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Division of Securities  
160 E. 300 S., 2<sup>nd</sup> Floor  
Box 146760  
Salt Lake City, UT 84114-6760

Utah Department of Commerce  
Division of Securities

June 20, 2008

To All Whom It May Concern:

**Answer to the Division:**

According to a received Notice of Agency Action, I, Boyd Kelly Nielsen, am required to file an Answer with the Division as to Count I (Securities Fraud) and Count II (Sale of Unregistered Securities) in the Order To Show Cause, Docket SD-08-0051. The following is my response:

I, B. Kelly Nielsen, am 58 years of age, reside in Spanish Fork, Utah, have been married for 34 years to the same wife, have 7 children, and do not even have as much as a traffic ticket on my record. For me to have "engaged in acts and practices that violate the Utah Uniform Securities Act" as stated in the Division's Order To Show Cause, comes as a considerable shock. If any wrong doing on my part was committed, it certainly was unintentional as I only passed on to my clients that which I had received in considerable training, and after I had done extensive due diligence on Resort Holdings International.

I traveled twice to Cancun to view and visit the hotel properties from which clients would be purchasing timeshares. I talked to clients who had been owners for some time. I talked to agents who had been selling this product. I looked at Dun & Bradstreet reports and even met with Michael Kelly himself to ask him questions. I, like many others, was duped by this man's operation. When a retired Chief Appellate Judge from the state of Texas personally flies to Cancun to meet Michael Kelly and then purchases \$850,000 worth of timeshares, this put me greatly at ease. I have since found that he is only one of almost 9,000 defrauded leaseholders.

According to Dun & Bradstreet's "*Comprehensive Report: Resort Holdings International*," their "*Financial Stress Model predicts the likelihood of a firm ceasing business without paying all creditors in full.*" The "*Financial Stress Class*" rating was a 1, which is the "*lowest risk.*" Furthermore, the "*incidence of financial stress among companies with this classification*" is .49% (only 49 per 10,000). There was "*no record of open suites, liens, or judgments in the D&B database.*" Also, the "*payment information in the D&B files indicates no slow payments nor negative comments.*" In addition, the "*Credit Score Class predicts the likelihood of a firm paying in a severely delinquent manner over the next twelve months.*" The "*Credit Score Class*" was a 1, which is the "*lowest risk.*" And, their "*corporate status*" was "*in good standing*" with "*no unfavorable comments.*" At that time, there could not have been a better Dun & Bradstreet report.

As a representative, I was told and it was demonstrated to me from the beginning that the Resort Holding Universal Lease program was not an investment and not a security. Had I known it was a security, I would never have entered as a representative. I was told it was not an investment and, therefore, not a security. The reason it was not an investment is that there was no "expectation of profit." It was not stock, there was not expectation of profit from others; it was simply a timeshare that was ultimately misrepresented by Michael Kelly and company. The reason there was no expectation of profit is that it was to be sold back to the owner after 3 years at no profit but at the owner's at-cost purchase price. The expectation was in income from rental of rooms, and then only if the owner chose Option C. Option A was that the owner could use the vacation unit, Option B was that the owner could rent the vacation unit on his own, or Option C was that the owner could hire an independent third party management company to rent the vacation unit for them, and therefore the owner would then receive rental income as designated in the purchase agreement.

I have been told that in a Texas case that there was nothing that says that the Resort Holding product was a security, but that it was a timeshare sold illegally and with false representation. It's interesting to think that the government has known about Michael Kelly's dealing for over 9 years and never stopped him. So why should I, after considerable due diligence, think it was illegal?

When a close friend of mine with integrity, Steve Smith, a current resident of Utah, who had already flown to Cancun to see the hotel properties, introduced me to the program, I immediately had no reason to doubt the validity thereof. All of the information, brochures, and printed material of any kind which was considerable, came from him or the organization with which he was affiliated. Why should I be singled out and receive this Order To Show Cause when everything I learned came from Mr. Smith and his affiliate company. Also, there were several agents, in Utah alone, selling these timeshares, and none of the ones I know received an Order To Show Cause. Am I being singled out? Where is the logic and justice in that?

Please know that during this entire ordeal, I never made, knowingly, any "false statements" as charged in Count I, nor did I knowingly "fail to disclose material information" also as charged in Count I. As soon as I became aware of anything alarming concerning Resort Holding, I immediately ceased from selling their product, and have been in turmoil ever since, trying to save face with my clients and searching for ways to recover their purchase amounts.

My reputation has been damaged. This has also been the biggest disaster of my life! Because of not receiving commissions owed me by Resort Holding for selling their product, and with no financial reserves whatsoever at that time, my wife and I were forced into bankruptcy. And, shortly after that we also lost our home, and all because of counting on commissions that were promised, but never came. Still today we are renting and not home owners and trying to recover both financially and emotionally from the Resort Holding disaster.

In addition, I have spent countless weeks of time trying everything I can to find out more information about Resort Holding to recover the purchase price and back interest for my clients. I am happy to say that there is a committee composed of leaseholders (including the retired Chief Appellate Judge mentioned earlier) that has come a long way in establishing their legal rights as

to recovery from Michael Kelly and Resort Holding. The case is moving forward to hopefully recover the 400-450 million dollars in leaseholder money. Due process is being followed now in Mexico to recover assets. Fortunately, assets are valued at multiples of that needed for recovery.

Michael Kelly did not plead guilty as the SEC predicted. I receive updated emails usually weekly, sometimes daily, on the status of the leaseholder "fund." I spend time on conference calls concerning this matter. I am still in the process of voluntarily paying the \$200 per client needed to be a member at my own expense! Recovery for leaseholders looks guardedly optimistic. Recovery for brokers is nil. Brokers will get the worst end of the deal. I will likely never recover back commissions yet spend countless hours and money trying to recover my clients' money. According to an FBI statement, brokers were defrauded. Leaseholders have a chance to recover up to three times their investment; I will get nothing back, and yet I am paying out of my own pocket for my clients to be members of the leaseholder fund.

In conclusion, with no intention of doing any wrong at anytime, and after the severe financial and emotional hardship of bankruptcy, loss of home, loss of reputation, with additional countless hours of ongoing time and expense voluntarily spent in client recovery, for the Division of Securities to attempt to order that I pay a fine of \$30,000 to the Division of Securities is unreasonable. I have, in essence, no money anyway. Enough damage has already been done. I considerately request that this whole affair be dismissed.

Respectfully,

A handwritten signature in cursive script, reading "Boyd Kelly Nielsen", written over a horizontal line.

Boyd Kelly Nielsen

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June 20, 2008

To All Whom It May Concern:

According to a received Notice of Agency Action, I, Boyd Kelly Nielsen, am required to respond to each "General Allegation" as listed in the Order To Show Cause, Docket No. SD-08-0051. The following is my response.

(Note: the numbers shown in bold below correlate to the same General Allegation numbers.)

**1)-6 "investment contract and, therefore, a security"**

As a representative, I was told and it was demonstrated to me from the beginning that the Resort Holding Universal Lease program was not an investment and not a security. Had I known it was a security, I would never have entered as a representative. (A more detailed explanation is given in my "Answer to the Division.")

**2)-7 "investment"**

The product was not an investment but was a timeshare purchase into the Universal Lease program.

(Important note: Many times during the remaining allegations the words "investment" and "investor" are used. For all of these, it was a timeshare purchase, not an investment, and a timeshare owner, not an investor.)

**3)-7a "investment would pay 9% per year, and matured in 25 years"**

If Option C was chosen by the owner which allows the designated administrator to rent his/her timeshare(s), the owner would receive 4% per year as rental compensation, plus an additional 5% per year for the option to purchase the owner's unit(s) to total 9% per year. The Universal Lease did not "mature," but had a life of 25 years with a renewable option.

**4)-7g "they would never have to worry about the condos not renting"**

With Cancun, at that time, being the number one tourist destination city in Mexico, the likelihood of the timeshares being rented was very good. The timeshares were not "condos" but specific rooms in a specific hotel with specific week designations.

**5)-7h "the condos were booked years in advance"**

Many timeshare owners owned certain weeks that fell during popular vacation seasons. I was told that they did have some bookings well in advance, even for more than a year.

**6)-7i "minimum investment was \$5,000"**

The minimum purchase was \$5,000.

**7)-15 “failed to tell them about the administrative actions against Resort Holding”**

At that time, unfortunately, I did not yet know about any actions being taken in other states. I wish I would have and all of this would have never happened. According to the Dun & Bradstreet report I had at that time, there were “*no record of open suites, liens, or judgments in the D&B database.*” And, that their “*corporate status*” was “*in good standing*” with “*no unfavorable comments.*”

**8)-16 “but the investment funds were not transferred to until about October 16”**

From September 11 to “**about**” October 16 is well within the normally expected time frame to transfer an IRA account from custodian to custodian.

**9)-27 “assured...that they would get their money back”**

After placing many worried phone calls, I was assured that all owners would, over time, get both their interest caught up and their principal returned after the 3-year period. I only passed on what I was told. There was never any intent to deceive.

**10)-32b “Nielsen himself had invested”**

I have never purchased a Universal Lease. At that time I would have because I thought it was a good program, but never had any money to do so.

**11)-32c “the money would be used to maintain and expand resorts in Mexico”**

The money would be used to purchase a timeshare(s) for specific rooms in a specific hotel with specific week designations.

**12)-32d “Resort Holding had plans to dredge a harbor in Mexico to build a lagoon”**

The owner of Resort Holding was also the owner/developer of Puerto Cancun which did include the developing and dredging of a harbor to accommodate up to mid-size cruise ships.

**13)-33c “failed to tell them about the administrative actions against Resort Holding”**

Please see 7) above.

**14)-40 “received no return of principal or interest”**

This is because it is an IRA and, hence, the money is deferred.

**15)-43a “would pay 9% annual interest”**

Please see 3) above.

**16)-43b, 43c “100% guaranteed” “no risk”**

Money put anywhere has some inherent risk. However, Dun & Bradstreet had a “*Comprehensive Report on Resort Holdings International.*” It stated “*the Financial Stress Model predicts the likelihood of a firm ceasing business without paying all creditors in full.*” The Financial Stress Class rating for Resort Holding was a 1, which is “*lowest risk.*” Their “*Incidence of Financial Stress Among Companies with this Classification*” was .49% (only 49 per 10,000). And, the “*Credit Score Class predicts the likelihood of a firm paying in a severely*

*delinquent manner over the next twelve months.”* The Credit Score Class rating for Resort Holding was a 1, which is “*lowest risk.*”

**17)-43h “profits generated would come from renting the condos”**

For “**profits**” please see 3) above; for “**condos**” please see 4) above.

**18)-43i “Nielsen had invested his own money”**

Please see 10) above.

**19)-44 “failed to tell her about the administrative actions against Resort Holding”**

Please see 7) above.

**20)-50 “never received a distribution”**

Please see 14) above.

**21)-51 “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 and put her into a different investment.”**

The ownership of Resort Holding has never changed hands. There was a designation change of administrators from Majesty Travel to Galaxy Properties Management (both of which I later found out were owned and operated by the same owner as Resort Holding). I had no money to purchase hers or anyone else’s lease. Besides, the money was simply not available and, hence, could not be put “**into a different investment.**”

We all realize that the statements made by my clients in bold above are best recollections of discussions most of which happened over 5 years ago. My comments above, for the most part, are clarifications of their best wording of their understanding as they remembered it.



Boyd Kelly Nielsen