



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

Issued by the Department of Transportation
On the Twentieth day of July, 2010

Compania Panameña de Aviation, S.A.

**Violations of 49 U.S.C. § 41705
and 14 CFR Part 382**

Docket OST 2010-0005

Served July 20, 2010

CONSENT ORDER

This order concerns violations by Compania Panameña de Aviation, S.A., (COPA Airlines) of the requirements of 14 CFR Part 382 (Part 382), the Department's regulation implementing the Air Carrier Access Act (ACAA), 49 U.S.C. § 41705, with respect to filing annual reports detailing disability-related complaints that the foreign air carrier received from passengers in calendar year 2009. Violations of Part 382 also constitute violations the ACAA. This order directs COPA Airlines to cease and desist from future violations of Part 382 and ACAA, and assesses the carrier a compromise civil penalty of \$20,000.

Under section 382.157 (formerly section 382.70)¹, covered foreign carriers (i.e., foreign air carriers operating passenger service to and from the United States with at least one aircraft having a design capacity of more than 60 passenger seats) must, among other things, submit an annual report to the U.S. Department of Transportation (Department) summarizing the disability-related complaints that they received during the prior calendar year.² Foreign air carriers are required to submit information only with respect to disability-related complaints associated with any flight segment originating or

¹ On May 13, 2009, 14 CFR 382.70 changed to 14 CFR 382.157; however, its substance, as is pertinent here, remains the same.

² In addition, the rule requires a carrier to record complaints that it receives alleging discrimination or inadequate accessibility on the basis of a disability. The complaints are to be categorized according to the passenger's type of disability and the nature of the complaint. The rule also requires that covered carriers retain a copy of each disability-related complaint that the carrier receives and a record of the action taken on the complaint for three years.

terminating in the United States. The annual report to the Department is due each year on the last Monday in January. The annual report covering calendar year 2009 was due on January 25, 2010. Copa Airlines failed to timely file its annual report on or before that due date.

To comply with 49 U.S.C. § 41705, which requires, among other things, that the Secretary of Transportation “regularly review all complaints received by air carriers alleging discrimination on the basis of disability ... and report annually to Congress on the results of such review,” and to ensure that consumers can compare the overall disability complaints filed against particular carriers, the Office of Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) is committed to ensuring that carriers file disability-related reports as required. To this end, the Enforcement Office has made efforts to ensure compliance with section 382.157, including providing carriers and carrier associations information about the disability reporting requirements and posting a copy of the disability reporting rule on its Aviation Consumer Protection Division’s website.

COPA Airlines, based in Panama City, Panama, operates scheduled service to and from the United States using at least one aircraft having a design seating capacity of more than 60 passenger seats. COPA Airlines’ operations into the United States clearly fall within the scope of the reporting rule. Therefore, COPA Airlines violated Part 382 and the ACAA when it submitted to the Department the report for calendar year 2009 on March 23, 2010, fifty-seven days late.³

In mitigation, COPA Airlines states that the violation was due to administrative lapses and was not a willful violation, and it has provided a clear description of how it plans to avoid further lapses in the future, principally by vesting the office of the General Counsel of the company with responsibility for these filings going forward. In addition, COPA Airlines states that it was the first time it has filed its disability related complaints report with a delay of such an extent, and therefore the violation at issue here represents a serious, but isolated incident involving an air carrier that generally complies with its legal and regulatory obligations.

We view seriously COPA Airlines’ repeated failure to submit its reports on time as required by section 382.157. The Enforcement Office has carefully considered all the circumstances surrounding this matter, including those set forth above, and continues to believe that enforcement action is warranted. By this order, the Department finds that COPA Airlines failed to timely submit its annual reports detailing the disability-related complaints it received in calendar year 2009, in violation of 14 CFR Part 382 and 49 U.S.C. § 41705.

In order to avoid litigation, Compania Panameña de Aviation, S.A., has agreed to settle this matter with the Enforcement Office and enter into a consent order directing

³ In addition, COPA Airlines’ submissions of its disability related reports for calendar years 2006, 2007, and 2008 were also late by several days.

Compania Panameña de Aviation, S.A., to cease and desist from future violations of 14 CFR Part 382 and 49 U.S.C. § 41705, and to the assessment of \$20,000 in compromise of potential civil penalties otherwise due and payable. We believe this compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's reporting requirements by Compania Panameña de Aviation, S.A., as well as by other air carriers and foreign air carriers.

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 the order as being in the public interest;
2. We find that Compania Panameña de Aviation, S.A., violated 14 CFR 382.157 (formerly 14 CFR 382.70) by failing to timely submit its annual reports detailing the disability-related complaints it received in calendar year 2009 to the Department of Transportation;
3. We find that by engaging in the conduct described in ordering paragraph 2, above, Compania Panameña de Aviation, S.A., also violated 49 U.S.C. § 41705;
4. We order Compania Panameña de Aviation, S.A., and all other entities owned and controlled by or under common ownership with Compania Panameña de Aviation, S.A., and its successors and assignees, to cease and desist from further violations of 14 CFR 382.157 and 49 U.S.C. § 41705;
5. We assess a compromise civil penalty of \$20,000 in lieu of civil penalties that might otherwise be assessed for the violation found in ordering paragraphs 2 and 3 of this order. Of the total penalty amount, \$10,000 shall be due and payable no later than 15 days after the date this order is issued. The remaining \$10,000 shall become due and payable if Compania Panameña de Aviation, S.A., violates this order's cease and desist provision within one year following the date of issuance of this order, or fails to comply with the payment provisions of this order, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately; and
6. Payment shall be made by wire transfer through the Federal Reserve Communication System, commonly known as "Fed Wire," to the account of the U.S. Treasury in accordance with the attached instructions. Failure to pay the penalty as ordered shall subject Compania Panameña de Aviation, S.A., 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.

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 initiative.

BY:

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Deputy General Counsel

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