



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

**Issued by the Department of Transportation  
on the 26<sup>th</sup> day of March, 2009**

**Miami Air International, Inc.**

**Docket OST 2009-0001**

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

**Served March 26, 2009**

**CONSENT ORDER**

This consent order concerns reporting delinquencies by Miami Air International, Inc., (Miami Air) that constitute violations of 49 U.S.C. § 41708 and the accounting and reporting requirements specified in 14 CFR Part 241. This order directs Miami Air to cease and desist from future violations, and assesses the carrier a compromise civil penalty of \$50,000.

Section 41708 of the United States Code *inter alia* authorizes the Secretary of Transportation to require air carriers to submit reports to the Department. Pursuant to section 41708, 14 CFR Part 241 designates various categories of data to be collected and prescribes the manner in which this data is to be submitted to the Department. 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 constitutes a violation of both 49 U.S.C. § 41708 and 14 CFR Part 241.

Miami Air failed to file in a timely manner certain quarterly financial reports with the Department that were due in 2007 and 2008. Miami Air is currently up to date with respect to its quarterly financial reporting obligations.

In mitigation, Miami Air states that it did not intentionally fail to file the quarterly reports noted, pointing out that it continued to file monthly reports that were complete, accurate, and on time. That failure, according to the carrier, was caused by a turnover of personnel

who, uniquely at Miami Air, knew of the requirement for the filing of quarterly reports. Since this issue came to light, Miami Air states that it has implemented a number of management controls and devices to assure that it will not occur again. The carrier states that it has devised a new double signature check list system, funded training for two personnel, and begun the revision of its financial software to make it compatible with the data required for Form 41. Miami Air states that it has expended significant resources to address these issues and that its comprehensive corrective action should assure that these problems never recur.

The Enforcement Office has carefully considered the information provided by Miami Air International, Inc., but continues to believe that enforcement action is warranted. Compliance with 14 CFR Part 241, both in terms of timeliness and accuracy, is viewed seriously by the Department. The Enforcement Office and Miami Air International, Inc., have reached a settlement of this matter in order to avoid litigation. Miami Air International, Inc., 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 \$50,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

This compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's reporting requirements by Miami Air International, Inc., as well as by other air carriers 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 Miami Air International, Inc., 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, Miami Air International, Inc., has also violated 49 U.S.C. § 41708;
4. We order Miami Air International, Inc., and all other entities owned or controlled by or under common ownership with Miami Air International, Inc., and their successors and assignees, to cease and desist from violations of 49 U.S.C. § 41708 and 14 CFR Part 241 of the Department's regulations;
5. We assess Miami Air International, Inc., a compromise civil penalty of \$50,000 in lieu of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3, above. Of this total penalty amount, \$25,000 shall

be due and payable in two equal installments. The first payment of \$12,500 is due and payable within 30 days after the date of issuance of this order and the second payment of \$12,500 is due and payable 60 days after the date of issuance of this order. The remaining \$25,000 will become due and payable if Miami Air International, Inc., violates this order's cease and desist provisions within one year following the date of issuance of this order, or fails to comply with the payment provisions of this order, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and Miami Air International, Inc., shall be subject to the assessment of interest, penalty, and collection charges under the Dept Collection Act and to possible additional enforcement action for failure to comply with this order; and

6. Payment shall be made by wire transfer through the Federal Reserve Communication System, commonly known as "Fed Wire," to the account of the U.S. Treasury in accordance with the attached instructions.

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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