



screening. The Complaint charged Respondent with violating 49 C.F.R. §1540.105(a) which states that no person may tamper or interfere with, compromise, modify, attempt to circumvent, or cause a person to tamper or interfere with, compromise, modify, or attempt to circumvent any security system, measure, or procedure and 49 C.F.R. §1540.103(b) which states that no person may make or cause to be made any fraudulent or intentionally false entry in any record or report that is kept, made or used to show compliance with TSA regulations. TSA requested a civil penalty of \$2,500.00.

Respondent failed to claim the Complaint and the Postal Service returned it to TSA after attempting to deliver it on three occasions. TSA's rules of practice require that an Answer to the Complaint be filed not later than 30 days after receipt of the Complaint. 49 C.F.R. §1503.611. Failure to file an Answer without good cause as determined by the ALJ will be deemed an admission of the truth of each allegation contained in the Complaint. The Complaint contained instructions for filing an Answer and a template that can be used to provide an Answer. In order to determine whether Respondent had good cause for failing to provide an Answer, the ALJ attempted to contact Respondent by telephone. Respondent hung up on the ALJ's law clerk and did not answer the telephone on a subsequent attempt. The ALJ found that Respondent failed to show good cause as to why she did not file an Answer and deemed the allegations in the Complaint admitted, in accordance with TSA's rules of practice.

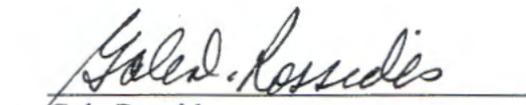
TSA filed a Motion for Decision. The rules of practice provide that if there is no genuine issue of material fact, the party moving for a decision is entitled to a decision as a matter of law. 49 C.F.R. §1503.629(e)(5). The ALJ granted the Motion and assessed a civil penalty of \$2,500.00.

In her appeal, Respondent complains that she did not receive a hearing. As explained above, the ALJ properly applied the rules of practice in granting TSA's Motion for Decision. The Complaint was properly served and Respondent was responsible for filing an Answer. Respondent did not show good cause as to why she failed to do so. In accordance with the rules of practice, the ALJ properly deemed the allegations in the Complaint admitted and granted TSA's Motion for Decision.

Based on the forgoing, Respondent's appeal is denied. The initial finding that Respondent violated 49 C.F.R. §§1540.105(a) and 1540.103(b) is affirmed. The civil penalty is consistent with TSA's Enforcement Sanction Guidance Policy described on TSA's web site at [www.tsa.gov](http://www.tsa.gov). The civil penalty ordered by the ALJ is affirmed.

Either party may petition the TSA Decision Maker to reconsider or modify a Final Decision and Order. The rules of practice for filing a Petition for Reconsideration are described at 49 C.F.R. § 1503.659. A party must file the petition with the TSA Enforcement Docket clerk at the address listed in 49 C.F.R. § 1503.413(c)(3) not later than 30 days after service of the Final Decision and Order. A party may seek judicial review of the Final Decision and Order as provided in 49 U.S.C. § 46110.

Dated: 11/3/2010

  
Gale Rossides  
Deputy Administrator