



**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 May, 2022**

Silver Airways, LLC

**Violations of 49 U.S.C. § 41708 and
14 CFR Part 241**

Docket OST-2022-0001

Served: May 17, 2022

CONSENT ORDER

This consent order concerns reporting delinquencies by Silver Airways, LLC (Silver) that constitute violations of 49 U.S.C. § 41708 and the accounting and reporting requirements specified in 14 CFR Part 241. This order directs Silver to cease and desist from future violations and assesses the carrier a compromise civil penalty of \$25,000.

Applicable Law

Section 41708 of the United States Code, *inter alia*, authorizes the Secretary of Transportation to require air carriers to submit reports to the Department. Pursuant to section 41708, 14 CFR Part 241 (Part 241) designates various categories of statistical data to be collected from large certificated carriers¹ and prescribes the manner in which these data are to be submitted to the Department. The Department uses the Part 241 reports to analyze the effects of air transportation industry policy initiatives, allocate airport development funds, to forecast traffic, and develop airport and airway traffic policy. A carrier's failure to file the required reports prevents the Department from making fully informed decisions. Failure to file reports when they are due constitutes a violation of both 49 U.S.C. § 41708 and 14 CFR Part 241.

Facts

Silver Airways LLC is a large certificated air carrier and is subject to the reporting requirements of 49 U.S.C. § 41708 and 14 CFR Part 241. Silver failed to submit timely and complete Passenger Origin-Destination Survey reports during certain time periods in 2020 and 2021 as stated below, despite repeated requests from the Bureau of Transportation Statistics.

¹ A large carrier is defined as an air carrier holding a certificate which operates aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

The carrier missed the following submission due dates and failed to file the corresponding quarterly reports²:

May 15, 2020 submission for Q1 2020;
August 15, 2020 submission of Q2 2020;
November 15, 2020 submission of Q3 2020;
February 15, 2021 submission of Q4 2020;
May 15, 2021 submission for Q1 2021;
August 15, 2021 submission of Q2 2021.

Response

In response, Silver states that it takes its Part 241 reporting obligations seriously and the untimely submission of the reports at issue was due to an unintended administrative oversight. This oversight, Silver notes, was exacerbated by staffing challenges, including the departure from Silver, shortly after the onset of the COVID-19 pandemic, of the individual who was responsible for preparing the reports. Silver further notes that it has implemented corrective steps to minimize the likelihood of a reoccurrence, including (i) re-assigning a number of the required reporting tasks to a senior employee at the staff director level, and (ii) developing a compliance reporting schedule, for inclusion in regular internal reports presented to Silver's senior management, that identifies approaching filing deadlines for the reports. Silver maintains that it took these and other responsive measures promptly upon receiving the Department's investigation letter. Finally, Silver states that it has fully cooperated with the Department's investigation and is committed to ensuring compliance with its obligations under Part 241.

Decision

The Office of Aviation Consumer Protection (OACP) has carefully considered the information provided by Silver, but continues to believe that enforcement action is warranted. In order to avoid litigation, and without admitting or denying the violations described above, Silver consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41708 and Part 241 of the Department's regulations, and to the assessment of \$25,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301. Under the terms of this agreement, \$12,500 is due and payable within 30 days of this order's issuance, and the remaining \$12,500 is due and payable if, within one year of this order's issuance, Silver violates the order's cease and desist provisions.

The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It provides a strong incentive for Silver and other air carriers to submit data to the Department in a timely and complete manner, as required.

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

² After being contacted by the OACP, Silver submitted all past due reports and is currently up to date with respect to its reporting obligations.

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 Silver Airways, LLC violated 49 U.S.C. § 41708 and 14 CFR Part 241 by failing to file required reports in a timely manner, as described above;
3. We order Silver Airways, LLC and its successors and assigns to cease and desist from further violations of 49 U.S.C. § 41708 and 14 CFR Part 241;
4. We assess Silver Airways, LLC a compromise civil penalty of \$25,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$12,500 shall be due and payable within 30 days of this order's issuance. The remaining \$12,500 shall become due and payable if, within one year of the issuance date of this order, Silver Airways, LLC violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Silver Airways may be subject to additional enforcement action for failure to comply with this order;
5. We order Silver Airways, LLC to pay within 30 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 Silver Airways, LLC 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
Office of Aviation Consumer Protection

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