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Order 2001-4-29

Served: April 24, 2001



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

Issued by the Department of Transportation
on the 23th day of April, 2001

Applications of

WANDE SCHECK AIRLINES (WSA)

for certificates for interstate and foreign scheduled
air transportation under 49 U.S.C. 41102

**Dockets OST-01-9405 - 2
and OST-01-9406 - 2**

ORDER REJECTING APPLICATIONS

Summary

By this order, we reject the interstate and foreign scheduled certificate applications filed in Dockets OST-01-9405 and 01-9406 by Wande Scheck Airlines (WSA).

Background

On April 9, 2001, Wande Scheck Airlines (WSA) filed applications in Dockets OST-01-9405 and 01-9406 requesting that the Department issue it certificates of public convenience and necessity authorizing interstate and foreign scheduled passenger air transportation operations. These applications were accompanied by a check in the amount of \$1,750, in payment of the fees required by section 389.25 of our rules for such applications (14 CFR 389.25). However, the Office of the Comptroller of the Currency has advised us that this check was drawn on a non-existent bank. As a result, the Department has no way to collect the fees required for processing of the subject applications and we are rejecting the applications as improperly filed.¹ Further, the writing of such a check to the Government raises significant questions not only about WSA's overall compliance disposition, but also about its managerial competence and financial condition.

Moreover, the applications at issue appear to be wholly inadequate in setting forth the information required by section 204.3 (14 CFR 204.3) of our rules for certificate applications.

¹ The matter involving the check having been written on a non-existent bank in payment of an application fee is being referred to the Department's Inspector General as well as to other appropriate Federal authorities in connection with any possible criminal violations relating to such activities.

Given these substantial deficiencies, the Department has no basis for proceeding to a fuller determination of WSA's fitness.²

We note that the applications at issue represent WSA's third attempt at filing for certificate authority. WSA's first two attempts were rejected outright by the Department's Dockets Management Section due to their failure to conform to the general requirements for applications set forth in our rules of practice (14 CFR Part 302).³ At the time of these rejections, Mr. Scheck, the individual filing the applications on WSA's behalf, was provided with a copy of the Department's Information Packet entitled "How to Become a Certificated Air Carrier,"⁴ and the name and phone number of a member of the Department's staff to contact should he require further assistance or clarification. Despite having received this information and offer of assistance, Mr. Scheck has now submitted, on behalf of WSA, applications that appear to lack most of the information required by our rules and to be otherwise incomprehensible. Given the drain such filings place on the Department's resources, we are unwilling to accept future applications from WSA unless such applications are filed by an aviation attorney or consultant experienced in such matters and the application fee is paid in full.

ACCORDINGLY, Acting under authority assigned by the Department in its regulations, 14 CFR 385.12:

1. We reject the applications filed in Dockets OST-01-9405 and 01-9406 by Wande Scheck Airlines (WSA).
2. We will serve a copy of this order on the persons listed in Attachment A.

² Section 41102 of Title 49 of the United States Code (Transportation) ("the Statute") directs us to determine whether applicants for certificate authority to provide interstate and foreign scheduled air transportation are "fit, willing, and able" to perform such transportation, and to comply with the Statute and the regulations of the Department. In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations, (2) will have access to resources sufficient to commence operations without posing an undue risk to consumers, and (3) will comply with the Statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen. In order for the Department to make the required fitness assessment, an applicant for certificate authority is required to submit information adequately addressing each of these critical components of the Department's fitness test in accordance with 14 CFR Part 204.

³ By letter dated November 1, 2000, the Docket office rejected and returned the first attempted filing of WSA. The second attempted filing of WSA was rejected and returned by letter dated December 29, 2000.

⁴ This publication has been developed by the Department to explain the Department's procedures for processing certificate applications and the type of information that must accompany a certificate application.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

This order shall be effective and become the final action of the Department of Transportation upon the expiration of the above period unless within such period a petition for review is filed or the Department gives notice that it will review this order on its own motion.

By:

RANDALL D. BENNETT
Director
Office of Aviation Analysis

(SEAL)

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