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The Aviator

James Cooling's father was an aviation pioneer; he is a pioneer in aviation law

By Conger Beasley Jr.
Photograph by Larry Marcus

In 1950 when James Cooling was 7 years old and living in Milwaukee, he had an experience that stays with him to this day.

"We lived near General Billy Mitchell Field," Cooling recalls. "It was the first time I ever heard a jet aircraft take off. The roar, the thrust, the power. I stood out in the yard, staring into the sky. I've never forgotten it. It was as if I had a kind of premonition that my life would somehow be associated with that sound."

Today Cooling is the managing partner of the 23-person Kansas City law firm Cooling and Herbers, which he founded in 1977 and which has extensive experience in the private aviation business. Need a jet aircraft for your company? The firm specializes in the negotiation, purchase and sale of corporate aircraft for Fortune 500 companies. Need to monitor the red tape that inevitably accompanies the acquisition, leasing and management of a company plane? It provides aviation counsel to corporate legal departments regarding FAA, SEC, IRS tax and insurance issues. The firm can also help with environmental and foreign governmental regulations.

Currently, the firm represents clients around the globe and has provided aviation legal services for clients such as the Disney Family, Anheuser-Busch, Home Depot, IBM and NASCAR, as well as various Hollywood industry executives and celebrities. Litigation clients include underwriters at Lloyds of London, Mooney Airplane Company and the Duke of Westminster.

How does a lawyer find himself in the seemingly arcane field of aviation law? Cooling was practically born in a cockpit. His father, Les Cooling, was a pioneer aviator who learned to fly in 1930, at the age of 16. During World War II, Les was a flight instructor at an air base in Texas (where Jim was born in 1943), and soon he was flying as a civilian contract pilot for Air Transport Command, ferrying supplies and personnel all over the world. After the war, he helped pioneer new passenger routes to the Middle East for TWA. Later he served as an acci-

dent investigator for the Civil Aeronautics Administration before being assigned by the Federal Aviation Administration (FAA) as the first pilot examiner on the North American Sabreliner, arguably the first business jet. The craft was so new Les had to teach himself how to fly it in order to instruct and check out other examiners.

Young Jim started out following in his father's footsteps. He took his first airplane ride, with his father at the controls, when he was barely 1 year old. After his father taught him the rudiments of flying, Jim flew his first logged flight in 1959, at age 16, the same age his father had been. Today, Jim Cooling can fly just about anything. He's an FAA-certified flight instructor who also holds commercial, instrument and multi-engine ratings, as well as a Cessna Citation jet-type rating.

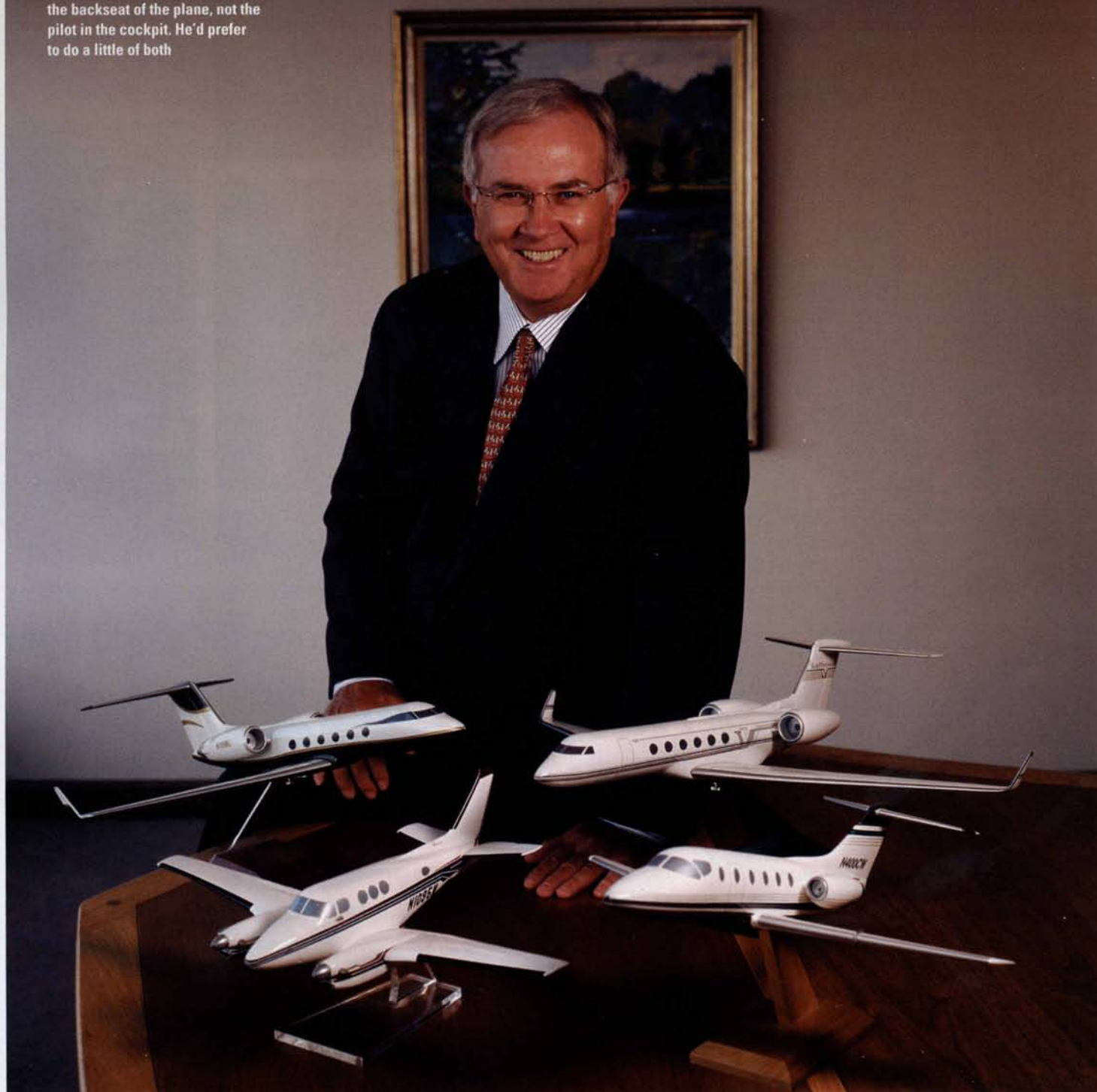
Cooling graduated from the University of Missouri with a B.A. in history in 1965, and from the University of Notre Dame Law School three years later.

The next two years were among the most memorable of his life. He joined the Army, where he served as aide-de-camp to the United States Commander, Berlin, from July 1969 to September 1970. "The Vietnam War was raging," says Cooling, "and I was based in Germany waiting for the call to go to Southeast Asia. Instead, I was lucky enough to have three of the qualifications the commanding general was looking for in his aide: I was single, I was a lawyer and I spoke German."

"But more importantly, the general's wife liked me, and I got the job."

The job seemed designed to draw out the best of his communication skills. After being promoted to captain he had to maintain close contact with high officials in the military, civilian and diplomatic communities of Berlin. It was the height of the Cold War, and when a dignitary or celebrity from the U.S. visited, Cooling was expected to squire them around and show them the vibrant life in West Berlin, as well as the harsher life on the other side of the wall in East Berlin. He was entirely at the behest of the U.S. commanding general — both professional-

Cooling's father once told him he ought to be the businessman in the backseat of the plane, not the pilot in the cockpit. He'd prefer to do a little of both



ly and socially. "I wore a tux as often as I wore a uniform," Cooling remembers. "In retrospect, I learned a lot about how things worked at the top levels of command. One of the biggest things I learned was how important it is to follow through on an assignment and to finish it off with the proper flourish. I had to really pay attention to what I was doing. If I screwed up as aide-de-camp, I could very well be on the next flight to Vietnam."

That philosophy has carried over today in his firm's cornerstone

practice of providing closing checklists, as well as closing books, for all aircraft transactions. These closing books are tailored to each client and include a detailed index and copies of all documents, including contact information, title searches and tax exemption certificates. "It's not easy complying with all the laws governing the ownership of a corporate aircraft in today's world," Cooling adds with a shake of the head. "It's a serious and complex business. Our job is to make it as easy on the client as we can."

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Making it easy on the client is the mantra that animates Cooling's business and fuels its success. Hugh Andrews, executive vice president of Andrews McMeel Universal in Kansas City, says, "Jim is beyond reproach in terms of reputation, proven track record and his steadfast ability to champion his clients' needs."

Following his stint in the Army, Cooling returned to the U.S. and took up a clerkship at the Missouri Supreme Court. He then went to work for the Dietrich Davis law firm in Kansas City, where he met his future wife, Ann.

The course of his law practice shifted in the summer of 1976, when Jerry Litton, a promising Democratic candidate for the U.S. Senate from Missouri, died when his aircraft crashed on take-off at Chillicothe. The morning after the accident, Cooling flew up from Kansas City in a small plane with a friend of Litton's to visit the site. Subsequently, the Insurance Company of North America (INA) hired Cooling to monitor the situation, make daily reports to their chief executives and, eventually, negotiate a successful resolution of the high-profile case. A year later Cooling founded his own law firm, intending to specialize in aviation matters. He started out modestly, serving clients from local businesses; gradually, people in other parts of Missouri and Kansas took notice.

With four children, Cooling looked for a way to handle business across the two-state area in a single day and still make it home at night. An airplane seemed optimal, but it wasn't until 1980 that the firm could afford one. Once they got it, their market range expanded dramatically.



Left: Cooling and his 16-year-old son James, the third generation of Cooling pilots



Below: While at Allied Command Headquarters in Berlin, Cooling (below) showed visiting celebrities such as Elke Sommer (below left) the nightlife



"I love the fact that we do business with people all over the world from an office in Kansas City, Missouri," says Cooling. "We have Midwest values. We're steady and reliable, and we know how to solve problems."

In the early 1980s, INA decided to set up a strike force team to inspect high-profile aircraft accidents around the country, and, in part because Cooling could fly, he was included. This meant he often had to leave home at the drop of a hat, sometimes flying in a single-engine plane at the trailing edge of the same storm that had caused the aircraft in question to go down. Frequently he showed up at the crash site before the National Transportation Safety Board personnel appeared.

Cooling still remembers his father saying to him at an early age, "Son, you don't want to be in the cockpit flying the client to an important business conference. You want to be sitting in the back being flown to that conference." Obviously Cooling hasn't always followed this advice, but he occasionally gets to ride in the back of a Falcon 900 or a Gulfstream IV with his clients. He loves it.

He also loves where his firm is headquartered. "I love the fact that we do business with people all over the world from an office in Kansas City, Missouri," Cooling says. "We can charge Kansas City prices for our legal services. We have Midwest values. We're steady and reliable, and we know how to solve problems."

"Solving problems is one of Jim's outstanding gifts," says Jack Soden, CEO of Elvis Presley Enterprises. "He's not confrontational. He never

polarizes the situation. He knows how to achieve his client's goal with maximum efficiency."

Business aviation is big, and it's getting bigger. At the end of the 1960s, about 2,000 companies in the U.S. operated their own aircraft. Today, around 11,000 companies and organizations operate more than 17,000 jet-powered aircraft. More than 30,000 additional companies operate piston-powered aircraft, and thousands more resort to charter firms for their aviation needs.

At the same time Cooling acknowledges that corporate aircraft has an image problem. Are they legitimate business tools that help facilitate sales, or are they playthings that executives appropriate for their own private use? Like family Pullman sleeping cars in the late 19th century that hauled rich people from one glittering spa to the next, corporate aircraft are in danger of having their image negatively stereotyped.

An article in *The Wall Street Journal* in May cited abuses of company planes by top execs. The most egregious example cited was that of Barry Diller, head of the publicly traded media conglomerate IAC/InterActive Corp., who in 2004 racked up some \$832,000 in free "personal use" of the company plane. Under SEC scrutiny, new disclosures have come to light indicating that top

Continued on page 56

Cooling from page 12 execs have used their company jets for vacation and leisure travel to a far greater extent than previously acknowledged.

"This is a complex issue," says Cooling. "The safety and security of a company's CEO and its other executives is a very high priority for the board of directors of every national public and private company. Since 9/11, many multinational corporations have required their CEOs and other top executives to fly on corporate aircraft for both business and personal travel. Companies such as General Electric require their three top executives to use company aircraft for all types of travel.

"What the newspaper stories don't tell you is that the FAA prohibits payment by corporate executives or CEOs to their company for personal flights — except in limited circumstances — even though the executives prefer and desire to reimburse their company in full for personal flights. The SEC requires disclosure of personal-use flights in accordance with the compensation disclosure rules.

"It's important to remember," Cooling adds, "that business aviation is the safest and most secure form of executive transportation. Not only that, these aircraft are designed to get things done. The interior of today's corporate jet has to be comfortable and well-appointed. Top execs frequently use the space as an office in which to close big deals, and so it has to have the latest electronic equipment."

An airplane parked in a lonely nook of a busy airport or in flight offers the ultimate sanctuary for important executives in which to discuss new products, contract negotiations, personnel matters, mergers and acquisitions.

"Imagine trying to transact the same business on a Southwest Airlines flight to Albuquerque," says Cooling, "or even inside a tall glass building in the heart of a busy city, with phones jingling and faxes clattering and traffic seething below."

"People buy airplanes so they can own their own time," says Gary Worden, a friend of Cooling and a fellow pilot. "Take Air Force One. Any president will tell you that the time he cherishes most is when he's in the air, out of reach of the million and one things he's got to attend to when he's down on the ground. Same for busy executives. They need that distance. They need that space. They need that freedom."

The walls of Cooling's office — a corner office with a view of the downtown Kansas City airport — are decorated with diplomas, airplane photos, memorabilia and family photos. There's a classic 1940s picture of Wes Cooling wearing a khaki shirt, a military tie and a flying helmet with a pair of goggles pushed back on his forehead.

A couple of brimming file folders teeter precariously at the edge of the desk. The office feels cluttered, reflective of Cooling's many interests.

The phone rings, and Cooling listens as somebody from an NFL franchise inquires about a new aircraft. After he hangs up he grins. His face still looks youthful — alert blue eyes, freckled complexion, sandy-colored hair touched with gray.

"I love my work the same today as when I started out 30 years ago. Sometimes I talk to Ireland in the morning and New Zealand in the afternoon. It's so much more exciting and fulfilling than any other kind of legal work I can possibly imagine. I must be the luckiest guy in the world." ❖