



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

**Issued by the Department of Transportation
On the 1st day of September, 2010**

Chautauqua Airlines, Inc.

**Violations of 49 U.S.C. § 41708 and
14 CFR Part 298**

Docket OST 2010-0005

Served September 1, 2010

CONSENT ORDER

This consent order concerns reporting delinquencies by Chautauqua Airlines, Inc., (Chautauqua Airlines) that constitute violations of 49 U.S.C. § 41708 and the accounting and reporting requirements for small certificated air carriers specified in 14 CFR Part 298. This order directs Chautauqua Airlines 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 298 designates various categories of data to be collected from certificated air carriers operating scheduled domestic flights with small aircraft and commuter air carriers and prescribes the manner in which these data are to be submitted to the Department. The Department uses carriers' Part 298 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 298.

Notwithstanding the requirements of section 41708 and Part 298, on a number of occasions, Chautauqua Airlines failed to file in a timely manner certain financial reports with the Department. Chautauqua Airlines is currently up to date with respect to its quarterly financial reporting obligations.

In mitigation, Chautauqua states that it is committed to timely submission of reports required under section 41708 and Part 298. Chautauqua notes that its parent company, Republic Airways Holdings, Inc. (RJET) administers and oversees the financial accounting and reporting functions for each of its subsidiary airlines, including

preparation and submission of BTS reports on behalf of Chautauqua. Chautauqua asserts that any alleged non-compliance was unintentional and inadvertent resulting from unanticipated problems that arose while RJET was converting to a new accounting software system, and integrating and consolidating multiple accounting software systems. RJET states that it has proactively taken comprehensive actions to ensure timely compliance, including the establishment of a new full-time position wholly dedicated to ensuring that BTS reports for each subsidiary airline are prepared and submitted on time; the establishment of tighter supervisory controls over BTS reporting with the Director of Finance Compliance reporting directly to the Vice President/Controller, both having direct oversight for BTS requirements; and the implementation of a computerized compliance calendar to foster timely submission of the BTS reports. Chautauqua states that RJET has expended, and will continue to expend significant resources to ensure compliance with BTS requirements, and that all of its comprehensive actions should assure timely submission of these reports in the future.

The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered the information provided by Chautauqua Airlines, Inc., but continues to believe that enforcement action is warranted. The Enforcement Office and Chautauqua Airlines, Inc., have reached a settlement of this matter in order to avoid litigation. Chautauqua Airlines, Inc., consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. § 41708 and Part 298 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. Of the total penalty amount, \$25,000 shall be due and payable no later than 30 days after the date this order is issued. The remaining \$25,000 shall become due and payable if Chautauqua Airlines, Inc., violates this order's cease and desist provision 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.

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 Chautauqua Airlines, 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 Chautauqua Airlines, Inc., violated 14 CFR Part 298 by failing to file required reports, as described above, in a timely manner;

3. We find that by engaging in the conduct and violations described in ordering paragraph 2, above, Chautauqua Airlines Inc., has also violated 49 U.S.C. § 41708;
4. We order Chautauqua Airlines, Inc., and all other entities owned or controlled by Chautauqua Airlines, Inc., and their successors and assignees to cease and desist from violations of 49 U.S.C. § 41708 and 14 CFR Part 298;
5. We assess Chautauqua Airlines, 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 the total penalty amount, \$25,000 shall be due and payable no later than 30 days after the date this order is issued. The remaining \$25,000 shall become due and payable if Chautauqua Airlines, Inc., violates this order's cease and desist provision 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
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. Failure to pay the penalty as ordered shall subject Chautauqua Airlines, Inc. 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 motion.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

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