



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

Issued by the Department of Transportation
On the Seventeenth day of June, 2011

Cameron Air Services, Inc.

**Violations of 49 U.S.C. §§ 41703 and 41712 and
14 CFR 294.81**

Docket OST 2011-0003

Served June 17, 2011

CONSENT ORDER

This order concerns unauthorized passenger air service between two cities in the United States by Cameron Air Service, Inc., (Cameron) a Canadian charter air taxi registered with the Department pursuant to 14 CFR Part 294, that violates 49 U.S.C. §§ 41703 and 41712 and 14 CFR Part 294. It directs Cameron to cease and desist from future violations of Part 294 and sections 41703 and 41712, and assesses the carrier a compromise civil penalty of \$20,000.

Applicable Law

The carriage of local traffic for compensation or hire by foreign air carriers, including Canadian charter air taxis, between two points in the United States, a practice commonly referred to as cabotage, is a violation of 49 U.S.C. § 41703, which prohibits cabotage except under very limited circumstances that do not apply here. Registered Canadian charter air taxis that engage in cabotage without Departmental authorization also violate 14 CFR 294.81, which applies the general statutory prohibition in section 41703 specifically to them as a class of foreign air carrier. Violations of section 41703 and Part 294 also constitute an unfair and deceptive trade practice and unfair method of competition in violation of 49 U.S.C. § 41712.

Facts and Conclusions

The violations that are the subject of this order occurred on January 16, 2011, when a Cameron-operated Cessna C-208 transported two passengers for compensation or hire from Teterboro, New Jersey (TEB), to Boston, Massachusetts, (BOS).

On January 16, 2011, the Cameron C-208 aircraft entered the United States at TEB from Toronto City Airport, Canada, (YTZ) carrying two passengers. At TEB, two additional passengers boarded the aircraft and accompanied the party to BOS. In BOS, the two passengers originating at TEB discontinued their journey, and the two Toronto-originating passengers returned to Toronto, Canada, (YYZ). The flights were performed pursuant to a single-entity charter¹ agreement between Cameron and one of the Toronto-originating passengers.

It is a violation of 49 U.S.C. § 41703 for a foreign civil aircraft to transport passengers or cargo solely between two points in the United States for compensation or hire, even if the aircraft is being operated pursuant to a single entity charter that, in other respects, begins or ends outside the United States.² Thus, for purposes of 49 U.S.C. § 41703, where a single-entity charter involves the operation of a foreign aircraft in U.S. airspace, as in this case, the journey of each passenger carried on the chartered aircraft, rather than the entire itinerary paid for by the charterer, is considered a separate act of providing air transportation for compensation or hire. If the journey of any individual on such a charter is entirely between two U.S. points, then the carriage of that passenger constitutes cabotage.

In this instance, the charterer contracted in Canada for air transportation for his son and his friends. The resulting movements involved four passengers to, from, or between points in the United States. We will look at each in turn:

1. The carriage of the two YTZ-originating passengers who remained with the aircraft did not constitute cabotage. Rather, their movements (YTZ-TEB-BOS-YYZ) constituted a single (as to each individual) continuous international journey originating and terminating in Canada with two stopovers in the United States (one in TEB and one in BOS). Since Cameron flew these passengers into the U.S. from Canada, it could lawfully transport them to other U.S. points,

¹ A single-entity charter is a charter in which the cost is borne directly by the charterer and not directly or indirectly by the individual passengers.

² Our focus on the itinerary of each individual passenger, rather than the chartering entity as a whole, is not merely required by a strict reading of the statute. If the movement of individual passengers were ignored in favor of the single continuous international journey of the single-entity charterer, then foreign air carriers could easily circumvent statutory restrictions on cabotage by designating the points between which they provided transportation within the United States as mere "stopovers" by the charterer. Such a result would eviscerate the statutory prohibition against cabotage.

provided that there was no break in each passenger's journey at any point prior to the terminal point.³

2. The carriage of the two TEB-originating passengers who terminated their journeys in BOS on January 16, 2011, constituted cabotage. Since their transport from TEB to BOS was solely between U.S. points aboard a foreign civil aircraft for which the operator was compensated, their carriage constituted cabotage.⁴

For purpose of its future operations, Cameron should take note that any passenger it enplanes at a point in the United States, regardless of the reason for the passenger's journey (e.g., business or leisure), his or her country of citizenship, whether the passenger or another party (e.g., the employer of the passenger's family member) paid for the transportation, or whether the transportation was arranged or paid for outside the United States, must be transported by Cameron to Canada⁵ as part of a single continuous international journey.

Mitigation

In mitigation Cameron states that it did not intentionally violate any law or regulation of the Department. Furthermore, Cameron asserts that it has been operating between Canada and the United States for almost twenty years and has not had any prior infractions or enforcement actions initiated by the Department of Transportation. Cameron states that it was cooperative in the Department's investigation of this flight and that immediately upon receiving notice of this flight from the Department took steps to ensure future compliance with the applicable laws and regulations.

Decision

The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered all of the information provided by Cameron Air Service, Inc., but continues to believe that enforcement action is warranted. The Enforcement Office and Cameron have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, Cameron Air Service, Inc., agrees to the issuance of this order to cease and desist from future violations of 49 U.S.C. §§ 41703 and 41712

³ We note that had a second foreign air carrier operated any of the U.S. legs of the operation, the second carrier would have engaged in unlawful cabotage service. We also note that these passengers could lawfully have terminated their journey at any of the points at which they stopped, rather than returning to Canada.

⁴ Other Canadian air carriers have been found to have engaged in cabotage under circumstances similar to those of the instant case, i.e., the carrier moved a number of passengers on journeys entirely between U.S. points pursuant to a single-entity charter that began and/or ended in Canada. See *London Air Services, Limited, Violations of 49 U.S.C. §§ 41301 and 41712*, Order 2003-1-9 (Jan. 6, 2003), *I.M.P. Group Limited, d/b/a Execaire, Violations of 49 U.S.C. §§ 41703 and 41712 and 14 CFR Part 294*, Order 2006-1-17 (Jan. 23, 2006), and *926724 Ontario Limited, d/b/a President Air Charter, Violations of 49 U.S.C. §§ 41703 and 41712 and 14 CFR Parts 205 and 294*, Order 2010-10-9 (Oct. 18, 2010).

⁵ The passengers may also be transported to a third country, to the extent that such transportation is permissible under the United States-Canada bilateral aviation agreement then in effect.

and 14 CFR Part 294 and to the assessment of \$20,000 (US) in compromise of potential civil 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 against future noncompliance with the Department's cabotage requirements by Cameron and other non-U.S. air carriers.

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

ACCORDINGLY,

1. Based on the above information, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Cameron Air Service, Inc., violated 49 U.S.C. § 41703 by carrying, for hire, two passengers between two points wholly within the United States;
3. We find that by engaging in the conduct described in paragraph 2 above, Cameron Air Service, Inc., also violated 14 CFR 294.81;
4. We find that by engaging in the conduct described in paragraphs 2 and 3 above, Cameron Air Service, Inc., engaged in unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712
5. We order Cameron Air Service, Inc., and all other entities owned or controlled by, or under common ownership and control with Cameron Air Service, Inc., their successors, affiliates, and assigns, to cease and desist from further similar violations of 49 U.S.C. §§ 41703 and 41712 and 14 CFR 294.81. Failure to comply with this cease and desist provision shall subject Cameron Air Service, Inc., and its successors and assignees to further enforcement action;
6. We assess Cameron Air Service, Inc., \$20,000 (US) in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$10,000 will become due and payable in four equal installments of \$2,500. The first installment of \$2,500 is due and payable within 30 days of the issuance date of this order, the second installment of \$2,500 is due and payable within 60 days of the issuance date of this order, the third installment of \$2,500 is due and payable within 90 days of the issuance date of this order, and the fourth and final installment of \$2,500 is due and payable within 120 days of the issuance date of this order. The remaining \$10,000 shall become due and payable if Cameron Air Service, Inc., violates this order's cease and desist provisions or the payment provisions within one year following the date of the issuance of this order, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately; and

7. We order Cameron Air Service, Inc., to remit the payment assessed in paragraph 6 above by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," 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 Cameron Air Service, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible additional 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)

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