1 IN THE UNITED STATES DISTRICT COURT	Page 1	1N.B.E.V	Page 3
FOR THE DISTRICT OF UTAH		1 INDEX	
2 CENTRAL DIVISION		PAGE	
3 UNITED STATES OF AMERICA,)	;	3 Appearances 2	
)	4	4	
4 Plaintiff,) vs.) Case No.:		5	
5) 2:15-cv-00828 DN		6	
RAPOWER3, LLC,		7 ROBERT AULDS	
6 INTERNATIONAL AUTOMATED)		8 Examination by Ms. Hines 6	
SYSTEMS, INC., LTB1, LLC,)	'	•	
7 R. GREGORY SHEPARD,) NELDON JOHNSON and ROGER)		Examination by Mr. Austin	
8 FREEBORN,)	'	9 Further Examination by Ms. Hines 193	
		Further Examination by Mr. Austin 196	
9 Defendants.)	10	0	
)	1.	1	
10 11 **********************************	13	2	
ORAL DEPOSITION OF	1;	3	
12 ROBERT AULDS	14		
MARCH 14, 2017	19		
13 VOLUME 1	10	•	
14		0	
15	1		
16 ORAL DEPOSITION OF ROBERT AULDS, produced as a	18		
17 witness at the instance of the Plaintiff, and duly	19		
18 sworn, was taken in the above-styled and numbered cause	20	0	
19 on the 14th of March, 2017, from 9:03 a.m. to 3:36 p.m., 20 before Flora Valforte, CSR in and for the State of	2	1	
21 Texas, reported by machine shorthand, at the offices of	2	2	
22 the Internal Revenue Service, 4309 Old Jacksboro	2		
23 Highway, Wichita Falls, Texas, 76302, pursuant to the	2		
24 Federal Rules of Civil Procedure and the provisions	2		
25 stated on the record or attached hereto.		J	
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1 APPEARANCES	Page 2		Page 4
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,	Page 5		Page 7
1	EXHIBIT INDEX (continuing) NUMBER DESCRIPTION PAGE		Donald Reay, who represents Defendants R. Gregory
1	Exhibit 402 2013 U.S. Individual Income 159	2	Shepard and Roger Freeborn, is not here today.
	Tax Return (Bates Nos.	3	Q. (BY MS. HINES) Mr. Aulds, have you ever been
4	Aulds_R&M-00255 to 00295)	4	deposed before?
5	Exhibit 403 2014 U.S. Individual Income 159	5	A. Yes.
	Tax Return (Bates Nos.	6	Q. Okay. So you may remember some of the details
6	Aulds_R&M-00213 to 00254)	7	and how it works, but I'm going to go ahead and go
'	Exhibit 404 2015 U.S. Individual Income 160 Tax Return (Bates Nos.	8	through kind of all the introductory matters just so
8	HOWELL_JOHN-008800 to 008837)		we're on the same page.
	Exhibit 405 January 23, 2014, e-mail from 161	10	So today in the deposition I'll be asking
	Greg Shepard; Subject: Ra3	11	you questions, and you'll be providing the answers. The
10	Audit/Appeal More Ammo (Bates		court reporter is to your right. She'll be taking down
١	Nos. Gregg_P&R-000983 to		my questions and your answers.
11	000986)	14	The court reporter can't take down a nod of
12			the head, a shake of the head, uh-uh, uh-huh. So when
14		l	ask you a question, I will need a verbal response. Can
15			, ,
16		l	you do that for me?
17		18	A. Yes.
18		19	Q. Sometimes in casual conversation we have a
19			tendency to speak over one another. Today I would ask
20			that you try to wait until I finish the question before
22			you provide your answer. Do you understand?
23		23	A. Yes.
24		24	Q. Today it's my obligation to ask you
25		25	understandable questions. So if at any point in time
	Page 6		Page 8
1	PROCEEDINGS	1	you don't understand my question, please let me know,
2	ROBERT AULDS,	2	and I will rephrase it, and hopefully we'll get you a
3	having been first duly sworn, testified as follows:	3	question that you do understand. Will you do that for
4	EXAMINATION	4	me?
5	BY MS. HINES:	5	A. Yes.
6	Q. Good morning, Mr. Aulds. I introduced myself	6	Q. Sometimes it happens that I may ask a question
7	to you just a few minutes ago, but I want to go ahead	7	and later on in the deposition you may remember
1	and do that again for the record.		something that you want to add or something that you
9	My name is Erin R. Hines. I'm with the		want to change to an earlier question. If that happens
10	United States Department of Justice in the tax division,	10	
11	and I represent the United States in this matter.		the record?
12	The matter is United States versus	12	A. Yes.
	RaPower3, LLC, et al. It is March 14, 2017, at	13	Q. I'm going to try and give opportunities for
	9:03 a.m., Central time.		breaks throughout the deposition, but if at any time you
			need to use the restroom or you need a break, just let
15	I'm going to go ahead and have counsel		
l	state their appearances for the record, and then we'll		me know. I would ask that if a question is pending, you
17	get into some more of the introductory matters.		finish the question or answer the question before we
18	MS. HEALY-GALLAGHER: Erin Healy-Gallagher		take our break.
19	of the Department of Justice, also for the United	19	A. Okay.
		20	Q. Okay. Mr. Jones is here as your attorney
20	States. Chris Moran, who's representing the United	l	and the second s
20 21	States, is not present today.	21	today. If at any point in time you want to consult with
20	•	21 22	your attorney, that's fine. Just let me know. But
20 21	States, is not present today.	21 22 23	your attorney, that's fine. Just let me know. But again, if there's a question pending, I would ask that
20 21 22	States, is not present today. MR. AUSTIN: I'm Christian Austin. I	21 22 23 24	your attorney, that's fine. Just let me know. But again, if there's a question pending, I would ask that you answer the question before consulting with your
20 21 22 23	States, is not present today. MR. AUSTIN: I'm Christian Austin. I represent RaPower3.	21 22 23 24	your attorney, that's fine. Just let me know. But again, if there's a question pending, I would ask that

Aulds, Robert Pages 5 - 8

A. Okay. 1

- 2 Q. Mr. Aulds, we're here today to get an accurate
- 3 record as possible of the facts of this case as you can
- 4 remember them. I need to ask, is there anything today
- 5 that would cause you or prevent you from understanding
- 6 and answering my questions completely and fully to the
- 7 best of your ability?
- 8 A. No.
- 9 Q. Are you taking any medications or drugs that
- 10 may interfere with your memory?
- 11 A. No.
- Q. Have you had anything alcoholic to drink in the 12
- 13 last eight hours?
- 14 A. No.
- 15 Q. Are you feeling sick or unwell today?
- 16 A. No.
- Q. Are you currently under a doctor's care for any 17
- 18 illness?
- A. Yes. 19
- 20 Q. Is it related to memory or any kind of -- well,
- 21 does it relate to anything with your memory?
- 22 A. No.
- Q. Is there any reason you can think of why you 23
- 24 would not be able to answer my questions fully and
- 25 accurately today?

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- A. No. 1
- 2 Q. Today we are getting a record. So there may be
- 3 objections from the other attorneys present today.
- 4 Unless your attorney instructs you not to answer, those
- 5 objections are for the record, and you can still answer
- 6 the question. Okay?
- 7 A. Yes.
- Q. Mr. Aulds, can you give us your name and 8
- current address, please.
- 10 A. Legal name is Robert Aulds, and the address is
- 11 1252 County Road 4699, Boyd, B-o-y-d, Texas, 76023.
- 12 Q. And how long have you lived at that current
- 13 address?
- 14 A. Approximately 11 years.
- 15 Q. Okay. Mr. Aulds, do you have any aliases?
- 16 A. Bob.
- Q. What is your age? 17
- A. 60. 18
- 19 Q. Are you married?
- 20 A. Yes.
- 21 Q. Any kids?
- A. Three. 22
- 23 Q. What are their names and ages?
- A. I have twin stepchildren that are 26. That's 24
- 25 Jordan and Alexandra Martirossian -- do you want me to 25 Falls. My wife owns a medical practice in Decatur, and

Page 9 Page 11 1 spell that? M-a-r-t-i-r-o-s-s-i-a-n -- and then a son,

- 2 Joseph Aulds who's 22.
- Q. Mr. Aulds, did you graduate from high school?
- 4
- 5 Q. When did you graduate?
- 6 A. '74.
- 7 Q. What is your education after high school?
- 8 A. I attended Baylor University, Dallas Institute
- 9 of Mortuary Science. I got my real estate license from
- 10 a school, and I got some insurance stuff. I don't know
- 11 what. I could do something with insurance. It's been
- 12 awhile. I don't remember the details.
- 13 Q. When did you attend Baylor?
- 14 A. In '74 and part of '75.
- 15 Q. And did you get a degree from Baylor?
- 16 A. No.
- Q. And then you said Dallas Mortuary Science? 17
- A. Dallas Institute of Mortuary Science. 18
- 19 Q. When did you attend Dallas Institute of
- 20 Mortuary Science?
- A. In '77. 21
- 22 Q. How long a program was that?
- 23 A. It was one year, one full year.
- 24 Q. Did you complete it?
- 25 A. Yes.

Q. Did that give you a license, a certification, a 1

- 2 degree?
- A. I served a two-year apprenticeship. It was
- 4 combined. It was an embalmer's and funeral director's
- 5 license from the State of Texas.
- 6 Q. And then you said insurance. So you have like
- 7 some education or training in insurance?
- 8 A. I don't remember. I could do something with
- 9 insurance. I don't know what exactly I ended up
- 10 getting. I was selling pre-need funeral plans, and you
- 11 needed to have some sort of something to do that, and so
- 12 I did some sort of something.
- 13 Q. Okay. And when was that?
- 14 A. Sometime in the '70s or the '80s. I can't
- 15 really tell you. Probably in the '80s.
- 16 Q. And then what kind of training or education did
- 17 you have with real estate?
- A. I got my real estate license sometime in the 18
- 19 '80s while I was also a funeral director.
- 20 Q. Are you currently employed?
- 21 A. Very much so. I've got several jobs.
- 22 Q. Tell me about those jobs.
- 23 A. Okay. I own the Oreck Clean Home Center here
- 24 in Wichita Falls. I own Pat's Tea Shop here in Wichita

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Aulds, Robert Pages 9 - 12 Page 137

- 1 me see what order this is in.
- 2 Okay. Let's see. It was either August two
- 3 years ago or August three years ago, and I'm not seeing 3 t
- 4 Don Suggs' name. I know he got in. I think there's
- 5 somebody else under him.
- 6 I could potentially look at my phone. Can
- 7 I look at my phone in this room? I know we're not
- 8 supposed to look at our phones, but I would have it in
- 9 my phone. Is it a rule for this whole building or --
- 10 MS. HINES: Let's go off the record for a 11 second.
- 12 (Recess taken, 1:44 p.m. to 1:48 p.m.)
- 13 Q. (BY MS. HINES) Mr. Aulds, I believe the
- 14 question that was pending before the interruption was,
- 15 when did you learn that RaPower3 had finished research
- 16 and development?
- 17 A. Approximately August of 2014.
- 18 Q. And how did you learn that R and D was
- 19 completed?
- 20 A. An e-mail.
- 21 Q. From?
- 22 A. Greg Shepard.
- 23 Q. What was your understanding of the next steps
- 24 after research and development was completed?
- A. They were going to do whatever they needed to

- 1 A. I'm assuming whoever regulates electricity on
 - 2 the national grid, the energy whoever. There's somebody

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- 3 that regulates whether you can go on the grid or not.
- 4 Whoever that is -- the way I understand it, you have to
- 5 prove it works. Once you prove it works, then you have
- 6 to come off of it, go through the process to be
- 7 permanently placed back on it, and we're in that
- 8 process.
- 9 Q. (BY MS. HINES) Who told you what this process
- 10 was to produce electricity and get on the grid?
- 11 A. I'm sure it was e-mails from Greg Shepard
- 12 and/or RaPower.
- 13 Q. And did Greg Shepard or anyone from RaPower
- 14 tell you a specific entity or organization they were
- 15 proving that this system worked to produce electricity?
- 16 A. They probably did in the e-mail. I don't
- 17 recall the information directly.
- 18 Q. Mr. Aulds, did you produce any e-mails in
- 19 response to the United States document subpoena?
- 20 A. I'm not sure if I did or not.
- 21 Q. Did you keep all of your e-mails relating to
- 22 RaPower?
- 23 A. Yes.
- 24 Q. Where do you keep those e-mails?
- 25 A. On my -- they're in my e-mails. I mean, I can

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- 1 do to permanently stay on the grid. There's paperwork
- 2 and environmental studies, whatever they needed to do to
- 3 permanently stay on the grid.
- 4 Q. And is RaPower currently on the grid?
- 5 A. I do not know. I hope so.
- 6 Q. Have you asked?
- 7 A. I've asked my accountant.
- 8 Q. Mr. Howell?
- 9 A. Yes.
- 10 Q. And what has Mr. Howell told you?
- 11 A. He doesn't know. I'm assuming we would get an
- 12 e-mail if they were on the grid.
- 13 Q. So after R and D was completed, has RaPower3 or
- 14 anyone else produced electricity?
- 15 MR. AUSTIN: Objection; foundation.
- 16 A. They were on the grid. They proved the
- 17 technology. Then they were required to come off the
- 18 grid. Now, they didn't meter it supposedly and they
- 19 didn't sell the electricity. They just proved it would
- 20 produce it and go on there, but they did -- they did
- 21 what they had to do to move to the next step which is
- 22 permitting and all that to stay on the grid.
- 23 Q. (BY MS. HINES) So you say they were proving.
- 24 Who were they proving this to?
- 25 MR. AUSTIN: Objection; foundation.

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 1 access them through any computer. I can't remember.
- 2 You may have them in that stack. I don't remember, but
- 3 I may have offered to send them electronically. I don't
- 4 remember. I don't remember.
- 5 Q. If you didn't produce e-mails, do you think
- 6 there would be a reason why you did not produce those?
- 7 A. If I had them, either I talked to somebody and
- 8 they said don't send them at this point. Wait
- 9 until -- no. That was having to do with copying the
- 10 website. I said, "Do I have to copy everything on the
- 11 website?" No. It was -- I think I produced the
- 12 e-mails, didn't I? You probably have them in the stack.
- 13 I didn't have any reason not to produce them, I'll put
- 14 it that way.
- 15 Q. Mr. Aulds, how many lenses did you buy from
- 16 RaPower?
- 17 A. Between all three entities, I bought 500.
- 18 Q. How was that broken down between the three
- 19 entities?
- 20 A. I believe I initially bought like 18 or 23 or
- 21 something like that from -- through the Oreck store, and
- 22 then I bought 200 and something for the doctor's office,
- 23 and then I bought the rest personally.
- Q. What was the price of each lens?
- A. It's 105 down, and then a total of 1,050 is

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- 1 what they consider the down payment, and you pay that
- 2 total after you get your tax return.
- 3 Q. How did you know what the price was?
- 4 A. What the price of the lens was?
- 5 Q. Yes.
- A. Because it's on the -- when you sign up, it's 6
- 7 listed on the website.
- 8 Q. That's the RaPower3 website?
- 9 A. It's there, but it's on the actual page where
- 10 you say how many lenses you want. It figures it. If
- 11 you say you want 20 lenses, it automatically mapped it
- 12 out and told you how much your down payment was and how
- 13 much you would owe and all that.
- Q. How much have you paid and you and your other
- 15 two -- you personally and the two entities paid for the
- 16 500 lenses?
- A. It's in here somewhere. I don't know exactly. 17
- 18 Quite a bit.
- 19 Q. You paid the 105 down for each of those 500
- 20 lens?
- A. Yeah, I had to pay the 105 down when I 21
- 22 initially bought. So I paid 105 times 500, and then I
- 23 paid approximately \$40,000 for six years, five or six
- 24 years.
- 25 Q. Are you current on all of your payments for the

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- 1 lenses?
- 2 A. Yes.
- 3 Q. Do you know whether or not you or the entities
- 4 owe any money for those 500 lenses?
- A. I haven't paid for all the lenses because I 5
- 6 haven't used them all in a tax year yet.
- 7 Q. Explain what that means to me.
- A. Well, there's carry forward and carry back, and
- 9 you can carry back a year, and you can carry forward
- 10 like 20 years, and so I went back to 2010 and then did
- 11 '11, '12, '13, '14, '15, but one year they had not paid
- 12 me yet for whatever reason. They paid the year
- 13 afterwards and the year before, but they didn't pay that
- 14 specific year.
- 15 Q. Who is "they"?
- A. IRS. 16
- Q. When you say "pay," what are they paying you? 17
- A. Well, I have tax credits and accelerated 18
- 19 depreciation to cancel out monies that I had sent in
- 20 with payroll and stuff like that. So to recover it,
- 21 when they do my taxes, he shows, you know, my lens
- 22 purchases and stuff, John Howell, and for whatever
- 23 reason that year, I don't know why they hadn't paid it
- 24 yet because they paid the year before and they paid the
- 25 year afterwards, but they didn't pay that specific year.

1 That's a John Howell question.

2 Q. So how does whether or not the IRS pays you a

3 refund, how does that relate to whether or not you pay

4 RaPower for the lenses?

A. Because the way the contracts or the system was 5

6 set up is you don't owe the full balance until you've

7 received whatever the money was from that accelerated

- 8 depreciation and the energy tax credit. That's the way
- 9 it was back then. It's not that way now. Now whatever
- 10 lenses you buy, you have to pay for within the next tax
- 11 year, but when I got in, it was supposed to have been
- 12 five year carry forward, but John and I misunderstood
- 13 and thought, well, legally you can go 20 years. So I
- 14 bought enough to go 20 years. Greg Shepard and I will
- 15 have that discussion at some point.
- 16 Q. During what time period did you buy these 500
- 17 lenses between you and the two entities?
- A. I bought them all in the first two months.
- 19 Q. All in --
- 20 A. Two months that I joined. So it would have
- 21 been in December of 2012 or '11, whatever year I said.
- 22 Q. So January of '12?
- 23 A. Yeah, January of '12.
- 24 Q. And how did you decide to buy 500?
- 25 A. That's a good question. I called John, and I

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- 1 said, "How many lenses can I buy?" He said, "Well, you
- 2 can carry forward for 20 years." And so I kind of just 3 guesstimated -- I mean, honestly I didn't at that time
- 4 understand really how it all worked, but I figured if I
- 5 used, say, 20 or 30 a year, 500 just seemed like a good 6 number at the time.
- Q. So you paid the 105 down for all 500? 7
- 8 A. Correct.
 - Q. And then you said you've made additional
- 10 payments on some but not all of those 500?
- A. Correct. 11
- 12 Q. Do you know about how many you have not paid?
- 13 A. It should be in your information because I sent
- 14 you from the -- well, where would it be? Have you got
- 15 more stacks over there I haven't gotten yet because I
- 16 know it's in there somewhere because I sent you all that
- 17 good stuff or I sent the government all that good stuff.
- 18 Q. Do you know what document you're referring to?
- 19 If you know what document you're referring to, we can 20 look for it.
- 21 A. It's the document having to do with how much
- 22 money I paid RaPower.
- 23 Q. Does the document have a title? Do you know?
- MR. JONES: You're referring to the 24
- 25 contracts?

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- 1 THE WITNESS: Well, it wouldn't be
- 2 off -- well, it might be off contracts. I don't know
- 3 what it's titled, but it's money I sent RaPower.
- 4 Q. (BY MS. HINES) Do you know if -- and I know
- 5 you also had some dealings with the IRS, but are you
- 6 certain you sent it to us and not the IRS, the
- 7 Department of Justice?
- 8 A. I'm sorry. I may have lumped you in the wrong
- 9 pile. Okay. I did not send you anything. I sent it to 10 the IRS.
- 11 Q. Do you have an approximation of how many of
- 12 these lenses you think you still have yet to pay for?
- 13 A. All this information is on the website. So if
- 14 I needed to see it, I could go and see it right now, but
- 15 in my mind, I don't know.
- 16 Q. But you do know that all 500 of the lenses
- 17 you've not paid the full \$1,050?
- 18 A. Correct.
- 19 Q. Has anyone at RaPower contacted you about the
- 20 remaining payment on those 500 lenses?
- 21 A. No, because it's not due. Greg understands how
- 22 John and I read the information, and he understands
- 23 why -- when Greg did his example, he said a five-year
- 24 example. Well, the IRS allows you to have a 20-year
- 25 window of carry forward. So Greg in the five-year
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 - 1 example meant you need to do it in five years. We read
 - 2 it to mean, okay, he's an example of five years, but in
 - 3 actuality you can do 20. I didn't buy the amount I
 - 4 needed in five years. I bought the amount that I needed
 - 5 closer to 20.
 - 6 Q. So how is your -- for the remaining lenses you
 - 7 haven't made payment on, how would RaPower know that
 - 8 your obligation is now due and that you had used some of
 - 9 these lenses on your tax return?
- 10 A. Well, there is some trust factor in the idea
- 11 because they don't see my tax return. But like I call
- 12 them and tell them, "I'm getting ready to mail you a
- 13 check for \$40,000," blah, blah, blah, "And I wanted to
- 14 make sure you get it and let me know when you get it,"
- 15 and all that. So that's -- but they don't ask to see my
- 16 tax returns and stuff.
- 17 Q. How was the price of the lens determined?
- 18 A. I don't know.
- 19 Q. Did you have the opportunity to negotiate the 20 price?
- 21 A. No. Well, I didn't. I might have, but I did
- 22 not.
- 23 Q. Why not?
- A. Why did I not negotiate the price?
- 25 Q. Yes.

- 1 MR. JONES: Objection; asked and answered.
- 2 A. Didn't think of it. Didn't -- I just -- I
- 3 mean, I negotiate on a car, but I don't negotiate with
- 4 my electricity company. So there's certain things I
- 5 feel are negotiable and certain things that are not.
- Q. (BY MS. HINES) Has RaPower ever offered to buy
- 7 back any of your lenses?
- 8 A. At one point I believe there was an e-mail that
- 9 if you wanted to sell your lenses, they would buy them
- 10 back at -- in a certain time frame. I don't want to
- 11 sell my lenses because I think this business is going to
- 12 eventually work. I bought them for a reason, and I want
- 13 it to do what I meant for it to do.
- 14 Q. When was that e-mail?
- 15 A. Two, three, three, four years ago at some
- 16 point.
- 17 Q. Do you remember who sent that e-mail?
- 18 A. It would have probably been Greg Shepard, but
- 19 it was RaPower.
- 20 Q. And were there certain circumstances that you
- 21 had to meet to be eligible to have RaPower buy back your
- 22 lenses or could anyone take advantage of that offer?
- 23 A. I don't remember.
- 24 Q. Earlier, Mr. Aulds, you talked about -- you
- 25 testified it had been about three years or so since you

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- 1 actively worked RaPower?
- 2 A. Well, let's rephrase that. I worked it really,
- 3 really hard for about a month three years ago, but I
- 4 still -- if I'm talking to somebody, I will still talk
- 5 to them about RaPower, and I still carry business cards,
- 6 and I still in the course of my day-to-day operations
- 7 I'm going to mention RaPower, but I -- I was 10,
- 8 12 hours a day every day for about a month.
- 9 Q. Was there something that happened that caused
- 10 you to stop focusing 10 to 12 hours a day on it at that
- 11 point?
- 12 A. Well, we did not get on the grid in September
- 13 of 2014 like I was told we were going to, and I got
- 14 tired.
- 15 Q. You weren't making a lot of money with RaPower
- 16 at that point, were you?
- 17 MR. JONES: Objection; argumentative.
- 18 MR. AUSTIN: And leading.
- 19 A. For the month I worked really hard, I did not
- 20 make the money right then that would justify working
- 21 that hard, but every time I sell a lens, personally I
- 22 get \$1,000 bonus someday and I get 35 years, 10 percent
- 23 on every amount of money they get for 35 years. So I
- 24 see a long-term benefit to working it hard at times.
- 25 Q. (BY MS. HINES) But to date you've not received

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