

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC

Served: October 20, 1992

FAA Order No. 92-57

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In the Matter of: )

DETROIT METROPOLITAN WAYNE )  
COUNTY AIRPORT )  
\_\_\_\_\_ )

) Docket No. CP91GL0006  
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)  
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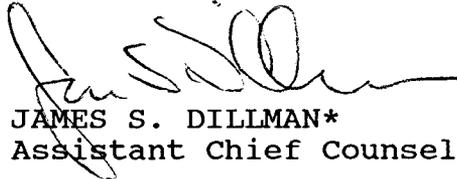
ORDER  
(ERRATUM)

Please note the following correction to the Order  
Dismissing Appeal served on October 13, 1992:

The third sentence in the 2nd paragraph on page 1, which  
begins "Thus, the deadline for Respondent to file its  
answer ..." should read "Thus, the deadline for Respondent  
to file its notice of appeal ..."

This Order should be attached to the previously-issued Order  
Dismissing Appeal.

THOMAS C. RICHARDS, ADMINISTRATOR  
Federal Aviation Administration

  
JAMES S. DILLMAN\*  
Assistant Chief Counsel

Issued this 20th day of October, 1992.

\* Issued under authority delegated to the Chief Counsel and  
the Assistant Chief Counsel for Litigation by Memorandum dated  
January 29, 1990, under 49 U.S.C. § 322(b) and  
14 C.F.R. § 13.202. See 55 Fed. Reg. 15,094 (1990).

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In the Matter of: )

DETROIT METROPOLITAN WAYNE )  
COUNTY AIRPORT )  
\_\_\_\_\_ )

) Docket No. CP91GL0006

ORDER DISMISSING APPEAL

On July 8, 1992, Administrative Law Judge Robert L. Barton, Jr., served a written initial decision finding that Respondent Detroit Metropolitan Wayne County Airport violated Section 107.13(a)(1) of the Federal Aviation Regulations, 14 C.F.R. § 107.13(a)(1). The law judge imposed a civil penalty of \$1,000.

Under the Rules of Practice, a notice of appeal from a law judge's decision must be filed no later than 10 days after service of the written initial decision on the parties. 14 C.F.R. § 13.233(a). Respondent had 5 additional days to file its notice of appeal because Respondent was served with the initial decision by mail. 14 C.F.R. § 13.211(e). Thus, the deadline for Respondent to file its answer was 15 days from the date the written initial decision was served, or July 23,

1992.<sup>1/</sup> Respondent did not file its notice of appeal until August 13, 1992, however, and did not explain the late filing.

On September 11, 1992, Complainant filed a Motion to Dismiss Respondent's Appeal based on the untimeliness of the notice of appeal. Respondent has not responded to Complainant's Motion to Dismiss.

An untimely notice of appeal will be excused only for good cause. In the Matter of Metz, FAA Order No. 90-3 at 5 (January 29, 1990). Respondent has failed to show, or even attempt to show, good cause for its failure to file either a timely notice of appeal or a timely request for an extension of time to file a notice of appeal.

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<sup>1/</sup> The authority of the Administrator of the Federal Aviation Administration (FAA) to assess civil penalties for violations arising under the Federal Aviation Act of 1958, as amended, lapsed on August 1, 1992. All cases were held in abeyance during the lapse. The Administrator's authority to assess civil penalties was made permanent on August 26, 1992, with the enactment of the FAA Civil Penalty Administrative Assessment Act of 1992, P.L. 102-345, 106 Stat. 923.

On August 27, 1992, proceedings in civil penalty cases were resumed. To ensure fairness, the computation of time to file pleadings or responses began anew on August 27, 1992. This applies, however, only where the pleadings or responses were originally due after August 1, 1992 (the date of the lapse in the Administrator's authority). Respondent's time to file a timely notice of appeal ran out on July 23, 1992.

THEREFORE, IT IS ORDERED THAT:

Respondent's appeal is dismissed.

THOMAS C. RICHARDS, ADMINISTRATOR  
Federal Aviation Administration

  
JAMES S. DILLMAN<sup>2/</sup>  
Assistant Chief Counsel

Issued this 13<sup>th</sup> day of October, 1992.

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<sup>2/</sup> Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated January 29, 1990, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202. See 55 Fed. Reg. 15,094 (1990).