

SERVED: July 10, 2008

NTSB Order No. EA-5395

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

Issued under delegated authority (49 C.F.R. 800.24)
on the 10th day of July, 2008

ROBERT A. STURGELL,)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-18136
v.)	
)	
SCOTTY GRIFFIN,)	
)	
Respondent.)	

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal that respondent has filed in this proceeding,¹ because respondent did not perfect his appeal by filing a timely appeal brief, as the Board's Rules of Practice require.² The Administrator's motion, to which respondent filed no responsive pleading, is granted.

¹ See related case, Administrator v. Griffin d/b/a Desert Aircraft Blade Service, NTSB Order No. EA-5394 (2008).

² 821.48(a) **Briefs and oral argument.**

(a) Appeal brief ... each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.

The record establishes that respondent filed a timely notice of appeal from the law judge's March 12, 2008 decisional order.³ Respondent, however, did not file an appeal brief by the deadline established by § 821.48(a). To be timely, respondent had to file his appeal brief on or before April 11, 2008. Respondent's appeal brief, which did not contain a certificate of service, was dated April 11th and postmarked April 18, 2008. United Parcel Service tracking records confirm that respondent's appeal brief was mailed on April 18, 2008; his brief was, therefore, untimely filed.

Without good cause to excuse a failure to file a timely appeal brief, or a request to file one out of time before it is due, a party's appeal will be dismissed. Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. Respondent's appeal is dismissed.

Gary L. Halbert
General Counsel

³ The law judge granted the Administrator's motion to dismiss respondent's appeal as untimely, affirming the Administrator's order revoking, on an emergency basis, respondent's mechanic certificate with powerplant rating for alleged violations of certain provisions of the Federal Aviation Regulations. Respondent waived the expedited procedures normally applicable to emergency revocation proceedings under the Board's rules.