



**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 May, 2004**

Transmeridian Airlines, Inc.

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

OST-2004-16943

Served: May 06, 2004

CONSENT ORDER

This consent order concerns reporting delinquencies that constitute violations of 49 U.S.C. § 41708 and the accounting and reporting requirements in Part 241 of the Department's regulations (14 CFR Part 241) by Transmeridian Airlines, Inc. (Transmeridian), a certificated air carrier which operates large aircraft. This order directs Transmeridian to cease and desist from future similar violations of Part 241 and the cited statutory provision and assesses the carrier \$80,000 in compromise of civil penalties that might otherwise be assessed against the carrier for such violations.

The Department uses carriers' reports to monitor carrier fitness and ownership, 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 in a timely manner, therefore, may prevent the Department from making fully informed decisions.

On June 8, 1999, Transmeridian entered into a consent order (Order 99-6-7) that required the carrier to cease and desist from future violations of Part 241 and assessed the carrier a civil penalty of \$25,000. Almost immediately, Transmeridian violated the terms of that order by failing to file timely financial, traffic, and other reports as required by Part 241.¹ The Department's Office of Airline Information wrote Transmeridian several times in 2000, 2001, and 2002 warning the carrier that failure to bring itself into compliance and remain current in its reporting obligations would result in referral of the matter again to the Enforcement Office. Transmeridian continued to fail to comply with the applicable reporting schedules. As of December 22, 2003, the carrier had not filed 40 required

¹ On November 8, 1999, the Enforcement Office wrote to Transmeridian and it filed its then delinquent reports; however, thereafter Transmeridian continued to file its financial and traffic reports late, if at all.

reports and had filed a significant number of other reports late, with an average delinquency of more than three months.²

In mitigation, Transmeridian states that under prior ownership and management, Transmeridian sought Chapter 11 Federal Bankruptcy Protection on or about September 22, 2000, and the company emerged from bankruptcy protection under new ownership on or about June 19, 2001. During this period of reorganization, according to the new owners, whereas they knew the financial records of the company were in disarray, due diligence at that time did not reveal the long-standing history of or then current Part 241 reporting problems of the carrier, particularly the existence of the previous consent order. Transmeridian further states that the employee who was responsible from late 2001 to the present for Part 241 reporting did not receive adequate training from the previous controller who left the company in early 2002. Moreover, the company states that the new senior management did not become aware of the problem until it received a December 22, 2003, letter from the Enforcement Office on December 29, 2003. The company points out that upon receiving that letter it filed all delinquent reports immediately.

We view seriously Transmeridian's repeated failure to file reports as required. Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. By this order, the Department finds that Transmeridian has, on numerous occasions, failed to file timely financial and other reports in violation of 14 CFR Part 241 and 49 U.S.C. § 41708. In addition, the Department finds that Transmeridian has violated the cease and desist provisions of Order 99-6-7. In order to avoid litigation, Transmeridian has agreed to settle these matters with the Enforcement Office and enter into this consent order directing Transmeridian to cease and desist from future similar violations of Part 241, 49 U.S.C. § 41708, and Order 99-6-7 and to pay \$80,000 in compromise of potential civil penalties otherwise due and payable. Of this amount, \$40,000 shall be due and payable within 15 days after the service date of this order and the remaining \$40,000 of the assessed penalty shall be suspended for one year following the service date of this order and forgiven after that time if the carrier complies with the payment provisions and commits no further violations during that period. 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 Transmeridian, as well as by other domestic 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 Transmeridian Airlines, Inc. has violated 14 CFR Part 241 by failing to file reports in a timely manner;

² Transmeridian has now filed all of its delinquent reports.

3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, Transmeridian Airlines, Inc. has also violated 49 U.S.C. § 41708;
4. We find that by engaging in the conduct and violations described in ordering paragraphs 2 and 3 above, Transmeridian Airlines, Inc. has also violated Order 99-6-7;
5. Transmeridian Airlines, Inc., and all other entities owned or controlled by or under common ownership with Transmeridian Airlines, Inc., its successors and assignees are ordered to cease and desist from further violations of 14 CFR Part 241, 49 U.S.C. § 41708, and Order 99-6-7;
6. Transmeridian Airlines, Inc. is assessed \$80,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 through 4 above, of which \$40,000 shall be due and payable within 15 days after the service date of this order. The remaining \$40,000 of the assessed penalty shall be suspended for one year following the service date of this order, and shall be forgiven, unless, during this time period, Transmeridian fails to comply with the payment provisions of this order or the cease and desist provisions of paragraph 5 above, during that period, in which case the entire unpaid portion of the assessed penalty shall become due and payable immediately and the carrier may be subject to further enforcement action; and
7. 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 in accordance with the attached instructions. Failure to pay the penalty as ordered will subject Transmeridian Airlines, 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.

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)

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