

DECISION 2013 – 04 – 10
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Hamna Batool Travel and Tours,
1103, Kashif Centre,
Shahrah-E-Faisal,
Karachi,
Pakistan.
Represented by Mrs Saadia, Proprietor's Widow.

Respondent:

Agency Administrator, Geneva
International Air Transport Association, IATA,
Represented by Ms Hwa Ooi Tham, Manager, Agency Management Asia/Pacific
IATA, Singapore.

The Case and Decision:

The wife of the Agency's Proprietor contacted the writer on 4 April 2013 following the termination of that entity's IATA accreditation on 1 April 2013 due to failing to file a Change of Ownership application as a result of the accidental death of the Proprietor on 16 January 2013.

The situation described was that as a Muslim Widow a waiting period of 4 months and 10 days was stipulated (until 23 May 2013) before any attention could be devoted to business or public matters. During that time the Agency's staff was relied upon to conduct the affairs of the Agent. Based on erroneous advice the staff had had completed a Deed of Partnership and sent it to IATA SIN without first having it registered. The correct action should have been to procure the "Order of Succession" from the Law Court and to advise IATA and other concerned Parties.

IATA SIN requested that a Change of Ownership notice be filed however in the absence of the Court authorised document it would have been invalid as it would not have provided the necessary Government license to trade. The "Order of Succession" has now been applied for and the revised Deed of Partnership will be registered and application will be made to IATA and relevant Government departments for the Change of Ownership.

It is stated that the Agent no longer issues tickets, has no outstanding BSP settlements

and has a Financial Guarantee in place with IATA KHI which expires on 30 August 2013. Based on these circumstances the request is made that the Termination be withdrawn and reasonable time allowed for the formalities to be completed. The Agent's Widow intends to attend to business from 24 May 2013 and requests that the date for submitting the relevant documents to IATA SIN be extended to 30 June 2013.

IATA SIN advises that on 21 January 2013 the Agent's Insurers informed IATA KHI of the death of the Proprietor. IATA SIN sent a 22 January 2013 letter to the Agent requesting that a temporary Passenger Sales Agency Agreement be executed within 30 days. In the absence of a reply on 25 February 2013 IATA SIN placed the Agent on Notice of Termination advising that such action would be taken if the Change of Ownership application had not been submitted prior to 31 March 2013. As no such application had been received by that date IATA SIN terminated the Agent on 1 April 2013.

This action is in full compliance with Section 10 of Resolution 818g.

As provided for in sub paragraph 2.3 of Resolution 820e both Parties have waived their right to an oral hearing and have allowed the writer to reach a decision based on the written information submitted.

In examining the factors involved in this case the writer finds it reasonable that under the circumstances assistance is given which will provide the Proprietor's Widow and her family with an income from the business that has been built up.

Consequently it is hereby decided as follows:-

1. The Agent is to be reinstated on the Agency List but remains suspended until 30 June 2013 or such earlier date by which the completed Change of Ownership application is submitted to IATA SIN.
2. The Agent shall remain on the Agency List while IATA examines its Change of Ownership application and shall be reinstated on BSP on having its application approved.

Decided this 10th day of April 2013 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.