



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

Issued by the Department of Transportation
on the 27th day of April 2009

**Angel Medflight Worldwide Air Ambulance
Services, LLC**

**Violations of 49 U.S.C. §§ 41101 and 41712 and
CAB Order 83-1-36**

Docket OST 2009-0001

Served April 27, 2009

CONSENT ORDER

This consent order concerns the holding out of direct air transportation by Angel Medflight Worldwide Air Ambulance Services, LLC, (Angel Medflight), an indirect air carrier specializing in air ambulance services. The conduct in question exceeds the scope of the economic authority conferred in Civil Aeronautics Board (CAB) Order 83-1-36. It also contravenes 49 U.S.C. § 41101, the Department's economic licensing requirement for air carriers, and 49 U.S.C. § 41712, which prohibits air carriers from engaging in unfair and deceptive trade practices and unfair methods of competition. This consent order directs Angel Medflight to cease and desist from such further violations and assesses Angel Medflight a compromise civil penalty of \$10,000.

As background, in addition to applicable Federal Aviation Administration (FAA) requirements, in order to engage in air transportation as a direct¹ or an indirect air carrier², citizens of the United States³ must hold economic authority from the Department, either in the form of a certificate of public convenience and necessity issued pursuant to 49 U.S.C. § 41101, or in the form of an exemption from section 41101. In

¹ A "direct air carrier" is a person or other entity that provides air transportation and that has control over the operational functions involved in providing that transportation.

² An "indirect air carrier" is a person or other entity that engages indirectly in air transportation operations and who uses for such transportation the services of a direct air carrier.

³ A "citizen of the United States" includes a corporation organized in the United States that 1) meets certain specified numerical standards regarding the citizenship of its president, officers and directors, and holders of its voting interest and 2) is under the actual control of citizens of the United States. 49 U.S.C. § 40102(a)(15).

1983, the CAB, which held jurisdiction over the economic aspects of aviation licensing prior to the Department, issued Order 83-1-36, a blanket exemption from what is now section 41101 that allows entities to operate as “indirect air carriers to the extent necessary... to hold out, arrange, and coordinate the operation of air ambulance services,” provided that they meet certain conditions.⁴ While this exemption permits entities that are not duly licensed direct air carriers to sell air transportation in their own right, it does not permit such entities to hold themselves out to the public in a manner that would create the impression that they are direct air carriers in the mind of a reasonable person. Such misrepresentations violate section 41101 and Order 83-1-36 and constitute an unfair and deceptive trade practice and unfair method of competition in violation of 49 U.S.C. § 41712.

Angel Medflight is a provider of aeromedical transport services. It employs a network of flight nurses and flight paramedics across the country who accompany patients on flights that it arranges. Angel Medflight, however, holds neither the necessary economic authority from the Department, nor the corresponding safety authority from the FAA, to act as a direct air carrier.

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) of Angel Medflight’s advertising practices revealed violations of 49 U.S.C. §§ 41101 and 41712, and CAB Order 83-1-36. Specifically, Angel Medflight’s Internet website contained numerous statements that reasonably could have led a consumer to conclude that Angel Medflight is a direct air carrier. For example, Angel Medflight’s home and “About Us-Personnel” pages stated that “[o]ur aircraft and crew are equipped to safely accommodate patients,” “[w]e operate a fleet of fixed wing, 100% medically dedicated aircraft,” and “[o]ur pilots are highly qualified Commercial pilots.” The “Frequently Asked Questions” page contained the following question and answer: “How many pilots are on board? Angel Medflight operates all aircraft with a two-pilot crew at all times.” In isolation and collectively, each of these statements implied that Angel Medflight exercised operational control over flights in the manner of a direct air carrier. Moreover, other statements conveyed the impression that Angel Medflight operated its own proprietary fleet of aircraft. For example, the “About Us-Aircraft” page stated that “Angel Medflight has a fleet of medically dedicated jets and twin-engine aircraft, operated under a fully conforming and operational FAA Part 135 certificate... [and that] [o]ur aircraft are never chartered or leased out; they are medically customized and used exclusively for patient transport.” That page further stated that “one look at Angel Medflight’s Lear 35 shows that our jet doesn’t mean business-it means saving lives.”

Angel Medflight emphasizes that it neither admits nor denies wrongfully engaging in air medical transportation or violating any Department regulations. Angel Medflight states that, prior to implementing its Internet website, it retained and reasonably relied upon aviation industry experts and attorneys to assist in complying with Department of Transportation regulations. Angel Medflight asserts that its website was constructed in a manner consistent with the websites of other indirect air carriers specializing in air ambulance services. Angel Medflight points out that it took immediate remedial actions

⁴ *Air Ambulance Operators, Blanket Exemption*, Order 83-1-36, 99 C.A.B. 801 (1983).

to bring its website into compliance with the Department's regulations and to prevent any future violations. Finally, Angel Medflight points out that it has cooperated fully with the Department's investigation in this matter and states that it continues to maintain a proactive position and positive working relationship with the Department.

The Enforcement Office has carefully considered all of the information available to it, including the cooperation of Angel Medflight Worldwide Air Ambulance Services, LLC, but continues to believe that enforcement action is warranted. In order to avoid litigation, the Enforcement Office and Angel Medflight Worldwide Air Ambulance Services, LLC, have reached a settlement of this matter. Without admitting or denying the violations described above, Angel Medflight Worldwide Air Ambulance Services, LLC, agrees to the issuance of this order to cease and desist from future violations of 49 U.S.C. §§ 41101 and 41712 and CAB Order 83-1-36. Angel Medflight Worldwide Air Ambulance Services, LLC, further agrees to the assessment of \$10,000 in compromise of potential civil penalties otherwise assessable against it. This compromise assessment is appropriate in view of the nature and extent of the violations in question, serves the public interest, and establishes a deterrent to future similar unlawful practices by Angel Medflight Worldwide Air Ambulance Services, LLC, and other indirect 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 the order as being in the public interest.
2. We find that Angel Medflight Worldwide Air Ambulance Services, LLC, violated CAB Order 83-1-36, as described above, by holding itself as a direct air carrier without possessing the appropriate economic authority.
3. We find that Angel Medflight Worldwide Air Ambulance Services, LLC, violated 49 U.S.C. § 41101, as described above, by holding itself as a direct air carrier without possessing the appropriate economic authority.
4. We find that by engaging in the conduct described in paragraphs 2 and 3, above, Angel Medflight Worldwide Air Ambulance Services, LLC, engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712.
5. We order Angel Medflight Worldwide Air Ambulance Services, LLC, and all other entities owned and controlled by or under common ownership with Angel Medflight Worldwide Air Ambulance Services, LLC, and its successors and assignees, to cease and desist from further violations of 49 U.S.C. §§ 41101 and 41712 and CAB Order 83-1-36.
6. We order Angel Medflight Worldwide Air Ambulance Services, LLC, to submit to the Office of Aviation Enforcement and Proceedings on the one-year anniversary of the service date of this order, copies of all advertising material, including print-outs of all

versions of its Internet website, that Angel Medflight Worldwide Air Ambulance Services, LLC, has caused to be published since the service date of this order.

7. We assess Angel Medflight Worldwide Air Ambulance Services, LLC, a compromise civil penalty of \$10,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2, 3, and 4, above. Failure to pay the penalty as ordered shall subject Angel Medflight Worldwide Air Ambulance Services, LLC, to the assessment of interest, penalty, and collection charges under the Debt Collection Act.

8. We order Angel Medflight Worldwide Air Ambulance Services, LLC, to pay the compromise civil penalty assessed in paragraph 7, above, within 30 days of the service date of this order. 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 ten days after its service date unless a timely petition for review is filed or the Department takes review on its own initiative.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

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