

SERVED: August 8, 1997

NTSB Order No. EA-4578

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 29th day of July, 1997

BARRY L. VALENTINE,)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-14726
v.)	
)	
STEVEN P. FLEMING,)	
)	
Respondent.)	
)	

OPINION AND ORDER

Respondent has appealed from the oral initial decision of Administrative Law Judge William E. Fowler, Jr., issued on April 11, 1997, following an evidentiary hearing.¹ The law judge affirmed an order of the Administrator revoking all respondent's airman and medical certificates on an emergency basis,² on

¹ The initial decision, an excerpt from the transcript, is attached.

² Respondent waived applicability of the emergency procedures and schedule.

finding that respondent had violated 14 C.F.R. 67.20(a)(1).³ We deny the appeal.

The Administrator's order charges intentional falsification of respondent's medical certificate in four respects (failing to report that he had previously been denied a medical certificate, and reporting that he had no history of mental disorders, alcohol dependence or abuse, or prior non-traffic convictions). Because respondent's answer to the complaint was in many ways nonresponsive, at the hearing the law judge took respondent through each paragraph of the complaint. Respondent admitted the substance of the Administrator's allegations. In a colloquy with the law judge, respondent indicated that he intended to make one or two false statements "to get the attention of the court," but noticed that he made four. Tr. at 16.

Respondent had earlier been denied a medical certificate, based on "a history of alcoholism and psychosis with a cognitive deficit" (Exhibit B). It appears that respondent thought to shortcut the "red tape" necessary to try to obtain a new medical certificate by falsifying the 1996 medical application and, thereby, getting someone's "attention." Tr. at 58 ("you thought [these statements] were so obviously false that they would never go through the system, is that right?"; "Question: But you knew that they were false at the time you checked them on your

³ Section 67.20(a)(1) provides, as pertinent, that no person may make a fraudulent or intentionally false statement on a medical application.

application? Answer: That is correct.")

Regardless of his dissatisfaction with the situation in which respondent found himself, an appropriate response for a certificate holder is not intentionally to falsify an FAA medical application. Such conduct does not demonstrate the qualifications demanded of certificate holders.

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied; and
2. The initial decision is affirmed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.