

**VERÓNICA PACHECO-SANFUENTES**

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

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**DECISION 2013 - # 20**

**In the matter of:**

**Faris Assuffra’a Travel & Tourism**

IATA Code 7120998  
Main Road Opposite Fire Station Baysh  
Baysh, Kingdom of Saudi Arabia  
Represented by its Operation Manager,  
Mr. Chikkander Abdulkarim

**The Applicant**

vs.

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

King Abdallah II Street, Al Shaab roundabout  
Business Park, Building GH8  
P.O Box 940587  
Amman 11194, Jordan  
Represented by the Regional Assistant Director  
Industry Settlement Systems, Distribution  
Africa & Middle East, Mr. Janaurieu D’SA

**The Respondent**

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**I. The Case**

On March 5, 2013, the Applicant, an IATA Accredited Agent (also called hereinafter as “the Agent”), sought a Travel Agency Commissioner’s (referred to as “TAC”) review of IATA’s (also called “The Respondent”) Notice of Default issued that same date. As a result, default action was taken against the Applicant being its ticketing capacity immediately removed. An unidentified over payment made by the Applicant was at the origin of the Notice of Irregularity and of the consequent Notice of Default.

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## **II. Chronology of Events – Evidence on file**

According to the evidence on file, agreed by both Parties, the chronology of events was as follows:

- On January 29, 2013 the Applicant made an overpayment for the amount of SAR 600.30 corresponding the sales period of Jan. 16 to Jan. 23. In other words, the payment made by the Applicant did not match the billing report corresponding that billing period;
- When doing the above mentioned payment, the Applicant did not provide the Agency details (Agency name and the IATA Accredited code number), resulting in an inability for the Respondent to identify the remittance;
- On March 2, 2013 IATA issued a Notice of Irregularity based on the fact that the remittance due for the sales period of 2 Feb. 2013 had not been received by the Clearing Bank;
- On March 3, 2013 the Applicant provided proof of the bank transaction demonstrating the timely payment;
- Despite this proof of payment, on March 5, 2013 a Default Notice was issued and default actions were implemented against the Agent, removing its ticketing capacities that same day;
- The Applicant immediately contacted IATA-Amman office, but at no avail, since as response it only got the requirements needed for reinstatement (meaning: provide a Bank Guarantee and pay any and all outstanding amounts);
- The Applicant then sent all bank vouchers in order to demonstrate its total compliance with the due remittances and that same date, March 5, contacted this Office;
- Once the Respondent was able to identify the amount against the Agency billing, the Respondent on March 19 initiated the withdrawal of the default action;
- Total reinstatement occurred on March 20, 2013.

## **III. The Applicant's arguments in summary**

- The Notice of Irregularity, the Default Notice and the default actions that were unfolded right after it, did not have any legal grounds. The Applicant had not only paid the due amount but over paid precisely for the period that was declared in default;

- Even though the default action was removed and the Applicant was reinstated, from March 5 until March 20 the Applicant <<had incurred in near about SAR 200,000.00 in LOSS>>, without having dishonoured any BSP Billing;
- <<Now please advise us that who is responsible to compensate our loss>>.

#### **IV. The Respondent's arguments in summary**

- The amount paid by the Agent for the respective billing period was higher than the billing and accordingly was not allocated and was held in suspense;
- The transaction of Jan. 29, 2013 was unidentified as the amount did not match the Agent's future billing;
- <<The description of the payment was not used as it didn't reflect the actual details (Agent Code and Agent Name)>>;
- This Agency has normally made payment based on billing;
- Once the Respondent identified and allocated <<this amount against the agency billing:
  - o IATA has initiated withdrawal of the default action
  - o As per process, IATA will issue an adjustment transaction for the overpayment of SAR 600.30
  - o The Agency is encouraged to ensure payment against billing or to ensure that the Agency details (Name/IATA code are reflected when payment is made)>>.

#### **V. Authority for Review**

Resolution 820e determines the scope of a TAC review proceeding, and 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 Paragraph as seen from the Applicants' perspective is 1.1.10.

Having received the Request for Review within the time frame limit, as indicated above (I), 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, this Commissioner, acting upon both Parties' agreement on waiving their right for an oral hearing, had decided to base her decision only on the written submissions that have been filed by both of them.

## **VI. Considerations leading to Decision**

The core of the matter in this review process is whether or not the Respondent followed correct procedure when it issued the Notice of Irregularity and subsequent Default Notice/actions against the Applicant; and, whether or not the Applicant has the right to request loss's compensation derived from those actions.

- (i) Based on the facts of the case, particularly considering that even though the Applicant paid not only the due amount but even more than that for the billing period of Jan. 16 to Jan. 23, 2013, unfortunately due to a lack of identification of that remittance, the Respondent was not able to initially and timely allocate that payment in to the Applicant's account and, therefore, in the BSP system appeared as if it had been unpaid, triggering the Notice of Irregularity and the rest of the default procedure actions. Consequently from this Commissioner's perspective the regrettable situation could have been avoided if the Applicant would have properly identified the remittance when it was swiftly submitted (by providing the Agency's name and the IATA numeric code that identifies it as an IATA Accredited Agent), allowing the Respondent to immediately take notice of it.

Having said that, this Office also notes that from the Respondent side, it would have been beneficial for both Parties, if on March 3, 2013 the Respondent would have taken notice of the proof of payment that the

Applicant sent to the Amman Office upon receipt of its Notice of Irregularity, avoiding all the subsequent default actions. Instead, the Respondent automatically continued with the default procedure, until the Applicant contacted this Office and on March 19, when finally the proof of payment and the Agency identification were verified, the default actions started to be withdrawn.

- (ii) In regards to the request for damages' compensation derived from the Respondent's actions, the Applicant would have to address this complaint to local Courts since this type of matters are out of the TAC purview.

## **VII. Decision**

Having carefully reviewed all the evidence and arguments submitted by the Parties in connection with this case,

Having looked at the applicable Resolutions,

This Commissioner decides:

- As a result of the impossibility of locating the Applicant's remittance, due to a lack of information that should have been provided by the Applicant, the Respondent had no alternative other than following the procedure set out in Resolution 818g, Attachment "A", Section 1.7.2;
- Nevertheless, considering that the actual remittance for the period 16Jan.-23Jan. was timely made by the Applicant and timely received by the Clearing Bank, the Notice of Irregularity originally served against it must be expunged from the Applicant's records;
- For future occasions, the Applicant is encouraged to ensure proper identification of the Agency details (name and IATA numeric code) when remitting to the BSP; and the Respondent is encouraged to take pro-active steps by swiftly verifying proof of payment sent by Applicants before taking default actions in order to avoid the damaging consequences that such actions have on Agents;
- In regards to the Applicant's request for damages' compensation derived from the Respondent's actions, considering that the matter is out of the scope of the TAC purview, according to Paragraph 1.4.2 of Resolution 820e, this request is dismissed.

Decided in Vancouver, the 16<sup>th</sup> day of April, 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.

**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 would have expired.