

EXHIBIT C

1 with TIGHAR. I'm assuming you knew about this
2 mystery about Mr. Noonan and Ms. Earhart, probably
3 like most of us, for a long period of time?

4 A. Vaguely, yes.

5 Q. When did you become more than casually
6 interested in it?

7 A. When my wife brought home a copy of the
8 Casper Star-Tribune that had an article about the
9 proposed expedition in 2012.

10 Q. Would that have been the article about the
11 press event involving the Transportation Secretary
12 and Secretary of State?

13 A. Possibly. I don't remember the content
14 right now. I haven't reviewed it. I don't have a
15 copy of it.

16 Q. Was it that article that spurred you to
17 contact Mr. Gillespie?

18 A. Yes.

19 Q. And what I'm doing is just making sure we're
20 talking about the same time period.

21 So you really didn't know anything about
22 TIGHAR before that time?

23 A. No.

24 Q. Are you currently a member of TIGHAR?

25 A. Yes.

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1 Q. And do you remember when you joined,
2 roughly?

3 A. April 2012.

4 Q. And what inspired you to join?

5 A. I think it was the -- part of the package to
6 assist in this expedition.

7 Q. And approximately when did you begin reading
8 the forum that TIGHAR sponsors?

9 A. Not until after the expedition.

10 Q. Did you know that there was a forum out
11 there before -- before that post expedition --

12 A. I think I saw a reference to it on the -- in
13 the bars on the website when I did a little bit of
14 research on the radio transmissions.

15 Q. And when you say you began reading the
16 TIGHAR forum post expedition, post which expedition,
17 the 2010 or 2012?

18 A. 2012.

19 Q. When do you think you first posted either a
20 comment or a message on that forum?

21 A. End of August or beginning of September,
22 maybe, of 2012. I don't remember.

23 Q. Do you remember what the first post was?

24 A. No.

25 Q. Other than the gift for the 2012 expedition,

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1 Q. And just to be clear, before your gift, the
2 only person you met with who was associated with
3 TIGHAR was Mr. Gillespie?

4 A. Correct.

5 Q. And who did you consult with before making
6 your gift?

7 A. Mr. Gillespie.

8 Q. Anyone else? Your financial advisors, an
9 accountant, a lawyer, anybody else?

10 A. No.

11 Q. Why don't you walk me through how you came
12 to make that gift. You told us that you got the
13 notorious Star-Tribune. If you can start there, just
14 walk me through that up through making the gift,
15 please.

16 A. Well, I think I called Mr. Gillespie, or
17 emailed him, and he called back and we talked and I
18 said I was interested in the -- in this project. And
19 I think he gave me some -- said he would send me some
20 materials, which he did, and I reviewed those and
21 probably did some looking into the -- I was quite
22 convinced by the notion of those radio transmissions,
23 so I did look through those. And then Mr. Gillespie
24 agreed to come up to basically talk about a
25 contribution and the amount and the timing of it, and

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1 so forth, and then I instructed my banker to forward
2 some stock certificates to TIGHAR.

3 Q. Based on your discovery responses, I believe
4 the decision to make that gift was yours and yours
5 alone.

6 A. That's correct.

7 Q. And the amount of the gift was decided by
8 you and you alone.

9 A. That's correct.

10 Q. And Mr. Gillespie didn't request a
11 particular dollar amount.

12 A. No, he did not.

13 Q. Before you reached out to Mr. Gillespie, had
14 you heard of him before?

15 A. No.

16 Q. And if I understand your discovery responses
17 correctly, you didn't do any research into
18 Mr. Gillespie before your gift.

19 A. No.

20 Q. No, you didn't?

21 A. I did not.

22 Q. And you didn't do any research into TIGHAR
23 before your gift; is that correct?

24 A. Just what I've told you about in the last
25 three minutes.

1 or anyone with TIGHAR, what you wanted that gift to
2 be spent on?

3 A. I think it states in this letter what it's
4 supposed to be used for.

5 Q. I agree with that, and I ask that question
6 because the letter that's Mellon 1 was signed by a
7 First Vice-President of BNY Mellon, so that's why I
8 ask you if you had communications with TIGHAR or
9 Mr. Gillespie directly about what it was to be used
10 for?

11 A. No, this was the -- this was the instruction
12 that went along with the gift; but I -- I approved
13 this draft before it was sent.

14 Q. But there was no another -- this was the
15 only communication, then?

16 A. Yes.

17 Q. So you'd agree you put no restrictions on
18 the gift?

19 A. Well, there was a restriction.

20 Q. Other than -- excuse me, I'm sorry, other
21 than that's in this Mellon 1?

22 A. Correct. Correct.

23 Q. Did you ask for anything in return from
24 TIGHAR for your gift?

25 A. No. I was sent a few things, though, that I

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1 didn't ask for but I appreciated.

2 Q. And if you'll flip that page and look at
3 Mellon 2, do you see that?

4 A. Yes.

5 Q. You just referred to some things that you
6 didn't ask for but you were sent from TIGHAR --

7 A. Yes.

8 Q. -- did I get that right?

9 A. Correct.

10 Q. The things that you received from TIGHAR
11 that you were just referring to are those four bullet
12 point items in that letter, Mellon 2?

13 A. They are, but it also says anything else I
14 can fit in the box, and I can't remember what that
15 might have been.

16 Q. So at the time of your gift, those four
17 things are what you had received from TIGHAR? And
18 there might have been some other knickknack, but that
19 was the only stuff that you had received prior to
20 your gift?

21 A. I believe so, yes.

22 Q. Did the making of that gift impact your
23 lifestyle in any way? And I'm talking about your
24 financial situation.

25 A. No. No.

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1 A. That's what it would have been for, so yes.

2 Q. Okay. Did you discuss you participating in
3 that before your gift?

4 A. I don't remember when the first discussion
5 was talking about that, no.

6 Q. Let me shift gears on you and talk about the
7 videos, in particular the 2010 video. When do you
8 remember seeing something in that 2010 video?

9 A. I think the first time was on the ship when
10 Mr. Gillespie was looking at certain footage in
11 shallow water and thought there might be an object
12 worth investigating.

13 Q. Can you elaborate on that a little bit?
14 What did you see? Were you just casually going
15 through this? Did someone have a question and
16 everybody gathered? Can you give me some more
17 detail?

18 A. We were all sitting in a conference room in
19 the middle of the ship and Mr. Gillespie had his
20 station on one side, a desk and bookshelves above and
21 several computers, and he was looking at video. It
22 was all light blue. It was shallow water. I don't
23 remember how the subject came up, but we got to
24 looking at it together and there appeared to be
25 something that could have been the shape of an

1 A. I was looking at the video with him --

2 Q. Okay.

3 A. -- at the same time.

4 Q. I guess I had it in my head that there were
5 other people there.

6 A. There may have been, I don't remember.
7 Wolfgang Burnside came in and looked at it and said
8 no, I don't think so. I remember him opining.

9 Q. Did you agree with that?

10 A. I had no way of knowing one way or the
11 other.

12 Q. When was the first time that you personally
13 thought that you recognized something in the 2010
14 footage?

15 A. I believe it was after Mr. Balderston posted
16 pictures of certain elements from the 2010 high
17 definition video, which would have been after the
18 return of the expedition of the 2012.

19 Q. Had you had any communication with
20 Mr. Balderston before that?

21 A. No.

22 Q. Okay. So you didn't know who he was?

23 A. No.

24 Q. And you read -- I'm assuming that was on the
25 forum?

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1 A. That was on the TIGHAR forum, yes.

2 Q. And so what did you do after you looked at
3 what Mr. Balderston had posted?

4 A. I think I may have posted an agreement with
5 his assessment and that I may have -- I know I spent
6 time looking at the same two-minute-fifteen-second
7 allegedly high definition video for more things.

8 Q. And did you see other things?

9 A. Eventually.

10 Q. And describe for me what other things you
11 believe are shown in that two-and-a-half-minute
12 video?

13 A. I believe that the -- that Mr. Balderston
14 believes that the video showed a portion of a wing, a
15 part of the N number. I have since come to the
16 conclusion that that is not visible.

17 Other things in the two-and-a-half --
18 two-and-a-quarter minutes would include a piece of
19 wire that was wrapped around a -- I think a manmade
20 hinge of some sort that was covered with coral and
21 crustacean. It included a -- several segments of
22 rope, one ending in a metal hook-like device that was
23 caught in the reef.

24 And there was a -- also a -- a time where
25 the -- there were two times when the camera stopped

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1 for a considerable number of seconds. And I didn't
2 recognize it at the time, but later in the first of
3 those -- I'm going to say first, because there were
4 two segments of that two-and-a-quarter-minute video,
5 and they were reversed in time so that the one that
6 came later was actually put first in the YouTube,
7 which caused some -- a lot of confusion. Because you
8 think the camera is going downhill and it's -- all of
9 a sudden it's uphill again. But in one of those
10 still shots there turned out to be later I think many
11 items not related to the aircraft, but related to the
12 personalities -- personal effects that you couldn't
13 easily determine from that level of definition.

14 Q. And again, that's -- this is on that two --

15 A. Two-and-a-quarter-minute.

16 Q. All right, okay. I just want to make sure
17 we're still talking about that.

18 A. Yes.

19 Q. Okay, go ahead.

20 A. In addition, there appeared to be something
21 that looked like a wheel that Mr. Balderston thought
22 might be a main landing gear folded up against an
23 engine. I had no reason at that time to disagree
24 with his assessment, but later concluded that it was
25 actually the tailwheel of the aircraft.

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1 Q. What else do you recall seeing?

2 A. I recall at the very end of the first
3 segment, which was actually later in time, that the
4 camera panned down over some openings that looked to
5 me like they had some tubes protruding that were --
6 that reminded me of the reinforcement in a forward
7 edge of the wing of the Electra. It was like a hard
8 layer that's underneath the outside layer that gives
9 it extra strength.

10 Q. I understand.

11 Anything else that you recall?

12 A. Not that I -- not that I can recall at this
13 moment.

14 Q. You mentioned some personal effects. Do you
15 recall what any of those might have been?

16 A. Well, I didn't come on to those until later.

17 Q. Okay. So you looked at that
18 two-and-a-quarter-minute video, and what did you do
19 after that, sir?

20 A. What do you mean?

21 Q. Well, if I understand it right, after
22 reviewing this two-and-a-quarter-minute video -- and
23 you believe there were things shown in that, correct?

24 A. (Nodding head.)

25 Q. And --

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1 the 16 minutes of 2012 high definition video.

2 Q. Okay, I understand. So that was the 2012
3 video.

4 A. Yes.

5 Q. Okay. Okay. So you get the eight-minute
6 piece of 2010 footage. What did you do with it?

7 A. What do you mean, what did I do with it?

8 Q. Well, you --

9 A. I put it on my computer.

10 Q. And started watching it?

11 A. Yes.

12 Q. So what did you -- what did you see?

13 A. Well, I think I saw quite a few things. At
14 some point I had the ability to slow it down and look
15 at it essentially frame by frame and do it in slow
16 motion. And John Balderston at that same -- same
17 time frame had augmented his study of what he thought
18 he saw, and in the area of the -- where I said the
19 camera stopped and there were personal effects, I
20 think I was able to identify quite a few interesting
21 things.

22 Q. And what things do you remember identifying?

23 A. Well, specifically a set of binoculars; a
24 Pelorus instrument, which is used to measure drift;
25 an octant; there looked to be like a key lying on

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1 Q. Just roughly tell me some of the parts that
2 you remember.

3 A. The most important one to me was one of the
4 main landing gears, which was uphill from the site
5 that I just described, maybe ten feet.

6 Q. And what else?

7 A. Again, the tailwheel, that was a clear
8 definition.

9 By that point I believed I could see the
10 cockpit of the plane that was without its roof.

11 And I believed that I could see some of the
12 instruments in the instrument panel, or what remained
13 of the instrument panel.

14 Q. Go ahead, if there's anything else.

15 A. Not that -- that sticks with me right now.

16 MR. STUBSON: Counsel, are we at a place
17 that we can take make a ten-minute break?

18 MR. MASTERSON: Sure, we'll take a break.

19 (Deposition proceedings recessed
20 10:01 a.m. and reconvened 10:16 a.m.,
21 March 31, 2014.)

22 BY MR. MASTERSON:

23 Q. We'll go back on the record.

24 Mr. Mellon, I want to circle back and try
25 to clarify one thing that came up earlier. And this

1 finding these things?

2 A. I tried to post some things I thought might
3 be interesting to other forum members, annotating
4 them occasionally.

5 Q. And if I understand it right, what you were
6 doing was you were doing screen grabs, doing the
7 print screen function on your computer?

8 A. Correct.

9 Q. And then annotating them, I saw in your
10 discovery sometimes you'd circle; is that right?

11 A. Usually I would just make a written notation
12 up in the head bar with an arrow pointing to an
13 object.

14 Q. Do you remember circling some things?

15 A. Possibly.

16 Q. And I think in some circumstances you used
17 dots?

18 A. Yes, when I wanted to outline a shape
19 without obliterating the shape, I would use a series
20 of dots to try to approximate the edge of the shape.

21 Q. And I think that you used dots in the
22 stamps. Do you remember seeing stamps?

23 A. Yes.

24 Q. Okay. Did you call Mr. Gillespie, or
25 anyone, before you would post to the forum?

1 Q. And those people have particular expertise,
2 correct?

3 A. Yes.

4 Q. So you'd agree that people with expertise
5 are needed to evaluate what you believe you see?

6 MR. STUBSON: Objection, form.

7 A. In my case, yes, because I don't have the
8 expertise to satisfy myself that I can prove it
9 scientifically.

10 BY MR. MASTERSON:

11 Q. Have you been on other undersea expeditions,
12 Mr. Mellon?

13 A. Two days in a nuclear submarine, that's
14 about all I can claim.

15 Q. Have you ever been on any undersea
16 archaeological expeditions similar to these?

17 A. No.

18 Q. You'd agree that that takes a little bit of
19 experience and expertise to run, correct?

20 A. Yes. That's why I had confidence that
21 TIGHAR was able to find this airplane. They told me
22 they wanted to find the airplane.

23 Q. Sure. Someone off the street couldn't do
24 this, correct?

25 A. The U.S. Navy could do it.

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1 Q. Okay, but someone in Wyoming, landlocked
2 Wyoming, someone off the street can't do this, can
3 they?

4 A. Not without a lot of effort. They can do
5 it, it would take a lot of effort.

6 Q. And expertise, right?

7 A. And expertise.

8 Q. And specialized expertise, fair?

9 A. And specialized equipment.

10 Q. Right. But that's fair, expertise and
11 equipment, right?

12 A. Yes.

13 Q. Okay.

14 (Pause in proceedings.)

15 MR. MASTERSON: Counsel, I'm not hiding
16 things in the back room, it's just the only place I
17 could find enough room to lay some things out.

18 MR. STUBSON: You should label it an exhibit
19 closet.

20 BY MR. MASTERSON:

21 Q. Mr. Mellon, I'm going to mark this
22 Deposition Exhibit Number 4.

23 I'll hand that to you, and I represent to
24 you that your counsel supplemented the discovery we
25 got, we got some more materials last week, and this

1 Do you feel that was intentional, as well?

2 A. Yes.

3 Q. To not reveal the Cook photos and the
4 evidence, do you feel that was intentional?

5 A. Yes.

6 Q. The Bevington object, do you feel that was
7 intentional?

8 A. Yes.

9 Q. What do you feel in your mind, in your
10 opinion, what do you feel TIGHAR and Mr. Gillespie
11 should have done with the 2010 footage?

12 A. Under what scenario? I mean --

13 Q. Well, you must have an opinion on what they
14 did or didn't do that they should have done.

15 A. We've just been through that.

16 Q. Okay, well, help me. You didn't -- I mean,
17 should they have gotten more experts?

18 A. I believe they had the wrong expert, yes,
19 certainly.

20 Q. And what I'm asking was, we've talked about
21 what you think they did wrong. I'm asking what do
22 you think they should have done?

23 A. Well, as I -- as I've read the log from the
24 2010 expedition, the day they found the rope and the
25 wire, it's not clear to me whether they had just

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1 Q. Sir, in your opinion, what should they have
2 done?

3 A. Sir, I just answered your question twice.

4 Q. With all due respect, Mr. Mellon, I don't
5 think you did. You're saying that they gave you
6 false information. And according to your negligent
7 misrepresentation charge, they were negligent. What
8 were they negligent in doing or not doing?

9 A. Well, that's a different scenario, isn't it?

10 Q. Well, that's my question.

11 A. Well, under that scenario, where if you
12 believe that they actually didn't know, then they
13 should have hired sufficient expertise to determine
14 that the airplane was there.

15 Q. And what would that have entailed?

16 A. Reviewing the evidence that was in their
17 hands, and has been in their hands for three, almost
18 four years now, to look for components of the Electra
19 aircraft.

20 Q. And in your opinion, had they done that they
21 would have seen what you've seen?

22 A. Yes.

23 Q. Yes?

24 A. Yes.

25 Q. And what else should they have done?

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1 A. Announced that they found the Electra
2 aircraft.

3 Q. And what else?

4 A. They may have had some desire to recover
5 portions of it. If, in fact, there was evidence of
6 showing human remains as part of this debris field,
7 then in my opinion they should not have tried to
8 recover any of it.

9 Q. And I've seen your screen grabs where you
10 point out the remains of Mr. Noonan and Ms. Earhart,
11 correct?

12 A. What I thought were at the time, yes.

13 Q. Okay. Do you still believe those are there?

14 A. I believe parts of them are there, yes.

15 Q. Okay. So the screen grabs that I saw of
16 Mr. Noonan and Ms. Earhart annotated significant
17 portions of both of their skeletons. Do you remember
18 those original ones?

19 A. Yes.

20 Q. But that -- your opinion of that has
21 changed?

22 A. That's because I've seen higher definition.

23 Q. And so what do you think is there now?

24 A. I think her head is still there in a
25 cellophane bag.

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1 Q. And what about Mr. Noonan?

2 A. I think his head is still there, too, with
3 earphones on.

4 Q. And is there a cellophane bag on his head?

5 A. Yes.

6 Q. And is there still that nitrogen bottle down
7 there?

8 A. I believe so.

9 Q. And a tube running into those cellophane
10 bags?

11 A. I believe so.

12 Q. And so you're -- you believe that they
13 committed suicide?

14 A. Yes.

15 Q. And do you believe there are other portions
16 of their skulls still -- or their skeletons still
17 down there?

18 A. I don't know. I thought so at first; but
19 upon reviewing the higher definition, I can't make
20 anything out specifically.

21 Q. And as far as analyzing underwater video for
22 airplane wreckage, is it fair to say you're
23 self-taught, Mr. Mellon; is that correct?

24 A. Is that a question?

25 Q. Yes.

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1 A. I didn't understand the question.

2 Q. All right. As far as being able to identify
3 airplane wreckage underwater, you are self-taught,
4 correct?

5 A. Self-taught?

6 Q. Yes.

7 A. Yes.

8 Q. Do you feel that as far as being negligent,
9 both TIGHAR and Mr. Gillespie are equally negligent?

10 A. Yes.

11 Q. Who else do you feel was negligent?

12 A. The board of directors.

13 Q. Who else?

14 A. I believe as far as responsibility, it would
15 stop there.

16 Q. And your fraud allegation, that goes to they
17 knew the plane was there, they knew that the 2010
18 video showed it, and they chose to lie, correct?

19 A. What do you mean, correct?

20 Q. Is that a correct statement? Your theory is
21 that they lied about what's in the 2010 video,
22 correct?

23 A. That they failed to disclose that the
24 aircraft was shown in the 2010 video, yes.

25 Q. And when did you decide that was the case?

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1 think that's not a fair question to ask you. And the
2 reason why is we talked earlier this morning that
3 underwater expeditions and underwater archaeology,
4 and all this kind of stuff, is kind of specialized,
5 so I'm not sure that's a fair area to ask you about
6 because, as we've talked, you've -- you're
7 self-taught, you don't have that experience.

8 So I guess my question is, would you agree
9 that that takes some expertise and skill to do that
10 kind of investigation, to decide what should have
11 been done or what shouldn't have been done?

12 MR. STUBSON: Counsel, just to clarify, that
13 kind of expedition, you're talking about underwater
14 or archaeological?

15 BY MR. MASTERSON:

16 Q. Yeah, the kind of -- the kind of
17 investigation that we're talking about that TIGHAR
18 and Mr. Gillespie should have done.

19 A. I think a certain level of expertise in
20 different areas would be required to do it correctly,
21 yes.

22 Q. All right. Okay, let me ask you about the
23 capacity in which you have sued Mr. Gillespie.

24 You know Mr. Gillespie is the executive
25 director of TIGHAR, of course?

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