

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

C.A. No.
1:15-CV-13647-RGS

BOSTON EXECUTIVE HELICOPTERS, LLC,

Plaintiff,

vs.

FRANCIS T. MAGUIRE, ET AL.,

Defendant.

DEPOSITION of PETER W. EICHLEAY

Wednesday, May 31, 2017 - 10:00 a.m.

Held at: Pierce & Mandell, P.C.

11 Beacon Street, Suite 800

Boston, Massachusetts 02108

Kimberley J. Bouzan, CSR #153017

REALTIME COURT REPORTING

One Monarch Place

1414 Main St.-Suite 1330

Springfield, MA 01144

9 Hammond Street

Worcester, MA 01610

508-767-1157

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<p>Page 7</p> <p>1 P R O C E E D I N G S 2 PETER W. EICHLEAY, 3 first having been satisfactorily 4 identified by the production of his driver's 5 license and duly sworn by the Notary Public, 6 testified under oath as follows: 7 EXAMINATION 8 BY MR. FEE: 9 Q. Morning, Mr. Eichleay. 10 A. Good morning. 11 Q. My name is Michael Fee. I represent BEH, 12 Boston Executive Helicopters, LLC, in this 13 litigation that's currently presenting in the 14 United States District Court for the district of 15 Massachusetts. 16 I understand you're here to give your 17 deposition testimony today; is that correct? 18 A. Yes. 19 Q. I'll show you a document. 20 MR. HARTZELL: Before we get started, is 21 there some sort of agreement that you have about 22 objections, motions to strike, that sort of 23 thing? 24 MR. FEE: Yes.</p>	<p>Page 9</p> <p>1 There's also pending a motion for a 2 protective order that would, I guess, if ruled 3 upon, apply to this witness; but that is 4 currently not before the court as my time for an 5 opposition has been extended to June 6th. 6 So anything else we should discuss before 7 we start? 8 MR. SIMMS: I think that covers it. 9 Thank you. 10 BY MR. FEE: 11 Q. Sir, have you seen the document that's 12 been marked as Exhibit 61 previously? 13 A. No. 14 Q. Okay. Mr. Eichleay, can you state your 15 name and spell it for the court reporter, please. 16 A. Sure. Peter Eichleay, P-E-T-E-R, 17 E-I-C-H-L-E-A-Y. 18 Q. And where do you live, sir? 19 A. I live in West Bath, Maine. 20 Q. How old are you? 21 A. I'm 35. 22 Q. Can you tell me briefly about your 23 educational background? 24 A. I have a BA from Bowdoin College in</p>

<p style="text-align: right;">Page 10</p> <p>1 economics and German.</p> <p>2 Q. When did you graduate from Bowdoin?</p> <p>3 A. 2004.</p> <p>4 Q. Did you have any further education after</p> <p>5 Bowdoin?</p> <p>6 A. What do you mean by "education"?</p> <p>7 Q. Did you attend any postgraduate programs?</p> <p>8 A. No.</p> <p>9 Q. Did you attend any other forms of</p> <p>10 education after Bowdoin?</p> <p>11 A. Yes.</p> <p>12 Q. What did you do?</p> <p>13 A. Some flying education, pilot licenses.</p> <p>14 Q. Do you have a pilot's license?</p> <p>15 A. I do.</p> <p>16 Q. Any other licenses?</p> <p>17 A. Driver's license.</p> <p>18 Q. Okay. And are you married?</p> <p>19 A. Yes.</p> <p>20 Q. And how long have you been married?</p> <p>21 A. It will be five years.</p> <p>22 Q. Kids?</p> <p>23 A. Yes.</p> <p>24 Q. How many?</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And do you know who the managers</p> <p>3 or members are of FlightLevel, LLC?</p> <p>4 A. Yes.</p> <p>5 Q. Who are they?</p> <p>6 A. It's ARR Aviation, LLC, and ARR Aviation</p> <p>7 II, LLC. I believe I'm the managing member.</p> <p>8 Q. You're the managing member of FlightLevel</p> <p>9 Norwood, LLC; is that correct?</p> <p>10 A. I believe so. I'm not 100 percent sure</p> <p>11 on that.</p> <p>12 Q. Okay. ARR Aviation II, LLC, and AAR --</p> <p>13 ARR Aviation, LLC, are entities formed under the</p> <p>14 jurisdiction of what state?</p> <p>15 A. Massachusetts, I believe.</p> <p>16 Q. And they are the members of FlightLevel</p> <p>17 Norwood, LLC?</p> <p>18 A. I believe so.</p> <p>19 Q. And who are the members of ARR Aviation</p> <p>20 and ARR Aviation II, LLC?</p> <p>21 A. Allan Radlow.</p> <p>22 Q. Who is Allan Radlow?</p> <p>23 A. He is an investor.</p> <p>24 Q. Are you a member of ARR Aviation, LLC, or</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Two.</p> <p>2 Q. And the West Bath, Maine, address is your</p> <p>3 permanent residence?</p> <p>4 A. Correct.</p> <p>5 Q. Do you have -- do you maintain a</p> <p>6 residence in Massachusetts as well?</p> <p>7 A. No.</p> <p>8 Q. You're familiar with the entity known as</p> <p>9 FlightLevel of Norwood, LLC?</p> <p>10 A. It's not FlightLevel of Norwood. No.</p> <p>11 Q. Do you know an entity known as</p> <p>12 FlightLevel Norwood, LLC?</p> <p>13 A. Yes.</p> <p>14 Q. And what is that entity?</p> <p>15 A. That is the entity that operates an</p> <p>16 aviation business out of the Norwood Memorial</p> <p>17 Airport.</p> <p>18 Q. Do you have an interest in that entity?</p> <p>19 A. I do.</p> <p>20 Q. What is your interest in it?</p> <p>21 A. I'm the president of the company.</p> <p>22 Q. Okay. Is it fair to say that Norwood --</p> <p>23 FlightLevel Norwood, LLC, is an LLC? Limited</p> <p>24 liability company.</p>	<p style="text-align: right;">Page 13</p> <p>1 ARR Aviation II, LLC?</p> <p>2 A. I might be. I'm not sure.</p> <p>3 Q. Do ARR Aviation, LLC, and ARR Aviation</p> <p>4 II, LLC, have operating agreements?</p> <p>5 A. I believe so.</p> <p>6 Q. Okay. When were the ARR entities formed?</p> <p>7 A. The past year. I don't know the exact</p> <p>8 date.</p> <p>9 Q. Did they acquire the membership interest</p> <p>10 in FlightLevel Norwood, LLC?</p> <p>11 A. Yes.</p> <p>12 Q. Prior to the ARR entities acquiring the</p> <p>13 membership interest of FlightLevel Norwood, LLC,</p> <p>14 who were the members of FlightLevel Norwood, LLC?</p> <p>15 A. I can't remember all of them.</p> <p>16 Q. It's an investor group?</p> <p>17 A. Yes.</p> <p>18 Q. And approximately how many people?</p> <p>19 A. A dozen entities.</p> <p>20 Q. People and entities or just entities?</p> <p>21 A. Mostly entities.</p> <p>22 Q. Okay. And that was an investment group</p> <p>23 that you formed?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. And did you form that investment group to</p> <p>2 hold membership interest in FlightLevel Norwood,</p> <p>3 LLC, at or about the time of the formation of</p> <p>4 FlightLevel Norwood, LLC?</p> <p>5 A. Yes.</p> <p>6 Q. And FlightLevel Norwood, LLC, is</p> <p>7 incorporated in Delaware; is it not?</p> <p>8 A. I believe so.</p> <p>9 MR. FEE: 63, please.</p> <p>10 (Exhibit No. 63 marked for</p> <p>11 identification.)</p> <p>12 BY MR. FEE:</p> <p>13 Q. Did Allan Radlow acquire all of the</p> <p>14 membership interest -- I'm sorry. You said that</p> <p>15 Allan Radlow holds all of the membership interest</p> <p>16 in the ARR aviation entities; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And did the ARR aviation entities</p> <p>19 acquire all of the interest in FlightLevel</p> <p>20 Norwood, LLC?</p> <p>21 A. Yes.</p> <p>22 Q. And you said that it was in this year</p> <p>23 that that happened?</p> <p>24 A. This year or last. '16/'17.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. At some point in time did FlightLevel</p> <p>2 Norwood, LLC, shift it's form from a member</p> <p>3 managed LLC to a manager managed LLC?</p> <p>4 A. I don't know.</p> <p>5 Q. Who would know that?</p> <p>6 A. My lawyers at the time probably.</p> <p>7 Q. Who are they?</p> <p>8 A. I can't remember the name of the firm.</p> <p>9 Q. Okay. But you were represented by</p> <p>10 counsel in the formation of FlightLevel Norwood,</p> <p>11 LLC, in Delaware and its subsequent registration</p> <p>12 as a foreign company in Massachusetts. Correct?</p> <p>13 A. Yes.</p> <p>14 Q. And at the time that FlightLevel Norwood,</p> <p>15 LLC, was formed, how old were you? And I can do</p> <p>16 the math.</p> <p>17 A. Approximately 26.</p> <p>18 Q. And had you had any prior experience in</p> <p>19 the aviation industry?</p> <p>20 A. Yes.</p> <p>21 Q. And what was that?</p> <p>22 A. I worked in finance and strategy for US</p> <p>23 Airways, and I worked for an investment bank</p> <p>24 after that that specialized in transportation.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Okay. And has the change in membership</p> <p>2 interest affected the operations of FlightLevel</p> <p>3 Norwood, LLC, in any way?</p> <p>4 A. No.</p> <p>5 Q. Has there been any change in managers?</p> <p>6 A. No.</p> <p>7 Q. Just a change in ownership interest; is</p> <p>8 that fair to say?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So I'm showing you a document</p> <p>11 that's been marked as Exhibit 63. It appears to</p> <p>12 be an application for registration as a foreign</p> <p>13 limited liability company dated January 9, 2008.</p> <p>14 And on page 2, there's a signature line</p> <p>15 that appears to -- that states Peter Eichleay.</p> <p>16 Is that your signature?</p> <p>17 A. Yes.</p> <p>18 Q. So my question is: Directing your</p> <p>19 attention back to the first page, paragraph 5 of</p> <p>20 the document suggests that there are no managers</p> <p>21 for FlightLevel Norwood, LLC. At that time of</p> <p>22 the formation, is that -- was that accurate?</p> <p>23 Were there no managers?</p> <p>24 A. Possibly. I can't remember.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Okay. It seems like a good time to ask</p> <p>2 you about your work experience. You graduated</p> <p>3 Bowdoin in 2004. Correct?</p> <p>4 A. Correct.</p> <p>5 Q. Can you walk me through your job</p> <p>6 experience after you graduated?</p> <p>7 A. Like I said, US Airways.</p> <p>8 Q. For how long?</p> <p>9 A. About a year.</p> <p>10 Q. For one year?</p> <p>11 A. One to two years.</p> <p>12 Q. Okay. What did you do there?</p> <p>13 A. I worked in finance and route strategy.</p> <p>14 Q. Okay. Until approximately 2004 -- 2005</p> <p>15 or 2006?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. And what did you do after that?</p> <p>18 A. I worked for a company called</p> <p>19 MergeGlobal.</p> <p>20 Q. What was the business of MergeGlobal?</p> <p>21 A. Transportation consulting and investment</p> <p>22 banking.</p> <p>23 Q. Where are they located?</p> <p>24 A. Ballston, Virginia. They may not be</p>

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<p>1 anymore. DC area.</p> <p>2 Q. Okay. What did you do for MergeGlobal?</p> <p>3 A. I was a consultant and analyst.</p> <p>4 Q. How long did you work there?</p> <p>5 A. One to two years.</p> <p>6 Q. What did you do next?</p> <p>7 A. I started FlightLevel.</p> <p>8 (Exhibit No. 64 marked for</p> <p>9 identification.)</p> <p>10 BY MR. FEE:</p> <p>11 Q. Now, sir, I'm showing you a document</p> <p>12 that's been marked as Exhibit 64. It appears to</p> <p>13 be the most recent annual report for FlightLevel</p> <p>14 Norwood, LLC. Do you recognize it?</p> <p>15 A. No.</p> <p>16 Q. Do you handle the filing -- the corporate</p> <p>17 filings for FlightLevel Norwood, LLC?</p> <p>18 A. No.</p> <p>19 Q. Who does that?</p> <p>20 A. I'm not sure.</p> <p>21 Q. FlightLevel Norwood has corporate</p> <p>22 counsel?</p> <p>23 A. Yes.</p> <p>24 Q. Is that Mr. Burlingdear (phonetic)?</p>	<p>1 A. Not airport operations. They're aviation</p> <p>2 services at airports other than Norwood.</p> <p>3 Q. Okay. What about Papa Whisky?</p> <p>4 A. What about Papa Whisky?</p> <p>5 Q. Does it provide aviation services at an</p> <p>6 airport other than Norwood?</p> <p>7 A. No.</p> <p>8 Q. What does Papa Whisky do?</p> <p>9 A. It owns my personal airplane.</p> <p>10 Q. Does it do anything else?</p> <p>11 A. It holds a lease at Norwood.</p> <p>12 Q. A lease for what?</p> <p>13 A. For a ramp.</p> <p>14 Q. Which ramp?</p> <p>15 A. It's known as the DC-3 ramp.</p> <p>16 Q. Papa Whisky. Is that Papa Whisky 1, did</p> <p>17 you say?</p> <p>18 A. Correct.</p> <p>19 Q. Is that a Massachusetts limited liability</p> <p>20 company?</p> <p>21 A. I believe so.</p> <p>22 Q. Do you know when Papa Whisky was formed?</p> <p>23 A. No. Several years ago.</p> <p>24 Q. Was it formed solely for the purpose of</p>
Page 19	Page 21
<p>1 A. Burlingham.</p> <p>2 Q. I'm sorry. Burlingham?</p> <p>3 A. Yes.</p> <p>4 Q. Are there any other entities that you are</p> <p>5 a manager or a member of?</p> <p>6 A. Yes.</p> <p>7 Q. What are they?</p> <p>8 A. FlightLevel Brunswick, LLC; FlightLevel</p> <p>9 Cape May, LLC; FlightLevel Dutchess, LLC; and Papa</p> <p>10 Whisky 1, LLC. And FlightLevel Group, LLC,</p> <p>11 although that may have been dissolved.</p> <p>12 Q. Okay. Is FlightLevel Group, LLC, a</p> <p>13 holding entity?</p> <p>14 A. No.</p> <p>15 Q. What is the business of or what was the</p> <p>16 business of FlightLevel Group, LLC?</p> <p>17 A. I believe it was a member of FlightLevel</p> <p>18 Norwood.</p> <p>19 Q. Okay. Is it -- I'm trying to be</p> <p>20 efficient with time. Is it fair to say that</p> <p>21 FlightLevel Brunswick, FlightLevel Cape May, and</p> <p>22 FlightLevel Dutchess are all entities that deal</p> <p>23 with airport operations at airports other than</p> <p>24 Norwood?</p>	<p>1 holding title to your personal airplane and</p> <p>2 leasing space at the DC-3 ramp?</p> <p>3 A. No.</p> <p>4 Q. Well, what other functions does Papa</p> <p>5 Whisky perform?</p> <p>6 A. It had a leaseback arrangement.</p> <p>7 Q. With whom?</p> <p>8 A. I believe AMS Management but that -- I</p> <p>9 may be getting the official name wrong.</p> <p>10 Q. And what's the subject matter of that</p> <p>11 leaseback arrangement?</p> <p>12 A. What do you mean by "subject matter"?</p> <p>13 Q. What did it pertain to? Was it for real</p> <p>14 property? Personal property?</p> <p>15 A. It was for operation of an aircraft.</p> <p>16 Leasing of an aircraft, I should say.</p> <p>17 Q. Okay.</p> <p>18 (Exhibit No. 65 marked for</p> <p>19 identification.)</p> <p>20 BY MR. FEE:</p> <p>21 Q. I'm showing you what's been marked as</p> <p>22 Exhibit 65. It appears to be the certificate of</p> <p>23 organization issued by -- on file with the</p> <p>24 Secretary of State for the Commonwealth of</p>

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<p>1 Massachusetts for Papa Whisky 1, LLC. Have you 2 ever seen this document before? 3 A. I'm sure I have. 4 Q. Okay. And it lists you as the manager 5 in -- at the time of the filing of the 6 certificate which is February of 2008. Correct? 7 A. It appears that way. 8 Q. Are there any other managers of Papa 9 Whisky 1? 10 A. No. 11 Q. Who are the members of Papa Whisky 1? 12 A. I don't believe any other than myself. 13 Q. Now, when you mentioned FlightLevel 14 Brunswick, Cape May, and Duchess, did the ARR 15 Aviation entities also acquire the membership 16 interest of those entities? 17 A. No. 18 Q. Okay. So do you know who the members are 19 of Brunswick, Cape May, and Duchess? 20 A. Just me. 21 Q. Just you? 22 A. Yes. Excuse me. For Brunswick and Cape 23 May, there's also a limited -- a family limited 24 partnership by former investors.</p>	<p>1 FBO at Norwood. 2 Q. Okay. And so at some point did 3 FlightLevel Norwood, LLC, acquire the interest of 4 EAC? 5 A. Basically. 6 Q. Okay. And can you describe, in general 7 terms, that transaction for me? 8 A. FlightLevel Norwood acquired the assets 9 and the trust companies that held the leases and 10 operating rights at the Norwood Memorial Airport. 11 Q. Do you recall what the consideration was 12 for that? 13 A. In terms of what? 14 Q. In terms of financial payment. 15 A. Honestly, not exactly. 16 Q. You said that FlightLevel Norwood, LLC, 17 acquired the assets and leases of EAC. Was one 18 of those assets or leases the right to operate as 19 an FBO at Norwood? 20 A. Technically, I'm not sure. 21 Q. I'm just wondering whether or not -- 22 A. In terms of technicalities. 23 Q. Well, I'm interested more in 24 generalities. Whether or not you had to go</p>
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<p>1 Q. I'm sorry. For which one? 2 A. Brunswick and Cape May. 3 Q. Okay. A family limited partnership? 4 A. Yes. 5 Q. Of former investors. Can you explain 6 that? 7 A. That's about it. 8 Q. There's a family limited partnership that 9 holds membership interests in Brunswick and Cape 10 May. 11 A. Correct. 12 Q. Is that fair to say? 13 A. Correct. 14 Q. And you said that it was a former -- I'm 15 sorry. You made a qualifier when you were 16 describing that. Can you -- 17 A. They were previously investors in 18 Norwood. 19 Q. I see. Okay. 20 What's EAC? Does that mean anything to 21 you? 22 A. EAC alone? Probably Eastern Air Center. 23 Q. What is that? 24 A. Eastern Air Center was the predecessor</p>	<p>1 through a separate permitting process in order to 2 be authorized to conduct FBO operations at 3 Norwood when FlightLevel Norwood, LLC, acquired 4 the assets of EAC in 2008. 5 A. I believe we did. 6 Q. Do you recall what process you went 7 through in order to become an authorized FBO? 8 When I say "you," I mean FlightLevel. 9 A. Not in any great detail. It was almost 10 10 years ago. 11 Q. Right. Do you recall if you were 12 required to submit a personal guarantee? 13 A. No. 14 Q. You don't recall or you weren't required? 15 A. I don't recall. 16 Q. Okay. Were you required to submit a 17 letter of credit? 18 A. I don't recall. 19 Q. Were you required to provide proof of 20 spill insurance? 21 A. I don't recall. 22 Q. Okay. Is it your -- do you recall -- it 23 is your recollection that you went through some 24 sort of permitting process with the NAC; is that</p>

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<p>1 correct?</p> <p>2 A. With the NAC?</p> <p>3 Q. Yes.</p> <p>4 A. Yes.</p> <p>5 Q. When I say "NAC," I'm referring to NAC,</p> <p>6 Norwood Airport Commission.</p> <p>7 A. Yes.</p> <p>8 Q. And you think that you went through that</p> <p>9 process in or about 2008. Correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Can you describe for me the scope</p> <p>12 of operations of FlightLevel at Norwood Airport</p> <p>13 when you initially -- when FlightLevel initially</p> <p>14 acquired the assets of EAC in 2008?</p> <p>15 A. In terms of business segments?</p> <p>16 Q. You can break it down any way you like.</p> <p>17 I'm interested in determining how much space you</p> <p>18 leased, how much fueling operations you initially</p> <p>19 did. What was the scope of your operations? And</p> <p>20 you can describe it in general terms if you like.</p> <p>21 If you don't, I can break it down for you.</p> <p>22 MR. SIMMS: Note my objection to the</p> <p>23 scope of inquiry, please.</p> <p>24 MR. FEE: Noted.</p>	<p>1 A. I think the trusts hold the leases.</p> <p>2 Q. Okay.</p> <p>3 A. So there are several different trusts.</p> <p>4 Q. Okay.</p> <p>5 A. Of which, I believe, FlightLevel Norwood</p> <p>6 is the beneficiary.</p> <p>7 Q. Could you describe or name those trusts</p> <p>8 for me, please.</p> <p>9 A. I can't name all of them.</p> <p>10 Q. How many are there?</p> <p>11 A. Three or four maybe.</p> <p>12 Q. Okay. But they are the trustees. Are</p> <p>13 the trusts holding entities of which FlightLevel</p> <p>14 Norwood, LLC, is the single beneficiary?</p> <p>15 A. Correct.</p> <p>16 Q. And is Papa Whisky 1, LLC, also a</p> <p>17 beneficiary of some of those trusts?</p> <p>18 A. No.</p> <p>19 Q. Papa Whisky 1 is a stand-alone corporate</p> <p>20 entity that has no involvement with any of the</p> <p>21 trusts?</p> <p>22 A. Correct.</p> <p>23 Q. And Papa Whiskey 1 -- just so I'm</p> <p>24 clear -- leases the DC-3 ramp?</p>
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<p>1 A. We offered, as we do currently, fuel</p> <p>2 sales.</p> <p>3 BY MR. FEE:</p> <p>4 Q. Yes.</p> <p>5 A. Hangar and tie-down aircraft parking.</p> <p>6 What I generally refer to as real estate. And we</p> <p>7 have an aircraft maintenance business.</p> <p>8 Q. Okay. And is the scope of your operation</p> <p>9 roughly the same today as it was in 2008?</p> <p>10 A. Roughly.</p> <p>11 Q. Okay. And how has it changed?</p> <p>12 A. We do some maintenance management that we</p> <p>13 didn't previously do.</p> <p>14 Q. Today, does FlightLevel have the same</p> <p>15 amount of leased space as it did in 2008?</p> <p>16 MR. SIMMS: Same objection. Go ahead.</p> <p>17 A. Approximately.</p> <p>18 BY MR. FEE:</p> <p>19 Q. Okay. You mentioned two entities that</p> <p>20 are lessees or sublessees at Norwood and that was</p> <p>21 FlightLevel Norwood, LLC, and Papa Whisky 1, LLC.</p> <p>22 Are there any other entities that you're involved</p> <p>23 with that lease space at Norwood Airport or</p> <p>24 sublease space at Norwood Airport?</p>	<p>1 A. Correct.</p> <p>2 Q. Okay. And nothing else?</p> <p>3 A. Correct.</p> <p>4 Q. Okay.</p> <p>5 (Exhibit No. 66 marked for</p> <p>6 identification.)</p> <p>7 BY MR. FEE:</p> <p>8 Q. Sir, I'm showing you a document that's</p> <p>9 been marked as Exhibit 66. It appears to be a</p> <p>10 document entitled "Lease Area Plan, Norwood</p> <p>11 Memorial Airport" dated December 17, 2007. Have</p> <p>12 you ever seen this before?</p> <p>13 A. I believe so.</p> <p>14 Q. Okay. Are you familiar with the layout</p> <p>15 of the Norwood Memorial Airport?</p> <p>16 A. Yes.</p> <p>17 Q. And are you familiar with the various</p> <p>18 designations assigned to the different parcels</p> <p>19 and areas of the airport?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And do you -- would you agree with</p> <p>22 me that this document accurately illustrates the</p> <p>23 various parcel designations that are commonly</p> <p>24 used to describe various portions of the Norwood</p>

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<p>1 Memorial Airport?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. No.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Okay. What's wrong with it?</p> <p>6 A. There's no further designation for the</p> <p>7 1,100 foot strip.</p> <p>8 Q. So with the exception of the parcel</p> <p>9 located within the 1,100 square foot strip, are</p> <p>10 all of the other designations accurate?</p> <p>11 A. They look approximate. This isn't a</p> <p>12 survey.</p> <p>13 Q. I understand. I want to mark this and</p> <p>14 use it for -- just referral purposes as we go</p> <p>15 through other documents. And if you could agree</p> <p>16 with me that the designations for Lot WXY, the</p> <p>17 west apron, DC-3, Lot 7, A, B, and C and Lot 6</p> <p>18 are accurate.</p> <p>19 A. WXY is not.</p> <p>20 Q. That's not accurate?</p> <p>21 A. No.</p> <p>22 Q. Okay. What's wrong with that?</p> <p>23 A. I can't remember which one it is, but</p> <p>24 there's a parcel that extends to the north that</p>	<p>1 A. DC-3.</p> <p>2 Q. The DC-3 is leased by Papa Whisky 1.</p> <p>3 Correct?</p> <p>4 A. Yes.</p> <p>5 Q. With the exception of the DC-3 ramp, are</p> <p>6 all of the other areas designated in blue</p> <p>7 currently leased by FlightLevel or entities</p> <p>8 affiliated with FlightLevel?</p> <p>9 MR. HARTZELL: Objection.</p> <p>10 A. The delineations, I mean, are pretty</p> <p>11 rough here.</p> <p>12 BY MR. FEE:</p> <p>13 Q. I understand.</p> <p>14 A. So I'd say --</p> <p>15 Q. Is it approximately --</p> <p>16 A. I don't know.</p> <p>17 Q. Can you tell me whether it's</p> <p>18 approximately accurate?</p> <p>19 A. Again, I need a more detailed drawing to</p> <p>20 tell you whether it was approximate or not. This</p> <p>21 is out of arts and crafts.</p> <p>22 Q. Understood. Would you care to mark it</p> <p>23 up?</p> <p>24 A. No.</p>
Page 31	Page 33
<p>1 isn't denoted there.</p> <p>2 Q. Okay. And is that the parcel that's</p> <p>3 currently leased to Verizon?</p> <p>4 A. No.</p> <p>5 Q. Is WXY currently leased to Verizon?</p> <p>6 A. I don't think so.</p> <p>7 Q. All right. With your caveats noted with</p> <p>8 respect to this document, I'll take it back from</p> <p>9 you.</p> <p>10 (Exhibit No. 67 marked for</p> <p>11 identification.)</p> <p>12 BY MR. FEE:</p> <p>13 Q. Now, sir, I'm showing you a document</p> <p>14 that's been marked as Exhibit 67. I'd represent</p> <p>15 to you that it's a portion of an exhibit that was</p> <p>16 attached to BEH's Part 16 complaint to the FAA.</p> <p>17 That is a related proceeding.</p> <p>18 And ignoring the handwritten notations on</p> <p>19 the document, I just ask you to confirm at</p> <p>20 present whether the areas denoted in blue are</p> <p>21 currently leased by FlightLevel or entities</p> <p>22 affiliated with FlightLevel?</p> <p>23 A. They're not.</p> <p>24 Q. Okay. Which ones are inaccurate?</p>	<p>1 MR. SIMMS: Objection to the entire line</p> <p>2 of questioning. Go ahead.</p> <p>3 BY MR. FEE:</p> <p>4 Q. Is it fair to say that FlightLevel leases</p> <p>5 nearly all of the space at the Norwood Airport?</p> <p>6 A. Depends on your definition of "nearly."</p> <p>7 Q. Is it fair to say that FlightLevel leases</p> <p>8 90 percent of the space at Norwood Memorial</p> <p>9 Airport?</p> <p>10 A. I don't think so.</p> <p>11 Q. What would you assign the percentage as?</p> <p>12 A. I'm not going to conjecture. I've never</p> <p>13 done the calculation. I'm not going to guess.</p> <p>14 Q. Okay. We'll get back to Exhibit 67 then.</p> <p>15 Can you tell me, with the exception of the DC-3</p> <p>16 lot, which lots are not leased by FlightLevel?</p> <p>17 A. The west apron. Lot F.</p> <p>18 Q. Anything else?</p> <p>19 A. Not that I know of.</p> <p>20 Q. Okay. So is it fair to say that with the</p> <p>21 exception of the west apron, the DC-3 lot, and</p> <p>22 Lot F, FlightLevel leases all of the remaining</p> <p>23 space at Norwood Memorial Airport?</p> <p>24 MR. SIMMS: Same objection. Go ahead.</p>

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<p>1 A. I'm not sure if there are other lots that 2 fall under the Norwood Airport. 3 BY MR. FEE: 4 Q. I'm not sure what you mean by that. 5 A. You mentioned a Verizon lot. I don't 6 know anything about that. 7 Q. Well, I'm asking, as your 8 understanding -- as you sit here today, is it 9 your understanding -- with the exception of the 10 DC-3 lot, the west apron, and Lot F -- that 11 FlightLevel leases all of the remaining lots at 12 Norwood Memorial Airport? 13 MR. HARTZELL: Objection. 14 A. No. 15 BY MR. FEE: 16 Q. No. And what's wrong with that 17 statement? Why is it not fair to say that? 18 A. Because I don't know what other lots the 19 Norwood Airport has. 20 Q. Would you agree that FlightLevel leases a 21 significant amount of space at the Norwood 22 Airport? 23 MR. HARTZELL: Objection. 24 A. Yes.</p>	<p>1 Q. Okay. So I'm going to read you the 2 first -- 3 MR. HARTZELL: Can I just interject? You 4 said April -- 5 MR. FEE: It says at the top -- 6 MR. HARTZELL: -- 2016? 7 MR. FEE: It says at the top "April 26, 8 2016. 5:00 p.m." That may not be the date that 9 it was originally. Good point, Neil. 10 BY MR. FEE: 11 Q. It appears to be dated February 12, 2015. 12 My apologies. I misread that. 13 And I'm going to read to you the first 14 sentence -- I'm sorry -- the first paragraph 15 where it says -- starting at the second sentence. 16 (As read) "As discussed, I am general 17 counsel to FlightLevel Aviation which operates 18 several airport businesses along the East Coast." 19 A. I'm sorry. Where you are? 20 Q. I'm in -- quarter down the page. 21 "Dear Officer Grasso. Introduction." 22 Do you see where I am? 23 A. I'm sorry. 24 Q. I can point. I'm starting here. Okay?</p>
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<p>1 BY MR. FEE: 2 Q. Okay. 3 MR. SIMMS: While you're in between 4 exhibits, can I step out with Neil for a moment? 5 MR. FEE: Sure. 6 (Recess taken at 10:46 a.m.) 7 (Deposition resumed at 10:48 a.m.) 8 MR. FEE: Back on the record. 9 BY MR. FEE: 10 Q. We're talking about FlightLevel at 11 Norwood. And is it fair to say that FlightLevel 12 leases approximately 120,000 square feet of space 13 at Norwood? 14 A. I don't know. 15 Q. Okay. 16 (Exhibit No. 68 marked for 17 identification.) 18 BY MR. FEE: 19 Q. Now, sir, I'm handing you a document 20 that's been marked as Exhibit 68. It appears to 21 be an e-mail dated April 26, 2016, from 22 Mr. Burlingham to K. Grasso and others. Have you 23 ever seen this before? 24 A. Probably.</p>	<p>1 A. Yes. 2 Q. So one sentence in. 3 (As read) "As discussed, I am general 4 counsel to FlightLevel Aviation which operates 5 several airport businesses along the East Coast. 6 FlightLevel is headquartered at the Norwood 7 Memorial Airport where it owns 12,000 square feet 8 of hangar and office buildings, employees just 9 under 30 people, and has over 8 million in 10 invested capital with combined rents and flowage 11 fees averaging around \$250,000 per year. 12 "FlightLevel is the airport's largest 13 contributor to the town of Norwood." 14 Did I read that correctly? 15 A. No. 16 Q. Okay. What did I read incorrectly? 17 A. You said, "12,000 square feet." 18 Q. I'm sorry. 120,000 square feet. 19 A. Yes. 20 Q. Did I read that correctly? 21 A. With that correction. 22 Q. Is that a fair statement? 23 A. Approximately. 24 Q. What's not exact about it?</p>

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<p>1 A. The 8 million I don't think is exact. 2 The 250,000 I don't think is exact. 3 Q. Anything else? 4 A. The whole concept of FlightLevel Aviation 5 operating several airport business along the East 6 Coast isn't exact. 7 Q. Okay. Well, let's break it down. 8 Is it approximately correct that 9 FlightLevel leases approximately 120,000 square 10 feet of hangar and office buildings -- 11 A. No. 12 Q. -- at Norwood? 13 What is the figure, as you sit here 14 today, of the amount of hangar and office space? 15 A. We don't lease the buildings. 16 Q. It says -- I'm sorry. It owns 120,000 17 square feet of hangar and office buildings. 18 What's incorrect about that? 19 A. Probably the 120,000 square foot number. 20 Q. Can you tell me what you think the number 21 is? 22 A. Around there. 23 Q. Okay. But it's more or less 24 approximately correct?</p>	<p>1 "approximate" in this case. Plus or minus 20 2 percent? 3 Q. Okay. Well, I'll adopt that definition 4 of approximate. 5 A. Then I'd say yes. 6 Q. Fine. 7 And \$250,000 per year in rents and 8 flowage fees. Is that approximately correct? 9 Again, adopting your caveat that it's plus or 10 minus 20 percent. 11 A. I can't say because I don't know what 12 the -- I can't remember what the flowage fee was 13 that year. 14 Q. Okay. 15 A. What the flowage was which dictates it 16 so -- 17 Q. Okay. So we're talking about 2015; 18 right? 19 A. Yeah. 20 Q. Do you know today what the flowage fees 21 average for 2016 or 2017? 22 MR. SIMMS: Same objection. Go ahead. 23 A. No. 24 BY MR. FEE:</p>
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<p>1 A. Approximate. 2 Q. And Mr. Burlingham says that FlightLevel 3 employs approximately 30 people at Norwood 4 Memorial Airport. Is that approximately correct? 5 A. I don't know what the number was at the 6 time, but approximately. That seems slightly 7 high. 8 Q. Okay. Well, it says just under 30 9 people. 10 A. Okay. Yeah. 11 Q. Is that approximately correct? 12 A. Yes. 13 Q. Okay. And then you said that you thought 14 \$8 million in invested capital was not correct. 15 Is it more or less? 16 A. I can't remember. 17 Q. Is it approximately correct? 18 MR. SIMMS: Objection to the line of 19 questioning. 20 A. I don't know. 21 BY MR. FEE: 22 Q. You don't know how much invested capital 23 FlightLevel has at Norwood Memorial Airport? 24 A. Depends on your definition of</p>	<p>1 Q. No. So as you sit here today, you do 2 not -- you can't tell me even -- or approximate 3 the amount of flowage fees that FlightLevel 4 generated at Norwood Memorial Airport for the 5 years 2015, 2016, or 2017; is that fair to say? 6 A. Yes. 7 Q. Okay. At some point you became familiar 8 with Boston Executive Helicopters and Chris 9 Donovan; is that correct? 10 A. Yes. 11 Q. And when was that? 12 A. Probably met Chris shortly -- in 2008 at 13 some point. 14 Q. Was that before or after Chris began 15 operations at the -- I'm sorry -- BEH began 16 operations at Norwood Airport? 17 A. That was before. 18 Q. Okay. And in what context did you meet 19 him? 20 A. I can't remember. 21 Q. Was it a social context? 22 A. I don't know. 23 Q. Was it in the context of BEH negotiating 24 to rent space from FlightLevel?</p>

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<p>1 A. No.</p> <p>2 Q. Was it in the context of your doing some</p> <p>3 sort of business with BEH at Norwood Memorial</p> <p>4 Airport?</p> <p>5 A. No.</p> <p>6 Q. Okay. But you don't recall anything</p> <p>7 about the specifics of when you first met him?</p> <p>8 A. I'm recollecting a time in the parking</p> <p>9 lot early on in 2008 where he, I think,</p> <p>10 introduced himself.</p> <p>11 Q. And at that time, what was your</p> <p>12 understanding of what BEH was or what it was</p> <p>13 going to do at Norwood?</p> <p>14 A. There was no understanding.</p> <p>15 Q. And you just -- he introduced himself to</p> <p>16 you?</p> <p>17 A. I believe so.</p> <p>18 Q. And did you discuss what you did at the</p> <p>19 airport and what he was planning to do at the</p> <p>20 airport?</p> <p>21 A. I don't remember.</p> <p>22 Q. Okay. At some point did you write a</p> <p>23 letter of recommendation for Mr. Donovan and BEH</p> <p>24 to the Norwood Airport commission?</p>	<p>1 that?</p> <p>2 A. Yes.</p> <p>3 Q. And what's an OWD?</p> <p>4 A. What is OWD?</p> <p>5 Q. Yes.</p> <p>6 A. That's the three letter identifier for</p> <p>7 the airport.</p> <p>8 Q. Okay. And your understanding was, at</p> <p>9 this time, that the operations of BEH would be</p> <p>10 limited to a helicopter charter business.</p> <p>11 Correct?</p> <p>12 A. Yes.</p> <p>13 Q. And did you have any understanding at</p> <p>14 this time that BEH was contemplating becoming an</p> <p>15 FBO?</p> <p>16 A. No.</p> <p>17 Q. And at this time FlightLevel was the only</p> <p>18 FBO at Norwood. Correct?</p> <p>19 A. FBO?</p> <p>20 Q. Yes. Fixed-base operator.</p> <p>21 A. There were other fixed bases of operation</p> <p>22 at the airport.</p> <p>23 Q. Did anyone else, other than FlightLevel,</p> <p>24 sell fuel at the airport?</p>
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<p>1 A. I believe I did something along those</p> <p>2 lines.</p> <p>3 Q. Did Mr. Donovan ask you to write that?</p> <p>4 A. Yes.</p> <p>5 Q. And you did?</p> <p>6 A. I think so.</p> <p>7 Q. Okay.</p> <p>8 (Exhibit No. 69 marked for</p> <p>9 identification.)</p> <p>10 BY MR. FEE:</p> <p>11 Q. Sir, I'm going to show you a document</p> <p>12 that's been marked as Exhibit 69. It appears to</p> <p>13 be an e-mail dated May 11, 2010, from you to Russ</p> <p>14 Maguire regarding Boston Executive Helicopters'</p> <p>15 business reference. Have you seen this before?</p> <p>16 A. I'm sure I have.</p> <p>17 Q. And do you recall writing this?</p> <p>18 A. Yes.</p> <p>19 Q. And did you send it to Mr. Maguire?</p> <p>20 A. Yes.</p> <p>21 Q. And so you say in here that your</p> <p>22 understanding of BEH's business was that it was a</p> <p>23 start-up helicopter charter applying for a</p> <p>24 commercial permit to be based as OWD. Do you see</p>	<p>1 A. No.</p> <p>2 Q. And that's been the case since 2008.</p> <p>3 Correct? FlightLevel has been the only</p> <p>4 fixed-base operator that sells fuel at Norwood</p> <p>5 Airport. Correct?</p> <p>6 A. Yes.</p> <p>7 Q. And so your understanding at the time</p> <p>8 that you wrote this was that FlightLevel was not</p> <p>9 going to be a fixed-based operator or sell fuel</p> <p>10 at Norwood. Correct?</p> <p>11 MR. HARTZELL: Objection.</p> <p>12 A. Incorrect.</p> <p>13 BY MR. FEE:</p> <p>14 Q. Okay. Tell me what's wrong with that</p> <p>15 statement.</p> <p>16 A. I think you made a mistake.</p> <p>17 Q. Okay. Correct me, please. It happens</p> <p>18 all the time. If you could correct me, I'd</p> <p>19 appreciate it.</p> <p>20 A. I think you meant to say it was my</p> <p>21 understanding that BEH was not going to become a</p> <p>22 fuel provider.</p> <p>23 Q. Correct. Was that your understanding?</p> <p>24 A. Not necessarily.</p>

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<p>1 Q. Okay. So did you discuss with Chris 2 Donovan or anyone at BEH their intentions to 3 become a fixed-based operator or a fuel provider 4 at Norwood?</p> <p>5 A. Not at the time of this letter.</p> <p>6 Q. So you had no idea one way or another 7 what their intentions were; is that fair to say?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Now, was it your understanding 10 that -- or your anticipation that BEH would 11 become a customer of FlightLevel for fuel?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Now, at some point BEH rented 14 space from FlightLevel; is that correct? Do you 15 know?</p> <p>16 A. Yes.</p> <p>17 Q. When was that?</p> <p>18 A. 2010 to 2013, '14. That -- I can't -- 19 those are very rough years.</p> <p>20 Q. Do you recall what space BEH rented from 21 FlightLevel?</p> <p>22 A. There was a small office on the south 23 side near the municipal parking lot.</p> <p>24 Q. Okay. And did BEH ever rent any</p>	<p>1 of the fact that BEH had acquired approval to 2 sublease Lot F and rebuild the hangar on that 3 parcel?</p> <p>4 A. Whenever the public meeting was held that 5 that was brought up.</p> <p>6 Q. Okay. And fair to say that was in or 7 about 2012 or 2013?</p> <p>8 A. Yeah.</p> <p>9 Q. Did you have any reservations about BEH's 10 efforts to sublease and rebuild the hangar on Lot 11 F at that time?</p> <p>12 MR. SIMMS: Objection. Beyond the scope.</p> <p>13 A. Yes.</p> <p>14 BY MR. FEE:</p> <p>15 Q. What were your objections at the time?</p> <p>16 MR. SIMMS: Same objection.</p> <p>17 MR. HARTZELL: Objection.</p> <p>18 A. Reservations?</p> <p>19 BY MR. FEE:</p> <p>20 Q. Yes.</p> <p>21 A. Not objections. Reservations.</p> <p>22 Q. What were your reservations?</p> <p>23 MR. SIMMS: Just a standing objection to 24 the line of questioning.</p>
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<p>1 additional space from FlightLevel?</p> <p>2 A. I don't know.</p> <p>3 Q. At some point did BEH expand and acquire 4 or lease additional space at the airport other 5 than the space that it was renting from 6 FlightLevel?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. When was that?</p> <p>9 A. It was after the hangar collapsed which 10 was '11/'12. So maybe in the '12/'13 time frame.</p> <p>11 Q. And so the hangar collapsed on Lot F. 12 Correct?</p> <p>13 A. Correct.</p> <p>14 Q. And at some point did you become aware of 15 BEH's desire to lease that space or sublease that 16 space and rebuild the hangar?</p> <p>17 A. At some point, yes.</p> <p>18 Q. Do you know when that was?</p> <p>19 A. No.</p> <p>20 Q. Were you aware at any point of -- at what 21 point did you become aware that BEH had acquired 22 approval to rebuild the hangar at Lot F?</p> <p>23 A. Can you repeat the question?</p> <p>24 Q. Sure. At what point did you become aware</p>	<p>1 MR. FEE: Noted.</p> <p>2 A. I think just that generic reservation of 3 not knowing how the tenant would behave.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Did you have cause to question, at that 6 time, how the tenant would behave?</p> <p>7 A. Probably.</p> <p>8 Q. Well, as you sit here today, can you tell 9 me what cause or basis you had to be concerned 10 about how BEH and/or Mr. Donovan would behave?</p> <p>11 A. At that time I can't remember.</p> <p>12 Q. Lot F is adjacent to Lot G. Correct?</p> <p>13 A. Correct.</p> <p>14 Q. And Lot G is owned or subleased, in whole 15 or part, by FlightLevel. Correct?</p> <p>16 A. In whole, yes.</p> <p>17 Q. Okay. And were you concerned about the 18 proximity of BEH's operations to FlightLevel's 19 operations at this time? And I'm talking about 20 in 2003 when the first --</p> <p>21 A. 2013.</p> <p>22 Q. I'm sorry -- - 2013 when the first 23 applications are being made by BEH to sublease 24 and rebuild on Lot F.</p>

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<p>1 A. I can't remember what I was feeling back 2 then. 3 Q. Well, I'm asking what you were thinking. 4 A. Or what I was thinking back then. 5 Q. Okay. But you said that you had 6 reservations, general reservations, about how the 7 tenant might behave, and I'm assuming you're 8 referring to this time period in 2013. Correct? 9 A. Yes. 10 Q. And what, if anything, gave you pause or 11 gave rise to reservations regarding how the 12 tenant might behave? 13 MR. SIMMS: Same objection. Go ahead. 14 A. I think I had read something online about 15 him being involved in another case of a litigious 16 nature and that kind of thing. 17 BY MR. FEE: 18 Q. What had you read online? 19 A. I can't remember. Some kind of legal 20 brief or court ruling or judge determination. 21 Q. So it's your testimony that in or about 22 2013 you believe that you had read something 23 online regarding Mr. Donovan or BEH that gave 24 rise to your reservations about how they might</p>	<p>1 here today, what you recall about discussions 2 between you and Mr. Donovan or BEH regarding 3 their interest in acquiring FlightLevel. 4 A. Um-hum. 5 MR. SIMMS: Again, I think the entire 6 line of questioning is beyond the scope. Go 7 ahead. 8 MR. FEE: Can we just agree that you 9 object to everything that I'm going to ask him 10 because I -- the constant interruption is 11 bothersome, to be honest, Adam. 12 MR. SIMMS: Well -- 13 MR. FEE: So either -- I mean, this is 14 the same discussion point that I've been on for 15 about 10 minutes, and you've objected a couple of 16 times to it. And every time I ask a different 17 question, you know, I don't deserve to be 18 interrupted. 19 So I would appreciate it if you can just 20 figure out a way to put it on the record. I'll 21 tell you when I'm switching topics and you can 22 make your objection at whatever length you want. 23 But I would really appreciate the courtesy of not 24 being interrupted constantly.</p>
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<p>1 behave as tenants in Lot F; is that fair to say? 2 A. Possibly. 3 Q. But you don't know for sure? 4 MR. HARTZELL: Objection. 5 A. I can't remember for sure when I read 6 that and what had -- you know, the timing of it. 7 BY MR. FEE: 8 Q. Okay. 9 A. You know, four years ago or whatever it 10 was. 11 Q. Okay. At some point did you and BEH or 12 Mr. Donovan have discussions regarding BEH's 13 desire to acquire FlightLevel? 14 A. Yes. 15 Q. And when was that? 16 A. 2013, 2012. 17 Q. And tell me -- 18 A. I could be wrong on those. It's -- 19 Q. Can you tell me -- 20 A. It's a long time ago. 21 Q. I understand. I'm just asking what your 22 recollection is as you sit here today. If you 23 don't remember, that's fine. You can say you 24 don't remember; but I'm asking you, as you sit</p>	<p>1 MR. SIMMS: Obviously, I can't object to 2 every question without knowing the question, and 3 I actually tried to limit the objections. But if 4 you want to let me know when you're changing your 5 topic, and if I think that's beyond the scope, 6 that will be fine. 7 MR. FEE: Okay. 8 MR. SIMMS: As I said, I've tried to 9 limit the number of objections. We're 10 approaching an hour in and given that you're 11 entitled to some amount of background 12 information, frankly, I think I could have 13 objected to every question so far as beyond the 14 scope. 15 MR. FEE: And you -- 16 MR. SIMMS: And I think Rule 30(c) 17 absolutely gives me authority to do -- beyond 18 that, but I don't represent this witness. So I'm 19 not aborting the deposition but there are limits. 20 We have a memorandum and order from Judge 21 Stern on an order to dismiss. That's an order of 22 the court in my view. Go ahead. 23 MR. FEE: To be fair, this discussion 24 has -- is the subject of a motion and we</p>

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<p>1 discussed whether or not we should go forward</p> <p>2 with this deposition today. And you said you had</p> <p>3 no objection because you don't represent the</p> <p>4 witness.</p> <p>5 MR. SIMMS: That's true.</p> <p>6 MR. FEE: So I gave you the opportunity</p> <p>7 to make this deposition subject to a ruling by</p> <p>8 Judge Stern on your motion for a protective order</p> <p>9 and you declined. So please --</p> <p>10 MR. SIMMS: I understand because we have</p> <p>11 time constraints. Right now we have a discovery</p> <p>12 cutoff that's only a month away. I'll try not to</p> <p>13 interrupt.</p> <p>14 MR. FEE: I appreciate best efforts.</p> <p>15 MR. SIMMS: I will try my best.</p> <p>16 MR. FEE: Thank you.</p> <p>17 MR. HARTZELL: I guess, for the record, I</p> <p>18 understand there's a motion for a protective</p> <p>19 order pending that was not filed by us concerning</p> <p>20 the subject matter of depositions taken in this</p> <p>21 case. Because I understand there's only one</p> <p>22 count left that has to do with a First Amendment</p> <p>23 claim, it seems to me that some of the questions</p> <p>24 you're asking Mr. Eichleay don't seem to be</p>	<p>1 A. Like I said, 2012 approximately.</p> <p>2 Q. And did they continue during the time</p> <p>3 that FlightLevel -- I'm sorry -- that BEH was</p> <p>4 constructing the new hangar on Lot F?</p> <p>5 A. I can't remember.</p> <p>6 Q. Do you recall at some point that you</p> <p>7 became aware of the fact that BEH was installing</p> <p>8 fuel tanks on Lot F?</p> <p>9 A. Repeat the question.</p> <p>10 Q. Did you become aware at some point that</p> <p>11 BEH was installing fuel tanks on Lot F?</p> <p>12 A. Of course.</p> <p>13 Q. When was that?</p> <p>14 A. 2012.</p> <p>15 Q. Okay. And did you have a discussion</p> <p>16 with -- at any time with Mr. Donovan regarding</p> <p>17 his desire to install fuel tanks and become a</p> <p>18 fuel provider at the airport?</p> <p>19 A. I believe it was mentioned in some</p> <p>20 conversation.</p> <p>21 Q. Did that subject matter, in any way, come</p> <p>22 into the discussions regarding BEH's desire to</p> <p>23 acquire FlightLevel?</p> <p>24 A. I can't remember.</p>
Page 55	Page 57
<p>1 relevant at all to that claim.</p> <p>2 I reserve my right to object and move to</p> <p>3 strike any deposition testimony or move to</p> <p>4 prevent you from using any deposition testimony</p> <p>5 taken in this case and any other case on the</p> <p>6 grounds that it's beyond the scope of what's at</p> <p>7 issue in this case.</p> <p>8 MR. FEE: Fair enough. I fully agree</p> <p>9 with your point, and let's try to proceed and get</p> <p>10 through this as quickly as possible.</p> <p>11 BY MR. FEE:</p> <p>12 Q. Can you tell me what your recollection is</p> <p>13 of how the discussions proceeded when BEH</p> <p>14 expressed some interest in purchasing</p> <p>15 FlightLevel?</p> <p>16 A. I mean, there was -- I gave him a bunch</p> <p>17 of diligence information.</p> <p>18 Q. Yes.</p> <p>19 A. And that's about as far as I got until</p> <p>20 several years later. He made, what I perceived</p> <p>21 to be, an insulting offer and that's where it</p> <p>22 ended.</p> <p>23 Q. When did it start? When did the first</p> <p>24 discussion or overtures begin?</p>	<p>1 Q. Okay.</p> <p>2 (Exhibit No. 70 marked for</p> <p>3 identification.)</p> <p>4 BY MR. FEE:</p> <p>5 Q. Sir, I'm showing you a document that's</p> <p>6 been marked as Exhibit 70. It appears to be an</p> <p>7 e-mail exchange between you and Mr. Donovan.</p> <p>8 And, at least on the first page of this document,</p> <p>9 which is three pages, the date is 5/14/2013.</p> <p>10 Have you seen this document before?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Now, I'm going to turn your</p> <p>13 attention to the second page. It appears to be a</p> <p>14 letter or -- I'm sorry -- an e-mail from Mr.</p> <p>15 Donovan to you dated May 10, 2013. Skipping down</p> <p>16 to the fourth full paragraph.</p> <p>17 MR. HARTZELL: Are you on the first page</p> <p>18 still?</p> <p>19 MR. FEE: Second page.</p> <p>20 BY MR. FEE:</p> <p>21 Q. Fifth full paragraph. I'm going to read</p> <p>22 this and you can correct me if I make a mistake.</p> <p>23 And this is Mr. Donovan speaking to you.</p> <p>24 (As read) "Fuel is one of the greatest</p>

<p style="text-align: right;">Page 58</p> <p>1 generators of income along with hangars, and 2 FlightLevel and past FBOs have enjoyed a monopoly 3 position as the single-source fuel provider. 4 "The closing of the tower could also 5 negatively impact the operation of income. Being 6 involved in our hangar construction, I am well 7 aware of the costs and permitting associated with 8 new hangers and facilities. 9 "We have full approval for the 10 installation and operation of fueling facilities 11 at our new site and will install the tanks in the 12 next several months. I believe now is the time 13 for us to decide to install or attempt to expand. 14 "If we do install, we intend to do 15 whatever is possible to maximize the return on 16 our investment and sell as much fuel as possible, 17 consistent with the lowest price possible. Our 18 overhead is much lower as we do not have the 19 large physical presence, et cetera. 20 "Now is the time to talk." 21 Did I read that correctly? 22 A. Yes. 23 Q. Okay. So is it fair to say that in or 24 about May of 2013, in connection with these</p>	<p style="text-align: right;">Page 60</p> <p>1 Motions for summary judgment are due in 2 approximately one month. 3 MR. FEE: We can have a discussion about 4 that off the record, I think, at the conclusion 5 of the deposition. 6 BY MR. FEE: 7 Q. Have you had a chance to look at the 8 exhibit? 9 A. I have. 10 Q. And does that refresh your recollection 11 as to what your reaction was to Mr. Donovan 12 stating to you that he intended to install fuel 13 tanks and compete with FlightLevel? 14 A. Yes. 15 Q. And what was your reaction? 16 A. We've both got to do what we've got to 17 do. 18 Q. And did you feel that FlightLevel was 19 not -- I'm sorry -- that BEH was not entitled to 20 become an FBO or to sell fuel at the airport for 21 any reason? 22 MR. HARTZELL: Objection. 23 A. No. 24 BY MR. FEE:</p>
<p style="text-align: right;">Page 59</p> <p>1 potential acquisition discussions that we've been 2 talking about today, that you became aware of 3 BEH's desire to install tanks and sell fuel at 4 Norwood Airport in direct competition with 5 FlightLevel? 6 A. Yes, and I'd say it's even before this. 7 Q. So what, if anything -- or what was your 8 reaction to this statement by BEH that it 9 intended to compete with FlightLevel? 10 A. I guess you could read it right here in 11 the e-mail; right? 12 Q. I'm just asking you as you sit here 13 today. 14 A. You're asking me to remember what my 15 reaction was to something four years ago. I've 16 got it written here, so why don't we go with 17 what's written? 18 Q. Well, if you want to read it and then I 19 can ask you some questions about it. 20 MR. SIMMS: To the extent this is a new 21 topic, note my objection. Okay? 22 MR. FEE: Thank you. 23 MR. SIMMS: I believe I misspoke before. 24 The discovery cutoff is, I think, in two days.</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. So at this point in time when you were 2 having discussions regarding the acquisition, you 3 felt that BEH had the right to apply for an FBO 4 permit and to sell fuel in competition with 5 FlightLevel if that permit was approved. 6 Correct? 7 MR. HARTZELL: Objection. 8 A. Any qualified candidate has the right to 9 apply for anything. 10 BY MR. FEE: 11 Q. Right. Okay. 12 So did you feel that you needed to do 13 what you needed to do to protect FlightLevel at 14 that point in time -- 15 MR. HARTZELL: Objection. 16 BY MR. FEE: 17 Q. -- from competition? 18 MR. HARTZELL: Objection. 19 A. It's my fiduciary duty to protect my 20 investment -- 21 BY MR. FEE: 22 Q. Right. Understood. 23 A. -- no matter what the circumstances. 24 Q. I'm not judging your motivations at all.</p>

<p style="text-align: right;">Page 62</p> <p>1 What I'm asking is what you did in reaction to 2 the suggestion from BEH that it intended to sell 3 fuel in competition with FlightLevel. 4 A. At that time I don't know that I did 5 anything. 6 Q. Okay. 7 (Exhibit No. 71 marked for 8 identification.) 9 BY MR. FEE: 10 Q. Sir, I'm showing you a document that's 11 been marked as Exhibit 71. It's also Exhibit 18 12 to the Bishop deposition. It appears to be a 13 letter dated June 20, 2013, from you to the 14 Norwood Airport Commission. Have you ever seen 15 this before? 16 A. Yes. 17 Q. Okay. And previously you testified -- 18 when I asked you what, if anything, you did in 19 response to learning that BEH intended to sell 20 fuel in competition with FlightLevel -- that you 21 weren't sure what you did at all. Does this 22 refresh your recollection as to what actions you 23 took on behalf of FlightLevel? 24 A. Give me a second.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. I expressed that a level playing field be 2 applied. 3 Q. Okay. And is it fair to say that your 4 objections were based on your understanding of 5 how BEH's fueling operations would be undertaken 6 should an FBO permit be approved. Correct? 7 MR. HARTZELL: Objection. 8 BY MR. FEE: 9 Q. Well, I can restate it. At this point no 10 FBO application had been submitted. Correct? 11 A. I can't remember that. 12 Q. Okay. So what information did you have 13 regarding how BEH was going to conduct its 14 fueling operations? 15 MR. SIMMS: It strikes me as a new line 16 of questioning. So note my objection, please. 17 A. And I can't remember. 18 BY MR. FEE: 19 Q. Okay. 20 A. I mean -- 21 Q. Well, you make specific objections in 22 this letter regarding TOFA and obstructing the 23 Gate 3 taxi lane. Correct? 24 A. Yes.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Sure. Take your time. Let me know when 2 you're ready. 3 A. I haven't read it word for word. 4 Q. I'm not going to ask you specific 5 questions about it. And if we get into a subject 6 matter that requires you to read it in more 7 detail, please take all the time you need. I'm 8 not asking you to answer questions about this 9 that you're not prepared to answer. 10 A. Okay. 11 Q. So my question was: Does this refresh 12 your recollection as to what you did in reaction 13 to learning that BEH intended to sell fuel in 14 competition with FlightLevel? 15 A. Yes. 16 Q. And did you write this letter? 17 A. Yes. 18 Q. Okay. And you signed it? 19 A. I did. 20 Q. And you sent it to the Norwood Airport 21 Commission on or about June 20, 2013? 22 A. Yes. 23 Q. And you expressed objections regarding 24 BEH's operations; is that fair to say?</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. And so is it fair to say that you were 2 assuming that BEH's operations, as a 3 fuel-providing FBO, were going to not comply with 4 these restrictions? Is that correct? 5 MR. HARTZELL: Objection. 6 A. It was a concern I had based on the real 7 estate constraints. 8 BY MR. FEE: 9 Q. And what were those real estate 10 constraints? 11 A. Lot F. 12 Q. And can you be more specific? 13 A. The real estate didn't exist to run an 14 efficient and safe fueling operation without 15 encroaching, given the size of the hangar, on Lot 16 F. 17 Q. Okay. Was it your understanding that use 18 of the taxiway space between Lot F and Lot G was 19 of concern to you or was it just overall the 20 operation of a fueling operation at Lot F? 21 MR. HARTZELL: Objection. 22 A. I reject the premise of your question. 23 BY MR. FEE: 24 Q. Okay. What about it do you reject?</p>

<p style="text-align: right;">Page 66</p> <p>1 A. You said a taxiway in between Lot F and 2 Lot G? 3 Q. Yes. 4 A. No taxiway exists. 5 Q. Fair enough. What exists between Lot F 6 and Lot G? What do you call that? 7 A. A ramp. 8 Q. A ramp. Was it your understanding that 9 BEH would be conducting some sort of fueling 10 operations in that ramp? 11 A. I think at this time it was a suspicion 12 that was later confirmed by a fueling plan 13 submitted by BEH. 14 Q. Okay. And you objected to any fueling 15 operations that took place in that area. 16 Correct? 17 MR. HARTZELL: Objection. 18 A. On our leasehold. 19 BY MR. FEE: 20 Q. Okay. But you conducted fueling 21 operation in that area. Correct? 22 MR. HARTZELL: Objection. 23 A. At some point. 24 BY MR. FEE:</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Was that my understanding? 2 Q. Yes. 3 A. That's what the fueling plan showed. 4 Q. Okay. What fueling plan are you 5 referring to? 6 A. A fueling plan BEH submitted around this 7 time. 8 Q. Okay. Did -- the fueling plan that 9 you're referring to, was it submitted in 10 connection with the plans to build the hangar and 11 the fuel tank or something else? 12 A. I don't know. 13 Q. Okay. But it's your testimony and your 14 recollection that BEH submitted a fueling plan at 15 or about this time, of your writing Exhibit 71, 16 that you had objections to. Is that fair to say? 17 MR. HARTZELL: Objection. 18 A. The timing, I -- there's so many 19 different timing elements. So I can't say with 20 certainty. 21 BY MR. FEE: 22 Q. Well, I'm trying to understand your 23 answer and your testimony earlier where you said 24 you had real estate -- concerns about real</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. And you still do. Correct? 2 MR. HARTZELL: Objection. 3 A. Not that I know of. 4 BY MR. FEE: 5 Q. Isn't the fuel farm that FlightLevel 6 operates at the end of that ramp? 7 MR. HARTZELL: Objection. 8 A. It is. 9 BY MR. FEE: 10 Q. And don't trucks drive up and down that 11 ramp? 12 A. I thought you were referring to fueling 13 of aircraft. 14 Q. Okay. Is there a difference in your mind 15 as to when we use the word "fueling operations"? 16 Isn't that a general description of all forms of 17 activities associated with fueling aircraft? 18 MR. HARTZELL: Objection. 19 A. Yes. 20 BY MR. FEE: 21 Q. Okay. So was it your understanding that 22 FlightLevel -- I'm sorry -- BEH intended to drive 23 aircraft down that ramp in order to conduct 24 fueling operations?</p>	<p style="text-align: right;">Page 69</p> <p>1 estates constraints; right? And we've talked 2 about the fact that there was a ramp area between 3 Lot F and Lot G, and you were concerned about 4 BEH's fueling plan for that area. Correct? 5 A. No. I had concerns about my property 6 rights being violated and the rules not being 7 evenly applied. 8 Q. And you testified earlier that anybody 9 who qualified for an FBO has the right to apply 10 for a fuel provider's license at Norwood Airport. 11 Correct? There's a process. Correct? 12 A. Yes. 13 Q. And so what about BEH's efforts to become 14 a fuel provider caused concern for you other than 15 it was going to be competition for FlightLevel? 16 MR. HARTZELL: Objection. 17 A. We're going in circles here. I feel like 18 I've already answered this question, sir. 19 BY MR. FEE: 20 Q. I'm asking it a different way because I'm 21 trying to understand your testimony. 22 A. I don't understand the question then. 23 Q. What, other than BEH's stated intent to 24 sell fuel in competition with FlightLevel -- what</p>

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<p>1 caused concern for you at the time such that</p> <p>2 you --</p> <p>3 A. I never stated that, though. What you</p> <p>4 just said, I don't believe I've stated.</p> <p>5 What I stated was about property rights,</p> <p>6 and what I stated was about the rules being</p> <p>7 applied fairly.</p> <p>8 Q. Okay.</p> <p>9 A. I feel like you're putting words in my</p> <p>10 mouth.</p> <p>11 Q. No, no, no. I will not do that.</p> <p>12 Let's step back and talk about Exhibit</p> <p>13 71. And I understand the words that you wrote in</p> <p>14 Exhibit 71, and I understand that this letter was</p> <p>15 written shortly after Mr. Donovan informed you</p> <p>16 that he intended to sell fuel in competition with</p> <p>17 FlightLevel. Correct?</p> <p>18 A. Yes.</p> <p>19 Q. And so you raised specific objections</p> <p>20 regarding a fuel plan that you believe -- a</p> <p>21 fueling plan that you believe BEH prepared and</p> <p>22 circulated in some fashion, but you don't recall</p> <p>23 the detail of that. Correct?</p> <p>24 A. I don't recall the timing.</p>	<p>1 in between them.</p> <p>2 Q. Okay. I asked you this earlier -- and if</p> <p>3 I have the terminology incorrect, please correct</p> <p>4 me -- what is the area between Lot F and Lot G</p> <p>5 defined as? What do you call it?</p> <p>6 A. It's not defined as anything.</p> <p>7 Q. Well --</p> <p>8 A. There's Lot G and there's Lot F.</p> <p>9 Q. And there's nothing in between?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. It's pavement. Correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And the activities that take place</p> <p>14 between Lot F and Lot G are the subject of deeds</p> <p>15 and easements and subleases and legal documents.</p> <p>16 Correct?</p> <p>17 MR. HARTZELL: Objection.</p> <p>18 A. Yes.</p> <p>19 BY MR. FEE:</p> <p>20 Q. And the scope of each parties' ability to</p> <p>21 operate within that area is defined by those</p> <p>22 legal documents. Correct?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. I'd say not really.</p>
Page 71	Page 73
<p>1 Q. You don't recall the timing.</p> <p>2 A. I don't recall the timing exactly.</p> <p>3 Q. But as I understand your testimony -- if</p> <p>4 I mischaracterize in way, please tell me -- one</p> <p>5 of the issues that motivated you to write this</p> <p>6 letter was that you believed that BEH would</p> <p>7 operate in the ramp in such a way so as to</p> <p>8 impinge on your property rights. Is that fair to</p> <p>9 say?</p> <p>10 A. That was a concern.</p> <p>11 Q. Any other concerns?</p> <p>12 A. Yes.</p> <p>13 Q. What?</p> <p>14 A. How it would affect my business.</p> <p>15 Q. Okay. Anything else?</p> <p>16 A. Not really.</p> <p>17 Q. Okay. And you testified earlier -- and I</p> <p>18 just want to understand this distinction -- is</p> <p>19 that there's a ramp between Lot F and Lot G, and</p> <p>20 that arguably or according to you is a fuel</p> <p>21 operation in that area.</p> <p>22 A. That's incorrect.</p> <p>23 Q. I'm sorry?</p> <p>24 A. There's Lot F and Lot G. There's no ramp</p>	<p>1 BY MR. FEE:</p> <p>2 Q. Why not?</p> <p>3 A. Show me where it -- you're asking me to</p> <p>4 prove a negative.</p> <p>5 Q. All right. Fair enough.</p> <p>6 I believe you testified earlier that you</p> <p>7 said you thought BEH's fueling plan called for</p> <p>8 their undertaking operations between Lot F and</p> <p>9 Lot G. Is that a fair characterization of your</p> <p>10 testimony?</p> <p>11 MR. HARTZELL: Objection.</p> <p>12 A. I don't think so, but if I said that, I</p> <p>13 worded it poorly.</p> <p>14 BY MR. FEE:</p> <p>15 Q. Well, please tell me. I mean -- because</p> <p>16 my understanding is that you had concerns about a</p> <p>17 fueling plan submitted by BEH that contemplated</p> <p>18 BEH fueling operations in the space where Lot F</p> <p>19 and Lot G abut. Is that --</p> <p>20 A. No. It showed fueling operations on</p> <p>21 Lot G.</p> <p>22 Q. Okay. Which you own?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. Other than that concern and the</p>

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<p>1 concern about the competition for your business, 2 what other concerns did you have that caused you 3 to write Exhibit 71? 4 A. Again, even playing field, safety, and 5 what we've already covered. 6 Q. Did you have -- was it your belief that 7 the design and the installation of fuel tanks on 8 Lot F did not allow for a regulation-compliant 9 fueling operation by BEH on Lot F? 10 MR. HARTZELL: Objection. 11 A. It looked like it would be very 12 challenging but I never, you know, measured 13 anything or did anything of that sort. 14 BY MR. FEE: 15 Q. Okay. So to your eyeball, it looked like 16 Lot F would be a challenging spot for an FBO to 17 operate? 18 A. Without coming onto Lot G. 19 Q. What if the fueling operations were 20 undertaken in such a way so as to never go onto 21 Lot G? 22 MR. HARTZELL: Objection. 23 MR. SIMMS: Objection. 24 BY MR. FEE:</p>	<p>1 MR. SIMMS: Same objection. 2 MR. HARTZELL: Objection. 3 A. No. 4 BY MR. FEE: 5 Q. Okay. 6 (Exhibit No. 72 marked for 7 identification.) 8 MR. HARTZELL: Just so the record is 9 clear, my objection is anything outside the scope 10 of the single issue left in this court case. I 11 make them for all these questions that are 12 outside the scope of that throughout the whole 13 deposition. 14 MR. FEE: Perfect. 15 BY MR. FEE: 16 Q. Mr. Eichleay, I'm showing you a document 17 that's been marked as Exhibit 72. It appears to 18 be a letter dated September 24, 2013, from you to 19 the Norwood Airport Commission, but it's not 20 signed. I'd just like to ask you if you've seen 21 this before? 22 A. Yes. 23 Q. And did you send it? 24 A. I'm not sure.</p>
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<p>1 Q. Would you have the same objection? 2 A. Which objections? 3 Q. Would you still have the same concerns 4 regarding BEH's sale of fuel or approval as an 5 FBO provider if BEH's operations never passed 6 over or through or on Lot G? 7 MR. HARTZELL: Objection. 8 MR. SIMMS: Objection. 9 A. None but the fiduciary duty element 10 that -- how competition would affect my business. 11 BY MR. FEE: 12 Q. So it was your -- if you take away the 13 Lot F and G issue, the main concern for 14 FlightLevel at this time is competition for its 15 business. Is that fair to say? 16 MR. HARTZELL: Objection. 17 A. If you take away the property issue? 18 BY MR. FEE: 19 Q. Yes. 20 A. So we're speaking in hypotheticals now? 21 Q. I'm just trying to figure out if there's 22 anything other than those two things that you've 23 expressed as reservations regarding BEH's efforts 24 to become a fuel provider at Norwood.</p>	<p>1 Q. Okay. And -- 2 A. I don't know that we did. I remember -- 3 go ahead. 4 Q. You remember what? 5 A. I remember writing it. 6 Q. Okay. But you're not sure if you sent 7 it? 8 A. Correct. 9 Q. So in general terms, the letter describes 10 a discussion that you had or someone from 11 FlightLevel had with Thomas Vick of the FAA. 12 Correct? 13 A. Yes. 14 Q. Were you -- did you make that contact 15 with Thomas Vick or was it someone else from 16 FlightLevel? 17 A. It must have been someone else. 18 Q. Have you ever spoken to Thomas Vick? 19 A. I don't think I have. No. 20 Q. And so it's fair to say that there's a 21 description in numbers one, two, three, four, and 22 five of this letter on the first page regarding 23 concerns that you have regarding your investment 24 in the airport. Correct?</p>

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<p>1 A. Yes.</p> <p>2 Q. And what was this in reaction to? Do you</p> <p>3 recall?</p> <p>4 A. I don't, but I can guess.</p> <p>5 Q. Please do.</p> <p>6 MR. HARTZELL: I don't want you to guess.</p> <p>7 A. I'm not going to guess.</p> <p>8 BY MR. FEE:</p> <p>9 Q. Do you know what was happening at or</p> <p>10 about this time? September of 2013.</p> <p>11 A. So this is in chronological order?</p> <p>12 You're handing me these letters --</p> <p>13 Q. Yes.</p> <p>14 A. I know we wrote a lot of letters. Is</p> <p>15 this chronologically?</p> <p>16 Q. I'm going in chronological order with</p> <p>17 respect to this particular topic of the</p> <p>18 deposition. Yes.</p> <p>19 A. Can you tell me when the fueling plan was</p> <p>20 submitted by BEH?</p> <p>21 Q. I don't think we've established that. As</p> <p>22 I understand your testimony, you stated that in</p> <p>23 connection with Exhibit 71, which was drafted in</p> <p>24 or about June of 2013, you were reacting to a</p>	<p>1 were going on, I asked you if it was fair to say</p> <p>2 that this is in reaction to BEH's continued</p> <p>3 efforts to become an approved fuel provider at</p> <p>4 Norwood Airport.</p> <p>5 MR. HARTZELL: Objection.</p> <p>6 BY MR. FEE:</p> <p>7 Q. Is that fair to say?</p> <p>8 MR. HARTZELL: Objection.</p> <p>9 A. No.</p> <p>10 BY MR. FEE:</p> <p>11 Q. What is it in reaction to then?</p> <p>12 A. I can't say with certainty. I've already</p> <p>13 said that.</p> <p>14 Q. Well, I'm sorry to ask you several times</p> <p>15 but I need to --</p> <p>16 A. Because you won't tell me when the</p> <p>17 fueling plan was submitted so --</p> <p>18 Q. I don't know that --</p> <p>19 A. If you gave me the date, then I could</p> <p>20 tell you with certainty what this was in reaction</p> <p>21 to. If you don't, I can't tell you with</p> <p>22 certainty.</p> <p>23 Q. Okay. I'm not asking for certainty. I'm</p> <p>24 asking as you sit here today, what is your best</p>
Page 79	Page 81
<p>1 fueling plan. So that's all that we've</p> <p>2 established.</p> <p>3 A. Okay.</p> <p>4 Q. So my question is: Why did you write</p> <p>5 this letter? What were you concerned about?</p> <p>6 What was happening?</p> <p>7 A. The same thing we've been talking about.</p> <p>8 Q. So it was just a continuation of your</p> <p>9 concerns regarding BEH's efforts to sell fuel at</p> <p>10 Norwood?</p> <p>11 A. No. On our property.</p> <p>12 Q. Right.</p> <p>13 A. That's a pretty important distinction.</p> <p>14 Q. I understand, but to be fair --</p> <p>15 A. This is all about property rights -- this</p> <p>16 letter.</p> <p>17 Q. Okay. But to be fair you've testified</p> <p>18 that you had two concerns: One, that it would</p> <p>19 impinge on your property right; and two, that the</p> <p>20 sale of fuel by BEH would be competition for your</p> <p>21 business. Correct?</p> <p>22 A. Yeah, and those are separate.</p> <p>23 Q. Okay. Right. And so when you say that</p> <p>24 you wrote this in reaction to all the things that</p>	<p>1 recollection of why you wrote this letter?</p> <p>2 THE WITNESS: Do you want me to suspect</p> <p>3 or speculate --</p> <p>4 BY MR. FEE:</p> <p>5 Q. I'm asking you --</p> <p>6 THE WITNESS: -- Counselor? I'm asking</p> <p>7 my counsel.</p> <p>8 MR. HARTZELL: You can't -- just answer</p> <p>9 the question as best you can. If you have to</p> <p>10 guess, and you don't really know, then just say</p> <p>11 that.</p> <p>12 A. Okay. I'm suspecting that this was in</p> <p>13 response to it becoming aware that -- becoming</p> <p>14 aware of the possibility of BEH using our</p> <p>15 property against us and us wanting to know what</p> <p>16 their take was on property rights being infringed</p> <p>17 upon.</p> <p>18 BY MR. FEE:</p> <p>19 Q. And you were asking the Norwood Airport</p> <p>20 Commission to take a position on this. Correct?</p> <p>21 This issue that you've raised.</p> <p>22 MR. HARTZELL: Objection.</p> <p>23 BY MR. FEE:</p> <p>24 Q. Well, let me turn your attention to the</p>

<p style="text-align: right;">Page 82</p> <p>1 last sentence.</p> <p>2 A. At some point. I don't know if it was --</p> <p>3 Q. Let me turn your attention --</p> <p>4 A. Because I don't know if that letter was</p> <p>5 sent, like I said.</p> <p>6 Q. Are you done? Are you finished with your</p> <p>7 answer?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Let me turn your attention to the</p> <p>10 last line of this document on page 1. It says:</p> <p>11 (As read) "FlightLevel respectfully</p> <p>12 requests that the NAC simply state its position</p> <p>13 on this subject."</p> <p>14 Did I read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. So it was your position at this time that</p> <p>17 you wanted the NAC to declare what their thoughts</p> <p>18 were on this perceived dispute between you and</p> <p>19 BEH. Is that fair to say?</p> <p>20 MR. HARTZELL: Objection.</p> <p>21 A. Yes. But again, I don't know that I sent</p> <p>22 this and I know I never heard a response. So</p> <p>23 that may mean that it was never sent.</p> <p>24 BY MR. FEE:</p>	<p style="text-align: right;">Page 84</p> <p>1 between you and the NAC after this letter was</p> <p>2 written regarding your desire to have them weigh</p> <p>3 in on your dispute with BEH?</p> <p>4 A. Over the next several years you're</p> <p>5 asking?</p> <p>6 Q. No. At or about this time.</p> <p>7 A. I don't think anything.</p> <p>8 Q. And we're talking now about September of</p> <p>9 2013. Did you have any meetings with any members</p> <p>10 of the Norwood Airport Commission regarding this</p> <p>11 issue that you were describing in Exhibit 72?</p> <p>12 A. At that time, I can't remember.</p> <p>13 Q. Okay. Did you have any meetings with</p> <p>14 Russ Maguire regarding the issues that -- at or</p> <p>15 about the time of Exhibit 72 regarding the</p> <p>16 subject matter of Exhibit 72?</p> <p>17 A. Not that I remember. There may have been</p> <p>18 a phone call but no formal meeting that I can</p> <p>19 recall.</p> <p>20 Q. Phone call to whom?</p> <p>21 A. To Russ.</p> <p>22 Q. And do you recall anything about that</p> <p>23 phone call?</p> <p>24 A. Not really.</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. I fully acknowledge the fact that you</p> <p>2 don't remember whether you sent this or not, and</p> <p>3 I understand it's not signed and there's no</p> <p>4 evidence that it's been sent. I'm just asking</p> <p>5 you -- you testified that you wrote it; right?</p> <p>6 A. Yes.</p> <p>7 Q. And I asked you what your -- what the</p> <p>8 impetus for your writing this document was and</p> <p>9 we've had that discussion.</p> <p>10 And now my question is: At the time that</p> <p>11 you wrote this document, was it your desire to</p> <p>12 involve the NAC and get them to weigh in on this</p> <p>13 dispute that you were having with BEH?</p> <p>14 MR. HARTZELL: Objection.</p> <p>15 BY MR. FEE:</p> <p>16 Q. Is that fair to say?</p> <p>17 MR. HARTZELL: Objection.</p> <p>18 A. That thought was going through my head</p> <p>19 when this letter was written.</p> <p>20 BY MR. FEE:</p> <p>21 Q. Okay.</p> <p>22 A. And I can see that based from the last</p> <p>23 sentence.</p> <p>24 Q. Okay. So what, if anything, happened</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. How about anything at all? Do you recall</p> <p>2 anything at all about that phone call? Because</p> <p>3 you said "not really," and I'm wondering what you</p> <p>4 mean by that.</p> <p>5 A. I think there was a phone call after I</p> <p>6 saw the fueling plan, you know, saying this</p> <p>7 clearly has implications for us. And I didn't</p> <p>8 get much of a response at all.</p> <p>9 Q. And this is in or about the end of 2013,</p> <p>10 beginning of 2014. Correct?</p> <p>11 A. It was in response to the fueling plan, I</p> <p>12 believe.</p> <p>13 Q. Okay.</p> <p>14 (Exhibit No. 73 marked for</p> <p>15 identification.)</p> <p>16 MR. FEE: Let's take a five-minute break.</p> <p>17 (Recess taken at 11:48 a.m.)</p> <p>18 (Deposition resumed at 11:55 a.m.)</p> <p>19 MR. FEE: Back on the record.</p> <p>20 BY MR. FEE:</p> <p>21 Q. We left off -- I was marking Exhibit 73.</p> <p>22 I'm showing you a document that's been marked as</p> <p>23 Exhibit 73. It appears to be a letter dated</p> <p>24 January 29, 2015, from you to the Norwood Airport</p>

<p style="text-align: right;">Page 86</p> <p>1 Commission. Have you seen this before?</p> <p>2 A. Yes.</p> <p>3 Q. And did you sign it?</p> <p>4 A. It would appear so.</p> <p>5 Q. And same question again. Do you know</p> <p>6 what happened or caused you to write this letter</p> <p>7 in or about January of 2015?</p> <p>8 A. Yes.</p> <p>9 Q. What was it?</p> <p>10 A. We had our fuel farm blocked in.</p> <p>11 Q. Okay. And that was allegedly due to the</p> <p>12 actions of BEH, I take it?</p> <p>13 A. Correct.</p> <p>14 Q. And at the bottom of the first page, the</p> <p>15 last paragraph on the bottom of the first page</p> <p>16 leading into the second page, you argue that it's</p> <p>17 unreasonably costly, burdensome, and impractical</p> <p>18 to enfranchise more than one FBO at the airport;</p> <p>19 is that correct?</p> <p>20 A. Which --</p> <p>21 Q. I'm at the top of the --</p> <p>22 A. End of the second paragraph?</p> <p>23 Q. Yeah, top of page 2.</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. No, no. I can shorten that. You're</p> <p>2 referring to the last -- I'm sorry -- the</p> <p>3 penultimate paragraph of your letter of January</p> <p>4 29th where you cite 49 USC 47107(a). Correct?</p> <p>5 A. Correct.</p> <p>6 Q. And so my question was whether or not</p> <p>7 this was the first time that you had informed the</p> <p>8 NAC of this particular argument that only one FBO</p> <p>9 is legally permissible at Norwood.</p> <p>10 MR. HARTZELL: Objection.</p> <p>11 BY MR. FEE:</p> <p>12 Q. Is it the first time?</p> <p>13 A. Say the question again.</p> <p>14 Q. I'm sorry. That was convoluted.</p> <p>15 Is this the first time that you informed</p> <p>16 the NAC formally of your position that one FBO at</p> <p>17 Norwood would be legally permissible?</p> <p>18 A. I don't think this was the first time.</p> <p>19 Q. Had you communicated that to the NAC or</p> <p>20 the airport manager previously in writing?</p> <p>21 A. I would suspect so.</p> <p>22 Q. You believe so?</p> <p>23 A. Yes.</p> <p>24 Q. Had you communicated that -- this belief</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. So was this the first time that you had</p> <p>2 argued to the -- I'm sorry -- in the immediately</p> <p>3 following paragraph you cite legal authority for</p> <p>4 the NAC's ability to restrict FBO providers to a</p> <p>5 single one at Norwood. Correct?</p> <p>6 A. Recite a grant assurance.</p> <p>7 Q. Right. Well, you cite to 49 USC</p> <p>8 47107(a). Correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And so is this the first time that</p> <p>11 you informed the NAC of your position that you</p> <p>12 felt one FBO at the airport was appropriate?</p> <p>13 A. The NAC, I don't know. I know we've --</p> <p>14 probably not.</p> <p>15 Q. There were times prior to January 29,</p> <p>16 2015, where you informed the NAC of your belief</p> <p>17 that only one FBO should be operating at Norwood?</p> <p>18 A. I'd say it was prior to this that we</p> <p>19 informed them of this paragraph.</p> <p>20 Q. When you say "this paragraph," you're --</p> <p>21 A. The presence of a single FBO on an</p> <p>22 airport is -- it is not a violation of the grant</p> <p>23 assurances, and an airport may even deny -- do</p> <p>24 you want me to read the whole thing?</p>	<p style="text-align: right;">Page 89</p> <p>1 to the NAC or the airport manager informally by</p> <p>2 e-mail or telephone?</p> <p>3 A. Not that I can remember.</p> <p>4 Q. Did you have any meetings with the NAC or</p> <p>5 the airport manager prior to January of 2015</p> <p>6 where you expressed your belief that a single FBO</p> <p>7 at Norwood would be legally permissible?</p> <p>8 A. Prior to January of 2015? Prior to</p> <p>9 January of 2015, I don't think so.</p> <p>10 Q. The reasons that you cite in your letter</p> <p>11 of January 29, 2015 -- and I'm looking at the</p> <p>12 final or the last paragraph on the first</p> <p>13 page -- you cite the fact that the airport can't</p> <p>14 sustain two commercially viable FBOs for a</p> <p>15 variety of reasons; is that correct?</p> <p>16 MR. HARTZELL: Are you reading from the</p> <p>17 letter?</p> <p>18 BY MR. FEE:</p> <p>19 Q. Let me rephrase the question. If you can</p> <p>20 just read the last paragraph on page 1 of Exhibit</p> <p>21 72, I'd like to ask you a few questions.</p> <p>22 A. You want me to read the last paragraph?</p> <p>23 Q. You can read it to yourself.</p> <p>24 A. Sure.</p>

<p style="text-align: right;">Page 90</p> <p>1 MR. HARTZELL: Excuse me. You said 72. 2 I thought we were looking at 73. 3 MR. FEE: 73. My mistake. 4 A. I mean, the -- I say -- I'm pointing out 5 all the -- I'm basically saying that as an aside, 6 the airport cannot sustain two commercially 7 viable FBOs, but here we are playing out with the 8 whole property issues in real time. 9 BY MR. FEE: 10 Q. Right. And at this time there was 11 intense hostility between BEH and FlightLevel. 12 Correct? 13 MR. HARTZELL: Objection. 14 A. Yes. 15 BY MR. FEE: 16 Q. And there were a variety of incidents 17 that had preceded January 29, 2015, where you 18 were in conflict with BEH. Correct? 19 MR. HARTZELL: Objection. 20 A. Yes. 21 BY MR. FEE: 22 Q. Okay. And, in fact, you considered BEH's 23 actions to be trespassing onto your property. 24 Correct?</p>	<p style="text-align: right;">Page 92</p> <p>1 FlightLevel. 2 A. I think because of their behavior. 3 Q. Okay. And the behavior is as I've 4 described it? Alleged trespassing onto your 5 property and alleged snow removal that disrupted 6 your fueling operations; is that correct? 7 MR. HARTZELL: Objection. 8 A. I don't think it's alleged. I think your 9 client admitted to it. 10 BY MR. FEE: 11 Q. Well, other than those two acts, was 12 there anything else that BEH's behavior -- that 13 you describe as BEH's behavior was of concern? 14 A. Of course. 15 Q. What else? 16 A. I mean, the big one was tearing up 17 thousands of square feet of our leasehold. 18 Q. And what are you referring to? 19 A. I'm referring to something that happened 20 prior to this. I think the summer prior to this. 21 Q. And what happened? 22 A. Without any notification -- you probably 23 have the letter in your -- that probably would be 24 the better way to tell you about it.</p>
<p style="text-align: right;">Page 91</p> <p>1 MR. HARTZELL: Objection. 2 A. Correct. 3 BY MR. FEE: 4 Q. Okay. And you considered BEH's actions 5 in moving snow to be sabotage on your fueling 6 operations. 7 A. Absolutely. 8 Q. Okay. 9 MR. SIMMS: Note my objection to the last 10 question. 11 BY MR. FEE: 12 Q. And you suggest that the continued 13 hostilities between you and BEH would be a bad 14 thing if both of you were FBOs; is that fair to 15 say? 16 MR. HARTZELL: Objection. 17 A. Hostilities in any scenario are typically 18 a bad thing. 19 BY MR. FEE: 20 Q. But a bad thing for the airport? 21 A. Bad thing for everyone. 22 Q. And so that was your argument that BEH 23 should be denied an FBO permit. Correct? 24 Because of the hostilities it was having with</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. I'm asking what your recollection is of 2 that particular incident. 3 A. I'd prefer to just read from the letter 4 because I think that's the best way to articulate 5 it. 6 Q. Are you referring to a particular 7 exhibit? 8 A. I would think so, yeah. 9 Q. No. One that's been marked today? 10 Something that I've shown you earlier? 11 A. Nothing that you've shown me. 12 Q. Okay. I have what I have. So I don't 13 have a particular letter that addresses the issue 14 that you're describing. I'm asking you to tell 15 me, as you sit here today, what your recollection 16 is of the tearing up of your leasehold. 17 MR. HARTZELL: You can give him your best 18 memory. 19 A. Basically, we showed up one day and our 20 pavement was ripped up and it was barricaded from 21 us on Lot G and, I believe, Lot H as well. 22 BY MR. FEE: 23 Q. Do you know when that was? 24 A. I want to say July of 2014 or -- was it</p>

<p style="text-align: right;">Page 94</p> <p>1 2015 or 2014? Sorry.</p> <p>2 Q. That's okay.</p> <p>3 A. I think it was -- I bet you have it in</p> <p>4 there.</p> <p>5 Q. I --</p> <p>6 A. You don't have it?</p> <p>7 MR. HARTZELL: Just give him your best</p> <p>8 memory. If you don't remember exactly, just say</p> <p>9 that.</p> <p>10 A. I think it was the summer of '14 that</p> <p>11 that happened.</p> <p>12 BY MR. FEE:</p> <p>13 Q. And did you investigate how the pavement</p> <p>14 had been ripped up?</p> <p>15 A. We tried to, but we never got a response.</p> <p>16 Q. And did you form a conclusion as to what</p> <p>17 had occurred?</p> <p>18 A. We know what had occurred.</p> <p>19 Q. Tell me what occurred.</p> <p>20 A. Our leasehold had been ripped up.</p> <p>21 Q. By whom?</p> <p>22 A. By -- it was during the construction of</p> <p>23 BEH's hangar.</p> <p>24 Q. Okay.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. We don't know. We don't know the quality</p> <p>2 of the materials that were used. Whether -- the</p> <p>3 load-bearing capabilities of it. That sort of</p> <p>4 thing. To this day we don't know.</p> <p>5 Q. Well, was the pavement replaced?</p> <p>6 A. It was repaved, but we have massive</p> <p>7 tanker trucks going over that. We have no idea</p> <p>8 what grades were used, what materials were used,</p> <p>9 et cetera.</p> <p>10 Q. Okay. So other than the incident you</p> <p>11 just described and the movement of the snow and</p> <p>12 the alleged trespass or, as you describe, the</p> <p>13 trespass onto your property, were there any other</p> <p>14 behaviors of BEH that had transpired at this time</p> <p>15 that you were objecting to in your communications</p> <p>16 with the NAC?</p> <p>17 MR. HARTZELL: Excuse me. When you say</p> <p>18 "at this time," what time are you referring to?</p> <p>19 MR. FEE: I'm still on Exhibit 73.</p> <p>20 A. So January of 2015?</p> <p>21 BY MR. FEE:</p> <p>22 Q. Correct.</p> <p>23 A. I mean, we objected to constantly being</p> <p>24 filmed, but that had been going on for years.</p>
<p style="text-align: right;">Page 95</p> <p>1 A. Or the site work or something along those</p> <p>2 lines.</p> <p>3 Q. And did you have reason to believe that</p> <p>4 that was done with the purpose of disrupting your</p> <p>5 business?</p> <p>6 A. Yes.</p> <p>7 Q. And what was the basis for that belief?</p> <p>8 A. Their intent to use our leasehold for</p> <p>9 fueling and by demonstrating some point of</p> <p>10 adverse possession.</p> <p>11 Q. Was that the subject of any declaration</p> <p>12 in writing with BEH?</p> <p>13 A. They never responded to our letters, so</p> <p>14 we took it to mean -- we said, "If you don't</p> <p>15 respond, we will interpret this as hostility."</p> <p>16 And there was no response.</p> <p>17 Q. And --</p> <p>18 A. There was something along those lines</p> <p>19 anyway.</p> <p>20 Q. So it was in connection with the</p> <p>21 construction activities at the hangar; is that</p> <p>22 fair to say?</p> <p>23 A. I don't know. I'm assuming.</p> <p>24 Q. Did it ultimately get fixed?</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. I don't see that in the letter.</p> <p>2 A. You asked me: Is there anything else</p> <p>3 that --</p> <p>4 Q. All right. Is there anything else</p> <p>5 besides those four things that were of concern</p> <p>6 to you about BEH's behavior at or about the time</p> <p>7 that you wrote Exhibit 73?</p> <p>8 A. I'm sure there were, but I can't</p> <p>9 remember.</p> <p>10 Q. Okay.</p> <p>11 (Exhibit No. 74 marked for</p> <p>12 identification.)</p> <p>13 BY MR. FEE:</p> <p>14 Q. I'm showing you an exhibit that's been</p> <p>15 marked as 74. It appears to be a letter dated</p> <p>16 January 20, 2015, from you to Michael Lyons,</p> <p>17 chairman of the board of selectmen.</p> <p>18 MR. HARTZELL: I would note for the</p> <p>19 record that Exhibit 74, I believe, references a</p> <p>20 number of exhibits that are not attached to the</p> <p>21 copy that was given to the witness.</p> <p>22 BY MR. FEE:</p> <p>23 Q. Can you take a look at Exhibit 74?</p> <p>24 A. Yes.</p>

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<p>1 Q. Have you seen it before?</p> <p>2 A. Yes.</p> <p>3 Q. Did you write it?</p> <p>4 A. Yes.</p> <p>5 Q. Did you send it?</p> <p>6 A. Yes.</p> <p>7 (Exhibit No. 75 marked for</p> <p>8 identification.)</p> <p>9 BY MR. FEE:</p> <p>10 Q. Mr. Eichleay, I'm showing you a document</p> <p>11 that's been marked as Exhibit 75. It appears to</p> <p>12 be FlightLevel's supplemental answers to</p> <p>13 interrogatories in the matter pending in the</p> <p>14 Norfolk Superior Court. Turning your attention</p> <p>15 to page 19, where it says "Signed under the</p> <p>16 penalties of perjury April 6, 2016," this appears</p> <p>17 to be your signature; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. You signed these?</p> <p>20 A. Yes.</p> <p>21 Q. And turning your attention now to page 5.</p> <p>22 The third paragraph on page 5 says -- in answer</p> <p>23 to interrogatory number six it says:</p> <p>24 (As read) "On Wednesday, February 4,</p>	<p>1 meeting?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And who else was present other</p> <p>4 than the individuals mentioned?</p> <p>5 A. February 4, 2015. I believe Nick was</p> <p>6 there.</p> <p>7 Q. Okay. And where did the meeting take</p> <p>8 place?</p> <p>9 A. February 4th. For some reason I thought</p> <p>10 it was in January but if this is the meeting I'm</p> <p>11 thinking of, it took place at town hall.</p> <p>12 Q. Who arranged the meeting?</p> <p>13 A. I did.</p> <p>14 Q. And with --</p> <p>15 A. I requested it.</p> <p>16 Q. Who did you request the meeting with?</p> <p>17 A. Russ and an NAC member.</p> <p>18 Q. Okay. Any other NAC members present?</p> <p>19 A. No.</p> <p>20 Q. Any other lawyers from Brandon Moss'</p> <p>21 office?</p> <p>22 A. I don't believe so.</p> <p>23 Q. Okay. So you requested the meeting?</p> <p>24 A. I believe so.</p>
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<p>1 2015, FlightLevel met with Mark Ryan, Russ</p> <p>2 Maguire, and Brandon Moss to discuss what, if</p> <p>3 anything, the NAC intended to do about BEH's</p> <p>4 aggressive efforts to annex FlightLevel's Lot G</p> <p>5 for its business on Lot F.</p> <p>6 "The discussion was oral. The subject</p> <p>7 matter included the economic viability of</p> <p>8 multiple FBOs at Norwood Airport; FlightLevel's</p> <p>9 recommendation that NAC retain a third-party</p> <p>10 consultant to study the issue of whether one or</p> <p>11 more additional FBOs can viably exist at the</p> <p>12 airport, and advised the NAC accordingly;</p> <p>13 FlightLevel's willingness to commit fund, if</p> <p>14 necessary, to cover the cost of the study by the</p> <p>15 contractor of the NAC's choosing; the single FBO</p> <p>16 exception to the prohibition on granting</p> <p>17 exclusive rights; and its direct applicability to</p> <p>18 the situation created by BEH's defective hangar</p> <p>19 and fuel system site design on Lot F, all as set</p> <p>20 forth in FlightLevel's November 25, 2014, letter</p> <p>21 to the NAC."</p> <p>22 Did I read that correctly?</p> <p>23 A. You did.</p> <p>24 Q. Okay. So were you present at this</p>	<p>1 Q. Now, do you recall what, if anything,</p> <p>2 Brandon Moss said during that meeting?</p> <p>3 A. I don't think he said much at all.</p> <p>4 Frankly, I think we did most of the talking.</p> <p>5 Q. And what did you say? I mean, I can</p> <p>6 break this down, but do you have a general</p> <p>7 recollection of what introductory words you said</p> <p>8 when you began the meeting?</p> <p>9 A. I don't.</p> <p>10 Q. Okay.</p> <p>11 A. But it was -- I can say these subjects</p> <p>12 were discussed in this paragraph.</p> <p>13 Q. So what was your argument regarding the</p> <p>14 economic viability of multiple FBOs?</p> <p>15 A. The argument regarding the economic</p> <p>16 viability of multiple FBOs?</p> <p>17 Q. Correct.</p> <p>18 A. I'm sure one of them was that there are</p> <p>19 few, if any, multiple FBO -- multiple fuel</p> <p>20 provider airports whose longest runway is 4,000</p> <p>21 feet.</p> <p>22 Q. Why is the long runway indicative of</p> <p>23 requiring a single FBO?</p> <p>24 A. Because it just limits the size of</p>

<p style="text-align: right;">Page 102</p> <p>1 aircraft that can utilize the airport.</p> <p>2 Q. Did you make any other assertions</p> <p>3 regarding your position regarding the economic</p> <p>4 viability of multiple FBOs?</p> <p>5 A. Not that I recall, but probably.</p> <p>6 Q. So --</p> <p>7 A. Well, one just popped into mind. There</p> <p>8 had previously been two FBOs and they were forced</p> <p>9 to consolidate.</p> <p>10 Q. When was that?</p> <p>11 A. Somewhere in the late '90s or early</p> <p>12 2000s.</p> <p>13 Q. Okay. So your argument was -- and</p> <p>14 correct me if I'm wrong -- that due to the size</p> <p>15 of the airport and history, it made sense to</p> <p>16 maintain a single FBO at the airport?</p> <p>17 MR. HARTZELL: Objection.</p> <p>18 A. That was our preference.</p> <p>19 BY MR. FEE:</p> <p>20 Q. Right. But this is a meeting in which</p> <p>21 you're arguing or advocating for the NAC to take</p> <p>22 a particular action. Correct?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. We were lobbying our position.</p>	<p style="text-align: right;">Page 104</p> <p>1 of being provided that information, the NAC would</p> <p>2 deny BEH's application to become an FBO.</p> <p>3 Correct?</p> <p>4 MR. HARTZELL: Objection.</p> <p>5 MR. SIMMS: Objection.</p> <p>6 A. No.</p> <p>7 BY MR. FEE:</p> <p>8 Q. Okay. You were just providing them</p> <p>9 information?</p> <p>10 A. Yes.</p> <p>11 Q. So the next thing that you talked</p> <p>12 about -- I'm sorry.</p> <p>13 A. I didn't believe -- sorry. Go ahead.</p> <p>14 Q. No. Go ahead.</p> <p>15 A. I'm done.</p> <p>16 Q. Other than what you've described</p> <p>17 regarding the economic viability of multiple</p> <p>18 FBOs, did you make any other arguments or provide</p> <p>19 any other information on that topic during the</p> <p>20 meeting?</p> <p>21 A. Not that I can remember.</p> <p>22 Q. Did Mark Ryan or Russ Maguire state</p> <p>23 anything to you during the meeting on this topic?</p> <p>24 I'm referring to the economic viability of</p>
<p style="text-align: right;">Page 103</p> <p>1 BY MR. FEE:</p> <p>2 Q. And your position was that BEH should not</p> <p>3 be allowed to become an FBO. Correct?</p> <p>4 A. My position was that history has shown</p> <p>5 that two providers haven't survived on this</p> <p>6 airport.</p> <p>7 Q. And as a result, the NAC should deny</p> <p>8 BEH's application to become an FBO. Correct?</p> <p>9 MR. HARTZELL: Objection.</p> <p>10 A. I don't know that we said that</p> <p>11 explicitly. We may have, but we were</p> <p>12 demonstrating what currently exists at airports</p> <p>13 of Norwood's size in the country and what has</p> <p>14 happened in the past.</p> <p>15 BY MR. FEE:</p> <p>16 Q. Understood. But to be fair, you were</p> <p>17 advocating that the NAC take a certain position</p> <p>18 with respect to the application of BEH to become</p> <p>19 an FBO; were you not?</p> <p>20 MR. HARTZELL: Objection.</p> <p>21 A. We were trying to inform the NAC of the</p> <p>22 circumstances and the history and the market.</p> <p>23 BY MR. FEE:</p> <p>24 Q. Okay. And you believed that as a result</p>	<p style="text-align: right;">Page 105</p> <p>1 multiple FBOs.</p> <p>2 A. That is not really a consideration they</p> <p>3 can take seriously or it's not a consideration</p> <p>4 they can entertain.</p> <p>5 Q. They told you that the economic viability</p> <p>6 of multiple FBOs is not a consideration that they</p> <p>7 could entertain; is that correct?</p> <p>8 A. Along those lines.</p> <p>9 Q. Who said that?</p> <p>10 A. It was just either Ryan or Maguire.</p> <p>11 Q. And did they say why?</p> <p>12 A. Not that I can recall.</p> <p>13 Q. So this was in contradiction to the</p> <p>14 argument that you were making that multiple FBOs</p> <p>15 were not appropriate at the airport. Correct?</p> <p>16 MR. HARTZELL: Objection.</p> <p>17 A. I would say it fell on deaf ears from my</p> <p>18 perspective.</p> <p>19 BY MR. FEE:</p> <p>20 Q. Okay. So you made your argument about</p> <p>21 economic viability of multiple FBOs and their</p> <p>22 reaction was, That's not something we can</p> <p>23 entertain?</p> <p>24 A. They expressed sympathy but it fell on</p>

<p style="text-align: right;">Page 106</p> <p>1 deaf ears, I would say.</p> <p>2 Q. Did they say anything else that caused</p> <p>3 you to believe that your argument was falling on</p> <p>4 deaf ears?</p> <p>5 A. Sorry. Say that again.</p> <p>6 Q. Did they say anything else to you that</p> <p>7 caused you to believe that your argument was</p> <p>8 falling on deaf ears?</p> <p>9 A. No. It was the lack of saying really</p> <p>10 anything -- saying much at all.</p> <p>11 Q. Did Brandon Moss say anything about the</p> <p>12 economic viability of multiple FBOs?</p> <p>13 A. Not that I can remember.</p> <p>14 Q. Okay. The next topic that you discussed</p> <p>15 is your offer to retain a third-party consultant</p> <p>16 to give a report on this topic; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And your willingness to pay for that; is</p> <p>19 that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And did you suggest a particular</p> <p>22 consultant?</p> <p>23 A. No.</p> <p>24 Q. And --</p>	<p style="text-align: right;">Page 108</p> <p>1 sympathy but that's about it.</p> <p>2 Q. Did they say why they were sympathetic</p> <p>3 but not willing to act?</p> <p>4 A. No.</p> <p>5 Q. Did you ask them?</p> <p>6 A. No.</p> <p>7 Q. Did you argue that as the single fuel</p> <p>8 provider at Norwood that you provided economic</p> <p>9 benefits to the town?</p> <p>10 A. I don't know if I argued that at that</p> <p>11 meeting.</p> <p>12 Q. Did you argue to them that if you were</p> <p>13 subject to the competition from BEH that it would</p> <p>14 hurt your business?</p> <p>15 A. I don't know if I made that argument at</p> <p>16 that meeting.</p> <p>17 Q. But it's something that you believed at</p> <p>18 that time. Correct?</p> <p>19 A. Yeah.</p> <p>20 Q. Okay. Now, further on you talk about, as</p> <p>21 a topic that was considered at the meeting, BEH's</p> <p>22 defective hangar and fuel system site design on</p> <p>23 Lot F. Correct?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 107</p> <p>1 A. I don't think so.</p> <p>2 Q. Okay. What was -- how did you present</p> <p>3 that? What did you say? What words did you use?</p> <p>4 A. I can't remember what words I used.</p> <p>5 Q. Okay. Do you recall anything else</p> <p>6 about -- other than what's written here, do you</p> <p>7 recall anything else about that portion of the</p> <p>8 discussion or meeting?</p> <p>9 A. Not really.</p> <p>10 Q. Okay. Did you -- what was the reaction</p> <p>11 of Maguire or Ryan to your offer to have this</p> <p>12 consultant's analysis performed?</p> <p>13 A. There wasn't much of any reaction.</p> <p>14 Q. Did they say yes? No? Maybe?</p> <p>15 A. I'm pretty sure they didn't say yes. And</p> <p>16 I'm pretty sure they didn't say no. And I'm</p> <p>17 pretty sure they didn't say maybe.</p> <p>18 Q. Okay. So you presented this offer and</p> <p>19 there was silence?</p> <p>20 A. Basically.</p> <p>21 Q. And did Mr. Moss say anything about it?</p> <p>22 A. Not that I can remember. It was</p> <p>23 frustrating for us because we didn't think they</p> <p>24 were taking us terribly seriously. There was</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. Okay. And do you recall -- first of all,</p> <p>2 what did you consider to be the defective hangar</p> <p>3 and fuel design?</p> <p>4 A. Well, just in that the operation of the</p> <p>5 fuel farm appeared to require trespassing on our</p> <p>6 leasehold.</p> <p>7 Q. And again, do you know whether at this</p> <p>8 meeting in February of 2015 that you had seen a</p> <p>9 fueling plan provided by BEH?</p> <p>10 A. Oh, yeah. I'd seen the one from -- it</p> <p>11 was -- I think it was years earlier.</p> <p>12 Q. You'd definitely seen one at this point?</p> <p>13 A. Yeah.</p> <p>14 Q. Okay. And your objection was twofold and</p> <p>15 we've discussed this. One that the fuel plan --</p> <p>16 fueling plan would require trespass on your</p> <p>17 property, and the competition from BEH would hurt</p> <p>18 your business; is that correct?</p> <p>19 A. Those were the concerns.</p> <p>20 Q. Okay. And when you described your</p> <p>21 concerns regarding the defective hangar and fuel</p> <p>22 system site design, what, if anything, did Ryan</p> <p>23 or Maguire say?</p> <p>24 A. I can't recall.</p>

<p style="text-align: right;">Page 110</p> <p>1 Q. Okay. And what, if anything, did Moss 2 say? 3 A. Not much. 4 Q. Okay. So as I understand your testimony 5 today, you recall this meeting on 6 February 4, 2015, that you presented three topics 7 of discussion, and that you can't recall anything 8 that was said by Ryan, Maguire, or Moss in 9 response to your statements on those topics. Is 10 that a fair characterization of your testimony? 11 MR. HARTZELL: Objection. 12 A. Repeat it again. I'm sorry. 13 BY MR. FEE: 14 Q. As I understand your testimony, you've 15 described a meeting on February 4, 2015, where 16 you and Mr. Burlingham met with Ryan, Maguire, 17 and Moss at the town hall. And according to your 18 answers to interrogatories, you described three 19 basic topics that you discussed. 20 The first was the economic viability of 21 multiple FBOs at the airport, the second was 22 FlightLevel's willingness to commission and pay 23 for a study regarding economic viability of 24 multiple FBOs at the airport, and the third was</p>	<p style="text-align: right;">Page 112</p> <p>1 viability of multiple FBOs. 2 A. I'm sure something was said. I correct 3 that nothing was said. I'm sure something was 4 said. I can't recall what it was. 5 Q. That's the purpose of this question. I 6 need to nail down exactly what you remember was 7 said by these individuals, and you haven't 8 described for me anything that is of any specific 9 nature. And so that's the gist of what I'm 10 asking you. 11 If you can describe, in response to each 12 of these topics that were discussed at the 13 meeting, what did Ryan, Maguire, or Moss say that 14 you recall? 15 A. And I've already responded to that to the 16 best that I can remember. 17 Q. And you can't recall anything specific; 18 is that fair to say? 19 A. Yes. 20 Q. Okay. Now, the next paragraph in your 21 answers to interrogatories, Exhibit 76 -- I'm 22 sorry -- 75 talks about another meeting on 23 June 18, 2015, where FlightLevel met with Mark 24 Ryan, Russ Maguire, Brandon Moss, and Lena-Kate</p>
<p style="text-align: right;">Page 111</p> <p>1 your concerns regarding defective hangar and fuel 2 system design at BEH's facility. Correct? 3 MR. HARTZELL: Wait. Objection. 4 A. "Defective" may have been the wrong word 5 choice for me to use. It was defective just in 6 the sense that it implicated our property rights 7 from our perspective. 8 BY MR. FEE: 9 Q. I understand that, but have I described 10 accurately the topics that were discussed at that 11 meeting and the persons that were present? 12 A. Yes. 13 Q. And you have not testified that you 14 recall anything about any responses that were 15 made by any other participant in the meeting. 16 Correct? 17 A. I've given you the gist of how the 18 meeting went. 19 Q. Right. And the gist is that your 20 arguments regarding economic viability fell on 21 deaf ears. 22 A. Correct. 23 Q. That nothing was said in response to your 24 offer to pay for a consultant to look at economic</p>	<p style="text-align: right;">Page 113</p> <p>1 Ahern, an associate from Brandon Moss' firm, to 2 discuss what, if anything, the NAC intended to do 3 about BEH's aggressive efforts to annex Lot G for 4 its business on Lot F. 5 Did I read that correctly? 6 A. Yes. 7 Q. Okay. So do you recall where this 8 June 18, 2015, meeting took place? 9 A. I believe it was in the airport manager 10 conference room. 11 Q. Were you present? 12 A. Yes. 13 Q. Who else was present from FlightLevel? 14 A. I believe just Nick. 15 Q. Mr. Burlingham? 16 A. Yes. 17 Q. And who called the meeting? Who asked 18 for the meeting? 19 A. It was probably me. 20 Q. Okay. And do you recall if it was in 21 response to anything specific? 22 A. I don't recall. 23 Q. Do you recall what you said at the 24 meeting?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. I don't. I remember it was a -- I</p> <p>2 remember it was a very short meeting.</p> <p>3 Q. Okay. And your answer to the</p> <p>4 interrogatory goes on to describe that - the</p> <p>5 substance of the matters that were discussed.</p> <p>6 And again, to try to be efficient with time, do</p> <p>7 you recall anything that -- anything specific</p> <p>8 that was said to you during the meeting by either</p> <p>9 Ryan, Maguire, Moss, or Ahern?</p> <p>10 A. I don't. I feel like we were discussing</p> <p>11 something totally unrelated at this meeting as</p> <p>12 well. I don't think the sole purpose of this</p> <p>13 meeting was the discussion of anything having to</p> <p>14 do with BEH.</p> <p>15 Q. Do you recall discussing anything</p> <p>16 regarding BEH at the meeting on June 18, 2015?</p> <p>17 A. I recall that it came up.</p> <p>18 Q. What did you say about, in your words,</p> <p>19 BEH's aggressive efforts to annex Lot G for its</p> <p>20 business on Lot F?</p> <p>21 A. Probably just referring back to, you</p> <p>22 know, the Lot G being torn up and no response and</p> <p>23 just probably refreshing their memory on that</p> <p>24 kind of stuff.</p>	<p style="text-align: right;">Page 116</p> <p>1 efforts to annex Lot G were in conjunction with</p> <p>2 BEH's efforts to sell fuel at the airport.</p> <p>3 Correct?</p> <p>4 MR. HARTZELL: Objection.</p> <p>5 A. Say it again. In connection with their</p> <p>6 efforts to sell fuel?</p> <p>7 BY MR. FEE:</p> <p>8 Q. Yes.</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 A. But I say that more as a result of the</p> <p>12 fueling plan.</p> <p>13 Q. Okay.</p> <p>14 (Exhibit No. 76 marked for</p> <p>15 identification.)</p> <p>16 BY MR. FEE:</p> <p>17 Q. I'm showing you a document that's been</p> <p>18 marked as Exhibit 76. It appears to be a letter</p> <p>19 dated September 23, 2015, from you to the board</p> <p>20 of selectmen. Have you seen this letter before?</p> <p>21 A. Yes.</p> <p>22 Q. Did you write it?</p> <p>23 A. Yes.</p> <p>24 Q. What happened as a result of your writing</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. And it says here that the purpose of the</p> <p>2 meeting was to discuss what, if anything, the NAC</p> <p>3 intended to do about those aggressive efforts.</p> <p>4 Did I read that correctly?</p> <p>5 A. I don't know where you are but I'm not --</p> <p>6 Q. I'm on the last paragraph, page 5.</p> <p>7 (As read) "FlightLevel met with Mark</p> <p>8 Ryan, et cetera, to discuss what, if anything,</p> <p>9 the NAC intended to do about BEH's aggressive</p> <p>10 efforts to annex Lot G for its business on Lot</p> <p>11 F."</p> <p>12 Do you see that?</p> <p>13 A. This paragraph?</p> <p>14 Q. This final paragraph on page 5.</p> <p>15 A. Page 5.</p> <p>16 MR. HARTZELL: He's looking at this line.</p> <p>17 A. Yup.</p> <p>18 BY MR. FEE:</p> <p>19 Q. What did the NAC say that they intended</p> <p>20 to do about BEH's aggressive efforts to annex Lot</p> <p>21 G for its business on Lot F?</p> <p>22 A. I don't remember, but I don't think it</p> <p>23 was really anything.</p> <p>24 Q. But it's fair to say that the aggressive</p>	<p style="text-align: right;">Page 117</p> <p>1 this letter?</p> <p>2 A. This was filed away. I attended the</p> <p>3 selectmen meeting and was never given the</p> <p>4 opportunity to speak.</p> <p>5 Q. Did you write this letter?</p> <p>6 A. Yes.</p> <p>7 Q. The citation to legal authority, is that</p> <p>8 something that you researched and wrote or was</p> <p>9 that provided by your in-house counsel?</p> <p>10 A. It was co-written with Nick as were most</p> <p>11 of these letters with his counsel.</p> <p>12 Q. Okay. So you sent this on or about</p> <p>13 September 23, 2015. Correct?</p> <p>14 A. Correct.</p> <p>15 Q. Okay.</p> <p>16 MR. FEE: Counsel, I'm going into a new</p> <p>17 area. It's also a good break point if you wanted</p> <p>18 to grab something quick.</p> <p>19 MR. HARTZELL: Why don't we do that.</p> <p>20 MR. FEE: We're off the record.</p> <p>21 (Recess taken at 12:36 p.m.)</p> <p>22 (Deposition resumed at 12:53 p.m.)</p> <p>23 (Exhibit No. 77 marked for</p> <p>24 identification.)</p>

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<p>1 BY MR. FEE:</p> <p>2 Q. Mr. Eichleay, during the lunch break I</p> <p>3 was able to do a little file search. Hopefully,</p> <p>4 I can clarify some of the things we discussed</p> <p>5 earlier.</p> <p>6 A. Sure.</p> <p>7 Q. Now, you recall that I showed you a</p> <p>8 couple of maps that were marked as Exhibits 66</p> <p>9 and 67, and you had some concerns about their</p> <p>10 accuracy. And I just want to show you a document</p> <p>11 that's now been marked as Exhibit 77. It appears</p> <p>12 to be a map of the Norwood Airport, color-coded</p> <p>13 to show various lots and I'm --</p> <p>14 A. I produced this.</p> <p>15 Q. You produced this?</p> <p>16 A. I built this, yeah.</p> <p>17 Q. Okay. So is it fair to say that this</p> <p>18 accurately depicts the lots that are currently</p> <p>19 leased by FlightLevel?</p> <p>20 A. It's approximate but it's not precise. I</p> <p>21 mean, I don't understand why we just don't use a</p> <p>22 survey map that is precise.</p> <p>23 Q. Right.</p> <p>24 A. But, yes, it's much more accurate than</p>	<p>1 Q. Okay. So in other words, the lots that</p> <p>2 were leased in 2008 are the same lots that are</p> <p>3 leased currently?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 (Exhibit No. 78 marked for</p> <p>7 identification.)</p> <p>8 BY MR. FEE:</p> <p>9 Q. During the morning session we also had</p> <p>10 some discussion regarding a fueling plan that had</p> <p>11 been produced by BEH, and we had discussions</p> <p>12 about your actions in response to viewing that</p> <p>13 fueling plan. Do you recall that discussion?</p> <p>14 A. Yes.</p> <p>15 Q. I'm going to show you a document that's</p> <p>16 been marked as Exhibit 78 and ask whether this is</p> <p>17 the fueling plan document that you were referring</p> <p>18 to earlier today?</p> <p>19 A. It's similar. I don't think it's the</p> <p>20 exact one, though.</p> <p>21 Q. Okay. The fueling plan that you were</p> <p>22 discussing or you were making reference to</p> <p>23 earlier this morning, was it a one-page document?</p> <p>24 A. I'm not sure.</p>
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<p>1 the former drawing you showed me.</p> <p>2 Q. Okay. And so it indicates that Lot X,</p> <p>3 Lot Y, Lot Z, Lot W, Lot G, Lot H, Lot 5, Lot 6,</p> <p>4 Lot 7, Lot 8, Lot 9, Lot 10 --</p> <p>5 A. Which are A, B, C.</p> <p>6 Q. Also known --</p> <p>7 A. Correct.</p> <p>8 Q. Lot 8, 9, and 10 are also known as A, B,</p> <p>9 C.</p> <p>10 A. Correct.</p> <p>11 Q. And those are all leased by FlightLevel.</p> <p>12 Correct?</p> <p>13 A. Yes.</p> <p>14 Q. Currently?</p> <p>15 A. Yes.</p> <p>16 Q. And in 2008, were any of these lots not</p> <p>17 leased by FlightLevel?</p> <p>18 MR. HARTZELL: I'm sorry. Any of which</p> <p>19 lots?</p> <p>20 MR. FEE: Any of the lots that we just</p> <p>21 described as being currently leased by</p> <p>22 FlightLevel.</p> <p>23 A. I don't believe so.</p> <p>24 BY MR. FEE:</p>	<p>1 Q. Okay.</p> <p>2 A. But I'm thinking of the one-page exhibit</p> <p>3 that's similar, very similar to this.</p> <p>4 Q. Okay. All right. Thanks.</p> <p>5 MR. FEE: Switching topics.</p> <p>6 (Exhibit No. 79 marked for</p> <p>7 identification.)</p> <p>8 BY MR. FEE:</p> <p>9 Q. Mr. Eichleay, I'm going to show you an</p> <p>10 exhibit that's been marked as Exhibit 79. It</p> <p>11 appears to be a document dated January 22, 2014,</p> <p>12 from you to the Norwood Airport Commission.</p> <p>13 And before I ask any questions about</p> <p>14 that, I understand Mr. Simms has something he</p> <p>15 wants to say.</p> <p>16 MR. SIMMS: I'm going to renew the</p> <p>17 standing objection. I think, without knowing</p> <p>18 ahead of time exactly what Mr. Fee is going</p> <p>19 ask -- but I think, based on the contents that</p> <p>20 we've just marked as Exhibit 79, I think the</p> <p>21 questioning is beyond the scope.</p> <p>22 MR. HARTZELL: I would join in that</p> <p>23 objection.</p> <p>24 MR. FEE: And I will represent to</p>

<p style="text-align: right;">Page 122</p> <p>1 counsel, just for the purposes of your scope</p> <p>2 objection, that I'm going to ask a series of</p> <p>3 questions of the witness regarding FlightLevel's</p> <p>4 activities to renew leases between 2014 and --</p> <p>5 during 2014.</p> <p>6 MR. SIMMS: Okay.</p> <p>7 MR. FEE: And when I switch topics again,</p> <p>8 I'll let you know.</p> <p>9 MR. SIMMS: Thank you.</p> <p>10 BY MR. FEE:</p> <p>11 Q. Mr. Eichleay, I'm showing you a document</p> <p>12 that's been marked as Exhibit 79. Have you seen</p> <p>13 it before?</p> <p>14 A. Yes.</p> <p>15 Q. And what is it?</p> <p>16 A. It's a letter outlining our capital</p> <p>17 improvement plans at the airport.</p> <p>18 Q. Okay. And you sent this letter to the</p> <p>19 NAC in or about January 22nd of 2014?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And what was the reason that you</p> <p>22 felt you had to apprise the NAC of your capital</p> <p>23 improvement plans?</p> <p>24 A. Well, we were seeking an increase in</p>	<p style="text-align: right;">Page 124</p> <p>1 A. Say that again.</p> <p>2 Q. Sure. Did you have any discussions with</p> <p>3 any member of the airport commission or the</p> <p>4 airport manager regarding BEH's desire to lease</p> <p>5 properties that you currently held leaseholds on?</p> <p>6 A. I don't think so.</p> <p>7 Q. Okay. Did you ever have a discussion</p> <p>8 with anyone regarding the fact that you -- strike</p> <p>9 that.</p> <p>10 Were you aware of a prior Part 16</p> <p>11 decision issued by the FAA regarding operations</p> <p>12 at Norwood Airport?</p> <p>13 A. You're referring to the Boston Air</p> <p>14 Charter case?</p> <p>15 Q. Correct.</p> <p>16 A. Yes.</p> <p>17 Q. And had you reviewed that at or about the</p> <p>18 time that you were sending this letter to --</p> <p>19 that's been marked as Exhibit 79 to the NAC?</p> <p>20 A. No.</p> <p>21 Q. Were you aware that the Boston Air</p> <p>22 Charter Part 16 determination required the NAC to</p> <p>23 consider short-term lease arrangements for the</p> <p>24 airport?</p>
<p style="text-align: right;">Page 123</p> <p>1 lease term in order to have a sufficient</p> <p>2 amortization period for the investment we were</p> <p>3 planning on making.</p> <p>4 Q. And is it fair to say that January -- I'm</p> <p>5 sorry -- Exhibit 79 informs the NAC of your</p> <p>6 intent to seek an extension of a lease term on</p> <p>7 Lots 5, 6, 7, A, B, and C?</p> <p>8 A. Sure.</p> <p>9 Q. Is that fair to say? That you're</p> <p>10 informing them of your desire to seek a renewal</p> <p>11 of those leases?</p> <p>12 A. I believe so, yeah.</p> <p>13 Q. Now, at that time were you aware of the</p> <p>14 fact that BEH had also requested consideration</p> <p>15 for leasing additional space at the airport?</p> <p>16 A. At this time?</p> <p>17 Q. Yes, at the time of this letter, Exhibit</p> <p>18 79.</p> <p>19 A. January 2014. I'm not sure.</p> <p>20 Q. Okay. Did you have any discussions with</p> <p>21 any member of the airport commission or the</p> <p>22 airport manager regarding the fact that you --</p> <p>23 that FlightLevel might face competition from BEH</p> <p>24 for leasing additional space at the airport?</p>	<p style="text-align: right;">Page 125</p> <p>1 A. At this time?</p> <p>2 Q. Yes.</p> <p>3 A. Probably not.</p> <p>4 Q. Had you had any discussions with members</p> <p>5 of the NAC or the airport commissioner regarding</p> <p>6 any restrictions that the NAC might have on</p> <p>7 granting long-term leases due to the FAA's</p> <p>8 determination in the Boston Air Charter Part 16</p> <p>9 complaint?</p> <p>10 A. Not that I can remember.</p> <p>11 Q. Okay. So no one made you aware of that?</p> <p>12 A. No.</p> <p>13 Q. Okay. You described your purpose in</p> <p>14 sending Exhibit 79 as to -- or one of the</p> <p>15 purposes was to apprise the NAC of your capital</p> <p>16 improvement plan; is that correct?</p> <p>17 A. Yeah. And just to correct myself, I did</p> <p>18 at some point read the Boston Air Charter</p> <p>19 determination and I remember it saying something</p> <p>20 about short-term leases. I don't know when this</p> <p>21 was.</p> <p>22 Q. Okay. Were you concerned at any time in</p> <p>23 your efforts to renew leases identified in</p> <p>24 Exhibit 79 that the NAC may be constrained by the</p>

<p style="text-align: right;">Page 126</p> <p>1 FAA's determination in the Boston Air Charter's</p> <p>2 Part 16 complaint?</p> <p>3 A. That thought didn't cross my mind.</p> <p>4 Q. Okay. Do you recall what, if any,</p> <p>5 response you received from the airport commission</p> <p>6 or the airport manager regarding Exhibit 79?</p> <p>7 A. They responded in some form. I can't</p> <p>8 remember how.</p> <p>9 Q. Did they respond positively?</p> <p>10 A. They did eventually.</p> <p>11 Q. Right. But do you recall if you had a</p> <p>12 discussion with any member of the airport</p> <p>13 commission?</p> <p>14 A. I can -- I'm just remembering this as we</p> <p>15 go. There was a response that came that</p> <p>16 basically said we're amenable to discussing this</p> <p>17 with you.</p> <p>18 Q. Okay.</p> <p>19 A. And that was the extent of it.</p> <p>20 Q. Okay.</p> <p>21 (Exhibit No. 80 marked for</p> <p>22 identification.)</p> <p>23 BY MR. FEE:</p> <p>24 Q. Sir, I'm showing you a document that's</p>	<p style="text-align: right;">Page 128</p> <p>1 Mr. Maguire that apparently preceded sending this</p> <p>2 e-mail?</p> <p>3 A. I don't, but I suspect it is something</p> <p>4 similar to what the e-mail itself says.</p> <p>5 Q. Okay. Do you remember anything else</p> <p>6 about the discussion that you had with Mr.</p> <p>7 Maguire prior to sending this e-mail?</p> <p>8 A. No.</p> <p>9 Q. Okay. So in essence, this is confirming</p> <p>10 your representation to the NAC that before you</p> <p>11 spend money or make significant investment in</p> <p>12 improving the properties that are the subject of</p> <p>13 the leases, you wanted some assurance that the</p> <p>14 NAC would be amenable. Is that fair to say?</p> <p>15 A. I think I got your gist, but I was</p> <p>16 reading as you were talking. I want to make sure</p> <p>17 I --</p> <p>18 Q. Finish reading. I thought you were done.</p> <p>19 A. Excuse me a second.</p> <p>20 (Pause.)</p> <p>21 Okay. Go ahead.</p> <p>22 Q. So is it fair to say that the substance</p> <p>23 of this e-mail was communicating to Russ your</p> <p>24 desire to get some commitment from the NAC before</p>
<p style="text-align: right;">Page 127</p> <p>1 been marked as Exhibit 80. It appears to be an</p> <p>2 e-mail from you to Mr. Maguire dated March 5,</p> <p>3 2014. Have you ever seen that before?</p> <p>4 A. Yup.</p> <p>5 Q. Did you send that?</p> <p>6 A. Probably.</p> <p>7 Q. And it seems to reference a --</p> <p>8 MR. FEE: Let's take a break.</p> <p>9 Do you need a minute?</p> <p>10 BY MR. FEE:</p> <p>11 Q. It seems to reference a conversation you</p> <p>12 had with Mr. Maguire. I'm referring to the first</p> <p>13 line which says, "Good to talk to you yesterday."</p> <p>14 Does that refresh your recollection as to</p> <p>15 having a conversation with Mr. Maguire prior to</p> <p>16 sending him this e-mail?</p> <p>17 A. Yes. I have lots of conversations with</p> <p>18 Mr. Maguire, just so you know.</p> <p>19 Q. I'm sure you do, and I'm not asking you</p> <p>20 to remember anything that is not in your head as</p> <p>21 you sit here today.</p> <p>22 You sent this -- you testified that you</p> <p>23 sent this e-mail on March 5. I'm wondering if</p> <p>24 you have any recollection of the discussion with</p>	<p style="text-align: right;">Page 129</p> <p>1 you committed to spending significant capital on</p> <p>2 improving the properties that were under lease?</p> <p>3 A. Yeah, conveying that preference.</p> <p>4 Q. Right. And so what -- other than after</p> <p>5 sending this letter, what did you do to follow up</p> <p>6 with that request to the NAC?</p> <p>7 A. This came before the letter you just</p> <p>8 showed me?</p> <p>9 Q. I believe it's after. Exhibit 79 is</p> <p>10 January 22nd of 2014.</p> <p>11 A. Okay.</p> <p>12 Q. Exhibit 80 is March 5 of 2014.</p> <p>13 A. So this came after.</p> <p>14 Q. Correct.</p> <p>15 A. After this, I don't recall if I did</p> <p>16 anything else.</p> <p>17 Q. Okay. But did you have any meetings or</p> <p>18 conversations with any NAC members or Mr. Maguire</p> <p>19 regarding this topic that's talked about in</p> <p>20 Exhibit 80?</p> <p>21 A. Not that I can remember.</p> <p>22 Q. Did you have -- was it common for you to</p> <p>23 have discussions with NAC members outside of</p> <p>24 airport commission meetings regarding FlightLevel</p>

<p style="text-align: right;">Page 130</p> <p>1 business?</p> <p>2 A. No.</p> <p>3 Q. Was it common for you to have discussions</p> <p>4 with Mr. Maguire outside of NAC meetings</p> <p>5 regarding FlightLevel business?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. But it's also fair to say that you</p> <p>8 don't recall any specifics of any discussions you</p> <p>9 had with Mr. Maguire regarding your request that</p> <p>10 the NAC provide you with a letter of intent</p> <p>11 regarding their willingness to extend your leases</p> <p>12 in 2014. Is that fair to say?</p> <p>13 A. Any conversations with them?</p> <p>14 Q. Correct.</p> <p>15 A. I mean, if there ever was a conversation,</p> <p>16 Russ' usual response is, "Stop the conversation.</p> <p>17 Put it in writing."</p> <p>18 And so that's what these e-mails are. So</p> <p>19 the conversation usually isn't substantive. I</p> <p>20 put it in writing so there's a record of it.</p> <p>21 That's his MO.</p> <p>22 Q. So is it fair to assume that if you had a</p> <p>23 substantive conversation with Mr. Maguire on this</p> <p>24 topic, generally there would be a writing of some</p>	<p style="text-align: right;">Page 132</p> <p>1 A. Was I aware of any obligation?</p> <p>2 Q. Yes.</p> <p>3 MR. SIMMS: Same objection.</p> <p>4 MR. HARTZELL: Objection. Go ahead.</p> <p>5 A. No.</p> <p>6 BY MR. FEE:</p> <p>7 Q. Okay.</p> <p>8 (Exhibit No. 81 marked for</p> <p>9 identification.)</p> <p>10 BY MR. FEE:</p> <p>11 Q. Mr. Eichleay, I'm showing you a document</p> <p>12 that's been marked as Exhibit 81. It's also been</p> <p>13 marked as Exhibit 8 to the LeBlanc deposition.</p> <p>14 It appears to be an agenda for the Norwood</p> <p>15 Airport Commission, March 12, 2014. The second</p> <p>16 page appears to be the minutes of the executive</p> <p>17 session.</p> <p>18 Have you seen this document before?</p> <p>19 A. I don't believe so.</p> <p>20 Q. Okay. Do you know if you attended the</p> <p>21 meeting on March 12, 2014?</p> <p>22 A. Obviously, you're talking about the</p> <p>23 public meeting?</p> <p>24 Q. Correct.</p>
<p style="text-align: right;">Page 131</p> <p>1 form confirming the substance?</p> <p>2 A. Yeah. Or the substance is only the</p> <p>3 writing itself. It's not the conversation.</p> <p>4 Q. I'm trying to understand what you just</p> <p>5 said. Can you say it one more time in a</p> <p>6 different way?</p> <p>7 A. So anything that is detailed, and</p> <p>8 especially if it's involving action on the</p> <p>9 airport's part, he doesn't want to talk about it.</p> <p>10 He wants a written correspondence.</p> <p>11 Q. So it's fair to infer that if there is</p> <p>12 any substantive discussion between you and Mr.</p> <p>13 Maguire during this time frame, it's probably</p> <p>14 memorialized in some form of writing; is that</p> <p>15 fair to say?</p> <p>16 MR. HARTZELL: Objection. Go ahead.</p> <p>17 A. It's only in writing, I think, is more</p> <p>18 accurate.</p> <p>19 BY MR. FEE:</p> <p>20 Q. Okay. Fair enough.</p> <p>21 Did you have any understanding regarding</p> <p>22 the NAC's obligations, if any, to offer the space</p> <p>23 that you were seeking renewal of your leases on</p> <p>24 to others?</p>	<p style="text-align: right;">Page 133</p> <p>1 A. Probably. But I mean, I maybe missed one</p> <p>2 or two commission meetings a year. I don't know</p> <p>3 if this was it or not.</p> <p>4 Q. Okay. But did you know that</p> <p>5 FlightLevel's request for extension of its leases</p> <p>6 was going to be discussed at this meeting?</p> <p>7 A. Not that I know of.</p> <p>8 Q. Okay. Now, your counsel is directing</p> <p>9 your attention to the fact that page 2 involves</p> <p>10 the executive session minutes. Now, you didn't</p> <p>11 attend the executive session; right?</p> <p>12 A. Of course not.</p> <p>13 Q. And at some point did you learn of the</p> <p>14 results of the votes that were taken in executive</p> <p>15 session on March 12, 2014?</p> <p>16 A. I'm reading this for the first time.</p> <p>17 Q. Okay. Well, my question was at some</p> <p>18 point -- here's what we should do. Read that for</p> <p>19 sure, and then I'll ask you a question.</p> <p>20 MR. HARTZELL: Just so the record is</p> <p>21 clear, you're having the witness read the second</p> <p>22 page of what's been marked as Exhibit 81.</p> <p>23 MR. FEE: Correct.</p> <p>24 MR. HARTZELL: Which is entitled "Airport</p>

<p style="text-align: right;">Page 134</p> <p>1 Commission Meeting, Executive Session, March 12, 2 2014." 3 MR. FEE: Correct. 4 A. Okay. 5 BY MR. FEE: 6 Q. At some point did you learn of the 7 actions that were taken in executive session on 8 March 12, 2014? 9 A. Yes. 10 Q. And when did you learn that? 11 A. I can't recall, but my guess would be the 12 following month or within the next month or two. 13 Q. Okay. 14 A. We did -- there was a letter that came at 15 some point but it -- that was a letter that said 16 "amenable to." 17 Q. Okay. Now, I've shown you a couple of 18 exhibits leading up to this vote that took place 19 on March 12, 2014. There was a request from you 20 dated January 22, 2014, that we've marked as 21 Exhibit 79. There was an e-mail that 22 memorialized a conversation that you had with Mr. 23 Maguire. 24 And My question is: Was there any other</p>	<p style="text-align: right;">Page 136</p> <p>1 e-mails, correspondence on this topic? 2 A. None come to mind. And I suspect that I 3 wrote this (indicating) because there was no 4 response from this (indicating). That's my 5 guess. I'm -- 6 Q. Okay. So was it your understanding, 7 based on the vote that was taken on March 12th, 8 that the commission had voted to extend your 9 leases on Lots 5, 6, and 7? 10 A. I wasn't aware of that executive session. 11 Q. Right. 12 A. All I -- I got a letter at some point. I 13 would assume it was after that meeting saying 14 they're amenable. 15 Q. So -- 16 A. I kind of wish I had known about that, 17 but go ahead. 18 Q. Okay. Well, my question is: Was there 19 any discussion ever, prior to this vote on March 20 12th, regarding the terms of these lease 21 renewals? In other words -- 22 A. Prior? 23 Q. Yeah. 24 A. Yeah. I mean, I laid it out right in</p>
<p style="text-align: right;">Page 135</p> <p>1 correspondence or documentation that you're aware 2 of between January 2014 and March 2014 when the 3 vote was taken in executive session to approve 4 these leases? 5 A. All right. Run me through that again. 6 Q. Sure, sure. We talked about Exhibit 79 7 which is your request for a letter -- your 8 notification of your capital improvement plan and 9 desire to -- 10 A. So that's late January. 11 Q. Right. Then we have Exhibit 80 which 12 is -- you're memorializing a conversation with 13 Russ and you're asking for a letter of intent. 14 And then there's these meeting minutes of March 15 12th. 16 My questions is: Are you aware of any 17 other documentation, letters, correspondence, 18 e-mails, anything memorializing any 19 communications between you and the NAC or Russ 20 other than these documents on the subject matter 21 of the vote that was taken on March 12th? 22 A. So between March 5th and March 12th -- 23 Q. No, no, no. Between January 22nd and 24 March 12th, are you aware of any other documents,</p>	<p style="text-align: right;">Page 137</p> <p>1 here what we were looking for. 2 Q. So this -- 3 MR. SIMMS: Referring to Exhibit 80? 4 MR. FEE: 79. 5 MR. SIMMS: Okay. 6 BY MR. FEE: 7 Q. Okay. So you are describing in 79 the 8 current lease terms and your desire to extend 9 those through 2050. Correct? 10 A. I think it was 35 years depending on 11 when -- 12 Q. Right. 13 A. Yeah. 14 Q. My question is: Was there any -- other 15 than this letter, was there ever any discussion, 16 oral or otherwise, regarding negotiation of any 17 of the terms of the leases as renewed? In other 18 words, what -- was the price to remain the same? 19 MR. HARTZELL: Wait a minute. Objection. 20 Go ahead. 21 A. Prior to these documents, I don't recall 22 anything else. 23 BY MR. FEE: 24 Q. Okay. Just so I understand, is it your</p>

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<p>1 testimony that you sent this letter on January 2 22nd, you asked for a 35-year extension on 3 various leases, and on March 9th that was voted 4 as approved? Is that your understanding of how 5 it went? 6 MR. HARTZELL: Objection. 7 A. I'm learning about this for the first 8 time, so -- 9 BY MR. FEE: 10 Q. And I'm not trying to trick you or do 11 anything to make you testify in -- anything other 12 than consistent with your memory. And I have 13 Exhibit 79. That's your request for a 14 sublease -- lease extensions, and then I have 15 this vote on March 12th. 16 And I'm just asking if there's anything 17 that happened in between these two documents that 18 is relative to the terms or conditions of the 19 leases as extended. 20 A. Not that I -- 21 MR. HARTZELL: Objection. Go ahead. 22 A. Not that I can remember. 23 BY MR. FEE: 24 Q. Okay. So do you recall in the regular</p>	<p>1 A. I believe so. 2 Q. Okay. So I'm showing you a document 3 that's been marked as Exhibit 82. It appears to 4 be the agenda for the NAC meeting on 5 April 9, 2014. Have you ever seen that before? 6 A. I'm sure I have. 7 Q. Okay. Do you know if you attended the 8 meeting on April 9? 9 A. Again, probably. 10 Q. Is there any indication on the agenda as 11 to whether or not any issues regarding 12 FlightLevel were to be discussed? 13 A. Is there any indication on this agenda? 14 Q. Correct. 15 A. No. 16 Q. So was it your practice to attend NAC 17 meetings even if you weren't listed on the 18 agenda? 19 A. Absolutely. 20 Q. Is that because sometimes things 21 regarding FlightLevel would come up? 22 Notwithstanding the fact that you weren't listed 23 on the formal agenda. 24 A. No. It's just more of a matter of being</p>
Page 139	Page 141
<p>1 session of March 12th any discussion with the NAC 2 regarding your request for a letter of intent or 3 approval to extend the leases? 4 A. Like I said, I don't even know if I was 5 there. 6 Q. Okay. If you're not there, do you 7 usually send a representative? 8 A. Usually. 9 Q. And who is that? 10 A. It's either Mike DeLaria or Nick. 11 Q. Mr. Burlingham? 12 A. Yes. Sorry. 13 Q. That's okay. 14 (Exhibit No. 82 marked for 15 identification.) 16 BY MR. FEE: 17 Q. You were saying about a sign-in sheet? 18 A. They have sign-in sheets. So if you got 19 that, I could tell you with certainty whether I 20 was there or not. 21 Q. Okay. All right. 22 A. Or attendance sheets, I should say. 23 Q. Was it the policy of the NAC to have -- 24 require people to sign in back in 2014?</p>	<p>1 engaged and being a good corporate citizen and, 2 you know, wanting to know what's going on. 3 (Exhibit No. 83 marked for 4 identification.) 5 BY MR. FEE: 6 Q. Mr. Eichleay, I'm showing you a document 7 that's been marked as Exhibit 83. It appears to 8 be an affidavit prepared for Joshua M. Fox, and 9 it's an exhibit to BEH's Part 16 complaint. I 10 just want to read you a couple of paragraphs and 11 ask you a question. 12 Paragraph two, Attorney Fox, who I will 13 represent to you is counsel to BEH -- Attorney 14 Fox states: 15 (As read) "I was present at the Norwood 16 Airport Commission's monthly public meeting on or 17 about April 9, 2014, in my capacity as counsel 18 for Boston Executive Helicopters, LLC." 19 And then it drops down to paragraph 8 20 where it states: 21 (As read) "At the airport commission's 22 meeting, Airport Commissioner -- Commission 23 member Kevin Shaughnessy clearly stated that the 24 recent discussions with FlightLevel regarding the</p>

<p style="text-align: right;">Page 142</p> <p>1 lease of Lots A, B, and C, while BEH's FBO</p> <p>2 request and request for ramp space were pending,</p> <p>3 was justified because FlightLevel was the</p> <p>4 existing FBO and had invested much more money</p> <p>5 than BEH at the airport and deserved preferential</p> <p>6 treatment."</p> <p>7 Did I read that correctly?</p> <p>8 A. You read it correctly.</p> <p>9 Q. My question to you is: Do you recall</p> <p>10 this statement being made by Mr. Shaughnessy at</p> <p>11 the April 9th meeting?</p> <p>12 A. I don't.</p> <p>13 Q. Do you recall --</p> <p>14 A. Assuming I was there. I --</p> <p>15 Q. You're not sure if you were there?</p> <p>16 A. Yeah, but I don't recall this statement.</p> <p>17 MR. HARTZELL: Just note my objection.</p> <p>18 This is an unsigned document, undated, and I</p> <p>19 don't know where it came from. I've never seen</p> <p>20 this before.</p> <p>21 MR. FEE: I'm not purporting to make it</p> <p>22 something other than something to refresh the</p> <p>23 witness' recollection.</p> <p>24 So your objection is noted.</p>	<p style="text-align: right;">Page 144</p> <p>1 BY MR. FEE:</p> <p>2 Q. I'm going to show you a document that's</p> <p>3 been marked as Exhibit 84. It appears to be the</p> <p>4 minutes of an executive session on April 9, 2014,</p> <p>5 where the matters discussed include Lot 5, cap.</p> <p>6 ramp, and Lots 6 and 7 capital project. Do you</p> <p>7 see that?</p> <p>8 A. Yes.</p> <p>9 Q. Were you informed at any time -- or when</p> <p>10 were you informed regarding the votes that were</p> <p>11 taken in executive session on April 9, 2014?</p> <p>12 A. I don't recall.</p> <p>13 Q. Do you have any idea why the NAC would</p> <p>14 act to approve leases in executive session?</p> <p>15 MR. SIMMS: Objection. Go ahead.</p> <p>16 A. I'm not in the business of what their</p> <p>17 procedures are, so it has nothing to do with me.</p> <p>18 BY MR. FEE:</p> <p>19 Q. At some point were you given or provided</p> <p>20 documents memorializing the extension of your</p> <p>21 leases?</p> <p>22 A. I -- there was a letter that said we're</p> <p>23 amenable to, you know, extending leases and</p> <p>24 discussing the letter from whenever it was,</p>
<p style="text-align: right;">Page 143</p> <p>1 BY MR. FEE:</p> <p>2 Q. Do you have any recollection of attending</p> <p>3 any NAC meeting where any member of the NAC</p> <p>4 stated that FlightLevel should be given</p> <p>5 preferential treatment because of its large</p> <p>6 investment in the airport?</p> <p>7 A. I don't.</p> <p>8 Q. You don't recall ever hearing that at an</p> <p>9 NAC meeting?</p> <p>10 A. No. That term "preferential treatment"?</p> <p>11 Q. Yes.</p> <p>12 A. No.</p> <p>13 Q. Is there another term that's been used to</p> <p>14 describe the treatment that should be afforded</p> <p>15 FlightLevel on the basis of its investment in the</p> <p>16 airport?</p> <p>17 MR. SIMMS: Objection. Go ahead.</p> <p>18 MR. HARTZELL: Objection.</p> <p>19 A. Not that I can think of.</p> <p>20 BY MR. FEE:</p> <p>21 Q. Okay.</p> <p>22</p> <p>23 (Exhibit No. 84 marked for</p> <p>24 identification.)</p>	<p style="text-align: right;">Page 145</p> <p>1 January.</p> <p>2 Q. Okay.</p> <p>3 A. Something along those lines.</p> <p>4 Q. Would you agree with me that these votes</p> <p>5 in March and April of 2014 appear to signify the</p> <p>6 NAC's agreement to extend leases for the various</p> <p>7 parcels that you requested back in January of</p> <p>8 2014?</p> <p>9 A. Conditionally, I'd say. But, I mean,</p> <p>10 action on the actual lease extensions didn't come</p> <p>11 as a result of this.</p> <p>12 Q. Okay. What do you mean by that?</p> <p>13 A. We didn't have our lease extensions done</p> <p>14 until well after this.</p> <p>15 Q. Okay. And that was the gist of my last</p> <p>16 question. At some point were you provided actual</p> <p>17 legal documents to sign that memorialized the</p> <p>18 extension of your leases for the various parcels</p> <p>19 requested in your letter of January?</p> <p>20 A. I'd say this doesn't reflect what</p> <p>21 happened after the fact. I mean, there were</p> <p>22 negotiations after the fact.</p> <p>23 Q. What kind of negotiations?</p> <p>24 A. On term, rate, payment method,</p>

<p style="text-align: right;">Page 146</p> <p>1 conditions. I mean, standard stuff.</p> <p>2 Q. So these votes were taken to approve</p> <p>3 lease extensions and then negotiations regarding</p> <p>4 the terms took place after. Is that your</p> <p>5 testimony?</p> <p>6 A. Negotiations regarding the entire</p> <p>7 extensions.</p> <p>8 Q. And you said "term, rate." Anything</p> <p>9 else?</p> <p>10 A. Not that I can think of. I mean,</p> <p>11 customary.</p> <p>12 Q. Who undertook those negotiations on</p> <p>13 behalf of FlightLevel?</p> <p>14 A. It was myself and Nick.</p> <p>15 Q. And were those negotiations the subject</p> <p>16 of e-mails or correspondence?</p> <p>17 A. I think partially, yes.</p> <p>18 Q. When did -- those e-mails and</p> <p>19 correspondence, when were they exchanged?</p> <p>20 A. In the past year, I'd say anyway.</p> <p>21 Q. In the past year?</p> <p>22 A. Yes. Within the past 12 months.</p> <p>23 Something like that.</p> <p>24 Q. Okay.</p>	<p style="text-align: right;">Page 148</p> <p>1 point.</p> <p>2 Q. Okay. Thanks.</p> <p>3 (Exhibit No. 85 marked for</p> <p>4 identification.)</p> <p>5 BY MR. FEE:</p> <p>6 Q. Now, Mr. Eichleay, I'm showing you a</p> <p>7 document that's been marked as Exhibit 85. It</p> <p>8 appears to be a letter dated April 15, 2014, from</p> <p>9 Russ Maguire to you. Have you ever seen this</p> <p>10 before?</p> <p>11 A. Um-hum.</p> <p>12 Q. Okay. Now, turning your attention to the</p> <p>13 second page where it says:</p> <p>14 (As read) "The NAC is receptive to</p> <p>15 extending the Lot 6, 7 lease to 2050 conditional</p> <p>16 on FlightLevel at least commencing construction."</p> <p>17 Do you see that?</p> <p>18 A. Yeah. Receptive, yes.</p> <p>19 Q. Is that what you were referring to</p> <p>20 earlier when you were saying they were amenable?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 A. That's the word.</p> <p>24 Q. And so your understanding, as you</p>
<p style="text-align: right;">Page 147</p> <p>1 A. I'm trying to remember if it was e-mails.</p> <p>2 There was a meeting regarding the negotiation,</p> <p>3 and I think that's probably where most of the</p> <p>4 meeting happened. I think in terms of e-mail</p> <p>5 correspondence, it was e-mails between attorneys.</p> <p>6 Q. When did the meeting take place?</p> <p>7 A. I don't know.</p> <p>8 Q. Was it within the last 12 months?</p> <p>9 A. Maybe a little longer than that.</p> <p>10 Q. Who was present?</p> <p>11 A. It was myself, Nick. I think Mike</p> <p>12 Sheehan. I think Russ and I think Mark Ryan. I</p> <p>13 could be wrong on some of those.</p> <p>14 Q. Any other members of the commission?</p> <p>15 A. Not that I can remember.</p> <p>16 Q. Any attorneys present?</p> <p>17 A. Nick was there.</p> <p>18 Q. I'm sorry. Other than Nick.</p> <p>19 A. Not that I can remember.</p> <p>20 Q. And you think that this may have been</p> <p>21 longer than within the past 12 months. In the</p> <p>22 past -- I'm sorry -- your recollection is that</p> <p>23 this --</p> <p>24 A. I would say it happened in 2016 at some</p>	<p style="text-align: right;">Page 149</p> <p>1 testified, is that for a period of many months</p> <p>2 after your receipt of this letter, there were</p> <p>3 negotiations that took place between counsel and</p> <p>4 then eventually a meeting that resulted in the</p> <p>5 memorialization of leases for A, B, C, 5, 6, and</p> <p>6 7. Is that fair to say?</p> <p>7 A. Say that again.</p> <p>8 Q. Okay. I believe you testified that for</p> <p>9 some period following April -- for a period of</p> <p>10 months after April 15, 2014, there were</p> <p>11 negotiations ongoing between counsel and then a</p> <p>12 meeting that happened at some point regarding the</p> <p>13 lease terms and conditions.</p> <p>14 And that ultimately resulted in the</p> <p>15 execution of documents memorializing the</p> <p>16 extension of leases for Lots A, B, C, 5, 6, and</p> <p>17 7. Is that fair to say?</p> <p>18 A. None of that was immediately following</p> <p>19 this.</p> <p>20 Q. Right.</p> <p>21 A. But, yes, in that gap of time. Yes.</p> <p>22 Q. Okay. Do you know when the leases were</p> <p>23 actually executed or the lease extension</p> <p>24 documents were actually executed for A, B, C, 5,</p>

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<p>1 6, and 7?</p> <p>2 A. I don't.</p> <p>3 Q. Were there any additional documents</p> <p>4 required from you other than the actual</p> <p>5 signatures on the lease documents?</p> <p>6 A. Probably.</p> <p>7 Q. Did they require personal guarantee?</p> <p>8 A. Yes. Either personal guarantee or letter</p> <p>9 of credit.</p> <p>10 Q. Okay. And how much was -- did you</p> <p>11 provide a personal guarantee or a letter of</p> <p>12 credit?</p> <p>13 A. Yes.</p> <p>14 Q. And how much -- which?</p> <p>15 A. Personal guarantee.</p> <p>16 Q. And did that personal guarantee have a</p> <p>17 cap or was it for the entire amounts due under</p> <p>18 the extent of the leases?</p> <p>19 A. I can't remember.</p> <p>20 Q. Do you know when you executed a personal</p> <p>21 guarantee?</p> <p>22 A. Within the past 12 months.</p> <p>23 Q. Now, this process that we've just</p> <p>24 discussed, from January 2014 up until 2016 or</p>	<p>1 the NAC undertook to offer that ramp for lease?</p> <p>2 A. Not really, but we had a standing request</p> <p>3 that we always be included on any request for</p> <p>4 proposals or, you know, any other source of</p> <p>5 solicitation.</p> <p>6 Q. So you know that there was a request for</p> <p>7 proposals for the DC-3 ramp?</p> <p>8 A. Yes.</p> <p>9 Q. And there was no request for proposals</p> <p>10 for Lots A, B, C, 5, 6, and 7. Correct?</p> <p>11 A. Not that I know of.</p> <p>12 Q. And the DC-3 ramp, prior to its being</p> <p>13 offered as an RFP, what kind of activity was</p> <p>14 taking place there?</p> <p>15 A. It was leased by Boston Air Charter.</p> <p>16 Q. What did they do?</p> <p>17 A. They parked aircraft.</p> <p>18 Q. They conducted commercial activities?</p> <p>19 A. They parked aircraft.</p> <p>20 Q. Okay.</p> <p>21 A. That's all I can tell you.</p> <p>22 Q. Do you know whether that was for</p> <p>23 commercial purposes or were the aircraft owned by</p> <p>24 Boston Air Charters?</p>
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<p>1 beyond, regarding the extension of leases, was</p> <p>2 that the only time that you or FlightLevel had</p> <p>3 engaged in lease extension discussions with the</p> <p>4 NAC?</p> <p>5 A. No.</p> <p>6 Q. What other lease extension discussions</p> <p>7 had taken place?</p> <p>8 A. In 2009, the A, B, C Lot.</p> <p>9 Q. Okay.</p> <p>10 A. I think it was 2009. It may be late</p> <p>11 2008.</p> <p>12 Q. Okay. Now, you're familiar with the DC-3</p> <p>13 ramp; right?</p> <p>14 A. Yup.</p> <p>15 Q. And that's the ramp that you described as</p> <p>16 being leased by Papa Whisky 1, LLC. Correct?</p> <p>17 A. Yes.</p> <p>18 Q. And were you familiar with the process</p> <p>19 that the NAC went by in order to offer that ramp</p> <p>20 for lease?</p> <p>21 MR. SIMMS: Can you restate the question,</p> <p>22 please?</p> <p>23 BY MR. FEE:</p> <p>24 Q. Are you familiar with the process that</p>	<p>1 A. I can't tell you.</p> <p>2 Q. You don't know. Okay.</p> <p>3 Do you know or are you familiar with the</p> <p>4 fact that the DC-3 ramp was offered by RFP for</p> <p>5 non-commercial use only?</p> <p>6 A. I read the documents. I can't remember</p> <p>7 what was in them.</p> <p>8 Q. Okay. Well, were you aware of the</p> <p>9 fact -- did you bid on the DC-3 ramp?</p> <p>10 A. Yes.</p> <p>11 Q. And you were the winning bidder.</p> <p>12 Correct?</p> <p>13 A. Yes.</p> <p>14 Q. And I'm sorry. Papa Whisky 1, LLC, was</p> <p>15 the winning bidder.</p> <p>16 A. Right.</p> <p>17 Q. And were you aware of the fact that you</p> <p>18 would not be able to conduct commercial</p> <p>19 activities on that parcel?</p> <p>20 A. Define "commercial activities."</p> <p>21 Q. Fueling or storing aircraft that you</p> <p>22 don't own.</p> <p>23 A. I don't remember.</p> <p>24 Q. You don't remember the RFP documents?</p>

<p style="text-align: right;">Page 154</p> <p>1 A. Not terribly well.</p> <p>2 Q. What do you do -- what does Papa Whisky</p> <p>3 1, LLC, do on the DC-3 ramp currently?</p> <p>4 A. Park an aircraft.</p> <p>5 Q. And that's the aircraft that you own?</p> <p>6 A. Well, no. It was a former aircraft I</p> <p>7 owned.</p> <p>8 Q. Okay. Do you park other people's</p> <p>9 aircraft on --</p> <p>10 A. No.</p> <p>11 Q. -- the DC-3 ramp?</p> <p>12 A. Not that I know of.</p> <p>13 Q. Okay. Whose aircraft do you park there?</p> <p>14 A. Mine. 407 Charlie Delta, which I no</p> <p>15 longer own. Which Papa Whisky 1 no longer owns.</p> <p>16 Q. Okay.</p> <p>17 A. Papa Whisky owned aircraft N407CD, and</p> <p>18 that was the primary parking airplane on that</p> <p>19 apron. That aircraft was sold. My --</p> <p>20 Q. Go ahead.</p> <p>21 A. The other aircraft that Papa Whisky 1</p> <p>22 owns, 747 Lima Juliet, is the remaining aircraft.</p> <p>23 Q. And who owns that?</p> <p>24 A. Papa Whisky 1.</p>	<p style="text-align: right;">Page 156</p> <p>1 A. I don't remember.</p> <p>2 Q. Did the NAC ask you for a personal</p> <p>3 guarantee when you entered -- when Papa Whisky 1,</p> <p>4 LLC, entered into the lease for the DC-3 ramp?</p> <p>5 A. I don't think so.</p> <p>6 Q. Did they ask you for anything other than</p> <p>7 your signature on the lease for the DC-3 ramp?</p> <p>8 A. They did, but I can't remember what.</p> <p>9 Q. Was it a financial document?</p> <p>10 A. I think so.</p> <p>11 Q. You have no idea what type of financial</p> <p>12 document?</p> <p>13 A. I mean, I have an idea but I can't say</p> <p>14 with certainty.</p> <p>15 Q. Well, you said it wasn't a personal</p> <p>16 guarantee; right?</p> <p>17 A. Correct.</p> <p>18 Q. Was it a letter of credit?</p> <p>19 A. I don't think so.</p> <p>20 Q. Financial statement?</p> <p>21 A. Probably.</p> <p>22 Q. But you're not sure?</p> <p>23 A. Correct.</p> <p>24 Q. Okay.</p>
<p style="text-align: right;">Page 155</p> <p>1 Q. And who owns the first aircraft that you</p> <p>2 referred to now?</p> <p>3 A. I don't know. Papa Whisky 1 sold it.</p> <p>4 Q. And it's no longer housed there?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. So there's only one aircraft</p> <p>7 that's housed on the DC-3 ramp?</p> <p>8 A. That uses it.</p> <p>9 Q. Yeah. "House" is the wrong word. I'm</p> <p>10 sorry.</p> <p>11 Any other aircraft utilize the DC-3 ramp?</p> <p>12 A. Not that I know of.</p> <p>13 Q. Is Papa Whisky 1 still in existence?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know it was dissolved in 2010?</p> <p>16 A. I was afraid of that. As you asked that,</p> <p>17 I realized maybe corporate filings weren't --</p> <p>18 Q. Do you know if Papa Whisky 1 was</p> <p>19 dissolved prior to the time that a lease was</p> <p>20 entered into with the NAC for the DC-3 ramp?</p> <p>21 A. I don't know.</p> <p>22 Q. Did the NAC ask you, after you won the</p> <p>23 bid for the DC-3 ramp, whether Papa Whisky 1 was</p> <p>24 legally existing? Did they inquire?</p>	<p style="text-align: right;">Page 157</p> <p>1 MR. FEE: Shifting topics.</p> <p>2 (Exhibit No. 86 marked for</p> <p>3 identification.)</p> <p>4 BY MR. FEE:</p> <p>5 Q. You may recall from this morning we</p> <p>6 discussed some of the unpleasantness and</p> <p>7 hostility that took place between FlightLevel and</p> <p>8 BEH regarding the plowing of snow in 2015. Do</p> <p>9 you recall that discussion?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And we talked about some of the</p> <p>12 correspondence that went back and forth as well</p> <p>13 as your discussions with the NAC regarding your</p> <p>14 displeasure with BEH's activities between Lots F</p> <p>15 and G. Do you recall that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And at some point did you appear</p> <p>18 before the NAC and discuss your concerns</p> <p>19 regarding the property dispute that had</p> <p>20 occurred -- that was occurring between</p> <p>21 FlightLevel and BEH?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And did the NAC direct you to act</p> <p>24 in any particular fashion with respect to that</p>

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<p>1 private property dispute?</p> <p>2 A. No.</p> <p>3 Q. Showing you a document that's been marked</p> <p>4 as Exhibit 86. Turn your attention to the second</p> <p>5 page where it says "Correspondence." It says,</p> <p>6 under correspondence, first bullet point:</p> <p>7 (As read) "Discussed notice of trespass</p> <p>8 cease and desist about snowfall. Mr. Ryan asked</p> <p>9 that Mr. Donovan and Mr." -- I believe it's</p> <p>10 referring to Eichleay, but there's a typo -- "to</p> <p>11 come to an agreement together.</p> <p>12 "This is a dispute over lease of</p> <p>13 easement. Get settled in superior court. Can't</p> <p>14 decide it here."</p> <p>15 Did I read it correctly?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall being at this meeting and</p> <p>18 having this discussion?</p> <p>19 MR. SIMMS: Objection to the scope. Go</p> <p>20 ahead.</p> <p>21 A. Yes.</p> <p>22 BY MR. FEE:</p> <p>23 Q. And do you recall being informed by the</p> <p>24 NAC that it was their judgment that you and Mr.</p>	<p>1 (Exhibit No. 87 marked for</p> <p>2 identification.)</p> <p>3 BY MR. FEE:</p> <p>4 Q. Mr. Eichleay, I'm showing you a document</p> <p>5 that's been marked as Exhibit 87. It appears to</p> <p>6 be a fueling restriction plan, and it's a</p> <p>7 two-page document dealing with Lot G and Lots 5,</p> <p>8 6, and 7. Can you take a look at that and let me</p> <p>9 know if you've seen it before?</p> <p>10 A. Yes, I have seen it before.</p> <p>11 Q. Okay. And what is it?</p> <p>12 A. It's a fueling plan.</p> <p>13 Q. And for FlightLevel?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And it's dated February 14, 2017;</p> <p>16 is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And was this prepared -- why was this</p> <p>19 prepared?</p> <p>20 A. Because it was asked of us as a</p> <p>21 condition, I believe, to our lease extensions.</p> <p>22 Q. Okay. And those are the lease extensions</p> <p>23 for Lots 5, 6, and 7 that were voted in April of</p> <p>24 2014. Correct?</p>
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<p>1 Donovan should settle the matter in superior</p> <p>2 court?</p> <p>3 MR. HARTZELL: Objection.</p> <p>4 A. Not the last sentence. Not the superior</p> <p>5 court component.</p> <p>6 BY MR. FEE:</p> <p>7 Q. You don't recall them telling you to work</p> <p>8 it out in court?</p> <p>9 A. Correct.</p> <p>10 Q. So your testimony is that this is an</p> <p>11 inaccurate transcription of the discussion that</p> <p>12 took place at the NAC meeting?</p> <p>13 MR. HARTZELL: Objection.</p> <p>14 A. My recollection is that Mr. Sheehan, as</p> <p>15 though scolding his children, said, "Play nice."</p> <p>16 I don't remember anything about court</p> <p>17 or --</p> <p>18 BY MR. FEE:</p> <p>19 Q. Okay. And several days later you put</p> <p>20 barriers up on your property; is that fair to</p> <p>21 say?</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 MR. FEE: Shifting topics.</p>	<p>1 A. I believe so.</p> <p>2 Q. Okay. And you described earlier an</p> <p>3 ongoing series of negotiations that took place</p> <p>4 between the votes that happened in 2014 and the</p> <p>5 actual execution of lease documents. Correct?</p> <p>6 A. Say that again.</p> <p>7 Q. You described earlier a series of ongoing</p> <p>8 negotiations that took place after the votes in</p> <p>9 2014 and the execution of lease documents</p> <p>10 sometime in 2016 or 2017; right?</p> <p>11 A. Yes.</p> <p>12 Q. And was this, the creation of this</p> <p>13 fueling plan, part of those negotiations?</p> <p>14 A. It was.</p> <p>15 Q. Okay. And so it was one of the</p> <p>16 conditions of the lease extension?</p> <p>17 A. Yes.</p> <p>18 Q. Did you cause this document, this fueling</p> <p>19 plan, to be prepared?</p> <p>20 MR. HARTZELL: Objection.</p> <p>21 A. Yes.</p> <p>22 BY MR. FEE:</p> <p>23 Q. Who prepared it?</p> <p>24 A. Norwood Engineering.</p>

<p style="text-align: right;">Page 162</p> <p>1 Q. Okay. And did this represent the current 2 practice that FlightLevel engaged in at Norwood 3 Airport or something else? 4 MR. HARTZELL: Objection. 5 A. I'm not sure. This really wasn't my 6 project. I wasn't, you know, the direct contact 7 to getting this project done. 8 BY MR. FEE: 9 Q. Okay. So you're not sure whether this 10 represents the current practice of FlightLevel at 11 the Norwood Airport or something aspirational. 12 You're not sure whether it's one or the other; 13 right? 14 A. Correct. 15 Q. Do you know if this document was prepared 16 so as to be consistent with the regulations 17 applicable to fueling at the Norwood Airport? 18 A. Sure. 19 Q. And to the best of your knowledge, does 20 FlightLevel's operations currently comply in full 21 with this fueling plan? 22 MR. HARTZELL: Objection. 23 A. As far as I know. 24 BY MR. FEE:</p>	<p style="text-align: right;">Page 164</p> <p>1 area. No fueling. Do you see that? 2 A. Yes. 3 Q. And who at FlightLevel makes certain that 4 the fueling activities of FlightLevel adhere to 5 this plan? 6 MR. SIMMS: Objection. Beyond the scope. 7 Go ahead. 8 MR. HARTZELL: Objection. I have to say, 9 I'm really hard pressed to understand how this 10 has anything to do with the one allegation left 11 in the federal court case that arises from things 12 that apparently happened several years ago. 13 MR. FEE: Thank you for that objection. 14 Let me represent to you that one of the 15 defenses in the case is that BEH is being -- that 16 FlightLevel is being required to adhere to the 17 same requests that are being asked of BEH. And 18 there's an assertion that the two companies are 19 treated equally. And if you'll allow me to 20 continue, I'll show you why this is relevant. 21 BY MR. FEE: 22 Q. Can you answer the question? 23 A. Can you repeat it? I'm sorry. 24 Q. Sure. Who at FlightLevel is in charge of</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. Okay. Do you know what the red lines on 2 the fueling plan represent? 3 A. Red lines? 4 Q. I'm sorry. Red, shaded areas. 5 A. I can guess. 6 Q. Well, there's -- 7 MR. HARTZELL: You don't need to guess. 8 BY MR. FEE: 9 Q. There's a key there so -- 10 A. The setback -- offset. 11 Q. So does that mean -- and you'll have to 12 help me because I'm by no means an expert on 13 this. Does that mean that no activities can take 14 place in that red area? 15 MR. HARTZELL: Objection. 16 A. Again, I also am not an expert in this. 17 So, like I said, this wasn't my -- I wasn't the 18 key point on this project. 19 BY MR. FEE: 20 Q. Who at FlightLevel was the key person on 21 this project? 22 A. It was Nick Burlingham. 23 Q. Okay. Do you know -- and again, the 24 yellow area seems to represent an object-free</p>	<p style="text-align: right;">Page 165</p> <p>1 making sure that the -- FlightLevel's operations 2 adhere to this fueling plan? 3 MR. SIMMS: Same objection. 4 A. It's the responsibility of each line 5 technician to know the fueling plan, but the line 6 supervisor and chief operating officer of 7 FlightLevel would be where it starts from the 8 top. 9 BY MR. FEE: 10 Q. Are you the chief operating officer? 11 A. No. 12 Q. Who's the chief operating officer? 13 A. It's Mike DeLaria. 14 Q. Who's the line supervisor? 15 A. Kevin Putnam. 16 Q. So they're the on-the-ground guys that 17 make sure that the fueling operations are 18 compliant; is that fair to say? 19 A. Yes. 20 (Exhibit No. 88 marked for 21 identification.) 22 BY MR. FEE: 23 Q. Can you take a pen to Exhibit 87 and mark 24 with an "A" where FlightLevel's fuel farm is</p>

<p style="text-align: right;">Page 166</p> <p>1 located, please.</p> <p>2 MR. HARTZELL: Wait a minute. I don't</p> <p>3 think you're looking at the same exhibit. You're</p> <p>4 looking at -- I'm sorry.</p> <p>5 A. (Complies.) That's approximate.</p> <p>6 BY MR. FEE:</p> <p>7 Q. Okay. So now I'm going to show you</p> <p>8 Exhibit 88. Do you know what that is?</p> <p>9 A. It looks familiar.</p> <p>10 Q. Self-fueling facility? Self-fueling</p> <p>11 cabinet for FlightLevel? Is that what it is?</p> <p>12 A. Probably.</p> <p>13 Q. Do you know where it's located?</p> <p>14 A. I believe so.</p> <p>15 Q. Can you mark it on the plan, please. On</p> <p>16 Exhibit 87.</p> <p>17 A. It's probably in this general area.</p> <p>18 Q. Okay. If I directed your attention to</p> <p>19 this box right here, close to the mark that you</p> <p>20 made --</p> <p>21 A. Yes.</p> <p>22 Q. -- would that refresh your recollection</p> <p>23 as to where your self-fueling cabinet is located?</p> <p>24 A. It doesn't refresh my recollection, but</p>	<p style="text-align: right;">Page 168</p> <p>1 document; right?</p> <p>2 MR. SIMMS: Yes.</p> <p>3 MR. FEE: Okay.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Mr. Eichleay, I'm showing you a document</p> <p>6 that's been marked as Exhibit 89. It's a series</p> <p>7 of photographs. And I'm going to ask you, with</p> <p>8 respect to the first one which is marked with a 1</p> <p>9 at the bottom right-hand corner, do you recognize</p> <p>10 what this depicts?</p> <p>11 A. Yes.</p> <p>12 Q. What is it?</p> <p>13 A. There's a highway tanker truck next to</p> <p>14 our fuel farm.</p> <p>15 Q. So when you say your fuel farm, can you</p> <p>16 just indicate with a "B" on Exhibit 87 where</p> <p>17 Exhibit 89, photograph 1 is?</p> <p>18 A. (Complies.)</p> <p>19 Q. Okay. Now, how about 2? Can you mark</p> <p>20 with a "C" on the plan where you believe that --</p> <p>21 A. I mean, I'm guessing.</p> <p>22 Q. Don't guess. If you don't know, don't</p> <p>23 tell me. Don't guess.</p> <p>24 A. Okay.</p>
<p style="text-align: right;">Page 167</p> <p>1 that could be where it is.</p> <p>2 Q. Do you know how the self-fueling cabinet</p> <p>3 is utilized?</p> <p>4 A. It's not.</p> <p>5 Q. Not. Since when?</p> <p>6 A. Several years anyway.</p> <p>7 Q. Okay. Since 2015?</p> <p>8 A. Well before that.</p> <p>9 Q. 2014? 2013?</p> <p>10 A. I'm thinking 2011, 2010.</p> <p>11 Q. Okay. And what was the reason for</p> <p>12 discontinuing the use of the self-fueling</p> <p>13 cabinet?</p> <p>14 A. I cannot remember.</p> <p>15 Q. Does it have any function at present?</p> <p>16 A. Not that I know of.</p> <p>17 (Exhibit No. 89 marked for</p> <p>18 identification.)</p> <p>19 MR. FEE: Okay, guys, I'm going to mark</p> <p>20 these 1 through 8. This is Exhibit 89. I'm just</p> <p>21 going to put little numbers down at the bottom, 1</p> <p>22 through 8.</p> <p>23 Wait a second. There's only five.</p> <p>24 I'm sorry. One through 4. Four-page</p>	<p style="text-align: right;">Page 169</p> <p>1 Q. Does photograph 2 show a tanker truck</p> <p>2 employed by FlightLevel? Is that a FlightLevel</p> <p>3 tanker truck?</p> <p>4 MR. HARTZELL: Objection.</p> <p>5 A. It's not employed by FlightLevel.</p> <p>6 BY MR. FEE:</p> <p>7 Q. I'm sorry. Wrong phraseology. Is that a</p> <p>8 tanker truck which is delivering fuel for</p> <p>9 FlightLevel?</p> <p>10 A. Probably.</p> <p>11 MR. HARTZELL: Don't guess, please.</p> <p>12 BY MR. FEE:</p> <p>13 Q. Is Patriot Fuel a vendor that FlightLevel</p> <p>14 generally uses?</p> <p>15 A. Not unless we've changed.</p> <p>16 Q. So you don't know?</p> <p>17 A. I don't know.</p> <p>18 Q. You're not sure if FlightLevel -- I'm</p> <p>19 sorry -- if photograph 2 represents a truck that</p> <p>20 is delivering fuel for FlightLevel; is that fair</p> <p>21 to say?</p> <p>22 A. Yes.</p> <p>23 Q. Does this look like the Norwood Airport</p> <p>24 to you in photograph 2?</p>

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<p>1 A. Yes.</p> <p>2 Q. And FlightLevel is the only fuel provider</p> <p>3 at Norwood Airport. Correct?</p> <p>4 A. Yes.</p> <p>5 Q. Can you tell from looking at photograph 2</p> <p>6 where the tanker truck is located in the</p> <p>7 photograph?</p> <p>8 A. Like I said, I can guess.</p> <p>9 MR. HARTZELL: Don't guess.</p> <p>10 BY MR. FEE:</p> <p>11 Q. How about photograph 3? Do you know</p> <p>12 where that -- again, is that a truck that is</p> <p>13 delivering fuel for FlightLevel? Does it depict</p> <p>14 that?</p> <p>15 A. Probably.</p> <p>16 Q. Do you know where on Exhibit 87 that</p> <p>17 truck is operating such that you could mark it on</p> <p>18 the map? Use a "C," please.</p> <p>19 MR. HARTZELL: Just caution the witness</p> <p>20 not to guess.</p> <p>21 A. It's very approximate.</p> <p>22 BY MR. FEE:</p> <p>23 Q. Okay. I'll take that caveat. If you can</p> <p>24 show me very approximately where you think that</p>	<p>1 end of the tank?</p> <p>2 A. It's right around where B is.</p> <p>3 Q. In your estimation, totally outside of</p> <p>4 the red zone; is that fair to say?</p> <p>5 A. I can't say with any certainty.</p> <p>6 Q. Okay. Do you know what the regulations</p> <p>7 require with respect to how far a gasoline truck</p> <p>8 has to be from buildings?</p> <p>9 MR. SIMMS: Beyond the scope. Go ahead.</p> <p>10 A. Not off the top of my head.</p> <p>11 BY MR. FEE:</p> <p>12 Q. Do you know what the regulations require,</p> <p>13 distance from, for a tanker truck to be from any</p> <p>14 airplane?</p> <p>15 MR. SIMMS: Same objection. Is this a</p> <p>16 new line of questioning?</p> <p>17 MR. FEE: This is the same line, but I'll</p> <p>18 tell you --</p> <p>19 A. Not off the top of my head.</p> <p>20 BY MR. FEE:</p> <p>21 Q. Okay.</p> <p>22</p> <p>23 (Exhibit No. 90 marked for</p> <p>24 identification.)</p>
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<p>1 truck is operating, I would appreciate it.</p> <p>2 MR. HARTZELL: If you can. If you can't,</p> <p>3 don't do it.</p> <p>4 A. I'll put "C. Guess."</p> <p>5 BY MR. FEE:</p> <p>6 Q. Same thing with the photograph on 4.</p> <p>7 A. D?</p> <p>8 Q. D, please.</p> <p>9 A. (Complies.)</p> <p>10 Q. Just so I'm clear, the red demarcation on</p> <p>11 Exhibit 87 begins at the end of the building.</p> <p>12 Correct?</p> <p>13 A. I would assume so.</p> <p>14 Q. Okay. So if that's the case, would you</p> <p>15 like to reconsider where you're placing your note</p> <p>16 D, reflecting the location of the tanker truck in</p> <p>17 photograph 4?</p> <p>18 A. Do you want me to do where the truck is</p> <p>19 or the tank?</p> <p>20 Q. How about where the truck is.</p> <p>21 A. The truck --</p> <p>22 Q. I'm sorry. The tank.</p> <p>23 A. -- where I put D.</p> <p>24 Q. My apologies. Can you show me the other</p>	<p>1 BY MR. FEE:</p> <p>2 Q. Sir, I'm showing you an exhibit that's</p> <p>3 been marked as Exhibit 90. Do you recognize what</p> <p>4 this photograph depicts?</p> <p>5 A. I do.</p> <p>6 Q. And what -- do you know which hangar that</p> <p>7 is?</p> <p>8 A. Yes.</p> <p>9 Q. Which one?</p> <p>10 A. It's the hanger on Lot G.</p> <p>11 Q. Okay. And does it depict FlightLevel</p> <p>12 fueling operations?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 A. Or at least the prep for FlightLevel</p> <p>16 fueling operations.</p> <p>17 Q. Well, it appears that the tanker truck is</p> <p>18 fueling the airplane; does it not?</p> <p>19 A. It appears.</p> <p>20 Q. Okay. And is it your testimony that such</p> <p>21 activities are in compliance with the regulations</p> <p>22 applicable to fueling at Norwood Airport?</p> <p>23 A. I remember getting this e-mail. This</p> <p>24 sort of "we gotcha" e-mail from Chris, and we</p>

<p style="text-align: right;">Page 174</p> <p>1 went out and measured and we didn't see this as 2 incriminating at all. 3 Q. Why is that? 4 A. Because it was outside the setback. 5 Q. Meaning is the airplane located outside 6 the setback? 7 A. The fueling vent. 8 Q. Vent. 9 A. Yeah. I thought you said bent as in 10 "bravo." 11 Q. And where is the fueling vent located in 12 the photograph? You can mark it with an X, if 13 you like. 14 A. I don't know where it is. I wasn't the 15 expert on -- it's a Bonanza. 16 Q. What's a Bonanza? 17 A. That's the kind of aircraft. 18 Q. Okay. So the vent is located on the 19 aircraft? 20 A. Correct. 21 Q. Okay. 22 A. Typically on the wing. 23 Q. Okay. 24 MR. FEE: I just need a couple of minutes</p>	<p style="text-align: right;">Page 176</p> <p>1 A. I don't think so. 2 Q. Okay. And why were you incorrectly 3 quoted? 4 A. I'd have to see the video from the 5 commission meeting, but I'm just telling you I 6 don't think I said that exactly. 7 Q. And that's perfectly understandable. 8 MR. HARTZELL: Wouldn't be the first time 9 in recorded quotes -- alleged quotes in a 10 newspaper article. 11 BY MR. FEE: 12 Q. And okay. So you're not sure that that's 13 an accurate quote. But is it your understanding 14 that the leases were reviewed by the FAA or at 15 least for Lot 5? 16 A. No. 17 Q. At any time? 18 A. I don't know. 19 Q. Do you know if the FAA typically reviews 20 leases in this context? 21 MR. SIMMS: Objection. Go ahead. 22 A. I can tell you at our other airports we 23 operate, the -- I don't believe the FAA reviews. 24 BY MR. FEE:</p>
<p style="text-align: right;">Page 175</p> <p>1 and I think we'll finish up. 2 (Recess taken at 2:53 p.m.) 3 (Deposition resumed at 3:00 p.m.) 4 (Exhibit No. 91 marked for 5 identification.) 6 BY MR. FEE: 7 Q. So Mr. Eichleay, I'm showing you a 8 document that's been marked as Exhibit 91. It 9 appears to be an article in the Norwood Record, 10 October 26, 2016. And about three-quarters down 11 the page, it's quoting you. It says -- well, the 12 article says: 13 (As read) "He also said FlightLevel has 14 met both conditions set forth by the commission. 15 Eichleay said the first condition was to begin 16 construction of the hangar complex by 2017. The 17 second condition was to have the sublease for Lot 18 5 reviewed by the FAA by 2017." 19 Did I read that correctly? 20 A. I can't vouch for the accuracy of that. 21 Q. I'm asking you if I read correctly. 22 A. Yes, you read it correctly. 23 Q. And my question is: Were you correctly 24 quoted?</p>	<p style="text-align: right;">Page 177</p> <p>1 Q. All right. 2 MR. FEE: I don't have any further 3 questions. 4 EXAMINATION 5 BY MR. SIMMS: 6 Q. Peter, do you know who the current 7 members are in the Norwood Board of Selectmen? 8 I thought you'd have that look of 9 exasperation. 10 A. I couldn't name them all. 11 Q. I'm going to name them for you. And my 12 question after is going to be the following: Are 13 you currently friendly on a personal level with 14 any members of the Norwood Board of Selectmen? 15 The members are as follows: William 16 Plasko, Helen Abdallah, Paul Bishop, Allan 17 Howard, Thomas Maloney. 18 A. No. 19 Q. Are you a personal friend of Mike Lyons? 20 A. No. 21 Q. Are you a personal friend of any former 22 member of the Norwood Board of Selectmen? Anyone 23 who served, let's say, within the last five 24 years?</p>

<p style="text-align: right;">Page 178</p> <p>1 A. Not that I know of. I haven't even met 2 most of those people, any of them. 3 Q. You just anticipated one of my questions. 4 Of the five individuals I've just mentioned, 5 let's say, within the last two or three years, 6 I'll start with, have you had any one-to-one 7 conversations or e-mail exchanges with any 8 individuals of the Norwood Board of Selectmen 9 about any of the things you've testified about 10 here today? 11 A. There may have been one e-mail to -- 12 gosh. Was Lyons chairman? Sorry. I think it 13 was to Lyons several years ago, and we received 14 no response. 15 Q. From Mr. Lyons? 16 A. I believe it was him. I could be wrong 17 on that. 18 Q. I think you're correct, from my memory. 19 Other than the one e-mail that comes to mind that 20 FlightLevel sent to Mike Lyons, in the last few 21 years do you recall any other communications -- 22 whether personal, in-person, over the phone, 23 e-mail exchange, any type of communications -- 24 between FlightLevel and any individual members of</p>	<p style="text-align: right;">Page 180</p> <p>1 in the last several years with any individual 2 members of the board of selectmen? In words or 3 substance, has any member of the board of 4 selectmen indicated to you that in his or her 5 opinion FlightLevel should be shown preferential 6 treatment with respect to the way it's treated by 7 the Norwood Airport Commission? 8 A. Never. I've literally -- those -- the 9 letter in January 2015, the letter in September 10 of 2015, and the e-mail to Lyons are the only -- 11 those are my attempts at any line of 12 communication with the selectmen. And none of 13 them have received any response. 14 Q. Those three attempts to communicate with 15 the board of selectmen did not pan out, at least 16 from your perspective? 17 A. Correct. I don't believe I've spoken in 18 person to any of the selectmen. 19 Q. Okay. Let me turn to the Norwood Airport 20 Commission, the NAC. Are you personally 21 friendly -- that is, do you socialize with any of 22 the current members of the NAC? 23 A. I've never socialized with a member of 24 the NAC. I do -- I have exchanged pleasantries</p>
<p style="text-align: right;">Page 179</p> <p>1 the board of selectmen? 2 A. None. But I believe we did drop off -- 3 which is to say hand-delivered to the selectmen 4 office the long letter we wrote in 2015. 5 Q. Now, that's the letter you testified 6 about earlier in your deposition today. Correct? 7 A. Correct. 8 Q. And if I recall your testimony correctly, 9 you said you attended that particular selectmen 10 meeting in 2015 but you were not given the 11 opportunity to talk. 12 A. No. 13 Q. Am I mixing up the dates? 14 A. You're mixing up. There was a September 15 2015 letter, and I attended that meeting and was 16 not afforded the opportunity to talk. 17 The January 2015 letter, I never received 18 any response of any kind. 19 Q. In any communications you've had -- and I 20 don't want to keep repeating this over and over, 21 but when I say "communications," I mean in 22 person, over the phone, in e-mail, via carrier 23 pigeon. 24 Any communications at all that you've had</p>	<p style="text-align: right;">Page 181</p> <p>1 at NAC meetings. "Hi. How are you? Good 2 afternoon." 3 Q. Okay. 4 A. Nothing beyond that. 5 Q. I think Mike asked you earlier today -- I 6 want to make sure I got this correct. So my 7 question is: Do you regularly, if at all, have 8 discussions with members of the NAC about 9 FlightLevel business outside of the formal NAC 10 meetings? 11 A. No. 12 Q. I'm going to show you a document we've 13 marked before. 14 MR. SIMMS: I don't have copies but -- 15 MR. FEE: What is it? 16 MR. SIMMS: It's the June 11, 2014, NAC 17 minutes. 18 MR. FEE: Okay. 19 MR. SIMMS: All right. Marked at Les 20 Leblanc's deposition at Exhibit 11. I'll 21 represent that any yellow highlighting is mine. 22 BY MR. SIMMS: 23 Q. If you would read to yourself just the 24 last entry on page 1 of the document, under "BEH</p>

<p style="text-align: right;">Page 182</p> <p>1 lease/FBO interest."</p> <p>2 A. Um-hum.</p> <p>3 Q. Let me know what you've had a chance to</p> <p>4 read that, please.</p> <p>5 A. Okay.</p> <p>6 Q. Mr. Eichleay, in the last three years,</p> <p>7 have you had any discussions or communications</p> <p>8 with any members of the Norwood Airport</p> <p>9 Commission about the reasons for the commission's</p> <p>10 decision to table whatever the matter was that</p> <p>11 was the subject of the vote on June 11, 2014,</p> <p>12 concerning the BEH lease and its interest in an</p> <p>13 FBO?</p> <p>14 A. Sorry. One more time.</p> <p>15 Q. Have you had any discussions in the last</p> <p>16 three years or any communications of any kind</p> <p>17 with any individual members of the Norwood</p> <p>18 Airport Commission about why the commission</p> <p>19 decided to table the matter involving BEH that's</p> <p>20 reflected in the portion of the minutes I just</p> <p>21 asked you to read?</p> <p>22 A. Not that I know of, but I don't -- I'm</p> <p>23 not aware of why the tabling happened in the</p> <p>24 first place.</p>	<p style="text-align: right;">Page 184</p> <p>1 it.</p> <p>2 Q. Okay. Let me be clear in the question</p> <p>3 then. Have you had any discussions or</p> <p>4 communications with any individual members of the</p> <p>5 Norwood Airport Commission about the commission's</p> <p>6 decision whether or not to process BEH's</p> <p>7 application for an FBO permit in response to the</p> <p>8 public records lawsuit filed by BEH?</p> <p>9 A. No.</p> <p>10 Q. Has any member of the Norwood Airport</p> <p>11 Commission ever told you that the airport</p> <p>12 commission had refused to process or consider</p> <p>13 BEH's application for an FBO permit because the</p> <p>14 commission was concerned with the number of press</p> <p>15 releases that BEH had released that were critical</p> <p>16 of the commission?</p> <p>17 A. No.</p> <p>18 Q. Have you had, again, ever -- and I know</p> <p>19 this tests one's memory when you use the word</p> <p>20 "ever," but it's the only way I can think to</p> <p>21 phrase it. Do you recall ever having any</p> <p>22 discussions or communications with any members of</p> <p>23 the Norwood Airport Commission in which he or</p> <p>24 she, one of the members of the airport</p>
<p style="text-align: right;">Page 183</p> <p>1 Q. That's what I'm asking you. I'm asking</p> <p>2 you if you've had any discussions with any</p> <p>3 individual members of the commission as to why</p> <p>4 they decided to table the motion?</p> <p>5 A. No.</p> <p>6 Q. I'll represent to you that a little</p> <p>7 later -- several months later in 2014 -- I think</p> <p>8 November or December of 2014 -- BEH filed a</p> <p>9 public records lawsuit in state court, superior</p> <p>10 court in Massachusetts. I believe that action is</p> <p>11 still pending.</p> <p>12 Have you had any discussions or any</p> <p>13 communications with any members of the Norwood</p> <p>14 Airport Commission about the commission's</p> <p>15 response to the filing of the public records</p> <p>16 lawsuit by BEH?</p> <p>17 A. No.</p> <p>18 Q. Or the commission's decision whether or</p> <p>19 not to consider or take up BEH's application for</p> <p>20 an FBO application or license in response to the</p> <p>21 public records lawsuit?</p> <p>22 A. I knew about the public records request</p> <p>23 lawsuit and I believe I've referenced it in a few</p> <p>24 letters, and that is pretty much the extent of</p>	<p style="text-align: right;">Page 185</p> <p>1 commission, said, in words or substance, the</p> <p>2 commission is not going to consider or process</p> <p>3 BEH's application for an FBO permit because BEH</p> <p>4 was essentially litigating its issues with the</p> <p>5 commission in the press?</p> <p>6 A. No.</p> <p>7 Q. I meant to ask you this at the outset.</p> <p>8 Is Russ Maguire a personal friend of yours?</p> <p>9 A. No.</p> <p>10 Q. Do you socialize with Russ Maguire?</p> <p>11 A. Never.</p> <p>12 Q. We may have covered this five minute ago,</p> <p>13 but back to Eichleay 74, your letter to Mike</p> <p>14 Lyons of January 20, 2015. Now, I believe Mike</p> <p>15 asked you the following:</p> <p>16 "Did you write it?"</p> <p>17 "Yes."</p> <p>18 "Did you send it?"</p> <p>19 "Yes."</p> <p>20 Did you receive any response from Mike</p> <p>21 Lyons or any other member of the board of</p> <p>22 selectmen?</p> <p>23 A. I don't believe so.</p> <p>24 Q. Did you have any discussions with Russ</p>

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<p>1 Maguire prior to FlightLevel putting up the 2 plastic barricades around its property? 3 A. There were e-mail correspondences. 4 Q. Do you recall anything that Russ Maguire 5 conveyed to you in terms of what to do or not to 6 do? Who to contact? Who not to contact -- 7 A. No. 8 Q. -- before putting the barricades up? 9 A. No. 10 Q. If you recall, did FlightLevel alert the 11 Norwood Police Department that it was going to be 12 putting up these plastic barricades prior to 13 doing so? 14 A. Yes. 15 Q. Did you personally speak to one of the 16 members of the Norwood Police Department? 17 A. I think I did at one point, but it may 18 have been after the barrier had been put up. But 19 Nick, I think, handled most of those 20 conversations with the police. 21 Q. Your counsel? 22 A. Yes. 23 Q. At some point this morning you made the 24 comment -- and I think this was in connection</p>	<p>1 MR. SIMMS: I think I'm all done. Thank 2 you. 3 MR. FEE: Okay. I have no further 4 questions as well. 5 (Whereupon the deposition was concluded 6 at 3:26 p.m.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
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<p>1 with various concerns you had with the citing of 2 BEH's proposed fuel farm. You made the comment, 3 "We were constantly being filmed." By whom? 4 A. By BEH. 5 Q. How often do you film? I say "you." How 6 often does FlightLevel take pictures of BEH's 7 operations? 8 A. Rarely. Although, we did start the 9 practice after we were being filmed so 10 incessantly. 11 Q. When you say "incessantly" is that 12 something you can quantify? Daily? Weekly? 13 A. Weekly at least. For a period of time at 14 least weekly. 15 Q. For what period of time did this go on? 16 A. I think it was, at it's peak, in sort of 17 the 2013, 2014 time frame. 2015 too probably. 18 Q. Did you or anyone else from FlightLevel 19 ever speak to Chris Donovan and ask him to knock 20 it off? 21 A. Through written correspondence. I 22 believe letters were sent to that effect. 23 Q. What was BEH's response? 24 A. No response.</p>	<p>1 COMMONWEALTH OF MASSACHUSETTS 2 PLYMOUTH, SS. 3 4 I, Kimberley J. Bouzan, Professional 5 Court Reporter and Notary Public in and for the 6 Commonwealth of Massachusetts, do hereby certify 7 that PETER W. EICHLEAY, the witness whose 8 deposition is hereinbefore set forth, was duly 9 sworn by me and that such deposition is a true 10 record, to the best of my ability, of the 11 testimony given by the witness. 12 I further certify that I am neither 13 related to nor employed by any of the parties in 14 or counsel to this action, nor am I financially 15 interested in the outcome of this action. 16 In witness whereof, I have hereunto 17 set my hand and seal this 12th day of June, 2017. 18 19 20 21 22 Notary Public 23 My commission expires: 24 August 27, 2021</p>

8	Page	Line	Correction/Reason
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20 Signed under the pains and penalties
21 of perjury this day of , 2017.

24 PETER W. EICHLEAY

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