

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF AN APPLICATION pursuant to Section 9 of the
Airport Transfer (Miscellaneous Matters) Act, S.C. 1992, c. 5

BETWEEN:

GREATER TORONTO AIRPORTS AUTHORITY

Applicant

APPLICATION RECORD

March 31, 2010

OSLER, HOSKIN & HARCOURT LLP
P.O. Box 50
1 First Canadian Place
Toronto, Ontario M5X 1B8

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Greater Toronto Airports Authority

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TAB 1

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BETWEEN:

GREATER TORONTO AIRPORTS AUTHORITY

Applicant

NOTICE OF APPLICATION

A LEGAL PROCEEDING has been commenced by the Applicant. The claim made by the Applicant appears on the following pages.

THIS APPLICATION will come on for a hearing before a Judge on March 31, 2010, or as soon after that time as the application can be heard at the Court House, 330 University Avenue, Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the rules of court, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

If you wish to oppose this application but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

Date: March 31, 2010

Issued by _____
Local registrar

Address of
Court office: 330 University Avenue
Toronto, ON M5G 1R7

APPLICATION

1. The Applicant, the Greater Toronto Airports Authority, makes application for an order:
 - (a) authorizing the GTAA to seize and detain certain aircraft owned or operated by Skyservice Airlines Inc. ("Skyservice Airlines"), a Canadian airline, pending payment of the sum of \$221,038.85 to the GTAA in respect of landing fees, general terminal fees, airport improvement fees and/or other charges related to the use of Toronto Pearson International Airport ("Pearson Airport"), and the payment of other similar charges to be incurred by the GTAA as a result of seizing and detaining the aircraft (including, without limitation, the cost of retaining a third party ground-handler to move and maintain the aircraft, insurance costs, parking charges, and security costs);
 - (b) dispensing with service of this Notice of Application, upon such terms as this Honourable Court may allow; and
 - (c) such further and other relief as counsel may request and this Honourable Court permit.

2. **THE GROUNDS FOR THE APPLICATION ARE:**
 - (a) the GTAA is a private, not-for-profit corporation created by Letters Patent issued under the *Canada Corporations Act*, R.S.C. 1970, c. C.32, as amended. The GTAA is the lessor and operator of Pearson Airport and a designated airport authority under the *Airport Transfer (Miscellaneous Matters) Act*, S.C. 1992, c. 5;
 - (b) Skyservice Airlines owes the GTAA, in total, the amount of \$221,038.85 respect of landing fees, general terminal fees, airport improvement fees and/or other charges related to the use of the Pearson Airport;
 - (c) there are currently 6 aircraft owned or operated by Skyservice Airlines located at the Pearson Airport. (the "Aircraft");
 - (d) the GTAA has reason to believe that, if the requested order is not granted, the Aircraft could be removed from the jurisdiction without payments of all amounts

owing to the GTAA by Skyservice Airlines, thereby depriving the GTAA of its statutory rights under the *Airport Transfer (Miscellaneous Matters) Act*;

- (e) section 9 of the *Airport Transfer (Miscellaneous Matters) Act* provides that the GTAA is permitted to apply to the Superior Court of the Province in which any aircraft owned or operated by a person liable to pay fees or charges related to the use of Pearson Airport is situated, for an order, issued on such terms as the Court considers necessary, authorizing the GTAA to seize and detain any such aircraft. Section 9 of the *Airport Transfer (Miscellaneous Matters) Act* provides as follows:

SEIZURE AND DETENTION OF AIRCRAFT

9. (1) Where the amount of any landing fees, general terminal fees or other charges related to the use of an airport, and interest thereon, set by a designated airport authority in respect of an airport operated by the authority has not been paid, the authority may, in addition to any other remedy available for the collection of the amount and whether or not a judgment for the collection of the amount has been obtained, on application to the superior court of the province in which any aircraft owned or operated by the person liable to pay the amount is situated, obtain an order of the court, issued on such terms as the court considers necessary, authorizing the authority to seize and detain aircraft.

(2) Where the amount of any fees, charges and interest referred to in subsection (1) has not been paid and the designated airport authority has reason to believe that the person liable to pay the amount is about to leave Canada or take from Canada any aircraft owned or operated by the person, the authority may, in addition to any other remedy available for the collection of the amount and whether or not a judgment for the collection of the amount has been obtained, on *ex parte* application to the superior court of the province in which any aircraft owned or operated by the person is situated, obtain an order of the court, issued on such terms as the court considers necessary, authorizing the authority to seize and detain aircraft.

(3) Subject to subsection (4), except where otherwise directed by an order of a court, a designated airport authority is not required to release from detention an aircraft seized under subsection (1) or (2) unless the amount in respect of which the seizure was made is paid.

(4) A designated airport authority shall release from detention an aircraft seized under subsection (1) or (2) if a bond, suretyship or other security in a form satisfactory to the authority for the amount in respect of which the aircraft was seized is deposited with the authority.

(5) Words and expressions used in this section and section 10 have the same meaning as in the *Aeronautics Act*.

- (f) rules 14.05(2) and 16.04(1) of the *Rules of Civil Procedure*; and

(g) such further and other grounds as counsel may advise and this Honourable Court permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the application:

(a) the affidavit of Jason Boyd sworn March 31, 2010; and

(b) such further and other materials as counsel may advise and this Honourable Court permit.

March 31, 2010

OSLER, HOSKIN & HARCOURT LLP
P.O. Box 50
1 First Canadian Place
Toronto, Ontario M5X 1B8

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Counsel for the Applicant,
Greater Toronto Airports Authority

Ontario
**SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

NOTICE OF APPLICATION

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8

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Counsel for the Applicant,
Greater Toronto Airports Authority

TAB 2

Court File No.:

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(COMMERCIAL LIST)**

IN THE MATTER OF AN APPLICATION pursuant to Section 9 of the
Airport Transfer (Miscellaneous Matters) Act, S.C. 1992, c. 5

B E T W E E N :

GREATER TORONTO AIRPORTS AUTHORITY

Applicant

AFFIDAVIT OF JASON V. BOYD
(sworn March 31, 2010)

I, JASON V. BOYD of the City of Toronto, in the Municipality of Metropolitan Toronto,
MAKE OATH AND SAY:

1. I am the Corporate Controller of the Greater Toronto Airports Authority ("GTAA"). In such capacity, I am personally aware of the GTAA's financial activities and accounting practices, which responsibilities include collection matters. I have personal knowledge of the matters set out below, except where my knowledge is stated to be on information and belief, in which case I believe it to be true. I swear this affidavit in support of the GTAA's application for an Order directing the seizure of certain aircraft owned or operated by Skyservice Airlines Inc. ("Skyservice") by reason of its failure to pay to the GTAA landing fees, general terminal fees, airport improvement fees and/or other charges related to the use of Toronto Pearson International Airport ("Pearson Airport").

(a) The GTAA

2. The GTAA is a private, not-for-profit corporation created by Letters Patent issued under the *Canada Corporations Act*, R.S.C. 1970, c. C.32, as amended. The GTAA is the operator of Pearson Airport pursuant to a Ground Lease dated December 2, 1996 with Her Majesty the Queen in Right of Canada.

3. The GTAA is a designated airport authority under the *Airport Transfer (Miscellaneous Matters) Act*, S.C. 1992, c.5 as amended (the "*Airport Transfer Act*") by virtue of a designation by order of the Governor in Council made pursuant to s. 2(2) thereof on May 30, 1996, a copy of which is attached as Exhibit "A" to this Affidavit.

(b) Skyservice Airlines Inc.

4. Skyservice is a Canadian airline incorporated pursuant to the laws of Canada with its head office in Toronto, Ontario. It is my understanding that Skyservice maintains a fleet of approximately thirteen aircraft, which fly in and out of Pearson Airport on a number of international routes, including flights to and from the United Kingdom, the Netherlands, the United States, Mexico, Cuba, and various other Caribbean countries. Included in the Skyservice aircraft fleet are the following six aircraft (the "Subject Aircraft") which are currently grounded at Pearson Airport:

- Airbus A320 bearing serial number 1605 (mark number C-GTDH);
- Airbus A320 bearing serial number 1571 (mark number C-GTDG);
- Airbus A320 bearing serial number 1411 (mark number C-FRAA);
- Boeing 757 bearing serial number 29941 (mark number C-FLEU);

- Boeing 757 bearing serial number 25053 (mark number C-GMYH); and
- Boeing 757 bearing serial number 32447 (mark number C-GTBB),

Attached as Exhibit "B" to this Affidavit is a printout from the Canadian Civil Aircraft Registry setting out more detailed information about the aircraft in the Skyservice fleet.

(c) Airport Fees and Charges Owning By Skyservice To The GTAA

5. Attached as Exhibit "C" to this Affidavit is a statement of account in respect of the total monies owing to GTAA by Skyservice. As of March 31, 2010, this statement shows that Skyservice owes \$221,038.85 to GTAA for landing fees, general terminal fees, airport improvement fees, and/or other charges relating to its use of Pearson Airport.

6. In addition, the GTAA currently holds cash deposits totalling \$126,076.98 in respect of two lease agreements for hanger and terminal space entered into between the GTAA and Skyservice. Notwithstanding that it holds these deposits under the lease agreements, the GTAA may be unable to apply these deposits against the amounts owing by Skyservice pursuant to the Receivership Order (defined below).

7. The GTAA depends on its revenues from these types of fees and charges to fund its operations and to ensure the safe and efficient operation of Pearson Airport, upon which the Canadian airline industry as a whole depends.

(d) Skyservice Receivership Proceedings

8. At approximately 9:00 AM this morning, one of my colleagues in the operations department at the GTAA was advised that Skyservice would be holding a press conference later in the day. The GTAA was not told what the press conference would relate to.

9. Shortly thereafter, the GTAA heard through various press reports that steps were being taken to place Skyservice into receivership, although it was not been formally notified of such proceedings.

10. At approximately 11:30 AM, Skyservice issued a press release announcing the shutdown of its operations following the appointment of a receiver by the Ontario Superior Court of Justice. The press release stated:

Announcement from Skyservice Airlines

TORONTO, March 31 /CNW/ - Skyservice Airlines today announced the shutdown of its operations following the appointment of a receiver by the Ontario Superior Court of Justice.

Recent changes in the Canadian vacation tour market combined with Skyservice Airlines' debt level have rendered the company unable to maintain profitable operations. As a result, one of the company's secured lenders applied for the appointment of the receiver.

The shutdown results in the cancellation of one flight that was scheduled to depart Canada for the Dominican Republic today and its return leg, as well as all remaining flights scheduled to depart Canada during the balance of the season in April. The company has requested, and the receiver has agreed, to work with the company's tour operator customers and other lift providers to ensure that passenger issues are resolved promptly. Skyservice Airlines and the receiver are committed to winding up the business in an orderly and responsible manner. The company and the receiver will continue to treat employees and other stakeholders fairly and in a transparent manner throughout this process.

A copy of the Skyservice press release is attached as Exhibit "D" to this Affidavit.

11. Shortly after the issuance of the Skyservice press release, the GTAA obtained a copy of the order of the Ontario Superior Court of Justice appointing a receiver over the assets, undertakings and properties of Skyservice (the "Receivership Order"). A copy of the Receivership Order is attached as Exhibit "E" to this Affidavit.

(e) Request for Order of Seizure

12. Due to the receivership proceedings, the lessors of the aircraft used by Skyservice, including the Subject Aircraft, are in a position to take certain steps, including the filing of flight

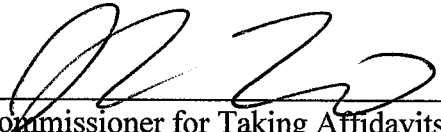
plans, as early as today, to arrange for the departure of the planes from Pearson Airport. The lessors could also take steps to take possession of the Subject Aircraft by, among other things, seizing the aircraft log books and/or certificate of registration. Upon the filing of flight plans, the GTAA will be unable to prevent the Subject Aircraft from leaving the jurisdiction.

13. The GTAA is extremely concerned about securing payment from Skyservice of all amounts payable to it on account of services rendered and airport improvement fees. The airport improvement fees portion of the monies owed by Skyservice are "trust funds" under the Airport Improvement Fee Agreement and the failure of Skyservice to remit these amounts is of grave concern to GTAA as it raises the possibility that such monies have been utilized for other purposes.


14. The airline industry is a dramatically volatile business, wherein financial fortunes of an airline carrier can change dramatically in a very short period. As a result, it is critical that GTAA act immediately to enforce its statutory rights under the *Airport Transfer Act* to recover outstanding payments in situations such as this.

15. As a result of the foregoing, the GTAA is seeking an Order, substantially in the form of the draft Order attached to its application record, on an urgent and *ex parte* basis, permitting it to seize or detain the Subject Aircraft owned or operated by Skyservice pending the payment to GTAA of \$221,038.85 on an urgent basis because, in the absence of this relief, the GTAA will be exposed to non-payment of significant amounts of monies payable by Skyservice to the GTAA in circumstances where the lessors of the aircraft currently at Toronto Pearson airport could remove them from the jurisdiction or take steps to take possession of the Subject Aircraft and thereby deprive GTAA of its full exercise of its statutory rights under the *Airport Transfer Act*.

SWORN BEFORE ME at the City of
Toronto, Ontario, on March 31, 2010.



Commissioner for Taking Affidavits
SHAWN IRVIN



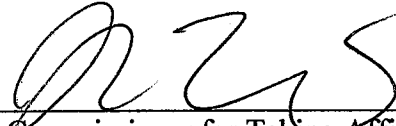
Jason V. Boyd

TAB A

This is **Exhibit "A"**

referred to in the Affidavit of **JASON BOYD**

Sworn before me this 31st day of March, 2010



A Commissioner for Taking Affidavits
Shawn Irving

Registration
SI/96-49 12 June, 1996

Enregistrement
TR/96-49 12 juin 1996

AIRPORT TRANSFER (MISCELLANEOUS MATTERS) ACT

LOI RELATIVE AUX CESSIONS D'AÉROPORTS

Order Designating the Greater Toronto Airports Authority as a Designated Airport Authority and Designating the Date for the Transfer of the Toronto-Lester B. Pearson International Airport to the Greater Toronto Airports Authority

Décret conférant le statut d'administration aéroportuaire désignée à la « Greater Toronto Airports Authority » et désignant la date de cession de l'Aéroport international Lester B. Pearson de Toronto à la « Greater Toronto Airports Authority »

P.C. 1996-808 30 May, 1996

C.P. 1996-808 30 mai 1996

His Excellency the Governor General in Council, on the recommendation of the Minister of Transport and the Treasury Board, pursuant to subsection 2(2) of the *Airport Transfer (Miscellaneous Matters) Act*, hereby designates

Sur recommandation du ministre des Transports et du Conseil du Trésor et en vertu du paragraphe 2(2) de la *Loi relative aux cessions d'aéroports*, Son Excellence le Gouverneur général en conseil

- (a) the Greater Toronto Airports Authority as a designated airport authority; and
- (b) the day immediately following the closing date as defined in the Agreement to Transfer entered into under the authority of Order in Council P.C. 1996-807 of May 30, 1996, as the transfer date for the Toronto-Lester B. Pearson International Airport to the Greater Toronto Airports Authority.

- a) confère le statut d'administration aéroportuaire désignée à la « Greater Toronto Airports Authority »;
- b) désigne le lendemain de la date de clôture précisée dans la convention de cession conclue en vertu du décret C.P. 1996-807 du 30 mai 1996, comme date de cession de l'Aéroport international Lester B. Pearson de Toronto à la « Greater Toronto Airports Authority ».

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order

- (a) designates the Greater Toronto Airports Authority as a designated airport authority; and
- (b) designates the transfer date for the transfer of the Toronto-Lester B. Pearson International Airport.

NOTE EXPLICATIVE

(La présente note ne fait pas partie du décret.)

Le décret

- a) confère le statut d'administration aéroportuaire désignée à la « Greater Toronto Airports Authority »;
- b) désigne la date de cession de l'Aéroport international Lester B. Pearson de Toronto.

* S.C. 1992, c. 5

* L.C. 1992, ch. 5

Registration
SI/96-49 12 June, 1996

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* S.C. 1992, c. 5

* L.C. 1992, ch. 5

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SI/96-49 12 June, 1996

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TR/96-49 12 juin 1996

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P.C. 1996-808 30 May, 1996

C.P. 1996-808 30 mai 1996

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- (a) the Greater Toronto Airports Authority as a designated airport authority; and
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^a S.C. 1992, c. 5

^a L.C. 1992, ch. 5

Registration
SI/96-49 12 June, 1996

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* S.C. 1992, c. 5

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C.P. 1996-808 30 mai 1996

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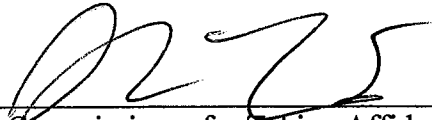
* L.C. 1992, ch. 5

TAB B

This is Exhibit "B"

referred to in the Affidavit of **JASON BOYD**

Sworn before me this 31st day of March, 2010



A Commissioner for Taking Affidavits
Shawn Irving



Current Search Result Details

13 matches found

Mark	Common Name	Model Name	Serial Number	Owner Name	Owner Regist. Since
1 C-FFAN	Boeing	757-21K	28674	Skyservice Airlines Inc./Ligne	2009-11-04
2 C-FFLA	Boeing	757-28A	27621	Skyservice Airlines Inc./Ligne	2009-12-14
3 C-FLEU	Boeing	757-236	29941	Skyservice Airlines Inc./Ligne	2009-12-16
4 C-FLOX	Boeing	757-2Y0	26158	Skyservice Airlines Inc./Ligne	2009-12-09
5 C-POBH	Boeing	757-236	29944	Skyservice Airlines Inc./Ligne	2009-10-19
6 C-FRAA	Airbus	A320-232	1411	Skyservice Airlines Inc./Ligne	2009-11-04
7 C-FZAZ	Airbus	A320-214	2003	Skyservice Airlines Inc./Ligne	2007-11-08
8 C-GMYH	Boeing	757-236	25053	Skyservice Airlines Inc./Ligne	2007-11-08
9 C-GTBB	Boeing	757-28A	32447	Skyservice Airlines Inc./Ligne	2009-12-18
10 C-GTDG	Airbus	A320-214	1571	Skyservice Airlines Inc./Ligne	2007-11-08
11 C-GTDH	Airbus	A320-214	1605	Skyservice Airlines Inc./Ligne	2007-11-08
12 C-GTDP	Airbus	A320-214	1780	Skyservice Airlines Inc./Ligne	2007-11-08
13 C-GTSJ	Boeing	757-236	24772	Skyservice Airlines Inc./Ligne	2009-07-15

Current information, directly from the Official Canadian Civil Aircraft Register database.

TAB C

This is **Exhibit "C"**

referred to in the Affidavit of **JASON BOYD**

Sworn before me this 31st day of March, 2010



A Commissioner for Taking Affidavits
Shawn Irving

	January	February	March	Shortfall	
Employee Car Parking (Impark)			(1,808.00)	(1,808.00) A	(1,808.00) Total Car parking
Rent					
Overpayments			5,524.58	60,770.38 B	
Lease YZ3636	49,721.22	5,524.58			
Lease YZ3280			6,715.00	6,715.00 C	
Telecom			(281.94)	(281.94) D	(281.94) Total Telecom
Cost Recovery June '09				(2,981.68) E	(2,981.68) Total Cost Recovery
Invoice # 10002730					
Invoice # 09008706					
Aeronautical					
Prepayment Mar 1-15			918,353.00		
Landing + GTC Mar 1-15			(1,001,848.94)		
Credit Note			379.26	(83,116.68) F	
GTC Retroactive Adjustment			(14,699.78)	(14,699.78) G	
Prepayments Mar 16-31			918,353.00		
Estimated Billing for March 16-31			(879,876.00)	38,477.00 I	
Estimated Aircraft Parking March 16-31			(1,136.00)	(1,136.00) J	(60,475.48) Total Aeronautical
AIF					
Prepayment Received		1,635,606.00	1,186,200.00		
Actual /estimate		1,465,478.19	1,614,965.96		
Difference	35,681.00	170,127.81	(428,765.96)	(222,977.15)	(222,977.15) Total AIF
Total Amount Owing to GTAA					(221,038.85)
Note: - SSV owes GTAA; + GTAA owes SSV					
Cash Security Deposits					
Lease YZ 3095				104,564.96 C1	
Lease YZ 3280				21,512.02 C2	
					126,076.98 Total Rent

TAB D

This is Exhibit "D"

referred to in the Affidavit of **JASON BOYD**

Sworn before me this 31st day of March, 2010

A handwritten signature in black ink, appearing to be 'SI', written over a horizontal line.

A Commissioner for Taking Affidavits

Shawn Irving

Announcement from Skyservice Airlines

TORONTO, March 31 /CNW/ - Skyservice Airlines today announced the shutdown of its operations following the appointment of a receiver by the Ontario Superior Court of Justice.

Recent changes in the Canadian vacation tour market combined with Skyservice Airlines' debt level have rendered the company unable to maintain profitable operations. As a result, one of the company's secured lenders applied for the appointment of the receiver.

The shutdown results in the cancellation of one flight that was scheduled to depart Canada for the Dominican Republic today and its return leg, as well as all remaining flights scheduled to depart Canada during the balance of the season in April. The company has requested, and the receiver has agreed, to work with the company's tour operator customers and other lift providers to ensure that passenger issues are resolved promptly.

Skyservice Airlines and the receiver are committed to winding up the business in an orderly and responsible manner. The company and the receiver will continue to treat employees and other stakeholders fairly and in a transparent manner throughout this process.

Note to editors: for a link to FTI (the trustee) as well as guidance and links for passengers to contact the tour operator and travel agents, please see: www.skyservice.com

For further information: Bryan Mills Iradesso Corp., Allan McN. Austin, Tel: (416) 447-4740 x240, aaustin@bmir.com

SKYSERVICE AIRLINES INC. - More on this organization



News Releases

(21)



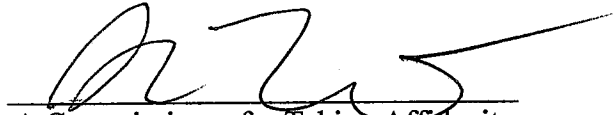
CNW Group Photo Archive

TAB E

This is Exhibit "E"

referred to in the Affidavit of **JASON BOYD**

Sworn before me this 31st day of March, 2010

A handwritten signature in black ink, appearing to read 'S. Irving', written over a horizontal line.

A Commissioner for Taking Affidavits
Shawn Irving

Court file # CV-10-8647-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE)

Th.
G. M.

WEDNESDAY, THE 31ST
DAY OF MARCH, 2010

**IN THE MATTER OF THE RECEIVERSHIP OF
SKYSERVICE AIRLINES INC.**

BETWEEN:



THOMAS COOK CANADA INC.

Applicant

- and -

SKYSERVICE AIRLINES INC.

Respondent

**(Application under s. 243(1) of the *Bankruptcy and Insolvency Act* for a national receiver
and s. 101 of the *Courts of Justice Act* for a receiver)**

ORDER

THIS APPLICATION made by the Applicant, Thomas Cook Canada Inc. ("TCCI"), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and sections 101 and 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing FTI Consulting Canada Inc. as receiver (in such capacity, the "Receiver") without security, of all of the assets, undertakings and properties of the Respondent, Skyservice Airlines Inc. (the "Debtor"), acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 361 University Avenue, Toronto, Ontario.

- 2 -

ON READING the affidavit of Karim Nensi sworn March 31, 2010, and the Exhibits thereto; and on hearing the submissions of counsel for TCCI, the Debtor, Gibralt Capital Corporation ("Gibralt"), and FTI Consulting Canada Inc.; and on reading the Pre-Appointment Report to the Court Submitted by FTI Consulting Canada Inc., in its capacity as proposed Receiver; and on reading the consent of FTI Consulting Canada Inc. to act as the Receiver:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, FTI Consulting Canada Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property in respect of the preservation, protection, collection and realization thereof and, without in any way limiting the generality of the foregoing (but subject to the limitations in clause (d) below), the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- 3 -

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) in the case of Property consisting of airframes, aircraft engines and related accessories, parts, equipment, manuals, records and other property ("Aircraft Objects"), to permit any owner or lessor of, or other person with an interest in, any such Aircraft Objects to take possession or control thereof, whether the Receiver has or has not taken prior possession or control thereof, on such terms (if any) as the Receiver considers appropriate;
- (d) to wind-down but not operate the business and realize on the Property of the Debtor, including the powers to enter into any agreements, incur and pay any obligations in the ordinary course of winding-down the business and realizing on the Property, cease to carry on the business, or cease to perform any contracts of the Debtor;
- (e) to enter into arrangements to assist employees of the Debtor, who have travelled and remain outside of Canada in the course of their employment, to return to Canada, including the power to incur and pay reasonable accommodation, transportation and meal costs and to reimburse such costs;

- 4 -

- (f) to confirm the continuation of employment by the Debtor of employees pursuant to letters from the Receiver on behalf of the Debtor and of union employees (if any) in respect of whom the applicable union or local has entered into an agreement with the Receiver, in each case on terms satisfactory to the Receiver, all with a view to facilitating a wind-down of the business and realization of the Property;
- (g) to confirm the permanent layoff and/or termination of employment by the Debtor of employees pursuant to letters from the Receiver on behalf of the Debtor;
- (h) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons (including, without limitation, affiliates of the Receiver) from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (i) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets as the Receiver considers necessary or desirable to facilitate the wind-down of the business of the Debtor and the realization on the Property;
- (j) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (k) to settle, extend or compromise any indebtedness owing to the Debtor;

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- (l) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (m) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (n) to continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (o) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (p) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$750,000, provided that the aggregate consideration for all such transactions does not exceed \$3,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

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and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (q) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (r) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (s) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property, including the real property described in Schedule B hereto;
- (t) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (u) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (v) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

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- (w) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records,

- 8 -

or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or

- 9 -

with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA to the same extent that counterparties are entitled to exercise remedies thereunder pursuant to section 65.1 of the BIA in proposal proceedings, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to

- 10 -

the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of any or all such employees. In this regard, the Receiver may confirm the continuation of the employment, by the Debtor, of employees pursuant to a letter from the

- 11 -

Receiver on behalf of the Debtor. The Receiver shall not be liable for any employee-related liabilities, including any successor or other employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay on behalf of the Debtor, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the Wage Earner Protection Program Act.

PIPEDA

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated,

- 12 -

might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed or construed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge

- 13 -

(the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, and subject to any validly registered mortgage, lien or charge on the real property of the Debtor (other than any registrations in favour of TCCI or Gibralt) or to any validly attached and perfected security interest in a specific identified asset of the Debtor identified on the PPSA register.

18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time

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as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA and subordinate to any validly registered mortgage, lien or charge on the real property of the Debtor (other than any registrations in favour of TCCI or Gibralt) or to any validly attached and perfected security interest in a specific identified asset of the Debtor identified on the PPSA register.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

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GENERAL

24. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

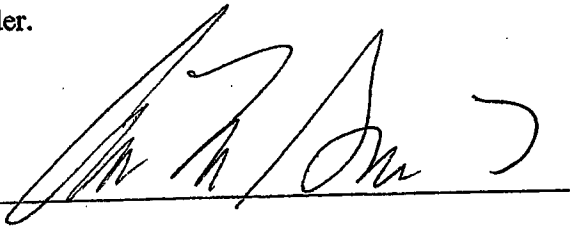
25. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

26. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

27. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

28. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

29. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

A handwritten signature in black ink, appearing to be 'M. H. Smith', is written over a horizontal line.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAR 3 1 2003

PER / PAR: TV

SCHEDULE "A"**RECEIVER CERTIFICATE**

CERTIFICATE NO. _____

AMOUNT \$500,000

THIS IS TO CERTIFY that FTI Consulting Canada Inc., the receiver (the "Receiver") of the assets, undertakings and properties of Skyservice Airlines Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 31st day of March, 2010 (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$500,000 which the Receiver is authorized to borrow under and pursuant to the Order.

The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the Bankruptcy and Insolvency Act, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

FTI Consulting Canada Inc. solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"

31 Fasken Drive, Toronto, ON

PIN: 07420-0020 (LT)

PT BLK B, PL 7994, PART 1, 64R8871, T/W EB367331; ETOBICOKE, CITY OF TORONTO.

6932 Vanguard Drive, Mississauga, ON

PIN: 13526-0009 (LT)

LT 9, REGISTRAR'S COMPILED PLAN 1006; T/W EASEMENTS DESCRIBED IN R01129884; BRAMPTON/MISSISSAUGA; T/W EASEMENT AS IN PR361078; T/W EASEMENT OVER PT LOT 5 CON 7 EHS TT, DESG PTS 35 TO 38, PLAN 43R32426, AS IN PR1523019.

TAB 3



CANADA

CONSOLIDATION

CODIFICATION

Airport Transfer
(Miscellaneous Matters)
Act

Loi relative aux cessions
d'aéroports

S.C. 1992, c. 5

L.C. 1992, ch. 5

Current to March 10, 2010

À jour au 10 mars 2010

Published by the Minister of Justice at the following address:
<http://laws-lois.justice.gc.ca>

Publié par le ministre de la Justice à l'adresse suivante :
<http://laws-lois.justice.gc.ca>

OFFICIAL STATUS
OF CONSOLIDATIONS

CARACTÈRE OFFICIEL
DES CODIFICATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit :

Published
consolidation is
evidence

31. (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

31. (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Codifications
comme élément
de preuve

Inconsistencies
in Acts

(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

(2) Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

Incompatibilité
— lois



1992, c. 5

1992, ch. 5

An Act to provide for certain matters in connection with the transfer of certain airports

Loi réglant certaines questions soulevées par les cessions d'aéroports

[Assented to 19th March 1992]

[Sanctionnée le 19 mars 1992]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

SHORT TITLE

TITRE ABRÉGÉ

Short title

1. This Act may be cited as the *Airport Transfer (Miscellaneous Matters) Act*.

1. *Loi relative aux cessions d'aéroports.*

Titre abrégé

INTERPRETATION AND APPLICATION

DÉFINITIONS ET CHAMP D'APPLICATION

Definitions

2. (1) In this Act,

2. (1) Les définitions qui suivent s'appliquent à la présente loi.

Définitions

"designated airport authority"
« administration aéroportuaire désignée »

"designated airport authority" means a corporation or other body designated pursuant to subsection (2);

« administration aéroportuaire désignée » Personne morale ou autre organisme désignés conformément au paragraphe (2).

« administration aéroportuaire désignée »
"designated airport authority"

"designated employee"
« employé désigné »

"designated employee", for an airport, means an employee designated pursuant to subsection (3) as a designated employee for that airport;

« employé désigné » Personne désignée conformément au paragraphe (3).

« employé désigné »
"designated employee"

"Minister"
« ministre »

"Minister" means the Minister of Transport;

« ministre » Le ministre des Transports.

« ministre »
"Minister"

"transfer date"
Version anglaise seulement

"transfer date", in respect of an airport, means the date designated pursuant to subsection (2) for that airport.

(2) En vue de la cession par le ministre d'un aéroport, notamment par bail ou vente, le gouverneur en conseil peut, pour l'application de la présente loi, prendre un décret :

Décret de désignation

Designations by Governor in Council

(2) For the purposes of this Act, the Governor in Council may, by order,

(a) designate any corporation or other body to which the Minister is to sell, lease or otherwise transfer an airport as a designated airport authority; and

(b) designate the date on which the Minister is to sell, lease or otherwise transfer an air-

a) conférant le statut d'administration aéroportuaire désignée à la personne morale ou l'organisme cessionnaire;

Airport Transfer (Miscellaneous Matters) — March 10, 2010

port to a designated airport authority as the transfer date for that airport.

Designation by
Minister

(3) For the purposes of this Act, the Minister may, by order, designate any person employed in the federal public administration at or in connection with an airport or airports under the management, charge and direction of the Minister as a designated employee for an airport.

1992, c. 5, s. 2; 2003, c. 22, s. 224(E).

HER MAJESTY

Binding on Her
Majesty

3. This Act is binding on Her Majesty in right of Canada or a province.

OFFICIAL LANGUAGES

Application of
*Official
Languages Act*

4. (1) Where the Minister has leased an airport to a designated airport authority, on and after the transfer date Parts IV, V, VI, VIII, IX and X of the *Official Languages Act* apply, with such modifications as the circumstances require, to the authority in relation to the airport as if

- (a) the authority were a federal institution; and
- (b) the airport were an office or facility of that institution, other than its head or central office.

Idem

(1.1) Where the Minister has sold or otherwise transferred an airport to a designated airport authority, on and after the transfer date Parts IV, VIII, IX and X of the *Official Languages Act* apply, with such modifications as the circumstances require, to the authority in relation to the airport as if

- (a) the authority were a federal institution; and
- (b) the airport were an office or facility of that institution, other than its head or central office.

Construction

(2) Nothing in subsection 23(2) of the *Official Languages Act* shall, in relation to an airport transferred to a designated airport authority by the Minister, be construed or applied so as to impose a duty on any institution other than that authority.

1992, c. 5, s. 4, c. 42, s. 2.

b) désignant la date prévue pour l'opération en cause comme date de cession.

(3) Pour l'application de la présente loi, le ministre peut, par arrêté, déterminer, parmi les personnes employées au sein de l'administration publique fédérale dans un aéroport placé sous son autorité ou à des activités liées à un tel aéroport, celles qui auront le statut d'employé désigné pour celui-ci.

1992, ch. 5, art. 2; 2003, ch. 22, art. 224(A).

SA MAJESTÉ

3. La présente loi lie Sa Majesté du chef du Canada ou d'une province.

LANGUES OFFICIELLES

4. (1) À la date de cession par bail d'un aéroport à une administration aéroportuaire désignée, les parties IV, V, VI, VIII, IX et X de la *Loi sur les langues officielles* s'appliquent, avec les adaptations nécessaires, à cette administration, pour ce qui est de l'aéroport, au même titre que s'il s'agissait d'une institution fédérale, et l'aéroport est assimilé aux bureaux de cette institution, à l'exclusion de son siège ou de son administration centrale.

(1.1) À la date de cession autrement que par bail d'un aéroport à une administration aéroportuaire désignée, les parties IV, VIII, IX et X de la *Loi sur les langues officielles* s'appliquent, avec les adaptations nécessaires, à cette administration, pour ce qui est de l'aéroport, au même titre que s'il s'agissait d'une institution fédérale, et l'aéroport est assimilé aux bureaux de cette institution, à l'exclusion de son siège ou de son administration centrale.

Arrêté de
désignation

Obligation de Sa
Majesté

*Loi sur les
langues
officielles*

Idem

Interprétation

(2) Le paragraphe 23(2) de la *Loi sur les langues officielles* n'a pas pour effet d'imposer, pour ce qui est d'un aéroport cédé par le ministre à une administration aéroportuaire désignée, une obligation à une autre institution que celle-ci.

1992, ch. 5, art. 4, ch. 42, art. 2.

Cessions d'aéroports — 10 mars 2010

PENSION BENEFITS

Pension benefits

5. (1) Where the Minister has sold, leased or otherwise transferred an airport to a designated airport authority, the *Public Service Superannuation Act*, the *Supplementary Retirement Benefits Act* and the regulations made under those Acts apply, in the manner and to the extent provided by the regulations made under subsection (3), to any person who meets all of the following criteria:

(a) the person is a designated employee for the airport and, immediately prior to the transfer date, was a contributor under the *Public Service Superannuation Act*;

(b) on the transfer date, the person became an employee of the designated airport authority;

(c) the President of the Treasury Board has not made a payment pursuant to section 40 of the *Public Service Superannuation Act* in respect of the pensionable service to that person's credit under that Act immediately prior to the transfer date;

(d) the person has not received or opted to receive any annuity or other benefit under section 12 or 13 of the *Public Service Superannuation Act* in respect of the pensionable service to the person's credit under that Act immediately prior to the transfer date; and

(e) the person elects, within one year after the transfer date and in such form and manner as the President of the Treasury Board may direct, to have the *Public Service Superannuation Act*, the *Supplementary Retirement Benefits Act* and the regulations made under those Acts apply to the person in the manner and to the extent provided by the regulations made under subsection (3).

Election irrevocable

(2) An election under paragraph (1)(e) is irrevocable.

Regulations

(3) The Governor in Council may, on the recommendation of the President of the Treasury Board, make regulations

(a) respecting the manner in which and the extent to which provisions, as amended, of the Acts and regulations referred to in subsection (1) apply to persons who make an election under paragraph (1)(e);

PENSIONS

Prestations de retraite

5. (1) En cas de cession d'un aéroport à une administration aéroportuaire désignée, la *Loi sur la pension de la fonction publique* et la *Loi sur les prestations de retraite supplémentaires*, ainsi que leurs règlements, s'appliquent, selon les modalités fixées par règlement d'application du paragraphe (3), à toute personne qui, à la fois :

a) a le statut d'employé désigné pour l'aéroport et, à la date de la cession, était un contributeur au sens de la *Loi sur la pension de la fonction publique*;

b) devient, à la date de la cession, employé de l'administration aéroportuaire désignée;

c) n'a pas fait l'objet d'un paiement, effectué par le président du Conseil du Trésor en vertu de l'article 40 de la *Loi sur la pension de la fonction publique*, au titre des années de service ouvrant droit à pension qu'elle comptait en application de cette loi à la date de la cession;

d) n'a reçu ou choisit de ne recevoir, au titre des années de service ouvrant droit à pension qu'elle comptait en application de la *Loi sur la pension de la fonction publique* à la date de la cession, aucune des pensions ou prestations mentionnées aux articles 12 ou 13 de cette loi;

e) choisit, dans l'année suivant la date de cession et selon les modalités fixées par le président du Conseil du Trésor, de demeurer sous le régime de la *Loi sur la pension de la fonction publique* et de la *Loi sur les prestations de retraite supplémentaires*, ainsi que de leurs règlements, aux conditions déterminées par règlement d'application du paragraphe (3).

Irrévocabilité

(2) Le choix fait en application de l'alinéa (1)e) est irrévocable.

Règlements

(3) Sur recommandation du président du Conseil du Trésor, le gouverneur en conseil peut, par règlement :

a) prévoir selon quelles modalités les dispositions des lois et règlements mentionnés au paragraphe (1) s'appliquent, avec leurs modifications, à la personne qui fait le choix prévu à l'alinéa (1)e);

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	(b) adapting provisions of those Acts and regulations for the purposes of this section; and	b) adapter ces dispositions pour l'application du présent article;	
	(c) generally for carrying out the purposes and provisions of this section.	c) prendre toute autre mesure d'application du présent article.	
Retroactivity	(4) Regulations made under subsection (3) may, if they so provide, be retroactive and have effect with respect to any period before they were made.	(4) Les règlements pris en vertu du paragraphe (3) peuvent avoir un effet rétroactif s'ils comportent une disposition en ce sens.	Rétroactivité
	6. and 7. [Repealed, 1998, c. 26, s. 72]	6. et 7. [Abrogés, 1998, ch. 26, art. 72]	
	INCOME TAX	IMPÔT SUR LE REVENU	
Exemption from income tax	8. (1) No tax is payable under Part I of the <i>Income Tax Act</i> by a corporation for a taxation year commencing after 1990 on that portion of its taxable income for the year that may reasonably be regarded as being derived from an airport business if	8. (1) Une société est exonérée de l'impôt payable en vertu de la partie I de la <i>Loi de l'impôt sur le revenu</i> sur la fraction de ses revenus d'une année d'imposition commençant après 1990 qui provient d'une activité aéroportuaire si les conditions suivantes sont réunies :	Exonération
	(a) throughout the year, the corporation was a designated airport authority and no part of the income or capital of the corporation was or became payable to, or otherwise available for the personal benefit of, any member or shareholder of the corporation; and	a) durant toute cette année, elle a été une administration aéroportuaire désignée et aucune partie de son revenu ou de son capital n'a été payable à un de ses membres ou actionnaires ou n'a été disponible pour servir au profit personnel de ceux-ci;	
	(b) all or substantially all of the gross revenue of the corporation, other than dividends received from a taxable Canadian corporation, in the year was derived from an airport business.	b) la totalité ou la majeure partie de son revenu brut de l'année, sauf les dividendes reçus d'une société canadienne imposable, provient d'une activité aéroportuaire.	
Idem	(2) No tax is payable under Parts I.3, IV and IV.1 of the <i>Income Tax Act</i> by a corporation for a taxation year commencing after 1990 for which no tax is payable on all or a portion of its taxable income by reason of subsection (1).	(2) Une société est exonérée de l'impôt payable en vertu des parties I.3, IV et IV.1 de la <i>Loi de l'impôt sur le revenu</i> pour une année d'imposition commençant après 1990 si l'exonération visée au paragraphe (1) lui est applicable.	Idem
Same meaning	(3) Unless a contrary intention appears, words and expressions used in this section have the same meaning as in the <i>Income Tax Act</i> .	(3) Sauf indication contraire, les termes du présent article s'entendent au sens de la <i>Loi de l'impôt sur le revenu</i> .	Terminologie
Definitions	(4) For the purposes of subsection (1),	(4) Les définitions qui suivent s'appliquent au paragraphe (1).	Définitions
"airport business" « activités aéroportuaires »	"airport business" means the business of operating an airport and any activities incidental or pertaining to that operation and, without restricting the generality of the foregoing, includes the rental or leasing of real property situated at the airport, the making of investments, the granting of franchises, concessions and licences and the provision of parking facilities at the airport and heliport facilities and bus services serving the airport, but does not include ac-	« activités aéroportuaires » Exploitation d'un aéroport et toute autre opération connexe, notamment location — simple ou en crédit-bail — d'immeubles situés à l'aéroport, placements, octroi de franchises, concessions, licences et fourniture de stationnement à l'aéroport, d'installations héliportuaires et de services d'autobus desservant l'aéroport. Sont exclues les activités prévues par règlement et celles liées à	« activités aéroportuaires » "airport business"

Cessions d'aéroports — 10 mars 2010

tivities relating to the operation of a hotel, motel, restaurant, bar, retail or wholesale store, a motor vehicle rental or leasing service, a taxi or limousine service, a freight transportation service, an airline, an aircraft rental or leasing service, an aircraft fuelling or maintenance service, a currency exchange service or an amusement or entertainment centre or any prescribed activity;

“taxation year”
« année
d'imposition »

“taxation year”, in respect of a corporation, means

(a) where the corporation is designated as a designated airport authority in a taxation year of the corporation, only that part of that year following the designation, and

(b) where the corporation ceases to be a designated airport authority in a taxation year of the corporation, only that part of that year preceding the cessation.

1992, c. 42, s. 3; 1999, c. 31, s. 247(F).

SEIZURE AND DETENTION OF AIRCRAFT

Seizure and
detention for
fees and charges

9. (1) Where the amount of any landing fees, general terminal fees or other charges related to the use of an airport, and interest thereon, set by a designated airport authority in respect of an airport operated by the authority has not been paid, the authority may, in addition to any other remedy available for the collection of the amount and whether or not a judgment for the collection of the amount has been obtained, on application to the superior court of the province in which any aircraft owned or operated by the person liable to pay the amount is situated, obtain an order of the court, issued on such terms as the court considers necessary, authorizing the authority to seize and detain aircraft.

Idem

(2) Where the amount of any fees, charges and interest referred to in subsection (1) has not been paid and the designated airport authority has reason to believe that the person liable to pay the amount is about to leave Canada or take from Canada any aircraft owned or operated by the person, the authority may, in addition to any other remedy available for the collection of the amount and whether or not a judgment for the collection of the amount has been obtained, on *ex parte* application to the superior court of the province in which any aircraft owned or operated by the person is situated, obtain an order of the court, issued on such terms as the court

l'exploitation d'hôtels, de motels, de restaurants, de bars, de magasins de vente en gros ou au détail, de services de location — simple ou en crédit-bail — de véhicules à moteur, avec ou sans chauffeur, ou de taxis, de services de transport de fret, de lignes aériennes, de services de location — simple ou en crédit-bail — d'aéronefs, de distribution de carburant aux avions ou d'entretien de ceux-ci, de services de bureau de change et de centres de spectacles ou de jeux.

« année d'imposition » Vise également la fraction de l'année suivant la date de désignation d'une société comme administration aéroportuaire désignée et celle de l'année précédant la date à laquelle une société cesse d'être une administration aéroportuaire désignée.

1992, ch. 42, art. 3; 1999, ch. 31, art. 247(F).

« année
d'imposition »
“taxation year”

SAISIE ET RÉTENTION D'AÉRONEFS

Saisie

9. (1) À défaut de paiement des frais fixés par elle — frais généraux d'aérogare ou d'atterrissage ou toute redevance se rapportant à l'utilisation d'un aéroport, ainsi que les intérêts y afférents —, l'administration aéroportuaire désignée peut, en sus de tout autre recours visant leur recouvrement et indépendamment d'une décision judiciaire à cet égard, demander à la juridiction supérieure de la province où se trouve l'aéronef dont le défaillant est propriétaire ou utilisateur de rendre une ordonnance l'autorisant à saisir et à retenir l'aéronef, aux conditions que la juridiction estime nécessaires.

(2) Dans les mêmes circonstances, l'administration aéroportuaire désignée peut, si elle est en outre fondée à croire que le défaillant s'apprête à quitter le Canada ou à en retirer un aéronef dont il est propriétaire ou utilisateur, procéder à la même demande *ex parte*.

Demande sans
préavis

Airport Transfer (Miscellaneous Matters) — March 10, 2010

considers necessary, authorizing the authority to seize and detain aircraft.

Release on payment

(3) Subject to subsection (4), except where otherwise directed by an order of a court, a designated airport authority is not required to release from detention an aircraft seized under subsection (1) or (2) unless the amount in respect of which the seizure was made is paid.

(3) Sauf ordonnance contraire de la juridiction, l'administration aéroportuaire désignée n'est pas tenue de donner mainlevée de la saisie tant que les sommes dues n'ont pas été acquittées.

Mainlevée

Release on security

(4) A designated airport authority shall release from detention an aircraft seized under subsection (1) or (2) if a bond, suretyship or other security in a form satisfactory to the authority for the amount in respect of which the aircraft was seized is deposited with the authority.

(4) L'administration aéroportuaire désignée donne cependant mainlevée contre remise d'une sûreté — cautionnement ou autre garantie qu'elle juge satisfaisante — équivalente aux sommes dues.

Sûretés

Same meaning

(5) Words and expressions used in this section and section 10 have the same meaning as in the *Aeronautics Act*.

(5) Les termes du présent article et de l'article 10 s'entendent au sens de la *Loi sur l'aéronautique*.

Terminologie

1992, c. 42, s. 3; 2001, c. 4, s. 55(E).

1992, ch. 42, art. 3; 2001, ch. 4, art. 55(A).

Exempt aircraft

10. (1) Any aircraft of a person referred to in subsection 9(1) or (2) that would be exempt from seizure under a writ of execution issued by the superior court of the province in which the aircraft is situated is exempt from seizure and detention under that subsection.

10. (1) S'appliquent aux aéronefs visés aux paragraphes 9(1) et (2) les règles d'insaisissabilité opposables aux mesures d'exécution délivrées par la juridiction supérieure de la province où ils se trouvent.

Insaisissabilité

Exemption

(2) The Governor in Council may, by regulation, exempt any aircraft from seizure and detention under section 9.

(2) Le gouverneur en conseil peut, par règlement, exempter tout aéronef de la saisie ou de la rétention prévue à l'article 9.

Règlement

1992, c. 42, s. 3.

1992, ch. 42, art. 3.

QUALIFIED INVESTMENT

Debt obligations qualified

11. For the purpose of qualifying the bonds, debentures or other evidences of indebtedness of a designated airport authority

(a) as an authorized investment under paragraph 86(i) of the *Canadian and British Insurance Companies Act*, paragraph 61(1)(b) of the *Loan Companies Act* or paragraph 78(1)(b) of the *Trust Companies Act*,

(b) as a permitted investment under paragraph 1(j) of Schedule III to the *Pension Benefits Standards Regulations, 1985*, and

(c) as assets that may be vested in trust in Canada under paragraph 1(i) of Schedule II to the *Canadian and British Insurance Companies Act* or paragraph 1(i) of the schedule to the *Foreign Insurance Companies Act*,

PLACEMENTS AUTORISÉS

11. Afin de déterminer si les obligations, débetures ou autres titres de créances d'une administration aéroportuaire désignée sont des placements autorisés aux termes de l'alinéa 86i) de la *Loi sur les compagnies d'assurance canadiennes et britanniques*, de l'alinéa 61(1)b) de la *Loi sur les sociétés de prêt* ou de l'alinéa 78(1)b) de la *Loi sur les sociétés de fiducie*, des placements admissibles aux termes de l'alinéa 1j) de l'annexe III du *Règlement de 1985 sur les normes de prestation de pension* et des valeurs actives qui peuvent être placées en fiducie au Canada aux termes de l'alinéa 1i) de l'annexe II de la *Loi sur les compagnies d'assurance canadiennes et britanniques* ou de l'alinéa 1i) de l'annexe de la *Loi sur les compagnies d'assurance étrangères*, il faut présumer que les droits et intérêts acquis par l'administration au titre de la cession par le ministre d'un

Qualité de placements autorisés : titres de créances

Cessions d'aéroports — 10 mars 2010

the rights and interests acquired by the authority under the instrument executed by the Minister that transfers an airport to the authority are deemed to be assets listed in that paragraph.

1992, c. 42, s. 3.

aéroport sont des valeurs actives, énumérées dans ces dispositions.

1992, ch. 42, art. 3.

TAB 4

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE)	WEDNESDAY, THE 31ST DAY
)	
JUSTICE)	OF MARCH, 2010

IN THE MATTER OF AN APPLICATION pursuant to Section 9 of the
Airport Transfer (Miscellaneous Matters) Act, S.C. 1992, c. 5

BETWEEN:

GREATER TORONTO AIRPORTS AUTHORITY

Applicant

ORDER

THIS APPLICATION, made by the Applicant, the Greater Toronto Airports Authority (the "GTAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, made without notice, on reading the affidavit of Jason Boyd sworn March 31, 2010 and on hearing the submissions of counsel for the GTAA,

1. THIS COURT ORDERS THAT the GTAA may seize and detain aircraft owned or operated by Skyservice Airlines Inc. ("Skyservice Airlines") pursuant to s. 9 of the *Airport Transfer (Miscellaneous Matters) Act*, including, without limiting the generality of the foregoing, any of the aircraft bearing serial numbers 29941 (Mark number C-FLEU), 25053 (Mark number C-GMYH), 1605 (Mark number C-GTDH), 1571 (Mark number C-GTDG), 32477 (Mark number C-GTBB), 1411 (Mark number C-FRAA), pending payment of the sum of \$221,038.85

to the GTAA in respect of landing fees, general terminal fees, airport improvement fees and/or other charges related to the use of Toronto Pearson International Airport ("Pearson Airport"), and other charges to be incurred by the GTAA as a result of seizing and detaining Skyservice Airline's aircraft (including, without limitation, the cost of retaining a third party ground-handler to move and maintain the aircraft, insurance costs, parking charges, and security costs).

2. THIS COURT ORDERS THAT service of the Notice of Application be and is hereby dispensed with pursuant to section 9 of the *Airport Transfer (Miscellaneous Matters) Act* and rule 16.04(1) of the *Rules of Civil Procedure*.

3. THIS COURT ORDERS THAT any party affected by the terms of this Order may apply to vary or set aside its terms on two (2) days notice to counsel for the GTAA.

Ontario
**SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

ORDER

Osler, Hoskin & Harcourt LLP
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Greater Toronto Airports Authority

GREATERTORONTO AIRPORTS AUTHORITY
Applicant

Court File No:

Ontario
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

APPLICATION RECORD

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