

**DECISION 2013 – 10 – 22**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

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

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**Applicant:**

Galactica Tours Pty Ltd t.a Travelscene Summerland Travel,  
97 Keen St,  
Lismore NSW 2480,  
Australia.  
Represented by Mr. Nic Volpato, 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. In that Notice IATA gave the Agent until 31 October 2013 to submit such documentation failing which suspension from the BSP would follow.

The Agent sought a review of IATA's issuance of the Notice and requested an extension of time until 21 November 2013 for the submission of its statements. In its submission the Agent stated that the delay was directly related to the ill-health of its Accountant who had suffered a heart-attack on 13 September 2013. This was the first occasion since 1986 that the deadline had been missed. The Accountant was now back in the office on a part-time basis.

On seeking a better estimate of the time that it would take to complete preparation of the financial statements the writer was advised that the Accountant had worked over the weekend with the objective of passing the accounts to the Auditors early in the week commencing 21 October 2013. They would have to fit this work into their crowded programme and would need 2 weeks to complete the audit. Allowing for contingencies a request was made that the deadline for submission of the required documentation be set at Thursday 14 November 2013.

The request for review has been made within the time frame detailed in sub paragraph 1.2.2.1 of Resolution 820e and both Parties have agreed to waive their rights to an oral hearing and to allow 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 it is appropriate to apply the provisions of paragraph 13.9 of Resolution 818g which is headed "Force Majeure". The Agent was unable to foresee the unfortunate temporary incapacitation of its Accountant and this is an occurrence "beyond the reasonable control of the Agent".

Consequently it is hereby decided as follows:-

1. The Notice of Irregularity must be expunged from the Agent's record.
2. The Agent is granted until Thursday 14 November 2013 to submit its financial statements to IATA in the manner proscribed.

Decided this 22<sup>nd</sup> 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.