

Tribunals Ontario

Tribunaux décisionnels Ontario

Licence Appeal Tribunal

Tribunal d'appel en matière de permis



Citation: Scuba Vacay Ltd. o/a Scuba Vacay v. Registrar, *Travel Industry Act, 2002*, 2021 ONLAT TIA 13224

Date: 2021-05-12

File Number: 13224/TIA

Appeal from a Proposal by the Registrar, *Act, 2002*, S.O. 2002, C.30, Sched. D and Ontario Regulation 26/05 to revoke registration

Between:

Scuba Vacay Ltd., o/a Scuba Vacay

Appellant

and

Registrar, *Travel Industry Act, 2002*

Respondent

CONSENT ORDER

ADJUDICATOR:

Harriet Lewis, Member

APPEARANCES:

For the Appellant:

Piotor Stankiewicz, Representative

For the Respondent:

John Park, Counsel

Jennifer Shin, Counsel

Heard by Teleconference:

May 10, 2021

CONSENT ORDER

- [1] On March 15, 2021, the Registrar, *Travel Industry Act, 2002* (“the Act”) issued a Notice of Proposal to revoke the appellant’s registration as a travel agency under S. 10 of the Act. At a case conference held on May 10, 2021, the parties advised the Tribunal that they intended to be able to settle the issues in dispute.

MINUTES OF SETTLEMENT

- [2] The parties have reached a resolution of this matter and have executed Minutes of Settlement which have been presented to the Tribunal.
- [3] I am satisfied that the resolution reached by the parties is fair and appropriate and addresses the concerns raised by the respondent in his Proposal.

ORDER

- [4] Pursuant to s. 4.1 of the Statutory Powers Procedure Act, R.S.O. 1990, Chapter.S.22 , and on the consent of the parties, I order that the Appellant’s registration under the Act is to be continued on the terms and conditions set out in the Minutes of Settlement attached hereto as Schedule “A”.
- [5] The appeal in this matter is withdrawn and the Tribunal’s file will be closed.

LICENCE APPEAL TRIBUNAL

Harriet Lewis, Member

RELEASED: May 12, 2021

LICENCE APPEAL TRIBUNAL

BETWEEN

SCUBA VACAY LTD. o/a SCUBA VACAY

Appellant

- and -

REGISTRAR, TRAVEL INDUSTRY ACT, 2002

Respondent

MINUTES OF SETTLEMENT

Whereas Scuba Vacay Ltd. (“Registrant”) is a travel agent under the *Travel Industry Act, 2002*, (“Act”) and is subject to the requirements of the Act and Regulation 26/05 under the Act (“Regulation”) (collectively, the “legislation”);

And in a Notice of Proposal to Revoke Registration dated March 15, 2021, 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 (the “Parties”) have agreed to resolve the Proposal with these Minutes of Settlement;

Therefore, the Parties 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 agrees to withdraw its appeal and request for a hearing, made to the Tribunal, in respect of the Proposal.**
- B. The Parties 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 under the Act, subject to conditions of registration that are set out in Part D below.**
- C. The Registrant admits all of the reasons, particulars and background allegations in the Proposal, 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 Registrant’s 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 including the Trust Declaration signed September 6, 2018, on behalf of the Registrant, undertaking to comply with the legislation and Travel Industry Council of Ontario (“Administrative Authority”) Trust Accounting Guidelines, the Registrant shall comply with the following additional conditions of its registration:

1. The Registrant shall deliver to the Registrar monthly reconciliations of its *Travel Industry Act* trust account(s) ("trust account") of customer deposits, showing total outstanding receipts from customers for travel services compared with the trust account balance for:
 - (a) May 2021, due on or before June 30, 2021;
 - (b) June 2021, due on or before July 31, 2021;
 - (c) July 2021, due on or before August 31, 2021.

2. The Registrant's Trust Reconciliations shall comply with the following requirements:
 - i. 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 the 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).
 - ii. Each Trust Reconciliation shall include a complete copy of the Travel Industry Act Trust bank account statements for the particular month.
 - iii. Each Trust Reconciliation shall include all customer deposits liability balance 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.
 - iv. Trust reconciliations must only relate to the outstanding customer funds actually received by the Registrant. 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.

3. The Registrant's financial statements or verification statement for its fiscal year ending on June 30, 2021, due on September 30, 2021, 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.

4. The Registrant's FORM 1 form for the 6-month period ending June 30, 2021, due on September 30, 2021, shall be filed with the office of the Registrar on or before that due date. Hereafter, all FORM 1 forms and any requisite payments to the Travel Industry Compensation Fund shall be submitted on or before the applicable due date.
 5. The Registrant shall at all times, maintain working capital in accordance with the requirements set out in section 24 of the Regulation.
 6. The Registrant shall comply with the requirements about business records set out in Section 29 of the Regulation.
 7. The Registrant agrees and 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.
 8. The Registrant shall comply with section 17(2) of the Regulation, including that the Registrant shall advise the Registrar at least 5 days before any of the following takes place:
 - (a) A change of address for the office of branch of the Registrant;
 - (b) Any change of the Registrant's Manager/Supervisor;
 - (c) Any change to the name or number of an account or in the financial institution in which the account is maintained.
 9. The Registrant shall respond to any and all requests for information from the Registrar or Registrar's representative, 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 or Registrar's representative 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 or Registrar's representative in writing if requested by the Registrar.
- 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 Act or Regulation, 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 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 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 and 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 _____ 2021.

Piotr Stankiewicz
Director and Manager,
Scuba Vacay Ltd.

*I have the authority to bind the
Corporation*

Richard Smart
Registrar, *Travel Industry Act,*
2002