

SERVED: February 11, 2014

NTSB Order No. EA-5700

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

Issued under delegated authority (49 C.F.R. § 800.24)
on the 11th day of February, 2014

_____)	
MICHAEL P. HUERTA,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	
v.)	Docket SE-19290
)	
JODY DUCOTE,)	
)	
Respondent.)	
_____)	

ORDER CONTINUING STAY

On June 26, 2013, the Administrator requested a stay of NTSB Order No. EA-5664, served July 12, 2013, pending disposition of review of that opinion and order, pursuant to 49 U.S.C. § 44709 and 49 C.F.R. § 821.64. The Acting General Counsel, pursuant to delegated authority, granted the Administrator's request for stay.¹ Prior to serving the request for a stay, the Administrator filed a petition for reconsideration of NTSB Order No. EA-5664, which the Board denied on December 16, 2013.²

On January 7, 2014, respondent filed a motion to vacate the stay, for which he requested expedited consideration. Respondent argues no good cause exists for continuance of the stay,

¹ 49 C.F.R. § 800.24(e); see NTSB Order No. EA-5670 (2013) (delegated order granting stay).

² NTSB Order No. EA-5692 (2013).

and asserts the Administrator will not prevail in a petition for review filed in a United States Court of Appeals. Respondent also contends he is entitled to reapply and receive a new certificate; therefore, he argues continuance of the stay is ineffective, because the issue of whether respondent lacks the qualification to hold a certificate is moot. The Administrator opposes respondent's motion, and requests the Board continue the stay until the expiration of the deadline for the Administrator's filing of a petition for review of the Board's decision denying the petition for reconsideration in a United States Court of Appeals, or until a Court of Appeals has disposed of the petition. The Administrator's deadline for filing a petition for review of the decision is February 14, 2014.

In the case at issue, the Administrator sought revocation of respondent's certificates, based on an allegations of intentional falsification under 14 C.F.R. §§ 43.12(a)(1), 61.55(a)(3), 61.59(a)(2), and 91.13(a). The Administrator proceeded with the case as an emergency under 49 U.S.C. §§ 44709(b)(1) and 46105(c). The Administrator's penalty of revocation is consistent with the granting of a stay pending judicial review.³ The Board's issuance of the order denying reconsideration of NTSB Order No. EA-5664 did not modify any portion of that opinion and order. Furthermore, the Board's denial of the petition for reconsideration had no effect on the Board's jurisprudence concerning motions for stay. Finally, respondent's arguments in his motion for vacating the stay are the same arguments respondent proffered in his response to the Administrator's original motion for stay.

ACCORDINGLY, IT IS ORDERED THAT:

The Board's Order Granting Stay, NTSB Order No. EA-5670, is continued until such time as the Administrator files a petition for review in the United States Court of Appeals and the Court rules on that petition, or until the 60-day filing deadline passes.



David K. Tochen
General Counsel

³ Administrator v. Todd, NTSB Order No. EA-4399 (1995); see also Administrator v. Simmons, NTSB Order No. EA-5542 (2010). In addition, in cases in which air safety would be unduly jeopardized if the respondent received his certificate, the General Counsel, on behalf of the Board, has denied motions for stay. See, e.g., Administrator v. Logan, NTSB Order No. EA-4950 (2002).