

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRIENDS OF THE EAST HAMPTON AIRPORT, INC.,
ANALAR CORPORATION, HELICOPTER
ASSOCIATION INTERNATIONAL, INC.,
HELIFLITE SHARES LLC, LIBERTY
HELICOPTERS, INC., and
SHORELINE AVIATION, INC.,

Case No. 9:15-CV-00441(JS) (ARL)

Plaintiffs,

**FIRST AMENDED ANSWER
& AFFIRMATIVE DEFENSES**

-against-

THE FEDERAL AVIATION ADMINISTRATION and
MICHAEL P. HUERTA, FAA Administrator, in his official
Capacity,

Defendants.

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Defendants, the Federal Aviation Administration and Michael P. Huerta (collectively “Defendants”), by and through their attorney, Kelly T. Currie, Acting United States Attorney for the Eastern District of New York, and Robert W. Schumacher, Assistant United States Attorney, of counsel, as and for their first amended answer to the complaint filed by Plaintiffs, the Friends of the East Hampton Airport, Inc., Analar Corporation, Helicopter Association International, Inc., Heliflite Shares LLC, Liberty Helicopters, Inc., and Shoreline Aviation, Inc. (collectively “Plaintiffs”), hereby aver as follows:

Introduction

1. Paragraph 1 of the complaint contains Plaintiffs’ characterization of the action, to which no answer is required.

2. Paragraph 2 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 2 is deemed to contain allegations of material fact, they are

denied. To the extent Paragraph 2 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

3. Paragraph 3 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 3 is deemed to contain allegations of material fact, they are denied.

4. Defendants admit that the United States entered into a 2005 Settlement Agreement involving litigation over the East Hampton Airport and respectfully refer the Court to that agreement for a complete and accurate statement of its terms. Defendants also admit that the FAA corresponded with Representative Timothy Bishop regarding the 2005 settlement agreement and respectfully refer the Court to that correspondence for a complete and accurate statement of its terms. The remainder of Paragraph 4 of the complaint contains legal conclusions, to which no response is required. To the extent the remainder of Paragraph 4 is deemed to contain allegations of material fact, they are denied.

5. Paragraph 5 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 5 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 5 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations,

rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

6. Paragraph 6 of the complaint contains legal conclusions, to which no response is required. To the extent Paragraph 6 is deemed to contain allegations of material fact, they are denied.

7. Paragraph 7 of the complaint contains legal conclusions, to which no response is required. To the extent Paragraph 7 is deemed to contain allegations of material fact, they are denied.

8. Defendant admits that the Town of East Hampton adopted certain restrictions for East Hampton Airport in or about April, 2015. The remainder of Paragraph 8 of the complaint contains legal conclusions, to which no response is required. To the extent the remainder of Paragraph 8 is deemed to contain allegations of material fact, they are denied.

9. Paragraph 9 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 9 is deemed to contain allegations of material fact, they are denied.

10. Paragraph 10 of the complaint contains Plaintiffs' prayer for relief, to which no response is required. To the extent Paragraph 10 is deemed to contain allegations of material fact, they are denied.

The Parties

11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the complaint.

12. Defendants admit that Analar Corporation holds a Part 135 Operating Certificate and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 12 of the complaint.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of the complaint.

14. Defendants admit that Heliflite Shares LLC holds a Part 135 Operating Certificate and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 14 of the complaint.

15. Defendants admit that Liberty Helicopters, Inc. holds a Part 135 Operating Certificate and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 15 of the complaint.

16. Defendants admit that Shoreline Aviation, Inc. holds a Part 135 Operating Certificate and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 16 of the complaint.

17. Defendants admit that the FAA is an operating administration within the Department of Transportation.

18. Defendants admit the allegations in Paragraph 18 of the complaint.

Jurisdiction and Venue

19. Paragraph 19 of the complaint contains legal conclusions, to which no answer is required.

20. Paragraph 20 of the complaint contains legal conclusions, to which no answer is required.

The Pertinent Law

21. Defendants admit that the federal government has exclusive sovereignty over the airspace of the United States. The remaining allegations in Paragraph 21 of the complaint contain legal conclusions, to which no response is required.

22. Paragraph 22 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

23. Paragraph 23 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 23 is deemed to contain allegations of material fact, they are admitted.

24. Paragraph 24 of the complaint contains Plaintiffs' characterization of the action, to which no response is required.

A. The Airport and Airway Improvement Act of 1982

25. Paragraph 25 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

26. Defendants admit that the authority of the Secretary of Transportation under

the AAIA is delegated to the FAA. The remainder of Paragraph 26 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny these characterizations and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

27. Paragraph 27 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

28. Defendants admit that the FAA maintains and publishes a list of the grant assurances with which recipients of AIP grant funding must comply and that Exhibit A is a copy of the list of grant assurances issued in March 2014.

29. Paragraph 29 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

30. Paragraph 30 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or

other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

31. Paragraph 31 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

32. Paragraph 32 of the complaint contains legal conclusions, to which no response is required.

B. The Airport Noise and Capacity Act of 1990

33. Paragraph 33 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

34. Defendants admit that the FAA has established noise certification standards for aircraft pursuant to 49 U.S.C. § 44715 and that the standards for Stage 3 aircraft are more stringent than those for Stage 2 aircraft, which are more stringent than the standards for Stage 1 aircraft. The remainder of Paragraph 34 of the complaint contains Plaintiffs' characterizations of

statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

35. Paragraph 35 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

36. Defendants admit the allegations in Paragraph 36 of the complaint.

37. Paragraph 37 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

38. Paragraph 38 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 38 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations,

rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

39. Paragraph 39 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

40. Paragraph 40 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 40 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

41. Paragraph 41 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 41 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

The Pertinent Facts

A. The East Hampton Airport

42. Defendants admit the allegations in Paragraph 42 of the complaint.

43. Defendants admit the allegations in Paragraph 43 of the complaint, on information and belief.

44. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44 of the complaint.

45. Paragraph 45 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

B. The 2001 Grant Assurances

46. Defendants admit the allegations in Paragraph 46 of the complaint.

47. Defendants admit that upon East Hampton's acceptance of grant funds pursuant to the AAIA, East Hampton and the FAA entered into a grant agreement. The remainder of Paragraph 47 of the complaint contains legal conclusions, to which no answer is required. To the extent the remainder of this paragraph is deemed to contain allegations of material fact, they are denied.

48. Paragraph 48 of the complaint contains legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

C. The 2005 Settlement Agreement

49. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49 of the complaint.

50. Paragraph 50 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court documents/decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court documents/decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

51. Defendants admit the allegations in Paragraph 51 of the complaint.

52. Defendants admit that the parties to the lawsuit referenced in Paragraph 50 entered into a settlement agreement in 2005 and respectfully refer the Court to that agreement for the complete and accurate statement of its terms.

53. Paragraph 53 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

54. Paragraph 54 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court

decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

55. Defendants admit the allegations in Paragraph 55 of the complaint.

56. Paragraph 56 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 56 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

D. The FAA Has Expressly Acknowledged that It Lacks Authority to Waive Grant Assurances or Its Statutory Grant Enforcement Obligations

57. Paragraph 57 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

58. Paragraph 58 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

59. Paragraph 59 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

60. Paragraph 60 contains legal conclusions, to which no response is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

61. Paragraph 61 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 61 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 61 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

E. Defendants' 2012 Written Responses to U.S. Representative Timothy Bishop Confirm Their Intent to Adhere to the 2005 Settlement Agreement

62. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 62 of the complaint.

63. Defendants admit the allegations in Paragraph 63 of the complaint.

64. Paragraph 64 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained

in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

65. Defendants admit the allegations in Paragraph 65 of the complaint.

66. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 66 of the complaint.

67. Paragraph 67 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

68. Paragraph 68 of the complaint contains legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

F. Defendants' Unlawful Action is Now Ripe for Review

69. Paragraph 69 of the complaint contains legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

70. Defendants admit that East Hampton last received grant funds from its 2001 AIP grant in 2005. The remainder of Paragraph 70 of the complaint contains legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

71. Defendant admits that the Town of East Hampton adopted certain restrictions for East Hampton Airport in or about April, 2015. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 71 of the complaint.

72. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 72 of the complaint.

73. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 73 of the complaint.

G. The Instant Action is the Only Means of Remedying the Law Enforcement Void Created by Defendants

74. Paragraph 74 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 74 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 74 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

75. Paragraph 75 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

76. Paragraph 76 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

77. Paragraph 77 of the complaint contains legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

H. Declaratory and Injunctive Relief is Both Appropriate and Necessary

78. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 78 of the complaint.

79. Paragraph 79 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

80. Defendant admits that the Town of East Hampton adopted certain restrictions for East Hampton Airport in or about April, 2015. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 80 of the complaint.

81. Paragraph 81 sets forth a legal conclusion, to which no response is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

FIRST CLAIM FOR RELIEF

DEFENDANTS HAVE ABDICATED THEIR STATUTORY OBLIGATION TO ENSURE THAT EAST HAMPTON COMPLIES WITH THE NONDISCRIMINATION GRANT ASSURANCES UNTIL SEPTEMBER 25, 2021

82. Defendants repeat and reiterate their responses to paragraphs 1-81 of the complaint as if fully set forth herein.

83. Paragraph 83 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 83 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 83 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

84. Paragraph 84 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 84 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 84 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

85. Defendants admit the allegations in the first sentence of Paragraph 85 of the complaint. The second sentence of this paragraph sets forth legal conclusions, to which no response is required.

86. Paragraph 86 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 86 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 86 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

87. Paragraph 87 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

88. Paragraph 88 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

89. Paragraph 89 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 89 is deemed to contain allegations of material fact, they are denied.

90. Paragraph 90 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 90 is deemed to contain allegations of material fact, they are denied.

91. Paragraph 91 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 91 is deemed to contain allegations of material fact, they are denied.

92. Paragraph 92 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 92 is deemed to contain allegations of material fact, they are denied.

93. Paragraph 93 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 93 is deemed to contain allegations of material fact, they are denied.

SECOND CLAIM FOR RELIEF

NEITHER THE 2005 SETTLEMENT AGREEMENT NOR DEFENDANTS' INTERPRETATION OF THAT AGREEMENT IN THE BISHOP RESPONSES CAN BE A LAWFUL BASIS, IN WHOLE OR PART, FOR DEFENDANTS' PROSPECTIVE DETERMINATION OF WHETHER AND HOW TO ENFORCE THE NONDISCRIMINATION GRANT ASSURANCES OR ADJUDICATE ADMINISTRATIVE COMPLAINTS REGARDING EAST HAMPTON AIRPORT

94. Defendants repeat and reiterate their responses to paragraphs 1-93 of the complaint as if fully set forth herein.

95. Paragraph 95 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or

other materials, which speak for themselves. Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

96. Paragraph 96 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

97. Paragraph 97 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

98. Paragraph 98 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 98 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 98 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

99. Paragraph 99 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

100. Paragraph 100 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

101. Paragraph 101 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

102. Paragraph 102 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

THIRD CLAIM FOR RELIEF

DEFENDANTS' STATED POSITION THAT EAST HAMPTON NEED NOT COMPLY WITH ANCA UNLESS IT WISHES TO REMAIN ELIGIBLE TO RECEIVE FUTURE FEDERAL GRANT FUNDING IS CONTRARY TO LAW

103. Defendants repeat and reiterate their responses to paragraphs 1-102 of the complaint as if fully set forth herein.

104. Paragraph 104 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 104 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 104 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

105. Paragraph 105 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 105 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 105 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

106. Paragraph 106 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 106 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 106 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

107. Paragraph 107 of the complaint contains legal conclusions, to which no response is required.

108. Paragraph 108 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 108 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 108 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations

contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

109. Paragraph 109 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 109 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

110. Defendants admit the allegations in Paragraph 110 of the complaint.

111. Paragraph 111 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 111 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 111 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

112. Paragraph 112 of the complaint contains legal conclusions, to which no answer is required. To the extent Paragraph 112 is deemed to contain allegations of material fact, they are denied. To the extent Paragraph 112 of the complaint contains Plaintiffs' characterizations of statutes, regulations, rules, court decisions, correspondence, administrative directives,

contracts and/or other materials, which speak for themselves, Defendants deny the characterizations contained in this paragraph and respectfully refer the Court to the cited statutes, regulations, rules, court decisions, correspondence, administrative directives, contracts and/or other materials for the complete and accurate statement of their terms.

113. Paragraph 113 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

114. Paragraph 114 of the complaint sets forth legal conclusions, to which no answer is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

The remaining allegations set forth on page 25 of the complaint contain Plaintiffs' prayer for relief, to which no response is required. To the extent this paragraph is deemed to contain allegations of material fact, they are denied.

To the extent that Defendants are deemed to have not answered each and every factual allegation in the foregoing paragraphs/parts of the complaint, Defendants hereby specifically deny any allegation(s) that are deemed to be unanswered.

FIRST AFFIRMATIVE DEFENSE

The action should be dismissed in whole or in part for failure to state a claim upon which relief could be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs have failed to exhaust their administrative remedies.

THIRD AFFIRMATIVE DEFENSE

The court lacks subject matter jurisdiction over Plaintiffs' claims in whole or in part.

FOURTH AFFIRMATIVE DEFENSE

Any action taken, or not taken, by Defendants was neither arbitrary, capricious, an abuse of discretion, nor otherwise not in accordance with the law.

FIFTH AFFIRMATIVE DEFENSE

Any action taken, or not taken, by Defendants did not violate any federal law or regulation.

SIXTH AFFIRMATIVE DEFENSE

Any action taken, or not taken, by Defendants is supported by substantial evidence and a correct application of the law.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the statute of limitations.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of laches.

NINTH AFFIRMATIVE DEFENSE

The United States has not waived sovereign immunity with regard to all, or part of, Plaintiffs' claims.

