

DECISION 2012 – 09 – 11
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:

Travel Bridge Syndicate,
128, Motijheel C/A,
GPO Box-2767,
Dhaka 1000,
Bangladesh.
Represented by Mr Seraj Addin Ahmed, Chairman-cum-CEO.

The Case and Decision:

In brief, the Agent accumulated 4 Instances of Irregularity and was defaulted on 3 January 2012. On 29 February 2012 settlement of 50 percent of the debt was made by the Agent and an agreement to repay the remaining debt over a 6 month period was concluded.

Payment for the 5th instalment (equivalent to USD4452.00) due on 31 July 2012 failed as a result of a lack of funds in the Agent's bank account. The Agent made a part payment of the instalment due (equivalent to USD1816.00) on 3 August 2012 and sought a time extension to pay the balance on 9 August 2012. When that payment had not been made that day termination action was initiated. The balance due for the 5th instalment was made on 12 August 2012. On 28 August 2012 the Agent settled the remaining outstanding debt and IATA issued instructions to hold action on accessing the Agent's bank guarantee.

On being questioned as to the reason for the events described above the Agent advised that as was traditional in the month of Ramadan, Eid-ul-Fitr, they had given cash to the poor. Sales for the past few months had declined significantly and to further compound the situation the visas for 75 migrant workers for a Korean company based in Abu Dhabi failed to arrive in the time promised thus preventing their being ticketed. Furthermore the

fee of USD200 per worker (USD15000.00 in total) had been paid in advance and the combination of these factors meant that there were insufficient funds available at the crucial time for payment of the 5th instalment.

The Agent has sought a review within the time frame allowed in Resolution 820e and both Parties have agreed to waive their right to an oral hearing and have allowed the writer to reach a decision based on the written information submitted.

IATA has acted in full accord with the Rules and the termination action was enshrined therein. However the Agent's honesty in describing the circumstances leading to its pecuniary shortfall and its settlement of the total debt after the termination date has encouraged the writer to grant the Agent a second chance.

Consequently it is hereby decided as follows:-

1. On the understanding that the Agent has paid the full amount owed as detailed in sub paragraph 2.2.1 (ii) of Atch A to Resolution 818g the Agent must be reinstated subject to:-
 - (a) submitting an up to date set of financial statements which must meet the Financial Criteria for Bangladesh
 - (b) providing IATA with a financial guarantee to the level set by IATA.

Decided this 11th day of September 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 sub paragraph 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.