Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd Floor
Box 146760
Salt Lake City, UT 84114-6760
Telephone: (801) 530-6600
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF: **BOYD KELLY NIELSEN** **Respondent.**	**ORDER TO SHOW CAUSE** **Docket No.** SD-08-0051

It appears to the Director of the Utah Division of Securities (Director) that Boyd Kelly Nielsen may have engaged in acts and practices that violate the Utah Uniform Securities Act, Utah Code Ann. § 61-1-1, et seq. (the Act). Those acts are more fully described herein. Based upon information discovered in the course of the Utah Division of Securities' (Division) investigation of this matter, the Director issues this Order to Show Cause in accordance with the provisions of § 61-1-20(1) of the Act.

STATEMENT OF JURISDICTION

1. Jurisdiction over the Respondent and the subject matter is appropriate because the Division alleges that Respondent violated §§ 61-1-1 (securities fraud) and 61-1-7 (sale of an unregistered security) of the Act, while engaged in the offer and sale of securities in

Utah.

STATEMENT OF FACTS

THE RESPONDENT

2. Boyd Kelly Nielsen (Nielsen) is a resident of Utah County, Utah.

GENERAL ALLEGATIONS

3. Nielsen collected at least $201,390.80 in investor funds for Resort Holding International Inc.'s Universal Lease program from at least four Utah investors. Two of the investors received a few interest payments, and two received nothing.

4. Resort Holding International Inc. (Resort Holding) was registered as a Nevada corporation in July 1999, but its corporate status was voluntarily dissolved in December 2004. Michael Eugene Kelly was the president, secretary, and treasurer of Resort Holding. Resort Holding has never been registered as a business entity in Utah.

5. In December 2006, the president of Resort Holding, Michael Eugene Kelly, was arrested in Florida, among other things, on charges that Kelly devised and intended to devise a scheme and artifice to defraud and obtain money by making material misrepresentations and omissions, and has since been held in custody in Chicago, Illinois, awaiting a federal indictment by the United States Department of Justice. The arrest and anticipated indictment stem from the offer and sale of the Universal Lease, by Resort Holding and its many agents, to hundreds of investors across the nation.

6. The Resort Holding Universal Lease is an investment contract and, therefore, a security

under § 61-1-13 of the Act.

Investors DJ and JR

7. In early spring 2003, Nielsen met with DJ and JR and told them the following about an investment in Resort Holding's Universal Lease program:

   a. The investment would pay 9% per year, and matured in 25 years;

   b. Investors could let the investment accrue or receive monthly checks;

   c. Resort Holding would buy back your investment after three years if you wanted out;

   d. There were other investors;

   e. Investors could use the condo;

   f. Nielsen would make a commission;

   g. Cancun was the number one tourist attraction in Mexico, and they would never have to worry about the condos not renting;

   h. The condos were booked years in advance;

   i. The minimum investment was $5,000; and

   j. Nielsen had visited the resort and it was nice and well managed.

8. Nielsen gave DJ and JR a Universal Lease Agreement to review, and explained it to them.

9. Nielsen showed DJ and JR a clipping from Dunn & Bradstreet that gave Resort Holding high marks.

10. Nielsen showed DJ and JR color brochures for the Resort Holding hotels in Mexico, and showed them the hotel in which they would be investing.

11. The meeting took place at Nielsen's office in Utah County and lasted about an hour. In addition to DJ, JR and Nielsen, Jeff Bird, one of Nielsen's co-workers, was also present. Nielsen did the majority of the talking at this meeting.

12. Approximately one week after the initial meeting, DJ and JR again met at Nielsen's office in Utah County. Jeff Bird and and another person were present.

13. This meeting lasted approximately one hour. Once again, Nielsen did most of the talking. He provided much of the same information to DJ and JR as before.

14. DJ and JR each met with Nielsen a third time to complete the investment, but they met with Nielsen separately and on different days.

15. Prior to accepting DJ's or JR's investment funds, Nielsen failed to tell them about the administrative actions against Resort Holding, Michael Eugene Kelly, and/or a company controlled by Kelly, filed by the Wisconsin Division of Securities and the Arizona Securities Division, in April and May 2003, respectively.

16. On September 11, 2003, JR met with Nielsen at his office in Utah County and executed the Universal Lease Agreement and the Universal Lease Application. JR agreed to pay for the investment by rolling over $37,085.67 from an IRA held at Zions Bank to an IRA with Trust Company of America, but the investment funds were not transferred to until

about October 16, 2003 even though he had signed the documents at that meeting.[1]

17. JR executed a Universal Lease Agreement, naming him as the "Leaseholder" and Resort Holding International, S.A. as the "Lessor." The lease term under the Universal Lease Agreement is for 25 years, the purchase amount is $37,085.67, and includes sections regarding operations and maintenance fees, common areas, insurance, and default fees.

18. JR also signed the Universal Lease Application, a two-page document with JR's contact and beneficiary information. Nielsen signed as the witness on the Universal Lease Application and provided his sales representative identification number.

19. On September 15, 2003, DJ met with Nielsen at Nielsen's office in Utah County. At this meeting, DJ invested $80,000 in the Resort Holding Universal Lease. DJ gave Nielsen a cashier's check for $80,000, made payable to Trust Company of America.

20. DJ executed a Universal Lease Agreement in which DJ was named the "Leaseholder" and Resort Holding International, S.A. was the "Lessor." The Universal Lease Agreement states that the term of the lease is 25 years, the purchase amount is $80,000, and includes sections regarding operations and maintenance fees, common areas, insurance, and default fees.

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[1] Trust Company of America was an IRA custodian located in Colorado that Resort Holding initially used to receive investor funds and disburse interest checks. Resort Holding later moved to Trust Company of the Pacific, an IRA custodian out of Nevada.

21. DJ executed a Management Agreement, naming DJ as the "Client" and Majesty Travel[2] as the "Administrator." The Management Agreement states that Majesty Travel will rent, manage, administer, and collect rental income on behalf of the Client, and guarantees rental of the unit. The Agreement also states that DJ will receive compensation of 4% annually as rental compensation, and an additional 5% annually for the option to purchase DJ's unit (for a total of 9% annually), which will be paid in monthly payments.

22. DJ also signed the Universal Lease Application, a two-page document with DJ's contact and beneficiary information. Nielsen signed as the witness on the Universal Lease Application and provided his sales representative identification number.

23. After investing, both DJ and JR started receiving monthly interest payments. Sometimes the interest payments came from Majesty Travel, sometimes from Galaxy Properties Management S.A., and sometimes from Trust Company of the Pacific.

24. Starting in June or July 2005, DJ's and JR's interest payments started to show up late or not at all.

25. DJ and JR immediately contacted Nielsen about the late and missing payments.

26. Nielsen told DJ and JR that he called Michael Eugene Kelly, the president of Resort Holding, and the Trust Company of America, to get some information, but got nowhere.

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[2] Majesty Travel was a small Panamanian travel agency controlled by Michael Eugene Kelly, the president of Resort Holding. Majesty Travel was purportedly purchased by Galaxy Properties Management S.A. in mid-2004, but Kelly controlled this company too.

27. Nielsen assured DJ and JR that they would get their money back.

28. Nielsen continues to update DJ and JR about the status of legal action taken by investors against Resort Holding and Kelly.

29. DJ has received a total of $8,666.67 from his investment in Resort Holding's Universal Lease. Respondents still owe him $80,000 in principal alone.

30. JR has received a total of $1,835.86 from his investment in Resort Holding's Universal Lease, and is still owed $37,085.67 in principal alone.

Investors CJ and LJ, Husband and Wife

31. In 2003, Nielsen met with CJ and LJ at his office in Utah County to discuss investment options for their retirement funds. CJ and LJ first met Nielsen in the fall of 2002 at a seminar held by United Securities Alliance in Utah County.

32. In the 2003 meeting, Nielsen told CJ and LJ the following about the investment opportunity in a Resort Holding Universal Lease:

    a. CJ and LJ would receive 9% annual interest in quarterly payments;

    b. Nielsen himself had invested;

    c. The money would be used to maintain and expand resorts in Mexico;

    d. Resort Holding had plans to dredge a harbor in Mexico to build a lagoon;

    e. There were thousands of other investors; and

    f. There was insurance against natural disasters.

33. Prior to accepting CJ's and LJ's investment funds, Nielsen failed to tell them about the

administrative actions against Resort Holding, Michael Eugene Kelly, and/or a company controlled by Kelly, filed by the Wisconsin Division of Securities and the Arizona Securities Division, in April and May 2003, respectively.

34. CJ and LJ decided to invest using money from the surrender of an existing annuity.

35. CJ and LJ signed no Universal Lease agreements in conjunction with their investment, but simply agreed to the deal by a handshake at that time.

36. Nielsen later assisted CJ and LJ with completing all the necessary documents to affect the surrender of their annuity, and the transfer of funds to an IRA custodian.

37. On or about October 14, 2003, CJ and LJ received a letter in the mail from American Equity Investment Life Insurance Company stating that the surrender value of their annuity ($31,428.07) would be transferred to the Trust Company of America pursuant to their request.

38. On May 5, 2004, CJ executed a form authorizing the transfer of their $31,428.07 from Trust Company of America to the Trust Company of the Pacific.

39. At the end of 2004, and in subsequent mailings from the Trust Company of the Pacific, the company recognized the receipt of $28,577.69 (after fees) of rollover IRA contributions from CJ and LJ. The Trust Company of the Pacific specifically recognized the money as an investment in Resort Holding.

40. CJ and LJ have received no return of principal or interest from their investment in the Resort Holding Universal Lease program.

41. Respondents still owe CJ and LJ $28,577.69 in principal alone.

Investor AB

42. In August 2003, Nielsen told AB about the investment opportunity in Resort Holding's Universal Leases. Nielsen had previously contacted AB at her home by telephone.

43. Nielsen told AB the following:

a. The Universal Lease would pay 9% annual interest;

b. The investment was 100% guaranteed;

c. There was no risk;

d. The investment was rated a low risk investment by Dunn & Bradstreet;

e. AB could use the condo in Mexico herself, but she would lose any rental income that may have been made during that time;

f. AB would own part of the resort;

g. The Universal Lease was a growing investment and was performing very well;

h. The profits generated would come from renting the condos; and

i. Nielsen had invested his own money.

44. Prior to accepting AB's investment funds, Nielsen failed to tell her about the administrative actions against Resort Holding, Michael Eugene Kelly, and/or a company controlled by Kelly, filed by the Wisconsin Division of Securities and the Arizona Securities Division, in April and May 2003, respectively.

45. Nielsen set up a second meeting with AB on or about August 19, 2003. At this second

meeting, AB executed the required documents.

46. AB executed a Universal Lease Agreement in which AB was named the "Leaseholder" and Resort Holding International, S.A. was the "Lessor." The term of the lease under the Universal Lease Agreement is 25 years, the purchase amount is $55,727.44, and includes sections regarding operations and maintenance fees, common areas, insurance, and default fees.

47. AB also signed the Universal Lease Application, a two page document with AB's contact and beneficiary information. Nielsen signed as the witness on the Universal Lease Application along with his sales representative identification number.

48. On or about November 13, 2003, AB gave Nielsen a cashier's check for $55,727.44 from Jordan Credit Union, made payable to IRA Resources, Inc. AB obtained her investment funds from her retirement plan at Pacificorp.

49. On or about December 2, 2003, AB's investment check was deposited into an IRA with IRA Resources, Inc. On or about December 9, 2003, IRA Resources, Inc. invested AB's funds in Resort Holding's Universal Lease program.

50. After investing, AB received statements in the mail from IRA Resources, Inc. AB saw the value of her investment increase to as much as $56,024.98, but AB never received a distribution.

51. In early 2006, Nielsen went to AB's home and told her that ownership of Resort Holding had changed hands, and the new owners were not honoring the Universal Leases.

Nielsen told AB he wanted to purchase the Universal Lease from AB and put her into a different investment.

52. Nielsen never purchased AB's Universal Lease investment.

53. Nielsen has received nothing from her investment in Resort Holding's Universal Lease program. Respondents still owe AB $55,727.44 in principal alone.

CAUSES OF ACTION

COUNT I
Securities Fraud under § 61-1-1(2) of the Act

54. The Division incorporates and re-alleges paragraphs 1 through 53.

55. The investment opportunity offered and sold by Nielsen to investors is an investment contract, and therefore a security, under § 61-1-13 of the Act. An investment contract includes,

> any investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor; or . . . any investment by which . . . an offeree furnishes initial value to an offerer; . . . a portion of this initial value is subjected to the risks of the enterprise; . . . the furnishing of the initial value is induced by the offerer's promises or representations which give rise to a reasonable understanding that a valuable benefit of some kind over and above the initial value will accrue to the offeree as a result of the operation of the enterprise; and . . . the offeree does not receive the right to exercise practical or actual control over the managerial decisions of the enterprise.

UTAH ADMIN. CODE R164-13-1(B)(1)(a) and 1(b).

56. In connection with the offer and sale of a security to investors, Nielsen made false

statements, including, but not limited to, the following:

a. The investment paid 9% interest annually;

b. Resort Holding would buy back the investment after three years;

c. This was a good investment; and

d. There was no risk involved.

57. In connection with the offer and sale of a security to investors, Nielsen failed to disclose material information, including, but not limited to, the following, which was necessary in order to make representations made not misleading:

a. That in April and May 2003, the Wisconsin Division of Securities and the Arizona Securities Division, respectively, filed administrative actions against Resort Holding, Michael Eugene Kelly, and/or a company controlled by Kelly, in connection with the offer and sale of Universal Leases. With respect to each action, the respondents were asked to cease and desist from offering and/or selling the Universal Leases.

b. Some or all of the information typically provided in an offering circular or prospectus regarding Resort Holding, such as:

i. The business and operating history for Resort Holding;

ii. Identities of the principals for Resort Holding along with their relevant experience;

iii. Financial statements for Resort Holding;

iv. The market for Resort Holding's product(s) or service(s);

v. The nature of the competition for the product(s) or service(s);

vi. The current capitalization for Resort Holding;

vii. A description of how the investment would be used by Resort Holding;

viii. The track record of Resort Holding to prior investors;

ix. Risk factors for investors;

x. The number of other investors;

xi. The minimum capitalization needed to participate in the investment;

xii. The disposition of any investments received if the minimum capitalization were not achieved;

xiii. The liquidity of the investment;

xiv. Discussion of pertinent suitability factors for the investment;

xv. The proposed use of the investment proceeds;

xvi. Any conflicts of interest the issuer, the principals, or the agents may have with regard to the investment;

xvii. Agent commissions or compensation for selling the investment;

xviii. Whether the investment is a registered security or exempt from registration; and

xix. Whether the person selling the investment is licensed.

58. Based upon the foregoing, Boyd Kelly Nielsen violated § 61-1-1 of the Act.

COUNT II
Sale of Unregistered Securities under § 61-1-7 of the Act

59. The Division incorporates and re-alleges paragraphs 1 through 58.

60. The Universal Lease offered and sold by Nielsen is a security under § 61-1-13 of the Act.

61. The security was offered and sold in this state.

62. The security offered and sold by Nielsen was not registered under the Act, nor was there any claim of exemption relating to the security.

63. Based on the above information, Boyd Kelly Nielsen violated § 61-1-7 of the Act.

ORDER

The Director, pursuant to § 61-1-20 of the Act, hereby orders the Respondent to appear at a formal hearing to be conducted in accordance with Utah Code Ann. §§ 63-46b-4 and 63-46b-6 through -10, and held before the Utah Division of Securities. The hearing will occur on Tuesday, June 3rd, 2008, at 9:00 a.m., at the office of the Utah Division of Securities, located in the Heber Wells Building, 160 East 300 South, 2nd Floor, Salt Lake City, Utah. The purpose of the hearing is to establish a scheduling order and address any preliminary matters. If the Respondent fails to file an answer and appear at the hearing, the Division of Securities may hold Respondent in default, and a fine may be imposed in accordance with Utah Code Ann. § 63-46b-11. In lieu of default, the Division may decide to proceed with the hearing under § 63-46b-10. At the hearing, the Respondent may show cause, if any he has:

a. Why Boyd Kelly Nielsen should not be found to have engaged in the violations alleged by the Division in this Order to Show Cause;

b. Why Boyd Kelly Nielsen should not be ordered to cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-1, or any other section of the Act; and

c. Why Boyd Kelly Nielsen should not be ordered to pay a fine of thirty thousand dollars ($30,000) to the Division of Securities, which may be reduce by the payment of any compensation Nielsen received as a result of selling the investment opportunity, to the victims.

DATED this 22nd day of April, 2008.

THAD LEVAR
Acting Director, Utah Division of Securities

Approved:

JEFF BUCKNER
Assistant Attorney General

J. K.

Division of Securities
Utah Department of Commerce
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BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF:	NOTICE OF AGENCY ACTION
BOYD KELLY NIELSEN	Docket No. SD-08-0051
Respondent.	

THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENT:

The purpose of this Notice of Agency Action is to inform you that the Division hereby commences a formal adjudicative proceeding against you as of the date of the mailing of the Order to Show Cause. The authority and procedure by which this proceeding is commenced are provided by Utah Code Ann. §§ 63-46b-3 and 63-46b-6 through 11. The facts on which this action is based are set forth in the foregoing Order to Show Cause.

Within thirty (30) days of the mailing date of this notice, you are required to file an Answer with the Division. The Answer must include the information required by Utah Code § 63-46b-6 (1). In addition, you are required by § 63-46b-6 (3) to state: a) by paragraph, whether

you admit or deny each allegation contained in the Order to Show Cause, including a detailed explanation for any response other than an unqualified admission; b) any additional facts or documents which you assert are relevant in light of the allegations made; and c) any affirmative defenses (including exemptions or exceptions contained within the Utah Uniform Securities Act) which you assert are applicable. To the extent that factual allegations or allegations of violations contained in the Order to Show Cause are not disputed in your Answer, they will be deemed admitted.

Your Answer, and any future pleadings or filings that should be part of the official files in this matter, should be sent to the following:

Signed originals to:	A copy to:
Administrative Court Clerk c/o Pam Radzinski Division of Securities 160 E. 300 S., Second Floor Box 146760 Salt Lake City, UT 84114-6760 (801) 530-6600	Jeff Buckner Assistant Attorney General 160 E. 300 S., Fifth Floor Box 140872 Salt Lake City, UT 84114-0872 (801) 366-0310

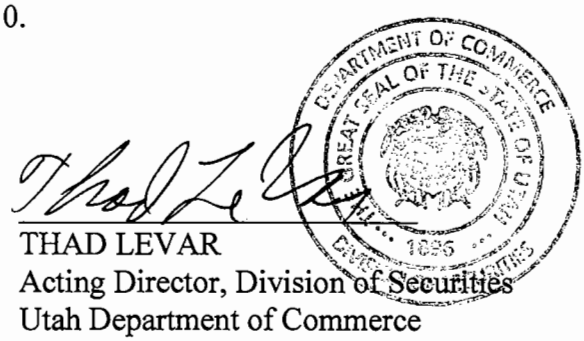
A hearing date has been set for Tuesday, June 3rd, 2008, at 9:00 a.m., at the office of the Utah Division of Securities, located in the Heber Wells Building, 160 East 300 South, 2nd Floor, Salt Lake City, Utah.

If you fail to file an Answer, as set forth herein, or fail to appear at the hearing, the Division of Securities may hold you in default, and a fine and other sanctions may be imposed

against you in accordance with Utah Code Ann. § 63-46b-11, without the necessity of providing you with any further notice. In lieu of default, the Division may decide to proceed with the hearing under § 63-46b-10. At the hearing, you may appear and be heard and present evidence on your behalf. You may be represented by counsel during these proceedings.

The Administrative Law Judge will be J. Steven Eklund, Utah Department of Commerce, 160 East 300 South, P.O. Box 146701, Salt Lake City, UT 84114-6701, telephone (801) 530-6648. Pursuant to U.C.A. Subsection 63-46b-2(1)(h), Mr. Eklund is hereby designated as presiding officer for the purpose of conducting this formal administrative proceeding. Questions regarding the Order to Show Cause and Notice of Agency Action should be directed to the Division's attorney, Jeff Buckner, at (801) 366-0310.

DATED this 22nd day of April, 2008.



THAD LEVAR
Acting Director, Division of Securities
Utah Department of Commerce

Certificate of Mailing

I certify that on the 22ND day of April, 2008, I mailed, via certified and regular mail, a true and correct copy of the Order to Show Cause and Notice of Agency Action to:

Boyd Kelly Nielsen
962 S. 1240 E.
Spanish Fork, UT 84660

Certified Mailing # 7004 1160 0003 0195 6634

Pam Badrinsh
Executive Secretary