



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

Issued by the Department of Transportation
on the 6th day of January, 2003

**London Air Services Limited
Violations of 49 U.S.C. §§ 41301, 41703,
and 41712**

Served: January 6, 2003

OST-2003-14194

CONSENT ORDER

This order concerns unauthorized air service by London Air Services Limited (LAS), that violates 49 U.S.C. §§ 41301, 41703, and 41712. This consent order directs LAS to cease and desist from further violations of these statutory provisions and to pay a compromise civil penalty.

Since 2000, LAS, a foreign air carrier within the meaning of 49 U.S.C. § 40102(a)(21), has engaged in limited charter air service originating from its base in Vancouver, Canada. On August 13, 2002, LAS received Departmental approval to conduct air service to and from the United States as a Canadian charter air taxi operator pursuant to 14 CFR Part 294. However, on numerous occasions prior to receipt of this authority, LAS operated flights for compensation or hire to and from the United States in contravention of 49 U.S.C. § 41301, which states that foreign air carriers must obtain permit authority from the Department *prior* to commencing service to the United States. Moreover, between August 2000 and August 2002, LAS transported a number of passengers for compensation or hire entirely within the United States. Service by a foreign air carrier between two points in the United States for compensation or hire violates 49 U.S.C. § 41703.¹ Any violations of 49 U.S.C. §§ 41301 and 41703 also constitute an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.

In mitigation, LAS states that its goal at all times during the period in question was to comply fully with all U.S. statutory and regulatory requirements, including those of the Department. LAS asserts that it had no intention of evading any such requirements. Moreover, LAS states

¹ The pertinent language of 49 U.S.C. § 41703 states that foreign civil aircraft may “take on for compensation, at a place in the United States, passengers or cargo destined for another place in the United States only if – (1) specifically authorized under section 40109(g) of this title...”

that it reasonably believed that it held all necessary authority to conduct operations in the United States, including those that the Department has determined to be cabotage. According to LAS, this understanding was supported by numerous affirmations by the U.S. Federal Inspection Services, including the U.S. Customs Service. LAS emphasizes that, with respect to the alleged cabotage operations, such operations were incidental to group movements on a roundtrip itinerary originating in Vancouver and that LAS did not receive additional compensation for carrying the small number of passengers on each flight who originated and terminated their travel in the United States. LAS also points out that it has cooperated fully with the Department in this matter. To this end, LAS and the Department have agreed to work together in the future to educate other similarly situated Canadian operators regarding the Department's registration requirements.

The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered all of the information provided by LAS, but continues to believe that enforcement action is warranted. In this connection and in order to avoid litigation, the Enforcement Office and LAS have reached a settlement of this matter. Without admitting or denying the violations described above, LAS consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. §§ 41301, 41703, and 41712 and to the assessment of \$60,000 in compromise of potential civil penalties otherwise assessable. Of this total penalty amount, \$10,000 shall be due and payable within 15 days of the issuance of this order, \$10,000 shall be due and payable on June 30, 2003, and \$10,000 shall be due and payable on December 30, 2003. LAS is to be given a credit of not more than \$10,000 for expenses that it incurs in arranging, or helping to arrange, a public seminar on the Department's economic licensing and cabotage requirements for Canadian air carriers to be held under the auspices of the Canadian Business Aircraft Association (CBAA) within the next year. This offset is to be made against the last payment that would otherwise be due under this order upon presentation to, and acceptance by, the Enforcement Office of certified expense statements, verified by signature subject to the terms of 18 U.S.C. § 1001.² The remaining \$30,000 shall be suspended until December 30, 2003, and then forgiven, unless LAS violates this order's cease and desist or payment provisions, in which case the entire unpaid portion of this civil penalty shall become due and payable immediately and LAS may be subject to further enforcement action.

Although the Enforcement Office and LAS do not believe that the details of the seminar should be described in this order, they do wish to set forth the basic parameters that will govern the conduct of the seminar.³ In this connection, LAS has undertaken to organize, or help organize, and chair a seminar of leading Canadian business aircraft operators in order to educate attendees regarding the Department's economic licensing process and other Departmental economic requirements. The seminar's scope will include, at a minimum, the types of Departmental economic authority available to Canadian air carriers, the economic authority application process, and Departmental policy regarding cabotage operations.

² In lieu of arranging a public seminar, LAS may choose to pay the final \$10,000 installment.

³ The Department and the Civil Aeronautics Board, which possessed jurisdiction over aviation economic issues prior to the Department, have approved industry and company education programs as part of settlement agreements in several prior cases. *See, e.g.*, Orders 87-6-6, 79-10-52, and 77-2-131.

Canadian air carriers will be invited and will not be charged for attending the seminar.⁴ The seminar's scope may also be extended to include related FAA licensing and other regulatory requirements, as well as applicable requirements of the U.S. Federal Inspection Services, including the U.S. Customs Service.

The Enforcement Office believes this compromise is appropriate, serves the public interest, and creates an incentive for all foreign air carriers to comply fully with the requirements of 49 U.S.C. §§ 41301, 41703, and 41712.

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 London Air Services Limited, violated 49 U.S.C. §§ 41301 by commencing air service to and from the United States prior to obtaining appropriate authority from the Department;
3. We find that London Air Services Limited, violated 49 U.S.C. §§ 41301 and 41703 by holding out and performing air transportation for compensation or hire between points entirely within the United States;
4. We find that, by engaging in the conduct and violations described in paragraphs 2 and 3 above, London Air Services Limited, engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712;
5. London Air Services Limited, and all other entities owned and controlled by, or under common ownership and control with London Air Services Limited, and their successors and assignees, are ordered to cease and desist from future violations of 49 U.S.C. §§ 41301, 41703, and 41712 as described above;
6. London Air Services Limited, is assessed a civil penalty of \$60,000 in compromise of the civil penalties that might otherwise be assessed for the violations found in paragraphs 2, 3, and 4 above. Of this total penalty amount, \$10,000 shall be due and payable within 15 days of the issuance of this order, \$10,000 shall be due and payable on June 30, 2003, and \$10,000 shall be due and payable on December 30, 2003, subject to the modification set forth in ordering paragraph 7. The remaining \$30,000 shall be suspended until December 30, 2003, and then forgiven, unless London Air Services Limited, violates this order's cease and desist or payment provisions. Failure to pay the penalty as ordered will subject London Air Services Limited, to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible enforcement action for failure to comply with this order;
7. To obtain a modification of the civil penalty payment covered by ordering paragraph 6 of this order, London Air Services Limited, shall arrange, or help arrange, and sponsor a seminar on the Department's aviation economic licensing and cabotage requirements applicable to

⁴ LAS will consult with the Enforcement Office regarding the proposed list of attendees.

Canadian air carriers to be held in Vancouver, British Columbia, before October 30, 2003. London Air Services Limited, shall submit a certified statement detailing its expenses in connection with the seminar to the Office of Aviation Enforcement and Proceedings. Unless disapproved by that office, an offset, not to exceed \$10,000 shall be applied to the final installment of the civil penalty described in ordering paragraph 6 above due and payable on December 30, 2003. London Air Services Limited, shall submit its expenses for arranging the seminar to the Office of Aviation Enforcement and Proceedings on or before November 15, 2003. Such expenses shall be verified by signature and be subject to enforcement under 18 U.S.C. § 1001; and

8. Payment of the civil penalty described above 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 attached instructions.

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

By:

SAMUEL PODBERESKY
Assistant General Counsel for
Aviation Enforcement and Proceedings

(SEAL)

*An electronic version of this document is available on the World Wide Web at
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