

**DECISION 2012 – 10 - 08**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

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

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**Applicant:**

Jetescape Travel Pty Ltd, t/a Travelscene Logan,  
137 Bryants Road, Loganholme  
QLD 4129,  
Australia.  
Represented by Mr Leonard Padowitz, Managing Director.

**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, the Agent has incurred 2 Instances of Irregularity (IOR) today as a result of failing to submit its financial statements for the Annual Financial Review by the due date of 1 October 2012. This follows the incurring of 2 IORs earlier this year due to the Agent changing banks and discovering retroactively that the type of account opened for BSP settlement did not allow direct debit. On discovery the Agent transferred the required funds and took steps to change the account type to one that would support direct debits. Due to the accumulation of 4 IORs in a 12 month period the Agent has been suspended from the BSP.

In its submission to the writer the Agent advises that it had been granted an extension by the TCF allowing it until 31 October 2012 to provide its financial statements and had thought that this also covered IATA's requirement. The return of the owner today after 4 weeks absence overseas has compressed the time available to address this issue however a series of messages between the parties has accumulated the necessary information.

IATA has confirmed that it is satisfied with the Agent's current level of financial guarantee as long as any interlocutory relief expires on 12 October 2012. Both Parties have agreed to waive their right to a formal hearing and have allowed the writer to reach a decision based on the written information provided.

Having examined the factors involved in this case I find that the Agent has taken insufficient note of its obligations under the IATA Passenger Sales Agency Agreement. Notification of the due date for the Annual Financial Review applicable to all Agents in

Australia has been posted on BSPLink in July, August and September 2012 as well as formal advice in a 29 July 2012 letter stating the 1 October 2012 deadline for financial statement submission. This period of notice is ample time for the required documentation to be prepared and submitted. It is the Agent's responsibility to understand the parameters under which it operates as an IATA Accredited Agent and assumptions should not be relied upon.

However as IATA is prepared to accept a short time extension for interlocutory relief to 12 October 2012 under the existing financial guarantee it is hereby decided as follows:-

1. Interlocutory relief to allow the Agent to submit overdue financial statements is granted until Friday 12 October 2012.
2. Any request by the Agent for an extension beyond that date will not be entertained.

Decided this 8<sup>th</sup> day of October 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.