

DECISION 2014 – 02- 04
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

CYC Travel Services Pty Ltd.
Shop 1, Ground Floor 422 Sussex Street
Sydney NSW 2000
Australia
Represented by Ms. Anne Ho, Manager

Respondent:

Agency Administrator, Geneva
International Air Transport Association, IATA
Represented by Mr Nadarajah Prabaharan, Asst Director Agency Services Asia/Pacific,
IATA, Singapore.

The Case and Decision:

As a consequence of the Annual Financial Review the Agent failed Tests 1 and 3 of the Financial Criteria for Australia and was required to provide a financial security of AUD 307,000. The Agent disagreed with the Assessor's classification of an inter-company loan and made several unsuccessful attempts to engage with IATA in order to acquire a detailed explanation for its decision not to classify a loan provided to a bus company owned by the same shareholders as an asset of the Agent's company.

The Agent sought interlocutory relief late on Friday 24 January 2014, the day on which the financial security was to be in place. As Monday was a public holiday in Auckland the matter was deferred until Tuesday 28 January 2014. The Agent's first attempt to describe the interrelationship between the travel agency company and the tour bus company was considered too subjective and emotive by the writer and the Agent was given 48 hours to produce a more clinical and factual explanation which focused on how can the loan from the travel services company (the Agent) to the bus tour company could be regarded as an asset in the travel services company's accounts based on the terms of the Financial Criteria for Australia.

Such a document was received on 30 January 2014. At that point the writer sought, and acquired, the agreement of both Parties to waive their rights to an oral hearing and to allow a decision to be rendered based on the written information submitted as provided for in sub-paragraph 2.3 of Resolution 820e. It was also determined that the Agent had

made its request within the 30 day time limit detailed in sub-paragraph 1.2.2.1 of the same Resolution. IATA has not objected to the granting of interlocutory relief.

The Agent's 30 January 2014 detailed explanation of its reasoning for considering the loan to the bus tour company as an asset appears credible to the writer who, however, is not an accountant or a credit risk assessor. It is felt, therefore, that the work put into that document deserves the true test of having the Global Financial Assessor consider the Agent's arguments and to find in accordance with the Criteria.

As a consequence it is hereby decided as follows:-

1. The Agent's 30 January 2014 explanatory letter addressed to the writer, together with its attachments, are to be submitted to the Global Financial Assessor.
2. The Agent is to pay any fees associated with the assessment.
3. As the time for the assessment to be completed and the findings presented is indeterminate, the Agent is granted interlocutory relief until the date upon which IATA advises the Agent of the outcome of its appeal.

Decided this 4th day of February 2014 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.