

**LICENCE APPEAL
TRIBUNAL**
Safety, Licensing Appeals
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Ontario

**TRIBUNAL D'APPEL EN
MATIÈRE DE PERMIS**
Tribunaux de la sécurité, des appels
en matière de permis et des normes
Ontario



Citation: 11701 v. Registrar, *Travel Industry Act, 2002*, 2019 ONLAT TIA

Date: 2019-03-26
File Number: 11701/TIA

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

Between:

**2282476 Ontario Ltd. o/a New Pioneer Travel, Super China Holidays, U to Vacation
Appellant**

and

Registrar, Travel Industry Act, 2002

Respondent

CONSENT ORDER

Order Made by:

Patricia McQuaid, Vice- Chair

Date of Order:

March 26, 2019

- [1] 2282476 Ontario Ltd. o/a/ New Pioneer Travel, Super China Holidays, U to Vacation appealed the Notice of Proposal issued by the Registrar on October 17, 2018 to revoke its registration as a travel agent and travel wholesaler under the *Travel Industry Act, 2002*. A second case conference in this matter took place on March 26, 2019.
- [2] At the case conference, the parties advised the Tribunal that they had resolved the issues in dispute and consented to registration based on a number of terms and conditions, set out in Schedule “A”, attached, which they requested be incorporated into a Consent Order from the Tribunal.
- [3] Therefore, after hearing the parties’ submissions, pursuant to s. 4.1 of the *Statutory Powers and Procedure Act* and 29.1(6) of the Act, and on the consent of the parties, this Tribunal orders that the proceedings in this matter are concluded and disposed of without a hearing 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

Patricia McQuaid, Vice-Chair

Released: March 26, 2019

Schedule "A"

File Number. 11701/TIA

LICENCE APPEAL TRIBUNAL

Between:

2282476 Ontario Ltd.
o/a New Pioneer Travel, Super China Holidays, U to Vacation
Registration No. 50019267 – Retail
Registration No. 50021575 – Wholesale

Appellant

and

REGISTRAR, Travel Industry Act, 2002

Respondent

MINUTES OF SETTLEMENT

Whereas 2282476 Ontario Ltd. o/a New Pioneer Travel, Super China Holidays, U to Vacation

("Registrant") is a travel agent and travel wholesaler under the *Travel Industry Act, 2002*, ("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 October 17, 2018, the Registrar under the Act ("Registrar") proposed to revoke the registration under the Act of the Registrant ("Proposal");

And the Registrant requested a hearing in respect of the Proposal by appealing to the Licence Appeal Tribunal ("Tribunal");

And the Registrar and Registrant (collectively, the "Parties") have agreed to resolve 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 in Part C below.

B. The Registrant hereby admits all of the reasons, particulars and background

allegations in the Notice of Proposal in this matter dated October 17, 2018, as proven and correct for all purposes, including as evidence in any 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, and including without limitation the Trust Declaration signed June 17, 2014 on behalf of the Registrant, undertaking to comply with its provisions, the provisions of the legislation and TICO Guidelines with respect to trust accounts and the depositing, holding and disbursement of trust funds (“Trust Declaration”), 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 March 30, 2019, due on June 30, 2019, shall be filed with the office of the Registrar on or before that due date 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 maintain the minimum working capital required by the Regulation which currently is \$50,000. 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.
3. The Registrant shall comply with the requirements about trust accounts and the depositing, holding and disbursement of trust funds set out in Section 27 of the Regulation, the Travel Industry Council of Ontario (“TICO”) Trust Accounting Guidelines and any future successor guidelines, and the Trust Declaration.
4. Without limiting Paragraph 3, the Registrant shall, in compliance with Section 27(4) of the Regulation, not maintain more than one Travel Industry Act trust account without receiving, in advance, the written consent of the Registrar.

5. The Registrant shall deliver to the Registrar monthly reconciliations of its Travel Industry Act trust account(s) ("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 March, 2019, due on or before April 30, 2019, and for April, 2019, due on or before May 31, 2019, and for May 2019, due on or before June 30, 2019, and also for all other months as the Registrar may hereafter indicate to the Registrant indicate in writing in the Registrar's absolute and sole discretion, all of which reconciliations are due on/or before the last day of the month following the month that is the subject of the Trust Reconciliation.
6. The Registrant's 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.
 - c) Each Trust Reconciliation shall include all customer deposits liability related to the period for which the trust reconciliation is prepared. Customer funds received before the date of the trust reconciliation must be recorded as a liability until they are disbursed in accordance with Section 27(6) of the Regulation.
 - d) Trust reconciliations must only relate to the customer funds actually received by the Registrant for travel services related to the period for which the trust reconciliation is prepared. Customer funds which are not received by the Registrant for travel services related to the period for which the trust reconciliation is prepared shall not be included in the customer deposit liability.
7. The Registrant shall comply with the requirements about business records set out in Section 29 of the Regulation and without limitation to the requirements of that Section, shall maintain at its principal registered office, or such other location approved, in advance, by the Registrar in writing, all of the following records:
 - a) Accounting records setting out in detail the registrant's income and expenses and supporting documentary evidence, including copies of statements,

- invoices or receipts that have unique identifiers or serial numbers provided to customers.
- b) Banking records that readily identify and may be used to verify all transactions that were made in connection with the registrant's business.
 - c) A written record of all payments made by or to the registrant respecting the purchase or sale of travel services. The record shall be in a form that enables the registrar to identify readily the transaction to which each payment relates, based on the unique identifiers or serial numbers.
8. The Registrant shall comply with Section 11 of the Regulation. The Registrant shall not operate from a branch office in Ontario without receiving, in advance, the written approval of the Registrar.
 9. The Registrant shall ensure that each office operated by the Registrant is managed and supervised, throughout its hours of operation, by a travel supervisor/manager who meets the requirements in Sections 15 (2.1) or 15 (3) of the Regulation, which person has, in advance, been approved in writing by the Registrar.
 10. The Registrant shall comply with Section 17(2) of the Regulation; including that the Registrant shall advise the Registrar at least five days before any of the following takes place:
 - a) A change of address for the office or a branch office of the registrant.
 - b) Any change of the registrant's travel supervisor/manager, if the registrant is aware of the change at least five days before the change takes place.
 - c) A change in the name or number of an account or in the financial institution in which the account is maintained.
 11. In addition to Paragraph 9(b) and the Requirement in Section 17(2) 2. of the Regulation, 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 travel 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.
 12. 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.

- 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 all 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 informed of their right to independent legal advice with respect to this matter and in respect of these Minutes of Settlement.**

SIGNED THIS 25th DAY OF MARCH 2019

Mr. Shuai Chen a.k.a. Chris Chen,
Director, President and Manager
2282476 Ontario Ltd.

I have the authority to bind the
Corporation

Richard Smart
Registrar, *Travel Industry Act, 2002*