



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

Issued by the Department of Transportation
on the thirteenth day of December, 2006

USA Jet Airlines, Inc.

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

Docket OST 2006-23528

Served December 13, 2006

CONSENT ORDER

This consent order concerns reporting delinquencies by USA Jet Airlines, Inc. ("USA Jet") that constitute violations of 49 U.S.C. § 41708 and the accounting and reporting requirements specified in 14 CFR Part 241. This order directs USA Jet to cease and desist from future violations and assesses the carrier a compromise civil penalty of \$35,000.

The Department uses carriers' Part 241 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 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.

USA Jet has failed to file required reports on time on numerous occasions, requiring the Department's staff to send USA Jet warning letters about its delinquencies. In this regard, on March 22, 2005, the Department's Office of Airline Information (OAI) sent USA Jet a warning letter about delinquent Form 41 reports. After the delinquencies continued, the Office of Aviation Enforcement and Proceedings (Enforcement Office) sent a letter to USA Jet regarding its pattern of delinquent reporting on October 31, 2005. USA Jet was warned at that time that a future failure to file required reports on time would likely result in

enforcement action. USA Jet's delinquencies continued nonetheless. Although some delinquent reports were eventually filed, new delinquencies occurred. As of May 2, 2006, a total of 29 required reports were overdue.¹

In mitigation and explanation, USA Jet states that it never intended to violate any of the Department's regulations. USA Jet explains that the employee long assigned responsibility for the preparation and filing of the reports became ill and died before he could train a fully competent successor. USA Jet points out that, after the reporting delinquencies were brought to the attention of current USA Jet management, the overwhelming majority of those deficiencies were remedied in less than two weeks' time, and that it immediately thereafter implemented numerous remedial programs to ensure timely compliance with its reporting responsibilities, including the training of several additional personnel on USA Jet's flight operations and accounting software, the development of internal audit procedures to ensure timely reporting, and a daily audit of the flight operations database to ensure accuracy.

USA Jet also asserts that it has taken the necessary steps, including the hiring of new, qualified personnel and the redesign of its management structure, to assure that the responsibility for the timely submission of accurate reports will be properly handled in the future. In this regard, USA Jet states that an individual has been assigned the responsibility for seeing that all required reports are properly submitted, that upper management has assumed responsibility for seeing that the goal of full compliance is met, and that the new assistant treasurer, who will have the reporting responsibility, will report directly to the Vice President for Finance. Finally, given these changes, USA Jet states that it has taken the steps necessary to assure that the required reports will be filed on a timely basis in the future.

The Enforcement Office has carefully considered the information provided by USA Jet but continues to believe that enforcement action is warranted. In this connection, the Enforcement Office and USA Jet have reached a settlement of this matter. USA Jet consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. § 41708 and Part 241 of the Department's regulations and to the assessment of \$35,000 in compromise of potential civil penalties. Of this total penalty amount, \$7,500 shall be due and payable within 15 days of the issuance of this order. Two additional payments of \$5,000 each shall be due on January 15, 2007, and March 15, 2007. The remaining \$17,500 will be suspended for one year following issuance of this order, and then forgiven, unless USA Jet Airlines, 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 \$35,000 penalty shall become due and payable immediately, and the company may be subject to further enforcement action. 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 USA Jet, as well as by other air carriers and foreign air carriers.

¹ USA Jet has now filed all of its delinquent reports.

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 USA Jet Airlines, Inc., has violated 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, USA Jet Airlines, Inc., has also violated 49 U.S.C. § 41708;
4. USA Jet Airlines, Inc., and all other entities owned or controlled by or under common ownership with USA Jet Airlines, Inc., and their successors and assignees, are ordered to cease and desist from violations of 49 U.S.C. § 41708 and 14 CFR Part 241 of the Department's regulations;
5. USA Jet Airlines, Inc., is assessed \$35,000 in compromise of potential civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above. Of this total penalty amount, \$7,500 shall be due and payable within 15 days of the issuance of this order. Two additional payments of \$5,000 each shall be due on January 30, 2007, and March 30, 2007. The remaining \$17,500 will be suspended for one year following issuance of this order, and then forgiven, unless USA Jet Airlines, 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 \$35,000 penalty shall become due and payable immediately, and the company may be subject to further enforcement action;
6. Failure to pay the compromise assessment as ordered will subject USA Jet 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; and
7. 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 transfers 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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