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September 4, 2015

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, ON K1A 0N9

Dear Madam Secretary:

Re: Dr. Gábor Lukács v. SkyGreece Airlines
Emergency application for an Order to reprotect and protect stranded passengers
Case No.: 15-03912 / Case No.: 15-03972
Effect of section 69(1) of the *Bankruptcy and Insolvency Act*

I am writing to reply to the submissions of SkyGreece Airlines, dated September 3, 2015, erroneously stating that section 69(1) of the of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (“*BIA*”) stays the above-noted proceedings.

Section 69(1) of the *BIA* affects only proceedings for monetary remedies by creditors, but does not affect proceedings where no monetary remedies are being sought:

[19] Since the applicant is no longer seeking any monetary remedies against Marathon, she is not a “creditor” and no longer has a “claim provable in bankruptcy” as those terms are used in ss. 69(1) and 69.3(1). Accordingly, her Application is not stayed by the operation of the *BIA*.

Young v. Marathon Pulp, 2009 HRTO 800, para. 19

Similarly, in *Peel Housing Corp. v. Siewnarine*, the Ontario Divisional Court found that an application for the eviction of a tenant for breach of a mediated settlement was not a “proceeding” within the meaning of s. 69(1) of the *BIA*.

Peel Housing Corp. v. Siewnarine, [2008] O.J. No. 2607, paras. 24-25

Section 113.1 of the *Air Transportation Regulations*, S.O.R./88-58 (“*ATR*”) provides two types of remedies: (a) corrective measures; and (b) payment of compensation. In Case Nos. 15-03912 and 15-03972, only remedies pursuant to s. 113.1(a) of the *ATR* (corrective measures) are being pursued.

Thus, Case Nos. 15-03912 and 15-03972 are not “proceedings” within the meaning of s. 69(1) of the *BIA*.

Alternatively, section 69.6 of the *BIA* provides that:

69.6 (1) In this section, “regulatory body” means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province and includes a person or body that is prescribed to be a regulatory body for the purpose of this Act.

(2) Subject to subsection (3), no stay provided by section 69 or 69.1 affects a regulatory body’s investigation in respect of an insolvent person or an action, suit or proceeding that is taken in respect of the insolvent person by or before the regulatory body, other than the enforcement of a payment ordered by the regulatory body or the court.

[Emphasis added.]

The Applicant submits that the Agency is a “regulatory body” within the meaning of s. 69.6 of the *BIA*, and proceedings for corrective measures pursuant to s. 113.1(a) of the *Air Transportation Regulations* are exempt from the operation of s. 69 of the *BIA*.

Therefore, the Agency should finalize the order set out in Decision No. LET-A-55-2015, which at the very least will be of great assistance to the Trustee in evaluating claims of passengers against SkyGreece Airlines.

All of which is most respectfully submitted.

Dr. Gábor Lukács
Applicant

Cc: Mr. Massimo (Max) Starnino, counsel for SkyGreece Airlines