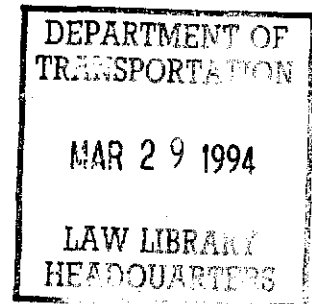


Order 94-3-53

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



Issued by the Department of Transportation
on the 28th day of March, 1994

Quassar de Mexico, S.A.

Served March 28, 1994

Violations of

**Section 402 of the Federal Aviation Act
and 14 CFR Part 212**

CONSENT ORDER

Quassar de Mexico, S.A. (Quassar), a Mexican air carrier, conducted several charter flights between points in Mexico and points in the United States in October and November, 1993 without requisite economic authority from the Department. While Quassar holds exemption authority under section 416 of the Federal Aviation Act (Act; 49 U.S.C. app. §1386),¹ to conduct charter operations between the two countries, the bilateral aviation agreement requires prior approval for each charter flight. Quassar failed to apply for a statement of authorization under Part 212 of our rules (14 CFR Part 212) to operate the flights in question.

Quassar's failure to obtain a statement of authorization constitutes a violation of the conditions of Quassar's exemption authority and as a result, violates section 402 of the Act, as well as Part 212. This order directs Quassar to cease and desist from violations of section 402 and Part 212.

In mitigation, Quassar states that it apprised the Department of these violations, and that it promptly sought approval for the vast majority of flights in its ongoing charter programs. The carrier states that, as a new carrier in the U.S.-Mexico charter market, it has had to implement new procedures in its administrative handling of charter programs in an effort to avoid similar oversights in the future. Finally, Quassar has cooperated fully in the investigation of this matter.

¹ See Order 93-7-1.

Notwithstanding these mitigating factors, the Office of Aviation Enforcement and Proceedings (Enforcement Office) believes that Quassar's violations of its exemption authority warrant enforcement action. In order to avoid litigation, Quassar has agreed to the issuance of this order to cease and desist and the findings made below. Under this order, Quassar is assessed \$2,000 in compromise of potential civil penalties otherwise assessable under the provisions of section 901(a) of the Act (49 U.S.C. § 1471). Of this amount, \$1,000 shall be paid within 30 days of the date of issuance of this order. The remaining \$1,000 shall be suspended for one year following the service date of this order and shall be forgiven unless Quassar fails to comply with the payment provisions of this order or commits other violations of section 402 of the Act, or this order during the year following issuance of this order, in which case the entire unpaid portion of the \$2,000 assessed penalty shall become due and payable immediately. The Enforcement Office believes that the assessment of a civil penalty in this instance is warranted in light of the nature and extent of the activities in question. This order and the penalty it assesses will provide an incentive to foreign air carriers to comply fully with the requirements of Part 212 in the future.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.22.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as in the public interest;
2. We find that Quassar de Mexico, S.A., violated section 402 of the Federal Aviation Act (49 U.S.C. § 1372) and 14 CFR Part 212 by performing charter service between Mexico and the United States for which it lacked authority;
3. We order Quassar de Mexico, S.A., to cease and desist from further violations of section 402 of the Federal Aviation Act and 14 CFR Part 212, as described above;
4. Quassar de Mexico, S.A. (Quassar), is assessed \$2,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraph 2 of this order. Of this amount, \$1,000 shall be paid within 30 days of the date of issuance of this order. The remaining \$1,000 shall be suspended for one year following the issuance date of this order and shall be forgiven unless Quassar fails to comply with the payment provisions of this order during the year following issuance of this order or commits other violations of Part 212, section 402 of the Act, or this order during the year following

issuance of this order, in which case the entire unpaid portion of the \$2,000 assessed penalty shall become due and payable immediately; and

5. Payment shall be by wire transfer through the Federal Reserve Communications System, commonly known as "Fed wire," to the account of the U. S. Treasury in accordance with the attached instructions. Failure to pay the penalty as ordered will subject Quassar to assessment of interest, penalty and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order.

This order will become a final order of the Department 10 days after its service 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)

(1) To 021030004	(2) Type		
(3) From	(4) Ref.	(5) Amount	
(6) Ordering Bank and Related Data			
(7/8) TREAS NYC/CTR/OST			
(9) BNF=/AC-69010005 OBI=			
(10) Payor			
(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 Yash Parekh (B-32) (202) (366-5760). To ensure proper credit, Mr. Parekh should be notified when each payment is made.