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Exhibits 230-242

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

NORFOLK, SS.

SUPERIOR COURT
NO. 1582CV00213

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

v.

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

DEPOSITION OF FRANCIS T. MAGUIRE, III

TAKEN MARCH 30, 2018

AT THE LAW OFFICES OF

LeCLAIR RYAN

ONE INTERNATIONAL PLACE, 11TH FLOOR

BOSTON, MASSACHUSETTS

Reporter: Raymond F. Catuogno, Jr.

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| <p style="text-align: right;">2</p> <p>APPEARANCES:</p> <p>For the Plaintiffs: PIERCE & MANDELL, P.C. 11 Beacon Street, Suite 800 Boston, MA 02108 BY: MICHAEL C. FEE, ESQ. 617-720-2444 mfee@piercemandell.com</p> <p>For the Defendants: LeCLAIR RYAN One International Place, 11th Floor Boston, MA 02110 BY: A. NEIL HARTZELL, ESQ. 617-502-8259 neilhartzell@leclairryan.com</p> <p>For the Norwood Airport Commission: PIERCE, DAVIS & PERRITANO, LLP 10 Post Office Square, Suite 1100N Boston, MA 02109 BY: ADAM SIMMS, ESQ. 617-350-0950 asimms@piercedavis.com</p> <p>In Attendance: Christopher Donovan, Boston Executive Helicopters, LLC</p> <p>Peter Eichleay, FlightLevel Aviation Norwood Nicholas W. Burlingham, Esq. FlightLevel Aviation Norwood</p> | <p style="text-align: right;">4</p> <p>EXHIBITS: (continued)</p> <p>Exhibit 223, E-mail dated June 23, 2013 90</p> <p>Exhibit 224, Letter dated July 19, 2013 91</p> <p>Exhibit 225, Letter dated November 2013 97</p> <p>Exhibit 226, Letter dated November 2013 99</p> <p>Exhibit 227, Letter dated November 19, 2013 107</p> <p>Exhibit 228, Letter dated December 5, 2013 113</p> <p>Exhibit 229, Letter dated December 27, 2013 114</p> <p>Exhibit 230, Letter dated January 22, 2014 117</p> <p>Exhibit 231, Letter dated January 27, 2014 123</p> <p>Exhibit 232, E-mails and Enclosures dated January 2014 125</p> <p>Exhibit 233, Airport Commission Meeting Minutes, Regular Business Meeting, February 12, 2014 129</p> <p>Exhibit 234, Airport Commission Meeting Minutes, Regular Business Meeting, March 12, 2014 130</p> <p>Exhibit 235, Letter dated March 17, 2014 132</p> <p>Exhibit 236, Letter dated March 21, 2014 133</p> |
| <p style="text-align: right;">3</p> <p>INDEX:</p> <p>WITNESS: FRANCIS T. MAGUIRE, III PAGE</p> <p>Examination by Mr. Hartzell 6</p> <p>EXHIBITS:</p> <p>Exhibit 210, Notice of Deposition 23</p> <p>Exhibit 211, E-mail dated September 7, 2012 28</p> <p>Exhibit 212, E-mail and Attachments, BEH0000869-BEH0000872 32</p> <p>Exhibit 213, Letter dated December 14, 2012 36</p> <p>Exhibit 214, Norwood Memorial Airport Memo dated January 28, 2013 43</p> <p>Exhibit 215, Letter dated June 24, 2013 46</p> <p>Exhibit 216, Norwood Memorial Airport Memo dated June 17, 2013 55</p> <p>Exhibit 217, E-mail Exchange, June 2013 66</p> <p>Exhibit 218, Letter dated July 2, 2013 74</p> <p>Exhibit 219, E-mail Exchange, July 2013 76</p> <p>Exhibit 220, Norwood Memorial Airport Memo dated July 12, 2013 79</p> <p>Exhibit 221, E-mail dated July 15, 2013 83</p> <p>Exhibit 222, E-mail dated July 17, 2013 86</p> | <p style="text-align: right;">5</p> <p>EXHIBITS: (continued)</p> <p>Exhibit 237, E-mail dated April 30, 2014 139</p> <p>Exhibit 238, Airport Commission Meeting Minutes, Regular Business Meeting, May 14, 2014 141</p> <p>Exhibit 239, Letter dated September 16, 2014 162</p> <p>Exhibit 240, Letter dated January 29, 2015 178</p> <p>Exhibit 241, Norwood Airport Commission Manager's Report, 02/01/15-02/28/15 191</p> <p>Exhibit 242, E-mail dated February 14, 2015 193</p> |

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| <p style="text-align: right;">6</p> <p>1 FRANCIS T. MAGUIRE, III, Deponent, having 2 produced satisfactory identification by means of 3 Massachusetts Driver's License, was duly sworn, 4 deposes and states as follows: 5 MR. HARTZELL: Same 6 stipulations. All objections, except as 7 to the form of the question, and all 8 motions to strike are reserved until the 9 time of trial. And the witness may read 10 and signed under the pains and penalties 11 of perjury and does not need to have his 12 signature notarized. 13 MR. FEE: That's fine. 14 MR. SIMMS: Fine with me. 15 EXAMINATION BY MR. HARTZELL: 16 Q. Would you state your name for the 17 record, sir? 18 A. Francis Thomas Maguire, III. 19 Q. And are you also known by Russ? 20 A. Yes. 21 Q. Mr. Maguire, my name is Neil 22 Hartzell. I'm a lawyer. I represent 23 FlightLevel Norwood, LLC, EAC Realty Trust II, 24 and Peter Eichleay in two different cases that</p> | <p style="text-align: right;">8</p> <p>1 Q. And how long have you held that 2 position? 3 A. I've held the position since 4 December of 1995 with a break in service. I was 5 active in the military from November of 2003 to 6 July of 2005. 7 Q. And what branch of the military? 8 A. U.S. Army. 9 Q. Where did you serve? 10 A. I was stationed -- my primary base 11 was Fort Benning, Georgia, but we were also 12 stationed at Fort Bragg, North Carolina, Fort 13 Knox, Kentucky, two army ranger camps, one in 14 Dahlonga, which is North Georgia. The other 15 one is Eglin Air Force Base, Fort Stewart, 16 Georgia. 17 Q. Were you in the Reserves? 18 A. I was in the National Guard. 19 Q. Your service is all in the United 20 States? 21 A. Yes. 22 Q. You didn't have to go overseas? 23 A. No. 24 Q. Tell me a little bit about your</p> |
| <p style="text-align: right;">7</p> <p>1 are going on in Norfolk Superior Court. And I'm 2 going to be asking you a series of questions 3 today. 4 Just a couple of ground rules. I 5 know you've been deposed at least once before. 6 You have to verbalize all of your answers for 7 the court reporter. Please wait until I finish 8 asking my question before you answer because as 9 skilled as Ray is here he can't take down two 10 people talking at once. If you need to take a 11 break at any time, please feel free. And if you 12 have a question for your lawyer, it's probably 13 best if you go outside to ask it because if you 14 talk in the presence of us you may have a 15 privilege issue. And I would just ask, if you 16 have a question about something, that you answer 17 the question before you feel the need to consult 18 with your lawyer. And just tell me if you don't 19 understand anything that I say. I will try to 20 get through this. First, thank you for coming 21 in today. 22 What is your occupation, sir? 23 A. Airport Manager for the Town of 24 Norwood.</p> | <p style="text-align: right;">9</p> <p>1 education. High school graduate? 2 A. Yes. 3 Q. What high school? 4 A. Foxboro High School. 5 Q. Foxboro, Mass.? 6 A. Yes. 7 Q. Do you have any education after 8 high school? 9 A. I do. I have an associate's degree 10 in applied science with a specialization in 11 aviation technology, University of Alaska, 12 Fairbanks. I have a bachelor of journalism 13 degree from the University of Missouri School of 14 Journalism. I have a master's degree in 15 aeronautical science with a specialization in 16 aviation aerospace management. I have a master 17 of fine arts in creative writing from Pine Manor 18 College in Massachusetts, and then accreditation 19 from American Association of Airport Executives, 20 as well as a certification from American 21 Association of Airport Executives. 22 Q. I kind of lost track of how many 23 degrees you have. Do you have six different 24 degrees?</p> |

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| <p style="text-align: right;">10</p> <p>1 A. I have four.</p> <p>2 Q. Four, okay. Just a couple of</p> <p>3 follow-ups on those: So the aviation and</p> <p>4 aviation management, if I wrote that down</p> <p>5 correctly, where was that from?</p> <p>6 A. Embry-Riddle -- there's a hyphen</p> <p>7 between the Embry and the Riddle -- Aeronautical</p> <p>8 University in Daytona Beach, Florida.</p> <p>9 Q. How long did it take to get that?</p> <p>10 A. I was actually working for the</p> <p>11 university, so I was completing a master's</p> <p>12 degree at night. I started in '91 and finished</p> <p>13 it in '95.</p> <p>14 Q. All right. So was that the</p> <p>15 approximate time you were working for the</p> <p>16 University, '91?</p> <p>17 A. '91 to '95, correct.</p> <p>18 Q. After '95, you went to work for the</p> <p>19 Norwood Airport or went to work at the Norwood</p> <p>20 Airport?</p> <p>21 A. Yes. I actually started a</p> <p>22 post-grad internship as an unpaid position from</p> <p>23 September '95 until December of '95 working for</p> <p>24 the then airport manager.</p> | <p style="text-align: right;">12</p> <p>1 officer school, and then flight school and</p> <p>2 started as a military pilot in 1987 and flew</p> <p>3 from 1987 until 1991.</p> <p>4 Q. Where were you stationed?</p> <p>5 A. I was at Fort Wainwright, Alaska,</p> <p>6 when I was out of flight school. While I was in</p> <p>7 flight school, I was at Fort Rucker, Alabama.</p> <p>8 Q. What kind of aircraft were you</p> <p>9 flying?</p> <p>10 A. UH-1, Huey.</p> <p>11 Q. Tell me what those are.</p> <p>12 A. The Vietnam-era helicopter that was</p> <p>13 kind of the emblematic of that era.</p> <p>14 Q. It's a big helicopter?</p> <p>15 A. Yes. It's used as a transport, a</p> <p>16 med-evac helicopter, air-assault-type</p> <p>17 helicopter.</p> <p>18 Q. And before 1986?</p> <p>19 A. Before 1986, I was -- I had worked</p> <p>20 from '82 to late '84, maybe early '85. I ran a</p> <p>21 Needham weekly paper and then also seconded as a</p> <p>22 editor on the Daily Transcript, which was</p> <p>23 headquartered -- the newsroom was a community</p> <p>24 newsroom out of Dedham, Massachusetts.</p> |
| <p style="text-align: right;">11</p> <p>1 Q. Who was that?</p> <p>2 A. Thomas Maher, spelled M-A-H-E-R,</p> <p>3 who is now the Plymouth Airport manager. And</p> <p>4 Mr. Maher had me working for him as a</p> <p>5 special-projects person, and then he recommended</p> <p>6 me for the job in December of 1995. He was</p> <p>7 working for a private airport management company</p> <p>8 by the name of Boston Metropolitan Airport</p> <p>9 Corporation, which also has a long-term lease on</p> <p>10 the Norwood Airport. So I worked for BMA from</p> <p>11 '95 until July of 1999 when I was -- I came on</p> <p>12 as the first municipal airport manager for the</p> <p>13 Town of Norwood.</p> <p>14 Q. And prior to that, they had --</p> <p>15 whoever had been the airport manager was working</p> <p>16 for the Boston Metropolitan Airport; is that</p> <p>17 right?</p> <p>18 A. That's correct.</p> <p>19 Q. So your work history before 1991,</p> <p>20 where else did you work?</p> <p>21 A. I was on active duty from 1986</p> <p>22 until 1991. I went to --</p> <p>23 Q. In the military?</p> <p>24 A. Yes. I went to boot camp, warrant</p> | <p style="text-align: right;">13</p> <p>1 Q. And before '82?</p> <p>2 A. I was in college. I was in college</p> <p>3 from '76 to '81.</p> <p>4 Q. As the airport manager, how would</p> <p>5 you describe your duties at Norwood Airport?</p> <p>6 A. Pretty broad duties and</p> <p>7 responsibilities both as an operations manager</p> <p>8 and a business manager. Operationally, we're in</p> <p>9 charge of inspections of the runways and</p> <p>10 taxiways and lighting systems, ensuring that the</p> <p>11 approach/departure paths of the runways are</p> <p>12 clear of all obstacles and working with the</p> <p>13 air-traffic control tower personnel, maintaining</p> <p>14 the air field and wildlife control. We handle</p> <p>15 all the wildlife control on the airport. We</p> <p>16 also seek compliance on our environmental</p> <p>17 programs, whether it be the Storm Water</p> <p>18 Pollution Prevention Plan or the Spill</p> <p>19 Prevention Control and Countermeasures Plan. We</p> <p>20 get involved in the business end with the tenant</p> <p>21 relations. Norwood Airport has anywhere from</p> <p>22 ten to twelve or thirteen commercially-permitted</p> <p>23 businesses on the airport on any given</p> <p>24 commercial permit year. We're dealing with the</p> |

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| <p style="text-align: right;">14</p> <p>1 commercial permit holders, dealing with the 2 budgetary accounting, capital finance planning, 3 equipment procurement, the administration of 4 grants, whether with the Federal Aviation 5 Administration or the Massachusetts Department 6 of Transportation Aeronautics Division. We act 7 as a liaison with other local government 8 officials, the FAA and MassDOT, the tenants, the 9 citizens in Norwood, surrounding towns. 10 Q. Okay. Do you get involved with 11 leases at all with the tenants? 12 A. I get involved with the leases on a 13 few different levels. When a lease is coming up 14 for review, I'm often the one to remind the 15 chairman that there is a lease coming up for 16 renewal, that the terms of the lease or -- you 17 know, I participate in that. It's primarily a 18 responsibility of the Airport Commission with 19 some assistance from town counsel. We do get 20 involved in that. And then the lease payments, 21 the land lease payments, I handle the 22 administration on that, you know, the 23 departmental receipts. 24 Q. Are payments made to your office?</p> | <p style="text-align: right;">16</p> <p>1 A. Mark has worked for me -- started 2 work in November of 1999. 3 Q. Okay. Do you handle the accounting 4 functions as part of your office or do you 5 outsource that? 6 A. We handle it. I handle it. 7 Q. Do you recall a company called 8 Swift Aviation? 9 A. Yes. 10 Q. And Swift Aviation operated out of 11 Norwood Airport for some period of time. Do you 12 remember approximately when? 13 A. Swift Aviation was already in 14 business when I started in December of 1995 and 15 they were on the airport until the roof of their 16 hangar collapsed in an ice storm. I don't 17 recall the exact date on that. 18 Q. If I said February of 2011, would 19 that help you? 20 A. As I recall, that was the time. 21 Q. So the roof collapsed, and then 22 they went out of business. Is that what 23 happened? 24 A. They actually, for all intents and</p> |
| <p style="text-align: right;">15</p> <p>1 A. They're made to my office, and then 2 I actually have to actually go online to a 3 database that the Town has created and input 4 that receivable and then actually deposit the 5 checks to the treasurer's office. 6 Q. Who is your employer? 7 A. My employer is the Norwood Airport 8 Commission, which represents the Town of Norwood 9 and is appointed by the Board of Selectmen. 10 Q. Do you have anybody who works with 11 you in your job? 12 A. I have one employee. 13 Q. Who is that? 14 A. And that is my assistant, Mark 15 Raymond. Occasionally, we'll have a summer 16 intern from one of the local colleges. 17 MR. SIMMS: Russ, answer the 18 question. If you want to get out by 19 dinner, stick to the question. 20 Q. (By Mr. Hartzell) So you have an 21 occasional summer intern? 22 A. Yes. 23 Q. How long has Mr. Raymond worked for 24 you?</p> | <p style="text-align: right;">17</p> <p>1 purposes, went out of business and their lease 2 was assigned to Boston Executive Helicopters. 3 Q. Do you remember what the business 4 was of Swift Aviation out at the airport? Could 5 you tell me about that, please? 6 A. They were actually an aircraft 7 maintenance company specializing in maintenance 8 of amphibious aircraft. 9 Q. When you say "amphibious aircraft", 10 what do you mean by that? 11 A. Aircraft landing on the water and 12 taking off on the water. 13 Q. Did they do anything else besides 14 aircraft maintenance? 15 A. I don't recall them doing anything 16 else. 17 Q. Did they sell, S-E-L-L, fuel? 18 A. No, not while I was there. 19 Q. Did they have any self, S-E-L-F, 20 fueling capabilities? 21 A. No. 22 Q. When did you first learn about 23 Boston Executive Helicopters? 24 A. I was approached in the spring of</p> |

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| <p style="text-align: right;">18</p> <p>1 2010 by Chris Donovan, the president of BEH.</p> <p>2 Q. Had you met him previously?</p> <p>3 A. Chris and I -- I met Chris prior to</p> <p>4 going to boot camp. I met him at Fort Devens</p> <p>5 in, I believe, early 1986. We were both going</p> <p>6 for our initial flight physicals at that time.</p> <p>7 Q. So he was in the Army?</p> <p>8 A. He was.</p> <p>9 Q. Okay. Did you stay in touch with</p> <p>10 him after 1986?</p> <p>11 A. We actually -- he started boot camp</p> <p>12 before me. I believe it was two or three months</p> <p>13 prior to July of 1986 when I went to boot camp.</p> <p>14 And he got to the warrant officer program down</p> <p>15 at Fort Rucker, Alabama, prior to me. We</p> <p>16 reconnected at Fort Rucker and lived on the</p> <p>17 same -- really in the same hallway through part</p> <p>18 of the flight program.</p> <p>19 Q. Did you know him throughout his</p> <p>20 Army service then, after that time?</p> <p>21 A. He was actually stationed in</p> <p>22 Germany and I went to Alaska. So there was a</p> <p>23 period, from 1987 until I relocated to this area</p> <p>24 again in 1995, where I hadn't really seen him.</p> | <p style="text-align: right;">20</p> <p>1 he did in the Gulf War, Mr. Donovan?</p> <p>2 A. He flew AH-64s, which was the</p> <p>3 Apache helicopter.</p> <p>4 Q. Was he in combat there, do you</p> <p>5 know?</p> <p>6 A. I believe he was.</p> <p>7 Q. At some point in time did</p> <p>8 Mr. Donovan become affiliated with a company</p> <p>9 called Boston Executive Helicopters?</p> <p>10 A. Yes.</p> <p>11 Q. Do you remember approximately when</p> <p>12 that was?</p> <p>13 A. I want to say he approached me</p> <p>14 prior to May 2010 expressing an interest in</p> <p>15 starting a company which would become Boston</p> <p>16 Executive Helicopters. He went for his first</p> <p>17 commercial permit with the Norwood Airport</p> <p>18 Commission in May of 2010.</p> <p>19 Q. And was that commercial permit just</p> <p>20 to have a charter operation with the</p> <p>21 helicopters?</p> <p>22 A. As I recall, that was the sole</p> <p>23 business function on the initial permit.</p> <p>24 Q. And then at some point later did</p> |
| <p style="text-align: right;">19</p> <p>1 I might have bumped into him once or twice at</p> <p>2 Lewis', which is a bar in Norwood, but</p> <p>3 otherwise, we more or less lost touch until I</p> <p>4 came back and took the job at the airport.</p> <p>5 Q. Was he involved or was he present</p> <p>6 in any way in Norwood Airport in 1995?</p> <p>7 A. He was flying in a -- he was</p> <p>8 working full-time, as I recall, as a prison</p> <p>9 guard and was flying in a National Guard unit</p> <p>10 out of Otis Air Force Base, Massachusetts</p> <p>11 National Guard. And he may have at that time or</p> <p>12 shortly after have started some part-time flying</p> <p>13 for one of the news stations at the airport.</p> <p>14 Q. Do you know where -- where did he</p> <p>15 serve in his military career?</p> <p>16 A. I know he was in Germany and his</p> <p>17 unit ended up in the Gulf during the Gulf War.</p> <p>18 MR. SIMMS: So we're clear,</p> <p>19 since you're both using the word "he" in</p> <p>20 the questioning, we're talking about</p> <p>21 Mr. Donovan, correct?</p> <p>22 MR. HARTZELL: Yes.</p> <p>23 THE WITNESS: Yes.</p> <p>24 Q. (By Mr. Hartzell) Do you know what</p> | <p style="text-align: right;">21</p> <p>1 Boston Executive Helicopters express an interest</p> <p>2 in doing self, S-E-L-F, fueling?</p> <p>3 A. Yes.</p> <p>4 Q. Before we get to that, a couple</p> <p>5 other things. Moshe Yanai, do you know who that</p> <p>6 is?</p> <p>7 A. Yes.</p> <p>8 Q. Have you ever met him?</p> <p>9 A. I met him twice.</p> <p>10 Q. What was the first time you met</p> <p>11 him?</p> <p>12 A. The first time I met him was not</p> <p>13 long after I took the job in 1995. It might</p> <p>14 have been early 1996. I was getting some</p> <p>15 complaints about helicopter operations between</p> <p>16 two of the hangars at the north end of the</p> <p>17 airport and just happened to be on the airport</p> <p>18 when Mr. Yanai landed the aircraft -- a</p> <p>19 helicopter between the two hangars. And I did</p> <p>20 have a conversation with him. It was, I</p> <p>21 thought, cordial. I just asked him not to do</p> <p>22 that. There had been some complaints, some</p> <p>23 safety concerns.</p> <p>24 Q. And what did he say?</p> |

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| <p style="text-align: right;">22</p> <p>1 A. He agreed not to do it again.</p> <p>2 Q. And was that the extent of your</p> <p>3 conversation the first time you met him?</p> <p>4 A. Yes.</p> <p>5 Q. When was the second time that you</p> <p>6 met with him?</p> <p>7 A. The second time was when he came in</p> <p>8 for a badge. The badges go out about three</p> <p>9 years. These are access-control security</p> <p>10 badges. And he came in for a new badge and we</p> <p>11 exchanged pleasantries and processed him for a</p> <p>12 badge. That was the extent of the second</p> <p>13 meeting.</p> <p>14 Q. I can't remember. Did I ask you</p> <p>15 when was that second meeting, your best memory?</p> <p>16 A. It might have been five years ago.</p> <p>17 Q. Okay. Did he ever discuss with you</p> <p>18 anything about the Boston Executive Helicopters?</p> <p>19 A. No.</p> <p>20 Q. Did you ever talk to him on the</p> <p>21 phone?</p> <p>22 A. No.</p> <p>23 Q. So your only interactions with</p> <p>24 Mr. Yanai are these two meetings that you just</p> | <p style="text-align: right;">24</p> <p>1 So I'm showing you what was marked</p> <p>2 as Exhibit 77 in Mr. Odstrchel's deposition,</p> <p>3 which I will represent to you was the Commercial</p> <p>4 Permit Application for Boston Executive</p> <p>5 Helicopters for fiscal year 2013. And do you</p> <p>6 recognize this document?</p> <p>7 A. Yes.</p> <p>8 Q. And on the second page it has a</p> <p>9 listing for Boston Executive Helicopters where</p> <p>10 it says company officers are Chris Donovan and</p> <p>11 Moshe Yanai?</p> <p>12 A. Yes.</p> <p>13 Q. Has that always been your</p> <p>14 understanding, that Mr. Donovan and Mr. Yanai</p> <p>15 are the company officers of Boston Executive</p> <p>16 Helicopters?</p> <p>17 A. Yes.</p> <p>18 Q. And underneath it says, "parent</p> <p>19 company." It's handwriting. It looks like MII.</p> <p>20 I think it's an abbreviation for Aviation</p> <p>21 Services. Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know anything about MII</p> <p>24 Aviation Services?</p> |
| <p style="text-align: right;">23</p> <p>1 described, right?</p> <p>2 A. Yes.</p> <p>3 Q. Going back to Boston Executive</p> <p>4 Helicopters, let me show you a couple documents.</p> <p>5 MR. HARTZELL: We'll mark this</p> <p>6 as Exhibit 210.</p> <p>7 (Exhibit 210, Notice of Deposition, marked</p> <p>8 for identification)</p> <p>9 Q. (By Mr. Hartzell) I'm showing you</p> <p>10 your Notice of Deposition to appear in this</p> <p>11 case. And the date is March 15, but obviously</p> <p>12 we agreed to reschedule to today. Have you seen</p> <p>13 this before?</p> <p>14 A. Yes.</p> <p>15 Q. And you are here today to testify</p> <p>16 in response to this, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Let me show you -- there is</p> <p>19 a number of documents I'm going to show you</p> <p>20 today, some of which were marked as other</p> <p>21 depositions taken in this case, some of which</p> <p>22 may not have been marked in other depositions in</p> <p>23 this case. So some we'll put new numbers on and</p> <p>24 some we don't.</p> | <p style="text-align: right;">25</p> <p>1 A. I don't know much about the</p> <p>2 company.</p> <p>3 Q. But it says here that MII is the</p> <p>4 parent company. Do you take that to be the</p> <p>5 parent company of Boston Executive Helicopters?</p> <p>6 A. Yes.</p> <p>7 Q. And looking at the first page of</p> <p>8 what was marked as Exhibit 77 in Mr. Odstrchel's</p> <p>9 deposition, there was a number of boxes with</p> <p>10 little "X" marks. I'm assuming that is for the</p> <p>11 categories that Boston Executive Helicopters is</p> <p>12 applying for its commercial permit for, correct?</p> <p>13 A. Yes.</p> <p>14 Q. So we have flight operations,</p> <p>15 master charter and freight charter, then flight</p> <p>16 operations, flight instruction, aircraft rental,</p> <p>17 and sightseeing flights. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Does Boston Executive Helicopters</p> <p>20 rent out any of its helicopters?</p> <p>21 A. My understanding is they do.</p> <p>22 Q. They do?</p> <p>23 A. They do.</p> <p>24 Q. And does Boston Executive</p> |

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| <p style="text-align: right;">26</p> <p>1 Helicopters own any planes in addition to 2 helicopters, do you know? 3 A. I've seen on their -- on Boston 4 Executive Helicopters' insurance a listing for a 5 small single-engine piston aircraft. 6 Q. Have you ever seen it there? 7 A. Yes. 8 Q. And then it has ground operations. 9 There's a checkmark for hangar space rental, and 10 then nothing else is checked off there. So 11 there is a parenthesis next to line services, 12 and that is not checked. Do you know what line 13 services are? 14 A. Line services would be ground 15 handling of aircraft and basically towing 16 aircraft. 17 Q. Anything else? 18 A. Depending on the definition, it 19 could be considered -- line services could be 20 considered for fueling as well. I've seen that 21 defined as fueling as well as ground handling 22 and hangar of the aircraft. 23 Q. And it appears that the date for -- 24 on the upper right-hand corner it says, "Paid,</p> | <p style="text-align: right;">28</p> <p>1 mark it. 2 MR. HARTZELL: I'm going to 3 mark this as the next exhibit. 4 (Exhibit 211, E-mail dated September 7, 5 2012, marked for identification) 6 Q. (By Mr. Hartzell) Mr. Maguire, I'm 7 sorry, before we move on, I meant to ask you 8 this. Do you need to have a commercial 9 permit -- or let me back up. 10 For an entity to self fuel, 11 S-E-L-F, out of Norwood Airport, does that 12 entity have to have a commercial permit to do 13 so? 14 A. To the best of my understanding, 15 no. 16 Q. So I have just shown you what 17 appears to be an e-mail exchange, or an e-mail, 18 excuse me, from Chris Donovan to you dated 19 Friday, September 7, 2012. Do you see that? 20 A. Yes. 21 Q. And there's a reference down at the 22 bottom of the e-mail to an address from -- a 23 name and address of Halim Choubah, 24 C-H-O-U-B-A-H. Do you see that?</p> |
| <p style="text-align: right;">27</p> <p>1 7/5/12." Do you see that? 2 A. Yes. 3 Q. What does that signify? 4 A. That it was received on July 5, 5 2012. That starts the new fiscal year for the 6 town. July 1 of 2012 is the beginning of the 7 FY2015, fiscal year. 8 Q. So as of this date, Boston 9 Executive Helicopters was not applying for a 10 commercial permit to sell any fuel; is that 11 correct? 12 MR. FEE: Objection. 13 Q. (By Mr. Hartzell) You can answer. 14 A. It appears that they were not 15 applying to sell fuel -- to commercially sell 16 fuel. 17 Q. And what about self, S-E-L-F, fuel? 18 A. I'm not able to tell from this 19 permit application whether they already had 20 their fuel farm up and running and had already 21 passed their final inspection with the fire 22 department. 23 Q. Okay. I show you another document 24 that I don't believe has been marked, so we'll</p> | <p style="text-align: right;">29</p> <p>1 A. Yes. 2 Q. Do you know who he is? 3 A. Yes. 4 Q. Who is he? 5 A. Mr. Choubah was working as the 6 professional engineer on behalf of Boston 7 Executive Helicopters. 8 Q. Did you ever meet or speak with 9 Mr. Choubah? 10 A. I don't recall speaking to 11 Mr. Choubah, although he may have shown up at 12 one or more Airport Commission hearings. 13 Q. Did you ever have any conversations 14 with him over the telephone, with him, with 15 Mr. Choubah? 16 A. I don't recall ever having a 17 conversation with him. 18 Q. And do you remember having any 19 e-mail exchanges with Mr. Choubah? 20 A. I don't recall having any e-mail 21 exchanges with Mr. Choubah. 22 Q. Are you familiar with an individual 23 by the name of Dave Aimola? I think it's 24 spelled A-I-M-O-L-A.</p> |

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| <p style="text-align: right;">30</p> <p>1 A. Yes.</p> <p>2 Q. And who is Mr. Aimola?</p> <p>3 A. Mr. Aimola was -- during the</p> <p>4 construction of the BEH fuel farm and hangar, he</p> <p>5 was the on-site construction manager</p> <p>6 representing BEH.</p> <p>7 Q. Did you ever have conversations</p> <p>8 with him?</p> <p>9 A. I believe we had one or several</p> <p>10 conversations. As I recall, we did have a</p> <p>11 construction safety meeting. I believe Mr.</p> <p>12 Aimola was there for that. And throughout the</p> <p>13 construction, I believe we had one or several</p> <p>14 conversations about the progress of the</p> <p>15 building, the fuel farm.</p> <p>16 Q. Did you ever have any telephone</p> <p>17 conversations with Mr. Aimola?</p> <p>18 A. I don't recall.</p> <p>19 Q. Any e-mail exchanges with Mr.</p> <p>20 Aimola?</p> <p>21 A. I don't recall.</p> <p>22 Q. How often did you have construction</p> <p>23 meetings with anybody from BEH, approximately?</p> <p>24 A. I know that we had a construction</p> | <p style="text-align: right;">32</p> <p>1 having a discussion with anybody about the fuel</p> <p>2 system that Boston Executive Helicopters wanted</p> <p>3 to install? And I have some documents I can</p> <p>4 show you to help you remember this. What do you</p> <p>5 remember about it?</p> <p>6 A. Generally speaking, I recall at one</p> <p>7 or several Airport Commission meetings the</p> <p>8 chairman and/or one of the commissioners asking</p> <p>9 about the scope of the fueling, whether it is</p> <p>10 going to be self-fueling or commercial fueling,</p> <p>11 but those are just memories of general questions</p> <p>12 and answers.</p> <p>13 Q. Do you remember when those</p> <p>14 questions were asked, approximately what time</p> <p>15 frame?</p> <p>16 A. I would say 2012.</p> <p>17 Q. Let me show you another document,</p> <p>18 which I don't believe has been marked.</p> <p>19 MR. HARTZELL: I would like to</p> <p>20 mark this as the next one.</p> <p>21 (Exhibit 212, E-mail and Attachments,</p> <p>22 BEH0000869-BEH0000872, marked for</p> <p>23 identification)</p> <p>24 Q. (By Mr. Hartzell) I'm showing you</p> |
| <p style="text-align: right;">31</p> <p>1 safety meeting. It may have -- from that point</p> <p>2 forward, other than informal conversations with</p> <p>3 either Mr. Donovan, Mr. Aimola -- we did have</p> <p>4 another gentleman. I think his first name was</p> <p>5 Jason -- we didn't have regular meetings.</p> <p>6 Although, as I recall, Mr. Donovan was briefing</p> <p>7 the Airport Commission at its public meetings,</p> <p>8 monthly meetings, on the progress of the hangar</p> <p>9 and fuel farm.</p> <p>10 Q. Do you remember any discussions at</p> <p>11 any construction meetings or any Norwood Airport</p> <p>12 Commission meetings about the size of the</p> <p>13 building that BEH was constructing?</p> <p>14 A. I don't recall any -- offhand, I</p> <p>15 don't recall any conversation to that effect.</p> <p>16 Q. By the way, just so the record is</p> <p>17 clear, BEH tore down the building where Swift</p> <p>18 Aviation was operating; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And they put a new building up in</p> <p>21 that space?</p> <p>22 A. Yes.</p> <p>23 Q. Or in that area, we'll call it.</p> <p>24 Now, at what point in time do you remember</p> | <p style="text-align: right;">33</p> <p>1 a document that has been marked as Exhibit 212</p> <p>2 for the deposition today, which is a four-page</p> <p>3 document. And there are little numbers down in</p> <p>4 the bottom called Bates numbers. It's</p> <p>5 BEH0000869 through BEH0000872. And this appears</p> <p>6 to be an e-mail from Mr. Donovan to you copying</p> <p>7 several other people. By the way, do you</p> <p>8 recognize the e-mail where it says "from" on the</p> <p>9 first page?</p> <p>10 A. Yes.</p> <p>11 Q. And whose e-mail do you recognize</p> <p>12 that to be?</p> <p>13 A. Chris Donovan, Boston Executive</p> <p>14 Helicopters.</p> <p>15 Q. And then when it says, "To:</p> <p>16 Maguire Russ," and then has an e-mail address.</p> <p>17 Is that your e-mail address at the airport?</p> <p>18 A. Yes.</p> <p>19 Q. And again, this appears to have</p> <p>20 three different sheets and attached to it --</p> <p>21 this is dated October 1, 2012, and these appear</p> <p>22 to be -- can you identify the drawings that are</p> <p>23 attached to this e-mail? It references three</p> <p>24 sheets.</p> |

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| <p style="text-align: right;">34</p> <p>1 A. Yes. These are some of the</p> <p>2 technical detail drawings, obviously a smaller</p> <p>3 version of what we received in a full set of</p> <p>4 plans from BEH regarding their fuel farm.</p> <p>5 Q. So when you say "regarding the fuel</p> <p>6 farm," this is for the installation and these</p> <p>7 are sketches of the tanks that are going to be</p> <p>8 installed? Is that for drawings concerning the</p> <p>9 tanks? Is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. And this is not a fuel plan; is</p> <p>12 that right?</p> <p>13 A. These are technical -- these are</p> <p>14 engineering plans for the design of the fuel</p> <p>15 farm.</p> <p>16 Q. And when I say a fueling system,</p> <p>17 what do you understand the difference between --</p> <p>18 I'm sorry, that's a bad question. Let me start</p> <p>19 over.</p> <p>20 What do you understand the</p> <p>21 difference to be between a fuel system at</p> <p>22 Norwood Airport and a fueling plan at Norwood</p> <p>23 Airport?</p> <p>24 A. A fueling system plan would be</p> | <p style="text-align: right;">36</p> <p>1 that we have to mark.</p> <p>2 MR. HARTZELL: Can we mark</p> <p>3 this?</p> <p>4 (Exhibit 213, Letter dated December 14,</p> <p>5 2012, marked for identification)</p> <p>6 Q. (By Mr. Hartzell) I'm going to</p> <p>7 show you, sir, what was marked as Exhibit 213,</p> <p>8 which appears to be a letter dated December 14,</p> <p>9 2012, from you to the Board of Selectmen,</p> <p>10 Attention: Michael Lyons. And it's regarding</p> <p>11 the fuel storage dispensing system of Boston</p> <p>12 Executive Helicopters. Do you recognize this</p> <p>13 letter?</p> <p>14 A. Yes.</p> <p>15 Q. And is that your signature on the</p> <p>16 second page?</p> <p>17 A. Yes.</p> <p>18 Q. And is that the third page -- there</p> <p>19 are three pages to this document, BEH0002933</p> <p>20 through BEH0002935. And that's a memo that</p> <p>21 Mr. Ryan, Mark Ryan, sent to you regarding the</p> <p>22 hangar submittal in December of 2012. Do you</p> <p>23 see that?</p> <p>24 A. Yes.</p> |
| <p style="text-align: right;">35</p> <p>1 similar to what we have in this Exhibit 212,</p> <p>2 which shows the details, the technical details,</p> <p>3 of the construction of the fuel farm. And a</p> <p>4 fuel plan such as a fuel plan drawing would be a</p> <p>5 scaled plan that's stamped by a professional</p> <p>6 engineer that shows the ingress/egress of</p> <p>7 vehicles into the fuel farm and shows the</p> <p>8 property, the locus of the property and how the</p> <p>9 fuel will be unloaded and uploaded</p> <p>10 operationally.</p> <p>11 MR. FEE: Could you read back</p> <p>12 the answer, please?</p> <p>13 (Answer read by reporter)</p> <p>14 Q. (By Mr. Hartzell) And going back</p> <p>15 to Exhibit 212, this does not have a fuel plan,</p> <p>16 correct? This only has the design of the tanks</p> <p>17 that are going in, correct?</p> <p>18 A. Right.</p> <p>19 Q. Now, this plan was approved at some</p> <p>20 point in time, right -- I'm sorry, the plans for</p> <p>21 the tanks were approved at some point by the</p> <p>22 Norwood Airport Commission, correct?</p> <p>23 A. Yes.</p> <p>24 Q. So let me show you another document</p> | <p style="text-align: right;">37</p> <p>1 Q. But just so the record is clear,</p> <p>2 who was Mr. Ryan, Mark Ryan?</p> <p>3 A. Mark Ryan is the town engineer, the</p> <p>4 superintendent of public works for the Town of</p> <p>5 Norwood. He's also the chairman of the Norwood</p> <p>6 Airport Commission.</p> <p>7 Q. And could you just identify the</p> <p>8 third page for us, please, of what's been marked</p> <p>9 as Exhibit 213?</p> <p>10 A. Mr. Ryan had sent a memo to me</p> <p>11 outlining from a public works standpoint what he</p> <p>12 wanted to see completed with regard to the BEH</p> <p>13 complex. He mentions sewer profiles and sewer</p> <p>14 manholes, the minimum slope for the sewer</p> <p>15 service, backflow preventers on the sewer</p> <p>16 service, so he's actually outlining from a</p> <p>17 public works standpoint what he wants to see</p> <p>18 Boston Executive Helicopters follow.</p> <p>19 Q. And then on the first page of</p> <p>20 what's been marked as Exhibit 213, there is --</p> <p>21 in the middle of the page, it says, "As</p> <p>22 conditions of approval, in addition to design</p> <p>23 plans, drawings, and technical details already</p> <p>24 submitted to the NAC..." The NAC is the Norwood</p> |

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| <p style="text-align: right;">38</p> <p>1 Airport Commission, correct?</p> <p>2 A. Yes.</p> <p>3 Q. "...is requiring BEH", Boston</p> <p>4 Executive Helicopters, correct?</p> <p>5 A. Yes.</p> <p>6 Q. "...to" -- and it says, "Comply</p> <p>7 with the eight criteria..." I'm not reading the</p> <p>8 whole sentence under Number 1. But Number 2,</p> <p>9 "Comply with all taxi..." -- let me start over.</p> <p>10 "Comply with all taxilane object-free area</p> <p>11 restrictions that apply to the siting of BEH's</p> <p>12 fueling equipment per the airport design</p> <p>13 standard and clarifying guidance from the</p> <p>14 Federal Aviation Administration." Do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. Now, why did you put that in this</p> <p>18 letter, what I just read?</p> <p>19 A. We wanted to -- we being the</p> <p>20 Airport Commission and my office -- wanted to</p> <p>21 ensure that in the construction of the BEH</p> <p>22 hangar and fuel farm there were no encroachments</p> <p>23 into the taxilane object-free area.</p> <p>24 Q. Is that because there's a taxiway</p> | <p style="text-align: right;">40</p> <p>1 to the property as well as temporary fixtures --</p> <p>2 or temporary items in the taxiway?</p> <p>3 A. They do.</p> <p>4 Q. At some point in time did the</p> <p>5 taxiway object area restrictions change -- or</p> <p>6 let me back up.</p> <p>7 When did they come into regulation?</p> <p>8 When did they begin?</p> <p>9 MR. FEE: Objection. You can</p> <p>10 answer.</p> <p>11 A. I'm not sure when the FAA started</p> <p>12 in their airport design standard advisory</p> <p>13 circular, including taxiway object-free areas or</p> <p>14 taxiway safety areas or any of those</p> <p>15 restrictions, but I know that the Gate 4</p> <p>16 taxilane was reconstructed with federal money in</p> <p>17 2007. The TOFA, the taxilane object-free area,</p> <p>18 became a viable restriction at that point and</p> <p>19 that -- unfortunately, because it's added some</p> <p>20 complexity to the TOFA issue at Norwood, the FAA</p> <p>21 allowed existing structures to be encroachments</p> <p>22 into the TOFA but did not allow any new</p> <p>23 construction inside that object-free area.</p> <p>24 Q. And was BEH's building considered</p> |
| <p style="text-align: right;">39</p> <p>1 adjacent to the -- one side of the -- I think</p> <p>2 it's the west side of the building that BEH was</p> <p>3 constructing on the former Swift Aviation</p> <p>4 parcel?</p> <p>5 A. The taxilane actually runs at the</p> <p>6 north face of the BEH hangar and the south face</p> <p>7 of one of FlightLevel's hangars, the Y2K hangar.</p> <p>8 It runs east/west. It also borders to the north</p> <p>9 of one of the -- another of FlightLevel's</p> <p>10 storage hangars and runs to the south of one of</p> <p>11 FlightLevel's hangars that they use for</p> <p>12 maintenance.</p> <p>13 Q. And explain what your</p> <p>14 understanding, if you would, please, of what a</p> <p>15 taxilane object-free area restriction is?</p> <p>16 A. The FAA wants the airport users to</p> <p>17 refrain from fueling, spending any kind of</p> <p>18 protracted time in that object-free area, in</p> <p>19 order -- so that the taxilane can be fully</p> <p>20 utilized for its purpose, which is basically to</p> <p>21 encourage the -- and allow for the movement of</p> <p>22 aircraft along the ground.</p> <p>23 Q. So do the taxiway object-free area</p> <p>24 restrictions encompass both a permitted fixture</p> | <p style="text-align: right;">41</p> <p>1 new construction?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know if BEH was aware of</p> <p>4 this when it constructed its building?</p> <p>5 A. Yes, they were.</p> <p>6 Q. How do you know that?</p> <p>7 A. It was brought up at meetings prior</p> <p>8 to the construction. Obviously, it was -- BEH</p> <p>9 was reminded of the taxilane object-free area in</p> <p>10 letters such as Exhibit 213.</p> <p>11 Q. And we talked about the reason --</p> <p>12 what your understanding is for the TOFA</p> <p>13 restrictions. Is it also to allow rescue</p> <p>14 equipment to be able to freely go up and down</p> <p>15 the taxiways as needed or if needed?</p> <p>16 A. Yes, especially for Gate 4, which</p> <p>17 is the access gate for the Norwood Fire</p> <p>18 Department in a fire rescue event. But</p> <p>19 certainly the taxilane is -- the object-free</p> <p>20 area is to prevent any protracted encumbrances</p> <p>21 on a public way for the tenant businesses or</p> <p>22 transient pilots.</p> <p>23 Q. When you say "any protracted</p> <p>24 encumbrances," what do you mean by that?</p> |

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| <p style="text-align: right;">42</p> <p>1 A. One of the challenges at Norwood is 2 that on both the Gate 2 taxilane object-free 3 area and the Gate 3 taxilane object-free area we 4 have not only encroachments into the -- that 5 were encroachments at the time the taxilanes 6 were reconstructed, but we have -- we actually 7 have hangars that are just outside the taxilane 8 object-free area. It makes it very challenging 9 for anybody along either one of those taxilanes 10 to tow an aircraft out of the hangar. They're 11 called stacking hangars where they're moving 12 aircraft back and forth, in and out, of the 13 hangars. It makes it difficult for the tenants. 14 Q. So "protracted" means -- if I 15 understand what you just said -- and please 16 correct me if I'm wrong -- it's okay for a 17 hangar that's adjacent to the taxiway 18 object-free area to tow out an aircraft or move 19 it there but not to do anything -- when you say 20 "protracted", they can't park an aircraft there, 21 right? 22 A. That's correct. 23 Q. And they could not take a truck and 24 park it there, right?</p> | <p style="text-align: right;">44</p> <p>1 identification) 2 Q. (By Mr Hartzell) I show you a 3 document that we have just marked as Exhibit 4 214, sir. It's a memo dated January 28, 2013. 5 It appears to be from you to Chris Donovan and 6 it's got BEH Bates numbers at the bottom, 7 0002936 through 2944. And I'll ask you if you 8 remember this document at all. 9 A. Yes. 10 Q. And what is the subject matter of 11 this document? 12 A. This document is really a reference 13 sheet for Mr. Donovan to help him to complete 14 his construction filings with the FAA and the 15 MassDOT. 16 Q. Did you ever have any conversations 17 with Mr. Choubah about any of the FAA 18 requirements out at the airport or any 19 requirements from MassDOT? 20 A. I don't recall having them with 21 Mr. Choubah. I did obviously have them with 22 Mr. Donovan. 23 Q. Do you remember having any 24 discussions about FAA regulations or MassDOT</p> |
| <p style="text-align: right;">43</p> <p>1 A. Correct. 2 Q. Or any other vehicle? 3 A. We can't discourage the hangars 4 from being utilized and for somebody to step 5 away from a ground tug for a moment with an 6 aircraft in the TOFA as the aircraft is moving 7 out of the hangar, so within reason we -- you 8 know, we allow for short durations for the TOFA 9 to be used for the movement of aircraft. 10 MR. HARTZELL: Would you like 11 to take a break? 12 THE WITNESS: Yes. 13 MR. HARTZELL: Off the record. 14 (A recess was taken) 15 MR. HARTZELL: Back on the 16 record. 17 (Testimony read by reporter) 18 Q. (By Mr. Hartzell) Let me show you 19 another document, which I do not believe was 20 previously marked. 21 MR. HARTZELL: And this will 22 be Exhibit 214. 23 (Exhibit 214, Norwood Memorial Airport 24 Memo dated January 28, 2013, marked for</p> | <p style="text-align: right;">45</p> <p>1 regulations with Mr. Aimola, who we talked about 2 earlier today? 3 A. I don't recall any specific 4 conversation. 5 Q. Were you aware if Boston Executive 6 Helicopters or Mr. Donovan ever hired or 7 retained an expert in FAA rules, regulations, 8 TOFA requirements, setback requirements, in 9 connection with the construction of the BEH 10 building on the former Swift parcel at Norwood 11 Airport? 12 A. The only individual I remember 13 Mr. Donovan hiring was a former FAA official who 14 was a safety officer with the FAA. 15 Q. Do you know who that was? 16 A. I don't recall his name. I would 17 recognize it, but I don't recall it. 18 Q. Did that official ever provide a 19 report to either you or the Norwood Airport 20 Commission? 21 A. I don't recall a report. 22 Q. Was this individual's name 23 Mr. Bennett? 24 A. Not the individual I was thinking</p> |

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| <p style="text-align: right;">46</p> <p>1 of.</p> <p>2 Q. That's not the individual?</p> <p>3 A. No.</p> <p>4 Q. At some point in time do you</p> <p>5 remember having a meeting with the FAA and</p> <p>6 Boston Executive Helicopters out near BEH's</p> <p>7 building?</p> <p>8 A. Yes.</p> <p>9 Q. Do you remember when that was? I</p> <p>10 have a document. I don't think I have come to</p> <p>11 it yet in the timeline.</p> <p>12 A. It was in the summer -- I want to</p> <p>13 say --</p> <p>14 Q. Keep going.</p> <p>15 A. It was in, I want to say, June of</p> <p>16 2013.</p> <p>17 Q. And do you remember what the</p> <p>18 discussion was?</p> <p>19 A. We discussed the taxilane</p> <p>20 object-free area and the concern of whether or</p> <p>21 not Boston Executive Helicopters would be able</p> <p>22 to handle any kind of fueling outside the TOFA.</p> <p>23 Q. Let me show you a document, which I</p> <p>24 think references this meeting.</p> | <p style="text-align: right;">48</p> <p>1 Q. And what do you remember was</p> <p>2 discussed at that meeting?</p> <p>3 A. We discussed the taxilane</p> <p>4 object-free area and the concerns of the -- my</p> <p>5 concerns, the Airport Commission's concerns,</p> <p>6 about violating -- BEH violating the taxilane</p> <p>7 object-free area in order to take fuel</p> <p>8 deliveries and to upload fuel from the fuel farm</p> <p>9 into any mobile fuelers.</p> <p>10 Q. And what did BEH say at that</p> <p>11 meeting?</p> <p>12 A. BEH agreed to refrain from fueling</p> <p>13 in the taxilane object-free area and to fuel --</p> <p>14 to perform any fuel loading/unloading east of</p> <p>15 its facility.</p> <p>16 Q. Was there any discussion at that</p> <p>17 meeting about whether BEH had the right to</p> <p>18 conduct fueling operations on the eastern side</p> <p>19 of its building?</p> <p>20 A. As I recall, BEH led us to believe</p> <p>21 that they had property rights to conduct their</p> <p>22 fueling east of their facility.</p> <p>23 Q. Who was there from BEH?</p> <p>24 A. Chris Donovan. And he had, as I</p> |
| <p style="text-align: right;">47</p> <p>1 MR. HARTZELL: This will be</p> <p>2 Exhibit 215.</p> <p>3 (Exhibit 215, Letter dated June 24, 2013,</p> <p>4 marked for identification)</p> <p>5 Q. (By Mr. Hartzell) I have just</p> <p>6 shown you a document that has been marked as</p> <p>7 Exhibit 215, which is a June 24, 2013, letter</p> <p>8 from -- it looks like from you, a two-page</p> <p>9 letter, to Boston Executive Helicopters. Do you</p> <p>10 remember this letter?</p> <p>11 A. Yes.</p> <p>12 Q. And it's got BEH Bates numbers</p> <p>13 BEH0008038 through BEH0008040. And if you look</p> <p>14 at the second page, it references a meeting with</p> <p>15 the FAA, MassDOT's Drew Mihaley, along with our</p> <p>16 engineers and hopefully a representative from</p> <p>17 the Norwood Fire Department and Mark Ryan from</p> <p>18 the Norwood Airport Commission. Does that</p> <p>19 refresh your recollection as to when the meeting</p> <p>20 was?</p> <p>21 A. Yes.</p> <p>22 Q. And were all of those people that I</p> <p>23 just mentioned in attendance at that meeting?</p> <p>24 A. Yes.</p> | <p style="text-align: right;">49</p> <p>1 recall, James Hilliard, an attorney, and Joshua</p> <p>2 Fox, another attorney. So he had, I believe,</p> <p>3 two attorneys. He had at least one attorney,</p> <p>4 but I want to say he had two attorneys there.</p> <p>5 Q. When you say he led you to believe</p> <p>6 that he had property rights to the eastern side</p> <p>7 of the BEH building, do you remember anything</p> <p>8 more specific about what he may have said?</p> <p>9 A. I don't really know the specifics</p> <p>10 of --</p> <p>11 Q. Was Mr. Eichleay from FlightLevel</p> <p>12 at that meeting?</p> <p>13 A. I don't recall him being there.</p> <p>14 Q. And just so the record is clear,</p> <p>15 you know who Mr. Peter Eichleay is?</p> <p>16 A. Yes.</p> <p>17 Q. Who is he?</p> <p>18 A. He's the president of FlightLevel.</p> <p>19 Q. Do you remember anything that</p> <p>20 either Mr. Hilliard or Mr. Fox said at that</p> <p>21 meeting?</p> <p>22 A. I don't. I don't recall.</p> <p>23 Q. There is a reference in the second</p> <p>24 paragraph on Page 2 of what's been marked as</p> |

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| <p style="text-align: right;">50</p> <p>1 Exhibit 215. It says, "As an aside: In a 2 conversation with the FAA earlier today, the 3 agency did confirm that it has not yet received 4 your company FAA Form 7460 (Notice of proposed 5 construction and alterations specific to the 6 fuel farm)." And then it says, "FAA apparently 7 has received the 7460 for the proposed hangar). 8 Notwithstanding the affirming review from FAA on 9 the OFA issue, which is a separate issue, the 10 fuel farm 7460 -- once filed -- must also 11 satisfactorily be reviewed by the FAA prior to 12 the fuel farm construction." Do you see that? 13 A. Yes. 14 Q. And could you explain what is the 15 form 7460? 16 A. A 7460 is a notification of 17 proposed construction. And FAA has certain 18 parameters a little different from the 19 parameters of MassDOT. Certainly any on-airport 20 construction, generally speaking, would require 21 the filing of a 7460. 22 Q. Going back to the meeting, it says, 23 "In attendance will be Lisa Lesperance from the 24 FAA." And I believe you testified that she was</p> | <p style="text-align: right;">52</p> <p>1 Q. And what do you remember he said 2 about this? 3 A. He was actually -- Drew is the 4 inspector -- he handles the inspections for 5 MassDOT aeronautics, as well as accident 6 investigations, and he inspects the fuel farms 7 on the airports throughout the Commonwealth. 8 Q. Did he say anything about fueling 9 in the object-free area or anything about that? 10 A. I don't recall Drew saying anything 11 to that effect. As I recall, the FAA led that 12 discussion and they just allowed FAA to do that. 13 Q. Okay. It says, "...along with our 14 engineers..." Do you remember if there was 15 anybody else on behalf of the Town there in 16 addition to Mark Ryan? 17 A. I only recall Mark Ryan being 18 there. 19 Q. So no other engineers that you can 20 remember? 21 A. Not that I can remember. It's not 22 to say that we didn't have one of the other 23 engineers there, but I just don't recall. 24 Q. Who would have been one of the</p> |
| <p style="text-align: right;">51</p> <p>1 in attendance? 2 A. Yes. 3 Q. Do you remember anything that she 4 said at the meeting? 5 A. As I recall, Lisa led the 6 discussion for the FAA. She was the FAA 7 representative that led the discussion on the 8 BEH fueling procedures and whether or not it was 9 acceptable to, you know, allow fueling 10 outside -- or inside the object-free area. 11 During the discussions, Mr. Donovan agreed to 12 fuel outside the object-free area to the east 13 side of the building. 14 Q. Did she say that it was not 15 acceptable to the FAA for BEH to conduct fueling 16 operations within the object-free area? 17 A. I don't recall what she said 18 exactly, but that was -- the impression I got 19 was that it was not acceptable. 20 Q. To the FAA? 21 A. Not acceptable to the FAA. 22 Q. And MassDOT, was this individual -- 23 Drew Mihaley, do you remember him being there? 24 A. Yes.</p> | <p style="text-align: right;">53</p> <p>1 other engineers for the Town at that time? 2 A. We would have had possibly Sara 3 Winthrop or Andy Murphy. Both of these 4 engineers work for the Town of Norwood. 5 Q. I see. Did you ever discuss with 6 either of them anything about BEH's fuel farm or 7 BEH's plans to sell fuel at Norwood? 8 A. I have never -- I don't recall ever 9 discussing that with either Sara Winthrop or 10 Andy Murphy. 11 Q. Okay. 12 A. The reference to our engineers 13 could also be our airport engineer from DuBois & 14 King. 15 Q. Who is that? 16 A. That would have most likely been 17 Jeff Adler. 18 Q. Did you ever have any conversations 19 with him about BEH's fuel farm or proposed 20 fueling plans at Norwood Airport? 21 A. I did. 22 Q. What do you remember about those 23 discussions? 24 A. Mr. Adler attends pretty much all</p> |

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| <p style="text-align: right;">54</p> <p>1 of the Airport Commission meetings, so he's 2 heard over the years the updates and the issues 3 involving the BEH fuel farm. But I did reach 4 out to Jeff, as I recall, and asked him to 5 approach FAA, specifically Cliff Vacirca who is 6 in charge of engineering for the New England 7 region of FAA in Burlington, to see if we could 8 get a modification standard on that Gate 3 9 taxilane object-free area.</p> <p>10 Q. And why did you ask him if that was 11 possible?</p> <p>12 A. Well, I had spoken to the Airport 13 Commission chairman about it. We thought it 14 would be in the best interest of BEH and 15 FlightLevel, which also borders the Gate 3 16 taxilane object-free area, to provide some 17 relief to the tenants on the airport.</p> <p>18 Q. And what was the result of that 19 conversation you had -- or that he had with the 20 FAA?</p> <p>21 A. Mr. Adler sent me an e-mail to the 22 effect that FAA had concerns about providing 23 such relief because of the nonstandard 24 object-free area that we had with the</p> | <p style="text-align: right;">56</p> <p>1 Memo dated June 17, 2013, marked for 2 identification)</p> <p>3 Q. (By Mr. Hartzell) Sir, I'm showing 4 you what has been marked as Exhibit 216, which 5 appears to be a memo dated June 17, 2013, from 6 you to the Norwood Airport Commission. And it's 7 "Re: Gate 3 TOFA, Fueling Setbacks." Do you see 8 that?</p> <p>9 A. Yes.</p> <p>10 Q. I realize this is slightly out of 11 order because this appears to be before the 12 meeting that you had with the FAA?</p> <p>13 A. Right.</p> <p>14 Q. But it's a two-page document, 15 BEH0008036 through -- three pages -- through 16 BEH0008038. Do you remember this memo?</p> <p>17 A. I do.</p> <p>18 Q. And what was your purpose in 19 sending this memo?</p> <p>20 A. I wanted to alert the Airport 21 Commission to the fact that if we properly 22 applied the Gate 3 taxilane object-free area and 23 the fueling setbacks per the National Fire 24 Protection Association that Boston Executive</p> |
| <p style="text-align: right;">55</p> <p>1 preexisting encroachments into the object-free 2 area and the fact that itinerant aircraft not 3 familiar with Norwood Airport, particularly 4 after hours, during nighttime, might be 5 attempting to ground taxi down the taxilane with 6 nonstandard setbacks and there could be an 7 accident, so the FAA discouraged that 8 modification of standard.</p> <p>9 Q. So there was no modification of 10 standard ever obtained, correct?</p> <p>11 A. No.</p> <p>12 Q. But you did ask the FAA if that was 13 something that could be done, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you said they discouraged it. 16 Did they just tell you that orally or in writing 17 or --</p> <p>18 A. They told Mr. Adler and Mr. Adler, 19 as our engineer, told us.</p> <p>20 Q. I'm going to show you another 21 document that we'll mark as the next exhibit. 22 MR. HARTZELL: Can we mark 23 this as Exhibit 216? 24 (Exhibit 216, Norwood Memorial Airport</p> | <p style="text-align: right;">57</p> <p>1 Helicopters would have difficulty, from what I 2 could see, providing any kind of an operation.</p> <p>3 Q. So you've got some bolded language 4 towards the bottom of the first page of what you 5 marked as Exhibit 216. It says, "In summary, 6 looking at the two standards, fueling setbacks 7 and TOFA, my concern is the availability of 8 space for BEH to establish and conduct fueling 9 operations at, or beyond, the aircraft fueling 10 setbacks, while also remaining outside the 11 Gate 3 TOFA. Simply put, there's not enough 12 real estate available to currently comply with 13 both standards." Did I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. We talked -- or you just mentioned 16 fueling setbacks. Can you describe what your 17 understanding is of those?</p> <p>18 A. The National Fire Protection 19 Association has standards in place under NFPA 20 407, which sets down standards, guidelines -- 21 actually standards, I should say, for, in this 22 case, the distance between a fuel port on an 23 aircraft and the hangar or terminal. In this 24 case it would be twenty-five feet. If there</p> |

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| <p style="text-align: right;">58</p> <p>1 were a heating unit, a boiler, et cetera, then 2 that setback would increase to fifty feet from 3 the boiler or whatever the structure -- that 4 section of the structure is, fifty feet from 5 that, to the fuel port of the aircraft or the 6 vent openings. 7 Q. Okay. So it references -- a little 8 above the bolded language it says, "Attachment F 9 is a hand-drawn schematic..." And I believe we 10 have that. I'm sorry, bear with me a second. 11 So the paragraph we're looking at 12 references subsequent conversations with the 13 FAA. Was that in connection with the 14 modification issue that we just talked about a 15 few minutes ago? 16 A. Yes. I believe that's correct. 17 Q. Okay. Did you have any 18 conversation with Mr. Donovan or anybody at BEH 19 about some of the concerns that you referenced 20 in this memo that's been marked as Exhibit 216? 21 A. Well, the taxilane object-free area 22 had come up at the public meetings, the Airport 23 Commission meetings, going as far back as 2012. 24 Fueling setbacks, I believe, were expressed at</p> | <p style="text-align: right;">60</p> <p>1 Q. I think we have some minutes that I 2 might be able to help you out with that in a 3 bit. 4 But the issues about the TOFA and 5 fueling setbacks that you mentioned that 6 occurred in 2012, do you know if those were 7 before BEH started construction of its building? 8 A. Yes. 9 Q. I forgot to ask you. It mentions 10 in that letter we just looked at, Exhibit 215, 11 someone from the Norwood Fire Department -- at 12 this June 27, 2013, meeting, do you remember if 13 there was anybody from the Norwood Fire 14 Department there? 15 A. I believe Lieutenant Butters was at 16 that meeting. 17 Q. Do you remember anything he -- is 18 Lieutenant Butters male or female? 19 A. He's a male, Lieutenant Paul 20 Butters. 21 Q. Do you remember anything that 22 Mr. Butters said at that meeting? 23 A. I recall him approaching me after 24 the meeting and telling me that he wanted to put</p> |
| <p style="text-align: right;">59</p> <p>1 that time as well. The airport regulations cite 2 the fueling -- NFPA fueling setbacks, and so 3 that was referenced. 4 Q. Was Mr. Donovan present at meetings 5 where you were present where these matters were 6 discussed? 7 A. He was at commission meetings most 8 definitely where that was discussed. 9 Q. Do you remember anything that 10 Mr. Donovan said in connection with either the 11 TOFA or fueling setbacks as you've just 12 mentioned? 13 A. From the June meeting that we had 14 with FAA, MassDOT officials, the fire 15 department, and Chairman Ryan, as I recall, 16 Mr. Donovan was comfortable with the object-free 17 area and the fueling setbacks and was confident 18 that there was enough real estate under his 19 company's control east of their hangar that he 20 could handle the fueling operations. 21 Q. Do you remember what the status was 22 of the construction of his building in June of 23 2013? Had construction work started? 24 A. I don't recall when it started.</p> | <p style="text-align: right;">61</p> <p>1 the TOFA restrictions into the permit from the 2 fire department. 3 Q. Do you know if he did that? 4 A. I believe he attempted to do that 5 and there was some pushback on that. 6 Q. Pushback from who? 7 A. From BEH. I don't recall who from 8 BEH, but -- 9 Q. And do you know why -- did he ever 10 explain to you why there was pushback from BEH 11 or what his understanding was as to why there 12 was pushback from BEH on that? 13 A. No. 14 Q. Did you ever have an understanding 15 as to why there was pushback from BEH on putting 16 the TOFA restrictions in the fire department 17 permit? 18 A. My understanding was that BEH 19 assumed that we told the fire department to put 20 those restrictions in. 21 Q. And was that not the case? 22 A. That was not the case. 23 Q. That was something that the fire 24 department came up with on its own?</p> |

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| <p style="text-align: right;">62</p> <p>1 A. That was something that the -- that</p> <p>2 conversation was initiated by the fire</p> <p>3 department and, as I recall, told Lieutenant</p> <p>4 Butters at the time that he was, as the fire</p> <p>5 prevention officer, free to do whatever he felt</p> <p>6 was reasonable. I did not tell him it was a</p> <p>7 good idea or a bad idea.</p> <p>8 Q. Thank you. Let me show you a</p> <p>9 letter that was marked as Exhibit 96 at Mr.</p> <p>10 Odstrchel's deposition. This is a letter dated</p> <p>11 June 20, 2013, from Peter Eichleay addressed to</p> <p>12 you. Do you remember receiving this letter?</p> <p>13 A. I do.</p> <p>14 Q. And Mr. Eichleay references a</p> <p>15 number of different items, but he references</p> <p>16 taxiway and taxilane object-free area and</p> <p>17 fueling setback from structures restriction. Do</p> <p>18 you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And is it accurate, sir, that those</p> <p>21 matters had already been brought up to Boston</p> <p>22 Executive Helicopters at Norwood Airport</p> <p>23 Commission meetings before this letter was sent?</p> <p>24 MR. FEE: Objection.</p> | <p style="text-align: right;">64</p> <p>1 would show that Boston Executive Helicopters had</p> <p>2 the land. As far as the self-fueling versus the</p> <p>3 commercial self-fueling or the commercial</p> <p>4 fueling by way of mobile fuelers, I don't recall</p> <p>5 there being a request for a set of drawings</p> <p>6 specific to any one of those scenarios. The</p> <p>7 Commission just wanted to see that BEH had</p> <p>8 property rights and the ability to move on its</p> <p>9 own leasehold without encroaching on the</p> <p>10 property rights of abutting tenants.</p> <p>11 Q. Has Boston Executive Helicopters</p> <p>12 ever provided such a plan?</p> <p>13 A. They did provide a plan, a fuel</p> <p>14 plan drawing.</p> <p>15 Q. Do you remember what year that was?</p> <p>16 I have stuff I can show you if you can't</p> <p>17 remember.</p> <p>18 A. I want to say it was the summer of</p> <p>19 2013.</p> <p>20 Q. And did that fuel plan drawing have</p> <p>21 boundary lines on it to indicate Boston</p> <p>22 Executive Helicopters' property and the property</p> <p>23 rights of abutting property leaseholders?</p> <p>24 A. I don't recall seeing a delineating</p> |
| <p style="text-align: right;">63</p> <p>1 A. Yes. My understanding was that BEH</p> <p>2 was aware of the TOFA and fueling setback</p> <p>3 restrictions prior to this letter.</p> <p>4 Q. Were you aware at any time that</p> <p>5 Boston Executive Helicopters has made overtures</p> <p>6 to FlightLevel to purchase FlightLevel?</p> <p>7 A. I was aware of that.</p> <p>8 Q. And were you aware of any</p> <p>9 communications between Boston Executive</p> <p>10 Helicopters and FlightLevel where Boston</p> <p>11 Executive Helicopters wanted FlightLevel to sell</p> <p>12 its fuel at a low cost and that if FlightLevel</p> <p>13 didn't do that Boston Executive Helicopters was</p> <p>14 going to move forward with plans to install</p> <p>15 their own fuel farm to sell, S-E-L-L, fuel to</p> <p>16 third parties?</p> <p>17 MR. FEE: Objection.</p> <p>18 A. I was aware of that.</p> <p>19 Q. At some point in time did the</p> <p>20 Norwood Airport Commission or you request Boston</p> <p>21 Executive Helicopters to provide certain</p> <p>22 drawings or plans in connection with its desire</p> <p>23 to both S-E-L-F fuel and S-E-L-L fuel?</p> <p>24 A. We wanted a fuel plan drawing that</p> | <p style="text-align: right;">65</p> <p>1 property line between Lot F, Boston Executive</p> <p>2 Helicopters' lot, and Lot G, FlightLevel's lot.</p> <p>3 Q. And to this day, has Boston</p> <p>4 Executive Helicopters ever provided a plan that</p> <p>5 delineates those areas?</p> <p>6 A. No. The Commission asked for a</p> <p>7 scaled, stamped, from a professional engineer,</p> <p>8 drawing to show that and has not received that</p> <p>9 drawing.</p> <p>10 Q. Has Boston Executive Helicopters or</p> <p>11 Mr. Donovan ever provided an explanation as to</p> <p>12 why it has not provided such a drawing to the</p> <p>13 Norwood Airport Commission?</p> <p>14 A. No.</p> <p>15 Q. Do you have any idea as to why</p> <p>16 Boston Executive Helicopters has not provided</p> <p>17 such a drawing to the Norwood Airport</p> <p>18 Commission?</p> <p>19 MR. SIMMS: I'm going to</p> <p>20 object to that. You can answer.</p> <p>21 THE WITNESS: Should I answer?</p> <p>22 MR. SIMMS: You can answer if</p> <p>23 you know.</p> <p>24 A. My opinion, in my opinion --</p> |

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| <p style="text-align: right;">66</p> <p>1 MR. SIMMS: Wait, are you 2 hazarding a guess or can you answer the 3 question? 4 THE WITNESS: I'm hazarding a 5 guess. 6 MR. SIMMS: I prefer you not 7 hazard a guess. 8 THE WITNESS: Okay, then I 9 won't. 10 Q. (By Mr. Hartzell) Fair enough. 11 I'm going to show you another document we'll 12 mark as the next exhibit. 13 MR. HARTZELL: I'm going to 14 mark this as Exhibit 217. 15 (Exhibit 217, E-mail Exchange, June 2013, 16 marked for identification) 17 Q. (By Mr. Hartzell) I'm going to 18 show you what we have marked as Exhibit 217, 19 which appears to be an e-mail. It's a little 20 unclear. I'm sorry, if you look at the bottom, 21 it appears to be from Chris Donovan dated June 22 27, 2013. Do you see that? 23 A. Yes. 24 Q. And that's addressed to you and a</p> | <p style="text-align: right;">68</p> <p>1 way? 2 A. No. 3 Q. If you go back to the first page, 4 it says, "Russ, sorry for the delay as we had 5 our engineers review the attached outlines." Do 6 you see that? 7 A. Yes. 8 Q. Do you know what engineers he was 9 talking about in this e-mail? 10 A. I don't. 11 Q. Did you ever have any 12 conversations, that you can recall, between you 13 and Mr. Donovan concerning these drawings or the 14 outlines, as he describes them, that are part of 15 Exhibit 217? 16 A. I don't recall having a 17 conversation about this. 18 Q. Okay. I'm going to show you 19 another document that was marked as 20 Mr. Sheehan's deposition as Exhibit 120. And 21 this is an e-mail from Chris Donovan to a number 22 of different people and it shows you as a copy 23 on Friday, June 28, 2013, 3:15 p.m. Do you see 24 that?</p> |
| <p style="text-align: right;">67</p> <p>1 copy to a number of other people, correct? 2 A. Yes. 3 Q. And it's Bates numbers BEH00010641 4 through BEH010645. And do you remember 5 receiving this e-mail from Mr. Donovan? 6 A. I vaguely remember this. 7 Q. Now, the e-mail attaches some 8 drawings, do you see those, on the last three 9 pages? 10 A. Yes. 11 Q. Are these engineered drawings? 12 A. I don't believe so. 13 Q. And can you just explain on the 14 record for us what you understand an engineered 15 drawing to be? 16 A. My understanding of an engineered 17 drawing is, first, it's stamped by a 18 professional engineer and it's scaled. It's 19 proportioned correctly, scaled correctly. 20 Q. And are any of these drawings -- 21 they are not stamped by a professional engineer, 22 correct? 23 A. They don't appear to be. 24 Q. Do they appear to be scaled in any</p> | <p style="text-align: right;">69</p> <p>1 A. Yes. 2 Q. And it says, "Dear Lisa and Cliff." 3 Lisa is Lisa Lesperance of the FAA. And Cliff 4 V-I-R-C-I-R-C-A is also with the FAA? 5 A. Yes. I believe that's incorrect 6 spelling. I'm not sure that it was received. I 7 would be surprised. His last name is not 8 spelled V-I-C. It's actually 9 V-A-C-I-R-C-A@fa.gov. 10 Q. Do you believe that to be the 11 correct e-mail for Lisa Lesperance? 12 A. Yes. 13 Q. Do you remember receiving this 14 e-mail? 15 A. I vaguely remember it. 16 Q. Just so the record -- it's 17 documents with Bates numbers 3567 through 3570. 18 And it says, "I have completed and updated 19 another form" -- excuse me, let me start over. 20 "I have completed and updated 21 another FAA Form 7460 for our project, which is 22 attached. We have formulated draft plans and 23 operations and will finalize them when the 24 system is installed in the fire department and</p> |

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| <p style="text-align: right;">70</p> <p>1 the Commission approves the final installation." 2 Do you see that? 3 A. Yes. 4 Q. So if you go to the page with 5 numbers 3569, is that an FAA Form 7460? 6 A. Yes. 7 Q. And this lists the complete 8 description of proposal, "Replace hangar which 9 fell down due to snowstorm, underground fuel of 10 storage tanks, 30,000 gallons outside of the 11 taxiway object-free area (TOFA). All building 12 structures and equipment will remain outside the 13 TOFA. Utilize 100-foot crane at times for 14 erection of steel building and replace steel 15 hangar, which fell down due to snowstorm, and 16 prior 7460 filed for construction and approve 17 your update of adding the fuel system and crane 18 use." Did I read that correctly? 19 A. Yes. 20 Q. And does that refresh your 21 recollection as to whether the building or the 22 construction of the fuel farm had begun at this 23 point in time in June of 2013? 24 A. It does not appear to have started</p> | <p style="text-align: right;">72</p> <p>1 located on Lot G? 2 A. I believe they're on Lot G. 3 Q. Sir, is there anything else that 4 you would like to add to that? 5 A. No. 6 Q. And where it says -- there's a 7 rectangular box next to where it says Boston 8 Executive Helicopters proposed hangar, and new 9 hangar to replace old existing hangar which fell 10 due to snowstorm. Does that refresh your 11 recollection that, as of June 28, 2013, the 12 construction of a building had not yet begun? 13 A. Yes. 14 Q. And what is your recollection? 15 A. That the building started -- I 16 don't recall how far into the future beyond June 17 27, 2013, but it certainly was not under 18 construction at that time based on this. 19 Q. And then there's a little 20 rectangular box next to where it says Boston 21 Executive Helicopters proposed hangar. It says, 22 "Fuel truck loading/unloading area." Do you see 23 that? 24 A. Yes.</p> |
| <p style="text-align: right;">71</p> <p>1 based on this. 2 Q. Okay. And directing your attention 3 to the last page of 35 -- which is Bates 3570, 4 this appears to be a drawing that was attached 5 to 7460 for Boston Executive Helicopters. Do 6 you recognize this drawing? 7 A. Yes. 8 Q. And you remember receiving it? 9 A. Yes. 10 Q. Is this a scaled drawing? 11 A. No. 12 Q. Is it stamped by a professional 13 engineer? 14 A. No. 15 Q. Does it delineate the boundary 16 between Lots F and Lots G at the airport? 17 A. No. 18 Q. Do you know where Lot G is located? 19 A. Yes. 20 Q. Is Lot G adjacent to Lot F? 21 A. Yes. 22 Q. And where it has markings it says, 23 "aircraft parking, aircraft parking." Are 24 those, based on your understanding of the lots,</p> | <p style="text-align: right;">73</p> <p>1 Q. Is there anything on this document 2 that delineates the boundary between Lot F and 3 Lot G? 4 A. No. 5 Q. Did you have any questions for 6 Mr. Donovan or BEH after you received what's 7 been marked as exhibit -- a copy of what's been 8 marked as Exhibit 120 in Mr. Sheehan's 9 deposition? 10 A. Relative to this, I don't recall 11 having any questions for Mr. Donovan or BEH. 12 Q. Did BEH ever provide any other 13 drawing about a proposed fuel facility at 14 Norwood Airport for its proposed fueling 15 operations after June 28 of 2013? 16 A. I don't recall them ever submitting 17 any technical detailed drawings, engineering 18 drawings, of the design of a fuel farm or 19 hangar. We did receive as-built drawings, but 20 we had to go to the Conservation Commission for 21 those, so that was received actually not that 22 long ago. 23 Q. So the as-builts you received were 24 as-builts of the building?</p> |

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| <p style="text-align: right;">74</p> <p>1 A. Yes.</p> <p>2 Q. And the installation and the area</p> <p>3 of the fuel farm, correct?</p> <p>4 A. Correct.</p> <p>5 Q. But have you or the Norwood Airport</p> <p>6 Commission received any -- the as-built drawings</p> <p>7 did not include any fuel system operation that</p> <p>8 showed where the fueling -- where BEH wanted</p> <p>9 fueling to take place, correct?</p> <p>10 A. To the best of my understanding,</p> <p>11 the Commission has not received any fuel plan</p> <p>12 drawing after June 27, 2013. I certainly</p> <p>13 haven't.</p> <p>14 Q. Okay. I'm going to show you what</p> <p>15 we'll mark as the next exhibit, which will be</p> <p>16 Exhibit 218.</p> <p>17 MR. HARTZELL: I'm going to</p> <p>18 mark this as the next exhibit.</p> <p>19 (Exhibit 218, Letter dated July 2, 2013,</p> <p>20 marked for identification)</p> <p>21 Q. (By Mr. Hartzell) So I'm showing</p> <p>22 you what's been marked as Exhibit 218, which is</p> <p>23 a two-page document dated July 2, 2013,</p> <p>24 addressed to Christopher Donovan from Boston</p> | <p style="text-align: right;">76</p> <p>1 A. I don't know that FAA has issued</p> <p>2 any kind of approval on a fuel plan.</p> <p>3 MR. HARTZELL: Okay. We'll</p> <p>4 mark this as Exhibit 219.</p> <p>5 (Exhibit 219, E-mail Exchange, July 2013,</p> <p>6 marked for identification)</p> <p>7 Q. (By Mr. Hartzell) This is a copy</p> <p>8 of a -- it's a two-page document, which I'm</p> <p>9 showing you, which appears to be an e-mail</p> <p>10 from -- a couple different e-mails, BEH0010597</p> <p>11 through 598. The first e-mail appears to be</p> <p>12 from Lisa Lesperance at FAA to Chris Donovan</p> <p>13 dated July 2. Do you see that?</p> <p>14 MR. SIMMS: Off the record.</p> <p>15 (Off-record conference)</p> <p>16 MR. HARTZELL: Back on the</p> <p>17 record.</p> <p>18 Q. (By Mr. Hartzell) Let me start</p> <p>19 over, sir.</p> <p>20 These are some e-mails back and</p> <p>21 forth between Mark Ryan and Mr. Hilliard. And</p> <p>22 if you go back to the -- hold on.</p> <p>23 Do you remember seeing any of these</p> <p>24 e-mails previously?</p> |
| <p style="text-align: right;">75</p> <p>1 Executive Helicopters from the Federal Aviation</p> <p>2 Administration. And if you look at -- the Bates</p> <p>3 numbers are BEH003326 through 3327. Do you see</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. And it shows you were copied on</p> <p>7 this. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. It references the description of</p> <p>10 the crane for hangar construction?</p> <p>11 A. Yes.</p> <p>12 Q. Do you remember having any</p> <p>13 discussion with Mr. Donovan about this?</p> <p>14 A. I don't recall a discussion once I</p> <p>15 received this.</p> <p>16 Q. Has the FAA ever issued an</p> <p>17 approval, to your knowledge, of a proposed</p> <p>18 fueling system, a fuel plan -- I'm sorry, I'm</p> <p>19 mixing the terms up. Let me start over.</p> <p>20 Has the FAA, to your knowledge,</p> <p>21 ever issued a determination concerning a</p> <p>22 proposed fueling plan to Boston Executive</p> <p>23 Helicopters?</p> <p>24 MR. FEE: Objection.</p> | <p style="text-align: right;">77</p> <p>1 A. The Mark Ryan e-mail, I don't</p> <p>2 recall ever seeing. I'm clearly not on the</p> <p>3 distribution for it.</p> <p>4 Q. If you look at Page 10597, I</p> <p>5 believe it shows you the copy on the e-mail.</p> <p>6 That's from</p> <p>7 chris@bostonexecutivehelicopters.com. Do you</p> <p>8 remember receiving that?</p> <p>9 A. Yes.</p> <p>10 Q. Just to get the time sequence</p> <p>11 correct, July 8 -- I'm sorry, if you go back to</p> <p>12 the bottom e-mail, there's a copy of an e-mail</p> <p>13 from Lisa Lesperance to Chris Donovan right on</p> <p>14 that page, 10597?</p> <p>15 A. Okay.</p> <p>16 Q. And that e-mail is after the June</p> <p>17 27, 2013, meeting that you just described</p> <p>18 earlier where the FAA --</p> <p>19 A. Yes.</p> <p>20 Q. -- stated it was not -- I don't</p> <p>21 know the exact words she said, but they didn't</p> <p>22 want fueling in the object-free area, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And you believe this e-mail from</p> |

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| <p style="text-align: right;">78</p> <p>1 FAA is based on that drawing that we just looked 2 at, as part of Sheehan Exhibit 120, that shows 3 BEH's proposed plan to fuel east of its hangar, 4 correct? 5 A. Yes. 6 Q. Okay. That is all that I have on 7 that. Thank you. 8 Now, as of July of 2013, had 9 Mr. Donovan or anybody from BEH approached you 10 or had any conversations with you about whether 11 they had the right to fuel east of their hangar 12 or conduct fueling operations east of their 13 hangar? 14 A. Prior to? 15 Q. No. 16 MR. HARTZELL: I'm sorry, 17 could you read that question back? 18 (Question read by reporter) 19 Q. (By Mr. Hartzell) So in other 20 words, before July of 2013. 21 A. I don't recall the specifics. I do 22 recall the Commission asking about durability to 23 conduct fuel and how much land they had 24 available to do that. I don't recall the</p> | <p style="text-align: right;">80</p> <p>1 our engineers, chairman of the Airport 2 Commission, to memorialize that site visit, the 3 7460, and to prompt Mr. Donovan to get the 4 fueling plan to the Airport Commission. 5 Q. Because it says here, if you look 6 at the first page, there's two numbered matters. 7 One is "My June 24, 2013, e-mail/letter was 8 prompted to you by two overriding concerns that 9 the NAC..." -- that's the Norwood Airport 10 Commission, right? 11 A. Yes. 12 Q. "...considered at that time to be 13 unresolved." And "1) Gate 3 taxilane 14 object-free area (OFA)." Do you see that? 15 A. Yes. 16 Q. And then it references in the next 17 paragraph -- I'll come back to the fueling plan 18 in a minute -- "Specific to the OFA concern: 19 Following our June 27th site meeting (with FAA, 20 MassDOT, BEH, Norwood Fire, Mark Ryan, Jeff 21 Adler, and myself in attendance), I received 22 from FAA its final determinations. This 23 followed your 7460 construction filing to the 24 agency, which noted the planned use of a crane</p> |
| <p style="text-align: right;">79</p> <p>1 specifics and I don't recall a timeline, but I 2 want to say it was prior to July 2013 that those 3 questions were asked. 4 MR. HARTZELL: I'm going to 5 mark this as Exhibit 220. 6 (Exhibit 220, Norwood Memorial Airport 7 Memo dated July 12, 2013, marked for 8 identification) 9 Q. (By Mr. Hartzell) I'm showing you 10 what has been marked as Exhibit 220, which is a 11 two-page document with BEH0000651 through 12 0000652. And this appears to be a memorandum 13 from you to Mr. Donovan at Boston Executive 14 Helicopters dated July 12, 2013. Do you recall 15 this memo? 16 A. Yes. 17 Q. And do you remember why you sent 18 him this memo? When I say "him", I mean 19 Mr. Donovan of BEH? 20 A. It was -- as I recall, it was an 21 attempt to just memorialize some of the efforts 22 and some of the actions and decisions that were 23 made about the on-site meeting with FAA, 24 MassDOT, BEH'S representatives, Norwood Fire,</p> | <p style="text-align: right;">81</p> <p>1 and revised location for the underground storage 2 tanks." Do you see that? 3 A. Yes. 4 Q. And then you say, the next 5 paragraph underneath that, "Notwithstanding any 6 additional issues or concerns posed by the 7 Airport Commission next Wednesday, the FAA 8 determinations - plus supporting information 9 from its aviation planner, Lisa Lesperance - has 10 answered my questions relative to OFA issue." 11 Do you see that? 12 A. Yes. 13 Q. And could you just explain to us 14 what the OFA issue was? 15 A. The object-free area on that Gate 3 16 taxilane. 17 Q. And that is because Mr. Donovan 18 said he was not going to conduct fueling 19 operations in the OFA area, correct? 20 A. Correct. 21 Q. Now, the next -- if we go back up, 22 Number 2, the reference above, says, "BEH 23 fueling plan." Do you see that? 24 A. Yes.</p> |

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| <p style="text-align: right;">82</p> <p>1 Q. And why were you referencing the</p> <p>2 BEH fueling plan?</p> <p>3 A. As I recall, we hadn't received the</p> <p>4 initial one or we hadn't received an undated</p> <p>5 fueling plan. I don't recall which.</p> <p>6 Q. Well, you had received -- by July</p> <p>7 12, 2013, you had received what we were looking</p> <p>8 at in Mr. Sheehan's Exhibit 120, right?</p> <p>9 A. Yes.</p> <p>10 Q. And that was an unscaled drawing?</p> <p>11 A. Correct.</p> <p>12 Q. That was not stamped by an engineer</p> <p>13 and did not delineate the boundary lines between</p> <p>14 various parcels at the airport, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And so that's what you received,</p> <p>17 but had you received anything else from BEH</p> <p>18 concerning a fuel plan at that time?</p> <p>19 A. No. And I just noticed, the second</p> <p>20 paragraph, third sentence from the bottom, I was</p> <p>21 asking Mr. Donovan to provide reasonable</p> <p>22 specificity of the document to put to rest the</p> <p>23 concern that BEH fueling would be conducted in a</p> <p>24 manner consistent with regulation standards,</p> | <p style="text-align: right;">84</p> <p>1 lawyers at the time. It also shows a copy to</p> <p>2 Dave Bennett. Do you know who Dave Bennett was?</p> <p>3 A. I don't recall ever meeting</p> <p>4 Mr. Bennett. He may have been a consultant for</p> <p>5 BEH. I just don't remember.</p> <p>6 Q. Okay. Do you remember receiving</p> <p>7 this document?</p> <p>8 A. I do.</p> <p>9 Q. And it's an e-mail. And these are</p> <p>10 not Bates numbered, but there's a long</p> <p>11 attachment which appears to be a document</p> <p>12 entitled -- it says, "Boston Executive</p> <p>13 Helicopters [Draft] Manual for Operations at</p> <p>14 Small Airports - US, (MOSA-US)." Do you know</p> <p>15 what that means, MOSA?</p> <p>16 A. Manual of Operations at Small</p> <p>17 Airports.</p> <p>18 Q. And it's dated December 20, 2007.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And does this document -- do you</p> <p>22 know why Mr. Donovan sent this to you?</p> <p>23 A. This was more or less a procedures</p> <p>24 manual for the fueling operations, very similar</p> |
| <p style="text-align: right;">83</p> <p>1 best management practices, with minimal impact</p> <p>2 to other airport tenants and users, and to also</p> <p>3 let us know whether he was -- in writing whether</p> <p>4 he was going to be interested in commercial</p> <p>5 fueling or self-fueling. It appears to have</p> <p>6 still been an issue, a question.</p> <p>7 Q. And why did you write that sentence</p> <p>8 or two that you just mentioned?</p> <p>9 A. Based on this memo, it doesn't</p> <p>10 appear that there were enough specifics and</p> <p>11 enough accuracy in the drawing that we had</p> <p>12 received.</p> <p>13 Q. I'm going to show you the next</p> <p>14 exhibit.</p> <p>15 MR. HARTZELL: I'm going to</p> <p>16 mark this as the next exhibit.</p> <p>17 (Exhibit 221, E-mail dated July 15, 2013,</p> <p>18 marked for identification)</p> <p>19 Q. (By Mr. Hartzell) I'm showing you</p> <p>20 a document that's been marked as Exhibit 221,</p> <p>21 Mr. Maguire. It appears to be an e-mail from</p> <p>22 Chris Donovan at Boston Executive Helicopters</p> <p>23 dated Monday, July 15, 2013, to you and copying</p> <p>24 other people including Mark Ryan and his two</p> | <p style="text-align: right;">85</p> <p>1 to a manual that FlightLevel had on file that, I</p> <p>2 believe, was given to Mr. Donovan during our</p> <p>3 public records request. The manual for BEH is</p> <p>4 very similar to the FlightLevel manual.</p> <p>5 Q. Does this fueling operations draft</p> <p>6 document that is attached, following as part of</p> <p>7 exhibit -- let me start over.</p> <p>8 Does this document, Draft Fueling</p> <p>9 Procedures, that has been marked as Exhibit 221</p> <p>10 today contain a fueling plan as opposed to</p> <p>11 fueling procedures?</p> <p>12 A. No. This is more of an internal</p> <p>13 document for quality control and record-keeping,</p> <p>14 et cetera. Again, this was a similar document</p> <p>15 to what FlightLevel has on file with our office</p> <p>16 and --</p> <p>17 MR. SIMMS: Russ, you started</p> <p>18 the answer with the word no. You could</p> <p>19 have stopped there.</p> <p>20 A. No.</p> <p>21 Q. I'm going to show you another</p> <p>22 document, which we'll mark as Exhibit 222.</p> <p>23 MR. HARTZELL: I'm going to</p> <p>24 mark this as the next document.</p> |

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| <p style="text-align: right;">86</p> <p>1 (Exhibit 222, E-mail dated July 17, 2013, 2 marked for identification) 3 Q. (By Mr. Hartzell) Sir, I'm showing 4 you a one-page document, Bates number 5 BEH0002952, which appears to be an e-mail to you 6 from Lisa Lesperance dated July 17, 2013. Do 7 you see that? 8 A. Yes. 9 Q. Do you remember receiving this? 10 A. Yes. 11 Q. Did you have any conversations or 12 prior communications with Lisa Lesperance in 13 connection with this, the subject matter of this 14 e-mail? 15 A. I don't recall any conversations 16 beyond the on-site visit that we had. 17 Q. But here Ms. Lesperance is 18 describing what the FAA's understanding is about 19 the fuel farm at Boston Executive Helicopters, 20 correct? 21 A. Yes. 22 Q. And the second paragraph says, 23 "From the data submitted to us, it's our 24 understanding the fuel tanks will be underground</p> | <p style="text-align: right;">88</p> <p>1 why -- what caused this communication to come to 2 you from Ms. Lesperance? 3 A. I don't recall. There may have 4 been a -- I don't recall. 5 Q. So the first sentence of the second 6 paragraph, "From the data submitted to us, it is 7 our understanding the fuel tanks will be 8 underground and 'flush', if you will, with the 9 pavement and all venting of the fuel tanks will 10 be along the hangar itself; therefore, there is 11 no OFA violation." Do you see that? 12 A. Yes. 13 Q. And that is -- is it your 14 understanding, Mr. Maguire, that that's based on 15 the meeting where Mr. Donovan said he would not 16 conduct fueling in the OFA area? 17 A. Yes. 18 Q. And the next sentence says, "Fuel 19 trucks will park outside the FAA (along the 20 hangar side, somewhat between the two hangars)." 21 You understand that to be the area east of Lot 22 F, correct? 23 A. Yes. 24 Q. And that's based on the drawing</p> |
| <p style="text-align: right;">87</p> <p>1 and 'flush', if you will, with the pavement and 2 all venting of the fuel trucks [sic] will be 3 along the hangars itself; therefore, there is no 4 violation." Do you see that? 5 MR. SIMMS: You said fuel 6 trucks. 7 MR. HARTZELL: I meant to say 8 fuel tank. 9 MR. SIMMS: Do you want to 10 start anew? I don't mean to quibble, but 11 I know you want to get it right. 12 Q. (By Mr. Hartzell) Let me start 13 over. I apologize if I misspoke. 14 The second paragraph in what's been 15 marked as Exhibit 222 says -- and this is 16 an e-mail from Lisa Lesperance at FAA to you, 17 Russ Maguire. And that's your e-mail address at 18 Norwood Airport, right? 19 A. Yes. 20 Q. I'm sorry, I forgot to ask you. Do 21 you recall receiving this e-mail? 22 A. I do. 23 Q. And I will start over. Do you 24 remember what the circumstances were as to</p> | <p style="text-align: right;">89</p> <p>1 that's attached as the last page of 2 Mr. Sheehan's Exhibit 120 that we just looked at 3 earlier, correct? 4 A. Yes. 5 Q. And it says, "...and a hose will 6 run from the underground tanks to the trucks. 7 The diagram sent includes aircraft fueling to be 8 in the same area as the parked fuel trucks 9 (dispensing and fueling). Given this 10 information, it is FAA's understanding no trucks 11 or aircraft will be in the OFA; therefore, the 12 determination was a 'no objection' to this 13 activity." Do you see that? 14 A. Yes. 15 Q. So is it your understanding that 16 the FAA had no objection to BEH's proposed 17 fueling as set forth in the last page of what 18 was marked as Exhibit 120 in Mr. Sheehan's 19 deposition because it did not show any fueling 20 in the object-free area? Is that correct? 21 A. Yes. 22 Q. I'm going to show you another 23 document that is a little bit out of sequence. 24 MR. HARTZELL: So this is</p> |

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| <p style="text-align: right;">90</p> <p>1 Exhibit 223. 2 (Exhibit 223, E-mail dated June 23, 2013, 3 marked for identification) 4 Q. (By Mr. Hartzell) Mr. Maguire, I'm 5 going to show you a copy of a two-page document 6 which appears to be an e-mail from Brandon Moss, 7 dated June 23, 2013, to Timothy McCulloch. It's 8 BEH numbers BEH0008463 through 00008464. Do you 9 see that? 10 A. Yes. 11 Q. And it references -- it says, "BEH 12 Fuel Plan Schematic, Included in the 7-17-13 13 Airport Commission Meeting Packet." Do you see 14 that? 15 A. Yes. 16 Q. And if you turned to the second 17 page, BEH0008464, and if you would open the last 18 page of Sheehan Exhibit 120 -- or the next to 19 last page of Sheehan Exhibit 120, which is the 20 drawing and compare the two, do those appear to 21 be the same two drawings? I realize one copy is 22 a little lighter than the other. 23 A. Yes. They appear to be the same. 24 Q. Okay. So as of June 23, 2015,</p> | <p style="text-align: right;">92</p> <p>1 July 19, 2013, from you to Mr. Donovan at Boston 2 Executive Helicopters. Do you remember this 3 letter? 4 A. Yes. 5 Q. And it references a meeting on July 6 7, 2013. The Norwood Airport Commission met 7 with Boston Executive Helicopters to 8 specifically resolve two outstanding matters. 9 These involve the FAA design standard to Gate 3 10 taxilane object-free area (TOFA) as it applies 11 to your company's construction plans. Do you 12 see that? 13 MR. FEE: Objection to the 14 form. 15 A. Yes. 16 Q. And then we'll come back to 17 Number 2 in a minute. The paragraph underneath 18 that, "Regarding the NAC's first concern, as 19 indicated in Wednesday's meeting, the Board 20 considers this matter resolved." Do you see 21 that? 22 A. Yes. 23 Q. What do you remember -- first of 24 all, were you at the meeting on July 17, 2013?</p> |
| <p style="text-align: right;">91</p> <p>1 there had been no additional fueling plan 2 submitted by BEH to the Norwood Airport 3 Commission; is that correct? 4 MR. FEE: Objection. 5 A. That's my understanding, is there 6 has not been a plan submitted after June 27, 7 2013. 8 Q. By the way, before I forget, in the 9 74 -- some of the correspondence or e-mails we 10 looked at concerning the 7460 form was saying 11 relocation of fuel tanks. So it would appear 12 that BEH moved the location of its fuel tanks on 13 the plan. Does that ring a bell with you? Do 14 you have any memory of that? 15 A. I don't. 16 Q. Okay. I show you another document 17 that we'll mark as Exhibit 224. 18 MR. HARTZELL: Can I mark this 19 as Exhibit 224? 20 (Exhibit 224, Letter dated July 19, 2013, 21 marked for identification) 22 Q. (By Mr. Hartzell) Showing you a 23 two-page document, which is BEH numbers 0002953 24 through 2954, which appears to be a letter dated</p> | <p style="text-align: right;">93</p> <p>1 A. Yes. 2 Q. What do you remember about the 3 first numbered sentence in what's been marked as 4 Exhibit 224 that was "resolved"? 5 A. As I recall, the Commission was 6 comfortable with following the site visit with 7 the FAA and MassDOT and with the Airport 8 Commission being in attendance, BEH 9 representative being in attendance, and our 10 engineer, Jeff Adler, being there, comfortable 11 with BEH's agreement to remain outside the 12 object-free area. 13 Q. Okay. And Paragraph Number 2 says, 14 "BEH's fueling plans and procedures with respect 15 to the TOFA, and the abutting interest of 16 others." Do you see that? 17 A. Yes. 18 Q. Do you remember that being 19 discussed at the Airport Commission meeting? 20 A. Yes. 21 Q. What do you remember about that 22 discussion? 23 A. I remember FlightLevel having an 24 issue with the BEH proposal to fuel east of its</p> |

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| <p style="text-align: right;">94</p> <p>1 hangar.</p> <p>2 Q. And what do you remember was</p> <p>3 discussed about that?</p> <p>4 A. Whether or not BEH would be on Lot</p> <p>5 G or FlightLevel's property.</p> <p>6 Q. Was any decision come to concerning</p> <p>7 that issue by the Norwood Airport Commission?</p> <p>8 A. Well, BEH agreed to restrict any</p> <p>9 fueling east of the hangar until they could</p> <p>10 demonstrate that the property rights of others,</p> <p>11 namely FlightLevel, would not be violated.</p> <p>12 Q. So just going back to the sort of</p> <p>13 second full paragraph on the first page of</p> <p>14 what's been marked as Exhibit 224, the second</p> <p>15 sentence says, "As for the second concern, at</p> <p>16 Wednesday's meeting, your company delivered to</p> <p>17 the Airport Commission documents that now more</p> <p>18 comprehensively address BEH's fueling plans and</p> <p>19 procedures, especially with respect to the TOFA</p> <p>20 and abutting property interest of others." Do</p> <p>21 you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Do you remember what documents were</p> <p>24 delivered at that time by BEH?</p> | <p style="text-align: right;">96</p> <p>1 area, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And BEH has also agreed, as of July</p> <p>4 19, 2013, to not fuel east of its building,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. And has that -- has BEH ever said</p> <p>8 that it's no longer agreeing to this fuel</p> <p>9 restriction of east of its leasehold?</p> <p>10 MR. FEE: Objection to the</p> <p>11 form.</p> <p>12 A. I have never received anything from</p> <p>13 BEH that would supercede the agreement to</p> <p>14 restrict fueling.</p> <p>15 Q. Just so I'm clear, BEH has agreed</p> <p>16 to not fuel in the object-free area, which is</p> <p>17 the taxiway adjacent to its hangar, and has also</p> <p>18 agreed not to fuel east of its hangar, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And the rest of that</p> <p>21 paragraph on the second page of what's been</p> <p>22 marked as Exhibit 224 says that. "This</p> <p>23 restriction will remain in place until such time</p> <p>24 that BEH can demonstrate to the Airport</p> |
| <p style="text-align: right;">95</p> <p>1 A. I don't have perfect recall on all</p> <p>2 the documents. I don't have perfect recall on</p> <p>3 that.</p> <p>4 Q. Do you remember if BEH submitted an</p> <p>5 additional fueling plan, other than the one you</p> <p>6 previously received as one of the pages to</p> <p>7 Mr. Sheehan's Exhibit 120?</p> <p>8 A. I don't recall them submitting</p> <p>9 anything beyond the June 27, 2013, fuel plan</p> <p>10 drawing.</p> <p>11 Q. I think I earlier referenced this</p> <p>12 as the last page of Sheehan 120. That's</p> <p>13 incorrect. The drawing I've been referring to</p> <p>14 is Bates numbers 3570 of Sheehan Exhibit 120.</p> <p>15 But in any event, if you turn to the second page</p> <p>16 of what has been marked as Exhibit 224, it says,</p> <p>17 the second full paragraph, "Per Wednesday's</p> <p>18 meeting, BEH has furthermore agreed to an</p> <p>19 aircraft fueling restriction east of its</p> <p>20 leasehold since this involves abutting</p> <p>21 leaseholds." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So BEH at this point in time had</p> <p>24 agreed that it would not fuel in the object-free</p> | <p style="text-align: right;">97</p> <p>1 Commission that the property rights of others</p> <p>2 will not be violated." Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. To this day, has BEH demonstrated</p> <p>5 to the Airport Commission that the property</p> <p>6 rights of others will not be violated by its</p> <p>7 proposed fueling operations?</p> <p>8 A. I can't speak for the Airport</p> <p>9 Commission other than, perhaps, what's been</p> <p>10 passed on to me. I don't recall the Commission</p> <p>11 ever passing on to me that they felt that BEH</p> <p>12 had demonstrated that the property rights of</p> <p>13 others would not be violated east of their</p> <p>14 hangar.</p> <p>15 MR. HARTZELL: I'm going to</p> <p>16 mark this as Exhibit 225.</p> <p>17 (Exhibit 225, Letter dated November 2013,</p> <p>18 marked for identification)</p> <p>19 Q. (By Mr. Hartzell) I'm going to</p> <p>20 show you, sir, what's been marked as Exhibit</p> <p>21 225. First of all, can you identify this</p> <p>22 document? Hold on, another copying mistake.</p> <p>23 Could you simply remove the second page? That</p> <p>24 is not supposed to be part of the exhibit.</p> |

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| <p style="text-align: right;">98</p> <p>1 MR. HARTZELL: So the record 2 is clear, Exhibit 225 is a one-page 3 document with Bates numbers BEH0003461. 4 Q. (By Mr. Hartzell) Sir, have you 5 seen this before? 6 A. I don't recall ever seeing this. 7 Q. Okay. And it's the Town of Norwood 8 Fire Department, Boston Executive Helicopter, 9 UST Installation at 189 Access Road, Norwood, 10 Mass., August 6, 2013. And then Underground 11 Storage Facility and it has a list of items 12 beneath it. And it says -- if you go down five, 13 it says, "Comply with all taxilane object-free 14 area restrictions that apply to the siting of 15 Boston Executive Helicopters' fueling equipment 16 per the airport's design standards." Do you see 17 that? 18 A. Yes. 19 Q. And right underneath that, it says, 20 "Comply with the taxilane object-free area 21 restrictions that may apply at a future date 22 regarding transfer of fuel from a bulk carrier 23 to the underground tanks." Do you see that? 24 A. Yes.</p> | <p style="text-align: right;">100</p> <p>1 marked for identification) 2 Q. (By Mr. Hartzell) Mr. Maguire, I'm 3 showing you what's been marked as Exhibit 226, 4 which appears to be -- well, let me just say 5 it's a three-page document, Bates numbers 6 BEH0004357 through BEH0004359, which appears to 7 be a copy of a letter, a handwritten note in the 8 upper left-hand. It says, "November 2013." It 9 appears to be a copy of a letter to you from 10 Mr. Donovan, I think, although it's -- do you 11 recognize the signature on the last page? 12 A. I don't. 13 Q. Do you remember receiving a letter 14 from Mr. Donovan, November 2013? 15 A. I vaguely remember this. 16 Q. I have a couple of questions for 17 you about some of the things that are in this 18 letter. If you look at the first paragraph, it 19 says -- the next to last sentence that begins 20 with "Also in November," do you see that? 21 A. Yes. 22 Q. It says, "Also in November, I sent 23 a letter requesting removal of arbitrary 24 taxilane markings on the ramp in front of my</p> |
| <p style="text-align: right;">99</p> <p>1 Q. And were these the TOFA matters 2 that you remember discussing with Mr. Butters? 3 Does that ring a bell? 4 A. To the best of my understanding, 5 Mr. Butters was a silent participant throughout 6 the site visit with FAA and MassDOT, BEH, the 7 Airport Commission chairman, myself, and our 8 engineer. He did approach me after the site 9 visit and this is what he was referring to, I 10 believe. 11 Q. When you say "This is what he is 12 referring to," putting in the taxilane 13 object-free area restrictions into -- 14 A. Yes. 15 Q. -- Boston Executive Helicopters' 16 permit to install the underground tanks at its 17 fuel farm in Norwood Airport? 18 A. Correct. 19 MR. HARTZELL: Off the record. 20 (A recess was taken) 21 MR. HARTZELL: Back on the 22 record. I would like to mark this as 23 Exhibit 226. 24 (Exhibit 226, Letter dated November 2013,</p> | <p style="text-align: right;">101</p> <p>1 hangar, as has been done elsewhere on the 2 airport." Do you know what that refers to? 3 A. I can only speculate as to what 4 he's referring to. I believe it's what had been 5 markings on the north end of the north/south 6 taxilane, which we converted into a helicopter 7 operating ramp. 8 Q. Why do you think he was requesting 9 removal of the taxilane markings? 10 A. Again, I can only speculate. 11 MR. SIMMS: Don't hazard a 12 guess. 13 Q. (By Mr. Hartzell) Don't guess or 14 speculate. Just tell me what you remember about 15 it, if you remember anything. 16 A. I don't remember. 17 Q. All right. It says in your 18 e-mail -- next paragraph, "In your e-mail of 19 March 11, you indicated that the Commission had 20 advised you that the following approval of my 21 completed fuel farm, I would be allowed to fuel 22 aircraft on areas with the direct control of the 23 Town, including helicopter parking areas." Do 24 you see that?</p> |

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| <p style="text-align: right;">102</p> <p>1 A. Yes.</p> <p>2 Q. Do you know what he's referring to</p> <p>3 there or what that refers to?</p> <p>4 A. I believe he's referring to the</p> <p>5 helicopter parking areas along the north/south</p> <p>6 taxilane. Those would be on the north end.</p> <p>7 They're adjacent to the north/south taxilane.</p> <p>8 And on the south end of the north/south</p> <p>9 taxilane, they're actually sited on the</p> <p>10 pavement.</p> <p>11 Q. Thank you. He goes on to list a</p> <p>12 number of requests. But if you go to the second</p> <p>13 page, it says, Number 4 -- wait a minute.</p> <p>14 Forgive me.</p> <p>15 I'm going to Number 3 on the second</p> <p>16 page of what's been marked as Exhibit 226. It</p> <p>17 says -- the heading is Removal of Unnecessary</p> <p>18 Restrictions on the Gate 3 Ramp. And he wants</p> <p>19 to remove -- I'm sorry, right underneath that,</p> <p>20 it says, "Remove taxilane markings on the</p> <p>21 'taxilane to nowhere' in front of my hangar."</p> <p>22 Do you know what he was talking about there?</p> <p>23 MR. FEE: Objection.</p> <p>24 A. I can only infer from his wording</p> | <p style="text-align: right;">104</p> <p>1 part, for safety concern?</p> <p>2 A. I would say it's for safety so that</p> <p>3 pilots using the taxilane can center the nose</p> <p>4 wheel on the center line and understand that</p> <p>5 there are edge limits on that surface as well.</p> <p>6 Q. Then it says, under Number 4,</p> <p>7 "Permission to fuel aircraft in the areas in</p> <p>8 front of and adjacent to my hangar." When he</p> <p>9 says permission to fuel aircraft in areas in</p> <p>10 front of his hangar, do you understand what</p> <p>11 areas he's talking about?</p> <p>12 A. No. It's not specific enough.</p> <p>13 Q. Or adjacent to the hangar, do you</p> <p>14 know what areas he's talking about?</p> <p>15 A. Again, it's not specific enough</p> <p>16 to --</p> <p>17 Q. Well, there are only two areas</p> <p>18 where Boston Executive Helicopters indicated it</p> <p>19 wanted to conduct fueling operations, initially</p> <p>20 in the taxilane object-free area outside of his</p> <p>21 building and then also east of his building,</p> <p>22 which would impede on Lot G, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And there's no other place that</p> |
| <p style="text-align: right;">103</p> <p>1 that he's talking about the markings that run</p> <p>2 east/west delineating the center line and edge</p> <p>3 marks of the taxilane.</p> <p>4 Q. Did anybody at the airport ever</p> <p>5 agree to remove the taxilane markings from in</p> <p>6 front of the BEH hangar?</p> <p>7 A. Not to my knowledge.</p> <p>8 Q. Are the taxilane markings required</p> <p>9 by any rule or regulation?</p> <p>10 A. They're in a design standard.</p> <p>11 Q. Promulgated by whom?</p> <p>12 A. By the FAA.</p> <p>13 Q. So it's an FAA regulation to have</p> <p>14 taxilane markings?</p> <p>15 A. Yes. It's a design standard.</p> <p>16 Q. Do you know why the FAA requires</p> <p>17 that, taxilane markings?</p> <p>18 A. I can only assume that the FAA, as</p> <p>19 with the taxiway or runway, is -- wants to</p> <p>20 have -- to show the limits of the taxilane as</p> <p>21 far as the center line of the taxilane in this</p> <p>22 case, and then the edge markings to delineate</p> <p>23 where the limits are.</p> <p>24 Q. Is it your understanding that's, in</p> | <p style="text-align: right;">105</p> <p>1 they could attempt to sell fuel or self,</p> <p>2 S-E-L-F, fuel, correct?</p> <p>3 MR. FEE: Objection.</p> <p>4 A. Correct.</p> <p>5 Q. So it says, "Clarify that I can</p> <p>6 park and fuel aircraft to the area in front of</p> <p>7 my hangar." Again, you don't know what area</p> <p>8 he's talking about, right?</p> <p>9 A. I don't know the exact parameters,</p> <p>10 how far from his hangar, in front of the hangar,</p> <p>11 whether it's the north side of the hangar. I'm</p> <p>12 assuming it is, but I don't want to guess.</p> <p>13 Q. I just want what your understanding</p> <p>14 is. And he says, "...allow me to work with</p> <p>15 FlightLevel on an arrangement fueling between</p> <p>16 Lots F and G between the hangars." Do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. You know what areas he's talking</p> <p>20 about there, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And did you ever prevent Boston</p> <p>23 Executive Helicopters -- or did the Airport</p> <p>24 Commission, to your knowledge, ever prevent</p> |

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| <p style="text-align: right;">106</p> <p>1 Boston Executive Helicopters from trying to work 2 with FlightLevel for some sort of arrangement 3 for fueling aircraft between Lots F and G? 4 A. No. I never prevented them from 5 seeking some type of arrangement with 6 FlightLevel. And to the best of my 7 understanding, the Airport Commission never 8 prevented such an arrangement. 9 Q. Do you know why he was asking in 10 this paragraph for -- it says, "...allow me to 11 work with FlightLevel on an arrangement for 12 fueling aircraft on Lots F and G between the 13 hangars." Do you know why he was asking you for 14 permission to do that? 15 A. No. 16 Q. Did you ever have any discussion 17 with him about that? 18 A. I never discussed with Mr. Donovan 19 or anybody at BEH anything to do with an 20 arrangement for fueling between BEH and 21 FlightLevel. 22 Q. You're aware, are you not, sir, 23 that in November of 2013 that the Airport 24 Commission made a lease offer to Boston</p> | <p style="text-align: right;">108</p> <p>1 offered, of space? 2 A. Yes. 3 Q. Why is that? 4 A. The amount of square footage was 5 comparable to -- and actually exceeded the 6 square footage of the land that BEH had claimed 7 it had property rights to between the BEH hangar 8 and the FlightLevel hangar. 9 Q. Okay. And just to follow up on 10 what you said a minute ago, so it was offered to 11 BEH. BEH turned it down, and then the offer was 12 ultimately withdrawn by the Commission? 13 A. Yes. And then after the offer was 14 withdrawn, then BEH expressed an interest in the 15 lease offer. 16 Q. We're jumping ahead of ourselves a 17 little bit, but did there come a time when there 18 was some additional lease space offered to BEH? 19 A. Yes. 20 Q. Was that 11,000-something square 21 feet? 22 A. Yes. 23 Q. And did BEH accept that lease 24 offer?</p> |
| <p style="text-align: right;">107</p> <p>1 Executive Helicopters? 2 A. Yes. 3 Q. And that was for 6,000-something 4 square feet; is that correct? 5 A. Yes. 6 Q. What's your memory as to what 7 happened with that request? 8 A. It was -- the offer was turned down 9 by Boston Executive Helicopters and the offer 10 was taken off the table, after which Boston 11 Executive Helicopters wanted to enter into that 12 lease offer. 13 Q. Let me show you another document 14 we'll mark as the next exhibit. 15 MR. HARTZELL: This is Exhibit 16 227. 17 (Exhibit 227, Letter dated November 19, 18 2013, marked for identification) 19 Q. (By Mr. Hartzell) I'm showing you 20 a different document now. Before we get to 21 that, do you know why the initial lease offer -- 22 I'm sorry, do you know why the lease offer we 23 just talked about of 6,800-something square feet 24 was made? Do you know why that amount was</p> | <p style="text-align: right;">109</p> <p>1 A. No. 2 Q. Do you know how the 3 11,000-square-foot amount was calculated or why 4 that amount was offered? 5 A. As I recall, BEH had stated with 6 the first lease offer of 6,000 square feet -- 7 and I believe it was about 6,800 square feet -- 8 that there wasn't enough land for them to 9 conduct operations. The Commission tried to 10 double the amount of square footage, give them 11 more land. 12 Q. And did BEH ever express to you the 13 reason why they decided not to accept that 14 offer? 15 A. I don't recall. 16 Q. Was that offer ultimately withdrawn 17 for the 11,000-something square feet to BEH? 18 A. I don't recall what the final 19 disposition of that lease offer was, whether it 20 was officially withdrawn or -- I just don't 21 recall. It was never affected. 22 Q. And was there subsequently a third 23 offer made to BEH? 24 A. Yes.</p> |

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| <p style="text-align: right;">110</p> <p>1 Q. And that was for 2 23,000-and-something square feet? 3 A. Yes. 4 Q. And did BEH accept that offer? 5 A. No. 6 Q. Did BEH ever express to you or did 7 you ever have an understanding as to why BEH 8 decided not to accept that offer? 9 A. I have no recollection of any 10 reason put forth by BEH as to why they didn't 11 accept. 12 Q. In connection with the lease 13 offers, was each of them ultimately withdrawn by 14 the Commission? 15 A. I know the first offer was 16 withdrawn. I'm not sure about the -- you know, 17 what the final outcome was on the second and 18 third offers. 19 Q. And the first offer was withdrawn 20 after BEH rejected it, correct? 21 A. Yes. 22 Q. I just showed you what we have 23 marked as Exhibit 227. That appears to be a 24 letter dated November 19, 2013, from Joshua Fox</p> | <p style="text-align: right;">112</p> <p>1 Q. And it says on the first page of 2 this letter, the next to last paragraph, "This 3 agreement permits BEH as successor of subleasee 4 Swift Aviation, Inc., to use the westerly 5 portion of Lease Lot G for its business 6 operations." Do you see that? 7 A. Yes. 8 Q. Did you have any discussion with 9 anybody about the content of this letter 10 separate and apart from any of your attorneys? 11 A. No. 12 Q. Do you remember anything about what 13 your reaction was when you received a copy of 14 this letter? 15 A. I don't recall whether I had seen 16 it and it was then posted in the -- within the 17 meeting packet for the Airport Commission or I 18 saw it as part of another document, but I do 19 remember seeing it. 20 Q. Do you remember any discussions 21 about it at any Norwood Airport Commission 22 meeting? 23 A. I don't recall any discussion. 24 Q. Nothing further on that.</p> |
| <p style="text-align: right;">111</p> <p>1 to Mr. DeLaria. By the way, just so the record 2 is clear, do you know who Michael DeLaria is? 3 A. Yes. 4 Q. Who is he? 5 A. He's the general manager for 6 FlightLevel. I believe his new title is Chief 7 Operating Officer. 8 Q. He works out at the airport? 9 A. Yes. 10 Q. And this document is BEH number 11 0000510 through BEH0000514. And you're shown as 12 a cc'd on this letter. Do you see that? 13 A. Yes. 14 Q. Do you remember receiving this 15 letter? 16 A. Yes. 17 Q. Do you remember having any 18 discussions with anybody about this letter 19 that's been marked as Exhibit 227? 20 A. No, I didn't have any discussions 21 with anyone. 22 Q. Did you have any questions for Mr. 23 DeLaria or Mr. Fox about this letter? 24 A. No, not that I recall.</p> | <p style="text-align: right;">113</p> <p>1 MR. HARTZELL: Could we mark 2 Exhibit 228? 3 (Exhibit 228, Letter dated December 5, 4 2013, marked for identification) 5 Q. (By Mr. Hartzell) I'm showing you 6 a document that we have marked as Exhibit 228, 7 which has Bates numbers 1866 through 1867. It's 8 dated December 5, 2013, which is a letter from 9 Nicholas Burlingham -- and by the way, just so 10 the record is clear, do you know who 11 Mr. Burlingham is? 12 A. Yes. 13 Q. Who is he? 14 A. He's the general counsel for 15 FlightLevel. 16 Q. And this is addressed to Attorney 17 Joshua Fox. And I believe you mentioned Mr. Fox 18 earlier as an attorney for BEH? 19 A. Yes. 20 Q. And this appears to be in response 21 to the letter of November 19 that we just talked 22 about that was marked as Exhibit 227. Do you 23 remember receiving what's been marked as Exhibit 24 228?</p> |

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| <p style="text-align: right;">114</p> <p>1 A. Yes.</p> <p>2 Q. And do you remember having -- do</p> <p>3 you remember having any discussions with anyone</p> <p>4 about Exhibit 228?</p> <p>5 A. I don't recall having any</p> <p>6 discussions with anyone on this.</p> <p>7 Q. Is it fair to say that after you</p> <p>8 read this letter you understood that FlightLevel</p> <p>9 did not agree that BEH had any right to conduct</p> <p>10 any operations on its -- any fueling operations,</p> <p>11 excuse me, in the areas on Lot G?</p> <p>12 A. Yes. That was my understanding.</p> <p>13 Q. Did Mr. Burlingham ever approach</p> <p>14 you or have any discussions with you about what</p> <p>15 has been marked as Exhibit 228?</p> <p>16 A. I don't recall having any</p> <p>17 one-on-one discussions with Attorney Burlingham</p> <p>18 on this. It was, I believe, included in the</p> <p>19 commission packet and left at that.</p> <p>20 Q. I'm going to show you another</p> <p>21 document.</p> <p>22 MR. HARTZELL: I'm going to</p> <p>23 mark this as the next exhibit.</p> <p>24 (Exhibit 229, Letter dated December 27,</p> | <p style="text-align: right;">116</p> <p>1 the second page, he says, the last sentence,</p> <p>2 "Consistent with these recent changes, the</p> <p>3 apron/ramp in front of Lot F should be</p> <p>4 designated as an apron/ramp, not as a</p> <p>5 taxiway/taxilane." Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you believe that Mr. Donovan was</p> <p>8 asking the airport to remove these taxilane</p> <p>9 markings so that he could conduct fueling</p> <p>10 operations in front of his hangar in the</p> <p>11 presently located object-free area?</p> <p>12 MR. FEE: Objection.</p> <p>13 A. I don't know what his intentions</p> <p>14 were.</p> <p>15 Q. Did you discuss this with him at</p> <p>16 all, this letter that's been marked as Exhibit</p> <p>17 229?</p> <p>18 A. I don't recall discussing the</p> <p>19 letter either before he drafted it or after I</p> <p>20 received it.</p> <p>21 Q. And were the taxilane markings ever</p> <p>22 removed?</p> <p>23 A. No.</p> <p>24 Q. Was there some repaving done at</p> |
| <p style="text-align: right;">115</p> <p>1 2013, marked for identification)</p> <p>2 Q. (By Mr. Hartzell) Showing you what</p> <p>3 has been marked as Exhibit 229, which is a</p> <p>4 two-page document with Bates BEH0003303 through</p> <p>5 304. It appears to be a copy of a letter dated</p> <p>6 December 27, 2013, from Christopher Donovan,</p> <p>7 president of Boston Executive Helicopters to the</p> <p>8 Norwood Airport Commission and Mr. Maguire. Do</p> <p>9 you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And do you remember receiving a</p> <p>12 copy of this letter?</p> <p>13 A. Yes.</p> <p>14 Q. So if you look at the -- and the</p> <p>15 subject matter of this letter -- one of the</p> <p>16 subject matters of this letter is that</p> <p>17 Mr. Donovan wants to remove the taxilane</p> <p>18 markings in and around the Gate 3 area?</p> <p>19 A. Yes.</p> <p>20 Q. He's claiming that Gate 3 is a</p> <p>21 vehicle gate, not an aircraft gate, so it can't</p> <p>22 be a destination for aircraft using the</p> <p>23 taxilane, then he discusses a number of other</p> <p>24 things. And if we look at the top paragraph on</p> | <p style="text-align: right;">117</p> <p>1 some point in time?</p> <p>2 A. There was some repaving done as</p> <p>3 part of his fuel farm construction and we did</p> <p>4 insist that he restore the taxilane markings,</p> <p>5 the Gate 3 taxilane.</p> <p>6 Q. And did he ultimately do that?</p> <p>7 A. Yes.</p> <p>8 Q. Is it fair to say you had to remind</p> <p>9 him do that?</p> <p>10 MR. FEE: Objection.</p> <p>11 A. I did remind him. I'm not sure</p> <p>12 whether I had to or not. I just wanted to</p> <p>13 ensure that the markings were put back in place.</p> <p>14 Q. I show you the next exhibit.</p> <p>15 MR. HARTZELL: I'm going to</p> <p>16 mark this as the next exhibit.</p> <p>17 (Exhibit 230, Letter dated January 22,</p> <p>18 2014, marked for identification)</p> <p>19 Q. (By Mr. Hartzell) I show you</p> <p>20 what's been marked as Exhibit 230, which appears</p> <p>21 to be a letter from you to Mr. Donovan dated</p> <p>22 January 22, 2014, with Bates numbers BEH0000705</p> <p>23 through 706, and ask you if you remember this</p> <p>24 letter.</p> |

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| <p style="text-align: right;">118</p> <p>1 A. Yes.</p> <p>2 Q. There's a number of things</p> <p>3 referenced in this letter, apparently an e-mail</p> <p>4 from him dated January 15 that you're responding</p> <p>5 to, at least in part, as referenced in sort of</p> <p>6 the third paragraph of the first page of Exhibit</p> <p>7 230. Do you see that?</p> <p>8 MR. FEE: Objection.</p> <p>9 A. I'm not sure -- oh, this paragraph.</p> <p>10 Q. The third thing down on the first</p> <p>11 page. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Apparently, Number 3 says, "The NAC</p> <p>14 is not interested in another TOFA/OFA review.</p> <p>15 Six months ago, in July 2013, the NAC had</p> <p>16 officials from FAA, MassDOT, Dubois & King, and</p> <p>17 Norwood Fire on-site to discuss the TOFA/OFA</p> <p>18 issue." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Could you tell us what that refers</p> <p>21 to, please?</p> <p>22 A. I'm assuming he's talking about the</p> <p>23 on-site meeting that we had to address the</p> <p>24 loading and unloading of fuel on his lot without</p> | <p style="text-align: right;">120</p> <p>1 Q. Is to request a business plan?</p> <p>2 A. Yes.</p> <p>3 Q. Do you remember BEH raising any</p> <p>4 objections to providing a business plan in</p> <p>5 connection with its initial Commercial Permit</p> <p>6 Application?</p> <p>7 A. I don't recall them raising any</p> <p>8 concerns about it.</p> <p>9 Q. And then the next sentence says,</p> <p>10 "Given your company's interest in growing its</p> <p>11 operation beyond that which was outlined in the</p> <p>12 original plan, to a full-service FBO, the NAC</p> <p>13 would like you to update said plan to support</p> <p>14 the changing interests of your company. Per the</p> <p>15 Norwood Airport minimum standards, and without</p> <p>16 getting into an unnecessary documentation</p> <p>17 exercise on your part, as a suggestion, these</p> <p>18 updates, under one cover, may include," and then</p> <p>19 you list six different items. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And Number 5 also talks -- says,</p> <p>22 "Proposed fueling location(s) at Norwood</p> <p>23 Airport, to include the prospect of fueling on</p> <p>24 the airport's west apron." Do you see that?</p> |
| <p style="text-align: right;">119</p> <p>1 triggering an object-free area violation of any</p> <p>2 kind.</p> <p>3 Q. And if you turn to the -- I'm</p> <p>4 sorry, let's continue down on this page. The</p> <p>5 first bullet, which is at the bottom of the page</p> <p>6 says, "Regarding your interest in a full-service</p> <p>7 FBO commercial permit..."?</p> <p>8 A. Yes.</p> <p>9 Q. So it says, "...as stated in the</p> <p>10 NAC's January 15th public meeting a number of</p> <p>11 years ago, BEH filed its initial Commercial</p> <p>12 Permit Application that included a business</p> <p>13 plan." Do you remember any discussions about</p> <p>14 the initial business plan that BEH filed in</p> <p>15 connection with its initial Commercial Permit</p> <p>16 Application?</p> <p>17 A. I don't recall any specific</p> <p>18 questions that the Commission might have had at</p> <p>19 the time.</p> <p>20 Q. But in any event, you do recall</p> <p>21 that the Commission -- did the Commission</p> <p>22 request a business plan in connection with BEH's</p> <p>23 initial Commercial Permit Application?</p> <p>24 A. That was a minimum standard.</p> | <p style="text-align: right;">121</p> <p>1 A. Yes.</p> <p>2 Q. Where is the west apron in relation</p> <p>3 to BEH's fuel farm?</p> <p>4 A. It's actually beyond the</p> <p>5 FlightLevel hangar Aimoli Trust building moving</p> <p>6 east past FlightLevel's facility on Lot G. It's</p> <p>7 an aircraft parking apron.</p> <p>8 Q. So in order for BEH to fuel on the</p> <p>9 west apron, it would have to load and unload</p> <p>10 fuel from its fuel farm, correct, put it in fuel</p> <p>11 trucks?</p> <p>12 A. Yes.</p> <p>13 Q. And they had already said -- they</p> <p>14 had told the FAA they weren't going to use the</p> <p>15 taxiway area, correct, for fueling?</p> <p>16 MR. FEE: Objection.</p> <p>17 Q. The object-free area, right?</p> <p>18 MR. FEE: Objection.</p> <p>19 MR. SIMMS: You can answer.</p> <p>20 A. They had told the FAA they would</p> <p>21 not conduct any fueling operations inside the</p> <p>22 object-free area, the Gate 3 taxilane</p> <p>23 object-free area.</p> <p>24 Q. And in fact, the Norwood Airport</p> |

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| <p style="text-align: right;">122</p> <p>1 Commission -- strike that.</p> <p>2 And they agreed to a restriction to</p> <p>3 conduct fueling operations east of their hangar</p> <p>4 building, correct?</p> <p>5 MR. FEE: Objection.</p> <p>6 Q. (By Mr. Hartzell) So how would</p> <p>7 they conduct fueling operations on the west</p> <p>8 apron if they couldn't load or unload trucks in</p> <p>9 the taxiway object-free area and there was a</p> <p>10 restriction on the area east of their building?</p> <p>11 MR. FEE: Objection.</p> <p>12 A. They would have to not defy any</p> <p>13 property right encroachments on the property</p> <p>14 east of Lot F and conduct mobile fueling.</p> <p>15 Q. Did they ever provide any</p> <p>16 information, plans, or schematics to Norwood</p> <p>17 Airport Commission to show how they could do</p> <p>18 that, in other words, fuel on the west apron?</p> <p>19 A. I think this is part of the fuel</p> <p>20 plan drawing that's outstanding.</p> <p>21 Q. And you also reference -- there's a</p> <p>22 footnote on the second page of what was marked</p> <p>23 as Exhibit 230. It references a Footnote 1,</p> <p>24 "The fueling schematic BEH submitted to the NAC</p> | <p style="text-align: right;">124</p> <p>1 Q. (By Mr. Hartzell) Mr. Maguire, I'm</p> <p>2 showing you a letter dated January 27, 2014, two</p> <p>3 pages, BEH0000930 through 931. And it appears</p> <p>4 to be a copy of a letter to you from</p> <p>5 Mr. Donovan. Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you remember receiving this</p> <p>8 letter?</p> <p>9 A. Yes.</p> <p>10 Q. Now, he talks about obtaining</p> <p>11 certain lease -- his desire to obtain certain</p> <p>12 lease space by BEH and talks about, the first</p> <p>13 numbered area, "Preferential lease of the West</p> <p>14 Apron." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And was the west apron encumbered</p> <p>17 by certain aircraft tie-downs in January of</p> <p>18 2014?</p> <p>19 A. Yes.</p> <p>20 Q. So he says a preferential lease of</p> <p>21 the west apron. Was that available to even</p> <p>22 lease to him at that point in time, or to BEH at</p> <p>23 that point in time?</p> <p>24 MR. FEE: Objection.</p> |
| <p style="text-align: right;">123</p> <p>1 for its meeting on July 17, 2013, shows a</p> <p>2 location east of the BEH hangar, in the vicinity</p> <p>3 of Lot G, which BEH indicated at the time that</p> <p>4 it planned to use for aircraft fueling.</p> <p>5 However, as evidenced by recent correspondence</p> <p>6 (12/5/13) from FlightLevel's attorney, Nick</p> <p>7 Burlingham, to BEH, copied to my attention,</p> <p>8 FlightLevel has not yet agreed to allow BEH to</p> <p>9 utilize the westerly portion of Lot G for</p> <p>10 airport fueling." Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And the drawing, the fueling</p> <p>13 schematic that's referenced in that footnote, is</p> <p>14 that the same fueling schematic that's</p> <p>15 referenced as Document Number 3570, Bates</p> <p>16 number, as part of what was part of</p> <p>17 Mr. Sheehan's Exhibit 120?</p> <p>18 A. Yes.</p> <p>19 Q. Let me show you the next, Exhibit</p> <p>20 231.</p> <p>21 MR. HARTZELL: I would like to</p> <p>22 mark this as Exhibit 231.</p> <p>23 (Exhibit 231, Letter dated January 27,</p> <p>24 2014, marked for identification)</p> | <p style="text-align: right;">125</p> <p>1 A. I recall much of that lease was</p> <p>2 being utilized by our aircraft tie-down</p> <p>3 customers.</p> <p>4 Q. And so the record is clear, could</p> <p>5 you explain what an aircraft tie-down is?</p> <p>6 A. This would be similar to a slip at</p> <p>7 a marina basically for aircraft to -- the owners</p> <p>8 to tie down the aircraft with the intent of</p> <p>9 using the airport as a base of operations,</p> <p>10 having the aircraft available on an open ramp</p> <p>11 designated for that particular customer,</p> <p>12 designated for their use, under whatever</p> <p>13 conditions the Airport Commission decided at</p> <p>14 that time.</p> <p>15 Q. Thank you. I'm going to show you</p> <p>16 another e-mail, which I don't think you were</p> <p>17 copied on.</p> <p>18 MR. HARTZELL: I'm going to</p> <p>19 mark this as Exhibit 232.</p> <p>20 (Exhibit 232, E-mails and Enclosures dated</p> <p>21 January 2014, marked for identification)</p> <p>22 Q. (By Mr. Hartzell) Mr. Maguire, I'm</p> <p>23 showing you 232, Bates numbers BEH0010317</p> <p>24 through 321, which appears to be some e-mails</p> |

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| <p style="text-align: right;">126</p> <p>1 and enclosures between Lisa Lesperance of FAA 2 and Mr. Donovan dated January 2014. Have you 3 ever seen any of these e-mails before? 4 A. No. 5 Q. I'm going to show you a document 6 marked as Exhibit 94 at Mr. Odstrchel's 7 deposition. And this is a two-page document 8 with Bates numbers NORWOO1318 through 1319 and 9 it appears to be an e-mail from you at the top 10 dated May 21, 2015, to Brandon Moss with a copy 11 to Mark Ryan. Do you see that? 12 A. Yes. 13 Q. And the first e-mail appears to be 14 forwarding an e-mail from Mr. Greeley. Is he 15 the Norwood fire chief? 16 A. Yes. 17 Q. It's to you dated February 12, 18 2014, and then there's an e-mail at the bottom 19 from you to Mr. Butters and Mr. Greeley and 20 Mr. Thomas Wynne. Could you briefly identify 21 Mr. Wynne for the record, please? 22 A. Tom Wynne was the Airport 23 Commission chairman at the time. 24 Q. In February of 2014?</p> | <p style="text-align: right;">128</p> <p>1 A. I believe in this case I'm actually 2 treating them as one in the same. The design 3 plan is the fueling plan. 4 Q. Because the Norwood Fire Department 5 has to sign off on the underground fuel tanks, 6 correct? 7 A. Yes. 8 Q. And the Norwood Fire Department 9 does not sign off on an actual fueling plan that 10 shows the actual location of fuel trucks, does 11 it? 12 A. No. I wanted to ensure that the 13 fire department had the same information we had 14 on the stamped plans from BEH's engineer. 15 Q. And the only stamped plans that you 16 received from BEH's engineer were the plans that 17 we showed you earlier about the location of the 18 actual fuel tanks themselves, correct? 19 A. That's correct. 20 Q. And you've never received any 21 stamped plans from an engineer from BEH 22 concerning its proposed fueling operations, in 23 other words, how it proposes to fuel any 24 aircraft?</p> |
| <p style="text-align: right;">127</p> <p>1 A. Yes. 2 Q. And if you look, there is some 3 language that is underlined where it says, "Good 4 morning, Paul." Do you see that at the bottom 5 of the first page -- 6 A. Yes. 7 Q. -- of what was marked as Exhibit 8 94? 9 A. Yes. 10 Q. And it says, "As part of the NAC's 11 permit process, under the airport's minimum 12 standards, the board requires that the applicant 13 fueling plan be approved by both my office and 14 Norwood Fire Department. So my first question: 15 Has BEH provided you with a copy of their plan 16 yet? BEH has already provided me with a copy." 17 Do you see that? 18 A. Yes. 19 Q. Do you know what copy that is 20 referred to in this e-mail? 21 A. Those are the design plans for the 22 fuel farm with the technical details. 23 Q. Well, it talks about a fueling 24 plan. Is that different from the design plans?</p> | <p style="text-align: right;">129</p> <p>1 A. No. I have not received that, 2 other than the unstamped -- unscaled plans, plan 3 drawings that we have. 4 Q. The schematic that we have as 5 Number 3570 that we talked about earlier today 6 that's part of Mr. Sheehan's deposition, Exhibit 7 120, correct? 8 A. Yes. 9 Q. Did there come a point in time when 10 the Norwood Airport Commission decided to offer 11 some space to -- we're getting back to lease 12 space again. By the way, maybe I can short 13 circuit some of this. 14 So was the 6,800-something square 15 feet we talked about earlier part of the west 16 apron? 17 A. Yes. 18 Q. And that's the lease offer that was 19 offered to them and they refused it and it was 20 ultimately withdrawn, right? 21 A. Yes. 22 MR. HARTZELL: Could I have 23 this marked as Exhibit 233? 24 (Exhibit 233, Airport Commission Meeting</p> |

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| <p style="text-align: right;">130</p> <p>1 Minutes, Regular Business Meeting, 2 February 12, 2014, marked for 3 identification) 4 Q. (By Mr. Hartzell) I'm showing you 5 what has been marked as Exhibit 233, which are 6 Airport Commission meeting minutes from February 7 12, 2014, with BEH numbers 0002962 through 2964. 8 Do you see those? 9 A. Yes. 10 Q. And on the first page, BEH's Chris 11 Donovan says, "Hangar update." Do you see that? 12 A. Yes. 13 Q. As of February 12, 2014, is it fair 14 to say that the construction of the building was 15 still in process? 16 A. Yes. 17 Q. And that the fuel farm installation 18 had not yet occurred? 19 A. Yes, that's correct. 20 Q. All right. 21 MR. HARTZELL: Next exhibit, 22 please. 23 (Exhibit 234, Airport Commission Meeting 24 Minutes, Regular Business Meeting, March</p> | <p style="text-align: right;">132</p> <p>1 2014, that was the time of the west apron lease 2 offer from 6,889 square feet. Does that sound 3 right to you? 4 A. I don't recall the date of the 5 lease offer. 6 Q. Let me -- we'll do this quickly. 7 MR. HARTZELL: This is Exhibit 8 235. 9 (Exhibit 235, Letter dated March 17, 2014, 10 marked for identification) 11 Q. (By Mr. Hartzell) I'm showing you, 12 sir, what's been marked as Exhibit 235, which is 13 a copy of a letter from you to Chris Donovan 14 dated March 17, 2014. I apologize for the light 15 copying on the first page, but it appears to 16 reference the west apron lease offer for 6,889 17 square feet. Do you see that? 18 A. Yes. 19 Q. Does this refresh your recollection 20 as to when the first offer was made for space -- 21 A. Yes. 22 Q. -- to BEH? And that was in March 23 of 2014? 24 A. Yes.</p> |
| <p style="text-align: right;">131</p> <p>1 12, 2014, marked for identification) 2 Q. (By Mr. Hartzell) Showing you 234, 3 which is BEH0002978 through 2979, which appear 4 to be March 12, 2014, Airport Commission meeting 5 minutes. Do you see those? 6 A. Yes. 7 Q. Does this show you were in 8 attendance? 9 A. Yes. 10 Q. And if you will look at the second 11 page under new business, it says, "Boston 12 Executive Helicopters (BEH) full-service, 13 fixed-base operator interest." Do you know if 14 at around this time, in late winter/early spring 15 2014, that was the time that BEH was expressing 16 an interest before the Board -- I'm sorry, 17 before the Commission to operate a full-service, 18 fixed-based operator? 19 A. I'm not sure this was the first 20 time that they had expressed interest. But 21 clearly, this is an agenda item, so I -- I just 22 don't know whether that was the first time they 23 had expressed an interest. 24 Q. Okay. So another item, in March of</p> | <p style="text-align: right;">133</p> <p>1 MR. HARTZELL: Next exhibit, 2 please? 3 (Exhibit 236, Letter dated March 21, 2014, 4 marked for identification) 5 Q. (By Mr. Hartzell) I'm showing you, 6 sir, what has been marked as Exhibit 236, which 7 appears to be a copy of a letter with Bates 8 BEH0003056 through 3071. It's a letter from 9 March 21, 2014, from you to Mr. Donovan and has 10 a number of enclosures. Do you remember this 11 letter sent to BEH? 12 A. Yes. 13 Q. And why was this letter sent? 14 A. Because BEH was operating an 15 aircraft in an unauthorized part of the airport 16 and I felt in an area that was unsafe. 17 Q. And what was the aircraft? 18 A. It was one of their turbine 19 aircraft. 20 Q. Was it a helicopter? 21 A. Yes. 22 Q. And it references -- under Tab A, 23 it says, "Five video stills...having taxied up 24 to the Gate 3 taxilane, landing just off of the</p> |

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| <p style="text-align: right;">134</p> <p>1 Gate 3 taxilane..." Do you know where 2 approximately that is? 3 A. Yes. 4 Q. Where is that? 5 A. That is just to the east of 6 FlightLevel's Aimoli Trust Building in the 7 vicinity of an electrical transformer. And we 8 had a picnic table or several picnic tables out 9 there at the time as well. So this area was 10 just to the west of the west apron, just to the 11 east of the Aimoli Trust hangar complex. 12 Q. Thank you. Was this issue 13 remedied? 14 A. We did not have a recurrence of 15 this activity after that, of this particular 16 flight activity. 17 Q. In April of 2014, do you remember 18 Mr. Fox stating that -- either Mr. Fox or 19 Mr. Donovan stating at an Airport Commission 20 meeting that they wanted to have 100,000 square 21 feet for lease at the airport? 22 A. I do recall that. 23 Q. In April of 2014, was there 100,000 24 square feet available to lease to BEH out at the</p> | <p style="text-align: right;">136</p> <p>1 A. As I recall, yes. 2 Q. Now, we were earlier talking about 3 when BEH was expressing an interest to become a 4 full-service FBO and that the Airport Commission 5 was requesting certain financial information 6 from it. Do you remember that testimony? 7 A. Yes. 8 Q. Do you remember we talked about the 9 initial business plan, which was done years 10 before. And they had -- they provided the 11 business plan, and then there was additional 12 information requested of BEH in connection with 13 their design to become a full-service FBO. 14 Now, what was -- do you remember 15 what the information was that the Norwood 16 Airport Commission was seeking? 17 A. In 2014? 18 Q. Sure, yes. 19 A. And this is -- 20 Q. In connection with -- excuse me, 21 BEH was expressing an interest in becoming a 22 full-service FBO. There was a reference in the 23 earlier documents to requesting the -- the 24 Norwood Airport Commission was requesting</p> |
| <p style="text-align: right;">135</p> <p>1 airport? 2 A. I don't recall there being that 3 much space. Certainly, on the west apron there 4 were aircraft tie-down customers on that parking 5 apron. And that apron, when you consider the 6 north/south taxilane object-free area and Gate 3 7 taxilane object-free area, there's not -- I 8 don't believe it amounts to 100,000 square feet. 9 Q. In order for 100,000 square feet in 10 the spring of 2014 to be leased to Boston 11 Executive Helicopters, would either leases have 12 to have been broken by the NAC? 13 MR. FEE: Objection. 14 A. The Airport Commission had aircraft 15 tie-down customers on the west apron. There 16 were already business arrangements with aircraft 17 tie-down customers. 18 Q. So the answer would be yes? 19 MR. FEE: Objection. 20 Q. (By Mr. Hartzell) In other words, 21 some of the 100,000 square feet BEH was 22 requesting was subject to existing leases, 23 correct? 24 MR. FEE: Objection.</p> | <p style="text-align: right;">137</p> <p>1 additional financial information from BEH in 2 connection with that. Do you remember that? 3 A. Yes. I don't have -- I actually 4 don't have perfect recollection on what the 5 financial information they were asking for at 6 that time was. 7 Q. Okay. Let's go back to Exhibit 8 230. If you would look at Exhibit 230, which we 9 talked about earlier, which is a letter that you 10 had sent to Mr. Donovan. If you look at the 11 second page, you were giving him a suggestion of 12 certain financial information? 13 A. Mm-hmm. 14 Q. And could you explain why you were 15 making that suggestion to Mr. Donovan? 16 MR. FEE: Objection. I'm 17 sorry, are you on 231? 18 MR. HARTZELL: 230. 19 Q. (By Mr. Hartzell) Or why the 20 Commission was asking that have -- no, it was 21 your suggestion. 22 MR. FEE: To the extent any of 23 that is on the record, objection. 24 Q. (By Mr. Hartzell) Anyway, just</p> |

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| <p style="text-align: right;">138</p> <p>1 look at the second page of what was marked as 2 Exhibit 230? 3 A. I was referencing back to the 4 minimum standards and just using those as a 5 guide post for the five points that are -- some 6 of those points that are made. I don't recall 7 beyond that. 8 Q. Do you know why the Norwood Airport 9 Commission was looking for financial information 10 from Boston Executive Helicopters when it 11 expressed its interest in becoming a 12 full-service FBO? 13 A. It would be speculative on my part. 14 MR. SIMMS: Then don't 15 speculate. 16 Q. (By Mr. Hartzell) Were you present 17 during any Airport Commission meetings when any 18 Airport Commission member said why it was 19 requesting additional finance information from 20 Boston Executive Helicopters? 21 A. Yes. I just don't recall exactly 22 the rationale that they used. 23 Q. Was it because this was new and 24 different expanded business?</p> | <p style="text-align: right;">140</p> <p>1 Q. And are these other individuals 2 copied on here e-mails for the then Norwood 3 Airport Commission members? 4 A. That's correct. 5 Q. And do you remember -- are you 6 requesting certain financial information from 7 Mr. Donovan, or is this e-mail requesting 8 additional information by the Airport 9 Commission? 10 A. Yes. 11 Q. And again, do you have any memory 12 as to why the NAC was requesting this 13 information back in April of 2014? 14 A. I understood it to be the 15 Commission's interest in having this information 16 to assess, BEH's financial viability to perform 17 as an FBO. 18 Q. Over the course of your time as 19 manager at the airport, to your knowledge, has 20 Norwood Airport Commission requested other 21 companies' financial information when they were 22 requesting a permit to operate at the airport? 23 A. Yes. 24 Q. Including business plans and</p> |
| <p style="text-align: right;">139</p> <p>1 MR. FEE: Objection. 2 A. I don't recall. 3 MR. HARTZELL: I'm going to 4 mark this as the next exhibit. 5 (Exhibit 237, E-mail dated April 30, 2014, 6 marked for identification) 7 Q. (By Mr. Hartzell) I'm going to 8 show you a copy of a document that does not have 9 a Bates number on it -- oh, it does at the 10 bottom, I'm sorry. It's BEH000 -- it looks like 11 3040. It appears to be an e-mail dated April 12 30, 2014, from you to Mr. Donovan -- do you see 13 that -- copying additional people? 14 A. Yes. 15 Q. Are the copies of the additional 16 people Brandon Moss -- and just for the record, 17 who is he? 18 A. He's the town counsel, Norwood town 19 counsel. 20 Q. And I see Mr. Raymond is copied on 21 here? 22 A. Yes. 23 Q. He is your assistant, correct? 24 A. Correct.</p> | <p style="text-align: right;">141</p> <p>1 financial information? 2 A. Yes. 3 Q. Has it done that with every company 4 operating at the airport? 5 A. Any company looking for a 6 commercial permit. 7 Q. Do you know if FlightLevel provided 8 such information when it took over from Eastern 9 Air Charter? 10 A. They did provide information to the 11 Commission. 12 Q. Do you remember what it was, just 13 the types of information? 14 A. I recall the pro forma projections 15 and some of the structure of the company, but 16 beyond that I don't recall. 17 Q. I'm going to show you some other 18 minutes here. 19 MR. HARTZELL: Can I have this 20 marked as an exhibit, please? 21 (Exhibit 238, Airport Commission Meeting 22 Minutes, Regular Business Meeting, May 14, 23 2014, marked for identification) 24 Q. (By Mr Hartzell) I'm showing you</p> |

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| <p style="text-align: right;">142</p> <p>1 what appears to be a partial copy of draft 2 minutes from May 14, 2014, at the Norwood 3 Airport Commission. It does not appear that we 4 have the first page. I don't know why. These 5 are numbered BEH0000138 through 141. Do you 6 remember if you were at the Airport Commission 7 meeting in May of 2014? 8 A. Yes, I was there. 9 Q. And the top bullet says, "BEH 10 lease/FBO interest Joshua Fox, Rollins, Rollins 11 & Fox." It says, "As indicated to town counsel, 12 Brandon Moss, on May 13, 2014, BEH has agreed to 13 accept NAC's proposal on March 17, 2014, for the 14 lease of 6,889 square foot of space at the west 15 apron. Mr. Fox would like to reiterate the 16 ongoing request, that BEH needs additional apron 17 space in order to materialize its business plan, 18 which was submitted to NAC this month and is 19 willing to pay a five-year lease in advance." 20 Do you see that? 21 A. Yes. 22 MR. FEE: For the record, I'm 23 going to object to any questions about 24 Exhibit 238.</p> | <p style="text-align: right;">144</p> <p>1 Q. (By Mr. Hartzell) So let's do 2 this. I'm showing you what has been marked as 3 Exhibit 83 at Mr. Odstrchel's deposition, which 4 appears to be a complete copy of the pages 5 starting with BEH000137 through 141 of the 6 document that we marked as Exhibit 238 that I 7 just handed to you. And I will ask you 8 questions about this document, which appears to 9 be a more complete copy than the one I just 10 asked you about. 11 And so at the top of Page 2, 12 BEH000138 says -- and I read to you what it said 13 before, "BEH lease/FBO interest." It says, "BEH 14 agreed to accept NAC's proposal..." What do you 15 remember about the sequence of events that 16 happened with this particular lease space that 17 was offered to BEH? 18 MR. FEE: Objection. 19 A. I recall there being an offer to 20 BEH and at least one of the Commissioners, Kevin 21 Shaughnessy, encouraged BEH to take the offer; 22 and if their business was starting to grow 23 beyond the lease offer limits, that they 24 could -- they were welcome to come back to</p> |
| <p style="text-align: right;">143</p> <p>1 MR. HARTZELL: If I remember 2 correctly, I think this is a document you 3 marked in one of your depositions. 4 MR. FEE: I think you should 5 probably use the one that has the front 6 page. 7 MR. HARTZELL: This is what we 8 have. This came from your production and 9 I don't know if I got the first page or 10 not. 11 MR. FEE: It's clearly missing 12 the front page. That's the nature of my 13 objection. 14 MR. HARTZELL: If I had the 15 front page, I'd put it on there. 16 MR. SIMMS: Hold on. 17 MR. FEE: It's just an 18 objection. 19 MR. HARTZELL: I think 20 Mr. Simms has a copy of this with the 21 first page. 22 MR. FEE: These minutes in 23 entirety are marked as Exhibit 83 to Mr. 24 Odstrchel's deposition.</p> | <p style="text-align: right;">145</p> <p>1 the -- BEH was welcome to come back to the 2 Commission for more land. 3 Q. But there's a statement here I am 4 puzzled about. It says, "As indicated to the 5 town counsel, Brandon Moss, on May 23, 2014, BEH 6 agreed to accept NAC's proposal on March 17, 7 2014 for lease of 6,889 square foot." Do you 8 see that? 9 A. Yes. 10 Q. Do you know what that's referring 11 to? 12 A. I believe that was a 13 conversation -- a phone conversation between 14 Attorney Fox and Attorney Moss regarding the 15 lease offer that apparently was initially turned 16 down by BEH. BEH refused the offer and it had 17 been taken off the table. 18 Q. And what happened after May 2014 19 with regard to that offer? 20 A. I'm not sure I understand the 21 question. 22 Q. Well, it's a little confusing for 23 me at least. It sounds like BEH was offered the 24 lease space for 6,889 square feet on the west</p> |

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| <p style="text-align: right;">146</p> <p>1 apron. It did not accept it, and then that 2 offer was withdrawn from the Commission. Now, 3 did that occur before May 14, 2014? 4 MR. FEE: Objection. Did what 5 occur? 6 MR. HARTZELL: What I just 7 said. If the witness does not understand, 8 he can answer. 9 A. I don't understand completely. I 10 think I understand, but maybe if you could 11 rephrase it. 12 MR. SIMMS: Wait a minute, I 13 want you to take your time. Start from 14 Page 1. Read the whole end of the section 15 on the second page of the document that's 16 talking about the lease, okay? 17 THE WITNESS: Well, there is a 18 lot going on. 19 MR. SIMMS: There's no 20 question pending. 21 Q. (By Mr. Hartzell) Well, there was 22 a question, but I don't think he understood it. 23 MR. SIMMS: He said, I don't 24 understand it. So let him ask the</p> | <p style="text-align: right;">148</p> <p>1 Boston Executive Helicopters said it wanted to 2 accept the lease proposal, correct? 3 A. Yes. 4 Q. And what happened concerning the 5 lease proposal after that date -- 6 MR. SIMMS: If anything. 7 Q. (By Mr. Hartzell) -- if anything? 8 MR. FEE: Objection. 9 A. It was withdrawn. The lease offer 10 was withdrawn. 11 Q. Okay. Did you see a business plan 12 that Boston Executive Helicopters submitted to 13 the Norwood Airport Commission in July of 2014? 14 A. Yes, I recall there being a 15 business plan. 16 Q. This was marked as Exhibit 84 at 17 Mr. Odstschel's deposition. And I want to ask 18 you, is this a copy of that business plan? 19 A. Yes. 20 Q. Do you know, were there follow-up 21 questions by Airport Commission members 22 concerning that business plan? 23 A. I don't recall. 24 Q. Did you have any questions -- let</p> |
| <p style="text-align: right;">147</p> <p>1 question anew, please. 2 Q. (By Mr. Hartzell) Mr. Maguire, I 3 apologize for belaboring this point. I'm simply 4 trying to understand what you remember 5 happening. So there was an offer made by the 6 NAC to BEH to lease 6,889 square feet on the 7 west apron sometime, I believe, in 2014 or late 8 2013; is that correct? 9 A. Yes. 10 Q. And Boston Executive Helicopters 11 did not accept that offer initially; is that 12 correct? 13 A. That's correct. 14 Q. And that offer was later withdrawn 15 by the Norwood Airport Commission because Boston 16 Executive Helicopters had not accepted it, 17 correct? 18 A. As I understand it, that is what 19 happened. It was withdrawn. 20 Q. And then it appears in May of 2014 21 there is a conversation between -- as you just 22 testified, between Mr. Moss, town counsel for 23 the Town of Norwood, and Mr. Fox or somebody 24 representing Boston Executive Helicopters where</p> | <p style="text-align: right;">149</p> <p>1 me back up. Did you read what has been marked 2 as Exhibit 84 at Mr. Odstschel's deposition? 3 A. Yes, I did read it. 4 Q. Do you remember if you had any 5 questions for follow-up to Boston Executive 6 Helicopters from this July 2014 business plan? 7 A. I don't recall having questions. 8 There were typos that were a little confusing, 9 but I don't recall having any questions. 10 Q. In 2014 -- let me back up. 11 Do you know an individual by the 12 name of Oulten Hues, H-U-E-S? 13 A. There is an Oulton Hues, and then 14 there is an Oulten Hues, Jr. 15 Q. You know both of them? 16 A. I know both of them. 17 Q. How is it that you know Mr. Hues, 18 Sr.? 19 A. He was a former airport 20 commissioner and was a base aircraft owner and 21 was a frequent visitor of the airport. 22 Q. And Oulten Hues, Jr., was he ever 23 on the Norwood Airport Commission? 24 A. Yes.</p> |

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| <p style="text-align: right;">150</p> <p>1 Q. So it was the junior that was on 2 the Airport Commission, not the senior? 3 A. They were both on the Airport 4 Commission. 5 Q. When was Mr. Hues, Sr., on the 6 Commission? 7 A. Prior to my start date of 8 employment, so it had to have been prior to 9 1995. 10 Q. Okay. And then tell me, when did 11 you meet Mr. Hues, Jr.? 12 A. I first met him at a health club I 13 worked at. He was one of the clients. I met 14 him there. It was a health club right up the 15 road from Norwood Airport. 16 Q. And then at some point in time did 17 Mr. Hues operate -- every time from now on every 18 time I talk about Mr. Hues, I'm going to 19 reference Mr. Hues, Jr.? 20 A. Okay. 21 Q. Did Mr. Hues, Jr., operate an 22 aircraft out of Norwood Airport? 23 A. Yes. 24 Q. Did he own a plane?</p> | <p style="text-align: right;">152</p> <p>1 Q. Does he still keep his plane or his 2 mother's plane out at Norwood Airport? 3 A. No. 4 Q. When did that stop? 5 A. I believe it stopped shortly after 6 he was terminated by the Board of Selectmen. 7 Q. Approximately what date was that? 8 A. That was December of 2014. It was 9 either December 2014 or December 2015. I don't 10 recall which year. 11 MR. SIMMS: I believe it's 12 December 2015. 13 Q. (By Mr. Hartzell) Did Mr. Hues 14 file a Part 13 Complaint with the FAA? 15 A. Yes. 16 Q. Did you ever have any conversations 17 with Mr. Hues about why that Complaint was 18 filed? 19 A. No. 20 Q. Did you ever observe Mr. Hues and 21 Mr. Donovan together? 22 A. Yes. 23 Q. How often? 24 A. Outside of Airport Commission</p> |
| <p style="text-align: right;">151</p> <p>1 A. I believe it was his mother's 2 plane. It was in his mother's name. 3 Q. Where did he store the plane? 4 A. He had the plane, I believe, tied 5 down for a while, and then it was stored with 6 Boston Executive Helicopters for a period. 7 Q. Do you remember what kind of plane 8 it was? What type of plane? 9 A. I believe it was a Piper Comanche. 10 Q. Is that a propeller plane? 11 A. Yes. 12 Q. Is it single or double? 13 A. Single engine, piston engine. 14 Q. Did it have markings or particular 15 colors on it? 16 A. It was white and may have been 17 marked with red markings. I don't recall 18 exactly, but it was definitely white. 19 Q. Did it have any identifying numbers 20 on it, that you remember? 21 A. It had a tail number on it. 22 Q. Do you remember what the tail 23 number was or is? 24 A. Not with 100 percent accuracy.</p> | <p style="text-align: right;">153</p> <p>1 meetings and maybe once or twice outside of the 2 BEH hangar. 3 Q. Did you ever observe Mr. Hues 4 inside the BEH hangar? 5 A. No. 6 Q. And you said you observed them. 7 Did you observe them speaking to each other? 8 A. Yes. 9 Q. Are you aware of any business 10 relationship between Mr. Hues and BEH or 11 Mr. Donovan? 12 A. There had been -- well, he had been 13 a hangar tenant and Mr. Hues had worked at the 14 prison with Mr. Donovan. 15 Q. Do you know what Mr. Hues' job was 16 at the prison? 17 A. I believe he was a guard. 18 Q. During the time that Mr. Hues 19 operated what you believe to be his mother's 20 plane at Norwood Airport, do you know what Mr. 21 Hues' job was? 22 A. He was a -- his last job was a 23 corporate pilot. 24 Q. Was he flying for a particular</p> |

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| <p style="text-align: right;">154</p> <p>1 company?</p> <p>2 A. Yes.</p> <p>3 Q. Do you remember what the company</p> <p>4 was?</p> <p>5 A. I don't recall the name of the</p> <p>6 company.</p> <p>7 Q. Did you ever have any conversations</p> <p>8 with the selectmen about Mr. Hues' time on the</p> <p>9 Airport Commission?</p> <p>10 A. I don't recall having a</p> <p>11 conversation with any of the selectmen. I</p> <p>12 talked to the Human Resource Department. They</p> <p>13 may have talked to the selectmen, but I don't</p> <p>14 recall talking to the selectmen directly.</p> <p>15 Q. When you say the Human Resource</p> <p>16 Department, that's the Human Resource Department</p> <p>17 for the Town of Norwood?</p> <p>18 A. Yes.</p> <p>19 Q. And you talked to them about Mr.</p> <p>20 Hues?</p> <p>21 A. Yes.</p> <p>22 Q. What was the subject of that</p> <p>23 conversation?</p> <p>24 A. Mr. Hues' actions and</p> | <p style="text-align: right;">156</p> <p>1 Ryan. And there had been an assault charge by</p> <p>2 Mr. Hues. He had claimed that Chairman Wynne at</p> <p>3 the time had assaulted him at Town Hall.</p> <p>4 Q. Were you present during that</p> <p>5 alleged incident?</p> <p>6 A. No.</p> <p>7 Q. Did you attend any criminal</p> <p>8 proceedings or any court proceedings in</p> <p>9 connection with Mr. Hues?</p> <p>10 A. Yes.</p> <p>11 Q. What did you attend?</p> <p>12 A. I attended the hearing in Dedham,</p> <p>13 which Mr. Wynne and Mr. Hues were there. There</p> <p>14 was myself and at least Mr. Ryan and I believe</p> <p>15 Mr. Raymond was there as well supporting Mr.</p> <p>16 Wynne.</p> <p>17 Q. Do you know what the outcome of</p> <p>18 that hearing was?</p> <p>19 A. I believe the charges were</p> <p>20 dismissed. The two parties, Mr. Wynne and Mr.</p> <p>21 Hues, were able to resolve it.</p> <p>22 Q. Was it shortly after that that Mr.</p> <p>23 Wynne resigned as chairman of the Airport</p> <p>24 Commission?</p> |
| <p style="text-align: right;">155</p> <p>1 intimidations.</p> <p>2 Q. Can you give me some more details</p> <p>3 about what you observed?</p> <p>4 A. They accused my assistant of having</p> <p>5 drugs in the airport service vehicle and --</p> <p>6 Q. Hold on. When did that happen?</p> <p>7 A. A very short period of time after</p> <p>8 he was appointed by the Board of Selectmen.</p> <p>9 Q. And what happened as a result of</p> <p>10 that accusation?</p> <p>11 A. I went to the Human Resource</p> <p>12 Department and was prepared to file a complaint.</p> <p>13 And I was encouraged not to with the</p> <p>14 understanding if it were to continue that the</p> <p>15 Human Resource Department would formalize the</p> <p>16 complaint.</p> <p>17 Q. And what were you prepared to file</p> <p>18 a complaint about?</p> <p>19 A. His harassment and his</p> <p>20 intimidation. He was starting to send e-mails,</p> <p>21 very intimidating e-mails, harassing e-mails.</p> <p>22 Q. To who?</p> <p>23 A. To myself and, I understand, the</p> <p>24 Airport Commission chairman at the time, Mark</p> | <p style="text-align: right;">157</p> <p>1 A. Yes.</p> <p>2 Q. Did you ever have any conversations</p> <p>3 with Mr. Wynne as to why he resigned as the</p> <p>4 chairman of the Norwood Airport Commission?</p> <p>5 A. Yes.</p> <p>6 Q. What were those conversations?</p> <p>7 A. He was not happy that the Town of</p> <p>8 Norwood didn't reimburse him for the expenses of</p> <p>9 hiring an attorney and he was a little</p> <p>10 humiliated by all the press coverage it had</p> <p>11 gotten.</p> <p>12 Q. What was Mr. Wynne's job? Was he</p> <p>13 retired at the time?</p> <p>14 A. He is a real estate broker.</p> <p>15 Q. You mentioned harassing and</p> <p>16 intimidating e-mails. Was Mr. Hues threatening</p> <p>17 to do something or do you remember what the</p> <p>18 content of those e-mails were?</p> <p>19 A. I remember there being a public</p> <p>20 records requests and he was very antagonistic.</p> <p>21 The tone on most of the e-mails for the most</p> <p>22 part were very antagonistic.</p> <p>23 Q. Did he ever threaten you?</p> <p>24 A. He didn't threaten me directly,</p> |

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| <p style="text-align: right;">158</p> <p>1 although he did go up to Town Hall soon after he 2 was appointed to ask for my job description. 3 And some of the secretaries actually passed that 4 information on to me. 5 Q. Okay. Did he ever speak to you, 6 Mr. Hues? 7 A. He didn't speak to me directly. 8 Q. Did he ever call you on the 9 telephone? 10 A. No, not that I recall. 11 Q. You said earlier he made some 12 accusations there were drugs in one of the 13 vehicles out at the airport. Is that what you 14 said? 15 A. Yes. 16 Q. Did you look into that issue? 17 A. We had a contractor with my 18 assistant at the time, a contractor who has 19 worked for the Town of Norwood for years. He 20 corroborated what my assistant told me. I knew 21 there were no drugs in the vehicle. 22 Q. Do you know if that was ever 23 communicated to Mr. Hues, there were no drugs in 24 any vehicle?</p> | <p style="text-align: right;">160</p> <p>1 Q. You mentioned this day-long 2 compliance inspection by the FAA. Do you 3 remember when that occurred? 4 A. I'm going to say maybe August of 5 2015. 6 Q. And what was the result of that 7 inspection? 8 A. There were some nominal issues, 9 which were pretty easily corrected, and the FAA 10 accepted our corrective action plan or some 11 things that needed to be put on our layout plan 12 drawings. There was a picnic table that needed 13 to be removed, nothing major. 14 Q. Did the subject of Boston Executive 15 Helicopters and their fuel farm and desire to 16 dispense fuel come up during that inspection? 17 A. Mr. Vick asked for a site 18 inspection, as well as the paperwork we went 19 through, and he asked me to show him the Boston 20 Executive Helicopters facility. It wasn't 21 completed. I'm not sure how far along they were 22 in the construction, but he wanted to see it and 23 he wanted to see the proximity to the taxilane. 24 He also wanted me to show him the auto storage</p> |
| <p style="text-align: right;">159</p> <p>1 A. Mr. Raymond did tell him that. 2 Q. Did anyone ever explain to you what 3 the basis was for Mr. Hues' claims that there 4 were drugs in the vehicle? 5 A. No. 6 Q. Any other interactions of any kind 7 with Mr. Hues other than what you have told me 8 about? 9 A. Obviously, he filed a Part 13. He 10 also insisted on sitting in a day-long 11 compliance inspection that the FAA conduct to 12 ensure that the Airport Commission and I were 13 meeting all the grant assurance obligations of 14 the federal government. And he, at the meeting, 15 just started to suggest to the compliance 16 officer that the Airport Commission should not 17 be asking for financial records from anybody. 18 Q. Did he explain why he didn't 19 believe that the Airport Commission should not 20 be asking for financial records? 21 A. No. He just said that as a 22 suggestion. And Compliance Officer Tom Vick 23 made it clear to him that the Airport Commission 24 should be asking for financial information.</p> | <p style="text-align: right;">161</p> <p>1 lot. 2 Q. What is that? 3 A. It's a piece of property that the 4 Airport Commission has control of, the Town 5 owns, that is actually physically removed by the 6 airport proper by wetlands or privately held 7 land that Boston Executive Helicopters had felt 8 that the Commission should have been put to some 9 other use other than auto storage. 10 Q. Was the inspection described as a 11 land-use inspection? 12 A. It was a land-use compliance 13 inspection. 14 Q. Okay. How often do those occur? 15 A. Almost never. We were the only -- 16 I was told by MassDOT aeronautics that they had 17 never been through one. Mr. Willenborg, the 18 administrator, said he had never gone through 19 one, so they actually had a MassDOT 20 representative at the meeting to see how it 21 runs. 22 Q. Have other airports in 23 Massachusetts had those types of inspections, do 24 you know?</p> |

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| <p style="text-align: right;">162</p> <p>1 MR. FEE: Objection.</p> <p>2 A. I don't know. But from the</p> <p>3 comments of Mr. Willenborg, I don't believe it</p> <p>4 happens often.</p> <p>5 Q. I show you what we'll mark as</p> <p>6 Exhibit 239.</p> <p>7 MR. HARTZELL: I'm going to</p> <p>8 mark this as Exhibit 239.</p> <p>9 (Exhibit 239, Letter dated September 16,</p> <p>10 2014, marked for identification)</p> <p>11 Q. (By Mr. Hartzell) Sir, I'm showing</p> <p>12 you what has been marked as Exhibit 239, which</p> <p>13 is a September 16, 2014, letter, two pages, from</p> <p>14 you to the Board of Selectmen. It's BEH0003638</p> <p>15 through 3639. Do you remember sending this</p> <p>16 letter?</p> <p>17 A. Yes.</p> <p>18 Q. What was the purpose in sending</p> <p>19 this letter?</p> <p>20 A. To answer some of the concerns of</p> <p>21 Board of Selectmen following the submittal from</p> <p>22 Oulten Hues, Jr.</p> <p>23 Q. Have you read Mr. Hues' Part 13</p> <p>24 Complaint?</p> | <p style="text-align: right;">164</p> <p>1 after Mr. Hues was terminated.</p> <p>2 Q. Did you ever have any discussion</p> <p>3 with Mr. Paul Shaughnessy about why he left the</p> <p>4 Commission?</p> <p>5 A. No.</p> <p>6 Q. Are you aware of any relationship</p> <p>7 between Mr. Paul Shaughnessy and Chris Donovan</p> <p>8 or BEH?</p> <p>9 A. Mr. Shaughnessy was a hangar tenant</p> <p>10 of BEH.</p> <p>11 Q. How do you know that?</p> <p>12 A. FlightLevel had provided a</p> <p>13 photograph, a still photograph, of Mr.</p> <p>14 Shaughnessy's aircraft being either pushed in or</p> <p>15 pushed out of the BEH hangar.</p> <p>16 Q. Did Mr. Paul Shaughnessy own a</p> <p>17 particular aircraft?</p> <p>18 A. Yes.</p> <p>19 Q. Do you remember what kind of</p> <p>20 aircraft?</p> <p>21 A. It's a Cherokee 6.</p> <p>22 Q. And is that --</p> <p>23 A. It's a single-piston engine.</p> <p>24 Q. What color was it?</p> |
| <p style="text-align: right;">163</p> <p>1 A. I have not. I have seen the letter</p> <p>2 from FAA, from Mary Walsh at FAA, stating that</p> <p>3 they had received the Part 13 Complaint and that</p> <p>4 there were some similarities with BEH's Part 13,</p> <p>5 but I never actually saw -- I don't recall ever</p> <p>6 seeing the Part 13 Complaint from Oulten Hues.</p> <p>7 Q. Okay. Before Mr. Hues filed his</p> <p>8 Complaint, were you aware that BEH withdrew its</p> <p>9 Part 13 Complaint that had it filed earlier?</p> <p>10 A. Yes.</p> <p>11 Q. There is another member of the</p> <p>12 Airport Commission I want to ask you a couple</p> <p>13 questions about. Paul Shaughnessy, do you</p> <p>14 remember him as an Airport Commission member?</p> <p>15 A. Yes.</p> <p>16 Q. Do you remember approximately what</p> <p>17 times he was on?</p> <p>18 A. He was appointed at the same time</p> <p>19 that Oulten Hues, Hylie Hutchens, and Mike</p> <p>20 Sheehan were appointed. I want to say it was</p> <p>21 April of 2015.</p> <p>22 Q. How long was Mr. Paul Shaughnessy</p> <p>23 on the Commission?</p> <p>24 A. I don't recall him being on long</p> | <p style="text-align: right;">165</p> <p>1 A. It's white with green markings.</p> <p>2 Q. Did it have a tail number?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember what it was?</p> <p>5 A. I believe it was 4289 Romeo.</p> <p>6 Q. Do you know if Mr. Paul Shaughnessy</p> <p>7 owned that airplane?</p> <p>8 A. I believe he owned it outright at</p> <p>9 that time. He was in some type of a partnership</p> <p>10 prior to that, but I believe he owned it</p> <p>11 outright at that time.</p> <p>12 Q. How long did he store his plane at</p> <p>13 BEH's hangar?</p> <p>14 A. I don't know.</p> <p>15 Q. Did you ever see it there yourself?</p> <p>16 A. I didn't see it coming in or out of</p> <p>17 the hangar, although I saw it on the apron just</p> <p>18 to the north of the hangar at the entrance.</p> <p>19 Q. What did Mr. Paul Shaughnessy do</p> <p>20 for work?</p> <p>21 A. He was a retired pilot for</p> <p>22 Evergreen Airlines. And I'm not sure if at that</p> <p>23 time he was a bus driver as well, but I know he</p> <p>24 was retired from Evergreen Airlines.</p> |

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| <p style="text-align: right;">166</p> <p>1 Q. Did you ever see Mr. Hues or Mr. 2 Paul Shaughnessy plowing any snow at the 3 airport? 4 A. I definitely didn't see Paul 5 Shaughnessy and I don't recall seeing Oulten 6 Hues actually plowing snow either. 7 Q. Mr. Hutchens, did you ever see him 8 plowing snow? 9 A. No. 10 Q. Were you ever provided any 11 information as to why Mr. Shaughnessy left the 12 Airport Commission? 13 A. No. 14 Q. Did you ever have any discussions 15 or communications with Mr. Paul Shaughnessy 16 outside of Norwood Airport Commission meetings? 17 A. Very limited. He was a 18 commissioner. He would occasionally stop by, 19 but nothing -- it was very -- my relationship 20 with him was very strained early on in his 21 tenure. 22 Q. And why was that? 23 A. He had sent a letter to the editor 24 disparaging me and the Airport Commission, and</p> | <p style="text-align: right;">168</p> <p>1 or my assistant. He was walking around the 2 aprons with notepads and giving the impression 3 that he was not necessarily going to be a 4 commissioner that was going to support us. 5 Q. Did you ever observe Mr. 6 Shaughnessy and Mr. Donovan together, Mr. Paul 7 Shaughnessy? 8 A. I definitely saw them together in 9 the still photograph that was provided by 10 FlightLevel. I don't remember seeing the two of 11 them together beyond that. 12 Q. Who from FlightLevel provided you 13 with the photograph? 14 A. I'm not sure who exactly it was. 15 Whoever it was handed it to my assistant. My 16 assistant showed it to me. 17 Q. And what do you remember the 18 photograph showing? 19 A. Mr. Donovan and Mr. Shaughnessy at 20 Mr. Shaughnessy's plane either pushing it in or 21 pushing it out of the hangar. 22 Q. You also mentioned there was a 23 third commissioner called Mr. Hutchens? 24 A. Yes.</p> |
| <p style="text-align: right;">167</p> <p>1 it was very hard to feel that he was going to 2 give us any kind of fairer treatment after that 3 letter. 4 Q. Do you remember what the letter 5 said that caused you to believe it was 6 disparaging? 7 A. He just asked that the Board of 8 Selectmen get more involved in the airport, that 9 it wasn't being run properly. 10 Q. Did Mr. Paul Shaughnessy, to your 11 knowledge, have any experience in managing or 12 running airports? 13 A. No, he didn't. 14 Q. Did his letter to the newspaper 15 explain what his basis was for claiming that the 16 airport wasn't being run properly? 17 MR. SIMMS: Objection. Go 18 ahead. 19 A. I don't recall his reasoning, 20 but -- other than the tone of the letter. 21 Q. Is there anything else you can 22 recollect about what Mr. Paul Shaughnessy did 23 vis-a-vis you as the airport manager? 24 A. He was starting to shadow either me</p> | <p style="text-align: right;">169</p> <p>1 Q. First name Hylie or went by Hylie? 2 A. Or Lee Hutchens. 3 Q. How did you meet him? 4 A. He was appointed to the Commission 5 at the same time as Oulten Hues, Jr., and Paul 6 Shaughnessy and Michael Sheehan. 7 Q. Did you know him before that? 8 A. I knew of him. I had seen him 9 at -- either coming in for a security badge, or 10 I was giving a talk at the Norwood Elks Club and 11 he was at the back of the room asking questions. 12 Q. And what was his business? 13 A. He was -- I believe he was retired 14 from a tire company and was doing some 15 refereeing, but I don't recall whether he was 16 part time, full time or what. And he had a 17 plane on the airport. 18 Q. Do you remember what kind of plane? 19 A. It was a single-engine piston 20 engine. I just don't recall the type. 21 Q. Do you recall what color it was? 22 A. I do recall it had a very bad paint 23 job. It was a pretty worn paint job. Beyond 24 that, I don't recall.</p> |

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| <p style="text-align: right;">170</p> <p>1 Q. Okay. Tail number?</p> <p>2 A. I don't recall.</p> <p>3 Q. Did you have any communications or</p> <p>4 interactions with Mr. Hutchens outside of the</p> <p>5 Norwood Airport Commission meetings?</p> <p>6 A. Those were limited as well. We had</p> <p>7 a few casual conversations, but I didn't have --</p> <p>8 didn't spend a lot of time with him outside the</p> <p>9 Airport Commission meetings.</p> <p>10 Q. How would you describe your</p> <p>11 relationship with him?</p> <p>12 A. I don't think I had the best</p> <p>13 relationship with him.</p> <p>14 Q. And why do you say that?</p> <p>15 A. Because he, in my opinion, was a</p> <p>16 commissioner who didn't want to learn the job</p> <p>17 and already had some preconceived ideas. It was</p> <p>18 hard to get him off of -- so it was very</p> <p>19 difficult for him to learn the things that I</p> <p>20 felt he needed to learn to do the job properly.</p> <p>21 Q. What do you believe were the</p> <p>22 preconceived ideas that Mr. Hutchens had?</p> <p>23 A. Well, he was one of the -- he was</p> <p>24 an airport commissioner who, I felt, was using</p> | <p style="text-align: right;">172</p> <p>1 need to straighten him out on that.</p> <p>2 Q. Was he ever, in fact, given a break</p> <p>3 on his tie-down?</p> <p>4 A. No.</p> <p>5 Q. And by a break on his tie-down, did</p> <p>6 you understand that to mean he wanted some sort</p> <p>7 of reduced rent?</p> <p>8 A. Yes.</p> <p>9 Q. What is the monthly charge for a</p> <p>10 tie-down?</p> <p>11 A. It's 265 a quarter.</p> <p>12 Q. \$265?</p> <p>13 A. Yes.</p> <p>14 Q. Any other interactions with</p> <p>15 Mr. Hutchens?</p> <p>16 A. Very little interaction outside the</p> <p>17 Airport Commission meetings.</p> <p>18 Q. How long was he on the Commission?</p> <p>19 A. He took himself off. He resigned</p> <p>20 his position at about the same time as Mr. Paul</p> <p>21 Shaughnessy.</p> <p>22 Q. Did you ever have any discussions</p> <p>23 with anybody as to why Mr. Hutchens resigned</p> <p>24 from the Commission?</p> |
| <p style="text-align: right;">171</p> <p>1 his position at times in the wrong direction.</p> <p>2 When we went through the compliance inspection</p> <p>3 with the FAA, one of the things that the FAA</p> <p>4 required us to do, as insignificant as it</p> <p>5 seemed, was to remove a picnic table inside the</p> <p>6 fence because FAA considered that to be a</p> <p>7 wildlife attraction. And so I had to put forth</p> <p>8 that message to the patrons of the airport and</p> <p>9 he, rather than support me and support what the</p> <p>10 FAA wanted us to do, just became very contrary</p> <p>11 and ended up calling the FAA. They ended up</p> <p>12 reiterating what I had passed along in my</p> <p>13 initial message. He also wanted a break on his</p> <p>14 tie-down right after he was appointed and he</p> <p>15 actually asked me that in front of the town</p> <p>16 counsel as we were getting ready to bring up the</p> <p>17 conflict of interest issue at the Airport</p> <p>18 Commission meeting.</p> <p>19 Q. And what did you say when he asked</p> <p>20 you that?</p> <p>21 A. I didn't answer him.</p> <p>22 Q. Did anybody answer him?</p> <p>23 A. No, but town counsel did talk to me</p> <p>24 after he left the room and said we definitely</p> | <p style="text-align: right;">173</p> <p>1 A. No.</p> <p>2 Q. Was he subsequently killed in an</p> <p>3 airplane crash?</p> <p>4 A. Yes.</p> <p>5 Q. Do you remember when that was?</p> <p>6 A. I don't remember the exact date.</p> <p>7 Q. Was he flying the plane that he</p> <p>8 kept at Norwood Airport?</p> <p>9 A. He was in the aircraft with another</p> <p>10 pilot, both of whom fly out of Norwood Airport.</p> <p>11 And one gentleman survived and Mr. Hutchens was</p> <p>12 killed.</p> <p>13 MR. HARTZELL: Let's take a</p> <p>14 five-minute break.</p> <p>15 (A recess was taken)</p> <p>16 MR. HARTZELL: Back on the</p> <p>17 record.</p> <p>18 Q. (By Mr. Hartzell) Mr. Maguire, I'm</p> <p>19 going to show you a document that was marked as</p> <p>20 an exhibit at Mr. Silva's deposition. I will</p> <p>21 first ask you -- it's a photograph, appears to</p> <p>22 have a time stamp on it of January 26 -- it</p> <p>23 looks like 2015 --</p> <p>24 A. Mm-hmm.</p> |

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| <p style="text-align: right;">174</p> <p>1 Q. -- and ask you if you can identify 2 anything in this photograph? 3 A. I can see it appears to be the BEH 4 hangar. So looking generally southwest, it 5 appears to be a BEH fueler. 6 Q. When you say "fueler", you mean 7 like a fueling truck? 8 A. Yes, a mobile fueler. 9 Q. Does BEH use that truck currently 10 for fuel of any kind? 11 A. No. It's just parked outside the 12 hangar right now. 13 Q. And it appears to be a truck just 14 to the left of that? 15 A. Yes. 16 Q. Do you recognize that vehicle? 17 A. It looks like a vehicle that I'm 18 familiar with, but I'm not -- without seeing the 19 license plate or having more identifying 20 features, discernable, it's hard to tell. 21 Q. Is that vehicle -- strike that. 22 The vehicle shown on the left-hand 23 side of what was marked as Exhibit 36 at 24 Mr. Silva's deposition, is that a vehicle owned</p> | <p style="text-align: right;">176</p> <p>1 concern in at least one letter that I saw. 2 Q. Do you remember if FlightLevel ever 3 requested an independent third-party consultant 4 be retained by the Norwood Airport Commission to 5 study the issue and advise whether an additional 6 FBO could coexist -- whether two FBOs, excuse 7 me, could coexist at the Norwood Airport on an 8 economic basis? 9 A. I have some recollection of that. 10 Q. Did the Norwood Airport Commission 11 ever take up FlightLevel's suggestion on that? 12 A. Not to the best of my knowledge. 13 Q. Did FlightLevel ever, to your 14 knowledge, instruct the Norwood Airport 15 Commission or you, as airport manager, to do 16 anything in connection with its operations at 17 the airport or anything that BEH was requesting 18 at the airport? 19 MR. SIMMS: Objection to the 20 form. 21 MR. FEE: Objection to the 22 form. 23 A. I think I might need that question 24 rephrased.</p> |
| <p style="text-align: right;">175</p> <p>1 or operated by anybody at your office? 2 A. Not by my office, no. 3 Q. And to your knowledge, is it owned 4 or operated by anybody from the Town of Norwood? 5 A. To the best of my knowledge, no. 6 Q. Okay. Moving along, I'm going to 7 show you another document marked as 85 to Mr. 8 Odstrchel's deposition, which is a memorandum 9 dated January 12, 2015, from Mark Ryan who was 10 then, I guess, the advice chairman of the 11 Airport Commission, to the Airport Commission? 12 A. Mm-hmm. 13 Q. And it appears to be a number of 14 questions he had about the business plan 15 submitted by BEH, dated July 9, 2014. Have you 16 ever seen this before? 17 A. I don't recall whether I did or 18 not. 19 Q. Okay. 20 A. I don't recall seeing that. 21 Q. Do you remember a point in time 22 that FlightLevel Norwood had a concern about a 23 second FBO operating at the airport? 24 A. FlightLevel had expressed their</p> | <p style="text-align: right;">177</p> <p>1 Q. Let me try it again. 2 In connection with the Norwood 3 Airport Commission's operations at the airport 4 and in connection with your job as manager of 5 the Norwood Airport, do you recall any times 6 when the Airport Commission or you, as manager 7 of the airport, took any actions in response to 8 any instructions from FlightLevel Aviation? 9 MR. FEE: Objection. 10 A. No. 11 Q. Do you recall a time when either 12 you, as airport manager, or the Norwood Airport 13 Commission took any actions as a result of any 14 requests of FlightLevel Norwood? 15 MR. FEE: Objection. 16 MR. SIMMS: Objection. Go 17 ahead. 18 A. It might be just an interpretation, 19 but I think FlightLevel has expressed concern at 20 the meeting in which BEH had stated that it had 21 property rights to the east of its Lot F and 22 FlightLevel voiced its -- basically contradicted 23 BEH. I want to say that the Commission on that 24 matter wanted to ensure that there weren't any</p> |

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| <p style="text-align: right;">178</p> <p>1 property rights that were going to be violated. 2 Q. Anything else that you can 3 remember? 4 A. No. 5 MR HARTZELL: I'm going to 6 have this marked Exhibit 240. 7 (Exhibit 240, Letter dated January 29, 8 2015, marked for identification) 9 Q. (By Mr. Hartzell) I'm showing you, 10 Mr. Maguire, a copy of a document that we just 11 marked as Exhibit 240 with Bates numbers 2006 12 through 2009, which appears to be a copy of a 13 letter -- and I apologize for the light copy -- 14 dated January 29, 2015, from Peter Eichleay at 15 FlightLevel addressed to you at the airport. It 16 concerns recent developments at the airport. 17 It's a supplement to a January 2015 submission 18 that says, "BEH blocking FlightLevel fuel farm." 19 Do you remember receiving this letter? 20 A. Yes. 21 Q. And directing your attention to the 22 winter of 2015, in January in particular, and 23 February, what do you remember observing, if 24 anything, concerning FlightLevel's fuel farm?</p> | <p style="text-align: right;">180</p> <p>1 piled up around the fuel farm in January of 2 2015? 3 A. Again, I don't recall there being 4 anything about the fuel farm snowbanks that 5 caught my attention only because that winter we 6 had snow piles all over the airport. 7 Q. Do you remember that there was a 8 Norwood Airport Commission meeting, I believe in 9 February of 2015, where the complaints of 10 FlightLevel about BEH plowing in its fuel farm 11 were discussed? 12 A. Yes. 13 Q. Were you present at that meeting? 14 A. Yes. 15 Q. Do you remember if Mr. Donovan was 16 present at that meeting? 17 A. Yes, he was. 18 Q. And do you remember Mr. Donovan 19 saying anything during that meeting? 20 A. I do, but I don't have perfect 21 recall on exactly what he said. 22 Q. Just tell me what you remember 23 generally what he said. 24 A. I don't recall whether he admitted</p> |
| <p style="text-align: right;">179</p> <p>1 A. That, as I recall, was a horrible 2 winter. So much of the airport had snowbanks 3 and whatnot. I don't recall being struck by the 4 sight of the pile of snow between the Lot F and 5 Lot G only because that particular winter we 6 were having trouble finding room for all the 7 snow that we were stockpiling, so I don't recall 8 having -- thinking much about it. I didn't know 9 who did the plowing and I had no reason to 10 assume it wasn't FlightLevel that stockpiled 11 that. It really wasn't until I saw this letter 12 that it became clear that it was not 13 FlightLevel's plan to put the snow there. 14 Q. But do you remember -- did you do 15 any inspections of the fuel farm in the winter 16 of 2015, particularly in January? 17 A. I'm sure we did as part of the 18 Spill Prevention Plan, but it could have been 19 accessed. This is to the west side of Lot G and 20 that fuel farm. We could have done what we 21 needed to do from the east side as long as that 22 gate was opened. I can't tell from this 23 photograph whether it is or not. 24 Q. Do you remember observing any snow</p> | <p style="text-align: right;">181</p> <p>1 to doing the plowing or not, but that did come 2 up. 3 Q. Do you remember if Mr. Donovan said 4 he plowed the snow in or around FlightLevel's 5 fuel farm pursuant to advice from his lawyer or 6 advice from counsel or words to that effect? 7 MR. FEE: Objection. 8 A. I don't recall that, no. 9 Q. But you do recall him being there? 10 A. Yes. 11 Q. And you have some memory of him 12 saying something about operating the snowplow? 13 A. I have a memory of it. I don't 14 really have, again, exact recall on whether he 15 was saying that BEH did the plowing, he did the 16 plowing. I don't recall exactly the wording 17 that he used. 18 Q. Okay. Do you remember anything 19 else about that meeting? 20 A. Yes. 21 Q. What else do you remember about 22 that meeting? 23 A. I remember Mr. Sheehan wagging his 24 finger at both FlightLevel and BEH and telling</p> |

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| <p style="text-align: right;">182</p> <p>1 them to essentially behave and that this was a 2 land dispute and it was beyond the jurisdiction 3 of the Airport Commission. 4 Q. So the Airport Commission did not 5 take any action as a result of this complaint 6 from FlightLevel? 7 A. I don't recall them taking any 8 action. 9 Q. Anything else you remember from 10 that meeting? 11 A. No. 12 Q. Later that winter, in February or 13 late January of 2015, do you remember 14 FlightLevel installing some barriers on its land 15 on Lot G? 16 A. I do. 17 Q. Tell me what you remember about 18 that. 19 A. I had a conversation with one of 20 the FlightLevel personnel -- I don't recall 21 whether it was Nick Burlingham or Mike DeLaria 22 or Peter Eichleay -- stating that they were 23 within their right to put those barriers on 24 their property on Lot G to protect their</p> | <p style="text-align: right;">184</p> <p>1 Q. Did the Airport Commission, to your 2 knowledge, take any position one way or the 3 other as to the installation of the barriers? 4 A. No. As I told Chairman Ryan, I had 5 told the FlightLevel representative that gave me 6 a heads-up that it needed to be -- the erection 7 of the barriers needed to be legal and peaceful 8 and they needed to contact the Norwood police to 9 keep it peaceful and they needed to keep town 10 counsel in the loop to make sure it was legal, 11 and we weren't approving or disapproving it. 12 Q. Okay. To your knowledge, did 13 FlightLevel contact the Norwood police? 14 A. They did. 15 Q. Were the Norwood police present 16 when the barriers were installed? 17 A. I believe so, based on the report. 18 Q. To your knowledge, did FlightLevel 19 contact the town counsel before the barriers 20 were installed? 21 A. To the best of my knowledge and 22 subsequent conversation with Brandon Moss, town 23 counsel was never advised. 24 Q. Was advised?</p> |
| <p style="text-align: right;">183</p> <p>1 business interests. 2 Q. And do you remember when this 3 conversation took place? 4 A. I believe it was the day that the 5 barriers were tipped over, that night. The 6 barriers were tipped over that night. I believe 7 we had the conversation at some point that day. 8 Q. Did anybody from FlightLevel notify 9 you beforehand that they were putting up the 10 barriers? 11 A. They let me know that their intent 12 was to put up the barriers. 13 Q. Before they put them up, right? 14 A. Before they put them up. 15 Q. And did you notify anybody? 16 A. Yes. 17 Q. Who did you notify? 18 A. I notified the Airport Commission 19 chairman. 20 Q. Was that Mr. Ryan? 21 A. Yes. 22 Q. And were you present when the 23 barriers were installed? 24 A. No.</p> | <p style="text-align: right;">185</p> <p>1 A. Was not advised. 2 Q. Okay. Did you have an 3 understanding as to what was going to be -- what 4 liquid, if any, was going to be inside the 5 barriers? 6 A. My understanding was it was going 7 to be glycol/water mix. 8 Q. What is glycol used for? 9 A. It's used for various things. It's 10 used on airports that approve it as an aircraft 11 de-ice. 12 Q. And what was your understanding as 13 to why there was a glycol mix going into the 14 barriers? 15 A. To keep the water from freezing. 16 It's an antifreeze. 17 Q. Is there any requirement to label 18 barriers such as this, that it has a glycol mix 19 in it, at the airport? 20 A. I know that issue came up after the 21 barrier issue was brought to the attention of 22 the Commission. I don't recall whether there 23 was a -- we ever determined whether there was a 24 requirement to label it. I know that was</p> |

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| <p style="text-align: right;">186</p> <p>1 discussed. I know there was some conversation 2 with the Conservation Commission agent after 3 this about the use of these fluid-filled Jersey 4 barriers. 5 Q. Did you observe the barriers after 6 they had been tipped over? 7 A. I don't recall seeing them. I 8 definitely saw the photographs. 9 Q. And what conversations, if any, did 10 you have with anybody from BEH about the 11 barriers being tipped over? 12 A. I actually received a phone message 13 from Peter Eichleay on my cell phone, which I 14 picked up the day after the spill, and sent an 15 e-mail to both Peter Eichleay and Chris Donovan 16 confirming that I understood that there were 17 300-plus gallons of glycol water that had been 18 spilled out on pervious/impervious surfaces on 19 the airport and we had concerns about our 20 environmental stewardship obligations with the 21 federal government and that I wasn't going to 22 make a decision on who needed to clean it up. 23 They could make that between the two parties, 24 but it needed to be cleaned up.</p> | <p style="text-align: right;">188</p> <p>1 removed. 2 Q. As there ever a report that the 3 glycol material was toxic to anyone? 4 A. Under the 2008 Storm Water 5 Pollution Prevention Plan, both ethylene and 6 propylene glycol were identified as toxics 7 materials when they're introduced in significant 8 quantities into the receiving waters of 9 Purgatory Brook of the Naponsett River. 10 Q. How far is the Purgatory Brook from 11 the airport? 12 A. It runs -- kind of circumnavigates 13 around the physical plant. And ultimately, 14 because we're only 49 feet above sea level, 15 everything ultimately drains into the Naponsett. 16 Q. Based on that, did you believe that 17 the glycol needed to be cleaned up? 18 A. Yes. 19 Q. And did you convey that to Mr. 20 DeLaria? 21 A. I did. 22 Q. Do you remember what else he said? 23 A. I just recall FlightLevel saying 24 they were going to do the cleanup. But again,</p> |
| <p style="text-align: right;">187</p> <p>1 Q. And was it cleaned up? 2 A. Yes. 3 Q. And who cleaned it up? 4 A. FlightLevel. 5 Q. Did FlightLevel hire an 6 environmental firm to assist with the cleanup? 7 A. That was my understanding, yes. 8 Q. Do you know what the name of the 9 firm was? 10 A. I think it was Cyn Environmental, I 11 believe. 12 Q. And other than the e-mail that you 13 just referenced, did you have any conversations 14 or any communications with BEH about the 15 barrier-dumping incident? 16 A. I don't recall having any 17 conversation with BEH about it. 18 Q. And you did have a conversation 19 with FlightLevel about it; is that correct? 20 A. Yes. I believe Mr. DeLaria and I 21 talked about the cleanup and the fact that we 22 needed to have a copy of the report from the LSP 23 or whoever was conducting the cleanup to certify 24 that hazardous material. Toxic materials were</p> | <p style="text-align: right;">189</p> <p>1 an e-mail went out to both companies, both BEH 2 and FlightLevel. 3 Q. Do you know if there were criminal 4 charges levied against or brought against 5 Mr. Donovan and Mr. Silva of BEH in connection 6 with the barrier-dumping incident? 7 A. I recall the police reports. I 8 don't recall the specifics beyond that. 9 Q. Okay. At some point in time there 10 was a show cause hearing or some sort of hearing 11 in front of Norwood Airport Commission about the 12 barrier-dumping incident? 13 A. Yes. 14 Q. Did you attend that hearing? 15 A. Yes. 16 Q. And during that hearing, 17 representatives of -- or so-called experts hired 18 by BEH testified? 19 A. Yes. 20 Q. And one of them said that there had 21 to be labels on the barriers because glycol was 22 a hazardous substance, do you remember that, or 23 words to that effect? 24 A. Yes.</p> |

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| <p style="text-align: right;">190</p> <p>1 Q. And another one said that the 2 glycol mixture that was spilled was not a 3 hazardous substance. Do you recall that? 4 A. Yes. 5 Q. And there was a lawyer called 6 Mr. McCulloch who presented at this hearing? 7 A. Yes, I do recall. 8 Q. And was Mr. Donovan at the hearing? 9 A. No, I don't recall him being there. 10 Q. What was your reaction when you 11 learned that Mr. Donovan was not at the hearing? 12 A. I was surprised. 13 Q. And what happened as a result of 14 the hearing? 15 A. The Commission, as I recall, took 16 no action. 17 Q. Is that because they believed it 18 was a dispute between BEH and FlightLevel? 19 MR. FEE: Objection. 20 A. I don't recall what their rationale 21 was for not taking action. 22 Q. Okay. From time to time you 23 prepared manager's reports to the airport, 24 correct?</p> | <p style="text-align: right;">192</p> <p>1 February of 2015 or late February or early March 2 2015? 3 A. I would say late February, early 4 March. 5 Q. But in any event, this is a packet 6 of materials that you presented to the Airport 7 Commission; is that right? 8 A. Yes. 9 Q. And the last sentence on the first 10 paragraph on Page 1 says, "In advance of this, 11 to keep the peace, airport management 12 recommended that FlightLevel notify both the 13 Norwood police and Norwood town counsel, while 14 the airport manager (AM) briefed the Airport 15 Commission chairman." Do you see that? 16 A. Yes. 17 Q. That's what you testified earlier, 18 that FlightLevel did notify you before the 19 barriers were installed, correct? 20 A. Yes. 21 Q. You mentioned an e-mail that you 22 sent out in connection with the barrier dumping 23 that's in this exhibit. 24 MR. HARTZELL: And we'll mark</p> |
| <p style="text-align: right;">191</p> <p>1 A. Yes. 2 Q. Let me show you what we'll mark as 3 an exhibit. 4 MR. HARTZELL: I'm going to 5 mark this as Exhibit 241. 6 (Exhibit 241, Norwood Airport Commission 7 Manager's Report, 02/01/15-02/28/15, 8 marked for identification) 9 Q. (By Mr. Hartzell) I'm showing you 10 what has been marked as Exhibit 241, which 11 appears to be a memorandum prepared by you for 12 the time period February 1, 2015, through 13 February 28, 2015. Do you see that? 14 A. Yes. 15 Q. And it references a number of 16 exhibits, which are not attached here. I don't 17 know why. But in any event, is this a memo you 18 prepared? 19 A. Yes. 20 Q. And do you remember when you 21 prepared this? 22 A. I don't recall the exact date that 23 I prepared it. 24 Q. Would it have been sometime in</p> | <p style="text-align: right;">193</p> <p>1 this as the next exhibit. 2 (Exhibit 242, E-mail dated February 14, 3 2015, marked for identification) 4 Q. (By Mr. Hartzell) I'm showing you 5 Exhibit 242, which is an e-mail dated February 6 14, 2015. It appears to be from you to 7 Mr. Donovan with a copy to Mr. Silva. By the 8 way, I don't think we have identified Mr. Silva. 9 Do you know who Mr. Silva is? 10 A. Yes. 11 Q. Who is he? 12 A. He was a former employee. I'm not 13 sure that he still is an employee, but he was an 14 employee of Boston Executive Helicopters. 15 Q. And it copies -- Brandon Moss we 16 talked about -- Mark Ryan, Mark Raymond, and 17 Kevin Grasso. Who is Kevin Grasso? 18 A. The assistant to the Chief of 19 Police for the Town of Norwood. 20 Q. Is this the e-mail that you 21 referenced earlier that you had sent out 22 following the so-called barrier-dumping 23 incident? 24 A. Yes.</p> |

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| <p style="text-align: right;">194</p> <p>1 Q. Did you ever get any response from 2 BEH to this e-mail? 3 A. I don't recall getting a response. 4 Q. Okay. Do you know if the 5 barrier-dumping incident and the hearing that 6 later occurred in 2015 occurred after BEH had 7 sued the Town of Norwood and the individual 8 members of the Norwood Airport Commission among 9 others? 10 MR. FEE: Objection. 11 A. As I recall, the hearing took place 12 in October of 2015. And I don't have a recall 13 of the exact date of the lawsuit. 14 Q. In connection with the 15 barrier-dumping incident, did anyone, to your 16 knowledge, or did you, review the time card 17 records at Norwood Airport Commission for 18 Mr. Donovan and Mr. Silva? 19 A. Yes. 20 Q. And what do you recall observing 21 about the time card records? 22 A. Well, the access control system at 23 Norwood Airport requires the badge holder to 24 present the card to the card reader and input a</p> | <p style="text-align: right;">196</p> <p>1 fueling plan that not only shows they would not 2 be fueling in the TOFA area that we talked about 3 earlier and also that they would not be fueling 4 east of their hangar building at the airport; is 5 that correct? 6 A. That scaled plan or drawing, that 7 would actually show that they had the land 8 available. It wasn't encumbered by the land 9 that's in dispute in the courts now and is not 10 obviously property rights of somebody other than 11 BEH. 12 Q. And has that plan ever been 13 submitted? 14 A. No, not to the best of my 15 knowledge. 16 Q. We talked about taxilane markings 17 earlier. Do you remember that? 18 A. Yes. 19 Q. And remember I asked you if you had 20 to second -- I called it a reminder, but you 21 weren't sure if it was a reminder or just 22 notified about the taxilane markings, correct? 23 A. Yes. 24 Q. Let me show you what was marked as</p> |
| <p style="text-align: right;">195</p> <p>1 four-digit code that identifies the card and the 2 user. So we did have -- we did confirm that 3 both Mr. Donovan and Mr. Silva were on the 4 airport earlier prior to the actual dumping of 5 the glycol/water mix. What we don't know is -- 6 because the airport gates have a free-exit 7 feature, you can pull up to a gate and it won't 8 register who it is that is pulling up. We just 9 don't know if they were still on the airport at 10 the time. 11 Q. But the records did show that they 12 were on the airport property before the 13 barrier-dumping incident, correct? 14 A. Correct. 15 Q. Okay. So at some point in time did 16 the Norwood Airport Commission vote to issue an 17 FBO -- what do you call it a permit or a 18 license? 19 A. Permit. 20 Q. -- to BEH subject to certain 21 conditions? 22 A. I do recall that. 23 Q. And is one of the conditions that 24 they have to submit a scaled engineered-stamped</p> | <p style="text-align: right;">197</p> <p>1 Exhibit 116 at Mr. Ryan's deposition. And this 2 appears to be a copy of a letter from Mr. Ryan 3 to BEH dated July 8, 2015, regarding 4 "Re-Application of Gate 3 taxilane markings." 5 Do you see that? 6 A. Yes. 7 Q. And it references, "As a result of 8 your company's hangar apron construction on 9 November 8, 2013, you were sent an e-mail from 10 airport manager, Russ Maguire, noting his 11 concerns on the joint Gate 3 taxilane." Do you 12 see that? 13 A. Yes. 14 Q. And do you remember seeing this 15 letter? 16 A. Yes, I do remember. 17 Q. Okay. And was it after this letter 18 that the taxilane markings were restored to the 19 Gate 3 lane? 20 A. Yes, they were, after the letter 21 was sent out. 22 Q. And when had the taxilane markings 23 been removed? 24 A. They were removed as part of the</p> |

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| <p style="text-align: right;">198</p> <p>1 apron project, the BEH April project, just to 2 the north of their hangar. That kind of tied in 3 with the taxilane. 4 Q. And do you remember when that took 5 place, when the removal took place? 6 A. I don't remember the exact -- 7 Q. It references November 8 of 2013, 8 the concerns on the adjoining taxilane? 9 A. Right. 10 Q. There were cracks and the work also 11 resulted in the removal of some taxilane edge 12 markings. Do you see that? I'm looking at the 13 first page, and then it references your e-mail 14 to him -- 15 A. Yes. 16 Q. -- which begins on BEH8483? 17 A. Yes. 18 Q. And so is it fair to say that 19 November 2013 there was an issue with the 20 taxilane marking being removed? 21 A. Yes. 22 Q. And then those taxilane markings 23 had not been restored as of July 18, 2013; is 24 that correct?</p> | <p style="text-align: right;">200</p> <p>1 of the e-mail, "This is a story that the media 2 should cover instead of the lies promulgated by 3 BEH and their unscrupulous attorneys." Do you 4 see that? 5 A. Yes. 6 Q. Do you know what he was referring 7 to? 8 MR. FEE: Objection. 9 A. I don't want to speculate. 10 Q. Do you have any understanding, as 11 you sit here today, what that is referencing? 12 MR. FEE: Objection. 13 Q. (By Mr. Hartzell) You can answer 14 if you can. 15 MR. SIMMS: Don't speculate. 16 Q. (By Mr. Hartzell) You don't have 17 to guess or speculate. If you know what he's 18 talking about, you should tell me. If you don't 19 know what he's talking about or your answer 20 would just be a guess, then tell me. 21 A. It would be a guess. I would 22 prefer not to guess. 23 Q. But in any event, you requested 24 financial information for Waltzing Matilda</p> |
| <p style="text-align: right;">199</p> <p>1 MR. FEE: Objection. 2 A. That's correct. 3 Q. But they were subsequently 4 restored? 5 A. Yes, as I recall. 6 Q. Okay. Let me show you another 7 document, sir. This was marked as Exhibit 125 8 at Mr. Sheehan's March 2017 deposition. And 9 this appears to be an e-mail to you from Mike 10 Sheehan. Do you remember receiving this e-mail? 11 A. Yes. 12 Q. And was this referencing a request 13 for financial material from Waltzing Matilda 14 Aviation? 15 A. Yes. 16 Q. And just so the record is clear, 17 Mr. Mike Sheehan is who? 18 A. The vice chairman of the Norwood 19 Airport Commission. 20 Q. And does this e-mail also copy 21 other members of the Commission? 22 A. Yes. 23 Q. And it references, "This is a story 24 that the media..." -- it states right at the end</p> | <p style="text-align: right;">201</p> <p>1 including attachments showing bank statements 2 from WMA, correct? 3 A. Yes. 4 Q. And that was part of the financial 5 information requested of them, correct? 6 A. Yes. 7 Q. And did Norwood Airport Commission 8 also request bank statements from Boston 9 Executive Helicopters? 10 A. Yes. 11 Q. And Boston Executive Helicopters 12 didn't want to provide them, did they? 13 MR. FEE: Objection. 14 Q. (By Mr. Hartzell) You can answer. 15 A. There was some difficulty getting 16 financial information from Boston Executive 17 Helicopters. 18 Q. And ultimately they wanted some 19 third-party consultant to review the financial 20 information, correct? 21 MR. FEE: Objection. 22 A. That's correct. 23 Q. And that took many months to 24 accomplish, did it not?</p> |

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| <p style="text-align: right;">202</p> <p>1 MR. FEE: Objection.</p> <p>2 A. That took some time.</p> <p>3 Q. Just give me a minute. We may be</p> <p>4 getting close to finishing.</p> <p>5 I'm going to show you what was</p> <p>6 marked as Exhibit 90 at Mr. Odstrchel's</p> <p>7 deposition, which are copies of meeting minutes</p> <p>8 from February of 2016 of the Norwood Airport</p> <p>9 Commission. And it shows, I believe, on the</p> <p>10 first page that you were in attendance?</p> <p>11 A. Yes.</p> <p>12 Q. And if we go to the second page --</p> <p>13 bear with me a minute.</p> <p>14 I meant to give you Mr. Odstrchel's</p> <p>15 deposition Exhibit 92, which it appears I only</p> <p>16 have one copy of.</p> <p>17 Let me show you what was marked as</p> <p>18 Exhibit 92 at Mr. Odstrchel's deposition, which</p> <p>19 I believe everyone in the room has a copy. And</p> <p>20 I apologize, I don't have other copies of this.</p> <p>21 I want to direct your attention to the second</p> <p>22 page of it, which talks about -- it says, "On a</p> <p>23 motion by Mr. Sheehan and seconded by Mr.</p> <p>24 Odstrchel, the Commission voted 4/0 to</p> | <p style="text-align: right;">204</p> <p>1 Maguire, as I said, thank you for coming</p> <p>2 in today.</p> <p>3 THE WITNESS: Thanks for</p> <p>4 lunch.</p> <p>5 (Deposition suspended)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> |
| <p style="text-align: right;">203</p> <p>1 provisionally extend until the next Airport</p> <p>2 Commission meeting FY2017 commercial permit for</p> <p>3 the following business, Boston Executive</p> <p>4 Helicopters, LLC. A letter will be written to</p> <p>5 Boston Executive Helicopters as a reminder that</p> <p>6 the NAC is waiting for the fueling plan, and</p> <p>7 once it's received BEH will have their FBO. Do</p> <p>8 you remember attending that meeting?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know whether BEH said</p> <p>11 anything or made any representations at that</p> <p>12 meeting, or any members of BEH?</p> <p>13 A. I don't recall.</p> <p>14 MR. HARTZELL: Okay. Let me</p> <p>15 take five minutes. I think I'm just about</p> <p>16 finished for the day.</p> <p>17 (A recess was taken)</p> <p>18 MR. HARTZELL: I think we can</p> <p>19 suspend for the day. Thank you very much,</p> <p>20 Mr. Maguire, for coming in. We will pick</p> <p>21 up on another date and time to be</p> <p>22 agreed upon by all counsel.</p> <p>23 MR. SIMMS: Agreed.</p> <p>24 MR. HARTZELL: And Mr.</p> | <p style="text-align: right;">205</p> <p>COMMONWEALTH OF MASSACHUSETTS NORFOLK, ss.</p> <p>I, RAYMOND F. CATUOGNO, JR., a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that there came before me on March 30, 2018, at the offices of LeClair Ryan, One International Place, 11th Floor, Boston, Massachusetts, the following named person, to wit: FRANCIS T. MAGUIRE, III, who was by me duly sworn to testify to the truth and nothing but the truth as to his knowledge touching and concerning the matters in controversy in this cause; that he was thereupon examined upon his oath and said examination reduced to writing by me; and that the statement is a true record of the testimony given by the witness, to the best of my knowledge and ability.</p> <p>I further certify that I am not a relative or employee of counsel/attorney for any of the parties, nor a relative or employee of such parties, nor am I financially interested in the outcome of the action.</p> <p>WITNESS MY HAND April 13, 2018.</p> <p style="text-align: right;">_____ Raymond F. Catuogno, Jr. Notary Public</p> <p>My Commission expires: February 12, 2021</p> |

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April 16, 2018

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

Re: BEH v. FLIGHTLEVEL NORWOOD, LLC, et al.

Dear Counselor:

Enclosed is a copy of the deposition of FRANCIS T. MAGUIRE, III, taken on March 30, 2018, in the above-entitled action.

According to Rule 30(e) of the Massachusetts Rules of Civil Procedure, the deponent has thirty days to sign the deposition from the date of its submission to the deponent, which is the above date.

Please have the deponent sign the enclosed Signature Page/Errata Sheet and return it to the offices of:

A. Neil Hartzell, Esq.
LeCLAIR RYAN
One International Place
Boston, MA 02110

Whereupon it will be attached to the original deposition transcript, and a copy thereof to all counsel of record.

Thank you for your cooperation in this matter.

Raymond F. Catuogno, Jr.

cc: A. Neil Hartzell, Esq.
Michael C. Fee, Esq.

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COMMONWEALTH OF MASSACHUSETTS
Norfolk, ss. 1582CV00213

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

v.

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

I, FRANCIS T. MAGUIRE, III, do hereby certify, under the pains and penalties of perjury, that the foregoing testimony is true and accurate, to the best of my knowledge and belief, with the addition of the following changes/corrections:

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WITNESS MY HAND, this day of , 2018.

FRANCIS T. MAGUIRE, III

cc: A. Neil Hartzell, Esq.
Adam Simms, Esq.
Michael C. Fee, Esq.

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