

BRITISH COLUMBIA SECURITIES COMMISSION
Securities Act, RSBC 1996, c. 418

Citation: Re Morabito, 2022 BCSECCOM 433

Date: 20221018

**Global Crossing Airlines Group Inc. (formerly known as Canada Jetlines Ltd.)
and Mark Morabito**

Panel	Judith Downes	Commissioner
	James Kershaw	Commissioner
	Marion Shaw	Commissioner

Submissions Completed September 6, 2022

Ruling Date October 18, 2022

Counsel

Deborah Flood	For the Executive Director
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Sean K. Boyle Jenna Green	For Global Crossing Airlines Group Inc.
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Robert J.C. Deane Paige Burnham	For Mark Morabito
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Ruling

I. Introduction

- [1] On October 7, 2021 the executive director issued a notice of hearing containing allegations against Global Crossing Airlines Inc. (formerly known as Canada Jetlines Ltd.) (Global) and Mark Morabito (Morabito) (together, the respondents).
- [2] Counsel for Global advised the panel that Global has changed its name to “Global Crossings Airlines Group Inc.” The executive director agreed that the style of cause should be amended to reflect the change of name. The style of cause has been amended accordingly.
- [3] By notices of application dated March 24, 2022 and April 19, 2022 respectively, Morabito and Global sought orders requiring the executive director to disclose all materials in his possession including, but not limited to, materials relating to John Sutherland, Stanley Gadek or any other then-existing or former employees of Canada Jetlines Ltd. obtained or created by the executive director or his staff in the course of his investigation or in respect of the matters set out in the notice of hearing within five days of the order being made.

- [4] The respondents also sought an order requiring the executive director to provide the respondents with a document specifying each document in his possession or control relating to the investigation that the executive director had not disclosed, or after the date of the order does not disclose, and describing each document in sufficient detail so that the grounds upon which the executive director had not disclosed it could be assessed, within 14 days of the order being made.
- [5] On April 29, 2022, Morabito filed a reply in which he sought an additional order that the executive director produce the referral from The Investment Industry Regulatory Organization of Canada (IIROC) referenced in a disclosure list previously provided by the executive director together with related documents.
- [6] On June 22, 2022, the executive director provided the respondents with a supplemental disclosure list which contained the requested IIROC documents.
- [7] On September 6, 2022, the panel heard oral submissions from the parties.

II. Ruling

- [8] After considering the evidence and the written and oral submissions of the parties, the Commission orders that by October 31, 2022, the executive director file with the Hearing Office and provide to the respondents:
 - (a) a list of each document over which the executive director claims settlement privilege and describing each document in sufficient detail so that the grounds upon which the executive director has claimed settlement privilege may be assessed;
 - (b) a list of the categories of documents over which the executive director claims litigation privilege and describing each category in sufficient detail so that the grounds upon which the executive director has claimed litigation privilege may be assessed;
 - (c) unredacted copies of the documents described in paragraph 11(a) of Affidavit #2 of a Commission investigator sworn June 30, 2022 (Second Affidavit);
 - (d) an unredacted copy of the document described in paragraph 11(b) of the Second Affidavit; and
 - (e) a list of the categories of documents described in paragraph 12 of the Second Affidavit which the executive director asserts are irrelevant and describing each

category in sufficient detail so that the grounds upon which the executive director has determined relevancy may be assessed.

[9] Our reasons will follow.

October 18, 2022

For the Commission

Judith Downes
Commissioner

James Kershaw
Commissioner

Marion Shaw
Commissioner