applicable laws have been met in that: a) the members of the Settlement Class are so numerous that separate joinder of each member is impracticable; b) the claims or defenses of the representative parties raise questions of law or fact common to the questions of law or fact raised by the claims or defenses of each member of the Settlement Class; c) the claims or defenses of the representative parties are typical of the claims or defenses of each member of the Settlement Class; d) the representative parties can fairly and adequately protect and represent the interests of each member of the Settlement Class; e) final declaratory relief concerning the class is appropriate, and; f) the questions of law or fact common to the claims or defenses of the representative parties and the claims or defenses of each member of the Settlement Class predominate over any questions of law or fact affecting only individual members of the Settlement Class, and class representation is superior to other available methods for the fair and efficient adjudication of the controversy. In making the above findings, the Court notes that, because this action is being settled rather than litigated, the Court need not consider manageability issues that might be presented in this case.

*See Amchem Prods., Inc. v. Windsor*, 117 S. Ct. 2231, 2248 (1997).

5. In making these preliminary class findings, the Court has also considered, among other factors: a) the interests of members of the Settlement Class in individually controlling the prosecution or defense of separate actions; b) the impracticability or inefficiency of prosecuting or defending separate actions; c) the extent and nature of any litigation concerning these claims already commenced; and d) the desirability of concentrating the litigation of the claims in a particular forum.

6. Plaintiffs, BETHANN E. RITTER SNYDER, ERIC HILLIS and KAREN CONFER, are designated as the representatives of the Settlement Class for the purpose of seeking approval of the settlement of this action, and are referred to herein as "Plaintiffs" or "Class Representatives".

7. Defendant, GOLD CROWN RESORT MARKETING, INC., is referred to herein as "Gold Crown" or "Defendant".

8. The following attorneys are hereby preliminarily approved and appointed as counsel for the Settlement Class for purposes of seeking approval of the settlement of this action, and are referred to herein, either separately or collectively as "Class Counsel": **Christopher T. Hill, Esq.** and **Steven R. Main, Esq.**, Hill, Rugh, Keller & Main, P.L., 390 North Orange Avenue, Suite 1610, Orlando, Florida 32801. The Court finds that Plaintiff and Class Counsel are adequate representatives of the Settlement Class.

9. The appointment of American Legal Claim Services, LLC. as the "Class Administrator," pursuant to the Settlement Agreement, is approved for purposes of providing notice, receiving and administering requests for opt-out or exclusion, Objections, Notices of Intention to Appear, and other settlement-related communications with members of the respective Settlement Class, processing and administering payment of Settlement Relief as set forth in the Settlement Agreement, and otherwise administering the proposed settlement pursuant to the Settlement Agreement and the Order(s) of the Court. The Class Administrator shall promptly furnish Class Counsel and Gold Crown's counsel with copies of any objections, Opt-Out Exclusion Requests, motions to intervene, notice of intention to appear, or other communications that come into its possession, as set forth in the Settlement Agreement.

### **Final Fairness Hearing**

10. A hearing (the "Fairness Hearing") will be held virtually via **ZOOM on the 7th day of June 2021, at 11 a.m., (THE LINK CAN BE FOUND BELOW WITH ACCESS THROUGH THE TELEPHONE OR VIDEOCONFERENCE)** to determine:

- (a) Whether this action should be finally certified as a class action for settlement purposes;
- (b) Whether the proposed settlement of this action should be approved as fair, reasonable and adequate;
- (c) whether a Final Order and Judgment approving the settlement and dismissing the Lawsuit on the merits and with prejudice against Plaintiff and the Settlement Class Members should be entered, and;
- (d) Whether Class Counsel's application for an award of attorneys' fees and expenses should be approved.

### **Pre-Hearing Notice to Settlement Class Members**

11. Pursuant to the terms of the Settlement Agreement, Gold Crown shall cause, through the Class Administrator, the mailing of the Class Notice Forms for both the Injunctive Sub-Class and the Awards Sub-Class (collectively the "Class Notice"), and the Award Selection Form for the Awards Sub-Class ("Claim Form"), which are hereby approved by the Court. The Class Notice and Claim Form shall be provided to potential Class Members in the manner set forth below:

- (a) **Notice by Mail.** Within ten (10) days following entry of the Order of Preliminary Approval, the Class Administrator shall mail the Class Notice and Claim Form, to potential Settlement Class Members, at the Settlement

Class Member's last known address of record, based upon the current electronic data and records reasonably available to Gold Crown. Neither Gold Crown nor the Class Administrator nor Class Counsel shall be obligated to provide any other form of delivery or notice.

- (b) **Re-mailing and Additional Notice.** In the event that a mailing to a Settlement Class Member containing the Class Notice and Claim Form is returned to the Class Administrator, the Class Administrator shall mail the Class Notice and Claim Form to the forwarding address, if one is provided by the United States Postal Service. If a forwarding address is not provided by the United States Postal Service, the Class Administrator shall attempt to locate a more current address for the Settlement Class Member via the National Change of Address database and thereafter redeliver the Class Notice and Claim Form as appropriate.
- (c) **Proof of Mailing.** At or before the Fairness Hearing, the Class Administrator shall file with the Court a proof of mailing of the Class Notice, along with the list of Settlement Class Members who have timely and properly opted out of the Proposed Settlement, and an affidavit attesting to the accuracy of such list.

12. Having considered, among other factors: (a) the cost of giving notice by various methods, (b) the resources of the parties, (c) the stake of each Settlement Class Member, and (d) the possibility that certain Settlement Class Members might desire to exclude themselves from the Settlement Class or appear individually, the Court finds that notice given in the form and manner provided in this Order, including the forms of the Claim Form, is the best practicable notice and is reasonably calculated, under the circumstances, to apprise the Settlement Class Members: (i) of

the pendency of this action, (ii) of their right to exclude themselves from the Settlement Class and the proposed settlement, (iii) that any judgment, whether favorable or not, will bind all Settlement Class Members who do not request exclusion, and (iv) that any Settlement Class Member who does not request exclusion may object to the settlement and, if he or she desires, enter an appearance personally or through counsel. The Court further finds that the Class Notice and Claim Form are written in plain English and are readily understandable by Settlement Class Members, and that the Class Notice is reasonable and constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice. The Court further finds that details regarding this class action, including settlement documents and related information, are available at [www.GoldCrownClassActionSettlement.com](http://www.GoldCrownClassActionSettlement.com).

13. In sum, the Court finds that the proposed notice, texts and methodology, including the Claim Form, are reasonable, that they constitute due, adequate and sufficient notice to all persons entitled to be provided with notice, and that they meet the requirements of the Florida Rules of Civil Procedure, the Constitutions of the United States (including the Due Process Clause) and Florida, the Rules of this Court, and any other applicable rules or law.

#### **Exclusion from Settlement Class**

14. Any Settlement Class Member, other than the Class Representatives, who wish to opt-out and be excluded from the Settlement Class must timely submit a written Opt-Out Exclusion Request to the Class Administrator in the manner set forth below:

- (a) Any written Opt-Out Exclusion Request must contain the following: 1) a prominent identifying reference to the Lawsuit as follows, “*Phillpotts et al. v. Gold Crown Resort Marketing, Inc.*, Case No. 2017-CA-006570-O”; 2) the Settlement Class Member's full legal name and any aliases; 3)

the Settlement Class Member's address; 4) a clear and unequivocal expression of the Settlement Class Member's desire to opt out or be excluded from the Settlement Class, and; 5) the signature of the Settlement Class Member or a legally authorized representative of the Settlement Class Member, indicating the name and position of the signatory. A separate Opt-Out Exclusion Request must be submitted by each Member requesting exclusion from the settlement;

- (b) Any written Opt-Out Exclusion Request must be sent by first-class mail, postage prepaid, and postmarked no later than thirty (30) days after mailing of the Class Notice, and addressed to the Class Administrator at the address identified in the Class Notice;
- (d) Any exclusion must be exercised individually by a Settlement Class Member, not as or on behalf of a group, class, or subclass, except that an Opt-Out Exclusion Request may be submitted by a Settlement Class Member's legally authorized representative; and
- (e) If the Opt-Out Exclusion Request is submitted by someone other than the Settlement Class Member, then the third-party signor (e.g. attorney,) must include the following attestation on the Opt-Out Exclusion Request: "I certify and attest to the Court that the Settlement Class Member on whose behalf this Opt-Out Exclusion Request is submitted, has been provided a copy of and opportunity to read the Class Notice and thereafter specifically requested to be excluded from this Settlement Class."

15. At or before the Fairness Hearing, the Class Administrator shall file with the Court (under seal or as may otherwise be ordered by the Court, if necessary to protect personal

information) a list identifying all persons or entities who timely submitted written requests to be excluded from the Settlement Class in compliance with this Order and the Notice of Proposed Class Action Settlement.

16. If the proposed settlement is approved, any Class Member who has not submitted a timely, written request for exclusion from the Settlement Class complying with this Order and the Notice of Proposed Class Action Settlement shall be bound by all subsequent proceedings, orders and judgments in this action, even if such Settlement Class Member never received actual notice of the Lawsuit or this Proposed Settlement.

### **Objections**

17. Any Class Member who has not excluded himself or herself from the Settlement Class may submit a written objection for the Court's consideration, including, without limitation, objections to the final certification of the Settlement Class, the fairness, reasonableness, or adequacy of the proposed settlement, the adequacy of the representation by the Class Representatives or by Class Counsel, or the request of Class Counsel for fees and expenses, in the manner set forth herein. Each objection must be in writing and, to be effective, a notice of intent to object to the Proposed Settlement must:

- (a) Include the name of the case and case number;
- (b) Provide the name, address, telephone number, and signature of the Settlement Class Member filing the objection;
- (c) State the specific reason(s) why the Settlement Class Member objects to the Proposed Settlement;
- (d) Contain the name, address, bar number, and telephone number of the objecting Settlement Class Member's counsel, if represented by an

attorney. If the Settlement Class Member is represented by an attorney, he or she must comply with all applicable rules of the Court;

- (e) Provide documentary proof that he or she is a member of the Settlement Class; and
- (f) State whether the objecting Settlement Class Member intends to appear at the Fairness Hearing, either in person or through counsel.

The Settlement Class Member must file the written statement with the Court and serve copies upon the following:

Class Counsel	Gold Crowns Counsel
Steven R. Main, Esq. Hill, Rugh, Keller & Main, P.L. 390 N. Orange Ave, Suite 1610 Orlando, FL 32801	David A. Shontz, Esq. SHUTTS & BOWEN LLP 300 S. Orange Ave, Suite 1600 Orlando, FL 32801

Any such written objections must be filed with the Court and served upon the above counsel postmarked no later than thirty (30) days after mailing of the Class Notice. If the objection fails to comply with the requirements of this Order, it will not be considered by the Court.

18. A Class Member may submit an objection or may exclude himself or herself from the Settlement, but may not do both. The filing of an objection constitutes a waiver of the right to request exclusion, and the submission of an Opt-Out Exclusion Request constitutes a waiver of the right to object.

19. Any Class Member who does not timely file and serve a written objection complying with the terms of this Order and the Notice of Proposed Class Action Settlement shall be deemed to have waived, and shall be foreclosed from raising, any objections to the settlement, and any untimely objections shall be barred.

20. Furthermore, any attorney hired by a Settlement Class Member for the purpose of objecting to any term or aspect of this Agreement or to the Proposed Settlement or for purpose of intervening in the Lawsuit to provide to the Class Administrator (who shall forward it to Class Counsel and Gold Crown's counsel) and to file with the Court a notice of appearance within twenty (20) days of the date the Class Notice was postmarked.

**Appearances at the Fairness Hearing**

21. Any Class Member who files and serves a timely, written objection pursuant to the terms of this Order may also appear at the Fairness Hearing, either in person or through counsel retained at the Class Member's expense, by timely submitting a Notice of Intent to Appear in the manner set forth below:

- (a) Class Members or their attorneys intending to appear at the Fairness Hearing must file with the Court and serve upon Class Counsel and counsel for Gold Crown, at the addresses specified above in this Order, a Notice of Intent to Appear. Such Notice of Intent to Appear must contain the following information, if the Settlement Class Member or its counsel requests permission to speak at the Fairness Hearing:
  - (i) A detailed statement of the legal and factual basis for each objection;
  - (ii) A list of any and all witnesses whom the Settlement Class Member may seek to call at the Fairness Hearing, with the address of each witness and a summary of his or her proposed testimony (whether any such testimony is allowed will be in

the discretion of the Court, in accordance with the rules of the Court);

- (iii) A detailed description of any and all evidence the Settlement Class Member may offer at the Fairness Hearing, including photocopies of any and all exhibits which the objector may seek to introduce at the Fairness Hearing (whether any such evidence is admitted or otherwise considered will be determined by the Court, in accordance with the rules of the Court);
- (iv) A list of any legal authority the Settlement Class Member will present at the Fairness Hearing; and
- (v) Documentary proof of membership in the Settlement Class.

- (b) Notices of Intent to Appear must be filed with the Court and served upon the above Class Counsel and Gold Crown's counsel at the addresses set forth above in this Order postmarked no later than 30 days after mailing of the Class Notice.

22. Any Class Member who does not timely file and serve a Notice of Intent to Appear complying with this Order and the Class Notice shall not be permitted to appear at the Fairness Hearing, except for good cause shown.

#### **Distribution of Awards to Members of Awards Sub-Class**

23. The injunctive relief to the Settlement Class Members and the compensatory relief to the Members of the Awards Sub-Class shall be awarded and distributed in accordance with Section 4 of the Settlement Agreement. The distribution of awards to Members of the Awards

Sub-Class shall be made within thirty (30) days of the Final Fairness Hearing and this Court's entry of the Judgment and order of dismissal.

**Other Provisions**

24. Capitalized terms used in this Order that are not otherwise defined in this Order have the meanings assigned to them in the Settlement Agreement.

25. No discovery with regard to the Settlement Agreement or the Proposed Settlement and its administration shall be permitted by any Settlement Class Member or any other person, other than as may be directed by this Court upon a proper showing seeking such discovery by motion properly filed with this Court, noticed and served in accordance with the governing rules of procedure.

26. Only the Class Administrator, the Court, the Clerk of the Court, Class Counsel, and Gold Crown's counsel and their designated agents shall have access to Opt-Out Exclusion Requests, objections, notices of intention to appear, and any other settlement-related communications, except as otherwise provided in the Settlement Agreement.

27. Gold Crown and Class Counsel are authorized to use and disclose such information as is contemplated and necessary to effectuate the terms and condition of this Order and the Settlement Agreement, provided that Gold Crown and Class Counsel protect the confidentiality of the names and addresses of persons insured by Gold Crown or other confidential, proprietary, or personal non-public information pursuant to the terms of this Order and/or the Settlement Agreement.

28. This Order shall become null and void, and shall be without prejudice to the rights of the parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if (a) the proposed settlement is not finally approved by the

Court, or does not become final pursuant to the terms of the Settlement Agreement; or (b) the proposed settlement is terminated in accordance with the Settlement Agreement or does not become effective as required by the terms of the Settlement Agreement for any other reason. In such event, the proposed settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's Orders, including this Order, shall be used or referred to for any purpose whatsoever in this or any other action or proceeding.

29. This Order shall not be construed or used as an admission, concession, declaration or finding by or against Gold Crown of any fault, wrongdoing, breach or liability, or of the appropriateness of certifying a class for litigation purposes. Moreover, this Order shall not be construed or used as an admission, concession, declaration or finding by or against Plaintiff or the Class Members that their claims lack merit or that the relief requested in their pleadings is inappropriate, improper or unavailable, or as a waiver by any party of any defenses or claims he, she or it may have. Other than for purposes of enforcing this Order or the Settlement Agreement, if finally approved, neither this Order, nor the Settlement Agreement (or any communications or proceedings in connection therewith), shall be offered or received in evidence in this action or any other action or proceeding, or be used or asserted in any way as an admission, concession or evidence of any matter whatsoever.

30. The Court may continue or adjourn the Fairness Hearing without further written notice to the Settlement Class.

31. Preliminary certification and all actions associated with preliminary certification are undertaken on the condition that the certification and designations shall be automatically vacated if this Settlement Agreement is terminated or is disapproved in whole or in part by the Court, Florida's Fifth District Court of Appeal, or the Florida Supreme Court.

32. Gold Crown shall retain all rights to assert that the Lawsuit may not be certified as a class action except for settlement purposes.

ZOOM INFORMATION FOR THE JUNE 7, 2021 FAIRNESS HEARING

Join Zoom Meeting

<https://zoom.us/j/96202311942?pwd=RFBSSFVkejBVL2VJSVhSZ0ZxaEQvUT09>

Meeting ID: 962 0231 1942

Passcode: 355405

One tap mobile

Find your local number: <https://zoom.us/u/abXKWh51GP>

DONE AND ORDERED in Chambers, in Orlando, Orange County, Florida, this 23rd day of March, 2021.



eSigned by Denise Beamer 03/23/2021 12:48:41 WTy-GEaJ

DENISE KIM BEAMER,  
Circuit Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded via e-mail on this 23rd day of March, 2021 to the following: **David A. Shontz, Esquire**, Shutts & Bowen, LLP, P.O. Box 4956, Orlando, Florida 32802-4956 at e-mail: [dshontz@shutts.com](mailto:dshontz@shutts.com); [tmartin@shutts.com](mailto:tmartin@shutts.com) [mfarmer@shutts.com](mailto:mfarmer@shutts.com), **Steven R. Main, Esquire**, Hill, Rugh, Keller & Main, P.L., 390 North Orange Avenue, Suite 1610, Orlando, Florida 32801 at e-mail: [filings@hrkmlaw.com](mailto:filings@hrkmlaw.com), and; **Jake Monk, Esquire**, Shutts & Bowen LLP, 200 South Biscayne Blvd., Suite 4100, Miami, Florida 33131 e-mail: [jmonk@shutts.com](mailto:jmonk@shutts.com).



Judicial Assistant

