

CHAIRMAN'S OFFICE
MAILED

AUG 30 1961

Signed by: _____

Honorable William S. Mailliard
House of Representatives
Washington 25, D. C.

Re: Guardian Trust Deed Corporation
Cal-West Aviation, Inc.

Dear Mr. Mailliard:

Reference is made to your request dated August 17, 1961. Enclosed are copies of a memorandum prepared by our Division of Corporate Regulation for the purpose of answering Mr. Senpenberger's letter.

If we may be of any further assistance to you, please do not hesitate to call upon us.

Sincerely yours,

William L. Cary
Chairman

Encl.

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Aug. 29, 1961

CHAIRMAN'S OFFICE

**Memorandum Prepared by the Division of Corporate Regulation,
Securities and Exchange Commission for reply to letter of
August 11, 1961 from Mr. Gordon Sengenberger**

Our files indicate that both Guardian Trust Deed Corporation and Cal-West Aviation, Inc. filed petitions pursuant to Chapter XI of The Bankruptcy Act. Chapter XI affords debtors an opportunity for effecting arrangements with unsecured creditors pursuant to jurisdiction invested by that Chapter in the United States District Courts. The Commission has no standing in such proceedings other than to file an application pursuant to Section 328 of Chapter XI for an order dismissing the proceeding if the judge finds that the proceeding should properly have been brought under Chapter X of The Bankruptcy Act.

Under Chapter X, the Commission has certain advisory functions and responsibilities. It can upon approval by the judge, or at the request of the judge, become a party to a proceeding under Chapter X. Once the Commission becomes a party, it has all the rights of a party except that it has no right to appeal or to receive any allowance for fees or expenses. In addition, if a debtor's liabilities exceed \$3,000,000, the judge may not approve a plan of reorganization unless the plan is submitted to the Commission for examination and report. In the event the liabilities are less than \$3,000,000, the judge may, at his discretion, submit a plan to the Commission. In either case, the Commission may, at its discretion, file such a report which is advisory only. However, a copy of the report, or a summary thereof prepared by the Commission, must be submitted to the persons affected by any plan at the time they are asked to vote upon it.

The Commission's San Francisco Regional Office personnel who are expert in Chapter XI and Chapter X matters have been carefully following both of these proceedings on an informal basis. In neither case has the staff recommended to the Commission that the Commission apply for dismissal of the proceeding pursuant to Section 328.

In the case of Guardian Trust Deed Corporation, a plan of arrangement was confirmed by the Court on June 9, 1961. During the course of the Court's consideration of the plan, counsel for the Commission expressed certain objections thereto which were satisfied by an amendment to the plan.

The Cal-West Aviation, Inc. proceeding has not yet reached a point where a plan of arrangement has been proposed. However, representatives of the Commission's staff have been actively participating on an informal basis in conferences and negotiations among interested persons, all with a view toward protecting the interests of public investors. While consideration is being given to the question of whether an application to dismiss pursuant to Section 328 should be made, it does not yet appear that it would be in the best interests of the public investors to make such application.

There are other governmental agencies concerned with the affairs of Cal-West. The Federal Aviation Agency has expressed an interest in the continued operation of the debtor's airport; local municipalities have shown an interest in the airport; the California Division of Corporations is actively following the case; and the San Mateo County District Attorney's Office has also evidenced an interest.

If Mr. Sengenberger has further questions concerning the Commission's role in these matters, he should contact our San Francisco Regional Office, specifically, Messrs. W. Stevens Tucker, C. J. Odenweller, Jr., or Stuart Kaplan, YUkon 6-3500, Ext. 3872, 3570 or 3865, respectively.