

SERVED: March 1, 1995

NTSB Order No. EA-4330

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

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 23rd day of February, 1995

DAVID R. HINSON,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-13397
v.)	
)	
BENJAMIN DUNN KENNEDY,)	
)	
Respondent.)	
)	

ORDER DISMISSING APPEAL

On September 29, 1994, respondent, through counsel, filed a notice of appeal from the oral initial decision Administrative Law Judge William A. Pope, II, rendered at the conclusion of an evidentiary hearing held on September 20 and 21, 1994.¹ However, the respondent has failed to file an appeal brief and, therefore, his appeal is subject to dismissal under section 821.48(a) of the Board's Rules of Practice.² 49 CFR 821.

¹The law judge affirmed an order of the Administrator alleging that respondent had violated sections 91.119(b) and 91.13(b) of the Federal Aviation Regulations, but modified the order to provide for a 105 rather than a 180-day suspension of all airman certificates held by respondent, including Airline Transport Certificate Number 403152664.

²Section 821.48(a) provides as follows:

ACCORDINGLY, IT IS ORDERED THAT:

The respondent's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, and HAMMERSCHMIT, Member of the Board, concurred in the above order.

(..continued)

§ 821.48 Briefs and oral argument.

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.