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Order 2001-10-12

Served: October 25, 2001



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

Issued by the Department of Transportation
on the 25th day of October, 2001

In the matter of the revocation of the interstate and
foreign charter certificates issued to

SKY TREK INTERNATIONAL AIRLINES, INC.

in accordance with section 204.7 of the
Department's Regulations

Dockets OST-96-1102 - 21
OST-96-1103 - 17

ORDER REVOKING INTERSTATE CERTIFICATE

Sky Trek International Airlines, Inc., holds certificate authority under 49 U.S.C. 41102 to engage in interstate and foreign charter air transportation of persons, property, and mail.¹ The company conducted operations under its certificate authority until April 13, 2000, when it ceased all operations due to certain safety issues identified by the Federal Aviation Administration. Section 204.7 of the Department's Aviation Economic Regulations (14 CFR 204.7) provides that, if a carrier ceases conducting the operations for which it was found fit, willing and able, its authority to conduct such operations is automatically suspended. As a result of its cessation of operations, in accordance with section 204.7 of our rules, Sky Trek's authority was automatically suspended.²

Section 204.7 also provides that the authority granted to an air carrier shall be terminated if the carrier has not operated for a one-year period under any authority for which it was found fit. By letter dated January 23, 2001, we reminded Sky Trek of the dormancy provisions of section 204.7 of our rules, and stated that, in accordance with the rule, we would revoke its certificate authority for reason of dormancy unless before April 13, 2001, we had received notification of the carrier's intent to have its fitness redetermined and to resume operations.

¹ See Order 97-6-8, issued June 6, 1997. This order reissued to Sky Trek the interstate charter certificate previously issued by Order 96-6-50, and the foreign charter certificate previously issued by Order 96-7-34 to reflect the effective date of these certificates.

² The company was notified of this suspension by letter dated April 14, 2000.

By letter dated February 26, 2001, Mr. Daniel Straffi advised the Department that the company's Chapter 11 bankruptcy filing, made May 12, 2000, had been converted into a Chapter 7 proceeding and that he had been appointed by the court as Trustee. In his letter, Mr. Straffi argued that Section 362 of the U.S. Bankruptcy Code prevented the Department's proposed revocation-for-dormancy action. In response to this letter, Department counsel advised Mr. Straffi that the Department's proposed action would not be a violation of the U.S. Bankruptcy Code and advised him that, if he wished to prevent such action, he must, on behalf of Sky Trek, file a request for an exemption from the revocation-for-dormancy provisions of section 204.7 before April 13, 2001.

By letter dated April 6, 2001, Mr. Straffi requested a six-month extension of the time period set by our rules for Sky Trek to resume flying operations (that is, until October 13, 2001).³ By letter dated April 23, 2001, the Department granted this request and advised the company that, absent a properly filed notification of Sky Trek's intent to resume operations on or before October 13, we intended to revoke its certificate authority at that time for reason of dormancy.

The October 13 deadline set by our April 23 letter has passed without any notification of intent to resume operations being received from Sky Trek. Further, Sky Trek has not filed any additional requests for an extension of the revocation-for-dormancy date beyond October 13, 2001.

Therefore, under these circumstances and in accordance with section 204.7 of our rules, we have decided to revoke, for reason of dormancy, the section 41102 certificates issued to Sky Trek authorizing it to engage in interstate and foreign charter air transportation.⁴

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

1. We revoke the interstate charter section 41102 certificate issued to Sky Trek Airlines, Inc., by Order 97-6-8 for reason of dormancy.⁵
2. We will serve a copy of this order on the persons listed in Attachment A.

³ While this request was not properly filed, nor accompanied by the required application fees, we nonetheless accepted it.

⁴ Our action here is without prejudice to the company's filing for new certificate authority in the future.

⁵ By this order, we revoke only Sky Trek's interstate certificate. Revocation of Sky Trek's foreign charter certificate is subject to Presidential review under 49 U.S.C. 41307 and will be handled in a separate order.

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.

The action taken in this order shall be effective immediately and the filing of a petition for review shall not alter its effectiveness.

By:

RANDALL D. BENNETT
Director
Office of Aviation Analysis

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

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