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

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Richard Gouin,)	
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v.)	Docket DOT-OST-2020-_____
)	
Jet Blue)	
)	
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COMPLAINT OF RICHARD GOUIN

Comments with respect to this document should be addressed to:

Richard Gouin
116 Dennett St
Portsmouth, NH, United States.
03801

E-mail: goupro@comcast.net

Dated: August 4, 2020

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

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Richard Gouin,)
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v.) Docket DOT-OST-2020-____
)
Jet Blue)
)
-----)

COMPLAINT OF RICHARD GOUIN

1. This complaint arises out of Jet Blue’s non-compliance with the Department’s rules regarding consumers’ right to be refunded for flights to or from the United States (“U.S. Flights”) cancelled by airlines, even for reasons outside the carriers’ control, as described in the Department’s “Enforcement Notice Regarding Refunds by Carriers Given the Unprecedented Impact of the COVID-19 Public Health Emergency on Air Travel”¹ (“Enforcement Notice”).
2. This complaint also arises out of Jet Blue’s application of its refund policies, which constitutes an unfair or deceptive practice within the meaning of 49 U.S.C. § 41712².

¹ Enforcement Notice Regarding Refunds by Carriers Given the Unprecedented Impact of the COVID-19 Public Health Emergency on Air Travel (April 3, 2020) at https://www.transportation.gov/airconsumer/enforcement_notice_refunds_apr_3_2020.

See also 14 CFR § 259.5(b)(5), and Enhancing Airline Passenger Protections, 76 Fed. Reg. 23110-01, at 23129 (Apr. 25, 2011).

² Under 49 USC § 41712, the Department is authorized to investigate and decide whether a U.S. air carrier, foreign air carrier, or ticket agent engaged in an unfair or deceptive practice in air transportation or the sale of air transportation. The Department is also authorized to issue orders to stop an unfair or deceptive practice after notice and opportunity for a hearing.

According to 14 CFR § 399.80(1)(l), it is the policy of the Department to regard as an unfair or deceptive practice or unfair method of competition the practices enumerated in paragraphs (a) through (n) of this section by a ticket agent of any size and the practice enumerated in paragraph(s) by a ticket agent that sells air transportation online and is not considered a small business under the Small Business

Administration's size standards set forth in 13 CFR 121.201:

(l) Failing or refusing to make proper refunds promptly when service cannot be performed as contracted or representing that such refunds are obtainable only at some other point, thus depriving persons of the immediate use of the money to arrange other transportation, or forcing them to suffer unnecessary inconveniences and delays or requiring them to accept transportation at higher cost, or under less desirable circumstances, or on less desirable aircraft than that represented at the time of sale.

FACTS

A. Flight cancelled by Jet Blue

3. On October 2, 2019, I purchased a ticket for a one-way flight on Jet Blue from Orlando, FL (MCO) to Boston, MA (BOS) departing on May 2, 2020 with a layover in JFK (Attachment 1).
4. On , I learned that my flight was cancelled by Jet Blue (Attachment 2).
5. On April 5, 2020, I contacted Jet Blue to request a refund for the cancelled flight, but my request was denied. I was offered a Voucher/Credit (Attachment 3). I accepted a voucher/credit of \$0.00.
6. I had booked the flight on behalf of 2 person(s). The name(s) of the individual(s) are the following: Perry Gouin.

B. Jet Blue’s refund policy for cancelled flights

7. Jet Blue’s current policy is that customers who purchased nonrefundable flight tickets are not entitled to receive full refunds for flights cancelled or changed by the carrier due to reasons outside its control, including cancellations attributed to the COVID-19 pandemic. Jet Blue only offers flight vouchers or credits in such situations and claims in its United States English website that “in accordance with government regulations”, that such bookings are ineligible for a refund .

C. Jet Blue’s obligations

8. Jet Blue is an airline that operates flights from and to the United States and is therefore subject to the Department’s jurisdiction for such flights and bound by the rules enunciated in the Enforcement Notice, which apply to U.S. and foreign airlines operating flights from, to and within the United States.
9. In its Enforcement Notice, and based on existing federal regulation, the Department reminds airlines about their obligation to offer prompt refunds for flights significantly delayed or cancelled by the carriers, even if the reason of such flight disruptions are outside the carrier’s control, and regardless of the nonrefundability or cancellation penalty provisions of the ticket purchased by the affected consumers.
10. In page 2 of its Enforcement Notice, the Department lists the actions non-complying airlines must take to avoid enforcement action, as follows:
 - a. the carrier contacts, in a timely manner, the passengers provided vouchers for flights that the carrier cancelled or significantly delayed to notify those passengers that they have the option of a refund;

- b. the carrier updates its refund policies and contract of carriage provisions to make clear that it provides refunds to passengers if the carrier cancels a flight or makes a significant schedule change;
- c. the carrier reviews with its personnel, including reservationists, ticket counter agents, refund personnel, and other customer service professionals, the circumstances under which refunds should be made.

11. On May 12, 2020, the Department issued a notice³ in the form of answers to frequently asked questions regarding airline ticket refunds. In the answer to question 4 of the notice, the Department reiterates that airlines may not retroactively apply changes to their refund policies and must honor the policies in place at the time of ticket purchase.

D. Jet Blue’s non-compliance and violations

12. Jet Blue’s policy of not issuing prompt refunds for U.S. Flights that are significantly delayed or cancelled by the carrier for reasons outside its control, and regardless of the nonrefundability and cancellation penalty provisions of the purchased ticket, is in direct violation of its obligation to offer prompt refunds to affected consumers as per the rules detailed in the Department’s Enforcement Notice.
13. Prior to the COVID-19 pandemic, Jet Blue’s policies indicated that consumers can receive refunds for schedule changes and cancellations attributed to the COVID-19 pandemic. However, and since then, Jet Blue changed its refund policies for cancellations and schedule changes in a way that negatively affects consumers by no

³ U.S. Department of Transportation, Office of Aviation Enforcement and Proceedings, Frequently Asked Questions Regarding Airline Ticket Refunds Given the Unprecedented Impact of the COVID-19 Public Health Emergency on Air Travel (See answer to question 4: “May airlines and ticket agents retroactively apply new refund policies?”) https://www.transportation.gov/airconsumer/FAQ_refunds_may_12_2020.

longer permitting refunds. The new policy is applied by Jet Blue based on the date of the cancellation or schedule change, and regardless of the policy in place at the time the passenger purchased the ticket.

14. The aforementioned no-refund policy is applied by Jet Blue regardless of the policies and terms in place at the time consumers purchased flight tickets, which stipulate that Jet Blue will issue refunds for cancelled flights. Jet Blue's policy constitutes an unfair or deceptive practice within the meaning of 49 U.S.C. § 41712.
15. According to 14 CFR § 399.80(1)(l), it is the policy of the Department to regard as an unfair or deceptive practice or unfair method of competition the practices enumerated in paragraphs (a) through (n) of this section by a ticket agent of any size and the practice enumerated in paragraph(s) by a ticket agent that sells air transportation online and is not considered a small business under the Small Business

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16. Many airlines are complying with their obligations to refund passengers, especially after the issuance of the Enforcement Notice on April 3rd. These airlines will be in an unfairly disadvantageous situation if other airlines, such as Jet Blue are allowed to continue practices that violate the same obligations without incurring any penalty.

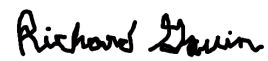
REQUESTED RESOLUTION

17. I am seeking the airline provide me with an Refund. In addition, I ask that the Department of Transportation to do the following:

- (1) Exercise its authority under 49 USC 41712 to open an investigation of Jet Blue for its non-compliance with the Department's Enforcement Notice and the regulations on which the notice is based;
- (2) Order Jet Blue to comply with its obligation to offer prompt full refunds to original form of payment for U.S. flights that are significantly delayed or cancelled by the carrier, regardless of the reason of such flight disturbances and regardless of the nonrefundability or the cancellation penalty of the tickets purchased by affected customers.
- (3) Order Jet Blue to:
 - a. contact, in a timely manner, the passengers provided vouchers for U.S. Flights significantly delayed or cancelled by the carrier to notify those passengers that they have the option of a refund;
 - b. update its refund policies, contract of carriage and tariff provisions to make clear that it provides prompt refunds to passengers if the carrier cancels a U.S. Flight or makes a significant schedule change, regardless of the reason of such flight disruptions and regardless of the nonrefundability or the cancellation penalty provisions of the tickets purchased by the affected customers;

- c. review with its personnel, including reservationists, ticket counter agents, refund personnel, and other customer service professionals, the circumstances under which refunds should be made.
- (4) Impose appropriate civil penalties on Jet Blue.

Respectfully submitted,

A handwritten signature in black ink that reads "Richard Gouin". The script is cursive and fluid.

Richard Gouin

Richard Gouin
Complaint – Jet Blue

Attachment 1

Copy of flight itinerary/eticket receipt

[illegible]

Attachment 2

Confirmation/notice that a flight in your reservation has been cancelled by the airline.

From: JetBlue Reservations jetblueairways@email.jetblue.com
Subject: Your itinerary has been canceled.
Date: April 5, 2020 at 9:58 AM
To: goupro@comcast.net



Thanks again for choosing JetBlue.



TRUE BLUE | #2137921381

Plans change. Our gratitude doesn't.
We'll be here for you when you're ready to travel again.

Please note: This is not your boarding pass.

Your confirmation code is

SQVUDJ

Flights

MCO

Orlando, FL
Terminal: A



JFK

New York, NY

Date Sat, May 02
Departs 12:20pm
Arrives 2:51pm
Flight 284



JFK

New York, NY
Terminal: 5



BOS

Boston, MA

Date Sat, May 02
Departs 4:30pm
Arrives 5:34pm
Flight 718





Traveler Details

RICHARD GOUIN

Frequent Flier: B6 2137921381

MCO - JFK:

Bags: This trip does not include any checked bags.

Seat: N/A

JFK - BOS:

Bags: This trip does not include any checked bags.

Seat: N/A

PERRY GOUIN

Frequent Flier: B6 2137922064

MCO - JFK:

Bags: This trip does not include any checked bags.

Seat: N/A

JFK - BOS:

Bags: This trip does not include any checked bags.

Seat: N/A

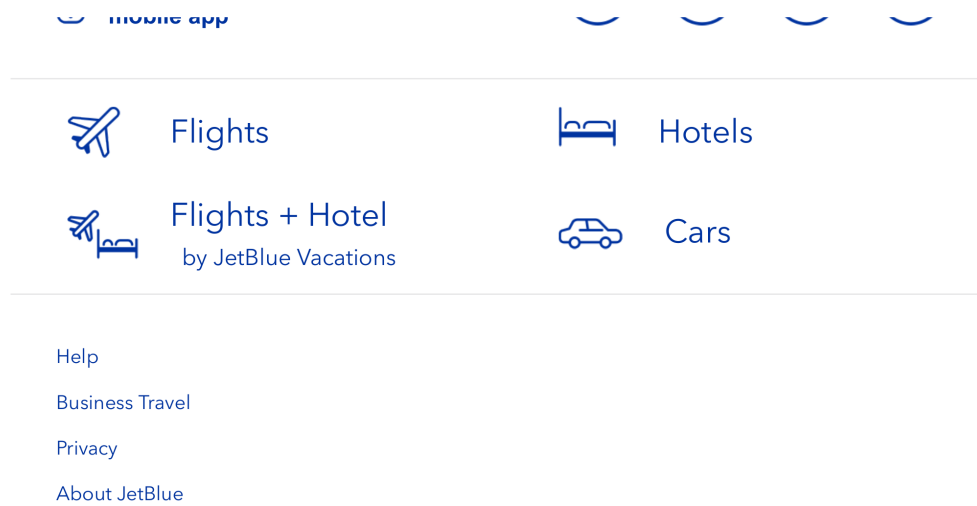
[Flight Tracker](#) | [Bag Info](#) | [Airport Info](#)

Stay Connected



Download the JetBlue
mobile app





CUSTOMER CONCERNS

Any customer inquiries or concerns can be addressed here, emailed to dearjetblue@jetblue.com, or sent to JetBlue Airways, 6322 South 3000 East, Suite G10, Salt Lake City, UT 84121.

NOTICE OF INCORPORATED TERMS

All travel on JetBlue is subject to JetBlue's Contract of Carriage, the full terms of which are incorporated herein by reference, including but not restricted to: (i) Limits on JetBlue's liability for personal injury or death, and for loss, damage, or delay of goods and baggage, including special rules for fragile and perishable goods; (ii) Claims restrictions, including time periods within which you must file a claim or bring an action against JetBlue; (iii) Rights of JetBlue to change the terms of the Contract of Carriage; (iv) Rules on reservations, check-in, and refusal to carry; (v) JetBlue's rights and limits on its liability for delay or failure to perform service, including schedule changes, substitution of aircraft or alternate air carriers, and rerouting; (iv) Non-refundability of reservations. International travel may also be subject to JetBlue's International Passenger Rules Tariffs on file with the U.S. Department of Transportation and, where applicable, the Montreal Convention or the Warsaw Convention and its amendments and special contracts. The full text of the Contract of Carriage is available for inspection at book.jetblue.com and all airport customer service counters. Tariffs may also be inspected at all airport customer service counters. You have the right to receive a copy of the Contract of Carriage and tariffs by mail upon request.

NOTICE OF INCREASED GOVERNMENT TAX OR FEE

JetBlue reserves the right to collect additional payment after a fare has been paid in full and tickets issued for any additional government taxes or fees assessed or imposed.

CARRY-ON BAGGAGE RULES

In general, customers are restricted to: one (1) carry-on item that must be placed in the overhead bin and must not exceed external dimensions of 22in x 14in. x 9in; and one (1) small personal item, such as a purse, briefcase, laptop computer case, small backpack, or a small camera, which must fit completely under the seat in front of the customer. Please visit book.jetblue.com for additional information and exceptions. On any given flight, JetBlue reserves the right to further restrict the number of carry-on items as circumstances may require.

CUSTOMER BAGGAGE POLICIES

CHECKED BAGGAGE ALLOWANCE/FEES

For Blue fares, the first checked bag fee is \$35 and the second checked bag is \$45. For Blue Plus fares, one checked bag is included and the second checked bag fee is \$45. For Blue Flex fares, two checked bags are included. For TrueBlue Mosaic members: two checked bags are included. For Mint fares: two checked bags are included. For all fares, the third and any additional bags are \$150 each. All bags are subject to size/weight restrictions. Other fees apply for oversized or overweight baggage. See book.jetblue.com/bags. Excess baggage rules and size/weight restrictions may vary depending on load availability and country restrictions. See book.jetblue.com/bags for more information. Travel on our partner airlines (excluding Cape Air*) – Baggage rules and fees vary by partner airline and destination. JetBlue will follow our partner airlines' fees when customers are traveling on an itinerary including one of our partner airlines. Excess baggage rules and size/weight restrictions may vary depending on load availability. See book.jetblue.com/bags for more information. Travel on our partner airlines (excluding Cape Air*) – Baggage rules and fees vary by partner airline and destination. JetBlue will follow our partner airlines' fees when customers are traveling on an itinerary including one of our partner airlines. Excess baggage rules and size/weight restrictions may vary depending on load availability. See <http://book.jetblue.com/partners> for more information.

*For itineraries with a connection only to/from Cape Air, JetBlue's standard fees apply.

CHECK-IN TIMES

For domestic travel, customers traveling with checked baggage must obtain a boarding pass and check their baggage no less than forty (40) minutes prior to scheduled departure and be onboard the aircraft no less than fifteen (15) minutes prior to the scheduled or posted departure time. Customers traveling without checked baggage must obtain a boarding pass no less than thirty (30) minutes prior to scheduled departure and be onboard the aircraft no less than fifteen (15) minutes prior to scheduled or posted departure time. For international travel, all customers must obtain a boarding pass and check their baggage no less than sixty (60) minutes prior to scheduled departure and be onboard the aircraft no less than fifteen (15) minutes prior to the scheduled or posted departure time.

DOCUMENTATION REQUIREMENTS

For domestic travel, customers over the age of 18 must present government-issued photo identification that includes a tamper resistant feature, name, date of birth, gender, and expiration date. Documents required for international travel vary according to country of travel, citizenship, residency, age, length of stay, purpose of visit, etc., and customers should contact the embassy or consulate in their destination country for all documentation requirements, including proof of return or onward travel. It is your responsibility to ensure you have the required documentation for travel. JetBlue reserves the right to deny boarding to anyone without proper documentation and is not responsible for any failure by you to have the required documentation for entry into a foreign country or return into the United States.

ADVICE TO DOMESTIC CUSTOMERS ON CARRIER LIABILITY

For travel entirely within the U.S., JetBlue's liability for loss, damage or delay in delivery of baggage is limited to \$3,500 per ticketed passenger unless a higher value is declared in advance and additional charges are paid. JetBlue assumes no responsibility for fragile, unsuitably packaged, irreplaceable, essential, or perishable items. Please refer to JetBlue's Contract of Carriage for additional information.

ADVICE TO INTERNATIONAL PASSENGERS ON LIMITATION OF LIABILITY

Passengers on a journey involving an ultimate destination or a stop in a country other than the country of departure are advised that international treaties known as the Montreal Convention, or its predecessor, the Warsaw Convention, including its amendments, may apply to the entire journey, including any portion thereof within a country. For such passengers, the treaty, including special

including any person entered within a country. For each passenger, the treaty, including special contracts of carriage embodied in applicable tariffs, governs and may limit the liability of JetBlue in respect of death or injury to passengers, and for destruction or loss of, or damage to, baggage, and for delay of passengers and baggage. If your journey also involves carriage by other airlines, you should contact them for information on their limits of liability. Please refer to JetBlue's Contract of Carriage for additional information, including the limits of liability for services provided in the European Union.

NOTICE OF OVERBOOKING OF FLIGHTS

While JetBlue does not intentionally overbook its flights, there is still a slight chance that a seat will not be available on a flight for which a person has a confirmed reservation. If the flight is overbooked, no one will be denied a seat until airline personnel first ask for volunteers willing to give up their reservation in exchange for a payment of the airline's choosing. If there are not enough volunteers, JetBlue will deny boarding to other persons in accordance with its particular boarding priority. With few exceptions, including failure to comply with JetBlue's check-in deadlines, persons denied boarding involuntarily are entitled to compensation. Please refer to JetBlue's Contract of Carriage for the complete rules for the payment of compensation and JetBlue's boarding priorities. Some airlines do not apply these consumer protections to travel from some foreign countries, although other consumer protections may be available. Check with your airline or your travel agent.

Richard Gouin
Complaint – Jet Blue

Attachment 3

Proof of communication that the Airline denied your request for a refund.

[illegible]

Additional Attachments

Certificate of Service

I hereby certify that I have, this 15 day of August 2020 a copy of the foregoing Complaint to be served by electronic mail on the following persons:

Kimberly Graber, Esq.

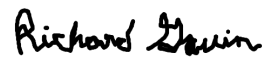
kimberly.graber@dot.gov

Blane Workie, Esq.

blane.workie@dot.gov

Robert Gorman, Esq.

robert.gorman@dot.gov

A handwritten signature in black ink that reads "Richard Gouin". The signature is written in a cursive, slightly slanted style.

Richard Gouin