



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

Issued by the Department of Transportation
on the 4th day of March, 2016

Porter Escapes, Inc.

Violations of 14 CFR 399.84(a) and 49 U.S.C. § 41712

Docket DOT-OST-2016-0002

Served March 4, 2016

CONSENT ORDER

This order concerns violations by Porter Escapes, Inc., (Porter Escapes) of the Department's full fare advertising regulation, 14 CFR 399.84(a), and the statutory prohibition against unfair and deceptive practices, 49 U.S.C. § 41712. This order directs Porter Escapes to cease and desist from future similar violations, and assesses \$10,000 in civil penalties.

Advertising

Porter Escapes is a Canadian ticket agent selling pre-packaged tour products, all of which include air travel with Porter Airlines, Inc. (Porter Airlines), a Canadian air carrier based in Toronto operating scheduled service to various destinations in the United States.¹ Porter Escapes' website, www.porterescapes.com, markets to U.S. consumers for air transportation to and from the United States. As such, Porter Escapes is subject to the advertising requirements of 14 CFR Part 399. Specifically, 14 CFR 399.84(a) provides: "The Department considers any advertising or solicitation by a direct air carrier, indirect air carrier, an agent of either, or a ticket

¹ Porter Airlines and Porter Escapes are wholly-owned subsidiaries of Porter Aviation Holdings, Inc., a Canadian holding company, and are affiliates of each other. For a related consent order involving Porter Airlines, see DOT Order 2016-XX-XX.

agent, for passenger air transportation, a tour (*i.e.*, a combination of air transportation and ground or cruise accommodations) or tour component (e.g., a hotel stay) that must be purchased with air transportation that states a price for such air transportation, tour, or tour component to be an unfair and deceptive practice in violation of 49 U.S.C. 41712, unless the price stated is the entire price to be paid by the customer to the carrier, or agent, for such air transportation, tour, or tour component.” The purpose of section 399.84(a) is to ensure that consumers are not deceived and are given accurate and complete information on which to base their airline travel purchase decisions.

The Office of Aviation Enforcement and Proceedings (Enforcement Office) reviewed Porter Escapes’ website, and found that Porter Escapes displayed advertisements for air transportation and hotel packages from U.S. cities to Canadian destinations with prices listed “per traveler plus tax.” By displaying these advertisements, Porter Escapes violated 14 CFR 399.84(a) and engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712.

Mitigation

In mitigation, Porter Escapes states that it is fully committed to compliance with the Department’s consumer protection rules and that Porter Escapes has no enforcement history with the Department. Upon learning of the Department’s concerns, Porter Escapes further states that it took immediate and comprehensive remedial action, including the suspension of certain marketing activity, and worked with its booking engine supplier to correct fare displays. Porter Escapes states that only a small number of consumers were affected, and in any event they were presented with the full amount of taxes and fees before purchase.

Porter Escapes claims that it did not receive any consumer complaints about the matters raised during the Department’s inquiry, and that it never intentionally violated the Department’s rules or intended to mislead customers. Porter Escapes also provided vouchers to affected passengers. Porter Escapes also points out that at all times it actively and promptly cooperated with the Department.

Decision

The Enforcement Office has carefully considered the information provided by Porter Escapes, but continues to believe enforcement action is warranted.

In order to avoid litigation, Porter Escapes has agreed to settle this matter with the Enforcement Office and enter into this consent order directing Porter Escapes to cease and desist from future similar violations of 14 CFR 399.84(a) and 49 U.S.C. § 41712, and assessing \$10,000 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 as a deterrent to Porter Escapes and other ticket agents.

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

ACCORDINGLY,

1. Based on the above information, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Porter Escapes, Inc., violated 14 CFR 399.84(a) by displaying advertisements on its website that failed to state the entire price to be paid by the consumer;
3. We find that by engaging in the conduct described in ordering paragraph 2, above, Porter Escapes, Inc., engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order Porter Escapes Inc., its successors, its affiliates, and all other entities owned by, controlled by, or under common ownership and control with Porter Escapes, Inc., its successors, its affiliates, and its assigns to cease and desist from further similar violations of 14 CFR 399.84(a) and 49 U.S.C. § 41712;
5. We assess Porter Escapes, Inc., \$10,000 in compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2 and 3, above. A payment of \$5,000 shall be due and payable within thirty (30) days of the date of this order. The remaining portion of the assessed civil penalty, \$5,000, shall become immediately due and payable if, within one year of the service date of this order, Porter Escapes, Inc., violates this order's cease and desist or payment provision; and
6. We order Porter Escapes, Inc., to pay the penalty through Pay.gov to the account of the U.S. Treasury. Payments shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Porter Escapes, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further 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:

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Aviation Enforcement and Proceedings

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