



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

Issued by the Department of Transportation
On the 20th day of November, 2006

**Vision Airlines, Inc., doing business
as Vision Air**

**Violations of 49 U.S.C. §§ 41101, 41712,
and 14 CFR Part 380**

Docket OST 2006-23528

Served November 20, 2006

CONSENT ORDER

This consent order concerns unauthorized advertising of Public Charter air transportation by Vision Airlines, Inc., doing business as Vision Air (Vision Air), an air taxi operator that conducts business out of Las Vegas, Nevada. The unauthorized holding out by Vision Air violates the Department's Public Charter regulations (14 CFR Part 380) and 49 U.S.C. § 41101, which also constitutes an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712. This order directs Vision Air to cease and desist from future violations and assesses the carrier compromise civil penalties of \$20,000.

Public Charter operators must comply with the requirements of 14 CFR Part 380. Among the most important requirements of 14 CFR Part 380 are the rules designed to prevent economic harm to charter passengers. These rules include the requirement that no charter flight be advertised or sold unless there is in place an approved Public Charter prospectus, which evidences certain consumer protections, including financial security measures, required by Part 380. 14 CFR 380.25(a).

Vision Air holds authority to operate as an air taxi pursuant to 14 CFR Part 298, and offers public charter flights between Phoenix and Las Vegas and air tours of the Grand Canyon. Prior to applying for or receiving Public Charter authority from the Department, Vision Air issued a press release on March 10, 2006, promoting its Public Charter service between Las Vegas and Phoenix that was to commence on April 6, 2006. In addition, Vision Air advertised on its website, www.visionairlines.com, \$69.00 one way fares for flights between Las Vegas, Nevada, and Scottsdale and Mesa, Arizona. Vision Air advertised that it was starting that Public Charter service on July 27. However, Vision had neither applied for nor received Public Charter authority from the Department to hold

out or conduct these flights prior to publishing its solicitation.¹ Vision Air thus violated the provisions of Part 380 noted above.

Vision Air, by holding out charter service before it filed for and received Public Charter authority in violation of 14 CFR Part 380, also violated 49 U.S.C. § 41101, which prohibits a company from engaging in air transportation without proper economic authority. Its conduct also constituted an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.

In explanation and mitigation, Vision Air states that it engaged in the above-described business development activities with a good faith belief that it was doing so in full compliance with all applicable aviation laws and regulations, and that any noncompliance was inadvertent. According to the company, the “press release” at issue was prepared for a limited group of pre-selected individuals/companies belonging to an organization of which Vision is a member and was not intended to solicit sales, nor was it intended for mass or widespread distribution. Similarly, with regards to the listing of the other proposed Las Vegas one-way markets on its website, Vision Air states it was merely seeking to describe service that would be coming in the future and had included a notice that the service was “Pending DOT approval.” Moreover, Vision Air states it did not take any bookings, receive payment or even go so far as to confirm a schedule for any of these proposed services. In addition, according to Vision Air it is not aware of any instances in which a member of the public was misled or harmed in any way by its activities. Upon becoming aware of and fully understanding the Enforcement Office’s concerns, Vision Air states that it immediately took steps to modify its website and revised its business development practices to strictly adhere to the Department’s regulations. Lastly, Vision Air also states that it has cooperated fully with the Department throughout the investigation of this matter and it continues to work diligently toward obtaining additional economic authority necessary to expand its operations.

The Enforcement Office has carefully considered the information provided by Vision Airlines, Inc., dba Vision Air but continues to believe that enforcement action is warranted. In this connection, the Enforcement Office and Vision Airlines, Inc., dba Vision Air have reached a settlement of this matter. Vision Airlines, Inc., dba Vision Air consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. §§ 41101 and 41712 and 14 CFR Part 380, and to the assessment of \$20,000 in compromise of potential civil penalties. 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 licensing requirements by Vision Airlines, Inc., dba Vision Air as well as by other companies engaged in similar air service.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

¹ Vision Air did not file its application for Public Charter authority to conduct the charter operations advertised in the Press Release until March 29, 2006, and never filed a Public Charter application for the Las Vegas to Mesa/Scottsdale service, which the carrier never instituted.

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 Vision Airlines, Inc., dba Vision Air violated 14 CFR 380.25(a) by advertising charter air transportation without having in place an approved Public Charter prospectus covering its Public Charter flights;
3. We find that, by engaging in the conduct and violations described in paragraphs 2 above, Vision Airlines, Inc., dba Vision Air violated 49 U.S.C. § 41101 and engaged in unfair or deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. Vision Airlines, Inc., dba Vision Air and all other entities owned or controlled by Vision Airlines, Inc., dba Vision Air and their successors and assignees, are ordered to cease and desist from violations of 49 U.S.C. §§ 41101 and 41712 and 14 CFR Part 380;
5. Vision Airlines, Inc., dba Vision Air is assessed \$20,000 in compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2 and 3;
6. Of the assessed penalty amount, \$10,000 shall be due and payable within 30 days of the issuance of this order. The remaining \$10,000 shall be suspended for one year following the issuance of this order, and then forgiven, unless Vision Airlines, Inc., dba Vision Air, violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Vision Airlines, Inc., dba Vision Air, may be subject to further enforcement action;
7. Failure to pay the compromise assessment as described in ordering paragraph 6 will subject Vision Airlines, Inc., dba Vision Air 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
8. 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.

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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on the World Wide Web at
<http://dms.dot.gov/general/orders/aviation.html>*