



OFFICE OF THE GOVERNOR

TOGIOLA T.A. TULAFONO
GOVERNOR

Pago Pago, American Samoa 96799

FAOA IPULASI A. SUNIA
LIEUTENANT GOVERNOR

July 26, 2006

EXECUTIVE ORDER No. 005-2006

Finding and Declaration
That Hawaiian Airlines, Inc. is a Commercial Enterprise
Engaged in Discriminatory and Predatory Conduct
Injurious to the People of the
U. S. Territory of American Samoa

Whereas, Hawaiian Airlines, Inc. operates a monopoly air transport service between Pago Pago, American Samoa and Honolulu, Hawaii; a monopoly occurring because American Samoa has a defenseless position of being a relatively small community in mid ocean, and is, therefore, marginally unable to sustain suitably competitive carriers to maintain price discipline against a single carrier's opportunities for aggression; and

Whereas, Hawaiian Airlines, Inc. has been and is now using its monopoly position to force the people of the islands of American Samoa and their visitors to pay airfares for transport to Honolulu at almost twice what it charges on an annual average for air transport between other United States destinations it serves of identical distances for fares paid less than 14 days from departure; and is thereby committing discriminatory and predatory acts against our people; and

Whereas, Hawaiian Airlines, Inc. has been and is now using its monopoly power to force the people of the islands of American Samoa to pay reservation related fees and penalties, baggage and other fees, that are up to 50% higher than it charges at its other United States route destinations, for the same service and circumstance, and is thereby committing discriminatory and predatory acts against our people; and

Whereas, Hawaiian Airlines, Inc. has been and is now using its monopoly power to be immune to and to ignore the complaints by the people of American Samoa of offensive, discourteous and dismissive conduct by its service personnel when using its air service to and from Pago Pago, American Samoa, perceived universally as ethnic related abuse; and

Whereas, commencing in January, 2006, and for the ensuing six months, the American Samoa Government has tried, with extensive correspondence by its Governor to obtain from Hawaiian Airlines, Inc. a recognition that the people of American Samoa can no longer tolerate these abuses of their monopoly position; and

Whereas, Hawaiian Airlines, Inc. response has been to refuse to consider any restraint on their airfares in their service to American Samoa, and to refuse similarly to eliminate the add-on to their fees which are discriminatory to American Samoa, and further responding by showing contempt for our concern during this correspondence by raising a reservation related fee for American Samoa to One Hundred Dollars more than it charges for the same fee at all other U.S. points it serves; and

Whereas, at no point, during its exchange of correspondence with this Government has it expressed any apology or regret for the continuing reports of discourteous and disrespectful treatment of our people by its passenger service employees at Honolulu Airport and its in-flight personnel; and further

Whereas, all these matters having been brought up in correspondence lasting six months with the Chief Executive Officer of Hawaiian Airlines, Inc., Mark B. Dunkerley, and the only action he has taken in response was to request a meeting with no offer of behavior modification, and no proposals to lower airfares and fees to be comparable to charges at its other U.S. points of service; and thus the people of American Samoa remain faced with Hawaiian Airlines' unrestrained and unrelenting abuse of monopoly power that has now also proved to be dismissive to a call for fairness and restraint.

NOW THEREFORE,

By the authority vested in me as Governor of the United States Territory of American Samoa by the Constitution and the Laws of the United States of America and the Constitution and Laws of its Territory of American Samoa, it is ordered as follows:

1. Hawaiian Airlines, Inc. is declared to be a commercial enterprise that engages in discriminatory practices in its conduct of air transport to American Samoa, and that this causes injury to our people that can be no longer tolerated, and is of itself sufficient reason to bar Hawaiian Airlines from entering the Territory to continue its damaging activity.
2. Hawaiian Airlines, Inc. is declared to be a commercial enterprise that is predatory in its exercise of its monopoly power in air transport between Pago Pago and Honolulu, forcing excessive and discriminatory charges upon the people of American Samoa compelled to use its service, and that this causes injury to our people that can be no longer tolerated, and is of itself sufficient reason to bar Hawaiian Airlines from entering the Territory to continue its damaging activity.
3. Hawaiian Airlines, Inc. is declared to be a commercial enterprise that engages in ethnic harassment towards the people of American Samoa and that this causes injury to our people that can be no longer tolerated, and is of itself sufficient reason to bar Hawaiian Airlines from entering the Territory to continue its damaging activity.

July 26, 2006

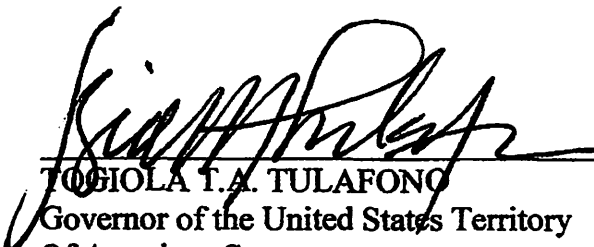
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4. That it is therefore in the interests of the welfare and protection of the people of American Samoa that Hawaiian Airlines, Inc. be no longer allowed to enter and clear this U.S. Territory in the conduct of its air transport activity.

5. In accord with this declaration and determination, Hawaiian Airlines, Inc. is hereby given notice that within ninety (90) days of the date of this Executive Order, a substituting carrier will be sought to provide a replacement air service between the U. S. Territory of American Samoa and Honolulu, Hawaii, commencing upon the expiration of this ninety day period. Should a substituting air carrier not be found within this ninety day period, then successive 30 day periods to enter the Territory of American Samoa will be granted to Hawaiian Airlines, Inc., during which a substitute carrier for replacement air service will continue to be sought.

6. Upon establishing an air carrier approved to provide replacement air service between Pago Pago and Honolulu, and a 28 day prior notice being given to Hawaiian Airlines, Inc. of the date of commencement of the replacement air service, a second Executive Order will be issued under the customs and border control authority granted to the President of the United States in the administration of this Territory by the Congress of the United States, 48 U.S.C. §§ 1661 (c), and now delegated by Presidential authority and placed in the Constitution of American Samoa, and under which this office is empowered until the Congress shall otherwise approve, P.L 98-213 Sec.12, wherein Hawaiian Airlines, Inc., a commercial enterprise that has persisted in discriminatory and predatory conduct injurious to the people of American Samoa, will be prohibited from entering into or clearing from the U. S. Territory of American Samoa, causing a final cessation of its damaging activity to our people, upon and from the date of the commencement of the replacement air service between Honolulu and Pago Pago, American Samoa.

Witness my signature and the seal of my office this 26th day of July, 2006.


TOBIOLA T.A. TULAFONO
Governor of the United States Territory
Of American Samoa