

**VERÓNICA PACHECO-SANFUENTES**

TRAVEL AGENCY COMMISSIONER, AREA ONE – DEPUTY TAC 2  
(The Americas and the Caribbean)  
110 – 3083 West 4<sup>th</sup> Avenue,  
Vancouver, British Columbia V6K 1R5  
CANADA

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**DECISION 2013 - # 11**

**In the matter of:**

**Maghreb Travels Sarl**

77 Avenue Alexander Ansaldi  
13014 Marseille, France

Represented by its principal owner, Mr. Mohamed AMSAGHRI

**The Applicant**

vs.

**International Air Transport Association (“IATA”)**

84 Avenue du Général Leclerc  
92100 Boulogne Billancourt  
France

Represented by the Manager Passenger Service, Mr. Patrick  
XAVIER

**The Respondent**

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**I. The Case**

The Applicant (also called hereinafter as “the Agent”), sought a Travel Agency Commissioner’s (referred to as “TAC”) review of IATA's (also called “The Respondent”) decision dated January 14, 2013, according to which the Agent's application to become an IATA Accredited Agent was denied on the grounds that the person responsible for the Agency identified with the IATA code 20-2 6120, which was removed from the Agency List, was the same person that appeared on the Applicant's Certificate of Incorporation in France as well as in the letter issued by the Applicant's bank.

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## II. Chronology of events – Evidence on file

According to the Parties' submissions, supported by the evidence presented by both of them to this Office, the following are the facts of the case and its background:

- The Applicant was incorporated on March, 2010 having as:
  - Shareholders: Mr. Mohamed AMSAGHRI holding 90% of the shares; and, Mr. Abdelatif HARIKI holding 10% of the shares; and as
  - Managing Director: Mr. Abdelatif HARIKI
- The above mentioned Managing Director was also the Managing Director of the Travel Agency Maghreb Voyages. This Travel Agency was declared in technical default on February 21, 2012, and on April 24, 2012 its Sales Agency Agreement was terminated;
- It is worth to note that the referred Maghreb Voyages Agent, incorporated in March 2002, had as:
  - Shareholders: Mr. Hassan HARIKI holding 50% of the shares, Mr. Abdelatif HARIKI holding 25% (Accountant) of the shares; and, Mrs. Emma HARIKI holding the remaining 25%
  - Managing Director: Mr. Abdelatif HARIKI, as indicated above;
- In **September 2012** the Applicant changed Managing Director to the person of Mr. Adel CHAOUCH;
- On **January 2013** the Applicant requested its IATA Accreditation, which was rejected on the grounds of Resolution 818g, Paragraph 2.1.8.

It is worth to note that even though at the time, according to the evidence on file, at least in the company's books the Managing Director was Mr. CHAOUCH and not any more Mr. HARIKI, the Application to become an IATA Accredited Agent was submitted and signed by Mr. HARIKI, as well as the bank letter submitted by the Applicant was addressed to M. HARIKI, being him the person who requested the bank to issue the said communication.
- During the course of this review process some of the facts were clarified by the Parties, notably the actual shareholders of each one of the above mentioned companies, as well as the role that Mr. HARIKI played in both Travel Agencies;

- In order to accept the Applicant's request and for him to proof the lack of involvement of Mr. HARIKI in the actual management of Maghreb Travel Sarl, the Respondent, with this Commissioner's favourable opinion, asked the Applicant to provide a new bank letter requested by the current Managing Director of the company.
- On 14 February 2013 this Office received copy of the new bank letter issued at the request of Mr. CHAOUCH, the current Managing Director of the Applicant;
- The letter was examined by the Accreditation team of the Respondent and it was accepted, as indicated in communication received by this Office on February 18, 2013.

### **III. Authority for Review**

Resolution 820e determines the scope of the TAC's review proceedings, and as so provides for Accredited Agents, for the Agency Administrator, for a group of Member Airlines and for the Agency Services Manager to seek review by the Commissioner in circumstances described therein. In this case, the most pertinent Paragraphs as seen from the Applicant's perspective is 1.1.1 and 1.1.4.

Having received the Request for Review within the time frame limit, as indicated above, pursuant Paragraph 1.2.2.1 of Resolution 820e, the undersigned decided to allow the proceeding in compliance with Paragraph 1.2.3 of the said rule.

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 written submissions that have been filed by both of them, since she has considered that it will not jeopardise the process.

In accordance with Rule #8 of the Rules of Practice and Procedure for Area 2, considering the Agreement that the Parties were able to reach once some elements of

the case were clarified and evidence to demonstrate it was submitted by the Applicant, to the Respondent's and this Commissioner's satisfaction it is hereby decided:

#### **IV. Decision**

Having carefully reviewed all the evidence and arguments submitted by the Parties,

Having looked at the applicable Resolutions,

This Commissioner decides:

- IATA did follow correct procedure when decided, on January 14, 2013, to initially reject the Applicant's request to become an Accredited Agent on the grounds of Resolution 818g Paragraph 2.1.8;
- However, considering that new evidence submitted by the Applicant during the course of this review process was satisfactorily examined by the Respondent, provided the rest of the accreditation requirements are met by the Applicant, its IATA Accreditation should be granted by the Respondent as soon as possible.

Decided in Vancouver, the 19<sup>th</sup> day of February, 2013

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

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.

**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 (Feb. 19, 2013). Please note that the time frame for interpretation and errors' correction will commence upon receipt of the electronic version of this document.