

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

**In the Matter of: GLOBAL PEACE INITIATIVE, INC.**

FAA Order No. 2008-8

Docket No. CP07EA0013  
FDMS No. FAA-2007-29195<sup>1</sup>

Served: August 21, 2008

**DECISION AND ORDER**<sup>2</sup>

Respondent Global Peace Initiative, Inc. (GPI) has appealed from the default judgment issued by Administrative Law Judge (ALJ) Richard C. Goodwin against GPI on October 24, 2007.<sup>3</sup> The judgment was in the amount of \$340,000, the amount sought in the complaint. This decision finds that GPI has not shown good cause for its failure to file a timely answer, and it therefore affirms the ALJ's order assessing a \$340,000 civil penalty.

**I. Case History**

On March 7, 2007, Complainant Federal Aviation Administration (FAA) sent GPI a Notice of Proposed Civil Penalty (NPCP) advising GPI that the FAA

---

<sup>1</sup> Materials filed in the FAA Hearing Docket (except for materials filed in security cases) are also available for viewing at the following Internet address: [www.regulations.gov](http://www.regulations.gov). For additional information, see <http://dms.dot.gov>.

<sup>2</sup> 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: [www.faa.gov/about/office\\_org/headquarters\\_offices/agc/pol\\_adjudication/AGC400/Civil\\_Penalty](http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/AGC400/Civil_Penalty). In addition, Thomson/West publishes Federal Aviation Decisions. Finally, the decisions are available through LEXIS (TRANS library) and WestLaw (FTRAN-FAA database). For additional information, see the Web site.

<sup>3</sup> A copy of the ALJ's order, entitled "Order Granting Motion for Summary Judgment Against Respondent," is attached. (The ALJ's order is not attached to the electronic versions of this decision nor is it included on the FAA Web site.)

was seeking a \$340,000 civil penalty for GPI's alleged maintenance violations concerning GPI's Boeing 747-SP aircraft. On April 4, 2007, GPI sent the FAA a letter requesting a 6-month extension of time to respond to the NPCP. (Reply Brief, Attachment E.) By e-mail sent the following day, the FAA denied GPI's request for a 6-month extension of time and granted it a 45-day extension instead. (Reply Brief, Attachment D.) In a letter dated May 31, 2007, the FAA granted GPI an additional 10 days, until June 8, 2007, to respond to the NPCP. The agency attorney warned in that letter that: "[i]f you do not respond by that time we will proceed based on the evidence that is available to us." (FAA Reply Brief, Exhibit F at 1-2.) When GPI did not respond, the agency attorney issued the Final Notice of Proposed Civil Penalty (FNPCP) on June 27, 2007, seeking a \$340,000 civil penalty. The FNPCP, which contained six counts, alleged, among other things, that GPI operated an unairworthy aircraft on numerous occasions; discontinued a revision system required by its maintenance program; failed to correct maintenance discrepancies involving corrosion, missing equipment, and inoperative equipment; and created false maintenance records.

The FNPCP referred GPI to the FAA's enforcement regulation regarding requests for a hearing, 14 C.F.R. § 13.16, which, according to the FNPCP, the FAA had sent to GPI along with the NPCP. Section 13.16 provides in paragraph (h) that a person may request a hearing "to be conducted in accordance with Subpart G of [Part 13]." Subpart G contains the Rules of Practice, including the requirement to file a timely answer to a complaint. On August 13, 2007, GPI sent the FAA a

written request for a hearing.<sup>4</sup>

On August 22, 2007, the FAA filed the FAA's complaint with the Hearing Docket, along with GPI's request for a hearing. The FAA served the complaint on GPI by U.S. certified mail, return receipt requested. The complaint stated in bold: "The Rules of Practice provide that Respondent must file a written answer to this Complaint, or a written Motion to Dismiss if appropriate, not later than 30 days after the date shown on the Certificate of Service." The envelope containing the complaint was addressed to the head of the organization, Dr. K.A. Paul, at GPI.<sup>5</sup> The FAA submitted proof that GPI received the complaint in the form of the U.S. Postal Service return receipt ("green card") signed by "Timothy Deep," who GPI states was one of its volunteers. (FAA Motion for Decision, Attachment 1; Appeal Brief at 5.)

Under 14 C.F.R. § 13.209(a), GPI then had 30 days to answer the complaint, in writing, plus an additional 5 days under the "mailing rule" – *i.e.*, 14 C.F.R. § 13.211(e).<sup>6</sup> Hence, the deadline for GPI's answer was September 26, 2007.

The rules make it clear that the consequences of failing to answer a complaint without good cause are serious. They provide that "a person's failure to file an answer without good cause *shall* be deemed an admission of the truth of each

---

<sup>4</sup> The FNPCP, which triggered the request for hearing, was dated June 27, 2007, whereas GPI's request for hearing states that GPI had received the FAA's letter (presumably, the FNPCP dated July 27, 2007), and that it wished to request a hearing.

<sup>5</sup> Dr. Paul had previously signed or sent other communications on GPI's behalf.

<sup>6</sup> Section 13.211(e) provides that whenever a party has a right or duty to respond within a prescribed period or on a date certain after service by mail, 5 days shall be added to the prescribed period.

allegation contained in the complaint.” 14 C.F.R. § 13.209(f) (emphasis added).

On September 20, 2007, the ALJ served a procedural order on GPI which, among other things, advised GPI of the answer requirement and of the consequences of failing to meet the requirement. To date, GPI has not filed an answer.

When GPI failed to file an answer on time, the FAA filed a motion for decision on October 3, 2007, under 14 C.F.R. § 13.218(f)(5).<sup>7</sup> The FAA served this motion on GPI by FedEx, and on the same day, the FAA also sent a facsimile of the motion to GPI. The FAA submitted proof that GPI received the motion for decision with the signature of “S. Morris” at GPI on the FedEx delivery document. (FAA Reply Brief, Exhibit A.) The FAA also attached to its reply brief a copy of a facsimile log that showed the successful transmission of the FAA’s motion for decision to GPI’s office in Houston, Texas. (FAA Reply Brief, Exhibit B.) GPI did not respond to the motion.

In an order dated October 24, 2007, the ALJ construed GPI’s failure to respond to the complaint and to the motion for decision as: (1) a withdrawal of GPI’s request for hearing; and (2) an admission of all of the allegations in the complaint (including the allegation that a \$340,000 civil penalty was appropriate). He assessed GPI the \$340,000 civil penalty sought in the complaint. GPI, which to this point had proceeded *pro se*, retained counsel and filed a notice of appeal on November 2, 2007.

---

<sup>7</sup> Section 13.218(f)(5) provides that an ALJ shall grant a motion for decision if there is no genuine issue of material fact and the moving party is entitled to a decision as a matter of law.

In its appeal brief, GPI asserts that it is a Texas non-profit charitable organization that owned and operated a Boeing 747-SP to facilitate its world-wide relief efforts. It states that “due to maintenance-related issues and the pendency of the investigation initiated by the FAA Eastern Region,” it has had to ground the aircraft and lay off all its aviation employees. (Appeal Brief at 2.) GPI further states that it now has only part-time volunteers at its U.S. office in Houston. It asserts that before the FAA issued the complaint, the head of GPI, Dr. Paul, left for India on a humanitarian mission, and at the time of filing of the appeal brief, he had not yet returned to the United States. According to GPI, Dr. Paul received neither the complaint, the ALJ’s procedural order, nor the FAA’s motion for decision, and therefore its lateness in filing the complaint should be excused.

## **II. Analysis**

As stated above, 14 C.F.R. § 13.209(f) provides that “[a] person's failure to file an answer without good cause *shall* be deemed an admission of the truth of each allegation contained in the complaint.” (Emphasis added.) “A showing of good cause is *mandatory*. Without it, failure to file an answer by the deadline may not be excused.” In the Matter of Atlantic World Airways, FAA Order No. 1995-28 at 4 (December 19, 1995) (emphasis added).

GPI points out that the law does not favor default judgments. While that is true, the Rules of Practice in 14 C.F.R. Part 13, Subpart G still require a showing of good cause to excuse a default.

A respondent is expected to know and meet procedural deadlines. In the Matter of Safety Equipment & Supply, FAA Order No. 1992-76 at 4 (December 21,

1992). While GPI was *pro se* at the time of the default, *pro se* respondents are not excused from following the Rules of Practice. In the Matter of Conquest Helicopters, Inc., FAA Order No. 1995-25 at 6 n.6 (December 19, 1995). The latitude traditionally afforded to *pro se* respondents is justifiably narrower when the respondent is the corporate operator of a Boeing 747 aircraft.

GPI failed to answer the complaint, even though it had notice of the requirement to file an answer and the potential consequences of failing to do so. First, it had notice of the requirement through its volunteer who signed for the complaint as well as through the volunteers who received the ALJ's procedural order and the FAA's motion for decision. Second, GPI had notice of the requirement to file an answer through the NPCP, which it admits receiving. Along with the NPCP, the FAA sent GPI a copy of 14 C.F.R. § 13.16 enclosed with the NPCP. Section 13.16(h) expressly refers the reader to the Rules of Practice (14 C.F.R. Part 13, Subpart G), which include the answer requirement.

The answer to the complaint is a crucial part of the legal process used to determine and deter safety violations. In addition to the complaint, GPI also failed to respond to the FAA's motion for decision and to the ALJ's procedural order, which were other opportunities for GPI to avoid a default judgment.

In support of its good cause argument, GPI submitted only an affidavit from a volunteer, Antonio Conde, who attests that he generally coordinated the activities in GPI's office in Houston. Conde states that "I did not personally receive, nor am I aware of the receipt by anyone in the office of documents relating to [this case]," other than the ALJ's order imposing a default judgment. Further, Conde asserts, if

documents had been received relating to the FAA's case against GPI, he would have been the individual to notify Dr. Paul. On its face, Conde's affidavit shows nothing more than that he has no personal knowledge of how GPI handled the documents sent by the FAA. GPI has failed to provide any affidavits from the individuals who signed for the documents to explain what happened to the documents after they were received at GPI.

In the instant case, there is evidence that on several occasions, individuals acting on GPI's behalf received important FAA documents (*i.e.*, the complaint, the facsimile of the motion for decision, and the motion for decision itself). GPI submits that its president, Dr. Paul, did not know about the contents of these documents because its volunteers did not forward the complaint and other documents to Dr. Paul or even mention them to him. (Appeal Brief at 5.) GPI provides no other explanation or evidence for its failure to respond to multiple filings served on it.

Assuming, *arguendo*, that GPI's office workers did mishandle the documents, GPI is nevertheless responsible for the acts or omissions of its volunteers that are within their scope of employment – “[t]he fact that work is performed gratuitously does not relieve a principal of liability.” RESTATEMENT (THIRD) OF AGENCY § 7.07(3)(b). Acting within the scope of employment occurs when the employee, whether volunteer or not, engages “in a course of conduct subject to the employer's control.” *Id.* at § 7.07(2). Internal office procedures and the processing of mail were within GPI's control.

GPI's explanation, that its volunteers may have mishandled the documents,

simply does not constitute a showing of good cause for GPI's failure to file an answer. GPI should have taken steps to ensure that its mail was handled properly so that it did not lose its right to the hearing it had requested. GPI has not indicated that it took any special or even any ordinary precautions to avoid the risk of default, such as instructing its volunteers in how to process the mail. In contrast, in In the Matter of Safety Equipment & Sign Co., FAA Order No. 1992-76 at 5 (December 21, 1992), good cause was found where counsel attempted to protect against the danger of default by asking his employee to let him see each document received in the mail before filing it, but the employee did not comply.<sup>8</sup> Further, nowhere does GPI state that it has taken any corrective action to ensure that its mail is directed to the proper person in the future.

GPI's claim that Dr. Paul believed that the lack of activity in the case was due to his filing of a request for a 6-month extension of time is disingenuous. On April 4, 2007, GPI requested a 6-month extension of time to respond to the NPCP. The following day, the FAA sent an e-mail to GPI denying GPI's request for a 6-month extension of time and granting it only a 45-day extension instead. Then, by letter dated May 31, 2007, the agency attorney granted GPI an additional 10 days, until June 8, 2007, to respond to the NPCP. The FAA filed the complaint on August 22, 2007, months after Dr. Paul knew that the FAA denied his request for a 6-month extension of time and only 2 weeks after Dr. Paul requested a hearing in

---

<sup>8</sup> GPI cites certain decisions of administrative law judges (ALJs) to support its arguments. Decisions of the ALJs, however, are not precedential unless they are adopted by the Administrator. *See* 13 C.F.R. § 13.233(j)(3) (“[a]ny issue, finding or conclusion, order, ruling, or initial decision of an administrative law judge that has not been appealed to the FAA decisionmaker [Administrator] is not precedent in any other civil penalty action”).

response to the FNPCP.

GPI argues that its unfamiliarity with FAA enforcement procedures constitutes good cause. But GPI's only explanation for why the documents did not get to Dr. Paul is that its volunteers failed to ensure that he got them. Thus, unfamiliarity with the FAA's enforcement procedures was not GPI's alleged cause of its default and therefore cannot be considered good cause.

GPI also contends that the FAA has not shown any prejudice resulting from its failure to file an answer. The Rules of Practice do not require the FAA to show prejudice; to avoid a default judgment, it is the respondent's burden to show good cause. In the Matter of Larry's Flying Service, FAA Order No. 1998-4 at 7 (March 12, 1998).

In this case, the FAA's inspectors allegedly uncovered numerous maintenance deficiencies in GPI's B-747 aircraft. The FAA advised GPI in the NPCP, the FNPCP, and the complaint of the numerous alleged deficiencies and that the proposed civil penalty was \$340,000. The number and seriousness of the alleged violations, as well as the large amount of the proposed civil penalty, should have alerted GPI to the fact that the stakes were high in this case. Notably, GPI does not claim that it did not receive the NPCP or the FNPCP.

The type of service of the complaint also should have alerted GPI to the importance of the complaint and the case in general. The FAA served the complaint on GPI by U.S. certified mail, return receipt requested. In the Matter of Larry's Flying Service, Inc., FAA Order No. 1998-4 at 4 (March 12, 1998) (service by U.S. certified mail, return receipt requested, should alert the recipient to the

importance of the documents sent).

There is no doubt that non-profit, charitable organizations may be sympathetic respondents. But organizations, charitable or otherwise, that choose to operate aircraft must act responsibly, which includes respecting the legal process that determines whether safety violations have occurred. This is particularly true where, as here, it is the respondent who requests a hearing and, thus, invokes the procedures that require a complaint and an answer. All must comply with procedural and substantive regulations; all must be accountable for any failures to comply with the rules. The risk to persons and property in the sky and on the ground from failures in maintenance is no less for charitable organizations than for other types of organizations.

### **III. Conclusion**

Because GPI has failed to show good cause for its failure to file a timely answer to the complaint, this decision affirms the ALJ's order, including the \$340,000 civil penalty.<sup>9</sup>

[Original signed by Robert A. Sturgell]

ROBERT A. STURGELL  
ACTING ADMINISTRATOR  
Federal Aviation Administration

---

<sup>9</sup> This decision shall be considered an order assessing civil penalty unless Respondent files a petition for review within 60 days of service of this decision with the U.S. Court of Appeals for the District of Columbia Circuit or the U.S. court of appeals for the circuit in which the respondent resides or has its principal place of business. 14 C.F.R. §§ 13.16(d)(4), 13.233(j)(2), 13.235 (2007). *See* 71 Fed. Reg. 70460 (December 5, 2006) (regarding petitions for review of final agency decisions in civil penalty cases).