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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 Civil Action No. 1:12-cv-11908-FDS

4 *****

5 EURIE A. STAMPS, JR. and NORMA

BUSHFAN STAMPS, Co-Administrators

6 of the Estate of Eurie A. Stamps,

Sr.,

7

Plaintiffs,

8

v.

9

THE TOWN OF FRAMINGHAM, and PAUL

10 K. DUNCAN, individually and in

his Capacity as a Police Officer

11 of the Framingham Police

Department,

12

Defendants.

13

14

15 VIDEOTAPED DEPOSITION OF JAMES M. SEBASTIAN

16

17 Tuesday, August 6th, 2013

18 12:40 p.m.

19

20 Held At:

21 Kreindler & Kreindler LLP

277 Dartmouth Street

22 Boston, Massachusetts

23 REPORTED BY:

24 Maureen O'Connor Pollard, RPR, CLR, CSR

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1 APPEARANCES:

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19 Also Present: Lucille Sharp, Paralegal

Christina Graziano, Law Clerk

20

21 Videographer: Christopher Coughlin

22

23

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1 PROCEEDINGS

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3 THE VIDEOGRAPHER: We are now on the
4 record. My name is Chris Coughlin, I'm a
5 videographer for Golkow Technologies.

6 Today's date is August 6th, 2013, and
7 the time is 12:40 p.m.

8 This video deposition is taking place
9 in Boston, Massachusetts in the matter of
10 Eurie A. Stamps, Jr. and Norma Bushfan
11 Stamps, as Co-Administrators of the Estate
12 of Eurie A. Stamps, Sr., Plaintiffs, versus
13 the Town of Framingham and Paul K. Duncan,
14 individually and in his capacity as a police
15 officer of the Framingham Police Department,
16 Defendants, United States District Court,
17 District of Massachusetts, Civil Action Case
18 Number 1:12-cv-11908-FDS.

19 The deponent is Officer James
20 Sebastian.

21 Will counsel please identify
22 yourselves for the record.

23 MR. MUSACCHIO: Joseph Musacchio
24 representing the Plaintiff Eurie Stamps,

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1 Jr..

2 MR. FUGATE: Anthony Fugate
3 representing Norma Stamps, the widow of the
4 decedent.

5 MR. DONOHUE: Tom Donohue for the
6 Defendants.

7 THE VIDEOGRAPHER: And also present?

8 MS. GRAZIANO: Christine Graziano, a
9 law clerk working on behalf of the
10 Plaintiffs.

11 THE VIDEOGRAPHER: And Lucille Sharp.
12 The court reporter is Maureen Pollard,
13 and will now swear in the witness.

14

15 JAMES M. SEBASTIAN,
16 having been first duly sworn, was examined and
17 testified as follows:

18

19 MR. MUSACCHIO: We'll have the usual
20 stipulations that we had in the prior
21 deposition?

22 MR. DONOHUE: Agreed.

23

24

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1 DIRECT EXAMINATION

2 BY MR. MUSACCHIO:

3 Q. Can you please state your name for the
4 record?

5 A. Sure. James Michael Sebastian.

6 Q. And where do you reside?

7 A. Franklin, Massachusetts.

8 Q. And are you presently employed?

9 A. Yes, I am.

10 Q. And where is that?

11 A. The Town of Framingham as a police
12 officer.

13 Q. And how long have you been a police
14 officer in Framingham?

15 A. Approximately twelve years.

16 Q. And what is your rank or position?

17 A. I'm a patrolman, sir.

18 Q. And have you -- prior to working at
19 the Framingham Police Department, were you
20 employed by any other law enforcement agency?

21 A. Yes, I was. I was employed for
22 approximately two years at the Natick Police
23 Department, and I worked as a court officer for
24 the Trial Court of the Commonwealth for seven

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1 years.

2 Q. In Natick, what was your rank as a

3 police officer?

4 A. Patrolman.

5 Q. And back on January 5th, 2011, your

6 position was patrolman at the Framingham Police

7 Department?

8 A. Yes.

9 Q. And you are presently a member of the

10 Framingham Police Department SWAT team, is that

11 correct?

12 A. Just reassigned to the SWAT team due

13 to lack of personnel, and people are injured, so

14 they asked me to come back to be helpful, I

15 guess, to the team in the next couple months.

16 Q. When did you first become a member of

17 the Framingham Police Department SWAT team?

18 A. I think in 2004.

19 Q. And at some point you left the team?

20 A. Yes. After I did -- it wouldn't make

21 sense 2004 for ten years. But I did ten years

22 on the team, so it must have been anywhere

23 between 2003, 2000 -- late 2002. So I left

24 after ten years on the team.

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1 Q. Okay.

2 THE VIDEOGRAPHER: Pardon me for a
3 moment, please. Sir, your microphone seems
4 to have slipped down.

5 THE WITNESS: I'm sorry.

6 THE VIDEOGRAPHER: Thank you.

7 BY MR. MUSACCHIO:

8 Q. So what date did you leave the team,
9 approximately?

10 A. I think it was a year after, close to
11 a year after this incident, so it was 2000 --

12 Q. 2012?

13 A. Yes, 2012, yes.

14 Q. And why did you leave the team?

15 A. I felt as though that it was my time.
16 I'm 51 years old, the PT that we were doing, it
17 was starting to take its wear and tear on my
18 body.

19 Q. And you said that now that you're
20 presently been called back to the team?

21 A. Yes.

22 Q. And the reason you were called back
23 was what?

24 A. We have people that are out injured,

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1 and they had asked if I would come back for a
2 few months. I think they asked me in June, and
3 the stipulation was probably to just around
4 September until people come back.

5 Q. When you were a member of the SWAT
6 team on January 5th, 2011, what was your rank or
7 position at that time?

8 A. I was an entry officer, entry SWAT
9 guy, and team member, and a sniper, on the
10 sniper team.

11 Q. You had no command responsibilities?

12 A. No, sir.

13 Q. Okay. Can you briefly describe your
14 educational background, where you went to high
15 school and college, if any?

16 A. Went to Framingham North High School.
17 After I got out of high school, I went to Mass
18 Bay Community College for two years. Enlisted
19 in the United States Marine Corps for four
20 years. And when I got out, I finished up my
21 degree at Westfield State College through the
22 Framingham State College Sauer program in
23 criminal justice.

24 Q. Any subsequent degrees after that?

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1 A. No.

2 Q. Now, you understand that we're here
3 today to discuss your involvement in the
4 execution of a search warrant that occurred on
5 January 5th, 2011 at 26 Fountain Street,
6 Framingham, is that correct?

7 A. Yes.

8 Q. And you understand that Eurie Stamps,
9 Sr. was killed in his home during the execution
10 of the warrant by a bullet fired from the gun of
11 Officer Paul Duncan. You understand that to be
12 correct?

13 A. Yes, sir.

14 Q. In preparation for your deposition,
15 did you review your interview transcript that
16 was taken on January 6th, 2011?

17 A. Yes, I did.

18 Q. And when did you review that?

19 A. I met with Tom approximately two weeks
20 ago, he gave me a copy. And I saw him yesterday
21 and we went over -- he gave me another copy just
22 to look at again.

23 Q. Prior to two weeks ago, had you
24 reviewed it at another time?

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1 A. No, sir.

2 Q. And you, when you gave your testimony
3 during the interview, you were not under oath at
4 that time, is that correct?

5 A. I don't recall.

6 Q. But you knew you needed to tell the
7 truth as to what you observed and saw during the
8 execution of the warrant, correct?

9 A. Absolutely, yes, sir.

10 Q. Just one ground rule here --

11 A. Let you finish.

12 Q. -- make I finish my question --

13 A. Okay. I'm sorry.

14 Q. -- before you answer. It just helps
15 the stenographer.

16 A. I apologize.

17 Q. No problem. I do it myself, too.

18 MR. MUSACCHIO: Let me mark this
19 transcript as the next exhibit.

20 (Whereupon, Exhibit Number 22, 1/6/11

21 Interview of James Sebastian by

22 Lieutenant Forster, Bates STAMPS

23 000300 through 307, was marked for

24 identification.)

00012

1 BY MR. MUSACCHIO:

2 Q. Officer Sebastian, I'm going to show
3 you what's been marked as Exhibit 23. Is that a
4 -- does that appear to you --

5 MS. SHARP: 22.

6 MR. MUSACCHIO: 22.

7 BY MR. MUSACCHIO:

8 Q. -- does that appear to you to be a
9 copy of the transcript of your interview that
10 took place on January 6th, 2011 with Lieutenant
11 Forster?

12 A. Yes.

13 Q. Now, you've reviewed this before your
14 deposition, is that correct?

15 A. Yes.

16 Q. Is there anything in there that you
17 now feel is incorrect that you could recall?

18 A. I believe I made a mistake with names,
19 and then corrected myself during the interview.

20 Q. Other than that, there's no
21 inaccuracies that you can identify?

22 A. No.

23 Q. Did you review any other materials or
24 documents before your deposition today?

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1 A. I went over the policies and
2 procedures for firearms.

3 Q. Did you do that on your own?

4 A. I did.

5 Q. Did you review any other documents or
6 procedures?

7 A. No, I didn't.

8 Q. Did you discuss your deposition with
9 Officer Paul Duncan?

10 A. No.

11 Q. Did you discuss your deposition with
12 any other law enforcement personnel employed by
13 the Framingham Police Department, other than
14 issues relating to scheduling, that the
15 deposition was happening? Any substantive
16 conversations that you had with anybody
17 associated with the Framingham Police Department
18 relating to your deposition?

19 A. I spoke to other officers and told
20 them I was coming in today, you know, and what
21 my time was to come in. Other than that...

22 Q. You did not discuss the substance of
23 the shooting incident of January 5th, 2011 with
24 anybody prior to coming in here today for your

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1 deposition?

2 A. I don't recall talking about it to

3 anybody.

4 Q. But I'm talking like within the last,

5 say, week or several weeks, you haven't

6 discussed the incident with anybody else at the

7 Framingham Police Department in light of the

8 fact that your deposition was being taken?

9 A. No.

10 Q. Now, when were you first notified back

11 on January 4th of 2011 that the SWAT team was

12 going to be mobilized, do you recall?

13 A. Approximately 9:30.

14 Q. And you arrived at the police station

15 at approximately 11:00 p.m. on January 4th, is

16 that correct?

17 A. Yes.

18 Q. And when you arrived at the station,

19 is that the first time you learned that the SWAT

20 team was going to be employed for the execution

21 of the search warrant at 26 Fountain Street,

22 Framingham?

23 A. I believe so, yes.

24 Q. Now, there was a planning meeting or

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1 briefing that took place to discuss the plan for

2 the execution of the warrant, is that correct?

3 A. Yes, sir.

4 Q. Who was in command of that meeting, do

5 you recall?

6 A. I believe it was Deputy Davis,

7 Lieutenant Bob Downing, and Sergeant Vincent

8 Stuart.

9 Q. And Downing had a command position

10 with the SWAT team, is that correct?

11 A. Yes.

12 Q. What was his official title?

13 A. Team leader.

14 Q. What about Sergeant Stuart, what was

15 his position?

16 A. He answered to Lieutenant Downing, but

17 he was more or less -- he was the one in charge

18 of, more or less, the plan. He had the most

19 input, I believe.

20 Q. So during this briefing, you went over

21 the plan for the execution of the warrant, is

22 that correct?

23 A. Yes.

24 Q. And you saw a layout of the apartment

00016

1 at 26 Fountain Street. Do you recall that?

2 A. I'm sure I did, but I don't recall it

3 as we speak here. Like looking up on a board

4 and seeing different rooms or anything like

5 that, I don't recall any of that.

6 Q. But do you have a recollection that

7 information was being presented to you during

8 the meeting regarding the layout of the

9 apartment? You may not remember the specifics,

10 but you remember there was information conveyed

11 to you about the layout of the apartment, is

12 that correct?

13 A. I'm pretty sure. That's what we do

14 before we go in, we look at a building and

15 street number of the house, the surroundings.

16 Q. And you were told during the planning

17 meeting that the warrant related to probable

18 cause to believe that drugs were being

19 distributed from 26 Fountain Street, is that

20 correct?

21 A. Yes, sir.

22 Q. And were you told of the individuals

23 that were involved in the distribution of drugs

24 from that apartment?

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1 A. Yes.

2 Q. Do you remember that it was Joseph
3 Bushfan and Dwayne Barrett who were identified
4 as suspects who allegedly were selling drugs
5 from the apartment?

6 A. I'm not sure of the names.

7 Q. I'm going to show you what's been
8 previously marked as Exhibit 13, and represent
9 to you that this is the search warrant for 26
10 Fountain Street on January 5th, 2011. And I'm
11 going to ask you if, after reviewing that, if
12 you can see the names of the suspects that were
13 alleged to be selling drugs at that address?

14 A. Okay. I see their names right here on
15 the first page.

16 Q. And what are they?

17 A. Dwayne Barrett and Joseph Bushfan.

18 Q. And those were the two targets of the
19 search, is that correct?

20 A. Yes.

21 Q. And you -- although you don't remember
22 the names, you became aware of that at the time
23 of the planning meeting, right?

24 A. Yes.

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1 Q. And you also became aware of the
2 planning meeting that other individuals who
3 resided at 26 Fountain Street were also -- who
4 may be present at the apartment at the time, is
5 that correct?

6 A. I don't recall.

7 Q. Do you recall a discussion of a
8 68 year old black man who resided at the
9 apartment?

10 A. I don't recall.

11 Q. What's the planning -- I think it's
12 12, the after action plan. It's 12? I can take
13 that back from you.

14 A. Sure.

15 Q. Officer Sebastian, I'm going to show
16 you what's been marked previously as Exhibit 12,
17 which was the after action report submitted by
18 Deputy Chief Greg Davis on January 5th, 2011.
19 I'm going to in a moment call your attention to
20 some language in that report.

21 A. Okay.

22 Q. Can you turn to the second page of the
23 report, which is Bates stamp number 522?

24 A. Okay.

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1 Q. And this is -- there's a discussion on
2 Page 1, the previous page, about the briefing
3 and the planning meeting that occurred. Do you
4 see that in the bottom paragraph? If you can
5 peruse that for me.

6 A. Okay.

7 MR. DONOHUE: Take your time and read
8 the paragraph.

9 (Witness reviewing document.)

10 BY MR. MUSACCHIO:

11 Q. Did you read that?

12 A. Yes.

13 Q. And what you read, that's consistent
14 with what you previously testified to, that
15 there was a discussion of the layout of the
16 apartment at 26 Fountain Street, is that right,
17 an aerial view, is that correct?

18 A. Yes.

19 Q. If you can turn the page, it says [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23 A. Yes.

24 Q. And below that it says "Additional to

00020

1 the above subjects these persons were believed

2 to be within the premises," and it lists "Eurie

3 Stamps [REDACTED]

5 Do you see that?

6 A. Yes, I do.

7 Q. Does that refresh your recollection as

8 to whether other people were identified as

9 residents of 26 Fountain Street that may be

10 present in the apartment at the time of the

11 execution of the warrant?

12 A. It doesn't. But after reading this, I

13 understand that it was given out at that time.

14 Q. It was.

15 So when you left the police station as

16 a member of the SWAT team to execute the

17 warrant, you knew that an elderly individual,

18 Eurie Stamps, resided in the apartment?

19 A. He was believed to be in the

20 apartment.

21 Q. Now, during the search warrant, was

22 [REDACTED]

00021

1 A. Yes.

2 Q. And the information that the
3 commanding officer had and conveyed to you and
4 the other SWAT members, [REDACTED]

5 [REDACTED]
6 [REDACTED] is that correct?

7 A. Yes.

8 Q. Did you -- during the planning
9 meeting, were you provided with any information
10 that Mr. Stamps was armed and dangerous?

11 A. I don't recall --

12 Q. You don't recall?

13 A. -- any information that Mr. Stamps was
14 armed and dangerous.

15 Q. Okay. Do you have any memory of being
16 provided any information that Mr. Stamps was
17 involved or alleged to be involved in any
18 illegal activity at 26 Fountain Street?

19 A. I don't recall that information being
20 given to us.

21 Q. Do you have any recollection of any
22 information being provided to you that Eurie
23 Stamps posed any kind of a threat to the police?

24 A. No.

00022

1 Q. Can I see that for a second?

2 A. Sure (handing).

3 Q. Now, it says in the after action

4 report, after Eurie Stamps is listed as persons

5 who may also be on the premises, [REDACTED]

6 [REDACTED]

7 Is that listed here for the purposes

8 of letting the police officers [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 A. Yes.

12 Q. And according to this after action

13 report, it was conveyed to the officers that

14 [REDACTED]

15 [REDACTED]

16 A. Yes.

17 Q. Did you have any knowledge whether he

18 was the one who leased the apartment?

19 A. No.

20 Q. Now, assignments, at the planning

21 meeting, assignments were given to each member

22 of the SWAT team, is that correct?

23 A. Yes.

24 Q. And the SWAT team arrived at 26

00023

1 Fountain Street shortly after midnight on

2 January 5th, 2011, is that correct?

3 A. Not sure of the exact time, but we

4 were there.

5 Q. Okay. I'm going to show you Exhibit

6 12 again, the after action report of Deputy

7 Chief -- Deputy Craig Davis. Can you look at

8 that first paragraph, first full paragraph, and

9 just read that first line to me?

10 A. Okay. "At 12:20 the SWAT officers

11 left the station for 26 Fountain Street."

12 Q. So you arrived at 26 Fountain Street

13 sometime after midnight on January 5th, 2006, is

14 that correct?

15 A. Yes.

16 Q. Now, you understood that the warrant

17 was to be executed on the first floor of 26

18 Fountain Street?

19 A. Yes.

20 Q. Now, before you arrived, you had some,

21 you may not remember right now, but you had some

22 familiarity with the lay out of the apartment,

23 is that correct?

24 A. Yes.

00024

1 MR. MUSACCHIO: Mark this as the next
2 exhibit.

3 (Whereupon, Exhibit Number 23, Color
4 scaled diagram of interior of 26
5 Fountain Street, was marked for
6 identification.)

7 BY MR. MUSACCHIO:

8 Q. Officer Sebastian, I'm going to
9 represent to you that this is a floor plan
10 diagram that was prepared for the Plaintiffs in
11 this case that depicts the layout and various
12 measurements of the first floor apartment at 26
13 Fountain Street. I want to go through this with
14 you, and see if this refreshes your
15 recollection.

16 A. Okay.

17 Q. Now, you recall that this is the front
18 entrance to the house? Is that consistent with
19 your memory?

20 A. Yes.

21 Q. And this was a common area hallway
22 here, is that correct?

23 A. Yes.

24 Q. Okay. And the common area hallway

00025

1 led -- had two doors, right; one on the right
2 side that led into what we refer to as a living
3 room, is that right?

4 A. Yes.

5 Q. Is that consistent with your memory?

6 A. Yes.

7 Q. And then there's another door at the
8 end of the hallway that led into the kitchen, is
9 that correct?

10 A. Yes.

11 Q. And then off of the living room there
12 was an opening that led into what we refer to as
13 a room that's called a den. Do you see that?

14 A. Yes.

15 Q. Is that consistent with your memory of
16 the layout of the apartment on January 5th,
17 2011?

18 A. All the way up to the end of the
19 kitchen, because I never went any farther into
20 that area.

21 Q. Exactly.

22 Okay. So the front entry, the living
23 room, the den, and the kitchen is all -- the
24 layout is all consistent with your memory of

00026

1 what it looked like on January 5th, 2011?

2 A. Yes.

3 Q. Now, your assignment that evening was
4 to be part of a three man team that would enter
5 the door in the hallway on the right side of the
6 hallway, is that correct?

7 A. Right here, yes (indicating).

8 Q. Can you take this black marker and
9 just put an X at that doorway that related to
10 your assignment in terms of where you were going
11 to enter?

12 A. Okay (labelling).

13 Q. So your team consisted of yourself,
14 Officer Paul Duncan, and Sergeant Stuart, is
15 that correct?

16 A. Yes.

17 Q. Okay. And what you did is you entered
18 into the apartment at the front door entry,
19 which is right here (indicating), is that
20 correct?

21 A. Yes.

22 Q. And that door was unlocked at the
23 time, do you recall?

24 A. It was open when I went through it.

00027

1 Q. It was open.

2 A. It was unlocked.

3 Q. So it didn't have to be breached or
4 broken?

5 A. I don't believe so. I don't recall,
6 because I'm not sure.

7 Q. You entered through the front door?

8 A. Yes.

9 Q. And your assignment, along with
10 Sergeant Stuart and Officer Duncan, was to enter
11 the apartment at the appropriate time by
12 breaching this door in the hallway on the right
13 side, and to enter what we've referred to as the
14 living room, is that correct?

15 A. Yes.

16 Q. Okay. And Officer Duncan was the
17 so-called breacher of the door, is that correct?

18 A. Yes.

19 Q. And that meant that if the door was
20 locked, he needed to break the door open to gain
21 entry, is that correct?

22 A. Yes.

23 Q. And after the door was breached, your
24 responsibility was to enter the room in a

00028

1 so-called stack consisting of Officer Duncan,
2 yourself, and Sergeant Stuart, is that correct?

3 A. Correct.

4 Q. And at some point you -- and then
5 there was another team that was going to enter
6 the apartment through the kitchen door, is that
7 correct?

8 A. Yes, it is.

9 Q. And that team consisted of Officer
10 O'Toole, Officer Sheehan, is that correct?

11 A. I don't recall who was in that stack
12 over there.

13 Q. Okay. Do you know if Lieutenant
14 Downing was in that stack to enter in the
15 kitchen?

16 A. He was.

17 Q. He was. Okay.

18 But you don't recall necessarily who
19 the other two officers were?

20 A. No. Nope.

21 Q. Now, at some point Officer Stuart,
22 after you made entry, knocked on that right door
23 that you've marked an X and knocked and
24 announced "Framingham Police Department search

00029

1 warrant," is that correct?

2 A. I don't recall if he did it outside

3 the house or in the hallway. I don't recall.

4 Q. But you heard him make an

5 announcement?

6 A. I did.

7 Q. So-called knock and announce, correct?

8 A. Yes.

9 Q. Okay. And at some point after that

10 you heard an order to execute? Do you recall

11 that?

12 A. I don't recall it, but that is our way

13 of saying we're going to go in.

14 Q. So the sequence is that Stuart does a

15 knock and announce?

16 A. Yes.

17 Q. If he doesn't get a response to his

18 knocking and announcing, an order is given to

19 execute the warrant, is that correct?

20 A. Correct.

21 Q. And is that your memory of what

22 happened that evening?

23 A. Yes.

24 Q. And then at that point did you hear a

00030

1 flashbang go off?

2 Let me ask you this. Was it part of

3 the execution of the warrant --

4 A. Yes.

5 Q. -- planning to have a flashbang?

6 A. Yes.

7 Q. And you wouldn't enter the apartment

8 until after the flashbangs go off, is that

9 correct?

10 A. Correct.

11 Q. So is it fair to say that at some

12 point a flashbang went off after the execution

13 order was given? Is that correct?

14 A. Yes.

15 Q. And then once the flashbang went off,

16 that's when Officer Duncan broke open the door

17 into the living room, is that correct?

18 A. I recall him breaking open the door,

19 yes.

20 Q. And was Duncan the first one into the

21 room?

22 A. I don't recall. A lot of times when

23 you're breaching and you open the door, you have

24 to get rid of the breaching tool, and somebody

00031

1 else, while you do that, somebody else will move
2 in, and then you follow him behind as if you're
3 the breacher.

4 Q. You don't have a recollection of who
5 was first into the room?

6 A. I don't.

7 Q. Okay.

8 A. I don't.

9 Q. Do you know if you were -- at any
10 point, you entered -- after the door is breached
11 Officer Duncan, yourself, and Sergeant Stuart
12 entered into the living room, is that correct?

13 A. Correct.

14 Q. And when you entered the living room,
15 what weapon were you carrying?

16 A. I was carrying an M-4 Colt assault
17 rifle.

18 Q. What setting was it on; was it on safe
19 or off safe?

20 A. It was on safe.

21 Q. So when you entered that living room,
22 your gun was on safe?

23 A. Yes, it was.

24 Q. And was that your understanding of

00032

1 what the procedure and protocol was upon

2 entering a room like that?

3 A. I like to keep my weapon on safe.

4 Q. Were you instructed by anybody at the

5 Framingham Police Department that upon entry at

6 this point in the execution of a search warrant

7 that the weapon should be on safe?

8 A. No.

9 Q. But your weapon was on safe?

10 A. My weapon was on safe, yes.

11 Q. And why do you prefer to have it on

12 safe?

13 A. Because I have the confidence in

14 myself that if I perceive a threat, I can raise

15 my weapon and put the weapon from safe to fire

16 quickly.

17 Q. Now, when you entered the living room,

18 did you see any persons in there, other than the

19 other officers, of course?

20 A. No.

21 Q. So you did not encounter any threats

22 in the living room at that point, is that

23 correct?

24 A. No.

00033

1 Q. So you still kept your weapon on safe
2 at that point?

3 A. Yes. Safe, and at the low ready.

4 Q. After entering the living room, what
5 did you do in that living room area?

6 A. As I made entry here, I know that
7 Sergeant Stuart and Officer Duncan were in front
8 of me. Up here, I saw what I thought was a
9 blanket taped to the walls, right here to cover
10 this (indicating).

11 Q. Can you mark with your -- with a black
12 marker, just put a line where you saw the
13 blanket, and just write the word "blanket"?

14 A. Sure (labelling).

15 Q. And when Officer Duncan and Sergeant
16 Stuart, they at some point walked over to where
17 the blanket was?

18 A. You know what? I made a mistake. I
19 made a mistake on this.

20 The blanket, I believe, was right
21 here, because when I walked in -- just trying to
22 recall (indicating).

23 Q. We can take a look at your interview,
24 because I believe in your interview you said

00034

1 that there was a blanket there.

2 A. There was definitely a blanket. I'm

3 just not sure if it was either here or here. I

4 can tell you this, that it looked like Duncan --

5 I know Duncan and Stuart had met up with other

6 members of our team, and what I did was I came

7 back in here into the kitchen area (indicating).

8 Q. Okay. So --

9 A. I just don't recall if it was either

10 here or here, but there was definitely a blanket

11 (indicating).

12 Q. Okay. Whether there was a -- you saw

13 Officer Duncan and Sergeant Stuart --

14 A. Yes.

15 Q. -- leave the living room and enter the

16 den?

17 A. Yes. They did not come back with me.

18 Q. Okay. And why did you leave the

19 living -- let's go back.

20 A. Okay.

21 Q. Why don't you tell me where you were

22 standing once Stuart and Duncan left the living

23 room? Where were you standing, approximately?

24 A. I believe I was -- I didn't make that

00035

1 much of an entry into the room, so I was
2 probably, I'm guessing approximately right here
3 (indicating).

4 Q. Okay.

5 A. I shouldn't say "guessing."

6 Q. As you testified, after Stuart and
7 Duncan crossed that threshold into the den, you
8 decided -- you went back into the front hallway.
9 Why don't you trace with a line, and you can do
10 the line in red, your path back into the front
11 hallway. And you went into the kitchen?

12 A. Yes, I did.

13 Q. Can you just --

14 A. Sure. I just want to try to be clear
15 on this, that I'm not sure if the blanket was
16 here or here. However, once I saw Sergeant
17 Stuart and Officer Duncan meet up with our other
18 officers, I went back. It's a little thing what
19 we call looking for work, so they were kind of
20 log-jammed up. So I went back. And I'll show
21 you exactly how I went back.

22 I went back in here, and I believe
23 Sergeant Ruiz was right here holding down this
24 stairway in case a neighbor came out and -- you

00036

1 know, after hearing all the noise or anything

2 like that, for their safety (indicating).

3 Q. Sure.

4 A. So I came back in here into the

5 kitchen area, and I encountered Lieutenant

6 Downing right here. And he said to me "we have

7 to clear the cellar area." And I actually --

8 that was my -- right where I was with Lieutenant

9 Downing (indicating).

10 Q. Okay. Can you mark with a black

11 marker --

12 A. Sure.

13 Q. -- a circle where Downing was standing

14 big enough that you can put his initials in it?

15 A. Okay. He was standing right in front

16 of this door. So it would be where the "DN"

17 initials are. So he was standing right in front

18 of that door. So I'll circle it right here with

19 his initials (labelling).

20 Q. Sure.

21 And that's the door leading to the

22 cellar, correct?

23 A. Yes, it is.

24 Q. Now, you also saw Sergeant -- you also

00037

1 saw Officer Riley standing in the kitchen, too,

2 is that correct?

3 A. I believe Officer Riley was right in

4 there with me.

5 Q. Can you mark where Officer Riley was

6 standing?

7 A. (Labelling).

8 Q. Same way, with a --

9 A. He was off to my right or left

10 (labelling).

11 Q. Okay. So when you entered the

12 kitchen, the three of you were essentially

13 standing very close to the door leading to the

14 cellar, is that right?

15 A. Yes.

16 MR. MUSACCHIO: Mark that as the next

17 exhibit.

18 (Whereupon, Exhibit Number 24, Copy of

19 color photograph, was marked for

20 identification.)

21 BY MR. MUSACCHIO:

22 Q. You can take a look at that. That's

23 24.

24 Officer Sebastian, is that your

00038

1 signature on the top there?

2 A. Yes, it is.

3 Q. So this is the drawing that you made
4 on January 6th, 2011 during your interview with
5 Lieutenant Forster where you made markings on a
6 picture of the kitchen, is that correct?

7 A. Yes.

8 Q. Okay. And you can see where you've
9 placed Lieutenant Downing, Officer Riley, and
10 yourself, is that correct?

11 A. Yes, it is.

12 Q. Is that an accurate depiction of where
13 everybody was standing when you first entered
14 the kitchen?

15 A. Yes, it is.

16 Q. Okay. And the order that was given by
17 Lieutenant Downing was that this door needed to
18 be secured, and the basement needed to be
19 searched, is that right?

20 A. Well, the door didn't need to be
21 secured, we needed to make entry down there to
22 make sure that there was nobody hiding down
23 there.

24 Q. And that order was given by Lieutenant

00039

1 Downing, is that correct?

2 A. Yes, it is.

3 Q. And the plan was that you and Officer
4 Riley were going to enter the cellar to do the
5 search, is that right?

6 A. There could have been trailers that
7 were going to come up and help us. We just
8 weren't going to go right down there. In an
9 area that's that large, you're going to need a
10 little bit more than one or two guys.

11 Q. All right. Before you made entry into
12 the cellar you heard a gunshot, is that correct?

13 A. Yes, I did.

14 Q. And you flinched when you heard the
15 gunshot?

16 A. I did, yes.

17 Q. And the gunshot came from inside the
18 kitchen where you were standing?

19 A. No, it did not come from inside the
20 kitchen. It came off, as I'm standing here
21 looking at Lieutenant Downing, it came off to my
22 right.

23 Q. Okay.

24 A. When I heard the shot, the bang, there

00040

1 was nobody in this kitchen area, it was off back
2 into this area. I couldn't see anyone in that
3 area (indicating).

4 Q. Okay. So after you -- let's take a
5 look at your statement.

6 A. Okay.

7 Q. If you can go to Page 6. I'm going to
8 read a portion of your answer in the middle of
9 the page that starts "Right at this particular
10 time." Do you follow along with me? Page 6,
11 "Right at this particular time."

12 A. Okay.

13 Q. And this is Bates stamped Page 305.
14 And your answer, part of your answer was "Right
15 at this particular time, Lieutenant Downing,
16 when I came around and said we need to clear the
17 cellar. And Officer Riley was right here. It
18 was at this point where I heard a loud bang, and
19 I flinched when I heard the bang because it was
20 very loud, and Lieutenant Downing moved from the
21 door and moved this way, and Officer Riley and I
22 both said we got to get down there and clear the
23 cellar obviously for safety reasons and to see
24 if anyone else was down there."

00041

1 Did I read that correctly?

2 A. Yes, you did.

3 Q. Is that an accurate description of

4 what happened?

5 A. Yes, it was.

6 Q. Okay. And if you can turn to Page 7,
7 again another part of your answer that starts

8 "So when I came up the stairs."

9 Do you see that?

10 A. Yes.

11 Q. "So when I came up the stairs" -- I
12 assume that means when you came back up the
13 stairs after clearing the cellar?

14 A. Yes.

15 Q. -- "I peeled this way and walked out
16 and I was met by Deputy Chief Davis and he had
17 asked what happened. I said I really don't know
18 what happened. And I did -- I think before I
19 went down, I called for medics because they were
20 calling for a medic and I was the closest one
21 here to yell outside. I knew that the ambulance
22 had pulled right up to the front."

23 Did I read that correctly?

24 A. Yes, you did.

00042

1 Q. Is that an accurate description of
2 what occurred?

3 A. I don't recall exactly all -- I mean
4 obviously it happened. But to this day I mean I
5 don't -- you know, it's not clear in my memory
6 that -- you know, exactly what happened. But I
7 wouldn't have said it if it didn't happen.

8 Q. Okay. So you told Deputy Chief Davis
9 "I really don't know what happened," is that
10 correct?

11 A. Correct.

12 Q. Okay. So based on what you said in
13 your statement, when you heard the gunshot you
14 immediately entered the cellar at that point?

15 A. Not immediately. I looked over to
16 where the shot came from, and I didn't see any
17 of our guys like running out or anything like
18 that. And I was basically waiting for another
19 shot to happen if one of our guys got shot at
20 and one of our guys returned fire, but I didn't
21 hear that.

22 Q. How much time elapsed between when you
23 heard the gunshot and you made entry into the
24 cellar?

00043

1 A. I don't recall.

2 Q. Are we talking seconds?

3 A. Yeah, I mean it was --

4 Q. Five seconds?

5 A. I don't -- I'm not sure exactly how

6 long it was, but it was within seconds of

7 hearing the gunshot.

8 Q. Okay. So you're testifying -- your

9 testimony is that you looked towards the

10 direction where the gunshot came from?

11 A. Sure.

12 Q. And you said you looked towards this

13 area between --

14 A. This area (indicating).

15 Q. -- which area did you look towards?

16 A. Just in this general direction right

17 here (indicating).

18 Q. Okay. So that's the general direction

19 where the kitchen goes into the hallway and the

20 rear entry area that's marked there?

21 A. Yes.

22 Q. That's where you looked?

23 A. Yes.

24 Q. Okay. Was anything blocking your

00044

1 vision in terms of whether you could see over
2 here, the entryway between the kitchen and the
3 hallway?

4 A. I don't recall. I don't recall.

5 Q. Now, Officer Riley testified that when
6 he heard the gunshot, he immediately turned when
7 he heard the shot, and he saw Officer Duncan on
8 his feet trying to regain his balance. Is that
9 consistent with your memory?

10 A. I did not see that. I saw Officer
11 Duncan walking out.

12 Q. Walking out?

13 A. Yes.

14 Q. Okay. And how quickly did you turn
15 when you heard the gunshot? Was it immediate?

16 A. Yes.

17 Q. Okay. And did you, when you turned
18 immediately, did you see at that second Officer
19 Duncan coming -- walking from here to here
20 (indicating)?

21 A. When I looked over, I don't recall how
22 many seconds it was, but I did see him walking
23 through the kitchen area.

24 Q. Okay. But you don't know how many

00045

1 seconds that was after you turned to look?

2 A. I don't recall. I don't.

3 Q. Okay. Now, Officer Downing testified

4 that he was facing toward the kitchen this way,

5 looking toward the hallway when the gun went

6 off, and that he saw Duncan walking towards him.

7 Is that consistent with what you saw?

8 A. Yes.

9 Q. Did you hear Officer Duncan say

10 anything when you first saw him?

11 A. I didn't hear him say anything.

12 Q. So after the gun was fired, you never

13 heard his voice?

14 A. I don't recall hearing his voice.

15 Q. All right. Now, you subsequently

16 learned that Officer Duncan's weapon discharged,

17 and the bullet from his weapon entered and

18 killed Eurie Stamps, is that correct?

19 A. Yes.

20 Q. Did you see Eurie Stamps at any time?

21 A. I did.

22 Q. And when was that?

23 A. When I cleared the cellar and came up

24 the stairway, I think it's right in here, I

00046

1 looked to my right, or walked out here, and I
2 was met by Deputy Chief Davis. And he had asked
3 me what happened, and I told him I wasn't sure
4 what happened. The way Duncan walked by me, he
5 didn't look like he was -- he looked -- I wasn't
6 sure if he was the one that actually maybe got
7 grazed by a bullet, or something happened.

8 Q. But before Eurie Stamps was shot, you
9 never saw his body?

10 A. No.

11 Q. Okay. While you were in the kitchen
12 with Officers -- with Officer Riley and
13 Lieutenant Downing, did Officer Duncan ever ask
14 for assistance in any effort to make contact
15 with or encounter Eurie Stamps?

16 A. I didn't observe -- I didn't observe
17 him making any contact with -- I couldn't see.

18 Q. Correct. I'm asking, did you ever --
19 do you have any recollection of Officer Duncan
20 asking for any assistance from any other officer
21 relating to anything he was doing in the
22 kitchen?

23 A. I don't recall. But looking back on
24 this, I think it says I said something like

00047

1 "medic. We need a medic. We need medics." I
2 don't know if it was from other people yelling
3 "we need a medic," but I didn't -- my only
4 interaction with Officer Duncan was when I
5 looked over and I saw him walking through the
6 kitchen.

7 Q. Okay.

8 A. And he was pretty much -- he was gone.
9 That was the last time I saw him.

10 Q. So you never heard him ask any
11 officers for assistance while you were in the
12 kitchen?

13 A. He could have. I don't recall. I
14 just heard voices saying "medics." When Paul,
15 Officer Duncan walked by me, he was not talking.

16 Q. Okay. Before the shot was fired, did
17 you ever hear Officer Duncan's voice while you
18 were in the kitchen?

19 A. I don't recall hearing his voice, no.

20 Q. Now, you're familiar with the
21 procedure called contact and cover?

22 A. Yes.

23 Q. Can you explain what that is?

24 A. Sure. It takes two officers, it's a

00048

1 two officer procedure, and what it is is you're
2 trying to handcuff a suspect who you perceive is
3 a threat. And so in a situation like that, you
4 would need two officers to perform the task.

5 Q. Okay. And one officer will cover the
6 person or suspect and secure that person?

7 A. Yes.

8 Q. Right?

9 And when we say "cover," it usually
10 involves a weapon, right?

11 A. Absolutely.

12 Q. And then the contact officer will then
13 secure his weapon on safety, is that correct?

14 A. Depending on what he's carrying for a
15 weapon system.

16 Q. Okay. If he's got a gun that allows
17 him to put it on safety, he puts it on safety,
18 is that correct?

19 A. Well, I'll give you two examples. If
20 you have a handgun, our handguns are always --
21 we don't have a safety on our handgun, we have a
22 de-cocking mode. So you would holster your
23 handgun, you'd put it in your holster, and you
24 would approach the suspect, after you've

00049

1 communicated with the other officer on who was
2 going to be the contact or the cover officer.

3 If you have a long rifle or an M-4,
4 you -- ideally that would be the person who was
5 going to be the cover officer.

6 Q. So in this situation with three
7 officers standing here, and Officer Duncan
8 interacting or encountering Eurie Stamps, if he
9 had asked for assistance in order to physically
10 engage Mr. Stamps, is it fair to say that one of
11 these officers, either Lieutenant Downing,
12 yourself, or Officer Riley, would have assisted
13 him?

14 MR. DONOHUE: Objection.

15 BY MR. MUSACCHIO:

16 Q. You can answer.

17 A. If any one of my team members calls
18 for assistance and I'm available, I'm going to
19 assist him.

20 Q. So if Officer Duncan asked for you
21 your assistance in whatever he was going to do
22 dealing with Eurie Stamps, you would have
23 provided him help?

24 A. If I was tactically capable of doing

00050

1 that.

2 Q. And would you have been tactically
3 able to do that, given that there were two
4 officers present securing that door?

5 A. Well, Lieutenant Downing had issued
6 the order that he would like us to clear the
7 cellar. Once the door was breached or opened by
8 Lieutenant Downing, it was a go down there,
9 there was no turning back.

10 Q. But the gunshot occurred before the
11 door was opened?

12 A. I don't recall.

13 Q. All right. But your testimony is that
14 you would -- if Officer Duncan asked for
15 assistance, if you were tactically able to do
16 it, you would have done it?

17 A. Yes.

18 Q. Was this contact/cover rule that you
19 just described taught to you in your police
20 training and your SWAT training at the
21 Framingham Police Department prior to
22 January 5th, 2011?

23 A. Yes.

24 Q. And it's a rather standard procedure,

00051

1 isn't that correct?

2 A. Yes, it is.

3 Q. And you were taught that probably at
4 the police academy, in addition to being taught
5 during your SWAT training, is that correct?

6 A. SWAT training, yes. I mean it's
7 implemented into our in-service trainings.

8 Q. Now, are you also aware of the rule or
9 the procedure where that if there's nobody else
10 available to assist when a police officer wants
11 to pat search or handcuff a person or a suspect
12 during the execution of a search warrant, that
13 the proper procedure is for the police officer,
14 before encountering the suspect, to put his gun
15 on safety, or to holster a handgun?

16 A. Are you asking me during the
17 contact/cover, or just if you've ordered someone
18 to the ground?

19 Q. I'm just talking in a situation where
20 somebody is ordered to the ground --

21 A. Correct.

22 Q. -- and an officer feels that there's a
23 need to handcuff the person or pat search them
24 for a weapon, or just to make physical contact

00052

1 with them, is the proper procedure that before
2 the officer does that, if he has a long rifle,
3 to put the long rifle on safety and sling it
4 over his shoulder before making contact with the
5 suspect?

6 A. Yes.

7 Q. And that was a procedure that was
8 trained -- that you were trained in and the SWAT
9 team was trained in prior to January 5th, 2011,
10 is that correct?

11 A. I couldn't tell you when we had the
12 training. I don't recall exactly when it was.

13 Q. But you were trained in that before
14 January 5th, 2011, is that correct?

15 A. Yes. Just I think it was more with a
16 handgun.

17 Q. So you were definitely trained prior
18 to January 5th, 2011 that if you have a handgun,
19 that you holster it before you make contact with
20 a person?

21 A. Yes.

22 Q. Okay. And is it also your
23 recollection that that training, if you had a
24 long gun which you can't holster, that you put

00053

1 it on safety before you make contact with a
2 suspect?

3 A. Yes.

4 Q. And you were trained in that prior to
5 January 5th, 2011?

6 A. I mean I don't recall the training,
7 but my memory is kind of lapsing. I really
8 don't.

9 Q. Well, do you have any reason to
10 believe that there would be any other rule in
11 existence prior to January 5th that would be
12 different than putting your long gun on safety
13 before making contact with an officer -- I mean
14 with a suspect?

15 A. No.

16 Q. Okay. Because that's consistent with
17 the idea of a handgun and holstering it, isn't
18 that correct?

19 A. Yes.

20 Q. So it's fair to say that the rule or
21 the procedure, the proper procedure prior to
22 January 5th, 2011, that is when you have a long
23 rifle, that before you put your hands on a
24 suspect, or any person during the execution of a

00054

1 search warrant, that you should put that gun on
2 safety, isn't that correct?

3 A. Yes.

4 Q. Okay.

5 MR. MUSACCHIO: Why don't we take a
6 short break.

7 MR. DONOHUE: Sure.

8 THE VIDEOGRAPHER: Going off the
9 record. The time is 1:34.

10 (Whereupon, a recess was taken.)

11 THE VIDEOGRAPHER: Back on the record.
12 The time is 1:43.

13 MR. MUSACCHIO: Stay off the record
14 for a minute.

15 THE VIDEOGRAPHER: Going off the
16 record.

17 MR. MUSACCHIO: We can stay on the
18 record. I'm sorry.

19 Could you find me his interview
20 statement, Exhibit, I think it was --

21 MS. SHARP: 22.

22 MR. MUSACCHIO: -- 22.

23 BY MR. MUSACCHIO:

24 Q. Officer Sebastian, can you look at

00055

1 your statement which is Exhibit 22 on Page 4,

2 which is Bates stamp number 303?

3 A. Okay.

4 Q. I want you to also look at --

5 A. The front entry?

6 Q. -- the diagram, the drawing.

7 A. Okay.

8 Q. All right. I want to point out to you

9 that this was actually a bedroom?

10 A. Okay.

11 Q. There was a bed in there. We called

12 it a living room.

13 A. All right.

14 Q. But I believe, and that's going to --

15 I'm just telling you that because when I read

16 what you answered in your interview, you'll

17 understand.

18 A. All right.

19 Q. So if you can look at Page 4 of your

20 interview, your answer -- "Question: When you

21 say breached, the front door or the door of the

22 bedroom?

23 "The door or the bedroom here. See

24 this room here?

00056

1 "Okay, there was a door -- okay."

2 The breaching we're talking about is

3 right here, okay (indicating)?

4 A. Yes.

5 Q. And that's referred to in the

6 interview as a bedroom.

7 A. Okay.

8 Q. And then your answer "So the door was

9 breached. Officer Duncan and Sergeant Stuart

10 went in. I followed."

11 Did I read that correctly?

12 A. Yes.

13 Q. So that's essentially what you

14 testified before, that the door was breached,

15 and the three of you entered into what is

16 referred to by the interviewer as a bedroom?

17 A. Yes.

18 Q. Which is actually we've listed as the

19 living room, okay?

20 A. Yes.

21 Q. Your answer goes on, "There was nobody

22 in there. The room kind of led around and I saw

23 like a black blanket that was taped up on the

24 ceiling, or I don't know how it was secured.

00057

1 And that's where Officer Duncan and Sergeant
2 Stuart were.

3 "At that time, I came back around
4 through the door and up the hallway into the
5 kitchen right here. To my left was Lieutenant
6 Downing."

7 Did I read that correctly?

8 A. Yes.

9 Q. Okay. Does that refresh your
10 recollection as to whether the blanket was
11 between what is defined here as the living room
12 and the den?

13 A. I think I messed up when I told you
14 that the blanket was here. I believe that the
15 blanket -- I just want to be, I'm trying to be
16 as -- I want to be honest, I don't want to
17 guess.

18 Q. I appreciate that.

19 A. But I'm pretty sure that I did follow
20 the room around, and then when Officer Duncan
21 and Sergeant Stuart got here, they met up with
22 other officers. And they wouldn't have met up
23 with them here, I don't believe, they would have
24 met up with them here. So I probably followed

00058

1 them into this room. And when I saw that they
2 were with other officers, and the door -- this
3 area was jammed up, I went back around. I think
4 that makes more sense than I just stopped here
5 and went around. Because I know that I wouldn't
6 have just left them, you know what I? Mean, I
7 wouldn't have left them to come in here
8 (indicating).

9 Q. So you're saying your path was
10 probably from the den back in the living room --

11 A. Yes.

12 Q. -- through the front hallway, and into
13 the kitchen?

14 A. Yes.

15 Q. Okay. Can you just put a line there
16 and mark "blanket" with the other arrow where
17 you think the blanket may have been?

18 A. Yes (labelling). Okay. I apologize
19 for that.

20 Q. No reason to apologize.

21 MR. MUSACCHIO: I don't have any
22 further questions.

23 THE WITNESS: Okay.

24 MR. DONOHUE: No questions for me.

00059

1 THE VIDEOGRAPHER: This concludes the
2 August 6th, 2013 deposition of Officer James
3 Sebastian. Going off the record. The time
4 is 1:27 p.m.

5 (Whereupon, the deposition was
6 concluded.)

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1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS.)

3 I, MAUREEN O'CONNOR POLLARD, RPR, CLR,
4 and Notary Public in and for the Commonwealth of
5 Massachusetts, do certify that on the 6th day of
6 August, 2013, at 12:40 o'clock, the person
7 above-named was duly sworn to testify to the
8 truth of their knowledge, and examined, and such
9 examination reduced to typewriting under my
10 direction, and is a true record of the testimony
11 given by the witness. I further certify that I
12 am neither attorney, related or employed by any
13 of the parties to this action, and that I am not
14 a relative or employee of any attorney employed
15 by the parties hereto, or financially interested
16 in the action.

17 In witness whereof, I have hereunto
18 set my hand this 11th day of August, 2013.

19

20

21 MAUREEN O'CONNOR POLLARD, NOTARY PUBLIC

22 Realtime Systems Administrator

23 CSR #149108

24

00061

1 INSTRUCTIONS TO WITNESS

2

3 Please read your deposition over
4 carefully and make any necessary corrections.
5 You should state the reason in the appropriate
6 space on the errata sheet for any corrections
7 that are made.

8 After doing so, please sign the
9 errata sheet and date it. It will be attached
10 to your deposition.

11 It is imperative that you return
12 the original errata sheet to the deposing
13 attorney within thirty (30) days of receipt of
14 the deposition transcript by you. If you fail
15 to do so, the deposition transcript may be
16 deemed to be accurate and may be used in court.

17

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1 -----

ERRATA

2 -----

3 PAGE LINE CHANGE

4 _____

5 REASON: _____

6 _____

7 REASON: _____

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9 REASON: _____

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11 REASON: _____

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23 REASON: _____

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1 ACKNOWLEDGMENT OF DEPONENT

2

3 I, _____, do

Hereby certify that I have read the foregoing

4 pages, and that the same is a correct

transcription of the answers given by me to the

5 questions therein propounded, except for the

corrections or changes in form or substance, if

6 any, noted in the attached Errata Sheet.

7

8 _____

JAMES M. SEBASTIAN DATE

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15 Subscribed and sworn

To before me this

16 _____ day of _____, 20____.

17 My commission expires: _____

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19 Notary Public

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1 LAWYER'S NOTES

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