

BEFORE THE DEPARTMENT OF TRANSPORTATION
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS
WASHINGTON, D.C.

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)
Benjamin Edelman,)
third-party complainant)
)
v.) Docket DOT-OST-2013-____
)
American Airlines, Inc.)
)
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COMPLAINT OF BENJAMIN EDELMAN

Comments with respect to this document should be addressed to:

Benjamin Edelman
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Dated: December 12, 2013

BEFORE THE DEPARTMENT OF TRANSPORTATION
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS
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1. In my complaint of February 4, 2013, I alleged that American Airlines staff and systems repeatedly mischaracterize certain carrier-imposed fees as “tax.” I substantiated that allegation with screenshots, receipts, email correspondence, call recordings, my personal first-hand experience, and the experience of others.

2. In its Consent Order of December 11, 2013, DOT affirmed that the practices at issue are indeed unfair and deceptive. DOT ordered AA to cease these practices, and AA confirmed having done so. Inexplicably, and contrary to its representation in the Consent Order, AA continues similar practices to this day.

3. Specifically, in my testing, AA.COM now systematically mischaracterizes carrier-imposed surcharges as “tax” on award bookings, and AA.COM further systematically falsely states that these bookings have zero “carrier imposed surcharges” when that is not the case.

4. On December 11, 2013, I requested one-way business class award travel from Boston to London. I was quoted a price of 50,000 miles plus \$438.20. See Exhibit 1. I clicked “Show Trip Details” and received the screen shown in Exhibit 2. The resulting itemization declared that “Taxes” were “\$438.20” and “Carrier-Imposed Fees” were “\$0.00.” On information and belief, the overwhelming majority of the \$438.20 is carrier-imposed surcharge, not “tax.” For paid travel on the same routing, the ITA Matrix tool indicates that AA charges a \$414 YR surcharge.

5. On December 11, 2013, I requested one-way coach award travel from Boston to London. I was quoted a price of 20,000 miles plus \$253.20. I clicked “Show Trip Details” and received the screen shown in Exhibit 3. The resulting itemization declared that “Taxes” were “\$253.20” and “Carrier-Imposed Fees” were “\$0.00.” On information and belief, the overwhelming majority of the \$253.20 is carrier-imposed surcharge, not “tax.” For paid travel on the same routing, the ITA Matrix tool indicates that AA charges a \$229 YR surcharge.

6. On December 12, 2013, I requested round-trip coach award travel from Washington Dulles to London. I was quoted a price of 40,000 miles plus \$692.30. I clicked “Show Trip Details” and received the screen shown in Exhibit 4. The resulting itemization declared that “Taxes” were “\$692.30” and “Carrier-Imposed Fees” were “\$0.00.” On information and belief, the overwhelming majority of the \$692.30 is carrier-imposed surcharge, not “tax.” For paid travel on the same routing, the ITA Matrix tool indicates that AA charges a \$458 YR surcharge.

7. All of the statements at issue were literally false. They were not merely unfair or deceptive; rather, they were *false*. Specifically, the AA.COM fare quote

unambiguously claimed that taxes apply in an amount that is simply not true.

Furthermore, the AA.COM fare quote unambiguously claimed that carrier-imposed fees are not charged when that, too, is not correct.

8. Others have noted the same problem. Specifically, on the popular discussion forum FlyerTalk, a user with username “billgrates3” reported substantially the same false statements on AA.COM. See <http://www.flyertalk.com/forum/21950356-post15.html> .

9. The misrepresentations at issue cause consumers to believe that their AAdvantage miles are more valuable than is actually the case. If a reasonable consumer were told that his redemption required payment of a carrier-imposed surcharge of several hundred dollars, the consumer would place a reduced value on AAdvantage miles.

10. The Consent Order in DOT-OST-2013-0024 (order 2003-12-6) provides in part that “American consents to the issuance of an *order to cease and desist from future similar violations* of 49 U.S.C. § 41712 and 14 CFR 399.84(a)” (emphasis added). These obligations apply immediately, and American is not in compliance.

11. Compared to the conduct flagged in my prior complaint, the practices here at issue are importantly worse. The practices here at issue are entirely automated and cannot be attributed to agent error. (In contrast, a portion of my prior complaint resulted from agents’ oral statements.) The practices here at issue are statements prior to purchase, more likely to influence consumers’ purchases. (In contrast, a portion of my prior complaint resulted from receipts provided after purchase and customer correspondence occurring after purchase.) The practices here at issue include both a false

statement of tax and an affirmative false statement of (lack of) carrier-imposed fees. (In contrast, my prior complaint resulted only from false statements of tax.)

12. I ask that the Department of Transportation:

- (1) Exercise its authority under 49 USC 41712 to open an investigation of American Airlines for having engaged in, and continuing to engage in, the unfair or deceptive practices described above;
- (2) Pursuant to such investigation, order American Airlines to refund to ticket purchasers all monies represented to ticket purchasers as “taxes” or government-imposed fees, but not actually remitted to governments;
- (3) Impose appropriate civil penalties on American Airlines; and
- (4) Refer this matter to appropriate US and foreign tax collection agencies for investigation of possible tax fraud or other violations of tax law in non-payment to governments of monies collected as “taxes” or government-imposed fees.

I suggest that when DOT imposes monetary penalties for this further violation, DOT should consider the fact that the 2013-12-6 Consent Order specifically requires that AA permanently cease and desist from precisely these practices. A heightened penalty is appropriate in light of American’s sophistication and size, the duration of the practices at issue, the continuation of these practices after consumer complaints, the continuation of these practices after DOT inquiry, the continuation of these practice after AA had specifically promised DOT that these practices had ceased (and had entered into a formal

binding consent order to that effect), and AA's ongoing refusal to refund affected passengers the amounts which AA has falsely characterized as "tax."

Respectfully submitted,
/s/
Benjamin Edelman

Attachment 1

The screenshot shows the American Airlines website interface. At the top, the browser address bar displays "American Airlines, Inc. (US) | https://www.aa.com/award/submitAwardFlights.do". The website header includes the American Airlines logo, navigation links for "Plan Travel", "Travel Information", and "AAdvantage", and a search bar. Below the header is a progress bar with steps: "Find Flights", "Select Dates", "Choose Flights", "Travelers", "Review & Pay", and "Finish".

The main content area displays flight details for "Boston to London" for "1 Passenger" on "Wednesday January 29, 2014". A table shows the AAdvantage account status:

Current Mileage Balance	[REDACTED]
Total Miles Required	50,000
Balance After	[REDACTED]

Next to the table is a "Need More Miles? >" link. To the right, a box titled "Your Trip Price:" shows "50,000 miles" and "+\$438.20 USD", with a link for "Baggage and Optional Charges". A "Show Trip Details" button is located below the table.

Below the flight details is a promotional banner for the AAdvantage Citi card, featuring an image of the card and the text: "About to redeem 50,000 AAdvantage* bonus miles? Boost your mileage balance! Earn 30,000 bonus miles, up to \$100 in statement credits, and your first checked bag free!". A "*Learn More" link is provided at the bottom of the banner.

At the bottom of the page, there is a link for "Passenger Details" with an external link icon.

Attachment 2

American Airlines Plan Travel Travel Information AAdvantage

Find Flights Select Dates Choose Flights Travelers Review & Pay Finish

Boston to London
1 Passenger
Wednesday January 29, 2014

AAdvantage
Account # [REDACTED]

Current Mileage Balance	[REDACTED]
Total Miles Required	50,000
Balance After	[REDACTED]

Your Trip Price:
50,000 miles
+\$438.20 USD

Flight	Depart	Arrive
British Airways BA 238	Boston (BOS) January 29, 2014 07:50 AM Travel Time : 6 h 25 m Cabin Class : Business Seat : unassigned	London (LHR) January 29, 2014 07:15 PM Booking Code : U Plane Type : 777

Current Mileage Balance
Available [REDACTED] miles

Mileage Needed
Departure BusinessFirst
MileSAver Award 50,000 miles

Mileage Balance After
[REDACTED] miles

Taxes and Fees
Taxes \$438.20

Mileage Needed
Departure BusinessFirst
MileSAver Award 50,000 miles

Mileage Balance After
[REDACTED] miles

Taxes and Fees
Taxes \$438.20
Carrier-Imposed Fees \$0.00
Tax and Award Charge Information

Flight Subtotal
50,000 miles
+ \$438.20

Your Trip Price:
50,000 miles
+\$438.20 USD

[View Fare Rules](#)

- Award mileage levels, taxes, fees and charges are not guaranteed until tickets are purchased
- Changes to your award ticket may result in [additional charges](#)
- View [award ticket reinstatement](#) guidelines
- View [AAdvantage Terms and Conditions](#)
- In order to comply with federal security regulations, we may provide government agencies access to data you disclose to us.
- [Optional Services and Carrier Charges](#) include, but are not limited to, items such as checked or carry-on baggage, seat selection and seat upgrades.

[Flight Information Questions?](#)

Attachment 3

Boston to London
1 Passenger
Wednesday January 29, 2014

AAdvantage
Account # [REDACTED]

Current Mileage Balance	[REDACTED]
Total Miles Required	20,000
Balance After	[REDACTED]

[Need More Miles? >](#)

Flight	Depart	Arrive
British Airways BA 238	Boston (BOS) January 29, 2014 07:50 AM Travel Time: 6 h 25 m Cabin Class: Economy Seat: unassigned	London (LHR) January 29, 2014 07:15 PM Booking Code: X Plane Type: 777

Your Trip Price:
20,000 miles
+\$253.20 USD
[Baggage and Optional Charges](#)

Current Mileage Balance
Available: [REDACTED] miles

Mileage Needed
Departure: Economy MileSAver
Off-Peak Award: 20,000 miles

Mileage Balance After
[REDACTED] miles

Taxes and Fees
Taxes: \$253.20
Carrier-Imposed Fees: \$0.00
[Tax and Award Charge Information](#)

Flight Subtotal

Attachment 4

Washington to London
1 Passenger
Wednesday February 12, 2014 – Wednesday February 19, 2014

AAdvantage
Account # [REDACTED]

Current Mileage Balance	2,634,619
Total Miles Required	40,000
Balance After	2,594,619

[Need More Miles? >](#)

Flight	Depart	Arrive
British Airways BA 216	Washington (IAD) February 12, 2014 06:15 PM Travel Time: 7 h 5 m Cabin Class: Economy Seat: unassigned	London (LHR) February 13, 2014 06:20 AM Booking Code: X Plane Type: 777
British Airways BA 217	London (LHR) February 19, 2014 11:15 AM Travel Time: 8 h 15 m Cabin Class: Economy Seat: unassigned	Washington (IAD) February 19, 2014 02:30 PM Booking Code: X Plane Type: 777

Your Trip Price:
40,000 miles
+\$692.30 USD
[Baggage and Optional Charges](#)

Current Mileage Balance
Available: [REDACTED] miles

Mileage Needed
Departure: Economy MileSAver
Off-Peak Award: 20,000 miles
Return: Economy MileSAver
Off-Peak Award: 20,000 miles

Mileage Balance After
[REDACTED] miles

Taxes and Fees
Taxes: \$692.30
Carrier-Imposed Fees: \$0.00

Certificate of Service

I hereby certify that I have, this 12th day of December, 2013 caused a copy of the foregoing Complaint to be served by electronic mail on the following persons:

Robert Silverberg, Esq. rsilverberg@sbgdc.com
Samuel Podberesky, Esq. sam.podberesky@dot.gov

/s/

Benjamin Edelman