

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Chaim Zeev Rozen,
Third-Party Complainant,

v.

Virgin Atlantic,
Respondent.

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) Docket DOT-OST-2025-0030
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ANSWER OF VIRGIN ATLANTIC AIRWAYS LTD.

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May 22, 2025

Chaim Zeev Rozen,)	
Third-Party Complainant,)	
)	
v.)	Docket DOT-OST-2025-0030
)	
Virgin Atlantic,)	
Respondent.)	
)	

Pursuant to 14 C.F.R. §§ 302.405(a) and 302.408(b), Virgin Atlantic Airways, Ltd. (“VAA”) hereby answers the complaint, dated April 9, 2025 (“Complaint” or “Compl.”), filed by Chaim Zeev Rozen (“Complainant”) in the above-referenced docket.¹ For the reasons discussed below, VAA respectfully requests that the Department dismiss the Complaint pursuant to 14 C.F.R. § 302.406(a)(2) without any further investigation or enforcement action.

Complainant's allegations relate to VAA's determination that Complainant's Virgin Atlantic Flying Club ("Flying Club") frequent flier account had been used for fraudulent activity and therefore breached the terms and conditions associated with VAA's Flying Club. Complainant alleges that VAA acted improperly when it restricted his access to his Flying Club account; cancelled three tickets he booked using points transferred into his VAA account from Chase; failed to notify him about the cancellation of such bookings;

1

and falsely accused him of loyalty fraud. As explained below, Complainant's allegations do not warrant an investigation or enforcement action, and the Department should deny all requested relief and dismiss the Complaint.

a. VAA Acted Reasonably and in Good Faith in Evaluating the Use of Points and Activity in Complainant's Flying Club Account.

Airline fraud has increased significantly in severity and frequency during recent years, and like other major airlines, VAA deploys various tools to detect and deter fraudulent bookings. These actions protect not just VAA, but also its customers, from fraudulent activity. In the case of Complainant, VAA's fraud detection tools flagged the booking as having a significant and substantial likelihood of being associated with fraudulent activity. This determination resulted from several tools utilized by VAA which, taken together, provided a series of specific data points and several markers (including, but not limited to, Complainant's email, which was flagged at the highest level for fraudulent activity) that indicated that the booking was the result of fraudulent activity and therefore breached VAA's Flying Club Terms and Conditions ("Flying Club Terms").

VAA does not generally share publicly the methods or sources it uses to detect fraud and root out violators of its Flying Club Terms, and for good reason – doing so publicly would provide bad actors with information that would assist them in circumventing these procedures in the future. It is VAA's policy not to share with external parties information obtained through its commercial fraud screening tools. Thus, VAA's ability to defend its decision in public is severely restricted.

After determining that the activity in Complainant's Flying Club account had many hallmarks of fraudulent activity and therefore breached the Flying Club Terms, VAA cancelled the booking in accordance with its procedures and suspended access to

Complainant's account to ensure no additional potentially fraudulent bookings were made while VAA investigated the matter. Shortly following cancellation of Complainant's reservation, Complainant contacted VAA to inquire as to the reason his account was suspended. From the moment Complainant first reached out to VAA regarding this matter, VAA has been clear and forthcoming that the reason for the cancellation of his booking and suspension of access to his account was due to a recent investigation by VAA's Loyalty Fraud Team that determined that the account has been used for fraudulent activity. Because fraudulent activity violates VAA's Flying Club Terms, Complainant's account was suspended in accordance with those terms, and his booking was cancelled.

b. VAA's Actions Were Consistent with its Flying Club Terms.

Complainant asserts that VAA did not act reasonably when it "seized the Chase credit card points that [he] earned..." and cancelled the booking and that such actions were contrary to the Flying Club Terms. (Compl. ¶¶ 6, 20.) Complainant excerpts the following language from the Flying Club Terms, "VAA and VR [Virgin Red] will act reasonably in exercising its rights under this paragraph", (Compl. ¶ 20), but fails to cite the following relevant language in that same paragraph 9.2:

VAA and/or VR may refuse to issue Virgin Points or process Rewards if VAA and/or VR reasonably believes there has been fraud, breach or failure to fulfill any of these Flying Club Terms, or other current restrictions or requirements which have been made available to you. Any breach of these Flying Club Terms or other requirements contained on the VAA website may result in denial of travel and/or redemption of Rewards and cancellation of all Virgin Points, Rewards and termination of your FC Programme membership.

Virgin Atlantic Flying Club Terms and Conditions, Effective November 30, 2021 until October 30, 2024, available at <https://help.virginatlantic.com/il/en/policies/terms-and-conditions/flying-club.html>. As discussed above, VAA reasonably believed that the

booking through Complainant's Flying Club account was associated with fraudulent conduct given numerous informational markers available to VAA as part of its fraud review process. Accordingly, the Flying Club Terms stipulate that VAA had the right to deny Complainant's travel in the form of cancelling the booking that it reasonably suspected was the result of fraudulent activity and constituted a breach of the Flying Club Terms, and to suspend access to his account.

VAA's Flying Club Terms also stipulate that "[VAA] retains ownership of the Virgin Points in Members' accounts" and that "Virgin Points, issued at any time, are owned by VR and all rights in Virgin Points remain with VR and do not pass to FC Members." Flying Club Terms, Sections 3.1.7 and 9.1. Thus, VAA was not obligated to reinstate the points transferred. Nevertheless, as discussed below, VAA has now restored access to the account, as well as the points Complainant used to make the booking VAA reasonably suspected as fraudulent, solely as a gesture of goodwill.²

c. VAA Did Not Violate 14 C.F.R. § § 260.6, 260.10, 260.9, or 259.8(a).

Complainant mistakenly claims that VAA violated 14 C.F.R. §§ 260.6, 260.10, 260.9, and 259.8(a) (Compl. ¶¶ 14, 15, 16, 17, and misnumbered 11.) VAA did not violate these regulations.

Under Part 260, air carriers must promptly refund consumers for "[a]irfare including nonrefundable airfare **for a flight that is cancelled** or significantly changed where the consumer does not accept the significantly changed flight or rebooking on an alternative flight, or accept any voucher, credit, or other compensation offered by the carrier." 14 C.F.R. § 260.1(c) (emphasis added). Further, under the general fare refund rule in Section

² Upon cancellation of the booking, VAA timely refunded Complainant the cash payment associated with his ticket purchase, which consisted of taxes and fees.

260.6(a)(1), covered carriers must “provide a full and prompt refund of the airfare, including any taxes and ancillary fees, . . . to a consumer that holds a nonrefundable ticket on a scheduled flight to, from, or within the United States **for any cancelled flight...**” when the consumer does not choose a permitted alternative. (Emphasis added.) Moreover, the obligation for a covered carrier to timely notify affected customers about a cancelled flight under Section 260.9(a) is “[u]pon the occurrence of a **flight cancellation**” (emphasis added), and to provide a prompt refund under Section 260.10 is when a refund “is due pursuant to this part [260].”

Each of the Part 260 regulations that VAA allegedly violated is based on the premise that there was “a cancelled flight” or “flight cancellation.” However, Section 260.2 defines a “[c]ancelled flight or flight cancellation” as “a covered flight with a specific flight number scheduled to be operated between a specific origin-destination city pair that was published in the carrier’s Computer Reservation System at the time of the ticket sale but not operated by the carrier.” In this case, the flight at issue (DL Flight 184 between New York-JFK and Milan, Italy) operated on October 28, 2024 as scheduled and therefore was not cancelled as defined in Part 260. Accordingly, as a legal matter, VAA cannot be deemed to have violated any of the asserted provisions in Part 260.

VAA also did not violate 14 C.F.R. § 259.8(a), as alleged by Complainant. (Compl. ¶¶ 16, 17.) Section 259.8(a) provides, in pertinent part, that:

“Each covered carrier for its scheduled flights to, from or within the U.S. must promptly provide to passengers who are ticketed or hold reservations, and to the public, information about a **change in the status of a flight** within 30 minutes after the carrier becomes aware of such a change in the **status of a flight**. A change in the status of a flight means, at a minimum, **a cancellation, diversion or delay of 30 minutes or more in the planned operation of a flight** that occurs within seven calendar days of the scheduled date of the planned operation. **The flight status information**

must at a minimum be provided in the boarding gate area for the flight at a U.S. airport, ***on the carrier's website***, and via the carrier's telephone reservation system upon inquiry by any person." (emphasis added)

This language makes clear that Section 259.8(a) pertains to notifications about cancellations, diversions or certain delays *of flights* – not the cancellation of an individual passenger's booking, where the corresponding flight actually operated. Thus, because no flight cancellation as contemplated by this regulation occurred, this regulation is inapplicable.

d. VAA Has Restored Complainant's Access to his Flying Club Account and Miles as a Gesture of Goodwill.

VAA's decision to cancel the booking was justified in the face of the strong evidence gathered using multiple fraud detection resources. However, VAA recognizes Complainant's frustrations associated with this matter. Solely as a gesture of goodwill to Complainant, VAA has reinstated Complainant's Flying Club account to active status and restored all points that were in the account prior to the booking at issue.

e. VAA Is Voluntarily Implementing Enhanced Loyalty Fraud Detection and Appeal Procedures.

Although VAA's actions were proper, VAA has nevertheless decided to enhance and invest in an enhanced fraud detection tool to strengthen its abilities in this area, which will use AI and additional fraud markers, limiting human involvement. Additionally, VAA has enacted revised procedures to afford consumers who disagree with action taken by VAA on the basis of suspected fraudulent activity, loyalty abuse and/or a violation of Flying Club Terms to directly engage with VAA personnel from the Loyalty Fraud Team and present information that may demonstrate that no such fraudulent activity or breach

of terms has occurred. VAA believes that these enhancements will strengthen VAA's ability to appropriately detect and deter fraudulent activity in the future.

* * *

In sum, VAA acted reasonably and in good faith in evaluating Complainant's Flying Club account and points booking; VAA's actions were fully consistent with its Flying Club Terms; VAA did not violate any of the Department regulations claimed by the Complainant; and VAA refunded the Complainant's taxes/fees and, as a matter of goodwill, reinstated his Flying Club account with all of the points he had therein prior to this booking. Accordingly, VAA respectfully submits that the Complaint should be dismissed without any enforcement action.

II. ANSWER.

Fully incorporating the foregoing, VAA responds to the numbered Paragraphs of the Complaint below in this Part II. To the extent that any statement or allegation in the Complaint is not specifically admitted or denied herein, it should be deemed denied by VAA as provided in 14 C.F.R. § 302.408(b).

Unnumbered Introductory Paragraph. The first sentence is a characterization of the Complaint and requires no response. To the extent a response is nonetheless deemed to be required, VAA denies the allegation in the first sentence. With respect to the second sentence, VAA admits that it did not notify Complainant of the cancellation, but contends that the remainder of the sentence states a legal conclusion to which no response is required. To the extent a response is nonetheless deemed to be required, VAA denies the remaining allegations in the second sentence. With respect to the third sentence, VAA admits that the Flying Club Terms provide that VAA will act reasonably in

exercising its rights under paragraph 9.2 of such rules with respect to the refusal to issue Virgin Points, process Rewards, deny travel and/or redemption of Rewards and cancellation of all Virgin Points, Rewards and termination of FC program membership³, but denies the remaining allegations in the third sentence. VAA denies the allegations in the fourth sentence.

1. With respect to the first sentence of Paragraph 1, VAA denies that Complainant opened a VAA Flying Club account on December 3, 2023, but admits that Complainant opened a VAA Flying Club account on December 2, 2023. With respect to the second sentence, VAA admits that 65,000 points from a Chase account were transferred into Complainant's VAA Flying Club account, for which 91,000 points were deposited into his VAA Flying Club account. VAA lacks knowledge or information sufficient to admit or deny the allegation in the third sentence and therefore denies same.

2. With respect to the *first*⁴ Paragraph 2, VAA admits that a booking was made on October 26, 2024, through the VAA website for three people to travel from New York to Milan on Delta Air Lines on October 28, 2024, that the three passengers shared the same last name as Complainant, and that a confirmation email from VAA was sent to the email address provided by Complainant. VAA lacks knowledge or information sufficient to admit or deny the allegation in the first sentence that the three passengers were Complainant's parents and 12-year old brother and therefore denies same. VAA admits that the email confirmation provided as Exhibit 1 to the Complaint is a substantially true

³ Capitalized terms have the meanings assigned to them in the Flying Club Terms, available at <https://help.virginatlantic.com/il/en/policies/terms-and-conditions/flying-club.html>.

⁴ There are two separately numbered paragraphs "2." in the Complaint. For ease of reference, VAA uses the original paragraph numbering of the Complaint.

and correct copy of a confirmation sent by VAA to a passenger named Amir Izhak. Otherwise, Exhibit 1 speaks for itself, and no further response is required. VAA denies the remaining allegations in this Paragraph 2.

With respect to the *second* Paragraph 2, VAA states that it lacks knowledge or information sufficient to admit or deny the allegations and therefore denies same.

3. VAA lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 3 and therefore denies same.

4. With respect to the first sentence of Paragraph 4, VAA admits that Complainant's VAA Flying Club account was locked such that he could no longer access it. With respect to the second sentence, VAA admits that Complainant's access to his Flying Club account was suspended, but states that it lacks knowledge or information sufficient to admit or deny the allegations and therefore denies same. With respect to the third sentence, VAA admits that it did not respond with the quoted language. VAA denies the remaining allegations of Paragraph 4.

5. VAA admits the allegation in the first sentence of Paragraph 5. VAA lacks knowledge or information sufficient to admit or deny the allegation in the second sentence and therefore denies same.

6. With respect to the first sentence of Paragraph 6, VAA admits that Complainant contacted different teams at VAA about this situation. VAA denies the allegation in the second sentence. VAA lacks knowledge or information sufficient to admit or deny the allegation in the third sentence and therefore denies same. VAA denies the allegations in the fourth and fifth sentences. With respect to the sixth sentence, VAA admits that VAA's Flying Club Terms provide that VAA will act reasonably in exercising

its rights under paragraph 9.2 of such rules with respect to the refusal to issue Virgin Points, process Rewards, deny travel and/or redemption of Rewards and cancellation of all Virgin Points, Rewards and termination of FC program membership, but denies the remaining allegations. VAA admits the allegation in the seventh sentence, but lacks knowledge or information sufficient to admit or deny the allegation about increased damage or the time needed to buy replacements and therefore denies same. With respect to the eighth sentence, VAA admits that it suspended Complainant's Flying Club account into which Chase points had been transferred, but lacks knowledge or information sufficient to admit or deny the remaining allegations and therefore denies same. VAA denies the allegations in the ninth sentence.

7. With respect to the first sentence of Paragraph 7, VAA admits that Complainant contacted VAA by telephone, but lacks knowledge or information sufficient to admit or deny the remaining allegations and therefore denies same. VAA admits the allegations in the second sentence. VAA denies the allegation in the third sentence.

8. With respect to the first sentence of Paragraph 8, VAA admits that Exhibit 2, page 5 is a substantially true and correct copy of an email sent on October 28, 2024 from Complainant to loyalty.fraud.queries@fly.virgin.com, but lacks knowledge or information sufficient to admit or deny the remaining allegation in the first sentence of Paragraph 8. With respect to the second sentence, VAA admits that it responded to Complainant by email from loyalty.fraud.queries@fly.virgin.com on October 29, 2024, and the response stated, in part, the language quoted in the second sentence of Paragraph 8. VAA further states that Exhibit 2 speaks for itself. VAA denies the third sentence.

9. With respect to the first sentence of Paragraph 9, VAA admits that Complainant sent several additional emails to VAA about his Flying Club account activity, and VAA states that Exhibit 2 speaks for itself. VAA denies the allegations in the second sentence. With respect to the third sentence, VAA admits that it allows certain customers to transfer points into their Flying Club accounts from a partner company, but denies that VAA “encourages” such activity “because partners pay Virgin Atlantic when they transfer points in”. VAA denies the allegation in the fourth sentence, but admits that VAA’s Flying Club Terms permit certain customers to transfer points from certain partners into their Flying Club account if done in accordance with the Flying Club Terms. With respect to the fifth sentence, VAA admits that Complainant’s last name is the same as the last name of the three passengers booked using these miles and that Complainant did not mention this to VAA, but denies the remaining allegations.

10. VAA denies the allegation in the first sentence of Paragraph 10. With respect to the second sentence, VAA admits that it responded, stating – in part – the language quoted in the second sentence. VAA further states that Exhibit 2 speaks for itself. VAA denies the remaining allegations in Paragraph 10.

11. With respect to the first sentence of Paragraph 11, VAA denies that it did not provide a substantive response, but admits that it did state that it would not be reinstating Complainant’s account or replying to further correspondence on this matter. VAA further states that Exhibit 2 speaks for itself. With respect to the second sentence, VAA admits that it responded, stating – in part – the quoted language in the second sentence, but denies the remaining allegation. With respect to the third sentence, VAA admits that it stated that when VAA heard from Complainant’s legal representative, it

would look to refer the matter to arbitration, which may include but not be limited to the BBB and Alternative Dispute Resolution, but denies the remaining allegations in Paragraph 11.

12. With respect to the first sentence of Paragraph 12, VAA admits that Exhibit 3, page 9 is a substantially true and correct copy of an email sent on November 3, 2024, from Complainant to loyalty.fraud.queries@fly.virgin.com, but denies the remaining allegations in Paragraph 12. VAA further states that Exhibit 3 speaks for itself. VAA admits that Exhibit 3, pages 10-11 is a substantially true and correct copy of an email sent on November 3, 2024, from Complainant to loyalty.fraud.queries@fly.virgin.com, except that Customer Care said that it was unable to take any further action, not that no further action would be taken.

13. With respect to the first sentence of Paragraph 13, VAA admits that Exhibit 4 is a substantially true and correct copy of correspondence VAA received from the Department signed by Complainant and that was dated November 10, 2024. VAA further states that Exhibit 4 speaks for itself. With respect to the second sentence, VAA admits that Exhibit 5 is a substantially true and correct copy of an email sent on January 13, 2025, from customer.care@fly.virgin.com to Complainant. VAA further states that Exhibit 5 speaks for itself. With respect to the third sentence, VAA admits that Customer Care's January 13 email suggested that Complainant discuss this matter via email with the Loyalty Fraud Team, but denies the remainder of the allegation. With respect to the fourth sentence of Paragraph 13, Virgin admits that it responded to Complainant, stating – in part – the language quoted in the fourth sentence, but denies the remainder of the allegation. VAA admits that it contacted Complainant by email from

customer.care@fly.virgin.com on January 31, 2025, and February 6, 2025, but denies the remaining allegations in Paragraph 13.

14. Paragraph 14 states legal conclusions to which no response is required. To the extent that a response is nonetheless deemed to be required, said allegations are denied. Further, VAA states that the referenced regulation speaks for itself.

15. VAA admits that it did not notify Complainant of the cancellation, lacks knowledge or information sufficient to admit or deny the allegation relating to the statement that the tickets were for Complainant's family, and denies the remaining allegations in the first sentence of Paragraph 15. VAA states that it has reinstated Complainant's access to his Flying Club account and the points held therein. The second sentence states a legal conclusion to which no response is required. To the extent that a response is nonetheless deemed to be required, said allegations are denied. Further, VAA states that the referenced regulation speaks for itself.

[11].⁵ This misnumbered Paragraph 11 states legal conclusions to which no response is required. To the extent that a response is nonetheless deemed to be required, said allegations are denied. Further, VAA states that the referenced regulation speaks for itself.

16. Paragraph 16 states legal conclusions to which no response is required. To the extent that a response is nonetheless deemed to be required, said allegations are denied. Further, VAA states that the referenced regulations speak for themselves.

17. VAA denies the first sentence of Paragraph 17. VAA admits the second sentence but denies that it had contact information for any of the passengers on the

⁵ The numbered paragraph after Paragraph 15 in the Complaint is misnumbered as Paragraph 11.

itinerary. The third sentence states legal conclusions to which no response is required. To the extent that a response is nonetheless deemed to be required, said allegations are denied. Further, VAA states that the referenced regulations speak for themselves.

18. VAA denies the first sentence of Paragraph 18. VAA lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 18 and therefore denies same.

19. VAA denies the first sentence of Paragraph 19. The second sentence states legal conclusions to which no response is required. To the extent that a response is nonetheless deemed to be required, said allegations are denied.

20. Paragraph 20 states legal conclusions to which no response is required. To the extent that a response is nonetheless deemed to be required, said allegations are denied. Further, VAA states that its Flying Club Terms speak for themselves and that Complainant has only quoted an excerpt of a few words from the Flying Club Terms.

III. REQUEST FOR RESOLUTION

1. Paragraph 1 of this Section states a prayer for relief that requires no response. For the reasons set forth herein, VAA denies that Complainant is entitled to the relief sought in this Paragraph 1 or any relief whatsoever, and respectfully requests that the Complaint be dismissed.

2. Paragraph 2 of this Section states a prayer for relief that requires no response. For the reasons set forth herein, VAA denies that Complainant is entitled to the relief sought in this Paragraph 2 or any relief whatsoever, and respectfully requests that the Complaint be dismissed.

3. Paragraph 3 of this Section states a prayer for relief that requires no response. Further, VAA states that it has reinstated Complainant's Flying Club account to active status and restored all points that were in the account prior to the booking at issue. For the reasons set forth herein, VAA denies that Complainant is entitled to the relief sought in this Paragraph 3 or any relief whatsoever, and respectfully requests that the Complaint be dismissed.

4. Paragraph 4 of this Section states a prayer for relief that requires no response. For the reasons set forth herein, VAA denies that Complainant is entitled to the relief sought in this Paragraph 4 or any relief whatsoever, and respectfully requests that the Complaint be dismissed.

5. Paragraph 5 of this Section states a prayer for relief that requires no response. For the reasons set forth herein, VAA denies that Complainant is entitled to the relief sought in this Paragraph 5 or any relief whatsoever, and respectfully requests that the Complaint be dismissed.

6. Paragraph 6 of this Section states a prayer for relief that requires no response. For the reasons set forth herein, VAA denies that Complainant is entitled to the relief sought in this Paragraph 6 or any relief whatsoever, and respectfully requests that the Complaint be dismissed.

IV. AFFIRMATIVE DEFENSES.

Pursuant to 14 C.F.R. § 302.408(b), VAA asserts the following affirmative defenses:

1. The Complaint fails to state a claim upon which relief may be granted.
2. Complainant lacks a private right of action.
3. The Complaint is moot.

VAA reserves its right to supplement these affirmative defenses to the extent new information or evidence arises if this action proceeds.

* * *

WHEREFORE, VAA respectfully requests that the Department deny all of Complainant's requested relief, not institute an enforcement proceeding, and instead promptly dismiss the Complaint in accordance with 14 C.F.R. § 302.406(a)(2).

Respectfully submitted,

/s/ Abigail Cox

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Answer of Virgin Atlantic Airways has been served this 22nd day of May, 2025, on the following individuals:

Chaim Rozen (Complainant)
Kimberly Graber (DOT)
Robert Gorman (DOT)

czr770@gmail.com
kimberly.graber@dot.gov
Robert.Gorman@dot.gov

/s/ Abigail Cox

Abigail Cox