



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

Issued by the Department of Transportation
On the 11th day of December, 2007

Israir Airlines and Tourism Ltd

**Violations of 49 U.S.C. § 41705
and 14 CFR Part 382**

**Docket OST-2007-26781
Served: December 11, 2007**

CONSENT ORDER

This order concerns violations by Israir Airlines and Tourism Ltd (Israir) of the requirements of 14 CFR Part 382 (Part 382), with respect to filing annual reports detailing disability-related complaints that the foreign air carrier received from passengers in calendar years 2004 and 2005. Part 382 implements the Air Carrier Access Act (ACAA), 49 U.S.C. § 41705, and violations of that part also violate the ACAA. This order directs Israir to cease and desist from future similar violations of Part 382 and the ACAA and assesses the carrier \$18,000 in civil penalties.

Under section 382.70, covered carriers (i.e., U.S. and foreign air carriers operating passenger service to and from the United States with at least one aircraft having a design capacity of more than 60 passenger seats) must, among other things, submit an annual report to the U.S. Department of Transportation (Department) summarizing the disability-related complaints that they received the prior calendar year.¹ Foreign air carriers are required to submit information only with respect to disability-related complaints associated with any flight segment originating or terminating in the United States. The annual report to the Department is due each year on the last Monday in January. The first annual report covering calendar year 2004 was due to the Department on January 25, 2005, the second such report covering calendar year 2005 was due on January 30, 2006, and the third such report covering calendar year 2006 was due on January 29, 2007.

To comply with 49 U.S.C. § 41705 which requires, among other things, that the Secretary of Transportation “regularly review all complaints received by air carriers alleging

¹ In addition, the rule requires carriers to record complaints that they receive alleging discrimination or inadequate accessibility on the basis of a disability. The complaints are to be categorized according to the passenger’s type of disability and nature of complaint. The rule also requires that covered carriers retain a copy of each disability-related complaint that the carrier receives and a record of the action taken on the complaint for three years.

discrimination on the basis of disability . . . and report annually to Congress on the results of such review,” and to ensure that consumers can compare the overall disability complaints filed against particular carriers, the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) is committed to ensuring carriers file disability-related reports as required. To this end, the Enforcement Office has made efforts to ensure compliance with section 382.70, including providing carriers and carrier associations information about the disability reporting requirements and posting a copy of the disability reporting rule on its Aviation Consumer Protection Division’s website.

Israir is an Israel-based foreign carrier operating limited service to and from the U.S. It operated on average 2.5 roundtrip flights per week to the U.S. in 2004 and 3 roundtrip flights per week to the U.S. in 2005 using at least one aircraft having a design seating capacity of more than 60 passenger seats. Israir’s operations into the U.S. clearly fall within the scope of the reporting rule. Therefore, Israir violated section 382.70 and the ACAA when it submitted the required report detailing disability-related complaints it received on flights to or from the U.S. in calendar year 2004 more than 16 months late on May 31, 2006, and when it submitted the required report for calendar year 2005 on June 18, 2006, more than 5 months after the date the report was due. Further, these reports were submitted only after the Enforcement Office contacted the carrier regarding its delinquency.²

In mitigation, Israir submits that because it was a small carrier operating only seasonal charters to the United States at the time of its first infraction, it states that it had neither established a permanent structure in this country nor employed anyone with knowledge of all relevant U.S. reporting requirements. It further submits that immediately upon becoming aware of the reporting requirement, it took steps to ensure that all future annual reports will be filed in a timely manner by tasking its headquarters service manager with the responsibility for complying with the reporting requirements, and requiring the head of its complaint department to report directly to the service manager any disability related complaints in regard to its U.S. flights.

We view seriously Israir’s failure to submit its 2004 and 2005 reports in a timely manner. 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 Israir violated 14 CFR Part 382 and 49 U.S.C. § 41705 by submitting late reports for disability-related complaints received in 2004 and 2005. In order to avoid litigation, Israir has agreed to settle this matter with the Enforcement Office and enter into this consent order directing Israir to cease and desist from future similar violations of Part 382 and 49 U.S.C. § 41705, and assessing \$18,000 in compromise of potential civil penalties otherwise due and payable. We believe this compromise assessment is appropriate and serves the public interest. It represents an

² We note Israir filed its report for calendar year 2006 in a timely fashion.

adequate deterrence to future noncompliance with the Department's reporting requirements by Israil, 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 Israil Airlines and Tourism Ltd violated 14 CFR 382.70 by failing to submit an annual report by January 24, 2005, and by January 30, 2006, to the Department of Transportation summarizing the disability-related complaints that it received the prior calendar year;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, Israil Airlines and Tourism Ltd has also violated 49 U.S.C. § 41705;
4. Israil Airlines and Tourism Ltd and all other entities owned or controlled by or under common ownership with Israil Airlines and Tourism Ltd, its successors and assignees are ordered to cease and desist from any further violations of 14 CFR 382.70 and 49 U.S.C. § 41705;
5. Israil Airlines and Tourism Ltd is assessed \$18,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above, of which \$9,000 is due and payable within 30 days after the service date of this order. The remaining \$9,000 shall be suspended for one year after the service date of this order, and then forgiven, unless during this time period Israil Airlines and Tourism Ltd violates this order's cease and desist or payment provisions, in which case the entire amount shall become due and payable immediately upon the Enforcement Office's finding of a violation and the carrier may be subject to additional enforcement action; and,

6. 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 Israil Airlines and Tourism Ltd 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)

*An electronic version of this document is available on the
World Wide Web at <http://dms.dot.gov>.*