

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

DECISION 2015

In the matter of:

July Voyages SARL

IATA Codes 10-2 0002 4 and 10-2 0004 6
Avenue Ahmadou Ahidjo,
Yaoundé, Cameroon

Represented by its Chief Executive Officer, Ms. Julienne
Kammogne Fokam

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 Assistant Manager & Deputy Manager
Agency Management Africa & Middle East, Ms. Christine
Hazboun

The Respondent

I. The Case

Due to one of the Applicant’s email addresses’ malfunction, it did not receive on time the request to upload its financial statements (“FS”), which had been sent earlier by the Respondent, hence, it failed to submit it with the given time frame. The Applicant claims having registered with the Respondent several email addresses that could have been used by IATA, as it has done in other occasions, when noticing the lack of reaction from the Applicant concerning its uploading obligation.

Telephone: + 1 (604) 742 9854 / Fax: + 1 (604) 742 9953

e-mail: Area1@tacommissioner.com / website: travel-agency-commissioner.aero

Interlocutory relief was requested by the Applicant and granted by this Office. The Applicant was temporarily reinstated in to the BSP system during the course of this review process.

II. The Applicant's arguments in summary

The Applicant's submissions:

- <<We are a travel and tourism agency in Cameroon since 1977;
- We have been deactivated since July 1, 2015;
- We thought it was a payment issue, which was quite surprising since we have made our payment on time;
- After communicating with IATA, we realized that the deactivation had nothing to do with a lack of payment but with four irregularities that we've never been aware of. Among those irregularities, there is a non-submission of our FS;
- As of the irregularity on our FS, IATA claimed having sent us an email to one of our email addresses. Unfortunately, we didn't get the email as we are facing some issues with this email address;
- IATA has few other emails addresses (eg: jullyvoyages@yahoo.fr, magoumgrace@yahoo.fr), where they can reach us if they don't have any feedback regarding their request. In proof of that they sent us the deactivation notice using the other addresses;
- We did send our financial statement few hours later after spotting the real issue;
- Regarding the other three irregularities, I can't tell much about because IATA did not give us more details>>.

III. The Respondent's arguments in summary

In the Respondent's words:

- <<... Agent received an Irregularity (“NoI”) on 04 Aug 2014 for failure to upload financial statement for 2014;
- On 01 Jul 2015 the Agent received another NoI for failure to upload the financial statement for 2015;
- As the Agent accumulated two instances of Irregularity, the Agent got into *Technical Default* on 01 Jul 2015;
- The request to upload the financial statement for 2015 was sent to the same email address to which IATA has sent the request to upload the Financial statement for 2014 being: info@jully-voyages.com;
- It is the Agent's responsibility that the contact email that the Agent has with IATA is active and functional>>.

IV. Oral Hearing

Pursuant Paragraph 2.3 of Resolution 820e, this Commissioner has decided to base her decision on the written submissions that have been filed by both Parties only, since both of them have presented their arguments and evidence deeply enough as to render unnecessary any oral hearing without jeopardizing their procedural rights. Both Parties have agreed.

V. Considerations leading to Decision

Before analyzing the correctness or not of the NoI that has been imposed on the Applicant in this case, it is worth noting that the uploading of FS is a well know obligation that each year all Accredited Agents are mandated to comply with by a certain given date. Therefore, it draws this Commissioner’s attention the fact that during these last two consecutive years the Applicant for one reason or another has failed to submit those FS on time.

On another note, a clarification to the Applicant is deemed necessary. It is important for the Applicant to know that, pursuant Paragraph 1.7.2.1(a) of

Resolution 818g Attachment “A”, one irregularity counts as two listed instances of irregularity, hence, when it indicates that it received “four irregularities, but that <<we’ve never been aware of>>, in fact, it means that the Applicant was served with two NoI not four as it seems to understand. The first NoI was caused by a late submission of FS¹, as well as the second NoI subject to this review process.

Considering the evidence on file, the NoI served to the Applicant on July 1st, 2015 was rightfully issued and in accordance with the applicable Resolutions. The fact that one of the email addresses provided by the Applicant was not working properly cannot be attributable to the Respondent. On the contrary, it is an Accredited Agent's responsibility to notify the Respondent of any change or alteration in the email options provided, either due to change of them or to a malfunction -as in this case- or due to any other reason. The Respondent complied with its obligation of timely sending notice to, at least, one (1) of the email addresses that had been provided by the Applicant as a valid one.

NOTE:

As a suggestion from this Office to the Respondent, in order to avoid this type of situations in the future:

- it would be a good practice for the Respondent to send the communications and different notices to **ALL** the email addresses that would have been provided by an Accredited Agent, hence, if one happens to be temporarily out of order, changes are that somehow the Agent would, at least, receive the notice through one of the emails that were on file; and,
- to ensure that at least one of those email addresses reaches “*management level*” at the Agent in question.

¹ The review of this first NoI was not part of this process, however, if it was due to the same email malfunction, it is hereby advised to the Applicant to take immediate action to address this issue for its own benefit.

VI. Decision

Having carefully reviewed all the evidence and arguments submitted by the Parties in connection with this case; having analysed the applicable Resolutions, It is hereby decided as follows:

- The NoI served against the Applicant stands, since it was issued by the Respondent in accordance with the applicable Resolution;
- Considering that the reinstatement requirements were met by the Applicant, its temporary reinstatement should become permanent.

Decided in Vancouver, the 7th day of September of 2015

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

Right to ask for interpretation or correction

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.

Right to seek review by Arbitration

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.