

133875



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

Issued by the Department of Transportation  
on the 5th day of June, 2001

**Grand Bahamas Vacations**

**Violations of 49 U.S.C. § 41712 and 14 CFR  
Part 399**

**Served June 5, 2001**

**CONSENT ORDER**

This consent order concerns advertisements by Grand Bahamas Vacations that violate the advertising requirements specified in Part 399 of the Department's regulations (14 CFR Part 399) and constitute an unfair and deceptive practice prohibited by 49 U.S.C § 41712. This order directs Grand Bahamas Vacations to cease and desist from future violations and to pay compromise civil penalties.

Grand Bahamas Vacations published a price advertisement in the February 4, 2001, issue of the *Washington Post* with the heading "Nonstop From Baltimore/Washington To Grand Bahama Island." The body of the ad lists different package prices and in the fine print states "Transfers, Hotel & US Gov't taxes, local airport fee & (\$30) fuel surcharge (\$98/3nts; \$104/4nts) added to payment." (emphasis added) A similar advertisement was published in other newspapers. Grand Bahamas Vacations also broadcast a radio advertisement stating, "Take a 3-night Grand Bahama vacation to the Resort at Bahamia from just \$279 per person in February." The ad also contained the statement "additional charges and restrictions apply." The fare as advertised failed to include so-called "fuel surcharges" and hotel taxes, and failed to disclose the amount of government-imposed or-approved taxes and fees that had to be paid in addition to the advertised price.

Under 14 CFR 399.84, any advertising that states a price for air transportation or air tour is considered to be an unfair or deceptive practice in violation of 49 U.S.C. § 41712 unless the price stated is the entire price to be paid by the customer to the air carrier or ticket agent for such air transportation, tour or tour component. However, as a matter of enforcement policy, the Department has permitted air carriers and agents to state separately from the advertised price

taxes and fees, imposed or approved by the government on a per-passenger basis, such as passenger facility charges, so long as their amounts appear or are stated in the advertisement. Fuel surcharges, however, must be included in the advertised fare (See, *e.g.*, Order 95-1-39), as must hotel taxes that are part of the air tour price and are paid to the carrier or travel agent. (See, *e.g.*, Order 92-2-1). As published, the Grand Bahamas Vacations' advertisements violate section 399.84 of the Department's regulations and 49 U.S.C. § 41712.

In mitigation, Grand Bahamas Vacations asserts that its policy has always been to provide complete and accurate fare information in all its advertising and, in particular, it has always been its policy to enable its passengers to compute the total price to be paid from its advertising. Grand Bahamas Vacations states that any shortcomings in its advertisements were inadvertent rather than the result of any intent to disregard the Department's regulations or to deceive the traveling public. Once Grand Bahamas Vacations learned that its advertised fare did not comply with the Department's "net fare" advertising policy, the tour operator immediately took steps to correct the matter, and implemented an advertising review policy to ensure compliance with the Department's policies in the future. The company further notes that in the over 25 years it has been in business, it has not been the subject of any other Department enforcement proceedings. The Department notes that Grand Bahamas Vacations has cooperated fully with the Department in resolving this matter.

The Enforcement Office has carefully considered the information provided by Grand Bahamas Vacations but continues to believe that enforcement action is warranted. In this connection, the Enforcement Office and Grand Bahamas Vacations have reached a settlement of this matter. Grand Bahamas Vacations consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41712 and 14 CFR 399.84, and to the assessment of \$30,000 in compromise of potential civil penalties otherwise assessable under 49 U.S.C. § 46301. Of this total penalty amount, \$15,000 shall be due and payable within 15 days of issuance of this order. The remaining \$15,000 shall be suspended for one year following issuance of this order, and then forgiven, unless Grand Bahamas Vacations violates this order's cease and desist provision within the one-year period, or fails to comply with the order's payment provisions, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and the carrier may be subject to further enforcement action. We believe that this compromise assessment is appropriate and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's advertising requirements by Grand Bahamas Vacations, as well as by airlines, travel agents, and other sellers of air transportation.

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 Grand Bahamas Vacations violated 14 CFR 399.84 by causing to be published price advertisements that failed to state the entire price to be paid for the advertised air tour;
3. We find that by engaging in the conduct and violation described in paragraph 2 above, Grand Bahamas Vacations also violated 49 U.S.C. § 41712;
4. Grand Bahamas Vacations and all other entities owned and controlled by, or under common ownership and control with, Grand Bahamas Vacations and their successors and assignees, are ordered to cease and desist from future violations of 14 CFR 399.84 and 49 U.S.C. § 41712;
5. Grand Bahamas Vacations is assessed \$30,000 in compromise of civil penalties that might otherwise be assessed for the violations found in paragraphs 2 and 3 of this order. Of this total penalty amount, \$15,000 shall be due and payable within 15 days of issuance of this order. The remaining \$15,000 shall be suspended for one year following issuance of this order, and then forgiven, unless Grand Bahamas Vacations violates this order's cease and desist provision within the one-year period, or fails to comply with the order's payment provisions, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and the carrier may be subject to further enforcement action. Failure to pay the compromise assessment as ordered will subject Grand Bahamas Vacations 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; and
6. Payment shall be made within 15 days of the service date of this order 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.

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](http://dms.dot.gov/reports/reports_aviation.asp)

---

**Attachment**

(1) <b>To</b> 021030004	(2) <b>Type</b>		
(3) <b>From</b>	(4) <b>Ref.</b>	(5) <b>Amount</b>	
(6) <b>Ordering Bank and Related Data</b>			
(7/8) TREAS NYC/CTR/OST			
(9) BNF=/AC-69010005 OBI=			
(10) <b>Payor</b>			
(11)			

1. **Treasury Department Code—Provided**
2. **Type Code—To be provided by sending bank.**
3. **Sending Bank’s Code—(ABA#)**
4. **Reference No.—Optional number, entered if sending bank desires to number transaction.**
5. **Amount—Include dollar sign and punctuation including cents digits.**
6. **Sending Bank Name—Telegraphic abbreviation corresponding to Item 4.**
- 7/8. **Entire line provided precisely as shown.**
9. **Entire line provided precisely as shown.**
10. **Enter name of air carrier or other payor (as shown on order).**
11. **Identify payment (maximum 80 digits). Enter order number (if any), issue date, and state “installment” or “full payment.”**

**NOTE:** Questions about these instructions should be directed to Mr. Yash Parekh, Office of Budget and Policy, Accounting Division, TBP-24, Rm 9422, DOT, phone: (202) 366-5760, fax: (202) 366-7163. To ensure proper credit, notify Mr. Parekh when each payment is made.