



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**Issued by the Department of Transportation
on the 17th day of June, 2020**

Compañía Panameña de Aviación, S.A.

Violations of 49 U.S.C. § 41301

Docket DOT-OST-2020-0001

Served June 17, 2020

CONSENT ORDER

This consent order concerns unauthorized foreign air transportation by Compañía Panameña de Aviación, S.A. (Copa) in violation of 49 U.S.C. § 41301. This order directs Copa to cease and desist from future similar violations of section 41301, and assesses the carrier a compromise civil penalty of \$450,000.

Applicable Law

Pursuant to 49 U.S.C. § 41301, a foreign air carrier may provide foreign air transportation only if the foreign air carrier holds a permit from the Department of Transportation (Department) authorizing the foreign air transportation or a valid exemption from that section. Providing foreign air transportation includes the holding out of service, as well as the actual operation of air service. The economic authority required by section 41301 is separate and distinct from the operations specifications and approvals that such an entity must obtain from the Federal Aviation Administration (FAA) for operations to and from the United States.

In May 2019, in consideration of the local conditions threatening the safety and security of passengers, aircraft, and crew traveling to or from Venezuela, the Department issued DOT Order 2019-5-5, which became effective May 15, 2019. Under DOT Order 2019-5-5, all foreign air carrier permits issued under 49 U.S.C. § 41301 and all exemptions from that section were amended to add the following condition: “Effective immediately, and until further order of the Department, the holder [of a certificate, a foreign air carrier permit, or exemption authority] shall not engage in

foreign air transportation of passengers or cargo to or from any airport in Venezuela.” As such, the holding out and/or operation of foreign air transportation between the United States and Venezuela is a violation of a carrier’s economic authority and violates 49 U.S.C. § 41301.

Facts and Conclusions

As a result of DOT Order 2019-5-5, Copa does not have economic authority from the Department to provide foreign air transportation between the United States and Venezuela. An investigation by the Department’s Office of Aviation Consumer Protection (OACP)¹, however, revealed that between May 15, 2019, and June 11, 2019, Copa offered for sale itineraries between the United States and Venezuela in contravention of DOT Order 2019-5-5. Copa sold over 5,000 tickets for such itineraries during that time frame, either through its own website or through those of third party agents. In addition, Copa transported over 15,000 passengers on U.S.-Venezuela itineraries between May 15 and June 11. In light of the foregoing, Copa held out and operated foreign air transportation between the United States and Venezuela without the economic authority to do so. Copa therefore violated 49 U.S.C. § 41301.

Response

In response, Copa states that any violation of the restrictions that may have occurred would not have been willful. Copa notes that the Department of Homeland Security’s May 13, 2019, letter to the Department of Transportation underlying DOT Order 2019-5-5 did not include Copa as a carrier serving Venezuela. Copa states that it relied in part on its contacts with Panamanian and other U.S. officials to understand the restrictions to serving Venezuela. Copa states that it understands the seriousness of the matter, has cooperated fully with the OACP in this investigation, and has taken considerable and substantive steps to avoid future violations.

Decision

The OACP views seriously Copa’s violations of 49 U.S.C. § 41301. Accordingly, after carefully considering all the facts in this case, including those set forth above, the OACP believes that enforcement action is warranted. In order to avoid litigation, and without admitting or denying the violations described above, Copa consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41301, and to the assessment of \$450,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301. The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent against future similar unlawful practices by Copa and other carriers.

This order is issued under the authority contained in 49 CFR Part 1.

¹ The Office of Aviation Consumer Protection was formerly known as the Office of Aviation Enforcement and Proceedings.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Compañía Panameña de Aviación, S.A. violated 49 U.S.C. § 41301 by providing foreign air transportation between the United States and Venezuela without the appropriate economic authority;
3. We order Compañía Panameña de Aviación, S.A. and its successors and assigns to cease and desist from further violations of 49 U.S.C. § 41301;
4. We assess Compañía Panameña de Aviación, S.A. \$450,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$225,000 shall be due and payable within 120 days of the issuance date of this order. The remaining \$225,000 shall become due and payable if, within one year of the issuance date of this order, Compañía Panameña de Aviación, S.A. violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Compañía Panameña de Aviación, S.A. may be subject to additional enforcement action for failure to comply with this order.
5. We order Compañía Panameña de Aviación, S.A. to pay within 120 days of the issuance of this order the penalty assessed in Ordering Paragraph 4, above, through Pay.gov to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Compañía Panameña de Aviación, S.A. to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

BLANE WORKIE
Assistant General Counsel
for the Office of Aviation Consumer Protection

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