

VERÓNICA PACHECO-SANFUENTES

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

DECISION 2013 - # 22

In the matter of:

Rezzag Hebla Tours

IATA Code 0321197
Cité Messaba El-Oued
39005 Alger, Algeria
Represented by its Director, Mr. Abdelmalek Rezzag-Hebla

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

I. The Case

On April 13, 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 Termination issued on April 11, 2013, due to a lack of payment of the 2013 Agency annual fee.

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II. Chronology of Events – Evidence on file

On the 14 of March The Applicant sought a TAC review, upon receipt of a Notice of Termination of its Passenger Sales Agency Agreement, indicating that it had not received any invoice or letter from The Respondent concerning the Agency annual fee, and, since the said amount has not always been the same over the years, it did not know how much nor when to pay.

On April 23, 2013 The Respondent filed its submissions stating that in due time an invoice was sent to The Applicant by mail and email, as well as a reminder-email of the outstanding 2013 annual fee (for the amount of CHF 236) in February 2013.

On April 30, 2013 upon this Office's request, The Respondent provided written proof of the above mentioned communications to The Applicant, copying the other Party.

On May 2, 2013 The Applicant paid the outstanding sum. Considering the said payment and once it was duly received by The Respondent, at this Commissioner's request, The Applicant was promptly reinstated (effective May 12, 2013).

III. The Applicant's arguments in summary

The Applicant has always fulfilled its obligations as an Accredited Agent and had never failed in complying with all the applicable regulations.

This year the annual fee was not paid on time since <<we did not receive any communication in that regard, neither by email nor by mail>>. The Applicant is located in a sort of remote area where communications are difficult to reach their addressees. Nevertheless, <<we are eager to pay the due amount in order to get our accreditation back and continue doing business>> with The Respondent.

IV. The Respondent's arguments in summary

<<Agent did not pay annual fees CHF 236;

- Invoice was sent by mail and email;
- Reminder was sent to email r_h_tours@yahoo.fr in Feb. This is the same email that the Agent is using now;
- Agent was terminated on 11 Apr 2013;
- The Agent does not have any other outstanding invoices from previous years>>.

V. Oral Hearing

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

As it appears to be from the facts of the case, communications were sent by The Respondent to The Applicant, in accordance with Paragraph 14.2 and 14.3 of Resolution 818g. However, the communication sent by regular mail did not reach the addressee on time for it to comply with its annual payment obligation.

This Commissioner observes the fact of the location where The Applicant is based, which in this case, at least concerning the invoice originally sent by regular mail, could have been a factor that impeded the timely undertakings expected from The Applicant. Notwithstanding that, as it has been proved by The Respondent (as the burden of proof lied on it), two other communications concerning the annual fees were sent to The Applicant by email (copies of which are on file), to the same email address that The Applicant has been using during this review proceeding. No explanation was provided by The Applicant as to the lack of reception of these emails.

Having noticed those two facts, it has also been clearly stated and demonstrated by The Applicant its genuine intention of fulfilling its obligations as Accredited Agent, namely

paying the annual agency fees, which it actually did on May 2, 2013, when it received the invoice in the course of this proceeding.

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:

- Based on the evidence on file, The Respondent did follow correct procedure in this case, considering that even though it could not demonstrate the actual remittance of the annual fee invoice (as mandated in Resolution 818g, Paragraph 14.2) by regular mail to The Applicant's address, and consequently guarantee its reception by The Applicant, it did proof having sent the reminder of the said outstanding fee (in accordance with Resolution 818g, paragraph 14.3.1) by email and to the email address that The Applicant has been using in this review process. It is noted that should the email account had been looked at on-time by The Applicant, its termination would have been avoided.

Decided in Vancouver, the 25th day of May, 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 period for interpretation/corrections would have expired.