

Let The Seller Beware!

It's not only the buyer who has to
be on guard during an aircraft transaction
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■ For the last two years I've been stabbed by frustration each time my wife has asked, "Are you ever going to get paid for your helicopter?"

"It's too complicated to explain," I always had to answer. "I'll tell you the whole story when it's over."

Actually, I usually didn't know how the situation was turning out. My lawyer put it this way, "Sam, I can get you out of this one, but it's going to be expensive."

The nightmare finally ended last week, and I want to tell the story to other aircraft owners who might get burned when they sell their planes—if they don't know about the trap I fell into. It began with such an appealing fantasy.

About three years ago I decided that I wanted to purchase a helicopter for commuting purposes. My medical practice is located in two nearby cities about 45 minutes' driving time from one to another. The hop between the two locations was just long enough to lure me to the edge of the cliff.

The next step was easy. I expected to set the helicopter up in a charter service on the days I wasn't commuting. I had enjoyed a similar charter service with my Piper Aztec for some time, under the direction of a local fixed-base operator. It was the only light twin available in my area for hire at the time, so it did moderately well, helping with the insurance and maintenance costs and even leaving a little profit at the end of some months. Since there wasn't another helicopter available nearby for charter, it seemed reasonable that the same formula might work again. Boy, was I wrong about that!

I took the fatal plunge the day I looked at the stamps on my ticket and realized how much I craved a helicopter rating. My FBO certainly agreed, and after a discussion or two at the local bank, I found myself in the market for a helicopter. I kept running across snappy pictures of sexy looking Enstroms, and the offer of a low-time demonstrator model at a reasonable price was just too much to pass up.

The Enstrom and I had a fantastic



time together while I got my rating. I also got good use on the commuting end. Then the charter idea had an exciting honeymoon.

My bird's first commercial flight was a surprise present by the parents of a brand-new bride and groom. After the reception the couple was impressively whisked into the wild blue as smoothly as if my bird was a pro, instead of a commercial novice. Then there were real estate flights and some news coverage flights, too.

But the honeymoon didn't last long enough—the only pilot with a valid commercial rotorcraft license in the area lost interest in charter work and my FBO never quite got around to getting his rating. I discussed setting up a local training program for helicopter instruction, but that didn't work out either.

In the end, my personal use of the machine didn't justify the bank pay-

ments. I don't mean just the commuting. It soon became prudent to restrict all my helicopter landings, except the ones in my back yard, to airports. Most average citizens (including fixed wing pilots) have never gotten the message that it's dangerous to run up and look at the sexy little machine until those rotor blades have stopped spinning. Besides, a helicopter requires constant tinkering by a mechanic, no matter what anyone says. So, I decided to sell it.

I had a fair number of nibbles from Trade-a-Plane, but I had to show the helicopter myself and arranging the time for the inevitable demonstrations was usually disrupting. It didn't take long before I felt it would be worth the commission to sell it through a broker. I contacted the man who sold me my Aztec. He was the FBO of an impressive looking operation and seemed to know what he was doing. Furthermore, I had always been happy with the Aztec and his assistance with it.

It was a sad day when he flew the helicopter away, but I felt secure that I had done the right thing. In fact, I had felt so secure that I filled out the proper lines on the bill of sale and received assurances that his insurance as an aircraft dealer would cover the bird until the new owner picked it up. I also had assurances that he would certainly treat me well and I could expect the best possible dollar on the sale. There wasn't any reason to doubt a speedy, satisfactory transaction, and I signed the "standard agreement form" indicating the least price which I would find acceptable.

I'm sure that you can find at least five things I had done wrong by this point, and there were probably a great deal more. The problem was that I *wanted* to sell and *wanted* to get everything tidied up as quickly and neatly as possible. I heard what I wanted to hear: "The check will come in the mail." It would clear my loan at the bank for the helicopter and possibly give me a little profit, which never hurts at all.

Sure enough, two months later I received a phone call telling me that a

buyer had been found, the sale was made, and the financing was being completed. The price would be met, and there would probably be a little left over, depending upon the final details. It was great news, and I considered myself a lucky man to have had a fine adventure and to have gotten out on the plus side.

My luck lasted only three more weeks. I was out at the airport wondering when the check would arrive when a fellow pilot walked up to me. I thought I could hear a faint tinkling sound, like distant icicles breaking in the wind and shattering on stony ground. When he said, "I heard that your helicopter crashed," the sound seemed to get a little louder. I tried to stave off my rising apprehension by calling the broker.

"We had a little problem," he said. "The buyer picked up the helicopter. He took out insurance on it, had it serviced, and hired a professional pilot to run it."

"So what's the problem," I asked, "and where's my check?"

I heard him take a deep breath before he replied. "The pilot flew it into a telephone pole before the bank made payment. Now the bank won't pay for a wrecked airplane and I'm really upset because I was after the buyer to get his paper work done ever since the day he flew it out of here. Fortunately, no one was hurt."

"Well, I'm glad for that," I said, "but

who's going to pay for this thing, and why did you let the helicopter out before it was paid for?"

"Don't worry about it," he said. "Somebody will pay for it. I had no reason to think that the buyer would drag his feet getting it cleared through his bank."

A frantic call to the buyer confirmed the facts of the story, but I went up the wall when the buyer said, "I don't know what you're upset about. I paid a \$9,000 deposit and I don't even have a helicopter."

"Nine thousand dollars," I stammered, "What nine thousand dollars?"

Another call to the broker . . . "Well, yes. That's right. He did put a deposit on it. It's only the balance that hasn't been paid."

"Hey, that's great," I said. "We've got nine thousand dollars safe somewhere."

"Not exactly," the broker confessed. "The bills were really piling up around here, so I spent it. I'd have your money if only that dirty so-and-so had kept his word and had his bank pay for the helicopter like he said he would within just a couple of days."

After I myself had flipped, I flipped a coin to decide whether to call my lawyer or my insurance carrier. My insurance carrier won, "Boy are you messed up with a yo-yo," he said, "let me check with the buyer's insurance company. By the way, what was the

exact date of the accident and when was the registration title transferred?"

"I know when the accident was, but I don't know when the registration was sent in," I said. "I signed a blank bill of sale a long time ago. I assume it was sent in when the sale was made."

There was a long pause on the telephone. "Have you got a lawyer?" the insurance agent said. "Maybe you'd better give him a call." I wasn't sure, but I thought I could hear the tinkling sound of breaking icicles again.

By the time I reached my lawyer the telephone receiver was slightly warmer than body temperature. "You won't believe this," I told him.

"Sam, from you I'll believe it," he answered.

I explained as best as I could and waited out that now recognizable telephone silence that came whenever someone found that they were part of this exceptionally stupid problem.

"I'm sure things will work out," he said, "but don't be in too much of a rush."

I won't bore you with the details of the next two years, which passed very, very slowly. The bottom line is that everybody was willing to agree that I should be paid for the helicopter, but nobody wanted to pay for it. The broker even claimed that he earned his commission because he negotiated a sale. But was it really a sale? You guessed it—he never got around to filing the

registration. Anyway, he spent the deposit money and there wasn't anything more he could do, he said.

Objectively, the most interesting problem was who really owned the helicopter at the time of the crash. I haven't yet understood all the legal thinking I heard on the matter, but it seems to have come down to The Law of the Duck. If something looks like a duck, walks like a duck and squawks like a duck, it almost might be a duck, except in dim light when someone will always make things interesting by saying it isn't a duck. Since the people in this situation tried to act like their bulbs were burned out, the light was pretty dim and it seemed as though the buyer was "kind of like" the new owner.

Then the musical chairs started. My insurance company didn't want to pay for the crash since the new owner had insured it. The buyer didn't want to put any more money out of his pocket. His bank wanted absolutely nothing to do with the matter. And my wonderful broker turned out not to have any valid insurance coverage at all. The last chair disappeared and the music stopped when it turned out that the buyer's insurance company was so close to bankruptcy that the state insurance commission suspended them from business and payment of all claims. New music started. It was one of those sad blues songs that say, "When everything has gone wrong, then real bad luck begins."

Happily, this song had an end, even though it played for two years. Remember the children's game of hot potato? Through frequent and costly prodding my lawyer finally dropped it in a bucket of legal sour cream. He gave me a check by surprise last week and talked me out of trying to ever understand. He said that there wasn't a chance that I'd survive the details. I hope the matter is closed forever. But sometimes I think I can still hear those icicles tinkling in the distance.

Far from breaking even on this adventure, it cost me over \$5,000 in legal fees. At least the loan I had standing for the helicopter at my bank was covered. The only man who came out ahead was the broker—for \$9,000—in spite of the fact that his incompetence caused the mess, and because his personal financial value wasn't worth suing.

When I look back with a shudder, I've got to tell the world, "Let the seller beware!" It would have been much more prudent to have turned the whole transaction over to an attorney or even to my local banker in the first place. These people are well versed in the mechanics of conducting a business transaction. Unlike the average aircraft owner, they would not be impressed by questionable assurances, and their judgment wouldn't be influenced by the emotional desire to complete a sale. There probably isn't any such animal as absolutely perfect security, but in the hands of professionals, the average pilot will at least have the best possible chance. □