

**DECISION 2018 – 08 - 29**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

Jo Foged  
685 Remuera Road  
Remuera, Auckland 1050  
New Zealand

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**Applicant:**

***Oasis Travels (Pvt) Ltd.*** (“the Agent”)  
IATA Code 27-3 0076  
Karachi, Pakistan

**Respondent:**

Agency Administrator, International Air Transport Association (“IATA”)  
Singapore.

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**The Case and Decision:**

The Agent defaulted on its BSP settlement and entered into a repayment agreement with IATA. The Agent paid 20 percent of the debt PKR 87,418,935 (USD 706,691) and agreed to settle the remainder in 5 installments of the same amount, PKR 87,818,935 (USD 706,691) , with the full settlement of PKR 437,094, 674 (USD 3,533,460) being realised on the final installment payment date of 21 August 2018.

The first installment was paid on 30 April 2018 but the second installment due on 21 May 2018 did not eventuate. The Agent had sought revised payment dates, which were declined by IATA. With no sign of further payments by 29 June 2018 the Agent's accreditation was terminated on 4 July 2018. IATA claimed against a bank guarantee to the value of PKR 204,200,000 (USD 1,650,740) and the default insurance provider Continental Insurance Company (CIC) for PKR 155,847,642 (USD 1,259,890).

On 19 August 2018 the Agent contacted this Office with a request that it be allowed until 29 October 2018 to make full payment. The Agent indicated that the Airline incentive commission payments and refunds would be received during that period thus allowing the amount outstanding to be reduced. The Agent stated that "unfortunately, due to strategic transformation in our business strategy we are in a tough situation but are very confident that we can clear all IATA dues".

The Agent had been in regular dialogue with IATA offices in KHI and SIN with a view to finding a satisfactory solution. IATA states that it had contacted a number of creditor Airlines requesting that they action refunds and ACMs in order that the

amount owed could be reduced but not a single response was received even though Airlines had been very vocal in local forums that the Agent "be dealt with within Resolution time lines".

The Agent advised that the 3 months claim period post expiry of the insurance bond held with CIC would allow IATA to make its claim up to the end of November 2018 in the event that the Agent did not fulfill its commitment.

On that point IATA responded as follows:

"It should be made clear that the financial security to cover the extended period must be provided by an approved provider. CIC by whom the Agent is covered till 30th Aug has been discontinued as an approved provider. Hence, do not have the ability to cover this extended period. The validity of the instrument underpinning the CIC coverage expires on 30th August, the claim period expiring on 30 Nov is only for lodgement of claims for payment defaults that took place during the validity period. Hence, should a payment default on or before 29 October will not be covered by the instrument since the validity has elapsed.

This is the reason we do not consider CIC coverage legitimate beyond 30 Aug 2018. CIC also has defaulted in many other claims that are pending with them. We are in the process of recovering these claims from the Financial Security Provider. Should there be any settlement received from the Agent, this will be netted against the outstanding owed by CIC."

IATA went on to state that it would be agreeable to the extended payment period to 29 October 2018 being allowed provided that an acceptable financial security covering the repayment amount was submitted. Once full payment had been received "the other conditions of reinstatement should be completed before the Agent can be reinstated and reassigned its existing code".

In considering this matter it is clear that the prime objective is to ensure that those Airline funds that were held in trust by the Agent but not settled can be recovered by means of a solid "safety net" in the form of an indisputable financial security. The Agent's proposition that a claim can be made against the Insurance Provider CIC for 3 months post expiry does not meet that criteria in the context of IATA's submission. The Agent has the option of arranging an "underpinning" financial security acceptable to IATA and thereby continue progress towards its reinstatement.

It should be noted that the Agent has made its request for a review beyond the 30 days from the date of termination allowed under sub paragraph 1.2.2.1 of Resolution 820e and the writer could have declined its request; however, the nature of the case is of such dimension as to deserve consideration.

The Parties were placed on notice that in the writer's judgement an oral hearing was 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 29 October 2018 to settle all outstandings and to be reinstated subject to complying with the following conditions:

- (a) making full settlement of all outstandings by the specified date;
- (b) submitting a financial security acceptable to IATA for a period to be advised by IATA;
- (c) complying with all the conditions for reinstatement; and,
- (d) paying all fees and charges associated therewith.

Decided this 29<sup>th</sup> day of August 2018 in Auckland.

This Decision is effective as of today.

The following sub paragraph of Resolution 820e is brought to the attention of the Parties:

"2.10 - within 15 days after the receipt of the decision, a party, with notice to the other parties, may request that the Commissioner gives an interpretation of the decision or correct in the decision any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the Commissioner considers that the request is justified, he shall make the interpretation or correction within 15 days of receipt of the request. The interpretation or correction shall form part of the decision."

In this particular case the 15-day time frame expires on 13 September 2018.

If after having pursued this process a Party still considers itself aggrieved by this Decision the Party has the right to seek review by arbitration as detailed in Resolution 824, Section 14.

Finally, I seek your authority for this Decision to be posted on the private pages of the Travel Agency Commissioner website which can only be accessed by the 3 TACs and the 12 members of the Passenger Agency Programme Global Joint Council. In the absence of advice to the contrary by 14 September 2018 I will assume that there is no objection to that action being taken.

Yours faithfully,

**Jorgen Foged**  
**Travel Agency Commissioner Area 3**