



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

Issued by the Department of Transportation
on the 18th day of November, 2005

Starquest Expeditions, Inc.

**Violations of 49 U.S.C. §§ 41101
and 41712 and 14 CFR Part 380**

Docket OST 2005-20077

Served November 18, 2005

CONSENT ORDER

This order concerns violations by Starquest Expeditions, Inc. (Starquest) of 49 U.S.C. § 41101 and certain provisions of the Department's Public Charter regulations (14 CFR Part 380). Starquest, a public charter operator, advertised and accepted reservations and payment for a 2006 "Around the World by Private Jet" tour program prior to filing a public charter prospectus with the Department, as required by 14 CFR Part 380. In addition to violating specific provisions of Part 380, Starquest's conduct constituted an unfair and deceptive trade practice in violation of section 380.27 of the Public Charter rules and 49 U.S.C. § 41712. This consent order directs Starquest to cease and desist from future similar violations and to pay a compromise civil penalty.

Under section 380.25 of the Department's rules (14 CFR 380.25), no charter operator may solicit, sell or operate a charter or series of charters prior to filing an appropriate prospectus with the Department. While Starquest filed a prospectus for the subject program on June 13, 2005, the charter operator, prior to filing the prospectus, had booked more than 150 passengers, collecting approximately \$375,000 in consumer deposits. It also accepted reservations subsequent to its filing.

By soliciting and selling public charter flights without first filing a public charter prospectus, Starquest violated 14 CFR 380.25 of the Department's regulations. Any failure to comply with those provisions constitute violations of 49 U.S.C. § 41101, since charter operators are relieved of the economic licensing provisions of Title 49 only to the extent that they avail themselves of the exemption to that statutory provision contained in Part 380. Both these violations represent, furthermore, unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712. Violations of the provisions of Title 49 and the Department's rules are subject to the civil penalty provisions of 49 U.S.C. § 46301.

In mitigation, Starquest states that it has in the past complied with the provisions of Part 380 and that its premature advertising and sales, in this case, occurred as a result of an

oversight on the part of its administrative staff. The company, however, urges that since deposits were placed in escrow accounts,¹ and in view of the quality and reputation of the institutions that served as its agents, that no consumer funds were placed at risk. The tours in which Starquest specializes are, the company points out, intended for a sophisticated travel market of affluent consumers. The company states that it contacts those who place deposits for its tours, including the 2006 program, several times prior to the departure of the tour in an effort to keep passengers fully apprised of features of the tour and to allow them to prepare for travel. Once it became aware that it had failed to file the required prospectus, Starquest emphasizes, it promptly complied with the Department's requirement.

Notwithstanding the mitigating factors described above, Starquest, with respect to this charter program, failed to provide the full protection for consumer funds required under Part 380. Its violations of provisions of Title 49 and the Department's Public Charter rules, the Office of Aviation Enforcement and Proceedings (Enforcement Office) believes, warrant enforcement action. The Enforcement Office and Starquest have reached a settlement in this matter. While neither admitting nor denying the above allegations, Starquest is willing to accept the findings and conclusions of this order to avoid potential litigation. Under this order, the tour operator is ordered to cease and desist from future similar violations of 14 CFR 380.25, 49 U.S.C. § 41101, and 49 U.S.C. § 41712 and is assessed \$20,000 in compromise of potential penalties otherwise assessable under the provisions of 49 U.S.C. § 46301 of which one-half will be payable according to the payment schedule described below. The Enforcement Office believes that the assessment of a civil penalty of \$20,000 in this instance is warranted in light of the nature and extent of the violations in question and will provide an effective deterrent to such conduct in the future by Starquest and other charter operators.

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 Starquest Expeditions, Inc., violated 14 CFR 380.25 and 49 U.S.C. § 41101 by advertising and selling its 2006 Around-the-World by Private Jet program prior to filing an appropriate Public Charter prospectus;
3. We find that by engaging in the conduct described in paragraph 2, above, Starquest Expeditions, Inc., has engaged in unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712;

¹ Certain consumer funds were retained by some of Starquest's agents as a partial payment of commissions due the agents under their sales agreements with the tour operator. Pursuant to section 380.34(b)(2)(i), an agent may deduct the commission to which it is entitled from the proceeds of its sales and remit the balance to the prospective escrow account.

4. Starquest Expeditions, Inc., its successors, affiliates, and assigns, are ordered to cease and desist from further violations of 14 CFR Part 380 and 49 U.S.C. §§ 41101 and 41712;

5. Starquest Expeditions, Inc., is assessed \$20,000 in a compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2, 3 and 4, above, of which \$10,000 shall be due and payable within 30 days of the service date of this order. The remainder of the penalty shall be suspended for one year following the service date of this order and then forgiven, provided that Starquest complies with the payment terms of this order, as well as its cease and desist provisions, during the suspension period; if it fails to do so, the entire unpaid balance of the penalty shall become due and payable immediately, and Starquest may be subject to further enforcement action; and

6. Payment 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 instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall also subject Starquest Expeditions, Inc., to an assessment of interest, penalty, and collection charges under the Debt Collection Act, and 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 motion.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

An electronic version of this document is available on the World Wide Web at
http://dms.dot.gov//reports/reports_aviation.asp