



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

Issued by the Department of Transportation
on the 22nd day of October, 2002

My Travel North America

**Violations of 49 U.S.C. § 41712
and 14 CFR 399.84**

Docket OST 2002-12273

Served October 22, 2002

CONSENT ORDER

This consent order concerns deceptive advertisements published by My Travel North America subsidiaries that operate as airline ticket brokers, travel agents and Internet travel vendors. Those advertisements violated the advertising requirements specified in Part 399 of the Department's regulations (14 CFR Part 399), and constituted unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712. This order directs My Travel North America, and all entities owned and controlled by, or under common ownership and control with My Travel North America to cease and desist from future violations and to pay compromise civil penalties.

My Travel North America ("My Travel"), as a travel agent, is subject to the advertising requirements of Part 399 of the Department's rules. Under section 399.84, any advertising that states a price for air transportation is considered to be an unfair or deceptive practice in violation of 49 U.S.C. § 41712 unless the price stated is the entire price to be paid by the customer to the air carrier or ticket agent for such air transportation, tour or tour component. However, as a matter of enforcement policy, the Department has permitted air carriers and agents to state separately from the advertised price taxes and fees, imposed or approved by the government on a per-passenger basis, so long as their amounts appear or are stated in the advertisement. (See, e.g., Order 97-11-14). Taxes and fees imposed on an *ad valorem* basis, however, must be included in the advertised fare. In the case of Internet fare advertisements, taxes and fees that may properly be excluded from the base fare may be noted in a prominent link, proximate to the stated fare, that takes the viewer to the bottom of the screen, or to a separate screen, where the nature and amount of such fees are displayed. (See, e.g., Order 02-3-28; and Notice Regarding Prohibition on Deceptive Practices in the Marketing of Airfare to the Public Using the Internet, dated January 18, 2001, available at: <http://airconsumer.ost.dot.gov/airconsumer/rules.htm>.)

In addition, effective December 31, 2001, the Department's Transportation Security Administration implemented an Interim Final Rule, 49 CFR Part 1510, imposing a

security service fee in the amount of \$2.50 per enplanement on passengers of domestic and foreign air carriers in air transportation originating at airports in the United States. Direct air carriers and foreign air carriers must collect the security service fees imposed on air transportation sold on or after February 1, 2002. Unless the security service fees are included in an advertised fare, pursuant to section 1510.7, air carriers and foreign air carriers are specifically required to identify and ensure that their agents identify the security service fees as the "September 11th Security Fee" in all advertisements and solicitations for air transportation. The failure of a ticket agent to include the specific notice required by section 1510.7 in its fare advertisements is an unfair and deceptive practice in violation of 49 U.S.C. § 41712.

A My Travel subsidiary published airfare advertisements in numerous major city newspapers throughout the U.S. in January 2002 that failed to include all taxes and fees in the advertised fares. The advertisements listed vacation packages that included airfares, but did not include the applicable taxes and fees, nor provide a range for the applicable taxes and fees that may be separately stated to allow the consumer to calculate the total cost of the packages. In addition to print advertisements, the My Travel subsidiary published and broadcast email promotions in early 2002 containing an advertisement for vacation packages that included airfares, but the advertisement failed to include in the fare or on a directly linked screen the applicable taxes and fees, or to provide a range for the applicable taxes and fees that may be separately stated to allow the consumer to calculate the total cost of the packages.

Additionally, in February of 2002, another My Travel subsidiary caused to be broadcast in Atlanta, Georgia, numerous radio advertisements for air tour packages that failed to include any notice that the package prices did not include applicable taxes and fees and to state the amount of such taxes and fees that may be separately stated. This My Travel subsidiary also caused to be broadcast numerous cable television advertisements during early 2002 for air tour packages without including any notice that the package prices did not include applicable taxes and fees that may be separately stated and without stating the amount of such taxes and fees.

Moreover, Internet email promotions as well as television and radio advertisements placed by the My Travel companies that were aired in February 2002 failed to properly identify the September 11th Security Fee. There is no indication in the advertisements that consumers purchasing tickets for travel on or after February 1, 2002, must pay an additional fee. As published on the Internet and in print, and as broadcast on television and radio, the My Travel advertisements violate section 399.84 of the Department's regulations and 49 U.S.C. § 41712.

In mitigation, My Travel states that at the time the violations occurred, My Travel was installing new staff and new oversight procedures as part of a significant reorganization. My Travel states that neither of its subsidiaries intended to provide misleading information and that consumers were informed of the additional charges before they purchased any vacation packages. In addition, My Travel states that upon being notified that the advertisements were not in compliance with Department advertising regulations, it immediately took steps to prevent further dissemination of advertisements that did not

contain complete airfare information and to correct future advertisements. My Travel states that it canceled one email promotion and removed air tour packages from additional email promotions. Additionally, My Travel disconnected links on the related website to advertisements for vacation packages that included airfares, until such time as the advertisements could be amended to include all required information. Additionally, My Travel points out that the website in question was simplified so that the required information would be included on any page containing an advertisement including an airfare.

My Travel further states it has contacted each entity controlled by My Travel and clarified the information that advertisements for airfares must include, as well as emphasized the importance of reviewing each advertisement before it is approved for publication or broadcast. According to My Travel, it has verified that each entity has implemented procedures to ensure that future advertisements do not violate Department requirements. These procedures include the requirement that at least one staff person at My Travel or the entity controlled by My Travel who is familiar with Department requirements must review any advertisement before it is published or broadcast to ensure compliance.

The Aviation Enforcement Office has carefully considered all of the facts of this case, including the information provided by My Travel and the corrective measures it has adopted, but continues to believe that enforcement action is warranted. The Aviation Enforcement Office and My Travel have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, My Travel consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41712 and of 14 CFR 399.84, and to the assessment of \$50,000 in compromise of potential civil penalties otherwise due and payable for the January and February 2002 violations described above. Of this total penalty amount, \$25,000 shall be due and payable within 15 days of the issuance of this order. The remaining \$25,000 shall be suspended for one year following issuance of this order, and then forgiven, unless My Travel violates this order's cease and desist provision within that one-year period, or fails to comply with the order's payment provisions, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and My Travel may be subject to further enforcement action. We believe that this compromise assessment is appropriate and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's advertising requirements by My Travel, and its affiliates, as well as by airlines, travel agents, and other sellers of air transportation.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

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 My Travel North America has violated 14 CFR 399.84 by causing to be published airfare advertisements that failed to state the entire price to be paid for the advertised air transportation;
3. We find that by engaging in the conduct described in ordering paragraph 2 above and by not identifying the September 11th Security Fee by name as required by 49 CFR 1510.7 My Travel North America also engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. My Travel North America, and all other entities owned and controlled by, or under common ownership and control with, My Travel North America, and their successors and assignees, are ordered to cease and desist from future violations of 14 CFR 399.84 and 49 U.S.C. § 41712;
5. My Travel North America is assessed \$50,000 in compromise of the potential civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2 and 3 of this order. Of that penalty amount \$25,000 shall be due and payable within 15 days of the service date of this order. The remaining \$25,000 shall be suspended for one year following issuance of this order, and then forgiven, unless My Travel North America violates this order's cease and desist provision within that one-year period, or fails to comply with the order's payment provisions, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and the carrier may be subject to further enforcement action. Failure to pay the compromise assessment as ordered will subject My Travel North America to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order; and
6. Payment shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U.S. Treasury. The wire transfer shall be executed in accordance with the instructions contained in the Attachment to 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:

ROSALIND A. KNAPP
Deputy General Counsel

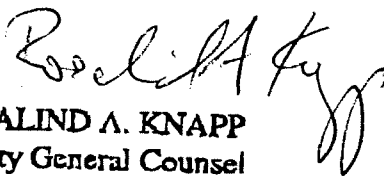
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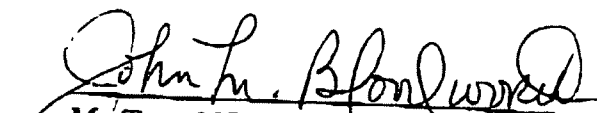
1. Treasury Department Code—Provided
2. Type Code—To be provided by sending bank.
3. Sending Bank's Code—(ABA#)
4. Reference No.—Optional number, entered if sending bank desires to number transaction.
5. Amount—Include dollar sign and punctuation including cents digits.
6. Sending Bank Name—Telegraphic abbreviation corresponding to Item 4.
- 7/8. Entire line provided precisely as shown.
9. Entire line provided precisely as shown.
10. Enter name of air carrier or other payor (as shown on order).
11. Identify payment (maximum 80 digits). Enter order number (if any), issue date, and state "installment" or "full payment."

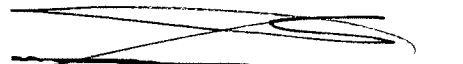
NOTE: Questions about these instructions should be directed to Ms. Betty Barber, Office of Financial and Budget, General Accounting Branch, AMZ-120, P.O. Box 25082, Oklahoma City, Oklahoma 73125, phone: (405) 954-1194, fax: (405) 954-3930. To ensure proper credit, notify Ms. Barber when each payment is made.

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: 
ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)


My Travel North America
JOHN M. BLOODWORTH, *etc*
President of Cruise
and Air Division


Samuel Podberesky
Assistant General Counsel for
Aviation Enforcement and Proceedings

My Travel North America EIN
(Employer ID Number)

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