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*Your source of current trends and developments in the timeshare industry.*

# Something for Everyone at 2015 ARDA World Conference

The annual convention of the American Resort Development Association is the best timeshare networking opportunity of the year, and Colebrook took full advantage of it, holding 37 meetings over the four days of the Orlando conference. Most of the meetings were planned well in advance, but one was arranged as Bill Ryczek was standing in front of the Marriott World Center waiting for transportation and an old acquaintance came jogging by. A few hours later, the running clothes had been replaced by a business suit, and in Colebrook's suite the groundwork was laid for a potential transaction.

The conference is a good opportunity to catch up with existing customers, to try to finalize transactions that have been in negotiation, and to meet with prospects for the first time. It's a time to visit with people who may not have a need now, just to let them know you're interested. And sometimes it's just nice for those of us who've been in the business a long time to swap old stories with no business purpose whatsoever. Colebrook did a little of everything, with the highlight being negotiating and signing a proposal for a \$21 million loan package.

There were more than 3,000 attendees from 35 countries and, as they say in the marketing business, there's something for everyone at ARDA. In addition to several well-attended speaking events, the annual awards dinner, and entertainment by Kool and the Gang, there was a large exhibit hall filled with vendors displaying furniture, appliances, design services, marketing programs, and anything else a timeshare developer might need. As always, the showcase exhibits were those of Resorts Condominium International and Interval International.

For newcomers to the industry, and for veterans looking to pick up a little additional knowledge, there was a full array of educational seminars. Colebrook's Bill Ryczek was a panelist for a session titled: Short-term Fever: Variable Term Vacation Products—Time for a New Approach? The biggest complaint of most timeshare owners is that there is no easy way to divest themselves of their ownership when they no longer want it. A deeded product owned in perpetuity that could be transferred to one's offspring seemed pretty attractive to a 50-year-old buyer in 1980. It loses most of its allure when that person is now a maintenance-fee-paying 85-year-old who can no longer travel and discovers their children don't want it. A shorter term product with a termination date tied to the vacationing horizon of the owner is an interesting concept that will probably become more prevalent during the next few years.

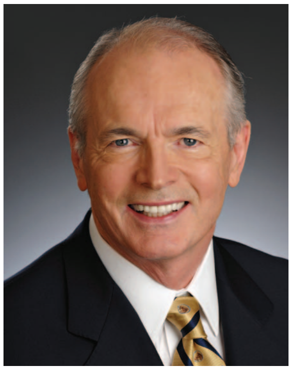
Another trend that is coming along quickly is electronic signatures. The nature of timeshare sales makes it likely that future transactions will be in electronic format, and Colebrook has been working to develop a smooth and effective process for lending against the receivables. We hosted a discussion with a couple of major developers to share the knowledge we've acquired and the work our counsel has done to move the process forward.

Perhaps the most striking impression generated from the conference was the optimistic mood that permeated nearly every discussion. The recession was a distant memory, and talk was mostly of expansion and new initiatives. A second fact that was clear is that there are many companies looking to acquire inventory in older resorts and either resell it or make it part of their club. A number of those companies are also looking to acquire the management contracts at those resorts.

After three and a half days of whirlwind activity, it was back to Middletown for the Colebrook crew, to try to turn as many of those positive discussions into tangible business as possible. There will be a year to rest before the 2016 conference in Hollywood, Florida.


"Of course I'm happy. I'm a Colebrook customer," Blue Water Resort President Debbie Ely tells a fellow ARDA attendee. Photos courtesy ARDA.


ARDA CEO Howard Nusbaum spends a contemplative moment in Orlando with his alter ego.



# Concord Servicing Corporation CEO Bob Bertrand Talks About the Past, the Present, and the Future

## (and what else is there?)

"People tend to think of an entrepreneur as a hail-fellow-well-met, a glad hander, an extreme extrovert," said Concord CEO Bob Bertrand, a reserved, deeply thoughtful man who is the antithesis of the back-slapping salesman. "I don't think that's true. I think an entrepreneur is someone who's willing to take risks and to live with the consequences of those risks." Just a few months after he launched Concord in September 1988, Bertrand became painfully aware of the consequence of taking risks. He had a new company, a few clients, and a court-issued injunction that prevented him from using the software that was essential to operating his business.

In the spring of 1988, Bertrand was the CEO of a small company in Virginia called Finalco, but after a hostile takeover, he found himself back in Arizona sharing office space with a gentleman named Scott Spangler. Spangler had been approached by two managers of a small timeshare servicing firm who wanted to raise money and buy the company. He wasn't interested, but suggested they speak with Bertrand, who had some capital and was looking for his next opportunity. "I always wanted to have my own company," Bertrand said. "I'd dreamed of it since I was a little kid."

The owners of the company didn't want to sell, so Bertrand teamed up with the managers and formed a new entity. Although he had legal assurances that he could lease the same software used by the managers' old company, the company filed a lawsuit that resulted in an injunction.

"As a startup," Bertrand recalled, "we were losing money, and at the rate we were going, I thought I might have to shut the company down by the middle of the next year. I was spending all my time trying to find someone who could develop software for us, and I finally did." At about the same time the new software came on line, Concord acquired two sizable new clients that put them over the breakeven point, and the pressure was off.

A technology problem nearly sunk Concord before it left shore, but Bertrand believes that technology is now the company's strongest suit. "Technology, demographics, globalization, and urbanization are the great forces of our time," he said, "and anyone who's not investing in technology isn't going to be successful. I realized early on that our business is ultimately about technology. We never want to tell a customer we can't solve their problem, and that requires a very flexible system." Of Concord's 180 employees, 52 are in the IT Department.

The timeshare industry has changed dramatically since Concord began operations in 1988. There has been consolidation, an increase in securitizations, and a severe recession, all of which have impacted Concord's business. "Some of our clients were acquired by companies that did their servicing in house," said Bertrand, "some developers went out of business during the recession, and lower sales levels meant lower revenue for us."

But if entrepreneurs need to take risks, they must also be capable of adapting to changing circumstances. "Despite all that happened," Bertrand said, "we never came close to having a problem with profitability. We work very hard to maintain our existing clients, and for new business development, we're focusing on the bigger companies in the industry. Larger companies are more complex and have a need for more sophisticated technology. They're probably operating internationally, which means that in addition to the usual issues, they have currency and language problems. Our systems can handle all those issues."

How important is pricing when competing for clients? "It's always an issue," Bertrand said, "and it's usually the most important issue in a relatively small, vanilla transaction. But as the size of the deal increases, the client is more interested in how well you can meet all of their specific needs. Take disaster recovery. Everyone asks whether a servicer has a disaster recovery plan, and when you say yes, they check it off their list. But there's a big difference in quality. I was told by a Fortune 100 company that our plan was the best they'd ever seen. It's got to be, because we control a *huge* share of our client's money, and they can't operate without it. In a disaster situation, each of our employees would be able to work from home. That may not seem like much, but it's incredibly difficult, especially when you consider that we have 35-40 employees in Mexico and the rest in the U.S."

After more than a quarter of a century collecting other people's receivables, what advice would Bertrand give to a developer who wants to maximize portfolio performance and minimize defaults? "The most important factor," he said, "is to exceed the consumers' expectations. Happiness occurs when reality exceeds expectations. You have two golfers who each shoot an 86. The scratch golfer is depressed while the 36 handicapper is ecstatic. Deliver more than you promised rather than the other way around. A second key, of course, is credit scores. We know from overwhelming empirical evidence that portfolios with higher FICO scores perform the best. Finally, use professional collectors backed up by a sophisticated system."

What does the future hold for Concord? "I think the timeshare industry is here to stay," Bertrand said. "It's about vacations, and I think vacations will always be with us. We're diversifying into other lines of business, such as servicing energy conservation loans, but we expect timeshare to constitute the bulk of our volume. It's an incredibly complex business, which is both a curse and a blessing. It's a curse because every portfolio is different, and the software has to be capable of accommodating those differences. On the other hand, it's a blessing because the complexity creates very high barriers to entry. During the past decade, we've seen a number of our smaller competitors exit the business because they couldn't afford the investment in technology."

Concord celebrated its 25th anniversary in 2013, a milestone Bertrand wasn't sure he'd see when he was burning up the phone lines in late 1988 looking for anyone who could create the software he desperately needed. Nor did he foresee, when he was running Finalco, that a few months later he would own a timeshare servicing company.

"As fate would have it," Bertrand said, "some of the very difficult and troubling things that happened to me along the way turned out to be blessings in disguise, just very well disguised at the time. The Dalai Lama once said: 'Remember that sometimes not getting what you want is a wonderful stroke of luck.' Not remaining president of Finalco and being forced to develop our own software in 1988 were things I didn't want at the time, but led to Concord being what it is today, which was indeed a great stroke of luck."

# Attorney Anthony Polvino on Timeshare Club Documentation

Attorney Anthony Polvino is perhaps best known in the vacation ownership industry for his role in representing a number of major timeshare clubs (including Bluegreen Vacation Club and Capital Resorts Club) and travel clubs. He admits to being an avid reader of the *Chronicle,* whose correspondent was privileged to speak with him about his career and the legal challenges involved in the club formation process.

***Chronicle:*** *Between the time you earned your undergraduate degree at Villanova and your matriculation to law school at Emory University, you spent a few years working on Wall Street and in the import-export business. What led to the decision to go to law school?*

**Polvino:** Law was our family business. My father was an attorney and my mother was a legal secretary, so maybe I was destined for the profession. It was either that, or working at my grandfather's funeral home. In hindsight, I think I made the right call. Initially, I wanted to be a sports and entertainment attorney. My sister is an independent film producer, and I've represented her and other film-makers. Now, I'm so busy in the resort industry that she's really the only entertainment client that I can and want to spend any significant time on these days.

***Chronicle:*** *How has your business experience influenced your legal career?*

**Polvino:** My business experience has been extremely influential in the way I practice law. When people ask me what I do, I say I'm a business lawyer, and the business comes before the lawyer. Being part Sicilian may explain some of that. The fact is we represent for-profit businesses and their objective is to make money. I don't mean that in a strictly mercenary way, but we appreciate that our clients' primary objective is to establish successful business operations and relationships and to generate profits. We have to resist the lawyer-reflex of getting too far down in the weeds and make sure we don't lose sight of that objective.

When we begin to negotiate and document a transaction, what we are really trying to do is to bring out the key business and legal issues for the parties and get to an understanding and agreement on them. If we do a good job during that process, we should end up with a well-documented transaction in which all sides understand the rules of engagement. Everyone signs, puts the contracts in the digital drawer and hopefully never looks at them again until there's a good reason to. The main point is to document a deal where everyone is in agreement on the way it's going to work. They may not like all of it, but they understand it. This is particularly important in the complex transactions we do, as in the context of capital light a/k/a fee based services deals, which typically have multiple contracting parties and often even multiple lenders in the mix. You can get a lot of different personalities going at once, which can be challenging but also a lot of fun.

***Chronicle:*** *Almost immediately after your graduation from law school, you found yourself deeply involved in working with the points-based RDI Vacation Club, which was later acquired by Bluegreen and became what is now the Bluegreen Vacation Club. Since then, you've become one of the industry's leading attorneys in that field. What are the key elements you consider when forming a timeshare club?*

**Polvino:** We have helped design quite a number of timeshare clubs over the years and, after working through the basic due diligence of what kind of product the client wants and where they want to offer it, we, of course, have to create something that can fit within and comply with applicable laws and regulations. We also have to make sure the product is understandable, scalable, and able to be administered efficiently and cost effectively. The sales force must be able to understand how the program works so they can sell it properly; the consumer must be able to understand what they are buying; and, perhaps most important, lenders need to be able to understand it well enough to finance it. In our industry, if a traditional timeshare product isn't financeable, it likely isn't viable. That said, we have developed products that don't necessarily require financing, but it generally doesn't make good business sense to foreclose that possibility by going to market with a product that isn't financeable-particularly given the interest arbitrage component that is so accretive to the balance sheet.

***Chronicle:*** *What are the key questions that should concern lenders?*

**Polvino:** First, as I said, in addition to customary lender underwriting criteria, a lender must be able to understand how the club works, and how usage is obtained, and then they have to know what their collateral is and what they are going to do with it if the deal goes south and they have to take it. Lenders have traditionally been accustomed to receiving a deed or some other customary security interest they understand; so, sometimes we have to get them comfortable with a different, but equally effective, form of collateral.

***Chronicle:*** *There's a difference between timeshare clubs and travel clubs, and there have been some unfortunate regulatory violations by the latter group. How do the club types differ and how do problems most commonly occur?*

**Polvino:** One of the biggest challenges with a travel club is to be able to define what it is and how it should be regulated. In timeshare, there is a fairly established blueprint, in which you get reservation rights and other

*(continued)*

*Anthony Polvino is the Chair of the Resort, Hotel, and Hospitality Group at Taylor English Duma LLP, a full-service Atlanta-based law firm with a substantial practice in the timeshare and hospitality industries. Polvino, a 1994 graduate of the Emory University School of Law, was named to Georgia Trend Magazine's Legal Elite in 2013 and 2014. He is a trustee of ARDA and an accredited member of the Academy of Hospitality Industry Attorneys.*

*Interview with attorney Anthony Polvino, continued*

benefits related to a readily definable, real estate based product. It's generally pretty clear. In some travel clubs, the promised benefits are a bit more ethereal. You might be getting travel discounts or credits toward travel benefits where it's more challenging to quantify and to define the value proposition. In many states, there is no regulation specifically related to travel clubs, and I think it would be better for the industry if there were. The barriers to entry in those states are minimal, and regulation would raise the bar. Without clear regulatory guidance, it's also difficult for an attorney to tell a client what they need to comply with. In that case, in a legal action you are more likely to have it fall under general deceptive trade practice statutes, which are very broad, and can become a free-for-all in litigation.

*Blue Water Resort, located on Cable Beach in Nassau and financed by Colebrook, is part of the Bluegreen Vacation Club.*

***Chronicle:*** *You mention regulation, which obviously directs your work to a great degree. How has regulation changed during your career?*

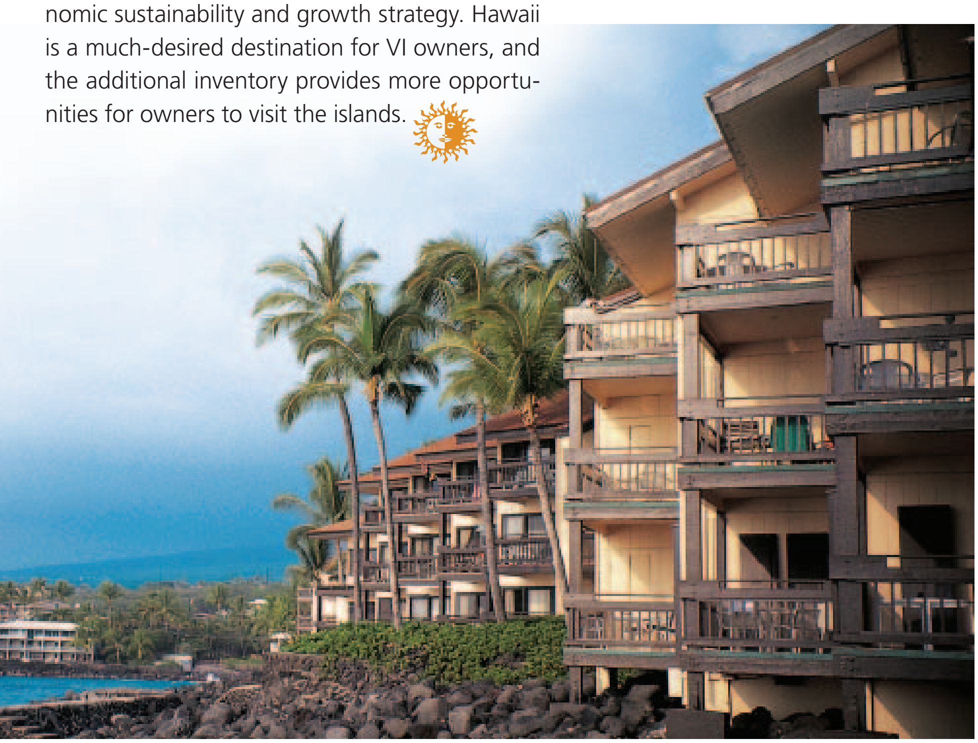
**Polvino:** Well, in addition to there being more regulation now, it also seems that when I started practicing law, the timeshare industry was in its late first or early second generation of regulators, people who'd been instrumental in the drafting of most of the laws, and who were intimately familiar with the evolution of the statutes and the reason for each of the provisions. Now, it seems like we're in the late second or third generation of regulators, many of whom were not involved in the legislative initiatives and don't have the depth of understanding that the prior generation did. The result is that we sometimes end up having to spend more time in the regulatory process than we used to, because there is now an educational component we didn't previously have. The end result of an approved product is the same, but the process and time it takes can be a little different.

# Vacation Ownership Sales Acquires new Hawaii Inventory

Colebrook recently provided financing to enable Vacation Ownership Sales to acquire 44 one and two bedroom condominium units in the Sea Village Resort at Kailua-Kona on the Big Island. The units were acquired for Vacation Internationale (VI), the oldest points-based, multi-site vacation club in North America, which was started in Hawaii in 1974. Vacation Ownership Sales has been the management and sales company for VI since 2003. The club currently has over 44,000 members and a resort network of over 40 destinations in the US, Canada, and Mexico.

"We are very pleased with our long-term relationship with Colebrook and its ability to help us grow VI over the past ten years," said Stuart Allen and Mike Vasey, owners of Vacation Ownership Sales.

Allen and Vasey added that the VI owners association had targeted the inventory at the Sea Village Resort for many years as part of its economic sustainability and growth strategy. Hawaii is a much-desired destination for VI owners, and the additional inventory provides more opportunities for owners to visit the islands.



# Don Clayton Goes Full Circle

*By Sharon Scott, RRP*

Don Clayton seems to have made a smooth transition from corporate attire to musical garb.

In the mid-80s, Donald K. Clayton was working as a musician and night club owner/restauranteur in the Mountains of North Carolina, and appeared to be on the road to success, working with the likes of Bob Hope, Willie Nelson, and Kenny Rogers, to name a few. With a degree in music education, he started one of the first recording studios in Alabama right out of college. "I later moved to Atlanta to run Power Sound Studios," he says. "I wrote commercial jingles for a few years and won a few awards. I was a writer and musician and as such you have to do a little of everything to make a living."

For Clayton, however, his journey to success wasn't proceeding fast enough. "There is not much of a middle class in music. You can make just enough money as a symphony musician or studio musician but living on the road is hard on relationships and very difficult when it's time to have a family. I decided if I wasn't rich and famous by age 29, I had to get a 'real job'."

Don turned to selling timeshare and found that it provided many of the same rewards as performing on a stage and, unlike music, there was a fiscal upside. Working for Peppertree Resorts turned out to be a good fit for a young man with an engaging personality who loved people and the idea of travel. The concept of matching vacations with families rang a note with him and he soon worked his way up to become SVP of sales and marketing before the company's owner, Wayne Kinser, and another associate, Butch Patrick, sold Peppertree to a public company, Equivest, in the late '90s.

Clayton and Patrick quickly found that their business philosophies were not harmonious with those of the new owners, so the two went out on their own. "We had a lot of good ideas but not a lot of capital," says Clayton. "We were fortunate to have made many good friends in the industry over the years, and they helped us to secure sales and marketing contracts. We started Festiva Resorts to help turn around troubled resort properties."

Clayton says that Colebrook Financial Company was one of Festiva's first lenders. "Bill Ryczek had worked with Butch as a banker while we were both at Peppertree," he says. "Bill was starting his new company at about the same time Butch and I were getting started. I believe that Festiva was one of Colebrook's first clients and they were one of our very first lenders.

Throughout the major economic bumps created by 9-11 and the 2008 recession, Festiva managed to survive and prosper. "If not for Colebrook, I'm not sure we would have made it through the recession," Clayton observes. "They never missed a beat with us."

But survive—and prosper—and grow—Festiva certainly did. From a startup, the company is now a multi-divisional national player in the timeshare industry. From its two founders, the company has grown to over 1,000 employees, which got Clayton thinking about his future.

"Today I find myself in an enviable position," he continues. "I have been a part of building a very successful company in an extremely challenging industry. I have made many friends in the industry throughout the years. But I turned 60 in May of 2014 and decided that I was in a position financially where I could either continue to work building and growing the value of Festiva or I could take the path I had left so many years ago and go back to pursue my true passion of composing and recording my music."

Having worked with Patrick to orchestrate the successful rollout of their various enterprises, Clayton decided to return to complete his original dream. Leaving his partner to continue to grow the business, Clayton returned full-circuit to the music career he began in his twenties. "Today I live half of the year at my home in St. Maarten with the love of my life, my wife Alexandra. She co-writes many of my songs and is definitely my muse. We live the other half of the year at our home in Asheville, NC. With the exception of my son, who is a junior at NC State, all of our other children have graduated college and are working or seeking their first job."

Clayton is once again working with some of the greatest musicians, recording engineers, and music publishers in Nashville and throughout the USA. He has a new collection of songs completed and expects their release shortly. "All of my music will be available on my website." In order to access Don's music, click on http://www.donclaytonmusic.com/.

As we speak, Clayton says he is looking out over the blue Caribbean, after having worked all morning on a Christmas song he hopes will be included on an upcoming Kenny Rogers Christmas album. His take-away after more than 30 years in the timeshare business? "Relationships," he says without hesitation. "I particularly value the friendships I've enjoyed with so many people over the years. This industry just seems to be a better platform for long-term relationships than others. It reminds me of the line of the song that says, 'You've got a friend.'"

Our guess is that eventually, many of those friends will be using Clayton's music in their salesrooms, although he's still searching for the perfect word to rhyme with VPG.

# Timeshare Sales Continue Growth Pattern in 4th Quarter of 2014

The timeshare industry finished off a strong 2014 with an overall 7% increase in sales from the fourth quarter of 2013 to the same period in 2014, according to the Fourth Quarter Pulse Survey produced for ARDA by Deloitte & Touche, LLP. The report for all of 2014, which should show very similar metrics, will be released later in the year.

As in previous quarters, increased sales were the result of more tours, a higher closing ratio, and a higher level of Volume Per Guest (sales revenue divided by the number of tours). Fee for service sales (the contracted sale of timeshare interests by third parties), increased faster than overall sales. The performance of receivable portfolios showed a slight uptick as well, with delinquency down 0.1% and chargeoffs down 0.3% quarter-over-quarter. The weighted average FICO score increased from 699 to 701.

| | Q4 2013 | Q4 2014 |
|---|---|---|
| **Sales** | $1.515B | $1.634B |
| **Tours** | 548,455 | 564,475 |
| **Closing Ratio** | 16.5% | 17.2% |
| **VPG** | $2,881 | $3,088 |