

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**THE RETIREMENT PLAN OF THE
UNITE HERE NATIONAL RETIREMENT
FUND, and the Trustees of the UNITE
HERE National Retirement Fund,**

Plaintiffs,

v.

**VILLAGE RESORTS, INC., d/b/a THE
PURPLE HOTEL, KM COMMUNICATIONS,
INC., and JOHN DOES 1-10) (all other trades
or businesses under common control with
Village Resorts, Inc.),**

Defendants.

Case No. 09 C 00905

Judge Bucklo

STATE OF RHODE ISLAND)
 : ss.:
COUNTY OF PROVIDENCE)

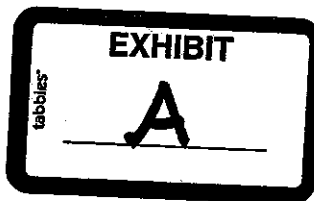
AFFIDAVIT OF RICHARD RUST

RICHARD RUST, being duly sworn, deposes and says:

1. I am the Fund Manager of the UNITE HERE National Retirement Fund and make this affidavit in support of Plaintiffs' Motion for Entry of Final Judgment Against Village Resorts, Inc., d/b/a The Purple Hotel ("Village Resorts") and KM Communications, Inc. based upon my personal knowledge of the facts recited herein and upon records maintained under my supervision.

2. Effective September 30, 2007, the UNITE National Retirement Fund merged with the Hotel Employees' and Restaurant Employees' International Union ("HEREIU")

DOC ID-12242533.4



Pension Fund. The fund's name was changed to the UNITE HERE National Retirement Fund (collectively, with its predecessors prior to merger, the "Fund").

3. Village Resorts previously contributed to the Fund. Village Resorts withdrew as a contributing employer to the HEREIU Pension Fund on or about December 31, 2006 and was assessed withdrawal liability by the Trustees of the Fund in the amount of \$531,782.61.

4. Based upon my review of HEREIU Pension Fund documents, Village Resorts received a letter from the HEREIU Pension Fund on February 23, 2007, notifying Village Resorts that it owed withdrawal liability in the estimated amount of \$531,206.59. A letter was sent on May 2, 2007 notifying Village Resort's counsel that Village Resorts failed to make its first monthly payment due on April 24, 2007 and advising that if the delinquency was not cured within ten days, the HEREIU Pension Fund would initiate a lawsuit in federal court for any delinquent payments plus interest. Another letter was sent on May 15, 2007, notifying Village Resort's counsel that Village Resorts failed to make its first monthly installment due on April 24, 2007 and advising that failure to pay within sixty days from the date Village Resorts received this letter would constitute a default permitting acceleration of Village Resort's withdrawal liability. A final letter was sent on September 12, 2007, notifying Village Resort's counsel that the revised withdrawal liability assessment total was \$531,782.61.

5. The HEREIU Pension Fund did not receive Village Resort's first monthly installment within sixty days of Village Resort's receipt of the May 15, 2007 letter.

6. The HEREIU Pension Fund never received a request for review from Village Resorts, nor did Village Resorts initiate an arbitration proceeding challenging the

withdrawal liability determination. This information would be contained within the records under my review.

7. To date, the Fund has not received any payment from Village Resorts – or any other entity affiliated with it, including KM Communications – in respect of its withdrawal liability.

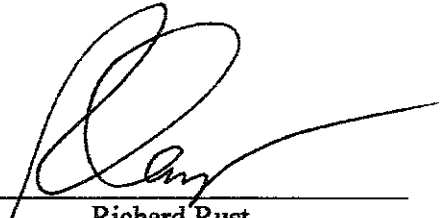
8. In addition to the withdrawal liability owed to the Fund, former contributing employers to the Fund are also required to pay interest and liquidated damages on unpaid withdrawal liability and the Fund's attorneys' fees and costs incurred in collecting unpaid amounts pursuant to the Fund's Trust Agreement and applicable law.

9. Interest is calculated at the rate of one percent (1%) per month. My office has calculated the interest owed upon Village Resorts' unpaid withdrawal liability through October 5, 2010 to be equal to \$220,040.46.

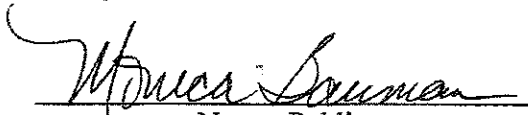
10. Liquidated damages is calculated at the rate of 20% on the unpaid withdrawal liability. My office has calculated the liquidated damages owed upon Village Resorts' unpaid withdrawal liability to be equal to \$106,356.52.

11. The Fund has been forced to incur attorneys' fees and costs in its effort to collect Village Resorts' unpaid withdrawal liability and in connection with the above-captioned litigation against Village Resorts and KM Communications. The Fund has paid legal fees to Schulte Roth & Zabel LLP and local counsel Dowd, Bloch & Bennett. It is my understanding that these law firms will separately submit affidavits with respect to the legal fees and costs they have charged the Fund in connection with this action.

12. Further Affiant sayeth not.


Richard Rust

Sworn to before me this 28th day
of September, 2010


Notary Public



OFFICIAL SEAL
MONICA BAUMAN
NOTARY PUBLIC - RHODE ISLAND
Commission Expires February 13, 2013