

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

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Elite Travel Hong Kong Ltd. (“the Agent”)
IATA Code 13-3 0053
Hong Kong, China

Respondent:

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

The Case and Decision:

The Agent was issued with 2 Notices of Irregularity (NoI) for failing to submit its audited financial statements to IATA by the due date.

In its request for a review the Agent stated that it had attempted to upload a full set of its audited financial statements on the IATA portal on 20 December 2018 but the system would not accept the file. A second attempt in a different format was made on 30 December 2018 with the same result. A set was then emailed to IATA but a phone conversation with an IATA staff member determined that that was unacceptable and only electronic lodgement was possible. Finally, the Agent acquired a condensed set of statements from its auditors, which were successfully lodged on 2 January 2019 after the NoIs were issued. The Agent went on to state that it was a newly accredited IATA Agent of 1 year's tenure and, hence, lacked experience but was certain that it could comply next year.

Following its multiple attempts to meet the IATA criteria but discovering the "inflexibility" of the IATA system the Agent requested that the second NoI's be removed from its Company's records as it felt that "our company is being unfairly branded with these charges".

IATA's summary of events reflected the Agent's description and stated that its staff were forbidden to open confidential financial documentation as that was the prerogative of the appointed accounting firm conducting the review. Staff were also not authorised to assist with the data upload. Having informed the Agent of that issue it was obliged to issue the second NoIs.

In considering this matter it is obvious that the Agent tried its best to submit the financial documentation required of it. There was no intent to circumvent that requirement. However, the format of the IATA Customer portal proved to be a challenge and it was only after a number of different formats were attempted that finally the correct format was discovered and the documentation successfully filed.

It would be unreasonable under those circumstances for the second NoIs to be sustained.

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 second NoIs issued in connection with this matter are to be expunged from the Agent's record.

This Decision is effective as of today.

Decided this 8th 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 23 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 24 January 2019, I will assume that there is no objection to that action being taken.

Yours faithfully,

Jorgen Foged
Travel Agency Commissioner Area 3