

DECISION 2013 – 09 – 02A
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Roshan Haj Umrah Tours and Travels,
B-32, Amrapali, Sector XI,
Shanti Nagar, Nr TMT Bus Stop,
Mira Rd East,
Thane 401107,
India.
Represented by Mr. Nafis Syed, Proprietor.

Respondent:

Agency Administrator, Geneva
International Air Transport Association, IATA,
Represented by Mr Rodney D’Cruz, Manager, Agency Management Asia/Pacific
IATA, Singapore.

The Case and Decision:

In brief, the Agent was terminated on 1 August 2013 for failing to submit its financial statements by the stipulated deadline date. In its defence the Agent stated that the Termination Letter, received on 8 August 2013, was the first indication it had of the requirement to submit its financial statements. The Agent is not on BSPLink and claims to not have received any form of advice on this matter until receipt of the Termination letter.

Noting that the IATA Notice of Irregularity, Notice of Termination and Termination letters, show "REGISTERED" in the top right hand corner an enquiry was made to IATA SIN as to the practical meaning of that term. The reply was that these letters are sent by registered mail or by courier. In the event of non-delivery they are returned to the local IATA office. With regard to these particular letters the IATA Mumbai office was unable to provide proof of delivery since all the letters of non-compliant Agents were bulk mailed through a courier company.

The Agent was asked to explain how they could have received the Termination letter but none of the others leading up to that event. The Agent could not offer an explanation but the rationale described in a concurrent Decision involving an Agent in identical circumstances could apply. Put simply that Agent opined why would the Agent not submit its financial statements had they been aware of the need to do so having gone to

the time and trouble of acquiring IATA accreditation?

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 as provided for in sub-paragraph 2.3 of Resolution 820e. Furthermore the request for review was made within the 30 day time frame detailed in sub paragraph 1.2.2.1 of the same Resolution.

In considering the factors involved in this case I have decided to give the Agent the benefit of the doubt. Consequently it is hereby decided as follows:-

1. The Agent is to be reinstated once IATA receives the subject financial statements. Such financial statements must be received within 30 days of the date of this Decision.
2. IATA is to provide the Agent with specific instructions on where and how to submit same.

Decided this 2nd day of September 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.