

## Independent Arbitration Panel Rules of Procedure

### 1. Introduction

These rules govern appeals to the Independent Arbitration Panel (Panel) from determinations of the Airlines Reporting Corporation (ARC) in accordance with the certificate of incorporation of ARC. Paragraph *Fifteenth* of that document deals with, among other things, the composition, selection, and decisional authority of the Panel; defines the type of ARC "determination" which is subject to appeal, as well as the limitations on the Panel's jurisdiction in such matters; and contains a description of the persons who may appeal. Paragraph *Fifteenth* is reproduced as Attachment I to these rules and made a part hereof by reference.

Except where inconsistent with requirements applicable to it, the Panel reserves the right to alter, amend, and modify these rules as experience requires. It may also waive particular rules in an appeal proceeding where appropriate in the interests of fairness.

### 2. The Travel Agent Arbiter Program, Inc.

The Panel is housed within the Travel Agent Arbiter Program, Inc. (TAAP) for administrative purposes. TAAP, therefore, provides all administrative, budgetary, clerical and other support services for the Panel. In this capacity, TAAP shall serve as the recipient of all filings called for by these rules, which are to be addressed to the Panel in care of TAAP, 9401 Battle Street, Manassas, VA 20110; [[travelagentarbiter@verizon.net](mailto:travelagentarbiter@verizon.net)]; telephone (703) 530-9002 and fax (703) 530-9004].

### 3. The Panel

The Panel, consisting of three regular members, will designate a Chairman, an office which will be rotated among the members periodically. The Chairman will be responsible for dealing with TAAP on behalf of the Panel on all administrative and procedural matters that do not require the attention of the panelists.

### 4. The Parties

The parties to an appeal proceeding are the appellant and ARC. Unless the Panel directs otherwise, other persons having an interest in the subject matter of an appeal will make their positions known to the Panel through either party.

### 5. Notice of Appeal

An appeal proceeding is instituted by the filing of a notice of appeal within 15 calendar days after the date of the determination being appealed. The notice shall be accompanied by a check or money order in the amount of \$1000 from each named Appellant, payable to the Travel Agent Arbiter Program, which will be used to defray all or part of the appellants' share of the expenses incurred by the Panel in the proceeding.

The notice of appeal shall contain a narrative description of the determination, its procedural history, the relief requested, and such other facts as may be necessary to establish the Panel's jurisdiction.

### 6. Appellant's Supporting Documentation

Within 30 calendar days after the filing of the notice of appeal, the appellant may file documentation in support of its appeal.

Such documentation shall clearly identify evidentiary material on which the appellant relies and separate it from argument in support of the appellant's position. If evidentiary exhibits are submitted and require explanation, each should be accompanied by a narrative. Conclusions which the appellant wishes the Panel to draw from the evidence shall be separately stated as argument.

## 7. ARC's Answer

ARC's answer shall be filed within 20 calendar days after the date of receipt by ARC of the appellant's documentation. The same requirements as to content specified in Rule 6 shall apply.

In addition, ARC's answer shall contain a concise and complete response to all allegations and requests for relief contained in the appellant's pleadings, and shall clearly indicate which such allegations or requests are not contested.

## 8. Appellant's Reply

Appellant's reply shall be due 15 calendar days after it has received ARC's answer. The appellant shall also indicate the specific areas of agreement and disagreement with ARC's position as reflected in its answer.

## 9. Hearings

The parties shall notify the Panel in writing, by no later than the due date for the appellant's reply, whether they desire an evidentiary hearing, an oral argument, or both.

If the Panel determines pursuant to such a request, or on its own initiative, that a hearing is necessary or desirable, it will enter an order within seven (7) days after receiving the appellant's reply setting the matter for hearing no later than 45 calendar days from the date of such order. The order will set forth such procedural ground rules for the conduct of the hearing as may be appropriate.

## 10. Stenographic Record

Ordinarily a stenographic record of a hearing is the responsibility of the party desiring it, who shall make the necessary arrangements, coordinate them with TAAP acting on the Panel's behalf and with the opposing party, and pay the costs. However, the Panel may on its own initiative direct that such a transcript be made, in which case the costs will be divided equally between the parties.

## 11. Decisions

The Panel will render a written decision and serve it on the parties within 30 calendar days after the close of the record. The record shall be deemed to be closed upon the conclusion of the hearing or upon the filing of the last pleading in the appeal authorized by the Panel, whichever shall later occur.

The written decision shall contain separately stated Findings of Fact (in numbered paragraphs), and Conclusions of Law, and shall provide a clear and concise statement granting, rejecting or otherwise making recommendations concerning appeals.

## 12. Filing and Service of Documents

As indicated in Rule 2, all pleadings addressed to the Panel and authorized by these rules are to be submitted for filing to the Office of TAAP. The filings should be made in an original and four (4) copies and shall be served by the party submitting them upon the other party.

All such documents and pleadings shall be filed and served by messenger, express mail, or expedited courier delivery services. They will be considered to have been filed and served when actually received.

Other communications, such as letters and notices, may be filed and served by ordinary first class mail.

If the due date for a filing falls on a Saturday, Sunday, or Federal legal holiday, the date for filing will be extended to the next business day.

No pleadings other than those authorized by the rules shall be accepted for filing and docketed without the prior approval of the Panel.

### **13. Prohibited Communications**

No party shall offer, nor shall any panelist entertain, any private communication, written or oral, with respect to the merits of a pending appeal. All procedural requests shall be addressed to the Panel in care of TAAP, not to the Chairman or other panelists.

### **14. Retention and Release of Panel Records**

The records of appeal proceedings, including the pleadings, transcript of the hearing, if any, and the decision, shall be retained at the Office of TAAP for such period as the Panel shall direct. No part of any record shall be released to a non-party by TAAP or any panelist without the express consent of both parties to the appeal proceeding in question.

### **15. Costs**

The costs incurred by the Panel as the result of an appeal proceeding shall be divided evenly between the parties as follows: fifty- percent from ARC, and fifty- percent from all of the appellants combined.

**Attachment 1 – Certificate of Incorporation of Airlines Reporting  
Corporation  
A Closed Corporation**

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*Fifteenth.* The Corporation shall establish an Independent Arbitration Panel (IAP) comprised of three persons, none of whom may be employed by or affiliated with the Corporation, any air carrier (carrier), any travel agent (agent), or any agent association or organization. The three persons and their terms of office shall be selected by the Corporation's Joint Advisory Board - Agent Reporting Agreement (JAB-ARA); however, such selection and terms shall be subject to ratification by a majority vote of the Board of Directors of the Corporation (the Board).

The Corporation hereby delegates, subject to the terms and conditions of the Article, authority to the IAP (1) to hear appeals on any and all matters affecting agents and the Corporation, and (2) to grant or reject, or otherwise make recommendations concerning, appeals.

Each such appeal must be in writing, be made by at least two members of the JAB-ARA, one of whom must be an agent organization, after the matter being appealed has been reviewed by the JAB-ARA and subsequently by the Board, and be made to the IAP within 15 days following the Board's determination with which the two or more members of the JAB-ARA disagree.

In each appeal in which the relief requested is to direct that the Board implement a proposal that it has rejected or has failed to act upon, the appellants shall sustain the burden of demonstrating to the IAP that the proposal is fair and equitable to all parties and that the Board has unreasonably withheld its approval.

"Determination," as used in this resolution, means both an action taken by the Board, and the failure of the Board to act on a proposal; provided, however, that in each appeal made with respect to a failure of the Board to act on a proposal the proceeding shall be stayed automatically for 60 days from the filing of the notice of appeal.

Notwithstanding the above, the IAP shall have no power to hear an appeal regarding the following:

- (1) a proposal related to those provisions of the Corporation's Agent Reporting Agreement that establishes initial accreditation standards (other than financial standards);
- (2) a proposal arising from the good faith review of possible alternatives to the Corporation's uniform remittance procedure, or from the good faith review of the Corporation's bond requirement, which reviews were undertaken pursuant to, respectively, paragraphs 8 and 9 of the settlement agreement dated April 7, 1987 between the Corporation and the other parties to *Association of Retail Travel Agents, Ltd. (ARTA) v. Air Transport Association of American, et al.*, Civil Action No. 84-2942, (D.D.C. April 8, 1987);
- (3) any matter that was specifically addressed and agreed upon in the settlement agreement (other than determination by the Board to change arrangements agreed upon in the settlement agreement); and
- (4) any matter relating to the internal administration of the corporation.