

*Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828  
Deposition of Roger Halverson taken October 18, 2016*

<b>Plaintiff Designations – BLUE</b> <b>Defendant Completeness—</b> <b>PURPLE</b> <b>Defendant Counter-Designations –</b> <b>RED (at end)</b>	<b>Defendant Designations – RED</b> <b>Plaintiff Completeness—</b> <b>PURPLE</b> <b>Plaintiff Counter Designations –</b> <b>BLUE (at end)</b>	<b>Defense Objections/Responses –</b> <b>RED</b> <b>Plaintiff Objections/Responses –</b> <b>BLUE</b>	<b>Exhibits</b>	<b>Ruling</b>
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<b>PLAINTIFF DESIGNATIONS</b>	<b>DEFENDANT -DESIGNATIONS</b>			
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<p>5: 2 ROGER W. HALVERSON, 3 being by me first duly sworn or affirmed to tell the 4 truth, the whole truth, and nothing but the truth, as 5 hereinafter certified, responded and testified as 6 follows: 7 THE WITNESS: I do. 8 DIRECT EXAMINATION 9 BY MS. HEALY GALLAGHER: 10 Q. Good morning, Mr. Halverson. We are on the 11 record in the case of United States v. RaPower3, et al. 12 We met a moment ago. My name is Erin Healy Gallagher 13 of the United States Department of Justice, the Tax 14 Division, appearing on behalf of the United States. We 15 have a court reporter here to record the proceedings. 16 Mr. Heideman. 17 MR. HEIDEMAN: Justin Heideman here on behalf 18 of the most of the defendants. 19 MS. HEALY GALLAGHER:</p>				
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**Plaintiff  
Exhibit**  
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<p>And I'd like to note for                  20 the record that Donald Reay, who                  represents Greg                  21 Shepard and Roger Freeborn, is                  not here today.</p>				
<p>8:14 Q. Mr. Halverson, were here                  today to get as                  15 accurate a record as we can of the                  facts of this case                  16 as you remember them. So I have                  to ask if there's                  17 anything that would prevent you                  from understanding my                  18 questions and answering them                  with the full capacity of                  19 your recollection?                  20 A. Well --                  21 Q. So, for example, are you                  taking any                  22 medications that have mind                  altering effects?                  23 A. No.                  24 Q. Have you had anything                  alcoholic to drink in                  25 the last eight hours?                  9: 1 A. No.                  2 Q. Are you feeling at all sick or                  unwell?                  3 A. No.                  4 Q. So then is there any reason that</p>				

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you can think 5 of that you might not be able to answer my questions 6 fully? 7 A. None.				
10: 8 Q. Mr. Halverson, let's back up a little bit. 9 I'd like to hear a little bit about you. What's your 10 current employment? 10:11 A. I'm self-employed, CPA. 12 Q. And what name do you do business under? 13 A. Roger W. Halverson, CPA Chartered. 14 Q. How long have you been a CPA? 15 A. A long time. I got my certificate in 1969, so 16 that would be 47 years. Whew.				
11:12 Q. And Mr. Halverson, can you just give me the 13 city and state of your residence? 14 A. Stuart, Florida. 15 Q. Is that where you practice? 16 A. Yes. 17 Q. Can you give me an idea of your client base, 18 how many individuals, how				

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<p>many companies?                      19 A. Sure, approximately. We have probably around                      20 500 individual tax clients. We have maybe 50 to 70                      21 businesses, corporations. I do quite a lot of estate                      22 and trust returns, possibly a hundred of those.                      23 Q. Anything else?                      24 A. No, my firm is basically tax oriented. We do                      25 some bookkeeping for some clients but that's not a                      12: 1 major part of our practice.                      2 Q. So can you give me a -- do you use email in                      3 the course of your practice?                      4 A. Yes.                      5 Q. What's your email address?                      6 A. Halvrca@BellSouth.net.                      7 Q. Have you ever used any other email addresses                      8 in the course of your CPA practice since 1969?                      9 A. No.                      10 Q. And you use that email address in the course                      11 of your business correspondence, right?</p>				

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<p>12 A. Yes.                      13 Q. Can you tell me how you first came to learn                      14 about anything to do with International Automated                      15 Systems?                      16 A. Yeah, I had a client that invested in that, so                      17 that's when I found out about it.                      18 Q. Who was your client?                      19 A. Patricia Lambrecht.                      20 Q. Have you ever had any other clients invest in                      21 anything to do with International Automated Systems?                      22 A. No.                      23 Q. With respect to Ms. Lambrecht when did you                      24 first start doing work for her?                      25 A. 1997.</p>				
<p>13: 1 Q. And what sort of work do you do for                      2 Ms. Lambrecht?                      3 A. I do her tax work, tax returns.</p>				
<p>13:16 Q. So correct me if I'm wrong but it sounds like,                      17 for example, someone else does a partnership return for                      18 Ms. Lambrecht's partnership -- yes?</p>				

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<p>19 A. Yes.                      20 Q. -- but you report the partnership impacts on                      21 Ms. Lambrecht's personal returns?                      22 A. That's correct.                      23 Q. Is it similar for the trust?                      24 A. Yes.                      25 Q. So again, correct me if I am wrong, but you                      14: I take the information, report it on behalf of                      2 Ms. Lambrecht's business interests and put it on her                      3 personal tax return?                      4 A. That's correct. For instance, if she had a                      5 partnership or a corporation, Subchapter S corporation                      6 all she receives is the K-1 that has her personal                      7 information on it that goes on her personal return.</p>				
<p>15:25 Q. So what did you learn about, what was your                      16: I first conversation about with respect to International                      2 Automated Systems?                      3 A. Best I can recollect is they came to me and</p>				

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<p>4 said they were interested in renewable energy and that                      5 this was an investment that they were going into, and                      6 of course they came to me because they wanted to know                      7 about the tax consequences of the investment.                      8 Q. To your knowledge having done Ms. Lambrecht's                      9 tax returns had she ever done anything with respect to                      10 renewable energy before you heard about this?                      11 MR. HEIDEMAN: Objection -- never mind.                      12 A. Not that I'm aware of.                      13 Q. Do you happen to know how Mr. Neff came to                      14 become aware of International Automated Systems?                      15 A. No, I don't.                      16 Q. So in the course of Mr. Neff and Ms. Lambrecht                      17 talking to you about this you said they were interested                      18 in the tax consequences, right?                      19 A. Yes.</p>				
<p>16:23 Q. So what happened next?                      24 A. Well, they gave me a copy of</p>				

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<p>the contract and                      25 a copy of a couple of letters from                      an attorney and a                      17: 1 CPA for my file, and then of                      course when I did the 2008                      2 tax return I looked into the law,                      because it was                      3 something fairly new apparently,                      when Obama took office                      4 for the tax credits, et cetera, et                      cetera, and we did                      5 the tax return for 2008, yeah.                      6 Q. You mentioned you took a look                      at the tax law.                      7 What kinds of things did you look                      at when you were                      8 preparing her return?                      9 A. Well, I have a couple of                      documents that I                      10 brought along with me that I                      looked at, and one of my                      11 concerns was how the investment                      would affect the                      12 alternate minimum tax, and                      according to that law there                      13 was a tax credit available for                      investment in this type                      14 of equipment.                      15 Q. Did you talk to anyone in the                      course of your</p>				



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<p>16 research, for example, anyone at IAS?                      17 A. Yes.                      18 Q. Who did you talk to?                      19 A. Mr. Shepard.                      20 Q. And did you actually speak to him or did you                      21 just correspond with him in writing?                      22 A. Well, I talked to him on the phone, and he                      23 gave me or he steered me towards the law that I needed                      24 to know about.                      25 Q. How many times did you talk to Mr. Shepard?                      18: 1 A. Boy, maybe twice, threes times. I don't                      2 recall.                      3 Q. And these conversations, do you recall when                      4 they took place, for example during 2008 or after 2008                      5 when you were preparing her 2008 return?                      6 A. Boy, I don't remember.                      7 Q. Aside from these two or three phone calls with                      8 Mr. Shepard at the beginning of Ms. Lambrecht's</p>				

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<p>9 involvement with IAS, did you ever speak to him again                      10 thereafter?                      11 A. I don't think so. I think that I had a couple                      12 of correspondences with emails but I don't recall any                      13 other physical conversations.</p>				
<p>19:12 Q. Right. So back to the phone calls and the                      13 initial investigation you undertook on behalf of                      14 Ms. Lambrecht, do you remember about how long your                      15 phone calls were with Mr. Shepard?                      19:16 A. Oh my, I don't have any idea.                      17 Q. Do you remember what you asked him?                      18 A. Well, -- not really. I mean I remember asking                      19 him about the tax consequences and where I could find                      20 that information. And if I recall he gave me Internal                      21 Revenue Code and that new -- the name of that new law                      22 that had been put in place early in the year.</p>				

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<p>21: 4 Q. After the first conversation with Mr. Neff and                      5 Ms. Lambrecht did you ever talk to Ms. Lambrecht again                      6 about facts that might be important for you to know in                      7 preparing her return?                      8 A. Not regarding the preparation of the return,                      9 no.                      10 Q. Did you talk to her about anything else to do                      11 with International Automated Systems?                      12 A. Yes. At some point later on, and I don't                      13 remember exactly, maybe a year or so later, she said                      14 that she hadn't heard anything, she hadn't received                      15 anything and she was wondering what the status was of                      16 her investment.                      17 Q. So that was about a year, you said, after?                      18 A. Yeah, a year or so.                      19 Q. So in 2009 or so?                      20 A. Yeah, 2009, or maybe 2010.</p>				
<p>22:17 Q. So, Mr. Halverson, the transaction between</p>				

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<p>18 Ms. Lambrecht -- actually, take that back.                      19 You mentioned Ilios LLC?                      20 A. Yes.                      21 Q. What is Ilios, LLC?                      22 A. Ilios, LLC is an entity that she set up here                      23 in Florida, an LLC entity, and she made her investment                      24 under the Ilios name, Ilios, LLC.                      25 Q. Do you know when Ilios, LLC was created?                      23: 1 A. I believe it was created in 2008 when she                      2 signed the contract. I'm pretty sure that Ilios's name                      3 is on the contract.                      4 Q. To your knowledge was Ilios formed in order to                      5 execute this transaction with IAS?                      6 A. It was solely for that purpose.                      7 Q. To your knowledge, Mr. Halverson, what does                      8 Ilios, LLC do?                      23: 9 A. Nothing other than hold title to that                      10 investment.                      11 Q. How do you know that? How do you know what                      12 Ilios, LLC does?</p>				

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<p>13 A. Because there's no transactions. She doesn't                      14 have any transactions that she's ever reported to me                      15 regarding Ilios.</p>				
<p>23:25 Q. For tax purposes what type of entity is Ilios?                      24: 1 A. It is an LLC, single member. So for tax                      2 purposes the IRS considers it a disregarded entity so                      3 it is a Schedule C on the tax return.                      4 Q. And it is a Schedule C on Ms. Lambrecht's tax                      5 return, right?                      6 A. Correct.                      7 Q. And you prepare Ms. Lambrecht's tax return                      8 which includes the Schedule C for Ilios?                      9 A. Yes.                      10 Q. So Mr. Halverson, the transaction between                      11 Ilios or Ms. Lambrecht and IAS took place in 2008,                      12 correct?                      13 A. Correct.                      14 Q. Was it her 2008 tax return that first claimed</p>				

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<p>15 any tax effect from that transaction?                      16 A. Yes.                      17 Q. Did you carry back any tax effect to prior                      18 years?                      19 A. Yes.                      20 Q. To what years?                      21 A. To 2007. Yeah, I'm pretty sure it was 2007.                      22 Q. And then in what years after 2008 has                      23 Ms. Lambrecht's personal tax return shown tax effects                      24 from the 2008 transaction?                      25 A. Depreciation.                      25: 1 Q. I'm sorry. In what years, since 2008?                      2 A. Oh. '8,'9 and '10.                      3 Q. And you sort of anticipated my next question.                      4 So what are the tax effects of the 2008 transaction on                      5 Ms. Lambrecht's tax return?                      6 A. Okay. The only effect was that there was                      7 depreciation claimed on the equipment and we did                      8 receive a check one year so we showed income in one</p>				

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<p>9 year. I don't remember which year that was.  10 Q. Did Ms. Lambrecht ever claim tax credits?  11 A. Yes.  12 Q. And those credits were as a result of the 2008  25:13 transaction, correct?  14 A. Yes.</p>				
<p>28: 6 Q. Mr. Halverson, I managed to locate a color  7 copier. Here is the document you provided now marked  8 with Plaintiff's Exhibit 181. Do you see that?  9 A. Yes.  10 (Exhibit 181 marked for identification)  11 Q. Mr. Halverson, what is Plaintiff's Exhibit  12 1 8 1?  13 A. It is the equipment purchase agreement.  14 Q. Who is it between?  15 A. It's between International Automated Systems  16 Inc. and Ilios LLC.  17 Q. Mr. Halverson, is this the equipment purchase  18 agreement that we have been</p>			181	

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<p>talking about so far this                      19 morning?                      20 A. Yes, it is.                      21 Q. This agreement is dated                      December 18, 2008,                      22 correct?                      23 A. Yes.                      24 Q. Just for the record, Plaintiff's                      Exhibit 181                      25 does not have Bates numbers, but                      it is a document of                      29: 1 five pages, right?                      2 A. Yes.                      3 Q. Real quick, Mr. Halverson, up                      in the initial                      4 paragraph the introduction says                      that Ilios, LLC has an                      5 address of 3016 Southeast Dune                      Drive, Stuart, Florida,                      6 and there's a ZIP code there?                      7 A. 34996.                      8 Q. 34996?                      9 A. Yes.                      10 Q. Is that Ms. Lambrecht's home                      address?                      11 A. Yes, it is.                      12 Q. So Mr. Halverson, this                      equipment purchase                      13 agreement is the basis for how                      you prepared</p>				



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<p>14 Ms. Lambrecht's tax return for 2008, correct?  15 A. Correct.  16 Q. And what was important to you about this  17 agreement?  18 A. Okay. Well, first of all, the number of  19 units, the purchase price.  20 Q. So are you taking a look at paragraph 1?  21 A. Yes.  22 Q. You've got a highlight over the number 50,  23 correct?  29:24 A. Correct.  25 Q. So that's the number of alternative energy  30: 1 systems that were purchased via this agreement?  2 A. Yes.  3 Q. Mr. Halverson, do you know what the  4 alternative energy system is, do you know what that  5 comprises?  6 A. You mean like physically?  7 Q. Right.  8 A. No, not really. I think that they were</p>				

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<p>9 talking about lenses and stuff like that, but I don't                      10 know the technical part of it.</p>				
<p>31:25 Q. At the end of that first paragraph 3 it says,                      32: 1 "The purchase amount shall be paid as follows." And                      2 then there are a set of terms are for payment. Do you                      3 see that?                      4 A. Yes.                      5 Q. So if you take a look at that subparagraph A                      6 you have highlighted the \$9,000 and the \$450,000. Do                      7 you see that?                      8 A. Yes.                      9 Q. So what was your understanding of this initial                      10 paragraph A, what did that mean to Ms. Lambrecht?                      11 A. Well, they were \$9,000 each times 50 units,                      12 that would be the 450. That was her down payment.                      13 Q. Do you know, did Ms. Lambrecht in fact pay                      14 \$450,000 upon execution of this agreement?                      15 A. Yes, she did.</p>				

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<b>Plaintiff Designations – BLUE</b> <b>Defendant Completeness—</b> <b>PURPLE</b> <b>Defendant Counter-Designations –</b> <b>RED (at end)</b>	<b>Defendant Designations – RED</b> <b>Plaintiff Completeness—</b> <b>PURPLE</b> <b>Plaintiff Counter Designations –</b> <b>BLUE (at end)</b>	<b>Defense Objections/Responses –</b> <b>RED</b> <b>Plaintiff Objections/Responses –</b> <b>BLUE</b>	<b>Exhibits</b>	<b>Ruling</b>
<p>16 Q. So then you've got paragraph B almost entirely                      17 highlighted there. Would you take a read of paragraph                      18 B for a second. Just read it and let me know when you                      19 are finished.                      20 A. Okay, I'm done.                      21 Q. What does that subparagraph B mean to you?                      22 A. Okay. Well, that would be the terms of paying                      23 off the investment at a rate of \$700 per unit -- I                      24 believe that's what it said. And it's payable from the                      25 revenue received from the energy sold.                      33: 1 Q. So then is the idea that the alternative                      2 energy systems would create energy that would then be                      3 sold to a purchaser of the energy?                      4 A. Yes.                      5 Q. And then revenue from the purchaser would be                      6 used to make these payments identified in paragraph B?                      7 A. Yes, that's the way I read that.                      33: 8 Q. To your knowledge, Mr.</p>				

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Halverson, did 9 Ms. Lambrecht ever make any payments to IAS under this 10 subparagraph B? 11 A. She did not, not to my knowledge.				
35: 3 Q. So you've got pretty much the first sentence 4 of paragraph 6 highlighted. "The seller represents 5 that each alternative energy system will be installed 6 and operational no later than December 31, 2008 and in 7 sufficient time to meet IRS standards of an active 8 investment." Did I read that correctly. 9 A. Yes, you did. 10 Q. Why did you highlight that? 11 A. As I recall it had to be installed for the IRS 12 to recognize the credits, otherwise it would have 13 carried over to whenever it was installed. 14 Q. So did that mean to you that if IAS did not 15 meet this obligation Ms. Lambrecht would not have been			181	

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<p>16 able to claim the tax benefits in tax year 2008?                      17 A. That's right.                      18 Q. Mr. Halverson, between the date that this                      19 contract was signed on December 18, 2008 and December                      20 31, 2008 do you know what happened with Ms. Lambrecht's                      21 alternative energy systems?                      22 A. Not really. I mean, no. All we have is a                      23 representation.                      24 Q. Did anyone ever tell you that her systems                      25 actually were installed by December 31, 2008?                      36: 1 A. No, not that I recall.                      2 Q. On page 5, Mr. Halverson, Patricia Lambrecht's                      3 name is under the section for Purchaser Ilios, LLC.                      4 Do you recognize her signature?                      5 A. Yeah, I'm pretty sure.                      6 Q. Do you happen to know who signed on behalf of                      7 International Automated Systems?                      8 A. No, I can't read it.                      9 Q. Mr. Halverson, is Plaintiff's Exhibit 181, is</p>				

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10 this a true and correct copy of the equipment purchase 11 agreement that Ms. Lambrecht signed? 12 A. Yes, it is.				
37:13 (Exhibit 182 marked for identification) 14 Q. Mr. Halverson, you've been handed what's been 37:15 marked Plaintiff's Exhibit 182. 16 A. Yes. 17 Q. And for the record -- go ahead and take a look 18 at Plaintiff's Exhibit 182. For the record the Bates 19 number at the bottom of 182 is Halveson underscore 20 Roger-00076. 21 Mr. Halverson, Plaintiff's Exhibit 182 is a 22 document that you produced to the United States, 23 correct? 24 A. Yes. 25 Q. It is an email from Greg Shepard, is that 38: 1 right? 2 A. Correct. 3 Q. And it is to you at your email address, right?			182	

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4 A. Correct. 5 Q. The subject is "Energy Improvement and Extension Act of 2008," correct? 6 7 A. Correct. 8 Q. And the date on that is Thursday, December 18 9 around 12:19, correct? 10 A. Correct. 11 Q. Is this one of the emails that Mr. Shepard 12 sent to you with the tax law regarding the transaction? 13 A. That's right. 14 Q. Is this a true and correct copy of the email 15 that Mr. Shepard sent to you? 16 A. It is.				
41:11 (Exhibit 184 marked for identification) 12 Q. Take a look please at what's been marked 13 P l a i n t i f f ' s Exhibit 184. 14 MS. HEALY GALLAGHER: For the record, 15 P l a i n t i f f ' s Exhibit 184 is Bates marked Halverson 16 Roger-00063 through 64. 17 Q. Mr. Halverson, Plaintiff's Exhibit 184 is an			184	

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<p>18 email from Greg Shepard,  Greg@bfsmail.com to you at  19 your email address, correct?  20 A. Correct.  21 Q. The subject is solar tax credit  info, right?  22 A. Yes.  23 Q. And the date is Saturday,  December 20, 2008,  24 right?  25 A. Yes.  42: 1 Q. Mr. Shepard writes, "Roger,  Here is some great  2 info on solar tax credits, AMT and  incentives. The  3 first part is from SEIA and the  second part on bonus  42: 4 depreciation is from a  website," and I honestly can't  5 read it. Can you read that?  6 A. It looks like Dsireusa.org.  7 Q. Okay. Mr. Halverson, is this a  true and  8 correct copy of an email you  received from Mr. Shepard?  9 A. It is.  10 Q. Did you take a look at this  information and  11 rely on it in preparing Ms.  Lambrecht's return?</p>				



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<p>12 A. Yes, I'm sure I did.  13 Q. Mr. Halverson, do you still have -- well, let  14 me ask a different question. If this transaction  15 occurred in 2008 but you carried back tax effects to  16 2007 did you file a Form 1040X for Ms. Lambrecht for  17 2007?  18 A. I did.  19 Q. Do you have a copy of that?  20 A. Not here.  21 Q. Do you have one at your office?  22 A. I believe I do. Well, let me qualify that. I  23 don't have her tax returns from '7 anymore, and I don't  24 have tax returns prior to 2009 anymore in my system  25 because of the crash that we had. So I do not believe  43: 1 that I have a copy of that anymore. I'm not a hundred  2 percent certain but I don't believe I do.</p>				
<p>43:22 Q. So earlier, Mr. Halverson, you testified that  23 Ms. Lambrecht came to you with</p>			181	

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<p>questions about what was                      24 happening with her investment in                      IAS. Do you recall                      25 that testimony?                      44: 1 A. Yes.                      2 Q. And now that we have walked                      through                      3 Plaintiff's 181, the contract,                      do you remember                      4 why she was asking questions or                      what her questions                      5 were?                      6 A. As I recall it was because she                      hadn't heard                      7 anything or received anything and                      she just wondered                      8 what was going on.                      9 Q. And do you mean she hadn't                      received any money?                      10 A. Right, that's part of it, I think.                      11 Q. Had she not received any                      information about her                      12 alternative energy systems?                      13 A. Not that I -- no, I don't believe                      so, because                      14 I think that's why she was                      concerned about what was                      15 going on.                      16 Q. So what happened next?                      17 A. As I recall, I wrote a letter to</p>				

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them asking 44:18 what was going on. I think it's in there. 19 MS. HEALY GALLAGHER: Mark this 186.				
44:20 (Exhibit 186 marked for identification) 21 Q. Mr. Halverson, I'm handing you what's been 22 marked Plaintiff's Exhibit 186. Would you take a look 23 and read it to yourself and let me know when you're 24 done. 25 A. Okay. 45: 1 Q. For the record, Plaintiff's Exhibit 186 i s 2 Halverson Roger-00007. Mr. Halverson, what is 3 P l a i n t i f f ' s Exhibit 186? 4 A. It is a letter that I sent on behalf of 5 Ms. Lambrecht to IAS and asking or referring to the 6 fact that we had not received any money or any funds 7 from the sales that would be paid to the purchaser. 8 In other words, we hadn't, I said we have not			186	

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<p>9 received any operations information nor proceeds from 10 any sales to date, and that was what she was concerned 11 about. She likes investments that pay returns.                      12 Q. Mr. Halverson, is this the letter that you                      13 recalled sending in your prior testimony?                      14 A. Yes.                      15 Q. And the date on this letter is September 24,                      16 2010, correct?                      17 A. Yes.                      18 Q. And that's on or about the date that you                      19 actually sent this letter?                      20 A. Oh, yes.                      21 Q. Is this the kind of letter that you might send                      22 on behalf of your clients in the course of doing                      23 business as an accountant?                      24 A. I would say normally probably not, because I                      25 really have very few clients that would be this                      46: I involved in something like this.</p>				

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<p>2 Q. But in the event a client is involved in                      3 something like this this is the kind of letter you                      4 would send?                      5 A. If they asked me I would absolutely.                      6 Q. Do you know why Ms. Lambrecht asked you to                      7 find this information?                      8 A. I think mainly because I was the accountant                      9 and also because she wasn't involved with the gentleman                      10 that introduced her to this in the first place.                      11 Q. Do you have any idea why she wouldn't contact                      12 IAS herself?                      46:13 A. Sure. She wouldn't, she just doesn't do that                      14 kind of stuff.                      15 Q. Mr. Halverson, as of September 24, 2010 to                      16 your knowledge Ilios, LLC had not received any payments                      17 from IAS, correct?                      18 A. That is correct. I know we got one payment.                      19 I don't remember when we got it,</p>				

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<p>but there's a copy of                      20 the check in my file. And I don't                      remember when that                      21 happened but I believe it was                      after this.                      22 Q. If you had received any                      money before this                      23 letter do you think that you                      would have noted that in                      24 the letter?                      25 A. Probably.                      47: 1 Q. And why would you have                      noted it in the letter?                      2 A. Well, since we only got the one                      payment I                      3 probably would have referred to                      the fact that we only                      4 received this much to date and it                      was only one time --                      5 wait a minute. There might have                      been a second check.                      6 I can't remember. The checks are                      there. But there was                      7 one check for \$7500, I remember                      that one clearly, and I                      8 don't remember the date. And then                      there was a smaller                      9 one and I don't remember the                      amount.                      10 Q. Nonetheless, it's important to</p>				

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<p>you, right, Mr.  11 Halverson, to be accurate in the representations you  12 make on behalf of your client?  13 A. Oh, yes.  14 Q. Mr. Halverson, is Plaintiff's Exhibit 186 t h e  15 kind of document that you keep in the ordinary course  16 of your practice as an accountant?  17 A. Yes.</p>				
<p>48:10 Q. Mr. Halverson, do you recognize Plaintiff's  11 Exhibit 185?  12 A. Yes, I recall having this in my file.  13 Q. Do you know where you got Plaintiff's Exhibit  14 1 8 5?  15 A. Well, obviously Ms. Lambrecht had to have sent  16 it to me.  17 Q. Why do you think that?  18 A. Why do I think that?  19 Q. I'll ask it this way. Did this Plaintiff's  20 Exhibit 158 come directly to you or you think you got  21 it from Ms. Lambrecht?</p>			185	

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22 A. I'm pretty sure I got it from her since it was 23 addressed to her. 24 Q. So Plaintiff's Exhibit 185 is addressed to 48:25 Ms. Lambrecht at Ilios, LLC, correct? 49: 1 A. Yes.				
49:13 Q. Would you take a look please at the last page 14 of Plaintiff's Exhibit 185. 15 A. Yes. 16 Q. The last page is entitled "Solar lease bonus 17 fee contract," correct? 18 A. Yes. 19 Q. And this contract purports to be made between 20 International Automated Systems, Inc. and Patty 21 Lambrecht/Ilios, LLC, correct? 22 A. Correct. 23 Q. The first sentence of the first full paragraph 24 there says, "In consideration for (a) the leasing by 25 leasee of IAS's solar lenses as evidenced by execution 50: 1 of the equipment lease agreement dated 3/2/2010." Did			185 181	



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<p>2 I read that correctly?                      3 A. Yes.                      4 Q. To your knowledge, Mr. Halverson, did                      5 Ms. Lambrecht ever execute an equipment lease                      6 agreement? Take a look -- are you referring for                      7 Plaintiff's Exhibit 181?                      8 A. Yes, isn't that an equipment -- oh, purchase                      9 agreement, so I don't know. Because this says lease                      10 agreement, doesn't it? I don't, no.                      11 Q. Did you ever see any document signed by                      12 Ms. Lambrecht or Ilios entitled Equipment Lease                      13 Agreement?                      14 A. Not that I recall.                      15 Q. Are you aware of any transaction that                      16 Ms. Lambrecht entered into with IAS on March 2, 2010?                      17 A. I don't recall, other than what I'm looking at                      18 right here.                      19 Q. Well, take a look at Halverson Roger-65 at the                      20 bottom. There purports to be a</p>				

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<p>signature for IAS,                      21 correct?                      22 A. Yes.                      23 Q. But there's no signature for                      Ms. Lambrecht,                      24 right?                      25 A. Right.                      51: 1 Q. Do you know, Mr.                      Halverson, did Ms. Lambrecht                      2 ever receive any money from any                      sort of bonus fee?                      3 A. I'm not aware of any.                      4 Q. Take a look please at the                      second to last                      5 paragraph on the first page of                      Plaintiff's Exhibit 185.                      51: 6 It says, "As far as the system                      becoming profitable in                      7 order to meet the IRS                      requirements, we implemented a                      8 bonus program for all purchases                      made before the end of                      9 2008. However, looking over our                      contracts somehow you                      10 were not signed up for that                      program. We are sending                      11 you a copy of the bonus program                      which you are entitled                      12 to." Did I read that correctly?                      13 A. Yes.</p>				

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<p>14 Q. Other than the last page of Plaintiff's                      15 Exhibit 185, to your knowledge did Ms. Lambrecht ever                      16 sign any sort of bonus fee contract?                      17 A. Not to my knowledge.                      18 Q. And if she had received any sort of bonus fee                      19 income for purposes of Ilios, LLC, that would have been                      20 important to you, right?                      21 A. Oh, yes.                      22 Q. Why?                      23 A. Well, it would have been income that she                      24 would, that we would have to include on her income tax                      25 return.                      52: 1 Q. At the top of the second page of Plaintiff's                      2 Exhibit 185 the first paragraph says, "We are also in                      3 the process of finishing the business plan for the                      4 solar energy system and its economic advantages in the                      5 marketplace over other green energy systems. We hope                      6 to have the business plan</p>				

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<p>completed by the end of the 7 second quarter of 2010." Did I read that correctly?                      8 A. Yes.                      9 Q. Did you ever see any sort of business plan?                      10 A. No.                      11 Q. Do you know if Ms. Lambrecht has a business plan for Ilios, LLC?                      12 A. For Ilios in regard to this?                      13 Q. Just any business plan.                      14 A. No. No, I'm not aware of any.                      15 Q. The second paragraph there starts with, "We do                      16 have power purchase agreements tentatively in place                      17 with other companies that have agreed to purchase the                      18 power produced from the solar energy estimate once the                      19 system is placed in service." Did I read that                      20 correctly?                      21 A. Yes.                      22 Q. Do you know who those companies are?                      23 A. No.                      24 Q. Or were?                      25: 1 A. No.</p>				

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2 Q. Have you ever seen any power purchase agreements signed by IAS? 3 4 A. No.				
53:16 Q. Mr. Halverson, is Plaintiff's Exhibit 185 a true and correct copy of correspondence that you received from Ms. Lambrecht? 17 18 19 A. Yes, I believe it is.			185	
54:17 (Exhibit 187 marked for identification) 18 Q. Would you please go ahead and take a look at 19 what's been marked Plaintiff's Exhibit 187, Mr. 20 Halverson. 21 A. Okay. 22 Q. Plaintiff's Exhibit 187 does not have a Bates 23 number but, Mr. Halverson, do you recognize Plaintiff's 24 Exhibit 187? 25 A. I do. 55: 1 Q. What is it? 2 A. It's a letter from an accounting firm I 3 believe -- well, actually it is from International 4 Automated Systems regarding			187	

*Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828*  
*Deposition of Roger Halverson taken October 18, 2016*

<b>Plaintiff Designations – BLUE</b> <b>Defendant Completeness—</b> <b>PURPLE</b> <b>Defendant Counter-Designations –</b> <b>RED (at end)</b>	<b>Defendant Designations – RED</b> <b>Plaintiff Completeness—</b> <b>PURPLE</b> <b>Plaintiff Counter Designations –</b> <b>BLUE (at end)</b>	<b>Defense Objections/Responses –</b> <b>RED</b> <b>Plaintiff Objections/Responses –</b> <b>BLUE</b>	<b>Exhibits</b>	<b>Ruling</b>
their auditors conducting 5 an audit of their business, of their statements, and it 6 was asking for information regarding the liability. 7 Q. Mr. Halverson, have you seen Plaintiff's 8 Exhibit 187 b e f o r e ? 9 A. Yes. 10 Q. So is this a true and correct copy of a letter 11 from IAS to Ilios, LLC? 12 A. It is.				
55:25 (Exhibit 188 marked for identification) 56: 1 Q. Mr. Halverson, I'm handing you what's been 2 marked Plaintiff's Exhibit 188. Take a look at that 3 and look up at my weapon you are done. 4 MS. HEALY GALLAGHER: For the record, 5 P l a i n t i f f ' s Exhibit 188 is Bates marked Halverson 6 Roger-00066. 7 Q. Mr. Halverson, do you recognize Plaintiff's 8 Exhibit 188? 9 A. I do.			188	

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<b>Plaintiff Designations – BLUE</b> <b>Defendant Completeness—</b> <b>PURPLE</b> <b>Defendant Counter-Designations –</b> <b>RED (at end)</b>	<b>Defendant Designations – RED</b> <b>Plaintiff Completeness—</b> <b>PURPLE</b> <b>Plaintiff Counter Designations –</b> <b>BLUE (at end)</b>	<b>Defense Objections/Responses –</b> <b>RED</b> <b>Plaintiff Objections/Responses –</b> <b>BLUE</b>	<b>Exhibits</b>	<b>Ruling</b>
<p>10 Q. What is it?                      11 A. It's a copy of a check that Ms. Lambrecht                      12 received at the end of 2010, apparently. It says                      13 second quarter earnings.                      14 Q. Let's take a look through the document here.                      15 At the top the letterhead appears to say RaPower3 LLC.</p>				
<p>56:16 Do you see that?                      17 A. I do.                      18 Q. Had you ever heard of RaPower3 before this                      19 date?                      20 A. I don't recall. It --                      21 Q. Had you -- you were thinking of something.                      22 What were you thinking of?                      23 A. I was just trying to go back -- I know I                      24 answered the question but I was just trying to go back                      25 and it's been so long I can't remember anything.                      57: 1 Q. Do you have any context for RaPower3 or how it                      2 was connected to Ilios or Ms. Lambrecht?                      3 A. I don't recall.</p>				

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4 Q. Sitting here today do you have any 5 understanding of that? 6 A. Not really. I do know that that's where the 7 check came from. And if you'd asked me that earlier I 8 wouldn't have remembered that that was the sender of 9 the check unless I looked at it. 10 Q. Did you ever ask anyone why RaPower3 was 11 paying rather than IAS? 12 A. I don't think so. I don't recall.				
58: 4 Q. Do you have any understanding of what the 5 "third quarters power purchase" might mean? 6 A. Not really. I know that the more important 7 thing was we got a check for \$7500. 8 Q. Why was that important to you? 9 A. Well, it was something, it was something of a 10 return. 11 Q. So in your mind was this check in Plaintiff's 12 Exhibit 188 the payment that was			188 181	



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<p>owed from the                      13 equipment purchase agreement                      paragraph 5 in Plaintiff's                      14 Exhibit 181?                      15 A. I don't know. I don't think we                      ever actually                      16 understood what generated or                      what cause them to send                      17 the check. But for Ms.                      Lambrecht, if she gets a check                      18 that's what she's interested in. It                      says power                      19 purchase on the note that she got.                      20 Q. So then if you'll take a look at                      Plaintiff's                      21 Exhibit 181 -- I'll strike that.                      22 Actually, do please take a look at                      Plaintiff's                      23 Exhibit 181, paragraph 3B. The                      equipment purchase                      24 agreement says that starting after                      the fifth                      25 anniversary of the agreement Ms.                      Lambrecht is supposed                      59: 1 to pay money for each of these                      alternative energy                      59: 2 systems each year. The fifth                      anniversary would have                      3 been December 18, 2013, correct?                      4 A. Right.</p>				

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5 Q. Has Ms. Lambrecht ever paid any additional 6 payments to IAS on or after December 18, 2013? 7 A. Not that I'm aware of.				
59:25 Q. In Plaintiff's Exhibit 188, Mr. Halverson, is 60: 1 this a true and correct copy of both a note and a check 2 that you received? 3 A. Yes.			188	
60:15 Q. So we walked through a few documents that were 16 exchanged among folks around the time that you said 17 Ms. Lambrecht was curious about what was going on with 18 her investment in IAS, right? 19 A. Right. 20 Q. Did you personally hear from IAS in any 21 correspondence directed to you in the course of 2010? 22 A. I don't recall.				
61:13 (Exhibit 189 marked for identification) 14 Q. Please go ahead and take a look at Plaintiff's 15 Exhibit 189 and just look up at me when you're done.			189	

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<b>Plaintiff Designations – BLUE</b> <b>Defendant Completeness—</b> <b>PURPLE</b> <b>Defendant Counter-Designations –</b> <b>RED (at end)</b>	<b>Defendant Designations – RED</b> <b>Plaintiff Completeness—</b> <b>PURPLE</b> <b>Plaintiff Counter Designations –</b> <b>BLUE (at end)</b>	<b>Defense Objections/Responses –</b> <b>RED</b> <b>Plaintiff Objections/Responses –</b> <b>BLUE</b>	<b>Exhibits</b>	<b>Ruling</b>
<p>16 MS. HEALY GALLAGHER:  For the record,  17 Plaintiff's Exhibit 189 is  Halverson Roger-00071  18 through 73.  19 A. Okay.  20 Q. Mr. Halverson, do you  recognize Plaintiff's  21 Exhibit 189?  22 A. Yeah, I do.  23 Q. It's a series of emails, correct,  between you  24 and Greg Shepard?  25 A. That's right.  62: 1 Q. Mr. Halverson, is Plaintiff's  Exhibit 189 a  2 true and correct copy of this series  of emails between  3 you and Mr. Shepard?  4 A. I believe it is.</p>				
<p>64:12 Q. So then back to the first  page -- well, I'll  13 ask you this. After Mr. Shepard's  email on January 19  14 saying he was going to forward  the email to Neldon  15 Johnson did you hear anything  from Neldon Johnson as a  16 result?  17 A. Not that I recall.</p>			189	

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<p>18 Q. Did you ever hear back from Greg Shepard?                      19 A. I don't recall.                      20 Q. So if we look at the first page of Plaintiff's                      21 Exhibit 189, moving up the page --                      22 A. That answers the question.                      23 Q. How does it answer the question?                      24 A. "I haven't received any information from                      25 Johnson or you," and this is dated in May.                      65: 1 Q. So after Mr. Shepard's email in January you                      2 followed up with an email in May, correct?                      3 A. Apparently there is.                      4 Q. And then again at the top of the first page of                      5 Plaintiff's Exhibit 189 there's another email from you                      6 to Mr. Shepard in June, correct?                      7 A. Yes.                      8 Q. After the top email on June 2, did you ever                      9 hear back from Greg Shepard?                      10 A. I don't recall. I don't see anything else</p>				

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<p>11 regarding this email sequence here.                      12 Q. Did you ever hear anything from Neldon Johnson?                      13 Johnson?                      14 A. Not that I recall.                      15 Q. Since your June 2, 2011 email have you reached out to Greg Shepard again?                      16 out to Greg Shepard again?                      17 A. I don't think I've revisited this since then.                      18 Q. Have you ever reached out or tried reach out to Neldon Johnson?                      19 to Neldon Johnson?                      20 A. No. I didn't even remember Neldon Johnson's name until I looked at this.                      21 name until I looked at this.                      22 Q. Since June 2, 2011 have you tried to make any contact with IAUS?                      23 contact with IAUS?                      24 A. Let me think. I can't recall but I think I did at some point in time again but I don't have any record of it.                      66: 1 record of it.                      2 Q. Do you recall whether you actually made contact with anybody, if you got a response to your outreach?                      3 contact with anybody, if you got a response to your                      4 outreach?</p>				

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5 A. I don't recall. 6 Q. If you had; do you think you would remember? 7 A. I'm not sure. 8 Q. Have you ever reached out to anyone at 9 RaPower3? 10 A. Not that I remember. 66:11 Q. Has Ms. Lambrecht, to your knowledge, reached 12 out to anyone about IAUS or this transaction in 2008? 13 A. Not that I'm aware of.				
68: 5 (Exhibit 191 marked for identification) 6 Q. Take a look please at Plaintiff's Exhibit 191. 7 Let me know when you're finished. 8 MS. HEALY GALLAGHER: For the record, 9 P l a i n t i f f ' s Exhibit 191 is Halverson Roger-000777 10 through 82. 11 Q. Mr. Halverson, do you recognize Plaintiff's 12 Exhibit 191? 13 A. I do. 14 Q. What is it? 15 A. It's a copy of the Schedule C			191	

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<b>Plaintiff Designations – BLUE</b> <b>Defendant Completeness—</b> <b>PURPLE</b> <b>Defendant Counter-Designations –</b> <b>RED (at end)</b>	<b>Defendant Designations – RED</b> <b>Plaintiff Completeness—</b> <b>PURPLE</b> <b>Plaintiff Counter Designations –</b> <b>BLUE (at end)</b>	<b>Defense Objections/Responses –</b> <b>RED</b> <b>Plaintiff Objections/Responses –</b> <b>BLUE</b>	<b>Exhibits</b>	<b>Ruling</b>
from 16 Ms. Lambrecht's 2009 income tax return. Did I send 17 that to you? 18 Q. We can look. I will represent to you that I 19 received this from you and that's why it has the Bates 20 number it has. 21 A. Okay.				
69:25 Q. I know that this is not the Schedule C, it's 70: 1 not the first Schedule C that Ilios, LLC, that was 2 filled out for Ilios, LLC. So if you can remember can 3 you tell me how you arrived at the number in line 13 4 for depreciation? 5 A. Yeah, there is a depreciation schedule, the 6 next page to that. 7 Q. So you are on Halverson Roger-78? 8 A. That's correct. So it would have been 9 generated from this information. 10 Q. So the first line of the depreciation report 11 says "50 solar energy systems"?			181 191	

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<p>12 A. Right.                      13 Q. And the date acquired was 12/18/08, right?                      14 A. Yes.                      15 Q. And that's consistent with Plaintiff's Exhibit                      16 1 8 1, the date of the equipment purchase agreement,                      17 correct?                      18 A.                      19 That's correct.                      20 Q. In the Life column there's a number 5.00?                      70:21 A. Yes.                      22 Q. What does that mean?                      23 A. That means that it would be written off over a                      24 five-year period.                      25 Q. And the unadjusted cost or basis, in that                      71: 1 column it is \$1,275,000, do you see that?                      2 A. Yes.                      3 Q. Where does that number come from?                      4 A. As I recall it was based upon the purchase                      5 price of the 50 units for a million-five less -- I                      6 can't remember, I think I reduced</p>				



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<p>that by half of the                      7 tax credit that was allowable. Does                      that sound right?                      8 Yeah.                      9 Q. Let's walk through that, step me                      through that                      10 so we can get a record here. What                      did you start with?                      11 A. The purchase price was a                      million-five and she                      12 made a \$450,000 down payment.                      The purchase price was a                      13 million-five. The credit that was                      allowable for the                      14 purchase of solar equipment was                      \$450,000. And I                      15 deducted half of the credit                      against the purchase price                      16 to determine the depreciable                      dollar amount.                      17 Q. And the credit that was                      allowable you said was                      18 \$450,000?                      19 A. That's right.                      20 Q. And that's the same amount                      that Ms. Lambrecht                      21 paid in her down payment,                      correct?                      22 A. It was.                      23 Q. So then to get the basis</p>				

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<p>reported on the 2009  24 depreciation report you took the  total purchase price  25 of \$1.5 million and you  subtracted \$225,000, correct?  72: 1 A. Yeah.  2 Q. As a result of that second  number being half  3 of the amount of the \$450,000  total tax credit that was  4 available?  5 A. Yeah, I believe that's exactly  what I did.  6 Q. Would you look down at the  bottom of the page.  7 It is line 32A. There's an X next to  the box that says  8 "all investment is at risk." Do you  see that?  9 A. Yes, die.  10 Q. Why is that box checked?  11 A. Well, at that time we didn't  know that it  12 wasn't. She had a liability for the  purchase price,  13 so --  14 Q. So in your mind Ms.  Lambrecht was committed to  15 pay \$1.5 million?  16 A. That's correct.</p>				

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<p>17 Q. Has Ms. Almost ever paid any more than the                      18 \$450,000 down payment?                      19 A. Not to my knowledge.                      72:20 Q. Starting on Halverson Roger-79 we see                      21 Ms. Lambrecht's Form 3800, the form for general                      22 business credit, correct?                      23 A. That's correct.                      24 Q. In line 6 there's reported a carry forward of                      25 general business credit to 2009 in the amount of                      73: 1 \$404,298, correct?                      2 A. Yes.                      3 Q. Do you recall how got to that number?                      4 A. Yes.                      5 Q. How did you do that?                      6 A. When we did the return in 2008 we showed the                      7 credit for the 450. And at that time we realized we                      8 could carry back that credit to 2007. You could go                      9 back one year according to the tax act. So we did that                      10 and we carried it back and we actually used \$45,702 of</p>				

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<p>11 that 450 credit. So this is the difference, this is                      12 the balance that was not used.                      13 Q. Mr. Halverson, I think you were looking at the                      14 last page of Plaintiff's Exhibit 191 - -                      15 A. Yes, I was.                      16 Q. -- in describing that. So does this statement                      17 28 here, does this kind of explain how you got to that                      18 number on line 6?                      19 A. Exactly.                      20 Q. And in line 2 on statement 28 the \$45,702,                      21 that was used for tax year 2007, correct?                      22 A. Correct.                      23 Q. Since tax year 2007 have you applied any of                      24 these credits to Ms. Lambrecht's tax returns?                      25 A. No.                      74: 1 Q. How come?                      2 A. She hasn't had any tax liability.</p>				
<p>82: 9 MS. HEALY GALLAGHER:                      All right, Mr.                      10 Halverson. What will happen, what's going to</p>				

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<p>11 happen now is the court reporter                      will prepare a                      12 transcript based on what we have                      said, and then you                      13 have the opportunity to read the                      transcript. You                      14 can make certain corrections in                      spelling, things                      15 like that, anything that's amiss or                      you'd like to                      16 change, and then sign it. Would                      you like to do                      17 that or would you like to waive                      reading and                      18 signing?                      19 THE WITNESS: Gosh, what do                      you think I should                      20 do?                      82:21 MS. HEALY GALLAGHER:                      It's up to you.                      22 THE WITNESS: What do people                      usually do?                      23 MS. HEALY GALLAGHER:                      People do either. If                      24 you would like to read and sign                      then go ahead and                      25 take that opportunity.                      83: 1 MR. HEIDEMAN: The                      transcriptionist will send                      2 it.</p>				

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3 MS. HEALY GALLAGHER: You'll get a copy from 4 the court reporter. 5 THE WITNESS: I'd like that. I think I should 6 look at it. 7 MS. HEALY GALLAGHER: Then we are off the 8 record today subject to reopening as needed for 9 additional documents. Thank you, Mr. Halverson. 10 (Deposition concluded at 1:18 p.m.)				
<b>DEFENDANT COUNTER-</b> <b>DESIGNATIONS</b>	<b>PLAINTIFF COUNTER-</b> <b>DESIGNATIONS</b>			

**Instructions:** One form should contain all designations for a witness. Plaintiff Designations (column 1) and Defendant Designations (column 2) will show the full deposition text that the party proposes to read in its case-in-chief. Completeness designations are proposed by the other party, under Fed. R. Civ. P. 32(a)(6), to be read with the designations. Counter-designations are read following the designations and completeness designations, similar to cross examination. This form should be provided in word processing format to the other party, who then will continue to fill in the form. The form is then returned to the proposing party for review, resolution of disputes, and further editing. The parties should confer and file a final

version in PDF format using the event “Notice of Filing” and also submit a final word processing copy to the court at [dj.nuffer@utd.uscourts.gov](mailto:dj.nuffer@utd.uscourts.gov), for ruling.

All objections which the objecting party intends to pursue should be listed, whether made at the deposition, as with objections as to form, or made newly in this form, if the objection is of a type that was reserved.