

## BRIEFS



## BERNARD ACQUIRES R.I. FACILITY

PORTSMOUTH, R.I.—Bernard Investments, Ltd., a Rhode Island development company that builds courses and residential subdivisions, acquired nine-hole Pocasset Country Club at auction for the price of \$1.15 million. The course had been in Chapter 11 bankruptcy for almost a year, and the auction was part of a court-ordered liquidation. The loan acquisition was negotiated and funded by Clubhouse Capital, a Rhode Island-based golf finance company which has worked with Bernard on previous deals. Bernard will complete about \$200,000 in improvements to the course and clubhouse. The course will be managed by Bernard Golf & Asset Management Company, a newly formed affiliate of Bernard Investments, Ltd. The management company is headed by Don Carpenter, formerly of American Golf Corp. and National Fairways, Inc. Bernard Investments, Ltd. is considering several other golf course acquisitions in the region.

## FREE MARKETING SERVICE OFFERED



LAS VEGAS — MasterMind Communications, a leading marketing and Internet consulting firm, in conjunction with the newly formed

World Golf Association (WGA), has created a new marketing program for course and range owners to promote their courses worldwide called "Partners 4 Profit." Course owners who participate will have their courses listed as a WGA Member Course, have their courses promoted to all World Golf Association (soon to be 100,000+) members, get a free course listing and web-page link on the high traffic-MasterMind Sports "Golf Links - The Best Golf Courses To Play In The World" web site and more. For further information, contact Fred Conquest, MasterMind Communications, 9353 West Twain Avenue, Suite 165, Las Vegas, NV, 89117; telephone 702-363-1174.

## LEGG MASON'S WELLS MOVES OFFICE

LUTHERVILLE, Md. — David Wells of the Sports Consulting & Finance Group of Legg Mason Real Estate Services has moved to 2330 West Joppa Road, Suite 375, Lutherville, Md. 21093; telephone 410-296-0701; facsimile 410-321-8049.

## LEGAL CORNER

## Harassment, discrimination part of golf workplace

By LAWRENCE ROGAK

**B**oss, you had better think twice before commenting on how tight that co-worker's skirt looks, or passing around jokes based on race, sex or national origin. You might have to reach deep into the company's coffers to pay for it.

Businesses have always had to worry about risk and lawsuits, but this was usually in connection with injuries. But now, injured feelings can present a bigger economic hazard than injured bodies, and savvy business owners have no choice but to familiarize themselves with the potential risks in this area and to put into place a set of rules to deal with it.



*Lawrence N. Rogak is the principal attorney in The Law Office of Lawrence N. Rogak, a 10-attorney firm in Oceanside, N.Y. which specializes in defending businesses in liability lawsuits. His telephone number is 1-888-LET'EM SUE.*

Employees who have been affected by real or perceived discrimination or harassment in the workplace have been turning in increasing numbers to the courts, where juries have, of late, shown an alarming willingness to award millions of dollars in compensatory damages for emotional injuries, even where the alleged victim has not shown any economic harm.

In any business, management must make it a goal to rid offensive behavior from the workplace, and to have written procedures in place to respond to it when it occurs. The Courts usually decline to hold a company liable when it can provide documentary evidence that it complies with the law, even when an employee or supervisor has engaged in an offensive or discriminatory act.

There are three steps to creating an effective workplace policy that can help immunize employers from harassment/

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## PERSONNEL CORNER

## Our golfing guests have arrived

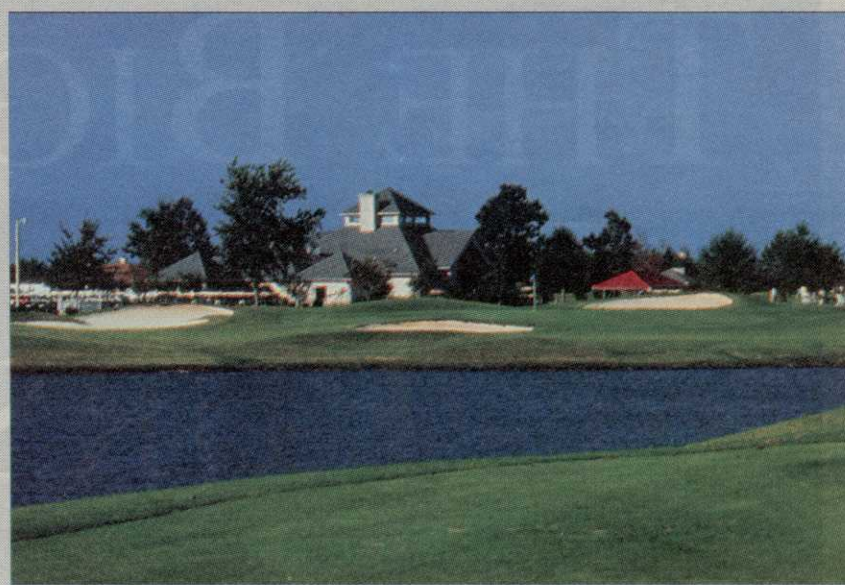
By VINCE ALFONSO

The Bible has a lot to say about how you treat guests. The Orient has forever been known for its traditions concerning guests. The word hospitality truly transcends all cultures and religions. To say that someone is hospitable, that they practice hospitality, is to pay them a wonderful compliment. And everyone loves to receive genuine warm hospitality from their host or hostess. Don't you? I certainly do. Why, to be



Vince Alfonso

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## A GOTHAM ORIGINAL

Stonebrook Golf Club in Pensacola, Fla., is one of the first courses acquired by Gorham Golf Partners, April's management company of the month. For the complete story on the fast-growing, 4-year-old firm, see the cover story on page 1.

## Dakota Mgt. signs on in Sioux Falls

SIOUX FALLS, S.D. — The city of Sioux Falls and Dakota Golf Management, Inc. have announced the signing of a long-term contract for management services at the City's three municipal courses.

Dakota Golf Management, founded by PGA Professionals Terry Comstock and Tom Jansa, has managed the courses since 1995 when the city of Sioux Falls decided to privatize operations at the courses. The new contract is for four years, with a four-year extension based on satisfactory performance by Dakota Golf.

"We are very pleased to be able to continue our work with the city," said Terry Comstock, Dakota Golf's president. "The new contract will allow both the city and Dakota Golf to continue to make real improvements at the courses."

The city owns three courses with a

total of 54 holes. Elmwood Golf Course is a 27-hole facility, with an 18 hole course designed by Larry Packard and a nine-hole layout that has been redesigned by Comstock and Jansa. Elmwood was listed on *Golf Digest's* original list of "America's 200 Toughest Courses."



Kuehn Park Golf Course is a par-30 executive course that opened in 1976.

The city's newest facility is Prairie Green Golf Course, which opened in 1995. The course has received nu-

merous honors. It was designed by Dick Nugent and built by Landscapes Unlimited.

The three courses hosted more than 130,000 rounds in 1997.

Under the agreement, Dakota Golf will continue to manage all aspects of course operations. The courses are completely funded by user fees.

## AGC's Price receives Humanitarian Award

SANTA MONICA, Calif.—American Golf Corp. Chairman of the Board and Chief Executive Officer David Price has received the prestigious 1998 Jerry Buss Humanitarian of the Year Award, in recognition of the company's many years of support for the Muscular Dystrophy Association (MDA) and numerous other local charitable organizations.

Price received the award, named after Los Angeles Lakers owner Dr. Jerry Buss, on March 1 during the 11th Annual Magic Johnson Sports Star Award Dinner & Auction benefiting MDA.

The American Golf Foundation operates its "Adopt-A-Charity" program in which each of American Golf's courses develops a partnership with a local charity and organizes an annual benefit golf tournament or other special event. Proceeds, including green fees, cart fees and

David Price

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## Harassment

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discrimination liability.

First, the company should implement a formal and rigorously enforced anti-harassment policy with procedures through which employees can voice complaints. The policy should be distributed to all employees and explained verbally.

Second, the employer should conduct a prompt investigation of all harassment complaints, coupled with immediate and appropriate corrective action to remedy the situation. All this should be documented. If economically feasible, the investigation should be conducted by independent counsel, not company management. This creates more of an

air of objectivity in case litigation follows, and information gathered by independent counsel is far less likely to be subject to disclosure than information gathered by management. A company's business records are usually "discoverable," i.e., they must be disclosed to a plaintiff's lawyers; while information gathered by your attorney is

usually "privileged," or secret.

The alleged victim should be interviewed as soon as possible after the incident. The interviewer should take detailed notes. Witnesses should be identified and questioned until the circumstances are sufficiently clear and reasonable conclusions can be drawn.

The offender should be given the opportunity to

respond promptly. And any remedial action taken should not punish the victim, such as an unwanted transfer or reassignment. The offender should be given appropriate sanctions; a mere request that he/she refrain from such conduct in the future is not enough.

The sanctions must be appropriately severe so as to show that the behavior will not be tolerated. Yet, sanctions that are too severe are likely to result in lawsuits as well.

Third, the employer should implement a standardized system to document that it has complied with the law by utilizing appropriate preventive and corrective measures. These should include: (1) written policies on harassment; (2) proof that these policies have been distributed; (3) formal notice of the grievance procedure; (4) written and signed witness statements and interview memos; and (5) a summary statement of the results of the investigation and the remedial action taken. An employer should be able to demonstrate that it has handled all harassment complaints in a systematic and consistent manner.

Unfortunately, discrimination and harassment lawsuits are often used by disgruntled or fired employees for revenge. Such lawsuits can follow the end of an office romance; a dismissal based on poor performance; or because the plaintiff is unusually sensitive. But sometimes the harassment is real and the lawsuit has merit.

Insurance companies are beginning to offer policies to protect businesses from harassment suits. However, coverage is usually limited to the acts of supervisors or co-workers which was not known to, nor condoned by, management. Such insurance is well worth looking into, as it provides legal counsel. The cost to a business of hiring specialized counsel to defend discrimination suits can be very high. And in the American legal system, the defendant pays its own legal costs, even if it wins the suit.

The field of discrimination law is new and evolving rapidly. The Equal Employment Opportunity Commission (EEOC) is always busy writing new regulations which prohibit an ever-wider range of behavior, giving more and more people a basis to sue.

Businesses must evolve defenses which will enable them to survive this new and potentially destructive form of risk.



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