



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

Issued by the Department of Transportation
on the 7th day of April, 2017

Paradigm Jet Management, Inc.

Docket OST 2017-0001

Violations of 49 U.S.C. § 41712

Served April 7, 2017

CONSENT ORDER

This consent order concerns violations by Paradigm Jet Management, Inc. (Paradigm), of 49 U.S.C. § 41712, which prohibits air carriers from engaging in unfair or deceptive practices in air transportation. Paradigm entered into an arrangement with IBX Jets LLC (IBX), in which Paradigm allowed its FAA safety authority to be utilized by IBX to engage in air transportation. IBX used this arrangement as a façade to deceive consumers while engaging in air transportation as an indirect air carrier without economic authority of its own.¹ By so doing, Paradigm facilitated IBX's unlawful conduct and, thereby, itself engaged in an unfair and deceptive practice and unfair method of competition. Accordingly, this order directs Paradigm to cease and desist from such conduct and assesses it a compromise civil penalty of \$30,000.

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

¹ IBX's conduct in this matter is currently the subject of a separate investigation.

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).

(Department) pursuant to 49 U.S.C. § 41101, either in the form of a “certificate of public convenience and necessity” or in the form of an exemption from the certificate requirement, such as those applicable to direct air carriers³ operating as air taxis under 14 CFR Part 298 and to indirect air carriers⁴ acting as public charter operators under 14 CFR Part 380. This authority is separate and distinct from any safety authority required by the Federal Aviation Administration. A person or entity that does not hold economic authority from the Department may not lawfully solicit and contract, as a principal in its own right, with a charter customer for air transportation and then, as a principal in its own right, solicit and separately contract with a direct air carrier to provide the air service that it has promised to the charter customer. In such instances, the unauthorized indirect air carrier is not acting as an agent for the operating carrier or for the charter customer. Rather, it is acting as a principal in both transactions and, with respect to its relationship to the charter customer, is indirectly engaged in air transportation without economic authority in contravention of the statutory and Departmental licensing requirements. The holding out of air service, as well as the actual operation of air service, constitutes “engaging” in air transportation and, if done without the requisite economic authority, violates 49 U.S.C. § 41101.⁵ A duly licensed carrier’s facilitation of unauthorized operations by an entity that lacks the requisite economic authority constitutes an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.⁶

Facts and Conclusions

Paradigm is a direct air carrier that, at all times relevant to this order, held economic authority in the form of an air taxi registration under 14 CFR Part 298, together with safety certification from the Federal Aviation Administration (FAA) under 14 CFR Part 135. IBX, the lessee of Gulfstream aircraft, has no economic authority itself to hold out or to provide, directly or indirectly, air transportation using any aircraft. Despite this, Paradigm entered into an agreement with IBX wherein the latter was able to place its leased aircraft onto the FAA-issued operations specifications of Paradigm. Paradigm provided maintenance services, pilot training, and other aircraft operational services on IBX’s aircraft. In turn, IBX paid a management fee to Paradigm.

In practice, IBX, independent of Paradigm, contracted directly with customers seeking air service, promising to provide them air transportation while collecting and holding all of

³ A “direct air carrier” is a person or other entity that provides air transportation and that has control over the operational functions involved in providing air transportation.

⁴ “Indirect air carrier” means any person who undertakes to engage indirectly in air transportation operations and who uses for such transportation the services of a direct air carrier. 14 CFR 380.2.

⁵ From the standpoint of the requirements of section 41101, the holding out of air service, as well as the actual operation of that service, constitutes “engaging” in air transportation.

⁶ See, e.g., *Darby Aviation, Inc., d/b/a AlphaJet International, Violations of 49 U.S.C. § 41712*, Order 2005-12-1 (Dec. 1, 2005), and *Ryan International Airlines, Inc., Violations of 49 U.S.C. § 41712 and 14 CFR Part 212*, Order 2003-12-15 (Dec. 15, 2003).

the monies paid by those customers. There was no privity of contract between the customers seeking air service and Paradigm, and Paradigm allowed IBX to be the principal in the transaction to which the ultimate customers looked for performance of their contracts for air transportation.

In isolation, IBX's behavior would have been extremely serious because it amounted to engaging in air transportation without a license. However, IBX's behavior was particularly pernicious because it was done under the guise of lawful authority, a condition that would have been impossible without Paradigm's involvement. Thus, Paradigm bears some responsibility for IBX's conduct. Thus, Paradigm, which was or should have been aware of IBX's conduct and the fact that it lacks any economic authority, facilitated IBX's engaging in indirect air carrier service without any economic authority from the Department. Paradigm's conduct constitutes an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712.

Response

Paradigm states that although it denies any wrongdoing or violation of any statute or regulation, it has agreed to enter into this Consent Order as a compromise and in order to resolve all outstanding allegations and investigations. Paradigm states that it was unaware of any situation in which IBX held itself out as an independent air carrier or principal. Paradigm asserts that all agreements for air transportation reviewed by Paradigm clearly indicated that Paradigm was the air carrier that would conduct chartered flights. Paradigm states that it never benefitted from IBX's collection of funds on contracts with IBX where performance of the contracts was unfulfilled.

Decision

The Enforcement Office views seriously Paradigm's violations of 49 U.S.C. § 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, Paradigm consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41712 and to the assessment of \$30,000 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 Paradigm and other companies.

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 Paradigm Jet Management, Inc., violated 49 U.S.C. § 41712 by facilitating unauthorized operations by IBX Jets LLC, as described above, thereby engaging in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;
3. We order Paradigm Jet Management, Inc., and its successors and assigns to cease and desist from further similar violations of 49 U.S.C. § 41712;
4. We assess Paradigm Jet Management, Inc., a compromise civil penalty of \$30,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2 and 3, above. Of this total amount, \$15,000 shall be due and payable within 30 days of the service date of this order. The remaining \$15,000 shall become due and payable if, within one year of the service date of this order, Paradigm Jet Management, Inc. violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Paradigm Jet Management, Inc., may be subject to additional enforcement action for failure to comply with this order; and
5. We order Paradigm Jet Management, Inc., 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 Paradigm Jet Management, Inc., 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
Assistant General Counsel for
Aviation Enforcement and Proceedings

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