



U.S. Department
of Transportation
Federal Aviation
Administration

U.S. Department of Transportation
Federal Aviation Administration
Oklahoma City Office

81427
P.O. Box 25002
Oklahoma City, Oklahoma 73125

March 5, 2010

Brenda Cobb – Vice President
Insured Aircraft Title Service, Inc.
P.O. Box 19527
Oklahoma City, OK 73144

Dear Ms. Cobb:

Aircraft N814CP

As requested in your letter of March 4, 2010, this office has reviewed the Bill of Sale and Certificate of Repossession of Encumbered Aircraft (including a Notification of Private Disposition of Aircraft), which have been submitted in support of a transfer of aircraft ownership to PNC Equipment Finance, LLC (PNC), and request to cancel United States registration, incident to a subsequent sale to Fly Wings International Ltd., a New Zealand corporation.

You have requested our opinion as to whether the Bill of Sale effectively transfer and clear title to the aircraft.

As you may be aware, it is our policy to refrain from opining on issues regarding aircraft title, including whether title to an aircraft is "clear." However, your request for our opinion raises issues as to whether the ownership of the aircraft can be transferred to the party that owned the senior security interest on the aircraft, and subsequently filed a Certificate of Repossession. It also raises an issue as to whether the aircraft's United States registration can be cancelled, in view of the effect of the repossession on the junior liens on the aircraft.

Based on our review of the submitted instruments and other information provided by your office and counsel for PNC, it is our opinion that the Certificate of Repossession is legally sufficient as evidence of ownership of the aircraft in the name of PNC, and, as such, PNC can convey the ownership interest of the aircraft. Further, it is our view that the repossession action, assuming that it was undertaken by the holder of the senior lien interest, effectively discharges all junior liens on the aircraft, and, consequently, the United States registration of the aircraft can be cancelled, incident to the sale of the aircraft to a New Zealand corporation.

The Certificate of Repossession indicates that PNC, which held a security interest on the aircraft, submitted the Certificate of Repossession to the Registry on or about December 15, 2009. We have relied on indications in the documents and on representations made by legal counsel that PNC held the senior security interest on the aircraft. The Certificate establishes that the debtor and then-aircraft owner, L&J Airways, LLC had defaulted on its obligations under the pertinent security agreement. In executing and filing the Certificate, PNC divested the debtor of its ownership interest in the aircraft. The repossession action was undertaken pursuant to pertinent commercial law provisions of the State of Idaho, including Idaho Statute Sec. 28-9-609 (I.C. § 28-9-609). We have noted, incidentally, that PNC issued a Notification of Private Disposition of Collateral, regarding the proposed sale of the repossessed aircraft, in

accordance with Section 28-9-811(a), which requires notification of the proposed disposition to the debtor and any secondary obligors.

Comment 5 under Section 28-9-609 addresses conflicting rights to possession of encumbered collateral by multiple secured parties. It states that conflicting rights are settled by priority rules under Article 9 of the Idaho Uniform Commercial Code. Accordingly, a senior secured party, under this provision, "...is entitled to possession as against a junior claimant" (I.C. § 28-9-609, Comm. 5). This language essentially establishes that the security interest of junior lienholders, are discharged by the repossession action of the senior lienholder, since the right of the senior secured party to repossess the collateral takes priority over that of any holders of junior security interests.

Section 28-9-609 is consistent with (and apparently the equivalent of) Section 9-504(4) of the Uniform Commercial Code (UCC § 9-504(4)), with respect to the effect of a senior lienholder's repossession action of encumbered collateral on junior security liens. Under Section 9-504(4), a repossession by the senior lienholder discharges the underlying security interest, as well as all other junior liens. This authority assumes that, as has happened with respect to this repossession action, the senior lienholder has given notice to all holders of junior security interests in the collateral to afford them the opportunity to assert their interest in protecting their liens. There are no indications that any such holders have done so with respect to the disposition of the aircraft. In so far as PNC, as the holder of the senior security interest on the aircraft, has repossessed the aircraft and notified all junior lienholders in accordance with State law, the junior security interests on the aircraft have been discharged.

The Examiner Guidelines issued by the FAA Aircraft Registry acknowledge the provisions of UCC Sec. 9-504(4) stating that repossession under a senior security interest discharges all junior liens on an aircraft (Sec. 5.4 of the Guidelines). Further, Section 5.4 instructs examiners to refer any such issues to the Aeronautical Center Counsel's office for review.

Based on the foregoing, we agree that the Certificate of Repossession is legally sufficient as evidence of ownership of the aircraft by PNC, and that PNC, as owner, can convey the ownership interest to Fly Wings International, Ltd. Further, if this office is requested by the Aircraft Registry to opine as to whether United States registration of the above referenced aircraft can be cancelled, we will reply that, in view of the discharge of junior security interests through PNC's repossession action, registration can be cancelled, as no outstanding liens exist on the aircraft.

Sincerely,

Joseph R. Standell
Aeronautical Center Counsel

By:

Alonso J. Rodriguez
Senior Attorney