



Citation: 2282476 Ontario Ltd. o/a Pioneer Travel, Super China Holidays, U to Vacation v. Registrar, *Travel Industry Act, 2002*, 2024 ONLAT TIA 15591

File Number: 15591/TIA

In the matter of an appeal under Section 11(2) of the *Travel Industry Act, 2002*, S.O. 2002, c. 30, Sched. D and Ontario Regulation 26/05, from a Proposal of the Registrar under that Act to Revoke Registration.

Between:

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

Appellant

and

Registrar, *Travel Industry Act, 2002*

Respondent

CONSENT ORDER

ADJUDICATOR: Jeffery Campbell, Vice-Chair

Date: September 9, 2024

BACKGROUND

- [1] The appellant, 2282476 Ontario Ltd. o/a Pioneer Travel, Super China Holidays, U to Vacation, appeals a Notice of Proposal to Revoke Registration, issued by the Registrar, *Travel Industry Act, 2002* (the “Registrar” or “respondent”) on January 17, 2024.
- [2] The appellant filed an appeal with the Licence Appeal Tribunal (the “Tribunal”) on January 24, 2024.
- [3] The parties advised the Tribunal that they had resolved the issues in dispute and both parties consent to the continued registration of the appellant as a travel agent under the Act on the terms and conditions set out in Schedule A signed by both parties September 9, 2024.
- [4] Further, both parties confirmed that pursuant to section 4.1 of the Statutory Powers Procedure Act, R.S.O. 1990, c. S 2 (the “SPPA”), both parties waive the requirements of a hearing and consent to an Order of the Tribunal to continue the appellant’s registration on the terms and conditions set out on Schedule A. A copy of the agreement signed by both parties is attached as Schedule A to this Order.

ON CONSENT OF BOTH PARTIES, I ORDER:

- [5] Pursuant to s. 4.1 of the SPPA and on the consent of the parties, I dispose of this proceeding without a hearing on the terms set out in the agreement signed by both parties on September 9, 2024, attached to this order as Schedule A, which Schedule A is incorporated and made part of this Order.

LICENCE APPEAL TRIBUNAL



Jeffery Campbell, Vice-Chair

Released: September 10, 2024



2282476 Ontario Ltd. o/a U to Vacation
Registration #50019267– R (Retail)
Registration #50021575 – W (Wholesale)

CONDITIONS TO REGISTRATION

Whereas 2282476 Ontario Ltd. o/a U to Vacation (Registration # 50019267-R and #50021575-W) (the “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 a Notice of Proposal to Revoke Registration was issued by the Registrar on July 26, 2023 and was amended by a Further and Other Particulars on July 15, 2024 (collectively, the “Proposal”);

AND WHEREAS the Proposal alleged that the Registrant failed to comply with several obligations under the legislation, namely:

- Failure to Provide Refunds to Customers (para 12-71);
- Trust Reconciliations / Misstatement of Prepayments (para 73-84);
- Insufficient Audit Trail (para 85-89);
- Trust Accounting Deficiencies re Lump Sum Payments (para 90-99); and
- Failing to Notify the Registrar Regarding Changes in Bank Accounts (para 100-104); (collectively, the “Allegations”)

AND WHEREAS the Registrant admits the above-mentioned Allegations;

AND WHEREAS the Registrar is agreeable to resolving the Proposal;

AND WHEREAS the Registrar believes that attaching the following conditions to the registration is just in the circumstance;

THEREFORE pursuant to subsection 8(2) of the Act, the Registrant and the Registrar, in accordance with section 4.1 of the *Statutory Powers Procedure Act*, do hereby waive the requirements of a hearing and consent to an Order of the Licence Appeal Tribunal (“Consent Order”) based upon the following terms and conditions:

The Registrant accepts the following conditions to its registration:

GENERALLY

1. The Registrant shall comply with all requirements of the legislation and all voluntary conditions of its registration (including those conditions that are applied at the time of its registration and/or renewal of registration).
2. 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.
3. The Registrant shall secure written confirmation from each of its personnel that they will comply with the provisions described in Paragraphs 1 and 2 above.

INSPECTIONS AND SUPERVISION

4. The Registrant recognizes that a representative of the Registrar will conduct a full site inspection of the Registrant's premises at least once annually.
5. Pursuant to 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.
6. 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.

FINANCIAL FILINGS

7. The Registrant shall file its annual financial statements, quarterly financial statements, Compensation Fund Assessments (Form 1s), and other documents required to be submitted to the Registrar under the Regulation on or before the applicable due date and in accordance with the applicable legislation. For clarity, all financial statements shall consist of: statements of financial position (balance sheet), statements of operations (profit and loss statement) and statements of cashflows. Ontario Gross Sales must be included either in the statement of operations or in the accompanying notes to the financial statements.
8. The Registrant's annual financial statements shall be in the form of an audit

report and prepared by a certified chartered accounting firm, in good standing with the Chartered Professional Accountants of Ontario, that is pre-approved in writing by the Registrar. These financial statements shall indicate the corresponding Ontario Gross Sales.

9. The Registrant's quarterly financial statements shall indicate the corresponding Ontario Gross Sales.

TRUST RECONCILIATIONS

10. During the duration of this consent order, the Registrant shall deliver to the Registrar monthly reconciliations of its *Travel Industry Act* trust account(s) ("trust account") of customer deposits (the "Trust Reconciliations") based on the following schedule:
 - a. For the first three months following this Consent Order taking effect, on or before the 45th day following the month that is the subject of the Trust Reconciliation.
 - b. Following the first three months of this Consent Order taking effect, on or before the last day of the month following the month that is the subject of the Trust Reconciliation.
11. The Registrant's Trust Reconciliations shall comply with the following requirements:
 - (a) Each Trust Reconciliation shall show total receipts on account from customers for travel services that have been sold compared with the account balance.
 - (b) 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).
 - (c) Each Trust Reconciliation shall include a complete copy of the trust bank account statements for the particular month.
 - (d) 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.
 - (e) 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.

TRUST ACCOUNT(S)

12. In addition to and without limiting the Registrant' 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 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.
13. Pursuant to Section 23 of the Act, the Registrant consents to the Director under the Act obtaining financial information about their accounts from the specified financial institution. The Registrant will also authorize its financial institution to disclose this information to the Director and, subject to the legislation, to apply any freeze orders issued by the Director on their assets or trust funds.
14. The Registrant shall not make payments from a trust account to a credit card or other credit instrument to re-imburse it for payments made to a travel supplier, unless it has been first identified to which customer the payment to be reimbursed relates to and what amounts in the Registrant's trust account relate to that customer. Payments to the credit card or other credit instrument in regard to a customer's booking shall not exceed the sum of amounts held in trust for that customer and any trust surplus identified by reconciliation.
15. The Registrant shall complete a trust reconciliation before removing any funds from its trust account(s), whether the sales relate to Ontario sales or non-Ontario sales.
16. The Registrant shall never make prepayment to suppliers from their Travel Industry Act designated trust account unless the payment directly relates to monies received from the customer on whose behalf it is being paid, or they are being paid from trust surplus amounts that have been identified immediately prior to the prepayment by reconciliation. The Registrant shall record payments to suppliers immediately upon making them.
17. The Registrant shall not withdraw customer payments that are transferred into a trust account for investment purposes. Furthermore, these funds cannot be held in any restricted-term investment vehicle.
18. Pursuant to Section 27(4) of the Regulation, the Registrant shall not maintain more than one trust account without receiving, in advance, the written consent of

the Registrar

19. Pursuant to Section 17 of the Regulation, the Registrant shall notify the Registrar at least five days before a change in the name or number of an account or in the financial institution in which the account is maintained.

WORKING CAPITAL

20. The Registrant shall, at all times, maintain positive working capital as required by section 24 of the Regulation. 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 the necessary steps to correct its working capital position and submit proof thereof within 30 days from the request by the Registrar.

BUSINESS RECORDS AND AUDIT TRAIL

21. Pursuant to Section 29 of the Regulation, the Registrant shall comply with the requirements about business records and 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.
22. The Registrant shall immediately record receiving customer deposit for travel services.
23. In all cases, the Registrant shall retain sufficient details on the travel of each of its customers to enable it to comply with its trust account obligations outlined in this consent order and under the legislation.
24. Pursuant to Section 16 of the Regulation, the Registrant shall maintain accurate and up-to-date records about persons who counsel customers in relation to travel services and are employed by or have contracts for services with the Registrant. For clarity, these records include copies of the relevant certificates issued by the Registrar.

COMMUNICATIONS WITH CUSTOMERS

25. The Registrant confirms that the terms and conditions that it will provide to its customers involving the sale of travel services (the “Customer-Facing Terms and Conditions”) will comply with the law, including the legislation. The Registrant shall ensure these Customer-Facing Terms and Conditions are included in such customer agreement and same are brought to each customer’s attention. The terms and conditions shall also be conspicuously published on the Registrant’s website. The Registrant shall notify the Registrar at least 15 days before it makes any modification to its Customer-Facing Terms and Conditions.
26. The Registrant shall reply to any and all requests for information from customers in a fulsome and timely manner, and within five business days at the latest.
27. If the Registrant becomes aware of any breach of the Act, Regulation or Guideline that impacts a specific customer complainant, and this breach requires the Registrant to issue a refund or compensation to the customer, the Registrant shall provide the same recourse to all similarly-impacted customers, regardless of whether these customers filed a formal complaint.
28. Pursuant to Section 36 of the Regulation, the Registrant shall, before entering into an agreement with a customer for travel services, and before taking payment or credit card information from the customer:
 - (a) bring to the customer’s attention any conditions related to the purchase of travel services that the travel agent has reason to believe may affect the customer’s decision to purchase;
 - (b) disclose the total price of the travel services, the travel dates and a fair and accurate description of the travel services to be provided;
 - (c) explain to the customer any requirements or limitations relating to transfer or cancellation of the travel services, including,
 - (i) the range of penalties or other costs associated with transfer or cancellation, and
 - (ii) any non-refundable payments to be made by the customer;
 - (d) advise the customer about the availability of,
 - (i) trip cancellation insurance, and
 - (ii) out-of-province health insurance if applicable;
 - (e) in the case of proposed travel outside Canada, advise the customer,
 - (i) about typical information and travel documents, such as passports, visas and affidavits, that will be needed for each person for whom travel services are being purchased,
 - (ii) that entry to another country may be refused even if the required information and travel documents are complete, and
 - (iii) that living standards and practices at the destination and the standards and conditions there with respect to the provision of utilities, services and accommodation may differ from those found in Canada;

(f) refer to other conditions, if any, that relate to the transaction and to the travel services, and advise the customer where those conditions may be reviewed; and

(g) advise the customer that the travel agent is required to answer any questions the customer may have arising from the information provided under clauses (a) to (f) or from a representation.

29. Pursuant to Section 37 of the Regulation, if, after a customer has purchased travel services, the Registrant becomes aware of a change to any matter that is referred to in a representation and that, if known, might have affected the customer's decision to purchase, the Registrant shall promptly advise the customer of the change.

30. Pursuant to Section 38 of the Regulation, after selling travel services to a customer, the Registrant shall promptly provide the customer with a statement, invoice or receipt that meets the requirements of subsection (3) and sets out,

(a) the name and address of the customer who purchased the travel services and the name, if known, of each person on whose behalf the payment is made;

(b) the date of the booking and the date of the first payment;

(c) the amount of the payment, indicating whether it is full or partial payment, the amount of any balance owing, if known, and the date when it is to be paid;

(d) any fees, levies, service charges, surcharges, taxes or other charges, and whether those amounts are refundable or non-refundable;

(e) the total price of the travel services;

(f) the name under which the travel agent carries on business, the travel agent's telephone number and registration number, the address of the travel agent's place of business, and information respecting other ways, if any, that the customer may contact the travel agent, such as the travel agent's fax and e-mail address;

(g) a fair and accurate description of the travel services contracted for, including the destination, the departure date and the name of the persons who will provide the travel services;

(h) a statement whether or not the customer has purchased trip cancellation insurance and, if applicable, out-of-province health insurance, if the travel agent sells those types of insurance;

(h.1) a statement whether the customer was advised of the availability of trip cancellation insurance and, if applicable, out-of-province health insurance, if the travel agent does not sell those types of insurance;

(i) whether the contract permits price increases;

(j) if the contract permits price increases,

(i) a statement that no price increases are permitted after the customer has paid in full, and

(ii) a statement that if the total price of the travel services is increased

and the cumulative increase, except any increase resulting from an increase in retail sales tax or federal goods and services tax, is more than 7 per cent, the customer has the right to cancel the contract and obtain a full refund;

- (k) the information given to the customer under clause 36 (e); and
- (l) the name of the travel counsellor who made the booking and accepted the first payment.

These statements, invoices or receipts shall be consecutively pre-numbered (if prepared manually) or be assigned a unique identifier (if prepared by computer).

31. Pursuant to Section 40 of the Regulation, if the Registrant becomes aware that any of events under that Section have occurred, the Registrant shall promptly notify the travel agent or customer, as the case may be, and offer the customer the choice of a full and immediate refund or comparable alternate travel services acceptable to the customer.

For clarity, such an event would include a scenario in which the scheduled departure of any transportation (that forms part of the travel services) is delayed or advanced by 24 hours or more, unless the reason for the delay or advancing is one described in Section 40(2).

The Registrant shall also establish a file for the purposes of this Section and, when required to act under this Section, shall make a written notation in the file stating,

- (a) what information was communicated to the customer;
- (b) the date on which the information was communicated to the customer;
- (c) what method of communication was used; and
- (d) what choice the customer made.

32. Pursuant to Section 46 of the Regulation, if a travel supplier fails to provide travel services paid for by one of the Registrant's customers, the Registrant shall immediately offer the following options to the customer in writing and provide the one of the customer's choosing:
- (a) Full reimbursement of payments made by the customer;
 - (b) Rescheduled comparable alternate travel services acceptable to the customer;
 - (c) A credit for future redemption towards travel services acceptable to the customer

For clarity, the obligation to offer and provide these options exists notwithstanding the Registrant's failure to obtain reimbursement from a travel supplier.

COMMUNICATIONS WITH THE REGISTRAR

33. Pursuant to Section 16 of the Act, the Registrant shall respond to any and all requests for information, forms or documents from the Registrar or the Registrar's designate (hereinafter "TICO staff") 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, forms, or documents from TICO staff by the due date or time indicated or, if no specific due date or time is indicated, within five business days after the request.
34. Pursuant to Section 17(2) of the Regulation, the Registrant shall advise the Registrar at least five days before a change of address for the office or a branch office of the Registrant.
35. Pursuant to Section 17(2) of the Regulation, the Registrant shall advise the Registrar at least five days before any change of the Registrant's travel supervisor/manager (which person has been previously approved in writing) , if the Registrant is aware of the change at least five days before the change takes place.
36. If a change of the Registrant's travel supervisor/manager takes place and the Registrant is not aware of the change at least five days before the change takes place, the Registrant shall notify the Registrar immediately upon becoming aware of the change.
37. If there is a change to any of the required information that was included in a Registrant's registration application, other than one of the changes described in Section 17 of the Regulation.
38. If the Registrant breaches any condition or covenant with a creditor, the Registrant shall immediately advise the Registrar in writing of this situation.

OTHER CONDITIONS

39. The Registrant shall provide a \$500,000 CAD letter of credit or security deposit from a Canadian registered financial institution in favour of the Travel Industry Council of Ontario within 30 days of this Consent Order and agrees to provide the same earlier if possible. The letter of credit or security deposit shall be in a form and contain terms acceptable to the Registrar, acting reasonably. In the event that there are claims awarded (in connection to the Registrant's customers) under the Compensation Fund, the letter of credit or security deposit shall be drawn upon by the Travel Industry Council of Ontario.

The Registrar shall return this letter of credit or security deposit to the Registrant upon the expiration of this order. However, if the Registrant's registration is terminated during the term of this order, the Registrar will return the balance of the letter of credit or security deposit to the Registrant after a six-month period of this termination, less any of the abovementioned Compensation Fund claims that

are drawn.

40. 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 or a requirement for the Registrant to provide an additional letter of credit or security deposit.
41. 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. 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.
42. 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.

43. The Registrant and the undersigned on behalf of the Registrant acknowledge they have read, understand and will comply with the entirety of this document including but not limited to the Conditions of Continued Registration.
44. The Registrant and the undersigned on behalf of the Registrant hereby acknowledge that they have been informed of their right to independent legal advice.
45. The conditions contained in this document shall be in force for a period of three years from the date of this Consent Order



Name: _____
Position: _____
**2282476 Ontario Ltd. o/a U to
Vacation (TICO Reg. #50019267-R,
#50021575-W)**
 **“I have the authority to bind
the Corporation” (please
check)**
Date: _____



Dorian Werda
**Registrar, *Travel Industry
Act, 2002***
Date: Sep 9, 2024