



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

**Issued by the Department of Transportation  
On the 5th day of December, 2008**

**Mr. Mujtabah Mohammed, individually, and  
Constellation Travel Services Inc.**

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

**Docket OST 2008-0031**

**Served December 5, 2008**

**CONSENT ORDER**

This consent order concerns violations of certain consumer protection provisions of the Department's Public Charter regulations by Constellation Travel Services Inc., (Constellation) a Public Charter Operator and its President, Mr. Mujtabah Mohammed. Constellation and Mr. Mohammed failed to properly maintain the company's Public Charter escrow account and failed to make refunds to consumers within 14 days after the company's Public Charter flights were canceled, in violation of 14 CFR Part 380. These activities also constituted unfair and deceptive practices in violation of 49 U.S.C. § 41712. This order directs Constellation and Mr. Mohammed, personally, to cease and desist from future violations and assesses Constellation and Mr. Mohammed, jointly and severally, a compromise civil penalty of \$50,000.

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 the charter participants' funds must be deposited into the escrow account required by Department rules at a designated depository bank that will maintain a separate accounting for each charter group. 14 CFR 380.34. Part 380 also requires that a Public Charter operator, such as Constellation, must provide a refund of passengers' money within 14 days of the cancellation of a flight. 14 CFR 380.32.

Constellation is a New York-based Public Charter operator. Under the direction and control of Mr. Mohammad, Constellation operated and sold Public Charter flights between New York and Port of Spain, Trinidad and Georgetown, Guyana, and between Ft. Lauderdale, Florida and Port of Spain, Trinidad. Constellation abruptly canceled its

program in April 2008<sup>1</sup>, due to a financial dispute with its direct air carrier, EOS Airlines. As a direct result of this cancellation, the travel plans of hundreds of passengers were disrupted.

After Constellation canceled its Public Charter program, it did attempt to make refunds to passengers. However, there were insufficient funds in the depository escrow account to complete the refund process. As a result, passengers were required to wait a considerable amount of time to receive a refund through funds from Constellation's Public Charter security instrument.<sup>2</sup>

Based on the Enforcement Office's investigation of this matter, Constellation failed to properly maintain its escrow account in violation of 14 CFR 380.34 of the Department's regulations. In addition, Constellation failed to provide refunds within 14 days after the flight was canceled in violation of 14 CFR 380.32 of those regulations. In addition to violating sections 380.34 and 380.32 of the Department's Public Charter rules, the practices described above are unfair and deceptive and thus violate 49 U.S.C. § 41712.

In mitigation, Constellation asserts that all of its decisions were made first and foremost in consideration of its commitment to its passengers. Constellation asserts that the reason for its initial cancellation of its Public Charter program was because of the poor service being rendered by its direct air carrier, Primaris Airlines. Constellation asserts that the second cancellation was due to the bankruptcy of EOS airlines. Constellation asserts that its passengers were subjected to numerous delays caused by crew shortages and bad maintenance planning. Constellation states that it made every effort to work with the Department to obtain a release of its security instrument in order to make refunds to its passengers and that they have all received full refunds.

The Enforcement Office has carefully considered the facts in this case, including the information provided by Constellation, but continues to believe that enforcement action is warranted. Constellation and Mr. Mohammed, in order to avoid litigation and without admitting or denying the alleged violations, agrees to the issuance of this order, which includes a compromise civil penalty assessment of \$50,000. This order also directs Constellation and Mr. Mohammed to cease and desist from future violations of 49 U.S.C. § 41712, and 14 CFR Part 380. This compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest as a deterrent to future public charter violations by Constellation and Mr. Mohammed, as well as by other similarly situated companies and persons.

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<sup>1</sup> This was Constellation's second cancellation of its Public Charter program within four months. In January 2008, Constellation abruptly canceled its Public Charter program because of a financial dispute with its original air carrier, Primaris Airlines.

<sup>2</sup> In addition to the escrow account, Constellation was required to maintain a security instrument to secure the Public Charter flights. Pursuant to § 380.34 (b)(2), a security agreement may be: (1) a surety bond; (2) a surety trust agreement; or (3) an arrangement with a bank (for instance, a standby letter of credit) that provides protection of charter participants' funds equivalent to or greater than that provided by the bond. Constellation maintained a Letter of Credit at Citibank.

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 the order as being in the public interest;
2. We find that Constellation Travel Services Inc., violated 14 CFR 380.34 by failing to properly maintain its depository account as required by that section;
3. We find that Constellation Travel Services Inc., violated 14 CFR 380.32 by failing to provide refunds to public charter passengers within 14 days after it canceled the passengers' charter flights;
4. By engaging in the conduct described in ordering paragraphs 2 and 3, above, Constellation Travel Services Inc., engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;
5. We find that Constellation Travel Services Inc., was at all times relevant herein under the leadership, direction, and control of Mujtabah Mohammed and that Mujtabah Mohammed made all significant decisions with respect to the conduct described in ordering paragraphs 2, 3, and 4 above, and is therefore personally responsible for the violations found in ordering paragraphs 2, 3, and 4 above;
6. We order Mujtabah Mohammed, personally, and Constellation Travel Services Inc., and all other entities owned or controlled by or under the common ownership of Constellation Travel Services Inc., and its successors and assignees to cease and desist from further violations of 14 CFR Part 380 and 49 U.S.C. § 41712;
7. Mujtabah Mohammed, personally, and Constellation Travel Services Inc., are jointly and severally assessed \$50,000 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, \$25,000 shall be due and payable under the following schedule: \$5,000 is due and payable within 30 days of the effective date of this order, \$5,000 is due and payable on January 31, 2009, \$5,000 is due and payable on February 28, 2009, \$5,000 is due and payable on March 31, 2009, and \$5,000 is due and payable on April 30, 2009. The remaining \$25,000 will become due and payable if Mujtabah Mohammed and/or Constellation Travel Services Inc., violate this order's cease and desist provision within one year following the date of issuance of this order, or fail to comply with the order's payment provisions, and any unpaid portion of the \$50,000 penalty shall become due and payable immediately;
8. Failure to pay the compromise assessment as described as ordered will subject Mujtabah Mohammed and Constellation Travel Services Inc., jointly and

severally, 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 may be subject to further enforcement action; and

9. 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 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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