



Citation: Albarkah Travel and Tours Inc. v. Registrar, Travel Industry Act, 2020 ONLAT
TIA 12635

Date: 2020-05-11
Tribunal File Number: 12635/TIA

Appeal under s. 11 (5) of the Travel Industry Act, 2002, S.O. 2002, c. 30, Sch D. from a
Notice of Proposal to revoke a registration

Between:

Albarkah Travel and Tours Inc.

Appellant

and

Registrar, *Travel Industry Act, 2002*

Respondent

CONSENT ORDER

Order Made by: Ian Maedel, Member

Date of Order: May 11, 2020

BACKGROUND

- [1] This is an appeal from a Notice of Proposal issued by the Registrar under the *Travel Industry Act, 2002* (the Act) to revoke the appellant's registration as a travel agent.
- [2] The parties have advised the Tribunal that they were able to agree upon a settlement of all outstanding issues in this matter have requested that the terms of settlement be incorporated into a consent order disposing of this proceeding.

ORDER AND DIRECTION

- [3] Accordingly, on the consent of the parties and upon having reviewed the agreement signed by the appellant and the Registrar, the Tribunal, pursuant to *The Travel Industry Act 2002*, ("Act") and to Regulation 26/05 under the Act ("Regulation") directs and orders the Applicant shall be bound by the terms of the consent agreement signed and executed by the Appellant.
- [4] The signed agreement is appended as **Schedule "A"** to this Order.
- [5] This Tribunal file shall be closed.

LICENCE APPEAL TRIBUNAL

Ian Maedel, Member

Released: May 11, 2020

Schedule "A"

LAT FILE No. 12635/TIA

LICENCE APPEAL TRIBUNAL

BETWEEN

Albarkah Travel and Tours Inc.

Appellant

- and -

REGISTRAR, TRAVEL INDUSTRY ACT, 2002

Respondent

MINUTES OF SETTLEMENT

Whereas Albarkah Travel and Tours Inc. ("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 February 7, 2020, 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 the Proposal 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 Registrant hereby agrees to withdraw its appeal and request for a hearing, made to the Tribunal, in respect of the Notice of Proposal to Revoke Registration dated February 7, 2020.**
- B. 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 in respect of the Proposal, ordering that the Registrant continue to be registered under the Act, subject to conditions of registration that are set out in Part D below.**

- C. The Registrant hereby admits all of the reasons, particulars and allegations in the Notice of Proposal to Revoke Registration dated February 7, 2020, as proven and correct for all purposes, including as evidence in any future administrative action taken against the registration of the Registrant, including but not limited to a further Proposal to Revoke or Refuse to Renew or Refuse the registration of the Registrant under the Act.**

D. Conditions of Continued Registration

In addition to and without limiting the Registrants obligation to comply with all requirements of the legislation, and 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 the Trust Declaration signed on behalf of the Registrant on August 20, 2014, undertaking to comply with its provisions, the provisions of the legislation and Travel Industry Council of Ontario (“Administrative Authority”) Trust Accounting Guidelines about 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 shall submit written confirmation to the Registrar, satisfactory to the Registrar in the Registrar’s sole discretion, that the Registrant’s former Travel Industry Act Trust Account # 1039-5246750 that was held at TD Canada Trust, has been closed. This confirmation is to be provided to the Registrar on or before July 31, 2020.
2. The Registrant shall comply with the requirements about trust accounts and depositing, holding and disbursement of trust funds in Section 27 of the Regulation, the Administrative Authority Trust Accounting Guidelines and any future successor guidelines, and the Trust Declaration.
3. 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 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.

4. 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.
 5. The Registrant undertakes that each office operated by it shall be managed and supervised, throughout its hours of operation, by at least one person who has obtained the required certification for being a Travel Supervisor/Manager from the Administrative Authority, further to Section 15 of the Regulation. The Registrant agrees and undertakes that at least one person who has obtained the required certification for being a Travel Counsellor from the Administrative Authority shall be available at each office operated by it throughout its hours of operations, further to Section 15 of the Regulation.
 6. 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 five business days after the request. The Registrant shall respond to all requests from the Registrar in writing if requested by the Registrar.
 7. In addition to and without limitation to the above, the Registrant shall comply will all requirements of the legislation applicable to the Registrant.
- E. The Registrant acknowledges and understands that if it fails to comply with any of the above noted conditions or any other provision of the legislation, said non-compliance and all previous non-compliance history will be taken into consideration and may be cited in any decision by the Registrar to take further legal or administrative action against the Registrant, including but not limited to a further Proposal to Revoke or Refuse to Renew or to Refuse the registration of the Registrant under the Act.**
- F. The Registrant acknowledges and understands that nothing in these conditions restricts the Registrar or the Administrative Authority from taking further administrative or legal action against the Registrant, including but not limited to a further Proposal to Revoke or Refuse to Renew or to Refuse the registration of the Registrant under the Act, or a prosecution for an alleged offence under the Act, as appropriate in the circumstances.**

- G. 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 with any Order of the Tribunal.**
- H. The Registrant and the undersigned on behalf of the Registrant acknowledge that they have been informed of and understand their right to obtain independent legal advice, and to be represented by Counsel or Agent, with respect to this matter and in respect of these Minutes of Settlement.**

SIGNED THIS _____ DAY OF _____ 2020

Mahmood Bashir
Director,
Albarkah Travel and Tours Inc.
I have the authority to bind the
Corporation

Richard Smart
Registrar, *Travel Industry Act, 2002*