

DECISION 2013 – 12 – 09
TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

FBI Travel Ltd.
80 Kooyong Rd,
Caulfield North VIC 3161
Australia.
Represented by Mr. Mark Chaskiel, Chief Executive Officer

Respondent:

Agency Administrator, Geneva
International Air Transport Association, IATA
Represented by Ms. Nadya Widjaja, Manager, Agency Management Asia/Pacific
IATA, Singapore.

The Case and Decision:

As a result of the Annual Financial Review the Agent was required to provide a financial security to the amount of AUD 757,000 by Friday 6 December 2013 as a consequence of failing Tests 1 and 3 of the Financial Criteria for Australia.

The Agent states that it has been in communication with IATA through its accountants and auditor seeking clarifications and explanations for the need for the financial security. These exchanges have taken some time and the Agent was of the belief that no action would be taken against them while this process was underway. The Agent has been accredited since 1986 and has not been required to provide any form of financial security previously.

The Agent contacted a default protection insurance provider on 6 December 2013 and has now initiated the acquisition of the required amount of security. The insurance provider has advised that it will take 2 weeks for the security to be in place and the Agent has sought interlocutory relief until Tuesday 24 December 2013.

At the time of dispatch of this decision the Agent has agreed to waive its right to an oral hearing and has allowed the writer to reach a decision based on the written information submitted as provided for in sub paragraph 2.3 of Resolution 820e and the time frame for seeking a review, as detailed in sub paragraph 1.2.2.1 of the same Resolution, has not been exceeded. IATA has not yet responded to that question but to date has never required an oral hearing under these type of circumstances and I have therefore decided

to release this Decision due to the lateness of the hour. IATA has not objected to the granting of interlocutory relief for the period sought.

IATA has withdrawn the Agent's ticketing authority as a consequence of it failing to meet the financial security requirement by 6 December 2013.

In considering this matter it is clear that IATA has acted in accordance with the Passenger Sales Agency Rules and it must be said that the Agent's assumption of a "stay of action" was misguided and unfortunate however it is taking urgent steps to comply hence based on the situation described above and the Agent's sound record it is hereby decided as follows:-

1. The Agent's ticketing authority is to be re-activated immediately.
2. The Agent is granted interlocutory relief until Tuesday 24 December 2013.

Decided this 9th day of December 2013 in Auckland

Jorgen Foged
Travel Agency Commissioner Area 3

PS – IATA waived its right to an oral hearing late on 9 December 2013.

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.