January 15, 1991

Chuck Fowler
Aviation Department Manager
Nordstrom
7979 Perimeter
Road Seattle, WA
98108

Dear Mr. Fowler:

I am writing in response to your letter of December 17, 1990, in which you requested our determination as to whether certain proposed operations may be conducted within the scope of Subpart F of Part 91 of the Federal Aviation Regulations. You described two situations and further clarified those situations in our telephone conversation last week. Our response to the proposed operations is as follows:

1. In the first example, a Nordstrom aircraft is being operated on company business, carrying company personnel or property to a company store site. A non-employee, such as a vendor, is invited by a company employee to travel on the flight, and the presence of the non-employee is within the scope of and incidental to the business of the company (i.e., the non-employee is traveling to the company store site to do business with the company). In this instance, the company may recover from the non-employee an amount not to exceed that person's pro rata share of the cost of owning, operating, and maintaining the aircraft. [FAR 91.501(b)(5)]

2. In the second example, a company employee or official enters into a time share agreement with the company wherein the company supplies its aircraft and flight crew and is reimbursed in an amount which does not exceed the charges specified in FAR 91.501(d). We question whether such an arrangement would be acceptable under FAR 91.501(b) (6). That regulation relates to the carriage of <u>company officials, employees, and guests of the company</u> on an airplane operated under a time sharing agreement (underlining added). During the operation proposed in your example, the employee who enters into the agreement with Nordstrom's would be functioning in his capacity as a private individual rather than as an employee or official of the company. It would appear that such an operation may not fall within the scope of Subpart F. However, inasmuch as this section of the regulations may be subject to more than one interpretation, I have written to our Office of the Chief Counsel in Washington, D.C., to request a formal interpretation

of the regulation. I would suggest that you do not conduct this proposed operation until that interpretation is rendered by the Office of the Chief Counsel. I have asked them to give me an opinion as soon as possible.

I will contact you as soon as I hear from my headquarters office. If I may provide further assistance before that time, please do not hesitate to contact me.

Sincerely yours,

John J. Callahan
Deputy Assistant Chief Counsel