

**DECISION 2015-05-08**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

Jo Foged  
685 Remuera Road  
Remuera, Auckland 1050  
New Zealand

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**Applicant:**

Cosmo Express International Co Ltd.  
5F, No 82, Sung Chiang Road  
Taipei, Taiwan  
Represented by Mr. Ben Chen, Manager

**Respondent:**

Agency Administrator, International Air Transport Association, IATA  
Geneva, Switzerland  
Represented by Ms. Chen Yuping, Manager Agency Management China and North  
Asia, IATA, Beijing, PR China

**The Case and Decision**

The Agent was terminated by IATA on 2 March 2015 for failing to submit its financial statements for the Annual Financial Review by the proscribed deadline date. On 1 April 2015 the Agent approached this Office with a request for a review of IATA's action.

In its defence the Agent advised that the email server assigned to the staff member responsible for the interface with IATA was not functioning and, hence, all the alerts related to the need for it to submit its financial statements had not been received. It was only when it received a post mailed advice on 9 March 2015 that it became aware of its obligation and consequently uploaded its documentation on 11 March 2015.

In its summary of events related to the activity leading up to the Agent's termination IATA detailed numerous occasions on which the Agent had been emailed reminding it of the need to submit its financial statements. IATA stated that the Agent had first submitted its financial statements on 11 March 2015 after the termination date and the Global Assessor gave feedback on the sanity check failure and the Agent was informed of the result by email on 13 March 2015 and it re-uploaded on 16 March 2015 and was assessed on 17 March 2015.

IATA went on to state that the financial review was an important method for IATA to control risk and the Agent had been given more than 100 days which is the longest period it could allow but it still failed to submit its financial statements.

The Agent made its request for a review within the 30 day period provided for in sub paragraph 1.2.2.1 of Resolution 820e and both Parties were placed on notice, as required by sub paragraph 2.3 of the same Resolution, that in the writer's judgement an oral hearing was not necessary and that a decision would be based on the written information submitted.

In considering this matter I have concluded that the Agent did not willfully withhold, or wished to delay, the submission of its financial statements to IATA. As an Agent of some years experience it should however have anticipated the timing of the Annual Financial Review and could have been more proactive and could have initiated inquiring of IATA when the financial data submission had to be made. However once made aware of the requirement it did upload the required documentation. The need to be communicable by email on all its addresses is the Agent's responsibility and checks should be made of their operational status from time to time.

IATA demonstrated a great deal of patience in the many alerts it dispatched to the Agent but might have been moved to phoning the Agent when after a number of alerts it did not see any responding action from the Agent.

It is expected that a number of lessons have been learned from this incident and a repeat thereof will not occur.

In the writer's judgement an Agent should not be terminated as a consequence of an administrative failing of this kind and, hence, it is hereby decided as follows:-

1. The Agent is to be re-instated without delay. Should there be any conditions imposed by IATA resulting from the financial review the Agent is to be granted the period of time to comply allowed by the Passenger Sales Agency Rules.

Decided this 8<sup>th</sup> day of May 2015 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 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.