

**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: 11504 v. Registrar, *Travel Industry Act, 2002*, 2018 ONLAT TIA 11504

Date: 2018-10-15
File Number: 11504/TIA

Appeal from a Proposal by the Registrar, *Travel Industry Act, 2002*, S.O. 2002, c. 30,
Sch. D. To Revoke Registration

Between:

Imaginal Moment Journeys Ltd.

Appellant

and

Registrar, *Travel Industry Act, 2002*

Respondent

ORDER

Order Made by: Avril A. Farlam, Vice-Chair

Date of Order: October 15, 2018

Further to the case conference held on October 2, 2018 and pursuant to the *Statutory Powers Procedure Act*, R.S.O. 1990, Chapter S. 22, s. 4.1, I order the following:

- [1] The appellant appeals a Notice of Proposal to Revoke Registration dated January 16, 2018 issued by the Registrar, under the Travel Industry Act, 2002, S.O. 2002, c. 30, Sched. D. (“Act”) to revoke the registration of the appellant as a travel agent.
- [2] At the case conference the appellant and the respondent indicated that they had reached an agreement. The parties further indicated that they wanted the agreed to Minutes of Settlement to be incorporated into a consent Order. I order the Registrar not carry out the Notice of Proposal to Revoke Registration dated January 16, 2018.
- [3] The appellant Imaginal Moment Journeys’ licence as a travel agent shall be subject to the terms and conditions set out in the Minutes of Settlement signed by the appellant and the respondent dated September 28, 2018 attached to this Order.

LICENCE APPEAL TRIBUNAL

Avril A. Farlam, Vice-Chair

Released: October 15, 2018

LICENCE APPEAL TRIBUNAL

BETWEEN

Imaginal Moment Journeys Ltd.

Registration No. 50023169 – Retail

Appellant

- and -

REGISTRAR, TRAVEL INDUSTRY ACT, 2002

Respondent

MINUTES OF SETTLEMENT

Whereas Imaginal Moment Journey Ltd. (“Registrant”) is a travel agent registered under the *Travel Industry Act, 2002*, (“the Act”, which term includes Regulation 26/05 to the Act);

And in a Notice of Proposal to Revoke Registration dated January 16, 2018 (“Proposal”) the Registrar under the Act (“Registrar”) proposed to revoke the registration of the Registrant under the Act;

And the Registrant requested a hearing in respect of the Proposal to Revoke Registration by appealing to the Licence Appeal Tribunal (“Tribunal”);

And since the Proposal the Registrant has confirmed that it has corrected its previous working capital deficiency and has provided complete financial statements disclosing required information about its Travel Industry Act trust account;

And the Parties have agreed to resolve outstanding issues in the Proposal 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, subject to conditions of registration set out below.**
- B. The Registrant hereby admits the reasons, particulars and background allegations set out in the Proposal as proof, for all purposes including as evidence in any future administrative action, including if there is 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 Act, 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 conditions of its registration:

1. The Registrant’s financial statements for its fiscal year ending on or around March 31, 2019, due on June 30 , 2019 shall be filed on or before that due date and in compliance with 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 and 29 of the Regulation. In particular and without limitation to the forgoing, financial statements 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 cash flow statement.
 - e) Disclosing a reconciliation of the Registrant's *Travel Industry Act* trust account (the "trust account"), including customer deposits liability balance and trust account balance.
3. The Registrant shall at all times maintain the required minimum working capital level required by the Regulation which is currently \$5000.00. 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 the Regulation, the Registrant shall take the necessary steps to correct its working capital position and submit proof thereof within the due date provided by the Registrar.
 4. The Directors and Officers of the Registrant shall ensure that loans and/or advances to the Registrant will not be withdrawn until such time as it can be done without reducing working capital below the minimum amount required by the Act.
 5. 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.
 6. The Registrant shall at all times comply with the requirements about trust accounts set out in Section 27 of the Regulation and the TICO Trust Accounting Guidelines. Without limiting that obligation, the Registrar shall maintain monthly Trust Reconciliations of customer deposits (a reconciliation showing total receipts on hand from customers for travel services sold compared with reconciled trust account balance). The Trust Reconciliations shall comply with the following requirements:
 - a) Each Trust Reconciliation shall include a list of consumer deposits on hand by customer name and invoice number and the amount held for each customer. If prepaid travel is recorded, a listing by the date the supplier was paid and the amount paid, on behalf that particular customer is required. Prepaid amounts must be matched to the applicable customer funds received and therefore must never be higher than the customer deposit liability at any particular time.
 - b) Each Trust Reconciliation shall include a complete copy of the Travel Industry Act Trust bank account statements for the particular month.
 - c) Customer funds may not be transferred to the general account of the registrant without first completing a trust account reconciliation to determine the amount of surplus funds

that may be transferred.

7. Without limitation to Section 17 of the Act, the Registrant acknowledges and understands that the Registrar (including a person designated in writing by the Registrar) will conduct an Inspection of the Registrant within three months of the date of these Minutes of Settlement, in order to ensure compliance with the Act, including without limitation working capital and trust accounting compliance. The Registrant shall respond to any inspection related request from the Registrar within five business days of the date of the request.
8. The Registrant shall respond to all requests for information from the Registrar for any reason in a timely and fulsome manner and is responsible for ensuring that any and all persons proposed to be Directors and Officers and Supervisor/Managers of the Registrant respond in a fulsome and timely manner. All requests for information from the Registrar shall be responded to within five business days from the request, but in any case, no later than the due date indicated in the correspondence.

D. The Registrant understands that should it fail to comply with any of the above noted terms and conditions or any other provision of the Act or Regulation, its previous non-compliance history will be taken into consideration in any decision by the Respondent to take further legal or administrative action including a further Proposal to Revoke or Refuse to Renew Registration under the Act.

E. The Registrant and the undersigned on behalf of the Registrant acknowledge they have read, understand and will comply with these Minutes of Settlement and any resulting Order of the Tribunal.

F. The Registrant and the undersigned on behalf of the Registrant have been made aware of their right to obtain independent legal advice with respect of these Minutes of Settlement.

SIGNED THIS DAY OF SEPTEMBER, 2018

Anis Alibhai, Manager and Director
Imaginal Moment Journeys Ltd.

I have the authority to bind the
Corporation.

Richard Smart
**Registrar, *Travel Industry Act,*
2002**