

SERVED: September 10, 2009

NTSB Order No. EA-5477

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 September, 2009

| | | |
|----------------------------------|---|-----------------|
| J. RANDOLPH BABBITT, |) | |
| Administrator, |) | |
| Federal Aviation Administration, |) | |
| |) | |
| Complainant, |) | |
| |) | Docket SE-18539 |
| v. |) | |
| |) | |
| GENE MICHAEL LISULA, |) | |
| |) | |
| Respondent. |) | |
| |) | |

ORDER DISMISSING APPEAL

Respondent filed a timely notice of appeal from the law judge's July 8, 2009 order entering summary judgment in favor of the Administrator.¹ Respondent, however, did not perfect his appeal by filing a timely appeal brief, as Section 821.48(a) of the Board's Rules of Practice requires (49 C.F.R. Part 821),²

¹ The law judge granted the Administrator's motion for summary judgment, affirming the Administrator's order alleging violations of 49 U.S.C. § 44710(b)(1) and 14 C.F.R. § 61.15(a)(2) and revoking respondent's airman certificate, and any airman pilot certificate held by respondent.

² Section 821.48(a) provides as follows:

§ 821.48 Briefs and oral argument.

(a) Appeal brief....each appeal must be

and has not provided good cause for his failure to do so.

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. See Administrator v. Hooper, 6 NTSB 559 (1988). To be timely, respondent had to file his appeal brief on or before August 7, 2009. Although respondent submitted a written request for a 30-day extension of time to file his appeal brief, the request was dated August 20, 2009, and was therefore not timely.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's appeal is dismissed.

Gary L. Halbert
General Counsel

(..continued)

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.