

SERVED: May 5, 2016

NTSB Order No. EA-5779

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 5th day of May, 2016

_____)	
MICHAEL P. HUERTA,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-19822
v.)	
)	
ESTEBAN JIMENEZ,)	
)	
Respondent.)	
_____)	

OPINION AND ORDER

1. Background

Respondent appeals Chief Administrative Law Judge Alfonso J. Montaño’s September 30, 2015 written order entering judgment on the pleadings in favor of the Administrator of the Federal Aviation Administration (FAA).¹ By that order, the law judge granted the Administrator’s motion to deem the factual allegations admitted and motion to strike

¹ A copy of the law judge’s order is attached.

respondent's late-filed answer and, consequently, entered judgment on the pleadings. We deny respondent's appeal.

a. *Facts*

On May 11, 2015, the Administrator issued an emergency order revoking respondent's commercial pilot certificate, as well as any other pilot certificate he holds.² Respondent filed a timely notice of appeal on May 20, 2015, and the Administrator reissued the order in this case as the complaint on the same day. Also on May 20, 2015, the NTSB Office of Administrative Law Judges case manager sent a docketing letter to respondent's counsel. The letter stated, "Section 821.55(b) states that the Respondent must file an Answer to the Complaint (which is the emergency order from FAA re-filed as the Complaint), within 5 days after service of the Complaint upon Respondent."³ In accordance with 49 C.F.R. § 821.55(b),⁴ respondent's deadline for filing an answer to the complaint was May 26, 2015.⁵ Respondent did not file an answer within five days as required.

² The Administrator's emergency order alleged respondent violated 14 C.F.R. § 91.13(a), which states no person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another, and § 91.103, which states each pilot in command shall, before beginning a flight, become familiar with all available information concerning that flight. Specifically, the Administrator alleged that, on November 14, 2014, respondent operated a Robinson R44 helicopter on a passenger-carrying flight in the vicinity of downtown Los Angeles, California with the doors removed, a passenger not properly secured and fully extending her crossed legs out of the aircraft, and that respondent had failed to calculate and record the weight and balance of the helicopter prior to the flight. Complaint ¶¶ 1-10.

³ Letter from Office of Administrative Law Judges to Sanjay Sobti (May 20, 2015) (emphasis in the original).

⁴ The case *sub judice* initially proceeded in accordance with the Board's Rules of Practice governing emergency proceedings, codified at 49 CFR part 821, subpart I. Respondent subsequently waived the applicability of the expedited procedures normally applicable to emergency cases.

⁵ May 25, 2015 was Memorial Day, and in accordance with 49 CFR § 821.10, if the last day for doing an act falls on a Federal holiday, that deadline extends to the next day that is not a Saturday, Sunday, or Federal holiday, which, in this case, was Tuesday, May 26, 2015.

On May 28, 2015, the Administrator filed a motion to deem the factual allegations admitted based upon respondent's failure to submit an answer and a motion for summary judgment. Respondent waived the procedures applicable to emergency cases on May 29, 2015 and filed his answer the same day denying all of the allegations in the complaint. In his answer, respondent acknowledged it was not filed within five days as required due to "excusable neglect" because respondent's counsel was not in the office at the time the complaint was served, the complaint was mailed over the course of a holiday weekend, and respondent's counsel had limited staffing in the office.⁶ The Administrator subsequently filed a motion to strike respondent's late-filed answer, which respondent opposed.

b. *Law Judge's Order*

On September 30, 2015, the law judge granted the Administrator's motion to strike respondent's late-filed answer and entered judgment on the pleadings in favor of the Administrator.⁷ The law judge's order discussed the procedural history of the case at length.⁸ Citing Administrator v. Diaz,⁹ the law judge noted the proper standard of review was whether a respondent could show good cause, not whether excusable neglect existed to render the deadline inapplicable.¹⁰ He concluded respondent's justification for the late-filed answer did not constitute good cause and subsequently granted both the Administrator's motion to strike respondent's late-

⁶ Answer at ¶ 3.

⁷ While the Administrator moved for summary judgment, the law judge determined that entering Judgment on the Pleadings would be appropriate under 49 C.F.R. § 821.17(c), which provides for the entry of judgment on the pleading when "no answer has been filed, or ... the pleadings disclose that there are no material issues of fact to be resolved and [a] party is entitled to judgment as a matter of law."

⁸ Order at 2-5.

⁹ NTSB Order No. EA-4990 (2002), affirmed sub. nom., Diaz v. Dept. of Transp., 65 Fed.Appx. 594 (9th Cir. 2003).

¹⁰ Order at 4-5.

filed answer and the Administrator's motion to deem the factual allegations admitted, and consequently entered judgment on the pleadings.

c. Issues on Appeal

Respondent contends the law judge erred by not accepting his late-filed answer based upon excusable neglect. He further contends the law judge violated his due process rights by finding good cause did not exist for accepting the late-filed answer and granting the Administrator's motion to strike.¹¹ Respondent also argues his answer was timely because he waived the application of the expedited procedures applicable to emergency cases. Lastly, respondent contends judgment on the pleadings was "unwarranted" because the Administrator did not produce "any exhibits, evidence, sworn testimony or an affidavit" in support of the allegations in the complaint.¹²

2. Decision

On appeal, we review the law judge's decision *de novo*, as our precedent requires.¹³

a. Excusable Neglect Theory and Application of Good Cause Standard

Respondent's argument that his late-filed answer should be accepted under the excusable neglect theory is without merit. Our Rules of Practice specifically require us to employ the good cause standard for all late-filed documents. The text of 49 C.F.R. § 821.11(a) states the Board may grant an extension of time upon written request "for good cause shown," and the Board

¹¹ The Constitution's due process clause provides that no person shall be "deprived of life, liberty, or property, without due process of law." U.S. Const., amend. V.

¹² Appeal Br. at 3.

¹³ Administrator v. Smith, NTSB Order No. EA-5646 at 8 (2013); Administrator v. Frohmuth and Dworak, NTSB Order No. EA-3816 at 2 n.5 (1993); Administrator v. Wolf, NTSB Order No. EA-3450 (1991); Administrator v. Schneider, 1 N.T.S.B. 1550 (1972) (in making factual findings, the Board is not bound by the law judge's findings).

strictly adheres to the standards of timeliness set out in our rules.¹⁴ Moreover, the Board considers timeliness in emergency cases to be paramount, given the expedited timeline applicable to emergency orders that Congress has prescribed by statute. We have expressly refused to adopt the more lenient standard of excusable neglect in cases involving untimely appeals and find no reason to depart from this long-established jurisprudence in the case *sub judice*.¹⁵

Respondent's arguments concerning his rights under the due process clause and regarding good cause for his untimely answer are equally meritless. Respondent's discussion of the due process issue consists of one sentence, and appears to be based on his assertion that he established good cause to excuse his untimely answer.¹⁶ Respondent argues his counsel did not receive the complaint until after the time allotted for filing the answer had passed because he was not in the office at the time the complaint was served.¹⁷ Our prior caselaw clearly shows this contention does not establish good cause for the delay in filing his answer.¹⁸ In addition, respondent received due process as he had an opportunity to appeal, and, in fact, did appeal, the Administrator's order; our Rules of Practice exist to ensure the impartial consideration of such

¹⁴ Administrator v. Hooper, 6 NTSB 559, 560 (1988), on remand from Hooper v. Nat'l Transp. Safety Bd., 841 F.2d 1150 (D.C. Cir. 1988); 49 C.F.R. § 821.11(a) (stating the Board may grant an extension of time to file any document upon a showing of good cause).

¹⁵ Administrator v. Horna, NTSB Order No. EA-5720 (2014); Administrator v. Bandiola and Bagamaspad, NTSB Order No. EA-5677 (2013) (citing Administrator v. Montague, NTSB Order No. EA-5617 at 4 (2012)).

¹⁶ Specifically, respondent argues, "[G]ood cause for the belated submission existed. As such, the motion to strike respondent's late filed answer was in error and resulted in a substantial due process violation to respondent." Appeal Br. at 2.

¹⁷ Id.

¹⁸ See Administrator v. Davis, NTSB Order No. EA-5558 (2010); Administrator v. Warfel, NTSB Order No. 5418 (2008); Administrator v. Bruington, NTSB Order No. EA-5335 (2007); Administrator v. Sepulveda, NTSB Order No. EA-5229 (2006); Administrator v. Beissel, NTSB Order No. EA-5153 (2005).

appeals.¹⁹ As the law judge followed clear and long-standing precedent in this matter, we find no abuse of discretion and no violation of respondent's due process rights.

b. *Effect of Waiver*

Respondent's other principal argument — that his May 29, 2015 waiver of the emergency procedures extended his period for filing an answer to the 20-day period applicable in a non-emergency matter — does not comport with our Rules of Practice. Section § 821.52(d) provides that a respondent may waive the accelerated time limits applicable to emergency cases, but that, “such a waiver shall not serve to lengthen any period of time for doing an act prescribed by this subpart which expired before the date on which the waiver was made.” This section specifically precludes respondent's proposed application of the 20-day deadline, which would apply in a non-emergency case, to respondent's case, because respondent did not waive the applicability of the emergency procedures until May 29, which was three days after the time to file his answer expired. This interpretation is consistent with the plain language of the rule and with our precedent.²⁰

c. *Judgment on the Pleadings*

Respondent argues judgment on the pleadings was inappropriate because the Administrator did not produce evidence to support the allegations in the complaint and material issues of fact therefore existed. This argument fails. Because we have determined the law judge did not abuse his discretion in striking respondent's late-filed answer, we also find the law judge did not err in granting the Administrator's motion to deem the factual allegations admitted.

¹⁹ Administrator v. Dangberg, NTSB Order No. EA-5694 at 3 (2013) (“[T]he ‘strict limits’ about which respondent complains function to protect due process rights of all respondents; without consistent rules of procedure concerning methods of service and filing deadlines, parties would be subject to arbitrary standards”).

²⁰ Administrator v. Converse, NTSB Order No. EA-5566 (2011); Administrator v. Gallaway, NTSB Order No. EA-5487 (2009); Administrator v. Myers, 5 NTSB 997 (1986).

Consequently, no issues of material fact remained for the law judge's resolution. Moreover, we find, as a matter of law, the complaint alleges facts sufficient to establish respondent violated 14 CFR §§ 91.13(a) and 91.103.

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied; and
2. The law judge's order entering judgment on the pleadings in favor of the Administrator is affirmed.

HART, Chairman, DINH-ZARR, Vice Chairman, and SUMWALT AND WEENER, Members of the Board, concurred in the above opinion and order.

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF ADMINISTRATIVE LAW JUDGES

MICHAEL P. HUERTA,
ADMINISTRATOR
FEDERAL AVIATION ADMINISTRATION,

Complainant,

v.

Docket SE-19822

ESTEBAN JIMENEZ,

Respondent.

**ORDER ENTERING JUDGMENT ON THE
PLEADINGS IN FAVOR OF ADMINISTRATOR**

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(BY FAX AND CERTIFIED MAIL)

(BY FAX)

On May 11, 2015, the Administrator of the Federal Aviation Administration ("FAA") issued an emergency order revoking Respondent's commercial pilot certificate, as well as any other pilot certificate he holds. The Administrator's Emergency Order of Revocation alleged that:

1. You are now and at all times mentioned herein, were the holder of Commercial Pilot Certificate No. [omitted].
2. On or about November 14, 2014, you acted as pilot in command of a Robinson model R44 helicopter, Civil Registration Number N363SK, the property of another, on a passenger-carrying flight in the vicinity of downtown Los Angeles, California.
3. Prior to your flight, you removed all the doors from N363SK.
4. You did not calculate and record the weight and balance of N363SK after you removed all of the doors.

5. During your flight, you allowed one of the two passengers to be out of the forward left seat.
6. You allowed the passenger to be seated in the left front area of the windshield, facing the rear of the helicopter, fully extending her crossed legs out of N363SK.
7. At all times that your passenger was out of the forward left seat, she was not properly secured.
8. By allowing your passenger to be out of the forward left seat and seated in the left front area of the windshield, you placed the center of her weight forward of any location in the helicopter for which an approved loading station was established by the manufacturer, or approved by the FAA, for safe operation.
9. By allowing your passenger to be seated as described in [P]aragraphs 6 through 8, you risked having the center of gravity of N363SK so far forward that sufficient nose up pitch could not be achieved with the remaining aft cycle travel, which would have limited your ability to change your flight path.
10. Your actions in allowing the passenger to be out of the forward left seat, and seated in the left front area of the windshield without being properly secured, was reckless as to endanger the life or property of another.

By reason of the facts and circumstances described above, you violated the following Sections of the Federal Aviation Regulations:

- a. 91.13(a), which states that no person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another, and
- b. 91.103, which states that each pilot in command shall, before beginning a flight, become familiar with all available information concerning that flight.

As previously noted, the Administrator seeks the revocation of Respondent's commercial pilot certificate, as well as any other pilot certificate he holds.

On May 20, 2015, Respondent filed a notice of appeal. The Administrator filed his complaint in this case on the same day. There is no dispute that the Administrator's complaint was received by Respondent. Also on May 20, 2015, this office sent to Respondent's counsel a letter acknowledging the receipt of Respondent's appeal, which specifically stated (emphasis original):

Section 821.55(b) [of the Board's Rules of Practice in Air Safety Proceedings (codified at 49 C.F.R.)] states that the Respondent must file an Answer to the Complaint (which is the emergency order from the FAA re-filed as the Complaint), within 5 days after service of the Complaint upon Respondent. A copy of your Answer must be sent to the FAA counsel. The "*date of mailing*" is the "*date of service*" in all documents pertaining to this proceeding. . . . An Answer must contain an admission or denial of each and every paragraph of the charges and allegations in the FAA's Order/ Complaint.

Respondent did not file an answer to the complaint in the required five days after service of the complaint, *i.e.*, by May 26, 2015.¹

The Administrator subsequently filed a “Motion to Deem Facts Admitted and Motion for Summary Judgment.” I conducted a telephonic pre-hearing conference with counsel for the parties on May 29, 2015, to discuss a timeframe for Respondent to file a reply to the Administrator’s motion. During that telephone conference, Respondent’s counsel indicated that he would waive the applicability of the Board’s rules governing emergency proceedings (49 C.F.R. Part 821, Subpart I), and he subsequently did so on June 1, 2015. In addition to that waiver, Respondent filed a belated answer to the complaint on that date. Subsequently on June 1, 2015, the Administrator filed a “Motion to Strike Respondent’s Late-Filed Answer,” on the basis that Respondent had not shown good cause for the answer’s untimely filing. Respondent then filed an “Opposition to Complainant’s Motion to Strike Respondent’s Late Filed Answer” on June 8, 2015, and an “Opposition to Complainant’s Motion to Deem Facts Admitted and Motion for Summary Judgment” on June 12, 2015. The Administrator subsequently filed a “Reply to the Respondent’s Opposition to Complainant’s Motion to Strike Respondent’s Late Filed Answer” on June 18, 2015, and a “Reply to the Respondent’s Opposition to Complainant’s Motion for Summary Judgment” on June 24, 2015.

I. Administrator’s Motion to Strike Respondent’s Late Filed Answer

I will first address Respondent’s untimely filing of the answer to the complaint on June 1, 2015, which was the date on which he waived the applicability of the emergency rules in this proceeding. I will also address the Administrator’s Motion to Strike Respondent’s Late Filed Answer. Respondent’s counsel asserts that the answer was belatedly filed due to excusable neglect. Counsel for Respondent relates that he was not in his office, and did not receive notice of the complaint until after the time in which to file a timely answer had passed. Respondent’s counsel also asserts that the complaint was served over the Memorial Day weekend.² Counsel for Respondent further points out that he is assisting Respondent on a *pro bono* basis. Finally said counsel notes that Respondent has waived the applicability of the Board’s emergency rules, and argues that this serves to extend Respondent’s time to file an answer from five days to 20 days, which is the timeframe for submitting an answer under the Board’s rules governing non-emergency proceedings.

The Administrator argues in the Motion to Strike Respondent’s Late Filed Answer that Respondent readily admits that his answer was not timely and further asserts that, under Board precedent, excusable neglect does not constitute good cause for late filing, citing *Administrator v. Horna*, NTSB Order No. EA-5720 (2014). The Administrator further asserts that the fact that Respondent’s counsel is representing him on a *pro bono* basis is of no relevance to the determination of good cause for the belated filing of his answer to

¹ May 25, 2015 was Memorial Day. Under § 821.10 of the Board’s Rules, if the last day for doing an act falls on a Saturday, Sunday or Federal holiday, that deadline extends to the next day that is not a Saturday, Sunday or Federal holiday, which, in this case, was Tuesday, May 26, 2015.

² As is related above (n. 1, *supra*), Memorial Day fell on May 25, 2015. The complaint was served on (mailed to) Respondent by overnight delivery service on May 20, 2015, which was three days before Memorial Day weekend began.

the complaint in this case. The Administrator avers that an attorney is charged with knowledge of the rule of practice applicable to these proceedings.

As to Respondent's argument that his waiver of the applicability of the emergency rules in this matter extended his time to file and answer to 20 days from the date on which the complaint was filed (which would make his June 1, 2015 answer timely), the Administrator cites § 821.52(d) of the Board's Rules, which provides as follows (emphasis added):

Except as provided in § 821.54(f) [(which relates to petitions for review of the Administrator's emergency determinations)], or where the law judge or the Board determines that it would unduly burden another party or the Board, a certificate holder [(i.e., respondent)] affected by an emergency or other immediately effective order of the Administrator may, at any time after filing an appeal from such and order, waive the applicability of the accelerated time limits of this subpart; *however, such a waiver shall not serve to lengthen any period of time for doing an act prescribed by this subpart which expired before the date on which the waiver was made.*

I find the Administrator's arguments to be compelling. Under Board precedent, late filed answers cannot be accepted without a showing of good cause for the delay in the answer's submission, and the excusable neglect argument asserted by Respondent has previously been rejected by the Board.³ As to Respondent's suggestion that his counsel's *pro bono* representation should absolve him of compliance with the Board's rules of practice as to the timeframes in which to file an answer to the complaint, he cites no legal basis or case law to support that position. Counsel for Respondent was specifically informed of the five-day timeframe for filing an answer to the complaint in the acknowledgment letter this office sent to him on May 20, 2015. Finally, Respondent waived the applicability of the Board's emergency rules in this matter on June 1, 2015, *after* his due date for filing an answer expired on May 26, 2015. The Board's Rules clearly establish that a waiver of the applicability of the emergency rules by a respondent made after the five-day period for filing an answer to the complaint under the emergency rules has expired does not extend that respondent's timeframe for filing an answer to the twenty-day period allowed under the non-emergency rules.

I must, therefore, find that Respondent failed to file a timely answer to the Administrator's complaint in this case, and that he did not have good cause for the belated sub-

³ In *Administrator v. Diaz*, NTSB Order EA-4990 (2002), affirmed *sub nom.*, *Diaz v. Dep't of Transp.*, 65 Fed. Appx. 594 (9th Cir. 2003), the Board, noting that the submission of an answer is critical to the air safety enforcement appeal litigation process, affirmed an NTSB administrative law judge's ruling not accepting a respondent's late-filed answer. There, the Board held that the standard to be applied in deciding whether a late-filed answer should be accepted is whether the respondent has shown good cause for the delay in its submission. NTSB Order EA-4990 at 4-5. See also Rule 11(a) of the Board's Rules of Practice (codified at 49 C.F.R. § 821.11(a)), and *Administrator v. Hooper*, 6 NTSB 559, 560 (1988), on remand from *Hooper v. Nat'l Transp. Safety Bd.*, 841 F.2d 1150 (D.C. Cir. 1988). The Board has previously rejected "the more lenient standard of 'excusable neglect'" in evaluating whether a party has established good cause for a late filing. *Administrator v. Graham*, NTSB Order EA-5337 at 5 (2007), citing *Administrator v. TPI Int'l Airways, Inc.*, NTSB Order EA-3931 (1993). See also *Administrator v. Horna*, *supra*, at 5, citing *Administrator v. Montague*, NTSB Order EA-5617 (2012) and *Administrator v. Bandiola and Bagamastad*, NTSB Order EA-5677 (2013).

mission of his answer. Accordingly, the Administrator's motion to strike Respondent's late filed answer will be granted.

II. Administrator's Motion to Deem Facts Admitted and for Summary Judgment

I now turn to the Administrator's Motion to Deem Facts Admitted and Motion for Summary Judgment. Because that motion is based on the fact that Respondent did not file a timely answer to the complaint, and does rely upon any supporting documentation in addition to the parties' pleadings, § 821.17(c) of the Board's Rules — which provides for the entry of a *judgment on the pleadings* when "no answer has been filed, or . . . the pleadings disclose that there are no material issues of fact to be resolved and [a] party is entitled to judgment as a matter of law" — applies.⁴

In opposing the Administrator's motion, Respondent makes three arguments: (1) that he waived the applicability of the emergency rules, which extended his time to file an answer from five days to 20 days; (2) that there are genuine issues of material fact to be resolved in this case raised in his answer; and (3) that he does not lack standing despite his denial of Paragraph 1 of the complaint because, at the time he answered the complaint, he had surrendered his commercial pilot certificate, and thus was no longer the holder of a commercial pilot certificate, making that statement subject to denial.

In rejecting Respondent's first argument, I note, as I previously stated (*see* 3-4, *supra*), that § 821.52(d) of the Board's Rules specifically provides that a respondent's waiver of the applicability of the rules governing emergency proceedings "shall not serve to lengthen any period of time for doing an act prescribed [under the emergency rules] which expired before the date on which the waiver was made," and that Respondent's waiver was made *after* his May 26, 2015, deadline for answering the complaint had passed.

Respondent's second argument asserts that there are material facts at issue in this case and that it is, therefore, inappropriate for a judgment to be rendered in this matter without a hearing. Because I have granted the Administrator's Motion to Strike Respondent's Late Filed Answer, all of the factual allegations set forth in the Administrator's complaint are deemed to have been admitted by Respondent. Therefore, there are no material issues of fact in dispute before me.

Respondent's third argument as to standing has no relevance to any issue before me, nor does it address any of the arguments raised in the Administrator's motion supporting the entry of a judgment in his favor based on Respondent's failure to file a timely answer.

I also find that the facts alleged in the complaint establish violations of §§ 91.13(a) and 91.103 of the Federal Aviation Regulations ("FAR," codified at 14 C.F.R.) as a matter of law. As a result, the remaining issue requiring resolution in this case is the propriety of the sanction of revocation ordered by the Administrator.

⁴ Under § 821.17(d) of the Rules, summary judgment is appropriate when "the pleadings *and other supporting documentation* establish that there are no material issues of fact to be resolved and [a] party is entitled to judgment as a matter of law."

On the issue of sanction, the Administrator has requested deference to his choice of the sanction of revocation of all of Respondent's airman certificates. The Administrator has asked that I take judicial notice of the FAA's publically available sanction guidance found at FAA Order 2150.3B, Chapter 7, pages 7-1 through 7-11. The Administrator contends that the sanction guidelines set forth there provide for the revocation of an airman's certificate when, as is the case here, the airman lacks qualifications to hold a certificate, or the certificate holder's conduct is grossly careless or reckless. The Administrator argues that even a single violation of this type is sufficient to warrant a conclusion that the airman in question lacks qualifications, and that the facts of this case — which, for the reasons set forth above, have been deemed undisputed — demonstrate grossly careless and reckless conduct by Respondent. The Administrator cites *Administrator v. Martz*, NTSB Order EA-5447(2009) as a similar case in which the Board affirmed the revocation of a respondent's commercial pilot certificate for violating FAR § 91.13(a).

Respondent here has made no argument in support of a lesser sanction. Based on the undisputed facts and circumstances of this case, I find that the revocation of Respondent's commercial pilot certificate and any other pilot certificate he holds is warranted in the public interest in aviation safety.

Since the factual allegations that have been deemed admitted by virtue of Respondent's failure to file a timely answer establish the violations of FAR §§ 91.13(a) and 91.103 with which he has been charged, and because the revocation Respondent's commercial pilot certificate and any other pilot certificate he holds is an appropriate sanction for those violations, I will enter a judgment on the pleadings in favor of the Administrator in this case.


THEREFORE, IT IS ORDERED that the allegations of fact set forth in the Administrator's complaint in this proceeding are deemed admitted as a consequence of Respondent's failure to have filed a timely answer or established good cause for that failure;

IT IS FURTHER ORDERED that, based on such deemed admissions, Respondent is found to have violated §§ 91.13(a) and 91.103 of the Federal Aviation Regulations, as charged by the Administrator in the complaint;

IT IS FURTHER ORDERED that revocation of Respondent's commercial pilot certificate and any other pilot certificate(s) held by him is AFFIRMED; and

IT IS FURTHER ORDERED that this proceeding is hereby TERMINATED.

Entered this 30th day of September, 2015, at Washington, D.C.



Alfonso J. Montañó
Chief Administrative Law Judge