

May 7, 2013

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, Ontario, K1A 0N9

Attention: Ms. Sylvie Giroux, Analyst

Dear Madam Secretary:

Re: The Nawrots v. Sunwing Airlines
File No.: M 4120-3/13-01696 / Our reference: 0575-Nawrot
Complaint concerning denied boarding and/or failure to provide transportation
and/or delay on or around August 10, 2012
Misleading reference to *PIPEDA* in Sunwing Airlines' May 7, 2013 submissions

Please accept the following submissions on behalf of the Nawrot family in relation to the above-noted matter to rectify the following misleading statement in Sunwing Airlines' May 7, 2013 reply:

[...] Pursuant to the *Personal Information Protection and Electronic Documents Act* (PIPEDA), (S.C. 2000, c.5) Sunwing is prohibited from disclosing this information without the consent of the individuals themselves or as set out in s. 7 of the Act.

Since Sunwing Airlines made no reference to *PIPEDA* in its claim of confidentiality and raised this issue only in its reply, the Nawrots had no opportunity to address this point earlier.

The submissions of Sunwing Airlines are misleading, because they fail to acknowledge that disclosure in a legal proceeding is explicitly permitted by s. 7(c)(3) of *PIPEDA*:

- (3) For the purpose of clause 4.3 of Schedule 1, and despite the note that accompanies that clause, an organization may disclose personal information without the knowledge or consent of the individual only if the disclosure is [...]
- (c) required to comply with a subpoena or warrant issued or an order made by a court, person or body with jurisdiction to compel the production of information, or to comply with rules of court relating to the production of records;

Pursuant to s. 25 of the *Canada Transportation Act*, the Agency has the same powers as a superior court in relation to product of documents:

25. The Agency has, with respect to all matters necessary or proper for the exercise of its jurisdiction, the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders or regulations and the entry on and inspection of property, all the powers, rights and privileges that are vested in a superior court.

Therefore, s. 7(c)(3) of *PIPEDA* explicitly permits Sunwing Airlines to disclose personal information if the Agency directs it to do so. Hence, *PIPEDA* does not alter or override the general legal principles applicable to determining standing or confidentiality in proceedings before the Agency.

All of which is most respectfully submitted.

Louis Béliveau

Cc: Mr. Ray Nawrot
Mr. Clay Hunter, counsel for Sunwing Airlines