

DECISION 2012 – 12 - 24
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Hira Nasir Travels, B-2, Mezzanine Floor,
Mehran State, Dr Dawood Pota Rd.
Cantt, Sindh,
Karachi,
Pakistan.
Represented by Mr Sardar Ahmed Nasir, Proprietor.

Respondent:

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

The Case and Decision:

The Agent was terminated on 1 November 2012 as a consequence of failing to supply a financial guarantee by the deadline date of 31 October 2012. This failure, which initiated 2 Instances of Irregularity on 3 September 2012 together with an earlier issuance of 2 Instances of Irregularity for failing to provide financial statements for annual review, led to this outcome.

The Agent sought a review by the writer of the IATA action on 19 November 2012 which was within the 30 day appeal period provided for in sub paragraph 1.2.2.1 of Resolution 820e. In its appeal the Agent stated that the proprietor had been hospitalised with a serious heart-related illness at the crucial time. The Agent's staff had been in touch with the Default Insurance Provider but were not able to complete the required documentation as they did not want to cause the proprietor further stress by requesting that he sign same. Thus the proprietor was unaware of this development and as the staff were ignorant of the consequences of inaction as proscribed in the applicable Resolution the matter remained dormant.

Subsequent to being alerted to the gravity of the situation the proprietor took prompt steps to arrange Default Protection Insurance as evidenced by a 14 November 2012 letter from the Provider confirming that cover was in place up to 30 August 2013 with a further

6 months life for claim lodgment.

The writer addressed a number of questions to the Agent related to the period during which he was incapacitated and while on paper there may have been an opportunity to meet IATA's requirement in advance of the critical time line and thus avoid termination, the reality may have been quite different and hence I am going to accept the description of events as provided by the Agent.

Both Parties have agreed to waive their right to an oral hearing and to allow the writer to reach an agreement based on the written information submitted as provided for in sub paragraph 2.3 of Resolution 820e.

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

1. The Agent is to undergo a Financial Review which will be dealt with promptly by IATA.
2. The Agent is to confirm the establishment of a financial guarantee which meets the IATA requirement.
3. Subject to achieving a satisfactory financial review and meeting the condition of 2. above the Agent is to be re-instated as soon as possible.

Decided this 24th 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 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.