

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

WESTERN REGION
P O BOX 92007, WORLDWAY POSTAL CENTER
LOS ANGELES, CALIFORNIA 90009

MAR 09 1977



Mr. Curt Weil
Vice President
Los Medicos Voladores
867 Lincoln Avenue
Palo Alto, California 94301

Dear Mr. Weil:

This is in response to your letter dated December 17, 1976, requesting an opinion concerning the applicability of Section 61.118 of the Federal Aviation Regulations to the operations of aircraft by Los Medicos Voladores, particularly with respect to operations of aircraft at night and/or under instrument flight rules (IFR). In your letter and in your Prospectus you recite the following facts:

1. All aircraft occupants (pilots and passengers) make the same donation per trip, i.e., \$130.00;
2. The \$130.00 donations are made payable to Los Medicos Voladores and are designed to meet the direct operational expenses for the aircraft involved;
3. Any funds in excess of the direct operating expenses are retained by Los Medicos Voladores' General Fund;
4. Los Medicos Voladores is a non-profit charitable corporation;
5. Volunteer recruitment for each airlift is not limited to members of Los Medicos Voladores.

In that Section 1.1 of the Federal Aviation Regulations defines "operate" as the use, causing to use, or authorizing to use aircraft for the purpose of air navigation, we must conclude that the pilots as well as Los Medicos Voladores are the operators of the respective aircraft involved in each airlift. In that the pilot-volunteers make the same donation for the trip as do the passengers, we have concluded that the pilots' respective operations of these aircraft, under the circumstances outlined in your letter and Prospectus, would come within the

purview of Section 61.118(b) of the Federal Aviation Regulations. In other words, private pilots may be utilized for such operations as long as they are, in fact, not acting for compensation or hire but, rather, sharing expenses. Accordingly, nighttime or IFR operations would be permitted provided that the pilots are appropriately certificated and rated and meet all applicable currency requirements.

With respect to Los Medicos Voladores' operations of these aircraft, we are of the opinion that such operations would not come within the purview of Section 61.118 of the Federal Aviation Regulations. Section 61.118 provides relief only to the pilot of the aircraft and, as pertinent here, only relief from the requirement that the pilot have either a commercial pilot certificate or an airline transport pilot certificate to carry passengers for compensation or hire. Section 61.118 does not provide relief to an aircraft operator who is not a pilot from the requirements of Parts 121 and 135 that apply to commercial operators.


Based on the information submitted and limited solely to the operations described in your letter and Prospectus, it appears that Los Medicos Voladores would not be a "commercial operator" within the terms of Section 1.1 of the Federal Aviation Regulations and that it would not require an air taxi/commercial operator certificate issued under Part 135 of the Federal Aviation Regulations, provided:

1. The sums charged each volunteer, including the pilots, for each airlift continue to represent the direct operational expense for the aircraft involved in each airlift;
2. Los Medicos Voladores refrain from advertising or holding out to the public the availability of a service involving air transportation; and
3. The transportation provided by Los Medicos Voladores remains incidental to its providing voluntary medical services.

In this light, we suggest that Los Medicos Voladores regularly recompute the sums necessary to meet the direct operational

expenses of each aircraft for each airlift so as to minimize instances in which excess funds are collected and subsequently deposited in the General Fund and that Los Medicos Voladores emphasize to each volunteer recruited from outside the organization's membership that it is not offering an air transportation service but that the carriage of those volunteers is merely incident to the accomplishment of the organization's ends with respect to each airlift.

Sincerely,


DEWITTE T. LAWSON, JR.
Regional Counsel