

SERVED: June 7, 1993

NTSB Order No. EA-3890

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 28th day of May, 1993

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JOSEPH M. DEL BALZO,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-10271
v.)	
)	
MARK ALBERT JENSEN,)	
)	
Respondent.)	
)	
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ORDER DENYING RECONSIDERATION

Respondent has petitioned for reconsideration of Board Order EA-3795 (served February 16, 1993), in which we affirmed revocation of respondent's airline transport pilot certificate based on the law judge's findings that respondent piloted an aircraft within eight hours after consuming an alcoholic beverage and when he was under the influence of alcohol, in violation of 14 C.F.R. sections 91.11(a)(1), 91.11(a)(2), and 91.9 [now recodified as sections 91.17(a)(1), 91.17(a)(2), and 91.13(a)].

Respondent's petition focuses on the fact that the FAA has twice designated him as a check airman after the hearing in this case. He argues that revocation of his pilot certificate is inappropriate because, in his view, those designations represent the FAA's "independent determinations subsequent to the events which led to these proceedings that the [r]espondent does possess the care, judgment, and responsibility" to hold his

pilot certificate regardless of the law judge's findings of violation. (Petition at 4-5.)

We continue to believe, as we stated in Order EA-3795 at 10, n. 10, that "the FAA's designation of respondent as a check airman after the hearing in this case has no bearing on our decision and does not preclude a finding that he lacks the care, judgment, and responsibility to hold an airman certificate." There is no question that, under Board precedent, respondent's conduct in this case warrants revocation. See Administrator v. Goodyear, 2 NTSB 1264, 1265 (1975); Administrator v. Pierce, 4 NTSB 1655, 1657 (1984); Administrator v. Klock, NTSB Order No. EA-3045 at 6, n. 7 (1989).

In sum, respondent's petition presents no valid basis for reconsideration or modification of our earlier decision.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's petition for reconsideration is denied.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above order.