



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

**Issued by the Department of Transportation
on the 13th day of August, 2014**

MetJet, Inc., and Michael Heisman, individually

Docket OST 2014-0001

**Violations of 49 U.S.C. § 41712 and
14 CFR Part 380**

Served August 13, 2014

CONSENT ORDER

This consent order concerns violations by MetJet, Inc., (“MetJet”) and Michael Heisman, personally, (hereinafter collectively referred to as the “Respondents”) of certain consumer protection provisions of the Department’s public charter regulations. MetJet, under the direction and control of then president and CEO Mr. Heisman, was a public charter operator that sold public charter flights directly to the public. The Respondents failed to properly maintain an escrow account and failed to timely process consumer refunds in violation of 14 CFR Part 380. These activities also constituted an unfair and deceptive practice in violation of 49 U.S.C. § 41712. This order directs the Respondents to cease and desist from future similar violations. In addition, this order directs Mr. Heisman, personally, to cease and desist for a period of five (5) years from the date of the issuance of this order from being involved in public charter operations.

Applicable Law

Among other things, 14 CFR Part 380 requires that charter participants’ funds be deposited into an escrow account at a designated depository bank that will maintain a separate accounting for each charter group.¹ This requirement ensures that there are sufficient funds in a particular depository account for a particular flight and it prevents passenger funds from being used to pay for other flights for which there are insufficient funds. Part 380 also requires public charter operators to make refunds to passengers within 14 days if their flight is canceled.² In addition, voucher programs in which consumers pay in advance for flights without selecting specific travel dates and without entering into the formal operator-participant contracts violates Part 380 because they, in

¹ 14 CFR 380.34.

² 14 CFR 380.32

effect, circumvent the protections under the escrow provisions of section 380.34.³ A public charter operator's failure to comply with 14 CFR Part 380 also constitutes an unfair and deceptive practice within the meaning of 49 U.S.C. § 41712.

Facts

MetJet, through its president and CEO, Michael Heisman, filed a public charter prospectus on April 17, 2013, and received approval to conduct public charter operations on April 18, 2013. That prospectus, PC No. 13-070, authorized flights between Austin Straubel International Airport in Green Bay, Wisconsin, and Orlando International Airport in Orlando, Florida, Southwest Florida International Airport in Ft. Myers, Florida, Cancun International Airport in Cancun, Mexico, with MN Airlines LLC d/b/a Sun Country Airlines listed as the direct air carrier. These flights were scheduled to operate until October 2014.⁴

In mid-October, MetJet abruptly ceased operations. As a direct result of MetJet's closure, the travel plans of hundreds of passengers were disrupted. After MetJet canceled its public charter program, it attempted to make refunds to passengers. However, there were insufficient funds in the depository escrow account to complete the refund process.⁵ As a result, some passengers were required to wait much longer than 14 days to receive a refund through funds from MetJet's public charter security instrument.⁶ By failing to make refunds to passengers within 14 days of the cancellation of the charter flight, MetJet violated 14 CFR 380.32 and engaged in an unfair and deceptive practice in violation of 49 U.S.C. § 41712.

Additionally, MetJet collected consumer funds through its "buy-one-get-two-free-tickets" voucher program in which consumers paid in advance for flights without selecting specific travel dates and without entering into the formal operator-participant contracts required by Part 380. By selling vouchers for travel for unspecified dates in the future, MetJet circumvented the protections under the escrow provisions of section 380.34 and engaged in an unfair and deceptive practice in violation of 49 U.S.C. § 41712.

³ *Guidance on Review and Approval of Public Charter Prospectuses*, (Issued November 13, 2012) available at <http://www.dot.gov/airconsumer/guidance-public-charter-prospectuses>.

⁴ While MetJet received approval to operate until October 2014, it did not sell tickets for flights past April 12, 2014.

⁵ In addition to the escrow account, MetJet was required to maintain a security instrument to secure the Public Charter flights. Pursuant to § 380.34 (b)(2), a security agreement may be: (1) a surety bond; (2) a surety trust agreement; or (3) an arrangement with a bank (for instance, a standby letter of credit) that provides protection of charter participants' funds equal to or greater than that provided by a bond. MetJet maintained a Letter of Credit at Associated Bank, N.A.

⁶ As of the date of this order, MetJet has refunded over \$700,000 to all consumers who had properly filed a claim with the charter operator or with the securer within 60 days after termination of the charter. Pursuant to 14 CFR 380.32(v), termination means the date of arrival (or in the case of a canceled charter, the intended date or arrival) of the return flight.

Mitigation

In mitigation, the Respondents state that any funds associated with its escrow account were not mishandled because in order for MetJet to process credit cards, it was required to utilize the escrow management company that its credit card processor had selected as an internal partner. The Respondents state that neither MetJet nor Mr. Heisman had control of these funds, and that MetJet submitted passenger data to the escrow management company and only received payment after a flight was completed.

The Respondents admit that refunds did take longer than 14 days. The Respondents state that as soon as MetJet publicly announced its cancellations, the company was “bombarded” with passengers requesting immediate refunds and passengers filing credit card claims. The Respondents state that in many instances, passengers who had already flown were also filing claims for refunds. The Respondents state that though Mr. Heisman voiced his concern regarding the violation of the 14-day rule, the credit card processor and the escrow management company made the decision to delay refunds long enough to evaluate each claim. The Respondents state that the delays in refunds were driven by this process.

With respect to this order, MetJet and Michael Heisman have elected to refrain from providing a formal mitigation response to the previously mentioned “buy-one-get-two-free” voucher program.

Decision

The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered the information provided by the Respondents, but continues to believe that enforcement action is warranted. The Enforcement Office and the Respondents have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, the Respondents consent to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41712 and 14 CFR Part 380. In addition, Mr. Heisman, personally, consents to cease and desist for a period of five (5) years from the date of the issuance of this order from being involved in public charter operations.

The compromise settlement is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent to future similar unlawful practices by the Respondents and other companies and individuals.

This order is issued under the authority contained in 14 CFR Part 1.

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 Michael Heisman, personally, and MetJet, Inc., violated 14 CFR 380.32 by failing to make refunds to passengers within 14 days of the cancellation of their flight;
3. We find that Michael Heisman, personally, and MetJet, Inc., violated 14 CFR 380.34 by selling vouchers in which MetJet, Inc., accepted funds from consumer without the consumer entering into a contract with specific flight dates;
4. We find that by engaging in the conduct described in ordering paragraphs 2 and 3, above, Michael Heisman, personally, and MetJet, Inc., engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
5. We find that MetJet, Inc., was at all times relevant herein under the leadership, direction, and control of Michael Heisman, and that Michael Heisman made all significant decisions with respect to the conduct described in ordering paragraphs 2 and 3, above, and is therefore personally responsible for the violations found in those paragraphs above;
6. We order Michael Heisman, personally, and MetJet, Inc., their successors, affiliates, and all other entities owned by, controlled by, or under common ownership and control with Michael Heisman, personally, and MetJet, Inc., their successors, affiliates, and assigns to cease and desist from further violations of 49 U.S.C. § 41712 and 14 CFR Part 380; and
7. We order Michael Heisman, personally, and MetJet, Inc., to cease and desist for a period of five (5) years from the date of the issuance of this order from being involved in public charter operations.

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:

BLANE A. WORKIE
Acting Assistant General Counsel for
Aviation Enforcement and Proceedings

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