U. S. Department of Justice

United States Attorney
Northern District of Illinois

Patrick J. Fitzgerald
United States Attorney

Federal Building
219 South Dearborn Street, Fifth Floor
Chicago, Illinois 60604
(312) 353-5300

FOR IMMEDIATE RELEASE
FRIDAY MAY 9, 2008
www.usdoj.gov/usa/iln

PRESS CONTACT:

AUSA Edward Kohler	(312)886-4086
AUSA Benjamin Langner	(312)353-2817
Randall Samborn	(312)353-5318

MEXICAN HOTEL OPERATOR CHARGED IN $500 MILLION FRAUD SCHEME FOR ALLEGEDLY SWINDLING THOUSANDS OF U.S. INVESTORS IN SALES OF PROMISSORY NOTES AND TIME-SHARE INVESTMENTS

CHICAGO – A former South Bend, Ind., businessman who owned hotel properties in Mexico was charged today with swindling thousands of investors throughout in the United States in a $500 million fraud scheme, federal law enforcement officials announced. The defendant, **Michael E. Kelly**, and others associated with him allegedly used a significant portion of the funds raised from investors for their own personal benefit, including the purchase of hotels, businesses, homes, boats, automobiles, an airplane, a night club and an interest in a real estate development project in Cancun, Mexico, where Kelly resided for several years before he was arrested in December 2006. The alleged fraud scheme resulted in outstanding losses of more than $300 million to investors. The case is one of the largest investment fraud schemes ever charged in Federal Court in Chicago.

Kelly, 58, who holds citizenship in the United States, Mexico and Belize, was charged in a 14-count criminal information filed today in U.S. District Court in Chicago, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, and Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation. FBI agents in South Bend, Ind., also participated in the investigation. Kelly was initially charged in a criminal complaint when he was arrested on Dec. 22, 2006, in Jacksonville, Fla., after entering the United States from Mexico for what was to have been a brief visit.

The information charges Kelly with 10 counts of mail fraud, two counts of wire fraud and two counts of securities fraud. It also seeks forfeiture of approximately $500 million. Kelly will be arraigned at a later date in U.S. District Court in Chicago.

Kelly has remained in federal custody without bond since he was arrested. The time period for filing today's charges was extended, according to court documents, to allow the government, Kelly and his attorneys time to explore possible resolution of the case, including means for making money and assets located outside the United States available for restitution to the thousands of victims. Those efforts, and the investigation itself, are continuing, officials said.

The charges allege that beginning in 1998 Kelly defrauded purchasers and prospective purchasers of two types of investments – one, a nine-month promissory note, and the second, a so-called "universal lease." Kelly was the president and sole shareholder of Yucatan Investment Corp., and Resort Holdings International, Inc., both of which at various times offered and sold either the promissory notes or universal leases.

Kelly allegedly fraudulently obtained approximately $34 million from the sale of the promissory notes, which guaranteed an annual rate of returns as high as 10.75 percent of the purchase price, and could be renewed for one or multiple terms.

Through various companies and a network of salesmen, Kelly allegedly fraudulently obtained more than $450 million from the sale of universal leases, which had a 25-year term and purported to relate to particular rooms for particular time periods in particular Mexican hotels operated by Kelly. A lease investor had three options: 1) use the room; 2) rent the room; or 3) allow a purported independent third-party management company, World Phantasy Tours, Inc., doing business as

Majesty Travel, Viajes Majesty or, later, Galaxy Properties Management, to rent the room in exchange for guaranteed payments to the investor. Almost all of the lease purchasers chose the third option under which World Phantasy Tours guaranteed investors an annual return as high as 11 percent, regardless of whether the room was actually rented. Kelly and others promoted the investment as carrying little risk by promising to buy back the universal lease at any time at a slight discount and further promising to pay back 100 percent of the purchase price in as little as either two or three years, according to the charges.

Between 1999 and 2004, Kelly regularly met with salesmen and prospective purchasers to explain the lease terms, often as part of an all expenses paid trip to Cancun. Many of the leases were sold to retirees who found the promised high fixed rates of return, coupled with the reported safety of the buy out (or repurchase) provision, to be an attractive investment. In the offer and sale of both the promissory notes and the leases, Kelly and others allegedly made and caused to be made material misstatements and omissions about the return on investments, the guaranteed nature of the returns, and the liquidity and risks of the investments. Kelly and others concealed from investors that the ability to make promised payments depended on continually raising funds from new investors and using those funds to pay earlier investors, the charges add.

Anyone who suspects that he or she might be a victim in this case and has not already received a victim survey from the U.S. Attorney's Office, should submit their name and address to usailn.victim.mk@usdoj.gov. Persons without internet access may call a toll-free number – (866) 364-2621 – and leave a message with the spelling of their name and an address, and a form will be mailed to them within two weeks.

The government is being represented by Assistant U.S. Attorneys Edward Kohler, Daniel Gillogly and Benjamin Langner.

If convicted, 10 of the mail and wire fraud counts each carry a maximum penalty of 20 years in prison and a $250,000 fine, while two other mail fraud counts each carry a maximum of 5 years in prison and a $250,000 fine. The two securities fraud counts each carry a maximum penalty of 10 years in prison and a $250,000 fine. As an alternative, the Court may impose a maximum fine equal to twice the loss to any victim or twice the gain to any defendant, whichever is greater. Restitution is mandatory and the Court would determine the appropriate sentence to be imposed under the advisory United States Sentencing Guidelines.

The public is reminded that an information contains only charges and is not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

# # # #