



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

Issued by the Department of Transportation
On the Second day of June, 2011

**Global Airline Services, Inc., and
Harold J. Pareti, Individually**

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

Docket OST 2011-0003

Served June 2, 2011

CONSENT ORDER

This consent order concerns unauthorized air transportation by Global Airline Services, Inc., (Global) and Harold J. Pareti (Mr. Pareti and Global are collectively referred to as “Respondents”). Since at least 2009, Mr. Pareti and Global, a business entity over which he exercises absolute ownership, direction, and control, have engaged in the provision of air transportation as an indirect air carrier without holding requisite economic authority from the Department of Transportation. This consent order also concerns separate and distinct violations of the Department’s prohibition against unfair and deceptive practices and unfair methods of competition, 49 U.S.C. § 41712, arising from Respondents’ marketing and sale of air transportation services ultimately operated by a company that did not hold proper authority from the Department. This order directs Respondents to cease and desist from such further violations and assesses a compromise civil penalty of \$120,000.

Applicable Law

In order to engage directly or indirectly in air transportation, citizens of the United States¹ are required to hold economic authority from the Department pursuant to 49 U.S.C. § 41101, either in the form of a “certificate of public convenience and necessity”

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).

or in the form of an exemption from the certificate requirement, such as those applicable to direct air carriers² operating as air taxis under 14 CFR Part 298, or indirect air carriers³ functioning as public charter operators pursuant to 14 CFR Part 380. This economic authority is separate and distinct from any safety authority required by the Federal Aviation Administration (FAA). “Air transportation” includes the transportation of passengers or property by air as a common carrier between two states 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 to and/or provides the public with transportation by air between two points.⁵

Entities or persons, such as air charter brokers, that do not have economic authority from the Department may not, as principals, enter into contracts with direct air carriers for air transportation and then re-sell that air transportation pursuant to separate contracts with charter customers. Selling or re-selling air transportation without economic authority constitutes “engaging” in air transportation and violates 49 U.S.C. § 41101.⁶ Under 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. § 41712.⁷

As a separate matter, a person or other 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 or an air charter broker, agent, or affiliated company.⁸ The Department has found entities, such as air charter brokers, that have facilitated the unlawful common carriage operations of third-

² 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.”

³ An entity or person who is not a direct air carrier, but who, in his or her own right, solicits members of the public to purchase air transportation is an “indirect air carrier.”

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., *VI Jets, Inc., Violations of 49 U.S.C. § 41101 and 41712 and 14 CFR Part 399*, Order 2009-10-11 (Oct. 21, 2009).

⁸ See, e.g., *IDM Corporate Aviation Services, LLC, Violations of 49 U.S.C. §§ 41101 and 41712*, Order 2007-2-6 (February 5, 2007).

parties to have themselves engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712 when they knew or should have known that the unlicensed entities lacked economic authority.⁹

Background

Mr. Pareti is a United States citizen. He is the sole shareholder of Global and serves as the president of the company.¹⁰ At all times relevant to this matter, Mr. Pareti has been the only person with authority over the day-by-day marketing, management, and operations of Global. Internal to Global, Mr. Pareti makes all significant decisions affecting the company. In light of the foregoing, Mr. Pareti is the animating force behind Global's conduct, as described below.¹¹ In such instances, the Department has found individuals personally liable for the unlawful conduct of those entities.¹²

Global is a Delaware corporation that specializes in arranging single-entity charter¹³ air transportation. It does not hold economic authority from the Department to engage directly or indirectly in air transportation. However, an investigation by the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed that during 2010, Global engaged in unauthorized air transportation as an indirect air carrier. Specifically, Global obtained a large portion of its business by bidding as a principal, acting in its own right, on solicitations from various charter customers, all of which were university athletic departments. When Global won a bid, it would then sign what was usually styled as a "purchase order," provided by the university. Upon signing the order, Global then became contractually bound as a principal to provide charter air transportation to the university.¹⁴ Then, in order to fulfill its contractual obligation, Global would enter into separate agreements with direct air carriers, who would then become contractually responsible to Global, rather than to the university, for operating the charter flights. On all occasions relevant herein, Global was

⁹ See, e.g., *Platinum Jet Management, LLC, et al, Violations of 49 U.S.C. §§ 41301, 41703, and 41712*, Order 2006-6-14 (June 12, 2006) and *Darby Aviation, Inc., d/b/a AlphaJet International, Violations of 49 U.S.C. § 41712*, Order 2005-12-1 (Dec. 1, 2005).

¹⁰ Mr. Pareti's wife is Global's secretary and treasurer, and Global's only other full-time employee.

¹¹ Personal responsibility for corporate conduct may attach when an individual's conduct amounts to an "animating force" that causes the violation of a statute and accompanying regulations. *Citronelle-Mobile Gathering, Inc., v. Herrington*, 826 F.2d 16 (Temp. Emer. Ct. App 1987), cert. denied, 484 U.S. 943 (1987).

¹² See, e.g., *Principal Air Services, LLC and David Bernstein, Violations of 49 U.S.C. §§ 41101 and 41712*, Order 2006-7-13 (Jul.11, 2006); *Roni Herskovitz, Individually, and Ultimate Fares, Inc., Violations of 49 U.S.C. §§ 41712 and 14 CFR 257.5(d), 399.80(f) and 399.84*, Order 2009-11-8 (Nov. 9, 2009).

¹³ A single-entity charter is a charter for the entire capacity of the aircraft, the cost of which is borne by the charterer and not directly or indirectly by the individual passengers.

¹⁴ In addition to the air charter services, Global was sometimes also responsible for ground handling, catering, and other related services.

not authorized to act as an agent of the universities or the direct air carriers that provided the contracted service. Under these circumstances, Global unlawfully engaged in air transportation.

A separate matter concerns Global's marketing and selling of air transportation provided by Capital Airways, LLC, (Capital Airways) a large aircraft operator licensed by the FAA under 14 CFR Part 125. Authority under this FAA regulation is limited to private carriage operations.¹⁵ Notwithstanding this condition, in the fall of 2010, Global contracted with Capital Airways to provide single entity charter air service to certain college sports teams. At the time Global entered into contracts with Capital Airways, Respondents knew that Capital Airways was licensed under Part 125 and did not have economic authority from the Department to engage in common carriage. On January 5, 2011, Capital Airways entered into a consent order with the Department in settlement of its violations of 49 U.S.C. §§ 41101 and 41712 arising out of this arrangement.¹⁶ Global facilitated Capital Airways' unlawful conduct and has, therefore, engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.

Mitigation

In mitigation and explanation, Respondents assert that the alleged noncompliance was unintentional and inadvertent, and that they are committed to full compliance with the Department's regulations and all applicable laws. Respondents further state that they always viewed themselves as the agent of the air carriers and never intended to act as a principal with the charter customers. With respect to Respondents' interaction with Capital Airways, Respondents maintain that they believed that use of Capital Airways was permissible based on Capital Airways' representations to Respondents. Furthermore, Respondents state that upon notification of their noncompliance, they cooperated fully with the Department, initiating prompt remedial action to address the allegations and bring their operations into compliance. In addition, Respondents also points out that this is the only consent order issued against them in over 14 years.

Decision

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 Respondents have reached a settlement of this matter. Without admitting or denying the violations described above, Respondents agree 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 \$120,000 in compromise of potential civil penalties otherwise

¹⁵ 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."

¹⁶ See, *Capital Airways, LLC, Violations of 49 U.S.C. §§ 41101 and 41712*, Order 2011-1-2 (Jan. 5, 2011).

assessable against them. 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 Respondents and other similarly situated persons and entities.

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 Global Airline Services, Inc., and Harold J. Pareti, in his personal capacity, 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, Global Airline Services, Inc., and Harold J. Pareti, in his personal capacity, engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;
4. We find that by facilitating unauthorized common carriage by Capital Airways, LLC, as described above, Global Airline Services, Inc., and Harold J. Pareti, in his personal capacity, engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;
5. We find that Global Airline Services, Inc., was at all times relevant herein under the leadership, direction, and control of Harold J. Pareti and that Harold J. Pareti made all significant decisions with respect to the conduct described in ordering paragraphs 2, 3, and 4, above, and is therefore personally responsible for the violations found in ordering paragraphs 2, 3, and 4, above;
6. We order Global Airline Services, Inc., and all other entities owned and controlled by or under common ownership with Global Airline Service, Inc., and its successors and assignees and Harold J. Pareti, personally, to cease and desist from further violations of 49 U.S.C. §§ 41101 and 41712;
7. We assess jointly and severally Global Airline Services, Inc., and Harold J. Pareti, in his personal capacity, \$120,000 in compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2, 3, and 4, above. Of this total penalty amount, \$60,000 shall be due and payable in installments of \$2,000 on the 15th day of each calendar month following the issuance of this order, with the first payment due on July 15, 2011. The remaining \$60,000 shall become due and payable if either Global Airline Services, Inc., or Harold J. Pareti violates the cease and desist provision in ordering paragraph 6, above, or fails to comply with the payment provisions in this ordering paragraph before the last \$2,000 penalty payment is made; and

8. Failure to pay the penalty as prescribed shall subject Global Airline Services, Inc., and Harold J. Pareti, jointly and severally, 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. Payments 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 transfers 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)

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