

DECISION 2013 – 07 – 25
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Royal Services Travels and Tours,
Office No 26, 2nd Floor,
Capital Shopping Centre,
G-11 Markaz,
Islamabad, Pakistan.
Represented by Mr. Muhammad Ehtesham-ul-Haq, Managing Partner

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 Applicant was advised by IATA SIN on 12 April 2013 that its application for accreditation had been disapproved on the grounds that its EBITDA (earnings before interest, tax, depreciation and amortisation) must be positive and its EBITDA to interest payable ratio must be equal or more than 2.

The Applicant contacted the writer on 18 April 2013 and in its request for review advised that its Auditors had made an error in the preparation of its financial statements for the period up to 31 December 2012. In response the writer sought written evidence from the Applicant confirming the Auditor's admission that it had made an error.

Perhaps due to English not being the Applicant's first language the writer's request was misunderstood and a corrected set of financial statements were submitted. On notifying the Applicant that these documents were not satisfactory and a written admission from the Auditors of their error was required the matter stayed in limbo for some time.

Finally an undated letter from the Auditor to the Applicant was submitted. It was written in poor English, admitted that a mistake had been made and recorded its regrets. The letter was signed "For" the auditing company without showing any name or level of authority. The writer was struck by the fact that the English used in the financial statements was impeccable whereas the English shown in the mea culpa letter was not.

Based on the apparent low level of authority nature of the Auditor letter the writer decided that it was unacceptable and requested that an admission of error letter signed by a Partner in the Auditing firm was required if this case was to go forward. Two weeks elapsed before the Applicant responded with the advice that the Partner was away in Saudi Arabia offering Umrah.

Finally on 11 June 2013 a letter addressed to the writer was sighted advising that in the Partner's opinion, for a listed number of considerations, the Applicant's revised financial statements to 31 December 2012 met the accreditation criteria and apologising for the inconvenience.

For some time the writer had been seeking information from IATA SIN regarding whether or not financial statements up to 31 December 2012 were acceptable for a mid 2013 application and what was the amount of the application fee refunded to the Applicant. Due to some form of electronic information transfer error this message plus chase-ups were not received until 15 July 2013 and on that date IATA SIN advised that the subject financial statements were acceptable and that the Applicant had been refunded USD 1,117.00.

Coincidentally the same day the writer received a message from the Applicant attaching financial statements up to 30 June 2013 prepared by a different firm of Chartered Accountants.

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. The process of gaining this waiver has also consumed some days.

Although the acquiring of acceptable evidence of the Auditor's error took longer than is desirable I accept that evidence and as a consequence have reached the following decision:-

1. Subject to the Applicant paying the refunded Application Fee of USD 1,117.00 to IATA, the Applicant's financial statements, either the revised set up to 31 December 2012 or the newly prepared set to 30 June 2013, are to be evaluated by IATA against the accreditation criteria for Pakistan.

Decided this 25th day of July 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.