

**DECISION 2013 – 10 – 18**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

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

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**Applicant:**

Pacesetter Travel Services Pty Ltd,  
As trustees for the Phillips Family  
t.a. Jetset Travel Elsternwick,  
300 Glenhuntly Road,  
Elsternwick, Victoria 3185  
Australia  
Represented by Mr. Raymond Phillips, Director

**Respondent:**

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

**The Case and Decision:**

The Agent was issued with a Notice of Irregularity on 11 October 2013 for failing to submit its financial statements for the annual Financial Review by 30 September 2013. The same day a Notice of Default was issued by IATA SIN as a consequence of an accumulation of 4 Instances of Irregularity within a 12 month period and the Agency's ticketing authority was withdrawn.

The Agent sought a review of this action on 14 October 2013 stating that it had requested an extension of time in e-mail messages initiated on 12 September 2013 and repeated on 2 further occasions. On 16 September 2013 IATA SYD responded with the advice that the request was being considered by Agency Management and a response would be made shortly. The Agent states that on 14 October 2013 it received a phone call from IATA SYD denying the request and the aforementioned action occurred. This statement has not been challenged by IATA.

On being questioned as to why the extension was necessary the Agent advised that the Director who normally handled this matter had been ill for most of August and September with coronary artery disease and foreseeing a delay to the submission the request for a time extension was made to IATA. The Agent also indicated that its newly-appointed Auditor claimed to have received verbal agreement from someone at IATA SYD to the extension but was unable to provide proof of same. This Auditor has now

been dismissed and the Agent has retained its previous accounting firm. The Agent considers that IATA contributed to the situation it now faced by not notifying it of its stance when it made its initial request on 12 September 2013.

IATA was asked to provide details of the internal activity that occurred from the time of the initial request to the time of the notification of its decision. IATA SIN provided a summary detailing that the Agent was alerted on 26 July 2013 to the need for the subject documentation to be submitted by 30 September 2013. This information was repeated in *BSPlink* in August and September 2013. The action which is the subject of this review then took place on 11 October 2013. When asked to respond to the writer's specific question related to the internal activity that took place between the time of the initial request and the time of its decision being notified to the Agent, IATA SIN stated that receipt of the Agent's request had been acknowledged and the request for an extension had been discussed internally. However IATA was compelled to strictly comply (with the Resolutions) and take action when the 30 September 2013 deadline was missed as sufficient notification to the Agent had been given for the submission of financial statements.

The Agent has complied with the within 30 days time frame for requesting a review as detailed in sub paragraph 1.2.2.1 of Resolution 820e. Furthermore, both Parties have agreed to waive their rights 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 the same Resolution.

In considering this matter the writer finds it unacceptable for the Agent to have had to wait for 32 days for an answer to a question that could have been answered on the same day by reference to the IATA Standard Operating Procedures Manual. Even if the local IATA office had to refer the matter to its Regional Office in SIN or Head Office in GVA an answer should have been provided within a few days not after more than a month. Had the Agent been given an answer in mid September it is not impossible to expect that the required financial statements could have been prepared and submitted by the 30 September 2013 deadline.

It is also worth noting that the Agent should have given more weight to the situation and pursued options that would have produced the required documentation by the deadline date. However it had it placed its faith in acquiring more time, at a cost potentially, by its request to IATA.

On balance, the writer finds that IATA's procrastination was a significant contributing factor to the situation now faced by the Agent and consequently it is hereby decided as follows:-

1. The Notice of Irregularity dated 11 October 2013 is to be expunged from the Agent's record.
2. The Agent is granted until Friday 8 November 2013 to submit its financial statements.

Decided this 18th day of October 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.