

DECISION 2012 – 03 - 30
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Agency Administrator, Geneva,
International Air Transport Association, IATA,
111 Somerset Road, #14-05,
TripleOne Somerset,
Singapore.

Represented by Mr Nadarajah Prabakaran, Manager, Agency Management Asia Pacific.

Respondent:

Seareef Enterprises Pty Ltd.,
t.a. Vacation World,
71A Regents Park Rd.,
Joondalup 6027,
Australia.

The Case and Decision:

Both parties have agreed to waive their right to an oral hearing and have allowed the undersigned to reach a Decision based on the written information submitted.

In brief, in a message dated 27 March 2012 the IATA Manager, Agency Management Asia/Pacific sought a Travel Agency Commissioner (TAC) Review of the Accreditation of Seareef Enterprises Pty Ltd as provided for in Section 1.3 of Resolution 820e. This action follows IATA's suspension of Seareef's ticketing authority.

The issue cited is that the sole proprietor of Seareef has a financial interest in an Agency which has been removed from the Agency List and which has an outstanding amount to settle with BSP-Australia and thus no longer satisfies the applicable Passenger Sales Agency Rules under Resolution 818g, Section 2, sub paragraph 2.1.8 which states as follows:-

“Trading History

No person who is a director of, or who holds a financial interest or a position of management in the Applicant, shall have been a director of, or had a financial interest, or held a position of management in an Agent which has been removed from the Agency List or is under a notice of default and still has outstanding commercial debts.”

The sole proprietor of Seareef has a 50 percent shareholding in Kingriver Investments Pty Ltd t.a. Harvey World Travel Broome. Kingriver has failed to settle BSP billing for sales made between 27 February 2012 and 18 March 2012 to the value of an estimated AUD11000.00 and as a consequence has been removed from the Agency List. The company has gone into liquidation and has lost its TCF status.

An approach to the sole proprietor of Seareef revealed the fact that there was no involvement in the day to day operations of Kingriver and the shareholding had been seen as an investment.

The Agent under Review has an excellent record of settling BSP billings by the applicable due date.

In order to expedite the re-instatement of its ticketing authority the Agent has offered to settle the defaulted BSP billing made upon Kingriver. IATA advises that this is approximately AUD11000.00. Such an act assuages the final part of sub-paragraph 2.1.8 above.

In so doing it is pertinent to refer to sub-paragraph 2.1.9 of Resolution 818g which reads as follows:-

“The applicant may nevertheless be approved if the Agency Services Manager is satisfied that such person was not responsible for the acts or omissions that caused such removal or default and is satisfied that the applicant can be relied upon to comply with the terms of the Sales Agency Agreement, these Rules and other Resolutions of the Conference.”

Therefore based on the information submitted it is hereby decided as follows:-

1. The Agent is to pay IATA SYD the full amount of the BSP debt incurred by Kingriver Investments Pty Ltd.
2. The Agent is to provide IATA SYD with an up to date set of financial statements which will be promptly assessed by IATA.
3. In so doing and on the assumption that the assessment is satisfactory IATA will advise the level of financial security required.
4. The Agency Services Manager (Mr Zanarini) will decide whether or not the Agent meets the terms of sub-paragraph 2.1.9 above.
5. On the completion of a satisfactory conclusion to this process IATA will promptly re-instate the Agent's ticketing authority.

Decided in Auckland this 30th day of March 2012.

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