

**LICENCE APPEAL
TRIBUNAL**

**TRIBUNAL D'APPEL EN MATIÈRE
DE PERMIS**



**Safety, Licensing Appeals and
Standards Tribunals Ontario**

**Tribunaux de la sécurité, des appels en
matière de permis et des normes Ontario**

Citation: 11292 v. Registrar, *Travel Industry Act, 2002*, 2018 ONLAT TIA 11292

Date: 2018-11-22
File Number: 11292/TIA

Appeal from a Notice of Proposal by the Registrar, *Travel Industry Act, 2002*, S.O. 2002, c. 30, Sched D to Revoke Registration

Between:

Millennium Leisure Travels Inc.

Appellant

-and-

Registrar, *Travel Industry Act, 2002*

Respondent

CONSENT ORDER

Adjudicator:

Cezary Paluch, Member

Date of Order:

November 22, 2018

- [1] The appellant appeals the respondent's Notice of Proposal dated March 20, 2018, to revoke the appellant's registration as a travel agency under the *Travel Industry Act, 2002 (Act)*.
- [2] The hearing was scheduled to resume on November 15, 2018. However, on November 14, 2018 the parties advised the Tribunal that they have resolved the issues in dispute and have requested that the Tribunal issue an order on consent disposing of this proceeding.
- [3] The parties attended before the Tribunal on November 15, 2018. I have considered the Minutes of Settlement, signed by both parties and filed with the Tribunal, in which the parties set out the order requested.
- [4] NOW THEREFORE, upon the consent of the parties, this Tribunal orders that the proceedings in this matter are concluded and disposed of on the basis of the terms set out in the said Schedule "A", which are incorporated into and made part of this Order.

LICENCE APPEAL TRIBUNAL

Cezary Paluch, Member

Released: November 22, 2018

Schedule "A"

Minutes of Settlement

LAT FILE No. 11292/TIA

LICENCE APPEAL TRIBUNAL

BETWEEN

Millennium Leisure Travels Inc.
Registration No. 500047 – Retail
Registration No. 50012051 – Wholesale

Appellant

- and -

REGISTRAR, TRAVEL INDUSTRY ACT, 2002

Respondent

MINUTES OF SETTLEMENT

Whereas Millennium Leisure Travels Inc. ("Registrant") is a travel agent and travel wholesaler under the *Travel Industry Act, 2002*, ("the Act") and is subject to the requirements of the Act and to Regulation 26/05 under the Act (Regulation") (collectively, the "legislation");

And in a Notice of Proposal to Revoke Registration dated March 20, 2018, the Registrar under the Act proposed to revoke the registration of the Registrant under the Act. This was followed in this matter by a Notice of Further or Other Particulars dated May 22, 2018, a Notice of Further or Other Particulars dated August 22, 2018, an Immediate Suspension Order temporarily suspending the registration of the Registrant dated September 18, 2018 ("Suspension"), and a Notice of Further or Other Particulars dated October 24, 2018 (collectively, the "Proposal and Suspension").

And the Registrant requested a hearing in respect of this matter, specifically, in respect of the Notice of Proposal to Revoke Registration dated March 20, 2018, by appealing to the Licence Appeal Tribunal ("Tribunal");

And the Parties have agreed to resolve the Proposal and Suspension on the basis of these Minutes of Settlement;

And the Parties have agreed that the Order of the Director under the Act, made September 18, 2018, to freeze the *Travel Industry Act* Trust Account and general operating account of the shall be revoked upon the resolution of the Proposal and Suspension on the basis of these Minutes of Settlement;

THEREFORE, THE PARTIES hereby consent to an Order of the Tribunal incorporating the terms of these Minutes of Settlement and settling this matter without a hearing:

A. The Parties hereby agree to submit these Minutes of Settlement to the Tribunal as a joint submission asking the Tribunal to issue a Consent Order ordering that the

Registrant continue to be registered and that the Suspension be lifted, subject to conditions of registration set out in Part C below.

B. The Registrant hereby admits all of the reasons, particulars and background set out in the Notice of Proposal in this matter dated March 20, 2018, and in the Notice of Further and Other Particulars in this matter dated May 22, 2018, and in the Notice of Further Particulars dated October 24, 2018, as proven for all purposes including as evidence in any future administrative action taken against the registration of the Registrant, including but not limited to any future proposal to refuse, or refuse to renew, or to revoke the application or registration of the Registrant under the Act.

C. Conditions of Continued Registration

In addition to and without limiting the Registrants obligation to comply with all requirements of the legislation, and in addition to and without limiting its obligation to comply with all voluntary conditions of its registration including but not limited to those undertaken at the time of its registration and/or renewal of registration, the Registrant hereby undertakes to comply with the following additional conditions of its registration:

1. The Registrant's financial statements for its fiscal year ending on February 28, 2019, due on May 31, 2019, shall be filed with the office of the Registrar under the Act ("Registrar") on or before that due date set out in the Regulation and in compliance with all of the requirements of the Regulation applicable to that filing. Hereafter, all financial statements and other documents required to be submitted under the Regulation shall be submitted on or before the applicable due date and in compliance with all of the requirements of the Regulation applicable to that filing, without exception.
2. The Registrant shall at all times comply with the requirements about financial statements and business records set out in Sections 22 of the Regulation. In particular and without limitation to the forgoing, financial statements shall be subject to a review engagement report and shall include:
 - a) A disclosure of gross sales in Ontario made during the period to which the financial statements refer.
 - b) A balance sheet.
 - c) An income statement.
 - d) A cashflow statement.
 - e) Disclosing a reconciliation of the Registrant's *Travel Industry Act* trust account (the "trust account"), including amounts prepaid to suppliers on behalf of customer's payments, customer deposits liability balance and trust account balance.
3. At all times, the Registrant shall submit the form required to participate in the Ontario Travel Industry Compensation Fund, ("FORM 1") on or before the due date applicable to that submission. At all times FORM 1 shall be accompanied by the full amount of the required payment applicable to that submission in order to participate in the Ontario Travel Industry Compensation Fund. The disclosure of gross sales in Ontario disclosed in FORM 1 shall be consistent with the disclosure of gross sales set out in the Registrant's financial statements that are applicable to the same period covered by the FORM 1 submission.

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4. The Registrant shall, at all times, maintain the minimum working capital required by the Regulation which currently is \$20,000. If based on the financial statements submitted by the Registrant, the Registrar concludes that the working capital of the Registrant is not in compliance with s. 24 of the Regulation. The Registrant shall take necessary steps to correct its working capital and submit proof thereof within 15 days from the request by the Registrar. The supporting documentation provided to the Registrar as proof shall include a copy of the cheque/transfer instrument and deposit slip and a copy of the Registrant's bank statement for the period when the deposit was made.
5. Without limiting Paragraph 4, the Registrant shall, provide to the Registrar by on or before **December 7, 2018**, proof of working capital shortage correction of \$12,901. The supporting documentation provided to the Registrar as proof shall include copy of the cheque/transfer instrument and deposit slip and a copy of the Registrant's bank statement for the period the deposit was made.
6. Without limiting Paragraph 4, the Registrant shall, provide to the Registrar by on or before **November 15, 2018**, proof of working capital shortage correction of \$24,000. The supporting documentation provided to the Registrar as proof shall include copy of the cheque/transfer instrument and deposit slip and a copy of the Registrant's bank statement for the period the deposit was made.
7. The Registrant shall deliver to the Registrar monthly reconciliations of its *Travel Industry Act* trust account ("trust account") of customer deposits, showing total receipts on account from customers for travel services that have been sold compared with the account balance, **for December 2018, due on or before January 31, 2019, and for January 2019, due on or before February 28, 2019, and for February 2019, due on or before March 31, 2019**, and also for such other months as the Registrar may hereafter indicate, which are due on/or before 30 days from the end of each month that is the subject of the Trust Reconciliation.

Trust Reconciliations shall comply with the following requirements:

- a) Each Trust Reconciliation shall be accompanied by a list of each consumer deposit being held and specifically identified by customer name, invoice number, and amount being held. If prepaid travel is recorded, this transaction shall also include the date and amount the customer paid to the Registrant, and the date and amount whereby any customers monies were paid to the supplier(s) for that particular customer. (Note: prepaid travel is not a requirement, rather an optional method of accounting for outstanding balances).
 - b) Each Trust Reconciliation shall include a complete copy of the Travel Industry Act Trust bank account statements for the particular month.
8. The Registrant shall at all times comply with the requirements about business records set out in Section 29 of the Regulation
 9. The Registrant shall provide a written update to the Registrar as to the status of its International Air Travel Association ("IATA") Licence and any terms and conditions with respect to its IATA Licence by on or before **December 7, 2018**. Specifically, the Registrant shall inform the Registrar, at a minimum, of any security deposits, or additional financial security, required by IATA and the source and timing these funds

Minutes of Settlement

are required. The Registrant shall respond to all follow up requests from the Registrar for information with respect to the status of the Registrant's IATA Licence in a timely and fulsome manner and is responsible for ensuring that any and all Directors and Officers and Supervisor/Managers of the Registrant respond in a fulsome and timely manner. The Registrant shall respond to all requests for information from the Registrar by the due date or time indicated by the Registrar or, if no specific due date or time is indicated, within 5 business days after the request.

10. Further to and without limitation to Section 17 of the Act, the Registrant acknowledges and understands that an Inspector under the Act will conduct an inspection of the Registrant within six months of the date of these Minutes of Settlement, in order to ensure compliance with the legislation including without limitation working capital and trust accounting compliance. The Registrant shall respond to any inspection related request from the Registrar or Inspector by the due date or time indicated by the Registrar or Inspector. The Registrant shall upon the Inspector's request provide the Inspector with free access to all documents and records of the Registrant or within the Registrant's control, however retained including in electronic form, and shall provide whatever assistance is reasonably necessary to produce for the Inspector all documents and records of the Registrant or within the Registrant's control, however retained including in electronic form, relevant to the inspection, in a fulsome and timely manner.
 11. In addition to and without limitation to the above, the Registrant shall respond to any and all requests for information from the Registrar in a fulsome and timely manner and is responsible for ensuring that any and all Directors and Officers and Supervisor/Managers of the Registrant respond in a fulsome and timely manner. The Registrant shall respond to all requests for information from the Registrar by the due date or time indicated by the Registrar or, if no specific due date or time is indicated, within 5 business days after the request. The Registrant shall respond to all requests from the Registrar in writing if requested by the Registrar.
 12. If for any reason the Registrant becomes aware that it is not or will not be managed and supervised throughout its hours of operation by a Supervisor/Manager, which person has been previously approved as such in writing by the Registrar, the Registrant shall immediately advise the Registrar in writing of this situation.
 13. If for any reason the Registrant intends to or becomes aware that it will cease selling travel services, the Registrant shall immediately advise the Registrar in writing and, in any event, at least 10 days before such event.
 14. The Registrant shall advise the Registrar in writing of any claims or potential claims against the Ontario *Travel Industry Compensation Fund* ("Fund") immediately after the Registrant becomes aware of any such claims or potential claims. The Registrant shall provide the Registrar complete access to all of its business records, however retained including in electronic form, for the purpose of determining the number and amount of claims or potential claims and all information pertaining to those claims or potential claims for the purpose of determining entitlement to compensation under the Fund.
- D. The Registrant understands that should it fail to comply with any of the above noted conditions or any other provision of the Act or Regulation, that non compliance and its previous non-compliance history will be taken into consideration and cited in any**

decision by the Registrar to take further legal or administrative action including a further Proposal to Revoke or Refuse to Renew Registration under the Act.

- E. The Registrant hereby acknowledges and understands that nothing in these conditions restricts the right of the Registrar or the Travel Industry Council of Ontario to take further administrative or legal action, or a prosecution for an alleged offence under the Act, as appropriate, including but not limited to any administrative or legal action arising in whole or in part from any non-compliance with these Conditions.
- F. The Registrant and the undersigned on behalf of the Registrant acknowledge they have read, understand and will comply with these Minutes of Settlement including but not limited to the Conditions of Continued Registration, and any Order of the Tribunal.
- G. The Registrant and the undersigned on behalf of the Registrant hereby acknowledge that they have been represented by independent legal advice with respect of these Minutes of Settlement.
- H. The Registrar shall remove from the Travel Industry Council of Ontario (“TICO”) website the name of the Registrant from its list of suspended Registrants, forthwith upon the issuance of an Order by the Tribunal incorporating these Minutes of Settlement, and shall cause the following message to be posted on the TICO website for 15 days following the lifting of the Suspension: *“The former suspension of the registration of Millennium Leisure Travel Services Inc., o/a Millennium Leisure Travel Services, 2035 Kennedy Road, Toronto, ON M1T 3G2, has been lifted further to consent Order of the Licence Appeal Tribunal and the said Registrant is entitled to carry on business”*.

SIGNED THIS DAY OF NOVEMBER, 2018

Kailan Ariyaratnam,
President and Manager
Millennium Leisure Travels Inc.
I have the authority to bind the
Corporation

Richard Smart
Registrar, *Travel Industry Act,*
2002