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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, )

) Plaintiff, )

vs. ) Case 2:15-cv-00828-DN-EJP

)

RAPOWER-3, LLC, INTERNATIONAL, ) Judge DAVID NUFFER

AUTOMATED SYSTEMS, INC., LTB1, )

LLC, R. GREGORY SHEPARD, )

NELDON JOHNSON, and ROGER )

FREEBORN, )

)

Defendants. )

\_\_\_\_\_)

30(b)(6) DEPOSITION OF RAPOWER-3, LLC (NELDON JOHNSON)  
JUNE 30, 2017  
SALT LAKE CITY, UTAH

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Deposition of NELDON JOHNSON, produced  
as a witness at the request of Plaintiff,  
taken on June 30, 2017, at 8:57 a.m., at the  
Law Offices of The U.S. Attorney, before  
Amanda Richards, certified shorthand reporter  
in and for the State of Utah, pursuant to  
Notice.

#### APPEARANCES OF COUNSEL:

##### FOR PLAINTIFF:

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##### ALSO PRESENT:

Glenda Johnson

\*\*\*\*\*

**Plaintiff  
Exhibit**

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NELDON JOHNSON, WITNESS

I N D E X PAGE

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3 Reporter's Certificate 201

3 Witness Certificate 202

#### EXHIBITS MARKED FOR IDENTIFICATION

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6 Exhibit 542 Money Transferred And Expenses For IAS 83

7 Exhibit 543 Money Transferred And Expenses For IAS 84

8 Exhibit 544 Document entitled Power To The People 96

9 Exhibit 545 RaPower-3 LLC Customer Transactions 97

10 Exhibit 546 Placed-in-service letters to Greg Shepard 110

11 Exhibit 547 Overview of the "Placed in Service" Letter 115

12 Exhibit 548 Web page entitled Renewable Energy Systems 125

13 Exhibit 549 Email from Greg Shepard to Undisclosed Recipients dated 10/21/11 132

14 Exhibit 550 Email from Greg Shepard to Undisclosed Recipients dated 1/12/12 132

15 Exhibit 551 Disruptive Energy Technologies CPA Information 171

16 Exhibit 552 RaPower3 correspondence to Genevieve Traub dated 3/11/15 173

17 Exhibit 553 Email from Greg Shepard to (blank) Subject: IRS Audit Info 179

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SALT LAKE CITY, UTAH, FRIDAY, JUNE 30, 2017, 8:57 A.M.

\*\*\*\*\*

NELDON JOHNSON,

called as a witness herein, having been first duly sworn,  
was examined and testified as follows:

MS. GALLAGHER: We're on the record. We are on the  
record in the case of United States vs. RaPower3, et al., on  
June 30th, 2017, at just about 9:00 a.m. My name is Erin  
Healy Gallagher of the U.S. Department of Justice in the Tax  
Division appearing on behalf of United States.

Counsel, please state their appearances.

MR. SNUFFER: Denver Snuffer here on behalf of the  
Defendants RaPower, LTB, IAS and Neldon Johnson. And with  
me from my office is Mr. Steve Paul.

MS. HINES: Erin Hines on behalf of the United States.

MS. GALLAGHER: And not present today are Don Reay who  
represents R. Gregory Shepard and Roger Freeborn, and Chris  
Moran who represents the United States. Also today we have  
in the room Mrs. Glenda Johnson.

MR. SNUFFER: Yeah.

MS. GALLAGHER: All right. This deposition will be  
governed by the Federal Rules of Civil Procedure and the  
local rules of the District of Utah. All exhibits that we  
use today will be marked and kept here until they go with  
the court reporter at the end of the week. Any other

<p style="text-align: right;">Page 5</p> <p>1 stipulations we'll address as the need arises.</p> <p>2 EXAMINATION</p> <p>3 Q. (BY MS. GALLAGHER) All right, Mr. Johnson.</p> <p>4 A. Yes. I would like to --</p> <p>5 Q. Wait a second, please.</p> <p>6 A. Oh. Sorry.</p> <p>7 Q. This deposition today is the deposition of</p> <p>8 Defendant RaPower3; is that your understanding, sir?</p> <p>9 A. I thought it was LTB.</p> <p>10 MR. SNUFFER: No. LTB is tomorrow.</p> <p>11 THE WITNESS: Okay.</p> <p>12 MR. SNUFFER: RaPower is today.</p> <p>13 Q. (BY MS. GALLAGHER) So I'm handing you what's been</p> <p>14 marked Plaintiff's Exhibit 487 which is the United States</p> <p>15 Notice of Deposition of Defendant RaPower3, LLC.</p> <p>16 Mr. Johnson, you're here today to represent RaPower3;</p> <p>17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Pursuant to this Notice; yes?</p> <p>20 A. Yes.</p> <p>21 Q. As we go through the day today, if at any time you</p> <p>22 answer questions from any source other than your own</p> <p>23 personal knowledge, will you let me know?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. All right. We've covered the ground rules</p>	<p style="text-align: right;">Page 7</p> <p>1 International Automated Systems. So could I proceed then?</p> <p>2 Q. Please.</p> <p>3 A. Okay. During this time frame we had installed a</p> <p>4 portion of the power solar panels at a grocery store in</p> <p>5 Salem, Utah, and I think the address is 326 North Highway 6,</p> <p>6 or something like that, in Salem, Utah, and the grocery</p> <p>7 store average power usage for a month was between 3 and</p> <p>8 \$7,000 per month depending upon the month and how hot it was</p> <p>9 because of the air conditioning and the frozen food</p> <p>10 departments. And so part of this -- part of this generation</p> <p>11 of power was done at the grocery store.</p> <p>12 There were two -- two power plants that were built</p> <p>13 there, including the subsolar panels and some heat</p> <p>14 exchangers and generators that operated the store for a</p> <p>15 certain amount of time, and so in conjunction with it</p> <p>16 being -- the power being generated by the -- all of the</p> <p>17 solar panels in the Delta area were being used to generate</p> <p>18 power for a well, a pump at a well, and in conjunction with</p> <p>19 that, there was additional power being produced at the</p> <p>20 grocery store, and that is where probably the majority of</p> <p>21 the electricity that was being used during this period of</p> <p>22 time that was being accredited to the Patti Lambrecht</p> <p>23 facilities. I think that's all I have on that.</p> <p>24 Q. Okay. We're gonna step through that a little bit.</p> <p>25 So, Mr. Johnson, what is it that refreshed your recollection</p>
<p style="text-align: right;">Page 6</p> <p>1 for depositions a couple times this week so far. Just, once</p> <p>2 again, I'd like to remind you to speak loudly enough for the</p> <p>3 court reporter to hear you and to answer my questions</p> <p>4 verbally. Will you do that?</p> <p>5 A. Yes.</p> <p>6 Q. And I'll remind you too that your task for today</p> <p>7 is to give full and complete answers to my questions. Do</p> <p>8 you understand that obligation?</p> <p>9 A. Yes.</p> <p>10 Q. And will you continue to let me know if you don't</p> <p>11 understand one of my questions so that I can fix it and ask</p> <p>12 a better one?</p> <p>13 A. Yes.</p> <p>14 Q. Similarly, will you continue to let me know if you</p> <p>15 need to correct or supplement a previous answer for any</p> <p>16 reason?</p> <p>17 A. Yes.</p> <p>18 Q. Along those lines, Mr. Johnson, you said that you</p> <p>19 had some additional information or different information to</p> <p>20 correct testimony from earlier this week?</p> <p>21 A. Yes. It's concerning Exhibit 188.</p> <p>22 Q. And what's that -- what's that information?</p> <p>23 A. This is in the Patti Lambrecht check that was</p> <p>24 issued for Power Production on her -- on their equipment --</p> <p>25 on her equipment that she purchased from RaPower or</p>	<p style="text-align: right;">Page 8</p> <p>1 about what you just testified?</p> <p>2 A. On the way home we were talking about a lawsuit</p> <p>3 that Denver had represented me. The City of Salem wanted to</p> <p>4 sue me for violation of zoning in the production of power</p> <p>5 being produced on the -- the property there in Salem and</p> <p>6 some of the construction there that was going on. We won</p> <p>7 that case. We were talking about that and I thought oh, my</p> <p>8 gosh, that was right. We produced power there, and we had</p> <p>9 the solar panels there as well.</p> <p>10 And I think we have some photographs of that, I'm</p> <p>11 not positive, but I think in -- in -- that yellow thing that</p> <p>12 triggered it, I think it was in one of these -- some of</p> <p>13 these pictures you shown the -- the equipment being built</p> <p>14 there on the site. And, also, the portable unit was built</p> <p>15 there that went to Mesquite and came back and also was in</p> <p>16 use there at the store on -- on two -- on two power plants.</p> <p>17 So that's how that recollection came about.</p> <p>18 Q. So you say you were talking with your attorney?</p> <p>19 A. I was talking with my wife.</p> <p>20 Q. You were talking with Mrs. Johnson --</p> <p>21 A. Mrs. Johnson on the way home yesterday.</p> <p>22 Q. Let me finish the question, please.</p> <p>23 A. Sorry.</p> <p>24 Q. And Mrs. Johnson reminded you about the power</p> <p>25 production at the grocery store?</p>

<p style="text-align: right;">Page 9</p> <p>1 A. Correct. And she reminded me of this situation  2 going home.  3 Q. Would you please take a moment, Mr. Johnson, and  4 take a look through the exhibits we've marked so far and  5 show me, just quietly to yourself when you find them, the  6 pictures of this grocery store and this equipment. Please  7 let me know when you've found them.  8 A. (Witness complies.)  9 Okay. This was the --  10 Q. Hang on, hang on, hang on.  11 A. (Indicating.)  12 Q. So, Mr. Johnson, you're holding up Plaintiff's  13 Exhibit 8A; correct?  14 A. Correct.  15 Q. And you're pointing me to a picture on page  16 GREG_P&amp;R-547; correct?  17 A. Correct.  18 Q. All right. What would you like to tell me about  19 this page?  20 A. This is the panels that were installed at the --  21 after they were installed in Mesquite, they were then  22 installed at the grocery store in Salem. That's part of the  23 panels.  24 Q. Okay. So you're pointing, sir, to a picture of  25 what appear to be rectangular lenses of some kind. It is --</p>	<p style="text-align: right;">Page 11</p> <p>1 road -- is the address on the road. Highway 6. Highway 6.  2 326 Highway 6, Salem, Utah 84626, I believe.  3 Q. Who owned the grocery store?  4 A. Me and my wife.  5 Q. You and the original Mrs. Johnson?  6 A. Yes, uh-huh. It was . . .  7 Q. Who owned the land around the grocery store that  8 you claim the power plant was placed on?  9 A. It was the same.  10 Q. Okay. Go ahead and start looking through the  11 exhibits again and see if you can find the photos that  12 you're talking about.  13 A. (Witness complies.)  14 Q. While you do that, Mr. Johnson, Denver, can I  15 touch base with you real quick in the hallway?  16 MR. SNUFFER: Yeah, yeah.  17 (Nine-minute recess taken.)  18 Q. (BY MS. GALLAGHER) All right, Mr. Johnson. So  19 you've taken a look at the exhibits that we've already  20 marked in the last couple of days and you've identified  21 that, and we talked about this a moment ago, that Exhibit 8A  22 contains a photograph of rectangular lenses at GREG_P&amp;R-574.  23 What is it about these rectangular lenses that you recall  24 having been involved with this grocery store?  25 A. Yes. We -- we installed those lenses at the</p>
<p style="text-align: right;">Page 10</p> <p>1 the picture is underneath the heading 2004 and above a  2 caption that says Proof of Concept; is that right?  3 A. Correct. Also, that is where we built -- the  4 first circular lenses were built at the grocery store --  5 Q. Hang on.  6 A. -- and were tested there on the first ones.  7 Q. Hang on, sir.  8 A. Okay.  9 Q. You were looking through exhibits when you said  10 that?  11 A. Well, I was just looking at the -- these aren't  12 the -- these aren't the ones that were there, but this is  13 what -- the circular solar lens construction where it was  14 first built at the grocery store site.  15 Q. Okay. Slow down for me, please, and pause on  16 looking through the documents; okay?  17 A. Okay.  18 Q. Hang on. Stop. So your testimony is that the  19 first circular setup for the lenses was built at the Salem  20 grocery store?  21 A. Exactly.  22 Q. What's the name of the grocery store?  23 A. U-Check.  24 Q. And what is the address of that grocery store?  25 A. 326 South Road -- Utah Road 6 I think is the</p>	<p style="text-align: right;">Page 12</p> <p>1 grocery store at that address of 326 North -- or South. 326  2 South Highway 6 in Salem, Utah, and we used those in  3 conjunction with circular lenses and some rectangular lenses  4 that were for home use to power the grocery store there in  5 Salem for a period of time. And so, yeah, that's where they  6 were being used.  7 So we had the circular -- triangular and circular  8 power there at the grocery store, we had the square modules  9 at the store. We had the smaller units to -- for the home  10 use which the home use was referenced by . . .  11 Q. Plaintiff's Exhibit 524?  12 A. 524.  13 Q. At page Ra3-16208; correct?  14 A. That's correct.  15 Q. And there are a couple of pictures on this page.  16 The lenses that you're referring to are the pictures on the  17 left; correct?  18 A. That is correct, yes.  19 Q. Mr. Johnson, when was Bill Pack a sales rep for  20 IAS?  21 A. I'm not really positive. I think we had some kind  22 of a contract, but it was around -- around 2005.  23 Q. Is he still a sales rep for IAS?  24 A. He is.  25 Q. Okay. And do you recall, sir, when -- well, first</p>

<p style="text-align: right;">Page 13</p> <p>1 I'll ask this: Who or what entity installed this power  2 plant next to the grocery store?  3 A. Well, that would have been International Automated  4 Systems.  5 Q. Who directed the installation?  6 A. I did. Mr. Johnson.  7 Q. Who was it that did the construction?  8 A. I was the -- I was the one that was over the  9 construction and the production of the technology.  10 Q. Yes, but who actually did it?  11 A. I had workers working for me that worked under my  12 direction to develop and install the equipment.  13 Q. Okay. So it wasn't a separate contractor?  14 A. No, it was not.  15 Q. And what was the background of these workers?  16 A. One was a design engineer.  17 Q. Who was that?  18 A. That would be Curtis Snow. One was a medical  19 doctor. That was --  20 Q. Who was that?  21 A. That was LeGrand Todd Johnson. Todd, T-o-d-d.  22 I'm sorry. And another one was a programmer, Randell Hall  23 Johnson.  24 Q. Did anyone else work on the power plant, say, next  25 to the grocery store?</p>	<p style="text-align: right;">Page 15</p> <p>1 experience working in solar energy technology before this  2 grocery store power plant?  3 A. No. Just working for me.  4 Q. And about how long had he worked for you?  5 A. About 15 years at that time. Probably a little  6 bit longer maybe, but it's about 15 years.  7 Q. You mentioned welders and common laborers who also  8 worked on the site.  9 A. Correct.  10 Q. To your knowledge, what, if any, experience did  11 they have in constructing a solar energy power plant?  12 A. None. None before this period of time.  13 MS. GALLAGHER: Off the record, please.  14 (Brief interruption.)  15 (Discussion held off the record.)  16 Q. (BY MS. GALLAGHER) Mr. Johnson, on the break you  17 said you had a correction?  18 A. Yes. On LeGrand, he is also -- he's also a  19 chemical engineer, graduated from BYU before going to  20 medical school.  21 Q. Does your recollection about LeGrand Johnson  22 having been a chemical engineering major change anything  23 about your testimony about his experience with constructing  24 a solar energy power plant?  25 A. No. I don't believe so.</p>
<p style="text-align: right;">Page 14</p> <p>1 A. There were some welders that we hired and just  2 common laborer positions.  3 Q. What experience, if any, did Curtis Snow have with  4 designing and/or building a solar power plant?  5 A. He had worked for me for several years before  6 that.  7 Q. Did he have any experience other than working with  8 you?  9 A. No.  10 Q. What, if any, experience did LeGrand Johnson have  11 with constructing and building a solar power plant?  12 A. Just --  13 Q. Sorry. Before this next to the grocery store.  14 A. Just working for me.  15 Q. And how long had he worked for you?  16 A. I don't know. Fifteen years.  17 Q. So other than working for you, LeGrand Johnson has  18 no other experience with solar energy technology?  19 A. No.  20 Q. Sorry. Let me ask that question again. Other  21 than working for you, LeGrand Johnson has no other  22 experience in solar energy technology. Is that statement  23 correct?  24 A. Correct.  25 Q. For Randell Johnson, did he have any other</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Mr. Johnson, when did the installation at the  2 grocery store start?  3 A. I'm not exactly positive, but it was during the --  4 during the years, I think, 2005 and 2010. Something like  5 that.  6 Q. I'm just asking about installation in the first  7 instance.  8 A. That's correct.  9 Q. So you can't remember whether it was installed at  10 any one more particular point than a five-year range?  11 A. Well, there was a -- there was an ongoing --  12 ongoing research and development on the project, so there  13 would have been some completed at different time frames.  14 Q. When did you start the grocery store power plant  15 project?  16 A. In 2005.  17 Q. Is that project still ongoing?  18 A. No, it is not. No.  19 Q. When did it stop?  20 A. Right around 2012, I believe. 2010 or 2012.  21 Q. Sometime between 2010 and 2012?  22 A. Yes.  23 Q. Why did you stop development of that project?  24 A. The -- we had -- there was a divorce going on at  25 the time, and in order to -- to clear out all of the</p>

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1 financial obligations, I had paid off all of the grocery  
 2 store and the property, and then I deeded it to my -- to my  
 3 ex-wife.  
 4 Q. I'm just trying to get a clear understanding of  
 5 timing here, so I need to ask you: I believe you testified  
 6 that you have been married to Mrs. Glenda Johnson for 16 or  
 7 17 years?  
 8 A. Correct.  
 9 Q. And 2010 was seven years ago.  
 10 MR. SNUFFER: In Utah you can bifurcate the divorce  
 11 from the property settlement and you can be divorced at the  
 12 start of the proceeding, but then fight over property for a  
 13 decade.  
 14 MS. GALLAGHER: Okay.  
 15 MR. SNUFFER: Yeah.  
 16 Q. (BY MS. GALLAGHER) So, Mr. Johnson, your  
 17 recollection is although you were divorced from the original  
 18 Mrs. Johnson, there was still property settlements  
 19 happening?  
 20 A. Correct. But -- but that -- to get the clear  
 21 picture, we had gotten married in -- when I -- when we were  
 22 in high school, and we eloped, and -- but we really never  
 23 got married. A year later there was a religious ceremony of  
 24 the marriage in a temple, but it wasn't a civil -- we didn't  
 25 realize it was not a civil marriage, and it turned out --

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1 turned out during the -- during the divorce proceedings, it  
 2 was about seven years into the proceedings, that it turned  
 3 out that we were never married. And so it changed the --  
 4 some of the -- it was -- it was changing some of the  
 5 dynamics of the ongoing fight over property, I suppose. And  
 6 so because of that, it went on another seven years. I don't  
 7 remember. Five or six years past that over different  
 8 issues.  
 9 Q. Okay. So your recollection, nonetheless, is that  
 10 sometime between 2010 and 2012 is when the power plant  
 11 project at the grocery store ended?  
 12 A. Correct.  
 13 Q. Do you have, Mr. Johnson, any records regarding  
 14 the power plant project at the grocery store?  
 15 A. Not that I recollect. I didn't -- I did not keep  
 16 any records of that operation.  
 17 Q. Do you have any data from the power plant at the  
 18 grocery store?  
 19 A. Other than -- other than this -- this check and  
 20 its accommodation of more than the grocery store, but I  
 21 don't have any more information than that.  
 22 Q. So you don't have any data of the power that --  
 23 A. No, I do not.  
 24 Q. Let me finish asking the question.  
 25 You don't have any data reflecting any power that

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1 was generated by this plant next to the grocery store;  
 2 correct?  
 3 A. As far as I know, I didn't -- I don't have any.  
 4 Q. If you did have some data, where would it be?  
 5 A. In your files.  
 6 Q. So you believe that if you had data related to  
 7 this power plant at the grocery store, you provided it to  
 8 your attorneys to produce to the United States?  
 9 A. It would have been -- it would have been captured  
 10 at the time of the first operations by the DOJ in collecting  
 11 the data under warrants.  
 12 MR. SNUFFER: Let's go off the record for just a  
 13 moment.  
 14 (Discussion held off the record.)  
 15 Q. (BY MS. GALLAGHER) Okay. So, Mr. Johnson, your  
 16 testimony in response to the last question was that if you  
 17 had data, it would have been collected by the Department of  
 18 Justice during the 2012 raids on your property. Is that  
 19 right?  
 20 A. That's correct.  
 21 Q. Was it kept electronically or in paper?  
 22 A. It would have been kept in paper.  
 23 Q. And then we also had a discussion off the record  
 24 on the break about a zoning lawsuit that Salem, Utah,  
 25 brought against you because of the power plant next to the

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1 grocery store. Is that right?  
 2 A. That's correct.  
 3 Q. And there may be some photographs connected with  
 4 that lawsuit that may also show this power plant. Is that  
 5 your understanding?  
 6 A. That's my understanding, yes.  
 7 Q. Mr. Johnson, you said that Plaintiff's Exhibit 188  
 8 reflects a payment to Patti Lambrecht that you believe is in  
 9 part due to power generated by this plant next to the  
 10 grocery store; correct?  
 11 A. That's correct.  
 12 Q. What portion of the \$75,000 in Plaintiff's Exhibit  
 13 188 is due to power being generated from the grocery store?  
 14 A. Probably about 80 to 90 percent.  
 15 Q. And I believe you testified yesterday that the  
 16 check to Mrs. Lambrecht is from power generated from the  
 17 first quarter through the third quarter of --  
 18 A. 2010.  
 19 Q. -- 2010?  
 20 A. 2010, right.  
 21 Q. Was there any other time that the power plant next  
 22 to the grocery store generated power?  
 23 A. Yes. It produced power on and on and on. On a --  
 24 on an on and off basis at various times. Sometimes the  
 25 power would go off and we would turn this power unit on.



<p style="text-align: right;">Page 21</p> <p>1 Sometimes the Salem -- Salem Power is the one that provided  2 the power, and sometimes it would go off and on and we would  3 generate power then from it. And then sometimes we would  4 generate partial power because the load -- the load was --  5 they have a demand -- demand load. And if -- if the -- so  6 we try to keep the demand constant at a low -- the lowest  7 possible level so we get the lowest possible demand charges  8 on the power that's being used.</p> <p>9 Q. When did the power plant start producing power for  10 use in the grocery store?</p> <p>11 A. I'm not really positive, but it -- but it seems  12 like it was right around 2007. Something like that.</p> <p>13 Q. You mentioned a couple of situations in which the  14 power plant next to the grocery store would have provided  15 actual power to the grocery store, and I just want to walk  16 through those with you. First, you testified that sometimes  17 the power provided by Salem Power to the grocery store would  18 cut off?</p> <p>19 A. That's correct.</p> <p>20 Q. And you also said that sometimes you would just  21 decide to use power from the plant next door rather than the  22 Salem Power; correct?</p> <p>23 A. That's correct. The reason -- want me to tell you  24 the reason why?</p> <p>25 Q. Sure.</p>	<p style="text-align: right;">Page 23</p> <p>1 A. I don't believe I did.</p> <p>2 Q. So then, Mr. Johnson, correct me if I'm wrong, but  3 then Patti Lambrecht would have been the only customer who  4 was paid for use of lenses at the grocery store power plant;  5 right?</p> <p>6 A. I believe so, yes.</p> <p>7 Q. So, Mr. Johnson, this check to Patti Lambrecht is  8 dated December 2010, but you just testified that the plant  9 started producing electricity for use in the grocery store  10 in 2007.</p> <p>11 A. Correct.</p> <p>12 Q. So why didn't any other customer get paid for use  13 of their lenses in producing that electricity?</p> <p>14 A. I'm not sure of the rationale behind what  15 decisions were made at that time, and I'm not perfectly  16 clear on exactly what triggered this event. In fact -- in  17 fact, I was not even clearly aware of it until you brought  18 it to my attention, and then it triggered a recollection  19 that this had happened.</p> <p>20 Q. Were lenses purchased by customers other than  21 Patti Lambrecht installed at that grocery store?</p> <p>22 A. I don't believe so.</p> <p>23 Q. Did Patti Lambrecht own all of the lenses that  24 were installed at the grocery store?</p> <p>25 A. I don't -- I don't believe she did, no.</p>
<p style="text-align: right;">Page 22</p> <p>1 A. The reason why is the power plant was not enclosed  2 at that time and so it was quite noisy, and we would not  3 have allowed the power plant to be operated without someone  4 there all the time to watch it. We finally -- we were then  5 in the process of building, I believe, a brick -- brick wall  6 to enclose the operation, but the divorce then stopped most  7 of that.</p> <p>8 A portion of the brick wall was up, but not all of  9 it. Not -- not -- not completely enclosing and protecting  10 it from outside, you know, possible people could get hurt  11 from it, so.</p> <p>12 Q. Who, if anyone, paid for the power that the  13 grocery store used from the plant next door?</p> <p>14 A. It would have been me personally.</p> <p>15 Q. Whom did you pay?</p> <p>16 A. Evidently must have paid RaPower at some point in  17 time.</p> <p>18 Q. Would those payments be reflected in the records  19 of RaPower anywhere?</p> <p>20 A. I'm not positive.</p> <p>21 Q. How much, total, do you think you paid RaPower?</p> <p>22 A. Probably this \$7500 is what I would have paid.</p> <p>23 Q. Do you think you would have paid RaPower for any  24 other power generated at that plant next to the grocery  25 store?</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Who owned the rest of the lenses?</p> <p>2 A. Well, they were probably owned by myself or  3 International Automated Systems.</p> <p>4 Q. Why didn't you put in lenses that had been  5 purchased by other customers at the grocery store?</p> <p>6 A. I'm not sure of the rationale why we did what we  7 did, but I know that I felt like that a power plant in  8 Delta -- the first -- first -- the first thing that we did,  9 actually, was we went to a place in Minersville.</p> <p>10 Q. I'm gonna object to the responsiveness after "I  11 don't know."</p> <p>12 So if, Mr. Johnson, the power plant next to the  13 grocery store produced power that was used in the grocery  14 store, why didn't you continue using that same system  15 somewhere else?</p> <p>16 A. We did. We moved it to -- in with the -- down  17 into the Delta projects and then we dismantled it down --  18 down there to improve the designs.</p> <p>19 Q. When -- sorry. Let me ask real quick. Let's  20 revisit the three different places that the United States  21 saw on April 4th. We saw the manufacturing facility; right?</p> <p>22 A. Correct.</p> <p>23 Q. And the second place we went to was the  24 construction site; right?</p> <p>25 A. Right.</p>

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1 Q. Then the last place we visited was the R&D site?  
 2 A. Correct.  
 3 Q. Did you move the grocery store power plant to one  
 4 of those three places?  
 5 A. We did.  
 6 Q. Which one?  
 7 A. Would be the -- be at the R&D site.  
 8 Q. When did you do that?  
 9 A. When we dismantled it from there, we brought all  
 10 of the -- all the items that were in the grocery store to  
 11 the Delta site. Some of the -- some of the equipment we  
 12 stored in the manufacturing facilities in the buildings and  
 13 still -- still -- some of the pieces are still in there.  
 14 We then put the -- the other power plants out on  
 15 the -- the Delta project and hooked them into the -- the  
 16 power plant or the -- the lenses in Delta. I hooked those  
 17 into -- into those power plants and operated them there for  
 18 a short period of time.  
 19 We then found that the oil in the one unit was  
 20 causing a tremendous amount of heat buildup in the system  
 21 and it started a fire in the one -- in the one in -- that  
 22 one container. And we had -- we had a huge fire in the  
 23 container that burned out all that wood, and that was where  
 24 the power plant was, and it -- and it burned up a lot of the  
 25 things that were there and so we took it out and dismantled

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1 it.  
 2 And the piping was -- was -- was clogged up, and  
 3 because the piping was clogged, it created the temperatures  
 4 to go very high in the field creating fires in some of the  
 5 towers as well. And so because the pressure on the oil,  
 6 when you -- when you heat the oil to a certain temperature,  
 7 it will expand and break the pipe, the copper pipes that we  
 8 were using.  
 9 Q. Okay. So I'm gonna ask you from 2007 until the --  
 10 you dismantled the grocery store power plant, what heat  
 11 transfer fluid were you using?  
 12 A. We was using oil.  
 13 Q. What kind of oil?  
 14 A. High temperature oil.  
 15 Q. Do you remember any brand name?  
 16 A. I don't remember, no.  
 17 Q. Do you remember the chemical composition?  
 18 A. I don't. It was -- it was a special oil that's  
 19 used for high temperature is all I know.  
 20 Q. Do you remember where you bought it?  
 21 A. No. I think we bought it from Christensen Oil,  
 22 but I'm not positive. I know we bought some oil there.  
 23 Q. Did you ever use any other heat transfer fluid at  
 24 the grocery store?  
 25 A. No, we did not.

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1 Q. So, Mr. Johnson, was any of the grocery store  
 2 power plant visible in a constructed format on April 4 when  
 3 we visited?  
 4 A. No. Just -- just pieces of it. You would have  
 5 seen pieces of it. We had changed the design and the -- the  
 6 heat exchangers when you got down -- when you went through  
 7 it. The heat exchangers were a lot bigger than the ones  
 8 that you saw and they're -- they're out probably somewhere  
 9 in the fields or dismantled or they were sold off or  
 10 scrapped.  
 11 Q. Okay.  
 12 MR. SNUFFER: Can we go off the record for one second?  
 13 MS. GALLAGHER: (Nods head.)  
 14 (Discussion held off the record.)  
 15 Q. (BY MS. GALLAGHER) All right. Just to make sure I  
 16 understand, Mr. Johnson, you relocated the power plant  
 17 infrastructure from the grocery store to the R&D side in  
 18 Millard County, Utah; correct?  
 19 A. That is correct.  
 20 Q. And you reconstructed it on the R&D site; right?  
 21 A. That is correct.  
 22 Q. And you hooked it up to what?  
 23 A. We hooked the power plant up to the solar fields.  
 24 Q. And when you say you hooked it up to the solar  
 25 fields, what do you mean by that?

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1 A. The piping that went to the solar fields were then  
 2 connected into the heat exchangers on the power plant.  
 3 Q. So infrastructure from the grocery store power  
 4 plant was then hooked up to a heat exchanger on the R&D  
 5 site?  
 6 A. The heat exchanger is what transfers the heat from  
 7 the oil into the -- into the water.  
 8 Q. And so did you bring the heat exchanger from the  
 9 grocery store site to the R&D site?  
 10 A. That's correct.  
 11 Q. Okay. So then what did the heat exchanger then  
 12 connect to?  
 13 A. Connected to the -- to the water lines. And then  
 14 the water lines would go through the heat changers and pick  
 15 up and transfer the heat from the heat exchangers into the  
 16 working fluid, the water, that would drive the turbine and  
 17 produce electrical energy.  
 18 Q. Okay. So of the grocery store infrastructure that  
 19 was erected on the R&D site, did it ever generate  
 20 electricity on the R&D site?  
 21 A. Yes, it did.  
 22 Q. When did that happen?  
 23 A. It was probably after 2010, but I don't know  
 24 exactly the dates that we did it on.  
 25 Q. Do you have any record of that electricity having

<p style="text-align: right;">Page 29</p> <p>1 been produced?</p> <p>2 A. I don't have, no.</p> <p>3 Q. Did that electricity go anywhere?</p> <p>4 A. Yes. It may have produced power for the -- the</p> <p>5 pump and it might have produced power for the little house</p> <p>6 on the R&amp;D property.</p> <p>7 Q. You just said it may have produced electricity?</p> <p>8 A. Right. I'm not positive. There were several --</p> <p>9 there were several other power plants there at the same</p> <p>10 time.</p> <p>11 Q. So you don't know?</p> <p>12 A. So I don't know for sure. No, I don't.</p> <p>13 Q. Was anyone ever paid for any electricity that the</p> <p>14 grocery store infrastructure may have generated on the R&amp;D</p> <p>15 site?</p> <p>16 A. No. No. There was no other payments made at that</p> <p>17 time.</p> <p>18 Q. And you said that ultimately the grocery store</p> <p>19 infrastructure on the R&amp;D site caught on fire?</p> <p>20 A. It did. The piping. Because of the high</p> <p>21 temperature that was being produced in the solar field, it</p> <p>22 wasn't probably regulated and the temperature got high</p> <p>23 enough to cause the oil to coagulate and get stuck in the</p> <p>24 pipes. At that point in time, once the flow was impeded or</p> <p>25 stopped, the temperatures in the oil was -- couldn't be</p>	<p style="text-align: right;">Page 31</p> <p>1 get me out.</p> <p>2 Q. Did it happen --</p> <p>3 A. Yeah.</p> <p>4 Q. Was the fire before or after the raids in 2012?</p> <p>5 A. That I don't know.</p> <p>6 Q. If you don't know, that's fine.</p> <p>7 A. I don't remember. We ended up using -- we had</p> <p>8 about ten fire extinguishers down there, and it didn't even</p> <p>9 touch it. It was incredible. I had several where I was at</p> <p>10 trying to get -- get out.</p> <p>11 Q. Mr. Johnson, looking back at Plaintiff's Exhibit</p> <p>12 524 page, Ra3-16208 --</p> <p>13 A. Okay.</p> <p>14 Q. -- when, if ever, has any entity sold the lenses</p> <p>15 that are pictured here?</p> <p>16 A. There's been no entity that's sold those. They've</p> <p>17 never been sold.</p> <p>18 Q. And looking back at Plaintiff's Exhibit 8A, page</p> <p>19 Greg_P&amp;R-574, looking at the lens pictured on this page,</p> <p>20 when, if ever, has any entity sold a lens pictured on this</p> <p>21 page?</p> <p>22 A. I don't -- I don't recall whether they sold those</p> <p>23 or not. They may have sold those as part of a deal and then</p> <p>24 later transferred into new lenses when those were damaged.</p> <p>25 Those got damaged.</p>
<p style="text-align: right;">Page 30</p> <p>1 cooled by the heat exchange of the heat transfer into the</p> <p>2 water.</p> <p>3 At that point the temperature became</p> <p>4 exceedingly -- exceeded the temperature that the oil was --</p> <p>5 was designed to handle, and at that point in time the</p> <p>6 pressure on the oil became a temperature high enough to</p> <p>7 damage some of the joints. And as soon as the oil hit a</p> <p>8 flashpoint with air and hit a -- the flashpoint temperature</p> <p>9 of the oil was 750 degrees, and so it was above the</p> <p>10 flashpoint of the oil.</p> <p>11 And as soon as the oil broke through the joints</p> <p>12 there at the -- where the power plant was connected to the</p> <p>13 oilfields -- or for the -- I mean the solar fields, the air</p> <p>14 caught the oil on fire and created a fire which consumed the</p> <p>15 power plant, basically. It ruined the generator and the</p> <p>16 piping and bent and damaged the heat exchangers.</p> <p>17 Q. When did that happen?</p> <p>18 A. I don't know exactly, but it was sometime in --</p> <p>19 after 2010. You could still see the remains of the damage</p> <p>20 caused by the fire in the container where the power plant</p> <p>21 was housed.</p> <p>22 Q. Sounds like a pretty traumatic fire.</p> <p>23 A. I was in the back part of that, actually, and I</p> <p>24 couldn't get out and so they cut a hole -- they had to get</p> <p>25 my plasma cutter and cut a door on the backside of that to</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Any idea when the sales of such lenses may have</p> <p>2 occurred?</p> <p>3 A. It would have been in 2007. Some -- someplace</p> <p>4 like that.</p> <p>5 Q. And then you said anyone who may have purchased</p> <p>6 these rectangular lenses were transferred to the triangular</p> <p>7 lenses?</p> <p>8 A. Yes. They were exchanged for the newer lenses.</p> <p>9 Those have -- those that got damaged.</p> <p>10 Q. Is there any documentation for that exchange?</p> <p>11 A. I'm not positive whether there is or isn't. If</p> <p>12 there is, it would have been in the records of IAS, but I'm</p> <p>13 not positive.</p> <p>14 Q. Let's talk about RaPower3.</p> <p>15 A. Okay.</p> <p>16 Q. Mr. Johnson, you are the manager of RaPower3;</p> <p>17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Does anyone else make decisions for RaPower3 other</p> <p>20 than you?</p> <p>21 A. No.</p> <p>22 Q. What does RaPower3 do?</p> <p>23 A. It's a marketing company that markets solar energy</p> <p>24 projects, and it can -- it can sell other products as well.</p> <p>25 Q. Currently what product is RaPower3 selling?</p>



<p style="text-align: right;">Page 33</p> <p>1 A. Just the solar lenses.</p> <p>2 Q. Has RaPower3 ever sold any other product?</p> <p>3 A. No.</p> <p>4 Q. And these were the solar lenses that are on the</p> <p>5 towers that we've been discussing throughout the depositions</p> <p>6 this week; yes?</p> <p>7 A. That's correct.</p> <p>8 Q. How does RaPower3 sell these lenses?</p> <p>9 A. It's a multi-level marketing company.</p> <p>10 Q. Can you explain what your understanding of that</p> <p>11 is.</p> <p>12 A. Well, we have distributors that join and become</p> <p>13 members of the RaPower multi-level marketing, and then</p> <p>14 they're able then to sell the products.</p> <p>15 Q. What does someone have to do to become a</p> <p>16 distributor?</p> <p>17 A. They just have to sign up. There was no</p> <p>18 requirements.</p> <p>19 Q. They just have to sign up to sell the lenses?</p> <p>20 A. That's correct.</p> <p>21 Q. Do they have to buy one or more lenses before --</p> <p>22 A. No.</p> <p>23 Q. Let me finish the question, please.</p> <p>24 A. I'm sorry.</p> <p>25 Q. Do they have to buy any lenses to become a member?</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. What, if anything, does RaPower3 pay those people</p> <p>2 for?</p> <p>3 A. For a commission on a sale.</p> <p>4 Q. What is the commission structure for RaPower3</p> <p>5 distributors?</p> <p>6 A. For -- for the first product, and the way they</p> <p>7 market it is a 10 percent commission on the sale, and then</p> <p>8 there's a down line of 1 percent, a five-level down line of</p> <p>9 1 percent each. The next -- the next way that they market</p> <p>10 it is there's two down lines with a 7 percent commission on</p> <p>11 each down line.</p> <p>12 Q. What do you mean by that? How is that different?</p> <p>13 A. There's two different -- there's two different</p> <p>14 ways that we sell the product. We used to sell it with --</p> <p>15 with -- in the way that's been done up until last year.</p> <p>16 We've changed the marketing, and in changing the marketing,</p> <p>17 we also changed the way that the down lines get their</p> <p>18 commissions paid from a two -- from a five down line to a</p> <p>19 two down line.</p> <p>20 Q. Okay. So let me -- let's piece that out a little</p> <p>21 bit. First off, really quick, who's responsible for issuing</p> <p>22 the 1099s from RaPower3?</p> <p>23 A. I am the one who is responsible to make sure that</p> <p>24 that gets complete.</p> <p>25 Q. And who actually does it?</p>
<p style="text-align: right;">Page 34</p> <p>1 A. I don't believe so.</p> <p>2 Q. Do they or don't they?</p> <p>3 A. I don't -- I have people that haven't done that</p> <p>4 that are members, so I -- I think that, yes, the answer is</p> <p>5 they can become members without purchasing any product.</p> <p>6 Q. Okay. So a person who wanted to sell a lens could</p> <p>7 sign up to be a distributor without buying any lenses, him</p> <p>8 or herself?</p> <p>9 A. That's correct.</p> <p>10 Q. Does RaPower3 issue any W-2s to employees?</p> <p>11 A. 1099 forms.</p> <p>12 Q. So does RaPower3 issue any W-2 forms to employees?</p> <p>13 A. I don't know what a W-2 form is.</p> <p>14 Q. To your knowledge, does RaPower3 have employees?</p> <p>15 A. No, they don't. No.</p> <p>16 Q. RaPower3 does not have employees?</p> <p>17 A. No, other than myself. And I'm not -- and I don't</p> <p>18 get paid, so I don't get any -- any forms.</p> <p>19 Q. All right. And you said that RaPower3 issues</p> <p>20 Forms 1099?</p> <p>21 A. That's correct. If I do a sale or someone else</p> <p>22 does a sale, then they'd be issued a 1099.</p> <p>23 Q. So am I correct, sir, that RaPower3 issues 1099s</p> <p>24 to people who sell RaPower3 lenses?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Glenda Johnson does it for me most of the time.</p> <p>2 Q. Okay. So RaPower3 was formed in 2010; correct?</p> <p>3 A. I believe so. I'm not positive, I guess.</p> <p>4 Q. Starting in 2010 -- well, I'll ask you this: You</p> <p>5 mentioned something about the system changed last year for</p> <p>6 paying commission.</p> <p>7 A. The way that we market the product, yes, it has</p> <p>8 changed.</p> <p>9 Q. Okay. Is the way that you pay -- withdrawn.</p> <p>10 At the same time that you changed the way you</p> <p>11 market the product, is that also the way you changed the way</p> <p>12 commission is paid?</p> <p>13 A. That's correct.</p> <p>14 Q. So from 2010 until that point last year, which</p> <p>15 commission structure was in operation?</p> <p>16 A. The one with the five, I think five levels.</p> <p>17 Q. Okay. Let's take the structure that had been in</p> <p>18 place from 2010 until last year. Let's start with that.</p> <p>19 A. Okay.</p> <p>20 Q. You just used a word down line.</p> <p>21 A. That's correct.</p> <p>22 Q. What does down line mean?</p> <p>23 A. It means how many people that are -- that you</p> <p>24 basically have sold, and then they -- they produce another</p> <p>25 line, and then they produce the other line, and you get a</p>

<p style="text-align: right;">Page 37</p> <p>1 piece of each line that they -- they sell it on. So that's,  2 from my understanding, that's the down lines of an MLM  3 company.  4 Q. Greg Shepard, Mr. Johnson, is a sales  5 representative for RaPower3; correct?  6 A. That's correct.  7 Q. Okay. So let's say Greg Shepard is the first  8 level on his down line --  9 A. That's correct.  10 Q. -- is that right? Okay. And then he makes a  11 sale.  12 A. And he would get 10 percent.  13 Q. Okay. So let's say, for example, he made a sale  14 to Robert Rowbotham.  15 A. Correct.  16 Q. Greg Shepard would get 10 percent of the sale to  17 Robert Rowbotham?  18 A. That's correct.  19 Q. And when you say 10 percent of the sale, or when  20 you say 10 percent of the sale, 10 percent of what?  21 A. 10 percent of the gross of the -- of the money  22 that is paid they will receive 10 percent as -- as  23 production to pay off the loan continues, they will then  24 continue to become -- to get 10 percent of the production.  25 Q. Okay. So let's say a lens costs \$3,500.</p>	<p style="text-align: right;">Page 39</p> <p>1 10 percent, Robert Rowbotham gets 1 percent, and Greg  2 Shepard gets 1 percent?  3 A. That's correct.  4 Q. And the 1 percent is also calculated on money  5 actually paid by the purchaser?  6 A. That's correct.  7 Q. Who established this commission structure?  8 A. I did.  9 Q. Since 2010 who has kept track of which people are  10 owed which commission?  11 A. My -- my wife, Glenda Johnson, does it for free.  12 Q. Has she done so since 2010?  13 A. She's done a good job, yes. Yeah. There's a --  14 there's a real procedure that we don't get -- we don't have  15 anybody touching that money like we did before and stealing  16 it. So, yeah, she does a good job.  17 Q. How does Mrs. Johnson keep track of the  18 commissions?  19 A. There's a computer program that does all of that.  20 The -- when a sale comes in, it goes into the computer  21 system, it gets transferred into our bookkeeping system,  22 then she takes a photograph physically of all of the money  23 that comes in and keeps a paper copy of all the transactions  24 as well as electronic transactions.  25 Q. When you say a sale -- when a sale comes in it</p>
<p style="text-align: right;">Page 38</p> <p>1 A. Okay.  2 Q. And Robert Rowbotham buys one lens.  3 A. That's correct.  4 Q. But Robert Rowbotham pays a down payment of  5 \$1,050.  6 A. Correct.  7 Q. And the remainder of the 1,000 -- I'm sorry. The  8 remainder of the \$3500 is financed?  9 A. Correct.  10 Q. Would Greg Shepard receive 10 percent of \$1,500?  11 A. Correct.  12 Q. Then, as I think you just described, as payments  13 on that lens are made over time to add up to \$3,500,  14 Mr. Shepard would get 10 percent of each of those payments?  15 A. That's correct.  16 Q. Okay. So then let's say Robert Rowbotham makes a  17 sale to Roger Freeborn.  18 A. Okay.  19 Q. Robert Rowbotham gets 10 percent of that sale;  20 correct?  21 A. That's correct.  22 Q. And then Greg Shepard gets 1 percent of that sale?  23 A. That's correct.  24 Q. Then if Roger Freeborn makes a sale to Brian  25 Zeleznik, for example, now it's Roger Freeborn who gets the</p>	<p style="text-align: right;">Page 40</p> <p>1 goes into the computer program, how do sales come in?  2 A. Usually through a computer program that's on the  3 website.  4 Q. Which website?  5 A. I think it's Rapower.net or RaPower3.com. I  6 don't -- I'm not sure which one.  7 Q. Who is it that programmed Rapower.net to bring in  8 sales?  9 A. It was done at my direction and -- and most of  10 the -- most of the layout of the program was done by me.  11 Then I have people that will code -- code the program as I  12 have directed them to do.  13 Q. Who are those coders?  14 A. The first one was Chris Taylor and the next one is  15 Aaron Jones.  16 Q. Anyone else?  17 A. Not besides myself.  18 Q. The equipment purchase agreement that RaPower3  19 provides to customers is available online; correct?  20 A. That's correct.  21 Q. And you directed that that contract be made  22 available online?  23 A. That's correct.  24 Q. Plaintiff's Exhibit 511, Mr. Johnson, which we  25 looked at earlier, is an example of that equipment purchase</p>

<p style="text-align: right;">Page 41</p> <p>1 agreement; right?</p> <p>2 A. That's correct, yes.</p> <p>3 Q. Did you get this -- we can go off the record.</p> <p>4 (Discussion held off the record.)</p> <p>5 Q. (BY MS. GALLAGHER) Mr. Johnson, where does</p> <p>6 RaPower3 store the contracts it has with any customer?</p> <p>7 A. In filing cabinets at our premise in, I believe in</p> <p>8 Delta, Utah.</p> <p>9 Q. Does RaPower3 have in those filing cabinets all of</p> <p>10 the contracts it has entered with customers since 2010?</p> <p>11 A. I believe it does.</p> <p>12 Q. Mr. Johnson, I'll represent to you that we</p> <p>13 received from your attorneys some equipment purchase</p> <p>14 agreements from RaPower3, but we have not received any that</p> <p>15 were signed in 2015 or 2016. Did RaPower3 contract with</p> <p>16 customers during 2015 and 2016?</p> <p>17 A. I'm sure they did.</p> <p>18 Q. How about in 2017?</p> <p>19 A. I'm sure they did, yes.</p> <p>20 Q. So we will likely follow up with your attorney</p> <p>21 after this deposition to see if we can figure out a way to</p> <p>22 get those.</p> <p>23 A. Okay.</p> <p>24 Q. Okay. So we talked about the first structure for</p> <p>25 commission through RaPower3, and you said that last year the</p>	<p style="text-align: right;">Page 43</p> <p>1 commission structure?</p> <p>2 A. It was close to the first of the year that we</p> <p>3 decided to make those changes. It wasn't -- it was an add</p> <p>4 on rather than a complete change at that time.</p> <p>5 Q. Couple things there. You said we. Do you mean</p> <p>6 you?</p> <p>7 A. I mean myself. I apologize again.</p> <p>8 Q. So when you said we, you meant you?</p> <p>9 A. I meant myself, yes.</p> <p>10 Q. Okay. And you said it was the start of the last</p> <p>11 year when you started to make the change. So was that,</p> <p>12 like, January-February?</p> <p>13 A. I believe I made the change in the first part of</p> <p>14 2016 is I think when I started to make that transition, but</p> <p>15 I'm not positive, but I think that's about when it was.</p> <p>16 Q. And who, if anyone, did you tell about this</p> <p>17 decision?</p> <p>18 A. I told Greg Shepard and -- and a few other people.</p> <p>19 Q. Who else other than Greg Shepard?</p> <p>20 A. It may have been Roger Hamblin and a few other</p> <p>21 sales reps. I may have discussed it with them to get their</p> <p>22 opinions on how they like the structure before I implemented</p> <p>23 it.</p> <p>24 Q. You also said that the second structure was more</p> <p>25 of an add on than a complete change at first. What do you</p>
<p style="text-align: right;">Page 42</p> <p>1 structure changed?</p> <p>2 A. That's correct.</p> <p>3 Q. Who made the decision to change the structure?</p> <p>4 A. I did.</p> <p>5 Q. And why did you make that decision?</p> <p>6 A. I just felt like that it would be easier to keep</p> <p>7 track of for the distributors and it wouldn't be -- it would</p> <p>8 end up for -- the ones that produced would get a better, you</p> <p>9 know, a better compensation than those that did not produce.</p> <p>10 Whether it works out that way I don't know. It's just</p> <p>11 something we concluded.</p> <p>12 Q. But you thought the changed commission structure</p> <p>13 would make distributors more money?</p> <p>14 A. Yes. The ones that -- the ones that were actually</p> <p>15 producing, it would have made them more money than -- I</p> <p>16 think that would be correct.</p> <p>17 Q. Okay. So it would make more money for the more</p> <p>18 productive sales folks?</p> <p>19 A. I believe so, yes. But whether it does or</p> <p>20 doesn't, I don't have any way of knowing.</p> <p>21 Q. But that was your goal?</p> <p>22 A. Uh-huh.</p> <p>23 Q. "Yes?"</p> <p>24 A. Yes.</p> <p>25 Q. Okay. About when last year did you change the</p>	<p style="text-align: right;">Page 44</p> <p>1 mean by that?</p> <p>2 A. Well, people could still purchase the equipment</p> <p>3 under the old program while the new program was being</p> <p>4 implemented.</p> <p>5 Q. So could a salesperson choose which commission</p> <p>6 structure they wanted?</p> <p>7 A. That is correct, yes.</p> <p>8 Q. Can a salesperson still choose which commission</p> <p>9 structure they want?</p> <p>10 A. They can still at this time, yes.</p> <p>11 Q. And does that salesperson have to make that choice</p> <p>12 at the time of a new sale?</p> <p>13 A. No. The program that I implemented now -- excuse</p> <p>14 me just a minute. I -- we just got finished writing it.</p> <p>15 It's taken a little bit longer than I wanted. I wanted to</p> <p>16 implement this program earlier than this, but it took a</p> <p>17 little while to develop the programs that I wanted in a --</p> <p>18 in a new way of selling and marketing products that have</p> <p>19 never been done before.</p> <p>20 So what I did was I made the MLM dependent upon</p> <p>21 the product rather than individual contracts with the</p> <p>22 distributorships. So the contract, when you join my MLM</p> <p>23 company, you can choose what products you want to sell and</p> <p>24 then the commission is based upon the product that you're</p> <p>25 selling. Like, if we sold a ranch, it would have a</p>

<p style="text-align: right;">Page 45</p> <p>1 different set -- commission structure and down line than you  2 would selling, say, a solar project.  3 And so now we're able -- now we're able to -- to  4 expand our product line to millions of products just like a  5 grocery store. It's a -- it's a plan of my grocery store  6 program and an MLM company now, and so it keeps track of  7 everything automatically. It keeps track of the commissions  8 in the bookkeeping systems so that if you sell this product  9 and this is your contracts, signatures are all kept in the  10 same electronic files.  11 They also generate paper trails in case something  12 happens to the electronic side. And so we feel like we just  13 started implementing that, and now we will expand out our  14 product lines of the MLM company to encompass a variety of  15 products rather than just on a -- on a one product level.  16 Q. Nonetheless, Mr. Johnson, to date RaPower3 has  17 only ever sold solar lenses?  18 A. That's correct, yes.  19 Q. When is it that you anticipate selling other  20 products than solar lenses?  21 A. As soon as we fully get the marketing product in  22 the way that we want the program to operate.  23 Q. So do you think 2017?  24 A. We're hoping that -- we're testing it now.  25 Q. Do you anticipate keeping -- I'll withdraw that.</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. And Robert Rowbotham will also get 7 percent?  2 A. That's correct.  3 Q. Then if Roger Freeborn sells to Brian Zeleznik in  4 this, case does Mr. Shepard get a commission?  5 A. No.  6 Q. It would just be Mr. Robotham and Mr. Freeborn?  7 A. That's correct.  8 Q. Is that the commission structure you plan to use  9 for solar lenses even after RaPower3's product line  10 diversifies?  11 A. We don't know yet what changes we may make later  12 on, you know, but right now that's -- that's our plan. But  13 we can change that at any time because it's a product, not  14 something tied to the distributors.  15 Q. Okay. So if Greg Shepard were to sell a lens to  16 Robert Rowbotham today, could he choose either commission  17 structure?  18 A. That's correct.  19 MS. GALLAGHER: Let's go off the record, please.  20 (Fifteen-minute recess taken.)  21 Q. (BY MS. GALLAGHER) Mr. Johnson, did you speak with  22 anyone about the facts of this case on the break?  23 A. No, I did not.  24 Q. Are there any answers to my questions from this  25 morning that you would like to change or supplement?</p>
<p style="text-align: right;">Page 46</p> <p>1 All right. So in or around early 2016 you started  2 introducing a new commission structure?  3 A. That is correct.  4 Q. And that new commission structure involves just  5 two down lines; yes?  6 A. That's correct.  7 Q. But any sale on either down line will generate a 7  8 percent commission?  9 A. No.  10 Q. "No." Okay.  11 A. Oh, yes. On the new structure, yes. Right. I  12 apologize.  13 Q. So let's take the example down line that we used  14 earlier. Let's say Greg Shepard sells a lens under the new  15 commission structure and he sells that lens to Robert  16 Rowbotham. Mr. Shepard will receive 7 percent of that sale;  17 correct?  18 A. That is correct.  19 Q. And, still, Mr. Shepard will receive 7 percent of  20 the actual money paid by Robert Rowbotham?  21 A. That's correct.  22 Q. Then let's say Robert Rowbotham sells a lens to  23 Roger Freeborn. Will Greg Shepard get 7 percent of the sale  24 to Roger Freeborn?  25 A. That's correct.</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Not right now.  2 Q. With respect to the first commission structure --  3 MR. SNUFFER: (Indicating to the witness.)  4 MS. GALLAGHER: What was that?  5 MR. SNUFFER: The Icon 5 airplane.  6 MS. GALLAGHER: Okay. Thank you.  7 THE WITNESS: That was my -- that's my party.  8 Q. (BY MS. GALLAGHER) With respect to the first  9 commission structure, who, if anyone, did you tell about the  10 commission structure for RaPower3?  11 A. Well, basically the salespeople, you know,  12 introduced them to the new -- I mean the old structure I  13 taught them, you know, basically, and then expanded from  14 there, you know, from -- as the other people started  15 selling.  16 Q. So you told the RaPower3 salespeople about the  17 original commission structure; right?  18 A. Correct.  19 Q. And then they were authorized to tell other people  20 about the commission structure; correct?  21 A. That's correct, yes.  22 Q. Included in those original salespeople were Greg  23 Shepard?  24 A. That's correct.  25 Q. And Roger Freeborn?</p>

<p style="text-align: right;">Page 49</p> <p>1 A. Correct.</p> <p>2 Q. Who else were among the original salespeople for</p> <p>3 RaPower3?</p> <p>4 A. I think Roger Hamblin and just a few other people.</p> <p>5 I don't know.</p> <p>6 Q. Who were the other people?</p> <p>7 A. I don't -- I can't remember. Just a few friends.</p> <p>8 But I don't know if I told them or Roger told them or Greg</p> <p>9 told them. I -- I'm not positive.</p> <p>10 Q. About how many salespeople did RaPower3 start off</p> <p>11 with?</p> <p>12 A. Probably about ten or so.</p> <p>13 Q. About how many salespeople does RaPower3 have now?</p> <p>14 A. I don't really know. A thousand. Maybe 2,000. I</p> <p>15 don't know.</p> <p>16 MS. GALLAGHER: Off the record, please.</p> <p>17 (Sixteen-minute recess taken.)</p> <p>18 Q. (BY MS. GALLAGHER) Mr. Johnson, we just took</p> <p>19 another break. I understand that during the break a moment</p> <p>20 ago you may have looked at a piece of yellow paper in front</p> <p>21 of your wife; is that right?</p> <p>22 A. She's just showing me someplace to go eat</p> <p>23 something.</p> <p>24 Q. Did you look --</p> <p>25 MS. JOHNSON: Oh, he's not seen this. He doesn't -- he</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Let me finish the question.</p> <p>2 A. I'm sorry.</p> <p>3 Q. Is this the piece of paper that your wife showed</p> <p>4 you on the break?</p> <p>5 A. Yes. Yeah.</p> <p>6 Q. Thank you. You can put that down.</p> <p>7 A. Okay (laughing.) That's why I asked you where you</p> <p>8 want to go eat, burgers (laughing). I said you want -- I</p> <p>9 didn't know what you wanted (laughing). I'm sorry. Okay.</p> <p>10 All right.</p> <p>11 Q. Mr. Johnson, what, if any, authority does Greg</p> <p>12 Shepard have to make decisions on behalf of RaPower3?</p> <p>13 A. He doesn't have any decision making power.</p> <p>14 Q. But he does have authority to share information</p> <p>15 about RaPower3 with other people; correct?</p> <p>16 A. Every -- every member of the MLM company has a</p> <p>17 right to do a website.</p> <p>18 Q. That wasn't my question.</p> <p>19 A. Oh. I'm sorry. Yes, okay.</p> <p>20 MS. GALLAGHER: Would you read back my question, please</p> <p>21 (to the reporter).</p> <p>22 (The question was read as follows:</p> <p>23 "Q But he does have authority to share</p> <p>24 information about RaPower3 with other people;</p> <p>25 correct?")</p>
<p style="text-align: right;">Page 50</p> <p>1 hasn't seen this.</p> <p>2 MS. GALLAGHER: One person at a time, please.</p> <p>3 THE WITNESS: I'm sorry.</p> <p>4 Q. (BY MS. GALLAGHER) Mr. Johnson, did you look at</p> <p>5 the piece of yellow paper in front of your wife on a break?</p> <p>6 A. She showed me the paper, but I didn't pay any</p> <p>7 attention to it. I don't know what it is.</p> <p>8 MS. GALLAGHER: Okay. I'd like to see the paper,</p> <p>9 please.</p> <p>10 THE WITNESS: You're welcome to see the paper.</p> <p>11 (Document handed to Mr. Snuffer.)</p> <p>12 MR. SNUFFER: Oh.</p> <p>13 THE WITNESS: Without my glasses, I wouldn't have read</p> <p>14 it anyway.</p> <p>15 MS. GALLAGHER: Okay. I'm marking this Plaintiff's</p> <p>16 Exhibit 541.</p> <p>17 (Exhibit 541 marked.)</p> <p>18 Q. (BY MS. GALLAGHER) Showing you what's been marked</p> <p>19 as Plaintiff's Exhibit 541, is that the paper your wife</p> <p>20 showed you on a break?</p> <p>21 A. It said burger and cheese (laughing). What is</p> <p>22 that? What is that? Buyer chooses?</p> <p>23 Q. Mr. Johnson, is this a piece of paper that your</p> <p>24 wife --</p> <p>25 A. Yeah, it looks like --</p>	<p style="text-align: right;">Page 52</p> <p>1 THE WITNESS: That is correct, yes.</p> <p>2 Q. (BY MS. GALLAGHER) To your knowledge, does</p> <p>3 Mr. Shepard get his information about RaPower3 from any</p> <p>4 source other than you?</p> <p>5 A. You'd have to ask Greg. I'm not -- I don't know.</p> <p>6 I'm not aware of everything that he -- where he gets it</p> <p>7 from. Or he just walks around and looks at things. You</p> <p>8 know, I'm not -- I'm not positive. I can't speak for him on</p> <p>9 that area.</p> <p>10 Q. Okay. But you've told him about the RaPower3</p> <p>11 system for sales?</p> <p>12 A. Yes, I have.</p> <p>13 Q. And you've -- well, I'll withdraw that.</p> <p>14 We've seen some examples of a website that's</p> <p>15 RaPower3.com. Do you remember talking about that?</p> <p>16 A. Yes, uh-huh.</p> <p>17 Q. Who is responsible for the content on</p> <p>18 RaPower3.com?</p> <p>19 A. I'm not sure of whether that's the -- cause I</p> <p>20 don't know if that's Greg Shepard's website or whether</p> <p>21 that's the sales website. On the sales, if it's a sales</p> <p>22 website, there really isn't any information other than just</p> <p>23 buying the product. If it's Greg's website, then it would</p> <p>24 have a variety of information that Greg has put together to</p> <p>25 market -- to market his, you know, do his marketing program.</p>



<p style="text-align: right;">Page 53</p> <p>1 Q. Okay. We'll take a look at some examples --</p> <p>2 A. Okay.</p> <p>3 Q. -- in a minute.</p> <p>4 But to your understanding, Mr. Johnson, there's a</p> <p>5 difference between a website that Greg Shepard may have and</p> <p>6 the website that administers sales for RaPower3?</p> <p>7 A. That is correct, yes.</p> <p>8 Q. And the website that administers sales, correct me</p> <p>9 if I'm wrong, is only for administering those sales?</p> <p>10 A. That is correct, yes.</p> <p>11 Q. So there is not marketing material and information</p> <p>12 on the website dedicated to sales?</p> <p>13 A. Only just the information that would be required</p> <p>14 to make the sale, I believe.</p> <p>15 Q. Okay. So things like contracts?</p> <p>16 A. Contracts. And there may be some pictures, but</p> <p>17 just -- just to look at things. It's not -- it's not --</p> <p>18 it's not designed to create the sale; just consummate the</p> <p>19 sale.</p> <p>20 Q. Okay. Does RaPower3 have a business relationship</p> <p>21 with Cobblestone Center, LLC?</p> <p>22 A. Not other than just a -- where RaPower buys the</p> <p>23 finished product or provide -- Cobblestone is the</p> <p>24 manufacturing and construction, but they're not owned by the</p> <p>25 business relationship. There's no business relationship as</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. What do you mean by that?</p> <p>2 A. Cobblestone is -- is the manufacturing arm of the</p> <p>3 operation as well as the construction of the various</p> <p>4 components to create a solar energy project.</p> <p>5 Q. Do you have an idea of how much RaPower3 pays</p> <p>6 Cobblestone?</p> <p>7 A. No, I don't. I don't have any knowledge of that</p> <p>8 without looking at the books.</p> <p>9 Q. Other than payment to Cobblestone and commission</p> <p>10 to salespeople, what, if any, other expenses does RaPower3</p> <p>11 have?</p> <p>12 A. Well, they may have some traveling expenses, they</p> <p>13 may have some rent expenses, they may have legal expenses.</p> <p>14 You know, they may have some administration expenses. You</p> <p>15 know, just normal business expenses that you'd incur in a</p> <p>16 business.</p> <p>17 Q. To whom does RaPower3 pay rent?</p> <p>18 A. Probably to Glenda Johnson.</p> <p>19 Q. Why does it pay rent to Glenda?</p> <p>20 A. Glenda owns all the buildings.</p> <p>21 Q. Where does RaPower3 operate out of?</p> <p>22 A. Be out of one of the buildings that she owns.</p> <p>23 Q. Which building?</p> <p>24 A. Just depends on what you're asking to be done.</p> <p>25 Some of the bookkeeping would be done in one -- one</p>
<p style="text-align: right;">Page 54</p> <p>1 far as ownership between the two.</p> <p>2 Q. Are there any contracts between RaPower3, LLC, and</p> <p>3 Cobblestone Center, LLC?</p> <p>4 A. That I don't know. I think there is, but I'm not</p> <p>5 positive on that.</p> <p>6 Q. All right. If there is a contract between them,</p> <p>7 what do you think it involves?</p> <p>8 A. It would involve giving Cobblestone the right to</p> <p>9 construct the equipment that's been purchased. Build and</p> <p>10 buy and manufacture and construct.</p> <p>11 Q. If there is a contract between RaPower3 and</p> <p>12 Cobblestone, who would have signed on behalf of RaPower3?</p> <p>13 A. Neldon Johnson, Manager.</p> <p>14 Q. And who would have signed on behalf of</p> <p>15 Cobblestone?</p> <p>16 A. Cobblestone? It'd be Neldon Johnson, Manager of</p> <p>17 Cobblestone.</p> <p>18 Q. Does Cobblestone make any payments to RaPower3?</p> <p>19 A. No, they do not.</p> <p>20 Q. Does RaPower3 make any payments to Cobblestone?</p> <p>21 A. Yes. I believe they do.</p> <p>22 Q. What, if any, payments -- what does RaPower3 pay</p> <p>23 Cobblestone for?</p> <p>24 A. For the construction and, you know, the building</p> <p>25 and construction of the solar -- of the solar project.</p>	<p style="text-align: right;">Page 56</p> <p>1 building, some of the sales and tours and sales and dealing</p> <p>2 with salespeople would be done at another building.</p> <p>3 Q. How much is RaPower3's rent per month?</p> <p>4 A. That I don't know. I would have to look and see.</p> <p>5 But I should know that. I don't know that it's that much,</p> <p>6 but off the top of my head, I wouldn't know.</p> <p>7 Q. What legal fees does RaPower3 incur?</p> <p>8 A. Mostly the ones that you people generate and cause</p> <p>9 to be expended, you know, on behalf of the members of</p> <p>10 RaPower as well as their customer base as well as protecting</p> <p>11 their assets and protecting themselves from lawsuits.</p> <p>12 Q. So those legal fees arising out of this injunction</p> <p>13 lawsuit?</p> <p>14 A. Yes. Of course, yes.</p> <p>15 Q. Are RaPower3's legal fees incurred in assisting</p> <p>16 customers with representation in tax court?</p> <p>17 A. Yes.</p> <p>18 Q. And you said there were other legal fees involved</p> <p>19 in protecting its assets. What assets does RaPower3 have?</p> <p>20 A. The intellectual property rights of marketing the</p> <p>21 product and selling and their relationships with their</p> <p>22 customer base and their distributors.</p> <p>23 Q. Does RaPower3 pay for lenses?</p> <p>24 A. Well, I don't -- I think they -- they are in</p> <p>25 control I think would be more of the money to make sure that</p>

<p style="text-align: right;">Page 57</p> <p>1 they -- that the contractual agreement with the  2 manufacturing facilities are probably providing -- providing  3 their side of the equipment, you know, to purchase and --  4 and satisfy the contractual agreements that RaPower has with  5 their clients.  6 Q. So does RaPower3 pay Cobblestone for the lenses?  7 A. I don't know how -- I don't know that. You can  8 call it that way. I mean, the customer pays RaPower and I  9 suppose then you would say that RaPower then pays  10 Cobblestone. If you look at it from that standpoint, I  11 think that would be accurate.  12 Q. Okay. I'm just trying to understand how it works.  13 A. Well, I'm just making sure that we don't say  14 anything that would not be accurate that later on would bite  15 me, so I'm just trying to think of the process it goes. Of  16 course, the customer buys and then gives money to RaPower  17 and RaPower would then distribute that -- that money to --  18 to supply what the contractual agreements that RaPower has  19 with the customers. So I assume that would be accurate.  20 Q. Is there any other aspect of the RaPower3  21 Cobblestone business relationship than what you've already  22 described?  23 A. I don't believe so, no.  24 Q. What, if any, business relationship does RaPower3  25 have with LTB-LLC?</p>	<p style="text-align: right;">Page 59</p> <p>1 have to -- the customer then has to sign a separate  2 contractual agreement with the operating maintenance  3 company, but they are not -- they are not part of the same  4 entity and they choose to either become part of that entity  5 and participate in the program outline or they choose not  6 to. In such a case, then they can do whatever they choose  7 with their lenses.  8 Q. Mr. Johnson, I'm gonna show you what's previously  9 been marked Plaintiff's Exhibit 512.  10 A. Okay.  11 Q. Plaintiff's Exhibit 512 is an example of an  12 operation maintenance agreement; is that right?  13 A. Yes. It appears to be so.  14 Q. And this is on RaPower3 letterhead; correct?  15 A. That's correct.  16 Q. Is Plaintiff's Exhibit 512 an example of the  17 operation and maintenance agreement that RaPower3 makes  18 available to customers?  19 A. Yes, it is.  20 Q. And do I understand, Mr. Johnson, that your  21 testimony is a customer need not sign the operation and  22 maintenance agreement that RaPower3 offers?  23 A. That's correct.  24 Q. I can take that back. Or put it aside.  25 A. (Peruses document.)</p>
<p style="text-align: right;">Page 58</p> <p>1 A. They don't have any relationships with LTB, or any  2 of those operating and maintenance companies, other than  3 providing the customer an opportunity to sign an agreement  4 whether or not they want to participate with the programs  5 offered to the customers through LTB or any other management  6 corporation.  7 Q. So, Mr. Johnson, LTB-LLC, has no business  8 relationship with RaPower3, LLC?  9 A. Not -- not anything other than what I just  10 described, yes.  11 Q. Is there a contract between LTB-LLC, and RaPower3?  12 A. There is not.  13 Q. And I believe, Mr. Johnson, what you just said was  14 that RaPower3 makes available to customers purchasing lenses  15 an operations and maintenance agreement with LTB-LLC; is  16 that right?  17 A. Let me make sure I understand exactly what you're  18 saying and then maybe I can clarify anything that you may  19 not quite understand. RaPower sells a product. The  20 customer has the right to do with that product anything they  21 choose to do. If they choose to participate in the  22 contracts in a certain way, then they would sign up with the  23 operator of the maintenance company designated by the  24 contract in which they sign with RaPower.  25 But that contract they sign up with, then they</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. And correct me if I'm wrong, but LTB -- I'm sorry.  2 Withdrawn.  3 RaPower3 is not obligated to provide the operation  4 and maintenance agreement to customers; correct?  5 A. That is correct.  6 Q. What, if any, business relationship does RaPower3  7 have with LTB1-LLC?  8 A. They would be the same as -- as with any other  9 operating and maintenance agreement. RaPower could actually  10 choose another company besides the ones being offered by any  11 of the LTB companies. They don't even have to go with  12 those. They can choose a different operation company.  13 They're in no way obligated through a contractual agreement  14 if you wanted to go down and offer your services to RaPower  15 to operate it and it was more -- it was better than LTB's.  16 They could accept your offer to operate and maintain a power  17 project.  18 Q. And RaPower3 knows, of course, that LTB-LLC, has  19 never operated and maintained a power plant; correct?  20 A. Everything is fully disclosed, yes, and so they're  21 fully aware of any of the problems with any kind of a  22 relationship that might happen. But it's fully disclosed.  23 To everybody it's fully disclosed.  24 Q. Object as nonresponsive.  25 Would you please read back my question (to the</p>

<p style="text-align: right;">Page 61</p> <p>1 reporter).</p> <p>2 THE WITNESS: I'm sorry.</p> <p>3 (The record was read as follows:</p> <p>4 "Q And RaPower3 knows, of course, that</p> <p>5 LTB-LLC, has never operated and maintained a power</p> <p>6 plant; correct?")</p> <p>7 THE WITNESS: Yes. Like I said, the information from</p> <p>8 LTB, their expertise has been fully disclosed to not only</p> <p>9 RaPower, but also to all of the customers.</p> <p>10 Q. (BY MS. GALLAGHER) And the fact, Mr. Johnson, that</p> <p>11 LTB has never operated or maintained a power plant; correct?</p> <p>12 A. Well, that's not -- LTB has not done that, but the</p> <p>13 manager of the company may have.</p> <p>14 Q. And the manager of LTB-LLC, is who?</p> <p>15 A. Neldon Johnson.</p> <p>16 Q. So you may have operated and maintained a power</p> <p>17 plant?</p> <p>18 A. Uh-huh, yes.</p> <p>19 Q. When was that?</p> <p>20 A. In -- when I was in Alaska with a -- with the</p> <p>21 company up in Alaska, we maintained -- part of the</p> <p>22 responsibility that I had in developing and working with the</p> <p>23 company that was doing the early distant warning system in</p> <p>24 Alaska had power plants at the site which I operated and</p> <p>25 maintained as part of my duties while I was in Alaska.</p>	<p style="text-align: right;">Page 63</p> <p>1 where you can provide your own lens holders and focus it on</p> <p>2 a vacuum tube with a liquid in it to be used to heat your</p> <p>3 home or heat your hot water or heat a greenhouse. We've</p> <p>4 offered that -- that -- that has that capability.</p> <p>5 Q. When you say we, who do you mean?</p> <p>6 A. I mean myself has offered that.</p> <p>7 Q. To whom?</p> <p>8 A. To any -- anybody that wanted to know if there was</p> <p>9 a way to use it in an alternative manner. There have been</p> <p>10 some people that have asked that question, and I don't know</p> <p>11 who. I mean, I don't remember. But that discussion has</p> <p>12 come up.</p> <p>13 Q. Has anyone taken you up on that offer?</p> <p>14 A. As far as I know, no, but I have offered that and</p> <p>15 told people that's available if that's what they choose to</p> <p>16 use it for.</p> <p>17 Q. And is your testimony that the solar lenses that</p> <p>18 RaPower3 sells would be used in the system that you just</p> <p>19 described?</p> <p>20 A. Yes. It has the capacity to do exactly what I</p> <p>21 just was trying to describe.</p> <p>22 Q. But it never has done, has it?</p> <p>23 A. No. We've demonstrated that it would.</p> <p>24 Q. Has anyone ever paid for any energy produced by</p> <p>25 such a system?</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. What year was that?</p> <p>2 A. '67, I believe. 1968. Something like that.</p> <p>3 Q. And did that power plant involve converting light</p> <p>4 and heat from the sun into any kind of energy?</p> <p>5 A. No, but it was basically the power plant and so it</p> <p>6 was the same -- same thing.</p> <p>7 Q. And is that the full extent of your experience</p> <p>8 operating and maintaining a power plant?</p> <p>9 A. Other than the ones I developed myself and built</p> <p>10 and have patents on and demonstrated by the Patent Office</p> <p>11 that I understand and -- understand the technology and</p> <p>12 understand how to operate and obviously then maintain that</p> <p>13 particular power plant. In fact, I would be the only one</p> <p>14 that would be capable of doing that with the knowledge base</p> <p>15 that I have.</p> <p>16 Q. And, Mr. Johnson, LTB1-LLC, has never operated and</p> <p>17 maintained a power plant; correct?</p> <p>18 A. The company itself has not, but the manager has.</p> <p>19 Q. And that manager is you?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. To your knowledge, Mr. Johnson, has anyone</p> <p>22 bought lenses through RaPower3 and then not signed an</p> <p>23 operation and maintenance agreement with LTB?</p> <p>24 A. I'm not aware of anyone that's done that.</p> <p>25 However, we have offered an alternative to using our system</p>	<p style="text-align: right;">Page 64</p> <p>1 A. No, but we have offered the system in that manner</p> <p>2 and shown that it can operate in that fashion, yes.</p> <p>3 Q. And no one has ever taken you up on that offer?</p> <p>4 A. Nobody's been that stupid, actually, no. But,</p> <p>5 yeah, it's available.</p> <p>6 MS. GALLAGHER: Go off the record, please.</p> <p>7 (Recess taken from 11:30 a.m. to 12:13 p.m.)</p> <p>8 Q. (BY MS. GALLAGHER) Mr. Johnson, did you talk to</p> <p>9 anyone about the facts of this case while we were on our</p> <p>10 lunch break?</p> <p>11 A. No, I haven't.</p> <p>12 Q. Are there any answers to my questions earlier</p> <p>13 today that you would like to supplement or change?</p> <p>14 A. I can't think of any right now.</p> <p>15 Q. Okay. Real quick, I'd like to show you what's</p> <p>16 previously been marked Plaintiff's Exhibit 121. We did show</p> <p>17 that in the earlier testimony, and my question for you,</p> <p>18 Mr. Johnson, is the RaPower3 logo that's at the top of the</p> <p>19 first page of Plaintiff's 121 --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- that's the RaPower3 logo?</p> <p>22 A. Uh-huh.</p> <p>23 Q. "Yes?"</p> <p>24 A. Yes.</p> <p>25 Q. That's one of the logo's RaPower3 has used over</p>

<p style="text-align: right;">Page 65</p> <p>1 the course of time?</p> <p>2 A. Yes.</p> <p>3 Q. That's all for that.</p> <p>4 Mr. Johnson, what, if any, relationship does</p> <p>5 RaPower3 have with Solco1?</p> <p>6 A. None.</p> <p>7 Q. What, if any, business relationship does RaPower3</p> <p>8 have with Exxon Energy?</p> <p>9 A. None.</p> <p>10 Q. Mr. Johnson, does RaPower3 have a federal tax</p> <p>11 return filing requirement?</p> <p>12 A. No, it doesn't.</p> <p>13 Q. Why not?</p> <p>14 A. It's a pass-through -- it's a pass-through entity.</p> <p>15 Q. What entity does have responsibility for reporting</p> <p>16 the income from RaPower3?</p> <p>17 A. Eventually there'll be individuals that would be</p> <p>18 responsible, but there hasn't been any profits generated by</p> <p>19 the company to show any pass-through or royalties.</p> <p>20 Royalties would be paid to International Automated Systems,</p> <p>21 which is a tax organization, but -- or -- and the</p> <p>22 individuals after the administrations of the next</p> <p>23 corporation, the people that work for RaPower and get 1099</p> <p>24 forms or, you know, at Cobblestone a W-4 form, whatever, W-2</p> <p>25 forms.</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. You don't know where the income from RaPower3 is</p> <p>2 reported to the IRS; correct?</p> <p>3 A. Well, you're talking about income and, as far as I</p> <p>4 know, there hasn't been any income made by RaPower.</p> <p>5 Q. RaPower3 has sold solar lenses; correct?</p> <p>6 A. Yes, but that's not considered income on your tax</p> <p>7 forms. Income on a tax form, if you're talking about income</p> <p>8 in relation to a tax form, it's a -- it's a -- it's a --</p> <p>9 it's something that's identified by statute, and that</p> <p>10 statute has to incur before you can call it income.</p> <p>11 Q. So is it your belief, sir, that RaPower3 has not</p> <p>12 generated any income?</p> <p>13 A. As far as the -- as far as I understand and from</p> <p>14 the -- what the accountants have told me, that the statute</p> <p>15 that would indicate that there's been income generated, that</p> <p>16 threshold has not been met yet.</p> <p>17 Q. Who told you that?</p> <p>18 A. Just one of my accountants that I hired to look at</p> <p>19 other things, and I mentioned it to him. I think it was</p> <p>20 Gary Peterson.</p> <p>21 Q. Have you heard that from anyone other than Gary</p> <p>22 Peterson?</p> <p>23 A. Probably, yes. My personal accountants that do my</p> <p>24 personal taxes. I think I've asked about that as well.</p> <p>25 Q. Who?</p>
<p style="text-align: right;">Page 66</p> <p>1 Q. So is there -- I'm simply asking about the</p> <p>2 reporting requirements. So what entity owns RaPower3?</p> <p>3 A. I'm not positive, but I think it's DCL16. I think</p> <p>4 that's the way it goes.</p> <p>5 Q. Does DCL16 have a federal tax return reporting</p> <p>6 requirement?</p> <p>7 A. No. They're a pass-through company as well.</p> <p>8 Q. Who owns DCL16?</p> <p>9 A. I think that I own 10 percent and I think that my</p> <p>10 two sons own part of that, but it may -- it may go back to</p> <p>11 the newest company. It may be Starlight or Blacknight, one</p> <p>12 word, and then they are owned by myself and my two children.</p> <p>13 Q. And that's Randy and LeGrand Johnson?</p> <p>14 A. Randy and LeGrand Johnson. I believe they own</p> <p>15 those.</p> <p>16 Q. So just to be clear, I'm not asking about profits,</p> <p>17 I'm not asking you about royalties. I'm asking about</p> <p>18 income. So where is the income from RaPower3 reported to</p> <p>19 the IRS, if at all?</p> <p>20 A. Well, the bookkeeper, I mean, the -- the people</p> <p>21 that do the bookkeeping, they will determine what taxes and</p> <p>22 where the money has to go and how the pass-through situation</p> <p>23 works. I'm not -- I'm not an accountant.</p> <p>24 Q. So is the answer you don't know?</p> <p>25 A. I would -- my accountants know, but I don't know.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I don't know his name. My wife does it and takes</p> <p>2 care of it and I always visit with him one day over that</p> <p>3 issue. He says there's a -- you have to file a form showing</p> <p>4 where the money went, but you don't do an actual tax -- tax</p> <p>5 form for tax reporting.</p> <p>6 Q. What firm does your personal accountant work for?</p> <p>7 A. I don't know.</p> <p>8 Q. What firm does Gary Peterson work for?</p> <p>9 A. I don't know either. I think it's Gary's Peterson</p> <p>10 firm. I don't know. It may be some other name that he</p> <p>11 works for, but I know him by Gary Peterson.</p> <p>12 Q. Has anyone else told you that RaPower3 has no</p> <p>13 income to be reported to the IRS?</p> <p>14 A. No. No one else has, no.</p> <p>15 Q. Mr. Johnson, are there any records of RaPower3's</p> <p>16 cost of doing business?</p> <p>17 A. Yeah. I believe it goes into the bookkeeping</p> <p>18 system and then there's a -- there's how much expenses that</p> <p>19 are incurred on the checks that are written that go to the</p> <p>20 different departments and all of those kind of things. Yes,</p> <p>21 I think there is.</p> <p>22 Q. Where are those records kept?</p> <p>23 A. They're kept at our house, our home.</p> <p>24 Q. Are they kept anywhere else?</p> <p>25 A. No. I don't believe so.</p>

<p style="text-align: right;">Page 69</p> <p>1 Q. Are they kept online?</p> <p>2 A. I don't know whether they're kept in a cloud or</p> <p>3 not, but we keep them pretty tight. We don't let it get out</p> <p>4 too far.</p> <p>5 Q. Mr. Johnson, my understanding is that you and/or</p> <p>6 entities for which you are responsible have had bank</p> <p>7 accounts, or currently have bank accounts at Wells Fargo,</p> <p>8 Bank of American Fork, Zions Bank, and Millard County Credit</p> <p>9 Union. Have you personally had any accounts at any other</p> <p>10 banks than those?</p> <p>11 A. Not that I know of.</p> <p>12 Q. Has RaPower3 had bank accounts at any banks other</p> <p>13 than those?</p> <p>14 A. Not that I know of.</p> <p>15 Q. Has IAS had bank accounts at any bank other than</p> <p>16 those?</p> <p>17 A. Not that I know of.</p> <p>18 Q. Mr. Johnson, when you heard from a couple of</p> <p>19 accountants their opinions about whether RaPower3 had income</p> <p>20 that should be reported to the IRS, what information about</p> <p>21 RaPower3 did you give them?</p> <p>22 A. I don't know. We supposedly just visited on the</p> <p>23 subject.</p> <p>24 Q. And when you say visited, do you mean talked</p> <p>25 verbally?</p>	<p style="text-align: right;">Page 71</p> <p>1 lifetime?</p> <p>2 A. I wouldn't know that answer.</p> <p>3 Q. Is it more or less than a thousand?</p> <p>4 A. Probably I'd say it's more than a thousand, but</p> <p>5 I'm not -- I couldn't -- I couldn't tell you that.</p> <p>6 Q. More or less than 2,000?</p> <p>7 A. Probably less than 2,000. It may be more. I</p> <p>8 don't know. I really don't know.</p> <p>9 Q. So it's possible it could be more than 2,000?</p> <p>10 A. Could be 10,000. I don't know.</p> <p>11 Q. So does RaPower3 keep track of the number of its</p> <p>12 customers?</p> <p>13 A. Yes, it does.</p> <p>14 Q. How does it do that?</p> <p>15 A. It has a computer program that keeps track of</p> <p>16 everybody that is a member of the RaPower organization.</p> <p>17 Q. When you say a member of the RaPower organization,</p> <p>18 do you mean does somebody have to buy a lens to become a</p> <p>19 member?</p> <p>20 A. No.</p> <p>21 Q. And if somebody buys a lens, are they</p> <p>22 automatically a member?</p> <p>23 A. Yes.</p> <p>24 Q. So anyone who has bought a lens is a member of</p> <p>25 RaPower3; yes?</p>
<p style="text-align: right;">Page 70</p> <p>1 A. Talked verbally.</p> <p>2 Q. Did you provide anything in writing to these</p> <p>3 accountants?</p> <p>4 A. No, I did not.</p> <p>5 Q. How many times did you talk with these accountants</p> <p>6 about whether RaPower3 had income that should be reported to</p> <p>7 the IRS?</p> <p>8 A. Oh, two or three times.</p> <p>9 Q. Each or total?</p> <p>10 A. Total.</p> <p>11 Q. When did you have these conversations?</p> <p>12 A. Just over the course of the last few months.</p> <p>13 Q. So just recently?</p> <p>14 A. Recently, yes. They're in the process of doing</p> <p>15 all the accounting now and getting everything ready to go</p> <p>16 because of the relationship of IAS with -- with RaPower, and</p> <p>17 so they should finish up on that shortly.</p> <p>18 Q. Is that to report IAS financials to the SEC?</p> <p>19 A. Mostly to see if there's profits that need to</p> <p>20 be -- need to be accounted for at this particular time. So</p> <p>21 far we have -- we haven't seen that was the case, but</p> <p>22 they're in the process now of looking at that to get</p> <p>23 royalties over to IAS.</p> <p>24 Q. Does RaPower3 -- well, first let me ask you this:</p> <p>25 How many customers has RaPower3 had in the course of its</p>	<p style="text-align: right;">Page 72</p> <p>1 A. That's correct.</p> <p>2 Q. And even people who have not bought lenses may be</p> <p>3 members of RaPower3 if they want to sell lenses?</p> <p>4 A. That's correct.</p> <p>5 Q. And you mentioned this computer program that</p> <p>6 RaPower3 has. Where is that computer program stored?</p> <p>7 A. In a -- in our house.</p> <p>8 Q. How do you access that computer program?</p> <p>9 A. A password.</p> <p>10 Q. Can you extract data from that computer program?</p> <p>11 A. Yes, we can.</p> <p>12 Q. So if I asked you for a list of all of RaPower3's</p> <p>13 customers, you could provide that fairly easily; correct?</p> <p>14 A. Probably could.</p> <p>15 Q. Is that the computer program that RaPower3 uses to</p> <p>16 keep track of customers' lenses?</p> <p>17 A. Yes, it is.</p> <p>18 (Telephonic interruption.)</p> <p>19 MS. GALLAGHER: Go off the record for a second.</p> <p>20 (Three-minute recess taken.)</p> <p>21 Q. (BY MS. GALLAGHER) Mr. Johnson, you just took a</p> <p>22 phone call on a quick break. Did that phone call have</p> <p>23 anything to do with the facts of this case?</p> <p>24 A. No. It had to do with my airplane. They're --</p> <p>25 the flaps weren't working and I needed to get the airplane</p>



<p style="text-align: right;">Page 73</p> <p>1 fixed, and so he just came back with a quote to see if I  2 wanted to do it or not.  3 Q. Okay.  4 A. I just dropped \$700 there.  5 Q. So, Mr. Johnson, before the break we were talking  6 about the computer program that RaPower3 uses to keep track  7 of customer lenses, and I want to understand. Has  8 RaPower3 -- well, I'll ask you this: Okay. The computer  9 program you say keeps track of customers' lens, how does it  10 do that?  11 A. On a database. The database records all the  12 transactions.  13 Q. So how does the computer program know which lens  14 belongs to which customer?  15 A. That's what databases do. They record what goes  16 on and the database stores that information in a way that  17 can be retrieved by various indexes.  18 Q. Did you design this database?  19 A. I believe I did.  20 Q. Okay. How did you design this database to keep  21 track of which customers' lens is where?  22 A. How many hours do you have?  23 Q. I just want to know what you tell the program to  24 do. So let's say Greg Shepard buys one lens today.  25 A. How many hours have you got?</p>	<p style="text-align: right;">Page 75</p> <p>1 explain it to you. If you don't understand databases, I  2 can't help you. All databases do that, and if you  3 understand a database, I don't need to answer that. I told  4 you exactly the process of what the database does. It  5 remembers it.  6 Q. Let me --  7 A. If you want detailed information, I'm happy to  8 give it, but --  9 Q. Let me try to walk you --  10 A. If you wanna be --  11 Q. -- through it.  12 A. -- about two or three hours.  13 Q. Let me try to walk you through it.  14 A. Okay. Walk it through.  15 Q. You tell me if I'm incorrect.  16 A. Okay.  17 Q. An equipment purchase agreement comes in for,  18 let's say, ten lenses today.  19 A. Okay.  20 Q. I would imagine there's part of the database that  21 takes the customer name, extracts the number of lenses, and  22 then matches those lenses up with specific identifying  23 numbers. Is that correct?  24 A. It generates those numbers so that they can  25 imprint those numbers on a specific lens.</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. Mr. Johnson, what happens when someone submits a  2 purchase --  3 A. When you ask me a question --  4 Q. Mr. Johnson --  5 A. Okay. Go ahead.  6 Q. -- let me finish the question.  7 When Greg Shepard buys a lens today and the  8 equipment purchase agreement is electronically signed --  9 A. I'm not being rude. All I'm asking you is from  10 your level of understanding. And if you don't understand  11 what I just told you about database and you're asking me now  12 how the process goes into it, I happen -- I happen --  13 Q. Mr. Johnson --  14 A. I have to --  15 Q. -- I perfectly well understand --  16 A. I have to then build --  17 Q. -- how a database works.  18 A. Well, then --  19 Q. What I want to know is --  20 A. -- there wasn't any question --  21 Q. Excuse me. Let me -- Let me finish my thought.  22 What I want to understand is how does your database take one  23 lens purchased from an equipment purchase agreement and end  24 up in your system? What does that database do?  25 A. Like I said, if you got several hours, I'll</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Okay.  2 A. Is what it does.  3 Q. So each one of those ten lenses gets a specific  4 identifying number; correct?  5 A. That's correct.  6 Q. And that specific identifying number is recorded  7 in your database; right?  8 A. That's correct.  9 Q. So then the numbers for each specific lens, I  10 would imagine, need to be affixed to a specific plastic  11 lens. Am I correct?  12 A. When -- yes. Yeah, you're correct. Yeah.  13 Q. Okay. How does RaPower3 affix the specific  14 lenses -- withdrawn.  15 How does RaPower3 affix the specific numbers to  16 its matching lens?  17 A. They provide those tags to Cobblestone and when  18 Cobblestone puts a lens in the final position, someone would  19 go around and affix a number to each lens.  20 Q. What kind of tags does RaPower3 use?  21 A. Just a plastic tab that you can print on.  22 Q. Do you buy these plastic tags from the store?  23 A. Like this (indicating) except -- yeah. They're  24 just online. You can buy all kinds of tags.  25 Q. So you just pointed to Plaintiff's Exhibit 509 --</p>

<p style="text-align: right;">Page 77</p> <p>1 A. Similar to this, yeah.</p> <p>2 Q. -- which is a disk that has an exhibit label on it</p> <p>3 that says 509?</p> <p>4 A. Correct.</p> <p>5 Q. And your testimony, sir, is that the tags that</p> <p>6 RaPower3 affixes -- I'm sorry. The tags that RaPower3</p> <p>7 prints out and gives to Cobblestone are like the exhibit</p> <p>8 sticker on Exhibit 509?</p> <p>9 A. Can be. It can be a decorated color or you can</p> <p>10 make it into a different triangle or star or --</p> <p>11 Q. I'm not asking about what you can do, sir. I'm</p> <p>12 asking what RaPower3 does do.</p> <p>13 A. It does whatever it chooses, but they choose to</p> <p>14 put it out on a square because it's better, it's more</p> <p>15 economic to do it that way.</p> <p>16 Q. So RaPower3 uses stickers like the exhibit sticker</p> <p>17 on Exhibit 509?</p> <p>18 A. That's correct. It's about like what you put on</p> <p>19 your automobile parts, the same stickers you put on</p> <p>20 automobile parts for your automobile to identify the</p> <p>21 different serial numbers on your automobile parts.</p> <p>22 Q. So is it like an exhibit sticker or is it like a</p> <p>23 sticker on automobile parts?</p> <p>24 A. I think they're pretty much the same. But if you</p> <p>25 want to have, you know, some have a bar code, some don't.</p>	<p style="text-align: right;">Page 79</p> <p>1 towers, we haven't had any other -- any other time that we</p> <p>2 actually put lenses on that we've identified.</p> <p>3 Q. Okay. So it's only lenses in the towers that get</p> <p>4 stickers?</p> <p>5 A. That's correct.</p> <p>6 Q. And I believe you said, sir, that IAS erected</p> <p>7 those towers; correct?</p> <p>8 A. I believe they did. Yes, they did.</p> <p>9 Q. So Cobblestone has not had occasion to put</p> <p>10 stickers on any lens so far. Isn't that right?</p> <p>11 A. Right, but you're asking as in the present form.</p> <p>12 The question was in the presence, not in the past. And as</p> <p>13 far as I understand the use of the verbs that you're using,</p> <p>14 at a current time, what do you do. This is the current</p> <p>15 procedure. If you're looking in the past procedure, the</p> <p>16 database that now is in existence was not in existence. The</p> <p>17 database has changed.</p> <p>18 You asked me about the database, how the new</p> <p>19 database and what it operated under and what it was capable</p> <p>20 of doing, and I told you that. And if you want a more</p> <p>21 detailed explanation, we can do it in --</p> <p>22 Q. No --</p> <p>23 A. -- 10 hours, 14 hours.</p> <p>24 Q. No, thank you.</p> <p>25 A. Okay.</p>
<p style="text-align: right;">Page 78</p> <p>1 So some you can read with a bar code, some you can't.</p> <p>2 Q. Do RaPower3 stickers have bar codes?</p> <p>3 A. No, we don't. We don't use bar codes.</p> <p>4 Q. So RaPower3 gives stickers with lens numbers to</p> <p>5 Cobblestone; correct?</p> <p>6 A. That's correct.</p> <p>7 Q. Who at RaPower3 is responsible for generating the</p> <p>8 stickers?</p> <p>9 A. I'm -- I'm the only responsible party to see that</p> <p>10 those things are taken care of on both sides.</p> <p>11 Q. Who actually does it?</p> <p>12 A. Well, I would assign an individual. It'd be a</p> <p>13 different individual. I would give an assignment out to an</p> <p>14 individual for a particular day to do a particular job.</p> <p>15 Q. Who has done it --</p> <p>16 A. One of those --</p> <p>17 Q. -- in the past?</p> <p>18 A. One of those people are the person that I assign</p> <p>19 to go out and do this job.</p> <p>20 Q. What's the name of someone you have assigned to do</p> <p>21 that in the past?</p> <p>22 A. Oh, probably Chris Taylor or somebody else like</p> <p>23 that.</p> <p>24 Q. Who else?</p> <p>25 A. So far we haven't -- since we did those other</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. So I think part of my confusion was that I forgot</p> <p>2 that lenses only get stickers when they're up in the tower.</p> <p>3 So let me --</p> <p>4 A. Not only that, you forgot what -- what verb you</p> <p>5 were using for present and past tense.</p> <p>6 Q. Well, no, because I was assuming that stickers go</p> <p>7 on lenses currently, but they don't, do they?</p> <p>8 A. They get put on when they get -- yes. What I told</p> <p>9 you when they -- when they get put on the towers, then a</p> <p>10 sticker is affixed to those. When they get ready to erect</p> <p>11 the towers, then we assign someone to go around and put</p> <p>12 stickers on it.</p> <p>13 Q. And the only tower --</p> <p>14 A. We've done that in the past and we'll do it again</p> <p>15 in the future.</p> <p>16 Q. The only towers that have been erected are at the</p> <p>17 R&amp;D site; correct?</p> <p>18 A. That's correct, yes.</p> <p>19 Q. Mr. Johnson, would the computer program we've been</p> <p>20 talking about tell me how many lenses RaPower3 has sold?</p> <p>21 A. Yes, it has. I believe you've asked that question</p> <p>22 now four or five times.</p> <p>23 Q. Do you have an idea of how many lenses RaPower3</p> <p>24 has sold?</p> <p>25 A. I told you I do not.</p>

<p style="text-align: right;">Page 81</p> <p>1 Q. Well, I believe I asked you how many customers 2 RaPower3 has had and how many salespeople RaPower3's had, 3 but I have not asked you how many lenses RaPower3 has sold. 4 A. If you go back on the first day here, you asked 5 that question. 6 Q. Well, please answer my question. 7 A. I told you. I told you then and I've told you 8 now. Nothing has changed. I haven't been down to my house 9 since we've had this, this depositions, and so nothing has 10 changed for me looking at the program or looking at it and 11 seeing how many customers bought lenses and how many didn't. 12 But is there a database that holds those lenses? 13 Yes, there is. Are there a database that holds that number 14 of customers? Yes, there is. Does the database hold how 15 much they bought, how much they purchased, how much they 16 owe, how many -- how much money they received, how much 17 commission they have had? All of these things have been 18 taken care of. 19 Where is the location? It has it a -- it has a 20 place for location. It has a place to determine what kind 21 of commissions are determined for that particular sale and 22 that particular contract. It is also affixed to that same 23 database location. Now, that should take care of the 24 database. 25 Q. Has RaPower3 ever paid rent to any customer for</p>	<p style="text-align: right;">Page 83</p> <p>1 valuable as well as yours, and I'd like you to have it 2 considered that way. Thank you. 3 Q. Object to the responsiveness of the answer after 4 "no." 5 (Exhibit 542 marked.) 6 Q. (BY MS. GALLAGHER) Would you please take a look at 7 Plaintiff's Exhibit 542 and let me know when you're done. 8 A. Sure. 9 Q. For the record -- 10 A. Okay. 11 Q. -- Plaintiff's Exhibit 542 is Bates marked 12 Ra3-14137. 13 A. Okay. 14 (Peruses document.) 15 Q. Do you recognize Plaintiff's Exhibit 542? 16 A. I don't. 17 Q. I will represent that your former counsel produced 18 this to us. It appears to be a RaPower3 document. Do you 19 see that at the top? 20 A. I do. 21 Q. It says Money Transferred And Expenses For 22 International Automated Systems. Did I read that correctly? 23 A. It is. 24 Q. And here we see that RaPower3 has made savings 25 transfers to IAS. Do you see that?</p>
<p style="text-align: right;">Page 82</p> <p>1 use of a lens? 2 A. Yes. I guess they have because that one lady got 3 some money. 4 Q. Okay. So we saw that check to Patricia Lambrecht; 5 right? 6 A. Yeah. 7 Q. Has any other customer other than Patricia 8 Lambrecht been paid for rent for use of a lens? 9 A. No, they haven't. 10 Q. Has any customer ever been paid by RaPower3 for 11 using the customer's lens for advertising purposes? 12 A. Now, see. This is a number. This is like the 13 tenth time you've asked this question from the first day, 14 yesterday, and today. The answer is still the same. No. 15 Are we just wasting my time? Are we just looking 16 for ways of dragging this thing out because you're -- you're 17 looking at how much money I can spend? Is this -- is this 18 what we're looking at here? 19 Q. Object to responsiveness after "no." 20 Mr. Johnson, has RaPower3 ever paid any customer 21 for use of its lens in research and development? 22 A. No, for about the fifteenth time. I'm asking you 23 again: Are you just doing this to waste my time being here? 24 If you have legitimate questions that you have not asked, I 25 would appreciate that you consider my time. My time is</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Okay. Yes. 2 Q. "Yes?" 3 A. Yes, I do. 4 Q. Do you have any idea why RaPower3 was paying IAS 5 this money in 2011? 6 A. Yes. I think at this time they were -- there were 7 some holdovers from who was actually doing work and who 8 wasn't on the -- on the lenses from the transfer of the 9 Cobblestone Center between the two companies. And if you 10 look at -- if you'll look at my International Automated 11 Systems accounts, they would have an accounting of all those 12 transactions. I do not have them and I don't know what they 13 are. 14 Q. So it's your testimony that RaPower3 was paying 15 IAS for the activity that now RaPower paid Cobblestone for? 16 A. That is correct. It looks to me there was a 17 transition period where there were some expenses that had 18 not been paid and needed to be paid, but I am not positive 19 of that. You would have to look at the actual accounting 20 documents of International Automated Systems and to locate 21 those particular transactions on that document to see how 22 that document would have handled that transaction and how it 23 disbursed that money into the various accounts that it was 24 to go to. 25 (Exhibit 543 marked.)</p>

<p style="text-align: right;">Page 85</p> <p>1 Q. (BY MS. GALLAGHER) Showing you, sir, what's been 2 marked Plaintiff's Exhibit's 543 Bates marked Ra3-12657. Do 3 you recognize Plaintiff's 543? 4 A. I do not. 5 Q. So this appears to be another RaPower3 document 6 showing Money Transferred And Expenses For International 7 Automated Systems. Did I read that correctly? 8 A. Yes, you did. 9 Q. If we take a look down the last third of the line 10 items, or so, there's a line item that says IAS for May 18, 11 2012. Do you see that? 12 A. Okay. 13 Q. It says "Order Lenses." Do you see that? 14 A. Yes. 15 Q. And that's for \$107,000. Do you see that? 16 A. Okay. I do. 17 Q. So at least as of 2012, RaPower3 was ordering 18 solar lenses through IAS; correct? 19 A. Yes. There's a reason for that. 20 Q. And why is that? 21 A. It's because the relationship with the company 22 that produces the lens was still with IAS at that particular 23 time and hadn't been -- the relationship hasn't been 24 developed through Cobblestone and with that company. And in 25 order to get the prices, there -- there's a contract that no</p>	<p style="text-align: right;">Page 87</p> <p>1 that Cobblestone erects? 2 A. No, they do not. 3 Q. Then why would RaPower3 be paying Cobblestone to 4 put them up? 5 A. That's part of the total cost of the lenses. The 6 lenses that go to RaPower is not -- they're not -- they're 7 not wholesale to RaPower. RaPower pays for those lenses at 8 a retail price. They don't get a discount for buying those 9 lenses. They purchase those lenses from another entity. 10 That entity, other entity, sets the price that 11 RaPower pays and then out of that RaPower then takes out 12 their cost involved in the transaction, but they do not own 13 the lenses. They do not -- they cannot distribute those 14 lenses without someone else's permission, and they cannot 15 determine what price they will pay for those lenses. 16 Q. Who is going to own the towers that Cobblestone 17 erects? 18 A. I don't own them. I don't know. I haven't 19 decided it. 20 Q. You don't know who owns the towers? 21 A. I don't know. I haven't decided how that's going 22 to work. 23 Q. Then why should RaPower3 pay to put them up? 24 A. I just told you that they -- that RaPower pays for 25 the lenses -- out of the -- out of the money that pays for</p>
<p style="text-align: right;">Page 86</p> <p>1 one else can buy those lenses because IAS holds the 2 intellectual property rights to that. And the plastic 3 company has -- has -- can only release that product to the 4 person that IAS designates through a contractual agreement. 5 That contractual agreement has not been completed in the 6 transactions. 7 Q. Where is a copy of that contract between IAS and 8 Plastoid? 9 A. I don't know if there's a contract, but I know 10 there's a verbal at least that that's the reason why it's 11 done. You can't -- no one else can go in and buy those 12 lenses. 13 Q. Do you have any idea who created Plaintiff's 14 Exhibit 542 and 543? 15 A. I have no idea. 16 Q. Where are the accounting records that would show 17 money flowing between RaPower3 and IAS? 18 A. Well, I imagine -- I imagine it will be on their 19 accounting records. On both International Automated Systems 20 accounting records as well RaPower accounting records. 21 We're very -- we're very particular about how the money is 22 spent and where it's spent to. 23 Q. And my question is where are those records stored? 24 A. I think both sets are in my house now. 25 Q. Mr. Johnson, is RaPower3 going to own the towers</p>	<p style="text-align: right;">Page 88</p> <p>1 the lenses, then the company that owns the lenses has a 2 right, the entity with the money, how they choose. 3 Q. But don't customers own the lenses? 4 A. They purchase the lens. They don't own the money 5 that they put into the money. You're asking about the 6 money. You're not asking about the lenses. If you're 7 asking about the lenses, yes, the customer owns that, but 8 they do not own the money after they purchased it. 9 Q. I don't understand what you just said. 10 A. You don't understand business? Is that what 11 you're telling me? 12 Q. Sir, you've testified that customers own lenses -- 13 A. Yes. 14 Q. -- yes? 15 A. And the money doesn't -- the money that they pay 16 is not owned by the customer. They purchase -- they 17 purchase the lenses from someone. The person that -- that 18 eventually that that purchase goes to owns the lenses and 19 the lenses then are bought by RaPower. They do not -- are 20 not owned by RaPower through -- directly from any company. 21 They have to pay a certain price. There's a market on 22 anything that's being sold. 23 Q. So let's -- 24 A. That markup goes -- doesn't go to RaPower. 25 RaPower does not make any money.</p>

<p style="text-align: right;">Page 89</p> <p>1 Q. Okay. Help me understand, because we have someone 2 who buys a lens today -- 3 A. Okay. 4 Q. -- that pays RaPower3 \$3500; correct? 5 A. That's right. And then RaPower pays \$3,000 or 6 \$3200 to someone else for that lens. 7 Q. And who does RaPower3 pay 3,000 or \$3200 to? 8 A. It may be Numis, it may -- it may be -- 9 Q. Sir -- 10 A. -- DL16, it may -- 11 Q. I'm not saying who -- 12 A. -- be a variety of -- 13 Q. I'm not asking who -- 14 A. The transaction -- 15 Q. -- might it be. 16 A. -- has not been completed yet. 17 Q. Sir, I object to the responsiveness of the answer. 18 I'm not asking who RaPower3 might pay. I'm asking who 19 RaPower does pay. 20 A. And I haven't made up my mind yet and that's what 21 I'm telling you. And that's my right as the operator and 22 manager of all the companies. I have the right to choose 23 who I purchase and who I designate as the purchaser and who 24 owns those plants. It can be from any company I choose. I 25 can designate Numis, I can -- I can designate Blacknight, I</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. I'm going to cut you off -- 2 A. -- bought there and -- 3 Q. -- sir. 4 A. -- bought there and bought there. 5 Q. We're not gonna do this today. We're not gonna do 6 this today. 7 A. All right. Then don't be -- don't be going there. 8 Q. Sir, you need to answer my questions. 9 A. Don't be calling me stupid and don't insult me. 10 Q. Sir, I have done neither of those things. 11 A. Yes, you have. 12 MS. GALLAGHER: Do we need to take a break, 13 Mr. Snuffer? 14 THE WITNESS: No. You need to ask a question in a 15 civil manner and I'll give you a civil answer. 16 MR. SNUFFER: Okay. Well, let's -- let's start over 17 with listen to the question and answer only the question 18 that gets asked, and let's -- let's see -- 19 THE WITNESS: And don't argue about how I should run my 20 business. I'll tell you how to run it -- 21 MS. GALLAGHER: Should -- 22 THE WITNESS: -- and you can put it down. 23 MS. GALLAGHER: -- we take a break? 24 MR. SNUFFER: Yeah. Maybe we should. 25 MS. GALLAGHER: Five minute, please.</p>
<p style="text-align: right;">Page 90</p> <p>1 can designate Solco1. That's my choice. That isn't a 2 regulation or a statute determined by the United States 3 government, and if you try to do that, you're going to be in 4 very much trouble. 5 I have a right to operate my business the way I 6 choose. That is not your right, nor the government's right, 7 and I -- I -- I'm insulted by the insinuation that you have 8 that right. 9 Q. Sir, I'm just trying to understand where the money 10 goes. 11 A. No, you're not. You're trying to tell me how I 12 should operate my business. If you want to know what I did, 13 I just told you. If you're going to insult me and tell me I 14 don't know what I'm doing, I don't care. That is not part 15 of the regulations that I have to be the most brilliant 16 businessman in the world to operate a business. There are a 17 lot of stupid people out there that operate businesses. 18 That's not a rule or a regulation, nor is it against the 19 law. If you choose to think that stupid, that's up to you. 20 Q. Mr. Johnson -- 21 A. But I'm telling you how I do it, and I do not like 22 being badgered with a question. If you want the answer, ask 23 me and then stop badgering me about -- about the answer. 24 Q. Mr. Johnson -- 25 A. I told you that the system is --</p>	<p style="text-align: right;">Page 92</p> <p>1 (Ten-minute recess taken.) 2 Q. (BY MS. GALLAGHER) All right. We just took a 3 short break, Mr. Johnson. Did you talk to anybody about the 4 facts of the case on the break? 5 A. No. I just got chewed out is all. He's being -- 6 so. 7 Q. And do you need to change or supplement any of the 8 answers to my questions that you've given so far today? 9 A. No. 10 Q. So before the break we were talking about 11 RaPower3's payments, and I'd like to revisit that because I 12 want to understand if today a customer makes a payment to 13 RaPower3, because customers do write checks to RaPower3; 14 correct? 15 A. Correct. 16 Q. Okay. When a customer writes a check to 17 RaPower3 -- 18 A. Okay. 19 Q. -- what does RaPower3 do with that money, if 20 anything? 21 A. Okay. Let's put it in a different context. Okay. 22 I've owned several businesses, one being a grocery store 23 business. 24 Q. Sir, no. 25 A. And --</p>



<p style="text-align: right;">Page 93</p> <p>1 Q. No. That's not -- I'm gonna object to the 2 responsiveness. What does RaPower3 do with the money it 3 receives from customers? 4 A. When I owned a grocery store business I bought 5 a -- 6 Q. Sir, I'm gonna object to the responsiveness. I 7 want to know what RaPower3 does with money from customers. 8 That's the only thing I want to know in response to that 9 answer. 10 A. That's not what you asked. Read what she asked. 11 Would you do that first question? Can you please (to the 12 reporter). 13 MS. GALLAGHER: Please read the question (to the 14 reporter). 15 (The question was read as follows: 16 "Q Okay. When a customer writes a check to 17 RaPower3, what does RaPower3 do with that money, 18 if anything?") 19 THE WITNESS: Okay. 20 Q. (BY MS. GALLAGHER) And I'll ask this: Does 21 RaPower3 deposit that check into a bank account? 22 A. It does. 23 Q. Okay. Then RaPower3 uses the money in RaPower3's 24 bank account to pay expenses; correct? 25 A. Then -- the word then tells me how I'm running my</p>	<p style="text-align: right;">Page 95</p> <p>1 that. 2 Q. You testified earlier that Ra3 -- RaPower3 makes 3 payments to Cobblestone Center; correct? 4 A. They do, yes. 5 Q. And those payments are for Cobblestone Center to 6 manufacture and construct what? 7 A. They're to the construction process so that they 8 have a place to put the lenses. 9 Q. So Cobblestone -- 10 A. And, also, they put the lenses into frames and 11 they then put the lenses onto the construction for the 12 purpose of them being able to focus the light into one 13 particular area. 14 Q. And you testified that you have not decided who 15 will actually own the towers that Cobblestone Center 16 constructs? 17 A. I think that's my right. 18 Q. Is that correct; that you have -- 19 A. That is correct and it's my right. 20 Q. Fine. 21 A. Okay. Then I don't want an argument with it. 22 Q. I just want to understand. 23 A. Okay. That's fine. 24 Q. I show you what's been Plaintiff's Exhibit 70A 25 that's 70-A. For the record, it's Bates marked</p>
<p style="text-align: right;">Page 94</p> <p>1 business. Now, if you're gonna ask the question, ask the 2 question, but don't use the word then as telling me what I'm 3 doing. 4 Q. Well, if I'm wrong, please correct me. 5 A. No. I'm just asking you if you're gonna ask a 6 question, what does -- "then" implies that you are -- that 7 you are telling me how to run -- run the bank account. 8 Q. Sir, I'm simply trying to understand -- 9 A. And I'm not answering to the word then. 10 Q. -- how things work. 11 A. And I'm trying to tell you and you won't listen. 12 Q. I'm not interested in a grocery store. 13 A. You won't understand the other because if you 14 don't understand the basic concept of a business, how am I 15 going to be relevant with the answer in RaPower to where you 16 would understand it or you wouldn't make a confusion to 17 someone else that you were talking to. 18 Q. I'm gonna object to the responsiveness of the 19 answer. 20 A. I'm not gonna allow you to -- to me to answer a 21 question that you can make -- 22 Q. Sir, there's no question -- 23 A. -- in a way that you don't understand it. 24 Q. There's no question pending. 25 A. I know, but I'm still not going to let you do</p>	<p style="text-align: right;">Page 96</p> <p>1 Shepard_Greg-295-296. 2 A. (Peruses document.) 3 Q. Do you recognize this document, sir? 4 A. I don't, but I assume that somebody wrote it for 5 me. I may have wrote it myself. I don't know. But go 6 ahead and ask the question. 7 Q. So take a look, please, at this document. Read it 8 quietly to yourself. 9 A. Okay. 10 (Peruses document.) 11 Okay. What can I -- 12 Q. Does Plaintiff's Exhibit 70A accurately reflect 13 RaPower3's system? 14 A. I believe it does. On the date that this was 15 issued I believe it's accurate. 16 Q. Okay. Okay. You can put that aside. 17 A. Okay. 18 (Exhibit 544 marked.) 19 Q. (BY MS. GALLAGHER) Plaintiff's Exhibit 544 is 20 marked Shepard_Greg 302. Take a look at that document, 21 please, and let me know when you're done. 22 A. Okay. 23 Q. Do you recognize Plaintiff's Exhibit 544? 24 A. No. I've never seen it before. 25 Q. The RaPower3 logo is in the lower left-hand</p>

<p style="text-align: right;">Page 97</p> <p>1 corner; correct?</p> <p>2 A. That's correct, yes.</p> <p>3 Q. And if we look up at the top left-hand corner, the</p> <p>4 header says Power To The People. Did I read that correctly?</p> <p>5 A. Right. Uh-huh.</p> <p>6 Q. And underneath that it says "The solar lenses used</p> <p>7 in RaPower3 solar projects are all independently owned by</p> <p>8 individuals or small businesses."</p> <p>9 Did I read that correctly?</p> <p>10 A. That's correct.</p> <p>11 Q. And is that an accurate statement of your</p> <p>12 understanding of the ownership for RaPower3 lenses?</p> <p>13 A. That's correct.</p> <p>14 Q. You can put that aside.</p> <p>15 A. Okay.</p> <p>16 (Exhibit 545 marked.)</p> <p>17 Q. (BY MS. GALLAGHER) Okay, Mr. Johnson. Please take</p> <p>18 a look at what's been handed to you marked Plaintiff's</p> <p>19 Exhibit 545.</p> <p>20 A. Okay.</p> <p>21 Q. Bates numbers Ra3-15863 through 85.</p> <p>22 A. Okay.</p> <p>23 Q. Do you recognize Plaintiff's Exhibit 545?</p> <p>24 A. I do not.</p> <p>25 Q. If you want to take a look at the names, does this</p>	<p style="text-align: right;">Page 99</p> <p>1 payment of \$1,050; correct?</p> <p>2 A. That's correct.</p> <p>3 Q. But there's another option that a customer could</p> <p>4 take instead, isn't there?</p> <p>5 A. That's correct.</p> <p>6 Q. And that is in the year that they purchase a lens,</p> <p>7 a customer may pay only 10 percent of the total down</p> <p>8 payment; right?</p> <p>9 A. That's correct.</p> <p>10 Q. So in that instance a customer would pay \$105 per</p> <p>11 lens; correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And the customer makes the remaining down payment</p> <p>14 of \$945 in the subsequent year; right?</p> <p>15 A. That's correct.</p> <p>16 Q. And they make the remaining down payment after the</p> <p>17 customer receives the tax benefits from buying the lens;</p> <p>18 correct?</p> <p>19 A. That's correct.</p> <p>20 Q. So with the 10 percent program notion that we see</p> <p>21 at the top left of page Ra3-15863, the subsequent list of</p> <p>22 names through to the very top of Ra3-15874 are people who,</p> <p>23 in fact, paid that 10 percent of the down payment; correct?</p> <p>24 A. I would assume that would be accurate.</p> <p>25 Q. Well, take a look.</p>
<p style="text-align: right;">Page 98</p> <p>1 appear to be a list of RaPower3 customers?</p> <p>2 A. It appears that. But like I said, I've never seen</p> <p>3 it before, so.</p> <p>4 Q. Does this look like something that would have been</p> <p>5 produced from the computer program we talked about earlier?</p> <p>6 A. Yes, uh-huh.</p> <p>7 Q. And, in fact, the top header says "RaPower3;"</p> <p>8 right?</p> <p>9 A. Right.</p> <p>10 Q. And then on the upper left-hand side under the</p> <p>11 headers it says "10% Program," correct, on the first page?</p> <p>12 A. Uh-huh.</p> <p>13 Q. "Yes?"</p> <p>14 A. Yes.</p> <p>15 Q. And that sounds like the 10 percent commission</p> <p>16 program we talked about earlier; right?</p> <p>17 A. No.</p> <p>18 Q. "No?"</p> <p>19 A. No.</p> <p>20 Q. What's -- what does that 10 percent mean?</p> <p>21 A. That means if they put 10 percent down of their</p> <p>22 down payment.</p> <p>23 Q. Oh. Okay. Okay. So this list of customers -- we</p> <p>24 talked about earlier that if the full price of a lens is</p> <p>25 \$3,500, a person may make a down payment, an immediate down</p>	<p style="text-align: right;">Page 100</p> <p>1 A. I mean, I don't have any way of knowing or not</p> <p>2 knowing, but I would assume you're right.</p> <p>3 Q. That appears to be correct per this document;</p> <p>4 right?</p> <p>5 A. That is the way I'm reading it, but that doesn't</p> <p>6 make it so. But, yes, I -- I agree with you that's what it</p> <p>7 appears to be, okay?</p> <p>8 Q. If we take a look at page Ra3-15874 --</p> <p>9 A. Okay.</p> <p>10 Q. -- there's a header there that says "Time</p> <p>11 Program."</p> <p>12 A. Okay.</p> <p>13 Q. What does that mean?</p> <p>14 A. I would assume that it had to do with a payment</p> <p>15 structure to pay from the 10 percent of a down payment to</p> <p>16 complete the total transaction.</p> <p>17 Q. So do I understand, sir, that someone could pay 10</p> <p>18 percent of the down payment immediately and then pay RaPower</p> <p>19 incremental payments over time in order to pay the full down</p> <p>20 payment?</p> <p>21 A. That's not the way the program was instituted to</p> <p>22 do. I know that they have at times made an exception.</p> <p>23 Q. Who's they?</p> <p>24 A. Myself, where I've made a particular exception to</p> <p>25 that rule. But I usually don't allow that to take place</p>

<p style="text-align: right;">Page 101</p> <p>1 because of the increased workload it places upon our 2 bookkeeping system. 3 Q. So if anyone is going to change the payment 4 structure, it's you; correct? 5 A. That is correct. 6 Q. Do you have any idea who generated Plaintiff's 7 Exhibit 545? 8 A. No. I don't know who did. I have no idea. 9 Q. Do you know who -- 10 A. It could have probably been my wife, but I -- I'm 11 not going to say that because I don't know. 12 Q. Do you know from what records this was generated? 13 A. I'm not positive because it doesn't have the 14 database that I could refer to listed on that, but I would 15 assume that it would come out of our bookkeeping program. 16 Q. Do you have any idea what Plaintiff's Exhibit 545 17 was created for? 18 A. I do not know. 19 Q. Mr. Johnson, I believe we touched on this on 20 another day, but my question for you is it appears that 21 RaPower3 purchased IAS stock during fiscal year 2016. Is 22 that correct? 23 A. That is correct, yes. 24 Q. Why did it do that? 25 A. I felt like it would be a prudent way to -- to</p>	<p style="text-align: right;">Page 103</p> <p>1 Q. I agree. 2 A. Okay. If you want to know did I do it? Yes. If 3 you want to see that if I've lost money, that's a 4 possibility, and that's a possibility to take whenever you 5 invest money anyplace. I don't even know -- 6 Q. Sir, my question to you is before buying this IAS 7 stock, was that 3-plus million dollars sitting in a bank 8 account belonging to RaPower3? 9 A. Yes, it was. At that particular time it had -- it 10 has no earmarks on it. It will have is what I'm telling 11 you. When you buy -- when you buy something and sell it, 12 there's a space between the time you sell it and the time 13 you pay for it. That's the normal way you do business. 14 From the time that I used to by grocery stores, 15 I'd hold millions of dollars in a bank account. I could do 16 what I want with that until the payment is due upon the 17 product, and when the product is due, I can then take the 18 money out of a savings account, an investment account, and 19 then I could purchase the product. It's my choice. 20 (Ms. Gallagher and Ms. Hines confer.) 21 Q. (BY MS. GALLAGHER) Handing you what's been marked 22 Plaintiff's Exhibit 117. 23 A. Okay. 24 Q. Please take a look at that exhibit and let me know 25 when you're ready to answer questions.</p>
<p style="text-align: right;">Page 102</p> <p>1 move the money into an account that would be more productive 2 than just sitting in a bank. 3 Q. It looks like -- and if you want to refer, I'm 4 looking at Plaintiff's Exhibit 507. 5 A. Okay. 6 Q. If you take a look at page 35. 7 A. (Witness complies.) 8 Okay. 9 Q. It looks to me, on this table, like the total 10 price RaPower3 paid for IAS stock was \$3,077,839. 11 A. Okay. 12 Q. Is that your understanding as well? 13 A. If that's what it says, that's what it was, yes. 14 Q. So that's how much RaPower3 paid to IAS for stock? 15 A. Looks like it, yes. 16 Q. Okay. And I believe you just testified that you 17 wanted a more productive use of this money -- 18 A. That's right. 19 Q. -- than sitting in a bank account? 20 A. That's correct. Are you going to challenge my 21 reasoning in my business decisions? 22 Q. Sir, I'm just trying to understand. 23 A. No, you're not. You're -- now, see, you're -- 24 you're accusing me of making a poor business decision. And 25 whether I did or whether I didn't, it's still my decision.</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Okay. Okay. What's the question? 2 Q. Okay. Let's take a look at the middle of the page 3 where it says "Very Important." Do you see that? 4 A. Okay. 5 Q. It says -- the second sentence says "I have been 6 authorized to tell you the following three points." 7 Did I read that correctly? 8 A. Okay. Where -- "Very Important?" 9 Q. Okay. The second sentence after "Very 10 Important" -- 11 A. Okay. 12 Q. -- says "I have been authorized to tell you the 13 following three points." Do you see that? 14 A. It wasn't authorized by me. 15 Q. Well, my question to you is this is an email from 16 Greg Shepard; correct? 17 A. I don't know. Let's see. To who? 18 Q. It's from Greg Shepard; correct? 19 A. Right. 20 Q. Okay. So did you authorize Greg Shepard to share 21 the following three points with RaPower -- 22 A. Hell, no (laughing). 23 Q. Let me finish the question, sir. 24 A. Okay. 25 Q. Did you authorize Greg Shepard to share any of the</p>

<p style="text-align: right;">Page 105</p> <p>1 following information with RaPower3 team members?</p> <p>2 MR. SNUFFER: I'm gonna object for lack of foundation,</p> <p>3 but go ahead and answer.</p> <p>4 THE WITNESS: No. I haven't ever authorized Greg</p> <p>5 Shepard to do such a stupid thing. My gosh.</p> <p>6 Q. (BY MS. GALLAGHER) Mr. Johnson, once you learned</p> <p>7 about the audits that the IRS was undertaking, what, if</p> <p>8 anything, did you do to talk with Greg Shepard or coordinate</p> <p>9 a response for RaPower3 team members?</p> <p>10 A. I never coordinated a response with RaPower --</p> <p>11 with Greg Shepard to do any kind of interactions with any of</p> <p>12 the team members. If I remember right, I've had a</p> <p>13 discussion with him and told him that I would hire an</p> <p>14 attorney to take care of that situation, and then as the</p> <p>15 people got -- got an audit, that he would tell them that</p> <p>16 this was available to them and that they could -- that he</p> <p>17 would respond to the IRS.</p> <p>18 I wouldn't even do it myself. I'm not a tax</p> <p>19 expert, I'm not -- I don't claim to be. I've never -- I've</p> <p>20 never instructed anybody to do a particular thing in an</p> <p>21 audit, I have never instructed anybody to do a particular</p> <p>22 thing with their taxes, I have never told anybody that I was</p> <p>23 a professional in tax bills, that I was -- that I knew</p> <p>24 everything about taxes. I said I would talk to my attorney,</p> <p>25 I would have an attorney then talk to those people, and he</p>	<p style="text-align: right;">Page 107</p> <p>1 A. Okay.</p> <p>2 Q. Okay. Plaintiff's Exhibit 467 appears to be an</p> <p>3 email from Greg Shepard. Do you see that?</p> <p>4 A. Yes, uh-huh.</p> <p>5 Q. And the subject line is RaPower3 Memo Approval</p> <p>6 Requested?</p> <p>7 A. Okay.</p> <p>8 Q. Do you see that?</p> <p>9 A. Uh-huh.</p> <p>10 Q. "Yes?"</p> <p>11 A. Yes.</p> <p>12 Q. And Mr. Shepard sent it to Glenda Johnson at</p> <p>13 Mrs. Johnson's email address; is that right?</p> <p>14 A. That's correct.</p> <p>15 Q. Did -- did Mr. Shepard often ask for your approval</p> <p>16 on items that he would send out to people?</p> <p>17 A. Yeah, at a time when he knew doggone well he would</p> <p>18 get it (laughing). Among things he wouldn't, he knew he</p> <p>19 wouldn't get it, I didn't get anything.</p> <p>20 Q. So do I understand you correctly to say that if</p> <p>21 Mr. Shepard thought that he would get your approval, he</p> <p>22 would seek it?</p> <p>23 A. Yeah.</p> <p>24 Q. But if he didn't think he would get your approval,</p> <p>25 he would not seek it?</p>
<p style="text-align: right;">Page 106</p> <p>1 could instruct them on any kind of a situation that they</p> <p>2 needed to do at my expense.</p> <p>3 But myself, I did not get involved in visiting</p> <p>4 with or instructing anybody or teaching them how to take --</p> <p>5 I've never been audited before. I wouldn't even know what</p> <p>6 an audit was.</p> <p>7 Q. Did Mr. Shepard report to you any --</p> <p>8 A. No, he did not.</p> <p>9 Q. Let me finish the question.</p> <p>10 A. Sorry.</p> <p>11 Q. Did Mr. Shepard report to you any information</p> <p>12 about customers that were being audited?</p> <p>13 A. Yes. And I would turn them over to Paul Jones or</p> <p>14 he would turn them over to Paul Jones. But I never</p> <p>15 contacted anybody directly or authorized anybody that wasn't</p> <p>16 a tax professional to contact anybody on any subject that</p> <p>17 had to do with taxes.</p> <p>18 Q. Okay. But --</p> <p>19 A. That is the stupidest thing I could think of.</p> <p>20 Q. And you said that you allowed Mr. Shepard to</p> <p>21 contact Paul Jones with information about customers under</p> <p>22 audit; is that right?</p> <p>23 A. I think so, yes.</p> <p>24 Q. Okay. Show you what's been marked Plaintiff's</p> <p>25 Exhibit 467.</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Of course. That's why he's got so many stupid</p> <p>2 things. Yeah. That's the way it worked. If you want to</p> <p>3 get more testimony on the subject, I'll get you a whole</p> <p>4 bunch of people.</p> <p>5 Q. Mr. Johnson, did you ever give Greg Shepard the</p> <p>6 title of Chief Director of Operations?</p> <p>7 A. No (laughing). No.</p> <p>8 Q. You're aware that he has used that title?</p> <p>9 A. He's used more than that. He's probably been</p> <p>10 president of IAS a time or two. I don't know.</p> <p>11 Q. When did you first learn that he was using the</p> <p>12 title Chief Director of Operations for RaPower3?</p> <p>13 A. I don't know. It's been a while ago, of course,</p> <p>14 but I -- I don't know.</p> <p>15 Q. Did you take any action to stop him from doing</p> <p>16 that?</p> <p>17 A. No. I told him that he wasn't, but I didn't do</p> <p>18 anything more than that.</p> <p>19 Q. Do you recognize the name Roger Freeborn?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Roger Freeborn, I believe you said, was one of the</p> <p>22 original salespeople for RaPower3.</p> <p>23 A. I believe so, yes. Yeah.</p> <p>24 Q. Are you aware that Roger Freeborn used the title</p> <p>25 RaPower3 National Director?</p>

<p style="text-align: right;">Page 109</p> <p>1 A. No. I wasn't aware of that, no.</p> <p>2 Q. Is Roger Freeborn still a salesperson for</p> <p>3 RaPower3?</p> <p>4 A. I don't think so, no.</p> <p>5 Q. Do you know why not?</p> <p>6 A. I don't remember exactly, but it seemed like there</p> <p>7 was a problem that arose. I chose to break our</p> <p>8 relationship. But whether he has continued to sell or not,</p> <p>9 I -- I really don't know. But it was my understanding that</p> <p>10 there was a problem and he was doing something and I -- that</p> <p>11 I felt would be detrimental, and I said -- I thought I</p> <p>12 severed relationships with him. But I don't know whether he</p> <p>13 understood it that way or whether he didn't, but there was</p> <p>14 no written documentation on it, so.</p> <p>15 Q. How did you get the understanding that</p> <p>16 Mr. Freeborn might have been doing something detrimental?</p> <p>17 A. It was just lately. I thought -- I thought he</p> <p>18 hadn't been doing anything, and somebody said that he was,</p> <p>19 and so I -- but I never checked up. I couldn't tell you for</p> <p>20 sure one way or the other.</p> <p>21 Q. What do you think he was doing?</p> <p>22 A. Well, lately he's probably been selling, but I</p> <p>23 don't know that for a fact. I don't know. But there was a</p> <p>24 time when there was an issue of something. I don't remember</p> <p>25 what the issue was, but there seemed like there was an</p>	<p style="text-align: right;">Page 111</p> <p>1 A. Yes, uh-huh.</p> <p>2 Q. What -- what is it?</p> <p>3 A. It is a placed-in-service letter.</p> <p>4 Q. It's a few placed-in-service letters; correct?</p> <p>5 A. Correct, uh-huh.</p> <p>6 Q. And you signed all of these; right?</p> <p>7 A. I did.</p> <p>8 Q. On behalf of RaPower3?</p> <p>9 A. I did.</p> <p>10 Q. Let's take a look at the last page which is</p> <p>11 Jameson-22565.</p> <p>12 A. (Witness complies.)</p> <p>13 Okay.</p> <p>14 Q. And the first paragraph says "This letter is</p> <p>15 regarding the Alternative Energy Systems that you purchased</p> <p>16 from RaPower3, LLC."</p> <p>17 A. Okay.</p> <p>18 Q. Did I read that correctly?</p> <p>19 A. Correct. Yeah.</p> <p>20 Q. And Alternative Energy Systems means lenses;</p> <p>21 correct?</p> <p>22 A. Yes, uh-huh.</p> <p>23 Q. The next sentence says "RaPower3 put into service</p> <p>24 your equipment for 25 solar lenses on or before December 31,</p> <p>25 2013." Did I read that correctly?</p>
<p style="text-align: right;">Page 110</p> <p>1 issue.</p> <p>2 Q. You don't remember why you severed relations with</p> <p>3 Roger Freeborn?</p> <p>4 A. Well, I just -- I don't really know, but there was</p> <p>5 a problem that arose, and over some issues I think, and I</p> <p>6 don't know what it was. I can't remember. But I thought</p> <p>7 that we had severed some relationships, but I don't keep a</p> <p>8 grudge very long and I forget, so.</p> <p>9 Q. So you don't recall asking Greg Shepard to</p> <p>10 terminate Roger Freeborn?</p> <p>11 A. Well, I may have -- I may have done that. That's</p> <p>12 what I'm saying. That's how we severed -- maybe severed our</p> <p>13 relationship. But I don't know whether it was completed or</p> <p>14 whether or not they -- that whether Greg decided that he</p> <p>15 would change his -- change my mind and do it without me</p> <p>16 knowing it, you know, and reestablished relationships. I</p> <p>17 don't know. I am -- I'm very busy and concentrated on the</p> <p>18 areas that are much more important to me than that.</p> <p>19 (Exhibit 546 marked.)</p> <p>20 Q. (BY MS. GALLAGHER) Please take a look at</p> <p>21 Plaintiff's Exhibit 546 and let me know when you're ready.</p> <p>22 It's Bates marked Jameson-2259 through 562.</p> <p>23 A. (Peruses document.)</p> <p>24 Okay.</p> <p>25 Q. Do you recognize Plaintiff's Exhibit 546?</p>	<p style="text-align: right;">Page 112</p> <p>1 A. That's correct.</p> <p>2 Q. What did RaPower3 do to put into service 25 solar</p> <p>3 lenses that Mr. Shepard bought?</p> <p>4 A. Would have authorized Cobblestone, or at that time</p> <p>5 it probably would have been Cobblestone to do that, or</p> <p>6 International Automated Systems, but they would have done it</p> <p>7 themselves.</p> <p>8 Q. You just said that RaPower3 would have authorized</p> <p>9 Cobblestone to do that?</p> <p>10 A. To put in -- to put in -- to put the lenses into</p> <p>11 service, yes.</p> <p>12 Q. And what I'd like to know is what does that mean</p> <p>13 to you? What does it mean to put a lens into service?</p> <p>14 A. Well, I think it means what it says in the</p> <p>15 McConkie document letter, and I think that we followed -- we</p> <p>16 followed the directions that were given to us by Burnell</p> <p>17 that worked for the McConkie law firm.</p> <p>18 Q. Okay. So the Kirton McConkie letter or</p> <p>19 memorandum, rather, was written in October 2012.</p> <p>20 A. Okay.</p> <p>21 Q. So did you have an understanding before October</p> <p>22 2012 of what placed in service would mean for any lens?</p> <p>23 A. Well, I'm sure that I did, but I'm saying that</p> <p>24 that's -- that's the information that we relied upon and</p> <p>25 that's the -- that's the relationship that -- what I placed</p>



<p style="text-align: right;">Page 113</p> <p>1 in service before I think has the same -- the same caption  2 right here (indicating), and so we probably validated our  3 position by having access to either the Anderson letter or  4 the McConkie letter. Either one. Or the Hansen CPA letter  5 before then.  6 So if you're looking at all three letters that we  7 had available to us, I think we complied with the  8 information that we had acquired to facilitate this letter.  9 Q. Okay. I think I'm understanding that the source  10 for your information about the legal requirements for  11 something to be placed in service come from three sources  12 that you've identified; Hansen Barnett &amp; Maxwell, the  13 Anderson letter, and the Kirton McConkie memorandum.  14 A. Plus my own -- my own work in studying the tax  15 codes.  16 Q. Okay.  17 A. Okay?  18 Q. Any other source for the legal requirements?  19 A. Probably any other CPAs I've talked to. But, yes,  20 we relied upon people that I felt like understood that  21 particular issue.  22 Q. And by we, you mean you?  23 A. Yeah. Yeah. Sorry about that. That I -- that I  24 anticipated that they would have a clear understanding of  25 the law and understand exactly how the law operated.</p>	<p style="text-align: right;">Page 115</p> <p>1 A. I'm not -- I'm not qualified to -- to give you the  2 law of what -- of what the law is or isn't to you.  3 Q. I'm just trying to understand.  4 A. And I just did what I did.  5 Q. So what did you do?  6 A. I told you we followed the letter. If you want to  7 get out the letter and read it, that's what we did.  8 Q. What actions, sir, did you take? I understand  9 you're not a lawyer. I understand. I want to know what  10 actions RaPower3 took to put lenses into service.  11 A. I told you we followed -- we followed what the  12 letter told us to do, and we did exactly that.  13 Q. What did the letter tell you to do?  14 A. I don't have the letter. I'm not going to try and  15 repeat the letter to you because I would get it -- it's not  16 something you could paraphrase well. It isn't something you  17 paraphrase because if you do that, you'll leave out a major  18 portion of the law.  19 MR. SNUFFER: If you're looking for the letter, I have  20 a copy of it that I could put in front of him if you want.  21 MS. GALLAGHER: I'm good. Thank you.  22 THE WITNESS: She doesn't trust you, Denver.  23 (Pause in the proceedings.)  24 (Exhibit 547 marked.)  25 Q. (BY MS. GALLAGHER) Mr. Johnson, please take a look</p>
<p style="text-align: right;">Page 114</p> <p>1 Q. So I understand the -- the legal information that  2 you had at the time.  3 A. That's good. Okay.  4 Q. What are the actual action that RaPower3 took to  5 put into service Greg Shepard's solar lenses?  6 A. The one -- the ones I just told you about. We  7 implemented the information that we received from all those  8 sources. And by implementing the items that -- that we  9 understood, we then met the requirements in doing something  10 with the lenses that would be required by the information  11 that we got.  12 Q. So, Mr. Johnson, is it your testimony then that by  13 a customer having signed an operation and maintenance  14 agreement to lease their lenses to LTB, a customer -- a  15 customer's lenses were thereby placed into service?  16 A. It was my understanding from the letter that we  17 followed the letter. And if you want a legal -- I'm not  18 qualified to give you the legal requirements or give you  19 legal advice on that -- on that. We followed -- we feel  20 like we followed legal advice in producing this letter and  21 did exactly what was required and probably more.  22 Q. Right. And my question to you is --  23 A. But -- but --  24 Q. -- what was required of you. What was required of  25 you in order to be able to issue this letter?</p>	<p style="text-align: right;">Page 116</p> <p>1 at Plaintiff's Exhibit 547. This does not have Bates  2 numbers on it, but I'll represent to you that it was  3 downloaded from RaPower3.com.  4 A. Okay.  5 Q. Please read Plaintiff's Exhibit 547 to yourself,  6 and let me know when you're ready to answer questions about  7 it.  8 A. (Witness complies.)  9 And where did you get this from?  10 Q. As I said, I downloaded it. It was downloaded  11 from RaPower3.com.  12 A. Okay. So what is the question?  13 Q. Have you read the entire document, sir?  14 A. Well, I read it enough to know what it is, yes.  15 Q. It also has a back page.  16 A. Okay.  17 (Peruses document.)  18 Okay.  19 Q. Okay. Let's talk about the first page.  20 A. Okay. All right.  21 Q. Is the first page of Plaintiff's Exhibit 547  22 consistent with your understanding of how placed in service  23 works here?  24 A. No. And -- and this isn't -- this is not a legal  25 document and it's not something I wrote or prepared.</p>

<p style="text-align: right;">Page 117</p> <p>1 Q. I'm just asking you if this is consistent with  2 your understanding of what --  3 A. I prefer -- I prefer, if I'm going to answer a  4 question concerning the placed-in-service letter, that I get  5 the -- the legal document that I referred to. If you're  6 asking me whether or not this reflects something that I  7 would think would be made -- would meet those qualifications  8 or not, I would say I don't know. I would prefer to look at  9 the legal documents presented by the -- the attorneys and  10 the -- the accountants.  11 Q. So, sir, you did not write Plaintiff's Exhibit  12 547?  13 A. No, I did not.  14 Q. Do you know who did?  15 A. No, I don't. Do you want me to guess?  16 Q. No.  17 A. Okay.  18 Q. Showing you, sir, what's been marked as  19 Plaintiff's Exhibit 473.  20 A. Okay. Yes. All right.  21 (Peruses document.)  22 Q. Plaintiff's Exhibit 473 is an email from Greg  23 Shepard. Do you see that?  24 A. Yes, uh-huh.  25 Q. Please take a look at this document, review it,</p>	<p style="text-align: right;">Page 119</p> <p>1 have told him, but I also told him I was not an attorney.  2 Q. And when did you first talk to Mr. Shepard about  3 what placed in service might mean?  4 A. I can't remember. I wouldn't have any idea.  5 Q. Was it before or after 2010?  6 A. It was probably before 2010.  7 Q. Before or after 2005?  8 A. It'd probably be closer right around 2006-2007,  9 but I don't know for sure. But I never promoted myself as a  10 legal expert, neither a CPA or a tax preparer or an  11 attorney, tax attorney.  12 Q. Mr. Johnson, to your knowledge, did Greg Shepard  13 sign placed-in-service letters on behalf of RaPower3?  14 A. I don't think so. He may have done, but I -- I  15 don't think he did. He wouldn't be authorized to do such a  16 thing.  17 Q. So you understand that Greg Shepard may have  18 signed placed-in-service letters on behalf of RaPower3?  19 A. I don't know. I have no way of knowing that.  20 Q. Mr. Johnson, was one of your -- I think you  21 actually said that the grocery store had an address of 326  22 North Highway 6.  23 A. Did I say that? Was it South or North?  24 Q. I don't remember. What was the address?  25 A. I don't know. I think it's 326 North Highway 6.</p>
<p style="text-align: right;">Page 118</p> <p>1 and let me know when you're ready to answer questions.  2 A. (Witness complies.)  3 Okay.  4 Q. Would you take a look, please, at page  5 ShepardGreg-337.  6 A. 377?  7 Q. Yes.  8 A. Okay.  9 Q. You're looking at it?  10 A. Okay.  11 Q. So it's the first full paragraph on that page  12 where it says "The placed-in-service letter is regarding the  13 Alternative Energy Systems that you purchased from RaPower3,  14 LLC. RaPower3 put into service your equipment."  15 Did I read that correctly?  16 A. Yes, uh-huh.  17 Q. How might Greg Shepard have known that RaPower3  18 put into service customers' lenses?  19 A. I'm not going there. I have no idea how he would  20 know that.  21 Q. Did you, Mr. Johnson, tell Mr. Shepard about your  22 understanding of what placed in service means?  23 A. I'm sure I did. There's no question about that.  24 Q. When did you first tell him about that?  25 A. The first time I got the understanding of it I may</p>	<p style="text-align: right;">Page 120</p> <p>1 It could be South.  2 Q. Could you point towards the court reporter,  3 please. It's hard for her to hear you.  4 A. Oh. I'm sorry. It's -- I think it was 326 North  5 Highway 6, Salem, Utah. I think it was 8426. I can't  6 remember now what I said. 82462, something like that.  7 Q. And another address of yours was 4035 West 4000  8 South, Delta, Utah; correct?  9 A. That is correct, yes.  10 Q. Mr. Johnson, I'd like to show you again  11 Plaintiff's Exhibit 531 and 532.  12 A. Okay.  13 Q. We talked about those yesterday. Do you remember  14 that?  15 A. Okay. Vaguely.  16 Q. And you said that you did not create marketing  17 materials for RaPower3, but other people did. Is that  18 right?  19 A. I don't remember saying it quite like that, but --  20 because I have in the past developed material that later was  21 implemented into brochures and other things, but -- so I'm  22 not sure if I did say that. I'm not sure why I would say  23 that. But I don't -- but I -- I have not personally really  24 developed a lot of the material. Did I say -- didn't I say  25 I did this one?</p>

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1 Q. Oh, yeah, uh-huh. Well, my -- I -- just wanted  
 2 to --  
 3 A. But I just said that this was -- this particular  
 4 item was not at the marketing -- it was -- it was passed  
 5 around to see how people liked the idea in concept. I don't  
 6 know where the marketing material that went with this is and  
 7 whether or not I did it or didn't.  
 8 Q. Well, my question to you is to your knowledge, did  
 9 other people create marketing materials for RaPower3?  
 10 A. Oh, I think so. Yeah. I believe they did.  
 11 Q. And to your knowledge, did they do that with  
 12 information that you had given them?  
 13 A. Yes. I would hope they would.  
 14 Q. And that information had to do with the sales  
 15 structure for RaPower3?  
 16 A. That's -- that's true. I'm the only one that  
 17 could have developed the information for them to develop and  
 18 me to go over that with them.  
 19 Q. And RaPower3 marketing materials have also  
 20 included information about the tax benefits from buying the  
 21 lens; correct?  
 22 A. Yes. There is certain information that we do.  
 23 Whether or not I had done every word in it or not, I  
 24 wouldn't -- I wouldn't think that'd be the case, but -- and  
 25 some people may have done some marketing material where they

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1 interjected their own interpretation of things. But,  
 2 clearly, I was involved in -- in the outline and the general  
 3 concept of the marketing material.  
 4 This I didn't do. I don't believe I did this one,  
 5 but I can't remember. I could have done it, but I don't  
 6 remember doing it.  
 7 Q. So do you recognize the name John Howell?  
 8 A. Just vaguely. It does ring a bell, but I'm not  
 9 positive.  
 10 Q. Do you have any -- any idea who he is or what he  
 11 does?  
 12 A. Not without some reference point. If you could  
 13 give me an idea of something about him, I may be able to  
 14 recognize.  
 15 Q. Do you recall if you've ever met him?  
 16 A. Again, without some kind of a reference, it would  
 17 be difficult for me to determine that.  
 18 Q. What about the name Richard Jameson?  
 19 A. I've heard the name. I don't know exactly -- I  
 20 don't know that I met him. I may have, but without having  
 21 some reference, again, I really don't know how to tie -- tie  
 22 him together with me.  
 23 Q. Do you have any understanding about whether you  
 24 are paying his legal fees for any response he might be  
 25 making in this case?

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1 A. Not -- not -- not to hold in my memory. I  
 2 would -- I would rely upon the people that were involved to  
 3 make that determination. And if they -- if they brought him  
 4 up in that -- in that context and they said that they  
 5 were -- that I was, then I would believe that I was.  
 6 Q. Who are the people that would be involved with  
 7 whether you were paying Richard Jameson's legal fees?  
 8 A. It would probably be Paul Jones would be the one  
 9 that I would rely upon.  
 10 Q. So would you be relying on Paul Jones to advise  
 11 you on whether to pay his legal fees or . . .  
 12 A. I would hope that he would advise me on what was  
 13 going on and then we could determine whether or not we  
 14 wanted to be involved in his -- his predicament, if he was  
 15 in a predicament, how -- how we would approach that on a  
 16 legal basis.  
 17 Q. Mr. Johnson, yesterday and earlier we looked at  
 18 Plaintiff's Exhibit 23A. Do you remember that?  
 19 A. (Peruses document.)  
 20 Okay.  
 21 Q. Do you remember that?  
 22 A. Yes, I remember it.  
 23 Q. Did you obtain Plaintiff's Exhibit 23A as the  
 24 manager of RaPower3?  
 25 A. I don't know. I wouldn't -- I would probably have

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1 obtained it for myself rather than for RaPower3, so I'm not  
 2 sure of -- of why they put RaPower3 customers on here,  
 3 because this isn't something I disseminated out to my  
 4 RaPower3 customers at all. So this would be something that  
 5 I would have gotten for myself that made sure that I was  
 6 following as closely as I can with all the legal  
 7 requirements of the statutes that were written would have  
 8 allowed me to do.  
 9 But this was never posted on, wasn't allowed to.  
 10 From my understanding, it would be something I would use for  
 11 the RaPower sales material.  
 12 Q. So who, if anyone, did you share that letter with?  
 13 A. Well, I may have shared it with other -- with  
 14 people and let them read it.  
 15 Q. Like who?  
 16 A. Well, Greg and probably Roger and my kids and  
 17 other people, but.  
 18 Q. So Greg Shepard, Roger Freeborn, Randy Johnson and  
 19 LeGrand Johnson?  
 20 A. They could have read this, but --  
 21 Q. Anyone else?  
 22 A. I don't know. I mean, I don't remember how many  
 23 people I would have shared it with. But it wasn't something  
 24 for to get a sale with. I didn't sell -- I didn't give this  
 25 to Greg Shepard to sell him some equipment; okay? It wasn't

<p style="text-align: right;">Page 125</p> <p>1 sale material for me to use. I wouldn't use it that way.  2 (Exhibit 548 marked.)  3 Q. (BY MS. GALLAGHER) Showing you, Mr. Johnson,  4 what's been marked as Plaintiff's Exhibit 548 which, for the  5 record, is Ra3-11818 to 20. Please take a look at that and  6 let me know when you're done.  7 A. Okay. I'm done.  8 Q. Do you recognize Plaintiff's Exhibit 548?  9 A. It's not something I've seen, really, myself. It  10 might have been shown to me earlier, but this is nothing  11 that I wrote.  12 Q. We see the RaPower3 logo up at the top left-hand  13 corner, correct --  14 A. Yeah.  15 Q. -- of the first page?  16 A. Yes, uh-huh.  17 Q. And then the text on this web page -- oh. And  18 we'll just take a walk-through. So in the upper right-hand  19 corner of each page we see the prefix for the RaPower3.com  20 website. Do you see that?  21 A. I do.  22 Q. At the bottom right-hand corner of these pages the  23 date is January 22, 2011, at 5:59 p.m.; is that correct?  24 A. Where are you looking at the date?  25 Q. The bottom right-hand corner of the page</p>	<p style="text-align: right;">Page 127</p> <p>1 material because it could have unduly influenced an  2 individual to purchase something without seeking a CPA's or  3 someone that was close to them that had the legal status to  4 give them advice on that particular subject. It's not that  5 it was illegal. I just felt that on my side it was a little  6 bit immoral for me to use this to entice a sale, and that's  7 why I told everybody that I didn't want this out.  8 And I -- I told everybody, when I -- when I gave  9 this, I said, and I didn't give this reason and I didn't go  10 into the reasoning because I thought people could think on  11 their own that this would be something that would maybe --  12 to entice people to do something without having to go to a  13 professional individual to actually determine their  14 particular status in the tax law.  15 So when you're saying, well, is this a bad thing?  16 No, it isn't. People should be able to understand and read  17 this. Can they? Some people could and some people can't.  18 I don't determine that. But from my own standpoint, I  19 prefer to undersell an item rather than to oversell it, and  20 so in that -- in that respect I would prefer to enter into a  21 dialogue that a person could understand and then give them  22 information upon what I felt like they could comprehend and  23 what they could not comprehend and how the best way to use  24 that information.  25 Q. So Mr. --</p>
<p style="text-align: right;">Page 126</p> <p>1 (indicating) --  2 A. Okay.  3 Q. -- is January 22, 2011, at 5:59 p.m. Do you see  4 that?  5 A. Right, uh-huh.  6 Q. And then the text of this web page is very, very  7 close to the text of Plaintiff's Exhibit 23A, if not  8 identical; correct?  9 A. I haven't read it word for word, but it appears  10 that you're correct.  11 Q. Okay. Do you have any idea how the Anderson  12 letter got online at RaPower3.com?  13 A. No. And I'm not -- I'm not saying that what was  14 in here was not accurate or either accurate or either  15 illegal for people to disseminate this information for  16 personal use. What I'm saying is I personally would not use  17 this for sales material, and the reason why I wouldn't use  18 it for sales material is it -- it -- I only use -- as I --  19 as I quoted you the other day, I only -- I only want these  20 kind of materials used with people that are involved in.  21 Businesses that -- that realize the implications of what  22 they're reading are digested properly in a way that would  23 not overexcite them into believing that you could -- that  24 this is a reason to purchase an item.  25 And so I would prefer -- I prefer not to use this</p>	<p style="text-align: right;">Page 128</p> <p>1 A. So this, for that reason, it's not that it's  2 illegal and it's not that it's probably immoral. It's just  3 that I particularly think that it would be something that I  4 felt like that would unduly influence an individual to take  5 action that I would prefer them not to.  6 Q. So did you tell Greg Shepard not to give the  7 Anderson letter --  8 A. I did. I told -- I didn't know this was even on  9 there until the raids, and they came down and told me about  10 it being on there. And I said I have no -- I had no idea  11 that was out there.  12 Q. So what, if anything, did you do as RaPower3 to  13 make Greg Shepard take it off the internet?  14 A. I asked him to remove it, but I don't know whether  15 he did or whether he didn't. I didn't check up on that.  16 But I -- but I told him that -- and it wasn't because it was  17 illegal or there was something wrong with the information  18 being disseminated in that way. I mean, you could go to the  19 law -- to the tax books and you could read exactly the same  20 thing. Anybody can do that.  21 Q. Sir, I'm gonna object to the responsiveness of the  22 answer because my question to you was did you require Greg  23 Shepard to remove it from the internet?  24 A. Right. But you implied that I felt like it was  25 illegal --</p>

<p style="text-align: right;">Page 129</p> <p>1 Q. Sir --</p> <p>2 A. -- and I didn't.</p> <p>3 Q. -- my only question is whether you required Greg</p> <p>4 Shepard to remove it from the internet.</p> <p>5 A. I asked him to. I didn't -- I didn't say anything</p> <p>6 beyond that.</p> <p>7 Q. Showing you what's been marked Plaintiff's Exhibit</p> <p>8 480.</p> <p>9 A. Okay.</p> <p>10 Q. And we talked about this --</p> <p>11 A. Okay.</p> <p>12 Q. We talked about this document earlier this week,</p> <p>13 and my question to you is did you, as RaPower3, ever receive</p> <p>14 this document?</p> <p>15 A. I have never received this document as any -- any</p> <p>16 entity myself, the CEO of International Automated Systems or</p> <p>17 RaPower3, LTB, or any other entity. This letter has never</p> <p>18 been in my possession and I have never seen it. If I had a</p> <p>19 done, there would have been a lawsuit filed.</p> <p>20 Q. Why would there have been a lawsuit filed?</p> <p>21 A. Because this is not the truth. And he would have</p> <p>22 been -- he would have been in -- he's in serious trouble</p> <p>23 over this, by the way. That is going -- he is going to get</p> <p>24 a lawsuit.</p> <p>25 Q. You're going to sue Todd Anderson?</p>	<p style="text-align: right;">Page 131</p> <p>1 qualify for the continuation of the project as outlined by</p> <p>2 the 1603 of the grant program.</p> <p>3 Q. So did you ever comply with the requirements for</p> <p>4 the 1603 program?</p> <p>5 A. I applied for the initial 5 percent and that's</p> <p>6 what we indicated in all the drawings and all of the</p> <p>7 other -- and -- and the -- and the data on the equipment and</p> <p>8 the lenses and the turbine and the means for erecting the</p> <p>9 equipment.</p> <p>10 Q. Do you have any records of your having complied</p> <p>11 with the requirements for the 1603 program?</p> <p>12 A. I only have -- I don't keep those on. Dave Nelson</p> <p>13 would be the only one that would have those.</p> <p>14 Q. So you think that if this technology qualified for</p> <p>15 a 1603 Grant, your attorney, David Nelson, would have such</p> <p>16 records?</p> <p>17 A. Yes, he would, and we did qualify. We sent them</p> <p>18 the information indicating what kind of equipment would be</p> <p>19 used, and we showed them the drawings that they -- that we</p> <p>20 were gonna implement in -- in erecting the equipment, and</p> <p>21 they said it would qualify if I met the other requirements</p> <p>22 of being able to construct the equipment before the deadline</p> <p>23 was -- was there. And they had no problem with any of the</p> <p>24 equipment.</p> <p>25 Q. Did you, in fact, construct the equipment before</p>
<p style="text-align: right;">Page 130</p> <p>1 A. Definitely.</p> <p>2 Q. Why is that?</p> <p>3 A. Because this is improper procedure of doing</p> <p>4 business and you should never have gotten this. This should</p> <p>5 have been a client privileged information from Todd Anderson</p> <p>6 to me personally not to be disseminated in this way. And</p> <p>7 because of that, he's going to get sued and the damages are</p> <p>8 going to be horrendous. Because you'd think a little</p> <p>9 country pumpkin down in Fillmore should have known that</p> <p>10 (laughing). I'm afraid that he should have, and he's gonna</p> <p>11 wish that he had.</p> <p>12 (Pause in the proceedings.)</p> <p>13 Q. Mr. Johnson, what, if anything, did you tell</p> <p>14 Mr. Shepard about the 1603 Grant program?</p> <p>15 A. Just what was available to me from the government.</p> <p>16 Q. And what was that information?</p> <p>17 A. I'm not positive what it was, but I know that I</p> <p>18 told him about it, about what the government was offering.</p> <p>19 Q. Did you tell him that the solar energy technology</p> <p>20 at issue in this case had been approved for a 1603 Grant?</p> <p>21 A. I may have used those words, but -- and it was,</p> <p>22 according to my understanding, as long as I -- as long as I</p> <p>23 proceeded according to the documents that Dave Nelson gave</p> <p>24 me, and Dave Nelson told me if I complied with the</p> <p>25 information that he received, that I would be able to</p>	<p style="text-align: right;">Page 132</p> <p>1 the deadline?</p> <p>2 A. I did not, no.</p> <p>3 (Exhibit 549 marked.)</p> <p>4 Q. (BY MS. GALLAGHER) Mr. Johnson, you've been handed</p> <p>5 what's been marked Plaintiff's Exhibit 549, Bates No.</p> <p>6 Greg_P&amp;R-772. Please take a look at this email and let me</p> <p>7 know when you are done.</p> <p>8 A. Okay.</p> <p>9 Q. Is the information in this email from Greg Shepard</p> <p>10 consistent with information you may have given him about the</p> <p>11 Treasury Grant program?</p> <p>12 A. It may -- it may. There may be some inaccuracies,</p> <p>13 but on the whole this was the information that the -- the</p> <p>14 grant program offered and, as far as I understood, we were</p> <p>15 given a letter to proceed. That we could -- we were</p> <p>16 authorized to proceed with the project with the equipment</p> <p>17 outlined in the drawings and the information that was given</p> <p>18 to whoever was authorized to receive this information. Did</p> <p>19 I authorize this to go out to people? No.</p> <p>20 (Exhibit 550 marked.)</p> <p>21 THE WITNESS: What in the hell. Okay. I didn't know</p> <p>22 that. I didn't know we was charging \$12,500 to participate</p> <p>23 in the program.</p> <p>24 Q. (BY MS. GALLAGHER) Would you please take a look at</p> <p>25 what's been marked Plaintiff's Exhibit 550, Bates No.</p>



<p style="text-align: right;">Page 133</p> <p>1 Greg_P&amp;R-13 -- no -- 1738.</p> <p>2 A. But this would never have to do with RaPower</p> <p>3 anyway, but I don't understand what he was doing.</p> <p>4 Q. Sir, directing your attention to Plaintiff's</p> <p>5 Exhibit 550.</p> <p>6 A. I apologize. Okay.</p> <p>7 Q. Please go ahead and read that email and let me</p> <p>8 know, to yourself, and let me know when you're ready.</p> <p>9 A. (Witness complies.)</p> <p>10 Okay.</p> <p>11 Q. I'm interested in the last paragraph starting "As</p> <p>12 of last Friday."</p> <p>13 A. Okay.</p> <p>14 Q. Is the information in this paragraph consistent</p> <p>15 with information that you may have given Greg Shepard about</p> <p>16 the Treasury Grant program?</p> <p>17 A. Yes. He may have asked about it and I probably</p> <p>18 told him that we've had -- we've developed the 600 trusses</p> <p>19 and that had to be delivered to the site.</p> <p>20 Q. For the 1603 program?</p> <p>21 A. For the 1603 program, yes. But did I ask him to</p> <p>22 disseminate that information? No. But that's what it is.</p> <p>23 The people, if they did invest, that'd be dumb. They</p> <p>24 wouldn't get a tax credit (laughing). I wouldn't believe</p> <p>25 anybody would do it (laughing). I doubt anybody did it. I</p>	<p style="text-align: right;">Page 135</p> <p>1 relevant to the -- to the depreciation. The depreciation</p> <p>2 didn't come from the purchase of the lenses for the purpose</p> <p>3 of putting them into a solar energy product. That isn't</p> <p>4 where -- isn't what I was advised on and it wasn't something</p> <p>5 that was in -- that I would have ever -- I would have ever</p> <p>6 told anybody about because I didn't think it was applicable.</p> <p>7 Q. What was applicable to the question of whether a</p> <p>8 lens could be depreciated?</p> <p>9 A. Well, there again, you're talking about a legal --</p> <p>10 legal requirement that I don't have the ability to respond</p> <p>11 to.</p> <p>12 Q. I'm just asking for your understanding.</p> <p>13 A. I know, but you'll trap me and then I'll be</p> <p>14 trapped like a little mouse in a trap.</p> <p>15 Q. What's your understanding?</p> <p>16 A. If you want to go off the record, I can tell you.</p> <p>17 Well, what it is is the fact that the letter, and I -- and</p> <p>18 I'd have to read the letter to make sure that I'm accurate</p> <p>19 on this because it's been a long time, but it was to be</p> <p>20 used -- the equipment was to be used in -- in -- for</p> <p>21 research and development. And we went through nearly, I</p> <p>22 don't know, 15,000 lenses in and out of those towers with</p> <p>23 different lenses and different ownerships in the lenses that</p> <p>24 produced its heats from different points in time. And my</p> <p>25 understanding was that research and development is a</p>
<p style="text-align: right;">Page 134</p> <p>1 can't -- I don't know anybody who'd ever do it. It'd be the</p> <p>2 silliest thing in the world to do. If somebody would have</p> <p>3 came and asked me about it, I would have said what, are you</p> <p>4 nuts.</p> <p>5 Q. Handing you what's already been marked Plaintiff's</p> <p>6 Exhibit 43, this is a long one, but go ahead and read this</p> <p>7 to yourself, please. Let me know when you're done.</p> <p>8 A. Let's see.</p> <p>9 (Peruses document.)</p> <p>10 It's pretty light.</p> <p>11 (Peruses document.)</p> <p>12 Okay. So what do you want me to do with this one?</p> <p>13 Q. Mr. Johnson, has what Mr. Shepard written here in</p> <p>14 Plaintiff's Exhibit 43, is that consistent with your</p> <p>15 understanding of what the tax laws are that are applicable</p> <p>16 to purchasing lenses?</p> <p>17 A. No, they're not. I don't -- as far as what you're</p> <p>18 looking at, the participation agreements, there are things</p> <p>19 that I wouldn't necessarily agree with, and I've never</p> <p>20 indicated that I ever did agree with those things. So I</p> <p>21 don't know what they are.</p> <p>22 Q. Did you ever talk to Mr. Shepard about what</p> <p>23 material participation means for purposes of Internal</p> <p>24 Revenue laws?</p> <p>25 A. No, because I didn't think it was that ever</p>	<p style="text-align: right;">Page 136</p> <p>1 commercial application, and that is the Tax Code and a</p> <p>2 statute.</p> <p>3 And from -- and my understanding of a CPA's tax,</p> <p>4 when you write your tax dollars out, that you can depreciate</p> <p>5 things based upon what you do and in -- in research and</p> <p>6 development as a business for the purpose of developing new</p> <p>7 technologies, which we do. And we can prove we have because</p> <p>8 of the patents that we've been issued.</p> <p>9 In the process of that, we can lease equipment or</p> <p>10 rent equipment or pay somebody to be able to use their</p> <p>11 equipment. Once we do that, we're -- those people then are</p> <p>12 able then to consider that a business -- a business on</p> <p>13 their -- on their part so that they may then take a</p> <p>14 depreciation when that is used in that -- for that purpose.</p> <p>15 And whether or not they do or whether they don't, I've never</p> <p>16 talked to anybody like this on their -- on their part. I've</p> <p>17 always referred to them to go to your accountant and explain</p> <p>18 with this information and see how they felt about it.</p> <p>19 But that is my understanding of -- of depreciable</p> <p>20 property. And I didn't take the depreciation on it, so it</p> <p>21 was available to the person that I was paying to use their</p> <p>22 equipment for that purpose, and so they were actively</p> <p>23 involved in the business as far as that goes.</p> <p>24 Now, that's my understanding. That's, I think,</p> <p>25 what the tax opinion letter was closely relating to. I</p>

<p style="text-align: right;">Page 137</p> <p>1 didn't quote it word for word and so you can't, you know, if  2 I would have said it to someone, I would have -- I would  3 have said here's what I've -- here's the letter, you read  4 it. Take it to your -- take it to your tax CPA person and  5 see what they say.  6 Q. Where did you get this understanding?  7 A. From the, I think, McConkie letters and things  8 like that and other places in the Tax Code.  9 Q. Who, if anyone, did you talk to about this to come  10 to this understanding?  11 A. Probably NATP, CPAs and attorneys and tax  12 attorneys and other accountants and friends that were  13 accountants and just anybody that would listen to me. Not  14 many people listen to me very long though. They always say  15 what you do. I don't want to listen to you anymore. But  16 that's what I do.  17 Q. Other than individuals that you have named so far  18 today, yesterday, the day before, are there any other names  19 of people that you can give me that you talked to about  20 this?  21 A. I don't really know, but I would have -- I'm very  22 thorough. I do my homework on all things I get involved  23 with and I'm very thorough on -- on getting the information  24 out, thinking about what the information is that I'm trying  25 to -- to comprehend. I then disseminate that information to</p>	<p style="text-align: right;">Page 139</p> <p>1 photo attached) 150 towers ready to install, and 15,000,000  2 in the bank." Did I read that correctly?  3 A. You probably read it correctly, but it's not  4 accurate, so.  5 Q. To your recollection, around November 2012 did the  6 manufacturing plant have 21,000 lenses in inventory?  7 A. It had more than that. Closer to 34,000, but then  8 we don't know -- I don't know -- I wouldn't have known -- I  9 wouldn't have known that figure. Because we probably could  10 have used 10,000 lenses during that period of time in the  11 R&amp;D procedures out at the -- out at the site.  12 Q. And --  13 A. But he wouldn't have known that. Nobody would  14 have known how many lenses I have, nor would they know how  15 many towers I had ready. Nobody would know how much money I  16 have in the bank.  17 Q. So you don't know where Mr. Shepard might have  18 gotten this information about 150 towers ready to install?  19 A. I do not know that.  20 Q. In November 2012 did RaPower3 have \$15,000,000 in  21 the bank?  22 A. No, it did not.  23 Q. Did IAS have \$15,000,000 in the bank?  24 A. No.  25 Q. Did any other entity over which you have control</p>
<p style="text-align: right;">Page 138</p> <p>1 someone else and ask what their understanding of the  2 information is. I see whether it coincides with the  3 information that I received. And in most cases I'm -- I'm  4 fairly accurate on what I've been able to do in my life. I  5 have a number of patents to prove it, so. But that's what I  6 do.  7 (Pause in the proceedings.)  8 Q. So, Mr. Johnson, tying together a couple of things  9 that we've talked about in the last couple of days -- I'll  10 withdraw that.  11 Showing you what's been marked Plaintiff's Exhibit  12 141. Would you take a look -- you're welcome to look  13 through the whole document, Mr. Johnson, but I actually have  14 questions about an email that's the first one on the first  15 page.  16 A. (Peruses document.)  17 So what's the purpose of this?  18 Q. I have a question for you on the first email on  19 the first page.  20 A. Okay.  21 Q. If you want to turn back to the first page,  22 please.  23 A. Okay.  24 Q. The first sentence of the first email reads "The  25 manufacturing plant has 21,000 lenses in inventory, (see</p>	<p style="text-align: right;">Page 140</p> <p>1 that relates to solar energy technology have \$15,000,000 in  2 the bank?  3 A. No.  4 Q. All right. I'm handing you, Mr. Johnson, what's  5 been marked as Plaintiff's Exhibit 504. Please take a look  6 at Plaintiff's Exhibit 504 and let me know when you're done.  7 A. (Witness complies.)  8 Okay.  9 Q. Do you recognize Plaintiff's Exhibit 504?  10 A. No, not really. It probably is -- they probably  11 handed it to me, but I would have not ever opened it up and  12 looked at it.  13 Q. Well, let's take a walk-through. The first page  14 of 504 is an email from Greg Shepard. Do you see that?  15 A. Okay.  16 Q. "Yes?"  17 A. Yes. I see it, yes.  18 Q. And then attached to that email appears to be a  19 booklet called RaPower32012 National Convention. Do you see  20 that?  21 A. I do.  22 Q. And I believe you just said Mr. Shepard may have  23 handed you this booklet at some point?  24 A. It may have been. I don't remember having it.  25 Q. Nonetheless, I believe we talked earlier that, in</p>

<p style="text-align: right;">Page 141</p> <p>1 fact, RaPower3 had a national convention in 2012.</p> <p>2 A. No, they didn't. This was Greg Shepard's Ra</p> <p>3 convention, not RaPower-3's. He put on several conventions</p> <p>4 of his own as a RaPower salesperson to develop sales, but</p> <p>5 this was never authorized by RaPower3 to do. He didn't --</p> <p>6 he did it on -- he asked me to be there. The fact is I just</p> <p>7 was in the hospital on that very day getting an operation</p> <p>8 and I came up to the -- the next day. I can't remember</p> <p>9 exactly when.</p> <p>10 It was just the day before I had a major operation</p> <p>11 because of a motorcycle accident, and I was just out of the</p> <p>12 hospital when he asked me to come up and address the people,</p> <p>13 and I did, but I was in -- I was in terrible shape, I</p> <p>14 believe.</p> <p>15 Q. When did he first ask you to address the</p> <p>16 convention?</p> <p>17 A. I don't know that -- I don't know that's true or</p> <p>18 not, but -- but it seemed like when I did -- when they had</p> <p>19 this national convention, I was in -- I just came out of the</p> <p>20 hospital on one of them. I don't know if this is the one.</p> <p>21 But one of them I did, and I just came out of an operation,</p> <p>22 so.</p> <p>23 Q. So do you recall or do you not recall when</p> <p>24 Mr. Shepard asked you to participate in the national</p> <p>25 convention?</p>	<p style="text-align: right;">Page 143</p> <p>1 A. Well, he's probably a lot better than I am. But</p> <p>2 in some ways I'm better in some areas and I do very well in</p> <p>3 some areas, but I wouldn't -- I wouldn't have ever put</p> <p>4 something like this on. I never do.</p> <p>5 Q. If we take a look, please, at page Greg_P&amp;R-2664.</p> <p>6 A. Okay.</p> <p>7 Q. Take a look at the convention schedule there.</p> <p>8 A. Okay.</p> <p>9 Q. And, for example, if we look at 10:30 a.m., the</p> <p>10 topic is Break-through Technology No. 3, the Turbine.</p> <p>11 A. Okay.</p> <p>12 Q. And your name is at the end of that section. Do</p> <p>13 you see that?</p> <p>14 A. Right, uh-huh. Okay.</p> <p>15 Q. Right. So does that mean that you were the</p> <p>16 speaker about that topic?</p> <p>17 A. I believe it was, yes.</p> <p>18 Q. So if we look up above, it looks like your son,</p> <p>19 Randy Johnson, is the one who talked about the evolution of</p> <p>20 the solar lenses.</p> <p>21 A. Right. I believe he did. I believe he asked</p> <p>22 Randy. He was involved with it and he was around me a lot</p> <p>23 during that period of time. And he is a -- he is a much</p> <p>24 better people person than I am and he's much better at</p> <p>25 interacting with people than I am. And both my sons are,</p>
<p style="text-align: right;">Page 142</p> <p>1 A. Well, he probably asked me earlier to participate</p> <p>2 in the convention, but.</p> <p>3 Q. Do you think, like, a month before, couple months</p> <p>4 ago?</p> <p>5 A. It could have been a month, could have been six</p> <p>6 months before.</p> <p>7 Q. Uh-huh.</p> <p>8 A. And I didn't have any reasons why I wouldn't have</p> <p>9 complied with his request.</p> <p>10 Q. Did you tell him --</p> <p>11 A. But I didn't request him to do this.</p> <p>12 Q. Did you tell him not to do it?</p> <p>13 A. Well, no. No, I wouldn't, and I don't see</p> <p>14 anything wrong with it, but it's just not something that I</p> <p>15 did. I mean, I think he's good in some areas. I think he's</p> <p>16 very good in some areas. That's why I like him and keep him</p> <p>17 around. But some areas he's not so great. It's just like</p> <p>18 everybody else. Everybody has their upsides and downsides.</p> <p>19 Q. What areas do you think Mr. Shepard is good at</p> <p>20 doing?</p> <p>21 A. He's a great people person. I'm not. I believe.</p> <p>22 I believe he's better at working with people than I am. You</p> <p>23 probably noticed that yourself. And maybe I'm not the best</p> <p>24 people person, you know, in the world, you know.</p> <p>25 Q. Do you think he's a good salesman?</p>	<p style="text-align: right;">Page 144</p> <p>1 actually. And I'm grateful for that. I mean, I'm not</p> <p>2 unhappy about that. I just wish I would have -- I would</p> <p>3 have been a little bit like those people in that area.</p> <p>4 Q. So let's turn, please, to the page number ending</p> <p>5 in 2669.</p> <p>6 A. Okay.</p> <p>7 Q. This page has some text about the evolution of the</p> <p>8 solar lenses. Do you see that?</p> <p>9 A. Correct, uh-huh.</p> <p>10 Q. Do you know where Mr. Shepard may have gotten this</p> <p>11 information from?</p> <p>12 A. Well, it looks like he must have got it from the</p> <p>13 things that I wrote -- had written in the -- in the outlines</p> <p>14 that I -- that I had done earlier.</p> <p>15 Q. And if we take a walk through the pages ending in</p> <p>16 2670 through 2680 --</p> <p>17 A. Okay.</p> <p>18 Q. -- do you believe the same is true for that text?</p> <p>19 A. I believe so. Yeah, I believe that. I think that</p> <p>20 information to be pretty well in line with what I had</p> <p>21 written on the subject.</p> <p>22 Q. And let's take a look, please, at the page ending</p> <p>23 in 2681.</p> <p>24 A. (Witness complies.)</p> <p>25 Q. Which has the title Manufacturing and Construction</p>

<p style="text-align: right;">Page 145</p> <p>1 Plans --</p> <p>2 A. Sure.</p> <p>3 Q. -- For 2012.</p> <p>4 A. Okay.</p> <p>5 Q. Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Take a look at the information here and let me</p> <p>8 know -- let me know when you've read it.</p> <p>9 A. Okay. What is it that you want to ask me about?</p> <p>10 Q. I'm just curious if this is consistent with what,</p> <p>11 if any, plans you may have had during 2012.</p> <p>12 A. Well, it would have been something that I would</p> <p>13 have outlined to direct me to think along certain lines</p> <p>14 about the -- the possibilities of -- of where I would have</p> <p>15 constructed solar energy projects it looks like.</p> <p>16 Q. So do you believe you drafted the text on the page</p> <p>17 marked 2681?</p> <p>18 A. Oh, I didn't. I didn't draft this text, but I</p> <p>19 would have -- I would have -- I would have had an outline on</p> <p>20 a piece of paper somewhere.</p> <p>21 Q. Like the text on this page?</p> <p>22 A. Right. But it wouldn't have been -- it may not</p> <p>23 have been in this -- in this detail, but like it. The fact</p> <p>24 is the very last -- the very last paragraph I would never</p> <p>25 have done. I would never have tried to do this as a -- the</p>	<p style="text-align: right;">Page 147</p> <p>1 I would get involved with doing.</p> <p>2 I found a way to alternative -- an alternative to</p> <p>3 do this. To me it doesn't matter where I borrow the money</p> <p>4 from on the tax credits, for example. I would have looked</p> <p>5 at -- I looked at it like this: Whether I get the money</p> <p>6 from a bank or whether I get it from an individual or</p> <p>7 whether I get it from preselling power, see, the money</p> <p>8 coming in on to get the project is irrelevant where it comes</p> <p>9 from. I still have to pay it back. I have to pay it back</p> <p>10 whether I borrow money from the taxpayer, whether I borrow</p> <p>11 money from a bank, or whether I prepay -- presell power.</p> <p>12 So -- so what I do is I look at the best -- best</p> <p>13 way for me to handle the situation, and what we've been</p> <p>14 doing is trying to develop the situation where we can look</p> <p>15 at preselling power for the down payments, because we</p> <p>16 have -- we have an operation that's very inexpensive to</p> <p>17 operate, therefore, I could presell two years of power and</p> <p>18 pay for my system without having any obligations other than</p> <p>19 to produce power.</p> <p>20 Q. So, sir, I'm gonna stop you there because I'm</p> <p>21 curious.</p> <p>22 A. Okay.</p> <p>23 Q. How are you preselling power?</p> <p>24 A. Well, they do it all the time.</p> <p>25 Q. No, no, no. Not -- no. How are you preselling</p>
<p style="text-align: right;">Page 146</p> <p>1 company. And No. 7 I never -- I -- I never liked PPAs</p> <p>2 because they -- they're only -- a PPA is a hard thing to</p> <p>3 negotiate when you're negotiating something that's gonna</p> <p>4 cost them more than they can get power from someone else.</p> <p>5 And I -- most of the time I think it's a waste of time to</p> <p>6 try it, but it's not something that I'm -- that I'm trying</p> <p>7 to -- it limits your markets to a very, very narrow market.</p> <p>8 That's why I never have -- have worked toward a</p> <p>9 power purchase agreement situation. Because all of -- all</p> <p>10 of the -- all of your people that get these are doing it</p> <p>11 because they're trying to get some financing from some</p> <p>12 people to participate in your program. And in order to do</p> <p>13 that, it's just like -- it's just like the PPI -- or the</p> <p>14 Delta Power project. In order to get that power project up,</p> <p>15 they would have had to get a PPI -- PPA from Los Angeles to</p> <p>16 last them 30 years or so to get the 4 or \$5 billion it took</p> <p>17 to build that plant, because they had to get all the loans</p> <p>18 in place in order for that to take place.</p> <p>19 They then would have had -- they would have had to</p> <p>20 do a EPA on the entire -- entire project, including the land</p> <p>21 that went from California to Utah, to put their lines up and</p> <p>22 then get a EPA statement about the property they were</p> <p>23 building their -- their property on. All of them take a</p> <p>24 long time to do. Probably longer than it would take for the</p> <p>25 tax credits to even run out. And so it's not something that</p>	<p style="text-align: right;">Page 148</p> <p>1 power?</p> <p>2 A. I'm not. I'm getting ready -- I'm getting the</p> <p>3 project ready so that that can be done that way.</p> <p>4 Q. Have you ever presold power?</p> <p>5 A. No, I haven't. But that's not -- that's not what</p> <p>6 I'm saying. I'm telling you that if I -- what I'm -- what</p> <p>7 I'm -- what I'm developing is a better way to do energy, a</p> <p>8 less expensive way to do energy, and that's my goal.</p> <p>9 Q. Object to the responsiveness of the answer after</p> <p>10 "no."</p> <p>11 A. Well, I'm just telling you that I would not have</p> <p>12 wrote that and why I would have not done that last -- these</p> <p>13 last paragraphs.</p> <p>14 Q. Okay. So you didn't write those last couple of</p> <p>15 paragraphs?</p> <p>16 A. No. They're not mine.</p> <p>17 Q. Thank you.</p> <p>18 Showing you what's been marked Plaintiff's Exhibit</p> <p>19 329. Please take a look at -- this is a series of emails</p> <p>20 and a photograph attached.</p> <p>21 A. (Peruses document.)</p> <p>22 Okay.</p> <p>23 Q. Plaintiff's Exhibit 329 is Greg_P&amp;R-2202 through</p> <p>24 2204.</p> <p>25 A. Okay.</p>

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1 Q. I'd like to take a look, first, at the last page  
2 of the exhibit, Mr. Johnson.  
3 A. Okay.  
4 Q. Does the picture on the left page, to your  
5 recollection, accurately reflect the state of the R&D site  
6 in or around July 13 -- July of 2013?  
7 A. That's not -- I don't believe that's accurate. I  
8 don't think -- that picture's not accurate.  
9 Q. No? Do you have an idea of when that picture  
10 might have been taken?  
11 A. Probably 2010-2011. I don't know for sure. But I  
12 don't think that's accurate.  
13 Q. I'm gonna draw your attention to --  
14 A. But I don't have any way of knowing the exact date  
15 on that.  
16 Q. Okay. I'm gonna draw your attention to the first  
17 page, last full paragraph on the first page.  
18 A. The last full paragraph? Okay.  
19 Q. It says "Hope all is well. Things are going  
20 great. See the attached photo. It shows the solar disks  
21 being raised. I think all 19 towers are now up. We are  
22 just about ready to flip the switch. We have another 50 or  
23 so towers out in the solar fields ready to have those holes  
24 drilled."  
25 Did I read that correctly?

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1 A. (No audible response.)  
2 Q. Did I read that correctly?  
3 A. Oh. You read it fine, yeah.  
4 Q. Do you have knowledge of, information about why  
5 Mr. Shepard might have said, "We are just about ready to  
6 flip the switch?"  
7 MR. SNUFFER: You said Mr. Shepard.  
8 THE WITNESS: You'll have to ask --  
9 MR. SNUFFER: This is Peter Gregg.  
10 THE WITNESS: -- Mr. Shepard about that.  
11 MS. GALLAGHER: We'll go off the record for a second.  
12 (Discussion held off the record.)  
13 THE WITNESS: But, in fact, we did make power when  
14 those things were up, but when I -- when I showed it to you,  
15 that would have been when we did it. I -- like I said, it  
16 wasn't something we hadn't done, but I wouldn't have put it  
17 -- I would never -- I would never put it out that -- a  
18 statement like that.  
19 The reason why I wouldn't -- why I don't do things  
20 like that is because as the CEO of a public company, there  
21 is -- there are dramatic consequences for talking about  
22 things like that, and it wouldn't be something I would do  
23 without -- without clarification, without disclaimers,  
24 without an attorney being present. I just don't do that.  
25 Q. (BY MS. GALLAGHER) I believe you just testified

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1 that you did, in fact, produce power in or around July 2013;  
2 is that right?  
3 A. Well, I don't know when the date of the letter  
4 was, but I've been producing power for a long time, but the  
5 date on the check indicates it was probably before then.  
6 Q. Okay. So you're referring back to the check to  
7 Patricia Lambrecht --  
8 A. Right. We -- we -- we produced power a long time  
9 ago. That wasn't an issue. Never was.  
10 Q. And I'll ask: Do you have any documentation of  
11 any of the times you have produced power?  
12 A. I don't know. But we have and you'll just have to  
13 take my word for it or not, but that's just the facts, so.  
14 Q. Has anybody but you ever seen power produced?  
15 A. Yeah. There's been a few.  
16 Q. Who's that?  
17 A. My boys and I think some of the people.  
18 Q. Randy and LeGrand Johnson?  
19 A. Uh-huh.  
20 Q. "Yes?"  
21 A. Right. And what I am going to do is I'm gonna try  
22 and remember and get affidavits on that issue, so -- so --  
23 but, yeah, I don't -- I don't have a problem with that. We  
24 produced power in Mesquite, so yeah. It wasn't a problem  
25 producing power. That wasn't the issue. Never was.

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1 Q. Showing you what's been marked Plaintiff's Exhibit  
2 162.  
3 A. Okay.  
4 Q. Feel free to take a read of this, but I can point  
5 you to the specific section with the question that I have.  
6 A. (Peruses document.)  
7 Okay.  
8 Q. All right. My question is about the first line of  
9 the second email which says "We should have 18 towers up and  
10 running producing electricity going to a home and then on a  
11 power line feeding Rocky Mountain Power in three weeks or  
12 so."  
13 Did I read that correctly?  
14 A. Uh-huh.  
15 Q. "Yes?"  
16 A. (Nods head.)  
17 Q. "Yes?"  
18 A. Yes. I'm sorry. Yes. I apologize for that.  
19 Q. Did you authorize Greg Shepard to make this  
20 statement?  
21 A. No, I did not.  
22 Q. Any idea where he would have gotten any  
23 information about that?  
24 A. I don't know. I don't know what he does.  
25 Q. Handing you what's been marked Plaintiff's Exhibit



<p style="text-align: right;">Page 153</p> <p>1 71, please take a look at that and let me know when you're  2 done. Plaintiff's 71 is Bates marked ZELEZ_B&amp;A --  3 A. Okay.  4 Q. -- 922 to 925.  5 A. Okay.  6 (Peruses document.)  7 Okay.  8 Q. Mr. Johnson, were you aware that Mr. Shepard sent  9 this email out to various people involved with RaPower3?  10 A. No. No, I did not.  11 Q. Did you authorize Mr. Shepard to send out such  12 documents?  13 A. No.  14 Q. Handing you what's been marked Plaintiff's Exhibit  15 72 marked ZELEZ_B&amp;A-942 to 943, please take a look at that  16 and let me know when you're done.  17 A. (Peruses document.)  18 Okay.  19 Q. I'd like to draw your attention to the second full  20 paragraph that starts "Okay."  21 A. Okay.  22 Q. Have you read that paragraph?  23 A. Okay. Yeah, I'm reading it, but go ahead.  24 Q. No. Go ahead and read it and then I'll ask my  25 questions.</p>	<p style="text-align: right;">Page 155</p> <p>1 the 5th?  2 A. I'm -- I'm sorry. I shouldn't do that. It just  3 hit me in a funny way. No, I would not do that.  4 Q. Showing you what's been marked Plaintiff's Exhibit  5 267.  6 A. I'll say he's braver than I am. I don't know.  7 Q. 267 is Bates marked GREGG_P&amp;R-1994 through 1996.  8 A. Okay.  9 Q. Please take a look at that, including the photos,  10 and let me know when you're done.  11 A. Okay. Go ahead. What's the question?  12 Q. Take a look, please, at the last page --  13 A. Okay.  14 Q. -- marked 1996.  15 A. Okay.  16 Q. Mr. Johnson, when we walked through the videos  17 from the site visit --  18 A. Right.  19 Q. -- I did not have a video that showed the  20 component that's attached to the back of this structure. So  21 what I would like to know from you is what's that gray box  22 connected to the structure?  23 A. Okay. That's the -- that's the main transformer  24 that hooks up to the -- to the power grid. Or you could  25 either use it for an upload transformer or a download</p>
<p style="text-align: right;">Page 154</p> <p>1 A. (Witness complies.)  2 Okay. So what do you want me to say?  3 Q. Okay. The third line says "The latest RaPower3  4 team members being audited have the questions written down  5 in their first audit letter. Twenty-two questions in all.  6 Don't answer these."  7 Did I read them correctly?  8 A. (No audible response.)  9 Q. Did I read those sentences correctly?  10 A. Yes, uh-huh.  11 Q. Did you ever counsel Greg Shepard to tell RaPower3  12 customers not to answer the IRS's questions?  13 A. No, no.  14 Q. Towards the end of the paragraph --  15 A. Oh. Sorry.  16 Q. That's okay. Third line up.  17 A. Okay.  18 Q. Mr. Shepard writes "You can also plead the 5th."  19 Did I read that correctly?  20 A. Okay (laughing). I'm sorry. I shouldn't laugh.  21 Q. Did you ever talk with Mr. Shepard about RaPower3  22 customers pleading the 5th in response to IRS questions?  23 A. In an IRS audit I don't think so (laughing). He's  24 got more guts than I got.  25 Q. So you never talked to Mr. Shepard about pleading</p>	<p style="text-align: right;">Page 156</p> <p>1 transformer. This was being used probably at this time as a  2 down -- a down voltage control or down voltage transformer,  3 and it's probably hooked into the house.  4 Q. And back to the front page of 267, the second  5 paragraph of the email says "First Photo: The latest  6 available photo of the towers. The first project will  7 consist of 15 towers that will produce about 1.5 megawatts  8 for Rocky Mountain Power. We are almost done."  9 Did I read that correctly?  10 A. Yeah.  11 Q. Did I read that correctly?  12 A. Yes, you did.  13 Q. So if you take a look, please, at the first photo  14 attached to 267 --  15 A. Right.  16 Q. -- does that photo appear to be a picture of the  17 R&amp;D site in or around 2013?  18 A. Like I said, I don't recollect exactly when the  19 photos were taken and I couldn't comment on that, but I did  20 have towers up and I did have this information, but the  21 dates are something that I don't -- the time just blends  22 together with me. It goes back way too fast.  23 Q. Is Mr. Shepard's statement about the first project  24 consisted of 15 towers, is that accurate?  25 A. Well, I think there's at least 15. It's probably</p>

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1 closer to 19, but yes.

2 Q. And Mr. Shepard says there, "We are almost done."

3 A. Well, that's a subjective, you know, subject and  
4 it's not something I could comment on.

5 Q. Did you tell Mr. Shepard that the project was  
6 almost done in or around October 2013?

7 A. I don't know. There's a lot of things that I  
8 might say. And, like I said, what people -- if I'm working  
9 on a project for -- for -- constant for 13, 12, 13 years and  
10 I see a culmination of things coming together and you ask me  
11 am I almost done, in considerations of where I'm looking at  
12 and what I've accomplished and the number of patents that  
13 I've -- that I did and all of the -- all of the work and I'm  
14 looking at a point where I can't see forward, I can't see  
15 whether or not there are other things that need to be  
16 invented or changed, I could have said that we're almost  
17 done. We're almost done with -- with a variety of things.

18 But there -- there are -- it's -- it's impossible  
19 to know ahead of time what you don't know, and so if I said  
20 yes, I feel like I'm almost done, I'm thinking I should be  
21 able to purchase this, I should be able to get this and this  
22 should work in this way, in a reasonable way that would --  
23 that would fit in with my goals of producing electricity and  
24 energy at a certain price point with the minimum amount of  
25 labor and -- and overhead, I could have said yes, I -- yeah,

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1 I'm done now that, you know, with -- with the -- and putting  
2 these new devices up and the new heat exchangers, and I  
3 could have said yeah, I think I'm about done, but then I  
4 find out later that there's something that needs to be  
5 worked on, and I think that this one here lacked the  
6 hydraulic turning mechanisms that I was not aware that we  
7 even needed. And there was no way that I would have known  
8 that other people's turning mechanisms would not work in the  
9 way that they described.

10 And I found out that later that they did not work  
11 in the manner. And I put them up and the gear system broke  
12 because of the load and the wind structures and the way  
13 gears are developed and made. And the stresses that are  
14 required to hold the gears in place on -- on the amount of  
15 steel that intermeshes with the other gears is -- makes the  
16 gear system limited on its -- on its structural strength in  
17 the weight that we were looking at in the -- in the wind  
18 load situations.

19 So then when we discovered that, I -- I then  
20 developed a new turning mechanism which uses hydraulic  
21 systems that will hold 35, 50,000 pounds. And so that one  
22 there -- and they're more accurate and they move smoother  
23 and they're easier to control with less -- less vibration in  
24 them and less -- and less chance for a harmonic situation to  
25 become involved.

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1 And so from that standpoint when you're talking  
2 about inventing, see, you're saying okay, well, how do I  
3 know that I needed that. Because someone else told me they  
4 had something that would work, and it didn't, so I didn't  
5 know that. So, yes, I said a lot of times I think I'm about  
6 there where I think that now I can -- I feel like I can go  
7 in full production, and then from there I'll turn on the  
8 power. And more than just intermittently, I will then make  
9 power available and put it in the news that we're making  
10 power.

11 But if I would have done that and then the gear  
12 broke and then I found out I got another year and a half to  
13 develop, which other companies have taken years and years  
14 and years and have not developed this technology that I did  
15 in less than a year. On the turning mechanisms other  
16 companies, the one I told you in -- in Nevada, took -- they  
17 got them again another grant for \$5,000,000 to develop that  
18 hydraulic system.

19 Q. Sir, I'm gonna stop you there, once we're talking  
20 about another company, and I'm gonna ask you a question.

21 A. Okay.

22 Q. You said there were a few times that you may have  
23 said that you were done, and correct me if I'm wrong, but  
24 what I believe I heard from you is that your understanding  
25 of being done is that there were no more pieces to invent.

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1 A. No. What I said is I -- that the things that I --  
2 that I needed to -- for example, back in 2003 we had  
3 developed the turbine to where it was operating better than  
4 any turbine on the market. It would last longer. Our  
5 turbine would have a million hour rating, from what the  
6 people evaluated it, against the 48,000 hour rating in a  
7 particular -- in the turbines that now exist. And they  
8 would do and have -- they would have several advantages over  
9 those.

10 Now -- now, I said to my kids, well, we're about  
11 done. All we gotta do is go out and buy a solar thermal  
12 mirror system, we'll hook that right in and put coal with  
13 it, and we've got -- we will have the best price on anything  
14 you can believe. What I didn't realize that the heat  
15 exchangers were 200-year-old technology and they would  
16 not -- there's a -- there's a lot of maintenance cost.  
17 Besides being very, very expensive, it would take a lot of  
18 money to build it out and a lot of money to maintain it.

19 And when I got to that I thought oh, my crap.  
20 What in the -- what in the devil they thinking. They can't  
21 possibly believe this is gonna function in this -- in this  
22 day and age. And so then I had to take the time to develop  
23 the heat exchanger.

24 At the same time we went out and looked at the  
25 mirror system, and the mirror system requires you to have a

<p style="text-align: right;">Page 161</p> <p>1 perfectly leveled ground that you're putting a dollar --</p> <p>2 minimum of a dollar a square foot into the property --</p> <p>3 Q. Okay, Mr. Johnson. I'm gonna stop you there.</p> <p>4 A. Well, I'm just explaining --</p> <p>5 Q. I'm gonna ask you --</p> <p>6 A. -- what you're wanting to know.</p> <p>7 Q. Well, I understand and I appreciate that, and</p> <p>8 we're going --</p> <p>9 A. But then I said --</p> <p>10 Q. -- we're going a little bit --</p> <p>11 A. -- we're all done.</p> <p>12 Q. -- far afield.</p> <p>13 A. Well, we're not. That's exactly what the whole</p> <p>14 question is. See, you're -- you're -- the whole question</p> <p>15 is can --</p> <p>16 Q. No, Mr. Johnson. Mr. Johnson, please stop.</p> <p>17 A. -- can I do this.</p> <p>18 Q. No. No, that's not the question.</p> <p>19 A. Yeah, it is.</p> <p>20 Q. The question is --</p> <p>21 A. That's the whole question.</p> <p>22 Q. The simple question is there are a few times over</p> <p>23 the course of the life of your solar energy technology that</p> <p>24 you thought that you were close to being done.</p> <p>25 A. Well, that's --</p>	<p style="text-align: right;">Page 163</p> <p>1 told everybody this was gonna be done next week. And then</p> <p>2 what do these people think?</p> <p>3 Q. Mr. Johnson.</p> <p>4 A. But you have -- but they haven't heard the whole</p> <p>5 story, and neither have you. But if you hear the whole</p> <p>6 story and then when I tell in court, I says no, Your Honor,</p> <p>7 she's not telling the story that I told her about the</p> <p>8 situations that reflected why I said those things. And</p> <p>9 you're not going to allow me to say that and I'm not gonna</p> <p>10 allow you to put that in there and say I said that without</p> <p>11 the explanation that I gave to the people when they came</p> <p>12 back to me.</p> <p>13 Q. We're gonna stop and go off the record.</p> <p>14 (Eight-minute recess taken.)</p> <p>15 Q. (BY MS. GALLAGHER) So, Mr. Johnson, I'm just</p> <p>16 trying to get a simple understanding of the process that I</p> <p>17 understand is more detailed, but we do have time limits</p> <p>18 today. So you testified earlier that there were a few times</p> <p>19 in the course of invention and development of the solar</p> <p>20 energy technology at issue here you said you thought you</p> <p>21 were done, and you also testified that you then learned that</p> <p>22 you were not done. And is that because the system did not</p> <p>23 work the way you actually wanted it to?</p> <p>24 A. No. We could have complied with the regulations</p> <p>25 if we would have just put out -- if we would have put ropes</p>
<p style="text-align: right;">Page 162</p> <p>1 Q. Correct?</p> <p>2 A. -- what I'm saying, and so --</p> <p>3 Q. Right. And --</p> <p>4 A. -- then what I just said --</p> <p>5 Q. Right. And -- no. Stop.</p> <p>6 A. -- was relevant --</p> <p>7 Q. Please stop.</p> <p>8 A. -- to explain that question.</p> <p>9 Q. Please stop.</p> <p>10 A. Well, you can't have this question then because --</p> <p>11 then just take the whole question out. If you're not gonna</p> <p>12 let me finish the answer, you cannot have this question</p> <p>13 because that doesn't reflect the accuracy of what I was</p> <p>14 thinking.</p> <p>15 Q. Mr. Johnson.</p> <p>16 A. No. I'm not gonna say that.</p> <p>17 Q. We are not going to have a narrative of the whole</p> <p>18 process of the inventions here.</p> <p>19 A. Well, you have to have --</p> <p>20 Q. There are --</p> <p>21 A. Well, then you can't have any of the question</p> <p>22 because it doesn't -- you can't just say did you ever say</p> <p>23 that, yes, that we were done. Okay. What does that mean?</p> <p>24 Tell me what that means when I say that. What -- what are</p> <p>25 you gonna say in court when you say, well, Mr. Johnson, you</p>	<p style="text-align: right;">Page 164</p> <p>1 on the towers and had people track the sun.</p> <p>2 Q. Object as nonresponsive. All right. What is --</p> <p>3 A. What I'm saying is, what you're asking me is, and</p> <p>4 you said is it because the project didn't work. And I said</p> <p>5 no, it wasn't because the project wouldn't work.</p> <p>6 Q. No, sir. The way you wanted it to. So I</p> <p>7 understand you wanted to keep costs very low and you wanted</p> <p>8 to have more efficient mechanisms to make your system</p> <p>9 produce power at a very low cost. I understand that. And</p> <p>10 my question to you is --</p> <p>11 A. I don't -- no, I don't think you understand, and</p> <p>12 that's what I'm saying is that's a critical point in the</p> <p>13 whole development of the system. I could have any time</p> <p>14 since 2005 put power on the grid. I could have done that</p> <p>15 easily. I wasn't looking -- at the time I developed my</p> <p>16 system, I wasn't looking to develop a power -- a power</p> <p>17 system to go out there and -- and just -- and just a quick</p> <p>18 thing and make a whole bunch of money and then walk away.</p> <p>19 That wasn't my -- that wasn't my goal. It was never my</p> <p>20 goal.</p> <p>21 I have -- I could have -- I could have had plenty</p> <p>22 of money before I ever started that. I didn't need -- I</p> <p>23 didn't need the project to make a living with. I had plenty</p> <p>24 of money. I got plenty of patents. I could sell -- I've</p> <p>25 been -- I can sell patents --</p>

<p style="text-align: right;">Page 165</p> <p>1 Q. So, sir, what is your goal? What's your goal?</p> <p>2 A. The goal is to provide clean energy at a very low</p> <p>3 price, at a better price.</p> <p>4 Q. And there are a few times in the course of the</p> <p>5 development that you thought you would be able to do that.</p> <p>6 A. That's correct. I did.</p> <p>7 Q. Right. And then you learned that there was some</p> <p>8 obstacle in the way of doing that; isn't that right?</p> <p>9 A. Yes. But it wasn't in the obstacle of the product</p> <p>10 working at that level of being equal to or better than</p> <p>11 anything on the market at that time. That wasn't the issue.</p> <p>12 The issue was how do I take -- I was looking at taking an</p> <p>13 energy market over; okay? And obviously I didn't think it</p> <p>14 was gonna take this long or I just would have said forget it</p> <p>15 in the first place.</p> <p>16 But I wasn't interested -- when I started, there</p> <p>17 was no tax credits, and so my interest was not that. The</p> <p>18 interest is I saw an opportunity, a business opportunity</p> <p>19 that I had developed a turbine that had the capacity to take</p> <p>20 over a market if it was done properly.</p> <p>21 Q. And has it taken over the market?</p> <p>22 A. Of course not. I'm not there and I never said</p> <p>23 that I -- that I was. But I still have the capacity to do</p> <p>24 it if I'm careful on how I approach it. But if I approach</p> <p>25 that wrong and I -- and I just go out -- and I'll make -- I</p>	<p style="text-align: right;">Page 167</p> <p>1 ready for installation." Did I read that correctly?</p> <p>2 A. Well, he probably looked out and saw all the --</p> <p>3 all of the trusses out there.</p> <p>4 Q. Sir, did I read that sentence correctly?</p> <p>5 A. Oh, I'm sorry. I apologize. Go ahead. Yes, you</p> <p>6 did. I -- I'll try and keep my responses more -- more</p> <p>7 critique.</p> <p>8 Q. Any idea why Mr. Shepard may have thought that</p> <p>9 there were 500 towers that were ready for installation?</p> <p>10 A. It probably has something to do with the 1603</p> <p>11 program, but I'm not a mind reader, and I don't know.</p> <p>12 Q. In or around February 2014, in fact, were there</p> <p>13 500 towers for installation?</p> <p>14 A. No. I don't think so. But I don't know where he</p> <p>15 got that from, so I don't know. And the only thing is the</p> <p>16 number of trusses and the other things, but I'm still not --</p> <p>17 I don't know.</p> <p>18 Q. All right. I'm handing you what's been marked</p> <p>19 Plaintiff's Exhibit 289. Please take a look at that.</p> <p>20 A. Okay.</p> <p>21 Q. And let me know when you're finished. I will let</p> <p>22 you know that I'm interested in asking you about goal 3 on</p> <p>23 the third page of this exhibit.</p> <p>24 A. Okay. What was it again?</p> <p>25 Q. Goal 3 at the top of the third page of the</p>
<p style="text-align: right;">Page 166</p> <p>1 would make a lot of money no matter what -- no matter what</p> <p>2 happened with this system. No matter what you do, whether</p> <p>3 you win this case or whether you don't win this case, I will</p> <p>4 make a lot of money off the deal. It won't matter. There's</p> <p>5 a lot of money to be made just where I'm at if I promote it.</p> <p>6 Q. Why haven't you done it yet?</p> <p>7 A. Because I felt like that I wanted to keep this --</p> <p>8 this lowball because I wanted to surprise the market. If I</p> <p>9 would have done it the other way, I would have had</p> <p>10 competitors all the way through the market system, and by</p> <p>11 doing it this way I'm -- I'm now at the crest of where I'm</p> <p>12 at and now I can take the market.</p> <p>13 Q. Okay.</p> <p>14 A. And that's -- that's a business decision. It's</p> <p>15 not something that's relied upon with the -- with everybody</p> <p>16 else's stuff. It isn't money I need.</p> <p>17 Q. Okay. I've shown you --</p> <p>18 A. It never was.</p> <p>19 Q. I've shown you what's been marked Plaintiff's</p> <p>20 Exhibit 272.</p> <p>21 A. Okay.</p> <p>22 Q. I'm looking at the last line of text before</p> <p>23 Mr. Shepard's signature.</p> <p>24 A. Okay.</p> <p>25 Q. The line says "We have another 500 towers that are</p>	<p style="text-align: right;">Page 168</p> <p>1 exhibit.</p> <p>2 A. Oh, okay. Go ahead.</p> <p>3 Q. This says that "Goal 3: To have our concentrated</p> <p>4 photovoltaic (CPV) prototype completely finished."</p> <p>5 A. Okay. Okay.</p> <p>6 Q. Do you have a CPV prototype?</p> <p>7 A. Yes. It's what you saw out there operating when</p> <p>8 you came down.</p> <p>9 Q. When did we see that?</p> <p>10 A. When you were at the site and I put that -- those</p> <p>11 PD system into the focal point and producing power. That</p> <p>12 board is -- is the CPV system.</p> <p>13 Q. Okay.</p> <p>14 A. It's -- it's ready for production right now. It's</p> <p>15 what we're doing now.</p> <p>16 Q. Has any CPV mechanism ever generated electricity</p> <p>17 that has then been purchased by any other person or entity?</p> <p>18 A. No, no. But it has produced. It -- the CPV</p> <p>19 system has produced power for the last, I think, two years.</p> <p>20 Q. Do you have any records of the CPV --</p> <p>21 A. No.</p> <p>22 Q. -- mechanisms -- let me finish the question,</p> <p>23 please.</p> <p>24 A. Oh. Sorry.</p> <p>25 Q. Do you have any records of the CPV mechanism</p>

<p style="text-align: right;">Page 169</p> <p>1 having produced power in the last couple years?</p> <p>2 A. No, but it has, and I can show it to you. You saw</p> <p>3 it, so.</p> <p>4 Q. Do you have any data of the power -- reflecting</p> <p>5 the power that it has produced?</p> <p>6 A. Just your -- just your -- just your video. By the</p> <p>7 way, that was a difficult task. People have tried that for</p> <p>8 years and said they had it done and had it done, and they</p> <p>9 didn't have it done.</p> <p>10 Q. Please take a look at what I've handed you as</p> <p>11 Plaintiff's Exhibit 25.</p> <p>12 A. Uh-huh.</p> <p>13 Q. It's a lengthy document with some small text, so</p> <p>14 please take your time and have a read.</p> <p>15 A. Okay. With my eyes I don't think I'll be able --</p> <p>16 okay. Well, ask what you need to know and I'll see if I can</p> <p>17 read it.</p> <p>18 Q. Well, no. I want you to read the document,</p> <p>19 please, and then I'll ask you questions.</p> <p>20 A. I don't think I can.</p> <p>21 (Peruses document.)</p> <p>22 All right. Satisfying the IRS --</p> <p>23 Q. To yourself, please.</p> <p>24 A. Okay.</p> <p>25 (Peruses document.)</p>	<p style="text-align: right;">Page 171</p> <p>1 I don't -- I don't see where he's explaining</p> <p>2 accurately the depreciation as far as I'm -- that I</p> <p>3 understand. But then I'm not an attorney and a tax</p> <p>4 attorney, so I'm not clear on that.</p> <p>5 Q. And you keep saying he.</p> <p>6 A. I mean Greg Shepard.</p> <p>7 Q. So did you write any of the text on Plaintiff's</p> <p>8 Exhibit 25?</p> <p>9 A. No, I didn't.</p> <p>10 Q. Do you know who did?</p> <p>11 A. I do not.</p> <p>12 (Exhibit 551 marked.)</p> <p>13 Q. (BY MS. GALLAGHER) Mr. Johnson, handing you what's</p> <p>14 been marked Plaintiff's Exhibit 551.</p> <p>15 A. Okay.</p> <p>16 Q. Do you recognize Plaintiff's Exhibit 551?</p> <p>17 A. No, I do not.</p> <p>18 Q. I'll represent to you that this is a website</p> <p>19 printout from RaPower3.com.</p> <p>20 A. Okay.</p> <p>21 Q. And that this printout -- do you see the date at</p> <p>22 the top left-hand corner of the page; 3-2-2015?</p> <p>23 A. Okay.</p> <p>24 Q. Do you see that?</p> <p>25 A. Uh-huh.</p>
<p style="text-align: right;">Page 170</p> <p>1 MS. JOHNSON: You're gonna have to read it to him. He</p> <p>2 can't see it.</p> <p>3 THE WITNESS: My eyes aren't that good. I can't --</p> <p>4 okay. I think I got some of it. Okay. Go ahead.</p> <p>5 MS. GALLAGHER: Keep reading.</p> <p>6 THE WITNESS: All right. Go ahead.</p> <p>7 Q. (BY MS. GALLAGHER) Well, my question to you, sir,</p> <p>8 is does Plaintiff's Exhibit 25, in your mind, accurately</p> <p>9 reflect how a RaPower3 customer might satisfy the IRS</p> <p>10 depreciation conditions?</p> <p>11 A. Yes, I can see that, but it's nothing to do with</p> <p>12 what I would have -- that I would have done. I've never</p> <p>13 done anything like this.</p> <p>14 Q. Well, I'm just asking if this is consistent with</p> <p>15 your understanding of how to satisfy IRS depreciation</p> <p>16 conditions.</p> <p>17 A. It's probably not, but I -- I can't . . .</p> <p>18 (Peruses document.)</p> <p>19 I mean, I don't -- he may be right. I do not</p> <p>20 know. From my understanding, this isn't the way that I</p> <p>21 would have -- well, I don't know. It's hard for me to read.</p> <p>22 (Peruses document.)</p> <p>23 Okay. The bonus contract. Let's see what that</p> <p>24 says.</p> <p>25 (Peruses document.)</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. "Yes?"</p> <p>2 A. Yes.</p> <p>3 Q. If you take a look at the lower third of the page,</p> <p>4 there are two boxes there in orange. Do you see those?</p> <p>5 A. Uh-huh.</p> <p>6 Q. One says Anderson Letter.</p> <p>7 A. Okay.</p> <p>8 Q. One says Kirton McConkie Letter.</p> <p>9 A. Okay.</p> <p>10 Q. Were you aware that as recently as March 2015</p> <p>11 Mr. Shepard had posted the Anderson letter and the Kirton</p> <p>12 McConkie letter online?</p> <p>13 A. I wasn't aware, but I wasn't concerned about it</p> <p>14 because it had already been out there and the -- and the --</p> <p>15 I was the -- the DOJ had, I think, and it's my understanding</p> <p>16 from what I was told by Sam Alba, my attorney, that the</p> <p>17 Department of Justice was no longer interested in pursuing a</p> <p>18 criminal case or continuing any further criminal</p> <p>19 investigations. And -- and he'd already used it several</p> <p>20 times, but I didn't know it was out there, no.</p> <p>21 I didn't authorize it out there either, but I</p> <p>22 wasn't paying any attention to it either. I didn't like it</p> <p>23 out there, by the way. I still don't.</p> <p>24 Q. Mr. Johnson, did you show Mr. Shepard a copy of</p> <p>25 the Kirton McConkie memorandum?</p>



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1 A. I'm sure I did. I didn't have a problem doing  
 2 that, yes. Personally I don't see anything wrong with it.  
 3 It's accurate. The letter's accurate, so it wasn't -- it  
 4 wasn't, like I said, the reason why I didn't want it out  
 5 there.  
 6 (Exhibit 552 marked.)  
 7 Q. (BY MS. GALLAGHER) Handing you, Mr. Johnson,  
 8 what's been marked as Plaintiff's Exhibit 552, Greg\_P&R-275  
 9 through 281. On the first page of this exhibit we do see  
 10 the RaPower3 letterhead at the top; correct?  
 11 A. Yes, uh-huh.  
 12 Q. All right. I'd like to draw your attention,  
 13 actually, to the page that ends in 279.  
 14 A. Okay.  
 15 Q. And I'm curious about the first two full sentences  
 16 at the top of the page. They read "However, Frito Lay in  
 17 California uses solar energy to heat their plant. Another  
 18 California solar energy company uses heat to produce water  
 19 for irrigation."  
 20 Did I read that correctly?  
 21 A. Uh-huh.  
 22 Q. "Yes?"  
 23 A. Yes.  
 24 Q. Did you ever talk to Mr. Shepard about these two  
 25 different companies that he mentions in these sentences?

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1 A. Yeah. He -- he said -- he told me these things,  
 2 yes.  
 3 Q. Oh. So Mr. Shepard told you about them?  
 4 A. Uh-huh.  
 5 Q. "Yes?"  
 6 A. Yeah, uh-huh.  
 7 Q. Did you look into these companies or what they  
 8 were doing with solar energy any further?  
 9 A. No. I had no interest in them. But I think it's  
 10 a good analysis and I think the --  
 11 (Telephonic interruption.)  
 12 MS. GALLAGHER: Off the record, please.  
 13 (Brief recess.)  
 14 Q. (BY MS. GALLAGHER) Mr. Johnson, did you -- did  
 15 RaPower3 authorize Mr. Shepard to write the letter in  
 16 Plaintiff's Exhibit 552?  
 17 A. No, they did not. No. But I think some of it's  
 18 accurate and some of it's pertinent to the -- of what's  
 19 going on, but I didn't do it.  
 20 Q. Did you --  
 21 A. The only thing I ever wrote or authorized is what  
 22 you saw, and I thought mine was pretty tasteful.  
 23 Q. Showing you what's been marked Plaintiff's Exhibit  
 24 10, Bates Nos. US2672 through 2677. Please take a look at  
 25 Plaintiff's Exhibit 10 and let me know when you're done.

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1 A. Okay. Go ahead.  
 2 Q. All right. We see the RaPower3 letterhead at the  
 3 top of Plaintiff's Exhibit 10; correct?  
 4 A. Correct.  
 5 Q. Did RaPower3 authorize Mr. Shepard to send this  
 6 letter?  
 7 A. No, they didn't.  
 8 Q. Mr. Johnson, did you ever talk to Mr. Shepard  
 9 about sending letters to the IRS?  
 10 A. No, I did not. Did he send this to the IRS?  
 11 Okay. He's -- he's -- okay. It's probably accurate, but  
 12 it's not something I would have done.  
 13 Q. To the extent that Mr. Shepard makes statements  
 14 about the state of the solar energy technology --  
 15 A. Yes.  
 16 Q. -- can you think of any sources for information  
 17 about that other than his visits to the site or hearing it  
 18 from you?  
 19 A. Do you -- you don't want me to go through that  
 20 speel again, do you? I'm the only one he would have --  
 21 would have contacted, but I think we've -- we've taken  
 22 enough of that time on that issue.  
 23 Q. Take a look, please, at the page that ends 2673.  
 24 A. Okay.  
 25 Q. Third paragraph from the bottom.

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1 A. Okay.  
 2 Q. Second sentence.  
 3 A. Go ahead.  
 4 Q. It says "We expect to be producing electricity on  
 5 a small grid before the end of March and by the end of May  
 6 we should be in full production."  
 7 Did I read that correctly?  
 8 A. Oh, yeah. Yeah, you read it.  
 9 Q. Do you have any idea what the small grid is?  
 10 A. No. I don't know what he's talking about, but  
 11 there again, I think he was seeing -- seeing how far I was  
 12 in production on the -- on the rest of the -- there's two  
 13 other towers out there or, roughly, two other towers that  
 14 are close to being done, and he would have probably come to  
 15 that conclusion on his own about how fast we were getting  
 16 things done.  
 17 Q. Handing you what's been marked Plaintiff's Exhibit  
 18 292 --  
 19 A. Okay.  
 20 Q. -- Bates GREGG\_P&R-1961 through 65.  
 21 A. Okay.  
 22 Q. My first related questions for you about this  
 23 email have to do with the first paragraph.  
 24 A. Okay.  
 25 Q. The second sentence.

<p style="text-align: right;">Page 177</p> <p>1 A. Okay.</p> <p>2 Q. "Also, we are now in the process of negotiating a</p> <p>3 PPA for the first set of towers that will be going up."</p> <p>4 Did I read that correctly?</p> <p>5 A. Probably did, but we weren't, so.</p> <p>6 Q. Did I read that correctly?</p> <p>7 A. Yes, you did.</p> <p>8 Q. In or around April 2015 was RaPower3 in the</p> <p>9 process of negotiating a PPA for the first set of towers?</p> <p>10 A. No. I don't -- I would -- I would never negotiate</p> <p>11 a PPA anyway.</p> <p>12 Q. Would you be surprised to learn that Mr. Shepard</p> <p>13 claimed to have been negotiating power purchase agreements?</p> <p>14 A. No. He's got a friend, Monte. They do it all the</p> <p>15 time.</p> <p>16 Q. Is that Monte Hamblin?</p> <p>17 A. Hamilton. I think --</p> <p>18 Q. No, no.</p> <p>19 A. -- Hamilton.</p> <p>20 Q. Monte Hamilton?</p> <p>21 A. Yeah. I -- I think they're involved in something</p> <p>22 and I don't know what it is. But they keep claiming they</p> <p>23 have something, and I says okay, whatever.</p> <p>24 Q. What, if any --</p> <p>25 A. But I don't need it.</p>	<p style="text-align: right;">Page 179</p> <p>1 anything about it. They're just telling me this.</p> <p>2 Q. Have you ever shown them even a single tower</p> <p>3 working?</p> <p>4 A. No, because I don't want to do what they do. I</p> <p>5 could do it, but I never wanted to. I keep telling them</p> <p>6 I -- I don't tell them -- I don't tell Monte that</p> <p>7 (laughing).</p> <p>8 (Exhibit 553 marked.)</p> <p>9 Q. (BY MS. GALLAGHER) Showing you, sir, what's been</p> <p>10 marked Plaintiff's Exhibit 563, GREGG_P&amp;R-902. Please read</p> <p>11 that and let me know when you're done.</p> <p>12 A. (Witness complies.)</p> <p>13 She did, huh? I didn't know that. That's very</p> <p>14 complimentary.</p> <p>15 Q. Are you done reading, sir?</p> <p>16 A. I am, yeah. I guess Greg was there. I -- with</p> <p>17 the -- with the deal. I don't know. But go ahead. Tesla.</p> <p>18 I like that. Okay. Go ahead.</p> <p>19 Q. So Mr. Shepard's email says, in the second full</p> <p>20 paragraph, "Yesterday (12-8-2015), down in Delta, the expert</p> <p>21 witness representing you arrived with Neldon's attorney."</p> <p>22 Do you have any recollection of an expert witness</p> <p>23 coming down to Delta on December 8th, 2015?</p> <p>24 A. I don't know the date that they came down, but the</p> <p>25 same expert witness that you had came down and visited with</p>
<p style="text-align: right;">Page 178</p> <p>1 Q. What, if anything, is Monte Hamilton doing with</p> <p>2 PPAs?</p> <p>3 A. They have friends and they have friends in</p> <p>4 California that Hamil -- Mr. Hamilton is a very -- I think</p> <p>5 he's involved in a variety of venture -- venture capitalists</p> <p>6 or what do they call them, the same operations as -- not</p> <p>7 venture capitalists, but they're like that, as Romney was</p> <p>8 involved in.</p> <p>9 MR. SNUFFER: He's a venture capitalist.</p> <p>10 THE WITNESS: They were venture capitalists?</p> <p>11 MR. SNUFFER: Uh-huh.</p> <p>12 THE WITNESS: They weren't -- there was something else.</p> <p>13 They got another name for them. Anyway, it doesn't matter.</p> <p>14 But, anyway, they -- they keep telling me they've got</p> <p>15 this -- they -- they want to have -- these people want to</p> <p>16 invest huge amounts of money, and all they want to do is see</p> <p>17 one tower working and they have a billion, \$2 billion that</p> <p>18 are ready to move. They've been doing this for about four</p> <p>19 years. And the -- and the people are really -- I've talked</p> <p>20 to them. And the fact is Google is out. A representative</p> <p>21 from Google is out --</p> <p>22 Q. (BY MS. GALLAGHER) Sir, I gonna stop you there</p> <p>23 because I want to talk about the people who may want to give</p> <p>24 you billions of dollars.</p> <p>25 A. I don't know anything about it. I don't know</p>	<p style="text-align: right;">Page 180</p> <p>1 me in behalf of the IRS audits.</p> <p>2 Q. Okay. But that's our expert witness.</p> <p>3 A. But -- no. It was their expert witness. He was</p> <p>4 their expert witness before he was your expert witness.</p> <p>5 Q. So let's read the sentence very carefully.</p> <p>6 A. Right.</p> <p>7 Q. Okay? "The expert witness representing you,"</p> <p>8 meaning RaPower3 customers.</p> <p>9 A. Oh, I see. I apologize. All right. Okay.</p> <p>10 Q. So is there an expert witness representing</p> <p>11 RaPower3 customers?</p> <p>12 A. Oh, yeah. Not RaPower3 customers. They were</p> <p>13 representing the technology that I hired myself to come down</p> <p>14 and evaluate the system, and he did. And, yes, he was very</p> <p>15 impressed, but I figured that as long as I was paying him,</p> <p>16 he would tell me anything that I would want him to say.</p> <p>17 About like yours, you know. And so -- but I -- and Greg was</p> <p>18 probably there at the same time, so.</p> <p>19 Q. Who was the expert witness?</p> <p>20 A. Dave Nelson is the one who got him, and I don't</p> <p>21 know. You'd have to -- we'd have to get that from Dave.</p> <p>22 But the other's an expert witness that has evaluated me and</p> <p>23 that says he was an expert in the field, so.</p> <p>24 Q. Do you know anything about this expert witness'</p> <p>25 background?</p>

<p style="text-align: right;">Page 181</p> <p>1 A. Yes, I do, but I don't -- I don't recall it  2 because I'm just -- I'm -- I would have read thoroughly  3 his -- his background before I would have paid him to come  4 down and evaluate that.  5 Q. And have you received any documents from this  6 expert witness?  7 A. He would have gave that to Dave. I wouldn't have  8 got that directly because Dave was handling that. So I  9 don't really know.  10 Q. To your knowledge, you have not received any  11 documents from the expert witness?  12 A. No. But I -- but Dave said it was very favorable  13 and he said everything would work and everything was  14 functioning the way it should do. So -- but I don't  15 remember reading the document other than what Dave just told  16 me. And he probably gave it to me and I just probably just  17 set it aside and wasn't that interested in it. I don't have  18 time to read stuff like that. I wasn't that interested in  19 what he had to say one way or the other. It wasn't for me I  20 would have hired him for.  21 Q. Handing you what's been marked Plaintiff's Exhibit  22 279. Again, feel free to take a look at this whole email.  23 My question for you has to do with the first full paragraph.  24 A. (Peruses document.)  25 Okay. Go ahead.</p>	<p style="text-align: right;">Page 183</p> <p>1 manufacturing. Now -- now we will -- now we will turn on  2 the -- turn on the solar panels and, yes, we will then put  3 this on the news and get it on the television and we will  4 show it.  5 I'm going -- but I'm going to replace the -- the  6 tower with a new tower, the new lenses, and make it pretty.  7 We may even paint it. I don't know. That might be a  8 stretch, but.  9 Q. When do you anticipate producing power for the  10 grid?  11 A. Well, it wasn't for the grid I'm doing it for.  12 Now we're just doing -- we're doing the updates and getting  13 it in. We have other property that has --  14 Q. Hang on. I'm gonna stop you there, sir. So when  15 do you anticipate producing power?  16 A. Well, the power we produce is already done, but  17 now we're just gonna present it so that people can see it.  18 Q. And where are your records that power is being  19 produced right now?  20 A. Well, I've already told you that. You've already  21 seen that.  22 Q. But you don't have any data to support your  23 statement?  24 A. Well, I didn't know I was gonna get sued either,  25 so I didn't care, and I still don't.</p>
<p style="text-align: right;">Page 182</p> <p>1 Q. So the first full paragraph in the first line says  2 "All the R&amp;D has been completed."  3 Did I read that correctly?  4 A. That is correct. Yes, uh-huh.  5 Q. In or around February 19, 2016, did you tell Greg  6 Shepard that all the R&amp;D has been completed?  7 A. Yes, and it was now just moving the project into  8 mass production. All of the CPV system had been done, all  9 of the heat transfer related subjects had been produced, all  10 the turning mechanisms have been installed and have been  11 accurate, and the drawings for that have been completed for  12 the mass production procedures in order then to test --  13 those have all been tested and have been reproduced and  14 done.  15 Now, then, we're in the process of seeing how --  16 how the manufacturing process, the assembly line process was  17 functioning. And they had functioned very well and now we  18 are sending the parts -- we're starting to get parts from  19 China to be made from there and shipped here so that we  20 could eliminate most of our part making and just do the  21 assembly. Then from then on we just do the assembly.  22 But that's -- that's an accurate statement here.  23 You can see it. You saw it, that it's being done that way.  24 And it's a test -- it's a test procedure to go in from --  25 from the research and development company to the actual</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. Sir, you got sued in November 2015. You haven't  2 produced or kept any records since that date?  3 A. Not on that. I wasn't worried about it.  4 Q. No.  5 A. So -- so what I did --  6 Q. One more question, sir, actually. The next  7 sentence says "Both the manufacturing and construction  8 stations have been tested and approved."  9 What does that mean?  10 A. Approved by me I guess. I don't know anybody else  11 it would have been approved by.  12 Q. Well, do you have any idea what that sentence  13 means?  14 A. Well, I can only say that it means that it was  15 working and it's doing what it was designed to do, so I  16 approved it, so --  17 Q. And so --  18 A. -- I assume that's what he meant.  19 Q. -- to your knowledge, you're the only person who  20 might have approved it?  21 A. Who else would have? I don't know either. And  22 there was no legal -- there's no license or legal approval  23 necessary for what I'm doing that I have -- don't already  24 have. I'm very excited about what we've done and  25 accomplished now.</p>

<p style="text-align: right;">Page 185</p> <p>1 Q. So when is it that you plan to go public with 2 this, sir?</p> <p>3 A. Just shortly. We're just in the process of 4 packaging some things to make them look better and then just 5 take the tower -- take the one tower off and put the other 6 tower up. Or the top of the tower on top of one of the 7 other . . .</p> <p>8 Q. So by the end of 2017?</p> <p>9 A. I'm not gonna say that. I get in trouble every 10 time I do because there's always something that comes out 11 and somebody sues me again and stops me. But, yeah, we're 12 hoping within just a few -- a short period of time where we 13 can -- I'm gonna demonstrate it before I change the tower, 14 but not make it public and make sure everything's 15 functioning that way, what you already saw. But then we'll 16 change the tower and we'll get pictures and video and then 17 we'll go national with the program.</p> <p>18 Q. Object to the responsiveness of the answer.</p> <p>19 A. Okay. Sorry.</p> <p>20 Q. Are you going to publicize your creation before 21 the end of 2017?</p> <p>22 A. Yeah, probably. We plan on it. We plan on 23 getting the videos all done within the next two to three 24 months. We already have the video equipment already in 25 place. We have the people already to -- to go, so it's just</p>	<p style="text-align: right;">Page 187</p> <p>1 Contracts and Agreements, do you see that heading, sir?</p> <p>2 A. Okay.</p> <p>3 Q. "Yes?"</p> <p>4 A. New Contracts and Agreements?</p> <p>5 Q. Yes.</p> <p>6 A. Okay.</p> <p>7 Q. The first -- well, I'll just read the whole thing. 8 "Neldon Johnson and Greg Shepard have studied the old 9 contracts and agreements. The appropriate changes were made 10 for the new equipment purchase agreement, the operations and 11 maintenance agreement, et cetera."</p> <p>12 A. Okay.</p> <p>13 Q. "These changes were then taken to an attorney for 14 approval. The new contracts and agreement will reflect the 15 new sales program figures and will be made available ASAP on 16 the RaPower3.com website and the new order page."</p> <p>17 A. Okay.</p> <p>18 Q. Did I read that correctly?</p> <p>19 A. Yes, uh-huh.</p> <p>20 Q. So did you collaborate with Mr. Shepard in looking 21 at old contracts and agreements?</p> <p>22 A. Oh, no. This was the -- just a new way we're 23 marketing the product.</p> <p>24 Q. Okay. So this has --</p> <p>25 A. And I just -- and he wanted it right now. And I</p>
<p style="text-align: right;">Page 186</p> <p>1 a matter of how -- how well we want it to look to get the 2 impact on the marketing and -- and things like that.</p> <p>3 I gotta be careful because if I say I'm gonna get 4 my stock up, then she'll get the SEC on me again and then 5 I'll be in trouble. So I didn't say that. Do not buy 6 stock. You'll be buying it insider. I've had that stock at 7 \$50 a share before, by the way. That is worth \$500,000,000.</p> <p>8 MR. SNUFFER: Should have sold.</p> <p>9 THE WITNESS: I know. Now, if I -- if I would have had 10 a crystal ball, I'd a been gone. I'd have an island of my 11 own, and guns on it, and I wouldn't let anybody on it.</p> <p>12 Q. (BY MS. GALLAGHER) Showing you what's been marked 13 Plaintiff's Exhibit 421.</p> <p>14 A. Okay.</p> <p>15 Q. Bates Greg -- Shepard_Greg-3437 through 41.</p> <p>16 A. Okay.</p> <p>17 Q. This, Mr. Johnson, is an email from Greg Shepard. 18 Do you see that?</p> <p>19 A. Yeah. Go ahead.</p> <p>20 Q. And the date is November 15, 2016. Do you see 21 that?</p> <p>22 A. Okay. Yeah. Go ahead.</p> <p>23 Q. "Yes?"</p> <p>24 A. Yes, uh-huh.</p> <p>25 Q. On the page ending in 3439 under the heading New</p>	<p style="text-align: right;">Page 188</p> <p>1 says, I said I don't -- I don't do things right away. I 2 said then we have to go to tax attorneys, they have to go to 3 law attorneys, they have to go to intellectual property 4 attorneys, they have to go to SEC attorneys. I said it's a 5 little bit away from where you're at.</p> <p>6 And so it went through the tax attorneys, it went 7 back to the technology attorneys to make sure that was 8 accurate. It went to an SEC attorney to make sure that 9 we're not violating any SEC laws, and I believe that's -- I 10 believe we got it back. I think that's all done, but.</p> <p>11 Q. Well, sir, you're talking about the change in 12 commission structure; correct?</p> <p>13 A. It's not just that. It's just we -- I always do 14 that when we take changes, because everybody hates me. 15 Everybody wants to sue me and everybody wants to put me out 16 of business.</p> <p>17 Q. Sir, my question is are the changes discussed in 18 this paragraph, do they have to do with the commission 19 structure that we talked about at the beginning?</p> <p>20 A. Well, yeah. It has to do with that too, but other 21 things as well.</p> <p>22 Q. Other things? What other things?</p> <p>23 A. I don't know. I just want to make sure that 24 everybody -- whenever I change a con -- you don't ever know 25 from a -- from a person like me if you change one word, how</p>

<p style="text-align: right;">Page 189</p> <p>1 does that impact the whole contract. See? And -- and if  2 I -- I go in and change a contract, then all the sudden oh,  3 wow, you know, that could be really exciting, and so I don't  4 do that. Even -- I don't change one word in a contract that  5 I don't take back to the tax attorney, to the other  6 attorneys to make sure that I did not put a word in there  7 that would negate something else or imply something that  8 would not be legal you might say.  9 Q. Who's the attorney or attorneys who reviewed these  10 changes?  11 A. Paul Jones, Dave Nelson, and there -- what's his  12 name over there at -- what is his name? I can't remember  13 his name.  14 Q. So there were three attorneys who reviewed the  15 changes?  16 A. I believe so. I believe there were.  17 Q. Paul Jones, David Nelson, and a third attorney  18 whose name --  19 A. SEC attorney just to make sure there wasn't  20 anything in there that would relate to a securities -- I  21 assume securities.  22 Q. And that's the attorney whose name you can't  23 remember?  24 A. That's the one that -- I call him a different name  25 and I don't want to repeat it. You might find out</p>	<p style="text-align: right;">Page 191</p> <p>1 that I would have approved, and this one here I think I did  2 approve this one, and it reflects the . . .  3 (Peruses document.)  4 . . . the -- the way the new program will  5 operate. The old program was only designed for just a short  6 period of time because it wasn't gonna make me any money.  7 This program here is still marginal on what I'll make, but I  8 make -- I only make money if the -- if the -- if the -- if  9 it produces power.  10 Q. So Mr. Johnson --  11 A. So that's all it is.  12 Q. Mr. Johnson, you believe you approved the text in  13 Plaintiff's Exhibit 352?  14 A. I believe I -- I believe I did if I can read it.  15 But, yeah, I think that this one is -- this is something I  16 would have approved.  17 Q. Why did you make the change taking depreciation  18 out of it?  19 A. Well, I -- I never worried about depreciation in  20 the first place, but this one here is just reflects what  21 we're doing and making sales. If they could depreciate it,  22 that's something they'll have to figure out with their CPAs.  23 And some companies will do this. Some companies, big  24 companies that will buy into this will -- will have it so  25 they can depreciate the equipment.</p>
<p style="text-align: right;">Page 190</p> <p>1 (laughing). No. I'm only kidding. I think it's Wally, but  2 I'm not positive. I call him Wally. That's not his name,  3 but I call him Wally. I don't know. I don't remember his  4 name.  5 Q. Showing you what's been marked Plaintiff's Exhibit  6 352, Bates marked US4269 --  7 A. Okay.  8 Q. -- to 70. Mr. Johnson, you see the date up at the  9 top there; December 15, 2016?  10 A. Uh-huh.  11 Q. "Yes?"  12 A. Yes, uh-huh.  13 Q. And this appears to be a printout from  14 RaPower3.com; is that correct?  15 A. That's correct.  16 Q. Okay. Feel free to take a look at what's written  17 here. Really my question to you is this writeup does not  18 include information about depreciation.  19 A. Okay.  20 Q. And I'm asking you on behalf of RaPower3, did  21 RaPower3 change from letting people know about depreciation  22 to not letting people know about depreciation at some point  23 last year?  24 A. Well, I -- I had -- this is where I made a change  25 in the -- in the program, and this is more of an outline</p>	<p style="text-align: right;">Page 192</p> <p>1 Smaller people will have a more difficult time,  2 from what I understand, but I'm not -- but I don't give out  3 tax opinions, nor do I -- do I state what I think about what  4 you should and shouldn't do. I never have.  5 Q. Mr. Johnson --  6 A. And so that's why I do what I do.  7 Q. In prior information on RaPower3.com --  8 A. Right.  9 Q. -- customers were informed that depreciation may  10 be a tax benefit that they could claim. Do you agree with  11 that?  12 A. Well, yeah. There's been a lot of statements  13 about depreciation, and whether or not it's accurate or not  14 I wouldn't know. I assume that it probably is, but I  15 wouldn't know.  16 Q. Okay. And now on this website printout, RaPower3  17 does not mention depreciation?  18 A. Well, you should be happy about that.  19 Q. My question is why make the change?  20 A. I don't -- I don't have a particular reason. I  21 changed the way I marketed the product and the reason why I  22 changed the way I marketed the product is because now I  23 could make money and develop a program that will sustain the  24 company. That's the only reason why I made the changes. I  25 didn't make it for any other reason.</p>



<p style="text-align: right;">Page 193</p> <p>1 If you're implying that I made it because you guys  2 are scaring me, I didn't. It's nothing to do with that.  3 I've never -- I've never done anything that I am -- that I'm  4 not -- that I do not feel that I did everything I could to  5 make a proper decision that would not -- that would be  6 honest and forthright. So if you're implying that from what  7 you're saying, it's not accurate. I did this from a purely  8 business standpoint. I felt like that this would -- this  9 would reflect more of a profit. It would generate a profit  10 for me where the other one wouldn't.  11 Q. So what changes did you make in how you marketed  12 lenses?  13 A. All I did was reduce my -- my portion of the down  14 payment to 650 instead of 1050 and that's basically the only  15 thing I did and that's why I ran it by all the -- I ran it  16 by Paul Jones and Dave Nelson and the securities attorney to  17 make sure that we were not selling the securities, we're  18 still selling a product.  19 Q. And how, in your mind, was reducing the down  20 payment from 1050 to 650 going to make you more money?  21 A. I eliminated the bonus program and so that I could  22 make down money -- that it would make me some money.  23 Q. What does eliminating the bonus program have to do  24 with reducing the amount of the down payment?  25 A. Reduces my overall cost and so I reflected that</p>	<p style="text-align: right;">Page 195</p> <p>1 invite them to buy my product. Whether or not they  2 depreciate it out or whether they don't depreciate it or  3 whether they depreciate it out the other one or whether they  4 didn't depreciate it out never affected how much money I  5 made on the system, irregardless of either one.  6 But this program will actually decrease, probably,  7 sales not because of the depreciation, but because of the  8 bonus program that I had, and it will reflect a decrease in  9 the number of customers that probably will participate.  10 But, at the same time, it will start producing income that  11 was -- that could sustain the company for a long period of  12 time.  13 I don't anticipate using it for a long period of  14 time because I -- because I would prefer another way of  15 raising capital, and that's what I will do. Three  16 hundred -- 97 percent of all solar energy companies are  17 bankrupt today when it started. Same one -- some went as  18 high as 3 to \$400 a share. Can you imagine what the losses  19 to those people who have bought into that programs were?  20 It's huge and it makes a black mark on my company.  21 I can't really -- I can't raise capital  22 advertising solar energy. I had to develop brand-new  23 technologies in order to do that now and bring my company  24 back out of a dark -- of a dark picture that the 300 -- 97  25 percent of the solar companies have generated and created a</p>
<p style="text-align: right;">Page 194</p> <p>1 back into my sales program.  2 Q. So because you eliminated the bonus program, you  3 reduced the amount of down payment?  4 A. Right. It was a business decision. It had  5 nothing to do with any tax -- tax things or any kind of  6 operation. As far as I know, it still is -- it's legal and  7 there's no problem with what we're doing.  8 Q. Is there any connection, Mr. Johnson, between a  9 customer's ability to claim depreciation on a lens and money  10 that would end up in your pocket?  11 A. Yeah. The bonus program is what -- what I -- is  12 what I have available. The depreciation has nothing to do  13 with me personally. I don't care. But if they could take  14 depreciation doing that, they're welcome to it. I don't  15 care. It has nothing to do with me.  16 The program that I initiated here is for the  17 purpose of making me money. Whether or not they can  18 depreciate it or whether they don't depreciate it has  19 nothing to do with the program. This will -- this program  20 will probably cut sales because of the bonus program.  21 There's no doubt about that. There'll be less people  22 excited about this program than there were about the bonus  23 program. There's no way I can sustain that program.  24 This here, however, will be a sustainable program  25 and will be something that people could use and it would</p>	<p style="text-align: right;">Page 196</p> <p>1 bad impression across the whole country.  2 Q. Mr. Johnson, as RaPower3, what was your first  3 notice that the IRS was disallowing deductions in credits on  4 lenses that RaPower3 sold?  5 A. I'm not sure I understand the question.  6 Q. Well, you're here today to testify on behalf of  7 RaPower3?  8 A. Right.  9 Q. So I'm asking RaPower3.  10 A. Okay.  11 Q. When RaPower3 first learned that the IRS was  12 disallowing the deductions in credits the customers claimed  13 by -- through purchasing the lenses.  14 A. I don't really know. I don't have a date. I  15 don't keep those in my mind. So it's -- the days just go by  16 so rapidly I can't keep track of them, but I don't have -- I  17 don't have a particular date that I could tell you that.  18 Q. Okay. So we've talked about a couple of changes  19 that RaPower3 has made. One of those is the commission  20 structure.  21 A. Right.  22 Q. And one of those is not promoting depreciation, so  23 I know those two changes have happened, and we've talked  24 about those. What, if any, changes did RaPower3 make in the  25 course of how it markets lenses since the IRS started</p>

<p style="text-align: right;">Page 197</p> <p>1 allowing -- disallowing depreciation deductions and solar 2 energy tax credits? 3 A. Right. But the way you ended -- the way you 4 coated that question is you're trying to make it so that I 5 made the changes to reflect the pressure put on me by the -- 6 by the IRS and the DOJ. 7 Q. I'm not trying to do that. I'm not trying to do 8 that. 9 A. I know, but that's the way -- the impression I get 10 out of the question. 11 Q. Then let me ask a different question. 12 A. Okay. 13 Q. What, if anything, did RaPower3 do after learning 14 that the IRS was disallowing depreciation deductions and 15 energy tax credits as a result of customers purchasing the 16 lenses? 17 A. We changed our marketing approach to selling the 18 product in 2015. Was it '15 or '16? Anyway, whatever this 19 says. And -- but we did it for -- what was it? It was 20 purely a business decision. It wasn't due to any other 21 reflection on whether or not what the IRS was doing or what 22 they were not doing. 23 Q. Did RaPower3 change any of its marketing practices 24 as a result of the IRS's disallowance of deductions and 25 credits claimed connected to the solar lenses?</p>	<p style="text-align: right;">Page 199</p> <p>1 What we're doing is we feel like we're trying to be honest, 2 we're trying to be honest people, and we've always done that 3 and, because of that, I think that's why we are successful 4 and I've not gone broke. 5 Q. Object as nonresponsive after "no." 6 A. You shouldn't object to that. That's beautiful. 7 Q. Let's take five, please. 8 (Ten-minute recess taken.) 9 Q. (BY MS. GALLAGHER) We're back on the record after 10 a brief break. Mr. Johnson, did you talk to anybody about 11 the facts of the case during the break? 12 A. No, I did not. 13 Q. Are there any answers that you've given today that 14 you would like to supplement or change? 15 A. No. Not right now. Thanks. 16 Q. Then at this time I'll pass the witness. 17 MR. SNUFFER: And as curious as I am about a lot of 18 things, I'm not gonna ask you any questions. 19 THE WITNESS: Thank you. 20 MS. GALLAGHER: So we will ask that the witness read 21 and sign. 22 MR. SNUFFER: Yeah. We want him to read and sign, and 23 I need a copy of this. 24 THE WITNESS: Okay. 25 MS. GALLAGHER: And we're off the record for today.</p>
<p style="text-align: right;">Page 198</p> <p>1 A. No. I -- I just assumed that that would go 2 through the courts, and if they decided it was wrong, then 3 we would deal with it at that point in time. 4 Q. What, if anything, did RaPower3 change about its 5 policies or practices after the criminal raids in summer 6 2012? 7 A. There, again, we didn't do anything because we 8 felt like that if there was something wrong, it would be -- 9 it would be taken care of in the proper court proceedings, 10 and then if there was a need for a change, then we would do 11 it. 12 Q. And what, if anything, has RaPower3 changed about 13 its policies and practices as a result of the complaint 14 having been filed in this case? 15 A. Nothing. We have never -- again, we look at it 16 from a standpoint of we don't feel like we've done anything 17 wrong. There may have been -- there may have been mistakes 18 made, but they weren't for the purpose of negotiating our 19 sales or at the expense of someone else. We were hoping to 20 develop a company, viable company that would produce tax 21 dollars and increase -- increase revenue to the government. 22 Not decrease it. 23 We -- we didn't start this based upon tax 24 incentive to bring about this new technology. We did it 25 before then. We will continue to do it with them gone.</p>	<p style="text-align: right;">Page 200</p> <p>1 (The proceedings adjourned at 4:35 p.m.) 2 * * * * * 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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1 STATE OF UTAH     )  
                               ) ss.

2 COUNTY OF SALT LAKE )

3 REPORTER'S CERTIFICATE

4 I, Amanda Richards, certified shorthand reporter for  
 5 the State of Utah, certify:

6 That the deposition of the witness herein was  
 7 taken before me at the time and place herein set forth, at  
 8 which time the witness was by me duly sworn to testify the  
 9 truth; that the testimony of the witness and all objections  
 10 made and all proceedings had of record at the time of the  
 11 examination were reported stenographically by me and were  
 12 thereafter transcribed into typewritten form by me.

13 That the foregoing transcript, as transcribed by me, is  
 14 a full, true and correct record of my stenographic notes so  
 15 taken; that review of the transcript by the witness was  
 16 requested pursuant to Rule 30(e) of the Rules of Civil  
 17 Procedure.

18 I further certify that I am neither counsel for nor  
 19 related to any party to said action, nor in anywise  
 20 interested in the outcome thereof.

21 IN WITNESS WHEREOF, I have subscribed my name below  
 22 this 13th day of July 2017.

23

24

\_\_\_\_\_  
 Amanda Richards, CSR

25

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1 WITNESS CERTIFICATE

2

3 I, NELDON JOHNSON, hereby declare under the penalties  
 4 of perjury of the laws of the United States of America and  
 5 the laws of the State of Utah that the foregoing is true and  
 6 correct.

7 DATED \_\_\_\_\_, 20\_\_\_\_.

8

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 11 NELDON JOHNSON

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