

TRAVEL AGENCY COMMISSIONER - AREA 1
VERÓNICA PACHECO-SANFUENTES
110 – 3083 West 4th Avenue
Vancouver, British Columbia V6K 1R5
CANADA

DECISION 2015 - # 3

In the matter of:

International Air Transport Association (“IATA”)

703 Waterford Way, Suite 600

Miami, Florida 33126

United States of America

Represented by the Assistant Director, Agency Management, SC
Americas, Ms. Diana Larrañaga

The Applicant

vs.

ROD2 Turismo Ltda

IATA Code 57-5 6261

Largo do Machado No. 29, Cobertura 01

Catete, Rio de Janeiro /R.J. 22221 – 020

Brazil

Represented by its Director, Mr. Thiago Baldino

The Agent

I. The Case

The 13th of February 2015 the Applicant decided to suspend the Agent based on Resolution 818g, Attachment “A”, Paragraph 1.8 “*Prejudiced Collection of Funds*” provisions.

Immediately, the Applicant, following Paragraph 1.8.2, gave notice to this Office and shortly after this Commissioner allowed the review and notified the Agent of his rights to present submissions and provide evidence in his defence.

Several notices were sent to the Agent, however, at no avail, since it never responded and, hence, never made representations about his case; therefore, this decision is based on the Applicant’s submissions only.

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II. Chronology of events

The following was the chronology of events submitted by the Applicant and, in fact, the information that it had at hand when decided to suspend the Agent from the BSP system withdrawing its ticketing capacity:

- Agent fails to remit the sales period corresponding 20150201W for the amount of BRL 3,410,186.28 by the Remittance Date (being 11 February 2015);
- Agent is called, no answer; a letter and an email are dispatched with demand for payment on 13FEB2015;
- Agent could not be contacted via telephone that day;
- Considering that it was carnival in Brazil, the Bank could only confirm on Tuesday 17FEB2015, at the earliest, if the payment had been made;
- The review of the Agent's subsequent sales report (corresponding the week of 20150301W) was for the amount of BRL 4,350,422.19;
- Making the total monies outstanding on those two sales periods of BRL 7,760,608;
- The subsequent partial sales report (corresponding the week of 20150401W) amount was not available at that time, hence, additional monies were at risk.

Some other important facts were:

- This was a new Agent, being approved on 9JAN2015;
- Financial Security on file was for the amount of BRL 18,000 based on local financial criteria;
- The Agent's website was not functional;
- No answer from any of the telephone contacts of the Agency or their website;
- Member Airlines with greater sales:
 - COPA approximately US \$ 3 Million
 - AVIANCA approximately US\$ 1 Million
- The Agent could continue "booking" over the weekend;
- SABRE nor any of the GDSs were able to block "bookings" unless instructed by the carrier;

- RISK: Even if the Agent was not able to issue tickets, it was able to book and transfer bookings to another travel agency for ticketing.

III. Oral Hearing

Pursuant Paragraph 2.3 of Resolution 820e, this Commissioner has decided to base her decision on the written submissions and evidence that have been filed by the Applicant only, since both Parties have been given the opportunity to present their case but only the Applicant has done so.

IV. Considerations leading to conclusion

Considering the Agent's lack of response to this Office's notices giving it the opportunity to challenge the Applicant's decision of suspending it from the BSP system, on the grounds of Prejudiced Collection of Funds' provisions (Resolution 818g, Attachment "A", Section 1.8);

Based on the written evidence that has been provided by the Applicant to this Office, as well as the following information that was provided once gathered by the Applicant as a result of its own investigations;

V. Decision

Having carefully examined the referred evidence in light of the applicable Resolutions, I hereby conclude that the Applicant had indeed reasonable grounds, written information and facts at hand when it took the decision of suspending the Agent from the BSP, that legitimately lead it to the belief that Member Airlines' ability to collect funds from this Agent was at risk; therefore, its decision stands.

The Agent should remain suspended until a change in the current circumstances unfolds, making the Applicant believe that this Agent can be trusted again with Member Airlines' funds.

Decided in Vancouver, the 3rd day of March 2015

Verónica Pacheco-Sanfuentes
Travel Agency Commissioner Area 1
acting as Deputy TAC3

Right to ask for interpretation or correction

In accordance with Res 820e, § 2.10, any Party may ask for an interpretation or correction of any error which it may find relevant to this decision. The timeframe for these types of requests will be 15 days after receipt of the electronic version of this document.

Right to seek review by arbitration

As per Resolution 820e, Section 4 any Party has the right, if it considers aggrieved by this decision, to seek review by Arbitration, in accordance with the provisions of Resolution 824, Section 14, once the above mentioned time frame would have elapsed.

Note: The original signed version of this decision will be sent to the Parties by regular mail, once the referred period for interpretation/corrections would have expired.