

E C H E R U O
C O U N S E L A T T O R N E Y S A T L A W L L P

June 11, 2004

VIA FEDEX

Samuel Podberesky, Esq.
Assistant General Counsel for Aviation Enforcement and Proceedings
U.S. Department of Transportation
400 7th Street, S.W.
Washington, DC 20590

RE: WORLD AIRWAYS, INC., LITIGATION

Dear Mr. Podberesky:

As a follow up on our earlier correspondence and conversations with your Department, we write to request appropriate regulatory sanctions be imposed on World Airways, Inc. ("World") with respect to its conduct of the Nigerian flight program.

World appears to have engaged in a deliberate and long-running practice of contracting with, and providing its name and reputation to, public charter operations that were in clear violation of the public charter regulations. We believe that World's conduct is in clear violation of the Department's regulations¹. On the evidence before us we can arrive at no other conclusion than that World engaged in this practice simply for its own financial benefit in total disregard of the peril posed to prospective passengers. In light of the Department's recent suspension of the World Airways Inc. operated charter flights between Los Vegas and Hawaii (the charter operator was TM Travel, Inc. doing business as Jackie's) and the information available to us after limited discovery in the present litigation, we believe that it is clear that World engaged in a clear pattern of ignoring public charter regulations designed to protect the flying public.

The result of World's conduct has been considerable suffering and loss on the part of numerous passengers on the Nigerian flight programs. World's conduct includes the following:

¹ 14 C.F.R. § 380.40 (a) "A direct air carrier shall not perform air transportation in connection with such a charter unless it has made a reasonable effort to verify that all provisions of this part have been complied with..." Also 14 C.F.R. § 212.3 (d) "[c]arrier must make a reasonable effort to verify that any charterer with which it contracts, and any charter it conducts, meets the applicable requirements of this chapter."

Sham Escrow Accounts. In both the Hawaii and Nigeria flight programs, World received “bullet” payments in an account at Valley National Bank. World knew that the tour operators were not, as required by regulation, ensuring that passenger payments were paid into these escrow accounts. Instead, they received large periodic payments into these accounts which clearly were not compatible with the incremental passenger payments that one would expect if the charter operator was in compliance with regulation. World would upon receipt of these large payments on the same or following day have the funds transferred from the escrow account into its own bank account. Attached as Exhibit A to this letter is a statement from Valley National Bank indicating one such \$360,000 transfer into the account by Peter Obafemi (not Ritetime) on July 29, 2003 and a transfer of the same \$360,000 out of the account into World’s checking account the very next day. All payments received by World in connection with the Nigeria flight program were similar “bullet” payments. (We would be happy to provide the Department with copies of account information in our possession.)

Given the similar pattern of conduct in the Nigeria and Hawaii cases, World’s pretense at ignorance of these practices is ludicrous. In connection with the Hawaii program "[W]orld Airways contends that the travel agency 'has been improperly maintaining payments from its passengers for these flights in two separate bank accounts, Hawaii National Bank and Central Pacific Bank, instead of depositing those funds into the escrow account.' World Airways' attorney Roy Tjioe said, "We are trying to get information on funds that Jackie's received and see how much of the money will be paid out to customer refunds and how much is remaining after that." Tjioe said they also will look into the amount of money that should have been paid into the escrow account."²

Clearly World knew from activity in the escrow accounts that customer payments were not made into these accounts as required by regulation. Moreover, World’s former CEO, acknowledged in statements to investors during World’s February 9, 2004 conference call that Ritetime made bulk payments from accounts in Nigeria.

World Actively Participated in Attempts to Deceive Passengers. In addition to non-compliance with the public charter regulations, it appears from the evidence available to us that World actively conspired with Ritetime Aviation and Travel Services Inc. to hide or minimize the fact that the Nigerian flights were part of a charter program and deceive the flying public. Attached as Exhibit B to this letter are the relevant parts of the deposition testimony of Ann Aktabowski, World’s Vice President of Customer Service and Security. (We would be happy to provide the Department with the entire transcript of Ms. Aktabowski’s testimony.)

As Ms. Aktabowski’s testimony makes clear, Ritetime and Obafemi clearly indicated to World that they sought to deceive passengers on the charter status of the flights and sought World’s assistance in altering World’s ticket stock to accomplish this end. World complied with this request by altering its standard ticket stock to conceal the charter status of the flights.

² Honolulu Star Bulletin, Thursday, April 29, 2004

June 24, 2004

Attached as Exhibit C to this letter is a copy of a ticket actually utilized in the Nigeria charter program.

No charter participant agreements. In addition, in the hundreds of client interviews we have conducted with respect to the over 250 passenger we represent in this matter we have not encountered a single individual that was provided with a participant agreement in connection with the Nigeria flights. It appears obvious that not a single participant agreement was issued in connection with these flights. Ritetime's violation of the public charter regulations was brazen and consistent from the beginning of this operation and Ritetime conveyed its desire to deceive consumers to World. Instead of ensuring compliance, World colluded with Ritetime to violate these provisions and failed to report Ritetime's conduct to the Department.

In light of World's brazen disregard of the relevant regulations and the significant harm their conduct has caused to thousands of innocent individuals it would be unconscionable if World's punishment is the equivalent of an administrative slap on the wrist. The Department's public charter regulations were designed precisely to protect the public from the kind of harm they have suffered in this case. We therefore urge the Department take appropriately severe action to sanction World for its conduct. We also urge that such sanctions be publicly announced as deterrence to future violators.

We hope the enclosed information is helpful. We will continue to provide any information we believe will be of use to the Department with respect to this matter. Please let us know if you need any additional information.

Sincerely yours,

/s/ Ike O. Echeruo

Ike O. Echeruo

cc: **Via FedEx**

Michael Nolan, Esq. (DOT)

Rosalind Lazarus, Esq. (DOT)

Frank Costello, Esq. (Attorney for World Airways, Inc.)