

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

**BOLTON VALLEY HOLIDAY RESORT, INC.,
a/k/a Bolton Valley Ski Area;
a/k/a Bolton Mountain Resort;
a/k/a Bolton Mountain Resort Hotel and Condominiums;
a/k/a Bolton Nordic Center;
a/k/a Bolton Resort;
a/k/a Bolton Resort Hotel and Condominiums;
a/k/a Bolton Ski Area;
a/k/a Bolton Ski Resort;
a/k/a Bolton Valley Associates;
a/k/a Bolton Valley Development;
a/k/a Bolton Valley Honey Bear Child Care Center;
a/k/a Bolton Valley Resort Hotel and Condominiums;
a/k/a Bolton Valley Ski and Summer Resort;
a/k/a Bolton Valley Ski Resort,
Debtor-in-Possession.**

**Case # 01-11665
Chapter 11**



ORDER

**DENYING DEBTOR-IN-POSSESSION'S MOTION FOR DESIGNATION OF CHAPTER 11(A) CASE
AND SETTING HEARING ON MOTION TO SHORTEN NOTICE**

On November 21, 2002, the Debtor-in-Possession Bolton Valley Holiday Resort, Inc. (hereinafter, either "Debtor-in-Possession" or "Bolton Valley") filed a Motion for Designation of Chapter 11(a) Case Under Vermont Local Bankruptcy Rule 3017-2(a) and for Order Shortening Notice Period from 25 Days to No Less Than 20 Days (doc. #246). For the reasons set forth below, the Motion for Chapter 11(a) Designation is denied and the Motion to Shorten Time is set for hearing.

The Motion for Chapter 11(a) Designation

The Local Rules of Practice and Procedure in Bankruptcy Court, see Vt. LBR 3017-2(a), and the Federal Rules of Bankruptcy Procedure, see Fed. R. Bankr. P. Rule 3017.1, set forth the criteria for eligibility as a Chapter 11(a) Debtor. The Court finds that, in light of the amount of its debt, Bolton Valley does not qualify as a small business within the meaning of the Bankruptcy Code, see 11 U.S.C. § 101(51C), and therefore is not eligible for designation as a Chapter 11(a) entity.

IT IS THEREFORE ORDERED that Bolton Valley's Motion for Designation of Chapter 11(a) Case is denied.

The Motion to Shorten Notice

Bolton Valley seeks to collapse the two separate 25-day notice periods required by the Bankruptcy Code and Rules for the approval of the Disclosure Statement and the confirmation of the Plan into a single notice period, and then to reduce that single notice period from 25 days to 20 days. Since the Court has denied the motion for chapter 11(a) designation, the Court finds no authority to collapse the two notice periods into a single notice period. Under the Rules, the cumulative notice required on these two matters would be 50 days.

The Court finds Bolton Valley's motion to shorten the notice period from 50 days to 20 days to be a request for rather extraordinary relief. It asks the Court to approve a notice period that presents a real risk of providing an unreasonably short opportunity for creditors to review the disclosure statement and plan in this case. Moreover, Bolton Valley has not presented any evidence compelling the significant reduction requested. In particular, the Debtor-in-Possession has not offered any proof (e.g., an affidavit from said potential purchase) to substantiate its assertion that failing to close on the proposed sale of the subject ski area by December 16, 2002 will jeopardize the viability or success of the Debtor-in-Possession's First Amended Chapter 11 Plan. This Court will not shorten the notice periods required by the Bankruptcy Code and Rules without good cause. Based upon evidence presented at prior hearings and the instant motion, the Court finds good cause has been shown to justify a shortening of the notice periods; however, there has not been sufficient cause shown to justify shortening the notice time to the extent requested by the Debtor-in-Possession.

IT IS THEREFORE ORDERED that the Debtor-in-Possession shall appear at a hearing to be held on **Tuesday, November 26, 2002 at 11:00AM** at the United States Bankruptcy Court at the U.S. Post Office and Courthouse, located at 151 West Street in Rutland, Vermont, to show cause why the Court

should not enter an order setting the following schedule for action upon the Debtor-in-Possession's First Amended Disclosure Statement and First Amended Chapter 11 Plan:

- 1.) Objections to the Debtor-in-Possession's First Amended Disclosure Statement (doc. #247) shall be filed by 4:00 PM on December 12, 2002;
- 2.) A hearing on the motion to approve the Debtor-in-Possession's First Amended Disclosure Statement shall be held on December 17, 2002;
- 3.) All ballots on and objections to the Debtor-in-Possession's First Amended Chapter 11 Plan shall be due by 4:00 PM on January 13, 2003; and
- 4.) A hearing on the motion to confirm the Debtor-in-Possession's First Amended Chapter 11 Plan shall be held on January 16, 2003.

The Court will set aside one hour for this hearing and will consider at that time any evidence the Debtor-in-Possession or any other party in interest wishes to present either in favor of, or in opposition to, Bolton Valley's's motion to shorten time. The Court will also consider at that hearing any reasonable proposed modifications to the schedule set forth above.

SO ORDERED.

November 22, 2002
Rutland, Vermont



Colleen A. Brown
United States Bankruptcy Judge