



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

Issued by the Department of Transportation
On the Fifteenth day of February, 2011

Trinity Air Ambulance International LLC

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

Docket OST 2011-0003

Served February 15, 2011

CONSENT ORDER

This consent order concerns the unlawful holding out of direct air transportation by Trinity Air Ambulance International LLC (Trinity), an indirect air carrier specializing in air ambulance services. The conduct in question exceeded the scope of the economic authority conferred in Civil Aeronautics Board (CAB) Order 83-1-36 and violated 49 U.S.C. § 41101, the Department's economic licensing requirement for air carriers. Those violations also constituted an unfair and deceptive trade practice and unfair method of competition in violation of 49 U.S.C. § 41712. This consent order directs Trinity to cease and desist from such further violations and assesses Trinity a compromise civil penalty of \$30,000.

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 an exemption from section 41101. In 1983, the CAB, which held jurisdiction over the economic aspects of aviation licensing prior to the Department, issued

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).

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 these indirect carriers to hold themselves out to the public in a manner that would reasonably create the impression that they are direct air carriers. 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.

Trinity calls itself a “full-service” air ambulance company providing medical air transport and related services throughout the world. As an indirect air carrier, Trinity utilizes the services of a direct air carrier, Skylink Jets, Inc., (Skylink) to operate flights for consumers requesting air ambulance and non-medical private charter air transportation. Trinity holds neither the economic authority from the Department nor the corresponding safety authority from the FAA required of a direct air carrier and thus may not operate aircraft or hold out that it does so.

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) found numerous improper statements and representations on Trinity’s web site as well as in postings and articles on Internet social networking web sites written and posted by Trinity asserting or implying that it had operational control of aircraft and flights. A web page entitled "Our Pilots," for example, stated, "Having full time pilots on staff is just one way that Trinity provides safe and timely transports." As of November 2010, the Department identified photos on Facebook and videos on YouTube dating back as early as June 2008 displaying aircraft bearing the “Trinity Air Ambulance” livery. Such marketing strategies created the erroneous impression that Trinity controlled all aspects of its air services, including exercising direct operational control of its flights. As explained above, such statements and representations violate 49 U.S.C. §§ 41101 and 41712, and CAB Order 83-1-36.

In mitigation, Trinity emphasizes that it is committed to integrity and full regulatory compliance in all of its operations and strives to comply fully with the Department's regulations and all applicable laws. Trinity neither admits nor denies wrongfully engaging in conduct violating Department regulations or any other applicable laws in this matter. Trinity asserts that any alleged noncompliance on its part was completely unintentional and that it has received no consumer complaints regarding the material at issue. In addition, Trinity states that it cooperated with the Department throughout its investigation, taking immediate remedial actions to bring its web site and advertising materials into full compliance with the Department's regulations and to prevent any further violations.

The Enforcement Office has carefully considered all of the information available to it, including the cooperation of Trinity, but continues to believe that enforcement action is warranted. In order to avoid litigation, the Enforcement Office and Trinity have reached a

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

settlement of this matter. Without admitting or denying the violations described above, Trinity 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. Trinity further agrees 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 Trinity 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 Trinity Air Ambulance International LLC violated CAB Order 83-1-36, as described above, by holding itself out as a direct air carrier without possessing the appropriate economic authority.
3. We find that Trinity Air Ambulance International LLC violated 49 U.S.C. § 41101, as described above, by holding itself out 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, Trinity Air Ambulance International 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 Trinity Air Ambulance International LLC and all other entities owned and controlled by or under common ownership with Trinity Air Ambulance International 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 Trinity Air Ambulance International 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 web site and online articles posted by online media outlets that Trinity Air Ambulance International LLC has caused to be published since the service date of this order.
7. We assess Trinity Air Ambulance International 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, 3, and 4, above. Of this total penalty, \$15,000 shall be due and payable within thirty days of the issuance of this order. The remaining \$15,000 shall become due and payable only if Trinity 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 \$30,000 assessed penalty shall become due and payable immediately.

8. We order Trinity Air Ambulance International LLC to pay the penalty by wire transfer through the Federal Reserve Communications System commonly known as "Fed Wire," in accordance with paragraph 7 above to the account of the U.S. Treasury as described in the attached instructions. Failure to pay the penalty as ordered shall subject Trinity Air Ambulance International LLC to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to possible additional 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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