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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2004 APR -9 A 10: 35

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

In the matter of:

YUCATAN RESORTS, INC.,
3222 Mishawaka Avenue.
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680;
Av. Coba #82 Lote 10, 3er. Piso
Cancun, Q. Roo
Mexico C.P. 77500

YUCATAN RESORTS, S.A.,
3222 Mishawaka Avenue.
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680;
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Cancun, Q. Roo
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RESORT HOLDINGS INTERNATIONAL, INC.,
3222 Mishawaka Avenue
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680;
Av. Coba #82 Lote 10, 3er. Piso
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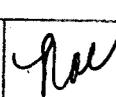
DOCKET NO. S-03539A-03-0000

**SECURITIES DIVISION'S MOTION
FOR EXPEDITED RULING ON
ADMINISTRATIVE DISCOVERY
DISPUTE**

Arizona Corporation Commission

DOCKETED

APR - 9 2004

DOCKETED BY 

1 **WORLD PHANTASY TOURS, INC.,**)
 a/k/a **MAJESTY TRAVEL**)
 2 a/k/a **VIAJES MAJESTY**)
 Calle Eusebio A. Morales)
 3 Edificio Atlantida, P Baja)
 APDO, 8301 Zona 7 Panama,)
 4)
AVALON RESORTS, S.A.)
 5 Av. Coba #82 Lote 10, 3er. Piso)
 Cancun, Q. Roo)
 6 Mexico C.P. 77500)
)
 7 **MICHAEL E. KELLY and LORY KELLY,**)
 husband and wife,)
 8 29294 Quinn Road)
 North Liberty, IN 46554;)
 9 3222 Mishawaka Avenue)
 South Bend, IN 46615;)
 10 P.O. Box 2661)
 South Bend, IN 46680,)
 11)
 Respondents.)
 12)

13
 14 In a recent April 7, 2004 facsimile, Respondents notified the presiding administrative law
 15 judge (“ALJ”) that they intend to make yet another filing in the administrative discovery dispute
 16 currently at issue. Any such action would be unwarranted and would run counter to the explicit
 17 directives of the ALJ. Indeed, the parties to this administrative action have, through ALJ-authorized
 18 briefs, already fully argued this administrative discovery matter.

19 Consequently, the Securities Division of the Arizona Corporation Commission (“Division”)
 20 hereby moves that the ALJ issue, without delay and without consideration of any further unwarranted
 21 filings, a conclusive administrative ruling on this dispute.

22 ***Discussion***

23 During the course of a March 4, 2004, pre-hearing conference in this matter, the ALJ directed
 24 that the Division file an answer or objection to the various civil discovery demands of the
 25 Respondents by the close of business on Friday March 5, 2004. Respondents were then afforded ten
 26 days (plus five additional mailing days) to submit a response to these Division challenges. *See*

1 *Pre-hearing Conference Transcript, p. 48, lines 3-8.* In connection with this briefing schedule, the
2 ALJ subsequently stated: “Then I guess if [the Division] wants to file a reply, you get another five,
3 **but that will be it, no more.**” *Pre-hearing Conference Transcript, p. 48, lines 8-10* (emphasis
4 added).

5 In accordance with these directives, the Division filed separate objections to four separate
6 civil discovery demands on March 5, 2004, the Respondents filed a “response,” and the Division
7 ultimately filed its “reply” entitled “Securities Division’s Response [Effectively Reply] to
8 Respondents’ Joint Motion to Compel or, Alternatively, to Vacate the Temporary Order to Cease
9 and Desist.”¹

10 As evidenced by the ALJ quote referenced above, this Division “reply” was the final
11 authorized pleading on this particular discovery issue and, as a consequence, the ALJ is currently
12 in possession of all the opposing parties’ arguments on this matter. It follows that Respondents’
13 recent correspondence to the administrative law judge indicating their apparent intention of
14 submitting still another brief on this civil discovery matter is unwarranted. There is neither need
15 nor grounds for any additional filings on this particular issue; this discovery dispute has been fully
16 briefed and now calls for a resolution such that this action can move forward on more substantive
17 matters.

18 ***Conclusion***

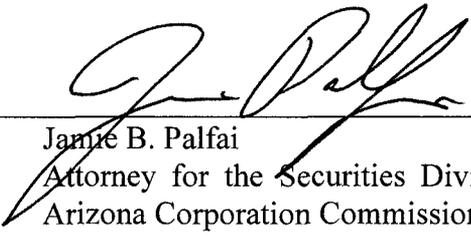
19 The ability or inability to implement civil discovery rules during the course an
20 administrative proceeding has, in accordance with a specific briefing schedule, been argued by
21 both parties. As such, there is no basis for additional filings, replies to replies or other forms of
22 delay. Rather, this discovery issue requires a prompt resolution such that this action can once
23

24 ¹ Although the respective pleadings filed by the Division and the Respondents in connection with this
25 discovery dispute were not “captioned” in a traditional sense (*e.g.*, the Respondents’ Response was
26 captioned “Joint Motion to Compel or, Alternatively, to Vacate the Temporary Order to Cease and Desist.”), the content of these filings clearly demonstrate that these filing were in fact (four) Division
Objections, the Respondents’ Response to these Objections, and the Division’s subsequent Reply.

1 again move towards an adjudication on the merits. The Division therefore moves this Court for 1)
2 a procedural order prohibiting and thereby discounting any further filings on this particular
3 discovery issue; and 2) a prompt ruling on the current dispute concerning whether the rules of civil
4 discovery can be invoked in this administrative proceeding.

5 RESPECTFULLY SUBMITTED this 9th day of April, 2004.

6
7 By _____


8 Jamie B. Palfai

9 Attorney for the Securities Division of the
Arizona Corporation Commission

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15 ORIGINAL AND THIRTEEN (13) COPIES of the foregoing
16 filed this 9th day of March, 2004, with

17 Docket Control
18 Arizona Corporation Commission
19 1200 West Washington
Phoenix, AZ 85007

20
21 COPY of the foregoing hand-delivered this
9th day of April, 2004, to:

22 Administrative Law Judge Marc Stern
23 Arizona Corporation Commission/Hearing Division
24 1200 West Washington
Phoenix, AZ 85007

1 COPY of the foregoing faxed & mailed
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