



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

Issued by the Department of Transportation
on the 23rd day of June 2009

Medjet Assistance, LLC

**Violations of 49 U.S.C. §§ 41101 and 41712 and
CAB Order 83-1-36**

Docket OST 2009-0001

Served June 23, 2009

CONSENT ORDER

This consent order concerns the unlawful holding out of direct air transportation by Medjet Assistance, LLC (MedjetAssist), an indirect air carrier specializing in air ambulance services. The conduct in question exceeded the scope of the economic authority conferred in Civil Aeronautics Board (CAB) Order 83-1-36 and violated 49 U.S.C. § 41101, the Department's economic licensing requirement for air carriers. Those violations also constituted an unfair and deceptive trade practice and unfair method of competition in violation of 49 U.S.C. § 41712. This consent order directs MedjetAssist to cease and desist from such further violations and assesses MedjetAssist a compromise civil penalty of \$25,000.

As background, in addition to applicable Federal Aviation Administration (FAA) requirements, in order to engage in air transportation as a direct¹ or an indirect air carrier², citizens of the United States³ must hold economic authority from the Department, either in the form of a certificate of public convenience and necessity issued pursuant to 49 U.S.C. § 41101 or as an exemption from section 41101. In 1983, the CAB, which held jurisdiction over the economic aspects of aviation licensing prior to the Department, issued

¹ A "direct air carrier" is a person or other entity that provides air transportation and that has control over the operational functions involved in providing that transportation.

² An "indirect air carrier" is a person or other entity that engages indirectly in air transportation operations and who uses for such transportation the services of a direct air carrier.

³ A "citizen of the United States" includes a corporation organized in the United States that 1) meets certain specified numerical standards regarding the citizenship of its president, officers and directors, and holders of its voting interest and 2) is under the actual control of citizens of the United States. 49 U.S.C. § 40102(a)(15).

Order 83-1-36, a blanket exemption from what is now section 41101 that allows entities to operate as “indirect air carriers to the extent necessary... to hold out, arrange, and coordinate the operation of air ambulance services,” provided that they meet certain conditions.⁴ While this exemption permits entities that are not duly licensed direct air carriers to sell air transportation in their own right, it does not permit indirect carriers to hold themselves out to the public in a manner that would reasonably create the impression that they are direct air carriers. Such misrepresentations violate section 41101 and Order 83-1-36 and constitute an unfair and deceptive trade practice and unfair method of competition in violation of 49 U.S.C. § 41712.

MedjetAssist is a medical assistance membership program that arranges air ambulance services for members in emergency medical situations. MedjetAssist holds neither the economic authority from the Department nor the corresponding safety authority from the FAA required of a direct air carrier. As an indirect air carrier, MedjetAssist uses direct air carriers to coordinate and carry out the transport of its members through air ambulance services. It selects direct air carriers to complete missions based on location, time and cost, tasking the carriers with coordinating and completing the medical evacuations. MedjetAssist has no operational control of any aircraft completing medical evacuation missions for its members.

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) of MedjetAssist’s advertising practices revealed violations of 49 U.S.C. §§ 41101 and 41712, and CAB Order 83-1-36. Specifically, MedjetAssist’s advertising using various media included statements that could lead consumers to reasonably conclude that MedjetAssist is a direct air carrier. For example, “MedjetAssist will pick you up and fly you to the hospital of your choice at no additional cost...” and similar statements appeared in numerous brochures and flyers, as well as radio, magazine and internet ads. Testimonials appearing on MedjetAssist’s website contain statements such as, “[Members names] were picked up by MEDJET’s state-of-the-art, medically equipped aircraft, and were accompanied by a team of medical attendants... .” In isolation and collectively, these statements and images implied that MedjetAssist exercised operational control over flights in the manner of a direct air carrier.

In mitigation, MedjetAssist emphasizes that it is committed to integrity and full regulatory compliance in all of its operations and strives to comply fully with the Department’s regulations and all applicable laws. MedjetAssist neither admits nor denies wrongfully engaging in conduct violating Department regulations or any other applicable laws in this matter. MedjetAssist stresses that any alleged noncompliance on its part was completely unintentional and inadvertent, and that it has received no consumer complaints regarding the materials at issue. MedjetAssist states that it designed its website and other advertising materials in a manner consistent with other indirect air carriers specializing in air ambulance services. In addition, MedjetAssist points out that it took immediate remedial actions to bring its website and advertising materials into full compliance with the Department’s regulations and to prevent any future violations. It took such actions proactively, voluntarily, and without delay upon receiving notification from the

⁴ *Air Ambulance Operators, Blanket Exemption*, Order 83-1-36, 99 CAB 801 (1983).

Department. MedjetAssist cooperated fully with the Department throughout its investigation and continues to maintain a positive and proactive working relationship with the Department.

The Enforcement Office has carefully considered all of the information available to it, including the cooperation of MedjetAssist, but continues to believe that enforcement action is warranted. In order to avoid litigation, the Enforcement Office and MedjetAssist have reached a settlement of this matter. Without admitting or denying the violations described above, MedjetAssist agrees to the issuance of this order to cease and desist from future violations of 49 U.S.C. §§ 41101 and 41712 and CAB Order 83-1-36. MedjetAssist further agrees to the assessment of \$25,000 in compromise of potential civil penalties otherwise assessable against it. This compromise assessment is appropriate in view of the nature and extent of the violations in question, serves the public interest, and establishes a deterrent to future similar unlawful practices by MedjetAssist and other indirect air carriers.

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 the order as being in the public interest.
2. We find that Medjet Assistance, LLC violated CAB Order 83-1-36, as described above, by holding itself out as a direct air carrier without possessing the appropriate economic authority.
3. We find that Medjet Assistance, LLC violated 49 U.S.C. § 41101, as described above, by holding itself out as a direct air carrier without possessing the appropriate economic authority.
4. We find that by engaging in the conduct described in paragraphs 2 and 3 above, Medjet Assistance, LLC engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712.
5. We order Medjet Assistance, LLC and all other entities owned and controlled by or under common ownership with Medjet Assistance, LLC and its successors and assignees, to cease and desist from further violations of 49 U.S.C. §§ 41101 and 41712 and CAB Order 83-1-36.
6. We order Medjet Assistance, LLC to submit to the Office of Aviation Enforcement and Proceedings on the one-year anniversary of the service date of this order, copies of all advertising material, including print-outs of all versions of its Internet website, that Medjet Assistance, LLC has caused to be published since the service date of this order.
7. We assess Medjet Assistance, LLC a compromise civil penalty of \$25,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2, 3, and 4, above. Of this total penalty amount, \$12,500 shall be due and

payable within 20 days of the issuance of this order. The remaining \$12,500 shall become due and payable if Medjet Assistance, LLC violates this order's cease and desist provisions within one year following the date of issuance of this order, or fails to comply with the payment provisions of this order, in which case the entire unpaid portion of the \$25,000 assessment penalty shall become due and payable immediately. Failure to pay the penalty as ordered shall subject Medjet Assistance, LLC to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to possible additional enforcement action for failure to comply with this order.

8. Payment 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 as described in the attached instructions.

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 initiative.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

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