



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

Issued by the Department of Transportation
on the **2nd day of April, 2004**

Continental Airlines, Inc.
Compliance with 49 U.S.C. §§ 40127, 41702, and
41712

Docket OST-2004-16943
SERVED: April 2, 2004

CONSENT ORDER

This consent order (the “order”) closes an investigation into Continental Airlines, Inc.’s (“Continental”) alleged noncompliance with Federal statutes prohibiting air carriers from subjecting any air traveler to discrimination on the basis of race, color, national origin, religion, sex or ancestry. The order directs Continental to desist from future actions inconsistent with these statutes and to provide additional civil rights training to its flight and cabin crews.

Federal law is clear that an airline cannot refuse passage to an individual because of that person’s race, color, national origin, religion, sex, or ancestry. 49 U.S.C. § 40127(a) provides that an “air carrier or foreign air carrier may not subject a person in transportation to discrimination on the basis of race, color, national origin, religion, sex, or ancestry.” Section 41702 requires that U.S. carriers provide safe and adequate transportation. Finally, § 41712 prohibits unfair and deceptive practices by air carriers. Each of these provisions has been interpreted to prohibit air carriers from discriminating on the basis of race, color, national origin, religion, sex, or ancestry. See American Airlines Inc., OST-2003-15046-18 (Aug. 21, 2003) and United Airlines, Inc., Doc. No. 14194, Order 2003-11-13 (Nov. 19, 2003).

The Office of Aviation Enforcement and Proceedings (“Enforcement Office”) became concerned about air carrier compliance with the above-cited statutory prohibitions shortly after the terrorist attacks of September 11, 2001, when it began to receive complaints against air carriers from individuals removed from flights or denied boarding on flights allegedly because those persons were or were perceived to be of Middle Eastern or Southeast Asian descent and/or Muslim.

Because of concerns about these complaints, the Enforcement Office requested information from air carriers, including Continental, regarding any such incidents occurring between September 11, 2001, and December 31, 2001. The Enforcement Office then decided to conduct an investigation of these complaints and later others, including those alleged against Continental.

As a result of this investigation, the Enforcement Office believes some airline passengers were treated in a manner inconsistent with the requirements of one or more of the above-cited statutes which prohibit discrimination in air transportation on the basis of race, color, national origin, religion, sex or ancestry.

In response to the Enforcement Office's concerns, Continental states that it thoroughly investigated the complaints in question. Continental is convinced that its employees did not act in violation of the law and that the incidents at issue were not the result of discrimination or in any way indicative of a systemic problem in its workforce. Continental firmly denies the allegations and conclusions of the Enforcement Office contained in this order and states that it has been and remains committed to its policy against discrimination. According to Continental, it is a diverse company in its workforce and customer base and does not tolerate discrimination in any form.

Continental emphasizes that the few complaints at issue against the carrier cover incidents that took place in the days since the devastating and tragic terrorist events of September 11, 2001. Continental states that it remains committed to the support of its employees who worked, heroically, through this period of unprecedented security concerns and tension for all participants in the nation's air transportation system. Continental also emphasizes that it considers the issue of aircraft security, as well as the issue of non-discrimination, to be of the utmost importance. In that regard, Continental notes that Federal law provides air carriers the authority and responsibility to "refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety." 49 U.S.C. § 44902(b). According to Continental, it supports its employees in the lawful exercise of their responsibilities and discretion under that statute.

The Enforcement Office has carefully considered all the information provided by Continental, but continues to believe that enforcement action is warranted. Given all of the circumstances, Continental believes that the best interests of its employees, customers and the airline industry at large would be served by avoiding protracted litigation and reaching a compromise with the Enforcement Office.

Without admitting to or agreeing with the beliefs of the Enforcement Office described above, and without admitting any violations of the law, Continental consents to the issuance of this order to desist from future actions inconsistent with 49 U.S.C. §§ 40127, 41702 and 41712. In addition, the order directs Continental to provide additional training to its pilots and cabin crewmembers covering the topics of civil rights generally and the specific requirements of 49 U.S.C. §§ 40127, 41702 and 41712 regarding nondiscrimination based on a passenger's race, color, national origin, religion, sex or ancestry.

The Enforcement Office believes that this settlement is appropriate and serves the public interest and creates an incentive for all carriers to comply fully with the civil rights laws enforced by the Department of Transportation. ¹

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 believe that Continental Airlines, Inc. acted in a manner inconsistent with the requirements of 49 U.S.C. §§ 40127, 41702 and 41712 as discussed above;
3. We order Continental Airlines, Inc. and all other entities owned and controlled by it or under common ownership and control with it, and their successors and assigns, to cease and desist from future actions inconsistent with 49 U.S.C. §§ 40127, 41702 and 41712; and
4. We order Continental Airlines, Inc. and its successors and assigns to:
 - a. Provide additional civil rights training to its pilots and cabin crewmembers at a cost of not less than \$500,000 within 24 months of the service date of this order²; and
 - b. Submit a sworn statement from an appropriate company official within 25 months of the service date of this order certifying that all carrier personnel required to receive civil rights training under this order have received such training;
5. Any failure by Continental to conduct the training in accordance with ordering paragraph 4 or to document it adequately to the Enforcement Office shall constitute a continuing violation of the consent order and subject Continental to enforcement action; and
6. This order is the result of a settlement of disputed alleged violations and it expressly makes no findings of violations with respect to any individual incident of alleged civil rights violations. The conclusions herein are not evidence of any wrongful act nor shall this order

¹ Additionally, this consent order will settle any and all complaints that could be asserted against Continental alleging violations of 49 U.S.C. §§ 41310, 41702, 41705 or 41712 arising out of or relating to incidents where Continental denied a passenger boarding or removed a passenger from a flight on the basis of the passenger's ethnic background, religion, or national origin (actual or assumed) occurring on or after September 11, 2001, and through the service date of this Order.

² The Department has contracted with a company to develop an easy to understand technical assistance manual that details the responsibilities of air carriers under Federal nondiscrimination statutes and to develop a model training program, which will include, at a minimum, an overview of the applicable laws and regulations, a cultural awareness component and a job-specific training segment. To support the Department in its mission of ensuring nondiscrimination in air transportation, Continental has agreed to share with the Department's contractors its civil rights training materials for possible inclusion in the Department's technical assistance manual and model training program.

constitute in any way an admission by Continental of any discriminatory conduct. This order and the statements herein shall have no evidentiary effect in any proceeding not before the Department of Transportation.

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:

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