# Caution, Due Diligence Keys to Avoiding Criminals' Efforts at Electronic Larceny in Aircraft Transactions

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It was a very different world when I began doing the legal work for aircraft purchase and sales transactions in 1992. The Internet was in its infancy and played no role in the acquisition process. Documents were signed in blue ink and transmitted via fax machine, overnight courier or even through the mail. And we had no serious concerns about thieves trying to steal the sale proceeds or divert deposits.

## THAT WAS THEN. THIS IS NOW.

I have handled more than a thousand whole and fractional aircraft transactions in the past 30 years and the closing process has changed completely. If you are thinking about buying an airplane today, you need to realize that criminals operating from every dark corner of the world have figured out that there's big money involved in aircraft sales and they will do what they can, if they can, to steal millions of dollars from unsuspecting buyers and sellers.

The thing that has opened up aircraft transactions to the risk of theft is, ironically, the thing that has made transacting sales so much easier and that's the Internet and the opportunities it provides for easy, instantaneous, electronic digital execution of documents and transfer of funds.

Aircraft transactions often involve multiple parties in addition to the seller and buyer. Both sides will generally employ brokers, attorneys and accountants, and the buyer may have a lender providing financing. There is almost always at least one title company or law firm in Oklahoma City managing the escrow and handling the filing of documents and transfer of funds and sometimes multiple escrow agents. And with closings often taking place in remote, tax-friendly locations, there's a good chance that management companies and their pilots will also be involved in the process. Back-to-back and/or international transactions can add further levels of complexity.

With the nearly constant use of electronic correspondence in today's aircraft transactions, it is inevitable that important facts regarding the process, including data describing the aircraft, the identity of the parties, the purchase price and amount of any deposit, and account numbers and wire transfer information for both the parties and the escrow companies will end up being circulated. Sophisticated criminals look for ways to hack themselves into the transactions, gathering the data, watching from the shadows, creating phony email addresses, and waiting for just the right moment to try infiltrate the process and redirect funds to be transferred to a criminal's offshore bank account rather than the place where the money should rightfully be going.

If you are going to be buying or selling an airplane, make certain that the attorneys, brokers, escrow agents and others involved in the transaction understand the risks involved and have structures in place to avoid electronic theft. You want sophisticated and experienced people guiding the sale who will take the necessary steps to safeguard information and also recognize immediately if anything seems out of order. Due diligence and caution are essential at every step of the process – even when everyone is anxious to get the deal done and wants the sale closed. Criminals recognize that most parties are eager to finish the transaction and they will try and use that impatience to their nefarious advantage. Any significant changes in the terms of the transaction or instructions involving money, such as a purported cancellation and return of deposit, must always be seen as a potential red flag that must be fully scrutinized. A failure at this stage can be financially disastrous and trying to recover funds sent to a criminal's account may be impossible. Buying or selling an aircraft should be a moment for celebration – don't allow yourself to become a victim! ▪