

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

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Bonds Travel Bureau ("the Agent")
IATA Code 27-3 1333
Karachi, Pakistan.

Respondent:

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

The Case and Decision:

The Agent was issued with a Notice of Termination effective on 30 April 2019 as a consequence of submitting a forged Bank Error letter to request the withdrawal of the irregularity served for a late remittance on two occasions.

In its request for a review the Agent's Managing Director ("MD") stated that his Father had started the Agency 51 years ago and when he joined the business it was flourishing but then his Father had a stroke and was no longer active in the Agency. Pakistan was a "hugely credit market" and "all travel agents here are hanging by a thread". Mistakes had been committed through lack of experience and could not be justified; however, no harm was meant to anyone. The MD had wrongly tried to save the business, "the IRR points were a huge scar on our company. I made mistakes not financially harming anyone or any airline."

The MD went on to state: "If IATA burns out my candle and blows it away, the legacy of over 51 years will end. The suffering and the humiliation to family and fraternity is unimaginable. It would be something I would not wish anyone should ever face. I do not find enough courage to be able to handle the consequences. I regret profusely. I want to fix myself and the business and mend the business in the way that such mistake does not happen again."

In a second email the Agent stated that the errors had been made by the Accounts Manager in the Lahore Branch office who had tried to cover the shortfall in the amount payable to the BSP on the due date. It was paid the next day in both instances. The behaviour was unexpected "and there were no *mala fide* intentions or financial fraud, it was uncalled for". The Accounts Manager was suspended and

would leave at month's end. It was accepted that the responsibility for the situation rested with Head Office.

IATA's input reads as follows:

"Considering the agent's long history and background and the fact that the agent has not disputed the doctoring of Bank Letters to avoid receipt of Notices of Irregularity after late payments, we are willing to accept any leniency the Commissioner may allow.

This also means that any further indication of malpractice or fraudulent activities (in any location of the agency) will not be allowed in the future."

The writer is receptive to the position demonstrated by IATA and commends the humanitarian nature reflected therein. Some would see it as an injustice that a single staff member could jeopardise the commercial survival of a long established company. A degree of culpability rests with the MD as he should have had better oversight of the situation. However, as a painful lesson has been learned the writer supports the view taken by IATA.

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 ticketing authority is to be reinstated subject to the following conditions:-

(a) it provides proof to IATA that it has briefed all its relevant staff on the correct application of the "Bona Fide Bank Error" provision detailed in Attachment 'A' to Resolution 818g;

(b) understands that a further incident of this nature will not be tolerated and that the consequences thereof will see the rigid application of the appropriate part of the Passenger Sales Agency Rules; and,

(c) the submission of the "top-up" bank guarantee required by IATA.

This Decision is effective as of today.

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 9 April 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