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Exhibits 120-147

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
C.A. No. 1:15-CV-13647-RGS

BOSTON EXECUTIVE)
HELICOPTERS, LLC,)
Plaintiff,)
)
v.)
)
FRANCIS T. MAGUIRE, ET AL.,)
Defendants.)
)

DEPOSITION OF MARK RYAN
TAKEN JUNE 29, 2017
AT THE LAW OFFICES OF
PIERCE MANDELL, P.C.
11 BEACON STREET
BOSTON, MASSACHUSETTS

Reporter: Raymond F. Catuogno, Jr.

<p style="text-align: right;">2</p> <p>APPEARANCES:</p> <p>For the Plaintiff: 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: 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</p>	<p style="text-align: right;">4</p> <p>EXHIBITS: (Continued)</p> <p>Exhibit 131, Regular Business Meeting Minutes for January, February and March of 2015 107</p> <p>Exhibit 132, Executive Session Minutes of January 14, 2015 109</p> <p>Exhibit 133, Regular Business Meeting Minutes for April 15, 2015 119</p> <p>Exhibit 134, Regular Business Meeting Minutes for May 13, 2015 124</p> <p>Exhibit 135, Regular Business Meeting Minutes for June 10, 2015 125</p> <p>Exhibit 136, Regular Business Meeting Minutes for July 2015 131</p> <p>Exhibit 137, Regular Business Meeting Minutes for September 9, 2015 135</p> <p>Exhibit 138, Regular Business Meeting Minutes for June 15, 2016 141</p> <p>Exhibit 139, Letter from Mr. Maguire to BEH, dated July 19, 2013 149</p> <p>Exhibit 140, E-mail from Mr. Donovan to Mr. Maguire, dated July 15, 2013 150</p> <p>Exhibit 141, E-mail from Mr. Donovan to Mr. Maguire, dated July 13, 2013 and e-mail from Mr. Donovan to Mr. Maguire and Mr. Ryan, dated July 15, 2013, Two Pages 154</p> <p>Exhibit 142, Attendum Number One, dated January 28, 2013 174</p> <p>Exhibit 143, E-mail from Mark Ryan, dated 5/20/16 194</p> <p>Exhibit 144, Deregistration re 089J 196</p>
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<p style="text-align: right;">6</p> <p style="text-align: center;">STIPULATIONS</p> <p>It is agreed by and between the parties that all objections, except objections as to the form of the questions, are reserved and may be raised at the time of trial for the first time.</p> <p>It is further agreed by and between the parties that all motions to strike unresponsive answers are reserved and may be raised at the time of trial for the first time.</p> <p>It is further agreed by and between the parties that the sealing of the original deposition transcript is hereby waived.</p> <p>It is further agreed by and between the parties that the notification to all parties of the receipt of the original deposition transcript is hereby waived.</p>	<p style="text-align: right;">8</p> <p>1 go over --</p> <p>2 Q. Wait a minute, you don't need to</p> <p>3 tell me anything that you said to Adam in that</p> <p>4 discussion. But if you met with your counsel,</p> <p>5 you can tell me that. I don't want to know any</p> <p>6 of the details of that discussion, however.</p> <p>7 A. I met with Adam, individually, on</p> <p>8 two occasions, just to go over what this is all</p> <p>9 about, as far as a deposition, and Adam has told</p> <p>10 me --</p> <p>11 Q. Wait, wait, please don't tell me</p> <p>12 what Adam said to you or what you said to him.</p> <p>13 Did you review any documents in preparation for</p> <p>14 your deposition?</p> <p>15 A. We did.</p> <p>16 Q. And do you recall what you</p> <p>17 reviewed, generally?</p> <p>18 A. The one document I do recall was</p> <p>19 the requirements under the grant assurances.</p> <p>20 MR. SIMMS: Usual</p> <p>21 stipulations?</p> <p>22 MR. FEE: Yes. We're going to</p> <p>23 continue utilizing the usual stipulations</p> <p>24 that we've had throughout the course of</p>
<p style="text-align: right;">7</p> <p>1 * * * * *</p> <p>2 MARK RYAN, Deponent, having produced</p> <p>3 satisfactory identification by means of a</p> <p>4 Massachusetts Driver's License, was duly sworn,</p> <p>5 deposes and states as follows:</p> <p>6 (Exhibit 120, Notice of Taking Deposition,</p> <p>7 marked for identification)</p> <p>8</p> <p>9 EXAMINATION BY MR. FEE:</p> <p>10 Q. Mr. Ryan, good morning. My name is</p> <p>11 Michael Fee. I represent Boston Executive</p> <p>12 Helicopters in litigation that's pending before</p> <p>13 the U.S. District Court for the District of</p> <p>14 Massachusetts. I understand you're here today</p> <p>15 to give your deposition testimony; is that</p> <p>16 correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Okay. I'm going to show you a</p> <p>19 document that has been marked as Exhibit 120.</p> <p>20 Have you seen that before?</p> <p>21 A. I have.</p> <p>22 Q. Okay. And what have you done to</p> <p>23 get ready for your deposition today?</p> <p>24 A. I have sat down with Adam, just to</p>	<p style="text-align: right;">9</p> <p>1 depositions in this matter. Anything else</p> <p>2 you want to put in the record before we</p> <p>3 get into it?</p> <p>4 MR. SIMMS: No.</p> <p>5 Q. (By Mr. Fee) Have you been deposed</p> <p>6 before?</p> <p>7 A. Yes, I have.</p> <p>8 Q. In what context?</p> <p>9 A. On two occasions. The most recent,</p> <p>10 I believe, it was 2010, as the airport</p> <p>11 commissioner. The entire Airport Commission had</p> <p>12 a legal issue with a tenant on Norwood Airport,</p> <p>13 Boston Air Charter, that was one of them. And</p> <p>14 the second one was a personal one back in 1999.</p> <p>15 Q. Okay. I don't need to know about</p> <p>16 it. Just so you're familiar with the process,</p> <p>17 and what we're going to do here today is, I'm</p> <p>18 going to ask you a series of questions, the</p> <p>19 court stenographer is going to take down</p> <p>20 everything that I say and everything that you</p> <p>21 say in response. So it's important that we not</p> <p>22 talk over each other. I'll ask my question and</p> <p>23 let you answer and I won't interrupt you in</p> <p>24 giving your answer, so that the record is clear.</p>

<p style="text-align: right;">10</p> <p>1 But in doing that, it's important that you keep 2 your voice up as much as possible, and if you 3 have any questions about my question, if you 4 don't understand what I'm asking you, please ask 5 me to rephrase it, and I'll do that so that the 6 question is in a form that you can answer. If 7 you need to take a break at any time, just let 8 me know and we can do that. Any questions about 9 that?</p> <p>10 A. No.</p> <p>11 Q. Okay. So briefly, if you could 12 give me your educational background?</p> <p>13 A. I have a Bachelor of Science in 14 civil engineering from the University of 15 Hartford, graduated in 1982, and I have a 16 Master's in public administration from 17 Bridgewater State.</p> <p>18 Q. Okay. When did you receive that 19 Master's?</p> <p>20 A. I believe it was '07, 2007.</p> <p>21 Q. Okay. After you graduated from 22 Hartford, did you work?</p> <p>23 A. Yes, I did.</p> <p>24 Q. What did you work at?</p>	<p style="text-align: right;">12</p> <p>1 Q. Okay. So approximately 1988 to '89 2 or so, is that fair to say?</p> <p>3 A. Yes, it is.</p> <p>4 Q. And what did you do next?</p> <p>5 A. I went to a small civil engineering 6 land surveying firm out of Walpole, Glosa, 7 G-L-O-S-S-A, Engineering.</p> <p>8 Q. How long were you there?</p> <p>9 A. Nine years.</p> <p>10 Q. So until approximately 1999 or so?</p> <p>11 A. Yes.</p> <p>12 Q. What did you do after that?</p> <p>13 A. I went to the Norfolk County 14 Engineering Department and I was the county 15 engineer.</p> <p>16 Q. For how long?</p> <p>17 A. Eleven months.</p> <p>18 Q. And after that?</p> <p>19 A. Then I went to D. Clifford 20 Construction and I was the general manager of 21 the construction firm.</p> <p>22 Q. For how long?</p> <p>23 A. That was until October '99.</p> <p>24 Q. Okay. What happened after that?</p>
<p style="text-align: right;">11</p> <p>1 A. For the first year I worked as a 2 greens keeper at a golf course, and then in 3 1983, my first real engineering job was with the 4 Town of Walpole engineering department.</p> <p>5 Q. Okay. What were your duties for 6 the Town of Walpole?</p> <p>7 A. In the engineering department, we 8 would inspect construction projects, 9 developments, review plans, do engineering 10 design.</p> <p>11 Q. What was your title?</p> <p>12 A. It was initially civil engineer and 13 then eventually assistant town engineer.</p> <p>14 Q. How long did you work for the Town 15 of Walpole?</p> <p>16 A. Five years.</p> <p>17 Q. Where did you go after that?</p> <p>18 A. To a private firm in Cambridge, SEA 19 Consultants.</p> <p>20 Q. How long did you work there?</p> <p>21 A. Eighteen months.</p> <p>22 Q. What did you do for them?</p> <p>23 A. I was a design engineer on sewer 24 projects.</p>	<p style="text-align: right;">13</p> <p>1 A. In 1999, October, I was appointed 2 town engineer for the Town of Norwood.</p> <p>3 Q. Okay. And have you served in that 4 capacity ever since?</p> <p>5 A. Yes, I have.</p> <p>6 Q. When were you appointed first to 7 the Norwood Airport Commission?</p> <p>8 A. I don't recall if it was 2000 or 9 2001, but around that time frame.</p> <p>10 Q. Had you had any prior aviation 11 experience?</p> <p>12 A. None.</p> <p>13 Q. What did you do to familiarize 14 yourself with the particular requirements of 15 being on the Commission?</p> <p>16 A. One of the commissioners kept 17 asking me to come on board, and initially I was 18 not interested, but when they showed all the 19 different upcoming construction projects and 20 they felt that having me on there would be a 21 plus, I decided to join the Commission.</p> <p>22 Q. And what did you do to familiarize 23 yourself with the particular issues associated 24 with being a commissioner of an airport?</p>

<p style="text-align: right;">14</p> <p>1 A. You would read the standards, try 2 to learn all the acronyms that are associated 3 with an airport, which can take some time. 4 There are so many, everything has an acronym. 5 But just the basics, the minimum standards, try 6 to read some documents, be it a publication 7 about airports. 8 Q. So when, approximately -- I'm 9 sorry, did you say you joined the Airport 10 Commission -- you said you were a town engineer 11 since 2000, correct? 12 A. Town engineer since 1999. 13 Q. Okay. And airport commissioner 14 since? 15 A. 2000 or 2001. I don't recall the 16 exact appointment date. 17 Q. So for quite some time? 18 A. Yes. 19 Q. All right. So you mentioned that 20 you studied the regulations and other documents 21 in familiarizing yourself with what was 22 necessary to be a commissioner. So I'm just 23 going to show you a document that has been 24 marked as Exhibit 2 to the LeBlanc deposition.</p>	<p style="text-align: right;">16</p> <p>1 A. I am. 2 Q. And does the Commission regularly 3 utilize the Norwood Airport minimum standards in 4 the performance of its duties and functions at 5 the airport? 6 A. The question is as the Commission? 7 Q. Yes, does the Commission, is the 8 question? 9 THE WITNESS: May I say we do, 10 now that I've been told? 11 MR. SIMMS: Well, you can 12 answer on behalf of the Commission if the 13 answer is yes or no. If the Commission -- 14 you've been a member for a long time. If, 15 in your monthly meetings, there's 16 something the Commission as a body 17 regularly refers to, answer yes or no. 18 That you can answer. 19 A. Yes. 20 Q. And how long have you been chairman 21 of the Commission? 22 A. I really don't know. I forget the 23 last time I was made chairman. 24 Q. But you're chairman currently?</p>
<p style="text-align: right;">15</p> <p>1 It appears to be the general regulations for the 2 Norwood Memorial Airport. Have you seen those 3 before? 4 A. I have seen these before. 5 Q. And do you utilize this document 6 regularly in the course of your service as a 7 Norwood Airport commissioner? 8 A. We do. 9 Q. Are you also familiar with that 10 portion of the Norwood Airport regulations that 11 contain Attachment A, minimum standards? I'll 12 just get you that document. 13 (Testimony read) 14 MR. SIMMS: I just want to 15 remind you, Mark, that when you're asked a 16 question by Michael Fee about what you do, 17 you're speaking for you. And when you say 18 we do, that suggests that you're speaking 19 for the whole commission. 20 THE WITNESS: Understood. 21 Q. (By Mr. Fee) Are you also familiar 22 with that portion of the Norwood regulations 23 designated as attachment A, Norwood Airport 24 Minimum Standards?</p>	<p style="text-align: right;">17</p> <p>1 A. I am. 2 Q. Okay. And you can't remember when 3 that appointment occurred? 4 A. I don't recall. 5 Q. Okay. In your role as chairman, do 6 you set the agenda for the NAC meetings? 7 A. Well, Russ Maguire is the airport 8 manager, he sets the agenda and forwards it to 9 me for my approval. And if it's okay, I tell 10 him it looks good, and he posts it. If I see 11 something that should be added, I'll tell him 12 that. 13 Q. Does he confer with anybody else in 14 connection with the preparation of an agenda for 15 a Norwood Airport Commission meeting? 16 A. I don't believe so. 17 Q. So the -- we talked about the 18 LeBlanc Exhibit 2, which is the general 19 regulations as well as the minimum standards. 20 Do you consider this document to be binding on 21 the actions of the Commission? 22 A. It's one of the documents, yes. 23 Q. I'm also going to show you, then, 24 Exhibit 3, which is an FAA Airport Assurances</p>

<p style="text-align: right;">18</p> <p>1 that was marked as Exhibit 3 to the LeBlanc 2 deposition. Have you seen this document before? 3 A. I have seen this. 4 Q. And is this another document that 5 the Commission regularly uses in the performance 6 of its functions at the Norwood Airport? 7 A. It is. 8 Q. And do you consider this to be 9 binding on the Commission? 10 A. I do. 11 Q. And I'm going to show you a 12 document that was marked as Exhibit 16. It 13 appears to be a Grant Assurances from MassDOT. 14 Are you familiar with this document? 15 A. I am. 16 Q. Does the Commission regularly use 17 Exhibit 16, the MassDOT Grant Assurances, in the 18 performance of its functions at the Norwood 19 Memorial Airport? 20 A. Yes. 21 Q. Do you consider this document to be 22 binding on the Commission? 23 A. Yes. 24 Q. Are there any other documents,</p>	<p style="text-align: right;">20</p> <p>1 actions could be taken in the future, be it a 2 building, development, recommendations on -- 3 that would help guide the Commission to keep the 4 airport safe and efficient. 5 Q. Okay. So is it fair to say that 6 the master plan provides guidance, but not 7 necessarily binding rules that govern operations 8 at the airport? 9 A. That's correct, it's not binding. 10 Q. Okay. Now, were you on the 11 Commission in 2008? 12 A. Yes, I was. 13 Q. And are you familiar with the Part 14 16 Complaint filed by Boston Air Charters? 15 A. I am. 16 Q. And just to refresh your 17 recollection, if necessary, I'm going to show 18 you a document that has been marked as Exhibit 4 19 that appears to be an FAA Determination, dated 20 April 11, 2008. And I'm not going to ask you to 21 read this, but just in case you need to be 22 refreshed regarding the details of this, feel 23 free to take a look at it. Do you recall the 24 substance of BAC's Part 16 Complaint filed in</p>
<p style="text-align: right;">19</p> <p>1 other than the General Regulations, the Grant 2 Assurances from the FAA and the DOT Grant 3 Assurances, that you consider to be binding on 4 the activities of the Airport Commission? 5 A. I would feel any building code 6 requirements, fire code requirements, and 7 obviously, the different FAA side of the grant 8 assurances, they have rules and regulations. 9 Q. Now, are you also familiar with the 10 master plan of the Norwood Airport, and I'm 11 going to show you a document that has been 12 marked as Exhibits 93 and 94. It's a large 13 document, but I want to know if you're familiar, 14 generally, with its contents? 15 A. Yes, I am familiar. 16 Q. Okay. And do you consider -- tell 17 me what, if any, weight the Commission gives to 18 the master plan in making decisions regarding 19 the airport? 20 MR. SIMMS: Objection to the 21 form. You can answer. 22 A. The master plan is a plan that 23 details what could happen at the airport. It 24 gives guidance to the Airport Commission on what</p>	<p style="text-align: right;">21</p> <p>1 2008? 2 A. I do. 3 Q. What, in your own words or 4 understanding, was the substance of the BAC's 5 Part 16 Complaint? 6 MR. SIMMS: Beyond the scope. 7 Go ahead. 8 A. So BAC, we leased an area to them. 9 They wanted to put in a fuel farm and they 10 needed power to it. Unfortunately, the abutting 11 land around them was another -- well, was the 12 FBO, I guess, would be a competitor, and BAC did 13 not have access to electricity in this ramp. 14 And under advice of counsel, we really didn't 15 have the ability to tell the other tenant to 16 give them the rights to go over their property 17 to provide power there, to the -- what was 18 called the DC3 ramp. So it was pretty much -- 19 it took two parties to figure that out. BAC 20 eventually filed a complaint, Part 16, and the 21 FAA Regional sided with the Commission. But 22 then it was bumped to Washington where they 23 determined that we were in violation of how we 24 lease property there. The property had been</p>

22

1 leased that way for many years. Essentially, we
2 were -- we, the Commission, the Town, received
3 the brunt of the decision, based on a lease that
4 was signed in 1967 by the Airport Commission and
5 blessed by the FAA. So --

6 Q. It's the so-called strip?

7 A. The 11 hundred foot strip.

8 Q. Right.

9 A. So the FAA ruled us, the airport,
10 in violation of the grant assurances, so we had
11 to do a couple of things, as far as mitigation.
12 We had to obtain an easement, so someone's
13 rights -- not rights, but couldn't be blocked
14 from getting power if they so chose. We had to
15 look at our leases, you know, in the future, we
16 couldn't just arbitrarily give a long-term
17 lease, we had to have some kind of justification
18 for it. And I'm sure there were some other
19 things.

20 Q. Let's talk about the leases.

21 Because, is it also your understanding that as
22 part of that determination and subsequent
23 corrective action plan, that the FAA directed
24 the Airport Commission to refrain from giving

24

1 A. My understanding of your question
2 was long-term leases, this says long-term leases
3 of federally funded ramps. So these are ramps
4 where they park their planes on. And since
5 then, we do not give long-term leases on those
6 properties.

7 Q. Okay. So is the DC3 ramp a
8 federally funded ramp?

9 A. The DC3 ramp was a federally funded
10 ramp.

11 Q. Okay. Is the West Apron a
12 federally funded ramp?

13 A. Yes.

14 Q. What ramps at the airport are not
15 federally funded?

16 A. I'm not sure if the North Ramp is.
17 I'm not sure of that. The Lot A B C, as we call
18 it, is federally funded.

19 Q. So as you sit here today, you're
20 not sure whether the North Ramp is federally
21 funded or not, but can you think of any others
22 that are not federally funded?

23 A. There's a ramp that we call the CAP
24 Apron, and that's not federally funded.

23

1 long-term leases that would have the impact of
2 enabling one party to have a majority -- control
3 over a majority of the lease space at the
4 airport?

5 A. That isn't how I understood it.

6 Q. Okay. Let me show you a document,
7 then. I think it's 35. I'm showing you a
8 document marked as Exhibit 35 to the Wynne
9 deposition, and I will direct your attention to
10 the second bullet, and I'll read upside down
11 here. "The Town has ended or will end the
12 practice of awarding long-term leases of
13 federally funded ramps that have the effect of
14 granting one party control over majority" --
15 "over the majority of the ramps on the airport."
16 Did I read that correctly?

17 A. You did.

18 Q. Okay. So does that refresh your
19 recollection as to that part of the FAA
20 determination that directed the Airport
21 Commission to refrain from entering into
22 long-term leases that would have the impact of
23 giving one party control over a majority of the
24 federally funded ramps at the airport?

25

1 Q. Anything else?

2 A. Not that I can think of.

3 Q. So in showing you Exhibit 35, and
4 directing your attention to that portion that I
5 read aloud, is it your understanding that the
6 Commission was bound to comply with the
7 directions that were contained in Exhibit 35?

8 A. The Commission is bound to end the
9 practice of awarding long-term leases of
10 federally funded ramps.

11 Q. Okay. And is it your opinion that,
12 as a Commission, you have taken steps and
13 actions to comply with that provision?

14 A. Yes.

15 Q. Okay. And can you think of any
16 specific steps or actions that the Commission
17 has taken to comply with that provision?

18 A. We have the two ramps, in
19 particular the DC3, which we put out for a five-
20 year lease term. We have Lot A B C, which we
21 put out for a five-year lease term. The North
22 Apron has been under a long-term lease for many
23 years prior to the FAA action.

24 Q. Anything else?

<p style="text-align: right;">26</p> <p>1 A. No.</p> <p>2 Q. Okay. So the DC3 ramp is currently</p> <p>3 leased by an entity controlled by Mr. Eichleay;</p> <p>4 is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And the A B C ramps are leased by</p> <p>7 FlightLevel; is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. And who leases the North Apron</p> <p>10 currently?</p> <p>11 A. FlightLevel. If I could, not from</p> <p>12 the Town of Norwood, but from BMA, as part of</p> <p>13 the 11 hundred foot strip.</p> <p>14 Q. Right. So all of the ramps that</p> <p>15 you mentioned are federally funded and are all</p> <p>16 under the control of FlightLevel or its</p> <p>17 principals, correct?</p> <p>18 A. That is correct.</p> <p>19 Q. Is there anything else that you can</p> <p>20 think of, as you sit here today, that the</p> <p>21 Commission has done or undertaken in order to</p> <p>22 comply with that provision contained in Exhibit</p> <p>23 35 that I read aloud to you a moment ago?</p> <p>24 MR. SIMMS: Again, note my</p>	<p style="text-align: right;">28</p> <p>1 came on board around 2010.</p> <p>2 Q. Okay. I'm showing you a document</p> <p>3 that has been marked as Exhibit 6, and is that</p> <p>4 consistent with your recollection of the</p> <p>5 first -- and it's a letter dated September 10,</p> <p>6 2010. Is that consistent with your recollection</p> <p>7 as to the first time Boston Executive</p> <p>8 Helicopters expressed interest in leasing</p> <p>9 additional space at the Norwood Airport; is that</p> <p>10 fair to say?</p> <p>11 A. It is.</p> <p>12 Q. Okay. And what, if anything, did</p> <p>13 the Commission do in response to BEH's expressed</p> <p>14 desire to lease additional space at the airport,</p> <p>15 and I'm talking between 2010 and 2014?</p> <p>16 A. We put the DC3 ramp out to bid,</p> <p>17 fully expecting BEH to put a -- to bid on it,</p> <p>18 because we knew that they were interested in it.</p> <p>19 Q. Anything else?</p> <p>20 A. We have offered a number of lease</p> <p>21 areas to BEH to assist their operation.</p> <p>22 Q. We'll get to that in a minute. I'm</p> <p>23 focusing primarily now on the time period</p> <p>24 between 2010 and 2014. So other than putting</p>
<p style="text-align: right;">27</p> <p>1 objection, beyond the scope, the entire</p> <p>2 line, so I won't keep repeating it.</p> <p>3 MR. FEE: Thank you.</p> <p>4 A. I will say on that, when they talk</p> <p>5 about long-term leases, the FAA said if we</p> <p>6 wanted to extend a lease, you know, with</p> <p>7 structures on it, they were in favor of that, as</p> <p>8 long as there was a large investment in it, and</p> <p>9 they would have to amortize the monies over a</p> <p>10 period of longer than five years.</p> <p>11 Q. So the A B C lease is for much</p> <p>12 longer than five years, correct?</p> <p>13 A. No it's not, it's five years.</p> <p>14 Q. All right. So at some point, did</p> <p>15 you become aware of the fact that Boston</p> <p>16 Executive Helicopters was interested in leasing</p> <p>17 additional space at the airport?</p> <p>18 A. They have written letters to either</p> <p>19 Russ Maguire, the airport manager, or the</p> <p>20 Airport Commission directly, expressing</p> <p>21 interest.</p> <p>22 Q. Do you know when they first</p> <p>23 expressed interest?</p> <p>24 A. I would suspect when they first</p>	<p style="text-align: right;">29</p> <p>1 the DC3 ramp out to lease, was there any other</p> <p>2 effort to accommodate BEH's request for</p> <p>3 additional space?</p> <p>4 A. At the time there were no other</p> <p>5 properties available for them.</p> <p>6 Q. Okay. Now, you said the DC3 ramp</p> <p>7 was put out to bid. Is it fair to say that that</p> <p>8 bid had a caveat that activities on the DC3 ramp</p> <p>9 would be limited to non-commercial activities?</p> <p>10 A. I don't recall the language.</p> <p>11 Q. Would the DC3 ramp, when it was put</p> <p>12 out to bid, be authorized to conduct FBO</p> <p>13 operations?</p> <p>14 MR. SIMMS: Objection to the</p> <p>15 form. You can answer.</p> <p>16 A. I don't recall that. I just know</p> <p>17 it was put out to bid in the hope that BEH would</p> <p>18 be able to be the winning bid and have the area</p> <p>19 that they needed.</p> <p>20 Q. But you knew at the time of the DC3</p> <p>21 bid that BEH was seeking to expand its</p> <p>22 commercial operations to encompass fueling,</p> <p>23 correct?</p> <p>24 A. We knew from the very beginning</p>

<p style="text-align: right;">30</p> <p>1 that BEH was going to fuel, and the presentation 2 to the Commission was that they were going to be 3 self-fueling, fueling their own aircraft. 4 Q. Would self-fueling activities be 5 allowed on the DC3 ramp? 6 A. No. 7 Q. What would be allowed on the DC3 8 ramp, what kind of activities? I'll rephrase. 9 In connection with the offer or the 10 bid for the DC3 ramp that you discussed earlier, 11 can you tell me what activities would be 12 authorized for the winning bidder? 13 A. The DC3 ramp is essentially a 14 larger tie-down area for a number of aircraft, 15 and that's what we anticipated the winning 16 bidder would use it for. 17 Q. For storage of aircraft? 18 A. Correct. 19 Q. Okay. And no other activity? 20 A. That I don't recall. 21 MR. SIMMS: If you don't 22 recall, that's your answer. 23 THE WITNESS: I don't recall. 24 Q. Okay.</p>	<p style="text-align: right;">32</p> <p>1 recollection of representations made by Attorney 2 Fox to the Commission in or about February of 3 2014? 4 A. My recollection is the exact 5 wordage would have been part or all of the West 6 Apron. 7 Q. Okay. So it was your understanding 8 at that time that BEH was seeking to lease from 9 the airport, part or the entire West Apron Ramp, 10 is that fair to say? 11 A. Yes. 12 Q. Okay. And it was your 13 understanding that they wanted that entire West 14 Apron Ramp to conduct fueling activities, 15 pursuant to an FBO application, correct? 16 A. Part or the entire West Apron. 17 Q. Okay. Do you know if BEH -- and 18 I'm talking about at this time in February of 19 2014, had a pending FBO application before the 20 Commission? 21 A. That I don't recall. 22 Q. Okay. So what, if anything, did 23 the Commission do in response to Attorney Fox's 24 request that it consider leasing the West Apron</p>
<p style="text-align: right;">31</p> <p>1 (Exhibit 121, Approved Regular Business 2 Meeting Minutes for February 12, 2014, 3 marked for identification) 4 Q. (By Mr. Fee) I'm showing you 5 Exhibit 121 which appears to be the approved 6 regular business meeting minutes for the 7 February 12, 2014 Norwood Airport Commission 8 meeting. Have you seen these before? 9 A. Yes, I have. 10 Q. And directing your attention to 11 the -- approximately halfway down the page where 12 it says Boston Executive Helicopters, Chris 13 Donovan, and then the third bullet point below 14 that, it says Joshua Fox, do you see where I'm 15 at? 16 A. Yes. 17 Q. It says, "Joshua Fox, representing 18 the law firm of Rollins, Rollins & Fox, spoke 19 for BEH regarding the need for adequate fueling 20 space. The West Ramp Apron, if available, is of 21 interest to BEH. If not, where else can he 22 fuel?" Do you see that? 23 A. I do. 24 Q. Is that consistent with your</p>	<p style="text-align: right;">33</p> <p>1 to BEH for FBO activities? 2 A. At some point, the Commission made 3 an offer to BEH to lease somewhere over 6,000 4 square feet, a portion of the West Apron. 5 Q. And that was shortly after February 6 of 2014, was it not? 7 A. Correct. 8 (Exhibit 122, Regular Business Meeting 9 Minutes for March 12, 2014, marked for 10 identification) 11 Q. (By Mr. Fee) Mr. Ryan, I'm showing 12 you a document that has been marked as Exhibit 13 122. It appears to be the regular business 14 meeting for March 12, 2014, meeting of the 15 Norwood Airport Commission. Have you seen these 16 before? 17 A. I have. 18 Q. And I want to direct your attention 19 now to that portion on page 2 that -- under the 20 heading, New Business, where it says "Boston 21 Executive Helicopters full service, fixed based 22 operator interest, Joshua Fox, seeking clarity 23 on BEH's ability to fuel on town controlled and 24 approved helipads, West Apron. Joshua Fox,</p>

<p style="text-align: right;">34</p> <p>1 representing BEH, requests all or part of the 2 West Apron of the airport. The request for the 3 West Ramp will be discussed in the executive 4 session at the end of this meeting." Do you see 5 that? 6 A. I do. 7 Q. And I'm just -- forgive me for 8 being rote about this, but I'm really trying to 9 establish the time line and sequence of the 10 Commission's consideration of the BEH request 11 for additional space on the West Ramp. So you 12 testified a moment ago that in February Mr. Fox 13 had presented to the Commission a request to 14 lease space. And is it fair to say that that 15 request was reiterated at the March meeting? Is 16 that consistent with your recollection? 17 A. It is. 18 Q. Okay. And the Commission voted at 19 that time to go into executive session to 20 consider that request, correct? 21 A. Correct. 22 Q. Why? Did it pertain to a 23 litigation matter? 24 A. No.</p>	<p style="text-align: right;">36</p> <p>1 of a five-year lease, beginning June 1, 2014. 2 This is conditional upon BEH receiving all 3 approvals and permits necessary for operation." 4 Did I read that correctly? 5 A. You did. 6 Q. Now, the conditional permitting 7 approval, did that refer to an FBO request? 8 A. It was my understanding that this 9 was based on receiving all the building 10 department approvals for occupancy, fire 11 department approvals for fueling, and anything 12 else that went along that would justify him 13 getting his FBO. 14 Q. Okay. So the last sentence of the 15 paragraph that I wrote -- that I read to you, 16 "conditional upon BEH receiving all approvals 17 and permits necessary for operation," those are 18 permits and approvals necessary for the 19 operation of an FBO, correct? 20 MR. SIMMS: Asked and 21 answered. Go ahead. 22 MR. FEE: Not really. 23 MR. SIMMS: I thought that's 24 what you just asked, but go ahead.</p>
<p style="text-align: right;">35</p> <p>1 Q. Was it at that time the 2 Commission's practice to go into executive 3 session for the purpose of discussing lease 4 requests? 5 A. Yes. 6 Q. And why was that? 7 A. Because we were talking about 8 negotiations, what we should offer, how much, 9 and we didn't feel it was proper to do that in 10 open session. We wanted to discuss that in 11 closed session, just so our position is amongst 12 ourselves. 13 Q. Okay. Now, I'm going to show you a 14 document marked as Exhibit 8 to the LeBlanc 15 deposition, and the first page is the agenda of 16 the meeting for Wednesday, March 12, 2014. And 17 the second page that I want to draw your 18 attention to is the executive session meeting 19 minutes for March 12. Do you see that? 20 A. I do. 21 Q. It says, halfway down the page, "On 22 a motion made by Mr. Odstrechel and seconded by 23 Mr. Ryan, the Commission voted 3/0 to offer BEH 24 the 83 by 83 area of the West Apron for the term</p>	<p style="text-align: right;">37</p> <p>1 A. I don't recall if his FBO 2 application was in. I know he had interest, but 3 I don't recall if his actual FBO application was 4 in front of the Commission. 5 Q. Okay. In connection with your 6 offer to lease an 83 by 83 foot area of the West 7 Apron, what was your understanding of what 8 activities BEH would undertake on that parcel? 9 MR. SIMMS: Objection. Form. 10 Go ahead. 11 A. It was our understanding -- my 12 understanding that BEH was having great 13 difficulty being able to fuel -- self-fuel on 14 their lease area. It was the Commission, after 15 a meeting with the FAA, that said, why don't we 16 offer a lease area on the West Apron to BEH, to 17 accommodate them fueling aircraft. 18 Q. Their aircraft or other aircraft? 19 A. At the time they were to only 20 service their own aircraft because they weren't 21 an FBO. 22 Q. Okay. Just so I'm clear now, your 23 understanding of this vote on March 12, 2014, 24 was that the lease offer for the West Apron was</p>

<p style="text-align: right;">38</p> <p>1 not in connection with an application for an 2 FBO? 3 A. I don't recall if the FBO 4 application was in at this time. 5 Q. Okay. But it could have been, 6 you're just not sure? 7 MR. SIMMS: Objection to the 8 form. Go ahead. 9 A. It could have been. 10 Q. Okay. So did the Commission use 11 any analysis or criteria to determine whether or 12 not the space being offered was sufficient to 13 conduct an FBO operation? 14 A. We did. 15 Q. Okay. And what criteria did you 16 use in that analysis? 17 A. The -- what seemed to be the 18 biggest detriment to BEH being able to fuel on 19 their lease area was the setback requirements, 20 the TOFA. 21 Q. Okay. 22 A. And after the meeting with the FAA, 23 they were adamant that fueling operations should 24 not happen there. We calculated what that area</p>	<p style="text-align: right;">40</p> <p>1 12, 2014 NAC meeting? 2 A. That's my recollection, yes. 3 Q. And you said that at that meeting 4 someone expressed the opinion, and I believe you 5 used the word adamant, that fueling should not 6 take place? 7 A. Correct. 8 Q. Okay. And who was adamant about 9 fueling not taking place and where were they 10 adamant about that activity not happening? 11 A. The representative from FAA, Cliff 12 Vcirca, was very determined that this area 13 should not be used for fueling. 14 Q. When you say this area, what do you 15 mean? 16 A. The area on BEH's lease area that's 17 within the TOFA. 18 Q. And was this a meeting where -- I'm 19 sorry, did Mr. Vcirca express why he had that 20 opinion? 21 A. Based on FAA rules and regulations. 22 Q. Other than yourself, was anybody 23 present from the Norwood Airport Commission at 24 that meeting?</p>
<p style="text-align: right;">39</p> <p>1 was on their lease area that was within TOFA and 2 tried to get something of similar size. 3 Q. And can I ask you about this 4 meeting with the FAA that you just referenced? 5 When did that occur? 6 A. I don't recall the date. 7 Q. You said -- well, do you recall who 8 was present? 9 A. Mr. Donovan was there; myself, Mark 10 Ryan; chairman, Tom Wynne; Jim Hilliard was 11 there, an attorney representing BEH; and the 12 only certain person I remember from the FAA -- 13 there were others, but Cliff Vcirca. 14 Q. When you said Mr. Hilliard, was it 15 your understanding that he was representing BEH 16 at that time, or was there another BEH attorney 17 present? 18 A. I just don't recall if there was 19 another attorney. 20 Q. And your understanding was that 21 there were multiple persons from the FAA? 22 A. FAA/MassDOT. 23 Q. Okay. And is it your understanding 24 that this meeting took place prior to the March</p>	<p style="text-align: right;">41</p> <p>1 A. I believe Chairman Wynne was there. 2 Q. Mr. Maguire, was he present? 3 A. Yes. 4 Q. Anybody else? 5 A. I don't recall. 6 Q. Was this meeting memorialized in 7 any way, was there any correspondence or e-mails 8 or other documents that memorialized your 9 understanding that the FAA was adamant that no 10 fueling should take place on BEH's lease area? 11 A. I don't recall. 12 Q. Were you involved at all in the 13 approval process associated with the 14 construction of BEH's fuel farm, or underground 15 fuel tanks? 16 A. As an airport Commissioner, we 17 voted to approve the project, yes. 18 Q. Okay. Was it your understanding 19 when you voted to approve the project that the 20 fuel tanks were appropriately located? 21 A. We approved the project, the 22 Norwood Airport Commission, but Russ Maguire 23 sent many letters to Chris congratulating him on 24 the project, looking forward to it, but also</p>

<p style="text-align: right;">42</p> <p>1 highlighting the TOFA and to be -- make sure 2 that they meet all the requirements of FAA and 3 the fire department setbacks, any of those. So 4 we approved the project as far as having the 5 fuel facility, a building, and Mr. Maguire 6 relayed that to BEH also, many times, saying -- 7 reminding him of the TOFA and the restrictions 8 that are there.</p> <p>9 Q. Okay. Well, did Mr. Maguire or the 10 Commission make any analysis, an independent 11 analysis, as to whether or not the location of 12 the tanks was appropriate, given the TOFA and 13 OFA restrictions?</p> <p>14 MR. SIMMS: Beyond the scope. 15 You can answer. 16 A. No, we did not. 17 Q. Why not? 18 MR. SIMMS: Ongoing objection. 19 MR. FEE: Understood. 20 A. We were excited about this project, 21 excited about Chris' and BEH's investment on the 22 airport, and we fully expected that he was 23 taking all the precautions necessary to make his 24 operation workable.</p>	<p style="text-align: right;">44</p> <p>1 MR. SIMMS: Objection. Go 2 ahead. 3 A. I believe Russ Maguire enforces the 4 TOFA and OFA equally throughout the airport, per 5 the regulations. 6 Q. So the 6889 -- I'm sorry, 6899 7 square foot space that was being offered in 8 March of 2014, your understanding is that that 9 was for self-fueling operations and not for the 10 operation of an FBO, is that your understanding, 11 as you sit here today? 12 A. That's my recollection, yes. 13 Q. Okay. At some point, did you 14 become aware that BEH was seeking space on the 15 West Apron to conduct an FBO operation? 16 A. I don't recall. 17 Q. I'm showing you a document that has 18 been marked as Exhibit 112 to the Sheehan 19 deposition, and it appears to be an e-mail at 20 the bottom of the page. Would you take a moment 21 to look at that and familiarize yourself with 22 it, and I'll ask you a question about it. 23 A. Okay. 24 Q. Have you had a chance to look?</p>
<p style="text-align: right;">43</p> <p>1 Q. At the time, and I'm talking now in 2 or around March of 2014, were all of the TOFA 3 and OFA lines at the airport marked? 4 A. I don't recall. 5 Q. Do you recall if prior to March of 6 2014 the TOFA and OFA restrictions were 7 scrupulously enforced by the airport manager? 8 A. Rephrase that, please. 9 Q. Sure. Do you recall if, prior to 10 March of 2014, the TOFA and OFA restrictions 11 were scrupulously enforced by the airport 12 manager? 13 A. I don't recall. 14 Q. At some point, did the airport 15 manager adopt a more aggressive enforcement 16 protocol with respect to TOFA and OFA 17 restrictions at the airport? 18 MR. SIMMS: Objection. Go 19 ahead. 20 A. I don't recall. 21 Q. Is it your understanding that 22 currently the airport manager enforces the TOFA 23 and OFA restrictions at the airport, in 24 accordance with all FAA regulations?</p>	<p style="text-align: right;">45</p> <p>1 A. Yes, I have. 2 Q. Okay. I've shown you a document 3 that was marked as Exhibit 112 to the Sheehan 4 deposition, and it appears to be an e-mail from 5 Mr. Maguire to Mr. Donovan, dated April 30, 6 2014. And it appears to set forth a series of 7 requests for financial information and business 8 plan. Do you see that? 9 A. I do. 10 Q. Does this refresh your -- do you 11 know what this request for financial information 12 or business plan was in connection with? 13 A. It appears it must be for the FBO 14 application. 15 Q. So does the date of this e-mail 16 refresh your recollection as to when a BEH FBO 17 application was first brought before the 18 Commission? 19 A. It does get me closer to when it 20 was first applied for, yes. 21 Q. Okay. So is it fair to say that at 22 some point prior to April 30, an FBO application 23 had been submitted -- strike that. 24 At some point prior to April 30,</p>

<p style="text-align: right;">46</p> <p>1 the Commission was discussing with BEH a 2 potential FBO application, is that fair to say? 3 A. It appears that way. 4 Q. Now, at some point, did you become 5 aware of the fact that BEH had filed a Part 13 6 Complaint with the FAA? 7 A. Yes. 8 Q. Do you know when that was, when you 9 first became aware of that? 10 A. I don't recall. 11 Q. I'm going to show you a document 12 that has been marked as Exhibit 10 to the 13 LeBlanc deposition, which appears to be a letter 14 dated June 5, 2014 to Mr. Maguire from Mary 15 Walsh at the FAA. Does that refresh your 16 recollection as to when you became aware that 17 BEH had filed a Part 13 Complaint with the FAA? 18 A. Yes, it does. 19 Q. Okay. And it's fair to say that it 20 was in or about June of 2014; is that correct? 21 A. That is correct. 22 Q. As a member of the Commission, had 23 you become aware prior to this time, prior to 24 the date of June 5, as set forth in Exhibit 10,</p>	<p style="text-align: right;">48</p> <p>1 recommendation by Mr. Moss, town counsel, 2 Mr. Ryan made a motion, and seconded by Mr. 3 Shaughnessy, for the Commission to vote to 4 adjourn to executive session for the purposes of 5 discussing Part 13 Complaint by Boston Executive 6 Helicopters as well as the West Apron lease." 7 Did I read that correctly? 8 A. You did. 9 Q. Does that refresh your recollection 10 as to whether or not you learned prior to June 11 of the existence of the Part 13 Complaint? 12 A. No, it doesn't. 13 Q. Based on these minutes, do you have 14 any reason to doubt that you were aware of the 15 filing of BEH's Part 13 complaint as early as 16 May 14, 2014? 17 A. That's correct. 18 Q. Okay. And how had you learned of 19 the filing of the Part 13 Complaint, do you 20 know? 21 A. Past practice, when a complaint is 22 made, copies are delivered to the Commission. 23 So we must have received the copy of the Part 13 24 Complaint prior to having the notice sent down</p>
<p style="text-align: right;">47</p> <p>1 of the pendency of the Part 13 Complaint? 2 A. I'm sorry, repeat that? 3 Q. Sorry, a bad question. Do you 4 recall learning prior to June 5 of the filing of 5 a Part 13 Complaint? 6 A. I don't recall. 7 Q. I show you a document that was 8 previously marked as Exhibit 46, and it appears 9 to be the regular meeting minutes for the NAC 10 meeting on May 14, 2014. And I would represent 11 to you that, notwithstanding the fact that it 12 says 13 at the top, the consensus appears to be 13 that this was a typo, and that Exhibit 46 14 actually represents the meeting minutes of 2014 15 -- May 14, 2014. Can you take a look at this 16 and just let me know if you've seen that before? 17 A. Yes. 18 Q. Let's take a step back. I'm going 19 to withdraw everything I just said to you and 20 show you a document that has been marked as 21 Exhibit 113. And this document appears to be 22 the actual meeting minutes for May 14, 2014. I 23 just want to draw your attention to the final 24 page. And it says at the top, "On a</p>	<p style="text-align: right;">49</p> <p>1 by FAA that they received a complaint. 2 Q. Okay. Did you subsequently discuss 3 the filing of the Part 13 Complaint in executive 4 session? 5 A. I don't recall. 6 Q. I show you a document that has been 7 marked as Exhibit 47, and it appears to be the 8 executive session minutes from October 14. If 9 you would take a look at that and tell me if 10 that refreshes your recollection regarding the 11 discussion of the filing of the Part 13 12 Complaint? 13 A. So we did not receive the written 14 complaint yet. 15 Q. But you were aware that a complaint 16 had been filed, correct? 17 A. It appears that way. 18 Q. Okay. And what, if anything, did 19 the Commission decide to do in response to the 20 filing of the Part 13 Complaint in May of 2014? 21 A. Since we had no written complaint, 22 under advice of counsel, we probably refrained 23 from discussing what it actually entailed. 24 Q. Okay. But it's fair to say that at</p>

<p style="text-align: right;">50</p> <p>1 or about this time, there was a pending FBO 2 application from BEH, correct? 3 A. It appears that way. 4 Q. Okay. 5 (Exhibit 123, Regular Business Meeting 6 Minutes for June 11, 2014, marked for 7 identification) 8 Q. (By Mr. Fee) Mr. Ryan, I'm going 9 to show you a document that has been marked as 10 Exhibit 123. It appears to be the Norwood 11 Airport Commission Minutes for June 11, 2014. 12 Just directing your attention to the bottom of 13 the first page? 14 A. Mm-hmm. 15 Q. Under the heading, BEH Lease/FBO 16 Interests, the second sentence, "On a motion 17 made by Mr. Sheehan and seconded by Mr. K. 18 Shaughnessy, the Commission voted six to two by 19 verbal acknowledgment to table the discussion. 20 There was additional discussion between NAC and 21 Mr. Donovan and Mr. Fox regarding the West Apron 22 lease, and all were reminded that the issue had 23 been tabled." Did I read that correctly? 24 A. You did.</p>	<p style="text-align: right;">52</p> <p>1 the FBO request, but any of the requests or 2 claims in the Part 13 Complaint is what we 3 should not make a decision on until the FAA 4 makes some kind of determination. 5 Q. Okay. So with respect to 6 responding to the Part 13 Complaint, do you know 7 what action the Commission took? 8 A. No, I don't recall. 9 Q. Do you recall that Chairman Wynne 10 drafted a letter with assistance of counsel 11 responding to the allegations of the Part 13 12 Complaint? 13 A. I'm sure he did. 14 Q. Do you recall playing any part in 15 that process? 16 A. I don't recall. 17 Q. Was it something that was discussed 18 in regular session or executive session? And 19 I'm referring specifically to the response to 20 the Part 13 Complaint. 21 A. I don't recall if it was discussed 22 in any session. 23 MR. SIMMS: I'm sorry, just 24 give me a second.</p>
<p style="text-align: right;">51</p> <p>1 Q. Do you recall being at this 2 meeting? 3 A. I do. 4 Q. Do you recall the discussion 5 regarding the reasons for tabling discussion of 6 the FBO application of BEH as well as its 7 request for West Apron lease space? 8 A. As far as the Part 13, our 9 understanding was some of the Commission members 10 had not had time to really digest it. Some of 11 them were new, so it takes a lot longer to 12 understand the matter at hand. And I do know 13 any decisions on the Part 13 -- any decisions we 14 make, we needed to be careful not to make a 15 determination on a decision while a Part 13 was 16 going on, because it might contradict what the 17 FAA issues as a decision. 18 Q. Okay. So at that time, it was the 19 feeling of you or the Commission -- strike that. 20 At that time, was it the 21 Commission's position that during the pendency 22 of the Part 13 Complaint, no action could be 23 taken on the pending FBO request? 24 A. I don't believe it had specifically</p>	<p style="text-align: right;">53</p> <p>1 (A recess was taken) 2 MR. FEE: Back on the record. 3 Q. (By Mr. Fee) I'm showing you a 4 document marked as Exhibit 12 to the LeBlanc 5 deposition, and it appears to be a letter dated 6 July 10, 2014 to the FAA from the Norwood 7 Airport Commission. I believe it's signed by 8 Chairman Wynne -- yes, it's signed by Tom Wynne. 9 Have you seen that before? 10 A. I have. 11 Q. And is it your understanding that 12 that was the Commission's response to the FAA 13 following the filing of the Part 13 Complaint by 14 BEH? 15 A. It is our response to the Part 13 16 Complaint, the Norwood Airport Commission. 17 Q. Okay. So we were talking earlier 18 about what actions the Norwood Airport 19 Commission took in response to the filing of the 20 Part 13 Complaint and you said that you felt it 21 would be prudent and careful to not take any 22 action until certain responses had been made to 23 the FAA, I believe was your testimony. Am I 24 recalling that correctly?</p>

<p style="text-align: right;">54</p> <p>1 A. In regards to what was on the 2 complaint, not to make any decisions. 3 Q. Okay. So after the filing by Mr. 4 Wynne of the Commission's response to the Part 5 13 Complaint, was it your understanding that the 6 Commission was then able to consider other 7 pending matters with respect to BEH or was the 8 pendency of the Part 13 Complaint still an 9 impediment to moving forward with considering 10 pending permit applications? 11 A. Not for the pending FBO. 12 Q. Okay. So is it your testimony that 13 after July 10, 2014, the Commission's decision 14 to not consider matters involving BEH was no 15 longer in play, is that fair to say? 16 MR. SIMMS: Objection to the 17 form. 18 Q. If you don't understand, I'll 19 rephrase. 20 A. Yes, rephrase. 21 Q. Sorry. After the filing of the 22 response to the BEH Part 13 Complaint in July of 23 2014, was it then your understanding that the 24 Commission was free to consider other pending</p>	<p style="text-align: right;">56</p> <p>1 can work on it, at least so you can get your 2 business going, and we can work on more area 3 later. Mr. Donovan was adamant that it was all 4 the West Apron. So that offer was refused by 5 BEH. And then literally within days, another 6 tenant, Boston Air Charter, wanted the ability 7 to get some lease area as well, on the West 8 Apron. 9 Q. And what did you do in response to 10 Boston Air Charter's request for space on the 11 West Apron? 12 A. Because now we were concerned that 13 now we're dividing up the West Apron without a 14 real long-term plan, we decided to go ahead with 15 the -- we hired Dubois & King, our airport 16 engineer, to do a study on the West Apron and 17 how to proceed with it, that would be in the 18 best interest of the airport long-term, rather 19 than just start handing out small 7,000 square 20 foot areas. 21 Q. So you wanted to develop a 22 comprehensive plan for the West Apron? 23 A. To study it, correct. 24 Q. After June of 2014?</p>
<p style="text-align: right;">55</p> <p>1 matters with respect to BEH? 2 A. That is my understanding. 3 Q. Okay. And so, you will recall that 4 on June 11, and it's a document that I showed 5 you as Exhibit 123, the Commission voted to 6 table discussion regarding the BEH lease and the 7 BEH FBO interests, correct? 8 A. There are two items here. One is 9 the complaint letter, which some Commission 10 members did not have time to fully digest it, 11 and did not want to discuss it until they had a 12 better read on it. And as far as the lease, 13 that lease was -- has been off the table and had 14 been off the table prior to learning about the 15 Part 13 Complaint. 16 Q. When did the discussion of the 17 lease come off the table? 18 A. I believe it was the April of '14 19 meeting that we made the offer of the 6899 20 square feet to BEH. And at that meeting, BEH, 21 Mr. Donovan, did not accept that offer and said 22 that he wanted the whole West Apron. And after 23 being prompted by Mr. Kevin Shaughnessy a couple 24 of times on why not just take this now and we</p>	<p style="text-align: right;">57</p> <p>1 A. No, I believe that was prior. 2 Q. All right. Just so I understand 3 your testimony, there's this language at the 4 bottom of Exhibit 123 that suggests the 5 Commission took a vote to table discussion 6 regarding BEH, and there's language in there 7 that suggests there was a complaint that had 8 been received, not everybody had an opportunity 9 to read it or discuss it, and then there was a 10 motion that was voted 6 to 2 to table the 11 discussion. And what discussion was that motion 12 tabling? 13 A. The discussion of the actual 14 complaint. 15 Q. Okay. And so, right below there, 16 it says, "There's additional discussion between 17 NAC, Donovan and Fox regarding the West Apron 18 lease and all were reminded that the issue had 19 been tabled." Does that refer to a different 20 issue or is that also referring to the vote 21 regarding tabling discussion of the BEH's Part 22 13 Complaint? 23 A. A separate issue. 24 Q. Okay. But it was your</p>

<p style="text-align: right;">58</p> <p>1 understanding that -- as I understand your 2 testimony, it was your understanding at that 3 time that discussion of the West Apron lease had 4 already been tabled at a previous meeting; is 5 that fair to say. 6 A. That's my recollection. 7 Q. And your understanding was that the 8 offer of the 6889 foot space on the West Apron 9 to BEH had been rescinded prior to the June 11th 10 meeting because BEH did not accept it when it 11 was offered, is that a fair characterization of 12 your testimony? 13 A. That's my recollection. 14 Q. Okay. You said earlier that in 15 that FAA meeting we were discussing that there 16 was concern regarding BEH's fueling operations 17 being inconsistent with TOFA and OFA and fire 18 code, I think you mentioned as well. And I 19 asked you, I think, where -- I'm sorry, are the 20 TOFA and OFA lines written or visible in some 21 fashion at the airport? 22 A. There are lines, but I'm not sure 23 if those are the TOFA lines. 24 Q. Okay. How would one know what the</p>	<p style="text-align: right;">60</p> <p>1 because you said the FAA was adamant about the 2 fact that fueling operations at BEH's hangar 3 would violate TOFA and OFA, and I'm just 4 wondering how they knew that, how did they come 5 to that conclusion, to the best of your 6 understanding? 7 MR. SIMMS: Objection. Go 8 ahead. 9 A. Are you asking, how did FAA know 10 where the TOFA was? 11 Q. Right. Did they tell you how they 12 had determined that TOFA or OFA violations would 13 occur as a result of fueling operations at BEH's 14 hangar? 15 A. Because we had a site plan out 16 there that would help them decide that. 17 Q. And who prepared that site plan? 18 A. BEH's engineer. 19 Q. I'm going back to this FAA meeting 20 that you described earlier. So was BEH's 21 engineer present? 22 A. I don't recall. 23 Q. And your recollection is that a 24 site plan was reviewed at the meeting?</p>
<p style="text-align: right;">59</p> <p>1 limits of a TOFA or OFA are at the airport, how 2 would one determine that? 3 MR. SIMMS: Objection. Go 4 ahead. 5 A. The TOFA is a setback from the 6 center line of the taxiway. 7 Q. Okay. And is that delineated in 8 any fashion, visually? 9 A. I don't know. 10 Q. Are the TOFA regulations written 11 down anywhere? 12 A. I believe they are written down in 13 FAA advisory circulars. 14 Q. Are the OFA regulations written 15 down anywhere? 16 A. I would say they would be under the 17 FAA advisory circulars as well. 18 Q. Okay. And so, in order to 19 determine where the TOFA and OFA lines are at 20 the Norwood Airport, one would need to review 21 specific FAA advisory documents in order to 22 determine that specifically? 23 A. That would be advisable. 24 Q. Well, I'm trying to understand,</p>	<p style="text-align: right;">61</p> <p>1 A. Correct. 2 Q. And your recollection is that that 3 site plan showed fueling operations that were in 4 violation of TOFA or OFA, in the FAA's opinion? 5 A. The plan showed where the tanks 6 were going, where the building was going, and 7 they could determine it from the relationship 8 with the center line of the taxiway. 9 Q. Okay. Just visually; is that 10 right? 11 A. I'm not sure if they had any 12 measuring tapes, but -- 13 Q. Was the hangar built at the time of 14 the meeting? 15 A. The hangar, I believe, was under 16 construction. 17 Q. Do you know if the tanks were under 18 construction as well, at that time? 19 A. I don't recall that. 20 Q. Who called this meeting? 21 A. It was an effort on our part to try 22 to, you know, help BEH in this, because Russ was 23 reminding BEH of the TOFA and what he's heard, 24 and we felt that having the people making that</p>

<p style="text-align: right;">62</p> <p>1 decision, on site, so it wasn't a decision made 2 by the Airport Commission. We were following 3 the guidance from the FAA. 4 Q. Just so I understand your 5 testimony, your recollection of that meeting is 6 that the FAA said that if you put these tanks 7 here, you're going to be in violation of TOFA 8 and OFA? 9 A. No. 10 Q. Okay. What did they say? 11 A. The question was, can they fuel in 12 the TOFA, actually have planes sitting in the 13 TOFA being fueled. 14 Q. Okay. What about trucks? 15 A. I don't recall a discussion on the 16 trucks. 17 Q. So your recollection of what the 18 FAA said at that meeting was that planes could 19 not be in the TOFA or there would be a violation 20 of FAA rules, is that fair to say? 21 A. Yes. 22 Q. Was that ever committed to writing 23 in any way, was there a memo or a letter or 24 correspondence from the FAA confirming that</p>	<p style="text-align: right;">64</p> <p>1 A. Correct. 2 MR. FEE: Let's mark this as 3 Exhibit 124. 4 (Exhibit 124, Regular Business Meeting 5 Minutes for July 30, 2014, marked for 6 identification) 7 Q. (By Mr. Fee) Mr. Ryan, I show you 8 a document which appears to be the regular 9 business meeting minutes of the Norwood Airport 10 Commission, July 30, 2014. Could you take a 11 look at that and let me know if you've seen it 12 before? 13 A. I have seen this document. 14 Q. Okay. Directing your attention now 15 to the last paragraph on the first page, it 16 says, "After a lengthy discussion between Mr. 17 Hues, Mr. Ryan and Mr. K. Shaughnessy regarding 18 the motion to untable the discussion of BEH as a 19 fixed base operator, there was a motion by Mr. 20 Hues to untable the discussion of BEH as a fixed 21 base operator, and seconded by Mr. P. 22 Shaughnessy, and the Commission voted 6 to 2 23 against untabling the discussion." Did I read 24 that correctly?</p>
<p style="text-align: right;">63</p> <p>1 recommendation? 2 A. I don't recall. 3 Q. And you would know if there was 4 one, correct? 5 MR. SIMMS: Objection. Go 6 ahead. 7 A. I just don't recall. 8 Q. Okay. Back to the tabling of 9 discussion in June of 2014, as I understand your 10 testimony, the only thing that was tabled on 11 June 11 was discussion of BEH's Part 13 12 Complaint, and that the lease discussion had 13 been previously rendered moot by BEH's rejection 14 of the 6889 square foot lease, is that fair to 15 say? 16 A. The complaint letter discussion was 17 tabled because some of the Commission members 18 needed more time to understand it. The lease 19 area is reminding that it has been tabled, based 20 on BEH not accepting the offer, and subsequently 21 the Airport Commission engaging an engineer to 22 look at what is the best use of the West Apron. 23 Q. Okay. So the Dubois & King study 24 followed?</p>	<p style="text-align: right;">65</p> <p>1 A. You did. 2 Q. Okay. So is this consistent with 3 your prior testimony regarding the tabling 4 motion voted at the June 11, 2014 meeting? 5 A. It appears that way. 6 Q. So do you want to recharacterize 7 your testimony in any way, because I'm just 8 trying to understand the difference between 9 these two votes. And the vote on July 30 10 appears to reference a prior vote to table 11 discussion of BEH's application as a fixed base 12 operator, and the language is fairly specific. 13 And I'm wondering if that refreshes your 14 recollection as to whether the vote taken on 15 June 11, 2014 was actually a vote to table the 16 discussion of BEH's FBO permit application? 17 A. The June meeting was to give people 18 time to understand what the complaint was. 19 Q. Right. 20 A. I don't recall tabling the BEH FBO 21 discussion. I just don't recall that. 22 Q. Okay. But it's fair to say, is it 23 not, that the language that I've read from the 24 July 30, 2014 meeting appears to suggest that a</p>

<p style="text-align: right;">66</p> <p>1 prior vote had been taken to table the BEH fixed 2 base operator application, correct? 3 MR. SIMMS: Objection to the 4 form. Go ahead. 5 A. Correct. 6 Q. And the vote on July 30, 2014 7 confirmed that prior vote that the Commission 8 was declining to consider BEH's FBO request at 9 that time, correct? 10 A. We weren't declining the FBO. 11 Q. I don't think I said that. 12 Declining to consider BEH's FBO request at that 13 time? 14 A. According to this, we weren't 15 discussing their FBO application. 16 Q. Okay. Why? 17 MR. SIMMS: I'm lost, Mike. 18 Why what, if you don't mind. 19 Q. It's in immediate response to his 20 prior statement, we weren't discussing BEH FBO's 21 request. Why? 22 MR. SIMMS: Well, objection to 23 form. Go ahead. 24 A. I don't recall.</p>	<p style="text-align: right;">68</p> <p>1 A. That's a fair assumption. 2 Q. Okay. The minutes describe a 3 lengthy discussion in which Mr. Hues and Mr. P. 4 Shaughnessy were subsequently outvoted in their 5 effort to untable discussion of BEH's FBO permit 6 application, correct? 7 A. It appears that way. 8 Q. Okay. And my question is this, 9 what, if anything, did the Commission discuss or 10 consider in voting to refrain from untabling 11 discussion of the BEH'S FBO request? 12 A. I don't recall. 13 Q. Did it have anything to do with the 14 Part 13 Complaint? 15 A. No. 16 Q. Can you think of anything that 17 would justify an NAC decision to refrain from 18 considering a party's FBO permit application? 19 MR. SIMMS: Objection to the 20 form. Go ahead. 21 A. I do know that under the FBO 22 application, we were looking for financials and 23 we were getting a lot of pushback on that. And 24 it quite possibly could be that until we had</p>
<p style="text-align: right;">67</p> <p>1 Q. Okay. Well, it says, "After a 2 lengthy discussion between Mr. Hues, Mr. Ryan 3 and Mr. Shaughnessy," do you recall that 4 discussion? 5 A. No, I don't. 6 Q. And it says that the vote was 6 to 7 2. Do you recall whether you -- against 8 untabling the discussion, right? Do you recall 9 how you voted on that? 10 A. No, I don't. 11 Q. Okay. Well, it's fair to say that 12 the motion was made by Mr. Hues and seconded by 13 Mr. K. Shaughnessy, right? 14 A. No. 15 Q. No? 16 A. Mr. P. Shaughnessy. 17 Q. I'm sorry. It's fair to say that 18 the motion to untable was made by Mr. Hues and 19 seconded by Mr. P. Shaughnessy, correct? 20 A. Correct. 21 Q. So is it fair to assume that Mr. 22 Hues and Mr. P. Shaughnessy voted in favor of 23 untabling discussion and everyone else voted 24 against it?</p>	<p style="text-align: right;">69</p> <p>1 agreement on the financials that we weren't 2 going to continue discussing about the FBO until 3 we received the information that we requested. 4 Q. Are you speculating or is that your 5 actual recollection of the discussion that 6 occurred on July 30, 2014? 7 A. I believe the question was, what 8 else could it have been. 9 Q. Right. And I'm wondering if you 10 have a specific recollection of that or if this 11 is just something that may have been the 12 justification? 13 A. That may have been the 14 justification. 15 Q. All right. And is there any 16 discussion -- strike that. 17 MR. FEE: Let's mark this as 18 Exhibit 125. 19 (Exhibit 125, Regular Business Meeting 20 Minutes for August 13, 2014, marked for 21 identification) 22 Q. (By Mr. Fee) Sir, I've shown you a 23 document that has been marked as Exhibit 125. 24 It appears to be the regular business meeting</p>

<p style="text-align: right;">70</p> <p>1 minutes for August 13, 2014. Could you take a 2 look at that and let me know if you've seen that 3 before? 4 A. Yes, I have. 5 Q. So directing your attention to page 6 2, under the heading, Boston Executive 7 Helicopters, the first sentence says, "On a 8 recommendation by Mr. Maguire, he requests that 9 the Commission vote to grant BEH a 2015 10 commercial permit with the proviso that, quote, 11 FBO land lease interest and commercial fuel 12 dispensing, close quote, be removed from the 13 permit." Do you see that? 14 A. I do. 15 Q. Was that actually voted, do you 16 know? 17 A. It doesn't appear that that 18 language, the FBO land lease interest and 19 commercial fuel dispensing be removed. 20 Q. Okay. The next sentence says, 21 "Mr. Sheehan noted that the Commission has 22 requested a study on the FBO and would like to 23 see the results before voting on the 2015 24 permit. Therefore, he recommended extending the</p>	<p style="text-align: right;">72</p> <p>1 the Airport Commission conducted a, quote, study 2 on the FBO? 3 A. I don't recall that at all. 4 Q. Do you read the second sentence in 5 the paragraph that we're discussing to suggest 6 that Mr. Sheehan wanted to have more information 7 about a potential FBO before he voted on the 8 2015 commercial permit extension for BEH? 9 MR. SIMMS: Objection to the 10 form. Go ahead. 11 A. Could you repeat that, please? 12 Q. Sure. I'm trying to understand the 13 language which is in the second sentence of the 14 paragraph that we're discussing, and Mr. Sheehan 15 says, "The Commission has requested a study on 16 the FBO and he would like to see the results 17 before voting on the 2015 permit." My question 18 is this, is he referring to the 2015 commercial 19 permit or the FBO request? 20 MR. SIMMS: Same objection. 21 Go ahead. 22 A. I don't recall. 23 Q. Okay. Now, the result of this 24 discussion was a 7 to zero vote to extend the</p>
<p style="text-align: right;">71</p> <p>1 2014 permit for one month to be re-addressed at 2 the September meeting." Did I read that 3 correctly? 4 A. You did. 5 Q. Now, does that refer to extension 6 of the 2015 -- I'm sorry, 2014 commercial 7 permit, not an FBO, correct? 8 A. It's the commercial permit. 9 Q. Right. Which is for BEH to operate 10 its helicopters at the airport, correct? 11 A. Correct. 12 Q. And so, is it fair to say that at 13 this point in time, there's no discussion going 14 on at the August 13, 2014 meeting regarding the 15 FBO application, is that fair to say? 16 A. That is fair to say. 17 Q. Okay. And, in fact, Mr. Sheehan 18 suggested that a study on the FBO be undertaken; 19 is that correct? 20 A. That's what it says. 21 Q. Do you recall what Mr. Sheehan was 22 talking about? 23 A. I don't recall. 24 Q. Now, do you recall if at any time</p>	<p style="text-align: right;">73</p> <p>1 2014 commercial permit for one month, correct? 2 A. That is correct. 3 Q. And, in fact, the Commission voted 4 subsequently -- at subsequent meetings, to 5 extend the commercial permit on a monthly basis, 6 is that correct? 7 A. I'd have to see follow-up meeting 8 minutes. 9 Q. I'm happy to show you them, but is 10 it your recollection, as you sit here today, 11 that it was a regular practice of the Commission 12 to extend the 2014 commercial permit on a 13 monthly basis for some period of time after 14 August 2014? 15 A. I remember there were multiple 16 extensions for BEH. 17 Q. What was the reason for making the 18 commercial permit extended on a monthly basis 19 instead of for an annual term? 20 A. I believe we're expecting shortly 21 all the required documents for an FBO, and until 22 that FBO -- the request for the FBO was 23 satisfied, we just kept extending the commercial 24 permit.</p>

<p style="text-align: right;">74</p> <p>1 Q. My understanding is that -- and</p> <p>2 correct me if I'm wrong, isn't it true that as</p> <p>3 of July 30, 2014, all discussion regarding the</p> <p>4 FBO had been tabled?</p> <p>5 A. It had.</p> <p>6 Q. Okay. At some point, did it become</p> <p>7 untabled?</p> <p>8 A. I don't recall.</p> <p>9 Q. So it's fair to say, then, that in</p> <p>10 August of 2014 that discussion regarding</p> <p>11 extending BEH's commercial permit on a</p> <p>12 month-to-month basis was undertaken without any</p> <p>13 reference to a pending FBO application; is that</p> <p>14 correct?</p> <p>15 A. My recollection is that BEH was</p> <p>16 required to submit documents and we were waiting</p> <p>17 for those to be submitted to our satisfaction.</p> <p>18 And in the meantime, we just kept extending the</p> <p>19 commercial permit.</p> <p>20 Q. I don't mean to beat a dead horse</p> <p>21 here, but at the July 30, 2014 meeting there's a</p> <p>22 vote to table all discussion of BEH's FBO permit</p> <p>23 application, correct?</p> <p>24 A. That's what it says.</p>	<p style="text-align: right;">76</p> <p>1 Q. I'll withdraw that. I'm trying to</p> <p>2 understand the statement you just made. Are you</p> <p>3 saying that the minutes do not necessarily</p> <p>4 reflect the discussion that takes place at the</p> <p>5 NAC?</p> <p>6 A. No, I did not say that.</p> <p>7 Q. Okay. I'm trying to understand</p> <p>8 what you meant by your last statement. Can you</p> <p>9 rephrase or recharacterize your testimony?</p> <p>10 A. The question was, if there was</p> <p>11 discussion of the financials, shouldn't they be</p> <p>12 in the minutes?</p> <p>13 Q. Yes.</p> <p>14 A. And my response is, if there were</p> <p>15 no financials presented that we're aware of,</p> <p>16 there was no need to keep bringing it up in</p> <p>17 discussions until we received them.</p> <p>18 Q. Okay. I showed you earlier an</p> <p>19 e-mail from Mr. Maguire to Mr. Donovan that</p> <p>20 outlined the financial and business plan</p> <p>21 information that the NAC was requesting as of</p> <p>22 April 30, 2014. Do you recall that e-mail?</p> <p>23 A. I do.</p> <p>24 Q. Okay. And is it your understanding</p>
<p style="text-align: right;">75</p> <p>1 Q. Okay. And do you have any reason</p> <p>2 to doubt the veracity of that vote or the</p> <p>3 accuracy of these minutes?</p> <p>4 A. It's not described as well as it</p> <p>5 should be, I don't think, as far as why we</p> <p>6 tabled the discussion, but I do know that around</p> <p>7 that time, we were waiting for some information</p> <p>8 from BEH and we were getting a lot of pushback.</p> <p>9 Q. Is there any discussion in the</p> <p>10 minutes of July 30, 2014 or August 13, 2014</p> <p>11 regarding the financial requests that you're</p> <p>12 referring to or the refusal of BEH to provide</p> <p>13 such information?</p> <p>14 A. There is no discussion there about</p> <p>15 that.</p> <p>16 Q. Okay. Well, would you think that</p> <p>17 if it was an important matter to the Commission</p> <p>18 that it would be reflected in the minutes?</p> <p>19 A. Not necessarily.</p> <p>20 Q. Well, how would the public know</p> <p>21 what was important or not important to the</p> <p>22 Commission if it's not included in the minutes?</p> <p>23 MR. SIMMS: Objection. You</p> <p>24 can answer.</p>	<p style="text-align: right;">77</p> <p>1 that, at this point in time, July and August of</p> <p>2 2014, that Mr. Maguire's e-mail described the</p> <p>3 universe of documents that the NAC was waiting</p> <p>4 to receive from BEH?</p> <p>5 A. I'd have to look at that again.</p> <p>6 Q. Okay. Give me a second to pull</p> <p>7 that out. I'm showing you Exhibit 112, in order</p> <p>8 to refresh your recollection with respect to my</p> <p>9 prior question, which was, does Mr. Maguire's</p> <p>10 e-mail represent the financial information that</p> <p>11 you believe the NAC was waiting to receive in or</p> <p>12 about July or August of 2014?</p> <p>13 A. It appears, yes, that's what we</p> <p>14 were asking for.</p> <p>15 Q. Okay. So your position is, at this</p> <p>16 time, those documents had yet to be provided and</p> <p>17 that was the reason that you were not -- that</p> <p>18 you had tabled discussion of the FBO request?</p> <p>19 A. I'm not sure of the timing. The</p> <p>20 question was asked, what else could have been</p> <p>21 going on at that period, and I do know there was</p> <p>22 a lot of pushback on the financials. So it</p> <p>23 could have been at that meeting, or maybe not, I</p> <p>24 don't know. It was around those stages of the</p>

<p style="text-align: right;">78</p> <p>1 FBO application.</p> <p>2 Q. Okay. So directing your attention</p> <p>3 to July or August of 2014, you're describing</p> <p>4 pushback from BEH. Is that memorialized</p> <p>5 anywhere in the minutes or correspondence or</p> <p>6 e-mails or is it just your general recollection</p> <p>7 that there had been pushback from BEH at or</p> <p>8 about this time?</p> <p>9 A. I'm not sure if it was this time,</p> <p>10 but somewhere there's documents or discussions</p> <p>11 that what they were providing was not</p> <p>12 sufficient.</p> <p>13 Q. Okay.</p> <p>14 MR. FEE: Let's mark this as</p> <p>15 Exhibit 126.</p> <p>16 (Exhibit 126, Regular Business Meeting</p> <p>17 Minutes for September 10, 2014, marked for</p> <p>18 identification)</p> <p>19 Q. (By Mr. Fee) So I've shown you a</p> <p>20 document marked as Exhibit 126, which appears to</p> <p>21 be the regular business meeting minutes for</p> <p>22 September 10, 2014. Have you seen this before?</p> <p>23 A. Yes, I have.</p> <p>24 Q. Under new business, on page 2,</p>	<p style="text-align: right;">80</p> <p>1 my answer is, around that time, there were</p> <p>2 financials that we were expecting, and there was</p> <p>3 a lot of pushback, and that's one of the</p> <p>4 possibilities why it was tabled.</p> <p>5 Q. Okay. So I'll take the financial</p> <p>6 part out of the question, then. It's your</p> <p>7 understanding that at this point in time,</p> <p>8 August/September, 2014, consideration of BEH's</p> <p>9 FBO request is tabled, correct?</p> <p>10 A. Discussion is tabled, correct.</p> <p>11 Q. Okay. And it's your understanding</p> <p>12 that Mr. Donovan asked permission to address the</p> <p>13 board, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And you did not support the motion</p> <p>16 to allow him to address the board, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Why?</p> <p>19 A. It was not on the agenda. And at</p> <p>20 that time, we had other business going on. And</p> <p>21 if Mr. Donovan or BEH wanted to be on the</p> <p>22 agenda, they had every right to be, if they made</p> <p>23 the request before the meeting. We did not --</p> <p>24 the request was not made for that meeting, and</p>
<p style="text-align: right;">79</p> <p>1 third paragraph, "Mr. Donovan of BEH asked</p> <p>2 permission to speak, granted by Mr. Wynne.</p> <p>3 Mr. Sheehan reminded the Commission that they</p> <p>4 needed to suspend the rules to allow Mr. Donovan</p> <p>5 to speak, as he was not part of the regular</p> <p>6 agenda. Mr. Hutchens made a motion to suspend,</p> <p>7 per the rules, but there was no second." Did I</p> <p>8 read that correctly?</p> <p>9 A. You did.</p> <p>10 Q. And you were present at this</p> <p>11 meeting, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Was it your understanding -- or</p> <p>14 it's my understanding of your testimony that in</p> <p>15 or about this time, the discussion regarding</p> <p>16 BEH's FBO is tabled and that you're waiting for</p> <p>17 financial information -- or your understanding</p> <p>18 is that you're waiting for financial information</p> <p>19 and you weren't going to further consider the</p> <p>20 FBO request until the financial information was</p> <p>21 provided, is that fair to say, regarding your</p> <p>22 testimony?</p> <p>23 A. So the question was asked, for what</p> <p>24 other reason was the FBO discussion tabled, and</p>	<p style="text-align: right;">81</p> <p>1 we recommend that he address the Commission at</p> <p>2 the October 14 meeting, get himself on the</p> <p>3 agenda.</p> <p>4 Q. And so, it's fair to say that the</p> <p>5 Commission was strictly adhering to its</p> <p>6 procedural rules at that point, in determining</p> <p>7 not to allow him to address the board, is that</p> <p>8 fair to say?</p> <p>9 MR. SIMMS: Objection. Go</p> <p>10 ahead.</p> <p>11 A. The Commission had a lot of other</p> <p>12 matters to deal with and we felt the proper</p> <p>13 thing to do is to recommend that Mr. Donovan</p> <p>14 make a request to be on the next agenda, the</p> <p>15 October agenda.</p> <p>16 Q. Well, it's fair to say that the</p> <p>17 September 10 meeting was 38 minutes in length,</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. And was it a concern that allowing</p> <p>21 him to address the board without being on the</p> <p>22 agenda would somehow exceed the time limit</p> <p>23 allotted for the meeting, or take way from other</p> <p>24 matters?</p>

<p style="text-align: right;">82</p> <p>1 A. The Commission is made up of 2 volunteers, and at that time, it felt the agenda 3 was sufficient, and BEH was advised that if they 4 want to be on the agenda, to let the Commission 5 or the airport manager know. 6 Q. Is that a common practice for the 7 Commission to refuse to allow persons to speak 8 unless they're on the agenda? 9 A. I don't recall others coming before 10 the Commission without their prior knowledge of 11 the intent of the meeting and what business they 12 wanted to talk about. 13 Q. Can you recall any example during 14 your tenure as a commissioner or as chairman 15 where the Commission has refused to allow 16 someone to speak, simply by virtue of the fact 17 that they're not on the agenda? 18 A. Not specifically. 19 MR. FEE: This is probably a 20 good spot to break. 21 (A lunch recess was taken) 22 MR. FEE: Back on the record. 23 Q. (By Mr. Fee) We ended our 24 discussion with the meeting minutes of September</p>	<p style="text-align: right;">84</p> <p>1 Q. Does that refresh your recollection 2 regarding the fact that the consideration of 3 BEH's FBO permit was tabled in June 2014? 4 A. It says it was tabled in June of 5 2014. 6 Q. Right. Does that refresh your 7 recollection regarding your earlier testimony 8 regarding the fact that the June vote tabled 9 discussion of the Part 13 Complaint, but not to 10 your recollection of the FBO request? 11 A. June 14, my recollection was we 12 tabled discussion of the Part 13 Complaint. 13 Q. Right. Now, the language that I've 14 just read to you which is a quote of you at the 15 October 8, 2014 meeting states that BEH's FBO 16 permit had been tabled in June. Do you see 17 that? 18 A. I do. 19 Q. Okay. So does that refresh your 20 recollection as to whether or not the June vote 21 to table actually included consideration of the 22 FBO permit? 23 A. I don't recall us, quite honestly, 24 delaying the FBO. Discussions were tabled and I</p>
<p style="text-align: right;">83</p> <p>1 10, 2014, and -- 2 (Exhibit 127, Regular Business Meeting 3 Minutes for October 8, 2014, marked for 4 identification) 5 Q. (By Mr. Fee) I'm showing you a 6 document that has been marked as Exhibit 127, 7 which appears to be the minutes of the meeting 8 on October 8, 2014. Have you seen those before? 9 A. Yes, I have. 10 Q. Drawing your attention now to page 11 2, under the heading, Old Business, the entry 12 states, quote, Fiscal year 2014 commercial 13 permit Boston Executive Helicopters provisional 14 extension. After motion by P. Shaughnessy and 15 seconded by Mr. Odstrchel, but prior to a full 16 vote, Mr. Hues asked if the permit was delayed. 17 Mr. Ryan stated, quote, no, BEH submitted an FBO 18 permit, and since the issue was tabled in June, 19 this extension gives BEH permission to operate 20 while the FBO permit has been tabled, close 21 quote. And then it talks about a 7 to zero vote 22 to extend the commercial permit. Did I read 23 that correctly? 24 A. You did.</p>	<p style="text-align: right;">85</p> <p>1 just can't recall for what reason. 2 Q. Okay. But is it fair to assume 3 that this language contained in the meeting 4 minutes of October 8, 2014, appears to indicate 5 that the Commission's consideration of BEH's FBO 6 permit is still tabled? 7 MR. SIMMS: Objection to the 8 form. Go ahead. 9 A. The discussions on the FBO permit 10 appears are tabled. 11 Q. Well, it says the FBO permit has 12 been tabled, do you see that? 13 A. I do. 14 Q. So is that inaccurate? 15 MR. SIMMS: Objection. Go 16 ahead. 17 A. I believe it was meant to say the 18 discussions of the FBO permit. 19 Q. What is the difference between the 20 FBO permit has been tabled and discussions of 21 the FBO permit have been tabled, in your mind? 22 A. Tabling it is just flat out saying 23 we're not going to discuss it anymore or act on 24 it. In my opinion, the discussion required more</p>

<p style="text-align: right;">86</p> <p>1 information for it to go any further, and until 2 we obtained that information, we did not discuss 3 it any further. 4 Q. So in October of 2014, is it your 5 understanding that discussion of the FBO permit 6 is tabled? 7 A. Discussion had been tabled, yes. 8 Q. And without further discussion, 9 there would be no vote regarding an FBO permit, 10 correct? 11 A. There could not be another vote on 12 the FBO permit until all documents were in hand. 13 Q. Well, it doesn't say anything about 14 what's missing or waiting for financial 15 documents or any of that information that you've 16 alluded to. It just says it's tabled, right? 17 A. It doesn't go into depth on what 18 we're still waiting on. 19 Q. And between June and October of 20 2014, is there any writing anywhere that 21 memorializes what the Commission is waiting for, 22 in terms of financial documents, what pushback 23 it perceives to be getting from BEH regarding 24 provision of those financial documents or</p>	<p style="text-align: right;">88</p> <p>1 this notion that you were waiting on financial 2 disclosure, and just want to make sure that it's 3 still your recollection that between June and 4 October, this time frame that the discussion of 5 the BEH permit application was tabled, that it 6 was really due to the absence of financial 7 disclosure? 8 A. I'm not positive it was all that, 9 or if it was that at all, but I was asked what 10 other reason and that -- it was either that or 11 advice of counsel who was always there advising 12 us on how to proceed. But it's either the 13 advice of counsel or waiting on that information 14 that could have been the reason for the tabling. 15 Q. One or the other. Okay. Did town 16 counsel advise you to table discussion of the 17 BEH permit application while the Part 13 18 Complaint was pending? 19 MR. SIMMS: That would be 20 privileged. 21 MR. FEE: Are you going to 22 instruct him not to answer? I think it 23 goes right to the heart of the issue. 24 MR. SIMMS: It may, but it's</p>
<p style="text-align: right;">87</p> <p>1 anything that would support your recollection 2 here today that between June and October the 3 Commission was simply waiting on financial 4 information? 5 A. I'm sure there's paperwork. I do 6 know BEH was very protective of their 7 financials. If they submitted financials, they 8 were concerned that it would be available to 9 others, and they were extremely reluctant to 10 giving us any of that. 11 Q. Right. I understand that and I 12 don't disagree with you in your assessment of 13 the back-and-forth between the Commission and 14 BEH regarding the provision of financial 15 documents. I'm just trying to make certain that 16 you're clear as to when that pushback occurred. 17 And my understanding of your testimony today is 18 that you think that it occurred between June and 19 October of 2014, but you weren't quite sure, and 20 I want to make sure that my understanding of 21 your testimony is clear. So I've shown you 22 these documents that illustrate the meeting 23 minutes from June to October, I've asked you if 24 there's any other documentation that supports</p>	<p style="text-align: right;">89</p> <p>1 privileged. 2 MR. FEE: Okay. And are you 3 instructing him not to answer? 4 MR. SIMMS: I'm instructing 5 you that that answer would require you to 6 divulge information that is 7 attorney/client privilege. Whether you 8 take my instruction or not, that's up to 9 you. 10 Q. (By Mr. Fee) So just following up 11 on your testimony, you said that it could have 12 been the fact that we were waiting for financial 13 information and it could have been the fact that 14 town counsel advised us to table, and you 15 thought it was one or the other, right? 16 A. That's my recollection. 17 Q. Okay. 18 MR. FEE: He's waived it. 19 Q. So my question now is, did town 20 counsel, in fact, tell you to table discussion 21 of the FBO permit application during the time 22 that the Part 13 Complaint was pending? 23 MR. SIMMS: Objection. 24 MR. FEE: He just opened the</p>

<p style="text-align: right;">90</p> <p>1 door.</p> <p>2 MR. SIMMS: I don't think he</p> <p>3 has waived it in particular because I</p> <p>4 objected way back when, on your first</p> <p>5 question, when you asked, can you think of</p> <p>6 any other reasons for X and Y and went</p> <p>7 back to, I think, the vote not to untable,</p> <p>8 basically. And then you followed up with</p> <p>9 a question after the witness gave his</p> <p>10 answer, are you sure or is that your best</p> <p>11 recollection or are you speculating? So</p> <p>12 now we're at the point of the witness</p> <p>13 giving testimony about something that</p> <p>14 could have happened or not and the advice</p> <p>15 of counsel he may have been given or not</p> <p>16 about something that could have happened</p> <p>17 or not. So it's not just attorney/client.</p> <p>18 MR. FEE: Well, you can object</p> <p>19 to the form, but I'm trying to get clarity</p> <p>20 on his testimony.</p> <p>21 MR. SIMMS: I understand.</p> <p>22 MR. FEE: Where he said, it</p> <p>23 could be that counsel told us, and I just</p> <p>24 want to know if counsel told him or not.</p>	<p style="text-align: right;">92</p> <p>1 some point, I'm not sure where it is in relation</p> <p>2 to this, the updated fueling plan and the</p> <p>3 insurance that -- the spill insurance that would</p> <p>4 be required of an FBO. Those are all parts of</p> <p>5 it. And then later on, when we offered a lease</p> <p>6 to BEH, it also included requirement of a</p> <p>7 personal guarantee. So I'm not sure when they</p> <p>8 all play in together.</p> <p>9 Q. Okay.</p> <p>10 MR. SIMMS: Could we take a</p> <p>11 short break?</p> <p>12 MR. FEE: Sure.</p> <p>13 (A recess was taken)</p> <p>14 MR. FEE: Back on the record.</p> <p>15 (Exhibit 128, Letter from Mr. Maguire to</p> <p>16 Mr. Donovan, dated January 22, 2014,</p> <p>17 marked for identification)</p> <p>18 MR. SIMMS: If you want to</p> <p>19 phrase that question again, and provided</p> <p>20 you agree, which I believe you do, that</p> <p>21 allowing Mr. Ryan to answer that one</p> <p>22 question will not constitute a wholesale</p> <p>23 waiver of any discussions involving</p> <p>24 Brandon Moss or anyone else from Murphy</p>
<p style="text-align: right;">91</p> <p>1 MR. SIMMS: I understand</p> <p>2 that's what you want to know. I don't</p> <p>3 think saying it could have been on the</p> <p>4 advice of counsel opens the door. You</p> <p>5 have a different view. And all I can say,</p> <p>6 Mark, is, to answer that question, you're</p> <p>7 going to have to provide advice you</p> <p>8 received from Brandon Moss, and that's</p> <p>9 covered by the attorney/client privilege,</p> <p>10 in my opinion. So I would advise you not</p> <p>11 to answer on that basis, but that's up to</p> <p>12 you.</p> <p>13 A. I'm going to follow advice of</p> <p>14 counsel.</p> <p>15 Q. Other than potentially waiting for</p> <p>16 financial information or potentially being</p> <p>17 advised by counsel, is there any other reason</p> <p>18 that the Commission would have tabled discussion</p> <p>19 of BEH's FBO permit between June of 2014 and</p> <p>20 October of 2014?</p> <p>21 A. Not -- this has been a long</p> <p>22 process, seven years' worth of dates, so the</p> <p>23 dates are not always clear, but I know we've</p> <p>24 been waiting on the financials for the FBO. At</p>	<p style="text-align: right;">93</p> <p>1 Hesse and the Airport Commission, I will</p> <p>2 allow him to answer that one question.</p> <p>3 MR. FEE: Okay, fair enough.</p> <p>4 Q. (By Mr. Fee) So I believe the</p> <p>5 question was, did town counsel advise you, in</p> <p>6 your capacity as chairman of the Norwood Airport</p> <p>7 Commission, to table discussion of BEH's FBO</p> <p>8 permit application during the pendency of the</p> <p>9 Part 13 Complaint?</p> <p>10 A. I don't recall that.</p> <p>11 MR. FEE: Off the record.</p> <p>12 (Off-record conference)</p> <p>13 MR. FEE: Back on the record.</p> <p>14 Q. (By Mr. Fee) Exhibit 128 appears</p> <p>15 to be a letter dated January 22, 2014 from Mr.</p> <p>16 Maguire to Mr. Donovan?</p> <p>17 A. Mm-hmm.</p> <p>18 Q. Have you seen this before?</p> <p>19 A. I just don't recall.</p> <p>20 Q. Well, do you have any reason to</p> <p>21 doubt that Mr. Maguire sent Mr. Donovan a letter</p> <p>22 on January 22, 2014 outlining various matters</p> <p>23 regarding BEH's FBO request?</p> <p>24 A. It appears to be something that</p>

<p style="text-align: right;">94</p> <p>1 Russ would send.</p> <p>2 Q. So directing your attention to the</p> <p>3 bottom of page 1 where there's an initial</p> <p>4 bullet -- or the second bullet that says,</p> <p>5 "Regarding your interest in a full service FBO</p> <p>6 commercial permit, as stated in NAC's January 15</p> <p>7 public meeting, a number of years ago, BEH filed</p> <p>8 its initial commercial permit application that</p> <p>9 included a business plan. Given your company's</p> <p>10 interest in growing its operation beyond that,</p> <p>11 which was outlined in the original plan, to a</p> <p>12 full service FBO, the NAC would like you to</p> <p>13 update said plan to support the changing</p> <p>14 interests of your company. Further, Norwood</p> <p>15 Airport minimum standards, and without getting</p> <p>16 into an unnecessary documentation exercise on</p> <p>17 your part, as a suggestion, these updates under</p> <p>18 one cover might include," and then it lists six</p> <p>19 different items; is that fair to say?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So was it your understanding</p> <p>22 that between January of 2014 and October of</p> <p>23 2014, the items listed in Exhibit 128 describe</p> <p>24 the universe of financial information that the</p>	<p style="text-align: right;">96</p> <p>1 professionally on what would be prudent to ask</p> <p>2 for.</p> <p>3 Q. Are you referring to Mr. Sheehan?</p> <p>4 A. Yes, I am.</p> <p>5 Q. And Mr. Sheehan's request that the</p> <p>6 applicant provide a variety of different</p> <p>7 financial disclosure information, including</p> <p>8 personal financial statements, personal</p> <p>9 guarantees, irrevocable letter of credit, those</p> <p>10 types of documents, correct?</p> <p>11 MR. SIMMS: Objection. Go</p> <p>12 ahead.</p> <p>13 A. I know the finances, he was more in</p> <p>14 tune to that. And with his expertise, we went</p> <p>15 along with -- we supported his request for that</p> <p>16 information, the financial.</p> <p>17 Q. Mr. Sheehan was brand new on the</p> <p>18 Airport Commission at the time that he came in</p> <p>19 and made suggestions about all of that</p> <p>20 additional financial information, right?</p> <p>21 A. He was relatively new, yes.</p> <p>22 Q. Okay. And do you know if he was</p> <p>23 familiar with the minimum standards at the time</p> <p>24 that he was suggesting all of that additional</p>
<p style="text-align: right;">95</p> <p>1 board was seeking?</p> <p>2 A. At that time, that was the</p> <p>3 suggestion of the board, the current board.</p> <p>4 MR. SIMMS: At what time? You</p> <p>5 have to be very careful.</p> <p>6 A. In January of 2014.</p> <p>7 Q. And then you recall that we looked</p> <p>8 earlier at an e-mail from Mr. Maguire to Mr.</p> <p>9 Donovan, dated April 30, 2014, that contained</p> <p>10 additional references to certain financial</p> <p>11 information, do you recall that?</p> <p>12 A. It became a little more specific,</p> <p>13 correct.</p> <p>14 Q. So, are you aware of any documents</p> <p>15 running from NAC to BEH that outlined the</p> <p>16 financial documentation that you were requesting</p> <p>17 in 2014?</p> <p>18 A. A lot of changes went on with the</p> <p>19 Commission in 2014. Members left. One member</p> <p>20 left, and three came on board. And I do know</p> <p>21 that with that change in the Commission, we had</p> <p>22 some professional expertise that requested some</p> <p>23 more information or specific financial</p> <p>24 information, because that person had experience</p>	<p style="text-align: right;">97</p> <p>1 financial disclosure?</p> <p>2 A. I believe he was.</p> <p>3 Q. And was it your position, as</p> <p>4 chairman, that the requests that were being made</p> <p>5 to BEH for personal guarantee, irrevocable</p> <p>6 letter of credit and other financial</p> <p>7 documentation, personal financial statements,</p> <p>8 were within the scope of the minimum standards?</p> <p>9 A. I believe they were within the</p> <p>10 minimum standards as far as doing our due</p> <p>11 diligence for the safe and efficient operation</p> <p>12 of the airport and his expertise helped us along</p> <p>13 with that.</p> <p>14 Q. But you would agree with me, would</p> <p>15 you not, that nowhere in the minimum standards</p> <p>16 or in the grant assurances or in the MassDOT</p> <p>17 grant assurances do the words, personal</p> <p>18 guarantee, irrevocable letter of credit or</p> <p>19 personal financial statements, appear?</p> <p>20 MR. SIMMS: Those words,</p> <p>21 specifically?</p> <p>22 MR. FEE: Correct.</p> <p>23 A. The grant assurances required the</p> <p>24 Airport Commission or Airport Authority to apply</p>

<p style="text-align: right;">98</p> <p>1 equally requirements that are very similar when 2 they're looking for information from a permit 3 holder. 4 Q. Right. 5 A. It doesn't get into specific 6 item-by-item requirements, but it gives the 7 Airport Authority the ability to -- or the 8 authority to ask for those things for the safe 9 and efficient operation of the airport. 10 Q. As long as it's uniformly applied 11 to everyone, correct? 12 A. Correct. 13 Q. Okay. At any time prior to BEH's 14 FBO request, had the board asked any applicant 15 for an FBO to provide personal financial 16 statements, tax returns, irrevocable letters of 17 credit or personal guarantees, at any time in 18 your experience? 19 A. So -- 20 Q. Prior? 21 A. Correct. The only FBO, when I came 22 on board was Eastern Air Center and they sold 23 eventually, in 2007, I believe, to FlightLevel. 24 And FlightLevel had a very detailed financial</p>	<p style="text-align: right;">100</p> <p>1 time was satisfied with that. I do not believe 2 we asked for a personal guarantee at that time. 3 Q. Okay. 4 (Exhibit 129, E-mail from Mr. Maguire to 5 Mr. Donovan, dated July 12, 2013, marked 6 for identification) 7 Q. (By Mr. Fee) We talked earlier 8 about a meeting with the FAA and I wasn't 9 exactly sure when that meeting occurred. And I 10 don't think you were either. But I'm showing 11 you a document that has been marked as Exhibit 12 129, and appears to be an e-mail from Mr. 13 Maguire to Mr. Donovan, dated July 12, 2013. 14 And while I'm not asking you to read it in its 15 entirety, if you could just familiarize yourself 16 with it, so that you can answer this question. 17 Is this a document that memorializes the FAA 18 meeting that you were describing earlier this 19 morning? 20 A. It appears this talks about that 21 meeting that we mentioned earlier. 22 Q. And that was the June 27, 2013 23 meeting? 24 A. I'm not sure of the date.</p>
<p style="text-align: right;">99</p> <p>1 plan and business plan and the Commission voted 2 on that. I and Les LeBlanc were the only 3 commissioners on the board at that time. Mr. 4 Sheehan, Mr. Shaughnessy, Mr. Odstrchel and Mr. 5 Wynne were not on the commission at that time. 6 Commissions change and expectations change. 7 Q. Understood. But the answer -- 8 A. As far as personal guarantee, at 9 that time we were not requiring personal 10 guarantees. 11 Q. Right. So my question was, did 12 BEH -- BEH's FBO permit was the first time that 13 the board requested personal guarantee, 14 irrevocable letter of credit, personal financial 15 statements, tax returns -- I mean, it was the 16 first time that you went to that level of 17 financial disclosure from an FBO applicant, 18 correct? 19 A. No. 20 Q. Okay. Is it your testimony that 21 you required that type of financial disclosure 22 when FlightLevel sought its FBO permit? 23 A. We received some substantial 24 financial information and the Commission at the</p>	<p style="text-align: right;">101</p> <p>1 Q. In the third paragraph, it says, 2 "Specific to the OFA concern following our June 3 27 site meeting with FAA, DOT, BEH, Norwood 4 Fire, Mark Ryan, Jeff Adler, and myself in 5 attendance." Does that refresh your memory? 6 A. It does. I didn't see the date 7 there. 8 Q. Okay. So do you have any reason to 9 believe that this document does not clearly and 10 accurately represent the results of that 11 meeting? 12 MR. SIMMS: Well, to answer 13 that question you need to look at it more 14 carefully. 15 MR. FEE: Absolutely. Take 16 your time. 17 A. As far as the FAA findings, there 18 was evidently some e-mail that was sent out 19 indicating what those findings were. 20 Q. I'm just wondering, with respect to 21 the FAA meeting, do you have any reason to 22 believe that this document does not fairly and 23 accurately summarize the results of that 24 meeting?</p>

<p style="text-align: right;">102</p> <p>1 A. No.</p> <p>2 Q. Now, back to that FlightLevel</p> <p>3 discussion we had a minute ago when I was</p> <p>4 searching for documents, I want to show you</p> <p>5 Exhibits 104 and 105 -- and I know that you were</p> <p>6 on the Commission in 2008 when FlightLevel was</p> <p>7 granted its FBO -- and I just want you to take a</p> <p>8 look at those two documents and tell me if that</p> <p>9 reflects the submissions that were made by</p> <p>10 FlightLevel in connection with its FBO request?</p> <p>11 A. So the question again?</p> <p>12 Q. The question is, to the best of</p> <p>13 your recollection, do Exhibits 104 and 105</p> <p>14 represent the sum and substance of materials</p> <p>15 that were submitted in 2008 by FlightLevel to</p> <p>16 the Commission in support of its FBO request?</p> <p>17 A. My understanding is there are some</p> <p>18 financials that are not part of this.</p> <p>19 Q. I'm sorry, you recall FlightLevel</p> <p>20 submitting additional materials of a financial</p> <p>21 nature?</p> <p>22 A. In my discussions with the airport</p> <p>23 manager, yes.</p> <p>24 Q. In your discussions with the</p>	<p style="text-align: right;">104</p> <p>1 A. Mm-hmm.</p> <p>2 Q. You've taken a few minutes to</p> <p>3 familiarize yourself with that. I just want to</p> <p>4 show you a document that has been marked as</p> <p>5 Exhibit 13, which appears to be the Boston</p> <p>6 Executive Helicopters' Business Plan, dated July</p> <p>7 9, 2014. Have you seen that before?</p> <p>8 A. I've seen his business plan, I'm</p> <p>9 sure this is what we looked at.</p> <p>10 Q. Okay. Is it your recollection that</p> <p>11 this was submitted to the Commission in or about</p> <p>12 July of 2014, in support of BEH's FBO</p> <p>13 application?</p> <p>14 A. Correct.</p> <p>15 Q. Did you consider this at a meeting?</p> <p>16 A. It was considered, yes.</p> <p>17 Q. Okay. Well, you remember that we</p> <p>18 established earlier that between June of 2014</p> <p>19 and October of 2014, discussion regarding the</p> <p>20 FBO permit application was tabled, correct?</p> <p>21 A. Discussion, yes.</p> <p>22 Q. And so, you will note the date of</p> <p>23 Exhibit 13 is July of 2014, so it falls within</p> <p>24 that period of tabling, correct?</p>
<p style="text-align: right;">103</p> <p>1 airport manager in 2008 or recently?</p> <p>2 A. Prior to now, somewhere between '08</p> <p>3 and now, 2017.</p> <p>4 Q. And your recollection is that</p> <p>5 FlightLevel provided some additional financial</p> <p>6 disclosure?</p> <p>7 A. That's my recollection.</p> <p>8 Q. And do you know what that financial</p> <p>9 disclosure was?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you know if it included personal</p> <p>12 financial statements?</p> <p>13 A. I don't recall that.</p> <p>14 Q. Do you know if it included tax</p> <p>15 returns?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you know if it included a</p> <p>18 personal guarantee?</p> <p>19 A. I don't recall.</p> <p>20 Q. Do you know if it included an</p> <p>21 irrevocable letter of credit?</p> <p>22 A. I don't recall.</p> <p>23 Q. So you've had a chance to look at</p> <p>24 105, which is the business plan, right?</p>	<p style="text-align: right;">105</p> <p>1 A. It does.</p> <p>2 Q. Okay. So do you recall if, when</p> <p>3 this document was received by the Commission,</p> <p>4 that it considered it in any way or did it just</p> <p>5 become tabled as part of the overall FBO</p> <p>6 application?</p> <p>7 A. I do know there was an initial</p> <p>8 business plan for this, and I remember</p> <p>9 Mr. Sheehan not being particularly faithful in</p> <p>10 what was submitted, and so another one was</p> <p>11 submitted. I'm not sure if this was the first</p> <p>12 one or second one.</p> <p>13 Q. Well, would you agree that it's</p> <p>14 fairly comprehensive in scope?</p> <p>15 A. It appears to be.</p> <p>16 Q. Would you agree that it's entirely</p> <p>17 more comprehensive in scope than the business</p> <p>18 plan provided by FlightLevel in support of their</p> <p>19 FBO request?</p> <p>20 MR. SIMMS: Objection to the</p> <p>21 form. Go ahead.</p> <p>22 A. Like I said, in '07 or '08,</p> <p>23 whenever FlightLevel came on board, there was a</p> <p>24 different Commission, this Commission had</p>

<p style="text-align: right;">106</p> <p>1 different expectations.</p> <p>2 Q. I understand that, but the answer</p> <p>3 to my question is yes or no?</p> <p>4 MR. SIMMS: Same objection.</p> <p>5 You can answer.</p> <p>6 A. This seems to be more extensive.</p> <p>7 Q. Okay. Do you recall at any time</p> <p>8 the BEH business plan being discussed by the</p> <p>9 Commission in open session?</p> <p>10 A. I don't recall.</p> <p>11 Q. How about in executive session?</p> <p>12 A. I don't recall that either.</p> <p>13 Q. Okay.</p> <p>14 (Exhibit 130, Regular Business Meeting</p> <p>15 Minutes for November 26, 2014, marked for</p> <p>16 identification)</p> <p>17 Q. (By Mr. Fee) I'm showing you a</p> <p>18 document that has been marked as Exhibit 130.</p> <p>19 It appears to be the minutes of the regular</p> <p>20 business meeting of the Norwood Airport</p> <p>21 Commission on November 25, 2014. Have you seen</p> <p>22 them before?</p> <p>23 A. These meeting minutes?</p> <p>24 Q. Yes.</p>	<p style="text-align: right;">108</p> <p>1 to BEH.</p> <p>2 Q. So you're referring to the March</p> <p>3 meeting minutes?</p> <p>4 A. Yes, the March meeting, 2015,</p> <p>5 correct.</p> <p>6 Q. So is it fair to say, then, that</p> <p>7 the March 11 meeting is the first time that the</p> <p>8 minutes reflect discussion of the BEH FBO</p> <p>9 application since June of 2014, is that fair to</p> <p>10 say?</p> <p>11 A. Actually, January of 2015 is a one</p> <p>12 line, discussed BEH FBO application.</p> <p>13 Q. Okay. And what does that -- I'm</p> <p>14 sorry, where are you referring to?</p> <p>15 A. Page 2.</p> <p>16 Q. It says, "On motion by Mr. Sheehan</p> <p>17 and seconded by Mr. Shaughnessy, the Commission</p> <p>18 voted 6 to 0 to approve Boston Executive</p> <p>19 Helicopter's sign," right?</p> <p>20 A. But prior to that, there's another</p> <p>21 statement, "discussed BEH FBO application."</p> <p>22 Q. Okay. Perhaps I misread that. I</p> <p>23 thought that that was a heading and then what</p> <p>24 followed was the substance of that item, am I</p>
<p style="text-align: right;">107</p> <p>1 A. Yes.</p> <p>2 Q. Fair to say that there's no</p> <p>3 discussion in November of 2014 regarding the BEH</p> <p>4 FBO application, correct?</p> <p>5 A. According to these minutes, there</p> <p>6 was not.</p> <p>7 Q. Okay.</p> <p>8 (Exhibit 131, Regular Business Meeting</p> <p>9 Minutes for January, February and March of</p> <p>10 2015, marked for identification)</p> <p>11 Q. (By Mr. Fee) I'm showing you a</p> <p>12 document that has been marked as Exhibit 131.</p> <p>13 It's a compilation, for expediting our</p> <p>14 discussion, and it appears to be minutes of</p> <p>15 meetings, dated January, February and March of</p> <p>16 2015. If you would take a quick look and</p> <p>17 confirm for me my understanding that they</p> <p>18 reflect no discussion at any of these meetings</p> <p>19 regarding BEH's FBO application?</p> <p>20 A. The only thing I see here is</p> <p>21 discussion on the commercial permit extension</p> <p>22 and some correspondence from BEH's attorney</p> <p>23 regarding leases, FBO application, financial</p> <p>24 information, and town counsel writing a letter</p>	<p style="text-align: right;">109</p> <p>1 misreading that?</p> <p>2 A. Quite honestly, I don't know if</p> <p>3 that's separate or tied together.</p> <p>4 Q. Okay. Fair enough. Let's focus on</p> <p>5 the January 2015 meeting for a bit. Were you</p> <p>6 present at that?</p> <p>7 A. I was.</p> <p>8 Q. Do you recall the executive session</p> <p>9 from that meeting?</p> <p>10 A. I do not.</p> <p>11 MR. FEE: Could we have this</p> <p>12 marked as Exhibit 132?</p> <p>13 (Exhibit 132, Executive Session Minutes of</p> <p>14 January 14, 2015, marked for</p> <p>15 identification)</p> <p>16 Q. (By Mr. Fee) I'm showing you the</p> <p>17 minutes from the executive session of January</p> <p>18 14, 2015. We've marked it as Exhibit 132. It</p> <p>19 says, "Discussion regarding offering lease area</p> <p>20 to BEH for operation. And on a motion by Mr.</p> <p>21 Huchens and seconded Mr. P. Shaughnessy, the</p> <p>22 Commission voted 6/zero to offer BEH a lease at</p> <p>23 47 cents per square foot, five year term, annual</p> <p>24 increase of 2 percent." Do you see that?</p>

<p style="text-align: right;">110</p> <p>1 A. I do.</p> <p>2 Q. Do you know what that was for?</p> <p>3 A. At that time, we made another</p> <p>4 offer, a lease offer, to BEH for a little over</p> <p>5 11,000 square feet of ramp area on the West</p> <p>6 Apron. Essentially, we took the front row of</p> <p>7 the West Ramp, split it in two, and the</p> <p>8 Commission offered -- I think it's Lot A, I'm</p> <p>9 going to say, to BEH, with these lease terms.</p> <p>10 And then the second half, the remaining half of</p> <p>11 the front, we put it out to bid, and they were</p> <p>12 allowed to bid on it.</p> <p>13 Q. Okay. And you would agree with me</p> <p>14 that at this time, however, the FBO application</p> <p>15 of BEH was still tabled?</p> <p>16 A. I think at this time we were</p> <p>17 starting to negotiate, or discuss, I should say,</p> <p>18 with BEH some way to get them what they wanted.</p> <p>19 Q. Right. Well, this refers to a</p> <p>20 lease discussion, correct? Do you make a</p> <p>21 distinction between lease discussions and FBO</p> <p>22 application discussions or is it all part of the</p> <p>23 same thing?</p> <p>24 A. They are two separate items, but at</p>	<p style="text-align: right;">112</p> <p>1 not enter into future leases with someone, for</p> <p>2 whatever reason, it's in the interest of the</p> <p>3 airport. And in this case, we wanted to bar</p> <p>4 FlightLevel or its principals, so BEH would have</p> <p>5 a leg up on obtaining the second parcel so they</p> <p>6 would have the whole front row. If we didn't</p> <p>7 put that in, FlightLevel or someone from their</p> <p>8 company would bid on it.</p> <p>9 Q. Wasn't it in the discretion of the</p> <p>10 board to determine whether or not to have a</p> <p>11 bidding process at all?</p> <p>12 A. We could have just given them the</p> <p>13 offer of that half or whole of the West Apron,</p> <p>14 but we still understood there were other</p> <p>15 entities that wanted to lease outside of</p> <p>16 FlightLevel, Boston Air Charter, so we believed</p> <p>17 that this was the fairest way to (a), get BEH</p> <p>18 square footage, almost doubled what we offered</p> <p>19 before, and give them the ability to bid on the</p> <p>20 other one. And it also gave the ability of</p> <p>21 someone else to bid on it, that being Boston Air</p> <p>22 Charter.</p> <p>23 Q. You wanted to create a situation</p> <p>24 where BEH and Boston Air Charter would bid</p>
<p style="text-align: right;">111</p> <p>1 this time, the lease offer and discussions were</p> <p>2 an effort to help him get his FBO and be able to</p> <p>3 function the way he wants to.</p> <p>4 Q. Okay. So this lease discussion, in</p> <p>5 your mind, was a component of the FBO</p> <p>6 application, is that fair to say?</p> <p>7 A. That's my recollection.</p> <p>8 Q. Okay. Now, in the last paragraph,</p> <p>9 it says, "Put out to bid, also discuss with town</p> <p>10 counsel to bar FlightLevel or its principals</p> <p>11 from bidding on this." Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Did you have that discussion with</p> <p>14 town counsel?</p> <p>15 A. We've had that before, yes.</p> <p>16 Q. Why? Why was it important to bar</p> <p>17 FlightLevel or its principals from bidding?</p> <p>18 MR. SIMMS: Again, this is</p> <p>19 attorney/client privilege.</p> <p>20 MR. FEE: No, I'm not asking</p> <p>21 what the attorney said to him, I'm asking</p> <p>22 why it was important for him -- why did he</p> <p>23 ask that question.</p> <p>24 A. So the airport had the ability to</p>	<p style="text-align: right;">113</p> <p>1 competitively on a portion of the West Apron?</p> <p>2 A. Boston Air Charter or anyone else,</p> <p>3 but Boston Air Charter was the only one we knew,</p> <p>4 outside of FlightLevel, that would be</p> <p>5 interested.</p> <p>6 Q. And you wanted to bar FlightLevel</p> <p>7 from any ability to bid on the West Apron?</p> <p>8 A. That was our -- we were going to</p> <p>9 discuss that with town counsel.</p> <p>10 Q. Why was it important to you to</p> <p>11 discuss with town counsel barring FlightLevel</p> <p>12 from participating in that bidding process?</p> <p>13 A. We wanted to make sure we weren't</p> <p>14 in violation of any grant assurances.</p> <p>15 Q. And you thought that allowing</p> <p>16 FlightLevel to bid on portions of the West Ramp</p> <p>17 might expose you to grant assurance violation</p> <p>18 charges, is that fair to say?</p> <p>19 A. No.</p> <p>20 Q. You were concerned that if you</p> <p>21 allowed FlightLevel to bid on a portion of the</p> <p>22 West Ramp, that might implicate your obligations</p> <p>23 under the grant assurances, is that fair to say?</p> <p>24 A. No.</p>

<p style="text-align: right;">114</p> <p>1 Q. Okay. Phrase it in your own words, 2 then, why it was important for you to bar 3 FlightLevel from that bidding process? 4 MR. SIMMS: Asked and 5 answered. Go ahead. 6 A. We gave fifty percent of that front 7 row of the West Apron to BEH. We knew they 8 would be interested in the other half. We also 9 knew there was another entity outside of 10 FlightLevel, Boston Air Charter, would also be 11 interested. We wanted them to be able to bid on 12 it, equal footing, and then we wouldn't be 13 leasing out any more of the West Apron. 14 Q. And what was the total square 15 footage that you believed BEH could lease with 16 respect to this proposal being made in executive 17 session in January of 2015? 18 A. It was somewhere between 11 and 12 19 thousand square feet. 20 Q. And it was your understanding that 21 BEH would use this space for an FBO operation; 22 is that correct? 23 A. Correct. 24 Q. And did you make any inquiry or</p>	<p style="text-align: right;">116</p> <p>1 And in terms of what happens on there would be 2 in the RFP that we put out. 3 Q. You said that you didn't do any 4 analysis of what might be enough space for an 5 effective FBO, right? 6 A. I don't recall doing an analysis, 7 no. 8 Q. Did you have any information 9 available to you that would inform your thinking 10 as to whether or not the space being offered was 11 sufficient to conduct an FBO operation? 12 A. I believe BEH sent some 13 correspondence stating that. 14 Q. Stating that -- 15 A. It was large enough. 16 Q. Okay. I mean, obviously, everybody 17 has their opinion about what is enough, did you 18 do any independent analysis? 19 A. I don't think we did. I don't 20 recall, actually. 21 Q. Okay. Did you become aware at some 22 point that the Part 13 Complaint had been 23 withdrawn? 24 A. Yes.</p>
<p style="text-align: right;">115</p> <p>1 analysis regarding the amount of space that 2 would be necessary for an effective FBO 3 operation at Norwood Airport? 4 A. We did not make an analysis. 5 Q. Did you have any reference point at 6 all for determining whether or not the amount of 7 space being offered was actually meaningful, 8 given the expectations of BEH to conduct FBO 9 operations on that space? 10 MR. SIMMS: Objection to the 11 form. Go ahead. 12 A. The initial lease offer was based 13 on what we felt BEH lost, and land to be able to 14 fuel, that 6899 square feet. So since that was 15 refused, our next offer was not quite double, 16 but quite larger, and with the ability to lease 17 the adjacent property, if he was the winning 18 bidder. And then adjacent to that was the DC3 19 ramp that he would be able to bid on. 20 Q. But the DC3 ramp couldn't be used 21 for commercial activity, right? 22 A. The DC3 ramp was still under 23 control by FlightLevel, but when it becomes due, 24 BEH would have every opportunity to bid on that</p>	<p style="text-align: right;">117</p> <p>1 Q. When was that? 2 A. Sometime in the fall of 2014, I 3 think. 4 Q. I show you a letter marked as 5 Exhibit 26 to the Bishop deposition. It appears 6 to be dated November 4, 2014, from BEH's counsel 7 to the FAA, and it purports to withdraw the Part 8 13 Complaint. Did the NAC receive a copy of 9 this? 10 A. Yes. 11 Q. So you became aware in or about 12 November that BEH had withdrawn its Part 13 13 Complaint? 14 A. Correct. 15 Q. Did that have any impact on the 16 board's willingness to reconsider lease terms or 17 FBO discussion with BEH at that time? Did you 18 see it as a sign of good faith? 19 A. That's why we made the lease offer. 20 We didn't want to make lease offers while the 21 Part 13 Complaint was going on. Either from 22 advice of counsel or just advice from the FAA, 23 don't act on anything until this Part 13 24 Complaint is resolved, once this was made, I</p>

<p style="text-align: right;">118</p> <p>1 know I felt that adding -- or providing another 2 lease offer would get us going again in the 3 right direction. 4 Q. Okay. And was there any discussion 5 after the withdrawal of the Part 13 Complaint, 6 or renewed discussion regarding the FBO permit 7 application? 8 A. I don't recall. I don't recall 9 that. 10 Q. Did the discussion regarding the 11 FBO permit application that had been tabled in 12 June of 2014, become untabled after the Part 13 13 Complaint was withdrawn in November of 2014? 14 A. I know after this was tabled, we 15 started -- made another lease offer to try to 16 get what BEH needed, and the lease offer and the 17 FBO were all something that had to go together 18 for them to be successful, that's why we offered 19 more land. I'm not sure, at this point, where 20 the FBO discussions were, if we were still 21 waiting on information, but the whole intent was 22 for BEH to get their FBO and have land to be 23 successful. 24 MR. FEE: Could we have this</p>	<p style="text-align: right;">120</p> <p>1 reference in regular business meeting minutes to 2 specific financial documentation requested by 3 the NAC. And I'm wondering if that comports 4 with your understanding that this is the first 5 time that it's discussed in open session exactly 6 what financial documents are outstanding from 7 BEH? 8 A. It appears to me that this is for 9 the West Apron lease, this discussion. And as 10 part of the lease offer, we were looking for 11 this information. 12 Q. Right. And you were also looking 13 for it in connection with the FBO's ability to 14 perform its financial obligations to the Town, 15 correct? 16 A. Correct. 17 Q. And my question is, is this the 18 first time, in your understanding, that the 19 minutes reflect a specific reference to 20 documents that -- financial documents that were 21 being sought by NAC in support of either the 22 West Apron lease discussion or BEH's FBO 23 application? 24 A. I don't know if there's any other</p>
<p style="text-align: right;">119</p> <p>1 marked as the next exhibit? 2 (Exhibit 133, Regular Business Meeting 3 Minutes for April 15, 2015, 4 identification) 5 Q. (By Mr. Fee) I'm showing you a 6 document that has been marked as Exhibit 133. 7 It appears to be the minutes of the regular 8 business meeting of the NAC, dated April 15, 9 2015. Were you in attendance? 10 A. Yes, I was. 11 Q. And on page 2, there's a heading 12 that says West Apron Lease, and it appears that 13 on a motion by Mr. Sheehan, seconded by Mr. 14 Odstrchel, the Commission voted 6 to zero to 15 offer an extension until the next meeting, to 16 give BEH more time to provide to NAC, without 17 redaction, three months' business bank 18 statements, balance sheets, income statements, 19 cash flow statements, and confidentiality 20 agreement, to be looked at in executive session. 21 Did I read that correctly? 22 A. Correct. 23 Q. Okay. So this is the first time 24 since the June meeting that I have seen any</p>	<p style="text-align: right;">121</p> <p>1 documents that state it earlier. 2 Q. Well, as I said to you, I've 3 reviewed the minutes, and this is the first time 4 I've seen reference to financial information, 5 and I ask you if that comports with your 6 understanding that this was the first time in 7 open session that the specific items of 8 financial disclosure being sought from BEH were 9 discussed? 10 A. I haven't looked at all the 11 minutes, I just don't know. 12 Q. Okay. But if items of financial 13 disclosure were discussed in prior meetings, 14 they would likely be reflected in the minutes, 15 would they not? 16 A. If they were discussed in the 17 meetings, yes. 18 Q. Well, would they be discussed 19 anywhere else? 20 MR. SIMMS: Objection. 21 A. No. 22 Q. Turning your attention now to a 23 document marked as Exhibit 31 to the Bishop 24 deposition, dated May 8, 2015, have you seen</p>

<p style="text-align: right;">122</p> <p>1 that one before?</p> <p>2 A. There have been so many, quite</p> <p>3 honestly, I don't know if I've seen this.</p> <p>4 Q. Okay. Let me ask you this, were</p> <p>5 you aware that in or about May of 2015 BEH made</p> <p>6 a complaint to the MassDOT regarding alleged</p> <p>7 violation of grant assurances by the airport?</p> <p>8 A. I understand that, yes.</p> <p>9 Q. Okay. And did this -- what, if</p> <p>10 anything, did the Commission do in response to</p> <p>11 this complaint being made to the MassDOT?</p> <p>12 A. We provided a response.</p> <p>13 Q. Okay. And did the filing of the</p> <p>14 complaint with the MassDOT in May of 2015 have</p> <p>15 any impact on the ongoing discussions or</p> <p>16 negotiations between the NAC and BEH regarding</p> <p>17 lease of the West Apron space or BEH's FBO</p> <p>18 application?</p> <p>19 A. No.</p> <p>20 Q. None whatsoever?</p> <p>21 A. No.</p> <p>22 Q. So, in your mind, you saw the</p> <p>23 ongoing litigation matters or adversarial</p> <p>24 proceedings between BEH and the NAC as being</p>	<p style="text-align: right;">124</p> <p>1 Apron, to BEH?</p> <p>2 A. So in June of 2016, a motion was</p> <p>3 made by myself to offer BEH the entire front row</p> <p>4 of the West Apron, 23 thousand plus square feet.</p> <p>5 And there are a number of lease extensions or</p> <p>6 lease -- replying to the lease offer, a number</p> <p>7 of extensions, one point is the end of December,</p> <p>8 '16, and then eventually we -- end of the</p> <p>9 February of '17, and there was no movement on</p> <p>10 our lease offer.</p> <p>11 MR. FEE: Could we have this</p> <p>12 marked as the next exhibit?</p> <p>13 (Exhibit 134, Regular Business Meeting</p> <p>14 Minutes for May 13, 2015, marked for</p> <p>15 identification)</p> <p>16 Q. (By Mr. Fee) I'm showing you a</p> <p>17 document that has been marked as Exhibit 134,</p> <p>18 and it appears to be the regular meeting minutes</p> <p>19 for May 13, 2015. It indicates that you were</p> <p>20 present. I want to draw your attention to old</p> <p>21 business, third paragraph down, "On a motion by</p> <p>22 Mr. Paul Shaughnessy, seconded by Mr. Huchens,</p> <p>23 the Commission voted 3/3 to grant BEH the FBO</p> <p>24 permit it was seeking." Did I read that</p>
<p style="text-align: right;">123</p> <p>1 entirely separate from the consideration of its</p> <p>2 FBO permit?</p> <p>3 A. This is a very public case and we</p> <p>4 were very sure of ourselves to not let things</p> <p>5 like this cloud the waters, and we proceeded,</p> <p>6 under advice of counsel, the way we did in the</p> <p>7 whole proceedings, trying to get him -- BEH, the</p> <p>8 lease area, and the information from them and</p> <p>9 compromising with them.</p> <p>10 Q. So what is your understanding of</p> <p>11 where that stands today?</p> <p>12 A. Clarify.</p> <p>13 Q. You said your goal has always been</p> <p>14 to get BEH an FBO and lease space on the West</p> <p>15 Apron, right?</p> <p>16 A. So the FBO, we've asked for updated</p> <p>17 fueling plan, the insurance requirement, which</p> <p>18 was just met at the last meeting. So the one</p> <p>19 outstanding issue is the fueling plan for the</p> <p>20 FBO.</p> <p>21 Q. Okay. I'm going to come back to</p> <p>22 that in a minute. But where are you with</p> <p>23 respect to willingness to lease portions of the</p> <p>24 West Apron, or larger portions of the West</p>	<p style="text-align: right;">125</p> <p>1 correctly?</p> <p>2 A. Yes.</p> <p>3 Q. Did that vote indicate that it did</p> <p>4 not pass?</p> <p>5 A. Because of a tie, it did not pass.</p> <p>6 Q. Okay. Is this the first time that</p> <p>7 the NAC had taken a vote to authorize -- or to</p> <p>8 issue BEH's FBO permit?</p> <p>9 A. I believe it is.</p> <p>10 Q. Okay.</p> <p>11 MR. FEE: Could we have this</p> <p>12 marked as the next exhibit?</p> <p>13 (Exhibit 135, Regular Business Meeting</p> <p>14 Minutes for June 10, 2015, marked for</p> <p>15 identification)</p> <p>16 Q. (By Mr. Fee) Exhibit 135 appears</p> <p>17 to be the meeting minutes for June 10, 2015,</p> <p>18 also indicating that you were present. And just</p> <p>19 noting in old business at the bottom of page 1,</p> <p>20 it appears to indicate that there was a vote</p> <p>21 taken again to extend BEH's 2014 commercial</p> <p>22 permit, right?</p> <p>23 A. Correct.</p> <p>24 Q. And this is the continued practice</p>

<p style="text-align: right;">126</p> <p>1 of the board to vote on a month-to-month basis 2 to extend the commercial permit of BEH, correct? 3 A. Correct. 4 Q. And it's now a practice that has 5 been ongoing for over a year, correct? 6 A. Quite some time, yes. 7 Q. And what was the basis for the 8 board to continue to review whether or not BEH 9 should be allowed to operate at the airport on a 10 month-to-month basis? 11 A. We were anticipating fulfillment of 12 the FBO requirements and we just made a 13 decision, let's continue the commercial permit 14 until the FBO requirements are met and then we 15 can vote on the FBO. It basically goes from 16 commercial permit to FBO. 17 Q. But what was the drawback to simply 18 issuing the commercial permit and revisiting 19 that issue if and when the FBO requirements were 20 satisfied? 21 A. I don't think there was a drawback 22 at all. 23 Q. Was it an effort to exert pressure 24 or leverage on BEH to get them to comply?</p>	<p style="text-align: right;">128</p> <p>1 Aviation, FlightLevel, Aerial Productions, and a 2 variety of other operators at the airport, 3 correct? 4 A. We did, yes. 5 Q. Okay. And you still treated Boston 6 Executive Helicopters differently by renewing 7 them only on a month-to-month basis, correct? 8 MR. SIMMS: Well -- 9 MR. FEE: He can answer, 10 unless you have an Objection. 11 A. It looks like we -- 12 MR. SIMMS: Just read the 13 document carefully before you answer the 14 question, or any question for that matter, 15 when you're being asked to peruse a 16 document. 17 A. So on this, we're extending the 18 commercial permit, so we must be waiting for all 19 of the required information to get back. 20 Q. Let me ask you this, at the top of 21 the page on Exhibit 135, it says, "New business, 22 fiscal year 2015, commercial permits 23 provisionally approved," and it lists every 24 other airport service provider but Boston</p>
<p style="text-align: right;">127</p> <p>1 A. No. 2 Q. Was there any other reason -- I 3 mean, as I understand your testimony, you're 4 saying that it was somehow convenient for the 5 board to continue this from month-to-month in 6 anticipation of ultimately voting on an FBO 7 request, is that what you're saying? 8 A. And I'm not sure if there is an 9 actual commercial permit application. This just 10 might be an FBO application in front of us and 11 we can't act on that. I'm not sure if there is 12 an actual updated commercial permit application 13 separate from the FBO. So we just kept 14 extending his current commercial permit, which I 15 think was 24014. 16 Q. And how long did that practice 17 continue? 18 A. I'm not sure when. 19 Q. Does it continue to this day? 20 A. I really don't know. I don't 21 recall. 22 Q. Now, on the following page, you 23 approve all of the commercial permits for the 24 year 2015 for Boston Air Charter, Kestrel</p>	<p style="text-align: right;">129</p> <p>1 Executive Helicopters, right? 2 A. That's correct. 3 Q. Okay. Boston Executive Helicopters 4 was the only service provider at the airport 5 that you were continuing on a month-to-month 6 basis, approval of their right to operate at the 7 airport? 8 A. Correct. 9 Q. Okay. Now, down below on this, 10 there's a discussion of various correspondence 11 and then a description, a long description of 12 discussion initiated by Mr. Hutchens regarding 13 financial documents and a two-third membership 14 vote to reconsider, and I found it slightly 15 confusing. Can you read it and explain to me 16 exactly what happened in that portion of the 17 meeting? 18 A. So we've been waiting for some time 19 for the financial information requested of BEH 20 for the FBO and their lease offer, mainly the 21 FBO, and there was reluctance on their part to 22 submit it because it would become public record, 23 and they didn't want the competitor to 24 understand their financial position. So we did</p>

<p style="text-align: right;">130</p> <p>1 have -- we finally compromised and allowed BEH's 2 attorney to provide the information to a third 3 party, a consultant, and we would rely on their 4 review of it, without having us look at it, to 5 determine if they were adequate for a fixed base 6 operator. 7 Q. What is this business about a 8 two-thirds vote to reconsider, what is that 9 talking about? 10 A. Well, we already had taken a vote, 11 I'm not sure what the vote exactly was, but Mr. 12 Shaughnessy, and that would be P. Shaughnessy -- 13 no, Kevin Shaughnessy said that in order to do 14 that, you have two-thirds of a sitting 15 membership to reconsider a vote. 16 Q. Reconsider what vote? It doesn't 17 say, does it? 18 A. No, I don't see which one they're 19 talking about, what vote. 20 Q. Okay. So there's no action taken, 21 is that fair to say, with respect to this 22 discussion point on June 10? 23 A. With regard to Mr. Hutchens? 24 Q. Yes.</p>	<p style="text-align: right;">132</p> <p>1 Q. Right. 2 A. We didn't take the vote. 3 Q. Right. There's a vote to 4 reconsider a prior vote? 5 A. Yes. 6 Q. That failed. There's no 7 reconsideration of the prior vote as a result of 8 the action taken at the July meeting, correct? 9 A. It failed because a reconsidering 10 vote was not taken because the two-thirds 11 membership wasn't there. I don't believe we 12 took a vote at all. 13 Q. Let's read this carefully together. 14 It says, "On a motion by Mr. Paul Shaughnessy," 15 and I'm on Exhibit 136, I believe. Yes, 136, 16 page 2. "On a motion by Mr. Paul Shaughnessy, 17 seconded by Mr. Hutchens, the Commission voted 2 18 to 4," which means it didn't pass? 19 A. Yes. 20 Q. "To reconsider a 6 to zero vote to 21 send out certain financial documents to an 22 independent third party to review?" 23 A. Correct. 24 Q. Does that mean that the board voted</p>
<p style="text-align: right;">131</p> <p>1 A. There was no vote, no. 2 MR. FEE: Could we have this 3 marked as the next exhibit? 4 (Exhibit 136, Regular Business Meeting 5 Minutes for July, 2015, marked for 6 identification) 7 Q. I show you a document that has been 8 marked as Exhibit 136. It appears to be the 9 business meeting minutes for the following 10 month, July, 2015. Down the bottom, on page 2, 11 Reconsideration of BEH FBO financial 12 information, discussion on how to meet rules for 13 reconsideration, and then it says, "On a motion 14 by Mr. Paul Shaughnessy, seconded by 15 Mr. Hutchens, the Commission voted 2 to 4 to 16 reconsider the 6 to zero vote to send out 17 certain financial documents to an independent 18 third party to review." My understanding is 19 that the 2 to 4 vote indicates that the motion 20 to reconsider the prior vote failed, is that 21 fair to say? 22 A. Correct. I don't think we took 23 another vote. We didn't take the vote to 24 reconsider on the last one.</p>	<p style="text-align: right;">133</p> <p>1 at that time to let their prior determination 2 stand, six to nothing, that they will not allow 3 documents to be sent out to an independent third 4 party to review, is that what this vote 5 indicates? 6 A. No. 7 Q. Okay. Tell me what it indicates. 8 A. It indicates our vote was to send 9 out financial documents to an independent third 10 party to review. 11 Q. That's what the six to zero vote 12 was? 13 A. That's what the prior vote was, the 14 original vote. 15 Q. Okay. So you approved sending 16 documents to a third party, Mr. Hutchens wanted 17 you to reconsider that? 18 A. Correct. 19 Q. And the board decided not to 20 reconsider that? 21 A. Correct. 22 Q. Why did Mr. Hutchens want to 23 reconsider that 6/0 vote? 24 A. You'd have to ask him, but the poor</p>

<p style="text-align: right;">134</p> <p>1 fellow is not with us anymore. 2 Q. Understood. 3 A. I do know he did not want this to 4 go on and on and on in the minutes, he didn't 5 want to wait another thirty days. He wanted us 6 to look at the financial documents and make a 7 determination. 8 Q. Okay, now I understand. So as of 9 July 2015, the board has agreed that a third 10 party is going to review the financial 11 information of BEH, correct? 12 A. Correct. 13 Q. And at some point, BEH provided a 14 third party report to the board, correct? 15 A. No, BEH did not. 16 Q. The third party provided it? 17 A. Yes. 18 Q. Do you know who that was? 19 A. I believe it was a company out of 20 Minnesota. I don't know their name. 21 Q. Do you know when you received that 22 third party report? 23 A. I don't. 24 Q. Was it shortly after July of --</p>	<p style="text-align: right;">136</p> <p>1 Minutes for September 9, 2015, marked for 2 identification) 3 Q. (By Mr. Fee) Exhibit 137 appears 4 to be the meeting minutes for September 9, 2015. 5 It indicates that you were present. Turning 6 your attention to page 2, the bullet point, it 7 says, "Discussion about BEH permit application 8 and what is needed. At February's meeting it 9 was voted unanimously what was needed, waiting 10 for the information, Mr. Ryan recommends special 11 meeting on September 30 to talk about letter of 12 credit as an alternative to a personal 13 guarantor. At that meeting, commissioners will 14 have response from third party on everything but 15 the guarantor. Commission will discuss the 16 letter of credit as well as the response from 17 the third party and make a decision." Did I 18 read that correctly? 19 A. Correct. 20 Q. So this indicates that in September 21 you're still waiting for the documentation from 22 the third party evaluator of BEH's financial 23 information, is that fair to say? 24 A. Correct.</p>
<p style="text-align: right;">135</p> <p>1 A. I would think it was in the summer 2 or early fall. 3 Q. Of 2015? 4 A. Yes. 5 Q. And at some point, did you review 6 that third party report? 7 A. What they submitted to us, yes. 8 Q. Okay. And did the board determine 9 that the information contained in the third 10 party report was sufficient? 11 A. I know I was satisfied. 12 Q. Is it fair to say that -- how about 13 the board, was the board satisfied? 14 A. I'm not sure if we took a vote or 15 not. 16 Q. So as of sometime in the summer of 17 2015, you were satisfied that BEH had provided 18 all of the financial documentation necessary to 19 establish their ability to perform as an FBO? 20 A. Correct. 21 Q. Okay. 22 MR. FEE: Could we have this 23 marked as the next exhibit? 24 (Exhibit 137, Regular Business Meeting</p>	<p style="text-align: right;">137</p> <p>1 Q. And at some point thereafter -- I'm 2 sorry, did you receive the financial information 3 prior to September 30? 4 A. I don't recall. 5 Q. Okay. Do you recall the September 6 30 meeting? 7 A. No, I do not. 8 Q. Did you have a special meeting on 9 September 30? 10 A. I do not know that either. 11 Q. Okay. After receiving the 12 financial report from the third party, this 13 language seems to indicate that there was still 14 this outstanding issue regarding providing a 15 personal guarantee or information from the 16 personal guarantor, is that fair to say? 17 A. Yes. 18 Q. And in addition to establishing 19 BEH's financial capabilities to perform as an 20 FBO, what was the basis for requiring additional 21 financial security above and beyond what the 22 third party had certified? 23 MR. SIMMS: Objection. Go 24 ahead.</p>

<p style="text-align: right;">138</p> <p>1 A. The third party was doing the 2 analysis of their ability to operate as an FBO. 3 The personal guarantee was one of the conditions 4 of the lease area. 5 Q. Is it your testimony that requiring 6 a personal guarantee applied only to lease 7 obligations and not to FBO obligations? 8 A. Yes. 9 Q. Would it surprise you if Mr. 10 Maguire had a different opinion? 11 MR. SIMMS: Objection. You 12 can answer. 13 A. I'm not sure what his opinion was 14 or -- but my position was that a personal 15 guarantee applied to a land lease. 16 Q. We talked about this distinction 17 earlier and sort of the fact that the FBO and 18 the lease were hand in hand in some a fashion 19 because you required one to make the other work, 20 correct? 21 A. The FBO could stand on its own, but 22 at one time, there were two items going down the 23 track together. 24 Q. Right.</p>	<p style="text-align: right;">140</p> <p>1 there's no one to come after but the Norwood 2 Airport Commission, we wanted to protect 3 ourselves. And that's something that the 4 expertise of Mr. Sheehan brought and made sense, 5 just to protect the Town of Norwood. 6 Q. Had you ever asked any lessee prior 7 to that time for a personal guarantee? 8 A. No. 9 Q. This was the first time? 10 A. Mr. Sheehan was new on the board 11 and we took his advice. 12 Q. Okay. And he also had no prior 13 aviation experience, correct? 14 A. I'm not sure what his aviation 15 experience is. 16 Q. He also had less -- strike that. 17 You rely on the expertise of 18 Mr. Sheehan in requiring a personal guarantee 19 from BEH in connection with its land lease 20 obligation, correct? 21 A. His description of it seemed sound, 22 and along with advice of counsel, seemed 23 appropriate. 24 Q. Did you seek advice of counsel</p>
<p style="text-align: right;">139</p> <p>1 A. And the letter of credit or 2 personal guarantee at first was specifically for 3 the land lease. 4 Q. You were familiar, were you not, 5 with BEH's offer to pay the entire lease costs 6 in advance, correct? 7 A. Correct. 8 Q. And if that offer was made, what 9 would be the requirement of a personal 10 guarantee? 11 A. So, again, you know, the expertise 12 of Mr. Sheehan who has worked in the commercial 13 real estate business, and my understanding since 14 the beginning of the Great Recession of 2008 15 when many landlords were left with tenants who 16 walked out on them, not paying leases or 17 destroying property or anything, left the 18 landlords wide open for a number of things. So 19 the idea was a personal guarantee on the land 20 lease, going forward, protects the Town of 21 Norwood and the airport in case, not only if 22 they don't pay their rent, but if something 23 happened on that piece of land and all of a 24 sudden, that company goes out of business, and</p>	<p style="text-align: right;">141</p> <p>1 regarding the legality of requiring a personal 2 guarantee from BEH for its land lease 3 obligations? 4 MR. SIMMS: Just answer yes or 5 no or you don't recall. 6 A. I don't recall. 7 Q. Well, you mentioned that advice of 8 counsel was a consideration, right? 9 MR. SIMMS: If you recall. 10 Q. Well, you said it. 11 A. We were advised from the very 12 beginning of -- most of this -- all of this, 13 counsel was present at the vast majority of the 14 meetings, guiding us. 15 Q. Counsel participated actively 16 throughout this process, correct? 17 A. Correct. 18 MR. FEE: Let's take a 19 five-minute break. 20 (A recess was taken) 21 MR. FEE: Back on the record. 22 (Exhibit 138, Regular Business Meeting 23 Minutes for June 15, 2016, marked for 24 identification)</p>

<p style="text-align: right;">142</p> <p>1 Q. (By Mr. Fee) Exhibit 138 appears 2 to be the minutes of the June 15, 2016 Norwood 3 Airport Commission meeting. Turning your 4 attention to Page 3, down the bottom of the 5 page, after some discussion and declarations, 6 there's a motion by you, seconded by Mr. 7 Shaughnessy. I don't know if it's K or P. And 8 the Commission voted by roll call to approve the 9 BEH FBO license on a variety of conditions, 10 correct? 11 A. Yes. 12 Q. One of those conditions was that 13 the parties resolve all legal matters, correct? 14 A. Yes. 15 Q. It's the last one? 16 A. Yes. 17 Q. So my question is this. During the 18 consideration of this motion, what was the 19 discussion regarding including as a condition 20 the fact that the parties needed to resolve all 21 legal matters? 22 A. The reason for this motion was for 23 the Commission and BEH to get together and try 24 to resolve all the legal matters.</p>	<p style="text-align: right;">144</p> <p>1 position that the provision of an irrevocable 2 letter of credit was beyond the scope of what 3 the board could ask from it, under the minimum 4 standards, right? 5 A. For an FBO. 6 Q. For an FBO. No, for anything, that 7 was BEH's position, correct? 8 A. I'm not sure if they said they were 9 against it, but they said they weren't going to 10 give it to us, a personal guarantee. 11 Q. But you're approving the FBO 12 license and you're putting several conditions on 13 that approval, one of which is the providing of 14 an irrevocable letter of credit which you knew 15 was controversial, correct? 16 A. That was part of the lease offer. 17 Q. Whether it was part of the lease 18 offer or part of the FBO, you're making it a 19 condition of granting the FBO, right? 20 A. The letter of credit is for the 21 lease offer. 22 Q. That's not what this says, though, 23 Mr. Ryan. It says that you're approving the BEH 24 FBO on the condition that they provide an</p>
<p style="text-align: right;">143</p> <p>1 Q. Okay. But the motion approves the 2 FBO with four conditions, right? 3 A. Yes. 4 Q. Irrevocable letter of credit, 5 evidence of insurance, updated fueling plan, 6 negotiations for lease of Lots A and B, and the 7 resolution of all legal matters, those are the 8 conditions? 9 A. At the June meeting, yes. 10 Q. At the June meeting. And I 11 understand subsequently that you removed the 12 resolution of all legal matters as a condition? 13 A. Correct. 14 Q. But my question is, at the time of 15 this vote in June of 2016, what was the 16 rationale for including that as a condition of 17 approval of the FBO permit? 18 A. I made the motion and the wording, 19 in my opinion, was for BEH and NAC to get 20 together and try to resolve this whole issue 21 that's been going on for many years. It's 22 pretty much my extending an olive branch, let's 23 get this thing resolved. 24 Q. Okay. But you understood BEH's</p>	<p style="text-align: right;">145</p> <p>1 irrevocable letter of credit, correct? There's 2 no distinction as to whether it's for the FBO or 3 for the lease, right? 4 A. The intent was for the lease. 5 Q. But you would agree with me that it 6 doesn't say that in the vote, right? 7 A. It doesn't break it down. If I 8 could? 9 Q. Sure, sorry, go ahead. 10 A. It says, "Applicant provide the 11 Commission with a letter of credit in the amount 12 and terms acceptable to the Commission." It 13 doesn't say for FBO or the lease area, but the 14 intent was for the lease. 15 Q. And what, if any, discussion did 16 you have at the meeting regarding including 17 resolution of all legal matters as a condition 18 of the approval of the FBO? 19 A. When I made the motion with those 20 four conditions, I ended it saying, essentially, 21 let's resolve all of these legal matters. 22 Q. Did town counsel have any input 23 into the structure or drafting of this motion? 24 A. I don't recall.</p>

<p style="text-align: right;">146</p> <p>1 Q. At some point, the requirement that 2 all legal matters be resolved was stricken, 3 correct? 4 A. Correct. 5 Q. And why was that? 6 A. I think it convoluted the four 7 conditions and the legal matters -- it seemed 8 like the legal matters had to be addressed and 9 resolved, be it withdrawn or whatever -- I think 10 that some people felt that that's what it meant, 11 before an FBO was granted. And I just wanted to 12 clarify that not having that as a condition 13 makes it a lot cleaner what is expected and, 14 basically, advance getting this completed. 15 Q. Well, did you consult town counsel 16 regarding withdrawing or striking that condition 17 from the approval of the FBO? 18 A. I just don't recall. 19 Q. At some point, were you informed -- 20 strike that. 21 I'm going to show you a document 22 marked as Exhibit 18 to the Bishop deposition. 23 If you would take a look at that and let me know 24 if you've seen it before?</p>	<p style="text-align: right;">148</p> <p>1 A. Was BEH's compliance to the TOFA? 2 Q. I'll say it one more time. I'm 3 sorry, but it's a difficult question for me to 4 phrase at the moment. The letter that has been 5 marked as Exhibit 18 is a letter from Eichleay 6 to Mr. Maguire raising concerns regarding BEH's 7 fuel performance and violation of TOFA and OFA, 8 correct? 9 A. Correct. 10 Q. Okay. And at some point, were 11 those concerns satisfied by BEH to the 12 Commission's satisfaction? 13 MR. SIMMS: Objection. You 14 can answer. 15 A. Well, that's why we've asked for a 16 fueling plan, to satisfy that. 17 Q. Let me say it again. Were they -- 18 at some point, were the objections raised by 19 FlightLevel addressed by BEH? 20 MR. SIMMS: Objection. Go 21 ahead. 22 A. With a follow-up letter? 23 Q. Yes. 24 A. I don't recall.</p>
<p style="text-align: right;">147</p> <p>1 A. Yes, I've seen this. 2 Q. And it appears to be a letter to 3 Mr. Maguire from Mr. Eichleay, dated June 20, 4 2013, correct? 5 A. Yes. 6 Q. And it raises assertions regarding 7 TOFA and OFA compliance by BEH, correct? 8 A. Yes. 9 Q. Was this the first time you became 10 aware of some objection on the part of 11 FlightLevel to the proposed fueling operations 12 by BEH? 13 A. I don't recall that this was the 14 first time. I don't recall that. 15 Q. Do you recall, at any point, that 16 the objections regarding BEH's proposed fueling 17 operations with respect to OFA or TOFA 18 violations were satisfied or were explained to 19 the Commission's satisfaction? 20 A. I'm sorry, could you rephrase that? 21 Q. Sure. Sorry. At some point, were 22 the concerns regarding BEH's TOFA and OFA 23 compliance with respect to proposed fueling 24 operations satisfied?</p>	<p style="text-align: right;">149</p> <p>1 MR. FEE: Could we have this 2 marked as the next exhibit? 3 (Exhibit 139, Letter from Mr. Maguire to 4 BEH, dated July 19, 2013, marked for 5 identification) 6 Q. (By Mr. Fee) Exhibit 139 appears 7 to be a letter from Mr. Maguire to BEH, dated 8 July 19, 2013. And the re line is Boston 9 Executive Helicopters' Fuel Farm. And it talks 10 about a July 17, 2013 NAC meeting and numbers 1 11 and 2 talk about FAA's design standards relative 12 to TOFA and the Gate 3 taxi lane and BEH's 13 fueling plans and procedures with respect to 14 TOFA. Do you see that? 15 A. I do. 16 Q. And then the first sentence of the 17 next paragraph says, "Regarding the NAC's first 18 certain, the board considers this matter 19 resolved." Do you see that? 20 A. I do see that. 21 Q. And the next paragraph says, "With 22 respect to the second concern, you've delivered 23 documents that satisfy our concerns regarding 24 TOFA," right?</p>

<p style="text-align: right;">150</p> <p>1 A. That's what it says, yes.</p> <p>2 Q. So from this document, is it fair</p> <p>3 to assume that in July of 2013, BEH has provided</p> <p>4 documents to the NAC sufficient to address</p> <p>5 concerns regarding alleged OFA and TOFA</p> <p>6 violations in connection with their proposed</p> <p>7 fueling plan?</p> <p>8 A. Yes, I would have to look at the</p> <p>9 submittal to see what this is specifically</p> <p>10 saying was addressed.</p> <p>11 Q. Okay.</p> <p>12 MR. FEE: Could we have this</p> <p>13 marked as the next exhibit?</p> <p>14 (Exhibit 140, E-mail from Mr. Donovan to</p> <p>15 Mr. Maguire, dated July 15, 2013, marked</p> <p>16 for identification)</p> <p>17 Q. (By Mr. Fee) Exhibit 140 appears</p> <p>18 to be an e-mail from Mr. Donovan to Mr. Maguire,</p> <p>19 yourself and others, dated July 15, 2013. It</p> <p>20 includes a draft manual for operations, Boston</p> <p>21 Executive Helicopters, do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Would you agree with me that this</p> <p>24 appears to be the documents referenced in the</p>	<p style="text-align: right;">152</p> <p>1 the scope. Go ahead.</p> <p>2 A. If someone could show me where it</p> <p>3 addresses the TOFA concerns in this document,</p> <p>4 does it show the plan addressing that or is it</p> <p>5 just a statement saying we won't fuel in the</p> <p>6 TOFA, if someone can point that to me where this</p> <p>7 document satisfies that.</p> <p>8 Q. Well, my question is a little</p> <p>9 different. I'm asking you if you would agree</p> <p>10 with me that Exhibit 140 represents the</p> <p>11 documents described by Mr. Maguire in Exhibit</p> <p>12 139 where he says, "Your company has delivered</p> <p>13 to the Airport Commission documents that more</p> <p>14 comprehensively address BEH's fueling plans and</p> <p>15 procedures?"</p> <p>16 A. That's what this is.</p> <p>17 Q. That's what I'm asking you, do you</p> <p>18 agree with that or disagree with it?</p> <p>19 A. With how they --</p> <p>20 Q. No, no, no, I'm not asking for the</p> <p>21 substantive material contained in Exhibit 140,</p> <p>22 I'm asking you if you agree or disagree that</p> <p>23 this appears to be the documents referenced in</p> <p>24 the second paragraph of Mr. Maguire's letter,</p>
<p style="text-align: right;">151</p> <p>1 second paragraph, the second sentence of Exhibit</p> <p>2 139?</p> <p>3 A. So the comment is the fueling plans</p> <p>4 and procedures with respect to the TOFA, and I'm</p> <p>5 not sure where that is addressed in here. I</p> <p>6 don't see a plan here showing the TOFA.</p> <p>7 Q. Let me just orient you. The second</p> <p>8 numbered paragraph in 139 says, "BEH's fueling</p> <p>9 plans and procedures with respect to TOFA and</p> <p>10 the abutting property interest of others," and</p> <p>11 then it skips down to the next paragraph, and it</p> <p>12 says, "As for the second concern -- and I</p> <p>13 believe that's referencing back to Paragraph 2,</p> <p>14 numbered Paragraph 2, it says, "At Wednesday's</p> <p>15 meeting, your company delivered to the Airport</p> <p>16 Commission documents that now more</p> <p>17 comprehensively address BEH's fueling plans and</p> <p>18 procedures, especially with respect to the TOFA</p> <p>19 and the abutting property interest of others."</p> <p>20 My question for you is, do you agree or disagree</p> <p>21 that Exhibit 140 represents the document</p> <p>22 described by Mr. Maguire in his letter of July</p> <p>23 19?</p> <p>24 MR. SIMMS: Objection. Beyond</p>	<p style="text-align: right;">153</p> <p>1 which is Exhibit 139, that says your company</p> <p>2 delivered to the Airport Commission documents</p> <p>3 that now comprehensively address BEH's fueling</p> <p>4 plans and procedures?</p> <p>5 A. It says that, yes.</p> <p>6 Q. And do you agree that 140 is that</p> <p>7 document?</p> <p>8 A. I do not see anything in here that</p> <p>9 says it handles the TOFA -- satisfies the TOFA.</p> <p>10 Q. Okay. So the answer is you don't</p> <p>11 know or no?</p> <p>12 MR. SIMMS: Mark, if you're</p> <p>13 not sure, if you don't know, that's your</p> <p>14 answer.</p> <p>15 A. I don't know. This is plan and</p> <p>16 procedures, how to operate, fueling. How it</p> <p>17 satisfies the TOFA, I don't really see how these</p> <p>18 match up.</p> <p>19 Q. Okay. So you're not sure?</p> <p>20 A. I'm not sure.</p> <p>21 Q. You're not prepared to agree with</p> <p>22 my suggestion that Exhibit 140 is actually the</p> <p>23 plans and procedures document that is described</p> <p>24 by Mr. Maguire in Exhibit 139?</p>

<p style="text-align: right;">154</p> <p>1 A. I'm not completely convinced.</p> <p>2 Q. Okay. Fair enough.</p> <p>3 MR. FEE: Could we have this</p> <p>4 marked as the next exhibit?</p> <p>5 (Exhibit 141, E-mail from Mr. Donovan to</p> <p>6 Mr. Maguire, dated July 13, 2013, and</p> <p>7 e-mail from Mr. Donovan to Mr. Maguire and</p> <p>8 Mr. Ryan, dated July 15, 2013, two pages,</p> <p>9 marked for identification)</p> <p>10 Q. (By Mr. Fee) Exhibit 141 is a</p> <p>11 two-page document, and the first appears to be</p> <p>12 an e-mail from Mr. Donovan to Mr. Maguire, dated</p> <p>13 July 13, and the second appears to be an e-mail</p> <p>14 from Mr. Donovan to Mr. Maguire and yourself,</p> <p>15 dated July 15. Have you seen these before?</p> <p>16 A. Yes, I have.</p> <p>17 Q. Okay. And did you receive them on</p> <p>18 or about -- I'm sorry, did you receive the</p> <p>19 second page on or about July 15?</p> <p>20 A. It appears that way, yes.</p> <p>21 Q. Did you receive a copy of the first</p> <p>22 e-mail dated July 13 as well?</p> <p>23 A. I don't recall that.</p> <p>24 Q. So it's your understanding that</p>	<p style="text-align: right;">156</p> <p>1 Norwood." Did I read that correctly?</p> <p>2 A. You did.</p> <p>3 Q. Did you attend a meeting on or</p> <p>4 about May 1 with Tracy Clay and others?</p> <p>5 A. I don't recall that.</p> <p>6 Q. Do you have any recollection of</p> <p>7 meeting with Tracy Clay or anyone at DOT at any</p> <p>8 time?</p> <p>9 A. I don't recall.</p> <p>10 Q. Do you recall discussing the FAA</p> <p>11 Part 16 Complaint with anyone at MassDOT?</p> <p>12 A. I don't recall.</p> <p>13 Q. Either meeting or in person or on</p> <p>14 the phone or by e-mail correspondence, any</p> <p>15 recollection whatsoever of discussing the Part</p> <p>16 16 Complaint with anyone at MassDOT?</p> <p>17 A. No recollection.</p> <p>18 Q. Did Mr. Maguire advise you that he</p> <p>19 had met with MassDOT regarding BEH's FAA Part 16</p> <p>20 Complaint?</p> <p>21 A. I don't know if he did, but I</p> <p>22 assume he did, from this.</p> <p>23 Q. You assume that he met with</p> <p>24 MassDOT?</p>
<p style="text-align: right;">155</p> <p>1 these documents were provided to -- these</p> <p>2 e-mails were provided to the Airport Commission</p> <p>3 in or about July of 2013?</p> <p>4 A. Definitely this second one, the</p> <p>5 first one, I'm not positive.</p> <p>6 Q. Do you have any reason to doubt</p> <p>7 that it wasn't sent to or received by the</p> <p>8 Norwood Airport Commission in or about July of</p> <p>9 2013?</p> <p>10 A. I'm not sure if we get every e-mail</p> <p>11 between Russ and tenants on the airport.</p> <p>12 Q. So you're not sure about the first</p> <p>13 one?</p> <p>14 A. I'm not sure about the first one.</p> <p>15 Q. Okay, fair enough. I'm showing you</p> <p>16 a document which has been marked previously as</p> <p>17 Exhibit 96. It appears to be an e-mail to Mr.</p> <p>18 Maguire from Mr. Wilenborg at DOT, dated April</p> <p>19 15, 2015, and it reads, "Good morning, Russ,</p> <p>20 Tracy Clay and I would like to meet with you,</p> <p>21 chairman of your airport commission and town</p> <p>22 counsel to discuss the recently filed FAA Part</p> <p>23 16 Complaint by BEH on Friday, May 1, at 1:00</p> <p>24 p.m. For ease of scheduling we can meet at</p>	<p style="text-align: right;">157</p> <p>1 A. I take that back. I'm not sure</p> <p>2 what counsel would have recommended, but I don't</p> <p>3 remember them meeting. I don't remember meeting</p> <p>4 them. I have no recollection of that.</p> <p>5 Q. I'm showing you a document that has</p> <p>6 been marked as Exhibit 101, and I know there has</p> <p>7 been a lot of this type of correspondence, and</p> <p>8 it appears to be a letter dated June 13, 2016</p> <p>9 from Brandon Moss to the FAA. As I said, it's</p> <p>10 dated June 13, 2016, and it discusses at some</p> <p>11 length a public records request and lawsuit by</p> <p>12 BEH. Do you recall BEH filing a public records</p> <p>13 request that ultimately resulted in a lawsuit</p> <p>14 being filed?</p> <p>15 A. Yes.</p> <p>16 Q. And do you recall that that was</p> <p>17 part of the Part 16 Complaint?</p> <p>18 A. I don't recall if it was part of</p> <p>19 the Part 16, but I know there was a complaint</p> <p>20 filed about the public records, so some kind of</p> <p>21 lawsuit.</p> <p>22 Q. Okay. And did you participate in</p> <p>23 any way in the preparation of this document?</p> <p>24 A. No, I did not.</p>

<p style="text-align: right;">158</p> <p>1 Q. Did you consult with town counsel 2 in any fashion regarding the preparation or the 3 sending of this document to the FAA? 4 A. We would have discussed it with 5 them to send some kind of response to them, yes. 6 Q. Turning your attention to the last 7 page, Mr. Moss says as follows, in the final 8 paragraph, "BEH's litigious and adversarial 9 conduct is thus a relevant issue in the above 10 referenced Part 16 Complaint and demonstrates 11 that the respondent's conduct has been 12 reasonable, and in an effort to protect the 13 respondents from unnecessary litigation and the 14 financial risk presented by BEH." Did I read 15 that correctly? 16 A. You did. 17 Q. What is your understanding of what 18 Mr. Moss was talking about in that sentence? 19 MR. SIMMS: Objection. You 20 can answer. 21 A. I mean, from what I read here, Mr. 22 Moss is advising FAA that the conduct by BEH -- 23 litigious conduct is relevant in the Part 16 24 Complaint and whatever action is taken, and that</p>	<p style="text-align: right;">160</p> <p>1 BEH sends and public requests they make are 2 constant and annoying, but that's his right to 3 do that. And we just have to abide by the law 4 and follow through on public records requests 5 and the other issues at hand. It's annoying, 6 yes, but it really has no effect on how we go 7 forward, other than to just proceed according to 8 the law of FAA, the town, the state, and the 9 best interest of the airport. 10 Q. Mr. Moss appears to suggest that 11 the respondent has taken some action to protect 12 itself from BEH's unnecessary litigation. Can 13 you think of what action the NAC has taken to 14 protect itself from BEH's unnecessary 15 litigation? 16 MR. SIMMS: Objection. Go 17 ahead. 18 A. The conduct has been to seek advice 19 of counsel as much as possible to make sure 20 we're not making any wrong moves that would 21 affect the whole negotiation process, all the 22 issues going on down at the airport. 23 MR. FEE: I would like to take 24 five minutes to confer with my client and</p>
<p style="text-align: right;">159</p> <p>1 the respondent, NAC, has been reasonable in its 2 efforts to protect it. 3 Q. And it says, "The respondent's 4 conduct has been reasonable in an effort to 5 protect the respondents from unnecessary 6 litigation and financial risk presented by BEH." 7 What conduct did the NAC engage in in order to 8 protect itself from unnecessary litigation and 9 financial risk presented by BEH? 10 A. So this is all public record 11 requests? 12 MR. SIMMS: I think the 13 question is broader than that. 14 A. Our conduct has been to be very 15 careful to not go against FAA requirements, 16 MassDOT, what's in the best interest of the Town 17 of Norwood and the airport, and to proceed. 18 Q. In your opinion, based on the multi 19 year history between BEH and NAC, do you agree 20 with Mr. Moss' assessment that BEH is 21 unnecessarily adversarial and litigious? 22 MR. SIMMS: Objection. You 23 can answer. 24 A. I believe a lot of the letters that</p>	<p style="text-align: right;">161</p> <p>1 then I would like to come back and perhaps 2 have another ten minutes of questions, and 3 then I think I'll be done. 4 MR. SIMMS: I think I'll have 5 some follow-ups. So go ahead. 6 MR. FEE: Okay. 7 (A recess was taken) 8 MR. FEE: Back on the record. 9 Q. (By Mr. Fee) Mr. Ryan, a few more 10 questions. Do you know who Jim Gordon is? 11 A. Yes, I do. 12 Q. Who is he? 13 A. I believe he's a former aide to 14 Congressman Lynch. 15 Q. Okay. Have you had any discussions 16 with Mr. Gordon regarding any matter concerning 17 BEH? 18 A. I have not. 19 Q. Anyone from the NAC that you know 20 of? 21 A. From the Commission, I don't know 22 that. 23 Q. How about Mr. Maguire? 24 A. I think, yes, I believe he has</p>

<p style="text-align: right;">162</p> <p>1 contacted Mr. Gordon.</p> <p>2 Q. What did Mr. Maguire tell you about</p> <p>3 that contact?</p> <p>4 A. My understanding was, just keep</p> <p>5 your ears open, anything going on on that Part</p> <p>6 16, so we don't get sideswiped.</p> <p>7 Q. So Mr. Maguire was asking</p> <p>8 Mr. Gordon to monitor activities at the FAA?</p> <p>9 A. Just if you hear anything, just let</p> <p>10 us know.</p> <p>11 Q. Okay. How about William Buckley,</p> <p>12 do you know who he is?</p> <p>13 A. Is that the chief of staff of John</p> <p>14 Rogers' office, is that Bill Buckley?</p> <p>15 Q. Do you know Mr. Buckley?</p> <p>16 A. I do.</p> <p>17 Q. Have you had discussions with him</p> <p>18 regarding any matter?</p> <p>19 A. I don't recall that at all. I</p> <p>20 don't recall.</p> <p>21 Q. Do you recall having any telephone</p> <p>22 or electronic conversations with him?</p> <p>23 A. I don't recall.</p> <p>24 Q. How do you know who he is?</p>	<p style="text-align: right;">164</p> <p>1 Q. Okay. So do you know what those</p> <p>2 insurance requirements are?</p> <p>3 A. Not exactly. They's in the minimum</p> <p>4 standards.</p> <p>5 Q. So the insurance requirements for</p> <p>6 an FBO are set forth in the minimum standards,</p> <p>7 correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And those were the insurance</p> <p>10 requirements that you were asking BEH to</p> <p>11 fulfill?</p> <p>12 A. That they had to fulfill.</p> <p>13 Q. Okay. What is the status of -- you</p> <p>14 remember we talked about personal guarantee and</p> <p>15 irrevocable letter of credit. What is the</p> <p>16 status of that request, has that been waived?</p> <p>17 A. That's for the lease area. The</p> <p>18 personal guarantee and letter of credit, that's</p> <p>19 for the lease area.</p> <p>20 Q. Okay. So that has not been waived</p> <p>21 with respect to the FBO?</p> <p>22 A. No, that's not part of the FBO</p> <p>23 requirement.</p> <p>24 Q. When did you determine that the</p>
<p style="text-align: right;">163</p> <p>1 A. John Rogers is our state</p> <p>2 representative in Norwood and Bill Buckley is</p> <p>3 the chief of staff. And on state transportation</p> <p>4 projects, we conferred on those, trying to</p> <p>5 advance projects with MassDOT.</p> <p>6 Q. Did you or Mr. Maguire speak to</p> <p>7 Mr. Buckley about BEH?</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you know if Mr. Maguire spoke to</p> <p>10 Mr. Buckley?</p> <p>11 A. That I don't know.</p> <p>12 Q. Did he tell you that he spoke to</p> <p>13 Mr. Buckley?</p> <p>14 A. I don't recall that, no.</p> <p>15 Q. We talked earlier about the</p> <p>16 insurance requirements for BEH's FBO permit?</p> <p>17 A. The insurance requirements, yes.</p> <p>18 Q. At some point, there were documents</p> <p>19 that outlined what insurance requirements the</p> <p>20 NAC was going to have for an FBO, correct?</p> <p>21 A. BEH asked Russ what the insurance</p> <p>22 requirements are and how the language should be</p> <p>23 on it and Russ sent FlightLevel copies for</p> <p>24 reference, yes.</p>	<p style="text-align: right;">165</p> <p>1 personal guarantee and irrevocable letter of</p> <p>2 credit are separate and distinct from the FBO</p> <p>3 requirements?</p> <p>4 A. The personal guarantee only came up</p> <p>5 with the second lease offer. It's one of the</p> <p>6 conditions. And that's when it came upon this</p> <p>7 whole discussion for any land lease with the</p> <p>8 Town. A personal guarantee was requested.</p> <p>9 Q. Okay. And that's still</p> <p>10 outstanding. In order to enter into a lease</p> <p>11 with BEH for any portion of the West Ramp,</p> <p>12 you're going to require a personal guarantee?</p> <p>13 A. If there's a lease to be had, yes.</p> <p>14 Q. Okay. And are you also going to</p> <p>15 require an irrevocable letter of credit?</p> <p>16 A. They are one and the same now.</p> <p>17 First, we were looking for a personal guarantee,</p> <p>18 that was -- we were told we're not going to get</p> <p>19 it. And finally, we compromised that the letter</p> <p>20 of credit would suffice if that's what they</p> <p>21 wanted to do. Once again we compromised to try</p> <p>22 to move this along.</p> <p>23 Q. And is there anything in the</p> <p>24 minimum standards that justifies your seeking an</p>

<p style="text-align: right;">166</p> <p>1 irrevocable letter of credit in connection with 2 the lease? 3 MR. FEE: Hold that thought. 4 I'll be right back. 5 (A recess was taken) 6 MR. FEE: Back on the record. 7 A. Could you repeat that question? 8 Q. Is there anything in the minimum 9 standards that justifies your asking for an 10 irrevocable letter of credit as a condition for 11 a lease? Can you answer that question without 12 reference to them? 13 A. No. 14 Q. Okay. I'm showing you a document 15 that has been marked as Exhibit 2. 16 A. Thank you. So these minimum 17 standards seek to ensure that all operations are 18 conducted in conformity with all applicable 19 state and federal regulations, and that includes 20 the grant assurances which talk about the 21 Airport Commission has the authority to ask -- 22 or reasonably ask for documentation, as long as 23 it's similar for everyone. 24 Q. And so, your testimony is that the</p>	<p style="text-align: right;">168</p> <p>1 Q. Okay. Is that something that 2 you're independently aware of or did counsel 3 just direct you to that? 4 A. We've been through this so many 5 times with other counsel that I knew it was 6 somewhere in there. 7 Q. Okay. And so, this distinction 8 that you're making that you are free to require 9 a personal guarantee in connection with the 10 lease, do you believe that you can require a 11 personal guarantee in connection with an FBO 12 permit? 13 MR. SIMMS: Could you read 14 that back? 15 (Question read by reporter) 16 MR. SIMMS: Objection. Go 17 ahead. 18 A. We did not. I assumed another 19 commission could include that, as far as part of 20 their approving of the FBO, but we did not, on 21 the FBO, consider a personal guarantee. That's 22 strictly for the lease. 23 Q. So it's your testimony, 24 unequivocally, that the requirement of the FBO</p>
<p style="text-align: right;">167</p> <p>1 justification for asking for a personal 2 guarantee in connection with the lease is that 3 it's in the FAA grant assurances? 4 A. It allows us that flexibility, the 5 grant assurances do. 6 Q. Okay. Let me show you Exhibit 3. 7 Show me in the grant assurance where it says 8 that a personal guarantee can be required in 9 connection with a lease? 10 A. It's on page 11, section H, "The 11 sponsor may establish such reasonable and not 12 unjustly discriminatory conditions to be met by 13 all users of the airport as may be necessary for 14 the safe and efficient operation of the 15 airport." 16 Q. And so, you're referring to 17 paragraph what on page what? 18 A. Page 11, paragraph H. 19 Q. Okay. Any other provisions? And I 20 notice that your counsel pointed that paragraph 21 out to you. Do you have any independent 22 knowledge without counsel directing you as to 23 where -- 24 A. I do. I just couldn't find it.</p>	<p style="text-align: right;">169</p> <p>1 was to guarantee the performance of a lease -- 2 I'm sorry, the requirement of a personal 3 guarantee was to guarantee lease obligations and 4 not FBO obligations? 5 A. Correct. 6 Q. I'm showing you Exhibit 99. It 7 appears to be a letter from Mr. Maguire to the 8 DOT. Please take a look at it carefully, and 9 then I'll have a question for you. 10 A. Okay. 11 Q. Exhibit 99 appears to be a letter 12 from Mr. Maguire to MassDOT, dated September 25, 13 2015. The paragraph -- the last paragraph on 14 the first page says that, in reviewing the 15 company's FBO application along with its lease 16 interest, the NAC has sought financial 17 information, e.g., three months' operating 18 expenses, bank statements, et cetera, and this 19 information is now being reviewed by a third 20 party consultant. Additionally, the NAC has 21 sought from the business a security interest in 22 the form of a letter of guarantee. The 23 requirement has been met with some resistance 24 from the business. It should be noted that the</p>

<p style="text-align: right;">170</p> <p>1 business in question has never operated an FBO, 2 and absent a security -- proper security 3 interest vis-a-vis a letter of guarantee, the 4 Airport Commission feels there is risk to the 5 town, specifically if there is a loss, whether a 6 default by the business on its lease payments, 7 its fuel flowage fee payments that must be paid 8 to the town, or personal injury or property 9 damage, the town -- the loss could well be 10 incurred by the Town of Norwood. Would you 11 agree with me that Mr. Maguire appears to be 12 describing obligations that are beyond the scope 13 of a lease? 14 A. So the last paragraph, there are 15 two things going on, the FBO application and the 16 lease interest, which sought financial 17 information, which you explained, which is being 18 reviewed by a third party. In addition, we were 19 looking for a security instrument in the form of 20 a letter of guarantee and that pertained to the 21 lease. 22 Q. It doesn't say that, though, does 23 it, it doesn't say pertaining to the lease, 24 right?</p>	<p style="text-align: right;">172</p> <p>1 Q. Okay. And do you believe it's 2 memorialized in any of the meeting minutes? 3 A. That I don't know. 4 Q. Do you know if the minimum 5 standards have changed at all during your tenure 6 as a commissioner? 7 A. Well, the current minimum standards 8 were adopted in 2008, so somewhere between 2000 9 and 2008. 10 Q. Were they ever revised? 11 A. Since 2008? 12 Q. Correct. 13 A. I don't recall. 14 Q. Give me just a second here. I show 15 you a document that has been marked as Exhibit 16 97. I would represent to you that Exhibit 97 is 17 the version of the minimum standards that 18 currently appears on your NAC website. And I 19 would suggest to you that there are variations 20 from the version adopted in 2008, not major 21 variations, but there are variations. And I'm 22 wondering if you have any insight into the 23 process whereby the minimum standards were 24 revised or modified or amended during your</p>
<p style="text-align: right;">171</p> <p>1 A. Not right there, no. 2 Q. Does it say anywhere that the 3 letter of guarantee pertains specifically and 4 only to the lease? It doesn't, does it? 5 A. That does not. 6 Q. Okay. So, in fact, Mr. Maguire is 7 describing the obligations of the FBO and the 8 lease interchangeably, correct? 9 A. He blended them together, yes. 10 Q. Okay. Do you know if there are any 11 other documents that specifically set forth your 12 position stated here today that the personal 13 guarantee is only for the lease obligations and 14 not for FBO obligations? 15 A. I don't know if there are any other 16 documents. 17 Q. Okay. Is there anything in any of 18 the minutes that specifically and explicitly 19 support the position that you've taken here 20 today that the personal guarantee is to 21 guarantee lease obligations and not FBO 22 obligations? 23 A. I believe I mentioned that at the 24 meetings before, yes.</p>	<p style="text-align: right;">173</p> <p>1 tenure on the commission? 2 A. Since 2008? 3 Q. Correct. 4 A. I just don't recall if there were 5 any changes. 6 Q. Well, if there were changes to the 7 minimum standards or the general regulations, as 8 chairman, don't you think that you would be 9 privy to that? 10 A. Of course. 11 Q. Okay. So the fact that the 12 standards that are currently on your website are 13 different from the ones that are promulgated in 14 2008, does that give you -- does that surprise 15 you? 16 A. I'm curious what the differences 17 are and then I could answer that. 18 Q. Okay. In the general policy, 19 second paragraph, last sentence, it says, "For 20 the public interest, the application of minimum 21 standards also discourages substandard would be 22 enterprises from operating on the airport, 23 thereby protecting established aeronautical 24 activities and the airport patrons." Did I read</p>

<p style="text-align: right;">174</p> <p>1 that correctly?</p> <p>2 A. You did.</p> <p>3 Q. The revised version currently on</p> <p>4 your website says something a little different.</p> <p>5 "For the public interest, the application of the</p> <p>6 minimum standards also discourages substandard</p> <p>7 would be commercial enterprises from operating</p> <p>8 on the airport." And it leaves out this last</p> <p>9 phrase, "thereby protecting established</p> <p>10 aeronautical activities and the airport</p> <p>11 patrons." Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Do you know why that change was</p> <p>14 made?</p> <p>15 A. I do not.</p> <p>16 Q. Do you know who made that change?</p> <p>17 A. No, I do not.</p> <p>18 Q. Your testimony is that you had no</p> <p>19 knowledge that that change had been made to the</p> <p>20 minimum standards?</p> <p>21 A. I don't recall that happening, no.</p> <p>22 Q. Okay.</p> <p>23 (Exhibit 142, Addendum Number 1, dated</p> <p>24 January 28, 2018, marked for</p>	<p style="text-align: right;">176</p> <p>1 created?</p> <p>2 A. The recent one?</p> <p>3 Q. The most recent FlightLevel fueling</p> <p>4 plan.</p> <p>5 MR. SIMMS: Objection, beyond</p> <p>6 the scope. Go ahead.</p> <p>7 A. I'm not sure if it was the fall of</p> <p>8 '16 or early '17.</p> <p>9 Q. And was it done at the request of</p> <p>10 the NAC?</p> <p>11 A. Correct.</p> <p>12 Q. Was it reviewed by the board?</p> <p>13 A. Yes, it was. It was submitted to</p> <p>14 the board, it was presented to the board, and</p> <p>15 yes.</p> <p>16 Q. And who reviewed it?</p> <p>17 A. The airport manager reviewed the</p> <p>18 final document.</p> <p>19 Q. And did you review it?</p> <p>20 A. I did it -- prior to the meeting,</p> <p>21 they wanted to see if what we were looking for</p> <p>22 was on the plan. They brought their engineers</p> <p>23 in saying how they located all the buildings,</p> <p>24 showed the property lines, their relationship to</p>
<p style="text-align: right;">175</p> <p>1 identification)</p> <p>2 Q. (By Mr. Fee) I show you a document</p> <p>3 that has been marked as Exhibit 142. It appears</p> <p>4 to be addendum number 1 dated January 28, 2013.</p> <p>5 And I would represent to you that this document</p> <p>6 was issued in connection with the RFP for the</p> <p>7 DC3 ramp. Did you see that before?</p> <p>8 A. Yes.</p> <p>9 Q. Did you play any role in creating</p> <p>10 this document?</p> <p>11 A. Minor roles, really, the airport</p> <p>12 manager and the purchasing contract</p> <p>13 administrator for the Town.</p> <p>14 Q. Okay. And so, the terms and</p> <p>15 conditions set forth in Exhibit 142 completely</p> <p>16 and correctly set forth the terms under which</p> <p>17 the DC3 ramp was offered for lease, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Now, you're familiar with</p> <p>20 FlightLevel's fueling restriction plan, are you</p> <p>21 not?</p> <p>22 A. I am.</p> <p>23 Q. Okay. And can you tell me how</p> <p>24 that -- I'm sorry, when that was first done or</p>	<p style="text-align: right;">177</p> <p>1 the property lines, the TOFA -- the location of</p> <p>2 the TOFA. It was a very detailed survey and</p> <p>3 they hired a firm that used a program, a</p> <p>4 computer program that superimposes vehicles</p> <p>5 accessing the site for dispensing of fuel.</p> <p>6 Q. Why was this fueling plan requested</p> <p>7 by the NAC?</p> <p>8 A. At the lease extension for lots 5,</p> <p>9 6 and 7, that was one of the votes that was made</p> <p>10 by the Commission to also include a fueling</p> <p>11 plan, an updated fueling plan.</p> <p>12 Q. Okay. And prior to that time, had</p> <p>13 FlightLevel provided any form of fueling plan?</p> <p>14 A. No. FlightLevel assumed the</p> <p>15 existing fueling operation that Eastern Air</p> <p>16 Center had.</p> <p>17 Q. So from -- when did FlightLevel get</p> <p>18 its first FBO, 2008, correct?</p> <p>19 A. 2007 or 2008.</p> <p>20 Q. Okay. So from 2008 to 2016, it was</p> <p>21 operating under the preexisting fueling plan</p> <p>22 that was in place for its predecessor?</p> <p>23 A. Correct.</p> <p>24 Q. And did you -- are there</p>

<p style="text-align: right;">178</p> <p>1 established engineering protocols or 2 methodologies for producing this form of 3 document? 4 MR. SIMMS: Objection. 5 Q. That you're aware of? 6 A. To prepare the document? 7 Q. Yes. 8 A. You need a land surveyor that can 9 show the location of features within a property. 10 It also shows its relationship to the property 11 lines or lease lines, and also a civil engineer, 12 typically a traffic engineer, would operate the 13 program that would superimpose turning radiuses 14 and how a fuel truck could enter onto a property 15 and dispense fuel. 16 Q. And are there specific guidelines 17 or requirements for producing a fueling plan for 18 an airport? 19 A. Not that I'm aware of, specifically 20 for that detail. 21 Q. Okay. So it's not a subject that 22 would be dealt with in an FAA bulletin that 23 you're aware of? 24 A. Not that I'm aware of.</p>	<p style="text-align: right;">180</p> <p>1 advises against that. And then there are 2 setback requirements for the fire department, 3 but that would pertain to airport and off 4 airport. 5 Q. Right. And any other specific 6 fueling requirements that should be integrated 7 into a fueling plan for an airport that you're 8 aware of? 9 MR. SIMMS: Objection to the 10 form. Go ahead. 11 A. The other ones are the written 12 description on how things are addressed during 13 fueling in cases of emergency. That's the 14 written document that would go along with the 15 plan document showing the site itself. 16 Q. Right. But when we're talking 17 about a fueling plan, I'm referring specifically 18 to a site plan. 19 A. Okay. 20 Q. But I understand that there are 21 ancillary documents that support the plan, but 22 I'm just focusing right now on the plan itself, 23 the site plan. There are two types of gas sold 24 at the airport, right?</p>
<p style="text-align: right;">179</p> <p>1 Q. And as an engineer, you're not 2 aware of any specific rules or requirements 3 governing the methods by which you must produce 4 an adequate fueling plan for an airport? 5 A. As a civil engineer, there are 6 steps that have to be taken to make sure any 7 site plan, be it a fueling plan or any 8 distribution warehouse, that the vehicles can 9 function properly on the site and be able to 10 turn. Site plans are required to show fire 11 trucks being able to access a property and have 12 the proper area to turn, because they have 13 especially large vehicles, so there's a process 14 in place that's done for every site plan that's 15 developed now. And for a gas station, the same 16 would go on, an engineer would make those 17 determinations, based on the features and sizes 18 of a vehicles. 19 Q. But an airport has very specific 20 rules about where fueling activity can take 21 place, correct? 22 A. Yes, there are -- the issue that 23 we've discussed, the TOFA, they don't want 24 fueling operations going on there, the FAA</p>	<p style="text-align: right;">181</p> <p>1 A. Correct. 2 Q. And do you think, would it be 3 required that a fueling plan show or 4 differentiate between the types of gas that are 5 stored in various places? 6 MR. SIMMS: Objection to the 7 form. Beyond the scope. Go ahead. 8 A. I would defer to the airport 9 manager on that. 10 Q. Okay. Do you think it would be 11 appropriate to indicate on a plan where fueling 12 trucks are parked at any given time, or allowed 13 to be parked at any given time? 14 MR. SIMMS: Same objection. 15 MR. FEE: Please. 16 MR. SIMMS: Well, I think I've 17 been pretty good. 18 MR. FEE: I know, but I'm not 19 changing direction here. 20 MR. SIMMS: Okay. All right. 21 A. So the question again? 22 Q. Do you think that a fueling plan, 23 an adequate fueling plan should indicate where 24 trucks are allowed to park at any given time?</p>

<p style="text-align: right;">182</p> <p>1 A. A fueling plan that would be good 2 to have to show that they're not allowed in an 3 area. 4 Q. The fueling plan that FlightLevel 5 submitted, was it approved by anyone other than 6 the board and the airport manager? 7 A. Did it go to another agency? 8 Q. Right. 9 A. No. 10 Q. It wasn't approved by the FAA? 11 A. I believe it was forward to the 12 FAA. 13 Q. Or DOT? 14 A. No. 15 Q. Or the fire department? 16 A. I'm not sure if it went to the fire 17 department or not. 18 Q. Okay. So other than the airport 19 manager and the board, was it reviewed -- I'm 20 referring to FlightLevel's fueling plan, was it 21 reviewed by any third parties that you're aware 22 of? 23 A. No. 24 Q. I show you a document that has been</p>	<p style="text-align: right;">184</p> <p>1 A. The tanks themselves? 2 Q. Yes. 3 A. I don't see any subsurface 4 features. 5 Q. Does it show the location of 6 FlightLevel's fuel farm? 7 A. It shows their tank farm lot. It 8 shows the property of it. 9 Q. Okay. Does it show the location of 10 FlightLevel's self-fueling cabinet? 11 A. It's so small, I can't tell. 12 Q. Do you need a magnifying glass? I 13 have one. 14 A. That would help. 15 Q. Sure, hang on. 16 A. I don't see anything that 17 specifically says fueling cabinet. 18 Q. Okay. Is there anything on that 19 plan that indicates how the mobile fuelers will 20 be filled? 21 A. Well, the description was that the 22 trucks delivering it would deliver here, those 23 are the biggest trucks. And then the smaller 24 trucks would pull up and take the fuel out of</p>
<p style="text-align: right;">183</p> <p>1 marked as Exhibit 87. Do you recognize it? 2 A. I do. 3 Q. What is it? 4 A. It's FlightLevel's fueling plan. 5 Q. And this was produced by an 6 engineering firm, correct? 7 A. Correct. 8 Q. And it shows structures, buildings, 9 right? 10 A. Correct. 11 Q. And it shows travel lanes for 12 trucks, correct? 13 A. Correct. 14 Q. Does it show turning radiuses? 15 A. That's the travel lanes that you 16 see there, the radiuses the truck would take to 17 access a site. 18 Q. Okay. Does it indicate the size of 19 the trucks that are traveling? 20 A. It does. 21 Q. Okay. Does it indicate the 22 location of fuel tanks? 23 A. Fuel tanks? 24 Q. Yes.</p>	<p style="text-align: right;">185</p> <p>1 the tanks in the refueling area. 2 Q. It doesn't say that specifically, 3 does it? 4 A. It doesn't say that. It says 5 refueling area, so that's the way the 6 presentation was made, that that's where the 7 smaller trucks would come in. 8 Q. Does it indicate what types of gas 9 are stored in what places? 10 A. It does not. 11 Q. Does it show fixed structures other 12 than buildings? 13 A. It shows fencing and gate. 14 Q. Does it show objects in the TOFA, 15 like hydrants and security cameras and poles and 16 things like that? 17 A. No, it does not. 18 Q. Now, the yellow, shaded yellow part 19 is TOFA? 20 A. Correct. 21 Q. Okay. And the shaded red part is 22 what? 23 A. 25 foot NFPA fueling offset 24 requirement.</p>

<p style="text-align: right;">186</p> <p>1 Q. What is that?</p> <p>2 A. National fire protection, so</p> <p>3 dispensing and loading of fuel has to be 25 feet</p> <p>4 from a building is our understanding.</p> <p>5 Q. Okay. And what is the green?</p> <p>6 A. So it says "These markings were</p> <p>7 identified in the plan submitted to the FAA in</p> <p>8 1997 to reconstruct the south ramp and to access</p> <p>9 taxi lane and is designated as" something "TOFA</p> <p>10 restriction does not apply," it says.</p> <p>11 Q. So it's an exception to the TOFA</p> <p>12 requirement?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. And do you know what -- are</p> <p>15 TOFA requirements something that can be excepted</p> <p>16 or waived based on circumstances?</p> <p>17 MR. SIMMS: Objection. Go</p> <p>18 ahead.</p> <p>19 A. So at one time, is my</p> <p>20 understanding, this was subject to the TOFA, but</p> <p>21 with the gate designation here, this was</p> <p>22 actually removed in the TOFA.</p> <p>23 Q. Who can remove something from a</p> <p>24 TOFA designation?</p>	<p style="text-align: right;">188</p> <p>1 are guidelines that are subject to</p> <p>2 interpretation and which can be modified or</p> <p>3 waived in certain circumstances?</p> <p>4 MR. SIMMS: Objection. Go</p> <p>5 ahead.</p> <p>6 A. I don't agree with the word,</p> <p>7 interpretation. It's pretty clear what the TOFA</p> <p>8 is, and FAA has been very strong in their</p> <p>9 enforcement of it. We lost, as an airport, 70,</p> <p>10 80 tie downs because of the TOFA and the FAA</p> <p>11 enforcement of it. So they take it very</p> <p>12 seriously because it's a safety issue for them</p> <p>13 and that's their real focus now, is safety, and</p> <p>14 it has been for some time. So removing TOFA, to</p> <p>15 them, affects safety.</p> <p>16 Q. Right.</p> <p>17 A. And I'm just saying interpretation,</p> <p>18 I don't think is -- would be how they approach</p> <p>19 things.</p> <p>20 Q. I'm sure. But if you take out the</p> <p>21 word interpretation from my sentence, would it</p> <p>22 be fair to say that a TOFA restriction is a</p> <p>23 guideline that is subject to modification, in</p> <p>24 certain circumstances?</p>
<p style="text-align: right;">187</p> <p>1 MR. SIMMS: Objection, go</p> <p>2 ahead.</p> <p>3 A. Our understanding is the FAA has to</p> <p>4 give us that blessing.</p> <p>5 Q. Right. But it can be suggested by</p> <p>6 an airport manager, can it not?</p> <p>7 A. It could be advocated for.</p> <p>8 Q. Right. And so, TOFA guidelines --</p> <p>9 TOFA restrictions are more like guidelines than</p> <p>10 hard and fast rules, correct?</p> <p>11 A. This is probably a very easy</p> <p>12 decision by FAA, others might not be as easy.</p> <p>13 Q. Understood. But my question is, is</p> <p>14 it fair to say that TOFA restrictions are</p> <p>15 guidelines and not hard and fast rules, they're</p> <p>16 subject to interpretation, correct?</p> <p>17 A. You would have to ask the FAA on</p> <p>18 that.</p> <p>19 Q. Okay. Well, you're the chairman of</p> <p>20 the Airport Commission and a civil engineer and</p> <p>21 you are someone who is intimately involved in</p> <p>22 the operations of the Norwood Airport, so I'm</p> <p>23 asking you, in your capacity, in that capacity,</p> <p>24 is it your understanding that TOFA restrictions</p>	<p style="text-align: right;">189</p> <p>1 MR. SIMMS: Objection. Go</p> <p>2 ahead.</p> <p>3 A. In certain circumstances, they will</p> <p>4 consider it.</p> <p>5 Q. The TOFA line that is running --</p> <p>6 and I don't know if this is north or south, but</p> <p>7 up and down on the first page of Exhibit 87, are</p> <p>8 there any planes that move through that</p> <p>9 particular taxiway?</p> <p>10 A. The planes move through that</p> <p>11 taxiway, absolutely.</p> <p>12 Q. Okay. And they move through that</p> <p>13 taxi way to get to the various hangars that are</p> <p>14 located off of that, correct?</p> <p>15 A. Correct.</p> <p>16 Q. But no planes park in that taxi</p> <p>17 way, correct?</p> <p>18 A. They should not.</p> <p>19 Q. Okay. So would it be a violation</p> <p>20 of this fueling plan for trucks to park within</p> <p>21 the red zone?</p> <p>22 MR. SIMMS: Objection.</p> <p>23 A. To park?</p> <p>24 Q. Yes, to park.</p>

<p style="text-align: right;">190</p> <p>1 A. I don't know that.</p> <p>2 Q. Would it be a violation for trucks</p> <p>3 to fuel within that red zone?</p> <p>4 A. That's my understanding, yes.</p> <p>5 Q. Okay. I'm showing you a document</p> <p>6 that has been marked as Exhibit 119. It appears</p> <p>7 to be an e-mail to you from Mr. Donovan, dated</p> <p>8 February 28, 2017, with an attached letter dated</p> <p>9 February 24, 2017. Have you ever seen that</p> <p>10 before?</p> <p>11 A. Yes.</p> <p>12 Q. And did you see it on or about</p> <p>13 February 28, 2017?</p> <p>14 A. Yes.</p> <p>15 Q. It's quite a tome, is it not?</p> <p>16 A. Quite a tome?</p> <p>17 Q. Tome, T-O-M-E, a lengthy document.</p> <p>18 A. Yes, it's very lengthy.</p> <p>19 Q. Did you read it when you got it?</p> <p>20 A. I did.</p> <p>21 Q. And did you present it in any way</p> <p>22 to the Commission?</p> <p>23 A. I believe I forwarded it to all the</p> <p>24 commissioners.</p>	<p style="text-align: right;">192</p> <p>1 the top of page 18 where he talks about adequate</p> <p>2 space for FBOs, and he cites some publications</p> <p>3 that were -- or a publication that was made</p> <p>4 available to him through the FAA, and it talks</p> <p>5 about the mean space available -- or utilized</p> <p>6 for FBOs as being somewhere be in the nature of</p> <p>7 100,000 square feet, nationally, and others are</p> <p>8 larger. Do you see that?</p> <p>9 A. Where is he talking about that?</p> <p>10 Q. I'm sorry, I'm paraphrasing it</p> <p>11 because I'm not looking at it, but let me just</p> <p>12 grab it. I'm sorry, I was showing you the wrong</p> <p>13 page. I'm on the top of page 20 now. It says,</p> <p>14 "The Airport cooperative research program</p> <p>15 published a detailed guidebook, titled</p> <p>16 'Guidebook on General Aviation Facility</p> <p>17 Planning,' which contains detailed planning</p> <p>18 analysis on airports. This report, along with</p> <p>19 reports titled, 'Legal Research Digest,' was</p> <p>20 sponsored by the FAA. The mean ramp space for</p> <p>21 an FBO operation was 102,376 square feet, the</p> <p>22 high was 250,000 square feet. Clearly,</p> <p>23 FlightLevel well exceeds the high for leased</p> <p>24 ramp or apron space, and the offer from NAC is</p>
<p style="text-align: right;">191</p> <p>1 Q. Did you discuss it at all in a</p> <p>2 Commission session?</p> <p>3 A. I don't recall.</p> <p>4 Q. Did you respond in any way to it?</p> <p>5 A. I did not.</p> <p>6 Q. Why not?</p> <p>7 A. There's so much in this letter, I</p> <p>8 don't think I had the time to respond to every</p> <p>9 allegation or comment or --</p> <p>10 Q. Too much information?</p> <p>11 A. I wasn't in a position to start</p> <p>12 going tit for tat for something that -- a lot of</p> <p>13 it I didn't believe was factual.</p> <p>14 Q. There's a section in there that</p> <p>15 talks about the lease, and the necessary amount</p> <p>16 of space, in Mr. Donovan's opinion, that would</p> <p>17 be required to operate an effective FBO. Did</p> <p>18 you read that part of the letter? Let me just</p> <p>19 show you where I'm talking about, just to be</p> <p>20 helpful.</p> <p>21 A. Okay.</p> <p>22 Q. So the fourth bullet point on page</p> <p>23 17 of the letter talks about lease of space, and</p> <p>24 then directing your attention to the next page,</p>	<p style="text-align: right;">193</p> <p>1 impossible." Do you see where I read that?</p> <p>2 A. Yes.</p> <p>3 Q. Did you read this portion of the</p> <p>4 letter when you got it?</p> <p>5 A. I hope so.</p> <p>6 Q. Okay. Did you do any research or</p> <p>7 investigation to determine whether the points</p> <p>8 that Mr. Donovan was making regarding the</p> <p>9 average mean space for FBO operations had merit?</p> <p>10 A. Well, I will say that FlightLevel</p> <p>11 assumed a lot of leases well before BEH came</p> <p>12 aboard, so a lot of those leases were already in</p> <p>13 place. There's a minimal area to be handing out</p> <p>14 for an FBO. We've started a process of trying</p> <p>15 to get him that lease area, and maybe it doesn't</p> <p>16 meet the requirements of this guidebook, and</p> <p>17 that's what it is, a guidebook on planning, but</p> <p>18 it's certainly something that could be</p> <p>19 attainable down the line. We made every effort</p> <p>20 to lead BEH in that direction.</p> <p>21 Q. Okay. But is it your understanding</p> <p>22 that the larger a leased area available for an</p> <p>23 FBO, the more likely it is able to safely</p> <p>24 operate?</p>

<p style="text-align: right;">194</p> <p>1 MR. SIMMS: Objection. Go 2 ahead. 3 A. I'm not sure how safety plays into 4 that. 5 Q. Is it more difficult for an FBO to 6 operate safely in a constrained space, as a 7 general matter? 8 MR. SIMMS: Objection. Go 9 ahead. 10 A. Constrained by what? 11 Q. Constrained by square footage. 12 MR. SIMMS: Same objection. 13 A. I think the square footage allowed 14 them would -- offered to them would allow them 15 to safely operate. 16 MR. FEE: Could we have this 17 marked as the next exhibit? 18 (Exhibit 143, E-mail from Mark Ryan, dated 19 5/20/16, marked for identification) 20 Q. (By Mr. Fee) Exhibit 143 is an 21 e-mail from you, and I'm not sure who it's to, 22 but it's dated 5/20/16, and it's regarding an 23 incident where you believe a helicopter flew 24 very close over Mr. Shaughnessy's house. Do you</p>	<p style="text-align: right;">196</p> <p>1 number that you saw on that helicopter? 2 A. It was flying so fast, I think I 3 got one number out of the bunch of them, and I 4 tried to match it with what was on the website, 5 showing the helicopter. 6 Q. Okay. So you got a partial visual 7 on the number when you saw the helicopter and 8 then you went on Mr. -- the BEH website and saw 9 some numbers that looked like what you saw, is 10 that fair to say? 11 A. Yes. 12 Q. And you believe that 089J was the 13 number of the helicopter that buzzed over Mr. 14 Shaughnessy's house? 15 A. I believe it was a BEH helicopter 16 going over Mr. Shaughnessy's house. 17 Q. On or about May 20 of 2016? 18 A. Correct. 19 Q. Okay. 20 (Exhibit 144, Deregistration re 089J, 21 marked for identification) 22 Q. (By Mr. Fee) Just to eliminate any 23 confusion or suggestion of improper activities 24 on the part of Mr. Donovan, I just want to show</p>
<p style="text-align: right;">195</p> <p>1 recall sending this? 2 A. I do. 3 Q. And were you -- was it your belief 4 when you sent this that you were describing 5 activities by Mr. Donovan? 6 A. When I saw that helicopter -- I've 7 never seen, in my twelve years living in that 8 house, a helicopter come anywhere near the 9 height that it flew over the trees. And I was 10 outside in the backyard, I could hear it coming, 11 and I saw it, and I've never seen anything that 12 low. And in my opinion, it was right over Mr. 13 Shaughnessy's house. I've never seen anything 14 that low in my life. 15 Q. But my question was different. Did 16 you attribute that helicopter activity to Mr. 17 Donovan? 18 A. It looked just like his helicopter 19 that I saw at the airport, yes. 20 Q. Okay. And you got a number off of 21 it? 22 A. I got part of a number and then I 23 saw the rest of the number on his website. 24 Q. And do you think that 089J was the</p>	<p style="text-align: right;">197</p> <p>1 you Exhibit 144, which indicates that the 2 helicopter with the number that you identified 3 is being deregistered and in service in Israel 4 from 2015. I just want you to take a look at 5 that and note it. 6 MR. SIMMS: Was there a 7 question for 144? 8 MR. FEE: No, there was not. 9 I think it's pretty clear. 10 MR. SIMMS: That's fine. I 11 wasn't sure if you were asking something 12 or not. 13 MR. FEE: No. 14 (Exhibit 145, E-mail from Mr. Ryan to Mr. 15 Maguire, dated August 21, 2014, marked for 16 identification) 17 Q. (By Mr. Fee) So I'm showing you 18 Exhibit 145, an e-mail from you to Mr. Maguire 19 dated August 21, 2014. Would you like to read 20 it to yourself? 21 A. Yes, that was a tongue-in-cheek 22 comment to Russ. 23 Q. Okay. Well, it's fair to say that 24 you're making fun of Mr. Donovan, are you not?</p>

<p style="text-align: right;">198</p> <p>1 A. As far as the bubble bath soap and 2 state of the art kink-free hoses? 3 Q. Yes, and other things. So it's 4 fair to say that you're making fun of Mr. 5 Donovan, right? 6 A. I was making light of what has been 7 going on at the airport. 8 Q. Okay. And was it common for you to 9 exchange e-mails with Mr. Donovan or any other 10 member of the Airport Commission where you make 11 light of -- I'm sorry, with Mr. Maguire, where 12 you make light of Mr. Donovan and the situation 13 at the airport? 14 A. I don't make a regular practice of 15 that, no. That was inappropriate, and I know it 16 was. It was probably a reaction of frustration, 17 with trying to proceed forward and trying to get 18 things done. 19 Q. Okay. Was it indicative of an 20 ongoing frustration of dealing with Mr. Donovan? 21 A. Annoyance, more of an annoyance. 22 But, you know, as I said, this was a very public 23 ongoing down there, and I'm not proud of that, 24 but all our decisions, I think, were addressed</p>	<p style="text-align: right;">200</p> <p>1 A. No. 2 Q. In seventeen years, it never 3 happened, correct? 4 A. It never happened. 5 Q. Have all of your dealings with Mr. 6 Donovan and BEH been in your capacity as a 7 member of the Norwood Airport Commission? 8 A. They have. 9 Q. You were asked a number of 10 questions about various portions of the minimum 11 standards and FAA assurances. So I'm going to 12 let Mr. Fee turn to page 12 of the general 13 regulations. 14 MR. FEE: Commercial 15 aeronautical operations? 16 MR. SIMMS: Yes. 17 Q. (By Mr. Simms) There's a heading 18 in the general regulation, commercial 19 aeronautics operation, do you see that? 20 A. I do. 21 Q. Let me read paragraph A. "No 22 person, firm, corporation or entity 23 (including nonprofit organizations) shall use 24 the airport or any portion thereof as an FBO,</p>
<p style="text-align: right;">199</p> <p>1 appropriately and made in the best interest of 2 the Town. 3 MR. FEE: Okay. I have no 4 further questions. 5 MR. SIMMS: I'm going to ask 6 some follow-ups. 7 MR. FEE: Sure. Go ahead. 8 EXAMINATION BY MR. SIMMS: 9 Q. Mr. Ryan, we'll use 2000 -- you 10 weren't sure if it was 2000 or 2001, you've been 11 a member of the Commission for seventeen years; 12 is that correct? 13 A. Correct. 14 Q. Did you know Mr. Donovan prior to 15 your becoming a member of the Norwood Airport 16 Commission? 17 A. No, I did not. 18 Q. As best you can recall, in the 19 seventeen years that you've been on the 20 Commission, have you had any instances where the 21 two of you were at each other's faces, you and 22 Mr. Donovan, any yelling or screaming, going at 23 one another, tooth and nail, or anything like 24 that?</p>	<p style="text-align: right;">201</p> <p>1 SASO, or otherwise, for revenue producing 2 commercial, business, or aeronautical 3 activities, without first obtaining consent and 4 a written permit for such activities from the 5 Commission and entering into such written leases 6 and other agreements as prescribed by the 7 Commission." Did I read that correctly? 8 A. You did. 9 Q. And, in your opinion, is that 10 another section of the minimum standards which 11 would give the Commission authority to ask for 12 things such as a letter of credit, personal 13 guarantee on a lease, tax returns, for example, 14 of an entity, so that the NAC was satisfied with 15 the financial wherewithal of the given 16 applicant? 17 A. I would consider that as another 18 avenue for the Commission to make a sound 19 decision, as you explained. 20 Q. A few pages later, under the 21 heading of lease and sublease requirements, 22 subsection C states, "The commission will 23 reserve the right to take any action it 24 considers necessary to comply with any grant</p>

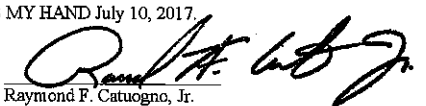
<p style="text-align: right;">202</p> <p>1 assurances obligation or responsibility imposed 2 by the Town of Norwood or the Commission by the 3 FAA," and it continues on? 4 A. Correct. 5 Q. And again, in your view, is that 6 another instance that would allow you to at 7 least ask for a personal guarantee on a lease, 8 for example? 9 A. I believe that allows us to, yes. 10 (Exhibit 146, Letter from Mr. Ryan to Mr. 11 Donovan, dated May 26, 2015, marked for 12 identification) 13 Q. (By Mr. Simms) If you could take a 14 look at that document, Mr. Ryan, and let me know 15 when you've had a chance to review it, please? 16 A. Okay. 17 Q. Are you familiar with this letter? 18 A. I am. 19 Q. In fact, you signed it, correct? 20 A. Yes. 21 Q. And it's a letter you sent to Mr. 22 Donovan on May 26, 2015? 23 A. Correct. 24 Q. Congratulating Mr. Donovan on the</p>	<p style="text-align: right;">204</p> <p>1 even if the Commission had issued Mr. 2 Donovan/BEH its FBO license prior to May 14, 3 2015, BEH could not, in fact, have operated as 4 an FBO until it had this VIF license from the 5 fire department? 6 A. That's correct. 7 Q. You were asked toward the end of 8 your deposition about an e-mail with a lengthy 9 attachment you received from Mr. Donovan on 10 February 28, 2017. Do you recall being shown 11 that document about ten minutes ago? 12 A. Yes. 13 Q. I think Mr. Fee, Attorney Fee, 14 excuse me, referred to it as a tome or a lengthy 15 document, do you recall that? 16 A. Yes. 17 Q. And what was the significance, to 18 you, of February 28, 2017, in the course of your 19 negotiation between the Commission and BEH? 20 A. In June of '16 we made the offer of 21 23,000 plus square feet of lease area for BEH, 22 and through the summer and the fall, we 23 eventually, at some point, instead of leaving 24 the lease -- a response on the lease out there</p>
<p style="text-align: right;">203</p> <p>1 fact that the fire department had signed off on 2 the issuance of a VIF license and volatile and 3 inflammable fluids license? 4 A. Correct. 5 Q. Did you instruct or direct the 6 Norwood Fire Department when to conduct its 7 inspection of BEH's premises with respect to the 8 issuance of the VIF? 9 A. Absolutely not. 10 Q. As far as you know, did the Norwood 11 Airport Commission instruct the Norwood Fire 12 Department when to conduct this inspection? 13 A. Absolutely not. 14 Q. Did the Norwood Airport Commission 15 have anything at all to do with the timing of 16 when the fire department conducted this 17 inspection of BEH's facilities? 18 A. We did not. 19 Q. Am I also correct that in order to 20 operate as a fixed base operator, BEH was and 21 continues to be required to obtain a VIF 22 license? 23 A. Correct. 24 Q. So is it fair to say, then, that</p>	<p style="text-align: right;">205</p> <p>1 indefinitely, because other people are 2 interested in at least parking planes there, we 3 eventually set a deadline to respond on the 4 lease. 5 Q. And what was the initial deadline? 6 If I would suggest to you, the end of 2016, does 7 that sound about right? 8 A. It does. And with no response, 9 we -- I believe BEH was not really pursuing it 10 that diligently, we extended it to the end of 11 February, February 28, 2017. 12 Q. And so, on the last day of the 13 extension by the Commission, you received a 14 response from Mr. Donovan which was the 20-page 15 single-spaced letter that we've marked as 16 Exhibit 119, correct? 17 A. Yes, less than five hours from the 18 deadline expiration. 19 Q. Do you know who Moshe Yanai is? 20 A. I do. 21 Q. Have you ever met or spoken to 22 Mr. Yanai? 23 A. I have. 24 Q. And can you tell us when you spoke</p>

<p style="text-align: right;">206</p> <p>1 with Mr. Yanai, and as best you can recall, the 2 substance of your conversation?</p> <p>3 A. So in the fall of 2015, I was asked 4 by Jim Hilliard, one of BEH's attorneys, would I 5 consider meeting one-on-one with Chris Donovan 6 to try to come to some agreement, and I said 7 yes. So Chris and I met two or three times, 8 just one-on-one at a law firm in Walpole, and 9 trying to hash out the ongoing. And at the 10 final meeting, Chris was able to get Moshe to 11 attend the meeting.</p> <p>12 Q. As best you can recall, would you 13 describe what was said during the one meeting 14 where Mr. Yanai was in attendance?</p> <p>15 A. He was a nice guy. He seemed to be 16 puzzled, why things couldn't have been 17 completed. He said he talked to the governor, 18 which I assume meant Deval Patrick, but I'm not 19 positive. And he said that the governor said to 20 him, I don't understand what the problem is, but 21 one of the sticking points was the personal 22 guarantee. And essentially I said, you get that 23 personal guarantee, amongst a couple other 24 things, and we'll be able to move forward. And</p>	<p style="text-align: right;">208</p> <p>1 A. No.</p> <p>2 Q. Was this series of meetings you had 3 with Chris Donovan and then the one meeting 4 where Mr. Yanai was present, was this an effort 5 to try to resolve whatever differences were 6 outstanding between the Commission and BEH?</p> <p>7 A. That was the intent, yes.</p> <p>8 Q. Was that the purpose of the 9 meeting?</p> <p>10 A. Yes, it was.</p> <p>11 Q. Notwithstanding that there was 12 never a motion to untangle, or notwithstanding 13 that there was never a motion approved to 14 untangle the June 2014 vote, isn't it true that 15 the Commission continued to engage in 16 discussions with either Mr. Donovan, or at least 17 in one instance, with the owner of the company, 18 Mr. Yanai, to try to resolve these differences?</p> <p>19 A. From early '15 to possibly late 20 '14, we were trying to negotiate that, settling 21 the differences.</p> <p>22 MR. SIMMS: Could we have this 23 marked as Exhibit 147? 24 (Exhibit 147, Draft of Regular Business</p>
<p style="text-align: right;">207</p> <p>1 he turned to Chris and said, well, give him the 2 guarantee.</p> <p>3 Q. Mr. Yanai turned to Chris Donovan 4 and said, give him the guarantee?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. Go ahead.</p> <p>7 A. And at that point, Chris said, 8 well, Moshe, it's not that simple. And the 9 conversation never progressed any further than 10 that, because I know our Commission was adamant 11 that the personal guarantee, at that point, was 12 critical to getting the land lease.</p> <p>13 Q. Do you recall anything else that 14 was discussed during the meeting where Mr. Yanai 15 was in attendance?</p> <p>16 A. No, I do not.</p> <p>17 Q. Would you characterize the meeting 18 that you just testified about as cordial, civil?</p> <p>19 A. Very cordial. All meetings with 20 Chris and I were very cordial.</p> <p>21 Q. No yelling or screaming?</p> <p>22 A. No, not at all.</p> <p>23 Q. No accusations of any side lying to 24 the other side?</p>	<p style="text-align: right;">209</p> <p>1 Meeting Minutes for June 15, 2017, marked 2 for identification)</p> <p>3 Q. (By Mr. Simms) Could you take a 4 look at what we've just marked as Exhibit 147, 5 Mr. Ryan, and let me know when you've had a 6 chance to do so. And while you're doing that, 7 I'll identify it for the record. This is a 8 draft of the June 15, 2017 minutes of the 9 Norwood Airport Commission. And if you turn to 10 page 2, there's a heading, Old Business, and 11 then under it, a reference to Boston Executive 12 Helicopters. Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Does this entry accurately reflect 15 the discussion that took place with respect to 16 Boston Executive Helicopter's efforts to secure 17 an FBO permit just ten days ago?</p> <p>18 A. It does.</p> <p>19 Q. And according to the minutes, 20 Mr. Fee, Michael Fee, indicated that BEH will 21 provide the plan to the NAC, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And that's a reference to a fueling 24 plan signed off by a licensed engineer, correct?</p>

<p style="text-align: right;">210</p> <p>1 A. That is correct.</p> <p>2 Q. And is it your understanding, as we</p> <p>3 sit here today, that that is the only</p> <p>4 outstanding item that has been requested by the</p> <p>5 Norwood Airport Commission with respect to BEH's</p> <p>6 application for an FBO permit?</p> <p>7 A. This is the last item, yes.</p> <p>8 Q. There's nothing else?</p> <p>9 A. Nothing else.</p> <p>10 Q. I'm going to change subjects and</p> <p>11 then I'll ask you questions that are somewhat</p> <p>12 random or haphazard, but they're in the order</p> <p>13 they came up in the deposition this morning,</p> <p>14 okay?</p> <p>15 A. Yes.</p> <p>16 Q. So I apologize for the sort of</p> <p>17 William Faulkner like approach, but it's the</p> <p>18 best I can do.</p> <p>19 MR. FEE: It's fitting.</p> <p>20 Q. (By Mr. Simms) As far as you know,</p> <p>21 has the Town of Norwood -- and I'll start with</p> <p>22 the Town, ever taken any sort of enforcement</p> <p>23 action against BEH with respect to the location</p> <p>24 of its underground fuel tanks?</p>	<p style="text-align: right;">212</p> <p>1 was still pending before the FAA?</p> <p>2 A. No.</p> <p>3 Q. Did the Commission, as a body, make</p> <p>4 that decision or determination at some point?</p> <p>5 A. No.</p> <p>6 Q. Did Mr. Maguire suggest to you that</p> <p>7 the NAC should not consider any BEH matter or</p> <p>8 anything -- or agree to hear from Mr. Donovan</p> <p>9 while the Part 13 Complaint was pending before</p> <p>10 the FAA?</p> <p>11 A. No, he did not.</p> <p>12 Q. As best you can recall, did Mr.</p> <p>13 Donovan make a formal written request to appear</p> <p>14 before the NAC at its October 14 meeting?</p> <p>15 A. I don't recall if he made a</p> <p>16 request.</p> <p>17 Q. Do you recall if Mr. Donovan spoke</p> <p>18 to the Commission at any point during its</p> <p>19 October 2014 meeting?</p> <p>20 A. I'd have to look at the October 14</p> <p>21 meeting minutes. I know there was a period</p> <p>22 where he didn't show up for a few meetings, but</p> <p>23 I don't know if that was the time period.</p> <p>24 Q. If Mr. Donovan had addressed the</p>
<p style="text-align: right;">211</p> <p>1 A. No.</p> <p>2 Q. Has the Norwood Airport Commission?</p> <p>3 A. No.</p> <p>4 Q. Has the Norwood Airport Commission</p> <p>5 contacted any -- at least in the last five</p> <p>6 years, has the Norwood Airport Commission</p> <p>7 contacted any state agency and urged that the</p> <p>8 state agency take some enforcement action</p> <p>9 against BEH with respect to the placement or</p> <p>10 site of its underground fuel tanks?</p> <p>11 A. Take action against them?</p> <p>12 Q. Yes.</p> <p>13 A. No.</p> <p>14 Q. With respect to Ryan Exhibit 26,</p> <p>15 this is the meeting minutes from September 2014,</p> <p>16 and you were asked a question -- this is the</p> <p>17 meeting where Mr. Donovan made a request to</p> <p>18 address the Commission directly, but Mr. Donovan</p> <p>19 or BEH was not on the agenda. Do you recall</p> <p>20 giving that testimony earlier today?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Did you ever instruct Russ Maguire</p> <p>23 not to put Chris Donovan or BEH on the</p> <p>24 Commission agenda while BEH's Part 13 Complaint</p>	<p style="text-align: right;">213</p> <p>1 Commission at its October 2014 meeting, it would</p> <p>2 be reflected in the minutes, correct?</p> <p>3 A. It would be.</p> <p>4 Q. It may not be the totality of the</p> <p>5 discussion, but there would be some reference to</p> <p>6 Mr. Donovan or BEH in the October 14 minutes,</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. And if there is no notation or</p> <p>10 entry in the October 2014 minutes that reflects</p> <p>11 Mr. Donovan addressing the Commission, is it</p> <p>12 fair to say that he did not do so?</p> <p>13 MR. FEE: Objection.</p> <p>14 A. That's correct.</p> <p>15 Q. Just for purposes of setting a time</p> <p>16 period, I'm going to show you what was marked as</p> <p>17 Bishop Exhibit 32. It's a letter from BEH's</p> <p>18 counsel at Hinshaw & Culbertson to the FAA,</p> <p>19 March 11, 2015, so a little over two years ago.</p> <p>20 And this is a cover letter indicating that</p> <p>21 that's when BEH filed its Part 16 Complaint with</p> <p>22 the FAA?</p> <p>23 A. Correct.</p> <p>24 Q. So in the last two plus years, that</p>

<p style="text-align: right;">214</p> <p>1 is, since BEH filed the Part 16 Complaint with 2 the FAA, have you instructed or directed Russ 3 Maguire not to include Chris Donovan or BEH on 4 any agenda or at any Commission meeting? 5 A. No. 6 Q. Has the Commission, as a collective 7 body, made that determination or given that 8 direction to Mr. Maguire? 9 A. No, they have not. 10 Q. And has Mr. Maguire suggested to 11 you or the Commission that the Commission should 12 not entertain any BEH related matters while the 13 Part 16 Complaint was still before the FAA? 14 A. No, he did not. 15 Q. I'm going to show you again what 16 was marked as Exhibit 132 at your deposition, 17 executive session minutes from January 14, 2015. 18 I just want to make sure I understood your 19 testimony from this morning correctly. So these 20 minutes reflect that, in the first paragraph, an 21 offer to BEH to provide a lease at 47 cents per 22 square foot, five-year term, annual increase of 23 2 percent, now that concerns what was 24 approximately 11,000 square feet; is that</p>	<p style="text-align: right;">216</p> <p>1 that line of testimony earlier today? 2 A. This was asking for this 3 information as it pertained to the West Apron 4 lease. These are what was discussed in open 5 session. 6 Q. Now, you see there's another 7 heading, correspondence, with multiple bullet 8 points, correct? 9 A. Yes. 10 Q. The April 15, 2015 minutes do not 11 have a detailed discussion of any of the 12 correspondence that are referred to under that 13 sub-heading of the document, correct? 14 A. Correct. 15 Q. It's just a bullet point by bullet 16 point, correct? 17 A. Correct. 18 Q. In fact, the -- unless the Norwood 19 Airport Commission minutes reflect a discussion 20 of a specific item, for example, a detailed 21 discussion of the 4/19/15 letter and attachments 22 from Mr. Maguire to B. Rakoff at the FAA, unless 23 that's discussed at some length, it's not 24 reflected in the Commission minutes, correct?</p>
<p style="text-align: right;">215</p> <p>1 correct? 2 A. Correct. 3 Q. And now, I thought you said the 4 second part of these minutes refer to the 5 remainder of the front area; is that correct? 6 A. That is correct. 7 Q. And that was something that BEH 8 could have bid upon if BEH were so inclined, 9 correct? 10 A. Correct. 11 Q. Did BEH do so? 12 A. No, because they never came to an 13 agreement on the initial offer of the 11,000 14 square feet. They accepted the offer, but never 15 provided the personal guarantee that we asked 16 for. 17 Q. And these are -- strike that. 18 I show you Ryan Exhibit 133, 19 minutes of the Norwood Airport Commission from 20 April 15, 2015, and I believe Mr. Fee asked you 21 with respect to the entry on page 2, if this was 22 the first time that specific financial items 23 were discussed in open session, specific 24 financial items requested from. Do you recall</p>	<p style="text-align: right;">217</p> <p>1 MR. FEE: Objection. 2 A. Correct. 3 Q. Well, here's what I'm getting at, 4 Mr. Ryan, whether it's the April of 2015 minutes 5 or any other minutes, the Commission minutes 6 don't include, necessarily, discussions that Mr. 7 Maguire had directly with Mr. Donovan, correct, 8 unless they are actually reflected in the board 9 minutes, correct? 10 MR. FEE: Objection. 11 A. That is correct. 12 Q. Similarly, unless they are 13 specifically referred to in a set of NAC 14 minutes, a given set of minutes doesn't contain 15 discussions between counsel for the respective 16 party, correct? 17 A. That's correct. 18 Q. Let me show you Ryan Exhibit 138, 19 the minutes from June 15, 2016. You were asked 20 a number of questions about a motion on page 3, 21 and in particular, a reference to the resolution 22 of all legal matters. Do you recall being asked 23 about that earlier today? 24 A. I do.</p>

<p style="text-align: right;">218</p> <p>1 Q. And as Attorney Fee correctly 2 stated, that requirement was subsequently 3 withdrawn by the Commission; is that right? 4 A. That is correct. 5 Q. We don't have to mark this, but I 6 just want to show you a copy of the minutes from 7 October 19, 2016. And on page 3, you see the 8 date? 9 A. Yes. 10 Q. Regular business meeting of the 11 Airport Commission, correct? 12 A. Correct. 13 MR. FEE: What date are you 14 on? 15 MR. SIMMS: October 19, 2016. 16 Q. (By Mr. Simms) And I'll just read 17 this into the record. "On a motion by 18 Mr. Sheehan and seconded by Mr. Shaughnessy, the 19 Commission voted five to zero to amend a motion 20 dated June 15 to provide a cut-off date of 21 December 30, 2016 and to strike out resolution 22 of all legal matters." Did I read that 23 correctly? 24 A. You did.</p>	<p style="text-align: right;">220</p> <p>1 irrevocable letter of credit in connection with 2 any lease for additional space at the airport; 3 is that correct? 4 A. If there's a lease offered, yes. 5 Q. And at some point, Lots A, B and C 6 that were under lease to FlightLevel, they 7 became available, correct? 8 A. No, their lease did not run out. 9 Q. Okay. Their lease for Lots A, B 10 and C was scheduled to expire in 2014, correct? 11 A. That sounds right. 12 Q. Okay. I'm going to show you a 13 document that has been marked as Exhibit 40. It 14 appears to be a letter from FlightLevel to the 15 Commission, dated January 22, 2014. And on Page 16 2, it references the fact that Lots 5, 6, 7 and 17 A, B and C all were subject to leases that were 18 expiring and suggested that FlightLevel wanted 19 to renew those leases, correct? 20 MR. SIMMS: What is the date 21 on the letter? 22 MR. FEE: It's dated January 23 22, 2014, Exhibit 40. 24 A. They're looking to extend the</p>
<p style="text-align: right;">219</p> <p>1 Q. And so, that refers back to the 2 June 2016 vote, correct? 3 A. It does. 4 Q. And the motion to provide a cut-off 5 date of December 30, 2016, am I correct that 6 that was with respect to the 20,000 square foot 7 lease space that had been offered to BEH? 8 A. Yes, the 23,000 square foot area, 9 yes. 10 Q. Later extended by the Commission to 11 February 28, 2017? 12 A. Correct. 13 MR. SIMMS: I think I'm done. 14 Thank you. Mr. Fee may have some 15 questions. 16 MR. FEE: I have a couple 17 follow-ups. 18 FURTHER EXAMINATION BY MR. FEE: 19 Q. Mr. Simms asked you with respect to 20 the FBO that no further documents are required 21 other than the fueling plan, correct? 22 A. That is correct. 23 Q. But you will continue to insist 24 that BEH provide a personal guarantee or</p>	<p style="text-align: right;">221</p> <p>1 lease, yes. 2 Q. Right. For lots, 5, 6, 7, A, B and 3 C, correct? 4 A. Yes. 5 Q. And shortly after, the Commission 6 voted to extend those leases for FlightLevel 7 consistent with the request that they've made in 8 Exhibit 40, correct? 9 A. Eventually Lots 5, 6 and 7 were 10 extended for the periods that -- whatever we 11 ended up on the long-term lease because there 12 was going to be a sizable investment, and Lot A, 13 B and C was extended for another five years. 14 Q. And that decision to extend those 15 leases was done without having any kind of 16 bidding process, correct? 17 A. Well, 5, 6 and 7 was under their 18 control until 2026, so there was no bidding 19 process to be had. 20 Q. What about A, B and C? 21 A. A, B and C we did not put an RFP 22 out to lease that, no. 23 Q. And you leased or extended the 24 lease for FlightLevel without soliciting any</p>

<p style="text-align: right;">222</p> <p>1 other bidders?</p> <p>2 A. That's correct.</p> <p>3 Q. And despite the fact that you were</p> <p>4 aware of BEH's interest in leasing additional</p> <p>5 space at the airport at that time, correct?</p> <p>6 A. BEH was interested in land on the</p> <p>7 airport, that's correct.</p> <p>8 Q. Do you know who David Spiegel is?</p> <p>9 A. Sure.</p> <p>10 Q. Does the airport have a lease</p> <p>11 agreement with him?</p> <p>12 A. Yes, we do.</p> <p>13 Q. Do you know, does the airport also</p> <p>14 have a lease agreement with Verizon?</p> <p>15 A. No, we do not.</p> <p>16 Q. Is it a sublease agreement between</p> <p>17 Spiegel and Verizon?</p> <p>18 A. Yes.</p> <p>19 Q. Does the airport require personal</p> <p>20 guarantees from either David Spiegel or Verizon</p> <p>21 in connection with those leases?</p> <p>22 MR. SIMMS: Objection. Go</p> <p>23 ahead.</p> <p>24 A. So those leases, I'm not sure when</p>	<p style="text-align: right;">224</p> <p>1 Q. Any planes or helicopters take off</p> <p>2 from that area?</p> <p>3 A. No.</p> <p>4 MR. SIMMS: No further</p> <p>5 questions. We're good.</p> <p>6 MR. FEE: Thanks again. I</p> <p>7 appreciate your time.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">223</p> <p>1 they started, but they were crafted before we</p> <p>2 had the expertise of Mike Sheehan on board</p> <p>3 looking for personal guarantees. And he said</p> <p>4 numerous times, the next time it's going to be a</p> <p>5 personal guarantee on that property. But at the</p> <p>6 time we leased it out to them, we were not</p> <p>7 requiring a personal guarantee.</p> <p>8 Q. Right. So you have not asked</p> <p>9 Spiegel to provide a personal guarantee since</p> <p>10 Mr. Sheehan came on board?</p> <p>11 A. No, we have not.</p> <p>12 MR. FEE: I don't have</p> <p>13 anything else.</p> <p>14 MR. SIMMS: One quick</p> <p>15 follow-up.</p> <p>16 FURTHER EXAMINATION BY MR. SIMMS:</p> <p>17 Q. Mr. Ryan, it's my understanding,</p> <p>18 but I may be wrong, that the lease agreement</p> <p>19 between Mr. Spiegel and Verizon involves</p> <p>20 property outside of the Norwood Airport, am I</p> <p>21 mistaken?</p> <p>22 A. It's outside the airport fence, but</p> <p>23 it's within the airport property. It's an</p> <p>24 island on its own outside the airport fencing.</p>	<p style="text-align: right;">225</p> <p>UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS</p> <p>I, RAYMOND F. CATUOGNO, JR., a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that there came before me on June 29, 2017, at the law offices of Pierce Mandell, P.C., 11 Beacon Street, Boston, Massachusetts, the following named person, to wit: MARK RYAN, 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.</p> <p>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.</p> <p>WITNESS MY HAND July 10, 2017.</p> <p> Raymond F. Catuogno, Jr. Notary Public</p> <p>My Commission expires: February 12, 2021</p>

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July 11, 2017

Adam Simms, Esq.
PIERCE, DAVIS & PERRITANO, LLP
10 Post Office Square, Suite 1100N
Boston, MA 02109

Re: Boston Executive Helicopters, LLC
v. Francis T. Maguire, et al

Dear Counselor:

Enclosed is a copy of the deposition of
MARK RYAN taken on JUNE 29, 2017 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:

Michael C. Fee, Esq.
PIERCE MANDELL, P.C.
11 Beacon Street, Suite 800
Boston, MA 02108

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.

Raymond F. Catuogno, Jr.

cc: Michael C. Fee, Esq.

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
C.A. No. 1:15-CV-13647-RGS
BOSTON EXECUTIVE HELICOPTERS, LLC,
Plaintiff,

v.
FRANCIS T. MAGUIRE, ET AL.,
Defendants.

I, MARK RYAN, 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:
Page| Line| Change/Correction

WITNESS MY HAND, this day of , 2017.

MARK RYAN

cc: Michael C. Fee, Esq.
Adam Simms, Esq.

A				
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