

DBR DAILY BUSINESS REVIEW

VERDICTS & SETTLEMENTS

Chinese airline awarded \$1.7M for school's breach of contract in new pilot training

Case: Shandong Airlines Co., LTD, v. CAPT, LLC, and Flight Training Service International

Case no: 3:09-cv-00308

Description: Breach of contract and fraudulent inducement

Filing date: April 6, 2009

Judgment date: June 26, 2009

Judgment: \$1.7 million

Judge: U.S. District Judge Timothy J. Corrigan

Plaintiff attorneys: Brant Hadaway and Vince Li, Diaz Reus & Targ, Miami

Details: Chinese commercial carrier Shandong Airlines contracted with CAPT's commercial airline pilot training program in March 2008 to train 24 cadets the following year. Shandong agreed to pay \$68,000 per cadet in four installments, with the goal of getting Federal Aviation Administration certification. Under the contract, CAPT was required to provide the cadets with housing and an allowance of \$70 per week.

In April 2008, the trainees arrived at CAPT's facilities in Palm Coast on M-1 student visas. By December, the cadets still hadn't completed the initial phase of training, and Shandong had paid 75 percent of the contract price. The two parties renegotiated the contract to allow both the training and Shandong's payments to be completed by February.

In January, CAPT told Shandong that it was going to cease operations for a week to seek additional money for training and stopped paying the cadets' allowances, according to a letter from the company included in the airline's lawsuit.

Training never resumed. In late March, CAPT told Shandong that unless it increased its payments by almost \$20,000 per trainee, it would stop all training and withdraw its sponsorship of their student visas. John A. Pringle, CAPT's chief operating officer, wrote the airline March 27 to say the company agreed to provide "a year's worth of very expensive training at prices that are less than the cost to provide the training." If Shandong chose not to pay, he



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Plaintiff attorneys Brant Hadaway and Vince Li of Diaz Reus & Targ in Miami contended the school knew it did not have the financial resources to finish the training as promised.

warned, "You can look in your mirror to find the reason why training for your cadets will not be completed."

Shandong sued CAPT and parent Flight Training Service International in Jacksonville federal court, seeking relief for breach of contract and fraudulent inducement and an injunction to prevent CAPT from revoking the visas, according to the suit.

Plaintiff case: Shandong contended CAPT knew that it did not have the financial resources to finish the training as promised. Hadaway said the airline would suffer "irrevocable injury" if the cadets lost their visas and headed back to China without certification. Shandong claimed it lost revenue due to the training delays and payments for incomplete training.

Defense case: The defendants did not respond to the complaint or enter an appearance, even though both were served three times. CAPT's Web site is down. The phone number for FTSI does not work.

Outcome: Corrigan entered a temporary restraining order April 6 to prevent CAPT from revoking the cadets' M-1 visas and taking steps that would jeopardize CAPT's status as an FAA-licensed facility, such as closing the school and selling its equipment. The judge followed up with a preliminary injunction April 28.

On June 26, Corrigan found the defendants breached the contract and entered a partial final default judgment of \$1.7 million for the costs of uncompleted training, visa extensions and temporary housing. Corrigan gave the plaintiff until the end of July to prove additional damages of almost \$2.2 million in lost profit.

Quotes: "Their strategy has been not to spend money on litigation but to funnel their resources out of the state," Hadaway said. CAPT's actions were "tantamount to threatening them [cadets] with deportation."

Post-judgment: U.S. Magistrate Judge Monte Richardson entered writs of garnishment and attachment for almost \$4.4 million following news that the defendants were closing the flight school and planned to auction assets worth an estimated \$3 million June 27. The court issued a writ of execution for the amount of damages July 2.

Hadaway said his client is looking at the business practices of the parent and subsidiary and considering its options. He said he is unsure whether Shandong will seek the \$2.2 million in lost profits.