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BEFORE THE ARIZONA CORPORATION COMMISSION

2003 SEP 26 P 4:40

COMMISSIONERS:

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

AZ CORP COMMISSION
DOCUMENT CONTROL

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

Arizona Corporation Commission

DOCKETED

SEP 26 2003

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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

RESPONDENTS' SUPPLEMENTAL MOTION TO QUASH SUBPOENA, OBJECTION TO SUBPOENA, AND MOTION TO STAY DISCOVERY PENDING FURTHER ORDER

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

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

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.

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I. INTRODUCTION.

The Arizona Securities Division (the "Division") has, contrary to applicable rules governing this administrative proceeding, already issued "investigative" subpoenas to: (1) John Tencza/American Elder Group; (2) Janalee Sneva; (3) Phillip Ohst; and (4) Roy Higgs. Those subpoenas involved the very subject matter of this case, under the rubric of conducting separate "investigations" of certain individuals and businesses - - who are potential witnesses in this case. As a result, the Respondents filed a Motion to Quash Subpoena, Objection to Subpoena, and Motion to Stay Discovery Pending Further Order, on September 3, 2003.

On September 16, 2003, the Division issued an additional subpoena directed to the "Custodian of Records" for Wells Fargo, regarding American Elder Group and Mr. John Tencza. The Division is aware that the Baker & McKenzie represent American Elder Group, yet it purposefully attempted to side-step notifying any of the Baker & McKenzie attorneys about the Division's desire to delve into American Elder Group's and/or John Tencza's private bank accounts, and the like. This conduct is wholly inappropriate.

The reality is that all of the subpoenas are directly related to this precise case, and that the newly minted "investigatory" process is being belatedly utilized by the Division in an effort to do the discovery which it realizes should have been done *before* the case was filed.¹ The Division is attempting to utilize the expired "investigatory" process to avoid the question of the propriety of discovery in this proceeding, and to gain information in a way that prevents respondents' participation in the cross-examination of witnesses.

The Division's conduct is not authorized by applicable law, and is manifestly unfair and prejudicial. Due process, and the administrative and civil procedure rules are being violated. Therefore, the Respondents incorporate by reference the arguments presented in

¹ The Division should have conducted an investigation, interviewed witnesses, issued investigatory subpoenas before the filing of the cease and desist order.

1 ORIGINAL and thirteen copies of the foregoing
2 hand-delivered this 26th day of September, 2003 to:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 COPY of the foregoing hand-delivered
8 this 25th day of September, 2003 to:

9 Marc Stern, Esq.
10 Administrative Law Judge
11 Hearing Division
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, Arizona 85007

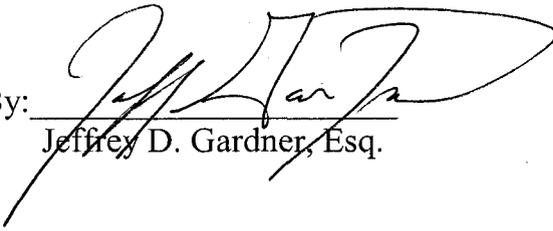
15 Jaime Palfai, Esq.
16 W. Mark Sendrow, Esq.
17 Securities Division
18 Arizona Corporation Commission
19 1300 West Washington Street, 3rd Floor
20 Phoenix, Arizona 85007

21 COPY of the foregoing sent *via* U.S. Mail
22 this 26th day of September, 2003 to:

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Michael and Lori Kelly

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