

DECISION 2019 – 03 - 25
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Moulana Travels and Tours (Pvt) Ltd. (“the Agent”)

IATA Code 07-3 0243

Sri Lanka

Respondent:

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

The Case and Decision:

IATA sought a Prejudiced Collection of Funds review of the Agent on the grounds that it had an overdue settlement of LKR 11,008,580 (USD 61,739.00) and its current financial security fell short of that amount.

In its response the Agent expressed its apology for the inconvenience and placed the blame on "severe difficulties in the recent past due to abuse and mismanagement by our executive staff". After a protracted exchange of messages where it was clear that the Agent could not muster a 20 percent deposit, the writer proposed that the Agent be offered the facility under sub paragraph 2.2.2 of Attachment ‘A’ to Resolution 818g, which required all creditor Airlines to agree to the Agent's proposal of a 10 percent deposit imminently with a further 10 percent in mid March 2019 and the remainder paid in monthly installments up to 27 August 2019.

IATA took the initiative and contacted the 14 Airlines owed moneys with the Agent's repayment proposal and allowed 15 days for a response. At its conclusion, only 3 Airlines had voted with some others requesting proof of the deposit paid by the Agent.

Fortunately, meantime the Agent had settled a further 10 percent, which allowed the provision under sub paragraph 2.2.1 (iii) of Attch A to Resolution 818g to be applied, which removed the need for Airline acquiescence. IATA advised that the Agent's existing bank guarantee expired on 30 June 2019.

Based on that set of circumstances it would be reasonable to grant the Agent the opportunity for the reinstatement of its accreditation.

The Parties 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.

Based on the foregoing therefore, it is hereby decided as follows:

1. the Agent's accreditation is to be reinstated subject to it complying with the following conditions:

(a) entering into a repayment plan with IATA and providing a bank guarantee of LKR 4m with an expiry date of 30 June 2019 and a claim back period up to 30 September 2019 OR providing a financial security of an amount sufficient to cover the remaining outstandings;

(b) paying all fees, charges and outstanding IATA invoices;

(c) submitting a longer term financial security for an amount advised by IATA once all outstandings under (a) and (b) above have been settled.

Decided this 25th day of March 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 April 9th, 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 10 April 2019, I will assume that there is no objection to that action being taken.

Yours faithfully,

Jorgen Foged
Travel Agency Commissioner Area 3