

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT  
DOCKET NO. MICV2009-01794

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SANDRA MURPHY, DOUGLAS J. )  
BARTH, ROBERT ACKLEY, JOEL A. )  
FEINGOLD as beneficiaries )  
of the MASSACHUSETTS )  
TURNPIKE TOLL EQUITY TRUST )  
and on behalf of a class of similarly )  
situated persons AND JACK )  
ALTSHULER, as Trustee of the )  
MASSACHUSETTS TURNPIKE )  
TOLL EQUITY TRUST, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
MASSACHUSETTS TURNPIKE )  
AUTHORITY, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**AFFIDAVIT OF MARK POTTER**

I, Mark Potter, Ph.D., make the following statement under the pains and penalties of perjury:

**I. Education and Professional Experience**

1. I am an Associate Professor of Finance at Babson College, Wellesley, MA. My CV is attached. I served as the Chair of the Finance Division from 2003-2006 and simultaneously held the Barefoot Family Endowed Chair for Finance. I currently serve as the Faculty Advisor of the Stephen D. Cutler Investment Management Center at Babson College, a research and education center dedicated to the study and teaching of investments and capital markets.
2. I have a Ph.D. in Finance from the University of Massachusetts - Amherst, a Master of Business Administration degree in Finance from Boston College, and a Bachelor of Science in Finance from Bentley College.
3. At Babson College I have taught over one hundred undergraduate and MBA level courses

in Valuation, Investments, Accounting, Equity Analysis, Mutual Funds, Financial Management, Risk Management, Derivatives, and International Finance. I have also taught executive courses on corporate financial management and investment analysis for numerous corporations.

4. Prior to my position at Babson College, I taught finance at Suffolk University and the University of Massachusetts - Amherst. Prior to that I was an Auditor at Eastern Bank where my primary responsibilities involved assessing adherence to controls surrounding the bank's financial systems and assisting the CFO in conducting analysis of potential acquisition candidates.

5. I have published extensively in the field of finance. My finance articles have appeared in *Journal of Portfolio Management*, *Journal of Business Finance and Accounting*, *Journal of Financial Research*, *Journal of Alternative Investments*, *Derivatives Quarterly*, *Mergers & Acquisitions*, *Corporate Finance Review*, *Journal of Business and Economic Studies*, *Journal of Business Education*, and *Journal of Financial Education*. I am a co-author of *A Casebook Using Data Analysis for Decision-Making*, published by John Wiley & Sons. My research has been reprinted in "The Handbook of Managed Futures", published by Irwin Publishing, "The Handbook of Alternative Investment Strategies", published by Institutional Investor. I have presented research at the annual conventions of the Financial Management Association, the Eastern and Southern Finance Association meetings, the Northeast Business and Economics Association Annual meetings, the National Business and Economic Society Annual meetings, the Decision Sciences Institute Annual Meeting. The Social Sciences Research Network has me ranked in the top 8% of more than eighty thousand authors.

6. I have been selected to review papers for numerous finance journals and conferences, and have reviewed finance textbook manuscripts for Southwestern Publishing. I have served as a reviewer for the Investments Track of the Financial Management Association annual meetings. My research on matters relating to finance and investments has been featured in the *Wall Street Journal*, *Kiplingers*, and *CFA Digest*.

7. The CFA designation is the premier credential for financial analysts, worldwide. In order to receive this credential, applicants must pass a series of three exams covering such topics as equity analysis, financial valuation, business analysis, quantitative estimation methods, investment analysis, portfolio management, risk management, financial accounting, and ethical and professional standards. I have taught in the Boston University CFA Review Program and the

Schweser CFA Review Program -- two of the leading review programs that help candidates prepare for the CFA exams. I have been teaching in these programs for over ten years. In both of these programs I have taught at all levels. In addition, I have trained associate analysts at Fidelity Investments and Wellington Capital Management.

**II. Statement of Interest**

8. I have no present or intended financial interest in the outcome of any matters related to pending litigation in this case, nor is my compensation for this matter in any way contingent upon the findings, conclusions, or opinions expressed herein.

**III. Scope of Work Performed**

9. I have been retained by the Plaintiffs in this matter to conduct a financial analysis of the Metropolitan Highway System and the allocation of toll revenue for tolled and non-tolled services in that system over the last three years ending June, 2009 in 2009 dollars.

**IV. Materials Reviewed**

10. The documents I reviewed in the process of preparing this analysis were:
- i. Massachusetts Turnpike Authority Financial Statements, 2003-2008.
  - ii. Central Artery/Tunnel Project Finance Plan, 10/1/04.
  - iii. Massachusetts Executive Office of Transportation Report, July 29, 2005, prepared by the Dye Management Group.
  - iv. "Transportation System in Massachusetts: An Unsustainable System", Findings of the Massachusetts Transportation Finance Commission, 3/28/07.
  - v. "Massachusetts Turnpike Authority Toll Equity Working Group" presentation, 6/20/08, Preliminary Report (May, 2008);
  - vi. MTA Annual Report for Metropolitan Highway System Revenue Bonds, 6/30/08.
  - vii. Oversight Hearing Documents, Joint Committee on Transportation 3/16/09, obtained at [www.masspike.com/aboutus/oversight\\_reports0309.html](http://www.masspike.com/aboutus/oversight_reports0309.html).

## V. Opinions Rendered

11. Based on my education, training, and experience and taking into account the information contained in the documents that were reviewed, I have formed the following opinions to a reasonable degree of economic certainty that the following is true regarding toll revenue collected by the MHS and allocated within that system between tolled and non-tolled services over the last three years ending in June, 2009 in 2009 dollars:

- a. The total amount of toll revenue collected by the MHS for the three year period is: Four Hundred Eighty-Nine Million Dollars (nominal);
- b. The total costs (operation and maintenance, capital expenditures, and debt service) associated with the MHS for the three year period is: Six Hundred Ninety-Three Million Four Hundred Thousand Dollars (nominal);
- c. The total amount of costs (operation and maintenance, capital expenditures, and debt service) to provide non-tolled services in the MHS over the three year period is: Five Hundred Forty-One Million Dollars (nominal);
- d. The total amount of costs (operation and maintenance, capital expenditures, and debt service) to provide non-tolled services in the MHS over the three year period net of the reimbursement to the MHS under the "Contract for Assistance" agreement is: Five Hundred Fourteen Million Dollars (2009 Dollars);
- e. The total amount of toll revenue used to provide non-tolled services in the MHS over the three year period, net of the reimbursement to the MHS under the "Contract for Assistance" agreement, is: Four Hundred Forty-Two Million Dollars (2009 Dollars);
- f. The total amount of toll revenue used to provide non-tolled services in the MHS for I93 and CANA and excluding non-tolled services on the I-90 portion<sup>1</sup> of the MHS over the three year period is: Two Hundred Ninety-Four Million Dollars (2009 Dollars);
- g. The total amount of toll revenue used to provide non-tolled services in the MHS for I93 and CANA, excluding non-tolled services on the I-90 portion<sup>2</sup> of the MHS

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<sup>1</sup> The non-tolled portions of I90 that I excluded from this opinion are the northeast section of I90 from the Ted Williams Tunnel to Route 1A and the so-called "I90 Extension" and the "haul road" that runs from I93 to the Ted Williams Tunnel.

<sup>2</sup> The non-tolled portions of I90 that I excluded from this opinion are the northeast section of I90 from the Ted Williams Tunnel to Route 1A and the so-called "I90 Extension" and the "haul road" that runs from I93 to the Ted Williams Tunnel.

and excluding operation and maintenance costs that were not reported by the MTA as having been directly incurred regarding the I93 and CANA portions of the MHS, over the three year period is: One Hundred Forty-Seven Million Dollars (2009 dollars).

12. The basis for my opinion is:

Most MHS revenue is derived from toll collections, yet most MHS costs are related to non-tolled roadways. In order to determine an estimate of the toll money collected that was used to pay for non-tolled MHS roadways for the last three years, I first estimated the costs incurred by the MTA related to operating and maintenance, capital expenses, and debt-related expenses attributable to the non-tolled MHS roadways for the last three years.

**Operating and Maintenance Costs:** According to the MTA, 72% of the value of the MHS road system is for non-tolled roads. This percentage was applied to the total cash-related operating and maintenance costs, as well as the total MHS capital budget to arrive at the total operating, maintenance, and capital costs. In addition to these costs, MTA contributed \$1.8 billion to fund the CA/T project and raised this money by borrowing in 1997 and 1999. The percentage of MHS's total borrowings used to fund MTA's contribution to the CA/T project was 79%. This allowed me to determine the allocation of MHS annual debt service costs attributable to the entire CA/T project (tolled and non-tolled). According to the MTA, 86% of the MTA's construction costs were for non-tolled roadways. As such, 86% of the CA/T related debt servicing costs can be attributable to non-tolled MHS roadways. Summing the figures for operating, maintenance, capital, and debt service costs for the non-tolled MHS roadways for the past three years amounts to \$477 million (\$513.9 million in 2009 dollars).

Eighty-six percent of MHS's revenue is derived from tolls. Applying the proportion of MHS's revenue derived from toll collections to the costs associated with MHS's non-tolled roadways yields an estimate of the toll money collected that was used on costs related to non-tolled MHS roads. This figure amounts to \$410.2 million (\$442 million in 2009 dollars).

In determining the toll revenue used to provide non-tolled services in the MHS for the I93 and CANA portions of the CA/T, I first determined the costs associated with these roadways similar to the process outlined in the preceding two paragraphs. These two roadways constitute 54% of the value of all MHS roadways. Applying 54% to the total MHS operating, maintenance, and capital expenditures, and adding the debt service costs (allowing for the fact that these particular roadways constituted 55% of the total CA/T construction costs) yielded an estimate of \$271.2 million (\$293.6 million in 2009 dollars).

In determining the toll revenue used to provide non-tolled services in the MHS for the I93 and CANA portions of the CA/T and also excluding the operating and maintenance costs that were not reported by the MTA as having been directly incurred, and using the same process as described above, except I used the non-tolled operating and maintenance figures as directly reported on the MTA's annual financial statements for 2007 and 2008, and increased the 2008 figure by 3% to provide an estimate of these direct expenses for 2009. The estimate of the toll revenue used to provide these particular non-tolled services, using the MTA's reported direct

operating and maintenance costs, was determined to be \$137.3 million (\$146.5 million in 2009 dollars).

Dated: June 7, 2009

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Mark Potter, Ph.D.

Crowninshield Financial Research, LLC