



Resort Founder Sues Cushman, Credit Suisse For \$2B

By **Carolina Bolado**

Law360, New York (February 16, 2012, 8:52 PM ET) -- The bankrupt Yellowstone Mountain Club LLC's former owner on Tuesday filed a \$2 billion suit accusing Cushman & Wakefield Inc. and Credit Suisse Group AG of overvaluing the property and extending a \$375 million predatory loan in a racketeering scheme to take over the Montana resort.

In a complaint filed in the District of Colorado, Timothy L. Blixseth, who co-founded the bankrupt luxury ski and golf resort with his ex-wife Edra Blixseth, said Cushman & Wakefield used questionable appraisal techniques to value his \$420 million Yellowstone Club property at \$1.165 billion.

Credit Suisse then used that appraisal to extend the \$375 million loan — \$209 million of which was extended personally to Blixseth — through a series of fraudulent misrepresentations, according to the suit.

Blixseth is seeking economic and property damages of about \$2 billion, plus punitive treble damages under the Racketeer Influenced and Corrupt Organizations Act.

“The filing of my lawsuit against the Colorado-based appraisal firm, Cushman & Wakefield, the Credit Suisse bank and others represents much more than the grievance of one person,” Blixseth said in a statement. “It represents an attempt to rectify the abuse of millions of Americans during the recent and unparalleled 'era of greed.'”

In the suit, Blixseth also alleges that his ex-wife, private equity firm and current club owner CrossHarbor Capital Partners LLC, and CrossHarbor principal Samuel Byrne conspired with Credit Suisse to take control of the Yellowstone Club. Edra Blixseth, Byrne and CrossHarbor are currently being sued in other proceedings and are not listed as defendants in the instant suit.

CrossHarbor financed Edra Blixseth's purchase of the club out of her divorce with a loan

that the firm knew she would never be able to repay, according to the suit. Edra Blixseth immediately turned over control of the Yellowstone Club to Byrne and CrossHarbor, who shortly thereafter put the resort into bankruptcy in November 2008, according to the suit.

They then conspired with the bank to pursue claims against Timothy Blixseth personally, despite the fact that nonrecourse provisions in the loan stated that only the club, not Blixseth, could be sued, according to the complaint.

"I have repeatedly been cast as the bad guy in the Yellowstone Club bankruptcy case," Blixseth said. "That case was engineered and staged to direct blame towards me and away from those who are truly the 'anything for money' crowd."

Credit Suisse said Thursday that Blixseth's claims are without merit.

"This most recent lawsuit by Mr. Blixseth again claiming that he was deceived into taking millions of loans for his personal use is no more credible than his prior claims," Credit Suisse spokesman Jack Grone said. "Many of these same claims have already been unsuccessful in other courts, and we will continue to seek dismissal of these meritless lawsuits."

A representative for Cushman & Wakefield could not immediately be reached for comment.

In October, a Montana bankruptcy judge refused to give the Yellowstone Club derivative standing to sue Credit Suisse and CrossHarbor in bankruptcy court, saying the club lost the ability to lodge claims against the companies when the court adopted an exculpation clause within Yellowstone's Chapter 11 plan that released Credit Suisse and CrossHarbor from potential claims.

On Sept. 30, Judge Kirscher reaffirmed his decision to confirm the reorganization plan and with it a set of what Blixseth claims are fraudulent settlements, including a deal between the debtors and the unsecured creditors committee with Credit Suisse to sell Yellowstone to CrossHarbor for \$115 million.

At the time it filed for bankruptcy in November 2008, the Yellowstone resort — located on 13,600 acres of land about 20 miles from Yellowstone National Park — reported it was worth roughly \$778 million, not including unsold memberships, which were valued at an

additional \$336 million. It said it owed more than \$320 million to Credit Suisse Group and its other creditors.

Blixseth is represented by Andrew Edward Hawes and Michael John Ferrigno of Blixseth Group of Washington LLC.

Counsel information for the defendants was not available.

The case is Blixseth v. Cushman & Wakefield of Colorado Inc. et al., case number 1:12-cv-00393, in the U.S. District Court for the District of Colorado.

--Additional reporting by Ian Thoms. Editing by Kat Laskowski.