

ORIGINAL



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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS:

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

In the matter of:

YUCATAN RESORTS, INC., d/b/a
YUCATAN RESORTS, S.A.,
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

RESORT HOLDINGS INTERNATIONAL,
INC. d/b/a
RESORT HOLDINGS INTERNATIONAL,
S.A.,
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

WORLD PHANTASY TOURS, INC.
a/k/a MAJESTY TRAVEL
a/k/a VIAJES MAJESTY
Calle Eusebio A. Morales
Edificio Atlantida, P Baja
APDO, 8301 Zona 7 Panama

MICHAEL E. KELLY and LORI KELLY,
husband and wife,
3222 Mishawaka Avenue
South Bend, IN 46615;
P. O. Box 2661
South Bend, IN 46680;

Respondents.

DOCKET NO. S-03539A-03-0000

RESPONDENTS' JOINT APPLICATION
FOR ISSUANCE OF ADMINISTRATIVE
HEARING SUBPOENAS

Arizona Corporation Commission
DOCKETED

MAR 25 2005

DOCKETED BY *KJ*

AZ CORP COMMISSION
DOCUMENT CONTROL

2005 MAR 25 P 4: 21

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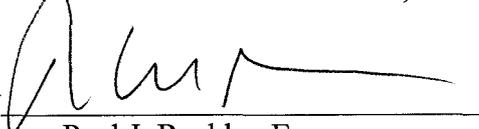
1 Pursuant to A.A.C. R14-3-109(O) and A.R.S. §44-1823(A), Respondents request the
2 issuance of Administrative Hearing Subpoenas to the following individuals:

- 3 1. Custodian of Records for the Arizona Department of Real Estate; and
4 2. Custodian of Records for the Securities Division of the Arizona Corporation
5 Commission.

6 Respondents intend to utilize the above individuals as witnesses to the extent necessary to
7 establish foundation for documents produced by the Custodians. The enclosed Subpoenas simply
8 seek the attendance of the Custodians in the event the proceedings require their testimony.
9

10 RESPECTFULLY SUBMITTED this 25th day of March, 2005.

11 ROSHKA HEYMAN & DeWULF, PLC

12 By 
13

14 Paul J. Roshka, Esq.
15 James McGuire, Esq.
16 One Arizona Center
17 400 E. Van Buren St.
18 Suite 800
19 Phoenix, Arizona 85004
20 Attorneys for Respondent
21 Michael Kelly

22 and

23 Martin R. Galbut, Esq. (#002943)
24 GALBUT & HUNTER
25 A Professional Corporation
26 2425 East Camelback, Suite 1020
27 Phoenix, Arizona 85016
Attorneys for Respondents Yucatan Resorts,
Inc., Yucatan Resorts S.A., RHI, Inc., and RHI,
S.A.

and

ROSHKA HEYMAN & DEWULF, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

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BAKER & McKENZIE, LLP
Joel Held
Elizabeth L. Yingling
Jeffrey D. Gardner
2300 Trammel Crow Center
2001 Ross Avenue – Ste. 2300
Dallas Texas 75201
Attorneys for Respondents
Yucatan Resorts, Inc.; Yucatan Resorts, S.A.;
RHI, Inc.; RHI, S.A.

ORIGINAL and 13 copies of the foregoing
and the Subpoenas referenced herein
hand-delivered this 25th day of March, 2005 to:

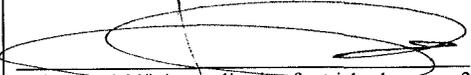
Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing and the Subpoenas
referenced herein hand-delivered
this 25th day of March, 2005 to:

Brian C. McNeil
Executive Secretary
1200 West Washington Street
2nd Floor
Phoenix, Arizona 85007

Honorable Marc Stern
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Jaime Palfai, Esq.
Matthew J. Neubert, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington Street, 3rd Floor
Phoenix, Arizona 85007



1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS:**

3 **MARC SPITZER, Chairman**
4 **WILLIAM A. MUNDELL**
5 **JEFF HATCH-MILLER**
6 **MIKE GLEASON**
7 **KRISTIN K. MAYES**

8 In the matter of:

9 **YUCATAN RESORTS, INC., d/b/a**
10 **YUCATAN RESORTS, S.A.,**
11 3222 Mishawaka Avenue
12 South Bend, IN 46615;
13 P. O. Box 2661
14 South Bend, IN 46680;
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16 Cancun, Q. Roo
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19 **INC. d/b/a**
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WORLD PHANTASY TOURS, INC.
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Calle Eusebio A. Morales
Edificio Atlantida, P Baja
APDO, 8301 Zona 7 Panama

MICHAEL E. KELLY and LORI KELLY,
husband and wife,
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South Bend, IN 46615;
P. O. Box 2661
South Bend, IN 46680;

Respondents.

DOCKET NO. S-03539A-03-0000

**RESPONDENTS' JOINT SUBPOENA
TO THE CUSTODIAN OF RECORDS
OF THE ARIZONA DEPARTMENT OF
REAL ESTATE**

Your Duties in Responding to This Subpoena

1 You have the duty to produce the documents requested as they are kept by you in the usual
2 course of business, or you may organize the documents and label them to correspond with the
3 categories set forth in this subpoena. See Rule 45(d)(1) of the Arizona Rules of Civil Procedure.

4 If this subpoena asks you to produce and permit inspection and copying of designated
5 books, papers, documents, tangible things, or the inspection of premises, you need not appear to
6 produce the items unless the subpoena states that you must appear for a deposition, hearing or trial.
7 See Rule 45(c)(2)(A) of the Arizona Rules of Civil Procedure.

Your Right to Object

8 The party or attorney serving the subpoena has a duty to take reasonable steps to avoid
9 imposing an undue burden or expense on you. See Rule 45(c)(1) of the Arizona Rules of Civil
10 Procedure.

11 You may object to this subpoena if you feel that you should not be required to respond to
12 the request(s) made. Any objection to this subpoena must be made within 14 days after it is served
13 upon you, or before the time specified for compliance, by providing a written objection to the party
14 or attorney serving the subpoena. See Rule 45(c)(2)(B) of the Arizona Rules of Civil Procedure.

15 If you object because you claim the information requested is privileged or subject to
16 protection as trial preparation material, you must express the objection clearly, and support each
17 objection with a description of the nature of the document, communication or item not produced so
18 that the demanding party can contest the claim. See Rule 45(d)(2) of the Arizona Rules of Civil
19 Procedure.

20 If you object to the subpoena in writing you do not need to comply with the subpoena until
21 ordered to do so. It will be up to the party or attorney serving the subpoena to seek an to compel
22 you to provide the documents or inspection requested, after providing notice to you. See Rule
23 45(c)(2)(B) of the Arizona Rules of Civil Procedure.

24 You also may file a motion in the superior court of the county in which the case is pending
25 to quash or modify the subpoena if the subpoena:

- 26 (i) does not provide a reasonable time for compliance;
- 27 (ii) requires a non-party or officer of a party to travel to a county different from the
28 county where the person resides or does business in person; or to travel to a county different from
29 where the subpoena was served; or to travel to a place farther than 40 miles from the place of
30 service; or to travel to a place different from any other convenient place fixed by an order of a
31 court, except that a subpoena for you to appear and testify at trial can command you to travel from
32 any place within the state;
- 33 (iii) requires the disclosure of privileged or protected information and no waiver or
34 exception applies; or
- 35 (iv) subjects you to an undue burden. See Rule 45(c)(3)(A) of the Arizona Rules of
36 Civil Procedure.

37 If this subpoena:

- 1 (i) requires disclosure of a trade secret or other confidential research, development, or commercial trade information; or
- 2 (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or
- 3
- 4 (iii) requires a person who is not a party or an officer of a party to incur substantial travel expense;
- 5

6 The court may either quash or modify the subpoena, or the court may order you to appear or produce documents only upon specified conditions, if the party who served the subpoena shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that you will be reasonably compensated. See Rule 45(c)(3)(B) of the Arizona Rules of Civil Procedure.

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10 You may also lodge an objection to the subpoena with the Arizona Corporation Commission (the "Commission") if you feel that you should not be required to respond for any of the reasons cited above. Any objection to this subpoena must be made in writing at the address below:

11
12 Arizona Corporation Commission
13 Securities Division
14 1300 West Washington, 3rd Floor
15 Phoenix, Arizona 85007

16 with a copy provided to the party or attorney serving the subpoena:

17 Paul J. Roshka, Jr. Esq.
18 James M. McGuire, Esq.
19 ROSKA HEYMAN & DEWULF, PLC
20 One Arizona Center
21 400 East Van Buren Street, Suite 800
22 Phoenix, AZ 85004 (602) 256-6100

23 If you file an objection, you must express the objections clearly, and support each objection so that the demanding party can contest the claim.

24 The Commission may either quash or modify the subpoena, or may order you to appear or produce documents only upon specified conditions, if the party who served the subpoena shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that you will be reasonably compensated. See Rule 45(c)(3)(B) of the Arizona Rules of Civil Procedure.

25 A command to produce evidence or permit inspection may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately.

26 ***REQUESTS FOR REASONABLE ACCOMMODATIONS FOR PERSONS WITH***
27 ***DISABILITIES MUST BE MADE TO THE DIVISION ASSIGNED TO THE CASE BY THE***

1 **PARTIES AT LEAST THREE (3) JUDICIAL DAYS IN ADVANCE OF A SCHEDULED**
2 **COMMISSION PROCEEDING.**

3 **DISOBEDIANCE OF THIS SUBPOENA CONSTITUTES CONTEMPT OF THE**
4 **ARIZONA CORPORATION COMMISSION, AND IS PUNISHABLE, PURSUANT TO A.R.S.**
5 **§§ 40-424.**

6
7 Given under the hand and seal of the Arizona Corporation Commission this ___ day of
8 March, 2005.

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Brian C. McNeil, Executive Secretary

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ROSHKA HEYMAN & DEWULF, PLC

ONE ARIZONA CENTER
400 EAST VAN BUREN - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS:**

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4 **WILLIAM A. MUNDELL**
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MICHAEL E. KELLY and LORI KELLY,
husband and wife,
3222 Mishawaka Avenue
South Bend, IN 46615;
P. O. Box 2661
South Bend, IN 46680;

Respondents.

DOCKET NO. S-03539A-03-0000

**RESPONDENTS' JOINT SUBPOENA
TO THE CUSTODIAN OF RECORDS
OF THE SECURITIES DIVISION OF
THE ARIZONA CORPORATION
COMMISSION**

ROSHKA HEYMAN & DEWULF, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

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TO: Custodian of Records
Securities Division
Arizona Corporation Commission
1300 West Washington
Phoenix, AZ 85007

Pursuant to A.A.C. R14-3-109(O) and A.R.S. §44-1823(A), you are commanded to appear and give testimony at the time and place specified below:

DATE AND TIME OF PERSONAL APPEARANCE: Monday, April 4, 2005, at 9:30 a.m.

Your appearance is not required at this time and date. You will be notified prior to the date and time you will need to appear. This Subpoena will remain in full force and effect throughout the entire trial.

BEFORE WHOM APPEARANCE TO BE MADE: Hearing Officer

PLACE OF APPEARANCE: Securities Division
Arizona Corporation Commission
1200 West Washington, 3rd Floor
Phoenix, AZ 85007

Please contact the Securities Division to determine if the hearing date, time or location has been changed.

You have been subpoenaed by Respondents, whose attorney's name, address and telephone number is:

Paul J. Roshka, Jr. Esq.
James M. McGuire, Esq.
ROSHKA HEYMAN & DEWULF, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, AZ 85004 (602) 256-6100

A.R.S. §44-1823(A), provides as follows:

For the purpose of investigations or hearings which, in the opinion of the commission, are necessary and proper for the enforcement of this chapter, any member of the commission, the director or any officer or officers designated by the commission, may administer oaths and affirmations, subpoena witnesses, take evidence and require by subpoena duces tecum or by citation the production of books, papers, contacts, agreements or other documents, records or information, whether filed or kept in original form or electronically stored or recorded which the commission deems relevant or material to the inquiry.

1 In accordance with Rule 45 of the Arizona Rules of Civil Procedure, the full text of
2 subdivision (a)(1)(D) of Rule 45 is set forth below:

3 **Your Duties in Responding to This Subpoena**

4 You have the duty to produce the documents requested as they are kept by you in the usual
5 course of business, or you may organize the documents and label them to correspond with the
6 categories set forth in this subpoena. See Rule 45(d)(1) of the Arizona Rules of Civil Procedure.

7 If this subpoena asks you to produce and permit inspection and copying of designated
8 books, papers, documents, tangible things, or the inspection of premises, you need not appear to
9 produce the items unless the subpoena states that you must appear for a deposition, hearing or trial.
10 See Rule 45(c)(2)(A) of the Arizona Rules of Civil Procedure.

11 **Your Right to Object**

12 The party or attorney serving the subpoena has a duty to take reasonable steps to avoid
13 imposing an undue burden or expense on you. See Rule 45(c)(1) of the Arizona Rules of Civil
14 Procedure.

15 You may object to this subpoena if you feel that you should not be required to respond to
16 the request(s) made. Any objection to this subpoena must be made within 14 days after it is served
17 upon you, or before the time specified for compliance, by providing a written objection to the party
18 or attorney serving the subpoena. See Rule 45(c)(2)(B) of the Arizona Rules of Civil Procedure.

19 If you object because you claim the information requested is privileged or subject to
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21 objection with a description of the nature of the document, communication or item not produced so
22 that the demanding party can contest the claim. See Rule 45(d)(2) of the Arizona Rules of Civil
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25 ordered to do so. It will be up to the party or attorney serving the subpoena to seek an to compel
26 you to provide the documents or inspection requested, after providing notice to you. See Rule
27 45(c)(2)(B) of the Arizona Rules of Civil Procedure.

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to quash or modify the subpoena if the subpoena:

(i) does not provide a reasonable time for compliance;

(ii) requires a non-party or officer of a party to travel to a county different from the
county where the person resides or does business in person; or to travel to a county different from
where the subpoena was served; or to travel to a place farther than 40 miles from the place of
service; or to travel to a place different from any other convenient place fixed by an order of a
court, except that a subpoena for you to appear and testify at trial can command you to travel from
any place within the state;

(iii) requires the disclosure of privileged or protected information and no waiver or
exception applies; or

(iv) subjects you to an undue burden. See Rule 45(c)(3)(A) of the Arizona Rules of
Civil Procedure.

ROSHKA HEYMAN & DEWULF, PLC
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If this subpoena:

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- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or
- (iii) requires a person who is not a party or an officer of a party to incur substantial travel expense;

The court may either quash or modify the subpoena, or the court may order you to appear or produce documents only upon specified conditions, if the party who served the subpoena shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that you will be reasonably compensated. See Rule 45(c)(3)(B) of the Arizona Rules of Civil Procedure.

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with a copy provided to the party or attorney serving the subpoena:

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James M. McGuire, Esq.
ROSHKA HEYMAN & DEWULF, PLC
One Arizona Center
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If you file an objection, you must express the objections clearly, and support each objection so that the demanding party can contest the claim.

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7 **§§ 40-424.**

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9 March, 2005.

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Brian C. McNeil, Executive Secretary

kellym.acc/pld/trial subpoena COR Securities Division ACC.doc

ROSHKA HEYMAN & DEWULF, PLC
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