



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

Issued by the Department of Transportation
on the 11th day of July, 2002

Pacific Coastal Airlines, Ltd.

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

Served July 11, 2002

CONSENT ORDER

This order concerns unauthorized air service by Pacific Coastal Airlines, Ltd. (Pacific Coastal Airlines), between various cities in Canada and the United States that violates 49 U.S.C. §§ 41301 and 41712. This consent order directs Pacific Coastal Airlines to cease and desist from further violations of these statutory provisions and to pay a compromise civil penalty.

Pacific Coastal Airlines, a foreign air carrier within the meaning of 49 U.S.C. § 40102(a)(21), has specialized in charter and scheduled service for more than forty years between various cities and towns along the coast of British Columbia, Canada. On May 9, 2002, Pacific Coastal Airlines received Departmental approval to conduct air service to and from the United States as a Canadian charter air taxi operator pursuant to 14 CFR Part 294. However, prior to receipt of this authority, Pacific Coastal Airlines operated a number of flights for compensation or hire between Vancouver, Victoria, Seattle, and Portland in contravention of 49 U.S.C. § 41301, which states that foreign air carriers must obtain permit authority from the Department *prior* to commencing service to the United States. Any violation of 49 U.S.C. § 41301 also constitutes an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.

In mitigation, Pacific Coastal Airlines states that it did not intend to operate in the United States without proper authority from the Department. Moreover, at all times in this matter, Pacific Coastal Airlines believed that it held Departmental authority because of its purchase of Wilderness Airlines, Ltd. (Wilderness Airlines), which was, at the time, duly authorized to operate to the United States as a Canadian charter air taxi pursuant to 14 CFR Part 294. Pacific Coastal Airlines erroneously assumed that the authority held by Wilderness Airlines

inured to it by operation of law.¹ Additionally, Pacific Coastal Airlines states that, upon notification that it lacked Departmental approval, it immediately suspended all operations to the United States.

The Aviation Enforcement Office has carefully considered all of the information provided by Pacific Coastal Airlines, but continues to believe that enforcement action is warranted. In this connection and in order to avoid litigation, the Aviation Enforcement Office and Pacific Coastal Airlines have reached a settlement of this matter. Without admitting or denying the violations described above, Pacific Coastal Airlines 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 US\$10,000 in compromise of potential civil penalties otherwise assessable. Of this total penalty amount, \$5,000 shall be due and payable within 15 days of the issuance of this order. The remaining \$5,000 shall be suspended for one year following the issuance of this order, and then forgiven, unless Pacific Coastal Airlines violates this order's cease and desist provisions, in which case the entire unpaid portion of this civil penalty shall become due and payable immediately and Pacific Coastal Airlines may be subject to further enforcement action. The Aviation Enforcement Office believes this compromise is appropriate and serves the public interest and creates an incentive for all foreign air carriers to comply fully with the requirements of 49 U.S.C. §§ 41301 and 41712.

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 Pacific Coastal Airlines, Ltd., violated 49 U.S.C. § 41301 by commencing air service to and from the United States prior to obtaining permit authority from the Department;
3. We find that, by engaging in the conduct and violations described in paragraph 2 above, Pacific Coastal Airlines, Ltd., engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712;
4. Pacific Coastal Airlines, Ltd., and all other entities owned and controlled by, or under common ownership and control with Pacific Coastal Airlines, Ltd., and their successors and assignees, are ordered to cease and desist from future violations of 49 U.S.C. §§ 41301 and 41712;
5. Pacific Coastal Airlines, Ltd., is assessed a civil penalty of \$10,000 in compromise of the civil penalties that might otherwise be assessed for the violations found in paragraphs 2 and 3 above. Payment of \$5,000 shall be made within 15 days of the date of issuance of this order.

¹ Pursuant to 49 U.S.C. § 41303, foreign air carrier permits issued by the Department under 49 U.S.C. § 41302 may be transferred only after the Department approves the transfer upon a finding that the transfer is in the public interest. The Department did not approve any transfer of authority from Wilderness Airlines to Pacific Coastal Airlines.

The remaining \$5,000 shall be suspended for one year following the issuance of this order, and then forgiven, unless Pacific Coastal Airlines, Ltd., violates this order's cease and desist provision. Failure to pay the penalty as ordered will subject Pacific Coastal Airlines, Ltd., to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible enforcement action for failure to comply with this order; and

6. Payment of the civil penalty described above shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed wire," to the account of the U.S. Treasury. The wire transfer shall be executed in accordance with the attached instructions.

This order will become a final order of the Department 10 days after its service unless a timely petition for review is filed or the Department takes review on its own initiative.

By:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

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