

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

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



[1] Citation: 12153 v. Registrar, Travel Industry Act, 2002, 2019 ONLAT TIA

Date: 2019-08-22
File Number: 12153/TIA

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

Between:

Verona Travel Ltd.

Appellant

and

Registrar, Travel Industry Act, 2002

Respondent

CONSENT ORDER

Order Made by:

Patricia McQuaid, Vice- Chair

Date of Order:

August 22, 2019

CONSENT ORDER

- [1] Verona Travel Ltd. appealed the Notice of Proposal issued by the Registrar on June 5, 2019 to revoke its registration as a travel agent under the *Travel Industry Act, 2002*. A case conference in this matter took place on August 22, 2019.
- [2] At the case conference, the parties advised the Tribunal that they had resolved the issues in dispute and consent to continued registration of Verona Travel Ltd. based on 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 s. 9(5) 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: August 22, 2019

SCHEDULE A

TRIBUNAL FILE No. 12153/TIA

LICENCE APPEAL TRIBUNAL

BETWEEN

Verona Travel Ltd.

Appellant

and

REGISTRAR, TRAVEL INDUSTRY ACT, 2002

Respondent

MINUTES OF SETTLEMENT

Whereas Verona Travel Ltd. ("Registrant") is a travel agent 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 WHEREAS in a Notice of Proposal to Revoke Registration dated June 5, 2019, the Registrar under the Act ("Registrar") proposed to revoke the registration under the Act of the Registrant ("Proposal");

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

AND WHEREAS the Registrar issued a Notice of Further and Other Particulars dated June 19, 2019;

AND WHEREAS the Registrar conducted an Inspection of the Registrant on August 7, 2019, ("Inspection");

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 June 5, 2019, and the**

Notice of Further and Other Particulars dated June 19, 2019, 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 December 11, 2015 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 August 31, 2019, due on November 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 \$25,000. 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 pay security to the Registrar with an amount equivalent to the required minimum working capital, as described in paragraph (2) above, of \$25,000 (the "security"). This shall be delivered to the Travel Industry Council of Ontario on or before September 30, 2019. The security shall be paid by bank draft, certified cheque money order made payable to the Travel Industry Council of Ontario.
4. The Registrant shall correct the deficiencies, as noted below, that were discovered as a result of the TICO Inspection on August 7, 2019:

- a. There is insufficient audit trail with respect to supplier payments. It was noted that the majority of supplier payments are made via corporate credit card, and although the payments were not made lumpsum, there was no audit trail with respect to the customer funds received. You are required to maintain a clear audit trail of all customer fund disbursements. Payments on the credit card must be for specific bookings. The customer name(s) and invoice number(s) should be referenced next to the payment amount(s) on the credit card statement or other document to indicate that the trust disbursement is for specific travel expense(s).
 - b. It was further noted, that you charge operating expenses to the corporate credit card, and these operating expenses are paid from the trust account. Please note that overhead expenses must be paid from the general account and the registrant has been advised by the inspector to correct this issue immediately.
 - c. Further, the Registrant's trust account was found to be in overdraft. The trust account should never be in overdraft.
5. 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.
6. The Registrant shall deliver to the Registrar monthly reconciliations of its *Travel Industry Act* trust account(s) ("trust account") of customer deposits, showing customer deposits liability balance compared to the trust account balance, **for August, 2019, due on or before September 30, 2019, and for September, 2019, due on or before October 31, 2019, and for October 2019, due on or before November 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.
7. The Registrant's Trust Reconciliations (as per 6 above) 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.
8. 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.
9. 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.
10. The Security shall be held by the Registrar at least until the latter of:

- a) The Registrant files its financial statements for its fiscal year ending on August 31, 2019, due November 30, 2019, and in compliance with all of the requirements of the Regulation applicable to that filing (“2019 Financial Statements”) and the Registrar has determined in his sole discretion that the Registrant is in compliance with the applicable working capital requirements in the Regulation;
- b) An Inspector designated by the Registrar has inspected the Registrant and determined that the Registrant is in compliance with all requirements of the Act and Regulation including but not limited to trust accounting.

If the Registrar determines in his sole discretion that the Registrant is in compliance with the Act and Regulation as set out in paragraphs a) and b) above, the Security shall be returned to the Registrant. If the Registrar determines in his sole discretion that the Registrant is not in said compliance, the disposition of the Security thereafter is subject to determination by the Registrar in his sole discretion.

- 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 21st DAY OF AUGUST 2019

Mr. Alfiero Cavallo,
Director, President and Manager
Verona Travel Ltd.

I have the authority to bind the
Corporation

Richard Smart
Registrar, *Travel Industry Act,*
2002