

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

STEPHEN APS

Plaintiff

- and -

FLIGHT CENTRE TRAVEL GROUP (CANADA) INC.

Defendant

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT, 1992*

MINUTES OF SETTLEMENT AND RELEASE

WHEREAS, in February 2019, the Plaintiff commenced a Proposed Class Action, being Court File No. CV-19-00614755-00CP, seeking to represent certain current and former employees of the Defendant, Flight Centre Travel Group (Canada) Inc. (“**Flight Centre**” or the “**Defendant**”) and claiming, among other things, compensation for alleged unpaid overtime;

AND WHEREAS, Flight Centre advised that they intend to vigorously defend the Action and deny the allegations that have been made;

AND WHEREAS, the Parties wish to fully and finally resolve all matters in dispute between them in relation to the Action;

AND WHEREAS, taking into account the burdens and expense of continued litigation, including the significant risks and uncertainties associated with completion of the litigation and any potential appeals, the Plaintiff, with the benefit of advice from Class Counsel, has concluded

after a two day mediation with Joel Wiesenfeld that the settlement on the terms and conditions set out in this Settlement Agreement are fair and reasonable, and in the best interests of the Class;

AND WHEREAS, the Parties entered into a Term Sheet to resolve this proposed class action on July 23, 2020 which contemplated that a Settlement Agreement would be negotiated as between the Parties by August 14, 2020;

AND WHEREAS, the Parties intend by these Minutes of Settlement and Release (the “**Settlement Agreement**”) to resolve, terminate, and finally conclude any and all claims raised or which could have been raised in the Action and seek the approval of the terms of the Court, and further intend that the Defendant shall receive full and complete releases and finality and peace from the Class;

NOW THEREFORE in consideration of the covenants, agreements and releases set forth herein and for good and valuable consideration received, the Parties stipulate and agree that the Action shall be fully and finally settled and resolved on the terms and conditions set forth in this Settlement Agreement, subject to approval by the Ontario Superior Court of Justice (the “**Court**”):

1. This settlement is conditional upon the Court issuing an order certifying the Action as a class proceeding, and approving this Settlement Agreement on the terms that follow.
2. The Plaintiff shall support the terms of this Settlement Agreement and shall take all necessary steps to bring a motion for its approval by the Court.
3. The Defendant agrees to support the approval of the terms of this Settlement Agreement by the Court and, in particular, shall not object to the Class Counsel Fees, Class Counsel Disbursements, or Representative Plaintiff Honorarium as provided for in this Settlement Agreement.
4. The Parties shall use their best efforts to implement the terms of the settlement outlined in this Settlement Agreement.
5. For the purposes of this Settlement Agreement, the following definitions apply:

- (a) *Action* or *Proposed Class Action* means the proposed class proceeding commenced by Stephen Aps by way of Statement of Claim in the Ontario Superior Court of Justice under Court File No. CV-19-00614755-00CP, as amended, including any and all claims made therein.
- (b) *Administration Expenses* means all fees, disbursements, expenses, costs, taxes, and any other amounts incurred or payable by the Plaintiff, Class Counsel or otherwise for the approval, implementation, and operation of this Settlement Agreement, including the costs of notices and translation and the costs of the Claims Administrator, but excluding Class Counsel Fees and Class Counsel Disbursements;
- (c) *Claim Fund* means the Settlement Amount remaining after deductions in respect of Class Counsel Fees, Class Counsel Disbursements, Administrative Holdback, Representative Plaintiff Honorarium, and Holdback for Taxes;
- (d) *Claims* means any and all actions, causes of action, claims, complaints, debts, demands, liabilities, suits or other proceedings of any kind or nature whatsoever and howsoever arising, whether in law, equity, contract, extra-contractual liability (including negligence), obligations or otherwise, whether express or implied and whether presently known or unknown, including any proceedings under any statute, and in particular, but without limiting the generality of the foregoing, any and all claims up to the Effective Date that were advanced in the Action or could have been advanced in the Action;
- (e) *Claims Administrator* means the firm appointed by Class Counsel, and approved by the Defendant and the Court, to administer the Claim Fund in accordance with the provisions of this Settlement Agreement;
- (f) *Claims Administrator Appointment Date* means the date Class Counsel advises the Defendant of the appointment of the Claims Administrator;
- (g) *Class* means all current or former Travel Consultants employed by Flight Centre in the Provinces of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba,

Nova Scotia and Newfoundland, for the period from December 2008 to the date certification is granted in this action;

- (h) ***Class Counsel*** means Goldblatt Partners LLP;
- (i) ***Class Counsel Disbursements*** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Action;
- (j) ***Class Counsel Fees*** means the fees of Class Counsel, and any applicable taxes;
- (k) ***Class Member*** means a member of the Class;
- (l) ***Class Period*** means December 2008 to the date of certification;
- (m) ***Counsel for Flight Centre*** means Norton Rose Fulbright Canada LLP;
- (n) ***Date of Execution*** or ***Execution Date*** means the date this Settlement Agreement is signed by all of the parties;
- (o) ***Defendant*** means Flight Centre Travel Group (Canada) Inc.;
- (p) ***Distribution Protocol*** means the protocol developed by Class Counsel for the distribution of amounts from the Settlement Amount to the Class Members and agreed to by the Defendant or directed by Joel Wiesenfeld, in accordance with Section 25;
- (q) ***Effective Date*** means the date when the Order received from the Court approving this Settlement Agreement has become a Final Order;
- (r) ***Final Order*** means a final order, judgment or equivalent decree entered by the Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals, and ***Final Approval*** shall have a corresponding meaning;

- (s) ***Flight Centre*** means the Defendant, Flight Centre Travel Group (Canada) Inc.;
- (t) ***Opt-Out Threshold*** means the number of class members, excluding any class members who already filed an employment standards claim as of the date of the signing of the Term Sheet, July 23, 2020, as outlined in the Term Sheet and disclosed to the Court on a confidential basis;
- (u) ***Plaintiff*** means Stephen Aps, or any other person approved by the Court as the representative plaintiff in this proceeding;
- (v) ***Releasees*** means the Defendant and all of its respective parents, associates, affiliates or related persons (as such terms are defined by the Ontario *Business Corporations Act*), which shall include, for greater specificity, the Defendant's parent, Flight Centre Travel Group Limited, and all predecessors, successors or assigns thereof, and all of their respective directors, officers, servants, employees, advisors and agents (both individually and in their official capacities with any of the preceding entities);
- (w) ***Releasers*** means the Plaintiff and Class Members, for themselves, their heirs, executors, successors and assigns;
- (x) ***Remaining Fund*** means any funds remaining from the Settlement Amount after deduction and payment of Class Counsel Fees, Class Counsel Disbursements, Administrative Holdback, Representative Plaintiff Honorarium, Holdback for Taxes, and distribution to Class Members pursuant to the Distribution Protocol (i.e., stale cheques where reasonable efforts to locate a Class Member have been exhausted);
- (y) ***Representative Plaintiff Honorarium*** means an honorarium for Stephen Aps in the amount of \$10,000, or such lesser amount, subject to approval by the Court;
- (z) ***Settlement Amount*** means \$7,000,000.00;
- (aa) ***Timekeeping System*** means a system to track and record the daily hours of work of employees for the purpose of determining the employees' actual hours of work

and, among other things, determining overtime hours in accordance with the applicable employment standards legislation in each province the Defendant operates in;

(bb) *Trust Account* means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46) held at a Canadian financial institution, as provided for in this Settlement Agreement.

6. Any notices in connection with the certification and settlement approval shall include an opt-out procedure and be in a form agreed upon by the Parties and approved by the Court or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Court. The Opt-Out Threshold shall remain confidential to the Parties such that it shall be redacted from the Term Sheet and these Minutes of Settlement and shall not be included in the notice or otherwise disclosed by the Parties, except to the presiding Judge of the Court for the purposes of settlement approval. Notices shall be distributed by regular mail or email to the last known addresses or email addresses of the Class Members, to the extent such information is available in the Defendant's records and can be obtained through reasonable efforts. Notices shall also be posted on the website of Class Counsel.
7. The Defendant shall make reasonable efforts to locate, obtain and provide to Class Counsel and the Claims Administrator a list of the Class Members in Excel format listing the individuals' first name, middle name(if available), last name, start date, end date, phone number (if available), email address (if available) and mailing address within thirty (30) days of the Execution Date, to the extent such information is available in the Defendant's records.
8. The Defendant shall make reasonable efforts to answer reasonable questions and inquiries of Class Counsel and the Claims Administrator required to implement the terms of this Settlement Agreement within ten (10) business days of such questions being provided in writing to the Defendant.

9. This Settlement Agreement is made without any admission of liability by any of the Releasees, which liability is expressly denied. Specifically, and regardless of whether this Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees, or of the truth of any of the claims or allegations contained in the Action.

10. The Parties agree that the Plaintiff shall issue and serve an Amended Amended Statement of Claim amending the class definition as follows:

All current or former Travel Consultants (~~including Corporate Travel Consultants and International Travel Consultants~~) employed by Flight Centre at its ~~retail locations~~ in the Provinces of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia and Newfoundland, for the period from December 2008 to the date certification is granted in this action.

(together referred to as the “**Class Members**” or the “**Class**”).

11. The Parties agree that, for the purposes of settlement, the Action shall be certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, Chapter 6. The Class is defined as follows:

All current or former Travel Consultants employed by Flight Centre in the Provinces of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia and Newfoundland, for the period from December 2008 to the date certification is granted in this action.

(together referred to as the “**Class Members**” or the “**Class**”).

12. The Parties agree that the Action shall be certified on consent and include the common issues attached at Schedule “A”.

13. Class Counsel shall make best efforts to appoint the Claims Administrator within twenty (20) days of the Execution Date, and shall appoint the Claims Administrator no later than thirty (30) days of the Execution Date. Class Counsel shall advise the Defendant once the

Claims Administrator has been appointed, and shall provide the name and contact information for the Claims Administrator to the Defendant for approval, as well as any other information the Defendant reasonably requires to implement the terms of this Settlement Agreement. The Defendant shall, acting reasonably, provide approval of the Claims Administrator within five (5) days of receiving notice of its appointment. In determining its approval of the Claims Administrator, the Defendant may, acting reasonably, require the Claims Administrator to confirm and verify that its data handling practices and policies comply with applicable privacy laws and legislation to which the Defendant may be subject. In the event the Defendant does not approve the Claims Administrator proposed by the Plaintiff, the Plaintiff may request an expedited telephone case conference with the presiding Judge of the Court regarding the appointment of a Claims Administrator. The Parties agree that the presiding Judge of the Court shall have the right to select a Claims Administrator and that this selection shall be binding upon the Parties.

14. Flight Centre shall pay the Settlement Amount to Class Counsel for deposit into the Trust Account for the benefit of the Class within ten (10) business days of the Effective Date. The Plaintiff may agree in writing to extend the deadline.
15. Payment of the Settlement Amount to Class Counsel shall be made by wire transfer. Class Counsel shall provide to Flight Centre, in writing, the banking information necessary to complete the wire transfer within no later than two (2) business days of Final Approval.
16. The Settlement Amount shall be all-inclusive of all amounts, including, without limitation, interest, costs, Holdback for Taxes, Administration Expenses, Class Counsel Fees, taxes payable or that may become payable, Class Counsel Disbursements and the Representative Plaintiff Honorarium. For clarity, the Defendant shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement, the Action, or any other actions related to the released Claims, including any amount for employees' deductions and withholdings, or any employer remittances, relating to payments made to Class Members in accordance with this

Settlement Agreement and including without limitation any disbursement or administration fees to Class Counsel and/or Class Administrator.

17. Flight Centre agrees to implement a Timekeeping System, as defined in section 5(aa), which shall track and record the daily hours of work for all employees in the job classifications covered by these Minutes of Settlement. Flight Centre will make best efforts to implement this Timekeeping System by January 31, 2021.
18. The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the released Claims against the Releasees.
19. Except as otherwise provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Class and shall become and remain part of the Trust Account. All taxes payable on any interest that accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account, and Class Counsel shall be responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account. For clarity, the Defendant shall have no responsibility to make any filings relating to the Trust Account and shall have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Defendant, who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel or the Claims Administrator.
20. The Settlement Amount shall be distributed as follows following the Effective Date:
 - (a) **Class Counsel Fees:** Subject to the approval of the Court, Class Counsel Fees shall be 25% of the Settlement Fund, plus HST, or such other amount as approved by the Court;

- (b) **Administrative Holdback:** An amount for the estimated Administration Expenses, based on the estimate/proposal of the Claims Administrator. If the amount of the Administration Expenses exceeds the estimate/proposal, this shall be paid by Class Counsel out of the Class Counsel Fees;
 - (c) **Class Counsel Disbursements:** The disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Action;
 - (d) **Representative Plaintiff Honorarium:** An honorarium for the Plaintiff in the amount of \$10,000, or such lesser amount, subject to approval by the Court;
 - (e) **Holdback for Taxes:** A reasonable amount as may be required for payment of taxes on account of any interest earned in the Trust Account;
 - (f) **Claim Fund:** The amount remaining after the payments contemplated by Sections 20(a), 20(b), 20(c), 20(d), and 20(e) shall be distributed by the Claims Administrator to Class Members in accordance with the Distribution Protocol, as directed by Class Counsel and approved by the Court;
 - (g) **Remaining Fund:** No later than twelve (12) months from the Effective Date, if any amount is remaining from the Settlement Amount and the Administrative Holdback after the distribution set out in Section 20(f) (i.e., stale cheques where reasonable efforts to locate the Class Member have been exhausted) and the payment of any taxes on account of interest earned in the Trust Account, such amount shall be paid to the Ontario Employment Education & Research Centre (OEERC), or as directed by the Court.
21. Following the distribution of the payments contemplated by Sections 20(a), 20(b), 20(c), 20(d), within six (6) months from the Effective Date, Class Counsel shall transfer the Claim Fund to the Claims Administrator to be distributed in accordance with Section 20(f) and the Distribution Protocol, deducting the Holdback for Taxes, in accordance with Section 20(e).

22. Class Counsel may share with the Claims Administrator any documents disclosed by the Defendant in these proceedings as may be reasonably necessary for the purposes of administering the settlement.
23. The Claims Administrator shall provide a report to the Parties at the conclusion of the administration of the Claim Fund accounting for the funds paid and shall answer any questions or provide any information the Parties may request or require regarding the Claims Administration and shall destroy any information or documents in connection with this matter 60 days following the distribution of the Claim Fund to the Class Members.
24. No amounts shall be paid from the Settlement Amount except in accordance with this Settlement Agreement, the Distribution Protocol, or an order of the Court obtained after notice to the Parties.
25. Class Counsel shall prepare a draft Distribution Protocol and shall provide this to the Defendant no later than ten (10) days from the Execution Date. The Parties shall endeavour to reach agreement on a Distribution Protocol within twenty (20) days from the Execution Date. In the event no agreement is reached, the Parties agree to remit the matter of the Distribution Protocol to Joel Wiesenfeld for determination. The Distribution Protocol as agreed to by the parties or determined by Joel Wiesenfeld shall form part of this Settlement Agreement. The Distribution Protocol shall include a tier for current or former employees of Flight Centre in British Columbia who will receive compensation that reflects the employment standards legislation, regulations and caselaw in British Columbia. The Distribution Protocol will also outline the process by which taxes or any other amounts payable on the proceeds of the Claim Fund which are paid to the Class, and which will confirm that the Defendant is not responsible to withhold any amounts and that the Claims Administrator and each member of the Class are responsible for any tax or other amounts payable and will indemnify the Defendant for any liability in this regard.
26. Class Counsel's preparation of the Distribution Protocol and representation of the Class does not in any way extend to tax inquiries that may arise as a result of the Distribution Protocol. Class Members shall be advised to seek independent tax advice.


27. In the event that the Court declines to approve this Settlement Agreement, or approves this Settlement Agreement in a materially modified form not acceptable to either Party, the Plaintiff and the Defendant shall each have the right to terminate this Settlement Agreement by delivering a written notice within five (5) days following an event described above. In the event that the Opt-Out Threshold is reached, the Defendant shall have the right to terminate this Settlement Agreement by delivering a written notice within five (5) business days following the Defendant being advised in writing by the Plaintiff that the Opt-Out Threshold has been exceeded. In the event the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.
28. The Plaintiff, the Defendant, and all Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason.
29. The Parties shall share equally (50% each) the fees of the mediation held on July 22 and 23, 2020 with Joel Wiesenfeld.
30. Upon the Effective Date, and in consideration of the payment of the Settlement Amount and for other valuable consideration set forth in this Settlement Agreement, the Releasors do hereby release and forever discharge the Releasees of and from all Claims that any of the Releasors has had, now has or may hereafter have against the Releasees, which were raised or could have been raised in the Action, whether known or unknown, and whether legal, equitable, in contract or tort. The Releasors further acknowledge and agree that this release is intended to cover, and does cover, all of the effects and consequences of such Claims that were raised or could have been raised in the Action. If such a Claim is filed, this Settlement Agreement shall constitute a full and final bar and/or answer to such Claims. For clarity, each Releasor further covenants and agrees that, as a condition of receiving any payment under this Settlement Agreement, they shall take all necessary steps to ensure the withdrawal or dismissal of any such Claims filed in any forum. This term shall be incorporated into the Order approving this settlement.

31. Upon the Effective Date, the Releasors and the Releasees absolutely and unconditionally release and forever discharge the Plaintiff, (other) Class Members, Class Counsel, and the Claims Administrator from any and all Claims relating to the institution, prosecution and/or administration of this proceeding excluding any action relating to a breach of this Settlement Agreement.
32. The Releasors covenant and agree that they shall not make, either directly or indirectly, on their own behalf or on behalf of any other person or entity, any Claims (including any cross-Claims, counter-Claims or third party Claims) against any person or entity who might claim contribution or indemnity against the Releasees in connection with any matter released under this Settlement Agreement. The Releasors further covenant, represent, and warrant that they shall not voluntarily participate in or assist with, either directly or indirectly, on their own behalf or on behalf of any other person or entity, any Claims raised or brought by any person or entity against the Releasees in connection with any matter released under this Settlement Agreement.
33. The Releasors covenant and agree that if they make any Claim, or voluntarily participate in any Claim, in connection with any matter released by this Settlement Agreement, or threatens to do so, this Settlement Agreement may be raised as an estoppel and complete bar to any such Claim, and that the Plaintiff shall be liable to the Releasees for its or their costs and expenses, including reasonable legal fees, incurred in responding thereto.
34. The Releasors acknowledge and agree that the gross sum of the Settlement Amount to be paid by the Defendant in respect of the Settlement is inclusive of all amounts owing by the Releasees or otherwise to be paid by the Releasees in respect of the Settlement Amount or the administration of the Settlement, including in respect of costs (including fees and disbursements), taxes and interest.
35. Upon the Effective Date, the Action shall be dismissed with prejudice and without costs as against the Defendant.
36. Each of the Parties hereby affirms and acknowledges that:

- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
 - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
 - (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
 - (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.
37. This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
38. The Ontario Superior Court shall exercise ongoing jurisdiction in relation to the implementation, administration and enforcement of the terms of this Settlement Agreement and Class Counsel or the Defendant may apply to the Ontario Superior Court as may be required for directions in respect to the interpretation, implementation and administration of this Settlement Agreement.
39. In the computation of time under this Settlement Agreement, where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and only in the case where the time for doing an act expires on a weekend or on a holiday, as "holiday" is defined in the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, the act may be done on the next day that is not a weekend or holiday.

40. This Settlement Agreement may be signed in counterpart each of which will be deemed an original and all of which, when taken together, will be deemed to constitute one and the same agreement.
41. This Settlement Agreement may be signed electronically and a facsimile copy or electronic signature shall be deemed an original signature for the purposes of this Settlement Agreement.
42. The Parties agree that the recitals to this Settlement Agreement are true and form part of this Settlement Agreement.
43. A scanned, facsimile, or electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

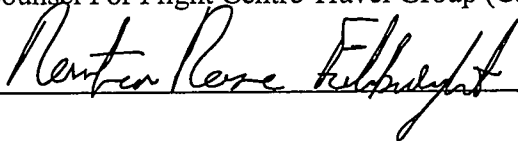
Counsel for Stephen Aps



Joshua Mandryk, Goldblatt Partners LLP

Dated at Toronto this 21st day of August, 2020

Counsel For Flight Centre Travel Group (Canada) Inc.



Renter Rene Felbuegel

Dated at Toronto this 21st day of August, 2020

Schedule "A" – Common Issues

1. What are the relevant terms of the Class Members' contracts of employment with the Defendant respecting:
 - a. Regular and overtime hours of work?
 - b. Recording of the hours worked by Class Members?
 - c. Compensation for hours worked by Class Members?
2. Did the Defendant breach any of the foregoing contractual terms?