DECISION 2016-10-18
TRAVEL AGENCY COMMISSIONER – AREA 3
Jo Foged
685 Remuera Road,
Remuera, Auckland 1050,
New Zealand

Applicant:
Aqsa Travels,
Jinnah Stadium, Shop No 23,
Kutchry Chowk,
Gujranwala,
Pakistan.
Represented by Mr Gulzar Ahmed, Chief Executive Officer.

Respondent:
Agency Administrator, International Air Transport Association, IATA,
Geneva, Switzerland.
Represented by Mr Rodney D'Cruz, Manager Agency Management Asia/Pacific,
IATA, Singapore.

The Case and Decision.

The Agent was terminated on 4 October 2016 for failing to submit a financial security of PKR7,000,000 to IATA by a due date. On 10 October 2016 the Agent contacted this office with a request that it be granted a further week to 10 days to comply.

IATA's summary of events revealed that the Agent had occasioned 2 instances of non-compliance. The first incident related to defaulting on a BSP payment in March 2016. The Agent had paid 50 percent of the outstandings and entered into a repayment agreement with IATA on 18 May 2016. The last installment was to be paid on 29 August 2016 as the Agency's financial security was expiring on 30 August 2016. Full settlement was achieved on 31 August 2016 however the matter of the financial security submission remained outstanding. The Agent was already under a notice of termination which IATA extended to 30 September 2016. With no sign of the security by 4 October 2016 IATA acted on the second non-compliance incident and terminated the Agent's accreditation.

The writer sought detailed reasons from the Agent as to why it did not fulfill its obligation by the extended due date and was advised by the Agent that " our credit amount of sales could not be realised in time from the market, resulting in a shortage of funds for in time submission of our sales proceeds in the mid of March. We subsequently through great efforts and borrowing from the banks made up for our default amounts by 30th August 2016 and here, we must admit that the IATA

Agency Administrator at Singapore was very kind to us to allow us to pay the amounts in installments. "

The effort in making full settlement had not allowed for the timely arranging of the financial security " due to financial crisis from March to end of August." The Agent went on to assure the parties that if given another chance it would have the PKR7,000,000 in place " within a week or 10 days."

In considering this matter the fact that all outstanding moneys have been settled has influenced the writer's decision to grant the additional time however in light of the confident claim made by the Agent that the financial security will be in place within that extended period a call for more time beyond the specified date will not be entertained.

The Agent has complied with sub paragraph 1.2.2.1 of Resolution 820e and has lodged its request for a review within the 30 day time frame allowed and 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 therefore it is hereby decided as follows:-

1. the Agent is granted until Friday 28 October 2016 to submit a financial security of PKR7,000,000 to IATA

2. on submission of same the Agent is to be reinstated paying whatever fees and charges are related thereto.

Decided this 18th day of October 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 underline electronic version of this Decision.