

DECISION 2016-06-20

TRAVEL AGENCY COMMISSIONER – AREA 3

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

Applicant:

Trip Go Trip Tourism (Pvt) Ltd,
No 19, Sreyas, 7th Street,
Tatabad,
Coimbatore - 641012,
India.

Represented by K. Rekha Krishnaswamy, Accounts Manager.

Respondent:

Agency Administrator, International Air Transport Association, IATA,
Geneva, Switzerland.

Represented by Ms Nadya Widjaja, Manager Agency Management Asia/Pacific,
IATA, Singapore.

The Case and Decision.

The Agent's accreditation was terminated by IATA due to it initially failing to submit its financial statements by the deadline date. Following submission of the required documentation IATA requested that the Agent complete an Agency Status form and issued an invoice for the reinstatement recovery charge. Following several reminders the Agent sent in the form which revealed that a change in shareholding had taken place in July 2014. The Agent was requested to submit a Change of Ownership form and to settle the outstanding invoice. As neither had been received despite reminders, the Agent's status remained terminated.

The Agent contacted this office on 14 June 2016 explaining that the reason for the delayed Change form was that its Accountant had left the country in March 2016 for health reasons and as a consequence the confidential detail of the change was unlocatable. The Accountant returned to the office on 12 June 2016 and the requisite form was uploaded onto the IATA website on 14 June 2016. Settlement of the fee was made same day. The Agent went on to emphasise the importance it placed on any IATA correspondence and exemplified this attitude by stating that it had renewed its financial security in advance of notice being given by IATA to do so.

IATA's position was that the Agent had been issued with numerous reminders for action to which it had failed to respond and hence the termination was completely justified particularly as the Agent had not informed IATA of the change of ownership in advance

of it taking place.. Furthermore settlement of the fee was yet to be identified and the Agent was asked to provide proof of payment. Subject proof was submitted by the Agent showing that the transaction had taken place on 15 June 2106 however up to today the fee settlement is yet to be identified in IATA's account.

In considering this matter the writer finds that there is a gap between the Agent's assertions with respect to its attitude towards IATA requirements and its actions in connection therewith. IATA's action in terminating the Agent could have taken place earlier as the Agent had breached sub paragraph 10.12.1 of Resolution 818g with regard to providing notice of the change of ownership in advance of its effectiveness date. The presence or otherwise of its Accountant had no bearing on that issue.

In examining the nature of the change of ownership the situation is that one of the three shareholders has been removed and the shares are now held by two of the pre-existing shareholders. That being the case there is ownership continuity where it is presumed that the owners would not risk the loss of accreditation through not complying with the IATA's administrative requirements. The writer is prepared to give the Agent an opportunity to demonstrate its adherence to its assertions with regard to taking immediate heed of IATA requirements.

Both parties were alerted, as required by sub paragraph 2.3 of the same Resolution, that in the writer's judgement an oral hearing is not necessary and that the decision would be based on the written information submitted.

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

1. The Agent is to be re-instated subject to IATA receiving settlement of all fees and charges involved in that process.

Decided this 20th day of June 2016 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.