



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

Issued by the Department of Transportation
on the 18th day of April, 2003

**Bellair, Inc.
Violations of 49 U.S.C. § 41708,
14 CFR Part 241, and
Order 2002-1-4**

Docket OST 2003-14194

Served: April 18, 2003

CONSENT ORDER

This consent order concerns reporting delinquencies by Bellair, Inc., (“Bellair”) that constitute violations of 49 U.S.C. § 41708 and the reporting requirements specified in 14 CFR Part 241 and made applicable to the carrier by Department Order 2002-1-4. This order directs Bellair to cease and desist from future violations and to pay a compromise civil penalty.

The Department is collecting data from certificated bush carriers transporting mail within Alaska in connection with a potential rate adjustment to mail rates for intra-Alaska and mainline mail service. In this regard, under Order 2002-1-4, Bellair is required to submit monthly T-100 reports as specified in 14 CFR Part 241. In addition, the Department uses carriers’ reports to analyze the effects of air transportation industry policy initiatives, to allocate airport development funds, to forecast traffic, and to develop airport and airway traffic policy. A carrier’s failure to file its reports prevents the Department from making fully informed decisions. Failure to file reports when they are due also constitutes a violation of both 49 U.S.C. § 41708 and the applicable Department regulations.

Beginning January 2002, and continuing through August 2002, Bellair failed to file the required reports. During this period, the Department’s staff first attempted to contact Bellair informally regarding the delinquencies, then sent written warnings. Specifically, the Department’s Office of Airline Information (OAI) sent Bellair a warning letter about its delinquent T-100 reports on June 3, 2002. After Bellair’s delinquency continued, the Department’s Office of Aviation Enforcement and Proceedings (Enforcement Office) sent Bellair a warning letter regarding the same issue on August 16, 2002.

The Enforcement Office’s letter offered Bellair one last opportunity to file the delinquent reports promptly and to ensure that in the future all of its required reports are filed in a timely manner. Despite these warnings, Bellair failed to file the reports promptly¹.

¹ Bellair did not file all overdue reports until November 7, 2002.

In mitigation, Bellair states that it had no intention to become delinquent on any reporting requirements. Bellair points out that the initial notices regarding the revised reporting requirements were addressed to the former owner of the company and the carrier states that it forwarded the correspondence on without opening it. Subsequently, Bellair encountered multiple difficulties when attempting to prepare the reports. Bellair ultimately hired a consultant, but was unable to resolve all the technical issues and assemble all the needed information until October. Bellair states that by devoting significant time and resources to the problems, it was able to file all the delinquent reports very quickly once the technical and informational issues were resolved. Bellair has assured the Department that it has resolved the problems and that future reports will be filed in a timely manner.

The Enforcement Office has carefully considered the information provided by Bellair but continues to believe that enforcement action is warranted. The Enforcement Office and Bellair have reached a settlement of this matter in order to avoid litigation. Bellair consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. § 41708, Part 241 of the Department's regulations, and Order 2002-1-4, and to the assessment of \$20,000 in compromise of potential civil penalties, half of which will be forgiven if the carrier complies with this order and its reporting obligations over the next year.

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 reporting requirements by Bellair, as well as by other air carriers and foreign air carriers.

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 Bellair, Inc., has violated Order 2002-1-4 and 14 CFR Part 241 by failing to file required reports in a timely manner;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, Bellair, Inc., has also violated 49 U.S.C. §41708;
4. Bellair, Inc., and all other entities owned or controlled by or under common ownership with Bellair, Inc., and their successors and assignees, are ordered to cease and desist from violations of 49 U.S.C. §41708, 14 CFR Part 241, and Order 2002-1-4;
5. Bellair, Inc., is assessed \$20,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3

above. Of that penalty amount \$2,500 shall become due and payable within 15 days of the service date of this order, \$2,500 shall be due and payable on June 2, 2003, \$2,500 shall be due and payable on September 2, 2003, and \$2,500 shall be due and payable on December 1, 2003. The remaining \$10,000 shall be suspended for one year following issuance of this order, and then forgiven, unless Bellair, Inc. 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 Bellair, Inc., 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. Payments 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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