

Page 1

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION
 3
 4 UNITED STATES OF)
 AMERICA,) Deposition of:
 5)
 Plaintiff,) ROGER FREEBORN
 6)
 vs.) Time on the record:
 7) 3 Hours, 52 Minutes
 RAPOWER-3, LLC,)
 8 INTERNATIONAL)
 AUTOMATED SYSTEMS, INC.,) Case No. 2:15-cv-00828 DN
 9 LTB1, LLC, R. GREGORY)
 SHEPARD, NELDON JOHNSON,) Judge David Nuffer
 10 and ROGER FREEBORN,)
)
 11 Defendants.)

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 14
 15 May 31st, 2017 * 11:00 a.m. to 3:11 p.m.
 16
 17
 18
 19 Location: United States Attorney's Office
 20 1000 SW Third Avenue -- Suite 600
 21 Portland, Oregon
 22
 23
 24
 25 Reporter: Robin Reger, RPR, CSR

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1 - I N D E X -
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 3 EXAMINATION BY: PAGE
 4 Mr. Moran 5
 5 Mr. Moran 6
 6 --OOO--
 7
 8 EXHIBITS
 9 EXHIBIT DESCRIPTION PAGE
 10
 11 Exhibit 489 Letter from U.S. Dept. of 12
 Justice, Tax Division to Mr.
 Reay, 12/29/16, Re: United
 12 States v. RaPower-3, LLC, et al.,
 document stipulation
 13
 14 Exhibit 490 Document from internet. Bates 22
 Nos. Freeborn_Rober-00030 through
 Freeborn_Roger-00062_
 15
 16 Exhibit 491 Executive Summary, Creating 24
 Stunning Advancements in
 Achieving National Energy
 17 Independence for Transportation,
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 18 Freeborn_Roger-00074 to 132
 19 Exhibit 492 Letter from Roger Freeborn to 44
 "Everyone." Bates Nos. ANDERSON_
 20 MATT000381 to 382
 21 Exhibit 493 Member Activity Report 12/1/2011 46
 to 12/31/2011. Bates Nos. Ra3
 22 009514 to 9516. Marked
 "Confidential Attorney Eyes
 23 Only."
 24 Exhibit 494 SOLCO1: 1MW/18,000 Lens Purchase 48
 Bates No. Freeborn_Roger-00623
 25

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1 EXHIBIT DESCRIPTION PAGE
 2
 3 Exhibit 495 SOLCO1: 1,000 Lens Purchase 48
 Bates No. Freeborn_Roger-00624
 4 Exhibit 496 RaPower3: 10 Lens Purchase 48
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 6 Exhibit 497 IAUS: 1MW/1,800 Lens Purchase 48
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 7 Exhibit 498 Friends of Meadowbrook Endowment 70
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 10 Fund. Bates No. TCF-000082
 11 Exhibit 500 Friends of Meadowbrook, Need A 70
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 13 Exhibit 501 Letter from Roger Freeborn to 86
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 15 Exhibit 502 Email to Hank Zwald from Roger 88
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<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS</p> <p>2</p> <p>3 ROGER FREEBORN,</p> <p>4 Having been first duly sworn to tell the truth, was</p> <p>5 examined and testified as follows:</p> <p>6</p> <p>7 MR. MORAN: Good morning, Mr. Freeborn.</p> <p>8 We're on record in the case of the United</p> <p>9 States versus RaPower3, et al., which is</p> <p>10 pending in the District Court of Utah.</p> <p>11 My name is Chris Moran with the United</p> <p>12 States Department of Justice, Tax Division.</p> <p>13 Before we go any further, could the other</p> <p>14 counsel in the room, and then the counsel on</p> <p>15 the phone, starting with the United States,</p> <p>16 make their appearances.</p> <p>17 MR. REAY: Attorney Donald Reay for</p> <p>18 Roger Freeborn.</p> <p>19 MS. HEALY-GALLAGHER: Erin</p> <p>20 Healy-Gallagher for the U.S. Department of</p> <p>21 Justice, Tax Division for the United States.</p> <p>22 MR. PAUL: Stephen Paul for RaPower3 and</p> <p>23 all the Neldon Johnson entities.</p> <p>24 MS. HINES: Erin Hines for the United</p> <p>25 States as well.</p>	<p style="text-align: right;">Page 7</p> <p>1 Q Physical address, please.</p> <p>2 A 1145 Northeast Hill Way, Estacada,</p> <p>3 Oregon 97023.</p> <p>4 Q Thank you, Mr. Freeborn.</p> <p>5 Mr. Freeborn, have you ever been deposed</p> <p>6 before?</p> <p>7 A No.</p> <p>8 Q Mr. Reay may have talked to you about</p> <p>9 how a deposition goes forward, but we're going to</p> <p>10 cover some of those ground rules before we go any</p> <p>11 further.</p> <p>12 Sitting to my right here is the court</p> <p>13 reporter. She's taking a record of everything that</p> <p>14 is said here today; my questions and your answers.</p> <p>15 And it's very important that she's able to make a</p> <p>16 clear record of everything that's said today.</p> <p>17 Like I was saying, madam court reporter,</p> <p>18 sitting here to my right, is making a record of</p> <p>19 everything that's said and done here today. But</p> <p>20 it's important that you understand the ground rules</p> <p>21 going forward.</p> <p>22 You need to speak loudly enough for</p> <p>23 madam court reporter to hear you. And towards the</p> <p>24 same end, we ask that you only answer questions with</p> <p>25 verbal responses. So no "uh-huhs," things like</p>
<p style="text-align: right;">Page 6</p> <p>1 MR. MORAN: And, Mr. Paul, just for the</p> <p>2 record to be clear, you also represent LTB,</p> <p>3 LLC, International Automated Systems as well</p> <p>4 as; is that correct?</p> <p>5 MR. PAUL: Yes, that's correct.</p> <p>6 MR. MORAN: Also for the report,</p> <p>7 Mrs. Freeborn, Mr. Freeborn's wife, is also in</p> <p>8 the room.</p> <p>9 This deposition will be governed by</p> <p>10 Federal Rules of Civil Procedure and the local</p> <p>11 rules of Utah. Since this is the only</p> <p>12 deposition this week, the court reporter will</p> <p>13 be taking the exhibits or whatever exhibits we</p> <p>14 mark with us with her at the end of the day.</p> <p>15 We also will be referring to several exhibits</p> <p>16 that have been marked in previous depositions.</p> <p>17 We'll make that clear for the record.</p> <p>18</p> <p>19 EXAMINATION</p> <p>20</p> <p>21 BY MR. MORAN:</p> <p>22 Q Mr. Freeborn, could you please state</p> <p>23 your name and address for the record.</p> <p>24 A Roger Freeborn -- Roger A. Freeborn.</p> <p>25 Mailing address, physical address?</p>	<p style="text-align: right;">Page 8</p> <p>1 that; a "yes," "no," and then you can explain your</p> <p>2 answer. Similarly, the court reporter cannot record</p> <p>3 a nod or shake of the head.</p> <p>4 We also have a tendency in casual</p> <p>5 conversation to speak over one another. So I'm</p> <p>6 going to ask that you refrain from starting to</p> <p>7 answer my question until I'm done or until I'm</p> <p>8 finished asking the question. So allow a short</p> <p>9 pause, and then you can answer my question. Do you</p> <p>10 understand?</p> <p>11 A Yes.</p> <p>12 Q When I do finish each question, your</p> <p>13 task for today is to give full and complete answers;</p> <p>14 do you understand that obligation?</p> <p>15 A Yes.</p> <p>16 Q Okay. Similarly, it's my obligation to</p> <p>17 ask understandable questions of you. So if you</p> <p>18 don't understand a question, feel free to ask me to</p> <p>19 rephrase it, and I'll do my best to ask a better</p> <p>20 question. Do you understand?</p> <p>21 A Yes.</p> <p>22 Q Occasionally another attorney may</p> <p>23 present an objection. If that happens, they are</p> <p>24 simply making an objection for the record. You</p> <p>25 still need to answer the question unless your</p>

<p style="text-align: right;">Page 9</p> <p>1 attorney, Mr. Reay, instructs you not to answer in 2 order to preserve a privilege. Do you understand 3 that? 4 A Yes. 5 Q Sometimes what might happen throughout 6 the day is that you realize an answer you gave 7 previously wasn't correct or you want to expound 8 upon that answer; that's fine. That could be five 9 minutes or an hour later. When that occurs, just 10 tell me there's something you would like to clarify 11 for the record, and we'll give you a chance to do 12 so. Do you understand? 13 A Yes. 14 Q If you need to take a break throughout 15 the deposition, that's fine. I only ask that you 16 not take a break while a question is pending. So 17 just answer the pending question, and then if you 18 need to take a break, either to use the bathroom, 19 talk to Mr. Reay, that's fine, just not while a 20 question is pending. Do you understand? 21 A Yes. 22 Q Mr. Freeborn, we're here today to get as 23 accurate a record as possible of your recollection 24 of the facts of the case. So I have to ask you, is 25 there anything that would prevent you from</p>	<p style="text-align: right;">Page 11</p> <p>1 MR. MORAN: Sure. 2 BY MR. MORAN: 3 Q Mr. Freeborn, do you recall where you 4 searched for documents? 5 A I put everything that I had into the 6 DropBox for Don that related to RaPower3. In 7 addition to that, I had an email address with Bigger 8 Faster Stronger, and I no longer have access to 9 those documents or that email address, so I couldn't 10 pull them up. 11 Q Okay. So when you say you put 12 everything you had relating to RaPower3 on the 13 DropBox, my question is: Where did you get 14 everything you had related to RaPower3? Where were 15 those documents located? Were they on a computer; 16 were they on a hard drive; were they stored on an 17 email server somewhere? 18 A On my computer. And I use AOL. So I 19 guess they would have everything, AOL. I don't 20 save -- I don't have a file or anything. I have a 21 gmail account, but I don't really use it. 22 Q So is your testimony that you searched 23 your AOL account for emails that related to 24 RaPower3? 25 A No. Emails I just -- you know, on my</p>
<p style="text-align: right;">Page 10</p> <p>1 understanding and answering my questions today? 2 A No. 3 Q Have you had anything alcoholic to drink 4 in the past eight hours? 5 A No. 6 Q Mr. Freeborn, do you recall getting a 7 request for production of documents from the United 8 States? The request was served -- 9 A Yes. 10 Q You do recall it? 11 A Yes. 12 Q Okay. What did you do to comply with 13 those requests? 14 A I -- 15 MR. REAY: Objection, compound. Do you 16 want him to answer -- I mean, there was a lot 17 that we did. Do you want a history of it 18 from -- 19 MR. MORAN: No, just a general, if he 20 searched -- if he did a keyword search through 21 his email, that would be fine; and the 22 locations of where he searched for documents. 23 I don't need a step-by-step explanation. 24 MR. REAY: Okay. Will you rephrase the 25 question just to clarify?</p>	<p style="text-align: right;">Page 12</p> <p>1 computer the things I had on my computer are what I 2 remember putting in the DropBox. 3 Q Do you recall if you withheld any 4 documents? 5 A As I said, I don't have access to the 6 BFS server. 7 Q So emails that were on the BFS server 8 you didn't produce because you didn't have access 9 to? 10 A Correct. 11 (Exhibit 489 was marked.) 12 BY MR. MORAN: 13 Q We marked an Exhibit 489, which is in 14 front of you, Mr. Freeborn; is that correct? 15 A Yes. 16 Q Exhibit 489 is a letter that I sent to 17 your attorney, Mr. Reay, on December 29th, 2016. A 18 three-page letter, and it lists several documents by 19 Bates number. These are documents that were 20 produced to the United States by various third 21 parties. We've discussed this beforehand. We 22 understand that there's no disputes that the 23 documents reflected in Exhibit 489 are authentic for 24 purposes of federal evidence 901; is that correct? 25 MR. REAY: Are you asking me?</p>

<p style="text-align: right;">Page 13</p> <p>1 MR. MORAN: Well, I'm asking 2 Mr. Freeborn. I'm going to ask Mr. Reay to 3 confirm. 4 BY MR. MORAN: 5 Q Is that correct, Mr. Freeborn? 6 A Well, I don't know what 901 is. 7 Q Well, the documents that are reflected 8 here that are reflected in Exhibit 489, I understand 9 that you have reviewed those documents, and they are 10 emails and correspondence that you sent out to 11 various third parties; is that your understanding as 12 well? 13 A Yes. 14 MR. MORAN: And is that correct, 15 Mr. Reay? 16 MR. REAY: That's correct. I say that's 17 correct; we've confirmed that those are emails 18 that were sent by Roger Freeborn for purposes 19 of augmentation under Rule 901. Correct? 20 MR. MORAN: Yes. 21 BY MR. MORAN: 22 Q Mr. Freeborn, I'm going to list off a 23 couple of email addresses that we understand that 24 you have used in the past, and I'm going to confirm 25 that that's correct. Coachfreeb@aol.com?</p>	<p style="text-align: right;">Page 15</p> <p>1 lenses? 2 A I know that they work. They concentrate 3 the sun's energy to a focal point that produces 4 intense heat. 5 Q They concentrate the sun's energy to 6 create intense heat? 7 A That's my understanding. 8 Q What do they do with that heat? 9 MR. REAY: Objection, calls for 10 speculation. 11 THE WITNESS: I don't know. As I said 12 earlier, they are in the process of developing 13 an energy project. 14 BY MR. MORAN: 15 Q What type of energy project? What's the 16 project going to do? 17 A Create electricity. 18 Q Anything else? 19 A I don't know that. 20 Q When did you first -- withdrawn. 21 When did you first hear of the lenses -- 22 the solar lenses that RaPower3 markets? 23 A I don't remember an exact date. 24 Q Can you give me a year, approximate 25 year? A range is fine.</p>
<p style="text-align: right;">Page 14</p> <p>1 A Correct. 2 Q That is your email? 3 A Yes. 4 Q How about coachfreeb63@gmail.com? 5 A Yes. 6 Q Coachfreeb@rapower3.com? 7 A Yes. 8 Q And coachfreeb@bfsmail.com? 9 A Yes. 10 Q Mr. Freeborn, are you familiar with an 11 entity by the name of RaPower3? 12 A Yes. 13 Q What does RaPower3 do? 14 MR. REAY: Objection, calls for 15 speculation. 16 BY MR. MORAN: 17 Q You can answer. 18 A They are, my understanding, in 19 development of a concentrated solar facility. 20 Q Are they involved in solar lenses of any 21 type? 22 A Involved in what? 23 Q Marketing of solar lenses. 24 A Yes. 25 Q What can you tell me about those solar</p>	<p style="text-align: right;">Page 16</p> <p>1 A 2009 or '10. 2 Q How did you hear about the solar lenses? 3 A Greg Shepard and I have had a 4 relationship since the late '70s. I wrote for his 5 magazine on occasion, and became a BFS clinician, 6 which is a strength and conditioning program, and 7 did clinics around the country, and I helped develop 8 a certification program for that company. And I 9 heard it first -- about the project, from Greg, and 10 he asked me to help him in the RaPower3 program. 11 Q So you heard from Greg Shepard in 2009 12 or 2010 about the RaPower3 program? 13 A I believe that's true. 14 Q And you testified about Bigger Faster 15 Stronger. And I understand that you had a position 16 at Bigger Faster Stronger. Was the first time you 17 heard about RaPower3 in the context of Bigger Faster 18 Stronger? 19 A What do you mean by "context"? 20 Q Well, we've heard testimony from several 21 individuals who knew yourself and Greg Shepard 22 through Bigger Faster Stronger, and they first 23 learned of the lenses, like I said, through their 24 contacts with Bigger Faster Stronger. So my 25 question is: Did you hear about the lenses through</p>

Page 17	<p>1 a Bigger Faster Stronger email address or through a 2 Bigger Faster Stronger publication? 3 A I met with Greg in his office. 4 Q His office where? 5 A In Salt Lake. 6 Q Is that at the Bigger Faster Stronger 7 office? 8 A Yes. 9 Q So you were at the Bigger Faster 10 Stronger office in Salt Lake and Greg Shepard 11 mentioned to you that he was aware of this solar 12 lens project? 13 A Correct. 14 Q What's Greg's position at Bigger Faster 15 Stronger? What was it at the time? 16 A At the time he was founder and CEO. 17 Q Of Bigger Faster Stronger? 18 A Yes. 19 Q And what was your position at Bigger 20 Faster Stronger at the time? 21 A I was a clinician. 22 Q And what did you do in your role as a 23 clinician? 24 A I would travel to schools that -- high 25 schools or junior high schools -- that would</p>	Page 19	<p>1 Q Earlier in the deposition we talked 2 about the solar lenses that RaPower3 sells. 3 A Uh-huh. 4 Q Have you ever purchased any solar 5 lenses? 6 A Yes. 7 Q Would you have purchased it around the 8 same time you became aware of them in 2009 and 2010? 9 A I don't remember an exact date. 10 Q A year is fine; an approximate year is 11 fine as well. 12 A 2010 perhaps. 13 MR. MORAN: Let's go off the record 14 quickly. 15 (Off the record.) 16 MR. MORAN: Madam court reporter, would 17 you please read back the last question. 18 (The reporter read back the 19 following question: "Q Would 20 you have purchased it around 21 the same time you became aware 22 of them in 2009 and 2010?") 23 THE WITNESS: Yes. 24 BY MR. MORAN: 25 Q You purchased your solar lenses in 2009</p>
Page 18	<p>1 contract with Bigger Faster Stronger to do a clinic, 2 usually involving coaches and athletes to market the 3 Bigger Faster Stronger program to the school, and 4 they could adopt it for their strength and 5 conditioning program. 6 Q Were you ever a national director of 7 Bigger Faster Stronger? 8 A That was a title that I assumed. I had 9 a major role in the development of the certification 10 program. 11 Q The certification program at Bigger 12 Faster Stronger? 13 A Yes. So I was the main guy for a while. 14 Q The main guy at Bigger Faster Stronger? 15 A No, for certification. 16 Q You were the main guy at Bigger Faster 17 Stronger's certification program? 18 A Yeah. 19 Q Was Greg Shepard aware that you used the 20 title "national director" for Bigger Faster 21 Stronger? 22 A I don't know that for sure. 23 Q Did Greg Shepard ever tell you to not 24 use that title? 25 A No.</p>	Page 20	<p>1 or 2010? 2 A Yes. 3 Q When you bought your first solar lenses 4 in 2009 or 2010, you testified earlier you first 5 heard about them through Greg Shepard; right? 6 A Correct. 7 Q And what did Greg Shepard tell you about 8 the lenses you purchased? 9 A The lenses were to be used in the 10 development of the solar energy project in Delta, 11 Utah. 12 Q Are you familiar with a gentleman by the 13 name of Neldon Johnson? 14 A Yes. 15 Q How are you familiar with Neldon 16 Johnson? 17 A Neldon is the -- I believe he's the CEO 18 for International Automated Systems. 19 Q What is International Automated Systems? 20 A It's a company that Neldon Johnson runs 21 and has developed the solar lenses. 22 Q International Automated Systems 23 developed the solar lenses? 24 A Yes, to my knowledge. 25 Q When you bought your solar lenses in</p>

<p style="text-align: right;">Page 21</p> <p>1 2010, did you have any contact with Neldon Johnson? 2 A Yes. 3 Q How did you have that contact? 4 A I went to Delta and toured the site and 5 had lunch with Neldon. We discussed the progress of 6 the project. 7 Q What did Mr. Johnson tell you? 8 A That was a long time ago. We just 9 discussed the development of the project. At that 10 time it was a solar lens, and how it would produce 11 intense heat, which he demonstrated at the project. 12 Q This is in 2010? An approximate year is 13 fine. 14 A 2009 or 2010. 15 Q So Neldon Johnson told you it would 16 demonstrate heat -- or Neldon Johnson told you it 17 would produce intense heat. And what would be done 18 with that heat? 19 A If you can produce heat, you can heat 20 water, which can run through a turbine that would 21 produce electricity. He has a revolutionary turbine 22 which dramatically reduces the size of a turbine. 23 Q When you saw the lens produce heat, was 24 it heating any water? 25 A It was a demonstration to just show the</p>	<p style="text-align: right;">Page 23</p> <p>1 BY MR. MORAN: 2 Q Mr. Freeborn, you've been handed a copy 3 of what's been marked for identification Plaintiff's 4 Exhibit 490. This is a document that you produced 5 to the United States that's been Bates stamped 6 Freeborn_Roger-00030 through Freeborn_Roger-00062. 7 Mr. Freeborn, do you recognize 8 Exhibit 490? 9 MR. MORAN: Did someone on the phone 10 just say something? 11 THE WITNESS: Did you say I produced 12 this? 13 BY MR. MORAN: 14 Q You produced this document to the United 15 States; yes? 16 A I'm not the author of this, what looks 17 like a Power Point. 18 Q Okay. Well, do you know who is the 19 author? 20 A No. 21 Q Do you know where you got this document 22 from? 23 A This was online, Internet. 24 Q Do you know which website you got 25 Exhibit 490 from? Would it be the RaPower3's</p>
<p style="text-align: right;">Page 22</p> <p>1 heat. So he put a 2-by-4 on a focal point. He 2 lined up the apparatus to the sun, and he put a 3 2-by-4 on the focal point, and in less than ten 4 seconds it was aflame. 5 Q Mr. Freeborn, I didn't ask you about a 6 2-by-4, I asked about water. So my question -- 7 A Well -- 8 Q Let me finish the question. Was the 9 heat that was being created by the solar lens -- you 10 called it intense heat -- was that heating any 11 water? 12 A Not at that time. 13 Q Have you ever seen the solar lens heat 14 water? 15 A I don't recall water. 16 Q So is the answer to my question no? 17 A No. 18 Q Let me ask the question again. Have you 19 ever seen a solar lens be used to heat water? 20 A No. 21 Q Have you ever seen heat from a solar 22 lens be used to turn a turbine? 23 A No. 24 (Exhibit 490 was marked.) 25</p>	<p style="text-align: right;">Page 24</p> <p>1 website? 2 A I believe it was -- to my knowledge, it 3 would be RaPower3. 4 Q So RaPower3's website or from Greg 5 Shepard or from Neldon Johnson? 6 A I recognize some of these pages from a 7 IAUS website. 8 Q When you say "IAUS," do you mean the 9 International Automated Systems? 10 A Yes. And some would be from RaPower3. 11 Q Okay. So am I to understand that you 12 received Exhibit 490 either from RaPower3 or 13 International Automated System's website? 14 A Correct. 15 Q No more questions on that. 16 (Exhibit 491 was marked.) 17 BY MR. MORAN: 18 Q Mr. Freeborn, we've been given a copy of 19 what's been marked for identification as Plaintiff's 20 Exhibit 491, which is Bates stamped 21 Freeborn_Roger-00074 through Freeborn_Roger-00132. 22 Do you recognize Plaintiff's 23 Exhibit 491? 24 A Yes. 25 Q What is it?</p>

<p style="text-align: right;">Page 25</p> <p>1 A It's a summary of what Neldon has 2 achieved in the development of the solar energy 3 project. 4 Q So am I to understand you got the 5 information in Exhibit 491 from Neldon Johnson? 6 A Not directly. 7 Q Does that mean you received it from 8 Neldon Johnson indirectly? 9 A Indirectly? What do you mean by 10 "indirectly"? 11 Q Well, are you suggesting that there was 12 someone in the middle who you received it from? 13 A Yeah. I never received this directly 14 from Neldon, no. 15 Q All right. Who would you have received 16 it from or did you create this information yourself? 17 A I did not produce this information. 18 Q Then where did you get it from? 19 A From RaPower3. 20 Q Any individual at RaPower3? 21 A Well, that would be Greg. 22 Q Greg Shepard? 23 A Shepard. 24 Q What did you do with this information 25 after Mr. Shepard gave it to you?</p>	<p style="text-align: right;">Page 27</p> <p>1 A It was before. The 2-by-4 was before. 2 It was just a demonstration of the lenses at that 3 time. 4 Q So what else have you seen the 5 concentrated heat do? 6 A Achieve high temperatures. 7 Q Anything else? 8 A I haven't been down there in five years. 9 Q But you haven't seen it do anything 10 then? 11 A No. 12 Q Did you ever do anything else with 13 Exhibit 491 such as send it to any other parties? 14 Actually, let me rephrase that question. 15 Have you done anything else with 16 Exhibit 491 such as send it to other people who have 17 purchased solar lenses? 18 A I don't recall. 19 Q You don't recall. Okay. 20 When you bought -- 21 A When I what? 22 Q Would you like to expand upon an answer? 23 A I was just noticing page 127, and it's a 24 chart that only an engineer would understand. 25 Q So you don't understand --</p>
<p style="text-align: right;">Page 26</p> <p>1 A I tried to read and understand it, which 2 is above my comprehension. It's rather technical. 3 Q So am I to understand you didn't 4 understand the information in Exhibit 491? 5 A Not all of it. 6 Q Okay. What did you understand? 7 MR. REAY: Objection, compound. For the 8 record, this is a 74- to 132-page document. 9 BY MR. MORAN: 10 Q Mr. Freeborn, I'm not asking you to go 11 line by line and then state what you didn't 12 understand. But, in summary, what did you take from 13 this document after you received it from Greg 14 Shepard? 15 A To me it was a validation of the patents 16 that Neldon has secured from the patent office on 17 aspects of what goes into the solar project, such as 18 the last page, which talks about a solar 19 concentrator, which I've seen in operation. The 20 solar lenses direct the sun's energy to the opening 21 of the solar lens at the top, and then the solar 22 lens concentrates it down to a smaller focal point, 23 which increases the heat. So, you know, I've seen 24 that. 25 Q Is that when you saw it burn a 2-by-4?</p>	<p style="text-align: right;">Page 28</p> <p>1 A I'm not an engineer. 2 Q Mr. Freeborn, I skipped going through 3 your background to keep this deposition short, but 4 am I to understand in the past your working career 5 was as a teacher and coach? 6 A That is correct. 38 years. 7 Q And, therefore, Exhibit 491, my 8 understanding is much of it's technical, and you 9 don't understand a significant portion of the data 10 that's in Exhibit 491? 11 A Right. 12 Q When you purchased your lenses, who did 13 you buy them from; was it RaPower3 or International 14 Automated Systems or someone else? 15 A RaPower3. 16 Q Okay. Are you aware of International 17 Automated Systems ever selling lenses itself? 18 A No. 19 Q And then after you purchased your 20 lens -- your lenses -- what did you do with them? 21 A As I said, the lenses were used in the 22 development of the solar project in Delta, Utah. 23 Q Have you ever seen your lenses? 24 A Yes. 25 Q You've seen the actual lenses that you</p>

<p style="text-align: right;">Page 29</p> <p>1 own?</p> <p>2 A Yes.</p> <p>3 Q How did you know that those lenses were</p> <p>4 yours?</p> <p>5 A I was told that by Greg Shepard when I</p> <p>6 took a tour of the solar field project.</p> <p>7 Q So you were on a tour of the solar field</p> <p>8 in Delta and Shepard said to you, "Those are your</p> <p>9 lenses, Roger"?</p> <p>10 A Yes.</p> <p>11 Q How many lenses did you purchase?</p> <p>12 A Ten.</p> <p>13 Q Total?</p> <p>14 A At that time, ten.</p> <p>15 Q At that time you purchased ten lenses?</p> <p>16 A Initially.</p> <p>17 Q And there were lenses on a tower and</p> <p>18 Mr. Shepard told you that those were your lenses?</p> <p>19 A Correct.</p> <p>20 Q What were they doing, "they" being the</p> <p>21 lenses?</p> <p>22 A They were being developed, the towers in</p> <p>23 development.</p> <p>24 Q What do you mean by "in development"?</p> <p>25 A As Exhibit 491 suggests, there are a lot</p>	<p style="text-align: right;">Page 31</p> <p>1 such as the concentrated -- solar concentrator and</p> <p>2 the turbine and the tracking device would all be</p> <p>3 added later.</p> <p>4 Q That didn't answer my question. My</p> <p>5 question is: During the few hours that you were</p> <p>6 there, were your lenses --</p> <p>7 A I thought I already answered that.</p> <p>8 Q I don't think you did. During the three</p> <p>9 hours that you were there, were your lenses being</p> <p>10 used for any purpose?</p> <p>11 A Yes.</p> <p>12 Q What purpose is that?</p> <p>13 A That they were there, and they were</p> <p>14 real. It wasn't a made-up story. So like I said,</p> <p>15 proof of concept.</p> <p>16 Q So your testimony is that the lenses</p> <p>17 were there, and they existed, and that was the</p> <p>18 purpose?</p> <p>19 A And they were installed.</p> <p>20 Q And they were installed?</p> <p>21 A On a tower.</p> <p>22 Q And they were producing heat?</p> <p>23 A Whenever heat would line them up, they</p> <p>24 would produce heat.</p> <p>25 Q What do you mean "line them up"?</p>
<p style="text-align: right;">Page 30</p> <p>1 of moving parts that go into the production of the</p> <p>2 solar field; the lenses are a part of that</p> <p>3 development.</p> <p>4 Q Were your lenses heating any water?</p> <p>5 MR. REAY: Asked and answered.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MR. MORAN:</p> <p>8 Q I think you testified earlier they were</p> <p>9 generating heat; right?</p> <p>10 A Yes.</p> <p>11 Q Was anything being done with the heat</p> <p>12 that they were generating?</p> <p>13 MR. REAY: Objection, calls for</p> <p>14 speculation.</p> <p>15 THE WITNESS: I was there for a few</p> <p>16 hours.</p> <p>17 BY MR. MORAN:</p> <p>18 Q During the few hours that you were</p> <p>19 there, was the heat that was being generated being</p> <p>20 used for any purpose?</p> <p>21 A In any revolutionary technology, you</p> <p>22 need proof of concepts; and if the lenses cannot</p> <p>23 generate heat, your project is not going to work.</p> <p>24 So proof of concept would be that the lenses do</p> <p>25 generate the heat, and that these other complements,</p>	<p style="text-align: right;">Page 32</p> <p>1 A Each tower is to have a solar tracking</p> <p>2 device that tracks the sun as it goes through the</p> <p>3 sky, from dawn to dusk, to make the lenses and tower</p> <p>4 more efficient than photovoltaics.</p> <p>5 Q And for the few hours that you saw your</p> <p>6 lenses, was that tracking device in operation?</p> <p>7 A I've seen it in operation.</p> <p>8 Q My question is: When you saw your</p> <p>9 lenses, and you say they were producing heat, was</p> <p>10 that tracking device in operation?</p> <p>11 A Not on every tower.</p> <p>12 Q Not the tower where your lenses were?</p> <p>13 A Correct.</p> <p>14 Q I still don't think you have answered my</p> <p>15 question about what was happening with the heat that</p> <p>16 was being generated.</p> <p>17 MR. REAY: Objection, asked and</p> <p>18 answered, and calls for speculation.</p> <p>19 THE WITNESS: The intense heat, to my</p> <p>20 knowledge, would be developed only if it was in</p> <p>21 the right tracking of the sun, and they were</p> <p>22 not lined up at the time.</p> <p>23 BY MR. MORAN:</p> <p>24 Q Okay. So the tracking device wasn't</p> <p>25 operating on the tower that your lenses were on,</p>

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1 and, therefore, there was no intense heat being
 2 produced by your lenses; is that correct?
 3 A Yes.
 4 Q Have you ever seen your lenses producing
 5 the intense heat that you have referred to?
 6 MR. REAY: Objection, asked and
 7 answered.
 8 THE WITNESS: No.
 9 BY MR. MORAN:
 10 Q Has anyone ever told you that your
 11 lenses were being used to produce the intense heat
 12 that you have referred to?
 13 A No one has told me.
 14 Q No one has told you that your lenses
 15 have produced the intense heat that you have
 16 referred to earlier in your testimony?
 17 A Correct.
 18 Q So I just want to make sure we're clear.
 19 What purpose, other than development, has the heat
 20 from your lenses ever been used for?
 21 MR. REAY: Objection, calls for
 22 speculation.
 23 THE WITNESS: What was the question
 24 again?
 25 MR. MORAN: Would you read back the

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1 question.
 2 (The reporter read back the
 3 previous question: "Q So I
 4 just want to make sure we're
 5 clear. What purpose, other
 6 than development, has the heat
 7 from your lenses ever been
 8 used for?")
 9 THE WITNESS: I can't answer that.
 10 BY MR. MORAN:
 11 Q Why can't you answer that? They are
 12 your lenses.
 13 A I haven't been there when they have been
 14 in use.
 15 Q When were they in use?
 16 MR. REAY: Objection, calls for
 17 speculation.
 18 THE WITNESS: I don't know.
 19 BY MR. MORAN:
 20 Q Do you expect that you would have been
 21 told when your lenses were in use?
 22 A Well, that hinges on the definition of
 23 "in use." You might have a different definition of
 24 "in use" than I have a definition of "in use."
 25 Q What's your definition of "in use"?

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1 MR. REAY: Objection, calls for legal
 2 conclusions.
 3 BY MR. MORAN:
 4 Q Like I said, other than development, are
 5 you aware of any other use of your solar lenses at
 6 any time?
 7 A No.
 8 Q You testified that your lenses were used
 9 in development. Who was using your lenses for
 10 development purposes?
 11 MR. REAY: Objection, calls for
 12 speculation.
 13 THE WITNESS: The towers with the
 14 lenses, to my knowledge, were produced by
 15 Neldon Johnson, and I was --
 16 BY MR. MORAN:
 17 Q So your understanding is that Neldon
 18 Johnson and IAUS were developing your towers --
 19 withdrawn.
 20 Your understanding is that Neldon
 21 Johnson and International Automated Systems was
 22 using your lenses for development purposes?
 23 A I'd have to speculate on that.
 24 Q Well, I'm asking you about your lenses.
 25 A Right.

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1 Q So to the extent that you have any
 2 knowledge about your lenses, I'm not asking you to
 3 speculate. If you don't have the knowledge, then
 4 you can testify to that.
 5 MR. REAY: In other words, it's okay to
 6 say I don't know if you don't know something.
 7 That's what he's saying.
 8 (The reporter read back the
 9 following question: "Q Your
 10 understanding is that Neldon
 11 Johnson and International
 12 Automated Systems was using
 13 your lenses for development
 14 purposes?")
 15 BY MR. MORAN:
 16 Q Is that correct?
 17 A I don't know for sure.
 18 Q Well, who else would be using them for
 19 development purposes?
 20 A We bought our lenses from RaPower3.
 21 Q I know you bought the lenses from
 22 RaPower3. So is RaPower3 using your lenses for
 23 development purposes?
 24 MR. REAY: Objection, asked and answered
 25 and calls for speculation.

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1 THE WITNESS: I don't know for sure.
 2 BY MR. MORAN:
 3 Q You don't know who is using your lenses
 4 for development purposes?
 5 A I can't say for sure. I don't know.
 6 Q You don't know? Okay.
 7 Besides the fact Greg Shepard told you
 8 that your lenses were in a tower, is there any
 9 reason that you believe that your lenses were
 10 actually in the tower?
 11 A No other reason.
 12 Q Okay.
 13 A Except on a tour, along with Greg and
 14 Neldon Johnson, they said the lenses were on a
 15 tower.
 16 Q That the lenses in the tower were your
 17 lenses?
 18 A Yes.
 19 Q Okay. Where are your lenses today?
 20 MR. REAY: Objection, asked and
 21 answered, calls for speculation.
 22 THE WITNESS: I assume they are on the
 23 tower.
 24 BY MR. MORAN:
 25 Q Why do you believe that or why do you

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1 assume that?
 2 A On occasion we would travel to Salt Lake
 3 for Bigger Faster Stronger, and in addition to that
 4 we would go with Greg down to the Delta site, and
 5 the towers were there and the lenses are installed.
 6 And every time that we would go, which would be
 7 perhaps once a year in the beginning, we would see
 8 development every time, and I've also seen online
 9 video of the installed towers.
 10 Q When was the last time you saw your
 11 lens? An approximate date is fine.
 12 A 2014.
 13 Q In 2014 you saw what you believed to be
 14 your lens in a tower?
 15 A In a video.
 16 Q Oh, in a video?
 17 A Correct.
 18 Q Who sent you that video?
 19 A Online video.
 20 Q And so you were, I assume, at your house
 21 when you saw the video?
 22 A Yes.
 23 Q And when you saw the video, how did you
 24 know that the lenses you saw in the video were
 25 yours?

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1 A It's the same field and the same towers
 2 that had lenses in it, so I assumed.
 3 Q Have you ever known the lenses in the
 4 towers to break?
 5 A Yes.
 6 Q Have you ever been notified that your
 7 lenses were broken?
 8 A No.
 9 Q So how do you know whether or not your
 10 lenses were broken or were not broken?
 11 MR. REAY: Objection, asked and
 12 answered.
 13 We don't have a lot of time. A lot of
 14 this has made it pretty clear that he's
 15 speculating those are his lenses. We're
 16 beating this down --
 17 MR. MORAN: Well, we can move on.
 18 BY MR. MORAN:
 19 Q I just want to be clear. When was the
 20 last time you saw what you know to be your lenses;
 21 was it in 2014 when you saw the video?
 22 A Yes.
 23 Q Have you ever received any income from
 24 your lenses being used for any purpose?
 25 A Not yet.

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1 Q Do you expect that you would know if
 2 there was income being generated by the use of your
 3 lenses?
 4 A Yes.
 5 Q Where do you expect you would hear that
 6 from?
 7 A RaPower3.
 8 Q How about Greg Shepard and Neldon
 9 Johnson?
 10 A Well, I don't know who would inform me.
 11 Q But you've never been informed that they
 12 were generating money?
 13 A Not yet.
 14 Q And you've owned these lenses for at
 15 least seven years?
 16 A Yeah.
 17 Q In total, how many lenses did you buy?
 18 A Fourteen.
 19 Q I think you testified that you bought
 20 ten initially, and then at some point you bought
 21 four more?
 22 A Correct.
 23 Q When was that?
 24 A 2012, I believe.
 25 Q Are you aware of any purported tax

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1 benefits associated with your solar lenses?
 2 A Yes.
 3 Q What are those tax benefits?
 4 A Tax credits and depreciation.
 5 Q Who told you about these tax benefits of
 6 tax credits and depreciation?
 7 A Greg Shepard.
 8 Q Anyone else?
 9 A A CPA in Salt Lake.
 10 Q Do you recall the name of that CPA? Is
 11 it Hansen and Barnett?
 12 A No.
 13 Q How about Mantyla McReynolds?
 14 A Please?
 15 Q How about Mantyla McReynolds?
 16 A No.
 17 Q But you believe there's a CPA in Salt
 18 Lake that told you about the tax benefits?
 19 A Correct. I don't recall his name.
 20 Q How about any attorneys?
 21 A I'm assuming you have the McConkie --
 22 Q You mean the Kirton McConkie letter?
 23 A Yes.
 24 Q Okay. Anyone else?
 25 A I'd have to look at my records. But

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1 there were other attorneys.
 2 Q Does the name Todd Anderson ring a bell?
 3 A I believe he's a CPA, lives in Arizona,
 4 maybe.
 5 Q Did you do any research on your own
 6 about the tax benefits?
 7 A Yes.
 8 Q What research did you do?
 9 A I researched the tax code.
 10 Q You looked up the tax code online?
 11 A Online. And the Recovery Acts passed by
 12 congress, which said that they wanted to foster
 13 alternate means of electricity production through
 14 the use of tax credits and depreciation.
 15 Q You read the Recovery Act?
 16 A I've read the part that related to solar
 17 tax credits.
 18 Q And you understood that congress wanted
 19 to encourage electricity production?
 20 A Yes.
 21 Q Have your solar lenses ever generated
 22 electricity?
 23 MR. REAY: Objection, asked and
 24 answered.
 25 THE WITNESS: Not yet.

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1 BY MR. MORAN:
 2 Q Besides reading the Recovery Act and
 3 certain sections of the tax code, is there anything
 4 else -- any other research you did yourself?
 5 A I do my taxes with TurboTax, and they
 6 had sections related to it.
 7 Q Anything else?
 8 A There was a report early on from -- I
 9 forget the name -- but attorneys in Delta that was
 10 provided.
 11 Q Who provided that?
 12 A Greg.
 13 Q Greg Shepard?
 14 A Yes.
 15 Q And do you know if that's the Todd
 16 Anderson lawyer?
 17 A I'd have to look.
 18 Q Mr. Freeborn, I'm handing you a copy of
 19 what's been marked for identification as Exhibit 23.
 20 Do you recognize Exhibit 23?
 21 A Yes.
 22 Q Is this the letter you were just
 23 referring to?
 24 A Yes.
 25 Q Exhibit 23 is a letter dated August 8th,

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1 2012, from the Anderson Law Center and addressed to
 2 "Potential RaPower3 Customer."
 3 Besides the sources you've just
 4 described, is there any other research you did on
 5 your own?
 6 A No.
 7 Q Mr. Freeborn, in the past have you ever
 8 described yourself as the national director of
 9 RaPower3?
 10 A Perhaps.
 11 (Exhibit 492 was marked.)
 12 BY MR. MORAN:
 13 Q Mr. Freeborn, you've been handed a copy
 14 of what's marked for identification as Plaintiff's
 15 Exhibit 492 ANDERSON_MATT_000381 through
 16 ANDERSON_MATT-000382. I believe this is a document
 17 you've already stipulated as authentic.
 18 A Right.
 19 Q Did you send this document?
 20 A Yes.
 21 Q Who did you send it to?
 22 A Potential RaPower3 members.
 23 Q Just to lay the foundation. Have you
 24 ever sold RaPower3 lenses to other people?
 25 A Yes.

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1 Q Would it be correct to refer to those
 2 people as your downline?
 3 A Yes.
 4 Q And directing your attention to the
 5 second page of Exhibit 492, it says, "Roger
 6 Freeborn, RaPower3 National Director"; do you see
 7 that?
 8 A I see that.
 9 Q Would you commonly use the title of
 10 RaPower3 National Director?
 11 A Yes.
 12 Q Was Greg Shepard aware that you were
 13 using the title RaPower3 National Director?
 14 A Yes.
 15 Q Did he ever tell you not to use the
 16 title RaPower3 National Director?
 17 A Yes.
 18 Q And we'll get to this. I understand
 19 that at some point you were terminated. But up
 20 until the point you were terminated from RaPower3,
 21 did Greg Shepard ever tell you not to use the title
 22 RaPower3 National Director?
 23 A No.
 24 Q Did Neldon Johnson know you were using
 25 the title RaPower3 National Director?

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1 A Don't know that.
 2 Q We just discussed your downline. About
 3 how many people are in your downline?
 4 A The downline is six levels deep. I've
 5 never taken the time to count them.
 6 (Exhibit 493 was marked.)
 7 BY MR. MORAN:
 8 Q Mr. Freeborn, I've handed you a copy of
 9 what's marked in this litigation as Plaintiff's
 10 Exhibit 493, which is Bates stamped Ra3 009514
 11 through Ra3 009516.
 12 This purports to be -- this document was
 13 produced by RaPower3, purports to be a Member
 14 Activity Report for Roger Allen Freeborn. Do you
 15 recognize this document?
 16 A Yes.
 17 Q What is it?
 18 A It's a record of downline payments.
 19 Q Does Exhibit 493 reflect your downline
 20 as of December of 2011?
 21 A It appears so. I would have to
 22 obviously check my records to make sure.
 23 Q Okay. Well, your attorney may have
 24 discussed this with you, but you will have the
 25 opportunity to review the transcript and correct any

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1 discrepancies, so feel free to review your records;
 2 and if there's anything inaccurate in Exhibit 493,
 3 there will be an opportunity for you to clear that
 4 up.
 5 A You said you were going to take these
 6 back.
 7 Q The court reporter is going to take
 8 those. Your attorney has a copy of what's been
 9 marked as Exhibit 493. You can look at that.
 10 There's a couple names that aren't on
 11 here that I'd like to ask you about. Is Peter Greg
 12 in your downline?
 13 A Yes.
 14 Q How about Brian Zeleznik?
 15 A Yes.
 16 Q How about Mark Sikseh?
 17 A Yes.
 18 MR. MORAN: Anyone want to take a quick
 19 break? I don't need to, just wanted to offer
 20 it.
 21 MR. REAY: Do you want a break?
 22 THE WITNESS: Yes.
 23 MR. MORAN: Go off the record.
 24 (Exhibit 494, Exhibit 495, Exhibit 496
 25 Exhibit 497 were marked.)

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1 BY MR. MORAN:
 2 Q Mr. Freeborn, back on the record after a
 3 quick break. You've been given copies of what's
 4 marked for identification as Plaintiff's Exhibits
 5 494, 495, 496 and 497. These are documents that you
 6 produced, Exhibit 494 Bates stamped
 7 Freeborn_Roger-00623.
 8 A I did not produce these.
 9 Q You didn't produce these documents to
 10 the United States?
 11 A They were produced by someone else.
 12 MR. REAY: I think you had given them to
 13 me, and I gave them to U.S. Attorney's Office.
 14 BY MR. MORAN:
 15 Q I'll rephrase the question. When I say
 16 "produced," you gave them to the United States. I'm
 17 going to ask some questions about where you got them
 18 so we can clear that up.
 19 But did you give these documents to the
 20 United States pursuant to our request for production
 21 of documents?
 22 A Yes.
 23 Q Okay. And also to clear up the record
 24 what documents we're talking about, I think we
 25 covered 494.

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1 Exhibit 495 is Bates stamped
 2 Freeborn_Roger-00064. Exhibit 496 is Bates stamped
 3 Freeborn_Roger-00066. Exhibit 497 is Bates stamped
 4 Freeborn_Roger-00070.
 5 Mr. Freeborn, you testified that you
 6 produced these documents to the United States. Who
 7 created them?
 8 A They came from RaPower3. I have no idea
 9 who created them.
 10 Q Okay. How did they come to be in your
 11 possession?
 12 A Email from RaPower3.
 13 Q Who at RaPower3 would have sent you
 14 these documents via email?
 15 A Greg Shepard.
 16 Q So is it your testimony that you did not
 17 create these documents?
 18 A I did not create these documents.
 19 Q Okay. What are these documents?
 20 A I copied them onto my computer, saved
 21 it. This was an email attachment.
 22 Q These documents appear to explain
 23 purported tax benefits associated with the purchase
 24 of solar lenses from RaPower3; is that a fair
 25 characterization?

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1 A That's part of it.
 2 Q If that's part of it, what else is it?
 3 A It explains the flow of money for a
 4 1-megawatt, 18,000-lens purchase from RaPower3.
 5 Q And for the record, you are referring to
 6 Exhibit 494?
 7 A Yes.
 8 Q And there's a line on the bottom
 9 left-hand corner starting with "IRS" and referring
 10 to a tax credit depreciation; is that correct?
 11 A Yes.
 12 Q Exhibit 494 refers to SOLCO1. What is
 13 SOLCO1?
 14 A To the best of my knowledge, it was a
 15 company created by RaPower3 to market large
 16 purchases.
 17 Q Since we're done with RaPower3, direct
 18 your attention to Exhibit 496.
 19 A Okay.
 20 Q This is "RaPower3: 10-lens Purchase" at
 21 the top; is that correct?
 22 A Yes.
 23 Q It's very similar to Exhibit 494 except
 24 Exhibit 496 refers to a RaPower3 purchase of 10
 25 lenses. There's also a -- the bottom left-hand

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1 corner refers to the IRS, and the 2012 tax credit of
 2 \$10,500, then 2012 depreciation \$17,850, and 2013 to
 3 2017 depreciation of \$11,900.
 4 What does that text mean to you?
 5 A A 10-lens purchase would be a --
 6 generate a tax credit of \$10,500, and a 10-lens
 7 purchase would generate depreciation as indicated.
 8 Q Who came up with these numbers?
 9 A RaPower3 and the federal government.
 10 Q Who at RaPower3 generated these numbers?
 11 A I don't know.
 12 Q But you got this diagram from Greg
 13 Shepard?
 14 A Yes.
 15 Q No further questions on these documents.
 16 Oh, actually one more. Did you ever send documents,
 17 such as the last four exhibits, to anyone?
 18 A Yes.
 19 Q Who?
 20 A That was a long time ago.
 21 Q Would you have sent it to your downline?
 22 MR. REAY: Objection to form of the
 23 question. Are you asking about these specific
 24 documents or documents like these?
 25

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1 BY MR. MORAN:
 2 Q Let me ask a two-part question. Have
 3 you ever sent these documents to other RaPower3
 4 customers in your downline?
 5 A I may have sent copies to downline,
 6 certain members, but this was obviously documents
 7 that were created to give to potential buyers.
 8 Q So is your answer, yes, you sent these
 9 documents to potential solar lens buyers?
 10 A If it applied. Not everyone is going to
 11 make an 18,000-lens purchase.
 12 Q How about Exhibit 496 from RaPower3, a
 13 10-lens purchase? Would this apply to anyone in
 14 your downline?
 15 A Yes.
 16 Q So would you have used, for example,
 17 Exhibit 496 as a demonstrative to show RaPower3
 18 customers their purported potential tax benefits?
 19 MR. REAY: Objection to the form of the
 20 question. Are you asking did he use or would
 21 he have used?
 22 BY MR. MORAN:
 23 Q I think the question is: Would you have
 24 used, but I can rephrase it. Did you use
 25 Exhibit 496 to send -- did you send Exhibit 496 to

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1 potential RaPower3 customers?
 2 A Yes, but these are 2012 tax credits.
 3 Q Okay.
 4 A So that would be figured in 2013. I was
 5 no longer employed. I was let go in 2013.
 6 Q We're getting to that.
 7 A Well, and so I would have sent this off
 8 to a few people but not very many.
 9 Q Okay.
 10 A I did not send it en masse to my
 11 downline.
 12 Q You didn't?
 13 A I don't believe so. I don't remember
 14 doing that.
 15 Q Would you have sent out exhibits like
 16 Exhibit 496 to people in your downline?
 17 A I would probably have done that to some
 18 potential buyer, yes.
 19 Q And you testified earlier that the
 20 federal government came up with the numbers that
 21 appear, for example, in Exhibit 496; do you recall
 22 that testimony?
 23 A Yes.
 24 Q Can you tell me where you saw --
 25 A Solar tax credits are in the tax code.

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1 Q Do you know what section?
 2 A I'd have to look it up again.
 3 Q Okay. Can you tell me who at the
 4 federal government told you that these tax credits
 5 were allowable?
 6 A Who at the federal government; is that
 7 what you asked?
 8 Q Yes.
 9 A I had no contact with anybody from the
 10 federal government.
 11 Q Okay. So when you say that the federal
 12 government came up with the numbers in Exhibit 496
 13 regarding tax credits and depreciation, the basis
 14 for your testimony is that you looked at the tax
 15 code?
 16 A I verified that -- this obviously was
 17 given to me, as I said -- and with the Anderson
 18 letter and other information that is easily
 19 obtainable via TurboTax.
 20 Q But my question is about people or
 21 entities of the federal government.
 22 A I said I had no contact with the federal
 23 government other than the tax code, and who knows
 24 who wrote that.
 25 Q All right. Done with those documents

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1 for now.
 2 Mr. Freeborn, I'm handing you a copy of
 3 what's been marked as Plaintiff's Exhibit 80. Do
 4 you recognize this document?
 5 A No.
 6 Q For the record, Plaintiff's Exhibit 80
 7 is from the deposition of Brian Zeleznik. It's
 8 Bates stamped ZELEZ_ B&A000778. Mr. Freeborn, do
 9 you recognize Exhibit 80?
 10 A Yes.
 11 Q What is it?
 12 A It's a copy of two emails; one I
 13 received, and one I sent.
 14 Q Okay. I'll direct your attention to
 15 the -- appears to be an email that you received on
 16 June 2nd, 2013, from Greg Shepard; is that correct?
 17 A Yes.
 18 Q And it says that you were terminated
 19 from RaPower3?
 20 A Yes, correct.
 21 Q Why were you terminated from RaPower3?
 22 A I was never given a reason.
 23 Q You have no idea why you were terminated
 24 from RaPower3?
 25 A As I said, I was never given a reason.

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1 Q Do you have any idea why you were fired
 2 or why you were terminated by RaPower3?
 3 A No.
 4 Q Just out of the blue on June 2nd, 2013,
 5 Greg Shepard sent you an email saying you were
 6 terminated from RaPower3?
 7 A Yes.
 8 Q Last week Greg Shepard testified that
 9 you had a disagreement with Neldon Johnson. Do you
 10 know what he might be talking about?
 11 A No.
 12 Q It's your testimony you have no idea why
 13 RaPower3 terminated you?
 14 A I was never given a reason.
 15 Q Okay. Did anything occur in the
 16 timeline leading up to June 2013 that would indicate
 17 why you were terminated from RaPower3?
 18 A I can't think of anything.
 19 Q Has anyone else been terminated from
 20 RaPower3 in this manner?
 21 MR. REAY: Objection, calls for
 22 speculation.
 23 THE WITNESS: I have no idea.
 24 BY MR. MORAN:
 25 Q In this email Mr. Shepard says, "This

<p style="text-align: right;">Page 57</p> <p>1 email is a follow-up to yesterday's (6-1-2013) 2 termination notice by phone." 3 Did you have a phone call with 4 Mr. Shepard in June 2013? 5 A Yes. 6 Q What did Mr. Shepard tell you in that 7 phone call? 8 A I was terminated. 9 Q He didn't give you a reason? 10 A I was never given a reason. 11 Q Mr. Freeborn, you've been testifying 12 that you've been, I think, friends with Mr. Freeborn 13 for -- 14 A I'm Mr. Freeborn. 15 Q You testified that you've been friends 16 with Greg Shepard for many, many years; right? 17 A Yes. 18 Q Do you still consider Mr. Shepard to be 19 a friend? 20 A No. 21 Q Why not? 22 A Because I was never given a reason. 23 Q So you were friends with Mr. Shepard up 24 until June of 2013? 25 A Yes.</p>	<p style="text-align: right;">Page 59</p> <p>1 considered to be a rep -- 2 A Would it be worth pursuing. 3 Q And who did you ask to reconsider this 4 decision? 5 A Greg Shepard. 6 Q And what did he say? 7 A I was terminated. 8 Q Was this around the same time, June 1st 9 of 2013? 10 A Yeah. 11 Q Did you talk to anyone else about the 12 decision to terminate you? 13 A I sent out a letter to an awful lot of 14 people, and we had reaction from an awful lot of 15 people. 16 Q What was that reaction? 17 A They were wondering why. 18 Q And who were these people? Were they 19 your downline? 20 A And friends and associates at Bigger 21 Faster Stronger. 22 Q Who is that; what are their names? 23 A Well, there's Bob Bozied, B-O-Z-I-E-D, 24 Doug Ekmark, E-K-M-A-R-K. There's -- I can't 25 remember. I can't remember the names.</p>
<p style="text-align: right;">Page 58</p> <p>1 Q And then he terminated you out of the 2 blue? 3 A Correct. 4 Q About how long did the call on June 1st 5 last? 6 A I don't remember. 7 Q Do you recall what you talked about on 8 the phone call with Mr. Shepard on June 1st, 2013? 9 A Other than the fact that I was 10 terminated, I don't remember anything else in the 11 call. 12 Q Did you do anything to get Mr. Shepard 13 or RaPower3 to reconsider their decision? 14 A They would not consider it. 15 Q So you did ask them to reconsider? 16 A Yes. 17 Q You asked RaPower3 and Greg Shepard to 18 reconsider their decision to terminate you? 19 A Not in those exact words, but that 20 was -- 21 Q Can you tell me the substance of what 22 you said? 23 A I asked if it would -- if I would be 24 considered to get back as a rep. 25 Q You asked them if you would be</p>	<p style="text-align: right;">Page 60</p> <p>1 Q All right. What was their reaction to 2 you being terminated? 3 A Surprised. 4 Q And so sounds like no one knows why you 5 were terminated? 6 A Somebody does because I was terminated. 7 Q All right. Greg Shepard said it was 8 because you had a disagreement with Neldon Johnson; 9 is that incorrect? 10 A I don't think I had a disagreement with 11 Neldon Johnson. 12 Q Did you ever have an argument with 13 Neldon Johnson? 14 A I don't remember an argument with 15 Neldon. 16 Q Did you ever ask Neldon Johnson why you 17 were terminated? 18 A No. 19 Q Why not? 20 A Because I was terminated by RaPower3. 21 Q Do you know who owns RaPower3? 22 A Who owns RaPower3? 23 Q Yes. 24 A I don't know. 25 Q You don't know. Do you think Greg</p>

<p style="text-align: right;">Page 61</p> <p>1 Shepard was lying when he said that you had a 2 disagreement with Neldon Johnson? 3 A I don't know why he would say that. 4 Greg and I had a decades-long relationship, and up 5 until this letter, everything that he ever said to 6 me and that we ever did together was a success. And 7 this abruptly states that I was terminated for no 8 reason. So I, my wife, my family, and an awful lot 9 of people wonder why. 10 Q And I know you've been friends with Greg 11 Shepard for decades, and that's why I really want to 12 understand why Greg Shepard, out of the blue, would 13 terminate you. 14 A You would have to ask him. 15 Q I did, and he said you had a 16 disagreement with Neldon Johnson, and Neldon Johnson 17 told him to fire you. And he didn't know anything 18 else about it, that's why I'm asking you. 19 A I don't know anything about it -- 20 argument with Neldon. I don't remember an 21 argument -- 22 Q Okay. 23 A -- with either of them. 24 Q Just out of the blue in June 2013 you 25 were terminated; is that your testimony?</p>	<p style="text-align: right;">Page 63</p> <p>1 BY MR. MORAN: 2 Q Okay. Did you ever consider any type of 3 legal action against RaPower3 or Greg Shepard? 4 A Yes. 5 Q You considered it? 6 A Yes. 7 Q Did you ever file any type of action 8 against them? 9 A No. 10 Q Why not? 11 A They had more money than I do, and I 12 didn't have the money to litigate. 13 Q Okay. Why did you consider a legal 14 action against them? 15 A I was terminated without reason. 16 Q Did you think that was fair? 17 A Obviously not. 18 Q Mr. Freeborn, I'm handing you what's 19 been marked for identification as Plaintiff's 20 Exhibit 480, and I'm going to hand you a copy of 21 what's been marked for identification as Plaintiff's 22 Exhibit 370. I'll ask you to take a minute to 23 review them. Let me know once you have. 24 A (Witness complies.) 25 Q Have you had a chance to review them?</p>
<p style="text-align: right;">Page 62</p> <p>1 A Yes. 2 Q And you asked Greg Shepard why -- did 3 you ask Greg Shepard why you were being terminated? 4 A I don't remember. 5 Q You don't remember if you asked him? 6 A No, I don't remember. 7 Q Well -- 8 A This really -- it says without notice or 9 reason I received this on the date indicated, and 10 those folks refused to contact or discuss. That's 11 my answer right there. They sent me the email 12 saying that I was terminated. 13 Q And those folks you are referring to 14 Greg Johnson -- are you referring to Greg Shepard 15 when you say these words? 16 A Yes. Greg Shepard and RaPower3. 17 Q So it sounds like you did contact him 18 and asked him why you were being terminated? 19 A He wouldn't give me a reason. 20 Q Did he say why he wouldn't give you a 21 reason? 22 MR. REAY: Objection, asked and 23 answered. 24 THE WITNESS: No. 25</p>	<p style="text-align: right;">Page 64</p> <p>1 A This is the first time I've seen it 2 other than the memorandum. 3 Q Well, that was going to be my first 4 question. Have you ever seen Exhibit 480 or -- 5 A No. 6 Q Okay. You haven't seen Exhibit 480. 7 How about the first two pages of Exhibit 370? 8 A No. 9 Q Exhibit 480 is entitled a "Cease and 10 Desist Letter" from Tate Bennett sent on behalf of 11 Todd Anderson. And Exhibit 370 is a letter dated 12 January 10, 2014, from Kirton McConkie. 13 Exhibit 370, at least the first two pages of Exhibit 14 370, appear to inform Mr. Johnson and Mr. Shepard 15 that the Kirton McConkie memo does not say what they 16 think it says; is that the fair description of the 17 first two pages of Exhibit 370? 18 A (Witness reading.) What was your 19 question again? 20 MR. MORAN: Would you read back the 21 question. 22 (The reporter read back the 23 previous question.) 24 THE WITNESS: Well, obviously I've never 25 seen this. This is the first time. This is</p>

<p style="text-align: right;">Page 65</p> <p>1 2014. I was not involved with RaPower3 or 2 Neldon or IAUS, so I've never seen it. 3 BY MR. MORAN: 4 Q Well, my question isn't whether or not 5 you've seen it, you already said you didn't, and I 6 understand that. But, for example, the third 7 paragraph, it says, "Second, as stated on page two 8 of the Memorandum, the analysis within the 9 Memorandum only applies if, among other factors, the 10 purchasers are 'taxed as subchapter C corporations 11 for federal income tax purposes.' The Memorandum's 12 analysis of when energy tax credits may be available 13 does not apply to any other type of taxpayer, 14 including individuals, trusts, partnerships, limited 15 liability companies taxed as partnerships or 16 corporations taxed as subchapter S corporations." 17 Do you know what a C corporation is? 18 A I'm not familiar with that. 19 Q Do you know if you own a C corporation? 20 A I do not own a C corporation. 21 Q Would you have liked to have seen the 22 first two pages of Exhibit 370 before today? 23 A I believed that the letter is 24 contradictory to the document. As it says on page 25 one of the memorandum, it says, "The solar lenses</p>	<p style="text-align: right;">Page 67</p> <p>1 that wrote the memorandum on October 31st, 2012? 2 MR. REAY: Objection, calls for 3 speculation. 4 THE WITNESS: I can't say for sure. 5 BY MR. MORAN: 6 Q Okay. All right. Well, I'll ask this 7 question again. I don't think you answered it. 8 Does the first two pages of Exhibit 370 mean 9 anything to you? 10 MR. REAY: Objection, vague. Identify 11 what "me" means. 12 BY MR. MORAN: 13 Q Do the first two pages of Exhibit 370 14 have any impact on your belief as to whether or not 15 tax credits or depreciation are allowable in the 16 solar lenses you purchased? 17 MR. REAY: Objection, calls for legal 18 conclusions. 19 THE WITNESS: I'm not a lawyer. 20 BY MR. MORAN: 21 Q I understand you're not a lawyer, but 22 I'll represent to you that Ken Birrell is. He's a 23 tax lawyer. 24 A Well, I don't know why he would write 25 that letter.</p>
<p style="text-align: right;">Page 66</p> <p>1 that buyers purchase from seller, the solar lenses 2 will qualify as energy property that is eligible for 3 the energy tax credit under Code Section 48," and 4 then they go through a calculation. 5 Q So the first two pages of Exhibit 370 6 don't mean anything to you? 7 A First time I've seen it. I find it 8 confusing. 9 Q You find the first two pages of 10 Exhibit 370 confusing? 11 A As I said, I believe that the first two 12 pages are in -- they don't agree with what the 13 memorandum states. 14 Q And the memorandum was written by the 15 same people who wrote the letter in the first two 16 pages of Exhibit 370; right? 17 MR. REAY: Objection, calls for 18 speculation. 19 THE WITNESS: Well, I don't know. 20 BY MR. MORAN: 21 Q On KM00275, it's signed by Kenneth W. 22 Birrell, and the Kirton McConkie Memorandum is dated 23 October 31st, 2012, and KM00276 is from Kenneth W. 24 Birrell. So I'll ask my question again: Did the 25 same person write the letter of January 10, 2014</p>	<p style="text-align: right;">Page 68</p> <p>1 Q Okay. Now, the memorandum of October 2 31st, 2012, do you know where Mr. Birrell got the 3 information that he relied on in the memorandum? 4 MR. REAY: Objection, calls for 5 speculation. 6 THE WITNESS: Well, he cites the Code 7 Section 48(a)(3)(A)(i) or (ii). 8 Q All right. I'll direct your attention 9 to the "Factual Background." 10 A Right. That's where that is. He also 11 cites Code Section 1274. 12 Q All right. 13 A So I would believe that he refers to the 14 tax code. 15 Q I agree with you he refers to the tax 16 code, but he also talks about the solar lenses that 17 are purchased by buyers, and then a series of facts. 18 Do you know where he got those facts from? 19 A I have no idea. 20 Q Could it have been anyone other than 21 RaPower3, Neldon Johnson or Greg Shepard? 22 MR. REAY: Objection, calls for 23 speculation. 24 BY MR. MORAN: 25 Q Or International Automated Systems?</p>

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1 A I don't know.
 2 Q You don't know of anyone else you could
 3 have gotten that information from?
 4 A What information are you talking about?
 5 The Reinvestment Act of 2009, that's the Recovery
 6 Act.
 7 Q No. I'm talking about the facts. I can
 8 read them for you, if you want. But under the
 9 heading "Factual Background" it says, "The solar
 10 lenses will be purchased by buyers that are" --
 11 there are a series of options -- corporations or
 12 LLCs, neither tax-exempt nor governmental entities,
 13 and taxed as subchapter C corporations for federal
 14 income tax purposes.
 15 A Okay. This document refers to SOLCO1,
 16 and so I really had no dealings with SOLCO1.
 17 Q Well, you said that you relied on the
 18 Kirton McConkie memorandum. Is there another
 19 memorandum?
 20 A I believe this is the memorandum that I
 21 referred to.
 22 Q And my only question, and then we'll be
 23 able to move on to a different document, is if the
 24 facts that appear under Factual Background, is there
 25 anyone other than Greg Shepard, Neldon Johnson or

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1 another defendant in this case where that
 2 information could have come from?
 3 MR. REAY: Objection, calls for
 4 speculation.
 5 THE WITNESS: I do not know.
 6 BY MR. MORAN:
 7 Q Have you ever heard of one of these
 8 letters being rescinded?
 9 A I have no knowledge of these letters.
 10 Q Are you familiar with an entity called
 11 the Tiffin Charitable Foundation?
 12 A Yes.
 13 Q What is the Tiffin Charitable
 14 Foundation?
 15 A It is a foundation set up to -- it's an
 16 endowment kind of foundation for an RV park in Ohio.
 17 Q How are you familiar with the Tiffin
 18 Charitable Foundation?
 19 A My brother is in charge of the
 20 campground.
 21 Q Is your brother Richard Freeborn?
 22 A Yes.
 23 (Exhibit 498 and Exhibit 500
 24 were marked.)
 25

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1 BY MR. MORAN:
 2 Q Mr. Freeborn, you've been given a copy
 3 of three documents, Exhibit 498, which is Bates
 4 stamped TCF-000063; Exhibit 499, which is Bates
 5 stamped TCF-000082, and Exhibit 500, which is Bates
 6 stamped TCF-000083.
 7 Mr. Freeborn, these last three documents
 8 were produced by the Tiffin Charitable Foundation.
 9 Do you recognize them?
 10 A Yes.
 11 Q What are they? What are these
 12 documents? And you can walk through them.
 13 A My brother and I were -- authored these.
 14 Q You and your brother authored all three
 15 of them?
 16 A Yes.
 17 Q Okay. I'm referring to Exhibit 498, and
 18 499, and 500; correct?
 19 A Yes.
 20 Q The information that appears in Exhibits
 21 498 and 499 and 500, where did you get that
 22 information from?
 23 A Can you be more specific?
 24 Q Well, we can walk through each
 25 statement, but in general, you make several

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1 statements about taxes. For example, in
 2 Exhibit 498, third paragraph, you say, "The typical
 3 \$5,000 a year in Federal income tax payer could make
 4 well over \$180,000 in net dollars with RaPower3."
 5 A Right. Okay.
 6 Q And then in caps you say, "THIS IS
 7 ABSOLUTELY AMAZING AND YOU HAVE THE BACKING OF THE
 8 UNITED STATES GOVERNMENT." Did I read that
 9 correctly?
 10 A Yes.
 11 Q Okay. Where did you get that
 12 information from?
 13 A Which information are you talking about?
 14 Q Well, for example, "you have the backing
 15 of the United States government."
 16 A When the United States built the
 17 transcontinental railroad they didn't have the money
 18 to build it, so they gave out land grants to the
 19 railroads that were very lucrative in the long run.
 20 Okay? Now, in order to foster renewable energy,
 21 they have energy tax credits and depreciation. They
 22 had energy tax credits in the early '70s in response
 23 to the Arab oil embargo in order to foster the
 24 development of more energy systems. And, therefore,
 25 it's common knowledge that the federal government

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1 has -- would it be granted money to, like, giving
 2 credits to the solar company in California that ran
 3 through all the money and never produced anything.
 4 Q Is your testimony that you think it's
 5 common knowledge that these statements are correct?
 6 A No. It's common knowledge that the
 7 federal government has awarded grants to numerous
 8 solar companies around the nation to develop
 9 alternative means of energy, and that the majority
 10 of those companies have gone out of business. And
 11 Neldon has not taken any money from anyone, that I
 12 know of, and everything is paid for, and he isn't
 13 carrying a big debt, as far as I know. And the
 14 question comes as to if he's developing an
 15 alternative means of energy that will change the way
 16 that electricity might be generated, why are we here
 17 today?
 18 Q All right. Well, let me ask a more
 19 pointed question. You've talked about several
 20 entities that are involved in this case --
 21 A Right.
 22 Q -- what makes you say that the RaPower3
 23 solar lenses have the backing of the United States
 24 government?
 25 MR. REAY: Objection, mischaracterizes

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1 testimony and the exhibit.
 2 Q Let me ask a different question. In
 3 Exhibit 498, when you're talking about renewable
 4 energy systems, are you talking about the solar
 5 lenses that RaPower3 sells?
 6 A I'm talking about the full system of
 7 which the lenses are a component.
 8 Q Okay. So the systems -- and correct me
 9 if I'm mischaracterizing the document, please tell
 10 me -- but I understand your statements here to be
 11 that the systems that include lenses, and what you
 12 say are the associated tax benefits, have the
 13 backing of the United States government. And my
 14 question is: What do you mean by "backing of the
 15 United States government"? And I'm not talking
 16 about other entities that have gone bankrupt that
 17 are not in this case. I'm asking about RaPower3 and
 18 its alternative solar energy systems.
 19 MR. REAY: Objection, it
 20 mischaracterizes.
 21 THE WITNESS: It's stated on page two.
 22 BY MR. MORAN:
 23 Q You are referring to Exhibit 499?
 24 A 499. "The solar energy that you would
 25 purchase qualifies for depreciation on your tax

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1 return." Okay? "The program was enacted by
 2 Congress to stimulate alternative energy
 3 development." It's stated right in the opening
 4 paragraph of the Recovery Act.
 5 Q I understand that, but --
 6 A So these systems prove to be qualified.
 7 Q Proved by what?
 8 A Well, I would have to say that would be
 9 hearsay.
 10 Q You can testify to hearsay in a
 11 deposition. Who told you that?
 12 MR. REAY: Repeat the prior question.
 13 What was that?
 14 MR. MORAN: Well, he just said it would
 15 be hearsay. Can you read back the last
 16 question?
 17 (The reporter read back the
 18 following question: "Q So
 19 the systems -- and correct me
 20 if I'm mischaracterizing the
 21 document, please tell me --
 22 but I understand your
 23 statements here to be that the
 24 systems that include lenses,
 25 and what you say are the

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1 associated tax benefits, have
 2 the backing of the United
 3 States government. And my
 4 question is: What do you mean
 5 by 'backing of the United
 6 States government'?"
 7 MR. MORAN: That's the pending question,
 8 and I don't think it's been answered.
 9 MR. REAY: Objection, mischaracterizes
 10 evidence and his testimony. The question
 11 assumes an answer that counsel is interpreting.
 12 You can try to answer it if you can.
 13 THE WITNESS: We were in business for a
 14 number of years prior to this letter, and quite
 15 a number of people I know filed their taxes and
 16 got their returns, and I had some people in the
 17 tax business who -- H&R Block, for one --
 18 contacted their resources and were told that
 19 the program works as stated.
 20 I have a CPA in Florida -- from a
 21 friend, he's a friend of one of my downline --
 22 and he -- the term he used to characterize our
 23 program, he said it was "bullet proof."
 24 And so, you know, I never got this
 25 January 10, 2014 letter or this other letter,

<p style="text-align: right;">Page 77</p> <p>1 which doesn't have a date on it, from Bennett. 2 BY MR. MORAN: 3 Q All right. So I understand that there's 4 someone from H&R Block; who is that person? 5 A I don't know who that person is. He's 6 in Minnesota. 7 Q Someone from H&R Block in Minnesota? 8 A Yeah. 9 Q Do you know -- 10 A My downline -- okay. 492 refers to H&R 11 Block. 12 Q Is there a name associated with H&R 13 Block? 14 A No. 15 Q Okay. And you testified about a CPA in 16 Florida? 17 A Yeah. 18 Q What is that CPA's name? 19 A I don't have that name on the top of my 20 head. I'd have to try to look it up. 21 Q And I still don't think I've got an 22 answer. Who told you that the RaPower3 program has 23 the backing of the United States government? 24 MR. REAY: Objection, misrepresents the 25 evidence and testimony.</p>	<p style="text-align: right;">Page 79</p> <p>1 Q Well, I've read the Kirton McConkie 2 letter, and nowhere in there does it mention backing 3 of the United States government. So I want to know 4 who told you that this system has the backing of the 5 United States government? 6 MR. REAY: Objection, asked and 7 answered. 8 THE WITNESS: That would be an 9 assumption based on experience. 10 BY MR. MORAN: 11 Q Whose assumption? 12 A Our assumption, my brother and I. We 13 wrote the letter. 14 Q So you made this assumption that the 15 RaPower3 program has the backing of the United 16 States government? 17 MR. REAY: Objection, mischaracterizes 18 testimony and leads, asked and answered also. 19 THE WITNESS: As I said, experience. 20 BY MR. MORAN: 21 Q Whose experience? 22 A My experience and the experience of 23 other RaPower3 buyers. 24 Q Anything else? 25 A As to what?</p>
<p style="text-align: right;">Page 78</p> <p>1 BY MR. MORAN: 2 Q I'll withdraw it. Let me ask a 3 different question. 4 You testified that several of your 5 downline -- several people in your downline got 6 their tax benefits -- withdrawn. 7 You testified that several people in 8 your downline claimed RaPower3 tax benefits on their 9 tax returns and got refunds, and from that you 10 concluded that the RaPower3 program has the backing 11 of the United States government; is that your 12 testimony? 13 A No. They weren't RaPower3 credits, they 14 were federal tax credits -- 15 Q Okay. 16 A -- mentioned in the Recovery Act, and 17 also in the tax code, initially okayed by Kirton 18 McConkie. Why he change his mind, only he can tell 19 you that. Get him in a deposition. 20 It's logical to assume that if they want 21 alternative energy produced, and they are going to 22 foster it with tax credits that -- and they get the 23 tax credits back, or qualify for the tax credit, 24 then one would assume that until all this ruffling 25 started here in 2014, '15.</p>	<p style="text-align: right;">Page 80</p> <p>1 Q Well, I think you testified that you 2 based your statement regarding the backing of the 3 United States government on an assumption and your 4 experience; is that right? 5 A Yeah. And the other things we said 6 earlier about the tax code and the tax credits that 7 are set up in the Recovery Act. And this was an 8 example of a program that would qualify under the 9 parameters that were established by the tax code and 10 the Recovery Act. And in 2009, 2010, 2011, 2012, 11 we -- you know, then I was done with it, and -- 12 Q So based on your assumption and your 13 experience in reading the tax code, you felt 14 comfortable saying you have the backing of the 15 United States government? 16 A Does the United States government stand 17 behind the tax code? 18 Q I'm asking the questions here. 19 A So am I. 20 Q You used the phrase "the backing of the 21 United States government," and I want to know why 22 you said that. 23 MR. REAY: Asked and answered. I'm 24 going to tell him to quit answering in a minute 25 if you don't let go of this. He's asked and</p>

<p style="text-align: right;">Page 81</p> <p>1 answered the question like ten times. 2 MR. MORAN: All right. Withdraw the 3 question. 4 BY MR. MORAN: 5 Q Now that you've seen Kirton McConkie's 6 letter of January 2014, do you still believe in your 7 statement "backing of the United States government"? 8 A It's irrelevant because I didn't see it 9 in 2014. 10 Q But having seen it now, do you still 11 believe that the RaPower3 program has the backing of 12 the United States government. 13 MR. REAY: Objection, mischaracterizes 14 evidence and testimony. You don't have to 15 answer that. This is ridiculous that you are 16 harassing him about that still. 17 MR. MORAN: I want to know if it changed 18 his mind. 19 THE WITNESS: I'm not going to change my 20 mind. 21 MR. REAY: You are asking him a question 22 that's completely out of context, given his 23 testimony and the document itself. 24 MR. MORAN: Well, he's seen the Kirton 25 McConkie letter.</p>	<p style="text-align: right;">Page 83</p> <p>1 paragraph that says, "One of the most asked 2 questions I field with potential clients is, 'Does 3 this work?' The answer to that is yes, the program 4 is up, operational and running." 5 My first question is: When you refer to 6 "this," what are you referring to? 7 A "This"? 8 Q Yes. It says, "Does this work?" When 9 you say "this," what are you referring to? 10 A The RaPower3 flow of money, the revenue 11 streams. 12 Q The revenue streams? 13 A That are created. 14 Q So solar energy and electricity, isn't 15 that what you are referring to? 16 A There are four revenue streams that are 17 created with the purchase of systems. Okay? The 18 first is the tax credits and depreciation 19 incentives. That's the most immediate. 20 The second are commissions paid to a 21 RaPower3 representative on a sale of systems to a 22 prospective client. 23 There's residual income that will be -- 24 this is a future revenue stream when the solar field 25 goes into operation and produces electricity which</p>
<p style="text-align: right;">Page 82</p> <p>1 MR. REAY: You are still asking a 2 question that's totally out of context and 3 putting words in his mouth and asking him a 4 question that misrepresents his testimony and 5 twists it. You want to get the judge on the 6 phone over this question? I'm happy to do it. 7 And we can rehash everything that's been said. 8 But I'm instructing him to quit answering this 9 harassing question. 10 MR. MORAN: All right. I'll withdraw 11 that question. 12 THE WITNESS: You keep adding to that 13 pile. 14 MR. REAY: He's getting there. 15 BY MR. MORAN: 16 Q Mr. Freeborn, I'm handing you a copy of 17 what's been marked for identification as Exhibit 18 246. This is from the deposition of Peter Gregg. 19 Do you recognize Exhibit 246? 20 A Yeah. 21 Q What is it? 22 A It's an email. 23 Q From who? 24 A From me. 25 Q I'll direct your attention to the first</p>	<p style="text-align: right;">Page 84</p> <p>1 will generate income for a 30-year time period, 2 which is the use of the life of the solar unit. 3 And the fourth revenue stream are 4 bonuses that each system carries when they are 5 purchased. The bonus system has decreased over the 6 years, but it will kick in when the solar field goes 7 into operation, along with the residual income when 8 the electricity is produced. That's what this 9 refers to. 10 Q Okay. So you are not referring to any 11 generation of electricity or use of the solar 12 energy, just the revenue stream; is that right? 13 A I'm talking about what happens when 14 someone purchases a system regarding revenue. 15 Q Okay. Jumping down to the second 16 paragraph it says, "At the present time the first 17 two revenue streams are fully functional." Did I 18 read that correctly? 19 A Well, I don't see -- okay. "Fully 20 functional." Yeah. 21 Q Okay. Are any revenue streams -- are 22 any other revenue streams functional now? 23 A I only know about these. 24 Q Commissions and tax credits and 25 incentives; right?</p>

<p style="text-align: right;">Page 85</p> <p>1 A Correct.</p> <p>2 Q So no lenses are generating any residual 3 income?</p> <p>4 A Not that I know of at the present.</p> <p>5 Q If they were generating income, do you 6 think you would know?</p> <p>7 A Absolutely.</p> <p>8 Q Mr. Freeborn, am I correct that the 9 price of each lens is \$3,500?</p> <p>10 A It was.</p> <p>11 Q When was it \$3,500? Approximate dates 12 are fine.</p> <p>13 A Initially it was \$3,000, I believe.</p> <p>14 Q Do you recall when that was?</p> <p>15 A Do I recall what?</p> <p>16 Q When was the price \$3,000?</p> <p>17 A In the beginning.</p> <p>18 Q And when is the beginning? Just put an 19 approximate time on it, that's fine.</p> <p>20 A 2009. Now it's changed to \$3,500.</p> <p>21 Q Who changed it?</p> <p>22 A RaPower3 is where you buy the lenses.</p> <p>23 Q Did you have any role in changing the 24 price?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 87</p> <p>1 section of Q and A.</p> <p>2 A Uh-huh.</p> <p>3 Q Who drafted this text? It says, "Q: Do 4 you like paying taxes? Answer: No. Who does?" 5 And then more series of questions and answers. Who 6 wrote that?</p> <p>7 A Well, this is Bob.</p> <p>8 Q Bob who?</p> <p>9 A Bob was at the convention. I made a 10 practice of not including last names when we sent 11 out information about people and their business.</p> <p>12 Q So you do not know who Bob is?</p> <p>13 A I met Bob at the convention.</p> <p>14 Q Do you recall his last name?</p> <p>15 A No. I would have to research that.</p> <p>16 Q Okay. And who came up with the practice 17 of not including last names? You said "we." 18 A That would be Greg and I -- Shepard.</p> <p>19 Q Why don't you include people's last 20 names?</p> <p>21 A Privacy.</p> <p>22 Q You used John Howell's name. Why would 23 you use John Howell's name and not Bob's?</p> <p>24 A Because he provided his contact 25 information, as it says here in the letter, for</p>
<p style="text-align: right;">Page 86</p> <p>1 Q I'm sorry if you answered this. When 2 did it change to \$3,500?</p> <p>3 A My guess would be 2011, '12. I'm not 4 sure on that. I'd have to look that up.</p> <p>5 Q Well, if it turns out to be something 6 different than 2011 or '12, you can correct your 7 testimony.</p> <p>8 (Exhibit 501 was marked.)</p> <p>9 BY MR. MORAN:</p> <p>10 Q Mr. Freeborn, you've been give a copy of 11 what's been marked for identification as Plaintiff's 12 Exhibit 501, and it's been Bates stamped 13 Negron_Derek-00036 through Negron_Derek-00038.</p> <p>14 Do you recognize Exhibit 501?</p> <p>15 A Yes.</p> <p>16 Q Is it a letter that you wrote?</p> <p>17 A Yep.</p> <p>18 Q It refers to John Howell.</p> <p>19 A Yeah.</p> <p>20 Q Who is John Howell?</p> <p>21 A He's an EA in Wichita Falls, Texas.</p> <p>22 Q What's an EA?</p> <p>23 A He is a tax preparer, but he's not a 24 lawyer.</p> <p>25 Q Okay. And down at the bottom there's a</p>	<p style="text-align: right;">Page 88</p> <p>1 people to serve as the third-party validation of the 2 RaPower3 program, and also he runs howelltax.com and 3 had people send their tax preparation to him to 4 complete and submit, so he was looking for business.</p> <p>5 Q Right above the Q and A section it says, 6 "Second, Bob needs to have his 30-second icebreaker, 7 elevator speech down pat; something like:" and then 8 there's the section on the Q and A. Do you believe 9 Bob drafted this text on the Q and A?</p> <p>10 A Yes. Looks like up in paragraph two 11 where it says, "He doesn't know how his big screen 12 television works, but he likes to turn it on and 13 watch it." So, you know, in salesmanship you need a 14 30-second statement about what your business is 15 about to share with people to pique their interests.</p> <p>16 (Exhibit 502 was marked.)</p> <p>17 BY MR. MORAN:</p> <p>18 Q Mr. Freeborn, you've been given a copy 19 of what's been marked for identification as 20 Plaintiff's Exhibit 502. It's been Bates stamped 21 Freeborn_Roger-00136 through Freeborn_Roger-00137.</p> <p>22 This is a document that you gave to the 23 United States in response to our request for 24 production of documents. Do you recognize Exhibit 25 502?</p>

<p style="text-align: right;">Page 89</p> <p>1 A Yes.</p> <p>2 Q What is it? What is Exhibit 502?</p> <p>3 A It's an email I sent to Hank.</p> <p>4 Q Who is Hank?</p> <p>5 A Hank Zwald.</p> <p>6 Q How do you spell Zwald?</p> <p>7 A Z-W-A-L-D. He works for U.S. Bank in</p> <p>8 the pink tower over here.</p> <p>9 Q How do you know Mr. Zwald?</p> <p>10 A He's a friend of ours.</p> <p>11 Q Do you have a professional relationship</p> <p>12 with him?</p> <p>13 A No.</p> <p>14 Q Has he ever bought solar lenses? Has he</p> <p>15 ever bought solar lenses from RaPower3?</p> <p>16 A Yes.</p> <p>17 Q Can you describe for me what you're</p> <p>18 asking Mr. Zwald in Exhibit 502?</p> <p>19 A At the time Hank was independent, not</p> <p>20 working for U.S. Bank, and I wanted to discuss with</p> <p>21 him the RaPower3 program and how it would affect</p> <p>22 some of his clients. I was looking to hit a home</p> <p>23 run here.</p> <p>24 Q What do you mean "hit a home run"?</p> <p>25 A Well, in commissions.</p>	<p style="text-align: right;">Page 91</p> <p>1 A I don't know what activity is there</p> <p>2 other than the member activity report that I get</p> <p>3 every month.</p> <p>4 Q Okay.</p> <p>5 A So I'd have to go check.</p> <p>6 MR. MORAN: For the record, I believe</p> <p>7 Erin Hines, counsel for the United States, has</p> <p>8 dropped off the call.</p> <p>9 BY MR. MORAN:</p> <p>10 Q Let me ask the question a different way.</p> <p>11 Do you recall any of Mr. Zwald's clients buying</p> <p>12 lenses?</p> <p>13 A No.</p> <p>14 Q Just Mr. Zwald?</p> <p>15 A Yes.</p> <p>16 Q Okay. In the tenth paragraph on the</p> <p>17 first page of Exhibit 502, you refer, "Jacquie</p> <p>18 thinks you and I have a very strained relationship</p> <p>19 due to our phone conversations. Because of them and</p> <p>20 all the skepticism, she thinks the whole thing is</p> <p>21 not going to work and that we are going down the</p> <p>22 tubes." What are you referring to there?</p> <p>23 A Hank has a tendency to be negative,</p> <p>24 based on his experience with Neldon.</p> <p>25 Q Hank has experience with Neldon Johnson?</p>
<p style="text-align: right;">Page 90</p> <p>1 Q Okay. When you say he has clients, is</p> <p>2 he a CPA, is he a lawyer? What does he do?</p> <p>3 A He's a CPA but he doesn't do CPA work.</p> <p>4 He works with investments, high-end clients of the</p> <p>5 bank. They have a group of individuals that -- you</p> <p>6 know, like Merrill Lynch Pierce Fenner and Smith.</p> <p>7 Q So you were looking to sell RaPower3</p> <p>8 solar lenses to his clients?</p> <p>9 A Yes.</p> <p>10 Q And you said at the time this was</p> <p>11 written, do you recall approximately when you wrote</p> <p>12 Exhibit 502?</p> <p>13 A Well, this would be 2012 -- early 2012</p> <p>14 or late 2011.</p> <p>15 Q Okay. Now you said Mr. Zwald did buy</p> <p>16 lenses?</p> <p>17 A Yes, he did.</p> <p>18 Q How many?</p> <p>19 A Ten.</p> <p>20 Q Did any of his clients buy lenses?</p> <p>21 A I don't know that information.</p> <p>22 Q Are any of his clients in your downline?</p> <p>23 A I don't have access to my downline since</p> <p>24 I've been terminated.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 92</p> <p>1 A Yes.</p> <p>2 Q What experience is that?</p> <p>3 A Neldon is a reclusive individual, but if</p> <p>4 Hank calls him for some reason he answers Hank's</p> <p>5 telephone call when he didn't take other calls. And</p> <p>6 Hank has been a stockholder of IAUS for quite a</p> <p>7 while.</p> <p>8 Q Do you know an approximate percentage of</p> <p>9 IAUS that Hank owns?</p> <p>10 A I have no idea. Not much.</p> <p>11 Q Did you introduce Hank Zwald to Neldon</p> <p>12 Johnson?</p> <p>13 A No. He knew Neldon long before I knew</p> <p>14 Hank.</p> <p>15 Q When did you first meet Hank?</p> <p>16 A Well, that would be 2011.</p> <p>17 Q How did you meet Hank?</p> <p>18 A He attended a PowerPoint presentation</p> <p>19 that I presented on RaPower3 and its program.</p> <p>20 Q Where did you make that presentation?</p> <p>21 A That was at the conference room at the</p> <p>22 Courtyard over on 205.</p> <p>23 Q Is that here in Portland?</p> <p>24 A Sunnyside, yeah.</p> <p>25 MRS. FREEBORN: Monarch?</p>

<p style="text-align: right;">Page 93</p> <p>1 THE WITNESS: No, it was at the 2 Courtyard. 3 BY MR. MORAN: 4 Q Was it near Portland? 5 A It's Southeast Portland. It's 6 Clackamas, Clackamas Town Center, a big mall. 7 Courtyard is a couple blocks away, easy access. 8 Q All right. So at the time he showed up 9 at your presentation, he was already an IAS 10 shareholder? 11 A Yes. 12 Q And what did he tell you about IAS and 13 Neldon Johnson? 14 A Hank and I have had wide-ranging 15 conversations over, you know, the last six, seven 16 years. He thinks Neldon is a genius and will 17 revolutionize the energy industry. He's got like 25 18 patents, and 25 patents pending on his stuff. 19 Q Who is "he"? 20 A Neldon. 21 Q So why did you have a strained 22 relationship with Hank? 23 A A what relationship? 24 Q In Exhibit 502 you refer to a strained 25 relationship with Hank. I'm trying to understand</p>	<p style="text-align: right;">Page 95</p> <p>1 are adjacent to the high tension wires carrying 2 electricity to California. 3 Q So you said Hank Zwald is frustrated 4 that the field isn't operating, as many of us are. 5 Are you included? Are you frustrated with Neldon 6 Johnson? 7 A I wish it were up and running five years 8 ago. All right? He's run into unforeseen obstacles 9 that he's had to deal with and eliminate in order to 10 advance the development of the program and to 11 completion. The individual parts work, it's getting 12 them to work in concert. That seems to be the 13 hurdle. 14 Q And the answer you just gave, is that 15 based on your firsthand knowledge or what you've 16 been told by someone else? 17 A Well, I would say it would be my 18 observation of what has transpired over the last 19 three or four years, the development of the field 20 has slowed down, but every time that you go down 21 there there's progress being made. And sometimes 22 you go down there, and there's big progress. He has 23 purchased and developed a whole new factory down 24 there to make all the components. All right? It's 25 a big operation.</p>
<p style="text-align: right;">Page 94</p> <p>1 why that's so. 2 A Well, I'm an optimistic guy, and Hank 3 has a tendency to be negative about things. 4 Q So what is Hank negative about with 5 respect to Neldon Johnson? 6 A You would have to ask Hank. 7 Q Well, I know that you believe in Neldon 8 Johnson's technology, and you testified that Hank 9 Zwald does too, but you also described him as 10 negative and that you have a strained 11 relationship -- 12 A Well, he's frustrated that we don't have 13 the field up and running at present, as many of us 14 are. 15 MR. MORAN: Could you read back the 16 answer. 17 (The reporter read back the 18 previous answer.) 19 BY MR. MORAN: 20 Q When you say "the field," you are 21 referring to -- 22 A The solar energy. 23 Q In Delta, Utah? 24 A Yes. The demonstration project, and 25 then he also owns a few thousand acres of land that</p>	<p style="text-align: right;">Page 96</p> <p>1 It's now a matter of linking -- in my 2 opinion, linking all the components together so that 3 they will work right. They had things hooked up 4 once. I do remember as an example that when they 5 turned it on, it performed beyond expectations. 6 Q You saw that? 7 A I heard that. 8 Q Who did you hear that from? 9 A It came from Greg. 10 Q Greg Shepard? 11 A Yes. And that it worked beyond 12 expectation. 13 Q That's what Greg Shepard told you? 14 A Yes. And they had to solve a valve 15 problem. 16 Q You testified that all the components 17 work individually but not in concert. Which of the 18 components have you yourself seen work individually? 19 A Well, I've seen the lenses work. 20 Q When you say "work," you mean they 21 generated heat? 22 A Yes. 23 Q Anything else? 24 A I have seen the tracking system work on 25 a tower. I have seen the generator work.</p>

<p style="text-align: right;">Page 97</p> <p>1 Q What do you mean "the generator work"?</p> <p>2 What was the generator doing?</p> <p>3 A Generating power.</p> <p>4 Q What was turning the generator?</p> <p>5 A Steam heated.</p> <p>6 Q Heated by what?</p> <p>7 A I don't know what -- it had heating in</p> <p>8 it.</p> <p>9 Q Do you think it was a lens?</p> <p>10 A I don't think it was a lens at the</p> <p>11 particular time.</p> <p>12 Q Any other components you have seen</p> <p>13 working?</p> <p>14 A Well, as I said, I've seen the solar</p> <p>15 concentrator work.</p> <p>16 Q Is that the device under the lens?</p> <p>17 A Yes.</p> <p>18 Q Okay.</p> <p>19 A At the focal point.</p> <p>20 Q Anything else?</p> <p>21 A Well, I've seen the whole solar array in</p> <p>22 assembly and assembled.</p> <p>23 Q When you say "solar array," do you mean</p> <p>24 the four rings with lenses in them?</p> <p>25 A Yes. Can we speed this along a little</p>	<p style="text-align: right;">Page 99</p> <p>1 equipment.</p> <p>2 Q Oh, I thought you said it was Bigger</p> <p>3 Faster Stronger.</p> <p>4 A I said I did clinics, and at the end of</p> <p>5 the clinics I would talk to the coaches about</p> <p>6 setting up a fundraiser for their sport.</p> <p>7 Q Okay.</p> <p>8 A Okay? With the Tiffin Foundation I set</p> <p>9 up a fundraiser for endowing the park so that they</p> <p>10 would have money to operate in the future.</p> <p>11 Q All right. Let me make sure I</p> <p>12 understand that. You would do a Bigger Faster</p> <p>13 Stronger clinic, and then at the end of the Bigger</p> <p>14 Faster Stronger clinic, you would offer the</p> <p>15 opportunity for a fundraiser?</p> <p>16 A Yes.</p> <p>17 Q And was that fundraiser by selling</p> <p>18 RaPower3 solar lenses?</p> <p>19 A Correct.</p> <p>20 Q And now how does Tiffin Charitable</p> <p>21 Foundation fit into that? Is Tiffin Charitable</p> <p>22 Foundation an example --</p> <p>23 A Of fundraising.</p> <p>24 Q Okay. And just explain to me how the</p> <p>25 sale of solar lenses would benefit the Tiffin</p>
<p style="text-align: right;">Page 98</p> <p>1 bit? I'm fading.</p> <p>2 Q I think we are almost done. I have</p> <p>3 basically just one more topic. We can take a break</p> <p>4 if you like.</p> <p>5 MR. REAY: Do you want to take a break?</p> <p>6 How much longer do you have?</p> <p>7 MR. MORAN: About 15 minutes.</p> <p>8 (Off the record.)</p> <p>9 BY MR. MORAN:</p> <p>10 Q Mr. Freeborn, backing up to the Tiffin</p> <p>11 Charitable Foundation, we got a little sidetracked,</p> <p>12 but what was the arrangement you had with the Tiffin</p> <p>13 Charitable Foundation with respect to --</p> <p>14 A RaPower3, they developed a fundraising</p> <p>15 program. Okay? I will go out and do a BFS clinic,</p> <p>16 and then I would, at the end of the clinic, talk to</p> <p>17 the coaches about the possibility of creating a</p> <p>18 fundraising program to raise money for their sport.</p> <p>19 And not only did we do that with the athletics, but</p> <p>20 we also did it for endowment funds like to endow the</p> <p>21 park, and we set that up that the commissions would</p> <p>22 go to the park.</p> <p>23 Q And this is from the sale of Bigger</p> <p>24 Faster Stronger equipment?</p> <p>25 A No. This was the sale of RaPower3</p>	<p style="text-align: right;">Page 100</p> <p>1 Charitable Foundation and their park?</p> <p>2 A They would be established as the upline,</p> <p>3 so they would get the commission.</p> <p>4 Q Okay. The Tiffin Charitable Foundation</p> <p>5 would get the commission from --</p> <p>6 A The sale of lenses.</p> <p>7 Q Okay. The sale of whose lenses? Whose</p> <p>8 lenses --</p> <p>9 A RaPower3.</p> <p>10 Q But who was selling the lenses that the</p> <p>11 commission for the Tiffin Charitable Foundation</p> <p>12 would get? In other words, who sold the lenses that</p> <p>13 would ultimately result in a commission to the</p> <p>14 Tiffin Charitable Foundation?</p> <p>15 A My brother and I.</p> <p>16 Q Okay. Mr. Freeborn, the income you've</p> <p>17 received from your lenses, the only source of the</p> <p>18 income is commissions; right?</p> <p>19 A At present.</p> <p>20 Q And you received 1099s for the</p> <p>21 commissions that you received?</p> <p>22 A Correct.</p> <p>23 Q And you got those 1099s from RaPower3?</p> <p>24 A Yes.</p> <p>25 Q And you reported that income on your</p>

<p style="text-align: right;">Page 101</p> <p>1 individual tax return? 2 A Yes, correct. 3 Q In 2016 it was reported to the IRS that 4 you received \$23,453 in commissions from RaPower3; 5 does that sound about right? 6 A Yes. 7 Q Is there any reason to believe that the 8 amounts reported to the IRS are incorrect? 9 A No. 10 Q Do you know how much money the Tiffin 11 Charitable Foundation received from commissions from 12 RaPower3? An approximate number is fine. 13 A I don't have that number. I would have 14 to look it. 15 Q Do you think it's more or less than 16 20,000? 17 A More. 18 Q More or less than \$40,000? 19 A Yes. 20 Q More or less than \$75,000? 21 A In that vicinity. It's a nonprofit 22 organization. All right? Run by the county. They 23 build shelter houses, people have picnics there. 24 They have got a big swimming pool. All right? They 25 have outdoor stuff for the kids. They have a</p>	<p style="text-align: right;">Page 103</p> <p>1 BY MR. MORAN: 2 Q No one is paying Mr. Reay? 3 A That's my understanding. 4 Q All right. Let me ask you this: Have 5 you paid Mr. Reay any fees? 6 A No. 7 Q Do you expect to receive a bill from 8 Mr. Reay? 9 A No. 10 Q Do you know who is going to pay 11 Mr. Reay? 12 A I believe that Neldon is paying his fees 13 when it's paid, but he's three months behind. 14 Q You just testified that Mr. Johnson is 15 three months behind in paying Mr. Reay. How do you 16 know that? 17 MR. REAY: Objection, attorney-client 18 privilege I'm going to assert. You don't have 19 to answer that question. 20 BY MR. MORAN: 21 Q All right. Why do you think that Neldon 22 Johnson is paying? 23 A Because I was told by Greg Shepard and 24 Neldon Johnson that if it ever got this far they 25 would pay lawyer fees.</p>
<p style="text-align: right;">Page 102</p> <p>1 remodeled ballroom, 1930's-type ballroom. 2 Beautiful. Have weddings in it. 3 Q Okay. And you believe that from 4 commissions, direct from you and your brother, they 5 have got somewhere in the vicinity of \$75,000? 6 A In that vicinity. 7 Q Okay. All right. Are you paying 8 Mr. Reay's fees? 9 MR. REAY: Objection, attorney-client 10 privilege. You don't have to answer that 11 question. 12 MR. MORAN: Mr. Reay, you are asserting 13 a privilege based on -- you're asserting that 14 the payment of fees is a privileged matter? 15 MR. REAY: I do think so, yes. 16 MR. MORAN: You believe that constitutes 17 advice from an attorney? 18 MR. REAY: Probably not. I'll withdraw 19 the objection. 20 BY MR. MORAN: 21 Q You can answer. 22 MR. REAY: You can answer. 23 THE WITNESS: To my understanding, right 24 now no one is. 25</p>	<p style="text-align: right;">Page 104</p> <p>1 Q What do you mean "this far"? 2 A I've never been in a deposition before 3 with the federal government. Okay? And I've never 4 received an injunction from the DOJ. And all of 5 this material is -- except for the one email -- is 6 from prior to 2012 when I was terminated. So the 7 injunction states for me to do essentially what Greg 8 Shepard said in his email, and that is to stop doing 9 RaPower3 business, which I have done. And you're 10 asking me questions about incidents and things that 11 happened after I was no longer involved, and have no 12 knowledge of. And it's our opinion that I've 13 already abided by the injunction as stated. 14 Q All right. We'll talk about that in 15 about a minute, but my question was about the 16 arrangement for the attorney's fees. When did 17 Neldon Johnson and Greg Shepard tell you that they 18 would pay Mr. Reay's fees? 19 A They said they would get a lawyer. 20 Q When did they say that? 21 A Well, after we -- it's my opinion that 22 all three of us got the same letter from the DOJ 23 about RaPower3 might -- well, to stop conducting 24 business. 25 Q When you say "letter," do you mean the</p>

<p style="text-align: right;">Page 105</p> <p>1 complaint that was filed in this case? 2 MR. REAY: Just for clarification, it 3 wasn't titled a complaint, so he might not -- 4 THE WITNESS: It was titled an 5 injunction. 6 BY MR. MORAN: 7 Q Back in November 2015, were you served 8 with a document? 9 A Yes. 10 Q And is that document the letter that you 11 are referring to? 12 A Yes. 13 Q And is the letter that you are referring 14 to a Complaint for Permanent Injunction and Other 15 Equitable Relief? 16 A I have no idea what equitable relief is. 17 Q We're talking about a document that you 18 received around November 2015, and it was probably 19 served by a process server. I'm just trying to 20 understand, is that what you referred to when you 21 say "the letter that all three of us got"? 22 A I assume all three of us got it. 23 Q Okay. 24 A You asked when I found out that I would 25 have representation, and that hit me with that</p>	<p style="text-align: right;">Page 107</p> <p>1 2010. 2 Q And thus far Neldon Johnson has followed 3 through on that commitment? 4 A What? 5 Q And thus far Neldon Johnson has followed 6 through on that commitment? 7 A Yes. 8 (Exhibit 503 was marked.) 9 BY MR. MORAN: 10 Q Before we talk about 503, you said all 11 the way back Neldon Johnson assured you that he 12 would pay for a lawyer if it was needed. Why would 13 a lawyer be needed? 14 A It's my understanding that lawyers were 15 involved from the beginning of RaPower3, and that 16 the RaPower3 program was written with the help of 17 lawyers that knew the tax code and created a program 18 that would qualify under the tax code, and the 19 company would be set up properly. 20 Q Well, if that's the case, why would you 21 need a lawyer? 22 A Because I was a major -- what's the 23 right word -- a major representative for RaPower3 24 due to the relationship I had with Greg Shepard in 25 that clinic fundraiser program. That gave me -- I</p>
<p style="text-align: right;">Page 106</p> <p>1 letter. 2 Q The letter that was served on you by a 3 process server? 4 MRS. FREEBORN: And then you called 5 probably. 6 THE WITNESS: Was I served? 7 MRS. FREEBORN: I thought we just got it 8 in the mail. 9 MR. REAY: You can't ask other people 10 questions. If you are asked a question, answer 11 if you know the answer. 12 THE WITNESS: I believe it came in the 13 mail. 14 BY MR. MORAN: 15 Q All right. 16 A I don't remember it being served. 17 Q But that was sometime in November, 18 December 2015? 19 A Yeah. 20 Q And after that you talked to Neldon 21 Johnson and Greg Shepard? 22 A I was always told that if a lawyer was 23 needed, Neldon would pay the fees. 24 Q Okay. And when you say "always" -- 25 A All the way back to the beginning, 2009,</p>	<p style="text-align: right;">Page 108</p> <p>1 would set up clinics or the company would set up 2 clinics that would send me around the country. And 3 while I don't know how many people are in my 4 downline, it's a lot, and so I was a major retailer, 5 would that be the right -- major seller. 6 Q Of solar lenses? 7 A Yes. 8 Q And you believed you might need a lawyer 9 because of that? 10 A I'm a school teacher and a football 11 coach, and I don't have a business background, but 12 Neldon has been in court before and he's won his 13 case, but people have their eyes on what he's doing, 14 and they post a lot of negative information online. 15 People are paid to regularly post nefarious 16 information about what's going on, what he's doing. 17 And it was just businesses have lawyers in order to 18 comply with the law. You aren't going to ask a 19 football coach to represent a company to comply with 20 the law. You're going to talk to me about learning 21 how to tackle. 22 Q All right. Earlier just now you 23 testified -- when I asked you about why would 24 RaPower3 need lawyers, and you said, well, they set 25 up contracts. Do you recall that testimony that the</p>

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1 whole program had been set up by lawyers?
 2 A Well, I don't think the whole program
 3 has been set up by lawyers, but lawyers have
 4 approved of what's been set up.
 5 Q And then now you just testified that,
 6 yeah, you wouldn't have a football coach draft this
 7 because -- or set this up?
 8 A Right.
 9 Q So do I understand your testimony to be
 10 that you believed lawyers were necessary because you
 11 didn't have the expertise to form an opinion about,
 12 for example, tax benefits?
 13 A Me personally?
 14 Q Yes.
 15 A No. It was the information that I
 16 received from RaPower3 and -- well, primarily
 17 RaPower3.
 18 Q And when I asked you why would they need
 19 a lawyer, you said because you wouldn't hire a
 20 football coach to set this kind of thing up; right?
 21 A Correct.
 22 Q Okay. Who were those lawyers that you
 23 refer to?
 24 A I don't know.
 25 Q I think you earlier testified that it

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1 was Kirton McConkie and Todd Anderson?
 2 A No. These would be people that would be
 3 around in 2008 and 2009 when RaPower3 was being
 4 developed.
 5 Q Okay. Who told you that lawyers had
 6 developed the RaPower3 program?
 7 MR. REAY: Objection, mischaracterizes
 8 the testimony.
 9 THE WITNESS: Lawyers did not create it.
 10 They looked at it to see if it would meet the
 11 requirements of the law, the tax code, which --
 12 including McConkie initially did say that it
 13 qualified and the program would run smoothly.
 14 But the lawyers didn't create the program.
 15 BY MR. MORAN:
 16 Q You said they reviewed it, though?
 17 A I was told.
 18 Q Who told you that?
 19 A Greg and Neldon.
 20 Q Greg Shepard and Neldon Johnson?
 21 A Correct.
 22 Q I understand Neldon Johnson is paying
 23 for your attorney, but I'm assuming you're aware --
 24 MR. REAY: Objection, that
 25 mischaracterizes testimony.

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1 BY MR. MORAN:
 2 Q I understand that you are not paying for
 3 your lawyer, and someone else is. And I also
 4 understand Neldon Johnson and Greg Shepard told you
 5 a lawyer would be provided if it was necessary; is
 6 that correct?
 7 A Yes.
 8 Q Okay. Are you aware that there's a
 9 count for disgorgement in the United States
 10 complaint?
 11 A A what?
 12 Q A count for disgorgement. In other
 13 words, what the United States has asked for is that
 14 you be ordered to return all the money you got from
 15 RaPower3.
 16 A No. I'm not aware of that.
 17 Q You are not aware of that. Okay. Well
 18 I'll represent to you that the United States has
 19 asked for disgorgement in this case.
 20 Do you know if Neldon Johnson will repay
 21 you for amounts that you are ordered to disgorge?
 22 A I have no idea.
 23 MR. MORAN: All right. At this point I
 24 have no further questions for Mr. Freeborn
 25 except --

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1 THE WITNESS: Do you want to explain
 2 that again?
 3 MR. REAY: I'll explain it to you later.
 4 THE WITNESS: Okay.
 5 MR. MORAN: At this point -- go ahead
 6 Mr. Reay.
 7 MR. REAY: I was going to say, unless
 8 you want to go through and give him legal
 9 advice, you are welcome to.
 10 MR. MORAN: I'm not giving you legal
 11 advice. Withdrawn. I do have a couple other
 12 questions on 503.
 13 BY MR. MORAN:
 14 Q Mr. Freeborn, you testified earlier that
 15 the Tiffin Charitable Foundation had got about
 16 \$75,000 in commissions; do you recall that?
 17 A Yeah.
 18 Q In Exhibit 503, which is Bates stamped
 19 Freeborn_Roger-00620, you stated -- and this is a
 20 document that you produced. You mentioned the
 21 figure \$78,000. Is that approximately the amount of
 22 commissions Tiffin Charitable Foundation has
 23 received?
 24 A Yes.
 25 Q Directing your attention to the second

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1 page of Exhibit 503, the last paragraph, second
 2 sentence, you say, "I have over 1,000 acres of land
 3 ready to be capitalized and developed as
 4 solar/biomass power fields." Do you own over 1,000
 5 acres of land?
 6 A No.
 7 Q What are you talking about in that
 8 sentence?
 9 A I had an interested client.
 10 Q Who is that client?
 11 A He's a farmer in Jay, Florida, in
 12 association with Boo Weekley, the golfer.
 13 Q Boo who?
 14 A Boo Weekley.
 15 Q He's a professional golfer?
 16 A Yes.
 17 Q Do you recall the name of that farmer?
 18 A I'd have to go look.
 19 Q Okay. Did anything come to fruition of
 20 the deal with the farmer in Florida?
 21 A No.
 22 Q He never had any involvement with the
 23 solar lenses?
 24 A No. We didn't get that far.
 25 Q Now, the \$78,000 that Tiffin Charitable

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1 Foundation received, how much of that was from you
 2 and how much of that was from your brother?
 3 A What do you mean by "how much"?
 4 Q Well, I understand that commissions are
 5 based on sale of lenses; right?
 6 A Correct.
 7 Q And that a commission is given based --
 8 is given to someone such as yourself who has a
 9 downline; right?
 10 A Anybody.
 11 Q Okay. But a commission is warranted
 12 when someone's downline purchases lenses; right?
 13 A Sells it to somebody else, yes.
 14 Q So of the \$78,000 that Tiffin Charitable
 15 received, about how much came from your downline and
 16 how much came from your brother's downline?
 17 A I delivered a presentation to members of
 18 the park there, the people, they have their
 19 fifth-wheel, and they park it there for the summer,
 20 it's like their vacation home, so they are vested.
 21 And so I made no money on this operation, as the
 22 letter says.
 23 Q I know you didn't make any money, but I
 24 thought you testified earlier that Tiffin Charitable
 25 Foundation received part of your commissions?

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1 A I was to receive -- when we first set
 2 this fundraising thing up, they were going to --
 3 RaPower3 was going to pay a 1 percent commission to
 4 the employee that made the sale, and then it was
 5 argued -- Greg argued that 1 percent is not enough
 6 for the amount of work that's involved, and they set
 7 the commission at 5 percent. So I was to receive
 8 5 percent of the commissions here, but the
 9 accounting people of RaPower3 didn't see it that
 10 way.
 11 Q Didn't see what what way?
 12 A A 5 percent commission to me and a
 13 5 percent commission to the fundraiser. They
 14 reacted, and gave all 10 percent commission to the
 15 fundraiser. The \$78,000 is the amount of money that
 16 could be made over time with sales and the rental
 17 income and bonuses, as it says there, it was a
 18 speculative projection. It wasn't an amount of
 19 money. I have no amount of money. I do not know
 20 how much money they received.
 21 Q You don't? Okay.
 22 A No. I'd have to look it up, but I don't
 23 have access to those files.
 24 Q And you testified about the accounting
 25 people at RaPower3. Who are the accounting people

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1 at RaPower3?
 2 MR. REAY: Objection, calls for
 3 speculation.
 4 THE WITNESS: The checks are signed by
 5 Glenda Johnson.
 6 BY MR. MORAN:
 7 Q Is that who you are referring to when
 8 you say they didn't see it that way?
 9 A Yeah.
 10 Q Is that a yes?
 11 A Yes. Can we be done? You said 15
 12 minutes 40 minutes ago.
 13 MR. MORAN: I'm ready to yield to anyone
 14 else that has questions. However, I would like
 15 to have a discussion with you and your attorney
 16 off the record.
 17 Mr. Reay, as well as other counsel on
 18 the phone, has the right to ask you questions.
 19 Mr. Reay, I'll leave it up to you as to whether
 20 or not we can have that off-the-record
 21 conversation now or after you and anyone else
 22 asks questions.
 23 MR. REAY: We can do it after.
 24 MR. MORAN: At this point I have no
 25 further questions, Mr. Freeborn.

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1 MR. REAY: I don't have any further
 2 questions either.
 3 MR. MORAN: Mr. Paul, are you still with
 4 us?
 5 MR. PAUL: Yeah. This is Stephen Paul.
 6 I don't have any questions.
 7 MR. MORAN: All right. At this point
 8 let's go off the record.
 9 (Off the record.)
 10 MR. MORAN: Mr. Reay, is Mr. Freeborn
 11 going to read and sign the deposition?
 12 MR. REAY: Yes.
 13 MR. MORAN: With that, the deposition is
 14 concluded. You are free to go.
 15
 16 (Deposition concluded at 3:11 p.m.)
 17
 18
 19
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 21
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 23
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 25

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1 CERTIFICATE
 2
 3 I, ROBIN REGER, Certified Shorthand
 4 Reporter, do hereby certify that ROGER FREEBORN
 5 appeared at the time and place set forth herein;
 6 that at said time and place I reported in stenotype
 7 all testimony adduced and other oral proceedings had
 8 in the foregoing matter; that thereafter my notes
 9 were transcribed using computer-aided transcription
 10 under my direction; and the foregoing transcript,
 11 Pages 1 to 118, constitutes a full, true and
 12 accurate record of such testimony adduced and oral
 13 proceedings had and of the whole thereof.
 14 I further certify review of the transcript
 15 was requested.
 16 Witness my hand and stamp at Portland,
 17 Oregon, this 6th day of June, 2017.
 18
 19
 20
 21 _____
 22 ROBIN REGER, RPR
 23 Certified Shorthand Reporter
 24 Oregon Certificate No. 10-0416
 25 RPR Certificate No. 1461
 Expires 6/30/17

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1 ACKNOWLEDGEMENT OF DEPONENT
 2
 3 I, Roger Freeborn, do hereby acknowledge
 4 that I have read and examined the foregoing
 5 testimony, and the same is a true, correct and
 6 complete transcription of the testimony given by me,
 7 and any corrections appear on the attached Errata
 8 Sheet signed by me.
 9
 10
 11 _____
 12 (DATE) (SIGNATURE)
 13
 14
 15
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