



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

Issued by the Department of Transportation
On the Thirtieth day of April, 2010

Aero Services-Executive, S.A.

**Violations of 49 U.S.C. § 41708 and 14 CFR
Part 217**

Docket OST 2010-0005

Served April 30, 2010

CONSENT ORDER

This consent order concerns reporting delinquencies by Aero Services-Executive, S.A., (ASE) that constitute violations of 49 U.S.C. § 41708 and the Department's foreign air carrier reporting requirements (14 CFR Part 217). This order directs ASE to cease and desist from future violations, and assesses the carrier a compromise civil penalty of \$20,000.

Section 41708 of the United States Code *inter alia* authorizes the Secretary of Transportation to require air carriers and foreign air carriers to submit reports to the Department. Pursuant to section 41708, 14 CFR Part 217 designates the categories of statistical data to be collected from foreign air carriers and prescribes the manner in which these data are to be submitted to the Department. The Department uses the data for various important purposes, including analyzing the effects of air transportation industry policy initiatives, allocating airport development funds, forecasting traffic, and developing airport and airway traffic policy. A foreign air carrier's failure to file its reports, therefore, 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 217.

ASE is a direct air carrier based in Le Bourget, France, that specializes in corporate charters. In 2002, ASE applied for and received foreign air carrier exemption authority from the Department to operate on-demand charter flights to and from the United States.¹ Since then, ASE has operated several flights into the U.S. each year, but failed to file

¹ *Notice of Action Taken – Docket OST-2001-10973-4* (January 25, 2002).

Schedule T-100(f) with the Department's Bureau of Transportation Statistics as required by Part 217 until August 2009.

In mitigation, ASE states that it has cooperated with Department throughout this matter. Immediately after being contacted by the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office), ASE took several remedial actions, including submitting delinquent reports, providing a complete list of flights it has conducted to and from the U.S. during the relevant time period, and implementing an internal program to ensure that future reports will be submitted in a timely manner.

We view seriously the failure of Aero Services-Executive, S.A., to file traffic statistics reports as required by section 41708 and Part 217. The Enforcement Office has carefully considered all the circumstances surrounding this matter, and continues to believe that enforcement action is warranted. The Enforcement Office and Aero Services-Executive, S.A., have reached a settlement of this matter in order to avoid litigation. Aero Services-Executive, S.A., consents to the issuance of an order to cease and desist from future violations, and to the assessment of \$20,000 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 Aero Services-Executive, S.A., 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 the order as being in the public interest;
2. We find that Aero Services-Executive, S.A., violated 49 U.S.C. § 41708 and 14 CFR Part 217, as described above, by failing to file required monthly traffic data reports in a timely manner;
3. We order Aero Services-Executive, S.A., and all other entities owned and controlled by or under common ownership with Aero Services-Executive, S.A., and its successors and assignees, to cease and desist from further violations of 49 U.S.C. § 41708 and 14 CFR Part 217;
4. We assess a compromise civil penalty of \$20,000 in lieu of civil penalties that might otherwise be assessed for the violation found in paragraphs 2 of this order; and
5. Payment shall be made within 15 days of the issuance date of this order 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.

Failure to pay the penalty as ordered shall subject Aero Services-Executive, S.A., to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to 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 initiative.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

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