

SERVED: February 2, 1993

NTSB Order No. EA-3792

UNITED STATES OF AMERICA  
NATIONAL TRANSPORTATION SAFETY BOARD  
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)  
on the 1st day of February, 1993

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JOSEPH DEL BALZO,	)	
Acting Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-10580
v.	)	
	)	
DOUGLAS JACKSON COOMBS,	)	
	)	
Respondent.	)	
	)	

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**ORDER DENYING MOTION**

The Administrator has filed a motion requesting that the Board either vacate or reconsider its decision in NTSB Order EA-3750 (served December 3, 1992) to grant respondent's request for a stay pending judicial review. The motion is denied.

The basis for the request that the Board vacate its order is that the respondent failed to file a timely appeal with the Court of Appeals. However, since the grant of a stay in Order EA-3750 was contingent on a timely filing with the Court, the effectiveness of the Board' order has expired by its own terms.

The request that Board Order EA-3750 be reconsidered is predicated on its asserted inconsistency with precedent declining to stay Board orders in revocation cases. Specifically, it is argued that Order EA-3750 is at odds with our refusal in Administrator v. Balestra, NTSB Order EA-3065 (1990), since that case, like this one, did not entail a review of the merits of the charges for which the Administrator sought the sanction of revocation. We perceive no inconsistency warranting reconsideration. The merits of the charges against respondent Balestra were not in fact litigated before the Board because he failed to answer the complaint after appealing, not because, like

respondent Coombs, the merits of his case were never properly before us on a timely appeal. Moreover, while the merits of the charges against respondent Balestra were not reviewed by the Board, a decision as to the appropriateness of the sanction of revocation had been entered by the Board. See Administrator v. Balestra, NTSB Order EA-3019 (1990). No such determination has been made in this case.

**ACCORDINGLY, IT IS ORDERED THAT:**

The Administrator's "Motion to Vacate, or in the alternative, Reconsider Order Granting Stay" is denied.

Daniel D. Campbell  
General Counsel