

BRIEFS



IRVINE, WESTERN GOLF TEAM UP

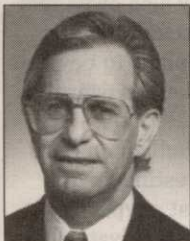
IRVINE, Calif. — The Irvine Co. has selected Western Golf Properties to manage Oak Creek Golf Club here. Oak Creek is scheduled to open for public play in September. Western Golf also manages The Irvine Co.'s Pelican Hill Golf Club, another Tom Fazio design in nearby Newport Beach.

CASPER TO OVERSEE MD LAYOUT

MIDDLETOWN, Del. — Back Creek Golf Club has selected Billy Casper Golf Management (BCGM) to provide complete turnkey management services. BCGM will oversee construction and later operate the course. Construction began recently with a summer 1997 opening anticipated. Steve Newgent JSN Golf Enterprises is the builder and David Horn of Architerra PC the designer.

MARTTY SIGNS ON AT LAKEWOOD

NEW ORLEANS — Lakewood Country Club has named Martty Golf Management (MGM) to manage the semiprivate golf facility. Lakewood has hosted the New Orleans Open for the past 16 years. MGM's mission is to create the club's philosophy, develop a business/marketing plan and reorganize the operations.



Thomas Martty

GREY TO HEAD KEMPER CHICAGO EFFORT

NORTHBROOK, Ill. — Kemper Sports Management has named Tom Grey director of marketing for Kemper Golf Management Chicago (KGMC), operator of Chicago's eight park district golf facilities. Grey will take over a schedule of events that reached 6,000 Chicago residents last year and be responsible for managing marketing activities at the eight facilities. Grey most recently served as assistant golf professional at Kemper-run Royal Melbourne.

FAHEY TABBED BY MATRIX

CRANBURY, N.J. — Matrix Hospitality has hired Richard Fahey as general manager of Ashbourne Country Club in Cheltenham, Pa. Fahey is a 25-year veteran of the hospitality industry with nine years of golf club experience. Ashbourne was built in 1922 on the Stetson hat family estate. Matrix took over the facility a year ago.



Richard Fahey



Heron Point Golf Links in Ancaster, Ontario, Canada,

ClubLink offers upscale private courses, large public profits

By PETER BLAIS

TORONTO — Since becoming a publicly traded company a little over two years ago, ClubLink Corporation has evolved into one of the leading course owners/managers in Canada.

ClubLink operates five, high-end private golf facilities in southern Ontario. In June it will open a sixth, The Lake Joseph Club located two hours north of the city. "And we'll continue to look at new opportunities as they arise," promised Marketing Services Director Richelle Arnott Nemeth.

To date, ClubLink has concentrated on quality private courses catering to Toronto-area residents. In addition to Lake Joseph, ClubLink's facilities include:

- 27-hole Cherry Downs Golf & Country Club (G&CC) in Pickering acquired in 1993;

- 18-hole Emerald Hills G&CC in Stouffville acquired in 1993;
- 18-hole Heron Point Golf Club in Ancaster acquired in 1993;
- 18-hole Greystone Golf Club in Milton acquired in 1994;
- 18-hole King Valley Golf Club in King City acquired in 1994.

King Valley and Greystone rank among the top 20 courses in Ontario with flagship King Valley rated the fourth-best course in Canada by SCORE magazine. But Lake Joseph may pass them all.

The 18-hole golf course and nine-hole golf academy designed by Canadian architect Thomas McBroom is the centerpiece of The Lake Joseph Club. The property totals 420 acres with 3,000 feet of lakefront. ClubLink acquired the property in October 1994 for \$2 million from a Canadian insurance company

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MARKETING IDEA OF THE MONTH

Taking to the air waves enhanced PGA club's reception

By PETER BLAIS

Officials at The PGA Golf Club at The Reserve say the 500 seeds they sowed during the last weekend of December are already yielding a bumper crop of additional rounds.

The PGA Golf Club held a pre-opening "Public Plays Free" preview weekend Dec. 30-31, giving away almost 500 rounds to Southeast Florida golfers.

"We've seen a lot of those people come back already," said head pro Bill Ciofoletti. "Many of them have brought friends and relatives. I think we'll eventually capture thousands of additional rounds because of that one free weekend."

The PGA Golf Club is the first public golf facility owned and operated by the PGA of America. But developers knew it would take more than the PGA name to draw golfers to another daily-fee facility in an area already well stocked with public courses. In fact, the PGA feared many golfers would simply assume that a PGA-owned course was private.

So last fall the PGA hired marketing specialist Elaine Fitzgerald of Fitzgerald Productions Inc. to devise a way to attract



The PGA Golf Club at The Reserve

public golfers to its two new Tom Fazio-designed layouts and spread the word that the PGA was in the daily-fee business.

The first 18 holes were scheduled to open Jan. 1, although the staff was in

LEGAL CORNER

Beware the insurer seeking reimbursement

By NANCY SMITH

When sports facilities are sued, one of the biggest expenses can be paying for the defense. Even if the case has no merit, a defense attorney can run up a big bill proving just that. Whether it is a country club or sports arena, a successful sports operation can be seen as a deep pocket to recovery.

When the rainy day of litigation arrives, the silver lining in the storm clouds may be an insurance company willing to pay the defense attorney — regardless of whether any judgment on liability is ultimately paid by the insurer. But as sports tycoon Jerry Buss recently learned, the insurance company may come asking for reimbursement for all attorneys' fees.

Buss owns the Los Angeles Lakers and Los Angeles Kings. He and his teams are the primary tenants at the Forum sports arena. When Buss had a falling out with his advertising agency, the dispute ended up in Los Angeles County court. Buss was surprised when his insurance company came back to him at the end of the suit and asked for reimbursement of more than \$1 million it paid Buss' lawyers.

It all started with the ad agency's suit for breach of contract and other claims stemming from Buss' termination of the agency's exclusive rights to handle advertising for the teams and arena. Attor-

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PHOTO BY GUY AROG

place and the first course ready to go by late December. The PGA had toyed with the idea of giving away some rounds to the public prior to Jan. 1 to thank the local populace for its support. The question

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American Golf adds two new courses to growing portfolio

SANTA MONICA, Calif. — American Golf Corporation has added a pair of new golf course facilities to its growing management portfolio.

The California company signed a long-term operating lease with owner O-Sports Development Co. for the Silver-Horn Golf Club in San Antonio, Texas. Randy Heckenkemper designed the 18-hole layout in cooperation with widely known PGA Tour professionals Scott Verplank and Willie Wood.

The same team designed SilverHorn Golf Club in Oklahoma City, which is also owned by O-Sports and managed by American Golf Corp.

The Dayton, Ohio, suburb of Springboro recently awarded AGC a management contract for municipal Heatherwoode Golf Club. Denis Griffiths designed the 18-hole layout, which has hosted the Nike Tour's Miami Valley Open the past four years.



ACQUISITIONS

Beware insurers

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neys for the agency came up with 27 different claims against Buss. Most involved contract breaches. One, however, asserted that by firing the agency, Buss had defamed the agency and damaged its reputation. Since defamation was covered insurance, this gave Buss' attorneys the idea their fees might be paid by Buss' insurance company. When they asked Transamerica Insurance to pay the attorneys' fees, the insurance company agreed.

However, the insurer looked at the ad agency's complaint and concluded that only the defamation claim had any potential for coverage under its policy. The company agreed to pay the attorneys' fees, but reserved its rights to come back later and ask Buss for reimbursement, if it turned out the money was spent to defend claims entirely unrelated to the actions covered by the policy. Buss eventually settled with the ad agency, paying the company \$8.5 million. Although Buss asked Transamerica to pay some of the settlement, the company refused, stating this was really a breach of contract lawsuit not covered by the policy. Buss then sued Transamerica, claiming it should have at least contributed something to the settlement to cover the defamation claim.

But Transamerica fought back, countering Buss. The company contended the single defamation was really baseless. In essence, Transamerica said, the defamation claim was like one ball in the bottom of a water trap. The insurance company

said it had spent more than \$1 million defending the case, but only as much as \$55,000 of those funds related to the defamation claim. Transamerica wanted its money back.

Earlier this year, more than seven years after Buss had fired the ad agency, the California Court of Appeal ruled Transamerica could seek reimbursement. The two will now return to a trial to determine exactly how much Buss will have to pay the insurance company.

The case turned on somewhat technical but significant practices involving insurance companies. These principals apply to all insurance companies, whether they cover a slip and fall in the clubhouse dining room or cart accident on the course. Generally, when there is any reasonable possibility an insurance policy will cover any claim made in a lawsuit, the policy provides payment for an attorney to defend the insured.

The duty to defend an insured is separate from the duty to pay any ultimate judgment or settlement. As the California Court of Appeal pointed out in the Buss case, "The insurer's desire to secure the right to call on the insurer's superior resources for the defense of third-party claims is, in all likelihood, typically as significant a motive for the purchase of insurance as is the wish to obtain indemnity for possible liability."

As a consequence, California courts have been consistently solicitous of insurers' expectations on this score. "However, it is common for lawsuits to have a mixture of claims, some of which may be covered by insurance and others which

are not. Plaintiffs' attorneys often try to come up with ideas for allegations that will trigger insurance coverage as a way to facilitate settlement. When some claims are covered and some are not, insurance companies typically will pay the defense costs, but reserve the right to later ask for reimbursement.

In the Buss case, the stakes were so high, Transamerica felt it was entitled to more than \$1 million back. In a detailed legal opinion, the Court of Appeal ruled Transamerica was entitled to the right to seek the money and prove these funds were spent defending the contract claims and not the defamation allegation.

Generally, insurance is available for unintentional mishaps which injure others, such as negligent maintenance of a cart road. Insurance is not generally available for intentional conduct, such as assault and battery.

The breach of a business contract is not covered by standard insurance. When both covered and uncovered allegations are alleged in the same suit, however, insurance companies have a duty to defend their insureds.

As long as a potential for coverage exists, the court ruled, the insurer has no right to come back later and ask for reimbursement for attorneys' fees. However, if there is no potential for coverage, payback time is at hand.

The court's message is clear: Just because the insurance company is paying defense costs, when there is a reservation of rights, don't be lulled into thinking the insurance company might just forget to ask for some of its money back.

NATIONS CREDIT

A NationsBank Company

Golf and Recreational Finance

is proud to announce it has closed on the following transactions since its inception in late 1994.

\$7,000,000 - NORTHGATE COUNTRY CLUB, Houston, TX
Refinance of an 18-hole private course.

\$3,400,000 - THE LINKS GROUP, Myrtle Beach, SC
Refinance of leases on 144 holes of golf plus a credit line for future acquisitions.

\$11,500,000 - THE LODGE OF FOUR SEASONS, Lake of the Ozarks, MO
Refinance of a 311-room lodge, 211-slip marina and 45 holes of golf.

\$5,000,000 - KEMPER SPORTS MANAGEMENT, Chicago, IL

\$2,250,000 - OLDE POINT GOLF & COUNTRY CLUB, Wilmington, NC
Refinance of 18-hole course plus construction funding for clubhouse expansion.

\$2,500,000 - GEORGETOWN COUNTRY CLUB, Georgetown, MA
Refinance of a 9-hole public course plus construction funds for additional 9 holes.

\$3,500,000 - THE SEA RANCH GOLF LINKS, Sea Ranch, CA
Refinance of a 9-hole public course plus construction for a second nine holes.

\$2,400,000 - WHITTIER GC & VICTORIA GC, Los Angeles, CA
Refinance of two 18-hole public courses.

\$5,000,000 - THE BEACH CLUB GOLF LINKS, Ocean City, MD
Refinance of an 18-hole course and construction financing of new 18-hole course.

\$3,600,000 - THE HERITAGE GOLF CLUB, Atlanta, GA
Construction of an 18-hole course and a line of credit for new acquisitions.

\$5,200,000 - AVILA BEACH RESORT, San Luis Obispo, CA
Refinance of an 18-hole resort golf course.

\$4,750,000 - CRYSTAL SPRINGS GC, Sussex Co., NJ
Refinance of an existing course to draw out equity to construct a new course.

\$3,250,000 - BLACK BEAR GC, Sussex Co., NJ
Construction of a new 18-hole course, cross-collateralized with Crystal Springs.

\$3,800,000 - CHESTNUT HILL & DEERFIELD GC, Buffalo/Rochester, NY
Refinance of 18-hole course and acquisition of 27-hole course.

\$8,500,000 - ANGEL FIRE RESORT, near Taos, NM
Acquisition of a ski mountain, golf course, hotel, RV park & other amenities.

\$9,500,000 - GOLF CLUB of ILLINOIS & BURR HILL GC, Chicago, IL
Refinance GCI, acquire Burr Hill and provide a line for future acquisitions.

\$7,000,000 - ELY BOWLING, Northern NJ
Refinance of 4 bowling centers in northern NJ and southwestern NY.

\$6,700,000 - BADLANDS GC, Las Vegas, NV
Take-out of course construction loan, plus provide for clubhouse construction.

\$2,600,000 - CASSELBERRY GC, Orlando, FL
Acquisition of an 18-hole daily fee course.

\$3,600,000 - SOUTH RIDING GC, Washington, DC
Construction Loan for new daily fee course.

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