

Time nearly up for timeshare industry

Attorney Trudie Broekmann is bringing a challenge against the industry and its 'illegal, void' timeshare contracts

STUCK with a holiday club membership that you were ambushed into signing?

Mystified by the booking process? Told you cannot cancel the contract? Paid exorbitant annual levies and never seen any benefit?

Unfair practices in the timeshare industry have been in the spotlight for years, with countless complaints about consumers getting raw deals.

This year, the National Consumer Commission (NCC) finally took steps against the industry, when it said in July it was embarking on public hearings into timeshare.

But while the hearings have seen endless delays, action is only expected well into next year. And until the commission has made its recommendations to the Minister of Trade and Industry, and amendments to the Property Timesharing Control Act (PTCA) have been approved by Parliament, consumers are likely to continue being stuck with contracts, extortionate levies, timeshare for which they cannot book and threats of blacklisting.

Commercial attorney Trudie Broekmann is not waiting for the outcome of those hearings: last week, she announced plans to launch a class action lawsuit early in the new year.

Broekmann is demanding the full return of clients' investments because the contracts are illegal and don't comply with the Consumer Protection Act (CPA) or the PTCA, she says.

The Cape Town attorney says she has already terminated the contracts of 48 of her clients with Quality Vacation Club, African Club Innovations (ACI), Multi Destinations Club, Dream Vacations, Lifestyle Vacation Club and Flexi Club.

She says she's studied those contracts and, in each case, they were legally non-compliant and therefore void.

She says more than half of her clients have never been able to book a holiday.

One of her clients paid R500 000 to ACI over five years, without ever being able to secure a booking.

"The systems are structured in such a way that apparently



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deliberately prevents you from achieving a booking," Broekmann says. "The contracts are also complicated so that few consumers can comprehend it."

"Many people assume they are permanently committed to (in perpetuity) contracts. That is not true, as the contracts are unilaterally broken by the supplier, or are illegal in the first place."

Broekmann is cautiously optimistic about the NCC's inquiry, which she hopes will contain "useful and practical recommendations to alleviate the consumers' many problems" with the industry, but is concerned the process is too sluggish.

"They will recommend that Parliament draft new laws to regulate the industry better. This would be a slow and uncertain process and would provide cold comfort to the consumers who are forking out to the industry every month for services they never receive."

The stories of two of Broekmann's clients are all too familiar.

Joburg attorney Anni Feely and her husband initially paid

R48 000 for their timeshare, but only managed to make repeat bookings at a single suitable resort in 17 years.

At the presentation, they were told they had "won" a weekend at a lodge. It was so grungy they stayed one night.

The second place, for which they booked a year in advance and were told it was the "absolute best" in the southern Cape, was similarly disgusting.

"It's theft," she said. "If I think of all the money I spent over 17 years, it makes me sick. Levies started at R2260 in the first year. These escalated to over R10 800 annually."

When Feely attempted to cancel in 2015, she was laughed at and told the contract was in perpetuity. Then they threatened to blacklist her.

"I'm a commercial lawyer (in the mining sector), so I don't know the Consumer Protection Act particularly well. But when I spoke to other lawyers, they scoffed at the supposed 'perpetuity contract'. That's when I started doing research and got hold of Trudie (Broekmann)."

Corné Erasmus, a Joburg businesswoman, was lured to a presentation after being apparently shortlisted to become the winner of a "lucky draw" to own a luxury vehicle in 2005.

But the draw turned out to be a marketing session of international holiday resorts that would cost an initial R100 000.

The promise of "inexpensive" international accommodation sounded so good that who could say no? QVC even offered her "permanent" membership. She signed up, but wasn't told about the levies.

Two years later, all the attractive international resorts disappeared from the portfolio and it became impossible to secure bookings for any holidays.

Currently, she pays an annual levy of R144 000 without being able to access any timeshare holidays.

Erasmus is one of 65 of Broekmann's other timeshare clients who haven't had their contracts cancelled yet, and will be part of the class action suit.

A 2011 Grant Thornton study found there were 740 000 timeshare owners in South Africa. The industry is believed to be raking in a healthy R3.5 billion annually.

The Vacation Ownership Association of Southern Africa declined to comment, but Peter Snyman, director of Flexi Holiday Club – one of the clubs earmarked in the pending lawsuit – has accused Broekmann of making "several broad, unsubstantiated and untrue allegations that do not apply to Flexi Holiday Club, and which are damaging to the tens of thousands of our members who continue to enjoy thousands of holidays on an annual basis".

He says industry players have been working closely with the NCC's inquiry to expose the

"unscrupulous practices and entities purporting to be part of the industry when they are not, as well as implementing new legislative reforms. Engaging in a class action lawsuit at this stage is likely to undermine the outstanding progress made by the NCC public inquiry".

"Considering that Trudie Broekmann only assisted 49 consumers over an unspecified time, the question arises as to how many complaints there are in fact against each individual timeshare supplier. To put this matter into context, the number of complaints received by the NCC public inquiry and lodged with the Consumer Goods and Services Ombud, totals 440, which constitutes 0.1% of all timeshare weeks owned."

Snyman further claims Flexi Holiday Club is not aware of any class action lawsuit against itself or the industry as a whole, despite seeing Broekmann's statement.

"Flexi Holiday Club has no record of any cancellations facilitated by Trudie Broekmann Attorneys. Flexi Holiday Club has had a cancellation policy in place for the past six years and all cancellations are effected in terms of this policy, and not because of any interventions by Trudie Broekmann."

The battle between Broekmann, a seasoned CPA expert, and members of the timeshare industry is likely to be of immense interest to consumers,



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wound up and the Master of the Court was notified thereof.

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I requested that they take the timeshare over and sell it themselves as no dependant wanted the asset, and I can't legally force it onto any dependant.

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Consumers wanting to join the class action suit have been invited to contact Trudie Broekmann Attorneys at trudie@broekmann.co.za, admin@broekmann.co.za, or call 021 422 0269.

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Whistle-blower slams police for failing to offer protection

ZIMASA MATIWAANE

THE police's crime intelligence unit warned two whistle-blowers, who exposed alleged corruption apparently linked to the death of former ANC Youth League secretary-general Sindsiso Magaga, that a hitman was after them.

Thabiso Zulu and Less Stuta have been vocal about allegations of corruption and mismanagement of public funds in the multimillion-rand upgrades to the uMzimkhulu Memorial Hall.

Both have given testimony to the public protector investigation probing the matter while Zulu also testified at the Moerane commission investigating political killings in the province.

"On Thursday we were notified by national crime intelligence that a hitman from the notorious Glebelands Hostel had been sent to kill us. We were told not to move and stay where we are," Zulu said. Police

had not responded at the time of going to print.

But the death threats are not new, Stuta said. "There are days when I am followed by unregistered cars. Two weeks ago someone tried to cut my fence and gain entry to my home," he said.

Zulu lambasted the state for failing to protect them, saying if he or Stuta were to be killed, their blood would be on the state's hands.

"Why are we being encouraged to expose corruption if we are going to suffer?" Zulu asked.

Both men said they did not regret blowing the lid on the alleged corruption.

Meanwhile, KwaZulu-Natal violence monitor Mary de Haas sent a letter to the Moerane Commission last week describing the "grave danger" the two men were in and asking the commission to intervene.

"When we received De Haas's letter, we reminded the authorities (