



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

Issued by the Department of Transportation
on the 23rd day of March 23, 2016

Compass Airlines, LLC

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

Docket DOT-OST-2016-0002

Served March 23, 2016

CONSENT ORDER

This consent order concerns unauthorized air transportation by Compass Airlines, LLC (Compass) in violation of 49 U.S.C. §§ 41101 and 41712. This order directs Compass to cease and desist from future violations of these provisions and assesses the company a compromise civil penalty of \$70,000.¹

Applicable Law

In order to engage directly or indirectly in air transportation, a citizen of the United States² is required to hold economic authority from the Department of Transportation (Department) pursuant to 49 U.S.C. § 41101 (Section 41101), either in the form of a “certificate of public convenience and necessity” or in the form of an exemption from the certificate requirement. This authority is separate and distinct from any safety authority required by the Federal Aviation Administration. Violations of Section 41101 also

¹ In determining the civil penalty amount, the Department considers a number of factors, including the number of violations, the length of time that the violations took place, the facts and circumstances giving rise to the violations, the sophistication and compliance disposition of the carrier, and the impact on consumers.

² A “citizen of the United States” includes a corporation 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).

constitute an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.³

Background

Compass is a certificated carrier that holds exemptions under 49 U.S.C. § 40109 to operate scheduled service between the U.S. and Canada. An investigation by the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed that one Compass exemption lapsed, and it operated flights without the requisite authority. Specifically, Compass held an exemption to operate foreign scheduled flights that expired on August 16, 2012 (DOT-OST-2010-0204).⁴ After its exemption lapsed, Compass operated numerous flights between the U.S. and Canada. By engaging in air transportation without the requisite economic authority from the Department, Compass violated 49 U.S.C. §§ 41101 and 41712.

Mitigation

In mitigation, Compass states that the lapse of its authority was inadvertent, and that it has cooperated fully with the Department in its investigation. Compass contends that immediately upon learning of the expired exemptions, it acted proactively and cooperatively with the Department to renew its exemption, which was renewed without delay, and implemented comprehensive corrective actions to address the Department's concerns. Compass states that at all times during the lapse in authority, it met all the requirements for renewal of its exemption authority and had the application been timely requested, the renewal would likely have been granted quickly. Compass further states that it had all other necessary authorities in place for its operations during this time. Compass states that it has made significant changes to its internal processes to manage its economic authorities to ensure timely filings for renewal in the future. Compass states that no consumers were harmed by the inadvertent lapse in authority.

Decision

The Enforcement Office has carefully considered the information provided by Compass, but continues to believe that enforcement action is warranted. The Enforcement Office and Compass have reached a settlement of this matter in order to avoid litigation. Compass consents 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 \$70,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

The compromise assessment 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 Compass and other entities.

³ *E.g., I-Jet Aviation, LLC*, Order 2012-10-20 (October 19, 2012).

⁴ On December 9, 2014, Compass filed an application with the Department seeking reinstatement of its exemption authority, which the Department granted on December 12, 2014.

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 Compass Airlines, LLC, violated 49 U.S.C. § 41101, as described above, by engaging in air transportation without appropriate economic authority;
3. We find that by violating 49 U.S.C. § 41101, as described in ordering paragraph 2 above, Compass Airlines, LLC, has engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order Compass Airlines, LLC, its successors, assigns, and all other entities owned by or controlled by Compass Airlines, LLC, to cease and desist from further violations of 49 U.S.C. §§ 41101 and 41712 for failure to maintain economic authority for foreign air transportation, as described above;
5. We assess Compass Airlines, LLC, a compromise civil penalty of \$70,000 in lieu of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3, above. Of this total penalty amount, \$35,000 shall be due within thirty (30) days of the date of issuance of this order. The remaining portion of the penalty amount, \$35,000, shall become due and payable immediately if, within one year of the date of issuance of this order, Compass Airlines, LLC, violates this order's cease and desist provisions or fails to comply with the order's payment provisions, in which case Compass Airlines, LLC, may be subject to additional enforcement action for violation of this order; and
6. We order Compass Airlines, LLC, to pay the penalty through Pay.gov to the account of the U.S. Treasury in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Compass Airlines, LLC, to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible additional enforcement action for failing 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:

BLANE A. WORKIE
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