File in 61.118

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

800 Independence Ave., S.W.
Washington, D.C. 20591

DEC 26 1985

Thomas H. Chero
Vice President - Legal
AVEMCO Insurance Company
Frederick Municipal Airport
411 Aviation Way
Frederick, MD 21701

Dear Mr. Chero:

Thank you for your letters to this office, dated September 9, 1985, and October 23, 1985, respectively, concerning the actions of the Pilots & Passengers Association (PPA).

You are correct in stating that Section 61.118 of the Federal Aviation Regulations (FAR) prohibits private pilots from participating in PPA's operations. Section 61.118 provides that a private pilot cannot act as pilot in command of an aircraft that is carrying passengers for compensation or hire unless the flight falls within one of the four listed exceptions in 61.118 (a) - (d).

Section 61.118(b) allows a private pilot to share the operating expenses of a flight with his or her passengers. Additionally, the FAA has interpreted 61.118(b) so that the only allowable share-the-costs operations are those which are bona fide, i.e., joint ventures for a common purpose with expenses being defrayed by all passengers and the pilot. Nor does Section 61.118 permit pilots who want to build up time toward their commercial pilot certificates to carry expense-sharing passengers to a destination at which they have no particular business.

PPA pilots apparently would not share in the expenses of the flights they would undertake. It also appears that PPA pilots could be flying to destinations at which they had no particular business. The PPA system is not a casual one of an individual pilot wishing to take some friends or acquaintances with him on a trip. The PPA system would violate the letter, as well as the spirit, of Section 61.118.

Even if the pilot bears an equal share of the expenses with his or her passengers and indeed has his or her own need to fly to a particular destination, yet another problem arises. Since PPA's passengers would be solicited for flights by PPA from a broad segment of the general public, we conclude that each pilot carrying paying passengers from PPA would probably be engaged in common carriage. This means that each pilot would become an air carrier subject to the certification and operating rules of Part 135 of the FAR.

We appreciate your calling our attention to this matter.

Sincerely,

John H. Cassady
Assistant Chief Counsel
Regulations & Enforcement Division