

**DECISION 2014 – 07 - 01**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

Jo Foged  
685 Remuera Road  
Remuera, Auckland 1050  
New Zealand

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**Applicant:**

Bestjet Travel Pty Ltd.  
Fortitude Valley, QLD  
Australia.  
Represented by Mr. Michael James, Airline Coordinator

**Respondent:**

Agency Administrator, Geneva  
International Air Transport Association, IATA  
Represented by Mr. Nawaz Shaikh, Manager Agency Risk Management Asia/Pacific,  
IATA, Singapore.

**The Case and Decision:**

The Agent contacted this Office on 27 June 2014 with a request for interlocutory relief until Friday 4 July 2014. The reason for this request was that the Agency had been requested to submit its audited financial statements for the Annual Financial Review by 29 May 2014. The Agent became aware of this notice on 23 May 2014 after a Director returned from vacation.

The Agent contacted IATA on the same day and requested a delay to the review until the end of the financial year so as to complete its annual audit at the end of its financial year. The Agent stated that it made an incorrect assumption that IATA required its annual Australian Taxation Audited accounts which takes approximately four weeks to complete due to banking processes.

IATA responded advising that the review was withdrawn and a 30 day period was now in place for an insurance bond to be arranged and in place. During this period the New Zealand based Insurance Provider made an assessment which was referred back to IATA for clarification as the bond did not cover the full requested financial security amount. The Agent then increased the equity within the business and asked for another assessment by the Insurance Provider. Following this assessment the Insurance Provider sought a very large cash security bond which the Agent could not raise nor arrange within the IATA specified time frame.

The Agent then sought legal advice and advised IATA that in its opinion it technically met the financial requirements and asked for the review to be delayed until 29 July 2014

in order to allow the Australian taxation audit to be completed. Again, the Agent was under the wrong assumption regarding IATA accounting audit requirements and Australian taxation audit requirements.

IATA responded on 27 June 2014 advising that such an extension was not possible when they requested the bond and warned that non-compliance action would be taken in the event of the Agent's failure to submit the financial security by 27 June 2014.

After discussion with industry colleagues the Agent discovered that the audit requested by IATA is different to the Annual Australian Taxation Audit and that banking certificates are not required which is the most time consuming process. The Agent has contacted its accountants and asked for the audit to be completed to meet IATA's requirements immediately. The Agent intends to submit its audited financial statements to IATA by Friday 4 July 2014. In so doing the Agent is hopeful that these statements, after assessment, will result in IATA not requiring a financial security.

As required by sub paragraph 2.3 of Resolution 820e both Parties have been placed on notice of the writer's intention to render a decision based on the written information requested.

In examining this case I accept the Agent's submission that it misunderstood IATA's requirements with regard to the specification for audited financial statements and that time was lost while the Agent was of that belief. The Agent should have consulted the IATA Travel Agents Handbook to discover the Financial Criteria for Australia.

Based on the foregoing it is hereby decided as follows:-

1. The Agent is granted interlocutory relief until Friday 4 July 2014 in order to submit its audited financial statements to IATA.

Decided this 1<sup>st</sup> day of July 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.