

TEN STRATEGIES TO TRIUMPH OVER TIMESHARES

by John A. Palumbo

Most Bankruptcy Trustees will eventually have to dispose of a timeshare condominium. In fact, the resale of timeshares in bankruptcy is so prevalent that a Trustee once jokingly said that it is a prerequisite for anyone filing bankruptcy to own a timeshare, and if they didn't already own one, they'd have to buy one before they could file.

At first glance, the timeshare appears as if it would be a welcome asset for a Trustee in a bankruptcy case, however, as usual, everything is not always as it seems. Trustees typically end up with many timeshares over the course of their appointment and these high-priced toys are extremely difficult to sell at any price. When they are sold, they typically go for pennies on the dollar.

The dilemma begins when the debtor lists the timeshare on their schedules as a free and clear asset and indicates

that they paid \$10,000, \$15,000, or \$20,000 for the property. One would intuitively look at when they bought the property (which was several years ago) and believe that it may have appreciated in value, thereby creating a decent asset case with this one item.

So, how does it happen that the debtor pays thousands of dollars for these timeshares and now they are almost impossible to sell? To appreciate this occurrence, one must have a general understanding of how timeshares are sold. The marketers of these products, to ensure successful sales, spend thousands of dollars to market and sell each unit. An example of a typical timeshare pitch might include receiving free tickets to Disney World if you would take a look at the new resort property in the Orlando area. This is very enticing to consumers, especially considering the price of Disney tickets today.

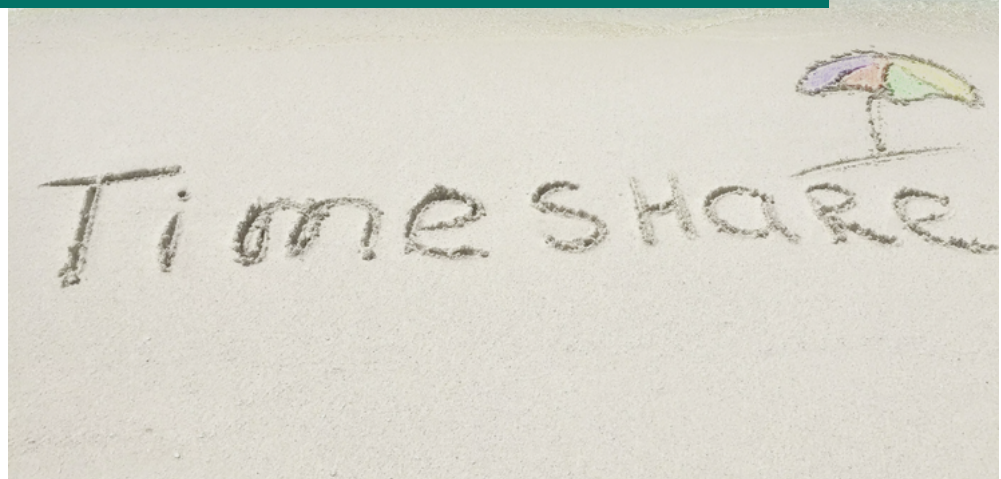
Virtually no one goes to one of these presentations with the intention of buying a timeshare condominium. Rather, they intend to go listen to the pitch or watch the presentation for an hour, get the free tickets and head to Disney. After spending the time in the cooker, which doesn't appear to be heated at all, most people walk out with ownership in one of the resorts. It is a very alluring and very expensive sales presentation; the properties are spectacular and the presentation superb.

Almost always these presentations include free gifts, meals, show tickets, and complimentary overnight stays. They are designed to create an obligation on the buyer's party and cause them to conform, almost religiously, to the law of reciprocity, in which the buyers feel compelled to purchase.

For example, if the debtor purchased a timeshare for \$10,000, more than likely, the marketing and sales cost was approximately \$5,000. This portion of the overall price of the property is what is spent on the enticement process to get the debtor to buy. Trustees don't have the option of using these appealing types of incentives to resell these items, and therefore, the value drops dramatically.

So, what's a Trustee to do? If you have these types of assets, you can you increase your chances of creating money for the estate and eliminate these properties effectively by using the following ten strategies.

CASHING IN ON YOUR NEXT





1 FREE & CLEAR

The first thing a Trustee should do, is verify that it is free and clear of any mortgage. Just because a timeshare has a mortgage doesn't preclude it from being sold, however, it does increase the likelihood that you will have to abandon the asset.

2 SELL IT QUICK ATTITUDE!

If it is free and clear of any mortgage, immediately begin trying to sell the unit rather than waiting for several months. If the Trustee can sell the unit immediately, they can eliminate additional fees being added to the bottom line. I often see timeshares being offered for sale with 2 and 3 years of association fees being tacked on to the bottom-line price. These additional fees make the price too prohibitive and could be avoided by being proactive. If the Trustee moves quickly, when the asset is first received, they could eliminate this asset before the maintenance fees begin to accrue.

3 WHEN'S THE WEEK?



When does the week or weeks of use occur in the year? The timeshare calendar for weekly use typically begins around January 1 being week one and continues sequentially throughout the year. There are 52 weeks available in most timeshare resorts. If the week has not already passed, it will spoil quickly if not acted on immediately. The fees begin mounting and make the price too prohibitive to be sold.



4 FILE NOTICE

It's imperative that the proper documentation is filed to ensure that the process moves as smoothly as possible. A simple filing of "Notice of Trustee's Interest" (at the Clerk's Office in the county in which the timeshare is located) is all that's usually necessary to protect the asset.

5 RENT THE UNIT

If the unit cannot be sold before the debtors' week for the current year is going to occur, the Trustee should immediately authorize the managing agent to rent the unit and have the proceeds from the rental to offset the maintenance or annual fees. It is far easier to sell a timeshare with minimal debt.



6 DETERMINE VALUE

You must know what the debtors paid for the unit compared to what their perceived value is. Once you know what they actually paid for it and you know how much they believe it is worth by what they have listed on the schedule, you are in a much better position to propose a plausible amount to begin working with.



7 USE 50% RULE

As a rule of thumb, if you can sell the unit for about 50% of what it originally cost, it will ensure that you make some money for the estate and will be reasonable enough for a consumer to consider it a good buy.



8 IDENTIFY TARGET MARKET

Most Trustees' mindsets are that a timeshare condominium will be difficult to sell. What many Trustees may not realize is that the timeshare is likely to hold the most value to the debtors themselves. They know what they originally paid for the asset and there is always the possibility that they would like to keep it. If willing to take a different approach, the Trustee could propose a sale back to the debtor with excellent terms and financing by offering no money down and low monthly payments. The Trustee is now in an optimal position to get a higher price for the unit.

9 THE OPEN MARKET

There are a many options for selling the timeshare in the open market such as: listing them on the Internet, the NABT Website, ads in the paper, auctions, etc. The debtor may also know of someone (a friend or family member) who would be interested in purchasing the unit.





10 SELL THE NOTE

As stated in the example below, the Trustee has a better chance of selling a note and mortgage than the timeshare unit itself. Timeshares sell because they offer great financing. You as Trustee can also offer great financing. Zero down financing is very alluring to most anyone. Combine that with selling the unit at $\frac{1}{2}$ the original cost and low monthly payments and you have leveraged yourself to sell.

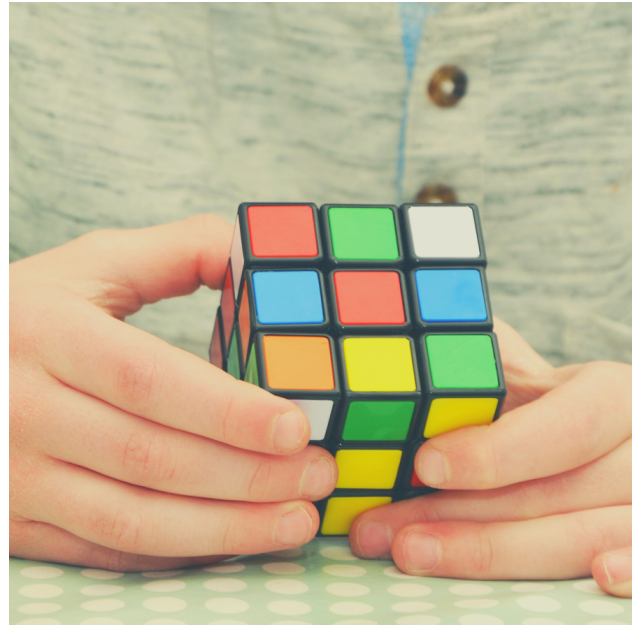
AN EXAMPLE:

John and Mary Smith purchase a timeshare condominium in 1998 for \$10,000. They have now filed for bankruptcy and realize this asset must go. They spent 5 years paying off the note and the asset is free and clear. The Trustee could propose that they keep this asset by purchasing it back from the estate. The Trustee could reasonably sell the unit back to the debtors for no money down, no closing costs and payments of approximately \$100.00 per month on a 5-year note. At 7.5% interest, this would work out to \$5,000 or $\frac{1}{2}$ of the original cost of the unit.

Once the note is created for the purchase of the timeshare, the Trustee would then have the option of selling the \$5,000 note secured with a mortgage to a private investor. The note would most likely be discounted to \$3,000 - \$3,500 due to the high risk.

This proposition works out as a win-win for both parties. The debtors get to keep their timeshare; the estate receives the funds from the sale of the note to a private investor. For the Trustee, this is a far better return than they usually receive on a timeshare transaction, which is perhaps \$500.00 - \$1,500, if anything at all, for the sale of the timeshare to the open market.

These strategies, of course, will not work every time. There will be times when the debtor is not interested in purchasing the unit back and doesn't know anyone else who might be interested in buying it. However, by adopting the right mindset, your debtor becomes your best target market, followed by someone they know and only after exhausting these efforts would you move to the open market to try to sell it. I am always available to assist you in developing a strategy to sell timeshare units or other unusual or difficult to sell assets.



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John A. Palumbo is the principal of Bankruptcy Asset Management, based in Jacksonville, Florida, as well as one of the nation's leading authorities on the evaluation and liquidation of unusual assets in bankruptcy. His ability to

recover and monetize assets (oftentimes deemed unworthy) has helped trustees achieve the maximum value for countless asset cases. He is a member of the National Association of Bankruptcy Trustees and is invited regularly to their Spring Seminars and Annual Conventions as an expert speaker. Currently serving attorneys, CPAs, and bank trust officers nationwide, John consults, advises, and serves as principal in matters of bankruptcy, probate, and trust estates with banks, and has assisted in liquidating assets in foreign countries such as Greece, Jamaica, Morocco, Italy, Guam, and Mexico, just to name a few.

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