

BEFORE THE  
DIVISION OF SECURITIES  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

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In the Matter of  
YUCATAN RESORTS, S.A. de C.V. and  
MICHAEL E. KELLY,

PETITION FOR ORDER

Respondents.

File No. S-00031(EX)

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The staff of the Enforcement Unit, Registration & Enforcement Section, of the Division of Securities, Department of Financial Institutions, State of Wisconsin has conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats. and as a result thereof alleges as follows:

1. Yucatan Resorts, S.A., de C.V. ("Yucatan SA") is a business with last known business addresses of Boulevard Kukulcan KM. 11.5, Cancun, Quintana Roo, Mexico 77500, and C1. 50 y Aquilino De La Guardia, Edificio American International Mezanine, Panama Centro, Panama.
2. Michael E. Kelly ("Kelly") is an individual, who is the owner, operator and sole shareholder of Yucatan SA, with a last known business address at that of Yucatan SA.
3. Upon information and belief, during the period of at least 2000, an agent of Yucatan SA, offered and sold to at least one person in Wisconsin an interest in the Yucatan SA Universal Lease Program ("the Program"), in which the investor purchases, for a minimum of \$5000, a lease of a unit at Club Baccara Exclusive Vacation Resort.
4. According to marketing materials provided to investors in the Program, investors have three options concerning the operation of their unit, one of which is to "Hire a third party servicing agent to rent the vacation unit for you (the investor). This popular option will result in paying you the equivalent of 11% per year of the amount you paid for your Universal Lease." and that "In fact, as a Leaseholder, you have the option to redeem your Universal Lease for the full purchase price or higher after two years."
5. According to the "Universal Lease Servicing Agreement" ("the Agreement") entered into between the Wisconsin investor ("the Client") in the Program and the servicing agent, World Phantasy Tours, Inc. DBA Viajes Majesty ("the Servicer"), signed on January 23, 2000, Paragraphs 1 and 3 of the Agreement states, in part, as follows:

"1.(b) The Servicer shall have full power and authority to do things in connection with such servicing, administration and collection activities which it may deem necessary or desirable in order to maximize the Rental. ... Client shall furnish the Servicer with powers of attorney and other documents necessary or appropriate as required by the Servicer to enable the Servicer to carry out its servicing and administrative duties hereunder."

"3.(a) The Servicer guarantees rental of the vacation unit at 80% of the Resorts published rack rates. ... Upon such satisfaction in full, the Servicer shall be entitled to a Servicing Fee of 40% of amounts collected from the rental of the Vacation Unit or a minimum of \$435.00 per year of amounts collected from the rental of the Unit. ..."

6. Upon information and belief, the investment in the Program was an investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor.
7. The Yucatan SA investments as described above are investment contract securities as that term is defined by DFI-Sec 1.02(6)(a), Wis. Adm. Code and are therefore securities pursuant to sec. 551.02(13)(a), Wis. Stats.,
8. The investment contract securities of Yucatan SA have never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.
9. Yucatan has violated sec. 551.21(1), Wis. Stats., by offering and selling unregistered securities in Wisconsin.
10. At no time has the Yucatan agent been licensed as a securities agent to sell the securities of Yucatan SA pursuant to Ch. 551, Wis. Stats.
11. Yucatan has violated sec. 551.31(2), Wis. Stats., by employing an unlicensed agent to represent them in Wisconsin.
12. Upon information and belief, Yucatan Investment Corporation (“Yucatan Investment”), was the subject of an administrative order of the New Mexico Securities Division on May 18, 1999, for the sale of unregistered, non-exempt securities by unlicensed agents of nine-month notes of Yucatan Investment.
13. Upon information and belief, Yucatan Investment was the subject of an administrative order of the South Carolina Securities Division on July 26, 1999, for the sale of unregistered, non-exempt securities by unlicensed agents of nine-month notes of Yucatan Investment, and in violation of the anti-fraud provision of the South Carolina securities law.
14. Upon information and belief, Yucatan Investment is a business entity related to Yucatan SA and is also owned and operated by Kelly.
15. Upon information and belief, money invested in the Program of Yucatan SA was used, in part, to repay investment in nine-month notes sold of Yucatan Investment.
16. Upon information and belief, during the offers and sales of the securities of Yucatan SA in the Program to a person in Wisconsin, as described above, Yucatan SA, failed to inform the person in Wisconsin of the administrative order issued by the South Carolina Division of Securities against Yucatan Investment and of the misuse of the money invested by the person.
17. By engaging in the conduct as described above, Yucatan SA, in connection with the offer and sale of a security to a person in Wisconsin, as set forth above, omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, in violation of sec. 551.41(2), Wis. Stats.
18. This Petition and the attached Orders are meant to replace the Petition of Order and the Summary Orders of Prohibition and Revocation that were issued against the Respondents on April 2, 2001.

Therefore, the staff of the Bureau of Registration and Enforcement petitions the Administrator of the Division of Securities for the issuance of the attached Order pursuant to Ch. 551, Wis. Stats.

*Mark E. Dorman* 3-25-03

Mark E. Dorman  
Examiner  
Enforcement Unit

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Date

*David A. Cohen* 3/24/03

David A. Cohen  
Supervising Attorney  
Enforcement Unit

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Date

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