

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRIENDS OF THE EAST HAMPTON AIRPORT, INC.,
ANALAR CORPORATION, ASSOCIATED AIRCRAFT
GROUP, INC., ELEVENTH STREET AVIATION LLC,
HELICOPTER ASSOCIATION INTERNATIONAL, INC., No. 15 Civ. 2246 (SJF) (ARL)
HELIFLITE SHARES LLC, LIBERTY HELICOPTERS,
INC., SOUND AIRCRAFT SERVICES, INC., and
NATIONAL BUSINESS AVIATION ASSOCIATION, INC.,

Plaintiffs,

-against-

THE TOWN OF EAST HAMPTON,

Defendant.

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DECLARATION OF ERIC JUNGCK

I, Eric Jungck, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am the Director of Operations of Eleventh Street Aviation LLC (“Eleventh Street”), one of the Plaintiffs in this action. Prior to joining Eleventh Street, from 1987 to 1993, I served as a Naval Flight Officer in the United States Navy for which I flew the F-14 Tomcat fighter jet. I then served in the U.S. Navy Reserve and became a commercial pilot.

2. I make this declaration, based on personal knowledge, in support of Plaintiffs’ application for a temporary restraining order enjoining the Town of East Hampton’s recently-enacted restrictions on access to the East Hampton Airport (“the Airport” or “HTO”).

Background of Eleventh Street

3. Eleventh Street is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal base of operations located at HTO, in

Wainscott, New York. Eleventh Street (formerly known as Cleveland Browns Transportation LLC) was founded in 2003.

4. Eleventh Street operates under Part 91 of the Federal Aviation Administration (“FAA”) regulations. Part 91 authorizes Eleventh Street to operate an aircraft for private use. Pursuant to Part 91, Eleventh Street must comply with various FAA requirements and safety standards. Eleventh Street is not an air charter business; it serves the business and personal travel needs of its principal and associates.

5. Eleventh Street operates one Dassault Falcon 7x and one Sikorsky S-76C+ helicopter. The Falcon 7x is a state-of-the-art jet that satisfies the requirements to be a Stage 4 aircraft under the FAA’s noise certifications. This means that the Falcon 7x is one of the quietest aircraft in operation today. Pilots sometimes refer to the Falcon 7x as a “whisper jet” because it is so quiet.

6. Eleventh Street flies the Falcon 7x between HTO and many destinations all over the world. It is not unusual for Eleventh Street to conduct several international flight operations in a given week. Eleventh Street also frequently flies the Falcon 7x to various destinations throughout the United States.

7. Eleventh Street operates the Sikorsky to facilitate the travel needs of its principal, particularly between East Hampton and Manhattan.

8. Eleventh Street has six employees, including two pilots for the Falcon 7x, two pilots for the Sikorsky, and two mechanics.

Eleventh Street’s Operations to and from HTO

9. Eleventh Street’s Falcon 7x is based at HTO due to the Airport’s close proximity to Eleventh Street’s principal, who resides in East Hampton. Eleventh Street’s Sikorsky S-76C+

is based at MacArthur Airport in Islip, New York (“MacArthur”), but nearly all of the Sikorsky’s flight operations involve picking up or dropping off passengers at HTO.

10. HTO does not have hangar space to house the Falcon 7x. As a result, when the Falcon 7x needs maintenance it must be moved to another airport—typically MacArthur or Francis S. Gabreski Airport in Westhampton (“Gabreski”). In addition, in the event of inclement weather—high winds, hail, severe snow or ice—the Falcon 7x must be moved to another airport that has a suitable hangar.

11. Each of Eleventh Street’s aircraft averages three trips per week at HTO (each trip includes one landing and one takeoff). Thus, in total, Eleventh Street’s aircraft make approximately 300 trips per year out of HTO.

12. Eleventh Street leases office space from one of the Airport’s fixed-base operators, Sound Aircraft Services, Inc. (“Sound”). In addition, Eleventh Street has a contract with Sound in which Sound is Eleventh Street’s preferred fixed-base operator. With this arrangement, Eleventh Street purchases its fuel from Sound, and in exchange, Sound waives its fee for several of its services, including parking. Because Eleventh Street is such a frequent user of HTO, at least two of Sound’s employees are essentially dedicated to servicing Eleventh Street. These services include, among others, de-icing the airplane and clearing the ramp of snow.

East Hampton’s Recently-Enacted Restrictions

13. I understand that on April 16, 2015, the East Hampton Town Board adopted three new local laws restricting access to HTO (“the Restrictions”). I am familiar with the Restrictions.

14. I understand that the Restrictions include (1) a mandatory curfew, prohibiting use of HTO between 11:00 p.m. and 7:00 a.m. (the “Mandatory Curfew”); (2) an extended curfew

for so-called “Noisy Aircraft” banning use of the Airport from 8:00 p.m. to 9:00 a.m. (“the “Extended Curfew”); and (3) a one-trip limit during the summer, prohibiting “Noisy Aircraft” from flying more than one trip per week to HTO during the summer season (the “One-Trip Limit”). I further understand that the Restrictions define “Noisy Aircraft” as including any aircraft that has a published Effective Perceived Noise in Decibels (EPNdB) approach (AP) level of 91.0 or greater.

15. I understand that the Town has issued a list of what it has defined as “Noisy Aircraft,” and that both the Falcon 7x and the Sikorsky S-76C+ are on the list.

The Restrictions’ Impact on Eleventh Street

16. If the Restrictions are put into effect, both aircraft in Eleventh Street’s fleet will be subject to all three of the Restrictions—the Mandatory Curfew, Extended Curfew and One-Trip Limit.

17. Because Eleventh Street’s Falcon 7x is based at HTO, the Restrictions will severely limit Eleventh Street’s operations out of HTO, and may force Eleventh Street to sell the Falcon 7x or change its base of operations to either Gabreski or MacArthur. The Falcon 7x was delivered to Eleventh Street in 2011. One of the primary reasons Eleventh Street purchased the Falcon 7x was because it is one of the quietest jets in operation. This would ensure that Eleventh Street could operate out of almost any airport around the world. However, the Town’s arbitrary selection of 91.0 EPNdB as the threshold for “Noisy Aircraft” has undermined this effort.

18. The Falcon 7x has a similar noise footprint to the Gulfstream 550 and 650, neither of which is considered “Noisy Aircraft.” This is an arbitrary distinction and unfair to Eleventh Street, which spent considerable money—approximately \$52 million—to purchase a Stage 4 aircraft.

19. If Eleventh Street is forced to move its operations to either Gabreski or MacArthur as a result of the Restrictions, this will cause Eleventh Street to incur significant costs—specifically, acquiring an additional aircraft that is not deemed to be a “Noisy Aircraft” to facilitate passenger movement from HTO to either Gabreski or MacArthur. It would cost approximately \$3 million to procure an additional aircraft to transport the principal from HTO to another airport, plus \$1 million per year in operating costs.

20. Alternatively, if the Restrictions are enforced and if Eleventh Street wants to continue operating out of HTO, it would be forced to sell its aircraft and purchase aircraft that are not deemed “Noisy Aircraft.” This would be time-consuming and expensive. In addition, if the Restrictions set a precedent implemented elsewhere, it may be difficult to sell the Falcon 7x to other owners who require access to many airports.

21. Of the three restrictions, Eleventh Street estimates that (1) the Mandatory Curfew will affect 1–2% of Eleventh Street’s flights to and from HTO; (2) the Extended Curfew will affect approximately 30–40% of Eleventh Street’s flights to and from HTO; and (3) the One-Trip Limit will affect 60% of Eleventh Street’s flights to and from HTO from May 1 through September 30 each year.

22. The Restrictions will seriously impact the business of Eleventh Street’s principal because it affects the agility and productivity of the principal’s wide range of business interests. The ability to travel freely from HTO is key to the viability of the principal’s businesses and the oversight of his various business interests.

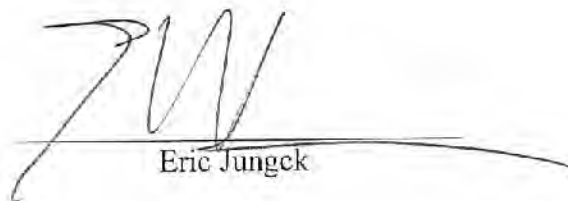
23. When flying to Europe, Eleventh Street typically departs at night so that it can land in Europe in the morning. The Extended Curfew will prohibit these flights.

24. The One-Trip Limit will cause particular hardship for Eleventh Street. As discussed above, there is no hangar space available for the Falcon 7x at HTO, so in the event of inclement weather or maintenance needs, the Falcon 7x must be moved. However, during the summer, Eleventh Street could be forced to use its one trip simply to service or protect the aircraft, thereby depriving Eleventh Street of the opportunity to transport passengers to or from HTO. Moreover, in the event inclement weather is fast approaching East Hampton in the evening, the Extended Curfew could prevent Eleventh Street from moving the Falcon 7x to safety.

25. In addition, when flying to and from HTO, Eleventh Street follows noise abatement procedures to further reduce the noise impact in and around East Hampton. These noise abatement procedures include early power reduction, steep angles of climb, and adjusted flight paths over ground. All of the noise abatement procedures are in accordance with Dassault's aircraft operating manual. To my knowledge, the Town has never measured or determined the actual noise impact of Eleventh Street's aircraft in operation—either the Falcon 7x or the Sikorsky S-76C+.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: April 28, 2015
Wainscott, NY



Eric Jungck