

Decision 54/2017
Travel Agency Commissioner - Area 2

Andreas Körösi
P.O. Box 5245
S-102 45 Stockholm, Sweden

Applicant: *President Travels and Tours (“President Travels”)*
IATA Code # 27-3 2114 0
Pakistan

Respondent: International Air Transport Association (IATA)
Torre Europa
Paseo de la Castellana, número 95
28046 Madrid, Spain

NOTE:

This summarized decision is being posted as the Parties have received it. Occasional requests for clarification are not posted. However, should any Stakeholder requests it, a copy of such clarification will be sent to her/him.

Background:

This Commissioner is in charge of reviewing the suspension, due to Risk for Prejudiced Collection of Airlines’ funds (“PCoF”), of the Accredited Agent ***Khidmah Travel***, located in the United Kingdom, linked to the suspension of ***President Travels*** and of ***Shahraha Tour and Travels*** (both Accredited Agents located in Pakistan, being sub-Agents of ***Khidmah Travel***).

According to IATA’s submissions, the background is as follows:

- <<1. *UK Agent being suspended and later placed in default was due to non-notification of Change of Ownership and huge spike of sales, within a few hours during the weekend. Ingredients of a default are obvious in this case and CDG/MAD took the right action in suspending the Agent. We have still not been able to trace the Agent. This is a typical bust out;*
2. *PK Agents were placed under suspension and PCoF, after receiving information from FZ. It is not FZ’s ‘gut reaction’ was triggered by IATA’s notice. There was no notice or action taken by IATA on the PK Agents at that time. FZ had done the due diligence on the booking those were ticketed by the UK Travel Agent, and traced the roots to PK. Then they informed IATA to take action, which was taken as per s 1.8.1 of Attachment A, Resolution 818g>>.*

Based on the Applicant's submissions, according to which:

<<... our agency is dedicated to business travels, based on pilgrims who travel to Saudi Arabia for Umrah & Hajj purpose, which is why our sales are boost four times a year and which might bring extra attention of some Airlines. However, we are working smoothly and correctly during many years and paying our BSP to Airlines as per required date without any problem and without any issue with BSP and IATA since many years.

*Now, as per best of my knowledge, **President Travels** has no relationship with **Khidmah Travel (UK)**, apart of just getting tickets issued from them. We simply had bookings in our system and requested them to issue for us as normal as other travel agent can request to any IATA agent to issue tickets for them, depending on the number of tickets. We requested them to issue a number of tickets for us as **NO OTHER TRAVEL AGENT IN PAKISTAN** has ticketing authority to issue such a big amount of tickets if required to do so.*

I DO NOT understand what is our fault, as we booked our tickets in our system and we simply queued them to be issued by the UK Agent...

*I also would like to say that, so far, **our booking is been CANCELLED by Emirates Airlines and our 70 plus passengers are due to fly** ... and we are stuck in the middle, since we have been doubted by the Airline and also by IATA who has lifted our ticketing authority... >>*

Both Commissioners, Mr. Foged and I, are prepared to give the Applicant the benefit of the doubt.

It is important to point out that reinstatement during a review procedure cannot be done without solid proof of "innocence". Nonetheless, this Office is prepared to make an exception by allowing IATA to reinstate **President Travels** during this review, **provided** the Applicant deposits the amount corresponding to the sales ticketed through **Khidmah Travel (UK)** into IATA's hinge account.

This would also be a signal to FZ / EK to restore the bookings to Riyadh, Saudi Arabia, done by the Applicant.

Should **President Travels** deposit the amount ticketed, which this Commissioner assumes is mainly for tickets issued on FZ documents, the deposit is not to be touched until a full review is done and completed by this Office.

At this stage, IATA cannot consider this amount being part of the debt of **Khidmah Travel** and "recover" what potentially can be lost should **Khidmah Travel** default.

Also considering the statements done by Mr. Amer of ***Khidmah Travel*** (UK) to this Office, copying IATA at "agencymanagement@iata.org", I find this situation most unfortunate for all Parties, IATA included.

IATA does have the right, **the obligation**, to act upon suspicious activity. BUT IATA also has the obligation to do so ONLY upon having information that an Agent's "suspected action" indeed does risk to prejudice the collection of BSP Participating Airlines' funds.

By following Resolutions' requirements, IATA immediately NOTIFYING Airlines - leading to *premature and legally even questionable actions* by FZ / EK- has caused irreparable damage to the Agents involved.

Decision:

Without further ado, I hereby decide as follows:

- Provided ***President Travels*** deposits the required amount into IATA's hinge account;
- ***President Travels*** has to be reinstated without further delay, unless IATA has solid proof of any breach of Resolutions, which would impede IATA to act accordingly.

After having analysed FZ / EK's submissions:

- I fully understand FZ / EK initial "gut reaction", triggered by IATA's notification regarding ***Khidmah Travels***' suspension, but, I encourage FZ / EK to save what can be saved by restoring those bookings which have not yet been flown and where ***President Travels*** has deposited the amount equivalent to such sales into IATA's hinge account.

Hopefully, even though we do not have ***Shahraha Tour and Travels***' response yet (this decision is being copied to Mr. Kushi at ***Shahraha Tours***), the same will apply to them **provided they also deposit the required amount.**

This Decision is effective as of today.

Decided in Stockholm, on November 8th, 2017

Andreas Körösi
Travel Agency Commissioner
IATA-Area 2

In accordance with Resolution 820e § 2.10 any Party may ask for an interpretation or correction of any error in computation, any clerical or typographical error, or any error or omission of a similar nature which the Party may find relevant to this decision. The time frame for these types of requests will be maximum 15 calendar days after receipt of this decision. Meaning as soon as possible and **not later than November 23rd, 2017.**

Please also be advised that, unless I receive written notice from either one of you **before** the above mentioned date this decision will be published in the Travel Agency Commissioner's secure web site, provided no requests for clarification, interpretation or corrections have been granted by this Commissioner, in which case the final decision will be posted right after that.

Please note that if after having asked for and obtained clarification or correction any Party still considers aggrieved by this decision, as per Resolution 820e §4, the Party has the right to seek review by Arbitration in accordance with the provisions of Resolution 824 §14.

Please let me know if any of the Parties requires a signed hard copy of this decision and I will send one once the time for "interpretation or correction" has elapsed.