



Gurrobat”), on December 8, 2008 (the “Complaint”) in the above-captioned matter, alleges and avers as follows:

FIRST DEFENSE

1. The Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

2. The allegations contained in Paragraph 2 of the Complaint are admitted.

3. The allegations contained in Paragraphs 10, 18, 19 and 20 of the Complaint are denied.

4. In answer to Paragraphs 1, 5, 8(a), 8(b), 8(c), 9, 12 and 13 of the Complaint, including subparts, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in these paragraphs and on that basis such allegations are denied.

5. In answer to Paragraph 3 of the Complaint, Defendants admit that Defendant Pacific Beach Corporation (“Defendant Pacific Beach”) is a Hawaii corporation with its headquarters in Honolulu, Hawaii and operates the Pacific Beach Hotel on Oahu, Hawaii (“Pacific Beach Hotel”). Except as admitted hereinabove, Defendants deny the allegations in Paragraph 3 of the Complaint.

6. In answer to Paragraph 4 of the Complaint, Defendants admit that they operate the Pacific Beach Hotel and Defendant HTH Corporation (“Defendant HTH”) admits that it operates the Pagoda Hotel on Oahu, Hawaii (“Pagoda Hotel”). Except as admitted hereinabove, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 4 of the Complaint, and on that basis denies such allegations.

7. In answer to Paragraph 6 of the Complaint, Defendants state that to the extent that the allegations refer to Rule 23 of the Hawaii Rules of Civil Procedure (“HRCPP”), the rule speaks for itself, and except as admitted hereinabove, Defendants deny the allegations in Paragraph 6 of the Complaint.

8. In answer to Paragraph 7 of the Complaint, Defendants deny that the members of the purported Class are sufficiently numerous that joinder of all members in a single action is impracticable. Except as denied hereinabove, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 7 of the Complaint, and on that basis denies such allegations.

9. In answer to Paragraph 11 of the Complaint, Defendants admit that there are records of past and present employees, and such records speak for themselves. Defendants further admit that there are records of food and beverage sales for which service charges were imposed, and such records speak for themselves. Except as admitted hereinabove, Defendants deny the allegations in Paragraph 11 of the Complaint.

10. In answer to Paragraph 14 of the Complaint, Defendants admit that Plaintiff Gurrobat was an employee of the Pacific Beach Hotel, and except as admitted hereinabove, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 14 of the Complaint and on that basis denies such allegations.

11. In answer to Paragraph 15 of the Complaint, Defendants admit that a service charge is charged to customers at banquets and functions held at the Pacific Beach Hotel and the Pagoda Hotel, and deny that any portion of such service charges were not distributed to its employees and instead retained by Defendants. Except as admitted or denied hereinabove,

Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 15 of the Complaint and on that basis denies such allegations.

12. In answer to Paragraph 16 of the Complaint, Defendants state that to the extent that the allegations refer to Hawaii Revised Statutes (“HRS”) § 481B-14, the statute speaks for itself, and except as admitted hereinabove Defendants deny such allegations.

13. In answer to Paragraph 17 of the Complaint, Defendants state that to the extent that the allegations refer to HRS §§ 481B-14 and/or 480-2, the statutes speak for themselves, and except as admitted hereinabove Defendants deny such allegations.

14. All allegations not specifically referred to hereinabove are denied.

#### THIRD DEFENSE

15. This Court lacks subject matter jurisdiction to adjudicate Plaintiff’s claims.

#### FOURTH DEFENSE

16. Some or all of Plaintiff Gurrobat’s claims are barred by the applicable statute of limitations.

#### FIFTH DEFENSE

17. Plaintiff Gurrobat lacks standing to bring some or all of his claims.

#### SIXTH DEFENSE

18. Some or all of Plaintiff Gurrobat’s claims are barred by release, waiver, laches, or estoppel.


SEVENTH DEFENSE

19. Defendants may rely upon any and all of the affirmative defenses set forth in Rule 8(c) of the Hawaii Rules of Civil Procedure, the applicability of which may be disclosed through further investigation and/or discovery.

WHEREFORE, DEFENDANTS HTH CORPORATION AND PACIFIC BEACH CORPORATION pray for judgment as follows:

- A. That all claims against Defendants in the Complaint be dismissed with prejudice and that judgment be entered in Defendants' favor;
- B. That Defendants be granted such other and further relief as is just and equitable under the circumstances.

DATED: Honolulu, Hawaii, January 15, 2009

  
MELVYN M. MIYAGI  
ROSS T. SHINYAMA  
Attorneys for Defendants  
HTH CORPORATION AND PACIFIC  
BEACH CORPORATION



IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

RAYMOND GURROBAT, individually and ) CV NO. 08-1-2528-12 KKS  
on behalf of all others similarly situated, )  
)  
Plaintiff, ) CERTIFICATE OF SERVICE  
)  
vs. )  
)  
HTH CORPORATION; PACIFIC BEACH )  
CORPORATION; and DOE DEFENDANTS )  
1-50, )  
)  
Defendants. )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was duly served via hand-delivery on the following attorneys to their last known address on January 15, 2009:

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RAYMOND GURROBAT,  
individually and on behalf of  
all others similarly situated.

DATED: Honolulu, Hawaii, January 15, 2009

  
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HTH CORPORATION AND PACIFIC  
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