



September 7, 2015

**By Email**

Massimo (Max) Starnino  
Paliare Roland Rosenberg Rothstein LLP  
155 Wellington Street West, 35th Floor  
Toronto, Ontario, Canada  
M5V 3H1

Dear Sir:

**Re: Motion pursuant to ss.69.6(4) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3**

**MOTION**

The Agency has received your email sent at 12:27 p.m. on Friday, September 4, 2015, in which you advise that SkyGreece Airlines, S.A. (SkyGreece) will be bringing a motion at 10:00 a.m. on Tuesday, September 8, 2015, before Justice Conway of the Ontario Superior Court of Justice, Commercial List.

You have indicated that the motion is pursuant to ss.69.6(4) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (BIA) for an order enforcing the stay under ss.69(1) of the BIA with respect to the Agency's Case No. 15-03972 or, alternatively, applying the stay, nunc pro tunc, pursuant to ss.69.6(3) of the BIA.

At 4:51 p.m. on Saturday, September 5, 2015, you served us with your Notice of Motion and related materials.

**AGENCY MANDATE**

As you are aware, the Agency is a superior independent administrative body of the Government of Canada which performs two key functions within the federal transportation system. As a quasi-judicial tribunal, the Agency, informally and through formal adjudication, resolves a range of commercial and consumer transportation-related disputes. As an economic regulator, the Agency makes determinations and issues authorities, licences and permits to transportation carriers under federal jurisdiction.

The Agency is responsible for ensuring that air carriers abide by the terms and conditions of their respective tariffs, as required by the *Air Transportation Regulations*, SOR/88-58, as amended.

The Agency's proceeding that is the subject of this motion is in exercise of this mandate. It is in this capacity that the Agency has sought to ensure that SkyGreece is complying with its obligation to provide passengers affected by SkyGreece's temporary cessation of operations with all of their options identified in SkyGreece's international tariff on file with the Agency, including the right to compensation and/or alternate transportation arrangements within a reasonable time.

## POSITION OF THE AGENCY

### Dr. Lukács's Request to Participate by Telephone

At a teleconference on Monday, September 7, 2015, Dr. Gábor Lukács sought the consent of all parties to his participation, by telephone, at the hearing.

I have been instructed to inform you that the Agency takes no position on Dr. Lukács's request, as the Agency questions whether he has standing to participate in these proceedings at all, by telephone or otherwise.

In Decision LET-A-59-2015, dated Friday, September 4, 2015, the Agency dismissed Dr. Lukács's request to participate in the Agency's own motion investigation of SkyGreece. Given that it is this own motion investigation which SkyGreece is now seeking to stay, it is unclear how Dr. Lukács could have standing to participate in the stay proceedings, when he has no standing to participate in the investigation to which these stay proceedings relate.

### SkyGreece's Request for a Stay

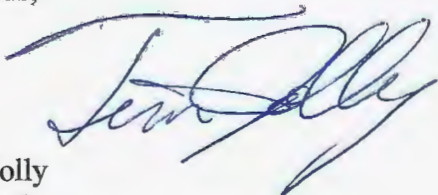
Regarding the motion for a stay brought by SkyGreece under subsection 69.6(3) of the BIA, I have been instructed to inform you that the Agency defers to the expertise of the Court under subsection 69.6(3) of the BIA to assess the merits of a stay, in light of the public interest. Therefore, the Agency takes no position on this motion, subject to the following reservations:

- an undertaking from SkyGreece that it will assure the Court that, notwithstanding the omission of passengers from its list of creditors, SkyGreece is aware of the outstanding passenger claims and will do everything in its power to identify and quantify those claims for inclusion in the insolvency process; and
- the Agency disagrees that a stay under section 69 of the BIA applies automatically to an own motion investigation of the Agency. The Agency's own motion investigations qualify for immunity from automatic application of a section 69 stay, pursuant to subsection 69.6(2) of the BIA.

Finally, the Agency wholly reserves its rights with respect to any other proceedings in relation to its other mandates as regulator.

I would respectfully ask that you bring this letter to the attention of the Court on the return of the motion on Tuesday morning.

Regards,



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