

DECISION 2011 – 11 - 10
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road,
Remuera, Auckland 1050,
New Zealand

Applicant:

Travel Design International Pty Ltd
60 Albert St
South Melbourne, Victoria
Australia.
Represented by Mr Bill Astling, Director.

Respondent:

Agency Administrator, Geneva
International Air Transport Association, IATA,
83 York St, Sydney, NSW,
Australia.
Represented by Mr Matteo Zanarini, Passenger Services Manager, Australia and SWPI.

The Case and Decision:

In brief, Travel Design International Pty Ltd (the Agent) , had not been able to meet the deadline date for providing the required level of financial security required by IATA and was consequently terminated on 31 August 2011 in accordance with Resolution 818g, section 2, subparagraph 2.2.2.

Leading up to this point there had been extensive dialogue between the Agent and Contractors Bonding Ltd (CBL), the entity chosen to provide credit risk insurance. As a condition of providing AUD249,000 of cover CBL required AUD49,000 as a cash security.

The Agent sought clarification from CBL on when the cash security would be accessed in the event of a default and was confused by the contradictory response. CBL had stated that they would not release funds for up to 12 months after the expiry until IATA had confirmed that there would be no claim.

The Agent sought advice from IATA SIN and IATA SYD with no response up to the termination date. After Travel Agency Commissioner involvement IATA SYD responded on 14 October 2011 and clarified the circumstances related to the level of financial security required and advised its inability to comment on the terms and conditions offered by CBL, the option chosen by the Agent to fulfill the financial security requirement, the provision of a Bank Guarantee being another method of satisfying the requirement.

The Agent's dialogue with CBL was time consuming and complex and whether or not the provision of the required level of financial security would have met the deadline date had IATA responded promptly to the matters raised by the Agent, is a matter of conjecture.

The current state of affairs is that the Agent is seeking to gain accreditation and IATA is willing to deal with the Agent's new application as a matter of priority. The Agent is concerned at the cost involved in that process and the time involved in completing the application document.

I do not consider that the completion of the application documentation is an onerous task and in the circumstances described above I find it reasonable that the following conditions are effected:-

1. IATA is to deal with the Agent's application without delay and as a matter of priority.
2. The new application fee to be charged to the Agent shall be one half of the full amount.

Decided this 10th November 2011 in Auckland:

Jorgen Foged
Travel Agency Commissioner Area 3

Note:

Either party may, if considered aggrieved by this decision, seek review by arbitration in accordance with Resolution 820e, Section 4 subparagraphs 4.1 and 4.3.