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**BEFORE THE ARIZONA CORPORATION COMMISSION
SECURITIES DIVISION**

2003 SEP 16 P 4: 19

COMMISSIONERS:

**MARC SPITZER, Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF MATCH-MILLER
MIKE GLEASON**

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

SEP 16 2003

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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**

DOCKET NO. S-03539A-03-0000

**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**

**PHILLIP ROBERT OHST'S
OBJECTIONS AND
RESPONSES TO SUBPOENA**

**(ASSIGNED TO THE HONORABLE
MARC STERN, ADMINISTRATIVE
LAW JUDGE)**

**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.

1 **In the Matter of**
2 **Mr. Phillip Robert Ohst, et al.**

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4 **PHILLIP ROBERT OHST'S OBJECTIONS AND**
5 **RESPONSES TO SUBPOENA**

6 Phillip Robert Ohst ("Mr. Ohst") hereby submits his Objections and Responses to the
7 Subpoena dated August 25, 2003, and returnable on September 18, 2003, as follows:

8 **I.**
9 **GENERAL OBJECTIONS**

10 Mr. Ohst generally objects to the Subpoena because the Arizona Corporation Commission,
11 Securities Division ("Securities Division") does not have subject matter jurisdiction. Mr. Ohst
12 neither offered nor sold securities in the State of Arizona as the term "securities" is defined under
13 the Arizona securities laws. The Arizona Real Estate Division is the appropriate Arizona
14 regulatory body, as the Universal Leases offered and sold by Mr. Ohst are Timeshares.

15 Mr. Ohst generally objects to the Subpoena because the Securities Division lacks subject
16 matter jurisdiction to obtain documents and information related to the offer or sale of Timeshares
17 outside of the State of Arizona.

18 Mr. Ohst generally objects to the Subpoena for the reasons stated in Respondents' Motion
19 to Quash Subpoenas previously filed on September 4, 2003, and incorporated herein by reference.

20 Mr. Ohst generally objects to the Subpoena because it leaves an inadequate time to respond
21 and produce responsive documents.

22 Mr. Ohst generally objects to Exhibit "A" to the Subpoena in that Exhibit "A" is vague and
23 ambiguous because it fails to specifically define the following phrases and terms: "incident to or
24 relating to the offer and sale of Universal Leases or any related Timeshare programs," "Universal
25
26

1 Lease," "Timeshare programs," "Resort Holdings International," Yucatan Resorts," Avalon
2 Resorts," World Phantasy Tours," "Majesty Travel," and "Yucatan Investments." Accordingly,
3 Mr. Ohst is unable to adequately and appropriately respond to the requests contained in the
4 Subpoena.

5
6 **II.**
SPECIFIC OBJECTIONS

7 Subject to, and without waiver of, each General Objection listed above, Mr. Ohst
8 specifically responds as follows:

9 1. Names, addresses, and telephone numbers of all individuals, sales agents or entities
10 that have been offered or sold timeshare interests including the number of interests purchased, if
11 applicable, and the amount and date of each investment.

12 **OBJECTION AND RESPONSE:**

13 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
14 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it is
15 overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time. Mr.
16 Ohst also objects to the Request because it seeks confidential and commercial-trade information.
17 Mr. Ohst also objects to the Request because compliance therewith would violate the personal and
18 financial privacy of the Leaseholders. Mr. Ohst also objects to the Request because it is vague and
19 ambiguous, in that it does not define the term "timeshare interests."

20
21 2. Documents relating to each individual or entity listed in paragraph 1 including any
22 contracts, forms, subscriptions, agreements, notes, questionnaires, reports, records of investment
23 status, checks, wire transfers, receipts, account statements, tax information, correspondence,
updates, or other communications.

24 **OBJECTION AND RESPONSE:**

25 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
26 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it is

1 overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time. Mr.
2 Ohst also objects to the Request because it seeks confidential and commercial-trade information.
3 Mr. Ohst also objects to the Request because compliance therewith would violate the personal and
4 financial privacy of the Leaseholders.

5
6 3. Records of all meetings and/or training sessions related to solicitations and sales
7 including all information used or presented at these meetings.

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10 **OBJECTION AND RESPONSE:**

11 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
12 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it is
13 overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time. Mr.
14 Ohst also objects to the Request because it seeks confidential and commercial-trade information.
15 Mr. Ohst further objects to this Request because it is vague and ambiguous in that it does not
16 specifically define the documents requested. In particular, the Request seeks documents of
17 meetings related to "solicitations and sales" but fails to identify the subject of said "solicitation
18 and sales."

19
20 4. The names, addresses, amounts, and dates of any rescission, refund, or any other
21 form of return to timeshare purchasers.

22
23 **OBJECTION AND RESPONSE:**

24 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
25 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it is
26 overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time. Mr.
Ohst also objects to the Request because it seeks confidential and commercial-trade information.
Mr. Ohst also objects to the Request because it is vague and ambiguous, in that it does not define

1 the term "timeshare purchasers." Mr. Ohst also objects to the Request because compliance
2 therewith would violate the personal and financial privacy of the Leaseholders.

3 5. All state and federal tax returns, including any applications, forms, or
4 correspondence.

5 **OBJECTION AND RESPONSE:**

6 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
7 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it seeks
8 confidential and commercial-trade information. Mr. Ohst also objects to the Request because
9 compliance therewith would violate the personal and financial privacy of those from whom said
10 information is sought. Mr. Ohst also objects to the Request because it is overbroad and unduly
11 burdensome, in that it seeks documents over a 4 ½ year period of time. Mr. Ohst further objects to
12 the Request because a request for state and federal tax returns bears no conceivable relevance to
13 the Securities Division's inquiry, and goes well beyond the scope of the Securities Division's
14 authority. Mr. Ohst further objects to the Request because it is vague and ambiguous, in that the
15 Securities Division fails to limit the Request or describe from whom, or from what entity, the tax
16 returns and other documents are sought.
17

18
19 6. All bank or other depository institution accounts whether open or closed, including
20 the name of the bank or depository institution, number of each account, and the names of all
21 signatories on each account.

22 **OBJECTION AND RESPONSE:**

23 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
24 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it seeks
25 confidential and commercial-trade information. Mr. Ohst also objects to the Request because
26 compliance therewith would violate the personal and financial privacy of those from whom the
information is sought. Mr. Ohst also objects to the Request because it is overbroad and unduly

1 burdensome, in that it seeks documents over a 4 ½ year period of time. Mr. Ohst further objects to
2 the Request because it bears no conceivable relevance to the Securities Division's inquiry, and
3 goes well beyond the scope of the Securities Division's authority. Mr. Ohst objects to the Request
4 because it is vague and ambiguous, in that the Securities Division fails to limit the Request or
5 describe from whom, or from what entity, the documents or information are sought.

6
7 7. All advertisements, correspondence, circulars, offering memoranda, newsletters,
8 prospectuses, tax opinions, legal opinions, reports, brochures, flyers, handouts, or any other
9 records made available to potential or actual timeshare purchases.

9 **OBJECTION AND RESPONSE:**

10 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
11 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it seeks
12 confidential and commercial-trade information. Mr. Ohst also objects to the Request because it is
13 overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time, and
14 seeks documents that were merely "made available" to persons rather than actually delivered to
15 said persons. Mr. Ohst also objects to the Request because it is vague and ambiguous, in that it
16 does not define the terms "potential or actual timeshare purchases." Mr. Ohst further objects to the
17 Request because it is vague and ambiguous, in that the Securities Division fails to limit the
18 Request or describe from whom, or from what entity, the information and documents are sought.

19
20 8. Contracts with agents or others for solicitations or sales of timeshare interests
21 including but not limited to employment contracts, independent contractor agreements, and any
22 communications with such person or entity.

23 **OBJECTION AND RESPONSE:**

24 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
25 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it seeks
26 confidential and commercial-trade information. Mr. Ohst also objects to the Request because it is

1 overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time and
2 seeks all communications with persons, without limiting same to issues relevant to the Securities
3 Division inquiry. Mr. Ohst also objects to the Request because it is vague and ambiguous, in that
4 it does not define the term "timeshare interests." Mr. Ohst further objects to the Request because it
5 is vague and ambiguous, in that the Securities Division fails to limit the Request or describe from
6 whom, or from what entity, the information and documents are sought.
7

8 9. Names, addresses and telephone numbers of all affiliated sales agents, co-workers,
9 telephone solicitors, independent contractors, or sub-contractors, both past and present.

10 **OBJECTION AND RESPONSE:**

11 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
12 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it seeks
13 confidential and commercial-trade information. Mr. Ohst also objects to the Request because it is
14 overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time, and
15 seeks information not tailored to issues relevant to the Securities Division's inquiry. Mr. Ohst also
16 objects to the Request because it is vague and ambiguous, in that the Securities Division fails to
17 limit the Request or describe from whom, or from what entity, the information and documents are
18 sought.
19

20 10. Records of all salaries, bonuses, reimbursement, distributions, draws, overrides,
21 loans, or any other compensation, whether monetary or otherwise, paid to you, any related
22 person/entity, or any individual falling within the scope of paragraphs 8 or 9.

23 **OBJECTION AND RESPONSE:**

24 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
25 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it seeks
26 confidential and commercial-trade information. Mr. Ohst also objects to the Request because it is
overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time, and

1 seeks information not tailored to issues relevant to the Securities Division's inquiry. Mr. Ohst also
2 objects to the Request because it is vague and ambiguous, in that the Securities Division fails to
3 limit the Request or describe from whom, or from what entity, the information and documents are
4 sought. Mr. Ohst also objects to the Request because compliance therewith would violate the
5 personal and financial privacy of the individuals or entities identified in paragraphs 8, 9, and 10.
6

7 11. Records of all salaries, bonuses or other consideration received or distributed by
8 you and/or your firm.

9 **OBJECTION AND RESPONSE:**

10 Mr. Ohst specifically objects to the Request because it seeks documents that are not within
11 Mr. Ohst's possession, custody, or control. Mr. Ohst also objects to the Request because it is
12 overbroad and unduly burdensome, in that it seeks documents over a 4 ½ year period of time. Mr.
13 Ohst also objects to the Request because it is vague and ambiguous, in that the Securities Division
14 fails to limit the Request or describe from whom, or from what entity, the information and
15 documents are sought. Mr. Ohst also objects to the Request because compliance therewith would
16 violate the personal and financial privacy of the individuals or entities.
17

18 ...

19 ...

20 ...

1 **RESPECTFULLY SUBMITTED** this 16th day of September, 2003.

2 **BAKER & MCKENZIE**

3
4 Joel Held by: 

5 Joel Held
6 Texas State Bar No. 09389800
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 Yucatan Resorts, Inc., Yucatan
 Resorts S.A. RHI, Inc., and RHI, S.A.

21 ORIGINAL and thirteen copies of the foregoing
22 hand-delivered this 16th day of September, 2003 to:

23 Docket Control
24 Arizona Corporation Commission
25 1200 West Washington Street
26 Phoenix, Arizona 85007

1 COPY of the foregoing hand-delivered
2 this 16th day of September, 2003 to:

3 Marc Stern, Esq.
4 Administrative Law Judge
5 Hearing Division
6 Arizona Corporation Commission
7 1200 West Washington Street
8 Phoenix, Arizona 85007

9 Jaime Palfai, Esq.
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11 Securities Division
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14 Phoenix, Arizona 85007

15 LeRoy Johnson
16 Director of Enforcement
17 Securities Division
18 Arizona Corporation Commission
19 1300 West Washington, 3rd Floor
20 Phoenix, AZ 85007

21 COPY of the foregoing sent *via* U.S. Mail
22 this 16th day of September, 2003 to:

23 Paul J. Roshka, Jr., Esq.
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