

To: Regina Pickett
AFS-751

Date: 9/16/05

From: James M. Webster

Re: Statutory & Business Trusts

Regina,

I have attached a copy of Joe Standell's letter to Lew Ledyard, III dated September 12, 2005. I think it addresses your concerns about inconsistency of registrations on Statutory Trusts.

Our opinion is that Statutory Trusts are "associations." However, we take notice of the fact that at least one State Statute (Delaware) specifically provides that the Trust may take title to property in either the name of the Trust or the Trustee. (Once a selection is made, the Trust cannot switch back and forth) This being the case, we feel that it is appropriate for a Statutory Trust to register either in the name of the Trust *or* in the name of the Trustees.

If a Statutory Trust applies in the name of the Trust, we will review the application under the Statutory Definition of an association. If a Statutory Trust applies in the name of the Trustee, we will review the application under 14 C.F.R. § 47.7.

Regarding management of the Trust, the Trust Agreement will generally provide how the Trust will be managed. Absent specific provisions in the Trust Agreement, we should look to the State Statute to see what powers the Trustee has.





U.S. Department
of Transportation
**Federal Aviation
Administration**

Mike Monroney
Aeronautical Center

P.O. Box 25082
Oklahoma City, Oklahoma 73125

September 12, 2005

Lewis C. Ledyard, III
Morris, James, Hitchens & Williams LLP
222 Delaware Avenue, 10th FL
Wilmington, DE 19801-1621

Dear Lew,

Delaware Statutory Trusts

I can't tell you how helpful your letter of August 11, 2005, and our recent telephone conversations have been, with respect to basic concepts involving Delaware Statutory Trusts (and statutory trusts in general).

I am enclosing two opinions (August 30, 2005, and August 31, 2005, redacted copies), which relate to some of the matters we have discussed.

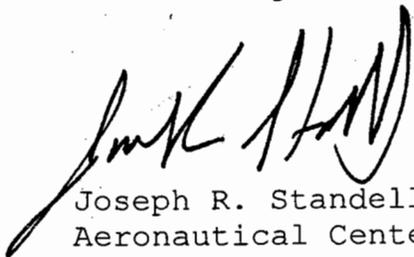
Key points in the letters are:

1. With respect to Delaware Statutory Trusts, and regardless of the rights of the Trustee to hold property and execute documents on behalf of the Trust in either the name of the Trustee or Trust, the name on the evidence of ownership (e.g. bill of sale) must match exactly the name of the applicant on the aircraft registration application. If, for example, N123Y Trust owns the aircraft, the application for aircraft registration must be in the name of N123Y Trust. Nevertheless, it would be appropriate for Wilmington Trust Company, as trustee, pursuant to the Delaware Statutory Act and Trust Agreement (N123Y), to prepare and sign the application.
2. If the Trust is the applicant, the requirements of 14 C.F.R. 47.7(c) do not legally pertain, because it is applying as an association and not as Trustee. However, the Trust Agreement and Affidavit of Citizenship are probably relevant in analyzing that as an association, it meets the U.S. citizen requirements of 49 U.S.C. 40102(a)(15)(C).

3. If the applicant is the Trustee, then 14 C.F.R. 47.7(c) does apply and all required documents must be submitted.

Again, I am very grateful for your invaluable help.

Warmest regards.



Joseph R. Standell
Aeronautical Center Counsel

Enclosures

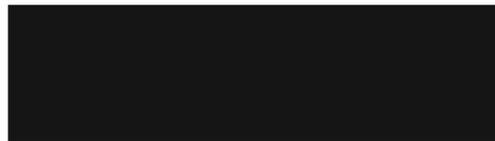
cc:
AFS-750 (Connie Jones)



U.S. Department
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**Federal Aviation
Administration**

Route Slip

4014



To: Joe Standell

Date: 8/24/05

Conflicting
Legal
Opinions

Action:

- | | | |
|---|---|--|
| <input type="checkbox"/> Per Your Request | <input type="checkbox"/> Discuss With Me | <input type="checkbox"/> Take Appropriate Action |
| <input type="checkbox"/> For Your Information | <input type="checkbox"/> For Your Approval | <input type="checkbox"/> Please Answer |
| <input type="checkbox"/> Per Our Conversation | <input type="checkbox"/> For Your Signature | <input type="checkbox"/> Prepare Reply For |
| <input type="checkbox"/> Note and Return | <input checked="" type="checkbox"/> Comment | |

Remarks:

Attached are three legal opinions, an e:mail to the Registry regarding a statutory trust and the trust file. The legal opinions are all addressed to the same law firm and attorney, McAfee & Taft, Scott McCreary, Esq. Two of the opinions have the same date of June 9, 2005, and appear to be the same, although one is issued on one specific aircraft, and the other on the same aircraft plus others. The third opinion has the date of July 5, 2005, and conflicts with the opinions of June 9.

We wonder if the later opinion should have referenced the fact that it superceded the opinion(s) given on June 9. Connie Jones and I contacted Mike Webster on Friday, August 19, to see if he was aware that Legal had rendered an opinion previously that contradicted the opinion he had given; he was not. We have no way of knowing if the same documents were viewed for the opinion given on June 9 and July 5. They both refer to the same sections of the trust itself.

In light of the fact that decisions to accept documents and register aircraft may be based on a Legal opinion, this could pose a problem if the examiner accepts documents based on an earlier opinion.

In this particular situation, it appears that Scott McCreary did not agree with the first two opinions and later contacted Mike Webster for another opinion. Connie Jones was also contacted by Scott McCreary regarding this particular statutory trust, however, at no time was anyone advised that an opinion had already been rendered. The aircraft that documents have been submitted for have been registered in accordance with the Legal opinion dated July 5, 2005, i.e., registered in the name of the trust.

In light of recent discussions and e:mail on Statutory trusts, we felt you might want to review this case.

NOTE: The label on this folder is incorrect in that it should show **Kyami Statutory Trust**. Since this is new territory for the Registry we probably will indicate statutory trusts by showing (ST) after the name the folder is filed under in our ancillary files.

Regina Pickett,
Program Analyst, AFS-751

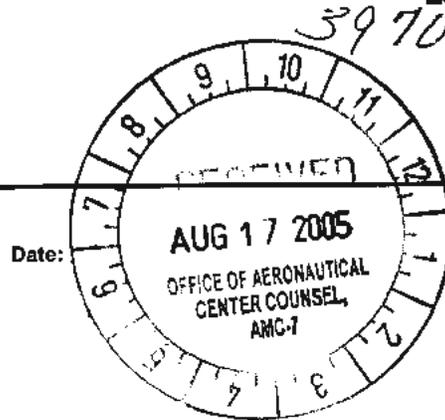


U.S. Department
of Transportation
**Federal Aviation
Administration**



Route Slip ^{Jul}

N872GA



To: AMC-7

Date:

Re: **Statutory & Business Trusts**

- | | | | |
|---------|---|---|--|
| Action: | <input type="checkbox"/> Per Your Request | <input type="checkbox"/> Discuss With Me | <input type="checkbox"/> Take Appropriate Action |
| | <input type="checkbox"/> For Your Information | <input type="checkbox"/> For Your Approval | <input type="checkbox"/> Please Answer |
| | <input type="checkbox"/> Per Our Conversation | <input type="checkbox"/> For Your Signature | <input type="checkbox"/> Prepare Reply For |
| | <input type="checkbox"/> Note and Return | <input checked="" type="checkbox"/> Comment | |

Remarks:

Attached is a trust file for AWMS I. It originated as a Delaware Business Trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. subsection 3801 et seq. Its parties are **MSDW Aircraft Holdings, a Delaware Business Trust, as depositor, Wilmington Trust Company, as owner trustee, and four individuals as controlling trustees.** In accordance with the affidavit of citizenship of the owner trustee, several aircraft have been registered in the name of AWMS I, since 2001. The Registry received a "First Amended and Restated Trust Agreement of AWMS I, dated July 1, 2003, that states it is the intention of the parties to continue AWMS I as a 'statutory trust' under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. subsection 3801 et seq. This amended and restated trust document was accepted by our office in 2003, and several more aircraft have been registered in the trust name of AWMS I.

Attached is another trust file for Wells Fargo Delaware Trust Company – owner trustee, dated October 22, 2002, which is also a 'Statutory Trust' under the Delaware Statutory Trust Act, 12 Del. C. subsection 3801 et seq. This trust states that the **Trustor – Scandinavian Airlines System, Denmark – Norway-Sweden,** shall cause title to the aircraft to be transferred and conveyed to the **Owner Trustee – Wells Fargo Delaware Trust Company;** who in turn have registered aircraft in accordance with this trust. Article 2- Creation of Trust (Page 3) indicates that the Certificate of Trust would be executed and filed in Delaware forming the Trust under the name of 'Nordic Skies Trust'. Several aircraft have been registered in the name of Wells Fargo Delaware Trust Company, as owner trustee, in accordance with trust and affidavits.

In the past with Business Trusts the aircraft were generally registered in the Business Trust name, but some of the Statutory Trusts we have received are different. Some of them indicate that the aircraft will be registered in the name of the owner trustee, while others indicate the aircraft will be registered in the Statutory Trust name.

In the email to Lew you question the managerial role of WTC as trustee. Is that the same question we should have regarding the Statutory Trust for Wells Fargo Delaware Trust Company and others like it?

We have advised the exam staff to not process cases that include 'Statutory Trusts' until further notice.

Please review the attached trusts and advise if there are any problems with continuing to register aircraft as indicated in the Trust documents or accompanying affidavits.

A handwritten signature in black ink, appearing to read 'Regina Pickett', written over a horizontal line.

Regina Pickett,
Program Analyst