



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

Issued by the Department of Transportation
on the 18th day of September, 2009

Canadian Helicopters Limited

Violations of 49 U.S.C. §§ 41301 and 41712

Served September 18, 2009

Docket OST 2009-0001

CONSENT ORDER

This order concerns unauthorized air transportation by Canadian Helicopters Limited/Helicopteres Canadiens Limitee (Canadian Helicopters) between Canada and the United States (U.S.) in violation of 49 U.S.C. §§ 41301 and 41712. It directs Canadian Helicopters to cease and desist from further violations of these statutory provisions and to pay a compromise civil penalty of \$125,000 (US).

Canadian Helicopters, a foreign air carrier within the meaning of 49 U.S.C. § 40102(a)(21), provides helicopter services to a broad range of sectors, including emergency medical services (EMS), infrastructure maintenance, utilities, oil and gas, forestry, mining and construction. Canadian Helicopters provides helicopter service in the United States primarily in the EMS sector, but also in support of specialty operations including forest fire suppression activities and geophysical exploration programs. On November 1, 1996, Canadian Helicopters received conditional economic authority from the Department to engage in trans-border charter air transportation pursuant to 14 CFR Part 294.¹ In order for the Part 294 authority to become effective, 14 CFR 294.33 requires that Canadian charter air taxi operators obtain safety authority from the Federal Aviation Administration (FAA) in the form of operations specifications under 14 CFR Part 129. For a period of time subsequent to receipt of its conditional economic authority, Canadian Helicopters conducted a substantial number of trans-border operations, primarily EMS flights transferring critical-care patients between hospitals in Canada and hospitals in the U.S. In April 2009, as a result of an irregular

¹ Part 294 provides an exemption for "Canadian charter air taxis" from the permit requirements of 49 U.S.C. § 41301 provided that such carriers register with the Department and have the requisite level of liability insurance. The exemption authority conferred under Part 294 is available only to carriers that operate "small aircraft," which are defined in section 294.2(i) as "any aircraft designed to have a maximum passenger capacity of not more than 30 seats"

operation requiring an EMS flight to land at Buffalo International Airport, it was discovered and subsequently confirmed that Canadian Helicopters was not holding operations specifications issued by the FAA. In the absence of operations specifications from the FAA, Canadian Helicopters never had effective economic authority, thereby contravening 49 U.S.C. § 41301, which requires that foreign air carriers obtain a permit from the Department, or a valid exemption from the permit requirement, such as that available to Canadian charter air taxis under Part 294, prior to commencing service to the United States. Violations of section 41301 also constitute an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712.

The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered all of the information provided by Canadian Helicopters but continues to believe that enforcement action is warranted. In this connection and in order to avoid litigation, the Enforcement Office and Canadian Helicopters have reached a settlement of this matter. Without admitting or denying the violations described above, Canadian Helicopters agrees to the issuance of this order to cease and desist from future violations of 49 U.S.C. §§ 41301 and 41712 and to the assessment of \$125,000 (US) in compromise of potential civil penalties otherwise assessable. The Enforcement Office believes this compromise assessment is appropriate in view of the nature and extent of the violations in question, serves the public interest, and creates an incentive for all foreign air carriers to comply fully with the requirements of 49 U.S.C. §§ 41301 and 41712.

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 this order as being in the public interest;
2. We find that Canadian Helicopters Limited/Helicopteres Canadiens Limitee violated 49 U.S.C. § 41301 by operating EMS air service between Canada and the United States without economic authority from the Department;
3. We find that, by engaging in the conduct and violations described in paragraph 2 of this order, Canadian Helicopters Limited/Helicopteres Canadiens Limitee engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order Canadian Helicopters Limited/Helicopteres Canadiens Limitee and all other entities owned and controlled by, or under common ownership and control with Canadian Helicopters Limited/Helicopteres Canadiens Limitee and their successors and assignees, to cease and desist from future violations of 49 U.S.C. §§ 41301 and 41712;
5. We assess a compromise civil penalty of \$125,000 (US) in lieu of civil penalties that might otherwise be assessed for the violations found in paragraphs 2 and 3 of this order. Of this total amount, \$62,500 will become due and payable within 30 days of the issuance of this order. The remaining \$62,500 will become due and payable if Canadian Helicopters Limited/Helicopteres Canadiens Limitee violates this order's cease and desist provisions within one year following the date of the issuance of this order, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and Canadian Helicopters

Limited/Helicopteres Canadiens Limitee may be subject to additional enforcement action for failure to comply with this order.

6. 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 in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Canadian Helicopters Limited/Helicopteres Canadiens Limitee to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to 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 initiative.

BY:

SAMUEL PODBERESKY
Assistant General Counsel for
Aviation Enforcement and Proceedings

(SEAL)

*An electronic version of this document is available at
www.regulations.gov*