

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

DECISION - July 10th, 2017

In the matter of:

Rosa Massoti Turismo e Intercambio Ltda. - EPP
IATA Code 57-5 1913 6
Avenida Nove de Julho 1155 - Loja 210-211-212
Jundiai 13201-020
Brazil
Represented by its Commercial Director, Mr. Alexandre Massoti

The Applicant

vs.

International Air Transport Association (“IATA”)
703 Waterford Way, Suite 600
Miami, Florida 33126
United States of America
Represented by the Agency Manager – The Americas, Ms. Carolina
Montoya Jaramillo

The Respondent

I. The Case

The Applicant sought a review of the Respondent’s Notice of Termination (“NoT”), served against it due to a failure to submit the requested financial statements (“FS”) within the given time frame to do so.

The Respondent sent innumerable reminders to the Applicant, aiming at its compliance and trying to avoid the consequences of a non-submission of the FS.

The Applicant argued that the person in charge of keeping track of the Applicant’s correspondence was under maternity leave, leaving the Applicant somewhat “incomunicado” with the external world.

II. Chronology of events

The following chronology of events was submitted by the Respondent and not contradicted by the Applicant, so this Office took it as valid.

23 March: Annual FS were requested to the Applicant with a due date April 19th, 2017.

04 April: A reminder to submit the Annual FS was sent to the Applicant.

11 April: A second reminder was sent to the Applicant.

16 April: A third reminder was sent to the Applicant.

17 April: A fourth reminder was sent to the Applicant.

19 April: Deadline to comply with the Annual FS.

20 April: A Notice of Irregularity (“NoI”) due to failure to comply with the Annual FS’s submission was issue to the Applicant. New deadline to comply was set by May 21st, 2017.

06 May: A fifth reminder was sent to the Applicant.

13 May: A sixth reminder was sent to the Applicant.

18 May: A seventh reminder was sent to the Applicant.

19 May: An eighth reminder was sent to the Applicant.

22 May: Applicant was suspended from the BSP, due to the non-submission of its FS. A NoT was sent to the Applicant. New deadline to comply in order to avoid termination was set to be June 30th, 2017.

15 June: A ninth reminder was sent to the Applicant, with the deadline of June 30th, 2017.

22 June: A tenth reminder was sent to the Applicant.

27 June: An eleventh reminder was sent to the Applicant.

28 June: A twelfth reminder was sent to the Applicant.

30 June: Deadline to comply with Annual FS.

03 July: Applicant was terminated due to failure to submit its FS. Termination letter was sent to him.

07 July: As per the Applicant's request, a termination letter was re-sent.

At the time of this review procedure, the Applicant had an outstanding amount of BRL 109.31 related to a BSPLink services.

III. Oral Hearing

Pursuant s. 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 Parties without the need of an oral hearing and without jeopardizing the due process.

IV. Considerations – Decision

In light of the evidence submitted, as well as judging from the Applicant's own affirmations, I see no wrongdoing whatsoever in the Respondent's actions; way the contrary, the Respondent not only acted in accordance with the applicable Resolutions, but went even further in its customer friendly approach and reached out to the Applicant in several occasions in an effort not only to communicate the pending obligation to him, but for him to avoid the detrimental consequences that non-compliance would entail, as it actually occurred.

Conversely, I find quite questionable, to say the least, the fact that an Applicant would have provided to the Respondent only one (1) sole email address as contact information, having others available, and, even worse, that such email address was not even properly monitored, once the person in charge of it left the Agency on a maternity leave. It is an **Accredited Agent's obligation** not only to monitor its email especially if it is their ONLY channel of communication with the Respondent, but particularly to keep the Respondent updated as of the proper contact information to be used.

Based on the above, I hereby confirm the Respondent's NoT.

Looking forward:

- I trust that Ms. Montoya Jaramillo will take good care of adding as many email addresses as the Applicant will provide to be recorded on his file;
- Should the Respondent have not already executed its NoT, provided the Applicant's financial statements would be duly examined, as every year they have to be (and the Applicant should have known this and, even more so, should have been particularly attentive to monitoring its emails at that time of the year, since it is an annual obligation not a random one), and found satisfactory in accordance with the Local Financial Criteria applicable in Brazil, the Applicant should be reinstated in to the BSP system;

- Should the Applicant want to regain its IATA accreditation, in case the NoT had already been executed, the Applicant can re-apply as new Applicant. Provided its application is found in accordance with the requirements, the Applicant may be granted an IATA accreditation;
- The Applicant is to pay the costs that either process would entail.

This decision is effective as of today.

Decided in Vancouver, the 10th day of July 2017.



Verónica Pacheco-Sanfuentes
Travel Agency Commissioner Area 1

Right to ask for interpretation or correction

In accordance with Resolution 820e § 2.10, any Party may ask for an interpretation or correction of any error, which the Party may find relevant to this decision. The timeframe for these types of requests will be 15 days after receipt of this document (meaning no later than **July 25th, 2017**).

Please also be advised that, unless I receive written notice from either one of you before the above mentioned date, this decision will be published in the Travel Agency Commissioner's secure web site, provided no requests for clarification, interpretation or corrections have been granted by this Commissioner, in which case the final decision will be posted right after that.

Right to seek review by arbitration

If after having asked for and obtained clarification or correction, any Party still considers aggrieved by this decision, the Party has the right to seek review by arbitration in accordance with the provisions of Resolution 820e § 4 and Resolution 824 §14.