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Tim Blixseth in happier times, at his Yellowstone Club in Montana. (Photo credit: Robyn Twomey /Corbis)

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Yellowstone Club Trustee Offers Bounty To Find Blixseth's Missing Millions

Sometime in May 2006, lawyers for Timothy Blixseth drafted a two-page promissory note for $208,831,158.45, backdated it to Sept. 30, 2005, and stuck it in the files of Blixseth Group Inc., the private corporation Blixseth used to develop the exclusive billionaire ski resort known as the Yellowstone Club. The money was quickly spent on yachts, a French chateau, a resort on the west coast of Mexico and other jet-set indulgences.

Eight years later, courts have ordered Blixseth to pay back all of that and more to compensate creditors and investors who lost hundreds of millions of dollars in Yellowstone Club's 2009 bankruptcy. So far, the former billionaire has refused, using a cadre of lawyers to challenge virtually every ruling against him and filing outrageous countersuits, such as a $9 billion claim against the trustee in charge of liquidating the resort company's assets.

Now Blixseth's facing a new threat in the form of Brian Glasser, a tenacious West Virginia trial lawyer who's taken the unusual step of offering a bounty to anyone who helps him recover Blixseth's borrowed fortune. Under the terms of a bounty offer Glasser shared with FORBES, the trustee will pay 10% to anyone who provides information about "previously undiscovered" Blixseth wealth, including property that he has transferred to others.

"I've spent enough money getting judgments," said Glasser, a Charleston, W. Va. native who's working on contingency for the Yellowstone estate and estimates he's spent $1.5 million on the quest so far. "It's time to start collecting."

Glasser, 47, is a West Virginia U. graduate who attended Oxford on a Rhodes scholarship and later graduated from Harvard Law School. He earned a reputation among West Virginia's coal barons for his skill in the courtroom and tough negotiating tactics outside. His clients include coal billionaire Christopher Cline, who said of Glasser: "He's a hound dog. Once he gets a hold of a bone he doesn't turn it loose."

Blixseth appears more than equal to the challenge. As detailed by my colleague Kerry Dolan in this 2004 article, the son of poor Norwegian immigrants made a fortune in the Oregon lumber business before assembling the 22-square-mile tract next to Montana's Big Sky ski resort in the 1990s that he named Yellowstone Club. Charging $3 million to join plus a million or more for home sites, he attracted members like Bill Gates and Jack Kemp, while investors in the resort included champion bicyclist Greg LeMond. Blixseth briefly ascended to the FORBES Billionaires list in 2007.

The developer and his wife Edra had been through bankruptcy once before, but that didn't deter Credit Suisse from lending them $375 million in September 2005, under extraordinarily loose terms that allowed him to use most of the money for whatever he wanted.

Blixseth did just that, according to the findings of a bankruptcy judge in Montana, almost immediately transferring $209 million into his personal holding company, BGI, and spending more than $100 million on overseas properties including Chateau de Farcheville in France and Tamarindo, a resort on the west coast of Mexico.

Blixseth and his Edra divorced in 2008, and he tried to insulate himself from the debt by negotiating a release assigning all liability to his wife in exchange for her taking the Yellowstone Club property. But U.S. Bankruptcy Judge Ralph B. Kirscher, in a 2010 decision, called the release a "fraudulent transfer" designed to hinder and delay his creditors.

"Blixseth's fraudulent intent could not be more clear," the judge said.

Despite the judge's unequivocal language, Glasser hasn't collected a dime from Blixseth. He won a $41 million judgment against Blixseth in bankruptcy court (the judge wasn't sympathetic to Credit Suisse, which lent the money with few strings) and sued again in California to collect on the 2006 promissory note, which had been transferred to the trustee. In a scathing summary judgment, U.S. District Judge Gary Feess accused Blixseth of orchestrating an "elaborate fraudulent scheme of self-dealing" and ordered him to repay $219 million.

Blixseth, in an e-mailed response to my questions, said the claims of fraud and self-dealing are "totally without merit" and he owes nothing.

“I was completely released from any obligations of any companies received by my ex-wife in the divorce by Court order, which makes complete sense, given that no one wants to be responsible for the business decisions of his or her ex-spouse after a divorce,” he said.

Glasser disagrees. The lawyer, who worked his way through the University of West Virginia as a white-water rafting guide, is working on a contingency-fee basis under which he stands to collect 25% of anything he recovers over $18 million, but will suffer a near-total writeoff if he fails.

“I haven’t dealt with somebody like this before, and I don’t think he’s acting in his own best interest,” said Glasser of Blixseth, who last year defied an injunction and sold the Tamarindo resort in Mexico for a purported $26 million loss. Earlier this year Yellowstone’s lawyers asked the judge to arrest Blixseth for contempt after he refused to hand over the $13.8 million he says he got for the resort. Undeterred, Blixseth’s fighting the contempt charges too. Glasser suspects Blixseth is living outside the country, but in his e-mail to me, the developer said he’s living “outside Seattle, WA, same place as always.”

Glasser was brought into the Yellowstone litigation in 2008 by the former trustee, Mark Kirschner, who’d hired him for the Refco bankruptcy several years before. Following the lead of many a young, ambitious trial lawyer, Glasser graduated from Harvard Law, clerked for a federal judge on the Fourth Circuit Court of Appeals in Richmond, Va., then came home to West Virginia. He soon got the attention of wealthy businessmen after helping coal and timber magnate Buck Harless win $18 million in a lawsuit that Harless had previously offered to settle for $1 million. Harless donated the winnings to a community center, and Glasser discovered a love for confrontation and negotiation.

“I could write a book about what I didn’t learn at Oxford and Harvard Law,” Glasser told me. “It takes more balls than brains to be a successful lawyer. It takes the courage to call it.”

Word got around, and eventually Glasser was approached by Cline after his lawyers were forced to step down due to a conflict three days before a potentially devastating case was set for trial. Cline called Harless, who told him “there’s this little kid up in Charleston you need to call right now.”

Glasser won that case, and when Cline was being harassed by an extortionist who also targeted Hollywood producer Harvey Weinstein, he tapped the Glasser to take care of it.

“With the right contacts, we were able to track a guy down who was literally threatening my children,” Cline says. “It was a serious moment.”

Another client, HCR Manor Care General Counsel Richard Parr, hired Glasser for damage control after the nursing-home operator lost a $90 million medical negligence case in West Virginia. This year, Glasser whittled it down to $32 million before the state’s Supreme Court.

Parr described how Glasser prepared an executive for a court appearance by handing him an obnoxiously large, pink calculator. The executive was so flustered by the calculator that he was off his game when Glasser started peppering him with questions about his area of expertise, finance.

Later the executive told Parr: “I hate this guy. I’m glad you hired him.”

Blixseth and his lawyers may be coming to hate Glasser, too. The judge overseeing Yellowstone Club’s bankruptcy did Blixseth a huge favor by essentially cutting Credit Suisse out of any recovery in 2010, after seeing evidence the Swiss bank had lent Blixseth $375 million without even performing the basic calculation of discounting Yellowstone’s future cash flows to account for risk and the time value of money.

The bank had a new “loan product” funded through its Cayman Islands unit that allowed developers to cash in on expected future profits from land sales, and it operated without any of the normal controls, like appraisals and limits on the use of loan proceeds, that would be required of a U.S.

bank. (Even the 2% fee was settled with a coin toss; Credit Suisse wanted 3% but Blixseth won.) The judge applied the *pari delicto* doctrine to find that Credit Suisse had equal fault for giving Blixseth the money on such loose terms.

The judge did order Blixseth to repay $41 million owed to other creditors. Blixseth has refused to pay even that, accusing the judge of bias and filing a steady stream of challenges including the $9 billion lawsuit against the former trustee, Kirschner (it was dismissed, like most of Blixseth's court actions, with the judge accusing him of acting in bad faith).

Glasser has appealed the bankruptcy judge's decision limiting the plan to $41 million, which if left standing could allow Blixseth to pocket almost $200 million he borrowed with, in the judge's words, "no intention whatsoever of repaying." (Blixseth said the money was mostly spent on investments outside Yellowstone Club, which presumably lost much of their value in the financial crisis.) Rather than rely on the bankruptcy court alone, however, Glasser also sued Blixseth in California, where Judge Freess in June ordered him to pay $219 million under the promissory note to BGI.

Bailey & Glasser's Brian Glasser: Time to collect.

Lawyers for both sides appeared in the Ninth Circuit Court of Appeals recently to argue over several rulings that are on appeal, including Yellowstone's appeal of the bankruptcy plan trimming Blixseth's liabilities. An appeal of the $219 million California judgment is scheduled to be argued next spring, with a decision in those cases expected by the end of 2015.

In the meantime, Glasser is on a worldwide search for what's left of the more than $200 million that flowed through Yellowstone's accounts into various entities Blixseth controlled. When he ran Yellowstone, Blixseth showed a remarkable ability to trade real estate for a profit. He bought an interest in a condominium development from Yellowstone for a $5 million promissory note and flipped it less than a year later for $60 million. He also flipped five building lots that had been appraised at $5 million apiece, buying them for $3 million from Yellowstone and immediately contracting to sell them for $5.5 million or more, the judge found.

Such activities, as well as converting the debt proceeds to his own use, violated his fiduciary duties to Yellowstone and hastened the resort's bankruptcy, the judge found.

Post-bankruptcy, Blixseth's magic touch appears to have run cooled. He said he sold Tamarindo, which was purchased with $40 million in borrowed money, for $13.8 million last year despite a judge's order requiring him to preserve the asset for the bankruptcy estate. For that the judge held him in contempt and added $13.8 million to the debts he must repay. Blixseth, in his e-mail, says the resort is in a violence-plagued area and was at risk of being seized by the authorities for a total loss unless he sold.

Meanwhile, Glasser said Blixseth still owns his yacht, the 156-foot Piano Bar, and is flying around in a Citation jet that may be registered to a family member. The trustees seized Chateau de Farcheville and a golf course in Scotland and sold them for a few million dollars, but so far Glasser hasn't gotten a dime from Blixseth, his primary target. He doesn't have any idea how much of the roughly $250 million he suspects Blixseth took out of Yellowstone can still be seized.

"It started with a big wide funnel," Glasser said, "so there should be some money left."

In his e-mail to me, Blixseth was at turns defiant and wistful.

I grew up on welfare in rural Oregon. I worked for everything I had. I believed that with hard work, smarts and some luck, I could "make it." On those simple principles, I was blessed to have had a very successful career. All that evaporated when I fell for an unsolicited sales pitch from Credit Suisse pitching a loan product designed specifically for high end master planned communities like Yellowstone Club that was designed to allow a developer to take out a portion of the profits from the development in advance of completion, non-recourse, and paid off by sales of property. After turning them down, they finally sold me on a $175 million loan. Then, backed by a new appraisal from Cushman & Wakefield, they said that so many people wanted a share of the loan that they wanted to raise the loan amount to $375 million, based on a valuation of over $1 billion.

The release from his wife was a simple exchange, he said, in which he surrendered the Yellowstone Club, his crowning achievement as a developer, and was relieved of the liabilities attached to it. Since his wife subsequently put the resort in bankruptcy, he said, he shouldn't be forced to repay losses caused by his wife's alleged mismanagement.

This is an injustice that I am committed to fighting to the Supreme Court of the United States if necessary. My hope is that it won't go that far and the Ninth Circuit will correct this injustice.

Glasser borrowed a term from his Oxford days, where he studied political philosophy and economics, to describe the legal conflict he's engaged in. It's a "suboptimal Pareto equilibrium where both sides lose," he said in a West Virginia drawl, erupting in the sudden fit of giggling laughter that's become his trademark.

But a few minutes later he described the stakes Blixseth is facing by summing up his legal practice in West Virginia, where rich clients keep him on retainer partly to make sure they don't run up against him on the other side.

"I've got clients and targets," he said. "If you don't want to be a target, then you need to be a client."

In this situation, Blixseth is unlikely ever to become Glasser's client.