

**PROFECO Complaint Form**

**Foreign Consumer Information**

Name: John and Karen xxxx  
Address: Ca 95946 USA

Daytime Phone No. xxx-xxx-xxxx  
Evening Phone No. Same as above  
Fax Number xxx-xxx-xxxx  
Email Address: xxxx@hotmail.com

**Mexican Supplier's / Merchant's Information**

Corporate Name Mayan Palace/Grand Mayan Resorts  
Desarrollo Marina Vallarta S.A. de C.V.  
Address P.O. Box 911841  
Dallas, TX 75391-1841  
Phone Number (713)888-0587

**Mayan Palace, Riviera Maya -- Cancun Information**

Address Km. 48 Carretera Federal Cancún – Playa del Carmen  
Riviera Maya, Quintana Roo, México 77710  
Sales Supervisor Stever Roehrig  
Phone Number 011-52-984-206-4069  
Membership Services Alex Lehan  
Phone Number 011-52-984-206-4065

**Explanation of Claim:**

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Dear PROFECO,

From 10/15/04 to 10/22/04, we visited your country on vacation. During our visit we attended the Mayan Palace, Riviera Maya – Cancun timeshare presentation. On October 17<sup>th</sup> we purchased four timeshare contracts totaling 8 weeks for \$139,900; contracts 2249, 2250, 2251, 2252. We were charged **\$50,136** on three different credit cards as a deposit. After the exchange rate and fees for American Express, this amount is **\$50,485**.

During the next few days, my husband started to question many of the selling points that were stated during the sales presentation. After some investigation, we did not believe what they had presented was true. The balance due for the whole package is \$89,764, which we will not be paying.

On October 22, the fifth day of signing our contracts, we finally examined the documents carefully and found clause #12 called General Provisions in the Grand Mayan Recitals Agreement. (See Attachment #1) This clause explains our right to rescind within five days after signing by returning the documents in person. There was nothing in our packet about the waiving of rescission rights. My family and I were literally on the plane ready to leave Mexico when we jumped up and ran off the plane before they closed the doors. Because we were already ticketed, we had to pay the \$100 charge for each of the five seats. (See Attachments #2 and #3)

We raced back to the Mayan Palace conference room and were ushered down to the offices below to meet with Aaron Schwartz and Alex Lehan. We simply stated that we wanted to cancel our contracts and get our money back. After they knew we were serious, they pulled out the Annual Verification Checklist (See Attachment #4) and told us that our signatures proved we had waived our rights of rescission. They said that we would simply lose our deposit of \$50,136 if we chose to cancel. My husband argued that in no way did #15 on the Annual Verification Checklist (See Attachment #4) state that we gave up our right of rescission. It, in fact, states nothing. My husband repeated that we wanted our money back, but they flat out told us that we had no recourse and could not get our deposit, that this process was all legal. At one point, my husband placed all the documents on their desk and said, "We want to cancel the contracts and get our money back." They refused to refund our deposit.

It is our understanding that in Mexico a 5-day right to rescind is given to all purchases and cannot be waived. The Mayan Palace flat out lied to us and used an illegal waiver to refuse our demand for a refund when we clearly were in our rights to terminate the contracts and receive a full refund. We followed the terms of the Mexican law by returning all the documents within the five days required, but they deceived us and used illegal tactics to coerce us into believing we had no recourse.

Upon returning home, we began researching their claims and promises by calling their list of brokers, researching information on the web and contacting other Mayan Palace timeshare owners. There are numerous websites proclaiming timeshare fraud of which Mayan Palace is notorious. The website [www.timesharefraud.info](http://www.timesharefraud.info) describes our experience with the Mayan Palace salespeople. I realized while reading the information below that it was a scam and that many other people had fallen victim to this unethical company. Here is an excerpt from the TimeShareFraud website:

***Deceitful tactics under which you agreed to purchase your timeshare may have included:***

*A. Being required to waive your contractual and legal rescission rights (in Mexico a 5-Day right to rescind is given to all purchasers and cannot be waived) in order to buy the "once in a lifetime" deal.*

*Very often the purchaser is asked to **waive his rescission rights** by placing his initials adjacent to a section in the*

contract which states that he **has 5 days to rescind**. This is a slight of hand/slight of mind tactic that takes place hour 4, 5 or 6 of the "90-minute" sales presentation, when one has no more energy to focus on details.

This is the paperwork stage and involves signing and initialling many paragraphs and papers. When the purchaser reviews the paperwork later, he cannot find the section that indicates he's waived his rights....only the section with his initials indicating he HAS rights. One's initials next to the "right of the rescission" text makes it appear the purchaser WAS informed of his rescission rights when in fact, the purchaser was told he was initialling the opposite.

This is why credit card companies are often unable to help. It appears everything is on the up and up contractually.

This describes our experience in detail. Mayan Palace stated that we had waived our right of rescission and signed a document giving up that right. This document that they alleged gave up our right to rescind and get our money back in five days was not included in the paperwork we were given.

*B. Promises of inflated rental income using a list of "upfront fee" brokers. Rental income is presented as a "sure thing" if a broker is used. Check out true timeshare rental values and get the real scoop on "upfront fee brokers" at [www.tug2.net](http://www.tug2.net).*

We purchased the whole timeshare package based on their assurances that we could rent out the weeks without difficulty at inflated prices. I have been informed by numerous Grand Mayan timeshare owners that it is actually very difficult to rent out the weeks and most certainly not at such high rates. Even the brokers from their own list expressed doubt that I could successfully rent out all the weeks I had purchased.

*C. Promises to sell your existing timeshares at inflated values as a trade-in or downpayment for the new one. Check out actual resale values at [www.holidaygroup.com](http://www.holidaygroup.com).*

They valued our existing five-year old timeshare at \$3000 above our purchase price, which is totally unrealistic, but it convinced us that timeshares actually do go up in value, so why not buy some more?

*D. Tax advantages.*

They told us that we would not have to pay any income tax from our rental of weeks because there is a law allowing us to take as much as \$100,000 in rental income from Mexican property per year tax free. My husband asked for some verification on this so-called law, but it was never presented to us. After our purchase, they just told me that I didn't need to claim it to the government because the brokers would not report it.

*E. Discounted Airfares.*

They touted a great airline program that would provide us with all kinds of discounted flights. There is nothing in our packet that makes any reference to this claim.

In the past week, I have been corresponding with seven other people who had similar experiences with the Mayan Palace. All of them want their money back but have so far been unsuccessful. I consider my husband and myself to be educated and intelligent people, and I keep analyzing how it is that we fell for this scam. Quite frankly, these people are liars willing to say anything to close a sale. They are clever in their deception and relentless in their pursuit of tourists' money.

On November 1, my husband called Aaron Schwartz, one of the Mayan Palace salespeople, and asked why he didn't refund our deposit on October 22<sup>nd</sup> when we specifically asked him to cancel our contracts and refund our deposit. Aaron referred again to the Annual Verification Checklist (See Attachment #4) repeating that we gave up our right of rescission within the five days.

On November 4, I called Alex Lehan and talked for over fifteen minutes explaining that I did not have any documentation in my packet waiving our right of a five-day rescission. I videotaped my conversation as proof of my phone call and of what I said. I argued that their promises of high rental rates were completely unsubstantiated and that we wanted a full refund. He repeated the same reason as Aaron: we had waived our right of the five-day rescission. I specifically asked for the Annual Verification Checklist to be faxed to me, so that I could review this document. He agreed.

Within 30 minutes, Steve Roehrig, a sales supervisor called me and I videotaped our conversation as proof that I talked to him and what I said. He also acknowledged the fact that we did come to cancel our contracts and get a full refund on October 22<sup>nd</sup>, the fifth day of signing our contract. Like his coworkers he clearly stated that we gave up our right of rescission and he proceeded to bargain with me offering a smaller package of weeks. In the end, he came down to two weeks for under \$26,000. I stated that I just wanted a full refund. I repeatedly asked for our money back. He refused. I finally requested for him to fax me the so-called proof that we waived our right of rescission. He immediately faxed it to me, so that is why I now have of this Annual Verification Checklist. (See Attachment #4) The document is in no way legally binding, not to mention that Mexican law guarantees the 5-day cooling off period for purchases and in no way can it be waived regardless of papers signed or statements made verbally.

When Steve Roehrig called me back, I video recorded my conversation as I did with Alex. After I watched the tape, I realized that the camcorder picked up his voice as well from the speakerphone. Consequently, I have verifiable proof.

Today November 7th Steve Roehrig called me and soon after called my husband who is currently out of town. We both asked that he fax us an explanation as to why they refused to give us our deposit on October 22<sup>nd</sup>. He said that he would fax it but failed to do so and has not called back. At this point, it seems quite clear that Mayan Palace will

not refund our deposit and cancel our contracts. We are now requesting your assistance and hope that you can help us.

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We are submitting a claim against The Mayan Palace/Grand Mayan for the amount of **\$50,485**. This is the full amount we charged as a deposit for the purchase of the timeshare weeks, and it includes the American Express fee for the currency exchange. We wish a full refund of these amounts for the following reasons:

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**1. We provided the Mayan Palace with notice that we wished to cancel this contract within five working days from the delivery of, or the signing of the contract. (Article 56 of the Federal Consumer Protection Law states: “The contract will be perfected within five working days from the delivery of, or the signature of the contract, which ever occurs the latest. During this period, the consumer will have the right to revoke his consent without any responsibility. The revocation will have to be by means of warning or delivery of notice, in person, by registered mail, or another method of average reliability. The revocation according to this article, will terminate the contract. In this case, the costs of shipping and insurance will be the responsibility of the consumer. If the contract is for services, this article will not be applicable if the date of receipt of the service is less than ten working days from the date of the order of purchase.”).**

We signed all our contracts on October 17<sup>th</sup>. As previously explained, we returned all the contracts and documents to Alex Lehan and Aaron Schwartz in person on October 22<sup>nd</sup>, the fifth day of signing our contracts. We demanded a full refund and cancellation of our contracts. They refused.

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**2. The vacation package we received did not contain the same quality and specifications offered us at the sales presentation and / or listed in our written contract. As the consumer, we have the right to replacement, to discount, receive compensation or return, at our election, if the products do not meet the conditions of quality, brand or specifications offered. (Article 92 of the Federal Consumer Protection Law states: “The consumers will have right to the replacement of the product, to the advantage, compensation or return of the paid amount, to their election, in the following cases:**

- I. When the net content of a product or the given amount is smaller than indicated in the package or the packing, considering the limits of tolerance allowed by the government;**
- II If the item does not correspond to the quality, it marks, or substantial specifications and other elements under which it has been offered; and**
- III If or repaired it is not left in state adapted for his use or destiny, within the term of guarantee.” )**

We purchased the Grand Mayan timeshare weeks as an investment that would provide a 20% return because we believed the salespeople’s claims that the units would rent out

easily at the rate of \$3200 each week, and they conveniently provided a sheet with a list of brokers who rent out the units. (See Attachment #5) Half of the brokers on their list admitted that it would be difficult to rent out all my weeks for 2005, and a few of them stated that the net return to me would be less than \$2000 on each unit if they did rent it out. Although two of the brokers on their list told me that they could rent out all my weeks, the evidence on the web proves otherwise. A week at the Grand Mayan can be rented for \$1400 on Ebay, and my correspondence with other Grand Mayan timeshare owners tells me that these brokers recommended by the Mayan Palace promise but don't deliver. It seems that there is a huge surplus of Grand Mayan rooms, so it is difficult to rent the unit much less get anywhere near the \$3200 weekly rate promised. Numerous timeshare owners state that they signed up with the brokers but none of their units were ever rented.

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**2. Article 32 of “Ley Federal de Protección al Consumidor” states “the information or publicity relative to goods or services that spread by any means or forms, will have to be truthful, verifiable and clear of texts, dialogues, sounds, images and other descriptions that induce or can induce error or confusion, by its inaccuracy. The vacation package we received contains Terms and Conditions never previously disclosed verbally nor in writing on our contract. As a consumer, we have the right to receive sufficient and truthful information about the products acquired.**

1. Mayan Palace made us believe that we had forfeited our right of rescission in five days through their deceitful tactics. According to Mexican law, the five-day right of rescission is guaranteed and cannot be waived.
2. Mayan Palace claimed that we could earn at least a 20% return on our initial investment through the renting of weeks through their list of brokers. This claim is unsubstantiated and looks to be completely false based on information from the web and other Mayan Palace timeshare owners.
3. Mayan Palace claimed that a law exists that allows us to collect \$100,000 in rental income from Mexican property without paying income tax. They did not provide any information on this so-called law and later told us to simply not claim the income.
4. Mayan Palace promised to provide a service for discounted airline tickets, but gave us no information about this perk in our packet.

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In conclusion, we feel that a full refund is justified since:

1. We attempted to cancel the contracts in accordance with Mexican law [within 5 days of signing the contract], and asked for a full refund, but Mayan Palace refused our request.
2. Their claim that Grand Mayan weeks can be easily rented out at a rate of \$3200 per week by their list of brokers is unsubstantiated and proven false by Grand Mayan timeshare owners.

3. There is no law that allows Americans to earn \$100,000 income from rentals in Mexico tax free as claimed by the Mayan Palace salespeople.

We did enjoy our visit to Cancun but the whole experience was tainted because of this Mayan Palace scam. Mexico is a wonderful country to visit with all its rich history and culture, and it is so conveniently close to California, but I doubt we would consider returning as this whole experience with the Mayan Palace has made us wary of any resort we would possibly stay at. Because we believed the salesmen at the Mayan Palace, we purchased the contracts to create some solid passive income and diversify our investments. We were initially pleased that our investment would help the economy in Mexico as the Mayan Palace openly touts how well they treat and pay their Mexican employees and bring business to the your country. Now I realize that my investment would actually help this unscrupulous company scam more tourists out of their money, continue to misuse the beautiful natural resources of Mexico for their own financial gain and irrevocably mar the reputation of Mexico. Before this recent trip to Mexico, I considered myself to be an educated and intelligent person who could not so easily be tricked into such a scam, but my husband and I fell for the trap in a big way. Because we were approached at every turn by numerous timeshare companies trying to coax us into a presentation, I would rather not return to Mexico and possibly repeat the same mistake.

Thank you very much for time and consideration of our claim and please contact us by phone at xxx-xxx-xxxx or xxx-xxx-xxx or by email at xxxx@hotmail.com should you have any questions or need additional information. Please send a quick response to my email verifying that you did receive this complaint along with the faxed documents listed below. Thank you.

Regards,

Mr. John XXX  
November 7, 2004

Mrs. Karen XXX

**THE FOLLOWING MATERIALS WILL FAXED TO YOUR OFFICE.**

Completed Profeco Complaint Form

REFERENCE DOCUMENTS:

Attachment #1 – The Grand Mayan Recitals, Section General Provisions, Clause 12  
Attachment #2 – Credit card receipt of \$562.66 charge for change of airline flight tickets  
Attachment #3 – Two sets of plane tickets; proof that we deplaned the 1:45 PM flight and later took the 4:55 PM flight

Attachment #4 – Annual Verification Checklist

Attachment #5 – List of brokers who rent timeshare weeks provided by the Grand Mayan salespeople

ADDITIONAL DOCUMENTS LISTED IN ORDER OF SENDING:

1. Copies of the four separate Grand Mayan Contracts: 2249, 2250, 2251 and 2252
2. Copy of six credit card charges charged to three different credit cards
3. One copy of the Grand Mayan Recitals – a four-page document
4. One copy of the New Member Verification Statement
5. Proof of identification in the form of copies of our passports.

I also have a tape of my conversation with Steve Roehrig that proves that we attempted to cancel our contracts and get a full refund on October 22<sup>nd</sup>, the fifth day of signing. If you need this tape, please let me know, and I can fed ex you a copy.