

Decision 63/2017

Travel Agency Commissioner - Area 2

Andreas Körösi
P.O. Box 5245
S-102 45 Stockholm, Sweden

Applicant: *Al-Mahbuub Hajj & Umrah Services Nigeria Ltd.*
IATA Code # 59-2 1845 6
Nigeria

Respondent: International Air Transport Association (IATA)
Torre Europa
Paseo de la Castellana, número 95
28046 Madrid, Spain

NOTE:

This summarized decision is being posted as the Parties have received it. Occasional requests for clarification are not posted. However, should any Stakeholder requests it, a copy of such clarification will be sent to her/him.

Decision:

This Office appreciates IATA's commitment to risk assessment and is fully aware of the financial situation in general, and, the unfortunate situation with frequently fraudulently issued bank guarantees ("BG") and insurance coverage ("DIP") in too many cases in Nigeria.

The soft copy of the DIP sent to IATA and this Office by the Applicant was done one month ago. At the same time, *Leadway* (the issuer of the said document) was also copied into the email. This makes me believe that it is a valid DIP, which will expire on the 31st of March 2018. Ms. Janet Adebayo from *Leadway* (copied on the electronic version of this decision) can confirm or clarify.

The DIP was signed and is valid **as of 07 November 2017**. Meaning, it was in place one (1) week after the deadline. The "late notification" from the bank (which occurred the 27th October, 2017) of not accepting renewal cannot be attributed to the Applicant's lack of diligence or be qualified as the Applicant's will not to follow Resolutions' Requirements.

It is a bank's prerogative to do business with whomever they choose. The "*WEMA bank's*" statement, dated 21st of November, explaining why they did not renew the existing BG by rejecting the application on **the 27th of October** is, as I understand, not conclusive in regards of the Applicant's financial standings. Nor does it explain why the bank did not reject the renewal in time to allow

reasonable time for the Applicant to get a Financial Security from somewhere else.

It took 5 or 6 business days to get the DIP in place, which in itself speaks in favour of the Applicant, and I am sure *Leadway* undertook a financial due diligence before accepting to issue the DIP.

I hereby request Ms. Al-Abbadi (IATA) to please clarify your statement raising doubts about the validity of the DIP (07 November).

Having said the above, this Office acknowledges **and shares** IATA's concerns about Applicant's financial standings when accredited. BUT, I cannot see why IATA should not accept a valid DIP during the time it takes to do that evaluation.

Therefore, unless I have missed vital information, maybe revealed by IATA's contact with *WEMA bank*, substantiating that there is imminent risk for prejudiced collection of Airlines' funds,

It is hereby decided:

- IATA has followed Resolution's Requirements;
- Provided IATA has no further information regarding *Al-Mahbuub Hajj & Umrah Services'* financial status, constituting risk for collection of BSP Participating Airlines' funds;
- *Al-Mahbuub Hajj & Umrah Services* is to be reinstated; and,
- Within the next 5 Business Days provide to IATA the Agency Status form and its Financial Accounts;
- IATA has the right to re-evaluate sales at risk and, if needed, ask the DIP to be adjusted accordingly;
- *Al-Mahbuub Hajj & Umrah Services* shall provide, **before end of January 2018**, a new Financial Security also covering sales at risk as of 31st March 2018 for at least all of 2018.

This Decision is effective as of today.

Decided in Stockholm, on December 8, 2017

Andreas Körösi
Travel Agency Commissioner
IATA-Area 2

In accordance with Resolution 820e § 2.10 any Party may ask for an interpretation or correction of any error in computation, any clerical or typographical error, or any error or omission of a similar nature which the Party may find relevant to this decision. The time frame for these types of requests will be maximum 15 calendar days after receipt of this decision. Meaning as soon as possible and **not later than December 23, 2017**.

Please also be advised that, unless I receive written notice from either one of you **before** the above mentioned date this decision will be published in the Travel Agency Commissioner's secure web site, provided no requests for clarification, interpretation or corrections have been granted by this Commissioner, in which case the final decision will be posted right after that.

Please note that if after having asked for and obtained clarification or correction any Party still considers aggrieved by this decision, as per Resolution 820e §4, the Party has the right to seek review by Arbitration in accordance with the provisions of Resolution 824 §14.

Please let me know if any of the Parties requires a signed hard copy of this decision and I will send one once the time for "interpretation or correction" has elapsed.