

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

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Corporate Travel Management Group Pty Ltd
27A/52 Charlotte Street
Brisbane QLD 4000
Australia.

Represented by Mr. Steve Fleming, Chief Financial Officer

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:

Following the assessment of its financial statements for the Annual Financial Review the Agent was advised by IATA that it had failed on two grounds which are as follows:-

1. Failure to meet the Minimum Share Capital and Reserves criteria requiring the submission of a financial security of AUD 5,558,000 by 24 January 2014.
2. A wholly owned subsidiary, Sainten Pty Ltd, which continued to be classified as a Head Office location failed on the grounds of incomplete submission of financial statements as only the parent company accounts were provided. An audited profit and loss/balance sheet for Sainten Pty Ltd was required in order to complete the submission process and 30 days to comply was granted and 2 Instances of Irregularity issued.

In its request for review and interlocutory relief the Agent made the following statements:-

With regard to No. 1 above, the Agent stated that it had been in business for 20 years in the corporate travel segment with offices in Australia, New Zealand and had recently expanded to the USA with 2 acquisitions in the last 18 months. When its financial return for Australia was completed the Agent liaised with IATA SYD to point out that their group accounts now included the USA operations. These accounts were lodged together with a sub-consolidation which excluded the USA companies' performance. The Agent believes that this situation has produced the not meeting the Minimum Capital and Reserves decision. The parent company has invested in the USA operation with a loan to

a related party (essentially funding the USA investment) where in the "Australia only" result there is no account of the USA business. At the time of the request for review the parent Agent was in the process of completing an AUD 50m capital raising which was due for completion on Friday 24 January 2014. The Agent states that this additional capital will mean that the Minimum Capital and Reserves test will be comfortably met.

With regard to No. 2 above, the Agent stated that the wholly owned subsidiary Sainten Pty Ltd had been included in the parent company accounts for the last 5 years. It recognised that the subsidiary was classified as a Head Office location within the IATA structure and hence was a separate entity but that had not been an issue in the past and the requirement of a separate set of financial statements had not previously been discussed with IATA. The parent Agent had initiated a change of ownership process which would convert the subsidiary into a Branch Office of the parent Agent thus removing the requirement for a separate set of financial statements.

The Agent has sought a period of interlocutory relief until 31 March 2014 however that is considered to be excessive by the writer as the processes involved should be completed within a shorter time frame.

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 Resolution 820e and the Agent has sought a review within the 30 day time frame detailed in sub-paragraph 1.2.2.1 of the same Resolution. IATA has not objected to the granting of interlocutory relief.

The passage of time since the request for review was made has seen the closing of the capital raising period which, from a layman's viewpoint, should have the potential for resolving the issue detailed under No. 1 above.

In connection with the Sainten Pty Ltd matter it is understood that the change of ownership process was initiated some days ago and hence once completed should see the issue under No. 2 above removed.

Therefore, based on the foregoing, it is hereby decided as follows:-

1. The Agent is granted interlocutory relief until Friday 21 February 2014.
2. The Agent is to present documents which satisfy the IATA Global Assessor with regard to the Agent meeting the Minimum Capital and Reserves test.
3. The Agent is to comply with the process that converts Sainten Pty Ltd from a Head Office location to that of a Branch Office location of the Agent.
4. The fees associated with any of the work undertaken by IATA are to be borne by the Agent.

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.