

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC**

In the Matter of: KEITH P. STALEY
FAA Order No. 2006-8

Docket No. CP05WP0010
DMS No. FAA-2005-20780¹

Served: August 4, 2006

ORDER DISMISSING APPEAL²

On February 16, 2006, Administrative Law Judge Richard C. Goodwin issued a written initial decision in this case. The ALJ held in the decision that Respondent Keith P. Staley (“Staley”) had been properly served with all pleadings and notices and that Staley had failed to keep the ALJ informed of his address changes. The ALJ found that Staley failed to file an answer to the complaint, and to respond to the ALJ’s procedural order and order to show cause. As a result, the ALJ held that Staley had constructively withdrawn his request for a hearing. The ALJ granted Complainant’s motion to deem the allegations of the complaint as admitted. The ALJ noted that Staley failed to appear at the hearing held on September 1, 2005, and that, at the hearing, Complainant put on evidence proving the allegations in the complaint. The ALJ held that Staley violated 14 C.F.R. §§ 91.11(c) and 91.517, and assessed a civil penalty of \$2,200.

Under 14 C.F.R. § 13.233(a) and § 13.211(e), Staley had the right to appeal to the Administrator by filing a request for hearing with the FAA Hearing Docket no later than 15 days after the issuance of the written initial decision. Consequently, Staley was required to file his notice of appeal no later than March 3, 2006. Staley, however, did not file his appeal until March 9, 2006.³

¹ Materials filed in the FAA Hearing Docket are also available for viewing through the Department of Transportation’s Docket Management System (DMS). Access may be obtained through the following Internet address: <http://dms.dot.gov>. See 14 C.F.R. § 13.210(e)(1).

² The Administrator’s civil penalty decisions, along with indexes of the decisions, the rules of practice, and other information, are available on the Internet at the following address: http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/AGC400/Civil_Penalty. In addition, Clark Boardman Callaghan publishes Federal Aviation Decisions. Finally, the decisions are available through LEXIS and WestLaw. For additional information, see the website.

³ Staley sent a copy of his appeal directly to both the Hearing Docket and the ALJ. The ALJ’s office forwarded a copy of the appeal to the Hearing Docket. There is no indication in the appeal that he served a copy on the agency attorney.

Further under 14 C.F.R. § 13.233(c), Staley was required to perfect his appeal by filing an appeal brief. Staley did not file a separate appeal brief. However, his appeal, dated March 9, 2006, is sufficiently detailed to constitute an appeal brief.⁴

Nonetheless, Staley's appeal was late-filed. He did not explain in his appeal letter why he was filing the appeal late. A late-filed notice of appeal/appeal brief will only be accepted if good cause is shown for its lateness. In the Matter of Blankson, FAA Order 1998-21 (October 9, 1998).

Staley also failed to explain why he failed to file an answer to the complaint or to respond to the order to show cause. Consequently, even if the appeal was deemed as timely filed, the appeal would be denied because Staley has provided no reason to reverse the ALJ's decision to deem the facts admitted as a result of Staley's failure to file an answer.

THEREFORE, IT IS ORDERED THAT: Staley's appeal is dismissed.

MARION C. BLAKEY, ADMINISTRATOR
Federal Aviation Administration

[original signed by Vicki S. Leemon]

VICKI S. LEEMON⁵
Manager, Adjudication Branch

Issued this 3rd day of August, 2006.

⁴ Staley argues as follows in his letter dated March 9, 2006:

- He has disputed the allegations that he violated the Federal Aviation Regulations since February 2005.
- He moved to Ohio from California in the spring of 2005, after developing serious medical problems.
- He sent a letter in April to the agency attorney, advising that he was moving to Ohio due to medical problems, that he would be in Ohio from May until September, and that she could contact him in Ohio.
- He was not informed about the hearing until 2006.
- The agency attorney apparently did not forward the information about his address change to the ALJ.
- He requests that the case be reopened so that he can have an opportunity to dispute the allegations.

⁵ Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202 (*see* 57 Fed. Reg. 58,280 (1992)) and redelegated by the Assistant Chief Counsel for Litigation to the Manager, Adjudication Branch, by Memorandum dated August 6, 1993.