

SERVED: June 17, 1997

NTSB Order No. EA-4560

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 12th day of June, 1997

BARRY L. VALENTINE,)
Acting Administrator,)
Federal Aviation Administration,)
)
 Complainant,)
) Docket SE-14618
v.)
)
FRANCIS C. ZACKARY,)
)
 Respondent.)
)
)

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because the appeal was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 CFR Part 821).¹ We will grant the motion, to which respondent filed no response.

¹Section 821.48(a) provides as follows:

§ 821.48(a) Briefs and oral argument.

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

The record establishes that respondent filed a timely notice of appeal from the initial decision and order the law judge rendered on January 15, 1997, but he did not file an appeal brief within 50 days after that date; that is, by March 6.²

In the absence of good cause to excuse respondent's failure to file a timely appeal brief, his appeal must be dismissed.³ See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted, and
2. The respondent's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.

²The law judge upheld an order of the Administrator suspending all of respondent's airman certificates, including his Airline Transport Pilot certificate, pending a re-examination of his competency as an airman.

³No appeal brief has to date been received from the respondent.