

**DECISION 2012 – 08 - 27**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

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

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**Applicant:**

Agency Administrator, Geneva,  
International Air Transport Association, IATA,  
111 Somerset Road, #14-05,  
TripleOne Somerset,  
Singapore.  
Represented by Ooi Hwa Tham, Manager, Agency Management Asia Pacific.

**Respondent:**

Pt Putra Nusa Mandiri t.a. Punama Tour,  
Jl Jatinegara Timur No. 84A,  
Jakarta Timur,  
Indonesia.

**The Case and Decision:**

In brief, on 16 July 2012 the Agency Administrator wrote to the Agent advising his intention to initiate a review by the writer of the Agent's IATA accreditation on the grounds that the Agent no longer satisfied the Passenger Sales Agency Rules under Resolution 818g sub paragraph 2.1.8.

On 18 July 2012 the Agency Administrator contacted the writer requesting a review of the Agent under sub paragraph 1.3.1 of Resolution 820e. The core of the matter is the fact that 2 shareholders in the Agent had been shareholders in an IATA Passenger Sales Agency that was struck off the Agency List on 28 April 1998 for failure to submit audited financial statements for post default review.

The shareholders were Mr Muhammad Anis and Mrs Selvy Anis who held 25 percent each of the shares of the dis-accredited Agent. Mr Anis holds 40 percent and Mrs Anis 10 percent respectively in the Agent under Review. A further claim is that another Director of the defaulting Agent, holding 30 percent of the shares, was Operations Manager of the Agent under Review. This last assertion is not verified by the IATA AIMS records.

Resolution 818g - Passenger Sales Agency Rules - under sub paragraph 2.1.8 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 notice of default and still has outstanding commercial debts: "

Attempts were made by the writer to allow the Agent to respond to the claims made against it via the media of 2 e-mail messages and 2 phone calls all of which remain unanswered. Under the circumstances and with the intention of bringing this matter to a conclusion the writer has invoked Rule 13 of the TAC 3 Rules of Practice and Procedure which states:-

**"Absence of a Party**

If a Party or his/her representative, after due notice, fails to be present at the hearing or fails to obtain an adjournment, the decision will be rendered on the basis of the written evidence previously tendered by the Parties."

The due notice mentioned in this Rule was issued on 17 August 2012. Therefore the information submitted by the Agency Administrator with supporting evidence was used as a means of reaching a decision. The writer considers that a prima facie case has been established whereby a breach of sub paragraph 2.1.8 of Resolution 818g has occurred, namely that 2 shareholders in an Agent struck off the Agency List are both shareholders in the Agent under review.

The decision options available to the writer where a review has been initiated by the Agency Administrator are listed in section 3.3 of Resolution 820e. While they are not exhaustive the option under sub paragraph 3.3.1 is appropriate in part. This states as follows:-

"the Agent or Approved Location be removed or suspended for a stated period from the Agency List: "

In fairness to the other shareholders in the Agent under review and having examined the factors involved in this case it is hereby decided as follows:-

- 1 The Agent is suspended for a period of 60 days from the date of this Decision
2. During that period action must be taken to remove the 2 shareholders who are the cause for this review either by the sale of their shareholding to others or the complete sale of the whole entity.
3. Should a change of ownership be approved within this 60 day period and accreditation granted then the new Agency may be placed on BSP before the expiry of the suspension period.
4. In the event that the outcome described in 2. above cannot be achieved then the Agent is to be struck from the Agency List at the conclusion of the 60 day suspension period.

Decided this 27th day of August 2012 in Auckland

A signed version of this Decision will be mailed to the Parties.

Yours faithfully,

**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.