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

April 5, 2011

Ms. Marcie Thibodeaux
Silver Ventures, Inc.
P.O. Box 460567
San Antonio, TX 78246-0567

Dear Ms. Thibodeaux:

Your January 6, 2010 letter was forwarded to our offices last summer. We apologize for the delay in responding to your request for a legal interpretation.

In your original letter to the San Antonio Flight Standards District Office (FSDO), you indicated that you would like to transition your aircraft (one Falcon 50EX-DA50 and one King Air 350-BA300) from business to personal use under 14 C.F.R. Part 91. You further state that:

> 1) "The airplanes would be used for personal flights only. No income or compensation would be received for those flights;"
>
> 2) "The aircraft would be owned by a single member LLC and operated by a management corporation. The single member LLC and management corporation would have the same owner. The management corporation would receive additional capital contributions to pay for operating and maintenance costs. The management corporation would not receive any income for the flights nor would it report any deductions on their federal and state tax returns."
>
> 3) "The employed pilots have executive fleet commercial certificates."

By letter dated March 31, 2010, the San Antonio FSDO replied to your letter stating that "Based on the limited information provided…it appears your intended operation is not contrary to the Federal Aviation Regulations." You are seeking further clarification at the request of your attorneys.

The first part of your inquiry deals with transitioning your aircraft from business use under part 91 to personal use. Because the aircraft discussed in your inquiry are large aircraft, we will assume that Silver Ventures has been operating corporate aircraft under § 91.501(b)(5) and would now like to consider changing that method of operation.

Section 91.501(b)(4) allows the operation of large and turbojet powered multi-engine airplanes for:

> "Flights conducted by the operator of an airplane for his personal transportation, or the transportation of his guests when no charge, assessment, or fee is made for the transportation."

However, this provision only applies to the person with actual operational control over the aircraft. In order for this section to apply in your situation, the owner of the LLC must also have operational control over the aircraft. *See* Legal Interpretation to Elizabeth Wadsworth, from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Jan. 27, 2006) ("The term "operator" in § 91.501(b)(4) applies to individuals operating an aircraft for personal use. It does not apply to corporations operating an aircraft because corporations have no "personal use.").

You have not provided us with enough information to respond to what impact the proposed LLC structure would have on your continued ability to operate your corporate aircraft under part 91. If this restructuring would take place in such a way as to create a "flight department company" *see* Legal Interpretation to James Dymond, from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Mar.9, 2007), or if the sole purpose of the LLC company would be "transportation by air," *see* Legal Interpretation to Elizabeth Wadsworth), that change could cause capital contributions to the LLC to be viewed as "compensation" and require economic authority from the DOT and an Air Carrier Certificate under 14 C.F.R. 119.5.

We appreciate your patience and trust that the above responds to your concerns. If you require further assistance, please contact my staff at (202) 237-3073. This response was prepared by Robert Frenzel, Manager, Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, and coordinated with the General Aviation and Commercial Division of the Flight Standards Service.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200

cc: San Antonio Flight Standards District Office