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January 12, 2016

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, ON K1A 0N9

Dear Madam Secretary:

Re: Mr. Christopher C. Johnson and Dr. Gábor Lukács v. Air Canada
Application concerning failure to apply the tariff and application of terms and conditions not set out in the tariff and with respect to delayed passengers
Case No.: 15-05627
Notice of Written Questions and Production of Documents

The Applicants direct the questions and requests for production of documents set out below to Air Canada pursuant to Rule 24(1) of the *Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings)*, SOR/2014-104 (“*Dispute Rules*”).

The Applicants rely on the documents that were attached to the Application and the answers provided by Air Canada on January 11, 2016, which have already been provided to the Agency and Air Canada.

Air Canada's Impugned Policy of April 4, 2013

On January 11, 2016, Air Canada provided a 2-page portion of its training manual, dated April 4, 2013, entitled "Expense Policy." The questions below refer to this document.

- Q4. Air Canada is requested to produce a copy of its policy (including but not limited to procedure manuals and/or training materials for customer service agents) that define the terms "controllable situations" and "uncontrollable situations."

Relevance: The Impugned Policy (April 4, 2013 version) refers to "controllable situations" and "uncontrollable situations" without defining these terms. Without these definitions, it is not possible to fully understand the meaning of the document and/or the policy set out in it. The definitions are necessary in order to assess whether the policy is consistent with the *Montreal Convention* and/or reasonable.

- Q5. What methodology did Air Canada apply to determine the maximum amounts set out in the Impugned Policy (April 4, 2013 version)?

Relevance: The answer to this question is capable of showing that the maximum amounts set out in the Impugned Policy are unreasonable. In Decision No. LET-C-A-105-2012, the Agency directed to Air Canada a similar question to determine whether the airline's denied boarding compensation levels were reasonable.

- Q6. What is the legal basis for having different liability caps for "Regular Customers" and "Premium Customers" referred to in the Impugned Policy (April 4, 2013 version)?

Relevance: The answer to this question will tend to show that the Impugned Policy is unreasonable (allegation (ii) on page 1 of the Application).

- Q7. Does Air Canada admit that the Impugned Policy (April 4, 2013 version) purports to fix a lower limit of liability than what is set out in the *Montreal Convention*?

Relevance: The answer to this question is capable of confirming allegation (ii) on page 1 of the Application.

Changes to Air Canada's Impugned Policy

Q8. Has the Impugned Policy been amended or revised since the April 4, 2013 version that Air Canada produced in response to question Q1?

If so, Air Canada is requested to produce copies of all revisions between April 4, 2013 and the present.

Rationale: In its answer to question Q1, Air Canada stated that the document it submitted was in place "at the relevant time to the present application," but did not specify the time interval in question. This creates the impression that the Impugned Policy was amended or revised since April 4, 2013, and there may be subsequent versions that Air Canada has not disclosed. The Application, however, refers to the period from 2013 to the present day (allegation (iii) on page 1). Thus, all amendments and/or revisions are in issue.

All of which is most respectfully submitted.

Dr. Gábor Lukács
Co-applicant and
representative for Mr. Johnson

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