

## The Legal Side of VLJ Ownership, Part II:

There are important legal considerations for the individual VLJ owner, fractional share owner, VLJ fleet owner, and the VLJ block-hour card owner. We are not in the business of law at Very Light Jet Magazine, so we enlisted the services of J. Christopher Robbins, Esq., senior partner of Robbins Law Firm, P.A., to guide us through the maze. Part I dealt with some of the legal considerations of purchases for the individual VLJ owner or prospective owner.

Chris is a lawyer, a private pilot, an NBAA member, and an aircraft owner. He serves as counsel to many companies in the aviation sector, including air charter companies, aircraft brokers, FBOs, corporate flight departments, and aircraft manufacturers. In addition to handling transactions and legal compliance, Chris' firm has defended air-crash litigation. Chris is also a published author and he frequently lectures on aviation law and entrepreneurship.

VLJM: Chris, in Part I we discussed the individual VLJ owner and legal issues involving their purchases. Now let's discuss the fractional owner and his legal obligation to his portion of a VLJ. How is this ownership structured?

CHRIS ROBBINS: For a user who does not expect to use an aircraft extensively, fractional ownership can provide a cost-effective means to own a part of an aircraft and have access to other aircraft when his aircraft is not available. When a person buys a fractional ownership in a VLJ, he acquires an undivided interest in the aircraft. His interest must be registered with the FAA. The interest can be as small as 1/16th of the VLJ.

The owner of a fractional interest enters into a series of agreements, including a purchase agreement, an owners agreement with the other owners, a management agreement with the manager of the fractional program, and sometimes an aircraft interchange agreement, which provides for use of other aircraft if his aircraft is not available when he needs it. The fractional program must include at least two airworthy aircraft, one of which can be owned by the program operator or by another fractional program that is affiliated with the program operator.

The program operator handles maintenance of the VLJ, provides and trains the flight crew, and provides all other services necessary to ensure that the aircraft complies with all applicable safety and other requirements. Subchapter K of Part 91 sets forth specific requirements for the fractional ownership program. These requirements are in addition to the rest of Part 91. Two of the greatest benefits of a fractional program over direct ownership or group ownership are (1) that the owner can use the VLJ under Part 91, but the aircraft is maintained basically to Part 135 safety standards and (2) when the aircraft is being used by another fractional owner, or is undergoing maintenance, the owner has access to other aircraft.

Tell us about operational control as it applies to the fractional owner of aircraft in Part 91, Part 135.

This is a major difference from charters. The fractional owner is deemed to have full operational control when he uses the aircraft or the aircraft is used for the carriage of persons or property under his direction. [For the latest on operational control, view the Letter From NBAA President Updates Members About FAA Policies for Management of Chartered Aircraft.] Having operational control when he is using or directing the aircraft means that the fractional owner is responsible for compliance with all regulations applicable to the aircraft and for damage caused by the aircraft while he has operational control.

Indeed, the program manager is required to give the fractional owner a detailed briefing of his responsibilities. In a charter arrangement, the passenger has no such responsibility or potential for liability, unless he interferes with the operation of the aircraft. On the other hand, the program manager has operational control when using the aircraft for training, sales demonstrations, ferrying or positioning. If the VLJ is leased to an air carrier, it can become subject to Part 135 while it is so leased; the air carrier is deemed to have operational control at such times.

What are the legal considerations involved if the fractional share owner also plans to fly "his" plane in part 91?

He should ensure that the battery of agreements he signs to enter the program permit him to pilot the plane and that he meets any requirements that the agreements impose. He also needs to have the training required for the VLJ. Subpart K also requires that there be two pilots during operation of the aircraft, so the fractional share owner will need to bring along a copilot or instructor. He will want to be sure that he has adequate insurance, both under the program and with any personal supplements he feels he needs.

How does your firm work with the fractional owner and fractional owner-pilots of VLJs and what service options do you offer?

Our work includes drafting offers and contracts, negotiating terms, sealing deals, and overseeing closings. We also review aircraft financing and insurance proposals for our clients. We work for buyers, sellers, fractional managers, and corporate flight departments.

Chris - thank you for that valuable information.

Read more about the Robbins Law Firm, P.A. at [www.aviation-law.org](http://www.aviation-law.org).

The Legal Side of VLJ Ownership, Part III will discuss some important legal aspects for consideration of the fleet owner and operator of VLJs. Send questions and comments on this series to [legalside@verylightjetmagazine.com](mailto:legalside@verylightjetmagazine.com).