

DECISION 2012 – 08 - 07
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Cruise 1st Australia Pty Ltd,
Shopfront G01, Ground Floor,
15 Blue Street,
North Sydney NSW 2060,
Australia
Represented by Mr Lance Batty, General Manager.

Respondent:

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

The Case and Decision:

In brief, as a result of the annual financial review conducted on the Agent's financial statements for the year ending 31 December 2011 it was established that the Agent had not met the Australian Financial Criteria. In a letter dated 20 July 2012 IATA advised the Agent that in order to gain a satisfactory evaluation the current financial guarantee of AUD49,000, provided by CBL Insurance Ltd, would need to be increased to AUD150,000. This increased amount was to be in place by 10 August 2012.

As the Agent is wholly owned by Royal Caribbean Cruises International it was considered that the best option was to acquire the AUD150,000 bonding through a Zurich bank with which the parent company had a close relationship. At the time that this approach was notified to IATA SYD it is believed that all parties thought that this was a valid solution as the Zurich bank provides bonding facilities to Agents in other countries.

On 3 August 2012 IATA SYD advised the Agent that their enquiries had established that the Zurich bank had not been approved for providing bonding in Australia. As there would be insufficient time to deliver the required financial guarantee by IATA's deadline the Agent approached the writer on 6 August 2012 with a request for interlocutory relief for a period of 30 days from 10 August 2012. This period was felt to be needed for the Agent's owner to provide CBL Insurance Ltd with a parent company guarantee which would back the AUD150,000 sought by the Agent.

IATA SYD has confirmed that it is satisfied with the Agent's current level of financial guarantee during the period of interlocutory relief should it be granted. The Agent has made the request for review within the 30 days time limit set by Resolution 820e and the provision in that Resolution under sub paragraph 2.3 allowing the parties to waive their right to an oral hearing and to allow the writer to reach a decision based on the written information submitted has been concurred with by the Agent and IATA.

Having examined the factors involved in this case it is hereby decided as follows:-

1. Interlocutory relief is granted to the Agent until Friday 7 September 2012.

Decided this 7th day of August 2012 in Auckland.

Jorgen Foged
Travel Agency Commissioner Area 3

Notes:

1. As per Resolution 820e, Section 4, any Party has the right, if it considers itself aggrieved by this Decision, to seek review by Arbitration in accordance with the provisions of Resolution 824, Section 14.
2. The Parties are advised that effective from 1 June 2012, according to Subparagraph 2.10 of Resolution 820e, any of them may request an interpretation of this Decision, or for a correction of any error in computation, any clerical or typographical error, or any omission in this Decision. Such request must be made within 15 days of receipt of the electronic version of this Decision.