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Subject: Baha Mar claiming 'deliberate sabotage' | The Tribune
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Totally wrong approach. Open warfare is the worst, maybe too late already to fix.
China Construction America is subsidiary of massive Chinese State Owned Enterprise "China State Construction Engineering Corporation".
If you want we can have a look if there is something to be done.

<http://www.tribune242.com/news/2015/jul/13/baha-mar-claiming-deliberate-sabotage/>

Baha Mar Claiming 'Deliberate Sabotage'

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#Baha Mar has accused its main contractor of "deliberate sabotage" and the removal of key construction documents, implying this is part of a cover-up to hide "false accounting practices" that inflated its costs.

#The \$3.5 billion mega resort developer, in filings with the Delaware Bankruptcy Court, alleged that its own initial review of China Construction America's accounting records showed numerous applications for reimbursement by its employees and those working for its sub-contractors.

#Baha Mar, though, is claiming that the expenses underlying these claims were "incurred for personal expenditures such as cosmetics and groceries" - not for work on the troubled resort development.

#The suggestion that the \$2.45 billion project financing was being used for luxury and necessity shopping, rather than construction, is among a slew of accusations made by Baha Mar in its demands for the Bankruptcy Court to order an examination of China Construction America.

#In particular, the developer wants the court's help in securing key construction documents it alleges it is entitled to, but which China Construction America is refusing to handover.

#Baha Mar's latest court filings also reveal:

- The developer is preparing to dump China Construction America as the project's main contractor.

#Baha Mar discloses that a key reason for obtaining accurate construction documents on the \$3.5 billion project is so that can be “in a position to provide a new general contractor” with everything it requires to hit the ground running.

#Tribune Business sources, meanwhile, have confirmed that had Baha Mar succeeded in obtaining Supreme Court recognition of the Chapter 11 bankruptcy protection at the first hearing, China Construction America would have been ditched.

- Baha Mar is alleging that it is at “a palpable disadvantage” for the upcoming negotiations with China Construction America and the project’s lender, the China Export-Import Bank, without those construction documents.

#It alleges that both the bank and contractor will possess “superior vital information”.

- Baha Mar details four separate incidents where China Construction America personnel, and persons working for its sub-contractors, allegedly attempted to remove documents and computers from the project site at Cable Beach.

#It also claims that this was “accompanied by acts of vandalism and extortionist demands, including a China Construction America-initiated deliberate sabotage of the main power source for the project.

- China Construction America, in a response e-mailed to Tribune Business, accused Baha Mar of attempting to deflect attention from its own mismanagement by making scandalous accusations against the contractor.

#“Baha Mar Ltd continues to spread false and misleading allegations in an effort to deflect attention away from its mismanagement of the Baha Mar resort project,” the contractor told Tribune Business.

#“We are committed to working in partnership with the Bahamian government in order to reach a resolution and complete this important project.”

#Baha Mar’s court filings last Thursday will doubtless further inflame tensions between the developer and China Construction America at the worst possible time, given that they are supposed to resume negotiations in China today.

#The tone of the allegations suggests that their relationship, already ‘hanging by a thread’, is simply damaged beyond repair and there are virtually no prospects of salvaging it.

#With the contractor and project financier, the China Export-Import Bank, enjoying common ownership in the form of the Beijing government and likely to side together, the latest legal salvo also raises major doubt over whether a negotiated solution to the Baha Mar impasse will be forthcoming.

#Both Baha Mar and China Construction America have been embroiled in a row over where the project financing went, but the developer has struck first with last Thursday’s court filing.

#The developer said it now needed to complete construction and open the \$3.5 billion project “on a timeframe and in a manner that maximises the value of their estates”. And it dropped a heavy hint that China Construction America is not the contractor to achieve that.

#Explaining why it needed the court’s assistance to obtain the key construction documents and determine the extent of remaining work, Baha Mar said: “Regardless of who completes such construction, the debtors must have this information to be able to make necessary and appropriate adjustments to their pre-opening business operations, ensure the availability of sufficient funding, and efficiently administer the Chapter 11 cases for the benefit of all stakeholders.

#“Furthermore, in the event that such construction will not be completed by China Construction America for any reason, the debtors [Baha Mar] must be in a position to provide a new general contractor with accurate and complete copies of all project documents to minimise any delay and costs resulting from such a transition.”

#While still exuding optimism that a negotiated solution to their impasse was possible, Baha Mar alleged that it was at “a palpable disadvantage in continuing negotiations” without access to all the documents possessed by China Construction America.

#While being unable to maximise its interests, Baha Mar claimed the contractor - which has a \$150 million equity stake in the project via its 100 per cent preference share ownership - could “increase their own leverage by adding to the already significant delays and cost [Baha Mar] would have to assume to complete construction with a new general contractor”.

#And, while attempting to limit access to the China Construction America offices and other facilities in the first 10 days post-Chapter 11, in a bid to preserve the “integrity” of documents, Baha Mar alleged that the contractor’s staff “have attempted to sneak past” its security staff and remove key documents.

#“Many of these attempts were co-ordinated, and some were accompanied by acts of vandalism and extortionist demands, including a China Construction America-initiated deliberate sabotage of the main power source for the project,” Baha Mar alleged.

#It claimed this showed there was “a real and substantial risk” that China Construction America “cannot be trusted” to preserve and hand over key construction documents, and it would not do so without a court order.

#Baha Mar alleged that its entitlement to a complete set of project documents was contained in the governing contracts for the development, including the main construction contract.

#It added that this had already been a major source of contention between itself and China Construction America, with a Disputes Resolution Board finding in its favour.

#Baha Mar then claimed that a “co-ordinated pattern of activity” among China Construction America’s employees and agents, when it came to removing documents from premises at the former Crystal Palace and

elsewhere at the project site, were “undermining the continued viability” of the development.

#Baha Mar alleged that while it had offered protocols whereby China Construction America personnel could access their offices and facilities, its staff had been confronted by efforts to “infiltrate the Crystal Palace”, evade security officers and remove project documents.

#These involved:

- #A female China Construction America employee trying to sneak documents out under her clothing on June 30, one day after the Chapter 11 filing.
- #On July 1 and July 2, China Construction America sub-contractors were caught leaving the Crystal Palace with bags containing computers, binders and documents. This allegedly happened again on July 7.

#“The debtors have a reasonable basis to be concerned about the removal of computers and accounting documents,” Baha Mar alleged.

#“One possible explanation for at least some of these infiltrations is that China Construction America may have been utilising false accounting practices to illegitimately enlarge its costs and expenses at the expense of Baha Mar and the project.

#“In fact, a preliminary review of the accounting records kept in China Construction America’s offices on-site appear to consist of large amounts of reimbursement applications by China Construction America’s and sub-contractors’ employees, but the underlying records suggest these expenses appear to have been incurred for personal expenditures such as groceries and cosmetics.”

#Baha Mar then alleged that “perhaps the most troubling - and telling - example of misbehaviour” by China Construction America occurred 24 hours after the Chapter 11 filing, when it allegedly shut down power to the entire project on the morning of June 30.

#Baha Mar alleged that its staff were told by China Construction America personnel that they had been instructed to cut power until they were allowed access to their offices in the Crystal Palace.

#Baha Mar alleged that it had “no choice but to acquiesce” given the safety issues, and allow China Construction America staff access to their offices. Once this occurred, power was restored.

#“Throughout the project, there are signs that documents have been removed from various locations,” Baha Mar claimed.

#It is particularly eager to obtain access to the lap tops, and hard drives, used by Tiger Wu, China Construction America’s executive vice-president and representative on the Baha Mar Board, and another executive, David Wang.