

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION</p> <hr/> <p>3 UNITED STATES OF ) 4 AMERICA, ) Deposition of: 5 Plaintiff, ) RICHARD JAMESON 6 vs. ) Time on record: 7 RaPower3, LLC,, ) 7 Hours 20 minutes INTERNATIONAL ) 8 AUTOMATED SYSTEMS, ) Case No. 2:15-cv-00828 DN INC., LTB1, LLC, R. ) 9 GREGORY SHEPARD, ELDON ) Judge David Nuffer JOHNSON and ROGER ) 10 FREEBORN, ) CONFIDENTIAL 11 Defendants. )</p> <hr/> <p>12 13 14 September 20, 2017 * 9:00 a.m. to 5:20 p.m. 15 16 Location: United States Attorney's Office 17 20 East Main Street, Suite 208 18 St. George, Utah 19 20 21 22 23 24 25 Reported by: Russel D. Morgan, CSR</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX 2 RICHARD JAMESON PAGE 3 Examination by Ms. Healy-Gallagher 6 4 5 EXHIBITS 6 NUMBER DESCRIPTION PAGE 7 Exhibit 624 10-25-13 E-Mail to Richard Jameson from Greg Shepard 104 8 9 Exhibit 625 10-29-13 E-mail to Aaron Mayer from Greg Shepard 128 10 Exhibit 626 10-29-13 E-mail to Preston Olsen from Greg Shepard 135 11 12 Exhibit 627 U.S. Code Service 26 USC 469 143 13 Exhibit 628 U.S. Code Service 26 CFR 1.469-1T 149 14 15 Exhibit 629 U.S. Code Service 26 CF 1.469.5t 152 16 Exhibit 630 U.S. Code Service 26 CFR 1.469.4 164 17 18 Exhibit 631 RaPower3 Tax Forms 171 19 20 Exhibit 632 4-14-15 E-Mail to Richard Jameson from Ted Fullerton 182 21 Exhibit 633 8-6-15 E-mail to Mark Sikich from Trent Hanson 185 22 23 Exhibit 634 2013 Federal Tax Return for R. Greg and Diana C. Shepard 193 24 Exhibit 635 2013 Form 1120 Tax Return 193 25 Exhibit 636 2014 Federal Tax Return for R. Greg and Diana Shepard 193</p>
<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S 2 3 FOR THE PLAINTIFF: 4 Erin Healy-Gallagher Erin R. Hines (Telephonically) 5 UNITED STATES DEPARTMENT OF JUSTICE Trial Attorneys, Tax Division 6 P.O. Box 7328 Washington, D.C. 20044 7 Telephone: 202.353.2452 (Healy-Gallagher) Fax: 202.514.6770 8 E-mail: erin.healygallagher@usdoj.gov 9 FOR THE DEFENDANTS RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, 10 LLC, NELDON JOHNSON, and RICHARD JAMESON: 11 Steven R. Paul NELSON, SNUFFER, DAHLE &amp; POULSEN, P.C. 12 10885 So. State St. Sandy, Utah 84070 13 801.576.1400 spaul@nsdplaw.com 14 15 16 *** 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBIT (Continued) 2 Exhibit 637 5-1-14 letter on North Star Tax Services letterhead to 3 Ms. Oyola from Richard Jameson 203 4 Exhibit 638 9-24-14 letter on North Star Tax Services letterhead to 5 Steven Miller from Richard Jameson 213 6 7 Exhibit 639 9-6-16 letter on North Star Tax Services letterhead to 8 Steven Miller from Richard Jameson 219 9 Exhibit 640 7-5-16 E-mail to Christopher Moran from Ken Riter 222 10 11 Exhibit 641 7-18-14 E-mail to coachm_96@hotmail.com from Rick Jameson 223 12 13 Exhibit 642 7-5-16 E-mail to Ken Riter from Rick Jameson 224 14 15 16 17 18 19 20 21 22 23 24 25</p> <div data-bbox="1214 1766 1498 1938" style="border: 2px solid black; border-radius: 15px; padding: 10px; text-align: center;"> <p><b>Plaintiff Exhibit</b></p> <p>666</p> </div>

<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS</p> <p>2 RICHARD JAMESON</p> <p>3 having been first duly sworn to tell the</p> <p>4 truth, was examined and testified as</p> <p>5 follows:</p> <p>6 EXAMINATION</p> <p>7 BY MS. HEALY-GALLAGHER:</p> <p>8 Q All right. Good morning, Mr. Jameson.</p> <p>9 A Good morning.</p> <p>10 Q We are on the record today in the case</p> <p>11 of United States vs. RaPower-3, et al, on</p> <p>12 September 20th, 2017.</p> <p>13 We met a moment ago. But my name is</p> <p>14 Erin Healy-Gallagher of the U.S. Department of</p> <p>15 Justice in the Tax Division appearing on behalf of</p> <p>16 the United States.</p> <p>17 Mr. Paul, would you like to make your</p> <p>18 appearance?</p> <p>19 MR. PAUL: Yes. I am Steven Paul. I</p> <p>20 represent RaPower-3 and Neldon Johnson and the</p> <p>21 RaPower-3 entities.</p> <p>22 MS. HEALY-GALLAGHER: Erin Hines is on</p> <p>23 the phone also representing the United States</p> <p>24 Department of Justice. Christopher Moran is not</p> <p>25 present for the United States. Similarly, R.</p>	<p style="text-align: right;">Page 7</p> <p>1 and state of your home address?</p> <p>2 A Mailing address or physical address?</p> <p>3 Q Physical address.</p> <p>4 A Seventy North 200 West, Ivins, Utah</p> <p>5 84738. Just moved there.</p> <p>6 Q And the city and state of your business</p> <p>7 address?</p> <p>8 A The city is St. George, Utah.</p> <p>9 Q Mr. Jameson, have you ever been deposed</p> <p>10 before?</p> <p>11 A Yes, I have.</p> <p>12 Q How many times?</p> <p>13 A One, maybe two.</p> <p>14 Q All right. So, you are probably</p> <p>15 generally familiar with how depositions go. But,</p> <p>16 for today, I would like to just cover a few ground</p> <p>17 rules so that we are all on the same page. So, in</p> <p>18 this deposition, I will ask you questions. My</p> <p>19 questions and your answers will be recorded by the</p> <p>20 court reporter who is here. So, you need to speak</p> <p>21 loudly enough for him to hear you and answer my</p> <p>22 questions verbally. Do you understand?</p> <p>23 A Yes, ma'am.</p> <p>24 Q You are doing a great job so far. But</p> <p>25 the court reporter cannot record a nod or shake of</p>
<p style="text-align: right;">Page 6</p> <p>1 Gregory Shepard and Roger Freeborn are not present</p> <p>2 today.</p> <p>3 This deposition will be governed by the</p> <p>4 federal Rules of Civil Procedure and the local</p> <p>5 rules of the District of Utah. All exhibits will</p> <p>6 be marked and kept today by the court reporter.</p> <p>7 Mr. Paul, did you have any stipulations</p> <p>8 for this deposition?</p> <p>9 MR. PAUL: Not at this point.</p> <p>10 MS. HEALY-GALLAGHER: Okay. We'll</p> <p>11 address any as they arise.</p> <p>12 BY MS. HEALY-GALLAGHER:</p> <p>13 Q All right. Would you please state and</p> <p>14 spell your name for the record?</p> <p>15 A Richard Jameson, J-a-m-e-s-o-n.</p> <p>16 MR. PAUL: Actually, yes. I just</p> <p>17 represented the stipulation. We would like to</p> <p>18 invoke the confidentiality provision and the</p> <p>19 protective order and designate this deposition as</p> <p>20 confidential.</p> <p>21 BY MS. HEALY-GALLAGHER:</p> <p>22 Q And would you spell your last name,</p> <p>23 please?</p> <p>24 A J-a-m-e-s-o-n.</p> <p>25 Q And would you please provide the city</p>	<p style="text-align: right;">Page 8</p> <p>1 the head, and words like uh-huh or uh-uh are</p> <p>2 unclear on the transcript that will be created.</p> <p>3 A Understood.</p> <p>4 Q So, if there comes a time when there is</p> <p>5 sort of one of those situations, I'll stop and ask</p> <p>6 you for a verbal answer. Do you understand?</p> <p>7 A Yes, ma'am.</p> <p>8 Q Also, we have a tendency in casual</p> <p>9 conversation to sometimes speak over one another.</p> <p>10 For example, you'll start to answer a question</p> <p>11 before it's finished being asked. So, here,</p> <p>12 please wait until I am finished asking my question</p> <p>13 before you start to answer, because the court</p> <p>14 reporter can't take down two people talking at</p> <p>15 once. Do you understand?</p> <p>16 A Yes, ma'am.</p> <p>17 Q And, again, if there is a situation that</p> <p>18 comes up today, I'll just stop, slow us down so</p> <p>19 that the court reporter can make a clear</p> <p>20 transcript.</p> <p>21 All right. So, when I do finish each</p> <p>22 question, your task for today is to give full and</p> <p>23 complete answers. Do you understand that</p> <p>24 obligation?</p> <p>25 A Yes, ma'am.</p>

<p style="text-align: right;">Page 9</p> <p>1 Q It's my obligation to ask understandable 2 questions to you. So, if you don't understand a 3 question for any reason, please let me know, and I 4 will try to ask a better one. Will you do that? 5 A Yes, ma'am. 6 Q Sometimes it will happen that you will 7 give an answer as completely as you can in the 8 moment, but then later on you may remember 9 different information or additional information 10 about that answer, and you may need to clarify or 11 amplify the previous answer. And that's fine. 12 When that occurs, if it occurs, please let me 13 know, and we'll make sure to clarify the record 14 right away. Will you do that? 15 A Yes, ma'am. 16 Q And when you are answering a question, 17 if you think that a document or documents might 18 help refresh your recollection or help you 19 remember an answer, please let me know, and we'll 20 see if we have that document here today. Will you 21 do that? 22 A Yes, ma'am. 23 Q And Mr. Paul is here representing you 24 today, correct? 25 A Yes, ma'am.</p>	<p style="text-align: right;">Page 11</p> <p>1 A Yes, ma'am. 2 Q Would you please identify any email 3 addresses you have used since 2010. 4 A Rjameson, j-a-m-e-s-o-n, 08 @Gmail.com. 5 Then I have Rick@northstartaxservices, make sure 6 there is an "S" on services, .com. 7 Q Any others? 8 A No, ma'am. 9 Q All right. Mr. Jameson, I would like to 10 get an idea of your background as we begin. Where 11 did you go to high school? 12 A I went to high school, let's see, 13 University High School in West Los Angeles. I 14 went to high school in Portsmouth, New Hampshire. 15 I went to high school in Fresno, California. I 16 went to high school in Manhattan Beach, 17 California. I think there was another one in 18 there, but I don't remember exactly. 19 Q All right. Where did you graduate high 20 school? 21 A I did not graduate from high school. 22 Q Have you had any formal education since 23 high school? 24 A Yes, ma'am. 25 Q What's that?</p>
<p style="text-align: right;">Page 10</p> <p>1 Q So, if at any time you want to talk to 2 Mr. Paul during the deposition, that's fine, but 3 if there is a question pending, I will ask that 4 you answer the question first before you talk to 5 Mr. Paul. Will you do that? 6 A Yes, ma'am. 7 Q So, we are here today to get as accurate 8 a record as we can of the facts of this case as 9 you remember them or know them. So, I have to ask 10 you, is there anything that would prevent you from 11 understanding and answering my questions today 12 with the full capacity of your recollection? 13 A Not to my knowledge, no. 14 Q Are you taking any medications or drugs 15 of any kind that might interfere with your memory? 16 A No, ma'am. 17 Q Have you had anything alcoholic to drink 18 in the last eight hours? 19 A No, ma'am. 20 Q Is there any other reason you can think 21 of why you may not be able to answer my questions 22 fully and accurately today? 23 A No, ma'am. 24 Q Mr. Jameson is how you pronounce it, 25 right?</p>	<p style="text-align: right;">Page 12</p> <p>1 A I have a Bachelor of Science degree in 2 industrial technology with a major in business 3 administration and economics. I have a masters of 4 science degree in social science interdisciplinary 5 public administration with a major in economics. 6 I have a masters degree in taxation. And I am 7 currently working on my Ph.D. in taxation. 8 Q Okay. Let's start with your bachelors 9 of science. And did you say industrial 10 technology? 11 A Industrial technology with a major in 12 economics and business administration. 13 Q When did you get that degree? 14 A I think I got it in 1980, if I remember 15 correctly. 16 Q From which institution? 17 A It's now called Southern Utah State 18 University up in Cedar City. 19 Q And your masters in social science? 20 A It's a masters in social science 21 interdisciplinary administration with a major in 22 economics. I received it from Utah State 23 University in Logan, Utah. 24 Q When did you receive that degree? 25 A I think, if I remember correctly, 1985</p>

<p style="text-align: right;">Page 13</p> <p>1 thereabouts.</p> <p>2 Q Your masters in taxation, where did you</p> <p>3 get that from?</p> <p>4 A I received that from the William Howard</p> <p>5 Taft University in Southern California.</p> <p>6 Q When did you get that?</p> <p>7 A I want to say late '80, early '90. I</p> <p>8 don't remember the exact date. I think it's</p> <p>9 probably 1990. We'll say that. That's close</p> <p>10 enough.</p> <p>11 Q And you say you are working on your</p> <p>12 Ph.D. in taxation?</p> <p>13 A Yes, ma'am.</p> <p>14 Q With which institution?</p> <p>15 A I knew you were going to ask that</p> <p>16 question. And I keep forgetting the name of it.</p> <p>17 It's in Provo, Utah. It's an online class. I</p> <p>18 don't remember the name to be honest with you.</p> <p>19 Q When did you start working on your Ph.D.</p> <p>20 in taxation?</p> <p>21 A I started working on it about four</p> <p>22 and-a-half years ago, which would be what --</p> <p>23 Q Middle of 2012?</p> <p>24 A Middle of 2012 sounds about right, yeah.</p> <p>25 Q And what remains until you get your</p>	<p style="text-align: right;">Page 15</p> <p>1 a parking lot attendant. I then went into the</p> <p>2 United States Army. I was a fire control crewman.</p> <p>3 It's called a 16C10 for Hercules missile, part of</p> <p>4 the air defense system of the United States. It's</p> <p>5 a nuclear warhead missile by the way.</p> <p>6 When I got out of the army, I went to</p> <p>7 work at Eureka Paper Box Company as a right angle</p> <p>8 glue machine operator. I then was promoted into</p> <p>9 shipping. And I was a shipping clerk and</p> <p>10 part-time truck driver.</p> <p>11 I then went back to college to get my</p> <p>12 bachelors degree. While I was in college I worked</p> <p>13 in the construction industry. After I graduated</p> <p>14 from college, I was hired by the Paiute Indian</p> <p>15 Tribe. And I was their health director.</p> <p>16 Let's see. I then went to work for --</p> <p>17 after I left the Paiute Indian Tribe, I went to</p> <p>18 work for H &amp; R Block in Cedar City as a tax</p> <p>19 preparer, ended up buying the franchise from the</p> <p>20 owner. I ran that franchise for 25, 26 years. In</p> <p>21 the process, I also purchased the H &amp; R Block</p> <p>22 franchise in St. George, Utah and ran it.</p> <p>23 Got tired of being the boss, sold both</p> <p>24 franchises. I am now a partner in North Star Tax</p> <p>25 Services. And I am sort of semiretired.</p>
<p style="text-align: right;">Page 14</p> <p>1 Ph.D. in taxation?</p> <p>2 A I have finished all of the classwork. I</p> <p>3 submitted my 305 page dissertation. And my</p> <p>4 adviser sent it back saying I need to clean up my</p> <p>5 footnotes.</p> <p>6 Q What's your dissertation on?</p> <p>7 A The tax benefits of cost segregation</p> <p>8 analysis.</p> <p>9 Q When did you finish your course work?</p> <p>10 A I didn't understand the question.</p> <p>11 Q You said you had finished all your</p> <p>12 course work for your Ph.D. in taxation. When did</p> <p>13 you finish that course work?</p> <p>14 A Probably in 2015, about the middle of</p> <p>15 2015.</p> <p>16 Q So, I would like to get a general</p> <p>17 overview of your working life, your professional</p> <p>18 life. I don't need knitty-gritty details right</p> <p>19 now, but could you give me an overview of from</p> <p>20 when you started working to today? What in broad</p> <p>21 strokes have you been doing professionally?</p> <p>22 A How far back do you want me to go?</p> <p>23 Q Well, we can start with after high</p> <p>24 school if --</p> <p>25 A After high school, I was a, I worked as</p>	<p style="text-align: right;">Page 16</p> <p>1 Q In what year did you start with H &amp; R</p> <p>2 Block in Cedar City as a tax preparer?</p> <p>3 A First year I did tax returns was 1986.</p> <p>4 So, it would have been 1987. '86 tax returns you</p> <p>5 are doing a year earlier, so it would have been</p> <p>6 1987.</p> <p>7 Q Before 1987, did you have any -- did you</p> <p>8 do any tax return preparation before 1987?</p> <p>9 A I probably completed my own tax return</p> <p>10 one or two times when I was working for the paper</p> <p>11 box company, because it was simple W2 stuff. I,</p> <p>12 basically, from that point forward just took</p> <p>13 everything to a CPA or a tax preparation firm.</p> <p>14 Q And let's see, by 1987, you had your BA</p> <p>15 and your masters in social science. For either of</p> <p>16 those 2 degrees, did you have any classes on</p> <p>17 federal taxation?</p> <p>18 A No, ma'am. Not to my knowledge. I</p> <p>19 don't remember any.</p> <p>20 Q How long did you work in the H &amp; R Block</p> <p>21 franchise as a preparer before you bought the</p> <p>22 franchise?</p> <p>23 A Approximately, one year.</p> <p>24 Q So, did you buy the franchise in 1988?</p> <p>25 A Yes, ma'am.</p>



Page 17

1 Q When did you buy the St. George  
2 franchise?  
3 A I think it was 1990, late 1990.  
4 Q And when did you sell the Cedar City  
5 franchise?  
6 A If I remember correctly, it was 2012.  
7 Maybe 2013. Again, because it, we sold it in such  
8 a manner as to finish a tax season so that  
9 everything would be a nice clean break. So, I  
10 think it was 2012.  
11 Q And how about the St. George franchise?  
12 When did you sell that?  
13 A I sold the franchise in St. George two  
14 years before that. So, it would be 2010.  
15 Q When did you start North Star -- or let  
16 me ask you this. Did you start North Star Tax  
17 Services?  
18 A Started North Star Tax Services in about  
19 2010.  
20 Q Does North Star have any employees?  
21 A No.  
22 Q Does anyone else share ownership in  
23 North Star?  
24 A Yes.  
25 Q Who is that?

Page 18

1 A Miss Lori Gailey. G-a-i-l-e-y.  
2 Q What's Miss Gailey's email address?  
3 A Lori@northstartaxservices.com.  
4 Q Do you know if she uses any other email  
5 addresses?  
6 A If I remember, she also has an email  
7 address at Gmail.  
8 Q Do you know the prefix of that email  
9 address?  
10 A I would say lori@gmail.com, but I would  
11 have to look it up. I didn't memorize that one.  
12 Sorry.  
13 Q Are you and Miss Gailey equal partners?  
14 A Yes, ma'am.  
15 Q How did you meet Miss Gailey?  
16 A Lori used to work for me. She was my  
17 office manager in the H & R Block in Cedar City,  
18 Utah until she moved to Long Beach, California.  
19 Q Was she also a tax return preparer at H  
20 & R Block?  
21 A Yes, ma'am.  
22 Q How long did Miss Gailey work for you?  
23 A I think about ten years, if I remember  
24 correctly, give or take a little there.  
25 Q Was she a tax return preparer for that

Page 19

1 whole time?  
2 A Yes, ma'am. And the office manager at  
3 the same time.  
4 Q Had she prepared tax returns before that  
5 time?  
6 A Yes, ma'am.  
7 Q Do you know about how long?  
8 A She's actually been doing tax returns  
9 longer than me. I have been doing it 30 years, so  
10 she's probably 31 years or something like that.  
11 Q Okay. I would like to hear a little bit  
12 about your masters in taxation. Can you tell me a  
13 little bit about that program, your course work?  
14 A The course work is basically designed to  
15 teach you about federal taxation. And so, you  
16 have classes in partnerships, corporations,  
17 S-Corporations, self-employed individuals, trusts  
18 and so forth. And then they also have courses on  
19 ethics. And they have courses on the criminal  
20 investigation part of the IRS so that you  
21 understand the due diligence requirements for your  
22 preparation of tax returns.  
23 Q About how many hours were required for  
24 your masters in taxation?  
25 A I would say, offhand, I probably spent

Page 20

1 500 plus hours between studying, writing, taking  
2 tests, you know, all that stuff.  
3 Q Sure. I wasn't precise. How many  
4 course work hours, credit hours were required?  
5 A Oh, I'm sorry. I don't remember. I do  
6 have the degree though. It's hanging on the wall  
7 in my office. So, whatever it was, I passed it.  
8 Q During your masters in taxation, were  
9 there classes on, like, procedure within the IRS  
10 on the civil side?  
11 A Yes, ma'am.  
12 Q What kinds of things did you learn about  
13 there?  
14 A Basically, that again, back to the due  
15 diligence, that you have to make sure that you  
16 follow the guidelines, the treasury regulations in  
17 the Internal Revenue Code. And if you have a  
18 question about something, you do the research to  
19 come up with the due diligence and the substantial  
20 authority.  
21 Q Just to return to earlier on, Mr.  
22 Jameson, before you went to college, did you get a  
23 GED?  
24 A Yes. I got a GED when I was in the  
25 army.

<p style="text-align: right;">Page 21</p> <p>1 Q And, actually, what dates were you in 2 the army?</p> <p>3 A 1968, 1969. Not real popular years.</p> <p>4 Q For your masters in taxation, was there 5 any requirement that you have a certain number of 6 hours of practical work, practical experience?</p> <p>7 A Yes, ma'am.</p> <p>8 Q What was that requirement?</p> <p>9 A The requirement was that I had to have 10 some tax preparation experience. And if I 11 remember correctly, it was, it had to do with the 12 time. So, where I had enough years in tax 13 preparation, when I took the entrance exam I was 14 able to pass it because I had basic understanding 15 for preparation of tax returns.</p> <p>16 Q So, there was an entrance exam for your 17 masters program?</p> <p>18 A Yes, ma'am, if I remember correctly.</p> <p>19 Q So, Mr. Jameson, you got your masters in 20 taxation not long after 26 USC 469 was enacted 21 regarding material participation, correct?</p> <p>22 A Yes, ma'am.</p> <p>23 Q That was a fairly recent addition to the 24 tax code when you were in that program, right?</p> <p>25 A Yes, ma'am.</p>	<p style="text-align: right;">Page 23</p> <p>1 give us assignments to review that particular 2 thing, like, doing a partnership return, and then 3 explaining why we did the partnership return and 4 using the code sections to explain why we did what 5 we did on it when they gave us a problem to solve.</p> <p>6 Q So, your classes for your masters in 7 taxation were online in or around 1990?</p> <p>8 A Yes, ma'am.</p> <p>9 Q Like, literally, on computers online?</p> <p>10 A Yes, ma'am. Then I would have to go to 11 the actual physical location to take the final 12 exam for that class so that it could be monitored 13 and so forth. But, other than that, all the other 14 stuff was online.</p> <p>15 Q Was it a video feed or audio?</p> <p>16 A Audio.</p> <p>17 Q And that institution where you got your 18 masters in taxation was William H. Taft?</p> <p>19 A William Howard Taft University, yes, 20 ma'am.</p> <p>21 Q University?</p> <p>22 A Um-hmm.</p> <p>23 Q Do you know if that's a for profit 24 university?</p> <p>25 A I do not know.</p>
<p style="text-align: right;">Page 22</p> <p>1 Q Did you talk about it in the course of 2 your studies in your masters in taxation?</p> <p>3 A To be quite honest with you, I don't 4 remember. I am assuming that one of the classes 5 that we had was updates toward the end. But, 6 also, under the fact that I am an IRS enrolled 7 agent, I have to do continuous education. I have 8 to have 72 units every three years, including two 9 units in ethics. So, I would have covered it, if 10 not in the masters program, but would have covered 11 it in the updates.</p> <p>12 Q Sure. But talking specifically about 13 your masters in taxation, and the reason I ask 14 this is because I know when I was in law school, 15 you know, if there was a significant change to law 16 that had existed by the time, you know, at the 17 time I was in school, our professors tended to hit 18 it pretty hard. Do you remember talking about 19 Section 469 in the course of your masters in 20 taxation?</p> <p>21 A We probably touched on it. But this was 22 all -- it wasn't a classroom environment. It was 23 all done online. So, it would have had to do with 24 the textbooks and what the professor at that time 25 wanted us to do. Most of the classes, they would</p>	<p style="text-align: right;">Page 24</p> <p>1 Q And I just want to make sure I 2 understand as much as I can about the masters in 3 taxation. But what you just said, it sounded like 4 it was kind of a problem-based approach to 5 education?</p> <p>6 A Yes, ma'am.</p> <p>7 Q So, about how much, if you can give me a 8 rough estimate, of the course work you did was 9 lecture based versus working through problem sets?</p> <p>10 A About 50/50.</p> <p>11 Q Did you have any requirement for a 12 masters thesis?</p> <p>13 A No, ma'am.</p> <p>14 Q Did you do any kind of paper writing in 15 the course of the masters?</p> <p>16 A Yes, ma'am.</p> <p>17 Q Do you happen to recall what you wrote 18 about?</p> <p>19 A Each of the courses would require us to 20 do problem solving but, also, part of the problem 21 solving was to explain how we solved the problem, 22 what type of research we did, again, back to the 23 teaching us the due diligence and the substantial 24 authority. So, if they gave us a question about a 25 partnership, here is your problem with the</p>

<p style="text-align: right;">Page 25</p> <p>1 partnership, do the tax return, now explain why</p> <p>2 you did what you did. So, we would have to write</p> <p>3 up papers about that. I guess you could say each</p> <p>4 class had its own thesis.</p> <p>5 Q Do you recall working through problems</p> <p>6 involving material participation?</p> <p>7 A I do not recall.</p> <p>8 Q All right. Let's talk a little about</p> <p>9 your Ph.D course work. How many -- Mr. Jameson,</p> <p>10 did the course work for your Ph.D differ from your</p> <p>11 course work for your masters?</p> <p>12 A I was given a test because I already had</p> <p>13 a masters of science in taxation. They gave me a</p> <p>14 test, basically, to see where I was in the system.</p> <p>15 And, based on the test, they waived some of the</p> <p>16 classes so that, I don't think I even took an</p> <p>17 actual class itself. They just moved me right</p> <p>18 through the system to where I had to prepare the</p> <p>19 thesis based on my test.</p> <p>20 Q Okay. So, you didn't engage in any</p> <p>21 course work?</p> <p>22 A No, ma'am.</p> <p>23 Q Sorry. Let me finish the question. So,</p> <p>24 you didn't engage in any course work for your</p> <p>25 Ph.D?</p>	<p style="text-align: right;">Page 27</p> <p>1 your adviser?</p> <p>2 A October of 2016.</p> <p>3 Q So, other than your dissertation, have</p> <p>4 you done any other work toward your Ph.D in</p> <p>5 taxation?</p> <p>6 A Not sure I understand the question.</p> <p>7 Q So, my general understanding, I could be</p> <p>8 wrong of Ph.Ds, is that there may be some course</p> <p>9 work. And there is a dissertation. What you said</p> <p>10 is you have waived any course work. And you</p> <p>11 submitted your dissertation. So, other than</p> <p>12 finalizing your dissertation and passing whatever</p> <p>13 review there is for your dissertation, is there</p> <p>14 any other work that you need to do to complete</p> <p>15 your Ph.D?</p> <p>16 A No, ma'am.</p> <p>17 Q Is there any practical experience</p> <p>18 requirement to complete your Ph.D?</p> <p>19 A Yes, ma'am.</p> <p>20 Q What is that?</p> <p>21 A It has to do with the number of years I</p> <p>22 have been in tax returns, and then my professional</p> <p>23 credentials.</p> <p>24 Q So, do you mean you have to have already</p> <p>25 had a certain number of years of work or do you</p>
<p style="text-align: right;">Page 26</p> <p>1 A No, ma'am.</p> <p>2 Q I just want to make sure I understand.</p> <p>3 Because earlier you testified that all your course</p> <p>4 work was done around mid-2015 for your Ph.D?</p> <p>5 A Yes, ma'am.</p> <p>6 Q So, by that you mean you had taken the</p> <p>7 test and waived through all the courses?</p> <p>8 A Yes, ma'am.</p> <p>9 Q But you started working on your Ph.D in</p> <p>10 mid-2012 you testified earlier?</p> <p>11 A My recollection, yes.</p> <p>12 Q So, what does that mean? Is that when</p> <p>13 you applied? Help me understand the time there.</p> <p>14 A I would have applied then. And if I</p> <p>15 remember correctly, I applied and had to take the</p> <p>16 test to see how much course work I didn't have to</p> <p>17 take. They gave me credit for the masters and</p> <p>18 then assigned me an adviser to start working on my</p> <p>19 thesis.</p> <p>20 Q Okay. So, it sounds like, and correct</p> <p>21 me if I'm wrong, I'm just trying to understand, it</p> <p>22 sounds like then you started working on your</p> <p>23 dissertation in mid-2012.</p> <p>24 A Yes, ma'am. Either that or early 2013.</p> <p>25 Q When did you submit your dissertation to</p>	<p style="text-align: right;">Page 28</p> <p>1 still have to accrue more years of work to get</p> <p>2 your Ph.D?</p> <p>3 A I had to have years of work prior to</p> <p>4 applying for the Ph.D along with the professional</p> <p>5 accreditations and licensing.</p> <p>6 Q Okay. But to get your Ph.D, you don't</p> <p>7 have to engage in additional years of work,</p> <p>8 correct?</p> <p>9 A Correct.</p> <p>10 Q And you don't have to acquire any</p> <p>11 additional professional designations to get your</p> <p>12 Ph.D, correct?</p> <p>13 A Correct.</p> <p>14 Q And you testified earlier that you can't</p> <p>15 recall the name of the institution?</p> <p>16 A Not off the top of my head, no, ma'am, I</p> <p>17 can't. I'm sorry.</p> <p>18 Q Do you happen to know if that</p> <p>19 institution is a for profit institution?</p> <p>20 A I do not know that answer.</p> <p>21 Q Does your dissertation touch on any</p> <p>22 aspect of material participation?</p> <p>23 A No, ma'am.</p> <p>24 Q Out of curiosity, if you are</p> <p>25 semiretired, why go for the Ph.D?</p>

<p style="text-align: right;">Page 29</p> <p>1 A That's a good question. My wife asked  2 the same thing. Because I didn't graduate from  3 high school I figured that if I could get a Ph.D I  4 would have impressed my grandfather.  5 MR. PAUL: Educational atonement.  6 THE WITNESS: Correct.  7 BY MS. HEALY-GALLAGHER:  8 Q Mr. Jameson, you mentioned professional  9 designations that you have?  10 A Yes, ma'am.  11 Q What are those?  12 A I am an IRS enrolled agent. I have --  13 the National Association of Enrolled Agents has a  14 three-year course to teach you representation  15 before the Internal Revenue Service. I have that  16 designation. I'm called a fellow of NTPI. They  17 have a further three-year course to teach you  18 advanced representation before the Internal  19 Revenue Service. I have that designation.  20 I am a master graduate of federal  21 examination. There's only eight of us in the  22 country that have done that.  23 Q Any other professional designations?  24 A No, ma'am. Would you like to use my  25 notepad? Would that work better?</p>	<p style="text-align: right;">Page 31</p> <p>1 different levels of employees. So, I started with  2 the basic and went all the way through the most  3 advanced courses that they had.  4 Q Did you do anything else to prepare for  5 the EA exam other than the H &amp; R Block training?  6 A Other than studying the Internal Revenue  7 Code, no, ma'am.  8 Q And your own preparation?  9 A Yes, ma'am.  10 Q And you started taking the H &amp; R Block  11 courses in or around 1987, yes?  12 A Yes, ma'am.  13 Q Can you give me a general understanding  14 of the courses that you took from H &amp; R Block?  15 How were they structured, what were they like?  16 A The courses were structured, the basic  17 courses for somebody that had never done a tax  18 return before so you would be able to explain how  19 the tax return works by using different pages of  20 the tax return, as an example, the W2 that's  21 issued by the employer, where it gets reported.  22 If you have itemized deductions, you start with a  23 Schedule A and where it carries over to the 1040  24 or the 2106 that then carries over to the Schedule  25 A then over to the 1040. That's the basic</p>
<p style="text-align: right;">Page 30</p> <p>1 Q No. Thank you.  2 A Okay.  3 Q When did you become an IRS enrolled  4 agent?  5 A I would to say 1982. It was right -- I  6 started doing taxes -- no, I couldn't have done it  7 then. That's when I graduated. So, let's see, I  8 started doing taxes in '87. So, it would have  9 probably been 1989. I'm sorry. They all sort of  10 run together after a while.  11 Q What did you have to do to become an  12 enrolled agent?  13 A I had to take a test given by the  14 Internal Revenue Service and pass it with an  15 85 percent or higher.  16 Q What did you do to prepare for the test?  17 A Study the Internal Revenue Code.  18 Q Did you take any courses?  19 A No, ma'am.  20 Q Did you use any specialized resources to  21 help prepare specifically for the test?  22 A Yes, ma'am.  23 Q What did you use?  24 A H &amp; R Block teaches tax courses every  25 year. So, they have training manuals for</p>	<p style="text-align: right;">Page 32</p> <p>1 classes.  2 Then it would basically advance more and  3 more as you got into the upper level teaching so  4 that they got into breaking down the Form 2106 in  5 greater detail as to where the information would  6 come from, how to justify the information and how  7 to make it work on the tax return and carry it  8 forward onto the Schedule A and onto the 1040.  9 And they did the same thing with partnerships,  10 corporations, trust returns and so forth.  11 Q So, if I understand you correctly, the  12 basic courses were pretty solely focused on where  13 things go on the tax return; is that right?  14 A Yes, ma'am.  15 Q And then, like, after basic, was there  16 an intermediate, then an advanced?  17 A Yes, ma'am.  18 Q So, for intermediate, what was the  19 difference between that and the basic?  20 A As an example, back to the 2106, Form  21 2106, the intermediate would break down the 2106  22 in greater detail and then explain how it gets  23 carried over to the Schedule A and what the  24 limitations are on the Schedule A, and then from  25 the Schedule A to the 1040. Where the basic would</p>



Page 33

1 cover, basically, the 1040 and kind of outline the  
 2 Schedule A, but not really get into the 2106 Form.  
 3 Q And what's the 2106 Form?  
 4 A Unreimbursed Employee Business Expenses.  
 5 Q So, then how would the intermediate, for  
 6 example, differ from the advanced?  
 7 A The advanced, back to the 2106, it  
 8 probably wouldn't even cover the 2106 in the  
 9 advanced because you learn that in the  
 10 intermediate. What they would then get into is  
 11 greater detail having to do with, say, 1031  
 12 Exchanges or interaction on self-employed  
 13 individuals and how that information on the  
 14 Schedule C then carries over to the 1040, and how  
 15 it interacts with the rest of the tax returns that  
 16 along with the Schedule C you might have to have  
 17 the 4562, as an example. Then where it carries to  
 18 the Schedule C, then where it carries over to the  
 19 1040. And then, also, if you have to have an 8582  
 20 and so forth.  
 21 Q So, again, the H & R Block courses from  
 22 '87 to '89 in the enrolled agent exam in 1989 were  
 23 fairly recently after the enactment of Section 469  
 24 to do with material participation. Do you recall  
 25 covering material participation in any depth?

Page 34

1 A I probably would have covered the  
 2 material participation in the portion of the  
 3 advanced training that had to do with rental units  
 4 because of the material participation in a rental  
 5 unit. And then there would have been some,  
 6 probably, in partnerships, because you have  
 7 general partners and limited partners. And they  
 8 would have covered Section 469 in that particular  
 9 courses.  
 10 Q When you say rental units, do you mean  
 11 real property?  
 12 A Yes, ma'am.  
 13 Q Did you talk about rental of tangible  
 14 property at any time?  
 15 A I don't remember touching on that  
 16 particular one. But I am thinking that there  
 17 probably was some information having to do with  
 18 the Schedule C, because the Internal Revenue  
 19 Service requires the rental Section 1231 tangible  
 20 personal property be reported on a Schedule C.  
 21 Q So, of course, Mr. Jameson, you know  
 22 that Section 469 was enacted in response to tax  
 23 shelters during the 1980s?  
 24 A Yes, ma'am.  
 25 Q What, if anything, do you recall

Page 35

1 discussing in the course of your education or your  
 2 preparation for the enrolled agent exam about tax  
 3 shelters?  
 4 A Most of the information at the time that  
 5 I was getting ready to take my enrolled agent's  
 6 exam had to do with trust and the formation of  
 7 trusts that were being used as tax shelters.  
 8 Q Do you recall talking about attempts by  
 9 folks to use passive losses to offset active  
 10 income as part of tax sheltering plans?  
 11 A I'm not sure I understand the question.  
 12 Because I didn't discuss it with anybody. I did  
 13 all the research and taking the courses on my own.  
 14 Q Okay. Do you recall hearing anything  
 15 about that in the course of your study?  
 16 A The only thing that I recall in the  
 17 course of my study and having to do in getting  
 18 prepared to take the enrolled agent's exam, they  
 19 were really pushing the 469 having to do with  
 20 trusts. I actually had a couple of IRS agents  
 21 call me because I had done a trust return for a  
 22 young lady. And they wanted to know how it was  
 23 set up and structured. And so, I explained all  
 24 that to them. And they were happy with it.  
 25 Q Okay. But you don't recall, or do you,

Page 36

1 in the course of your study and preparation for  
 2 the enrolled agent's exam, talking about more  
 3 generally using the attempt to use passive losses  
 4 to offset active income?  
 5 A No, ma'am, I don't recall that.  
 6 Q Do you recall whether that was on the  
 7 enrolled agent exam in 1989?  
 8 A No, ma'am, I'm sorry, I don't recall.  
 9 Q Did you pass the enrolled agent's exam  
 10 on the first try?  
 11 A No, ma'am.  
 12 Q How many times did you take it?  
 13 A Twice.  
 14 Q When is the first time you took it?  
 15 A I don't remember. It was six months or  
 16 so before I took it the second time. And then I  
 17 passed it the second time. Only had to take one  
 18 course. I had never really done trust returns  
 19 before. And so, I didn't pass the trust portion.  
 20 So, I just had to go back and retake the trust  
 21 portion.  
 22 Q Okay. But it was 1989 that you passed  
 23 the enrolled agent's exam?  
 24 A Yes, ma'am, if I remember correctly.  
 25 Q What, if any, requirements are there to

Page 37

1 maintain the enrolled agent designation?  
 2 A I must have 72 continuing education  
 3 hours in a three-year period, including two hours  
 4 of ethics every year.  
 5 Q Did you say two hours of ethics every  
 6 year?  
 7 A Yes, ma'am.  
 8 Q Have you held the designation of  
 9 enrolled agent since 1989?  
 10 A Yes, ma'am.  
 11 Q It's never lapsed?  
 12 A Never lapsed.  
 13 Q It's never been revoked?  
 14 A No, ma'am.  
 15 Q So, I understand we are talking about  
 16 nearly what, 30 years? 20 years? Thirty?  
 17 A Close to 30, yes, ma'am.  
 18 Q Since you got the enrolled agent  
 19 designation. So, I am looking for broad strokes  
 20 here. But how, generally, have you gotten your  
 21 continuing education hours?  
 22 A I get my continuing education hours by  
 23 signing up for classes that are registered with  
 24 the Internal Revenue Service. As an example, I  
 25 went to a class given by the American Academy of

Page 38

1 Tax Practice in Las Vegas a couple of years ago  
 2 and got 24 hours of continuing education and two  
 3 hours of ethics.  
 4 Q So, is that your general practice, to  
 5 get a good chunk of the continuing education at  
 6 one time?  
 7 A Yes, ma'am. To further answer the  
 8 question for you, my general way of doing things  
 9 is to get the big chunk from the American Academy  
 10 of Tax Practice, because they review all of the  
 11 updated laws and stuff like that that the Internal  
 12 Revenue Service is doing. And then I have another  
 13 one where I go to Client Wise, is the name of the  
 14 company. And they give an 18-hour course every  
 15 year that is just an update on how the laws have  
 16 impacted the tax returns and how the tax returns  
 17 have changed so that I stay current with both of  
 18 them. And that class will be in November.  
 19 Q Okay. So, correct me if I'm wrong, but  
 20 it sounds like you focus your continuing education  
 21 on taking a look at any updates to the tax laws as  
 22 they have occurred in the course of the year since  
 23 you got your enrolled agent designation?  
 24 A Yes, ma'am.  
 25 Q Throughout the course of your -- well,

Page 39

1 let me ask you this, actually. All right. Let's  
 2 talk about the national, did you say National  
 3 Association of Enrolled Agents --  
 4 A Yes, ma'am.  
 5 Q -- designations that you have? What was  
 6 the first one again?  
 7 A I am a fellow of the National Tax  
 8 Practice Institute.  
 9 Q When did you receive that designation?  
 10 A I don't remember. I have had it for a  
 11 number of years.  
 12 Q Was it in the '90s?  
 13 A Probably. I would say, yeah.  
 14 Q What were the requirements to receive  
 15 that designation?  
 16 A You had to go to their classes. So, I  
 17 would go to the meeting that they would have every  
 18 year. And I would go to the classes that they  
 19 would offer having to do with that designation and  
 20 then take the test that they give.  
 21 Q So, were the classes that were required  
 22 only the ones that they gave at their yearly  
 23 meeting?  
 24 A Yes, ma'am.  
 25 Q About how many hours per year were those

Page 40

1 classes?  
 2 A I think the classes were over a three  
 3 day period and each class was probably six hours.  
 4 Q So, 18 hours?  
 5 A Yes, ma'am.  
 6 Q And did you say that this was a  
 7 three-year, three years of classes required?  
 8 A Yes, ma'am. Because they only gave them  
 9 during their annual meetings. Now, they had a  
 10 couple of annual meetings in the country, and I  
 11 would go to the one that was closest, like in Las  
 12 Vegas, as an example.  
 13 Q So, it was a total of 54 class hours?  
 14 A Yes, ma'am.  
 15 Q What were those classes on?  
 16 A Representation before the Internal  
 17 Revenue Service, how to get the power of attorney,  
 18 how to fill the power of attorney out correctly,  
 19 how to advise the client, what questions to ask  
 20 the client, what questions to interface with the  
 21 TCO or the revenue agent having to do with the  
 22 information document request, how to follow up on  
 23 a 4559, how to fill out a 433A, B or C, off the  
 24 top of my head.  
 25 Q What did those classes talk about with

<p style="text-align: right;">Page 41</p> <p>1 respect to questions to ask the client?</p> <p>2 A Well, if you have a client who is being</p> <p>3 audited for mileage, as an example, they would</p> <p>4 say, okay, you need to have this documentation to</p> <p>5 prove the deduction. And so, you need to ask the</p> <p>6 client, as an example, you are claiming</p> <p>7 12,418 miles. How did you come up with that</p> <p>8 mileage? Where is your mileage log? What was the</p> <p>9 reason for the travel from destination A to</p> <p>10 destination B? And you met with who when you were</p> <p>11 there? What was discussed and so forth. To help</p> <p>12 establish the deduction.</p> <p>13 Q And that's because, right, Mr. Jameson,</p> <p>14 it is up to the taxpayer to establish that they</p> <p>15 are allowed that deduction?</p> <p>16 A Yes, that's in the Internal Revenue</p> <p>17 Code.</p> <p>18 Q Did they talk in these courses about</p> <p>19 what to do if a client didn't have supporting</p> <p>20 documentation for a particular tax treatment?</p> <p>21 A They covered it a little bit on the</p> <p>22 basic course. More in the upper courses, but,</p> <p>23 yes, they did talk about it.</p> <p>24 Q What did they say?</p> <p>25 A You have under the Cohan Rule, the</p>	<p style="text-align: right;">Page 43</p> <p>1 supporting documentation to the auditor, whether</p> <p>2 it was a TCO or a revenue agent, and then go from</p> <p>3 there.</p> <p>4 Q Were there any, either courses about</p> <p>5 ethics or discussion of ethics, in your courses to</p> <p>6 become a fellow of National Tax Practice</p> <p>7 Institute?</p> <p>8 A I am sure there probably was, yes.</p> <p>9 Q Do you recall what those ethics</p> <p>10 discussions were about?</p> <p>11 A Not off the top of my head, no, ma'am.</p> <p>12 They would have discussed Circular 230. Circular</p> <p>13 230 is basically the guidelines from the federal</p> <p>14 government that controls and informs a IRS</p> <p>15 enrolled agent. So, the ethics portion would have</p> <p>16 been in the Section 230. It's called Circular</p> <p>17 230. Excuse me.</p> <p>18 Q And enrolled agents have a duty of</p> <p>19 candor to the IRS, correct?</p> <p>20 A Yes, ma'am.</p> <p>21 Q How many times did you take the test to</p> <p>22 become a fellow of National Tax Practice</p> <p>23 Institute?</p> <p>24 A There really wasn't a test as such. You</p> <p>25 just had to complete the number of hours and get</p>
<p style="text-align: right;">Page 42</p> <p>1 ability to reconstruct as long as the</p> <p>2 reconstruction is reasonable and doesn't exceed</p> <p>3 what you claimed on the tax return as a deduction.</p> <p>4 You also must have reasonable cause to establish</p> <p>5 the reconstruction of the deduction.</p> <p>6 Q Can you give me an example of a</p> <p>7 reasonable reconstruction to support a tax</p> <p>8 treatment?</p> <p>9 A The mileage log, as an example, the</p> <p>10 individual didn't keep a mileage log, which they</p> <p>11 are supposed to do, so how would we reconstruct</p> <p>12 it. Okay. You met on July the 15th with Sam at</p> <p>13 this location. Do we have documentation that you</p> <p>14 met with him? Obviously, if you met with him,</p> <p>15 then you had to get from your house or from your</p> <p>16 office to that location. And, therefore, we can</p> <p>17 look on Google and find out what the miles are.</p> <p>18 And that helps us reconstruct the mileage.</p> <p>19 Q And what if a client didn't have</p> <p>20 supporting documentation and was unable to come up</p> <p>21 with a reasonable reconstruction supporting a tax</p> <p>22 treatment. What then?</p> <p>23 A That's a tough one. What you would have</p> <p>24 to do is try and reconstruct it to the best of our</p> <p>25 ability and then explain why we didn't have</p>	<p style="text-align: right;">Page 44</p> <p>1 certified by the instructors that you were at that</p> <p>2 particular course.</p> <p>3 Q Are there any continuing requirements to</p> <p>4 maintain that designation?</p> <p>5 A The fellow designation?</p> <p>6 Q Right.</p> <p>7 A No, ma'am.</p> <p>8 Q I think you said you had a second</p> <p>9 designation from the National Association of</p> <p>10 Enrolled Agents?</p> <p>11 A Yes, ma'am.</p> <p>12 Q What is that?</p> <p>13 A Master graduate of federal examination.</p> <p>14 Q Do you recall when you got that</p> <p>15 designation?</p> <p>16 A Not off the top of my head, no, I'm</p> <p>17 sorry. I don't.</p> <p>18 Q Was it in the '90s?</p> <p>19 A It was probably, probably in mid-'90s,</p> <p>20 maybe late '90s. Again, it's on the wall behind</p> <p>21 my desk, so I would just look up there to get the</p> <p>22 dates. I don't remember the exact date.</p> <p>23 Q And what were the requirements to get</p> <p>24 the designation of master graduate of federal</p> <p>25 examination?</p>

Page 45

1 A You had to, again, take three years  
2 worth of classes they would give at the annual  
3 meeting. Then, at the end of the class scheduling  
4 that you have completed, they would give you a  
5 problem, and you would have to solve the problem.  
6 And you would have to write a dissertation as to  
7 why you solved the problem the way you did, giving  
8 code sections, regulations, revenue rulings and so  
9 forth.

10 And, to be honest, it was just as hard  
11 to get as it was to get my masters degree. They  
12 also interviewed me. There was three of them that  
13 interviewed me on my thesis when I presented it.  
14 Then they tried to chew me up and spit me out.

15 Q So, how did the classes for the master  
16 graduate of federal examination differ from the  
17 classes to become a fellow of the National Tax  
18 Practice Institute?

19 A They were much more in depth. And they  
20 covered -- they assumed you already knew how to do  
21 an audit. So, what they would do is, they would  
22 get into advanced audits and into appeals and  
23 teach you how to evaluate the information coming  
24 from the Internal Revenue Service. As an example,  
25 the IDR or the 4559, so that you would have a

Page 46

1 better understanding of what the Internal Revenue  
2 Service agent or employee was requesting and how  
3 to answer their request and how to do the research  
4 to support your answer.

5 Q Any other general topics that you recall  
6 from those classes?

7 A No, ma'am, not off the top of my head.

8 Q Were there -- was there an ethics  
9 component to the master graduate of federal  
10 examination designation?

11 A Yes, ma'am.

12 Q Do you recall what that was?

13 A Basically, they would review Circular  
14 230 in greater detail, making sure that we  
15 understood the requirements that we were facing  
16 and the rules under which we were to operate as an  
17 enrolled agent in representing our clients before  
18 the Internal Revenue Service and answering the  
19 Internal Revenue Service's questions in an  
20 appropriate manner.

21 Q Do you recall how the conversation about  
22 the Circular 230 differed between the fellow  
23 designation and the master graduate designation?

24 A Again, it would be in greater detail  
25 where they would get into a specific section, say,

Page 47

1 1031, as an example, and explain how that came  
2 about and how it's been implemented, and court  
3 cases having to do with the interaction of  
4 enrolled agents and the IRS, if there was a  
5 problem, what the IRS looked at having to do with  
6 that particular code section, and how we were to  
7 manage it and make sure that we fell within the  
8 guidelines.

9 Q You mentioned that the master graduate  
10 course of study talked about advanced audits.  
11 What's an advanced audit as opposed to a more  
12 typical audit that you may have learned about in  
13 the fellow course of study?

14 A I'm not sure how to answer that  
15 question. An advanced audit would be the auditor  
16 sends the information document request for, let's  
17 say, a 2013 tax return. And they are specifically  
18 looking at the Schedule C. Once they decide that  
19 there may be a particular item on the Schedule C  
20 that they want further information or they believe  
21 that it was not done correctly, or there's  
22 questions about it, they would then expand the  
23 audit. Because the IRS has the right to go back  
24 one year as long as it's still an open year, or go  
25 forward one year if they want to. So, that would

Page 48

1 be a more advanced audit instead of just having a  
2 one-year as a Schedule A. For example, you may  
3 have three years dealing with a Schedule E or  
4 Schedule C or something like that.

5 Q And what did you mean by what you said  
6 they would teach you how to evaluate information  
7 coming from the IRS, in a different way it sounded  
8 like than what the course work for the fellow  
9 designation was?

10 A Well, as an example, if they send you an  
11 information document request saying that there was  
12 unreported income, then what they tell you to do  
13 is, okay, here's the unreported income, now get  
14 copies of the bank statements to verify that and  
15 then also go into the Internal Revenue Service  
16 website under the power of attorney and pull down  
17 all the information that the Internal Revenue  
18 Service has on your client and review where they  
19 found that unreported income. Then you can go  
20 back to the client and say, okay, the Internal  
21 Revenue Service says you have \$18,000 worth of  
22 unreported income. Where did it come from? How  
23 do we explain it? What is the documentation that  
24 we need to explain that it was untaxable? Was it  
25 inheritance or something like that? That's what



Page 49

1 it was all about.  
 2 One other thing I just thought of. They  
 3 also got into offers in compromise, liability and  
 4 so forth, how to get a Status 54 on a client.  
 5 Also, how to do the Form 433A, B, or C when you  
 6 are doing an offer in compromise. And, also, to  
 7 request a collection due process hearing and the  
 8 process that it goes through, and how to help your  
 9 client should they decide to move forward into tax  
 10 work.

11 Q And you did mention that the master  
 12 graduate course work involved appeals. And you  
 13 just mentioned tax court. What did they talk  
 14 about with respect to assisting clients in  
 15 appeals?

16 A When you assist a client in appeals, you  
 17 have to lay the groundwork during the audit to  
 18 take it to appeals. And then, when you are in  
 19 appeals, you can then further infuse information  
 20 or give them information or negotiate with the  
 21 appeals officer, because, at that point, you are  
 22 also laying the groundwork should the client  
 23 decide to move it forward into tax work.

24 Q So, is that still true today that you  
 25 can give new factual information to an appeals

Page 50

1 officer?

2 A It is true. But you are limited on the  
 3 amount of new factual information you can give to  
 4 an appeals officer.

5 Q And what's that distinction?

6 A Not sure I understand the question.

7 Q What do you mean by you are limited in  
 8 new information you can get?

9 A If -- can I use an example?

10 Q Sure.

11 A Okay. We are back to the unreported  
 12 income. And the auditor said that they were not  
 13 going to accept the information we provided  
 14 because we did not have time to get all the  
 15 information. Later on, while it was going through  
 16 the process to be assigned to an appeals officer,  
 17 we were able to get the information we needed to  
 18 support the fact that the taxable, the income was  
 19 not taxable. Then we were able to give that to  
 20 the appeals officer as long as it's narrowly  
 21 defined and information we have already given. If  
 22 we brought up a brand new subject, then they would  
 23 be required to send it back to audit.

24 Q As an enrolled agent, can you represent  
 25 people in tax court?

Page 51

1 A No.

2 Q So, you can assist clients through  
 3 appeals but not after?

4 A Correct.

5 Q You mentioned, Mr. Jameson, that I  
 6 believe at the end of the three years of the  
 7 course work you were given a problem to solve as  
 8 part of the getting your designation?

9 A Yes, ma'am.

10 Q Was it one problem or multiple?

11 A It was one big problem.

12 Q One big problem. Okay. And what was  
 13 that problem about?

14 A It had to do with an individual's tax  
 15 return that had been audited. And how we were to  
 16 represent and how we were to clean up the audit.  
 17 Because the individual had attempted to represent  
 18 themselves without help and, therefore, we had,  
 19 basically, a disaster on our hands. How do we fix  
 20 the problem? How do we get the documentation?  
 21 How do we present it to the IRS? How do we  
 22 request an audit reconsideration or get the  
 23 information to appeals to ask them to send it back  
 24 to audit for an audit reconsideration. And as  
 25 part of that process, that's where the collection

Page 52

1 due process hearing comes in or the offer in  
 2 compromise, one of the different ones comes in so  
 3 that we can lay the groundwork to move it back to  
 4 audit to get the problem solved.

5 Q And do you remember what the underlying  
 6 tax issues were in that problem?

7 A Off the top of my head, no, ma'am, I  
 8 don't.

9 Q To your understanding, Mr. Jameson, is  
 10 it typical that there would be an interview with a  
 11 candidate for the master graduate designation  
 12 before the designation was granted?

13 A Yes, ma'am.

14 Q And you said that you were interviewed?

15 A Yes, ma'am.

16 Q I believe you testified earlier that  
 17 they chewed you up?

18 A Attempted to, yes, ma'am.

19 Q Attempted to. Why was that?

20 A They took my -- the problem that they  
 21 gave us, where I had to fill everything out, then  
 22 I had to write a thesis explaining why I did it.  
 23 They went through the thesis and tried to make me  
 24 explain how I came up with the answer and attacked  
 25 me on everything that I basically did, which would

Page 53

1 be a normal thing like with my masters degree for  
 2 social science, I had the same problems during the  
 3 interview in defense of my thesis.  
 4 Q Do you recall what issues they took with  
 5 your explanation for the problem at the end of the  
 6 master graduate?  
 7 A No, ma'am, I'm sorry. Not off the top  
 8 of my head. It was too long ago.  
 9 Q Okay. And you said that you defended  
 10 your thesis in your masters taxation program?  
 11 A No, ma'am.  
 12 Q Okay.  
 13 A I defended my thesis in my masters of  
 14 science interdisciplinary administration program.  
 15 Q Okay. Got it. That clarifies that.  
 16 So, we have walked through a few different avenues  
 17 of professional education that you had with  
 18 respect to federal taxation. Other than what we  
 19 have already discussed, have you had any other  
 20 sources of education on federal taxation?  
 21 A Other than on-the-job training? No.  
 22 Q Sure. So, you also have your years of  
 23 experience?  
 24 A Yes, ma'am.  
 25 Q Have you ever taught any courses on

Page 54

1 federal taxation?  
 2 A When I was the owner of the H & R Block  
 3 franchises in Cedar City and St. George, Utah,  
 4 yes, I would teach the basic classes. And  
 5 sometimes, well, I would teach the advance classes  
 6 almost all the time. And, usually, my office  
 7 manager would teach the basic classes.  
 8 Q Any other teaching besides at H & R  
 9 Block?  
 10 A No, ma'am.  
 11 Q So, I believe, Mr. Jameson, you  
 12 testified that you learned or addressed items to  
 13 do with material participation in the course of  
 14 preparing for your enrolled agent exam?  
 15 A Yes, ma'am.  
 16 Q Do you remember in the course of your  
 17 education today addressing material participation  
 18 in any other avenue?  
 19 A We probably would have covered material  
 20 participation in some of the update classes when  
 21 they changed the rules having to do with it. And  
 22 then, mainly, they would be concentrating on the  
 23 rental of real property, Section 1244 or  
 24 Section 1250 property and how the material  
 25 participation rules apply. Then we would also

Page 55

1 cover some of it having to do with partnerships,  
 2 the 100 hours, the 500 hours, and so forth.  
 3 Q And that's in the course of your  
 4 continuing education hours?  
 5 A Yes, ma'am.  
 6 Q In the course of any of your education  
 7 to date, what, if anything, have you learned about  
 8 the hallmarks of an abusive tax shelter?  
 9 A I'm not real sure I understand the  
 10 question. What do you mean by hallmarks?  
 11 Q How would you know one if you saw one?  
 12 A I refer to it as it doesn't pass the  
 13 smell test when you sit down and look at the  
 14 deductions and what the client is giving you for  
 15 source documentation. It just doesn't -- if it  
 16 doesn't look right, then my requirement under  
 17 Circular 230 is to follow-up the due diligence.  
 18 An example would be I had a client come in one  
 19 year that said he drove 60,000 miles. And that  
 20 just -- how can you driveway 60,000 miles for  
 21 business? That means you were on the road 2,814  
 22 hours. A work year is only 2,080.  
 23 Q So, yeah, actually, could you give me an  
 24 example? You mentioned taking a look at the  
 25 deductions that might raise some red flags about

Page 56

1 an abuse of tax shelter. What did you mean by  
 2 that?  
 3 A Well, the example I gave where the  
 4 individual drove 60,000 miles. That doesn't pass  
 5 the smell test. There is no way in the world.  
 6 He's not a truck driver. He's a salesman. So, in  
 7 reality, he probably only really drove  
 8 12,000 miles, give or take. So, it would be a  
 9 matter of looking at the information the client is  
 10 providing to me. And if it looks reasonable, we  
 11 are okay, because I am not in the business of  
 12 audits. I am in the business of making sure that  
 13 I use due diligence and what they are presenting  
 14 to me falls within the guidelines of the Internal  
 15 Revenue Code.  
 16 Q And that's the second time you have  
 17 mentioned source documentation. What about source  
 18 documentation might raise some red flags for you?  
 19 A An individual is claiming, well, the  
 20 mileage. But let's say he's claiming \$4,000 in  
 21 meals, but he can't provide any receipts or credit  
 22 card statements or anything saying that he spent  
 23 \$4,000 entertaining his clients at meals; you  
 24 know, they went to lunch, went to dinner, those  
 25 kind of things.

Page 57

1 Q So, let's say someone claims to have a  
2 business. What, if anything, do you require in  
3 the way of source documentation to substantiate  
4 that that person has a business?

5 A You need to be more specific as to what  
6 you mean by business. Are you talking about  
7 self-employed individual, a C-Corporation, an  
8 S-Corporation, a partnership, an LLC?

9 Q Let's talk about what goes on a Schedule  
10 C. What source documentation do you require to  
11 complete a Schedule C for a client?

12 A It depends on what types of deduction  
13 they are claiming. So, as an example, if they  
14 have employees, then I would want to see their  
15 employer identification number. I would want to  
16 see, make sure they had a bank account. So, I  
17 would get bank statements to verify the  
18 deductions. I would want to see copies of  
19 receipts in some instances, depending upon what  
20 they were claiming, back to the \$4,000 in meals.

21 I would -- that's such a high number I  
22 would want to see some type of a receipt, whether  
23 it's a credit card receipt, a bank statement,  
24 copies of canceled checks and so forth; along  
25 those kind of lines, basically. And if they had

Page 58

1 employees and copies of the W3, copies of the 940.

2 Q What kinds of things do you require if  
3 someone has claimed, or comes in -- let me  
4 withdraw that and start that again.

5 What kinds of substantiation do you  
6 require before completing anything regarding a  
7 foreign tax credit for a client?

8 MR. PAUL: Foreign?

9 A A foreign tax credit? So, you are  
10 talking about a credit that they would give for  
11 paying taxes in England?

12 BY MS. HEALY-GALLAGHER:

13 Q Yes.

14 A I would require a copy of the  
15 information that they paid the taxes in England.  
16 I had an individual, who was a client of mine, who  
17 worked in the oil fields there. And he would be  
18 able to provide me with the W2 from the company,  
19 and the copy of the statements where he paid taxes  
20 to Great Britain. Then we would take it on the,  
21 most likely, put it on the 2555. But that's --

22 Q And what if a client did not have that  
23 evidence?

24 A Chances are we wouldn't be claiming it.  
25 It would depend upon, why doesn't he have the

Page 59

1 evidence? I had a client whose house burned down.  
2 Didn't have the evidence. We did have copies of  
3 the fire department putting the fire out at the  
4 house. So, you have to -- you have to evaluate  
5 each and every situation based on its merits.

6 Q Throughout the course of your  
7 professional education and professional  
8 experience, have you heard or dealt with the  
9 Economic Substance Doctrine?

10 A Yes, ma'am.

11 Q What's your understanding of the  
12 Economic Substance Doctrine?

13 A Well, there has to be reasonable belief  
14 that you will make a profit based on your  
15 investment in the business or a rental unit or  
16 whatever it might be. So, there has to be a  
17 substantial economic substance to the investment  
18 and/or the belief that you will make a profit at  
19 the back end. But the Economic Substance Doctrine  
20 is kind of vague in some areas. And so, as an  
21 example, I know that I did a tax return for an  
22 individual who had a farm. And they tried to  
23 disallow the deduction. But under the economic  
24 substance thing, his farm was going to increase in  
25 value and, therefore, he fell under the guidelines

Page 60

1 that were issued by a tax court decision. So, he  
2 was allowed to take the deduction.

3 Q But, of course, Mr. Jameson, there's not  
4 just a subjective component for economic  
5 substance, correct?

6 A That's correct.

7 Q There is also an objective component for  
8 economic substance?

9 A That is correct.

10 Q So, the only consideration is not simply  
11 what the taxpayer believes; isn't that right?

12 A That's open to interpretation.

13 Q So, Section 7701 subpart (o) does not  
14 have an objective requirement for economic  
15 substance?

16 A Didn't say that.

17 MR. PAUL: I'm going to object as to  
18 relevance. Can we -- he's not an expert witness.  
19 You haven't designated him. We haven't designated  
20 him. I don't see how your curiosity or discussion  
21 of different code sections relates to why we are  
22 here today.

23 MS. HEALY-GALLAGHER: Would you please  
24 read back my question.

25 (Record read.)

<p style="text-align: right;">Page 61</p> <p>1 BY MS. HEALY-GALLAGHER:</p> <p>2 Q So, it does have an objective</p> <p>3 requirement, right?</p> <p>4 A Didn't say that. I would have to look</p> <p>5 at the code section to see what you are asking me.</p> <p>6 Q But, generally, Mr. Jameson, you agree</p> <p>7 there is an objective requirement that must be met</p> <p>8 before a transaction will be considered to have</p> <p>9 economic substance?</p> <p>10 MR. PAUL: What is the relevance? You</p> <p>11 can answer.</p> <p>12 A What is the definition of objective?</p> <p>13 MR. PAUL: You don't get to ask</p> <p>14 questions. You have to answer her questions as</p> <p>15 off --</p> <p>16 THE WITNESS: Okay. I do that --</p> <p>17 MR. PAUL: Don't talk over me. As off</p> <p>18 center and off field as they may be, we need to</p> <p>19 answer her questions today. Unless I tell you not</p> <p>20 to, go ahead and answer.</p> <p>21 A I do not understand the question because</p> <p>22 I do not understand what the definition of</p> <p>23 objective is in this situation.</p> <p>24 BY MS. HEALY-GALLAGHER:</p> <p>25 Q So, Mr. Jameson, for a transaction to</p>	<p style="text-align: right;">Page 63</p> <p>1 MR. PAUL: You don't have to answer any</p> <p>2 more than you already have. If you want to stand</p> <p>3 by your answer, simply stand by it.</p> <p>4 A That was the answer I gave. Yeah, I</p> <p>5 would stand by my answer.</p> <p>6 MR. PAUL: If you have a different</p> <p>7 answer or if you want to expand on the question,</p> <p>8 go ahead. But I would like to get home before</p> <p>9 midnight tonight, so let's not drag this out.</p> <p>10 MS. HEALY-GALLAGHER: Well, speaking</p> <p>11 objections tend to drag out a deposition, Mr.</p> <p>12 Paul. So, are you instructing your client not to</p> <p>13 answer my question?</p> <p>14 MR. PAUL: No, I'm not.</p> <p>15 MS. HEALY-GALLAGHER: Please read back</p> <p>16 my question?</p> <p>17 And answer it, Mr. Jameson.</p> <p>18 MR. PAUL: He did answer the question.</p> <p>19 So, if you want to phrase a different question or</p> <p>20 you want to follow up on it? He answered it.</p> <p>21 MS. HEALY-GALLAGHER: I object to the</p> <p>22 response of Mr. Jameson's answer.</p> <p>23 Plead read it back.</p> <p>24 (Record read.)</p> <p>25</p>
<p style="text-align: right;">Page 62</p> <p>1 have economic substance, it has to change in a</p> <p>2 meaningful way, and apart from any federal tax</p> <p>3 effects the tax payers economic position. Do you</p> <p>4 agree with that?</p> <p>5 MR. PAUL: Objection. Relevance.</p> <p>6 A I wouldn't have an idea if that would be</p> <p>7 true or not without seeing an actual case. I</p> <p>8 mean, you are asking me to give an open-ended</p> <p>9 answer to something I can't really answer.</p> <p>10 BY MS. HEALY-GALLAGHER:</p> <p>11 Q Okay. Then, Mr. Jameson, do you believe</p> <p>12 that for a transaction to have economic substance,</p> <p>13 the only thing that matters is the taxpayer's</p> <p>14 subjective intent with entering the transaction?</p> <p>15 MR. PAUL: Objection. Relevance. Lacks</p> <p>16 foundation.</p> <p>17 A My belief doesn't really fall into a lot</p> <p>18 of this stuff. It would have to do with the</p> <p>19 research based on what the client is attempting to</p> <p>20 do.</p> <p>21 BY MS. HEALY-GALLAGHER:</p> <p>22 Q Object to the response and the answer.</p> <p>23 Would you please read back my question?</p> <p>24 MR. PAUL: I object to the objection.</p> <p>25 (Record read.)</p>	<p style="text-align: right;">Page 64</p> <p>1 BY MS. HEALY-GALLAGHER:</p> <p>2 Q So, I didn't ask about whether your</p> <p>3 belief matters, Mr. Jameson.</p> <p>4 So, I am going to ask you to read back</p> <p>5 the question one more time.</p> <p>6 Please listen carefully and answer the</p> <p>7 question.</p> <p>8 (Record read.)</p> <p>9 MR. PAUL: You can answer that yes or</p> <p>10 no.</p> <p>11 A No.</p> <p>12 BY MS. HEALY-GALLAGHER:</p> <p>13 Q What else matters?</p> <p>14 A The manner in which the individual is</p> <p>15 moving forward with whatever the investment is to</p> <p>16 have the economic basis for that particular item</p> <p>17 that he's doing.</p> <p>18 Q Does anything else matter in evaluating</p> <p>19 whether a transaction has economic substance?</p> <p>20 MR. PAUL: Objection, vague. Objection,</p> <p>21 form of the question.</p> <p>22 A I will answer that one yes.</p> <p>23 BY MS. HEALY-GALLAGHER:</p> <p>24 Q What?</p> <p>25 A Does it have -- as an example, does it</p>



Page 65

1 have the ability to increase in value.  
 2 Q And is that a subjective or objective  
 3 analysis?  
 4 A I'm not sure. I would assume that it  
 5 could be either and/or both depending upon what we  
 6 are talking about. Are we talking about a rental  
 7 unit, a Section 1250 piece of property or are we  
 8 talking about an avocado grove?  
 9 Q Does anything else matter in the  
 10 evaluation of whether a transaction has economic  
 11 substance?  
 12 MR. PAUL: Please answer yes or no.  
 13 A Yes.  
 14 BY MS. HEALY-GALLAGHER:  
 15 Q What's that?  
 16 A It would depend upon what the taxpayer  
 17 was doing for that business. I mean, if he had an  
 18 avocado grove, how are you supposed to come up  
 19 with an answer to that? Because the avocado grove  
 20 takes time to mature. And/or during that  
 21 timeframe it's going to increase in value. So,  
 22 there is economic substance there period. It  
 23 would depend on what we are talking about.  
 24 Q Has anything that you have ever  
 25 presented to the IRS in the course of your

Page 66

1 representation of a client been challenged on the  
 2 basis of economic substance?  
 3 A No, not to my recollection.  
 4 Q How long have you been representing  
 5 clients before the IRS?  
 6 A Going on 30 years.  
 7 Q Let's go off the record, please.  
 8 (Whereupon, a brief recess was taken.)  
 9 BY MS. HEALY-GALLAGHER:  
 10 Q Okay. So, first off, real quick, Mr.  
 11 Jameson, we just came back from a quick break.  
 12 Did you speak with anyone about the facts of this  
 13 case during that break?  
 14 A No, ma'am.  
 15 Q But it does sound like you have some  
 16 information that you would like to use to  
 17 supplement one of your earlier answers?  
 18 A Yes, ma'am.  
 19 Q And that is what?  
 20 A The name of the school that I am working  
 21 on to get my Ph.D is the Washington Institute of  
 22 Graduate Studies.  
 23 Q Did you happen to remember whether  
 24 that's a for profit or not for profit institution?  
 25 A Having thought about it, my bet is it's

Page 67

1 probably a for profit.  
 2 Q Why do you think that?  
 3 A They have an office in San Diego,  
 4 California. And they have one, I think it's in  
 5 South Jordan. And there's only five or six  
 6 universities in the country that offer a Ph.D in  
 7 taxation.  
 8 Q Why did you choose that institution?  
 9 A It was the one that was closest to me.  
 10 Q All right. Mr. Jameson, we are here  
 11 today for a court case involving a company called  
 12 RaPower-3, LLC. Are you familiar with that  
 13 company?  
 14 A I know of the company, yes, ma'am.  
 15 Q How do you know about the company?  
 16 A They have provided documentation to  
 17 clients when I do tax returns.  
 18 Q When did you first hear of RaPower-3?  
 19 A About five years ago.  
 20 Q So, around 2012?  
 21 A Yes, ma'am.  
 22 Q How did you first hear about RaPower-3?  
 23 A I had two clients come into the office  
 24 who had invested in the solar lenses.  
 25 Q And what did those clients want?

Page 68

1 A Tax preparation.  
 2 Q Had they been your clients before?  
 3 A No.  
 4 Q Which two clients are those?  
 5 A I don't remember their names. I don't  
 6 do their taxes anymore. I'm sorry. I don't  
 7 remember their names.  
 8 Q Was it two separate clients or like a  
 9 married couple?  
 10 A No, two separate clients.  
 11 Q Before that time, had you represented  
 12 any client before the IRS with any relationship to  
 13 RaPower-3 or solar lenses?  
 14 A No, ma'am.  
 15 Q So, these two clients in 2012, were they  
 16 looking to have tax year 2011 tax returns  
 17 prepared?  
 18 A That would be my understanding, yes.  
 19 Q Other than these two first clients in  
 20 2012, did you have any other clients come in to  
 21 have tax returns prepared with any relationship to  
 22 RaPower-3 or solar lenses in calendar year 2012?  
 23 A No, ma'am.  
 24 Q So, what, if anything, did you do with  
 25 respect to the RaPower-3 component of these

Page 69

1 clients' tax returns before preparing their  
 2 returns?  
 3 A I requested copies of the Operating and  
 4 Maintenance Agreement, copies of the Equipment  
 5 Purchase Agreement, copies of the Placed in  
 6 Service letter, copies of proof of payment.  
 7 Q So, this, just walking through those  
 8 documents that you asked for, the Equipment  
 9 Purchase Agreement was with respect to solar  
 10 lenses, correct?  
 11 A Yes.  
 12 Q And the Operation and Maintenance  
 13 Agreement was also with respect to solar lenses,  
 14 right?  
 15 A Yes, ma'am.  
 16 Q The Placed in Service letter you  
 17 mentioned had to do with solar lenses?  
 18 A Yes, ma'am.  
 19 Q And the proof of payment you required  
 20 was proof of payment for solar lenses?  
 21 A Yes, ma'am.  
 22 Q In 2012, did you have an understanding  
 23 of how those solar lenses were intended to work?  
 24 A I figured that out by doing the  
 25 research. Once I got the information I requested

Page 70

1 from the clients, I did the research under my due  
 2 diligence requirements so that I found the public  
 3 law that said how much credit they were able to  
 4 get, what form it would be reported on, how much  
 5 depreciation they were able to get, and what form  
 6 it would be reported on.  
 7 And in the process of doing that, I  
 8 researched the lenses themselves and found that  
 9 the solar lenses were a modified version of the  
 10 Fresnel lens that was invented in 1822 by a French  
 11 individual. They are still in use today in movie  
 12 theaters and lighthouses.  
 13 Q And did you mean Fresnel, F-r-e-n-s-e-l?  
 14 No, I spelled that incorrectly.  
 15 A That could be, yes.  
 16 Q The spelling is F-r-e-s-n-e-l, right?  
 17 A Okay. Then I pronounced it wrong. It  
 18 is French.  
 19 Q What research did you do about the solar  
 20 lenses that your customers purchased?  
 21 A Research I would have done would have  
 22 had to do with the public law that allowed them to  
 23 claim the credit under Section 48 and made sure  
 24 that it didn't fall under Section 50. And then I  
 25 did the research on the Section 1231 requirements

Page 71

1 for the placed in service.  
 2 Q Sorry. That question wasn't clear. For  
 3 these specific lenses that your customers  
 4 purchased, how did you go about their research  
 5 about how those lenses work?  
 6 MR. PAUL: Objection. Lacks foundation.  
 7 A I didn't go about research on how the  
 8 lenses work.  
 9 BY MS. HEALY-GALLAGHER:  
 10 Q Oh, I apologize. I thought that's what  
 11 you said.  
 12 A No. The research that I did had to do  
 13 with the fact that they were placed in service,  
 14 then how would they be reported on the tax return.  
 15 That's my portion of the job as I understand it,  
 16 is to justify under reasonable cause and with  
 17 substantial authority how to report the  
 18 information on the client's tax return. Whether  
 19 or not the lenses work is not my area of  
 20 expertise.  
 21 Q So, did you do any research or  
 22 investigation on whether your customers' solar  
 23 lenses actually work?  
 24 A I did some basic research on the lens  
 25 itself. That's why I knew it was invented in

Page 72

1 1822, and that it was a viable lens that was still  
 2 in use. I realize it was a modified version of  
 3 the lens.  
 4 Q And when you say you did basic research  
 5 like that, tell me what you did to conduct that  
 6 research.  
 7 A The research I would do would be on  
 8 Google. Find out, if you look on Google there's  
 9 all kinds of solar lenses out there that are in  
 10 use today to provide, you know, drinking water and  
 11 stuff like that. So, I just did some basic  
 12 research to find out if the lenses actually  
 13 existed, and that they -- like I said, they were  
 14 invented in 1822. So, that was the majority of  
 15 the research that I did.  
 16 Q So, how did you know that your  
 17 customers' solar lenses existed?  
 18 A Because they provided me with an  
 19 operating and maintenance agreement, equipment  
 20 purchase agreement, placed in service letter,  
 21 proof of payment.  
 22 Q You mentioned placed in service. That's  
 23 a general concept in tax law, correct?  
 24 A Yes, ma'am.  
 25 Q Right. What's your understanding of how

<p style="text-align: right;">Page 73</p> <p>1 your customers' lenses were placed in service?</p> <p>2 A Not sure I really understand the</p> <p>3 question having to do with -- how I understand</p> <p>4 they were placed in service?</p> <p>5 Q Yes.</p> <p>6 A Because I got a letter saying they were</p> <p>7 placed in service from RaPower-3.</p> <p>8 Q So, in 2012 --</p> <p>9 A Correct.</p> <p>10 Q -- did you have any understanding of how</p> <p>11 RaPower-3 placed in service your customer's solar</p> <p>12 lenses?</p> <p>13 A I did not do research on that because I</p> <p>14 had the Placed in Service letter.</p> <p>15 Q In 2012, did you know what RaPower-3 did</p> <p>16 with your customers' solar lenses?</p> <p>17 A No.</p> <p>18 Q In 2012, did you talk with anyone, other</p> <p>19 than your customers, affiliated with RaPower-3?</p> <p>20 A Not affiliated with RaPower-3, no.</p> <p>21 Q With anyone else affiliated with solar</p> <p>22 lenses?</p> <p>23 A I did contact a CPA in Salt Lake City</p> <p>24 who had prepared tax returns with solar lenses on</p> <p>25 it, and discussed it with him to make sure that he</p>	<p style="text-align: right;">Page 75</p> <p>1 A I prepared two tax returns that claimed</p> <p>2 benefits with regards to the benefits of solar</p> <p>3 lenses.</p> <p>4 Q How about in 2013? How many tax returns</p> <p>5 did you prepare that claimed tax benefits</p> <p>6 connected with solar lenses?</p> <p>7 A I'm not sure exactly. I would say maybe</p> <p>8 four or five at the most.</p> <p>9 Q How about in 2014 for tax year 2013?</p> <p>10 A I think the number went up dramatically,</p> <p>11 but I can't give you an exact number, dramatically</p> <p>12 meaning, maybe, 30. I do know that it was</p> <p>13 probably less than 5 percent of my overall</p> <p>14 preparation.</p> <p>15 Q And, to your recollection, in 2015 for</p> <p>16 tax year 2014, about how many tax returns did you</p> <p>17 prepare that claimed tax benefits related to solar</p> <p>18 lenses?</p> <p>19 A Probably around 30 or 35.</p> <p>20 Q In 2016 for tax year 2015, about how</p> <p>21 many returns did you prepare claiming tax benefits</p> <p>22 with respect to solar lenses?</p> <p>23 A Thirty-five, 38. Something like that.</p> <p>24 Q And how about this year in 2017? For</p> <p>25 tax year 2016, about how many returns did you</p>
<p style="text-align: right;">Page 74</p> <p>1 had done his research. And we were both on the</p> <p>2 same page.</p> <p>3 Q Who was that?</p> <p>4 A Brian Bolander, if I remember correctly.</p> <p>5 Q What did Mr. Bolander tell you?</p> <p>6 A He basically confirmed the basic</p> <p>7 research I had done concerning the Placed in</p> <p>8 Service letter, Purchase Agreement and Operating</p> <p>9 and Maintenance Agreement and the forms that were</p> <p>10 required to report the information on the clients'</p> <p>11 tax return.</p> <p>12 Q Did you speak with anyone else in 2012</p> <p>13 in connection with the solar lenses?</p> <p>14 A Not that I can remember, no, I don't</p> <p>15 think so.</p> <p>16 Q Did you speak with a gentleman named R.</p> <p>17 Gregory Shepard in 2012?</p> <p>18 A No, ma'am.</p> <p>19 Q Did you speak with anyone named Neldon</p> <p>20 Johnson in 2012?</p> <p>21 A No, ma'am.</p> <p>22 Q So, for 2012, for tax year 2011, in</p> <p>23 calendar year 2012, did you prepare two tax</p> <p>24 returns only that claimed tax benefits in</p> <p>25 connection with RaPower-3?</p>	<p style="text-align: right;">Page 76</p> <p>1 prepare claiming tax benefits --</p> <p>2 A Probably --</p> <p>3 Q Hang on. About how many tax returns did</p> <p>4 you prepare claiming tax benefits related to solar</p> <p>5 lenses?</p> <p>6 A Forty, 42. Something like that.</p> <p>7 Q At any time between 2012 and 2017, did</p> <p>8 Lori Gailey also prepare tax returns claiming</p> <p>9 benefits with respect to solar lenses?</p> <p>10 A No.</p> <p>11 Q Did anyone else prepare tax returns</p> <p>12 claiming benefits with respect to solar lenses</p> <p>13 through North Star Tax Services?</p> <p>14 A No.</p> <p>15 Q Did anyone else at the H &amp; R Block</p> <p>16 location in Cedar City prepare tax returns</p> <p>17 claiming any tax benefits relating to solar</p> <p>18 lenses?</p> <p>19 A With regards to what year?</p> <p>20 Q At any time.</p> <p>21 A No. I should qualify that statement.</p> <p>22 Q Go ahead.</p> <p>23 A I haven't worked there for four years</p> <p>24 now. So, in the time that I was there, the answer</p> <p>25 would be no.</p>

Page 77

1 Q Thank you for that. At any time since  
2 2012, have you referred any customer interested in  
3 claiming tax benefits connected to solar lenses to  
4 any other tax return preparer?

5 A No.

6 Q In 2013, Mr. Jameson, what, if any,  
7 research did you do on top of what you had already  
8 done in 2012 to learn about the solar lenses?

9 A To actually learn about the solar lenses  
10 themselves, probably just Googled a couple of  
11 things and looked at other websites and other  
12 locations that were using solar energy for various  
13 purposes. There's a couple of them in Europe, as  
14 an example.

15 Q Were those other locations using the  
16 same lenses that your customers had bought?

17 A No.

18 Q What websites did you look at?

19 A I don't remember. I just Googled it.

20 Q Did you review the RaPower-3.com  
21 website?

22 A I think I went to it one time but wasn't  
23 really happy about the way the website was  
24 constructed and didn't real look at it, but I  
25 didn't really go back to it.

Page 78

1 Q Why didn't you like the website?

2 A It was difficult to use. Didn't fully  
3 explain what it was trying to do, in my opinion.  
4 It was just difficult to use.

5 Q Did you ever download anything from the  
6 RaPower-3 website?

7 A No ma'am.

8 MR. PAUL: That's for the 2013 tax year?  
9 BY MS. HEALY-GALLAGHER:

10 Q At any time.

11 A No, ma'am.

12 Q Have you ever spoken to someone named R.  
13 Gregory Shepard?

14 A Yes, ma'am.

15 Q What is the first time you talked to  
16 him?

17 A I think in 2014, if I remember  
18 correctly.

19 Q And what about Neldon Johnson? When did  
20 you first talk to Neldon Johnson?

21 A I think I talked to -- first time I  
22 talked to Neldon was probably also in 2014.

23 Q And how did you first come to talk to  
24 Neldon Johnson?

25 A I decided that based on the increase in

Page 79

1 clients that were coming to me that I should do a  
2 little more research under my due diligence. And  
3 so, I actually traveled from Cedar City to Delta,  
4 Utah and went to the production facility for  
5 RaPower-3. I guess it's IUBS or whatever. But,  
6 at any rate, Neldon was there. And that's when I  
7 first met him and he gave me a tour of the  
8 production facility.

9 Q Did you visit any other location on this  
10 trip to Delta?

11 A Went out to the actual, what would you  
12 call it, production, the farm where they were  
13 setting up the towers, the production facility.

14 Q So, Mr. Jameson, did you see actual  
15 towers erected?

16 A Yes.

17 Q And you saw lenses in those towers?

18 A Yes.

19 Q Did you see the lenses operate?

20 A I saw the lenses produce solar heat that  
21 would start a fire, yes.

22 Q What, if anything else, happened with  
23 that heat?

24 A At the time I was there, they were  
25 setting up, they had a house located there that

Page 80

1 they were setting up to produce electricity so  
2 that the house would run off the electricity that  
3 they produced. And they were also setting up  
4 information or setting up some kind of system to  
5 have to do with the potable water that was also  
6 produced.

7 Q Object to the responsiveness of the  
8 answer.

9 Would you read back my question, please?  
10 (Record read.)

11 A Nothing, I guess.

12 BY MS. HEALY-GALLAGHER:

13 Q So, to be clear, Mr. Jameson, what you  
14 saw was solar radiation going through a lens which  
15 intensified and burnt what?

16 A A piece of wood.

17 Q Did you see any heat captured and sent  
18 anywhere else?

19 A No. But I also wasn't looking for it.

20 Q During this, your first trip to Delta,  
21 Utah, did you see any solar lenses operate in any  
22 system that generated electricity?

23 A No.

24 Q Did you see any solar lenses operated as  
25 part of any system that produced water?



<p style="text-align: right;">Page 81</p> <p>1 A Yes.</p> <p>2 Q Tell me about that.</p> <p>3 A The solar lenses were placed on the</p> <p>4 tower. They were using the solar lenses to</p> <p>5 concentrate the heat. And then taking water from,</p> <p>6 I guess, a reservoir they were using to irrigate</p> <p>7 local crops and running it through there to</p> <p>8 produce steam and then potable drinking water.</p> <p>9 Q You saw that happen?</p> <p>10 A I saw the effects of it, yes. I wasn't</p> <p>11 there when it actually happened, but I saw what</p> <p>12 was going on.</p> <p>13 Q Not my question, sir.</p> <p>14 A Okay.</p> <p>15 Q Would you please read back my question.</p> <p>16 Please listen carefully and answer the</p> <p>17 question that I ask.</p> <p>18 (Record read.)</p> <p>19 A The answer would be no.</p> <p>20 BY MS. HEALY-GALLAGHER:</p> <p>21 Q At any time, have you ever seen a solar</p> <p>22 lens operated as part of any system that generates</p> <p>23 electricity?</p> <p>24 A Yes.</p> <p>25 Q When?</p>	<p style="text-align: right;">Page 83</p> <p>1 the lens.</p> <p>2 BY MS. HEALY-GALLAGHER:</p> <p>3 Q So, you don't know whether that</p> <p>4 electricity was coming from a lens?</p> <p>5 MR. PAUL: Objection. Argumentative.</p> <p>6 Lack of foundation.</p> <p>7 BY MS. HEALY-GALLAGHER:</p> <p>8 Q Is that correct?</p> <p>9 MR. PAUL: Misstates prior testimony.</p> <p>10 A My understanding is that it was. Can I</p> <p>11 prove it? No.</p> <p>12 BY MS. HEALY-GALLAGHER:</p> <p>13 Q And all I am trying to understand, Mr.</p> <p>14 Jameson, is how did you get that understanding.</p> <p>15 A I saw the lens producing heat. I saw</p> <p>16 the heat producing steam. I saw the steam turning</p> <p>17 a generator. There was a cable on the ground from</p> <p>18 the generator to the house on the side of the</p> <p>19 house where the meter was, is where it was plugged</p> <p>20 in. And the meter was running. And when I went</p> <p>21 inside the house and flipped the switch, the light</p> <p>22 came on.</p> <p>23 Q Let's go back to when you saw heat</p> <p>24 generated by a lens, ultimately producing steam.</p> <p>25 Can you describe for me what you saw in order to</p>
<p style="text-align: right;">Page 82</p> <p>1 A We went back to Delta, I think a year</p> <p>2 later. And on that time when we went out to the</p> <p>3 facility they were actually producing electricity</p> <p>4 that was running the house that they had on-site.</p> <p>5 So, all the electricity for that house was</p> <p>6 produced on-site.</p> <p>7 Q How do you know that?</p> <p>8 A Because I got a tour where they showed</p> <p>9 me, here's the lens, here's the heat, here's the</p> <p>10 generator, here's the steam, here's the water that</p> <p>11 it produced. And here's the line running over to</p> <p>12 the house.</p> <p>13 Q So, it sounds like someone told you that</p> <p>14 electricity for the house was being generated</p> <p>15 starting at the lenses?</p> <p>16 MR. PAUL: Objection. Argumentative.</p> <p>17 BY MS. HEALY-GALLAGHER:</p> <p>18 Q Is that correct?</p> <p>19 A They didn't -- I would say no. I saw, I</p> <p>20 saw them producing power. I turned the light</p> <p>21 switch on inside the house.</p> <p>22 Q And how do you know that electricity was</p> <p>23 coming from a lens rather than some other source?</p> <p>24 MR. PAUL: Objection. Lacks foundation.</p> <p>25 A I have no proof that it was coming from</p>	<p style="text-align: right;">Page 84</p> <p>1 see that happen?</p> <p>2 A The heat was collected inside a central</p> <p>3 area. And it was concentrated on -- I don't know</p> <p>4 exactly how to explain it. It was concentrated</p> <p>5 onto a central point where water was pushed</p> <p>6 through. The water would then create steam which</p> <p>7 came out the other side. The steam was moved by a</p> <p>8 tube to a generator. And the generator was</p> <p>9 turning it, which I am assuming produced</p> <p>10 electricity that came out on a cable that ran over</p> <p>11 to the house.</p> <p>12 Q Do you mean a turbine?</p> <p>13 A A turbine, yes.</p> <p>14 Q So, you saw a turbine operating on-site?</p> <p>15 A Yes.</p> <p>16 Q What did that look like?</p> <p>17 A It was just a metal container with steam</p> <p>18 going in one end, what appeared to be steam going</p> <p>19 in one end, water coming out the other, and cable</p> <p>20 coming on the ground.</p> <p>21 Q Could you see the steam?</p> <p>22 A No.</p> <p>23 Q Were you aware, Mr. Jameson, that that</p> <p>24 house is connected to the electricity grid just</p> <p>25 like my house and your house?</p>

<p style="text-align: right;">Page 85</p> <p>1 MR. PAUL: Objection. Lack of 2 foundation. Argumentative. 3 A I was not aware. 4 BY MS. HEALY-GALLAGHER: 5 Q So, this visit to Delta, Utah, where you 6 believe you saw a lens operating in a system to 7 produce electricity, that was in 2015? 8 A Yes, ma'am. 9 Q Have you been back to that site since 10 2015? 11 A No, ma'am. 12 Q I believe you testified, Mr. Jameson, 13 that out of the turbine came water? 14 A Yes. 15 Q How do you know that? 16 A I did see the water dripping. 17 Q Where did it go? 18 A The main part of the water had a pipe 19 that ran somewhere. The part I saw where it was 20 connected was where the water was dripping out 21 just onto the ground right there. 22 Q I'm just trying to understand. So, 23 there was a pipe taking some of the water away, 24 but some of the water was dripping down? 25 A I was assuming it was taking most of the</p>	<p style="text-align: right;">Page 87</p> <p>1 A Yes. 2 Q To your knowledge, have any of 3 RaPower-3 -- well, let me withdraw that. 4 To your knowledge, has any of your 5 customers ever been paid for the use of their 6 lens? 7 A No, I don't think so. No. 8 Q So, none of your customers have been 9 paid for the use of their lens, correct? 10 A If you are talking about rent, the 11 answer would be no. 12 Q I'm just trying to not get a double 13 negative on the record. So, to your knowledge, 14 Mr. Jameson, none of your customers have received 15 a rental payment for use of their lens? Is that 16 correct? 17 A That is correct. 18 Q You mentioned, Mr. Jameson, sounds like 19 two trips to Delta; is that right? 20 A Yes. 21 Q Have you made any other trips to any 22 other site where a solar lenses may or may not be 23 in use? 24 A No, I have not. 25 Q Other than your first trip to Delta,</p>
<p style="text-align: right;">Page 86</p> <p>1 water away and a little was dripping at the 2 connection. 3 Q Do you know where that pipe went? 4 A Off the top of my head, no. I did not 5 follow it. 6 Q So, Mr. Jameson, we talked briefly a 7 moment ago about the contracts that you asked your 8 initial customers for, right? 9 A Yes. 10 Q One of those was an Equipment Purchase 11 Agreement, correct? 12 A Yes. 13 Q One was an Operation and Maintenance 14 Agreement, right? 15 A Yes. 16 Q Can you give me your understanding of 17 how the Operation and Maintenance Agreement was 18 intended to work? 19 A The individual would purchase the lens 20 and lease it to -- was it LTBD, or something like 21 that? And they would maintain the lens and set it 22 up on-site. 23 Q And the idea, Mr. Jameson, was that LTB 24 would pay the owner of the lens for use of that 25 lens, correct?</p>	<p style="text-align: right;">Page 88</p> <p>1 have you had any additional conversations with 2 Neldon Johnson? 3 A I did speak to Neldon Johnson the second 4 trip. 5 Q Any other times? 6 A No, ma'am. 7 Q What did Neldon Johnson tell you about 8 on your first trip? 9 A He basically gave me a tour of the site 10 and showed the lenses, how the lenses were 11 produced, how they were going to be placed in the 12 towers and the idea behind producing heat, the 13 solar process heat, which would then be used to 14 either, could be used for anything once it solar 15 processed heat. That's basically what we looked 16 at, and some of the technology that he had 17 created. 18 Q Did he talk to you at all about the tax 19 benefits connected with the solar lenses? 20 A No. 21 Q What did you talk about with Mr. Johnson 22 on your second trip to Delta? 23 A Basically, the same thing, to see how 24 far they had advanced in the production of the 25 towers and, again, back to the house that appeared</p>

<p style="text-align: right;">Page 89</p> <p>1 to be producing electricity, or using electricity 2 that was being produced. 3 Q Did you ever ask Mr. Johnson who was 4 going to pay for any electricity generated by the 5 solar lenses? 6 A No. 7 Q Why not? 8 A The impression I got in the second 9 discussion with him was that was closely guarded 10 information so that nobody else could interfere. 11 Q Did you press him further? 12 A No, ma'am. 13 Q Did that answer satisfy you? 14 A Yes, ma'am. 15 Q Why? 16 A It sounded reasonable. 17 Q Why? 18 A If somebody else, who was a competitor, 19 found out where you were getting your money from 20 and how it was going to happen, whether it was 21 solar energy or widgets, you could have a problem 22 in somebody trying to undercut or somebody trying 23 to block it. It sounded reasonable to me based 24 upon business dealings in our particular society. 25 Q Are you aware, Mr. Jameson, that there</p>	<p style="text-align: right;">Page 91</p> <p>1 that Neldon Johnson has testified in this case 2 that LTB has never done anything ever? 3 MR. PAUL: Objection. Lacks foundation. 4 Relevance. 5 A First time I heard of it. 6 BY MS. HEALY-GALLAGHER: 7 Q Is that relevant information to you? 8 A Yes. 9 Q Why is that? 10 A First time I heard of it. I was under 11 the impression LTB was doing things. 12 Q And how does the knowledge that LTB has 13 never done anything impact your analysis? 14 MR. PAUL: Objection. Lacks foundation. 15 Vague. 16 A The towers were being erected by 17 somebody. I assume there must be another company 18 in there. 19 BY MS. HEALY-GALLAGHER: 20 Q Would you read back my question, please? 21 (Record read.) 22 MR. PAUL: Same objections. 23 A Very little. 24 BY MS. HEALY-GALLAGHER: 25 Q What's the little bit that's affected?</p>
<p style="text-align: right;">Page 90</p> <p>1 is plenty of publicly available information 2 regarding -- withdrawn. Never mind. 3 Did you ever ask Mr. Johnson who was 4 going to pay for any heat generated by any solar 5 lenses? 6 A No. 7 Q Why not? 8 A Didn't seem relevant. 9 Q Did you ever ask Mr. Johnson who was 10 going to pay for any water generated through any 11 system that a solar lenses was connected to? 12 A No. 13 Q Why not? 14 A Didn't seem relevant. 15 Q So, Mr. Jameson, if your customers had 16 entered agreements to earn rental payments through 17 the use of their lenses, I would like to 18 understand why the source of those payments 19 wouldn't be relevant. 20 A It is not my responsibility to audit the 21 tax return. It is my responsibility, under my due 22 diligence, to prove that they have the 23 documentation to claim the deduction on their tax 24 return. 25 Q Is it relevant to you in that process</p>	<p style="text-align: right;">Page 92</p> <p>1 A The theory being there's got to be 2 another company doing something. If the towers 3 are being erected, somebody's got to be doing it. 4 Q Do your customers have agreements to 5 earn rental income with any entity other than LTB? 6 A Not to my knowledge. 7 Q Have you ever asked Mr. Shepard who is 8 going to pay for heat generated by the lenses? 9 A No. 10 Q Why not? 11 A I saw no reason to ask him. 12 Q Did you ever ask Mr. Shepard who was 13 going to pay for the electricity generated by a 14 system containing the lenses? 15 A No. 16 Q Why not? 17 A I saw no reason to ask him. 18 Q Why not? 19 A Because he is -- that would be not a 20 conversation I would carry on with him. It has 21 nothing to do with my relationship with Mr. 22 Shepard. 23 Q Did you ever ask Mr. Shepard who was 24 going to pay for any water generated by any system 25 connected with the lenses?</p>

Page 93

1 A No.  
 2 Q When is the first time you spoke with  
 3 Mr. Shepard?  
 4 A I talked to Mr. Shepard about the middle  
 5 of 2014 on the telephone.  
 6 Q Had you communicated with him at all  
 7 before then?  
 8 A No.  
 9 Q Why did you talk to Mr. Shepard on the  
 10 phone?  
 11 A He called me.  
 12 Q What did you talk about?  
 13 A His 2013 tax return that was a disaster  
 14 because his CPA was old and making mistakes.  
 15 Q Do you recall who that CPA was?  
 16 A No, ma'am, not off the top of my head.  
 17 Q Was he looking for your assistance?  
 18 A Yes, ma'am.  
 19 Q And did you in fact assist him?  
 20 A Yes, ma'am.  
 21 Q Was Mr. Shepard under audit at the time?  
 22 A No, ma'am.  
 23 Q So, had his 2013 return already been  
 24 prepared and submitted to the IRS by the time he  
 25 called you?

Page 94

1 A Yes, ma'am.  
 2 Q So, why was he calling you?  
 3 A Because the tax return had been  
 4 completed incorrectly.  
 5 Q How so?  
 6 A I think -- they all run together. I got  
 7 to think about it for a second. I think he failed  
 8 to claim his mother as a dependent on the tax  
 9 return. And there might have been some confusion  
 10 with the basis in bigger, faster, stronger.  
 11 Q So, was he looking to have you amend his  
 12 2013 return?  
 13 A Yes, ma'am.  
 14 Q Did you do that?  
 15 A No, ma'am.  
 16 Q Why not?  
 17 A The cost to amend it wouldn't benefit  
 18 the return.  
 19 Q So, other than conversations --  
 20 withdrawn.  
 21 Did you ever have occasion to speak with  
 22 Mr. Shepard about RaPower-3?  
 23 A He brought the subject up a couple of  
 24 times. I never approached him on the subject.  
 25 Q What did he say?

Page 95

1 A He just said he invested in the solar  
 2 lenses and gave me their current advertising  
 3 module.  
 4 Q Why did he do that?  
 5 A I guess he likes to.  
 6 Q Was he trying to encourage you to  
 7 purchase lenses?  
 8 A If he was, I would not purchase the  
 9 lenses, would not invest in it. It would not be  
 10 ethical.  
 11 Q Why not?  
 12 A I am doing tax returns with individuals  
 13 who are investing in it and, therefore, it would  
 14 not be ethical under Circular 230.  
 15 Q What, if anything else, did you talk  
 16 about with Mr. Shepard involving the solar lenses?  
 17 A The only thing I would have talked to  
 18 him about with the solar lenses would be, again,  
 19 the Equipment Purchase Agreement, the Operating  
 20 Agreement, Placed in Service letter, proof of  
 21 payment.  
 22 Q For his solar lenses, right?  
 23 A For his solar lenses.  
 24 Q So, how, Mr. Jameson, did you go from  
 25 having just a couple of clients who had solar

Page 96

1 lenses to 30 plus?  
 2 A Word-of-mouth.  
 3 Q Whose word-of-mouth?  
 4 A Theirs.  
 5 Q Theirs? Whose?  
 6 A Clients.  
 7 Q And did there come a time, Mr. Jameson,  
 8 when you represented anyone before the IRS -- can  
 9 we go off the record.  
 10 (Whereupon, a discussion took place off the  
 11 record.)  
 12 BY MS. HEALY-GALLAGHER:  
 13 Q I'll take that back up so we can get the  
 14 whole question on. Did there come a time, Mr.  
 15 Jameson, when you represented anyone before the  
 16 IRS with respect to solar lenses?  
 17 A Yes.  
 18 Q About how many people would you estimate  
 19 you have represented before the IRS with respect  
 20 to solar lenses?  
 21 A Fifty-four, 55.  
 22 Q And when I say people, I understand  
 23 often there is a husband and wife on any tax  
 24 return. Does that number include counting a  
 25 married couple as two people?



Page 97

1 A No.  
2 Q Okay. So, just to be clear for the  
3 record, you have about 54 to 55 representations  
4 before the IRS with respect to solar lenses?  
5 A Yes.  
6 Q When did you start representing  
7 customers before the IRS with respect to solar  
8 lenses?  
9 A I think the first audit that I was  
10 involved in was either late 2014 or early 2015. I  
11 can't remember off the top of my head. But that's  
12 approximately.  
13 Q What, if any, understanding do you have,  
14 Mr. Jameson, about Greg Shepard's relationship  
15 with RaPower-3?  
16 A The only understanding I have is that he  
17 receives a 1099 from RaPower-3 having to do with  
18 sales, I assume.  
19 Q Have you ever seen Mr. Shepard  
20 disseminate information on behalf of RaPower-3?  
21 A I have never seen him do it, no.  
22 Q Have you ever received emails from him?  
23 A Occasionally, I would get an email from  
24 him having to do with, you know, their advances in  
25 technology and stuff like that.

Page 98

1 Q And what, if any, role does Mr. Shepard  
2 have with respect to assisting customers who are  
3 being audited by the IRS?  
4 A None, to my knowledge.  
5 Q How about being audited by any state  
6 taxation authority?  
7 A I don't think he has any input or -- I  
8 don't think he's involved in that either, to be  
9 honest with you.  
10 Q Mr. Jameson, did you ever ask Greg  
11 Shepard to share your information with RaPower-3  
12 customers?  
13 A No. I'm not looking to get new clients.  
14 I don't do advertising. I don't need any new  
15 clients. I don't ask anybody to send me clients.  
16 Q Did you ever send Mr. Shepard  
17 information to share with RaPower-3 customers?  
18 A No. I sent him information that he  
19 requested when we were talking about his tax  
20 return, but not to share with other individuals.  
21 Q Did you ever speak with -- withdrawn.  
22 Did you ever communicate in any way with Neldon  
23 Johnson regarding your representation of customers  
24 before the IRS?  
25 A No.

Page 99

1 Q Mr. Jameson, who pays you for your 54,  
2 55 representations of solar lenses customers  
3 before the IRS?  
4 A The client.  
5 Q Mr. Jameson, have you ever seen a  
6 document that appears to be a memorandum from the  
7 law firm Kirton McConkie?  
8 A Yes.  
9 Q How did you get that document?  
10 A One of my clients provided it to me.  
11 Q Have you ever seen a letter that  
12 purports to be from the Anderson Law Center?  
13 A Yes.  
14 Q How did you get that document?  
15 A Same client provided that to me.  
16 Q Do you remember which client?  
17 A I want to say Mike Freeborn. But it  
18 might have been Greg Freeborn. I think it was  
19 Mike Freeborn.  
20 Q And I realize I haven't asked you about  
21 another person in this lawsuit. Do you recognize  
22 the name Roger Freeborn?  
23 A I recognize the name, yes.  
24 Q How do you recognize it?  
25 A It was on the deposition that got sent.

Page 100

1 Q Have you ever met Roger Freeborn?  
2 A No.  
3 Q Have you ever communicated with Roger  
4 Freeborn?  
5 A No.  
6 Q What, if anything, did you do with the  
7 Kirton McConkie memorandum?  
8 A Reviewed it to see about the relevance.  
9 And then in some of the audits I attached it to  
10 the source documentation that I provided to the  
11 Internal Revenue Service to establish reasonable  
12 cause so that we could request an abatement for  
13 any penalties should the taxpayer lose.  
14 Q Are any of your customers who have  
15 claimed tax benefits related to the solar lenses,  
16 are any of them C-Corps.?  
17 A No.  
18 Q Then why does the Kirton McConkie  
19 memorandum matter?  
20 A Because of its reference to different  
21 code sections and laws that have to do with the  
22 solar lenses and the ability to claim energy  
23 credits under Section 48. It also outlines  
24 information that would be needed for disqualified  
25 use under Section 50.

<p style="text-align: right;">Page 101</p> <p>1 Q But you are aware, of course, that the 2 memorandum is written in anticipation of the buyer 3 of the lenses being a C-Corp., right? 4 A I was not aware of that when I was 5 provided with that documentation. 6 Q It's in the texted memorandum, sir. 7 A Yes, when I read it. But it also 8 applies to IRS regulations and public laws that 9 don't always apply to C-Corporations. They also 10 apply to other individuals. And, therefore, it 11 lays the groundwork for a request of the IRS under 12 reasonable clause to abate penalties. 13 Q Why, in your opinion, would that 14 memorandum provide reasonable cause to abate 15 penalties? 16 A Because if it's referenced to public 17 laws and code sections it would be used to allow 18 the taxpayer, whether it was a C-Corporation or 19 any taxpayer to claim the credits and the 20 depreciation allowance. 21 Q So, just because it identifies code 22 sections? 23 A Which gives reasonable cause to the 24 taxpayer, yes. 25 Q But if the facts assumed in the memo</p>	<p style="text-align: right;">Page 103</p> <p>1 McConkie memorandum as support for the positions 2 that you take on tax returns with respect to the 3 solar lenses? 4 A No. 5 Q Why not? 6 A It has to do with a C-Corporation. The 7 legal memorandum having to do with a C-Corporation 8 is basically, if I was defending a C-Corporation 9 in an audit, then I would use it. But I'm not 10 using it. I do my own due diligence and research. 11 That's the only ethical way to do things. 12 Q And how, if at all, have you relied on 13 the Anderson letter and taken the positions that 14 you have taken on a customer's tax return? 15 A Very little. I, basically, think that 16 it was way too vague, in my personal opinion. So, 17 I, again, do my own due diligence and do my own 18 research to come up with the public laws, the 19 court cases and treasury regulations, code 20 sections, revenue rulings, those kind of things. 21 Q Have any clients given you any other 22 document that appears to be a legal analysis with 23 respect to the tax benefits for solar lenses? 24 A Not that I can remember, no. 25 Q Off the record for a moment.</p>
<p style="text-align: right;">Page 102</p> <p>1 don't match the facts of the taxpayer, how does 2 that provide reasonable cause? 3 A I didn't say the facts in the memo 4 provided a reasonable cause. I said the reference 5 to public laws and treasury regulations and code 6 sections. 7 Q So, that's enough, in your mind, to 8 create reasonable cause for a taxpayer not to be 9 penalized? 10 A To lay the groundwork to request an 11 abatement, yes, ma'am. 12 Q What, if anything, did you do with the 13 Anderson letter? 14 A Reviewed it and also attached it to some 15 of the individuals who were being audited; again, 16 to help lay the ground work for reasonable cause 17 to request an abatement of penalties. 18 Q What is it about the Anderson letters 19 that, in your mind, provides the groundwork for 20 reasonable cause to abate penalties? 21 A It specifies, again, code sections and 22 treasury regulations and so forth. It doesn't 23 specifically talk about C-Corporations or 24 corporations in general, it's more of an overview. 25 Q Have you, Mr. Jameson, used the Kirton</p>	<p style="text-align: right;">Page 104</p> <p>1 (Whereupon, a discussion took place off the 2 record.) 3 (Exhibit No. 624 was marked for identification.) 4 BY MS. HEALY-GALLAGHER: 5 Q Mr. Jameson, you have been handed what's 6 been marked as Exhibit 624. Please read that 7 document and let me know when you are done. For 8 the record, Exhibit 624 is Bates marked Jameson 9 003361. Ready? 10 A Yes. 11 Q Yes? 12 A Yes, I am ready. 13 Q Mr. Jameson, do you recognize 14 Exhibit 624? 15 A Yes. 16 Q What is it? 17 A It appears to be an email from Greg 18 Shepard to me with a copy to Lori also. 19 Q And the date at the top is Friday, 20 October 25th, 2013. Do you see that? 21 A Yes. 22 Q So, that's about a year earlier than you 23 recalled having communicated with Mr. Shepard, 24 right? 25 A Correct. So, I was wrong in my 2014.</p>

<p style="text-align: right;">Page 105</p> <p>1 Q So, we see in Mr. Shepard's first 2 paragraph the first sentence is, "It was great to 3 meet with you yesterday. You seemed to have 4 impressed Neldon, and that hardly ever happens." 5 Did I read that correctly? 6 A Yes. 7 Q So, then, does that refresh your 8 recollection as to when you first met Mr. Shepard 9 and Mr. Johnson? 10 A This meeting was the second meeting with 11 Mr. Neldon -- or Neldon. 12 Q Okay. Because you testified earlier 13 that the second meeting with Neldon Johnson was in 14 2015? 15 A Obviously, I was incorrect. 16 Q Okay. So, let's clarify that a little 17 bit. So, if the second visit with Mr. Johnson was 18 in 2013, when was the first visit? 19 A It might have been in -- it couldn't 20 have been in '12. It had to be in '13 also. 21 Q So, then do you think you made any other 22 trips other than two? 23 A I only made two trips. 24 Q Only made two trips. Okay. In or 25 before 2013?</p>	<p style="text-align: right;">Page 107</p> <p>1 because of that his case didn't look good. Rick 2 took over, and at this point, he has won his 3 clients' 2012 and 2011 appeal, so we are still 4 waiting on the 2010 appeal." Did I read that 5 correctly? 6 A Yes. 7 MR. PAUL: Mostly. 8 MS. HEALY-GALLAGHER: Where did I mess 9 up? 10 MR. PAUL: You moved around a few words 11 and skipped a few. 12 MS. HEALY-GALLAGHER: Okay. 13 MR. PAUL: This isn't an exercise in 14 perfection. 15 BY MS. HEALY-GALLAGHER: 16 Q Okay. Please take a look at that 17 paragraph. Do you have any understanding of what 18 Mr. Shepard is talking about there with that 19 member who was audited? 20 A Obviously, I was working on an audit or 21 I was helping with the appeal after the audit. 22 Q Do you recall anything about documents 23 not having been filed properly or anything to do 24 with that? 25 A Yes.</p>
<p style="text-align: right;">Page 106</p> <p>1 A Correct. 2 Q Then the next sentence in Mr. Shepard's 3 email says, "Okay. So, the following is the email 4 that could go out to the R3 members getting 5 audited and their tax preparers." Did I read that 6 correctly? 7 A Yes. 8 Q So, Mr. Shepard was offering to send out 9 your information to other people? 10 A Appears so, yes. 11 Q Did you tell him not to do that? 12 A I don't remember telling him not to do 13 it, no. I don't remember telling him to do it 14 either. 15 Q The information in Mr. Shepard's email 16 next to your name and Miss Gailey's name, is that 17 the correct contact information for you both? 18 A At that time, yes. 19 Q So, about halfway through the email, Mr. 20 Shepard says, "They are now picking up some 21 RaPower-3 members who are in the audit/appeal 22 stage. If you would like them to represent you, 23 give them a call or email. One of our members who 24 was the first one to get audited and had some 25 problems with documents being filed properly, and</p>	<p style="text-align: right;">Page 108</p> <p>1 Q What happened there? 2 A I think the individual was either trying 3 to represent himself or didn't have adequate 4 representation and missed some of the deadlines to 5 get documents to the IRS. 6 Q Okay. So, the documents that were not 7 filed properly were in the audit stage? 8 A That's my understanding, yes. 9 Q So, it says here that you won the 2012 10 and 2011 appeal. Do you recall that? 11 A No, ma'am. 12 Q You don't know what Mr. Shepard is 13 talking about there? 14 A Well, I know what he's talking about. I 15 don't remember that particular case. I do a lot 16 of them. 17 Q Okay. In the next paragraph of Mr. 18 Shepard's email, please read the section regarding 19 the attached tax attorney opinion letter and the 20 use of the lenses for advertising purposes. 21 A I read it. 22 Q Okay. Did you ever speak with anyone 23 about what the use of lenses for advertising 24 purposes might mean with respect to the tax 25 benefits related to solar lenses?</p>

<p style="text-align: right;">Page 109</p> <p>1 A No.</p> <p>2 Q Do you have any idea what Mr. Shepard is</p> <p>3 talking about here?</p> <p>4 A I am assuming they would have to do with</p> <p>5 the lenses that were perhaps on their website or</p> <p>6 pictures that they took to try and sell lenses to</p> <p>7 other individuals.</p> <p>8 Q To your knowledge, Mr. Jameson, has any</p> <p>9 RaPower-3 customer ever been paid for the use of</p> <p>10 their lenses for advertising purposes?</p> <p>11 A Yes.</p> <p>12 Q Who?</p> <p>13 A I am concerned that might be considered</p> <p>14 client privilege, because under Circular 230 I am</p> <p>15 given the limited client privilege. And without</p> <p>16 the taxpayer's consent to divulge their name, I'm</p> <p>17 not sure I am allowed to do that. Can you give me</p> <p>18 a second to ask the attorney?</p> <p>19 Q Actually, I'll ask you a question. Did</p> <p>20 you learn about this in the course of preparing a</p> <p>21 tax return?</p> <p>22 A Yes.</p> <p>23 Q Then I am going to ask you to answer the</p> <p>24 question?</p> <p>25 A Okay.</p>	<p style="text-align: right;">Page 111</p> <p>1 read back the question that we had pending before</p> <p>2 the break?</p> <p>3 (Record read.)</p> <p>4 A Trudy Sajac.</p> <p>5 MR. PAUL: Do you know how that's</p> <p>6 spelled?</p> <p>7 THE WITNESS: S-a-j-a-c, I think.</p> <p>8 BY MS. HEALY-GALLAGHER:</p> <p>9 Q Anyone else?</p> <p>10 A No, ma'am.</p> <p>11 Q How do you know that Trudy Sajac was</p> <p>12 paid for the use of any solar lens for advertising</p> <p>13 purposes?</p> <p>14 A She received a 1099 from RaPower-3.</p> <p>15 Q When?</p> <p>16 A I think it was 2014.</p> <p>17 Q Has Miss Sajac been paid any other time</p> <p>18 for the use of her lenses for advertising</p> <p>19 purposes?</p> <p>20 A Not that I am aware of.</p> <p>21 Q How do you know that that 1099 was for</p> <p>22 the use of her lens or lenses for advertising</p> <p>23 purposes?</p> <p>24 A Based on the fact that she received the</p> <p>25 1099 and nobody else did, it had to be for that, I</p>
<p style="text-align: right;">Page 110</p> <p>1 Q Who was the customer who, to your</p> <p>2 knowledge, was paid for the use of that customer's</p> <p>3 lenses for advertising purposes?</p> <p>4 A May I ask --</p> <p>5 MR. PAUL: I am going to object to the</p> <p>6 extent it calls for privileged information, that</p> <p>7 this witness is not authorized to divulge without</p> <p>8 having received authorization from the customer.</p> <p>9 MS. HEALY-GALLAGHER: Can we go off the</p> <p>10 record for a minute, please?</p> <p>11 (Whereupon, a discussion took place off the</p> <p>12 record.)</p> <p>13 (Whereupon, a lunch recess was taken.)</p> <p>14 BY MS. HEALY-GALLAGHER:</p> <p>15 Q Mr. Jameson, we'll be back on the record</p> <p>16 here. During lunch, did you talk to anybody about</p> <p>17 the facts of this case?</p> <p>18 A Yes.</p> <p>19 Q Who was that?</p> <p>20 A My attorney, Steven Paul. We reviewed</p> <p>21 your concern about divulging the name of a client.</p> <p>22 Q Okay. Did you talk to him about the</p> <p>23 factual ease of that client?</p> <p>24 A No.</p> <p>25 MS. HEALY-GALLAGHER: Would you please</p>	<p style="text-align: right;">Page 112</p> <p>1 was assuming.</p> <p>2 Q So, you don't know?</p> <p>3 A I don't know specifically. I didn't</p> <p>4 follow up to ask that particular question. I just</p> <p>5 reported a 1099 as income.</p> <p>6 Q Mr. Jameson, have any of your other</p> <p>7 customers ever received a 1099 from RaPower-3?</p> <p>8 A Yes.</p> <p>9 Q Do you know what those payments were</p> <p>10 for?</p> <p>11 A The three that I remember seeing had to</p> <p>12 do with commissions.</p> <p>13 Q I just want to make sure I understand.</p> <p>14 So, have only Trudy Sajac and three other</p> <p>15 customers received 1099s from RaPower-3?</p> <p>16 A I would have a tendency to say there are</p> <p>17 probably more. Those are just the ones that I</p> <p>18 remember. I would have to think about it for a</p> <p>19 while. Because I know I have reported 1099s on</p> <p>20 their tax returns from RaPower-3. And three of</p> <p>21 the ones that I remember right off the top of my</p> <p>22 head. But there may be more.</p> <p>23 Q So, why do you think Miss Sajac's was</p> <p>24 for advertising rather than a commission?</p> <p>25 A The amount.</p>



Page 113

1 Q What was different about the amount?  
 2 A It was probably 10 to 15 times larger  
 3 than the others. And she works as a nurse. So,  
 4 she wouldn't have been out trying to help people  
 5 buy them to get a commission.  
 6 Q About how much was it?  
 7 A Top of my head, 20,000, 22,000.  
 8 Something like that.  
 9 Q Is there any other reason that you think  
 10 that Miss Sajac was paid 20 to \$22,000 for the use  
 11 of her lens for advertising purposes?  
 12 A No.  
 13 Q Did Miss Sajac ever tell you that that  
 14 payment was for the use of the lenses for  
 15 advertising purposes?  
 16 A No.  
 17 Q Did anyone else ever tell you that that  
 18 payment was for the use of Miss Sajac's lenses for  
 19 advertising purposes?  
 20 A No.  
 21 Q So, correct me if I'm wrong, but I just  
 22 want to make sure I understand. So, you simply  
 23 assumed that that payment to Miss Sajac was for  
 24 the use of her lenses for the purpose of  
 25 advertising purposes?

Page 114

1 A Yes, ma'am.  
 2 Q Did you ever wonder why someone would be  
 3 paid 20 to \$22,000 for the use of a lens for  
 4 advertising purposes?  
 5 MR. PAUL: Objection. Lacks foundation.  
 6 A Not my responsibility. My  
 7 responsibility is to report the information on the  
 8 client's tax return, not to audit the tax return.  
 9 BY MS. HEALY-GALLAGHER:  
 10 Q Did you ever see a contract, Mr.  
 11 Jameson, by which Miss Sajac would be compensated  
 12 for the use of her lens for advertising purposes?  
 13 A I want to say that it could be in part  
 14 of those equipment purchase or the operating  
 15 manual, Operating and Maintenance Agreement,  
 16 because I remember seeing bonus contracts and  
 17 stuff like that also. So, I'm assuming that it  
 18 was in there.  
 19 Q Going back to a couple of topics we  
 20 talked about before lunch, you talked about two  
 21 visits to locations in around Delta, Utah. During  
 22 your first visit, was anyone else on the visit  
 23 with you?  
 24 A Miss Gailey was.  
 25 Q Anyone other than Miss Gailey?

Page 115

1 A No.  
 2 Q How about the second trip?  
 3 A Miss Gailey was.  
 4 Q Anyone other than Miss Gailey?  
 5 A No.  
 6 Q Does Miss Gailey represent any clients  
 7 who claimed tax benefits related to solar lenses  
 8 on their tax returns?  
 9 A No.  
 10 Q Has Miss Sajac ever gone by any other  
 11 names to your knowledge?  
 12 A Yes.  
 13 Q What name?  
 14 A Shepard.  
 15 Q So, Trudy Shepard?  
 16 A Yes.  
 17 Q Is she related to Greg Shepard?  
 18 A No. That was her married name before  
 19 she married Sajac.  
 20 Q What's her birth last name, if you know?  
 21 A I do not know.  
 22 Q Mr. Jameson, have you ever introduced  
 23 the idea of buying solar lenses to any other  
 24 person?  
 25 A No. Wouldn't be ethical.

Page 116

1 Q Why not?  
 2 A Because I do tax returns with solar  
 3 lenses on them. It would not be ethical. And  
 4 it's not ethical for me to buy or not buy  
 5 anything.  
 6 Q So, if an enrolled agent did do that, in  
 7 your opinion, would that be a violation of the  
 8 ethics rules?  
 9 MR. PAUL: Objection. Asks for a legal  
 10 opinion or opinion that this witness has not been  
 11 designated an expert for.  
 12 A My understanding of the ethics involved  
 13 being an enrolled agent under Circular 230, yes,  
 14 ma'am, it would be right on the edge if not over  
 15 the edge.  
 16 BY MS. HEALY-GALLAGHER:  
 17 Q You mentioned commissions, Mr. Jameson.  
 18 What's your understanding of how someone earns  
 19 commissions related to this solar lenses?  
 20 A My understanding is if the individual is  
 21 assisting somebody else in purchasing the lenses  
 22 they get a commission for a percentage of the  
 23 lenses that the other person purchases.  
 24 Q And we have talked a little bit about  
 25 rental payments; right?

<p style="text-align: right;">Page 117</p> <p>1 A Yes, ma'am.</p> <p>2 Q Was there any other way, to your</p> <p>3 knowledge, that the owner of a lens would make</p> <p>4 money with respect to the lens?</p> <p>5 A There would be the bonus payment.</p> <p>6 Q Anything else?</p> <p>7 A The ways that I understood him to make</p> <p>8 money off of the lens would be rent, bonuses and</p> <p>9 advertising. Can I add one more thing? The other</p> <p>10 thing in my research would have been the fact that</p> <p>11 they may be able to make money off the lenses</p> <p>12 should the lens increase in value when they were</p> <p>13 to sell it. So, if you bought something for</p> <p>14 \$5,000, and it went up in value to 6, then you</p> <p>15 could sell it, and you would then make a profit</p> <p>16 that way also.</p> <p>17 Q What basis do you have for any belief</p> <p>18 that one of these lenses would increase in value</p> <p>19 over time?</p> <p>20 A The original lenses were selling for</p> <p>21 approximately 3,000. They are selling for 3500</p> <p>22 now.</p> <p>23 Q Do you know who sets that price?</p> <p>24 A No, ma'am.</p> <p>25 Q Do you know if there's a secondary</p>	<p style="text-align: right;">Page 119</p> <p>1 avocado trees as an example because you asked me</p> <p>2 how I determine how it might increase in value.</p> <p>3 That was my example.</p> <p>4 Q So, what you are giving me, Mr. Jameson,</p> <p>5 is a factual scenario that is in a closet. So, I</p> <p>6 want to understand why you think that a solar</p> <p>7 lens, up on a tower, exposed to desert conditions,</p> <p>8 that will degrade over time, how will that</p> <p>9 appreciate in value?</p> <p>10 A It could appreciate in value because of</p> <p>11 revenues that it would generate.</p> <p>12 Q But those are the exact same revenues</p> <p>13 that, ostensibly, the owner of that lens is</p> <p>14 already contractually entitled to?</p> <p>15 A That is correct.</p> <p>16 Q So, that's not appreciating value, is</p> <p>17 it, sir?</p> <p>18 MR. PAUL: Objection. Argumentative.</p> <p>19 A In my opinion, based on my research,</p> <p>20 yes, it could be increasing in value. Because, as</p> <p>21 an example, if I owned one of the lenses, and it</p> <p>22 started generating revenue, I could turn around</p> <p>23 and sell it based on the fact that it was</p> <p>24 generating revenue. And I could, theoretically,</p> <p>25 sell it for more than I purchased it for, just</p>
<p style="text-align: right;">Page 118</p> <p>1 market for these solar lenses that your customers</p> <p>2 have purchased?</p> <p>3 A No, ma'am. I have never researched</p> <p>4 that.</p> <p>5 Q Have any of your customers ever sold one</p> <p>6 of their solar lenses?</p> <p>7 A Not to my knowledge, no.</p> <p>8 Q Are you aware of anyone ever having sold</p> <p>9 a solar lens from RaPower-3?</p> <p>10 A Not to my knowledge, no.</p> <p>11 Q Then I'm not sure I understand the basis</p> <p>12 for your belief as to why these would appreciate</p> <p>13 over time?</p> <p>14 A It's my belief they would appreciate</p> <p>15 over time based on some of my research. And I'll</p> <p>16 go back to the example that I used of the avocado</p> <p>17 farm. It increased in value over a period of time</p> <p>18 because it went from being set up to harvesting,</p> <p>19 and at harvesting they started making money, which</p> <p>20 now means that the avocado trees now increased in</p> <p>21 value, and he could have sold it for more money</p> <p>22 than he originally put into it.</p> <p>23 Q How will one of these lenses ripen and</p> <p>24 be harvested like an avocado?</p> <p>25 A It is not an avocado. And I use the</p>	<p style="text-align: right;">Page 120</p> <p>1 like any other asset that you can buy and sell and</p> <p>2 it increases in value.</p> <p>3 Q So, Mr. Jameson, I'm not asking about</p> <p>4 hypotheticals here. I'm asking about the solar</p> <p>5 lenses that your customers have purchased. For</p> <p>6 these solar lenses, I still don't understand why</p> <p>7 you think they would increase in value inherently</p> <p>8 in themselves?</p> <p>9 MR. PAUL: Objection to the extent it's</p> <p>10 been asked and answered. Simply because you</p> <p>11 disagree with him doesn't mean his answer doesn't</p> <p>12 satisfy the question you asked.</p> <p>13 A My statements are based on the fact I</p> <p>14 think or I project they may increase in value. I</p> <p>15 have no concrete proof that they will increase in</p> <p>16 value. Just like if I bought a silver dollar.</p> <p>17 Would it increase in value? Theory is yes. Would</p> <p>18 it? Don't know.</p> <p>19 BY MS. HEALY-GALLAGHER:</p> <p>20 Q So, the answer, Mr. Jameson, is that you</p> <p>21 don't know whether these lenses will appreciate in</p> <p>22 value?</p> <p>23 A That is correct.</p> <p>24 Q Yet, you have a belief that they will?</p> <p>25 A It is a personal belief, yes.</p>

Page 121

1 Q And what I would like to understand is  
 2 the underpinnings for that personal belief. What  
 3 facts have you seen that give rise to that belief?  
 4 A Research in the solar technology  
 5 industry when I was doing the research. And also  
 6 the fact that there is a tax court case that talks  
 7 about the increase in assets having to do with the  
 8 substantial economic investment.  
 9 Q My question is about what facts relating  
 10 to these solar lenses.  
 11 A I have no facts relating to these solar  
 12 lenses.  
 13 Q Okay. So, we have talked about -- Mr.  
 14 Jameson, have any of your customers ever requested  
 15 a refund for monies that they have paid for any  
 16 solar lenses?  
 17 A I'm not sure I understand. Requested a  
 18 refund from who?  
 19 Q We'll start off with from anybody.  
 20 MR. PAUL: Objection. Vague. Lack of  
 21 foundation.  
 22 A I do not know of any client that has  
 23 requested a refund of funds paid for a lens.  
 24 BY MS. HEALY-GALLAGHER:  
 25 Q Do you know if any of your customers

Page 122

1 have tried to sell their lenses back to RaPower-3?  
 2 A I do not have an answer to that  
 3 question. I do not know.  
 4 Q To your knowledge, is that an option  
 5 available to someone who buys a solar lenses?  
 6 A It is an option available. I assume it  
 7 is, yes.  
 8 Q You assume it is?  
 9 A I assume it is. That's not my area of  
 10 expertise.  
 11 Q Have you seen anything or heard anything  
 12 suggesting that that's an option?  
 13 A I would have to read the purchase  
 14 agreement. It might be in there. But, at this  
 15 point, no, I can't answer that question correctly.  
 16 I don't know.  
 17 Q To your knowledge, what, if anything,  
 18 would happen to someone who does not pay in full  
 19 for a lens?  
 20 A I have no knowledge of that scenario.  
 21 Q Are you familiar with the down payment  
 22 structure for lenses?  
 23 A I have seen a down payment structure on  
 24 the Equipment Purchase Agreement and on the  
 25 invoice, yes.

Page 123

1 Q And can you give me your general  
 2 understanding of what that down payment structure  
 3 is?  
 4 A The down payment structure, as I  
 5 understand it, is around 10 percent of their cost,  
 6 or maybe a little higher, maybe a third of the  
 7 cost, depending upon how many lenses and who and  
 8 stuff like that that they have to put down, and  
 9 then make payments from that point forward.  
 10 Q Do you know when a customer has to pay  
 11 the down payment in full?  
 12 A No, ma'am, I don't know exactly.  
 13 Q Have you seen or heard or are you  
 14 familiar with the structure that a customer pays  
 15 \$105 per lens in the tax year for which they want  
 16 to claim tax benefits, and then in the subsequent  
 17 year the customer pays \$945 to complete the down  
 18 payment?  
 19 A I have seen invoices with 105 on it. I  
 20 haven't really followed up with the subsequent  
 21 payments, because for me to prepare the tax  
 22 return, I just need proof of payment in the first  
 23 place, the invoice.  
 24 Q Does it matter at all to you who  
 25 provides financing for the remainder of the

Page 124

1 payment for a lens?  
 2 A No, ma'am.  
 3 Q Doesn't matter?  
 4 A No, ma'am.  
 5 Q Why not?  
 6 A I did the research. There are several  
 7 tax court cases that talk about the financing and  
 8 stuff like that. And I was, under my due  
 9 diligence, I accepted the tax court cases to be  
 10 sufficient evidence that they were entitled to the  
 11 deduction.  
 12 Q I'm not sure I follow. So, what tax  
 13 court? Like, can you give me a general idea of  
 14 what you saw in these tax court cases?  
 15 A There was a tax court case where an  
 16 individual purchased assets over a period of time,  
 17 made a down payment, then made payments after  
 18 that. And a tax court ruled that he was entitled  
 19 to claim the entire cost of the asset for a basis  
 20 for depreciation because he was making payments.  
 21 Q And do you recall from whom the taxpayer  
 22 or who was financing that equipment for the  
 23 taxpayer?  
 24 A Not off the top of my head, no, ma'am.  
 25 Q Are you aware of whether Miss Trudy

<p style="text-align: right;">Page 125</p> <p>1 Sajac is any relation to Glenda Johnson?</p> <p>2 A I believe there might be a relationship</p> <p>3 in there, but I'm not sure.</p> <p>4 Q And, to your knowledge, Glenda is Neldon</p> <p>5 Johnson's wife; is that right?</p> <p>6 A Yes, ma'am.</p> <p>7 Q Mr. Jameson, are you familiar with the</p> <p>8 Internal Revenue rules that dictate whether a</p> <p>9 taxpayer has money at risk in any sort of</p> <p>10 transaction or investment?</p> <p>11 A Yes.</p> <p>12 Q And what's your understanding of what</p> <p>13 happens if a taxpayer borrows money from an</p> <p>14 interested party in the transaction? Is that</p> <p>15 money at risk?</p> <p>16 A If it is a legally binding contract, the</p> <p>17 tax courts have ruled yes.</p> <p>18 Q And by that you mean a recourse</p> <p>19 contract?</p> <p>20 A Yes.</p> <p>21 Q So, what recourse, if any, or to your</p> <p>22 understanding, if a RaPower-3 customer does not</p> <p>23 make a payment for that customer's lens, what</p> <p>24 possible collection activities could RaPower-3</p> <p>25 take?</p>	<p style="text-align: right;">Page 127</p> <p>1 (Exhibit No. 625 was marked for identification.)</p> <p>2 BY MS. HEALY-GALLAGHER:</p> <p>3 Q Mr. Jameson, I am handing you what's</p> <p>4 been marked as Exhibit 625. Would you please take</p> <p>5 a read of that document and let me know when you</p> <p>6 are done.</p> <p>7 A Okay. I have finished.</p> <p>8 Q And real quick, before we turn to 625,</p> <p>9 what, if anything, did you do, Mr. Jameson, after</p> <p>10 Mr. Shepard sent you the email in 624, Plaintiff's</p> <p>11 Exhibit 624?</p> <p>12 A I'm not sure I remember doing much of</p> <p>13 anything other than I didn't authorize him to give</p> <p>14 my name and phone number to anybody.</p> <p>15 Q Did you tell him not to give your name</p> <p>16 and phone number to anybody?</p> <p>17 A Not at that particular time. I think I</p> <p>18 did have to tell him later not to.</p> <p>19 Q When was that?</p> <p>20 A Off the top of my head, I don't</p> <p>21 remember. I did tell him, though, that I was not</p> <p>22 taking new clients. I was not advertising. He</p> <p>23 didn't need to put my name out there or phone</p> <p>24 number.</p> <p>25 Q And was there a particular reason why</p>
<p style="text-align: right;">Page 126</p> <p>1 A Not my area of expertise. I do not</p> <p>2 know. That's up to them. I do tax returns, not</p> <p>3 collections.</p> <p>4 Q And part of a tax return, Mr. Jameson,</p> <p>5 right, is checking a box to tell the IRS whether</p> <p>6 the money involved in a Schedule C business is at</p> <p>7 risk, isn't it?</p> <p>8 A Correct.</p> <p>9 Q So, why is that not your job?</p> <p>10 A You didn't ask me. You said what would</p> <p>11 happen if they didn't make a payment. It's not my</p> <p>12 responsibility if they don't make the payments.</p> <p>13 My responsibility is to make sure that they have</p> <p>14 the contract in place in order to put it on the</p> <p>15 tax return. That's my due diligence.</p> <p>16 Q But you just said you don't know what</p> <p>17 would happen. So, how do you know if a taxpayer's</p> <p>18 money is at risk or not at risk?</p> <p>19 A I assume the taxpayer's money is at risk</p> <p>20 because they have a Purchase Agreement Contract.</p> <p>21 Q And it doesn't matter to you who is</p> <p>22 financing that piece of equipment?</p> <p>23 A No, it doesn't. Why would it matter to</p> <p>24 me? That has nothing to do with preparation of a</p> <p>25 tax return.</p>	<p style="text-align: right;">Page 128</p> <p>1 you didn't want him to put your name and phone</p> <p>2 number out?</p> <p>3 A I'm semiretired. I don't need any more</p> <p>4 clients. I am not advertising for clients. I</p> <p>5 don't want to grow my business. I had a business</p> <p>6 that we did over 6,000 tax returns in. I don't</p> <p>7 want to do that again.</p> <p>8 Q All right. Mr. Jameson, do you</p> <p>9 recognize Exhibit 625?</p> <p>10 A Yes, ma'am.</p> <p>11 Q What is it?</p> <p>12 A It appears to be an email that Greg</p> <p>13 Shepard sent to a whole lot of people.</p> <p>14 Q And Mr. Shepard sent that email on</p> <p>15 October 29, 2013, right?</p> <p>16 A Yes, ma'am.</p> <p>17 Q And that's four days after the email</p> <p>18 that he sent to you in Plaintiff's Exhibit 624?</p> <p>19 A Yes, ma'am.</p> <p>20 Q And, actually, for the record,</p> <p>21 Plaintiff's Exhibit 625 is Bates marked</p> <p>22 Greg_P&amp;R-003026 to 3027. And, Mr. Jameson, if you</p> <p>23 would take a look at the email list about a third</p> <p>24 of the way up that list, do you see yours?</p> <p>25 A Yes.</p>



<p style="text-align: right;">Page 129</p> <p>1 Q Rjameson08@gmail.com?</p> <p>2 A Yes.</p> <p>3 Q So, the email in Plaintiff's Exhibit 625</p> <p>4 is very similar to the email in Plaintiff's</p> <p>5 Exhibit 624, correct?</p> <p>6 A Yes.</p> <p>7 Q But not completely identical, right?</p> <p>8 A Correct.</p> <p>9 Q One of the differences that I noticed is</p> <p>10 at the top of the page that's marked 3027, where</p> <p>11 Mr. Shepard is describing what happens with one of</p> <p>12 the first people to get audited, would you please</p> <p>13 take a read of that paragraph?</p> <p>14 A Okay.</p> <p>15 Q So, this is a slightly different</p> <p>16 description than what Mr. Shepard originally sent</p> <p>17 you in Plaintiff's Exhibit 624, correct?</p> <p>18 A Correct.</p> <p>19 Q Did you correct Mr. Shepard?</p> <p>20 A To be honest with you, a lot of these</p> <p>21 junk mail emails I don't even look at. I just</p> <p>22 delete them and move on.</p> <p>23 Q Well, my question to you is, Mr. Shepard</p> <p>24 sent you an email on October 25th, 2013 that had a</p> <p>25 brief description about one of your clients, one</p>	<p style="text-align: right;">Page 131</p> <p>1 to Mr. Shepard?</p> <p>2 A No, ma'am, I did not.</p> <p>3 Q Any idea why he might have tagged your</p> <p>4 name with that?</p> <p>5 A My bet is that information looks like</p> <p>6 what I provided to one of my clients that I was</p> <p>7 working with at the time.</p> <p>8 Q After you received this email, is this</p> <p>9 when you told Mr. Shepard not to give out your</p> <p>10 name and contact information?</p> <p>11 A Yes, ma'am.</p> <p>12 MR. PAUL: Objection. Lack of</p> <p>13 foundation.</p> <p>14 A Yes, ma'am.</p> <p>15 BY MS. HEALY-GALLAGHER:</p> <p>16 Q How soon after?</p> <p>17 A I don't remember exactly.</p> <p>18 Q Have you turned anybody down who's</p> <p>19 contacted you to represent them with respect to</p> <p>20 any tax benefits related to the solar lenses?</p> <p>21 MR. PAUL: You can answer that yes or</p> <p>22 no.</p> <p>23 A Yes.</p> <p>24 BY MS. HEALY-GALLAGHER:</p> <p>25 Q Why?</p>
<p style="text-align: right;">Page 130</p> <p>1 of the first people to get audited?</p> <p>2 A Right.</p> <p>3 Q Now, four days later, there is a</p> <p>4 different description of what happened with that</p> <p>5 client in Plaintiff's Exhibit 625. My question to</p> <p>6 you is, did you correct Mr. Shepard from what he</p> <p>7 had written in Plaintiff's Exhibit 624?</p> <p>8 A No.</p> <p>9 Q Any idea why Mr. Shepard's description</p> <p>10 is different?</p> <p>11 A No.</p> <p>12 Q In fact, Mr. Jameson, did you file</p> <p>13 amended returns for this client who got audited?</p> <p>14 A If the individual was in the appeals</p> <p>15 process, you can't file amended returns. Now, did</p> <p>16 I file amended returns for my clients? Yes. I</p> <p>17 filed amended returns all the time. I don't know</p> <p>18 who he is talking about.</p> <p>19 Q So, you don't know who this is?</p> <p>20 A No, ma'am, I do not.</p> <p>21 Q Do you know -- withdraw that. Do you</p> <p>22 see the header below that paragraph on the page</p> <p>23 that ends in 3027. It says from Rick Jameson?</p> <p>24 A Yes, ma'am, I see it.</p> <p>25 Q In fact, did you send that information</p>	<p style="text-align: right;">Page 132</p> <p>1 MR. PAUL: Before you answer, I'm just</p> <p>2 going to give you an instruction and allow you to</p> <p>3 answer within the limitation of privilege. As</p> <p>4 long as you are not disclosing any privileged</p> <p>5 information that was divulged to you by a person</p> <p>6 seeking legal advice, you can answer the question.</p> <p>7 A They could not provide me with required</p> <p>8 documentation that I would need in order to pass</p> <p>9 the question about substantiating the</p> <p>10 documentation used to prepare the return.</p> <p>11 BY MS. HEALY-GALLAGHER:</p> <p>12 Q And is that the list of documentation</p> <p>13 you have mentioned earlier?</p> <p>14 A Yes, ma'am.</p> <p>15 Q The contracts, the Placed in Service</p> <p>16 letter, proof of payment?</p> <p>17 A Yes, ma'am.</p> <p>18 Q Aren't those things that are easily</p> <p>19 gotten from RaPower-3?</p> <p>20 A It's my understanding that they get them</p> <p>21 when they purchase the lenses, yes, ma'am.</p> <p>22 Q Right. And they can always go back to</p> <p>23 RaPower-3 and say, hey, I need this stuff for my</p> <p>24 audit, can you send it, right?</p> <p>25 A Yes, ma'am, with one exception.</p>

Page 133

1 Q What's the exception?  
 2 A When the Internal Revenue Service seized  
 3 all the documents, computers there was a timeframe  
 4 in there when we couldn't get anything to do  
 5 anything with.  
 6 Q I want to make sure I understand our  
 7 timeline here, because the raid, the execution of  
 8 the search warrant was in the summer of 2012. So,  
 9 do you recall when it was that you couldn't get  
 10 required documents?  
 11 A Not off the top of my head. But I have  
 12 a tendency to think that it had to do with some of  
 13 the audits that were taking effect or clients that  
 14 I was dealing with in, probably, '14.  
 15 Q Have you turned down the representation  
 16 of any person who bought solar lenses for any  
 17 reason other than they couldn't provide you the  
 18 documents required?  
 19 A Yes.  
 20 Q Why?  
 21 MR. PAUL: I'll assert the same  
 22 objection to the extent it calls for privileged  
 23 information. I would instruct you not to answer.  
 24 But if you can answer without divulging any  
 25 privileged information you can answer.

Page 134

1 A They couldn't provide me with other  
 2 documentation that they were trying to claim as  
 3 expenses on the tax return.  
 4 BY MS. HEALY-GALLAGHER:  
 5 Q Expenses related to RaPower-3?  
 6 A No.  
 7 Q Any other reason to turn down the  
 8 representation of someone who bought solar lenses?  
 9 A No.  
 10 Q So, Mr. Jameson, you said that you are  
 11 semiretired. And you are not trying to build a  
 12 practice here. So, why are you representing  
 13 anyone related to RaPower-3?  
 14 A I am not just representing people who  
 15 are being audited having to do with RaPower-3. I  
 16 am fairly good at representation. And I get  
 17 clients from all over the country who ask me to  
 18 represent them. And it's something I like to do.  
 19 Q I guess I'm not quite understanding why,  
 20 if you like to do it, and you are doing it for  
 21 many people, why you would tell Mr. Shepard, stop  
 22 putting my name out.  
 23 A Because I don't want -- I don't want  
 24 anybody advertising my name. I am not into  
 25 advertising to get clients. Normally, the clients

Page 135

1 that I get will, actually, all the clients I get  
 2 are by word of mouth. I get referrals. I helped  
 3 a client with their problem, and they referred  
 4 another client to me that had a problem. I find  
 5 that works better for me in the tax practice.  
 6 Q Okay. So, your general preference is  
 7 not advertising?  
 8 A Correct.  
 9 Q And that's true whether a client's  
 10 representation has to do with solar lenses or with  
 11 something completely unrelated to solar lenses?  
 12 A That is correct.  
 13 (Exhibit No. 626 was marked for identification.)  
 14 BY MS. HEALY-GALLAGHER:  
 15 Q For the record this Exhibit has Bates  
 16 number Olsen\_P&E-02228 through 2229. Please take  
 17 a read of that and let me know when you are done.  
 18 And I can direct your attention, we'll be talking  
 19 about the email that starts about halfway down the  
 20 first page with the subject line, ReRa3  
 21 Audit/Appeal info.  
 22 A Okay. I have finished reading it.  
 23 Q Okay. Let's first take a quick look at  
 24 the forwarded email that appears on the page  
 25 ending in 2229. A couple lines down from the top,

Page 136

1 it says Tuesday, October 29. Do you see that?  
 2 A Yes.  
 3 Q And then what follows is the same email  
 4 that appears in Plaintiff's Exhibit 625, correct?  
 5 A Yes.  
 6 Q And the email covering that forwarded  
 7 email is actually the email that appears for the  
 8 first page of Exhibit 626, correct?  
 9 A Yes.  
 10 Q Okay. So, would you take a read,  
 11 please, of the email toward the bottom of the  
 12 first page of 626 from prestonfx@gmail.com to  
 13 greg@rapower3.com and let me know when you are  
 14 finished reading?  
 15 A I finished reading it.  
 16 Q And I will represent to you that this --  
 17 I know you are not on this email, but this was  
 18 produced by a gentleman named Preston Olsen. And  
 19 Mr. Olsen, in this email that you just read, is  
 20 asking questions, right, about the person that Mr.  
 21 Shepard mentioned in his prior email about the  
 22 person on audit and appeal, right?  
 23 A Correct.  
 24 Q And Mr. Olsen asks, "Did he win on  
 25 appeal after filing more paperwork?" Then in all

Page 137

1 caps it says, "THE CORRECT PAPERWORK AND A LOT  
2 MORE TRICKS BY RICK JAMESON." Did I read that  
3 correctly?  
4 A Yes.  
5 Q Any idea what Mr. Shepard is talking  
6 about there?  
7 A No, ma'am, I don't. I would never have  
8 authorized that. I do not play tricks.  
9 Q Does that ring any bells as to who that  
10 might have been?  
11 A No, ma'am, it does not. I would like to  
12 state that the tricks is deplorable. It should  
13 never have been said. I would never play a trick  
14 on an IRS agent. I have very strict guidelines  
15 that I follow. And I am very good at doing it.  
16 And I do not not follow the rules.  
17 Q Does the name Roger Hamblin ring a bell?  
18 A Yes.  
19 Q Was he one of your clients that you  
20 represented before the IRS?  
21 A In an appeal I think, yes.  
22 Q Do you recall what happened in the  
23 course of that appeal?  
24 A If I remember, the appeal was, if I  
25 remember correctly, the appeal was denied. And I

Page 138

1 helped him do some paperwork to get into tax  
2 court.  
3 Q So, with respect to any tax benefits  
4 that Mr. Hamblin had claimed on the tax returns  
5 that were under appeal, all of those tax benefits  
6 were denied?  
7 A It's my understanding they were, if I  
8 remember correctly.  
9 Q Do you have any idea where Mr. Hamblin's  
10 case is now?  
11 A In the queue.  
12 Q So, still pending before tax court?  
13 A Yes, ma'am, it's my understanding.  
14 Q Do you recall, Mr. Jameson, when you  
15 started representing people before the IRS with  
16 respect to tax benefits related to solar lenses?  
17 A Well, based on the dates of the email, I  
18 would assume it had to be probably in 2013 now.  
19 Q And from when you first started  
20 representing people before the IRS with respect to  
21 the tax benefits related to solar lenses till  
22 today, have you ever gotten the IRS to allow the  
23 tax benefits related to the solar lenses?  
24 A No. Can I clarify that a little bit?  
25 Q Um-hmm.

Page 139

1 A The reason is it is a control issue.  
2 Q What makes you say that?  
3 A I have been told that by appeals  
4 officers on numerous occasions.  
5 Q Do you remember those people's names?  
6 A No, ma'am, I don't.  
7 Q Do you have anything in writing?  
8 A The appeals officer would have told me  
9 it was a control issue, and they could not approve  
10 it because it was a control issue. And they would  
11 then issue the notice of deficiency.  
12 Q So, Mr. Jameson, as an enrolled agent,  
13 does that raise a red flag for you?  
14 A No, ma'am.  
15 Q Why not?  
16 A Because it tells me that there's X  
17 number of cases in tax court. And the appeals  
18 office is not going to approve anything as long as  
19 it's still pending in court. So, as a control  
20 issue, they review the rights of the taxpayer,  
21 review the information, and then say it's a  
22 control issue. I'm going to issue the notice of  
23 deficiency. That doesn't mean that the taxpayer  
24 is not correct. It means that they have to wait  
25 for a judge to make a decision.

Page 140

1 Q So, the fact that the IRS has taken a  
2 position with respect to the non-allowability of  
3 the tax benefits claimed with respect to the solar  
4 lenses, and that position is to deny everything  
5 for every person under audit and appeal, does that  
6 raise a red flag for you?  
7 A No, ma'am.  
8 Q Why not?  
9 A The IRS is wrong 50 percent of the time.  
10 The only person not wrong in this whole thing will  
11 be a judge.  
12 Q Where do you get the IRS is wrong  
13 50 percent of the time?  
14 MR. PAUL: I think he was being  
15 generous. Sorry. That was facetious.  
16 You can answer the question.  
17 A Thirty years of experience in dealing  
18 with the Internal Revenue Service.  
19 BY MS. HEALY-GALLAGHER:  
20 Q So, is it your opinion?  
21 A It is my personal opinion.  
22 Q Handing you, Mr. Jameson, what's already  
23 been marked Plaintiff's Exhibit 32, which has  
24 Bates No. US 001528, would you please take a look  
25 at that email, read it, and let me know when you

<p style="text-align: right;">Page 141</p> <p>1 are done.</p> <p>2 A Yeah, I have finished.</p> <p>3 Q Okay. Do you recognize Plaintiff's</p> <p>4 Exhibit 32?</p> <p>5 A I don't remember receiving the email in</p> <p>6 and of itself. I do remember talking to one of my</p> <p>7 clients concerning the issues under audit and the</p> <p>8 way that I was proceeding with the audit.</p> <p>9 Q So, it sounds like, Mr. Jameson, you</p> <p>10 recognize the three significant issues identified</p> <p>11 in this email?</p> <p>12 A I recognize a portion of them.</p> <p>13 Q Let's walk through them. My first</p> <p>14 question is, did you send the writing in</p> <p>15 paragraphs numbered 1, 2, and 3 to Mr. Shepard?</p> <p>16 A I don't believe I did.</p> <p>17 Q Why not?</p> <p>18 A Well, it doesn't really look like all of</p> <p>19 the stuff that I would have sent. It looks like</p> <p>20 it was doctored up a little bit. But I'm not real</p> <p>21 sure. And I don't remember sending this to Greg.</p> <p>22 It looks like something I may have sent to another</p> <p>23 client having to do with their audit, but I don't</p> <p>24 specifically remember sending this to Greg.</p> <p>25 Q Okay. Let's walk through the three</p>	<p style="text-align: right;">Page 143</p> <p>1 And it probably has to do with Section 469A.</p> <p>2 Q Okay. So, where Section 469C2 states</p> <p>3 that an exception for certain real property, the</p> <p>4 term "passive activity" includes any rental</p> <p>5 activity. That's not part of your calculus?</p> <p>6 A That has to do with rental property.</p> <p>7 Rental property is Section 1245 or 1250. It's not</p> <p>8 Section 1231. 1231 is Tangible Personal Property.</p> <p>9 That's different from Section 1245 and</p> <p>10 Section 1250.</p> <p>11 Q So, where Section 469J8 defines rental</p> <p>12 activity as any activity where payments are</p> <p>13 principally for the use of tangible property, that</p> <p>14 doesn't factor into your calculus?</p> <p>15 A That's tangible personal property?</p> <p>16 Q Yeah.</p> <p>17 A I suppose. I don't have the regulation</p> <p>18 in front of me.</p> <p>19 (Exhibit No. 627 was marked for identification.)</p> <p>20 BY MS. HEALY-GALLAGHER:</p> <p>21 Q I have handed you what's been marked</p> <p>22 Plaintiff's Exhibit 627, which is a printout from</p> <p>23 LexisNexis for 26 USC Section 469. And, once</p> <p>24 again, the citation that you were relying on was</p> <p>25 what section?</p>
<p style="text-align: right;">Page 142</p> <p>1 paragraphs here. So, the first sentence of</p> <p>2 paragraph number 1 says, "This is leasing personal</p> <p>3 property which is not considered passive at all.</p> <p>4 No need to worry about establishing involvement</p> <p>5 and time spent for this qualification." Did I</p> <p>6 read that correctly?</p> <p>7 A Yes, ma'am.</p> <p>8 Q Is it your opinion that leasing personal</p> <p>9 property is not a passive activity?</p> <p>10 A According to the Internal Revenue Code</p> <p>11 and IRS guidelines, that is correct. As long as</p> <p>12 the property is considered Section 1231, Tangible</p> <p>13 Personal Property, it is to be reported on a</p> <p>14 Schedule C as per the IRS guidelines that were</p> <p>15 issued back in 1990, and is not considered a</p> <p>16 passive activity. There are several court cases</p> <p>17 to back that up.</p> <p>18 Q So, separate and apart from where income</p> <p>19 from leasing personal property is to be reported,</p> <p>20 what's your support for the idea that leasing</p> <p>21 personal property is not per se passive?</p> <p>22 A The Internal Revenue Code and --</p> <p>23 Q Which section?</p> <p>24 A Off the top of my head, I'm not sure. I</p> <p>25 would think it probably falls under Section 162.</p>	<p style="text-align: right;">Page 144</p> <p>1 A Somewhere in 469. There is, in Internal</p> <p>2 Revenue Code Section 469, there is a seven-part</p> <p>3 test. And in my research they passed part two of</p> <p>4 the test and, therefore, entitled to say it is not</p> <p>5 passive.</p> <p>6 Q Okay. So, let's take a little stroll</p> <p>7 here through 469. And you know what? I'm sorry.</p> <p>8 So, generally, Mr. Jameson, Section 469, and I am</p> <p>9 just talking about in general terms, says that if</p> <p>10 a taxpayer has passive losses, those passive</p> <p>11 losses may only be used to offset passive income.</p> <p>12 That's the general rule, right?</p> <p>13 A With regards to real property under</p> <p>14 Section 1245 and 1250.</p> <p>15 Q Okay. Well, let's take a look, please,</p> <p>16 at Section C here. In Section 469 where it says</p> <p>17 passive activity defined, do you see that?</p> <p>18 A Yes, ma'am.</p> <p>19 Q And the rule is, in general, the term</p> <p>20 "passive activity" means any activity which</p> <p>21 involves the conduct of any trade or business in</p> <p>22 which the taxpayer does not materially</p> <p>23 participate. Correct?</p> <p>24 A Correct.</p> <p>25 Q And then Section C2 says, "Passive</p>



Page 145

1 activity includes any rental activity except as  
 2 provided in paragraph 7. The term passive  
 3 activity includes any rental activity." Did I  
 4 read that correctly?  
 5 A Yes, ma'am.  
 6 Q So, then let's take a look, please, at  
 7 Section J8.  
 8 A That would be on page what?  
 9 Q Six?  
 10 A Six. Okay.  
 11 Q J8 defines rental activity. Do you see  
 12 that?  
 13 A Yes.  
 14 Q And it says, "The term rental activity  
 15 means any activity where payments are principally  
 16 for the use of tangible property." Right?  
 17 A Yes.  
 18 Q And the solar lenses are tangible  
 19 property, correct?  
 20 A Yes.  
 21 Q And if we revisit Section C2, it says  
 22 except as provided in paragraph 7, right?  
 23 A Um-hmm.  
 24 Q Yes?  
 25 A Yes.

Page 146

1 Q And paragraph 7, which is on the  
 2 following page, says special rules for taxpayers  
 3 in real property business, correct?  
 4 A I haven't found it yet.  
 5 Q Sorry.  
 6 A It's on page 7?  
 7 Q No. Page 2.  
 8 A Oh, page 2.  
 9 Q It's subsection (c)7.  
 10 A Found it.  
 11 Q (C)7 says, special rules for taxpayers  
 12 in real property business, correct?  
 13 A Yes.  
 14 Q But the solar lenses are not real  
 15 property, right?  
 16 A Correct.  
 17 Q Okay. So, subsection (7) doesn't apply?  
 18 A My understanding would be correct, yes.  
 19 Q Okay. So, that brings us back to C2  
 20 where it says the term passive activity includes  
 21 any rental activity, yes?  
 22 A Yes.  
 23 Q And rental activity has already been  
 24 defined as rental activity involving tangible  
 25 property, right?

Page 147

1 A Yes.  
 2 Q And then, if we look at subparagraph  
 3 (c)4, it says paragraphs 2 and 3 -- I'm on page 2  
 4 at the top third of page 2, paragraphs 2 and 3, of  
 5 course -- paragraph 2 says rental activity is per  
 6 se passive, shall be applied without regard to  
 7 whether or not the taxpayer materially  
 8 participates in the activity. Do you see that?  
 9 A Yes, I see that.  
 10 Q So, the way I read Section 469, rental  
 11 activity involving tangible personal properties  
 12 like a solar lens is personal taxes. Do you  
 13 agree?  
 14 A No.  
 15 Q Why not?  
 16 A Because the Internal Revenue Service has  
 17 specifically stated that the rental of tangible  
 18 personal property under Section 1231 is not a  
 19 passive activity and to be reported on a Schedule  
 20 C. And there are several tax court cases that  
 21 back that up.  
 22 Q One quick question, Mr. Jameson, so  
 23 passive activity can be reported on a Schedule C,  
 24 right?  
 25 A Yes.

Page 148

1 Q So, what does that have to do with  
 2 anything?  
 3 A It has to do with my interpretation of  
 4 the Internal Revenue Code.  
 5 Q Does our walk through Section 469 raise  
 6 any red flag for you about whether the rental of  
 7 tangible personal property is a passive activity?  
 8 MR. PAUL: Objection. Relevance. We  
 9 have gone again far afield for the purpose of this  
 10 deposition.  
 11 A The answer is no, because there is a  
 12 seven-question test. And, in my research, the  
 13 individual passes test number two. They do  
 14 substantially all of the activity in their  
 15 business and, therefore, is no longer considered a  
 16 passive activity.  
 17 BY MS. HEALY-GALLAGHER:  
 18 Q So, if we take a look back, Mr. Jameson  
 19 at subsection (c)4, right, the seven-section test  
 20 you are talking about has to do with whether a  
 21 taxpayer has materially participated in a trade or  
 22 business, correct?  
 23 A Correct.  
 24 Q And Subsection (c)4 says, paragraph 2,  
 25 defining the rental of tangible personal property

<p style="text-align: right;">Page 149</p> <p>1 as per se passive, is true regardless of whether a</p> <p>2 taxpayer materially participates in the activity?</p> <p>3 A I don't have an answer for that</p> <p>4 question. I have already stated my answer.</p> <p>5 Q Does that raise a red flag for you?</p> <p>6 A No.</p> <p>7 MR. PAUL: Objection. Lack of</p> <p>8 foundation. Vague.</p> <p>9 A In my research it does not because they</p> <p>10 pass test number two.</p> <p>11 BY MS. HEALY-GALLAGHER:</p> <p>12 Q And what I would submit to you and</p> <p>13 invite you to take a look at after this</p> <p>14 deposition, is that that test does not matter if</p> <p>15 we are talking about the rental of tangible</p> <p>16 personal property?</p> <p>17 MR. PAUL: That's not a question you</p> <p>18 have to answer.</p> <p>19 A Thank you.</p> <p>20 BY MS. HEALY-GALLAGHER:</p> <p>21 Q Are you familiar, Mr. Jameson, with a</p> <p>22 temporary regulation setting forth general rules</p> <p>23 under Section 469?</p> <p>24 A Not off the top of my head.</p> <p>25 (Exhibit No. 628 was marked for identification.)</p>	<p style="text-align: right;">Page 151</p> <p>1 research in letters you have written to IRS agents</p> <p>2 or appeals officers?</p> <p>3 A Yes.</p> <p>4 Q Would you take a look, please? You have</p> <p>5 been handed what's been marked Plaintiff's</p> <p>6 Exhibit 628, which I'll represent to you is a</p> <p>7 LexusNexis printout of 26 CFR 1.469-1T. And I</p> <p>8 will ask you, Mr. Jameson, to take a look, please,</p> <p>9 at subsection (d)3, which is on page 4. No. I'm</p> <p>10 sorry. (e)3. Still on page 4. The subhead of</p> <p>11 that says Rental Activity. Do you see that?</p> <p>12 A At this point, no.</p> <p>13 MR. PAUL: Second line on the top of the</p> <p>14 page.</p> <p>15 BY MS. HEALY-GALLAGHER:</p> <p>16 Q On page 4, second line on top of the</p> <p>17 page.</p> <p>18 A Oh, got it.</p> <p>19 Q Would you please take a read through</p> <p>20 that subsection (e) and let me know when you are</p> <p>21 done.</p> <p>22 A I'm not sure I am reading what you want</p> <p>23 me to read. You said 3E? I don't have an E under</p> <p>24 3.</p> <p>25 Q So, if you want to put it down I can</p>
<p style="text-align: right;">Page 150</p> <p>1 MR. PAUL: I don't understand it anyway.</p> <p>2 I am going to object about these issues as they</p> <p>3 are far afield of what we are supposed to be</p> <p>4 covering here. This is a fact witness related to</p> <p>5 the case. His expertise and his understanding of</p> <p>6 the rules is not getting us anywhere towards what</p> <p>7 this deposition is tailored for. He's not an</p> <p>8 expert. He hasn't been designated as an expert by</p> <p>9 either your side or our side.</p> <p>10 BY MS. HEALY-GALLAGHER:</p> <p>11 Q Mr. Jameson, do you keep copies of the</p> <p>12 tax court cases you rely on for your research?</p> <p>13 A Generally speaking, I keep a little</p> <p>14 synopsis of them that I can refer back to. But</p> <p>15 most of the time, no. I just write down the</p> <p>16 number and go back to it if I need to.</p> <p>17 Q Do you have a collection of such</p> <p>18 research with respect to the solar lenses issues?</p> <p>19 A Most of the stuff that I would have</p> <p>20 gotten would have been provided to the Internal</p> <p>21 Revenue Service in either audits or appeals. So,</p> <p>22 that's where the information would be. And I</p> <p>23 would just go back to some of the other ones that</p> <p>24 I have done before to pull up that information.</p> <p>25 Q So, for example, would you have put such</p>	<p style="text-align: right;">Page 152</p> <p>1 gesture and show you. So, this is subsection</p> <p>2 (e)3.</p> <p>3 A Right.</p> <p>4 Q And (e)3 goes -- actually, yeah, you</p> <p>5 don't need to read that whole thing. (e)3 goes</p> <p>6 for a while. I'll just ask you this: To your</p> <p>7 recollection, have you ever taken a look at this</p> <p>8 subsection of this regulation regarding rental</p> <p>9 activity?</p> <p>10 A Off the top of my head, I probably may</p> <p>11 have reviewed it at one time. But I don't know</p> <p>12 specifically.</p> <p>13 (Exhibit No. 629 was marked for identification.)</p> <p>14 BY MS. HEALY-GALLAGHER:</p> <p>15 Q Showing you, Mr. Jameson, what's been</p> <p>16 marked Plaintiff's Exhibit 629, Plaintiff's</p> <p>17 Exhibit 629 is a LexisNexis printout of 26 CFR</p> <p>18 1.469-5T with the heading Material Participation,</p> <p>19 Temporary. Do you see that Mr. Jameson?</p> <p>20 A Yes, ma'am.</p> <p>21 Q You mentioned a seven-part test that you</p> <p>22 used to determine whether a taxpayer has</p> <p>23 materially participated in any business activity?</p> <p>24 A Yes, ma'am.</p> <p>25 Q Is that here in 1.469-5T? Take a look</p>

<p style="text-align: right;">Page 153</p> <p>1 at Section A?</p> <p>2 A Yes.</p> <p>3 Q This is where we find the seven-part</p> <p>4 test?</p> <p>5 A Yes.</p> <p>6 Q And you were saying with respect to the</p> <p>7 solar lenses you believe that the owner of solar</p> <p>8 lenses passes which test?</p> <p>9 A Test number two.</p> <p>10 Q Okay. So, you are not basing it on any</p> <p>11 minimum hour requirement?</p> <p>12 A My question to the client would be to</p> <p>13 keep track of their hours. But in my dealing with</p> <p>14 audits and stuff like that, if they can't</p> <p>15 substantiate the hours due to lack of keeping</p> <p>16 accurate records, then I would rely upon test</p> <p>17 number two, because they are in the equipment</p> <p>18 rental business, and they do substantially all of</p> <p>19 their work in that business. And so they meet</p> <p>20 that particular test. And all they have to do is</p> <p>21 pass one test of the seven.</p> <p>22 Q So, what is the work that they do in</p> <p>23 their solar lens leasing business?</p> <p>24 A That's not for me to determine.</p> <p>25 Q I'm not asking you to determine it. I</p>	<p style="text-align: right;">Page 155</p> <p>1 business and do you keep records? If the client</p> <p>2 responds yes, I do not follow it up. If they</p> <p>3 respond, I don't keep records, I tell them they</p> <p>4 need to keep records to substantiate the fact that</p> <p>5 they actively are involved in their business.</p> <p>6 Q And I just want to make sure I</p> <p>7 understand. So, have you ever asked one of your</p> <p>8 customers who claim tax benefits with respect to</p> <p>9 solar lenses what exactly it is that they do for</p> <p>10 their solar lens business?</p> <p>11 A The answer would be yes.</p> <p>12 Q Okay. What do they say?</p> <p>13 A They provided me with a list of their</p> <p>14 activities that I used to help substantiate the</p> <p>15 active participation test number two during an</p> <p>16 audit.</p> <p>17 Q What was included on that list of</p> <p>18 activities?</p> <p>19 A It would be a list of activities and the</p> <p>20 amount of time they spent researching, doing</p> <p>21 accounting, talking to other people, a number of</p> <p>22 things. I don't remember right off the top of my</p> <p>23 head. That information has been provided to the</p> <p>24 Internal Revenue Service during either audits or</p> <p>25 appeals. I would attach a copy of their written</p>
<p style="text-align: right;">Page 154</p> <p>1 am asking you what it is?</p> <p>2 A Then it's not my responsibility to audit</p> <p>3 the taxpayer and to ask them what work they do.</p> <p>4 My responsibility is to ask them if they do the</p> <p>5 work. And they say yes.</p> <p>6 Q So, you don't know what they do?</p> <p>7 MR. PAUL: Objection to the extent it</p> <p>8 misstates his testimony.</p> <p>9 A In some instances, yes, ma'am.</p> <p>10 BY MS. HEALY-GALLAGHER:</p> <p>11 Q What about the other instances?</p> <p>12 A They are not under audit.</p> <p>13 Q Well, and I'm not trying to trick you or</p> <p>14 anything, because I am trying to understand what</p> <p>15 your understanding is. So, a taxpayer has to do</p> <p>16 some work if they are going to claim that they</p> <p>17 have a trade or business, right?</p> <p>18 A Correct.</p> <p>19 Q Okay.</p> <p>20 A I should refine that. It's correct if</p> <p>21 they have active participation.</p> <p>22 Q So, is it enough for you to simply ask</p> <p>23 do you do all the work in your business?</p> <p>24 A I would ask the client, as part of my</p> <p>25 due diligence, do you do all the work in the</p>	<p style="text-align: right;">Page 156</p> <p>1 list of activities to the IRS employee to</p> <p>2 substantiate the active participation.</p> <p>3 Q And all of this substantiation, of</p> <p>4 course, Mr. Jameson, is going to the requirement</p> <p>5 that to be a material participant the statute says</p> <p>6 that taxpayers' activity in the business must be</p> <p>7 regular, continuous and substantial, right?</p> <p>8 MR. PAUL: Objection. Argumentative.</p> <p>9 Lacks foundation.</p> <p>10 MS. HEALY-GALLAGHER: We can look.</p> <p>11 A You can look. And that's what it says.</p> <p>12 And I will also tell you that substantial is not</p> <p>13 defined anywhere in the regulations, because I</p> <p>14 have asked that question before. And I have</p> <p>15 researched tax court cases where they also say it</p> <p>16 is not defined. So, what does substantial mean?</p> <p>17 It's in the eyes of the beholder and, bottom line,</p> <p>18 the judge.</p> <p>19 BY MS. HEALY-GALLAGHER:</p> <p>20 Q So, you listed off a couple of</p> <p>21 activities that you recall a customer having done</p> <p>22 in the course of their solar lens business?</p> <p>23 A Yes, ma'am.</p> <p>24 Q Research?</p> <p>25 A Yes, ma'am.</p>

Page 157

1 Q Research about what?

2 A I would assume it would have to do with

3 research about solar lenses, solar business. And

4 it could be nationally, it could be

5 internationally.

6 Q Accounting?

7 A Accounting for keeping track of the

8 lenses, making the payments on the lenses.

9 Q Talking to other people, what do you

10 mean by that?

11 A Well, you asked me earlier about the

12 people that received commissions. They would have

13 had to talk to somebody else in order to help them

14 purchase the lenses to get the commission.

15 Q So, what exactly did that have to do

16 with the business of leasing out lenses?

17 A It's a closely, interrelated activity as

18 defined by the Internal Revenue Code.

19 Q Any other activity that you can recall

20 your customers having done in the course of their

21 solar lens leasing business?

22 A I'm sure there's others, but I don't

23 remember to be honest with you. There is just too

24 much of it.

25 Q Did you ever talk to -- well, actually

Page 158

1 withdraw that. Let's take a look, please, at

2 subsection (f) in Plaintiff's Exhibit 629, which

3 is about two-thirds of the way down page 3. Have

4 you ever had occasion, Mr. Jameson, to review the

5 rules regarding someone's participation in an

6 activity as an investor?

7 A Not sure I fully understand the

8 question.

9 Q Well, take a look, please, at subsection

10 (f), number 2, little 2 where it says

11 participation as an investor?

12 A I have read it.

13 Q So, you read -- sorry -- subsection of

14 that paragraph A?

15 A Yeah. Where it talks about the

16 day-to-day management or the operations of the

17 activity?

18 Q Where the work done by an individual in

19 the individual's capacity as an investor in an

20 activity shall not be treated as participation.

21 Do you see that part?

22 A Yes, ma'am.

23 Q And then subsection (b) describes the

24 work done in an individual's capacity as an

25 investor, right?

Page 159

1 A Yes, ma'am.

2 Q Have you ever reviewed this particular

3 subsection of the rules regarding activity?

4 A Yes, ma'am. And you didn't read the

5 entire part. It also says, Unless underline,

6 unless the investor or the individual is directly

7 involved in a day-to-day management operations of

8 the activity.

9 Q So, you believe, Mr. Jameson, that your

10 clients have actual day-to-day management of their

11 solar lens leasing business?

12 A The answer would be, in my understanding

13 yes, because day-to-day is not defined in the

14 regulations. So, if they can prove that they pass

15 test number two, they do substantially all of the

16 work in the business, then it is my interpretation

17 that they pass the 469 test, so it is not

18 considered passive. And I'll be quite honest with

19 you, in all of the returns that I have done audits

20 and appeals with, not one single IRS employee has

21 brought up any of this information.

22 Q And, Mr. Jameson, whose responsibility

23 is it to prove entitlement to any tax treatment on

24 their return?

25 A The taxpayer.

Page 160

1 Q Mr. Jameson, are you familiar with the

2 rules on grouping activities?

3 A Somewhat.

4 Q What's your general understanding?

5 A The grouping of activities can be

6 allowed under the Internal Revenue Code if they

7 are closely or similarly -- hope I pronounced that

8 correctly -- interrelated activities performed by

9 the taxpayer.

10 Q So, you talked about, and correct me if

11 I'm wrong in my understanding of your

12 understanding, but you mentioned that one of the

13 things that the taxpayers do with respect to their

14 solar lenses leasing business is talk to other

15 people to try to get them to buy solar lenses,

16 correct?

17 A Correct.

18 Q And that activity of trying to recruit

19 more people to buy more lenses is, to you, an

20 appropriate activity to group with the business of

21 leasing lenses?

22 A Yes.

23 Q Why is that?

24 A Because a taxpayer has the ability to

25 discuss with another individual the effects of



<p style="text-align: right;">Page 161</p> <p>1 their leasing of the lenses, have copies of the</p> <p>2 contracts, have copy of the Operating and</p> <p>3 Maintenance Agreement, Proof of Purchase, how to</p> <p>4 make the down payments and those type of things.</p> <p>5 Q And all those things, Mr. Jameson, can</p> <p>6 be done without having bought a lens, correct?</p> <p>7 A Yes, ma'am.</p> <p>8 Q So, there is no requirement to buy a</p> <p>9 lens in order to sell lenses, correct?</p> <p>10 A Not to my knowledge, no.</p> <p>11 Q So, that statement was correct?</p> <p>12 A That would be correct.</p> <p>13 Q And, in fact, a taxpayer need never</p> <p>14 engage in -- excuse me. I'll withdraw that.</p> <p>15 A customer need never engage in any sort</p> <p>16 of marketing in order to claim the tax benefits</p> <p>17 related to a purchase of solar lenses, correct?</p> <p>18 A Correct.</p> <p>19 Q But I'm not clear on the link between</p> <p>20 the two business activities. One is leasing out a</p> <p>21 lens. And one is advertising -- or excuse me, not</p> <p>22 advertising lenses. One is leasing out a lens and</p> <p>23 one is trying to sell lenses.</p> <p>24 A The link between the two would be, in my</p> <p>25 opinion, a closely related activity. Because if</p>	<p style="text-align: right;">Page 163</p> <p>1 Q So, to your understanding, this Section</p> <p>2 D involves rental of real property only?</p> <p>3 A To the vast majority, yes, the way it's</p> <p>4 worded, and in my research to having to do with</p> <p>5 it.</p> <p>6 Q Is there anything that you found that</p> <p>7 says this does not apply to the rental of tangible</p> <p>8 property?</p> <p>9 A Not that I can remember. But I haven't</p> <p>10 found anything that says it doesn't. So, I mean,</p> <p>11 it does apply or doesn't apply in my research.</p> <p>12 So, in my research, I feel I have justified based</p> <p>13 on the tax court cases that I found that they are</p> <p>14 able to group them together.</p> <p>15 Q And what are those cases?</p> <p>16 A I don't have them in front of me.</p> <p>17 Q Do you have them back at your office?</p> <p>18 A Probably.</p> <p>19 Q Did you produce them to the United</p> <p>20 States in response to our subpoena?</p> <p>21 A My bet is yes. I produced all that</p> <p>22 information to the Department of Justice.</p> <p>23 Q Um-hmm. Take a look, please, at Section</p> <p>24 F -- subsection (f), which is on page 4. It says</p> <p>25 Grouping by Commissioner to Prevent Tax Avoidance.</p>
<p style="text-align: right;">Page 162</p> <p>1 they use their knowledge and expertise and so</p> <p>2 forth, the fact that they own lenses and can</p> <p>3 explain to somebody else how the lenses operate</p> <p>4 and show them how it works, that becomes a closely</p> <p>5 related activity. And when they are paid they get</p> <p>6 their 1099, we report it on their Schedule C.</p> <p>7 Q Would you take a look, please, at</p> <p>8 Section D.</p> <p>9 A Page 2?</p> <p>10 Q Page 2. Section D has a limitation on</p> <p>11 grouping certain activities, right?</p> <p>12 A Yes, ma'am.</p> <p>13 Q And that includes limitations on</p> <p>14 grouping rental activities with other trade or</p> <p>15 business activities. Do you see that?</p> <p>16 A Yes, ma'am.</p> <p>17 Q And, in your opinion, grouping the solar</p> <p>18 lens rental activity is 100 percent fine with the</p> <p>19 network marketing activity under this Section D?</p> <p>20 A In my research having to do with this</p> <p>21 particular code section, the grouping activity</p> <p>22 with rental units has to do with real property, it</p> <p>23 doesn't really discuss tangible personal property</p> <p>24 in my research and, therefore, I find that it</p> <p>25 probably is able to be grouped.</p>	<p style="text-align: right;">Page 164</p> <p>1 Do you see that?</p> <p>2 A No, not yet.</p> <p>3 Q Okay. It's about two-thirds of the way</p> <p>4 down.</p> <p>5 MR. PAUL: Which exhibit are you in?</p> <p>6 MS. HEALY-GALLAGHER: I'm in 629.</p> <p>7 MR. PAUL: Not one of the sub 629,</p> <p>8 but --</p> <p>9 BY MS. HEALY-GALLAGHER:</p> <p>10 Q Mr. Jameson, what's the sticker on the</p> <p>11 front page of that? 629. Section F.</p> <p>12 A I don't see an F.</p> <p>13 Q Wow. What happened?</p> <p>14 MR. PAUL: 628?</p> <p>15 MS. HEALY-GALLAGHER: Off the record,</p> <p>16 please.</p> <p>17 (Exhibit No. 630 was marked for identification.)</p> <p>18 BY MS. HEALY-GALLAGHER:</p> <p>19 Q Okay. Mr. Jameson, I am handing you</p> <p>20 what's been marked as Plaintiff's Exhibit 630. My</p> <p>21 apologies for the confusion earlier. Plaintiff's</p> <p>22 Exhibit 630 is a LexisNexis printout of 20 CFR</p> <p>23 1.469-4. Definition of activity. Do you so that?</p> <p>24 A I'm sorry. What page?</p> <p>25 Q Just the initial title.</p>

Page 165

1 A Yes, I see it.  
 2 Q Definition of activity. All right. Now  
 3 we all have the same information. So, we talked  
 4 about grouping, right?  
 5 A Yes.  
 6 Q Which this regulation addresses. Let's  
 7 take a look, please, now let's look at page 4,  
 8 subsection (f), where it says grouping by  
 9 commissioner to prevent tax avoidance. Do you see  
 10 that?  
 11 A Yes, ma'am.  
 12 Q All right. Have you had occasion to  
 13 review this subsection of this regulation in  
 14 connection with the solar lens tax benefits?  
 15 A I may have. I can't answer that  
 16 question with -- I don't know. I may have. I  
 17 review a lot of court cases. A lot of regulations  
 18 and stuff like that.  
 19 Q Mr. Jameson, do you have an  
 20 understanding of why Section 469 was enacted?  
 21 A Yes, ma'am.  
 22 Q What's your understanding?  
 23 A To reduce the tax benefits of passive  
 24 activities unless you had passive income because  
 25 people were taking advantage of the system.

Page 166

1 Q Mr. Jameson, did you give any  
 2 consideration as to whether this solar lens rental  
 3 business was for the purpose of tax avoidance?  
 4 A When I had the first two clients come to  
 5 me, I was a little skeptical until I started doing  
 6 the research. Once I did the research, then I  
 7 felt under my due diligence requirements and I  
 8 could find substantial authority to back up the  
 9 findings, I felt that it was not a tax avoidance  
 10 scheme based on the information that I was  
 11 provided by the clients.  
 12 Q So, you did evaluate it though. It did  
 13 cross your mind, yes?  
 14 A You always have to be aware of that kind  
 15 of stuff in my position to make sure that you are  
 16 doing your due diligence.  
 17 Q And what were the red flags that made  
 18 you think, hmm, maybe I should take a look at this  
 19 with respect to tax avoidance?  
 20 A The amount of credits and depreciation  
 21 and writeoffs that the individual would be  
 22 receiving, because one of the things that the IRS  
 23 audits looks at very closely is high income  
 24 individuals who have a lot of money coming in on  
 25 W2s on line 7, then have a lot of negative numbers

Page 167

1 on line 13, which is a Schedule C. So, that's  
 2 always something that I am used to watching, and  
 3 advising my clients and being as careful as  
 4 possible about it.  
 5 Q All right. We have gone far afield from  
 6 Plaintiff's Exhibit 32. But I'll ask you to  
 7 return to Plaintiff's Exhibit 32. So, we have  
 8 talked about paragraph number 1 in Plaintiff's  
 9 Exhibit 32. In paragraph 2 --  
 10 Miss Hines is off and will not be  
 11 rejoining us.  
 12 So, Mr. Jameson, in the first sentence  
 13 of paragraph 2, it says we should not consider  
 14 ourselves in an energy business. We are buying  
 15 lenses and leasing them. That is our business,  
 16 leasing, not producing energy. Is that your  
 17 understanding of the business that RaPower-3  
 18 customers are in?  
 19 A That is my understanding of the  
 20 business. They are not in the energy business,  
 21 they are in the leasing business.  
 22 Q When customers came to you, did they  
 23 believe they were in the leasing business or did  
 24 they believe they were in the energy production  
 25 business?

Page 168

1 A That's a hard one to answer because some  
 2 of my clients didn't really understand the way  
 3 they were doing things. And so, we had to sit  
 4 down and discuss it. Some of them thought they  
 5 were, some of them thought they weren't.  
 6 Q So, they didn't know what business they  
 7 were in?  
 8 A Some of them had not a very clear  
 9 understanding of exactly what it meant to lease  
 10 tangible personal property, because nobody had  
 11 advised them directly.  
 12 Q So, Mr. Jameson, I'm sorry, I admit I am  
 13 giggling a little bit over here, because you are  
 14 telling me that people had a business that you put  
 15 on their tax return, and they didn't know what  
 16 their business was?  
 17 A I didn't say that. I said they were  
 18 misclassifying their business.  
 19 Q Mr. Jameson, correct me if I'm wrong,  
 20 but there is a big difference between what you  
 21 have to do to produce solar energy as a business  
 22 activity and leasing out lenses as a business  
 23 activity, right?  
 24 A Yes.  
 25 Q Yes. How could someone come in and be

<p style="text-align: right;">Page 169</p> <p>1 confused about that?</p> <p>2 MR. PAUL: Objection. Foundation.</p> <p>3 A You would have to ask them.</p> <p>4 BY MS. HEALY-GALLAGHER:</p> <p>5 Q Did you ask them?</p> <p>6 A No. Not my job to ask them. It's my</p> <p>7 job to correct the situation and file a tax return</p> <p>8 as required. It is not my job to audit them.</p> <p>9 Q But, Mr. Jameson, you may not ignore the</p> <p>10 implications of information that's furnished to</p> <p>11 you, can you?</p> <p>12 A No, I cannot.</p> <p>13 Q So, if someone comes into your office</p> <p>14 and doesn't know what business they are in,</p> <p>15 doesn't that raise a little red flag about whether</p> <p>16 they are actually in a business at all?</p> <p>17 MR. PAUL: Objection. Argumentative.</p> <p>18 Lacks foundation. Improper hypothetical.</p> <p>19 A Actually, I think you are taking it a</p> <p>20 little too far. Because I didn't say they didn't</p> <p>21 know what the business was. They misunderstood</p> <p>22 the way the business was classified on their tax</p> <p>23 returns. Because the preparers that did them</p> <p>24 before me were not preparing the returns</p> <p>25 correctly: And you can giggle if you like. But</p>	<p style="text-align: right;">Page 171</p> <p>1 A I'm done.</p> <p>2 Q Do you recognize Plaintiff's</p> <p>3 Exhibit 631?</p> <p>4 A No.</p> <p>5 Q Well, I'll represent that this has been</p> <p>6 authenticated as a web capture, a website printout</p> <p>7 for RaPower-3.com, which we can see in the lower</p> <p>8 left-hand side in tiny, tiny print. Do you see</p> <p>9 that?</p> <p>10 A Yes.</p> <p>11 Q And this was printed on May 1st, 2014.</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q And your name is on this web page under</p> <p>15 the heading Accountants. Do you see that?</p> <p>16 A Yes.</p> <p>17 Q It has Miss Gailey's name under that</p> <p>18 subhead too, correct?</p> <p>19 A Yes.</p> <p>20 Q Are you a CPA?</p> <p>21 A No.</p> <p>22 Q Any reason why you are on this website</p> <p>23 as a CPA?</p> <p>24 A No. I did not authorize it.</p> <p>25 Q Did you ever see this?</p>
<p style="text-align: right;">Page 170</p> <p>1 you are also trying to put words in my mouth that</p> <p>2 I didn't say.</p> <p>3 BY MS. HEALY-GALLAGHER:</p> <p>4 Q Sir, you said they were confused, not</p> <p>5 me.</p> <p>6 A And they were confused. But I have a</p> <p>7 lot of clients that come in the door confused by</p> <p>8 the overwhelming Internal Revenue Code.</p> <p>9 Q Are any of your other clients confused</p> <p>10 about what business they are in?</p> <p>11 MR. PAUL: Objection. Argumentative.</p> <p>12 A Don't know. I would have to ask them.</p> <p>13 BY MS. HEALY-GALLAGHER:</p> <p>14 MR. PAUL: I guess if the tax code were</p> <p>15 easier everybody would do it themselves?</p> <p>16 THE WITNESS: Correct.</p> <p>17 MS. HEALY-GALLAGHER: That's why we rely</p> <p>18 on practitioners to be honest and thorough, isn't</p> <p>19 it, Mr. Paul?</p> <p>20 MR. PAUL: Mr. Jameson is.</p> <p>21 (Exhibit No. 631 was marked for identification.)</p> <p>22 BY MS. HEALY-GALLAGHER:</p> <p>23 Q I am handing you, Mr. Jameson, what's</p> <p>24 marked Plaintiff's Exhibit 631. Please take a</p> <p>25 look at that and let me know when you are done.</p>	<p style="text-align: right;">Page 172</p> <p>1 A No.</p> <p>2 Q Did you authorize Mr. Shepard to hold</p> <p>3 you out as a CPA?</p> <p>4 A No.</p> <p>5 Q Does this refresh your recollection at</p> <p>6 all on when you might have told Mr. Shepard to</p> <p>7 stop giving out your information?</p> <p>8 A Probably right after people started</p> <p>9 calling me. You'll notice the address that I am</p> <p>10 at?</p> <p>11 Q Palm Springs, California?</p> <p>12 A Right. My retirement house. I was not</p> <p>13 working at that particular point. I was</p> <p>14 semiretired. I would not have authorized this. I</p> <p>15 would not have allowed this. And once clients</p> <p>16 started calling me, I asked them to stop.</p> <p>17 Q You asked Greg Shepard to stop?</p> <p>18 A Yes. This is the first time I have seen</p> <p>19 this. I would never have authorized him to put me</p> <p>20 on his web page.</p> <p>21 Q Why not?</p> <p>22 A I don't want advertising. I don't want</p> <p>23 clients. I don't need them. I'm semiretired.</p> <p>24 Q So, again, though, I come back to why</p> <p>25 did you say yes to represent more RaPower-3</p>

<p style="text-align: right;">Page 173</p> <p>1 people?</p> <p>2 A Representation is something I like to</p> <p>3 do. And so, it keeps me active. One of the</p> <p>4 things I have learned over the years in doing tax</p> <p>5 returns that people who retire and don't have a</p> <p>6 plan die very shortly after they retire. The ones</p> <p>7 who have a plan live a lot longer. Personal</p> <p>8 opinion.</p> <p>9 Q Mr. Jameson, did you ever ask any of</p> <p>10 your solar lens customers where their lenses were?</p> <p>11 A No. Because I knew that they were being</p> <p>12 set up in Delta as part of the, I think it spells</p> <p>13 that out in the operating and maintenance</p> <p>14 agreement. I would have to look at one again.</p> <p>15 But there is a section that tells them where the</p> <p>16 lenses are being set up.</p> <p>17 Q Does it tell a customer exactly which</p> <p>18 lenses the customer is buying?</p> <p>19 A I don't know that.</p> <p>20 Q Have you ever asked anybody?</p> <p>21 A No.</p> <p>22 Q Have you ever asked anybody how to trace</p> <p>23 which customer owns which lens?</p> <p>24 A Don't think I have, no. I think that's</p> <p>25 something that the people on-site have to do.</p>	<p style="text-align: right;">Page 175</p> <p>1 Department of Justice, or it's included in audits</p> <p>2 and appeals.</p> <p>3 Q Have any of your preparation or</p> <p>4 representation customers asked you questions about</p> <p>5 what it means that's taking so long to get rental</p> <p>6 payments?</p> <p>7 A I have had a couple clients make</p> <p>8 comments but not really ask me, because I told</p> <p>9 them it's not my responsibility. My job is to do</p> <p>10 their taxes. They need to contact RaPower-3.</p> <p>11 Q Have you ever asked Neldon Johnson why</p> <p>12 it's taking so long to get rental payments?</p> <p>13 A I have never talked to Neldon Johnson</p> <p>14 except for those two meetings in Delta.</p> <p>15 Q So, the answer is no?</p> <p>16 A The answer is no.</p> <p>17 Q Have you ever asked Greg Shepard why</p> <p>18 it's taking so long to get rent?</p> <p>19 A No.</p> <p>20 Q Have you ever asked anyone else why it's</p> <p>21 taking so long to get rental payments?</p> <p>22 A No.</p> <p>23 Q Why not?</p> <p>24 A Not my responsibility.</p> <p>25 Q You said you were curious about it?</p>
<p style="text-align: right;">Page 174</p> <p>1 Q Mr. Jameson, do you ever help anybody</p> <p>2 decide how many lenses to purchase?</p> <p>3 A No, ma'am. That would not be ethical.</p> <p>4 Q Do you refer them to anybody else who</p> <p>5 does?</p> <p>6 A No, ma'am. Would not be ethical.</p> <p>7 Q Have you ever wondered, Mr. Jameson, why</p> <p>8 it's taken so long to get any rental payments for</p> <p>9 lenses?</p> <p>10 A I have thought about that, yes.</p> <p>11 Q What have you wondered?</p> <p>12 A That it's taken a while to get the</p> <p>13 rental payments.</p> <p>14 Q Does that raise a red flag for you with</p> <p>15 respect to any of your customers purportedly being</p> <p>16 in the leasing business with respect to the solar</p> <p>17 lenses?</p> <p>18 A Not really. Because, again, I have done</p> <p>19 my due diligence and did research and found some</p> <p>20 court cases that specifically talk about leasing</p> <p>21 of property and the way payments are received and</p> <p>22 the timing of the payments.</p> <p>23 Q And which cases are those?</p> <p>24 A I don't have them on the top of my head.</p> <p>25 I would have provided all that information to the</p>	<p style="text-align: right;">Page 176</p> <p>1 A I was curious. But that's just my</p> <p>2 personal opinion. It has nothing to do with,</p> <p>3 again, I'm not in the business of auditing the</p> <p>4 client.</p> <p>5 Q Do you know, Mr. Jameson, how the price</p> <p>6 of each lens is set?</p> <p>7 A No.</p> <p>8 Q To your knowledge, has anyone ever</p> <p>9 negotiated the price of the lens?</p> <p>10 A Not to my knowledge.</p> <p>11 Q Have you ever asked anyone why they paid</p> <p>12 the particular price for the lens?</p> <p>13 A No.</p> <p>14 Q To your knowledge, has anyone ever</p> <p>15 sought an appraisal of the lens before buying</p> <p>16 them?</p> <p>17 A Not to my knowledge, no.</p> <p>18 Q Handing you, Mr. Jameson, what's already</p> <p>19 been marked Plaintiff's Exhibit 279. Please take</p> <p>20 a look at that and let me know when you are ready.</p> <p>21 The Bates number on Plaintiff's Exhibit 279 is</p> <p>22 Greg_P&amp;R002173 through 2174.</p> <p>23 A Okay. I finished reading it.</p> <p>24 Q Mr. Jameson, do you recognize</p> <p>25 Plaintiff's Exhibit 279?</p>



Page 177

1 A I'm sorry. I didn't hear your question.  
 2 Q Do you recognize Plaintiff's  
 3 Exhibit 279?  
 4 A What do you mean by recognize? I'm not  
 5 sure I understand your question.  
 6 Q Sure. All right. Let's take a look  
 7 through. We have an email from Greg Shepard.  
 8 Greg@rapower3.com, do you see that?  
 9 A Yes.  
 10 Q The subject is Ra3, new Oregon audit  
 11 info, correct?  
 12 A Correct.  
 13 Q Sent February 19, 2016?  
 14 A Right.  
 15 Q Then in the BCC field, in the last line,  
 16 we see your email address, Rick Jameson,  
 17 rjameson08@gmail.com, right?  
 18 MR. PAUL: Not what I've got.  
 19 A Not what I've got.  
 20 Q That's true. That's not what you have.  
 21 Mr. Jameson, do you recall having gotten emails  
 22 from Mr. Shepard regarding audits in Oregon?  
 23 A I recall getting a lot of emails from  
 24 Greg Shepard. As you can tell from this other  
 25 list back here, that there was 85 people. Like I

Page 178

1 said before, I don't even look at most of them. I  
 2 just delete them and go on.  
 3 Q You represented RaPower-3 customers  
 4 during audits by the Oregon Department of Revenue,  
 5 correct?  
 6 A That is correct.  
 7 Q Would you take a look, please, at the  
 8 second page of Exhibit 279. I'm looking at the  
 9 paragraph that starts New approach. Would you  
 10 read that to yourself and let me know when you are  
 11 done?  
 12 A I have finished reading it.  
 13 Q Mr. Jameson, did you ever take the  
 14 approach that if a customer's solar lenses are  
 15 used for research and development then they  
 16 qualify for depreciation?  
 17 A Yes.  
 18 Q Can you explain that to me?  
 19 A Placed in service rules. If they are  
 20 being used, I don't remember the exact code  
 21 section. It might be under 469. But there's  
 22 three parts to the placed in service requirements.  
 23 Part one states that the asset is being used for  
 24 research and development to further proceed with  
 25 the development of that technology. Part three

Page 179

1 says that it's considered to be placed in service  
 2 if it is in a standby and ready condition to  
 3 replace any asset that has been broken or lost so  
 4 there is no lost time in production or in research  
 5 and development.  
 6 Q So, what research and development would  
 7 the owner of the lens be engaged in?  
 8 A The owner of the lens is engaged in the  
 9 renting of Section 1231, Tangible Personal  
 10 Property. But if the lens is being used for  
 11 research and development, it is placed in service  
 12 and, therefore, it is my understanding, based on  
 13 the Internal Revenue Code, that the taxpayer who  
 14 purchased the lens because it is placed in service  
 15 is entitled to depreciation and the credits.  
 16 Q To your knowledge, has any person ever  
 17 been paid for the use of their lens for research  
 18 and development?  
 19 A Not to my knowledge.  
 20 Q Has that argument been compelling to any  
 21 taxing authority?  
 22 A Not sure I understand the question.  
 23 What do you mean by compelling?  
 24 Q Have you won any effort to get tax  
 25 benefits for your customers related to the solar

Page 180

1 lenses based on the argument that the lenses were  
 2 placed in service were research and development?  
 3 A The Internal Revenue won't allow  
 4 anything to get through appeals because it is a  
 5 control issue.  
 6 Q So, the answer is no?  
 7 A The answer is no.  
 8 Q Did it win in Oregon?  
 9 A It's still in court in Oregon.  
 10 Q In fact, you went up to testify in  
 11 Oregon, didn't you?  
 12 A Yes, ma'am.  
 13 Q How did that go?  
 14 A The attorney representing the State of  
 15 Oregon tried to keep me from saying a word through  
 16 the whole thing, basically. And toward the end of  
 17 the second day of my testimony, the judge was  
 18 curious. He asked me a question. I answered the  
 19 question. And the judge said, oh, I'm going to  
 20 have to overrule my own question. So, apparently,  
 21 I was answering the questions correctly.  
 22 Q So, what did you testify to in Oregon?  
 23 MR. PAUL: I'm going to object. That's  
 24 super broad. Can you narrow that down to  
 25 something that's not going to keep us here for two

Page 181

1 days?  
 2 BY MS. HEALY-GALLAGHER:  
 3 Q General topics.  
 4 A I testified as to the code sections and  
 5 the authority on which we use to enter items on  
 6 the specific lines of the tax return.  
 7 Q So, Mr. Jameson, there is no question in  
 8 your mind that buying solar lenses is a useful  
 9 tool to reduce someone's federal tax liability?  
 10 A The buying of the solar lenses does not  
 11 have to do with reducing a tax liability. The  
 12 fact that they are leasing them has to do with the  
 13 ability to claim the credits and the depreciation  
 14 on their tax return, because it's the renting of  
 15 Section 1231 Tangible Personal Property.  
 16 Q And they have to buy the lenses before  
 17 they can lease them out, right?  
 18 A That's my understanding, yes.  
 19 Q Do you know who gets paid for these  
 20 solar lenses?  
 21 A I don't understand the question.  
 22 Q Do you know who the, who the customers  
 23 pay money to, to buy the solar lenses?  
 24 A Based on the documentation I have  
 25 requested for proof of payment, the checks that I

Page 182

1 see or the direct debits show RaPower-3.  
 2 Q Do you know who owns RaPower-3?  
 3 A No, I do not.  
 4 Q Do you have any guesses?  
 5 A I have some guesses, but that would be a  
 6 personal opinion.  
 7 Q What's your personal opinion?  
 8 A My personal opinion would be probably  
 9 Neldon.  
 10 (Exhibit No. 632 was marked for identification.)  
 11 BY MS. HEALY-GALLAGHER:  
 12 Q You have been handed what's been marked  
 13 Plaintiff's Exhibit 632, Bates marked Jameson  
 14 009120. Let me take a look at that. Thank you.  
 15 We are good.  
 16 A Okay.  
 17 Q Do you recognize Plaintiff's  
 18 Exhibit 632?  
 19 A Yes.  
 20 Q What is it?  
 21 A Appears to be a email that I received  
 22 from Mr. Fullerton and then my response to Ted.  
 23 Q And is Mr. Fullerton one of your  
 24 clients?  
 25 A Yes.

Page 183

1 Q And Mr. Fullerton is asking how best for  
 2 a friend to get started in the RaPower-3 program,  
 3 correct?  
 4 A That's what it appears to say, yes.  
 5 Q Okay. And he says, "I have a friend who  
 6 made a lot of money last year and will probably  
 7 make a lot this year too." Did I read that  
 8 correctly?  
 9 A Yes.  
 10 Q You respond to Mr. Fullerton below,  
 11 "Well, I almost think that he should get his tax  
 12 return done so that he will have an idea of what  
 13 he will need to do before he gets into RaPower-3."  
 14 Did I read that correctly?  
 15 A Yes.  
 16 Q Why did you give that recommendation?  
 17 A Well, if you are going to do tax  
 18 planning you need to know what the bottom line is.  
 19 And he was specifically asking me about RaPower-3  
 20 and going to them. So, my response was do the tax  
 21 return, see what it is, then he can go talk to  
 22 somebody at RaPower-3.  
 23 Q So, if he didn't need any tax benefits,  
 24 there would be no need to go to RaPower-3,  
 25 correct?

Page 184

1 A Correct. Which is what I was saying, I  
 2 think.  
 3 Q So, there would be no need to buy solar  
 4 lenses?  
 5 A Correct.  
 6 Q Actually, let's take a look, please, the  
 7 email subject line is St. George Accountant that  
 8 does RaPower-3 returns, correct?  
 9 A Oh, yeah.  
 10 Q And these are actually two emails. Mr.  
 11 Fullerton's email to you is dated April 14, 2015,  
 12 right?  
 13 A Right.  
 14 Q And your response is also dated  
 15 April 14, 2015?  
 16 A Correct.  
 17 Q If we take a look, please, at  
 18 Plaintiff's Exhibit 632, Mr. Jameson, you'll see  
 19 your email address appears as part of the header  
 20 there up in the right-hand corner?  
 21 A Yes.  
 22 Q And it says, Gmail, Richard Jameson,  
 23 rjameson08@gmail.com. Looking, generally, at  
 24 Plaintiff's Exhibit 632, does this look like the  
 25 email printouts that you get from your Gmail

Page 185

1 account?

2 A I don't think I get the Rjameson up in

3 the upper right-hand corner, but the rest of it

4 pretty much looks like it, yes.

5 Q Is there any reason to believe that if

6 emails are addressed to Rjameson08@gmail.com they

7 didn't get to your email in-box?

8 A There would be no reason to think that,

9 no.

10 Q Does anyone else have access to

11 Rjameson08@gmail.com?

12 A Not sure I understand the question. I'm

13 sorry.

14 Q Are you the only person who has the

15 log-in information to log in as

16 Rjameson08@gmail.com?

17 A Yes.

18 (Exhibit No. 633 was marked for identification.)

19 BY MS. HEALY-GALLAGHER:

20 Q Showing you, Mr. Jameson, what's been

21 marked Plaintiff's Exhibit 633, Bates marked

22 Jameson 008077 through 8082. Please take a look

23 at that and let me know when you are done.

24 A Okay.

25 Q Mr. Jameson, do you recognize

Page 186

1 Plaintiff's Exhibit 633?

2 A Yes.

3 Q What is it?

4 A Appears to be an email from Mark Sikich

5 to me.

6 Q And to you, this email address is the

7 rick@northstartaxservices.com, correct?

8 A Correct.

9 Q Generally, Mr. Jameson, does Plaintiff's

10 Exhibit 633 look like the kind of printout you get

11 from rick@northstartaxservices.com?

12 A Yes.

13 Q And this email from Mr. Sikich was dated

14 August 6, 2015, correct?

15 A Correct.

16 Q Do you recall if you ever responded per

17 Mr. Sikich's request?

18 A Off the top of my head, I don't think I

19 did. I think I called him and told him that I

20 couldn't respond to it because of the requirements

21 under Circular 230 that would open me up to

22 liability. And I didn't feel that it was ethical

23 to answer questions that or things about tax

24 returns that I didn't, was not involved in, if I

25 remember correctly. But that was what, two years

Page 187

1 ago?

2 Q Mr. Jameson, showing you what's been

3 marked Plaintiff's Exhibit 316, that's 3-1-6,

4 Bates marked Greg\_P&R-000157 through 177. Would

5 you take a look through that, please, and let me

6 know if you recognize this document?

7 A It appears to be a tax return that I

8 have completed.

9 Q For Peter and Reni Greg, correct?

10 A Correct.

11 Q For tax year 2013?

12 A Correct.

13 Q Do you know how the Gregs found you?

14 A Word of mouth, I assume, unless they

15 looked on the website which I didn't authorize.

16 Q Right. Because they are in Oregon,

17 right?

18 A Right. But I should point out, I do tax

19 returns for people all over the country. I

20 actually do a tax return for an individual who is

21 sailing around the world. And so, he sent me his

22 stuff from somewhere in Indonesia because he had a

23 broken part on his ship or his boat that he was

24 waiting for.

25 Q Okay. So, you prepared this tax return

Page 188

1 for Peter and Reni Greg?

2 A Yes, ma'am.

3 Q Including the Schedule C that appears on

4 the page with the Bates number ending in 164?

5 A 164? Yes. I have three copies of

6 Schedule C.

7 Q Are they all the same Schedule C?

8 A Yes, ma'am, appears to be. Yes.

9 Q Do they all have the same Bates number

10 at the bottom?

11 A Yes.

12 MR. PAUL: There is three 164s.

13 MS. HEALY-GALLAGHER: I see that. That

14 looks like a copying error.

15 A Okay. I'm not going crazy then.

16 BY MS. HEALY-GALLAGHER:

17 Q Not about this anyway.

18 A Okay.

19 MR. PAUL: You are not going to ask

20 questions about it?

21 MS. HEALY-GALLAGHER: No.

22 BY MS. HEALY-GALLAGHER:

23 Q Okay. Handing you what's been marked

24 Plaintiff's Exhibit 317, 317 -- Bates marked

25 Greg\_P&R-00016 through 220. Do you recognize

Page 189

1 Plaintiff's Exhibit 317?  
 2 A Yes, ma'am.  
 3 Q This is also a tax return you prepared  
 4 for Peter and Reni Greg, correct?  
 5 A Yes.  
 6 Q For tax year 2014?  
 7 A Yes.  
 8 Q If we take a look at the bottom of the  
 9 page with the Bates number ending in 187, is that  
 10 your signature at the bottom of the page?  
 11 A 187?  
 12 Q Um-hmm. Second page of the exhibit.  
 13 A Yes.  
 14 Q If we take a look at the page ending in  
 15 193, we see a Schedule C for Peter Greg?  
 16 A Yes.  
 17 Q And the Schedule C says the principal  
 18 business or profession is equipment rental  
 19 services, correct?  
 20 A Yes.  
 21 Q And that indicates that this was a  
 22 RaPower-3 Schedule C?  
 23 A I don't know if it indicates it. But it  
 24 probably is, yes.  
 25 Q That's what you typically put as the

Page 190

1 principal business or profession when someone had  
 2 bought solar lenses?  
 3 A Yes.  
 4 Q In here you have marked yes in line G,  
 5 which asks whether you, meaning the taxpayer,  
 6 materially participated in the operation of this  
 7 business?  
 8 A Yes.  
 9 Q And is that for the reason that we  
 10 talked about before, meeting the second test in  
 11 the regs?  
 12 A Yes. Among other things. That would  
 13 be -- I would have to look at his documentation.  
 14 But for his purposes, yes, that would work.  
 15 Q You have also marked here in line 32A  
 16 all investment is at risk. Do you see that?  
 17 A 32A.  
 18 Q Bottom of the page.  
 19 A Yes.  
 20 Q How did you know that all of Peter  
 21 Greg's investment was at risk?  
 22 A I am basing that on the Equipment  
 23 Purchase Agreement.  
 24 Q Anything else?  
 25 A What else would I base it on? He has a

Page 191

1 Purchase Agreement saying he purchased X number of  
 2 lenses, and he owes some money to get it paid.  
 3 Q So, any other reason?  
 4 A Not that I can think of offhand.  
 5 Q If you think of something later, let me  
 6 know. Turn, please, to the page that ends in  
 7 Bates number 197.  
 8 A Okay.  
 9 Q Here we have a foreign tax credit form  
 10 116?  
 11 A Right.  
 12 Q Off the record.  
 13 (Whereupon, a discussion took place off the  
 14 record.)  
 15 BY MS. HEALY-GALLAGHER:  
 16 Q So, we are taking a look at the foreign  
 17 tax credit Form 1116 for Peter and Reni Greg. Do  
 18 you see that, Mr. Jameson?  
 19 A Yes.  
 20 Q Do you have any idea why you put a  
 21 foreign tax credit on the Gregs' return for 2014?  
 22 A Well, my bottom line would be they  
 23 probably had some foreign taxes that they paid.  
 24 Q So, we deposed Peter Greg in this case.  
 25 And he testified that he had no idea why this was

Page 192

1 on his tax return. And he testified that he paid  
 2 no foreign income in 2014, that he had no foreign  
 3 income or foreign business in 2014.  
 4 A Then I would have to go back and look at  
 5 my records. I would have assumed. If he said he  
 6 didn't get any, then I am not sure what happened.  
 7 Because it has the abbreviations of, you know,  
 8 other countries and so forth. Unless there was  
 9 some confusion between the preparation of returns  
 10 and somebody else's stuff got stuck on his. But I  
 11 would have to go back and look at the records.  
 12 Q So, if we take a look at his 1040, which  
 13 is on Bates number page ended 190, and we look at  
 14 line 48, we see that there's a foreign tax credit  
 15 entered.  
 16 A Correct.  
 17 Q On the second page of the 1040. And  
 18 there are some other credits from the Form 3800 on  
 19 line 54, correct?  
 20 A Right.  
 21 Q Do you have an understanding of whether  
 22 that was a carryforward of credits from solar  
 23 lenses?  
 24 A I would assume it's a carryforward of  
 25 credit. But, again, I would have to look.



<p style="text-align: right;">Page 193</p> <p>1 Q So, ultimately, Mr. Greg paid \$121 in 2 taxes in 2014. Do you see that? 3 A Yes. 4 Q So, without the foreign tax credit, his 5 tax bill would have been higher, wouldn't it? 6 A Yes. 7 MR. PAUL: Does the foreign tax credit 8 have anything to do with RaPower? 9 MS. HEALY-GALLAGHER: I have no idea. 10 MR. PAUL: Then I'll object to this line 11 of questioning as irrelevant and ask that it be 12 stricken. 13 MS. HEALY-GALLAGHER: Can we go off the 14 record for a minute? 15 (Whereupon, a discussion took place off the record 16 and then a brief recess was taken.) 17 (Exhibit No. 634, 635 and 636 were marked for 18 identification.) 19 BY MS. HEALY-GALLAGHER: 20 Q Back on the record after a short break. 21 Mr. Jameson, did you talk with anybody about the 22 facts of this case? 23 A No. 24 Q You have been handed a stack of 25 exhibits. Let's take a look first at Plaintiff's</p>	<p style="text-align: right;">Page 195</p> <p>1 I can. It should probably be solar lenses, but he 2 probably has other items he's depreciating too: 3 Desk, computer, something like that. My bet would 4 be the majority of it is the solar lenses. 5 Q On pages marked 3893 through 3895 is a 6 Form 3468 Investment Credit, correct? 7 A Yes. 8 Q And is this the form to report a credit 9 for the solar lenses? 10 A Yes. 11 Q All right. Take a look, please, at 12 what's been marked as Plaintiff's Exhibit 635. 13 This is a Form 1120 for Shepard Global, Inc. for 14 tax year 2013, correct? 15 A Yes, ma'am. 16 Q Mr. Jameson, this is a tax return that 17 you prepared, correct? 18 A Yes, ma'am. 19 Q Where on the Shepards' 2013 tax return 20 in Plaintiff's Exhibit 2013 is anything from 21 Shepard Global reported? 22 A It would be reported on the Schedule C. 23 That's the 62,947 shown on line 1. 24 Q Are you looking at a specific page? 25 A Yeah. I'm looking at 3873 on the</p>
<p style="text-align: right;">Page 194</p> <p>1 Exhibit 132, Bates marked Olsen_P&amp;E-00492 through 2 510. Mr. Jameson, is this a copy of the federal 3 tax return that you prepared? 4 A Yes. 5 Q Let's take a look at what's been marked 6 Plaintiff's Exhibit 634, Bates number 7 Shepard_Greg-03866 through 3895. Mr. Jameson, is 8 this a copy of a tax return that you prepared? 9 A Yes. 10 Q Let's take a look, please, at the page 11 ending Bates 3873. This is in 634. 12 A Page was 38 -- 13 Q 73. 14 A 73. Okay. 15 Q This is a Schedule C for Mr. Shepard 16 engaging in equipment rental services. Mr. 17 Jameson, to your knowledge, is this a Schedule C 18 for leasing out solar lenses? 19 A Yes. And for commissions he received. 20 Q So, the commissions he received, is that 21 in the Part 1, line 1? 22 A Yes. 23 Q And the depreciation in line 13, that's 24 depreciation on the solar lenses, correct? 25 A Yes. I should probably enlarge that if</p>	<p style="text-align: right;">Page 196</p> <p>1 personal return. 2 Q 3873? 3 A Um-hmm. 4 Q Okay. Which line? 5 A Line 1. 6 Q Line 1. So, how do you get more than 7 \$69,000 in gross receipts off of this Shepard 8 Global? 9 A Line 26. But you don't have the 10 attachment. Line 26, there is an actual 11 attachment that says Other Deductions. And on it 12 would list the 69,947 that was transferred over as 13 commissions or payments to the Schedule C. 14 Q Okay. Do you understand or can you 15 explain to me what the difference is between the 16 gross receipts of Shepard Global, Inc. at more 17 than \$82,000 and the gross receipts on the 18 Schedule C of \$69,000 plus? 19 A On that form that we are missing, the 20 difference, I think, is around 13,000 just off the 21 top of my head. That would have been other 22 expenses, travel, telephone, postage, office 23 expenses, that kind of stuff. I would have to see 24 the other page. There is another page that lists 25 those, that itemizes those things for you on the</p>

<p style="text-align: right;">Page 197</p> <p>1 tax return.</p> <p>2 Q Do you have an understanding of what</p> <p>3 Shepard Global does as its business activities?</p> <p>4 A My understanding for Shepard Global is</p> <p>5 it's basically a corporation that he set up to</p> <p>6 take care of the selling solar lenses, my</p> <p>7 understanding.</p> <p>8 Q And Shepard Global is Greg Shepard's</p> <p>9 company, correct?</p> <p>10 A That is correct.</p> <p>11 Q All right. Mr. Jameson, you have in</p> <p>12 front of you Plaintiff's Exhibit 446, federal tax</p> <p>13 return of Shepard Global, Inc. for 2014. Do you</p> <p>14 see that?</p> <p>15 A Yes, ma'am.</p> <p>16 Q You prepared this return?</p> <p>17 A Yes, ma'am. See that, the page that has</p> <p>18 the itemized? That's the page you are missing in</p> <p>19 the other one.</p> <p>20 Q So, you are looking at -- and for the</p> <p>21 record, Plaintiff's Exhibit 446 is Bates marked</p> <p>22 Shepard_Greg-03896 through 3912, yes? Right?</p> <p>23 A Yes.</p> <p>24 Q So, you are pointing me to the page</p> <p>25 marked 3900 at the listing of Other Deductions,</p>	<p style="text-align: right;">Page 199</p> <p>1 Q Their business of selling lenses?</p> <p>2 A I don't know what their business is. I</p> <p>3 don't do their tax returns.</p> <p>4 Q All right. Just to make sure I got it,</p> <p>5 Mr. Jameson, Plaintiff's Exhibit 446 is a tax</p> <p>6 return that you prepared?</p> <p>7 A Yes.</p> <p>8 Q Take a look through the Plaintiff's</p> <p>9 Exhibit 636, which is Bates numbered</p> <p>10 Shepard_Greg-03913 through 3930. Do you recognize</p> <p>11 Plaintiff's Exhibit 636?</p> <p>12 A Yes.</p> <p>13 Q It's a federal tax return for R. Gregory</p> <p>14 and Diana C. Shepard for tax year 2014, correct?</p> <p>15 A Yes.</p> <p>16 Q You prepared Plaintiff's Exhibit 636?</p> <p>17 A Yes.</p> <p>18 Q Including the Schedule C?</p> <p>19 A Yes.</p> <p>20 Q That appears at the page ending in Bates</p> <p>21 number 3919?</p> <p>22 A Yes.</p> <p>23 Q This Schedule C is for RaPower Solar</p> <p>24 Lense Leasing business?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 198</p> <p>1 correct?</p> <p>2 A Correct. What I was explaining is, on</p> <p>3 the last one we looked at, the 1120, where it had</p> <p>4 line 26, you were asking where it was. There</p> <p>5 would be a line like this that says Other</p> <p>6 Deductions, line 26, 1120 Other Deductions. And</p> <p>7 it would itemize it. And that's something you are</p> <p>8 missing on this return that would explain where</p> <p>9 those deductions were. Have the assembly</p> <p>10 backwards.</p> <p>11 Q We are taking a look of that list of</p> <p>12 Other Deductions. Do you happen to recall why</p> <p>13 \$40,000 is in the entry for legal and professional</p> <p>14 fees?</p> <p>15 A If I remember correctly, we issued</p> <p>16 1099s. I think part of it is payment to Mark and</p> <p>17 one of his other sons, too. And some of it may be</p> <p>18 payments to the Schedule C that he has on his</p> <p>19 personal return. I would have to look at my notes</p> <p>20 to say for sure.</p> <p>21 Q So, why characterize that as legal and</p> <p>22 professional fees?</p> <p>23 A Because it would be considered legal or</p> <p>24 professional fees if it was paid to them for their</p> <p>25 activities having to do with their business.</p>	<p style="text-align: right;">Page 200</p> <p>1 Q Handing you what's been marked</p> <p>2 Exhibit 516, Bates numbered Jameson 008134 through</p> <p>3 8143. Please take a look at that and let me know</p> <p>4 when you are done.</p> <p>5 A Okay. I'm done.</p> <p>6 Q Do you recognize Plaintiff's</p> <p>7 Exhibit 516?</p> <p>8 A Yeah. I think I saw a copy of it.</p> <p>9 Q Well, the first page of it is an email</p> <p>10 from Roger Hamblin to Glenda Johnson and your</p> <p>11 email address, correct?</p> <p>12 A Correct.</p> <p>13 Q With the subject Rogers on it?</p> <p>14 A Correct.</p> <p>15 Q Dated April 12, 2014, right?</p> <p>16 A Yes.</p> <p>17 Q And Mr. Hamblin writes, "Neldon asked</p> <p>18 that I add some wording on statutory</p> <p>19 noncompliance, and that we believe they have lost</p> <p>20 jurisdiction." Did I read that correctly?</p> <p>21 A Yes.</p> <p>22 Q Any idea what Mr. Hamblin's talking</p> <p>23 about here?</p> <p>24 A Laying the groundwork for Internal</p> <p>25 Revenue Code Section 7433.</p>

<p style="text-align: right;">Page 201</p> <p>1 Q Did you ever talk with Neldon Johnson 2 about arguments to be made to the IRS? 3 A I did not talk to Neldon Johnson other 4 than the two times I have met him. 5 Q Why are you cc'ed on here? 6 A Well, my bet is, if you look toward the 7 back, on page 8138, as an example, middle of the 8 thing, where it starts with the Emergency Economic 9 Stabilization Act of 2008, that looks like 10 something I provided to another client in an 11 audit. 12 Q So, on the page ending in 8138, that's 13 the paragraph in the middle of the page? 14 A Yeah. It starts with the Emergency 15 Economic Stabilization Act. 16 Q Um-hmm. 17 A That looks like something that I 18 provided to another client in an audit. And the 19 section below that looks like something I provided 20 to a -- parts of it. It may have been -- it looks 21 like it may have also been changed a little bit. 22 But it looks like something that I would have 23 provided to the Internal Revenue Service in the 24 audit of another client. Remember I told you I 25 quoted regulations and laws and that. This looks</p>	<p style="text-align: right;">Page 203</p> <p>1 Neldon Johnson was giving taxpayers advice on what 2 to say to the IRS? 3 A No. 4 Q Have you ever heard that before? 5 A No. 6 (Exhibit No. 637 was marked for identification.) 7 BY MS. HEALY-GALLAGHER: 8 Q Handing you what's been marked as 9 Plaintiff's Exhibit 637, Bates number 10 Greg_P&amp;R-000413 through 430. Please take a look 11 at Plaintiff's Exhibit 637 and let me know when 12 you are ready to answer questions. 13 A Looks like -- I'm ready to answer your 14 questions. 15 Q Okay. Do you recognize Plaintiff's 16 Exhibit 637? 17 A Yes. 18 Q What is it? 19 A It is a letter that I wrote to the 20 appeals officer concerning Peter and Reni Greg. 21 Their audit for '10, '11, and '12. 22 Q If we look at the very top of the page, 23 do you recognize the letterhead at the top? 24 A Yes. 25 Q Is that the North Star Tax Services</p>
<p style="text-align: right;">Page 202</p> <p>1 like some of my research. 2 Q So, were you assisting Mr. Hamblin with 3 this representation before the IRS? 4 A I think he asked me to look at it once. 5 And I told him that I probably shouldn't do it 6 because of the problem with being an enrolled 7 agent and advising him when he's a client, not a 8 client of mine, and he's going forward into doing 9 an audit. And he said he specifically wanted to 10 do the audit and the appeal on his own. 11 Q Okay. So, correct me if I'm wrong, but 12 he wanted to represent himself before the IRS, 13 correct? 14 A Correct. 15 Q But he wanted you to take a look at, you 16 know, what he was planning to submit and get your 17 thoughts on it? 18 A Correct. 19 Q But you didn't want to do that because 20 it wasn't an official representation? 21 A Correct. 22 Q So, did you ever respond to Mr. Hamblin? 23 A I don't remember responding to him at 24 this point. I don't remember responding to him. 25 Q Do you have any understanding that</p>	<p style="text-align: right;">Page 204</p> <p>1 letterhead? 2 A The old letterhead. We have new 3 letterhead now. That's back when I was in Palm 4 Springs. 5 Q And if we take a look at the page that 6 ends in 417, your signature appears, correct? 7 A Correct. 8 Q So, Mr. Jameson, you wrote this letter 9 and sent this to the IRS, correct? 10 A Correct. 11 Q If we take a look at the pages marked 12 418 through 430, were these items attached to the 13 letter? 14 A Yes, they should have been. 15 Q Okay. 16 A Yeah. Back on the front page it says 17 attached are copies of the invoices, purchase 18 orders, Placed in Service letters and so forth, 19 so, yes, they would have been attached. 20 Q Okay. Then if we look at the pages 21 marked 427, 428 and 429, the color photos -- 22 A Yes, ma'am. 23 Q -- these are photos that you took? 24 A Yes, ma'am. 25 Q Do you recall which visit to Delta you</p>

<p style="text-align: right;">Page 205</p> <p>1 took these photos?</p> <p>2 A It was the second visit.</p> <p>3 Q In 2013, right?</p> <p>4 A Yes, ma'am.</p> <p>5 Q Do these photos fairly and accurately</p> <p>6 represent what you saw in 2013?</p> <p>7 A Yes.</p> <p>8 Q At least a portion of it?</p> <p>9 A Yes.</p> <p>10 Q Okay. Mr. Jameson, would you take a</p> <p>11 look at the second page of this exhibit, first</p> <p>12 full paragraph. Around the middle of that</p> <p>13 paragraph there's a sentence that says, "As a</p> <p>14 matter of fact, I have been to the site and have</p> <p>15 seen the home that is currently being powered by</p> <p>16 the lenses in the testing of the units." Did I</p> <p>17 read that correctly?</p> <p>18 A Yes, ma'am.</p> <p>19 Q Were Peter Greg's lenses being used to</p> <p>20 purportedly power that home?</p> <p>21 A I can't answer that question. I don't</p> <p>22 have any idea where, which tower his lenses are</p> <p>23 in. But I would like to point out something else</p> <p>24 that you had asked me about earlier, about the</p> <p>25 meter?</p>	<p style="text-align: right;">Page 207</p> <p>1 that house.</p> <p>2 A That's not the power line though.</p> <p>3 Q Oh, no?</p> <p>4 A That's not where the power is. The</p> <p>5 power line is over here.</p> <p>6 Q So, do you know what that line is?</p> <p>7 A Probably a telephone line. But the</p> <p>8 power line is over here.</p> <p>9 Q Do you know that's a telephone line?</p> <p>10 A No, ma'am.</p> <p>11 Q Would it surprise you to learn that Mr.</p> <p>12 Johnson testified in fact that that house is in</p> <p>13 fact connected to the electricity grid just like</p> <p>14 your house and my house?</p> <p>15 A Yes, that would surprise me.</p> <p>16 Q Does that impact your opinion at all</p> <p>17 about the underpinnings of the validity of this</p> <p>18 solar lenses situation?</p> <p>19 A It doesn't undermine my opinion or my</p> <p>20 research findings on the solar lenses. It does</p> <p>21 affect my opinion of Mr. Johnson.</p> <p>22 Q How so?</p> <p>23 A Skeptical.</p> <p>24 Q So, now you are more skeptical of Mr.</p> <p>25 Johnson?</p>
<p style="text-align: right;">Page 206</p> <p>1 Q You are pointing at the page ending in</p> <p>2 429?</p> <p>3 A Yes.</p> <p>4 Q Um-hmm?</p> <p>5 A The meter with the power coming in, you</p> <p>6 can see the lines running over to the house. You</p> <p>7 notice there are no lines above the house, above</p> <p>8 the meter coming in from anyplace else to give it</p> <p>9 power.</p> <p>10 Q Would you put that down so we can take a</p> <p>11 look. So, you are looking at the page ending in</p> <p>12 428, correct?</p> <p>13 A Yes, ma'am.</p> <p>14 Q Pointing out the lines?</p> <p>15 A Yes, ma'am. Remember, you asked me how</p> <p>16 my assumption was that the power was being</p> <p>17 produced on-site. If you'll notice that on the</p> <p>18 429, this part of the power line that goes up to</p> <p>19 the side of the house is where the power would</p> <p>20 come in just like it does at your house to go to</p> <p>21 that particular line. There's no lines coming in.</p> <p>22 All the lines are on the ground going to the house</p> <p>23 coming up this way.</p> <p>24 Q So, Mr. Jameson, taking a look at the</p> <p>25 page ending in 428, I see a line coming out of</p>	<p style="text-align: right;">Page 208</p> <p>1 A Correct.</p> <p>2 Q Take a look, please, at the page on</p> <p>3 Plaintiff's Exhibit 637 that is marked at the end</p> <p>4 with 416. And I am looking at the first full</p> <p>5 paragraph under profit motive question.</p> <p>6 Specifically, if you want to take a look at it,</p> <p>7 the claim that the company renting the lenses have</p> <p>8 been approached by small towns that need drinking</p> <p>9 water because of the drought. "Based on the</p> <p>10 discussions, the projected income from the</p> <p>11 production of pure drinking water could far exceed</p> <p>12 the income that would be paid for the production</p> <p>13 of electricity by the lenses." Did I read that</p> <p>14 correctly?</p> <p>15 A Yes, ma'am.</p> <p>16 Q Where did you get the information about</p> <p>17 the company renting the lenses having been</p> <p>18 approached by small towns that need drinking</p> <p>19 water?</p> <p>20 A If I remember, I think it was Peter Greg</p> <p>21 that told me that. Not sure. But just my memory.</p> <p>22 Q Did you ask Peter Greg how he knew?</p> <p>23 A No, ma'am.</p> <p>24 Q Did you ask for any substantiation for</p> <p>25 that?</p>



Page 209

1 A No, ma'am.  
 2 Q Take a look, please, at the pages  
 3 marked, actually, first at the page marked at the  
 4 end 422.  
 5 A Okay.  
 6 Q This page is a Placed in Service letter  
 7 to Peter Greg, correct?  
 8 A Correct.  
 9 Q From RaPower-3?  
 10 A Correct.  
 11 Q The letter says in the second line,  
 12 "RaPower-3 put into service your equipment on or  
 13 before December 31, 2012." Did I read that  
 14 correctly?  
 15 A Yes.  
 16 Q How, if you know, Mr. Jameson, could  
 17 RaPower-3 put a solar lens into service?  
 18 MR. PAUL: Objection. Lack of  
 19 foundation.  
 20 A I am not in the business of auditing  
 21 RaPower-3. The fact that they sent me a Placed in  
 22 Service or sent the client a Placed in Service  
 23 letter was the documentation that I needed to  
 24 justify putting it on the tax return.  
 25

Page 210

1 BY MS. HEALY-GALLAGHER:  
 2 Q So, does it matter that it doesn't say  
 3 LTB placed your lenses into service? Because  
 4 that's who they were, ostensibly, leasing these  
 5 lenses to.  
 6 A Doesn't matter to me because they have a  
 7 Placed in Service letter.  
 8 Q So, all that matters is there is a  
 9 letter that says we put your equipment into  
 10 service?  
 11 A Yes, ma'am.  
 12 Q Okay. Please take a look at the page  
 13 marked Greg\_P&R-000423 through 426.  
 14 A Yes, ma'am.  
 15 Q These pages contain a letter from Greg  
 16 Shepard, correct?  
 17 A Correct.  
 18 Q Dated April 7, 2014, right?  
 19 A Yes.  
 20 Q Why did you include this letter from Mr.  
 21 Shepard in Mr. Greg's appeal?  
 22 A I was requested to include it by Mr.  
 23 Greg.  
 24 Q Is this something you would ordinarily  
 25 include --

Page 211

1 A No, ma'am.  
 2 Q -- to an appeals officer?  
 3 A No, ma'am.  
 4 Q Why not?  
 5 A I feel that it was rambling and  
 6 borderline insulting to the Internal Revenue  
 7 Service officer who was conducting the appeal.  
 8 And that is not something that I would normally  
 9 condone or encourage.  
 10 Q So, why did you include it for Mr. Greg?  
 11 A Because Mr. Greg requested it. I can't  
 12 remember the exact conversation. But sometimes  
 13 when I try to explain to clients that they  
 14 shouldn't do something, that doesn't mean they are  
 15 not going to do it.  
 16 Q No. I believe you. Would you take a  
 17 look, please, at the last page of Plaintiff's  
 18 Exhibit 637.  
 19 A Yes, ma'am.  
 20 Q This page appears to be a notice of a  
 21 refund from the IRS to a taxpayer. Do you see  
 22 that?  
 23 A Yes.  
 24 Q Any idea why you included this to the  
 25 appeals officer?

Page 212

1 A I wanted to show the appeals officer  
 2 that an individual had actually won on appeal and  
 3 had gotten a refund check. And that it was not a  
 4 control issue if they had already received a  
 5 refund check.  
 6 Q And there is some information blacked  
 7 out on this page. But this is regarding Roger  
 8 Hamblin, isn't it?  
 9 A Yes, ma'am.  
 10 Q And, ultimately, do you recall the dates  
 11 or can you read the date of when this letter went  
 12 to Roger Hamblin?  
 13 A I can't read the date. The date was  
 14 several years before these audits. So, I think it  
 15 was probably 2008, 2009, something like that.  
 16 Q So, this may have happened before the  
 17 IRS had controls placed on this issue?  
 18 A Yes, ma'am.  
 19 Q Right?  
 20 A Yes, ma'am.  
 21 Q Is it your ordinary practice to attach  
 22 the results from one taxpayer on another  
 23 taxpayer's audit letter?  
 24 A Generally not. But in this situation I  
 25 think Mr. Hamblin and Peter Greg were in

Page 213

1 communication with each other. Otherwise, I  
 2 wouldn't have gotten this, because I don't do Mr.  
 3 Hamblin's tax return. So, I think it was one of  
 4 those things where, well, we are saying the  
 5 technology is there and has been approved in the  
 6 past, and here's proof that the IRS did approve it  
 7 in the past.  
 8 (Exhibit No. 638 was marked for identification.)  
 9 BY MS. HEALY-GALLAGHER:  
 10 Q Mr. Jameson, you have been handed what's  
 11 been marked Plaintiff's Exhibit 638 which does not  
 12 have Bates numbers on it. Do you see that?  
 13 A Yes, ma'am.  
 14 Q Okay. Do you recognize Plaintiff's  
 15 Exhibit 638?  
 16 A Yes, ma'am.  
 17 Q Have you been able to take a look  
 18 through the whole thing?  
 19 A I don't need to look through the whole  
 20 thing, I don't think. I'm pretty sure it's a  
 21 letter I wrote to the revenue agent for an audit  
 22 that he was conducting on Mr. Cook for 2012.  
 23 Q And you mentioned that the letterhead at  
 24 the top of the first page is your new letterhead  
 25 for North Star?

Page 214

1 A Yes, ma'am. I like it better than the  
 2 other, don't you?  
 3 Q It's very nice. Dated September 24,  
 4 2014, correct?  
 5 A Yes, ma'am.  
 6 Q And Plaintiff's Exhibit 638 appears to  
 7 be a true and correct copy of a letter with  
 8 attachments that you submitted to the IRS?  
 9 A Yes, ma'am. To clarify a question you  
 10 had asked me earlier, if I may? Remember I had  
 11 told you that I attached copies of, here's the  
 12 copy of the law. There's copies of laws, public  
 13 laws, regulations and code sections and tax court  
 14 cases that I reference in the letter.  
 15 Q Thank you for reminding me of that. So,  
 16 taking a look at this letter regarding Mr. Cook's  
 17 tax year 2012, this is an example of not only the  
 18 research that you did, but sort of how you keep  
 19 track of the research that you have done?  
 20 A Yes, ma'am. Yes, ma'am.  
 21 Q With the different citations in this  
 22 letter?  
 23 A Yes, ma'am. Did that answer that  
 24 question better for you?  
 25 Q I appreciate the clarification. Handing

Page 215

1 you what's already been marked Plaintiff's  
 2 Exhibit 163, Bates numbered Olsen\_P&E-00256  
 3 through 262, would you take a look at that and let  
 4 me know when you are done.  
 5 A Okay. I am finished.  
 6 Q Okay. Mr. Jameson, do you recognize  
 7 Plaintiff's Exhibit 163?  
 8 A Yes, ma'am.  
 9 Q What is it?  
 10 A It's a letter that I wrote to Kristy who  
 11 is a TCO who was performing an audit on the  
 12 Olsens.  
 13 Q The letter is dated February 4, 2016,  
 14 correct?  
 15 A Correct.  
 16 Q Okay. So, the last sentence of the  
 17 second paragraph, I guess, says, "Because the  
 18 lenses produce heat, they are clearly eligible for  
 19 the energy credit as per Internal Revenue Code  
 20 Section 48." Did I read that correctly?  
 21 A Yes, ma'am.  
 22 Q Do you know whether the Olsens' solar  
 23 lenses have ever produced heat?  
 24 A I have never seen their lens produce  
 25 heat. The solar lenses do produce heat. Solar

Page 216

1 process heat, I should say.  
 2 MS. HEALY-GALLAGHER: So, could you read  
 3 my question back?  
 4 (Record read.)  
 5 BY MS. HEALY-GALLAGHER:  
 6 Q So, in this letter, Mr. Jameson, you are  
 7 relying on the general concept that the solar  
 8 lenses at issue in this case, if installed on a  
 9 tower, can focus solar radiation into concentrated  
 10 heat?  
 11 A That is correct.  
 12 Q You have something more?  
 13 A Yes, ma'am. I would like to clarify  
 14 something.  
 15 Q Um-hmm.  
 16 A I stated earlier that I believed the IRS  
 17 in 1990 issued instructions concerning reporting  
 18 of the rental of tangible personal property on a  
 19 Schedule C. I was wrong. In the letter it says  
 20 it was in 1991. And it specifically stated income  
 21 and expenses from the rental of personal property  
 22 such as equipment and vehicles must be reported on  
 23 a Schedule C.  
 24 Q Okay. And we established earlier that  
 25 passive activity is reported on a Schedule C,

<p style="text-align: right;">Page 217</p> <p>1 correct?</p> <p>2 A That is correct. But I also quoted --</p> <p>3 remember you asked me the laws? If you go to the</p> <p>4 next, there are the two laws that I quoted.</p> <p>5 Q I appreciate that. Thank you. If we</p> <p>6 take a look at the page in Plaintiff's</p> <p>7 Exhibit 163, that ends in 259 --</p> <p>8 A Yes, ma'am.</p> <p>9 Q -- in the biggest paragraph on this</p> <p>10 page, again, you reference that the company</p> <p>11 renting the lenses have been approached by small</p> <p>12 towns that need drinking water because of the</p> <p>13 drought. Do you see that?</p> <p>14 A No, ma'am.</p> <p>15 Q Let me point it to you. 259.</p> <p>16 A Oh. Okay. I see it. Yes, ma'am.</p> <p>17 Q So, we saw that you mentioned that same</p> <p>18 discussion in Plaintiff's Exhibit 637, which is</p> <p>19 dated May 2014. Is that right?</p> <p>20 A Yes, ma'am.</p> <p>21 Q Now we are in February 2016. And it's</p> <p>22 basically the same text. So, in the intervening</p> <p>23 two years, Mr. Jameson, what, if anything,</p> <p>24 happened with that possibility?</p> <p>25 A I don't have any idea. I was never</p>	<p style="text-align: right;">Page 219</p> <p>1 A It's told to everybody in cases of</p> <p>2 emergencies, like in Puerto Rico and Florida,</p> <p>3 where they are told to boil their water. Oh, one</p> <p>4 other thing? When I was Googling solar lenses,</p> <p>5 there is a solar lens that's different than this</p> <p>6 one that is for sale on the internet that is a</p> <p>7 small portable unit that is designed to actually</p> <p>8 produce clean drinking water for somebody in an</p> <p>9 emergency.</p> <p>10 Q Did anyone who is actually involved with</p> <p>11 the technology and the solar lenses ever talk to</p> <p>12 you about potable drinking water as a result from</p> <p>13 this?</p> <p>14 A No, ma'am.</p> <p>15 (Exhibit No. 639 was marked for identification.)</p> <p>16 BY MS. HEALY-GALLAGHER:</p> <p>17 Q Mr. Jameson, you have been handed</p> <p>18 Plaintiff's Exhibit 639, Bates number Jameson</p> <p>19 005146 through 5174. Please take a look through</p> <p>20 and let me know when you are ready.</p> <p>21 A I have reviewed it.</p> <p>22 Q Do you recognize Plaintiff's</p> <p>23 Exhibit 639?</p> <p>24 A Yes, ma'am.</p> <p>25 Q What is it?</p>
<p style="text-align: right;">Page 218</p> <p>1 updated on any of that.</p> <p>2 Q So, why did you include it in 2016?</p> <p>3 A Because it seemed like a valid argument</p> <p>4 to make.</p> <p>5 Q You didn't wonder what might have</p> <p>6 happened with that if that was a legitimate</p> <p>7 potential avenue for future income?</p> <p>8 A Again, not my area of responsibility.</p> <p>9 Q Did you ever ask anyone what experience</p> <p>10 or expertise anyone involved with the solar lenses</p> <p>11 had in producing drinking water?</p> <p>12 A I don't think I asked anybody in</p> <p>13 particular about that. But when I was on-site</p> <p>14 that one time, and I saw the water coming out, it</p> <p>15 seemed pretty evident that drinking water would be</p> <p>16 a side effect of the production of the solar</p> <p>17 process heat.</p> <p>18 Q How did you know that water was potable?</p> <p>19 A Educated guess, personal opinion.</p> <p>20 Q Any facts?</p> <p>21 A Normally, when water goes through a</p> <p>22 solar process or any process where it's turned</p> <p>23 into steam, and the steam condenses, it is now</p> <p>24 drinkable water.</p> <p>25 Q How do you know that?</p>	<p style="text-align: right;">Page 220</p> <p>1 A It is a letter that I wrote to Mr.</p> <p>2 Miller who I think is a revenue agent who is</p> <p>3 performing an audit on Lindsey Davis for 2015.</p> <p>4 Q Take a look, please, at the page that</p> <p>5 ends in 5148.</p> <p>6 A Yes, ma'am.</p> <p>7 Q The first sentence under Description of</p> <p>8 Business says, "The taxpayer is in the business of</p> <p>9 leasing solar lenses to be used to produce heat</p> <p>10 for various purposes by the company LTB1 renting</p> <p>11 the lenses." Did I read that correctly?</p> <p>12 A Yes, ma'am.</p> <p>13 Q With the understanding that Mr. Johnson</p> <p>14 testified that LTB1 has never done anything, does</p> <p>15 that give you pause, does that undermine your</p> <p>16 statement in this sentence?</p> <p>17 A Yes, ma'am.</p> <p>18 Q What, if any, concern does that raise</p> <p>19 for you?</p> <p>20 A First I heard that LTB1, LLC hasn't done</p> <p>21 anything. So, it raises some concerns.</p> <p>22 Q And what are those concerns?</p> <p>23 A If they haven't done anything, how can</p> <p>24 they be renting the lenses?</p> <p>25 Q Would you take a look, please, at the</p>

<p style="text-align: right;">Page 221</p> <p>1 page that ends 5149, the last two paragraphs on 2 this page? 3 A Done. 4 Q You reference both the Kirton McConkie 5 legal memorandum and the Anderson Law PC letter. 6 Do you see that? 7 A Yes, ma'am. 8 Q Why did you refer those in your writing 9 to the IRS? 10 A I explained that earlier. It was to 11 help establish the basis in an appeal to request 12 an abatement of the penalties through reasonable 13 cause. 14 Q Okay. So, you weren't submitting these 15 as legal authority to the IRS, this was -- 16 A No, ma'am. 17 Q -- solely to ask for leniency on 18 penalties? 19 A Yes, ma'am. The legal memorandums and 20 letters are not, they are just opinions. And 21 anybody can have an opinion. And they are not 22 legal documents. But they are documents that can 23 be used under the reasonable cause statute to 24 establish the fact that the taxpayer did the best 25 they could under the circumstances and, therefore,</p>	<p style="text-align: right;">Page 223</p> <p>1 Plaintiff's Exhibit 640, which is Bates marked 2 Riter_Kenneth-3187. It's through 1388. But there 3 is just a little bit on the next page. Would you 4 take a look at that, please, and let me know when 5 you are done. 6 A Okay. I'm done. 7 Q So, Mr. Jameson, the only spot that I 8 see your email address here is in the CC line and 9 the second email from the top. Do you see that? 10 A Yes, ma'am. 11 Q Do you recall having received the email 12 that's from lori@northstartaxservices.com that 13 follows? 14 A Yes, ma'am. 15 Q Does that appear to be a true and 16 correct copy of an email you were sent from Miss 17 Lori Gailey? 18 A Yes, ma'am. 19 Q On or about July 17, 2014? 20 A Yes, ma'am. 21 (Exhibit No. 641 was marked for identification.) 22 BY MS. HEALY-GALLAGHER: 23 Q You have been handed a copy of what's 24 been marked Plaintiff's Exhibit 641 with Bates 25 number Jameson 003371. Please take a look at that</p>
<p style="text-align: right;">Page 222</p> <p>1 we can request abatement of the penalties. 2 Q For your statement about LTB leasing the 3 lenses, were you relying on the last page of 4 Plaintiff's Exhibit 639? 5 A Yes, ma'am. 6 Q Any other source? 7 A I can't remember if it's in the actual 8 Equipment Purchase Agreement or the Operating and 9 Maintenance Agreement. But I generally would rely 10 on the Placed in Service Agreement. The other 11 thing I would like to point out, you asked me 12 about court cases and laws. You'll notice as you 13 get further into this I am starting to expand 14 things. And there's the references that I 15 couldn't remember. 16 Q Okay. 17 A I say supreme court decision and so 18 forth. 19 Q Sure. Thank you for that. 20 A I think I actually also quoted the seven 21 tests. 22 Q Okay. All right. 23 (Exhibit No. 640 was marked for identification.) 24 BY MS. HEALY-GALLAGHER: 25 Q You are being handed a copy of</p>	<p style="text-align: right;">Page 224</p> <p>1 and let me know when you are done. 2 A I'm done. 3 Q Do you recognize Plaintiff's 4 Exhibit 641? 5 A Yes, ma'am. 6 Q What is it? 7 A It, apparently, is my return email to 8 Carie. 9 Q Okay. And that's Carie Martin from 10 Plaintiff's Exhibit 640? 11 A Yes, ma'am. 12 (Exhibit No. 642 was marked for identification.) 13 BY MS. HEALY-GALLAGHER: 14 Q All right. Mr. Jameson, you have been 15 handed what's been marked Plaintiff's Exhibit 642, 16 Bates number Riter_Kenneth-01375 through 1376. 17 Please take a look at that and let me know when 18 you are done. 19 A I'm done. 20 Q Do you recognize Plaintiff's 21 Exhibit 642? 22 A Yes, ma'am. 23 Q What is it? 24 A It is a copy of my response email to Mr. 25 Riter concerning his email that was sent to me</p>



Page 225

1 saying he was having problems with the Internal  
2 Revenue Service.

3 Q Sure. So, we start, really, towards the  
4 bottom of the first page of Plaintiff's  
5 Exhibit 642, right? Do you see that was the  
6 original message?

7 A Yes.

8 Q The subject is RaPower-3 tax client,  
9 right?

10 A Yes.

11 Q It's from Ken Riter, correct?

12 A Yes, ma'am.

13 Q Dated February 17, 2014?

14 A Yes, ma'am.

15 Q To you, rick@northstartaxservices.com,  
16 correct?

17 A Yes, ma'am.

18 Q All right. And then on the next page he  
19 writes, "As you may have heard, I got a rather  
20 nasty call from the IRS Criminal Division last  
21 week regarding my association with RaPower-3. I  
22 don't have the power to get into a battle with  
23 them at this point. So, I have decided not to do  
24 any more RaPower tax returns until the IRS back  
25 off." Did I read that correctly?

Page 226

1 A Yes, ma'am.

2 Q Did you speak with Mr. Riter at all  
3 about his interaction with IRS Criminal Division?

4 A I think I did talk to him once on the  
5 phone.

6 Q What did you talk about?

7 A His requirements under due diligence and  
8 substantial authority so that he could lay the  
9 groundwork to defend himself better against the  
10 Criminal Investigation Division of the IRS  
11 because, to be quite honest with you, I don't  
12 think he quite really understood the gravity of  
13 the situation. So, I tried to explain it to him.

14 Q The fact that Mr. Riter had been  
15 contacted by CI, did that give you any pause in  
16 getting further involved with RaPower-3?

17 A No, ma'am.

18 Q Any reason why not?

19 A Because the CID called me two days  
20 before him.

21 Q Okay. And we see that you identify that  
22 in your email response to Mr. Riter, correct?

23 A Yes, ma'am.

24 Q So, what did you talk about with CI?

25 A I answered their questions as truthfully

Page 227

1 and as honestly as I could, and referred them to  
2 the public laws, the court cases, the code  
3 sections and the treasury regulations.

4 Q Did it cause any concern for you that  
5 the Criminal Investigation Division of the IRS was  
6 contacting you about these solar lenses?

7 A They weren't necessarily contacting me  
8 about the solar lenses. They were contacting me  
9 about RaPower-3. And no, it did not concern me  
10 that much. I have been contacted by the Criminal  
11 Investigation Division several times over the last  
12 30 years.

13 Q How many times?

14 A Four, five.

15 Q Four or five times in 30 years?

16 A Yes, ma'am.

17 Q You remember each one, don't you?

18 A Yes, ma'am.

19 Q Because, as you said, it's a matter of  
20 some gravity when the Criminal Investigation  
21 Division of the IRS contacts you, right?

22 A Yes, ma'am.

23 Q Did you think about ceasing involvement  
24 with RaPower-3 after that phone call?

25 A I considered it. But I went back to my

Page 228

1 research again, due diligence. And I think I  
2 expanded my research a little bit more, which you  
3 can see in some of the letters based on some of  
4 the questions that the CID agent had raised during  
5 our conversations. And I felt that I had done my  
6 due diligence. And I had substantial authority to  
7 justify my preparation of the tax returns.

8 Q Did you ever hear back from CI?

9 A No, ma'am.

10 Q Mr. Jameson, have you had occasion to  
11 learn that Kirton McConkie requested in writing  
12 that RaPower-3 cease using its memorandum?

13 A I was given that information by a  
14 revenue agent.

15 Q Did that give you any pause about  
16 continuing to use it?

17 A No, ma'am. Because I wasn't using it as  
18 legal authority. I was using it as research  
19 material and justification to request abatements  
20 of penalties for my clients. Completely different  
21 reasoning behind what I was doing with it.

22 Q So, Mr. Jameson, have all of your  
23 RaPower-3 tax return preparation customers been  
24 audited?

25 A No.

Page 229

1 Q Have you informed those who have not  
2 been audited of the risk of audit?  
3 A Yes.  
4 Q Specifically with respect to RaPower-3?  
5 A Yes.  
6 Q What have you told them?  
7 A What I would tell any and every client  
8 when I look at a tax return and see something on  
9 it that is out of balance with the way the IRS  
10 grades tax returns. Back to my example I gave  
11 earlier of the line 1 entry of 800,000 and a line  
12 12 entry of a negative 12,000, that's a red flag  
13 for the IRS. So, I explain that to all of my  
14 clients. Not just the RaPower-3 clients, but any  
15 other clients I may have that may fall into that  
16 category.  
17 Q So, it's a red flag to you when  
18 something on a tax return, as you just said, the  
19 deductions are out of balance with the amount of  
20 income, right?  
21 MR. PAUL: Objection to the extent it  
22 misstates his prior testimony.  
23 A No, it's not a red flag to me. It's a  
24 red flag to the Internal Revenue Service. And I  
25 go back and say, under due diligence, do you have

Page 230

1 the substantiation to justify the deduction?  
2 BY MS. HEALY-GALLAGHER:  
3 Q Okay. Have you been notified that you  
4 are under any sort of investigation by the IRS?  
5 A Yes, ma'am.  
6 Q Do you know what investigation that is  
7 for?  
8 A Yes, ma'am.  
9 Q What is it for?  
10 A If I remember, it's a code Section 66,  
11 three 6s and a 9 or three 6s and a 2, willful and  
12 reckless disregard of the rules and regulations.  
13 Q 6694?  
14 A It could be. One of those.  
15 Q And that's related to the solar lenses,  
16 correct?  
17 A Yes, ma'am.  
18 Q Has that investigation given you any  
19 pause about continuing to prepare returns that  
20 claim tax benefits related to solar lenses?  
21 A No, ma'am.  
22 Q And why not?  
23 A Because I am going to counterattack.  
24 Q How so?  
25 A I would rather not answer that question.

Page 231

1 Q I'm not asking for your legal plans.  
2 Well, I will ask this. Are you planning to use  
3 legal process to counterattack?  
4 A Yes.  
5 Q Are you planning to use any violent  
6 means to counterattack?  
7 A No, ma'am, under no circumstances.  
8 Q I just like to be clear.  
9 A Okay. No, ma'am, under no  
10 circumstances. I have had problems with the  
11 Internal Revenue Service before.  
12 Q So, have you been under any sort of  
13 preparer investigation before?  
14 A One time.  
15 Q And what was the tax issue?  
16 A It had to do with a client who hadn't  
17 filed tax returns for several years. And I was  
18 trying to clean up the problem. And the revenue  
19 agent filed a complaint against me. I filed a  
20 complaint against her. She no longer works for  
21 the IRS, and neither does her supervisor. And  
22 that was about 12 years ago. They broke the law.  
23 Q So, that was with respect to only one  
24 client?  
25 A Correct.

Page 232

1 Q Was that, if you recall, with respect to  
2 penalties conduct under 6694?  
3 A I don't recall.  
4 Q Have you been under any other  
5 investigation by the IRS?  
6 A No, ma'am.  
7 Q And you are aware, Mr. Jameson, that the  
8 United States has filed an injunction suit against  
9 RaPower-3 and other entities, correct?  
10 A I have heard that from clients, yes.  
11 Q When did you first hear about that?  
12 A I am not sure of the exact date. My bet  
13 is probably a little over a year ago.  
14 Q Before we get to that, what, if  
15 anything, did you change about how you prepare tax  
16 returns claiming benefits related to solar lenses  
17 after you heard that IRS Criminal Investigation  
18 Division was investigating?  
19 A I expanded my research, my due  
20 diligence. And, as you can see in the letters, it  
21 keeps getting bigger. And it is still now getting  
22 bigger.  
23 Q And how, if at all, did you change your  
24 process with respect to the solar lenses after you  
25 learned you were under investigation by the IRS?

Page 233

1 A I have not changed it.  
 2 Q All right. So, you learned about this  
 3 injunction suit a little over a year ago, you  
 4 said?  
 5 A If I remember correctly, yes, ma'am.  
 6 Q Does the fact that the United States  
 7 filed this injunction suit give you any pause  
 8 about the legality of the tax benefits that you  
 9 have claimed for people related to solar lenses?  
 10 A No, ma'am. Because no IRS agent in the  
 11 audits and appeals has been able to come back with  
 12 me with any code sections, laws and stuff like  
 13 that which I have asked them to provide. And,  
 14 again, we are back to my personal feeling is the  
 15 judge has to make a decision on this. Until the  
 16 judge makes the decision, who knows.  
 17 Q So, what, if anything, have you changed  
 18 with respect to your process since you learned  
 19 that the United States filed this injunction  
 20 action?  
 21 A The injunction against RaPower-3?  
 22 Q Yes.  
 23 A I have just increased my due diligence,  
 24 doing research and making sure that the clients  
 25 have all of the documentation that they were

Page 234

1 required to have under the codes.  
 2 Q In late 2016, RaPower-3 stopped  
 3 promoting depreciation as a tax benefit related to  
 4 buying one of its lenses. Did you know that?  
 5 A I had heard that rumor from a client.  
 6 Q Who did you hear that from?  
 7 A I want to say --  
 8 MR. PAUL: If you recall. You shouldn't  
 9 be guessing.  
 10 A Yeah, I can't recall off the top of my  
 11 head.  
 12 BY MS. HEALY-GALLAGHER:  
 13 Q What, if anything, did that change about  
 14 the way you prepare your customers' tax returns  
 15 with respect to solar lenses?  
 16 A It doesn't change anything at all.  
 17 Because none of the clients that I currently do  
 18 have purchased new lenses to my knowledge. They  
 19 are all clients that have purchased lenses in the  
 20 past. And it's almost all carryforward  
 21 information.  
 22 Q Okay. So, with respect to tax year  
 23 2016, have you prepared returns that claim tax  
 24 benefits related to solar lenses?  
 25 A Yes.

Page 235

1 Q Do you have any customers whose tax  
 2 returns relate to solar lenses that you'll be  
 3 filing on extension?  
 4 A Yes.  
 5 Q About how many?  
 6 A Twenty, 25, maybe.  
 7 Q So, about how many returns have you  
 8 already done this year that relate to solar  
 9 lenses?  
 10 A Probably 20 or so.  
 11 Q Okay. Of the 20 returns or so that you  
 12 have already submitted, did any of those people  
 13 buy lenses in 2016?  
 14 A Not that I remember, no.  
 15 Q To your knowledge, if you know, have any  
 16 of, did any of the folks whose returns you have  
 17 yet to do for tax year 2016, do you know if any of  
 18 them bought lenses in 2016?  
 19 A To my knowledge, no.  
 20 Q Mr. Jameson, we talked about any --  
 21 well, let me just ask the question. Have you ever  
 22 been subject to any discipline from the IRS?  
 23 A No.  
 24 Q Have you ever been subject to any  
 25 discipline from any other licensing authority?

Page 236

1 A No.  
 2 Q Have you ever been convicted of any  
 3 crime?  
 4 A Yes.  
 5 Q What's that?  
 6 A When I was in the army, 20 years old,  
 7 which is 48 years ago, I and two of my friends  
 8 rented an apartment off post so we could get away  
 9 from the army for a little while. One of the  
 10 individuals who was renting it with me decided to  
 11 smoke a joint walking down the street going to the  
 12 apartment. And the police followed him there.  
 13 And they came in the door with probable cause.  
 14 And everybody bailed. And because I was the one  
 15 who had signed the lease, I was the one who got  
 16 held responsible. Learned to read the fine print  
 17 really well.  
 18 Q Any other convictions?  
 19 A No, ma'am.  
 20 Q Mr. Jameson, you have been helpful  
 21 throughout, but I'll give you one more chance  
 22 before I pass you to Mr. Paul today. Is there any  
 23 other, are there any answers to my questions that  
 24 you have given today that you wish to change or  
 25 supplement?

Page 237

1 A No, ma'am. I did give you the name of  
 2 the organization that I am getting my Ph.D from,  
 3 right?  
 4 Q Yes.  
 5 A Okay.  
 6 Q Thank you. All right. At this time, I  
 7 will pass the witness.  
 8 MR. PAUL: No questions. We would like  
 9 to read and sign.  
 10 MS. HEALY-GALLAGHER: We would agree in  
 11 the ask to read and sign. And with that, we are  
 12 off the record for today.  
 13 (Whereupon, the proceedings were concluded at 5:20  
 14 p.m.)  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 238

1 C E R T I F I C A T E  
 2  
 3 S T A T E O F U T A H  
 4 C O U N T Y O F I R O N  
 5 T H I S I S T O C E R T I F Y T H A T T H E F O R E G O I N G  
 6 P R O C E E D I N G S W E R E T A K E N B E F O R E M E , R U S S E L D .  
 7 M O R G A N , A C E R T I F I E D S H O R T H A N D R E P O R T E R I N A N D F O R  
 8 T H E S T A T E O F U T A H , R E S I D I N G A T I R O N C O U N T Y , U T A H ;  
 9 T H A T T H E P R O C E E D I N G S W E R E R E P O R T E D B Y M E I N  
 10 S T E N O T Y P E , A N D T H E R E A F T E R C A U S E D B Y M E T O B E  
 11 T R A N S C R I B E D I N T O T Y P E W R I T I N G , A N D T H A T A T R U E A N D  
 12 C O R R E C T T R A N S C R I P T I O N O F S A I D T E S T I M O N Y S O T A K E N  
 13 A N D T R A N S C R I B E D T O T H E B E S T O F M Y A B I L I T Y I S S E T  
 14 F O R T H I N T H E F O R E G O I N G P A G E S 5 t o 237.  
 15  
 16  
 17  
 18 R U S S E L D . M O R G A N , C S R  
 19 L I C E N S E # 87-108442-7801  
 20  
 21 S e p t e m b e r 23, 2017.  
 22  
 23  
 24  
 25

Page 239

1 A C K N O W L E D G M E N T O F D E P O N E N T  
 2  
 3 I, \_\_\_\_\_, do hereby  
 4 acknowledge that I have read and examined the  
 5 foregoing testimony, and the same is a true, correct  
 6 and complete transcription of the testimony given by  
 7 me, and any corrections appear on the attached Errata  
 8 Sheet signed by me.  
 9  
 10  
 11 \_\_\_\_\_  
 12 (DATE) (SIGNATURE)  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25