



**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 July, 2010

Jet Team Charters, LLC

Violations of 49 U.S.C. §§ 41101 and 41712

Docket OST 2010-0005

Served July 30, 2010

CONSENT ORDER

This consent order concerns unauthorized air transportation by Jet Team Charters, LLC, (JTC) in violation of 49 U.S.C. §§ 41101 and 41712. This order directs JTC to cease and desist from such further violations and assesses JTC a compromise civil penalty of \$30,000.

Citizens of the United States¹ are required under 49 U.S.C. § 41101 to hold economic authority² from the Department, either in the form of a “certificate of public convenience and necessity” or in the form of an exemption³ from the certificate requirement, to engage directly or indirectly in air transportation. “Air transportation” is the

¹ A “citizen of the United States” includes a corporation or association organized in the United States that 1) meets certain specified 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).

² This authority is separate from any safety authority required by the Federal Aviation Administration (FAA).

³ For example, exemptions may take the form of direct air carrier authority as an air taxi pursuant to 14 CFR Part 298 (limited to aircraft originally designed for 60 passenger seats or fewer) or indirect air carrier authority as a public charter operator pursuant to 14 CFR Part 380. An entity or person who is directly engaged in the operation of aircraft that are used to provide air transportation is a “direct air carrier.” An entity or person who is not a direct air carrier, but solicits in his or her own right members of the public to purchase air transportation, is an “indirect air carrier.”

transportation of passengers or property by air as a common carrier between two places in the United States or between a place in the United States and a place outside of the United States or the transportation of mail by air.⁴ In the context of aviation, a “common carrier” is a person or other entity that, for compensation or hire, holds out and/or provides public transportation by air between two points.⁵

An entity that does not have economic authority may not hold out air transportation. Such conduct constitutes “engaging” in air transportation and violates 49 U.S.C. § 41101.⁶ Furthermore, an entity that does not hold authority to engage in common carriage may not perform common carriage operations that result from the holding out of air services by a third party, such as another air carrier, an air charter broker, agent, or affiliated company.⁷ Under the Department enforcement case precedent, violations of section 41101 also constitute an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.⁸

JTC is a citizen of the United States organized under the laws of Wisconsin, and an operator of aircraft pursuant to 14 CFR Part 125.⁹ It does not hold economic authority from the Department. Notwithstanding this fact, an investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) found that JTC has held out air transportation to the public in contravention of 49 U.S.C. §§ 41101 and 41712. Specifically, between September 2009 and January 2010, JTC approached a university through a third party travel agent to make known to the university the availability of JTC’s charter service.

In mitigation, Jet Team Charters asserts that at no time has it knowingly or deliberately conducted itself contrary to the rules and regulations set forth by the Department of Transportation or the Federal Aviation Administration. According to Jet

⁴ 49 U.S.C. §§ 40102(a)(5), (a)(23), and (a)(25).

⁵ *Woolsey v. National Trans. Safety Bd.*, 993 F.2d 516, 522-23 (5th Cir. 1993).

⁶ From the standpoint of the requirements of section 41101, the holding out of air service, as well as the actual operation of air service, constitutes “engaging” in air transportation. Prior to 1994, when Title 49 of the United States Code was recodified and simplified, 49 U.S.C. § 41101 stated that no carrier could “engage” in air transportation without appropriate authority. Although the wording of section 41101 now states that what is prohibited is “providing” air transportation without authority, Congress made clear when it recodified Title 49 that in doing so it did not intend any substantive change to the statute. Act of July 5, 1994, Pub. L. 103-272, § 6(a), 108 Stat. 745, 1378.

⁷ See, e.g., *IDM Corporate Aviation Services, LLC, Violations of 49 U.S.C. §§ 41101 and 41712*. Order 2007-2-6 (February 5, 2007).

⁸ See, e.g., *OneSky Network, LLC, Violations of 49 U.S.C. § 41101 and 41712 and 14 CFR Part 399*, Order 2007-6-1 (June 4, 2007).

⁹ 14 CFR 125.11(b) provides that “[n]o certificate holder may conduct any operation which results directly or indirectly from any person’s holding out to the public to furnish transportation.”

Team Charters, the travel agent who represented herself as a representative of Jet Team Charters acted without any direction or authorization from the firm to do so. Jet Team Charters adds that it fully expects and intends to operate in accordance with the rules and regulations set forth in the future.

The Enforcement Office has carefully considered all of the information available to it but continues to believe that enforcement action is warranted. In order to avoid litigation, the Enforcement Office and Jet Team Charters, LLC, have reached a settlement of this matter. Without admitting or denying the violations described above, Jet Team Charters, LLC, agrees to the issuance of this order to cease and desist from future violations of 49 U.S.C. §§ 41101 and 41712, and to the assessment of \$30,000 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 Jet Team Charters, LLC, and other entities that lack economic authority from the Department to engage in air transportation.

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 Jet Team Charters, LLC, violated 49 U.S.C. § 41101, as described above, by engaging in air transportation without appropriate economic authority;
3. We find that, by engaging in the conduct described in paragraph 2, above, Jet Team Charters, LLC, engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order Jet Team Charters, LLC, and all other entities owned and controlled by or under common ownership with Jet Team Charters, LLC, and its successors and assignees, to cease and desist from further violations of 49 U.S.C. §§ 41101 and 41712;
5. We assess Jet Team Charters, LLC, a compromise civil penalty of \$30,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2 and 3, above. Of this total penalty amount, \$15,000 shall be due and payable within 20 days of the issuance date of this order. The remaining \$15,000 shall be due and payable if, within one year following the issuance date of this order, Jet Team Charters, LLC, violates the cease and desist provisions or payment provisions of this order, in which case, the entire unpaid portion of the civil penalty shall become due and payable immediately. Failure to pay the penalty as prescribed in ordering paragraph 6, below, shall subject Jet Team Charters, LLC, to the assessment of interest, penalties, and collection charges under the Debt Collection Act and to possible enforcement action for failure to comply with this order; 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. 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 initiative.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

*An electronic version of this document is available at
www.regulations.gov*