

SERVED: December 22, 1998

NTSB Order No. EA-4734

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

Issued under delegated authority (49 C.F.R. 800.24)
on the 22nd day of December, 1998

JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-15007
v.)	
)	
DOUGLAS E. HAYNES,)	
)	
Respondent.)	

ORDER GRANTING STAY

Respondent has requested a stay of NTSB Orders EA-4690 and 4722, served August 14, 1998, and November 19, 1998, respectively, pending disposition of a petition for review of those orders to be filed in the U.S. Court of Appeals.¹ The Administrator opposes the request. The request will be granted.

The Board's policy on stays in the case of suspensions of 180 days or more is to review the seriousness of the violations case-by-case. In this case, there was no hearing on the merits. Respondent did not appear, and the law judge accepted the Administrator's obviously unchallenged evidence as adequate to meet her burden of proof. Thus, although the Administrator, in opposing respondent's stay request, argues that respondent committed a serious violation in transporting passengers in

¹ In EA-4690, the Board affirmed a 180-day suspension of respondent's airman certificate for an improper passenger-carrying operation. In EA-4722, The Board denied respondent's petition for reconsideration.

compensated charter service he was not authorized or qualified to provide, respondent had no opportunity to offer any evidence in defense of his actions.² Because this case was decided more on an issue of procedure than one of substance, we decline to conclude that such serious questions have been raised about respondent that a stay would jeopardize safety. Accord Administrator v. Coombs, NTSB Order No. EA-3750 (1992).

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's petition for stay is granted.

Daniel D. Campbell
General Counsel

² We must reject respondent's effort to introduce new evidence.