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

Office of the Chief Counsel
800 Independence Ave., SW.
Washington, DC 20591

April 17, 2018

Mr. Kade Krause
[redacted]

Dear Mr. Krause:

This letter is in response to your inquiries regarding your efforts to register an aircraft described as a Piper PA-18, serial number 18-7371, formerly registered as N3581Z.

I understand the AIG insurance company notified the FAA's Aircraft Registry on July 24, 2017, that the N3581Z had been involved in an incident and was "not economically repairable." In a letter dated August 23, 2017, a representative of Double K Spraying Services, LLC, the former owner of N3581Z, confirmed that the aircraft was "totaled" during a storm. In that same letter, the representative of Double K Spraying Services stated that it had transferred N3581Z, along with its certificate of registration and aircraft logs, to the AIG insurance company. As a result of these reports, officials at the FAA's Aircraft Registry reasonably concluded that N3581Z may have been destroyed or scrapped, and therefore ineligible for registration.

In response to your application to register N3581Z after you purchased it from the insurance company, the FAA requested additional information about the condition of N3581Z. In a letter dated August 16, 2017, the FAA asked you for "evidence to support the conclusion that your aircraft is not destroyed/scrapped and is eligible for registration under the provisions of Title 49 USC 40102(a)(6)." In that letter, and in a subsequent letter of September 27, 2017, the FAA described what would constitute adequate evidence of the current condition of N3581Z. To date, you have not provided that evidence. Indeed, among the evidence you did provide to the FAA, you included pictures taken by the insurance company that appear to confirm the destroyed condition of N3581Z. In addition, during our conversations, you acknowledged that you had not made any repairs to N3581Z and that it is currently in a disassembled state.

As the FAA explained in the referenced correspondence, in order for an aircraft to be eligible for registration, it must meet the definition of aircraft specified in 49 U.S.C. § 40102(a)(6). That section states that the term aircraft "means any contrivance invented, used, or designed to navigate or fly in the air." This language is also reflected in the definition of "aircraft" found in 14 C.F.R. § 1.1, which states that "aircraft means a device that is used or intended to be used for flight in the air."

The FAA has historically taken the position that an aircraft cannot be registered until it is complete. In a December 1, 1982, legal opinion from Mr. R. Bruce Carter, the FAA's Acting Aeronautical Center Counsel, to Mr. James Henderson, Manager of the FAA's Aircraft Registration Branch, the agency stated that "the definition of an aircraft means the complete entity: fuselage, wings, engine(s), empennage; all the essential elements of its design that make it

an aircraft. If any essential element in the assembly or construction is missing, it is not at that point an aircraft for purposes of initial registration." This interpretation is also currently reflected in paragraph 2.2.11 of AFS-750-Guide-1, Aircraft Examiner's Guidelines. Courts have also confirmed the discretionary authority of the Administrator to determine what devices constitute an aircraft,[1] and more specifically, what constitutes an aircraft for the purpose of registration.[2] Accordingly, parts existing in their unassembled state, do not now, and have not historically, constituted an aircraft that can be registered under 49 U.S.C. §§ 44101-44104, as prescribed by 14 C.F.R. §§47.33, 47.35. and 47.37.

In its current condition, the FAA has reasonably concluded that N3581Z does not meet the statutory definition of an aircraft, and therefore is not eligible for registration. You have not provided evidence that the N3581Z has been reassembled and that the damage has been repaired such that it can no longer be considered destroyed or scrapped. To this latter point specifically, I must emphasize that the repair of N3581Z is critical to your ability to register it. As we have discussed in our telephone conversations, the registration of an aircraft becomes ineffective when it has been destroyed or scrapped. 14 C.F.R. § 47.41(a)(2). The re-registration of an aircraft reported as destroyed or scrapped – thereby rendering its registration ineffective – but before repairs were made would be inconsistent with the underlying intent of § 47.41(a)(2), which is to remove destroyed or scrapped aircraft from the FAA's Aircraft Registry.

Please also note that although you may possess an airworthiness certificate for this aircraft, that airworthiness certificate is not currently effective. Section 21.181(a)(1) of 14 C.F.R. states that any existing airworthiness certificate is effective only as long as the aircraft is registered in the United States. Therefore, when the registration for this aircraft ended, its airworthiness certificate became ineffective.

The FAA letters of August 16 and September 27, 2017, referenced above, along with the January 8, 2018, letter from Debra Entricken, Manager of the Civil Aviation Registry, provide clear information on the steps you must undertake in order to place N3581Z back on the U.S. aircraft registry. There is nothing more I can add to those instructions.

I trust that this letter responds to your concerns and reassures you that the agency's actions in this matter are in accordance with applicable statutes, regulations, and policies.

Sincerely,

Mark W. Bury
Deputy Chief Counsel
Business Operations

---

[1] Fielder v. United States, 423 F. Supp.77 (U.S. Dist. Ct. C. D. California) (1976)
[2] In re AE Liquidation, Inc. v. Eclipse Aerospace, Inc., 444 B.R. 509 (U.S. Bankruptcy D. Delaware) (2011)