

January 16, 1985

Preston C. Gaddis II, Esq.  
Crowe and Dunlevy  
1800 Mid-America Tower  
20 North Broadway  
Oklahoma City, OK 73102

Re: Cancellation of Registration for Export After Repossession

Dear Mr. Gaddis:

Your letter of January 11, 1985, states that one of your clients has repossessed an aircraft and registered it in his name. You further state that the aircraft was subject to several junior liens. The repossessor now is considering selling the aircraft to a purchaser who will request cancellation of U.S. registration for export, and you ask if the FAA will cancel and advise its counterpart in the country of intended registry that the aircraft is subject to no unreleased liens of record. For the reasons given below, your question is answered in the affirmative.

Article 18 of the Convention on International Civil Aviation prohibits the registration of aircraft in more than one state. The Mortgage Convention, to which the United States is a signatory, prohibits the transfer of an aircraft from the registry of one state to another unless all holders of recorded rights have consented to the transfer or released such rights. The question then, is whether a repossession and sale extinguishes junior recorded rights such that the FAA Aircraft Registry can cancel registration for export without consents or releases from recorded junior lienholders.

The Uniform Commercial Code states in Section 9-504(4):

"When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. (Under-scoring added). The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this Part...." (and language specifying good faith, noncollusion, etc).

The Official Comment to this Section states:

"Subsection (4) provides that a purchaser for value from a secured party after default takes free of any rights of the debtor and of the holders of junior security interests and liens, even though the secured party has not complied with the requirements of this Part or of any judicial proceedings." (Underscoring added).

In our opinion, this statutory language discharges not only the primary security interest, but also the junior security interests by operation of law, and consents or releases from the junior lienholders are therefore unnecessary. Accordingly, there being no outstanding liens after repossession and sale, the FAA Aircraft Registry can confirm to a transferring State that the aircraft is subject to no unreleased liens of record. This policy of the Registry was enunciated by Aeronautical Center Counsel at least as early as 1971, and has been incorporated into the Conveyance Examiner Guidelines recently promulgated at the Registry.

Sincerely,

*Joseph E. Standell*  
Joseph E. Standell  
Aeronautical Center Counsel

cc:  
AGC-7  
AGC-200  
AAC-250