

DECISION 2019 – 09 – 12
TRAVEL AGENCY COMMISSIONER – AREA 3

with Clarification

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Moulana Travels and Tours (Pvt) Ltd. ("the Agent")
IATA Numeric Code 07-3 0243
Colombo, Sri Lanka.

Respondent:

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

The Case and Decision:

The Agent had been the subject of a decision (TAC Decision 2019-03-25) in which it had been given the opportunity of entering into a repayment plan with IATA.

On 27 August 2019 the Agent contacted this office with the fact that it would be unable to settle the final instalment by the due date. There had been a severe drop in sales "since the April bombing. Our customers distanced from us as advised by their community or clergies as we are Muslims." The Agency was owed refunds and incentives from an Airline which had refused to pay until the Agent had settled its BSP dues.

The Agent requested that its Bank Guarantee (BG) be reduced from LKR 6m to LKR 2.5m so that the released funds could be used to settle the IATA outstandings. That would also allow the Airline to pay the Agent.

After a lengthy exchange of messages IATA agreed to the reduction of the BG from LKR 6m to LKR 3m but such reduction could not be effected until all outstandings had been settled. IATA felt that, while recognising the trading difficulties experienced by the Agent, it had a duty to acquiring the long overdue moneys owed to the debtor Airlines. It was prepared to give the Agent one last extension on the condition that payment for all BSP outstandings, fees and charges was in IATA's account by Friday 27 September 2019.

In considering this matter the writer commends IATA for its pragmatic proposal which, while providing the Agent with a degree of relief, protects Airline funds until value is received.

Under the circumstances the writer could do no other than to give effect to IATA's suggestion.

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 subject to it settling all BSP dues, all fees and charges with value in IATA's bank account by Friday 27 September 2019.
2. Having met that condition the Agent's bank guarantee is to be adjusted from LKR 6m to LKR 3m.

Decided this 12th day of September 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 27th September 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 6th September 2019, I will assume that there is no objection to that action being taken.

Yours faithfully,

Jorgen Foged
Travel Agency Commissioner Area 3

CLARIFICATION

Further consultation between this Office and IATA has produced a more practical process for the Agent to meet its financial obligations while still providing IATA with a sufficient level of financial security.

Consequently condition 2. of the decision is hereby replaced by the following:-

2. with immediate effect the Agent's financial security is reduced from LKR 6m to LKR 3m thus allowing it the ability to settle its dues from the LKR 3m released by its Bank.

IATA is to formalise that financial security adjustment without delay.

Decided this 16th day of September 2019 in Auckland.

A signed copy of this addendum will be emailed to the Parties.

Regards,

Jo Foged

Travel Agency Commissioner Area 3
(Asia/Pacific)
685 Remuera Road
Remuera
Auckland 1050
New Zealand