TICO
TRAVEL INDUSTRY COUNCIL OF ONTARIO

TALK
To promote a fair and informed marketplace where consumers can be confident in their travel purchases.

July - September 2005

Pushing to protect airline passengers:

Travellers' Protection Initiative

As most of you know only too well, whenever a Canadian airline collapses, consumers have very little protection, thanks to some glaring gaps in federal legislative powers - particularly when it comes to financial oversight and advertising.

Pushing for legislative changes

In April, the federal government proposed some major amendments to the *Canada Transportation Act*, and Bill C-44 is heading toward its second reading this fall. The Bill's amendments include the elimination of the Air Travel Complaints Commissioner's position and a call for airlines to develop their own rules for full price disclosure in advertising.

Believing that the proposed legislation does not go nearly far enough in providing real protection to airline passengers, TICO hired The Strategic Counsel, an independent market research and public opinion firm to assist with advocating for meaningful changes to the Bill. This led to the formation, in June, of a Canada-wide alliance - The Travellers' Protection Initiative.

Comprised of like-minded consumer protection and business groups, The Travellers' Protection Initiative's main objective is to push the government to strengthen Bill C-44's inadequate passenger protection. In addition to TICO, the alliance includes the Association of Canadian Travel Agencies, the Public Interest Advocacy Centre and Quebec-based Option consommateurs.

Financial realities

Alarmingly, it is far easier to start an airline in Canada than it is to start a travel agency in Ontario. Other than a 90-day period after an airline gets federal approval to operate, there is no further financial monitoring.

The recent Jetsgo fiasco is just the latest example, since the airline was able to operate when it was already, technically, bankrupt. By financing its day-to-day operations through unearned revenue acquired through seat sales on future travel, it had spent millions of other people's dollars by the time it declared bankruptcy.

To prevent this happening again, four of the six key points that The Travellers' Protection Initiative wants the federal government to act upon are:

- Greater financial monitoring and disclosure to the public
- Protection for advance ticket purchases
- A federal compensation fund for when airlines fail
- A program within Transport Canada to collect and publish information on airline service performance, in order to better inform consumers about their choices and promote fair competition among airlines

Advertising anomalies

Airlines currently have no obligation to provide full price disclosure, such as transportation taxes, reserve seat charges or temporary fuel surcharges - whereas under Ontario's new *Travel Industry Act*, 2002, price advertising must be transparent, not false, misleading or deceptive.

As a result, any vertically integrated tour company in Ontario that operates its own airline has a significant competitive advantage over other Ontario-based travel wholesalers and retailers, who do not have their own airline and therefore must meet Ontario's requirements. To address this, The Travellers' Protection Initiative is asking for:

- Full price disclosure in airline advertising across the board.

Losing a consumer ombudsman

Five years ago, the government created the position of Airline Travel Commissioner whose mandate was to act as the champion for consumers who are dissatisfied with their treatment by airline companies. Unfortunately, a controversial amendment to the *Canada Transportation Act* now calls for the

Continued on page 8...

IN THIS ISSUE...

Letter from the CEO 2
Synopsis of the 8th Annual General Meeting . . 3
Profile on Mike Merrithew 4
Aftermath of Natural Disasters 4
Further Light on the New Legislation. . . 6
Court Matters 7

TICO BOARD OF DIRECTORS 2004-2005

INDUSTRY REPRESENTATIVES

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President
Merit Travel Group
Toronto

Denise Heffron - Vice Chair
Vice President, Commercial
Transat Holidays
Etobicoke

Jeff Element
Vice President, Finance & Director of Operations
Trafalgar Tours of Canada
Toronto

Mike Foster
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Uniglobe Instant Travel Inc.
London

John Kennedy
Vice President
TravelPlus
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Ministry of Government Services
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Toronto

Michael Janigan
Executive Director and General Counsel
Public Interest Advocacy Centre
Ottawa

Patricia Jensen
Board member and Treasurer
Consumers Advisory Council of Canada
Toronto

EX OFFICIO

Michael Pepper
President and Chief Executive Officer
Travel Industry Council of Ontario

LETTER FROM THE CEO

It is hard to believe that the summer is almost over and that fall is right around the corner. As always, it is a busy time at TICO. Our new legislation came into effect in July and our staff has been busy answering your questions on the *Travel Industry Act*, 2002 and Ontario Regulation 26/05. We know it can be hard adjusting to change and some aspects of the new requirements can seem confusing. Do not hesitate to contact TICO staff if you are unsure about something in the new legislation. We have included in this issue some of the frequently asked questions that registrants have been asking, with answers, which you may find helpful. Overall, TICO staff is pleased to see the industry making efforts to get into compliance with the new requirements.

Over the past few months, TICO has been meeting with a number of other consumer protection and industry groups concerning the proposed changes to the *Canada Transportation Act*. It is TICO's position that the proposed changes contained in Bill C-44 do not go far enough to protect airline passengers. As a result, TICO has sought out other groups with similar views and formed an alliance called The Travellers' Protection Initiative ("TPI"). TPI held a press conference in early June to make public its goals, which are outlined in this newsletter. TICO will update registrants on the group's progress in attempting to strengthen consumer protection for airline passengers at the federal level.

TICO is again fortunate to have excellent Board leadership to guide the organization in its efforts. Following the AGM in June, the TICO Board elected Mike Merrithew as Board Chair for the next year and Denise Heffron as Vice-Chair. It is very gratifying to have such intelligent, creative individuals on the Board, willing to dedicate their time to tackle the issues of the day and to work towards improving our industry for tomorrow. It is our hope that you will find this issue of TICO Talk informative and useful. We hope everyone enjoys the remainder of their summer and has a happy and prosperous fall season.

Michael Pepper CEO

Synopsis of the
8th ANNUAL GENERAL MEETING

THE EIGHTH ANNUAL GENERAL MEETING OF TICO TOOK PLACE ON JUNE 28TH AT THE BOARD OF TRADE, AIRPORT CENTRE, AND THE 2004-2005 ANNUAL REPORT AND THE 2005 BUSINESS PLAN WERE PRESENTED.

From the Chair

Jill Wykes, Chair of TICO's Board of Directors, summarized the progress made on the objectives established in the 2004 Business Plan. These included: conducting town hall meetings province-wide, to consult on the draft regulations released by the Ministry of Government Services; commissioning an independent study of travel advertising practises and submitting its conclusions on necessary changes to advertising regulations to the government; continuing TICO's Consumer Awareness Campaign; working on the curriculum for travel counsellors and travel agency supervisor/managers, leading up to the introduction of Minimum Education Standards; the ongoing evaluation of Board governance; and initiating a cross-Canada alliance that is pushing for the removal of gaps in consumer protection of airline passengers, through changing the current legislation.

From the President and CEO

Michael Pepper outlined the main business accomplishments for the past year. Gross sales for retailers totalled $6.9 billion, while wholesalers' sales totalled $2.4 billion. Contributions to the Compensation Fund increased from $2,689,088 in 2004 to $2,956,287 in 2005.

Claims paid out by the Compensation Fund in 2004/05 for registrant failures were remarkably low, totalling $113,618, while recoveries brought in $70,507. Claims paid in relation to end supplier failures were 2.5 times greater than registrant failures - $231,309.00 for Canada 3000 Airlines, $39,731.000 for Festival Cruises - for a total of $271,040. By year-end, the Compensation Fund stood at $27,383,343.

Seven investigations over the past year led to successful prosecutions that resulted in $44,000 in fines imposed, 350 hours of community service and $113,000 in restitution to both consumers and the Compensation Fund.

Registrations are down only 25 from the previous year, from 2,909 to 2,884. The breakdown remains 84% retail and 16% wholesale registrations. During 2004/2005, TICO conducted 2,884 registrant financial bench reviews and 533 financial site inspections.

Consumer and registrant awareness continue to be a priority. A TICO-authorized survey found a 10% increase in awareness of TICO and the Compensation Fund. TICO intends to continue the Consumer Awareness Campaign for the upcoming year.

Other key projects over the past year included a review of the role of the Board chair; the introduction of an e-commerce *Continued on page 8...*

Changeover on TICO'S board

Over the past year, two members of the 15-member Board retired. We would like to offer appreciation and thanks to **Ted Warren, Q.C.**, a long-time appointee of the Ministry of Government Services, and to CATO appointee, **Steve McCullough**, President, Globus & Cosmos.

A warm welcome is extended to **Jeff Element**, Trafalgar Tours of Canada, who has joined the Board as a representative for CATO, and to **Patricia Jensen** of the Consumer Advisory Council of Canada, an appointee of the Ministry of Government Services.

Congratulations are also offered to **Mike Merrithew** and **Denise Heffron**, who have been elected as TICO's new Chair and Vice-Chair respectively, each for a one-year term commencing June 28, 2005, and to **Trish McTavish**, who was re-elected for a three-year term.

Obtaining the 2005 Business Plan

As in previous years, TICO will be distributing copies of the 2005 Annual Report to every registrant. To obtain a copy of the 2005 Business Plan, you may either contact us to send you a copy, or it may be downloaded from our website at www.tico.on.ca. You will find it in the section "About Us".

In the aftermath of **hurricanes** *Emily and Katrina*

The current hurricane season offers a timely reminder on registrant responsibility in the event of natural disasters. Should a hurricane - or any other kind of natural disaster - occur when a consumer is already at the destination, no refund is required, since it is considered an act of God.

If, however, the natural disaster occurs before the consumer leaves home, and the accommodations are not in the same condition as at the time of sale, **Section 39** of the Regulation requires the registrant to offer a refund or comparable accommodation. **Section 40** also details situations in which registrants must offer the customer the choice of a full and immediate refund or comparable alternate travel services acceptable to the customer.

What is new under the Regulation is that, as outlined in **Sections 39** and **40**, the registrant must maintain detailed written records on what the customer was offered. These must include what information was communicated, the date it was communicated, what method of communication was used, and what choice the customer made.

PRESENTING

Mike Merrithew

President
Merit Travel Group
Chair, TICO Board of Directors

What was your background, prior to becoming involved in the travel business?

After graduating with a Bachelor of Business Administration from the University of New Brunswick, I held numerous sales, marketing and management positions with companies such as Xerox Canada, Northern Telecom, de Haviland Aircraft and Coopers & Lybrand Consulting Group. During that time, I spent an intensive year, studying for an MBA at the International Institute for Management Development in Switzerland - focusing primarily on international business and general management.

When did you enter the travel business?

In 1991, my wife (and business partner) and I purchased a Uniglobe Travel Agency franchise in Mississauga, that employed one part-time and two full-time employees. Since then, we have grown and diversified significantly, through new business and acquisitions of golf and ski tour companies, a European river cruise company, corporate travel agencies, long-stay holidays for seniors, loyalty affinity programs (such as CIBC Gold Rewards, CIBC Aventura Gold Visa and CIBC Vacation Gold, CARP Travel and 50plus.com) and alumni travel programs for universities across Canada.

How large is the Merit Travel Group today?

We eventually outgrew our relationship with Uniglobe and now operate as both a retailer and a wholesaler, through 14 locations, three call centres and more than 260 employees across Canada.

How much experience have you had with travel industry organizations?

During the 12 years' association with Uniglobe, I sat on its Franchise Owners Association Board, and was part of Uniglobe's Chairman's Circle. For ten of the 12 years, we were one of their top

agencies. Currently I'm past-president of ASTA Canada (the American Society of Travel Agents), Chair of ACTA (Association of Canadian Travel Agents) National and also of the Ontario Regional Council, a director of the Canadian Corporate Travel Association, and on the advisory board for Vacation.com.

When did you join the TICO Board?

Early in 2003, as a representative of ACTA. Since then, I've worked extensively on the Governance Committee, which I chaired last year. Our main objectives included clarifying the Board's role, purpose, core values and responsibilities, and reviewing the role of the Board chair. I am also on the Business Strategy Committee and on the Alternate Finance Committee, whose mandate includes looking at alternate ways to fund the Compensation Fund.

What would you like to achieve, during your term as TICO's Chair?

First and foremost, the completion of the work that the Governance Committee embarked upon last year. Secondly, I will actively support Michael Pepper's efforts with The Travellers' Protection Initiative (see Page 1), lobbying for appropriate changes to Bill C-44. I can also play an indirect role, in this area, through my association with ACTA-Ontario.

Are you hopeful that these efforts will bring about a strengthening of the legislation?

Since the federal government is already planning to make changes, I believe there's a real window of opportunity coming up, to improve financial monitoring of the travel industry across Canada, and to improve consumer protection. Our timing is crucial!

What has TICO achieved in this area, to date?

We should be very proud of our retail and wholesale industry, of what TICO has achieved through self-management and by working cooperatively with the provincial government. When you look at the overall picture, only a very small number of bankruptcies and closures amongst our registrants have impacted consumers and the Compensation Fund.

What are your hopes for the future?

We must spread the word across Canada on how to achieve a strong, vibrant wholesale and retail travel industry. Since the bulk of Canada's travel industry is based in Ontario, no one can argue that the legislation makes us less competitive. The results in Ontario speak for themselves. What more can we ask for? Let's just push for consumer protection across the country. That's a lofty but a worthwhile cause! S

Dates to note

October 28 - 30, 2005
National Women's Show
Metro Toronto Convention Centre
South Building
222 Bremner Boulevard
Toronto

November 3 - 6, 2005
Travel and Leisure Show*
International Centre
6900 Airport Road
Mississauga
**Please note that the opening night, November 3, is open to the trade only.*

January 28, 2006
The Government and Community Services Fair
Cloverdale Mall
250 The East Mall
Etobicoke

February 24 - 26, 2006
Outdoor Adventure Show
International Centre
6900 Airport Road
Mississauga
TICO will be distributing informational material at the above shows.

TICO *TALK* feedback

Once again, we would like to remind you that you may contact us with comments or questions on anything you read in **TICO *TALK***, or on any other travel industry matter. Your opinions and concerns are of the utmost importance to us. We can be reached at **(905) 624-6241**, or at **1-888-451-TICO**, or by e-mail to **tico@tico.on.ca**.

More legislative changes

The Compensation Fund

Two important changes have been made, relating to claims. First, under **Section 57** of Ontario Regulation 26/05, the Compensation Fund will now reimburse customers for taxes paid on their travel services.

Second, and most important to note, all claims to the TICO Board of Directors **must be made within six months** of the registrant or end supplier failure, under **Section 60** of the Regulation. The Board has no discretion to approve claims received after the end of the six-month period.

With this in mind, TICO urges claimants to submit claim forms as soon as possible, to ensure they meet the filing deadline. Additional information or documentation may be filed after the original claim has been submitted.

Invoicing

Travel agents are required to promptly provide a statement, invoice or receipt to a customer after selling travel services. **Section 38 (1)** of the Regulation details all the information that must be included on this documentation. Please note that there is a new requirement to identify any amounts that are not refundable. Items that may not be refundable could include any fees, levies, service charges, surcharges, taxes or other charges.

Continued on page 7...

Shedding further light on the new legislation

As some of you have been querying TICO since the Travel Industry Act, 2002 came into effect on July 1, 2005, we decided to compile a list of the most commonly asked questions, and hope this will answer some of your main concerns.

Financial Compliance

Why do I need a designated trust account if I have had a trust account since I opened my company?

All registrants who were previously grandfathered from trust accounting must now maintain trust accounts. This means that your bank must now designate a trust account as your *Travel Industry Act* trust account. Even if you have always had a trust account, as of July 1, 2005 it must be acknowledged by your bank to be a *Travel Industry Act* trust account.

If I already have a trust account, but it has not been designated as a Travel Industry Act trust account, do I need to get new cheques when the account is properly designated?

No, you do not need to get new cheques if you already have cheques from a previously used trust account.

When can I transfer my commission or profit from the trust account to the general account?

You may only transfer the profit after receipt of the full payment from the customer, and at least one of the following conditions exist:

(1) All suppliers of travel services for that booking have been paid

(2) The customer has commenced travel

(3) Travel documents have been released to the customer after suppliers have been paid

What is meant by "security" instead of "trust accounting"?

Section 28 of the Regulation provides registrants with the alternative to file security with TICO in lieu of trust accounting:

(1) A registrant must have been registered and carrying on business continuously for at least one fiscal year.

(2) A registrant must provide security to the administrative authority in an amount that is equal to or greater than one-sixth of the registrant's sales in Ontario for the 12-month period ending on the last day accounted for in the most recent annual, semi-annual or quarterly financial statements, that are required to be filed, as the case may be, under Section 22.

(3) A registrant is obliged to maintain a trust account until the Registrar has acknowledged that the security has been received.

What type of security is acceptable in lieu of trust accounting?

The security must be either in the form of a letter of credit in which TICO is the beneficiary or a certified cheque payable to TICO.

Registrant Disclosure Requirements

Is it okay to have all the requirements under Section 38 on more than one document?

Yes, as long as the document states that the invoice consists of more than one page.

Court matters

CHARGED

Hilda Dinglasan was charged with two counts of acting without registration, contrary to Section 3 (1) of the *Travel Industry Act*. The next court date is scheduled for September 6, 2005 at the Brampton Provincial Offences Court.

Donatella Iacobucci was charged with one count of acting without registration, contrary to Section 3 (1) of the *Travel Industry Act*. The next court date is scheduled for September 8, 2005 at the Old City Hall Court, Toronto.

Suthakaran Kumarasamy and Ceylon Tours and Travels Inc. have been charged with 16 counts each of failing to deposit consumer funds to the trust account within two banking days, contrary to Section 36 (3) of Ontario Regulation 806/93 under the *Act* and 18 counts of failing to hold funds in trust until suppliers have been paid, contrary to Section 36 (6) of Ontario Regulation 806/93. The next court appearance is set for November 9, 2005 at the Old City Hall Court, Toronto.

Nazzimudin Kazi and Airpool 2000 Travel Services Inc. were charged with one count each of acting without registration, contrary to Section 3 (1) of the *Travel Industry Act*. The next court appearance is set for October 6, 2005 at the Old City Hall Court, Toronto.

Elorine Johnson and Ella's Travel Inc. have been charged with nine additional counts each, for failing to maintain trust accounting, contrary to Section 36 of Ontario Regulation 806/93. An ex-parte trial has been set for March 20, 2006 at the Provincial Offences Courthouse in Scarborough.

CONVICTIONS

Harish Sharma and 1620185 Ontario Inc. o/a Avon Travels & Tours Company have been convicted of one count each of operating without registration, contrary to Section 3 (1) of the *Travel Industry Act*. Sharma and 1620185 Ontario Inc. received fines of $3,000 each, payable within one year. Sharma was also placed on a two-year period of probation.

REVOCATIONS

Between April 28, 2005 and August 3, 2005, eight companies had their registrations revoked: 1392045 Ontario Inc. o/a Adventures in Travel; Airpool 2000 Travel Services Inc.; 1562279 Ontario Inc. o/a Bestbuy Travel; Enjoy the Ride Inc.; 1610240 Ontario Limited o/a Marlin Travel; Prespa Travel Inc.; Travel Trotters Ltd.; and Manuel Gerardo Duarte o/a Universo Travel Agency.

Legislative changes continued from page 6

Online Representation

Sections 31 to **35** of the Regulation outline the requirements, detailing what is acceptable and permissible when it comes to representations. Online advertising presents a unique set of challenges; nonetheless, everything that appears on a TICO registrant's web site must adhere to the legislation.

To assist with the design of your web site, TICO has developed a Code of Practice for Electronic Commerce. Besides informing you of your responsibilities under the *Travel Industry Act*, 2002, it provides best practices guidelines to conducting electronic commerce in Ontario. They may be downloaded from TICO's web site at **http://www.tico.on.ca/** - look under *Travel Agents & Wholesalers, What You Should Know, E-Commerce Code of Practice*. The Code pertains to all websites, from those that only provide information to those that have online booking capabilities and are able to carry out commercial transactions with consumers.

Making it even easier, an Appendix indicates which sections are based on the legislation and which sections are recommended as best practices.

Upcoming Issues

In future issues of TICO *TALK* we plan to include:

- **The progress of the Travellers' Protection Initiative**
- **Update on Canada 3000**
- **Update on Jetsgo**
- **Further analysis of the Legislative and Regulatory changes**

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TICO
TRAVEL INDUSTRY COUNCIL OF ONTARIO

2700 Matheson Boulevard East,
Ste 402, West Tower,
Mississauga, Ontario L4W 4V9.

Tel: (905) 624-6241
Fax: (905) 624-8631
Toll-free: 1-888-451-TICO
web site: www.tico.on.ca
e-mail: tico@tico.on.ca

Pushing to protect airline passengers: the Travellers' Protection Initiative
continued from page 1

elimination of this role. As a result, the final measure that The Travellers' Protection Initiative is demanding:

- The reinstatement and strengthening of the position of Air Travel Complaints Commissioner.

With only months to promote these six simple, workable initiatives, TICO CEO Michael Pepper explains why The Travellers' Protection Initiative was formed.

"We wanted to put more thrust into our position, while Bill C-44 is still before Parliament. We understand that the government is not in the airline business, but it is in the business of protecting Canadian citizens, and in this area it is failing all of us. It has the obligation to demand that airlines have the financial wherewithal to serve passengers. That's a very basic requirement."

By taking its case to members of the House of Commons Standing Committee on Transport and to Jean Lapierre, the Minister of Transport, before the Bill goes further, The Travellers' Protection Initiative hopes to persuade the current government to finally put the rights and interests of passengers ahead of those of the airlines. The ultimate goal? To have its 6-point plan enshrined in legislation. s

Synopsis of the 8th Annual General Meeting
continued from page 3

code; the introduction of a Board Code of Conduct; a communications audit; and the harmonization of standards, focusing on airline pricing and working with the Consumer Measures Committee.

Looking ahead, TICO's Revenue and Expense Forecast on semi-annual assessments for the next three years are $2,800,000, $1,900,000 and $1,900,000. Current assessment rates are .50/1,000 for wholesale and .25/1,000 for retail. It is anticipated that in 2006/2007 there will be a rate reduction.

The audited Financial Statements for the year ended March 31, 2005 were presented and approved by the membership. A copy of the Financial Statements is included in TICO's 2005 Annual Report.

Board of Directors

One industry-wide elected position was open to a retail candidate. Congratulations were offered to Trish McTavish of McTavish Travel, Oakville, who was elected to this position for a three-year term. s

***Front Row** (left to right)*: **Michael Pepper, Jill Wykes, Mike Foster, Bruce Fraser**
***Back Row** (Left to right)*: **Patricia Jensen, Trish McTavish, John Kennedy, Richard Vanderlubbe, Michael Janigan, Denise Heffron, Brett Walker, Kathleen Warren**
Absent: **Mike Merrithew, Donna Holmes, Scott Stewart and Steve McCullough**