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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
C.A. NO. 08-04641-B

-----x
JOHNSON GOLF MANAGEMENT, INC.,

Plaintiff

vs

TOWN OF DUXBURY, and NORTH HILL ADVISORY
COMMITTEE, Consisting of MICHAEL DOOLIN,
CHAIRMAN, SCOTT WHITCOMB, ROBERT M. MUSTARD,
JR., MICHAEL MARLBOROUGH, ANTHONY FLOREANO,
MICHAEL T. RUFO, THOMAS K. GARRITY, Richard
Manning, W. JAMES FORD, and GORDON CUSHING
(EX OFFICIO) and CALM GOLF, INC., and
CHARLES LANZETTA,

Defendants

-----x

DEPOSITION OF PAMELA D. HAGLER, taken on
behalf of the Plaintiff, pursuant to the
applicable provisions of the Massachusetts Rules
of Civil Procedure, before James A. Lyons, CSR
No. 117993, a Registered Diplomate Reporter,
Certified Realtime Reporter and Notary Public in
and for the Commonwealth of Massachusetts, at
the offices of Follansbee & McLeod, LLP, 536
Granite Street, 3rd Floor, Braintree,
Massachusetts, on Friday, May 4, 2012,
commencing at 2:14 p.m.

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ALSO PRESENT:

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Jason Laramée
(For Johnson Golf Management, Inc.)
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(Special Counsel for the Town of Duxbury)

I N D E X

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P R O C E E D I N G S

MR. FOLLANSBEE: If you could mark these as our exhibits for today.

(Exhibit Nos. 1 through 6, For Identification, marked.)

MR. FOLLANSBEE: Why don't we get Pam sworn in, and let's get Rick out of here as fast as we can.

PAMELA D. HAGLER, a witness called on behalf of the Plaintiff, first having been satisfactorily identified by their Massachusetts driver's license, then duly sworn, on oath deposes and says as follows:

MR. FOLLANSBEE: All objections except as to form and motions to strike reserved to trial.

MS. PICKERING-COOK: That's fine.

MR. KESTEN: Yes.

MR. FOLLANSBEE: And as far as signing,

where she is not a party, 35 days to sign it.

Is that okay?

MR. KESTEN: 37. Let's do 37.

MR. FOLLANSBEE: Okay, 37 days. I always give him an extra five days, and he is pushing it.

MR. HOLLAND: You don't need a notary, right?

MR. FOLLANSBEE: No. We'll waive the notary.

EXAMINATION BY MR. FOLLANSBEE:

Q. Could you, please, identify yourself, giving us your name and business address?

A. My name is Pamela Diane Hagler. And my business address is 11 Lincoln Street, Plymouth.

Q. And by whom are you employed?

A. The Town of Plymouth.

Q. And what is your position with the Town of Plymouth?

A. I'm the procurement officer.

Q. And how long have you had that role?

A. I was appointed as the procurement officer since

1 in the mid '90s.
 2 Q. And what's your educational background?
 3 A. I have a degree in business management from
 4 Northeastern.
 5 Q. And do you have any training in the field of
 6 public procurement in Massachusetts?
 7 A. I have my MCPPO designation from the Inspector
 8 General's office.
 9 Q. And when did receive that?
 10 A. Probably, in the late '90s.
 11 Q. And with regard to golf course procurements,
 12 have you ever been involved in a public
 13 procurement under General Laws, Chapter 30(b)
 14 regarding a municipal golf course?
 15 A. The only procurement that I've been involved
 16 with was when we developed Forges Field in
 17 Plymouth, and Crosswinds Golf Course was part of
 18 that development. So the person who developed
 19 Forges Field had to develop the municipal golf
 20 course and operate it.
 21 Q. And was that done under Chapter 30(b)?
 22 A. Yes, it was.
 23 Q. And when was that project done?
 24 A. Quite a while ago. I don't remember when. It

1 was a long time ago.
 2 Q. And did you draft any of the documents yourself
 3 for that?
 4 A. I believe, we had an engineering firm working
 5 with us; so I would have worked in tandem with
 6 them to develop the bid.
 7 Q. And was it a bid or was it an RFP?
 8 A. Well, it would have been a request for proposal
 9 under Chapter 30(b).
 10 Q. So it would have been under 30(b)(6) rather than
 11 30(b)(5)?
 12 A. I don't know the numbers.
 13 Q. Okay.
 14 A. Land is 30(b), RFPs.
 15 Q. Now, are you familiar with the subject matter of
 16 the lawsuit that we're addressing today
 17 regarding the North Hill Country Club in
 18 Duxbury, Mass.?
 19 A. Yes.
 20 Q. And how did you become familiar with that?
 21 A. Mr. Kesten called me a few weeks ago.
 22 Q. And what did Mr. Kesten ask?
 23 A. He asked if I had been involved in it, the level
 24 of my involvement.

1 Q. And what did you respond?
 2 A. That I didn't recall having any involvement in
 3 it, but that I would look in my records and see
 4 if I could find anything.
 5 Q. And having looked in your records since then,
 6 have you found anything?
 7 A. I had one e-mail from the finance director in
 8 Duxbury.
 9 It sounded like he had called me, and I
 10 had been out sick; so then he sent me an e-mail
 11 that was just an e-mail from an employee of
 12 Duxbury, kind of, defining some steps on this
 13 RFP that they needed to take. And I had
 14 e-mailed him back and said I hadn't received
 15 anything.
 16 Q. And other than that, had you had any contact
 17 with anyone from the Town of Duxbury about this
 18 project?
 19 A. Quite a while ago -- I don't know when -- an
 20 elected official from Duxbury called me and
 21 asked if I was involved with the RFP; and I had
 22 said no, that I wasn't.
 23 Q. Do you remember the name of the elected
 24 official?

1 A. No, I don't.
 2 Q. Do you ever recall a conversation that you had
 3 with me about your involvement in this?
 4 A. No, I don't.
 5 Q. Exhibit No. 1 is a request for proposals for
 6 the North Hill Country Club. And this is RFP
 7 number 1. October of 2008 was the bid date.
 8 MR. FOLLANSBEE: And I'm going to just
 9 show the witness that.
 10 (Document handed to the witness.)
 11 MR. FOLLANSBEE: If anyone wants a copy,
 12 I would be happy to burden you with them. Does
 13 anyone want one?
 14 MS. PICKERING-COOK: I'll take it, if you
 15 have extras.
 16 MR. FOLLANSBEE: Oh, we have extras.
 17 MR. HOLLAND: I'll take one, too.
 18 (Documents handed to counsel.)
 19 Q. (BY MR. FOLLANSBEE) Have you ever seen
 20 Exhibit No. 1 before I just handed it to you
 21 today?
 22 A. No.
 23 Q. Did you have any role in drafting it?
 24 A. No.

<p style="text-align: right;">Page 10</p> <p>1 Q. And directing your attention to --</p> <p>2 MR. KESTEN: Off the record, Steve.</p> <p>3 MR. FOLLANSBEE: Terrific, we'll take a</p> <p>4 break off the record.</p> <p>5 (Discussion off the record.)</p> <p>6 Q. (BY MR. FOLLANSBEE) The RFP, I'm going to call</p> <p>7 your attention to page 6 of the RFP, and it</p> <p>8 indicates Relevant Experience. And if you could</p> <p>9 just read to yourself the section under Highly</p> <p>10 Advantageous for Relevant Experience.</p> <p>11 A. Okay.</p> <p>12 Q. In the fourth line down in that section that</p> <p>13 I've called your attention to, there is an</p> <p>14 expression "comparable business enterprises"?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know what that expression means?</p> <p>17 A. I would say that it would mean something that's</p> <p>18 comparable to running a golf course.</p> <p>19 Q. And off the top of your head, do you know of</p> <p>20 anything that's comparable to running a golf</p> <p>21 course?</p> <p>22 A. No.</p> <p>23 Q. Is that expression an expression that you</p> <p>24 suggested to anybody in the Town of Duxbury to</p>	<p style="text-align: right;">Page 12</p> <p>1 should say your name with a "3" after it?</p> <p>2 A. Yes.</p> <p>3 Q. And it indicates again a reference to a lady in</p> <p>4 Plymouth; correct?</p> <p>5 A. Yes.</p> <p>6 Q. Did anyone ever contact you and suggest that you</p> <p>7 were the RFP lady from Plymouth?</p> <p>8 A. No.</p> <p>9 Q. And again, on the next page, Hagler 4, at the</p> <p>10 bottom, it mentions waiting for comments from</p> <p>11 the RFP lady from Plymouth. And this was dated</p> <p>12 9/24/08.</p> <p>13 Did you have any contact with anybody</p> <p>14 other than that one e-mail that you talked about</p> <p>15 that didn't include the RFP?</p> <p>16 A. No.</p> <p>17 Q. This is Exhibit No. 3A. And I'd call your</p> <p>18 attention to paragraph 8 and ask you to read</p> <p>19 that to yourself.</p> <p>20 (Document handed to the witness.)</p> <p>21 MR. FOLLANSBEE: And for the record, this</p> <p>22 was a memo from Gordon Cushing, recreation</p> <p>23 director in Duxbury, regarding the RFP process</p> <p>24 on the North Hill Golf Course. And there may</p>
<p style="text-align: right;">Page 11</p> <p>1 include in this RFP?</p> <p>2 A. No, no.</p> <p>3 Q. I'm going to show you a series of e-mails. This</p> <p>4 is Exhibit No. 2.</p> <p>5 (Documents handed to the witness.)</p> <p>6 Q. And if I could just call your attention, this</p> <p>7 is a series of e-mails amongst Duxbury</p> <p>8 officials. On page 2 of the exhibit, there is</p> <p>9 an indication concerning someone in Plymouth.</p> <p>10 Had anyone consulted you in the fall of</p> <p>11 2008 regarding anything to do with the North</p> <p>12 Hill Country Club?</p> <p>13 A. Well, the only communication that I received</p> <p>14 from Duxbury was the e-mail that I mentioned.</p> <p>15 But there was never a follow-up on that</p> <p>16 e-mail.</p> <p>17 Q. And the e-mail that you mentioned, do you</p> <p>18 remember the year that you received it?</p> <p>19 A. 2007 or 2008.</p> <p>20 Q. And in 2007 and 2008, did anyone ever send you a</p> <p>21 draft RFP?</p> <p>22 A. No.</p> <p>23 Q. On the next page, again, there is a mention;</p> <p>24 and at the bottom of the page, it says -- it</p>	<p style="text-align: right;">Page 13</p> <p>1 not be a date on it.</p> <p>2 Q. This indicates that a draft of the RFP was</p> <p>3 reviewed by a woman working for the Town of</p> <p>4 Plymouth.</p> <p>5 Did you ever review any draft of an</p> <p>6 RFP?</p> <p>7 A. No.</p> <p>8 Q. And Exhibit No. 3B is another memo from Gordon</p> <p>9 Cushing to the Board of Selectmen. Again, if I</p> <p>10 could call your attention to paragraph 8 of that</p> <p>11 memo.</p> <p>12 (Document handed to the witness.)</p> <p>13 MS. PICKERING-COOK: Off the record,</p> <p>14 Steve.</p> <p>15 MR. FOLLANSBEE: Sure.</p> <p>16 (Discussion off the record.)</p> <p>17 Q. (BY MR. FOLLANSBEE) With regard to this memo,</p> <p>18 this is Mr. Gordon Cushing indicating that</p> <p>19 after gathering comments, that the draft of the</p> <p>20 RFP was reviewed by Pamela Hagler, procurement</p> <p>21 officer for the Town of Plymouth.</p> <p>22 Did you ever review any RFP?</p> <p>23 A. No.</p> <p>24 MR. FOLLANSBEE: Why don't we go off the</p>

1 record for a moment.

2 (Recess taken.)

3 Q. (BY MR. FOLLANSBEE) I'd like you to read to
4 yourself Exhibit No. 4, which is an enlargement
5 of some transcript testimony from an October
6 10th -- sorry, October 4, 2010 meeting of the
7 Board of Selectmen.

8 (Document handed to the witness.)

9 A. Okay.

10 Q. Have you had a chance to review that?

11 A. Yes.

12 Q. Do you own a procurement company?

13 A. No.

14 Q. Do you have special expertise in the field of
15 golf course procurements?

16 A. No.

17 Q. Have you ever spoken to Attorney Troy regarding
18 a golf course procurement for the North Hill
19 Country Club in Duxbury, Massachusetts?

20 A. No.

21 Q. Have you ever spoken to Attorney Troy about any
22 issue involving the North Hill Country Club?

23 A. No.

24 Q. Have you ever spoken to anybody, other than the

1 fellow that you identified as the finance
2 director, regarding the North Hill Country
3 Club?

4 A. I don't even remember -- I don't remember even
5 speaking to the finance director. I just have
6 the e-mail that says I got your message or
7 something like that so.

8 Q. And do you have the name of that finance
9 director?

10 A. John Madden.

11 Q. Is John Madden somebody that you know?

12 A. He used to work in Plymouth; so that's how we
13 know each other.

14 Q. And other than that, do you have any other kind
15 of personal relationship with Mr. Madden, social
16 or friendly or anything like that?

17 A. Well, we're friends because we worked together
18 in Plymouth.

19 Q. And how long ago did he work in Plymouth with
20 you?

21 A. He might have left five or six years ago, maybe
22 longer.

23 Q. I'm showing you an IFB for the North Hill Golf
24 Course for bids due on February 17, 2011 at 2:00

1 p.m. This is Exhibit No. 5.

2 (Document handed to the witness.)

3 Q. Have you ever seen that document before?

4 A. No.

5 Q. And you've had experience in either drafting or
6 assisting to draft IFBs and RFPs --

7 A. Yes.

8 Q. -- under the procurement statute?

9 A. Yes.

10 Q. And how many times, in your experience, have you
11 been involved with procurements under Chapter
12 30(b)?

13 A. I process about 30 to 50 bids a year, under all
14 of the procurement laws. I can't tell you how
15 many are 30(b) and how many are 30, 39(m) and
16 149. But I have a lot of experience with
17 30(b).

18 Q. And that experience goes back over the last 20
19 years?

20 A. Uh-huh.

21 Q. Is that yes?

22 A. Yes, sorry.

23 Q. Have you ever included a provision in a draft of
24 your documents in which you advised the

1 prospective bidders that there can be no
2 judicial review of any decision by the elected
3 officials of the Town of Plymouth?

4 MS. PICKERING-COOK: Objection.

5 A. No.

6 Q. Is it your opinion that such a provision, if it
7 was included, would be legal?

8 MS. PICKERING-COOK: Objection. She is
9 here as a fact witness.

10 MR. FOLLANSBEE: Okay.

11 Q. You can answer. She's made her objection.

12 A. I'm sorry, I lost the question.

13 Q. Okay.

14 My question was, do you think such a
15 provision would be legal under Chapter 30(b) to
16 include in a bid document a provision that says
17 that there can be no judicial review of any
18 decision by the Town of Plymouth?

19 MS. PICKERING-COOK: Same objection.

20 A. Well, the review would be by the Inspector
21 General's office.

22 Q. And would there also be a right to judicial
23 review by a judge of the superior court?

24 MS. PICKERING-COOK: Objection.

1 A. If they wanted to sue the town.
 2 Q. And is it your belief that, if you put a
 3 clause in your contract that says no matter what
 4 the town says, you can't go to court and
 5 challenge it, do you think that would pass legal
 6 muster?
 7 MS. PICKERING-COOK: Objection.
 8 A. Personally, no, I don't think it would.
 9 Q. Exhibit No. 6 is a draft of an affidavit that we
 10 had prepared.
 11 (Document handed to the witness.)
 12 Q. Now, have you seen a draft of that affidavit
 13 before?
 14 A. I have the affidavit that was forwarded to me by
 15 counsel, but it's different. It looked
 16 different than that.
 17 Q. Can you just read that to yourself, and then
 18 I'll ask you a couple of questions about it?
 19 A. Okay.
 20 THE WITNESS: Oh, it was the summons that
 21 you sent, I'm sorry.
 22 MR. HOLLAND: That's all right.
 23 (Discussion off the record.)
 24 Q. (BY MR. FOLLANSBEE) Have you had a chance to

1 review that?
 2 A. Yes.
 3 Q. Is there anything in that affidavit that is not
 4 true?
 5 MR. HOLLAND: Just an objection, for the
 6 record. Do you want to ask her individually the
 7 questions?
 8 MR. FOLLANSBEE: Well, I can ask her
 9 individually, sure.
 10 MR. HOLLAND: It might be easier that
 11 way.
 12 MR. FOLLANSBEE: Okay.
 13 Q. (BY MR. FOLLANSBEE) Are you an employee of the
 14 Town of Plymouth?
 15 A. Yes.
 16 Q. Are you a procurement officer?
 17 A. Yes.
 18 Q. Have you ever drafted any requests for proposals
 19 or related documents for the Town of Duxbury
 20 pertaining to the North Hill Country Club golf
 21 course?
 22 A. No.
 23 Q. Have you read the quote from Attorney Troy
 24 before the Duxbury selectmen which is Exhibit

1 No. 4?
 2 A. Yes.
 3 Q. To the extent that Attorney Troy or anybody
 4 else from Duxbury is suggesting that you
 5 drafted the documents, are they 100 percent
 6 wrong?
 7 A. Yes.
 8 Q. And if anybody from Duxbury is suggesting that
 9 you reviewed documents, are they 100 percent
 10 wrong?
 11 A. Yes.
 12 Q. And it's correct that you do not have a
 13 company that does the drafting of procurement
 14 documents for municipal golf courses; is that
 15 correct?
 16 THE WITNESS: Should I clarify?
 17 MR. HOLLAND: When you say "documents,"
 18 you're referring to the RFP documents for the
 19 golf course; is that right?
 20 MR. FOLLANSBEE: Yes.
 21 Q. (BY MR. FOLLANSBEE) You don't have a company
 22 that drafts documents, do you?
 23 A. Well, I did two bids for the Town of Duxbury
 24 prior to this.

1 Q. I'm talking only about a company that does the
 2 drafting of procurement documents for municipal
 3 golf courses.
 4 A. No.
 5 Q. Do you have such a company?
 6 A. No, I don't.
 7 Q. Have you ever had anything to do with an RFP for
 8 the North Hill Country Club golf course?
 9 A. No.
 10 MR. FOLLANSBEE: I have nothing further.
 11 MR. KESTEN: Nothing.
 12 MS. PICKERING-COOK: I have some
 13 questions.
 14 MR. FOLLANSBEE: Sure.
 15
 16 EXAMINATION BY MS. PICKERING-COOK:
 17 Q. You mentioned that John Madden, the finance
 18 director in Duxbury, worked with you in
 19 Plymouth; is that right?
 20 MR. HOLLAND: Sorry, can you just
 21 identify yourself, for the record?
 22 MS. PICKERING-COOK: I apologize. Nina
 23 Pickering-Cook of Anderson Kreiger on behalf of
 24 the Town of Duxbury.

1 I just have a few questions for you,
2 ma'am.

3 MR. FOLLANSBEE: Have you entered an
4 appearance in the case?

5 MS. PICKERING-COOK: I have not.

6 MR. FOLLANSBEE: Then I don't think that
7 you are going to ask any questions today. But
8 thank you for your interest.

9 MR. KESTEN: Well, give us a moment
10 then.

11 (Recess taken.)

12 MR. KESTEN: I have some questions. I've
13 taken an interest.

14 EXAMINATION BY MR. KESTEN:

15 Q. How many procurements did you do for the golf
16 course in Plymouth?

17 A. We did the initial -- I did the initial
18 procurement, and then we've done maintenance
19 procurements.

20 Q. For the golf course?

21 A. Yes.

22 Q. Now, John Madden, was he the finance director in
23 Plymouth?
24

1 A. No. He was the accounting officer.

2 Q. Accounting officer?

3 A. Yes.

4 Q. Was he involved in those at all as the
5 accounting officer?

6 A. No. He had nothing to do with them.

7 Q. Was he working in Plymouth when you did those
8 procurements?

9 A. Yes.

10 Q. What other projects did you do for Duxbury?
11 What projects did you do for Duxbury in terms of
12 helping them for procurements?

13 A. I did a compensation study. And I can't
14 remember what exactly it was, but you it was the
15 Tarkiln Building. It was either a reuse or a
16 design for the Tarkiln Building.

17 Q. Who did you work with in Duxbury?

18 A. Rich McDonald on both of them.

19 Q. Was Bob Troy involved?

20 A. No.

21 Q. So you just worked with the town manager?

22 A. Yes.

23 Q. Now, with regards to your communications with
24 Mr. Madden --

1 A. Yes.

2 Q. -- with regard to that e-mail that you got about
3 North Hill, do you recall having heard from
4 anyone in Duxbury about a golf course
5 procurement before that e-mail?

6 A. No, I don't.

7 Q. Now, in your e-mail or in your response, you
8 talked about or you indicated that you had
9 never called Peter Butkus, B-U-T-K-U-S, to set
10 up a meeting.

11 Who is Peter Butkus?

12 A. I believe, Peter Butkus was either the DPW
13 director or the parks director.

14 Q. So had there been some plan for you to help them
15 with a DPW or parks procurement?

16 A. I don't really know. I gathered from my e-mail
17 that I must have gotten a message from John. I
18 was out sick, and this was my response to him.
19 But I never --

20 Q. Well, the e-mail --

21 MR. HOLLAND: Excuse me, did you have
22 more to say on that or no?

23 THE WITNESS: No.

24 Q. To refresh your memory, he had forwarded you an

1 e-mail from Gordon Cushing to Richard McDonald
2 and a bunch of folks which was dated September
3 24, 2008. And in bullet point 4, it says,
4 Mr. Cushing says, "Here is what I believe
5 remains." Bullet point 4, he says, "Comments
6 from the RFP lady in Plymouth."

7 That appears to have been forwarded to
8 you by Mr. Madden on that same day, September
9 24th?

10 A. Yes.

11 Q. You then respond on the 30th and say, "I just
12 saw this e-mail but haven't yet received
13 anything from you, so I never called Peter
14 Butkus to set up a meeting. Am I the lady in
15 Plymouth with comments? I was out sick today,
16 so I will try to connect with you tomorrow,
17 Pam."

18 Do you remember talking to Mr. Madden
19 after you sent this e-mail?

20 A. No, I don't.

21 Q. And you have no memory of some arrangement that
22 you may have had with Mr. Madden or the Town of
23 Duxbury to talk to Peter Butkus about
24 something?

1 A. I don't have any memory of anything to do with
 2 the North Hill Golf Course except for that. I
 3 didn't have any memory of that e-mail until I
 4 found it.
 5 Q. Well, we're putting it on the record, I know
 6 that's what you told me. But it sure indicates
 7 like you had some plan to talk to Peter Butkus
 8 about something, which might have been something
 9 different.

10 Do you have any memory of about what that
 11 may have been?

12 A. I don't even know who Peter Butkus is except
 13 his role in Duxbury; so I'm assuming that John
 14 must have left me a message, and he suggested
 15 that I talk to Peter Butkus.

16 Q. Or meet with, okay?

17 A. Yeah.

18 Q. But you have no memory or no evidence, you
 19 haven't found anything that could refresh your
 20 memory as to what this may have been?

21 A. No.

22 Q. With regard to Peter Butkus?

23 A. No, I don't know.

24 MR. KESTEN: Okay, thank you. I've lost

1 interest again.

2 MR. FOLLANSBEE: We're all done, thank
 3 you. Thank you very much for your time. Sorry
 4 for the inconvenience.

5 THE WITNESS: No problem. Thank you.

1 CERTIFICATE

2
 3 I, PAMELA D. HAGLER, do hereby certify
 4 that I have read the foregoing transcript of my
 5 testimony, and further certify that said
 6 transcript is a true and accurate record of said
 7 testimony.

8 Dated at _____,
 9 this _____ day of _____,
 10 2012.

11
 12
 13
 14
 15 PAMELA D. HAGLER
 16 SIGNED UNDER THE PENALTIES
 17 OF PERJURY

1 CERTIFICATE

2 Commonwealth of Massachusetts
 3 Middlesex, ss.

4 I, JAMES A. LYONS, Certified Shorthand
 5 Reporter, Registered Diplomate Reporter,
 6 Certified Realtime Reporter and Notary Public in
 7 and for the Commonwealth of Massachusetts, do
 8 hereby certify: that PAMELA D. HAGLER, the
 9 witness whose deposition is hereinbefore set
 10 forth, was satisfactorily identified, then duly
 11 sworn by me, and that such deposition is a true
 12 record of the testimony given by the said
 13 witness.

14 I further certify that I am not a
 15 relative or employee or counsel or attorney for
 16 any of the parties, or a relative or employee of
 17 such counsel or attorney, nor am I financially
 18 or otherwise interested in the outcome of the
 19 action.

20 IN WITNESS WHEREOF, I have hereunto set
 21 my hand and notarial seal this 15th day of May,
 22 2012.

23 JAMES A. LYONS
 24 CSR No. 117993, RDR, CRR
 My commission expires
 on April 29, 2016