

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

DECISION – 13 August 2019

In the matter of:

Your Choice Holidays Inc.

IATA Code 67-5 0562 0

Canada

Represented by its Managing Director, Ms. Ruth Li

The Applicant

vs.

International Air Transport Association (“IATA”)

Global Distribution Centre

Torre Europa

Paseo de la Castellana, 95

28046 Madrid, Spain

Represented by the Assistant to the Risk Assessment Management
Department, Ms. Fabiana Costa

The Respondent

I. THE CASE

At the beginning of the review procedure, it seemed that there was no need for the Agent to remain suspended from the BSP since its Bank had already issued the Letter of Credit, as requested by IATA, and it was simply a matter of time for the letter to arrive to IATA-MAD's office.

However, after having read IATA's submissions and evidence, according to which, I quote:

- 25JUN2019 – Agent was informed that according to NewGen ISS Resolution 812 the Risk Status of the Agency has changed from A to B, therefore, it required to present the financial security in the form of Standby Letter of Credit for the amount of CAD 35,000.00 (minimum required according to the Local Financial Criteria for Canada);

- The risk status has changed from A to B due to a Change of Ownership in 100% (from Ruth Li to Nexus Holidays Canada Group). Change finalized on 06/19/2019.
- 06AUG2019 – The Agent was placed under review with ticketing authority withdrawn due to financial security non-compliance.
- 09AUG2019 – After contacting the Bank, the Agency was informed that *The LC application was submitted on Wednesday, it generally takes about 5 business days to get the decision back.* The Bank (Mr. Michael Ahn) didn't confirm that issuance of L/C was approved at least from our point of view. He also mentions that *the whole process would take about 2 weeks.* Meaning that LC is supposed to be ready if approved approximately August 26th.

Our suggestion is for the Agent to remain suspended at least until copy of LC is provided. The fact that we have processed a 100% of Change of Ownership of the Agency and that Agent didn't manage to comply with at least presentation of copy of LC within 40 days given prevent us to make the decision to immediately reinstate them temporarily.

II. ORAL HEARING

In the opinion of this Commissioner, as per Resolution 820e, s. 2.3, an oral hearing was not deemed necessary. Ample opportunity was given to the Parties to present their submissions and evidence accordingly. They both made good use of this opportunity. Therefore, this decision is based on that written documentation only.

III. CONSIDERATIONS

In light of the points raised by IATA, not rebutted by the Agent, namely:

- (i) the fact that the Agent's Bank did not confirm the actual approval of the Letter of Credit;
- (2) the inconsistency regarding the time to process it and issue it, if approved; in addition to,

(3) the fact that the Agency has undergone a 100% change of ownership, the former Agency being fully acquired by a new legal entity, a completely new owner,

I agree with IATA's position; therefore, I decide as follows:

IV. DECISION

Based on the referred arguments, evidence and applicable rules, it is hereby decided as follows:

- Until the referred financial security will be fully approved, proof of which will have to be submitted to IATA, copying this Office, the Agent is to remain suspended from the BSP.

This decision has immediate effect.

Decided in Vancouver, the 13st day of August 2019.

A handwritten signature in blue ink that reads "Patricia Sanfuentes". The signature is written in a cursive style and is underlined.

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 **28 August 2019**).

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 web site, 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.