

DECISION 2019 - 01 - 03
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Zam Zam International Travels (Pvt) Ltd. (“the Agent”)
IATA Code 27-3 2389
Karachi, Pakistan.

Respondent:

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

The Case and Decision:

The Agent's accreditation was terminated on the grounds that the Agent had failed to submit a Change of Ownership form to IATA within the time frame set.

In its request for a review the Agent explained that the Company's Chief Executive and major shareholder had passed away; however, "the legal status of the company has remained unchanged as the legal heirs have not yet transferred the company ownership". The Agency was awaiting the completion of legal formalities and were not currently using the accreditation. "However, in anticipation, we have continued to fulfill our obligations and have submitted the IATA Guarantee for PKR 7.9m valid up to 30-08-2019 as well as the financial statement for 2017-18".

IATA had been informed of the major shareholder's passing and had categorised that event as a change of ownership and had continued to seek the submission of a formal Change Form up until the termination date.

The Agent further submitted the opinion that the ownership could not be changed until the succession process was completed, a process which could take between 9 months and 15 months. Only at the conclusion of that process could the shareholding be transferred to the legal heirs.

In examining this matter the writer supports the position taken by the Agent. As the shareholding was currently "frozen" and there was no ability for any change in the manner in which the company was run section 10.2 of Resolution 818g would not apply. Sub paragraph 10.2.1 of that Resolution refers to "the following changes to an Agent" which does not include the passing of a shareholder.

The "change", if it can be described as such, was the demise of the shareholder and as already stated placed the company in "limbo" pending the resolution of the estate and the involvement of new shareholders. It would be at that point that a formal Change of Ownership application should be submitted to IATA.

The writer is confident that the Agent will take such action when the time comes.

The Parties have complied with the terms of Resolution 820e and were placed on notice that in the writer's judgement an oral hearing was not necessary and that this decision would be based on the written information submitted.

Therefore based on the foregoing it is hereby decided as follows:

1. the Agent's accreditation is to be reinstated without delay .

This Decision is effective as of today.

Decided this 3rd day of January 2019 in Auckland.

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 18 January 2019.

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 19 January 2019, I will assume that there is no objection to that action being taken.

Yours faithfully,

Jorgen Foged
Travel Agency Commissioner Area 3