

DECISION 2019 - 10 - 08
TRAVEL AGENCY COMMISSIONER – AREA 3

Jo Foged
685 Remuera Road
Remuera, Auckland 1050
New Zealand

Applicant:

Delhi Air Movers Travel and Tours Pvt Ltd. (the “Agent”)
IATA Numeric Code 14-3 6953
New Delhi, India.

Respondent:

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

The Case and Decision:

The Agent sought a review of IATA's action in charging the Agency a cumulative fee of USD 1000.00 as a result of an unnotified change of ownership. In its request the Agent explained that in its annual financial statement for 2010 - 2011 the shareholding had been shown as 50 percent each for 2 family members.

This was a mistake created by its appointed Accounting Firm as the original ownership involving 3 family members in the ratio of 84.6 percent, 15 percent and 0.40 percent had not changed. This same error was carried forward for 7 years until discovered by IATA in February 2019 when the old set of fees amounting to USD 1000.00 was applied. The Agent had protested the charge claiming that it had been advised by IATA that if it reverted to the previous shareholding as submitted with its accreditation application in 2008 there would be no charge.

That point was clarified and is reflected in a message from IATA to the Agent, which stated that "as long as there is no change compared to IATA records you will not be charged." There was a difference shown between the ownership shareholding recorded in the Agent's annual accounts and the shareholding split reflected on IATA's files hence IATA felt justified in issuing the subject invoice.

IATA's summary of events records a series of emails between it and the Agent arguing the status of the fee from February 2019 to 6 September 2019 on which date the Agent's accreditation was terminated for failing to settle the subject invoice amount. IATA felt that " it had done its best to assist the Agent by charging the old fees and has allowed the change process to drag for many months, instead of taking compliance action against the Agent when they failed to pay the fees within the allotted time."

For the record those fees consisted of a Change in Shareholding fee of USD 800.00, a Postage fee of USD 50.00 and a Late Notification fee of USD 150.00.

In considering this matter it is incomprehensible that the error reflected in the Agent's annual accounts for 7 years was not discovered by the Agency's management at some point. From a process perspective there is no argument that there was a difference in shareholding between the information held by IATA and that submitted by the Agent. The Agent's Accounting Firm should take some responsibility for its error and the Agent has the option of seeking recovery for some or all of the amount due on the subject invoice.

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 complying with the following conditions:

(a) it pays IATA for the subject invoice of USD 1,000.00

and

(b) submits a change form reflecting the 2008 shareholding.

Decided this 8th day of October 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 October 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 October 2019, I will assume that there is no objection to that action being taken.

Yours faithfully,

Jorgen Foged
Travel Agency Commissioner Area 3