

December 9, 1987

H. William Cohen, Esq.  
Macey, Wilensky, Cohen, Wittner and Kessler  
Suite 900, 133 Carnegie Way  
Atlanta, GA 30303-1024

Dear Mr. Cohen:

The FAA Aircraft Registry has referred your letter of November 4, 1987, to us for review. We are Aeronautical Center Counsel who advise the Registry on matters pertaining to the registration of aircraft and the recording of documents against those aircraft.

Your letter submitted an Order and Judgment with supporting pleadings from the case of William R. Williams v. Miles F. Kath, in the State Court of Fulton County, Georgia, showing an agreement whereby Williams sold Kath the airplane, but Kath has not paid the full balance due. The Judgment is for the unpaid balance due on the account. We note that neither the Order and Judgment nor the Writ of Fieri Facias identify the aircraft, nor make it subject to the judgment. In addition, the Writ does not show a return by the Sheriff, and we therefore consider it inchoate and unexecuted.

The Federal Aviation Act, 49 U.S.C. 1301, et seq., establishes the criteria under which the Registry operates. Significantly, it directs the recording of instruments which are conveyances (49 U.S.C. 1403) and which affect an interest in aircraft. None of the material you submitted shows that the suit affects an interest in the aircraft, although by inference, the aircraft, as property of the judgment debtor, may be levied on to satisfy the judgment.

Accordingly, we agree with the Registry that the material submitted may not be recorded, and it is returned for your disposition. You may wish to obtain an amended Order and Judgment which specifically identifies the aircraft and makes it subject to the lien of the judgment. In that case, we can determine that it affects an interest in the aircraft, and that it is eligible for recording. Otherwise, the suit is one for payment on account, not foreclosure of a vendor's lien for the aircraft. If you have any questions, please call the undersigned at (405) 686-2296.

Sincerely,

Joseph R. Standell  
Aeronautical Center Counsel

By:

**R. BRUCE CARTER**  
R. Bruce Carter  
Attorney Adviser

Enclosure

MACEY, WILENSKY, COHEN, WITTNER & KESSLER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

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DAVID D. ROBINSON  
CHRISTINE C. DANIEL  
JAMES R. SACCA  
DAVID B. KURZWEIL

November 4, 1987

Mr. Bill Fergeson  
Federal Aviation Administration  
P. O. Box 25504  
Oklahoma City, Oklahoma 73125

Re: 1975 Cessna No. N-5821-J,  
Model 182P, Serial No. 18263555,  
Owner Miles E. Kath

Dear Mr. Fergeson:

On November 3, 1987, I spoke with Mr. Presley of your office regarding placing a lien on the above-referenced airplane.

I advised Mr. Presley we had obtained a judgment against Mr. Kath in a lawsuit involving this aircraft.

Mr. Presley indicated that in order to file a lien, the judgment had to pertain to the aircraft.

This particular litigation was a suit seeking \$5,000.00 principal, plus interest for the balance which was due by Mr. Kath to Mr. Williams for the purchase of the aircraft. I am enclosing for your information a copy of my Motion for Summary Judgment which includes an Affidavit showing that the basis of this lawsuit was the purchase of the aircraft in question. I am further enclosing a copy of the Order and Judgment and a copy of the notice from the Court which has been filed in Fulton County showing the judgment.

It is hoped that with this information and the Affidavit showing the basis of the lawsuit being the aircraft, that we can place a lien upon the above-referenced aircraft. We feel that since the litigation involved the aircraft we should be entitled to a lien upon it.

WILENSKY, COHEN, WITTNER & KESSLER

Mr. Bill Ferguson  
November 4, 1987  
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If you need any further information from me, please let me hear from you. If not, we would appreciate your placing a lien on this aircraft so that Mr. Williams' rights can be protected.

Sincerely,

MACEY, WILENSKY, COHEN,  
WITTNER & KESSLER



H. William Cohen

HWC:Jb

Enclosures

cc: Mr. William R. Williams  
6216 Marburn Drive  
Indianapolis, IN 46227