



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

Issued by the Department of Transportation
On the 9th day of April, 2019

Aviajet RD LLC

Violations of 49 U.S.C. §§ 41301 and 41712

Docket OST-2019-0001

Served: April 9, 2019

CONSENT ORDER

This consent order concerns unauthorized foreign air transportation by Aviajet RD LLC (Aviajet) in violation of 49 U.S.C. §§ 41301 and 41712. This consent order directs Aviajet to cease and desist from future similar violations of 49 U.S.C. §§ 41301 and 41712 and assesses the company \$20,000 in civil penalties.

Applicable Law

Pursuant to 49 U.S.C. § 41301, a foreign air carrier¹ may provide foreign air transportation only if the foreign air carrier holds a permit authorizing the foreign air transportation or a valid exemption from that section. The authority required by section 41301 is separate and distinct from the

¹ Pursuant to 49 U.S.C. 40102(a)(21), a “foreign air carrier” means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation. Pursuant to 49 U.S.C. 40102(a)(15), a “citizen of the United States” means (A) an individual who is a citizen of the United States; (B) a partnership each of whose partners is an individual who is a citizen of the United States; or (C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

operations specifications and approvals that such an entity must obtain from the Federal Aviation Administration (FAA) for operations to and from the United States. Any operation in violation of the terms, conditions, or limitations of a foreign air carrier permit is a violation of 49 U.S.C. § 41301. A violation of section 41301 constitutes an unfair and deceptive practice and an unfair method of competition prohibited by 49 U.S.C. § 41712.

Facts and Conclusions

According to the Department's records, Aviajet does not hold economic authority in the form of a foreign air carrier permit or an exemption from the Department necessary for engaging in foreign air transportation. From August to December 2016, Aviajet operated a number of charter flights between various international airports and airports in the United States. Most of these flights were operated between La Isabela International Airport in the Dominican Republic and Miami-Opa Locka Executive Airport in Florida. As a "foreign air carrier," Aviajet is required to obtain economic authority from the Department in the form of a foreign air carrier permit or an exemption. Aviajet holds neither a permit nor an exemption, and thus holds no economic authority to engage in foreign air transportation. Therefore, it appears that Aviajet engaged in unauthorized operations, in violation of 49 U.S.C. § 41301. Such conduct also violates the Department's prohibition against unfair or deceptive conduct in 49 U.S.C. § 41712.

Response

In response, Aviajet RD LLC states that it seeks to comply with the federal statutes and Code of Federal Regulations enforced by the Department. Aviajet RD LLC adds that none of its actions, or failure thereof, were with the intent to violate the provisions cited by the Department. Aviajet RD LLC explains it lacked knowledge of the Department's economic authority requirement and did not intend to engage in what the Department deemed unauthorized charter.

Aviajet RD LLC is a 14 CFR Part 91 aircraft holding company, and its owners have one part-time mechanic and two pilots. According to Aviajet RD LLC, the company and the owners did not see themselves as foreign air carriers or believe they were holding out as foreign air carriers. Aviajet RD LLC asserts that at no time did it believe it needed economic authority to engage in charter services.

Aviajet RD LLC does not admit any wrongdoing or violation of any U.S. statutes or regulations. It enters into this consent order solely as a compromise in order to resolve all outstanding allegations and charges.

Decision

The Enforcement Office views seriously Aviajet's violations of 49 U.S.C. §§ 41301 and 41712. Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. In order to avoid litigation, and without admitting or denying the violations described above, Aviajet consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. §§ 41301 and 41712 and to the assessment of \$20,000 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 against future similar unlawful practices by Aviajet and other similarly situated companies.

This order is issued under the authority contained in 49 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 Aviajet RD LLC violated 49 U.S.C. § 41301 by engaging in unauthorized foreign air transportation without the requisite economic authority;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2, above, Aviajet RD LLC has engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order Aviajet RD LLC and its successors and assigns to cease and desist from further violations of 49 U.S.C. §§ 41301 and 41712;
5. We assess Aviajet RD LLC a compromise civil penalty of \$20,000 in lieu of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$10,000 shall be due and payable on 30 days from the date of issuance of this order. The remaining \$10,000 shall become due and payable if, within one year of the service date of this order, Aviajet RD LLC violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Aviajet RD LLC may be subject to additional enforcement action for failure to comply with this order.
6. We order Aviajet RD 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 Aviajet RD LLC 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:

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

An electronic version of this document is available at
www.regulations.gov