

DECISION 2010-09-20

A2-2010-08

Travel Agency Commissioner Area 2

Helene Cedertorn
Nybohovsbacken 34 B Stockholm
Sweden

The Matter:

Request for Review by the Agency Administrator

Review initiated by:

The Agency Administrator
International Air Transportation Association, IATA
Centralvägen 12, 5 tr, 171 24 Solna
Sweden
Represented by: Mr. Tommy Enecrona, Manager Passenger Services Nordic & Baltic

Agent:

Turk Tour
Trondheimsveien 7, 0560 Oslo
Norway
Represented by: Mr Ali Koylu, Managing Director

Formalities etc:

IATA sent a Notice of Default (due to Accumulation of Irregularities) to the Agent the 3rd of August 2010. The ticketing authority was closed and the Agent was requested to pay for outstanding sales and to provide a bank guarantee.

The outstanding debts were paid by the 23 of August, not by manual transfers but by a power of attorney still in effect. The 24th of August IATA received a guarantee in original from an insurance company.

By e-mail the 25th of August 2010 the IATA Agency Administrator (hereafter referred to as IATA) requested review by the Travel Agency Commissioner (TAC) under the provisions of IATA Resolution 818g Attachment A, Section 1.7.7.1. (vii) (Accounting Irregularity Safeguards). IATA attached to its request copies of certain documents.

The Agent responded in an e-mail the 1st of Sept 2010 and attached also some e-mail correspondence and a copy of a note from its bank.

The undersigned sent an e-mail the 2nd of September and in response to this the Agent sent an additional e-mail the 7th of Sept 2010.

IATA provided additional response in an e-mail 8th of September 2010.

After some procedural guidance by the undersigned (in an e-mail dated the 9 of Sept 2010) the Agent provided copies of documents in an e-mail dated the 15th of Sept.

IATA has provided a final response in an e-mail dated the 17th of September 2010.

The parties have agreed to that an oral hearing is not necessary and that the matter could be reviewed on the written submissions of the parties. Therefore, as the arguments from both parties are clear and the submitted evidence is all in writing, the undersigned finds that a decision could be based on the written submissions, without jeopardizing the procedure.

The Review

The undersigned finds that the documentation and statements from both parties shows that the series of events in this matter could be described as follows:

The Agent paid late the remittance that should have been paid the 30th April 2010 and therefore a Notice of Irregularity (recorded as two instances of irregularity) was sent the 4th of May 2010. As the Agent thereby had incurred four instances of irregularity during twelve consecutive months a Notice of Default was also sent the 4th of May 2010. (The first two instances were applied due to late payment of the period 4 March Sales.) IATA however received a copy of a letter from the bank of the Agent, stating that it was due to technical fault by the bank that the payment that should have been paid 30 April was late. The Notice of Irregularity and Notice of Default were consequently withdrawn by IATA (Bona Fide Bank Error).

When the Agent paid late again the remittance that should be paid the 30th of July IATA sent a new Notice of Irregularity (recorded as two instances of irregularity) and a new Notice of Default, both notices were sent the 3rd of August 2010. Once again IATA received a copy of a letter from the bank stating that the late payment was due to technical fault by the bank. When IATA calls the bank to verify the statement it shows that the letter is a falsification. After further investigations by the bank also the previous letter, claimed to be a letter from the bank relating to the late payment of 30th of April, turns out to be a falsification.

The statements and documents provided in this TAC Review shows that the falsifications of the documents are linked to one employee, who has also admitted his offence to the bank. The employee was responsible for handling the payments to IATA but he did not fulfill his duties and to hide his failures he has falsified the documents. The employee is now dismissed from the Agent and he has no other powers with regards to representing the Agent. The Agent has changed its processes for payments and showed evidence that it has arranged for a credit by its bank to ensure there are funds enough when monies are drawn from its bank account by IATA.

Based on the documents at hand the TAC finds that IATA had good cause to initiate a TAC Review in this matter, based on the regulations as laid out in Res 818g Attachment A section 1.7.7, with regards to the falsified documents. However during the TAC Review it has come forward evidence that the Agent has been subject to a crime by one its employees. The Agent has, when this became known to the Agent, taken actions to remove and dismiss the employee and to secure the payment procedures. Based on this I find that the Agent should be reinstated as IATA Accredited Agent with ticketing authority, subject to that the Agent fulfills other requirements following a default decision.

Decision

The Default Decision by IATA of the 3rd of August 2010 stands. However the Agent shall not be disapproved as IATA Accredited Agent due to the falsification of documents under Res 818g Attachment A section 1.7.7. Consequently the Agent shall be reinstated as Agent with immediate effect if it fulfills the requirements following a default decision. It is for IATA to ensure this is handled correctly.

Decided in Stockholm 2010-09-20

Helene Cedertorn

Signed original copies of this decision will be sent by postal mail to the parties.
Sent this date by e-mail to Mr Ali Koylu, Mr Tommy Enecrona and Mr Daniel Shemi.

Note:

The parties may, if considered aggrieved by this decision, seek review by arbitration in accordance with the provisions of Resolution 818g, section 12.