

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC

In the Matter of: FELTS FIELD AVIATION

FAA Order No. 2020-3

FDMS No. FAA-2015-3307

Served: September 15, 2020

ORDER OF DISMISSAL OF FAA's APPEAL

Respondent, Felts Field Aviation, has moved to dismiss the FAA's administrative appeal on the ground that the Agency failed to perfect its appeal in a timely manner. The motion is granted.

A party initiates an appeal from an initial decision by filing a notice of appeal. The party must perfect its appeal by filing an appeal brief within "50 days after ... service of the written initial decision on the party."<sup>1</sup> If the initial decision is served by mail, then the regulations add five days to the deadline for filing the appeal brief.<sup>2</sup> In this matter, the initial decision was served by mail on May 14, 2020.<sup>3</sup> As a result, the FAA's deadline was 55 days from that date, i.e., July 8, 2020.

The FAA filed its appeal brief on July 17, 2020,<sup>4</sup> which was nine days after the deadline. The FAA attributes its late filing to nothing other than miscalculation.<sup>5</sup>

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<sup>1</sup> 14 C.F.R. § 13.233(c) (2020).

<sup>2</sup> *Id.* at § 13.211(e) (2020).

<sup>3</sup> Initial Decision at 1.

<sup>4</sup> Agency Appeal Brief at 26 (certificate of service).

<sup>5</sup> FAA's Reply to Respondent's Motion to Dismiss Appeal at 2.

The FAA does not assert good cause to extend the deadline, and it acknowledges that its appeal may be dismissed under the regulation.<sup>6</sup>

Miscalculation alone is an insufficient reason to extend the deadline for perfecting an appeal. The FAA's appeal, therefore, has not been perfected. Respondent's motion is granted, and the FAA's appeal is dismissed.

Issued for the FAA Administrator<sup>7</sup>  
This 15<sup>th</sup> day of September 2020,

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John A. Dietrich  
Director and Chief Administrative Judge  
FAA Office of Adjudication

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<sup>6</sup> *Id.* (citing 14 C.F.R. 13.233(d)(2)).

<sup>7</sup> Pursuant to a delegation of authority dated March 28, 2016, the Director of the Office of Adjudication may "grant or deny motions to dismiss appeals" and may "issue procedural and other interlocutory orders aimed at the proper and efficient case management." This Order of Dismissal, which is also interlocutory in light of Respondent's pending administrative appeal, will be incorporated into the Final Decision and Order in this matter.

## SERVICE LIST

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