

TRAVEL AGENCY COMMISSIONER - AREA 1
Acting as Deputy TAC3
VERÓNICA PACHECO-SANFUENTES
110 – 3083 West 4th Avenue
Vancouver, British Columbia V6K 1R5
CANADA

DECISION – November 12, 2018

In the matter of:

Bestjet Travel & Wynyard Travel

IATA Code 02-3 6314 & 02-3 3147 4

Australia

Represented by its Consultant, Mr. Brendan Balasekeran

The Applicant

vs.

International Air Transport Association (“IATA”)

Singapore

Represented by the Accreditation Manager, Mrs. Nadya Widjaja

The Respondent

Dear Parties,

I hereby acknowledge receipt of your emails (copied below). I also received and held two telephone conversations with Mr. Balasekeran, in light of their inability to contact the Commissioner for Area 3, Mr. Jo Foged, at this moment in time, since he is in his way to New Zealand.

Considering the pressing circumstances of this case, I am taking the liberty, in the absence of Mr. Foged, to assume his role as his Deputy and decide this request for interim relief.

CONSIDERATIONS & DECISION

- Considering the arguments and evidence submitted by *BestJet Travel* as well as by IATA;
- Considering that at no moment in time it has been alleged nor proven any ill intention from the Agent not to comply with the requirements set in the applicable Resolutions;

- Considering that the Agent, under new ownership, is simply requiring some more time to gather the needed information requested by IATA and be able to submit it properly;
- Considering the exchange of communications that had taken place between the Parties regarding all the requirements and steps that the Agent needs to take in order to amend and resubmit or to properly submit the pending documents;
- Considering that the Agent has already undertaken active steps towards the submission of the required documents;
- Considering that the submission of some of them depend on third parties' actions, where the Agent has no control;
- Considering that this is not a matter where monies are due to Member Airlines by the Agent, nor that its capability to honour its financial obligations towards the BSP has been put in question;

Considering that both Parties have had the opportunity to present their submissions and evidence to this Office, based on Resolution 820e § 1.2.2.4(c), I hereby decide as follows:

- The Agent is granted the requested **extension of 30 calendar days** to submit the financial security and to complete the process of change of ownership by submitting the rest of the documents that are missing or that need to be amended (*e.g.* the one pertaining to a former employee) in order to reflect the current reality of the Agent in respect to its qualified staff;
- **NO punitive action** (such as a suspension from the BSP system) shall be taken against this Agent during the extended time hereby granted, derived from the issues covered in this review procedure;
- Mr. Foged will decide whether or not the Notice of Termination should be declared void and null, since this decision is an interim relief order while a full review is concluded by the Commissioner in charge of Area 3.

This decision has an immediate effect.

Decided in Vancouver, the 12th day of November 2018

 R Pacheco Sanfuentes

In accordance with Resolution 820e § 2.10, any Party may ask for an interpretation or correction of any error, which the Party may find relevant to this decision. The time frame for these types of requests will be 15 days after receipt of the electronic version of this document (meaning no later than Nov. 27, 2018).

Both Parties are also hereby 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 website, 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.

If after having asked for and obtained clarification or correction of this decision, any Party still considers aggrieved by it, as per Resolution 820e § 4, the Party has the right to seek review by Arbitration in accordance with the provisions of Resolution 824 § 14, once the above-mentioned time frame would have elapsed.

CLARIFICATION
RENDERED ON NOVEMBER 13TH, 2018

Execution of an interim relief order

In regards to the execution of the interim decision and the Agent's reinstatement into the BSP system, I hereby specify, based on the additional information submitted by Ms. Widjaja regarding the Sales at Risk which are not (in one case not sufficiently and in the other not at all) covered by financial security, that the Agent's reinstatement shall be undertaken by IATA as soon as the Agent would have provided the financial security required to cover the Sales at Risk, as stated in the Local Financial Criteria applicable in Australia. I quote Ms. Widjaja's figures:

- Sales at Risk amount for **Wynyard** = AU\$ 18,223,000
Existing Financial Security = AU\$ 2,933,000
Financial Security to be submitted = AU\$ 15,290,000
- Sales at Risk Amount for **Bestjet** = AU\$ 2,757,000
No existing Financial Security
Financial Security to be submitted: AU\$ 2,757,000

In the meantime and once reinstated, the Agent shall continue its diligence in order to promptly get its financial statements done and submit them to IATA within the 30 days that I stated in my decision, starting as of yesterday Nov. 12, 2018.

I hope this clarifies this Office's interim decision.

Yours respectfully,

Verónica Pacheco-Sanfuentes
Travel Agency Commissioner - Area 1
(The Americas and the Caribbean)
acting as Deputy TAC3
110 - 3083 West 4th. Avenue
Vancouver, British Columbia V6K 1R5
Canada
Tel.: + 1 (604) 742 - 9854
email: Area1@tacommissioner.com
website: www.tacommissioner.com