



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

JOLLY ROGER FUND LP and JOLLY ROGER  
OFFSHORE FUND, LTD., individually and on  
behalf of all others similarly situated,

Plaintiffs,

- against -

JOHN Q HAMMONS HOTELS INC., JOHN Q.  
HAMMONS, DONALD H. DEMPSEY,  
JACQUELINE ANNE DOWDY, DANIEL L.  
EARLEY, WILLIAM J. HART, JOHN E. LOPEZ-  
ONA, JAMES F. MOORE, and DAVID C.  
SULLIVAN,

Defendants.

C.A. No. \_\_\_\_\_

**CLASS ACTION COMPLAINT**

Plaintiffs allege on information and belief, except for those allegations which pertain to plaintiffs which are alleged upon personal knowledge, as follows:

1. This action arises out of an unlawful scheme and plan by John Q. Hammons (“Hammons”), the majority shareholder of John Q. Hammons Hotels, Inc. (“JQH” or the “Company”) to allow for the sale of the Company to Barcelo Crestline Corporation, the parent company of Crestline Hotels & Resorts, Inc., in which transaction Hammons, personally, receives a sweetheart deal in the form of preferred equity in the acquiring company while the Company’s minority shareholders will receive grossly inadequate consideration and without full and complete disclosure of all material information, in breach of defendants' fiduciary duties.

## THE PARTIES

2. Plaintiffs are and have been at all relevant times the owners of in excess of 100,000 shares of JQH common stock.

3. Defendant JQH is a corporation organized and existing under the laws of the State of Delaware with its principal executive offices located at 300 John Q Hammons Parkway, Suite 900, Springfield, MO 65806.

4. JQH's principal activity is to independently own and manage affordable upscale hotels in capital city, secondary and airport markets. It owns 47 hotels located in 20 states in the United States of America, containing 11,630 guest rooms or suites and also manages 13 additional hotels located in seven states, containing 3,094 guest rooms or suites. The hotels operate under the Embassy Suites Hotels, Holiday Inn, and Marriott trade names. Most of the hotels are located in or near a state capital, university, convention center, corporate headquarters, office park, or other stable demand generator. The hotels are designed for customers such as frequent business travelers, groups and conventions and leisure travelers.

5. As of March 9, 2004, JQH had issued and outstanding 22.2 million shares of common stock, of which Hammons and his affiliates owned over 17 million shares or 76% of the combined equity interests in JQH and John Q. Hammons Hotels, L.P. and 77% of the voting power in JQH.

6. Defendant John Q. Hammons is the Chairman of the Board and JQH's Chief Executive Officer. Hammons controls approximately 77% of JQH's voting power and, thus, controls all matters that require a vote of shareholders, including such matters as the election and removal of directors, mergers, acquisitions and other business combinations.

7. The following defendants are all current JQH directors: Donald H. Dempsey, Jacqueline Anne Dowdy, Daniel L. Earley, William J. Hart, John E. Lopez-Ona, James F. Moore, and David C. Sullivan.

8. The defendants named above in paragraph 6 and 7 (the “Individual Defendants”), as officers and/or directors of the Company, owe the highest fiduciary duties of good faith, loyalty, fair dealing, due care, and candor to plaintiffs and the other members of the Class (as defined below).

### **CLASS ACTION ALLEGATIONS**

9. Plaintiffs brings this action pursuant to Rule 23 of the Rules of the Court of Chancery, individually and on behalf of all other stockholders of the Company (except the defendants herein and any persons, firm, trust, corporation, or other entity related to or affiliated with them and their successors in interest), who are or will be threatened with injury arising from defendants’ actions, as more fully described herein (the “Class”).

10. This action is properly maintainable as a class action for the following reasons:

(a) The Class is so numerous that joinder of all members is impracticable. There are hundreds of holders of record of JQH common stock and likely many more beneficial owners.

(b) There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual class member. The common questions include, inter alia, the following:

(i) Whether the defendants have engaged and are continuing to engage in a plan and scheme to benefit themselves at the expense of the members of the Class;

(ii) Whether the defendants have fulfilled, and are capable of fulfilling, their fiduciary duties to plaintiffs and the other members of the Class, including their duties of entire fairness, fair dealing, loyalty, due care, and candor;

(iii) Whether the defendants have disclosed all material facts in connection with the challenged transaction; and

(iv) Whether plaintiffs and the other members of the Class would be irreparably damaged if the defendants are not enjoined from the conduct described herein.

11. The claims of plaintiffs are typical of the claims of the other members of the Class in that all members of the Class will be damaged alike by the wrongs complained of herein.

12. Plaintiffs are committed to prosecuting this action and have retained competent counsel experienced in litigation of this nature. Plaintiffs are adequate representatives of the Class.

13. Defendants have acted and will continue to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or corresponding declaratory relief with respect to the Class as a whole.

#### **BACKGROUND AND SUBSTANTIVE ALLEGATIONS**

14. On October 18, 2004, JQH issued a press release announcing that Barcelo Crestline Corporation, the parent company of Crestline Hotels & Resorts, Inc. and one of the leading hotel management and leasing companies in North America, submitted a proposal to acquire all shares of Class A Common Stock of JQH for \$13.00 in cash per Class A share (the

“Transaction”). Significantly, the proposal had received the approval of Hammons, JQH’s controlling shareholder.

15. Unlike the minority shareholders who are to receive \$13.00 per share as part of the Transaction, a grossly inadequate price, Hammons personally will receive a significant equity stake in the acquiring entity, Barcelo Crestline Corporation, an opportunity not being made available to JQH’s minority shareholders.

16. Because Hammons controls a significant portion of the Company's common stock, no third party will likely bid for JQH. JQH, as the significant shareholder, will be able to proceed with the Transaction without an auction or other type of market check to maximize value for the public shareholders. Indeed, the paltry premium being paid to JQH minority shareholders (15% over Friday's closing market price of \$11.31) reflects that lack of market check.

17. Hammons is intent on benefiting himself to the detriment of minority shareholders by, at once, receiving an equity stake in Barcelo Crestline Corporation, and approving this company’s payment of the lowest possible price to Class members, even though Hammons and the other defendants are duty-bound to maximize shareholder value.

18. The Transaction is in furtherance of a fraudulent plan to take JQH private, which, if not enjoined, will result in the elimination of the public stockholders of JQH in a transaction that is inherently unfair to them and that is the product of the defendants' conflict of interest, as described herein. More particularly, the transaction is in violation of Hammons’ and the Individual Defendants’ fiduciary duties and has been timed and structured unfairly in that:

a) The Transaction is designed and intended to eliminate members of the Class as stockholders of the Company from continued equity participation in the Company at a price per share

which Hammons and the Individual Defendants know or should know is grossly unfair and inadequate; and

b) Hammons and the Individual Defendants have unique knowledge of the Company and have access to information denied or unavailable to the class. Without all material information, Class members are unable to determine whether the price offered in the transaction is fair.

19. Similarly, the Individual Defendants owe fiduciary duties to the Company's shareholders, but because they are dominated, controlled and beholden to Hammons as described above, they cannot not fairly discharge their duties.

20. Unless enjoined by this Court, Hammons and the Individual Defendants will continue to breach their fiduciary duties owed to plaintiffs and the Class and will consummate the Transaction to the irreparable harm of plaintiffs and the Class.

21. By reason of the foregoing acts, practices, and course of conduct by defendants, plaintiffs and the other members of the Class have been and will be damaged because they will not receive their fair proportion of the value of JQH's assets and business and will be prevented from obtaining fair consideration for their shares of JQH common stock.

22. Plaintiffs and the other members of the Class have no adequate remedy at law.

**WHEREFORE**, plaintiffs demand judgment as follows:

A. Declaring this to be a proper class action and naming plaintiff as Class representative;

B. Granting preliminary and permanent injunctive relief against the consummation of the Transaction as described herein;

C. In the event the Transaction is consummated, rescinding the offer and awarding recessionary damages;

D. Ordering defendants to pay to plaintiff and to other members of the Class all damages suffered and to be suffered by them as the result of the acts and transactions alleged herein;

E. Awarding plaintiffs the costs and disbursements of the action including allowances for plaintiff's reasonable attorneys and experts fees; and

F. Granting such other and further relief as may be just and proper.

Dated: October 19, 2004

CHIMICLES & TIKELLIS LLP

*/s/ Brian D. Long*

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