

Page 1

1 IN THE UNITED STATES DISTRICT COURT  
 2 SALT LAKE COUNTY, STATE OF UTAH  
 3  
 4 UNITED STATES OF AMERICA, )  
 ) Deposition of:  
 Plaintiff, )  
 5 ) R. Gregory Shepard  
 vs. )  
 6 )  
 RAPOWER3, LLC, INTERNATIONAL ) Civil No.  
 7 AUTOMATED SYSTEMS, INC., ) 2:15-CV-00828-DN-EJF  
 LTB1, LLC, R. GREGORY SHEPARD, )  
 8 NELDON JOHNSON, AND ROGER ) Judge David Nuffer  
 FREEBORN, )  
 9 ) Magistrate Judge  
 Defendants. ) Evelyn J. Furse  
 10 )  
 11 -----  
 12  
 13  
 14 May 22, 2017 \* 9:10 a.m.  
 15  
 16 Location: U.S. Attorney's Office  
 17 111 South Main Street  
 18 Suite 1800  
 19 Salt Lake City, Utah 84111  
 20  
 21  
 22  
 23  
 24 Reporter: Diana Kent, RPR, CRR  
 25 Notary Public in and for the State of Utah

Page 2

1 A P P E A R A N C E S  
 2 FOR THE PLAINTIFF:  
 3 Christopher R. Moran  
 Erin Healy Gallagher  
 4 Erin Hines - Via Telephone  
 U.S. DEPARTMENT OF JUSTICE  
 5 Attorney at Law  
 P.O. Box 7238  
 6 Ben Franklin Station  
 Washington, D.C. 20044  
 7 Tel: (202) 353-2452  
 Fax: (202) 514-6770  
 8 christopher.r.moran@usdoj.gov  
 erin.healygallagher@usdoj.gov  
 9  
 FOR DEFENDANTS R. GREGORY SHEPARD and ROGER FREEBORN:  
 10  
 Donald S. Reay  
 11 REAY LAW, PLLC  
 Attorney at Law  
 12 43 West 9000 South, Suite B  
 Sandy, Utah 84070  
 13 Tel: (801) 999-8529  
 Fax: (801) 206-0211  
 14 donald@reaylaw.com  
 15  
 ALSO PRESENT:  
 16  
 Neldon Johnson, pro se  
 17 (Left after discussion with the Court,  
 and before the examination began.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 3

1 I N D E X  
 2 GREGORY SHEPARD PAGE  
 3 Examination By Mr. Moran 5  
 4 Examination By Mr. Reay 315  
 5 Further Examination By Mr. Moran 318  
 6  
 7  
 8 E X H I B I T S  
 9 NUMBER DESCRIPTION PAGE  
 10 Exhibit 458 United States' Notice of Party Depositions 7  
 11 Exhibit 459 Website captures from various websites 24  
 12 Exhibit 460 Screen shot of pallets of solar lenses 39  
 from video taken April 4, 2017, 9:21:20  
 13  
 Exhibit 461 Screen shot of video taken April 4, 2017, showing label referencing Plaskolite 42  
 14  
 15 Exhibit 62 Equipment Lease Agreement between IAS and Greg Shepard, dated December 28, 2005 55  
 16  
 17 Exhibit 463 Independent Representative Agreement between IAS and Greg Shepard dated September 26, 2005 70  
 18  
 19 Exhibit 464 Equipment Sublease between LTB and Greg Shepard 73  
 20  
 Exhibit 465 Unsigned Solar Lease Bonus Fee Contract between IAS and MJM Holding 76  
 21  
 22 Exhibit 466 Letter from Neldon Johnson to Greg Shepard 100  
 23  
 Exhibit 467 Team Memo #65, with cover e-mail 104  
 24  
 Exhibit 468 March 5-8, 2016 e-mail chain re: Ra3: Mike Robins 110  
 25

Page 4

1 E X H I B I T S  
 2 NUMBER DESCRIPTION PAGE  
 2 Exhibit 469 February 7-8, 2012 e-mail chain re: Tarika Sands is not interested anymore 113  
 3  
 Exhibit 470 Transcript from the Public Service Commission of Utah, June 13, 2013 187  
 4  
 Exhibit 471 March 7, 2016 e-mail chain re: Ra3 March 20, 2016 Audit Info 199  
 5  
 Exhibit 472 January 27, 2012 e-mail from Greg Shepard to Bryan re: Ra3 Placed in Service Letter 210  
 6  
 7  
 Exhibit 473 Team Memo #64 213  
 8  
 Exhibit 474 "Screen Shots of #26 Lens Calculator" 232  
 9  
 Exhibit 475 October 26, 2012 e-mail from Greg Shepard re: Ra3 Warrantly Info, with attached RaPower3 Equipment Purchase Agreement, Section 10 234  
 10  
 Exhibit 476 November 1, 2012 e-mail from Greg Shepard re: Ra3 Wow! Now What? 235  
 11  
 12  
 Exhibit 477 June 5, 2012 e-mail chain re: Solar energy equipment purchases from RaPower3 and tax credits/savings 235  
 13  
 14  
 Exhibit 478 e-mail from Greg Shepard to Peter Gregg dated May 6, 2013, re: Ra3 Tax Material, with attachments 267  
 15  
 16  
 Exhibit 479 Kirton-McConkie Memorandum Comments 270  
 17  
 18  
 Exhibit 480 Cease and Desist Letter from Tate Bennett 281  
 19  
 Exhibit 481 Screen shot from IAUS & RaPower3 Forum 286  
 20  
 Exhibit 482 Summary, 50 Systems: Patty Lambrecht/Ilios, LLC 289  
 21  
 22  
 Exhibit 483 International Automated Systems (IAS)/RaPower 3, Dr. Sterling Rigby 302  
 23  
 24  
 25



<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS</p> <p>2</p> <p>3 R. Gregory Shepard,</p> <p>4 called as a witness, being first duly sworn,</p> <p>5 was examined and testified as follows:</p> <p>6</p> <p>7 EXAMINATION</p> <p>8 BY MR. MORAN:</p> <p>9 Q. Good morning, Mr. Shepard. We are on the</p> <p>10 record in the case United States versus RaPower3, which</p> <p>11 is pending in the District of Utah.</p> <p>12 My name is Chris Moran, here on behalf of</p> <p>13 the United States, U.S. Department of Justice Tax</p> <p>14 Division.</p> <p>15 Will the other attorneys in the room</p> <p>16 please put their appearances on the record.</p> <p>17 MR. REAY: Donald Reay, appearing for Greg</p> <p>18 Shepard.</p> <p>19 MS. HEALY GALLAGHER: Erin Healy Gallagher,</p> <p>20 also with the United States Department of Justice for</p> <p>21 the United States.</p> <p>22 MR. MORAN: Mr. Reay, you also represent</p> <p>23 defendant Roger Freeborn, correct?</p> <p>24 MR. REAY: No.</p> <p>25 I'm sorry, yeah. I'm sorry. Correct. I</p>	<p style="text-align: right;">Page 7</p> <p>1 had with Mr. Reay previously, I understand that you do</p> <p>2 not intend to answer any questions today; is that</p> <p>3 correct?</p> <p>4 MR. REAY: That's an answer.</p> <p>5 I'm just kidding.</p> <p>6 MR. SHEPARD: I'm not sure if I understand</p> <p>7 the question entirely, because you're going to call a</p> <p>8 judge?</p> <p>9 MR. MORAN: Well, Mr. Reay, you can -- do</p> <p>10 you have something you'd like to say?</p> <p>11 MR. REAY: Correct. I'm uncomfortable</p> <p>12 moving forward without the attorneys present, and if</p> <p>13 you are going to call the judge, do. And if not, we</p> <p>14 are going to conclude.</p> <p>15 MR. MORAN: Okay. Before we call the</p> <p>16 court, we are going to mark an exhibit.</p> <p>17 Exhibit 458 WAS MARKED.)</p> <p>18 MR. MORAN: Exhibit 458, which has been</p> <p>19 given to Mr. Shepard as well as his attorney, Mr. Reay,</p> <p>20 is the United States Notice of Party Depositions. This</p> <p>21 was served on Mr. Reay April 21, 2017 via e-mail and it</p> <p>22 notices Mr. Shepard's deposition for May 22, 2017 at</p> <p>23 9:00 a.m.</p> <p>24 Can we go off the record briefly.</p> <p>25 (Break taken from 9:46 to 10:41 a.m.)</p>
<p style="text-align: right;">Page 6</p> <p>1 represent Roger Freeborn also, who is clearly not</p> <p>2 present.</p> <p>3 MR. MORAN: Will the other individual in</p> <p>4 the room please state who he is?</p> <p>5 MR. JOHNSON: I'm Neldon Johnson.</p> <p>6 MR. MORAN: Neldon Johnson is a defendant</p> <p>7 in this case.</p> <p>8 Mr. Gregg Shepard is here, who is a</p> <p>9 defendant.</p> <p>10 MR. SHEPARD: I thought you said RaPower3</p> <p>11 was a defendant.</p> <p>12 MR. MORAN: There's several entities.</p> <p>13 MR. SHEPARD: But that's not what you said</p> <p>14 in the beginning.</p> <p>15 MR. REAY: That's okay.</p> <p>16 MR. SHEPARD: So we just let that slide?</p> <p>17 That's fine. You said RaPower3. So I didn't know why</p> <p>18 I was here, then.</p> <p>19 MR. MORAN: Other attorneys who have</p> <p>20 entered an appearance in the case, the Heideman Law</p> <p>21 Firm, are not present. They represent Mr. Johnson,</p> <p>22 Defendant RaPower3, Defendant LTB, and Defendant</p> <p>23 International Automated Systems.</p> <p>24 Q. (By Mr. Moran) Mr. Shepard, you have</p> <p>25 already been sworn in. Based on a conversation we have</p>	<p style="text-align: right;">Page 8</p> <p>1 (Conference call with the Court.</p> <p>2 Those present: Judge Evelyn Furse, Justin</p> <p>3 Heideman, Christopher Moran, Erin Healy Gallagher,</p> <p>4 Donald Reay, Gregory Shepard, Neldon Johnson, and the</p> <p>5 Court Reporter.)</p> <p>6 JUDGE FURSE: So I understand you're in</p> <p>7 the middle of a deposition and you've run into some</p> <p>8 problems. So I guess if I could hear first from the</p> <p>9 deposing party about what's going on.</p> <p>10 MR. MORAN: Your Honor, this is</p> <p>11 Christopher Moran. We are not exactly in the middle of</p> <p>12 the deposition. It hasn't started yet. Mr. Reay has</p> <p>13 communicated to me that Mr. Shepard does not intend to</p> <p>14 answer any questions today because Mr. Johnson's</p> <p>15 attorneys -- there's no attorney present for Mr.</p> <p>16 Johnson.</p> <p>17 What we are asking for is an order from</p> <p>18 the Court that Mr. Shepard's deposition will go forward</p> <p>19 today and that he will answer all of the United States'</p> <p>20 questions unless his attorney, Mr. Reay, instructs him</p> <p>21 not to in order to preserve a privilege.</p> <p>22 JUDGE FURSE: All right. So I guess,</p> <p>23 Mr. Reay, if I could hear from you on what's going on.</p> <p>24 MR. REAY: Your Honor, in light of the</p> <p>25 recent motion to withdraw as attorneys for many of the</p>

<p style="text-align: right;">Page 9</p> <p>1 defendants, and Neldon Johnson being present, who is 2 not represented, and the lack of representation at this 3 deposition, I didn't feel comfortable moving forward 4 without the parties having counsel present. 5 JUDGE FURSE: Okay. And Mr. Heideman, I 6 appreciate you being on the phone, I have seen your 7 notice to withdraw and we will be acting on that today. 8 But I'm not -- I guess I'm not really seeing how that 9 affects the deposition of Mr. Shepard today. 10 Mr. Shepard is being represented by Mr. Reay. As long 11 as there is -- I don't anticipate that anybody will 12 turn around and put Mr. Johnson under oath or attempt 13 to do that today. 14 And the government is taking the 15 deposition. Mr. Shepard has adequate representation of 16 his choosing. And then as far as what this might mean 17 for other parties, obviously that will have to be 18 sorted out at a later date. But if the government has 19 noticed the deposition and it's their choice to go 20 forward with it today, I don't see a reason why 21 Mr. Shepard should not answer questions. Under the 22 Rules there's no basis not to answer questions at this 23 point. 24 MR. HEIDEMAN: Your Honor, if I may. This 25 is Justin Heideman. The concern, I think, goes beyond</p>	<p style="text-align: right;">Page 11</p> <p>1 representation of the companies raises a concern that 2 is going to put my client in a position to have to be 3 deposed again, and that's my main concern is that 4 there's not adequate representation for many of the 5 defendants at a party deposition. And it just opens 6 the door for problems in the future that I'd like to 7 avoid. And I think it would be more appropriate to 8 continue the deposition. 9 JUDGE FURSE: Right. And I do understand 10 that. I understand that's the concern, and that's why 11 I say if the government -- it's the government's 12 deposition, and if they are choosing to go forward with 13 it, they have the right to do that. It is properly 14 noticed and the deponent is appropriately represented. 15 So as far as whether that means there 16 would be permission for another deposition at a later 17 date or whether there would not be permission for 18 another deposition at a later date, that is a matter 19 for another day. But at this point there is no basis 20 for the Court to refuse to allow the deposition to go 21 forward, or to order the deponent not to answer 22 questions. So that's going to be my ruling. Obviously 23 if the government wants to choose not to go forward, 24 they can do that. But if they want to go forward 25 today, they may.</p>
<p style="text-align: right;">Page 10</p> <p>1 just Mr. Johnson. The termination of our firm as legal 2 counsel for all of the companies, LTB1, RaPower, IAS, 3 just to name a few, I think it does create a real 4 problem because in the event that the deposition is 5 taken, the argument that exists is that there was not 6 representation for those companies that could be 7 present, and so as a result, the deposition may not be 8 completely valid. 9 I mean, obviously I'm sure everybody is 10 going to respect whatever the court does. I have been 11 ordered not to even be there, so I'm not present. But 12 I understand why Mr. -- 13 JUDGE FURSE: You haven't been ordered by 14 the court not to be there. 15 MR. HEIDEMAN: No. I have been ordered by 16 my former client to not attend. But the issue I think 17 is one of chargeability, because Mr. Reay is not going 18 to want to have his client deposed twice. So I think 19 that is the concern. And if the Court is taking that 20 into consideration in its determination, then so be it. 21 But I do think with regard to the companies, it is an 22 issue. 23 MR. REAY: Your Honor, this is Donald 24 Reay. I would second that. That was my argument and 25 he articulated it better than I did; that the lack of</p>	<p style="text-align: right;">Page 12</p> <p>1 MR. REAY: This is Donald Reay again. I 2 think the issue may be that there's a discovery 3 deadline coming up, and to avoid the need for two 4 depositions we would have no problem continuing 5 discovery, the deadline, to accommodate that if we do 6 continue. I just wanted to get that on the record. 7 JUDGE FURSE: All right. 8 Anything further, Mr. Moran? 9 MR. MORAN: Just one thing, your Honor. 10 This probably isn't a ripe issue yet, but I wanted your 11 Honor to be aware. We have also noticed 30(b)(6) 12 depositions for the rest of this week and Neldon 13 Johnson on Friday. We intend to go forward with those 14 depositions, as well. Tomorrow, Wednesday, and 15 Thursday are entity defendants, and Mr. Johnson is on 16 Friday. 17 Ms. Healy Gallagher. 18 MS. HEALY GALLAGHER: Your Honor, I 19 understand the local rules impose a stay after an order 20 to withdraw is acted upon. 21 JUDGE FURSE: Yes. 22 MS. HEALY GALLAGHER: And you said that 23 you were planning to act on that order today? 24 JUDGE FURSE: Yes, I did say that. Is 25 there expected to be an opposition to the motion to</p>

<p style="text-align: right;">Page 13</p> <p>1 withdraw from any of the parties?  2 MR. MORAN: Your Honor, the government  3 would oppose the motion to withdraw to the extent it  4 delays the depositions that have been scheduled for  5 over a month, and on the eve of those depositions  6 Mr. Johnson has decided to fire his attorneys.  7 Your Honor wasn't in the case a year ago  8 when we had a similar situation. Responses to the  9 United States' written discovery were due, and on the  10 eve of that being due, Mr. Johnson also terminated his  11 former counsel, Mr. Sam Alba. And that's when  12 Mr. Heideman entered the case. So to the extent that  13 Mr. Heideman's motion to withdraw is going to delay the  14 depositions that have been scheduled for this week, we  15 do object.  16 JUDGE FURSE: Okay.  17 MR. REAY: Your Honor, can I interject,  18 too? This is Donald Reay again.  19 THE COURT: Yes.  20 MR. REAY: I would not have an objection  21 to the motion to withdraw, but if you are granting that  22 today I would move that this deposition be continued on  23 that grounds to give opportunity for defendants in this  24 case to have counsel present at party depositions. I  25 think it's prejudicial to them to not have them here</p>	<p style="text-align: right;">Page 15</p> <p>1 later on, whether there would be a second deposition or  2 not, once the other -- once the issue of counsel is  3 resolved.  4 When is the next deposition in this case?  5 MR. MORAN: It's tomorrow for I believe  6 it's LTB.  7 JUDGE FURSE: Okay.  8 MS. HEALY GALLAGHER: And that starts at  9 9:00 a.m., as do the depositions the rest of the week.  10 JUDGE FURSE: Okay. I'm going to -- so I  11 have heard the government's position as far as the  12 motion to withdraw. I'm going to give Mr. Heideman  13 and/or his clients the opportunity to respond to that.  14 Would you like to respond? Would anybody like to  15 respond to that as far as Mr. Heideman or his client at  16 this time?  17 MR. HEIDEMAN: Well, your Honor, I think  18 that Mr. Johnson would probably be best to respond to  19 that. He is in the room. We have provided what I  20 think we can pursuant to attorney/client privilege, and  21 beyond that I think Mr. Johnson would have to respond.  22 JUDGE FURSE: Okay. Mr. Johnson, is there  23 anything you would like to add about Mr. Heideman's  24 withdrawal?  25 MR. JOHNSON: Well, your Honor, I would be</p>
<p style="text-align: right;">Page 14</p> <p>1 and I don't want to put my client through a second  2 deposition because of that. I don't think it  3 prejudices the case of the United States in continuing  4 the fact discovery deadline to reschedule these, but I  5 think it heavily would prejudice parties that would put  6 my client in prejudice, also. And that's what I'm  7 trying to avoid.  8 MR. MORAN: May I respond to that, your  9 Honor?  10 JUDGE FURSE: Yes.  11 MR. MORAN: This is Chris Moran.  12 Discovery has been open in this case for  13 over a year. The deadline has always been June 2,  14 2017. The United States has been vigorously pursuing  15 discovery throughout that period, and it's culminated  16 frankly in this week of depositions. Mr. Johnson's  17 decision with two weeks left in discovery to fire his  18 attorneys was not -- is not our fault. It's his.  19 JUDGE FURSE: All right. So I will not  20 act on the motion to withdraw today then. I will  21 give -- and as I've said, I've already ruled on the  22 motion or on the issue of Mr. Shepard's deposition. As  23 long as the government wishes to go forward today, they  24 may do so. And I'm making that ruling with no -- but  25 I'm not ruling on the issue of what that means for</p>	<p style="text-align: right;">Page 16</p> <p>1 acting pro se on that issue, and in so doing you would  2 have to rule on the issue of whether or not I am  3 capable of acting as pro se, before I could answer any  4 questions.  5 JUDGE FURSE: Well, actually you are  6 capable of acting pro se, because this is not -- this  7 isn't a criminal matter, this is a civil matter and  8 you're an individual. So you can't represent the  9 company pro se, but as an individual you are welcome to  10 represent yourself.  11 I'm not asking you to represent yourself  12 pro se at this point. What I'm asking is, is there  13 anything else you'd like to add about the motion to  14 withdraw before I rule on the motion to withdraw and  15 whether there is a 21-day stay to obtain new counsel or  16 not.  17 MR. JOHNSON: Well, like I say, if you  18 want to have me act as pro se, then all you have to do  19 is indicate that that's okay and then I'll try and do  20 my best to respond. I'm clearly at a disadvantage, but  21 I would still -- I would still try to respond in a way  22 that would articulate the reasons why we are doing what  23 we are doing.  24 JUDGE FURSE: That is fine. You can  25 represent your own personal self pro se for purposes of</p>

Page 17	<p>1 this, or at this point.</p> <p>2 MR. JOHNSON: Well, thank you, your Honor.</p> <p>3 We have a problem that we feel like arose.</p> <p>4 I was not aware of any of these depositions coming up.</p> <p>5 I didn't -- I was not told about the depositions coming</p> <p>6 up tomorrow, Wednesday, Thursday, and Friday, until --</p> <p>7 I wasn't even aware of those until Monday. And I had</p> <p>8 already -- we had already scheduled in business</p> <p>9 meetings for this week. And I was only aware that</p> <p>10 something would happen possibly on June, after June 1st</p> <p>11 or something like that. And that was -- this is the</p> <p>12 first time where I've been aware that I'm going to be</p> <p>13 deposed for four days. I haven't even had a chance to</p> <p>14 prepare for those depositions.</p> <p>15 And so we are clearly at a disadvantage</p> <p>16 because of the situation that's not been created by me.</p> <p>17 And so I'm really in a bad place because I have people</p> <p>18 coming in from outside the country that I have already</p> <p>19 scheduled this week for in working out possibly a sale</p> <p>20 of the company on the foreign market. And it would</p> <p>21 certainly be a disadvantage to me in my business</p> <p>22 decisions. But I don't know how I could get these</p> <p>23 people notice that they have to make other arrangements</p> <p>24 in their business meetings when I wasn't fully aware of</p> <p>25 all these meetings.</p>	Page 19	<p>1 we were acting upon that never have gotten done.</p> <p>2 And so we are really -- I'm really telling</p> <p>3 you that we are really in a bad place and we have made</p> <p>4 some maybe bad choices. But I'm not a legal expert,</p> <p>5 but I can see when things are going sour. And I think</p> <p>6 that from that, it wouldn't be fair -- it wouldn't</p> <p>7 represent, I think, a fair trial to have me at this</p> <p>8 kind of disadvantage where you have two expert</p> <p>9 attorneys here from Washington, DC that do this for a</p> <p>10 living, and here I have never really been involved</p> <p>11 where I've had control of a deposition. And I don't</p> <p>12 think that would be fair. It wouldn't be fair to me</p> <p>13 and it certainly wouldn't be fair to my other -- to the</p> <p>14 other businesses that are involved, your Honor. Thank</p> <p>15 you.</p> <p>16 JUDGE FURSE: Thank you. And any further</p> <p>17 comments on the motion to withdraw from the government?</p> <p>18 MR. MORAN: Nothing, your Honor.</p> <p>19 JUDGE FURSE: Okay. And anything further,</p> <p>20 Mr. Reay?</p> <p>21 MR. REAY: Nothing further, your Honor.</p> <p>22 JUDGE FURSE: All right. So I will take</p> <p>23 that under advisement and then get a decision out today</p> <p>24 on the motion to withdraw.</p> <p>25 But as I said, as far as the deposition,</p>
Page 18	<p>1 In fact, I was not even aware of the</p> <p>2 bifurcation that was taking place, hearings. And so</p> <p>3 I'm clearly at a significant disadvantage of not being</p> <p>4 an attorney and lacking the knowledge that is required</p> <p>5 to make the various motions that might affect the case</p> <p>6 involving myself. But I clearly couldn't even make any</p> <p>7 objections to anything that would involve any of the</p> <p>8 other defendants. And so because of that, I feel like</p> <p>9 that I'm really put in a bad situation. And so I feel</p> <p>10 bad about the situation.</p> <p>11 I wasn't even aware of the deadline of</p> <p>12 when the discovery was going to end until Friday of</p> <p>13 last week. And that's what really constituted the</p> <p>14 decision to move quickly in getting other counsel, so</p> <p>15 we could at least take advantage of some discovery,</p> <p>16 where I'm totally at a disadvantage now of discovery.</p> <p>17 I don't have anybody even, as far as I know, even on</p> <p>18 discovery.</p> <p>19 And so I'm just scared to death of what</p> <p>20 the situation that I have been put into that clearly</p> <p>21 wasn't my responsibility, but it leans on me now to</p> <p>22 have had to make a decision, and it had to be made very</p> <p>23 fast, not only because of the depositions but because</p> <p>24 of the discovery problems. And the fact that I was not</p> <p>25 aware of the bifurcation situation or other things that</p>	Page 20	<p>1 as long as the government wishes to go forward today</p> <p>2 then that needs to go forward, and Mr. Shepard needs to</p> <p>3 answer the questions asked.</p> <p>4 MR. HEIDEMAN: Your Honor, Justin Heideman</p> <p>5 here. I have a duty of candor to the Court here. I'm</p> <p>6 not sure how to address that or deal with that in this</p> <p>7 circumstance. Does the Court require any additional</p> <p>8 briefing or documentation?</p> <p>9 JUDGE FURSE: I'm not sure what you are</p> <p>10 saying to me. You have filed a motion to withdraw. I</p> <p>11 have received that. Is there a misrepresentation in</p> <p>12 what you have filed? Or not a misrepresentation?</p> <p>13 MR. HEIDEMAN: No.</p> <p>14 JUDGE FURSE: Is there something inaccurate</p> <p>15 in what you have filed?</p> <p>16 MR. HEIDEMAN: No. My filing is</p> <p>17 completely accurate.</p> <p>18 JUDGE FURSE: Okay. Then I think we will</p> <p>19 leave it at that.</p> <p>20 MR. HEIDEMAN: Okay.</p> <p>21 JUDGE FURSE: Thank you very much.</p> <p>22 (End of conference call.)</p> <p>23 (Discussion off the record and</p> <p>24 Mr. Neldon Johnson left the</p> <p>25 proceedings.)</p>

Page 21

1 Q. (By Mr. Moran) We are back on the record  
 2 in the case United States versus RaPower3 et al. We  
 3 are here for the deposition of Mr. Gregory Shepard. He  
 4 is here with his counsel, Donald Reay.  
 5 Counsel for United States is myself, Erin  
 6 Healy Gallagher, and Erin Hines is on the phone from  
 7 Washington DC. This deposition will be governed by the  
 8 Federal Rules of Civil Procedure and the local rules in  
 9 the District of Utah. We will be using several  
 10 exhibits that have already been marked in previous  
 11 depositions. And any exhibits that are marked today  
 12 will be kept by the United States to be used throughout  
 13 the week, and we will provide them to the court  
 14 reporter at the end of the week on Friday.  
 15 Mr. Shepard. You remain under oath. You  
 16 have already been sworn in; is that correct?  
 17 A. Yes.  
 18 Q. And also for the record, Mr. Neldon  
 19 Johnson, defendant, has left the building after the  
 20 conference call with the court.  
 21 Mr. Shepard, have you ever been deposed  
 22 before?  
 23 A. Yes.  
 24 Q. You have? How many times?  
 25 A. Over a dozen.

Page 22

1 Q. Over a dozen. Okay. Then you are  
 2 probably familiar with the ground rules. Mr. Reay has  
 3 probably talked to you about them but I'm going to go  
 4 over them again.  
 5 A. Okay.  
 6 Q. It will probably be familiar for you. I'm  
 7 going to be asking you several questions today. Your  
 8 job is to provide complete and truthful answers. My  
 9 questions and your responses will be recorded by Madam  
 10 Court Reporter sitting to my right. You need to speak  
 11 loudly enough for her to hear, and answer my questions  
 12 verbally. Do you understand?  
 13 A. Yes.  
 14 Q. The court reporter cannot record a nod or  
 15 shake of the head, and words like uh-huh are not clear  
 16 on the transcript. So you are doing a great job thus  
 17 far, so "yes" or "nos" will be great.  
 18 We also have a tendency, in casual  
 19 conversation, to speak over one another or to answer a  
 20 question before it's finished being asked. So today  
 21 I'm going to ask you to try and wait until I'm finished  
 22 asking my question before you start your answer. The  
 23 court reporter can't record when you and I are talking  
 24 over each another. Do you understand that?  
 25 A. Yes.

Page 23

1 Q. Okay. It's my obligation to ask questions  
 2 that you understand so that your answers are complete  
 3 and truthful. So if you don't understand a question,  
 4 just tell me and I'll rephrase it so that you can  
 5 better understand. Do you understand?  
 6 A. Yes.  
 7 Q. Okay. Occasionally there may be an  
 8 objection to a question I ask by Mr. Reay. Unless he  
 9 instructs you not to answer, you need to answer my  
 10 question. Do you understand?  
 11 A. Yes.  
 12 Q. Okay. It may happen throughout the day  
 13 that you realize a question or an answer you gave  
 14 previously was incorrect, or you'd like to add to it.  
 15 That's perfectly fine. Just tell me and I'll give you  
 16 a chance to clear up your earlier testimony. Do you  
 17 understand?  
 18 A. Yes.  
 19 Q. We'll try to take at least a couple breaks  
 20 throughout the day. It is already eleven o'clock, it's  
 21 after eleven o'clock, so we will take a lunch break and  
 22 then bathroom breaks as the need arises. If you need  
 23 to take a break at any time or you wish to talk to  
 24 Mr. Reay, you can do so. I just ask that you not ask  
 25 for a break while a question is pending. So if you

Page 24

1 need a break, answer the pending question and then I'll  
 2 give you -- just tell me you want to take a break and  
 3 you can talk to Mr. Reay. Do you understand?  
 4 A. Yes.  
 5 Q. Mr. Shepard, we are here today to get as  
 6 accurate a record of your recollection of the facts of  
 7 this case, so I have to ask you is there anything that  
 8 would prevent you from giving completely truthful and  
 9 accurate testimony today?  
 10 A. No.  
 11 Q. Are you taking any medications or drugs  
 12 that interfere with your memory?  
 13 A. No.  
 14 Q. Have you had any alcoholic drinks in the  
 15 last eight hours?  
 16 A. No.  
 17 Q. Are you feeling well today?  
 18 A. I am.  
 19 Q. Okay. Is there any reason you can think  
 20 of why you cannot answer my questions truthfully and  
 21 accurately?  
 22 A. No.  
 23 Q. Can we go off the record?  
 24 (Discussion off the record.)  
 25 Exhibit 459 WASMARKED.)

Page 25

1 Q. Mr. Shepard, you've been handed a copy of  
 2 what's been marked for identification as Plaintiff's  
 3 Exhibit 459. This is a list of website captures that  
 4 the United States prepared and Bates stamped and  
 5 provided to your attorneys. I understand that you  
 6 agree these are all authentic for purposes of Federal  
 7 Rule of Evidence 901 and that they are what they  
 8 purport to be, various website captures from some  
 9 websites, with the exception of U.S. 2793 to U.S. 2801.  
 10 Is that correct?  
 11 A. Yeah. What's 2801?  
 12 Q. It's a Bates range.  
 13 A. It's a what?  
 14 MR. REAY: Just the Bates numbers.  
 15 Q. Go to the next page.  
 16 A. Oh, here it is, 2801.  
 17 Q. Yes.  
 18 A. Yeah, SOLCO 1.  
 19 MR. REAY: He was just clarifying for the  
 20 record.  
 21 THE WITNESS: Right.  
 22 Q. (By Mr. Moran) So I'll ask you it again.  
 23 Exhibit 459 is a series of websites that lists the  
 24 Bates numbers for a series of website captures that  
 25 have been Bates stamped as indicated in Exhibit 459.

Page 26

1 And I understand that you agree that all of those  
 2 website captures are authentic under Federal Rule of  
 3 Evidence 901, with the exception of Bates number U.S.  
 4 002793 through U.S. 002801, which is a website capture  
 5 from SOLCO 1, LLC; is that correct?  
 6 A. Yes.  
 7 MR. MORAN: Mr. Reay, is that correct?  
 8 MR. REAY: Yes.  
 9 Q. (By Mr. Moran) Mr. Shepard, how old are  
 10 you?  
 11 A. 74.  
 12 Q. 74.  
 13 A. 75 in July.  
 14 Q. We are going to start out with some  
 15 background information to just better understand how  
 16 you're coming into this case. Are you married?  
 17 A. Yes.  
 18 Q. Okay. What's your spouse's name?  
 19 A. Diana.  
 20 Q. Okay. Do you have any children?  
 21 A. Four.  
 22 Q. Four children. What are their names?  
 23 A. Andrea, Matt, Mark, and Shauna.  
 24 Q. Okay. Is Diana Shepard the only person  
 25 you have ever been married to?

Page 27

1 A. Yes.  
 2 Q. Can you take me through your education,  
 3 very briefly, broad strokes, from when you graduated  
 4 high school.  
 5 A. Went to Oberlin College in Cleveland, Ohio  
 6 area, majored in music, studied for a year at Salzburg,  
 7 Austria at what is called the Mozart -- it's Mozarteum,  
 8 but in English it's the University of Mozart.  
 9 And then I attended some postgraduate work  
 10 in exercise sports medicine at Oregon State University  
 11 for one year and a summer. And then transferred to the  
 12 University of Oregon where I got a master's degree in  
 13 science with an emphasis on statistical analysis and  
 14 exercise sports science.  
 15 Q. Okay.  
 16 A. And then I have my doctorate in exercise  
 17 sports science from Brigham Young University.  
 18 Q. Okay. When did you get those degrees?  
 19 A. '64 from Oberlin College, '67 from the  
 20 University of Oregon with the master's, and the  
 21 doctorate was 1974.  
 22 Q. Okay. I understand you were a coach for a  
 23 period of time.  
 24 A. Yes.  
 25 Q. When was that?

Page 28

1 A. Started coaching at Oregon State  
 2 University in 1965 with the football team.  
 3 Q. Okay.  
 4 A. And then with the football team at the  
 5 University of Oregon Ducks. Then I coached for two  
 6 years at high school, Crater High School in Central  
 7 Point, Oregon, southern Oregon; and then for two years  
 8 in Bellingham, Washington, which is up north, north of  
 9 Seattle. And then went to BYU and was with the  
 10 football team there and coached weight lifting and was  
 11 a part-time faculty member, also. And then I went to  
 12 Rexburg, Idaho as head football coach, Madison County  
 13 High School. Rexburg is north of Idaho Falls,  
 14 Pocatello. And then spent three years there, '73, '74,  
 15 and '75 football seasons, and then coached as a head  
 16 coach down here at Salt Lake City at Granger High  
 17 School for three football seasons. And then I  
 18 volunteer-coached at Hunter High School 2005, '06, '07,  
 19 in there. And then most recently was a volunteer track  
 20 coach at Summit Academy, which is about ten miles south  
 21 of here.  
 22 Q. Okay. And I also understand at one point  
 23 you ran your own company.  
 24 A. Yes. It was called Bigger, Faster,  
 25 Stronger. And I had that, started that in about 1978,

<p style="text-align: right;">Page 29</p> <p>1 and then officially sold that in 2013.</p> <p>2 Q. And what did Bigger, Faster, Stronger do</p> <p>3 generally?</p> <p>4 A. They do a variety of things, but it's in</p> <p>5 the area of strength and conditioning and motivation,</p> <p>6 character building. So there's books, videos, had a</p> <p>7 manufacturing plant manufacturing all kinds of weight</p> <p>8 training equipment, bench presses, squat racks. But we</p> <p>9 sold everything, weights, dumbbells. And then we did</p> <p>10 certification. So we would certify coaches so that</p> <p>11 they could avoid legal problems if those ever arose</p> <p>12 with injuries. And then knowledge of how to do things.</p> <p>13 And then we would do clinics. And so we</p> <p>14 would go to a high school or a college and spend all</p> <p>15 day and teach them how to lift weights, but also why</p> <p>16 and how to win. So basically that's it.</p> <p>17 Q. Sounds like Bigger, Faster, Stronger's</p> <p>18 customers were mostly college and high school athletic</p> <p>19 programs?</p> <p>20 A. Oh, yes. It started out with football but</p> <p>21 then as things evolved, it got into other sports and</p> <p>22 then women's sports.</p> <p>23 Q. Any other customers?</p> <p>24 A. Well, yes. Because, you know, anybody</p> <p>25 that wanted weight lifting equipment. So we had people</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. You've answered some questions in the</p> <p>2 interrogatory about your e-mail address or e-mail</p> <p>3 addresses you've used. So I'm going to list off a few</p> <p>4 and I'd ask you to tell me, one, if that's correct, and</p> <p>5 two, at the end I'll ask you if there were any more.</p> <p>6 ShepardFoundation2@Outlook.com? Is that your e-mail</p> <p>7 address?</p> <p>8 A. I had it briefly but I don't think I ever</p> <p>9 received any e-mails on it and it's no longer active.</p> <p>10 Q. Okay. But have you sent e-mail from that</p> <p>11 address?</p> <p>12 A. I don't believe so. I can't recall.</p> <p>13 Q. Okay. Do you recall when you had the</p> <p>14 e-mail address ShepardFoundation2@Outlook.com?</p> <p>15 A. I can't recall.</p> <p>16 Q. How about Greg@Rapower3.com?</p> <p>17 A. Yes.</p> <p>18 Q. How long have you had that e-mail address?</p> <p>19 A. I can't exactly recall, but probably --</p> <p>20 Q. Approximately is fine.</p> <p>21 A. Six or seven years.</p> <p>22 Q. So about 2010?</p> <p>23 A. That's close, give or take a couple years.</p> <p>24 Q. Okay.</p> <p>25 A. Not on the low side, but probably on the</p>
<p style="text-align: right;">Page 30</p> <p>1 from gyms that weren't associated with schools.</p> <p>2 Q. Okay.</p> <p>3 A. And they would order weight lifting</p> <p>4 equipment. But that's -- some junior highs. Very</p> <p>5 little pro.</p> <p>6 Q. But primarily college and high school?</p> <p>7 A. It was high school, college. And we were</p> <p>8 equally prevalent in all fifty states.</p> <p>9 Q. Okay. Have you ever been employed by</p> <p>10 anyone else? Have you had any other occupations other</p> <p>11 than what you have already described to me?</p> <p>12 A. I mean, really early I was --</p> <p>13 Q. Well, excluding --</p> <p>14 A. I worked in a cannery when I was 21.</p> <p>15 Q. Okay.</p> <p>16 A. But you're probably more interested in</p> <p>17 more recently. And the only thing as far as an</p> <p>18 employee in that area was being a substitute teacher</p> <p>19 recently.</p> <p>20 Q. Okay. Where?</p> <p>21 A. At a charter school in Murray.</p> <p>22 Q. Okay.</p> <p>23 A. I don't know if I was an employee.</p> <p>24 Q. But did they pay you?</p> <p>25 A. They paid me. And I paid taxes on it.</p>	<p style="text-align: right;">Page 32</p> <p>1 higher side.</p> <p>2 Q. How about Greg.Shepard@live.com?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know when you used that e-mail</p> <p>5 address?</p> <p>6 A. No. I can't recall that one.</p> <p>7 I mean, I have it. Greg.Shepherd@live.com?</p> <p>8 I can't recall, but there is a live.com one. I don't</p> <p>9 know what was before that. I've never used it, to my</p> <p>10 recollection.</p> <p>11 Q. All right. In an interrogatory request</p> <p>12 which you signed, I'll hand you what's already been</p> <p>13 marked for identification as Plaintiff's Exhibit 411.</p> <p>14 A. Okay.</p> <p>15 Q. You identified some of these e-mail</p> <p>16 addresses.</p> <p>17 A. Okay.</p> <p>18 Q. Is there any reason to believe that that</p> <p>19 would be incorrect?</p> <p>20 A. Facebook.com, I have never used. Twitter.</p> <p>21 Okay. I don't know about those. I don't know about</p> <p>22 Facebook. I don't know about Twitter. I don't know</p> <p>23 about Rapower3.tumblr. I don't know Linked-In. I</p> <p>24 don't know Google. I don't know YouTube. And I don't</p> <p>25 know Pinterest.</p>



Page 33

1 Q. How about what appears in red that says  
 2 "supplement," and it says, "Since 2005 I have also used  
 3 Greg@bfsmail.com, Greg.Shepard@live.com, and  
 4 shepardfoundation2@outlook.com."  
 5 A. I used Greg at bfsmail.com for a long time  
 6 because that was associated with the Bigger, Faster,  
 7 Stronger, so I received e-mails in there. And  
 8 Greg.Shepherd@live.com, I know that's on there some  
 9 place but I don't recall e-mails that I sent from this,  
 10 or received. I could have, but I don't recall.  
 11 And the same thing with Shepardfoundation.  
 12 That has been discontinued. I could have sent  
 13 something. I don't recall any e-mails being sent from  
 14 there or received from there. But I just don't recall.  
 15 The main one I use is Greg@rapower3.com.  
 16 That's what I use.  
 17 Q. That's your main e-mail address?  
 18 A. Yeah. That's where all my e-mails come  
 19 in.  
 20 Q. How about Edmond@rapower3.net?  
 21 A. I don't -- my son handles all of that  
 22 stuff. The same with the Twitter and the Tumblr. I  
 23 don't know anything about those things. I don't have a  
 24 Facebook account.  
 25 Q. All right. We will come back to that.

Page 34

1 Back to your employment. Have you ever,  
 2 with the exception of what you told me about your  
 3 coaching career, Bigger, Faster, Stronger, the cannery,  
 4 have you ever received compensation for any type of  
 5 work you've done, such as from RaPower3 or  
 6 International Animated Systems?  
 7 A. Can you be more specific?  
 8 Q. Sure. I understand you're a contractor or  
 9 you have been an independent contractor with some of  
 10 the defendants in this case?  
 11 A. "Some" meaning -- what do you mean by  
 12 "some"?  
 13 Q. Have you ever been an independent  
 14 contractor for RaPower3?  
 15 A. Yes.  
 16 Q. How about International Automated Systems?  
 17 A. No.  
 18 Q. Have you ever had any type of employment  
 19 relationship with International Animated Systems?  
 20 A. No.  
 21 Q. Have they ever paid you money? And by  
 22 "they" I mean International Automated Systems?  
 23 A. I don't recall. I don't think so.  
 24 Q. Okay. How about RaPower3; has RaPower3  
 25 ever given you money?

Page 35

1 A. Yes.  
 2 Q. What have they given you money for?  
 3 A. For sales.  
 4 Q. Sales? Okay.  
 5 A. I have sponsored some people.  
 6 Q. And what did you sell?  
 7 A. I sold solar lenses.  
 8 Q. Solar lenses. Did you sell anything else?  
 9 A. No.  
 10 Q. Okay. So RaPower3 has given you -- has  
 11 paid you money for selling solar lenses?  
 12 A. Commissions.  
 13 Q. So RaPower3 has paid you commissions for  
 14 selling solar lenses.  
 15 A. Uh-huh (affirmative).  
 16 Q. Has RaPower3 paid you money for anything  
 17 else?  
 18 A. No.  
 19 Q. How about International Automated Systems;  
 20 have they ever paid you money?  
 21 A. No.  
 22 Q. How about LTB? Has LTB ever paid you  
 23 money?  
 24 A. No.  
 25 Q. And when I refer to LTB, I'm referring to

Page 36

1 LTB that's a defendant in this case.  
 2 A. I understand.  
 3 Q. You know what company that is?  
 4 A. Yes. They are the operation and  
 5 maintenance company.  
 6 Q. All right. You just mentioned solar  
 7 lenses that you sell for RaPower3?  
 8 A. Yes.  
 9 Q. Tell me about the solar lenses. What are  
 10 they?  
 11 A. Solar lenses are made of a plastic acrylic  
 12 material which produce heat, and that's what they do.  
 13 They produce a lot of heat.  
 14 Q. Okay. Where do they come from?  
 15 A. It's my understanding they are shipped in  
 16 from a large plastic acrylic company called Lucite.  
 17 Q. Who has them shipped in?  
 18 MR. REAY: Objection. Calls for  
 19 speculation.  
 20 A. Yeah, I have no idea.  
 21 Q. You don't know?  
 22 A. No.  
 23 Q. All you know is they come from a company  
 24 called Lucite?  
 25 A. That's what I understand.

Page 37

1 Q. How did you get --  
 2 A. I don't know for sure.  
 3 Q. All right. How did you get that  
 4 understanding?  
 5 A. I believe through Neldon Johnson or his  
 6 son, Randy.  
 7 Q. Okay. So Neldon Johnson or Randy Johnson  
 8 told you that the lenses get shipped in from Lucite.  
 9 A. Yes.  
 10 Q. What happens to the lenses after they are  
 11 shipped in from Lucite?  
 12 A. They are stored at the manufacturing plant  
 13 in Oasis, Utah.  
 14 Q. When you say "the manufacturing plant,"  
 15 the United States did a site visit about a month and a  
 16 half ago. Do you recall that?  
 17 A. Pardon me.  
 18 Q. About a month and a half ago, in early  
 19 April, the United States, Ms. Healy Gallagher and I,  
 20 and you were there, visited the site. We visited, I  
 21 think, two main sites in Delta. The first site is what  
 22 I understand to be the manufacturing facility; is that  
 23 correct?  
 24 A. Yes.  
 25 Q. And so I just want to be clear, when you

Page 38

1 said "the manufacturing facility," that we are all on  
 2 the same page.  
 3 So the lenses come in from Lucite at the  
 4 manufacturing facility and what happens next to the  
 5 lenses?  
 6 A. They are put into a -- well, what years  
 7 are you talking about?  
 8 Q. I'm asking generally what's your  
 9 understanding of the lenses that you sell.  
 10 A. Well, they were first used for research  
 11 and development to see what the wind tolerance would be  
 12 and the cracking and how well they would stand up, and  
 13 what the dust would do, how often they would need to be  
 14 washed. If a rock chip hit it, what would the effect  
 15 be. When they are put in certain kinds of frames, what  
 16 would happen. For example, different wind tolerances  
 17 or different cracking.  
 18 So it's my understanding -- I didn't do  
 19 the research and development. That was my  
 20 understanding that that's what was going on. But now  
 21 they are put in -- the solar lenses are being put into  
 22 solar frames at the construction site, which I have  
 23 seen, and I believe you saw that, too. I don't know if  
 24 you saw the workmen do that. And then now they are  
 25 being put into the solar rings.

Page 39

1 Q. Okay. Let's back up to the research and  
 2 development. Was every lens that you've sold been used  
 3 in research and development?  
 4 A. I don't know. I'm not in charge of that.  
 5 Q. Who is in charge of that?  
 6 A. I don't know.  
 7 Q. Well, who knows which lenses were used in  
 8 research and development?  
 9 A. I don't know. I don't know for sure. I'm  
 10 an independent contractor and I don't get a lot of  
 11 information on that kind of stuff.  
 12 Exhibit 460 WAS MARKED.)  
 13 Q. Mr. Shepard, you have been given a copy of  
 14 what's been marked for identification as Plaintiff's  
 15 Exhibit 460. Do you recognize this?  
 16 A. Sure.  
 17 Q. What is it?  
 18 A. Those are solar lenses.  
 19 Q. And where are these solar lenses?  
 20 A. Those solar lenses are at the  
 21 manufacturing plant in Oasis, Utah.  
 22 Q. Okay. This is a screen shot taken of a  
 23 video that the United States took during the site visit  
 24 on April 4th. Are these the solar lenses that you  
 25 sold?

Page 40

1 A. I don't know. Be more specific. I only  
 2 have a few clients. I only have about a dozen or so  
 3 clients throughout the years.  
 4 Q. Okay.  
 5 A. So I'm not sure. How would I know if my  
 6 clients' lenses are in there? Because there's stacks  
 7 of them at different places.  
 8 Q. Okay.  
 9 A. They could be.  
 10 Q. The lenses that appear in Exhibit 460, are  
 11 those similar to the lenses that you sold?  
 12 A. Yes. I would think so.  
 13 Q. But you don't know which lenses you sold?  
 14 A. I don't know if they are there in this  
 15 stack.  
 16 Q. Is there any way that you could find out?  
 17 A. I would assume so, but I don't know.  
 18 Q. If you were going to find out, what would  
 19 you do?  
 20 A. I would call -- probably call Glenda.  
 21 Q. Do you think she would be able to tell  
 22 you?  
 23 A. I don't know.  
 24 Q. Okay.  
 25 A. I do know that my lenses that I bought and

Page 41	<p>1 my clients' lenses have an identification code number.                  2 Q. On the lens?                  3 A. On the website. So if I want to look up                  4 my status on the website, I can look up and see how                  5 many lenses I purchased, what I owe, if anything, and                  6 then there's a code number on that.                  7 Q. And the code number is on the website?                  8 A. Yes.                  9 Q. Okay. I'm talking about the physical;                  10 lens.                  11 A. Not RaPower3.                  12 Q. Which website?                  13 A. It's a website that is maintained by                  14 someone else. I don't know who maintains it.                  15 Q. You don't know?                  16 A. But that's RaPower-3.com, I think.                  17 Q. Okay.                  18 A. But that's where all clients can go to                  19 look up their information.                  20 Q. What information is that?                  21 A. Equipment purchase contract, operation and                  22 maintenance agreement, their status as far as payment,                  23 and who their sponsor is, who they have sponsored. You                  24 haven't seen that?                  25 Q. I'm asking the questions.</p>	Page 43	<p>1 pallets that appeared in the photograph on Exhibit 460.                  2 These appear -- this label references a                  3 company by the name of Plaskolite. Have you ever heard                  4 of Plaskolite?                  5 A. No.                  6 Q. Okay. If this is a label that was on the                  7 pallets, could that have been a shipping label from                  8 Plaskolite?                  9 MR. REAY: Objection. Calls for                  10 speculation.                  11 A. I don't know.                  12 Q. You don't know?                  13 A. I have no knowledge.                  14 Q. Okay.                  15 A. I'm an independent contractor. It has                  16 nothing to do with -- I don't know what that is.                  17 Q. Okay.                  18 A. Nothing to do with me.                  19 Q. All right. When did you first sell solar                  20 lenses?                  21 A. 2006.                  22 Q. How did you hear about it? When is the                  23 first time you heard of solar lenses?                  24 A. I think 2001 or 2002.                  25 Q. 2001 or 2002? Who did you hear about</p>
Page 42	<p>1 A. Well, okay.                  2 Q. I want to understand more about the                  3 identification number you talked about. Is that on a                  4 solar lens?                  5 A. I don't know.                  6 Q. You don't know?                  7 Exhibit 461 WASMARKED.)                  8 Q. Mr. Shepard, you just mentioned a woman                  9 named Glenda. What is Glenda's last name?                  10 A. Johnson.                  11 Q. Glenda Johnson?                  12 A. Yes.                  13 Q. Is that Nelson Johnson's wife?                  14 A. Yes, it is.                  15 Q. You've been handed a copy of what's been                  16 marked for identification as Plaintiff's Exhibit 461.                  17 Do you recognize it?                  18 A. Do I recognize --                  19 Q. Do you recognize what appears in the                  20 photograph on Exhibit 461?                  21 A. I can't recall.                  22 Q. Okay. I will represent to you that this                  23 is -- Exhibit 461 is also a screen shot from a video                  24 that the United States took of the site visit on April                  25 4th. In particular, a label that was on one of the</p>	Page 44	<p>1 these solar lenses from in 2001 or 2002?                  2 A. I was a shareholder at that time. I owned                  3 stock in International Automated Systems.                  4 Q. Okay. So when was the first time you                  5 heard of International Automated Systems?                  6 A. Probably 1994, around there.                  7 Q. And how did you hear about it?                  8 A. Through a broker here in town who worked                  9 for, I think he worked for Smith Barney.                  10 Q. Who is that broker?                  11 A. Monty Hamilton.                  12 Q. Okay. And what did Mr. Hamilton tell you                  13 about the solar lenses?                  14 A. He didn't tell me anything.                  15 Q. All right. He told you about a company                  16 named International Automated Systems?                  17 A. Yes.                  18 Q. Throughout today's deposition we might use                  19 the acronym IAS. What do you understand IAS to mean?                  20 A. International Automated Systems.                  21 Q. What did Mr. Hamilton tell you about IAS?                  22 A. I ought to look into it to buy their                  23 stock.                  24 Q. What did he tell you about it?                  25 A. It was an up-and-coming company and that</p>

Page 45

1 it might be worth a lot of money in the future.  
 2 Q. Did he tell you what its business was?  
 3 A. Yeah. At that time it was DWM. I'm not  
 4 sure what that acronym stands for.  
 5 Digital wave modulation.  
 6 Q. Okay. Did you do any research on  
 7 International Automated Systems?  
 8 A. No.  
 9 Q. When did you purchase the stock?  
 10 A. 1996, I believe.  
 11 Q. Did you do any research before you  
 12 purchased the stock?  
 13 A. Yes.  
 14 Q. Okay. What type of research?  
 15 A. I went down to, I think at that time it  
 16 was in Salem, American Fork, I believe. And they had  
 17 an operation going there.  
 18 Q. Okay. What was happening at that  
 19 operation?  
 20 A. I can't recall. They had people working  
 21 there. I think they were working on that technology.  
 22 Q. Do you know what the technology was?  
 23 A. DWM.  
 24 Q. The digital wave modulation?  
 25 A. I think so. But they also had some other

Page 46

1 things. I don't know what they were working on.  
 2 Q. Okay. And then you testified in 2001 or  
 3 2002 you heard about solar lenses?  
 4 A. Yes, sir.  
 5 Q. Do you recall how you heard about it?  
 6 A. No.  
 7 Q. You just became aware that IAS had solar  
 8 lenses to sell?  
 9 A. No, they didn't have lenses to sell.  
 10 Q. Then what was your understanding of their  
 11 involvement in solar lenses?  
 12 A. Research and development, and they had an  
 13 operation R&D going with Frenell lenses in Mesquite,  
 14 Nevada. And they were producing electricity with the  
 15 Frenell lenses with the turbine. And so I went down  
 16 there and looked at it in Mesquite.  
 17 Q. What were they doing with the electricity  
 18 in Mesquite?  
 19 A. Just to see if it would work.  
 20 Q. Were they selling electricity?  
 21 A. No. It was R&D.  
 22 Q. When you say R&D, you are referring to --  
 23 A. Research and development to see if Frenell  
 24 lenses would, indeed, produce heat and if the heat  
 25 could heat water enough to create steam to make a

Page 47

1 turbine go around, which it did. And then the turbine  
 2 then was hooked to a generator which produced  
 3 electricity to turn on some lights.  
 4 Q. Okay.  
 5 A. So what I perceived from that, that this  
 6 technology has some merit. But they were still a long  
 7 ways away from -- it was a proof of concept.  
 8 Q. Okay.  
 9 A. It was the proof of concept stage at that  
 10 point.  
 11 Q. And that was in the very early 2000s?  
 12 A. Yes.  
 13 Q. 2001 or 2002.  
 14 A. Uh-huh (affirmative).  
 15 Q. Okay. And during that time you were an  
 16 IAS shareholder?  
 17 A. I was.  
 18 Q. And you had bought some stock I think you  
 19 said in '96, and then did you just hold onto that or  
 20 did you buy more?  
 21 A. No. I did -- I sold and bought and sold  
 22 and bought.  
 23 Q. Okay.  
 24 A. My objective was to make money.  
 25 Q. Sure. Okay.

Page 48

1 A. But also to leverage to get my price per  
 2 share that would be more advantageous to me.  
 3 Q. Sure.  
 4 A. So if I could sell at \$20 and buy back at  
 5 \$15, that's a good deal for me.  
 6 Q. Okay.  
 7 A. So I'm not saying I did that. But I have  
 8 done things like that.  
 9 Q. Sure. So from 1996 through, let's say  
 10 2006, that ten-year period, you were buying and selling  
 11 IAS stock periodically.  
 12 A. Periodically. Not very much, but a little  
 13 bit, yeah.  
 14 Q. Just trying to make money on the market?  
 15 A. A little bit.  
 16 Q. Okay. All right. Now I think you  
 17 testified in 2006 that was the time you bought your  
 18 first lens.  
 19 A. Yes.  
 20 Q. Okay. What caused you to want to buy a  
 21 lens?  
 22 A. I had seen the turbine work dozens of  
 23 times successfully. I have seen the lenses produce  
 24 heat.  
 25 Q. And so you came to understand that there

<p style="text-align: right;">Page 49</p> <p>1 was an opportunity to purchase lenses?  2 A. Yeah. The technology was fantastic, in my  3 opinion. It was a break-through deal.  4 Q. And all the information you learned about  5 these lenses and their ability to generate heat, where  6 did you get that information from?  7 A. Okay, now say that again.  8 Q. No problem. You've been testifying about  9 those lenses that were being used for research and  10 development in Mesquite, Nevada.  11 A. Yes.  12 Q. And you testified that these lenses  13 produced heat and --  14 A. No. You're skipping over a lot.  15 Q. Okay. I understand that the lenses were  16 being used to ultimately turn a turbine that you say  17 produced electricity.  18 A. You skipped over a lot.  19 Q. Well, what I want to understand is all the  20 testimony you've given about these lenses and the  21 research and development that was being done, where did  22 you get that information from?  23 A. Okay. First of all, down in Mesquite,  24 that was a proof of concept.  25 Q. Okay.</p>	<p style="text-align: right;">Page 51</p> <p>1 understanding --  2 Q. And who gave you that understanding?  3 A. Neldon Johnson and Randy Johnson and  4 LeGrande Johnson.  5 Q. Okay.  6 A. They went up to Canada and the guy up  7 there was supposed to be an expert, and he couldn't  8 figure it out in a year. So Randy, who is very smart,  9 and LeGrande came up or they had about thirty college  10 students, it's my understanding. And after working  11 about twenty hours a day for something like three  12 months, they finally came up with a formula that they  13 thought would work. Then they went down, to my  14 understanding, to Lucite or a company like Lucite. And  15 I don't know how they do it but they walked in as green  16 kids without an appointment and one guy said -- this is  17 the story I got --  18 Q. From who?  19 A. All three of them.  20 Q. All three of who?  21 A. The Johnsons: LeGrande, Nelson, and Randy.  22 Q. Okay.  23 A. And so they got Lucite to make a run,  24 which is a very, very difficult thing to do, because  25 they have to stop -- I know something about</p>
<p style="text-align: right;">Page 50</p> <p>1 A. And those Frenell lenses were purchased  2 basically off the shelf. There was no invention by  3 Neldon Johnson.  4 Q. Okay.  5 A. That was my understanding.  6 Q. Go ahead.  7 A. And so with that proof of concept, it's my  8 understanding that Neldon Johnson was elated with that  9 and wanted to see if it could be explored so that we  10 could bring clean, affordable, renewable energy to our  11 country. But the Frenell lens concept was far, far too  12 expensive. Neldon Johnson, in my opinion, cares about  13 that. We know other solar companies don't, because  14 they produce electricity with no idea of making money  15 and they are going to go bankrupt. We don't want to do  16 that.  17 Q. Okay.  18 A. I would never be involved with a company  19 that did that. So what the deal was is that Neldon had  20 to figure out a way to make a Frenell lens that would  21 be affordable so that he could beat the price of coal.  22 That's what I wanted. I wanted to see that from the  23 company, okay?  24 So what happened was, long story short,  25 they went up to Canada and hired, from my</p>	<p style="text-align: right;">Page 52</p> <p>1 manufacturing because I have -- well, nothing like  2 that. But they had to stop and prepare the machinery  3 for a line of production. And lo and behold it worked  4 fair. They made some adjustments and it worked better.  5 And so those plastic acrylic lenses came  6 off the line in abundance, and very cheaply. So those  7 were the first lenses that came off. And so I bought  8 because here, in my understanding, we had lenses that  9 were extremely cheap compared to other companies and we  10 had a turbine that would work with any kind of water.  11 I know that because I saw it work on a geothermal well  12 down at Cove Fort, where all that gunk and crap went  13 through a turbine. No other turbine can do that. I  14 know that because I have researched it. It's easy to  15 research.  16 And so that turbine -- here Neldon had a  17 turbine that was revolutionary that would work with any  18 kind of water, and nobody can do that, and we had a  19 cheap lens, solar lens that could be mass produced in  20 volumes that would eventually or could eventually  21 become extremely revolutionary for the mass production  22 part and the cost part.  23 So we have something. We have a lens  24 that's going to produce heat, which I have seen many  25 times produce heat, an extraordinary amount of heat.</p>

<p style="text-align: right;">Page 53</p> <p>1 So I know if you can do heat, you can heat water, you  2 can turn the water into steam, you can make that  3 revolutionary turbine go around, you can hook it up to  4 a generator and then you can produce electricity. So I  5 bought lenses.  6 Q. Okay. And you learned all that in, it  7 sounds like in the early 2000s?  8 A. Okay. I gave you a lot of history there  9 so let's go between --  10 Q. You gave me a lot of history but you  11 testified the first time you heard of a lens was in  12 2000 and 2001, and the first time you bought a lens was  13 in 2006.  14 A. Right. So between that time.  15 Q. That's what you --  16 A. Most of it was 2005 --  17 Q. Okay.  18 A. -- for that, because they had to develop  19 those lenses. They had to get all the R&amp;D done.  20 Q. So the R&amp;D was done in 2005?  21 A. I don't -- you'll have to -- okay.  22 Mr. Moran, when you do something that no one else in  23 the world can do, it doesn't take -- you don't snap  24 your fingers and that happens. And so the R&amp;D takes a  25 lot of time.</p>	<p style="text-align: right;">Page 55</p> <p>1 A. Now, I don't know if you've read the  2 technology papers but not very many can understand  3 them. Did you take advanced trigonometry?  4 Q. Like I said, I ask the questions.  5 A. I understand you don't want to answer  6 that, but you have to have an answer -- you have to --  7 to evaluate the technology papers you have to have an  8 understanding of science and co-science and tangents.  9 So that's pretty advanced trigonometry, which I can  10 understand. I understand that most people can't do  11 that. But also, I understand what's in those  12 technology papers. And I was very happy with what I  13 saw as a person that wanted to buy more shares and buy  14 solar lenses.  15 Exhibit 462 WASMARKED.)  16 Q. You just referenced the technology papers.  17 Where did you get those from?  18 A. Neldon Johnson.  19 Q. The information, the testimony that you  20 have been giving about the solar lenses and the systems  21 that you expected to come to fruition, did you get that  22 information from anyone other than Neldon Johnson?  23 A. Say that again? I'm sorry.  24 Q. The information you received about solar  25 lenses and their potential to generate electricity and</p>
<p style="text-align: right;">Page 54</p> <p>1 Q. Okay.  2 A. Right? And still, to this day, nobody can  3 come close to that. Still using the old technology.  4 And you should be very familiar with the United States  5 government giving people like Ivanpah billions of  6 dollars and they know it's not going to work, and it  7 folds. Right out here, Tooele Department had a solar  8 company. The government gave them money and it went  9 bankrupt less than a year later.  10 Q. I'm going to ask you to --  11 A. So they don't have the technology. And so  12 I'm looking at that. All these companies going  13 bankrupt. And I'm saying, "Hey, we got something?"  14 I'm really proud of what we got and I'm proud of where  15 I am. I'm very thankful that I got hooked up with IAS  16 and Neldon Johnson.  17 Q. Okay. And it sounds like -- all I'm  18 trying to do is understand the time frame.  19 A. Okay. 2006 I knew we had solar lenses but  20 I knew more research and development had to be done.  21 Q. Okay.  22 A. Now, not to make it work, but to make it  23 economically viable. That's what I understood. And I  24 also read the technology papers.  25 Q. Okay.</p>	<p style="text-align: right;">Page 56</p> <p>1 bring clean energy to --  2 A. Whose lenses?  3 Q. The lenses that you've been talking about,  4 IAS's lenses.  5 A. Okay.  6 Q. The information that you have been  7 testifying about that, is there anyone besides Neldon  8 Johnson that you got that information from?  9 A. Well, the Johnson family, Randy and --  10 mostly Randy.  11 Q. Okay.  12 A. And a little bit LeGrande.  13 Q. Okay.  14 A. But it's mostly Randy and Neldon Johnson.  15 Q. Okay. So Randy and Neldon Johnson,  16 LeGrande Johnson. Anyone else?  17 A. Well, they didn't write the technology  18 papers.  19 Q. Who did?  20 A. You'll have to ask Neldon. But I  21 understand that they are highly esteemed university  22 professors at highly esteemed universities.  23 Q. But you don't know who it is?  24 A. No.  25 Q. Neldon just told you that they are highly</p>

Page 57

1 esteemed?  
 2 A. Yeah. I think if you depose Neldon and  
 3 you have him give you the names, he might. But that's  
 4 very sensitive. But that's up to him. I don't know  
 5 who they are.  
 6 Q. You don't know who they are? Okay.  
 7 Mr. Shepard, I'd ask you to look at the  
 8 exhibit in front of you, which is Plaintiff's Exhibit  
 9 462 for identification. Do you recognize Exhibit 462?  
 10 A. I do.  
 11 Q. What is it?  
 12 A. It's an Equipment Lease Agreement.  
 13 Q. Who is the agreement between?  
 14 A. It's between Greg Shepard, me, and  
 15 International Automated Systems.  
 16 Q. And this Equipment Lease Agreement is  
 17 dated December 28, 2005; is that correct?  
 18 A. Yes.  
 19 Q. And is this the first time you bought  
 20 lenses?  
 21 A. Yes.  
 22 Q. So I think before, you said that you  
 23 bought them in 2006. That was actually December 28,  
 24 2005?  
 25 A. Yeah. December 28th, I guess, 2005.

Page 58

1 Missed it by three days.  
 2 Q. No problem. It's a ways back.  
 3 And the first page, there's a reference to  
 4 Yermo, California.  
 5 A. Yes.  
 6 Q. What's in Yermo, California?  
 7 A. I don't know.  
 8 Q. It says that the lessor, which is  
 9 International Automated Systems, "shall furnish,  
 10 deliver, install, and start up the Alternative Energy  
 11 System at a site provided by Lessee at Yermo,  
 12 California." Is that where your lenses were?  
 13 A. No. I don't believe so.  
 14 Q. Why is there a reference to Yermo,  
 15 California in this contract?  
 16 A. Because it's talking about the  
 17 installation site that, if and when they were going to  
 18 be installed, that that would be -- at that time, those  
 19 lenses could have been installed at Yermo, California.  
 20 Q. Was there a site in Yermo, California that  
 21 the parties had in mind?  
 22 A. My understanding was that they had some  
 23 property down there in that area.  
 24 Q. Who is "they"?  
 25 A. Neldon Johnson.

Page 59

1 Q. And so did you get that understanding from  
 2 Neldon Johnson?  
 3 A. Yes.  
 4 Q. Okay. So Mr. Johnson told you he had  
 5 property in Yermo, California, and that's where these  
 6 alternative energy systems or lenses were going to be  
 7 produced?  
 8 A. Well, they could be. But subsequently  
 9 there was, while further research and development was  
 10 being done, there was property being bought in Delta.  
 11 And I think there's a clause in there where they can be  
 12 installed at different sites.  
 13 Q. Okay.  
 14 A. So I was comfortable, as a person  
 15 purchasing the leases or purchasing the lenses, I was  
 16 comfortable that they could be put up anywhere.  
 17 Q. Okay.  
 18 A. It was my understanding I could get all  
 19 the credits and the rental fees. It didn't matter  
 20 where they were as long as they were in the United  
 21 States.  
 22 Q. And where were your lenses that you  
 23 bought, or that you leased?  
 24 MR. REAY: I think it's asked and answered  
 25 multiple times.

Page 60

1 Q. You can answer.  
 2 A. My recollection is that they were shipped  
 3 from Lucite into Utah some place.  
 4 Q. Have you ever seen them?  
 5 A. Yeah. They were in -- they have shifted  
 6 locations. At one time they were in the town of Delta,  
 7 Utah.  
 8 Q. And where are they now? The lenses you  
 9 bought on December 28, 2005, my question is where are  
 10 those lenses now.  
 11 A. At the manufacturing plant in Oasis, Utah.  
 12 Q. That was the first site that we visited on  
 13 April 4?  
 14 A. Yes.  
 15 Q. Have you seen the lenses that you bought  
 16 on December 28, 2005?  
 17 MR. REAY: Objection. Asked and answered.  
 18 Q. You can answer.  
 19 A. Yes.  
 20 What now? What was the --  
 21 Q. My question to you is have you seen the  
 22 lenses that you purchased on December 28, 2005, or that  
 23 you leased? Have you seen the lenses that you leased?  
 24 A. I have seen the general area where they  
 25 are.

Page 61

1 Q. And is that the Oasis Seed building in  
 2 Delta, Utah?  
 3 A. Yes.  
 4 Q. And how do you know which one is yours?  
 5 MR. REAY: Objection. Asked and answered.  
 6 Q. You can answer.  
 7 A. How do I know?  
 8 Q. How do you know, if you and I were down at  
 9 the Oasis Seed building right now and I said,  
 10 "Mr. Shepard, can show me the lenses you leased on  
 11 December 28, 2005 --"  
 12 A. No.  
 13 Q. You couldn't do that?  
 14 A. No.  
 15 Q. You would just say, "Mr. Moran, I can't do  
 16 that"?  
 17 A. Mr. Moran, I couldn't do that.  
 18 Q. Okay. I'm going to ask you to look at the  
 19 next page, paragraph 6 on Exhibit 462.  
 20 A. Second page?  
 21 Q. Second page. Paragraph 6 down at the  
 22 bottom.  
 23 A. Okay.  
 24 Q. It says, "If Lessor shall fail, for any  
 25 reason, to furnish, deliver, and start up the

Page 62

1 Alternative Energy System at the Installation Site, by  
 2 December 31, 2007, or within six months of the Permit  
 3 Date, whichever is earlier, hereinafter referred to as  
 4 the 'Refund Date,' Lessor shall refund to Lessee,  
 5 within ten days following the Refund Date, the Initial  
 6 Payment as well as the full amount of any other  
 7 payments made by Lessee on the Total Lease Amount."  
 8 Did I read that correctly?  
 9 A. Yes.  
 10 MR. REAY: Objection.  
 11 Go ahead. Withdraw.  
 12 Q. Did anything happen with your lenses on or  
 13 before December 31, 2007?  
 14 A. I don't recall.  
 15 Q. Did you receive any type of payment from  
 16 IAS regarding your lenses before December 31, 2007?  
 17 A. No.  
 18 Q. Do you know if your lenses were used to  
 19 generate any type of commercial product before December  
 20 31, 2007?  
 21 A. No.  
 22 Q. No, they were not, or no you don't know?  
 23 A. I don't know. I can't -- I don't know.  
 24 Q. Do you think you would have known if your  
 25 lenses were used to generate a commercial product?

Page 63

1 A. Yes.  
 2 Q. How would you have known that?  
 3 A. I would assume Neldon Johnson would have  
 4 said so.  
 5 Q. Okay.  
 6 A. And what do you mean by "commercial  
 7 product"?  
 8 Q. A product that IAS or any other entity  
 9 sold to someone in exchange for money.  
 10 A. I don't understand that at all.  
 11 Q. I'm saying --  
 12 A. So on your previous question, I can't  
 13 answer. I don't know what you're saying.  
 14 Q. You talked about lenses that -- you bought  
 15 these lenses because you wanted to bring clean energy  
 16 to the country, right?  
 17 A. Exactly, yeah.  
 18 Q. Okay. And usually energy is bought and  
 19 paid for, right?  
 20 A. I don't understand what you're saying.  
 21 MR. REAY: Objection. Calls for legal  
 22 conclusion.  
 23 Q. In this country is energy offered for  
 24 free?  
 25 A. No.

Page 64

1 Q. I assume you pay an electric bill every  
 2 month?  
 3 A. I do.  
 4 Q. Okay. So do you agree with me that energy  
 5 is not -- electricity is not free? If you want to buy  
 6 electricity, you've got to pay someone for it.  
 7 MR. REAY: Objection. Compound and  
 8 confusing.  
 9 A. Yeah. That's really -- I don't know what  
 10 you're saying. Very confused.  
 11 Q. All I'm asking is do you understand that  
 12 in this country electricity is not free?  
 13 A. I would say usually that's the case.  
 14 Q. Okay. That parties generate electricity  
 15 and then they sell it to customers, right?  
 16 A. I mean, utility companies or --  
 17 Q. Sure.  
 18 A. Yeah. Utility companies generate  
 19 electricity and then they sell that.  
 20 Q. Okay.  
 21 A. And I pay my electric bill.  
 22 Q. Just like everyone else?  
 23 A. Like everyone else.  
 24 Q. Okay. And one of the reasons you bought  
 25 these lenses is because you want to bring renewable



Page 65	<p>1 energy to the country.                  2 A. Yes.                  3 Q. And by "renewable energy" you mean solar                  4 energy that comes from the sun?                  5 MR. REAY: Objection. Mischaracterizes                  6 earlier testimony.                  7 A. Well, there's a variety of things that can                  8 be done with a turbine. And so that's an -- say that                  9 question again?                  10 MR. MORAN: Could you state the question                  11 again.                  12 (The record was read as follows:                  13 Question: "And by 'renewable energy' you                  14 mean solar energy that comes from the sun?")                  15 A. Well, yeah. Solar energy comes from the                  16 sun.                  17 Q. And that's one of the reasons you bought                  18 your lenses.                  19 A. One of the reasons. Right. One of the                  20 reasons.                  21 Q. Okay. Well, what are the other reasons?                  22 A. To produce heat.                  23 Q. Why would you want to produce heat?                  24 A. Really? You ask that question? Okay.                  25 One of the things you can do with the heat</p>	Page 67	<p>1 Q. And did anyone pay International Automated                  2 Systems for the research and development?                  3 MR. REAY: Objection. Calls for                  4 speculation.                  5 A. I don't know.                  6 Q. You don't know.                  7 A. That's not my -- I'm an independent                  8 contractor, Chris. I bought lenses, so I don't know                  9 much beyond that.                  10 Q. Okay. Were you ever paid for something                  11 your lenses did?                  12 A. No.                  13 Q. Okay. Mr. Shepard, I'd ask you to flip                  14 back to page 6 of 8, particularly paragraph 29.                  15 A. Page 6 of this document?                  16 Q. Yes. Exhibit 462.                  17 A. Okay. I'm there.                  18 Q. It says, "Lessor and Lessee acknowledge                  19 that they each understand and expect the Alternative                  20 Energy System may qualify for certain tax incentives                  21 and benefits under the 2005 Energy Policy Act and other                  22 statutes."                  23 A. Okay.                  24 Q. "Lessee acknowledges that it has reviewed                  25 a tax opinion letter obtained by Lessor from Lessor's</p>
Page 66	<p>1 is you can heat a building. You can heat water and as                  2 it goes through the turbine it comes out pure,                  3 distilled water, which can be used for irrigation. You                  4 don't even have to do anything with electricity.                  5 I thought you read -- well, I okay. I                  6 guess you're trying to -- I don't know what you're                  7 trying to do. But yeah, it can be used to heat a                  8 building, it can be used to heat hardened oil and                  9 liquify it. And it's a very profitable thing. It can                  10 be used to burn coal, the heat can, which can produce                  11 electricity. It can be used to purify solid waste. It                  12 can be used to -- it can use pig waste and burn that                  13 and produce heat, which can be used for irrigation                  14 and/or energy, solar energy. The water that can be                  15 produced can be produced at hardly any cost.                  16 Q. All right.                  17 A. And millions and millions of gallons.                  18 Four gallons per kilowatt hour, by the way. If you do                  19 the math on it, you'd be pretty impressed.                  20 Q. The lenses that you bought on December 28,                  21 2005, were they ever used for any of the purposes you                  22 just listed?                  23 A. R&amp;D had to be done. So I was willing to                  24 wait until they got all the R&amp;D completed on that to                  25 make it economically viable.</p>	Page 68	<p>1 accountant." Did I read that correctly?                  2 A. Uh-huh (affirmative).                  3 Q. And the lessor is International Automated                  4 Systems, right?                  5 A. Yes, it is.                  6 Q. Okay. Who wrote the tax opinion letter                  7 that is referred to in paragraph 29?                  8 A. I believe that's the Anderson tax letter.                  9 Q. You are referring to Todd Anderson?                  10 A. I'm not sure what his first name is. I                  11 think that's right.                  12 Q. Well, I'll represent to you that Todd                  13 Anderson is an attorney, not an accountant. And this                  14 is talking about an accountant. So do you recall any                  15 accountant that --                  16 A. Oh, yeah. I'm not sure. I kind of recall                  17 the name Hansen Barnett.                  18 Q. Hansen Barnett &amp; Maxwell?                  19 A. I think so.                  20 Q. So you think you --                  21 A. Long time ago now. We are twelve years                  22 ago. But yeah.                  23 Q. Do you recall reviewing a tax -- what's                  24 referred to here as a tax opinion letter from Hansen,                  25 Barnett &amp; Maxwell?</p>

<p style="text-align: right;">Page 69</p> <p>1 A. Yes. I can't remember what it said, but 2 yes. 3 Q. Okay. And paragraph 29 refers to certain 4 tax incentives and benefits. Do you recall what those 5 are? 6 A. Do I recall what the -- 7 Q. Do you recall -- what is this contract 8 referring to when it says "certain tax incentives and 9 benefits"? 10 MR. REAY: Objection. Calls for legal 11 conclusions. 12 A. Okay. So the benefits? I'm not sure what 13 the benefits said in that. I can't remember. 14 Q. Okay. 15 A. I mean, I can tell you what I think the 16 benefits are, because it's all over the internet. 17 Q. We are going to talk about that in a bit. 18 A. Okay. 19 Q. I'm talking about in the context of 20 paragraph 29 in this contract from 2005. 21 A. I can't remember what it said in that. 22 Q. All right. We can break for lunch. 23 (Break taken from 12:19 to 1:07 p.m.) 24 Q. (By Mr. Moran) We are back on the record 25 after a lunch break. Erin Hines has left us. She is</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. Okay. This appears to be an agreement 2 between you and International Automated Systems. 3 A. Yeah. 4 Q. Okay. So I'll ask you the question -- 5 A. So I guess I made a mistake, didn't I? 6 Q. That's fine. Like you said, it's been a 7 while. I'll ask the question again. Other than as a 8 shareholder, have you had any other relationships with 9 International Automated Systems? 10 A. Yes. As an independent representative. 11 Q. Okay. And what did you do as an 12 independent representative of IAS? 13 A. Sold solar lenses. 14 Q. Okay. And is Exhibit 463 an accurate copy 15 of your agreement with International Automated Systems? 16 A. Yes. 17 Q. Okay. And this contract, it sounds like 18 you were authorized to sell lenses for IAS? 19 A. Yes. 20 Q. Did you do anything else? 21 A. No. 22 Q. Okay. Did IAS compensate you for selling 23 lenses? 24 A. Yes. 25 Q. How was that compensation determined?</p>
<p style="text-align: right;">Page 70</p> <p>1 off the phone. 2 Mr. Shepard, we talked about a few things 3 before the break. I'm going to run through a series of 4 entities. I would like you to tell me what you know 5 about those entities. International Automated Systems 6 we have discussed. To be clear for the record, were 7 you ever employed by International Automated Systems? 8 A. No. 9 Q. Okay. What was the basis of your 10 relationship with them? 11 A. Shareholder. 12 Q. That's it? 13 A. Yes. 14 Exhibit 463 WASMARKED.) 15 Q. Mr. Shepard, you have been given a copy of 16 what's been marked for identification as Plaintiff's 17 Exhibit 463. What is it? 18 A. An Independent Representative Agreement. 19 Q. And I should ask you, do you recognize 20 this document? 21 A. I haven't seen it for a long time, yeah, 22 but my name is on there and it's in my handwriting. 23 Q. I'll ask you to look back to the last 24 page. Does your signature appear on the last page? 25 A. Yes, it does.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. It was based on ten percent of the gross 2 amount. So if somebody paid \$10,000, for example, I 3 would get \$1000. Ten percent of \$10,000 is \$1000. 4 Q. Sure. So you're saying if someone bought 5 \$10,000 -- 6 A. If they bought \$10,000 worth of lenses and 7 gave Neldon a check or IAS a check for \$10,000, I would 8 get ten percent of that. 9 Q. Okay. So you got a commission. 10 A. I got a commission. 11 Q. Okay. And you signed the agreement to be 12 an independent representative on September 26, 2005? 13 A. I would -- I'm not sure what you mean by 14 "representative." 15 Okay. Wait a minute. What does it say 16 there? 17 Q. It says "independent contractor, 18 hereinafter referred to as representative." 19 A. Okay. Then yes. 20 Q. Okay. That was a few months before you 21 bought lenses for the first time? 22 A. Yes. 23 Q. Going back to the lenses you purchased 24 December 28, 2005, we talked about these before the 25 break.</p>

Page 73

1 Exhibit 464 WAS MARKED.)  
 2 Q. I'd ask you to look at what's been marked  
 3 as Plaintiff's Exhibit 464. Do you recognize this  
 4 document?  
 5 A. It's been a long time, but I can recognize  
 6 my handwriting, so yes.  
 7 Q. Okay. And is that your signature on the  
 8 second-to-the-last page, which is Bates marked  
 9 Ra3 000736?  
 10 A. Yes.  
 11 Q. This is entitled -- Exhibit 464 is  
 12 entitled Equipment Sublease Agreement. And my  
 13 understanding of this agreement is that you are  
 14 subleasing lenses to LTB; is that correct?  
 15 A. I'm trying to find the LTB. Was LTB in  
 16 here? Oh, yes, sure.  
 17 MR. REAY: I'll object. It calls for  
 18 legal conclusions.  
 19 A. So what was your question?  
 20 Q. My understanding, I have read this  
 21 agreement and my understanding is that you were leasing  
 22 the lenses that you had leased from IAS, on the same  
 23 date, December 28, 2005, you had turned around and  
 24 subleased those to LTB; is that correct?  
 25 A. Yes.

Page 74

1 Q. That's your understanding of the contract?  
 2 A. That's my understanding.  
 3 Q. This also referred to Yermo, California;  
 4 is that right?  
 5 A. Yes.  
 6 Q. When is the first time you heard about  
 7 LTB?  
 8 A. On this date.  
 9 Q. Okay.  
 10 A. Or a little before. I'm not sure.  
 11 Q. All right. What is LTB?  
 12 A. I don't know. I mean, other than what it  
 13 says there, a Nevada limited liability company. And  
 14 they are authorized, I guess, to --  
 15 Q. That's all you know about them?  
 16 A. Yes. I don't know who owns it or who runs  
 17 it or who -- I don't know anything about the entity.  
 18 Q. All right. Before you signed this  
 19 agreement to sublease your lenses to them, did you do  
 20 any research on LTB?  
 21 A. No.  
 22 Q. Do you know -- you don't know any of its  
 23 history?  
 24 A. No.  
 25 Q. Do you know if it has any expertise or

Page 75

1 experience in --  
 2 MR. REAY: Objection. Calls for  
 3 speculation.  
 4 Sorry. I should have let you finish.  
 5 Q. -- operating and maintaining solar lenses?  
 6 A. I don't know.  
 7 MR. REAY: Objection. Calls for  
 8 speculation.  
 9 A. Yeah.  
 10 Q. Was the first time you heard of LTB when  
 11 it was on this agreement?  
 12 A. Yes.  
 13 Q. Who drafted this agreement?  
 14 A. I don't know.  
 15 Q. Who gave you this agreement, Exhibit 464?  
 16 A. I can't remember.  
 17 Q. Is there any reason to believe it wasn't  
 18 International Automated Systems?  
 19 A. No.  
 20 Q. No, there's no reason to believe that?  
 21 A. They probably did, but I can't recall it.  
 22 It's twelve years ago.  
 23 Q. Okay. So the first time you ever heard of  
 24 LTB, LLC was when it was --  
 25 A. Yes.

Page 76

1 Q. -- on this contract?  
 2 A. Yes.  
 3 Q. And you subleased your lenses to them.  
 4 A. Yes.  
 5 Q. Okay. Do you know what LTB did with your  
 6 lenses after they had been subleased?  
 7 A. No.  
 8 Q. Paragraph 1 of the agreement says or  
 9 mentions Yermo, California as an installation site. Do  
 10 you know if LTB did anything with your lenses at Yermo,  
 11 California?  
 12 A. I don't know.  
 13 Q. Do you think you would know if those  
 14 lenses had been used to generate any income?  
 15 A. I would if they were. I think I would.  
 16 Q. Go back to the last page of Exhibit 464,  
 17 the signature page. I see your signature. Whose  
 18 signature is above that?  
 19 A. I don't know.  
 20 Q. Okay. Any chance it was Chris Taylor?  
 21 A. I don't know. I can't make it out.  
 22 Q. No further questions on that document.  
 23 Exhibit 465 WAS MARKED.)  
 24 Q. Mr. Shepard, you have been given a copy of  
 25 what's been marked for identification as Plaintiff's

<p style="text-align: right;">Page 77</p> <p>1 465. Do you recognize this document?  2 A. I don't know. It's not signed so I'm not  3 sure. But I recognize in general the contract.  4 Q. Okay. All right. In general what is this  5 contract?  6 A. It's called a bonus fee contract.  7 Q. And what is a bonus fee contract?  8 A. It's based on -- it's a referral fee and  9 there's money that a person can get or I could get  10 based on the -- I don't know if this is the same one,  11 but -- yeah. Based on the gross sales of revenue  12 received by IAS.  13 Q. Okay. Sales of what?  14 A. It's my understanding anything. It just  15 says gross sales revenue.  16 Q. And where did you get that understanding  17 from?  18 A. From the contract right here. It says  19 gross sales of revenue.  20 Q. Okay. And my question to you is what's  21 your understanding of where IAS would be getting sales  22 revenue from?  23 MR. REAY: Objection. Calls for  24 speculation.  25 A. I don't know. I assume there's multitudes</p>	<p style="text-align: right;">Page 79</p> <p>1 purported, it's worth billions and billions and  2 billions of dollars.  3 Q. Okay.  4 A. Now, that's not -- don't say "okay"  5 because I'm not finished yet. I have a right to  6 finish, is that right?  7 Q. Yes, you do.  8 A. Thank you.  9 And so if it's worth billions and billions  10 and billions of dollars, that's going to put a lot of  11 people out of business and it's worth a lot of money.  12 Q. Okay.  13 A. So I would assume if that's the case, then  14 Neldon would be a little careful about how he lets  15 information out. And I'm not privy to any of that  16 information. If it's a scam like you say, then it  17 doesn't matter. But you have also said the technology  18 works now. So now I'm confused.  19 Q. MJM Holding is identified in this contract  20 as the lessee. Who is MJM Holding?  21 A. I don't know.  22 Q. You never heard of a company called MJM --  23 A. I have heard of it, yeah. But I don't  24 know exactly what they do. I'm not an officer in the  25 company, I'm not on the board of directors, I'm not an</p>
<p style="text-align: right;">Page 78</p> <p>1 of sources. I -- I know they got money from a lawsuit  2 because a big Canadian company stole Neldon's -- what  3 do they call that technology in the grocery stores?  4 Self checkout. They stole that technology from him and  5 he received \$1.7 million in a lawsuit settlement.  6 Q. Okay.  7 A. So that's one thing. There's other  8 things, I think. But it could be -- my understanding  9 from reading this, it's gross revenue that's received.  10 Q. So where does IAS get revenue from?  11 A. I have nothing to do with IAS, other than  12 being a shareholder. So I don't know all the  13 particulars of their business.  14 Q. Are you aware of IAS ever receiving  15 revenue?  16 MR. REAY: Objection. Calls for  17 speculation.  18 A. Yeah, I don't know.  19 Q. Do you think that IAS -- if IAS received  20 revenue you would know?  21 A. Not necessarily. I don't know.  22 You want to know the reason? Should I say  23 the reason?  24 Q. Sure.  25 A. If the technology is real, the way it's</p>	<p style="text-align: right;">Page 80</p> <p>1 employee, so I don't know.  2 Q. Have you ever been involved with MJM  3 Holding?  4 A. Let's see. MJM Holding. You better  5 refresh my memory. I can't recall.  6 Q. I'll hand you a copy of what's already  7 been marked in a previous deposition as Exhibit 94. I  8 direct your attention to the last page, sorry, the  9 third from the last page, which is Rowbotham_R-01196.  10 A. Okay. I was running on the wrong  11 wavelength here. Yes. Okay. I was thinking something  12 to do with energy.  13 Q. Well, MJM Holding, this is an Equipment  14 Purchase Agreement similar to the Equipment Purchase  15 Agreement that you signed on December 28 --  16 A. Right. MJM Holding was a business that I  17 had a long time ago.  18 Q. Okay. So I'll ask you again, what is MJM  19 Holding?  20 A. I'm trying to come up with what we did  21 with it. It was a holding company that held like a  22 building, for example. We owned a building that we  23 conducted the Bigger, Faster, Stronger business and the  24 manufacturing plant. And so MJM Holding, as it went  25 through the years, owned the building at 843 West 2400</p>

<p style="text-align: right;">Page 81</p> <p>1 South.</p> <p>2 Q. Okay. My understanding is that MJM</p> <p>3 Holding was a partnership between you and Robert</p> <p>4 Rowbotham that owned most of Bigger, Faster, Stronger</p> <p>5 assets; is that correct?</p> <p>6 A. Yeah. But I don't think that -- I think</p> <p>7 MJM Holding had a specific purpose and that was to own</p> <p>8 the building.</p> <p>9 Q. Okay.</p> <p>10 A. And then what Bigger, Faster, Stronger did</p> <p>11 is rent the building from MJM, as I remember. That's</p> <p>12 been a long time.</p> <p>13 Q. Now, MJM Holding it appears bought some</p> <p>14 solar lenses; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. And you signed on behalf of MJM Holding on</p> <p>17 page 6 of Exhibit 94; is that right?</p> <p>18 A. I did.</p> <p>19 Q. And then we also have Exhibit 465, a Solar</p> <p>20 Lease Bonus Fee Contract made out to MJM Holding; is</p> <p>21 that right?</p> <p>22 A. Here's the equipment purchase. You mean</p> <p>23 the lease agreement or the equipment purchase?</p> <p>24 Q. I'm talking about Exhibit 465.</p> <p>25 A. Oh, this one. Yeah, right.</p>	<p style="text-align: right;">Page 83</p> <p>1 second billion dollars. Before that there was a change</p> <p>2 in the amount. So the amounts of compensation have</p> <p>3 changed several times.</p> <p>4 Q. Have changed. Okay. But is it fair to</p> <p>5 say that all the bonus contracts are --</p> <p>6 A. Basically the same.</p> <p>7 Q. -- basically the same and that they will</p> <p>8 pay out a percentage?</p> <p>9 A. A percentage of the gross revenues from</p> <p>10 IAS, and then the sponsor or the independent contractor</p> <p>11 who sold the lens to that particular individual gets</p> <p>12 compensated also.</p> <p>13 Q. And that's gross revenue --</p> <p>14 A. Gross revenue.</p> <p>15 Q. -- from whatever International Automated</p> <p>16 Systems would be selling.</p> <p>17 A. Yeah. To stimulate gross sales.</p> <p>18 Q. Okay. But you don't know what the source</p> <p>19 of that sale is expected to be?</p> <p>20 A. Now or then? I'm not sure.</p> <p>21 Q. Then.</p> <p>22 A. Oh, then.</p> <p>23 Q. Yes.</p> <p>24 A. Okay.</p> <p>25 Q. And when I say "then," I'm referring to</p>
<p style="text-align: right;">Page 82</p> <p>1 Q. So the lenses that MJM purchased December</p> <p>2 22, 2006, would they have also signed a Solar Lease</p> <p>3 Bonus Fee Contract? And now I'm referring to Exhibit</p> <p>4 465.</p> <p>5 A. Yes. MJM Holding had a bonus fee contract</p> <p>6 I believe similar to this, if not the exact same. But</p> <p>7 this isn't the original document. Doesn't appear to</p> <p>8 be.</p> <p>9 Q. Is that because it's unsigned?</p> <p>10 A. Yeah. There's no -- there's MJM Holding</p> <p>11 and there's IAS, but it's not signed.</p> <p>12 Q. Okay.</p> <p>13 A. Either by me or by IAS.</p> <p>14 Q. Now, the Solar Lease Bonus Fee Contract in</p> <p>15 Exhibit 465, is that the standard contract language?</p> <p>16 A. Yeah. But I'm expecting money from this</p> <p>17 at some point, or MJM is. In all my bonus contracts</p> <p>18 I'm expecting money from them.</p> <p>19 Q. Are all the bonus contracts drafted</p> <p>20 similarly to Exhibit 465?</p> <p>21 A. No.</p> <p>22 Q. What's different?</p> <p>23 A. I'm not sure unless I see it. I think</p> <p>24 there's some wording that's different. For one thing,</p> <p>25 I think it was March of 2011 it was changed to the</p>	<p style="text-align: right;">Page 84</p> <p>1 the 2005, 2006 time frame.</p> <p>2 A. Back then I'd say several possibilities,</p> <p>3 and now there's much more. So that's why, you know,</p> <p>4 then and now.</p> <p>5 Q. Have any of the possibilities you knew</p> <p>6 about in 2005, 2006, have any of them ever been</p> <p>7 realized?</p> <p>8 A. No.</p> <p>9 Q. The bonus program we just talked about,</p> <p>10 that's the IAS bonus program? It's always been based</p> <p>11 on IAS?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Up until today.</p> <p>14 A. I don't understand that.</p> <p>15 Q. Has it ever not been -- has the bonus</p> <p>16 program ever not been based on IAS's expected gross</p> <p>17 revenue?</p> <p>18 A. No.</p> <p>19 Q. Exhibit 94, there's handwriting at the top</p> <p>20 that says "MJM Replacement Contract Number 2." Do you</p> <p>21 see that on Exhibit 94?</p> <p>22 A. Oh, here?</p> <p>23 Q. Right there.</p> <p>24 A. Okay.</p> <p>25 Q. Is that your handwriting?</p>

Page 85

1 A. It is.  
 2 Q. Can you explain to me why this was a  
 3 replacement contract?  
 4 A. I don't recall.  
 5 Q. Let me show you another document we have  
 6 marked in a previous deposition. This is Exhibit 93.  
 7 Do you recognize Exhibit 93?  
 8 A. Just give me a minute here to read it.  
 9 Yes. Okay.  
 10 Q. You do recognize this document?  
 11 A. Yes.  
 12 Q. What is it?  
 13 A. It is -- it's a notification of a less  
 14 complicated program from the lease/sublease program.  
 15 Q. All right. Now, I'm just trying to  
 16 understand the contracts. In Exhibit 462, which is  
 17 the --  
 18 A. Do I have that one?  
 19 Q. You do have it, and it's the Equipment  
 20 Lease Agreement you signed in December of '05.  
 21 A. Okay.  
 22 Q. And you testified that was your first --  
 23 that was the first time you acquired lenses.  
 24 A. Okay. Yeah.  
 25 Q. And then there's a sublease agreement. We

Page 86

1 talked about that.  
 2 A. Right.  
 3 Q. And Exhibit 94, which is dated December  
 4 22, 2006, that's characterized differently as an  
 5 Equipment Purchase Agreement.  
 6 A. Right.  
 7 Q. And then I see -- and that's characterized  
 8 as a replacement contract.  
 9 A. It would appear, yeah.  
 10 Q. And Exhibit 93 talks about IAS  
 11 transitioning from a lease program to a different  
 12 program, and it refers to --  
 13 A. Okay.  
 14 Q. It refers to investors buying a solar pod  
 15 for \$30,000. Did I read that correctly?  
 16 A. Yeah. And way back then the word  
 17 "investors" should not have been used.  
 18 Q. Okay.  
 19 A. But I did. We used the term "purchaser"  
 20 pretty soon after that.  
 21 Q. And Exhibit 93 is an e-mail from you?  
 22 A. The what, now?  
 23 Q. Exhibit 93 is an e-mail from you?  
 24 A. Yes.  
 25 Q. Do you recall who it was sent to?

Page 87

1 A. No.  
 2 Q. Robert Rowbotham produced it to us.  
 3 A. I can see that.  
 4 Q. Would Robert Rowbotham have been a  
 5 recipient of this e-mail?  
 6 A. Yes.  
 7 Q. Why did IAS change between a lease and a  
 8 purchase program?  
 9 A. I have no idea. You'd have to ask them.  
 10 Q. And when you say "them," are you referring  
 11 to Neldon Johnson?  
 12 A. I'm not sure who I'm referring to because  
 13 you said "them." I'm not sure. I had nothing to do  
 14 with that because I'm an independent contractor. So I  
 15 don't know who came up with the changes and why they  
 16 were made.  
 17 Q. How did you learn about the changes?  
 18 A. Through another contract.  
 19 Q. Who gave you that contract?  
 20 A. I think Neldon Johnson did.  
 21 Q. Okay. The information that you  
 22 communicate in Exhibit 93, where did you get the  
 23 information from?  
 24 A. I can't recall.  
 25 Q. Would it have been anyone other than

Page 88

1 Neldon Johnson?  
 2 A. Yeah. Yes. Because at this time I was  
 3 doing a lot of research.  
 4 Q. Okay. Who, other than Neldon Johnson,  
 5 would you have gotten this information from?  
 6 A. SEIA. Solar Energy Industries  
 7 Association. DSIRE.com. That's a government website.  
 8 The American Recovery and whatever it is that the  
 9 Congress signed.  
 10 Q. You think they communicated changes to  
 11 IAS's program?  
 12 A. No. They communicated the idea of a 30  
 13 percent tax credit.  
 14 Q. Okay. So I'll be more specific in my  
 15 question. The changes to IAS's program, who did you  
 16 learn that from?  
 17 A. Probably Neldon Johnson.  
 18 Q. Okay. Did Neldon Johnson tell you why he  
 19 was changing from a lease to a purchase program?  
 20 A. If he did, I can't recall.  
 21 Q. The second sentence, you say, "We now have  
 22 a less complicated program with more investor revenue."  
 23 Did I read that right?  
 24 A. Yes.  
 25 Q. What do you mean by "more investor

<p style="text-align: right;">Page 89</p> <p>1 revenue"?</p> <p>2 A. I believe the bonus contract was much more</p> <p>3 lucrative.</p> <p>4 Q. The bonus contracts that's based on IAS's</p> <p>5 sales revenue.</p> <p>6 A. Gross revenue, yes.</p> <p>7 Q. When you say it was more lucrative, do you</p> <p>8 mean it was a higher percentage?</p> <p>9 A. Well, yeah. It was -- I would say in</p> <p>10 the -- well, what happened, you can define this how you</p> <p>11 want, but for example, on the -- instead of .1, or 2</p> <p>12 percent, it turned out to be 6 percent; 6 and 3</p> <p>13 percent. So it was quite a dynamic change in the</p> <p>14 bonus.</p> <p>15 Q. Percent of what?</p> <p>16 A. Well, for example, if -- let me see if I</p> <p>17 can remember how this worked. Yeah. So, for example</p> <p>18 if --</p> <p>19 Q. I'm not asking you to do math,</p> <p>20 Mr. Shepard. If you have to -- I'm really just asking</p> <p>21 about your understanding of the change.</p> <p>22 A. Yeah. There was a big change as far as</p> <p>23 the amount of money that an independent contractor</p> <p>24 could make; and not only make, but the purchaser.</p> <p>25 Q. The purchaser of what?</p>	<p style="text-align: right;">Page 91</p> <p>1 Bob Rowbotham. And I think there was, like, six</p> <p>2 people. Something like that. I can't remember. But I</p> <p>3 put that in a deposition.</p> <p>4 Q. You put what in a deposition?</p> <p>5 A. Not in a deposition, but in --</p> <p>6 MR. REAY: An interrogatory.</p> <p>7 A. -- an interrogatory. But I can't recall</p> <p>8 the exact number. But it was a handful-plus number of</p> <p>9 people.</p> <p>10 Q. Mr. Rowbotham testified that you had</p> <p>11 marketed lenses to Bigger, Faster, Stronger customers;</p> <p>12 is that correct?</p> <p>13 A. No.</p> <p>14 Q. No?</p> <p>15 A. No.</p> <p>16 Now, they were, but not by me.</p> <p>17 Q. What do you mean? Who is "they"?</p> <p>18 A. I didn't say "they." I just said I didn't</p> <p>19 do it. But as I recall, they -- some Bigger, Faster,</p> <p>20 Stronger people found out about it, but not from me.</p> <p>21 Q. Do you know how they found out about it?</p> <p>22 A. No.</p> <p>23 Q. Who are the Bigger, Faster, Stronger</p> <p>24 people?</p> <p>25 A. I don't know. I mean, I could guess, but</p>
<p style="text-align: right;">Page 90</p> <p>1 A. Of solar lenses.</p> <p>2 Q. Okay. The last sentence of the first</p> <p>3 paragraph it says, "Money continues to come in for 35</p> <p>4 years. Anyway that's it in a nutshell." Did I read</p> <p>5 that right?</p> <p>6 A. Uh-huh (affirmative).</p> <p>7 Q. Where is the money coming from?</p> <p>8 A. The rental fee.</p> <p>9 Q. That's the rental fee that is paid after a</p> <p>10 lens starts producing revenue?</p> <p>11 A. Correct.</p> <p>12 Q. Has any of this money ever come in?</p> <p>13 A. No.</p> <p>14 Q. Mr. Shepard, we talked about your</p> <p>15 agreement with IAS earlier to be an independent</p> <p>16 contractor or representative.</p> <p>17 A. Yes.</p> <p>18 Q. All right. What is your understanding of</p> <p>19 your role as an independent contractor of IAS?</p> <p>20 A. At that time it was to sell lenses.</p> <p>21 Q. Okay. Anything else?</p> <p>22 A. No.</p> <p>23 Q. When you were selling lenses for IAS, who</p> <p>24 were you selling them to?</p> <p>25 A. Sold them to some neighbors, and MJM, and</p>	<p style="text-align: right;">Page 92</p> <p>1 I don't know. I didn't contact any Bigger, Faster,</p> <p>2 Stronger people.</p> <p>3 Q. About buying IAS lenses?</p> <p>4 A. About buying IAS lenses.</p> <p>5 Q. When you say Bigger, Faster, Stronger</p> <p>6 people, are you referring to Bigger, Faster, Stronger</p> <p>7 customers?</p> <p>8 A. Well, you're the one that said that. I</p> <p>9 don't know what you mean because I never sold any</p> <p>10 Bigger, Faster, Stronger customers or clients or</p> <p>11 coaches. I never did that.</p> <p>12 Q. You never sold them solar lenses?</p> <p>13 A. What?</p> <p>14 Q. You never sold any Bigger, Faster,</p> <p>15 Stronger customers lenses?</p> <p>16 A. No.</p> <p>17 Q. The people you did sell lenses to that you</p> <p>18 put in the interrogatory, Bob Rowbotham, MJM, and</p> <p>19 Lynette Williams, what did you tell them about the</p> <p>20 technology?</p> <p>21 A. I can't recall.</p> <p>22 Q. Generally you have no idea what you told</p> <p>23 them about the technology? You just say, "Here's some</p> <p>24 solar lenses. Do you want to buy them?" And they said</p> <p>25 yes?</p>

<p style="text-align: right;">Page 93</p> <p>1 A. No. In general terms - I can't remember  2 specifically - I said, "This is something you really  3 need to take a good look at. There's three ways you  4 can make money. You can do it through tax benefits,  5 you can do it through the rental program, and you can  6 do it through the bonus program. And in addition to  7 that, if you want to sell lenses, you can make  8 commissions. So that's the deal."  9 Q. So you did tell them about the tax  10 benefits as the first way they can make money?  11 A. Sure. I mean, tell me what solar company  12 doesn't do that? You can't. So I did what every other  13 solar company does, or whoever is selling the lenses.  14 They all do that. They all tell you about -- and it's  15 encouraged by the Federal Government to do that, by the  16 way. I know you know that.  17 Q. I think you testified to this previously  18 but has the rental income ever been realized?  19 A. No.  20 Q. Has the bonus program ever generated  21 anyone any income?  22 A. No.  23 Q. So except for the tax benefits, is there  24 any money that anyone has ever actually made from  25 buying a lens?</p>	<p style="text-align: right;">Page 95</p> <p>1 sponsored.  2 Q. Okay. And how did that work? Because you  3 just said, "My lenses were transferred over to  4 RaPower3."  5 A. Right. So if I had 25 lenses here with  6 IAS, I had 25 lenses over here with RaPower3.  7 Q. So you had purchased lenses from IAS.  8 A. Sure.  9 Q. And then you leased them to LTB.  10 A. Yes.  11 Q. And then RaPower3 comes on the scene. Do  12 you recall when?  13 A. I don't. Not exactly. 2010 or 2008? I  14 don't know.  15 Q. Okay. Whatever that date is, RaPower3  16 comes on the scene, and now if you already bought your  17 lenses and leased them to LTB, what does RaPower3 have  18 to do with your lenses?  19 A. I don't understand the question.  20 Q. Well, I don't understand the contract and  21 the way the lenses work, and that's what I'm trying to  22 understand. You testified, "If I had lenses with IAS,  23 now they are with RaPower3." And my question to you is  24 if you purchased them from IAS and you owned them, and  25 then you leased them to LTB, which is going to operate</p>
<p style="text-align: right;">Page 94</p> <p>1 A. Sure. Oh, from buying a lens? Yeah.  2 Q. The three ways you just mentioned. You  3 said tax benefits, you said rental income, and you said  4 bonuses.  5 A. And I said in addition to that --  6 Q. You can get commissions, right?  7 A. Exactly.  8 Q. Okay. You talked about three ways of  9 earning income from lenses.  10 A. Right.  11 Q. Has anyone ever made money?  12 A. No. There has been no rental income or  13 bonus money received yet.  14 Q. Thank you.  15 We talked about your independent  16 contractor representative relationship with IAS, right?  17 A. Yes.  18 Q. At some point did you have a similar  19 arrangement with RaPower3?  20 A. Yes. I think there was a transition made,  21 not initiated by me but by IAS or Neldon, or I'm not  22 sure. Wanted to put everything into another company  23 called RaPower3. And so all my lenses that I purchased  24 were transferred over to RaPower3 and my records were  25 on RaPower3's website. And all the people that I</p>	<p style="text-align: right;">Page 96</p> <p>1 and maintain them, what does RaPower3 -- what do you  2 mean by, "Now my lenses are with RaPower3"?  3 A. Well, I think we all -- well, I'm just  4 going to speak for myself. It's my understanding that  5 the rental agreement was transferred over there, so I'm  6 going to get the same rental income when that happens,  7 and I'm going to get the same bonuses when that  8 happens.  9 Q. Your bonuses are from IAS.  10 A. That's true. So that doesn't change.  11 Q. And your rental income --  12 A. Doesn't change from RaPower3, because it  13 comes from LTB.  14 Q. So I'm trying to understand --  15 A. But I don't get any additional tax  16 benefits.  17 Q. But you're not answering my question.  18 A. Okay.  19 Q. You testified that now your lenses are  20 with RaPower3. I don't understand how your lenses can  21 be with RaPower3 because you own them but you are  22 leasing them to LTB.  23 A. I don't, either. I can't answer that  24 because I -- I assume Neldon would have to answer that  25 kind of a question.</p>



Page 97

1 Q. So you don't know?  
 2 A. I don't know.  
 3 Q. Okay.  
 4 A. I expect the same outcome.  
 5 Q. Why do you expect the same outcome?  
 6 A. Because Neldon Johnson is very honest and  
 7 I trust him, and I trust the agreements that we signed.  
 8 I trust all that.  
 9 Q. What does Neldon Johnson have to do with  
 10 LTB?  
 11 A. I don't know.  
 12 Q. So if your lenses are being leased to LTB,  
 13 why does your trust in Neldon Johnson have any effect  
 14 on the outcome?  
 15 A. I think he has something to do with that.  
 16 And if he does, then I would trust that that would come  
 17 out okay for me.  
 18 Q. Why do you think that Neldon Johnson has  
 19 something to do with LTB?  
 20 A. I don't know. You're trying to box me  
 21 into a corner and I'm just not going to go there.  
 22 Q. I'm trying to understand the program.  
 23 A. I'm trying to understand what you are  
 24 trying to drive at. I don't understand it so I'm going  
 25 to say I don't know what you're going for. I don't

Page 98

1 understand it.  
 2 MR. REAY: Clarify your question and then  
 3 I'll instruct him to answer the question.  
 4 MR. MORAN: Can you ask the last question.  
 5 (The record was read as follows:  
 6 "Question: Why do you think that Neldon  
 7 Johnson has something to do with LTB?")  
 8 A. I believe that Neldon Johnson has either a  
 9 direct or distant ability or -- not ability, but has  
 10 something to do either directly or very indirectly with  
 11 what goes on. And I don't know, I can't define  
 12 directly or indirectly because I don't know that.  
 13 Q. Do you think that --  
 14 A. I'm an independent contractor and I don't  
 15 have -- I'm not an officer of any of those companies.  
 16 I'm not on a board of directors. I'm not an employee.  
 17 I don't go to any meetings. I don't know what's going  
 18 on. So you're asking me to speculate on things and I  
 19 don't know the involvement of Neldon Johnson in that or  
 20 the extent of direct or indirectly.  
 21 Q. You testified you expect the lenses you  
 22 leased to LTB are going to produce revenue, right?  
 23 A. I expect that, yeah.  
 24 Q. And you justified that belief on your  
 25 trust in Neldon Johnson, right?

Page 99

1 A. Yes.  
 2 Q. Okay. And I'm trying to understand how  
 3 those two are connected.  
 4 A. Well, I don't know.  
 5 Q. You don't know?  
 6 A. I don't know how they are connected.  
 7 That's not --  
 8 Q. You just think they are?  
 9 A. I think they are.  
 10 Q. Has Neldon Johnson told you anything about  
 11 LTB?  
 12 A. No.  
 13 Q. It's just a name on a contract?  
 14 A. Yes.  
 15 Q. And the name on that contract is why you  
 16 think your lenses are going to produce money?  
 17 A. The what, now?  
 18 Q. A name on a contract, LTB --  
 19 MR. REAY: Objection. Mischaracterizes  
 20 his early testimony.  
 21 Q. There's a name on a contract that you  
 22 believe might be controlled by Neldon Johnson and  
 23 that's why you expect that at some point they are going  
 24 to --  
 25 MR. REAY: Objection. Mischaracterizes.

Page 100

1 Q. -- produce income?  
 2 A. No. I don't understand it.  
 3 Q. You don't understand the question?  
 4 A. No.  
 5 Exhibit 466 WAS MARKED.)  
 6 Q. Mr. Shepard, you have been given a copy of  
 7 what's been marked for identification as Plaintiff's  
 8 Exhibit 466. Do you recognize this document?  
 9 A. I do.  
 10 Q. What is it?  
 11 A. It's a placed in service -- should be a  
 12 placed in service letter. Yeah. Service for ten  
 13 lenses. I first purchased ten lenses.  
 14 Q. Is this the -- does this refer to your  
 15 first purchase from December 28, 2005?  
 16 A. It does.  
 17 Q. Okay. And this is on RaPower3 letterhead?  
 18 A. Yes, it is.  
 19 Q. Okay. And you testified -- let me ask you  
 20 this: Did RaPower3 exist in 2005?  
 21 A. No.  
 22 Q. Did it exist in 2006?  
 23 A. No.  
 24 Q. Okay. Why would RaPower3 be giving you a  
 25 placed in service letter for lenses that you purchased

Page 101

1 in 2005 if RaPower3 didn't exist until September 2010?  
 2 A. I don't know.  
 3 Q. Would this document have to have been  
 4 back-dated?  
 5 A. I don't know.  
 6 Q. Do you recall when you received this  
 7 document?  
 8 A. No.  
 9 Q. Getting back to RaPower3, you testified  
 10 that you're not an officer, you're not a director; is  
 11 that right?  
 12 A. Not on the board of directors, not an  
 13 officer, and not an employee. I'm an independent  
 14 contractor.  
 15 Q. Do you know who owns RaPower3?  
 16 A. No.  
 17 Q. In your capacity as an independent  
 18 contractor for RaPower3, did you ever sign a contract  
 19 with them? You testified you were an independent  
 20 contractor for RaPower3, right?  
 21 A. Right.  
 22 Q. And previously we discussed a contract  
 23 where you became an independent contractor for IAS.  
 24 A. Right.  
 25 Q. My question to you is did you sign a

Page 102

1 similar contract when you became involved with  
 2 RaPower3?  
 3 A. Yeah. A distributor contract.  
 4 Q. Okay.  
 5 A. Which everyone who purchased solar lenses  
 6 under RaPower3, there's a distributor application form.  
 7 So you fill that out and you become a distributor. So  
 8 I signed that.  
 9 Q. You signed that?  
 10 A. Uh-huh (affirmative). Electronically.  
 11 Q. What about Chief Director of Operations?  
 12 A. What about it?  
 13 Q. Is that a position with RaPower3?  
 14 A. No.  
 15 Q. Have you referred to yourself as the Chief  
 16 Director of Operations for RaPower3?  
 17 A. Sometimes.  
 18 Q. Who authorized you to refer to yourself as  
 19 that?  
 20 A. No one.  
 21 Q. No one? You just did it?  
 22 A. Yes. Thought it sounded cool. Trying to  
 23 sell lenses.  
 24 I know you kind of smile at that, but  
 25 there's no -- no corporation has a chief director of

Page 103

1 operations. I don't know if you knew that. There's a  
 2 COO and there's a CEO and a CFO, but there's not a  
 3 chief officer of whatever.  
 4 Q. Who is Glenda Johnson?  
 5 A. That's Neldon Johnson's wife.  
 6 Q. Okay. Does she have any involvement in  
 7 the sale of solar lenses?  
 8 A. I don't know what she does.  
 9 MR. REAY: Objection. Calls for  
 10 speculation.  
 11 Q. You have no idea what she does?  
 12 A. Well, in general, yes.  
 13 Q. In general terms, what does she do?  
 14 A. She keeps track of the books, and she  
 15 sends out -- I get a check, a commission check. So she  
 16 sends out commission checks. And I think she deposits  
 17 but I'm not sure. That's her business, not mine. I  
 18 don't know.  
 19 Q. Okay. You said she keeps the books. Who  
 20 does she keep the books for?  
 21 A. I don't know. That's speculation on my  
 22 part. You'd have to ask her, because I'm not down  
 23 there sitting on her shoulder. I don't know what she  
 24 does --  
 25 Q. Okay.

Page 104

1 A. -- exactly.  
 2 Exhibit 467 WASMARKED.)  
 3 Q. Mr. Shepard, you have been given a  
 4 document which has been marked for identification as  
 5 Plaintiff's Exhibit 467. This is a document that you  
 6 produced to the United States. Do you recognize this  
 7 document?  
 8 A. I do.  
 9 Q. What is it?  
 10 A. It's a team memo.  
 11 Q. I think it's the first page of a team  
 12 memo; is that right?  
 13 A. It is.  
 14 Q. Up at the top it appears to be an e-mail  
 15 from you dated August 9, 2016 and you sent it to Glenda  
 16 Johnson.  
 17 A. I did.  
 18 Q. The e-mail address GlendaEJohnson@  
 19 hotmail.com, do you know whose e-mail address that is?  
 20 A. It's Glenda Johnson's e-mail.  
 21 Q. And that's Neldon Johnson's wife?  
 22 A. Yes. Do you know why it is done that way?  
 23 Q. Why it's done what way?  
 24 A. Do you know why Glenda is on there? You  
 25 don't, do you?

Page 105	<p>1 Q. Please enlighten me.</p> <p>2 A. I will. This kind of refers to -- I know</p> <p>3 what you're trying to do, so I need to do this.</p> <p>4 Neldon doesn't open up e-mails. So if I</p> <p>5 want to get in contact, or if anyone wants to get in</p> <p>6 contact with Neldon by e-mail, you send it to Glenda</p> <p>7 and then she passes it on. So that's why Glenda's name</p> <p>8 is on there.</p> <p>9 Q. So the normal practice to communicate with</p> <p>10 Neldon via e-mail is to send it to Glenda?</p> <p>11 A. That's my practice, yeah. I don't know</p> <p>12 about other people, but I assume that's true.</p> <p>13 Q. So you have never sent an e-mail to Neldon</p> <p>14 directly?</p> <p>15 A. If I did, it would have been a long time</p> <p>16 ago, because I would never get a response.</p> <p>17 Q. Do you know if Neldon Johnson has an</p> <p>18 e-mail address?</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. So in this e-mail you say, "Glenda</p> <p>21 and Neldon, need approval on this latest memo.</p> <p>22 Material taken word for word from the IAS.com website."</p> <p>23 Is that right?</p> <p>24 A. Yes. Yes.</p> <p>25 Q. Okay. So even though you sent this e-mail</p>	Page 107	<p>1 Agreement with IAS, it seems like you needed permission</p> <p>2 to use IAS's name, trademarks, or any references to IAS</p> <p>3 in written materials; is that right?</p> <p>4 A. But this is when RaPower3 was in existence.</p> <p>5 Q. I'm getting to that.</p> <p>6 A. Okay.</p> <p>7 Q. But to my understanding, with IAS you</p> <p>8 needed Neldon Johnson's permission to use IAS's name;</p> <p>9 is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And now when it comes to RaPower3,</p> <p>12 I'm just trying to understand was the arrangement the</p> <p>13 same or were you authorized to speak on behalf of</p> <p>14 RaPower3 without Neldon Johnson's authorization?</p> <p>15 A. In general terms, I was authorized to.</p> <p>16 But he didn't -- I sent out e-mails and memos without</p> <p>17 his approving every one. In fact, most of them</p> <p>18 weren't.</p> <p>19 Q. And you were authorized to do that?</p> <p>20 A. Yes.</p> <p>21 Q. But it seems like certain items required</p> <p>22 Neldon Johnson's approval?</p> <p>23 A. No. I just thought that this one was, I</p> <p>24 guess, because I don't know -- it had IAS technology in</p> <p>25 it. And I thought, well, it might be better to get him</p>
Page 106	<p>1 to Glenda Johnson's e-mail address, the real person you</p> <p>2 were asking for approval from was Neldon.</p> <p>3 A. Correct.</p> <p>4 Q. Does Neldon Johnson approve everything you</p> <p>5 send out?</p> <p>6 A. No.</p> <p>7 Q. Why were you asking for approval on this</p> <p>8 particular team memo number 65?</p> <p>9 A. I can't recall.</p> <p>10 Q. So you are authorized to send out written</p> <p>11 material on behalf of RaPower3 without Neldon Johnson's</p> <p>12 permission?</p> <p>13 A. Say that again? Authorized?</p> <p>14 Q. Well, in your -- in the Independent</p> <p>15 Representative Agreement, in Exhibit 463, and paragraph</p> <p>16 11(a) it says, "Representative shall not use any</p> <p>17 advertising materials, literature, promotional items,</p> <p>18 or assigns that include IAS's names, trademarks or any</p> <p>19 references to --"</p> <p>20 A. Oh, yeah. Good point.</p> <p>21 Q. So I understand that for IAS purposes you</p> <p>22 needed permission from Neldon Johnson to make any</p> <p>23 statements on behalf of IAS; is that right?</p> <p>24 A. Statements on behalf of IAS?</p> <p>25 Q. Well, your Independent Representative</p>	Page 108	<p>1 to give permission to have that sent out.</p> <p>2 Q. So would you have sent that out without</p> <p>3 Neldon Johnson's authorization?</p> <p>4 A. I can't -- I don't know.</p> <p>5 Q. Do you think --</p> <p>6 A. Well, no. If he told me no, not to send</p> <p>7 it out, I wouldn't have done it. If that's what you're</p> <p>8 asking.</p> <p>9 Q. Okay. That's half of it. If he didn't</p> <p>10 respond or if Glenda didn't respond for him, would you</p> <p>11 have sent it out?</p> <p>12 A. No.</p> <p>13 Q. So if team memo 65 was sent out, it's</p> <p>14 because Neldon Johnson authorized you to?</p> <p>15 A. It's too far back.</p> <p>16 Q. This is last August.</p> <p>17 A. What?</p> <p>18 Q. This is August of 2016.</p> <p>19 A. Okay. I would assume that he did, then,</p> <p>20 yes.</p> <p>21 Q. So if team memo number 65 went out to</p> <p>22 RaPower3 customers, it's because Neldon Johnson</p> <p>23 authorized you to do so?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Are there any topics other than IAS</p>

Page 109

1 technology that you would ask Neldon Johnson for his  
 2 approval for before sending it out?  
 3 A. Any what now?  
 4 Q. You testified that with respect to Exhibit  
 5 467, because you were talking about IAS technology, you  
 6 sought Neldon Johnson's approval. Do you recall that  
 7 testimony?  
 8 A. Say that again? I'm sorry.  
 9 Q. You testified that with respect to Exhibit  
 10 467 the reason you sought Neldon Johnson's approval  
 11 before sending it out was because it involved IAS  
 12 technology; is that right?  
 13 A. Yes. But I didn't do it all the time.  
 14 Q. Okay. Well, are there any other topics  
 15 that you would feel you needed to consult Neldon  
 16 Johnson on before disseminating?  
 17 A. I'd have to -- that's a very general,  
 18 broad question. I'd have to see what an exact topic  
 19 might be. But I give I think an extensive disclaimer  
 20 there that it's my opinion when those go out. So they  
 21 are not like Neldon Johnson's or IAS opinions. They  
 22 are my opinions and my doing. So I take -- if there's  
 23 anything wrong or incorrect that went out, then I would  
 24 take responsibility for that.  
 25 Q. Okay. But my question was are there any

Page 110

1 other topics other than IAS technology that you would  
 2 feel the need to consult with Neldon with.  
 3 MR. REAY: Objection. You've asked and  
 4 answered that question.  
 5 A. Yeah. It's all very general, Chris.  
 6 That's why I said you'd have to have -- or I would have  
 7 to think about what topic would you think.  
 8 Q. Let's go through some documents.  
 9 Exhibit 468 WASMARKED.)  
 10 Q. Mr. Shepard, you've been given a copy of  
 11 what's been marked for identification as Plaintiff's  
 12 Exhibit 468. This is a document that you produced.  
 13 This appears to be an e-mail dated March 28, 2016  
 14 between yourself and Mike-George Robbins. Is that  
 15 correct?  
 16 A. Yes.  
 17 Q. And up at the top it says, "Mike, sorry,  
 18 but Neldon and Glenda make the decisions." Did I read  
 19 that correctly?  
 20 A. Absolutely.  
 21 Q. So is this an example of an area where  
 22 Neldon Johnson or where Neldon --  
 23 A. What area are you talking about?  
 24 Q. Well, the topic of this e-mail. It seems  
 25 like someone can't pay for their lenses, and you refer

Page 111

1 the problem to Neldon and/or Glenda. Is that correct?  
 2 A. Well, I've got to read the e-mail first.  
 3 Q. Go ahead.  
 4 A. "Neldon said that he ordered the lenses.  
 5 We had to buy the lenses to show that they were there.  
 6 All these should have been paid in full by 2013."  
 7 MR. REAY: You don't want it all on the  
 8 record.  
 9 THE WITNESS: Sorry. I'll read silently.  
 10 Q. (By Mr. Moran) Okay.  
 11 A. Okay. This is to me from Glenda. Got  
 12 that.  
 13 Okay. So what's the question?  
 14 Q. My question is originally I asked a  
 15 question of what other topics or what other, yeah,  
 16 topics would you need to get authorization from Neldon  
 17 on except for --  
 18 A. To put in a memo?  
 19 Q. And whatever you're --  
 20 A. Well, this certainly wouldn't go in a  
 21 memo.  
 22 Q. I understand that. But there's a --  
 23 A. And it certainly wouldn't go out in an  
 24 e-mail to anybody else.  
 25 Q. It seems like a customer e-mailed you and

Page 112

1 had an issue paying for their lenses. Isn't that  
 2 right?  
 3 A. Apparently so, yeah.  
 4 Q. Okay. And could you have made a decision  
 5 on the issues they raised in this e-mail?  
 6 A. Oh, no.  
 7 Q. Who did you refer to?  
 8 A. Neldon and Glenda.  
 9 Q. Okay. So if a RaPower3 customer has an  
 10 issue with paying for their lenses, who addresses that  
 11 problem?  
 12 A. Well, sometimes I do in terms of giving  
 13 them a heads-up. If the person hasn't paid, I would  
 14 say, "Hey, you need to -- you should pay."  
 15 Q. And what happens if they don't pay?  
 16 A. Then that's not my problem. I don't know  
 17 what to do after that.  
 18 Q. Whose problem is it?  
 19 A. I would say it would be Neldon's. And I  
 20 would e-mail Glenda to tell Neldon. Or if I saw him in  
 21 person I may say in person. But normally I don't think  
 22 he does anything with people when they don't pay. But  
 23 I don't know.  
 24 Q. What do you mean by that?  
 25 A. Well, if a person doesn't pay for their

<p style="text-align: right;">Page 113</p> <p>1 lenses, he's --</p> <p>2 Q. He doesn't care?</p> <p>3 A. I don't know. He doesn't seem to be too</p> <p>4 forceful in trying to collect delinquent payments. I</p> <p>5 know we send out invoices, like other companies, but --</p> <p>6 Q. Go ahead.</p> <p>7 A. I guess I'm done.</p> <p>8 Exhibit 469 WASMARKED.)</p> <p>9 Q. Mr. Shepard, you've been given a copy of</p> <p>10 what's been marked for identification as Plaintiff's</p> <p>11 Exhibit 469.</p> <p>12 A. Okay.</p> <p>13 Q. Do you recognize this document?</p> <p>14 A. Well, no. But I recognize Kontos and I</p> <p>15 think I recognize Tarika, but I'm not sure.</p> <p>16 Q. I'll give you a chance to review Exhibit</p> <p>17 469, but it appears to be that Tarika Sands isn't</p> <p>18 interested in being a RaPower3 member anymore.</p> <p>19 A. Uh-huh (affirmative).</p> <p>20 Q. And you referred to, "Glenda Johnson would</p> <p>21 need an e-mail from you stating that you do not want to</p> <p>22 stay in the RaPower3 program."</p> <p>23 A. Yes.</p> <p>24 Q. Why would they be talking to Glenda</p> <p>25 Johnson?</p>	<p style="text-align: right;">Page 115</p> <p>1 of at the top. So he probably thought I could help out</p> <p>2 some way, but I can't because I can't make any decision</p> <p>3 on that.</p> <p>4 Q. And then in the middle of the first page</p> <p>5 there's an e-mail from Glenda Johnson dated February 7,</p> <p>6 2012. Now, was it your understanding that Glenda</p> <p>7 Johnson was speaking for Neldon Johnson there?</p> <p>8 MR. REAY: Objection. Calls for</p> <p>9 speculation.</p> <p>10 A. Yeah, I don't know.</p> <p>11 Q. Okay. Who is Roger Freeborn?</p> <p>12 A. Roger Freeborn is a man I've known for a</p> <p>13 long time. He started out --</p> <p>14 Q. Let's go off the record.</p> <p>15 (Telephone interruption.)</p> <p>16 A. So Roger Freeborn started out as wanting</p> <p>17 to do business with Bigger, Faster, Stronger in the</p> <p>18 form of buying equipment, having a clinic. And I think</p> <p>19 my first contact with him was when he was coaching at</p> <p>20 Green River, Wyoming. And that was probably early</p> <p>21 '80s.</p> <p>22 Q. Okay.</p> <p>23 A. And then we maintained that relationship</p> <p>24 when he went to another high school in Oregon. I did a</p> <p>25 clinic for him there. And then he went to another</p>
<p style="text-align: right;">Page 114</p> <p>1 A. Well, I didn't -- this is from Nicholas</p> <p>2 Kontos, not me.</p> <p>3 Q. Okay.</p> <p>4 MR. REAY: Objection. Calls for</p> <p>5 speculation.</p> <p>6 A. Nicholas Kontos is an independent</p> <p>7 contractor like I am, and Tarika is Nicholas Kontos's</p> <p>8 sponsor.</p> <p>9 Q. And why would she be directed to Glenda</p> <p>10 Johnson?</p> <p>11 A. You'd have to ask Nicholas Kontos. I just</p> <p>12 got a carbon copy of this.</p> <p>13 Q. Well, Nicholas Kontos e-mailed you on</p> <p>14 February 8, 2012, down at the bottom.</p> <p>15 A. Okay.</p> <p>16 Q. Why would Nicholas Kontos be e-mailing you</p> <p>17 about this problem?</p> <p>18 A. Because he thought I might know something,</p> <p>19 might give him advice. That's what our program is all</p> <p>20 about. We are team members, Chris. And so if you're a</p> <p>21 team member it's like, you know, you play on the team.</p> <p>22 We played on a team.</p> <p>23 Q. Okay.</p> <p>24 A. So I'm a team member, fellow team member</p> <p>25 and I'm kind of the self-proclaimed, you know, I'm kind</p>	<p style="text-align: right;">Page 116</p> <p>1 school in Washington and I did a clinic for him there.</p> <p>2 And I thought he did well, so I offered him a position,</p> <p>3 if you will, to be a -- an offer to be a BFS clinician</p> <p>4 where he could go out and teach people what I taught</p> <p>5 him.</p> <p>6 Q. Okay.</p> <p>7 A. And so we had that relationship.</p> <p>8 Now, as far as RaPower3 goes, it's that I</p> <p>9 asked him if he wanted to buy some lenses, and he ended</p> <p>10 up buying the lenses. Not underneath me, but</p> <p>11 underneath Bob or MJM. I can't remember. And so then</p> <p>12 he wanted to really put the metal -- whatever you say.</p> <p>13 The metal to the floor. But he wanted to go after it,</p> <p>14 and sold or had a lot of customers. A lot of RaPower3</p> <p>15 customers that bought lenses.</p> <p>16 Q. Are you talking about his downline?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And when you say downline, we are</p> <p>19 referring to people who Roger Freeborn got commissions</p> <p>20 from, who purchased lenses?</p> <p>21 A. Right. Who, in turn, sold to people and</p> <p>22 he got commissions from that. So yeah, he turned it</p> <p>23 into a business.</p> <p>24 Q. Okay. Do you recall when Roger Freeborn</p> <p>25 got involved in selling lenses?</p>

Page 117	<p>1 A. I would probably -- this is a guess. I                  2 mean, I could look it up. But I would say around                  3 probably 2008 or 2009, in there.                  4 Q. Before RaPower3?                  5 A. Yeah, before RaPower3. I think so, yes.                  6 Q. So back when IAS was running the program?                  7 A. I think so. Now, I'm not sure, because I                  8 don't have my records in front of me and that's not                  9 something I can accurately answer. All I'm doing is                  10 guessing, Chris.                  11 Q. Did there come a time when Roger Freeborn                  12 was no longer authorized to sell lenses?                  13 A. Yes.                  14 Q. I'll hand you a copy of what's already                  15 been marked as Plaintiff's Exhibit 80. Do you                  16 recognize Plaintiff's Exhibit 80.                  17 A. Yes.                  18 Q. Before we talk about Plaintiff's Exhibit                  19 80, let me back up a little bit. Did you give Roger                  20 Freeborn information about IAS and RaPower3?                  21 MR. REAY: Objection. Confusing.                  22 Q. I'll rephrase. How did Roger Freeborn                  23 learn about the solar lenses that he sold?                  24 A. From me.                  25 Q. Okay.</p>	Page 119	<p>1 relationship between Roger Freeborn and Neldon Johnson.                  2 Q. Okay.                  3 A. That's all I know.                  4 Q. How do you know that much?                  5 A. Because Neldon Johnson told me.                  6 Q. What did Neldon Johnson tell you?                  7 A. That there was a problem with Roger                  8 Freeborn, and I don't know specifics.                  9 Q. Neldon Johnson just told you, "There's a                  10 problem with Roger Freeborn. I want him out"?                  11 A. Yes.                  12 Q. Okay. So Neldon Johnson directed that                  13 Roger Freeborn be terminated?                  14 A. Yes.                  15 Q. Did you ever have any discussions with                  16 Roger Freeborn about his relationship with Neldon                  17 Johnson?                  18 A. If I did, I can't remember. If there                  19 were, they were very short. But I don't know. I can't                  20 remember.                  21 Q. Okay. Roger Freeborn was terminated in                  22 June 2013. After that time did you have any contact                  23 with Roger Freeborn?                  24 A. Very little. Most of it was due where                  25 I -- well, not most, I think all. All contact was</p>
Page 118	<p>1 A. And Bob Rowbotham.                  2 Q. And where did he get information about                  3 these lenses?                  4 A. Who? Who is "he"?                  5 Q. Roger Freeborn.                  6 A. He got it from Bob Rowbotham and/or me.                  7 Q. Okay. Did you talk to him about the tax                  8 benefits that you claim are associated with the solar                  9 lenses?                  10 A. That's a long time back, but I would                  11 suppose so, yes.                  12 Q. Getting back to Plaintiff's Exhibit 80,                  13 what is it? And I'm particularly referring to an                  14 e-mail from you dated June 2, 2013, beginning in the                  15 middle of the page.                  16 A. Yes.                  17 Q. Do you recognize that e-mail?                  18 A. Yes.                  19 Q. Did you write that e-mail?                  20 A. Yes.                  21 Q. Okay. It says, "You are hereby terminated                  22 from RaPower3 as an independent contractor."                  23 A. Yes.                  24 Q. Why was Roger Freeborn terminated?                  25 A. I think it had to do with something in the</p>	Page 120	<p>1 about his health. He was going through some severe                  2 health problems. And so he is a friend for, you know,                  3 since '81 or whatever it was. And so -- he was one of                  4 my clinicians. So as a friend I wanted to call him                  5 and --                  6 Q. See how he was doing?                  7 A. See how he was doing.                  8 Q. Sure. After this termination, did you                  9 ever discuss solar lenses with Roger Freeborn?                  10 A. No. Not to my recollection.                  11 Q. What about when this case was initiated?                  12 A. Can you be --                  13 Q. The United States filed this case in                  14 November 2015, and named you and --                  15 A. And Roger.                  16 Q. -- Roger as defendants. Did you ever have                  17 any discussions with him about this case?                  18 MR. REAY: Object that attorney/client                  19 privilege discussions could have taken place between                  20 the three of us.                  21 Q. All right. I'll rephrase. Did you have                  22 any discussions with Mr. Freeborn, where Mr. Reay was                  23 not present, about this case?                  24 A. I can't remember.                  25 Q. Did Roger Freeborn ever call you and say,</p>

<p style="text-align: right;">Page 121</p> <p>1 "Hey, I'm part of this, too"?</p> <p>2 A. Yes, I think he did.</p> <p>3 Q. And what did --</p> <p>4 A. But I can't remember specifics of the</p> <p>5 conversation. I mean, I'm trying to help you out on</p> <p>6 this, but I probably told him, "Don't worry about it.</p> <p>7 We'll get through it somehow." I mean that's what I --</p> <p>8 if I did, that's what I would have told him.</p> <p>9 Q. Okay.</p> <p>10 A. And yeah, the main thing was to help him</p> <p>11 get through his health issue.</p> <p>12 Q. Okay.</p> <p>13 A. Apparently he is doing a lot better now.</p> <p>14 Thank goodness.</p> <p>15 Q. Back to the e-mail in Plaintiff's Exhibit</p> <p>16 80.</p> <p>17 A. And by the way, I'm remembering something</p> <p>18 now. He also offended Bigger, Faster, Stronger and Bob</p> <p>19 Rowbotham.</p> <p>20 Q. And how is that?</p> <p>21 A. And so I can't remember the specifics on</p> <p>22 that, but he was -- he didn't do a good job at the</p> <p>23 later -- in his later days as a clinician. And so he</p> <p>24 was cut off as a clinician. So he was terminated</p> <p>25 there. Not by me, but by Bob. And so we had a</p>	<p style="text-align: right;">Page 123</p> <p>1 Q. Sure. But to be clear, you understand</p> <p>2 that Neldon@iaus.com is Neldon Johnson's e-mail</p> <p>3 address?</p> <p>4 A. Yes, I do. Sorry if that was</p> <p>5 misunderstood.</p> <p>6 Q. No problem. Is there a reason you sent</p> <p>7 Roger Freeborn's termination notice rather than Neldon</p> <p>8 Johnson?</p> <p>9 A. I think because I had a relationship with</p> <p>10 him. But I don't know why he asked me. But if he</p> <p>11 asked me to do it, I was glad to do it.</p> <p>12 Q. And when you are saying "he," you are</p> <p>13 referring to --</p> <p>14 A. Neldon. If Neldon asked me to do</p> <p>15 something that is reasonable, I would accommodate that.</p> <p>16 Q. Okay. Are you familiar with an entity</p> <p>17 known as Cobblestone?</p> <p>18 A. Yes, I am.</p> <p>19 Q. What is Cobblestone?</p> <p>20 A. I don't know. I mean, really. I think it</p> <p>21 has something to do with RaPower3, I guess, but I don't</p> <p>22 know what it does. Again, I'm an employee, I'm not on</p> <p>23 the board of directors, I'm not -- I have nothing to do</p> <p>24 with Cobblestone, and I don't even know what it does.</p> <p>25 Q. You just know that it exists?</p>
<p style="text-align: right;">Page 122</p> <p>1 strained -- there was a strained relationship with BFS</p> <p>2 and with Neldon Johnson. And so because that was the</p> <p>3 case, I did not want to be caught in the middle of</p> <p>4 that. And so I had kind of a hands-off philosophy</p> <p>5 other than asking how he was doing.</p> <p>6 Q. Okay. Back to Plaintiff's Exhibit 80 and</p> <p>7 your June 2, 2013 e-mail.</p> <p>8 That's directed to CoachFree@aol.com and I</p> <p>9 understand that's Roger Freeborn.</p> <p>10 A. It is.</p> <p>11 Q. And you cc GlendaEJohnson and</p> <p>12 neldon@iaus.com. Whose e-mail is that?</p> <p>13 A. That's Neldon's but, like I said, he never</p> <p>14 opens it. But I wanted to have it on record.</p> <p>15 Q. So --</p> <p>16 A. I think he saw this but I don't think he</p> <p>17 saw it by opening up e-mails to Neldon@iaus.com.</p> <p>18 Q. He saw it because you sent it to Glenda?</p> <p>19 A. Yes. Pretty sure.</p> <p>20 Q. But you do know that if I asked you --</p> <p>21 withdraw that.</p> <p>22 Is Neldon@iaus.com an e-mail address you</p> <p>23 know to be associated with Neldon Johnson?</p> <p>24 A. I think I said no before just because I</p> <p>25 know he never opens it. It doesn't do any good.</p>	<p style="text-align: right;">Page 124</p> <p>1 A. I know that it exists.</p> <p>2 Q. How do you know that it exists?</p> <p>3 A. Because I have seen it in some references</p> <p>4 and some documents.</p> <p>5 Q. Okay.</p> <p>6 A. I just know that it's there.</p> <p>7 Q. And who did you get those references and</p> <p>8 documents from?</p> <p>9 A. I don't know.</p> <p>10 Q. Would it have been Neldon Johnson?</p> <p>11 A. It could have been. It could be on a</p> <p>12 document -- I just don't know anything about it.</p> <p>13 Q. Any idea who, other than Neldon Johnson,</p> <p>14 you would have heard about it from?</p> <p>15 A. Yeah. There could have been Glenda.</p> <p>16 Could have been LeGrande. Could have been Chris</p> <p>17 Taylor, maybe. Could have been -- but I don't really</p> <p>18 think I -- I didn't hear about it verbally. I just saw</p> <p>19 it on a document.</p> <p>20 Q. Do you recall what those documents were?</p> <p>21 A. No.</p> <p>22 Q. Except for the people you just mentioned,</p> <p>23 the Johnson family and Chris Taylor, is there anyone</p> <p>24 else you would have gotten those documents from?</p> <p>25 A. No.</p>

Page 125

1 Q. Okay.  
 2 A. Well, wait a minute. Would I have gotten  
 3 it -- did I get it from you guys? I don't know.  
 4 MR. REAY: There's been a lot of documents.  
 5 A. I don't know. I saw it some place. I  
 6 have seen it several places and I don't know which  
 7 documents it was and who sent them to me. I don't  
 8 know.  
 9 Q. And my question to you is except for  
 10 the --  
 11 A. I think it's on a -- I think it's one --  
 12 it's on one of our official documents, but I don't  
 13 know.  
 14 Q. Is that on the RaPower3 website?  
 15 A. You probably have that. So if you've got  
 16 it, give it to me and I'll look at it. But I don't  
 17 know.  
 18 Q. Well, I'm trying to understand the source  
 19 of the documents where you would have heard of  
 20 Cobblestone. And excluding the Johnson family and  
 21 Chris Taylor, is there anyone else who you could have  
 22 conceivably gotten those documents from?  
 23 A. No. I don't see how the -- well, unless  
 24 it was from an attorney. Either you guys or --  
 25 Q. You can exclude us, as well.

Page 126

1 A. Okay.  
 2 Q. Is there anyone else?  
 3 A. No.  
 4 Q. How about DCL 16 BLT?  
 5 A. That's what I had for lunch, a BLT. Just  
 6 trying to lighten things up. I never heard of that.  
 7 Q. You never heard of DCL 16 BLT?  
 8 A. No.  
 9 Q. All right. I'll give you a document that  
 10 was marked in a previous deposition. And this is  
 11 Plaintiff's Exhibit 439, which was marked in the  
 12 deposition of Matt Shepard. The e-mail that appears on  
 13 the first page, Shepard\_Greg-03681, do you recognize  
 14 that?  
 15 A. PCC, yes. Okay.  
 16 Q. Is Exhibit 439 an e-mail from you?  
 17 A. Yes.  
 18 Q. Okay. And you have an attachment entitled  
 19 Closed-Loop System for audits? And does that exhibit  
 20 appear on the second page?  
 21 A. Yes.  
 22 Q. On the page marked Shepard\_Greg-03682.  
 23 A. Okay.  
 24 Q. The top paragraph says, "The third party  
 25 engineering review was conducted by reputable engineers

Page 127

1 with Ph.D. and M.S. degrees in Physics, Mechanical  
 2 Engineering, and Nuclear Engineering from prestigious  
 3 universities. Did I read that correctly?  
 4 A. Yes.  
 5 Q. Earlier in your testimony you talked about  
 6 validations that you understood to have been done by  
 7 various universities.  
 8 A. Yes.  
 9 Q. Is the statement that appears on Exhibit  
 10 439 what you were referring to?  
 11 A. Yes.  
 12 Q. Okay. And who did you get that information  
 13 from?  
 14 A. It was in the technology reports from  
 15 Neldon Johnson. But I don't know the circumstances.  
 16 Q. And do you know the names of the reputable  
 17 engineers?  
 18 A. No.  
 19 Q. Okay. Neldon Johnson just told you they  
 20 were reputable engineers from these universities?  
 21 A. Yes.  
 22 Q. The rest of the information in the  
 23 attachment to Exhibit 439, the rest of the information  
 24 you convey there, did you take that from a white paper  
 25 that you obtained --

Page 128

1 A. Yes. Yes. I didn't make up anything.  
 2 That's a cut and paste.  
 3 Q. From a document you obtained from Neldon  
 4 Johnson?  
 5 A. Yes.  
 6 Q. We already talked about the manufacturing  
 7 site. I think there's also been references to an R&D  
 8 site.  
 9 A. Yes.  
 10 Q. All right. Is that the second site that  
 11 we visited during our site visit on April 4th?  
 12 A. Yeah. The last site.  
 13 Q. And that's where there were a bunch of  
 14 towers up in the air?  
 15 A. About 18, 17, yes.  
 16 Q. Okay. You said there's 18 or 17 towers?  
 17 A. Yes.  
 18 Q. And the towers are where the lenses that  
 19 various customers had bought are intended to go, at  
 20 some point?  
 21 MR. REAY: Objection. Calls for  
 22 speculation.  
 23 Q. Okay. I'll withdraw it.  
 24 The research and development site where  
 25 there's 17 or 18 towers, what's going on there?



Page 129	<p>1 A. Research and development.</p> <p>2 Q. Okay. Research and development of what?</p> <p>3 MR. REAY: Objection. Calls for</p> <p>4 speculation.</p> <p>5 A. Yeah. I don't have anything to do with</p> <p>6 the research and development. I mean, I go down there</p> <p>7 quite a bit and I see what's going on. But I don't</p> <p>8 collect any data. I have never seen any data. There</p> <p>9 was a lot of research and development done on gear</p> <p>10 shifts, dual access tracking. There's been R&amp;D done on</p> <p>11 heat exchangers, molten salt containers, solar lenses,</p> <p>12 turbines. I think I said that. The frames, the solar</p> <p>13 frames. Research and development on how fast they</p> <p>14 could put up towers.</p> <p>15 Q. Okay.</p> <p>16 A. What the drying time of concrete would be.</p> <p>17 Q. Now, on the towers that are there --</p> <p>18 A. Yes.</p> <p>19 Q. -- the 17 or 18 towers, there's several</p> <p>20 plastic lenses, right?</p> <p>21 A. Several plastic lenses?</p> <p>22 Q. There's lenses on those towers, right?</p> <p>23 A. Yeah. But more than several. There's</p> <p>24 quite a few. I don't know how many. But "several" to</p> <p>25 me implies five or six.</p>	Page 131	<p>1 MR. MORAN: Thank you, Mr. Reay. 2048?</p> <p>2 MR. REAY: 2448 if my math is right.</p> <p>3 Q. (By Mr. Moran) Have any of these lenses</p> <p>4 ever produced electricity?</p> <p>5 MR. REAY: Objection. Calls for</p> <p>6 speculation. Asked and answered.</p> <p>7 Q. I'll rephrase it. Have you ever seen any</p> <p>8 of these, at most, 2448 lenses generate what you</p> <p>9 understand to be electricity?</p> <p>10 A. No.</p> <p>11 Q. Ever?</p> <p>12 A. No. But I have heard that they have for</p> <p>13 R&amp;D purposes. I have never been there when they have</p> <p>14 actually done it.</p> <p>15 Q. And who have you heard that from?</p> <p>16 A. Neldon.</p> <p>17 Q. Anyone else?</p> <p>18 A. No.</p> <p>19 Q. Okay. Have you ever seen those 2448, at</p> <p>20 most, lenses ever heat or cool a structure?</p> <p>21 A. You mean like a building, or like a hut?</p> <p>22 Q. Sure.</p> <p>23 A. No. I have just seen them produce heat</p> <p>24 and set boards on fire, like you saw. And I have seen</p> <p>25 them hurt myself.</p>
Page 130	<p>1 Q. Okay.</p> <p>2 A. I think there's a lot more than that.</p> <p>3 Q. Okay. How many lenses --</p> <p>4 A. There's less than a hundred of them. But</p> <p>5 I think it's more than five or six.</p> <p>6 Q. Okay. You think it's between five and a</p> <p>7 hundred? Probably closer to a hundred?</p> <p>8 A. Well, let me see. I have to guess. I can</p> <p>9 do a multiplication.</p> <p>10 Q. Each tower has four rings on it, right?</p> <p>11 A. Correct.</p> <p>12 Q. And how many lenses are on each ring?</p> <p>13 A. On each ring, there are 34.</p> <p>14 Q. Okay. So there's 34 on each ring.</p> <p>15 A. Right.</p> <p>16 Q. And then there's four lenses on each</p> <p>17 tower.</p> <p>18 A. Right. So you can have 136, potentially.</p> <p>19 Q. Yeah. So 136 total on each tower. So the</p> <p>20 total number of lenses that are at the research and</p> <p>21 development site would be, at most, 136 times 18.</p> <p>22 A. Yes. But there's not. But at most, yes.</p> <p>23 Q. Now, the lenses at the research and</p> <p>24 development site, 136 times 18, whatever that is --</p> <p>25 MR. REAY: 2448.</p>	Page 132	<p>1 Q. What do you mean, hurt yourself?</p> <p>2 A. I was standing where I wasn't paying</p> <p>3 attention and my shoe started smoking, so I know they</p> <p>4 produce heat. I had to run fast.</p> <p>5 Q. Okay. But has that heat ever been used to</p> <p>6 heat a structure?</p> <p>7 A. No.</p> <p>8 Q. How about to cool a structure?</p> <p>9 A. No.</p> <p>10 Q. Okay.</p> <p>11 A. I haven't seen it. I'm not saying that it</p> <p>12 hasn't been done for a short period, but I have never</p> <p>13 seen it.</p> <p>14 Q. Has anyone ever told you that the lenses</p> <p>15 were used to heat or cool a structure?</p> <p>16 A. No.</p> <p>17 Q. Now, you've mentioned heat a couple times.</p> <p>18 Have the lenses ever been used -- has the heat</p> <p>19 generated by the lenses ever been sold?</p> <p>20 A. No.</p> <p>21 MR. REAY: Objection. Calls for</p> <p>22 speculation.</p> <p>23 A. Not to my knowledge.</p> <p>24 Oh, wait a minute. Wait a minute. I take</p> <p>25 that back. Say that again.</p>

Page 133

1 MR. MORAN: Would you read back the last  
 2 question.  
 3 (The record was read as follows:  
 4 "Question: Now, you've mentioned heat a  
 5 couple times. Have the lenses ever been used --  
 6 has the heat generated by the lenses ever been  
 7 sold?")  
 8 MR. REAY: You may need to rephrase that  
 9 question.  
 10 A. Yeah. Rephrase the question.  
 11 Q. (By Mr. Moran) Has the heat generated by  
 12 the lenses at the R&D site ever been sold?  
 13 MR. REAY: Objection. Calls for  
 14 speculation.  
 15 A. The lenses that are -- the R&D lenses on  
 16 the towers have presently been sold?  
 17 Q. Has the heat ever been sold. In other  
 18 words, has anyone ever paid money for the heat?  
 19 A. My understanding, yes.  
 20 Q. Someone did pay money for the heat?  
 21 A. Paid money for -- okay. I'm trying to  
 22 answer your question because I know that --  
 23 Q. I'm just trying to understand.  
 24 A. Okay. It's my understanding that lenses  
 25 have been sold outside of RaPower3, because of where

Page 134

1 the project is at and producing heat. But I don't know  
 2 the specifics. Neldon would know that.  
 3 Q. All right. Let's come back to that.  
 4 Right now I'm asking about the lenses at the R&D site.  
 5 A. Yea.  
 6 Q. And you testified that they generate heat.  
 7 A. They do.  
 8 Q. The simplest way to ask this question is  
 9 has that heat ever been sold?  
 10 A. No. From those lenses, no. Not to my  
 11 knowledge.  
 12 Q. Okay. All right. And now you just  
 13 previously talked about lenses outside of RaPower3 that  
 14 you believe may have been sold --  
 15 A. Lenses outside of the R&D site.  
 16 Q. Okay.  
 17 A. That are being used for R&D.  
 18 Q. Outside of the R&D site now, lenses have  
 19 been sold. Where are those lenses?  
 20 A. I don't know. That's not my -- that's not  
 21 my --  
 22 Q. Are these the lenses that are at the  
 23 manufacturing facility?  
 24 A. For what now? For RaPower3 or another  
 25 entity?

Page 135

1 Q. We will do both. Another entity.  
 2 A. I think -- and I don't know. I'm  
 3 speculating. If that's what you want me to do. Should  
 4 I do that? Speculate?  
 5 MR. REAY: No. Calls for speculation.  
 6 Q. You can answer based on what you know.  
 7 MR. REAY: It's compound and confusing.  
 8 Q. If someone has told you lenses were sold  
 9 outside of RaPower3, that's responsive to my question.  
 10 And you've mentioned lenses sold outside of RaPower3,  
 11 and I want to know what you're talking about.  
 12 A. I have just heard that from Neldon. I  
 13 don't know the specifics. I don't know where those  
 14 lenses might be, or if they even need to be -- they are  
 15 bought on speculation that they will be produced at  
 16 some point. I don't know. You're asking things that I  
 17 don't have any control over and have no knowledge of.  
 18 I don't know. I don't have any --  
 19 Q. All right.  
 20 A. I just can't help you out on this, Chris.  
 21 I'd like to.  
 22 Q. The lenses that are at the R&D site, is it  
 23 your understanding that there are lenses like them  
 24 elsewhere?  
 25 A. Sure. At the manufacturing plant.

Page 136

1 Q. Okay. Anywhere else?  
 2 A. Not to my knowledge. I don't know.  
 3 Q. Okay.  
 4 A. But you do know that all I have to do is  
 5 send a roller to Lucite and a ton more lenses can be  
 6 made. You knew that, right? 400 megawatts worth,  
 7 which is about \$800 million worth.  
 8 Q. Again, I'm asking the questions.  
 9 A. Well, I'm telling you what can be done.  
 10 And also, that they are so cheap it doesn't even matter  
 11 if they are broken. They can be replaced.  
 12 Q. All right. That's fine. Do you have any  
 13 knowledge of lenses being built by Lucite and sent  
 14 anywhere but the manufacturing site or the R&D site?  
 15 A. I have no knowledge of that, no.  
 16 Q. Just so the record is clear, has anyone  
 17 ever paid electricity -- withdrawn.  
 18 Has anyone ever paid for electricity  
 19 that's generated by a solar lens?  
 20 A. Oh, yeah. Tons. Tons.  
 21 Q. They have paid for electricity?  
 22 A. Oh, absolutely. Millions of dollars  
 23 worth.  
 24 Q. People paid for the electricity that's  
 25 generated by the lenses?

<p style="text-align: right;">Page 137</p> <p>1 A. Oh, that wasn't the thing. Chris, you 2 didn't ask the right question. I'm just -- you just 3 said have lenses ever produced electricity. You meant 4 to say have IAS or RaPower3 lenses ever produced 5 electricity. 6 MR. REAY: Calls for speculation. 7 Q. I'll rephrase. A lens -- 8 THE WITNESS: Come on, Erin Healy. Smile 9 a little bit now. That was pretty good. 10 Q. Of the lenses we have been discussing that 11 are at the RaPower3 R&amp;D site and manufacturing 12 facility, are you with me, the at most 2448 lenses. 13 A. Uh-huh (affirmative). 14 Q. Have those lenses ever generated 15 electricity that someone has paid for? 16 MR. REAY: I'll renew my objection. Calls 17 for speculation. 18 A. I think so. 19 Q. You think someone has bought electricity 20 that's generated by lenses at the R&amp;D site? 21 A. I think so. But I don't know for sure. 22 That would be a question for Neldon. 23 Q. All right. You think that happened. When 24 do you think that happened? 25 A. The last couple of years.</p>	<p style="text-align: right;">Page 139</p> <p>1 said you think so. 2 A. Could be, yeah. 3 Q. And I said who, and it seems like you have 4 identified Rocky Mountain Power. 5 A. I don't know. No, not necessarily. 6 Q. All right. Now, if -- 7 A. Those are things that Neldon would have to 8 answer. 9 Q. If the lenses had generated power, 10 generated electricity that was sold to someone, 11 wouldn't that have triggered rental payments? 12 A. Okay. We are -- 13 MR. REAY: Objection. Calls for 14 speculation and legal conclusions. 15 A. Yeah. What if it was a hundred bucks? 16 Are we going to distribute that? 17 Q. My understanding is that once these lenses 18 are generating revenue, that rental payments are owed; 19 isn't that right? 20 A. It is, on a continual basis, yeah. If 21 it's done for R&amp;D purposes, no. 22 Q. Okay. So has electricity ever been 23 generated on a continuous basis? 24 MR. REAY: Objection. Calls for 25 speculation.</p>
<p style="text-align: right;">Page 138</p> <p>1 Q. Who do you think purchased the electricity? 2 A. I don't know. 3 Q. Okay. Where did you get the information 4 that leads you to believe electricity was sold? 5 A. Well, there's a huge, long cable. I can't 6 ask you questions. But it was visible on your tower, 7 if you saw that. It's also on the RaPower3 website. 8 There's an electric -- there's a cord about that big 9 around that goes from the R&amp;D site into the house that 10 we were in. 11 Q. Is it the cable that was on the ground? 12 A. Yes. And that goes to a transformer which 13 goes to a three-phase power that's right next to the 14 house, which goes into Rocky Mountain Power. 15 Q. And you think that Rocky Mountain Power 16 paid for -- 17 A. I don't know. That's not my -- I don't 18 know. 19 Q. Well, my original question to you is has 20 anyone paid for electricity -- 21 A. I said I think so. You'd have to ask 22 Neldon. 23 MR. REAY: Let him finish. 24 Q. My question is has anyone paid for 25 electricity that those lenses have generated, and you</p>	<p style="text-align: right;">Page 140</p> <p>1 A. I would say no. 2 Q. Okay. Except for the cable you just 3 mentioned that goes from the R&amp;D site to the house that 4 you think connected to Rocky Mountain Power, is there 5 anything else that forms the basis for your belief that 6 electricity has been sold? 7 A. Been sold or produced? 8 Q. Sold. 9 A. No. 10 Q. Have the lenses, the 2448 lenses at the 11 R&amp;D site, have they ever been used to make hot water? 12 Or to heat water? 13 A. I don't know. 14 Q. Okay. 15 A. Oh, heat water? Boy, I don't know. 16 Q. You don't know? 17 A. I would say that there's a possibility of 18 that, yeah. 19 Q. If the lenses had been used to heat water, 20 do you think you would have remembered it if you had 21 seen it? 22 A. Well, I didn't see it but I think there's 23 a high -- there's a probability that Neldon did during 24 his R&amp;D. It would have been a simple thing to do. 25 Q. Did Neldon ever tell you that he did?</p>

<p style="text-align: right;">Page 141</p> <p>1 A. No.</p> <p>2 Q. Okay. What's the biomass burner?</p> <p>3 A. To my -- well, is this outside my --</p> <p>4 What do you think, Attorney?</p> <p>5 MR. REAY: No. You can answer the</p> <p>6 question.</p> <p>7 A. Okay. I'm not an expert in a biomass</p> <p>8 burner deal. But the biomass burner is I think</p> <p>9 patented, but I'm not sure. You'd have to ask Neldon</p> <p>10 that. But the biomass burner can burn any form of</p> <p>11 biomass material. It can burn coal. It can burn solid</p> <p>12 waste. It can burn cotton residue, which I think</p> <p>13 Neldon is planning on doing in his Texas project. I</p> <p>14 think he has a project with cotton farmers to do that.</p> <p>15 And it can burn pig waste, which I think he has plans</p> <p>16 to do from the pig farm down in Milford, which is a</p> <p>17 million pigs. And it can burn sawdust, wood, garbage.</p> <p>18 Q. All right. With all these items you say</p> <p>19 it can burn, what's done with -- what does that do?</p> <p>20 What does burning have to do with --</p> <p>21 A. Well, just like a coal plant or natural</p> <p>22 gas.</p> <p>23 MR. REAY: Objection. Calls for</p> <p>24 speculation.</p> <p>25 A. But it's pretty simple.</p>	<p style="text-align: right;">Page 143</p> <p>1 A. I told you it doesn't.</p> <p>2 Q. All right. So they are not connected in</p> <p>3 any way?</p> <p>4 A. Well, no, that's not true. It's my</p> <p>5 understanding that the turbine can be used with both of</p> <p>6 them at the same time.</p> <p>7 Q. And how did you get this understanding?</p> <p>8 A. Common sense.</p> <p>9 Q. Any one person tell you about it?</p> <p>10 A. No. It's just it should be very common</p> <p>11 sense.</p> <p>12 Q. So what's different about --</p> <p>13 A. You have a solar lens over here producing</p> <p>14 heat, and you've got biomass over here producing heat.</p> <p>15 You can run them into the turbine, the same turbine.</p> <p>16 Q. So the biomass burner is not dependent on</p> <p>17 a lens?</p> <p>18 A. No.</p> <p>19 MR. REAY: There's not a real valid</p> <p>20 objection for relevance, but what does a biomass -- so</p> <p>21 I'm going to raise an objection for relevance because a</p> <p>22 biomass burner has nothing to do with this.</p> <p>23 MR. MORAN: Mr. Reay, you're aware that a</p> <p>24 relevance objection isn't appropriate in a deposition.</p> <p>25 MR. REAY: Right. But the judge will</p>
<p style="text-align: right;">Page 142</p> <p>1 Can I answer it if it's simple?</p> <p>2 MR. REAY: You can answer it.</p> <p>3 A. Well, it heats water. When you can heat</p> <p>4 water you create steam. When you've got steam, you can</p> <p>5 make the turbine go around. If it's hooked to a</p> <p>6 generator, you can produce electricity and/or you can</p> <p>7 produce water.</p> <p>8 Q. Okay. How does that involve a lens?</p> <p>9 A. It doesn't unless the lens is producing</p> <p>10 heat on the same system. But the biomass can work</p> <p>11 independently from the solar lenses.</p> <p>12 Q. So you don't need a lens to operate a</p> <p>13 biomass burner?</p> <p>14 A. You don't need it. You can, but you don't</p> <p>15 need it. I just listed all the sources.</p> <p>16 Q. You say you can burn items in a biomass</p> <p>17 burner and heat --</p> <p>18 A. You are not going to burn a solar ray.</p> <p>19 But you can hook the solar lenses and produce heat with</p> <p>20 it. Heat water, and you have the same outcome. You</p> <p>21 can either produce water with it or you can produce</p> <p>22 electricity. They can work independently or together</p> <p>23 to produce one result.</p> <p>24 Q. But how does a lens connect to a biomass</p> <p>25 burner?</p>	<p style="text-align: right;">Page 144</p> <p>1 still have to rule on it. It just doesn't have a lot</p> <p>2 of direction for this.</p> <p>3 MR. MORAN: Your objection is preserved.</p> <p>4 And if he just clarified that it's his testimony that a</p> <p>5 lens is not in any way connected to a biomass burner</p> <p>6 then we have the information we need.</p> <p>7 A. But I'm also not an expert.</p> <p>8 Q. (By Mr. Moran) Okay.</p> <p>9 A. Right?</p> <p>10 Q. Next question, has a lens, any of the</p> <p>11 lenses been used to purify water?</p> <p>12 A. I haven't seen it but, again, I'm not</p> <p>13 privy to all the information.</p> <p>14 Q. Who is privy to all the information?</p> <p>15 A. Neldon Johnson.</p> <p>16 Q. Okay. Has anyone ever told you that a</p> <p>17 lens was used to purify water?</p> <p>18 A. Was used or could be used or what?</p> <p>19 Q. I'll ask it in two parts. Has anyone ever</p> <p>20 told you that a lens at the R&amp;D site could be used or</p> <p>21 has been used to purify water?</p> <p>22 A. No.</p> <p>23 Q. Okay. Has anyone ever told you that a</p> <p>24 lens could be used to purify water?</p> <p>25 A. Yes.</p>

Page 145	<p>1 Q. Who?</p> <p>2 A. Neldon.</p> <p>3 Q. Okay.</p> <p>4 A. Neldon Johnson.</p> <p>5 Q. I'll give you a document which has been</p> <p>6 marked in a previous deposition. This is Plaintiff's</p> <p>7 Exhibit 119 from the deposition of Preston Olsen.</p> <p>8 Mr. Shepard, do you recognize Exhibit 119?</p> <p>9 A. No.</p> <p>10 Q. Okay. Do you recognize in general a</p> <p>11 document called the RaPower3 Purchase Agreement?</p> <p>12 A. Yes.</p> <p>13 Q. What is the RaPower3 Purchase Agreement?</p> <p>14 A. It's when a potential RaPower3 team member</p> <p>15 buys solar lenses.</p> <p>16 Q. Okay.</p> <p>17 A. And so this is -- when that happens, then</p> <p>18 this is the Equipment Purchase Agreement.</p> <p>19 Q. Okay. And that Equipment Purchase</p> <p>20 Agreement is available on the RaPower3 website, right?</p> <p>21 A. It is.</p> <p>22 Q. Does Exhibit 119 appear to be the standard</p> <p>23 RaPower3 Purchase Agreement?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And that's for Preston Olsen</p>	Page 147	<p>1 it's different now.</p> <p>2 Q. When did it change?</p> <p>3 A. I'm not sure when it changed, as far as --</p> <p>4 and I'm not saying -- it might be the same. But in</p> <p>5 2016, at the end of 2016, things changed.</p> <p>6 Q. Okay. And we are going to talk about that</p> <p>7 in a minute.</p> <p>8 A. Okay</p> <p>9 Q. But in 2012, to your knowledge --</p> <p>10 A. This was it.</p> <p>11 Q. Okay. And "this" is Exhibit 119?</p> <p>12 A. Uh-huh (affirmative).</p> <p>13 Q. Okay. First question on paragraph 2 down</p> <p>14 at the bottom of the page, there's a clause, "Seller</p> <p>15 shall provide to Purchaser all required documentation</p> <p>16 related to the Alternative Energy System and its</p> <p>17 components as requested by Purchaser for federal,</p> <p>18 state, and local review of the Alternative Energy</p> <p>19 System for potential tax benefits."</p> <p>20 A. Yes.</p> <p>21 Q. Is that referring to the placed in service</p> <p>22 letter?</p> <p>23 MR. REAY: Objection. Calls for legal</p> <p>24 conclusions.</p> <p>25 A. I don't have anything to do with this</p>
Page 146	<p>1 on behalf of --</p> <p>2 A. Excuse me. On the RaPower3 website there</p> <p>3 is an example of this. But you have to go to another</p> <p>4 website to actually buy the lenses and do that. That's</p> <p>5 not my website.</p> <p>6 Q. Is that Rapower3.net?</p> <p>7 A. Yes. Or RaPower-3.</p> <p>8 Q. Who owns that website?</p> <p>9 A. I don't know.</p> <p>10 Q. You have no idea?</p> <p>11 A. Well, I have an idea. I mean, I have an</p> <p>12 idea that Neldon oversees that.</p> <p>13 Q. Neldon Johnson?</p> <p>14 A. Yes. But I don't know who actually runs</p> <p>15 it.</p> <p>16 Q. Okay. But it's your understanding that</p> <p>17 Neldon Johnson or someone who he oversees runs the</p> <p>18 RaPower-3.net website?</p> <p>19 A. Yeah. Where you can sign up to be an</p> <p>20 independent contractor.</p> <p>21 Q. Okay. And Exhibit 119 is the standard</p> <p>22 Purchase Agreement?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 A. Well, it was in 2012 for a while. I think</p>	Page 148	<p>1 contract. Never made it.</p> <p>2 MR. REAY: Calls for speculation.</p> <p>3 Q. What's your understanding of the</p> <p>4 documentation that RaPower3 provides to its customers</p> <p>5 regarding tax benefits?</p> <p>6 MR. REAY: Objection. Calls for legal</p> <p>7 conclusions.</p> <p>8 Q. You can answer. Do you have an answer,</p> <p>9 Mr. Shepard?</p> <p>10 A. As to -- go ahead. Would --</p> <p>11 Q. What's your understanding of the required</p> <p>12 documentation referred to in paragraph 2 on the first</p> <p>13 page of Exhibit 119 relating to potential tax benefits?</p> <p>14 MR. REAY: Renew my objection that it</p> <p>15 calls for legal conclusions and speculation.</p> <p>16 A. So you want to know what my understanding</p> <p>17 is of potential tax benefits?</p> <p>18 Q. No. I want to know what the term</p> <p>19 "required documentation" refers to.</p> <p>20 A. I don't know.</p> <p>21 Q. Can I see that stack of documents?</p> <p>22 Mr. Shepard, I'll direct your attention to Exhibit 466.</p> <p>23 A. Okay.</p> <p>24 Q. This document states that the 'Alternative</p> <p>25 Energy Systems' that were purchased from RaPower3, LLC</p>

<p style="text-align: right;">Page 149</p> <p>1 were put into service on or before December 31, 2005.                  2 "This will qualify you for the Internal Revenue Service                  3 solar energy tax credit." Is that right?                  4 A. Yes.                  5 Q. Okay. Are you aware of similar documents                  6 being sent to RaPower3 customers?                  7 A. Oh, sure.                  8 Q. Okay. As an example, Exhibit 125?                  9 A. Yes. So this corresponds to possibly this                  10 purchase.                  11 Q. Exhibit 125 is a letter dated February 1,                  12 2014 to Preston Olsen from you; is that correct?                  13 A. Yes.                  14 Q. Did you sign this document?                  15 A. I did.                  16 Q. Okay. And it's very similar to Exhibit                  17 466, I think --                  18 A. Yeah.                  19 Q. -- that Neldon Johnson sent to you. Is                  20 that right?                  21 A. Yes.                  22 Q. And Exhibit 125 also says, "This will                  23 qualify you for the Internal Revenue Service solar                  24 energy credit." Did I read that right?                  25 A. Yes.</p>	<p style="text-align: right;">Page 151</p> <p>1 A. Yes.                  2 Q. And this price is on every contract?                  3 A. No.                  4 Q. It's not on every contract?                  5 A. Not on the early ones.                  6 Q. Okay. Is that because the price changed                  7 between 2005 and 2006?                  8 A. I think so.                  9 Q. When did the price become \$3500?                  10 A. I don't know.                  11 Q. Okay.                  12 A. But it's been -- boy, going back now. I                  13 think it was \$3000 for a while. Well, I know it was.                  14 Q. When was it \$3000?                  15 A. In 2006, possibly '07, '08. I don't know.                  16 But then it changed at least I would say 2010. I think                  17 it changed to \$3500.                  18 Q. And was that around the same time that                  19 RaPower3 came into existence?                  20 A. Yes, I think so. But I'm fuzzy on the                  21 dates. I'd be happy to research that for you. I can                  22 do that.                  23 Q. All right. But since --                  24 A. But then I don't have anything to do with                  25 the price. I just figure that Neldon Johnson can</p>
<p style="text-align: right;">Page 150</p> <p>1 Q. All right. So I'll direct your attention                  2 back to Exhibit 119. Down at the bottom in paragraph                  3 2, "Seller shall provide to Purchaser all required                  4 documentation relating to the Alternative Energy System                  5 and its components as requested by Purchaser for                  6 federal, state, and local review of the Alternative                  7 Energy System for potential tax benefits."                  8 A. Okay.                  9 Q. Does the clause on paragraph 2 on the page                  10 Olsen_P&amp;E-00642 refer to the placed in service letter?                  11 For example, is that Exhibit 125?                  12 MR. REAY: Objection. Calls for legal                  13 conclusions.                  14 THE WITNESS: I have to answer that, right?                  15 MR. REAY: Please do.                  16 A. I would assume so.                  17 Q. (By Mr. Moran) Okay. All right.                  18 Continuing on through Exhibit 119, directing your                  19 attention to the second page, Olsen_P&amp;E-00643,                  20 paragraph 3 says, "Payment Terms. Purchaser shall pay                  21 to Seller the sum of \$3500 for each Alternative Energy                  22 System." Did I read that right?                  23 A. Yes.                  24 Q. Am I correct in understanding that the                  25 price per lens is \$3500?</p>	<p style="text-align: right;">Page 152</p> <p>1 charge -- he can make price changes, or changes. I                  2 don't have anything to do with that. I don't have any                  3 input. I have never been asked any advice, "What do                  4 you think we can sell it for? What do you think of the                  5 Equipment Purchase Agreement? Do you have any changes                  6 you want to make?" I've never had to go there.                  7 Q. But it sounds like 2010, around the same                  8 time RaPower3 came into the scene, the price has been                  9 \$3500?                  10 A. I think so.                  11 Q. And on the same page it says initial down                  12 payment of \$1050. And there's various ways to pay                  13 \$1050. Is that the down payment?                  14 A. Yes. Yes. But it's been -- most times it                  15 was that way, but earlier it was \$1020.                  16 Q. And when is that down payment due?                  17 A. We did go \$105 as kind of an initial                  18 payment at one time.                  19 Yeah. That's here on option 2. So that                  20 should be -- when? Did you say when?                  21 Q. Am I correct in understanding that the                  22 down payment of \$1050, however it is paid, is due when?                  23 A. It's due within, I think it's July 15th.                  24 June 15th. I think it's July 15th.                  25 Q. Well, option 2 says June 30th.</p>

Page 153	<p>1 A. Okay. June 30th.</p> <p>2 Q. So after a customer has paid \$1050,</p> <p>3 there's still a balance due of --</p> <p>4 A. \$2450.</p> <p>5 Q. When is that due to be paid?</p> <p>6 A. When is that due?</p> <p>7 Q. When is the \$2450 remaining balance due?</p> <p>8 A. Okay. So I'm pretty sure you know the</p> <p>9 answer to it but we will go over it. That has to do</p> <p>10 with the rental agreement with LTB, LLC. So those are</p> <p>11 connected, and so they are supposed to generate \$150 a</p> <p>12 year per lens, and there's a grace period of the first</p> <p>13 five years so that the sponsor gets the full \$150. And</p> <p>14 so that would be \$750 per lens for the five-year</p> <p>15 period. And then after that, then the \$150 is split,</p> <p>16 so LTB gets \$82.</p> <p>17 Q. I thought LTB was paying.</p> <p>18 A. I guess. But what I want to know is what</p> <p>19 do I get? I get \$68. And that \$68 is applied to the</p> <p>20 \$2450. So if you were to multiply 68 times 30, you are</p> <p>21 going to come out with that number.</p> <p>22 Q. All right. You just packed a lot in</p> <p>23 there. LTB is the company that's operating and</p> <p>24 maintaining the lenses, right?</p> <p>25 A. Yeah. They are the ones that collect the</p>	Page 155	<p>1 Q. The lens owner is receiving --</p> <p>2 A. The lens owner is receiving that.</p> <p>3 Q. \$150 times five.</p> <p>4 A. Right. And then that \$150 rental fee is</p> <p>5 then split --</p> <p>6 Q. After the five-year period?</p> <p>7 A. After the five-year period.</p> <p>8 Q. Okay.</p> <p>9 A. And then \$82 is retained.</p> <p>10 Q. By who?</p> <p>11 A. I think by LTB, LLC. And then \$68 goes to</p> <p>12 RaPower3 to pay off the balance of the \$2450.</p> <p>13 Q. So the customer or the owner is going to</p> <p>14 get paid for the first five years. And then after</p> <p>15 that --</p> <p>16 A. Yeah. He signs a lease agreement, a</p> <p>17 rental agreement.</p> <p>18 Q. And now he's got \$750.</p> <p>19 A. He's got \$750.</p> <p>20 Q. And now he has to start paying back the</p> <p>21 money he owes on the lens.</p> <p>22 A. Right. At \$82 a year.</p> <p>23 Q. And that goes to RaPower3?</p> <p>24 A. Yes.</p> <p>25 Q. And where does the --</p>
Page 154	<p>1 rent, I guess.</p> <p>2 Q. They collect the rent? Who are they</p> <p>3 collecting the rent from?</p> <p>4 A. I don't know.</p> <p>5 Q. And then you testified about \$150 a</p> <p>6 year --</p> <p>7 A. No, not "about." It's exactly \$150.</p> <p>8 That's what the contract says.</p> <p>9 Q. Yes. And you testified that \$150 is</p> <p>10 payable from, is it from LTB to the lens's owner, and</p> <p>11 that is divided between paying off the remaining</p> <p>12 balance on the lens and paying the sponsor? Is that</p> <p>13 correct?</p> <p>14 A. No.</p> <p>15 Q. All right. Can you restate it?</p> <p>16 A. Yeah. After five years.</p> <p>17 Q. After five years that the lenses have been</p> <p>18 generating revenue.</p> <p>19 A. Right. And the purchaser is receiving</p> <p>20 \$150 per lens.</p> <p>21 Q. From who?</p> <p>22 A. I don't know. I think it's LTB, LLC.</p> <p>23 Q. Okay.</p> <p>24 A. And so they make \$750 for the five years.</p> <p>25 Five times \$150 is \$750.</p>	Page 156	<p>1 A. Where does \$62 go to? Or the \$68? \$68</p> <p>2 goes to the purchaser.</p> <p>3 Q. Okay. So you have \$150 per year for five</p> <p>4 years and then it drops down to \$68 per year.</p> <p>5 A. Right. So if you multiply \$68 times 30,</p> <p>6 it's a little over \$2000, plus the \$750. That's more</p> <p>7 than the tax credit and the tax benefits. Good deal.</p> <p>8 If Neldon and RaPower3 and this whole thing can work,</p> <p>9 it's a wonderful thing for the purchaser. And if it is</p> <p>10 going to work, you should buy lenses, Chris. You can</p> <p>11 make money.</p> <p>12 MR. REAY: When it's done.</p> <p>13 A. If everything works the way we want it to</p> <p>14 work, then it's a great deal for the purchaser. Going</p> <p>15 to make more money -- and the bonuses will be way more</p> <p>16 than the tax benefits. Tax benefits are tertiary. I</p> <p>17 learned that word on the bifurcation. Tertiary.</p> <p>18 Q. All right. Moving on to the third page of</p> <p>19 the contract Olsen_P&amp;E-00644. Paragraph 4, "The</p> <p>20 Alternative Energy System shall be placed in operation</p> <p>21 only at and operated only at the installation site."</p> <p>22 Where's the installation site?</p> <p>23 A. The installation site, in my understanding,</p> <p>24 can be any place that Neldon wants it to be.</p> <p>25 Q. Are there any installation sites right</p>

<p style="text-align: right;">Page 157</p> <p>1 now?</p> <p>2 MR. REAY: Objection. Calls for</p> <p>3 speculation.</p> <p>4 A. Yes.</p> <p>5 Q. Where?</p> <p>6 A. Well, you saw them. We call it the</p> <p>7 construction site. It's in -- it's west of Delta, Utah</p> <p>8 and on the side of a little place called Abraham, Utah,</p> <p>9 and there's 200-plus towers under construction. And</p> <p>10 everything has been done now, according to my</p> <p>11 understanding, the brackets have now been placed on the</p> <p>12 solar rings, and the solar frames are now going into</p> <p>13 the -- the frames are going into the solar rings.</p> <p>14 Q. So there's 200 towers?</p> <p>15 A. Over 200 trusses that have been built.</p> <p>16 The trusses are the main part. And so a huge amount of</p> <p>17 work has been done. And so now the next step is to dig</p> <p>18 the holes and put the towers in. And then you get the</p> <p>19 cranes and you lift the trusses on top of the tower.</p> <p>20 Q. Okay.</p> <p>21 A. We are about -- I would shake my head,</p> <p>22 too. Because then we are off and running.</p> <p>23 Q. Are there any other installation sites?</p> <p>24 A. I would probably rephrase that, but it</p> <p>25 would be the same. Construction sites.</p>	<p style="text-align: right;">Page 159</p> <p>1 A. Probably near Yermo.</p> <p>2 Q. Does Neldon Johnson own property near</p> <p>3 Yermo?</p> <p>4 A. I don't know where Yermo is, but I know</p> <p>5 that he owns property right next to the freeway, I-15.</p> <p>6 It's pretty close to the Nevada border. I've been</p> <p>7 there but I can't remember exactly where it is.</p> <p>8 Q. Has anything been constructed in Yermo?</p> <p>9 A. No.</p> <p>10 Q. Neldon Johnson just owns property there?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Delta, the property in Texas, the</p> <p>13 property in Yermo, California, that's it? Is there</p> <p>14 anything else you know that might be a potential</p> <p>15 construction or installation site?</p> <p>16 A. Yes. But you'll have to ask Neldon that.</p> <p>17 I don't know specifics on -- you'd have to ask Neldon</p> <p>18 that.</p> <p>19 Q. You're not aware of any?</p> <p>20 A. Yes.</p> <p>21 Q. Yes, you are aware of some?</p> <p>22 A. Yes.</p> <p>23 Q. Where are they?</p> <p>24 A. Different places throughout the world.</p> <p>25 Q. And Neldon Johnson owns property?</p>
<p style="text-align: right;">Page 158</p> <p>1 Q. Are there any other construction sites</p> <p>2 where towers are being erected?</p> <p>3 A. No.</p> <p>4 Q. Okay.</p> <p>5 A. There are construction sites.</p> <p>6 Q. Where is that?</p> <p>7 A. Texas, for one.</p> <p>8 Q. What's happening in Texas?</p> <p>9 A. There is ground, to my understanding, that</p> <p>10 Neldon has purchased. And it's in west Texas. I don't</p> <p>11 know exactly where. But lenses could be put up there.</p> <p>12 It's my understanding that two major grids go right</p> <p>13 through the center of his property.</p> <p>14 Q. Besides Neldon Johnson owning property in</p> <p>15 Texas, are there any other -- at the Texas property</p> <p>16 you're referring to, has any type of construction</p> <p>17 actually begun?</p> <p>18 A. Not to my knowledge.</p> <p>19 Q. Okay. Are there any other sites that you</p> <p>20 know of that could be installation or construction</p> <p>21 sites?</p> <p>22 A. Yes.</p> <p>23 Q. Where?</p> <p>24 A. California.</p> <p>25 Q. What are you referring to there?</p>	<p style="text-align: right;">Page 160</p> <p>1 A. No.</p> <p>2 Q. Okay.</p> <p>3 A. I don't think so.</p> <p>4 Q. Well, what locations are you referring to?</p> <p>5 A. I think there's a location in China and</p> <p>6 Saudi Arabia.</p> <p>7 Q. And how did you get that understanding?</p> <p>8 A. Neldon.</p> <p>9 Q. Neldon told you he has potential projects</p> <p>10 in China and Saudi Arabia?</p> <p>11 A. Potential.</p> <p>12 Q. What did he tell you about those projects?</p> <p>13 MR. REAY: I'm going to object for --</p> <p>14 A. I can just answer that. I don't know --</p> <p>15 MR. REAY: Okay. Withdrawn.</p> <p>16 A. -- beyond that there's a potential project</p> <p>17 in China and a potential project in Saudi Arabia.</p> <p>18 MR. REAY: How much longer do you think?</p> <p>19 I'm just looking at how big your box is.</p> <p>20 MR. MORAN: It's a big box.</p> <p>21 (Break taken from 3:22 to 3:31 p.m.)</p> <p>22 Q. Mr. Shepard, do you know how many lenses</p> <p>23 have been sold?</p> <p>24 A. No.</p> <p>25 Q. You have no idea?</p>



Page 161

1 A. No.  
 2 Q. I'll show you an exhibit that's been  
 3 marked in a prior deposition. This is Plaintiff's  
 4 Exhibit 204 from the deposition of Peter Gregg. This  
 5 appears to be an e-mail from you dated February 8,  
 6 2011.  
 7 A. Yes.  
 8 Q. Is that correct? Is this an e-mail from  
 9 you?  
 10 A. Yes.  
 11 Q. I direct your attention to the first  
 12 paragraph. There's a question and then it appears to  
 13 be an answer in caps. Are the words that appear in  
 14 capital letters, are those your words?  
 15 A. Yes.  
 16 Q. Okay. It says, "The 300,000 systems  
 17 (units) that are available is based on the number of  
 18 lenses that are on standby." Did I read that  
 19 correctly?  
 20 A. Yes.  
 21 Q. All right. So am I to understand that  
 22 there are at least 300,000 units that were available at  
 23 one point? And when I say "units," I mean lenses?  
 24 A. Yeah. And I'm not even --  
 25 Q. Is my understanding correct?

Page 162

1 A. I'm reading it.  
 2 Q. Okay. Let me know when you're done.  
 3 A. Oh, okay. Yeah.  
 4 Q. Am I correct in understanding that at one  
 5 point there were at least 300,000 units that were  
 6 available to be sold?  
 7 MR. REAY: Objection. Calls for  
 8 speculation and misrepresents the evidence.  
 9 A. I was never told that. I did some of my  
 10 own math and came up with that.  
 11 Q. Well, then as of February 8, 2011 was it  
 12 your understanding that there were 300,000 lenses  
 13 available?  
 14 MR. REAY: That misrepresents testimony  
 15 and I think the evidence speaks for itself. He is  
 16 using the numbers from the evidence.  
 17 A. Well, I did some of my own calculations.  
 18 I was never told that.  
 19 Q. Okay. Well, how did you come to  
 20 understand that there were 300,000 lenses that were  
 21 available?  
 22 A. I don't know. I don't know how I did  
 23 that. I probably did it based on the number of  
 24 megawatts that -- potential megawatts that were  
 25 produced by Lucite on the first -- on the run.

Page 163

1 Q. Help me understand that. My understanding  
 2 is that Lucite nor Plaskolite produces lenses, right?  
 3 A. Yes.  
 4 Q. And you just characterized what Plaskolite  
 5 and Lucite manufactures are megawatts.  
 6 A. I have been told that it's around 350.  
 7 350 megawatts.  
 8 Q. What do you mean that the lens  
 9 manufacturers generate megawatts? I don't understand,  
 10 because they generate plastic lenses, right?  
 11 A. Right. But those plastic lenses could do  
 12 a project, a 350 megawatt project. That's my  
 13 understanding.  
 14 Q. And how did you get that understanding?  
 15 A. Through Neldon and Randy, and I have been  
 16 told that.  
 17 Q. By?  
 18 A. I don't have anything in writing.  
 19 Q. Okay. But so Neldon Johnson, Randy  
 20 Johnson, anyone else?  
 21 A. I can't remember.  
 22 Q. Okay. And you understood that there was a  
 23 certain amount of megawatts available from Lucite?  
 24 A. Yes.  
 25 Q. And from that information you determined

Page 164

1 that there were 300,000 lenses available to be sold?  
 2 A. If I did the math right. But I'm not sure  
 3 I did my math right. I was going to try to check it.  
 4 But anyway ...  
 5 Q. You're talking to RaPower3 customers here,  
 6 so I assume you wouldn't misrepresent anything to them.  
 7 You're on the same team.  
 8 A. Not knowingly, no.  
 9 Q. Okay.  
 10 A. But you're asking me to verify that.  
 11 Q. My question is, what I'm trying to  
 12 understand is how many lenses are available. And no  
 13 one has ever been able to tell us that. I see this  
 14 here where you stated there's 300,000 lenses available,  
 15 and so my question to you is, is that accurate?  
 16 A. Okay. Give me a minute here.  
 17 MR. REAY: I'm going to object and say  
 18 that it's vague and the evidence in this Exhibit 204  
 19 represents that Brad is under the regular writing, and  
 20 he asserts that there's 300,000. And you clarified  
 21 earlier in testimony, Greg, that your writing is in  
 22 bold as it indicates in the first sentence?  
 23 THE WITNESS: No. My writing is in bold.  
 24 MR. MORAN: It's in caps.  
 25 MR. REAY: He testified it's not in bold,

<p style="text-align: right;">Page 165</p> <p>1 it's in caps.  2 THE WITNESS: Mine are in caps.  3 MR. MORAN: And Mr. Shepard says that  4 there's 300,000 units. All I'm trying to establish is  5 there are 300,000 lenses.  6 MR. REAY: But the evidence speaks for  7 itself. The evidence indicates that Brad alluded to  8 300,000, not Greg. I think it is misrepresenting the  9 evidence.  10 MR. MORAN: Mr. Gregg seems to agree with  11 him.  12 MR. REAY: Or he used the number, right.  13 So just to clarify my objection would be that it was  14 misrepresenting the testimony and evidence, the  15 question is.  16 Q. (By Mr. Moran) Mr. Shepard, I will give  17 you a little time to do the math, but we have to move  18 on.  19 A. I'm almost done. I'm trying to go faster.  20 136 times 50 is 1680?  21 Q. I had 6800.  22 A. 6800, rather. Yeah, I would say that's  23 probably pretty close.  24 Q. Okay. So there are approximately 300,000  25 lenses available. Is that fair?</p>	<p style="text-align: right;">Page 167</p> <p>1 A. No. I'm not -- you misunderstood the  2 300,000 number.  3 Q. It's your number.  4 MR. REAY: Object. Mischaracterizes the  5 witness's testimony.  6 A. I think what I'm saying is when I said  7 "available," that means potential lenses that could be  8 made. Lucite doesn't make all 300,000 and ship them to  9 us.  10 Q. Okay. How many are at the manufacturing  11 facility?  12 A. I don't know. That's not my deal. All I  13 can do is kind of like when I'm there -- I have never  14 been told. I can count and estimate what's on a pallet  15 and do some multiplication and try to figure it out,  16 but I don't ask those kinds of questions. I'm not told  17 the answers to those kinds of questions.  18 Q. So when you put the number 300,000 in  19 Exhibit 204 and the number 21,000 in Exhibit 260, where  20 did you get those numbers from?  21 A. Okay. I told you about the 300,000, did  22 some math, and based on the number of megawatts that  23 could be done from one mold, one roller, the potential  24 number is about - in my estimation, my math, never been  25 told, I could be way off - is about 300,000. But you'd</p>
<p style="text-align: right;">Page 166</p> <p>1 A. In 2011?  2 Q. Yes.  3 A. Yes. I don't know about now.  4 Q. Okay. Since 2011 have more lenses become  5 available?  6 A. No.  7 Q. Okay.  8 A. Not to my knowledge.  9 Q. Mr. Gregg -- or Mr. Shepard, I've handed  10 you Plaintiff's Exhibit 260 from the deposition of  11 Peter Gregg. I'm directing your attention to the top  12 of the first page. Gregg_P&amp;R-002787. The first  13 sentence in the first paragraph says -- I'm sorry, the  14 second paragraph, "There are now 21,000 lenses in stock  15 at the manufacturing plant." Did I read that  16 correctly?  17 A. Yes.  18 Q. And that's dated September 30, 2012?  19 A. Uh-huh (affirmative).  20 Q. Oh, September 22, 2012; is that correct?  21 A. Yes. September 22, 2012.  22 Q. That's the date for Exhibit 260. So am I  23 correct in understanding that between February 8, 2011  24 and September 22, 2012, the available lenses had  25 decreased from 300,000 to 21,000?</p>	<p style="text-align: right;">Page 168</p> <p>1 be foolish to manufacture all or give Lucite an order  2 for 300,000 lenses, in my estimation.  3 Q. Okay.  4 A. So you would want to order the number of  5 lenses that would fit your pocketbook at the time, and  6 the amount of lenses that you needed. So I looked, I  7 apparently looked -- I don't know where I got 21,000,  8 but that's a lot of lenses for RaPower3 people.  9 Q. Do you think you just made up the 21,000  10 number?  11 A. No, I didn't make it up.  12 Q. Who would you have gotten it from?  13 A. I didn't get it from anybody. I said I  14 went and did some math. When I saw the number of  15 pallets, I can estimate how many lenses are on a pallet  16 and then do some multiplication.  17 Q. So you would have counted the number of  18 lenses in the manufacturing site?  19 A. Yes.  20 Q. And then do you know how many lenses are  21 in each pallet and multiply?  22 A. You can do that, yes. That's not a hard  23 thing to do.  24 Q. Now, I still don't understand how if this  25 300,000 number comes from a mold, why is RaPower3</p>

<p style="text-align: right;">Page 169</p> <p>1 limited to 300,000 per mold?  2 A. You have to ask Neldon that.  3 Q. I still don't --  4 A. But I do give you -- I don't know if it's  5 even worth it to give you, but what happens is on a  6 mold, and this is all manufacturing molds, to my  7 understanding, it was when I had my business  8 manufacturing plant, you make a mold and it's only good  9 for so many number. It wears out. And then you've got  10 to replace it.  11 Q. Okay.  12 A. You probably didn't understand that. But  13 it's not good forever. You can't just keep running and  14 running and running it. It becomes obsolete and then  15 you have to have another roller mold and you have to  16 make that and then ship that to Lucite if you want to  17 do a second run. If you want to do, you know, a third  18 run, fourth run, fifth run. Or you can buy more mold-  19 making machines. There's only one mold-making machine  20 now, but you can buy ten.  21 Q. So am I understanding that Neldon Johnson  22 made a mold and that mold was good for 300 megawatts of  23 lenses?  24 A. Yeah. Something like that.  25 Q. Okay.</p>	<p style="text-align: right;">Page 171</p> <p>1 would produce about 50 kilowatts, I don't know what  2 that would be. I came up with 6800, so he came up with  3 7500 towers.  4 Q. You came up with 6800 where?  5 A. When I did my math. 136 lenses per tower,  6 and if they produce 50 kilowatts then a megawatt would  7 be twenty times that.  8 Q. Okay. But you don't know where Brad would  9 have gotten the 300,000 available unit figure?  10 A. I might have told him that a tower  11 produces, we think, because I have been told that, it's  12 a guesstimate of 50 kilowatts per tower.  13 Q. Who told you that?  14 A. I can't remember.  15 Q. Would it have been anyone other than  16 someone from Neldon Johnson's family?  17 A. I don't know. It could have been from a  18 worker there that -- I don't know. I would say most  19 likely came from Neldon's family, but I'm not -- or  20 Neldon's group of -- I'm not sure.  21 Q. Okay.  22 A. And it could have come from -- you know, I  23 get information from different sources. People that  24 talk with Neldon, and then they say. So a lot of times  25 it's hearsay information.</p>
<p style="text-align: right;">Page 170</p> <p>1 A. And then you have to make another mold.  2 Q. How many molds has Neldon Johnson made?  3 A. One.  4 Q. One?  5 A. That's my understanding.  6 Q. All right.  7 MR. REAY: Can I ask a question just to  8 avoid doing it later and coming back to the subject? I  9 think it will be quicker if we do it now.  10 MR. MORAN: Why don't we go off the  11 record.  12 MR. REAY: That's actually a better idea.  13 (Discussion off the record.)  14 Q. (By Mr. Moran) Mr. Shepard, directing  15 your attention to Exhibit 204, someone named Brad asked  16 a question and you gave an answer; is that right?  17 A. Right.  18 Q. Do you know who Brad is?  19 A. I have no idea. He could be a plant. We  20 get those all the time, so I don't know.  21 Q. He says, "If there are 40 units per tower  22 and 300,000 units available then you would need 7500  23 towers." Do you know where he got the number 300,000  24 units?  25 A. I don't. If you project out that a tower</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. Just so we are clear, you can tell me  2 information that other people tell you if that's  3 responsive to the question.  4 A. Yeah.  5 Q. Okay. In other words, the fact that it's  6 hearsay doesn't mean you can't tell me.  7 A. Yeah.  8 Q. I want you to be clear about that.  9 I have given you a copy of Exhibit 141  10 from the deposition of Preston Olsen. This appears to  11 be e-mail from you dated November 20, 2012.  12 A. Okay.  13 Q. Is that correct?  14 A. Yes.  15 Q. And in particular on the first page of  16 Exhibit 141, you say, "The manufacturing plant has  17 21,000 lenses in inventory (see photo attached), 150  18 towers ready to install, and \$15 million in the bank."  19 Did I read that correctly?  20 A. Yes.  21 Q. Where are the 150 towers ready to install?  22 A. What now? Where did that come from?  23 Q. Yeah. You say there's 150 towers ready to  24 install. Earlier I think you testified, and we saw,  25 there's only about 18 or 19 towers that were erected;</p>

Page 173

1 correct?  
 2 A. That were erected, yeah. But ready to  
 3 install is a different animal.  
 4 Q. What's your definition of ready to  
 5 install?  
 6 A. Having the solar lenses.  
 7 Q. Just having the lenses?  
 8 A. Yeah.  
 9 Q. Okay. You don't need the towers to be  
 10 built for them to be ready to install?  
 11 A. Well, you would need the towers built to  
 12 install lenses.  
 13 Q. Okay.  
 14 A. But at that time, my thinking was that it  
 15 wouldn't take too long to put up 150 towers.  
 16 Q. This is about four and a half years ago,  
 17 right?  
 18 A. Yeah.  
 19 Q. Was your thinking correct?  
 20 A. Yes.  
 21 Q. You were correct in thinking that it  
 22 wouldn't take very long to install these towers?  
 23 A. Yeah. Once it's ready to go. And I  
 24 thought it was ready. But again, you don't accept the  
 25 fact that we have disruptive technologies and we are

Page 174

1 doing things -- Neldon is doing things that have never  
 2 been done before. If we were copying other people,  
 3 then yeah, that would be a serious deal. But when  
 4 you're not copying somebody, and you have to go down  
 5 roads that no one else has gone down. Sometimes you go  
 6 down a road that you thought was correct and it wasn't.  
 7 Q. Okay. Your comment that there's 150  
 8 towers ready to install, where did you get that  
 9 information from?  
 10 A. I did it. It's mine. I came up with a  
 11 number of lenses and we were building solar frames or  
 12 lenses were going into frames and I thought,  
 13 personally, that we were pretty close. Unfortunately,  
 14 we were wrong.  
 15 Q. Okay.  
 16 A. And that happens when you have brand new  
 17 technology, Chris. The frames didn't work.  
 18 Q. Okay.  
 19 A. And the dual axis tracking didn't work.  
 20 Q. Okay.  
 21 A. I wish we could push a button and make  
 22 every correct call.  
 23 Q. The next question is this "15 M in the  
 24 bank," is that \$15 million in the bank?  
 25 A. Yes.

Page 175

1 Q. Whose bank are you referring to?  
 2 A. I don't know about the bank.  
 3 Q. All right.  
 4 A. The name of the bank.  
 5 Q. When it says 15 M, is that \$15 million?  
 6 A. Yes.  
 7 Q. And who is -- who has \$15 million in the  
 8 bank?  
 9 A. I don't know.  
 10 Q. Who gave you the information about \$15  
 11 million in the bank?  
 12 A. I don't know.  
 13 Q. Would it have been somebody other than  
 14 Neldon Johnson or members of his family --  
 15 A. Yes.  
 16 Q. -- that told you about \$15 million in the  
 17 bank?  
 18 A. Yes.  
 19 Q. Who would that have been?  
 20 A. There's people that call me all the time.  
 21 Q. And they say, "Mr. Shepard, we have \$15  
 22 million in the bank"?  
 23 A. Well, they are people that I think are  
 24 pretty trustworthy.  
 25 Q. Who are these people?

Page 176

1 A. One would be Monty Hamilton.  
 2 Q. Okay. And he is your financial advisor?  
 3 A. No.  
 4 Q. What is he?  
 5 A. He is a RaPower3 team member.  
 6 Q. Okay.  
 7 A. And I sponsored him. He is one of my  
 8 clients.  
 9 Q. So you think the \$15 million in the bank  
 10 may be Monty Hamilton's \$15 million in the bank?  
 11 A. No.  
 12 Q. Who's got \$15 million in the bank?  
 13 A. I don't know.  
 14 Q. You don't know?  
 15 A. Probably some type of entity that Neldon  
 16 might have.  
 17 Q. So if it's an entity that Neldon might  
 18 have, who gave you the information about \$15 million in  
 19 the bank?  
 20 MR. REAY: Objection. Asked and answered.  
 21 A. Yeah. I don't recall.  
 22 Q. But you think it's about an entity that  
 23 Neldon owns?  
 24 A. Could be.  
 25 Q. Is there anyone else you know who might

<p style="text-align: right;">Page 177</p> <p>1 have \$15 million in the bank that you would be talking  2 about in the same sentence as solar lenses?  3 A. Yeah. Huntsman. I'm sure he has \$15  4 million in the bank.  5 Q. Is Jon Huntsman part of your program?  6 A. No.  7 Q. Does he own solar lenses?  8 A. No. You asked if anybody has \$15 million.  9 Q. You are talking to Preston Olsen about  10 21,000 lenses in inventory, 150 towers ready to  11 install, and \$15 million in the bank and you're telling  12 me you have no idea who has \$15 million in the bank?  13 A. I'm not sure what entity or who.  14 Q. Okay. All right. Would this entity be --  15 and you also testified that you think it might be an  16 entity that Neldon Johnson owns or controls?  17 A. Yeah. You'd have to ask him.  18 Q. Why would you be telling Preston Olsen  19 that there's \$15 million in the bank?  20 A. Probably a pretty good probability that  21 that's the case.  22 Q. Would you be lying to Preston Olsen?  23 A. No.  24 Q. So then someone has \$15 million in the  25 bank.</p>	<p style="text-align: right;">Page 179</p> <p>1 does that matter?  2 A. I think it matters because then -- in my  3 mind it matters because you can keep going. You can  4 keep with your R&amp;D and you can keep the project going  5 if you've got money.  6 Q. And whose project are we talking about?  7 A. What do you mean whose project?  8 Q. You said if you have money in the bank you  9 can do the project --  10 A. RaPower3 project, and any other project  11 that Neldon has control over and wants to.  12 Q. So if we are talking about \$15 million in  13 the bank --  14 A. Yeah. And it's probably pretty accurate  15 and he hasn't gone bankrupt yet, and that was five  16 years ago. We are still rocking and rolling. Must  17 have had something.  18 Q. No further questions on that document.  19 We talked earlier about serial numbers.  20 A. Uh-huh (affirmative).  21 Q. Handing you a copy of what's been marked  22 for identification as Plaintiff's Exhibit 420.  23 Plaintiff's Exhibit 420 appears to be an e-mail from  24 you dated June 20, 2014 to undisclosed recipients.  25 A. Yes.</p>
<p style="text-align: right;">Page 178</p> <p>1 A. Yeah. I don't know who or what entity.  2 Q. Well, why would you tell Preston Olsen  3 that there's \$15 million in the bank if you don't know  4 who?  5 MR. REAY: Objection. Asked and answered.  6 A. Okay. What now? Am I supposed to answer?  7 Q. Yeah. I want to know who has the \$15  8 million in the bank.  9 A. I don't know. I don't know what entity,  10 and I think there's a high probability that it was in  11 the bank in some kind of an entity.  12 Q. In whose entity?  13 A. In some kind of an entity that is involved  14 with these solar projects.  15 Q. Okay. And would that entity be owned by  16 anybody other than Neldon Johnson?  17 A. I don't know.  18 Q. Well, you're telling Preston Olsen that  19 there's \$15 million in the bank, and you told me that  20 you wouldn't lie to Preston Olsen. If you are telling  21 him this in 2012, do you think you knew in 2012?  22 A. I might have, yeah. I don't know back  23 that far.  24 Q. Well, I guess my question is why would you  25 be telling him there's \$5 million in the bank? Why</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. Is this an e-mail that you wrote?  2 A. Yes.  3 Q. Who are the undisclosed recipients?  4 A. RaPower3 team members.  5 Q. Okay. About how many people are on or  6 would be on that list?  7 A. I think about a thousand.  8 Q. About a thousand? So there's about a  9 thousand people who have bought lenses from RaPower3?  10 A. Yes.  11 Q. Okay. There's a series of questions and  12 answers. I'll direct your attention to the second set  13 of Q and A. "Are we assigned serial numbers for each  14 one we purchase?"  15 A. Uh-huh (affirmative).  16 Q. Earlier you testified that there were  17 serial numbers assigned on the RaPower3 website. Do  18 you recall that testimony?  19 A. I do.  20 Q. Okay. Are the serial numbers actually on  21 each lens?  22 A. I don't know. If it is, they are pretty  23 obscure. I'm not saying they can't be.  24 Q. Have you ever seen a serial number on a  25 lens?</p>

<p style="text-align: right;">Page 181</p> <p>1 A. No.</p> <p>2 Q. Okay.</p> <p>3 A. And a serial number, probably more</p> <p>4 accurate, is -- see, each time you buy a lens, whether</p> <p>5 it's one or ten or a hundred, you're assigned an</p> <p>6 account number. So --</p> <p>7 Q. I think you explained that in your answer</p> <p>8 right here.</p> <p>9 A. Okay. There it is. Yeah.</p> <p>10 Q. The next Q and A says, "Also, how do I as</p> <p>11 an owner know what my product is doing?"</p> <p>12 And your answer is, "Through my e-mails</p> <p>13 and Rapower3.com website. Your lenses are being used</p> <p>14 right now by virtue of your Bonus Contract. It is our</p> <p>15 goal to have your lenses operating in a tower before</p> <p>16 summer is over." Did I read that right?</p> <p>17 A. Uh-huh (affirmative).</p> <p>18 Q. What does "lenses operating in a tower"</p> <p>19 mean?</p> <p>20 A. Producing heat and/or electricity.</p> <p>21 Q. All right. We already discussed that</p> <p>22 there are, at most, 2400 lenses in your towers.</p> <p>23 A. Not in my towers.</p> <p>24 Q. In the towers at the R&amp;D site. Is that</p> <p>25 right?</p>	<p style="text-align: right;">Page 183</p> <p>1 was over.</p> <p>2 A. Yeah. I thought so. That was the goal.</p> <p>3 I didn't say they would be. Didn't I say that was the</p> <p>4 goal?</p> <p>5 Q. That was the goal. Did that happen?</p> <p>6 A. No.</p> <p>7 Q. Okay.</p> <p>8 A. We missed our goal.</p> <p>9 Q. Okay.</p> <p>10 A. But at least we didn't go claim tax</p> <p>11 credits and then go bankrupt like 200 other companies</p> <p>12 did during that time.</p> <p>13 Q. No further questions on that document.</p> <p>14 Mr. Shepard, handing you a copy of what's</p> <p>15 been marked as Plaintiff's Exhibit 8A. This was from</p> <p>16 the deposition of Peter Gregg. Do you recognize this</p> <p>17 document?</p> <p>18 A. I do.</p> <p>19 Q. What is it?</p> <p>20 A. "History of RaPower3" by Greg Shepard.</p> <p>21 Q. You wrote this document?</p> <p>22 A. I did.</p> <p>23 Q. Where did you get the information from?</p> <p>24 Where did you get the information that appears in</p> <p>25 Exhibit 8A from?</p>
<p style="text-align: right;">Page 182</p> <p>1 A. Uh-huh (affirmative).</p> <p>2 MRS. HEALY-GALLAGHER: Yes?</p> <p>3 A. Yes. Up to that.</p> <p>4 Q. Okay. Now, RaPower3 has sold way more</p> <p>5 than 2400 lenses, right?</p> <p>6 A. Well, I don't know how many more above</p> <p>7 that. But -- I don't know what you mean by "way more."</p> <p>8 Q. Do you think RaPower3 has sold more than</p> <p>9 10,000 lenses?</p> <p>10 MR. REAY: Objection. Calls for</p> <p>11 speculation.</p> <p>12 A. I don't have access to that information.</p> <p>13 Q. You have no idea?</p> <p>14 A. Well, let's say you had a thousand people</p> <p>15 and the average number was ten, that would be 10,000</p> <p>16 lenses.</p> <p>17 Q. All right. So they have sold at least</p> <p>18 10,000 lenses? Can we agree on that at this point?</p> <p>19 A. Yeah.</p> <p>20 MR. REAY: Calls for speculation.</p> <p>21 A. It calls for speculation, but I would be</p> <p>22 surprised if it was less than 10,000 lenses.</p> <p>23 Q. Okay. You say that lenses will be -- that</p> <p>24 this person who is asking this question, that their</p> <p>25 lenses will be operating in a tower before the summer</p>	<p style="text-align: right;">Page 184</p> <p>1 A. Being involved with the company for that</p> <p>2 long. And some cut and paste.</p> <p>3 Q. Where did you cut and paste from?</p> <p>4 A. Various places. IAUS.com, and my own</p> <p>5 pictures. I took pictures myself.</p> <p>6 Q. I see on the first page, above the words</p> <p>7 "Propulsion Turbine" it says, "Most of the following</p> <p>8 came from the IAS website."</p> <p>9 A. There you go.</p> <p>10 Q. So you got most of this information from</p> <p>11 the IAS website?</p> <p>12 A. Underneath that, yeah.</p> <p>13 Q. And then you said you took some pictures</p> <p>14 and those appear in here, as well?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 A. No, not -- yeah.</p> <p>18 Q. Any other sources that you would have</p> <p>19 gotten this from?</p> <p>20 A. The eight-foot copper roller mold was</p> <p>21 taken off the internet. It's a generic.</p> <p>22 Q. It's a generic picture?</p> <p>23 A. Yeah.</p> <p>24 Q. Okay. Did the information come from any</p> <p>25 sources other than what you have already described?</p>

<p style="text-align: right;">Page 185</p> <p>1 A. Well, you know, you've got a pretty 2 lengthy thing here. 3 Q. Do you recall using any other sources 4 to -- 5 A. I don't -- listen, give me a chance to 6 look at it. I'm on page 2. 7 Q. Okay. 8 A. Because I don't want to make a mistake and 9 I don't want to mislead you. And then my fingers don't 10 work very well, so it's hard to even turn the page. 11 There, I'm on page 3. 12 Yeah, my camera took that picture on page 13 3. That's the mold making machine. And those are 14 pallets of lenses on page 4. 15 Q. Would the text have come from anywhere 16 other than IAUS? 17 A. Yeah. On page 4 I said, "I have 18 witnessed," and that comes from Monty Hamilton. And 19 then Sterling Rigby. I'm not sure where I got that. I 20 don't think I got it from the IAUS website, but I'm not 21 sure where I got that. 22 And when I say about Lucite International, 23 I think I got that off the internet. Are you following 24 me? 25 Q. Yeah. Which one?</p>	<p style="text-align: right;">Page 187</p> <p>1 easily. So I just wrote the history because I have 2 been involved with the company so long and seen so 3 much, seen it developed. So that's what I did; I wrote 4 kind of a history from my point of view. 5 Q. Okay. You mention getting information 6 from Neldon Johnson and Randy Johnson. 7 A. And workers. But, yeah. 8 Q. And when you say workers -- 9 A. The workers that Neldon has employed. 10 Q. Okay. Anyone else? 11 A. I don't know without looking, but the 12 preponderance is from my own -- history written from my 13 point of view. 14 Exhibit 470 WAS MARKED.) 15 Q. Mr. Shepard, have you testified before the 16 Public Service Commission in Utah in the past? 17 A. Not -- no. Oh, wait a minute. I don't 18 know what you mean by "testified." Where are you -- 19 Q. Well, let's look at this exhibit, which 20 has been marked as Plaintiff's Exhibit 470. It's Bates 21 stamped US001123 through US001187, and I'll represent 22 that there have been pages omitted to keep this exhibit 23 short. 24 My understanding, based on this hearing 25 transcript, is that you testified on June 13, 2013</p>
<p style="text-align: right;">Page 186</p> <p>1 A. Page 4, where it says Lucite 2 International. I don't think that -- I know that 3 wasn't taken off the IAUS website. 4 Q. Let's go off the record. 5 (Break taken from 4:06 to 4:12 p.m.) 6 Q. (By Mr. Moran) Mr. Shepard, you have had 7 an opportunity to review Exhibit 8A and I'll ask the 8 same question I asked before, which is where did you 9 get the information that appears in the text of Exhibit 10 8A? 11 A. Okay. One source would have been the IAUS 12 website. Another source would be the technology 13 reports. 14 Q. Whose technology reports? 15 A. The IAUS technology reports that's on the 16 website that says Technology Reports. 17 Q. Okay. 18 A. It's 53 pages, I believe. So quite a bit 19 of info on that. So the pictures are probably 90 20 percent mine that I took with my camera or had someone 21 else take with my camera. And most of the information 22 after page -- probably from the second page on, most of 23 it is mine, where I wrote after talking with various 24 people, mostly Neldon and Randy. But most of it is my 25 own observation. And I'm a writer so it comes very</p>	<p style="text-align: right;">Page 188</p> <p>1 before the Utah Public Service Commission. And I'll 2 direct your attention to the page that's marked 3 US001153. You're on it right now. 4 A. Oh, there you go. I remember that now. 5 Q. Did you testify at a hearing on June 13, 6 2013? 7 A. I think it was -- yeah, it was a public 8 hearing. 9 Q. Okay. 10 A. As I remember. And then they asked if 11 anybody wanted to make comments. And I said, "Yeah, 12 I'd like to make a comment." 13 Q. Okay. 14 A. And so they said, "Well, you need to raise 15 your right hand." And I guess I didn't understand it 16 was a hearing. But it had nothing to do with me at the 17 beginning. I just heard what people were saying and I 18 said, "Hey, I'll make a comment." So yeah. 19 Q. I'll direct your attention to the page 20 marked US001155. 21 A. Here is 54. 22 Q. Yes. One more. 23 A. Okay. 24 Q. I'll direct your attention to line 19. It 25 says, "We're doing projects right now -- in fact, we've</p>

Page 189

1 signed, we have a verbal commitment, which is going to  
 2 be made public here very soon, with a large company  
 3 here in Salt Lake County, for 5 cents a kilowatt hour.  
 4 Five cents. They said we had to do it less than what  
 5 Rocky Mountain Power is charging. We said fine." Was  
 6 that your testimony?  
 7 A. Yes.  
 8 Q. And when you say "we," are you referring  
 9 to Rapower? Who is the "we" you are referring to?  
 10 A. Yeah. RaPower3.  
 11 Q. International Automated Systems?  
 12 A. Yeah. Using International Automated  
 13 Systems' technology.  
 14 Q. Okay. What's the verbal commitment you  
 15 are referring to?  
 16 A. With, I think that was with Murray.  
 17 Q. Murray what?  
 18 A. The city of Murray.  
 19 Q. Okay.  
 20 A. They have their own utility company, by  
 21 the way.  
 22 Q. Okay.  
 23 A. Which is different than Rocky Mountain  
 24 Power.  
 25 Q. Murray had made a verbal commitment to

Page 190

1 RaPower3?  
 2 A. Well, I kind of thought so, because the  
 3 mayor, Dan Snarr, lives right around the corner from  
 4 me. I live in Murray. And he went down a couple times  
 5 and said, "I want to do this."  
 6 Q. Okay.  
 7 A. So that was a verbal thing.  
 8 Q. Okay. And when the mayor said, "We want  
 9 to do this," what does that mean?  
 10 A. They want to do a project and bring some  
 11 solar energy and put that solar energy in our mix.  
 12 Murray City gets their power from seven different  
 13 sources. And solar is a little bit of it. Mostly it's  
 14 coal, some hydro. But Mayor Snarr wanted to make -- he  
 15 wanted a bigger mix of renewable energy and was excited  
 16 about our technology and came down and --  
 17 Q. So did he want to buy lenses or did he --  
 18 A. No. He wanted it for the city.  
 19 Q. So he wanted to put up towers?  
 20 A. For Murray, yeah.  
 21 Q. Did that ever happen?  
 22 A. Oh, no.  
 23 Q. It didn't happen?  
 24 A. No.  
 25 Q. Okay. Why didn't it happen?

Page 191

1 A. Well, basically I thought we were closer  
 2 to being ready to do something like that. And I guess  
 3 his underlings wanted to see a project up and running  
 4 before they committed. I think that was their advice,  
 5 but I can't remember.  
 6 Q. Now, after you gave this testimony, did  
 7 you ever go back to the Utah Public Service Commission  
 8 and correct your testimony?  
 9 A. No.  
 10 Q. In your testimony you mentioned that you  
 11 would be able to provide electricity at 5 cents a  
 12 kilowatt hour. Is that a fair characterization?  
 13 A. Yes. Back then. Now I'd probably ask  
 14 another penny.  
 15 Q. Six cents?  
 16 A. Well, it would be under what anybody else  
 17 is selling.  
 18 Q. Okay. Well, my question is how did you  
 19 know that you could offer electricity for five cents a  
 20 kilowatt hour?  
 21 A. Neldon Johnson made that very clear.  
 22 Q. He said it?  
 23 A. Yes.  
 24 Q. Did he ever tell you what he based that  
 25 conclusion on?

Page 192

1 A. For five cents?  
 2 Q. Yeah.  
 3 A. Yeah. It was to be able to undercut other  
 4 people by a little bit.  
 5 Q. How did he know he could do it for five  
 6 cents a kilowatt hour?  
 7 A. Math.  
 8 Q. Did he do any testing?  
 9 A. Yeah. He did a lot of testing. But  
 10 that's a question for Neldon and how he came up with  
 11 that. I know that the turbine is one thousandth of the  
 12 cost of other people's turbines, and it has a huge  
 13 advantage. I do know that. I have seen it work.  
 14 I know the lenses can be mass produced. I  
 15 know they produce heat. I know they don't cost very  
 16 much, about a thousandth of what other people have to  
 17 spend. And I know they don't have to be washed. You  
 18 saw that. You saw a lens that produced massive amounts  
 19 of heat in 80 seconds with a lens that had never been  
 20 washed for six years. Other people have to wash their  
 21 lenses every flipping day. And so that's a cost of  
 22 operation.  
 23 Neldon -- other people have to lease their  
 24 land. Wind and solar, the average price is \$500 per  
 25 acre per year. I think Neldon has got 4000 acres and



<p style="text-align: right;">Page 193</p> <p>1 that's a \$2 million cost. He doesn't have to pay that  2 because he buys his land. And the reason he can buy  3 his land is because he can use bad water, brackish  4 water, which is in abundance in the great basin there  5 in Delta, which he can use. He doesn't have to have  6 clean water.  7 So coupled with not having to wash lenses,  8 having an extremely low cost with a turbine that  9 doesn't need maintenance like other people, no cooling  10 towers that Rocky Mountain Power has to go through. I  11 mean, the difference is incredible. So he has  12 estimated that his cost of operation would be about a  13 half a penny to a penny per kilowatt hour. If he uses  14 coal, it would be a little bit more.  15 Q. Everything you just discussed, all the  16 components that are necessary to generate electricity  17 at 5 cent a kilowatt hour, did any of that exist in  18 2013?  19 A. Any of what now? Say that again.  20 Q. Any of the --  21 A. Yeah, the tower, the lenses, the heat  22 exchanger, the ability to make water. Yes, that all  23 existed.  24 Q. Was it making water or generating  25 electricity in 2013?</p>	<p style="text-align: right;">Page 195</p> <p>1 kilowatt hour, because it is slightly less --  2 A. You can undercut Rocky Mountain Power and  3 make a fortune. That's the deal.  4 Q. Mr. Shepard, you testified that no one has  5 ever paid for a product; is that right? No one has --  6 A. No. People have paid for lenses.  7 Q. Except for lenses. A product generated by  8 a lens, heat, electricity, water, anything like that,  9 has anyone ever paid for a product generated by a lens?  10 MR. REAY: Objection. Calls for  11 speculation.  12 A. You'll have to ask Neldon that. I think  13 so. I think so. But you'll have to ask Neldon that.  14 And you have asked that over and over and over again.  15 And my answer is going to be the same.  16 Q. You say you think so, but you have never  17 told me why you think so.  18 A. You have to ask Neldon that.  19 Q. Neldon has told you that someone has paid  20 money for a product?  21 A. You have to ask Neldon that. He will  22 answer that if he wants to.  23 Q. Neldon doesn't have a choice as to whether  24 or not he answers the questions.  25 A. Well, he can answer it different ways.</p>
<p style="text-align: right;">Page 194</p> <p>1 A. No. It was -- okay. First of all, he  2 bought the land.  3 Q. I understand that.  4 A. So he didn't have that cost. We knew he  5 didn't have to wash the lenses. That's part of the  6 equation, Chris.  7 Q. Sure.  8 A. Okay. We knew that the turbine would be  9 very inexpensive to run and also scalable. I don't  10 know if you know what that means, but you don't have to  11 go buy a 50 megawatt turbine. You can get a 500  12 kilowatt turbine and do fifty of them.  13 Q. How many turbines existed in 2013?  14 A. I don't know. Several. That's Neldon's  15 thing. But they are easy to make and quick to make,  16 from my understanding. And so he knows the cost.  17 And so when you couple the fact that you  18 don't have cooling towers -- Rocky Mountain Power has  19 to shut their plant down, Chris, and they have to spend  20 a fortune on employees to go clean their pipes. Neldon  21 wouldn't have to do that. Their cost of operation is  22 estimated to be 5.5 to 6 cents per kilowatt hour. That  23 is according to Neldon. And I guess he got that from  24 Rocky Mountain Power. He lives right there.  25 Q. And that's why he came up with 5 cents a</p>	<p style="text-align: right;">Page 196</p> <p>1 Q. You've testified that you believe someone  2 has paid money for a product. I want to know --  3 A. That's speculation. People do it all the  4 time.  5 Q. But you don't know anyone --  6 A. I'm going to buy this and when you do  7 certain things then I'm going to pay you certain stuff.  8 You don't have to -- people put money down all the time  9 on spec. Ask Tesla. That's a car.  10 Q. I'm not talking about buying lenses. I'm  11 talking about buying a product that a lens creates.  12 A. Right. And you have to have the lenses to  13 do that. And so on speculation that the lenses are  14 going to be producing power, I think people will put up  15 money on speculation that that will happen.  16 Q. To buy power?  17 A. To buy power or water and/or water.  18 Q. And who have they put up that money to?  19 A. That's not my -- I don't know.  20 Q. What's the basis for your belief that  21 people have put up money for power or water? Why do  22 you believe that?  23 A. Neldon has told me.  24 Q. Neldon has told you.  25 A. Uh-huh (affirmative).</p>

<p style="text-align: right;">Page 197</p> <p>1 Q. Is there anything else that forms the 2 basis for that belief? 3 A. No. 4 Q. Okay. Has Neldon ever told you who these 5 people are? 6 A. No. 7 Q. Has Neldon ever showed you money in a bank 8 account? 9 A. No. 10 Q. So Neldon told you, "I've got people who 11 are putting up money on spec to buy water and power"? 12 A. No, he didn't say it that way. 13 Q. How did he say it? 14 A. That money is in an escrow account, and 15 when certain stages of development are done then he can 16 draw money out. I think he signed a contract with some 17 people, some wealthy people, but I don't know who they 18 are. 19 Q. Okay. 20 A. I don't know the entity. 21 Q. So based on what Neldon told you, you then 22 went and got under oath and testified to the Utah 23 Public Service Commission -- 24 A. No. No. Don't twist stuff. Why would 25 you do that? I have tried to be honest with you, in</p>	<p style="text-align: right;">Page 199</p> <p>1 Q. I'm just trying to understand why you 2 think that there are individuals or entities who are 3 going to pay for a product that's made or generated by 4 a lens. And it sounds like the answer to that question 5 is stuff Neldon Johnson has told you. 6 A. Yeah. 7 Q. And no one else? 8 A. Correct. 9 Q. Okay. 10 Exhibit 471 WAS MARKED.) 11 Q. Mr. Shepard, you've been given a copy of 12 what's been marked for identification as Plaintiff's 13 Exhibit 471. Do you recognize this document? 14 A. I do. 15 Q. What is it? 16 A. Well, I'm looking at it. It's an e-mail 17 that was sent from me using Rapower3.com to Bob Tilden. 18 Apparently he asked a question -- oh, so it's not -- 19 okay. Yeah. Okay. 20 Q. And below that there's an e-mail that I 21 think he is responding to you; is that correct? 22 A. I don't know. I get a lot of e-mails. 23 Q. And the second two pages, there's some 24 text and then on the last page it says, "Regards, 25 Greg."</p>
<p style="text-align: right;">Page 198</p> <p>1 case you made a mistake. 2 Q. Sorry. That was the Murray mayor. 3 A. Okay. Thank you. 4 Q. Based on what Neldon has told you, you 5 believe that -- 6 A. It has nothing to do with this document, 7 if you're trying to tie those two together. That would 8 be a wrong thing to do. 9 Q. I didn't mean to tie it to Exhibit 470. I 10 agree you testified that was the Murray mayor. 11 A. Okay. 12 Q. The entire basis for your belief is that 13 lenses -- that someone -- 14 A. Belief in what? 15 Q. That someone has put up money on spec to 16 buy a product that's generated by a lens that is from 17 Neldon Johnson. Is that -- 18 A. Yeah. 19 Q. Okay. No one else? 20 A. Done all the time. 21 Q. But there's -- 22 A. I don't understand what's -- 23 Q. I'm not saying that there's anything wrong 24 with it. 25 A. Okay.</p>	<p style="text-align: right;">Page 200</p> <p>1 A. Yes. 2 Q. Okay. So the e-mail on page Shepard_Greg- 3 001143 through 1144, is that e-mail written by you? 4 A. Yes. 5 Q. Okay. Directing your attention to the 6 middle of page 1143. It says, "It is now estimated 7 that we can put up all the lenses purchased by RaPower3 8 Team Members on working towers in less than a month." 9 A. Okay. 10 Q. Does that mean all 6800 towers could be 11 installed or somewhere around 6800 towers -- 12 A. Sure. 13 Q. -- could be installed in less than a 14 month? 15 A. Could be, sure. It's just a matter of 16 math. 17 Q. Is that the plan? 18 A. I don't know what Neldon's plan is, other 19 than -- let's see. When was this written? March '16? 20 Yeah. So the idea was to see what could be done on a 21 tower an hour. 22 Q. You mean how many hours it took to put up 23 a tower? 24 A. No. Every stage, every phase in the 25 manufacturing, Neldon wanted to come up with how many</p>

<p style="text-align: right;">Page 201</p> <p>1 people it would take at each station to do one tower an 2 hour. So if you were at the pipe cutting machine, for 3 example, how many people would it take to run that, and 4 how many pipes would you need to run through to cut 5 those towers to make one tower an hour? And so once 6 you have that, the question would be do we need two 7 pipe cutting machines or do we need ten. 8 Q. So it says that Neldon Johnson did that 9 estimation? 10 A. Yes. 11 Q. Okay. 12 A. But I went around and confirmed that. I 13 went around and took a video of all that. I don't know 14 if you've seen video clips, but I went around and asked 15 the workmen, I got one by the name of Walter and I took 16 a video clip of it, it is on the RaPower3 website. I 17 asked Walter, I said, "At this shearing station, how 18 many people do you need here?" He said three. Okay. 19 If he pays \$20 an hour, that's \$60 an hour to fulfill 20 one tower an hour at that station. Okay? So that's 21 the idea. 22 If we needed two shearing machines then 23 Neldon would have bought two shearing machines. But he 24 didn't have to. Some of the stations required four, 25 like the A-frame station. But all of that is done now.</p>	<p style="text-align: right;">Page 203</p> <p>1 you're doing," and then go buy that. He would have 2 loved to have done that, but he couldn't do that. 3 So now what the final outcome is, if you 4 want to do, say, 6800 lenses or whatever the RaPower3 5 is, it's just a matter of, okay, we need to hire 200 6 people. 7 Q. Okay. So what you are referring to there 8 is the cost estimates for if and when these towers are 9 put up? 10 A. No. Once you get the calculations done, 11 and they are all done on the manufacturing, so if we 12 want X, Y, Z number of lenses to fulfill all RaPower3, 13 and to get the towers done and get all the components 14 ready, which that's done now, then we just do the math. 15 So if we need 10,000 lenses or whatever, we just do -- 16 it's just a math thing. We have 30 employees. Maybe 17 we need 60 to fulfill that. 18 Q. But none of what you just told me explains 19 why you would say, "We can put up all the towers in 20 less than a month." 21 A. Yes. So now you've got 30 days, and if 22 you work six days a week how many people do you need. 23 Q. So why didn't you put up all the towers in 24 less than a month? 25 A. Because we didn't have all the questions</p>
<p style="text-align: right;">Page 202</p> <p>1 And then he had to go through the same thing with the 2 construction phase. How many people does it take to 3 put brackets on the trusses on the rings? 4 Q. And how long has that been going on? 5 A. The construction phase for probably I 6 would say about a year. But really escalated in the 7 last four or five months. 8 Q. Okay. So why are you saying that you 9 could have all the towers installed in less than a 10 month? 11 A. Well, it's just a matter of math. 12 Q. But if it's taken you several months, why 13 are you saying here -- 14 A. You misunderstood. You can't do that, 15 Chris. You need to -- okay. So once you get all that 16 information, and I thought we would have the 17 information beforehand. This is coming from me, not 18 Neldon. But I know what Neldon's game plan was to 19 figure all that out. And there were bumps on the road 20 as far as what needed to be done and how it needed to 21 be done. 22 Because again, everything that Neldon has 23 done had to be done from scratch. He couldn't buy -- 24 he couldn't go down to a store or manufacturing plant 25 or another solar company and say, "Let me see what</p>	<p style="text-align: right;">Page 204</p> <p>1 answered, Chris. We have the manufacturing questions 2 answered now. In fact, I think Neldon has a Chinese 3 manufacturing plant that can now do ten towers an hour. 4 And that could be escalated to even more. 5 Q. Okay. 6 A. This thing is going to be big, Chris, when 7 we get done. And then, now we have to do the 8 construction part of it. There's two phases, right? 9 Manufacturing and construction. 10 Q. Okay. 11 A. Right? 12 Q. I think you've answered my question, so we 13 can move on. 14 A. Okay. Better go buy some stock. 15 Q. I'm handing you a copy that's been marked 16 for identification of Plaintiff's Exhibit 292. It's 17 actually Government's Exhibit 292. This is from the 18 deposition of Peter Gregg. 19 I'll direct your attention to the -- well, 20 what is Exhibit 292? Do you recognize it? 21 A. I do. Yeah. It's team memo number 25. 22 Q. Is this a team memo that you sent out? 23 A. Yes. 24 Q. There's -- direct your attention to the 25 first paragraph. It says Update. The second sentence</p>

Page 205

1 says, "Also, we are now in the process of negotiating a  
 2 PPA for the first set of towers that will be going up."  
 3 Did I read that right?  
 4 A. Yes.  
 5 Q. What is a PPA?  
 6 A. Power Purchase Agreement.  
 7 Q. What's the context they are using PPA  
 8 here?  
 9 A. Well, as it turns out, we don't need PPAs.  
 10 So that's now obsolete. But at the time, it meant a  
 11 Power Purchase Agreement. What you do with a Power  
 12 Purchase Agreement is -- so a utility agrees to pay you  
 13 X number of pennies per kilowatt hour, so now you take  
 14 that to the bank and say, "We've got a utility company  
 15 that will give us this much money. We have signed an  
 16 agreement, a Power Purchase Agreement, to help purchase  
 17 the power." And then you take that to the bank and the  
 18 bank, then, will loan you money to finish your project.  
 19 Q. All right. Now, who were you negotiating  
 20 a PPA with?  
 21 A. I was just told that that was -- well,  
 22 that didn't come from Neldon. Since 2010 I have tried  
 23 to put my own projects together.  
 24 Q. Your own power project?  
 25 A. Uh-huh (affirmative).

Page 206

1 Q. To sell power?  
 2 A. Yeah. A lot of money in it, if it will  
 3 work. But we just kept running into road blocks. I  
 4 have talked with a lot of people about different  
 5 projects.  
 6 Q. Who have you negotiated power purchase  
 7 agreements with?  
 8 A. I haven't negotiated any yet. Never got  
 9 that far. Every time I got close, they wanted to see a  
 10 power project up and running.  
 11 Q. Yeah.  
 12 A. And we didn't have that running yet.  
 13 Q. The power purchase agreement you are  
 14 referring to in --  
 15 A. But I'm not -- you know, I don't know. I  
 16 don't remember, because it was back a little over two  
 17 years ago. So if you can refresh my memory, I'd be  
 18 glad to look at it.  
 19 Q. I don't know. I want to know who you were  
 20 telling RaPower3 members that you were negotiating a  
 21 PPA with.  
 22 A. Yeah. I thought I was very close to -- I  
 23 thought very close to getting some kind of a deal done.  
 24 Q. With who?  
 25 A. I don't know specifically on that one.

Page 207

1 I'm sorry, Chris. I talk with a whole bunch of people.  
 2 Q. Who did you talk to?  
 3 A. I talked with a Mexican outfit. I talked  
 4 with UAMPs, Utah Association of Municipal Power.  
 5 Q. Did any of them sign PPAs with RaPower3?  
 6 A. No.  
 7 Q. Did any of them sign PPAs with you?  
 8 A. No.  
 9 Q. Okay. Let's go off the record.  
 10 (Discussion off the record.)  
 11 Q. We can go back on.  
 12 Mr. Shepard, I will direct your attention  
 13 back to Plaintiff's Exhibit 411, which is your  
 14 interrogatory responses.  
 15 A. Yeah. I don't know where you are at.  
 16 Q. Exhibit 411. It should be in your stack.  
 17 A. In this stack?  
 18 Q. Yes.  
 19 A. The memo stack?  
 20 Q. Yeah. The stack of exhibits right there.  
 21 I'll hand you another one. Mr. Shepard, I'll direct  
 22 your attention to Interrogatory Number 8.  
 23 A. What page? Under general objections?  
 24 Q. No. Interrogatory Number 8. I'll help  
 25 you.

Page 208

1 Interrogatory 8 asked you to, "Identify  
 2 any electricity grid access agreements, interconnection  
 3 agreement, or any other agreement in which you obtained  
 4 the right to provide electricity to any entity. Your  
 5 response should include the names of the entity or  
 6 person you entered into the agreement with, the date  
 7 and the items of the agreement."  
 8 Your response is, "I have not been part of  
 9 any electricity grid access agreements and have no  
 10 knowledge of such agreements."  
 11 A. Correct.  
 12 Q. All right. Am I to understand that you  
 13 claim to have negotiated with various people to provide  
 14 electricity, but nothing was --  
 15 A. Right. Verbally. I had people tell me,  
 16 "Okay, we are going to do this."  
 17 And I said, "Well, are you the main guy?"  
 18 "Yeah, I'm the main guy, and then we will  
 19 do this and we will do that." And then I come to find  
 20 out that they are blowing smoke.  
 21 Q. Okay.  
 22 A. So I haven't signed any agreement with  
 23 anybody.  
 24 Q. Okay. But you say that it was negotiated.  
 25 A. Well, yeah. Negotiated verbally with a

<p style="text-align: right;">Page 209</p> <p>1 guy that really couldn't make a decision, or with 2 people. It's happened to me probably five times. 3 Q. Now, after you sent this to RaPower3 team 4 members, your own teammates, who you look out for, did 5 you ever go back to them and say, "By the way, I told 6 you we were negotiating with someone for a PPA, and it 7 fell through. It didn't work out"? 8 A. I don't think so. 9 Q. Okay. Do you think that's something they 10 would have liked to have known? 11 A. Yes. 12 Q. Okay. 13 A. But I don't know what Number 26 said or 27 14 said. 15 Q. Who writes the RaPower3 team memos? 16 A. I do. 17 Q. Okay. 18 A. I have to go back and say maybe I did. 19 You are saying maybe they would like to know, and I 20 said yeah, but -- 21 Q. Mr. Shepard, you have the option to sign 22 an errata sheet after this deposition. 23 A. Sign what? 24 Q. An errata sheet. Your attorney can tell 25 you more about it. But if the need arises and you need</p>	<p style="text-align: right;">Page 211</p> <p>1 A. It's an e-mail to Bryan Bolander. 2 Q. From you? 3 A. From me. 4 Q. Okay. I'll direct your attention to the 5 third sentence that says, "So even though people 6 purchased during the last week of December, their 7 lenses had already been placed in service." 8 A. Wait a minute. What now? Where are you 9 reading? Third sentence or -- 10 MR. REAY: Third sentence. 11 A. Okay. I was looking for paragraphs. 12 Q. Sorry. "So even though people purchased 13 during the last week of December, their lenses had 14 already been placed in service." Did I read that 15 correctly? 16 A. Yes. 17 Q. What do you mean in that sentence? What 18 do you mean by "placed in service"? 19 A. They were in a state of readiness, they 20 were -- had the ability to produce heat. 21 Q. Okay. And were they producing any heat? 22 A. They had the ability. 23 Q. They had the ability to produce heat. 24 A. Right. 25 Q. When did they get the ability to produce</p>
<p style="text-align: right;">Page 210</p> <p>1 to correct any errors in your testimony, the rules 2 provide you an opportunity to do that. 3 MR. REAY: I don't think you said you 4 didn't tell them. I think the question was do you feel 5 you should have told them, and you said yeah. 6 MR. MORAN: I think first I asked him -- 7 THE WITNESS: Well, you did ask, but then 8 I got to thinking, maybe I did. Maybe I said something 9 or we were on to something else. I don't know. I'd 10 have to read maybe ten subsequent memos. 11 Q. (By Mr. Moran) Well, Mr. Shepard, I can 12 ask the question again. Did you ever tell your 13 RaPower3 team members that that PPA you said you were 14 negotiating didn't work out? 15 A. I can't remember. 16 Q. Okay. If you feel like you need to 17 correct that testimony at a later date, talk to 18 Mr. Reay about how to do that. 19 A. Okay. That's a better deal. 20 Exhibit 472 WAS MARKED.) 21 Q. Mr. Shepard, you have been given a copy of 22 what's been marked for identification as Plaintiff's 23 Exhibit 472. Do you recognize it? 24 A. Sure. 25 Q. What is it?</p>	<p style="text-align: right;">Page 212</p> <p>1 heat? 2 A. As soon as they were made. As soon as 3 they came off the assembly line at Lucite. 4 Q. They were placed in service? 5 A. They had the ability to produce heat. And 6 in my view, that's good enough to be placed in service. 7 Q. And when you used the term "placed in 8 service," is that synonymous with the placed in service 9 letters we discussed earlier? 10 A. Yes. In my view, yeah. 11 Q. The placed in service letter that was sent 12 to Preston Olsen? 13 A. Yeah. They were in a state of readiness. 14 They were not put on a tower and they were not 15 producing electricity or heat. Well, they were in a 16 state of readiness for producing heat. Some of them 17 produced heat. 18 Q. And you couched that as that was your 19 view. 20 A. Uh-huh (affirmative). 21 Q. How did you get that view? 22 A. Tax letters. 23 Q. From who? 24 A. Todd Anderson and Kirton McConkie, but I 25 think mostly it was Todd Anderson.</p>

<p style="text-align: right;">Page 213</p> <p>1 Q. Anyone else?</p> <p>2 A. I'm not sure. Possibly.</p> <p>3 Q. Todd Anderson, Kirton McConkie, and you</p> <p>4 think there might be some more but you're not sure?</p> <p>5 A. Well, some more sources that would confirm</p> <p>6 that. I do a lot of research online, so I can't -- I'm</p> <p>7 not sure.</p> <p>8 Exhibit 473 WASMARKED.)</p> <p>9 Q. Mr. Shepard, you have been given what's</p> <p>10 been marked for identification as Plaintiff's Exhibit</p> <p>11 473. Do you recognize it?</p> <p>12 A. Uh-huh (affirmative).</p> <p>13 Q. What is it?</p> <p>14 A. This is a RaPower3 team memo number 64.</p> <p>15 Q. Okay. Did you send this out to RaPower3</p> <p>16 team members?</p> <p>17 A. I did.</p> <p>18 Q. Would Neldon Johnson have approved Exhibit</p> <p>19 473?</p> <p>20 A. I can't answer that. I don't know what he</p> <p>21 would approve or not. I don't even know what's in it</p> <p>22 right now. Let me see. Oh. Page 2 is basically a cut</p> <p>23 and paste, "Line 12b."</p> <p>24 Q. Cut and paste from where?</p> <p>25 A. That's right from the --</p>	<p style="text-align: right;">Page 215</p> <p>1 Q. Okay. And that would be different than</p> <p>2 the team memo we discussed earlier?</p> <p>3 A. I don't know what --</p> <p>4 Q. We talked about a team memo, and we can</p> <p>5 find it if you'd like.</p> <p>6 A. No.</p> <p>7 Q. But there was a team memo that you sent</p> <p>8 for an approval.</p> <p>9 A. Yeah. For approval from Neldon. But I</p> <p>10 didn't do -- I'm sure I didn't do it here. I could</p> <p>11 have, but I don't recall.</p> <p>12 Q. Okay. You don't recall getting approval</p> <p>13 from Neldon Johnson for team memo number 64?</p> <p>14 A. No.</p> <p>15 Q. Okay.</p> <p>16 A. I'm not sure why I would.</p> <p>17 Q. I direct your attention to the second page</p> <p>18 and the paragraph titled Our Procedure.</p> <p>19 A. Okay.</p> <p>20 Q. "Once you've paid in full your 30 percent</p> <p>21 down payment, you are eligible to receive a 'Placed in</p> <p>22 Service' letter from the company." Did I read that</p> <p>23 correctly?</p> <p>24 A. Uh-huh (affirmative).</p> <p>25 Q. And the placed-in-service letter that you</p>
<p style="text-align: right;">Page 214</p> <p>1 MR. REAY: Objection. Calls for</p> <p>2 speculation.</p> <p>3 MR. MORAN: This is his -- he admitted</p> <p>4 authoring this document.</p> <p>5 MR. REAY: Yeah. You asked if he thought</p> <p>6 Neldon would approve.</p> <p>7 MR. MORAN: Right.</p> <p>8 THE WITNESS: And I said I don't know.</p> <p>9 I'm just looking.</p> <p>10 MR. REAY: So speculation.</p> <p>11 MR. MORAN: Well, then I'll rephrase the</p> <p>12 question.</p> <p>13 Q. (By Mr. Moran) Before you sent this out,</p> <p>14 sent out Exhibit 473 to RaPower3 team members, would</p> <p>15 Neldon Johnson have approved the memo?</p> <p>16 MR. REAY: Objection. Calls for</p> <p>17 speculation.</p> <p>18 Q. Well, earlier we talked about a team memo</p> <p>19 that you had sent to Neldon Johnson for approval.</p> <p>20 MR. REAY: Did you ask -- can you restate</p> <p>21 the question? Did you say "did" or "would"?</p> <p>22 Q. (By Mr. Moran) I rephrased it and said</p> <p>23 before you sent out RaPower3 team memo number 64, did</p> <p>24 you have Neldon Johnson approve team memo number 64?</p> <p>25 A. No, I don't believe so.</p>	<p style="text-align: right;">Page 216</p> <p>1 are referring to here is similar to the one we looked</p> <p>2 at earlier that was sent to Preston Olsen?</p> <p>3 A. Correct.</p> <p>4 Q. What does the 30 percent down payment have</p> <p>5 to do with the placed-in-service letter?</p> <p>6 MR. REAY: Objection. Calls for legal</p> <p>7 conclusions.</p> <p>8 A. If -- it has to do, in my opinion, I</p> <p>9 didn't feel good about giving a placed-in-service</p> <p>10 letter with no money. If you didn't abide by your</p> <p>11 contract, you shouldn't get a placed-in-service letter.</p> <p>12 Q. Okay.</p> <p>13 A. Why -- if you sign a contract and you</p> <p>14 violate the contract and you're in -- you have refused</p> <p>15 to pay and honor your contract, why should we give you</p> <p>16 a placed-in-service letter?</p> <p>17 Q. Refused to pay who?</p> <p>18 A. Who you signed the contract with:</p> <p>19 RaPower3.</p> <p>20 Q. So if RaPower3 hasn't gotten their money,</p> <p>21 then in your view the RaPower3 team member shouldn't</p> <p>22 get their placed-in-service letter?</p> <p>23 A. Absolutely. Why should they? They have</p> <p>24 to pay.</p> <p>25 Q. And that's just 30 percent of the \$3500</p>

Page 217

1 purchase price.  
 2 A. Right.  
 3 Q. Tell me this: Why don't customers have to  
 4 pay the full \$3500 purchase price before they get a  
 5 placed-in-service letter?  
 6 A. Why?  
 7 Q. Yeah.  
 8 A. You have to ask Neldon that. But if I  
 9 want to speculate on that, which is pure speculation,  
 10 because Neldon is in charge of what the price is and  
 11 the down payment is --  
 12 MR. REAY: Objection. Calls for  
 13 speculation.  
 14 A. Yeah. I can't answer that.  
 15 Q. Don't you sign the placed-in-service  
 16 letters?  
 17 A. I do.  
 18 Q. Okay. So if you sign the placed-in-  
 19 service letters, my question to you is why do you give  
 20 someone a placed-in-service letter before they have  
 21 paid the full purchase price?  
 22 A. Because they signed a contract. Everyone  
 23 operates that way in the solar business, and all other  
 24 businesses. If I buy a -- if I'm going to buy a copy  
 25 machine for my business, I'm probably going to sign a

Page 218

1 contract. That doesn't mean I can't depreciate it  
 2 immediately. I've signed a contract.  
 3 Q. And you probably have a purchase price to  
 4 pay for that contract, right?  
 5 A. Yeah. But I haven't paid the full  
 6 purchase price on the copy machine. I signed a  
 7 contract, paying \$100 a month for a copy machine. I  
 8 might not pay it off for three years.  
 9 Q. Understand. On the copy machine, are you  
 10 using it in your business?  
 11 A. In my theoretical example?  
 12 Q. Yes.  
 13 A. Yes.  
 14 Q. Okay. So to get the placed-in-service  
 15 letters, your lens doesn't have to be generating any  
 16 income. Is that your understanding?  
 17 A. Yes.  
 18 Q. And how did you get that understanding?  
 19 A. From the tax attorney opinion letter by  
 20 Todd Anderson and others, I guess --  
 21 Q. The Kirton --  
 22 A. -- that we have talked about.  
 23 Q. The Kirton McConkie firm?  
 24 A. Yeah.  
 25 Q. The next sentence says, "The Operation &

Page 219

1 Maintenance Company LTB, LLC rents your solar lenses  
 2 and utilizes the solar energy from your panels for the  
 3 purpose of assisting IAS in research and development  
 4 for both agricultural and municipal solar thermal waste  
 5 heat reclamation and multiple non-serial array  
 6 concentrated photovoltaic receiver circuitry, among  
 7 other applications such as refinement of gearless  
 8 dual-access hydraulic tracking mechanisms and  
 9 quick-release panel stabilizers, and connections, which  
 10 qualify as commercial use of the solar energy."  
 11 A. Pretty cool.  
 12 Q. You say that LTB rents solar lenses. Does  
 13 that mean that LTB gets rental payments for the solar  
 14 lenses?  
 15 A. I don't know what the relationship between  
 16 LTB and whoever else. All I know is that LTB is the  
 17 operations and maintenance company and they sign an  
 18 agreement with the person who buys the lenses, the  
 19 customer, and they agree to pay the customer \$150 per  
 20 lens per year. That's what they agree.  
 21 Q. I know that's the other part of the  
 22 contract, but here you are saying that LTB then turns  
 23 around and rents those solar lenses to someone else.  
 24 A. I probably made a typo there.  
 25 Q. There's an entire sentence where you talk

Page 220

1 about LTB renting solar lenses for all sorts of  
 2 purposes.  
 3 A. Let's read it carefully. "The Operation &  
 4 Maintenance Company, LTB, LLC, rents your solar  
 5 lenses." Isn't that what they do, they rent them?  
 6 Q. All right. They rent them and LTB is the  
 7 one doing the research and development?  
 8 A. LTB rents your solar lenses.  
 9 Q. All right. So LTB rents and you are using  
 10 that --  
 11 A. They pay \$150 per year per lens.  
 12 Q. Has LTB ever paid someone \$150 per lens?  
 13 A. We have already discussed that. No.  
 14 Because, as you well know, and we have talked about --  
 15 I have it marked down here seven times, and I knew you  
 16 were going to do this, but -- where was I?  
 17 Q. It sounds like LTB, and I understand --  
 18 A. That's when the lenses are producing  
 19 revenue. So you've said that. I'm repeating what  
 20 you're saying and that's what the deal is. When the  
 21 revenue is being produced then the rental income can  
 22 start being paid.  
 23 Q. All right.  
 24 A. But until that point, then LTB isn't  
 25 obligated to pay rent.

Page 221	<p>1 Q. Okay.</p> <p>2 A. And the RaPower3 team member is not</p> <p>3 entitled to collect their \$150 a year until they are</p> <p>4 producing revenue.</p> <p>5 Q. Okay. But in your view, they are entitled</p> <p>6 to claim that those lenses are placed in service.</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And you base that view on letters</p> <p>9 from Kirton McConkie and Todd Anderson?</p> <p>10 A. Yes.</p> <p>11 Q. Anyone else?</p> <p>12 A. I don't know. Could be.</p> <p>13 Q. I'm going to ask you to give me an answer</p> <p>14 on that, because if there's --</p> <p>15 A. I can't recall.</p> <p>16 Q. You don't recall?</p> <p>17 A. No. But in my mind those are the two main</p> <p>18 ones.</p> <p>19 Q. All right. And then you talk about LTB</p> <p>20 assisting IAS in research and development and you list</p> <p>21 a series of activities. Can you tell me how that</p> <p>22 works? How does LTB assist IAS --</p> <p>23 A. No, it didn't assist. You're reading</p> <p>24 stuff -- you have completely read it -- you put your</p> <p>25 own stuff in there, and you can't do that.</p>	Page 223	<p>1 that.</p> <p>2 Q. The lenses in Exhibit 460, have they been</p> <p>3 placed in service?</p> <p>4 A. Yes.</p> <p>5 Q. Are they utilizing solar energy for</p> <p>6 anything?</p> <p>7 A. Yes. They are assisting IAS in research</p> <p>8 and development.</p> <p>9 Q. They are sitting inside a warehouse.</p> <p>10 A. They are not all used. They are used --</p> <p>11 some are used, and so because some are used and that's</p> <p>12 assisting in research and development for the end</p> <p>13 purpose, so that we can continue our projects.</p> <p>14 Q. By sitting in a warehouse they are</p> <p>15 assisting in research and development?</p> <p>16 MR. REAY: Objection. This calls for</p> <p>17 speculation. He is not in charge or involved with the</p> <p>18 research and development.</p> <p>19 Q. The information that you conveyed here in</p> <p>20 Exhibit 473, in particular the paragraph under Our</p> <p>21 Procedure, where did you get that information from?</p> <p>22 A. I can't recall, but I think it was from --</p> <p>23 because that's not my writing.</p> <p>24 Q. You are saying you cut and pasted it from</p> <p>25 somewhere?</p>
Page 222	<p>1 Q. Well, explain it to me, please.</p> <p>2 A. Okay. Let's read it carefully and slowly.</p> <p>3 "... rents your solar lenses and utilizes the solar</p> <p>4 energy from your panels for the purpose of assisting</p> <p>5 IAS." They don't, LTB doesn't assist. If you read it</p> <p>6 clearly, the solar panels, the energy from the solar</p> <p>7 panels, that's the purpose for assisting IAS in</p> <p>8 research.</p> <p>9 Q. All right. So the solar panels that are</p> <p>10 inside the manufacturing facility under a roof, how are</p> <p>11 they using solar energy?</p> <p>12 A. Good point. Because they are out at the</p> <p>13 research and development site.</p> <p>14 Q. Just by nature of their existing?</p> <p>15 A. The nature of them producing heat. And</p> <p>16 sometimes they have produced energy, but I don't know</p> <p>17 how often. But the ultimate goal is to produce heat</p> <p>18 and/or energy.</p> <p>19 Q. And we can look at the exhibit, but</p> <p>20 earlier we showed you a photo, on Exhibit 460, there's</p> <p>21 a photo of several lenses inside a warehouse.</p> <p>22 A. Right.</p> <p>23 Q. How are those utilizing solar energy?</p> <p>24 MR. REAY: Object. That misrepresents</p> <p>25 testimony. He didn't say those were the ones doing</p>	Page 224	<p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 A. But I don't know. I can't recall where.</p> <p>4 But that's not my writing.</p> <p>5 Q. Who, other than Neldon Johnson, could you</p> <p>6 have gotten that information from?</p> <p>7 A. An attorney.</p> <p>8 Q. An attorney?</p> <p>9 A. His attorney. I don't know. You have to</p> <p>10 ask him, because I didn't write that. That's not my</p> <p>11 writing. If I had written it, I might have written it</p> <p>12 a little bit differently. I don't know. But I was</p> <p>13 never consulted on that. I was just given that.</p> <p>14 Q. You authored team memo 64. We already</p> <p>15 talked about that.</p> <p>16 A. Well, I authored the -- right above that</p> <p>17 is "Line 12b Instructions." I cut and pasted that from</p> <p>18 IRS.gov. Come on.</p> <p>19 Q. Well, how --</p> <p>20 A. I put a team memo together using various</p> <p>21 sources. One source was IRS.gov. That's word for word</p> <p>22 cut and paste, 1b Instructions. And our procedure, I</p> <p>23 got that from -- I'm not sure exactly where I got it</p> <p>24 from, but it's not my writing.</p> <p>25 Q. Okay.</p>



<p style="text-align: right;">Page 225</p> <p>1 A. That's a source.</p> <p>2 Q. All right. Turning the next page,</p> <p>3 Shepard_Greg-3377, the first complete paragraph, the</p> <p>4 second sentence says -- well, I'll read the whole</p> <p>5 paragraph. "The 'Placed In Service' letter is</p> <p>6 regarding the 'Alternative Energy Systems' that you</p> <p>7 purchased from RaPower3 LLC. RaPower3 put into service</p> <p>8 your equipment." Did I read that right?</p> <p>9 A. You did.</p> <p>10 Q. All right. RaPower3, to my understanding,</p> <p>11 is a marketing company.</p> <p>12 A. Right. And that probably should have</p> <p>13 said -- I'm not sure.</p> <p>14 Q. You don't know --</p> <p>15 A. I didn't write that.</p> <p>16 Q. Who did write it?</p> <p>17 A. I don't know. It's the same as right</p> <p>18 above that. So that could have been one of Neldon's</p> <p>19 attorneys. I don't know.</p> <p>20 Q. Who else usually helps you write these</p> <p>21 team memos? I know your son sometimes helps you.</p> <p>22 A. He does a little bit, but mostly it's me.</p> <p>23 Q. Okay. So --</p> <p>24 A. Or I put it together from different</p> <p>25 sources.</p>	<p style="text-align: right;">Page 227</p> <p>1 those guys.</p> <p>2 Q. Are you aware of any attorneys other than</p> <p>3 the two I've just mentioned that advised Neldon Johnson</p> <p>4 in this matter?</p> <p>5 A. Yes.</p> <p>6 Q. Who?</p> <p>7 A. Paul Jones.</p> <p>8 Q. Okay. Do you think Paul Jones wrote this?</p> <p>9 A. Could have. I don't know.</p> <p>10 Q. Okay.</p> <p>11 A. Do you know Paul Jones?</p> <p>12 Q. I met him.</p> <p>13 A. Okay.</p> <p>14 Q. What makes you think it may have come from</p> <p>15 an attorney?</p> <p>16 A. I don't know.</p> <p>17 Q. Okay.</p> <p>18 A. It sounds like it.</p> <p>19 Q. It sounds like an attorney would have</p> <p>20 written RaPower3 would have put into service --</p> <p>21 A. I don't know. I don't know. Can't answer</p> <p>22 more than that. You're going to have to ask those guys</p> <p>23 because I got it and put it in there. This is our</p> <p>24 procedure.</p> <p>25 Q. If we put this in front of LTB or RaPower</p>
<p style="text-align: right;">Page 226</p> <p>1 Q. Okay. And --</p> <p>2 A. I can quote a whole bunch of different</p> <p>3 sources.</p> <p>4 Q. I really want to know who would have been</p> <p>5 giving you this language that appears here.</p> <p>6 A. Well, I'm sure you do, but I can't answer</p> <p>7 that.</p> <p>8 Q. You sent this less than a year ago.</p> <p>9 A. I know. But I can't answer that. You're</p> <p>10 going to -- what you're going to have to do, you are</p> <p>11 going to depose LTB, you are going to depose Neldon and</p> <p>12 these different entities. Put that high on your list</p> <p>13 and ask them, but I don't know where I got it exactly.</p> <p>14 Q. Okay. You mentioned that attorneys may</p> <p>15 have given you the language about RaPower --</p> <p>16 A. May have, yes.</p> <p>17 Q. Which attorneys?</p> <p>18 A. I don't know.</p> <p>19 Q. Would it have been the Kirton McConkie</p> <p>20 memo?</p> <p>21 A. I doubt it. Not that part. Not that.</p> <p>22 Q. Okay. How about Todd Anderson?</p> <p>23 A. I doubt it.</p> <p>24 Q. Okay. What other attorneys --</p> <p>25 A. But I don't know. You'll have to ask</p>	<p style="text-align: right;">Page 228</p> <p>1 they're going to say, "This is from Greg Shepard. Ask</p> <p>2 Greg Shepard." Do you see my conundrum here?</p> <p>3 A. No, I don't think so. I think they would</p> <p>4 answer that.</p> <p>5 Q. What if they don't? Are you going to come</p> <p>6 back and sit for another deposition?</p> <p>7 MR. REAY: No, because he already answered</p> <p>8 the question. It's verging on harassment. He has</p> <p>9 answered you a bunch of times.</p> <p>10 Q. Is it still your testimony it may have</p> <p>11 come from an attorney? Because if it is, I have a</p> <p>12 couple follow-up questions from that.</p> <p>13 A. May have.</p> <p>14 Q. Would that have been Justin Heideman or</p> <p>15 Christian Austin?</p> <p>16 A. I don't know.</p> <p>17 Q. All right. No further questions on that</p> <p>18 document.</p> <p>19 I understand that you believe lenses can</p> <p>20 be placed in service when they are used for research</p> <p>21 and development; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And the research and development that you</p> <p>24 are referring to, that's the R&amp;D site that we visited</p> <p>25 on April 4, 2017?</p>

<p style="text-align: right;">Page 229</p> <p>1 A. I don't know all the research and 2 development areas that Neldon has, but I don't do the 3 research and development. I know that's one area where 4 research and development is done. I don't think it's 5 the only one. 6 Q. Okay. Where do you think there are 7 others? 8 A. In Neldon's homes. 9 Q. Neldon's homes? Were these in and around 10 Delta, Utah? 11 A. One is in Delta, one is in Payson. 12 Q. Is Payson -- how far is Payson from Delta? 13 A. An hour and a half. 14 Q. Okay. You think he does research and 15 development there? 16 A. Could, yeah. Because he's got a garage 17 and -- 18 Q. Anywhere else? 19 A. Yeah. In Delta he has a home there. 20 Q. Besides what you just told me about, is 21 there anything else? 22 A. Yeah. He could do it in the manufacturing 23 plant. 24 Q. Okay. Anywhere else? 25 A. Yes.</p>	<p style="text-align: right;">Page 231</p> <p>1 MS. HEALY-GALLAGHER: If we need to take 2 one, we'll take one. 3 Q. Let's take five. 4 A. Okay. 5 (Break taken from 5:14 to 5:22 p.m.) 6 Q. (By Mr. Moran) Mr. Shepard, I'm handing 7 you a copy of what's been marked for identification as 8 Plaintiff's Exhibit 28. Do you recognize this 9 document? 10 A. Yes. 11 Q. What is it? 12 A. It says "Tax Benefits for Jim." 13 Q. Did you prepare this document? 14 A. I did. 15 Q. Okay. And what did you do with it? 16 A. What did I do with it? 17 Q. Yeah. Did you send it to RaPower3 18 customers? 19 A. I can't remember. Oh, it says, "Assume 20 Jim." I thought maybe Jim was a RaPower3 client. So 21 it appears this is general stuff, to cite an example. 22 Q. Would you have sent Exhibit 28 out to 23 RaPower3 customers? 24 A. I could have, yeah. 25 Q. I need a yes or no on that.</p>
<p style="text-align: right;">Page 230</p> <p>1 Q. Where? 2 A. I think he's got other people working on 3 stuff. I don't know where. I think there's people up 4 here in Salt Lake City that work on stuff, but I don't 5 know. 6 Q. Has any RaPower3 customer ever been paid 7 for having their lenses used in a research and 8 development? 9 MR. REAY: Objection. Speculation. 10 A. I don't know. 11 Q. Have you ever heard of it? 12 A. No. 13 Q. If a customer were to be paid for their 14 lenses being used in research and development, how 15 would you or anyone at RaPower3 know which lens that 16 belongs to which customer was actually used in research 17 and development? 18 MR. REAY: Objection. Asked and answered 19 and calls for speculation. 20 A. I have no idea. I wouldn't be in charge 21 of that. I wouldn't -- again, Chris, I'm an 22 independent contractor. All right? 23 Q. Now is probably a good time for a break, 24 if we want to take one. 25 A. I don't want to take one.</p>	<p style="text-align: right;">Page 232</p> <p>1 A. I might have. I can't answer yes or no. 2 Q. You don't recall? 3 A. I don't recall. 4 Q. No more questions on that document. 5 Mr. Shepard, I'm handing you what's been marked for 6 identification as Plaintiff's Exhibit 20. I believe 7 you have already stipulated to it, but in case you 8 haven't, let me ask, do you recognize Plaintiff's 9 Exhibit 20? 10 A. Yes. 11 Q. What is it? 12 A. It is a system of calculating how much 13 lenses you need. 14 Q. And this appeared on the RaPower3 website? 15 A. It did. 16 Q. Who prepared this calculator? 17 A. The calculator? 18 Q. Yeah. 19 A. My son, Matt. 20 Q. Okay. Did you oversee him? 21 A. Yes. 22 Q. Okay. 23 Exhibit 474 WASMARKED.) 24 Q. Mr. Shepard, I have given you a copy of 25 what's been marked for identification as Plaintiff's</p>

<p style="text-align: right;">Page 233</p> <p>1 Exhibit 474. Do you recognize it?  2 A. Yes.  3 Q. What is it?  4 A. Well, let's see. I think this is screen  5 shots of number 26 lens calculator.  6 Q. My understanding is you produced this  7 document to the United States.  8 A. I did? Okay.  9 Q. The second page of that exhibit appears to  10 be quite similar to Plaintiff's Exhibit 20; is that  11 right?  12 A. Where's 20? This one?  13 Q. It is the one we just discussed.  14 A. Right.  15 Q. Who prepared the first page of Exhibit  16 474?  17 A. Under my direction, I did. Matt may have  18 done it. But those are my calculations.  19 Q. Okay. And this is a calculator that  20 appears in the RaPower3 website --  21 A. Yes.  22 Q. -- that informs customers how many lenses  23 they need to buy?  24 A. Yeah. To maximize their ability to help  25 the United States of America have clean, affordable,</p>	<p style="text-align: right;">Page 235</p> <p>1 second page, is that the attachment to that e-mail?  2 A. Okay. Yes.  3 Q. Is that correct?  4 A. Yes.  5 Q. Okay. No further questions on that  6 document.  7 Exhibit 476 WAS MARKED.)  8 Q. Mr. Shepard, you've been given a copy of  9 what's been marked for identification as Plaintiff's  10 Exhibit 476. Do you recognize it?  11 A. Yes.  12 Q. What is it?  13 A. It is an e-mail, the subject matter is  14 Ra3, meaning RaPower3, Wow, exclamation mark. Now  15 what, question mark.  16 Q. Did you write this e-mail?  17 A. I did.  18 Q. Okay. No further questions on that  19 document.  20 Exhibit 477 WAS MARKED.)  21 Q. Mr. Shepard, you've been given a copy of  22 what's been marked for identification as Plaintiff's  23 Exhibit 477, which is Bates stamped Bolander-Bryan-676  24 through 677. Do you recognize Exhibit 477?  25 A. Yes.</p>
<p style="text-align: right;">Page 234</p> <p>1 renewable energy. It's a wonderful thing that they  2 can -- I want them to be able to max out on how they  3 can help our nation.  4 Q. What does someone's tax liability have to  5 do -- withdrawn.  6 Am I correct that the information that's  7 input into the calculator is information about  8 someone's tax liabilities?  9 A. Yeah. But if they want to know how much  10 they can help our country, that's what we do.  11 Q. Okay. No further questions on that  12 document.  13 A. Okay.  14 Exhibit 475 WAS MARKED.)  15 Q. Mr. Shepard, I have given you a copy of  16 what has been marked for identification as Plaintiff's  17 Exhibit 475. Do you recognize it?  18 A. I do.  19 Q. What is it?  20 A. The subject, it's an e-mail, and subject  21 is Ra3, which refers to RaPower3, Warranty Info.  22 Q. And you wrote the e-mail that's dated  23 October 26, 2012.  24 A. I did.  25 Q. Okay. And the attachment to it -- the</p>	<p style="text-align: right;">Page 236</p> <p>1 Q. What is it?  2 A. It's a -- it appears to be a short e-mail  3 from me to a CPA.  4 Q. Okay. And the CPA is --  5 A. Quinn Smith, CPA  6 Q. Who is Quinn Smith?  7 A. I have no idea.  8 Q. But your understanding is that Quinn Smith  9 is a CPA?  10 A. That's what it says, yeah.  11 Q. Okay. And fair to characterize this as an  12 e-mail string between you and Mr. Smith?  13 A. It's an e-mail string?  14 Q. Well, in that this exhibit is actually --  15 A. Oh, I see what you mean. So yeah, there's  16 a series of e-mails.  17 Q. Exactly. Is that a fair characterization  18 of Exhibit 477?  19 A. Yes.  20 Q. Okay.  21 A. So he, again, the CPA apparently from  22 Jackson, Mississippi was asking Bryan Bolander a bunch  23 of stuff and I responded and said, "He doesn't answer  24 unless you're a client."  25 Q. Okay. Mr. Smith --</p>

<p style="text-align: right;">Page 237</p> <p>1 A. Because we had a lot of people want free 2 information. So he can't sit around and give free 3 information all day. He needs to make a living. 4 Q. Bryan Bolander? 5 A. Yeah. 6 Q. Mr. Smith asked a series of questions 7 about whether the type of alternative energy that 8 RaPower3 sells actually meets the IRS requirements for 9 the tax credit. And I'm looking at paragraph 1 on the 10 second page. Do you see the question in paragraph 1 of 11 Mr. Smith's e-mail? 12 A. I do. 13 Q. He also says in paragraph 2, "There is 14 concern of the 'placed in service' date that is also 15 discussed a lot on blogs and whether the equipment has 16 truly been placed in service as one website shows 17 pictures taken from the construction sites as late as 18 March 2012 and there doesn't appear to be much 19 construction activity?" 20 A. Right. 21 Q. And was that his question? 22 A. I'm not sure he really -- he put a 23 question mark, but I'm not sure really it's a question. 24 Q. All right. My question is did I read 25 Mr. Smith's question correctly?</p>	<p style="text-align: right;">Page 239</p> <p>1 A. Yes. 2 Q. Why didn't you want to do business with 3 his clients? 4 A. I think he was combative, and it wouldn't 5 go any place. It was probably going to be a waste of 6 my time. 7 Q. Why wouldn't his clients want to share in 8 bringing renewable energy to this country? 9 A. Well, they would if they understood 10 everything. But I don't think this guy was -- I'm not 11 sure how legit this guy was. I don't know who he was. 12 We have people all the time that are competitors or 13 they are trying to bring us down. So I don't have time 14 for guys like that. 15 Q. No further questions on that exhibit. 16 Handing you a copy of what's already been 17 marked for identification as Plaintiff's 40. Do you 18 recognize Plaintiff's Exhibit 40? 19 A. Yes. 20 Q. Okay. What is it? 21 A. 2011 tax benefits. A synopsis of federal 22 tax credits and depreciation. 23 Q. Did you prepare this document? 24 A. I did. 25 Q. Okay. And there are several pages that</p>
<p style="text-align: right;">Page 238</p> <p>1 A. I don't think it's a question. I think 2 it's a statement. 3 Q. Fair enough. He makes a statement. 4 A. Yeah. 5 Q. Okay. 6 A. Yes. 7 Q. In paragraph 3 he says, "Another concern 8 of mine is whether there will really ever be any income 9 generated due to the lack of construction mentioned 10 above and thus, this would be considered a 'hobby' 11 under IRS rules and any preliminary tax savings due to 12 a Schedule C loss would be thrown out. (Not to mention 13 the investors' risk of an almost certain high audit 14 percentage due to the loss for the initial years.) 15 Did I read that correctly? 16 A. Yes. 17 Q. So a CPA, Mr. Smith, makes a series of 18 statements and asks some questions. Is that a fair 19 characterization of Mr. Smith's e-mail? 20 A. Again, I think they are statements. I 21 don't think they are questions. 22 Q. Okay. And you respond and said, "At this 23 point, I'm not interested in doing business with your 24 client." Did I read that correctly? And I'm back on 25 the first page of Exhibit 477.</p>	<p style="text-align: right;">Page 240</p> <p>1 follow the first page. Did you attach these documents 2 to the first page? 3 A. Yes. 4 Q. I'll direct your attention to a page 5 that's labeled Lunn_F&amp;L-00038. It's the last page. 6 A. There we go. 7 Q. This appears to be two pages of a form 8 1040 tax return, and there's some handwriting on the 9 page labeled Lunn_F&amp;L-00038. Whose handwriting is 10 that? 11 A. I think that's mine. 12 Q. Okay. No further questions on Plaintiff's 13 40. 14 Handing you a copy of what's been marked 15 as Plaintiff's Exhibit 50. At the top there's a 16 statement, "Greg Shepard's comment in bold." 17 A. Yes. 18 Q. Am I correct in understanding that all the 19 text that appears in bold in Plaintiff's 50 is your 20 comments? 21 A. Yes. 22 Q. Okay. No further questions on that 23 document. 24 A. Do you know what that was? It's really 25 funny.</p>

Page 241

1 Q. Directing your attention to Plaintiffs'  
 2 Exhibit 112. Do you recognize Plaintiff's Exhibit 112?  
 3 A. Yes.  
 4 Q. Is that an e-mail from you to RaPower3  
 5 customers dated March 2, 2011?  
 6 A. Yes. I don't know how many. I had  
 7 different lists.  
 8 Q. Well, as of 2011, would it have gone to  
 9 all RaPower3 customers, or just some?  
 10 A. I can't recall.  
 11 Q. But at least one?  
 12 A. Yes.  
 13 Q. Several?  
 14 A. Several.  
 15 Q. Okay.  
 16 A. Is that it for this one?  
 17 Q. That's it.  
 18 Mr. Shepard, I'll direct your attention to  
 19 Plaintiff's Exhibit 158. This is 158 from the  
 20 deposition of Preston Olsen. I'll direct your  
 21 attention to the page labeled Olsen\_P&E-03222.  
 22 I can find it for you if you want.  
 23 A. Okay. Thank you.  
 24 Q. Plaintiff's Exhibit 158 is a series of  
 25 documents that are usually associated with a tax

Page 242

1 return, an individual tax return. But on page Olsen\_  
 2 P&E03222, this is a Profit or Loss From Business, and  
 3 it refers to the name of a proprietor, Andrea --  
 4 actually, let me withdraw that question.  
 5 Do you recognize Exhibit 158?  
 6 A. Yes. I mean, I don't recognize Preston  
 7 Olsen's stuff.  
 8 Q. Well, Preston Olsen produced this to the  
 9 United States, and he testified that he got it from  
 10 you.  
 11 A. Okay. This isn't Preston Olsen's tax  
 12 return.  
 13 Q. It is not. I see someone, and this gets  
 14 me back to the original question, I see someone named  
 15 Andrea and it says business address 858 --  
 16 A. That's my address. She is my daughter.  
 17 Q. Okay. Now, is Andrea Shepard a RaPower3  
 18 customer?  
 19 A. Yes.  
 20 Q. Okay. Is there a reason you would have  
 21 given your daughter's tax return to Preston Olsen?  
 22 A. As an example.  
 23 Q. Okay. Let me direct your attention to --  
 24 A. And of course everything was blocked out  
 25 so he didn't know it was my daughter.

Page 243

1 Q. Okay.  
 2 A. You do, because you asked.  
 3 Q. And then I'll direct your attention to  
 4 Olsen\_P&E-3227, and I can help you get there if you'd  
 5 like.  
 6 A. There we go.  
 7 Q. The handwriting that appears on 3227 --  
 8 A. That's mine.  
 9 Q. That's you? Okay. No further questions  
 10 on that document.  
 11 Mr. Shepard, I'm handing you what's been  
 12 marked for identification as Plaintiff's Exhibit 43.  
 13 Do you recognize Plaintiff's Exhibit 43?  
 14 A. Yes. It's an e-mail from me.  
 15 Q. To RaPower3 customers?  
 16 A. It's undisclosed recipients, so I don't  
 17 recall. But it sounds like it would be.  
 18 Q. Do you know who Frank Lunn is?  
 19 A. I do.  
 20 Q. Frank Lunn is a RaPower3 customer?  
 21 A. He is.  
 22 Q. Frank Lunn produced this document to the  
 23 United States.  
 24 A. Okay.  
 25 Q. So with that information, should I

Page 244

1 understand the Plaintiff's Exhibit 43 was sent to  
 2 RaPower3 customers?  
 3 A. Yes.  
 4 Q. There's a paragraph labeled Depreciation.  
 5 A. Where are you?  
 6 Q. Here.  
 7 A. Okay.  
 8 Q. "This year in 2011 you may depreciate 100  
 9 percent of the purchase price of your solar energy  
 10 systems placed in service. Depreciation is a key  
 11 component to being able to take all the tax benefits  
 12 that you are entitled to receive." Did I read that  
 13 correct?  
 14 A. Yes.  
 15 Q. Okay. Did there come a time in 2016 where  
 16 RaPower3 no longer offered depreciation credits?  
 17 A. Yes. Well, no. Okay, there's no  
 18 depreciation credit, so be careful about that.  
 19 Q. Okay.  
 20 A. "Depreciation benefits" would be a better  
 21 term.  
 22 Q. Okay. Did there come a point in 2016  
 23 where RaPower3 no longer offered depreciation on their  
 24 solar lenses?  
 25 A. Yes.

<p style="text-align: right;">Page 245</p> <p>1 Q. What led to that change?</p> <p>2 A. Simplicity. Depreciation was hard for</p> <p>3 people to understand. Hard for CPAs to understand.</p> <p>4 And so I'm assuming that because -- and then also,</p> <p>5 Neldon can make more money, I think.</p> <p>6 Anyway, so the lenses are now, instead of</p> <p>7 \$1050, they're \$650 as far as the down payment goes.</p> <p>8 So the down payment is now \$650. The purchase price is</p> <p>9 the same, \$3500. And so 30 percent of \$3500 is \$1050.</p> <p>10 They get a \$1050 tax credit, based on \$650. So they</p> <p>11 make \$400 pretty quickly, but they don't get the</p> <p>12 depreciation. It's kind of a trade off.</p> <p>13 Q. Who made the decision to no longer offer</p> <p>14 depreciation?</p> <p>15 A. Neldon.</p> <p>16 Q. Okay. Do you know why he made that</p> <p>17 decision?</p> <p>18 A. I don't. You'd have to ask him.</p> <p>19 Q. Okay. Did the law, the tax code, the tax</p> <p>20 law applicable to depreciation change in 2016?</p> <p>21 MR. REAY: Objection. Calls for legal</p> <p>22 conclusions.</p> <p>23 Q. That you're aware of?</p> <p>24 A. They change -- they pretty much change</p> <p>25 every year. So 2011, the one that you had me read, was</p>	<p style="text-align: right;">Page 247</p> <p>1 A. Yeah, they can. But I discourage it.</p> <p>2 Q. Why do you discourage it?</p> <p>3 A. Well, it's just more money up -- I think</p> <p>4 it's a better deal, in my opinion.</p> <p>5 Q. But you're not aware of anything in the</p> <p>6 Internal Revenue code that changed in 2016?</p> <p>7 A. No.</p> <p>8 Q. Okay.</p> <p>9 A. So you could do either one. You could</p> <p>10 take the depreciation or do the new program. It's up</p> <p>11 to the RaPower3 client.</p> <p>12 Q. Okay. I have given you a copy of what's</p> <p>13 been marked for identification as Plaintiff's Exhibit</p> <p>14 49. Do you recognize Plaintiff's Exhibit 49?</p> <p>15 A. I do.</p> <p>16 Q. What is it?</p> <p>17 A. It is a memo that I sent out or -- I don't</p> <p>18 know if it's a memo, but an e-mail. An e-mail I sent</p> <p>19 out. I see Frank Lunn's name on it. So it either went</p> <p>20 to Frank Lunn personally or to -- the subject is vital</p> <p>21 tax info, 2013, in November.</p> <p>22 Q. So there's a series of responses. Are</p> <p>23 those your words?</p> <p>24 A. Yes. But some of it is just cut and paste</p> <p>25 from IRS.gov.</p>
<p style="text-align: right;">Page 246</p> <p>1 like incredibly good. But in 2012, it changed so it</p> <p>2 wasn't quite so good. So it changes every -- it has</p> <p>3 changed every year. It's not the same as it was in</p> <p>4 2006. 2011 was different. So sometimes there was --</p> <p>5 this case was the only year they did that was a hundred</p> <p>6 percent depreciation, one year.</p> <p>7 Q. That's in 2011.</p> <p>8 A. Yes. There was times when it was 50</p> <p>9 percent bonus depreciation.</p> <p>10 Q. But did anything change in 2016 in the</p> <p>11 law? In other words, if depreciation was permitted in</p> <p>12 2015, why would it no longer be permitted in 2016?</p> <p>13 A. It was. Basically you had your choice.</p> <p>14 So you could either go on the old program or the new</p> <p>15 program.</p> <p>16 Q. When?</p> <p>17 A. 2016.</p> <p>18 Q. Okay.</p> <p>19 A. We gave RaPower3 team members their</p> <p>20 choice.</p> <p>21 Q. And what about after the change was made</p> <p>22 in 2016? Could you still get depreciation?</p> <p>23 A. Yeah.</p> <p>24 Q. What about now; if someone bought a lens,</p> <p>25 can they claim depreciation?</p>	<p style="text-align: right;">Page 248</p> <p>1 Q. Okay. Mr. Shepard, I have given you a</p> <p>2 copy of what's been marked for identification as</p> <p>3 Plaintiff's Exhibit 421 from the deposition of Matt</p> <p>4 Shepard. Do you recognize Exhibit 421?</p> <p>5 A. I do.</p> <p>6 Q. What is it?</p> <p>7 A. Team memo number 73 from RaPower3.</p> <p>8 Q. Okay. Let's go off the record.</p> <p>9 (Discussion off the record.)</p> <p>10 Q. Mr. Shepard, the third page of Exhibit 421</p> <p>11 there's a paragraph titled New Contracts and</p> <p>12 Agreements. Are you with me?</p> <p>13 A. Oh, yeah. Right here.</p> <p>14 Q. Yes.</p> <p>15 A. Yes.</p> <p>16 Q. "Neldon Johnson and Greg Shepard have</p> <p>17 studied the old contracts and agreements. The</p> <p>18 appropriate changes were made for the new Equipment</p> <p>19 Purchase Agreement, the Operations and Maintenance</p> <p>20 Agreement, etc. These changes were then taken to an</p> <p>21 attorney for approval. The new contracts and</p> <p>22 agreements will reflect the new sales program figures</p> <p>23 and will be made available ASAP through the</p> <p>24 RaPower3.com website and the new order page."</p> <p>25 A. Yeah.</p>

<p style="text-align: right;">Page 249</p> <p>1 Q. Earlier you testified that Neldon Johnson 2 made the decision to shift or to remove depreciation as 3 an option. Here it sounds like you had something to do 4 with that decision. 5 A. No, it doesn't say that at all. It says I 6 studied it. 7 Q. You studied it. And based on your studies 8 what happened? 9 A. Well, the appropriate changes were made. 10 And I didn't have anything to do with the changes. I 11 studied them and said, "Hey, this looks good." 12 Q. And the change was to no longer offer 13 depreciation? 14 A. Yeah. As an option. They had the option 15 to do the old program, like I said. 16 Q. Okay. And it says, "These changes were 17 then taken to an attorney for approval." 18 A. That was my understanding, yeah. 19 Q. Okay. Do you know who that attorney was? 20 A. No. 21 Q. Who told you that the changes were 22 approved by an attorney? 23 A. Neldon. 24 Q. Okay. Is there anything physically 25 different in the lenses that were -- withdrawn.</p>	<p style="text-align: right;">Page 251</p> <p>1 A. Well, it grew because the IRS wouldn't 2 give up, so they kept at it. So this was 2013, pretty 3 early. I don't know. Thirty or forty. 4 Q. Okay. And the second paragraph says, "The 5 latest RaPower3 Team Members being audited have the 6 questions written down in their first audit letter." 7 A. Wait a minute. We are down here on the 8 third line, right? "The latest." Okay. 9 Q. "Twenty-two questions in all. Don't 10 answer these." When you say, "Don't answer these," are 11 you referring to don't answer the IRS's questions? 12 A. Yeah. I think, as I remember, just put 13 down, "Don't apply." 14 Q. Okay. All right. So just respond -- you 15 told the RaPower3 customers to just respond to the IRS 16 and say, "Do not apply"? 17 MR. REAY: Objection. Misrepresenting 18 testimony. 19 A. Yeah, I -- 20 Q. Well, it says, "Don't answer these," and 21 before that you were talking about questions -- 22 MR. REAY: Where are you at? Oh, sorry. 23 I found it. I was looking below. 24 Q. It says, "Twenty-two questions in all. 25 Don't answer these."</p>
<p style="text-align: right;">Page 250</p> <p>1 Are there any lenses -- withdrawn again. 2 Is there any physical difference in the 3 lenses that depreciation is allowed for and the lenses 4 for which depreciation is not allowed? 5 MR. REAY: Objection. Calls for 6 speculation. 7 A. Any difference between -- 8 Q. Any physical difference. 9 A. Of the lenses? 10 Q. Yeah. 11 A. No. 12 Q. No further questions on that document. 13 Mr. Shepard, I'm handing you what's marked 14 for identification as Plaintiff's Exhibit 72. This is 15 from the deposition of Bryan Zeleznik. 16 A. Uh-huh (affirmative). 17 Q. Do you recognize Plaintiff's Exhibit 72? 18 A. Yes. 19 Q. What is it? 20 A. It's an e-mail from me to all being 21 audited. So that doesn't go to -- that didn't go to 22 all RaPower3 team members. It went to the ones who 23 were being audited that I knew about. 24 Q. About how many people was that? An 25 estimate is fine.</p>	<p style="text-align: right;">Page 252</p> <p>1 A. Yeah. 2 Q. Are you saying don't answer the IRS's 3 questions? 4 A. No. I say you put down, "Don't apply." 5 So if they have a question and in your mind they don't 6 apply, just put down, "Don't apply." 7 Q. In whose mind? 8 A. The ones being audited. 9 Q. Okay. And then further down on that 10 paragraph, the third line from the bottom it says, "You 11 can also plead the 5th." 12 A. Where does it say that? 13 Oh. Okay. 14 Q. Are you referring to the Fifth Amendment? 15 A. Yes. 16 Q. Why would a RaPower3 team member plead -- 17 A. I don't know. I don't even know why I put 18 that in there. 19 Q. You just put it in there? 20 A. I don't know. It's back almost four years 21 ago. 22 Q. All right. No further questions on that 23 document. 24 I'm handing you what's been marked for 25 identification as Plaintiff's Exhibit 71. Do you</p>

<p style="text-align: right;">Page 253</p> <p>1 recognize it?</p> <p>2 A. Okay. This is an e-mail that I sent out</p> <p>3 from RaPower3.com e-mail. It says Greg Shepard to Greg</p> <p>4 Shepard. I wrote it to myself?</p> <p>5 Q. Do you have a habit of writing e-mails to</p> <p>6 yourself, Mr. Shepard?</p> <p>7 A. I don't know what that is.</p> <p>8 Q. Well, let me ask you this: This document</p> <p>9 was produced in the United States by Bryan Zeleznik.</p> <p>10 A. Okay.</p> <p>11 Q. Do you know who Bryan Zeleznik is?</p> <p>12 A. Yeah.</p> <p>13 Q. Who is he?</p> <p>14 A. He is a RaPower3 team member.</p> <p>15 Q. If Ryan Zeleznik produced this document to</p> <p>16 the United States, is there any reason to believe that</p> <p>17 you didn't send this document to at least Bryan</p> <p>18 Zeleznik?</p> <p>19 A. No.</p> <p>20 Q. And you are also talking about the audits,</p> <p>21 the IRS audits in this e-mail.</p> <p>22 A. Uh-huh (affirmative).</p> <p>23 Q. And earlier you testified about e-mailing</p> <p>24 about thirty to forty people who were being audited by</p> <p>25 the IRS.</p>	<p style="text-align: right;">Page 255</p> <p>1 Do you recognize it?</p> <p>2 A. I do.</p> <p>3 Q. What is it?</p> <p>4 A. It is an e-mail sent by me to, again, this</p> <p>5 small group of people who are being audited, RaPower3</p> <p>6 team members being audited.</p> <p>7 Q. Okay. And in the first paragraph you say,</p> <p>8 "Some of you may have been asked to fill out this</p> <p>9 questionnaire with 11 questions." Are those eleven</p> <p>10 questions from the IRS?</p> <p>11 A. Yes.</p> <p>12 Q. You say, "The counsel I have received on</p> <p>13 this matter is not to answer these questions." Did I</p> <p>14 read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. Who did you receive that counsel from?</p> <p>17 A. Is that attorney/client privilege?</p> <p>18 MR. REAY: If it was an attorney, yeah.</p> <p>19 We will object on attorney/client privilege and</p> <p>20 instruct you not to answer if it was from an attorney.</p> <p>21 MR. MORAN: Mr. Reay, I'm looking at this</p> <p>22 document and it was produced to the United States by</p> <p>23 Peter Gregg. I'm not even asking what -- I'm not even</p> <p>24 asking what the attorney told him. I'm asking him who</p> <p>25 the attorney is. And the identification of the</p>
<p style="text-align: right;">Page 254</p> <p>1 A. At that time yeah, probably.</p> <p>2 Q. And this is a similar time frame, August</p> <p>3 of 2013.</p> <p>4 A. Right.</p> <p>5 Q. Is there any reason to believe Plaintiff's</p> <p>6 Exhibit 71 wasn't sent to the same group of people who</p> <p>7 were being audited by the IRS?</p> <p>8 A. No.</p> <p>9 Q. So in fact, you didn't just send this to</p> <p>10 yourself. You probably sent it to --</p> <p>11 A. Yeah. I was just questioning why it said</p> <p>12 "to."</p> <p>13 Q. Okay. And my only question on this</p> <p>14 document is the following three pages, are those an</p> <p>15 attachment that would have been sent with the document?</p> <p>16 A. Yes. Yes, I believe so.</p> <p>17 Q. Did you prepare that attachment?</p> <p>18 A. I did.</p> <p>19 Q. Okay. No further questions on Plaintiff's</p> <p>20 71.</p> <p>21 Mr. Shepard, do you recognize Plaintiff's</p> <p>22 298?</p> <p>23 A. I do.</p> <p>24 Q. I have given you a copy of what's been</p> <p>25 marked for identification as Plaintiff's Exhibit 298.</p>	<p style="text-align: right;">Page 256</p> <p>1 attorney is not --</p> <p>2 MR. REAY: Objection withdrawn, yeah.</p> <p>3 Q. (By Mr. Moran) Okay. I'll ask the</p> <p>4 question again, Mr. Shepard. Who did you get this</p> <p>5 counsel from?</p> <p>6 A. I can't remember.</p> <p>7 Q. Do you think it was an attorney?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Do you think it was Kim Birrell?</p> <p>10 A. No.</p> <p>11 Q. Do you think it was Todd Anderson?</p> <p>12 A. No.</p> <p>13 Q. Do you think it was Paul Jones?</p> <p>14 A. More likely.</p> <p>15 Q. Can you think of any other attorney that</p> <p>16 you would have gotten that advice from?</p> <p>17 A. In 2013?</p> <p>18 Q. Yes.</p> <p>19 A. I'm not even -- I'm not even sure if we</p> <p>20 had Paul Jones on board at that time.</p> <p>21 Q. All right. Well, the question I'm asking</p> <p>22 you is I want to know what attorney is out there</p> <p>23 telling individuals they don't have to answer the IRS's</p> <p>24 questions. And that's a pretty serious question and I</p> <p>25 want an answer to it.</p>



Page 257

1 MR. REAY: Objection. Asked and answered.  
 2 A. Yeah. It would be, "Answer does not  
 3 apply."  
 4 Q. That's -- you're not answering my  
 5 question. I want to know what attorney -- "The counsel  
 6 I have received on this matter is not to answer these  
 7 questions," and you are saying an attorney told you  
 8 that. And I want to know who the attorney is that is  
 9 telling the public --  
 10 A. If Paul Jones was an active -- was part of  
 11 -- was the attorney at that time, it was probably Paul  
 12 Jones. But I can't say that for sure.  
 13 Q. If I notice up Paul Jones's deposition, is  
 14 that what he is going to tell me?  
 15 A. I don't know. I don't know what Paul  
 16 Jones is going to tell you. How would I know that?  
 17 Q. You are attributing something to  
 18 Mr. Jones, and I know Mr. Jones --  
 19 A. Not for sure, because I don't know in  
 20 November 4, 2013 if he was part of this. I think he  
 21 was, but I don't know for sure.  
 22 Q. And you think he told you that you should  
 23 tell customers not to answer the IRS's questions?  
 24 MR. REAY: Objection. Asked and answered.  
 25 He already said he didn't know.

Page 258

1 A. It was never not to answer. It was how to  
 2 answer.  
 3 Q. All right. No further questions on the  
 4 document.  
 5 Mr. Shepard, I'm giving you a copy of  
 6 what's been marked for identification as Plaintiff's  
 7 Exhibit 225. Do you recognize Exhibit 225?  
 8 A. Yes.  
 9 Q. What is it?  
 10 A. It's an e-mail to -- it appears to be  
 11 people who are being audited.  
 12 Q. Okay. And you sent this e-mail?  
 13 A. I did.  
 14 Q. Okay. And then --  
 15 A. And I made a mistake.  
 16 Q. What is that?  
 17 A. I didn't blind copy it, apparently.  
 18 Q. There's a series of -- there appears to be  
 19 an attachment to this e-mail. It's about five pages  
 20 long. This exhibit is front and back copied, so you  
 21 only see two pages. Do you see the attachment?  
 22 A. Uh-huh (affirmative).  
 23 Q. Okay. Were those five pages attached to  
 24 the e-mail marked as 225?  
 25 A. I think it's four, isn't it?

Page 259

1 Q. Four. I stand corrected. You're right,  
 2 there's four. So there's four pages, starting with,  
 3 "Addendum: April 7, 2014," on RaPower3 letterhead.  
 4 A. Right.  
 5 Q. Who wrote the attachment?  
 6 A. I did.  
 7 Q. Okay. I'll direct your attention to the  
 8 third page marked Gregg\_P&R-001750.  
 9 A. Okay.  
 10 Q. Third paragraph from the bottom, it says,  
 11 "The rental income will be retroactive going back to  
 12 2010." Did I read that correctly?  
 13 A. You did.  
 14 Q. Okay. How can rental income be  
 15 retroactive?  
 16 A. And I'm not sure that it is. I don't know  
 17 where -- I'm not sure -- I hope it is, but I'm not sure  
 18 if it is anymore.  
 19 Q. Well, in 2014 when you wrote this addendum,  
 20 did you believe that rent income could be retroactive?  
 21 A. Yes.  
 22 Q. And what did you base that understanding  
 23 on?  
 24 A. It could have been -- probably something  
 25 Neldon said. But I may have misinterpreted what he

Page 260

1 said because that's a lot of rental income. Hope it's  
 2 true, because I've got a lot of rental income coming to  
 3 me.  
 4 Q. And when you say it's retroactive, what  
 5 does that mean? Are we going to go back in time?  
 6 A. Yeah. For example, I think what I meant  
 7 is if you bought in 2010 you might have \$150 per lens  
 8 coming to you for four years.  
 9 Q. Okay. There's been no rental income paid,  
 10 right?  
 11 A. Correct.  
 12 Q. And you used the term "retroactive," and  
 13 I'm trying to understand what you meant when you used  
 14 that term.  
 15 A. Okay. Well, when rental income is to be  
 16 paid, if there were revenue generated and rental income  
 17 started --  
 18 Q. At some future point.  
 19 A. At some future point.  
 20 Q. Say 2020.  
 21 A. 2020. It could be retroactive. But I  
 22 don't know that's the case now. And I may have  
 23 misinterpreted what Neldon said. So I don't know if  
 24 that's -- I don't know if that will happen. I hope it  
 25 does. It would be great for our RaPower3 team members.

<p style="text-align: right;">Page 261</p> <p>1 Q. And your understanding that income can be 2 retroactive, you got that from Neldon Johnson? 3 A. I might have, yeah. 4 Q. Who else? 5 A. I don't know who else it would have been. 6 Q. But you think -- 7 A. If Neldon said it -- if it's not true, I 8 may have misinterpreted what he said. 9 Q. Okay. 10 A. And -- well, okay. 11 Q. If you want to finish your response, feel 12 free. 13 A. Yeah. There's nothing in writing. It 14 would be probably -- if it is true, it would be Neldon 15 Johnson's kind heart, I guess, saying that he would 16 take care of his RaPower3 team members. 17 Q. Mr. Shepard, I'm handing you a copy of 18 what's been marked for identification as Plaintiff's 19 Exhibit 340 from the Peter Gregg deposition. 20 A. Okay. 21 Q. Do you recognize this document? 22 A. Yes. 23 Q. What is it? 24 A. It's an e-mail from me to -- again, I 25 think people are being audited. Yeah. "Audit</p>	<p style="text-align: right;">Page 263</p> <p>1 Q. How about Mantyla McReynolds? 2 A. Yes. 3 Q. When did you have a client relationship 4 sometime with Mantyla McReynolds? 5 A. Bigger, Faster, Stronger did. 6 Q. Okay. In this e-mail with Ken Oveson from 7 August 24, 2009, the second paragraph says, "IAUS has 8 sent every client a letter stating that the units have 9 been placed in service. The IRS guidelines on that are 10 easy to meet. The IAUS units have done that." And it 11 says, "However, for audit purpose IAUS has a liability 12 until the units are working full time and producing 13 revenue. Therefore, until that happens, IAUS for audit 14 purposes says the units are not yet placed in service." 15 Did I read that correctly? 16 A. I think you read it correctly. I'm trying 17 to figure out what I meant by it. 18 Q. And that's my next question. Where did 19 you get this information from? 20 A. Okay. "IAUS has sent every client a 21 letter," placed in service. True. The guidelines, 22 IAUS units have done that. "For audit purposes IAUS 23 has a liability," and I suppose I meant on that 24 liability until they are working is that they have a 25 contract they have to fulfill, producing revenue, and</p>
<p style="text-align: right;">Page 262</p> <p>1 Ammunition." 2 Q. Okay. There was a series of pages that 3 follow that e-mail. Were those all attached to the 4 e-mail of February 20, 2015? 5 A. Okay. 6 Q. Is that correct? 7 A. Yes. 8 Q. Okay. Nothing further on that document. 9 Mr. Shepard, I'm handing you a copy of 10 what's been marked for identification as Plaintiff's 11 Exhibit 372. Do you recognize Plaintiff's Exhibit 372? 12 A. Wow, back to 2009. Yes. 13 Q. What is it? 14 A. It's an e-mail from me to Ken Oveson. 15 Q. Who is Ken Oveson? 16 A. I think he is a CPA for Mantyla, which is 17 a CPA firm in Salt Lake City here. 18 Q. Okay. And when you say he's for them, you 19 mean he works at Mantyla McReynolds? 20 A. Yes. 21 Q. Was he your CPA? 22 A. No. 23 Q. You never had a client relationship with 24 him? 25 A. No.</p>	<p style="text-align: right;">Page 264</p> <p>1 then they can pay their -- their rental fees can be 2 paid. "Therefore, until that happens," meaning working 3 and producing revenue, "IAUS for audit purposes says 4 the units are not yet placed in service." I don't know 5 where that came from. I know -- I suppose the 6 difference is looking at it from meeting the IRS -- 7 placed in service guidelines. 8 Yeah. That's me. I don't know -- that's 9 probably me being pretty naive. And I don't know where 10 I got that "not placed in service." I don't know why I 11 would have said that. Apparently I did. 12 Q. Okay. 13 A. And I might have -- I might be -- I might 14 have made some typos, because I don't understand why I 15 wrote that. 16 Q. Well, in the e-mail below, from Ken Oveson 17 on August 24, 2009, in the bottom paragraph, it says, 18 "I am told by the audit department that the units being 19 sold are not yet placed in service." 20 A. Right. 21 Q. Okay. And he says, "From a tax 22 standpoint, 'placed in service' is a key factor in 23 taking deductions for depreciation and credits. Again 24 we need to research how this will impact those who have 25 already purchased units. Our first impression is that</p>

<p style="text-align: right;">Page 265</p> <p>1 until the units are placed in service, there is no 2 deduction to be taken." Did I read that correctly? 3 A. Yes. 4 Q. Okay. "In fact, the amounts already paid 5 for units are recorded as deferred income since they 6 are not yet placed in service. There must be 7 consistency between the books of International 8 Automated Systems and the tax payer." Did I read that 9 correctly? 10 A. You did. 11 Q. And Mr. Oveson sent you that e-mail? 12 A. Yes. 13 Q. Okay. Handing you what's been marked as 14 Plaintiff's Exhibit 373. On August 25 -- do you 15 recognize Plaintiff's Exhibit 373? 16 A. I do. 17 Q. What is it? 18 A. It's from Ken Oveson. 19 Q. Okay. 20 A. The subject is "Solar Placed in Service." 21 Q. Okay. And I'm going to direct your 22 attention to the e-mails down at the bottom of the 23 first page and the second page of Exhibit 373. It 24 appears to be an e-mail from you to Ken Oveson on 25 August 25, 2009; is that right?</p>	<p style="text-align: right;">Page 267</p> <p>1 I didn't. 2 Q. No further questions on Exhibit 373. 3 Handing you what's been marked for 4 identification as Plaintiff's Exhibit 375. You're not 5 on this e-mail so I don't expect that you'd recognize 6 it. But testimony we received from Preston Olsen is 7 that Ken Oveson, in November 2, 2009, stated he was no 8 longer working with Greg Shepard on this program. Do 9 you know why Ken Oveson wasn't working with you on what 10 I understand to be the RaPower3 program? 11 MR. REAY: Objection. Calls for 12 speculation. 13 A. I don't know. 14 Q. You were exchanging a series of e-mails 15 from Mr. Oveson in August of 2009? Did you have any 16 continued correspondence with Mr. Oveson? 17 A. I don't think so. I didn't like him. 18 Q. Okay. 19 Exhibit 478 WAS MARKED.) 20 Q. Mr. Shepard, I've given you a copy of 21 what's been marked for identification as Plaintiff's 22 Exhibit 478. Do you recognize this document? 23 A. I do. 24 Q. What is it? 25 A. It's an e-mail sent to me -- or sent to</p>
<p style="text-align: right;">Page 266</p> <p>1 A. Yes. 2 Q. You said, "Ken, this is what I sent my 3 sales team and clients. Having our solar property 4 'placed in service' with absolutely no grey areas is 5 fundamental to our selling units for our solar project 6 west of Delta. If you cannot accept this basic 7 premise, then I would quickly need to go in a different 8 direction." Did I read that correctly? 9 A. Yes. 10 Q. Why would you need to go in a different 11 direction? 12 A. To find another opinion. That's his 13 opinion. 14 Q. That's Ken Oveson's opinion? 15 A. Yeah. So he is not the only CPA or tax -- 16 he is not a tax attorney. He is a CPA. So going in a 17 different direction meant to find some other opinions. 18 Q. Another opinion that would agree with you 19 that the units are placed in service? 20 A. Yeah. Like a tax attorney opinion letter. 21 Q. You knew that -- 22 A. Yeah, I knew that he disagreed with that. 23 Q. Okay. You knew that in 2009? 24 A. I knew that Ken Oveson, a CPA, disagreed 25 with that. That doesn't mean I have to accept it. And</p>	<p style="text-align: right;">Page 268</p> <p>1 Peter Gregg, and the subject is RaPower3 tax material. 2 Q. Okay. And you attach several documents, 3 there's a memorandum from Kirton McConkie, and we have 4 talked about Kirton McConkie through this deposition; 5 there is a letter or memorandum, a letter from Hansen 6 Barnett &amp; Maxwell; and a tax letter original on the 7 last four pages signed by Law Center, PC, Delta, Utah. 8 Is that correct? 9 A. I don't know yet. 10 Q. Okay. 11 A. I'm past the Hansen Barnett. So where are 12 you? What page? 662? 13 Q. The last four pages, I think. Five pages. 14 671. 15 A. 671? 16 Q. Yes. 17 A. Okay. 18 Q. The last attachment I understand is the 19 tax letter original and it's endorsed by Law Center, PC 20 in Delta, Utah? 21 A. Yes. 22 Q. Do you know who wrote the tax letter 23 original? 24 A. I found out later. I didn't know at the 25 time.</p>

Page 269	Page 271
<p>1 Q. Who?</p> <p>2 A. Todd Anderson.</p> <p>3 Q. Is that the same Todd Anderson whose</p> <p>4 memorandum appears on the RaPower3 website?</p> <p>5 A. It's not a memorandum.</p> <p>6 Q. A letter?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So my understanding is that you</p> <p>9 sent out the Kirton McConkie memorandum?</p> <p>10 A. Memorandum.</p> <p>11 Q. The Hansen Barnett memorandum.</p> <p>12 A. I don't know. Is it called a memorandum?</p> <p>13 I thought it was just a letter. I don't think a CPA</p> <p>14 firm does memorandums.</p> <p>15 Q. Well, my understanding is that the Hansen</p> <p>16 Barnett document --</p> <p>17 A. The document.</p> <p>18 Q. -- that was authored by them appears from</p> <p>19 Gregg_P&amp;R-000660 through Gregg_P&amp;R-000670; is that</p> <p>20 correct?</p> <p>21 A. Right.</p> <p>22 Q. And then after that, from Greg_P&amp;R-000671</p> <p>23 is what you later learned was the Todd Anderson letter.</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And then from Greg_P&amp;R-000646</p>	<p>1 Q. Who else did you get -- other than reading</p> <p>2 the Kirton McConkie memorandum, where else did you get</p> <p>3 the information that appears in Exhibit 479?</p> <p>4 A. It's all mine.</p> <p>5 Q. It's all yours?</p> <p>6 A. Uh-huh (affirmative).</p> <p>7 Q. Okay. Mr. Shepard, I have handed you a</p> <p>8 copy of what's been marked for identification as</p> <p>9 Plaintiff's Exhibit 370 from the deposition of Ken</p> <p>10 Birrell. Do you recognize Plaintiff's Exhibit 370?</p> <p>11 A. No.</p> <p>12 Q. You have never seen it before?</p> <p>13 A. No. It was sent to Deseret, Utah. It</p> <p>14 never would have got to me.</p> <p>15 Q. Do you recognize the address that appears</p> <p>16 underneath your name?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. On KM00274?</p> <p>19 A. I do.</p> <p>20 Q. Whose address is that?</p> <p>21 A. At the time it was a home that was used as</p> <p>22 an office -- well, let's see. I'm not sure. I think</p> <p>23 at that -- well, January 2014? I can't quite remember</p> <p>24 when Neldon made a switch. But it was either his home</p> <p>25 or a previous home that I think he still owns. It's in</p>
Page 270	Page 272
<p>1 through Greg_P&amp;R-000657 is the Kirton McConkie letter,</p> <p>2 or the memorandum?</p> <p>3 A. The memorandum, yes.</p> <p>4 Q. Okay. No further questions on that</p> <p>5 document.</p> <p>6 Exhibit 479 WASMARKED.)</p> <p>7 Q. Mr. Shepard, I've given you a copy of</p> <p>8 what's been marked for identification as Plaintiff's</p> <p>9 Exhibit 479. Do you recognize 479?</p> <p>10 A. I do.</p> <p>11 Q. What is it?</p> <p>12 A. Kirton McConkie's memorandum comments that</p> <p>13 I made.</p> <p>14 Q. You wrote this document?</p> <p>15 A. Yes, I did.</p> <p>16 Q. What did you do with it? What did you do</p> <p>17 with this document after you prepared it?</p> <p>18 A. I think it was -- well, I don't recall.</p> <p>19 But it probably went on the website and may have gone</p> <p>20 on to the RaPower3 team members.</p> <p>21 Q. Okay.</p> <p>22 A. Or those being audited. I can't remember.</p> <p>23 Q. Okay. And you wrote this based on your</p> <p>24 understanding of the Kirton McConkie memorandum.</p> <p>25 A. Yes.</p>	<p>1 Deseret, Utah.</p> <p>2 Q. Was that the house we saw when we visited?</p> <p>3 A. But I think what he did is he received</p> <p>4 mail at that address for quite a while.</p> <p>5 Q. Neldon Johnson received mail at that</p> <p>6 address?</p> <p>7 A. Uh-huh (affirmative).</p> <p>8 Q. Okay.</p> <p>9 MS. HEALY-GALLAGHER: Yes?</p> <p>10 THE WITNESS: Yes. Thank you.</p> <p>11 And my name is spelled wrong. But I never</p> <p>12 saw this.</p> <p>13 Q. (By Mr. Moran) You have never seen this?</p> <p>14 A. No.</p> <p>15 Q. The address here, is that the house that</p> <p>16 we saw during the site visit?</p> <p>17 A. No. It was a different one.</p> <p>18 Q. Okay.</p> <p>19 A. It was a different one in Abraham, the</p> <p>20 house that you saw.</p> <p>21 Q. Have you ever heard about this letter?</p> <p>22 A. I haven't.</p> <p>23 Q. Have you ever heard -- withdrawn.</p> <p>24 A. Well, I heard that Ken Birrell was</p> <p>25 deposited. But I think that was after this.</p>

<p style="text-align: right;">Page 273</p> <p>1 Q. Deposed in this case?</p> <p>2 A. I think Ken Birrell was deposed. I think</p> <p>3 I got some information on that.</p> <p>4 Q. By who?</p> <p>5 A. I think by Mr. Reay here.</p> <p>6 MR. REAY: He heard it from me. I didn't</p> <p>7 depose him.</p> <p>8 A. Yeah, I heard that he was deposed, because</p> <p>9 that was in documents.</p> <p>10 Q. Have you ever spoken to Ken Birrell?</p> <p>11 A. Yes.</p> <p>12 Q. Let me back up a bit. Who is Ken Birrell?</p> <p>13 A. Ken Birrell, I believe, is a CPA or works</p> <p>14 for Kirton McConkie. I'm not sure of the exact</p> <p>15 capacity he is.</p> <p>16 Q. Do you think he is a CPA or a lawyer?</p> <p>17 A. I guess he is an attorney. An attorney.</p> <p>18 Q. And is he the author of the Kirton</p> <p>19 McConkie memorandum?</p> <p>20 A. I don't know.</p> <p>21 Q. Why don't you look back at Exhibit 478.</p> <p>22 A. Well, he's got his name on it, but I don't</p> <p>23 know if he is the complete author of it.</p> <p>24 Q. Okay.</p> <p>25 A. He works for a -- Kirton McConkie is a</p>	<p style="text-align: right;">Page 275</p> <p>1 you can exert attorney/client privilege on that and you</p> <p>2 don't have to answer.</p> <p>3 A. I do.</p> <p>4 Q. Was Mr. Birrell your attorney?</p> <p>5 A. No.</p> <p>6 MR. MORAN: Do you persist in your --</p> <p>7 MR. REAY: He said no. No, I don't.</p> <p>8 MR. MORAN: So Mr. Reay, you withdraw your</p> <p>9 objection?</p> <p>10 MR. REAY: Withdraw my objection.</p> <p>11 Q. (By Mr. Moran) So Mr. Shepard, what did</p> <p>12 you discuss with Mr. Birrell?</p> <p>13 A. In my recollection, that he was saying</p> <p>14 that for this memorandum to work, a person needed to</p> <p>15 have an LLC.</p> <p>16 Q. Okay. That's what Mr. Birrell told you?</p> <p>17 A. Yes. So if he had a sole proprietorship,</p> <p>18 that that could present a problem.</p> <p>19 Q. And when you say in this arrangement, are</p> <p>20 you talking about the RaPower3 sales contracts?</p> <p>21 A. If a RaPower3 team member was -- bought</p> <p>22 the lenses as a sole proprietor, that he wasn't going</p> <p>23 to stand by this letter.</p> <p>24 Q. Okay. And do you recall why that was?</p> <p>25 A. I think he was trying to cover his rear</p>
<p style="text-align: right;">Page 274</p> <p>1 huge law firm.</p> <p>2 Q. You have never spoken with Ken Birrell?</p> <p>3 A. I have.</p> <p>4 Q. You have spoken to Ken Birrell?</p> <p>5 A. I have.</p> <p>6 Q. When did you speak with Ken Birrell?</p> <p>7 A. Soon after the Kirton McConkie memorandum</p> <p>8 came out.</p> <p>9 Q. Okay. And that would have been in October</p> <p>10 of 2012?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. What did you talk to him about?</p> <p>13 A. Well, I went because I wanted to find out</p> <p>14 information about it so that I felt more comfortable</p> <p>15 with it. Or if they -- I can't remember the</p> <p>16 chronological events. But they came out and said that</p> <p>17 we couldn't use it, or it wasn't -- and so I went to</p> <p>18 Ken. I went to the office and said, "I want to speak</p> <p>19 to somebody about this memorandum." So I waited about</p> <p>20 half an hour and finally he came out and we spoke for</p> <p>21 about five minutes.</p> <p>22 Q. Ken Birrell came out?</p> <p>23 A. Uh-huh (affirmative).</p> <p>24 Q. And what did you talk about?</p> <p>25 MR. REAY: Objection. Privilege, if he --</p>	<p style="text-align: right;">Page 276</p> <p>1 end.</p> <p>2 Q. Why would he be trying to cover his rear</p> <p>3 end?</p> <p>4 A. Well, this has been a big thorn in their</p> <p>5 side for a long time. As I understand it, this law</p> <p>6 firm is not in a very good position, but I don't know</p> <p>7 that for sure.</p> <p>8 Q. Now, you heard or you testified that you</p> <p>9 heard Ken Birrell was saying that the Kirton McConkie</p> <p>10 memorandum couldn't be used, and then you went down and</p> <p>11 you talked to him; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. How did you hear that Mr. Birrell</p> <p>14 was saying that the memorandum couldn't be used?</p> <p>15 A. From the IRS.</p> <p>16 Q. Okay. And when was that?</p> <p>17 A. It had to be really soon afterwards</p> <p>18 because it was quite a while ago. Soon after the</p> <p>19 memorandum came out.</p> <p>20 Q. Okay. And the memorandum came out in</p> <p>21 October 2012, right?</p> <p>22 A. I think so. That sounds right.</p> <p>23 Q. Is it fair to say that late 2012, early</p> <p>24 2013, that's when, one, you heard Birrell saying the</p> <p>25 memo couldn't be used. And then you went down there</p>

Page 277	<p>1 and talked to him?</p> <p>2 A. Yes.</p> <p>3 Q. That's the right time frame?</p> <p>4 A. Yes. Approximately, yeah. I think I also</p> <p>5 asked, "Do you stand by all of your statements in</p> <p>6 there?"</p> <p>7 Q. You asked who that?</p> <p>8 A. Ken Birrell. I think. I think that's one</p> <p>9 of the things I wanted to know. And if they were</p> <p>10 valid, then why can't we use them. Why can't I use</p> <p>11 them? Why can't I look up the tax law and the codes</p> <p>12 that they cited?</p> <p>13 Q. Okay.</p> <p>14 A. Why can't I look at them and study them</p> <p>15 and say, "Okay, this is pretty good"? Or why can't I</p> <p>16 give it to a CPA and have them look at it and use that</p> <p>17 as a reference?</p> <p>18 Q. All right. Let me read from the Kirton</p> <p>19 McConkie memorandum. I believe it appears on the third</p> <p>20 page of Exhibit 370.</p> <p>21 A. Okay. It's to SOLCO 1 from Ken Birrell?</p> <p>22 Q. Yes. Dated October 31, 2012.</p> <p>23 A. Yes.</p> <p>24 Q. Is it your understanding this is a copy of</p> <p>25 the Kirton McConkie memorandum that we have been</p>	Page 279	<p>1 questions. Are you a corporation?</p> <p>2 A. Yes.</p> <p>3 Q. You, Greg Shepard, are a corporation?</p> <p>4 A. I have an S-corp called Shepard Global.</p> <p>5 Q. I know that. But my question is --</p> <p>6 A. Greg Shepard is not a corporation.</p> <p>7 Q. You're an individual.</p> <p>8 A. Yeah. And this was written to SOLCO I and</p> <p>9 I don't even know who they are.</p> <p>10 Q. I will direct your attention back to</p> <p>11 Exhibit 479. This is your comments on the Kirton</p> <p>12 McConkie memorandum.</p> <p>13 A. Okay. Where are you?</p> <p>14 Q. I draw your attention to the third page</p> <p>15 labeled 3801.</p> <p>16 A. Okay.</p> <p>17 Q. The last paragraph on that page says,</p> <p>18 "Shepard's note: The Kirton McConkie memorandum was</p> <p>19 written specifically for corporations or limited</p> <p>20 liability companies. While some RaPower3 Team Members</p> <p>21 have purchased their Solar Lenses as an LLC, most have</p> <p>22 purchased as a sole proprietor. However, Shepard</p> <p>23 believes that the vast majority, if not all, of the</p> <p>24 references and information contained therein also</p> <p>25 applies to sole proprietor." Did I read that</p>
Page 278	<p>1 talking about?</p> <p>2 A. Yes.</p> <p>3 Q. And the Kirton McConkie memorandum that</p> <p>4 appears on RaPower3's website?</p> <p>5 A. I'm not sure. I'm not sure if SOLCO I is</p> <p>6 on there. I'd have to go back and look at it.</p> <p>7 Q. You are free to --</p> <p>8 A. It appears so.</p> <p>9 Q. And like I said before, if you need to</p> <p>10 correct any of this deposition testimony there will be</p> <p>11 an opportunity for that.</p> <p>12 A. Right. Because I made extensive comments</p> <p>13 on the memorandum, so yeah.</p> <p>14 Q. Okay. On the first page there's a heading</p> <p>15 Factual Background. Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Okay. The first sentence in that</p> <p>18 paragraph says, "The Solar Lenses will be purchased by</p> <p>19 Buyers that are (i), corporations or limited liability</p> <p>20 companies organized in the United States, (ii) neither</p> <p>21 tax-exempt nor governmental entities and (iii) taxed as</p> <p>22 subchapter C corporations for federal income tax</p> <p>23 purposes." Did I read that correctly?</p> <p>24 A. What's your point?</p> <p>25 Q. I'm not making a point. I'm asking</p>	Page 280	<p>1 correctly?</p> <p>2 A. Yeah.</p> <p>3 Q. What did you base that belief on?</p> <p>4 A. The tax code and tax laws that were cited</p> <p>5 in there.</p> <p>6 Q. Okay.</p> <p>7 A. I didn't see why an individual couldn't</p> <p>8 use those.</p> <p>9 Q. Okay. Now, you also testified that your</p> <p>10 understanding was Ken Birrell was saying it only</p> <p>11 applied to LLCs and corporations.</p> <p>12 A. Yes. But it was written for SOLCO 1 when</p> <p>13 he did that. He didn't write it with a sole proprietor</p> <p>14 in mind. He wrote it for a corporation. And that</p> <p>15 corporation was, at the time, considering buying a huge</p> <p>16 number of lenses.</p> <p>17 Q. Okay. And you believe --</p> <p>18 A. So it was written for that entity. That's</p> <p>19 my understanding. So the idea was to have that entity</p> <p>20 feel comfortable in buying tons of lenses. It had</p> <p>21 nothing to do with RaPower3.</p> <p>22 Q. All right.</p> <p>23 A. Okay?</p> <p>24 Q. Where did you get your copy of the Kirton</p> <p>25 McConkie memorandum?</p>

Page 281

1 A. I don't recall.  
 2 Q. Well, it was written to SOLCO 1, LLC,  
 3 right?  
 4 A. Uh-huh (affirmative).  
 5 Q. Do you know who runs SOLCO 1, LLC?  
 6 A. No.  
 7 Q. You have no idea?  
 8 A. Well, it's just all -- it would be  
 9 speculation. I don't know the entities involved in  
 10 that and -- but I will tell you this: That I was --  
 11 when I was looking at the possibility of doing a big  
 12 project, that I was given this I think by Neldon, that  
 13 I could use that if I was going to try to sign up a big  
 14 hitter, a million dollars or more or something like  
 15 that in lenses.  
 16 Q. And when you say "that," you are referring  
 17 to the Kirton McConkie memorandum?  
 18 A. Yes.  
 19 Q. Okay.  
 20 Exhibit 480 WAS MARKED.)  
 21 Q. Mr. Shepard you have been given a copy of  
 22 what's been marked for identification as Plaintiff's  
 23 Exhibit 480. Do you recognize it?  
 24 A. No.  
 25 Q. This appears to be a cease and desist

Page 282

1 letter from Tate Bennett on behalf of Todd Anderson.  
 2 A. Okay.  
 3 Q. You have already testified on Todd  
 4 Anderson and I understand that he also wrote a letter  
 5 about the RaPower3 solar lenses?  
 6 A. He wrote a tax attorney opinion letter.  
 7 Q. Okay.  
 8 A. That's all I know about it. I didn't even  
 9 know this existed.  
 10 Q. You have never ever heard of a cease and  
 11 desist letter -- withdrawn.  
 12 Have you ever heard that Todd Anderson  
 13 didn't stand behind that letter that you referred to as  
 14 the Anderson letter?  
 15 A. No.  
 16 Q. You have never heard that?  
 17 A. No.  
 18 Q. Okay.  
 19 A. When was this written? There's no date on  
 20 it. But the Todd Anderson tax attorney letter no  
 21 longer appears on the RaPower3 website.  
 22 Q. When did that come down?  
 23 A. Last week.  
 24 Q. You took it down last week?  
 25 A. Uh-huh (affirmative).

Page 283

1 Q. Why did you take it down?  
 2 A. It no longer really applies because we are  
 3 selling lenses now with a straight tax credit.  
 4 Q. So because you no longer offer  
 5 depreciation, you believe that the Todd Anderson  
 6 letter --  
 7 A. I don't think we need it, because it's  
 8 pretty straightforward.  
 9 Q. Who made the decision to take it down?  
 10 A. I did.  
 11 Q. Did you talk to anyone about that  
 12 decision?  
 13 A. No.  
 14 Q. You just did it?  
 15 A. I did.  
 16 Q. Okay. Mr. Shepard, I have given you a  
 17 copy what's been marked for identification as Exhibit  
 18 230. I'll direct your attention to the last sentence  
 19 on the first page says, "The memorandum was on our  
 20 RaPower3 website for members benefit."  
 21 A. Where are you reading? Okay. Gotcha.  
 22 Q. "Since the memorandum was on our RaPower3  
 23 website for our members benefit, they used what Birrell  
 24 said to them to discredit his stance in defense of  
 25 RaPower3." And then there's text in bold. Did you

Page 284

1 write the text in bold?  
 2 A. I did.  
 3 Q. Okay.  
 4 A. Oh, yeah. That was the word the IRS used,  
 5 "rescind." That Birrell rescinded the memorandum.  
 6 Q. But in Exhibit 230, the text in bold,  
 7 that's your writing, right?  
 8 A. In bold, yeah.  
 9 Q. Okay. No further questions on that  
 10 document. I'd say we are on the home stretch.  
 11 Probably got -- we'll probably use whatever the rest of  
 12 our time is. Take a five-minute break?  
 13 (Break taken from 6:40 to 6:52 p.m.)  
 14 Q. (By Mr. Moran) Mr. Shepard, what did you  
 15 discuss with respect to the tax benefits associated the  
 16 with solar lenses with Neldon Johnson? What was the  
 17 extent of conversations, if any?  
 18 A. On what now?  
 19 Q. On the tax benefits associated with the  
 20 lenses.  
 21 MR. REAY: Objection. Compound. A little  
 22 vague question.  
 23 Q. I'll rephrase. Mr. Shepard, have you ever  
 24 discussed the federal tax benefits that are associated  
 25 with the solar lenses with Mr. Neldon Johnson?

<p style="text-align: right;">Page 285</p> <p>1 A. Very limited.</p> <p>2 Q. Very limited? Okay. To the extent you've</p> <p>3 had limited conversations, what did you discuss?</p> <p>4 A. I don't think we ever discussed tax</p> <p>5 credits, but discussed some depreciation; that because</p> <p>6 the lenses were being used for R&amp;D, that the RaPower3</p> <p>7 team members had a monetary interest. They were being</p> <p>8 used for a specific purpose, and that is advertising.</p> <p>9 And so because they were used for advertising and</p> <p>10 RaPower3 members were going to receive a monetary</p> <p>11 benefit through the bonus contracts, that depreciation</p> <p>12 was -- should be allowed.</p> <p>13 Q. Okay. Who first came up with that</p> <p>14 position, you or Mr. Johnson?</p> <p>15 A. Oh, not me. I don't know if it was</p> <p>16 Mr. Johnson, either.</p> <p>17 Q. But you know you discussed that with</p> <p>18 Mr. Johnson?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Do you know where Mr. Johnson got</p> <p>21 that understanding from?</p> <p>22 MR. REAY: Objection. Calls for</p> <p>23 speculation.</p> <p>24 A. I don't know. I would assume he got it</p> <p>25 from his tax attorneys. Other than that, I don't know.</p>	<p style="text-align: right;">Page 287</p> <p>1 A. Over the message board.</p> <p>2 Q. You assisted with the United States in</p> <p>3 obtaining access to the message board. Are you</p> <p>4 familiar with that?</p> <p>5 A. I assisted who?</p> <p>6 Q. The United States with getting access to</p> <p>7 this message board.</p> <p>8 A. I don't know what you're talking about.</p> <p>9 Q. Let's go off the record.</p> <p>10 (Discussion off the record.)</p> <p>11 Q. Back on the record.</p> <p>12 Mr. Shepard, we were talking about Exhibit</p> <p>13 481 and I represented to you that Exhibit 481 is a</p> <p>14 sampling of the IAS message board, as you referred to</p> <p>15 it, and that you had assisted the United States in</p> <p>16 getting access to the message board.</p> <p>17 A. Yes. Correct.</p> <p>18 Q. Okay. And I didn't print off the entire</p> <p>19 thing to bring today, but my question for you is the</p> <p>20 format that appears in Exhibit 481, it says IAUS &amp;</p> <p>21 RaPower3 Forum at the top, and then there's a series</p> <p>22 of, like you said, a message board. If a document has</p> <p>23 this header at the top, IAUS &amp; RaPower3 Forum, are we</p> <p>24 to understand that that is a message board that you</p> <p>25 operate?</p>
<p style="text-align: right;">Page 286</p> <p>1 Q. Did you ever ask him where he got that</p> <p>2 understanding from?</p> <p>3 A. No.</p> <p>4 Exhibit 481 WAS MARKED.)</p> <p>5 Q. Mr. Shepard, I have given you a copy of</p> <p>6 what's been marked for identification as Plaintiff's</p> <p>7 Exhibit 481. Do you recognize this exhibit?</p> <p>8 A. I do.</p> <p>9 Q. What is it?</p> <p>10 A. This comes from a forum that is for</p> <p>11 RaPower3 and IAUS shareholders.</p> <p>12 Q. And I have heard this referred to as the</p> <p>13 IAUS pro boards?</p> <p>14 A. Yes. But I never call it that.</p> <p>15 Q. What do you call it?</p> <p>16 A. Message board.</p> <p>17 Q. The message board. All right. Who</p> <p>18 operates this message board?</p> <p>19 A. My son, Matt.</p> <p>20 Q. Okay. Do you oversee him?</p> <p>21 A. I do.</p> <p>22 Q. Okay.</p> <p>23 A. So I have responsibility over everything</p> <p>24 concerning this.</p> <p>25 Q. Over the message board?</p>	<p style="text-align: right;">Page 288</p> <p>1 A. Yes.</p> <p>2 Q. Okay. On Exhibit 481 there's a beginning</p> <p>3 post dated December 8, 2015 from Chief, senior member.</p> <p>4 A. Yeah. That's me.</p> <p>5 Q. And this is your picture?</p> <p>6 A. It is.</p> <p>7 Q. Okay.</p> <p>8 A. Which one are we looking at?</p> <p>9 Q. You already answered my question.</p> <p>10 A. Okay.</p> <p>11 Q. That's your picture.</p> <p>12 A. Yes.</p> <p>13 Q. And is "chief" your handle?</p> <p>14 A. Yes.</p> <p>15 Q. And that's how you refer to yourself on</p> <p>16 the message board?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. I'm the chief. Okay. Just kidding.</p> <p>20 Q. Do you use any other --</p> <p>21 A. No. That's it.</p> <p>22 Q. Let me finish the question. Do you use</p> <p>23 any other names on the message board?</p> <p>24 A. No. Well, sometimes I say Greg, or Greg</p> <p>25 Shepard. But not as a handle.</p>



Page 289

1 Q. Okay. Well, would that also say "chief"  
 2 then?  
 3 A. Yes.  
 4 Q. Okay. Who else is an administrator on  
 5 this message board?  
 6 A. No one.  
 7 Q. You're the only administrator?  
 8 A. What do you mean by "administrator"?  
 9 Q. Who administers it? Who runs it?  
 10 A. Matt, my son, under my direction.  
 11 Q. Okay. Do you know Matt Shepard's handle?  
 12 A. What is his handle? It has a -- has the  
 13 Cheshire cat on it.  
 14 Q. Okay.  
 15 A. I can't remember right now. Sorry.  
 16 Q. Okay.  
 17 Exhibit 482 WAS MARKED.)  
 18 Q. Mr. Shepard, I've given you a copy of  
 19 what's been marked for identification as Plaintiff's  
 20 Exhibit 482. Do you recognize this document?  
 21 A. I do.  
 22 Q. What is it?  
 23 A. It's a summary of the fifty systems of  
 24 Patty Lambrecht/Ilios, LLC, which is a Greek name, to  
 25 my understanding.

Page 290

1 Q. Patty Lambrecht and Ilios, LLC purchased  
 2 fifty systems?  
 3 A. Yes.  
 4 Q. Is that on December 15, 2008?  
 5 A. Yes.  
 6 Q. So is that under the old system or the new  
 7 system? It seems like we have gone through several  
 8 iterations of the system, so forgive me if I'm  
 9 confused.  
 10 A. This is when they were \$9000 a system.  
 11 Hence, \$9000 times 50 would be \$450,000, is what she  
 12 paid.  
 13 Q. Patty Lambert paid International Automated  
 14 Systems \$450,000?  
 15 A. Yes. Because I think that was before  
 16 RaPower3.  
 17 Q. Okay. And then earlier you testified that  
 18 you were entitled to a 10 percent commission.  
 19 A. I was. But this was a split client, so  
 20 there was another person that was involved in this.  
 21 Q. Who is that person?  
 22 A. Ryan Davies.  
 23 Q. Who is Ryan Davies?  
 24 A. A son-in-law of Mitt Romney.  
 25 Q. Okay.

Page 291

1 A. But other than -- oh, there is Ryan  
 2 Davies. So yeah. So it says "split." And Ryan Davies  
 3 was once involved with -- he was going to build a five  
 4 megawatt solar plant, five or ten, I think it was five  
 5 megawatts in Needles, California. And he wanted to use  
 6 Neldon's technology.  
 7 Q. When is the first time you met Ryan  
 8 Davies?  
 9 A. I think in 2008.  
 10 Q. What were the circumstances that you met  
 11 him?  
 12 A. I can't remember.  
 13 Q. Was it through Neldon Johnson?  
 14 A. I can't remember.  
 15 Q. You just -- okay. Why was this a split  
 16 commission with Patty Lambrecht?  
 17 A. Because Ryan Davies wanted some of my  
 18 expertise and he said, "Well, if I'm going to work on  
 19 it, we should split it." And I said okay.  
 20 Q. So Ryan Davies sought you to offer your  
 21 expertise?  
 22 A. Yes.  
 23 Q. How did he come to hear about you?  
 24 A. I don't know. I can't remember.  
 25 Q. Did he just call you up one day?

Page 292

1 A. I can't remember.  
 2 Q. And how did you come to learn about Patty  
 3 Lambrecht?  
 4 A. Through Ryan Davies.  
 5 Q. Okay. So Ryan Davies came to you and  
 6 said, "Patty Lambert wants to buy some lenses"?  
 7 A. Yes.  
 8 Q. And do you know how he got your contact  
 9 information?  
 10 A. How he got my contact information?  
 11 Q. Yes.  
 12 A. I can't recall.  
 13 Q. Okay. So that was a split commission  
 14 where the commission would have been \$45,000, because  
 15 that's 10 percent of \$450,000, right?  
 16 A. Yes.  
 17 Q. And then you split the commission with  
 18 Ryan Davies?  
 19 A. Yes.  
 20 Q. So you were owed \$22,500 for the Patty  
 21 Lambrecht sale.  
 22 A. Yes.  
 23 Q. And then there's a reference to bonus  
 24 units.  
 25 A. Yes. Correct.

<p style="text-align: right;">Page 293</p> <p>1 Q. What are the bonus units?  2 A. Has to do with the bonus contract; again,  3 percentage of the gross sales of IAS.  4 Q. Okay. So your potential bonus recovery  5 increased by 24 bonus units?  6 A. Yes.  7 Q. Okay. And then it says, "One bonus unit  8 to the following," and there's a series of names. Who  9 are the people whose names appear here?  10 A. I think Rod Davies is a brother or father  11 of Ryan. Jack Edwards, I think, was an acquaintance of  12 Ryan. I'm not sure why Lou Madsen was in this.  13 Q. Who is Lou Madsen?  14 A. I don't know. I know Monty Hamilton.  15 Q. Why would Monty Hamilton be getting bonus  16 units?  17 A. I think I was feeling generous. That's a  18 lot. So Janie Smith is my mother-in-law. We had a  19 foundation and so some was going to go to the Richard  20 K. Black Foundation, who is a relative of mine who  21 died. And then Bigger, Faster, Stronger. You know Bob  22 Rowbotham. Mark is my son. Shauna is my daughter.  23 Scott is my son-in-law. Heather is my daughter-in-law.  24 Matt is my son. Andrea is my daughter.  25 Q. So it sounds like you gave bonus units to</p>	<p style="text-align: right;">Page 295</p> <p>1 not you?  2 A. Why would I give my daughter money? Is  3 that your question? And my sons and my son-in-laws?  4 Q. Well, are you gifting the money to them?  5 A. Yeah.  6 Q. Okay.  7 A. And Bob Rowbotham was my partner in  8 Bigger, Faster, Stronger. He could use the money. And  9 then my mother-in-law could use it. And then the two  10 foundations, or a foundation and a youth string  11 ensemble group.  12 Q. So it's your testimony that you gifted  13 these bonus units to these individuals?  14 A. Yes.  15 Q. Okay.  16 MR. REAY: Objection. Mischaracterizes  17 testimony.  18 These bonuses have never come in, correct.  19 THE WITNESS: No.  20 MR. REAY: So nothing has been gifted.  21 That's a mischaracterization.  22 THE WITNESS: Yes. Good point.  23 Q. (By Mr. Moran) Are you saying that those  24 bonus units have no value?  25 A. Yeah. I'm really looking forward to it.</p>
<p style="text-align: right;">Page 294</p> <p>1 these individuals, many of whom are your family?  2 A. Yes. In a sense. So if the bonus money  3 were going to come in, then I would share that with  4 them.  5 Q. Okay.  6 A. It would come to me and then I would say,  7 "Okay, here is what I'm going to give you." And Salt  8 Lake -- oh, that's a music organization, Salt Lake  9 Youth -- I don't know. It's a string quartet thing.  10 Q. My question originally was, and I don't  11 think you answered it, why would these individuals be  12 getting bonus units?  13 A. Well, each one has its -- Rod Davis, Jack  14 Edwards, Lou Madsen would be Ryan Davies' thing. Monty  15 Hamilton, since we worked together on certain things, I  16 thought he deserved one. And then the rest is my  17 family or foundation.  18 Q. Did any of those people do anything to  19 advance the sale of lenses to Patty Lambrecht?  20 A. No.  21 Q. So why would income from the bonus be  22 attributable to them and not you?  23 A. It's not all. Some of it.  24 Q. All right. Well, why would some of the  25 income be attributable to these several individuals and</p>	<p style="text-align: right;">Page 296</p> <p>1 It's a lot of money.  2 Q. Well, I want to understand the testimony.  3 Your attorney here has accused me of mischaracterizing  4 testimony --  5 MR. REAY: Saying that --  6 Q. -- because no money has ever been paid on  7 a bonus. Now, is it your --  8 A. When it does, yeah.  9 Q. So do those bonus units have any value?  10 A. Absolutely.  11 Q. Okay. If they have value, if these bonus  12 units each have value, where did you get these units  13 from?  14 A. Oh, that's easy. It's part of the  15 commission deal.  16 Q. Okay. And you received these units from  17 International Automated Systems?  18 A. Yes.  19 Q. Okay. Did you report the value of those  20 units on your 2008 tax return?  21 A. No. Because I haven't received any  22 bonuses yet. Any money yet.  23 Q. Do those bonus units have any value?  24 A. Yes.  25 Q. Okay.</p>

Page 297

1 A. Eventually.  
 2 Q. Eventually. Did they have any value in  
 3 2008?  
 4 MR. REAY: Objection. Calls for a legal  
 5 conclusion.  
 6 A. Yeah, I'm not -- that would be nice,  
 7 wouldn't it, to have me pay \$150,000 in taxes on money  
 8 I haven't received. That would be pretty cool. So, I  
 9 don't know.  
 10 Q. So is it your testimony the bonus units  
 11 don't have any value?  
 12 A. I hope they do at one time, but I don't  
 13 know if they -- I don't know.  
 14 Q. All right. In 2008 did you think -- right  
 15 now do you think that in 2008 the bonus units had any  
 16 value?  
 17 THE WITNESS: Okay. What am I supposed to  
 18 do here?  
 19 MR. REAY: You can answer what you  
 20 thought.  
 21 But I object, it's calling for a legal  
 22 conclusion.  
 23 A. I don't recall what I thought in 2008.  
 24 Q. Okay. No further questions on Exhibit  
 25 482.

Page 298

1 Mr. Shepard, I'm handing you a copy of  
 2 what's been marked for identification as Plaintiff's  
 3 Exhibit 336. Do you recognize this?  
 4 A. Yes.  
 5 Q. Is this an e-mail you sent on April 12,  
 6 2016?  
 7 A. Yes.  
 8 Q. Who did you send it to?  
 9 A. Those being audited by the IRS.  
 10 Q. Okay. You reference an intimidating  
 11 letter/subpoena from the IRS/Attorney General.  
 12 A. Yes.  
 13 Q. Are you referring to the subpoenas that  
 14 the government issued in this case?  
 15 A. Yes.  
 16 Q. Okay. You offer people the opportunity to  
 17 call you to discuss those?  
 18 A. Yes. Because it scared the crap out of  
 19 them.  
 20 Q. Did anyone call you?  
 21 A. Yes. But I can't remember who.  
 22 Q. All right. Do you recall what you told  
 23 them?  
 24 A. Yes. "It's not as bad as you think. We  
 25 will get through it."

Page 299

1 Q. All right. Do you recall what they asked  
 2 you?  
 3 A. No.  
 4 Q. Okay. And did you -- you said, "We will  
 5 get through it. It's not as bad as you think." Did  
 6 you tell them anything else, like what to do?  
 7 A. No. I don't recall that.  
 8 Q. Did you ever talk to Paul Jones about the  
 9 IRS subpoenas -- excuse me, the Department of Justice  
 10 subpoenas?  
 11 MR. REAY: Objection. Attorney/client  
 12 privilege.  
 13 MR. MORAN: I'm not asking what they  
 14 discussed. I'm asking if they had any conversations.  
 15 MR. REAY: I still think it's a privilege.  
 16 MR. MORAN: Are you instructing him not to  
 17 answer?  
 18 MR. REAY: I am.  
 19 I'm instructing you not to answer. I  
 20 think you have an attorney/client privilege there.  
 21 Q. (By Mr. Moran) Did you ever -- the people  
 22 you did talk to about the IRS, excuse me, the  
 23 government subpoena in this cause, did you tell them to  
 24 call Paul Jones?  
 25 A. No.

Page 300

1 Q. No? Did you tell anyone else to call?  
 2 A. No.  
 3 Q. Okay. Did you connect them with Paul  
 4 Jones in any way?  
 5 A. Well, no. No.  
 6 Q. No?  
 7 A. But Paul Jones is handling all of the  
 8 IRS -- so when the IRS turns down the audit, then it's  
 9 appealed. When the appeal is turned down, then there's  
 10 a petition. You have 90 days to petition the court.  
 11 And Paul Jones does that.  
 12 Q. Okay. Does Paul Jones have any other  
 13 involvement in --  
 14 MR. REAY: Objection. Calls for  
 15 speculation.  
 16 Sorry. I should have let you finish.  
 17 A. I know he does that, files petitions on  
 18 behalf of those RaPower3 clients where their appeal has  
 19 been turned down. But I actually tell the RaPower3  
 20 clients that are being audited they can't call Paul  
 21 Jones.  
 22 Q. They can or they can't?  
 23 A. They cannot. I don't want them to.  
 24 Q. Why not?  
 25 A. Because every time they call, he

<p style="text-align: right;">Page 301</p> <p>1 charges -- I don't know what he charges, hundreds of  2 dollars an hour. And if we had a hundred people  3 calling him all the time to find out what's going on,  4 Neldon's bill would be a million dollars. And so I'm  5 not going to have that.  6 Q. Just to be clear --  7 A. If they have a question, call me. And if  8 I can't answer it, then I can ask Paul Jones and I will  9 relay it. I don't want to give them carte blanche to go  10 talk to RaPower3 clients.  11 Q. And that's because Neldon Johnson is  12 paying Paul Jones's legal bills for the RaPower3  13 customers who are being audited --  14 MR. REAY: Objection. I'm sorry. I  15 didn't let you finish.  16 A. Go ahead.  17 Q. You testified that Neldon Johnson's legal  18 bill would be very high if people called him. And is  19 that because Neldon Johnson is paying Mr. Jones's legal  20 bills?  21 A. I don't know if Neldon Johnson is.  22 Q. Are you paying them?  23 A. Oh, no.  24 Q. Are the RaPower3 customers paying anyone's  25 bill?</p>	<p style="text-align: right;">Page 303</p> <p>1 A. That's an outline of a convention that we  2 had in 2012.  3 Q. And who ran this convention?  4 A. I did.  5 Q. Okay. Where did it happen?  6 A. Salt Lake County Library or Salt Lake City  7 Library.  8 Q. All right. And how many of these types of  9 conventions have you had?  10 A. Of this type?  11 Q. Yeah.  12 A. One.  13 Q. Just one?  14 A. Yes.  15 Q. Now, at that convention did you hand out  16 any materials?  17 A. I think I did, yeah.  18 Q. Okay. Were they -- would any of them have  19 looked like Exhibit 483?  20 A. Not to this extent, no. I think this was  21 cut and pasted or taken off the website by Sterling  22 Rigby. And then he was trying to sell lenses, and so  23 this is his attempt to sell lenses.  24 Q. Sterling Rigby is a RaPower3 customer?  25 A. I think he is, yeah.</p>
<p style="text-align: right;">Page 302</p> <p>1 MR. REAY: Objection. Calls for  2 speculation.  3 A. No.  4 Q. Let me rephrase that question. Are  5 RaPower3 customers paying Paul Jones's bill?  6 A. No.  7 Q. Okay.  8 Exhibit 483 WAS MARKED.)  9 Q. Mr. Shepard, you have been given a copy of  10 Plaintiff's Exhibit 483. Do you recognize this  11 document? This document was produced by RaPower3 to  12 the government. It appears to be a copy of a document  13 that was spiral bound at some point.  14 A. What is "Dr. Sterling Rigby" on here?  15 Q. I have no idea.  16 A. I don't either.  17 Q. Have you ever seen a spiral bound document  18 that looks like Exhibit 483?  19 A. No. I didn't put this together.  20 Q. Drawing your attention to the page labeled  21 Ra3 006383. I'll help you find it if you want.  22 A. I'm pretty close to being there. Here it  23 is.  24 Q. This appears to be a -- what appears at  25 page 6383?</p>	<p style="text-align: right;">Page 304</p> <p>1 Q. Okay.  2 A. I also think he died. I don't think he is  3 around anymore.  4 Q. Okay. Mr. Shepard, I'm handing you a copy  5 of what's been marked for identification as  6 Government's Exhibit 282. Do you recognize Exhibit  7 282?  8 A. I do.  9 Q. What is it?  10 A. It's an e-mail that I sent to people being  11 audited on January 8, 2015.  12 Q. All right. I'm going to direct your  13 attention to the paragraph 1 that says, "We know this  14 whole IRS thing has been stressful. We are sorry for  15 this. We believe our technology will soon be ready and  16 be in full production. We also believe we will prevail  17 against the IRS in court."  18 "However, if you would like to part  19 company, we will refund your money and you can pay the  20 IRS and move in a different direction. You can most  21 likely get the IRS to drop the penalties. But, if you  22 decide on the refund, then you would give up all the  23 bonuses and rental fees associated with those solar  24 lenses. This offer is good until February 15, 2015."  25 Did I read that correctly?</p>

<p style="text-align: right;">Page 305</p> <p>1 A. Yes. Very fair. Good.</p> <p>2 Q. Sounds like that's an opportunity for</p> <p>3 RaPower3 members to get out?</p> <p>4 A. Sure.</p> <p>5 Q. Okay. Who authorized you to send out this</p> <p>6 offer?</p> <p>7 A. Neldon.</p> <p>8 Q. Okay.</p> <p>9 A. Well, he has always had that. If you want</p> <p>10 your money back, you can have it.</p> <p>11 Q. All right. By January 2015, how many</p> <p>12 people, about how many people were on your distribution</p> <p>13 list?</p> <p>14 A. About a thousand.</p> <p>15 Q. About a thousand. Okay.</p> <p>16 A. Oh, on this? No. Probably a hundred.</p> <p>17 Q. About a hundred? These are the people who</p> <p>18 are being audited?</p> <p>19 A. Yeah.</p> <p>20 Q. Okay. This has been marked for</p> <p>21 identification as Plaintiff's Exhibit 10. I'll direct</p> <p>22 your attention to the third page.</p> <p>23 Strike that. Go to the last page.</p> <p>24 A. Go to the last page?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 307</p> <p>1 page. The first paragraph, begin reading in the middle</p> <p>2 of the paragraph, it says, "Our solar lenses are</p> <p>3 capable of producing searing heat the moment they come</p> <p>4 off the production line at the Lucite plant in</p> <p>5 Tennessee. Another limitation is there must be a</p> <p>6 reasonable chance of success so the process of taking</p> <p>7 the tax benefits doesn't go on for years without</p> <p>8 results. Our year is this year." Did I read that</p> <p>9 correctly?</p> <p>10 A. Yes.</p> <p>11 Q. How many years have RaPower3 or</p> <p>12 International Automated Systems customers been claiming</p> <p>13 tax benefits?</p> <p>14 MR. REAY: Objection. Calls for</p> <p>15 speculation.</p> <p>16 A. Well, I started taking them in 2006.</p> <p>17 Q. Okay. And how many years have you been</p> <p>18 sending out placed-in-service letters, telling people</p> <p>19 their lenses are placed in service?</p> <p>20 A. Five or six.</p> <p>21 Q. Okay. And you say, "Our year is this</p> <p>22 year." What do you mean by that statement?</p> <p>23 A. Yeah. I thought that this -- when is this</p> <p>24 dated? Yeah. I thought in 2015 that we would be --</p> <p>25 our towers would be up and running and we would have</p>
<p style="text-align: right;">Page 306</p> <p>1 A. I thought you said 674.</p> <p>2 Q. Sorry. I'll withdraw that. Before I ask</p> <p>3 any questions about it, do you recognize this</p> <p>4 Plaintiff's Exhibit 10 ?</p> <p>5 A. Yes.</p> <p>6 Q. What is it?</p> <p>7 A. This is written on March 20, 2015</p> <p>8 regarding audits. "Dear IRS Agents and Appeals</p> <p>9 Officers."</p> <p>10 Q. Did you send this letter to anyone?</p> <p>11 A. I think I put it -- I can't remember if I</p> <p>12 sent that out to -- it's written to agents and appeals</p> <p>13 officers. I don't know how big my list was on that.</p> <p>14 Q. Did you ever have communications with IRS</p> <p>15 agents and appeals officers?</p> <p>16 A. I had some communication, yeah.</p> <p>17 Q. Did you send this letter to them?</p> <p>18 A. I can't recall.</p> <p>19 Q. Okay. But you did write this letter?</p> <p>20 A. I did. Yeah. Absolutely.</p> <p>21 Q. Okay. And would you have put it on the</p> <p>22 website, the RaPower3 website?</p> <p>23 A. I could have. I think it was on the</p> <p>24 website. I don't think it still is, but maybe.</p> <p>25 Q. Okay. Direct your attention to the last</p>	<p style="text-align: right;">Page 308</p> <p>1 some good results.</p> <p>2 Q. And what do you mean by "up and running"?</p> <p>3 A. That the towers would be up and they could</p> <p>4 be producing electricity.</p> <p>5 Q. And doing what with the electricity?</p> <p>6 A. Either producing electricity or heat</p> <p>7 producing water.</p> <p>8 Q. Okay. Did that happen?</p> <p>9 A. And I don't know -- it doesn't necessarily</p> <p>10 have to mean on the grid. But -- see, a lot of our</p> <p>11 RaPower3 members are also shareholders.</p> <p>12 Q. Okay.</p> <p>13 A. And so if the towers are up and producing</p> <p>14 heat, that's probably going to make the stock go up.</p> <p>15 If it is producing electricity, it would go up quite a</p> <p>16 bit.</p> <p>17 Q. All right. And when you say "producing</p> <p>18 electricity" does that include selling electricity?</p> <p>19 A. Not necessarily. If people came out and</p> <p>20 saw those lenses producing electricity, it's going to</p> <p>21 be a major, major event.</p> <p>22 Q. Okay.</p> <p>23 A. And the stock would go up considerably.</p> <p>24 If they go a step further and the power or the</p> <p>25 electricity is put on the grid, even if it's like 500</p>

<p style="text-align: right;">Page 309</p> <p>1 kilowatts, it would go up even higher. There's people  2 waiting in the wings to put down money and do projects.  3 So yeah, that would be a big event.  4 Q. And that's --  5 A. And if Neldon gets all 200 towers up, that  6 will be, I think, the tenth largest concentrated solar  7 power in the nation.  8 Q. But when you say, "Our year is this year,"  9 are --  10 A. Yeah. We thought it was going to be.  11 Q. And that was 2015.  12 A. Yeah.  13 Q. And this was written over two years ago?  14 A. Yeah.  15 Q. Are there any more towers up?  16 A. Yeah. There's 200 plus towers that are  17 started.  18 Q. They are started. I said are they  19 installed? Are they up?  20 A. No.  21 Q. Okay. And when you say, "Our year is this  22 year," what --  23 A. I thought it was going to be.  24 Q. Okay. Let me ask you this: Did you  25 correct this statement?</p>	<p style="text-align: right;">Page 311</p> <p>1 A. So that's the deal.  2 Q. You've answered the question. Did you, at  3 any point, ever learn of a criminal investigation into  4 RaPower3 conduct?  5 A. Criminal investigation against?  6 Q. Into the solar lenses that we have been  7 talking about all day.  8 A. No.  9 Q. You have never heard --  10 A. I heard there was a criminal investigation  11 against Neldon, but I don't know about RaPower3.  12 Q. Do you know what that criminal  13 investigation involved?  14 A. Against Neldon?  15 Q. Whatever criminal investigation you're  16 talking about.  17 A. Yeah. I think -- no, I don't know  18 specifically. I just know there was an investigation,  19 and to my knowledge that's been dropped.  20 Q. Okay. Do you know if that criminal  21 investigation involved the solar lenses in any way?  22 A. I don't know.  23 Q. Were you aware of a search warrant that  24 was executed on Neldon Johnson's property?  25 A. Yes. There was one against me.</p>
<p style="text-align: right;">Page 310</p> <p>1 A. Yes.  2 Q. You sent a letter?  3 A. I mean, obviously they are not up, so I  4 said, you know -- yeah. So I'm sure that was done.  5 Q. How many years do you think it's going to  6 take?  7 A. Obviously it calls for speculation, but  8 things are happening very rapidly now, so I would say  9 in my best guess that this year could be our year.  10 Q. This year, 2017, could be your year?  11 A. 2017 could be the year.  12 Q. Okay.  13 A. And the reason I say that is because the  14 manufacturing is all completed, and it wasn't in 2015.  15 And we didn't know all the pitfalls that would come.  16 And we have already explored that to death, I think.  17 And now the construction process has all been  18 completed, and so now we are ready just to go put up  19 the towers.  20 Q. All right.  21 A. And once that happens, then we are -- you  22 know, eventually that thing will be 700 megawatts and  23 will be the largest solar concentrated project in the  24 world.  25 Q. Okay.</p>	<p style="text-align: right;">Page 312</p> <p>1 Q. There was a search warrant against you?  2 A. Yeah.  3 Q. When was that?  4 A. 2012, June 29th.  5 Q. Okay. What, if anything, did you do in  6 response?  7 A. To that?  8 Q. Yeah.  9 A. Complied.  10 Q. Okay. Did it change your view of the  11 solar lenses in any way?  12 A. Oh, no. In fact, it was orchestrated  13 on -- you know, you brought that up when the convention  14 was. It was done on purpose on that day. So all the  15 people that came from all over the country came out and  16 they thought that they were going to --  17 Q. You can continue.  18 A. Okay. I like to have eye contact when I'm  19 talking. That's just the coach in me.  20 So they thought they would discourage, and  21 the exact opposite happened. Our RaPower3 members were  22 furious.  23 Q. Did you ever ask Neldon Johnson what the  24 criminal investigation was about?  25 A. Against him? No. It was not my business.</p>

Page 313

1 Q. Okay.  
 2 A. Because I know he is innocent.  
 3 MR. REAY: I think we are out of time, but  
 4 I have a couple of questions I have to follow up on.  
 5 MR. MORAN: Don, I'll indulge you, but can  
 6 I have about two minutes?  
 7 MR. REAY: Okay.  
 8 Q. (By Mr. Moran) Mr. Shepard, obviously you  
 9 are aware that there was a complaint filed in this case  
 10 and that's why you are here for a deposition.  
 11 A. Actually, I don't know why I'm here.  
 12 Q. Are you aware that the United States filed  
 13 a complaint in the United States District Court of  
 14 Utah?  
 15 A. Yeah. But I don't know why I'm here.  
 16 Q. Okay.  
 17 A. And I don't know what your beef is.  
 18 Q. Okay.  
 19 A. I have never known.  
 20 Q. You are aware that a complaint was filed,  
 21 right?  
 22 A. Yeah. But why?  
 23 Q. You can talk to your attorney about that.  
 24 A. Why are you here? I don't know why you  
 25 are here.

Page 314

1 Q. Did the United States filing that  
 2 complaint change your conduct in any way?  
 3 A. Yeah.  
 4 Q. How?  
 5 A. I bowed my back and I'm fighting harder.  
 6 Q. Okay. And what have you told -- have you  
 7 had discussions about the United States complaint with  
 8 anyone else, such as RaPower3 customers?  
 9 A. Oh, yeah. All the time.  
 10 Q. And what have you told them?  
 11 A. I told them the Department of Justice  
 12 people are wrong, and the IRS is wrong. They don't  
 13 understand, and we are fighting hard every day to bring  
 14 clean, affordable renewable energy. We have seven  
 15 disruptive technologies which you haven't acknowledged.  
 16 You haven't got expert witnesses to verify any of that,  
 17 and you need to do that if you are going to really do  
 18 the thing right. But you're not. So that's ...  
 19 Q. We have no further questions at this time.  
 20 A. Every man, woman, and child in Utah and  
 21 the United States is going to be blessed for  
 22 generations to come. Even your families. It will be a  
 23 really nice thing for you, Chris.  
 24  
 25

Page 315

1 EXAMINATION  
 2 BY MR. REAY:  
 3 Q. A couple questions --  
 4 THE WITNESS: You don't believe that,  
 5 Chris, but you will.  
 6 Q. Exhibit 782, are you aware of any of those  
 7 individuals that received bonuses that claimed the  
 8 bonuses on their income tax?  
 9 A. No.  
 10 MR. MORAN: Hold on. Did you say 782?  
 11 MR. REAY: I believe that's correct.  
 12 MR. MORAN: 482?  
 13 MR. REAY: 482.  
 14 MS. HEALY-GALLAGHER: Even we haven't got  
 15 that much paper.  
 16 MR. REAY: Exhibit 482.  
 17 MR. MORAN: We're on the same page.  
 18 Q. (By Mr. Reay) Are you aware of any  
 19 individuals that filed a tax return claiming the bonus  
 20 credit as income in 2009?  
 21 A. Are you asking me?  
 22 Q. I am asking you, yeah. Or 2008, I'm  
 23 sorry.  
 24 A. I'm not aware of anybody, no.  
 25 Q. At the time that the bonus comes in, will

Page 316

1 you claim that on your tax return? Will you seek  
 2 advice from a CPA to understand how to claim that on  
 3 your tax return?  
 4 A. Of course.  
 5 Q. Okay. On Exhibit 479, you testified that  
 6 you did not remember if this was sent to anyone.  
 7 There's a section that says "Disclosure," and reads,  
 8 "At the end - can't be used for avoiding penalties.  
 9 'Written to support the promotion or marketing of the  
 10 transactions.'" And then it says, "Each taxpayer  
 11 should seek advice elsewhere." Is that something that  
 12 you tell people when you do give them advice?  
 13 A. All the time. All the time on the  
 14 website. All the time on my e-mails.  
 15 Q. Why did you put that on this, that each  
 16 taxpayer should seek tax advice elsewhere on this?  
 17 A. I think everyone should. This is a  
 18 reference. It's a tool that can be used to evaluate  
 19 their position.  
 20 Q. And you don't -- you testified you don't  
 21 remember sending this to anyone? That was your  
 22 testimony earlier?  
 23 A. Yeah. I can't remember --  
 24 MR. MORAN: I object. I think it misstates  
 25 testimony.

Page 317

1 MR. REAY: We can go back and look at it  
 2 but I think that's what he said. You asked him, "Do  
 3 you know who you sent it to?" And he said, "I don't  
 4 remember sending it to anyone, but I might have sent it  
 5 to somebody." But he specifically said he didn't  
 6 remember.  
 7 Exhibit 478, Bates number Greg\_P&R000-657,  
 8 the last paragraph.  
 9 MR. MORAN: 478?  
 10 MR. REAY: Correct.  
 11 Q. (By Mr. Reay) So the last page of the  
 12 Kirton McConkie memorandum --  
 13 MR. MORAN: This is the Cease and Desist  
 14 letter? No. Sorry. That's 370.  
 15 MR. REAY: 478. Last page. The Kirton  
 16 McConkie letter is within there.  
 17 MR. MORAN: Where he sent out the Kirton  
 18 McConkie letter?  
 19 MR. REAY: Yeah.  
 20 MR. MORAN: Okay. I know what you're  
 21 talking about.  
 22 Q. (By Mr. Reay) Are you aware of the last  
 23 paragraph, the Circular 230 Disclosure of the Kirton  
 24 McConkie letter? "The analysis set forth in this  
 25 memorandum was not intended or written to be used, and

Page 318

1 it cannot be used, by any taxpayer --"  
 2 A. Yeah, I'm aware of that, and that Todd  
 3 Anderson had the same disclosure.  
 4 Q. So did you send this with the intent for  
 5 people to -- what was the intent of sharing the Kirton  
 6 McConkie letter and the Anderson letter?  
 7 A. To be used as a reference tool that they  
 8 can evaluate their purchase.  
 9 Q. What within the letters could be --  
 10 A. Or potential purchase.  
 11 Q. What within the letters could be a  
 12 reference?  
 13 A. The tax code and the law and their opinion.  
 14 Q. And the Anderson letter has one, also?  
 15 A. Oh, yes. As well as mine on the RaPower3  
 16 website.  
 17 Q. Okay. No further questions.  
 18  
 19 FURTHER EXAMINATION  
 20 BY MR. MORAN:  
 21 Q. Directing your attention back to Exhibit  
 22 479. Mr. Reay solicited testimony from you that you  
 23 don't recall if you ever sent out the Kirton McConkie  
 24 Memorandum Comment? That's three pages, from  
 25 Shepard\_Greg-03799 through Shepard\_Greg-03801.

Page 319

1 A. Yeah. I don't know if I sent it out. It  
 2 could be on the web -- I think it's on the website. I  
 3 don't know if I sent it out as an e-mail. I might  
 4 have. I can't recall.  
 5 Q. I'll direct your attention to the last  
 6 page of Exhibit 378, which is Shephard\_Greg --  
 7 MR. REAY: What exhibit?  
 8 MR. MORAN: 478. Sorry, it's 479.  
 9 Q. (By Mr. Moran) To be clear, I'm referring  
 10 to Exhibit 479, the Kirton McConkie Memorandum  
 11 Comments.  
 12 A. Is that this one?  
 13 MR. REAY: It is.  
 14 Q. Mr. Reay just solicited some testimony  
 15 from you about whether or not you ever sent out these  
 16 comments.  
 17 A. Correct.  
 18 Q. Okay. You're testifying right now that  
 19 you don't recall if you ever sent it out?  
 20 A. In an e-mail?  
 21 Q. Yes.  
 22 A. I don't recall if I did or not.  
 23 Q. Okay.  
 24 A. I might have.  
 25 Q. I'll direct your attention to the last

Page 320

1 page of Exhibit 479. Take a minute and review that  
 2 and see if that refreshes your recollection.  
 3 A. Where are we looking? Oh, this last page?  
 4 Okay. Oh, there it is. Yeah.  
 5 So I think that was sent to those being  
 6 audited, from the looks of the people on there.  
 7 Q. And you --  
 8 A. I don't think that was sent out in  
 9 general. That was sent out to people that was being  
 10 audited. And at that time it was probably forty  
 11 people.  
 12 Q. Okay. So the record is clear --  
 13 A. That I did send it out.  
 14 Q. You did send out the document entitled  
 15 Kirton McConkie Memorandum Commence that appears --  
 16 A. Yes.  
 17 Q. -- in Shepard\_Greg-03799 through  
 18 Shepard\_Greg-03801.  
 19 A. Yeah. Right. And it's doubtful that --  
 20 that wouldn't have been on the website.  
 21 Q. Okay.  
 22 A. I don't think. Comments?  
 23 No, I can't remember.  
 24 Q. All right. At this point we have no  
 25 further questions. Mr. Shepard, we thank you for your



1 time.  
2 A. You're welcome.  
3 Q. You're free to go.  
4 MS. HEALY-GALLAGHER: Do you want to read  
5 and sign?  
6 MR. REAY: No.  
7 MR. MORAN: So the record is clear,  
8 Mr. Shepard is exercising his rights not to read and  
9 sign?  
10 MR. REAY: Yeah. I don't think we need  
11 to, unless you want to read through all of your stuff.  
12 THE WITNESS: What did he say?  
13 MR. REAY: Read through this deposition  
14 once you get the transcript, and sign it to confirm  
15 everything that was said.  
16 THE WITNESS: You want to be here another  
17 hour?  
18 MR. REAY: Not today.  
19 THE WITNESS: I don't think so.  
20 MR. MORAN: I want to be clear that you  
21 are going to accept the deposition however Madam Court  
22 Reporter here prepares it?  
23 THE WITNESS: Yeah. She looks great.  
24 MR. REAY: I think that's fine.  
25 (The deposition concluded at 7:43 p.m.)

1 REPORTER'S CERTIFICATE  
2  
3 STATE OF UTAH )  
) ss.  
4 COUNTY OF SALT LAKE )  
5  
6 I, Diana Kent, RPR, CRR, and Notary Public  
7 in and for the State of Utah, do hereby certify:  
8 That on May 22, 2017, prior to being  
9 examined, the witness, Greg Shepard, was duly sworn by  
10 me to tell the truth, the whole truth, and nothing but  
11 the truth;  
12 That the testimony of said witness was  
13 reported by me in stenotype and thereafter transcribed,  
14 and that a full, true, and correct transcription of  
15 said testimony is set forth in the preceding pages;  
16 That in accordance with Rule 30(e), the  
17 witness being given the opportunity to read and sign  
18 the deposition and having waived that opportunity, the  
19 original transcript was sealed and delivered to  
20 Attorney Christopher Moran for safekeeping.  
21 I further certify that I am not kin or  
22 otherwise associated with any of the parties to said  
23 cause of action and that I am not interested in the  
24 outcome thereof.  
25  
WITNESS MY HAND AND OFFICIAL SEAL this 2nd  
day of June, 2017.  
  
\_\_\_\_\_  
Diana Kent, RPR, CRR  
Notary Public  
Residing in Salt Lake County