

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF SKYGREECE AIRLINES S.A., an insolvent person,  
pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act* (“*BIA*”)**

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**MOTION RECORD OF DR. GÁBOR LUKÁCS  
(for a hearing before Justice Conway on October 2, 2015)**

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## INDEX

1	Affidavit of Dr. Gábor Lukács, affirmed on October 1, 2015	1
A	“Aviation Practice Area Review” by Carlos Martins, published in Who’s Who Legal (September 2013)	8
B	SkyGreece’s corporate filing, dated June 15, 2015, retrieved from the Greek Business Registry on or around August 29, 2015	12
C	Quebec Enterprise Registry record of Voyages Funtastiques Rex, retrieved on September 7, 2015	15
D	Excerpt from Business Plan of Omega Airlines S.A., dated June 2012	22
E	Report on loss of cabin pressure in SkyGreece Flight GW 423, dated June 15, 2015	27
F	Application of Dr. Lukács against SkyGreece, dated August 28, 2015, Case No. 15-03912	33
G	Show-cause order of the Canadian Transportation Agency, dated September 2, 2015, Case No. 15-03972	55
H	Decision No. LET-C-A-54-2015 of the Canadian Transportation Agency, dated September 1, 2015, in Case No. 15-03912	62
I	Decision No. LET-A-58-2015 of the Canadian Transportation Agency, dated September 4, 2015, in Case No. 15-03912	72
J	Complaint of Dr. Lukács to the Office of the Privacy Commissioner, dated September 10, 2015	79
K	Email of Dr. Lukács to Mr. Kerbel, with copy to Mr. Starnino, dated September 10, 2015	82

L	Email of Dr. Lukács to Mr. Starnino, dated September 24, 2015	84
M	Booking of two random passengers, retrieved on October 1, 2015 at 2:09 am	86
N	“Notice to Passengers” of the Proposal Trustee	89
O	Passenger Claim Form prepared by the Proposal Trustee	91
P	Proof of Claim form provided by the Proposal Trustee	98
Q	Notice of TICO to SkyGreece-related claimants	104

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**AFFIDAVIT OF DR. GÁBOR LUKÁCS  
(Affirmed: October 1, 2015)**

I, Dr. Gábor Lukács, of the City of Halifax in the Regional Municipality of Halifax, in the Province of Nova Scotia, AFFIRM THAT:

1. I have personal knowledge of the matters set out below. Where I do not have personal knowledge, I have stated the source of my information and I believe the information to be true.

**A. BACKGROUND**

2. I am a Canadian air passenger rights advocate. Since 2009, my activities in this capacity include:

- (a) filing approximately two dozen successful regulatory complaints with the Canadian Transportation Agency (the “Agency”), resulting in airlines being ordered to implement policies that reflect the legal principles of the *Montreal Convention* or otherwise offer better protection to passengers;
- (b) promoting air passenger rights through the press and social media; and
- (c) referring mistreated air passengers to legal information and resources.

3. On September 4, 2013, the Consumers' Association of Canada recognized my achievements in the area of air passenger rights by awarding me its Order of Merit for "singlehandedly initiating Legal Action resulting in revision of Air Canada unfair practices regarding Over Booking."
4. My work has been described in "Who's Who Legal" as follows:

In the consumer protection landscape, for the last several years, the field has largely been occupied by Gabor Lukács, a Canadian mathematician who has taken an interest in challenging various aspects of the tariffs filed by air carriers with the regulator, the Canadian Transportation Agency (the Agency). The majority of Mr Lukács' complaints centre on the clarity and reasonableness of the content of the filed tariffs, as well as the extent to which air carriers are applying their tariffs, as filed, in the ordinary course of business.

Mr Lukács' efforts have created a significant body of jurisprudence from the Agency to the extent that his more recent decisions often rely heavily upon principles enunciated in previous complaints launched by him.

A copy of the complete article, published in September 2013, is attached and marked as Exhibit "A".

5. On June 5, 2015, the Federal Court of Appeal recognized me as a Canadian air passenger rights advocate in its judgment in *Lukács v. Canada (Transport, Infrastructure and Communities)*, 2015 FCA 140 (para. 1).
6. Since 2014, I have expanded my activities to human rights issues relating to air passengers, such as accommodation of passengers with disabilities and discrimination against passengers by airlines. With respect to the latter issue, I am collaborating with a number of NGOs, including the Canadian Civil Liberties Association.

**B. SKYGREECE AND ITS MANAGEMENT**

7. According to the most recent corporate filing that is available from the Greek Business Registry, the current directors of SkyGreece Airlines S.A. ("**SkyGreece**") are: Fr. Nicholas Alexandris (priest of the Greek Orthodox Church in Canada), Vasileios Alefantis (travel agent), Panagiotis Chilakos (travel agent), Petros Chilakos, and Vasileios Dorizas (pilot). A copy of the corporate filing, retrieved on or around August 29, 2015, is attached and marked as Exhibit "B".
8. According to the information found in the Quebec Enterprise Registry, Mr. Alefantis and Mr. Chilakos are directors of the Voyages Funtastiques Rex ("VFRA") travel agency. A printout of the information, retrieved on September 7, 2015, is attached and marked as Exhibit "C".
9. An excerpt of the business plan of Omega Airlines S.A., which appears to be a predecessor or prior name of SkyGreece, setting out the background of Fr. Alexandris, Mr. Alefantis, Mr. Chilakos, and Mr. Dorizas, is attached and marked as Exhibit "D".

**C. SKYGREECE'S SAFETY AND LOAD FACTOR**

10. According to a report published in the Aviation Herald on June 15, 2015:

A SkyGreece Airlines Boeing 767-300, registration SX-BPN performing flight GW-423 from Athens (Greece) to Toronto, ON (Canada) with 33 passengers and 11 crew, was climbing through FL330 about 110nm northwest of Athens when the crew initiated an emergency descent to FL100 due to the loss of cabin pressure. The aircraft returned to Athens for a safe landing about one hour after departure.

[Emphasis added.]

A copy of the report, whose content I do verily believe to be true, is attached and marked as Exhibit "E".

**D. PROCEEDINGS PENDING BEFORE THE CANADIAN TRANSPORTATION AGENCY**

11. There are currently two proceedings before the Canadian Transportation Agency relating to the cessation of operations of SkyGreece on August 27, 2015:
  - (a) an application that I made against SkyGreece on August 28, 2015, under Case No. 15-03912, for the re-protection and protection of stranded Sky-Greece passengers (“**Emergency Application**”), a copy of which is attached and marked as Exhibit “F”; and
  - (b) a proceeding commenced by a show-cause order of the Canadian Transportation Agency on its own motion on September 2, 2015, under Case No. 15-03972 (“**Show Cause Proceeding**”), concerning the failure of Sky-Greece to assist stranded passengers as required by law, a copy of which is attached and marked as Exhibit “G”.
12. The Canadian Transportation Agency made no determinations with respect to my standing in the Emergency Application. Indeed, on September 1, 2015, in Decision No. LET-C-A-54-2015 (on page 4), a copy of which is attached and marked as Exhibit “H”, it declined to address the issue of standing as a preliminary matter.
13. On September 4, 2015, in Decision No. LET-A-58-2015, a copy of which is attached and marked as Exhibit “I”, the Canadian Transportation Agency stayed the Emergency Application pending resolution of the Show Cause Proceeding.
14. Therefore, resolution of my Emergency Application depends on the resolution the Show Cause Proceeding.



**E. ONGOING PASSENGER CONCERNS****(i) Privacy of passengers' information held by SkyGreece**

15. Unlike other airlines, that require at least two pieces of information (such as a booking reference and a last name) to access passengers' bookings, SkyGreece bookings can be accessed using a URL pointing to *book.skygreece.com*, and ending with a long string of numbers.
16. On September 9, 2015, while helping a Hungarian passenger who was stranded in Canada and accessing her booking information on *book.skygreece.com*, I made a typo by accidentally replacing "3" with "2" at the end of the URL. Instead of getting an error message, I was shocked to see the booking of another passenger appearing on my screen.
17. On September 9, 2015, after further investigation, I found several additional examples of bookings whose URLs differ from each other only by one (or two) digits.
18. On September 10, 2015, upon the advice of legal counsel, I filed a complaint with the Office of the Privacy Commissioner of Canada ("OPC"), and in a separate email I provided the OPC with all the information that I had about the security concern. A copy of my complaint is attached and marked as Exhibit "J".
19. On September 10, 2015, I sent an email to Mr. Jeffrey D. Kerbel, the Proposal Trustee, with a copy to Mr. Max Starnino, SkyGreece's counsel, provided them with a copy of the complaint I filed with the OPC, and offered to help with IT matters free of charge. A copy of my email is attached and marked as Exhibit "K".
20. I received no response to my email of September 10, 2015 (Exhibit "K").

21. On September 24, 2015, after the brief appearance of the parties before Justice Conway, I sent additional information about the privacy concerns to Mr. Starnino. A copy of my email is attached and marked as Exhibit "L".
22. As of 2:09 am (Atlantic Time) on October 1, 2015, the site *book.skygreece.com* remains active, and allows public access to sensitive personal information that includes passengers' names, passport numbers, portions of credit card numbers, as well as their travel dates and destinations. A copy of the booking of two random passengers, with their sensitive personal information redacted by myself, is attached and marked as Exhibit "M".

**(ii) Inadequate proof of claim process and forms**

23. The Proposal Trustee requires passengers to complete not only the standard Proof of Claim form (Form 31), but also a second form, entitled Passenger Claim Form, doubling the amount of paperwork passengers are required to complete. A copy of the Proposal Trustee's "Notice to Passengers" is attached and marked as Exhibit "N".
24. A copy of the Passenger Claim Form, created by the Proposal Trustee, is attached and marked as Exhibit "O". This form is available only as a static, non-fillable PDF file, which makes it difficult for me or anyone else to help passengers in completing the form.
25. A copy of the Proof of Claim form, available on the website of the Proposal Trustee, is attached and marked as Exhibit "P". The form is a PDF that contains images only, which means that its content is not accessible (for example, for people with reduced vision), cannot be copy-pasted into a text editor, nor can it be completed electronically.

**F. TICO DOES NOT REIMBURSE ALTERNATIVE TRAVEL COSTS**

26. The notice of the Travel Industry Council of Ontario (“TICO”) to SkyGreece-related claimants, which is attached to the claim forms, states that:

There is no provision in the Regulation for TICO’s Board of Directors to reimburse consumers for the cost of alternate / replacement travel services purchased.

A copy of the notice is attached and marked as Exhibit “Q”.

**AFFIRMED** before me at the City of Halifax  
in the Province of Nova Scotia  
this October 1, 2015.

“Jessica Broussard”

\_\_\_\_\_  
Commissioner for Taking Oaths

“Dr. Gábor Lukács”

\_\_\_\_\_  
**DR. GÁBOR LUKÁCS**

Halifax, NS

This is **Exhibit “A”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

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Signature

## AVIATION PRACTICE AREA REVIEW

SEPTEMBER 2013

**Carlos Martins** of Bersenas Jacobsen Chouest Thomson Blackburn outlines recent developments in aviation law in Canada.



There have been a number of developments in Canada in the realm of aviation law that promise to make for interesting times in the months ahead. In this review, we will consider some of these decisions, their implications and how they may play out in the coming year.

#### Warsaw/Montreal Liability

On the airline liability front, the Supreme Court of Canada will hear the appeal of the Federal Court of Appeal's decision in *Thibodeau v Air Canada*, 2012 FCA 246. This case involves a complaint by Michel and Lynda Thibodeau, passengers on a series of Air Canada flights between Canada and the United States in 2009. On some of the transborder legs of those journeys, Air Canada was not able to provide the Thibodeaus with French-language services at check-in, on board the aircraft or at airport baggage carousels. The substantive aspect of the case is of limited interest to air carriers because the requirement that air passengers be served in both official languages applies only to Air Canada as a result of the Official Languages Act (Canada), an idiosyncratic piece of legislation that continues to apply to Air Canada even though it was privatised in 1988.

However, from the perspective of other air carriers, the most notable facet of the Supreme Court's decision will be whether that Court will uphold the Federal Court of Appeal's "strong exclusivity" interpretation of the Warsaw/Montreal Conventions. If it does, it will incontrovertibly bring the Canadian law in line with that of the United States and the United Kingdom – meaning that passengers involved in international air travel to which either of the Conventions apply are restricted to only those remedies explicitly provided for in the Conventions. At present, the Federal Court of Appeal's decision in *Thibodeau* provides the most definitive statement to date that "strong exclusivity" is the rule in Canada.

#### YQ Fares Class Action

The battle over "YQ Fares" is expected to continue in a British Columbia class action. The case relates to the practice of several air carriers identifying the fuel surcharge levied on their tickets in a manner that may cause their passengers to believe that these charges are taxes collected on behalf of a third party when, in fact, fuel surcharges are collected by the air carrier for its own benefit. In the British Columbia action, the plaintiffs complain that this practice contravenes the provincial consumer protection legislation which provides that service providers shall not engage in a "deceptive act or practice".

Last year, an issue arose as to whether air carriers can be subject to the provincial legislation given that, in Canada, matters relating to aeronautics are in the domain of the federal government. Most recently, in *Unlu v Air Canada*, 2013 BCCA 112, the British Columbia Court of Appeal held that the complaint should be allowed to proceed on the basis that, among other things, there was no operational conflict between the workings of the provincial legislation and the regime imposed under the federal Air Transportation Regulations, SOR/88-58, that deal with airfare advertising. Leave to appeal the Court of Appeal's decision to the Supreme Court of Canada was denied in August 2013.

#### Regulatory/Passenger Complaints

In the consumer protection landscape, for the last several years, the field has largely been occupied by Gabor Lukács, a Canadian mathematician who has taken an interest in challenging various aspects of the tariffs filed by air carriers with the regulator, the Canadian Transportation Agency (the Agency). The majority of Mr Lukács' complaints centre on the clarity and reasonableness of the content of the filed tariffs, as well as the extent to which air carriers are applying their tariffs, as filed, in the ordinary course of business.

Mr Lukács' efforts have created a significant body of jurisprudence from the Agency – to the extent that his more recent decisions often rely heavily upon principles enunciated in previous complaints launched by him.

Since 2012, Mr Lukács has been involved in complaints arising from, among other things:

- air carriers' online and airport communications to the public as to the extent to which baggage claims involving "wear and tear" must be paid (*Lukács v United Airlines*, CTA Decision Nos. 182/200-C-A-2012);
- lack of compliance of tariff liability provisions with the Montreal liability regime (*Lukács v Porter Airlines*, CTA Decision No. 16-C-A-2013);

- the reasonableness of imposing releases of liability as a precondition for the payment of compensation provided for in a tariff (*Lukács v WestJet*, CTA Decision No. 227-C-A-2013);
- the reasonableness of air carriers engaging in overselling flights for commercial reasons (*Lukács v Air Canada*, CTA Decision No. 204-C-A-2013);
- the amount of denied boarding compensation to be paid to involuntarily bumped passengers in the event of a commercial overbooking (*Lukács v Air Canada*, CTA Decision No. 342-C-A-2013);
- the amount of compensation to be paid to passengers who miss their flight as a result of an early departure (*Lukács v Air Transat*, CTA Decision No. 327-C-A-2013); and
- the use of cameras by passengers onboard aircraft (*Lukács v United Airlines*, CTA Decision No. 311-C-A-2013)

It is expected that, in 2014, Mr Lukács will continue in his quest to ensure that air carrier tariffs are reasonable, clear and faithfully applied.

Although it may not be initiated by Mr Lukács, we expect that, in 2014, the Agency will consider the issue of whether air carriers should be able to charge a fee for booking a specific seat for a child travelling with a parent or guardian.

### **Regulatory/ Notices to Industry**

#### *Wet Leasing*

On 30 August 2013, the Agency released its new policy on wet leasing of foreign aircraft. It applies to operators who wet lease foreign aircraft for use on international passenger services for arrangements of more than 30 days. The key changes are that, in order for the Agency to approve such an arrangement:

- the number of aircraft leased by an operator is capped at 20 per cent of the number of Canadian-registered aircraft on the lessees' Air Operator Certificate at the time the application was made;
- small aircraft are excluded from the number of Canadian-registered aircraft described above; and
- small aircraft is defined as an aircraft equipped for the carriage of passengers and having a certificated maximum carrying capacity of not more than 39 passengers.

In addition to the above, the lessee is required to provide a rationale as to why the wetlease arrangement (or its renewal) is necessary. The Agency has stated that it:

- will not deny an application solely on the basis of the rationale for the use of foreign aircraft with flight crew, as long as the cap is not exceeded; and
- may renew approvals of wet-lease applications of more than 30 days as long as the cap is not exceeded.

There is some flexibility for short-term arrangements and where unexpected events require an exception.

#### *All-Inclusive Fare Advertising*

In December 2012, the Agency approved new regulations with respect to all-inclusive fare advertising. Initially, the regulations were enforced through a "proactive and collaborative educational approach". The Agency has recently released a notice to the industry advising that it will now take a firmer stance in ensuring compliance. It has recently issued administrative monetary penalties (AMPs) against two online travel retailers for not advertising the total all-inclusive price on their online booking systems. In one case, the AMP amounted to \$40,000 due to the lack of initial response from the retailer. In another, the AMP was \$8,000 in a situation where that retailer complied in the case of booking through its main website, but not with respect to booking on its mobile website.

#### *Baggage Rules*

The Agency has recently completed a consultation process with the industry and with the public with respect to the issue of baggage rules. The issues under contemplation include à la carte pricing, regulatory change and carriers' attempts to further monetize the transportation of baggage. At present, there are two regimes being used in Canada: one of which was adopted by the International Air Transport Association (Resolution 302) and the other by way of recently promulgated

regulations to be enforced by the United States Department of Transportation (14 CFR part 399.87). The Agency has gone on the record to state that it expects to make a decision on the appropriate approach to apply for baggage being transported to/from Canada in the fall of 2013.

### Defining the Boundaries of Regulation

In the arena of business aviation, the Appeal Panel of the Transportation Appeal Tribunal of Canada is expected to revisit the extent to which the Canadian Transportation Agency should regulate business-related aviation in Canada. The facts arise from the practice of a casino based in Atlantic City, New Jersey, offering voluntary air transfers to the casino to some of its most valued clients. In evidence that has already been led in these proceedings, the casino has asserted that the complimentary flights are at the sole discretion of the casino; no customer was entitled to such a service; and the provision of the flights is not based on the amount spent by the customers at the casino.

The core of the issue is whether the casino requires a licence from the Agency in order to offer this benefit to its customers. Under the applicable legislation, those who offer a "publicly available air service" in Canada require such a licence and are subject to all of the requirements imposed on licensees. In *Marina District Development Company v Attorney General of Canada*, 2013 FC 800, the Federal Court was asked by the casino, on a judicial review, to overturn the Appeal's panel's previous finding that the casino's air service did, in fact, trigger the Agency's oversight. The Federal Court found that the legal test imposed by the Appeal Panel for determining whether an air service was publicly available bordered on tautological but declined to answer the question itself. The matter was sent back to the Appeal Panel for reconsideration. A new decision is expected in 2014. In our view, it is likely that the matter will be sent back to the Federal Court, possibly before the end of 2014 as well, regardless of which party prevails.

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This is **Exhibit “B”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

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Signature



**Δ/ΝΣΗ: ΜΗΤΡΩΩΝ ΚΑΙ ΑΝΑΠΤΥΞΗΣ**  
**ΠΛΗΡΟΦΟΡΙΑΚΩΝ ΣΥΣΤΗΜΑΤΩΝ**  
**ΤΜΗΜΑ : ΜΗΤΡΩΟΥ / Υπηρεσία Γ.Ε.ΜΗ.**  
Πληροφορίες : Ε.Σπερέντζη  
Τηλέφωνα : 210 3382205

Αθήνα 15/06/2015  
Αριθ. Πρωτ. : 31378

Προς :  
**Το Εθνικό Τυπογραφείο**  
Συνημ.:  
**ΑΤΕΛΩΣ**

**ΑΝΑΚΟΙΝΩΣΗ**

Καταχώρισης στο Γενικό Εμπορικό Μητρώο (Γ.Ε.ΜΗ.) στοιχείων της Ανώνυμης Εταιρείας με την επωνυμία «**SKYGREECE ΑΕΡΟΓΡΑΜΜΕΣ ΑΝΩΝΥΜΗ ΕΤΑΙΡΕΙΑ**», με Διακριτικό τίτλο «**SKYGREECE ΑΕΡΟΓΡΑΜΜΕΣ**» και αριθμό Γ.Ε.ΜΗ. 122671201000.

**Ο ΠΡΟΕΔΡΟΣ**  
**ΤΟΥ ΕΜΠΟΡΙΚΟΥ ΚΑΙ ΒΙΟΜΗΧΑΝΙΚΟΥ ΕΠΙΜΕΛΗΤΗΡΙΟΥ ΑΘΗΝΩΝ**  
Ανακοινώνει ότι:

Την **24/03/2015** καταχωρήθηκε στο Γενικό Εμπορικό Μητρώο (Γ.Ε.ΜΗ.) με **Κωδικό Αριθμό Καταχώρισης 372026**, το από **24/09/2014** Πρακτικό της Εκτακτης Γενικής Συνέλευσης, το από **08/10/2014** Πρακτικό της εξ' Αναβολής Έκτακτης Γενικής Συνέλευσης και το από **08/10/2014** Πρακτικό του Διοικητικού Συμβουλίου της Ανώνυμης Εταιρείας με την επωνυμία «**SKYGREECE ΑΕΡΟΓΡΑΜΜΕΣ ΑΝΩΝΥΜΗ ΕΤΑΙΡΕΙΑ**», με Διακριτικό τίτλο «**SKYGREECE ΑΕΡΟΓΡΑΜΜΕΣ**» και αριθμό Γ.Ε.ΜΗ. 122671201000, από το οποίο προκύπτουν τα εξής:

**Α) Το νέο Διοικητικό Συμβούλιο**, που εκλέχθηκε από την ανωτέρω Γενική Συνέλευση με πενταετή θητεία σύμφωνα με το Άρθρο 8 του καταστατικού, **συγκροτήθηκε σε σώμα ως εξής:**

**α) Το Νικόλαο Αλεξανδρή του Βασιλείου** και της Ελένης, κληρικό της Ελληνικής Ορθόδοξης Εκκλησίας του Καναδά, που γεννήθηκε στην Αθήνα στις 27/9/1960, κάτοικο Τορόντο Οντάριο Καναδά (105 The Queens Way Road, Suite 1213, M6S 5B5, Toronto, Ontario, Canada) και προσωρινώς διαμένοντα στη Ν. Φιλαδέλφεια Αττικής, οδός Μ. Μπότσαρη αριθ. 3, κάτοχο του υπ' αριθ. Χ 647941 Δελτίου Αστυνομικής Ταυτότητας που εξεδόθη την 16-12-2004 από το Τ.Α. Ν. Φιλαδέλφειας, με ΑΦΜ 077908388 της ΔΟΥ Κατοίκων Εξωτερικού, Ελληνικής Ιθαγένειας, ως **Πρόεδρο και Διευθύνοντα Σύμβουλο**

**β) Τον Βασίλειο (Vasilios) Αλεφάντη (Alefantis) του Κωνσταντίνου** και της Αναστασίας, ταξιδιωτικό πράκτορα, που γεννήθηκε στο Κάλγκαρι Καναδά (Calgary Canada) στις 27-09-1967, κάτοικο Λαβάλ Κεμπέκ Καναδά (1156 Ave Des Geraniums H7Y 2G6, Laval, Quebec, Canada), προσωρινώς διαμένοντα στην Ελλάδα, στο Πόρτο Ράφτη Αττικής, οδός Μαρίκας Κοτοπούλη αριθ. 12, κάτοχο του υπ' αριθμόν QG672295/29-05-2012 Καναδικού Διαβατηρίου λήξεως 29-05-2017, με ΑΦΜ 139389160 της ΔΟΥ Κατοίκων Εξωτερικού, Ελληνικής Ιθαγένειας, ως **Αντιπρόεδρο**.

**γ) Τον Παναγιώτη (Panagiotis)- Βασίλειο (Vasilios) Χειλάκο (Chilakos) του Γεωργίου** και της Ευγενίας, ταξιδιωτικό πράκτορα, που γεννήθηκε στο Γουεστμάουντ Καναδά (Westmount Canada) στις 26/9/1963, κάτοικο Μόντρεαλ, Κεμπέκ, Καναδά (355 Fairmount Street, Montreal, Quebec, H2V2G5 Canada), προσωρινώς διαμένοντα στην Ελλάδα, στο Πόρτο Ράφτη Αττικής, οδός Μιλτιάδου αριθμ. 295 και κάτοχο του υπ' αριθμόν WQ381581/22-03-2010 Καναδικού Διαβατηρίου, που ισχύει μέχρι την 22-03-2015, με ΑΦΜ 050357330 της ΔΟΥ Κατοίκων Εξωτερικού, Ελληνικής Ιθαγένειας, ως **Μέλος**.

**δ) Τον Πέτρο Χειλάκο του Γεωργίου** και της Ευγενίας, που γεννήθηκε στο Μόντρεαλ Καναδά στις 26/9/1961, κάτοικο Μοντρεάλ Κεμπέκ Καναδά (355 Fairmount Street, Montreal, Quebec, Canada), προσωρινώς διαμένοντα στην Ελλάδα, στο Πόρτο Ράφτη Αττικής, οδός Μιλτιάδου, αριθ.295, κάτοχο του υπ' αριθμ. Ρ676801 Δελτίου Αστυνομικής Ταυτότητας που εξεδόθη την 10-05-1995 από το Τ.Α Νέας Ερυθραίας με ΑΦΜ 050973973 της Δ.Ο.Υ. Κορωπίου, Ελληνικής Ιθαγένειας, ως **Μέλος**.

**ε) Τον Βασίλειο Δόριζα του Δημητρίου** και της Αρτεμής, Κυβερνήτη Αεροσκαφών, που γεννήθηκε στο Περιστέρι Αττικής στις 19-01-1958, κάτοικο Λαγονησίου Αττικής, οδός Καλαμάτας αριθ. 7, κάτοχο του υπ' αριθμόν Χ091624 Δελτίου Αστυνομικής Ταυτότητας που εξεδόθη την 01-07-2004 από το Α.Τ. Βουλαγαμένης, με ΑΦΜ 030572037 της ΔΟΥ Κρωπίας, Ελληνικής Ιθαγένειας, ως **Μέλος**.

**Β) Εκπροσώπηση της Εταιρείας**

Το Διοικητικό Συμβούλιο ομόφωνα αναθέτει σε καθένα από τα ακόλουθα μέλη του Δ.Σ., ήτοι τους α) Νικόλαο Αλεξανδρή β) Βασίλειο Αλεφάντη και γ) Παναγιώτη - Βασίλειο Χειλάκο, ενεργώντας έκαστος χωριστά, την εκπροσώπηση και δέσμευση της εταιρείας ενώπιον κάθε ελληνικής αρμόδιας αρχής και τη διενέργεια κάθε συναλλαγής μέχρι του ποσού των ευρώ δέκα χιλιάδων (10.000,00€) ή του ισοπόσου αυτών σε Δολ. ΗΠΑ ή Καναδά. Για κάθε συναλλαγή, υπερβαίνουσα το ως άνω ποσό, απαιτείται η υπογραφή του Νικολάου Αλεξανδρή από κοινού με την υπογραφή οιοδήποτε έκ των προαναφερθέντων μελών.

Ειδικότερα για ζητήματα προσωπικού της εταιρείας ανατίθεται στους: α) Νικόλαο Αλεξανδρή και/ή β) Παναγιώτη-Βασίλειο Χειλάκο, έκαστος ενεργών χωρισμένως, να συμβάλλεται για λογαριασμό της εταιρείας και δεσμεύει αυτήν νομίμως σε παντός είδους συμβάσεις για την πρόσληψη δόκιμου ή μόνιμου προσωπικού της εταιρείας, όπως ενδεικτικός σε συμβάσεις εξαρτημένης εργασίας αορίστου ή ορισμένου χρόνου, σε συμβάσεις παροχής ανεξαρτήτων υπηρεσιών, μίσθωσης έργου, έμμισθης εντολής κλπ. Ωσαύτως στα ανωτέρω εξουσιοδοτημένα πρόσωπα παρέχεται και η εξουσία καταγγελίας των ως άνω συμβάσεων για λογαριασμό της εταιρείας.

Αναφορικά με τραπεζικά ζητήματα η εκπροσώπηση της εταιρείας ενόπιον κάθε τράπεζας ή πιστωτικού ιδρύματος ανατίθεται στους α) Νικόλαο Αλεξανδρή, β) Βασίλειο Αλεφάντη γ) Παναγιώτη - Βασίλειο Χειλάκο, δ) Πέτρο Χειλάκο καθώς και ε) στον Χαράλαμπο Γαλατσάνο του Δημητρίου και της Ελένης, Στέλεχος Τραπέζης, γεννηθέντα στην Αθήνα στις 26/4/1974, κάτοικο Βουλιαγμένης Αττικής, οδός Ηούς αριθμ. 15-17, κάτοχο του υπ' αριθμ. Χ070093 Δελτίου Αστυνομικής Ταυτότητας που εκδόθηκε στις 09-11-2001 από το Α.Τ. Νέας Φιλαδέλφειας, οι οποίοι ενεργούντες έκαστος χωριστά μπορούν να διενεργήσουν οιαδήποτε τραπεζική συναλλαγή μέχρι του ποσού των ευρώ διακοσίων πενήντα χιλιάδων (250.000,00€) ημερησίως ή του ισοπόσου αυτών σε Δολ. ΗΠΑ ή Καναδά. Για κάθε συναλλαγή με ποσά από ευρώ διακόσιες πενήντα χιλιάδες και ένα (1) λεπτό (250.000,01€) και μέχρι του ποσού των ευρώ ενός εκατομμυρίου (1.000.000,00€) ή του ισοπόσου αυτών σε Δολ. ΗΠΑ ή Καναδά απαιτείται η από κοινού υπογραφή οιονδήποτε δύο (2) εκ των άνω προσώπων, ενώ για κάθε συναλλαγή ποσών από ευρώ ένα εκατομμύριο και ένα λεπτό (1.000.000,01€) και άνω ή του ισοπόσου αυτών σε Δολ. ΗΠΑ ή Καναδά απαιτείται η από κοινού υπογραφή οιονδήποτε τριών (3) εκ των ως άνω προσώπων. Η εξουσία εκπροσώπησης των ως άνω προσώπων για τραπεζικά ζητήματα περιλαμβάνει και την διενέργεια διαδικτυακών τραπεζικών συναλλαγών (web banking) καθώς και κάθε είδους ηλεκτρονικές τραπεζικές συναλλαγές.

Το Διοικητικό Συμβούλιο της εταιρείας ομόφωνα εξουσιοδοτεί περαιτέρω τη Νατάσα - Ανδριάνα Φραγκουδάκη του Γεωργίου και της Χριστίνας, γεννηθείσα στο Μόντρεαλ Καναδά το 1980, κάτοχο του υπ' αριθ. ΑΑ067768 Δελτίου Αστυνομικής Ταυτότητας που εκδόθηκε την 25-08-2005 από το Τ.Α. Αλίμου, να προβαίνει σε οιαδήποτε πληρωμή και/ή ανάληψη από όλους και κάθε τραπεζικό λογαριασμό της εταιρείας και μέχρι του ποσού των ευρώ πενήντα χιλιάδων (50.000,00€) ημερησίως ή του ισοπόσου αυτών σε Δολ. ΗΠΑ ή Καναδά για την κάλυψη των τρεχόντων εξόδων και υποχρεώσεων της εταιρείας, υπογράφοντας προς τούτο κάθε σχετικό ένταλμα πληρωμής ή άλλο έγγραφο στο όνομα της εταιρείας και παραλαμβάνοντας τα αντίστοιχα παραστατικά της πληρωμής (τιμολόγια, δελτία αποστολής, αποδείξεις παροχής υπηρεσιών κλπ), τα οποία και θα παραδίδει στο λογιστήριο της εταιρείας. Η ως άνω εξουσία περιλαμβάνει ωσαύτως και την διενέργεια διαδικτυακών τραπεζικών συναλλαγών (web banking) καθώς και κάθε είδους ηλεκτρονικές τραπεζικές συναλλαγές.

Σχετικό έγγραφο άσκησης Ελέγχου της Περιφέρειας / ΠΕ Ανατολικής Αττικής (Α.Π. 8731/14 -13/02/2015).

Με εντολή Προέδρου ΕΒΕΑ  
Η ΠΡΟΙΣΤΑΜΕΝΗ  
ΤΗΣ ΔΙΕΥΘΥΝΣΗΣ ΜΗΤΡΩΩΝ ΚΑΙ ΑΥΠΣ



ΠΑΝΑΓΙΩΤΑ ΑΘΑΝΑΣΙΟΥ

**Κοινοποίηση:**

1 «SKYGREECE ΑΕΡΟΓΡΑΜΜΕΣ ΑΝΩΝΥΜΗ ΕΤΑΙΡΕΙΑ»  
Κ.ΠΑΠΑΔΗΜΗΤΡΙΟΥ 33 , ΤΚ 19003, ΜΑΡΚΟΠΟΥΛΟ,

2. Περιφέρεια Αττικής Π.Ε. Ανατολικής Αττικής  
Διεύθυνση Ανάπτυξης, Τμήμα Α.Ε, 17<sup>ο</sup> χιλ.Λ.Μαραθώνος, Τ.Κ. 15351 Παλλήνη

Η γνησιότητα της παρούσας, μπορεί να ελεγχθεί, στην Ηλ. Δ/ση: <https://www.businessregistry.gr/> - επιλογή «Δημοσιότητα».

This is **Exhibit “C”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature

## Rechercher une entreprise au registre

### État de renseignements d'une personne morale au registre des entreprises

Renseignements en date du 2015-09-07 15:33:15

#### État des informations

##### Identification de l'entreprise

Numéro d'entreprise du Québec (NEQ)	1160128543
Nom	9104-6201 QUÉBEC INC.

##### Adresse du domicile

Adresse	180-800 boul. Chomedey Laval (Québec) H7V3Y4 Canada
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##### Adresse du domicile élu

Adresse	Aucune adresse
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##### Immatriculation

Date d'immatriculation	2001-05-28
Statut	Immatriculée
Date de mise à jour du statut	2001-05-28
Date de fin de l'existence	Aucune date de fin d'existence n'est déclarée au registre.

##### Forme juridique

Forme juridique	Société par actions ou compagnie
Date de la constitution	2001-05-18 Constitution
Régime constitutif	QUÉBEC : Loi sur les compagnies partie 1A, RLRQ, C. C-38
Régime courant	QUÉBEC : Loi sur les sociétés par actions (RLRQ, C. S-31.1)

#### Dates des mises à jour

Date de mise à jour de l'état de renseignements	2012-10-10
Date de la dernière déclaration de mise à jour annuelle	2015-01-27 2014
Date de fin de la période de production de la déclaration de mise à jour annuelle de 2015	2016-05-01
Date de fin de la période de production de la déclaration de mise à jour annuelle de 2014	2015-05-01

#### Faillite

L'entreprise n'est pas en faillite.

#### Fusion et scission

Aucune fusion ou scission n'a été déclarée.

#### Continuation et autre transformation

Aucune continuation ou autre transformation n'a été déclarée.

#### Liquidation ou dissolution

Aucune intention de liquidation ou de dissolution n'a été déclarée.

#### Activités économiques et nombre de salariés

##### 1<sup>er</sup> secteur d'activité

Code d'activité économique (CAE)	9961
Activité	Agences de voyages et de vente de billets
Précisions (facultatives)	TRAVEL AGENCY

##### 2<sup>e</sup> secteur d'activité

Aucun renseignement n'a été déclaré.

**Nombre de salariés**

Nombre de salariés au Québec

De 1 à 5

**Convention unanime, actionnaires, administrateurs, dirigeants et fondé de pouvoir****Actionnaires****Premier actionnaire**

Le premier actionnaire n'est pas majoritaire.

Nom	ALEFANTIS, VASILIOS
Adresse	1156 av. des Géraniums Laval (Québec) H7Y2G6 Canada

**Deuxième actionnaire**

Nom	GEORGIADIS, DEMETRIOS
Adresse	4213 rue Desrosiers Montréal (Québec) H9H5H8 Canada

**Troisième actionnaire**

Nom de famille	CHILAKOS
Prénom	PANAGIOTIS
Adresse	206 rue du Duché Laval (Québec) H7X3R9 Canada

**Convention unanime des actionnaires**

Il n'existe pas de convention unanime des actionnaires.

**Liste des administrateurs**

Nom de famille	CHILAKOS
Prénom	PANAGIOTIS
Date du début de la charge	2012-10-01
Date de fin de la charge	
Fonctions actuelles	Secrétaire
Adresse	206 rue du Duché Laval (Québec) H7X3R9 Canada

Nom de famille	KELEPERAS
Prénom	NICHOLAS
Date du début de la charge	2012-10-01
Date de fin de la charge	
Fonctions actuelles	Vice-président
Adresse	1356 rue Gibbon Laval (Québec) H7W4S8 Canada

Nom de famille	GEORGIADIS
Prénom	DEMETRIOS
Date du début de la charge	2012-10-01
Date de fin de la charge	
Fonctions actuelles	Président
Adresse	4213 rue Desrosiers Montréal (Québec) H9H5H8 Canada

Nom de famille	ALEFANTIS
Prénom	VASILIOS
Date du début de la charge	2012-10-01
Date de fin de la charge	
Fonctions actuelles	PRESIDENT DU CONSEIL
Adresse	1156 av. des Géraniums Laval (Québec) H7Y2G6 Canada

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#### **Dirigeants non membres du conseil d'administration**

Aucun dirigeant non membre du conseil d'administration n'a été déclaré.

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#### **Fondé de pouvoir**

Aucun fondé de pouvoir n'a été déclaré.

#### Administrateurs du bien d'autrui

Aucun administrateur du bien d'autrui n'a été déclaré.

#### Établissements

Aucun établissement n'a été déclaré.

#### Documents en traitement

Aucun document n'est actuellement traité par le Registraire des entreprises.

#### Index des documents

##### Documents conservés

Type de document	Date de dépôt au registre
DÉCLARATION DE MISE À JOUR ANNUELLE 2014	2015-01-28
DÉCLARATION DE MISE À JOUR ANNUELLE 2013	2014-01-30
DÉCLARATION DE MISE À JOUR ANNUELLE 2012	2013-03-04
Déclaration de mise à jour courante	2012-10-05
Déclaration annuelle 2011	2012-01-30
Déclaration annuelle 2010	2011-04-29
État et déclaration de renseignements 2009	2010-02-20
Déclaration modificative	2009-09-01
État et déclaration de renseignements 2008	2009-03-17
État et déclaration de renseignements 2007	2008-03-13
Certificat de modification	2008-02-20
Déclaration modificative	2007-02-20
État et déclaration de renseignements 2006	2007-02-10
Déclaration modificative	2006-12-05
Déclaration annuelle 2005	2005-12-01
Déclaration annuelle 2004	2004-11-04
Déclaration annuelle 2003	2003-11-24
Déclaration annuelle 2002	2002-11-14
Modification correction / Acte de régularisation	2001-09-06
Déclaration initiale	2001-08-06
Certificat de constitution	2001-05-28

#### Index des noms



Date de mise à jour de l'index des noms 2012-10-10

### Nom

Nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
9104-6201 QUÉBEC INC.		2001-05-18		En vigueur

### Autres noms utilisés au Québec

Autre nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
FUNASTIQUE REX		2007-02-20		En vigueur
NETVACANCES		2009-09-01		En vigueur
NETVACANCES.CA		2009-09-01		En vigueur
NETVACATIONS		2006-12-05		En vigueur
NETVACATIONS.CA		2007-02-20		En vigueur
VFRA		2012-10-05		En vigueur
Voyages FunRex Alcyon		2012-10-05		En vigueur
VOYAGES FUNTASTIQUE REX		2001-09-06		En vigueur
VACANCESNET		2006-12-05	2012-10-05	Antérieur
VACANCESNET.CA		2007-02-20	2012-10-05	Antérieur
VOYAGES FUNTASTIQUES REX		2001-08-06	2001-09-06	Antérieur

This is **Exhibit “D”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

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Signature



# OMEGA AIRLINES

## Business Plan

Prepared by  
**Thanassis Kokkotas**  
June 2012

## Omega Airlines SA

Omega Airlines S.A. is a joint-stock company incorporated in Athens, Greece. It was founded from a team of entrepreneurs and individuals with a successful career in tourism and aviation industry.

The purpose of the company is to become the leading low cost airline in South Eastern Europe, where many popular destinations are not serviced by any efficient low -cost airline.

Our basic principles will be simplicity and value for the customer. Based on these principles and on a detailed three year plan which incorporates all the necessary steps, deals and milestones, we are confident that we will achieve our purpose.

Initially Omega Airlines will offer charter services to Greece from USA and Europe, based on our plan, though we are confident that within three years we will be a successful low fare carrier which will serve many countries and destinations around Southeastern Europe.

## Founders and management

A team of highly experienced professionals founded the company in 2012 after a thorough analysis of market conditions. The team combines their experience and knowledge of the airline industry in Europe and in North America.



### Thanassis Kokkotas

Thanassis started at United Airlines (UAL), as an Account Executive, where he developed expertise in the airline sector for market strategies, public relations, interfacing with external agencies and developing business plans. Thanassis was Commercial Manager, for Superfast Ferries, where he was instrumental in developing a quality product making the company a market leader. Thanassis was a director in Sky Europe, the first low cost airline for Eastern Europe based in Vienna. Through these positions in all modes of transportation, he has acquired extensive experience with distribution networks not only of airlines but all competing modes. Thanassis is also a certified commercial pilot.

He was educated both in the EU and the United States, receiving a Bachelor in Business Administration from Steward University in Georgia, USA, and a Masters in Business Administration from SGU in Oxford, England. Thanassis was also trained in Computer Sciences at Control Data, Inc., in USA

### Fr. Nicholas Alexandris

Father Nicholas is a Chairman of Government Affairs – Greek Archdiocese of Toronto Canada and Member of the Archdiocese Council and Member of the Consultative Committee of the Greater Toronto Airports Authority. He is a Host and Executive Producer of the Greek-Canadian Community current affairs television program "Personalities" on the Greek-Canadian Odyssey Television Network (viewed by over 50,000 homes across Canada). Father Nicholas Alexandris holds a Master in Psychology – Sociology from University of Ottawa and a Bachelor of Arts from University of Athens. In October 2009, he obtained an Airline Management Integration Diploma – IATA – Montreal, Quebec. Father Nicholas is also a member of Travel Industry Council of Ontario (TICO), and Liaison Officer between the Archdiocese and the Greek Board of Trade.





### Dionyssis Kalogerogiannis

Dionyssis has worked as a sales executive in various Fashion companies when in 1984, he dynamically got into the clothing marketing business, where he founded Bizarre fashion Company. In 1989, along with his businesses in the ready wear market, he bought 2 luxury sailing yachts and started dealing with marine tourism till 1997, when he acquired Yacht Chartering Company Meandros.

Meandros was initially active in the marine tourism. He increased Meandros Yachts ownership while managed and operated a large fleet of luxury yachts. In the following years, Meandros became Meandros New Concept S.A, one of the most successful companies in the yachting and the general tourism market by launching the products Loyalty Vacation Packages, one of the most successful, long-term B2B marketing programs that have never been conceived. Meandros New Concept has worked with many Greek and international most recognized companies who wanted to motivate and reward the people who make their business a success. F-FOKAS, DIXONS, GERMANOS – COSMOTE, MEDIA SATURN, CLUB HOTEL CASINO LOUTRAKI, NOKIA MOBILE PHONES are some of them.

Nowadays, MEANDROS NEW CONCEPT offers high quality tourism services and expands its activities abroad.

### Bill Alefantis

Bill has held the position of CFO at HI Tours until just recently, a portion of which he acquired in 2004. From his beginnings at his father's travel agency in 1984 to his immense success throughout the years, he has gained solid experience in the Travel Industry and has been making his mark on the travel market in Eastern Canada for the last 27 years. He holds a Diploma in Management from the Montreal Business School and looks forward to his new duties as CCO of Omega Airlines.



### Peter Chilakos

Peter started his travel career in 1986, working as a sales agent for his family travel agency. In 1991 he merged with another agency and later that same year, launched HI Tours, the leading Tour Operator in the Greek market across Canada. Peter holds a Bachelor Degree in Chemical Engineering from McGill University. Throughout his career he has acquired a wealth of information pertaining to marketing, distribution and product development. He looks forward to his new role as Vice president of Cargo Operations North America for Omega Airlines.

## Other Executive Officers

### **Michael Neromyliotis, Technical Manager**

Michael, has over 30 years experience in a/c maintenance related fields from various positions as airframe and power plant mechanic to technical director, from line maintenance up to heavy maintenance. With professional training at various a/c types and qualifications from H.C.A.A. , to EASA Part. 66.

### **George Siamos, Ground Operations Manager**

George, holds a Bachelor's Degree in Political Studies and a Master's Degree (M.Sc.) from the Institute of Regional Development. For 20 years, he worked at Olympic Airways mainly as an Economist, registered to the Economic Chamber. He occupied several positions at Olympic Airways in the Accountancy Department; he was responsible of Strategic and 5-year planning for the Corporate Planning Evaluation.

### **Vasileios Dorizas, Flight Operations Manager**

Vasileios, holds a UK Commercial Pilot's License JAA –FCL ATPL (A) / Instrument rating from Oxford Air Training School. He has over 27 years of Flight and Training experience at Olympic Airlines, with more than 13.000 flight hours in public transport multi-engine aircraft. Since 1984, he's filled the positions of Training Director, Type rating Instructor, as well as Chief Pilot B-737/200, and Commander of type A340-300, B 737-300/400 and A 300/B4.

Regarding the critical functions of operations and maintenance, we have reached agreement with some strategic trade partners to fill these positions with executives from their organizations who will bring required management expertise, and who will introduce critical systems and processes.

This is **Exhibit “E”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

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Signature

Next

Previous

List  
by:

Occurrence

Update

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Search

## The Aviation Herald needs your help (65% of target achieved)

### Incident: Skygreece B763 near Athens on Jun 14th 2015, loss of cabin pressure

By Simon Hradecky, created Monday, Jun 15th 2015 21:27Z, last updated Monday, Jun 15th 2015 21:27Z

A Skygreece Airlines Boeing 767-300, registration SX-BPN performing flight GW-423 from Athens (Greece) to Toronto, ON (Canada) with 33 passengers and 11 crew, was climbing through FL330 about 110nm northwest of Athens when the crew initiated an emergency descent to FL100 due to the loss of cabin pressure. The aircraft returned to Athens for a safe landing about one hour after departure.

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#### Reader Comments:

##### Deserved fate

By (anonymous) on Thursday, Sep 10th 2015 15:50Z

Too bad you don't know your facts, this is the second airline they've tried to steer. Both ended with bankruptcy. Hellenic imperial was their first mistake. Your small mind would shame others for supporting the Greek diaspora. Shame on you to come here to fault passengers. Small minds. How do you know what passengers saved on flights. Sounds personal. FAA IATA and CTA will need to focus on banning these four horsemen from the industry. Beware of skycrap to open next year otherwise.

By (anonymous) on Thursday, Sep 3rd 2015 21:42Z

Where is Father Nicolas Alexadris? In hiding?

By dax on Thursday, Aug 27th 2015 15:52Z

Company went bankrupt yesterday, leaving 150+ passengers who paid flight to Toronto at Zagreb Airport.

##### Seriously?

By Johnny on Thursday, Aug 27th 2015 07:30Z

Whoever flew with this airline is not a bright person. Obviously no one does their homework. Anything to save a buck. Although I feel for those affected, you get what you paid for!

##### Are you kidding me?

By Travis Malakia on Thursday, Aug 27th 2015 07:27Z

By (anonymous) on Sunday, Aug 23rd 2015 03:46Z

It's very simple. You get what you paid for. Why would anybody fly a new airline across the Atlantic that only has two airplanes? No previous experience in operating an airline. Just a priest and two investors. What? To save \$200?

Stop complaining and admit that your safety comes second to saving money.

---

#### SkyGreece continued



Another hour went by and we were then told that all they needed to do now is tighten one bolt and we should be ready to go in about 15 minutes. By this point, people are completely losing it. Many are screaming, shouting and protesting to the airline staff. Nothing is done except the pilot then comes out and tries to calm people down. The man sitting right in front of me went berserk along with a few others! My daughter began to cry because she was so scared. We finally took off and as we do so, nothing that is normal behaviour on a flight was observed. People running up and down the aisles yelling and demanding water etc. It was pandemonium. The lights were kept on all through the night and we just were praying for it to be over. I will never fly with them again.

---

#### **SkyGreece**

By Mira on Thursday, Aug 20th 2015 14:32Z

My sympathies to all SkyGreece passengers. Worst joke of an airline + should not be in business. I should know because I flew with my family from Toronto to Zagreb on the July 20th. Waited in Term 3 for over an hr. No announcement. Then we boarded & what first hit us was the smell of urine and excrement like a punch in the face. My eyes were watering and I had to hold my nose. Luckily our seats were right at the back where the smell wasn't as bad but there was no air circulation and we sat there for over an hour in a stuffy smelly plane that seemed very old. It still had ashtrays! An announcement was made stating that there was a technical problem with the plane (boy that really reassured us!) but that it would be fixed in 10 minutes.

---

#### **stranded in Toronto**

By Mary on Thursday, Aug 20th 2015 04:54Z

I have been stranded in Toronto for 3 days due to cancellations and still no response. I called their office after the first day cancelled and they said there is no compensation being offered because they have rescheduled for the next day. What a joke! I am going into my fourth day with them, they have not once contacted me with an update nor offered to put me on another flight. I have 4 days of additional expenses and they don't seem to care. I am now booking with another carrier and paying it on my own, I just need to go home. I will be filing several complaints with the airlines and informing the public through social media to not ever fly with Sky Greece airlines. I have flown with many different carriers around the world and this is by far the worst customer service ever!

---

#### **Gw 423**

By Bruce on Monday, Aug 17th 2015 11:30Z

Similar experience to above passengers. On August 16, 2015 we were supposed to leave from Athens to Toronto. The flight was cancelled, apparently for technical reasons.

We then had to wait in a 2.5 hr line to determine what happens next. No announcements were made. We were simply told to get on a bus to a hotel. Not sure which one, or what it was like. Left for hotel, then had to turn and go back to airport. Left again. Turns out the hotel was quite nice, with good food and pool, but unfortunately we were still in Athens, not an ideal city to be stuck in. No word or info in the hotel on our flight. No representative from Sky Greece. Online there was no info at this time, or warning before. The next morning we are told the bus will pick us up at 10:45am. We get on the bus and they say that there is a four hr delay, so we will wait in the airport much longer now. Great

---

By John on Sunday, Aug 16th 2015 16:21Z

Hi this is for Skygreece upper management. Aug 16 2015

Your plane is broken once again and stuck in Greece.  
Nobody posted anything or called anyone to tell them the plane is broken.  
Nobody from management can be found in a line of 300 passengers waiting.  
All you get is a cheap motel.

Booked with another airline for 1600.00 per person for 1 way going to Canada.  
What a savings!! Cheap airline and cheap planes..

Called their office nobody can say what happened and what's going on.

---

By (anonymous) on Thursday, Jul 23rd 2015 03:28Z

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By (anonymous) on Thursday, Jul 23rd 2015 03:27Z

---

By (anonymous) on Thursday, Jul 23rd 2015 03:26Z

I was on the flight on June 13 2015 from Toronto via Montreal to Athens. and just finding out now about the return problem flight from Athens to Toronto. I just

and From Athens to Toronto but then they also changed the dates with out posting notice on their web site nor face book page. In the end after hearing my complaints they paid the extra cost and I came back with Air Transat from Athens to Toronto.

#### **June 14th passenger ~ jilted**

By stephanie on Wednesday, Jul 15th 2015 23:51Z

After our horrific experience the 33 passengers from the June 14th 2015 flight from Athen to Toronto that experienced the emergency "descent" have still not been responded to. No refunds have been given even after skygreece had said as much to our travel agents. No return emails, and customer service representatives hang up once they hear our names. As canadians i'm disgusted that fellow canadians can treat this matter without justice. Has left a terrible taste in my mouth for these people, the airline and unfortunately darkens the cloud over our holiday to Greece. I even went to the media in hopes of a response and it was returned with threats. This is a group of men running a dirty show. No word from the "Father" apologizing about the whole mess. Save yourself the money and hassle and book an established airline.

#### **GW425 Zag-Yyz Still waiting to come home stuck in Zagreb**

By Stefani Zugec on Thursday, Jul 2nd 2015 14:47Z

Right from day one this airline has screwed as over. First we had a direct flight to Athens from Toronto on June 14 that got changed to June 13 and stopped in Montreal plus we had to get another hotel room because we got to Athens a day earlier. Return flight from Zagreb to Toronto July 1 cancelled. July 2 no flight have know clue what is going on. July 3 still waiting. Don't know what is going on with this airline Skygreece and can't get a hold of anyone. If you have a flight with Skygreece cancelle your reservations if you can.

#### **How not to start an airline**

By Lefteris on Thursday, Jun 18th 2015 01:16Z

Skygreece should never had commenced service with just a single used and old aircraft on such long flights. It is doing a disservice to our embattled country and further tarnishing Greece's bruised image by irresponsibly flying the flag. In an Era when airlines in developing nations are placing huge jet orders for A 350 an B 787 dreamliners, no Greek airline should be tarnishing Greece's reputation and image as a heavily visited country by offering such service. It's a disgrace to the legacy of both Olympic and Aegean that have always flown in succession, well maintained and new fleets. Aside from air safety, a new long haul airline should offer more to passengers than the old interior, no seat back video and WiFi 763!Giving the planes the names of saints and angels, won't save them if something happens. We're in 2015, not 1972.

#### **Skygreece**

By Ken on Wednesday, Jun 17th 2015 23:10Z

Now you see them, soon you won't. That bird sits at FedEx YYZ all week waiting for something to do. Just another bad idea..

By AVI on Tuesday, Jun 16th 2015 21:56Z

Although these types of technical issues do take place more often than some think, I'm realizing that the entire situation was handled very poorly. I'm very happy to hear the plane landed safely, however it is evident Skygreece will not prosper in the future. Good luck to those flying, safe travels.

#### **Start-up**

By Jose Almeida on Tuesday, Jun 16th 2015 18:04Z

It's a start-up airline which started operations this May, so it is expected to have a very low load factor. It is true that they operate a 24-years old B763.

#### **Terror!!!**

By Shana on Tuesday, Jun 16th 2015 16:31Z

I was on this flight and our safety was definitely compromised. There are many flights that crash due to loss of pressure. I am not a pilot nor a maintenance tech however I was a passenger on this flight and have never experienced such terror in my life. The oxygen bags did drop however they did NOT work, in fact they had to bring an oxygen Tank to provide to a passenger passing out? The aftermath was completely disorganized and handled totally unprofessionally. I would certainly never board a 31 year old plane again and I still have numb feet and my friend has a sore ear drumb. Could this be due to a major drop in altitude? I suppose the hospital is the next visit.

#### **PAX**

By Aeropordos on Tuesday, Jun 16th 2015 11:19Z

Low pax number is common in this season, most if not all the traffic is coming from North America to Greece, I remember as a child travelling in the OA 747s to JFK with the plane less than half full and sleeping across 4 rows, they're doing pretty well pax numbers to ATH from Canada with about 90-95% load

#### **Diaspora**

By Aerodromio on Tuesday, Jun 16th 2015 07:40Z

33 passengers is low, but not surprising. This airline is mostly about serving the Greek diaspora during the summer months. As such, in early summer, flights from North America to Greece will see heavy loads, and from Greece to NA will be light. As things move towards the end of the season, the flow will reverse.

#### **Passed their first hiccup! :)**

By George Kyriazis on Tuesday, Jun 16th 2015 05:35Z

Meh not a big deal....new staff, new maintenance guys, shifts, safety checks no 1 died that's all that matters, they handled the emergency from an aviation standpoint perfectly.

I used to work on planes, number 1 issue was the pressurization valve being faulty on the 76....its common, now they know about it lolll.

#### **Meh....**

By George Kyriazis on Tuesday, Jun 16th 2015 05:33Z

Meh not a big deal....new staff, new maintenance guys, shifts, safety checks 1 died that's all that matters, they handled the emergency from an aviation standpoint perfectly.

I used to work on planes, number 1 issue was the pressurization valve being faulty on the 76....its common, now they know about it lolll.

#### **good luck**

By (anonymous) on Tuesday, Jun 16th 2015 02:59Z

the next airline failure just passing time

#### **1/3 ratio**

By BigQ on Tuesday, Jun 16th 2015 00:41Z

Skygreece is a brand new airline. Low pax loads are therefore normal.

#### **Skygreece..**

By Nosey Parker on Monday, Jun 15th 2015 22:06Z

Maybe they had a full flight from YYZ??...nice light flight for the crew though!....:-)

#### **1 / 3 Ratio - awesome**

By Joe Kuster on Monday, Jun 15th 2015 21:33Z

33 Pax?! Is this a First Class only flight?! By the look and their Wikipedia Page starting to feel sorry bout them.

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This is **Exhibit “F”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature

Halifax, NS

lukacs@AirPassengerRights.ca

August 28, 2015

## VIA EMAIL

The Secretary  
Canadian Transportation Agency  
Ottawa, ON K1A 0N9

Dear Madam Secretary:

**Re: Dr. Gábor Lukács v. SkyGreece Airlines**  
**Emergency application for an Order to reprotect and protect stranded passengers**

Please accept the following application pursuant to ss. 25, 26, and 27 of the *Canada Transportation Act* (“CTA”), S.C. 1996, c. 10, ss. 110 and 113.1 of the *Air Transportation Regulations*, S.O.R./88-58 (“ATR”), and Rule 19 of the *Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings)*, S.O.R./2014-104.

## OVERVIEW

The Applicant alleges that:

- (i) on August 27, 2015, SkyGreece Airlines announced that it would “temporarily cease all operations”;
- (ii) several hundred passengers are currently stranded due to cancellations of SkyGreece Airlines’ flights; and
- (iii) since August 17, 2015, SkyGreece Airlines has systematically failed to apply the terms and conditions set out in Rules 85(E) and 85(F) of its International Tariff, governing the rights of passengers stranded as a result of flight cancellations.

The Applicant is seeking an emergency Order, pursuant to s. 113.1(a) of the *ATR*, directing SkyGreece Airlines to rebook all its stranded passengers on flights of other airlines forthwith, and to provide security in the amount of CAD\$8,700,000 for anticipated claims of passengers.

## TABLE OF CONTENTS

I.	The Facts . . . . .	3
(a)	SkyGreece Airlines . . . . .	3
(i)	Murky corporate structure and licensing . . . . .	3
(ii)	International Tariff . . . . .	3
(b)	Failure to reprotect passengers in accordance with Rule 85 . . . . .	4
(i)	Flights cancelled on the week of August 17, 2015 . . . . .	4
(ii)	Flights cancelled on the week of August 24, 2015 . . . . .	4
(c)	Suspended operations. . . . .	5
II.	Issues . . . . .	5
III.	Submissions . . . . .	5
(a)	Did SkyGreece Airlines fail to apply the terms and conditions set out in its tariffs? . . . . .	5
(b)	The appropriate remedies. . . . .	6
(i)	Ordering SkyGreece Airlines to reprotect stranded passengers forthwith. . . . .	6
(ii)	Ordering SkyGreece Airlines to provide security for anticipated claims . . . . .	6
IV.	Relief Sought . . . . .	7
V.	Authorities . . . . .	8
(a)	Legislation . . . . .	8
(b)	Case law . . . . .	8

## SUPPORTING DOCUMENTS

1.	Quebec Enterprise Registry record (retrieved on August 20, 2015) . . . . .	9
2.	SkyGreece Airlines' International Tariff Rules 85(E) and 85(F) (retrieved on July 30, 2015) . . . . .	15
3.	"Important message to all passengers travelling between August 17 and August 20, 2015," SkyGreece Airlines' website (retrieved on August 27, 2015) . . . . .	18
4.	Automated message at SkyGreece Airlines' Canadian telephone number (recorded on August 27, 2015) . . . . .	20
5.	Press release of SkyGreece Airlines, dated August 27, 2015 . . . . .	21

## I. THE FACTS

### (a) SkyGreece Airlines

#### (i) Murky corporate structure and licensing

1. SkyGreece Airlines appears to be a corporation with headquarters in Greece.
2. SkyGreece Airlines is also registered as a Quebec corporation, Air Omega Holidays Inc., with SkyGreece Airlines being one of the alternative names. SkyGreece Airlines is owned and/or controlled by Canadians, and as such it is Canadian within the meaning of s. 55(1) of the *CTA*.

#### **Quebec Enterprise Registry record, Document No. 1**

3. On January 20, 2015, the Agency granted SkyGreece Airlines a license to operate scheduled international service between member states of the European Community and Canada as a foreign corporation, based on the “Agreement on Air Transport between Canada and the European Community and its Member States, signed on December 18, 2009.”

#### **Decision No. 13-A-2015**

4. It appears that SkyGreece Airlines has obtained its license without complying with the financial requirements of s. 69. (1)(a)(iv) of the *CTA* and s. 8.1 of the *ATR*.

#### (ii) International Tariff

5. Pursuant to ss. 110(1) and 122(c) of the *ATR*, SkyGreece Airlines is required to file with the Agency an international tariff, governing the rights and obligations of passengers travelling on international itineraries vis-à-vis SkyGreece Airlines in respect of an enumerated list of core areas, including failure to operate the service or failure to operate on schedule.

#### ***Air Transportation Regulations, ss. 110(1) and 122(c)***

6. SkyGreece Airlines International Tariff Rules 85(E) and 85(F) require SkyGreece Airlines to provide passengers who are stranded as a result of flight cancellations:

- (1) transportation on its own flights, within a reasonable time; or
- (2) transportation on flights of other airlines, within a reasonable time; or
- (3) a refund

at the passenger’s option.

#### **SkyGreece Airlines International Tariff Rules 85(E) and 85(F), Document No. 2**

7. Pursuant to s. 110(4) of the *ATR*, SkyGreece Airlines was required to apply the aforementioned terms and conditions with respect to its stranded passengers.

#### ***Air Transportation Regulations, s. 110(4)***



**(b) Failure to reprotect passengers in accordance with Rule 85**

**(i) Flights cancelled on the week of August 17, 2015**

8. On the week of August 17, 2015, SkyGreece Airlines cancelled the following of its flights:

- (1) Flight GW 426, on August 17, 2015;
- (2) Flight GW 425, on August 19, 2015;
- (3) Flight GW 428, on August 19, 2015;
- (4) Flight GW 427, on August 20, 2015; and
- (5) Flight GW 423, on August 23, 2015.

The sole alternative transportation that SkyGreece Airlines offered to stranded passengers was on its own flights, many days later, and certainly not “within reasonable time.”

**“Important message to all passengers travelling between August 17 and August 20, 2015,”  
SkyGreece Airlines’ website, Document No. 3**

9. Contrary to Rules 85(E) and 85(F), SkyGreece Airlines did not offer stranded passengers with bookings on the aforementioned flights the option of being transported on flights of other airlines.

**(ii) Flights cancelled on the week of August 24, 2015**

10. On the week of August 24, 2015, SkyGreece Airlines cancelled the following of its flights:

- (1) Flight GW 425, August 26, 2015;
- (2) Flight GW 428, August 27, 2015; and
- (3) Flight GW 427, August 27, 2015.

According to an automated message at SkyGreece Airlines’ Canadian telephone number, these flights were cancelled due to “operational reasons.”

**Automated message at SkyGreece Airlines’ Canadian telephone number, Document No. 4**

11. Contrary to Rules 85(E) and 85(F), SkyGreece Airlines did not offer any alternative transportation to stranded passengers booked on these flights.

**(c) Suspended operations**

12. As of August 27, 2015, SkyGreece Airlines' Canadian telephones are being answered by the aforementioned automated message, and its offices remain closed.
13. On August 27, 2015, late at night, SkyGreece Airlines issued a press release informing the public that it would "temporarily cease all operations." The press release goes on to state, contrary to the obligations set out in Rules 85(E) and 85(F), that:

Passengers should contact their travel agent to arrange for alternate travel and/or accommodations.

**Press release of SkyGreece Airlines, dated August 27, 2015, Document No. 5**

**II. ISSUES**

14. The following issues need to be determined:
  - (a) whether SkyGreece Airlines failed to apply the terms and conditions set out in its tariff;
  - (b) the appropriate remedy.

**III. SUBMISSIONS**

**(a) Did SkyGreece Airlines fail to apply the terms and conditions set out in its tariffs?**

15. Rule 85(E) (and 85(F)) requires SkyGreece Airlines to provide alternative transportation to stranded passengers, not only on SkyGreece Airlines' own flights, but also on flights of other airlines, if the passenger so chooses.
16. On the week of August 17, 2015, SkyGreece Airlines offered alternative transportation only on its own flights after an unreasonable amount of time, and did not offer passengers the option of transportation on flights of other airlines, contrary to Rule 85(E)(3) (and Rule 85(F)(2)).
17. Now that SkyGreece Airlines has ceased operations, SkyGreece Airlines must, pursuant to Rule 85(E)(3) (and 85(F)(2)), reprotect stranded passengers on flights of other airlines within a reasonable time; however, SkyGreece Airlines is doing nothing to fulfill this obligation, and passengers are referred to their travel agents instead (see Document No. 5).
18. Therefore, it is submitted that SkyGreece Airlines has systematically failed to apply the terms and conditions set out in Rule 85 of its International Tariff.

**(b) The appropriate remedies**

19. Parliament has conferred upon the Agency broad powers to offer remedies in the case of failure of a carrier to apply the terms and conditions set out in its tariff:

**113.1** If an air carrier that offers an international service fails to apply the fares, rates, charges or terms and conditions of carriage set out in the tariff that applies to that service, the Agency may direct it to

- (a) take the corrective measures that the Agency considers appropriate;

*Air Transportation Regulations, s. 113.1(a)*

20. It is submitted that the Agency should exercise these broad powers, which were conferred for the purpose of providing systemic remedies for systemic issues, in a manner that addresses the two main concerns raised in the present case, which are that:

- (a) stranded passengers will suffer further losses if SkyGreece Airlines is permitted to continue to ignore its obligation to reprotect stranded passengers on other airlines; and
- (b) SkyGreece Airlines may preempt any attempt of the travelling public to enforce its rights pursuant to the *Montreal Convention*, s. 113.1(b) of the *ATR*, and the contract of carriage by disposing of its assets.

**(i) Ordering SkyGreece Airlines to reprotect stranded passengers forthwith**

21. It is submitted that the Agency should order SkyGreece Airlines to comply with Rule 85(E)(3) (and 85(F)(2)) and arrange for transportation, at its own cost, for all stranded passengers on flights of other airlines forthwith, and within 24 hours at the latest.

**(ii) Ordering SkyGreece Airlines to provide security for anticipated claims**

22. SkyGreece Airlines' conduct has caused significant losses to passengers. Pursuant to Article 19 of the *Montreal Convention*, SkyGreece Airlines is liable for these losses. Pursuant to Article 22(1) of the *Convention*, after the adjustment of 2009, SkyGreece Airlines' maximum liability is 4,694 Special Drawing Rights (SDR) per delayed passenger, which is approximately CAD\$8,700.
23. According to a very conservative estimate, at least 1,000 passengers have been affected by SkyGreece Airlines' flight cancellations, which means that SkyGreece Airlines is exposed to liability of CAD\$8,700,000.
24. SkyGreece Airlines' main, and possibly only, asset is its sole aircraft, which is currently parked at the Toronto International Airport.

25. If SkyGreece Airlines is allowed to dispose of its assets, then passengers with valid claims against SkyGreece Airlines will be left without any remedy.
26. Therefore, it is submitted that the Agency ought to direct SkyGreece Airlines to provide security in the amount of CAD\$8,700,000 for anticipated claims of passengers arising from the cancellation of SkyGreece Airlines' flights.
27. In addition to s. 113.1(a) of the *ATR*, section 25 of the *CTA* also confers upon the Agency the powers necessary for making such an order:

25. The Agency has, with respect to all matters necessary or proper for the exercise of its jurisdiction, the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders or regulations and the entry on and inspection of property, all the powers, rights and privileges that are vested in a superior court.

[Emphasis added.]

*Canada Transportation Act, s. 25*

#### **IV. RELIEF SOUGHT**

28. The Applicant prays the Agency that:
  - (a) the Agency order SkyGreece Airlines to arrange for transportation, at its own cost, for all of its stranded passengers on flights of other airlines forthwith, and within 24 hours at the latest; and
  - (b) the Agency order SkyGreece Airlines to provide security in the amount of CAD\$8,700,000 for anticipated claims of passengers.

All of which is most respectfully submitted.

Dr. Gábor Lukács  
Applicant

Cc: Mr. Richard Look, s. 84 agent for SkyGreece Airlines

## V. AUTHORITIES

### (a) Legislation

1. *Air Transportation Regulations*, S.O.R./88-58.
2. *Canada Transportation Act*, S.C. 1996, c. 10.
3. *Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings)*, S.O.R./2014-104.
4. *Carriage by Air Act*, R.S.C. 1985, c. C-26.

### (b) Case law

1. *SkyGreece Airlines*, Canadian Transportation Agency, Decision No. 13-A-2015.



## Rechercher une entreprise au registre

### État de renseignements d'une personne morale au registre des entreprises

Renseignements en date du 2015-08-20 09:22:35

#### État des informations

##### Identification de l'entreprise

Numéro d'entreprise du Québec (NEQ)	1168464031
Nom	AIR OMEGA HOLIDAYS INC.

##### Adresse du domicile

Adresse	300-477 Danforth Avenue Toronto, Ontario M4K1P1 Canada
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##### Adresse du domicile élu

Adresse	Aucune adresse
---------	----------------

##### Immatriculation

Date d'immatriculation	2012-08-14
Statut	Immatriculée
Date de mise à jour du statut	2012-08-14
Date de fin de l'existence	Aucune date de fin d'existence n'est déclarée au registre.

##### Forme juridique

Forme juridique	Société par actions ou compagnie
Date de la constitution	2012-07-18 Constitution
Régime constitutif	CANADA : Loi canadienne sur les sociétés par actions, L.R.C. (1985) c. C-44
Régime courant	CANADA : Loi canadienne sur les sociétés par actions, L.R.C. (1985) c. C-44

**Dates des mises à jour**

Date de mise à jour de l'état de renseignements	2014-11-14
Date de la dernière déclaration de mise à jour annuelle	2015-03-13 2014
Date de fin de la période de production de la déclaration de mise à jour annuelle de 2015	2016-07-01
Date de fin de la période de production de la déclaration de mise à jour annuelle de 2014	2015-07-01

**Faillite**

L'entreprise n'est pas en faillite.

**Fusion et scission**

Aucune fusion ou scission n'a été déclarée.

**Continuation et autre transformation**

Aucune continuation ou autre transformation n'a été déclarée.

**Liquidation ou dissolution**

Aucune intention de liquidation ou de dissolution n'a été déclarée.

**Activités économiques et nombre de salariés****1<sup>er</sup> secteur d'activité**

Code d'activité économique (CAE)	4529
Activité	Autres services relatifs aux transports aériens
Précisions (facultatives)	Tour Operator

**2<sup>e</sup> secteur d'activité**

Aucun renseignement n'a été déclaré.

#### Nombre de salariés

Nombre de salariés au Québec

Aucun

#### Convention unanime, actionnaires, administrateurs, dirigeants et fondé de pouvoir

##### Actionnaires

##### Premier actionnaire

Le premier actionnaire est majoritaire.

Nom	AIR HELLAS CA HOLDINGS INC.
Adresse	300-477 Danforth Avenue Toronto, Ontario M4K1P1 Canada

##### Convention unanime des actionnaires

Il n'existe pas de convention unanime des actionnaires.

##### Liste des administrateurs

Nom de famille	Alexandris
Prénom	Nicholas
Date du début de la charge	2012-07-18
Date de fin de la charge	
Fonctions actuelles	Executive Vice-President
Adresse	1213-105 The Queensway Road Toronto Ontario M6S5B5 Canada

Nom de famille	Alefantis
Prénom	Vasilios
Date du début de la charge	2012-07-18
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	1156 Des Geraniums Laval Québec H7Y2G6 Canada



Nom de famille	Panagiotis
Prénom	Chilakos
Date du début de la charge	2012-07-18
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	355 Fairmount West Montréal, Québec H2V2G5 Canada

Nom de famille	Alfantis
Prénom	Vasilios
Date du début de la charge	2012-08-06
Date de fin de la charge	
Fonctions actuelles	CEO and Chairman of the Board
Adresse	1156 Des Geraniums Laval, Québec H7Y2G6 Canada

Nom de famille	Chilakos
Prénom	Panagiotis
Date du début de la charge	2012-08-06
Date de fin de la charge	
Fonctions actuelles	Secrétaire
Adresse	355 Fairmount West Montréal, Québec H2V2G5 Canada

#### Dirigeants non membres du conseil d'administration

Aucun dirigeant non membre du conseil d'administration n'a été déclaré.

#### Fondé de pouvoir

Aucun fondé de pouvoir n'a été déclaré.

#### Administrateurs du bien d'autrui

Aucun administrateur du bien d'autrui n'a été déclaré.

#### Établissements

Numéro et nom de l'établissement	Adresse	Activités économiques (CAE)
----------------------------------	---------	-----------------------------

Numéro et nom de l'établissement	Adresse	Activités économiques (CAE)
0001 - VACANCES AIR OMEGA	120-800 Chomedey Blvd., Tower C Laval, Québec H7V3Y4 Canada	Autres services relatifs aux transports aériens (4529)

**(Établissement principal)****Documents en traitement**

Aucun document n'est actuellement traité par le Registraire des entreprises.

**Index des documents****Documents conservés**

Type de document	Date de dépôt au registre
DÉCLARATION DE MISE À JOUR ANNUELLE 2014	2015-03-17
Déclaration de mise à jour courante	2014-11-14
DÉCLARATION DE MISE À JOUR ANNUELLE 2013	2013-10-10
Déclaration de mise à jour courante	2012-09-27
Déclaration d'immatriculation	2012-08-14

**Index des noms**

Date de mise à jour de l'index des noms 2012-09-27

**Nom**

Nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
AIR OMEGA HOLIDAYS INC.		2012-08-14		En vigueur

**Autres noms utilisés au Québec**

Autre nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
LIGNES AÉRIENNES SKYGREECE	SKYGREECE AIRLINES	2012-09-27		En vigueur
VACANCES AIR OMEGA	AIR OMEGA HOLIDAYS	2012-08-14		En vigueur
VACANCES SKYGREECE	SKYGREECE VACATIONS	2012-09-27		En vigueur
COMPAGNIES AÉRIENNES OMEGA	OMEGA AIRLINES	2012-08-14	2012-09-27	Antérieur

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THE AUTHORITIES OF THE DESTINATION POINT, AGREED STOPPING PLACE OR STOPOVER, AND IF THE PASSENGER WAS RETURNED TO HIS/HER DEPARTURE POINT OR TO ANY OTHER DESTINATION FOR THIS REASON.

- (3) FOR A STOLEN, FORGED OR COUNTERFEIT TICKET.
  - (4) IF THE PASSENGER DID NOT COMPLY WITH THE CONDITIONS AS STATED IN RULE 70 - CHECKIN AND BOARDING TIMES.
  - (5) IF THE PASSENGER IS REFUSED CARRIAGE BY THE CARRIER PURSUANT TO RULE 25 (A).
  - (6) REFUNDS ARE SUBJECT TO APPLICABLE REGULATIONS IN THE COUNTRY IN WHICH THE TICKET WAS ORIGINALLY PURCHASED AND/OR TO APPLICABLE REGULATIONS IN THE COUNTRY IN WHICH THE REFUND MUST BE PAID.
- (E) IN THE EVENT OF A SCHEDULE IRREGULARITY, WITHIN THE CARRIER'S CONTROL, THE CARRIER WILL PRESENT THE PASSENGER WITH THE FOLLOWING OPTIONS:
- (1) CARRY THE PASSENGER TO THE DESTINATION NAME ON THE TICKET, OR APPLICABLE PORTION THEREOF, WITHIN A REASONABLE AMOUNT OF TIME, ON ANOTHER OF ITS PASSENGER AIRCRAFT OR IN A DIFFERENT CLASS OF SERVICE ON WHICH SPACE IS AVAILABLE, WITHOUT ADDITIONAL CHARGE, REGARDLESS OF THE CLASS OF SERVICE IN WHICH THE PASSENGER WAS BOOKED; OR,
  - (2) REROUTE THE PASSENGER TO THE DESTINATION NAMED ON THE TICKET, OR APPLICABLE PORTION THEREOF, ON ITS OWN TRANSPORTATION SERVICES WITHIN A REASONABLE AMOUNT OF TIME. IF THE FARE FOR THE REVISED REROUTING OR CLASS OF SERVICE IS HIGHER THAN THE FARE PAID BY THE PASSENGER, THE CARRIER WILL REQUIRE NO ADDITIONAL PAYMENT FROM THE PASSENGER. IF THE FARE FOR THE REVISED ROUTING IS IN A LOWER CLASS OF SERVICE, A REFUND WILL BE MADE FOR THE DIFFERENCE IN FARE. THE REFUND WILL BE MADE TO THE PURCHASER OF THE TICKET. THE FORM OF REFUND WILL BE THE SAME AS THE FORM OF PAYMENT USED FOR THE TICKET. THE REFUND WILL BE BASED ON THE VALUE OF THE TICKET; OR
  - (3) REROUTE THE PASSENGER TO THE DESTINATION NAMED ON THE TICKET, OR APPLICABLE PORTION THEREOF, ON ANOTHER AIR CARRIER'S TRANSPORTATION SERVICES,

-69-

GFS TEXT MENU RULE CATEGORY TEXT DISPLAY  
IN EFFECT ON: 24FEB15

AREA: ZZ TARIFF: IPRG CXR: GW RULE: 0085

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TITLE/APPLICATION - 70 (CONT)  
INCLUDING INTERLINE OR, WHERE POSSIBLE AND NECESSARY, NON-INTERLINE CARRIERS, WITHIN A REASONABLE AMOUNT OF TIME. IF THE FARE FOR THE REVISED ROUTING OR CLASS OF SERVICE IS HIGHER

THAN

THE FARE PAID BY THE PASSENGER, THE CARRIER WILL REQUIRE NO ADDITIONAL PAYMENT FROM THE PASSENGER. IF THE FARE FOR THE REVISED ROUTING IS IN A LOWER CLASS OF SERVICE, A REFUND WILL BE MADE FOR THE DIFFERENCE IN FARE. THE REFUND WILL BE MADE TO THE PURCHASER OF THE TICKET. THE FORM OF REFUND WILL BE THE SAME AS THE FORM OF PAYMENT USED FOR THE TICKET. THE REFUND WILL BE BASED ON THE VALUE

OF THE TICKET; OR,

- (4) IF THE PASSENGER CHOOSES TO NO LONGER TRAVEL AS THE SCHEDULE IRREGULARITY RESULTS IN THE LOSS OF PURPOSE OF TRAVEL OR IF THE CARRIER IS UNABLE TO PERFORM THE OPTION STATED IN RULE 85, PARAGRAPH (E) (1), (2) AND (3) ABOVE WITHIN A REASONABLE AMOUNT OF TIME, THE CARRIER WILL TRANSPORT THE PASSENGER TO THE POINT OF ORIGIN NAMED ON THE TICKET AND REFUND THE FULL AMOUNT OF THE TICKET IN ACCORDANCE WITH RULE 90, REFUNDS, IRRESPECTIVE IF TRAVEL HAS COMMENCED, OR SUBJECT TO PASSENGER'S AGREEMENT, OFFER A TRAVEL VOUCHER FOR FUTURE TRAVEL IN THE SAME AMOUNT;
  - (5) OTHERWISE, SHOULD THE ALTERNATE TRANSPORTATION PROPOSED BY THE CARRIER NOT MEET THE PASSENGER'S SATISFACTION, THE CARRIER WILL OFFER A REFUND EQUAL TO THE FARE AND CHARGE PAID. THE REFUND WILL BE MADE TO THE PURCHASER OF THE TICKET(S). THE FORM OF REFUND WILL BE THE SAME FORM USED AS PAYMENT OF THE TICKET(S). FOR COMPLETE CONDITIONS ON REFUNDS SEE RULE 90.
  - (6) NOTHING IN THE ABOVE SHALL LIMIT OR REDUCE THE PASSENGER'S RIGHT, IF ANY, TO CLAIM DAMAGES, IF ANY, UNDER THE APPLICABLE CONVENTION, OR UNDER THE LAW WHEN NEITHER CONVENTION APPLIES.
  - (7) IN ADDITION TO THE ABOVE, THE CARRIER WILL ALWAYS CONSIDER THE NEEDS OF THE PASSENGER ON A CASE BY CASE BASIS AND TAKE INTO ACCOUNT ALL KNOWN CIRCUMSTANCES TO AVOID OR MITIGATE THE DAMAGES CAUSED BY THE SCHEDULE IRREGULARITY WITHIN THE CARRIER'S CONTROL.
- (F) IN THE EVENT OF A SCHEDULE IRREGULARITY, NOT WITHIN THE CARRIER'S CONTROL (E.G. FORCE MAJEURE), THE CARRIER WILL PROVIDE THE FOLLOWING:
- (1) THE CARRIER WILL OFFER THE PASSENGER THE CHOICE TO TRAVEL ON ANOTHER OF ITS SCHEDULED FLIGHTS ON THE SAME ROUTE AS THE PASSENGER WAS ORIGINALLY

-70-

GFS TEXT MENU RULE CATEGORY TEXT DISPLAY

IN EFFECT ON: 24FEB15  
AREA: ZZ TARIFF: IPRG CXR: GW RULE: 0085

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TITLE/APPLICATION - 70 (CONT)

- TICKETED OR TO TRAVEL ON A DIFFERENT ROUTING OPERATED BY THE CARRIER TO THE SAME TICKETED DESTINATION.
- (2) IF THESE OPTIONS ARE NOT AVAILABLE, THE CARRIER WILL OFFER TO TRANSPORT THE PASSENGER ON THE SAME ROUTE AS HE/SHE WAS ORIGINALLY TICKETED OR ON A DIFFERENT ROUTE OPERATED BY THE SERVICES OF ANOTHER CARRIER WITH WHOM THE ORIGINAL AIR CARRIER HAS A COMMERCIAL AGREEMENT AND PROVIDED SPACE IS AVAILABLE.
- (3) SHOULD THE FARE FOR THE ALTERNATE TRANSPORTATION PROPOSED BY THE CARRIER BE MORE EXPENSIVE, THERE WILL BE NO ADDITIONAL COST TO THE PASSENGER.
- (4) SHOULD THE FARE FOR THE ALTERNATE TRANSPORTATION PROPOSED BY THE CARRIER BE LESS EXPENSIVE, A REFUND WILL BE MADE TO THE PURCHASER OF THE TICKET(S). THE FORM OF REFUND WILL BE THE SAME FORM USED AS PAYMENT OF THE TICKET(S). THE REFUND WILL BE BASED ON THE VALUE OF THE TICKET(S). FOR COMPLETE CONDITIONS ON REFUNDS SEE RULE 90.
- (5) SHOULD THE ALTERNATE TRANSPORTATION PROPOSED BY THE CARRIER NOT MEET THE PASSENGER'S SATISFACTION, THE UNUSED PORTION OF THE PASSENGER'S TICKET(S) WILL BE REFUNDED. THE REFUND WILL BE MADE TO THE PURCHASER OF THE TICKET(S). THE FORM OF REFUND WILL BE THE SAME FORM USED AS PAYMENT. THE REFUND WILL BE BASED ON THE TOTAL VALUE OF THE TICKET(S). FOR COMPLETE CONDITIONS ON REFUNDS SEE RULE 90.
- (6) WHEN A REFUND IS REQUESTED AS A RESULT OF A SCHEDULE IRREGULARITY, THE PASSENGER MUST SUBMIT THE UNUSED PORTIONS OF HIS/HER TICKET(S) TO THE CARRIER BY NO LATER THAN 30 DAYS AFTER THE VALIDITY SHOWN ON THE TICKET(S).
- (G) RIGHT TO CARE  
EXCEPT AS OTHERWISE PROVIDED IN OTHER APPLICABLE FOREIGN LEGISLATION, IN ADDITION TO THE PROVISIONS OF THIS RULE, IN CASE OF SCHEDULED IRREGULARITY WITHIN THE CARRIER'S CONTROL A PASSENGER WILL BE OFFERED THE FOLLOWING:
- (1) FOR A SCHEDULE IRREGULARITY LASTING LONGER THAN 4 HOURS, THE CARRIER WILL PROVIDE THE PASSENGER WITH A MEAL VOUCHER.
- (2) FOR A SCHEDULE IRREGULARITY LASTING MORE THAN 8



OUR COMPANY | BECOME A PARTNER

ENGLISH

EXPERIENCE SKYGREECE

BOOK YOUR TRIP

MANAGE YOUR BOOKINGS

BEFORE & DURING YOUR FLIGHT

**17 AUG**

IMPORTANT MESSAGE TO ALL PASSENGERS TRAVELLING BETWEEN AUGUST 17 AND AUGUST 20, 2015

DUE TO OPERATIONAL CONSIDERATIONS, SKYGREECE AIRLINES NEEDS TO DELAY ALL FLIGHTS.

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BUDAPEST- THESSALONIKI FLIGHT UPDATE:

*GW 428 - TORONTO - BUDAPEST - THESSALONIKI: WEDNESDAY AUGUST 19*

THIS FLIGHT IS NOW RESCHEDULED FOR SATURDAY AUGUST 22, DEPARTING AT 17:55 AND ARRIVING IN BUDAPEST ON SUNDAY AUGUST 23 AT 09:10 AND IN THESSALONIKI ON SUNDAY AUGUST 23 AT 12:40

*GW427 - THESSALONIKI - BUDAPEST - TORONTO: THURSDAY AUGUST 20*

THIS FLIGHT IS NOW RESCHEDULED FOR SUNDAY AUGUST 23, DEPARTING FROM THESSALONIKI AT 14:40 AND DEPARTING FROM BUDAPEST AT 16:10 - ARRIVING IN TORONTO AT 19:45

ZAGREB - ATHENS FLIGHT UPDATE:

*GW 426 - TORONTO - ZAGREB - ATHENS: MONDAY AUGUST 17*

THIS FLIGHT IS NOW RESCHEDULED FOR THURSDAY AUGUST 20, DEPARTING AT 14:30 AND ARRIVING IN ZAGREB ON FRIDAY AUGUST 21 AT 07:25 AND IN ATHENS ON FRIDAY AUGUST 21, AT 10:40

*GW425 - ATHENS - ZAGREB - TORONTO: WEDNESDAY AUGUST 19*

THIS FLIGHT IS NOW RESCHEDULED FOR FRIDAY AUGUST 21, DEPARTING FROM ATHENS AT 12:40 AND DEPARTING FROM ZAGREB AT 15:10 - ARRIVING IN TORONTO AT 17:45

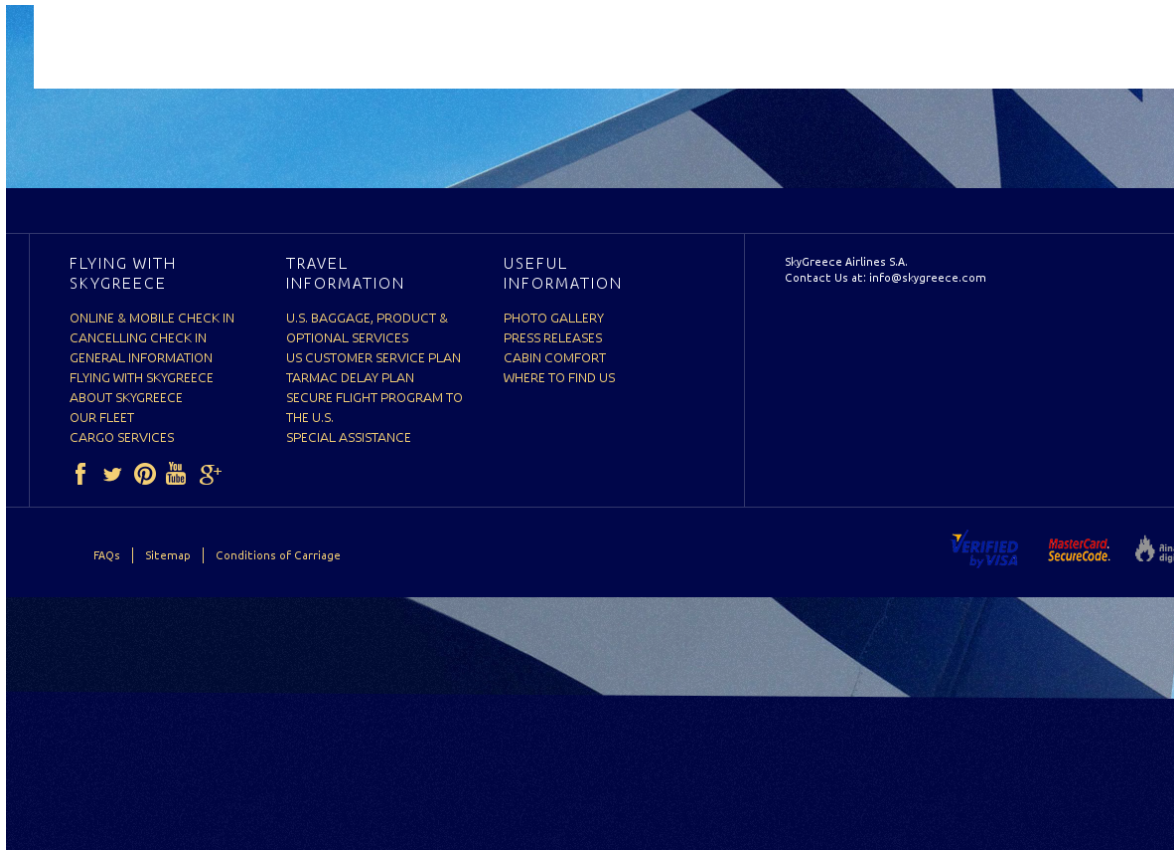
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IMPORTANT NOTICE TO ALL PASSENGERS

PLEASE CONSULT OUR WEBSITE OR AIRPORT WEBSITE FOR THE LATEST INFORMATION AS DEPARTURE AND ARRIVAL TIME MAY VARY DUE TO THE EXTREMELY HIGH VOLUME OF FLIGHTS OPERATING AND DELAYED AT THIS TIME OF THE SEASON FROM ALL AIRPORTS IN EUROPE AND CANADA

TORONTO - MONTREAL - ATHENS ON SATURDAY AUGUST 22 AND ATHENS - MONTREAL - TORONTO ON SUNDAY AUGUST 23 ARE SCHEDULED TO DEPART ON TIME. ALL PASSENGERS SHOULD BE AT THE AIRPORT 3 HOURS BEFORE DEPARTURE.

YOU MAY REACH SKYGREECE AT: [wecare@skygreece.com](mailto:wecare@skygreece.com)

Or in Canada at 1-450-781-8585 / Toll Free at 1-855-781-8585 - In Europe at: +30 216 500 5500





## **Recording:**

**Automated message at SkyGreece Airlines'**

**Canadian telephone number**

**(August 27, 2015)**



**SkyGreece Airlines, S.A.**  
Athens, Greece

**For Immediate Release – August 27, 2015**

SkyGreece Airlines would like to apologize to all of its passengers who have been affected as a result of the Company's current operational crisis. The founders, managers and employees of SkyGreece care deeply about their passengers and have been working around the clock to resolve the problem.

Shortly after launching scheduled international service in May, SkyGreece suffered financial setbacks as a result of the Greek economic crisis. In spite of the resulting immediate and dramatic reduction in ticket sales, the Company's founders have worked tirelessly to maintain scheduled service.

Unfortunately, as a result of recent technical issues, the Company is now facing a system-wide multi-day delay and significant additional expenses.

As a result, SkyGreece management regrets to announce that it must temporarily cease all operations. The Company expects to resume operations soon.

Passengers should contact their travel agent to arrange for alternate travel and/or accommodations.

**Passenger rights under EC Regulation No 261/2004:**

*SkyGreece Airlines*, its subsidiaries and affiliates make every effort to operate to their published schedules. There are occasions, however, where it is not possible to do so and a flight may be delayed or cancelled. Should this happen, EC Regulation No 261/2004 provides passengers with specific rights. This law is applicable to all passengers departing from an airport within the EU and to all passengers travelling into an EU Member State on an EU carrier. EC Regulation No. 261/2004 explains how to claim compensation, a refund or reimbursement under this law with respect to flights operated by SkyGreece Airlines S.A.

This is **Exhibit “G”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature



September 2, 2015

Case No. 15-03972

**BY E-MAIL:**

Debra.McKenna@paliareroland.com

Ken.Rosenberg@paliareroland.com

Max.Starnino@paliareroland.com

SkyGreece Airlines S.A.  
c/o Paliare Roland Rosenberg Rothstein LLP

Dear Sir/Madam:

**Re: SkyGreece Airlines, S.A. (SkyGreece) – Cessation of Operations**

The Canadian Transportation Agency (Agency) notes that, on August 28, 2015, SkyGreece, S.A. (SkyGreece) posted a corporate press release on its website announcing that it must temporarily cease all operations:

[http://www.skygreece.com/en/OurCompany/PressRoom/CorporatePressReleases/2015/SkyGreeceImportantInfo\\_28\\_8](http://www.skygreece.com/en/OurCompany/PressRoom/CorporatePressReleases/2015/SkyGreeceImportantInfo_28_8).

Following this announcement, there was widespread media coverage and expressions of concern for passengers affected by flights cancelled by SkyGreece. In addition, 15 persons affected by flights cancelled by SkyGreece have filed air travel complaints forms through the Agency's website under the non-adjudicative alternative dispute resolution process established by the *Canada Transportation Act*, S.C. 1996, c. 10, as amended (CTA). Finally, the Agency notes that there is also a separate application concerning related matters: *Lukács v. SkyGreece Airlines, S.A.*

**MANDATE OF THE AGENCY**

The Agency is responsible for ensuring that air carriers abide by the terms and conditions of their respective tariffs, as required by *Air Transportation Regulations*, SOR/88-58 (ATR):

110.(4) Where a tariff is filed containing the date of publication and the effective date and is consistent with these Regulations and any orders of the Agency, the tolls and terms and conditions of carriage in the tariff shall, unless they are rejected, disallowed or suspended by the Agency or unless they are replaced by a new tariff, take effect on the date stated in the tariff, and the air carrier shall on and after that date charge the tolls and apply the terms and conditions of carriage specified in the tariff.

...

113.1 If an air carrier that offers an international service fails to apply the fares, rates, charges or terms and conditions of carriage set out in the tariff that applies to that service, the Agency may direct it to

- (a) take the corrective measures that the Agency considers appropriate; and
- (b) pay compensation for any expense incurred by a person adversely affected by its failure to apply the fares, rates, charges or terms and conditions set out in the tariff.

Furthermore, section 26 of the CTA provides as follows:

The Agency may require a person to do or refrain from doing any thing that the person is or may be required to do or is prohibited from doing under any Act of Parliament that is administered in whole or in part by the Agency.

To avoid a multitude of proceedings, and given the seriousness and urgency of the situation, the Agency, of its own motion, has decided to examine whether SkyGreece has failed to apply the terms and conditions of carriage set out in its applicable tariff, pursuant to section 113.1 of the ATR.

## **ISSUE**

Did SkyGreece properly apply the terms and conditions set out in its international tariff as required by subsection 110(4) of the ATR?

## **ANALYSIS AND FINDINGS**

The terms and conditions of carriage of SkyGreece's tariff on file with the Agency and applicable to this situation are set out in the Appendix to this Decision.

In its press release dated August 28, 2015, SkyGreece recognizes that passengers have been affected by its decision to temporarily suspend all operations. However, SkyGreece refers passengers to their travel agents to arrange for alternate travel and/or accommodations.

It appears from this press release that SkyGreece may not have complied with its tariff, which requires SkyGreece to present passengers with specified options. The tariff does not permit SkyGreece to simply refer passengers to their travel agents. Indeed, it is possible that passengers may not even have reserved their travel through travel agents.

Given that SkyGreece cannot offer passengers the choice to travel on another of its scheduled flights or on a different routing, as it has temporarily ceased all operations, it must, according to its tariff, offer passengers other options, including transportation using the services of another carrier or refunding passengers' tickets. Based on the complaints received by the Agency, SkyGreece appears not to have made such options available.

In light of the above evidence, the Agency is of the preliminary opinion that SkyGreece has contravened subsection 110(4) of the ATR in failing to properly apply the terms and conditions set out in its international tariff, as required by subsection 110(4) of the ATR.

**DIRECTION TO SHOW CAUSE**

The Agency provides SkyGreece with the opportunity to show cause why the Agency should not find that SkyGreece did not properly apply the terms and conditions set out in its international tariff, as required by subsection 110(4) of the ATR, and to order SkyGreece to:

- take immediate corrective measures to properly apply its international tariff for all passengers affected by schedule irregularities, including
  - Informing passengers of their options and providing them with a copy of the tariff;
  - Implementing forthwith the option chosen by passengers;
  - Establishing a 1-800 help line where passengers can be directed to a person who can accept and address their claim; and
  - Updating its website to fully explain the measures put in place to address the situation.
- report to the Agency, within 5 business days, on the evolution of the situation and the measures taken by SkyGreece to comply with its international tariff applicable to this situation and with this Order.

SkyGreece will have until 5 p.m. Gatineau time on Thursday, September 3, 2015 to provide its response to this Show Cause.

SkyGreece is reminded that a failure to respond to this Show Cause will result in the Agency finalizing its preliminary finding that SkyGreece did not properly apply the terms and conditions set out in its international tariff, as required by subsection 110(4) of the ATR, and issuing the order described above.

Any questions or other correspondence in regards to this matter should refer to Case No. 15-03972 and be filed through the Agency’s Secretariat e-mail address: [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca)

**BY THE AGENCY:**

(signed)

---

Scott Streiner  
Member

RULE

**SECTION I - GENERAL RULES**

C85

IN SCHEDULES, DELAYS AND CANCELLATIONS OF FLIGHTS (Continued)

(E) IN THE EVENT OF A SCHEDULE IRREGULARITY, WITHIN THE CARRIER'S CONTROL, THE CARRIER WILL PRESENT THE PASSENGER WITH THE FOLLOWING OPTIONS:

- (1) Carry the passenger to the destination named on the ticket, or applicable portion thereof, within a reasonable amount of time, on another of its passenger aircraft or in a different class of service on which space is available, without additional charge, regardless of the class of service in which the passenger was booked; or,
- (2) Reroute the passenger to the destination named on the ticket, or applicable portion thereof, on its own transportation services within a reasonable amount of time. If the fare for the revised routing or class of service is higher than the fare paid by the passenger, the carrier will require no additional payment from the passenger. If the fare for the revised routing is in a lower class of service, a refund will be made for the difference in fare. The refund will be made to the purchaser of the ticket. The form of refund will be the same as the form of payment used for the ticket. The refund will be based on the value of the ticket; or
- (3) Reroute the passenger to the destination named on the ticket, or applicable portion thereof, on another air carrier's transportation services, including interline or, where possible and necessary, non-interline carriers, within a reasonable amount of time. If the fare for the revised routing or class of service is higher than the fare paid by the passenger, the carrier will require no additional payment from the passenger. If the fare for the revised routing is in a lower class of service, a refund will be made for the difference in fare. The refund will be made to the purchaser of the ticket. The form of refund will be the same as the form of payment used for the ticket. The refund will be based on the value of the ticket; or,
- (4) If the passenger chooses to no longer travel as the schedule irregularity results in the loss of purpose of travel or if the carrier is unable to perform the option stated in Rule 85, paragraph (E)(1), (2) and (3) above within a reasonable amount of time, the carrier will transport the passenger to the point of origin named on the ticket and refund the full amount of the ticket in accordance with Rule 90, refunds, irrespective if travel has commenced, or subject to passenger's agreement, offer a travel voucher for future travel in the same amount;
- (5) Otherwise, should the alternate transportation proposed by the carrier not meet the passenger's satisfaction, the carrier will offer a refund equal to the fare and charge paid. The refund will be made to the purchaser of the ticket(s). The form of refund will be the same form used as payment of the ticket(s). For complete conditions on refunds see Rule 90.
- (6) Nothing in the above shall limit or reduce the passenger's right, if any, to claim damages, if any, under the applicable convention, or under the law when neither convention applies.
- (7) In addition to the above, the carrier will always consider the needs of the passenger on a case by case basis and take into account all known circumstances to avoid or mitigate the damages caused by the schedule irregularity within the carrier's control.

(F) IN THE EVENT OF A SCHEDULE IRREGULARITY, NOT WITHIN THE CARRIER'S CONTROL (E.G. FORCE MAJEURE), THE CARRIER WILL PROVIDE THE FOLLOWING:

- (1) The carrier will offer the passenger the choice to travel on another of its scheduled flights on the same route as the passenger was originally ticketed or to travel on a different routing operated by the carrier to the same ticketed destination.
- (2) If these options are not available, the carrier will offer to transport the passenger on the same route as he/she was originally ticketed or on a different route operated by the services of another carrier with whom the original air carrier has a commercial agreement and provided space is available.
- (3) Should the fare for the alternate transportation proposed by the carrier be more expensive, there will be no additional cost to the passenger.
- (4) Should the fare for the alternate transportation proposed by the carrier be less expensive, a refund will be made to the purchaser of the ticket(s). The form of refund will be the same form used as payment of the ticket(s). The refund will be based on the value of the ticket(s). For complete conditions on refunds see Rule 90.
- (5) Should the alternate transportation proposed by the carrier not meet the passenger's satisfaction, the unused portion of the passenger's ticket(s) will be refunded. The refund will be made to the purchaser of the ticket(s). The form of refund will be the same form used as payment. The refund will be based on the total value of the ticket(s). For complete conditions on refunds see Rule 90.
- (6) When a refund is requested as a result of a schedule irregularity, the passenger must submit the unused portions of his/her ticket(s) to the carrier by no later than 30 days after the validity shown on the ticket(s).

(Continued on next page)

For unexplained abbreviations, reference marks and symbols see IPGT-1, C.A.B. NO. 581, NTA(A) NO. 373.

ISSUED: November 3, 2014

EFFECTIVE: December 18, 2014

Airline Tariff Publishing Company, Agent  
INTERNATIONAL PASSENGER RULES AND FARES TARIFF  
NO. GW-1

2nd Revised Page GW-36  
Cancels 1st Revised Page GW-36

RULE SECTION I - GENERAL RULES

85 SCHEDULES, DELAYS AND CANCELLATIONS OF FLIGHTS

(A) SCHEDULES

C †(C)(1) Times shown in timetables or elsewhere are approximate and not guaranteed and form no part of the contract of carriage. The carrier will not be responsible for errors or omissions either in timetables or other representation of schedules. No Employee, agent or representative of the carrier is authorized to bind the carrier by any statement or representation regarding the dates or times of departure or arrival, or of the operation of the flight.

(2) The flight schedules printed on the ticket, form an integral part of the contract of carriage but are subject to changes at any time for reasons beyond the control of the carrier.

(3) The carrier will not guarantee and will not be held liable for cancellations or changes to flight times that appear on passengers' tickets due to force majeure. However, in the case of international transportation, a passenger may invoke the provisions of the convention regarding liability in the case of passenger delay. (See Rule 55 - damage as a result of delays and cancellations)

C †(C)(4) In the event of a schedule change that is not convenient for the passenger and/or if the carrier is not in a position to offer a more suitable reservation, the passenger may benefit from a refund, as stated in Rule 90 refunds paragraph (B), involuntary refunds.

(5) In order to be contacted in the event of a change in the scheduled flights as they appear on the ticket, †(C)it is the passenger's responsibility to provide the carrier with their contact details.

(6) It is always recommended that the passenger communicate with the carrier either by telephone, electronic device or via the carrier's web site or to refer to airport terminal displays to ascertain the flight's status and departure time.

(B) CANCELLATIONS, REROUTING, DELAYS

(1) The Carrier will take all reasonable measures to avoid delay in carrying the passenger and his/her baggage. In order to prevent a flight cancellation or delay, Carrier may arrange for a flight to be operated on its behalf by an alternative carrier and/or aircraft and/or other means of transport.

(2) Except as otherwise provided for in the Convention (including the Montreal Convention of May 28, 1999) and/or applicable (European) law EC 261/2004, and provided that a passenger has a single Contract of Carriage (as defined by Convention) and a reservation;

(3) The passenger will be entitled to retain the free baggage allowance applicable to the fare he/she originally purchased regardless of the alternate transportation proposed by the carrier due to a schedule irregularity.

(4) In the case of schedule irregularities, the carrier will give priority for assistance to any person with a disability and unaccompanied minors.

(C) PASSENGER OPTIONS - RE-ROUTING OR REFUND

(1) A ticket refund, in whole or in part, will take place in accordance with the conditions defined in the ticket's fare conditions, inclusive of the relevant applicable regulations.

(2) A ticket refund, if authorized by the corresponding fare conditions, will be paid on the basis of fare including tax paid for the ticket.

(3) Request for a ticket refund must be submitted to the issuer of the ticket (the carrier or authorized agent, as applicable).

(D) THE CARRIER WILL REFUSE TO GRANT A TICKET REFUND:

(1) If the request is made after expiration of the ticket's validity period.

(2) In the case where the passenger is not admitted by the authorities of the destination point, agreed stopping place or stopover, and if the passenger was returned to his/her departure point or to any other destination for this reason.

(3) For a stolen, forged or counterfeit ticket.

(4) If the passenger did not comply with the conditions as stated in Rule 70 - checkin and boarding times.

(5) If the passenger is refused carriage by the carrier pursuant to Rule 25 (A).

(6) Refunds are subject to applicable regulations in the country in which the ticket was originally purchased and/or to applicable regulations in the country in which the refund must be paid.

(Continued on next page)

For unexplained abbreviations, reference marks and symbols see IPGT-1, C.A.B. NO. 581, NTA(A) NO. 373.

ISSUED: January 29, 2015	EFFECTIVE: March 15, 2015	(Except as Noted)
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† - Effective January 30, 2015 and issued on not less than one (1) day's notice under NTA(A) Special Permission No. 96345.



Airline Tariff Publishing Company, Agent  
**INTERNATIONAL PASSENGER RULES AND FARES TARIFF**  
 NO. GW-1 Original Page GW-38

RULE	<b>SECTION I - GENERAL RULES</b>
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C85	<p><u>IRREGULARITIES, DELAYS AND CANCELLATIONS OF FLIGHTS</u> (Continued)</p> <p><b>(G) RIGHT TO CARE</b>                  Except as otherwise provided in other applicable foreign legislation, in addition to the provisions of this rule, in case of scheduled irregularity within the carrier's control a passenger will be offered the following:</p> <ol style="list-style-type: none"> <li>(1) For a schedule irregularity lasting longer than 4 hours, the carrier will provide the passenger with a meal voucher.</li> <li>(2) For a schedule irregularity lasting more than 8 hours or overnight, the carrier will provide overnight hotel accommodation and airport transfers for the passenger. The carrier is not obligated to provide overnight accommodation for passengers at the first airport of departure appearing on the ticket.</li> <li>(3) If passengers are already on the aircraft when a delay occurs, the carrier will offer drinks and snacks if it is safe, practical and timely to do so. If the delay exceeds ninety (90) minutes and circumstances permit, the carrier will offer the passenger the option of disembarking from the aircraft until it is time to depart.</li> </ol>
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For unexplained abbreviations, reference marks and symbols see IPGT-1, C.A.B. NO. 581, NTA(A) NO. 373.

ISSUED: November 3, 2014	EFFECTIVE: December 18, 2014
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This is **Exhibit “H”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature



September 1, 2015

Case No. 15-03912

**BY E-MAIL:**

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SkyGreece Airlines S.A.  
c/o Paliare Roland Rosenberg Rothstein LLP

Dr. Gábor Lukács

Dear Sir/Madam:

**Re: Request by Dr. Gábor Lukács for an expedited process for his application, dated August 28, 2015, against SkyGreece Airlines, S.A.**

**BACKGROUND**

On Friday, August 28, 2015, Dr. Gábor Lukács (Dr. Lukács) filed an application with the Canadian Transportation Agency (the Agency). He alleges that SkyGreece Airlines, S.A. (SkyGreece) ceased operations, stranding several hundred passengers, and that it has failed to apply the terms and conditions set out in Rules 85(E) and 85(F) of its International Tariff, governing the rights of passengers stranded as a result of flight cancellations. Dr. Lukács is requesting that the Agency order SkyGreece, pursuant to paragraph 113.1(a) of the *Air Transportation Regulations*, SOR/88-58 (ATR), to rebook all its stranded passengers on flights of other air carriers forthwith, and to provide security in the amount of CAD\$8,700,000 for anticipated claims of passengers.

Along with his application, Dr. Lukács filed a requested for an expedited process, pursuant to subsection 28(1) of the *Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings)*, SOR/2014-10 (Dispute Adjudication Rules).

On Friday, August 28, 2015, the Agency issued Decision LET-C-A-53-2015 (the Decision), which required SkyGreece to file a response to Dr. Lukács's request for an expedited process by 5 p.m. Gatineau time on Monday, August 31, 2015, failing which an expedited process would automatically be applied.

On Monday, August 31, 2015, SkyGreece filed a response to Dr. Lukács's request for an expedited process.

On Monday, August 31, 2015, Dr. Lukács filed a reply to SkyGreece's response.

On Monday, August 31, 2015, Dr. Lukács also filed a request for written questions and production of documents, pursuant to section 24 of the Dispute Adjudication Rules, and a request that the Agency vary section 24 to require SkyGreece to answer by 5 p.m. Gatineau time on Wednesday September 2, 2015.

## **POSITIONS OF THE PARTIES**

### **Application by Dr. Lukács**

Dr. Lukács requests that the Agency apply an expedited process for the following reasons. First, he argues that neither the application nor the applicable law or the remedies sought are complex. Second, he submits that his application is urgent: stranded passengers will suffer further losses if SkyGreece continues to ignore its obligation to reprotect stranded passengers on other air carriers, and SkyGreece may pre-empt any attempt of the travelling public to enforce its rights pursuant to the Montreal Convention, paragraph 113.1(b) of the ATR, and the contract of carriage by disposing of its assets.

### **Response by SkyGreece**

SkyGreece objects to the application of an expedited process for the following reasons.

First, SkyGreece submits that its decision to temporarily suspend its operations was a difficult one and that it appreciates the tremendous impact its operational difficulties have had on passengers. SkyGreece also submits that it is in the process of consulting with its stakeholders with a view to restructuring its business and operations in a way that will most benefit passengers and other stakeholders.

Second, SkyGreece disputes Dr. Lukács's assertions and argues that a substantive response to the issues raised in the application is complex and will be a time-consuming process, particularly given the context of Greece's broader economic crisis, the impact of that crisis on SkyGreece's operations, and the voluminous request for information sought by Dr. Lukács.

Third, SkyGreece asserts that Dr. Lukács has raised no safety concerns, and that there is no compelling argument in favour of an expedited process. In particular, SkyGreece disputes that Dr. Lukács has provided any evidence in support of his allegation that SkyGreece will deal with its assets in a manner that is unfairly prejudicial to its stakeholders, including passengers. Rather, SkyGreece submits that it is committed to resolving its current operational difficulties in a manner that is consistent with all applicable laws.

Finally, SkyGreece argues that resolution of the application and its operational difficulties will require careful analysis, consultation with all of its stakeholders, and proceeding in a manner that

allows a full response by all stakeholders in accordance with principles of natural justice and the objects of the governing legislation.

### **Reply by Dr. Lukács**

With respect to procedure, Dr. Lukács argues that SkyGreece did not file a proper response for the following reasons. First, counsel for SkyGreece was not duly retained, but rather in the process of being retained, when he submitted SkyGreece's response. Second, Dr. Lukács was not provided with a copy of SkyGreece's response by 5 p.m. Gatineau time on Monday, August 31, 2015. Therefore, as no proper response was filed within the time lines set out in the Decision, Dr. Lukács asserts that an expedited process has been automatically applied.

With respect to substance, Dr. Lukács argues that SkyGreece's response does not indicate that it would suffer any prejudice if an expedited process were granted. Furthermore, he submits that the interests of SkyGreece's shareholders and/or creditors is not relevant to his application, as paragraph 113.1(a) of the ATR only protects the interests of the traveling public. In addition, Dr. Lukács submits that SkyGreece has an obligation under subsection 110(4) of the ATR to apply its tariff, irrespective of consultations with stakeholders or the economic crisis in Greece. Dr. Lukács also contends that his written questions and request for production are extremely simple; can easily be answered within 24 hours; and SkyGreece has not explained why it would face any difficulty in answering.

By contrast, Dr. Lukács argues that the traveling public would suffer significant and/or irreparable prejudice if an expedited process were not granted. He submits that the obvious and undisputed facts, of which the Agency may take judicial notice, are that more than a thousand passengers have been stranded so far as a result of SkyGreece Airlines' cessation of operations; the number of stranded passengers will continue to grow daily until the Agency orders SkyGreece to apply its tariff; and, ensuring that stranded passengers can return to their homes is of paramount urgency. Dr. Lukács submits that the Agency must make a decision before SkyGreece Airlines takes steps that render the application moot in part or in its entirety by disposing of its assets: a possibility supported by SkyGreece's murky corporate structure and lack of transparency. Finally, Dr. Lukács submits that SkyGreece's conduct towards its stranded passengers demonstrates that SkyGreece is not committed to fulfilling its obligations and is blatantly disregarding the law.

## **ANALYSIS**

### **Objection to SkyGreece's response**

With respect to Dr. Lukács's argument that a proper reply was not filed within the timelines set out in the Decision, the Agency accepts that, given the extremely short deadlines imposed by the Decision, it was reasonable for counsel for SkyGreece to respond while in the process of being retained.

Furthermore, although Dr. Lukács was not provided with a copy of SkyGreece's response by 5 p.m. Gatineau time on Monday, August 31, 2015, as required by the Decision, SkyGreece did

file a copy with the Agency before 5 p.m. Gatineau time on Monday, August 31, 2015, and Dr. Lukács was forwarded a copy on the same day at 7:16 p.m. Furthermore, the Agency notes that Dr. Lukács was still able to file his reply by 10:37 p.m. that day. Accordingly, it does not appear that Dr. Lukács experienced any prejudice as a result of the delay.

Therefore, given that the delay was minor and that Dr. Lukács suffered no prejudice, and in the interests of the most expeditious determination of this proceeding and the promotion of justice, the Agency grants SkyGreece an extension of time to file its response, pursuant to sections 4, 5, and 6 of the Dispute Adjudication Rules, such that its response is considered to have been filed on time.

### **Standing**

In its response, SkyGreece identified that the standing of Dr. Lukács to bring the application may be a live issue for the Agency to consider. Dr. Lukács also made submissions that may be relevant to the issue of standing in his reply.

However, the current matter before the Agency is whether an expedited process should be applied to Dr. Lukács's application. Therefore, the Agency will not address the issue of standing at this time. Rather, the Agency will consider the submissions of the parties on the issue of standing, as well as any submissions the parties may make on this issue in the future, in the context of the main application.

### **Whether to apply an expedited process**

Pursuant to subsection 28(2) of the Dispute Adjudication Rules:

The party filing the request must demonstrate to the satisfaction of the Agency that adherence to the time limits set out in these Rules would cause them financial or other prejudice.

Therefore, the burden is on Dr. Lukács to justify that an expedited process is required in this matter. He has not met this burden.

As SkyGreece points out, Dr. Lukács has provided no evidence that there is an imminent risk that SkyGreece will deal with its assets in a manner that would deprive passengers of their rights to recourse.

Moreover, despite requesting an expedited process, Dr. Lukács has introduced substantial complexity into an already complex matter by requiring SkyGreece to provide responses to extensive written questions and to produce documents. The Agency agrees with SkyGreece that this will prove to be a time-consuming endeavour, particularly in view of the context in which it is now operating. In order to satisfy Dr. Lukács's request for more information, and to ensure that the issues before the Agency are fully and fairly adjudicated, an expedited process, as described in the Decision, is not possible.

For these same reasons, the Agency denies Dr. Lukács's request that the Agency vary section 24 of the Dispute Adjudication Rules to require SkyGreece to answer his request for written questions and production of documents by 5 p.m. Gatineau time on Wednesday September 2, 2015.

However, in view of the importance of ensuring that SkyGreece is properly applying its tariff for passengers affected by its temporary suspension of operations, the Agency will abridge the standard timelines for dispute proceedings.

Accordingly, SkyGreece will have until September 16, 2015 to provide its answer. Dr. Lukács will then have until September 21, 2015 to provide his reply.

With respect to the written questions and production of documents filed by Dr. Lukács, SkyGreece will have until September 8, 2015 to file a complete response to each question or the requested documents, or object to a question or producing a document.

**Obligation to apply tariff**

Although Dr. Lukács did not justify the application of an expedited process in this case, the Agency considers this matter to be very serious and reminds SkyGreece that it must apply the terms and conditions of its tariff at all times. SkyGreece has a statutory obligation, pursuant to subsection 110(4) and section 113.1 of the ATR, to apply the fares, rates, charges or terms and conditions of carriage set out in its tariff:

110.(4) Where a tariff is filed containing the date of publication and the effective date and is consistent with these Regulations and any orders of the Agency, the tolls and terms and conditions of carriage in the tariff shall, unless they are rejected, disallowed or suspended by the Agency or unless they are replaced by a new tariff, take effect on the date stated in the tariff, and the air carrier shall on and after that date charge the tolls and apply the terms and conditions of carriage specified in the tariff.

...

113.1 If an air carrier that offers an international service fails to apply the fares, rates, charges or terms and conditions of carriage set out in the tariff that applies to that service, the Agency may direct it to

- (a) take the corrective measures that the Agency considers appropriate; and
- (b) pay compensation for any expense incurred by a person adversely affected by its failure to apply the fares, rates, charges or terms and conditions set out in the tariff.

The terms and conditions of carriage of SkyGreece's tariff on file with the Agency and applicable to this case are set out in the Appendix to this decision.

**ORDER**

SkyGreece has until September 16, 2015 to provide its answer and Dr. Lukács will then have until September 21, 2015 to provide his reply.

With respect to the written questions and production of documents filed by Dr. Lukács, SkyGreece has until September 8, 2015 to file a complete response to each question or the requested documents, or object to a question or producing a document.

Any questions or other correspondence in regards to this matter should refer to Case No. 15-03912 and be filed through the Agency's Secretariat e-mail address: [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca)

**BY THE AGENCY:**

(signed)

\_\_\_\_\_  
Raymon J. Kaduck  
Member

(signed)

\_\_\_\_\_  
Stephen Campbell  
Member

**Documents must be sent to the Secretary of the Canadian Transportation Agency.**

By e-mail

[secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca)

By fax

819-953-5253

By courier or hand delivery

Secretary  
Canadian Transportation Agency  
15 Eddy Street  
17<sup>th</sup> Floor, Mailroom  
Gatineau, Quebec  
Canada J8X 4B3

Due to the time limits involved and the widespread availability of technology, filings by ordinary mail will no longer be accepted by the Agency unless, in exceptional circumstances, a person has requested and received approval from the Agency to use ordinary mail. In those instances, extended time limits will be established for the exchange of pleadings and the processing of the case will take longer.



RULE SECTION I - GENERAL RULES

C85 IN SCHEDULES, DELAYS AND CANCELLATIONS OF FLIGHTS (Continued)

(E) IN THE EVENT OF A SCHEDULE IRREGULARITY, WITHIN THE CARRIER'S CONTROL, THE CARRIER WILL PRESENT THE PASSENGER WITH THE FOLLOWING OPTIONS:

- (1) Carry the passenger to the destination named on the ticket, or applicable portion thereof, within a reasonable amount of time, on another of its passenger aircraft or in a different class of service on which space is available, without additional charge, regardless of the class of service in which the passenger was booked; or,
- (2) Reroute the passenger to the destination named on the ticket, or applicable portion thereof, on its own transportation services within a reasonable amount of time. If the fare for the revised routing or class of service is higher than the fare paid by the passenger, the carrier will require no additional payment from the passenger. If the fare for the revised routing is in a lower class of service, a refund will be made for the difference in fare. The refund will be made to the purchaser of the ticket. The form of refund will be the same as the form of payment used for the ticket. The refund will be based on the value of the ticket; or
- (3) Reroute the passenger to the destination named on the ticket, or applicable portion thereof, on another air carrier's transportation services, including interline or, where possible and necessary, non-interline carriers, within a reasonable amount of time. If the fare for the revised routing or class of service is higher than the fare paid by the passenger, the carrier will require no additional payment from the passenger. If the fare for the revised routing is in a lower class of service, a refund will be made for the difference in fare. The refund will be made to the purchaser of the ticket. The form of refund will be the same as the form of payment used for the ticket. The refund will be based on the value of the ticket; or,
- (4) If the passenger chooses to no longer travel as the schedule irregularity results in the loss of purpose of travel or if the carrier is unable to perform the option stated in Rule 85, paragraph (E)(1), (2) and (3) above within a reasonable amount of time, the carrier will transport the passenger to the point of origin named on the ticket and refund the full amount of the ticket in accordance with Rule 90, refunds, irrespective if travel has commenced, or subject to passenger's agreement, offer a travel voucher for future travel in the same amount;
- (5) Otherwise, should the alternate transportation proposed by the carrier not meet the passenger's satisfaction, the carrier will offer a refund equal to the fare and charge paid. The refund will be made to the purchaser of the ticket(s). The form of refund will be the same form used as payment of the ticket(s). For complete conditions on refunds see Rule 90.
- (6) Nothing in the above shall limit or reduce the passenger's right, if any, to claim damages, if any, under the applicable convention, or under the law when neither convention applies.
- (7) In addition to the above, the carrier will always consider the needs of the passenger on a case by case basis and take into account all known circumstances to avoid or mitigate the damages caused by the schedule irregularity within the carrier's control.

(F) IN THE EVENT OF A SCHEDULE IRREGULARITY, NOT WITHIN THE CARRIER'S CONTROL (E.G. FORCE MAJEURE), THE CARRIER WILL PROVIDE THE FOLLOWING:

- (1) The carrier will offer the passenger the choice to travel on another of its scheduled flights on the same route as the passenger was originally ticketed or to travel on a different routing operated by the carrier to the same ticketed destination.
- (2) If these options are not available, the carrier will offer to transport the passenger on the same route as he/she was originally ticketed or on a different route operated by the services of another carrier with whom the original air carrier has a commercial agreement and provided space is available.
- (3) Should the fare for the alternate transportation proposed by the carrier be more expensive, there will be no additional cost to the passenger.
- (4) Should the fare for the alternate transportation proposed by the carrier be less expensive, a refund will be made to the purchaser of the ticket(s). The form of refund will be the same form used as payment of the ticket(s). The refund will be based on the value of the ticket(s). For complete conditions on refunds see Rule 90.
- (5) Should the alternate transportation proposed by the carrier not meet the passenger's satisfaction, the unused portion of the passenger's ticket(s) will be refunded. The refund will be made to the purchaser of the ticket(s). The form of refund will be the same form used as payment. The refund will be based on the total value of the ticket(s). For complete conditions on refunds see Rule 90.
- (6) When a refund is requested as a result of a schedule irregularity, the passenger must submit the unused portions of his/her ticket(s) to the carrier by no later than 30 days after the validity shown on the ticket(s).

(Continued on next page)

For unexplained abbreviations, reference marks and symbols see IPGT-1, C.A.B. NO. 581, NTA(A) NO. 373.

ISSUED: November 3, 2014

EFFECTIVE: December 18, 2014

Airline Tariff Publishing Company, Agent  
INTERNATIONAL PASSENGER RULES AND FARES TARIFF  
NO. GW-1

2nd Revised Page GW-36  
Cancels 1st Revised Page GW-36

RULE SECTION I - GENERAL RULES

85 SCHEDULES, DELAYS AND CANCELLATIONS OF FLIGHTS

(A) SCHEDULES

C †(C)(1) Times shown in timetables or elsewhere are approximate and not guaranteed and form no part of the contract of carriage. The carrier will not be responsible for errors or omissions either in timetables or other representation of schedules. No Employee, agent or representative of the carrier is authorized to bind the carrier by any statement or representation regarding the dates or times of departure or arrival, or of the operation of the flight.

(2) The flight schedules printed on the ticket, form an integral part of the contract of carriage but are subject to changes at any time for reasons beyond the control of the carrier.

(3) The carrier will not guarantee and will not be held liable for cancellations or changes to flight times that appear on passengers' tickets due to force majeure. However, in the case of international transportation, a passenger may invoke the provisions of the convention regarding liability in the case of passenger delay. (See Rule 55 - damage as a result of delays and cancellations)

C †(C)(4) In the event of a schedule change that is not convenient for the passenger and/or if the carrier is not in a position to offer a more suitable reservation, the passenger may benefit from a refund, as stated in Rule 90 refunds paragraph (B), involuntary refunds.

C (5) In order to be contacted in the event of a change in the scheduled flights as they appear on the ticket, †(C)it is the passenger's responsibility to provide the carrier with their contact details.

(6) It is always recommended that the passenger communicate with the carrier either by telephone, electronic device or via the carrier's web site or to refer to airport terminal displays to ascertain the flight's status and departure time.

(B) CANCELLATIONS, REROUTING, DELAYS

(1) The Carrier will take all reasonable measures to avoid delay in carrying the passenger and his/her baggage. In order to prevent a flight cancellation or delay, Carrier may arrange for a flight to be operated on its behalf by an alternative carrier and/or aircraft and/or other means of transport.

(2) Except as otherwise provided for in the Convention (including the Montreal Convention of May 28, 1999) and/or applicable (European) law EC 261/2004, and provided that a passenger has a single Contract of Carriage (as defined by Convention) and a reservation;

(3) The passenger will be entitled to retain the free baggage allowance applicable to the fare he/she originally purchased regardless of the alternate transportation proposed by the carrier due to a schedule irregularity.

(4) In the case of schedule irregularities, the carrier will give priority for assistance to any person with a disability and unaccompanied minors.

(C) PASSENGER OPTIONS - RE-ROUTING OR REFUND

(1) A ticket refund, in whole or in part, will take place in accordance with the conditions defined in the ticket's fare conditions, inclusive of the relevant applicable regulations.

(2) A ticket refund, if authorized by the corresponding fare conditions, will be paid on the basis of fare including tax paid for the ticket.

(3) Request for a ticket refund must be submitted to the issuer of the ticket (the carrier or authorized agent, as applicable).

(D) THE CARRIER WILL REFUSE TO GRANT A TICKET REFUND:

(1) If the request is made after expiration of the ticket's validity period.

(2) In the case where the passenger is not admitted by the authorities of the destination point, agreed stopping place or stopover, and if the passenger was returned to his/her departure point or to any other destination for this reason.

(3) For a stolen, forged or counterfeit ticket.

(4) If the passenger did not comply with the conditions as stated in Rule 70 - checkin and boarding times.

(5) If the passenger is refused carriage by the carrier pursuant to Rule 25 (A).

(6) Refunds are subject to applicable regulations in the country in which the ticket was originally purchased and/or to applicable regulations in the country in which the refund must be paid.

(Continued on next page)

For unexplained abbreviations, reference marks and symbols see IPGT-1, C.A.B. NO. 581, NTA(A) NO. 373.

ISSUED: January 29, 2015	EFFECTIVE: March 15, 2015	(Except as Noted)
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† - Effective January 30, 2015 and issued on not less than one (1) day's notice under NTA(A) Special Permission No. 96345.

Airline Tariff Publishing Company, Agent  
**INTERNATIONAL PASSENGER RULES AND FARES TARIFF**  
 NO. GW-1 Original Page GW-38

RULE	<b>SECTION I - GENERAL RULES</b>
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C85	<p><u>UNISCHEDULES, DELAYS AND CANCELLATIONS OF FLIGHTS</u> (Continued)</p> <p><b>(G) RIGHT TO CARE</b>                  Except as otherwise provided in other applicable foreign legislation, in addition to the provisions of this rule, in case of scheduled irregularity within the carrier's control a passenger will be offered the following:</p> <ol style="list-style-type: none"> <li>(1) For a schedule irregularity lasting longer than 4 hours, the carrier will provide the passenger with a meal voucher.</li> <li>(2) For a schedule irregularity lasting more than 8 hours or overnight, the carrier will provide overnight hotel accommodation and airport transfers for the passenger. The carrier is not obligated to provide overnight accomodation for passengers at the first airport of departure appearing on the ticket.</li> <li>(3) If passengers are already on the aircraft when a delay occurs, the carrier will offer drinks and snacks if it is safe, practical and timely to do so. If the delay exceeds ninety (90) minutes and circumstances permit, the carrier will offer the passenger the option of disembarking from the aircraft until it is time to depart.</li> </ol>
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For unexplained abbreviations, reference marks and symbols see IPGT-1, C.A.B. NO. 581, NTA(A) NO. 373.

<b>ISSUED:</b> November 3, 2014	<b>EFFECTIVE:</b> December 18, 2014
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This is **Exhibit “I”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

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Signature



September 4, 2015

Case No. 15-03912

**BY E-MAIL:**

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SkyGreece Airlines S.A.  
c/o Paliare Roland Rosenberg Rothstein LLP

Dr. Gábor Lukács

Dear Sirs/Madam:

**Re: Application by Dr. Gábor Lukács, dated Friday, August 28, 2015, against SkyGreece Airlines, S.A. and Requests by SkyGreece Airlines, S.A. for dismissal and by Dr. Gábor Lukács for interim relief**

**BACKGROUND**

**Request for Dismissal**

On Tuesday, September 1, 2015, SkyGreece Airlines, S.A. (SkyGreece) filed a request to dismiss the application, on the grounds that Dr. Lukács does not have standing.

**Request for an Interim Order**

On Wednesday, September 2, 2015, Dr. Lukács filed a request for an interim order for the Agency to direct SkyGreece to arrange, at its own cost, for transportation on flights of other airlines for all of its stranded passengers within a reasonable amount of time, and no later than 24 hours.

**Show Cause Decision of the Agency**

On Wednesday, September 2, 2015, a different Panel of the Agency issued Decision No. LET-A-55-2015 (Show Cause). In the Show Cause, given the seriousness and urgency of the situation, that Panel of the Agency, to avoid a multitude of proceedings, of its own motion decided to examine whether SkyGreece has failed to apply the terms and conditions of carriage set out in its applicable tariff, pursuant to section 113.1 of the *Air Transportation Regulations*, SOR/88-58, as amended (ATR). In the Show Cause, that Panel of Agency noted the notice posted by SkyGreece that it was ceasing all operations temporarily and directing affected passengers to their travel agents to resolve any problems, as well as the fact that 15 persons affected by flights cancelled by SkyGreece have filed air travel complaints forms through the Agency's Web site under the non-adjudicative alternative dispute resolution process established by the *Canada Transportation Act*, S.C. 1996, c. 10, as amended (CTA).

## ISSUE

In light of the Show Cause issued by a different Panel of the Agency, should the application filed by Dr. Lukács against SkyGreece dated Friday, August 28, 2015, be stayed pending resolution of the Show Cause?

## JURISPRUDENCE APPLICABLE TO A STAY OF PROCEEDINGS

In *Mylan Pharmaceuticals ULC v. AstraZeneca Canada, Inc.*, [2011] F.C.J. No. 1607, the Federal Court of Appeal held as follows, at para. 5:

*\*This Court deciding not to exercise its jurisdiction until some time later.* When we do this, we are exercising a jurisdiction that is not unlike scheduling or adjourning a matter. Broad discretionary considerations come to bear in decisions such as these. There is a public interest consideration - the need for proceedings to move fairly and with due dispatch - but this is qualitatively different from the public interest considerations that apply when we forbid another body from doing what Parliament says it can do. As a result, the demanding tests prescribed in *RJR-MacDonald* do not apply here. This is not to say that this Court will lightly delay a matter. It all depends on the factual circumstances presented to the Court. In some cases, it will take much to convince the Court, for example where a long period of delay is requested or where the requested delay will cause harsh effects upon a party or the public. In other cases, it may take less.

The Court concluded as follows, at para. 14:

...we are to ask ourselves whether, in all the circumstances, the interests of justice support the appeal being delayed.

## ANALYSIS AND FINDINGS

Subsection 41(1) of the Dispute Adjudication Rules provides as follows:

The Agency may, at the request of a party, stay a dispute proceeding in any of the following circumstances:

- (a) a decision is pending on a preliminary question in respect of the dispute proceeding;
- (b) a decision is pending in another proceeding or before any court in respect of an issue that is the same as or substantially similar to one raised in the dispute proceeding;
- (c) a party to the dispute proceeding has not complied with a requirement of these Rules or with a procedural direction issued by the Agency;
- (d) the Agency considers it just and reasonable to do so.

Section 6 of the Dispute Adjudication Rules provides as follows:

The Agency may, at the request of a person, dispense with compliance with or vary any rule at any time or grant other relief on any terms that will allow for the just determination of the issues.

Section 5 of the Dispute Adjudication Rules provides as follows:

(1) These Rules are to be interpreted in a manner that facilitates the most expeditious determination of every dispute proceeding, the optimal use of Agency and party resources and the promotion of justice.

(2) Anything that may be done on request under these Rules may also be done by the Agency of its own initiative.

**Mandate of the Agency**

The Agency is responsible for ensuring that air carriers abide by the terms and conditions of their respective tariffs, as required by the ATR:

110.(4) Where a tariff is filed containing the date of publication and the effective date and is consistent with these Regulations and any orders of the Agency, the tolls and terms and conditions of carriage in the tariff shall, unless they are rejected, disallowed or suspended by the Agency or unless they are replaced by a new tariff, take effect on the date stated in the tariff, and the air carrier shall on and after that date charge the tolls and apply the terms and conditions of carriage specified in the tariff.

...

113.1 If an air carrier that offers an international service fails to apply the fares, rates, charges or terms and conditions of carriage set out in the tariff that applies to that service, the Agency may direct it to

- (a) take the corrective measures that the Agency considers appropriate;
- and
- (b) pay compensation for any expense incurred by a person adversely affected by its failure to apply the fares, rates, charges or terms and conditions set out in the tariff.

Furthermore, section 26 of the CTA provides as follows:

The Agency may require a person to do or refrain from doing any thing that the person is or may be required to do or is prohibited from doing under any Act of Parliament that is administered in whole or in part by the Agency.

The Agency fulfills its role through a variety of mechanisms. The first mechanism is the complaint process, whereby a person may bring an application against an air carrier for failure to apply the terms and conditions of carriage specified in its tariff. The second mechanism is an own motion enforcement process, whereby the Agency may directly and independently require an air carrier to demonstrate that it is properly applying the terms and conditions of carriage specified in its tariff.

In this case, a dispute proceeding was commenced against SkyGreece. Because a dispute proceeding is quasi-judicial in nature, parties to a dispute proceeding are guaranteed substantial procedural rights by law to ensure that they are fully and fairly heard by the Agency. As a result, dispute proceedings are necessarily complex and time-consuming.

By contrast, the own motion enforcement process significantly reduces the procedural burden on both the Agency and the air carrier, allowing for a resolution that is equally fair but substantially less time-consuming.

It is for this reason that a different Panel of the Agency decided that, given the urgency and seriousness of the situation created by the temporary cessation of operations by SkyGreece, justice required that the Agency act with the utmost speed to ensure that the carrier was properly affording affected passengers their legal rights. Thus, that Panel issued the Show Cause in response to the notice posted by SkyGreece that it was ceasing all operations temporarily, and the fact that 15 persons affected by flights cancelled by SkyGreece filed air travel complaints forms.

### **Whether a Stay of the Dispute Proceeding is Warranted**

The exigencies of the situation, including the fact that 15 persons affected by flights cancelled by SkyGreece filed air travel complaints forms, required a different panel of the Agency to address the matter through an own motion enforcement process, despite the existence of this dispute proceeding.

However, as a result of this own motion enforcement process, the same issue involving the same passengers and the same air carrier is now being addressed by a different Panel through the Show Cause on a much shorter timetable than this dispute proceeding. Therefore, this Panel must consider whether a stay of the dispute proceeding is warranted, pending the outcome of the Show Cause.

Relevant to deciding whether a stay is warranted are two primary considerations: the length of the stay, and most importantly, the effect of the stay on the parties.

First, a stay of this dispute proceeding will not involve a long delay. A stay of proceedings would only be imposed until resolution of the Agency's own motion investigation, including any corrective measures that might be ordered as a result, after which the dispute proceeding may resume in accordance with the time lines already established.

Second, and most critically, a stay of proceedings will not cause harsh effects upon the parties.



With respect to Dr. Lukács, as he is not a passenger affected by the temporary suspension of operations by SkyGreece, he will suffer no harsh effects by a stay of this dispute proceeding.

With respect to passengers affected by the temporary suspension of operations by SkyGreece, their interests are being immediately addressed by a different Panel of the Agency, using its own motion enforcement process, weeks in advance of the scheduled conclusion of the current dispute proceeding. A stay of proceedings does not prejudice passengers as it will not delay the possibility they will receive a remedy.

While a request for an interim order has been filed in this case, a stay of proceedings does not jeopardize the ability of passengers to receive an urgent remedy. The request for interim relief will necessarily require, as a matter of procedural fairness, that SkyGreece be given an opportunity to respond and the applicant an opportunity to reply. Under the Dispute Adjudication Rules, such an exchange of pleadings would require more than a week to complete, and the Agency would then have to weigh the evidence submitted against the strict legal test for granting interim relief. By contrast, the Show Cause has the potential to provide immediate relief to passengers without lengthy pleadings or the need to satisfy an onerous legal test.

Therefore, the Agency finds that there is no prejudice to passengers in staying this dispute proceeding pending resolution of the Show Cause.

With respect to SkyGreece, a stay of the dispute proceeding, pending resolution of the Show Cause, obviates the need for SkyGreece to respond to two parallel processes of the Agency, both addressing the same issue. Therefore, it significantly reduces the burden on SkyGreece, enabling the carrier to focus on providing the evidence sought by the Agency about its treatment of passengers during its temporary cessation of operations.

Therefore, the Agency finds that there is no prejudice to SkyGreece in staying this dispute proceeding pending resolution of the Show Cause.

**ORDER**

In light of the above, pursuant to sections 5 and 6 and subsection 41(1) of the Dispute Adjudication Rules, the Agency stays this proceeding until resolution of the Agency's own motion investigation, including any corrective measures that might be ordered as a result.

**OTHER MATTERS**

On Thursday, September 3, 2015, the Agency received a submission from SkyGreece stating that it had filed a Notice of Intention to Make a Proposal with the office of the Official Receiver at Toronto. This issue will be dealt with by the Panel assigned to the Show Cause (Case No. 15-03972).

Any questions or other correspondence in regards to this matter should refer to Case No. 15-03912 and be filed through the Agency's Secretariat e-mail address: secretariat@otc-cta.gc.ca

**BY THE AGENCY:**

(signed)

---

Stephen Campbell  
Member

(signed)

---

Raymon J. Kaduck  
Member

This is **Exhibit “J”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature



# Personal Information Protection and Electronic Documents Act (PIPEDA) Complaint Form

## SECTION 1: Complainant/Representative Information

1. Are you making this complaint on your own behalf?

Yes

### Complainant Information

Gabor Lukacs

Halifax, NS

Canada

E-mail Address: lukacs@airpassengerrights.ca

Daytime Telephone Number: (

2. Accommodation for a disability

No

## SECTION 2: Details of Complaint

3. Which organization is your complaint against?

SkyGreece Airlines S.A.

Based in Greece but has a significant focus on Canadian consumers.

4. Are you submitting the complaint as a customer or as an employee of the organization?

Customer

5. Summarize your complaint

I am an air passenger rights advocate, not a consumer myself.

SkyGreece Airlines S.A. (SkyGreece) uses the site book.skygreece.com for allowing passengers to view their e-tickets and receipts. Passengers are able to do so using links that have the form

where X consists of many digits.

For example, one of the passengers who contacted me and sent me her information was Ms. Andrea Szabo:

While most airlines would randomize the ID that allows access to a passenger's information, this is not the case of SkyGreece. When I made a typo and replaced "3" with "2" at the end of the link, the information of another passenger came up:



---

By observing the pattern of numbers, it appears that it is possible to gain full access to the information of SkyGreece's passengers who purchased tickets online, as well as portions of their credit card numbers, their destinations, travel dates, and the amounts they paid.

SkyGreece has filed for an intention to make a proposal under s. 50.4 of the BIA. As such, there is a significant interest not only in protecting the passengers' data, but also in ensuring that passengers are able to retrieve their e-tickets for the purpose of proof of claim to the trustee.

**6. Have you attempted to resolve the matter with the organization?**

No

**If 'No', please specify the reason why not. (optional)**

My understanding is that the Trustee (Earnst & Young) is struggling with identifying passengers who are currently stranded abroad, which leads me to conclude that there appears to be no one with direct and immediate access to this portion of SkyGreece's website.

**7. Have you submitted a complaint about this incident to another body or organization?**

No

**8. How can the Office of the Privacy Commissioner of Canada help address your concerns?**

1. Investigate the matter.
2. Safekeep the information of passengers that is available from the aforementioned website, to ensure that it remains available in the insolvency and bankruptcy process.
3. Make recommendations to SkyGreece and the Trustee to protect passengers' personal information.

**SECTION 3: Documentation**

No attachments uploaded.

**Paper documents will be sent under separate cover:** No

---

I certify that the information I have provided on this form is, to the best of my knowledge, true and complete.

I understand and agree to OPC's terms of use and online privacy policy.

This is **Exhibit “K”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature

From lukacs@AirPassengerRights.ca Thu Sep 10 14:48:08 2015  
Date: Thu, 10 Sep 2015 14:48:01 -0300 (ADT)  
From: Gabor Lukacs <lukacs@AirPassengerRights.ca>  
To: jeffrey.d.kerbel@ca.ey.com  
Cc: Max.Starnino@paliareroland.com  
Subject: Passengers' personal information -- data safety concern

Dear Mr. Kerbel,

I have discovered what appears to be a serious data safety concern about SkyGreece's booking site, which is online and live at the time of writing this email.

Upon the advice of legal counsel, I have filed the attached complaint to the Office of the Privacy Commissioner of Canada.

Since the data available on the site is vital for identifying passengers (both stranded and in general, for the purpose of creditors), I request that all data be retained, and secured by the Proposal Trustee.

I remain available to assist you and/or SkyGreece, free of charge, with any IT matter that may arise.

Kindly please confirm the receipt of this message.

Best wishes,  
Dr. Gabor Lukacs

[ Part 2: "" ]

The following attachment was sent,  
but NOT saved in the Fcc copy:

A Application/PDF (Name="2015-09-10--complaint\_to\_OPC--REF-011919.pdf") segment of about 83,292 bytes.

This is **Exhibit “L”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature



From lukacs@AirPassengerRights.ca Thu Sep 24 15:12:23 2015  
Date: Thu, 24 Sep 2015 15:12:16 -0300 (ADT)  
From: Gabor Lukacs <lukacs@AirPassengerRights.ca>  
To: Max.Starnino@paliareroland.com  
Cc: Debra.McKenna@paliareroland.com, clifton.prophet@gowlings.com, Jeffrey.d.kerbel@a.ey.com  
Subject: Concerns about privacy of passenger information [Re: Sky Greece]

Mr. Starnino,

In addition to the example that is provided in the text of my complaint to the Office of the Privacy Commissioner of Canada (OPC), I have subsequently provided the OPC the with following examples of the issue that I raised, and I am pleased to share with you same as per your request:

[Redacted content]

Kindly please advise whether you still wish to contest the existence of the problem, or if we can move forward and work together to resolving it.

As I stated on September 10, 2015, I remain available to assist SkyGreece and/or the Trustee, free of charge, with any IT matter that may be necessary to diagnose and/or resolve this problem.

I sincerely hope that this problem can be resolved cooperatively and amicably, to the benefit of the passengers, without requiring intervention of the Court.

I look forward to hearing from you.

Best wishes,  
Dr. Gabor Lukacs

This is **Exhibit “M”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature



PASSENGER ITINERARY RECEIPT / INVOICE

SKYGREECE AIRLINES S.A.  
Address : 33 K.PAPADIMITRIOU - 19003 MARKOPOULO GREECE  
VAT No: 800441815 - TAX AUTHORITY: FAE ATHENS COMPANY REG No.: 122671201000  
TEL : +30 211 121 1010 - FAX: +30 211 121 1224 web: http://www.skygreece.com/

PASSENGER NAME : ██████████ MR  
PASSENGER IDNO : ██████████  
PASSPORT No : ██████████  
BOOKING REF. : 05YZ96  
TICKET NUMBER : 358 2000143476  
ISSUED BY : GW ATH IN ISO: GR 29JUL15 1234567 INTERNET / A  
TOUR CODE :

Coupon No	FROM/TO	CARRIER	FLIGHT	CLS	DATE	DEP. TIME	ARR. TIME	STATUS	FARE BASIS	NVB	NVA	BAG	SEAT NAME	CPN STS
1	TORONTO-LESTER B. TERM.3	GW	426	K	21/09/2015	23:55	15:25 /1	OK	KHAS530-ECO			21/10/2015	2PC	O
Operated by SkyGreece Airlines														
2	ZAGREB TORONTO-LESTER B. TERM.3	GW	425	L	07/10/2015	12:10	15:55	OK	LLAS530-ECO			21/10/2015	2PC	O

ENDORSEMENT/RESTRICTION :  
FARE CALCULATION AREA : YTO GW ZAG141.33 GW YTO160.43NUC301.76END ROE1.308951  
FARE : 395.00 CAD  
TAXES : CAD 3.30 RC CAD 36.00 HR CAD 2.00 MI CAD 25.90 CA CAD 25.00 SQ  
SURCHARGES : CAD 440.00 YR  
SERVICE FEE :  
OTHERS : Exempt  
TOTAL : 927.20 CAD  
Payment : CC VM ██████████

INVOICED TO :  
TAX OFFICE :  
TAX NO : GI676569

SkyGreece Airlines  
\*\*\*NOTICES\*\*\*

**GENERAL RULES ;**

- 1-SkyGreece Airlines requires that all passengers check-in 3 hours prior to departure.
- 2-Free Checked Baggage Allowance;
  - 2.1-ECO, FLEX, PREMIUM AND PREMIUM CARTE BLANCHE Class: 2 pieces with a combined maximum weight of 40kgs/88lbs, provided that the 3 dimensions shall not exceed 158cm/62in per piece. Baggage exceeding 32kgs/70lbs will not be accepted as checked baggage
  - 2.2-Business Class: 2 pieces with a combined maximum weight of 64kgs/141lbs, provided that the 3 dimensions shall not exceed 158cm/62in per piece. Baggage exceeding 32kgs/70lbs will not be accepted as checked baggage.
- 3-Cabin Baggage Allowance;
  - 3.1-Cabin baggage for Economy Class: 1 piece of hand luggage in lieu of one free checked baggage with a maximum weight of 8Kgs/17lbs. (maximum dimension: 55 x 40 x 23 cm (21.5 x 15.5 x 9 in) and 1 personal item (e.g. handbag/purse – briefcase) with a maximum weight of 4Kgs/ 9lbs. The total maximum weight of all Cabin baggage's is 12Kgs/26lbs.
  - 3.2-Cabin Baggage for Business Class : 2 pieces of hand luggage in lieu of your free checked baggage. First piece with a maximum weight of 8Kgs/18lbs. (maximum dimension: 55 x 40 x 23 cm (21.5 x 15.5 x 9 in) and second piece with a maximum weight of 5Kgs/11lbs. (maximum dimension: 47 x 35 x 20 cm (17.5 x 13.5 x 7 in) and 1 personal item (e.g. handbag/purse – briefcase) with a maximum weight of 5Kgs/ 11lbs. The total maximum weight of all Cabin baggage's is 18Kgs/40lbs.
- 4-All Passengers must carry a valid passport.
- 5-Seat Selection: Passengers who have not purchase a seat selection, will be assign a seat by our system at no cost upon check-in. Seats together can not be guaranteed and seat assignments can not be changed at airport check-in.

\*\*\*Conditions of Carriage\*\*\*

Air transportation on SkyGreece Airlines is subject to SkyGreece Airlines S.A. Conditions of carriage. They include terms governing for example:  
**A-Limits on our liability for personal injury or death of passengers, and for loss, damage of delay of goods and baggage.**  
**B-Claim restrictions including time periods within which you must file a claim or bring action against us.**  
**C-Our right to change terms of the contract.**  
**D-Check-In requirements and other rules established when we may refuse carriage.**  
**E-Our rights and limits of our liability for delay of failure to perform service, including schedule change, substitution of alternative air carriers or aircraft, and rerouting.**  
**F-Our policy on overbooking flights, and your rights if we deny you boarding due to an oversold flight.**  
 These terms are incorporated by reference into our contract with you. You may view the complete Conditions of carriage on skygreece.com, or by requesting a copy from SkyGreece Airlines S.A.



**PASSENGER ITINERARY RECEIPT / INVOICE**

SKYGREECE AIRLINES S.A.  
 Address : 33 K.PAPADIMITRIOU - 19003 MARKOPOULO GREECE  
 VAT No: 800441815 - TAX AUTHORITY: FAE ATHENS COMPANY REG No.: 122671201000  
 TEL. : +30 211 121 1010 - FAX: +30 211 121 1224 web: http://www.skygreece.com/

PASSENGER NAME : ██████████ MRS  
 PASSENGER IDNO : ██████████  
 PASSPORT No : ██████████  
 BOOKING REF. : **05YZ96**  
 TICKET NUMBER : **358 2000143475**  
 ISSUED BY : **GW ATH IN ISO: GR 29JUL15 1234567 INTERNET / A**  
 TOUR CODE :

Coupon No	FROM/TO	CARRIER	FLIGHT	CLS	DATE	DEP. TIME	ARR. TIME	STATUS	FARE BASIS	NVB	NVA	BAG	SEAT NAME	CPN STS
1	TORONTO-LESTER B. TERM.3	GW	426	K	21/09/2015	23:55	15:25 /1	OK	KHAS530-ECO			21/10/2015	2PC	O
Operated by SkyGreece Airlines														
2	ZAGREB TORONTO-LESTER B. TERM.3	GW	425	L	07/10/2015	12:10	15:55	OK	LLAS530-ECO			21/10/2015	2PC	O

ENDORSEMENT/RESTRICTION :  
 FARE CALCULATION AREA : **YTO GW ZAG141.33 GW YTO160.43NUC301.76END ROE1.308951**  
 FARE : **395.00 CAD**  
 TAXES : **CAD 2.00 MI CAD 3.30 RC CAD 36.00 HR CAD 25.90 CA CAD 25.00 SQ**  
 SURCHARGES : **CAD 440.00 YR**  
 SERVICE FEE :  
 OTHERS : **Exempt**  
 TOTAL : **927.20 CAD**  
 Payment : **CC VM ██████████**

INVOICED TO :  
 TAX OFFICE :  
 TAX NO : **HD063477**

**SkyGreece Airlines  
\*\*\*NOTICES\*\*\***

**GENERAL RULES ;**

- 1-SkyGreece Airlines** requires that all passengers check-in 3 hours prior to departure.
- 2-Free Checked Baggage Allowance;**
- 2.1-ECO, FLEX, PREMIUM AND PREMIUM CARTE BLANCHE Class:** 2 pieces with a combined maximum weight of 40kgs/88lbs, provided that the 3 dimensions shall not exceed 158cm/62in per piece. Baggage exceeding 32kgs/70lbs will not be accepted as checked baggage
- 2.2-Business Class:** 2 pieces with a combined maximum weight of 64kgs/141lbs, provided that the 3 dimensions shall not exceed 158cm/62in per piece. Baggage exceeding 32kgs/70lbs will not be accepted as checked baggage.
- 3-Cabin Baggage Allowance;**
- 3.1-Cabin baggage for Economy Class:** 1 piece of hand luggage in lieu of one free checked baggage with a maximum weight of 8Kgs/17lbs. (maximum dimension: 55 x 40 x 23 cm (21.5 x 15.5 x 9 in) and 1 personal item (e.g. handbag/purse - briefcase) with a maximum weight of 4Kgs/ 9lbs. The total maximum weight of all Cabin baggage's is 12Kgs/26lbs.
- 3.2-Cabin Baggage for Business Class :** 2 pieces of hand luggage in lieu of your free checked baggage. First piece with a maximum weight of 8Kgs/18lbs. (maximum dimension: 55 x 40 x 23 cm (21.5 x 15.5 x 9 in) and second piece with a maximum weight of 5Kgs/11lbs. (maximum dimension: 47 x 35 x 20 cm (17.5 x 13.5 x 7 in) and 1 personal item (e.g. handbag/purse - briefcase) with a maximum weight of 5Kgs/ 11lbs. The total maximum weight of all Cabin baggage's is 18Kgs/40lbs.
- 4-All Passengers** must carry a valid passport.
- 5-Seat Selection:** Passengers who have not purchase a seat selection, will be assign a seat by our system at no cost upon check-in. Seats together can not be guaranteed and seat assignments can not be changed at airport check-in.

**\*\*\*Conditions of Carriage\*\*\***

Air transportation on SkyGreece Airlines is subject to SkyGreece Airlines S.A. Conditions of carriage. They include terms governing for example:  
**A-Limits on our liability for personal injury or death of passengers, and for loss, damage of delay of goods and baggage.**  
**B-Claim restrictions including time periods within which you must file a claim or bring action against us.**  
**C-Our right to change terms of the contract.**  
**D-Check-In requirements and other rules established when we may refuse carriage.**  
**E-Our rights and limits of our liability for delay of failure to perform service, including schedule change, substitution of alternative air carriers or aircraft, and rerouting.**  
**F-Our policy on overbooking flights, and your rights if we deny you boarding due to an oversold flight.**  
 These terms are incorporated by reference into our contract with you. You may view the complete Conditions of carriage on skygreece.com, or by requesting a copy from SkyGreece Airlines S.A.

This is **Exhibit “N”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature

## **Notice to Passengers:**

Passengers are required to complete **BOTH** the Passenger Claim Form and the Proof of Claim form for their claim to be considered. Both forms are included on this website under the heading Passenger Claim Process. Supporting documentation must be provided.

All customers are unsecured creditors and should select the appropriate box on the Proof of Claim form.

Please print and complete both forms and send the completed forms with your supporting documentation to the Proposal Trustee's email at [skygreece@ca.ey.com](mailto:skygreece@ca.ey.com) or by regular mail to the following address:

**Ernst & Young Inc.**  
**Ernst & Young Tower**  
**222 Bay Street, P.O. Box 251**  
**Toronto, Ontario**  
**M5K 1J7**  
**Attention: Franca Mazzulla**

This is **Exhibit “O”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature

**ERNST & YOUNG INC.,  
Trustee in the Proposal of SkyGreece Airlines, S.A.**

**CUSTOMER CLAIM FORM**

**AMOUNT OF CLAIM \$ \_\_\_\_\_**

**1. CLAIMANT:**

\_\_\_\_\_  
FIRST NAME LAST NAME

\_\_\_\_\_  
ADDRESS APT/SUITE

\_\_\_\_\_  
CITY PROVINCE POSTAL CODE

( ) \_\_\_\_\_ ( ) \_\_\_\_\_  
TELEPHONE: HOME BUSINESS/CELL

\_\_\_\_\_  
EMAIL ADDRESS

**2. ORIGINAL TRAVEL SERVICES PURCHASED**

a) DID YOU PURCHASE TRAVEL SERVICES DIRECTLY FROM SKYGREECE AIRLINES:

YES \_\_\_\_\_ NO \_\_\_\_\_

OR

NAME OF TRAVEL AGENCY FROM WHICH TRAVEL SERVICES WERE PURCHASED:

\_\_\_\_\_



## b) TRAVEL INFORMATION

Departure Date	Return Date	Place of Origin	Destination

<b>Number of People Travelling:</b>	
<b>Names of Passengers</b>	<b>First</b> <b>Last</b>

## c) IF APPLICABLE, INDICATE NAME OF ANY OTHER SUPPLIER OF TRAVEL SERVICES:

---

## d) DID YOU RECEIVE A RECEIPT IN EXCHANGE FOR YOUR PAYMENT(S)?

YES \_\_\_\_\_

NO \_\_\_\_\_

## e) ARE YOU IN POSSESSION OF TICKETS WHICH CANNOT BE USED?

YES \_\_\_\_\_

NO \_\_\_\_\_

## f) PAYMENT INFORMATION FOR ORIGINAL TRAVEL SERVICES PURCHASED

<b>Payment Number</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
Amount of Payment					
Date of Payment					
Method of Payment (Cheque/Cash/Credit Card)					

## g) BRIEFLY DESCRIBE THE TRAVEL SERVICES CONTRACTED FOR:

---



---



---

## h) WAS TRAVEL INSURANCE PURCHASED?

YES \_\_\_\_\_ NO \_\_\_\_\_

IF NO, PROCEED TO (I)

## i) WHAT IS THE NAME OF THE INSURANCE COMPANY? \_\_\_\_\_

PREMIUM PAID? \$ \_\_\_\_\_ DATE PAID? \_\_\_\_\_

POLICY NUMBER: \_\_\_\_\_

## j) HAVE YOU FILED A CLAIM WITH THE INSURANCE COMPANY?

YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES, WHEN WAS IT FILED? \_\_\_\_\_

IF NO, PLEASE ADVISE WHY A CLAIM WAS NOT FILED \_\_\_\_\_

---

k) DID YOU RECEIVE A REIMBURSEMENT FROM THE INSURANCE COMPANY?

YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES, HOW MUCH DID YOU RECEIVE \$ \_\_\_\_\_

l) IF PAID BY CREDIT CARD, HAVE YOU REQUESTED A REVERSAL OF YOUR CHARGE(S) FROM THE CREDIT CARD COMPANY?

YES \_\_\_\_\_ NO \_\_\_\_\_

DID YOU RECEIVE A CREDIT FROM THE CREDIT CARD COMPANY

YES \_\_\_\_\_ NO \_\_\_\_\_

m) HAVE YOU MADE A CLAIM WITH TRAVEL INDUSTRY COUNCIL OF ONTARIO ("TICO") OR ANOTHER TRAVEL PROTECTION AGENCY?

YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES, HAVE YOU RECEIVED A REIMBURSEMENT?

YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES, HOW MUCH? \$ \_\_\_\_\_

### 3. ALTERNATE TRAVEL SERVICES PURCHASED

a) IF THE ORIGINAL DATE SCHEDULED FOR THE COMPLETION OF YOUR TRAVEL HAS PASSED, HAVE YOU ARRIVED AT YOUR DESTINATION BY WAY OF ALTERNATIVE TRAVEL ARRANGEMENTS?

YES \_\_\_\_\_ NO \_\_\_\_\_

DID YOU PURCHASE ALTERNATE (NEW) TRAVEL SERVICES IN ORDER TO CONTINUE WITH YOUR TRAVEL PLANS?

YES \_\_\_\_\_ NO \_\_\_\_\_ (IF NO, PROCEED TO #4)

b) NAME OF COMPANY TO WHICH PAYMENT WAS MADE FOR THE ALTERNATE (NEW)

TRAVEL SERVICES:

---

- c) WHAT AMOUNT WAS REQUIRED AS PAYMENT FOR THE ALTERNATE (NEW) TRAVEL SERVICES PURCHASED?

Amount of Payment	Date of Payment	Method of Payment (Cheque, cash, credit card)

- e) ALTERNATE TRAVEL INFORMATION

Departure Date	Return Date	Place of Origin	Destination

Number of People Travelling:	
Names of Passengers	First Last

IF APPLICABLE, INDICATE NAME OF ANY OTHER SUPPLIER OR TRAVEL SERVICES:

---



This is **Exhibit “P”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature

District of: Ontario  
Division No. 31 - Toronto  
Court No. 31-2032828  
Estate No. 31-2032828

- FORM 31 -  
Proof of Claim  
(Sections 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1),  
and Paragraphs 51(1)(e) and 66.14(b) of the Act)

In the matter of the proposal of  
SkyGreece Airlines, S.A.

All notices or correspondence regarding this claim must be forwarded to the following address:

\_\_\_\_\_  
\_\_\_\_\_

In the matter of the proposal of SkyGreece Airlines, S.A. of the city of Toronto in the Province of Ontario and the claim of \_\_\_\_\_, creditor.  
I, \_\_\_\_\_ (name of creditor or representative of the creditor), of the city of \_\_\_\_\_ in the province of \_\_\_\_\_, do hereby certify:

- 1. That I am a creditor of the above named debtor (or I am \_\_\_\_\_ (position/title) of \_\_\_\_\_, creditor).
- 2. That I have knowledge of all the circumstances connected with the claim referred to below.
- 3. That the debtor was, at the date of proposal, namely the 3rd day of September 2015, and still is, indebted to the creditor in the sum of \$ \_\_\_\_\_, as specified in the statement of account (or affidavit) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ \_\_\_\_\_  
(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and  
(Check appropriate description.)

Regarding the amount of \$ \_\_\_\_\_, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.  
(Set out on an attached sheet details to support priority claim.)

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ \_\_\_\_\_

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ \_\_\_\_\_

That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:  
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_  
(Attach a copy of sales agreement and delivery receipts.)

- E. CLAIM BY WAGE EARNER OF \$ \_\_\_\_\_
- That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ \_\_\_\_\_,
- That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ \_\_\_\_\_,

- F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ \_\_\_\_\_
- That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ \_\_\_\_\_,
- That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ \_\_\_\_\_,

- G. CLAIM AGAINST DIRECTOR \$ \_\_\_\_\_

*(To be completed when a proposal provides for the compromise of claims against directors.)*

That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:

*(Give full particulars of the claim, including the calculations upon which the claim is based.)*

- H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ \_\_\_\_\_

That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:

*(Give full particulars of the claim, including the calculations upon which the claim is based.)*

5. That, to the best of my knowledge, I \_\_\_\_\_ (am/am not) (or the above-named creditor \_\_\_\_\_ (is/is not)) related to the debtor within the meaning of section 4 of the Act, and \_\_\_\_\_ (have/has/have not/has not) dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: (Provide details of payments, credits and transfers at undervalue.)

7. (Applicable only in the case of the bankruptcy of an individual.)

- Whenever the trustee reviews the financial situation of a bankrupt to redetermine whether or not the bankrupt is required to make payments under section 68 of the Act, I request to be informed, pursuant to paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.

- I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act be sent to the above address.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Creditor

Phone Number: \_\_\_\_\_  
Fax Number : \_\_\_\_\_  
E-mail Address : \_\_\_\_\_

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 20(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.



District of: Ontario  
Division No. 31- Toronto  
Court No. 31-2032828  
Estate No. 31-2032828

- FORM 36 -  
Proxy

(Subsection 102(2) and paragraphs 51(1)(e) and 66.15(3)(b) of the Act)

In the matter of the proposal of  
SkyGreece Airlines, S.A.

I, \_\_\_\_\_, of \_\_\_\_\_, a creditor in the above matter, hereby  
appoint \_\_\_\_\_, of \_\_\_\_\_, to be  
my proxyholder in the above matter, except as to the receipt of dividends, \_\_\_\_\_ (with or without)  
power to appoint another proxyholder in his or her place.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Corporate Creditor

Per \_\_\_\_\_  
Name and Title of Signing Officer

Return To:

Ernst & Young Inc. - Trustee  
Per:

\_\_\_\_\_  
Jeffrey D. Kerbel  
222 Bay Street  
Toronto ON M5K 1J7  
Phone: (416) 941-7757 Fax: (416) 943-3300  
E-mail: skygreece@ca.ey.com

## Checklist for Proof of Claim

This checklist is provided to assist you in preparing the proof of claim form and, if appropriate, the proxy form in a complete and accurate manner. Please check each requirement.

### General

- The **signature of a witness** is required.
- The document **must be signed** by the individual completing the declaration.
- **Provide the complete address** where all notices or correspondence are to be forwarded along with your phone number, fax number and email address where appropriate.

### Notes:

- It is permissible to file a proof of claim by fax.
- A creditor may vote either in person or by proxy at any meeting of creditors if the proof of claim is filed with the trustee prior to the time appointed for the meeting.
- A quorum at any meeting of creditors is at least one creditor with a valid proof of claim in attendance in person or by proxy.
- A corporation may vote by an authorized agent or mandatary at meetings of creditors.
- In order for a duly authorized person to have a right to vote, they must be a creditor or be the holder of a properly executed proxy. The name of the creditor must appear in the proxy.
- A creditor who is participating in any distribution from an estate must have filed a proof of claim prior to the distribution being declared.
- In the case of an individual bankrupt, by checking the appropriate box or boxes at the bottom of the proof of claim form, you may request that the trustee advise you of any material change in the financial situation of the bankrupt or the amount the bankrupt is required to pay into the bankruptcy, and a copy of the trustee's report on the discharge of the bankrupt.

### Paragraph 1

- Creditor must state full and complete legal name of the individual, company or firm.
- If the individual completing the proof of claim is a representative of the creditor, such as a corporation, the individual's position or title must be identified.

### Paragraph 3

- The amount owing must be set out in paragraph 3.
- A **detailed statement of account** must be attached to the proof of claim and marked "Schedule A" and must show the date, number and amount of all invoices or charges, together with the date, number and amount of all credits or payments. The amount on the statement of account must correspond to the amount indicated on the proof of claim.

### Paragraph 4

### Notes:

- **Paragraph A** applies to **ordinary unsecured claims**. In addition to recording the amount of the claim, please indicate whether the claim has a priority pursuant to section 136 of the Act.
- **Paragraph B** applies to **lessor claims in a commercial proposal**. Please ensure that the claim applies to a commercial proposal and, if so, include the full particulars of the claim.
- **Paragraph C** applies to **secured claims**. Please indicate the dollar value of the security and attach copies of the security document. In addition, please attach copies of the security registration documents, where appropriate.

*(Please see over)*

- **Paragraph D** applies to **inventory claims of farmers, fishermen and aquaculturists**. Please note that such claims apply only to inventory supplied from farmers, fishermen and aquaculturists within 15 (fifteen) days of the date of bankruptcy. In addition, please attach copies of any applicable sales agreements and delivery slips.
- **Paragraph E** applies to **claims by wage earners**. Please note that such claims apply only for unpaid wages owed upon the bankruptcy of an employer or when the employer becomes subject to a receivership.
- **Paragraph F** applies to **claims by employees for unpaid amounts regarding pension plans**. Please note that such claims apply only to unremitted pension contributions outstanding when the sponsoring employer becomes bankrupt or is subject to a receivership.
- **Paragraph G** applies to **claims against directors**. Please note that such claims apply only to directors of corporations that have filed a commercial proposal to creditors that includes a compromise of statutory claims against directors.
- **Paragraph H** applies to **claims of customers of a bankrupt securities firm**. Please ensure that the claim of the customer is for net equity and, if so, include the full particulars of the claim, including the calculations upon which the claim is based.

#### Paragraph 5

- All claimants must indicate whether or not they are related to the debtor, as defined in section 4 of the Act, or dealt with the debtor in a non-arm's-length manner.

#### Paragraph 6

- All claimants must attach a detailed list of all payments or credits received or granted, as follows:
  - (a) **within the three (3) months preceding** the initial bankruptcy event (including the bankruptcy or the proposal);
  - (b) **within the twelve (12) months preceding** the initial bankruptcy event (including the bankruptcy or the proposal) in the case where the claimant and the debtor **were not** dealing at arm's length.

– Proxyholder –

#### Note

The Act permits a proof of claim to be made by a duly authorized representative of a creditor but, in the absence of a properly executed proxy, does not give such an individual the power to vote at the first meeting of creditors nor to act as the proxyholder of the creditors.

#### General

- In order for duly authorized persons to have a right to vote, they must themselves be creditors or be the holders of a properly executed proxy. The name of the creditor must appear in the proxy.

#### Notes:

- A creditor may vote either in person or by proxyholder.
- A proxy may be filed at any time prior to a vote at a meeting of creditors.
- A proxy can be filed with the trustee in person, by mail or by any form of telecommunication.
- A proxy does not have to be under the seal of a corporation unless required by its incorporating documents or its bylaws.
- The individual designated in a proxy cannot be substituted unless the proxy provides for a power of substitution.
- Bankrupts/debtors may not be appointed as proxyholders to vote at any meeting of their creditors.
- The trustee may be appointed as a proxyholder for any creditor.
- A corporation cannot be designated as a proxyholder.

This is **Exhibit “Q”** to the Affidavit of Dr. Gábor Lukacs  
affirmed before me on October 1, 2015

“Jessica Broussard”

---

Signature

## SKYGREECE AIRLINES S.A. TEMPORARY CESSATION OF OPERATIONS

Dear Claimant,

Attached is a Customer Claim Form. **The claim must be completed by only ONE consumer or passenger who made payment for the travel services, which were not provided.** Your attention is drawn to page 6 section 6, which indicates the **ORIGINAL** documentation required in order to process your claim, and section 7, which explains the affidavit of Customer Claimant on pages 8 and 9.

Please ensure that **ALL** sections of the claim have been completed **IN FULL** and all applicable pages are dated and signed. Pages 6, 7, 8 and 9 must be completed by only **one claimant** in the case where more than one person is travelling or in the case of a joint chequing or credit card account.

**Receipt of your ORIGINAL claim form by TICO will be acknowledged in writing. Please contact TICO should you not receive an acknowledgement letter within two weeks of submitting your claim.**

**Please be advised that the legislation requires claimants to exhaust all other possible remedies for reimbursement as part of the claims process. Therefore claimants who paid by credit card for the travel services not provided are required to contact their credit card company and dispute the charge and request a chargeback (credit / reversal of the charge on their account). If, for some reason, your credit card company refuses to provide you with a credit refund, you will be required to obtain a letter from the credit card company stating that a credit refund will not be provided. The letter from the credit card company will be required to be submitted with your claim against the Compensation Fund.**

Please note that the Compensation Fund reimburses consumers for the original travel services paid for **to an Ontario registered travel agency** and not provided. **There is no provision in the Regulation for TICO's Board of Directors to reimburse consumers for the cost of alternate / replacement travel services purchased.**

Once your claim has been processed, it will be presented to TICO's Board of Directors who shall determine if the claim is eligible for reimbursement.

Please note that there is a 6-month filing deadline from the date that SkyGreece Airlines S.A. temporarily ceased operations. **Please note the filing deadline date on the cover page of your claim form.** Claims received at TICO beyond the filing deadline date will not be valid.

**Therefore, it is important to submit your claim immediately.** Should you not be able to obtain all the documentation required in order to substantiate your claim in a timely manner, please submit your claim as is and send the additional documentation when it is obtained.

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF SKYGREECE AIRLINES S.A., an insolvent person,  
pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act***

Court File No.: 31-2032828

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**MOTION RECORD OF DR. LUKÁCS**

**DR. GÁBOR LUKÁCS**

Halifax, NS

Email: *lukacs@AirPassengerRights.ca*

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF SKYGREECE AIRLINES S.A., an insolvent person,  
pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act* (“*BIA*”)**

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**FACTUM OF DR. GÁBOR LUKÁCS  
(for a hearing before Justice Conway on October 2, 2015)**

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**DR. GÁBOR LUKÁCS**

Halifax, NS

*lukacs@AirPassengerRights.ca*

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in its capacity as Proposal Trustee



# INDEX

PART I	OVERVIEW	1
PART II	THE FACTS	3
	A. SkyGreece's problems leading to the insolvency	3
	(i) Lack of expertise in airline management	3
	(ii) Undercapitalization	3
	(iii) Safety incident and load factor	4
	B. SkyGreece's present and future	4
	(i) Lack of clarity about assets	4
	(ii) Cash Flow Projection significantly differs from reality	5
	(iii) Lack of expertise in airline management (continued)	5
	(iv) SkyGreece seeks a charge for 20% of its assets	6
	C. Proceedings pending before the Canadian Transportation Agency	6
	D. Ongoing passenger concerns	7
	(i) Privacy of passengers' information held by SkyGreece	7
	(ii) Inadequate proof of claim process and forms	8
	E. Mr. Pickering swore to a false statement	9
PART III	ISSUES AND THE LAW	10
	A. Reliability of Mr. Pickering's evidence	10
	B. Should the general stay (s. 69(1)) be extended?	10
	C. Should the regulatory stay (s. 69.6(3)) be extended?	11
	D. If the stay is extended, what are the appropriate terms?	13
	(i) Protection of passengers' personal information	13
	(ii) Simplified and accessible proof of claim	13
	(iii) Audited financial report and appraisal of assets	15
	E. Should a prioritized DIP Charge be approved?	15

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF SKYGREECE AIRLINES S.A., an insolvent person,  
pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act* (“*BIA*”)**

---

**FACTUM OF DR. GÁBOR LUKÁCS**

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**PART I – OVERVIEW**

1. It is submitted that SkyGreece’s general stay period should not be extended, because the company is not likely to make a viable proposal even if the extension is granted.
  
2. In the alternative, if the extension is granted, then it should be subject to the following additional terms:
  - (a) SkyGreece protect passengers’ personal information stored by it;
  - (b) SkyGreece and/or the Trustee create a simplified and accessible proof of claim process for passengers, including a single *fillable* PDF form, which adequately reflects SkyGreece’s obligations to passengers;
  - (c) SkyGreece obtain and file an appraisal of its aircraft by an independent third party; and
  - (d) SkyGreece obtain and file an audited financial report, in English, for the period of January 1, 2015 - September 30, 2015.

3. It is submitted that the regulatory stay, concerning proceedings against SkyGreece before the Canadian Transportation Agency, should not be extended, or alternatively, should be narrowed down to the *enforcement* of orders requiring payment, so as to allow the Agency to finalize its findings with respect to SkyGreece's obligations to passengers under the tariff.

4. It is submitted that the Court should not approve a DIP Charge against SkyGreece's property, assets and undertakings that ranks in priority to the interests of unsecured creditors, because:

- (a) the charge will erode the assets available to satisfy the claims of unsecured creditors, including passengers, by 10%, and thus will materially prejudice them; and
- (b) the DIP loan is not sufficient to fund SkyGreece's cash requirements even for the next few weeks.

Only a DIP Charge that has the same ranking as unsecured creditors would be fair to unsecured creditors in the circumstances of SkyGreece.

5. The undersigned takes no position with respect to the Trustee Charge, Advisor Charge, and the D&O Charge.

## **PART II – THE FACTS**

### **A. SKYGREECE’S PROBLEMS LEADING TO THE INSOLVENCY**

6. SkyGreece’s financial difficulties arose as a result of two chronic problems: lack of expertise in airline management, and gross undercapitalization. These problems resulted in and/or were compounded by a low load factor and a safety incident on June 14, 2015.

#### **(i) Lack of expertise in airline management**

7. SkyGreece’s current directors are: Fr. Nicholas Alexandris (priest of the Greek Orthodox Church in Canada), Vasileios Aefantis (travel agent), Panagiotis Chilakos (travel agent), Petros Chilakos, and Vasileios Dorizas (pilot).

**Pickering Affidavit (September 28, 2015), para. 10  
Lukács Affidavit, Exhibit “B”**

8. None of the directors of SkyGreece have previous experience in the management of an airline. Four of the five directors, including the two travel agents, have no prior airline-related experience and expertise at all. Mr. Dorizas is the only director who has worked in the airline industry before, alas, in Flight and Training, and not in the top management.

**Lukács Affidavit, Exhibits “C” and “D”**

#### **(ii) Undercapitalization**

9. SkyGreece’s startup capital appears to have been in the order of magnitude of a few tens of millions of dollars. Its revenues and losses for 2014 and the first six months of 2015 were a few million dollars. These figures are a small fraction of the capitalization and revenue required for an airline operating a scheduled transatlantic service.

**Pickering Affidavit (September 28, 2015), para. 21 and Exhibit “E”**

10. For comparison, the regional airline JetBlue began with a startup capital of US\$160 million, and had approximately US\$32 million in profit and revenues of approximately US\$320 million in its first full year of operations (2001).

*J. of Int. Acad. for Case Studies*, 2004, 10(1): 69-74

Authorities, Tab 4

**(iii) Safety incident and load factor**

11. On June 14, 2015, SkyGreece Flight 423 from Athens to Toronto experienced a safety incident due to loss of cabin pressure at a high altitude (33,000 ft.), requiring a rapid descent (to 10,000 ft.). This incident, which was reported in the media, is more likely to be the cause for the drop in SkyGreece's sales than the Greek financial crisis.

Lukács Affidavit, Exhibit "E"

Pickering Affidavit (September 28, 2015), para. 22

12. On June 14, 2015, the load factor (utilization) of the flight was less than 13%. Indeed, although SkyGreece's Boeing 767-300 has over 250 seats, there were only 33 passengers on board.

Lukács Affidavit, Exhibit "E"

**B. SKYGREECE'S PRESENT AND FUTURE**

**(i) Lack of clarity about assets**

13. The finances of SkyGreece are murky. The only reliable document that has been tendered is its audited report for the year ending 2014. Alas, this document is in Greek, and not in any of the official languages of the Court.

Pickering Affidavit (September 28, 2015), Exhibit "E"

14. SkyGreece has not obtained an independent appraisal of its sole aircraft. Although Mr. Pickering swore that he believes that it is worth US\$5 million, he did not state the source of his information and belief.

Pickering Affidavit (September 28, 2015), para. 31

15. Although SkyGreece claims to have sold more than 8,000 seats within its first six weeks of sales, there is no evidence before the Court about the revenues from ticket sales between January 1, 2015 and August 26, 2015, nor about how these revenues were spent.

**Pickering Affidavit (September 28, 2015), para. 20**

**(ii) Cash Flow Projection significantly differs from reality**

16. SkyGreece's Cash Flow Projection reflects a DIP Loan of \$1 million through the period ending December 6, 2015, at the interest rate of 4.5% per annum, payable on September 15, 2016.

**First report of the Trustee on Proposal, Appendix "A": Cash Flow Projection & notes, para. 11**

17. In reality, however, SkyGreece has been offered a DIP Loan for only US\$250,000 (approximately CAD\$335,000), and at an interest rate of 12%, rather than 4.5%.

**Pickering Affidavit (September 28, 2015), Exhibit "M"**

**(iii) Lack of expertise in airline management (continued)**

18. SkyGreece continues to suffer from one of its chronic problems, namely, lack of expertise in airline management.

19. SkyGreece's Chief Reconstructing Officer, Mr. Pickering, has a variety of business experiences, but none are from the airline industry.

**Pickering Affidavit (September 28, 2015), Exhibit "D"**

20. SkyGreece's Canadian counsel's prior experience in legal questions relating to airline reconstruction cannot, with the best of his intentions, cure SkyGreece's shortcomings and lack of expertise in airline management.

(iv) **SkyGreece seeks a charge for 20% of its assets**

21. SkyGreece is seeking an order approving a charge against its property, assets and undertakings for a total of approximately \$665,000 (\$150,000 + \$100,000 + \$80,000 for Trustee Charge, Advisor Charge, and D&O Charge, and \$US250,000 for DIP Charge).

**Notice of Motion, paras. 1(c)-(f)**

22. SkyGreece's equity in its sole aircraft appears to approximately US\$2.5 million, which is approximately CAD\$3,350,000.

23. Consequently, SkyGreece is seeking the Court's approval for a charge totalling approximately 20% of its remaining assets.

**C. PROCEEDINGS PENDING BEFORE THE CANADIAN TRANSPORTATION AGENCY**

24. There are currently two proceedings before the Canadian Transportation Agency ("**Agency**") relating to the cessation of operations of SkyGreece on August 27, 2015:

(a) an application by Canadian air passenger rights advocate Dr. Gábor Lukács against SkyGreece on August 28, 2015, under Case No. 15-03912, for the re-protection and protection of stranded SkyGreece passengers ("**Emergency Application**"); and

**Lukács Affidavit, Exhibit "F"**

(b) a proceeding commenced by a show-cause order of the Agency on its own motion on September 2, 2015, under Case No. 15-03972 ("**Show Cause Proceeding**"), concerning the failure of SkyGreece to assist stranded passengers as required by law.

**Lukács Affidavit, Exhibit "G"**

25. The Agency made no determinations with respect to the standing of Lukács in the Emergency Application, and on September 1, 2015, in Decision No. LET-C-A-54-2015, it declined to address the issue of standing as a preliminary matter.

**Lukács Affidavit, Exhibit “H”, p. 4**

26. Resolution of Lukács’s Emergency Application depends on the resolution the Show Cause Proceeding, because on September 4, 2015, in Decision No. LET-A-58-2015, the Agency stayed the Emergency Application pending the resolution of the Show Cause Proceeding.

**Lukács Affidavit, Exhibit “I”**

27. On September 8, 2014, Justice Conway stayed both the Emergency Application and the Show Cause Proceeding before the Agency.

**Pickering Affidavit (September 28, 2015), Exhibit “C”**

#### **D. ONGOING PASSENGER CONCERNS**

##### **(i) Privacy of passengers’ information held by SkyGreece**

28. On September 10, 2015, Lukács notified the Office of the Privacy Commissioner, the Proposal Trustee, and counsel for SkyGreece about a significant concern relating to the privacy of passengers’ information held by SkyGreece, which allows public access to sensitive personal information of random passengers.

**Lukács Affidavit, Exhibits “J” and “K”**

29. The security issue identified by Lukács is not an isolated case or anomaly, but rather a systemic problem in SkyGreece allowing access to bookings based on a single and non-random string of digits, instead of two pieces of information (such as booking reference and last name) as most airlines do.

**Lukács Affidavit, paras. 15-18**



30. On September 24, 2015, Lukács provided further information to counsel for Sky-Greece about the security issue he had identified, and its systemic nature.

**Lukács Affidavit, Exhibit “L”**

31. As of 2:09 am on October 1, 2015, the website *book.skygreece.com* is still active, and continues to allow public access to sensitive personal information that includes passengers’ names, passport numbers, portions of credit card numbers, as well as their travel dates and destinations.

**Lukács Affidavit, Exhibit “M”**

**(ii) Inadequate proof of claim process and forms**

32. The Proposal Trustee, with the best of intentions, created a passenger claim process and forms that double the amount of paperwork that passengers are required to complete, make it very difficult for a third party to assist passengers with completing the forms, and is misleading as to what kind of expenses and amounts passengers can claim.

33. The Proposal Trustee requires passengers, unlike other creditors, to complete a second form, entitled “Passenger Claim Form,” in addition to the standard Proof of Claim (Form 31). The Passenger Claim Form has numerous shortcomings:

- (a) it contains no question about out-of-pocket expenses that stranded passengers typically incur, such as accommodation, meals, ground transportation, and telecommunication;
- (b) it makes no reference to the 600 EUR per passenger statutory compensation that SkyGreece owes to passengers affected by flight cancellation under *Regulation (EC) 261/2004* of the European Union; and
- (c) it is a non-fillable, static PDF, which makes it very difficult for a third party to assist passengers in completing the form.

**Lukács Affidavit, Exhibits “N” and “O”**

34. The standard Proof of Claim (Form 31) that is available on the Proposal Trustee's website consists only of image data, which means that its content is not accessible (for example, for people with reduced vision), cannot be copy-pasted into a text editor, nor can it be completed electronically.

**Lukács Affidavit, Exhibit "P"**

35. In light of these technical barriers, it is not surprising that only 100 proofs of claim were received by the Proposal Trustee, and it is unclear how many of these are by the 3,500 passengers that have been identified so far.

**First report of the Trustee on Proposal, paras. 44(h) and 44(i)**

**E. MR. PICKERING SWORE TO A FALSE STATEMENT: TICO DOES NOT REIMBURSE ALTERNATIVE TRAVEL COSTS**

36. Mr. Pickering swore to a false statement in his affidavit of September 28, 2015:

SkyGreece has been able to confirm that all passengers who booked through a "registered" travel agent in Ontario and who file a claim with TICO will be fully compensated for their alternative travel costs.

[Emphasis added.]

**Pickering Affidavit (September 28, 2015), p. 12, para. 26(a)(ii)**

37. Such "confirmation" did not and could not have possibly taken place. The notice of the Travel Industry Council of Ontario ("TICO") to SkyGreece-related claimants confirms that:

There is no provision in the Regulation for TICO's Board of Directors to reimburse consumers for the cost of alternate / replacement travel services purchased.

**Lukács Affidavit, Exhibit "Q"**

### PART III – ISSUES AND THE LAW

#### A. RELIABILITY OF MR. PICKERING’S EVIDENCE

38. Mr. Pickering swore to a false statement in his affidavit of September 28, 2015 with respect to what SkyGreece has allegedly “confirmed” with TICO. Regardless of whether he was fully aware that the statement was false, his conduct demonstrates that Mr. Pickering is careless with the truth, and his evidence about SkyGreece’s affairs is unreliable.

39. Thus, it is submitted that the Court should give no weight to those portions of Mr. Pickering’s affidavit that are based solely on his knowledge, and are not supported by additional documents.

#### B. SHOULD THE GENERAL STAY (S. 69(1)) BE EXTENDED?

40. The purpose of the proposal provisions of the *BIA* is not to unnecessarily delay an inevitable bankruptcy while the company’s assets are spent on professional fees, but rather to allow time for the insolvent person to put forward a *viable* plan, which has a reasonable prospect of being accepted by the creditors. As SkyGreece correctly acknowledged, the relevant considerations for whether to extend the stay include: (i) whether SkyGreece is likely to be able to make a viable proposal if the extension is granted; and (ii) whether creditors are materially prejudiced if the extension is granted.

**SkyGreece’s factum, paras. 52-54**

41. SkyGreece has no reasonable prospect of making a viable proposal. The lack of confidence in the company’s success is reflected in the insistence of Mr. Stathakis, who is one of SkyGreece’s main shareholders, on a high interest rate (12%) and a charge against SkyGreece’s property, assets and undertakings, as conditions for providing an emergency loan.

42. SkyGreece does not have the interim financing that would be sufficient for its minimal operations even for the next few weeks. SkyGreece presented no reliable evidence in support of discussions to release its plane, nor with respect to the necessary interim financing or the possibility of performing charter flights on behalf of others. Mr. Pickering's evidence is not reliable and should not be accepted in this regard.

43. SkyGreece's unsecured creditors, including passengers, will be materially prejudiced if the extension is granted, because the professional fees incurred by SkyGreece during the period of the extension will erode SkyGreece's assets by approximately 17.5% (\$587,500, according to the Cash Flow Projection).

44. Based on these considerations, it is submitted that the general stay, under s. 69(1) of the *BIA*, should not be extended.

**C. SHOULD THE REGULATORY STAY (S. 69.6(3)) BE EXTENDED?**

45. The proceedings against SkyGreece currently pending before the Canadian Transportation Agency are pursuant to a regulatory scheme that was put in place by Parliament: airlines operating a scheduled international service are required to publish and file with the Agency a "tariff" setting out their terms and conditions. Pursuant to s. 110(4) of the *Air Transportation Regulations* ("ATR"), airlines have a duty to abide by the terms and conditions set out in their tariffs, failing which the Agency may order the airline to take corrective measures and/or pay compensation to affected passengers.

*Air Transportation Regulations*, ss. 108, 110(4), 113.1  
*Canada Transportation Act*, ss. 55 and 86(h)

Authorities, Tab 1  
 Authorities, Tab 2

46. Section 54 of the *Canada Transportation Act*, and subsection 54(2) in particular, manifests Parliament's intent that, as a general rule, the Agency continue to regulate insolvent carriers notwithstanding any insolvency or bankruptcy proceeding.

*Canada Transportation Act*, s. 54

Authorities, Tab 2

47. Subsection 69.6(2) of the *BIA*, which as a general rule exempts regulatory proceedings from the general stay under s. 69(1), reflects a similar legislative intent. Subsection 69.6(3) of the *BIA* confers upon the Court a discretion to authorize departure from this general rule, and to also stay regulatory proceedings if: (a) a viable proposal could not be made if the regulatory proceedings continue; and (b) it is not contrary to the public interest to stay the regulatory proceedings.

48. In the present case, extending the stay of the regulatory proceedings would be contrary to the public interest for the following reasons:

- (a) Consistent enforcement of the obligations set out by the tariff is necessary to maintain public trust in the regulatory scheme governing carriage by air. Conversely, the appearance of a carrier being able to evade all consequences of failing to meet its obligations by way of *BIA* proceedings would erode the confidence of the travelling public in the regulatory scheme, and would bring the administration of justice into disrepute.
- (b) The absence of a final determination by the Agency of the pending proceedings, at least to the limited extent that confirms what passengers were owed by SkyGreece under its tariff, creates an uncertainty about the rights of passengers in general, and in the context of the proof of claim process in particular. This uncertainty is reflected, for example, in the deficient claim form created by the Trustee, which makes no reference to accommodation, meal, and communication expenses incurred by stranded passengers.

49. Therefore, it is submitted that the regulatory stay should not be extended, or should be narrowed so as to allow the Agency to finalize its findings with respect to SkyGreece's obligations to passengers under the tariff.

**D. IF THE STAY IS EXTENDED, WHAT ARE THE APPROPRIATE TERMS?**

**(i) Protection of passengers' personal information**

50. As of 2:09 am on October 1, 2015, SkyGreece's website *book.skygreece.com* continues to expose sensitive personal information of passengers, demonstrating that the steps taken by SkyGreece so far to secure the data were inadequate and/or insufficient.

**Lukács Affidavit, Exhibit "M"  
Pickering Affidavit (September 28, 2015), para. 29**

51. Identity theft is a frequent cybercrime, which causes significant harm to victims. SkyGreece passengers will suffer irreparable harm by the continued exposure of their personal information. Even if the harms are compensable by way of damages, they would be irreparable by virtue of the fact that SkyGreece is "a fledgling, financially unstable company that would not likely be in a position to pay a damage award against it."

***Fednav Ltd. v. Fortunair Canada Inc.*, [1994] F.C.J. No. 1969, para. 16**      **Authorities, Tab 3: 21**

52. Thus, it is submitted that SkyGreece should be required to shut down the website in question by October 5, 2015, at the latest, as a term for extending the stay of proceedings.

**(ii) Simplified and accessible proof of claim**

53. The Proposal Trustee has created, with the best of intentions, a proof of claim process and forms for passengers that hinder one of the main objectives of the *BIA*, namely, ensuring that all creditors have a fair opportunity to prove their claims.

54. The Passenger Claim Form is not only technically inadequate (by not being suitable for electronic completion), but also gives passengers the false impression that SkyGreece is only responsible for the costs of alternative transportation, but not for their additional accommodation, meals, telecommunication, ground transportation, and other out-of-pocket expenses.

55. SkyGreece, being a European airline operating flights to and from Canada, must satisfy its obligations to passengers both under the European and the Canadian legislation.

- (a) Pursuant to Articles 5(1)(b) and 9 of *Regulation (EU) 261/2004*, passengers affected by flight cancellation have, in addition to the right to be re-routed, a “right to care,” which means reasonable meals, accommodation and ground transportation while they are stranded.

***Regulation (EU) 261/2004, Articles 5(1)(b) and 9***

**Authorities, Tab 2**

- (b) A similar, although somewhat narrower, obligation is reflected in Rule 85(G) of SkyGreece’s tariff, which the airline has a statutory obligation to apply pursuant to s. 110(4) of the *Air Transportation Regulations*.

**Lukács Affidavit, Exhibit “G”, Appendix**

***Air Transportation Regulations, s. 110(4)***

**Authorities, Tab 1**

- (c) Finally, pursuant to Articles 5(1)(c) and 7 of *Regulation (EU) 261/2004*, SkyGreece passengers who were affected by cancellation of their flights and were not notified at least two weeks in advance are owed compensation in the amount of 600 EUR per passenger, in addition to the “right to care.”

***Regulation (EU) 261/2004, Articles 5(1)(c) and 7***

**Authorities, Tab 2**

56. It is submitted that the Court should exercise its supervisory jurisdiction in *BIA* proceedings to ensure that passengers are adequately informed about SkyGreece’s obligations to them, and have a fair and reasonable opportunity to provide their claims by directing SkyGreece and/or the Proposal Trustee to create a simplified and accessible proof of claim process for passengers, including a single *fillable PDF* form, which incorporates SkyGreece’s aforementioned obligations to passengers.

**(iii) Audited financial report for 2015 and appraisal of assets**

57. The lack of transparency of SkyGreece's finances remains an ongoing concern, because it is difficult to understand how an airline that sold more than 8,000 seats in the first six weeks of sales became insolvent a few months later. Unanswered questions of this nature create a public perception of impropriety, which overshadows all reconstruction efforts.

58. An audited financial report for the period of January 1, 2015 - September 30, 2015 that is available in English and an appraisal of SkyGreece's assets would assist the restoration of public trust in the company, which is vital for the success of any reconstruction.

59. Hence, it is submitted that SkyGreece should be required to obtain and file an audited financial report, in English, for the first three quarters of 2015, and an appraisal of its assets by an independent third party, as terms for extending the stay of proceedings.

**E. SHOULD A PRIORITIZED DIP CHARGE BE APPROVED?**

60. The undersigned takes issue with ranking of the DIP Charge in priority to the interests of unsecured creditors, including passengers, not with the DIP Loan itself.

61. The purpose of a DIP loan is to solve a cash flow problem of an insolvent company by permitting the company to borrow against the company's assets, notwithstanding the *BIA* proceeding. It is not meant, however, to be a vehicle for spending the assets of the company, while leaving unsecured creditors with close to nothing.

62. A DIP charge that has a priority over unsecured creditors reduces the company's assets that may be available to satisfy claims of unsecured creditors. Thus, in the short



run, such a DIP loan prejudices unsecured creditors. Consequently, in the case of a company in which most creditors are unsecured ones, a key question is whether the short-term prejudice has a good of a long-term benefit. Based on the record currently before the Court, it is submitted that this question should be answered in the negative in the case of SkyGreece.

63. A DIP Charge of US\$250,000 which ranks in priority to unsecured creditors will reduce the assets available to satisfy unsecured creditors, including passengers, by 10%; however, according to SkyGreece's Cash Flow Projection, a DIP Loan in this amount is not sufficient to fund SkyGreece's cash requirements even for the next few weeks. Therefore, the proposed DIP Loan materially prejudices passengers, without the benefit of enhancing the prospects of a viable proposal.

64. The prejudice to unsecured creditors could be significantly mitigated by declaring that the DIP Charge will have the same priority as unsecured creditors.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

October 1, 2015

**DR. GÁBOR LUKÁCS**

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**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF SKYGREECE AIRLINES S.A., an insolvent person,  
pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act***

Court File No.: 31-2032828

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**FACTUM OF DR. LUKÁCS**

**DR. GÁBOR LUKÁCS**

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**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

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**BOOK OF AUTHORITIES OF DR. GÁBOR LUKÁCS  
(for a hearing before Justice Conway on October 2, 2015)**

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## INDEX

1	<i>Air Transportation Regulations</i> , S.O.R./88-58	1
	— section 108	2
	— subsection 110(4)	3
	— section 113	4
	— section 113.1	5
	— section 122	6
2	<i>Canada Transportation Act</i> , S.C. 1996, c. 10	8
	— section 54(1)	9
	— section 54(2)	10
	— section 55	11
	— section 86	12
2	<i>Regulation (EU) 261/2004</i>	14
3	<i>Fednav Ltd. v. Fortunair Canada Inc.</i> , [1994] F.C.J. No. 1969	21
	— paragraph 16	26
4	Jet Blue: A new challenger, <i>J. of Int. Acad. for Case Studies</i> , 2004, 10(1): 69-74	28



CANADA

CONSOLIDATION

CODIFICATION

# Air Transportation Regulations

# Règlement sur les transports aériens

SOR/88-58

DORS/88-58

Current to February 6, 2014

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*Interest*

**107.1** Where the Agency, by order, directs an air carrier to refund specified amounts to persons that have been overcharged by the air carrier for fares or rates in respect of its air service pursuant to paragraph 66(1)(c) of the Act, the amount of the refunds shall bear interest from the date of payment of the fares or rates by those persons to the air carrier to the date of the Agency's order at the rate of interest charged by the Bank of Canada on short-term loans to financial institutions plus one and one-half percent.

SOR/2001-71, s. 3.

## DIVISION II

## INTERNATIONAL

*Application*

**108.** Subject to paragraph 135.3(1)(d), this Division applies in respect of every air carrier that operates an international service, except an air carrier that operates TPCs, TPNCs or TGCs.

SOR/96-335, s. 55.

*Exception*

**109.** An air carrier that operates an international service that serves the transportation requirements of the bona fide guests, employees and workers of a lodge operation, including the transportation of luggage, materials and supplies of those guests, employees and workers is excluded, in respect of the service of those requirements, from the requirements of subsection 110(1).

*Filing of Tariffs*

**110.** (1) Except as provided in an international agreement, convention or arrangement respecting civil aviation, before commencing the operation of an international service, an air carrier or its agent shall file with the Agency a tariff for that service, including the terms and conditions of free and reduced rate transportation for that service, in the style, and containing the information, required by this Division.

*Intérêts*

**107.1** Dans le cas où, en vertu de l'alinéa 66(1)c) de la Loi, l'Office enjoint, par ordonnance, à un transporteur aérien de rembourser des sommes à des personnes ayant versé des sommes en trop pour un service, le remboursement porte intérêt à compter de la date du paiement fait par ces personnes au transporteur jusqu'à la date de délivrance de l'ordonnance par l'Office, au taux demandé par la Banque du Canada aux institutions financières pour les prêts à court terme, majoré d'un et demi pour cent.

DORS/2001-71, art. 3.

## SECTION II

## SERVICE INTERNATIONAL

*Application*

**108.** Sous réserve de l'alinéa 135.3(1)d), la présente section s'applique aux transporteurs aériens qui exploitent un service international, sauf ceux qui effectuent des VAP, des VAPNOR ou des VAM.

DORS/96-335, art. 55.

*Exception*

**109.** Le transporteur aérien est exempté de l'application du paragraphe 110(1) en ce qui concerne l'exploitation d'un service international servant à répondre aux besoins de transport des véritables clients, des véritables employés et des véritables travailleurs d'un hôtel pavillonnaire, y compris le transport des bagages, du matériel et des fournitures de ces personnes.

*Dépôt des tarifs*

**110.** (1) Sauf disposition contraire des ententes, conventions ou accords internationaux en matière d'aviation civile, avant d'entreprendre l'exploitation d'un service international, le transporteur aérien ou son agent doit déposer auprès de l'Office son tarif pour ce service, conforme aux exigences de forme et de contenu énoncées dans la présente section, dans lequel sont comprises les conditions du transport à titre gratuit ou à taux réduit.

(2) Acceptance by the Agency of a tariff or an amendment to a tariff does not constitute approval of any of its provisions, unless the tariff has been filed pursuant to an order of the Agency.

(3) No air carrier shall advertise, offer or charge any toll where

(a) the toll is in a tariff that has been rejected by the Agency; or

(b) the toll has been disallowed or suspended by the Agency.

(4) Where a tariff is filed containing the date of publication and the effective date and is consistent with these Regulations and any orders of the Agency, the tolls and terms and conditions of carriage in the tariff shall, unless they are rejected, disallowed or suspended by the Agency or unless they are replaced by a new tariff, take effect on the date stated in the tariff, and the air carrier shall on and after that date charge the tolls and apply the terms and conditions of carriage specified in the tariff.

(5) No air carrier or agent thereof shall offer, grant, give, solicit, accept or receive any rebate, concession or privilege in respect of the transportation of any persons or goods by the air carrier whereby such persons or goods are or would be, by any device whatever, transported at a toll that differs from that named in the tariffs then in force or under terms and conditions of carriage other than those set out in such tariffs.

SOR/96-335, s. 56; SOR/98-197, s. 6(E).

**111.** (1) All tolls and terms and conditions of carriage, including free and reduced rate transportation, that are established by an air carrier shall be just and reasonable and shall, under substantially similar circumstances and conditions and with respect to all traffic of the same description, be applied equally to all that traffic.

(2) No air carrier shall, in respect of tolls or the terms and conditions of carriage,

(a) make any unjust discrimination against any person or other air carrier;

(2) L'acceptation par l'Office, pour dépôt, d'un tarif ou d'une modification apportée à celui-ci ne constitue pas l'approbation de son contenu, à moins que le tarif n'ait été déposé conformément à un arrêté de l'Office.

(3) Il est interdit au transporteur aérien d'annoncer, d'offrir ou d'exiger une taxe qui, selon le cas :

a) figure dans un tarif qui a été rejeté par l'Office;

b) a été refusée ou suspendue par l'Office.

(4) Lorsqu'un tarif déposé porte une date de publication et une date d'entrée en vigueur et qu'il est conforme au présent règlement et aux arrêtés de l'Office, les taxes et les conditions de transport qu'il contient, sous réserve de leur rejet, de leur refus ou de leur suspension par l'Office, ou de leur remplacement par un nouveau tarif, prennent effet à la date indiquée dans le tarif, et le transporteur aérien doit les appliquer à compter de cette date.

(5) Il est interdit au transporteur aérien ou à ses agents d'offrir, d'accorder, de donner, de solliciter, d'accepter ou de recevoir un rabais, une concession ou un privilège permettant, par un moyen quelconque, le transport de personnes ou de marchandises à une taxe ou à des conditions qui diffèrent de celles que prévoit le tarif en vigueur.

DORS/96-335, art. 56; DORS/98-197, art. 6(A).

**111.** (1) Les taxes et les conditions de transport établies par le transporteur aérien, y compris le transport à titre gratuit ou à taux réduit, doivent être justes et raisonnables et doivent, dans des circonstances et des conditions sensiblement analogues, être imposées uniformément pour tout le trafic du même genre.

(2) En ce qui concerne les taxes et les conditions de transport, il est interdit au transporteur aérien :

a) d'établir une distinction injuste à l'endroit de toute personne ou de tout autre transporteur aérien;



(b) give any undue or unreasonable preference or advantage to or in favour of any person or other air carrier in any respect whatever; or

(c) subject any person or other air carrier or any description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatever.

(3) The Agency may determine whether traffic is to be, is or has been carried under substantially similar circumstances and conditions and whether, in any case, there is or has been unjust discrimination or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this section, or whether in any case the air carrier has complied with the provisions of this section or section 110.

SOR/93-253, s. 2; SOR/96-335, s. 57.

**112.** (1) All air carriers having joint tolls shall establish just and reasonable divisions thereof between participating air carriers.

(2) The Agency may

(a) determine and fix just and equitable divisions of joint tolls between air carriers or the portion of the joint tolls to be received by an air carrier;

(b) require an air carrier to inform the Agency of the portion of the tolls in any joint tariff filed that it or any other carrier is to receive or has received; and

(c) decide that any proposed through toll is just and reasonable notwithstanding that an amount less than the amount that an air carrier would otherwise be entitled to charge may be allotted to that air carrier out of that through toll.

**113.** The Agency may

(a) suspend any tariff or portion of a tariff that appears not to conform with subsections 110(3) to (5) or section 111 or 112, or disallow any tariff or portion of

b) d'accorder une préférence ou un avantage indu ou déraisonnable, de quelque nature que ce soit, à l'égard ou en faveur d'une personne ou d'un autre transporteur aérien;

c) de soumettre une personne, un autre transporteur aérien ou un genre de trafic à un désavantage ou à un préjudice indu ou déraisonnable de quelque nature que ce soit.

(3) L'Office peut décider si le trafic doit être, est ou a été acheminé dans des circonstances et à des conditions sensiblement analogues et s'il y a ou s'il y a eu une distinction injuste, une préférence ou un avantage indu ou déraisonnable, ou encore un préjudice ou un désavantage au sens du présent article, ou si le transporteur aérien s'est conformé au présent article ou à l'article 110.

DORS/93-253, art. 2; DORS/96-335, art. 57.

**112.** (1) Les transporteurs aériens qui appliquent des taxes pluritransporteurs doivent établir une répartition juste et raisonnable de ces taxes entre les transporteurs aériens participants.

(2) L'Office peut procéder de la façon suivante :

a) déterminer et fixer la répartition équitable des taxes pluritransporteurs entre les transporteurs aériens, ou la proportion de ces taxes que doit recevoir un transporteur aérien;

b) enjoindre à un transporteur aérien de lui faire connaître la proportion des taxes de tout tarif pluritransporteur déposé que lui-même ou tout autre transporteur aérien est censé recevoir ou qu'il a reçue;

c) décider qu'une taxe totale proposée est juste et raisonnable, même si un transporteur aérien s'en voit attribuer une portion inférieure à la taxe qu'il serait autrement en droit d'exiger.

**113.** L'Office peut :

a) suspendre tout ou partie d'un tarif qui paraît ne pas être conforme aux paragraphes 110(3) à (5) ou aux articles 111 ou 112, ou refuser tout tarif qui n'est pas conforme à l'une de ces dispositions;

a tariff that does not conform with any of those provisions; and

(b) establish and substitute another tariff or portion thereof for any tariff or portion thereof disallowed under paragraph (a).

SOR/93-253, s. 2; SOR/96-335, s. 58.

**113.1** If an air carrier that offers an international service fails to apply the fares, rates, charges or terms and conditions of carriage set out in the tariff that applies to that service, the Agency may direct it to

(a) take the corrective measures that the Agency considers appropriate; and

(b) pay compensation for any expense incurred by a person adversely affected by its failure to apply the fares, rates, charges or terms and conditions set out in the tariff.

SOR/2001-71, s. 4; SOR/2009-28, s. 1.

**114.** (1) Every tariff or amendment to a tariff shall be filed with the Agency by the air carrier or by an agent appointed by power of attorney to act on the air carrier's behalf pursuant to section 134.

(2) Every joint tariff or amendment to a joint tariff shall be filed by one of the air carriers that is a party thereto or by an agent of the air carrier appointed by power of attorney to act on the air carrier's behalf pursuant to section 134.

(3) Where an air carrier files a joint tariff pursuant to subsection (2), that air carrier shall be known as the issuing carrier.

(4) No air carrier that issues a power of attorney to another air carrier or any other agent to publish and file tolls shall include in the carrier's own tariff tolls that duplicate or conflict with tolls published under such power of attorney.

(5) Every tariff or amendment to a tariff that is on paper shall be filed with the Agency together with a filing advice in duplicate.

b) établir et substituer tout ou partie d'un autre tarif en remplacement de tout ou partie du tarif refusé en application de l'alinéa a).

DORS/93-253, art. 2; DORS/96-335, art. 58.

**113.1** Si un transporteur aérien n'applique pas les prix, taux, frais ou conditions de transport applicables au service international qu'il offre et figurant à son tarif, l'Office peut lui enjoindre :

a) de prendre les mesures correctives qu'il estime indiquées;

b) de verser des indemnités à quiconque pour toutes dépenses qu'il a supportées en raison de la non-application de ces prix, taux, frais ou conditions de transport.

DORS/2001-71, art. 4; DORS/2009-28, art. 1.

**114.** (1) Les tarifs et leurs modifications doivent être déposés auprès de l'Office par le transporteur aérien ou un agent habilité par procuration à agir pour le compte de celui-ci conformément à l'article 134.

(2) Les tarifs pluritransporteurs et leurs modifications doivent être déposés par l'un des transporteurs aériens participants ou par un agent habilité par procuration à agir pour le compte de celui-ci conformément à l'article 134.

(3) Le transporteur aérien qui dépose un tarif pluritransporteur conformément au paragraphe (2) doit être désigné comme le transporteur aérien émetteur.

(4) Il est interdit à un transporteur aérien qui habilite par procuration un agent ou un autre transporteur aérien à publier et à déposer des taxes, de publier dans ses propres tarifs des taxes qui font double emploi ou sont incompatibles avec celles-ci.

(5) Les tarifs sur papier et leurs modifications doivent être déposés auprès de l'Office en deux exemplaires et être accompagnés d'un avis de dépôt fourni en double.

*Contents of Tariffs*

**122.** Every tariff shall contain

(a) the terms and conditions governing the tariff generally, stated in such a way that it is clear as to how the terms and conditions apply to the tolls named in the tariff;

(b) the tolls, together with the names of the points from and to which or between which the tolls apply, arranged in a simple and systematic manner with, in the case of commodity tolls, goods clearly identified; and

(c) the terms and conditions of carriage, clearly stating the air carrier's policy in respect of at least the following matters, namely,

- (i) the carriage of persons with disabilities,
- (ii) acceptance of children for travel,
- (iii) compensation for denial of boarding as a result of overbooking,
- (iv) passenger re-routing,
- (v) failure to operate the service or failure to operate on schedule,
- (vi) refunds for services purchased but not used, whether in whole or in part, either as a result of the client's unwillingness or inability to continue or the air carrier's inability to provide the service for any reason,
- (vii) ticket reservation, cancellation, confirmation, validity and loss,
- (viii) refusal to transport passengers or goods,
- (ix) method of calculation of charges not specifically set out in the tariff,
- (x) limits of liability respecting passengers and goods,
- (xi) exclusions from liability respecting passengers and goods, and

*Contenu des tarifs*

**122.** Les tarifs doivent contenir :

a) les conditions générales régissant le tarif, énoncées en des termes qui expliquent clairement leur application aux taxes énumérées;

b) les taxes ainsi que les noms des points en provenance et à destination desquels ou entre lesquels elles s'appliquent, le tout étant disposé d'une manière simple et méthodique et les marchandises étant indiquées clairement dans le cas des taxes spécifiques;

c) les conditions de transport, dans lesquelles est énoncée clairement la politique du transporteur aérien concernant au moins les éléments suivants :

- (i) le transport des personnes ayant une déficience,
- (ii) l'admission des enfants,
- (iii) les indemnités pour refus d'embarquement à cause de sur réservation,
- (iv) le réacheminement des passagers,
- (v) l'inexécution du service et le non-respect de l'horaire,
- (vi) le remboursement des services achetés mais non utilisés, intégralement ou partiellement, par suite de la décision du client de ne pas poursuivre son trajet ou de son incapacité à le faire, ou encore de l'inaptitude du transporteur aérien à fournir le service pour une raison quelconque,
- (vii) la réservation, l'annulation, la confirmation, la validité et la perte des billets,
- (viii) le refus de transporter des passagers ou des marchandises,
- (ix) la méthode de calcul des frais non précisés dans le tarif,
- (x) les limites de responsabilité à l'égard des passagers et des marchandises,
- (xi) les exclusions de responsabilité à l'égard des passagers et des marchandises,

(xii) procedures to be followed, and time limitations, respecting claims.

SOR/93-253, s. 2; SOR/96-335, s. 65.

**123.** [Repealed, SOR/96-335, s. 65]

#### *Supplements*

**124.** (1) A supplement to a tariff on paper shall be in book or pamphlet form and shall be published only for the purpose of amending or cancelling that tariff.

(2) Every supplement shall be prepared in accordance with a standard form provided by the Agency.

(3) Supplements are governed by the same provisions of these Regulations as are applicable to the tariff that the supplements amend or cancel.

SOR/93-253, s. 2(F); SOR/96-335, s. 66.

#### *Symbols*

**125.** All abbreviations, notes, reference marks, symbols and technical terms shall be fully defined at the beginning of the tariff.

SOR/96-335, s. 66.

#### *Reference to Orders*

**126.** Every tariff or portion thereof published pursuant to an order of the Agency shall make reference therein to the number and date of the order.

#### *Disallowance*

**127.** (1) [Repealed, SOR/96-335, s. 67]

(2) Where a tariff or any portion thereof is disallowed, the CTA(A) number, supplement number or revised page number shall not be used again.

(3) A tariff or any portion thereof issued in substitution for a disallowed tariff or portion thereof shall make reference to the disallowed tariff or portion.

(4) Where any tariff or portion thereof of an air carrier operating a scheduled international service or operating a non-scheduled international service that is operated at a toll per unit of traffic, that contains through tolls applicable to the transportation of traffic between a point in

(xii) la marche à suivre ainsi que les délais fixés pour les réclamations.

DORS/93-253, art. 2; DORS/96-335, art. 65.

**123.** [Abrogé, DORS/96-335, art. 65]

#### *Suppléments*

**124.** (1) Les suppléments à un tarif sur papier doivent être publiés sous forme de livres ou de brochures et ne doivent servir qu'à modifier ou annuler le tarif.

(2) Les suppléments doivent être conformes au modèle fourni par l'Office.

(3) Les suppléments sont régis par les dispositions du présent règlement qui s'appliquent aux tarifs qu'ils modifient ou annulent.

DORS/93-253, art. 2(F); DORS/96-335, art. 66.

#### *Symboles*

**125.** Les abréviations, notes, appels de notes, symboles et termes techniques doivent être définis au début du tarif.

DORS/96-335, art. 66.

#### *Renvoi à un arrêté*

**126.** Tout tarif ou partie de tarif publié en exécution d'un arrêté de l'Office doit mentionner le numéro et la date de cet arrêté.

#### *Refus*

**127.** (1) [Abrogé, DORS/96-335, art. 67]

(2) Lorsque tout ou partie d'un tarif est refusé, ni le numéro OTC(A) ni le numéro de supplément ou de page révisée ne peuvent être réutilisés.

(3) Tout ou partie d'un tarif qui est publié en remplacement de tout ou partie d'un tarif refusé doit mentionner le tarif ou la partie du tarif refusé.

(4) Lorsque le transporteur aérien exploitant un service international régulier ou exploitant un service international à la demande moyennant une taxe unitaire applicable au trafic se voit refuser, par les autorités compétentes d'un pays étranger, tout ou partie de son ta-



CANADA

CONSOLIDATION

CODIFICATION

# Canada Transportation Act

# Loi sur les transports au Canada

S.C. 1996, c. 10

L.C. 1996, ch. 10

Current to November 26, 2013

À jour au 26 novembre 2013

Last amended on June 26, 2013

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Offence — subsection 53.1(1)	<p><b>53.6</b> (1) Every person who contravenes subsection 53.1(1) is guilty of an offence and is liable</p> <p>(a) on conviction on indictment, to a fine not exceeding \$50,000; or</p> <p>(b) on summary conviction, to a fine not exceeding \$25,000.</p>	<p><b>53.6</b> (1) Quiconque contrevient au paragraphe 53.1(1) commet une infraction et encourt, sur déclaration de culpabilité :</p> <p>a) par mise en accusation, une amende maximale de 50 000 \$;</p> <p>b) par procédure sommaire, une amende maximale de 25 000 \$.</p>	Infraction : par. 53.1(1)
Offence — subsection 53.2(1) or (10)	<p>(2) Every person who contravenes subsection 53.2(1) or (10) is guilty of an indictable offence and is liable to imprisonment for a term not exceeding five years or to a fine not exceeding \$10,000,000, or to both.</p>	<p>(2) Quiconque contrevient aux paragraphes 53.2(1) ou (10) commet un acte criminel passible d'un emprisonnement maximal de cinq ans et d'une amende maximale de 10 000 000 \$, ou de l'une de ces peines.</p>	Infraction : par. 53.2(1) ou (10)
Continuing offence	<p>(3) If an offence under subsection 53.2(10) is committed or continued on more than one day, the person who commits it is liable to be convicted for a separate offence for each day on which it is committed or continued.</p>	<p>(3) Il est compté une infraction distincte pour chacun des jours au cours desquels se commet ou se continue l'infraction visée au paragraphe 53.2(10).</p>	Infractions continues
Officers, etc., of corporations	<p>(4) If a corporation commits an offence under subsection (1) or (2), any officer, director or agent or mandatary of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.</p>	<p>(4) En cas de perpétration par une personne morale d'une infraction visée aux paragraphes (1) ou (2), ceux de ses administrateurs, dirigeants ou mandataires qui l'ont ordonnée ou autorisée, ou qui y ont consenti ou participé, sont considérés comme coauteurs de l'infraction et sont passibles, sur déclaration de culpabilité, de la peine prévue pour l'infraction en cause, que la personne morale ait été ou non poursuivie ou déclarée coupable.</p>	Administrateurs, dirigeants et mandataires
Sections 174 and 175 do not apply	<p>(5) Sections 174 and 175 do not apply in respect of an offence committed under subsection (1) or (2).</p> <p>2007, c. 19, s. 13.</p>	<p>(5) Les articles 174 et 175 ne s'appliquent pas aux infractions visées aux paragraphes (1) et (2).</p> <p>2007, ch. 19, art. 13.</p>	Non-application des articles 174 et 175

## GENERAL

Appointment of receiver not to bar jurisdiction	<p><b>54.</b> (1) The fact that a receiver, manager or other official of a carrier, or a receiver of the property of a carrier, has been appointed by a court in Canada, or is managing or operating a mode of transportation under the authority of any such court, is not a bar to the exercise of any jurisdiction granted under this Act, but every such receiver, manager or official is bound to manage and operate the mode of transportation in accordance with this Act and with the orders, regulations and directions made or issued under this Act, notwithstanding the fact that the receiver, manager, official or person has been appointed by or acts under the authority of a court.</p>
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## DISPOSITIONS GÉNÉRALES

<p><b>54.</b> (1) Le fait qu'un séquestre, gérant ou autre dirigeant d'un transporteur, ou un séquestre des biens d'un transporteur, a été nommé par un tribunal canadien, ou gère ou exploite un mode de transport sous l'autorité de ce tribunal, n'empêche pas l'exercice de quelque compétence attribuée par la présente loi. Il est cependant tenu de gérer et d'exploiter ce mode de transport conformément à la présente loi et aux arrêtés, règlements et directives pris en vertu de la présente loi, en dépit du fait que sa nomination a été faite par le tribunal ou que ses attributions lui ont été confiées par celui-ci.</p>	Nomination de receveurs
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Adaptation orders

(2) Wherever by reason of insolvency, sale under mortgage or any other cause, a transportation undertaking or a portion of a transportation undertaking is operated, managed or held otherwise than by the carrier, the Agency or the Minister may make any order it considers proper for adapting and applying the provisions of this Act.

## PART II

## AIR TRANSPORTATION

## INTERPRETATION AND APPLICATION

Definitions

55. (1) In this Part,

“aircraft”  
«aéronef»

“aircraft” has the same meaning as in subsection 3(1) of the *Aeronautics Act*;

“air service”  
«service aérien»

“air service” means a service, provided by means of an aircraft, that is publicly available for the transportation of passengers or goods, or both;

“basic fare”  
«prix de base»

“basic fare” means

(a) the fare in the tariff of the holder of a domestic licence that has no restrictions and represents the lowest amount to be paid for one-way air transportation of an adult with reasonable baggage between two points in Canada, or

(b) where the licensee has more than one such fare between two points in Canada and the amount of any of those fares is dependent on the time of day or day of the week of travel, or both, the highest of those fares;

“Canadian”  
«Canadien»

“Canadian” means a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*, a government in Canada or an agent of such a government or a corporation or other entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least seventy-five per cent, or such lesser percentage as the Governor in Council may by regulation specify, of the voting interests are owned and controlled by Canadians;

“Canadian aviation document”  
«document d’aviation canadien»

“Canadian aviation document” has the same meaning as in subsection 3(1) of the *Aeronautics Act*;

Modification

(2) L’Office ou le ministre peut, par arrêté, adapter les dispositions de la présente loi si, notamment pour insolvabilité ou vente hypothécaire, une entreprise de transport échappe, en tout ou en partie, à la gestion, à l’exploitation ou à la possession du transporteur en cause.

## PARTIE II

## TRANSPORT AÉRIEN

## DÉFINITIONS ET CHAMP D’APPLICATION

Définitions

55. (1) Les définitions qui suivent s’appliquent à la présente partie.

«aéronef» S’entend au sens du paragraphe 3(1) de la *Loi sur l’aéronautique*.

«aéronef»  
“aircraft”

«Canadien» Citoyen canadien ou résident permanent au sens du paragraphe 2(1) de la *Loi sur l’immigration et la protection des réfugiés*; la notion englobe également les administrations publiques du Canada ou leurs mandataires et les personnes ou organismes, constitués au Canada sous le régime de lois fédérales ou provinciales et contrôlés de fait par des Canadiens, dont au moins soixante-quinze pour cent — ou tel pourcentage inférieur désigné par règlement du gouverneur en conseil — des actions assorties du droit de vote sont détenues et contrôlées par des Canadiens.

«Canadien»  
“Canadian”

«document d’aviation canadien» S’entend au sens du paragraphe 3(1) de la *Loi sur l’aéronautique*.

«document d’aviation canadien»  
“Canadian aviation document”

«licencié» Titulaire d’une licence délivrée par l’Office en application de la présente partie.

«licencié»  
“licensee”

«prix de base»

«prix de base»  
“basic fare”

a) Prix du tarif du titulaire d’une licence intérieure qui est sans restriction et qui constitue le montant le moins élevé à payer pour le transport aller, entre deux points situés au Canada, d’un adulte accompagné d’une quantité normale de bagages;

b) dans les cas où un tel prix peut varier selon le moment du jour ou de la semaine, ou des deux, auquel s’effectue le voyage, le montant le plus élevé de ce prix.

«règlement» Règlement pris au titre de l’article 86.

«règlement»  
“prescribed”

<p>“domestic licence” <i>Version anglaise seulement</i></p>	<p>“domestic licence” means a licence issued under section 61;</p>	<p>«service aérien» Service offert, par aéronef, au public pour le transport des passagers, des marchandises, ou des deux.</p>	<p>«service aérien» “air service”</p>
<p>“domestic service” «service intérieur»</p>	<p>“domestic service” means an air service between points in Canada, from and to the same point in Canada or between Canada and a point outside Canada that is not in the territory of another country;</p>	<p>«service intérieur» Service aérien offert soit à l’intérieur du Canada, soit entre un point qui y est situé et un point qui lui est extérieur sans pour autant faire partie du territoire d’un autre pays.</p>	<p>«service intérieur» “domestic service”</p>
<p>“international service” «service international»</p>	<p>“international service” means an air service between Canada and a point in the territory of another country;</p>	<p>«service international» Service aérien offert entre le Canada et l’étranger.</p>	<p>«service international» “international service”</p>
<p>“licensee” «licencié»</p>	<p>“licensee” means the holder of a licence issued by the Agency under this Part;</p>	<p>«service international à la demande» Service international autre qu’un service international régulier.</p>	<p>«service international à la demande» “non-scheduled international service”</p>
<p>“non-scheduled international licence” <i>Version anglaise seulement</i></p>	<p>“non-scheduled international licence” means a licence issued under subsection 73(1);</p>	<p>«service international régulier» Service international exploité à titre de service régulier aux termes d’un accord ou d’une entente à cet effet dont le Canada est signataire ou sous le régime d’une qualification faite en application de l’article 70.</p>	<p>«service international régulier» “scheduled international service”</p>
<p>“non-scheduled international service” «service international à la demande»</p>	<p>“non-scheduled international service” means an international service other than a scheduled international service;</p>	<p>«tarif» Barème des prix, taux, frais et autres conditions de transport applicables à la prestation d’un service aérien et des services connexes.</p>	<p>«tarif» “tariff”</p>
<p>“prescribed” «règlement»</p>	<p>“prescribed” means prescribed by regulations made under section 86;</p>	<p>«texte d’application» Arrêté ou règlement pris en application de la présente partie ou de telle de ses dispositions.</p>	<p>«texte d’application» <i>French version only</i></p>
<p>“scheduled international licence” <i>Version anglaise seulement</i></p>	<p>“scheduled international licence” means a licence issued under subsection 69(1);</p>		
<p>“scheduled international service” «service international régulier»</p>	<p>“scheduled international service” means an international service that is a scheduled service pursuant to</p> <p>(a) an agreement or arrangement for the provision of that service to which Canada is a party, or</p> <p>(b) a determination made under section 70;</p>		
<p>“tariff” «tarif»</p>	<p>“tariff” means a schedule of fares, rates, charges and terms and conditions of carriage applicable to the provision of an air service and other incidental services.</p>		
<p>Affiliation</p>	<p>(2) For the purposes of this Part,</p> <p>(a) one corporation is affiliated with another corporation if</p> <p>(i) one of them is a subsidiary of the other,</p> <p>(ii) both are subsidiaries of the same corporation, or</p> <p>(iii) both are controlled by the same person;</p>	<p>(2) Pour l’application de la présente partie :</p> <p>a) des personnes morales sont du même groupe si l’une est la filiale de l’autre, si toutes deux sont des filiales d’une même personne morale ou si chacune d’elles est contrôlée par la même personne;</p> <p>b) si deux personnes morales sont du groupe d’une même personne morale au même mo-</p>	<p>Groupe</p>



deal with the complaint in accordance with the provisions of this Part under which the complaint has been made.

Further proceedings

(4) A member of the Agency or any person authorized to act on the Agency's behalf who has been involved in attempting to resolve or mediate the complaint under this section may not act in any further proceedings before the Agency in respect of the complaint.

Extension of time

(5) The period of 120 days referred to in subsection 29(1) shall be extended by the period taken by the Agency or any person authorized to act on the Agency's behalf to review and attempt to resolve or mediate the complaint under this section.

Part of annual report

(6) The Agency shall, as part of its annual report, indicate the number and nature of the complaints filed under this Part, the names of the carriers against whom the complaints were made, the manner complaints were dealt with and the systemic trends observed.

2000, c. 15, s. 7.1; 2007, c. 19, s. 25.

#### REGULATIONS

Regulations

- 86.** (1) The Agency may make regulations
- (a) classifying air services;
  - (b) classifying aircraft;
  - (c) prescribing liability insurance coverage requirements for air services or aircraft;
  - (d) prescribing financial requirements for each class of air service or aircraft;
  - (e) respecting the issuance, amendment and cancellation of permits for the operation of international charters;
  - (f) respecting the duration and renewal of licences;
  - (g) respecting the amendment of licences;
  - (h) respecting traffic and tariffs, fares, rates, charges and terms and conditions of carriage for international service and
    - (i) providing for the disallowance or suspension by the Agency of any tariff, fare, rate or charge,
    - (ii) providing for the establishment and substitution by the Agency of any tariff, fare, rate or charge disallowed by the Agency,

miner la plainte conformément aux dispositions de la présente partie en vertu desquelles elle a été déposée.

Inhabilité

(4) Le membre de l'Office ou le délégué qui a tenté de régler l'affaire ou joué le rôle de médiateur en vertu du présent article ne peut agir dans le cadre de procédures ultérieures, le cas échéant, devant l'Office à l'égard de la plainte en question.

Prolongation

(5) La période de cent vingt jours prévue au paragraphe 29(1) est prolongée de la durée de la période durant laquelle l'Office ou son délégué agit en vertu du présent article.

Inclusion dans le rapport annuel

(6) L'Office inclut dans son rapport annuel le nombre et la nature des plaintes déposées au titre de la présente partie, le nom des transporteurs visés par celles-ci, la manière dont elles ont été traitées et les tendances systémiques qui se sont manifestées.

2000, ch. 15, art. 7.1; 2007, ch. 19, art. 25.

#### RÈGLEMENTS

- 86.** (1) L'Office peut, par règlement :
- a) classifier les services aériens;
  - b) classifier les aéronefs;
  - c) prévoir les exigences relatives à la couverture d'assurance responsabilité pour les services aériens et les aéronefs;
  - d) prévoir les exigences financières pour chaque catégorie de service aérien ou d'aéronefs;
  - e) régir la délivrance, la modification et l'annulation des permis d'affrètements internationaux;
  - f) fixer la durée de validité et les modalités de renouvellement des licences;
  - g) régir la modification des licences;
  - h) prendre toute mesure concernant le trafic et les tarifs, prix, taux, frais et conditions de transport liés au service international, notamment prévoir qu'il peut :
    - (i) annuler ou suspendre des tarifs, prix, taux ou frais,
    - (ii) établir de nouveaux tarifs, prix, taux ou frais en remplacement de ceux annulés,

Pouvoirs de l'Office

(iii) authorizing the Agency to direct a licensee or carrier to take corrective measures that the Agency considers appropriate and to pay compensation for any expense incurred by a person adversely affected by the licensee's or carrier's failure to apply the fares, rates, charges or terms or conditions of carriage applicable to the service it offers that were set out in its tariffs, and

(iv) requiring a licensee or carrier to display the terms and conditions of carriage for its international service on its Internet site, if the site is used for selling the international service of the licensee or carrier;

(i) requiring licensees to file with the Agency any documents and information relating to activities under their licences that are necessary for the purposes of enabling the Agency to exercise its powers and perform its duties and functions under this Part and respecting the manner in which and the times at which the documents and information are to be filed;

(j) requiring licensees to include in contracts or arrangements with travel wholesalers, tour operators, charterers or other persons associated with the provision of air services to the public, or to make those contracts and arrangements subject to, terms and conditions specified or referred to in the regulations;

(k) defining words and expressions for the purposes of this Part;

(l) excluding a person from any of the requirements of this Part;

(m) prescribing any matter or thing that by this Part is to be prescribed; and

(n) generally for carrying out the purposes and provisions of this Part.

(2) No regulation shall be made under paragraph (1)(l) that has the effect of relieving a person from any provision of this Part that requires a person to be a Canadian and to have a Canadian aviation document and prescribed liability insurance coverage in respect of an air service.

(3) [Repealed, 2007, c. 19, s. 26]

1996, c. 10, s. 86; 2000, c. 15, s. 8; 2007, c. 19, s. 26.

(iii) enjoindre à tout licencié ou transporteur de prendre les mesures correctives qu'il estime indiquées et de verser des indemnités aux personnes lésées par la non-application par le licencié ou transporteur des prix, taux, frais ou conditions de transport applicables au service et qui figuraient au tarif,

(iv) obliger tout licencié ou transporteur à publier les conditions de transport du service international sur tout site Internet qu'il utilise pour vendre ce service;

i) demander aux licenciés de déposer auprès de lui les documents ainsi que les renseignements relatifs aux activités liées à leurs licences et nécessaires à l'exercice de ses attributions dans le cadre de la présente partie, et fixer les modalités de temps ou autres du dépôt;

j) demander aux licenciés d'inclure dans les contrats ou ententes conclus avec les grossistes en voyages, voyagistes, affréteurs ou autres personnes associées à la prestation de services aériens au public les conditions prévues dans les règlements ou d'assujettir ces contrats ou ententes à ces conditions;

k) définir les termes non définis de la présente partie;

l) exempter toute personne des obligations imposées par la présente partie;

m) prendre toute mesure d'ordre réglementaire prévue par la présente partie;

n) prendre toute autre mesure d'application de la présente partie.

(2) Les obligations imposées par la présente partie relativement à la qualité de Canadien, au document d'aviation canadien et à la police d'assurance responsabilité réglementaire en matière de service aérien ne peuvent faire l'objet de l'exemption prévue à l'alinéa (1)l).

(3) [Abrogé, 2007, ch. 19, art. 26]

1996, ch. 10, art. 86; 2000, ch. 15, art. 8; 2007, ch. 19, art. 26.

Exclusion not to provide certain relief

Exception

## I

(Acts whose publication is obligatory)

**REGULATION (EC) No 261/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 11 February 2004  
establishing common rules on compensation and assistance to passengers in the event of denied  
boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91  
(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>, in the light of the joint text approved by the Conciliation Committee on 1 December 2003,

Whereas:

- (1) Action by the Community in the field of air transport should aim, among other things, at ensuring a high level of protection for passengers. Moreover, full account should be taken of the requirements of consumer protection in general.
- (2) Denied boarding and cancellation or long delay of flights cause serious trouble and inconvenience to passengers.
- (3) While Council Regulation (EEC) No 295/91 of 4 February 1991 establishing common rules for a denied boarding compensation system in scheduled air transport <sup>(4)</sup> created basic protection for passengers, the number of passengers denied boarding against their will remains too high, as does that affected by cancellations without prior warning and that affected by long delays.

- (4) The Community should therefore raise the standards of protection set by that Regulation both to strengthen the rights of passengers and to ensure that air carriers operate under harmonised conditions in a liberalised market.

- (5) Since the distinction between scheduled and non-scheduled air services is weakening, such protection should apply to passengers not only on scheduled but also on non-scheduled flights, including those forming part of package tours.

- (6) The protection accorded to passengers departing from an airport located in a Member State should be extended to those leaving an airport located in a third country for one situated in a Member State, when a Community carrier operates the flight.

- (7) In order to ensure the effective application of this Regulation, the obligations that it creates should rest with the operating air carrier who performs or intends to perform a flight, whether with owned aircraft, under dry or wet lease, or on any other basis.

- (8) This Regulation should not restrict the rights of the operating air carrier to seek compensation from any person, including third parties, in accordance with the law applicable.

- (9) The number of passengers denied boarding against their will should be reduced by requiring air carriers to call for volunteers to surrender their reservations, in exchange for benefits, instead of denying passengers boarding, and by fully compensating those finally denied boarding.

<sup>(1)</sup> OJ C 103 E, 30.4.2002, p. 225 and OJ C 71 E, 25.3.2003, p. 188.

<sup>(2)</sup> OJ C 241, 7.10.2002, p. 29.

<sup>(3)</sup> Opinion of the European Parliament of 24 October 2002 (OJ C 300 E, 11.12.2003, p. 443), Council Common Position of 18 March 2003 (OJ C 125 E, 27.5.2003, p. 63) and Position of the European Parliament of 3 July 2003. Legislative Resolution of the European Parliament of 18 December 2003 and Council Decision of 26 January 2004.

<sup>(4)</sup> OJ L 36, 8.2.1991, p. 5.

- (10) Passengers denied boarding against their will should be able either to cancel their flights, with reimbursement of their tickets, or to continue them under satisfactory conditions, and should be adequately cared for while awaiting a later flight.
- (11) Volunteers should also be able to cancel their flights, with reimbursement of their tickets, or continue them under satisfactory conditions, since they face difficulties of travel similar to those experienced by passengers denied boarding against their will.
- (12) The trouble and inconvenience to passengers caused by cancellation of flights should also be reduced. This should be achieved by inducing carriers to inform passengers of cancellations before the scheduled time of departure and in addition to offer them reasonable re-routing, so that the passengers can make other arrangements. Air carriers should compensate passengers if they fail to do this, except when the cancellation occurs in extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.
- (13) Passengers whose flights are cancelled should be able either to obtain reimbursement of their tickets or to obtain re-routing under satisfactory conditions, and should be adequately cared for while awaiting a later flight.
- (14) As under the Montreal Convention, obligations on operating air carriers should be limited or excluded in cases where an event has been caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. Such circumstances may, in particular, occur in cases of political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the operation of an operating air carrier.
- (15) Extraordinary circumstances should be deemed to exist where the impact of an air traffic management decision in relation to a particular aircraft on a particular day gives rise to a long delay, an overnight delay, or the cancellation of one or more flights by that aircraft, even though all reasonable measures had been taken by the air carrier concerned to avoid the delays or cancellations.
- (16) In cases where a package tour is cancelled for reasons other than the flight being cancelled, this Regulation should not apply.
- (17) Passengers whose flights are delayed for a specified time should be adequately cared for and should be able to cancel their flights with reimbursement of their tickets or to continue them under satisfactory conditions.
- (18) Care for passengers awaiting an alternative or a delayed flight may be limited or declined if the provision of the care would itself cause further delay.
- (19) Operating air carriers should meet the special needs of persons with reduced mobility and any persons accompanying them.
- (20) Passengers should be fully informed of their rights in the event of denied boarding and of cancellation or long delay of flights, so that they can effectively exercise their rights.
- (21) Member States should lay down rules on sanctions applicable to infringements of the provisions of this Regulation and ensure that these sanctions are applied. The sanctions should be effective, proportionate and dissuasive.
- (22) Member States should ensure and supervise general compliance by their air carriers with this Regulation and designate an appropriate body to carry out such enforcement tasks. The supervision should not affect the rights of passengers and air carriers to seek legal redress from courts under procedures of national law.
- (23) The Commission should analyse the application of this Regulation and should assess in particular the opportunity of extending its scope to all passengers having a contract with a tour operator or with a Community carrier, when departing from a third country airport to an airport in a Member State.
- (24) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation.
- (25) Regulation (EEC) No 295/91 should accordingly be repealed,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Subject**

1. This Regulation establishes, under the conditions specified herein, minimum rights for passengers when:

- (a) they are denied boarding against their will;
- (b) their flight is cancelled;
- (c) their flight is delayed.

2. Application of this Regulation to Gibraltar airport is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

3. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.

#### Article 2

#### Definitions

For the purposes of this Regulation:

- (a) 'air carrier' means an air transport undertaking with a valid operating licence;
- (b) 'operating air carrier' means an air carrier that performs or intends to perform a flight under a contract with a passenger or on behalf of another person, legal or natural, having a contract with that passenger;
- (c) 'Community carrier' means an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers <sup>(1)</sup>;
- (d) 'tour operator' means, with the exception of an air carrier, an organiser within the meaning of Article 2, point 2, of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours <sup>(2)</sup>;
- (e) 'package' means those services defined in Article 2, point 1, of Directive 90/314/EEC;
- (f) 'ticket' means a valid document giving entitlement to transport, or something equivalent in paperless form, including electronic form, issued or authorised by the air carrier or its authorised agent;
- (g) 'reservation' means the fact that the passenger has a ticket, or other proof, which indicates that the reservation has been accepted and registered by the air carrier or tour operator;
- (h) 'final destination' means the destination on the ticket presented at the check-in counter or, in the case of directly connecting flights, the destination of the last flight; alternative connecting flights available shall not be taken into account if the original planned arrival time is respected;
- (i) 'person with reduced mobility' means any person whose mobility is reduced when using transport because of any physical disability (sensory or locomotory, permanent or temporary), intellectual impairment, age or any other cause

<sup>(1)</sup> OJ L 240, 24.8.1992, p. 1.

<sup>(2)</sup> OJ L 158, 23.6.1990, p. 59.

of disability, and whose situation needs special attention and adaptation to the person's needs of the services made available to all passengers;

- (j) 'denied boarding' means a refusal to carry passengers on a flight, although they have presented themselves for boarding under the conditions laid down in Article 3(2), except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation;
- (k) 'volunteer' means a person who has presented himself for boarding under the conditions laid down in Article 3(2) and responds positively to the air carrier's call for passengers prepared to surrender their reservation in exchange for benefits.
- (l) 'cancellation' means the non-operation of a flight which was previously planned and on which at least one place was reserved.

#### Article 3

#### Scope

1. This Regulation shall apply:
  - (a) to passengers departing from an airport located in the territory of a Member State to which the Treaty applies;
  - (b) to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaty applies, unless they received benefits or compensation and were given assistance in that third country, if the operating air carrier of the flight concerned is a Community carrier.
2. Paragraph 1 shall apply on the condition that passengers:
  - (a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5, present themselves for check-in,
    - as stipulated and at the time indicated in advance and in writing (including by electronic means) by the air carrier, the tour operator or an authorised travel agent,
    - or, if no time is indicated,
    - not later than 45 minutes before the published departure time; or
  - (b) have been transferred by an air carrier or tour operator from the flight for which they held a reservation to another flight, irrespective of the reason.
3. This Regulation shall not apply to passengers travelling free of charge or at a reduced fare not available directly or indirectly to the public. However, it shall apply to passengers having tickets issued under a frequent flyer programme or other commercial programme by an air carrier or tour operator.

4. This Regulation shall only apply to passengers transported by motorised fixed wing aircraft.

5. This Regulation shall apply to any operating air carrier providing transport to passengers covered by paragraphs 1 and 2. Where an operating air carrier which has no contract with the passenger performs obligations under this Regulation, it shall be regarded as doing so on behalf of the person having a contract with that passenger.

6. This Regulation shall not affect the rights of passengers under Directive 90/314/EEC. This Regulation shall not apply in cases where a package tour is cancelled for reasons other than cancellation of the flight.

#### Article 4

##### Denied boarding

1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the operating air carrier. Volunteers shall be assisted in accordance with Article 8, such assistance being additional to the benefits mentioned in this paragraph.

2. If an insufficient number of volunteers comes forward to allow the remaining passengers with reservations to board the flight, the operating air carrier may then deny boarding to passengers against their will.

3. If boarding is denied to passengers against their will, the operating air carrier shall immediately compensate them in accordance with Article 7 and assist them in accordance with Articles 8 and 9.

#### Article 5

##### Cancellation

1. In case of cancellation of a flight, the passengers concerned shall:

- (a) be offered assistance by the operating air carrier in accordance with Article 8; and
- (b) be offered assistance by the operating air carrier in accordance with Article 9(1)(a) and 9(2), as well as, in event of re-routing when the reasonably expected time of departure of the new flight is at least the day after the departure as it was planned for the cancelled flight, the assistance specified in Article 9(1)(b) and 9(1)(c); and
- (c) have the right to compensation by the operating air carrier in accordance with Article 7, unless:
  - (i) they are informed of the cancellation at least two weeks before the scheduled time of departure; or

- (ii) they are informed of the cancellation between two weeks and seven days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than two hours before the scheduled time of departure and to reach their final destination less than four hours after the scheduled time of arrival; or

- (iii) they are informed of the cancellation less than seven days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than one hour before the scheduled time of departure and to reach their final destination less than two hours after the scheduled time of arrival.

2. When passengers are informed of the cancellation, an explanation shall be given concerning possible alternative transport.

3. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.

4. The burden of proof concerning the questions as to whether and when the passenger has been informed of the cancellation of the flight shall rest with the operating air carrier.

#### Article 6

##### Delay

1. When an operating air carrier reasonably expects a flight to be delayed beyond its scheduled time of departure:

- (a) for two hours or more in the case of flights of 1 500 kilometres or less; or
- (b) for three hours or more in the case of all intra-Community flights of more than 1 500 kilometres and of all other flights between 1 500 and 3 500 kilometres; or
- (c) for four hours or more in the case of all flights not falling under (a) or (b),

passengers shall be offered by the operating air carrier:

- (i) the assistance specified in Article 9(1)(a) and 9(2); and
- (ii) when the reasonably expected time of departure is at least the day after the time of departure previously announced, the assistance specified in Article 9(1)(b) and 9(1)(c); and
- (iii) when the delay is at least five hours, the assistance specified in Article 8(1)(a).

2. In any event, the assistance shall be offered within the time limits set out above with respect to each distance bracket.

*Article 7***Right to compensation**

1. Where reference is made to this Article, passengers shall receive compensation amounting to:

- (a) EUR 250 for all flights of 1 500 kilometres or less;
- (b) EUR 400 for all intra-Community flights of more than 1 500 kilometres, and for all other flights between 1 500 and 3 500 kilometres;
- (c) EUR 600 for all flights not falling under (a) or (b).

In determining the distance, the basis shall be the last destination at which the denial of boarding or cancellation will delay the passenger's arrival after the scheduled time.

2. When passengers are offered re-routing to their final destination on an alternative flight pursuant to Article 8, the arrival time of which does not exceed the scheduled arrival time of the flight originally booked

- (a) by two hours, in respect of all flights of 1 500 kilometres or less; or
- (b) by three hours, in respect of all intra-Community flights of more than 1 500 kilometres and for all other flights between 1 500 and 3 500 kilometres; or
- (c) by four hours, in respect of all flights not falling under (a) or (b),

the operating air carrier may reduce the compensation provided for in paragraph 1 by 50 %.

3. The compensation referred to in paragraph 1 shall be paid in cash, by electronic bank transfer, bank orders or bank cheques or, with the signed agreement of the passenger, in travel vouchers and/or other services.

4. The distances given in paragraphs 1 and 2 shall be measured by the great circle route method.

*Article 8***Right to reimbursement or re-routing**

1. Where reference is made to this Article, passengers shall be offered the choice between:

- (a) — reimbursement within seven days, by the means provided for in Article 7(3), of the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant,
  - a return flight to the first point of departure, at the earliest opportunity;
- (b) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or

- (c) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger's convenience, subject to availability of seats.

2. Paragraph 1(a) shall also apply to passengers whose flights form part of a package, except for the right to reimbursement where such right arises under Directive 90/314/EEC.

3. When, in the case where a town, city or region is served by several airports, an operating air carrier offers a passenger a flight to an airport alternative to that for which the booking was made, the operating air carrier shall bear the cost of transferring the passenger from that alternative airport either to that for which the booking was made, or to another close-by destination agreed with the passenger.

*Article 9***Right to care**

1. Where reference is made to this Article, passengers shall be offered free of charge:

- (a) meals and refreshments in a reasonable relation to the waiting time;
- (b) hotel accommodation in cases
  - where a stay of one or more nights becomes necessary, or
  - where a stay additional to that intended by the passenger becomes necessary;
- (c) transport between the airport and place of accommodation (hotel or other).

2. In addition, passengers shall be offered free of charge two telephone calls, telex or fax messages, or e-mails.

3. In applying this Article, the operating air carrier shall pay particular attention to the needs of persons with reduced mobility and any persons accompanying them, as well as to the needs of unaccompanied children.

*Article 10***Upgrading and downgrading**

1. If an operating air carrier places a passenger in a class higher than that for which the ticket was purchased, it may not request any supplementary payment.

2. If an operating air carrier places a passenger in a class lower than that for which the ticket was purchased, it shall within seven days, by the means provided for in Article 7(3), reimburse

- (a) 30 % of the price of the ticket for all flights of 1 500 kilometres or less, or

- (b) 50 % of the price of the ticket for all intra-Community flights of more than 1 500 kilometres, except flights between the European territory of the Member States and the French overseas departments, and for all other flights between 1 500 and 3 500 kilometres, or
- (c) 75 % of the price of the ticket for all flights not falling under (a) or (b), including flights between the European territory of the Member States and the French overseas departments.

#### Article 11

##### Persons with reduced mobility or special needs

1. Operating air carriers shall give priority to carrying persons with reduced mobility and any persons or certified service dogs accompanying them, as well as unaccompanied children.
2. In cases of denied boarding, cancellation and delays of any length, persons with reduced mobility and any persons accompanying them, as well as unaccompanied children, shall have the right to care in accordance with Article 9 as soon as possible.

#### Article 12

##### Further compensation

1. This Regulation shall apply without prejudice to a passenger's rights to further compensation. The compensation granted under this Regulation may be deducted from such compensation.
2. Without prejudice to relevant principles and rules of national law, including case-law, paragraph 1 shall not apply to passengers who have voluntarily surrendered a reservation under Article 4(1).

#### Article 13

##### Right of redress

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation may be interpreted as restricting its right to seek compensation from any person, including third parties, in accordance with the law applicable. In particular, this Regulation shall in no way restrict the operating air carrier's right to seek reimbursement from a tour operator or another person with whom the operating air carrier has a contract. Similarly, no provision of this Regulation may be interpreted as restricting the right of a tour operator or a third party, other than a passenger, with whom an operating air carrier has a contract, to seek reimbursement or compensation from the operating air carrier in accordance with applicable relevant laws.

#### Article 14

##### Obligation to inform passengers of their rights

1. The operating air carrier shall ensure that at check-in a clearly legible notice containing the following text is displayed in a manner clearly visible to passengers: 'If you are denied boarding or if your flight is cancelled or delayed for at least two hours, ask at the check-in counter or boarding gate for the text stating your rights, particularly with regard to compensation and assistance'.
2. An operating air carrier denying boarding or cancelling a flight shall provide each passenger affected with a written notice setting out the rules for compensation and assistance in line with this Regulation. It shall also provide each passenger affected by a delay of at least two hours with an equivalent notice. The contact details of the national designated body referred to in Article 16 shall also be given to the passenger in written form.
3. In respect of blind and visually impaired persons, the provisions of this Article shall be applied using appropriate alternative means.

#### Article 15

##### Exclusion of waiver

1. Obligations vis-à-vis passengers pursuant to this Regulation may not be limited or waived, notably by a derogation or restrictive clause in the contract of carriage.
2. If, nevertheless, such a derogation or restrictive clause is applied in respect of a passenger, or if the passenger is not correctly informed of his rights and for that reason has accepted compensation which is inferior to that provided for in this Regulation, the passenger shall still be entitled to take the necessary proceedings before the competent courts or bodies in order to obtain additional compensation.

#### Article 16

##### Infringements

1. Each Member State shall designate a body responsible for the enforcement of this Regulation as regards flights from airports situated on its territory and flights from a third country to such airports. Where appropriate, this body shall take the measures necessary to ensure that the rights of passengers are respected. The Member States shall inform the Commission of the body that has been designated in accordance with this paragraph.



2. Without prejudice to Article 12, each passenger may complain to any body designated under paragraph 1, or to any other competent body designated by a Member State, about an alleged infringement of this Regulation at any airport situated on the territory of a Member State or concerning any flight from a third country to an airport situated on that territory.

3. The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate and dissuasive.

#### *Article 17*

##### **Report**

The Commission shall report to the European Parliament and the Council by 1 January 2007 on the operation and the results of this Regulation, in particular regarding:

- the incidence of denied boarding and of cancellation of flights,
- the possible extension of the scope of this Regulation to passengers having a contract with a Community carrier or holding a flight reservation which forms part of a 'package

tour' to which Directive 90/314/EEC applies and who depart from a third-country airport to an airport in a Member State, on flights not operated by Community air carriers,

- the possible revision of the amounts of compensation referred to in Article 7(1).

The report shall be accompanied where necessary by legislative proposals.

#### *Article 18*

##### **Repeal**

Regulation (EEC) No 295/91 shall be repealed.

#### *Article 19*

##### **Entry into force**

This Regulation shall enter into force on 17 February 2005.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 11 February 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

M. McDOWELL

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*Indexed as:*  
**Fednav Ltd. v. Fortunair Canada Inc.**

**Between**  
**Fednav Limited, plaintiff, and**  
**Fortunair Canada Inc., defendant**

[1994] F.C.J. No. 1969

[1994] A.C.F. no 1969

89 F.T.R. 153

59 C.P.R. (3d) 1

52 A.C.W.S. (3d) 888

Action No. T-1717-94

Federal Court of Canada - Trial Division  
Ottawa, Ontario

**Noël J.**

Heard: December 19, 1994

Judgment: December 22, 1994

(10 pp.)

*Trademarks, names and designs -- Trademarks -- Infringement -- Remedies, injunctions.*

The plaintiff applied for an interlocutory injunction and related relief pursuant to the Trade Marks Act. The plaintiff was a privately owned company which shipped cargo and bulk materials by sea. The defendant was a company which transported passengers by air. The plaintiff had used its trade mark since September, 1967. The plaintiff alleged that the defendant had introduced a trade mark design which was confusing with the plaintiff's trade mark design.

HELD: An injunction would issue. The first issue was whether there was a serious question to be tried. The plaintiff had established that the defendant used the impugned trade mark design on its

wares, including its airplane, its office door and its advertising material. The defendant argued that its business was not the same type as that of the plaintiff, but the court accepted that there was some basis in fact for Fednav's assertions that the parties operated in the same area. Both companies were in the transport business. There was also a possibility that the consumer would think that the airline carrier and the cargo shipper were affiliated. Thus, the plaintiff had established some basis in fact of its assertions that the trade mark designs were confusing. Therefore, the plaintiff had established that its statement of claim raised a serious issue. The next question was whether, if the injunction were not granted, the plaintiff would suffer irreparable injury not compensable in damages. Even if the harm complained of by the plaintiff was compensable by way of damages, it would be irreparable due to Fortunair's status as a fledgling, financially unstable company which would not likely be in a position to pay a damage award against it. Further, the plaintiff, a large company with substantial resources, had undertaken to pay any damages should the defendant eventually succeed. This was also relevant to the balance of convenience test.

### **Statutes, Regulations and Rules Cited:**

Trade Marks Act, R.S.C. 1985, c. T-13, s. 6(1), 6(2), 6(3), 6(4).

Bruce Caughhill, for the plaintiff.

Louis Lemire, for the defendant.

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**NOËL J.** (Reasons for Order):--

#### **I. INTRODUCTION**

**1** This is an application for an interlocutory injunction and related relief pursuant to the Trade Marks Act, R.S.C. 1985, c.T-13 (the "Trade Marks Act"), brought by the plaintiff against the defendant in an action commenced by statement of claim filed July 18, 1994. The plaintiff, Fednav Limited ("Fednav"), seeks an interlocutory injunction restraining the defendant Fortunair Canada Inc. ("Fortunair"), pending judgment at trial or other disposition of the action, from:

- (1) infringing the plaintiff's trade mark F & Design Registration No. TMA 199, 070;
- (2) selling, offering for sale or performing services in Canada in association with the trade marks F & Leaf and FORTUNAIR CANADA & Design or any other trade mark confusing with the plaintiff's F & Design trade mark;
- (3) directing public attention to its services in such a way as to cause or to be likely to cause, confusion between its services and the services of the plaintiff;
- (4) passing off its services as and for those of the plaintiff, and from enabling others

to do so.

## II. FACTS

**2** The plaintiff Fednav alleges that Fortunair has introduced a trade mark design that is confusing with its trade mark design. Fednav's trade mark is composed of geometric shapes, rectangles, forming a red-coloured "F" with a "square-ish" geometrically stylized quarter red-coloured maple leaf imposed behind the upper left side of the F (referred to as "F & Design"). Fortunair's trade mark is composed of an upper case italicized dark blue-coloured "F" with a half red-coloured classical maple leaf imposed behind the upper left side of the F (referred to as "F & Leaf"). Black and white hand-drawn facsimiles of the trade marks are shown below [Editor's note; The illustration could not be reproduced online.]:

Fednav's F & Design

Fortunair's F & Leaf

**3** Fednav is a privately owned maritime shipping company. It operates several marine terminals around the world and charters dry bulk cargo vessels. It owns the F & Design trade mark, Registration No. 199, 070, and has used that trade mark since September 1967. Through its subsidiaries and affiliated companies (the "Fednav Group"), Fednav owns twelve vessels, charters and operates another five vessels, and is in the process of building eight new carriers, all of which prominently display the F & Design. Additionally, the Fednav Group maintains service offices in cities around the world, including London, Antwerp, Hamburg, Rio de Janeiro, Brisbane, and Tokyo, all of which prominently display the F & Design in association with Fednav's services. Moreover, Fednav operates marine terminals in Chicago, Hamilton, Toronto, Montréal, Sorel, Québec, Port Cartier, Saint John, N.B., and Eastport, Maine, all of which prominently display the F & Design in association with Fednav's services. Many familiar with the transportation industry, especially the shipping business, recognize the F & Design as identifying the plaintiff's services and business.

**4** The plaintiff has also spent over \$415,000 US since 1987 marketing its services in association with the F & Design trade mark in promotional brochures, advertisements, trade publications, etc. Fednav also prominently displays the F & Design on all its company newsletters, internal documents, machinery, equipment, and invoices as well as the business cards of its employees.

**5** In June 1994, Fednav became aware that the defendant was advertising, selling, and offering for sale in Canada airline services in association with the trade marks FORTUNAIR CANADA & Design and the F & Leaf. Fortunair prominently displays the F & Leaf on its airplane, at its tickets office in Mirabel Airport, on its baggage tickets, and in the advertising and promotion of its airline chartering services.

**6** The airline business is shrinking. Since 1990, there has been a rising trend in bankruptcies among carriers authorized to provide scheduled and/or charter air flights. The defendant Fortunair is a new airline company with only one airplane. In a series of newspaper articles published on August 12, 1994, it was reported that Fortunair had ceased operations while stranding customers in various foreign destinations. Shortly thereafter, Fortunair removed its ticketing counter from Mirabel Airport.

**7** Fortunair, however, continues to hold its license issued by the National Transportation Agency. In two newspaper articles published on November 2 and November 13, 1994, the President of Fortunair is reported as having announced the pending resumption of Fortunair flights to southern destinations for the 1994-5 winter season.

### III. LEGAL REQUIREMENTS

**8** Interlocutory injunctions are granted in circumstances of compelling urgency. An applicant must establish that:

- (A) there is a serious question to be tried;
- (B) the applicant will suffer irreparable injury not compensable in damages if the injunction is not granted;
- (C) where doubt exists as to the adequacy of these remedies in damages available to either party, regard should be had to where the balance of convenience lies.

### IV. ANALYSIS

#### A. Is There a Serious Question to be Tried?

**9** A trade mark is by definition confusing with another trade mark or trade name if: (1) it is used on wares, services or in connection with a business in the same area; (2) it is likely to lead to the inference that the wares or services, as the case may be, are manufactured, sold, leased, hired or performed by the same person, whether or not the wares or services are of the same general class (Trade marks Act, ss. 6(1), (2), (3), and (4)).

**10** The burden rests on the plaintiff to demonstrate that its claim is neither frivolous nor vexatious. This is a low threshold test. If there is some basis in fact for each of the elements of the claim, then the claim is neither frivolous or vexatious, and a serious question has been raised.

1. Use on wares, services or in connection with a business in the same area

**11** The plaintiff has established that the defendant uses the trade mark design on its airplane, office door (Farley Aff., Exhibits "A" & "B"), and in its advertising material (Robichon Aff., para.

15, Exhibit "G"). Thus, Fortunair is using its allegedly confusing trade mark on wares and services. The question as to whether Fortunair's trade mark is used in association with a business in the same area as the one Fednav operates in is open to discussion. Fednav asserts that "area" should mean the transportation industry, which includes air, sea, and surface (road and rail) transport. Fortunair argues that the airline business and the maritime cargo shipping business do not operate in the same area. Fednav ships cargo and bulk material by sea; Fortunair transports people by air. Therefore, the defendant asserts, Fortunair operates in a completely different area than that in which Fednav operates. Fednav offers no airline services and Fortunair offers no maritime services. The parties do not compete. This Court need not decide which argument shall prevail at this juncture. It is sufficient to say that Fednav's assertions that the parties operate in the same area have some basis in fact. Both companies are in the transport business.

## 2. Deception or Confusion Created

**12** The plaintiff asserts that the defendant has created confusion between the trade marks in Canada and in the world market. Fednav's F & Design is a distinctive design with its geometric shape and bold red colour. It has also been in use since 1967. As a matter of first impression, the likelihood of confusion is high if one considers the two designs from the perspective of an average consumer having a vague or imperfect recollection of the first trade mark. The differences, the F & Design's geometric shape and total red colouring vis-à-vis the F & Leaf's dark italicized F and its red half maple leaf, do not appear significant. One cannot ignore that the principal offices of both companies are in Montréal. This increases the likelihood that a consumer would think that the airline carrier and the cargo shipper are affiliated. Thus, the plaintiff appears to have established some basis in fact for its assertions that the trade mark designs at issue are confusing.

**13** Therefore, the claims of the plaintiff that the designs at issue are used in association with businesses in the same area and that there is a likelihood that consumers would be led to believe that both services were offered by the same person are not frivolous or vexatious. The plaintiff has established that its statement of claim raises a serious question.

## B. Irreparable Injury not Compensable in Damages

### Destruction of goodwill and loss of reputation

**14** The destruction of goodwill can constitute irreparable harm (see 688863 Ontario Ltd. v. Landover, (1991) 35 C.P.R. (3d) 399, 405). Fednav alleges that the goodwill it has managed to foster over the years will be harmed by the inevitable confusion between its services and business and Fortunair's business and services. Fednav asserts that Fortunair's use of its confusing trade mark while it undergoes well publicised financial difficulties harms Fednav's reputation. While consumers confuse Fednav's business with Fortunair's ailing operation, Fortunair's problems will be attributed to Fednav. Many of Fednav's clients send representatives to its head office in Montréal. Most of the time they arrive at Mirabel. It is likely that some would see Fortunair's jet and mistake it for Fednav's and even go so far as to assume that Fednav, being one of North America's largest

shipping companies with a large array subsidiaries and sister companies, had decided to venture into the airline business. I also note that one of the articles detailing Fortunair's financial problems is accompanied by a picture of its jetliner prominently displaying the F & Leaf on its tail fin and fuselage. Thus any of the financial problems associated with Fortunair may impact negatively upon both the client's and the public's perception of Fednav's operations.

**15** Fednav submits that the rising number of bankruptcies in the airline business and Fortunair's precarious financial position makes it likely that Fortunair would be unable to pay any damages awarded against it. In the same vein, Fednav points to the fact that Fortunair is a new airline with only one leased airplane and limited assets, if any.

**16** Even if the harms complained of are compensable by way of damages, they would be irreparable by virtue of the fact that Fortunair is a fledgling, financially unstable company that would not likely be in a position to pay a damage award against it. Even where, theoretically, damages could furnish adequate compensation, if it appears to the Court that the defendant will not be able to meet a damage award, then the harm will in fact prove to be irreparable, although, in essence or in theory, it is capable of being repaired (see *Dyckerhoff & Widmann Aktiengesellschaft et al. v. Advanced Construction Enterprise Inc. et al.*, (1986) 11 C.P.R. (3d) 371, 383-386; *American Cyanamid Co. v. Ethicon Ltd.*, [1975] A.C. 396 at 408).

**17** While Fortunair has submitted evidence that it has negotiated some charter and carrier arrangements for December 1994, there is no evidence that it has the assets or will have the resources to satisfy a claim of damages should Fednav be successful at trial. Fortunair leases its only jet from an American company. Fortunair has not identified any of its partners for its December ventures, nor has it submitted evidence of the potential revenues of these ventures. There is no evidence that Fortunair has in fact begun flying again since suspending its operations due to financial difficulties in August 1994. Based on the evidence submitted, I can only conclude that it is unlikely that the defendant would be able to pay an award of damages should it be found liable to the plaintiff. Harm that goes uncompensated is, in this particular case, irreparable.

**18** Furthermore, I take note of plaintiff's undertaking to pay any damages should the defendant eventually succeed. Fednav is a large company with substantial resources and its commitment to satisfy such an undertaking is not in issue. The defendant cannot provide such an undertaking. This, in addition to Fortunair's tenuous existence and minimal assets, warrants a finding that any harm suffered by the plaintiff will likely go uncompensated.

**19** I am also mindful of the negative impact which the issuance of the injunction sought could have on the already fledgling state of the defendant's business. In this regard, while the evidence is scarce, it does suggest that the defendant is making an attempt to resume flight operations towards southern destinations during the winter season. While counsel for the defendant refrained himself from raising this argument, it seems relatively clear that the failure of this effort could put a definitive end to the defendant's business. That is the context in which the defendant has asked that

a delay of ninety days be granted in order to allow it to comply with the terms of the injunction if issued. The plaintiff has consented to this request.

C. Balance of Convenience

**20** This leaves very little to say on the third prong of the test. The defendant has the benefit of a valid undertaking by the plaintiff to compensate any damages suffered, while the plaintiff is confronted with little or no prospect of recovery in the event that it should be successful. As well, the delay extended on consent for compliance with the order sought is such that it should not impede Fortunair's proposed winter schedule. In that context, the balance of convenience clearly militates in favour of the issuance of an injunction.

V. CONCLUSION

**21** An injunction will therefore issue in conformity with the foregoing. The order shall embody plaintiff's indemnity in favour of the defendant and specify a delay of ninety (90) days from the date of this judgment in order to allow the defendant to fully comply with its terms. I will ask counsel for the plaintiff to provide the Court within the next fifteen (15) days with a draft order for execution after service on counsel for the defendant. If any issue arises as to its contents, the parties may move to have the order settled by the Court.

**22** Costs to follow the event.

NOËL J.

qp/d/hbb/DRS/DRS



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## JET BLUE: A NEW CHALLENGER

**Thomas M. Box, Pittsburg State University**

**Susan E. Saxton, Capella University**

### CASE DESCRIPTION

*The primary subject matter of this business policy case concerns the competitive strategy and background of a new, very successful airline – JetBlue Airways (JetBlue). The time frame of the case is from the firm's inception to the end of fiscal year 2002. The case has a difficulty level of four – five, appropriate for senior level undergraduates or first year MBA students. The case is designed to be taught in one seventy minute class and will require approximately two to three hours of outside preparation by the students.*

### CASE SYNOPSIS

*JetBlue is a new, very successful low cost airline. In their first full year of operations (2001) they achieved a \$32 million net profit on revenues of approximately \$320 million. This is particularly notable in that the entire industry lost approximately \$10 billion during the same year. JetBlue flies point to point routes – much like Southwest Airlines and offers distinctive service features – reserved seating, leather seats, seat back TVs (24 channels) and very customer oriented personnel.*

*JetBlue, at least superficially, appears to be an example of a Low Cost Leader. In their initial foray into the New York to Florida market they offered ticket prices about half of the existing competitor's ticket prices and a serious focus on customer convenience – including such things as no mandatory Saturday night stay to get the lowest ticket price. All tickets are sold online or through a unique Salt Lake City reservation system. They were the first airline to introduce electronic ticketing and their use of Information Technology is extensive. Jet Blue's founder – David Neeleman – is a young (43 year old) career entrepreneur with dyslexia. He is a practicing Mormon with nine children and prior to founding JetBlue had experience with two other airline startups.*

### INTRODUCTION

On February 11, 2000, JetBlue launched operations with its inaugural flight from New York's John F. Kennedy Airport to Fort Lauderdale, Florida. With \$160 million in startup capital, David Neeleman, CEO and founder, was flying in the face of conventional wisdom. Since

deregulation of the U.S. airline industry – mandated by Congress in 1978 – the market had seen the demise of 87 new airlines due to cost pressures and unremitting competition.

Neeleman was a young, successful entrepreneur with two prior airline startups under his belt. In 1993 Neeleman sold his first airline (Morris Air) to Southwest Airlines for \$130 million. After a very short five month tenure with Southwest Airlines where Neeleman reports “They (Southwest executives) were as sick of me as I was of them”, he was fired and forced to sign a domestic non-compete agreement. Recruited by investors in Canada, he cofounded WestJet where he employed many of the tactics and strategy he had learned at Morris Air. Neeleman also created Open Skies (based in Salt Lake City) an accounting and reservation software firm serving the airline industry. In the late 90s Neeleman sold most of his interest in WestJet and began accumulating venture capital funding and regulatory permission to begin JetBlue.

### **OPERATING STRATEGY**

JetBlue is a low cost, highly competitive airline, serving selected East Coast and West Coast markets. Aircraft are exclusively Airbus A 320s. These 162 seat planes have a slightly lower operating cost than Southwest Airlines’ Boeing 737s and are equipped with leather seats and seat back TVs. No meals are served – even on transcontinental flights – thus saving the cost of meals and galley equipment. All planes in the fleet have been purchased new from Airbus and are decorated in a distinctive blue cabin interior. Two of the distinctive competencies are JetBlue’s targeted gate turnaround time of 30 minutes and its choice of airports – generally away from the congestion of the major airports.

JetBlue has a unique approach to personnel. All pilots, for example, are required to interview with top executives prior to being hired. Competency as a pilot is not enough to secure a position – attitude is evaluated and only those with attitudes fitting the JetBlue culture are employed. All personnel are indoctrinated with a sense of providing superior customer service. Neeleman has said on numerous occasions that, “We don’t want jaded people working here. If you don’t like people or can’t deal with rude customers, you’ll be fired.” That sort of customer service attitude manifests itself in many ways. On one occasion when a JetBlue plane had a rough landing at JFK, all passengers were handed free roundtrip tickets on JetBlue. On another occasion a pilot on a delayed flight walked into the cabin and offered his personal cell phone to the passengers so they could make arrangements. On a number of occasions when weather delays resulted in late departures, Neeleman and other executives called passengers at home to inform them of the delay. This sort of customer service results in high levels of customer satisfaction and Jet Blue – thirteen months after its first flight – won the designation as #2 Domestic Airline in the 2001 Zagat Airline Survey.

JetBlue has also utilized Information Technology (IT) as an important aspect of its Operating Strategy. Reservations are handled either online at its website or by phone with a unique reservation system based in Salt Lake City (Neeleman’s hometown). Reservation agents are independent

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contractors, working from home, on equipment provided by JetBlue. The advantage of this arrangement is the life style (and quality of work life) afforded to the reservation staff and the avoidance of capital investment in reservation facilities. JetBlue does not book flights through travel agents and, thus, avoids the expense of travel agent's fees. IT is also employed in the cockpits of their planes. All flight manuals are on CDs and each pilot is equipped with a notebook computer. This makes it easier, faster and cheaper to update manuals and avoids the necessity of providing storage space and administrative support for bulky traditional manuals.

Security, too, has been augmented at JetBlue. Following "9/11" they were the first and one of the few airlines to install security doors in the cockpits. Additionally, they were the first airline to install four security cameras in the cabin, which the pilots can view from the cockpit. The added expense for these security measures is probably recouped in incremental sales to airline passengers who are, quite naturally, concerned about airline security following the devastating tragedy of "9/11".

#### **DAVID NEELEMAN:**

Forty three year old David Neeleman, CEO and Chairman of the Board of JetBlue, has been a life-long entrepreneur. As a Mormon, he was required to work as a missionary in Brazil for a year. Of the \$2500 of expense money supplied by his father, Neeleman managed to save \$1300. Neeleman's father, Gary, attributes his entrepreneurial spirit to Neeleman's grandfather who opened the first convenience store in the United States on State Street in Salt Lake City.

Neeleman, one of seven siblings, has nine children of his own. A staunch Mormon, he neither drinks nor smokes and travels around New York City on the subway. He has a number of interesting personal characteristics. Claiming dyslexia, he focuses on innovation and creativity – something often seen in dyslexics. He is a "fountain" of new ideas and clearly thinks "outside the box" – sometimes to the distraction of friends and fellow executives. His college career was not a glowing success – he dropped out of the accounting program at the University of Utah, founded a tour business and quickly joined with two partners to start Morris Air.

He has an interesting approach to hiring executives for Jet Blue. One of his early hires was Ann Rhodes – head of HRM at JetBlue, but the executive that actually handed him his "pink slip" when he was fired at Southwest Airlines. Dave Barger, JetBlue's President, was formerly vice president for the Newark hub of Continental Airlines. Thomas Kelly, Executive Vice President and General Council, was an executive with Open Skies and Morris Air. John Owen Is Executive Vice President and CFO. He had been Treasurer and Vice president for Operations Planning and analysis for Southwest Airlines.

Testifying before the Senate Commerce, Science and Transportation Committee on March 13, 2001, Neeleman articulated the rather unique operating Philosophy of JetBlue: JetBlue Airways is New York's low fare hometown airline.

JetBlue has a unique business model encompassing a dedicated staff, reserved seating, numerous amenities, no Saturday night “stays”, very new aircraft, the highest utilization rates in the industry and extremely competitive low fares.

JetBlue serves a number of important markets in upstate New York and New England which previously had no direct to New York air service or extraordinarily high ticket prices.

### **FINANCIAL RESULTS**

JetBlue’s financial results have been nothing short of miraculous. Total Revenue in 2001 was \$320 Million. With cost of revenue at \$186 million, gross Profit was \$134 million. Net Income from continuing operations was \$38.5 million. It should be noted that this was a remarkable accomplishment during 2001 when the US Airline industry, as a whole, lost more than \$10 billion.

Performance in 2002 was even better than 2001. Net income increased to \$54.9 million on revenues of \$314.8 million. Cost per available seat mile – a major performance metric in the airline industry – was 6.43 cents compared to an industry average of 9.58 cents.

### **ROUTES FLOWN**

JetBlue began operations on February 11, 2000 with daily flights between JFK and Fort Lauderdale. During calendar year 2000, JetBlue added flights to Buffalo, NY, Tampa, FL, Orlando, FL, Ontario, CA, Oakland, CA, Rochester, NY, Burlington, VT, West Palm Beach, FL, Salt Lake City, UT and Fort Myers, FL. By the end of 2000, JetBlue had 10 Airbus A320s flying.

By November 9<sup>th</sup>, 2001, JetBlue had taken delivery of 10 additional Airbus A320s and had added daily flights to Seattle, WA, Denver, CO, Long Beach, CA, New Orleans, LA and Washington DC. A notable “first” in the industry was JetBlue’s installation of bullet-proof, dead bolted cockpit doors in the entire fleet by November 1 – only a month and a half after the infamous “9/11” terrorist attacks on the Pentagon and New York City.

Also during 2001, JetBlue established its second focus city – Long Beach, CA and began “head on” competition with Southwest Airlines for the West Coast market. Jet Blue’s entry into the West Coast market prompted Southwest Airlines to begin offering \$19 one-way fares to Las Vegas from four California airports.

By the end of 2002, JetBlue was flying to 17 cities from JFK and 4 cities from its new Long Beach hub.

### **DISCUSSION QUESTIONS**

Go to the JetBlue web site (<http://www.jetblue.com/>) and the American Airlines web site (<http://aa.com/>). Pick cities serviced by both JetBlue and American Airlines, select travel dates and

number of passengers and determine the difference in fares. What is the percentage difference? What does this suggest?

Go to <http://finance.yahoo.com> and look up the information on JetBlue. Which of their financial ratios are significantly different than the industry? What are the implications?

Do a SWOT analysis on JetBlue. What are the most important SO strategies suggested by the SWOT analysis? Are there any WT strategies?

Which of Porter's generic strategies does JetBlue seem to be following? In what ways might their generic strategy be somewhat different than what Porter suggests?

Conduct a Five Force Analysis of the airline industry. How do you assess the threat of New Entrants?

On June 10, 2003, JetBlue announced an order for 100 new EMBRAER 190 aircraft. Does this new equipment order suggest a new business model? What are the risks?

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**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF SKYGREECE AIRLINES S.A., an insolvent person,  
pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act***

Court File No.: 31-2032828

**SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**BOOK OF AUTHORITIES OF DR. LUKÁCS**

**DR. GÁBOR LUKÁCS**

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