



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

Issued by the Department of Transportation
on the 30th day of October, 2006

North American Airlines, Inc.

Violations of 14 CFR Part 212

Docket OST 2006-23528

Served October 30, 2006

CONSENT ORDER

This consent order concerns service provided by North American Airlines, Inc. ("North American"), a U.S. air carrier, on behalf of Air Jamaica Ltd. ("Air Jamaica"), a Jamaican carrier, without the appropriate long-term wet lease authority from the Department. The carrier obtained wet lease approval under 14 CFR Part 212 to operate service on behalf of Air Jamaica from points in the Northeastern U.S. to points in Jamaica between March 20, 2005, and December 31, 2005. The carrier, in violation of the cited regulation, continued to operate wet lease service to Jamaica following the expiration of its authority until July 2006, and it also operated wet lease service to Grenada on behalf of Air Jamaica, service for which it had never received wet lease approval. This order directs the carrier to cease and desist from future similar violations and to pay a compromise civil penalty.

Under 14 CFR 212.9 and 14 CFR 212.10, U.S. carriers must obtain a statement of authorization from the Department for any long-term wet lease on behalf of a foreign air carrier.¹ In submitting a wet lease agreement with Air Jamaica to the Department in March 2005, North American sought approval for the duration of the lease, i.e., through December 31, 2005. However, in June 2005 the carrier extended its agreement with Air Jamaica through December 31, 2006. That agreement was not submitted to the Department for approval until July 2006. Department approval of the revised wet lease agreement was conferred by letter dated July 18, 2006. During the period from January 1, 2006, through July 18, 2006, North American continued to provide service on behalf of Air Jamaica, following the expiration of the authority granted in March 2005, and initiated service to Grenada. North American had never received wet lease approval for Grenada service.

¹ Section 212.9(a) requires that U.S. carriers obtain a statement of authorization with respect to all long-term wet leases to foreign carriers; section 212.10(d)(2) states that applications for approval must be submitted at least 45 days prior to commencement of service pursuant to the wet lease agreement.

In mitigation, North American states that it understands its obligations under 14 CFR Part 212 and has complied with this provision in the past by obtaining authorization for wet lease agreements with Israil and Air Jamaica. According to the carrier, the lapse in its authority relating to its June 2005 wet lease agreement with Air Jamaica was due only to an inadvertent administrative oversight. North American also states that notwithstanding its June 2005 long-term wet lease agreement with Air Jamaica, the majority of the service it provided was emergency subservice flights and not the type of operations commonly considered to be long-term wet lease services. Moreover, North American states that it has implemented measures to ensure compliance with Department regulations in the future by centralizing the handling of all contracts and Department filings in one office. Finally, North American emphasizes that once it discovered its error, it disclosed the oversight to the Department and promptly filed an appropriate renewal application, which was granted just days after its filing.

We acknowledge North American's cooperation in this matter and have taken into account the mitigating factors cited by the carrier; however, the Enforcement Office continues to believe that enforcement action is warranted in this instance. In order to avoid litigation and without admitting or denying the alleged violations, North American, agrees to the issuance of this order to cease and desist from future violations of 14 CFR Part 212 and to an assessment of \$25,000 in compromise of potential civil penalties of which one-half will be payable according to the payment schedule described below. This compromise assessment is appropriate in view of the nature and extent of the violations in question and serves the public interest. This order will serve as a deterrent to future noncompliance with the Department's wet lease approval regulations by North American, as well as by other 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 North American Airlines, Inc., violated 14 CFR Part 212 by operating service on behalf of Air Jamaica Ltd., between New York and Jamaica under an expired long-term wet lease approval and by operating service between New York and Grenada without any wet lease approval;
3. North American Airlines, Inc., its successors, affiliates, and assigns, are ordered to cease and desist from further similar violations of 14 CFR Part 212;
4. North American Airlines, Inc. (North American), is assessed \$25,000 in a compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraph 2. Of this amount \$12,500 shall be due and payable within 30 days of the service date of this order. The remainder of the penalty shall be suspended for one year following the service date of this order and then forgiven, provided that North American complies with the payment terms of this order, as well as

its cease and desist provisions, during the suspension period; if it fails to do so, the entire unpaid balance of the penalty shall become due and payable immediately, and North American may be subject to further enforcement action; and

5. 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. Failure to pay the penalty as ordered shall also subject North American Airlines, Inc., to an 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 initiative.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

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