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COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

NORFOLK, SS.

SUPERIOR COURT
NO. 1582CV00213

BOSTON EXECUTIVE HELICOPTERS, LLC;
MII AVIATION SERVICES, LLC, AND
HB HOLDINGS, INC.,
Plaintiffs,

v.

FLIGHTLEVEL NORWOOD, LLC;
EAC REALTY TRUST II; AND
PETER EICHLEAY,
Defendants.

DEPOSITION OF KEVIN J. SHAUGHNESSY

TAKEN MARCH 19, 2018

AT THE LAW OFFICES OF

LeCLAIR RYAN

ONE INTERNATIONAL PLACE, 11TH FLOOR

BOSTON, MASSACHUSETTS

Reporter: Raymond F. Catuogno, Jr.

<p style="text-align: right;">2</p> <p>APPEARANCES:</p> <p>For the Plaintiffs: PIERCE & MANDELL, P.C. 11 Beacon Street, Suite 800 Boston, MA 02108 BY: MICHAEL C. FEE, ESQ. 617-720-2444 mfee@piercemandell.com</p> <p>For the Defendants: LeCLAIR RYAN One International Place, 11th Floor Boston, MA 02110 BY: A. NEIL HARTZELL, ESQ. 617-502-8259 neilhartzell@leclairryan.com</p> <p>For the Norwood Airport Commission: PIERCE, DAVIS & PERRITANO, LLP 10 Post Office Square, Suite 1100N Boston, MA 02109 BY: ADAM SIMMS, ESQ. 617-350-0950 asimms@piercedavis.com</p> <p>In Attendance:</p> <p>Christopher Donovan, Boston Executive Helicopters, LLC Peter Eichleay, FlightLevel</p>	<p style="text-align: right;">4</p> <p>1 KEVIN SHAUGHNESSY, Deponent, having 2 produced satisfactory identification by means of 3 a Massachusetts Driver's License, was duly 4 sworn, deposes and states as follows: 5 EXAMINATION BY MR. HARTZELL: 6 Q. Mr. Shaughnessy, good afternoon. 7 I'm Neil Hartzell and I represent FlightLevel 8 Norwood, LLC, EAC Realty Trust II, and Peter 9 Eichleay in connection with certain claims 10 brought against them by Boston Executive 11 Helicopters and others. Have you ever given a 12 deposition before? 13 A. Yes. 14 Q. How many times? 15 A. I believe this is my third time. 16 Q. So just briefly to go over the 17 ground rules, you have to wait until I finish 18 asking the question before you start your answer 19 because the court reporter can only take down 20 one person at a time. If you don't understand 21 anything that I ask you, please let me know and 22 I'll rephrase it. 23 MR. HARTZELL: I will read 24 some stipulations into the record. The</p>
<p style="text-align: right;">3</p> <p>INDEX:</p> <p>WITNESS: KEVIN J. SHAUGHNESSY PAGE</p> <p>Examination by Mr. Hartzell 4</p> <p>Examination by Mr. Fee 70</p> <p>EXHIBITS:</p> <p>Exhibit 106, Notice Of Taking Deposition ... 5</p> <p>Odstrchel Exhibit 75 14</p> <p>Odstrchel Exhibit 76 15</p> <p>Odstrchel Exhibit 77 16</p> <p>Odstrchel Exhibit 78 19</p> <p>Odstrchel Exhibit 79 20</p> <p>Odstrchel Exhibit 80 22</p> <p>Odstrchel Exhibit 81 23</p> <p>Odstrchel Exhibit 84 34</p> <p>Odstrchel Exhibit 85 36</p> <p>Odstrchel Exhibit 86 37</p> <p>Odstrchel Exhibit 87 42</p> <p>Odstrchel Exhibit 88 43</p> <p>Odstrchel Exhibit 91 56</p> <p>Odstrchel Exhibit 92 59</p> <p>Odstrchel Exhibit 93 60</p> <p>Exhibit 107, Photograph 64</p> <p>Odstrchel Exhibit 98 67</p> <p>Odstrchel Exhibit 99 102</p> <p>Exhibit 108, Norwood Memorial Airport FY2018 Commercial Permit Application 113</p>	<p style="text-align: right;">5</p> <p>1 witness may read and sign under the pains 2 and penalties and does not need to have 3 his signature notarized. All objections, 4 except as to the form of the question, and 5 all motions to strike are reserved until 6 the time of trial. 7 I'd like to have this marked 8 as Exhibit 106. 9 (Exhibit 106, Notice Of Taking Deposition, 10 marked for identification) 11 Q. (By Mr. Hartzell) Sir, I'm showing 12 you what has been marked as Exhibit 106 and ask 13 you, is that the Notice of Deposition that you 14 received a copy of to appear here today? 15 A. Yes, I believe it is. 16 Q. And we've changed the date 17 obviously. A few preliminary questions: Where 18 do you live, sir? 19 A. 45 Alden Drive in Norwood, 20 Massachusetts. 21 Q. What is your occupation? 22 A. I'm an assistant superintendent for 23 the Norwood Municipal Light Department. 24 Q. How long have you held that</p>

<p style="text-align: right;">6</p> <p>1 position?</p> <p>2 A. About three years.</p> <p>3 Q. What did you do before that?</p> <p>4 A. I was an electrical engineer for</p> <p>5 the same.</p> <p>6 Q. For Norwood?</p> <p>7 A. For Norwood Municipal Light</p> <p>8 Department.</p> <p>9 Q. How did you do in the recent storm?</p> <p>10 A. I think we did very well. My idea</p> <p>11 of -- my friend Adam was talking at lunch about</p> <p>12 making it to work during the storm. I have a</p> <p>13 totally different idea of making it to work</p> <p>14 during the storm, but --</p> <p>15 Q. And how long have you been with</p> <p>16 Norwood Light?</p> <p>17 A. I started in 1984.</p> <p>18 Q. And briefly your schooling, high</p> <p>19 school graduate?</p> <p>20 A. I went to Don Bosco Technical High</p> <p>21 School in Boston. I went to Northeastern</p> <p>22 University in Boston and Suffolk University.</p> <p>23 Q. What degree from Northeastern?</p> <p>24 A. Electrical engineering, power</p>	<p style="text-align: right;">8</p> <p>1 become a member of the Norwood Airport</p> <p>2 Commission?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember what year that was?</p> <p>5 A. If I could say approximately, ten</p> <p>6 years ago.</p> <p>7 Q. Was Swift Aviation operating out at</p> <p>8 the airport when you first went on the</p> <p>9 Commission?</p> <p>10 A. Yes.</p> <p>11 Q. Do you remember what their business</p> <p>12 was?</p> <p>13 A. I'm sorry, they had a hangar.</p> <p>14 Q. Did they do airplane maintenance</p> <p>15 and repair?</p> <p>16 A. I don't know.</p> <p>17 Q. Did you ever see their operations?</p> <p>18 A. From the outside.</p> <p>19 Q. Okay. Swift Aviation did not have</p> <p>20 a fueling operation, did they?</p> <p>21 A. No.</p> <p>22 Q. At some point in time the -- you</p> <p>23 recall that the Swift Aviation building -- the</p> <p>24 roof collapsed?</p>
<p style="text-align: right;">7</p> <p>1 systems option.</p> <p>2 Q. And Suffolk?</p> <p>3 A. MBA.</p> <p>4 Q. Is Don Bosco still in existence?</p> <p>5 A. Not in Boston.</p> <p>6 Q. So after you got -- what year did</p> <p>7 you get your MBA, approximately?</p> <p>8 A. '97, I think.</p> <p>9 Q. And between Northeastern and</p> <p>10 Suffolk, did you work?</p> <p>11 A. Yes.</p> <p>12 Q. What did you do then?</p> <p>13 A. I have been working for Norwood</p> <p>14 Light since 1984.</p> <p>15 Q. Okay. Continuously?</p> <p>16 A. Yes.</p> <p>17 Q. Did you go at nights for your MBA?</p> <p>18 A. Yes. I'm sorry, could I rephrase</p> <p>19 that?</p> <p>20 Q. Sure. If you want to correct</p> <p>21 something, go right ahead.</p> <p>22 A. It was not just nights. It would</p> <p>23 be some Saturdays.</p> <p>24 Q. At some point in time did you</p>	<p style="text-align: right;">9</p> <p>1 A. I recall.</p> <p>2 Q. Do you recall what year that was?</p> <p>3 A. I'm sorry, I don't.</p> <p>4 Q. Okay. Was it '09-ish?</p> <p>5 A. It was a few years after I was on</p> <p>6 the Commission, so it would be eight years ago</p> <p>7 or so.</p> <p>8 Q. By the way, how did you become a</p> <p>9 member of the -- let me back up.</p> <p>10 What drew your interest to becoming</p> <p>11 a member of the Norwood Airport Commission?</p> <p>12 A. I didn't have a specific interest</p> <p>13 in Norwood Airport Commission. I sent a letter</p> <p>14 to the then town manager, John Carol, expressing</p> <p>15 my interest to serve the town in some capacity.</p> <p>16 Q. And how did Norwood Airport</p> <p>17 Commission come to your attention?</p> <p>18 A. I believe someone from the Town</p> <p>19 Hall told me there was a vacancy.</p> <p>20 Q. And did you have to get appointed?</p> <p>21 A. Yes.</p> <p>22 Q. Was there some sort of application</p> <p>23 process?</p> <p>24 A. The appointment was through the</p>

<p style="text-align: right;">10</p> <p>1 Board of Selectmen. Can I continue?</p> <p>2 Q. Yes, sure, of course.</p> <p>3 A. I believe I probably submitted a</p> <p>4 resume. I'm not quite sure though.</p> <p>5 Q. And how long is your term?</p> <p>6 A. Each term is three years, I</p> <p>7 believe.</p> <p>8 Q. Okay. So you have continuously</p> <p>9 served on the Board since you joined; is that</p> <p>10 right?</p> <p>11 A. That's correct.</p> <p>12 Q. And you've been reappointed every</p> <p>13 three years or so?</p> <p>14 A. Yes.</p> <p>15 Q. Who does the reappointment?</p> <p>16 A. The Board of Selectmen.</p> <p>17 Q. Okay. What is your first memory of</p> <p>18 hearing about BEH?</p> <p>19 MR. SIMMS: That's kind of</p> <p>20 broad, but go ahead.</p> <p>21 A. I don't really recall.</p> <p>22 Q. You knew at some point in time they</p> <p>23 expressed an interest in operating out at the</p> <p>24 airport?</p>	<p style="text-align: right;">12</p> <p>1 A. I didn't meet with him in a</p> <p>2 personal setting. He may have been at a meeting</p> <p>3 or something.</p> <p>4 Q. Do you remember what the</p> <p>5 circumstances were when you first met</p> <p>6 Mr. Christopher Donovan?</p> <p>7 A. I don't.</p> <p>8 Q. Do you know what his title is with</p> <p>9 the BEH?</p> <p>10 A. I think he is the general manager,</p> <p>11 possibly president.</p> <p>12 Q. What do you remember about -- and I</p> <p>13 direct your attention to approximately 2012</p> <p>14 where Boston Executive Helicopters was</p> <p>15 interested in putting in a fuel system at the</p> <p>16 airport. Do you remember anything about that?</p> <p>17 A. My first recollection of talking</p> <p>18 about a fuel system is that they wanted to fuel</p> <p>19 their own aircraft. That was -- and I don't</p> <p>20 know if it was 2012, but that was the first time</p> <p>21 I remember talking about it.</p> <p>22 Q. So when it was first brought to</p> <p>23 your attention, did Boston Executive Helicopters</p> <p>24 express an interest in selling fuel or was it</p>
<p style="text-align: right;">11</p> <p>1 A. I believe it was close to the</p> <p>2 beginning of my term. Within the first year or</p> <p>3 so, I think I became familiar with who they</p> <p>4 were.</p> <p>5 Q. Did they express an interest in</p> <p>6 rebuilding the hangar where Swift Aviation was?</p> <p>7 A. Yes.</p> <p>8 Q. And do you remember when you first</p> <p>9 met Mr. Donovan?</p> <p>10 A. I don't recall.</p> <p>11 Q. Have you ever met Mr. Yanai?</p> <p>12 A. No, I have not.</p> <p>13 Q. Do you know who he is?</p> <p>14 A. I do. I may have met him and I</p> <p>15 don't remember, but I --</p> <p>16 Q. First name Moshe?</p> <p>17 A. I'm familiar with the name and I</p> <p>18 know he's the owner, but -- I believe he's the</p> <p>19 owner of BEH.</p> <p>20 Q. But no recollection, as you sit</p> <p>21 here today, if you have talked to him or met</p> <p>22 with him?</p> <p>23 A. No.</p> <p>24 Q. You may have met with him?</p>	<p style="text-align: right;">13</p> <p>1 only to fuel their own aircraft?</p> <p>2 A. My recollection it was to fuel</p> <p>3 their own aircraft.</p> <p>4 Q. And when you came on the Board, who</p> <p>5 was the existing fixed-based operator at Norwood</p> <p>6 Airport?</p> <p>7 A. I don't recall, but based on the</p> <p>8 previous deposition it was right around the time</p> <p>9 that FlightLevel took over from the previous</p> <p>10 FBO.</p> <p>11 Q. Was the previous FBO Eastern Air</p> <p>12 Charter?</p> <p>13 A. I believe so.</p> <p>14 Q. Did you ever talk to anybody from</p> <p>15 Eastern Air Charter, if you can remember?</p> <p>16 A. I believe some of the same people</p> <p>17 worked for FlightLevel now, so I guess that's</p> <p>18 probably --</p> <p>19 Q. Did you ever have any conversations</p> <p>20 with an engineer called Halim Choubah who is --</p> <p>21 I'll represent to you did some work for Boston</p> <p>22 Executive Helicopters?</p> <p>23 A. I don't recall.</p> <p>24 Q. I'm going to show you what was</p>

<p style="text-align: right;">14</p> <p>1 marked as Exhibit 75 at a previous deposition 2 today and ask you if you have any memory of 3 seeing that before? 4 A. I don't specifically recall this 5 document, or this e-mail. 6 Q. It references -- in the second 7 paragraph, it says -- the last sentence of that 8 second paragraph says, "...working with the 9 conservation, the NFD and ultimately the Board 10 of Selectmen for approval and permitting." Do 11 you see that? 12 A. Yes. 13 Q. NFD is the fire department? 14 A. I believe so. 15 Q. Does this refresh your recollection 16 as to when you were first -- whether you had the 17 first discussions or information about 18 FlightLevel's fuel system out at the airport -- 19 I'm sorry, Boston Executive Helicopters, BEH's? 20 A. This is just a fuel tank, like how 21 the fuel tank is built, I believe. I don't know 22 that this is anything other than that. 23 Q. All right. Thanks. You can put 24 that away. Do you remember what year Boston</p>	<p style="text-align: right;">16</p> <p>1 Q. All right. And the date is 2 September of 2012? 3 A. Yes. 4 Q. Okay. I'm going to show you next 5 what was marked as Exhibit 77 at Marty 6 Odstrchel's deposition. And can you identify 7 this document for me, please? 8 A. It's the 2013 permit application 9 for BEH. 10 Q. And you will see on the -- can you 11 explain briefly what is a commercial permit at 12 the airport? 13 A. All businesses that operate at the 14 airport have to have a commercial permit to 15 operate. 16 Q. Are those permits issued yearly? 17 A. I believe so. 18 Q. And who approves those? 19 A. Norwood Airport Commission. 20 Q. Could you tell me briefly what, in 21 your view, are the responsibilities of Norwood 22 Airport Commission? 23 A. Certainly this would be one of 24 them. Oversight of applications for grants and</p>
<p style="text-align: right;">15</p> <p>1 Executive Helicopters began to construct its new 2 hangar? 3 A. I'm sorry, I don't. 4 Q. Let me show you what was marked as 5 Odstrchel Exhibit 76. And this is a copy of an 6 e-mail dated September 7, 2012, and it's an 7 e-mail from Chris Donovan to Russ Maguire. Just 8 so the record is clear, Russ Maguire is who, 9 sir? 10 A. Russ Maguire is the airport 11 manager. 12 Q. How long has he been the airport 13 manager? 14 A. For as long as I've been there and 15 probably before that. 16 Q. It references a PDF draft of our 17 hangar and the placement, but it doesn't -- we 18 don't have the PDF attachment. But does this 19 refresh your recollection as to when Boston 20 Executive Helicopters started to have 21 discussions or provide information to the NAC 22 concerning its proposed new hangar building? 23 A. To the extent that I see the dates 24 on it, but I don't specifically remember.</p>	<p style="text-align: right;">17</p> <p>1 so forth, general supervision of the management 2 duties and going-ons at the airport. 3 Q. Does Norwood Airport Commission 4 have the ability to hire and fire anyone? 5 MR. SIMMS: So we're clear, 6 Neil, public employees or private? 7 MR. HARTZELL: Either. 8 MR. SIMMS: Well, you have to 9 make a distinction because there's a big 10 distinction. 11 Q. (By Mr. Hartzell) You can answer 12 the best you can. Go ahead. 13 A. My belief, in the Town of Norwood, 14 the only one that can hire or fire someone is 15 the town manager. 16 Q. That's for town employees? 17 A. Yes. People working at the airport 18 are town employees. 19 Q. What we're looking at, Exhibit 77 20 from Mr. Odstrchel's deposition, it is the 2013 21 commercial permit application from Boston 22 Executive Helicopters. And there's a number of 23 boxes checked off, right? 24 A. Yes.</p>

<p style="text-align: right;">18</p> <p>1 Q. And ground operations, the</p> <p>2 hangar-based rental is checked off. The next</p> <p>3 line is crossed out, and then the next line is</p> <p>4 not checked and that's line services. Do you</p> <p>5 see that?</p> <p>6 A. I do.</p> <p>7 Q. What is your understanding of what</p> <p>8 line services are?</p> <p>9 A. I believe line services are the</p> <p>10 actual fueling and so forth, work -- they handle</p> <p>11 the aircrafts in and out, towing type of thing.</p> <p>12 Q. And that would include selling the</p> <p>13 fuel?</p> <p>14 A. I believe the same people do that,</p> <p>15 but I'm not sure.</p> <p>16 Q. All right. But in any event, that</p> <p>17 box is not checked off here, correct?</p> <p>18 A. In this exhibit that box is not</p> <p>19 checked off.</p> <p>20 Q. Now, at some point in time do you</p> <p>21 recall that Boston Executive Helicopters became</p> <p>22 interested in running not just a -- leasing some</p> <p>23 space at the airport but actually operating as a</p> <p>24 fixed-base operator?</p>	<p style="text-align: right;">20</p> <p>1 become a full-service fixed-based operator?</p> <p>2 A. I would repeat that I don't</p> <p>3 specifically remember. Although, I do see the</p> <p>4 date on this as February 12, 2014.</p> <p>5 Q. Does that refresh your recollection</p> <p>6 at all?</p> <p>7 A. I don't specifically recall.</p> <p>8 Q. Now, you remember that Boston</p> <p>9 Executive Helicopters was interested in</p> <p>10 acquiring more space out at the airport?</p> <p>11 A. Yes.</p> <p>12 Q. In 2014, did the Norwood Airport</p> <p>13 Commission extend a lease offer to Boston</p> <p>14 Executive Helicopters for part of the west</p> <p>15 apron?</p> <p>16 A. You would have to be more specific.</p> <p>17 We have extended several lease offers.</p> <p>18 Q. Let me show you Odstrchel Exhibit</p> <p>19 79 and see if that refreshes your recollection.</p> <p>20 This is a letter dated March 17, 2014. It's</p> <p>21 from Russ Maguire?</p> <p>22 A. Yes.</p> <p>23 Q. And Norwood Airport Commission is</p> <p>24 copied on it. I apologize for the faint copy.</p>
<p style="text-align: right;">19</p> <p>1 A. I'm aware they want to be a</p> <p>2 fixed-base operator.</p> <p>3 Q. And that came after they had first</p> <p>4 approached the Commission and sought a permit</p> <p>5 for certain commercial activities?</p> <p>6 A. Well, they would apply for permits</p> <p>7 every year, so I don't specifically remember</p> <p>8 when they wanted to become a fixed-base</p> <p>9 operator.</p> <p>10 Q. Let me show what was marked as</p> <p>11 Exhibit 78 at Mr. Odstrchel's deposition and</p> <p>12 direct your attention to the second -- first of</p> <p>13 all, let's identify it for the record. These</p> <p>14 are airport Commission meeting minutes from</p> <p>15 February 12, 2014. Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. And the second page under new</p> <p>18 business, where it says, "Boston Executive</p> <p>19 Helicopters full-service fixed-base operator</p> <p>20 interest." Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. And does that refresh your</p> <p>23 recollection as to when Boston Executive</p> <p>24 Helicopters first was interested in applying to</p>	<p style="text-align: right;">21</p> <p>1 A. I can read the copy.</p> <p>2 Q. And it says that the Norwood</p> <p>3 Airport Commission is now prepared to extend a</p> <p>4 lease offer to your company, Boston Executive</p> <p>5 Helicopters. And it appears to reference 6,889</p> <p>6 square feet on the northeast corner of Norwood</p> <p>7 Airport's west apron. Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. Does this refresh your recollection</p> <p>10 as to when the first offer of additional lease</p> <p>11 space was granted to -- was offered to, excuse</p> <p>12 me, Boston Executive Helicopters?</p> <p>13 A. I would accept this as face value,</p> <p>14 that that's when we offered it.</p> <p>15 Q. The March -- around March 17, 2014,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Now, do you remember an incident</p> <p>19 where Russ Maguire wrote to Boston Executive</p> <p>20 Helicopters in March of 2014 concerning certain</p> <p>21 unauthorized helicopter operations? Does that</p> <p>22 refresh your recollection at all?</p> <p>23 MR. FEE: Objection.</p> <p>24 A. I'm sorry?</p>

<p style="text-align: right;">22</p> <p>1 Q. You can answer.</p> <p>2 A. Could you repeat that, please?</p> <p>3 MR. HARTZELL: Could I have</p> <p>4 that read back, please?</p> <p>5 (Question read by reporter)</p> <p>6 MR. FEE: Objection.</p> <p>7 A. I couldn't be specific about the</p> <p>8 time, but I do remember some instances.</p> <p>9 Q. Let me show you what was marked as</p> <p>10 Exhibit 80, which I will represent to you is a</p> <p>11 March 21, 2014, letter from -- appears to be</p> <p>12 from Norwood Airport Commission -- I'm sorry,</p> <p>13 from Russ Maguire at the airport to Mr. Donovan,</p> <p>14 president of Boston Executive Helicopters?</p> <p>15 A. I see it. I think I've seen it.</p> <p>16 Q. Have you seen this before?</p> <p>17 A. I think so.</p> <p>18 Q. Do you remember what the</p> <p>19 circumstances were surrounding the content of</p> <p>20 this letter?</p> <p>21 A. I believe that the airport manager</p> <p>22 wanted helicopter landings to occur at the new</p> <p>23 helicopter pads and he didn't want more or less</p> <p>24 hovering and taxiing to the taxi lanes. They</p>	<p style="text-align: right;">24</p> <p>1 A. Yes.</p> <p>2 Q. It says, "The electric hangar was</p> <p>3 roughed in and inspected. Roof insulation is</p> <p>4 complete." Would you agree with me that in</p> <p>5 around the spring of 2014 the building that BEH</p> <p>6 was building in what was formerly the Swift</p> <p>7 Aviation hangar was still being built?</p> <p>8 A. Yes.</p> <p>9 Q. And underneath that there is a</p> <p>10 reference to a lease offer. And it says, "BEH</p> <p>11 and Mr. Foxx do not think the square footage</p> <p>12 offered by NAC is adequate for fueling as an</p> <p>13 FBO." Did I read that correctly?</p> <p>14 A. Yes, you read that correctly.</p> <p>15 Q. What do you remember about those</p> <p>16 discussions, if anything?</p> <p>17 A. We offered a 6,000-plus-square-foot</p> <p>18 piece of the west apron -- west ramp, I should</p> <p>19 say, for lease. Mr. Donovan refused it.</p> <p>20 Q. Did he say why?</p> <p>21 A. I believe he wanted a bigger piece,</p> <p>22 but I don't specifically remember.</p> <p>23 Q. The last line of that paragraph, it</p> <p>24 says, "Questions by NAC: What does BEH feel</p>
<p style="text-align: right;">23</p> <p>1 felt that was against the rules.</p> <p>2 Q. And who was operating the</p> <p>3 helicopters at that point in time?</p> <p>4 A. I believe the pilot was Chris</p> <p>5 Donovan, but I'm not sure.</p> <p>6 Q. Was this matter resolved, do you</p> <p>7 know?</p> <p>8 A. I don't recall the resolution other</p> <p>9 than pretty much don't do it again and please</p> <p>10 use the new helicopter pads.</p> <p>11 Q. Do you know if there was ever a</p> <p>12 response to this letter from BEH? When I say</p> <p>13 this letter, I mean what was marked as</p> <p>14 Exhibit 80 at Marty Odstrchel's deposition.</p> <p>15 A. I don't recall.</p> <p>16 Q. In the spring of 2014 -- let me</p> <p>17 show you this. This was marked as Exhibit 81 at</p> <p>18 Marty Odstrchel's deposition, which was April 9,</p> <p>19 2014, meeting minutes. And under Boston</p> <p>20 Executive Helicopters, it references -- you see</p> <p>21 that halfway down the middle of the first page?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. You have to answer yes or no for</p> <p>24 the court reporter.</p>	<p style="text-align: right;">25</p> <p>1 would be adequate space?" And then it looks</p> <p>2 like 100K square feet. Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. And in April of 2014 was there</p> <p>5 100,000 square feet of space available to lease</p> <p>6 to BEH?</p> <p>7 A. No.</p> <p>8 Q. And why was that?</p> <p>9 A. The west apron isn't that big.</p> <p>10 Q. If you look at the paragraph</p> <p>11 underneath that, it says, "Once again, the NAC</p> <p>12 is requesting a business plan for BEH..." Do</p> <p>13 you see that?</p> <p>14 A. Yes.</p> <p>15 Q. What discussions do you remember</p> <p>16 about that?</p> <p>17 A. There were several business plans</p> <p>18 presented. I can't be sure which one this was.</p> <p>19 Q. It says, "NAC is requesting a</p> <p>20 business plan from BEH..." Does this refresh</p> <p>21 your recollection as to whether one had been</p> <p>22 submitted previously?</p> <p>23 A. I don't recall.</p> <p>24 Q. Why was the NAC requesting a</p>

<p style="text-align: right;">26</p> <p>1 business plan?</p> <p>2 A. I think this has to do with the FBO</p> <p>3 and not the lease.</p> <p>4 Q. I think you're probably correct.</p> <p>5 So the NAC was requesting a business plan in</p> <p>6 connection with the BEH'S interest in operating</p> <p>7 an FBO at the airport?</p> <p>8 A. Correct.</p> <p>9 Q. Did the Norwood Airport request</p> <p>10 certain financial information from Boston</p> <p>11 Executive Helicopters?</p> <p>12 A. Yes.</p> <p>13 Q. I'm going to show you what was</p> <p>14 marked at Marty Odstrchel's deposition again --</p> <p>15 I apologize for the small type, but this is how</p> <p>16 the document came to us -- which I will</p> <p>17 represent is April 30, 2014, e-mail from Russ</p> <p>18 Maguire to Chris Donovan at BEH and it appears</p> <p>19 to list requests for certain financial</p> <p>20 information. Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. And again, was the request for --</p> <p>23 why was the NAC requesting this information?</p> <p>24 A. Again, this was in relation to the</p>	<p style="text-align: right;">28</p> <p>1 confidentiality concerning this information? Is</p> <p>2 that right?</p> <p>3 A. I believe that was one of the</p> <p>4 reasons that Mr. Donovan did not want to provide</p> <p>5 it.</p> <p>6 Q. And did ultimately the Norwood</p> <p>7 Airport Commission -- that's a bad question.</p> <p>8 Did a third-party person or company</p> <p>9 review Boston Executive Helicopters' financial</p> <p>10 information?</p> <p>11 A. Yes.</p> <p>12 Q. And do you remember when that was?</p> <p>13 A. I'm sorry, I don't recall.</p> <p>14 Q. Do you remember who paid for that?</p> <p>15 A. I believe Boston Executive</p> <p>16 Helicopters paid for it.</p> <p>17 Q. Were the answers satisfactory that</p> <p>18 came back from the third-party reviewer about</p> <p>19 the financial information to the Commission?</p> <p>20 A. We accepted their review.</p> <p>21 Q. Did you have any further questions?</p> <p>22 A. Me personally?</p> <p>23 Q. Yes.</p> <p>24 A. Yes, but we approved it.</p>
<p style="text-align: right;">27</p> <p>1 FBO. This was financial information, typical</p> <p>2 financial statements, balance sheet, income</p> <p>3 statement, cash flow analysis we wanted to look</p> <p>4 at.</p> <p>5 Q. Was that because the NAC wanted to</p> <p>6 determine if Boston Executive Helicopters'</p> <p>7 interest in running an FBO out of the airport</p> <p>8 would be financially viable?</p> <p>9 A. This is not a -- that's part of</p> <p>10 why.</p> <p>11 Q. And what's the other part?</p> <p>12 A. It's just not -- to me, you know,</p> <p>13 the business plan is going to tell me what their</p> <p>14 plans are. The financial statement tells me</p> <p>15 what they are now. Do they have the capacity or</p> <p>16 what exactly are they doing? Do they have the</p> <p>17 capacity to run this type of business on the</p> <p>18 airport? And that's why I wanted to see it.</p> <p>19 Q. Did you get this information in --</p> <p>20 this is April 30, so did you get it the next</p> <p>21 month?</p> <p>22 A. I personally have never seen this</p> <p>23 information.</p> <p>24 Q. Was there an issue about</p>	<p style="text-align: right;">29</p> <p>1 Q. Okay. I'm going to show you</p> <p>2 Exhibit 83 marked at Marty Odstrchel's</p> <p>3 deposition. So in May of 2014, if you look</p> <p>4 under the last bullet on the first page, where</p> <p>5 it says, "Boston Executive Helicopters (BEH),</p> <p>6 update on fuel farm/hangar..."</p> <p>7 A. I see it.</p> <p>8 Q. The last line says, "Fuel tanks</p> <p>9 should be finished by June 1, 2014. Mr. Donovan</p> <p>10 thinks BEH will be operational in 45 days." Do</p> <p>11 you see that?</p> <p>12 A. I do.</p> <p>13 Q. Now, were these fuel tanks at that</p> <p>14 time intended for self, S-E-L-F, fueling by BEH?</p> <p>15 A. I could not be sure at that time.</p> <p>16 At one time that's what I understood, but this</p> <p>17 seems --</p> <p>18 Q. But then later BEH decided it</p> <p>19 wanted to operate a full-service FBO where it</p> <p>20 would sell, S-E-L-L, fuel; is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. What discussions do you recall</p> <p>23 occurring regarding the setback requirements for</p> <p>24 a fuel farm being operated by Boston Executive</p>

<p style="text-align: right;">30</p> <p>1 Helicopters?</p> <p>2 MR. FEE: Objection.</p> <p>3 A. Do you mean setbacks from the</p> <p>4 building to the taxiway?</p> <p>5 Q. That's a very broad question. Let</p> <p>6 me break it up a little bit. Are you familiar</p> <p>7 with the acronym TOFA?</p> <p>8 A. Yes.</p> <p>9 Q. What does that stand for?</p> <p>10 A. Taxi object-free area.</p> <p>11 Q. And then OFA?</p> <p>12 A. Object-free area.</p> <p>13 Q. Do you remember any discussions</p> <p>14 about either of these -- let's back up. So</p> <p>15 what's your understanding of what TOFA means,</p> <p>16 T-O-F-A. You just said what the acronym means,</p> <p>17 but could you explain it a little bit more?</p> <p>18 A. A taxiway is just that. It's to be</p> <p>19 kept free so that planes and other craft can use</p> <p>20 it.</p> <p>21 Q. Is there a taxiway adjacent to the</p> <p>22 fuel farm that Boston Executive Helicopters</p> <p>23 installed?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">32</p> <p>1 fuel tank it had installed in connection with</p> <p>2 the object-free area or taxiway object-free area</p> <p>3 or the setback requirements from the building?</p> <p>4 A. You know, I remember Russ Maguire</p> <p>5 saying that -- telling Mr. Donovan to be careful</p> <p>6 about the size of the hangar, in other words,</p> <p>7 how far it came out because there were</p> <p>8 object-free-area setbacks he needed to maintain</p> <p>9 if he was going to use that area for fueling.</p> <p>10 Q. And so this would have been before</p> <p>11 the building was finished?</p> <p>12 A. I think it would have been in the</p> <p>13 design process.</p> <p>14 Q. Do you remember what Mr. Donovan</p> <p>15 said?</p> <p>16 MR. FEE: Objection.</p> <p>17 A. I don't, no, sorry.</p> <p>18 Q. And are you aware of where this</p> <p>19 conversation took place?</p> <p>20 A. I think it was in a meeting, a NAC</p> <p>21 meeting.</p> <p>22 Q. And do you recall if you were</p> <p>23 present at that meeting?</p> <p>24 A. I believe -- that's just a general</p>
<p style="text-align: right;">31</p> <p>1 Q. And do you remember any discussions</p> <p>2 with Boston Executive Helicopters about the taxi</p> <p>3 object-free area in connection with this fuel</p> <p>4 farm? That started in about 2014?</p> <p>5 A. Yes, there were discussions.</p> <p>6 Q. Do you remember where those</p> <p>7 occurred?</p> <p>8 A. I don't. In broad terms I remember</p> <p>9 to fuel you had to be twenty-five feet off the</p> <p>10 building. There was some kind of</p> <p>11 fifty-seven-foot number from the center line,</p> <p>12 and then you had to stay clear of -- I believe</p> <p>13 the airport manager would have had these</p> <p>14 discussions with them.</p> <p>15 Q. Is that information that you just</p> <p>16 relayed to me from conversations you had with</p> <p>17 the airport manager?</p> <p>18 A. I think these would have come up at</p> <p>19 meetings. I don't typically get involved in</p> <p>20 discussions outside of meetings.</p> <p>21 Q. Was there any -- do you remember</p> <p>22 any discussions at the meeting concerning the</p> <p>23 size of Boston Executive Helicopters' building</p> <p>24 that it was constructing and the location of the</p>	<p style="text-align: right;">33</p> <p>1 recollection of Russ stating it.</p> <p>2 Q. Do you remember if Mr. Donovan was</p> <p>3 at that meeting?</p> <p>4 A. I don't.</p> <p>5 Q. Do you remember hearing from</p> <p>6 anybody what Mr. Donovan's response, if any, was</p> <p>7 to Mr. Maguire's statement to him about being</p> <p>8 careful of the size of the hangar?</p> <p>9 A. I don't recall.</p> <p>10 Q. Did you ever have any discussions</p> <p>11 with Mr. Donovan about the size of the BEH</p> <p>12 hangar that was being constructed?</p> <p>13 A. No.</p> <p>14 Q. Any conversations with Mr. Donovan</p> <p>15 about any setback requirements, be they TOFA,</p> <p>16 OFA or fire protection requirements?</p> <p>17 A. Other than possibly in a meeting,</p> <p>18 no.</p> <p>19 Q. When you say possibly in a meeting,</p> <p>20 do you have a recollection?</p> <p>21 A. My recollection is that some of</p> <p>22 these things have been discussed at Airport</p> <p>23 Commission meetings.</p> <p>24 Q. Okay. I'm going to show you a</p>

<p style="text-align: right;">34</p> <p>1 document marked as Odstrchel Exhibit 84, which 2 is a -- was previously identified as a July 9, 3 2014, business plan from BEH, presented to the 4 NAC. Do you remember this document -- let's 5 back up. 6 Have you ever seen this before, 7 what was marked as Exhibit 84 at Marty 8 Odstrchel's deposition? 9 A. I believe I have. 10 Q. Do you remember how it was that you 11 came to see this? In other words, was it at a 12 meeting? Was it given to you before a meeting? 13 A. I don't remember specifically when 14 I got it. I would imagine it would be around 15 this date. 16 Q. Do you remember reading it? 17 A. Yes. 18 Q. As a result of your reading it, did 19 you have any questions about it? 20 A. I believe that it was more of a -- 21 I wanted more of a financial plan or financial 22 information from the existing company. This is 23 more of a plan of what they are going to do in 24 the future, I believe. I'd have to read it</p>	<p style="text-align: right;">36</p> <p>1 Q. Does having read what was marked 2 Exhibit 85 at Marty Odstrchel's deposition 3 refresh your recollection as to whether you've 4 seen this before? And by this, I mean Exhibit 5 85. 6 A. As I said, not specifically, but I 7 believe I would have. 8 Q. Did you have -- is it fair to say 9 that the January 12, 2015 memo marked as 10 Exhibit 85 contains a number of follow-up 11 questions and requests or issues for additional 12 information to BEH? 13 MR. FEE: Objection. 14 A. Yes. 15 Q. Did you have similar questions to 16 BEH? 17 A. Yes. 18 Q. That's all I have on that. 19 Now, we talked about a lease offer 20 to BEH and we talked about the first one, which 21 was approximately 6,000 square feet. Do you 22 remember that? 23 A. Yes. 24 Q. And there was a second one made.</p>
<p style="text-align: right;">35</p> <p>1 again. But I wanted to know more about what 2 they did now and how they saw -- how they were 3 going to evolve into an FBO. 4 Q. I'm going to show you what was 5 marked as Exhibit 85 at Marty Odstrchel's 6 deposition, which was identified as a July 12, 7 2015, memo to the Norwood Airport Commission 8 from Mark Ryan. And by the way, who is Mark 9 Ryan just for the record? 10 A. Mark Ryan is a member of the 11 Airport Commission. Right now he's the chairman 12 of the Airport Commission. 13 Q. In 2015 was he the vice chairman? 14 A. I believe so. It says so on this. 15 Q. Have you seen what was marked as 16 Exhibit 85 previously? That's the one you're 17 holding in your hand. 18 A. I don't specifically recall this. 19 It seems like I did. It's addressed to the 20 Airport Commission. 21 Q. Take a minute and read it because I 22 have a couple follow-up questions. Tell me when 23 you're done. 24 A. Okay. I have read it.</p>	<p style="text-align: right;">37</p> <p>1 Do you remember that? 2 A. There's been several. 3 Q. Let me show you what has been 4 marked as Exhibit 86 in Marty Odstrchel's 5 deposition, which I'll represent to you we have 6 identified as the February 12, 2015, letter from 7 Brandon Moss. By the way, who is Brandon Moss? 8 A. Brandon Moss is an attorney for 9 Murphy, Hesse, Toomey & Lehan. I believe 10 that's their -- 11 Q. Were they counsel for the Norwood 12 Airport Commission? 13 A. That's correct. 14 Q. And this letter is addressed to 15 Timothy McCulloch. Do you see that? 16 A. I do. 17 Q. Do you know who Mr. McCulloch is? 18 A. Yes. 19 Q. Who is he? 20 A. Attorney for BEH from Hinshaw & 21 Culbertson. 22 Q. At least in 2015? 23 A. Correct. 24 Q. And if you look at the page, it's</p>

<p style="text-align: right;">38</p> <p>1 right after Tab A. You have to go two pages 2 into it. You'll see Tab A right behind it. 3 Tab A is Norwood Memorial Airport, Standard 4 Ground Lease, Short-term, West Apron, Parcel A. 5 Do you see that? 6 A. Yes. 7 Q. And this is an offer to Boston 8 Executive Helicopters to lease additional space 9 on Lot A? 10 A. Correct. 11 Q. And if you look under ground space, 12 the fourth line, if you go to the end, it says 13 11,786 square feet? 14 A. I see it. 15 Q. Did Boston Executive Helicopters 16 agree to lease this space on the west apron -- 17 I'm sorry, on Parcel A? 18 A. We never finalized any lease, no, 19 so far. 20 Q. Did Boston Executive Helicopters 21 ever express to you why they didn't accept the 22 lease that you guys had offered to them -- that 23 the Norwood Airport had offered to it? 24 A. I believe that they want more</p>	<p style="text-align: right;">40</p> <p>1 A. I don't believe it has. 2 Q. Has there been a lease offered -- a 3 printed lease offered to them similar to 4 Exhibit 86? 5 A. I don't know. 6 Q. Who handled the lease negotiations 7 between BEH and NAC on that on behalf of NAC? 8 A. We -- so counsel was involved, town 9 counsel. We have allowed, I believe, the 10 chairman and one other member to kind of do it 11 and come back to us instead of trying to have 12 formal negotiations during Commission meetings. 13 Q. And that is Mr. Ryan who is the 14 current chairman? 15 A. I believe Mr. Ryan and possibly 16 Mr. Sheehan. It might be just Mr. Ryan and the 17 airport manager. 18 Q. When did Mr. Ryan become the 19 chairman? 20 A. When Tom Wynne resigned. 21 Q. By the way, do you receive any 22 compensation for being a member of the Norwood 23 Airport Commission? 24 A. No.</p>
<p style="text-align: right;">39</p> <p>1 space, but there's been other sticking points. 2 Right now, there's -- I believe they're good to 3 go. I think we came to an agreement. 4 Q. On the lease space? 5 A. Yes. 6 Q. How much lease space? 7 A. I don't quite remember. 8 Q. It is greater than 11,000 square 9 feet, right? 10 A. I think so. 11 Q. And when did the Norwood Airport 12 Commission come to agreement with BEH on 13 additional lease space? 14 A. I'm not sure. 15 Q. Sometime in the last year? 16 A. It could be slightly longer than 17 that. 18 Q. Okay. And you don't remember how 19 much? 20 A. I'm sorry, I don't. 21 Q. Do you remember where it's located? 22 A. It's in the same location. 23 Q. Same area. Okay. But the lease 24 has not been signed?</p>	<p style="text-align: right;">41</p> <p>1 Q. And is that the same for all the 2 members of the Airport Commission? 3 A. That is correct. 4 Q. So they are all volunteers? 5 A. That is right. 6 Q. And what do you believe to be the 7 sort of mission, if you will, of the Norwood 8 Airport Commission in connection with the 9 airport? 10 MR. FEE: Objection. 11 MR. SIMMS: Objection to the 12 form. 13 THE WITNESS: I can answer? 14 MR. SIMMS: Yes. 15 A. We represent the Town's interest, 16 the airport's interest, as best we can. 17 Q. Okay. Do you attempt to implement 18 fair treatment for all? 19 MR. FEE: Objection. 20 A. I believe we do. Ultimately, there 21 are FAA regulations and guidelines that -- not 22 that I know them all, but we rely on our manager 23 and counsel to guide us. 24 Q. And you received this business plan</p>

<p style="text-align: right;">42</p> <p>1 that we talked about in July 2014, correct?</p> <p>2 A. I believe we did.</p> <p>3 Q. And then Mr. Ryan had a list of</p> <p>4 additional questions that he put together in</p> <p>5 January of 2015?</p> <p>6 A. I see the date on the e-mail.</p> <p>7 Q. And if we look at Exhibit 87,</p> <p>8 please, which are Norwood Airport Commission</p> <p>9 meeting minutes from April 15, 2015. By the</p> <p>10 way, it shows you were present, right?</p> <p>11 A. It shows I was present.</p> <p>12 Q. Do you have any memory of this</p> <p>13 meeting?</p> <p>14 A. Not specifically.</p> <p>15 Q. So on the top bullet on the second</p> <p>16 page, it says, "On a motion by Mr. Sheehan and</p> <p>17 seconded by Mr. Odstrchel, the Commission voted</p> <p>18 6/0 to offer an extension until next meeting to</p> <p>19 give BEH more time to provide to NAC without</p> <p>20 redactions three months' business bank</p> <p>21 statements, balance sheet, income statement,</p> <p>22 cash flow statement, and confidentiality</p> <p>23 agreement to be looked at in Executive Session."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">44</p> <p>1 A. I do.</p> <p>2 Q. And he was previously identified as</p> <p>3 counsel for the Norwood Airport Commission?</p> <p>4 A. Correct.</p> <p>5 Q. And that's addressed to</p> <p>6 Mr. McCulloch, the attorney for Boston Executive</p> <p>7 Helicopters. Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. And the date is July 2015. Do you</p> <p>10 see that?</p> <p>11 A. I do.</p> <p>12 Q. So if you go to the second page,</p> <p>13 which is Bates number BEH0008450, and if you</p> <p>14 look at the third full paragraph, that begins</p> <p>15 with "on a separate matter..." --</p> <p>16 A. Okay.</p> <p>17 Q. It says, "I am inquiring about two</p> <p>18 (2) additional issues that remain unresolved,</p> <p>19 namely BEH's fueling plan and BEH's insurance."</p> <p>20 And if you go to the last -- next-to-last</p> <p>21 sentence, it says -- and I'm just reading from</p> <p>22 after the dash -- "...NAC's need to confirm</p> <p>23 BEH's compliance with applicable object-free</p> <p>24 areas and National Fire Protection Association</p>
<p style="text-align: right;">43</p> <p>1 A. I do.</p> <p>2 Q. So as of April of 2015, the Norwood</p> <p>3 Airport Commission was still waiting for the</p> <p>4 financial information it requested from BEH; is</p> <p>5 that fair to say?</p> <p>6 A. That's correct.</p> <p>7 Q. Now, what is your memory as to what</p> <p>8 information regarding BEH's proposed fueling</p> <p>9 plan was requested by the NAC?</p> <p>10 A. I'm sorry?</p> <p>11 Q. Let me back up. You're aware, sir,</p> <p>12 are you not, that at some point in time the</p> <p>13 Norwood Airport Commission wanted additional</p> <p>14 information from Boston Executive Helicopters</p> <p>15 concerning Boston Executive Helicopters'</p> <p>16 proposed fueling plan once it started operating</p> <p>17 as an FBO; is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Let me show you what was marked as</p> <p>20 Exhibit 88 at Marty Odstrchel's deposition,</p> <p>21 which I'll represent to you was a three-page</p> <p>22 letter and it's again from -- if you look at the</p> <p>23 last page, from Brandon Moss, right? Do you see</p> <p>24 that?</p>	<p style="text-align: right;">45</p> <p>1 setbacks - I requested a scaled version of the</p> <p>2 revised fueling plan via e-mail on June 25,</p> <p>3 2015. To date, I have not received any</p> <p>4 responses to this request." Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. Has Norwood Airport Commission ever</p> <p>7 received such a scaled version of the revised</p> <p>8 fueling plan from BEH?</p> <p>9 A. No.</p> <p>10 Q. Do you know why?</p> <p>11 A. I don't.</p> <p>12 Q. Throughout 2015 and throughout</p> <p>13 2016, is it fair to say that the Norwood Airport</p> <p>14 Commission extended Boston Executive</p> <p>15 Helicopters' commercial permit from the fiscal</p> <p>16 year 2014 and, I think, 2015?</p> <p>17 MR. FEE: Objection.</p> <p>18 Q. (By Mr. Hartzell) Does that sound</p> <p>19 right to you, sir?</p> <p>20 A. We habitually extend their</p> <p>21 commercial permit from month to month. Because</p> <p>22 it has FBO listed on it, it's -- otherwise, if</p> <p>23 they didn't have that, we could do it by the</p> <p>24 year, but we feel that the requirements</p>

<p style="text-align: right;">46</p> <p>1 that we -- the information we've asked for 2 hasn't been provided. Therefore, we haven't 3 approved that other than the condition to keep 4 operating. 5 Q. So the information that you're 6 saying was not provided, is that the approved 7 fueling plan we just discussed a moment ago? 8 A. The only thing remaining is the 9 fueling plan. 10 Q. You know who FlightLevel Norwood 11 is? 12 A. I do. 13 Q. Who is FlightLevel Norwood? 14 MR. FEE: Objection. 15 A. They are the existing fixed-base 16 operator on the airport. 17 Q. Now, throughout the years that we 18 have been talking about, the Norwood Airport 19 Commission asked for different types of 20 information from Boston Executive Helicopters, 21 correct? 22 A. Yes. 23 Q. And did FlightLevel Norwood ask the 24 Norwood Airport Commission to request any of</p>	<p style="text-align: right;">48</p> <p>1 were of him leaving? 2 A. He was removed from the Airport 3 Commission by the pointing authority, the Board 4 of Selectmen. 5 Q. Do you know why that was done? 6 A. Because of his behavior. 7 Q. What was his behavior? 8 A. He was very combative. He was 9 abusive, very quick to anger. He used profanity 10 at meetings. 11 Q. Did Mr. Hues have any sort of 12 relationship, business, personal, with 13 Mr. Donovan or anybody at BEH? 14 MR. FEE: Objection. 15 A. They appear to be friends. 16 Q. And what do you base that on? 17 A. They would come and go to the 18 meetings together. I've seen them. I believe 19 Mr. Hues said he plowed snow for Mr. Donovan's 20 company. And I've seen him in his hangar 21 occasionally. 22 Q. Did Mr. Hues own an aircraft? 23 A. I believe so. 24 Q. Do you know if that was ever --</p>
<p style="text-align: right;">47</p> <p>1 that information? 2 A. They didn't ask me. 3 Q. To your knowledge, did they ask 4 anybody else on the Commission? 5 A. Not to my knowledge. 6 Q. By the way, at some point in time 7 there was some additional members added to the 8 Norwood Airport Commission. There was another 9 Mr. Shaughnessy, Mr. Paul Shaughnessy? 10 A. Yes. 11 Q. How long was he on the Commission? 12 A. I'm not quite sure. I think maybe 13 somewhere between a year and two years. 14 Q. Do you know what the circumstances 15 were as to why he left the Commission? 16 A. I'm not sure. 17 Q. And there was another gentleman. 18 I'm sorry, who were the other two new ones that 19 came on? 20 A. Highly Hutchins and Oulton Hues, 21 Jr. 22 Q. And how long was Mr. Hues on? 23 A. I believe less than a year. 24 Q. Do you know what the circumstances</p>	<p style="text-align: right;">49</p> <p>1 A. I'm going to take that back. I'm 2 not sure if it was his. 3 Q. Okay. 4 A. Maybe his father's or his family's. 5 Q. Was the aircraft that Mr. Hues used 6 stored at BEH's hangar, do you know? 7 A. I think so. 8 Q. Anything else that you observed 9 between Mr. Hues and Mr. Donovan or BEH? 10 A. No. 11 Q. I can't remember if I asked you 12 this or not, so forgive me. Do you know who an 13 individual named Moshe Yanai is? 14 A. I know who he is. 15 Q. Who is that? 16 A. He is, I believe, the owner of BEH. 17 Q. Have you ever met with him? 18 A. No. 19 Q. Have you ever spoken to him? 20 A. You did ask before. 21 Q. I'm sorry, forgive me. 22 A. Like I said, he could have been at 23 a meeting. I don't believe I've ever spoke to 24 him.</p>

<p style="text-align: right;">50</p> <p>1 Q. How long was Mr. Hutchins on the</p> <p>2 Board?</p> <p>3 A. I believe it was roughly the same</p> <p>4 as Mr. Shaughnessy, between --</p> <p>5 Q. Sometime between one and two years?</p> <p>6 A. I think less than two years and</p> <p>7 more than one.</p> <p>8 Q. Is he deceased now?</p> <p>9 A. Yes.</p> <p>10 Q. Died in an airplane crash, as I</p> <p>11 understand it?</p> <p>12 A. Unfortunately he did.</p> <p>13 Q. How old was he?</p> <p>14 A. I would say seventy-ish,</p> <p>15 seventy-five.</p> <p>16 Q. And did he have any relationship,</p> <p>17 personal or business, to your observation or</p> <p>18 understanding with Mr. Donovan or BEH?</p> <p>19 A. I don't know. He was on the</p> <p>20 airport frequently.</p> <p>21 Q. Did he store any airplanes or any</p> <p>22 equipment at BEH's hangar facilities?</p> <p>23 A. I'm not aware of that.</p> <p>24 Q. And Mr. Paul Shaughnessy, how</p>	<p style="text-align: right;">52</p> <p>1 Q. And was that based on your personal</p> <p>2 observation?</p> <p>3 A. I should take back stored. To me,</p> <p>4 that could be just taking it in to look at it.</p> <p>5 I don't know that he stored it there.</p> <p>6 Q. Was that based on your personal</p> <p>7 observation?</p> <p>8 A. Yes.</p> <p>9 Q. And how do you know it was</p> <p>10 Mr. Shaughnessy's aircraft or the aircraft he</p> <p>11 was using?</p> <p>12 A. I just believe that it was his</p> <p>13 aircraft.</p> <p>14 Q. Does Mr. Shaughnessy still keep an</p> <p>15 aircraft at Norwood Airport?</p> <p>16 A. I'm not sure.</p> <p>17 Q. At some point in time did you</p> <p>18 become aware that Boston Executive Helicopters</p> <p>19 filed a Complaint with the FAA?</p> <p>20 A. Yes.</p> <p>21 Q. How did you become aware of that?</p> <p>22 And I don't want to know any discussions you had</p> <p>23 with your attorney.</p> <p>24 A. I believe the Complaint was -- we</p>
<p style="text-align: right;">51</p> <p>1 long -- you said he was on for a year, two</p> <p>2 years?</p> <p>3 A. I believe so.</p> <p>4 Q. Do you know why he resigned from</p> <p>5 the Commission?</p> <p>6 A. I don't know.</p> <p>7 Q. Do you know why Mr. Hutchins</p> <p>8 resigned from the Commission?</p> <p>9 A. No.</p> <p>10 Q. And Mr. Paul Shaughnessy, to your</p> <p>11 knowledge, did he have any relationship, either</p> <p>12 personal or business, with Chris Donovan or</p> <p>13 anybody at BEH?</p> <p>14 A. He seemed to be friends with Chris.</p> <p>15 He also stored -- I believe he stored his</p> <p>16 aircraft there as well at one point.</p> <p>17 Q. At BEH's hangar?</p> <p>18 A. Mm-hmm, yes.</p> <p>19 Q. Do you remember what kind of plane</p> <p>20 it was?</p> <p>21 A. I don't.</p> <p>22 Q. Do you remember how long he did</p> <p>23 that?</p> <p>24 A. I don't.</p>	<p style="text-align: right;">53</p> <p>1 were told immediately before an Airport</p> <p>2 Commission meeting or maybe right at the Airport</p> <p>3 Commission meeting.</p> <p>4 Q. Do you remember when that was?</p> <p>5 A. I'm sorry, I don't.</p> <p>6 Q. And do you remember at some point</p> <p>7 in time that Complaint was withdrawn?</p> <p>8 A. You're talking about the Complaint</p> <p>9 BEH filed?</p> <p>10 Q. Yes.</p> <p>11 A. Yes. It was a short period of time</p> <p>12 it was withdrawn.</p> <p>13 Q. And was it Mr. Hues who filed a</p> <p>14 Part 13 Complaint?</p> <p>15 A. Mr. Hues filed an informal</p> <p>16 Complaint.</p> <p>17 Q. Do you know what the status of that</p> <p>18 is?</p> <p>19 A. I believe it's resolved. I'm not</p> <p>20 sure.</p> <p>21 Q. Did Mr. Hues file his Complaint</p> <p>22 because BEH withdrew its?</p> <p>23 A. I don't know why he filed a</p> <p>24 Complaint.</p>

<p style="text-align: right;">54</p> <p>1 Q. Are you aware there is another 2 Complaint filed by BEH with the FAA, a Part 16 3 Complaint? 4 A. I'm aware of the formal Complaint, 5 yes. 6 Q. Do you know what the status of that 7 is? 8 A. I believe it's still pending. I 9 also believe there should be some resolution, I 10 believe, by April 11 of this year. 11 MR. SIMMS: In theory. 12 THE WITNESS: It says this 13 will be -- the last time they extended it 14 would be the last time. So if that is 15 really the truth, it should be resolved. 16 MR. SIMMS: That's in writing 17 from the FAA? 18 THE WITNESS: That is correct. 19 MR. SIMMS: Sorry, Neil. 20 MR. HARTZELL: That's all 21 right. 22 Q. (By Mr. Hartzell) In any event, we 23 talked about this. We don't need to go through 24 the meeting minutes. So the Part 16 Complaint</p>	<p style="text-align: right;">56</p> <p>1 after we came to agreement, for kind of like 2 their blessing, I guess. 3 Q. Do you remember the FAA said they 4 could not take a position because of the Part 13 5 and 16 Complaints? 6 A. I believe that was their response. 7 Whether it was formal or not -- 8 Q. Now, throughout -- in 2016 did the 9 NAC vote to approve BEH for an FBO license with 10 certain conditions? 11 A. I believe so. 12 Q. Let me show you these minutes 13 marked as Exhibit 91 at Marty Odstrchel's 14 deposition. And I direct you to the third page 15 where it appears that vote was taken. So it's 16 the last full paragraph on the third page of 17 what has been marked as Exhibit 91. Do you see 18 that? 19 A. I do see it. 20 Q. And the Commission's conditions -- 21 I'll read it. "On a motion by Mr. Ryan and 22 seconded by Mr. Shaughnessy..." -- for the 23 record, who is Mr. Shaughnessy? 24 A. I believe this would be me.</p>
<p style="text-align: right;">55</p> <p>1 is still pending. The lawsuit against the 2 Norwood Airport Commission members filed by BEH 3 in federal court is still pending? 4 A. Correct. 5 Q. And nevertheless, the Airport 6 Commission has voted to extend the commercial 7 permit of BEH repeatedly, correct? 8 A. Correct. 9 Q. All during the time when these 10 Complaints have been filed against it, 11 correct? 12 A. Correct. 13 Q. There were some lease extensions 14 granted to FlightLevel on certain parcels within 15 the last couple years. What can you tell me 16 about that? 17 MR. FEE: Objection. 18 A. There have been some lease 19 extensions granted to FlightLevel in the last 20 couple years. 21 Q. Did the Norwood Airport Commission 22 seek some sort of guidance or permission from 23 any governing body before it did that? 24 A. I would say that we may have asked,</p>	<p style="text-align: right;">57</p> <p>1 Q. Okay. 2 A. But I'm not sure. 3 Q. At this point was the other 4 Mr. Shaughnessy no longer on the Commission? 5 A. He's not listed as in attendance. 6 Q. In any event, that appears to be 7 you? 8 A. Yes. 9 Q. And "...voted by roll call to 10 approve BEH for an FBO license at Norwood 11 Airport with the following conditions: 1) 12 Applicant provide the Commission with an 13 irrevocable letter of credit in an amount and 14 under the terms acceptable to the Commission." 15 Do you see that? 16 A. I do. 17 Q. Was that letter of credit ever 18 provided? 19 A. I'm not sure. 20 Q. "The applicant provide evidence of 21 insurance that is commensurate with the 22 insurance carried by FlightLevel." Was that 23 ever done? 24 A. I'm not sure. The only thing I'm</p>

<p style="text-align: right;">58</p> <p>1 aware of that we don't have that we're waiting 2 for is the fueling plan. 3 Q. That's the next one. It says, "The 4 applicant submit an updated fueling plan in the 5 form of a scale drawing prepared by a 6 professional engineer registered in the 7 Commonwealth of Massachusetts with fire 8 protection setbacks acceptable to the fire chief 9 and meeting FAA standards." Is that the fueling 10 plan you were just talking about? 11 A. Yes. We don't have any fueling 12 plan, that I'm aware of. 13 Q. Okay. And then the next one is, 14 "Applicant's counsel and NAC's counsel shall 15 enter into negotiations for a lease of Lots A&B 16 on the west apron totaling 23,572 square feet. 17 Do you see that? 18 A. Yes. 19 Q. And has that been done? 20 A. I don't believe there's any final 21 lease. I think it's ready to go, but I'm not 22 sure it's been -- 23 Q. And the last clause says, "...and 24 for the resolution of all legal matters." Do</p>	<p style="text-align: right;">60</p> <p>1 permit for following businesses: Boston 2 Executive Helicopters." And it says, "A letter 3 will be written to Boston Executive Helicopters 4 as a reminder that the NAC is waiting for the 5 fueling plan, and once it is received BEH will 6 have their FBO. Mr. LeBlanc abstained." Do you 7 see that? 8 A. Yes. 9 Q. And is that still the case, the NAC 10 is waiting for the fueling plan? 11 A. Yes. 12 Q. Now, back in 2013, I'm going to 13 show you what was marked as Exhibit 93. Give me 14 one second. I'm going to show you what was 15 marked as Exhibit 93. And Exhibit 93 is a 16 letter dated July 19, 2013, and that's from 17 NAC -- I'm sorry, it's from Norwood Memorial 18 Airport from Russ Maguire to Boston Executive 19 Helicopters. Have you seen this before? 20 A. I don't recall this letter. 21 Q. Okay. It talks about some 22 outstanding matters to be resolved and it lists 23 Numbers 1 and 2. One is design standard. 24 Number 2 is the fueling plans and procedures</p>
<p style="text-align: right;">59</p> <p>1 you see that right at the end of that paragraph? 2 A. I see that. Okay. 3 Q. Do you know if that -- I don't know 4 if it's a condition. I guess it was a 5 condition. Was that condition subsequently 6 withdrawn by the Norwood Airport Commission? 7 A. I don't know really what it means. 8 That's a very broad thing to say. I know the 9 only thing we're waiting for now is the fueling 10 plan. And we've been waiting for it for quite a 11 while. 12 Q. So in October of 2011 -- I'm sorry, 13 October 11, 2017. I'm showing you meeting 14 minutes marked at Marty Odstrechel's deposition 15 as Exhibit 92? 16 A. Yes. 17 Q. And if you go to the -- just bear 18 with me a second. And then if you go to the 19 second page, under the second bullet, where it 20 says commercial permit, Boston Executive 21 Helicopters, it says, "On a motion by 22 Mr. Sheehan and seconded by Mr. Odstrechel, the 23 Commission voted 4/0 to extend to the next 24 Airport Commission meeting FY2017 commercial</p>	<p style="text-align: right;">61</p> <p>1 with respect to the TOFA and abutting property 2 interest of others. Do you see that? 3 A. I do. 4 Q. And then the second paragraph or 5 the paragraph underneath that says -- I'm 6 skipping to the second sentence. "As for the 7 second concern at Wednesday's meeting, your 8 company delivered to the Airport Commission 9 documents that now more comprehensively address 10 BEH's fueling plans and procedures, especially 11 with respect to the TOFA and abutting property 12 interest of others." Do you see that? 13 A. Yes. 14 Q. Does that refresh your recollection 15 as to what was discussed back in 2013 about the 16 BEH's fueling plans? 17 A. I don't recall. 18 Q. Okay. Let's look at the second 19 page. 20 A. Okay. 21 Q. The top of the second page says, 22 "However, as noted in the meeting, BEH still 23 needs to deliver to the NAC additional documents 24 and revised plans, which your company has agreed</p>

<p style="text-align: right;">62</p> <p>1 to. These documents would include..." And then 2 it lists five items, and then there is a 3 paragraph underneath Number 5. Do you see that 4 on the second page? 5 A. Mm-hmm. 6 Q. And it says, "Per Wednesday 7 meeting, BEH is furthermore agreed to an 8 aircraft fueling restriction east of its 9 leasehold since this involves abutting 10 leaseholds. Do you see that? 11 A. I do. 12 Q. Does that trigger your recollection 13 as to any discussions about abutting leaseholds 14 or fueling restriction for BEH? 15 MR. FEE: Objection. 16 A. I don't recall this. I mean, I 17 know where the east side of the building is. I 18 don't recall specifically. 19 Q. Okay. Is the abutting leasehold, 20 FlightLevel's leasehold, to the east of BEH's 21 leasehold? 22 A. I believe so. 23 Q. And then it says, "This restriction 24 will remain in place until such time as BEH can</p>	<p style="text-align: right;">64</p> <p>1 building, that type of thing. 2 Q. Okay. Are you familiar with an 3 incident that FlightLevel complained of about 4 Boston Executive Helicopters plowing snow and 5 blocking its fuel farm in the winter of 2015? 6 A. I think I remember the Complaint, I 7 guess. 8 Q. And did you ever see the snow 9 surrounding the fuel farm at that time? 10 A. Yes. 11 Q. What do you remember it looked 12 like? 13 A. Like piles of snow. 14 Q. Was it preventing access to the 15 fuel farm? 16 A. I believe so. 17 Q. So that was based on your personal 18 observation, correct? 19 A. Yes. 20 Q. I'm going to show you this. It's a 21 new exhibit. I apologize, these are black and 22 white pictures. 23 MR. HARTZELL: Can I have this 24 marked as the next exhibit?</p>
<p style="text-align: right;">63</p> <p>1 demonstrate to the Airport Commission that the 2 property rights of others will not be violated." 3 Do you see that? 4 A. I do see that. 5 Q. And does that refresh your memory 6 as to whatever discussions you might have 7 entailed concerning that? 8 A. I can only speak in general terms. 9 I'm not aware of any fueling plan that would -- 10 that we have accepted that we can see how they 11 are going to operate, how are they going to fill 12 the tanks, and how are they going to, in 13 general, operate. 14 Q. And BEH has not provided Norwood 15 Airport Commission a fueling plan that 16 demonstrates that the property rights of others 17 will not be violated by BEH's fueling? 18 A. I suppose that would be one 19 concern. You know, everyone would have an 20 opportunity to see the fueling plan. And if 21 they felt there was an issue with it, someone 22 operating the airport could make an objection. 23 But I think I was more concerned about 24 object-free areas and setbacks from the</p>	<p style="text-align: right;">65</p> <p>1 (Exhibit 107, Photograph, marked for 2 identification) 3 Q. (By Mr. Hartzell) Sir, I'm going 4 to show you what has been marked as Exhibit 107 5 and ask you if you can identify this for me, 6 please. I'll represent to you that it's a 7 black-and-white copy of a photograph. 8 A. I can tell you what I think it is. 9 Q. Tell me what you think it is. 10 A. It's looking in the -- I guess it 11 would be the easterly direction from -- with 12 your back towards Chris' hangar, I guess, 13 towards the -- 14 Q. Does that appear to be 15 FlightLevel's fuel farm on the left-hand side of 16 the picture? 17 A. Yes, it does. 18 Q. Is this consistent with your memory 19 of what the piles of snow looked like in the 20 winter of 2015 surrounding the fuel farm? 21 A. Yes. 22 Q. And what do you remember occurred 23 after this snowplowing incident? 24 MR. FEE: Objection.</p>

<p style="text-align: right;">66</p> <p>1 MR. SIMMS: With respect to</p> <p>2 the parties, BEH and FlightLevel?</p> <p>3 Q. (By Mr. Hartzell) What do you</p> <p>4 remember about it? There was a Complaint. What</p> <p>5 happened? Was there a hearing at the -- or a</p> <p>6 meeting at the Norwood Airport Commission to</p> <p>7 discuss this?</p> <p>8 MR. FEE: Objection to the</p> <p>9 form.</p> <p>10 A. I don't know if there was a</p> <p>11 specific meeting just to address this, but I do</p> <p>12 believe it was brought up at an Airport</p> <p>13 Commission meeting.</p> <p>14 Q. Do you remember what the outcome of</p> <p>15 it was?</p> <p>16 A. I don't. In general, we would like</p> <p>17 to see the tenants handle these matters on their</p> <p>18 own.</p> <p>19 Q. Do you remember an incident</p> <p>20 concerning some barriers being erected outside</p> <p>21 of -- on FlightLevel's Lot G at the airport?</p> <p>22 A. I do.</p> <p>23 Q. Tell me what you remember about</p> <p>24 that.</p>	<p style="text-align: right;">68</p> <p>1 picture. I'm going to show you what was marked</p> <p>2 as Exhibit 98 at Marty Odstrchel's deposition,</p> <p>3 which was -- well, we'll just talk about it for</p> <p>4 a minute, so that's Exhibit 98.</p> <p>5 A. This is Exhibit 99.</p> <p>6 Q. That was my mistake. I gave you</p> <p>7 too many exhibits at the same time. My fault.</p> <p>8 So we're looking at what was marked</p> <p>9 as Exhibit 98. And this appears to be a report</p> <p>10 from Russ Maguire, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And does he provide monthly reports</p> <p>13 to the Norwood Airport Commission?</p> <p>14 A. He does.</p> <p>15 Q. So he describes in the first</p> <p>16 paragraph a dispute between Boston Executive</p> <p>17 Helicopters and FlightLevel. Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. And the last sentence of that</p> <p>20 paragraph says, "In advance of this, to keep the</p> <p>21 peace, the airport management recommended that</p> <p>22 FlightLevel notify both the Norwood Police and</p> <p>23 Norwood Town Counsel while the airport manager</p> <p>24 (AM) briefed the Airport Commission Chairman."</p>
<p style="text-align: right;">67</p> <p>1 A. I believe as a result of this type</p> <p>2 of problem with the snow. And as you know, that</p> <p>3 particular winter there were a lot of</p> <p>4 snowstorms. The -- in order to maintain access,</p> <p>5 I believe FlightLevel installed some -- what</p> <p>6 amounts to Jersey barriers, but they're filled</p> <p>7 with a water-and-antifreeze agent. And they</p> <p>8 installed them along what they must believe is</p> <p>9 their leasehold to prevent snow from being</p> <p>10 plowed, I guess, in that direction.</p> <p>11 Q. Do you remember if you received --</p> <p>12 let me back up. Do you remember how the Norwood</p> <p>13 Airport Commission received notice of these</p> <p>14 barriers?</p> <p>15 A. I do not.</p> <p>16 Q. Do you know if Mr. Russ Maguire</p> <p>17 received notice that the barriers were going to</p> <p>18 go up before they went up?</p> <p>19 A. I believe he was aware of it.</p> <p>20 Q. Okay. And did you observe the</p> <p>21 barriers?</p> <p>22 A. I do remember seeing the barriers,</p> <p>23 yes.</p> <p>24 Q. And let me see if I can show you a</p>	<p style="text-align: right;">69</p> <p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. And it says, "Attachment C-D are</p> <p>4 photos depicting the location of the Jersey</p> <p>5 barriers." If you could turn to C and D,</p> <p>6 please. And do you recognize these photographs?</p> <p>7 A. Yes.</p> <p>8 Q. And do those accurately depict from</p> <p>9 when you observed the location the Jersey</p> <p>10 barriers?</p> <p>11 A. I believe they do.</p> <p>12 Q. And these are adjacent to</p> <p>13 FlightLevel's building?</p> <p>14 A. They are between BEH's -- well,</p> <p>15 they're closer to BEH's than to FlightLevel's.</p> <p>16 Q. Do you know whose property they are</p> <p>17 on or whose parcel they are, Lot F or G?</p> <p>18 A. That's what is in dispute.</p> <p>19 Q. You don't know yourself as you look</p> <p>20 at it?</p> <p>21 A. No.</p> <p>22 MR. HARTZELL: If I could have</p> <p>23 just a minute, I think I could finish.</p> <p>24 (A recess was taken)</p>

<p style="text-align: right;">70</p> <p>1 MR. HARTZELL: Back on the 2 record. 3 Q. (By Mr. Hartzell) Mr. Shaughnessy, 4 I have just a couple of follow-up questions. 5 When we were talking earlier about 6 these, I think, three different lease offers and 7 maybe a fourth to Boston Executive Helicopters 8 from Norwood Airport Commission, were any of 9 those lease offers subject to an RFP? 10 A. No. 11 Q. And during the entire time that you 12 had been on the Norwood Airport Commission, have 13 you or anybody on the Norwood Airport Commission 14 taken any orders or instructions from Peter 15 Eichleay or anybody representing FlightLevel 16 when it comes to governance of the airport? 17 A. No. 18 MR. HARTZELL: That's all that 19 I have. Thank you. 20 EXAMINATION BY MR. FEE: 21 Q. Good afternoon, Mr. Shaughnessy. 22 A. Good afternoon, Attorney Fee. 23 Q. I want to ask you a few questions 24 about some of the matters that Mr. Hartzell took</p>	<p style="text-align: right;">72</p> <p>1 A. There was a corrective action plan. 2 Q. Are you familiar with it? 3 A. Not really. 4 Q. Do you recall -- and if you don't 5 just let me know, but do you recall that part of 6 its direction to the NAC was that the FAA 7 require the NAC to take actions that would cause 8 a majority of the federally-funded ramp space 9 not to be controlled by one party? 10 A. I don't remember that specifically. 11 One of the issues was long-term leases, I 12 believe. 13 Q. And one of the issues was that the 14 FAA directed the NAC to refrain from entering 15 into long-term leases such that it would result 16 in one party having control over a majority of 17 the federally-funded ramps at the airport, 18 correct? 19 A. I don't know what their reason was. 20 I tend to think they wanted approval of 21 long-term leases or reasons for long-term 22 leases. 23 Q. Did the corrective action plan also 24 require the NAC to add provisions to existing</p>
<p style="text-align: right;">71</p> <p>1 up with you. And as an initial matter, I wanted 2 to ask you a question about Exhibit 81 that 3 Mr. Hartzell showed you. And they're the 4 meeting minutes from the April 9, 2014, meeting. 5 Mr. Hartzell asked you a question about whether 6 100,000 square feet was available on the airport 7 at the time that that demand by BEH had been 8 made. Do you recall that discussion? 9 A. I do. 10 Q. And you said there's -- 100,000 was 11 not available on the airport; is that right? 12 A. I probably did say that. I think 13 what I meant to say was that the west apron was 14 considerably less. 15 Q. And the west apron is about 80,000? 16 A. I don't think it's that much, but 17 it's in the seventies, I think. 18 Q. And were you on the Commission when 19 the Boston Air Charter Part 16 Complaint was 20 adjudicated by the FAA? 21 A. Yes. 22 Q. And are you familiar with the 23 corrective action plan issued by the FAA in 24 connection with that?</p>	<p style="text-align: right;">73</p> <p>1 leases that would enable them to recapture space 2 subject to lease if another FBO became viable or 3 wanted to lease space? 4 A. I don't recall. 5 Q. You don't remember that? 6 A. No. 7 Q. Okay. Do you know if the current 8 leases that were executed -- I'm sorry, that 9 were drafted and prepared for FlightLevel on 10 Lots 5, 6, 7, A, B, and C contained a provision 11 that would enable the NAC to claw back space if 12 an FBO became viable at the airport or a second 13 FBO permit granted? 14 A. I don't recall the specifics of 15 those leases. 16 Q. Mr. Hartzell asked you several 17 questions about the business plan and you 18 said -- which was marked as Exhibit 84. And one 19 of the things you said was that you had some 20 general concerns about the business plan. You 21 said you had some general concerns about it? 22 A. I don't want to say "concerns". I 23 had some additional information that I thought 24 should be included.</p>

<p style="text-align: right;">74</p> <p>1 Q. And that additional information was 2 of a financial nature? 3 A. Yes. 4 Q. Okay. And you and I have talked 5 about the rules and regulations and minimum 6 standards at length in another proceeding. Do 7 you recall that? 8 A. I remember that coming up, yes. 9 Q. And do you believe -- or did you 10 believe, when you were reviewing the business 11 plan marked as Exhibit 84, that in order to be 12 granted an FBO permit FlightLevel -- I'm sorry, 13 BEH needed to demonstrate that a second FBO was 14 necessary at the airport? 15 A. Could you repeat that? 16 Q. Yes. When you were reviewing the 17 business plan marked as Exhibit 84, were you 18 under the impression that it was incumbent upon 19 BEH to demonstrate that a second FBO was 20 necessary at the airport? 21 A. I don't think that was the case. 22 Q. So in your reviewing the documents 23 and BEH's FBO request in general, you were not 24 under the impression that it was required to</p>	<p style="text-align: right;">76</p> <p>1 A. It's no. 2 Q. Now, you said -- when we were 3 talking about Exhibit 82, I believe I heard you 4 say that you wanted to understand that BEH was 5 financially viable and demonstrates its capacity 6 to run an FBO. Did I hear your testimony 7 correctly? 8 A. That sounds about right. 9 Q. Okay. And so that financial 10 viability is something that you believed it was 11 incumbent upon BEH to demonstrate before an FBO 12 could be approved? 13 A. I wanted to know who we were doing 14 business with, what they -- in general what they 15 are doing now. 16 Q. And at that time Mr. Donovan and 17 BEH had been doing business on the airport since 18 2010, correct? 19 A. I believe they have a business on 20 the airport -- or they have a hangar on the 21 airport. 22 Q. You knew they were operating on the 23 airport under a commercial permit since 2010, 24 right?</p>
<p style="text-align: right;">75</p> <p>1 demonstrate the need for a second FBO? 2 A. Correct. 3 Q. Okay. And the financial 4 information that you were thinking should be 5 added to the business plan, how did you or -- 6 how did you define that additional financial 7 information? 8 A. I don't believe it's additional, 9 it's the same financial information that I have 10 been asking for, the financial statements -- the 11 three basic financial statements that any 12 business would have readily available. 13 Q. And did you -- is that information 14 defined anywhere in the minimum standards? 15 A. Well, not that I recall, but they 16 are called minimum standards for a reason. They 17 are the minimum standards. And I believe that 18 we have the ability to ask for more than that. 19 Q. And that was not really my 20 question. My question was -- let me ask you the 21 question again. All the financial information 22 that you requested from BEH, was it defined 23 anywhere in the minimum standards? And the 24 answer can be yes or no.</p>	<p style="text-align: right;">77</p> <p>1 A. The answer to that is yes. Could I 2 expound on that? 3 Q. Sure. 4 A. I have no idea what they do. I 5 never see much going on there. That's why I 6 asked, one of the reasons I wanted to know what 7 did they do. 8 Q. Okay. But you knew that they 9 operated on the airport, correct? 10 A. I know they have a hangar on the 11 airport. 12 Q. You were part of the process 13 whereby the lease for Lot F -- or the sublease 14 for Lot F was assigned to and assumed by BEH, 15 right? 16 A. BEH took over the space that was 17 Swift Aviation and they rebuilt the hangar. 18 Q. And part of that assignment and 19 assumption of the lease, quite a bit of 20 information was submitted to the NAC, was it 21 not? 22 MR. HARTZELL: Objection. 23 A. I don't recall specifically what 24 they submitted.</p>

<p style="text-align: right;">78</p> <p>1 Q. Okay. Well, do you recall the 2 process whereby the assignment and assumption 3 was approved by the NAC? 4 A. I don't. 5 Q. Now, you talked about the 6 third-party review that BEH undertook with 7 respect to the financial information. And you 8 testified that the NAC accepted that. 9 Mr. Hartzell asked you if you had further 10 questions and you said, me personally, yes, I 11 had additional questions? 12 A. Yes. 13 Q. So I want to know what those 14 additional questions were. 15 A. I would have liked to have seen the 16 financial statements myself, but as a group we 17 agreed to accept the third-party's assessment. 18 Q. Okay. And so notwithstanding your 19 disappointment with that process, nonetheless 20 you accepted the NAC'S determination to accept 21 BEH's financial -- the demonstration of 22 financial capability for an FBO, correct? 23 A. In order to keep the process going 24 we accepted the process, the third-party</p>	<p style="text-align: right;">80</p> <p>1 A. No. 2 Q. And when did you first learn what 3 TOFA is? 4 A. I don't recall. 5 Q. You said your understanding of taxi 6 object-free areas is twenty-five feet off the 7 building and fifty-seven feet from a center 8 line. Did I hear you testify to that? 9 MR. HARTZELL: Objection. 10 A. I don't believe that that's exactly 11 what I said, but there were some -- these type 12 of numbers were brought up, but those are the 13 numbers that I remember. I'm not sure what TOFA 14 guidelines or -- I would not have detailed 15 knowledge of that. 16 Q. You would leave that to Mr. Maguire 17 to enforce? 18 A. Yes. 19 Q. And does Mr. Maguire bring to your 20 attention, as a member of the NAC, violations of 21 TOFA regulations? 22 A. I don't recall any specific 23 instances. 24 Q. I'm going to show you what was</p>
<p style="text-align: right;">79</p> <p>1 assessment. 2 Q. So the answer is yes? 3 A. You could ask the question again if 4 you want. 5 Q. After review -- strike that. 6 Notwithstanding your reservations 7 regarding the process, nonetheless, after 8 reviewing the third-party financial analysis, 9 you and the NAC were satisfied that BEH had 10 demonstrated financial capability to become an 11 FBO on the airport; is that fair to say? 12 A. They demonstrated what we asked 13 for. We would accept that as what we had been 14 asking for for the FBO project. 15 Q. You talked about TOFA a little bit 16 with Mr. Hartzell. Do you know when TOFA first 17 became enforced on the airport? 18 A. No. 19 Q. Was it not enforced when you first 20 came on the Commission? 21 MR. HARTZELL: Objection. 22 A. I don't know. 23 Q. Did you know what TOFA was when you 24 came on the Commission?</p>	<p style="text-align: right;">81</p> <p>1 marked as Exhibit 93, a document that 2 Mr. Hartzell showed you. It appears to be a 3 letter to BEH from Mr. Maguire dated July 19, 4 2013. Do you remember looking at this? 5 A. A few minutes ago. 6 Q. And the outstanding matter 7 described in numbered Paragraph 1 says that the 8 FAA's design standard relative to the Norwood 9 Airport's Gate 3 taxi lane object-free area as 10 it applies to your company's construction and 11 operational plan. Do you see that? 12 A. I do. 13 Q. And then skip down to the next 14 paragraph. It says, "Regarding the NAC's first 15 concern, as indicated in Wednesday's meeting, 16 the Board considers this matter resolved." Did 17 I read that correctly? 18 A. That's what it says. 19 Q. Is it a fair inference from this 20 letter, which is marked as Exhibit 93, that as 21 of July 19, 2013, BEH had demonstrated to the 22 NAC satisfaction that it was in compliance with 23 applicable TOFA? 24 MR. HARTZELL: Objection.</p>

<p style="text-align: right;">82</p> <p>1 A. I'm not sure.</p> <p>2 Q. You're not sure what that means?</p> <p>3 A. I'm not because to me this has been</p> <p>4 an ongoing matter for many, many years.</p> <p>5 Q. As you sit here today, are you</p> <p>6 aware of any TOFA violations by BEH?</p> <p>7 A. I'm not aware of any TOFA</p> <p>8 violations by BEH.</p> <p>9 Q. Are you aware of any potential TOFA</p> <p>10 violations associated with the operation of</p> <p>11 BEH's fuel farm?</p> <p>12 MR. SIMMS: Objection.</p> <p>13 MR. HARTZELL: Objection.</p> <p>14 A. I'm not. Could I expound?</p> <p>15 Q. Sure.</p> <p>16 A. That's one of the reasons I want to</p> <p>17 see a fueling plan.</p> <p>18 Q. But as you sit here today, you're</p> <p>19 not aware of any potential violations of TOFA</p> <p>20 associated with the operation of BEH's fuel</p> <p>21 farm, correct?</p> <p>22 MR. SIMMS: Objection.</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. I'm not aware of any rules,</p>	<p style="text-align: right;">84</p> <p>1 the question.</p> <p>2 Q. (By Mr. Fee) I'm trying to get us</p> <p>3 all on the same page here.</p> <p>4 In your opinion, is the genesis of</p> <p>5 the NAC'S concern regarding BEH's TOFA</p> <p>6 compliance associated in any fashion with</p> <p>7 FlightLevel's Complaints that BEH is in</p> <p>8 violation of the TOFA regulations?</p> <p>9 MR. SIMMS: Objection. Beyond</p> <p>10 the scope.</p> <p>11 MR. HARTZELL: Objection.</p> <p>12 A. No, from my perspective as a</p> <p>13 commissioner.</p> <p>14 Q. I understand every answer that you</p> <p>15 gave me is based on your perspective as</p> <p>16 commissioner.</p> <p>17 A. Okay.</p> <p>18 Q. Mr. Hartzell asked you about the</p> <p>19 size of BEH's hangar and you testified that you</p> <p>20 thought Russ said be careful with the size of</p> <p>21 the hangar. Do you recall that testimony?</p> <p>22 A. I do.</p> <p>23 Q. And do you recall -- is that</p> <p>24 something that you actually heard him say?</p>
<p style="text-align: right;">83</p> <p>1 violations, with respect to TOFA.</p> <p>2 Q. Isn't it fair to say that the</p> <p>3 concern regarding TOFA is associated with</p> <p>4 FlightLevel's concern that their property rights</p> <p>5 are being impinged in some fashion by BEH's</p> <p>6 operations?</p> <p>7 MR. HARTZELL: Objection.</p> <p>8 Could you read that back?</p> <p>9 (Question read by reporter)</p> <p>10 A. From my perspective, I would only</p> <p>11 be guessing. That's not my concern.</p> <p>12 Q. FlightLevel's concerns regarding</p> <p>13 its property rights are not your concern?</p> <p>14 A. You want to reread the question</p> <p>15 that you asked?</p> <p>16 Q. I'm trying to understand your</p> <p>17 answer.</p> <p>18 A. You asked me about FlightLevel's</p> <p>19 perspective. You said that it had to do with --</p> <p>20 could you read it back?</p> <p>21 Q. Let me rephrase it.</p> <p>22 A. But you do remember saying that.</p> <p>23 Q. I said it.</p> <p>24 MR. SIMMS: He will rephrase</p>	<p style="text-align: right;">85</p> <p>1 A. Yes.</p> <p>2 Q. And what were his exact words?</p> <p>3 A. That there are restrictions, TOFA</p> <p>4 restrictions, from the distances to the center,</p> <p>5 from the building to the center line. It had to</p> <p>6 do with fueling. And that's why I remember that</p> <p>7 fifty-seven-foot thing. My impression was that</p> <p>8 Chris had this covered, and he still may. It</p> <p>9 still may be the case. I don't know.</p> <p>10 Q. So you have no information to</p> <p>11 suggest that BEH's current facility as built is</p> <p>12 in violation of any TOFA regulations?</p> <p>13 MR. HARTZELL: Objection.</p> <p>14 A. My understanding it was slightly</p> <p>15 bigger than -- I don't know if slightly. It's</p> <p>16 bigger than the previous hangar.</p> <p>17 Q. Right. And the fact that it's</p> <p>18 slightly bigger, does that, in your opinion,</p> <p>19 render it in any way as non-compliance with</p> <p>20 applicable TOFA regulations?</p> <p>21 MR. HARTZELL: Objection.</p> <p>22 A. I have no way of knowing that.</p> <p>23 Q. And so your recollection was that</p> <p>24 you heard Russ say this. Was it in an airport</p>

<p style="text-align: right;">86</p> <p>1 meeting?</p> <p>2 A. I believe so.</p> <p>3 Q. Do you know when that was?</p> <p>4 A. I don't.</p> <p>5 Q. Was it prior to the building being</p> <p>6 built?</p> <p>7 A. I believe it would have been in the</p> <p>8 design-review stage.</p> <p>9 Q. Okay. And to your knowledge, did</p> <p>10 BEH respond to Mr. Maguire's cautions about the</p> <p>11 size of the building?</p> <p>12 A. My recollection is that Mr. Donovan</p> <p>13 was very confident about what he was doing.</p> <p>14 Q. Well, my question was, do you know</p> <p>15 whether or not Mr. Donovan -- strike that.</p> <p>16 -- whether BEH responded to</p> <p>17 Mr. Maguire's concerns regarding the size of the</p> <p>18 building?</p> <p>19 A. I don't recall.</p> <p>20 Q. When we were talking -- when you</p> <p>21 were talking with Mr. Hartzell about Exhibit 84,</p> <p>22 one of the things you said was that you wanted</p> <p>23 to know more about them so that you could</p> <p>24 understand how they would evolve into an FBO.</p>	<p style="text-align: right;">88</p> <p>1 approved as an FBO?</p> <p>2 A. Based on my research that I did a</p> <p>3 little bit on my own to try to figure out, is</p> <p>4 this a normal type of request because they</p> <p>5 seemed so opposed to it, it seemed like based on</p> <p>6 my -- my limited amount of research that I did,</p> <p>7 which was probably a few hours looking at</p> <p>8 requests or proposals at other airports across</p> <p>9 the country, this type of information was very</p> <p>10 standard on everyone.</p> <p>11 Q. What type of airports were you</p> <p>12 talking about?</p> <p>13 A. I can't remember, but there was one</p> <p>14 in Georgia. I want to say there was one in the</p> <p>15 Midwest. It was just a bunch of -- or in that</p> <p>16 time frame generally these small general</p> <p>17 aviation airports looking for either a sole FBO</p> <p>18 or an additional FBO.</p> <p>19 Q. But you testified that at some</p> <p>20 point all of this information was submitted,</p> <p>21 correct?</p> <p>22 A. We are only waiting for the fueling</p> <p>23 plan right now.</p> <p>24 Q. But I think you testified that the</p>
<p style="text-align: right;">87</p> <p>1 Do you recall saying that?</p> <p>2 A. Yes.</p> <p>3 Q. And did you -- and you also</p> <p>4 testified, in response to my question, you</p> <p>5 wanted to know more about this business; is that</p> <p>6 right?</p> <p>7 A. That is correct.</p> <p>8 Q. And did you feel that was your</p> <p>9 obligation as a commissioner to find out as much</p> <p>10 information as possible about any potential FBO</p> <p>11 applicant?</p> <p>12 A. Yes, we -- one of the people that</p> <p>13 was on the -- from the FAA local that was on the</p> <p>14 airport actually told us that we should be</p> <p>15 asking for financial information in general.</p> <p>16 These type of statements would be something that</p> <p>17 would be absolutely within our purview to ask</p> <p>18 for.</p> <p>19 Q. And why was it important to ask for</p> <p>20 this information from BEH?</p> <p>21 A. They were the ones applying to be</p> <p>22 an FBO without any experience.</p> <p>23 Q. Was it your belief that experience</p> <p>24 as an FBO operator was a requirement to be</p>	<p style="text-align: right;">89</p> <p>1 NAC is satisfied with the amount of financial</p> <p>2 disclosure submitted by BEH?</p> <p>3 A. We accepted the third-party's</p> <p>4 assessment of that.</p> <p>5 Q. But you thought it was important to</p> <p>6 pursue that because it was -- you said you</p> <p>7 wanted to understand how BEH would evolve into</p> <p>8 an FBO, right?</p> <p>9 A. I don't know what experience they</p> <p>10 have in any form of management of these types of</p> <p>11 operations.</p> <p>12 Q. Okay. Well, how important was</p> <p>13 experience, in your opinion, in evaluating the</p> <p>14 FBO application?</p> <p>15 A. I was just looking for financial</p> <p>16 statements.</p> <p>17 Q. So experience, do you mean</p> <p>18 financial experience?</p> <p>19 A. I don't think I would have --</p> <p>20 that's one of the reasons I wanted to look at</p> <p>21 financial statements. I wanted to see who they</p> <p>22 were. I don't think -- we were not doing that</p> <p>23 type of evaluation. I suppose if we did an RFP</p> <p>24 that would be something we would have evaluated.</p>

<p style="text-align: right;">90</p> <p>1 Q. And why was that important?</p> <p>2 A. Why was what important?</p> <p>3 Q. Why was it important to ask for</p> <p>4 this level of financial disclosure from the FBO</p> <p>5 applicant?</p> <p>6 A. I think this was the basic level of</p> <p>7 financial information that any business would</p> <p>8 have readily available.</p> <p>9 Q. Okay. And let me show you</p> <p>10 Exhibit 87, Page 2. At the top, it says, "On a</p> <p>11 motion by Mr. Sheehan and seconded by Mr.</p> <p>12 Odstrchel, the Commission voted 6/0 to offer an</p> <p>13 extension until next meeting to give BEH more</p> <p>14 time to provide to NAC without redactions three</p> <p>15 months' business bank statements, balance sheet,</p> <p>16 income statement, cash flow statement, and</p> <p>17 confidentiality agreement to be looked at in</p> <p>18 executive session." Did I read that correctly</p> <p>19 from Exhibit 87?</p> <p>20 A. Yes.</p> <p>21 Q. And is that the minimum financial</p> <p>22 disclosure that you're talking about, that you</p> <p>23 think would be appropriate to seek from an FBO</p> <p>24 applicant?</p>	<p style="text-align: right;">92</p> <p>1 insurance. As discussed via our e-mail exchange</p> <p>2 on June 23, 2015, BEH's fueling plan for July</p> <p>3 2013 was outdated in light of FlightLevel</p> <p>4 Norwood, LLC's objection and the March 5, 2015,</p> <p>5 Court Order issued in the matter of BEH versus</p> <p>6 FlightLevel Norwood." Did I read that</p> <p>7 correctly?</p> <p>8 A. Yes.</p> <p>9 Q. So is it your understanding that as</p> <p>10 of July 7, 2015, the prior fueling plans that</p> <p>11 have been proffered by BEH were outdated due to</p> <p>12 FlightLevel's objection?</p> <p>13 A. I've never seen a fueling plan from</p> <p>14 BEH in the entire time I've been on the</p> <p>15 Commission.</p> <p>16 Q. You know that it was submitted?</p> <p>17 A. I have never seen a fueling plan.</p> <p>18 I don't know how much clearer I can be.</p> <p>19 Q. I understand you have never seen</p> <p>20 it, but is it your understanding that BEH has</p> <p>21 never submitted a fueling plan?</p> <p>22 MR. SIMMS: To whom?</p> <p>23 Q. (By Mr. Fee) To the NAC?</p> <p>24 A. My belief is it's never been</p>
<p style="text-align: right;">91</p> <p>1 A. Me personally, the income</p> <p>2 statements, balance sheet, and cash flow would</p> <p>3 be the three main things I would be looking for.</p> <p>4 Q. And that would be your minimum</p> <p>5 requirement from any --</p> <p>6 A. That is what I was looking for when</p> <p>7 I asked for financial statements.</p> <p>8 Q. All right. Now I'm going to show</p> <p>9 you Exhibit 88, which is a letter that</p> <p>10 Mr. Hartzell talked to you about dated July 7,</p> <p>11 2015, to Mr. McCulloch from Mr. Moss. And he</p> <p>12 directed your attention to the</p> <p>13 second-to-the-last paragraph on Page 2.</p> <p>14 A. I see it.</p> <p>15 MR. HARTZELL: What number are</p> <p>16 you showing him, Mike?</p> <p>17 THE WITNESS: Eighty-eight,</p> <p>18 Page 2.</p> <p>19 MR. HARTZELL: Thank you.</p> <p>20 Q. (By Mr. Fee) I'm going to read</p> <p>21 this paragraph to you so we're all on the same</p> <p>22 page. "On a separate matter, I'm inquiring</p> <p>23 about two additional issues that remain</p> <p>24 unresolved, namely BEH's fueling plan and BEH's</p>	<p style="text-align: right;">93</p> <p>1 submitted.</p> <p>2 Q. Okay. I can work with that.</p> <p>3 A. Okay.</p> <p>4 Q. Give me one second. Showing you a</p> <p>5 document that has been marked as Exhibit 94 and</p> <p>6 directing your attention to the bottom where it</p> <p>7 appears to be an e-mail --</p> <p>8 A. So this is an e-mail from Russ</p> <p>9 Maguire to Brandon, our attorney?</p> <p>10 Q. No, to Paul Butters. I'm looking</p> <p>11 at the bottom.</p> <p>12 A. Okay.</p> <p>13 Q. So second paragraph of that e-mail</p> <p>14 says -- and this is Maguire talking to</p> <p>15 Butters -- "The Board requires that applicant's</p> <p>16 fueling plan be approved by both my office and</p> <p>17 the Norwood Fire Department. So my first</p> <p>18 question: Has BEH provided you with a copy of</p> <p>19 their plan yet? BEH has already provided me</p> <p>20 with a copy." Did I read that correctly?</p> <p>21 A. You did read it correctly.</p> <p>22 Q. Does that refresh your recollection</p> <p>23 as to whether or not BEH has at any time</p> <p>24 submitted a fueling plan to the NAC?</p>

<p style="text-align: right;">94</p> <p>1 A. I'm not sure. I have never seen a 2 fueling plan. 3 Q. I understand that. 4 A. I don't know if there's a different 5 sort of thing the fire department requires, some 6 kind of permit. 7 MR. SIMMS: The question is: 8 Does it refresh your recollection that BEH 9 has submitted a fueling plan? Yes or no, 10 it doesn't refresh my recollection. 11 THE WITNESS: It does not 12 refresh my recollection. 13 Q. (By Mr. Fee) You said that in your 14 opinion Oulton Hues appeared to be friends with 15 Chris Donovan? 16 A. I did say that. 17 Q. What's the basis for that 18 statement? 19 A. They looked friendly when they came 20 to the meetings and left the meetings. 21 Q. So they would come in together at 22 the meetings and leave together at the meetings 23 every time? 24 A. No.</p>	<p style="text-align: right;">96</p> <p>1 was in the hangar. 2 Q. And the basis for that belief is 3 what? 4 A. Oulton Hues himself. 5 Q. Did Oulton Hues tell you that he 6 kept his plane in the hangar? 7 A. I had a relationship with him, yes. 8 Q. I'm asking, what's the basis for 9 that belief? 10 A. It could be business. I know he 11 plowed snow for him. 12 Q. How do you know that? 13 A. He actually said that at a meeting 14 that when the stuff came up about the snow being 15 piled, where else am I supposed to plow it. 16 Wait a minute, you're meaning to tell me you're 17 the one that plowed the snow. Yes, he was one 18 of the people plowing the snow. 19 Q. So your understanding was that 20 Oulton Hues said at a meeting that he plowed 21 snow for BEH? 22 A. I'm going to take that back. It 23 was in that room. It was either before a 24 meeting or during a meeting, but I was talking</p>
<p style="text-align: right;">95</p> <p>1 Q. Once in a while? 2 A. I would see them together. It's 3 just an impression. 4 Q. But you have no knowledge of 5 whether or not they were actual acquaintances? 6 A. I don't. 7 Q. All you saw was them interacting at 8 certain points in time, correct? 9 A. Correct. 10 Q. And did I hear you say you thought 11 Oulton Hues had an airplane in Mr. Donovan's 12 hangar? 13 A. Yes. 14 Q. Do you know what that plane looks 15 like? 16 A. I don't. It seemed to be his plane 17 by the way he was -- it seemed to be the plane 18 that I've seen him around before -- 19 Q. Do you know what the tag numbers 20 are on the plane? 21 A. I don't. 22 Q. So you don't really know if it's 23 his plane or not, right? 24 A. I don't. I believe that his plane</p>	<p style="text-align: right;">97</p> <p>1 to Oulton Hues. He said that he plowed snow for 2 BEH. 3 Q. On a regular basis? 4 A. I don't know. 5 Q. For hire? 6 A. For that particular instance he was 7 involved in plowing snow. 8 Q. Did he tell you that he was being 9 paid for providing services? 10 A. I have no idea. 11 Q. And you don't know what Oulton 12 Hues' plane looks like, do you? 13 A. I don't. 14 Q. And you said something about 15 Shaughnessy as well. You thought that 16 Shaughnessy was friends with Chris? 17 A. I believe so. 18 Q. And what's the basis for that? 19 A. I would see him interacting with 20 him. 21 MR. SIMMS: Can you not use 22 pronouns? 23 A. Paul Shaughnessy interacting with 24 Chris Donovan.</p>

<p style="text-align: right;">98</p> <p>1 Q. In what fashion?</p> <p>2 A. Seen him in the hangar in his bus.</p> <p>3 He drove a bus and it would be next to the</p> <p>4 hangar quite frequently. I assumed he was in</p> <p>5 the hangar.</p> <p>6 Q. But you never saw him in the</p> <p>7 hangar?</p> <p>8 A. I saw the bus next to the hangar.</p> <p>9 I just assumed that he was in the hangar.</p> <p>10 Q. Did you think that that was</p> <p>11 anything unusual that someone that's working at</p> <p>12 the airport might be in the hangar of BEH?</p> <p>13 A. He worked as a bus driver. And</p> <p>14 yes, I do think a sitting member of the Norwood</p> <p>15 Airport Commission being that frequently in</p> <p>16 another business' -- operating their hangar is a</p> <p>17 little unusual.</p> <p>18 Q. How frequently?</p> <p>19 A. I saw the bus there a number of</p> <p>20 times.</p> <p>21 Q. How many is a number?</p> <p>22 A. I don't know. Half dozen, maybe.</p> <p>23 Q. But you don't know for sure how</p> <p>24 many?</p>	<p style="text-align: right;">100</p> <p>1 Q. Okay. So you have no idea whether</p> <p>2 anything that's depicted in Exhibit 107 was the</p> <p>3 responsibility of BEH or not, correct?</p> <p>4 A. I only know what Chris said at</p> <p>5 the -- one of the meetings, was that he plowed</p> <p>6 the snow in that direction because he had no</p> <p>7 other choice.</p> <p>8 Q. Did he say that he plowed all of</p> <p>9 the snow that constituted that big pile?</p> <p>10 A. No, I don't think so.</p> <p>11 Q. Okay. You said you thought</p> <p>12 Mr. Maguire was aware of the barriers going up</p> <p>13 before they went up. You said he thought he</p> <p>14 consulted with FlightLevel?</p> <p>15 A. It's my recollection he did.</p> <p>16 MR. SIMMS: He didn't say</p> <p>17 consulted.</p> <p>18 A. It's my recollection that he was</p> <p>19 notified, if not in advance that at least they</p> <p>20 were in.</p> <p>21 Q. What is the basis for that belief?</p> <p>22 A. That's just my recollection that he</p> <p>23 somehow --</p> <p>24 Q. Did Mr. Maguire tell you that he</p>
<p style="text-align: right;">99</p> <p>1 A. I don't know for sure how many.</p> <p>2 Q. Now, did you say that Shaughnessy</p> <p>3 had a plane in BEH's hangar as well?</p> <p>4 A. I believe he did.</p> <p>5 Q. What color is Shaughnessy's plane?</p> <p>6 A. I don't recall.</p> <p>7 Q. What are the tag numbers?</p> <p>8 A. I don't recall.</p> <p>9 Q. What does it look like?</p> <p>10 A. Would you like me to get some</p> <p>11 pictures of it?</p> <p>12 Q. I just want to know what the basis</p> <p>13 is for your belief that Shaughnessy's plane was</p> <p>14 in BEH's hangar?</p> <p>15 A. It was in there with a plane that I</p> <p>16 believed to be his.</p> <p>17 Q. But you don't know what that belief</p> <p>18 is based on, that he actually owned it?</p> <p>19 A. I saw him in the hangar with what I</p> <p>20 believed to be his plane.</p> <p>21 Q. Mr. Hartzell showed you a picture</p> <p>22 of some snow marked as Exhibit 107. Did you see</p> <p>23 BEH plow any snow on to the fuel farm lot?</p> <p>24 A. I did not.</p>	<p style="text-align: right;">101</p> <p>1 had a conversation with a representative of</p> <p>2 FlightLevel?</p> <p>3 A. I want to say that it's either in</p> <p>4 something I read recently or it happened at the</p> <p>5 meetings, but I don't recall specifically that I</p> <p>6 said that he had a conversation.</p> <p>7 Q. So you just have a feeling that he</p> <p>8 was informed in advance; is that fair to say?</p> <p>9 A. Yes.</p> <p>10 Q. Mr. Hartzell showed you Exhibit 98.</p> <p>11 And the first exhibit -- this is the airport</p> <p>12 manager's report for February 2015. Have you</p> <p>13 seen this before?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So Exhibit A to this report</p> <p>16 is the third page of the document?</p> <p>17 A. By the way, this is probably where</p> <p>18 I got that feeling, the first page.</p> <p>19 MR. HARTZELL: Which page are</p> <p>20 you having him look at?</p> <p>21 MR. FEE: Exhibit A.</p> <p>22 A. Okay. I'm on Exhibit A.</p> <p>23 Q. And it appears to be a letter from</p> <p>24 Mr. Donovan to Burlingham dated February 6,</p>

<p style="text-align: right;">102</p> <p>1 2015?</p> <p>2 A. Yes.</p> <p>3 Q. And this is a document that was</p> <p>4 provided to the commissioners sometime at the</p> <p>5 end of February, I would imagine, because it</p> <p>6 covers the entire period February 1 to February</p> <p>7 28, 2015. Is that a fair inference?</p> <p>8 A. So I would say this was in the</p> <p>9 March Norwood Airport Commission meeting.</p> <p>10 Q. And so included in that is the</p> <p>11 aforementioned letter from Burlingham to Donovan</p> <p>12 dated February 6, 2015. Do you see that?</p> <p>13 A. Exhibit A.</p> <p>14 Q. Cease and desist letter?</p> <p>15 A. I'm not aware. It says, "Notice of</p> <p>16 trespass cease and desist".</p> <p>17 Q. So here's my question: Do you</p> <p>18 recall seeing this document, the cease and</p> <p>19 desist letter, at or around the time it was</p> <p>20 written February 6, 2015?</p> <p>21 A. I don't recall it at all.</p> <p>22 Q. Okay. Do you recall that there was</p> <p>23 a meeting of the NAC on February 11, 2015?</p> <p>24 A. That sounds about right, but it's</p>	<p style="text-align: right;">104</p> <p>1 Q. All right. Immediately below the</p> <p>2 section that I just pointed to you there's a</p> <p>3 bullet that says, "Discussed notice of trespass</p> <p>4 cease and desist about snowfall." Do you see</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. Does that refresh your recollection</p> <p>8 as to any discussion at the February 11, 2015,</p> <p>9 meeting regarding the cease and desist letter</p> <p>10 from FlightLevel?</p> <p>11 A. No.</p> <p>12 Q. The next couple of sentences read</p> <p>13 as follows: "Mr. Ryan asked that Mr. Donovan</p> <p>14 and Mr. Eichleay to come to agreement together.</p> <p>15 This is a dispute over lease of easement get</p> <p>16 settled in Superior Court. Can't..." -- I'm</p> <p>17 sorry, "...can't decide it here." Did I read</p> <p>18 that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. Does that comport with your</p> <p>21 recollection as to what the Commission advised</p> <p>22 Donovan and Eichleay to do as a result of this</p> <p>23 dispute they were having regarding snow?</p> <p>24 MR. SIMMS: Objection to the</p>
<p style="text-align: right;">103</p> <p>1 usually the second week of the month.</p> <p>2 Q. So let me show you Exhibit 99,</p> <p>3 which appears to be the agenda and minutes for</p> <p>4 the February 11, 2015 Norwood Airport Commission</p> <p>5 meeting?</p> <p>6 A. Correct.</p> <p>7 Q. Have you seen this before?</p> <p>8 A. I believe I have.</p> <p>9 Q. Okay. And I believe it's on the</p> <p>10 third page of this correspondence. It</p> <p>11 references a letter dated 2/6/15 from</p> <p>12 FlightLevel to C. Donovan of BEH, "Re: Cease</p> <p>13 and desist." Do you see that?</p> <p>14 A. Page 3, you said?</p> <p>15 Q. The third page of Exhibit 99.</p> <p>16 A. It's the fourth page, yes.</p> <p>17 Q. And is it your understanding that</p> <p>18 this refers to the document marked as Exhibit A</p> <p>19 in Exhibit 98?</p> <p>20 A. I would say yes.</p> <p>21 Q. Okay. So do you recall a</p> <p>22 discussion regarding the cease and desist letter</p> <p>23 at the February 11, 2015, meeting?</p> <p>24 A. No.</p>	<p style="text-align: right;">105</p> <p>1 form. Go ahead.</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. I don't think we issued any advice</p> <p>4 or -- we didn't want to get involved in this in</p> <p>5 any way, so if that's what you're asking.</p> <p>6 Q. It says this is a dispute over</p> <p>7 lease of easement, get settled in Superior</p> <p>8 Court. Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. Do you recall one or more of the</p> <p>11 submission commissioners advising Eichleay and</p> <p>12 Donovan to go to Superior Court to settle their</p> <p>13 differences over the property dispute?</p> <p>14 A. I don't. I think we knew that</p> <p>15 that's what was going on or suspected that</p> <p>16 that's what was going on. I can't remember if</p> <p>17 there was a lawsuit filed or whatever, but I</p> <p>18 don't recall specifically.</p> <p>19 Q. Okay. Do you recall, two days</p> <p>20 after this meeting, FlightLevel erected</p> <p>21 barriers?</p> <p>22 A. I know they erected barriers.</p> <p>23 Q. And you said that you thought</p> <p>24 Mr. Maguire was aware of that in advance; is</p>

<p style="text-align: right;">106</p> <p>1 that right?</p> <p>2 A. Based on his manager's report. It</p> <p>3 looks like he was.</p> <p>4 Q. And did you have any discussions</p> <p>5 with Mr. Maguire or any other airport</p> <p>6 commissioners regarding FlightLevel's intention</p> <p>7 to erect barriers on its leasehold?</p> <p>8 A. I don't recall.</p> <p>9 Q. Did you participate in any way in</p> <p>10 any approval of FlightLevel's proposed -- or</p> <p>11 FlightLevel's intended erection of barriers on</p> <p>12 its leasehold?</p> <p>13 A. No.</p> <p>14 Q. Did you have any discussions with</p> <p>15 Mr. Ryan regarding FlightLevel's intent to erect</p> <p>16 barriers on its leasehold?</p> <p>17 A. I don't recall any.</p> <p>18 Q. Did you have any discussions with</p> <p>19 Mr. Maguire regarding the same topic?</p> <p>20 A. I don't recall any.</p> <p>21 Q. At some point the barriers tipped</p> <p>22 or fell over, correct?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. Yes.</p>	<p style="text-align: right;">108</p> <p>1 maintained our distance from the actual lease</p> <p>2 dispute. We wanted it to be settled by then.</p> <p>3 We didn't feel like we had the authority to</p> <p>4 adjudicate that type of dispute.</p> <p>5 Q. And so do you know what happened</p> <p>6 with respect to the handling of the</p> <p>7 environmental issues associated with the</p> <p>8 barriers leaking?</p> <p>9 A. It's my understanding that</p> <p>10 FlightLevel notified the state DEP and they</p> <p>11 hired a cleanup, like a licensed site</p> <p>12 professional to monitor the situation, do what</p> <p>13 they needed to do.</p> <p>14 Q. Do you know what they did?</p> <p>15 A. No.</p> <p>16 Q. Do you know what was necessary?</p> <p>17 A. I don't.</p> <p>18 Q. Do you know if a report was filed</p> <p>19 with the DEP?</p> <p>20 A. I don't specifically know other</p> <p>21 than that's -- a LSP handles that, a licensed</p> <p>22 site professional.</p> <p>23 Q. Do you know if the contents of the</p> <p>24 barriers were regulated in any fashion by DEP?</p>
<p style="text-align: right;">107</p> <p>1 Q. At some point the barriers became</p> <p>2 horizontal; is that fair to say?</p> <p>3 A. Yes. At some point there was --</p> <p>4 the content of them leaked out.</p> <p>5 Q. And as a result, the airport</p> <p>6 manager apprised the airport commissioners</p> <p>7 through Exhibit 98; is that correct?</p> <p>8 MR. HARTZELL: Objection.</p> <p>9 A. I believe so.</p> <p>10 Q. And you said that you thought this</p> <p>11 was discussed at the March 2015 meeting; is that</p> <p>12 correct?</p> <p>13 A. I don't specifically recall that</p> <p>14 meeting, but it looks like it was discussed.</p> <p>15 Q. And what was your understanding of</p> <p>16 the NAC's role in resolving the dispute that was</p> <p>17 going on between BEH and FlightLevel at that</p> <p>18 time?</p> <p>19 A. We were concerned about the</p> <p>20 contents. And because the airport is surrounded</p> <p>21 by protected wetlands, I think the concern was</p> <p>22 cleanup, is this going to get into anything, how</p> <p>23 are we responsible in any fashion, if this is</p> <p>24 going to cost money or whatever, but I think we</p>	<p style="text-align: right;">109</p> <p>1 A. I believe that glycol is a hazard</p> <p>2 waste or hazardous material.</p> <p>3 Q. What's the basis for that belief?</p> <p>4 A. I think just the meetings we had</p> <p>5 with the people that were at these meetings. It</p> <p>6 seemed to determine that you couldn't spill it</p> <p>7 without cleaning it up.</p> <p>8 Q. And was glycol regularly used at</p> <p>9 the airport?</p> <p>10 A. I don't know.</p> <p>11 Q. Do you know why -- do you know if</p> <p>12 it has any aeronautical purpose?</p> <p>13 A. It's an antifreeze, so I imagine if</p> <p>14 you wanted to take ice off or something it</p> <p>15 possibly could be used.</p> <p>16 Q. Do you know how much glycol can be</p> <p>17 used at the airport in a year?</p> <p>18 A. I do not.</p> <p>19 Q. Do you know if glycol is subject to</p> <p>20 the spill prevention plan of the Norwood</p> <p>21 Airport's regulations?</p> <p>22 A. Say that again.</p> <p>23 Q. Do you know if glycol is the</p> <p>24 subject -- is mentioned at all in the airport</p>

<p style="text-align: right;">110</p> <p>1 regulations?</p> <p>2 A. I don't know.</p> <p>3 Q. Now, Mr. Hartzell asked you if this</p> <p>4 snow that was piled up was preventing access to</p> <p>5 the fuel farm and you said you thought so; is</p> <p>6 that right?</p> <p>7 A. Yes.</p> <p>8 Q. And how did it prevent access to</p> <p>9 the fuel farm?</p> <p>10 A. Like you couldn't maneuver. If you</p> <p>11 were driving over trying to get to the fuel</p> <p>12 farm, it would be pretty hard to do.</p> <p>13 Q. Isn't there an alternate access</p> <p>14 point to the fuel farm?</p> <p>15 A. I assume so.</p> <p>16 Q. Are you familiar with FlightLevel's</p> <p>17 fuel plan?</p> <p>18 A. They recently submitted another</p> <p>19 one, so I've seen it.</p> <p>20 Q. You're familiar with it?</p> <p>21 A. I would not say I'm familiar with</p> <p>22 it, no.</p> <p>23 Q. Do you know who Alan Radlo is?</p> <p>24 A. I do.</p>	<p style="text-align: right;">112</p> <p>1 just someone that was in business with Peter; is</p> <p>2 that fair to say?</p> <p>3 A. Yes.</p> <p>4 Q. At some point did you become aware</p> <p>5 of Radlo's -- the full extent of Radlo's</p> <p>6 ownership interest in FlightLevel?</p> <p>7 MR. HARTZELL: Objection.</p> <p>8 A. I'm still not aware what his</p> <p>9 business agreement or business interest is.</p> <p>10 Q. Would you expect to know that as a</p> <p>11 commissioner? Isn't that something that needs</p> <p>12 to be disclosed by FlightLevel?</p> <p>13 MR. HARTZELL: Objection.</p> <p>14 A. I don't know. I looked him up to</p> <p>15 see who he was, kind of quickly Googled him.</p> <p>16 And I think he was a manager, a fund manager of</p> <p>17 Fidelity, so I assume he's another wealthy guy</p> <p>18 down at the airport.</p> <p>19 Q. But did Radlo provide you with any</p> <p>20 information regarding his financial</p> <p>21 capabilities?</p> <p>22 A. He may have provided the manager.</p> <p>23 I'm not aware of it.</p> <p>24 Q. But you have not seen it?</p>
<p style="text-align: right;">111</p> <p>1 Q. Who is he?</p> <p>2 A. I believe he is a partner with</p> <p>3 Mr. Eichleay and FlightLevel.</p> <p>4 Q. And when did you first become</p> <p>5 familiar with Alan Radlo?</p> <p>6 A. Within the past year, I believe.</p> <p>7 Q. How did you become familiar with</p> <p>8 Mr. Radlo?</p> <p>9 A. I believe he started showing up to</p> <p>10 the meetings, the Airport Commission meetings.</p> <p>11 Q. And you were introduced to him?</p> <p>12 A. I was introduced to him at a</p> <p>13 function that -- FlightLevel built some new</p> <p>14 hangars and they had a function there where they</p> <p>15 had jets or all of these different things. They</p> <p>16 had kind of an open house. I met him there.</p> <p>17 Q. Did he introduce himself as</p> <p>18 FlightLevel's new owner?</p> <p>19 MR. HARTZELL: Objection.</p> <p>20 A. I don't recall. I do know that he</p> <p>21 had -- he was in business with Peter. I don't</p> <p>22 think he would have termed it "new owner".</p> <p>23 Q. So when you met him, you did not</p> <p>24 understand him to be the owner of FlightLevel,</p>	<p style="text-align: right;">113</p> <p>1 A. I haven't seen it.</p> <p>2 Q. And so the manager has never</p> <p>3 provided to the commissioners any information</p> <p>4 regarding Mr. Radlo's ownership interest in</p> <p>5 FlightLevel?</p> <p>6 A. He may have. I don't recall it.</p> <p>7 Q. Well, it would be in the meetings</p> <p>8 if he did, right?</p> <p>9 MR. HARTZELL: Objection.</p> <p>10 Q. (By Mr. Fee) I'm sorry, in the</p> <p>11 meeting minutes?</p> <p>12 MR. HARTZELL: Objection.</p> <p>13 A. I don't know.</p> <p>14 Q. Do you know if the -- let me show</p> <p>15 you this.</p> <p>16 MR. FEE: Can I have this</p> <p>17 marked as the next exhibit?</p> <p>18 (Exhibit 108, Norwood Memorial Airport</p> <p>19 FY2018 Commercial Permit Application,</p> <p>20 marked for identification)</p> <p>21 MR. SIMMS: Off the record.</p> <p>22 (Off-record conference)</p> <p>23 MR. FEE: Back on the record.</p> <p>24 Q. (By Mr. Fee) Mr. Shaughnessy, I'm</p>

<div>114</div> <div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div></div> <div><p>showing you a document marked as Exhibit 108. It appears to be the 2018 Commercial Permit Application for FlightLevel. Have you seen it before?</p><p>A. It is the Commercial -- the 2018 Commercial Permit Application for FlightLevel.</p><p>Q. Have you seen it before?</p><p>A. I assume so because these are provided to us before they are approved, so I would assume that I have seen it.</p><p>Q. I will ask you some more questions about it the next time I see you.</p><p>MR. FEE: We'll suspend the deposition at this point. Thank you for your time. (Deposition suspended)</p></div>	<div>116</div> <div><div>April 3, 2018</div><div>Adam Simms, Esq. PIERCE, DAVIS & PERRITANO, LLP 10 Post Office Square Boston, MA 02109</div><div>Re: BEH v. FLIGHTLEVEL NORWOOD, LLC, et al.</div><div>Dear Counselor: Enclosed is a copy of the deposition of KEVIN J. SHAUGHNESSY taken on March 19, 2018, in the above-entitled action. According to Rule 30(e) of the Massachusetts Rules of Civil Procedure, the deponent has thirty days to sign the deposition from the date of its submission to the deponent, which is the above date. Please have the deponent sign the enclosed Signature Page/Errata Sheet and return it to the offices of: A. Neil Hartzell, Esq. LeCLAIR RYAN One International Place Boston, MA 02110 Whereupon it will be attached to the original deposition transcript, and a copy thereof to all counsel of record. Thank you for your cooperation in this matter.</div><div>Raymond F. Catuogno, Jr.</div><div>cc: A. Neil Hartzell, Esq. Michael C. Fee, Esq.</div></div>																														
<div>115</div> <div><div>COMMONWEALTH OF MASSACHUSETTS NORFOLK, ss.</div><div>I, RAYMOND F. CATUOGNO, JR., a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that there came before me on March 19, 2018, at the offices of LeClair Ryan, One International Place, 11th Floor, Boston, Massachusetts, the following named person, to wit: KEVIN J. SHAUGHNESSY, who was by me duly sworn to testify to the truth and nothing but the truth as to his knowledge touching and concerning the matters in controversy in this cause; that he was thereupon examined upon his oath and said examination reduced to writing by me; and that the statement is a true record of the testimony given by the witness, to the best of my knowledge and ability.</div><div>I further certify that I am not a relative or employee of counsel/attorney for any of the parties, nor a relative or employee of such parties, nor am I financially interested in the outcome of the action.</div><div>WITNESS MY HAND March 30, 2018.</div><div>Raymond F. Catuogno, Jr. Notary Public</div><div>My Commission expires: February 12, 2021</div></div>	<div>117</div> <div><div>COMMONWEALTH OF MASSACHUSETTS Norfolk, ss. 1582CV00213</div><div>BOSTON EXECUTIVE HELICOPTERS, LLC; MII AVIATION SERVICES, LLC, AND HB HOLDINGS, INC., Plaintiffs, v. FLIGHTLEVEL NORWOOD, LLC; EAC REALTY TRUST II; AND PETER EICHLEAY, Defendants.</div><div>I, KEVIN J. SHAUGHNESSY, do hereby certify, under the pains and penalties of perjury, that the foregoing testimony is true and accurate, to the best of my knowledge and belief, with the addition of the following changes/corrections:</div><div><table><tr><th>Page</th><th>Line</th><th>Change/Correction</th></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr></table></div><div>WITNESS MY HAND, this day of , 2018.</div><div>KEVIN J. SHAUGHNESSY</div><div>cc: A. Neil Hartzell, Esq. Adam Simms, Esq. Michael C. Fee, Esq.</div></div>	Page	Line	Change/Correction																											
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