

# Buying and Selling Aircraft in a Down Market



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IN MY PRACTICE, I SEE MANY ATTEMPTS to buy and sell aircraft. In a hot market, the form of the contract is almost irrelevant. People have money, financing is readily available, and confidence is high. BUT – in a down market, such as we have been suffering for the last many months, and which we are almost certain to continue to suffer for another year or more, there are a few things that buyers and sellers can do to help facilitate a transaction.

**First, use an escrow company.** There are many escrow companies in Oklahoma City who handle aircraft transactions all the time. They don't charge very much for their services. The escrow agents do three very important things: 1) they check the title to the aircraft, the engine(s), and the propeller(s); 2) they are a neutral party to hold all the money; and 3) they are your agents to clear up any problems with filing or recording with the FAA if something doesn't go right.

Although anyone can send documents to the FAA to be filed for recording, when that is done, it feels like the documents have been flung into a black hole. Prior to the closing, each party to the transaction will send in the documents needed for closing: the bill of sale, the releases of lien, the terminations of lease, the LLC statements, the trust documents, the application for registration, etc. The escrow company will check these items for you and make sure that they are in proper form. If they are not, sometimes the escrow agent can fix them right there for you. Other times, you can fix the problem and overnight a corrected document so as not to delay the closing. On the day of closing, your company will have arranged for one of their employees to have the documents at the Aircraft Registry.

Each of the title companies in Oklahoma City has a desk in the filing room of the Aircraft Registry. They, and they alone, have access to a real, live human being, who works at "the window". At the time of closing, the agent will take your documents to "the window" and file them, in the proper order, with the clerk at "the window". They will get a time of filing with FAA and will notify you of the time of filing of each document. You will know for sure that your documents have made it to the right place and have been filed in the correct order.

In the event that something goes wrong, if you handled the transaction yourself, and just flung the paperwork into the black hole, you are going to have to figure out who to call, how to identify your documents, and how to straighten things out.

You may not even know that things went wrong unless your hard card registration doesn't show up or you check the FAA website and don't find the correct information there about your aircraft. But, if you used an escrow agent, you just call up the escrow agent and have them find out what happened and what needs to be done to fix it. They are your "boots on the ground" at the Aircraft Registry.

**Second, organize your maintenance records,** and have copies available for prospective buyers.

**Third, compose an AD Compliance Log.** Make sure that you have a chronological list of how each Airworthiness Directive (AD) for your aircraft and engine has been complied with. Have a copy of the AD Compliance Log available for purchasers. If you have organized your documents, it will do two things: 1) it will send buyers a message that you are a meticulous and organized person who probably maintains the aircraft in a meticulous way; and 2) it will cut down the time and expense of the Buyer's pre-buy inspection, since all the information will be right at the inspector's fingertips.

**Fourth, have a form of purchase contract available.** Regardless of whether you are a buyer or a seller, have a form of the terms that you understand and that you are willing to agree to. If you are using a broker, the broker will probably have a form of contract that they typically use. Make sure you read this carefully and understand what the terms of the sale or purchase are. Some brokers give all the "breaks" to the party that they represent.

Other brokers give all the "breaks" to themselves! You need to understand exactly what the terms of the agreement you will be signing are. If you are confused, then have an aviation attorney explain it to you. It won't cost much, and it may be completely free if you are a member of a prepaid legal services plan.

By using these four simple techniques, Sellers can make things much easier for Buyers and Buyers can be comfortable that their interests are being protected throughout the transaction, from contract to closing. In these tough times, these types of items are almost as important, even if they are not as obvious, as washing and waxing the aircraft and making sure the old candy wrappers are taken out of the back seats.

~ C.A.



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