

## Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

Institution: 1540 – Langley Flying School Inc.

### 1. Introduction

The Complainant withdrew from the Pilot and Job Guarantee Program [**Program**] in which he enrolled on May 21, 2022 and filed a claim against the Institution on March 17, 2023 [**Complaint**].

The Complainant exhausted the Institution's dispute resolution process [**DRP**] prior to filing this Complaint.

The Program is comprised of the following programs:

- Aviation English Course
- Aviation Theory Course
- Private Pilot License [**PPL**]
- Commercial Pilot License [**CPL**]
- Night Rating
- VFR-Over-The-Top Rating
- Multi-Engine Rating
- Instrument Rating
- Instructor Rating

The Complainant alleges he was misled in respect of the Program and is seeking a tuition refund of \$155,225 for the three years he attended.

**For the reasons outlined below, I find the Institution misled the Complainant regarding a significant aspect of the Program and, accordingly, approve the claim.**

### 2. Statutory Scheme

Section 23(1) of the *Private Training Act* [**Act**] provides that a student may file a claim against the Student Tuition Protection Fund [**Fund**] on the ground that a certified institution misled the student regarding any significant aspect of an approved program of instruction in which that student was enrolled. Claims are filed with the Trustee, being the minister or the person to whom the minister has delegated the relevant powers or duties.

Claims must be filed no later than one year after the student completed or was dismissed or withdrew from the program and only after the student has exhausted the institution's dispute resolution process.

Following receipt of the complaint, the process is as follows:

Claim the student was misled		
Who	What	When
Trustee	Gives a copy of the claim to the institution	As soon as practicable
Institution	May respond to the claim [Response]	Within 15 days of receiving a copy of the claim from the Trustee
Trustee	Gives the Response from the institution, if any, to the student	Within 15 days of receiving the Response from the institution
Student	May reply to the Response from the institution [Reply]	Within 15 days of receiving the Response from the Trustee
Trustee	Must give the Reply from the student, if any, to the institution	Within 15 days of receiving the Reply from the student
Trustee	Adjudicates the claim to determine whether any refund should be issued, and provides written reasons to the student, the institution, and the registrar.	

If a claim is approved, the Trustee may authorize payment from the Fund of all or a portion of the tuition paid to the institution by or on behalf of the student. Section 25(4) of the *Fees and Student Tuition Protection Fund Regulation* requires that payments from the Fund be directed first to the government if all or a portion of the tuition was paid using funds from a provincial or federal student assistance program, and then to the claimant.

**3. Program Information**

Program: Pilot and Job Guarantee Program

- Aviation English Course
- Aviation Theory Course
- Private Pilot License [PPL]
- Commercial Pilot License [CPL]
- Night Rating
- VFR-Over-The-Top Rating
- Multi-Engine Rating
- Instrument Rating
- Instructor Rating

Start date: September 3, 2019

End date: No end date listed in enrolment contract

Fees (listed in the Tuition Fee for Pilot & Job Guarantee Program)

Tuition:

First Academic Year	\$ 50,098.00
Second Academic Year	\$ 50,797.00
Third Academic Year	\$ 51,440.00

Fourth Academic Year	\$ 50,380.00
Other costs (listed as "approximately")	
First Academic Year	\$ 2,390.00
Second Academic Year	\$ 1,455.00
Third Academic Year	\$ 2,075.00
Fourth Academic Year	\$ 500.00
Amount paid to date by Complainant:	\$ 155,225.00
Amount of tuition paid to date by Complainant	\$ 152,335.00

#### 4. Issues

The following issue arises for consideration: Was the Complainant misled in relation to the manner in which the Institution operates and, specifically, the Institution's dealings and communication with the Complainant regarding the Program?

#### 5. Chronology

<b>March 3, 2019</b>	Student Enrolment Contract
<b>March 9, 2019</b>	Canadian Pilot Employment Guarantee Agreement
<b>May 19, 2020</b>	Institution letter congratulating Complainant for completing first year of commercial pilot (instructor) program and requesting payment for second year
<b>May 10, 2021</b>	Institution letter congratulating Complainant for completing second year of commercial pilot (instructor) program and requesting payment for third year
<b>May 2022</b>	Meeting between the parties related to Complainant's request to withdraw from Program
<b>May 21-23, 2022</b>	Withdrawal Application Form
<b>August 23, 2022</b>	Complainant requests refund, initiates DRP
<b>September 23, 2022</b>	Institution issues decision refusing to issue refund [ <b>Decision</b> ]
<b>March 17, 2023</b>	Complainant files Complaint

#### 6. Analysis

The Complainant is an international student.

The Complainant entered into a single enrolment contract for the provision of the four-year Program. Tuition and fees for each year are over \$50,000.

The enrolment contract lists the programs which together comprise the Program. The Complainant never completed the PPL program which is delivered in the initial portion of the Program. Consequently, the Complainant could not progress to the other flight programs for which holding a PPL is an admission requirement.

The Complainant submits the following:

The reason why I requested a refund of the tuition fees is because I did not finish the Private Pilot License program, but the institution still required me to pay for the second and the third year's tuition fees in order to finish the PPL program. I have contacted the institution once I have decided to withdraw from the program and requested the refund of the tuition fees. The institution refused to give me a refund without providing a good reason for cutting short the ground school hours and flight training hours that I should get, instead the institution told me that I must continue the program, or they will not refund any tuition fees.

The Complainant submitted the original and a translated copy (Mandarin to English) of the Institution's Pilot Employment Program Admission Brochure, Admission Guide (09/2019) [**Brochure**].

The Brochure lists "Contents of Courses" as follows:

- First year: Aviation English, professional aviation courses and private pilot license courses.
- Second year: Business licensing courses, multiple courses.
- Third year: Instrument courses and instructor courses.
- Fourth year: Paid work placement.

My understanding is that "Business licensing courses" refers to the CPL.

The Complainant alleges that he was forced to sign the Institution's Withdrawal Form which provides "tuition fees have been cleared".

To date, the Complainant paid over \$155,000 in three instalments. The Complainant's last payment to the Institution was made on June 7, 2021.

The cost of the Institution's PPL program listed with PTIB, which is in line with other similar programs, is as follows: \$3,400 (tuition); \$500 (application fee); \$200 (administration fee; \$120 (textbooks); \$140 (materials); and 12,000 (other fees including aircraft rental).

In its Decision, the Institution refuses to refund the Complainant and cites the Enrolment Agreement: "... no tuition fees shall be refunded if the student elects to voluntarily withdraw from the Program during the term of the Program". The Institution also refers to the terms of the Withdrawal Form which includes the following statement: "The tuition and fees have been cleared". The Institution adds: "Given the Enrollment Agreement and the Withdrawal, you have known and agreed that you are not entitled to any refund of the Tuition Fee".

The Institution adds: "The reason given by you to justify your request for refunding the Tuition Fee was that you did not receive your CPL and Instructor Rating which should have conducted in the second and third academic year. The School respectfully disagreed to it as failure to enrol into the CPL program was entirely due to your early withdrawal from the Program".

In its Response, the Institution denies it made any representation that the Complainant would obtain his PPL in the first year, CPL in the second year, or the Instructor Rating in the third year. The Institution submits that:

... [T]he Enrolment Agreement indicates the intent and objectives of the Program, as a whole, are to provide educational and training services to enable students to achieve listed certificates within the study period; and no provision in the Enrolment agreement provides that obtaining PPL is a pre-condition to complete the first academic year with the School in the Program.

The Institution says that academic years described in the Tuition Fee for Pilot & Job Guarantee Program “provides a guidance of teaching plan” and includes the following note: “the teaching plan is for reference only, and it will be adjusted due to the weather, aircraft conditions and student progress”.

The Institution submits as follows:

The School did not make any misrepresentations, whether in the Enrolment Agreement or otherwise, about the merits of the Program nor has it ever misled [the Complainant] regarding the standard of completing any academic year. Even though [the Complainant] had confusion about the completion standard of any academic year in the Program with being awarded certain credentials by the Transport Canada.

- (1) No evidence in [the Complainant’s] submission proves that [the Complainant’s] misunderstanding was due to the representation or statement made by the School;
- (2) It is incumbent upon [the Complainant] to make due inquiry when receiving the Completing Statements congratulating him for completing his first and second year, and;
- (3) He should have refused to make payment of tuition fees for the second and third years if he had any doubt about the completion standard of the first academic year.

The Institution adds:

It is unfair and unreasonable that two years later after [the Complainant] had enjoyed all the services provided by the School came back to claim that he had been misled by not finishing his first academic year when he made no dispute about any aspect of the Program or the performance of the School during his enrolment in the Program.

Finally, the Institution denies the Complainant was forced to sign the Withdrawal letter.

## **7. Decision**

For the reasons outlined below, I find the Institution misled the Complainant in relation to manner in which the Institution operates, and specifically, its dealings and communication with the Complainant regarding the Program. Accordingly, I approve the claim.

As a preliminary issue, I note that my authority to adjudicate complaints is limited to those that relate to approved programs.

The Pilot Program Student Enrolment Contract lists the programs which together comprise the Program. It includes the CPL and other approved programs. In addition, the Institution's May 19, 2020 and May 10, 2021 letters congratulate the Complainant for completing the first and second year of the CPL.

This is a sufficient basis for me to find the Complainant enrolled in an approved program.

I now turn to the merits of the claim.

The Institution is regulated under the Act. The Act is consumer protection legislation that recognizes the power imbalance between a student and an institution and establishes compliance standards institutions must comply with. This includes standards related to enrolment contracts, admission requirements, Tuition Refund Policy, and Student Withdrawal Policy.

The Institution's conduct demonstrates a complete disregard for compliance with basic standards meant to afford protection to students, including the Complainant. Specifically:

- The Pilot Program Student Enrolment Contract is for a four-year period (maximum length of a contract is 18 months) (*Private Training Regulation [PTR] 24(2)(b)*).
- The Complainant was enrolled in approved programs without having met the admission requirement (PPL) for the programs (PTR 18(2)(a)).
- The Institution's Tuition Refund Policy, which must comply with the minimum provided in the PTR, is not listed in the Pilot Program Student Enrolment Contract (PTR 24(5)(d), 27).
- The requirement to submit the Withdrawal Form developed by the Institution contravenes PTR 46 which provides the Complainant can simply deliver a notice to the Institution. Further, the provision specifying the Complainant may not ask for a refund or enroll at another institution is unfair and unreasonable.

The Institution's non-compliance with core standards negatively affected the Complainant and directly contributed to the circumstances that gave rise to the Complaint.

I have carefully reviewed the evidence submitted in support of the claim and find, on a balance of probabilities, the Complainant would not have paid over \$150,000 if the Institution had been operating in compliance. In other words, but for the non-compliance, the Complainant would not have entered into a four-year contract that does not include a Tuition Refund Policy and would not have been admitted into an approved program without meeting the admission requirements.

For these reasons, I approve the claim and order a refund of \$102,237. In calculating the refund, I have determined that the initial tuition payment (\$50,098) was made in relation to the PPL program which the Complainant attended. I have deducted this amount from the total tuition paid to date.

As Trustee, in accordance with section 25 of the Act, I authorize payment of \$ 102,237 from the Fund. The payment from the Fund will be directed in the following order: first, to the government, if all or a portion

of the tuition was paid using funds from a provincial or federal student assistance program, and second, to the Complainant.

The Institution is required to repay the total amount of \$ 102,237 to the Fund (Act, s.27).

Decisions of the Trustee are final and conclusive and are not subject to appeal (Act, s.24(5)).

September 18, 2023

A handwritten signature in black ink, appearing to read "Anthony Loughran", with a long horizontal flourish extending to the right.

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**Tony Loughran**  
Trustee, Student Tuition Protection Fund