

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL
NO.: 500-11-063174-235
ESTATE NO.: 41-3017080

SUPERIOR COURT
(Commercial Division)
in Bankruptcy and Insolvency

(Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended)

IN THE MATTER OF THE BANKRUPTCY OF:

LEXUS TRAVEL INC./VOYAGE LEXUS INC., a corporation duly constituted and subsisting under the *Canada Business Corporations Act*, having its registered office at 1800 av. McGill College, suite 1015, Montreal, Québec H3A 3J6;

Bankrupt

-and-

RICHTER INC., a licensed bankruptcy trustee pursuant to the *Bankruptcy and Insolvency Act*, Canada, having a place of business at 1981 McGill College, Suite 1100, Montréal, Québec H3A 0G6;

Trustee/Petitioner

-and-

MICHA GHOSSEIN, residing at 450 Tremblay Road, Ottawa, Ontario K1G 0C9;

-and-

SANDY-BELLE GHOSSEIN, residing at 450 Tremblay Road, Ottawa, Ontario K1G 0C9;

Persons in possession of documents and information/Respondents

MOTION TO COMPEL PERSONS TO PRODUCE DOCUMENTS AND INFORMATION
(Section 164(3) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3)

TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF MONTREAL, OR A REGISTRAR THEREOF, THE APPLICANT RESPECTFULLY SUBMITS AS FOLLOWS:

I. INTRODUCTION

1. On December 1, 2023, Lexus Travel Inc. (the "**Bankrupt**") filed an assignment pursuant to the relevant provisions of the *Bankruptcy and Insolvency Act*, Canada (the "**BIA**"), and Richter Inc. (the "**Trustee**") was appointed as trustee to the estate of the Bankrupt by the official receiver, as confirmed by the Bankrupt's creditors (the "**Bankruptcy**").

2. Prior to the Bankruptcy, the Bankrupt operated as a travel agency with locations in Montreal, Laval and Ottawa under the trade name Uniglobe Voyages Lexus.
3. Since its appointment, the Trustee has been pursuing an investigation into the Bankrupt and its activities (the “**Investigation**”) including the way in which it conducted business.
4. The Investigation has revealed serious issues with respect to the Bankrupt’s business practices, in general, and the fraudulent and falsified nature of the information it provided to its lender and the way in which the Bankrupt effected sales, in particular.
5. The Trustee has discovered that the Bankrupt was accepting cash payments from customers in exchange for travel at discounted prices (the “**Cash Ticket Sales**”) as follows:
 - (a) the Bankrupt’s travel agents would book travel for customers with the travel provider (an airline, etc.) at the normal price and issue tickets to the customer;
 - (b) no consideration was received by the Bankrupt, the cash payment was made to one of the Bankrupt’s directing minds, Ihab Hanna. These cash payments from the customer represented a much lower price than the face value of the arranged travel;
 - (c) the Bankrupt would then pay the travel provider the full transaction price, generally using the funding provided by its lender.
6. These illegitimate Cash Ticket Sales caused a severe prejudice to all of the Bankrupt’s stakeholders.
7. Currently, the Trustee is seeking information and documents from certain of the Bankrupt’s travel agents who were involved and/or have knowledge of the Cash Ticket Sales. Two such travel agents are Micha Ghossein and Sandy-Belle Ghossein (collectively, the “**Ghosseins**”).
8. According to information obtained by the Trustee, the Ghosseins were responsible for a significant proportion of the Cash Ticket Sales and are therefore important sources of information.

II. THE RECENT REQUEST FOR INFORMATION AND DOCUMENTS

9. On December 20, 2023, the Trustee was authorized by the inspectors to the Bankruptcy to issue requests pursuant to s. 164 *BIA* for information and documents including to *inter alia* to the Ghosseins. A copy of the minutes from such meeting of inspectors is produced herewith as **Exhibit P-1**.
10. On January 15, 2024, the Trustee issued, and the Ghosseins were provided with, a notice pursuant to s. 164 *BIA* requesting that documents of any kind (in electronic, hard or other format) in their possession or power relating in whole or in part to the Bankrupt, the Bankrupt’s dealings or the Bankrupt’s property be furnished to the Trustee within 5 days of receiving such notice (the “**164 Notice**”). A copy of such notice is produced herewith as **Exhibit P-2**.

11. On January 19, 2024, the Trustee received a response to its letter from the attorney representing the Ghosseins, Me Ohannes Kechichian, a copy of which is produced herewith as **Exhibit P-3**. The response letter failed to provide any of the information requested by the Trustee.
12. On January 23, 2024, the Trustee and the undersigned counsel had a call with Me Kechichian to discuss the 164 Notice.
13. On January 30, 2024, Me Kechichian provided the Trustee with handwritten phone numbers of clients without any further information with respect to the source of the phone numbers and failing to provide the other information requested. A copy of the covering email together with the client list is produced herewith as **Exhibit P-4**.
14. On February 5, 2024, the Trustee responded to the correspondence of January 30, 2024:
 - (a) reiterating the obligation of the Ghosseins to properly respond to the 164 Notice;
 - (b) reiterating that all emails, texts, WhatsApp messages, documents, client notes, books and records relating to the affairs of the Bankrupt are to be provided to the Trustee; and
 - (c) extending the delay to furnish the Trustee with all requested documents and information to February 9, 2024,

the whole as appears from a copy of this correspondence produced herewith as **Exhibit P-5**.

15. On February 14, 2024, 5 days following the February 9th deadline, the Trustee received 2 emails from Me Kechechian produced herewith as **Exhibit P-6**. Again, none of the information nor documents requested by the Trustee under the 164 Notice were provided.
16. Furthermore, given the response of February 14, 2023 to the effect that the Ghosseins believed the Trustee's request to be "broad and out of proportion", the Trustee is led to believe that the Ghosseins did not even make a proper attempt at fulfilling the request under the 164 Notice.
17. The Trustee now has no alternative but to seek this Court's assistance and obtain an order substantially in the form of the draft order produced herewith as **Exhibit P-7** (the "**Draft Order**").

III. THE INFORMATION AND DOCUMENTS SOUGHT

18. The Draft Order orders the Ghosseins to, within 7 days of issuance thereof, provide the Trustee with all information and documents of any kind (in electronic, hard or other format) in their possession or power relating in whole or in part to the Bankrupt, the Bankrupt's dealings or the Bankrupt's property and the items more fully described in the Draft Order (collectively, the "**Information**").

19. The Information will allow the Trustee to:
- (a) better understand how the Cash Ticket Sales worked;
 - (b) gather information as to the other parties implicated in such sales; and
 - (c) consider whether there is an avenue of recovery with respect to the customers who purchased travel by paying an undervalue price.
20. In the event that the Trustee does not obtain the Information, the Trustee's investigation in respect of the Cash Ticket Sales may be limited and the Trustee's efforts to uncover the Bankrupt's fraudulent activities and provide answers to the Bankrupt's creditors and stakeholders may be hindered.
21. The present Motion is well founded in fact and in law.

WHEREFORE, THE TRUSTEE/PETITIONER PRAYS FOR JUDGMENT OF THIS HONOURABLE COURT:

- (A) **SHORTENING** the delays to notify/serve and present the present Motion;
- (B) **GRANTING** the present Motion;
- (C) **ISSUING** an order substantially in the form of the draft order produced herewith as **EXHIBIT P-7**;

THE WHOLE WITH COSTS including all costs of all reports, exhibits, etc.

Montreal, March 4, 2024



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-and-

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MICHA GHOSSEIN;

-and-

SANDY-BELLE GHOSSEIN;

Persons in possession of documents and
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AFFIDAVIT

I, the undersigned, Andrew Adessky, licensed insolvency trustee, exercising my profession at Richter Inc., located at 1981 McGill College, Suite 1100, Montréal, Québec H3A 0G6, solemnly affirm the following:

1. I am the bankruptcy trustee in respect of the bankruptcy of Lexus Travel Inc.; and
2. All the facts alleged in the *MOTION TO COMPEL PERSONS TO PRODUCE DOCUMENTS AND INFORMATION* that are to my knowledge are true and correct.

AND I HAVE SIGNED:



Andrew Adessky

SOLEMNLY AFFIRMED before me in the City of
Montreal, Province of Québec, this 4th day of March,
2024



Commissioner for Oaths for Québec

Name: Vicky Coupal

Commission No. 205380

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NOTICE OF PRESENTATION

TO:

MICHA GHOSSEIN

-and-

SANDY-BELLE GHOSSEIN

450 Tremblay Road
Ottawa, Ontario K1G 0C9

ME OHANNES KECHICHIAN

ohannes@kechichianlaw.com

2417 Holly Lane unit 212 B
Ottawa, Ontario K1V 1P2

THE SUPERINTENDENT OF
BANKRUPTCY

osbservice-bsfservice@ised-isde.gc.ca

TAKE NOTE that the *MOTION TO COMPEL PERSONS TO PRODUCE DOCUMENTS AND INFORMATION* will be presented in the Commercial Practice Division of the Superior Court, in **Courtroom 16.10** of the Montreal courthouse, located at 1 Notre-Dame Street East, Montreal, Québec, H2Y 1B6, during the **virtual calling of the roll**, on **March 15, 2024**, at **8:45 a.m.**, or as soon as counsel may be heard.

1. HOW TO JOIN THE VIRTUAL CALLING OF THE ROLL IN PRACTICE DIVISION

The contact information to join the calling of the roll of room 16.10 is as follows:

a) using Teams: click on the link available on the - site <http://www.tribunaux.qc.ca>;

You must then enter your name and click “Join Now”. To facilitate the process and the identification of participants, we ask that you enter your name in the following manner:

Attorneys: Mtre Name, Surname (name of party represented)

Trustees: Name, Surname (trustee)

Superintendent: Name, Surname (superintendent)

Parties not represented by an attorney: Name, Surname (specify: plaintiff, defendant, applicant, respondent, creditor, opposing party, or other)

Persons attending a public hearing may simply indicate “public”.

b) by telephone:

Canada, Quebec (Charges will apply): +1 581-319-

2194 Canada (Toll free): (833) 450-1741

Conference ID: 820 742 874#

c) by videoconference:

teams@teams.justice.gouv.qc.ca VTC

Conference ID: 11973653703

d) in person: You may then go to room 16.10 of the Montreal Courthouse, located at:

1 Notre-Dame St. East, Montréal, Québec, H2Y 1B6

TAKE NOTE that if you wish to contest the proceeding, you must inform in writing the party that initiated the proceeding at the contact information indicated in this notice of presentation at least 48 hours before the date of presentation of the proceeding and participate in the virtual calling of the roll. Otherwise, a judgment may be rendered against you during the presentation

4. OBLIGATIONS

4.1 Duty of cooperation

TAKE NOTE that you are duty-bound to co-operate and, in particular, to keep one another informed at all times of the facts and particulars conducive to a fair debate and to make sure that relevant evidence is preserved (*Code of Civil Procedure*, Art. 20).

4.2 Dispute prevention and resolution processes

TAKE NOTE that before referring your dispute to the Court, you must consider private dispute prevention and resolution processes, which consist of negotiation between the parties as well as mediation and arbitration, in which the parties call on a third person to assist them (*Code of Civil Procedure*, Art. 2).

DO GOVERN YOURSELF ACCORDINGLY.

Montreal, March 4, 2024



KUGLER KANDESTIN LLP

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DOCUMENTS AND INFORMATION and
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ORIGINAL

Mtre Jeremy Cuttler/ Mtre Claudia Giroux

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