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State Audit Alleges Red Way Airlines Violated Federal Regulations, Continues to Withhold Customer Refunds, and Squandered $3.7 Million in Public Funds

State Auditor Mike Foley announced today the results of a “deep dive” forensic examination into the brief, but inordinately costly, debacle of Red Way Airlines (Red Way). According to a report released by his office, the operators of that shaky aeronautical venture clearly violated Federal regulations by draining an escrow account containing customer payments for tickets on flights cancelled after the airline ceased operations at the end of August this year.

When Red Way announced its permanent shut down last August, after a mere three months of service, the required escrow account designed to protect customer payments had over $1.5 million. Only a month later, that balance had dwindled to less than $9,000 – with hundreds of thousands of dollars of customer refunds remaining unpaid.

The lengthy audit report alleges that Red Way falsely certified to the escrow bank that customer refunds had been made from the airline’s own operating funds. The purpose of that certification, the report surmises, was to secure the release of over $340,000 from the escrow fund. That money was then used to pay various airline operating expenses, not to reimburse the customers whose flights had been summarily cancelled upon Red Way’s abrupt termination of services.

According to news reports in early December of 2023, all pending Red Way customer refunds were complete. By December 12, 2023, however, the APA had received email confirmations from 24 Red Way customers – selected from a sample of unrefunded ticket purchasers – whose own refunds, totaling $16,156, remained unprocessed.

Extrapolating from that sample result, hundreds of Red Way customers may still be owed refunds amounting in aggregate to well over $100,000.

Red Way’s fleeting stint in Nebraska began as a highly speculative airline venture pitched by its owner, a Colorado-based consultant who had contracted to provide air service development and retention services to the Lincoln Airport Authority through early 2021 – but continued to be paid under the expired contract until mid-August of 2023. The proposal, which was presented initially to the Lincoln Airport Authority and later to both the Lincoln City Council and the Lancaster County Board, was to use Federal pandemic (“American Rescue Plan Act” or ARPA) funds to jump-start direct air service to seven new markets from the Lincoln Airport. Publicly elected members of all three boards approved the deal with no dissenting votes, putting at risk – and ultimately spending – not only $3 million in Federal funds but also over $700,000 in local monies.

Operating with little more than a website and one chartered plane, Red Way conducted business out of the Colorado home of the former consultant to the Lincoln Airport Authority. Two other companies involved in the venture – one of which, like Red Way, was also owned by the former consultant – were never registered to conduct business in Nebraska. Moreover, Red Way itself was selling tickets and scheduling flights out of Lincoln months before being legally permitted to operate in this State.

Between June and August of 2023, Red Way flew a total of 274 one-way flights. Precisely one of those flights – the inaugural excursion to Orlando, Florida – was profitable. The auditors believe that sole profit was due to unusually low fuel cost resulting from the jet's already partially filled fuel tank being topped off prior to departure.

The Red Way plan presented to the Lincoln Airport Authority projected $8.8 million in ticket sales over three months but ended up with only $2.2 million in revenues.

The Federal government, which tracks commercial air traffic, reports that most airlines operate with approximately 84% of their seats filled. Red Way projected that it would have similar results; however, its records show that only about 45% of available seats were sold, and many of those were offered at introductory, loss-leader prices that were absolutely unsustainable. More than two dozen flights operated with 75% of their seats empty, with one flight having over 90% of its seats unoccupied.

At one point in June, Red Way was advertising tickets for as low as $9 each. A month later, when it was obvious that the questionable marketing strategy was failing miserably, introductory ticket prices were still being advertised for as low as $19 apiece. A dearth of ticket sales, even when using such aggressive pricing strategies, accelerated draws on the $3 million in Federal funds that the local governments willingly made available to compensate for the airline's ongoing revenue shortfalls.

With the credulous acceptance of its highly inflated and unrealistic projections for feasibility, Red Way continued to be bankrolled with the Federal pandemic funds. Exuberance for the venture did not stop there, however.

In addition to using well over $700,000 in local public funds under its control to assist Red Way, the Lincoln Airport Authority waived tens of thousands of dollars in assorted airport fees that the foundering airline would have been obligated to pay otherwise.

Central to the proposed Red Way project adopted without dissent by the three publicly elected boards was an exceedingly generous Minimum Revenue Guarantee (MRG) provision, which required taxpayers to compensate the airline for any financial loss incurred by a flight. The MRG on one-way flights was capped at $30,000 and $60,000 on round-trip flights.

While the apparent intention of the Red Way project was to provide long-term air service out of Lincoln, the high MRGs – fueled by a combination of heavily discounted ticket prices and sluggish sales – quickly depleted the $3 million in Federal pandemic funds set aside to subsidize the project.

Auditor Foley's team examined each of the three monthly invoices that Red Way submitted to the Lincoln Airport Authority to claim the promised MRG payments for the airline's losses in revenue. All of those invoices were found to contain errors; nevertheless, the claims had been processed in such haste and with so little attention to detail that the inaccuracies were not noticed until the auditors discovered them.

Included in the report are excerpts from email messages and public statements showing that both Red Way and Lincoln Airport Authority personnel were confused as to how rapidly the airline was hemorrhaging cash and how poorly flights to the various destinations were performing. For example, an email message from the Lincoln Airport Authority to a senior Lancaster County official, which was sent only 10 days before the announced demise of Red Way, stated that the Las Vegas, Nevada, and Orlando, Florida, markets “continue to do well” – when, in fact, those two destinations suffered the greatest losses.

A news article published a few weeks before the collapse of the ill-fated aviation project quoted a Red Way representative as claiming that the airline was “meeting its financial obligations.” That bold misrepresentation was affirmed by the equally dubious assurance of a Lincoln Airport Authority official that “the infusion of cash so far has not been a surprise.”

Auditor Foley summarized the report’s conclusions by observing, “In the final analysis, Red Way was a failed riverboat gamble bankrolled by taxpayers. Had the Red Way business plan been prepared for the eyes of a reputable commercial bank lender, its proponents would not have gotten past the junior teller. The cavalier treatment of government funds as monopoly money paved the way for the plan to be sold as a worthy risk to elected officials, who accepted it with few questions asked.”