

DECISION 2012 – 12 - 20
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Ahmad Ayad t.a. IISSA Travel,
Olsen Place, 3 Nepean St,
Broadmeadows VIC 3047,
Australia
Represented by Mr Ahmad Ayad, Owner.

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:

The Agent's IATA accreditation was terminated on 6 December 2012 as a consequence of failing to submit its requisite financial statements for the Annual Financial Review by the stipulated deadline.

In its submission for interlocutory relief the Agent explained that it had supplied all the required information to its third party Accountants who then prepared the financial statements and dispatched them to IATA and the TCF. In the case of IATA an attempt was made to upload them on the IATA portal but this failed so the Accounting firm mailed same to the IATA Sydney office.

The Agent received an October 2012 letter from IATA stating that the financial statements had not been received. The Agent checked with its Accountants and was assured of their dispatch and hence took no further notice of the IATA letter. The Agent claims to have phoned the IATA SYD office but was unable to get through. However having received good service from its Accountants the Agent relied on their assurances.

On receiving the IATA termination letter the Agent spoke with an IATA staff member in the Sydney office and was advised that hard copy documentation was no longer acceptable and even if received would not be processed. The only acceptable method was electronic uploading to the IATA portal.

The Agent believes that it has been the victim of circumstance in matters beyond its control and seeks an extension of time to deliver its financial statements in the manner

required by IATA and to have its ticketing authority reinstated.

On being questioned by the writer as to where the requirement for uploading financial statements to the IATA portal was enshrined an IATA SYD Representative advised that instructions had been issued to Agents from 5 July 2012 and at regular intervals thereafter, detailing the manner in which their financial statements should be uploaded to the IATA website. These instructions, sighted by the writer, emphasised that it was the Agent's responsibility to ensure timely delivery in the required manner and not to rely on its Accountants to perform that function. The Representative was not aware of any instructions to refuse the acceptance of hard copy documentation where uploading problems had been experienced by an Agent. The writer has since received advice that the financial statements have now been successfully uploaded.

Having examined the factors involved in this case it is clear that the Agent placed too much reliance on its third party Accountant in complying with IATA's requirement. However a mitigating factor is the action taken to deliver the required documentation in hard copy form and the advice claimed to have been made by an IATA staff member that such delivered documentation would not be processed which may have been misunderstood by the Agent. No doubt the Agent will take note of the need to be closely involved with this process when the next Annual Financial Review is announced.

Turning now to the question of the granting of interlocutory relief or otherwise, the Agent has complied with the time frame for seeking same as provided for in sub paragraph 1.2.2.1 of Resolution 820e. Furthermore IATA has confirmed that it is satisfied with the Agent's current level of financial guarantee and both Parties have agreed to waive their right to an oral hearing and to allow the writer to reach a decision based on the written information submitted as provided for in sub paragraph 2.3 of the same Resolution.

Consequently, having carefully examined the factors involved in this case, it is hereby decided as follows:-

1. Interlocutory relief as provided for in sub paragraph 1.2.2.4 of Resolution 820e is granted until Friday 11 January 2013.

2. The Agent's ticketing authority is to be re-instated with immediate effect.

Decided this 20th day of December 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.