

DECISION 2013 – 04 – 26
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Mission Travel Group,
Suite 3, 400 Canterbury Rd,
Surrey Hills VIC 3127,
Australia.
Represented by Mr Mark Penny, Office Manager.

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 has been required to submit a financial guarantee of AUD 225,000 to IATA SYD by 26 April 2013 as a result of the Annual Financial Review. Some delay was experienced while the Agent was querying the amount involved with IATA SYD. On initiating the process of acquiring a bank guarantee with its Bank it was advised that a guarantee for this amount would require 3-4 weeks for completion and as a consequence the Agent has approached the writer with a request for interlocutory relief until 24 May 2013.

As provided for in sub paragraph 2.3 of Resolution 820e 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 SYD advises that the Agent currently has no financial guarantee in place and was served a Notice of Irregularity in October 2012 for non-compliance with the financial criteria. It is felt that a further 4 weeks is excessive and the Agent had the option of acquiring Default Protection Insurance (DPI).

The Agent points out the time consumed to clarify the determination of the higher level of financial guarantee required and advises that the AUD 7,000 premium for DPI would be a significant burden while the cash for the bank guarantee is available and can be in place in 3 weeks.

The application for the guarantee was lodged with the Agent's Bank on Friday 19 April 2013 so with the expedited action being sought from its Bank, Friday 17 May 2013 is a not unreasonable deadline date.

Consequently, bearing in mind the statements made by the Parties, it is hereby decided as follows:-

1. The Agent is granted interlocutory relief until Friday 17 May 2013.

Decided this 26th 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.