



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 October, 2000

Aviones de Renta de Quintana Roo,
S.A. de C.V. d/b/a Avioquintana

Served October 18, 2000

Violations of 49 U.S.C. § 41301

CONSENT ORDER

This order concerns service by Aviones de Renta de Quintana Roo, S.A. de C.V. d/b/a Avioquintana, a Mexican air carrier, between points in the Caribbean and points in the U.S., performed without the requisite economic authority from the Department. Under 49 U.S.C. § 41301, foreign carriers must obtain permit authority from the Department pursuant to 49 U.S.C. § 41302 or an appropriate exemption prior to commencing service to the U.S. By this order, Avioquintana is found to have violated these requirements, ordered to cease and desist from further violations, and directed to pay a civil penalty in compromise of civil penalties otherwise assessable under 49 U.S.C. § 46301.

The unauthorized flights at issue consisted of crew transfer flights operated as charters on behalf of several European air carriers. The flights originated from points in the Caribbean, primarily Cancun, Mexico, Nassau, Bahamas, and Puerto Plata, Dominican Republic, with destinations in the U.S., most commonly Fort Lauderdale. Conducted during the period from September 1998 to September 1999, the service produced significant revenue for the carrier. The Office of Aviation Enforcement and Proceedings (Enforcement Office) became aware of Avioquintana's charter flights in connection with an application for charter permit authority which the carrier filed with the Department in 1999.¹

¹ Avioquintana filed an application for charter authority with the Department on September 29, 1999 (OST-99-6280).

In mitigation, Avioquintana states that it offered the service in question on the assumption that charters for a specialized market, such as crew transfers, would not constitute common carriage and hence did not require Department authority. It asserts, moreover, that the violations were inadvertent and that the service was halted promptly once it became aware of the permit requirements. The carrier states, in addition, that its safety and compliance record in its service within Mexico has been exemplary.

The Enforcement Office believes that Avioquintana's recent violations of the statutory permit requirements warrant enforcement measures. In order to avoid litigation, Avioquintana has agreed to the issuance of this order to cease and desist, including its findings, and the assessment of \$25,000 in compromise of potential civil penalties otherwise assessable under 49 U.S.C. § 46301, reflecting its violations of 49 U.S.C. § 41301. Of the assessed civil penalty, Avioquintana will pay one-half or \$12,500 according to the schedule set out in the ordering paragraphs below. The remaining \$12,500 shall be suspended for one year following the service date of this order and shall be forgiven unless Avioquintana fails to comply with the payment provisions of this order or commits other violations of 49 U.S.C. § 41301 or this order during the year following service of this order, in which case the entire unpaid portion of the \$25,000 assessed penalty shall become due and payable immediately. We believe this order will provide an incentive to Avioquintana and all other foreign air carriers to comply fully with the requirements of 49 U.S.C. § 41301 and the Department's rules and orders in the future.

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 in the public interest;
2. We find that Aviones de Renta de Quintana Roo, S.A. de C.V. d/b/a Avioquintana, has violated 49 U.S.C. § 41301 by engaging in service between foreign points and points in the U.S. without appropriate permit or exemption authority;
3. We order Aviones de Renta de Quintana Roo, S.A. de C.V. d/b/a Avioquintana, to cease and desist from further violations of 49 U.S.C. § 41301;
4. Aviones de Renta de Quintana Roo, S.A. de C.V. d/b/a Avioquintana, is assessed \$25,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraph 2 of this order. Of this amount, \$12,500 shall be paid over a one year period after the issuance of

this order according to the following schedule: an initial payment of \$1,500 shall be due and payable on November 1, 2000, and 11 subsequent payments of \$1,000 each will be due and payable on the first business day of each of the 11 succeeding months. The remaining \$12,500 shall be suspended for one year following the service date of this order and shall be forgiven at that time unless Avioquintana fails to comply with the payment provisions of this order or commits other violations of 49 U.S.C. § 41301 or this order during the suspension period, in which case the entire unpaid portion of the \$25,000 assessed penalty shall become due and payable immediately; and

5. Payments 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 in accordance with the attached instructions. Failure to pay the penalty as ordered will subject Aviones de Renta de Quintana Roo, S.A. de C.V. d/b/a Avioquintana to the 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 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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