



U.S. Department  
of Transportation

Office of the Associate Administrator  
of Airports

800 Independence Ave. SW.  
Washington, DC 20591

March 2, 2023

**RECEIVED**

MAR 09 2023

Jol A. Silversmith, Esq.  
Barbara M. Marrin, Esq.  
KMA Zuckert LLC  
888 17th Street, N.W.,  
Suite 700  
Washington, DC 20006

**PART 16 DOCKETS**

Jon J. Olafson  
Paul Rupprecht  
Lewis Brisbois Bisgaard and Smith, LLP  
1700 Lincoln Street, Suite 4000  
Denver, CO 80203

Re: ***Jason Theuma and Paragon Skydive, LLC v. State of Arizona***, FAA Docket 16-19-16

Dear Ms. Marrin, and Messrs. Silversmith, Olafson, Rupprecht:

Enclosed is a copy of the Final Decision and Order of the Federal Aviation Administration (FAA) with respect to the above-referenced matter.

Based on the record in this proceeding, the FAA partially upholds and partially overturns the Director's Determination. The Associated Administrator finds that the Director's Determination in relation to Allegations 1 (skydiving liability insurance requirement), 3 (products completed operation insurance requirement) and 6 (limiting solo jumps) are supported by a preponderance of reliable, probative, and substantial evidence. I affirm the Director's Determination, which found the airport sponsor in violation of Grant Assurance 22 in relation to the above allegations.

Based on a review of the pleadings I am overturning the Director's Determination in regard to Allegation 7 (10% gross receipts fee versus a 1.5% fee on air tour operations). I find that Paragon is not similarly situated to air tour operators and may be treated differently. In addition, I find that the comparison of the 1.5% fee on air tour sales to a 10% fee on retail sales is misrepresented in the pleadings. A review of Paragon's lease indicates that it is charged a flat monthly rate for its skydiving sales and a 10% rate for its other sales. The flat rate equates to much lower than 10% based on its monthly skydiving sales. Further two air tour operators have either a 10% fee on other retail sales or an additional fee on gift shop sales in addition to the 1.5% fee on air tour sales. This indicates that there is not a large discrepancy in the fees that would be considered unreasonable and inconsistent with Grant Assurance 22. The Director's Determination in regard to Allegation 7 is overturned.

Finally, I reviewed the additional documentation that was requested in the Director's Determination and provided by State of Arizona Department of Transportation (ADOT) on April 5, 2022. I find that ADOT is not in violation of Grant Assurance 22 or is taking appropriate steps to address any concerns in relation to Allegations 2, 8, 9, 11 and 13.

The reasons for partially upholding and partially overturning the Director's Determination are set forth in the enclosed Final Decision and Order.

Sincerely,

**SHANNETT** Digitally signed by  
SHANNETTA R GRIFFIN  
**A R GRIFFIN** Date: 2023.03.02  
15:48:27 -05'00'

Shannetta R. Griffin, P.E.  
Associate Administrator for Airports

Enclosure

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC

JASON THEUMA and PARAGON  
SKYDIVE, LLC,

Complainant/Appellee

v.

THE STATE OF ARIZONA,

Respondent/Appellant



FAA Docket No. 16-19-16

RECEIVED

MAR 09 2023

**FINAL AGENCY DECISION**

**I. INTRODUCTION**

**PART 16 DOCKETS**

This matter is before the Federal Aviation Administration's (FAA) Associate Administrator for Airports on an Appeal filed on April 5, 2022 by the State of Arizona Department of Transportation, (ADOT/Appellant) sponsor of the Grand Canyon National Park Airport (GCNPA/Airport). ADOT challenges the Director's Determination (DD) issued on January 21, 2022 in response to a Part 16 Complaint filed by Jason Theuma and Paragon Skydive, LLC (Paragon/Appellee). Paragon claimed that ADOT was in violation of Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 23, *Exclusive Rights*, and the Anti-Head Tax Act (AHTA) (FAA Exhibit 1, Item 1).

The Director found ADOT in violation of Grant Assurance 22, *Economic Nondiscrimination* "by unjustly discriminating against Paragon by imposing unreasonable skydiving liability and Products and Complete[d] Operations insurance (Allegations 1 and 3);<sup>1</sup> restricting solo skydiving operations (Allegation 6); and imposing higher 10% gross receipts fees on Paragon compared to the 1.5% fee imposed on similarly-situated air tour operators (Allegation 7)." The Director also ordered ADOT to provide additional information "to demonstrate compliance regarding requirements for commercial general liability insurance (Allegation 2); parking fees (Allegation 8); gate access fees (Allegation 9); additional space at the airport, (Allegation 11); and reporting of new employees (Allegation 13)." The Director found ADOT not in violation of Grant Assurance 23, *Exclusive Rights* or the AHTA (FAA Exhibit 2, Item 1, p. 23).

On Appeal, ADOT claims that the DD involving Allegations 1, 3, 6 and 7 "are not supported by the administrative record, regulations, applicable law, or applicable public policy." (FAA Exhibit 2, Item 6, p. 2). ADOT claims that the Director was incorrect, and that skydiving

<sup>1</sup> The Director analyzed 15 separate allegations related to Grant Assurance 22 that were numbered 1 to 15. The Director found instances of noncompliance in allegations 1, 3, 6, and 7, which are the subject of the Appeal.

insurance is available to Paragon indicating it had referenced two insurance companies that offer this type of insurance in its previous pleadings (FAA Exhibit 2, Item 6, p. 5). In addition, it claims products and completed operations<sup>2</sup> insurance for Paragon's operations is necessary to cover ADOT's liability exposure associated with Paragon's parachute packing activities, but offers to reduce the coverage requirement to a lower amount (FAA Exhibit 2, Item 6, p. 21). Further, ADOT claims that the Director mischaracterized ADOT's position and suggests that it is not denying Paragon the ability to perform solo jumps; however, there are several steps that need to be taken to accommodate this operation (FAA Exhibit 2, Item 6, p. 23). Finally, it claims, "Paragon is excluded as an air tour operator, primarily due to the exclusion of "operations conducted in . . . [un-powered] parachutes. 14 CFR § 136.1(c)," and that the Director was incorrect in considering Paragon similarly situated to the air tour operators. ADOT claims they are justified in charging a different rate to Paragon (FAA Exhibit 2, Item 6, p. 32).

In response, Paragon supports the DD and suggests that the additional insurance company offered by ADOT is actually an insurance broker who is associated with the other company referenced by ADOT (FAA Exhibit 2, Item 7, pp. 1-2). Paragon argues that the Affidavit provided by ADOT, the reference to United States Parachute Association (USPA) insurance for an individual skydiver, and the objection to Ms. Amey's statement are new evidence that should be disregarded (FAA Exhibit 2, Item 7, pp. 4-5). Further, it claims that the products and completed operations insurance "requirement overall remains both inappropriate and unobtainable." (FAA Exhibit 2, Item 7, p. 6). In terms of Allegation 6, Paragon states the "Respondent [ADOT] does not appear to dispute its obligation to continue those specific discussions, or generally to allow solo skydiving on reasonable terms." (FAA Exhibit 2, Item 7, p. 8). It indicates that the parties are currently undertaking necessary actions to allow solo jumps. Finally, in regard to Allegation 7, Paragon suggests that the Appeal "is misdirected, and not actually responsive to the reasoning set forth by FAA. The Director's ruling was not specifically predicated on the definition of an air tour or a suggestion that Paragon's operations should be defined as an air tour." It states it believes the Director was correct in finding Paragon similarly situated to air tour operators (FAA Exhibit 2, Item 7, p. 9).

The Associate Administrator re-examined the record, including the DD, the administrative record, and the pleadings, and affirms in part and overrules in part the DD. Specifically, the Associate Administrator affirms the DD regarding Allegations 1, 3, and 6. In terms of Allegation 7 and the concept of similarly situated users, the Associate Administrator finds that Director erred in his determination and overturns the finding. Consequently, reconsideration was given to those issues where the overturned finding impacted the Director's analysis. The Associate Administrator also evaluated the additional information provided by ADOT in response to the Director's order concerning Allegations 2, 8, 9 11 and 13, as discussed in Section VII. *Preliminary Issues* below. The Associate Administrator finds that ADOT did not violate Grant Assurance 22 regarding Allegations 2, 8, 9, 11 and that it is taking necessary corrective action in regard to Allegation 13.

In summary the Associate Administrator upholds the Director's findings that the sponsor is in violation of Grant Assurance 22 based on Allegations 1, 3, and 6.

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<sup>2</sup> "Products and completed operation" and "products completed operation" are used interchangeably.

## II. SUMMARY OF THE DIRECTOR'S DETERMINATION

The Director reviewed the three issues discussed below:

**Issue 1 – *Whether the State of Arizona violated Grant Assurance 23, Exclusive Rights, by offering similarly situated tenants on the Airport more favorable rights and privileges than those offered to Paragon.***

In regard to Issue 1, the Director stated “Since Paragon still has access at the Airport, the Director is unpersuaded there is any exclusive right violation based on Paragon’s claims.” The Director did not provide a detailed analysis of this Issue and found that the ADOT was not in violation of Grant Assurance 23 (FAA Exhibit 2, Item 1, p. 10).

**Issue 2 – *Whether the State of Arizona violated Grant Assurance 22, Economic Nondiscrimination, by imposing unjustly discriminatory lease terms on Paragon.***

The Director analyzed 15 specific allegations under Issue 2. He found violations of Grant Assurance 22, in Allegations 1, 3, 6, and 7 discussed below:

***Allegation 1. Whether requiring skydiving liability insurance that is not commercially available, or available at reasonable terms, violates Grant Assurance 22.*** The Director found that the skydiving insurance requirement is unreasonable, and a violation of Grant Assurance 22. The Director referenced the Phoenix Airport District Office (ADO) survey of insurance coverage and the statement of the aviation insurance owner (Ms. Amey’s statement) in making this determination as well as previous FAA determinations. The Director stated, “Paragon has provided sufficient evidence to show that no reasonable skydiving liability insurance is available.” (FAA Exhibit 2, Item 1, p. 12).

***Allegation 3. Whether requiring the “Products-Completed Operations” insurance violates Grant Assurance 22.*** The Director found “ADOT has not provided sufficient evidence or an adequate explanation why a \$5 million Products and Completed Operations insurance policy is a reasonable requirement for a commercial skydiving operation.” He found the ADOT’s lease abandonment argument not credible and found this constituted a violation of Grant Assurance 22 (FAA Exhibit 2, Item 1, p. 14).

***Allegation 6. Whether restricting Paragon’s commercial skydiving operations to tandem skydives is unreasonable and violates Grant Assurance 22.*** The Director found that ADOT’s lease term restricting skydiving to tandem jumps was inconsistent with Grant Assurance 22. The Director did note that ADOT was willing to negotiate with Paragon to allow solo jumps and directed ADOT to do so (FAA Exhibit 2, Item 1, p. 16).

***Allegation 7. Whether imposing a ten percent gross receipts fee on Complainants’ retail sales when similarly situated operators are charged 1.5 percent violates Grant Assurance 22.*** The Director found “ADOT’s interpretation that only ‘air tour flights’ are entitled to the low 1.5% fees is unjust, unreasonably discriminatory and violates Grant Assurance 22.” The Director referenced findings provided by the State of Arizona’s Office of Civil Rights that indicated the 10% rate was not in accordance with the Arizona Administrative Code (AAC), as well as

recommendations by ADOT's Airport manager to charge the 1.5% rate (FAA Exhibit 2, Item 1, p. 18).

The Director determined that it required additional information from ADOT regarding Allegations 2, 8, 9, 11 and 13. For Allegations 2, 11, and 13 the Director indicated that if the information requested substantiated ADOT's claims, ADOT would be found not in violation of its grant assurances specific to these allegations. For Allegations 8 and 9, the Director found that Paragon had not met its burden of proof to find ADOT in violation. He did, however, request additional clarifying information from ADOT.

The Director analyzed Allegations 4, 5, 10, 12, 14 and 15 found that ADOT did not violate its grant obligations in relation to these allegations (FAA Exhibit 2, Item 1, pp. 14-15, 21-22). These were not discussed in the Appeal.

***Issue 3 – Whether the State of Arizona violated the AHTA by requiring payment of five percent of Paragon's gross receipts of skydiving sales to the State.*** The Director determined "Paragon has not provided sufficient evidence to demonstrate a violation of the AHTA. There also is no evidence to suggest that the gross receipt fees are allocated to other State of Arizona governmental accounts. Consequently, this fee appears to be appropriate." The Director determined that ADOT was not in violation of Grant Assurance 23 or the AHTA (FAA Exhibit 2, Item 1, p. 23).

### **III. PARTIES**

#### **The Respondent and Appellant**

The Grand Canyon National Park Airport (GCN) is owned by the State of Arizona and operated through ADOT as a public-use airport located in Tusayan, in unincorporated Coconino County, Arizona. It is located approximately seven (7) miles from the South Rim of the Grand Canyon. As of the date of the DD, the Airport accommodated commercial air services, scenic tours, charter flights, and military operations. The Airport had 52,144 aircraft operations for the twelve months ending August 31, 2019 (FAA Exhibit 1, Item 16).

The development of the Airport was financed in part with FAA Airport Improvement Program (AIP) funding, authorized by the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47101, et seq. Between 1982 and 2020, the Airport received approximately \$61.8 million in AIP funding (FAA Exhibit 1, Item 20). Thus, ADOT is obligated to comply with the FAA sponsor grant assurances and related Federal law, 49 U.S.C. § 47107.

The Federal Government also conveyed Federal surplus property under Section 16 or Section 23 to the State of Arizona for the Airport (FAA Exhibit 1, Item 16). ADOT is obligated to comply with the covenants included in any Federal deeds of conveyance.

ADOT appealed the DD.

## **The Complainant and Appellee**

Paragon Skydive, LLC is an Arizona limited liability company formed by Jason Theuma. In August 2013, shortly after establishing Paragon Skydive, Mr. Theuma applied to ADOT to open a commercial skydiving operation on the Airport (FAA Exhibit 1, Item 1, p. 2). Paragon became a commercial aeronautical user at the Airport in March 2016 (FAA Exhibit 1, Item 1, p. 1).

## **IV. PROCEDURAL HISTORY**

1. Paragon filed a Part 16 Complaint against the State of Arizona, Arizona Department of Transportation (ADOT) on December 16, 2019 (FAA Exhibit 1, Item 1).
2. FAA filed a Notice of Docketing on January 16, 2020 (FAA Exhibit 1, Item 2).
3. ADOT filed a Motion to Dismiss the Complaint of Paragon Skydive, LLC on April 20, 2020 (FAA Exhibit 1, Item 6).
4. Paragon filed Complainants' Opposition to Respondent's Motion to Dismiss on May 11, 2020 (FAA Exhibit 1, Item 7).
5. ADOT filed a Reply in Support of Motion to Dismiss the Complaint of Paragon Skydive, LLC, dated June 19, 2020 (FAA Exhibit 1, Item 9).
6. FAA issued Order for Extension of Time for Respondent to File Answer, dated October 8, 2020 (FAA Exhibit 1, Item 13).
7. On January 21, 2022, the Director's Determination was issued that found the State in violation of Grant Assurance 22 and ordered ADOT to submit a Corrective Action Plan (FAA Exhibit 2, Item 1).
8. On April 5, 2022, the State appealed the Director's Determination (FAA Exhibit 2, Item 6) and filed a Corrective Action Plan with additional information requested by the Director (FAA Exhibit 3, Item 6A).
9. On April 25, 2022, Paragon submitted its response to the Notice of Appeal (FAA Exhibit 2, Item 7).
10. On June 17, 2022, ADOT filed a Motion for Leave to File a Responsive Reply in Opposition to the Complaints Reply to Notice of Appeal (FAA Exhibit 2, Item 8).
11. On June 22, 2022, Paragon filed its Reply to the Respondent's Motion for Leave to File a Surreply (FAA Exhibit 2, Item 9).
12. On June 23, 2022, FAA filed a Notice of Extension of Time (FAA Exhibit 2, Item 10).
13. On July 5, 2022, ADOT filed its Responsive Reply in Opposition to Complainant's Reply to Notice of Appeal (FAA Exhibit 2, Item 11).

14. On July 15, 2022, Paragon filed its Surreply to the Respondent's Responsive Reply in Opposition to Complainant's Reply to Notice of Appeal (FAA Exhibit 2, Item 12).

All other notices and orders are included in the Administrative Record FAA Exhibit 1 and Exhibit 2.

## V. BACKGROUND

August, 2013	Paragon requested that ADOT allow it to operate commercial tandem skydiving at the Airport.
June 29, 2015	The FAA performed an inspection at the Airport to evaluate the feasibility of integrating skydiving into ground and flight airport operations.
September 17, 2015	The FAA issued its Safety Risk Assessment report (Report). The Report identified actions to be taken by the Airport to mitigate risks associated with skydiving. The FAA concluded that if the mitigation efforts were implemented, "it is feasible from a safety perspective to introduce parachuting operations" at the Airport (FAA Exhibit 1, Item 1, Exhibit 5, pp. 2-3).
March 4, 2016	Paragon executed a lease with ADOT, which provided Paragon the right to begin skydiving operations at the Airport. The initial lease term expiration was December 31, 2016. Over the next two years, the parties signed a total of six (6) lease amendments.
January 31, 2018	The parties executed the 2018 Lease with a term through January 31, 2021. The lease also allowed for two one-year extensions beyond the original lease term (FAA Exhibit 1, Item 5, pp. 4-6). The 2018 lease includes the terms and conditions that Paragon alleges constitute violations of the grant assurances.

## VI. THE APPEALS PROCESS

A party adversely affected by a DD may, in cases such as this, file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination [14 CFR § 16.33(c)]. The review is limited to an examination of the DD and the administrative record upon which such determination was based. The Associate Administrator does not consider new allegations or issues on appeal unless finding good cause as to why the new issue or evidence was not presented to the Director. [14 CFR § 16.33(f)]. On appeal, the Associate Administrator will consider (1) whether the findings of fact are supported by a preponderance of reliable, probative, and substantial evidence contained in the record; (2) whether the conclusions were



made in accordance with law, precedent, and policy; and (3) whether there are questions on appeal that are substantial; and (4) whether any prejudicial errors occurred [14 CFR § 16.33(e)].

## VII. ISSUES

ADOT raises four (4) issues on Appeal that correspond to Allegations 1, 3, 6, and 7 under Issue 2 from the DD, as follows:

**Issue One** – Whether the Director erred when he indicated ADOT only provided one skydiving insurance provider and when he relied upon the Part 13 complaint finding and the unsworn statement of Ms. Amey to find the skydiving insurance requirement unreasonable (Allegation 1) and in violation of Grant Assurance 22.

**Issue Two** – Whether the Director erred when he determined the Products Completed Operation insurance requirement to be unreasonable (Allegation 2) and in violation of Grant Assurance 22 without considering ADOT's primary reason for the insurance coverage.

**Issue Three** – Whether the Director erred when he found ADOT's lease restriction on solo jumps (Allegation 6) a violation of Grant Assurance 22.

**Issue Four** – Whether the Director erred when he found Paragon similarly situated to air tour operators and determined the disparity in the fee on gross receipts unreasonable (Allegation 7) and in violation of Grant Assurance 22.

## VIII. PRELIMINARY ISSUES

The Associate Administrator also determined that several issues tangential to the arguments on Appeal should be addressed individually and preliminarily to the analysis of the issues noted above.

### PRELIMINARY ISSUE – SIMILARLY SITUATED

The Director determined that Paragon was similarly situated to air tour operators for purposes of allegations related to Grant Assurance 22. The Director states "Commercial skydiving operations and air tour operations make similar, if not identical, use of the airport facilities. Both are commercial operations open to the public and use the same airport services. In addition, both are 'commercial operators' within the scope of FAA's definition." (FAA Exhibit 2, Item 1, p. 17). In its original pleadings and the Appeal, ADOT reiterates that Paragon and air tour operators are not similar with regard to the type of lease, type of operating certificates, and the definition of air tour operators versus non-air tour operators.

The Associate Administrator recognizes that the Director has discretion to determine if two aeronautical users are similarly situated in association with Grant Assurance 22. The Associate Administrator further notes that the specific application of similarly situated must be evaluated in light of the specific situation and allegations of unreasonableness under Grant Assurance 22. For example, in prior cases, the Director has determined that signatory air carriers and nonsignatory

air carriers<sup>3</sup> are not similarly situated when considering different lease terms. In addition, the FAA has found that a full-service fixed based operator (FBO) and an FBO that provides limited services are not similarly situated<sup>4</sup> related to the specific size of its leasehold and use of airport facilities. The FAA has also noted the difference between a ground lease and a terminal lease<sup>5</sup> that would allow for different lease terms based on the level of investment in the airport.

The Associate Administrator agrees with ADOT that the Director's application of the similarly situated concept was applied too broadly in this case and did not account for certain differences between types of commercial operators that, in certain circumstances, would include distinctions that could justify a different treatment at some level. Here, Paragon references two specific users – Grand Canyon Airlines (GCA) and Westwind Air Service (Westwind) – as evidence of allegedly inequitable treatment among commercial users. In the case of GCA, it is clear that it is not similarly situated to Paragon because it has a ground lease (FAA Exhibit 1, Item 6, Exhibit 4) and Paragon has a terminal lease. GCA has constructed its own terminal and has a much larger investment at the Airport (and thus has different lease terms), which is a solid justification for different treatment.

Comparing Paragon to Westwind, both of which have a terminal lease (FAA Exhibit 1, Item 6, Exhibits 4 and 5), the Associate Administrator notes that they provide different aeronautical services. Westwind is an air tour operator that offers sightseeing tours of the Grand Canyon National Park in powered aircraft, while Paragon provides recreational tandem skydiving. Although a powered aircraft is used to transport the skydivers, the aeronautical activity itself is different. Further, although Westwind uses many of the same facilities on the Airport as Paragon (terminal, gates, ramp etc.), unlike Westwind, Paragon also uses a parachute drop zone (PDZ), access road to the PDZ, and a building to pack parachutes<sup>6</sup> which are essential to its aeronautical activity. Finally, on an operational level, skydiving uses the airport and airspace differently. Paragon has several letters of agreement with the Air Traffic Control Tower providing specifics on the operation and use of the airspace/airport that applies exclusively to skydiving.

Considering these circumstances, the Associate Administrator finds that it is within ADOT's authority to treat a skydiving operator differently when establishing lease terms, airport rates and charges, etc., so long as the different treatment is reasonable and does not serve as a basis to deny the skydiving operator access to the airport. Accordingly, the Associate Administrator

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<sup>3</sup> "The prohibition on unjust discrimination does not prevent an airport proprietor from making reasonable distinctions among aeronautical users, e.g., signatory and non-signatory carriers, tenants and non-tenants, commercial and non-commercial users, or in this case users that are based at the Airport and those that are not, such as transient users." (*R/T-182, LLC v. Portage County Airport Authority*, FAA Docket No.16-05-14, DD, p. 12 (Nov. 1, 2006))

<sup>4</sup> *SPA Rental, LLC DBA MSI Aviation, v. Somerset - Pulaski County Airport Board*, FAA Docket No. 16-13-02, FAD (Aug. 4, 2016).

<sup>5</sup> Similarity of Facilities. If one FBO rents office and/or hangar space from the sponsor and another leases land from the sponsor and builds its own facilities, the sponsor would have justification for applying different rental rates and fee structures. Even though the operators offer the same services to the public, the cost and value of the facilities are different due to circumstance. (FAA Order, insert number, Airport Compliance Manual, p. 9-5)

<sup>6</sup> Ann Morgan for ADOT states "The operational challenges of allowing skydiving at the airport combined with the access road and back gate access afforded Paragon in the proposed lease and the opportunity cost of maintaining a drop zone justify the distinction in rental charges between the two uses." (FAA Exhibit 1, Item 1, Exhibit 25).

agrees with ADOT and finds that Paragon is not similarly situated to Westwind, Grand Canyon Air or other air tour operators using the Airport. The Associate Administrator will discuss this further below.

### **PRELIMINARY ISSUE – REQUEST FOR ADDITIONAL INFORMATION**

The DD directed ADOT to provide additional information for five of the allegations in the complaint (2, 8, 9, 11, and 13). The Associate Administrator has reviewed all the pleadings, including the April 5, 2022 filing<sup>7</sup> by ADOT, in response to the Director’s request for additional documentation (FAA Exhibit 2, Item 6A).

*Allegation 2 - Whether requiring a high level of aviation commercial general liability insurance coverage violates Grant Assurance 22.*

The DD notes: “The Record reflects that ADOT appears to be agreeable to change the Commercial General Liability insurance coverage to the amount of \$1M per occurrence/\$2M aggregate from Paragon (FAA Exhibit 1, Item 9, pp. 17-18).” However, the Director wanted additional information to substantiate this posture. “The Director directs ADOT to provide supporting documentation that it has reduced the amount of commercial general liability requirement to the \$2 million annual aggregate.” (FAA Exhibit 2, Item 1, p. 12).

The Associate Administrator finds that ADOT provided the executed amended terminal lease (FAA Exhibit 2, Item 6A, Exhibit AA) that demonstrates the Commercial General Liability (CGL) insurance was reduced to \$1 million per occurrence and \$2 million annual aggregate which addresses the Allegation 2. The Associate Administrator therefore finds that ADOT is in compliance with its obligations in relation to this allegation.

*Allegations 8 and 9. Whether imposing aircraft parking fees or gate access fees violates Grant Assurances 22 and 23.*

The Director determined Paragon did not meet its burden of proof. However, the Director did request additional information from ADOT. “Director requests ADOT to submit financial documentation to substantiate its written responses in Allegations 8 and 9 that (1) Westwind pays the aircraft parking fees, and (2) Grand Canyon Airlines, or ADOT’s new airline, pays gates fees.” (FAA Exhibit 2, Item 1, p. 19).

For Allegations 8, ADOT provided copies of invoices for Westwind through January 2022 (FAA Exhibit 2, Item 6A, Exhibit BB). The invoices do not show that Westwind was charged for overnight aircraft parking.<sup>8</sup> However, ADOT has indicated that Westwind rarely parks aircraft overnight. It is unclear if Westwind was not charged for overnight aircraft parking or if they did not have any aircraft park overnight during the time period. The Arizona

<sup>7</sup> The additional documentation was submitted under the label of a Corrective Action Plan (CAP). The FAA had suspended the CAP pending the outcome of the FAD as part of its extensions order (FAA Exhibit 2, Items 3 and 5). However, the additional documentation provided was analyzed by the Associate Administrator.

<sup>8</sup> Invoices include terminal rent, landing fees, gate fees, and retail sales and air tour sales fees only. No fees are shown for overnight aircraft parking or terminal ramp parking (FAA Exhibit 2, Item 6A, Exhibit BB).

Administrative Code (AAC) § 17.2 does not have a specific parking rate for commercial aircraft parking areas (both Westwind and Paragon have commercial service aircraft under the AAC definitions and presumably do not park aircraft in the noncommercial parking areas). The ADOT Senior Auditor that conducted a review of fees charged to Paragon under the previous lease stated, “While not specifically defining a parking fee, the [Municipal Code] § R17-2-101 defines ramps and ramp fees.” Further, he noted, “The AAC contains an exclusion from these fees if an entity is considered air tour operator under Commercial use ramp fees” (FAA Exhibit 1, Item 1, Exhibit 60). A review of the AAC clearly states that the terminal ramp fees do not apply to air tour operators. ADOT did not argue that Westwind was exempt; however, ADOT indicated that Westwind is charged if the aircraft remain overnight, which is infrequent. In any case, whether or not ADOT charges aircraft parking fees to Westwind is immaterial here. Westwind is not similarly situated to Paragon as discussed above. ADOT is permitted to charge different fees to different types of operators, and the AAC provides an exemption to air tour operators for terminal parking ramp fees. Further, Paragon’s new lease recognizes that the AAC may be updated in the future to clarify the parking fee rate for commercial aircraft parking that are not air tour operators (FAA Exhibit 1, Item 1, Exhibit 40). The Associate Administrator finds that ADOT did not violate its grant assurances regarding Allegation 8.

For Allegation 9, ADOT provided an Affidavit from the Airport Manager (FAA Exhibit 2, Item 6A, Exhibit CC) indicating that GCA has a ground lease and built its own terminal and thus does not use gates within the terminal or pay gate fees. Paragon claims that the GCA loads and unloads passengers on the ramp and that they enter through a gate. It provided a photograph of its GCA aircraft parked on the ramp at night. It is unclear from the record if GCA is using an airport gate (either in the terminal or outside the terminal) or its own gate for its passengers to regularly access the terminal ramp.<sup>9</sup> However, the point is moot because GCA is not similarly situated to Paragon and may be charged different fees. The Associate Administrator finds that ADOT did not violate its grant assurances regarding Allegation 9; however, she reminds ADOT of its responsibility to be transparent in its application of the rates described in the AAC and published charges in accordance with FAA Order 5190.6B Chapter 18 Airport Rates and Charges.

*Allegation 11. Enter into good faith negotiations with Complainants to lease additional space on the Airport.*

The DD states, “the Director will dismiss this claim provided ADOT provides documentation that it is providing opportunities for Paragon to lease available airport property consistent with other similarly situated commercial aeronautical operators under Grant Assurance 22.” (FAA Exhibit 2, Item 1, p. 20).

For Allegation 11, ADOT addressed this allegation through the Affidavit of the Airport Manager (FAA Exhibit 2, Item 6A, Exhibit CC). ADOT states that it has two types of leases. Terminal leases are based on available space but ground leases must be bid on through a Request for Proposal (RFP) process. For a terminal lease, ADOT provides a map of the terminal space available for lease. It notes that there is no space that is contiguous to

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<sup>9</sup> The AAC definition of an airport gate indicates that the access may be through a fence or a building.

Paragon's current space. ADOT states that it cannot relocate other existing tenants to provide Paragon with additional space adjacent to its existing location. Further, it is not preventing Paragon from renting the additional space that is available in the terminal (FAA Exhibit 2, Item 6A Exhibit CC p. 2).

In terms of a ground lease, ADOT states that it has put out RFPs in the past (2014, 2015 and 2019) that Paragon could have bid on, but did not. Further, it intends to put out another RFP in the spring of 2022 (note this information was provided in April 2022). Finally, it states that Paragon has shown interest in a specific parcel. ADOT is currently cleaning out the building on the parcel and intends to put it out for RFP. ADOT states that Paragon will have the opportunity to bid on this parcel along with any other tenant that chooses to do so (FAA Exhibit 2, Item 6A, Exhibit CC, pp. 2-3).

The Associate Administrator finds that ADOT has provided the information requested by the Director. ADOT has available space within the terminal that Paragon could lease if it chose to do so. Reasonable access under Grant Assurance 22 does not require a sponsor to provide space in the exact location a tenant wishes.<sup>10</sup> Further, the RFP process for ground leases is a standard process employed by airports to ensure the highest and best use of its airport property. The Director referenced the similarly situated standard; however, as discussed above, the Associate Administrator disagrees that Paragon is similarly situated to the air tour operators. Nonetheless, the Associate Administrator finds ADOT has demonstrated that it has provided reasonable access to Paragon to lease additional space available in the terminal or through a ground lease via the RFP process and is not in violation of Grant Assurance 22 in relation to Allegation 11.

*Allegation 13. Eliminate the requirement from the Lease that Complainants report the hiring of a new employee to the State within two hours.*

The DD states, "the Director will dismiss this claim when ADOT submits its supporting documentation to the FAA that the security reporting requirement is, or will be, consistent between all of the aeronautical tenants."

In terms of Allegation 13, the Affidavit from the Airport Manager (FAA Exhibit 2, Item 6A, Exhibit CC) states that ADOT is in the process of amending all leases to ensure that the security reporting requirements are the same for all tenants. It indicates that it will notify the FAA once all the leases have been amended as part of the Corrective Action Plan. The Associate Administrator finds this action by ADOT is a reasonable step in response to this allegation and to ensure compliance with its Federal obligations.

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<sup>10</sup> "Grant assurance 22, Economic Nondiscrimination, obligates the airport sponsor to provide airport access. It does not obligate the airport sponsor to provide specific hangars or hangar types. Nonetheless, the airport sponsor does have an obligation to make available suitable areas or space on reasonable terms to those who are willing and otherwise qualified to offer flight services to the public or support services to aircraft operators." [See *Thermco Aviation, Inc., and A-26 Company v. City of Los Angeles, Los Angeles Board of Airport Commissioners, and Los Angeles World Airports*, FAA Docket No. 16-06-07, (June 21, 2007) (Director's Determination).]

## **PRELIMINARY ISSUE – ADDITIONAL PLEADINGS**

On June 17, 2022 ADOT filed a *Motion For Leave To File A Responsive Reply That Addresses the Complainant's Reply to Appeal* (FAA Exhibit 2, Item 8) requesting 14 additional days to file a response to the Complainant's Reply to the Appeal. ADOT offered one example to demonstrate that a response was necessary. On June 22, 2022, Paragon objected to the motion for leave, citing that Part 16 does not specifically allow for additional pleadings, claiming that filing this motion seven weeks after the Paragon's Reply to the Appeal was simply a tactic to delay the proceedings, and finally disputing the one example demonstrating the justification for the response (FAA Exhibit 2, Item 9). It also claimed the right to respond to ADOT's response, should the additional pleading be allowed by FAA.

FAA acknowledges that while the Part 16 regulations do not explicitly allow for a response brief to be filed, they do not explicitly prohibit it either. The Associate Administrator did not directly address the motion for leave or the objection but had filed a Notice of Extension of Time (FAA Exhibit 2, Item 10) separately from these pleadings in order to provide adequate time to make a decision. In the interim, ADOT filed its Response (FAA Exhibit 2, Item 11) and Paragon its Surreply (FAA Exhibit 2, Item 12). The Associate Administrator has reviewed and considered all of the additional pleadings as part of this decision.

## **PRELIMINARY ISSUE – NEW EVIDENCE BY APPELLANTS**

### **1. Paragon Position on New Evidence**

Paragon, in its Reply to the Respondent's Notice of Appeal (FAA Exhibit 2, Item 7), claims that ADOT provided the following new evidence in its Appeal:

- a) Opposition to the statement of Ms. Amey – Paragon states “Additionally, Amey’s statement was docketed nearly two years ago, and at that time Arizona could have raised any objections to its consideration in this proceeding – but it did not do so.” (FAA Exhibit 2, Item 7, p. 4).
- b) Affidavit of Jon L. Downey – Paragon states “Further, the Downey affidavit constitutes yet another example of a belated effort by the Respondent to introduce new evidence.” (FAA Exhibit 2, Item 7, p. 5).
- c) USPA insurance as an additional source of skydiving insurance - It states “the Respondent attempts to undercut Paragon’s position and the Director’s conclusion that the skydiving liability coverage demanded by Arizona is not available by drawing FAA’s attention to policies available through the United States Parachute Association (“USPA”). See Appeal, at 11-12. Again, the Respondent improperly is attempting to introduce new evidence without a showing of good cause.” (FAA Exhibit 2, Item 7, p. 5).

### **2. ADOT's Response to the Reply**

ADOT submitted a petition to allow the new evidence as part of its Response to the Reply to the Notice of Appeal with the justification that the USPA insurance was brought to its attention through the Downey Affidavit. Further, it claims that the Affidavit is specifically in response to

the DD and therefore could not have been provided previously (FAA Exhibit 2, Item 11). ADOT's response did not address Paragon's assertion that ADOT's opposition to Ms. Amey's statement was a new issue.

### **3. Paragon's Surreply to the Response**

Paragon's Surreply to the ADOT's Response, states, "Further, the Respondent effectively concedes that the affidavit addresses issues that already were known to the Respondent, and thus could and should have been briefed at an earlier time." (FAA Exhibit 2, Item 12, p. 3).

### **4. Associate Administrator's Decision on New Evidence**

The FAA's process for considering a new issue or evidence in an appeal or reply to an appeal is stated in 14 CFR § 16.33(f)(1)-(3):

Any new issues or evidence presented in appeal or reply will not be considered unless accompanied by a petition of good cause found as to why the new issue or evidence was not presented to the Director. Such a petition must:

- (1) Set forth the new matter;
- (2) Contain affidavits of prospective witnesses, authenticated documents, or both, or an explanation of why such substantiation is unavailable; and
- (3) Contain a statement explaining why such a new issue or evidence could not have been discovered in the exercise of due diligence prior to the date on which the evidentiary record closed.

The Associate Administrator does not consider ADOT's objection to Ms. Amey's statement a new issue because ADOT is responding directly to the DD and the alleged administrative mistake of referring to the statement as an Affidavit. ADOT's objection to the Director's reliance on Ms. Amey's statement is analyzed in this decision.

The Associate Administrator, however, finds that ADOT did not present good cause as to why the evidence regarding USPA insurance and the Mr. Downey Affidavit were not presented to the Director as required under 14 CFR § 16.33. ADOT could easily have mentioned USPA member insurance in the initial pleadings. The record shows that ADOT's lawyer was aware of the USPA member insurance stating "Where the low level of insurance provided by the United States Parachute Association may be adequate in California, we think it unlikely that the FAA will interpret or apply the Grant Assurances in a manner that subjects the GCNPA to losses that it cannot sustain financially." (FAA Exhibit 1, Item 1, Exhibit 39). Therefore, to claim that it was not aware of the insurance until the Mr. Downey Affidavit is not supported by the record. Further, the insurance provided by USPA does not cover a skydiving company but only individual skydivers. However, if ADOT believes that USPA insurance for individuals would be a satisfactory substitute for skydiving liability insurance then it should negotiate this requirement with Paragon.

In addition, ADOT does not demonstrate that its expert's statement could not have been obtained previously but only claims that it was "necessary to provide clarification to the decisions made by the Director during the Appeal." (FAA Exhibit 2, Item 11, p. 7). However, a review of the Appeal suggests that the Affidavit was in response to Ms. Amey's statement which was part of the initial pleadings. The Appeal states, "In order to address the several misrepresentations that the Complainants' 'Aviation insurance company owner' provided in the Amey Statement, Mr. Downey provides the following more thorough context on how the insurance policies and coverages apply in aviation and skydiving operation industries..." (FAA Exhibit 2, Item 1, p. 10). A review of the Affidavit demonstrates that it provides information on insurance that may be available to Paragon, but does not reference any clarifications to the DD. The Affidavit could easily have been provided in the initial pleadings to attempt to refute the Complaint. Further, there is nothing to suggest that Mr. Downey or some other insurance expert was not available to provide a statement in the initial pleadings.

Even if the Downey statement was included in the analysis, the Associate Administrator agrees with Paragon that ADOT mischaracterizes the statements of Mr. Downey; he does not definitively state that jumper liability insurance or products and completed operation insurance to cover the packing of parachutes is available on reasonable terms to cover Paragon's activity. Therefore, the reference to the USPA insurance being available to individual jumpers and the Affidavit of Jon L. Downey (FAA Exhibit 2, Item 6, Exhibit A) will not be considered in this Decision.

## **PRELIMINARY ISSUE – ONLINE WAIVER AND RELEASE OF LIABILITY FORM**

### **1. ADOT's Position on Online Waiver and Release of Liability Form**

ADOT states in its Appeal that the online waiver used by Paragon is not sufficient to meet ADOT's insurance requirements. ADOT argues that the waiver does not cover the instructor or solo jumpers and does not specifically identify ADOT as well as the State of Arizona as protected parties. In addition, ADOT points to a state law that provides for a jury trial for any challenge to the waiver in the case of an incident. ADOT states, "the Director did not take into account the nuances and parameters of Arizona law that provides a waiver of liability does not provide the guaranteed protections presented in Paragon's online form" and states that the online waiver is not a replacement for skydiving insurance coverage. (FAA Exhibit 2, Item 6, pp 12-19). Finally, ADOT claims that the Associate Administrator should "take into account that the specific safety measure and protection for the Complainants and Respondent through use of liability waivers was determined to have been insufficient prior to and while addressing the Part 16 Complaint, which ultimately makes the skydiving operations an unacceptable level of risk for the airport." (FAA Exhibit 2, Item 11, p. 10).



## **2. Paragon Position on Online Waiver and Release of Liability Form**

Paragon states that it is working with ADOT to revise the online waiver as necessary to cover the instructor and solo jumps. Further, it states, “Additionally, to the extent that Arizona asserts that a waiver ultimately may not be sufficient to shield the airport from claims under state law (See Appeal, at 14), FAA previously has established that such risks are not a basis for restricting operations.” (FAA Exhibit 2, Item 7, p. 6). Paragon also states, “FAA and not a sponsor has the final authority to determine if safety precautions are needed at an airport – even assuming for present purposes that a liability waiver benefiting the sponsor could be considered to be a safety precaution.” (FAA Exhibit 2, Item 12, p. 4).

## **3. Associate Administrator’s Decision on Analyzing the Waiver**

While the Director mentions Paragon’s position on the online waiver in his discussion of the liability insurance requirement (Allegation 1), he does not make any determination on the effectiveness or relevancy of the waiver or infer that it is a replacement for the insurance required by the lease. The Director appropriately based his finding solely on the skydiving “jumper” liability insurance being not available on reasonable terms and not on the idea that the waiver would serve as a substitute. The Director found “Paragon has provided sufficient evidence to show that no reasonable skydiving liability insurance is available. Therefore, requiring Paragon to obtain such insurance is an unreasonable term under grant assurance 22.” (FAA Exhibit 2, Item 1, p.12). The waiver is not analyzed any further in this Decision. The Associate Administrator does, however, recognize that the parties are appropriately working together to improve the online waiver.

## **IX. ANALYSIS**

### **A. Issue One – Whether the Director erred when he indicated ADOT only provided one skydiving insurance provider and when he relied upon the Part 13 complaint finding and the unsworn statement of Ms. Amey to find the skydiving insurance requirement unreasonable (Allegation 1) and in violation of Grant Assurance 22**

#### **1. ADOT’s Position:**

ADOT claims on Appeal that the Director erred in the following three instances:

- a) The Director did not consider that ADOT identified two insurance companies that offer liability insurance for skydiving including Prime Insurance and XInsurance (FAA Exhibit 2, Item 6, pp. 5-6).
- b) The Director inappropriately relied on the Phoenix ADO’s Part 13 preliminary investigation which concluded skydiving liability insurance is not available (FAA Exhibit 2, Item 6, p. 6).

- c) The Director relied on the “unsworn statement”<sup>11</sup> of Ms. Amey provided by the Complainant and incorrectly referred to it as an affidavit. In addition, ADOT claims that Ms. Amey provided an analysis of a commercial liability insurance policy provided by Paragon that came to the “expected conclusion” that skydiving was excluded. ADOT suggests that “Ms. Amey did no further research to determine whether a skydiving insurance policy existed, including outside the ‘aviation insurance market,’ whether past or present.” (FAA Exhibit 2, Item 6, pp. 7-8).

## **2. Paragon’s Position:**

- a) In response to ADOT’s claim that it provided two companies that offer skydiving insurance in the original pleadings, Paragon states that the additional insurance provider referenced by ADOT was only in passing and it provided a link to the website with no explanation in its Reply. Paragon states that XInsurance is an insurance broker, and its website is powered by a sister company of Prime Insurance (the other insurance carrier identified by ADOT that offers skydiving insurance). It asserts that this is not an “alternative source” of skydive liability insurance (FAA Exhibit 2, Item 7, p. 2).
- b) In response to ADOT disputing the Director’s reliance on the ADO’s Part 13 investigation, Paragon argues that this is a routine practice<sup>12</sup> and that “Arizona offers no authority for the proposition that the Director, in decision-making, may not rely on research previously performed by the agency.” (FAA Exhibit 2, Item 7, p. 3).
- c) Paragon states it never claimed Ms. Amey’s statement was an affidavit<sup>13</sup> and that “there is no basis for FAA to disregard the statement.” Paragon indicates that the statement is based on Amey’s experience working in the insurance industry and not on research. Further, it claims the policy reviewed by Ms. Amey, was the Prime policy provided by ADOT as the example that would meet the skydiving liability insurance requirement in the lease (FAA Exhibit 2, Item 7, pp. 3-4).

## **3. Associate Administrator’s Analysis:**

Having examined the arguments of ADOT, the response by Paragon, and the administrative record, as well as additional pleadings from both parties, the Associate Administrator affirms the DD that ADOT’s skydiving liability insurance requirement is unreasonable and a violation of Grant Assurance 22.

- a) The Associate Administrator agrees with Paragon<sup>14</sup> in questioning if XInsurance identified by ADOT is truly an alternative source of insurance as it is a broker and is

<sup>11</sup> ADOT claims that Arizona State laws regarding evidentiary status take precedence over Federal standards and that the unsworn statement is not signed as true under penalty of perjury. Under the Part 16 process, the Director has the authorization to make determinations as to the credibility of any evidence provided in the pleadings.

<sup>12</sup> Paragon references *Forman v. Palm Beach County*, FAA Docket No. 16-17-13, Final Agency Decision, p.8 (Jan. 10, 2021) as an example of when the Director relied on information discovered during the Part 13 process.

<sup>13</sup> Paragon notes the Director may have incorrectly characterized Amey’s statement as an affidavit – a minor administrative error regarding which they would have no objection to a ministerial correction, which should have no substantive consequences.” (FAA Exhibit 2, Item 7, p. 3).

<sup>14</sup> Paragon indicates that Xinsurance’s website says it is powered by Evolution Insurance Brokers, which along with Prime Insurance, is under the umbrella company Prime Holdings Insurance Services. (FAA Exhibit 2, Item 7, p. 2)

associated with Prime Insurance. An internet search and a review of the two companies' websites indicates that the same individual is on the leadership team for both entities and the office addresses are identical, further supporting Paragon's claim that the two do not represent independent sources of insurance. The Director has stated (in response to noncompliance with the Director's Order 16-11-06), "Even if the sole insurance broker identified by the County is indeed willing and able to underwrite such an insurance policy, because there appears to be only one underwriter actually willing to write a policy that meets the County's standards, there is no competition in the insurance market for such a policy. Mr. Bodin would therefore be unable to negotiate or comparison shop with regard to either the policy's terms or price, both of which the insurance broker could set at any level it wished." (FAA Exhibit 1, Item 1, Exhibit 35, p. 3). The Director's Order in the Bodin case is relevant precedent here because the two companies provided by ADOT do not appear to be independent underwriters or provide the competition necessary to demonstrate that the Paragon would be able to "comparison shop".

The Complaint claims that Paragon contacted the insurance broker provided by ADOT and requested a quote and the name of one of its clients that has jumper insurance, but the insurance agent did not provide either. Although the record does not provide any direct evidence of the response from the specific broker referred by ADOT, there is direct evidence that Paragon contacted its own insurance broker. Although not referenced in the DD, in an email response to Paragon, Aerospace Risk Management Group (ARMG) states, "The 'Liability for Jumpers coverage' is not available or offered by domestic companies. Our agency works with all the underwriters in the U.S. and we are being told that this coverage is not available. We have spoken to the USPA in an effort to get their perspective on this matter and their comments echo what we have found to be true in the market place." ARMG further states that they represent 20 skydiving companies in the U.S. (FAA Exhibit 1, Item 11, Exhibit 43). ARMG indicates that it works with all underwriters and the insurance is not available.<sup>15</sup>

Although the Director did state in the DD that ADOT only provided one example of an insurance provider, the autonomy of the second source is unclear at best. ADOT's referencing two insurance brokers/companies that are associated with each other does not demonstrate that the skydiving liability insurance is available in the insurance marketplace where there is competition to sufficiently meet reasonableness standards. Paragon also provides evidence from its insurance broker that it is not available.

- b) The Associate Administrator agrees with Paragon that information gathered by the FAA under a Part 13 or informal complaint may be used by the Director in making its Part 16 determination. Section 16.29(b)(1) of the Part 16 regulations states, "The investigation may include ... review of the written submissions or pleadings of the parties, as supplemented by any informal investigation the FAA considers necessary and by additional information furnished by the parties at FAA request." (emphasis added).

The Associate Administrator notes that the Director did not base his decision entirely on the Part 13 investigation, but considered it in addition to other evidence in the pleadings.

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<sup>15</sup> The Prime Insurance website indicates it has an in-house underwriting group – Underwriters Direct Access (UDA) – that provides underwriting services to Prime Insurance. It is unclear whether it provides underwriting to brokers not associated with the Prime Insurance Holdings.

In addition, the details of the Part 13 complaint were entered into the record as part of the initial pleadings (FAA Exhibit 1, Item 1, Exhibit 47), further supporting its consideration in the Determination. The Associate Administrator finds that the Director did not err in considering the previous Part 13 investigation when making his determination.

- c) Upon review of the pleadings, the Associate Administrator confirms that the Complainant did not present Ms. Amey's statement as an Affidavit. In her statement, Ms. Amey states that she can testify to her statement, but that her statement is not an affidavit due to her inability to leave her house for purposes of notarization in the early months of the COVID-19 pandemic (April 2020). However, the Director's minor administrative error in referring to the statement as an Affidavit does not alter the contribution of the statement in support of the Determination. Ms. Amey's experience in the insurance industry is documented in her statement. Additionally, upon review of the pleadings, it appears that the lease reviewed by Ms. Amey was the sample provided by ADOT. Her statement refers to the lease she reviewed as PCL-00-01 Commercial Liability Policy which is attached to her statement (FAA Exhibit 1, Item 11, Exhibit 65). This same policy is referenced in the Complaint as "a 'sample policy' provided to ADOT by Parker Lindsey (Exhibit 30)." (FAA Exhibit 1, Item 1, p. 28). ADOT acknowledges that it provided a sample policy from Prime Insurance to Paragon and states, "The documents provided to you represent one example of a policy that would be acceptable to the State..." (FAA Exhibit 1, Item 1, Exhibit 31). It does not dispute that Exhibit 30 to the Complaint is the sample policy it provided.

ADOT's assertion that Ms. Amey reviewed a random irrelevant lease provided by Paragon is not supported by the pleadings. Her statement indicates that the example specifically excludes skydiving and is a premise liability policy, not a skydiving liability policy. Further, ADOT's suggestion that Arizona state law regarding evidence applies to the Part 16 process lacks merit. Under Part 16, the Director is authorized to assess the credibility of the evidence presented. The Associate Administrator finds that the Director did not err in accepting Ms. Amey's statement as evidence. The minor administrative error in referring to it as an Affidavit is noted and corrected by this Decision.

#### Summary

The Associate Administrator affirms the DD that skydiving liability insurance coverage as prescribed in the lease is not available on reasonable terms. While ADOT did mention two insurance brokers/providers in the initial pleadings, the Associate Administrator is not convinced that they represent two independent sources and therefore do not demonstrate a current competitive marketplace sufficient to pass the reasonability standard. Further, the Director correctly reviewed the Part 13 findings as part of his Determination. Finally, while Ms. Amey's statement is not an Affidavit, it is relevant for consideration by the Director. The cumulative evidence including Paragon's insurance broker's email response, the Part 13 investigation results, and Ms. Amey's statement support the DD that that the skydiving liability insurance requirement was unreasonable and a violation of Grant Assurance 22.

**B. Issue Two – Whether the Director erred when he determined the Products Completed Operation insurance requirement to be unreasonable (Allegation 2) and in violation of Grant Assurance 22 without considering ADOT’s primary reason for the insurance coverage.**

**1. ADOT’s Position:**

ADOT argues that the Director failed to consider all of the reasons for requiring products completed operations insurance coverage. Although a letter from ADOT’s attorney to Paragon states the reason for this insurance is to cover the costs if a tenant were to abandon the premises (FAA Exhibit 1 Item 11, Exhibit 7), the Motion for Summary Judgment and the Appeal state “ADOT’s primary reason for requiring this coverage is in the event an improperly maintained or packed parachute is determined to be the cause of an accident or incident.” Further, it states, “ADOT will agree to reduce this coverage from \$5M to the amount of \$1M per occurrence/\$2M aggregate to allow Complainant the opportunity to obtain a more reasonable rate for this coverage.” (FAA Exhibit 2, Item 6, pp. 20-21).

**2. Paragon’s Position:**

Paragon states, “coverage for products-completed operations would either serve no purpose, or would be impossible for Paragon to obtain for the identified risks, consistent with the record in this proceeding.” (FAA Exhibit 1, Item 7, p. 7).

**3. Associate Administrator’s Analysis:**

In an October 6, 2020 email, an Attorney for ADOT (FAA Exhibit 1, Item 11, Exhibit 7) provides an explanation to Paragon for requiring the products completed operation insurance as follows:

In response to your inquiry regarding whether the Products and Completed Operations endorsement to the Commercial General Liability (CGL) policy is appropriate for your client’s operations, please review and accept the State’s position, as follows. The CGL policy requirement is not intended to cover skydiving operations. Paragon Skydive does not provide liability coverage for skydiving. Every airport tenant is required to have a CGL policy for liabilities arising out of their ongoing operation as a tenant to cover issues arising from their presence and activities on the airport property. The Products and Completed Operations endorsement provides coverage in the case that a tenant abandons the premises and a liability arises from a hazard or condition that remains after the tenant has “completed” its work – a liability that does not arise from ongoing operations. Without a Products and Completed Ops endorsement, there is no insurance to cover the State in the event that a tenant abandons the property. In addition, the use of aircraft or watercraft does not affect this endorsement. (FAA Exhibit 1, Item 11, Exhibit 7.)

This is cited by the Director in the DD. However, in the Motion for Summary Judgment, which was not granted, and again in the Appeal, ADOT argues that the primary reason for requiring this endorsement is to cover liability from an incorrectly packed parachute. Conversely, ADOT’s own attorney’s assessment (above) about the applicability of the product and completed operation insurance to skydiving operations tends to align with Paragon’s position and its

insurance broker's assessment. ARMG states that this insurance is only available as part of a CGL policy, which specifically excludes coverage for any activities involving aircraft. It further explains that this type of insurance covers a "tangible product or work completed," and concludes, "Products and completed operations would not be applicable to any risk involving skydiving operations." (FAA Exhibit 1, Item 11, Exhibit 7).

In the Appeal, ADOT claims that parachute packing is a product and work that meets the definition provided by the insurance broker above and that the parachutes are packed on the ground and therefore would be a covered activity under the CGL (FAA Exhibit 2, Item 11, pp. 12-13). Paragon points out it does not manufacture, repair, or rent parachutes and therefore does not provide a tangible product. Further, the Associate Administrator notes that since Paragon offers tandem jumps only, the parachute never leaves the possession of a Paragon employee. This suggests that its activity may not be covered under the products completed operations insurance since this type of insurance covers liability once the product has left the place of business and is not in the possession of the company.<sup>16</sup> The applicability of this insurance to cover risk associated with Paragon's packing of parachutes activity is, at best, unclear.

In a Part 16, the burden of proof is on the Complainant. However, an airport sponsor has an obligation to demonstrate that its lease requirements are reasonable, applicable, and clear on why the requirement is necessary, particularly when the tenant is questioning its validity. The record demonstrates that ADOT has not been clear on the reason for requiring the insurance. If in fact its prime reason is to cover parachute packing, ADOT has not shown that the products completed operations insurance is reasonable or applicable<sup>17</sup> to a skydiving company that packs its own parachutes. In contrast, ARMG (Paragon's insurance broker) stated that this insurance is not applicable to Paragon's skydiving operation. ADOT has only attempted to argue against ARMG's assessment of applicability, but provides no evidence to refute it. If, however, the reason is to protect ADOT in case of a tenant abandoning the premises (coverage that is not exclusive to a skydiving company), this type of insurance may be reasonable. Indeed, a review of the GCA and Westwind leases (FAA Exhibit 1, Item 6, Exhibits 4 and 5) demonstrates that other tenants are required to secure products and completed operation insurance,<sup>18</sup> presumably to cover loss due to tenant abandonment as supported by ADOT's attorney in the citation above. Although the Associate Administrator disagrees with the Director's reasoning<sup>19</sup> for finding the insurance requirement unreasonable, she, in fact, finds ADOT's primary reason to cover parachute packing activities as presented in the Appeal unclear and not credible. As such, due to ADOT's ambiguous and suspect reasoning, the Associate Administrator affirms the overall determination of a grant assurance violation, however breaks with the Director's reasoning. As

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<sup>16</sup> A review of several insurance companies' websites (Hartford, EK Insurance, and Coverwallet) suggests that in order for products completed operations coverage to apply, the incident must occur away from the business location once the work has been completed or is not in the possession of the insured.

<sup>17</sup> Insurance requirements must be "relevant to the proposed activity, reasonably attainable, and uniformly applied." (*Skvdive Sacramento v. City of Lincoln, CA*, FAA Docket 16-09-09, DD, pp. 20, 22-25 (May 4, 2011)).

<sup>18</sup> The GCA and Westwind leases state a requirement of \$5 million in coverage in products and completed operation insurance and ADOT has offered to lower the requirement for Paragon to \$1 million. Since they are not similarly situated, this different treatment is acceptable, but its justification for the difference should be explained in its CAP.

<sup>19</sup> The Director found ADOT's tenant abandonment reason for requiring the coverage not creditable (FAA Exhibit 2, Item 1, p.14).

part of the CAP, ADOT needs to clearly state the purpose of the products completed operation coverage and demonstrate that the requirement is in fact applicable to the risk it is attempting to cover and is reasonable in light of the purpose and risk. As stated herein we find that requiring this coverage to insure against risks associated with the aeronautical activity itself is not justified.

**C. Issue Three – Whether the Director erred when he found ADOT’s lease restriction on solo jumps (Allegation 6) a violation of Grant Assurance 22.**

**1. ADOT’s Position:**

On Appeal, ADOT states that it “has cooperated with Complainants in their desire to perform solo skydiving operations, however, much work has been identified to be completed before approval to proceed with these operations.” (FAA Exhibit 2, Item 6, p. 23). ADOT argues that the Director failed to realize that the current Paragon business model was to offer primarily tandem jumps and that the ADOT is not restricting its ability to perform solo jumps. It states that it is currently working with Paragon to address action items necessary to permit solo jumps. Further, ADOT references a letter of agreement (LOA) dated June 1, 2017 and states, “ADOT has not unilaterally restricted Paragon’s commercial skydiving operations to only tandem skydives – a restriction placed by Paragon on itself when it commenced its operations.” (FAA Exhibit 2, Item 11, p. 15).

**2. Paragon’s Position:**

Paragon argues that ADOT’s Appeal “is not entirely clear what element of that decision is being challenged, nor what remedy the Respondent [ADOT] is requesting from the Associate Administrator.” Paragon confirms that it is working with ADOT to perform the necessary actions to allow solo jumps and points out that ADOT “does not dispute its obligations to continue those specific discussions.” (FAA Exhibit 2, Item 7, pp. 7-8). Further, it states that the LOA dated June 1, 2017 referenced by ADOT “requires Paragon to obtain written approval for each solo jump – and provides the Respondent unfettered discretion to deny solo jumps.” (FAA Exhibit 2, Item 12, p. 6).

**3. Associate Administrator’s Analysis:**

The Associate Administrator applauds the steps the parties are taking to allow future Paragon solo jumps and recognizes these as part of a corrective action plan to address the Director’s order. The Director determined that the lease terms restricted solo jumps and were therefore inconsistent with Grant Assurance 22. ADOT argues that Paragon never requested to remove the restriction from the lease term and, therefore, ADOT cannot be at fault for the restriction’s inclusion in the lease. However, the Associate Administrator disagrees. ADOT, as the airport sponsor, has the obligation to provide reasonable access to all types of aeronautical users. ADOT used the lease restriction to deny Paragon’s request for a solo jump for its promotional video. Even the June 2017 LOA that offered a pathway to allow solo jumps still requires approval by ADOT and still is seen as a restriction. As previous Director’s Determinations have noted, “the FAA judges compliance by an airport sponsor’s actions or inactions with respect to those

agreements or minimum standards.” (*Self Serve Pumps v. Chicago Executive Airport*, FAA Docket No. 16-07-02, Director’s Determination, pp. 31-32 (March 17, 2008)). In this case, ADOT took the action to restrict the solo jump and, regardless of the lease terms, that action was contrary to Grant Assurance 22. The Associate Administrator affirms the Director’s Determination and notes that ADOT appears to be moving toward compliance with the Director’s Order to allow for solo jumps in the future.

**D. Issue Four – Whether the Director erred when he found Paragon similarly situated to air tour operators and determined the disparity in the fee on gross receipts unreasonable (Allegation 7) and in violation of Grant Assurance 22.**

**1. ADOT’s Position:**

ADOT claims the Director erred in finding Paragon similarly situated to air tour operators because (1) Paragon does not meet the FAA or state definition of a commercial air tour operator, (2) Paragon holds a terminal lease while some air tour operators hold a land lease, (3) Paragon has been a tenant for six years while the air tour operator Grand Canyon is a 47-year tenant, and (4) Grand Canyon is a Part 135 operator and operates under the National Park Air Tour Management Act, while Paragon is a Part 91 operator (FAA Exhibit 2, Item 6, pp. 37-38).

ADOT also argues that Director erred by considering the Arizona State Civil Rights Office’s review of the fees charged to Paragon in terms of discrimination and compliance with the Arizona State Code. ADOT argues that this review is unrelated to FAA regulations and grant assurance requirements, and therefore the Director erred by considering this information.

ADOT claims that Paragon is not similarly situated with other air tour operators and, therefore, the fee on gross receipts is not in violation of Grant Assurance 22. ADOT states, “Director was incomplete in the assessment of the supporting and referenced information to make these conclusory findings.” (FAA Exhibit 2, Item 6, p. 38).

**2. Paragon’s Position:**

Paragon asserts that the Director correctly determined that Paragon is similarly situated to other air tour operators because they are both commercial operators under FAA’s definition of that term, and that they “make similar, if not identical, use of the airport facilities. ” Paragon refutes ADOT’s argument that the difference in the lease (terminal versus land lease) is enough to dispute the similarly situated operator finding. It suggests “on the basis that the prior decisions concerned entities allegedly more analogous than those at issue in this case, the Respondent provides no citations to authority that contradicts the Director’s conclusion that the requirements of Grant Assurance no. 22 are applicable in this case. ” Further, Paragon notes, “[ADOT] fails to address the Director’s conclusion that the more than 600% difference between the fees imposed on Paragon and the fee applicable to air tour operators is facially unjustified, independent of the specific lease terms for any tenant at GCNPA.” (FAA Exhibit 2 Item 7, p. 9).



### **3. Associate Administrator's Analysis:**

As discussed above, the Associate Administrator finds that the Director did err in finding Paragon and air tour operators similarly situated. Further, a review of the AAC and Paragon's 2018 lease reveals that the 10% fee is not on all gross receipts but on gross retail sales not including skydiving sales (FAA Exhibit 1, Item 1, Exhibit 40, p 13). Therefore, comparing the 10% on gross retail sales to the 1.5% on air tour sales is misguided. The Director, ADOT, and Paragon failed to clearly describe the difference between the gross retail sales, skydiving sales and air tour sales fees. The AAC prescribes the 1.5% fee for air tour sales and an "as negotiated" fee for other sales. The Paragon lease section 4F shows a flat rate of \$550 per month for skydiving sales which is considerably less than 10%<sup>20</sup> (note the prior lease used a 5% fee on skydiving and other retail sales). The 10% rate is only charged to Paragon's other retail sales (such as T-shirts and souvenirs). The Westwind invoices provided by ADOT (FAA Exhibit 2, Item 6A, Exhibit BB) show that Westwind is also charged 10% on other retail sales and 1.5% for its air tour sales. In the Reply, Paragon realizes its mistake and admits that some other tenants are paying the 10% rate on retail sales, but suggests that GCA is still not paying that 10% rate. A review of the tenant fees charged between July 2017 and June 2018 (FAA Exhibit 1, Item 7, Exhibit 64A) provided by Paragon in the pleadings shows a line item for "gift shop sales" under GCA. Presumably, this line item demonstrates that GCA is being charged some fee for other retail sales or "gift shop sales" in addition to its 1.5% charge for air tour sales, but does not specify the percentage.<sup>21</sup> However, the specific rate is irrelevant in this case, since the Associate Administrator has established that Paragon and GCA are not similarly situated and ADOT may negotiate a different fee.

The Associate Administrator finds that the Director did err in finding Paragon and air tour operators similarly situated and in finding that there was in fact an unreasonable disparity in the gross receipts fees charged to Paragon. As evaluated above, Paragon's claim of a "600% difference in the fees imposed on Paragon and the fee applicable to air tour operators" is not substantiated by the record. Lastly, the Associate Administrator confirms that while the 10% rate for gross retail sales is not unreasonable because it is charged to other tenants on the Airport, such a finding is immaterial because the parties are not similarly situated. The Associate Administrator finds that ADOT is not in violation of Grant Assurance 22 in relation to Allegation 7.

## **X. CONCLUSIONS AND FINDINGS**

The Associate Administrator finds the Director based his determination on the evidence, in accordance with law, policy and precedent and without prejudice, and finds the Director did not err in his findings that:

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<sup>20</sup> The monthly flat rate for skydiving sales is \$550. Estimating Paragon skydiving sales by multiplying the gate fees charged to Paragon (\$1 per skydiver) for 5 months (Feb 2018-June 2018) 365 times the retail cost of a jump as published on their website (starting as \$329) is equal to \$120,085 in sales. Dividing the flat rate for 5 months (5 x 550) 2,750 by the 120,085 in sales suggest that the actual fee charged to Paragon for skydiving sales was 2.29%.

<sup>21</sup> The Original GCA lease executed in 1979 included a gross sales percentage fee of 6% for the first \$500,000 in sales and a 4% thereafter. The original lease has been amended since that time (FAA Exhibit 1, Item 7, Exhibit 64D).

- 1) the skydiving liability insurance requirement in the lease is unreasonable and in violation of Grant Assurance 22 and
- 2) ADOT is in violation of Grant Assurance 22 for restricting solos jumps based on unreasonable lease terms.

The Associate Administrator affirms the overall finding of a violation of Grant Assurance 22 in regard to Allegation 3, and finds that ADOT has not been clear on the purpose of the products completed operation insurance regarding tenant abandonment, and further finds that the applicability of such insurance to Paragon's parachute packing activities is unreasonable. ADOT is directed to address this discrepancy in its corrective action plan.

The Associate Administrator finds that the Director did err in finding Paragon and air tour operators similarly situated and in finding the 10% gross receipts fee unreasonable and in violation of Grant Assurance 22. The Associate Administrator finds that ADOT is not in violation of Grant Assurance 22 by charging Paragon the 10% fee on gross retail sales. The Director's Order requiring ADOT to provide corrective actions for the gross receipts fee is hereby dismissed.

The Associate Administrator finds that ADOT complied with the Director's Order in providing the additional information requested. The Associate Administrator finds that ADOT is not in violation of Grant Assurance 22 in relation to Allegations 2, 8, 9, and 11. Further, the Associate Administrator recognizes ADOT's effort to make all security reporting requirements (Allegation 13) consistent, a necessary step that should be included in its CAP.

### **ORDER**

ACCORDINGLY, it is hereby ORDERED that (1) the Director's Determination is affirmed for Allegations 1, 3, and 6; (2) the Appeal is dismissed for Allegations 1, 3, and 6, pursuant to 14 CFR § 16.33; and (3) the Director's Determination is overturned and the Appeal granted in relation to Allegation 7.

All other motions are hereby dismissed.

**RIGHT OF APPEAL**

The parties are offered the opportunity to appeal the agency's final decision in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the Circuit in which the person resides or has its principal place of business. A party to this decision disclosing a substantial interest in the final decision and order of the Federal Aviation Administration may file a petition for review pursuant to 49 U.S.C. § 46110 not later than 60 days after a Final Decision and Order has been served on the party. [14 CFR § 16.247(a).]

SHANNETTA R GRIFFIN Digitally signed by SHANNETTA R GRIFFIN  
Date: 2023.03.02 15:46:26 -05'00'

Shannetta R. Griffin  
Associate Administrator for Airports  
Federal Aviation Administration

\_\_\_\_\_  
Date

***JASON THEUMA and PARAGON SKYDIVE, LLC,***  
**Complainant/Appellee**

v.

***THE STATE OF ARIZONA,***  
**Respondent/Appellant**

FAA Docket 16-19-16

**INDEX OF ADMINISTRATIVE RECORD**

The following items constitute the administrative record in this proceeding:

**FAA Exhibit 1**

- Item 1** Complainant Jason Theuma and Paragon Skydive, LLC files Part 16 Complaint against State of Arizona, Arizona Department of Transportation (ADOT) on December 16, 2019.
- Exhibit 1 Affidavit of Jason Theuma, Paragon co-owner, dated December 11, 2019.
- Exhibit 2 Michael J. Halpin, ADOT Airport Manager, email to Ted Howard, ADOT Risk Management Director, and Kirk Beatty dated September 18, 2013, concerning airport terminal leases.
- Exhibit 3 Michael J. Halpin, ADOT Airport Manager, email to Sonya Herrera, ADOT Administrative Services Division Director, and John Nichols dated October 16, 2013, concerning Paragon Skydiving Air Tour Fee.
- Exhibit 4 Michael Halpin, ADOT Airport Manager, memorandum to Ted Howard, ADOT Risk Management Director, and Sonya Herrera, ADOT Administrative Services Division Director, concerning Paragon Skydiving Air Tour Lease, dated October 6, 2013.
- Exhibit 5 FAA Skydiving Safety Risk Assessment letter signed by Brian Armstrong, Manager, FAA Western-Pacific Region Airports Division, Airport Safety and Standards Branch, dated September 17, 2017.
- Exhibit 6 FAA Panel Review Draft of Grand Canyon National Park Airport Parachute Operations Safety Risk Management Document, dated February 2016.
- Exhibit 7 Michael Thomas FYI forward email dated March 2, 2016, to Michael Klein, Michael Cockrum, concerning Anthony Garcia, FAA Airport

- Compliance Specialist, response email to Michael Thomas, concerning Comment: Parachute Jumping – Grand Canyon, dated March 2, 2016.
- Exhibit 8 Ted Howard, ADOT Risk Management Director, response email to Michael Thomas, Sonya Herrera, ADOT Administrative Services Division Director, Trisha Lord, on email chain on Surety Bond, dated March 4, 2016.
- Exhibit 9 Dayna Woodruff, ADOT Airport Finance Specialist, email to Nichole Zumbrunnen, concerning \$5000 security deposit – Paragon Skydiving, dated March 4, 2016.
- Exhibit 10 ADOT/Paragon Skydive Background Information, undated.
- Exhibit 11 Arizona Department of Transportation Investigative Report Office of Civil Rights – File T6-088-12-16, dated February 15, 2017.
- Exhibit 12 Scott Omer, Deputy Director – Operations, ADOT, response email to Jason Theuma, Paragon co-owner, concerning RE: Complaint Grand Canyon Airport, dated December 21, 2016.
- Exhibit 13 Sonya Herrera, ADOT Administrative Services Division Director, forwarded email chain to Nichole Zumbrunnen concerning Paragon Lease at Grand Canyon National Park Airport Lease Amendment 24 Dec 16, dated December 27, 2017.
- Exhibit 14 Jason Theuma, Paragon co-owner, email to Sonya Herrera, ADOT Administrative Services Division Director, concerning Paragon Lease Discussion, dated January 26, 2017.
- Exhibit 15 Aoife Murphy, Paragon Director, email to Sonya Herrera, ADOT Administrative Services Division Director, concerning Paragon Skydive: Lease Negotiations email chain, dated April 1, 2017.
- Exhibit 16 Nathan Carroll, ADOT Program Administrator, email to George Woods, Insurance Supervisor, ADOT Safety and Risk Management, concerning notes from Paragon meeting, dated June 20, 2017.
- Exhibit 17 Aoife Murphy, Paragon co-owner, email to Sonya Herrera, ADOT Administrative Services Division Director, about Lease, dated June 30, 2017.
- Exhibit 18 Sonya Herrera, ADOT Administrative Services Division Director, response email to Trisha Lord concerning email chain on Preliminary feedback on Lease, dated September 22, 2017.
- Exhibit 19 ADOT Office of Civil Rights memorandum on Supplement to the Civil Rights Paragon Skydive Complaint Investigation #T6-088-12-16 by

- Eddie Edison, Interim Civil Rights Administrator, dated October 2, 2017.
- Exhibit 20 George Woods, Insurance Supervisor, ADOT Safety and Risk Management, email to Aoife Murphy and Jason Theuma, Paragon co-owners, about Paragon Skydive, LLC2017 Lease – Final, dated October 18, 2017.
- Exhibit 21 Sonya Herrera, ADOT Administrative Services Division Director, response email to George Woods, Insurance Supervisor, ADOT Safety and Risk Management, and Aoife Murphy, and Jason Theuma, Paragon co-owners, about email chain RE: Paragon Skydive, LLC2017 Lease – Final, dated October 19, 2017.
- Exhibit 22 Aoife Murphy, Paragon co-owner, response email to Sonya Herrera, ADOT Administrative Services Division Director, on RE: Paragon Skydive, LLC2017 Lease – Final, dated October 22, 2017.
- Exhibit 23 Sonya Herrera, ADOT Administrative Services Division Director, response email Aiofe Murphy and Jason Theuma, Paragon co-owners, on email chain RE: Paragon Skydive, LLC2017 Lease – Final, dated October 23, 2017.
- Exhibit 24 Ann Morgan, ADOT outside counsel, email to Aoife Murphy and Jason Theuma, Paragon co-owners, concerning Grand Canyon National Park Airport/Paragon Lease [FC-Email.FID8148449], dated November 15, 2017.
- Exhibit 25 Aoife Murphy, Paragon co-owner, response email to Sonya Herrera, ADOT Administrative Services Division Director, concerning Lease Extension, dated November 27, 2017.
- Exhibit 26 Ann Morgan, ADOT outside counsel, email to Aoife Murphy and Jason Theuma, Paragon co-owners, about Grand Canyon National Park Airport/Paragon Lease, dated November 28, 2017.
- Exhibit 27 Richard Durden, Paragon attorney, response email to Ann Morgan, ADOT outside counsel, concerning email chain on RE: Grand Canyon National Park Airport/Paragon Lease [FC-Email.FID5186803], dated November 30, 2017.
- Exhibit 28 Rick Durden, Paragon attorney, response yahoo mail to Ann Morgan, ADOT outside counsel, about Grand Canyon Airport – Paragon Skydive Lease, and attached undated ADOT/Paragon Skydive Background Information, dated December 13, 2017.

- Exhibit 29 Rick Durden, Paragon attorney, response email to Ann Morgan, ADOT outside counsel, about Grand Canyon Airport/Paragon, dated December 20, 2017.
- Exhibit 30 Commercial Liability Insurance Policy, PCL-00-01, dated June 3, 2016.
- Exhibit 31 Rick Durden, Paragon attorney, response email to Ann Morgan, ADOT outside counsel, on RE: Grand Canyon National Park Airport/Paragon [FC-Email.FID8148449], dated December 20, 2017.
- Exhibit 32 Jacob Maskovich, Paragon outside counsel from Bryan Cave, LLC, letter to Ann Morgan, ADOT outside counsel, on Terminal Lease Agreement (“Lease”) Dated March 4, 2016 between Paragon Skydive, LLC (“Paragon”) and the State of Arizona, Arizona Department of Transportation (“ADOT”), dated December 21, 2017.
- Exhibit 33 Ann Morgan, ADOT outside counsel, response letter to Jacob Maskovich, Paragon outside counsel from Bryan Cave, LLP, on Terminal Lease Agreement Dated March 4, 2016 between Paragon Skydive, LLC and the State of Arizona, Arizona Department of Transportation, dated December 21, 2017.
- Exhibit 34 Rick Durden, Paragon attorney, response email to Ann Morgan, ADOT outside counsel, concerning RE: Grand Canyon National Park Airport - Paragon Skydive – Liability Insurance [FC-Email.FID8148449], dated January 15, 2018.
- Exhibit 35 FAA letter of March 12, 2014, to County of Santa Clara Counsel and Deputy County Counsel on Compliance with FAA Docket No. 16-11-06 Director’s Determination, dated December 19, 2011, as affirmed by FAA Final Agency Decision, dated August 12, 2013.
- Exhibit 36 Aoife Murphy, Paragon co-owner, email to FAA Airports employees, Mike Williams, Manager, FAA Western-Pacific Region Airports Division, Phoenix Airports District Office; Kathy Brockman, FAA Airport Compliance Specialist; and Kevin Willis, Director, FAA Office of Airport Compliance and Management Analysis; and files a FAA Part 13 Informal Investigation against State of Arizona, dated January 19, 2018.
- Exhibit 37 Rick Durden, Paragon attorney, email to FAA employees, Mike Williams, Manager, FAA Western-Pacific Region Airports Division, Phoenix Airports District Office, and Kathy Brockman, FAA Airport Compliance Specialist, concerning *Paragon Skydive v. State of Arizona* Part 13 Complaint, dated January 25, 2018.

- Exhibit 38 Jacob Maskovich, Paragon outside counsel from Bryan Cave, LLP, response email to Doug Thornley, ADOT outside counsel, and Rick Durden, Paragon attorney, concerning email chain for RE: Paragon Lease Renewal [FC-Email.FID8148449], dated January 31, 2018.
- Exhibit 39 Doug Thornley, ADOT outside counsel, email to Rick Durden and Jacob Maskovich, Paragon attorneys, concerning Skydiving Insurance [FC-Email.FID8148449], dated January 30, 2018.
- Exhibit 40 Signed Grand Canyon National Park Airport Terminal Lease Agreement No. GCN-2018-001T Between The State of Arizona, Arizona Department of Transportation as “State” and Paragon Skydive, LLC, As “Lessee”, with all initialed attachments, dated January 31, 2018.
- Exhibit 41 Richard Durden, Paragon attorney, files a 14 CFR Part 302.403 Informal Complaint Paragon Skydive v. State of Arizona with attachments, to the Part 302 Complaint Docket, US Department of Transportation Assistant General Counsel, dated March 2, 2018.
- Exhibit 42 Richard Durden, Paragon attorney, files an addendum to the 14 CFR Part 302.403 Informal Complaint Paragon Skydive v. State of Arizona with attachments, to the Part 302 Complaint Docket, US Department of Transportation Assistant General Counsel, dated April 4, 2018.
- Exhibit 43 Rick Durden, Paragon attorney, forwarded email to Ann Morgan and Doug Thornley, ADOT outside counsels, about FW: Insurance Renewal/Coverages Requested - Paragon Skydive, LLC/Policy 1000318131-02, dated February 27, 2018.
- Exhibit 44 Rick Durden, Paragon attorney, email to Ann Morgan, ADOT outside counsel, and Ted Howard, ADOT Risk Management Director, concerning Paragon Skydiving/ADOT Lease – Insurance, dated May 13, 2018.
- Exhibit 45 Rick Durden, Paragon attorney, emails to FAA Airports employees, Brian Armstrong, Manager, FAA Western Pacific Region Airports Division, Airport Safety and Standards Branch, and Kathy Brockman, FAA Airport Compliance Specialist, on Paragon Skydive URGENT!!!!, dated May 16, 2018.
- Exhibit 46 Brian Armstrong, Manager, FAA Western Pacific Region Airports Division, Airport Safety and Standards Branch, email to Rick Durden, Paragon attorney, and Kathy Brockman, FAA Airport Compliance Specialist, about Paragon Skydive v. State of Arizona Part 13 Complaint, dated June 8, 2016.



- Exhibit 47 Mike Williams, Manager, FAA Western-Pacific Region Airports Division, Phoenix Airports District Office, letter to Matt Smith, ADOT, on Part 13.1 Complaint Notice of Potential Noncompliance and Request for Corrective Action, dated October 10, 2018.
- Exhibit 48 Richard Durden, Paragon attorney, letter to John Halikowski, Director, Arizona Department of Transportation, regarding Paragon Skydive, dated September 23, 2019.
- Exhibit 49 Andy Neuland, Aerospace Risk Management Group, email to Jason Theuma and Aoife Murphy, Paragon co-owners, on Liability Limits, dated May 11, 2018.
- Exhibit 50 Tim Wanasek, National Account Manager, Falcon Insurance Agency, email to Aoife Murphy, Paragon co-owner, on Quote for Liability Insurance, dated May 11, 2018.
- Exhibit 51 Randy Ottinger, US Parachute Association Director of Government Affairs, email to Rick Durden, Paragon attorney, on Paragon CGL Insurance, dated May 8, 2019.
- Exhibit 52 FAA Letter to Jill Goldsmith, Chatham Town Manager, Chatham, MA, concerning review of proposed skydiving requirements at Chatham Municipal Airport, dated April 3, 2015.
- Exhibit 53 Arizona Administrative Code, Department of Transportation – Aeronautics, Title 17, Chapter 2. Department of Transportation Aeronautics, dated December 31, 2011.
- Exhibit 54 Michael J. Halpin, ADOT Airport Manager, email to Sonya Herrera, ADOT Administrative Services Division Director, and John Nichols, concerning Paragon Skydiving Air Tour Fee, dated October 16, 2013.
- Exhibit 55 Grand Canyon National Park Airport, Lease Agreement No. 1-2016 Between State of Arizona, Arizona Department of Transportation As (“State”) and Paragon Skydive LLC As (“Lessee”), signed March 4, 2016.
- Exhibit 56 Ronald Jackson, Assistant General Counsel for US Department of Transportation, letter to Randy Ottinger, US Parachute Association Director of Government Affairs, regarding RE: Question on Taxation of Skydiving, unknown date.
- Exhibit 57 Arizona Department of Taxation, Arizona Taxation Privilege Tax Ruling, TPR 93-13, unknown date.
- Exhibit 58 State of Arizona Department of Revenue, Taxpayer Information Ruling LR 12-002, dated April 5, 2012.

- Exhibit 59 Jacob Maskovich, Paragon outside counsel, response email to Doug Thornley and Ann Morgan, ADOT outside counsels, on email chain on RE: Corrected Paragon Lease [FC-Email.FID8148449], dated January 31, 2018.
- Exhibit 60 Ben Robideau, ADOT Senior Auditor, memorandum to Sonya Herrera, ADOT Administrative Services Division Director, and Scott Omer, ADOT Deputy Director, Business Operations regarding Paragon Skydive, LLC, dated October 6, 2017.
- Item 2** FAA files Notice of Docketing on January 16, 2020.
- Item 3** FAA docketed State of Arizona Motion for Extension of Time to Respond to Complaint on February 11, 2020.
- Item 4** FAA issues Order on February 20, 2020, and grants State of Arizona Extension of Time to File its Answer or Motion by April 6, 2020.
- Item 5** State of Arizona files Unopposed Motion for Extension of Time to Respond to the Complaint and Briefing Schedule on April 3, 2020.
- Item 6** State of Arizona files Motion to Dismiss the Complaint of Paragon Skydive, LLC on April 20, 2020.
- Exhibit 1 Affidavit of Matthew Smith, ADOT Airport Manager of Grand Canyon National Park Airport, dated April 20, 2020.
- Exhibit 1 Unsigned Grand Canyon National Park Airport Terminal Lease Agreement Unnumbered Between The State of Arizona, Arizona Department of Transportation As “State” and Grand Canyon Rentals Adventures, LLC As “Lessee”.
- Exhibit 2 Grand Canyon National Park Airport Ground Lease Agreement Unnumbered Between The State of Arizona, Unsigned Arizona Department of Transportation As “State” and Grand Canyon Helicopters, Inc. As “Lessee”.
- Exhibit 3 Grand Canyon National Park Airport Ground Lease Agreement Unnumbered Between The State of Arizona, Arizona Department of Transportation As “State” and Maverick Airstar, LLC. As “Lessee” signed June 27, 2019.
- Exhibit 4 Unsigned Grand Canyon National Park Airport Ground Lease Agreement Unnumbered Between The State of Arizona, Arizona Department of Transportation As “State” and Monarch Enterprises, Inc. As “Lessee”.
- Exhibit 5 Grand Canyon National Park Airport Terminal Lease Agreement Unnumbered Between The State of Arizona, Arizona Department of Transportation as “State” and

- Westwind Aviation, Inc. as “Lessee”, signed August 30, 2018.
- Exhibit 6 Grand Canyon National Park Airport Terminal Lease Agreement No. GCN-2018-001T Between The State of Arizona, Arizona Department of Transportation as “State” and Paragon Skydive, LLC as “Lessee”, signed February 1, 2018.
- Exhibit 7 Unsigned Grand Canyon National Park Airport Amendment to Terminal Lease.
- Exhibit 8 Grand Canyon National Park Airport Amendment to Terminal Lease, signed December 31, 2017.
- Exhibit 9 Grand Canyon National Park Airport Terminal Lease Agreement No. GCN-2018-001T Between The State of Arizona, Arizona Department of Transportation as “State” and Paragon Skydive, LLC as “Lessee”, signed February 1, 2018.
- Exhibit 10 Arizona Administrative Code, Department of Transportation – Aeronautics, Title 17, Chapter 2. Department of Transportation Aeronautics, dated December 31, 2011.
- Item 7** Complainant Jason Theuma and Paragon Skydive, LLC files Complainants’ Opposition to Respondent’ Motion to Dismiss on May 11, 2020.
- Exhibit 61 State of Arizona files Unopposed Motion for Extension of Time to Respond to the Complaint and Briefing Schedule on April 3, 2020.
- Exhibit 62 Paragon Skydiving/Grand Canyon Airlines/Maverick Airstar/Grand Canyon Helicopters/Papillon Helicopters/Westwind revenues from July 2017 to June 2018.
- Exhibit 63 FY2020 GCN Tenant Revenue spreadsheet dated April 23, 2020.
- Exhibit 64 Statement of Jason Theuma, Paragon co-owner, dated May 9, 2020.
- Item A Paragon Skydiving/Grand Canyon Airlines/Maverick Airstar/Grand Canyon Helicopters/Papillon Helicopters/Westwind revenues from July 2017 to June 2018.
- Item B Corrected Paragon Skydiving/Grand Canyon Airlines/Maverick Airstar/Grand Canyon Helicopters/Papillon Helicopters/Westwind revenues from July 2017 to June 2018.

- Item C Two pictures of Grand Canyon Airlines aircraft parked on ramp.
  - Item D Marked up copy of Fixed Base Operator Ground Lease Amendment between State of Arizona and Grand Canyon Airlines, dated October 1, 1997.
  - Item E Undated one picture of alleged Grand Canyon Airlines fuel trucks parked outside of leasehold.
  - Item F Undated three pictures of Westwind aircraft pictures on ramp.
  - Item G ADOT email chain on Code question about commercial aircraft parking fees, dated August 24, 2017.
  - Item H Email and signed ADOT Non-employee agreement for airport housing, dated December 30, 2019.
  - Item I Updated picture of alleged other tenant's ATVs parked at airport.
  - Item J Updated picture of alleged Paragon Skydive ATV at airport.
- Exhibit 65 Statement of Susan Amey, dated April 29, 2020. Attached updated and unsigned Commercial Liability Insurance Policy PCL-00-01.
  - Exhibit 66 ADOT email chain on Code question about commercial aircraft parking fees, dated August 24, 2017.
  - Exhibit 67 Undated picture of parked ATV towing equipment.
  - Exhibit 68 US Department of Transportation Office of General Counsel opinion letter on question of taxation on hot air balloon flights, dated January 29, 2010.
  - Exhibit 69 Visual Flight Rules aeronautical chart of Grand Canyon National Park Airport area.
- Item 8** State of Arizona files The State of Arizona's Unopposed Motion for Extension of Time to file Reply in Support of Motion to Dismiss, dated June 10, 2020.
  - Item 9** State of Arizona files The State of Arizona's Reply in Support of Motion to Dismiss the Complaint of Paragon Skydive, LLC, dated June 19, 2020.
- Appendix 1 Legal case *Phelps v. Firebird Raceway, Inc.*, 210 Ariz. 403 (AZ 2005).
    - Exhibit 11 FAA cover memorandum from Nicholas Reyes, Manager, FAA Western-Pacific Flight Standards Division, to Brian Armstrong, Manager, FAA Western-Pacific Region Airports Division, Airport Safety and Standards Branch,

- dated October 9, 2014, with attachment FAA memorandum on safety determination of parachuting at Grand Canyon National Park Airport, dated September 23, 2014.
- Exhibit 12 FAA Skydiving Safety Risk Assessment letter to Jason Theuma, Paragon Skydive co-owner, signed by Brian Armstrong, Manager, FAA Western-Pacific Region Airports Division, Airport Safety and Standards Branch, dated October 29, 2014.
- Exhibit 13 Undated Paragon Skydive parachute landing area site assessment.
- Exhibit 14 Mike Williams, Manager, FAA Western-Pacific Region Airports Division, Phoenix Airports District Office, chain of emails with Paragon Skydive attorney and State of Arizona counsel concerning Part 13 Complaint, dated June 20, 2018.
- Exhibit 15 Matthew Smith, ADOT Administrative Services Division Director, letter to Tim Morrison, Program Manager, FAA Western-Pacific Region Airport Division, Phoenix Airports District Office, dated Jul 31, 2018.
- Exhibit 16 Arizona Department of Transportation Grand Canyon National Park Airport Market Rent Study and Rates and Charges Analysis, dated March 28, 2018.
- Item 10** State of Arizona files Respondent's Status Report Regarding Status of Claims, dated July 23, 2020.
- Item 11** Email records between July 16, 2020 and November 24, 2020.
- Exhibit 1 Rick Durden email dated April 20, 2020, to Suzi Neel and FAA Docket, with copy to ADOT counsels, asking for password to open files, docketed on April 21, 2020.
- Exhibit 2 Clark Matthews's response emailed dated April 20, 2020 to Rick Durden, Suzi Neel, and FAA Docket, with copy to ADOT counsels advising that password was not needed, docketed April 20, 2020.
- Exhibit 3 FAA Senior Attorney, Joseph Manges, email request on July 16, 2020, to both parties' counsel for Part 16-19-16 status report, docketed July 16, 2020.
- Exhibit 4 Suzi Neel, Lewis/Brisbois, email request dated June 9, 2020, to FAA Public Docket requesting Part 16s, docketed June 9, 2020.
- Exhibit 5 FAA Public Docket email response dated June 9, 2020, to Suzi Neel, where to locate online requested Part 16s, docketed June 9, 2020.

- Exhibit 6 FAA Public Docket additional email response dated June 9, 2020, to Suzi Neel, where to locate online requested Part 16s, docketed June 9, 2020.
- Exhibit 7 Rick Durden email dated September 4, 2020, to Paul Rupprecht and other counsel, concerning the lack of applicability of Products and Completed Operations endorsement for Commercial General Liability insurance for skydiving activities, with attached letter dated August 21, 2020, from Kenneth Burkhead, Aerospace Risk Management Group, Inc. to Jason Theuma, Paragon co-owner, docketed September 4, 2020.
- Exhibit 8 Paul Rupprecht response email dated October 6, 2020, to Rick Durden concerning State's position on Products and Completed Operations endorsement for Commercial General Liability insurance, docketed October 6, 2020.
- Exhibit 9 Rick Durden response email dated September 4, 2020, to Paul Rupprecht and other counsel, concerning Paul Rupprecht's October 6, 2020 email, docketed October 7, 2020.
- Exhibit 10 Rick Durden email dated October 8, 2020, to Paul Rupprecht and other counsel, discussing concerns with the applicability of Products and Completed Operations endorsement for Commercial General Liability insurance for skydiving operators, docketed October 8, 2020.
- Exhibit 11 Rick Durden email dated November 11, 2020, to Paul Rupprecht and other counsel, asking whether there are any claims in the Complaint that can be resolved, docketed November 12, 2020.
- Exhibit 12 Paul Rupprecht response email dated November 20, 2020, to Rick Durden, asking about scheduling a call to discuss the claims, docketed November 21, 2020.
- Exhibit 13 Rick Durden response email dated November 23, 2020, to Paul Rupprecht, tentatively setting call for December 3, 2020.
- Exhibit 14 Paul Rupprecht response email dated November 24, 2020, to Rick Durden, tentatively scheduling call for December 3, 2020, to discuss the claims, docketed November 24, 2020.
- Exhibit 15 Rick Durden response email dated November 24, 2020, to Paul Rupprecht, agreeing to call for December 3, 2020, docketed November 24, 2020.

**Item 12** [Link to Electronic Code of Federal Regulations, Title 14, Chapter I, Subchapter A, Part 1-Definitions and Abbreviations, dated August 2, 2021, https://www.ecfr.gov/cgi-bin/text-idx?SID=42a92f3811019a3bcab71f14144d4d92&mc=true&node=pt14.1.1&rgn=div5](https://www.ecfr.gov/cgi-bin/text-idx?SID=42a92f3811019a3bcab71f14144d4d92&mc=true&node=pt14.1.1&rgn=div5)

- Item 13** FAA issues Order for Extension of Time for Respondent to File Answer, dated October 8, 2020.
- Item 14** Complainant Notice of Substitution of Counsel docketed by Jol Silversmith, dated January 11, 2021.
- Item 15** FAA issues Notice for Extension of Time until May 18, 2021, dated February 19, 2021.
- Item 16** Grand Canyon National Park Airport Master Record 5010, dated April 5, 2021.
- Item 17** FAA issues Notice for Extension of Time until August 13, 2021, dated May 21, 2021.
- Item 18** State of Arizona files Respondent's Updated Status Report Regarding Status of Claims, dated May 26, 2021.
- Item 19** [Link to FAA Airport Improvement Program Grant Assurances](#), dated May, 2022
- Item 20** FAA AIP grant history for Grand Canyon National Park Airport, dated July 20, 2021.
- Item 21** [Link to FAA Order 5190.6B change 2, Airport Compliance Manual](#), dated December 2022.
- Item 22** Link to FAA Advisory Circular 150/5190-7, Minimum Standards for Commercial Aeronautical Activities, published August 28, 2006, dated August 2, 2021, [https://www.faa.gov/airports/resources/advisory\\_circulars/index.cfm/go/document.current/documentnumber/150\\_5190-7](https://www.faa.gov/airports/resources/advisory_circulars/index.cfm/go/document.current/documentnumber/150_5190-7)
- Item 23** FAA issues Notice for Extension of Time until October 6, 2021, dated August 13, 2021.
- Item 24** State of Arizona files Respondent's Second Updated Status Report Regarding Status of Claims, dated October 6, 2021.
- Item 25** FAA issues Notice for Extension of Time until December 7, 2021, dated October 7, 2021.
- Item 26** FAA issues Notice for Extension of Time until January 21, 2022, dated December 7, 2021.

### FAA Exhibit 2

- Item 1** Director's Determination 16-19-16, dated January 22, 2022.
- Item 2** State of Arizona's unopposed motion for extension of time to file its corrective action plan and notice of Appeal, dated February 15, 2022.
- Item 3** FAA's Order granting the unopposed motion for extension of time to file its corrective action plan and notice of Appeal, dated February 26, 2022.

- Item 4** State of Arizona's Second Unopposed Motion For Extension Of Time To File Its Corrective Action Plan And Notice of Appeal, dated, March 18, 2022.
- Item 5** FAA Order Granting The Second Unopposed Motion For Extension Of Time To File Its Corrective Action Plan And Notice Of Appeal, dated March 25, 2022.
- Item 6** Notice of Appeal By Respondent, State of Arizona's of the FAA Director's Determination Dated January 21, 2022, dated April 5, 2022.
- Exhibit A Affidavit of Jon L. Downey, dated April 4, 2022.
- Exhibit B Paragon Skydive Medical, Assumption of Risk, and Release of Liability Form, no date provided.
- Exhibit C Emails between Jol A Silversmith to Paul Rupprecht regarding Paragon retail sales fee and solo skydiving provisions, dated between August 16, 2021 and December 28, 2021.
- Exhibit D Letter from Paul Rupprecht to Jol A Silversmith regarding transition to solo/tandem skydiving, dated March 15, 2022.
- Exhibit E Emails between Jol A. Silversmith and Paul Rupprecht regarding Part 16 extension, dated between March 22, 2022 and March 29, 2022.
- Exhibit F Letter of Agreement between Los Angeles Air Route Traffic Control Center, GCNPA Air Traffic Control Tower and Paragon Skydive, dated October 8, 2020.
- Item 6A** Respondent's Unopposed Corrective Action Plan, dated April 5, 2022.
- Exhibit AA Grand Canyon National Park Airport Amendment to Terminal Lease, dated May 24, 2021.
- Exhibit BB Grand Canyon National Park Airport Monthly Aircraft Fees Report – Westwind Air Service, dated July 2018 to January 2022.
- Exhibit CC Affidavit of Matthew Smith, dated February 15, 2022.
- Item 7** Paragon Skydive Reply to Respondent's Notice of Appeal, dated April 25, 2022.
- Item 8** ADOT's Motion For Leave to File a Responsive Reply that Addresses Complaint's Reply to Notice of Appeal, June 17, 2022.
- Item 9** Paragon's Reply to the Respondent's Motion for Leave to File a Surreply, dated June 21, 2022.
- Item 10** FAA Notice of Extension of Time, dated June 23, 2022.



- Item 11** ADOT's Responsive Reply in Opposition to Complainant's Reply to Notice of Appeal, dated July 5, 2022.
- Item 12** Paragon's Surreply to the Respondent's Responsive Reply in Opposition to Complainant's Reply to Notice of Appeal, dated July 15, 2022.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 9, 2023 I caused to be emailed/or to be placed in the Federal Express a true copy of this Final Agency Decision for FAA Docket 16-19-16, addressed to:

**For the Complainant**

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**Copy to:**

FAA Part 16 Airport Proceedings Docket (AGC-600)  
FAA Airport Compliance Division (ACO-100)  
FAA Western-Pacific Regional Office (AWP-600)



\_\_\_\_\_  
Natalie Curtis  
Office of Airport Compliance  
and Management Analysis

**Walenga, Pat (FAA)**

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**From:** 9-ARP-Part16-Complaints (FAA)  
**Sent:** Thursday, March 9, 2023 12:44 PM  
**To:** 'jsilversmith@kmazuckert.com'; 'bmarrin@kmazuckert.com';  
'Jon.Olafson@lewisbrisbois.com'; 'paul.rupprecht@lewisbrisbois.com'  
**Cc:** 'AWA-ARP-ACO-100; 9-AWA-AGC-Part-16 (FAA); 'AWP-600  
**Subject:** Final Agency Decision for FAA Docket No. 16-19-16  
**Attachments:** P16\_Docket 16-19-16\_Theuma Paragon Skydive LLC vs State of Arizona\_FAD\_Final 2023  
03 09 Signed.pdf

Please see the attached Final Agency Decision for FAA Docket No. 16-19-16.

Best Regards,

Natalie Curtis  
Administrative Support to  
Airport Compliance and Management Analysis  
202-267-3085