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February 25, 2016

**VIA FAX**

Judicial Administrator  
Federal Court of Appeal  
Ottawa, ON K1A 0H9

Dear Madam or Sir:

**Re: Dr. Gábor Lukács v. Canadian Transportation Agency  
Federal Court of Appeal File No.: A-39-16  
Reply to the Agency's letter of February 23, 2016**

I am writing to reply to the Agency's letter of February 23, 2016 in accordance with the Direction of the Honourable Court (Stratas, J.A.).

**I. Proposed timelines for steps**

In light of the Agency's consent to expediting the hearing of the application, I am proposing the following timelines for the main outstanding steps in the proceeding:

- (1) Cross-examinations: to be completed by **March 7, 2016**;
- (2) Applicant's record: **March 17, 2016**;
- (3) Respondent's Record: **within eight (8) days** of the service of the Applicant's record; and
- (4) Requisition for Hearing: **within five (5) days** of the service of the Respondent's record.

Items (1) and (2) agree with the Agency's proposal, while items (3) and (4) slightly differ and set out the interval relative to the previous step.

**II. Proposed dates for hearing: April 25-28, 2016**

I respectfully propose that the present application be heard during the anticipated sitting of the Federal Court of Appeal in Halifax on the week of April 25-28, 2016. I note that in a previous correspondence to the Court, Mr. Dodsworth confirmed his availability throughout April 2016 (letter of December 1, 2015, File No. A-167-14).

### **III. The Agency's irrelevant and erroneous submissions relating to NewLeaf**

With utmost respect to the Agency, I am struggling to understand the relevance of the Agency's submissions relating to NewLeaf, starting in the last paragraph on page 1 and throughout page 2 of its February 23, 2016 letter, to the expediting of the hearing of the present application, to which the Agency has anyway consented.

The affidavit of Ms. Carole Girard, which was served on me on February 24, 2016 by the Agency, confirms that the "Consultation on the requirement to hold a licence" is separate and different from the inquiry into the activities of NewLeaf (see Exhibit "E", para. 2). The present Application challenges the legality of the manner in which the Agency seeks to implement its "Approach under consideration" set out in the consultation document and obviously not the unknown outcome of an ongoing inquiry. It appears that the Agency erroneously conflates these two in its letter.

Although it has no bearing on the expediting of the hearing and the proposed timelines, I feel compelled to correct the Agency's statement with respect to NewLeaf not operating aircraft, which flies in the face of the evidence tendered by the Agency itself. According to Exhibit "F" to the affidavit of Ms. Girard, served on me by the Agency:

NewLeaf will start out with two aircraft, a pair of 156-seat 737-400s, which are owned by its partner, Kelowna-based Flair Airlines. The plan is to grow to three planes within the first month and then to four by the summer. Within three years, Young's goal is to have a fleet of 15 planes.

In other words, NewLeaf, like other Canadian airlines such as Sunwing or Air Transat, leases aircrafts from another company to operate its scheduled flights. This is consistent with the attached photo, which has been frequently published in the Canadian media (for example, "NewLeaf discount airline postpones service, will refund tickets" published by CBC on January 18, 2016).

Sincerely yours,

Dr. Gábor Lukács  
Applicant

Cc: Mr. John Dodsworth, counsel for the Canadian Transportation Agency

