

VERÓNICA PACHECO-SANFUENTES
TRAVEL AGENCY COMMISSIONER, AREA ONE
DEPUTY TAC 2
(The Americas and the Caribbean)
110 – 3083 West 4th Avenue,
Vancouver, British Columbia V6K 1R5
CANADA

DECISION 2013 - # 3
(Area 2)

In the matter of: International Air Transport Association (“IATA”)

Torre Europa
Paseo de la Castellana, número 95,
28046 MADRID, Spain
Represented by Mr. Ignacio Mula Díaz, Europe Manager
Accreditation

The Applicant

vs.

Xanthi Blasting Hellas Techniki Tour (Athlos Travel)

IATA numeric code 27-2 1226 4)
Sokratus Str. 79-81
Omonoia Sq.
10432 Athens
Greece
Represented by its Managing Director, Mr. Zia Kots

The Respondent

I. The Case

On November 15, 2012 the Applicant contacted the Office of the Travel Agency Commissioner (hereinafter “TAC”) after having recorded one instance of irregularity and having removed all Standard Traffic Documents (“STDs”) from the Respondent based on a written information, pursuant the Prejudiced Collection of Funds’ rules stated in Section 1.8 of Resolution 818g, Attachment “A”.

Telephone: + 1 – 604 - 742 9854
Fax: + 1 – 604 - 742 9953
e-mail: Area1@tacommissioner.com
website: travel-agency-commissioner.aero

II. Background

Upon receipt of this request for review, the TAC asked the Applicant to provide further information, namely the grounds for applying such set of rules; and, tried in several occasions to contact the Respondent (referred to hereinafter indistinctively also as “the Agent”) until finally it was reached and informed about its’ rights in this Review proceedings.

In a timely manner, the Applicant provided the requested information, which was entirely subscribed by the Respondent. The facts that the Applicant had at hand when decided to apply the above mentioned set of rules were the following:

- In August 2012, the Respondent’s Managing Director contacted the Applicant requesting the restriction of ticketing authority <<for the agency due to its concession to>> a third Party¹ and <<the risk to collect the sales of tickets>> from this new Managing Director. The Respondent was instructed to contact IATA’s Customer Service to request for a voluntary relinquishment of the IATA Code, since it was not a case of change of ownership. The Respondent was explained that there was sufficient bank guarantee in place which would be collected in case of non-payment. Further to this communication no action was taken by the Respondent;

- On November 15, 2012 a Member Airline orally informed the Applicant about the risk to collect the Agent’s sales due to the fact that the Agency was under another person’s management and not by Mr. Kots’, who was abroad;

- Based on this information, the Applicant requested for evidence and received a private contract between Mr. Kots and Mr. Muhammad Saghir Ali, according to which the Agency management and the power of attorney had been transferred to Mr. Muhammad for a period of one year;

- The Applicant contacted the Respondent and confirmed these facts. The Applicant was informed by the Agent that the sales done between 16-31 October 2012, due by November 15, 2012 had not been paid because the new Managing Director had <<disappeared without paying the BSP billing due>>. The Applicant requested to have

¹ Named Mr. Muhammad Saghir Ali

this information sent by email and fax <<in order to take the necessary actions and to proceed to the restriction of ticketing authority, which was done>>;

It was precisely this last written information what made the Applicant take action and apply Resolution 818g, Attachment “A”, Section 1.8 on November 15, 2012;

The facts that unfolded after those actions are the following:

- On November 16, 2012 the Agent was declared in Technical Default due to accumulated Irregularities;
- On November 20, 2012 the Agent was declared in Default for non-payment of October 16-31, 2012 sales;
- On December 31, 2012 the Passenger Sales Agency Agreement was terminated due to non-payment of the above mentioned sales’ period as well as subsequent billings of November 2012;
- On January 9, 2013 IATA Local Office claimed partial payment of Agent’s bank guarantees for the amount of Euros 30,171.84, as a settlement of the total balance due by the Respondent, which was credited to the Applicant’s bank account on January 11, 2013.

Pursuant Paragraph 2.3 of Resolution 820e and Rule 14 of the Rules of Practice and Procedure for Area 2, the undersigned, acting upon both Parties’ agreement on waiving an oral hearing, had decided to base her decision only on the submissions that have been filed by both of them, since she has considered that it will not jeopardise the process.

III. The Decision

Having looked at the applicable Resolutions, with peculiar emphasis in the requirements to apply the Prejudiced Collection of Funds’ rules by IATA’s Agency Administrator;

Considering that the written information that the Applicant had in its hands when evaluating the Agent's situation constituted sufficient evidence as to justify its ulterior actions as to remove the STDs from the Respondent's possession;

Considering that the ulterior facts that unfolded during the Agent's suspension, namely the non-payment of BSP Billing Reports, justified also the Applicant's decision of terminating the Respondent's contract,

This Commissioner decides,

- The Applicant had followed correct procedure; hence, its decision of removing the Respondent's Standard Traffic Documents as well as its decision to terminate the Passenger Sales Agency Agreement of the Respondent stand.
- There are no outstanding amounts owned by The Respondent.

The Parties are advised that according to Paragraph 2.10 of Resolution 820e, any of them may request for an interpretation of this decision; or for a correction of any error in computation, any clerical or typographical error, or any omission in the decision. Please be advised that the time frame for these types of requests will be the following 15 days after receipt of the electronic version of this document.

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.

Decided in Vancouver, Canada, on January 25, 2013

Verónica Pacheco-Sanfuentes
Travel Agency Commissioner Area 1
acting as Deputy TAC2

Note: The original signed version of this decision will be sent to the Parties by regular mail, once the above mentioned timeframe for interpretation/corrections had elapsed. In the meantime, in order to ensure timely receipt by the Parties, an electronic version of it is sent on this date (Jan. 25, 2013).

Please note that the time frame for interpretation and errors' correction will commence upon receipt of the electronic version of this decision.