



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

**Issued by the Department of Transportation  
on the 27th day of July, 2012**

**Caribbean Sun Airlines d/b/a  
World Atlantic Airlines**

**Violations of 49 U.S.C. § 41712 and  
14 CFR Parts 212 and 380**

**Docket OST 2012-0002**

**Served July 27, 2012**

**CONSENT ORDER**

This consent order concerns violations of certain consumer protection provisions of the Department of Transportation's Public Charter regulations by Caribbean Sun Airlines d/b/a World Atlantic Airlines (World Atlantic), a direct air carrier for a number of Public Charter programs filed by Southern Sky Air & Tours, d/b/a Myrtle Beach Direct Air & Tours (Direct Air). In violation of 14 CFR Parts 212 and 380, World Atlantic operated numerous Public Charter flights on behalf of Direct Air without first receiving the full charter price for those flights, thereby operating on the basis of a prospective payment or credit and it failed to make reasonable efforts to ascertain before undertaking Public Charter flights that the charter operator was in compliance with 14 CFR Part 380. In addition, subsequent to the cessation of Direct Air's operations and in violation of 14 CFR Parts 212 and 380, World Atlantic cancelled charter flights less than ten days before the scheduled departure date and failed to return to their points of origin all passengers who purchased round-trip transportation on World Atlantic's operated Public Charter flights and whom World Atlantic had already transported on their outbound flights. These activities constituted unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712. This order directs World Atlantic to cease and desist from future violations of section 41712 and the aforementioned Federal regulations and assesses the carrier a compromise civil penalty of \$180,000.

**Applicable Law**

Public Charter operators and direct air carriers must comply with the requirements of 14 CFR Parts 212 and 380, which are designed to prevent economic harm to and the stranding of charter

passengers. Under 14 CFR 380.34(b)(ii), the Public Charter operator's depository bank must pay to the direct air carrier's depository bank the funds owed to the direct air carrier no more than 60 days prior to the flight's operation. Under 14 CFR 212.3(e) and 380.11, the full charter price must be received by the charter carrier prior to the operation of the pertinent flight. Pursuant to 14 CFR 380.40, "A direct air carrier shall not perform air transportation in connection with such a charter unless it has made a reasonable effort to verify that all provisions of this part have been complied with." *See also* 14 CFR 212.3(d). Moreover, 14 CFR 380.43 prohibits the cancellation of charter flights less than ten days before the scheduled departure date and 14 CFR 212.3(f) charges the direct air carrier with the responsibility of ensuring the return at no additional cost of all U.S.-originating, round-trip passengers whom the carrier has transported on their outbound leg.

In addition, violations of 14 CFR Parts 212 and 380 also constitute violations of 49 U.S.C. § 41712, which prohibits carriers from engaging in unfair and deceptive practices and unfair methods of competition.

### **Facts and Conclusion**

World Atlantic was the direct air carrier in the Public Charter program covered by Public Charter Prospectus 12-036, which involved 190 flights on a variety of routes between cities in the Midwest and Northeast and points in Florida and Myrtle Beach, South Carolina, for the period from February 13, 2012, to April 30, 2012. The Public Charter operator was Southern Sky Air & Tours, d/b/a Myrtle Beach Direct Air & Tours (Direct Air).

Beginning with all flights departing on or after March 6, 2012, sufficient funds were not transferred from Direct Air's escrow account to World Atlantic prior to the operation of the pertinent flights. Several flights prior to March 6, 2012, also involved late payments. World Atlantic thus had early notice that Direct Air was not complying with the Department's Public Charter regulations. With such late payments, pursuant to 14 CFR 212.3(d) and 380.40, World Atlantic should have undertaken reasonable efforts to verify that Direct Air was operating in compliance with Part 380. Rather, World Atlantic suffered Direct Air's conduct and, in violation of 14 CFR 212.3(e) and 380.11, continued to operate flights listed in Public Charter Prospectus 12-036 without requiring from Direct Air payment in full of the total charter price. By March 13, 2012, Direct Air owed \$125,072 to World Atlantic for flights World Atlantic had completed on Direct Air's behalf.

On March 13, 2012, World Atlantic ceased all flights under the Public Charter program. The Office of Aviation Enforcement and Proceedings (Enforcement Office) immediately contacted World Atlantic about this matter. The Enforcement Office reminded World Atlantic of the carrier's obligations under 14 CFR 380.43 to not cancel charter flights less than ten days before the scheduled departure date and under 14 CFR 212.3(f) to return all passengers who had purchased round-trip transportation and whom it carried on their outbound journeys. Nevertheless, World Atlantic failed to ensure the return of stranded passengers.

## **Mitigation**

By way of mitigation, World Atlantic believes that a large-scale fraud has been committed by Direct Air and its managers and owners on a whole variety of parties, including, among others, all of the Direct Air passengers, the U.S. government and its fee and taxing agencies, various local governments and airport authorities, as well as the many commercial creditors, including the direct air carriers employed by Direct Air such as World Atlantic. The Direct Air Chapter 7 bankruptcy liquidation is currently pending before a U.S. bankruptcy court and World Atlantic believes that the activities of Direct Air's owners and managers are currently under investigation by the Chapter 7 trustee.

In the week immediately following the Direct Air collapse, World Atlantic states that it attempted to establish a schedule of flights to repatriate stranded passengers. According to World Atlantic, because Direct Air failed to respond to any of World Atlantic's attempts to communicate with it, and because World Atlantic lacked access to the passenger information required by the Transportation Security Administration, World Atlantic was unable to operate repatriation flights.

As a result of Direct Air's alleged misconduct, in addition to the instant Department action, World Atlantic asserts that it has suffered and continues to suffer a substantial financial loss. Further, it states that its entire fleet of two aircraft has been liened by another Direct Air creditor, rendering World Atlantic in default on its aircraft leases and making its fleet subject to seizure at any time.

## **Decision**

The Department takes compliance with the Federal aviation statutes and regulations very seriously. The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered the information provided by World Atlantic but continues to believe that enforcement action is warranted. The Enforcement Office and World Atlantic have reached a settlement of this matter in order to avoid litigation. World Atlantic consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. § 41712 and 14 CFR Parts 212 and 380 and to the assessment of \$180,000 in compromise of potential penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

This compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It represents a strong deterrent to future noncompliance with the Department's Public Charter requirements.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

## **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 Caribbean Sun Airlines d/b/a World Atlantic Airlines violated 14 CFR 212.3(d) and 380.40 by failing to make reasonable efforts to ascertain before undertaking Public Charter flights that the charter operator was in compliance with 14 CFR Part 380;
3. We find that Caribbean Sun Airlines d/b/a World Atlantic Airlines violated 14 CFR 212.3(e) and 380.11 by transporting passengers without having first received from the charter operator full payment of the total charter price;
4. We find that Caribbean Sun Airlines d/b/a World Atlantic Airlines violated 14 CFR 380.43 by cancelling charter flights less than ten days before the scheduled departure date;
5. We find that Caribbean Sun Airlines d/b/a World Atlantic Airlines violated 14 CFR 212.3(f) by failing to return to his or her point of origin each passenger who purchased round-trip transportation on its Public Charter flights, and whom Caribbean Sun Airlines d/b/a World Atlantic Airlines transported on his or her outbound flight;
6. We find that by violating 14 CFR Parts 212 and 380, as described in ordering paragraphs 2, 3, 4, and 5, above, Caribbean Sun Airlines d/b/a World Atlantic Airlines engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
7. We order Caribbean Sun Airlines d/b/a World Atlantic Airlines and all other entities owned or controlled by, or under common ownership and control with Caribbean Sun Airlines d/b/a World Atlantic Airlines and its successors, affiliates, and assignees, to cease and desist from future violations of 49 U.S.C. § 41712 and 14 CFR Parts 212 and 380. Failure to comply with this cease and desist provision shall subject Caribbean Sun Airlines d/b/a World Atlantic Airlines and its successors, affiliates, and assignees to further enforcement action;
8. We assess Caribbean Sun Airlines d/b/a World Atlantic Airlines \$180,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2, 3, 4, 5, and 6, above. Of this total penalty amount, \$10,000 shall be due and payable within thirty (30) days of the date of the issuance of this order. \$10,000 shall be due and payable within ninety (90) days of the date of the issuance of this order. \$10,000 shall be due and payable within 150 days of the date of the issuance of this order. \$10,000 shall be due and payable within 210 days of the date of the issuance of this order. \$10,000 shall be due and payable within 270 days of the date of the issuance of this order. \$10,000 shall be due and payable within 330 days of the date of the issuance of this order. \$10,000 shall be due and payable within 390 days of the date of the issuance of this order. \$10,000 shall be due and payable within 450 days of the date of the issuance of this order. \$10,000 shall be due and payable within 510 days of the date of the issuance of this order. The remaining portion of the civil penalty amount, \$90,000, shall become due and

payable if, within one year of the date of issuance of this order, Caribbean Sun Airlines d/b/a World Atlantic Airlines violates this order's cease and desist provisions or fails to comply with this order's payment provisions, in which case Caribbean Sun Airlines d/b/a World Atlantic Airlines may become subject to additional enforcement action for violation of the order; and

9. We order Caribbean Sun Airlines d/b/a World Atlantic Airlines to pay the penalty through Pay.gov to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the compromise penalty assessment as ordered will subject Caribbean Sun Airlines d/b/a World Atlantic Airlines to an assessment of interest, penalty, and collection charges under the Debt Collection Act and to possible enforcement action for failure to comply with this order.

This order will become a final order of the Department ten days after its service date unless a timely petition for review is filed or the Department takes review on its own initiative.

**BY:**

SAMUEL PODBERESKY  
Assistant General Counsel for  
Aviation Enforcement and Proceedings

**(SEAL)**

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