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By Fax: 403- 292-5329

February 23, 2016

The Judicial Administrator  
Canadian Occidental Tower  
635 Eighth Avenue S.W.  
3<sup>rd</sup> Floor, P.O. Box 14  
Calgary, Alberta  
T2P 3M3

Dear Sir/Madam:

**Re: Dr. Gabor Lukacs v. Canadian Transportation Agency - Court File No.: A-39-16**

This letter is further to the Direction of the Federal Court of Appeal (Stratas J.A.) dated February 16, 2016 and the letter dated January 29, 2016 from the Applicant in the above-referenced matter wherein he is seeking to expedite the proceedings in this matter by way of directions and/or case management.

As indicated in its letter to the Court dated February 19, 2016, the Respondent, Canadian Transportation Agency (Agency), consents to the Applicant's request to expedite the proceedings. Given that the Agency's Affidavit in this matter will be filed with this Honourable Court on February 24, 2016, the Agency is proposing the following timelines for the filing of pleadings in this matter:

- 1) Cross-examinations (Rule 308) – to be completed by March 7, 2016;
- 2) Applicant's Record (Rule 309) – to be served and filed by March 17, 2016;
- 3) Respondent's Record (Rule 310) – to be served and filed by March 29, 2016; and
- 4) Requisition for Hearing (Rule 314) – to be filed with the Court by April 6, 2016.

The Agency is a superior independent quasi-judicial administrative body of the Government of Canada which performs two key functions. As an adjudicative tribunal, the Agency, informally and through formal adjudication, resolves a range of commercial and consumer transportation-related disputes, including accessibility issues for persons with disabilities. As an economic regulator, the Agency makes determinations and issues authorities, licences and permits to transportation carriers under federal jurisdiction.

At issue in this application is a matter that arises within the Agency's regulatory authority pursuant to Part II of the *Canada Transportation Act* (the Act) to issue licences to persons who operate air services. In August 2015, the Agency initiated an inquiry into the issue of whether a company named Newleaf Travel Company Inc. (Newleaf) requires a domestic licence issued pursuant to section 61 of the Act. Newleaf doesn't operate aircraft, but instead, proposes to purchase and re-sell

tickets on domestic routes on large aircraft operated by Flair Airlines. Flair possesses a domestic license issued by the Agency.

During this inquiry, the Agency decided to conduct consultations with the public and aviation industry on the issue of whether the person with commercial control of the service should be required to hold the licence, irrespective of whether the person operates any aircraft. It will be the Agency's position in its response to Dr. Lukacs' Application that, in its ongoing inquiry, the Agency is not purporting to exempt or exclude companies that do not operate aircraft from obtaining a domestic licence, as alleged by the applicant. Instead the Agency is considering whether Newleaf "operates an air service" and therefore requires a domestic license issued pursuant to section 61 of the Act.

The consultations are now complete, the Agency has considered the 19 submissions received and is now preparing to issue its decision. Participants in the Agency's consultation process are anticipating the Agency's decision will be issued shortly. Newleaf has suspended its operations pending the issuance of the Agency's decision.

Dr. Lukacs requests an interim and permanent prohibition enjoining the Agency from making a decision with respect to the licencing issue. The Agency acknowledges that any such order, if granted, would halt the administrative decision-making process. However, it is respectfully submitted that the filing of a request for an interim or permanent prohibition does not, in and of itself, put a stop to the administrative decision-making process.

Under subsection 29(1) of the Act, the Agency has a responsibility to fulfill its regulatory mandate as expeditiously as possible and so it intends to issue its decision unless the Agency's proceeding is stayed. When the Agency issues its decision, Dr. Lukacs will have an opportunity to consider the Agency's decision and may proceed to challenge that decision, either by way of petition to the Governor-in-Council or by seeking leave to appeal, both of which are provided for in the Act. He may seek a stay of the Agency's decision at that time and in a proceeding that will properly involve Newleaf, which is the party that would be affected by any stay.

I trust you will find this satisfactory.

Yours truly,



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