



2013 PENNSYLVANIA STATEWIDE HIGH SCHOOL MOCK TRIAL COMPETITION

***Commonwealth of Pennsylvania
v.
Tatum Zillias***

**SPONSORED BY THE YOUNG LAWYERS DIVISION
OF THE PENNSYLVANIA BAR ASSOCIATION**

***Written by:
Paul Kaufman & Jon Grode***

Revised Version November 16, 2012

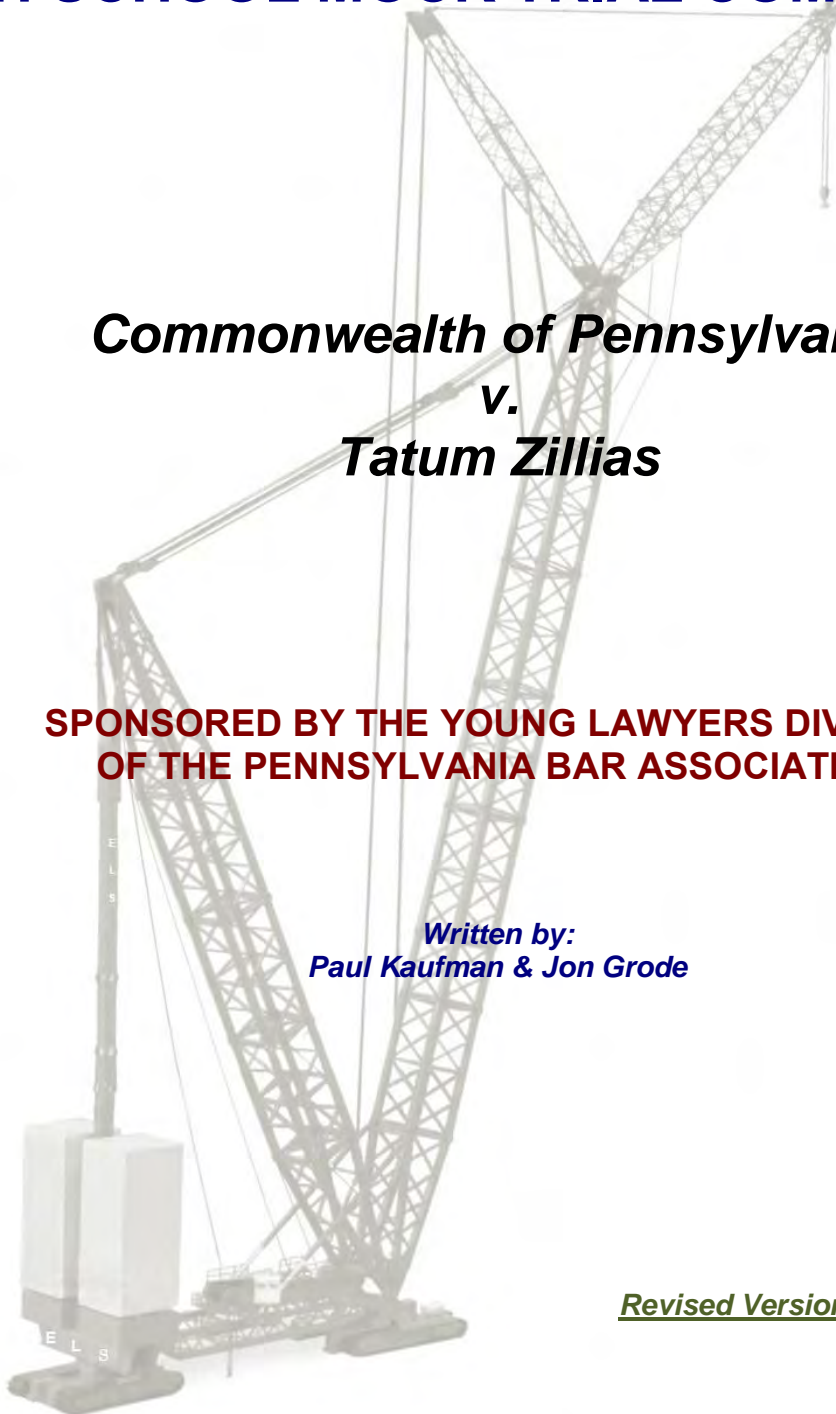


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Problem Questions & Contact Information

Questions concerning these case materials should be sent to David Keller Trevaskis at the Pennsylvania Bar Association (PBA). Case material questions will be answered by the Mock Trial Executive Committee. Questions regarding mock trial procedure, including any questions involving the Rules of Competition or Rules of Evidence, should be directed to your District or Regional Mock Trial Coordinators.

Please make sure you are using the most updated version of the case: REVISED VERSION NOVEMBER 16, 2012.

Answers to legitimate and non-repetitive questions will be posted periodically in a supplemental memo on the mock trial website www.pabar.org under the Young Lawyer's Division (YLD) link.

You may begin submitting questions anytime. **The deadline for submitting questions is noon on January 16, 2013.** The final update will be posted no later than **January 18, 2013.**

Questions must be sent in writing using one of the methods listed below. Please be sure to include return contact information in the event we need to reach you to clarify a question. **No questions will be considered unless submitted under this procedure.**

E-mail: david.trevaskis@pabar.org

Fax: 717.238.7182 (David Trevaskis)

Introduction and Acknowledgments

Welcome to the 2013 Pennsylvania Statewide High School Mock Trial Competition - the 29th year of one of the top secondary level academic competitions in the Commonwealth! The competition, which commenced in 1984, is sponsored by the Young Lawyers Division of the Pennsylvania Bar Association (PBA/YLD). It provides high school students with firsthand experience of the American judicial system. The Mock Trial Competition is one of a series of law-related and civic education programs conducted by the PBA to demystify the law for Pennsylvanians, including Freedom's Answer, I Signed the Constitution, Project PEACE, Law Day and Stepping Out for Seniors.

This year's case, *Commonwealth v. Tatum Zillias*, is a criminal action charging a real estate developer with reckless homicide in the deaths of two people at a construction site following the collapse of a construction crane.

The case was written by Jonathan A. Grode and Paul W. Kaufman. The pair co-wrote the 2011 and 2012 mock trial problems and co-wrote the national problems in 2010 and 2012. Mr. Grode (Temple University James E. Beasley School of Law – Adjunct Professor) also adapted and modified the 2007 mock trial problem and wrote the 2008, 2009, and 2010 mock trial problems. Mr. Kaufman was a four time Delaware state champion mock trialer in high school is a current member of the National High School Mock Trial Championship Board of Directors. Jane E. Meyer, Esq., a prior Mock Trial Committee Chairperson, performed final editing of this year's case in collaboration with Mr. Grode and Mr. Kaufman. Our sincerest thanks go out to Mr.

Grode, Mr. Kaufman and Ms. Meyer for their tireless and enthusiastic creation and editing of this year's problem.

Mr. Grode thanks Roberta West (LEAP Program Advisor Temple University) for her tireless support of the program. Importantly, Mr. Grode also thanks his wife, Jayne Bird, who tolerates his ongoing obsession with mock trial drafting, notwithstanding the fact that he promises each year that "this one will be the last he works on." Mr. Kaufman thanks his wife, Sarah, for her support, counsel, and unparalleled patience, and he thanks United States Attorney Zane David Memeger and Chief of the Civil Division Margaret L. Hutchinson for their remarkable support of high school mock trial in Philadelphia and throughout Pennsylvania. Mr. Kaufman and Mr. Grode dedicate this year's case to those who lost their lives at the Miller Park tragedy in 1999 in Milwaukee, Wisconsin.

The authors also want to extend their deepest gratitude to artist David Fox for taking the time out of his busy schedule to bring the vision of Franklin's Trench to reality. His professional work can be found at www.davidfoxartist.com. The authors also thank Professor Edward Fallone of the Marquette University Law School for the inspiration for this case. They are also deeply grateful to Arlene Fisk of the United States Attorney's Office, John Doyle of the Philadelphia District Attorney's Office, and Stuart Haimowitz of the First Judicial District for their assistance in conceiving and calibrating the case. Credit for the criminal law in this case should be given to them, but any errors or necessary distortions are ours alone. The authors also thank Veronica Finkelstein of the United States Attorney's Office, a great friend to mock trial at all levels throughout the Commonwealth and the nation, for her editing and expertise in the field of construction law and practice.

Thanks also goes to the Chair of this year's Competition, Traci Naugle, Esq., for her efforts in organizing and implementing the many facets of this competition. The Mock Trial Committee would also like to express its appreciation to Jacob Gurwitz, Esq., current PBA/YLD Chair, and Robert Datorre, Esq., the PBA/YLD Chair Elect, for their support of the competition. Additionally, the YLD thanks David Trevaskis, PBA Pro-Bono Coordinator for his continued involvement and experienced guidance in implementing the 2013 Mock Trial Competition.

Finally, we thank the hundreds of volunteers who annually contribute their time and energy to the overall organization and running of the program. Last, but certainly not least, we thank the PBA staff, headed by Executive Director Barry Simpson and Deputy Executive Director Fran O'Rourke, and the many PBA staff members who provide valuable time and talent throughout the mock trial season. Without their assistance, this competition would not be the tremendous success that it is each year. Special thanks go to Maria Engles, the YLD Coordinator, who serves as the main point of contact for the entire program.

We hope you find these materials interesting, and wish you all the best of luck!

Case Summary

On August 31, 2012, as the high wind remnants of Hurricane Isaac swirled through the Delaware Valley, the workers on a major urban renewal project in Philadelphia called “Franklin’s Trench” were racing to finish the critical part of their project: a new, state-of-the-art roof for the building. Around 3:30, a gust of wind caught the final panel mid-lift, and in seconds, the largest crane on the East Coast, “Fightin’ Phil,” lay in ruins. Mangled beneath the pile of twisted metal that once was a crane were the bodies of Arty Dent, a squatter who had lived in the trench, and Grace Hopper, a federal construction official. A project that was originally heralded as an innovation in modern urban planning had become one of the City’s most unfortunate tragedies. Franklin Trench’s former hero and public face became a villain. Her/His name is Tatum Zillias, and s/he stands trial for murder.

The story of what history will know as Fightin’ Phil’s Fall started with a trench, a 50 foot deep abandoned fissure in the heart of the Art Museum area of the city more than two blocks long. But where some saw a gash in the fabric of the city, Tatum Zillias saw a foundation, a space deep and wide enough to accommodate the guts that make a high-rise building run. If Zillias had succeeded, Philadelphia would have had the most modern public housing complex in the world. However, what Zillias and many government officials did not want to admit was that Franklin’s Trench was already home to scores of squatters who had been residing in this underground cut-out for almost 40 years.

Zillias broke ground in summer 2011. However, as the project continued, problems mounted. Zillias was concerned that the numerous delays that had occurred would prevent the project from meeting a bonus deadline for completing the project by October 31, 2012, which was needed in order to make Franklin’s Trench financially solvent. Worse, the project was a joint-venture with the City of Philadelphia and the United States Department of Housing and Urban Development, and the Mayor and HUD Secretary were scheduled to conduct a very public walk-through right before the November election. By mid-August, 2012, Zillias was on the site all day, every day, obsessed with every aspect of the project. Workers were running around the clock, and worksite accidents were occurring at an alarming pace. The squatters, facing the impending loss of their home, became desperate, and their acts of sabotage became more serious.

On August 31, 2012, as the remnants of Isaac barreled through the northeast, two large state-of-the-art solar and wind turbine roofing panels were scheduled to be lifted onto the top of the structure. Zillias was concerned that if the roof was not in place, tremendous damage would be done to the structure, pushing the project back beyond salvation. The squatters were concerned that once the panels were in place, there would be no turning back. The worksite was pure chaos, and in a moment of confusion, someone made the fateful call to proceed with the lift.

Now a jury must determine whether Zillias’ efforts to push the construction forward caused these two deaths and, if so, whether s/he manifested an extreme indifference to the value of human life in so doing. At trial, the Commonwealth will present three witnesses. Emerson Turnkin, the construction site supervisor at Franklin’s Trench; Quinn Baxter, expert witness and OCIS supervisor; and London Packard, the self-proclaimed leader of the Franklin’s Trench Squatters. The defense will also call three witnesses. Tatum Zillias, the defendant; Micah Estratton, Fightin’ Phil’s crane operator and expert witness; and Reese Dentner, an investigative reporter.

PLEADINGS

COMMONWEALTH OF PENNSYLVANIA	:	MUNICIPAL COURT OF PHILADELPHIA
	:	PHILADELPHIA COUNTY, PENNSYLVANIA
	:	
v.	:	Docket No.: <u>MC-51-CR-71499-2012</u>
	:	
	:	Charges:
TATUM ZILLIAS,	:	Murder (3 rd Degree) (2 Counts)
Defendant	:	

CRIMINAL COMPLAINT AND PROBABLE CAUSE AFFIDAVIT

I, Detective Barbara Potopowicz, Badge 200103, of the Philadelphia Police Department, 9th Patrol District, do hereby state:

1. I accuse:

Tatum Zillias, who resides at 2200 Pennsylvania Ave., Philadelphia PA.

2. The acts committed by the accused were:

**** MURDER IN THE THIRD DEGREE**

COUNTS 1-2

The accused did cause death to another recklessly under circumstances manifesting an extreme indifference to the value of human life (18 Pa.C.S.A. § 2502) . . .

in that the accused did order a construction crane to lift a load that it could not handle, under the totality of the circumstances, despite being aware of facts that should have led the accused not to do so. In ordering that the lift be undertaken under those circumstances, the accused did manifest a conscious disregard for an unjustified and extremely high risk that her/his actions might cause serious bodily injury, as manifested by the collapse of the crane and the loss of its load, which together directly and proximately caused the death of two persons, to wit, Grace Hopper, Arthur Dent.

3. The accused committed these acts against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Acts of the General Assembly, ...

18 Pa.C.S.A. §§ 2502.

4. I ask that a warrant of arrest or a summons be issued and that the accused be required to answer the charges I have made.

5. I verify that the facts set forth in this Complaint are true and correct to the best of my knowledge, information and belief subject to penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: November 2, 2012

/s/ Barbara Potopowicz
(signature of the complainant)

AND NOW, on this date, November 5, 2012 I certify the Complaint has been properly completed and verify that there is probable cause for the issuance of process.

/s/ Edward Fallon
Edward Fallon, Municipal Court Judge
Issuing Authority

Clerk of Courts – Original

COMMONWEALTH OF PENNSYLVANIA	:	MUNICIPAL COURT OF PHILADELPHIA
	:	PHILADELPHIA COUNTY, PENNSYLVANIA
	:	:
v.	:	Docket No.: <u>MC-51-CR-071499-2012</u>
	:	:
	:	Charges:
TATUM ZILLIAS,	:	Murder (3 rd Degree) (2 Counts)
Defendant	:	:

Transcript of Proceedings before Issuing Authority

1. Defendant Tatum Zillias, who resides at 2200 Pennsylvania Ave., Philadelphia PA., was arrested on November 6, 2012 and charged by Complaint with two counts of Murder in the Third Degree, 18 Pa.C.S.A. § 2502(c).
2. A Preliminary arraignment for Defendant Tatum Zillias was held before the undersigned at 1301 Filbert St., Philadelphia, Pennsylvania on November 6, 2012.
3. At the preliminary arraignment, the Defendant was advised of her/his right to apply for assignment of counsel and was given a copy of the Criminal Complaint.
4. At the preliminary arraignment, bail was set at \$5,000,000 based on the evidence presented at that time and the Criminal Complaint previously filed with the Court. The request for 10% bail posting made by the Defendant was granted.
5. On November 13, 2012, a preliminary hearing was held before undersigned at 1301 Filbert St., Philadelphia, Pennsylvania. The Defendant was present and was represented by counsel. The Commonwealth was represented by the assigned Assistant District Attorney. Detective Barbara Potopowicz was sworn and testified for the Commonwealth.
6. At the conclusion of the preliminary hearing on November 13, 2012, the Defendant was held for court on the charges of Murder in the Third Degree.
7. Bail was continued in the amount of \$5,000,000.

AND NOW, on this date, November 15, 2012 I certify the transcript of proceedings before issuing authority has been properly completed.

/s/ Edward Fallonone
 Edward Fallonone, Municipal Court Judge
 Issuing Authority

Clerk of Courts – Original

COMMONWEALTH OF PENNSYLVANIA : MUNICIPAL COURT OF PHILADELPHIA
: PHILADELPHIA COUNTY, PENNSYLVANIA
:
v. : Docket No.: MC-51-CR-71499-2012
:
: Charges:
TATUM ZILLIAS, : Murder (3rd Degree) (2 Counts)
Defendant :
:

INFORMATION

The charge(s) having been bound over for court by the Municipal Court Judge following a Preliminary Hearing, The District Attorney of Philadelphia County by this Information charges that, on (or about) December 7, 2012, in said County, Tatum Zillias,

First Count:

did, under circumstances manifesting an extreme indifference to the value of human life, and consciously disregarding an unjustified and extremely high risk of death or serious bodily injury, proximately cause the death of Grace Hopper;

Second Count:

did, under circumstances manifesting an extreme indifference to the value of human life, and consciously disregarding an unjustified and extremely high risk of death or serious bodily injury, proximately cause the death of Arthur Dent;

All of which are against the Act of Assembly and the Peace and Dignity of the Commonwealth of Pennsylvania.

/s/ Arlene Fisk
Arlene Fisk, District Attorney

Citation(s): THIRD DEGREE MURDER, 18 Pa.C.S.A. § 2502(c)

Clerk of Courts – Original

COMMONWEALTH OF PENNSYLVANIA	:	MUNICIPAL COURT OF PHILADELPHIA
	:	PHILADELPHIA COUNTY, PENNSYLVANIA
	:	:
v.	:	Docket No.: <u>MC-51-CR-71499-2012</u>
	:	:
	:	Charges:
TATUM ZILLIAS,	:	Murder (3 rd Degree) (2 Counts)
Defendant	:	:

Arraignment

I, Tatum Zillias, have been advised by the District Attorney of Philadelphia County, Pennsylvania that I am charged by Information with Murder in the Third Degree (18 Pa.C.S.A. § 2502(c)).

I have been advised of my right to have an attorney represent me at all hearings and the trial of these charges.

I have been advised and fully understand that I/my lawyer have/has the right to request discovery or disclosure from the District Attorney within fourteen (14) days of today's date.

I have been advised and I fully understand that I/my lawyer have/has the right to file with the Court any pre-trial application for relief in the form of a single omnibus pre-trial motion within thirty (30) days of today's arraignment date.

I hereby enter a plea of Not Guilty to the above charges and request a trial by Jury. Trial is scheduled for the February 2013 Term of Criminal Court.

Date: December 13, 2012

Tatum Zillias

Defendant

/s/ Veronica Finkelstein
Attorney for Defendant

/s/ Stuart Haimowitz
Attorney for the Commonwealth

COMMONWEALTH OF PENNSYLVANIA	:	MUNICIPAL COURT OF PHILADELPHIA
	:	PHILADELPHIA COUNTY, PENNSYLVANIA
	:	:
v.	:	Docket No.: <u>MC-51-CR-71499-2012</u>
	:	:
	:	Charges:
TATUM ZILLIAS,	:	Murder (3 rd Degree) (2 Counts)
Defendant	:	:

MEMORANDUM AND OPINION

Defendant Tatum Zillias moves to dismiss the indictment charging her/him with Murder in the Third Degree, 18 Pa.C.S.A. § 2502(c). Defendant argues that the indictment and the evidence against her/him in this matter is insufficient to show the required mental state, or *mens rea*, for this crime. The Court denies defendant’s motion, and the matter will proceed to trial.

The sole question before the Court is whether the allegations against the Defendant could constitute malice sufficient to sustain a conviction of Murder in the Third Degree. The standard for malice is well-established: “Malice consists of a ‘wickedness of disposition, hardness of heart, cruelty, recklessness of consequences, and a mind regardless of social duty, although a particular person may not be intended to be injured...’ Malice may be found where the defendant consciously disregarded an unjustified and extremely high risk that his actions might cause serious bodily injury.” Commonwealth v. DiStefano, 782 A.2d 574, 582 -583 (Pa. Super. Ct 2001), quoting Commonwealth v. Cottam, 616 A.2d 988, 1004 (Pa. Super. Ct. 1992).

Notably, the District Attorney has *not* charged the Defendant with the lesser offense of Involuntary Manslaughter.¹ Based on public statements that the District Attorney has made, this decision is an attempt to avoid a “compromise” verdict by the jury. The Court offers no comment on the wisdom of this charging decision other than that the Commonwealth is entitled to exactly what it demands: the jury must either find a malicious Murder in the Third Degree or acquit the Defendant entirely.²

Defendant Zillias contends that the allegations against her/him are insufficient to show malice, as defined above, and thus that he must be released immediately. The Court disagrees.

Murder in the Third Degree is a felony, unlike Involuntary Manslaughter, and the distinction between “mere” reckless behavior and that which is so reckless as to constitute

¹ In addition, the Defendant here has indicated s/he will not request that the jury be instructed on a lesser offense, including Involuntary Manslaughter.

² By contrast to Murder in the Third Degree, which requires proof of malice, the charge of Involuntary Manslaughter requires that the Commonwealth prove only traditional recklessness, i.e. that Defendant “consciously disregards a substantial and unjustifiable risk that the death or serious bodily injury would result from his conduct.” Commonwealth v. Ruby, 838 A.2d 786 (2003) (Pa. Super. Ct. 2003), citing 18 Pa. C.S.A. § 302(b)(3). Alternatively, Involuntary Manslaughter can also be proved showing gross negligence, i.e. that an individual should have been aware of a substantial and unjustifiable risk that death or serious bodily injury would result from his or her actions. See Ruby, 838 A.2d at 788-89, citing 18 Pa. C.S.A. § 302(b)(4). Neither, charge, of course, requires proof of an actual intent to kill.

malice is not an easy one to define. It is fair to say that they represent a spectrum of potential criminality. At one end are matters like Ruby, where an otherwise excellent parent reacts to a tantrum by lightly striking her child's chest, only to have the child's heart suddenly and unpredictably stop forever. In such cases, or in cases where mere negligence or foolish ignorance is at issue, we have found the defendant not guilty as a matter of law.

At the other end are cases like Commonwealth v. Kellam, 719 A.2d 792, 797 (1998), where a caretaker locked an infant in a stifling room for two days without food or water. In such cases, the cold-hearted disregard of a known risk of serious injury or death shows the kind of cruelty and disregard of fundamental human duties that merit prosecution for murder.

But where to locate a particular case on that spectrum is often much less clear, as the debate in Commonwealth v. Kling, 731 A.2d 145, 149-152 (Pa. Super. Ct. 1999), shows. The defendant in Kling was convicted of Murder in the Third Degree after racing his car at over 80 miles per hour up and down a two-lane mountain path, weaving in and out of traffic and around blind curves. Shortly before weaving across the center line and causing a head-on collision in which a mother was killed and her child severely injured, Kling ran another person off the road. Still, he did not stop or even slow his headlong descent.

What is surprising about Kling is not that the defendant was convicted, but that under those circumstances, there was serious question as to whether his recklessness was sufficient to constitute malice. Indeed, there was at least one judge of the Superior Court who would have reversed Kling's conviction, citing Commonwealth v. Comer, 552 Pa. 527 (1998). There, the Pennsylvania Supreme Court found insufficient evidence of malice even though a driver consumed alcohol and barbiturates, then drove well above the speed limit down a crowded road, cutting off cars and riding onto the sidewalk before smashing into a bus stop.

In trying to make sense of these cases, the Superior Court has concluded that "unless the driver has essentially a 'death wish' or steamrolls through a crowd of pedestrians, it would seem unlikely that the recklessness would rise to the level sufficient to find malice." Commonwealth v. McHale, 852 A.2d 1209 (Pa. Super. Ct. 2004).

Looking into the cases, however, it becomes clear that the important point is not the degree of recklessness, per se, but the actual warning that the conduct was not just risky, but something more, followed by a decision to continue anyway. This is why Comer's conviction was overturned, but Kling's was upheld: after Kling ran the first car off the road nearly a mile before he struck his victim's, he had nearly thirty seconds to recognize the danger he was posing to others and to decelerate. By choosing not to do so, he consciously elected to proceed while aware of the risk that his actions posed. Comer, by contrast, made a series of reprehensible choices, but killed his victim without a similar warning. Similarly, in Commonwealth v. Scofield, 521 A.2d 40 (Pa. Super. Ct. 1987), the defendant was specifically confronted by a passing taxi driver, who urged him not to drive any further. Instead, he tried to drive away, striking a pedestrian. Accordingly, both drivers had specific warnings of the dangers posed by their actions, but ignored them.

The Commonwealth has proffered that it will show that (1) Zillias was conscious of the possibility that high winds could cause a catastrophic collapse in the crane or a loss of lift integrity; (2) previous events gave reason for Zillias to be concerned about the danger inherent in lifting in high wind; (3) Zillias was warned in advance that wind conditions could make the lift unsafe; (4) Zillias was warned on the day in question that the wind could make conditions

unsafe; and (5) Zillias personally decided to proceed anyway, because (6) Zillias was seeking to make a deadline for personal or profit-based reasons.

The Commonwealth also contends that Zillias repeatedly caused workers to violate safety and construction codes and that this alone constitutes recklessness per se. That is a bridge too far: criminal liability requires more than civil liability, which in turn often requires more than regulatory liability. Were the Commonwealth correct, merely driving with one's headlight out or failing to signal properly – both undeniably violations of the driving "code" subject to citation – would constitute recklessness per se. That cannot be so.

This is not, of course, to say that the violations are inadmissible per se, either. They must be judged on a case by case basis, citation by citation, and the Court will consider whether they are provable, relevant, and not unduly prejudicial or confusing in turn. But the time for those decisions is at trial, when the evidence can be considered in context. For now, it is enough to say that the citations neither prove the Commonwealth's case themselves nor are categorically irrelevant to it.

The Court does *not* offer any opinion on whether the Commonwealth can actually prove the case it claims it can make, but if it makes such showings, a reasonable jury *could* conclude that Defendant Zillias acted in conscious disregard of the risks. Critically, there is at least some evidence that the circumstances *of the day in question* put the defendant on notice not just that her/his course of conduct posed a theoretical risk, but that the risk was being realized. Under the circumstances, the case must be permitted to proceed to jury.

The Court offers no opinion on the merits of the case or the wisdom of the aggressive charge that the Commonwealth has brought. The former is a question for the jury; the latter is a question for the people.

BY THE COURT:

Fox, J.

COMMONWEALTH OF PENNSYLVANIA	:	MUNICIPAL COURT OF PHILADELPHIA
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v.	:	Docket No.: <u>MC-51-CR-71499-2012</u>
	:	:
	:	Charges:
TATUM ZILLIAS,	:	Murder (3 rd Degree) (2 Counts)
Defendant	:	:

Stipulations

1. All documents, signatures and exhibits, including pre-markings, included in the case materials are authentic and accurate in all respects; no objections to the authenticity of the documents will be entertained. The parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than to authenticity.
2. Jurisdiction, venue and chain of custody of the evidence are proper and may not be challenged.
3. All statements were notarized on the day on which they were signed.
4. All evidence was constitutionally recovered, and all statements were constitutionally obtained. No objection will be entertained to the constitutionality of any evidence, nor will any motions to suppress on constitutional grounds be permitted.
5. Defendant Tatum Zillias has waived her/his rights under the Fifth Amendment to the United States Constitution, and either party may refer to Zillias' decision to testify in opening.
6. Exhibit 3 is a fair and accurate depiction of the construction site at Franklin's Trench as it existed on or about August 31, 2012. It is admissible without further foundation.
7. Grace Hopper and Arthur Dent were living human beings on August 31, 2012.
8. The deaths of Grace Hopper and Arthur Dent were caused when the the crane commonly known as Fightin' Phil collapsed on top of them on or about August 31, 2012, at or after 3:25 p.m. Their bodies were found beneath the collapsed structure, and their deaths were near instantaneous.
9. Exhibit 7 contains weather reports for August 31, 2012. They were provided by Super-Accu-Sat weather, a service of SAS Inc., and they were publicly available on SAS's webpage, www.weatheradvisory.com, or from the web pages of SAS Inc.'s clients, including philly.com, or through a fax and email advisory service.
10. The reports in Exhibit 7 are those that were relied upon by Quinn Baxter in making her/his report. The first two weather reports (12 a.m. and 12:05 p.m.) are true and accurate copies

of those reports reviewed by site personnel on August 31, 2012. The third report (3:15 p.m.) was posted publicly at 3:16 p.m. on the SAS website and on philly.com and was available after that time until 8:57 p.m., when it was replaced by another report.

11. The weather reports found in Exhibit 7 are authentic and accurate, and they may be admitted without further foundation. The readings in those reports were taken by SAS's instruments at Philadelphia International Airport.

/s/ S. Haimowitz
Assistant District Attorney

/s/ Veronica Finkelstein
Defendant's Attorney

Date: December 17, 2012

APPLICABLE LAW

Applicable Statutes

18 Pa.C.S.A. § 2502. Murder.

- (a) Murder of the first degree.--A criminal homicide constitutes murder of the first degree when it is committed by an intentional killing.
- (b) Murder of the second degree.--A criminal homicide constitutes murder of the second degree when it is committed while defendant was engaged as a principal or an accomplice in the perpetration of a felony.
- (c) Murder of the third degree.--All other kinds of murder shall be murder of the third degree. Murder of the third degree is a felony of the first degree.

Applicable Judicial Decisions

Commonwealth v. Ruby, 838 A.2d 786 (2003):

Mother did not act recklessly when she lightly struck uncontrollably crying child on chest and the child unexpectedly died from an extremely rare condition caused by the blow.

Commonwealth v. DiStefano, 782 A.2d 574, 582 -583 (Pa. Super. Ct 2001):

The Pennsylvania Criminal Code defines third degree murder as any killing with malice that is not first or second degree murder. See generally 18 Pa.C.S.A. § 2502(c). Decisional precedent further establishes that third degree murder requires no specific intent to kill. Commonwealth v. Baskerville, 452 Pa.Super. 82, 681 A.2d 195, 199–200 (1996) (citing Commonwealth v. Seibert, 424 Pa.Super. 242, 622 A.2d 361, 364 (1993)). Rather, the mens rea [mental state] for third degree murder is malice, the definition of which is well settled:

Malice consists of a “wickedness of disposition, hardness of heart, cruelty, recklessness of consequences, and a mind regardless of social duty, although a particular person may not be intended to be injured....[”] [M]alice may be found where the defendant consciously disregarded an unjustified and extremely high risk that his actions might cause serious bodily injury.

Commonwealth v. Cottam, 420 Pa.Super. 311, 616 A.2d 988, 1004 (1992)

Commonwealth v. Kellam, 719 A.2d 792, 797 (1998):

Sufficient evidence of malice by individual left to care for baby found following baby’s death of malnutrition, dehydration and hyperthermia. The individual left to care for baby did not give baby food or drink for 24 hours; did not change baby’s diapers; and left baby in hot, enclosed space.

Commonwealth v. Comer, 552 Pa. 527 (1998):

Driver's behavior did not manifest extreme indifference to the value of human life where driver had five drinks and a barbiturate ("downer") and then drove vehicle at excessive rate of speed, cutting off other cars and running up a curb before careening across multiple lanes of traffic, and running through a utility pole, before driving through a SEPTA bus stand, killing a pedestrian who was waiting for a bus.

Commonwealth v. O'Hanlon, 539 Pa. 478, 653 A.2d 616, 618 (1995):

Driver did not manifest extreme indifference to human life where he was intoxicated and ran a red light, striking and seriously injuring pedestrian.

Commonwealth v. Scofield, 360 Pa.Super. 552, 521 A.2d 40 (1987):

Driver manifested extreme indifference to human life where he had consumed alcohol and/or barbiturates, scraped along another vehicle, ran onto a sidewalk and struck a building, then was warned not to drive by passing cab driver, did so anyway, and struck a pedestrian, causing serious injury.

JURY INSTRUCTIONS

At the conclusion of a jury trial, the judge will instruct the jury how to apply the law to the evidence. Hypothetically, if the judge in your mock trial case were to provide instructions to the jury, they would look something like the following:

[Please note: A copy of these instructions may not be used as an exhibit during the mock trial competition; however, students may use these concepts in fashioning their case and making arguments to the jury.]

1. Role of Jury.

Members of the jury, you have seen and heard all the evidence and the arguments of the lawyers. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence that you have heard and seen in court during this trial. That is your job and yours alone. I play no part in finding the facts. You should not take anything I may have said or done during the trial as indicating what I think of the evidence or what I think about what your verdict should be.

Your second duty is to apply the law that I give you to the facts. My role now is to explain to you the legal principles that must guide you in your decisions. You must apply my instructions carefully. Each of the instructions is important, and you must apply all of them. You must not substitute or follow your own notion or opinion about what the law is or ought to be. You must apply the law that I give to you, whether you agree with it or not.

Whatever your verdict, it will have to be unanimous. All of you will have to agree on it or there will be no verdict. In the jury room you will discuss the case among yourselves, but ultimately each of you will have to make up his or her own mind. This is a responsibility that each of you has and that you cannot avoid.

Perform these duties fairly and impartially. Do not allow sympathy, prejudice, fear, or public opinion to influence you. You should also not be influenced by any person's race, color, religion, national ancestry, or gender

2. Jury sole judge of facts; sympathy or prejudice not to influence verdict.

You are the sole judges of the facts in this case. It is your duty to determine the facts from the evidence produced here in court. Your verdict should not be based on speculation, guess or conjecture. Neither sympathy nor prejudice should influence your verdict. You are to apply the law as stated in these instructions to the facts as you find them, and in this way decide the case.

Although the lawyers may have called your attention to certain facts or factual conclusions that they thought were important, what the lawyers said is not evidence and is not binding on you. It is your own recollection and interpretation of the evidence that controls your decision in this case. Also, do not assume from anything I may have done or said during the trial that I have any opinion about any of the issues in this case or about what your verdict should be.

3. Credibility of witnesses.

As I stated in my preliminary instructions at the beginning of the trial, in deciding what the facts are you must decide what testimony you believe and what testimony you do not believe. You are the sole judges of the credibility of the witnesses. Credibility refers to whether a witness is worthy of belief: Was the witness truthful? Was the witness' testimony accurate? You may believe everything a witness says, or only part of it, or none of it.

You may decide whether to believe a witness based on his or her behavior and manner of testifying, the explanations the witness gave, and all the other evidence in the case, just as you would in any important matter where you are trying to decide if a person is truthful, straightforward, and accurate in his or her recollection. In deciding the question of credibility, remember to use your common sense, your good judgment, and your experience.

In deciding what to believe, you may consider a number of factors:

- (1) The opportunity and ability of the witness to see or hear or know the things about which the witness testified;
- (2) The quality of the witness' knowledge, understanding, and memory;
- (3) The witness' appearance, behavior, and manner while testifying;
- (4) Whether the witness has an interest in the outcome of the case or any motive, bias, or prejudice;
- (5) Any relation the witness may have with a party in the case and any effect the verdict may have on the witness;
- (6) Whether the witness said or wrote anything before trial that was different from the witness' testimony in court;
- (7) Whether the witness' testimony was consistent or inconsistent with other evidence that you believe; and
- (8) Any other factors that bear on whether the witness should be believed.

Inconsistencies or discrepancies in a witness' testimony or between the testimony of different witnesses may or may not cause you to disbelieve a witness' testimony. Two or more persons witnessing an event may simply see or hear it differently. Mistaken recollection, like failure to recall, is a common human experience. In weighing the effect of an inconsistency, you should also consider whether it was about a matter of importance or an insignificant detail. You should also consider whether the inconsistency was innocent or intentional.

You are not required to accept testimony even if the testimony was not contradicted and the witness was not impeached. You may decide that the witness is not worthy of belief because of the witness' bearing and demeanor, or because of the inherent improbability of the testimony, or for other reasons that are sufficient to you.

After you make your own judgment about the believability of a witness, you can then attach to that witness' testimony the importance or weight that you think it deserves.

The weight of the evidence to prove a fact does not necessarily depend on the number of witnesses who testified or the quantity of evidence that was presented. What is more important than numbers or quantity is how believable the witnesses were, and how much weight you think their testimony deserves.

4. Presumption of innocence; reasonable doubt; burden of proof.

The defendant, Tatum Zillias pleaded not guilty to the offense charged. The Defendant is presumed to be innocent. S/he started the trial with a clean slate, with no evidence against her/him. The presumption of innocence stays with Tatum Zillias unless and until the government has presented evidence that overcomes that presumption by convincing you that Tatum Zillias is guilty of the offense charged beyond a reasonable doubt. The presumption of innocence requires that you find Tatum Zillias not guilty, unless you are satisfied that the government has proved guilt beyond a reasonable doubt.

The presumption of innocence means that Tatum Zillias has no burden or obligation to present any evidence at all or to prove that s/he is not guilty. The burden or obligation of proof is on the government to prove that Tatum Zillias is guilty and this burden stays with the government throughout the trial.

In order for you to find Tatum Zillias guilty of the offense charged, the government must convince you that Tatum Zillias is guilty beyond a reasonable doubt. That means that the government must prove each and every element of the offense charged beyond a reasonable doubt. A defendant may not be convicted based on suspicion or conjecture, but only on evidence proving guilt beyond a reasonable doubt.

Proof beyond a reasonable doubt does not mean proof beyond all possible doubt or to a mathematical certainty. Possible doubts or doubts based on conjecture, speculation, or hunch are not reasonable doubts. A reasonable doubt is a fair doubt based on reason, logic, common sense, or experience. It is a doubt that an ordinary reasonable person has after carefully weighing all of the evidence, and is a doubt of the sort that would cause him or her to hesitate to act in matters of importance in his or her own life. It may arise from the evidence, or from the lack of evidence, or from the nature of the evidence.

If, having now heard all the evidence, you are convinced that the government proved each and every element of the offense charged beyond a reasonable doubt, you should return a verdict of guilty for that offense. However, if you have a reasonable doubt about one or more of the elements of the offense charged, then you must return a verdict of not guilty of that offense.

5. Nature of the Information

As you know the Defendant, Tatum Zillias, is charged in the information with violation of state law, specifically Murder in the Third Degree. The information is just the formal way of specifying the exact crime the defendant is accused of committing. As the information is simply a description of the charge(s) against the defendant. It is an accusation only. An information is not evidence of anything, and you should not give any weight to the fact that Tatum Zillias has been indicted in making your decision.

6. Murder – Third Degree. (Based upon 18 Pa.C.S.A. § 2502(c))

Third-degree murder is any killing with malice that is not first- or second-degree murder. The defendant, Tatum Zillias, has been charged with third-degree murder. To find the defendant guilty of this offense with respect to Grace Hopper, you must find that the following three elements have been proven beyond a reasonable doubt:

First, that Grace Hopper is dead;

Second, that the defendant killed her; and

Third, that the defendant did so with malice.

The elements for Count Two, the alleged Third Degree Murder of Arthur Dent, are identical.

The word "malice" as I am using it has a special legal meaning. It does not mean simply hatred, spite, or ill-will. Malice is a shorthand way of referring to particular mental states that the law regards as being bad enough to make a killing murder.

For murder of the third degree, a killing is with malice if the perpetrator's actions show his or her wanton and willful disregard of an unjustified and extremely high risk that his or her conduct would result in death or serious bodily injury to another.

In this form of malice, the Commonwealth need not prove that the perpetrator specifically intended to kill another. The Commonwealth must prove, however, that the perpetrator took action while consciously, that is, knowingly, disregarding the most serious risk he or she was creating, and that, by his or her disregard of that risk, the perpetrator demonstrated his or her extreme indifference to the value of human life.

When deciding whether the defendant acted with malice, you should consider all the evidence regarding her/his words, conduct, and the attending circumstances.

7. Jury must not consider penalty.

You must not concern yourself with the consequences of your verdict.

8. Role of Jury – Deliberations; Unanimous Verdict, Duty to consult.

That concludes my instructions explaining the law regarding the testimony and other evidence, and the offenses charged. Now let me explain some things about your deliberations in the jury room, and your possible verdicts.

First, the first thing that you should do in the jury room is choose someone to be your foreperson. This person will speak for the jury here in court. He or she will also preside over your discussions. However, the views and vote of the foreperson are entitled to no greater weight than those of any other juror.

Second, I want to remind you that your verdict, whether it is guilty or not guilty, must be unanimous. To find Tatum Zillias guilty of an offense, every one of you must agree that the government has overcome the presumption of innocence with evidence that proves each element of that offense beyond a reasonable doubt. To find Tatum Zillias not guilty, every one of you must agree that the government has failed to convince you beyond a reasonable doubt.

Third, if you decide that the government has proved Tatum Zillias guilty, then it will be my responsibility to decide what the appropriate punishment should be. You should never consider the possible punishment in reaching your verdict.

Fourth, as I have said before, your verdict must be based only on the evidence received in this case and the law I have given to you. You should not take anything I may have said or done during trial as indicating what I think of the evidence or what I think your verdict should be. What the verdict should be is the exclusive responsibility of the jury.

Fifth, now that all the evidence is in, the arguments are completed, and once I have finished these instructions, you are free to talk about the case in the jury room. In fact, it is your duty to talk with each other about the evidence, and to make every reasonable effort you can to reach unanimous agreement. Talk with each other, listen carefully and respectfully to each other's views, and keep an open mind as you listen to what your fellow jurors have to say. Do not hesitate to change your mind if you are convinced that other jurors are right and that your original position was wrong. But do not ever change your mind just because other jurors see things differently, or just to get the case over with. In the end, your vote must be exactly that--your own vote. It is important for you to reach unanimous agreement, but only if you can do so honestly and in good conscience. Listen carefully to what the other jurors have to say, and then decide for yourself if the government has proved the defendant guilty beyond a reasonable doubt.

No one will be allowed to hear your discussions in the jury room, and no record will be made of what you say. You should all feel free to speak your minds.

Sixth, once you start deliberating, do not talk about the case to the court officials, or to me, or to anyone else except each other. If you have any questions or messages, your foreperson should write them down on a piece of paper, sign them, and then give them to the court official who will give them to me. I will first talk to the lawyers about what you have asked, and I will respond as soon as I can. In the meantime, if possible, continue with your deliberations on some other subject.

One more thing about messages. Do not ever write down or tell anyone how you or anyone else voted. That should stay secret until you have finished your deliberations. If you have occasion to communicate with the court while you are deliberating, do not disclose the number of jurors who have voted to convict or acquit on any offense.

COMMONWEALTH OF PENNSYLVANIA	: MUNICIPAL COURT OF PHILADELPHIA
	: PHILADELPHIA COUNTY, PENNSYLVANIA
	:
v.	: Docket No.: <u>MC-51-CR-71499-2012</u>
	:
	: Charges:
TATUM ZILLIAS,	: Murder (3 rd Degree) (2 Counts)
Defendant	:

VERDICT FORM

[At many trials, the judge provides a form like this to the jury at the end of the trial. The jury is instructed to reach a verdict consistent with the answers it finds to the form. A copy of this form may not be used as an exhibit during the mock trial competition.]

To the jury:

To further clarify instructions given to you by the trial judge, you are being provided with the following verdict form. At the conclusion of your deliberations, one copy of this form should be signed by your foreperson and handed to the court clerk. This will constitute your verdict.

Remember that you must find the defendant guilty beyond a reasonable doubt as to each charge, independently.

Question 1:

Do you find that the Commonwealth has proven beyond a reasonable doubt that defendant Tatum Zillias consciously disregarded an unjustified and extremely high risk that his actions might cause serious bodily injury and, in so doing, caused the death of Grace Hopper?

Yes _____ No _____

Question 2:

Do you find that the Commonwealth has proven beyond a reasonable doubt that defendant Tatum Zillias consciously disregarded an unjustified and extremely high risk that his actions might cause serious bodily injury and, in so doing, caused the death of Arthur Dent?

Yes _____ No _____

You have finished your deliberations. Please sign at the bottom of this form.

Please return to the courtroom.

Jury Foreperson

List of Witnesses

The prosecution and the defendant must call each of their respective witnesses. Tatum Zillias is permitted to sit at counsel table as the Defendant.

For the Commonwealth of Pennsylvania:

- **Emerson Turnkin:** Former Site Supervisor Franklin's Trench
- **Quinn Baxter:** Former OCIS Investigator – Expert Witness
- **London Packard:** Former Resident of Franklin's Trench

For the Defendant, Tatum Zillias:

- **Tatum Zillias:** Defendant and Project Z Owner
- **Micah Estratton:** Form Crane Supervisor – Expert Witness
- **Reese Dentner:** Freelance Newspaper Writer

Statement of Emerson Turnkin

1 My name is Emerson Turnkin, or Em for short. I was the Site Supervisor at Franklin's Trench on
2 August 31st, 2012. Anyone who calls that disaster an accident is a fool or has been fooled.
3 Those people were knowingly sacrificed to Tatum Zillias' raging ego and insatiable pocketbook.
4 Nobody should be surprised that that crane fell in those winds. We sure weren't. No matter how
5 much money Tatum throws at this, the blood that forever stains that site will never be rubbed
6 away. No matter how hard s/he tries or what lies s/he tells, that spot will never come out.

7 So how did it happen? How did we wind up lifting so much into the teeth of a gale? I wish I
8 could have stopped it. I wish I had called out sick. I wish I had quit and never bothered to show
9 up. I wish I had had the power to do something, but I was helpless. I was nothing more than
10 window dressing at a worksite that had one and only one supervisor: Tatum Zillias.

11 It wasn't supposed to be like this for me. I was supposed to be something so much more. I
12 wanted to be a property developer. My family wasn't poor, but we struggled, especially after my
13 father died on the job site, and I put myself through college working in retail. Now I'm 53, single,
14 no kids, unemployed. I have a degree from Penn State in construction management and thirty
15 years on job sites, but no one will ever give me those jobs again. Pretty pathetic, really.

16 It all started out well, too. I built a reputation the way I built a house – brick by brick, each one
17 carefully laid on the next. I didn't always get things done the fastest, but I had a pristine record
18 for union relations and for eventual success. It was basically the opposite of the way Zillias did
19 things. Her/his reputation was clear – speed meant profit, and extra speed was worth paying a
20 few citations or greasing a few palms along the way. People used to joke that s/he was going for
21 the Guinness record for most citations without actually getting shut down. When we worked
22 together on the Trench, I often heard Tatum saying "Fast means good, fast means profit." That
23 was the culture. I'm talking about dangerous stuff, too – like unsecured scaffolding, unlocked
24 equipment and heavy machinery that should've been serviced months, if not years before.
25 Cutting corners was less expensive than playing by the rules.

26 I was stunned when Zillias approached me in 2011 about working on the Trench project. I
27 guess s/he knew that I had good connections, and I knew that s/he could use some good press
28 after the fallout from that HUD investigation of Zillias Construction. I had never supervised a
29 large-scale site before, just single-family homes, but Zillias said s/he liked that better, because
30 we had the same approach. I confronted Zillias about the "fast means good" policy, which was a
31 concern, but s/he told me that was all in the past and promised me complete job site control.
32 That was a lie, but even at the end, my name was still at the bottom of all the paperwork. I
33 became the Site Supervisor, which in theory meant that I was responsible for all aspects of the
34 project, from budgets to safety. But, I found out that reality is often different than theory.

35 I made up my mind that I was going to do everything right on this project. I was going to adhere
36 to every code and refuse to cut corners. When it came time for our initial licensing in early
37 August 2011, it was Inspector Baxter who came to the site. I could tell s/he was impressed with
38 the work I'd done. In fact, her/his only comment was that the road was graded a bit too steeply
39 for code, but really that is a very, very minor violation and one I promised to correct quickly.
40 Everything was moving in the right direction. It was the safest site in the city: I would spend at
41 least two hours a day on safety protocol and sweeps. We barely had a stubbed toe on our site.
42 When Fightin' Phil was erected in September 2011, I could see my dream becoming a reality.
43 I'd never seen a crane that big, much less worked with one! Phil was a thing of beauty! Micah,
44 the crane operator, was a bit of a strange one. S/he treated that crane like a person, talking to it,
45 giving a high five every morning, stuff like that. But I guess if there are horse whisperers, then a

46 crane whisperer is also possible. All I know is that Micah was the best crane operator I have
47 ever met. Regardless of weather, time or temperature, s/he knew how to get the most out of
48 Fightin' Phil.

49 The one big problem that everyone had overlooked was a group of squatters living in Franklin's
50 Trench who refused to relocate. They felt that they had a right to be on the land and that we
51 were invading their property. I decided to humor them and meet with their self-proclaimed
52 leader, London Packard, one day in October. S/he even had this freelance investigative reporter
53 with her/him, Reese Dentner, but I didn't pay Reese much mind. London's demands were
54 absolutely ridiculous! S/he wanted us to stop construction and move the entire project two
55 blocks east. Unfortunately, I couldn't control my temper. Instead of defusing the situation, I blew
56 up at London and accidentally started a bit of a feud. This was the last thing I wanted. I tried to
57 brush it off, telling myself that the squatters were harmless. The only problem is that they started
58 vandalizing the site, which made it very, very hard to stay on task, because we had to keep red
59 flagging – stopping work - to do safety checks. Mostly it was little stuff, like graffiti, or moving
60 some markers or digging holes on the heavy machinery track. But it slowed us down, and every
61 delay was a strike against me and made my job harder.

62 On January 10, 2012, everything changed. Tatum came by the site and after a few minutes of
63 pleasantries about the New Year and how "pretty" the site looked, Tatum began a tirade that
64 went on uninterrupted for at least an hour. The pinnacle of the rant was a when Tatum stared
65 right at me and said, "I don't care if people get hurt. We can pay for that! We can pay for
66 anything but time! This project is going to get done!" I lost my cool once again and said, "It
67 wasn't my fault, it was those darn mole people!" I don't think Tatum even knew what I was
68 talking about. S/He just kind of looked at me like I was crazy and stormed out of my office.

69 S/he watched us like a hawk after that. My safety checks were cut and then cut again at Zillias'
70 direction. Even worse, the workers were "offered" an extra hour in each day. Those who didn't
71 want it didn't last long, although mostly people liked the overtime. Soon, Tatum started a
72 second shift, without even asking me! So now I was running a sixteen hour site, alone!
73 Accidents increased tenfold, but Tatum didn't care and really, at least at first, neither did the
74 unions. Construction sites are inherently dangerous, and we hard hats know the risks. Plus,
75 jobs were hard to come by, and Tatum always paid. S/he even buttered up the workers with
76 hundred dollar bills. They pretended to like it, but the word around the site was that s/he was
77 just a rich person rubbing it in the face of the working guy. The union didn't care if people got
78 some extra cash, and when I complained the OCIS inspector, Grace Hopper, about the unsafe
79 conditions, she said that all she could do was write up citations, since there were no major
80 violations. I am positive that Tatum must have been paying Grace off, or some sort of other
81 favor was going on. There was no way a responsible government official would've turned a blind
82 eye to all of this stuff.

83 In April, when the final weight totals on the state-of-the-art roofing panels came in, it was 200
84 tons over the max load limit for the crane. Micah was convinced that Fightin' Phil could handle it.
85 I'd already lost control of the situation, so I just told her/him to sort it out with Tatum. I really
86 didn't care at all at that point. A week or so later, Micah came back to me and said that s/he had
87 spoken to Tatum and that Tatum was aware of the risk, but had told Micah to proceed as
88 planned. I knew this was a mistake. These were no ordinary roofing panels. Not only were they
89 heavier than expected, the shape of the design was unique and they had these wind turbines
90 built into them, so the weight wasn't evenly distributed. For all the experience Micah had with
91 Fightin' Phil, it was stupid to take such a risk. I knew Tatum was aggressive, but this was
92 beyond negligent, it was reckless.

93 Over the next few months the site was beyond tense. Tatum was there daily, and every day I
94 would get yelled at for the project being behind schedule. I had no choice but to take it; I
95 couldn't leave my workers behind, and my reputation was tied to the site, either way. I wasn't
96 going to be Tatum's scapegoat! By April, though, everyone knew who was running the show.
97 Even my foremen would go straight to Tatum half the time.

98 One day in May, I saw London and another mole person mucking about around the mooring
99 area of Fightin' Phil. I managed to scare them off, but it did raise a serious concern. I was
100 worried that they were plotting something, but I couldn't tell what it was. I checked out the crane
101 and everything seemed ok. I didn't bother mentioning it to Micah, but did relay the information to
102 Tatum, who seemed as disinterested as ever. S/he muttered something like "I don't think we
103 have to concern ourselves with a bit of graffiti, do you?" I guess s/he had a point. London and
104 her/his gang's efforts were annoying, but harmless.

105 In June 2012, things got really intense. Tatum decided that s/he needed to be onsite 24hrs a
106 day. First, a third shift was added, and overtime became mandatory. There was a bonus
107 deadline looming in October, and Tatum wanted to make the sure the project was done for all of
108 the politicians. I even think Tatum had some political aspirations of her/his own at this point.
109 S/he was totally out of control. When Inspector Baxter showed up to see how the site was
110 going, we almost had a disaster. Baxter doesn't kid around, and s/he had the authority to shut
111 us down! Tatum ordered me to deal with her/him, because of my reputation I guess. S/he
112 raised a bunch of good points, but in the end, I knew that s/he had a choice to either cite us or
113 fight us in court. I did what I knew Tatum would have wanted: I told Baxter s/he could close the
114 site, if s/he had the goods. Instead, we were given a bunch of citations, and Tatum paid them
115 all, as always.

116 The breakneck pace was taking its toll on the workers. The build was getting done, but the
117 haphazard approach was dangerous, and Tatum knew it. Even though we had put up a fence,
118 squatters were still milling around, and tools were being left everywhere. I even thought I heard
119 Fightin' Phil creaking a bit. The other crane operator, Rose Rivett, was so tired that she started
120 taking speed and almost swung Phil into an apartment building! During our morning meeting
121 one day in early August, I bit the bullet and confronted Tatum about the huge risk we were
122 taking. Predictably, s/he said, "Remember, my dear Em, if we don't finish fast, we die. Nothing
123 you say can change that now. Go make yourself look busy."

124 After that, honestly, my heart just wasn't in the work. I stopped caring, and I even missed a day
125 or two of work. Mostly, I just sat in my office at the end of the site, mindlessly signing paperwork
126 and sorting through the junk mail while I waited for this nightmare to end. I still had one fear,
127 though: the Big Lifts at the end of August. Shortly before they were scheduled, Hurricane Issac
128 hit the Gulf Coast. I was terrified, not because of the danger it posed for the workers, but for the
129 fact that if the torrential rains came before the roofing panel was in place, months of effort would
130 be lost. Tatum was determined to get the overweight roofing panels in place before this
131 happened. It was all hands on deck, and the lift was going to proceed at all costs. I tried to have
132 a rational discussion with Tatum the night before, when we saw how bad the weather was going
133 to be. But Tatum was having none of it. S/he just raced off to trumpet her/his "Springsteen
134 tickets for everyone" plan. Micah tried to make me feel better, but I knew in my bones that
135 disaster was looming.

136 On the morning of August 31st, Reese's article on the Trench hit front page of the paper, and I
137 was painted as some sort of monster. I raced to the site anyway. I knew all safety precautions
138 were going to be thrown out, so I took it upon myself to do a check. From the manager's office,
139 I thought I saw a squatter poking around Fightin' Phil. However, when I got down there, no one

140 was there. I took a look at the mooring and the machinery and everything looked to be in order,
141 but I was no expert. I reported this to Tatum when s/he arrived, but once again, I was ignored. I
142 also brought Tatum an even worse weather report from the night before that showed winds
143 coming earlier. S/he just asked me, "So why aren't we lifting now?" as though we should start
144 before dawn, without even warming up the crane. After a quick sweep, the minimum Code
145 requires, we got started, and disaster almost came right away. Micah lost control in the gusts
146 when lifting the first panel and almost plowed it into an apartment building! I had never seen
147 her/him make a mistake like that! I started to talk to Tatum, but s/he shot me a glance that shut
148 me up and shut me down.

149 When it came time for second lift, the rain was quieting down a bit, but the wind was getting
150 stronger and stronger. Tatum, Grace and I were in the manager's office, and Grace was
151 concerned. I told them both that I was very worried and about the conditions and recommended
152 postponing the second lift until the following day. That was ridiculous, of course, because we all
153 knew the winds would ground us for at least three days. But I knew voicing that would
154 guarantee I would get nowhere. So instead I told Tatum what s/he already knew - that the load
155 was pushed beyond the limits of the crane, that the roofing panel's shape made it hard to
156 predict how it would react in the high winds, and that the ground upon which Fightin' Phil stood
157 was getting soft. But rather than listen to me, Tatum convinced Grace to ask Micah for her
158 thoughts. Now, Micah was great at what s/he did, but s/he was in love with Fightin' Phil and was
159 convinced that the crane could handle any task. Grace said that she couldn't stop the lift without
160 Quinn Baxter's approval, and that she knew Quinn valued my opinion, but I knew that I'd be
161 fired if I lifted a finger on the spot if I tried to stop the lift. So I just kind of nodded and said
162 nothing. Grace stormed out to watch the lift from below.

163 A half hour later, the lift was stopped when another damn squatter appeared. The load was
164 pitching and yawing over the site. Tatum bolted from the booth to confront Grace, and I saw
165 them fighting over the green flag. It looked to me like Tatum was winning, but with all the rain
166 and wind, at that distance, I couldn't really see what was happening. However, I am pretty sure
167 that I saw Tatum grab the flag from Grace and start waving it in Micah's direction.

168 The rest is horrible history. At the top of the lift, the wind gusted stronger than it had all day, and
169 I saw the roofing panel catch the gale. It was like watching a sail billow and capsize a boat. In
170 seconds, the best crane in the mid-Atlantic was a pile of twisted steel. For all of her/his bravado,
171 for all of her/his cavalier attitude, this risk taken and utter disregard for safety had finally caught
172 up with Tatum. Tatum might try to blame this all on me, or some phantom effort by London and
173 the squatters or even God. That's a joke. There's no way that a squatter with a fire axe could
174 bring down an elegantly engineered construction crane. It's just implausible. Tatum thought
175 her/his legacy was more important than human life. I was convicted in the court of public
176 opinion for my treatment of the squatters, but Tatum needs to be convicted in a court of law.

Emerson Turnkin

Signature

December 6, 2012

DATE

Statement of Quinn Baxter

1 My name is Quinn Baxter, and I was the OCIS inspector responsible for the investigation of the
2 Fightin' Phil crane collapse, the worst construction accident in this city in decades, and certainly
3 the most high profile. As the senior investigator in the Philadelphia Regional Office, and
4 because of my personal knowledge of Tatum Zillias' lax view of regulations, I assigned this
5 investigation to myself.

6 During the period 1998-2012, I served as an inspector with the Philadelphia Regional Office of
7 the Directorate of Construction at the United States Office of Construction Inspection and Safety
8 (OCIS). Prior to joining OCIS, I worked for seven years at the Commonwealth of Pennsylvania
9 Bureau of Occupational and Industrial Safety (BOIS). I graduated from Carnegie Mellon with a
10 degree in civil engineering in 1985, and I have a Master's Degree from the University of
11 Pittsburgh in Industrial Engineering. I received that degree in 1996.

12 For approximately eighteen months in 1989-1991 and from 1994-95, I stayed at home, helping
13 to raise my children. Other than that and a brief period I was unemployed after college, I have
14 been working on the safety side of the construction industry my whole adult life. I devote a
15 majority of my time to site inspections, where I attempt to determine if a construction project
16 violates any regulations or otherwise endangers worker safety. I also inspect sites following
17 serious injuries to help determine cause. I have done that nearly a dozen times. I have been
18 called to testify in court approximately ten times, mostly with BOIS. Most times I was accepted
19 as an expert, although twice I was not. Although I haven't been asked to testify in court for over
20 five years, I have testified in a half dozen or so administrative hearings in the past few years.
21 Last year, I received a Lifetime Achievement Award from the National Safety Council. I have
22 been a member of the American Society of Safety Engineers for eighteen years, and I served as
23 its Vice President in 2002. For the past eight years, I have also consulted on safety issues for
24 the Association of Crane and Rigging Professionals.

25 I first met Tatum Zillias when I was working as an inspector with BOIS and Zillias was just
26 starting out. This is before s/he founded Project Z. I always find code problems when I do a
27 site visit, but I had never seen anything like this one! Equipment was left unlocked, with keys in
28 it, and one of the scaffolds was held together with duct tape! I threatened to shut the whole site
29 down, but Zillias called my bluff... and my supervisor! I wound up writing over a dozen citations,
30 but I later found out that s/he had only been forced to pay half of them. S/he probably saved
31 more money than s/he paid. No wonder s/he was smirking.

32 After that, I tried to keep an eye on Zillias wherever I could, but her/his rags-to-riches story just
33 appealed to people, and a lot of the violations I found are pretty common. I know that code
34 book inside and out, and I was definitely the best in my office at finding them. For some reason,
35 though, my supervisors didn't really support me. And when Zillias filed a formal complaint with
36 the governor's office about my "harassment," I wound up getting assigned to other projects. I
37 didn't try to get reassigned to a Zillias site, and I didn't work another one in my last five years
38 with the Commonwealth. When I first joined OCIS, my focus was on massive projects, and
39 Zillias was doing residential work. OCIS supports me more. In fact, after my work on Fightin'
40 Phil, I got a detail as the Acting Director of the Office of Engineering Services in Washington,
41 D.C. It's the same pay, but I'm near the top of the agency. Corner office here I come!

42 In 2011-12, I'd been following the Franklin's Trench job from afar, and I'd even had the
43 opportunity to visit the site a few times, in my official capacity. The first time was ceremonial, for
44 the ribbon cutting. I can't say that I cared for seeing Zillias with all those dignitaries, but s/he

45 didn't say a cross word to me. In fact, s/he kind of gave me this hug and told the Mayor that I
46 was the best person working in construction safety. I don't know what to make of that. Later
47 on, I went back to the site officially, to inspect the opening. I was impressed; the road was
48 graded 2% too steeply, and they had a few loose tools in dangerous places, but it was one of
49 the better sites I've seen, especially since I showed up hours early to catch them off-guard.

50 Finally, I did a spot inspection in June, 2012. I had been warned by Grace Hopper, the site
51 inspector assigned to the site, that it had gotten worse, and boy was she right! The job site was
52 chaos, and Emerson Turnkin had clearly lost control. I'd worked with Turnkin before, and I was
53 impressed. Her/his safety record was tremendous, and s/he really cared about the code. But
54 that wasn't the person I saw that day: Turnkin was wild, shouting at the workers, and s/he was
55 engaged in some kind of running debate with a street person. I also found plenty of issues to
56 write up: workers were eating lunch while manning the machinery, electrical lines were not
57 properly secured, scaffolds were resting on uneven ground, and tools were literally everywhere.
58 I wrote it all out, and I laid into Turnkin. S/he listened carefully and then told me to sue her/him.
59 I was stunned, until I saw Tatum Zillias watching; it must have been her/his doing. One bad
60 apple spoils the bunch.

61 I did my best, but I couldn't find any "red flags," that is, problems that manifest an imminent risk
62 of death or serious bodily injury. And if Grace had seen any on her weekly inspections, she had
63 not mentioned them. So I filed my citations, and Tatum Zillias paid every one of them the next
64 day. S/he even sent me a note, thanking me for my diligence. The nerve! After that, I turned
65 my attention to other matters. I trusted that if something went seriously wrong, Grace would
66 notify me. I later learned of an incident in July where a crane operator almost caused serious
67 damage because she was taking amphetamines. That's just the kind of thing that lets us know
68 that workers are being pushed beyond the limits of safety. Zillias must have hidden it from
69 Grace, but a developer is required to report incidents like that to OCIS. I checked our files, and
70 nothing was submitted. As a result, I didn't know about the incident or the dangers it suggested.

71 August 31 is not a day I will ever forget. Grace was on-scene, because it was such a big event,
72 and she called me throughout the day. She was terrified of the winds and the rain, and she
73 thought some disaster was coming, but she wasn't sure she'd seen enough to shut the site
74 down. That is a very big call, and it's not one that any field inspector can make. They can use
75 the red flag to stop work temporarily, for a few minutes or even an hour, to conduct a sweep of
76 the site or to remediate some specific problem, like a worker in danger or to look for possible
77 sabotage. But to shut down a worksite for longer than that, even for a red flag violation, is a
78 serious intrusion into the developer's autonomy, and the most drastic use of OCIS's power, as
79 well as a political nightmare. OCIS can even be sued for it! So that decision requires approval
80 from a supervisor like me. But with construction sites throughout the region, we can't be at
81 every one. So the field inspectors go, and they call if they see something that drastically
82 problematic.

83 I had trained Grace myself, and I trusted her completely. Besides, the first panel lifted without
84 incident. Then, at 3:30, all hell broke loose. I was in a meeting when I got paged over the
85 loudspeaker, which *never* happens. I knew immediately that something must have gone
86 horribly wrong. I raced out into a hallway filled with people grabbing hard hats and bullhorns. I
87 later found out that Grace had tried to reach me around 3:20, but no one put the call through to
88 the conference room. When I checked my cell phone, there was a text from 3:23 that simply
89 said "URGENT: CALL ME." She must have wanted the site shut down.

90 I took over the investigation immediately. I arrived with two junior people from my office at
91 about 3:50 p.m. We could see the dust cloud from blocks away. The wind was driving it across

92 town at shocking speed, even as the rain got worse. As we got closer, we could hear the
93 ambulance and police sirens. I checked with the senior police officer, and she told me that the
94 area was not a crime scene. I took charge and had my team cordon it off as an active worker
95 safety investigation, and the police began moving the workers off the site. By 4:15, we realized
96 that no one had seen Grace since the collapse. I had trained her to stick close on a lift like this
97 one, to better see and hear trouble coming, and I knew immediately that we would find her
98 under the crane. Nonetheless, my duty was clear, and once the bodies were removed, I started
99 my work.

100 It took over an hour for the collapse to completely finish and the dust to settle so that we could
101 safely move around. At 5:20, I began my formal site review. Fightin' Phil was a tangled web of
102 steel and cable. It was obvious that the crane had collapsed to the operator's left side, the legs
103 folding over on themselves. That kind of force is very unusual, and I was shocked to see it. I
104 examined the wreckage as best I could, in the dusk and the rain, and I interviewed the
105 witnesses, except Micah Estratton, who was at the emergency room. By 6:45, the rains and
106 winds made the site too dangerous, and my team went home. We returned that Tuesday.

107 A copy of my final report is attached, and I adopt it completely. I based it on my observations,
108 interviews, and on all the documents I collected from the site, including the engineering specs,
109 plans, construction map, and the weather reports. The more I think about it, the angrier I get...
110 on a strictly professional level, of course. Anyone who read a weather report could see that
111 winds were going to be gusting. Grace was a great inspector, but I can't see why she didn't call
112 me earlier. Fightin' Phil's manufacturer provided specs that rated its capacity to haul flat
113 surfaces in wind. But the roof wasn't flat; it was curved, and a properly anchored curved surface
114 is basically a sail. Plus, Phil was already above engineering tolerance with just the dead lift
115 itself. And they knew, it, too! When I found out that the site supervisor had used improper
116 pilings to secure the crane, there was no wondering left to do.

117 Nor can we rule out the possible role of metal fatigue. Fightin' Phil was nearly twenty years old,
118 and the crane was continuously operated throughout the project. Although you don't test metal
119 fatigue by doing daily site inspections, you can see warning signs. Project Z has no daily
120 morning inspection checklists for the six weeks preceding the collapse, and the nightly
121 inspections don't positively demonstrate that the workers were diligent in their efforts to find
122 issues with the crane. Moreover, continuous operation of the kind that Project Z demanded
123 would have put additional stress on the crane and the workers. OCIS denied my request for
124 funds to have a forensic metallurgist examine the wreckage, but it is possible, maybe even
125 likely, that the buckling was due in part to this fatigue. Zillias was an experienced developer;
126 s/he had to have known (and ignored) these risks.

127 There's no decision that Zillias made that, in isolation, would have been a red flag, but in my
128 mind, yellow and orange make red. Zillias piled up yellow and orange flags left and right.
129 Collectively, combined with a peak wind gust, they buckled Fightin' Phil and killed two people,
130 including my protégé and good friend, who tried to stop them.

131 I have read Micah Estratton's statement, and I just can't agree with the theory that sabotage
132 caused the crash. There's no reason to think that an unsophisticated member of the public
133 could have caused meaningful damage to Fightin' Phil, and the forces acting on the crane
134 would've been more than enough to cause it to buckle without any help. We did find damage to
135 the hydraulics, but that could easily have occurred in the crash itself, which destroyed virtually
136 every moving part on the crane. Plus, there's no reason to think that a simple hydraulic failure
137 would've led to the kind of catastrophic failure that we see here. And even if you thought that a
138 person could do that, if they had done a full sweep when they saw the squatter, as they should

139 have, they would have discovered that supposed damage. Estratton's theory would let Tatum
140 Zillias walk away. I can't accept that outcome: these needless deaths were caused by Zillias
141 and by a culture that doesn't take code violations seriously enough. That's not OCIS policy, but
142 it is my view. The DA in this case is an American hero for indicting Tatum Zillias.

Quinn Baxter
Signature

December 7, 2012
DATE

Statement of London Packard

1 There are places I remember all my life, though some have changed. Some forever, not for
2 better, some have gone and some remain the same. That's Franklin's Trench. It was once my
3 home, though through all of the disfigured metal, you cannot now recognize the utopia in which I
4 and the 50 or so other Trenchers once lived. We are scattered now, like so many autumn
5 leaves, and the lives that were taken from us, from all of us, can never be returned.

6 I was born into a bleak and uncaring, black and white world, and it was only in my young
7 adulthood that color flowed into it. You cannot understand it now, but in the late 1960s, it was
8 possible to imagine that society was awakening, that there could be a time with no possessions,
9 nothing to kill or die for, and no religion, too. And with the people and the land itself, I, too
10 awakened. I starved with my sisters and brothers in the jails of the South, and I rode the buses
11 with them through the fields of hatred, and I shared with them their food and drink and drugs.
12 We were one, man. But then the color faded. Friends snuffed out, their lives lost to bad acid or
13 their souls lost to The Man. I stayed pure, though, moving from place to place, working with my
14 hands while I wrote my poetry and played my songs of love and loss, living wherever the ground
15 was soft and the company sweet. There are many ways to measure wealth, and the size of
16 your bank account is merely the cruelest. Riches are measured in the time you have to do what
17 you love. I don't need no diamond ring to keep me satisfied. I don't care too much for money...

18 One bright, sunshine-filled day in 1975, I was strolling through the City of Brotherly Love when I
19 stumbled across Franklin's Trench. It was heaven. It had good cover, warmth from steam
20 vents for the cold nights and even a bit of soil for growing basics in summertime. In an
21 abandoned side tunnel, I found clean water dripping. Water is life, my brothers and sisters, and
22 I knew I had found a blessed place, like the Nile or the Euphrates, where I could welcome all to
23 a new kind of civilization. I laid down my poncho and thanked the spirits for their gift. I never
24 advertised Franklin's Trench, but if you were meant to be there, the City herself would whisper
25 in your ear. It didn't matter who you were, or whether you could pay. We collected things
26 together, and if you were hurting, well, we all get by with a little help from our friends. In the 27
27 solar years that we had our home, over 1500 souls sojourned with us. Even Tatum Zillias'
28 mother lived with us for a month or two. She was a kind woman, and she freely gave of what
29 little she had. We never imagined that that bright eyed kid with her would grow to be a monster.

30 From time to time a reporter would catch wind of what was going on in the Trench and want to
31 do some cutesy human interest piece, but I would always refuse an interview. Anonymity was
32 the best defense of our Shangri-La. But that all changed in the summer of 2011, when Zillias
33 decided to turn our haven for the downtrodden and outcast into a shard of bitter steel. I watched
34 Zillias watch us the first day s/he was there. S/He looked through us, like we were broken
35 fixtures on the wall. When I found out that the city sold the land to Zillias for a dollar, I was
36 outraged. This was our home, and it was sold right out from under us! One of the saddest days
37 of my life was when they moved in that crane. It was like a vulture, a harbinger of doom staring
38 down into the trench.

39 I called a community meeting and told everyone what was happening. The Trenchers took the
40 news hard. Most felt that they would have to move on and find another place to call home.
41 Pretty much everyone thought so, except me and Arty Dent. Arty was one of the strangest
42 residents of the Trench. He lay awake in the darkness many a night, muttering at the shadows
43 around him. He was supposed to be on some medication, but he thought that was a plot
44 against him, so he rarely took it. Still, our policy of welcome applied to him as well. We all just

45 gave him his space. Arty had some military training at one point in the past. Some of the
46 Trenchers were a bit scared of what he might do. I thought he was harmless for the most part.

47 We all paid attention at first, because no one had ever seen Arty that amped up, but he lost the
48 room when, at the climax of his speech, he promised that he would ensure that the enemy's
49 satellites never found us. People were used to Arty's promises, like when he claimed that he
50 would bring the Secretary of the UN to speak with us, so people kind of tuned him out when he
51 promised us that he would destroy the project from within. I was glad that Arty's cries for
52 violence fell on deaf ears. After he said his peace, Arty retreated to his corner.

53 I had just decided that our only hope was to appeal to the public when Providence brought us
54 her gift, Reese Dentner. Dentner was a reporter, and s/he was interested in us, both as people
55 and as a community. Or so I thought at the time. We did not have a leader, but I was *primus*
56 *inter pares*, the first among equals, and I told Reese our tale. S/he said s/he would help by
57 writing a story that would convince the city and the country that we had a right to this land. S/He
58 promised us that s/he would stop the construction if I gave her/him the exclusive scoop and
59 gave her/him enough time to collect the evidence s/he need. I agreed, and so we were quiet.

60 A month or so later, Reese told me that s/he managed to get me a sit down with Zillias
61 her/himself. I was very excited about the opportunity to voice our complaint directly to the one
62 person who could call this entire thing off. I worked for days on what I'd say and how I'd present
63 our perspective and our requests. I was even going to play the "I knew your mother card" if I
64 had to. However, when the big day came, instead of Zillias, I was stuck with the site manager,
65 Emerson Turnkin, and all s/he wanted was to make sure that I kept the rest of the Trenchers out
66 of the way. Turnkin just wanted a cease fire, not a real and lasting peace. I reiterated that our
67 request was simple: we wanted our home back, and I suggested that they move the project to
68 another blighted hole in the city. I could not have imagined the reaction. Turnkin laughed,
69 bitterly, and when I remained silent, s/he exploded! I sat calmly as s/he cursed us all in the
70 most florid terms. Although neither I nor Turnkin knew it, Arty was in earshot the whole time.
71 He knew the land around the Trench better than anyone, and he had found some back way into
72 the site. Before I could respond, he charged, bellowing curses and swinging some kind of
73 construction shovel. Turnkin only escaped because I threw my body between them.

74 My next plan was to stage a sit-in, to take the bad song and make it better by showing our
75 peaceful side. Arty even talked about making it "extra dramatic" by killing himself on the site of
76 the construction! He said he would light himself on fire, like one of those Buddhist monks, and
77 "consecrate the ground with his ashes." This was crazy, even for Arty and none of us really
78 took him seriously. Reese convinced me that a sit-in would only get us arrested, before the
79 story was done, and then there would be no chance of stopping the development. Instead, s/he
80 convinced me to let Arty force them to negotiate in a less drastic way. I wasn't worried; for all of
81 his huffing and puffing, Arty didn't have the tools or the concentration to do anything dangerous,
82 and he wouldn't hurt anyone. So I watched as Arty did a bit of graffiti here and moved some
83 tools over there. Arty called it Operation Turtle, which was kind of cute. All the while, Reese
84 tailed behind him, taking notes. Because they could not find their tools and weren't sure what
85 was where, the crew had to start each day repairing the damage. Our non-violent resistance
86 was really getting to them. Construction on the site slowed to a crawl. Little did I know that we
87 had sowed the seeds of our own undoing, and bitter would be our harvest.

88 One day in January, Zillias visited the site, and I had every intention of approaching her/him to
89 plead for our sanctuary. However, before I could reach her/him, everyone on the entire job site
90 saw Zillias rip into to Turnkin for all of the delays and the fact that the project was behind

91 schedule. It went on for an hour, and the negativity poisoned the air and killed the spirits of
92 peace in their womb. I fled from that darkness.

93 From there, things really changed. A fence was put up to keep us out. It mostly worked,
94 although Arty could still get in somehow. But now no one on the site cared at all. There was a
95 new sheriff in town, and Zillias was not about let us – or anything else – slow down the project. I
96 watched as Turnkin, under Zillias' orders, cut the safety sweeps. I saw how the workers sped
97 through their jobs, and I watched as they turned their ankles, hurt their hands and smashed their
98 bodies. The second shift was even worse. By then, Turnkin was gone and Zillias ruled the
99 night. I saw a person's foot get run over by a forklift, someone nearly electrocuted by live wires
100 laying in puddles, and many other injuries. In March, I saw one person fall when a ladder
101 slipped beneath her. She was carried off on a stretcher, unmoving, even as Zillias was ordering
102 the next person in line to climb that same ladder.

103 One night in April, Zillias got into a fight with the union when s/he tried to force the ironworkers
104 to do their jobs in the middle of a lightning storm. The only reason that it didn't happen was that
105 the crane person, Micah something or other, stood up to Zillias. S/he said that Zillias was
106 working the crane too hard, and that s/he wasn't going up there to die for her/him. The other
107 workers rallied around her/his leadership, and they refused to work as well. That was the only
108 time I saw Zillias lose a fight. Other than that, all bowed before the unholy hundreds that Zillias
109 used to resolve any dispute.

110 And yet, somehow, I was still the fool. In June, Turnkin finally entered our part of the Trench.
111 S/he said that s/he respected us and what we had accomplished, and that although they could
112 not stop the project from happening, s/he could promise that if we stayed out of the way, there
113 would be a place for us in the new building. S/he showed us the pictures, how the light would
114 come through the roof to light and warm us, and how the building would be powered with the
115 wind's own breath. We were all taken in by it, except Arty. Somehow, in the depths of his rage
116 and paranoid fantasy, only Arty could see that Turnkin spoke with a forked tongue.

117 Perhaps Reese knew, too, but s/he did not tell us until much later, in late August, when it was
118 convenient for her/his story. But by then, the wool had been lifted from my eyes, too, and I saw
119 that s/he too was just using us for her/his own purposes. By then, I realized that Reese was
120 writing a tragic tale that needed to serve us up as the victims. There was no hope in the story
121 for us. I wanted to fight on, to sit in, but the remaining Trenchers were tired. They faded away,
122 in ones and twos, until only Arty and I remained. I saved what art I could, taking pictures of our
123 murals and gathering the records of our community. Arty sat, staring into the distance, reading
124 his magazines and muttering about the devil, turning over some kind of large wrench in his
125 hand. When I asked him whether he had stolen it, he replied that it had trespassed on his land
126 and was therefore his. I took that as a yes.

127 I also kept up my efforts to find the miracle that would save our home. On August 24, Zillias'
128 karmic debt came due. I was searching through the trash at the site, as I did every day, when I
129 found a discarded piece of paper with the City's logo in the header. It was a letter from the city
130 inspectors, and it said that the lift wasn't approved! I thought it would buy us another month or
131 two, but I wasn't surprised when Zillias started preparing for the lift anyway. S/he had ignored
132 the law before, and I knew s/he would again. S/he had sold her/his soul to the demon dollar.

133 I will never forget August 31st. I awakened to the sound of winds howling in the tunnel and the
134 steady flow of water streaming through the sluice gates. I knew that Reese's article had been
135 published the night before, and I raced out to see the people, the citizens rallying to our side.
136 But there was no one there but the construction workers and a couple of kids, asking if they

137 could have a picture with the “mole people.” And without a protest, our only hope was delay.
138 Once the giant roofing panels were placed on top of the structure, there would be no going
139 back. When I saw the rains and heard the howling winds, I gave thanks to the *kami* of the earth
140 and skies that had come to protect us. There was no way they could lift in those conditions.

141 I gave a happy shout, and I turned to celebrate with Arty, but he was nowhere to be found. I
142 went looking for him, but only caught a glimpse of him later – at least I think it was him, I’m not
143 sure - near the area where the big crane was perched. When I got nearer, he (or whoever it
144 was in that trench coat) was gone. That’s when I saw the crane start moving, and I knew that
145 whatever the gods threw at Tatum Zillias, s/he would never stop.

146 I watched the lift as one watches the executioner’s sword descending, but I clung to the hope
147 that someone of sense would stop it. When the first lift took place, the panel was literally
148 twisting in the wind, and swinging back and forth like *The Pit and the Pendulum*. But they
149 pushed on. Then, around 3 p.m., an angel descended. The government agent came down
150 from the manager’s office. S/He must have heard the screams from the crane, because she
151 immediately raised the red flag. You could see how hard it was for the crane operator to hold
152 the panel in place, mid-lift, and s/he was doing a bad job of it. Then, out of nowhere, Zillias
153 emerged from the manager’s office, ran down towards the safety officer and started yelling at
154 her. I couldn’t hear well enough to know exactly what was said, but it was something about how
155 Zillias was in control and no bureaucrat could stop the lift. Then Zillias grabbed the green flag
156 from the safety inspector’s hand and waved it furiously in the direction of the lift operator. It was
157 as if Zillias had angered Aeolus himself, because a split second later, a gust knocked Zillias’
158 hard hat off of her/his head. S/he retreated, but no sooner had s/he shut the door to the
159 manager’s office behind her/him than the strongest wind of the day tore through the job site. It
160 caught the panel, and the crane started to shimmy. I watched, awestruck, as the massive crane
161 began to crumble under its own weight.

162 Panic ensued, and workers were running in every direction. I was paralyzed by their screams,
163 rooted still by the vortex of karma crackling around me. Then, out of the corner of my eye, I saw
164 Arty, his trench coat billowing in the wind, hands raised in terror, or defiance, or victory. That is
165 how I will remember my friend, the last soldier on the battlefield, crushed beneath the weight of
166 his foe. He was dead, and so was Zillias’ dream. Later, I went through his meager belongings.
167 I found this envelope addressed to Reese Dentner of all people. In it, there was this bizarre
168 manifesto thing. I guess he really meant to make that statement after all.

169 You might think I hate Tatum Zillias, but I do not. Zillias is nothing more than a product of the
170 capitalist culture that eats away at our national soul. But in the face of Tatum Zillias I see the
171 face of the devil, impassively watching the suffering of others. Perhaps if Zillias is convicted, the
172 Trench will be returned to those who love it. Perhaps if s/he is convicted, others will see that life
173 does not have a price, and that no cost can be assigned to a person’s home. But I do not wish
174 ill for any person, even one who I saw take the lives of two others for thirty pieces of silver. Life
175 goes on, bra.

London Packard
Signature

December 12, 2012
DATE

Statement of Tatum Zillias

1 So you want to know where it all started? It started in the gutter, where I was born, to a
2 homeless mother and a father I never met. We had it all: public assistance, public housing,
3 public schools, and church kitchens, if there wasn't food anywhere else. Life for me ain't been
4 no crystal stair, you know? And that's how Franklin's Trench started, all those years later.

5 My mother pounded on me from my first breath that I wasn't going to make the mistakes she
6 made. She worked two, sometimes three jobs to pay for tutoring and sports and everything.
7 She made sure I got what she did not. I was my high school salutatorian, and I was studying
8 business at Temple when I realized that the best business was right around me: land. While
9 mom thought I was still taking classes, I gathered together every dime I could beg, borrow, or
10 steal and put money down on a house just north of school. The place was a wreck, and I made
11 lots of mistakes fixing the place up, but in a year, the house looked different, better. When I
12 sold that house, I didn't make much, but it was real money, my money. That gave me the
13 money for the next place, and I did it again. I had to tell my mother, and she was very upset
14 that I had lied to her. But I kept going, house after house. By 1990, I had three employees.
15 Then a Temple classmate asked me to build her a home in Delaware County. I realized that all
16 over Pennsylvania, there were old industrial sites or communities that were undervalued.

17 By 2004, I was building more homes than anyone in the Berks, Bucks, and Chester Counties,
18 buying sites in depressed areas for peanuts and putting up McMansions. In '06, I sold the
19 company to Short & Coors for... well, let's just say that Mom lives in one of the houses she used
20 to clean. I had to sign a non-compete agreement through 2009. I used the time to get my
21 degree from Temple, and an MBA with it. When the real estate market collapsed, I didn't get
22 caught up in it, and although Zillias Development pled guilty to several counts of misdemeanor
23 false statements on HUD paperwork from when I was in charge, my name wasn't on any of it.
24 They got fined a few hundred thousand dollars, basically the cost of doing business.

25 I realized that almost everything I'd done in my life was for people richer than I was growing up.
26 One day, on the third tee at Aronimink, I realized that there was a huge opportunity coming in
27 public housing. So on January 1, 2010, Project Z was born, with the goal of making the world a
28 better place and keeping me well-funded into my retirement. My new staff and I spent six
29 months identifying possible opportunities, and we found Franklin's Trench. The Trench was an
30 eyesore, a 50' deep gash in the city nearly two full blocks long, being used for absolutely
31 nothing. When I saw the concept drawings, I knew that it was the perfect place to show off
32 Project Z to the world. I didn't have the money to do that kind of job without putting my entire
33 fortune on the line, so, using my connections in the city and counties, I arranged to meet with
34 the Department of Housing and Urban Development, the Mayor's Office, and the
35 Commonwealth. I pitched a deal to them: if they would help fund it and let me have the property
36 itself for \$1, Project Z would build a public housing development like no other in the world,
37 turning the squatter-infested ditches into the foundation of a new community.

38 It wasn't easy, in these budgetary times, but I got buy-ins through various grants and other
39 organizations for almost 40% of the costs. We built some incentives into the deal that would
40 make it profitable if it was done by the end of 2011 and not too bad a loss if we got the principal
41 work done by October 2012, when the HUD Secretary planned to speak at a conference in town
42 and wanted to visit the site with the Mayor. I knew we'd never hit the 2011 deadline, but I set
43 my sights on October 2012 with a vengeance.

44 By the end of 2010, we had a plan in place, we got the land transfer completed and our permits
45 in hand. I hired Emerson Turnkin, who was just the kind of person I wanted: someone who

46 could get things done right, and quickly, and someone who understood the regulatory structure
47 enough to cut the necessary corners without endangering any lives. I didn't have much
48 experience with unions, but Turnkin did, and I knew s/he would be tough with them, but fair. I
49 also hired Estratton Lift Services in early 2011. I read their promotional material, studied the
50 cranes' specs, and agreed that we needed the biggest crane they had – Fightin' Phil.

51 I didn't just want *any* public housing building, I wanted *the* public housing building. I wanted to
52 turn an urban blight – the Trench – into a story of success, and I wanted to do it in a 100%
53 sustainable way. I knew that housing recipients often have trouble affording utility bills, and if
54 they need tax money to help, the public pays for that, too. So I wanted to make the building
55 energy-neutral. We designed it with double-paned windows, recycled insulation, and solar
56 power. But regular solar panels aren't that effective in the city, and putting them on the roof
57 meant limiting natural light, which meant paying PECO to light the place.

58 I knew that a Japanese firm was working on a new, better solar panel technology, using
59 polymers. The technology required that the polymers be continuous, so we had to build two
60 enormous panels almost a city block long each. And they would still block a lot of the light. In
61 June, 2011, I found the solution: make the polymers dark on sunny days, to get solar power,
62 and light on cloudy ones, when solar would be pointless. We could offset the lost solar power
63 with wind turbines! The engineers were skeptical, but by September, we knew that it worked.
64 However, it was considerably heavier than the original designs, because in order to be efficient,
65 the turbines had to be built into the roof itself. I sent the company a couple million dollars – all
66 of what was left of the Project Z public money – and told them to build! From then on, I funded
67 the Trench out of my own investment in Project Z, or out of my pocket.

68 Meanwhile, things on the site were moving slowly. Too slowly. I had been focused on landing
69 public works projects in Detroit and in Memphis, and we had won, conditioned on success at
70 Franklin's Trench. But six months into the construction, in January 2012, I visited the site, and
71 the foundation was barely laid! I was mortified – that was supposed to be done almost two
72 months earlier, and what was done was covered in obscene graffiti. When I confronted Turnkin,
73 s/he mumbled something about some squatters sabotaging the work. I lost it. I just couldn't
74 believe that someone with Turnkin's reputation wasn't getting things done!

75 And it got worse. I talked to the workers and the people from ELS, and I realized that Turnkin
76 wasn't running the site, OCIS was. I mean, I'm all for worker safety, but this Grace person was
77 straight out of central casting for "Pencil Pusher." Instead of just following the Code, they were
78 worshipping it... an hour-long safety sweep at the beginning of every day, just in case some
79 squatter did something, followed by a full briefing... it was like construction kindergarten! I don't
80 remember my exact words, but I know Turnkin says I said that we can pay for people or
81 something like that. That's twisting my words. I meant that we can pay for minor injuries, like
82 somebody who trips or has a tool fall on their hard hat. You can't make a construction site
83 100% safe, and trying to do that was a pointless waste of a fantastic amount of time and money.

84 After that, I started spending a ton of time in the Project Manager's office. I started reviewing all
85 the paperwork personally: work plans, regulatory documents, you name it. This was my project,
86 my good name was on the line, and I wasn't leaving anything to chance! I gave Turnkin a
87 simple instruction: you follow the Code and you protect the workers, but you don't do what
88 doesn't have to be done. We put up a fence to keep the squatters out, and we cut the sweep to
89 twenty minutes and the briefing to ten. Sure we had minor violations, citations from OCIS for
90 this and that, but every week, I showed my check to Grace and told my workers to get going.
91 They were really inspired to be free to get things done, and their morale went even higher when
92 I showed that I would pay the workers' compensation claims that were accumulating. I mean,

93 construction workers understand that there are risks in the work, and they will take them as long
94 as they know that management will do its part if they are hurt. I also started handing out \$100
95 bills if I saw someone doing something especially well. \$100, as in Franklins, get it? That
96 violated union rules, of course, but I never got a single grievance!

97 A month or two later, I could see that the work was still falling behind, and I started a second
98 shift. We now had the site active 16 hours a day, 6 a.m. until 10 p.m. The neighbors weren't
99 happy, but business was getting done. Then, in April, we got some terrifying news: the panels
100 were done, but they were 2900 tons *each*. That's way more than we expected; 2900 tons was
101 over the contractual engineering limit on the crane! I thought we were cooked, but then Micah
102 Estratton explained that engineering limits are always set below maximum capacity. Micah told
103 me that the big crane had handled that load years before with only one issue and it probably
104 could again. But that wasn't our contract, so I had to agree to pay Micah an incentive payment
105 to keep the crane going and to get an additional insurance policy to repair the crane if it broke.
106 The costs were adding up! It seemed like I was tapping my personal savings every week. I told
107 Emerson to write to the City and get their permission, but we never heard back from them, so
108 we went ahead. The most they could do was fine us, anyway, and we had the Mayor's backing
109 for the project, so I wasn't worried.

110 By June, I was at the site every day, sometimes from dawn to dusk. Or beyond that, I guess,
111 because we added another shift, so that we could run around the clock. I took an apartment
112 above the site so I could be around all the time. Good thing, too, since I stopped that doped-up
113 crane operator! I was also being pressured to meet the squatters' leader to assure them that
114 there would be a place for them in the new building – which of course I couldn't control – and
115 with the press. I told Turnkin to handle the reporter and to tell the squatters whatever it took to
116 leave us alone. And I was watching the calendar every day, praying that we could hit the
117 October deadline. With all that I'd put in, if we missed that deadline, I'd be ruined! I'm
118 exaggerating, of course, but not by much.

119 The last two weeks in August were the most intense in my career. I watched the roof come off
120 the ships from Hiroshima, and I couldn't have been more proud. The dream of sustainable,
121 modern public housing was in view... as was the future of Project Z! The only thing dampening
122 our spirits – so to speak – was a hurricane brewing in the Gulf of Mexico. It wasn't supposed to
123 make landfall up by us, but even the winds from a dying hurricane could destroy the temporary
124 roofing over the Trench project, and if heavy rains got in, that could destroy weeks of work and
125 set us back hundreds of thousands of dollars. It would also guarantee that we would miss the
126 October bonus deadline, which would leave the project at a very significant loss, proving what
127 my, er, our detractors had been saying all along.

128 On August 30, we held a team meeting. Micah was worried about the weather, and so was
129 Grace from OCIS. But Emerson told me that the temporary roofing probably would not make it
130 through more than a day or so of heavy rain, and three were predicted! So I asked the critical
131 question: is it safe to lift? Grace seemed doubtful, but Micah assured us she could pull it off as
132 long as we got it done by the time the winds really kicked up, which was supposed to be early in
133 the evening. I spoke to the "troops," even giving away my big secret – I had bought tickets to
134 Bruce Springsteen's Labor Day show at Citizens Bank Park for all of them! We still had not
135 received a response from the City about permission for the revised lift plan, but I wasn't going to
136 let bureaucratic delay stop progress. Like I said, I knew we had the Mayor's support.

137 On August 31, the big day was finally there. It almost stopped before it started, with that
138 squatter running around, and I was horrified how long it took to get the scene cleared. We had
139 removed the temporary roof, and rain was falling! Still, I watched the first lift in awe of how

140 Micah conducted the aerial ballet... at least once she got the hang of it. The first hour was a
141 little scary, really. Grace even screamed. After that, she kept moping around, talking about this
142 violation or that one, but none of them had anything to do with the lift, so I told her to zip it. The
143 lift was smooth, even though we had to pause – again – for the shift change at noon. By the
144 time that the first piece got down, I was pacing my office like a caged animal.

145 It was almost 2 p.m. by the time that they got ready for the second lift. Then, to my horror,
146 Grace demanded to talk to Micah about it again! She said something about a revised weather
147 report. But that report was a couple hours old, and it didn't seem like a big deal to me, just the
148 wind we expected coming a little early. So I called Micah. Micah was totally confident, and s/he
149 said her/his crane could do the job. But after she put down the radio, Grace still was talking
150 about calling it off! Emerson and I held firm, though. She was a regulator, not the boss of the
151 site! We spoke, firmly but calmly, and she gave Micah the green flag. Then she left the office,
152 to watch the lift from the ground.

153 Everything on the second lift started off smooth as silk. The wind was picking up and gusting.
154 You didn't need to look at a weather report to confirm that. You could see Micah in constant
155 motion, fighting to keep the roof in position. S/he was a wizard with that crane! Then, just after
156 3 p.m., Grace waved the red flag again. At first I thought it was all the noise the crane was
157 making, but Micah didn't think much of that and neither did I. Then I learned the squatter was
158 around again. Well, I could see that Micah wasn't having much fun up there. S/he couldn't
159 even really do a true full stop; s/he had to keep adjusting. And when s/he called me on the
160 radio, it was clear s/he was worried about the growing wind. So I went down to see what the
161 holdup was. Grace wanted another full sweep, but I could tell that Micah didn't have another
162 hour to waste. I ordered the site to do a "quick sweep," which the Code permits if there isn't
163 evidence of tampering. They could not find the guy, or anything but a missing tool. I shoved the
164 green flag at Grace, and she held it up, reluctantly. I went back to the office.

165 Everything was going fine for the next couple minutes, until the crane topped out. Then I saw
166 the roof start sliding along, like the sail on my boat, with Micah's face contorted in the cockpit. I
167 heard a ringing, then a snap, and all of a sudden, the cockpit went white. Within seconds, that
168 big crane collapsed like some tinker toys. I watched, horrified, as the roof crashed down.

169 Do I regret what happened? Of course. But do I regret taking charge that day and in the
170 months before? Heck no. I did what had to be done for the good of the project and of the
171 people of Philadelphia. I wanted to give those people a good, sustainable home for them to
172 raise their children to be the next generation of Tatum Zillias. I wanted to give them what I
173 never had, so that Detroit, and Memphis, and every other American city would follow our lead.

174 That was my dream, and I accept responsibility for it, whether it fails or succeeds. But third
175 degree murder? Are they out of their mind? I followed every rule, and the ones I didn't I paid
176 the mandated penalty without uttering a word of protest. I never, ever wanted to hurt anyone,
177 and ask anybody who worked that site and they'll tell you: nobody cared more about them or did
178 more for them than Tatum Zillias. Grace's death is awful, but the squatter? He ruined
179 everything. He destroyed that crane, that roof, Project Z, my vision, and the dreams of
180 hundreds of families. I hope he rots in... well, I hope he rots in the ground.

Tatum Zillias

Signature

Dec. 15, 2012

DATE

Statement of Micah Estratton

1 My name is Micah Estratton, and I'm forty-six years old. I have a degree in Mechanical
2 Engineering from Drexel University, but my real education came on the job site. I've been
3 working in the construction field since I turned sixteen, and I've been a proud member of the
4 International Union of Operating Engineers for over twenty-five years. From 2002 until 2006, I
5 was the Business Manager of Local 542, a position akin to its President. I have also served on
6 the Board of Directors of the Association of Crane and Rigging Professionals for a decade, and I
7 regularly speak at the annual meeting of the Crane Institute's certification classes. I have
8 received lifetime service awards from Local 542 and from the Association of Wire Rope
9 Fabricators. My mom was a crane engineer, too, and she wouldn't let my sisters and I think of
10 any work as off-limits to us. She was the one who founded Estratton Lift Systems. If you're not
11 a hard hat like me, you probably haven't heard of it, but ELS is the Mid-Atlantic's premier
12 provider of specialty cranes and sling systems. If you need a specialty machine, you call us.

13 And there's no more special machine in the world, at least to me, than Fightin' Phil. Phil was
14 one of the last cranes my mom designed before she passed, and he's a marvel. Since 1988,
15 there hasn't been a higher-lift, lower-footprint crane east of the Mississippi, and Phil has been
16 booked forty-eight weeks a year since the day he lifted his first I-beam. Of course, some of that
17 time he's being assembled and disassembled, but customers are willing to pay for that
18 downtime, too. He'd be booked fifty-two weeks a year if we let him! But every three months we
19 try to take him down and do a full inspection for metal fatigue, and we check and clean all of his
20 engine, transmission and hydraulic components. Prior to August 31, 2012, we'd never had a
21 major accident on Fightin' Phil, although of course we'd had our share of smaller mishaps. The
22 worst we ever had was a snap-drop, when the cables supporting the load snapped. That cost
23 us nearly \$1 million in insurance pay-outs, and it could have crushed a worker. We hadn't
24 inspected Phil in over five months when that happened, but after that we started using a higher-
25 grade steel in the cables. It hurt our profits, sure, but at ELS, lives are the most important thing.

26 We're also unique in that we contract for both the lift system *and* its operations staff. We hire
27 only the best and most experienced operators – Mom wouldn't even let *me* operate Phil until I
28 got my ten year pin from the union. But once I got into the chair, I've never left – Phil is the only
29 crane for me. When the Franklin's Trench incident happened, I'd been working with Phil almost
30 exclusively for over eighteen years, eight hours or more a day, five days a week, at least,
31 probably thirty plus weeks a year. When he's down to be moved or maintained, I'll jump on
32 other systems, just to stay current, but Phil's cockpit is my real home.

33 ELS was contacted by Tatum Zillias' firm, Project Z, in early 2011. We were going to task Big
34 Tony, a smaller crane based on Phil's design, to the job, but in April, Zillias told us that things
35 had changed. The job was going to conclude with lifts of two massive, concave surfaces
36 weighing 2300 tons each. Big Tony's only rated to 2300, and Zillias said the design could
37 change again, so I explained to Zillias that using the crane with the higher load rating would be
38 safer. Zillias asked for the spec sheets for both cranes, and eventually decided to go with Phil,
39 even though it meant paying a substantial extra fee to get Phil out of a prior reservation.

40 A few weeks later, I visited the job site and met the site supervisor, Emerson Turnkin. I wasn't
41 happy to be working with Turnkin, who has a reputation in the construction community for
42 cutting corners and stiffing the union on her/his bills. Plus, Turnkin was known for much smaller
43 projects. But I wasn't in charge. We erected Phil in late September, in a fixed configuration,
44 most of the early lifts were a tiny fraction of what Phil can carry, and Turnkin was surprisingly
45 good. The only thing that upset me was that Turnkin had us lifting even when those squatters

46 were present. They weren't wearing hard hats or anything, and they often would walk under
47 loads that could kill them! Sometimes they would even do it on purpose, and we would have to
48 hold the load there until they left. Even though I knew Phil could handle it, that can put a lot of
49 unnecessary stress on a crane. I met with Zillias and Turnkin, and once Turnkin got done
50 swearing a blue streak about those "mole people," Zillias calmly told us to leave them alone,
51 that it was a "political" problem to move them out too soon. I knew what Zillias meant: this
52 reporter, Reese Dentner, was always hanging around the squatters' leader. Reese asked me for
53 an interview a couple of times, but I don't stick my nose where it doesn't belong.

54 In January 2012, things changed. Zillias visited the site and tore into Turnkin for nearly an hour
55 because we were running a few weeks behind schedule. After that, everything got cut back,
56 especially the down time at the start and end of the day, when we do the safety sweeps and
57 work plans. I'd never been on a site that spent so much time on that stuff, but I guess it worked,
58 because without it, accidents increased. The OCIS lady, Grace, was great, but she spent her
59 weekly inspections looking like she had eaten a lemon, and it was now clear that Zillias and
60 Turnkin were running the site, not OCIS. But Zillias paid all the workers' compensation claims
61 without challenge, made overtime easy, and s/he started a second shift. Word got around the
62 union that it was a good site to work, even though you had to watch out for yourself. We were
63 turning people away from then on.

64 In April, we got some disturbing news. The panels for the Big Lifts were done, and they
65 weighed over 2900 tons each, far more than we had been told to expect. This was an
66 especially significant problem, because Fightin' Phil has a normal maximum engineering load of
67 2750 tons. A crane can lift a lot more than its maximum engineering load, which is generally set
68 around 85% of its likely failure rating, but you need to request special permission for a load over
69 engineering tolerance. I asked Turnkin to write the City right away, but we never heard back
70 from them, either way. But I knew that Phil could handle it, though; he'd done loads between
71 2800 tons and 3000 tons four or five times in the '90s. The only issue we ever had was a broken
72 hydraulic line or two on one of those super heavy lifts. That just meant we had to stop the lift for
73 a quick repair. Minor inconvenience really.

74 In April, 2012, we idled Phil for the last time. We carefully inspected him for metal fatigue and
75 replaced all the worn or weakened parts. We were especially careful since we knew that we
76 probably would not get a chance before the Big Lifts in August. I wasn't too worried, though: his
77 initial design tolerance was five months, and he's gone as long as six months twice before.
78 When he came online in mid-April, he was good as new. Zillias was upset about the delay, but
79 knew it was foolish to not take the time to prevent a major accident.

80 By June, the intensity doubled again. Everyone knew that we were running against a short
81 clock – some D.C. big wig was due to tour the facility in October with the Mayor and our union
82 leaders. It was going to be a real kumbaya moment, *if* we had the place ready. Zillias was
83 willing to do whatever had to be done to get it there. S/he added an overnight shift, put in
84 incentives, and even took up residence right above the site, so s/he could be there at any time,
85 day or night. I knew that if we nailed this job, Zillias had other work under contract, and that
86 could have meant a lot of money to ELS. I had dreams of improving Phil to take on even
87 heavier loads. It wasn't all roses and chocolates, though; Zillias was a hard driver, and more
88 than once s/he would come flying down to berate Turnkin or light into one of the workers.

89 By the end of the month, my team was pretty drained. There was no rest for us – we were the
90 only ones who could operate Phil. I was doing ten hour shifts and so was my partner, Rose
91 Rivett. Then, on July 3, I arrived to find Rose screaming at Zillias, who had apparently hit the
92 "kill switch" that we install in the Project Manager's office, shutting down Phil. I took Rose's side

93 immediately, but then I learned that she had almost punched a side out of an adjoining building.
94 It turns out she had started taking amphetamines to try to keep up the pace. I had heard about
95 them being available among the site crew, but I never thought one of my people would do that!
96 We moved her to a lift on a more relaxed site, and I hear she's in counseling now, which is
97 great. Usually, I limit myself to ten hour shifts, but without Rose, I was working twelve and
98 fourteen hour days most of July and August. But I've never had an accident on my sheet, and I
99 didn't get one then. Still takes it out of you, though, especially missing time with the kids.

100 By August 30th, everyone was excited about getting the Big Lifts done. We all knew that the
101 hurricane was coming, and if it hit without the roof in place, months of work would be ruined.
102 Still, as we looked at the weather report, faces were grim. The rain was supposed to get worse.
103 That meant a slick site and the potential for injuries. And the winds could be an issue,
104 especially late in the day, when the edge of what was left of Isaac got closer. Turnkin, Zillias,
105 Grace from OCIS and I worked the problem over and over. There was no doubt there was a
106 risk there, but we felt it was worth it, and Grace didn't stop us.

107 On August 31, 2012, I started my shift a little before 7 a.m., walking the site and looking Phil
108 over. We didn't have time for a complete safety inspection, but we'd done one that Monday,
109 and code only requires one every week. Besides, I've been running Phil most of my adult life;
110 when something's wrong, I know it. Around 7:15 or 7:30, I started going through my pre-lift
111 checklists, making sure that everything was working. Around quarter to eight, though, the
112 foreman threw up a red flag. I wasn't happy about that, because I wanted to get the lift done
113 before the storm rolled in, but safety comes first. I later learned they found a wrench in Phil's
114 gears. I didn't feel it, but that's no surprise. Do you really think an aluminum wrench is going to
115 stop Phil? That's like trying to stop a steamroller with a Coke can.

116 The full site sweep ate up more than an hour, and they didn't find anything! It was almost 10
117 a.m. when the roof lifted off. Even though the rain wasn't bad – yet – the initial part of the lift
118 was stop-and-go, as I figured out how the concave panel would respond to Phil and the wind. It
119 was a good thing I took it slow, because I almost lost it when the first big gust hit. Still, I soon
120 had the hang of it, and after one more false start, I got it up to apex and slid it over. Once it was
121 over the Trench, it was a matter of lowering it slowly and letting the folks on the ground put it in
122 place. That was supposed to happen around noon, but we had run too late, and the shifts on
123 the ground changed. So I had to hold it in place for fifteen minutes while they switched and
124 another fifteen while the new guys did their initial safety check. If that damn squatter hadn't hit
125 the site, the timing would have been fine. Instead, we didn't touch down until almost 1:30.

126 At this point, things were getting worse, weather wise, and my crew was pretty beat. I was
127 worried about that wind, so I called Turnkin and asked whether to proceed with the second lift. I
128 already knew what her/his answer would be. Zillias got on the phone and told me we were a go.
129 We all knew the wind was only going to get worse, so we moved as quickly as possible to get
130 Phil back into starting position. Then, around 2:15, I got a call from the Project Manager's
131 office. Grace asked if the lift was safe, given the load and the wind in the revised weather report
132 that everyone at the site got during the shift change at noon. I told her that the load and the
133 wind were both within Phil's 100% tolerance, which was mostly true. After that, I saw some kind
134 of discussion going on. They were taking their time, so I called back and told Grace that we
135 ought to get the lift done fast if we were going to do it at all. I figured she'd call it off for sure, but
136 instead I saw her green flag me. I gave Phil a pat, and the second piece lifted at 2:45.

137 Right away, the lift was a bit different. The wind was gusting, so I had to adjust quickly to the
138 changes. Because Phil is not a single-piece, fixed point crane, he's vulnerable to structural
139 failure if he tips or the load pulls him too strongly. I had an immediate near-disaster, and I could

140 hear Phil straining, but I got it under control in seconds. They may have been scary seconds,
141 but we were fine. I know every sound that crane makes, and he wasn't quitting on me.

142 Because I now had a feel for things, I got the second piece up more quickly. Around 3:10, I had
143 it near-apex when another red flag waved. So I had to stop, compensating for the wind with
144 very slight movements. They didn't find anything wrong except a missing fire ax or something.
145 Code violation, maybe, but not a safety hazard. I got on the horn and told them to hurry up, that
146 we didn't have time for another hour-long sweep. I wasn't sure I could handle that, or that Phil
147 could, and the wind was really howling. I watched Zillias and Grace have some kind of
148 discussion, but my eyes were mostly on that roof. At 3:20 or so, I saw the green flag wave
149 again and I started moving the panel again towards the roof. I am mostly certain it was Grace
150 who gave the go signal, but like I said, it was tense up there and I was focused on the roof.

151 The lift was smooth for about five minutes. But then Phil and I hit apex, the highest point of the
152 lift. As the roof panel cleared the last building, it caught the wind fiercely. The wind was so
153 strong that I almost couldn't spin Phil and slacken the lines enough to compensate. But I got
154 control again – or at least I thought I did – when all of a sudden, I saw the hydraulic light blink
155 on, and I couldn't spin fast enough. That was all she wrote. The wind caught that roof,
156 dragging it to my left. I was reaching for the auxiliary hydraulics when I heard the strut snap.

157 In a crane like Phil, each piece supports the next in a precisely balanced structure. One break
158 puts twice the load on the next piece, which snaps, putting a triple load on the next one. It's
159 almost impossible to stop the cascade once it starts. I slammed the red airbag button as Phil
160 came apart beneath me. After that, all I felt was falling, and all I heard were screams. When I
161 woke up, I was in the ER. I was in and out of consciousness over the weekend, and I wasn't
162 discharged until the following Tuesday.

163 I have read Quinn Baxter's report, and I spoke to her after I got back from the ER. I respect
164 Quinn for all s/he's done for workers, but s/he treats every violation like it's a capital offense.
165 Stuff happens. Tools get laid down wrong, but we know not to step on a rotary saw. Workers
166 climb ladders that are "too steep" every day, and I can't remember anyone falling. Yeah, we
167 should have been better about wearing our vests, and Tommy forgot his steel-toes, but that's
168 not what brought Phil down. Nor was it the concrete. I would not have gone up there myself if
169 Phil wasn't stable, and we had just lifted 2900 tons, no problem. I'll mourn for Grace, and for
170 that squatter, too, I guess. But they're not dead because we didn't fill out paperwork every time
171 we checked the job site or because Kate Hooper left the keys in her truck.

172 So what did happen? I wondered that, too. I wondered how Phil could have failed. I wondered
173 whether we should have insisted on a regular maintenance schedule or if I should have called
174 off the second lift. For the first few weeks, I thought it must been the sheer force of the wind.
175 But then I heard about that squatter and that fire axe. If he'd chopped my hydraulic lines at the
176 wrong time, that could've slowed the spin enough to tip Phil over. Of course, even a brand new
177 hydraulic kit can snap from the kind of stress that gusting winds and a big lift bring. And that
178 can happen without warning, even in mid-turn, if the stresses are high enough. Still, I am sure I
179 had Phil under control. I just know I did. I had the green flag too.

Micah Estratton

Signature

December 7, 2012

DATE

Statement of Reese Dentner

1 My name is Reese Dentner, and I'm a reporter. It's my job to comfort the afflicted, afflict the
2 comfortable, and – above all – to sell copy doing it. Like Rita Skeeter, I'm a freelance
3 investigator, a finder of truths and a teller of tales. Look upon my works, ye mighty, and despair.

4 I'm well aware of the irony of testifying on behalf of Tatum Zillias, a person I have spent my life
5 pursuing. The judge has given me immunity to testify, so that I can be as honest as possible
6 about what I learned and how I learned it. So let me be clear at the outset: I think Tatum Zillias
7 is a snake who would sell her/his own mother for the right price, and the rest of us at a
8 substantial discount! In my years, I have rarely seen a person who more demonstrates the
9 power and the danger of true capitalism. There's a reason that Upton Sinclair wrote *The*
10 *Jungle*, and it's the same reason I write about people like Tatum Zillias: someone has to stop
11 them before their cut-rate safety budgets maim or kill everyone who works for them.

12 On the other hand, I'm not a big fan of witch hunts unless I am the one holding the torch. And
13 there's no doubt that this might as well be *The Crucible*. There's more grandstanding going on
14 here than at a Premier League soccer stadium. The City, OCIS, HUD... they were all in bed
15 with Tatum Zillias, all lining up to buy the Emerald City mirage that Zillias was selling. And now,
16 after the very same practices that they allowed Zillias to follow for their political agenda have
17 gone wrong, they're the same hounds baying for her/him to be tried for Murder 3, not involuntary
18 manslaughter, which would be a lock. It's all politics, and there's no dirtier sport out there.

19 I should know; my career was very nearly derailed by the same kind of thing. My family is from
20 the United Kingdom, but I was born in the U.S. My father was an American diplomat, and we
21 moved around a lot. So I've seen a bit of the world, but I fell in love with America. I attended
22 Villanova University, where I got my bachelor's degrees in English and Communication, with a
23 specialty in journalism, and master's degree in journalism from Syracuse University. I was hired
24 straight away by a paper in London. I suppose I got in my fair share of trouble, but nothing like
25 the scandal that broke when I was accused of paying private investigators to hack cell phone
26 and email accounts of members of the royal family! Apparently, that kind of thing is frowned
27 upon, but on account of my dad's position, they agreed to drop the investigation as long as I
28 turned over the information I had not yet published, renounced my British citizenship, and I
29 never, ever came back. It was a good deal, and I took it. But still, politics.

30 Anyway, it turns out that being accused of criminal behavior in pursuit of a story makes it a bit
31 more challenging to get hired by a main stream media source, so I started my career as an
32 independent journalistic professional, writing pieces on contingency for TMZ, muckraker.com,
33 The Sludge Report, and Redbook. I found my way to Philly in 2003, when I left New York over
34 a misunderstanding of the state's rules regarding trespassing and sifting through residents'
35 trash. I love the land of brotherly love! Between the intense love and hatred of its sports teams,
36 two functioning daily papers, the occasional corruption indictment, and lax rules regarding
37 confronting wrongdoers in the street with a video camera, it was perfect for me.

38 That's how I met Tatum Zillias. A hundred dollar bill and I got a tip from a trusted source at the
39 Pennsylvania Bureau of Occupational and Industrial Safety that Zillias had one of the worst
40 safety records of any developer in the area. I snuck onto some of her/his worksites and boy
41 was that right! Tools were everywhere, and I even slipped and fell in an oil slick and broke my
42 ankle. I was going to sue, but Zillias threatened to sue me for trespassing. So instead I did one
43 better: I wrote an expose called "Unsafe at Any Speed" that was published in the *Inquirer* and
44 picked up by *The Delaware County Times* and *The Morning Call*. From what I've heard, Zillias

45 paid out thousands in fines. A few days later, I got a very nice note from Zillias, saying that all
46 of my statements checked out and thanking me for my work. How bizarre!

47 Anyway, when I heard that Zillias was interested in the Franklin's Trench, I knew it would be
48 journalistic gold, much better than the story on the riverfront casinos I had been pouring my
49 money into. So I went to the site and found – to my shock – that people actually lived there.
50 Some call them squatters, or even “mole people” (since they live underground most of the time),
51 but I called them “perfect sources.” I didn't need to trespass onto the site if there were people
52 already there, especially since I could just set up in the building next door with a high-powered
53 camera and a laser microphone.

54 As I got to know the squatters, I got a sense of the personalities involved. London Packard was
55 the self-appointed leader, a real blowhard who fancied her/himself a labor organizer or
56 something. I let London know that s/he was the star of my article, but that was a lie. The
57 person who interested me the most was Arty Dent, a guy with a military background who was
58 also living there. Packard was a deal-maker, a conciliator, but Dent was a classic aggressor.
59 He had studied history under the G.I. Bill, and he had all the rhetoric down. He was also on
60 several different anti-psychotic medications, when he would bother to take them, for his various
61 mental problems. It made it hard to know when he was speaking about reality or about the
62 complex fantasy world he seemed to have, where the Project Z workers were aliens and that big
63 crane was their mother ship.

64 Whichever it was, it made Dent the most interesting character in my story, so I spent a ton of
65 time with him. He said that he had worked on aircraft of some kind, bombers, I think, as a
66 mechanic and bombardier, back when you had that position. He'd done some horrible things he
67 would not discuss, or he said he had, anyway. I checked the Air Force and Navy records, and
68 he's not in them. Those are the only American branches that flew bombers like that. The only
69 military records for an “Arthur Dent” are for someone in the Army Corps of Engineers.

70 Anyway, Dent was obsessed with resisting the loss of his home, which I could understand,
71 having been forced to move myself several times. For Dent, though, the Trench was a place
72 like no other, sheltered underground, where he claimed that the satellites could not find him.
73 And nobody else really cared; he was weird, and the other squatters gave him space. He knew
74 the tunnels, though, and he took me around and showed me back ways into the job site, where
75 he would go with some half-used spray paint he got from local gang kids or some metal he had
76 pried out of some long-forgotten subway station. First he would look for food or loose scrap on
77 the site, then he would make as much mischief as he could. Usually that meant moving tools
78 (he never stole them, because he said he wasn't a criminal) or tagging the machines, but
79 sometimes he would just do things that he claimed changed the “aura” of the place. He called it
80 Operation Turtle, because it was meant to stop the construction and preserve the endangered
81 Trenchers. He would often walk away in the middle of a “job,” without any comment, to go sleep
82 or read. Regardless, he would mutter to himself as he walked around, quoting things from the
83 Revolutionary War or classic texts, like how a man owned property because he improved it, and
84 any government that would take it from him was a tyranny and not entitled to support.

85 Through the latter half of 2011, the site was not well secured, so you could get a good look at
86 everything. However, the safety issues were minimal. It was pretty much a journalistic dud.
87 But then Zillias came back in January, and things got hot again. From my perch above, with my
88 long-range mic, I heard Zillias reaming out Emerson Turnkin, going on and on about how they
89 could pay for anything but time and how time was the only thing that mattered. Turnkin tried to
90 blame the squatters, which was ridiculous, and Zillias called her/him on it. They also started a
91 second shift and put up a fence, which really cut into our investigative activities. After a while, I

92 left a wire cutter in a ditch near Arty's bedroll, and he found it. He said it was a gift from God,
93 but anyway, pretty soon we had a hole in the fence and we could get back to looking in on
94 things. Now this was more like it: the site was a mess again, even without our help. People
95 kept getting injured, almost all minor stuff, and I saw a couple of guys decide to fake an injury
96 just to get the workers' comp. But Zillias paid them anyway! I'm going to do an article on that
97 soon. It's called "Workers' Romp: Liars Costing YOU Money." Catchy, isn't it?

98 Things were really looking up, and I started taking lots more notes. This wasn't just an article; it
99 was *All The President's Men!* I decided that I would write my piece, *Trench Warfare*, and time it
100 for the day before the big lift, when the building would officially be ready for the Mayor and the
101 HUD Secretary. I was also hearing rumors that lots of other big wigs wanted in: the EPA
102 Administrator (because it was so green), the Japanese ambassador, even the governor. With
103 that kind of attention, an article like mine would be a big hit. I even got a crane operator to act as
104 my lead source and confirm all of my suspicions about Zillias and the way the site operated.
105 She later got fired, though, I think because they figured out she was passing me info.

106 Through July, Arty was kind of out of it, even more than usual. Most of the squatters had moved
107 on by then, and only a few remained. That's when I heard from London about what they had
108 been told about there being spots reserved for them in the new building. I checked around, and
109 that was a total lie. Arty understood immediately, and he announced that he was going to work
110 on executing his "Master Plan." I saw a lot less of him in August, but his sleeping area had a lot
111 of books in it. They were mostly kids' books on trains and trucks, but one had pictures of
112 construction vehicles. The rest were old *Sports Illustrateds*, with a bunch of words underlined.

113 Then, on August 29, I finally tracked him down again. He looked totally calm, like he was back
114 on his meds, although he denied that was true. He said that he had a plan: when the crane
115 lifted the roof, he was going to throw himself off the building next door or go back to his original
116 plan of lighting himself on fire. I was really worried for him, and I explained that his death would
117 not mean anything to Zillias. He thought about that for a while, and then he smiled and said
118 "You're right. That would be a stupid way to die. I will figure out a better plan. I have to strike
119 at the mother ship to lower the aliens' shields. I have to make the Hive Mother bleed. Then
120 they will see that we can kill them." I didn't know what that meant, but I have some ethics. I
121 called the police to warn them, trying to save his life. By the time they got there, though, all that
122 was left of him were his books. Everything else was gone.

123 I saw Arty for the last time on August 31, 2012. I had been doing the morning shows in Philly,
124 following up on the overnight success of *Trench Warfare*, and I got to the site a little after noon. I
125 got seriously dirty looks from everybody, because the article not only gave the history of Project
126 Z and Zillias, but it also showed what a jerk and buffoon Emerson Turnkin was. So they were
127 not happy with me, and the workers didn't like how I explained that their union bosses got
128 bought off in order to ignore the safety problems or how they cheated the workers' comp
129 system. I got on my scope and I saw Arty, in his trench coat, at the edge of the fence, staring at
130 the big crane, Fightin' Phil. He had his hands up, and he looked like he was praying. His coat
131 was dirty, so I assume that he had been on the worksite sometime that day. He didn't have a
132 bag on him or anything, though, so I don't think he'd stolen any tools. By the time I got down
133 there, he was gone. I wasn't surprised; he had a million ways in and out of the area around the
134 site. I still have the picture I took of him, but I'm saving it for the book. It's a great image –
135 worth a Pulitzer itself! – a crazy homeless guy in a trench coat, wind whipping his red hair
136 around like an ancient Visigoth, calling on his gods to strike down his enemies.

137 The operator, Micah Estratton, had never agreed to be interviewed for my piece, but even I
138 didn't envy her/him that day. You could see her/him fighting the controls from the start, and I

139 talked to a source I had developed on her/his team, and he said that s/he had nearly lost control
140 of the crane first thing in the morning. Anyway, I watched them lower that roof on with much
141 difficulty. Around 3:00, during the second big lift, I could hear the metal on the crane straining. I
142 tried to get some “on the ground information” but my long range mic was nearly useless with the
143 winds howling around me. I only picked up a fragment of a conversation between Grace
144 Hopper from OCIS and Zillias. At one point, shortly before the crane collapsed, I heard Hopper
145 yelling “I can’t reach.... I guess you can do... you want.... you... proceed.” The mic kept cutting
146 out, but Grace always struck me as a reasonable person. I was shocked that they allowed the
147 lift to go.

148 I tried to talk to the important players after the crane collapsed, but no one would see me. I
149 even dressed up as a nurse late one night to get an exclusive with Micah Estratton, but s/he
150 was so drugged that s/he couldn’t say anything but “hydraulics” and “too slow.” Tatum Zillias
151 refused to talk to me, as did Emerson Turnkin. Things died down, until the DA announced that
152 they were going after Zillias for murder. That got me on CNN! I told them what I’ll tell you: the
153 whole trial is a farce, designed to distract people from the fact that the city didn’t do its job and
154 disapprove that lift, or inspect the site, or do much of anything. Tatum Zillias isn’t an engineer,
155 and he/she isn’t a crane operator. I’m not sure Zillias had ever built something bigger than a
156 few thousand square feet. S/he’s got money, but s/he’s “big picture.” Emerson Turnkin knows
157 construction, Micah Estratton knows cranes, and OCIS was on site the whole time, but didn’t
158 have the guts to shut things down, because they didn’t want the bad publicity any more than
159 HUD did. Zillias was going to push to get things done fast, and it was someone’s job to stop
160 her/him. Tatum Zillias is an awful person and cheapskate, but a murderer? That’s just silly. I
161 hate to say I told you so, but I knew something like this was going to happen and the prediction I
162 made in my article couldn’t have been more true.

163 The only person who “talked” to me after the crane collapsed, ironically, was Arty. A few days
164 after his body was recovered, London Packard brought me a sealed envelope from Arty’s things
165 that was addressed to me. London and I opened it together, and in it was this weird, folded up
166 piece of paper. I guess that was the “Master Plan,” although it looked to me like a pocketful of
167 crazy.

168 So that’s about all I have to say about this tragedy, that is until my book on the topic – *The Devil*
169 *in the Trench* – is released by Harper Collins next year. We’re trying to get it done by the
170 anniversary. Come to think of it, maybe I should be testifying on the other side of this case.
171 After all, there’s no better hook for an awards committee than a person imprisoned for a crime
172 s/he did not commit, struggling to find justice. I’ll sell more books than *The Faculty Club*!

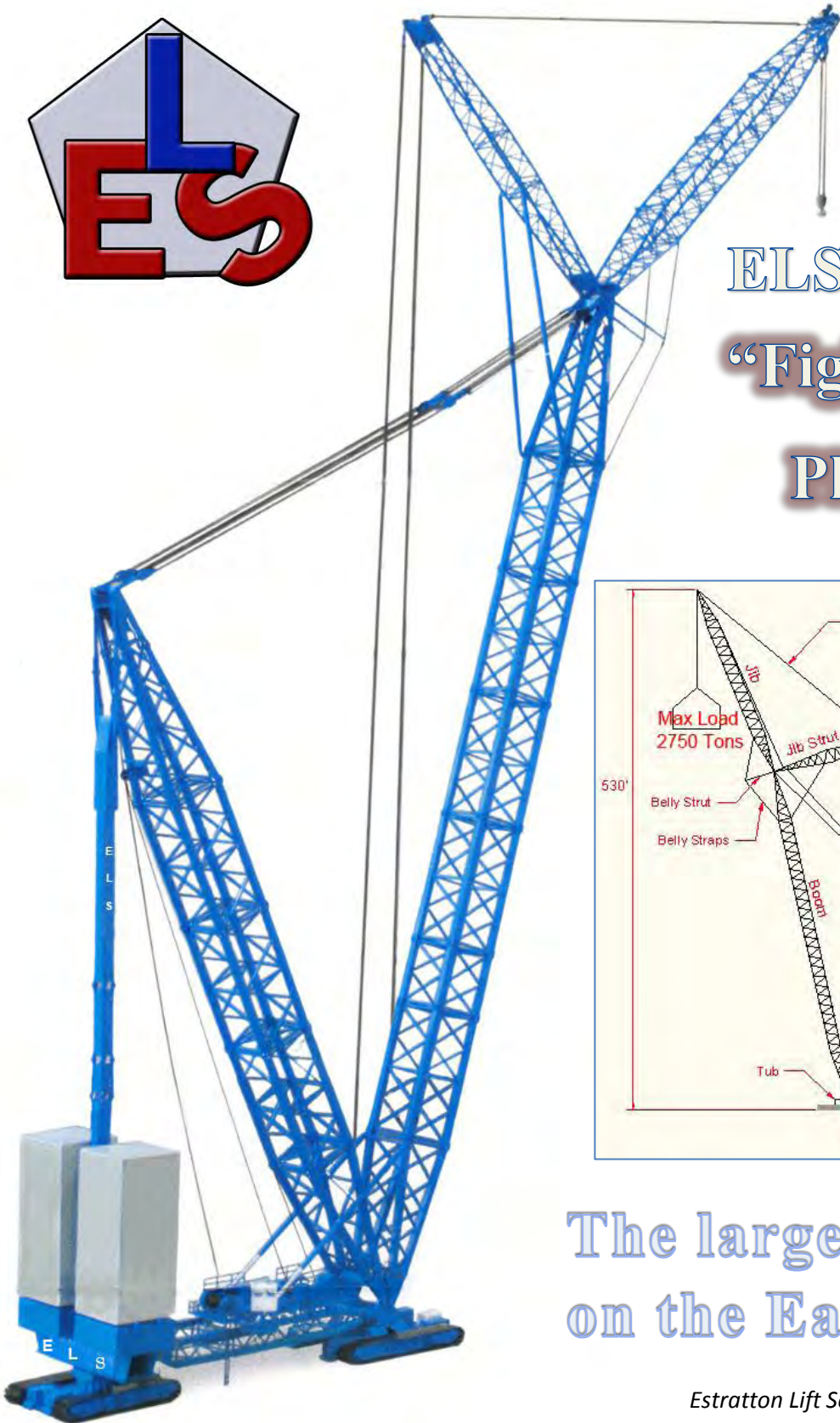
Reese Dentner
Signature

December 6, 2012
DATE

EXHIBIT LIST

- Exhibit 1:** ELS Catalog Page for Fightin' Phil
- Exhibit 2:** Artistic Rendering of Franklin's Trench
- Exhibit 3:** Construction Site Drawing
- Exhibit 4:** MOU between HUD, City of Philadelphia and Project Z
- Exhibit 5:** Term Sheet between ELS and Project Z for Crane Rental
- Exhibit 6:** Official OCIS Report re: Crane Collapse
- Exhibit 7:** Weather Reports taken from August 31st (3 different times)
- Exhibit 8:** Article by Reese Dentner – "Trench Warfare"
- Exhibit 9:** Arty Dent's Manifesto
- Exhibit 10:** Letter from City of Philadelphia

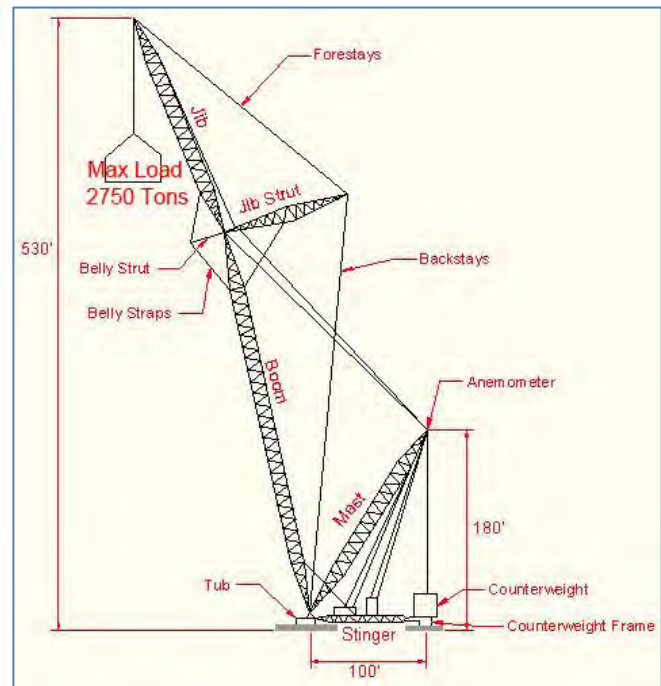
Exhibit 1



ELS 2750

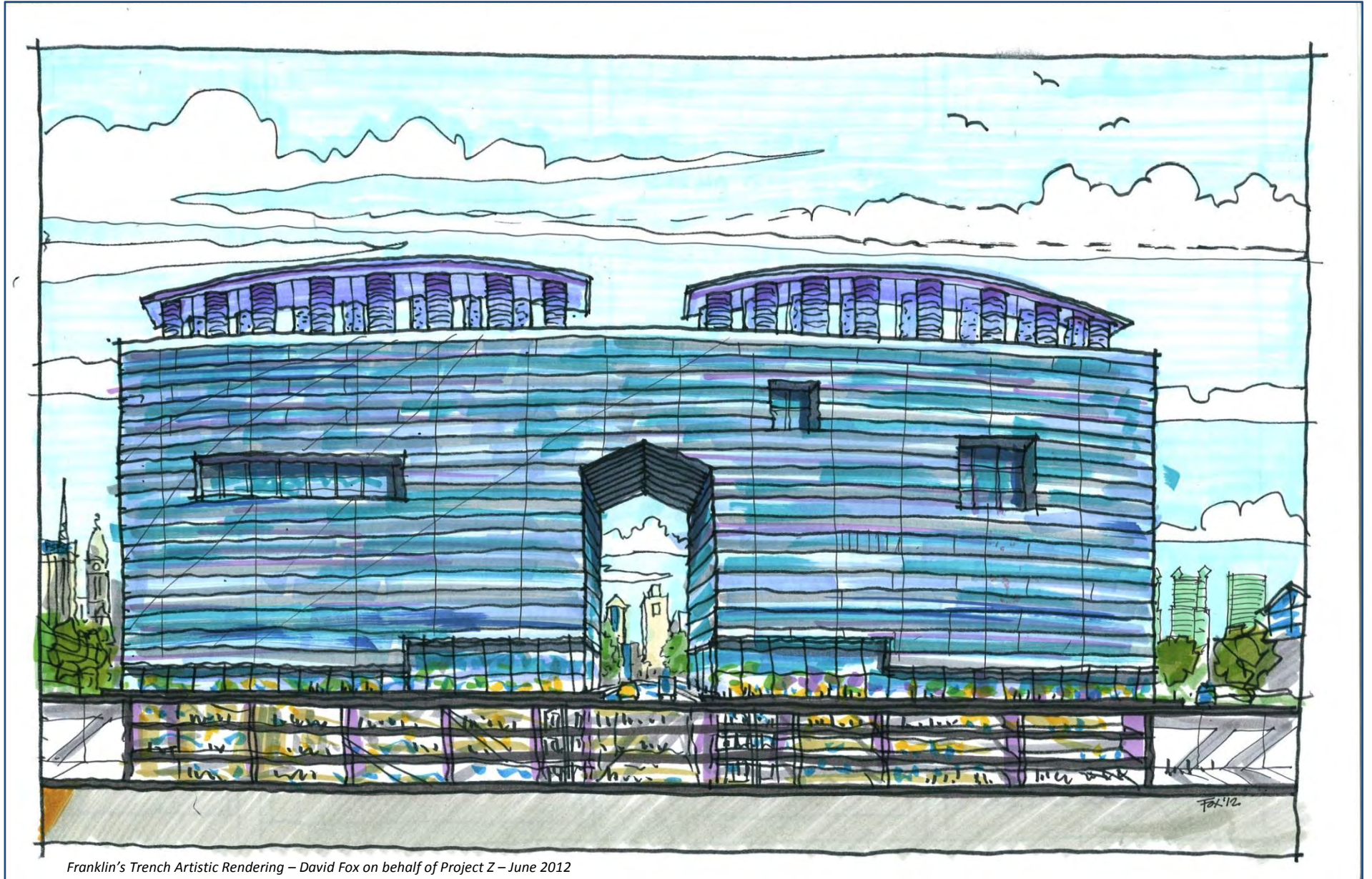
“Fightin’

Phil”



The largest Crane
on the East Coast!

Exhibit 2



Franklin's Trench Artistic Rendering – David Fox on behalf of Project Z – June 2012

Exhibit 3

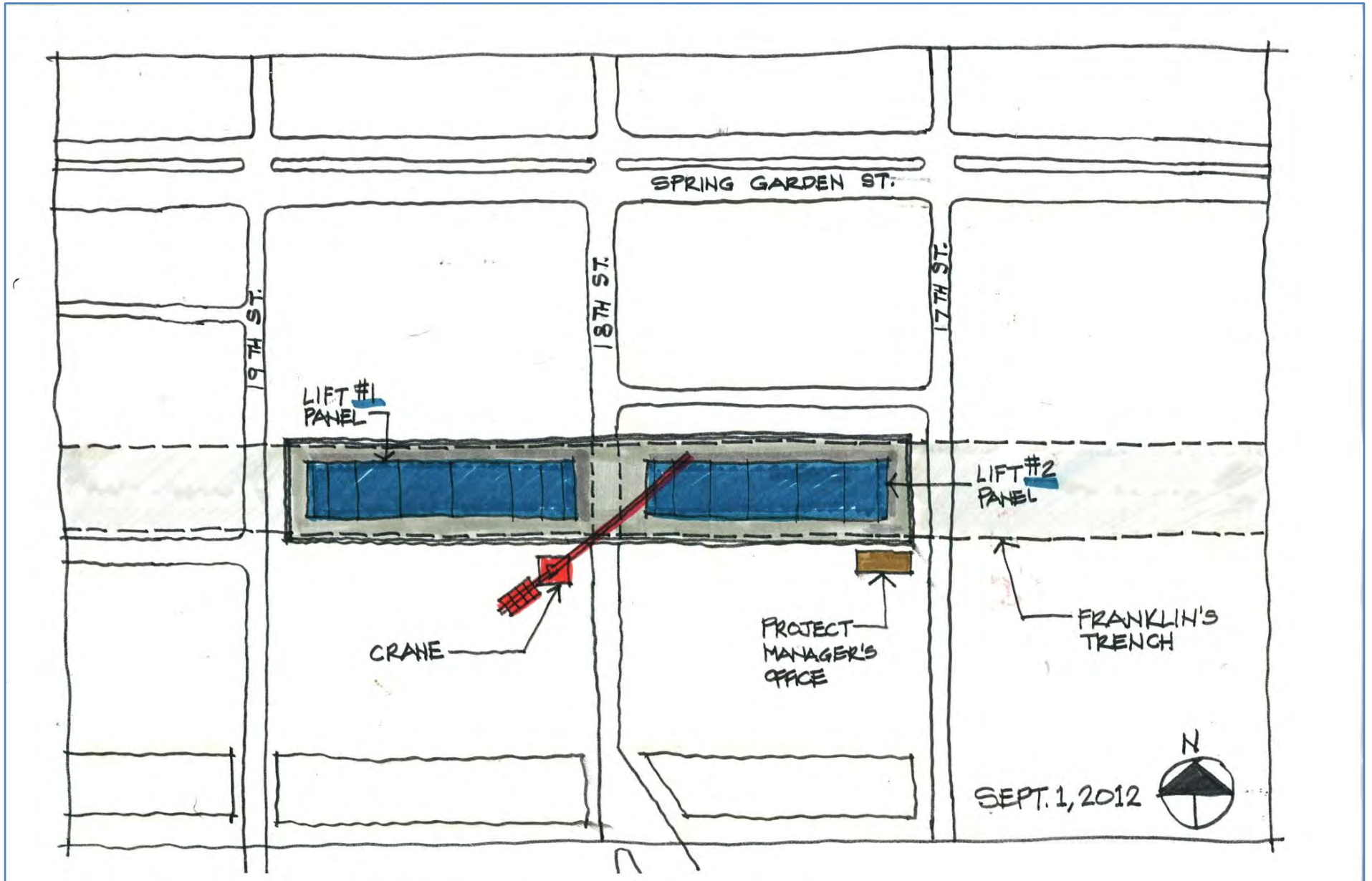


Exhibit 4

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) between and among Project Z, Inc. (“Project Z”); the City of Philadelphia (“the City”); and the United States Department of Housing and Urban Development (“HUD”) relating to the disposition of the property between 17th and 19th streets south of Spring Garden Street in the City of Philadelphia, identified more specifically on the attachments hereto and commonly known as “Franklin’s Trench.”

The complete terms of this agreement shall be spelled out in the contract executed herewith, but they shall be substantially these:

1. Project Z shall be named the developer of the Franklin’s Trench project, and it shall be responsible for the construction thereon of a multi-family apartment building (the “Franklin’s Trench Development”) for use as part of HUD and the City’s efforts to improve the quantity and quality of public housing in Southeastern Pennsylvania.
2. Project Z shall acquire Franklin’s Trench from the City for a price of \$1.
3. The City and HUD shall enter into an exclusive lease for the Franklin’s Trench Development, as follows:
 - a. The lease shall have a duration of thirty (30) years, commencing on the date that the Franklin’s Trench Development is deemed safe for occupancy by at least 200 families by the relevant federal, state and municipal authorities.
 - b. Project Z shall serve as the landlord and operator of the Franklin’s Trench Development, and it may collect rent and fees in accordance with HUD regulations, not to exceed the maximum allowed by HUD.
 - c. LEED (environmental) Certification Incentives:
 - i. If the Franklin’s Trench Development shall be deemed a LEED Certified building, documenting its low environmental impact, Project Z shall receive an additional incentive payment not to exceed \$25 per family per month to operate the Franklin’s Trench Development; or
 - ii. If the Franklin’s Trench Development shall be deemed a LEED Gold certified building, documenting its very low environmental impact, Project Z shall receive an additional incentive payment not to exceed \$50 per family per month to operate the Franklin’s Trench Development; or
 - iii. If the Franklin’s Trench Development shall be deemed a LEED Platinum certified building, documenting its extremely low environmental impact, Project Z shall

receive an additional incentive payment not to exceed \$100 per family per month to operate the Franklin's Trench Development.

4. At the conclusion of the lease described in Paragraph 3, the property shall be owned by Project Z, which will control all future sale and/or uses of the property and any income therefrom. Such use or sale shall be solely in Project Z's discretion.
5. For its work in developing the Franklin's Trench property, Project Z will be paid as follows:
 - a. Upon completion of all structural work, including all roofing:
 - i. On or before December 31, 2011, \$30 million.
 - ii. On or before October 31, 2012, \$25 million.
 - iii. On or after November 1, 2012, \$15 million.
 - b. Upon completion of all additional work, including all plumbing, electrical, and decorative work as provided in the contract, \$5 million.
6. The payments described in Paragraph 5, above, shall constitute the only direct payments to Project Z for completion of this work. Project Z shall in no case be directly paid moneys other than those described in Paragraph 5, above.
7. All work done by Project Z will comply with applicable federal, state and local regulations and building and construction codes, including all Office of Construction Inspection and Safety ("OCIS") codes.
 - a. If a violation of a federal, state or local regulation, building or construction code is alleged, the penalty for that violation shall be as set forth in that code.
 - b. If such a violation results in serious bodily injury, the payments required by the contract may be reduced, at the City and HUD's discretion, by as much as 10%.
 - c. If such a violation results in death, the City and HUD may cancel the contract.

Tatum Gillias obo Project Z

Signature

Sarah Kaufman

City of Philadelphia

Jayne Bird Grode

United States Department of Housing and Urban Development

11.12.2010

DATE

Nov. 12 2010

DATE

November 12, 2010

DATE

Exhibit 5

TERM SHEET

This term sheet is reached between Project Z, Inc. ("Project Z") and Estratton Lift Systems ("ELS"), contingent on execution of a final contract including the following terms:

1. Project Z contracts with ELS for the rental of two heavy-duty, high-lift construction cranes, identified herein by their nicknames, Fightin' Phil and Lil' Betsy (collectively, the "Cranes") for use at a construction site known as "Franklin's Trench".
2. The term shall be July 1, 2011 – October 31, 2012. Project Z may extend the term by up to two months by paying the monthly contract rate, plus an additional 25%.
3. The rental price shall be \$100,000/month, for a total minimum rental of \$1.3 million.
4. In addition, because Fightin' Phil was committed to another project, Project Z shall pay an additional \$250,000 to compensate ELS for the termination fee it will incur and the loss of business good will from that cancellation.
5. ELS will provide certified operators sufficient to keep both Cranes in operation for ten hours per day. Should additional operators be required, ELS will provide them, and Project Z shall compensate ELS at a rate of \$100/hr./operator.
6. Project Z shall have final say over whether any lift shall occur, except that:
 - a. Project Z personnel may be overridden by any governmental official with such authority;
 - b. Should Project Z request a dangerous or otherwise complex or challenging lift with either crane, ELS may require Project Z to insure against damage to that cranes; and
 - c. In the event of death or serious bodily injury stemming from the operation of the Cranes in such a lift, Project Z will indemnify ELS and hold ELS harmless.
7. Project Z shall not ask ELS to use any lift system in an unsafe manner, and Project Z shall call for uses of both Cranes as they are intended and within their safe tolerances, as described in Attachment A.
8. ELS will comply with applicable federal, state and local regulations and construction codes, including all Office of Construction Inspection and Safety ("OCIS") codes.

Tatum Zillias

Tatum Zillias
President, Project Z, Inc.

Micah Estratton

Authorized Representative
Estratton Lift Systems

Attachment A



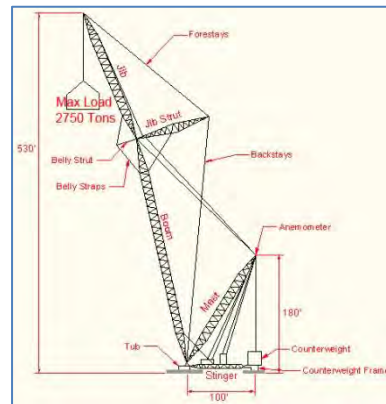
Since 1988, the pride of Estratton Lift Systems has been Fightin' Phil, ELS' custom take on the classic Lampson LTL-2600 Trans Lift Crane. Due to ELS's proprietary engineering and mechanical improvements, however, Phil has a lift capacity that exceeds even the LTL-2600, making it the strongest, heaviest-lift crane of its kind east of the mighty Mississippi and north of the Mason-Dixon line. Phil is fully inspected and retooled every few months and can be either trucked in or rebuilt on site.

Remember: while a regular LTL-2600 is mobile, you can request Phil in a fixed configuration, anchored into the ground. Not only does that increase lift capacity, but it minimizes Phil's footprint, making Phil ideally suited to heavy lifts in an urban environment.

As we do with all of our complex lift systems, ELS provides trained, highly experienced operators who have used Phil for years. You just tell us where to be and when, and Phil can be there, moving loads like no other. Like the city where Phil was designed, ELS may not be the biggest or fanciest out there, but you won't find better.

Technical/Engineering Specifications (Fixed Position):

Type:	Modified Lampson Transi heavylift crane
Transporters:	None (in fixed position)
Height:	467 ft.
Boom Length:	500 ft.
Jib Length:	240 ft. (either Lampson 1100 or MEC27AB)
Cable length:	40,000 ft.
Operators:	4 (in fixed position; 4 if mobile)
Counterweights:	3750 tons (fillable on site)
Assembly Time:	2-4 weeks



Mobile Configuration Depicted

Accident History: None



ELS 2750

“Fightin’

Phil”



Technical/Engineering Tolerances (Fixed Position):

Lift Capacity (flat surface) (fixed position) (U.S. Tons)

0-2400

2400-2600

2600-2750

2750 *maximum threshold*

Max Sustained Wind¹ (mph) at Lift Capacity (fixed position)²

0-13

13-18

18-24

24 *maximum threshold*

Max Wind Gust³ (mph) at Lift Capacity (fixed position)⁴

0-20

20-25

25-30

30 *maximum threshold*

Statistical Key and Notes

	Safe to operate ELS 2750
	Proceed with caution
	Proceed with extreme caution
	DO NOT OPERATE <small>(unless prior approval from municipality and/or ELS is obtained)</small>
1	“Maximum Sustained Wind” is an average wind speed during a 2-minute interval. Sustained winds are generally measured at a height of 10 meters (~32.8 feet). Winds may vary depending on lift height.
2	Maximum engineering sustained wind lift capacity was calculated using flat surfaces in a lift configuration approved by the Association of Crane and Rigging Professionals and the American Society of Safety Engineers.
3	“Maximum Wind Gust” is the maximum 3-second wind speed forecast to occur within a 2-minute interval at a height of 10 meters (~32.8 feet). Wind gusts may vary depending on lift height.
4	Maximum engineering wind gust lift capacity was calculated using flat surfaces in a lift configuration approved by the Association of Crane and Rigging Professionals and the American Society of Safety Engineers. Maximum wind tolerances for convex or concave objects may be lower.
Note	Maximum threshold is set at 85% of tested failure rate

Note: Regularly scheduled maintenance must be performed to ensure that Fightin’ Phil continues to operate at optimal performance levels and that metal fatigue does not occur. Fightin’ Phil should be inspected weekly (after approximately 40 hours of lifts), and a full disassembly and inspection is recommended every 16 to 20 weeks, depending on season and long-term weather conditions and is performed by ELS at the direction of the Construction Site Supervisor or other authorized personnel. The client is responsible for paying for the crane’s rental during these periods.

Exhibit 6



Final Report re: August 31, 2012 Collapse of Crane “Fightin’ Phil”

Prepared By: Quinn Baxter, Senior/Lead Investigator

Location: Philadelphia, Pennsylvania (19th Street, south of Pennsylvania Ave.)

Deaths: 2 (1 civilian, 1 government)

Responsible Officials: Tatum Zillias (developer); Emerson Tumkin (Project Manager);
Micah Estratton (Crane Operator)

Atmospheric Conditions: Collapse occurred on windy, rainy day with limited visibility. Winds were sustained at 10-17 mph at time of collapse, and may have gusted as high as 28 mph. All measurements taken at Philadelphia International Airport (approx. 7.5 miles from site).

Executive Summary:

The collapse of the crane “Fightin’ Phil” resulted from a shocking lack of regard for common sense, regulations, and proper construction procedures by Project Z. These violations included failing to properly seat the crane’s support pylons, lifting an amount in excess of the crane’s maximum capacity without state or local approval, and lifting during high winds.

Factual Findings:

Upon examination, crane “Fightin’ Phil” had collapsed completely. Preliminary findings consistent with cascading collapse of operator-left front side. Examination of northwestern support leg consistent with complete metal failure. Numerous other areas of crane show evidence of sheer or metal failure, consistent with cascading collapse.

Examination of engine, hydraulics and drive gears was hampered by collapse of crane, which destroyed much of same. This damage could have caused or followed the collapse itself. Portions of hydraulics, engines, wiring and crane had been removed post-fall, before a complete investigation was possible, most likely by scrappers seeking to sell same.

Limitations:

Time on site was limited due to weather. Light was fading when the site was declared safe for examination, and investigation was limited for ensuing two days by pouring rain, high winds, and lightning. By the time investigation could be restarted, substantial shifting of wreckage had occurred, and wreckage showed some signs of looting.

Narrative:

At 2:45 p.m., the second lift of the day commenced, despite the rains and gusting winds. The object being lifted, a piece of roof weighing some 2900 tons, was greater than 85% maximum tolerance for the crane. Wind was initially predicted to be at 5-17 mph sustained, gusting to 22 mph. However, at noon, that prediction was revised, and winds were expected to be 10-20 mph, with gusts to 23-26 mph. According to interviews with Tatum Zillias, s/he was unaware of this revision. According to Emerson Turnkin, Zillias was aware of it, but chose to proceed. At 3:15, the forecast was again amended to include a wind warning (sustained winds of 25 mph or greater). Site personnel had stopped checking the weather, and they were unaware of this revision.

Immediately upon lifting, witnesses report that the roof panel began swinging on the crane line, indicating significant wind effects. Approximately twenty-five minutes into the lift, a halt was called. The crane did not fully stop moving, which is permitted only to compensate for load shift. Load shift was visible, indicating that wind effects were sustained or may have increased.

At approximately 3:20, the crane operator began the apex portion of the lift. At approximately 3:25, as the lift neared its highest point, the roof being lifted cleared the tallest surrounding building. Shortly thereafter, winds gusted, and the roof began pitching and yawing to the left. The crane operator was able to compensate, and began to recover to a neutral position. Operator also reports a possible hydraulic failure resulting, reportedly, in the operator being unable to compensate as the wind pulled the load beyond its tolerable operating range. Witnesses report metallic noise, followed by shear.

At approximately 3:28, the operator-left (northern) side of the crane collapsed. Witnesses report loss of tension in crane lines and support buttress buckling, followed by collapse of operator-front-left (northwestern) support leg. Cascading collapse followed.

Code Violations Observed at Site:

1. Access road was not properly graded or filled with asphalt, as required for the size of vehicles routinely transiting that space.
2. Tools were spread throughout the site. (12 minor violations (wrenches, hammers, screwdrivers) and 2 major violations (rotary tool on scaffold; loose axe).)
3. West Scaffold 3 was not properly secured.
4. North Scaffold 4 was not properly secured.
5. No records were kept of morning inspections on either of the cranes on site.
6. No records were kept of evening inspections for the north side crane.
7. Records of evening inspections for the building crane, "Fightin' Phil," are inadequate to show diligence in inspecting same.
8. Inadequately secured vehicles:
 - i. Minor finding: key left in F-350 Truck, NJ license NYB72G.
 - ii. Major finding: key left in north side crane.

9. No documentation of bi-hourly site sweeps.
10. No documentation of appropriate ratio of supervisors to workers.
11. Inadequate number of first aid kits.
12. Inadequate number of automatic defibrillators.
13. Seven (7) workers not wearing appropriate safety vests.
14. One (1) worker not wearing approved safety footwear.
15. One (1) inadequately labeled flammable liquid.
16. Two (2) spills of slippery liquid.
17. Inadequate signage: inadequate presence of "Hard Hat Area" warning signs.
18. Inadequate signage: inadequate presence of "Men Working Above" warning signs.
19. Gap in fence on south end of work area.
20. Ladder too steeply graded: north side.
21. Insecured pylons: density of concrete on northeast anchor for "Fightin' Phil" less than manufacturer recommendation, visibly cracked from wear.
22. Insecured pylon: density of concrete on northwest anchor for "Fightin' Phil" less than manufacturer recommendation.
23. Insecured pylon: density of concrete on southeast anchor for "Fightin' Phil" less than manufacturer recommendation, visibly cracked from wear.

Additional Contributing Factors Other Than Violations:

1. Three workers had worked over 70 hours per week in preceding month. While permissible, OCIS recommends workers in high fatigue environments not work more than 60 hours in three consecutive weeks without additional rest time.
2. Per interviews with Emerson Turnkin and others, management did not emphasize "safety culture" or on going beyond the requirements of the code to make work site safe.
3. Per interviews with Tatum Zillias, Emerson Turnkin and others, management dangerously rushed work in order to meet economic or political objectives, inevitably resulting in site conditions that posed clear risk to workers.
4. Management failed to carefully monitor the metal fatigue of work equipment.
5. Management failed to check weather reports throughout second lift.
6. The lift was performed outside the manufacturer tolerances for windage.
7. The lift was likely performed outside the manufacturer tolerances for lift weight.

Conclusion:

Management failed to ensure crane was properly maintained and workers were properly rested, then over-loaded the crane in an attempt to meet an artificial timetable. Management then attempted lift despite dangerous, unmonitored winds, failing to recognize the danger inherent in lifting a convex object under the circumstances. The consequences were both predictable and tragic: management's failures caused the deaths of two individuals.

/s/ Quinn Baxter, 9/22/2012
Senior/Lead Investigator

Supervisory Approval

This report is approved, with the following caveats:

1. Finding 2 is rejected. There is insufficient evidence that these tools were located in the places noted prior to the collapse.
2. Finding 3 is rejected. There is insufficient evidence that the scaffold was unsecured prior to the collapse.
3. Finding 7 is modified as follows: "Records of evening inspections for the building crane, "Fightin' Phil," do not show the expected level of precision for complete inspections."
4. Finding 8(ii) is mitigated to minor violation. Interview indicates crane was abandoned during collapse. Key should have been removed, but circumstances demand lenity.
5. Finding 16 rejected. There is insufficient evidence of spills prior to the collapse.
6. Findings 21-23 moved to "Additional Findings." The role of these pylons, if any, in the collapse is uncertain.
7. Contributing Factor 3 is modified as follows: "Per interviews with Tatum Zillias, Emerson Turnkin and others, management rushed work in order to meet economic or political objectives."
8. Contributing Factors 4 and 5 are modified by adding the following sentence: "The role of this failure, if any, in the collapse cannot be determined."

/s/ Beatrice Hicks, 10/5/2012
Director, Philadelphia Field Office

Exhibit 7

Weather update Friday August 31 12am

Philadelphia Weather

Expect wet and windy weather all day.

Friday August 31 Updated: Aug 31 12am

Day Oct 17  **89°F** High

Rain / Wind

Chance of Rain: 100%

Wind: SSW at 5 - 15 mph gusts 20 mph

Humidity: 100%

UV Index: 4 - Moderate

Rain: 1.2 inch

Sunrise: 6:28am

Moonrise: 7:18 pm

Moonphase: Full Moon

Intervals of rain, heavy at times. High 89F. Winds will be strong and gusting. Remnants of Hurricane Issac.

Right Now
Today
Hourly
Tomorrow
Weekend
5 Day
10 Day
Monthly
Map NEW

data provided by super-accu-sat-weather 2012

Weather update Friday August 31 12:05pm

Philadelphia Weather

Friday August 31 Updated: Aug 31 12:05pm   

Expect wet and very windy weather all day.

Day  **89** °F
High

Rain / Wind

Chance of Rain:	100%
Wind:	SSW at 10 - 20 mph gusts 23 - 26 mph
Humidity:	100%
UV Index:	4 - Moderate
Rain:	1.1 inch
Sunrise:	6:28am
Moonrise:	7:18 pm
Moonphase:	Full Moon

Intervals of rain, heavy at times. High 89F. Winds will be strong and gusting. Remnants of Hurricane Issac.

Right Now

[Today](#)

[Hourly](#)

[Tomorrow](#)

[10 Day](#)

[Monthly](#)

[Map](#) NEW

data provided by super-accu-sat-weather 2012

Weather update Friday August 31 3:15pm

Philadelphia Weather

HIGH WIND WARNING until 9pm tonight All Alerts (2) ▾

Friday August 31 Updated: Aug 31 3:15pm 📱 📺 📺

Expect wet weather. High Wind Warning!

Day  **89**°F
High

Rain / Wind

Chance of Rain:	100%
Wind:	SSW at 25 - 27 mph gusts 30 - 35 mph
Humidity:	100%
UV Index:	4 - Moderate
Rain:	1.1 inch
Sunrise:	6:28am
Moonrise:	7:18 pm
Moonphase:	Full Moon

HIGH WIND WARNING
Intervals of rain, heavy at times.
High 89F. Winds will be very strong and gusting.
Remnants of Hurricane Issac.

Right Now

[Today](#)

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[Tomorrow](#)

[10 Day](#)

[Monthly](#)

[Map](#) NEW

data provided by super-accu-sat-weather 2012

Exhibit 8

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Friday, August 31, 2012

The Inquirer **DAILY NEWS**



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SOUTH JERSEY COMMUNITIES AND CULTURE POLITICS EDUCATION OBITUARIES NATION/WORLD WEATHER TRAFFIC LOTTERY

TRENCH WARFARE

By: Reese Dentner

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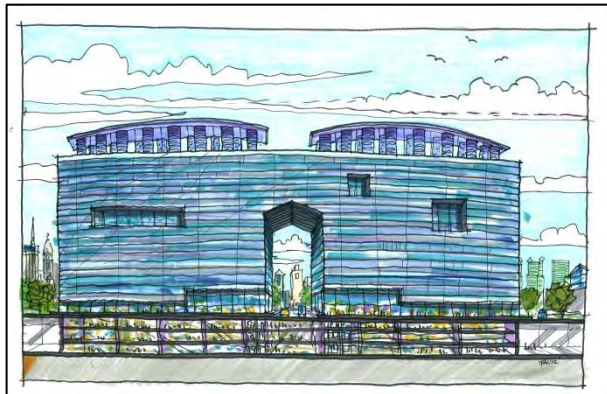
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There's a scar in this City of Brotherly Love, and it runs deep. Cut a century ago, by a railway line you won't even find on a Monopoly board, the strip of depressed land just north of Callowhill St. and south of Spring Garden St. is a stark reminder of failed industrialism. For decades, this area of the City, commonly known as Franklin's Trench, has been rarely discussed and always ignored.



artistic rendering of Franklin's Trench - Courtesy of Project Z

Ignored, that is, until Tatum Zillias, a developer, spun a vision so gleaming and golden that it captured the minds and imagination of politicians far and wide, from Broad and Market all the way to 1600 Pennsylvania Avenue. And now, with the biggest crane on the East Coast about to lift the largest roof panel this city's ever seen onto the product of that ego, Zillias' vision of a Band-Aid is now clear for all to see.

forged a new way and a new means of meshing socioeconomically classes together into a scheme that made Section 8 look like the late '80s Phillies. And just like one of our beloved sports teams in this City, when you are winning no one cares, but as soon as you start to lose, the ire of the masses descends upon you. You can consider me Zillias' latest "Philly fan," because it's time to put on sunglasses and look behind the emerald curtain. The story you find there is as disappointing and dispiriting as Cliff Lee's run support.

Harkening back to her/his impoverished beginnings, Zillias claimed the trench between 17th and 19th streets as her/his own and the future home of the downtrodden. Zillias' plan

Look inside Project Z's glossy brochures and what you will see is nothing but airy landscaping and happy, theoretical residents. They refer to Franklin's Trench as a blight. But they don't tell you, it's already a home. In all of Project Z's propaganda and the mayor's press conferences, there isn't a single mention of the living, breathing people who have made Franklin's Trench their own for the past forty years. These "Trenchers" are artists, veterans, and street performers, a veritable Harlem Renaissance in the Carnegie Hall of their subterranean homestead. They live off things that others throw away, and they recycle others' garbage into art, others' trash into furniture. And in this City of Brotherly Love, where a guy down can't get his brother to spare a dime, they have welcomed all comers – no questions asked – since they first laid down their beds. Until, one day, they were told that their home didn't matter at all, that someone had sold their land for a dollar – a single, solitary dollar! – without ever asking their opinion.

And so the Trenchers decided to take a stand. London Packard, their erstwhile leader, tried to get a meeting with Tatum Zillias, but s/he was turned down cold, shuttled off to make her/his case to the site's domineering, heartless construction manager, Emerson Turnkin. Emerson, who as far as this reporter could discover had never so much as visited the Trench community, was well known for derogatorily referring to the Trenchers as "Mole People" or "street scum", and the meeting was little more than

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TRENCH WARFARE

By: Reese Dentner

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an excuse for Turnkin to unload her/his vitriol on them. S/he would not even stop the construction activities long enough to let the Trenchers come or go from the main entrance to their home in the early morning and late evening, letting work continue while they skittered around the site, seeking cover, in clear violation of OCIS regulations.

And when London contemplated the simple, non-violent act of sitting in, s/he faced certain arrest at the hands of Turnkin's goons, or maybe another of the many "construction accidents" befalling her/him. So s/he went to war with the army s/he had: a peculiar but likeable vet, Arty Dent, to engage in what Arty called Operation Turtle. Operation Turtle was as simple, and ineffective, as the people who launched it: acts of graffiti and simple sabotage efforts which worked only momentarily.

Then came Zillias. Zillias' history for cutting corners is as well-known throughout the construction industry, and with her/his back up against the wall, this time was no different. S/He blew the lid off of all safety protocols and procedures, added a second shift and, a few months later, even a third shift. Under the breakneck pace, the site itself became an utter mess. Even the shiny windowpanes of Franklin's Trench's façade could not deflect the light from shining down and seeing what was really going on beneath the surface.

From a former crane operator on the site, who wished to remain nameless in this article but who was recently let go when she refused to go along with Zillias' wishes, I learned that the driving force behind Zillias' cavalier attitude is a bonus that was offered by the City and HUD for getting the project done before October 31, 2012. A friend at City Hall got me a copy of the contract, and clear as day, there it is. This deadline, by no small accident, runs right in line with the upcoming elections and clearly is as much a political move as much as it is a financial carrot. And what was the result? The crane operator also told me that this construction site is the most dangerous one she had ever worked on, and that Zillias has everyone in her back pocket. Apparently, Zillias has bought off all of the union bosses to get them to ignore safety protocols and abuse the workers' compensation system. Rumors even flew that OCIS itself was on Zillias' payroll.

Small wonder, then, that Franklin's Trench has had more reported injuries than any other construction site in Philadelphia over the past 50 years! According to the Bureau of Labor Statistics, at all construction sites in the United States in 2011 there were 5.6 injuries per 100 full-time construction workers. At Franklin's Trench, that ratio is an astonishing 15.7 injuries per 100, nearly three times the national average! And these are the people being trusted with lifting the largest roofing panels in the city's history, weighing millions of pounds each, into place in the middle of a dense residential area, right over the Trenchers' home.



Franklin's Trench worksite injury - Credit: Reese Dentner

So where is OCIS? When contacted officially by *philly.com*, OCIS Senior Inspector Quinn Baxter said only that the site is constantly monitored, and that there were fewer serious injuries there than the statistics showed. Baxter also stated that OCIS has no responsibility for protecting the Trench's existing residents, and that the site has not had a single "red flag" sufficient to stop work there. An OCIS spokesperson said that they were confident that the site was safe, even with the big lifts coming up.

And what about the City? What about the Mayor, or City Council? Who is standing up for the Trenchers? No one. Not when you might get a picture with the President out of it.



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SOUTH JERSEY COMMUNITIES AND CULTURE POLITICS EDUCATION OBITUARIES NATION/WORLD WEATHER TRAFFIC LOTTERY

TRENCH WARFARE

By: Reese Dentner

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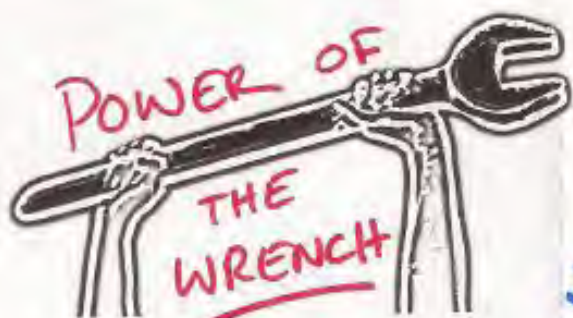
13	13	3	3	@
comment	Like	Tweet	Share	email

Last week, the City asked for more information before it allowed the big lifts to proceed. For London Packard, it was a moment of hope. But according to this reporter's sources inside City Hall, the letter that Project Z received was just a request for paperwork. As the mayor's spokesman told me, "Philadelphia is proud to be the home of such a path-breaking housing development, and the Mayor is committed to green buildings like this one." Then she said that she is confident that the lifts are safe. They will be approved this week.

Tatum Zillias is an easy villain for the Trenchers, but the truth is deeper than that. The City is turning a blind eye, the workers are knowingly putting themselves at risk, and even the federal government is providing absentee oversight. When something catastrophic happens at Franklin's Trench, and it certainly will, someone will be the scapegoat. But in reality, there are far too many to name who should all share the blame.

We used to be a country where the government respected its people, where property owners could breathe easy, knowing that they were safe in their beds from the tyrants at the door. But it is ignoring veterans like Arty Dent, who now openly talks about trying to take down the crane that is placing the lid on the coffin to his community. Can you blame him? Would you do any less to save your home?

Exhibit 9



MASTER PLAN
MY MANIFESTO
BY: ARTY DENT 
JULY 4TH 2012

- NO LONGER WILL THE SATELLITES SIGN THEIR BRIGHT SIGNALS DOWN UPON OUR BEATEN BROWS.
- NO LONGER WILL THE ARM OF THE MASSIVE ALIEN STRUTCH DOWN TO THE BOTTOM OF THE TRENCH.
- THIS TRENCH, THIS STRONG LINE DUG DEEP IN THE SAND IS WHERE ~~WE~~ I WILL TAKE MY FINAL STAND.
- **THE POWER OF THE WRENCH!**
- THE POWER OF PEOPLE SO DOWNTRODDEN THAT THERE IS NOWHERE TO GO BUT UP. THIS WRENCH IN THE WORKS WILL ALLOW ME TO RASE AGAINST THE ALIEN MACHINE.
- AS USURPATION IS THE EXERCISE OF POWER WHICH ANOTHER HAS A RIGHT TO, SO TYRANNY IS THE EXERCISE OF POWER BEYOND RIGHT, WHICH NO ONE CAN HAVE A RIGHT TO.
- IF MAN IN THE STATE OF NATURE BE SO FREE, AS HAS BEEN SAID; IF HE BE ABSOLUTE LORD OF HIS OWN PERSON AND POSSESSIONS, EQUAL TO THE GREATEST, AND SUBJECT TO NO BODY WHY WILL HE PART WITH HIS FREEDOM?
- **THE ANSWER, IS SIMPLE. A TRENCH COAT MARTYR, BLOOD THAT WILL FOREVER STAIN THIS STRAINED PROJECT - A SPOT THAT CAN NEVER BE WASHED OUT. A MARK ON WHAT WILL ALWAYS BE HOME TO THE TRENCHERS OF FRANKLIN!**



Exhibit 10



Licenses & Inspections

Emily Roebing
City of Philadelphia, L&I
1401 John F. Kennedy Blvd.
Philadelphia, PA 19102

August 24, 2012

Tatum Zillias
Project Z, Inc.
1818 Buttonwood Sq.
Philadelphia, PA 19130

Emerson Turnkin
Project Z, Inc.
1818 Buttonwood Sq.
Philadelphia, PA 19130

Micah Estratton
Estratton Lift Systems
c/o Project Z, Inc.
1818 Buttonwood Sq.
Philadelphia, PA 19130

Re: Application 92343-22803: Request to Permit Crane Lift Above Engineering Tolerances

Dear Sir(s) or Madam(s):

The City of Philadelphia Department of Licenses and Inspections is in receipt of your application for permission to conduct a construction lift above engineering limits. Although the application was well-documented, additional information is required before we can reach a final agency determination of your request. Specifically, we request the following:

- A complete lift history for this crane, including all lifts above engineering tolerances;
- A complete maintenance history for this crane;
- A complete resume of all lift personnel, including on lifts above engineering tolerances;
- A record of insurance for the crane being used in the lift;
- A diagram showing how the crane is presently anchored, including the density of concrete used in the pilings;
- A weather mitigation plan, if the lift may be conducted in adverse weather conditions; and
- A document showing how the engineering tolerances were calculated for lifts like the ones in question.

Please submit this information within fourteen (14) calendar days of this request. A failure to respond to this letter could be deemed a basis for denial of your request. A final determination of your request will be made within thirty (30) days of your revised submission.

Please do not hesitate to contact me if you have any additional questions or concerns.

Sincerely,

Emily Roebing
Deputy Chief, Construction and
Crane Licensing and Inspection