



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

Mike Monroney  
Aeronautical Center

P.O. Box 25082  
Oklahoma City, Oklahoma 73125

May 25, 2006

Gary J. Evans  
Voyager Aviation, Inc.  
900 Airport Road  
Merritt Island, FL 32952

Dear Mr. Evans:

Civil Aircraft N7195G, N739TE, N46913,  
N4297L, N5033S, N24842 & N35319

I am responding to your letter to Mr. Binkley dated May 4, 2006.

Thank you for your letter which raised the same concern that FAA has had for over 25 years: that is that the filing of spurious artisan liens be discouraged, so as not to improperly cloud title on aircraft.

It was for this very reason that FAA, long ago, adopted the policy of recording artisan liens only with respect to states that have acceptable statutory schemes.

As you know, Florida is such a state. It requires the lien notice be recorded with FAA. No further recordation is required within Florida. See Fla. Stat. Section 329.01.

As you correctly point out, the requirements of establishing a lien are set out in Fla. Stat. Section 329.51, and they do require recording of a verified lien notice.

Therefore, the FAA Aircraft Registry records only verified instruments with respect to Florida liens.

I'm afraid however, you and I differ with what is meant by "verified." You consider it to mean either acknowledged by a debtor (such as a promissory note) or based on a court filing.

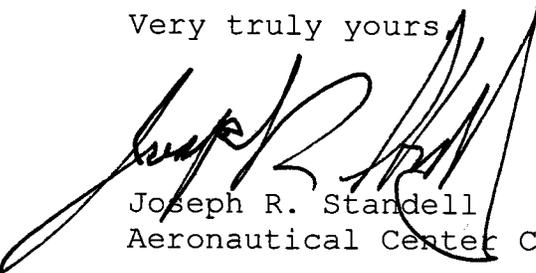
If your interpretation were correct, it would be almost impossible to record an artisan lien with FAA since aircraft owners rarely would agree that it is a just lien and court action is typically cost prohibitive.

What FAA means by "verified" and what we believe Florida means as well, is that the lien instrumented for recordation to FAA, has first been subscribed and sworn to before a Notary Public.

Consistent with the above discussion, it would not appear that verified liens are inconsistent with Florida law or FAA policy. Of course you have legal course in court against the lienor(s).

I regret this opinion is not favorable to your position.

Very truly yours,



Joseph R. Standell  
Aeronautical Center Counsel

cc: W. Binkley

BY CERTIFIED US MAIL

May 4, 2006

Mr. Walter Binkley  
Manager FAA Aircraft Registration Branch AFS-750  
PO Box 25504  
Oklahoma City  
OK 73125

Dear Mr. Binkley

**Re: Invalid FAA Lien Recording on Aircraft Registrations:  
N7195G, N739TE, N46913, N4297L, N5033S, N24842 & N35319**

Voyager Aviation is the registered owner of the above aircraft and has been advised that liens have been recorded with the FAA against these aircraft from a company called Island Aviation, Inc. aka Island Aviation Partners, Inc.

I write to advise you that on September 9, 2005 Mr. Joseph R. Standell, FAA Aeronautical Center Counsel issued a Federal Notice of the holding in Creation Aviation, Inc., vs. Textron Financial Corporation (Florida District Court of Appeal, Fourth District, No. 4D04-2178, April 27 2005) which materially affects the validity of Florida based aircraft liens recorded with the FAA.

Florida Title XXV, Chapter 329.51 requires a lienor to record a verified lien notice with the clerk of the circuit court in the county where the aircraft was located and the services were performed. There has been no lien notice filed in the county in which the above aircraft are located and the services were performed.

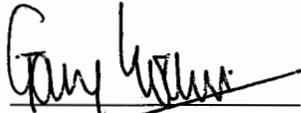
Therefore in light of the Federal Notice issued by Mr. Standell I submit the FAA cannot accept, prima facie, an unverified notice of lien against an aircraft that is based in Florida for which the lienor is *claiming* a debt is owed. To accept on face value a letter stating a debt is owed without first seeking to ensure that claim is valid by either evidentiary circuit court filing or the debtor's acknowledgement of the claim (such as a promissory note) is to grant anybody the right to place a lien on any aircraft at any time for any reason. I submit that only a verified lien notice can be an acceptable method of filing a lien with the FAA.

I am disappointed and concerned to see the FAA glibly accepting *any* document purporting to hold a valid claim against an aircraft without, at a minimum, some form of verification either obtained through a local court or evidence of the debtors acknowledgement of the claim.

Then and only then should the FAA agree to record a lien. To do otherwise exposes aircraft owners to considerable risk of malicious or vindictive intent to interfere with the 'cloudless rights' that aircraft ownership should bring.

I respectfully submit the liens placed on our aircraft are not valid by virtue of noncompliance with Florida law and would ask that you void them as a matter of urgency.

Yours truly,



Gary J. Evans

President

Voyager Aviation, Inc.

Cc Walter Horsting, Valley Commercial Capital, LLC.  
Voyager Aviation International, LLC.

allocation of reasonable dues, fees, and other charges among the Exchange's members. The Commission believes that the proposal should allow the Exchange to more accurately charge LMMs the Exchange's true costs when multiple options issues are transferred. Further, the Commission believes that by making the proposal retroactive to January 1, 2002, the Exchange could make adjustments to past transfers in accordance with the original intent of the fee.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-PCX-2005-68) and Amendment No. 1 are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,<sup>9</sup>

Jonathan G. Katz,  
Secretary.

[FR Doc. E5-4928 Filed 9-8-05; 8:45 am]

BILLING CODE 8010-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### State Court Decision Affecting Recordation of Artisan Liens

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** Consistent with Agency policy, the Federal Aviation Administration (FAA) gives notice of the holding in *Creation Aviation, Inc., vs. Textron Financial Corporation*, Florida District Court of Appeal, Fourth District, No. 4D04-2178, decided on April 27, 2005. The Court in *Creston* held that Federal law pertaining to recording with the FAA Aircraft Registry did not preempt a Florida statute requiring that an artisan lien for work on an aircraft first be filed in the county where the work was performed in order to enforce the lien under Florida law. Accordingly, the FAA is advising the public that recording an artisan lien with the FAA Aircraft Registry only, may be insufficient to enforce an artisan lien under Florida law.

**FOR FURTHER INFORMATION CONTACT:** Joseph R. Standell, Aeronautical Center Counsel, Monroney Aeronautical Center (AMC-7), Federal Aviation Administration, 6500 S. MacArthur, Oklahoma City, OK 73169; Telephone (405) 954-3296.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SUPPLEMENTARY INFORMATION:

### Background

Under 49 U.S.C. 44107, the FAA maintains an aircraft registry that records "conveyances that affect an interest in civil aircraft of the United States."

The FAA published notice in the *Federal Register* that the FAA Aircraft Registry would record artisan liens on aircraft that met the minimum requirements of state statute. The notice stated that, for aircraft, "there is Federal preemption of place of filing: The FAA Aircraft Registry at Oklahoma City." 46 FR 61528, December 17, 1981. The sole purpose of that notice was to set out the criteria for recording artisan liens with the FAA Aircraft Registry.

Florida Statutes, F.S.A. 329.01, requires all liens of affecting civil aircraft to be filed with the Federal Aviation Administration. F.S.A. 329.51 provides that aircraft liens are enforceable provided the lienor records a verified lien notice with the clerk of the circuit court in the county where the aircraft was located when services were furnished.

In *Creston*, a fixed base operator attempted to foreclose a mechanic's lien that had been filed and recorded with the FAA consistent with 49 U.S.C. 44107 and F.S.A. 329.01. However, the Florida Court of Appeal held that the fixed base operator's failure to file a notice of lien in the county where the work was performed rendered the lien unenforceable under state law.

The Florida Court of Appeal did not accept the fixed base operator's argument that state or local filing requirements contained in F.S.A. 329.51 were preempted by Federal law. The Court in *Creston* cited *Holiday Airlines Corporation v. Pacific Propeller, Inc.*, 620 F.2d 731 (1980), which had similar facts. The Court in *Holiday* held that a lien filed with the FAA was enforceable, notwithstanding a lienor's failure to file in the State of Washington. The Court held that the "federal recording statute, and rules implementing it, clearly preempt the filing requirements of Washington law." On the other hand, the Court in *Holiday* held that "matters touching on the validity of liens are determined by underlying State law."

The Florida Court of Appeal accepted the argument that until a lien on a civil aircraft is recorded with the FAA Aircraft Registry, it is valid only against those persons with actual notice and their heirs and devisees and that after the lien is filed with the FAA, it is valid against all persons. However, the Court determined that the State of Florida is not precluded from imposing

requirements, including local filing requirements that affect the enforceability of aircraft liens in Florida.

Interested parties may wish to research state lien statutes to determine if local requirements affect enforceability of artisan liens recorded with the FAA.

Issued in Oklahoma City on September 1, 2005.

Joseph R. Standell,

Aeronautical Center Counsel.

[FR Doc. 05-17835 Filed 9-8-05; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2005-53]

#### Petitions for Exemption; Summary of Petitions Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before September 29, 2005.

**ADDRESSES:** You may submit comments [identified by DOT DMS Docket Number FAA-2005-22172 and FAA-2005-21814] by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.