

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND
Civil Division

ROBERT J. ENGLAND,)
60 Whitaker Circle)
Kaysville, Utah 84037-4218,)

On behalf of himself, and on behalf of all others)
similarly situated,)

Plaintiff,)

v.)

MARRIOTT INTERNATIONAL, INC.)
Dept. 924.13)
10400 Fernwood Road)
Bethesda, Maryland 20817,)

SERVE: The Prentice-Hall Corp., System, M)
7 St. Paul Street, Suite 1660)
Baltimore, MD 21202,)

HOST HOTELS & RESORTS, INC.)
6903 Rockledge Drive)
Suite 1500)
Bethesda, Maryland 20817,)

SERVE: CSC-Lawyers Incorporating Service)
Company)
7 St. Paul Street, Suite 1660)
Baltimore, MD 21202,)

HOST HOTELS & RESORTS, L.P.)
6903 Rockledge Drive)
Suite 1500)
Bethesda, Maryland 20817,)

SERVE: The Prentice-Hall Corporation)
System, Inc.)
2711 Centerville Road)
Suite 400)
Wilmington, Delaware 19808)

Defendants.)

Case No.: 316395

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SEP 04 2009

Clerk of the Circuit Court
Montgomery County, Md.

FIRST AMENDED COMPLAINT

CLASS ACTION

Robert J. England (hereinafter, "Plaintiff"), on behalf of himself and on behalf of all others similarly situated, by undersigned counsel, files this First Amended Complaint against Defendants, Marriott International, Inc., Host Hotels & Resorts, Inc., and Host Hotels & Resorts, L.P. ("Defendants").¹ The material operative facts set forth in the First Amended Complaint are the same as those set forth in the original complaint filed on July 6, 2009, ("Original Complaint") and as such, this First Amended Complaint adopts the Original Complaint. This First Amended Complaint turns the Original Complaint into a class action.

PRELIMINARY STATEMENT

1. This is an action brought by former employees of Defendants who were awarded yearly deferred stock bonus awards prior to October 8, 1993, by which Defendants obligated themselves to issue stock to them over a ten-year period when they turned 65 years of age, took early retirement, became permanently disabled, or died. Defendants' obligations were set forth in documents styled, "Deferred Stock Bonus Certificate[s]," "Deferred Stock Bonus Award[s]," and/or in documents with a functionally equivalent title (hereinafter, the "Certificates").

2. Defendants are now failing to honor the Certificates by issuing a lesser amount of deferred stock than is rightfully due under the terms of the Certificates. As a result, Plaintiff brings this action against Defendants for breach of contract. In the

¹ "Defendants" are defined herein to include all past, present, and future wholly-owned subsidiaries of the named Defendants, including, but not limited to, Big Boy Restaurants, Roy Rogers, Host International, and Gino's Restaurant, as well as all predecessor and spin-off corporations of Defendants, including, but not

alternative, Plaintiff asserts causes of action against Defendants for detrimental reliance/promissory estoppel and unjust enrichment. Further, Plaintiff seeks a declaration that all stock splits, cash and stock dividends, spin-offs, and mergers and acquisitions that occur in the future will be rightfully added to the former employee's account in the form of additional shares of stock.

JURISDICTION AND VENUE

3. This court has jurisdiction over Defendants pursuant to Md. Code, Cts. and Jud. Proc., § 6-102 as Defendants are organized under the laws of the State and maintain their principal place of business in the State.

4. Venue is proper in Montgomery County pursuant to Md. Code, Cts. and Jud. Proc., § 6-201 as Defendants maintain their principal office in the county and carries on regular business in the county.

5. The court has subject matter jurisdiction over this matter pursuant to Md. Code, Cts. and Jud. Proc., §§ 1-501 and 4-401 as the amount in controversy in this case exceeds \$30,000.

THE PARTIES

6. Plaintiff is a resident of the State of Utah, residing at 60 Whitaker Circle, Kaysville, Utah. Plaintiff was employed by Defendants from 1966 to 1970.

7. Defendant Marriott International, Inc. is incorporated in Maryland and has its corporate headquarters located at 10400 Fernwood Road, Bethesda, Maryland.

limited to, Hot Shoppes, Inc., Marriott-Hot Shoppes, Inc., Marriott Corporation, Host Marriott Corporation, Host Marriott Services Corporation, Sodexo Marriott Services, Inc., and Crestline Capital Corporation.

8. Defendant Host Hotels & Resorts, Inc. is incorporated in Maryland and has its corporate headquarters located at 6903 Rockledge Drive, Suite 1500, Bethesda, Maryland.

9. Defendant Host Hotels & Resorts, L.P. is registered with the State of Maryland as a foreign corporation and has its corporate headquarters located at 6903 Rockledge Drive, Suite 1500, Bethesda, Maryland.

CLASS ACTION ALLEGATIONS

10. Pursuant to Rule 2-231 of the Maryland Rules of Procedure, Plaintiff moves the Court to declare and certify a class of individuals, as described below.

11. The class is composed of former employees of Defendants who were issued Certificates by Defendants prior to October 8, 1993, who are eligible, or who will become eligible, for compensation under such Certificates by virtue of turning 65 years of age, taking early retirement, becoming permanently disabled, or dying.

12. The size of the class is so numerous and geographically dispersed throughout the United States as to make joinder of all class members impracticable. Scores of former employees of Defendants have received such Certificates.

13. There are questions of law and fact common to the class, including the amount by which Defendants are under issuing the amount of deferred stock that is rightfully due under the terms of the Certificates.

14. Plaintiff's claims are typical of the claims of class members.

15. Plaintiff will fairly and adequately protect the interests of the class. Plaintiff has no interests adverse to or in conflict with those of other class members. Plaintiff's attorneys are experienced in class action litigation.

16. Separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for Defendants.

17. Separate actions by individual members of the class would create a risk of adjudications with respect to individual members of the class that would, as a practical matter, be dispositive of the interests of other members not party to the adjudications, or would substantially impair or impede their ability to protect their interests.

18. Defendants have acted or have refused to act on grounds generally applicable to all members of the class, making appropriate final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole.

19. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action, questions of law or fact common to members of the class predominate over any questions affecting only individual members, and the class action is superior to any other available means to resolve the issues raised on behalf of the class.

FACTUAL ALLEGATIONS COMMON TO THE CLASS

20. Former employees were awarded yearly Certificates by which Defendants obligated themselves to issue stock to them over a ten-year period when they turned 65 years of age, took early retirement, became permanently disabled, or died. Defendants' obligations were set forth in the Certificates.

21. When the former employees turned 65 years of age, took early retirement, became permanently disabled, or died, Defendants failed to honor the Certificates by

issuing a lesser amount of deferred stock than was rightfully due under the terms of the Certificates.

22. Because of Defendants' course of conduct, former employees who have received the Certificates, but who did not take early retirement, and who have not yet turned 65 years of age, become permanently disabled, or died, have a good faith belief that they, too, will be issued a lesser amount of deferred stock than is rightfully due under the terms of the Certificates.

FACTUAL ALLEGATIONS OF PLAINTIFF

23. Defendants awarded to Plaintiff the Certificates on September 1, 1966, August 1, 1967, and August 1, 1968, for his outstanding work performance.

24. All three Certificates included the following terms:

- a. Defendants promised to issue Plaintiff deferred stock -- over a 10-year period -- after Plaintiff retired, became disabled, or turned 65 years old. If Plaintiff terminated employment before retirement, then the deferred stock was to be issued to Plaintiff when Plaintiff turned 65 years old.
- b. While Plaintiff was employed by Defendants, the shares of the deferred stock vested to Plaintiff's benefit pro-rata to retirement (at age 65 or earlier with consent of the Board of Directors).
- c. Vesting accruals ceased when Plaintiff's employment terminated for any reason other than (a) retirement (including early retirement), (b) permanent disablement, or (c) death.
- d. Plaintiff's shares were to "participate, until final pay out, in all cash or stock dividends, stock splits, etc."

25. Defendants' stock split on numerous occasions. Whenever a stock split occurred, the additional shares of stock should have been added to Plaintiff's account pursuant to the language of the Certificates. Over the course of time, numerous stock splits greatly increased the number of deferred stock due Plaintiff.

26. In every year since going public in 1953, Defendants have paid a dividend – either in cash or in stock. Pursuant to the language of the Certificates, all cash and stock dividends should have been added to Plaintiff's account in the form of additional shares of Defendants' stock. Over the course of time, cash and stock dividends greatly increased the number of deferred stock due Plaintiff.

27. In October 1993, Marriott Corporation spun off its food service division into a new company, Host Marriott Corporation. For every share of Marriott Corporation, Plaintiff was now entitled to own one share of Marriott International (the hotel chain under a slightly different name) and one share of Host Marriott Corporation, which offered food services.

28. In December 1995, Host Marriott Corporation spun off one of its divisions and called it Host Marriott Services Corporation. For every share of Marriott Corporation, Plaintiff owned before the first spin-off in October 1993, he was now entitled to own (1) one share of Marriott International, (2) one share of Host Marriott Corporation, and (3) 0.2 share of Host Marriott Services Corporation.

29. In March 1998, Marriott International spun off another one of its divisions, and reclassified the original shares at the same time. Marriott International became Marriott International Class A, and Marriott International issued another share of Class A for every share Plaintiff had (two-for-one stock split). Further, Marriott

International issued shares of its new spin-off, Sodexo Marriott Services, Inc. For every share of Marriott Corporation Plaintiff owned before the first spin-off in October 1993, Plaintiff was now entitled to own (1) two shares of Marriott International Class A, (2) one share of Host Marriott Corporation, (3) 0.2 of a share of Host Marriott Services Corporation, and (4) 0.25 of a share of Sodexo Marriott Services, Inc.

30. In 1998, Host Marriott Services Corporation spun off its financing division into a new company called Crestline Capital Corporation. For every share of Marriott Corporation Plaintiff owned before the first spin-off in October 1993, Plaintiff was now entitled to own (1) two shares of Marriott International Class A, (2) one share of Host Marriott Corporation, (3) 0.2 of a share of Host Marriott Services Corporation, (4) 0.25 of a share of Sodexo Marriott Services, Inc., and (5) 0.1 of a share of Crestline Capital Corporation.

31. As a result of the numerous spin-offs, additional shares of stock should have been added to Plaintiff's account pursuant to the language of the Certificates. The numerous spin-offs greatly increased the number of deferred stock due Plaintiff.

32. On September 1, 1999, Host Marriott Services Corporation was acquired by Autogrill S.p.a. for \$15.75 per share. On June 15, 2001, Sodexo Marriott Services, Inc. was acquired by Sodexo Alliance for \$32.00 per share. On June 7, 2002, Crestline Capital Corporation merged with Barcelo Hotels & Resorts for \$34.00 per share. As a result of these transactions, additional shares of stock should have been added to Plaintiff's account pursuant to the language of the Certificates. These transactions greatly increased the number of deferred stock due Plaintiff.

33. Plaintiff turned 65 years old on March 30, 2006, and shortly thereafter, made an informal inquiry into the deferred stock due to him pursuant to his Certificates.

34. On July 12, 2006, Defendant Marriott International, by letter, responded to Plaintiff's inquiry. In that letter, Defendant Marriott International conceded that some shares of stock associated with the Certificates had vested prior to Plaintiff's separation with Defendants in 1970. Yet, Defendant Marriott International grossly underestimated the number of shares of stock that did, in fact, vest, failing to account for the numerous stock splits and dividends issued over the course of time, as well as failing to account for the spin-offs and mergers and acquisitions. In addition, Defendant Marriott International refused to issue Plaintiff *any* deferred stock, stating:

[A]ny vested shares would have been distributed to you upon your separation of employment in 1970 With the stock trading at about \$36/share around the time of your separation of employment, the approximate value of your 3.41 vested shares would have been about \$120. As was customary of all account valued at less than \$3,500, your vested balance would have been distributed to you in full shortly after your separation of employment in 1970.

35. Defendant Marriott International conducted additional research, and on May 16, 2008, wrote to Plaintiff admitting that its July 12, 2006, letter to Plaintiff was wrong:

After conducting additional research with regard to your inquiry concerning your Deferred Bonus Stock certificates, it appears likely that the vested shares were actually not distributed to you after your termination as was originally suspected.

36. In its May 16, 2008, letter, Defendant Marriott International grossly underestimated the number of shares of stock that did, in fact, vest. Further, Defendant

Marriott International asserted that it was going to reduce the number of shares awarded to Plaintiff in order to satisfy income tax withholding obligations. Defendant Marriott International offered to provide Plaintiff 371 shares of stock.

37. Defendant Marriott International attached a release dated May 13, 2008, to its May 16, 2008, letter, and requested that the Plaintiff sign the release and return it to Defendant Marriott International. In the May 13, 2008, release, Defendant Marriott International offered giving Plaintiff the reduced amount of shares at once in a lump sum payment, and not over a ten year period. In return, Defendant Marriott International required that Plaintiff waive and release Defendant Marriott International from any and all claims against it:

You agree that the net transfer of 371 shares (or gross 541.71 shares before being reduced for tax withholding) of . . . stock . . . in Marriott . . . by the Company to you shall satisfy in full any rights you may have or had with respect to shares of stock of the Company You also agree to waive and release Marriott . . . from any and all claims or causes of action arising prior to this Agreement . . which you now have or ever have had in connection with any employee stock compensation plan or employee stock award of the Company of any predecessor of the Company.

38. Plaintiff refused Defendant Marriott International's May 2008 inadequate offer, and refused to sign the release.

39. The Defendant Marriott International, on October 6, 2008, requested that the Plaintiff sign a release identical in all relevant respects to its May 13, 2008, release, except that this time, Defendant Marriott International offered to issue the deferred stock over a ten year period. Again, Plaintiff refused Defendant Marriott International's inadequate offer, and refused to sign the release.

COUNT I
BREACH OF CONTRACT

40. This Count incorporates the allegations set forth in paragraphs 1 through 39 above as though they were fully set forth herein at length.

41. As discussed above, former employees were awarded Certificates by which Defendants obligated itself to issue stock to former employees over a 10-year period when they turned 65 years of age, took early retirement, became permanently disabled or died.

42. The aforementioned Certificates constituted contracts between former employees of Defendants and Defendants.

43. Defendants have materially breached the aforementioned contracts by refusing to issue the amount of deferred stock that is rightfully due under the terms of the Certificates.

44. Former employees have performed all of their promises arising from the aforementioned contracts.

45. As a direct and proximate result of the aforementioned breach, former employees of Defendants have incurred millions of dollars in economic damages. Such damages should reflect the price of Defendants' stock when former employees turned 65 years of age, took early retirement, became permanently disabled or died, multiplied by the number of shares of stock rightly due former employees, taking into account stock splits, dividends, spin-offs, and mergers and acquisitions.

COUNT II
DETRIMENTAL RELIANCE/PROMISSORY ESTOPPEL

46. This Count incorporates the allegations set forth in paragraphs 1 through 39 above as though they were fully set forth herein at length.

47. Defendants made clear and definite promises to former employees to issue them stock over a ten-year period when they turned 65 years of age, took early retirement, became permanently disabled, or died, taking into account stock splits, dividends, spin-offs, and mergers and acquisitions.

48. Defendants reasonably expected, or should have reasonably expected, that its aforementioned promises would induce former employees to work for and/or continue to work for Defendants.

49. Former employees reasonably relied on Defendants' aforementioned promises by continuing to work for Defendants.

50. As a direct and proximate cause of Defendants' failure to fulfill their promises, former employees have incurred millions of dollars in economic damages which can only be avoided by enforcement of Defendants' promises.

COUNT III
UNJUST ENRICHMENT

51. This Count incorporates the allegations set forth in paragraphs 1 through 39 above as though they were fully set forth herein at length.

52. Former employees conferred a benefit upon Defendants by continuing to work for Defendants.

53. Defendants knew and/or appreciated the benefit of former employee's work.

54. Defendants have failed to pay former employees the amount of deferred stock that is rightfully due Plaintiff under the terms of the Certificates.

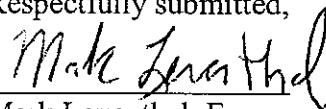
55. Under the circumstances set forth above, it would be inequitable to allow Defendants to benefit from the former employee's work without properly compensating them for their work.

REQUEST FOR RELIEF

Plaintiff respectfully requests that the Court:

- A. Declare that the action brought as a class action may be maintained as a class action pursuant to Maryland Rule 2-231 and certify the class with the named Plaintiff as the class representation and with current counsel as class counsel;
- B. Award compensatory damages of not less than \$5,000,000.00, which amount will be proven at trial, plus costs, reasonable attorney fees, and pre-post-judgment interest as permitted by law;
- C. Declare that all stock splits, cash and stock dividends, spin-offs, and mergers and acquisitions that occur in the future will be rightfully added to the former employee's account in the form of additional shares of stock; and
- D. Grant any such other and further relief as the Court may deem just and proper.

Respectfully submitted,



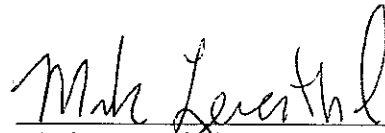
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Counsel for Plaintiff

Dated: September 4, 2009

JURY DEMAND

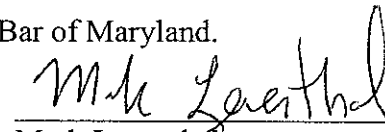
Plaintiff demands a trial by jury on all issues so triable.



Mark Leventhal

CERTIFICATION PURSUANT TO RULE 1-313

The undersigned hereby certifies that he is admitted to practice law in the State of Maryland and is a member in good standing of the Bar of Maryland.



Mark Leventhal