

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PH LODGING TOMBALL, LLC, a Texas Limited
Liability Company, on behalf of itself and a class of
similarly situated entities,

Case No. 4:21-cv-1803

PLAINTIFFS,

v.

JURY TRIAL DEMANDED

HOLIDAY HOSPITALITY FRANCHISING, LLC,
SIX CONTINENTS HOTELS, INC. d/b/a
INTERCONTINENTAL HOTELS GROUP and
IHG OWNERS ASSOCIATION, INC.

DEFENDANTS.

CLASS ACTION COMPLAINT

Plaintiff PH Lodging Tomball, LLC (“Plaintiff” or “PH Tomball”), individually and on behalf of a class of similarly situated individuals and entities, by and through undersigned counsel, hereby demands judgment against defendants Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc. d/b/a Intercontinental Hotels Group and IHG Owners Association, Inc. In support thereof, Plaintiff states as follows:

INTRODUCTION

1. Defendant Six Continents Hotels, Inc. (“SCH”) is the world’s largest hotel company by room count, and does business under the name InterContinental Hotels Group (“IHG”) (SCH and IHG may hereinafter be collectively referred to as “IHG”).

2. IHG operates approximately some 5,600 hotels across more than 15 brands. IHG takes an asset-light approach, owning, franchising and/or managing hotels for third parties, with Holiday Inn as its mainstay chain, under such brands as Holiday Inn, Holiday Inn Express and Holiday Inn Resorts, each bearing the identification as “an IHG Hotel.”

3. IHG also owns, manages and/or franchises other hotel brands such as Crowne Plaza, InterContinental, Staybridge Suites, Candlewood Suites, Hotel Indigo, Regent and Kimpton.

4. IHG's Holiday Inn brands account for approximately 70% of its total hotel count.

5. IHG owns Defendant Holiday Hospitality Franchising, LLC ("HHF"), its affiliate which offers and sells Holiday Inn brand franchises including, but not limited to, Holiday Inn, Holiday Inn Express and Holiday Inn Resort.

6. Defendant IHG owns and acts through its franchising affiliate, HHF and its agent and representative IHG Owners Association ("IHGOA").

7. HHF enters into franchise agreements titled "Holiday Hospitality Franchising, LLC License Agreement(s)" with its franchisees.

8. Plaintiff PH LODGING TOMBALL, LLC ("PH Tomball") is a franchisee that owns and operates one or more hotels that bear a HHF brand mark pursuant to an HHF license agreement.

9. Many HHF Franchisees are individuals, single member limited liability companies or closely held corporations who are either immigrants or second-generation Americans of Indian or other South Asian origin. Plaintiff is one such HHF franchisee.

10. The hotel franchise industry holds particular appeal and attraction to these HHF Franchisees by providing investment and traditional family business ownership opportunities which they can build through diligence, dedication and hard work.

11. This class action lawsuit seeks to put an end to IHG/HHF's unlawful, abusive, fraudulent, anticompetitive and unconscionable practices designed solely to benefit and to enrich IHG/HHF's shareholders and to do so at the expense and to the detriment of Plaintiff and the class members, namely, similarly situated franchisees.

12. As detailed below, Defendants have and continue to engage in unconscionable,

fraudulent, unlawful, anticompetitive and discriminatory business practices in connection with the IHG Hotel franchise system.

13. At the heart of IHG/HHF's unlawful scheme is its requirement that its franchisees use certain mandated vendors and suppliers for the purchase of goods and services necessary to run a hotel.

14. IHG/HHF's forced exclusive use of certain chosen vendors and suppliers imposes well above-market procurement costs on franchisees which include, but are not limited to, those associated with its onerous and exorbitant Property Improvement Plan ("PIP").

15. Under the guise of improving the franchisees' hotels to maintain "brand standards," IHG/HHF forces its franchisees to frequently undertake expensive renovations, remodeling and construction as part of the PIP, and in so doing manipulates and shortens the warranty periods on mandated products the franchisees must purchase, then disingenuously uses this to justify PIP requirements as purportedly necessary to meet "brand standards" when, in reality, IHG/HHF's sole purpose is to maximize its kickbacks and unjustifiably run up costs on their franchisees in bad faith.

16. IHG/HHF deceitfully represent to their franchisees that they select vendors with the laudable goal of using the franchisees' collective bargaining power to secure a group discount and to ensure adequate quality and supply of products and services, and refer to these procurement programs as the "IHG Marketplace."

17. In fact, however, IHG/HHF's primary goal in negotiating with vendors has little to nothing to do with the best interests of franchisees but rather is to secure the largest possible kickback for itself, which vendors finance through the above-market rates charged to franchisees in collusion with IHG/HHF.

18. Furthermore, the above-market priced products which IHG/HHF forces franchisees

to purchase through the IHG Marketplace and related programs is overwhelmingly of inferior quality.

19. These low-quality “IHG Approved” purchases are forced upon franchisees and disingenuously characterized as meeting supposed brand standards of quality, when in truth the sole purpose is to maximize kickbacks for IHG/HHF and unjustifiably increase costs on their franchisees in bad faith.

20. Upon information and good faith belief, IHG/HHF have each netted tens of millions of ill-gotten dollars from this fraudulent kickback scheme.

21. Additionally, IHG/HHF engages in other oppressive, bad-faith, fraudulent and unconscionable conduct. For instance, IHG holds itself out to the public as offering discounts, travel benefits and other perks to repeat guests through its IHG Rewards Club loyalty program. IHG has a mobile booking app as well as cloud-based hotel solutions which it represents as driving demand for its hotel owners and which ostensibly allow hotel owners to reach potential guests at a lower cost. Hotel guests can accumulate points per dollars spent which can be redeemed at IHG hotels.

22. When those points are then redeemed at a hotel, however, only a small fraction of the value is reimbursed to franchisees while (beginning in 2018) IHG/HHF has required that Plaintiff and franchisees (and *not* IHG/HHF) also pay sales tax on the full value of the product or service obtained by hotel guests.

23. Furthermore, in instances where hotel guests’ accumulated reward points from stays at Plaintiff’s (or other franchisees’) hotel expire, the points never return to Plaintiff or to any source-of-origin franchisees.

24. IHG/HHF also routinely introduces new marketing programs under the guise of providing franchisees with a “choice” as to whether they should participate or not. In reality,

however, all such marketing programs are forced upon the franchisees insofar as any and all decisions to “opt out” are met with vindictive, punitive and retaliatory action by IHG/HHF.

25. These programs are in addition to all marketing fees contracted and paid for by the franchisees, and serve as an abusive way to impose additional fees and fines for the sole profit and benefit of IHG/HHF, and to do so without disclosure or agreement by deceit, implied threat and actual retribution rendering franchisees’ supposed “opt-out” choice completely illusory.

26. Furthermore, although the facts set forth herein predominantly existed before March, 2020 and continuously thereafter, IHG/HHF has ceased all of its marketing since the imposition of Covid-19 related restrictions in early 2020. Despite the fact that IHG/HHF has not been engaged in any marketing activities or efforts for approximately a year, it continues to require franchisees to pay significant marketing related fees for which they receive absolutely nothing in return.

27. Moreover, IHG/HHF routinely assesses additional fees and penalties against franchisees which are not authorized by the applicable License Agreement, and are fundamentally excessive and unfair. These fees and penalties are disingenuously assessed as a means to intimidate franchisees, including to serve as bad faith bases for default notices and threatened termination, as well as to harm the economic viability, profitability and creditworthiness of franchisees.

28. For instance, IHG/HHF routinely requires its franchisees to pay multiple fees for the same product or service. And, IHG/HHF routinely assesses additional fees against franchisees for services and products that IHG/HHF either does not, in fact, provide or provides at an inferior quality.

29. IHG/HHF imposes requirements on its franchisees to undergo hotel inspections any time there are conversions, construction, changes in ownership, brand changes or re-licensing. In

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