Halifax, NS

lukacs@AirPassengerRights.ca

AIR PASSENGER RIGHTS

May 10, 2013

WITH PREJUDICE

VIA EMAIL AND FAX

Mr. Clay S. Hunter
Peterson, MacDougall LLP
1 Queen Street East
Toronto, ON M5C 2W5

Dear Mr. Hunter:

Re: Sunwing Airlines
Your letter of April 19, 2013
Follow-up

We are writing to follow up on our April 21, 2013 letter (enclosed), which you have left unanswered to this date.

On April 21, 2013, we wrote you in response to your letter dated April 19, 2013, and requested that Sunwing Airlines provide us with the particulars of its concerns by April 26, 2013, identifying the allegedly false and/or defamatory statements in the Submissions complained of. We also requested that Sunwing Airlines provide us with any authority to the effect that a subsequent decision of a tribunal alters the privilege of submissions made to the tribunal and/or reports about same.

To this date, we have yet to receive your answer and the information requested to determine whether the Submissions in question are to be permanently removed.

We reiterate our request that you and/or Sunwing Airlines provide us with the particulars of its concerns, identifying the allegedly false and/or defamatory statements in the Submissions complained of. We also request that you and/or Sunwing Airlines provide us with any authority to the effect that a subsequent decision of a tribunal alters the privilege of submissions made to the tribunal and/or reports about same.

We also reiterate our request that you apologize for your groundless and misguided allegations and your conduct.

In order to avoid any misunderstanding and doubt as to the delivery of our letter, we are resending our April 21, 2013 letter to you (enclosed), both by email and fax, and we are providing copies of the present letter to two senior colleagues at Peterson, MacDougall LLP and Sunwing Airlines.

We trust that the present letter and its attachment reaches you in good order, and request that you respond by **May 17, 2013**.

Yours very truly,

Dr. Gábor Lukács

Enclosed: Letter sent to Mr. Clay S. Hunter, dated April 21, 2013

Cc: Mr. Bruce MacDougall – Peterson, MacDougall LLP
Ms. Carol McCall – Peterson, MacDougall LLP
Mr. Stephen White – Sunwing Airlines
Mr. Mark Williams – Sunwing Airlines

Halifax, NS

lukacs@AirPassengerRights.ca

April 21, 2013

WITH PREJUDICE

VIA EMAIL

Mr. Clay S. Hunter
Peterson, MacDougall LLP
1 Queen Street East
Toronto, ON M5C 2W5

Dear Mr. Hunter:

Re: Sunwing Airlines
Your letter of April 19, 2013

I am in receipt of your letter dated April 19, 2013, requesting that the submissions of the Nawrot Family to the Canadian Transportation Agency, dated April 18, 2013 (the "Submissions"), be removed from our online archive of documents.

As I have advised you earlier by email, as a gesture of goodwill and out of abundance of caution to avoid any possible harm or damage that was alleged in your letter, we have temporarily removed the Submissions, to allow Sunwing Airlines to provide us with the particulars of its concerns.

It is our position that the Submissions are privileged as they have been made in the course of a proceeding before a quasi-judicial body. Whether the quasi-judicial body decided to subsequently consider the Submissions does not alter or take away the privilege. Moreover, we fail to find anything false or defamatory in the Submissions.

Therefore, we request that Sunwing Airlines provide us by **April 26, 2013** with the particulars of its concerns, identifying the allegedly false and/or defamatory statements in the Submissions. We also request that Sunwing Airlines provide us with any authority to the effect that a subsequent decision of a tribunal alters the privilege of submissions made to the tribunal and/or reports about same.

Upon receipt of Sunwing Airlines' answer, we will determine whether the Submissions are to be removed permanently.

Groundless and misguided allegations of malice

It is most unfortunate that you and/or your client were so carried away as to venture to make allegations of malice. We find these allegations grossly inappropriate, unprofessional, and offensive.

The undersigned has been an air passenger rights advocate since 2005, holding all airlines accountable for their failure to abide by the law. While the commitment of the undersigned to improve the treatment the Canadian travelling public receives by airlines has been most unwelcome by certain airlines that routinely shortchange their passengers, others have been grateful for the experience and expertise of the undersigned. Highlights of these activities include:

- establishing obligations and liabilities of carriers under the *Montreal Convention* in the case of flight cancellation due to mechanical failure (2009 MBQB 29, leave to appeal refused 2009 MBCA 111);
- successful challenge of a wide range of liability exclusions in Air Canada's international baggage policy (Canadian Transportation Agency, Decision No. 208-C-A-2009);
- challenge of a wide range of liability exclusions in WestJet's international baggage policy (Canadian Transportation Agency, Decision No. 477-C-A-2010, leave to appeal denied 10-A-41);
- challenge of WestJet's domestic baggage liability cap of $250, resulting in the cap being increased to $1,800 (Canadian Transportation Agency, Decision No. 483-C-A-2010, leave to appeal denied 10-A-42);
- challenge of the policies of Air Canada, Air Transat, and WestJet with respect to flight cancellation and denied boarding, resulting in substantial improvements of the rights of passengers affected by such events (Canadian Transportation Agency, Decision Nos. 248-C-A-2012, 249-C-A-2012, 250-C-A-2012, 251-C-A-2012, and 252-C-A-2012);
- challenge of Porter Airlines' policies with respect to failure to operate on schedule, resulting in the recognition of the responsibility of carriers for missed connections and the rights of passengers to receive notice of schedule changes (Canadian Transportation Agency, Decision No. 16-C-A-2013).

Air Passenger Rights was created in response to the refusal of airlines to abide by the law and respect the rights of passengers, due to the absence of Canadian NGOs that advocate for the rights of passengers and that can provide passengers with guidance and information. We are currently in the process of creating a website for that purpose.

The site `http://docs.airpassengerrights.ca` mentioned in your letter is an online archive for documents related to passenger rights and complaints. Our aim is to deposit a copy of all submissions and decisions related to the cases that we follow in the archive.

We find the case of the Nawrot Family of particular interest to the travelling public, and thus, we have deposited all submissions and decisions related to the case in the online archive. Our records indicate that the Submissions were deposited in the archive on April 18, 2013, an entire day before the Agency's April 19, 2013 decision referenced in your letter.

Please be assured that neither Sunwing Airlines nor the specific Submissions were in any way singled out and/or selectively deposited in the archive. We would like to invite you to visit the archive, and confirm that it contains submissions related to a number of other airlines as well.

We would like to further reassure you that we will continue depositing submissions related to this and all other cases and issues that may be of interest to the travelling public, regardless of whether we agree with their contents.

We trust that in light of this clarification, you will find that your allegation of malice was groundless and misguided, and you will apologize for your conduct.

Yours very truly,

Dr. Gábor Lukács