

VERÓNICA PACHECO-SANFUENTES

TRAVEL AGENCY COMMISSIONER, AREA ONE – DEPUTY TAC 2
110 – 3083 West 4th Avenue,
Vancouver, British Columbia V6K 1R5
CANADA

DECISION 2013 - # 12

In the matter of:

ATLANTIS VOYAGES S.A.

8724693
Avenue Hedi Nouria Immeuble Atr
1002 Tunis
Tunisia
Represented by its President, Mr. Kamel LAGHA

The Applicant

vs.

International Air Transport Association (“IATA”)

Torre Europa
Paseo de la Castellana, 95
28046 Madrid
Spain
Represented by the Accreditation Manager, Mr. Ignacio MULA

The Respondent

I. The Case

- (i) Atlantis Voyages (hereinafter referred to indistinctly as "The Agent" or "The Applicant") has sought a Travel Agency Commissioner's (hereinafter referred to as "TAC") review in order to claim damage compensation due to the prejudice suffered in its reputation as a consequence of IATA's default action taken against it, preceded by an unpaid Notice of Irregularity (dated 23 October 2012);
- (ii) That situation was generated by the lack of prompt action taken by Ethiopian Airlines in converting erroneously issued ADMs in to ACMs in The Agent's

favour, as well as the BSP, for mistakenly having add those timely disputed ADMs into The Agent's BSP-Report;

- (iii) Based on the documents submitted, particularly an email dated October 17, 2012 signed by an IATA member staff of the ISS Operations Service Center - Africa & Middle East, apologizing <<for the technical error which resulted in reporting your agency as short payer>>, it appears *prima facie* to this Office that this whole harmful situation could have been avoided if the timely disputed amount from the ADMs would had been properly recorded as such by the BSP and hence excluded from the BSP Report at that time;
- (iv) Once IATA realised the mistake, in October 24, 2012, it sent a Nullification Notice to The Applicant, voiding the Notice of Irregularity and the Default Notice;
- (v) This Commissioner notes that, before contacting this Office, the Applicant has escalated the situation to the attention of IATA's Director General ("DG"), having had a correspondence exchange (between Oct.-Nov. 2012) with the Senior Vice-President from the Industry Distribution and Financial Services on behalf of the DG. However, at no avail to this date. The main request from The Applicant at that time was to receive a formal <<letter of apology>> from IATA, indicating its intention of circulating the said letter <<amongst the IATA Member Airlines operating in Tunisia aimed at re-establishing its image which had been shaken due to the incompetence of the concerned people within IATA's organization>>.

II. Considerations leading to Decision

Having contrasted the above mentioned facts with the applicable Resolutions, my conclusions are:

- (i) Notwithstanding its belated action, IATA had amended the mistake and has voided the Notice of Irregularity and the Default Notice sent to the Applicant, so no bad records will be kept in the Agent's file;
- (ii) In regards to the request for damages' compensation derived from this belated action, the Applicant would have to address this complaint to the local Courts since this type of matters are out of the TAC purview, or submit a request for Arbitration at the International Chamber of Commerce which hosts the International Court of Arbitration in Paris, France.

III. Decision

Having carefully reviewed all the evidence and arguments submitted by the Parties, having looked at the applicable Resolutions, namely Resolution 820e, Paragraphs 1.2.3 and 1.4.2

This Commissioner decides:

- The request for damage compensation submitted by the Applicant is not within the purview of this Office and thus has to be dismissed;
- Notwithstanding the above mentioned decision, this Commissioner takes this opportunity to respectfully encourage IATA to take pro-active and timely steps to either avoid these type of circumstances by promptly and efficiently removing from the BSP disputed ADMs; or, to recognise its mistakes and apologise for them as any business partner will do in any commercial relationship.

Decided in Vancouver, the 27 of February 2013

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

In accordance with Res 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 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, once the above mentioned time frame would have elapsed.