

## Nobody Asked Me, But... No. 40

### **U.S. Losing Billions on Potential Travelers; Jury Finds Ritz-Carlton Breached Its Operating Agreement; Why Immigration Reform Really Matters; Quote of the Month**

**By Stanley Turkel, MHS, ISHC**

1. U.S. Losing Billions on Potential Travelers- The Travel Industry Association (TIA) reports that the U.S. lost \$130 billion in potential revenue in the past six years from foreign visitors. The TIA says that the U.S. spends zero dollars in marketing itself as a vacation getaway in other countries. In comparison, Greece spends about \$150 million, Australia about \$120 million and the United Kingdom and Mexico spend from \$60 million to \$80 million a year on promotion.
2. Jury Finds Ritz-Carlton Breached Its Operating Agreement- A jury in Greenbelt, MD found that the Ritz-Carlton Hotel Company violated its fiduciary duties to an Indonesian property owner (KMS). Ritz opened the Bulgari Bali Hotel, a resort located three miles from the Ritz-Carlton Bali Resort & Spa.

In the verdict, the jury found that:

- Ritz-Carlton breached the amended and restated operating agreement.
- Ritz-Carlton's breach of the operating agreement has or could have material adverse effect on the operation of the Ritz-Carlton Bali and KMS.
- Ritz-Carlton violated its fiduciary duty to KMS.
- KMS is entitled to compensatory damages.
- There is clear and convincing evidence that the Ritz-Carlton acted, or failed to act, with a specific intent to cause harm to KMS.

The jury doubled the punitive damages assessed against the Ritz-Carlton, granting KMS \$382,006 in actual damages and \$10 million in punitive damages. The jury's verdict also allows the possibility of KMS pursuing attorney's fees and injunctive relief from Ritz at a later date.

Bill Brewer, a partner at the Dallas-based law firm of Bickel & Brewer which represented KMS said, "It doesn't matter what you call a relationship- if someone is managing your business, your assets, for your benefit and being paid handsomely to do it, they owe you a fiduciary duty....I

think it (the decision) reminded everybody that between a principal and agent, honesty and fact are the touchstone of the relationship.”

3. Why Immigration Reform Really Matters- In the June 2007 Lodging Hospitality, Editor Ed Watkins wrote “In many marketplaces, hotels as well as many other service and low-skill businesses, have little choice but to rely on immigrant labor to fill jobs.” Just a month earlier, lodging leaders (Hilton, InterContinental, Marriott, Hyatt, Loews, Starwood) urged Congress and the White House to take action on comprehensive immigration reform. Their letter said, “one thing we believe in is that the current immigration system is badly broken. We believe in a balanced solution that protects our borders and recognizes the contributions of-and the need for-the foreign-born workers in our economy.”

Speaking about immigration, here’s a startling and enlightening editorial from the New York Times (4/2/08):

How Immigrants Saved Social Security- Immigration is good for the financial health of Social Security because more workers mean more tax revenue. Illegal immigration, it turns out, is even better than legal immigration. In the fine print of the 2008 annual report on Social Security, released last week, the program’s trustees noted that growing numbers of “other than legal” workers are expected to bolster the program over the coming decades.

One reason is that many undocumented workers pay taxes during their work lives but don’t collect benefits later. Another is that undocumented workers are entering the United States at even younger ages and are expected to have more children while they’re here than if they arrived at later ages. The result is a substantial increase in the number of working age people paying taxes, but a relatively smaller increase in the number of retirees who receive benefits—a double boon to Social Security’s bottom line.

Here's my take on the immigration situation:

1. Except for the native Americans, we are all immigrants (or the offspring of immigrants) to the United States.

2. When our ancestors came to the United States, they proved their legality by producing official papers from their country of origin. The only way they could acquire those official documents was by bribing government employees in their home country. As in most countries, even today, no document is provided without the payment of a bribe. Therefore, most immigrants to the U.S. (my ancestor's as well as yours) came here illegally.

3. Shall we depart everybody?

4. The taxes paid by other than legal immigrants will reduce 15% of the social security's projected long-term deficit.

5. With modest tax increases and moderate benefit reductions over time, the Social Security system can remain solvent for many years to come.

6. We need more immigrants, not less to:

- Fill jobs in the hotel industry
- Subsidize the social security system
- Fulfill the promise of the Statue of Liberty.

#### 4. Quote of the Month

“We stand here confronted by insurmountable opportunities”

Pogo by Walt Kelly

Stanley is available as a featured speaker on the following subjects:

- Fair Franchising is Not an Oxymoron
- Great American Hotels and Hoteliers
- Are Exterior Corridor Hotels Obsolete?
- Impertinent Questions in Search of Pertinent Answers
- Compliance with AAHOAs 12 Points of Fair Franchising

Stanley Turkel, MHS, ISHC operates his hotel consulting office as a sole practitioner specializing in franchising issues, asset management and litigation support services. Turkel's clients are hotel owners and franchisees, investors and lending institutions. Turkel serves on the Board of Advisors and lectures at the NYU Tisch Center for Hospitality, Tourism and Sports Management. He is a member of the prestigious International Society of Hospitality Consultants. His provocative articles on various hotels subjects have been published in the Cornell Quarterly, Lodging Hospitality, Hotel Interactive, Hotel Online, AAHOA Lodging Business, etc. If you need help in negotiating a franchise agreement or with a problem such as encroachment/impact, termination/liquidated damages or litigation support, call Stanley at 917-628-8549 or email [stanturkel@aol.com](mailto:stanturkel@aol.com).