

*Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
 Deposition of Frank Frederick Lunn IV taken August 1, 2016*

Plaintiff Designations – BLUE Defendant Completeness—PURPLE Defendant Counter-Designations – RED (at end)	Defendant Designations – RED Plaintiff Completeness—PURPLE Plaintiff Counter Designations – BLUE (at end)	Defense Objections/Responses – RED Plaintiff Objections/Responses – BLUE	Exhibits	Ruling
PLAINTIFF DESIGNATIONS	DEFENDANT -DESIGNATIONS			
<p>5: 3 MS. HEALY GALLAGHER: Good morning. 4 We're on the record in the case of United States 5 versus RaPower et al. on August 1st. 6 Mr. Lunn, we met a moment ago, but my 7 name is Erin Healy Gallagher, and I'm from the 8 United States Department of Justice in the Tax 9 Division appearing on behalf of the United States. 10 We have a court reporter here to take 11 down the proceedings. 12 Counsel, would you please make your 13 appearances? 14 MR. JONES: Paul Jones representing 15 Frank Lunn. 16 MR. HEIDEMAN: Justin Heideman here 17 on behalf of a plethora of defendants. 18 MS. HEALY GALLAGHER: And I do note 19 for the record that Donald Reay</p>				

Plaintiff Exhibit
 693

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<p>who represents Greg 20 Shepard and Roger Freeborn in this case is not in 21 attendance. 22 Also with me is Chris Moran on behalf 23 of the United States, and Erin Hines also on behalf 24 of the United States is with us by phone.</p>				
<p>6:14 FRANK FREDERICK LUNN IV 15 called as a witness herein, having been first duly 16 sworn on his oath, was examined and testified as 17 follows: 18 19 DIRECT EXAMINATION 20 BY MS. HEALY GALLAGHER: 21 Q. All right. Mr. Lunn, you were sworn 22 in just a moment ago. 23 A. Yes. 24 Q. Would you please state your name and 25 the city and state where you live for the record? 7: 1 A. Yes. My name is Frank Frederick Lunn 2 IV, and I live in LeRoy, Illinois</p>				

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<p>61752.</p> <p>10: 6 So, Mr. Lunn, we're here today to get 7 as accurate a record as we can of the facts of this 8 case as you remember them, so I have to ask if 9 there's anything that would prevent you from 10 understanding and answering my questions with the 11 full capacity of your recollection? 12 A. No, there is not. 13 Q. Are you taking any medications that 14 might interfere with memory? 15 A. No, I am not. 16 Q. Have you had anything alcoholic to 17 drink in the last eight hours? 18 A. No, I have not. 19 Q. And are you feeling at all sick or 20 unwell today? 21 A. No, I am not.</p>				
<p>10:22 Q. All right. Mr. Lunn, I'd like to 23 start off asking you a little bit about your 24 background, so let's start off, we're going to try</p>				

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<p>25 to do a broad and quick run through your education 11: 1 and your professional experiences to date. 2 So did you graduate from high school? 3 A. Yes, I did. 4 Q. Great. What year? 5 A. 1984. 6 Q. What did you do after high school? 7 A. I attended Illinois State University 8 in Normal, Illinois. 9 Q. Did you complete a degree there? 10 A. I did not. 11 Q. How long were you there? 12 A. I was there for three and a half 13 years. 14 Q. What did you do after the university? 15 A. Well, I did receive my commission as 16 a United States Army officer in 1986 between the 17 Illinois National Guard and also the U.S. Army and 18 Reserves, and so I had done some training with 19 military, and then I had</p>				

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<p>embarked on a career of 20 entrepreneurship. 21 Q. So are you still in the Army Reserves 22 or with the National Guard? 23 A. I am considered -- I am inactive 24 Reserves as a captain. 25 Q. And so was it also around 1986 that 12: 1 you say you started your work as an entrepreneur? 2 A. I did. I studied initially to be a 3 life insurance salesperson with Northwestern Mutual. 4 I completed a year of training there quite 5 successfully and then was called into additional 6 service for the army, my army officers basic course 7 in Fort Knox, Kentucky, and that course was 8 approximately nine months. 9 The graduation of that course came in 10 August of 1990 which coincided with the start of the 11 first Gulf War, and so I stayed in the army; did not 12 go back to Northwestern Mutual</p>				

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<p>Life Insurance. I 13 stayed in the army and was deployed overseas to the 14 Port of Dammam in Saudi Arabia, and although trained 15 as an armor officer, I was put in charge of 16 transportation and logistics for the first Gulf War 17 and subsequently Operation Desert Shield turning 18 into Desert Storm.</p>				
<p>13: 3 So when did your time in the army at 4 that stage for Desert Shield and Desert Storm come 5 to an end? When did you return to what you just 6 called I think normal life? 7 A. Right. October of 1990 we 8 redeployed, excuse me, 1991, redeployed back to the 9 United States, and I at that time was in the 10 reserves for a period of months and started a new 11 career in the Chicagoland area and moved to that 12 area.</p>				
<p>13:17 A. 1992, and stayed in the Chicagoland 18 area to work with a friend of</p>				

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<p>mine from college in 19 an entrepreneurial endeavor. That endeavor didn't 20 quite get off the ground with funding, so I then 21 took a job with Clark Refining & Marketing, and I 22 stayed with them in the Chicagoland area rising to 23 district manager and then was able to get 24 transferred a number of years later back down to the 25 Bloomington-Normal area. 14: I stayed in that career until 1997, 2 but I did start a new job or, excuse me, a new 3 entrepreneurial career in November of 1995 which is 4 the genesis of what I'm still currently doing today. 5 Q. I see. 6 So the opportunity with your friend 7 from college, what was the general subject matter of 8 that opportunity? 9 A. It was a hand dryer rental service. 10 Instead of selling hand dryers, it was leasing hand</p>				

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<p>11 dryers to restaurants and schools, things like that, 12 and so there was quite a bit of capital required and 13 they were never able to get the funding. 14 It wasn't very glamorous but it was 15 interesting.</p>				
<p>14:23 And in November of 1995, you said you 24 started the opportunity that you're still pursuing 25 today? 15: 1 A. Yes. 2 Q. What is that? 3 A. It started out as Community Merchant 4 Services, Inc. as an S corporation, and I had two 5 partners at the time, and the purpose of that 6 business was to help merchants be set up to accept 7 credit cards, and that's really what we did, 8 Community Merchant Services. 9 In 1997, ATM, the automatic teller 10 machines, through some legislation with the banks, 11 were able to become off-premise</p>				

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<p>opportunities, and 12 so we moved into that endeavor. 13 I had a lawyer at the time and I was 14 kidding with him about if this ATM thing works out, 15 it could be the big kahuna, and so that stuck and we 16 changed and became Kahuna Business Group, and that's 17 the business that I have today which is the business 18 of entrepreneurship and opportunity. 19 Q. So are you still in the field of 20 credit card processing or ATM service? 21 A. No, I am not. 22 Q. About when did the business 23 transition from that to what you're doing now? 24 A. On or about 1997/1998, as the ATM 25 opportunity became bigger, my partners and I decided 16: 1 to separate. They took the Merchant Services 2 aspect, and I continued on. 3 That actually may have been '98/99. 4 I'm not exactly sure. 5 So I continued with the ATM</p>				

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<p>business 6 until we sold two-thirds of that business in 2012 7 and then had the final exit from the ATM industry in 8 2014. 9 The business continued but the ATM 10 aspect did not. 11 Q. So what you're saying is Kahuna 12 Business Group carries on? 13 A. Yes. 14 Q. It just no longer has an ATM 15 component? 16 A. Yes. 17 Q. So from 1997 to 2012, did Kahuna 18 Business Group have other primary areas of business 19 other than the ATM component? 20 A. Yes. 21 Q. What were those? 22 A. We worked in entrepreneurship, the 23 business of entrepreneurship, providing support 24 services to other businesses to help them as kind of 25 an incubator of sorts, and we also started to do 17: 1 some real estate investing. I</p>				

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<p>wrote several books 2 and was able to use that. 3 My son Frankie, Frank Frederick Lunn 4 V, is a cancer survivor. He developed leukemia when 5 he was 9, and I believe that was 2002, and so it 6 forced a little bit of a career break, and I was 7 able to take some time and realized that I wasn't in 8 love with the ATM business but I loved 9 entrepreneurship. I loved business. 10 And so I was able to take those nine 11 months during his recovery. He's in complete 12 remission now, very healthy, but during that time, I 13 was able to really focus and hone my objectives into 14 the business of entrepreneurship and personal 15 empowerment, teaching people how to be entrepreneurs 16 in their own life, how to see opportunities, how to 17 take advantage, things like that.</p>				
<p>17:24 Q. All right. So from 2002</p>				

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<p>through 25 about 2012, Kahuna Business Group had the ATM 18: 1 component. It had the component of the business of 2 entrepreneurship. There was some real estate 3 investment components, and there were books that you 4 wrote in furtherance of the Kahuna Business Group? 5 A. Yes. 6 Q. Anything else during that time? 7 A. At some point in either 2010 or '11, 8 I'm not entirely sure, I started to look at some 9 other technologies related to energy and other 10 things for energy efficiency and energy creation and 11 looked at other entrepreneurial aspects of 12 industries like home building and things like that. 13 So it was the same but a little bit different. 14 Q. So was that in coordination with the 15 real estate investment or was that different in your</p>				

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<p>16 mind? 17 A. They were separate because the real 18 estate investment at that time was development but 19 certainly as part of a longer term plan. 20 Q. So what sorts of energy technology 21 did you look into? 22 A. Well, I researched a lot of -- again, 23 I put it into two different categories. 24 One was efficiency; things like 25 thermal concrete, things like being able to -- just 19: 1 the proper engineering where the sun would have the 2 maximum effect. So there were things like that -- 3 insulation, efficiency windows, the electronic 4 windows that would change the tinting, things like 5 that. 6 And then there was energy creation; 7 windmills, different types of windmills, everything 8 from the kind that looked like a bicycle tire with</p>				

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<p>9 the magnet and the copper on the outside instead of 10 the inside as well as the ones that looked like the 11 barber poles to other types of solar and the things 12 including RaPower-3. 13 I live in central Illinois. We have 14 a plethora of windmills around, so there's a lot of 15 wind energy and things like that so I thought that 16 would be an interesting endeavor to learn more 17 about. 18 Q. So you said you researched things in 19 the energy efficiency and energy creation realm. 20 Did you invest in anything? Did you 21 follow up with anything as a business pursuit? 22 A. Not really so much at this point as 23 the creation of a website and looking at future 24 opportunities. 25 One of the things that I've had to 20: I learn is you can do everything you want. You just</p>				

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<p>2 can't do it all at the same time, and so I've had to</p> <p>3 prioritize a little bit.</p> <p>4 I still have my intellectual</p> <p>5 curiosity and have endeavors and ideas that I would</p> <p>6 like to pursue in the future, but at that time, my</p> <p>7 priorities went back to the ATM business and</p> <p>8 preparing for a sale in the ATM world, and which we</p> <p>9 subsequently did.</p> <p>10 Q. So since 2010, have you pursued any</p> <p>11 opportunities in energy efficiency or energy</p> <p>12 creation?</p> <p>13 A. We have.</p> <p>14 Q. What are those?</p> <p>15 A. Well, I definitely was excited</p> <p>16 originally about the opportunities. Actually, I</p> <p>17 shouldn't say that. I was initially skeptical, but</p> <p>18 I pursued opportunities with RaPower-3.</p> <p>19 I physically on my own money went out</p> <p>20 to check out that technology and researched that and</p> <p>21 then subsequently purchased</p>				

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<p>lenses...I believe in 22 2010 is when I started purchasing lenses...looking 23 at that as a very unique opportunity for the 24 creation of heat and the transference, but I also 25 thought it was very interesting related to the 21: 1 generator that they had and the technology that they 2 had there for what I would perceive as something 3 that could be a desalination opportunity because of 4 the way the turbine was created. 5 So I became very excited about better 6 technology, and subsequently, I didn't invest but I 7 purchased lenses and have been doing so 8 consistently. Even under the current situation, I 9 still very much believe in the technology. I'm an 10 entrepreneur, and I see all the makings of 11 entrepreneurial success. 12 Q. So since 2010, you say you did follow 13 through and pursue RaPower-3.</p>				

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14 Did you pursue any other business 15 endeavor in energy efficiency or energy creation 16 since 2010? 17 A. Not at this time.				
21:20 First question, do you do business as 21 any other entity than Kahuna Business Group? 22 A. Yes. 23 Q. What other entities do you use to do 24 business? 25 A. We have a business, Kahuna 22: 1 Accounting. Kahuna Accounting is internal to Kahuna 2 Business Group as like a division or a strategic 3 business unit.				
22:17 Q. Do you have any other businesses 18 through which you engage in any other business 19 activities than those two?				
23: 6 A. Okay. I have ownership in several 7 other business endeavors. There is Claim Resource 8 Partners, LLC. There is National Foodworks. I 9 don't have all of the related				

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<p>names. 10 MR. JONES: If you don't know, you're 11 allowed to say you don't know. 12 A. Okay. Foodworks Holdings, LLC. 13 Within real estate, there are 14 different entities. There's Kahuna Commercial 1, 15 LLC, Kahuna Commercial 2, LLC, Kahuna Residential 1, 16 LLC, Kahuna Investment Group, LLC. 17 I think that's all of them. 18 Excuse me. Kahuna Builders, LLC. 19 Q. If you think of more later, just let 20 me know. 21 A. Absolutely. 22 Q. What, just in broad strokes, does 23 Claim Resource Partners do? 24 A. It does the business of subrogation 25 for insurance companies. It is essentially a 24: 1 collection company by a tort, so through the legal 2 system, and it was our very first incubation 3 opportunity, so we helped provide</p>				

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<p>capital and 4 funding for the entrepreneur who started that 5 business, and we provided all the managed services 6 for that business to help it both launch and 7 continue to grow since 2005. 8 Q. How about National Foodworks, what 9 did that do? 10 A. It is a food incubation cooperative 11 in Decatur, Illinois attached to opportunities 12 related to ADM Food Services in Decatur, Illinois 13 and the related food entrepreneurship ecosystem. 14 Q. Is that a different business? 15 A. Yes, it is. 16 Q. Food entrepreneurship? 17 A. No. Food entrepreneurship is an 18 ecosystem related to providing support for 19 entrepreneurs in the food entrepreneurship space, 20 and ADM, as a major provider of food services, it is 21 an opportunity related to some needs that they had</p>				

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<p>22 that they couldn't really take advantage of from an 23 entrepreneurial perspective, so new businesses were 24 created to be able to take advantage of those. 25 There's specific tax credits and 25: 1 opportunities within food, energy, housing, job 2 creations, and so those are things that I seek to 3 provide assistance with. 4 Q. Foodworks Holdings, what does that 5 do? 6 A. It is the ownership. It is just a 7 separation between the ownership of the assets and 8 the property. There's also Brush College Financial, 9 LLC that's related to that, and there's also 10 National Institute of Food Entrepreneur, LLC. 11 So I believe there's five. Let's 12 see. And then there's a nonprofit Heart of America 13 Foodworks. It's a nonprofit. I don't have 14 ownership in it but it is related to that, and all 15 of those are related to that same</p>				

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<p>single endeavor, 16 just different financial components broken up into 17 entities. 18 Q. Kahuna Commercial 1 and 2, what do 19 they do? 20 A. They hold real estate. Kahuna 21 Commercial 1 was a real estate purchase that was 22 subsequently transacted on or about 2008 or '09, and 23 it was a commercial building, and it was since sold. 24 Kahuna Residential 1 was very similar 25 but in the residential side, and then the two 26: 1 entities were used to be able to create Kahuna 2 Investment Group which also purchased commercial 3 real estate property. 4 At this point, there are no holdings 5 in Kahuna Residential 1 nor are there in Kahuna 6 Commercial 1 other than the holdings of Kahuna 7 Investment Group. 8 And Kahuna Commercial 2 was a</p>				

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<p>9 subdivision development in LeRoy, Illinois, and at 10 this point, there are six lots remaining in that 11 subdivision. That's the only thing that that owns. 12 Q. And how about Kahuna Builders? 13 A. Kahuna Builders was part of my 14 research and development for all of the above in 15 relation to energy and also building and real 16 estate. It exists, but it does not at this point 17 have a -- it has some minor ownership I believe 18 still in Kahuna Investment Group, but at this point 19 it is not an operating company per se.</p>				
<p>26:23 Q. So the first company you described 24 was Kahuna Business Group, and you talked about the 25 business of entrepreneurship. 27: 1 Would you consider that your primary 2 business activity? 3 A. Yes. 4 For correction, the first business</p>				

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<p>5 was actually Community Merchant Services, CMS, Inc., 6 and CMS, Inc. still exists. It had ownership in the 7 ATM business that we sold and is still receiving 8 some royalty income. 9 But, yes, I would consider my 10 business endeavor, the mission for Kahuna Business 11 Group is learning, living and sharing the journey of 12 entrepreneurship in life, business, and legacy, and 13 that is what I spend my time pursuing. 14 Q. In an average week, about how many 15 hours do you spend on that? 16 A. 670 plus. 17 Q. And in the course of a year about how 18 many weeks of 70 plus hours of work would you say 19 you spend pursuing the business of entrepreneurship 20 endeavor? 21 A. 51.</p>				
<p>28:12 Q. But in an average month, about how 13 much time would you say you give to any one of these</p>				

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<p>14 different businesses? 15 A. Well, it is different depending on 16 what is my focus. Currently my focus is on building 17 our accounting business unit, and when we were 18 doing, actively doing real estate and the research 19 and development, that was my focus. 20 So I have a great staff and all of my 21 activities coincide with -- I don't have any outside 22 activities that don't fit within the scope of my 23 entrepreneurship business or our entrepreneurship 24 business, so I'm the person, the chief instigator of 25 research and development, looking for patterns, 29: 1 looking for relating the normally unrelatable. 2 So whether I'm doing public speaking 3 or whether I'm researching RaPower-3 and going out 4 to Utah for that or researching going to trade 5 shows, all of that falls within the</p>				

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<p>scope of what I 6 would consider my entrepreneurial activities. 7 I wake every morning at 5 a.m. I 8 spend the first two hours, once I'm dressed and 9 ready, at a restaurant, one or two usually, and 10 that's where I spend my time planning before I would 11 go to my office on a typical day. 12 And then I would usually be there 13 from 8 o'clock until 6 o'clock, and then I would 14 usually not take lunch unless I'm meeting with 15 people and be able to work with the different 16 leaders or the different activities that are needed. 17 Today I have a board meeting this 18 afternoon with the National Foodworks. Those are 19 the companies that I mentioned earlier in Decatur. 20 And so whichever business opportunity 21 or unit has a need, then that's how I will work 22 through my schedule.</p>				

Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
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<p>30:10 Q. My question is, do you have any 11 formal education to do with federal income taxes, 12 for preparing them or understanding them for 13 business or personal purposes? 14 A. No, I do not. 15 Q. Have you ever taken any informal 16 training? 17 A. Not relating to tax. 18 Q. Do you prepare your own taxes? 19 A. I do not. 20 Q. Do you use an accountant? 21 A. I do. 22 Q. Who is that accountant right now? 23 A. It is Jessica Woodward with Woodward 24 & Associates. 25 Q. How long has -- I'm sorry. 31: 1 Do you have any other entities 2 prepare tax returns for you other than Woodward & 3 Associates? 4 A. No. 5 Q. How long have you been with Woodward 6 & Associates? 7 A. 1997, on or about.</p>				

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<p>8 Q. So from 1997 to the present, Woodward & Associates has been the sole provider of your federal income tax returns?</p> <p>11 A. That is correct.</p> <p>12 Q. Have you sought advice about federal income taxes from any other entity than Woodward & Associates?</p> <p>15 A. Not to my recollection.</p> <p>16 Q. Oh, Mr. Lunn, what e-mail address do you use as your primary account?</p> <p>18 A. frank@kahunaworld.com.</p> <p>19 Q. How long have you used that e-mail address as your primary?</p> <p>21 A. I believe since 1997 or 1998.</p> <p>22 Q. Do you use any other e-mail addresses?</p> <p>24 A. I have a g-mail account but I couldn't tell you the -- I don't really use it.</p> <p>32: 1 Q. So you can't remember the first part that comes before @?</p> <p>3 A. No, I can't.</p>				
<p>33:24 Q. All right. So, Mr. Lunn, you</p>				

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<p>25 mentioned that you first learned about RaPower-3 in 34: 1 or around 2010 or 2011, is that correct? 2 A. I believe so. 3 Q. Tell me about how you came to learn 4 about RaPower-3. 5 A. I was doing research on various 6 energy, again, conservation creation, and was 7 introduced to RaPower-3 through B.J. Zeleznik case 8 who introduced me to Roger Freeborn. 9 Q. How did you know B.J. Zeleznik? 10 A. He is a coach and administrator at 11 the school where my kids went to high school. 12 Q. How did you first start talking to 13 him about RaPower-3? 14 A. I don't recall. 15 Q. Did he introduce it to you? 16 A. Yes. 17 Q. What did he tell you about it? 18 A. That it was something interesting,</p>				

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<p>19 and he thought I would have some interest in it 20 because he knew that I was an entrepreneur and 21 interested in things like that and invited me to 22 meet Roger Freeborn who was going to be in town. 23 Q. What happened next? 24 A. I met with Roger Freeborn and learned 25 about what RaPower-3 was doing. I was interested 35: 1 and I did some research. 2 Q. Do you remember about when that 3 meeting was with Roger Freeborn? 4 A. I do not. 5 Q. Was it just you and Mr. Freeborn? 6 A. No. 7 Q. Who else was there? 8 A. I don't recall -- well, B.J. was 9 there. 10 Q. Were there more people than you and 11 Mr. Zeleznik and Mr. Freeborn? 12 A. Yes. 13 Q. Do you recall about how many? 14 A. I don't.</p>				

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<p>15 Q. Was it more than five? 16 A. I don't believe so. 17 Q. Where was that meeting held? 18 A. I don't recall. 19 Q. Was Roger Freeborn the only person 20 there from RaPower-3? 21 A. Yes. 22 Q. Did Mr. Zeleznik speak at this 23 meeting? 24 A. I think he just introduced who Roger 25 was. 36: 1 Q. What did Mr. Freeborn say at that 2 meeting? 3 A. He shared the concept of RaPower-3 4 and the lenses and the creation of heat as a 5 different technology. I can't really recall, I 6 mean, I'd be guessing if... 7 Q. So what was the concept of RaPower-3? 8 A. Are you asking me to guess or -- 9 Q. How did he explain it to you or what 10 did you understand at that time</p>				

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<p>was the concept of 11 RaPower-3?</p>				
<p>36:13 A. That heat could be created in an 14 efficient way through the refraction of the sunlight 15 in a concentrated way and then be able to convert 16 that heat into energy also in a very efficient way. 17 Q. To do what with the energy? 18 A. To produce energy; to create heat, 19 transfer heat into a mechanical device such as a 20 turbine to be able to convert that into electricity 21 in a very efficient, cost-efficient way. 22 Q. Sure, but to produce energy for 23 what -- to connect to the electrical grid?</p>				
<p>37: 1 A. Creation of energy is the creation of 2 energy and electricity, and what you do with that, 3 there's a market for that, and so having the 4 technology for that is quite beneficial in my eyes. 5 Q. I guess my question is at that</p>				

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<p>time 6 when you were first being introduced to RaPower-3, 7 what was the market for the electricity to your 8 understanding? 9 A. That wasn't really what my 10 understanding was about. My understanding was the 11 technology to be able to create energy. 12 Beyond that was beyond the scope of 13 my concern.</p>				
<p>38: 7 Q. So what kinds of research did you do 8 after you heard about RaPower-3? 9 A. I continued to just look at the 10 differences in like construction methodologies for 11 energy efficiency, understanding different 12 engineering aspects of that and looking at what the 13 applications might be and then also just energy 14 creation, the different types of solar, the 15 different types of wind. 16 And so I just, I generally research 17 and keep up on those activities.</p>				

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<p>18 Q. Do you have a research file with</p> <p>19 respect to, for example, solar energy in particular?</p> <p>20 A. Not a specific file.</p> <p>21 Q. So how do you keep and maintain your</p> <p>22 research with respect to solar energy?</p> <p>23 A. Well, research with respect to my</p> <p>24 definition as an entrepreneur is just keeping notes.</p> <p>25 It's not a statistical analysis research like a</p> <p>39: 1 typical research and development. It's just being</p> <p>2 able to look at patterns and looking at things that</p> <p>3 emerge and being able to stay attuned to what might</p> <p>4 be future opportunities.</p> <p>5 Q. So after you were introduced to</p> <p>6 RaPower-3, what, if any, specific research did you</p> <p>7 do about that company?</p> <p>8 A. Well, I know I researched on the</p> <p>9 website and looked at that.</p> <p>10 Q. Sorry. Let me interrupt you here.</p>				

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<p>11 A. Yes. 12 Q. So you looked at the material on 13 RaPower-3's website? 14 A. Yes. 15 Q. Okay. What other research did you do 16 besides reviewing its website? 17 A. I don't recall. 18 Q. What, if any, research, Mr. Lunn, did 19 you do on the type of technology that RaPower-3 20 planned to use? 21 A. I'm not sure I understand. 22 Q. So you identified a couple of 23 different components of the technology that 24 RaPower-3 claims to have: turbines, lenses, the 25 ability to concentrate solar heat and turn it into 40: 1 energy. 2 What, if any, research did you do 3 about that technology? 4 A. I had looked into other solar 5 concentrator type energy and found it to be wanting 6 in that it wasn't commercially, in my opinion, 7 viable without massive subsidies. 8 The same with photovoltaic. At</p>				

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<p>the 9 time, the technology did not exist to make it 10 stand-alone profitable, and so all of the things 11 that I looked at did not really rise to the 12 threshold of commercial viability or commercial 13 viability in a nonsubsidized manner. 14 Q. So let's take those two things, other 15 solar concentrators first. 16 You said that based on what you saw, 17 they were not commercially viable? 18 A. In my opinion. 19 Q. In your opinion. 20 So why, in your opinion, was 21 RaPower-3 technology different? 22 A. When I went to -- I went to the site 23 and visited the site on my own, and the technology 24 made sense to me. 25 I don't have a degree. I don't have 41: I any special training, but I have a finely tuned</p>				

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<p>2 entrepreneur common sense for me, and it made sense 3 to me. 4 And so seeing the components, feeling 5 the heat from a lens, being able to see the 6 opportunity to construct this in a very economical 7 manner that did not require the same precision as 8 solar concentrators and some of the other things, 9 did not require the fine polish for the mirrors and 10 just a number of things that I felt were detrimental 11 to other systems, it struck a resonant chord with me 12 that this was very simple. Even I can understand, 13 and it makes sense, and I was excited about it. 14 Q. So, Mr. Lunn, I'm just trying to 15 understand. 16 So your opinion on the commercial 17 viability of RaPower-3's technology is based on your 18 personal observations from site visits?</p>				

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<p>19 (Witness nodded head up and 20 down.) 21 Q. Yes? 22 A. Yes. 23 Q. Is it also based on information you 24 got from RaPower-3? 25 A. Some. 42: 1 Q. Is it based on information you got 2 from International Automated Systems? 3 A. I don't believe so. 4 Q. Did you hear from Neldon Johnson 5 about the technology? 6 A. Not at that time. 7 Q. Have you ever? 8 A. I have since.</p>				
<p>42: 9 Q. So what else, other than those things 10 that we've just listed out here, what other 11 information, if any, influenced your opinion that 12 RaPower-3's technology was viable? 13 A. I don't believe there was any 14 additional. 15 Q. So just to be clear, Mr. Lunn, I know 16 I've been asking questions about</p>				

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<p>the very beginning 17 of your experience with RaPower-3. 18 A. Uh-huh. 19 Q. But over the course of time to the 20 present day, what, if any, other information has 21 contributed to your opinion that RaPower-3's 22 technology is viable? 23 A. Nothing new. 24 I have met Neldon Johnson, and I 25 believe that he is somebody who is very capable and 43: I it didn't add anything new, but it solidified my 2 determination that I thought this is good cutting 3 edge technology and a good opportunity to be able to 4 participate in a business similar to real estate 5 where there's something that the government wants to 6 do and so the government has ways of providing 7 entrepreneurial incentives, and that in addition to 8 just like real estate having recurring revenue, so</p>				

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<p>9 having recurring revenue of a lens plus the ability</p> <p>10 to be able to do it in an enhanced way with the tax</p> <p>11 code made it seem like a great opportunity.</p> <p>12 Q. Why do you believe that Neldon</p> <p>13 Johnson is capable of bringing this technology to</p> <p>14 viability?</p>				
<p>43:17 A. Because I've had a chance to just</p> <p>18 talk with him and over the years I've had an</p> <p>19 opportunity to hone some character development and</p> <p>20 be able to make judgments, and it's very congruent</p> <p>21 for me, the opportunity, as he has constructed, from</p> <p>22 the concentration of the solar heat to the</p> <p>23 conversion to steam, to the conversion from steam to</p> <p>24 be able to turn the turbine and be able to create</p> <p>25 electricity. It seemed very simple, whereas all the</p> <p>44: 1 other technologies out there seemed very complicated</p> <p>2 and either the technology does not</p>				

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<p>exist yet as in 3 the cost-effectiveness for photovoltaic or, again, 4 just the simplicity of it, and sometimes simplest is 5 the best. 6 Occam's razor. Sometimes the 7 simplest answer is the best answer, and that's what 8 I felt.</p>				
<p>44: 9 Q. Okay. Let's take it back to your 10 initial introduction to RaPower-3. 11 How did you understand anyone would 12 make money through RaPower-3? 13 A. My understanding was that I would be 14 purchasing a lens. A lens was part of a system, and 15 the lens would be part of a system that would be 16 able to create heat and the heat would be able to 17 turn the turbine and the turbine would be able to 18 create electricity. 19 As part of that, I would be able to 20 lease back that lens or a number</p>				

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<p>of lenses to the 21 company for the future creation of electricity to be 22 sold. 23 Q. How else would someone make money 24 with RaPower-3? 25 A. That's really the only way you would 45: 1 make money is through the leasing of the lenses over 2 time, and then as electricity was created, there is 3 an agreement to be able to produce or provide 4 leasing of those lenses for that specific purpose. 5 Q. Okay. So was it your understanding 6 that the lease was in order for the lens to be used 7 in a system that would ultimately generate 8 electricity that someone would ultimately pay for, 9 like someone would pay for the electricity that was 10 generated? 11 A. That would be an assumption.</p>				
<p>45:24 Q. So your understanding is that the</p>				

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<p>25 lenses are in a system that creates heat. 46: 1 A. That produces heat, yes. 2 Q. Okay. Is heat the final point of 3 these lenses? 4 Like who's going to pay for heat? Is 5 anyone going to pay for heat?</p>				
<p>46:11 A. Heat is the center point of every 12 electrical production whether it's nuclear like we 13 have here in Clinton. Heat creates steam which 14 turns a turbine. Heat in coal production turns a 15 turbine, so heat in this system turns a turbine. 16 It's more efficient. 17 Q. Okay. And why do we need to turn the 18 turbine? 19 A. To create electricity.</p>				
<p>46:20 Q. Okay. If electricity is produced, 21 where is it going to go?</p>				
<p>46:24 A. You're asking me a question that is 25 calling for me to speculate beyond the scope of what 47: 1 my investment is so...</p>				

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<p>47: 2 Q. So, Mr. Lunn, are you telling me that 3 when you made this investment, you had no idea where 4 electricity from this system might go?</p>				
<p>47: 6 A. I have an assumption just like every 7 single technology that's out there that if it is 8 produced that there would be a market for it, no 9 different than Tesla producing cars before they had 10 batteries, before they had charging stations. 11 So as an entrepreneur, I didn't 12 necessarily have to go to the market of electricity, 13 and I assume there is a market for electricity. 14 I just -- my concern is, is this a 15 technology that can actually produce heat 16 efficiently to turn a turbine at a cost-effective 17 manner and at the same time be able to do so in a 18 way that doesn't require a lot of interdependent 19 systems. 20 I saw it as a very simple creation</p>				

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<p>of 21 electricity, and that's really where my mind 22 stopped. 23 As you're asking me questions, I can 24 certainly, you know, think now in a different way, 25 but that's not really at all what was in my mind in 48: 1 any of these investments. It was specifically, will 2 this create heat. Can it do it in such a way to be 3 able to create enough heat to turn a turbine that 4 would create electricity cost effectively. 5 That's literally all I really was 6 concerned with.</p>				
<p>48:21 Q. Okay. So you said that you would 22 purchase the lens from RaPower-3, correct? 23 A. That is correct. 24 Q. And then you would lease the lens 25 back. 49: 1 To whom would you lease the lens 2 back? 3 A. I don't recall.</p>				

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<p>4 Q. Then who would make the lease</p> <p>5 payments to you as the owner of the lease?</p> <p>6 A. I don't recall specifically.</p> <p>7 Q. And do you have any idea why an</p> <p>8 entity would pay you for a component of a system</p> <p>9 that would generate heat?</p> <p>10 A. Absolutely.</p> <p>11 Q. Why is that?</p> <p>12 A. Because heat is a central component</p> <p>13 in the creation of electricity. It's the ability to</p> <p>14 do that in a way that is efficient and cost</p> <p>15 efficient that makes it very unique.</p> <p>16 In nuclear, and again, central to the</p> <p>17 creation of turning a turbine is the heat of the</p> <p>18 nuclear rods, it is immensely complicated, immensely</p> <p>19 expensive. The cooling itself is a whole industry.</p> <p>20 The same thing with coal. The</p> <p>21 requirements to create that level of heat is very,</p> <p>22 very complicated and</p>				

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<p>cumbersome. 23 So heat is really the pivot point for 24 the ability to have cost-effective electricity 25 creation. 50: 1 Wind is another where you use wind to 2 turn a turbine but wind has its own issues. 3 Q. Sure. And I guess I just want to 4 understand. 5 So your sole concern was whether the 6 lens could be used to create heat, right? 7 A. Yes. 8 Q. And you were not concerned about 9 whether and how that heat would end up generating 10 electricity, is that correct? 11 A. No, that is not correct. 12 Q. Okay. 13 A. I looked at -- there's two sides of 14 this. 15 One is the creation of heat, and then 16 the second is conversion of heat into a mechanical</p>				

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<p>17 energy which could be used to produce electricity. 18 That is the sole point of my focus 19 was the heat to be able to be converted into 20 mechanical energy to produce electricity. 21 Q. Then the reason I'm a little 22 confused, Mr. Lunn, is because I thought that 23 earlier you said you were not concerned with the 24 ultimate production of electricity. 25 A. No. I'm concerned with the ultimate 51: 1 production of electricity. 2 Q. Okay. Then I want to ask how do you 3 know RaPower-3's lenses are actually used to produce 4 electricity, not just heat?</p>				
<p>51: 7 A. Because the technology that I 8 witnessed, my conclusion is that this makes sense 9 and will work to create electricity. 10 The creation of electricity is both 11 very simple, I mean, it's magnets and copper, but 12 you have to be able to have a</p>				

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<p>mechanism to do that 13 sustainably, and I see this technology as being able 14 to do that, so that was my... 15 Q. Mr. Lunn, in 2010, did RaPower-3 16 create electricity? 17 A. I do not know. 18 Q. As of today, do you have any 19 understanding that RaPower-3 has created 20 electricity? 21 A. I do not personally know.</p>				
<p>52:13 Q. Mr. Lunn, can you point me to any 14 information to show that RaPower-3 has generated 15 electricity? 16 A. That is not -- 17 Q. Mr. Lunn, please answer the question 18 yes or no. 19 Do you have any information to show 20 that RaPower-3 has generated electricity? 21 A. No. 22 Q. Has RaPower-3 or any other entity 23 ever paid you for electricity that has been 24 generated as the result of your</p>				

<p style="text-align: center;"><i>Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828</i> <i>Deposition of Frank Frederick Lunn IV taken August 1, 2016</i></p>				
<p>Plaintiff Designations – BLUE Defendant Completeness—PURPLE Defendant Counter-Designations – RED (at end)</p>	<p>Defendant Designations – RED Plaintiff Completeness—PURPLE Plaintiff Counter Designations – BLUE (at end)</p>	<p>Defense Objections/Responses – RED Plaintiff Objections/Responses – BLUE</p>	<p>Exhibits</p>	<p>Ruling</p>
<p>lenses? 25 A. No.</p>				
<p>53:12 Q. All right. I'd like to take us back 13 to the first meeting that you were talking about 14 where you heard Roger Freeborn speak. 15 We talked about the research that you 16 did about RaPower-3 in particular. 17 What were your next steps with 18 RaPower-3 after that? 19 A. I don't recall. It's been awhile so 20 I don't recall. 21 Q. Did you have any more meetings with 22 anyone or did you sign up? What happened? 23 A. I did not sign up right away, or I'd 24 sign up. I didn't purchase anything right away. 25 I believe that I went and looked at 54: 1 the website, and I think I purchased a system later 2 that year. That's what I can recall at this time. 3 Q. Between the first meeting with</p>				

Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>4 Mr. Freeborn and the time that you purchased your 5 first system, did you talk anymore to Mr. Zeleznik 6 about RaPower-3? 7 A. I don't believe so. 8 Q. During that same time, did you hear 9 anything more from Roger Freeborn about RaPower-3? 10 A. I don't recall. 11 Q. And during that time, did you hear 12 from anyone else about RaPower-3? 13 A. I don't believe so. 14 Q. And, Mr. Lunn, you talked about your 15 understanding from Mr. Freeborn that one way of 16 generating income through RaPower-3 was leasing the 17 lenses for the production of heat.</p>				
<p>54:20 Q. Was there any other way that 21 Mr. Freeborn talked about being able to generate 22 income through RaPower-3? 23 A. No. 24 Q. Did he talk at all about sponsoring 25 other people to buy lenses</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>through RaPower-3? 55: 1 A. Yes. So I would like to correct what 2 I just said. 3 Yes, there was a component of finding 4 other, sponsoring other people into the purchase of 5 the lenses. 6 Q. And what did he tell you about that, 7 if anything, that you can remember right now? 8 A. I wasn't interested in that, so I 9 didn't pay attention to that, so I don't recall. 10 Q. You said you were not interested in 11 that. 12 Was that just at the time or have you 13 never really been interested in sponsoring other 14 people? 15 A. That was not my concern. 16 My focus was really on the technology 17 and the feasibility of the ability to create 18 electricity. 19 Q. Okay. And was that true only at the</p>				

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<p>20 beginning or has that been true over time until 21 today? 22 A. I have never actively marketed the 23 RaPower-3 opportunity. 24 Q. But have you sponsored people into 25 RaPower-3? 56: 1 A. Yes. 2 Q. Who were they? 3 A. Kahuna Builders. 4 Q. Who else? 5 A. That's all that I have sponsored into 6 RaPower-3. 7 Q. Have you sponsored in Tammy Cook? 8 A. Kahuna Builders sponsored in Tammy 9 Cook. 10 Q. Did Kahuna Builders sponsor in anyone 11 else? 12 A. Bryan Bauer. 13 Q. Anyone else? 14 A. No. Excuse me. Yes; myself. 15 Q. Can you explain that? 16 A. Yes. 17 So Kahuna NRG was the first purchase</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>18 of the lens, and Kahuna NRG sponsored Kahuna 19 Builders which sponsored myself as an individual, 20 Tammy Cook and Bryan Bauer. 21 Q. Okay. So let me make sure I 22 understand. 23 A. Yes. 24 Q. You said that you purchased one lens 25 at the very beginning, right? 57: 1 A. Yes. 2 Q. Did you mean by that Kahuna NRG 3 purchased one lens? 4 A. It was still myself as a sole 5 proprietor, but it was specifically to be whatever 6 the future opportunities would be within Kahuna, so 7 it was set aside as a, designated as a future Kahuna 8 opportunity. 9 Q. So did you create a separate business 10 entity called Kahuna NRG? 11 A. Only as a -- 12 Q. Yes or no. 13 A. No. 14 Q. So then what was Kahuna NRG in your 15 mind?</p>				

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<p>16 A. In my mind, it was a separate 17 business unit. I have a website, kahunanrg.com, and 18 for the purpose of understanding being able to share 19 energy creation as well as energy efficiency 20 opportunities, but that to this point has not been 21 formalized. 22 Q. All right. So you purchased the 23 first lens through Kahuna NRG, correct? 24 A. Correct. 25 Q. Does Kahuna NRG still own that lens? 58: 1 A. Yes. 2 Q. How many lenses total does Kahuna NRG 3 own? 4 A. Just that one.</p>				
<p>58:10 Q. All right. So getting back to the 11 sponsorship, Kahuna NRG sponsored Kahuna Builders 12 you said? 13 A. That is correct. 14 Q. Did Kahuna NRG sponsor any other 15 person or entity into RaPower-3? 16 A. No.</p>				

Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
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<p>17 Q. Kahuna Builders, how many lenses does 18 Kahuna Builders own? 19 A. Six. 20 Q. Do you recall when Kahuna Builders 21 purchased those lenses? 22 A. I do not. 23 Q. Forgive me if I'm not recalling from 24 the beginning of the deposition but what else 25 besides owning those six lenses does Kahuna Builders 59: 1 do? 2 A. Kahuna Builders did have an 3 operational component related to commercial 4 construction and residential construction. 5 At this point, it holds ownership in 6 other businesses. It does not have an operating 7 component. 8 Q. So did or does Kahuna Builders have 9 any other business activity around solar energy 10 production? 11 A. Not at this time. 12 Q. You said that Kahuna</p>				

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Builders 13 sponsored in you, Tammy Cook, and Bryan Bauer, 14 correct? 15 A. That is correct. 16 Q. Any other people that Kahuna Builders 17 sponsored in? 18 A. No. 19 Q. Any other entities that Kahuna 20 Builders sponsored in? 21 A. No. 22 Q. How many lenses do you own? 23 A. 850 plus the one, the original one 24 that I paid for through Kahuna NRG. I have them 25 separated.				
60: 1 Q. How many lenses does Tammy Cook own? 2 A. I do not know. 3 Q. Bryan Bauer, how many lenses does he 4 own? 5 A. I do not know. 6 MR. HEIDEMAN: Objection. Calls for 7 speculation. Lacks foundation. 8 Q. Has Bryan Bauer sponsored anyone into				

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<p>9 RaPower-3? 10 A. I do not know. 11 Q. Has Tammy Cook sponsored anyone into 12 RaPower-3? 13 A. I do not know.</p>				
<p>60:14 Q. And so you personally as Frank Lunn, 15 have you sponsored anyone into RaPower-3? 16 A. No, I have not. 17 Q. Mr. Lunn, just to be clear, you own 18 850 lenses in your personal capacity, correct? 19 A. Correct. 20 Q. So not through another entity or 21 business, right? 22 A. I own personally 850 lenses. That's 23 all I own personally. 24 Q. Okay. And, Mr. Lunn, who is Tammy 25 Cook? 61: 1 A. Tammy is a co-worker of mine, a 2 business partner in several of the businesses. 3 Q. And who is Bryan Bauer? 4 A. Bryan was a business partner with the</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>5 ATM business. 6 Q. Okay. So you mentioned, Mr. Lunn, 7 that Mr. Freeborn talked to you about leasing income 8 for the lenses and the ability to generate income by 9 sponsoring other people into RaPower-3, correct? 10 A. That is correct. 11 Q. What, if anything, did Mr. Freeborn 12 tell you about the tax consequences of buying a 13 lens? 14 A. He shared that there might be tax 15 benefits to this in addition to that as the 16 government creates tax incentives for 17 entrepreneurship in food production, housing, energy 18 and job creation, and so this as part of the energy 19 might have certain tax benefits as well but that I 20 would need to check in with my own tax advisor. 21 Q. Did Mr. Freeborn talk to you about 22 bonuses at all?</p>				

Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>23 A. Yes.</p> <p>24 Q. What did he say about bonuses?</p> <p>25 A. That based on actual revenues created</p> <p>62: 1 from the company IAUS that there would be the</p> <p>2 possibility of bonuses to coincide with the purchase</p> <p>3 of lenses.</p> <p>4 Q. I'm not sure I understand where the</p> <p>5 revenue was going to come from for the bonuses.</p> <p>6 Did you have an understanding of that</p> <p>7 at the time?</p> <p>8 A. That IAUS, which is the company that</p> <p>9 owns the technology, would be able to provide a</p> <p>10 percentage of their revenues in the future, and then</p> <p>11 that would be a bonus to those who purchased lenses.</p> <p>12 Q. And do you have an understanding of</p> <p>13 why that bonus structure was in place?</p> <p>14 A. It was a creative inducement to be</p> <p>15 able to help with the...instead of</p>				

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borrowing money, 16 to be able to use lenses and lens purchases to be 17 able to pay for technology.				
63: 7 Q. So after your initial conversation 8 with Roger Freeborn, did you have any -- from that 9 day to this, what other conversations or meetings 10 have you had with Roger Freeborn? 11 A. I have spoken with Roger Freeborn on 12 the phone I believe two or three times, but I don't 13 recall when. 14 One was to make arrangements that I 15 could actually come to Salt Lake City to be able to 16 see the technology for myself, and I don't recall 17 what the other conversations may or may not have 18 been. 19 Q. Have you had any additional in-person 20 meetings with Roger Freeborn? 21 A. He was at the facility in Delta the 22 first time that I went there, and I				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>don't believe 23 I've seen him since. 24 Q. Did he speak on any topic at the 25 first site visit that you attended? 64: 1 A. Not in a formal capacity to my 2 recollection. 3 Q. Have you spoken to Greg Shepard 4 personally? 5 A. Yes, I have. 6 Q. Okay. When did you, if you can 7 recall, when did you first interact with Greg 8 Shepard? 9 A. I don't recall the date, but it was 10 at that first meeting in Salt Lake City. 11 Q. So the first -- I'm sorry to 12 interrupt, but the first site visit that you 13 attended? 14 A. Yes, that was the first time that I 15 met Greg Shepard. 16 I had corresponded with him briefly 17 before to let him know of my interest in the</p>				

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<p>18 technology and how I want it to work and that I was 19 looking at it as an entrepreneurship endeavor. 20 Q. Had you spoken to him on the phone 21 before or was it by e-mail? 22 A. Not before. It was just by e-mail. 23 Q. Okay. So you met him at the first 24 site visit? 25 A. Yes. 65: 1 Q. Tell me about your first site visit; 2 what was said, what did you do, what was the 3 structure. 4 A. It started as a, just an information 5 gathering, and then it was basically just to present 6 the technology and an overview, essentially 7 everything that's on the website, and then there was 8 a caravan to Delta which is about two hours away 9 from where we were all staying, and then once we got 10 to Delta, there was a tour of the different</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>11 facilities at the time. 12 That was my first of four visits so I 13 was able to see changes there, but essentially, it 14 was to explain where the different components were 15 manufactured, what they were for, and how they fit 16 into the system. 17 Q. And tell me, about when do you recall 18 that your first site visit was? 19 A. It's a guess, but I would say 2010 I 20 believe. 21 Q. Was there a group of people? 22 A. Yes. 23 Q. About how many people would you say?</p>				
<p>65:24 A. I would say approximately 20.</p>				
<p>66: 5 Q. Did Greg Shepard speak, like informal 6 remarks, at your first site visit? 7 A. I believe so. 8 Q. Okay. What did he say? 9 A. I don't recall other than just 10 introducing the technology, and it was very similar 11 to the information that was on the website,</p>				

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 Deposition of Frank Frederick Lunn IV taken August 1, 2016*

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<p>12 introducing the various components and what came 13 together to create the systems. 14 Q. Did Greg Shepard talk about the tax 15 benefits of buying in? 16 A. I believe that he did. 17 Q. About how much time did he spend on 18 the tax benefits? 19 A. I would say an equal amount to the 20 components, the various components, so probably 21 maybe a fifth of the time. 22 Q. A fifth of the total time for your 23 visit? 24 A. No, for the time that he was 25 speaking. 67: 1 Q. I see. 2 So help me understand. 3 So he talked to you about the tax 4 benefits for about the same amount of time that he 5 talked about the technology? 6 A. No. He talked about the components 7 of the technology first and then talked about the 8 specific lens purchase and then the network, the</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>9 ability to sponsor other people in to purchase, and 10 then the tax benefits that might be a possibility as 11 well. 12 Q. And you mentioned that a lot of the 13 information about the technology that he shared was 14 very similar to what was on the website. 15 Was that also true for what he said 16 about the tax benefits? Was it similar to what was 17 on the website? 18 A. I believe so.</p>				
<p>71:13 Q. So what did you see when you went to 14 Delta the first time? 15 A. I saw the large copper, it's massive, 16 the size of this table, so approximately 18 feet 17 long copper mold or copper, yes, I guess it would be 18 the mold that would be used to be able to create the 19 lenses, the Fresnel lenses; Fresnel, F-r-e-s-n-e-l, 20 which is a specific refraction pattern to maximize</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>21 the concentration of the light. So I was able to 22 see that. 23 I was able to see the components of 24 the towers, everything from the circular ring to the 25 R&D parts where they were figuring out how to keep 72: 1 the harmonic resonance from destroying the lenses 2 because there's a lot of wind there. So they had to 3 have special attachments and ways of bracketing each 4 lens. 5 So there are a number of, although it 6 looks very simple, there's a number of components to 7 all of that that all have to be working together for 8 this to be able to be a, not only a viable 9 technology but one that could be quickly mass 10 produced. 11 And that's what I was looking for in 12 each subsequent visit, what was said versus what 13 happened.</p>				

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<p>14 Q. So when you went to Delta on your 15 first site visit, did you visit a manufacturing 16 building? 17 A. Yes. 18 Q. And did you visit a plot of land 19 where there were towers erected? 20 A. Yes. 21 Q. Did you visit any other specific 22 place in Delta related to RaPower-3? 23 A. There were three I believe different 24 buildings there, and I visited each of those at that 25 time. 73: 1 Q. Okay. In your subsequent site visit, 2 did you visit the same places? 3 A. One was no longer there. They moved. 4 It was on the outskirts of Delta originally and then 5 it was moved. There was quite a bit more facility. 6 I'm not entirely sure what was together versus what 7 was separate.</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>8 The land acreage where the towers 9 were was the same, and there were some additional 10 structures and facilities put on that land. 11 Q. Okay. So four times you have visited 12 Delta, Utah and seen the various places connected 13 with RaPower-3, right? 14 A. Yes. 15 Q. Okay. Have you visited anyplace in 16 the United States other than Delta, Utah to visit a 17 site connected with RaPower-3? 18 A. No.</p>				
<p>74: 2 Q. On your first site visit, did you see 3 any actual production of heat? 4 A. I was able to feel production of heat 5 through -- 6 Q. So tell me what you did. What did 7 you -- 8 A. In one of the facilities, they had a 9 Fresnel lens set up. 10 Q. I'm sorry. Real quick, in a facility</p>				

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<p>11 so in a building? 12 A. Uh, yes. 13 Q. Or was it outside? 14 A. Well, it was outside, outside of a 15 building. 16 Q. Okay. And was the lens on a tower? 17 A. No. 18 Q. Okay. Please continue. 19 A. The lens was merely held up. 20 Q. By whom? 21 A. I do not -- it wasn't somebody that I 22 know. 23 Q. But a person was holding a lens? 24 A. A person was holding a lens and 25 showing that you could put your hand in there and 75: 1 feel the immense heat in that, and so that's what 2 that was. 3 Q. Did you see any other demonstration 4 of a lens producing heat? 5 A. Not in that visit.</p>				
<p>75: 9 Q. On your first site visit, did you see 10 any lens generate electricity? 11 A. No, and if I may correct,</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>lenses in 12 and of themselves do not create any electricity. 13 Q. Sure. 14 On your first site visit, did you see 15 a lens used in any system that ended up creating 16 electricity while you were there? 17 A. No, no. 18 Q. So do you recall, Mr. Lunn, when your 19 second site visit was? 20 A. I do not recall the specific time 21 period. 22 Q. Was it about a year after your first 23 or was it more than a year? 24 A. It was about a year. 25 Q. Again, when you went, what happened 76: 1 on your visit, on your second site visit? 2 A. The second site visit I skipped all 3 of the initial meeting to where everybody was going 4 to gather together, and I just drove myself to the 5 site. 6 Q. And about how many people</p>				

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<p>were there 7 on your second site visit in terms of your group? 8 A. About the same. 9 Q. So about 20 people? 10 A. Yes. 11 Q. Do you know if they were already 12 customers of RaPower-33 or if they were prospective 13 customers? 14 A. I do not know. 15 Q. Who spoke at your second site visit? 16 A. No one spoke as an official. Greg 17 Shepard was giving a tour and just explaining 18 things, and so he was where I was. 19 Q. And what were you touring? 20 A. The facility and facilities at Delta 21 which included the different component manufacturing 22 pieces and facility in general. 23 Q. So on your second site visit, you saw 24 the manufacturing building? 25 77: 1 (Witness nodded head up and 2 down.)</p>				

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<p>3 Q. Yes? 4 A. Yes. 5 Q. And you also went out to the outdoor 6 site that had towers, correct? 7 A. Correct. 8 Q. Okay. On your second site visit, did 9 you see a demonstration of a lens producing heat? 10 A. Yes. 11 Q. What was that demonstration? 12 A. A demonstration of a single Fresnel 13 lens being able to concentrate heat to a, like catch 14 a log on fire, something like that. 15 Q. A log? 16 A. Or wood. Like a two by four maybe. 17 Q. And that was a single lens? 18 A. Yes. 19 Q. Did you see an array of lenses in 20 operation to produce heat? 21 A. Not as a working production of heat. 22 Q. At your second site visit, did 23 Mr. Shepard tell you that they were actually 24 producing heat on a regular</p>				

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 Deposition of Frank Frederick Lunn IV taken August 1, 2016*

Plaintiff Designations – BLUE Defendant Completeness—PURPLE Defendant Counter-Designations – RED (at end)	Defendant Designations – RED Plaintiff Completeness—PURPLE Plaintiff Counter Designations – BLUE (at end)	Defense Objections/Responses – RED Plaintiff Objections/Responses – BLUE	Exhibits	Ruling
<p>basis? 25 A. Not exactly. 78: 1 Q. So what did he tell you about what 2 they were doing up there? 3 A. Well, they explained that there are a 4 number of components that need to be put together in 5 order to be able to make the technology viable and 6 mass producible. 7 So the component parts of that are 8 the lens for the heat, the concentration of that 9 beyond the single lens, the creation of that heat 10 transference to a generator or, excuse me, to a 11 turbine, and then from that turbine to be able to 12 have that go to either a system that would create 13 the electricity or move that electricity. 14 So we were able to see the different 15 parts to it. 16 Q. Were the parts connected? 17 A. Some of them were but not as a whole. 18 Q. The whole system was not</p>				

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connected, 19 correct? 20 A. To my knowledge, no. 21 Q. Did you see lenses employed in any 22 system that ended up generating electricity on your 23 second site visit? 24 A. Not to my knowledge.				
79:12 Q. So you saw the turbine turn brackish 13 water into fresh water on your second site visit? 14 A. I don't know what kind of water. I 15 was able to see it create steam and be separated. 16 Q. And did you see that happen as part 17 of a system? 18 A. It was -- 19 Q. Using a lens. Excuse me. Using a 20 lens. 21 A. No. 22 Q. Do you recall when your third site 23 visit was? 24 A. It would have been approximately 25 within that next year I'm guessing.				

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<p>80: 1 Q. Okay. And tell me about your third 2 site visit. What were your activities? 3 A. Third site visit was more of an 4 educational, explaining the overall concept related 5 to the different component parts and how it all 6 worked together and the vision for what RaPower-3 7 was and connecting that with IAUS. 8 Q. So was that different from an actual 9 tour of the facilities or no? 10 A. I also did a tour at the same time 11 subsequent to that. 12 Q. All right. And who explained to you 13 the component parts and how things were connected 14 with IAUS? 15 A. Some of that was Greg Shepard, and 16 some of that was Neldon Johnson, and there may have 17 been other speakers but I do not know who they are.</p>				
<p>80:24 Q. What did Neldon Johnson talk about on</p>				

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<p>25 your third site visit? 81: 1 A. What I do recall with Neldon was just 2 explaining the physics and the science related to 3 why things had not ever happened in the past and why 4 this was different and how things worked together as 5 a system. 6 Q. So real quick, when you say he 7 explained why things had never happened in the past, 8 what do you mean by that?</p>				
<p>81:14 A. So within like, for instance, other 15 solar concentrator type activities where you need to 16 have the precision of the polished lenses and 17 everything to be able to do it, there's not a net 18 gain of energy in all that, and so he explained all 19 of the physics behind this and all of the simplicity 20 as well as the technology that still needed to be 21 put together. 22 So everything has to be put together</p>				

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<p>23 in a system, and then in that system, then you can 24 have not only electricity being created but being 25 able to be created in a mass situation but also in 82: 1 remote areas or remote systems. 2 Q. So Mr. Johnson was explaining why 3 other companies had not been able to produce the 4 results that he projected for his company, right? 5 A. You're pushing a little bit more than 6 the scope of that but... 7 Q. Well, please help me understand. 8 A. But essentially it was, this is what 9 makes us different. 10 Q. Okay. And what is it that made them 11 different? 12 A. Well...</p>				
<p>83: 1 Q. I asked what did Mr. Johnson tell you 2 was different about his company and his technology. 3 A. And I'm answering that. 4 Q. Okay. Please do.</p>				

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<p>5 A. So in photovoltaic which is like what 6 you see on solar panels let's say, there is a very 7 inefficient use of the conversion of free 8 electronics to create electricity, and so to be able 9 to do that and have efficient energy creation, 10 number one, the technology doesn't exist at this 11 point. I'm not saying that it won't, but it's not 12 efficient. You have to have way too much area. 13 In the solar concentrators where you 14 have mirrors that concentrate light, you have to 15 have a precision of polished mirrors, dirt, water. 16 There's a lot of other things to that. 17 With the technology that he is 18 developing, it's a refraction, and it's a 19 concentration of light into a single point, and that 20 single point is not a -- it's a very small single 21 point that could be created</p>				

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<p>across a broad spectrum. 22 So whereas in a large multi, you 23 know, big facility, you have just one place of 24 concentrating all the light to create heat at one 25 water source, and if something happens, that doesn't 84: 1 work. 2 In Neldon's system, each tower has 3 its own independent, each lens is reflected or, 4 excuse me, is concentrating light on one single 5 piece to create a transfer of heat into a molten 6 salt which would then transfer to be able to heat up 7 water and then heat up or use and generate a 8 turbine. 9 So it's a very, very, in my opinion 10 which is nonscientific, it is a very elegant and 11 simple system. 12 That being said, just like golf, 13 losing weight, or anything else, simple does not 14 equate to easy, and so there is a number of things 15 that need to come together for</p>				

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<p>that to be done in a 16 mass producible sort of way. 17 Q. Did Mr. Johnson tell you that he had 18 actually ended up producing electricity in the 19 system that you just described? 20 A. No. 21 Q. Did he give any projections for when 22 he thought he might be able to produce electricity? 23 A. No. 24 Q. Did anyone give you any projections 25 about when they thought they might be able to 85: 1 produce electricity? 2 A. No. 3 Q. So when you went on your third site 4 visit, you made another visit to Delta, Utah, right? 5 A. Right. 6 Q. And did you tour the manufacturing 7 facility? 8 A. I did. 9 Q. And did you tour the outdoor site 10 with the towers up in the air? 11 A. I did.</p>				

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<p>12 Q. Did you tour any other place in 13 Delta? 14 A. No.</p>				
<p>85:19 Q. Sure. 20 On your tour, did you see any lens 21 generate heat?</p>				
<p>85:25 A. I believe I did. I mean, there was 86: 1 two different instances. One was somebody holding 2 up a lens that was not part of the tour. I think 3 somebody was joking around and showing, it was like 4 a practical joke, showing that even just this little 5 lens here, and it was overcast, still created heat. 6 That wasn't part of the tour. 7 And then on the tour itself I believe 8 there was showing again the creation of heat. 9 Q. And how was the creation of heat 10 demonstrated to you? 11 A. Through the use of a lens focused on 12 an object. 13 Q. So was, again, one person</p>				

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<p>holding up 14 a lens? 15 A. I don't recall. It may have been in 16 a bracket but not as part of a system. 17 Q. Okay. So on your third visit, you 18 did not see a demonstration of an array of lenses 19 focusing heat on a concentrator, correct? 20 A. Correct. 21 Q. So on your third site visit did you 22 see a place for molten salt to hold the collected 23 heat? 24 A. Yes. 25 Q. Tell me about that. 87: 1 A. There is a, it's a very simple, like 2 a trailer looking thing, and it's the same place 3 where the turbine is, and so as heat would 4 be...there's a silver, kind of like one of those 5 things you'd see in the garden. I don't know what 6 you call it. 7 Q. A reflective ball?</p>				

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<p>8 A. A reflective ball, right, something</p> <p>9 like that, that had with it the ability to circulate</p> <p>10 the molten salt, and within that, the molten salt</p> <p>11 would go through insulated tubing and into a heat</p> <p>12 exchanger, and the heat exchanger was approximately</p> <p>13 ten feet or so, and that was where that heat would</p> <p>14 transfer to be able to create the heat for the steam</p> <p>15 to produce the turbine.</p> <p>16 Q. And the heat exchanger, you said it</p> <p>17 was about ten feet.</p> <p>18 Was it ten by ten?</p> <p>19 A. I would say probably ten by three,</p> <p>20 ten by four maybe.</p> <p>21 Q. And the heat exchanger is in a</p> <p>22 trailer?</p> <p>23 A. It was in a temporary which was used</p> <p>24 as a trailer or the trailer was used as a temporary</p> <p>25 holding, and that's where the heat exchanger and the</p> <p>88: 1 turbine was.</p>				

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<p>2 Q. Okay. Were they connected? 3 A. I believe so. 4 Q. Did you see the turbine working as a 5 result of heat coming from the heat exchanger? 6 A. Not on that visit. 7 Q. Was the turbine connected to anything 8 other than the heat exchanger? 9 A. I don't recall. 10 Q. How were the turbine and the heat 11 exchanger connected? 12 A. I don't recall. 13 Q. On your third site visit, did you see 14 a demonstration of a lens incorporated into any 15 system that generated electricity? 16 A. No. 17 Q. All right. Let's talk about your 18 fourth site visit. 19 Do you recall about when that was? 20 A. 2015 I believe. 21 Q. Tell me about the activities on your 22 fourth site visit. 23 A. I skipped any of the other</p>				

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<p>marketing 24 meetings or anything like that and went directly to 25 the site, and what I was looking for specifically 89: 1 was the connections between all of the different 2 component parts and to be able to mass produce 3 those; so things like the lens, the bracketing of 4 the lens, the construction, the rings, the ability 5 to create, all of the components working together, 6 and so that's what I was looking for, and I was 7 impressed with a number of the efficiencies that 8 they had created. 9 The site itself was not -- it did not 10 look like a showroom. It did not look like an R&D 11 facility for a Fortune 500 company, but it was at 12 the same time elegant in its simplicity with the 13 ability to not only do the creation of what needed 14 to be done but to be able to do it in a way that was 15 very mass producible when all</p>				

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<p>put together. 16 Q. So back up real quick. 17 On your fourth site visit, about how 18 many people were part of your tour in Delta?</p>				
<p>89:21 A. I'm guessing probably about the same. 22 There was never -- I've never been there where there 23 was a large crowd. 24 Q. So for your fourth site visit, were 25 there around 20 people or so also with you? 90: 1 A. Maybe a little less. 2 Q. And do you know if they were all 3 customers of RaPower-3 or were some perspective 4 customers? 5 A. I do not know. 6 Q. On your fourth site visit in 2014, 7 did you see a demonstration of a lens producing 8 heat? 9 A. No; actually, yes, I did. 10 Q. And what was that demonstration? 11 A. It was very similar to the ones</p>				

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<p>12 before where it was just a lens being able to create 13 heat against an object I believe. 14 Q. So, Mr. Lunn, you've never seen a 15 lens operate in an array to create heat that's then 16 directed at a collector, is that right? 17 A. That is correct.</p>				
<p>90:19 Q. On your fourth site visit, did you 20 see the heat exchanger again? 21 A. Yes. 22 Q. Where was it? 23 A. Same vicinity. 24 There was also another one on a 25 trailer that was at a different part of the 91: 1 facility. 2 Q. So were there now two heat 3 exchangers? 4 A. At least. 5 Q. Okay. That you saw. 6 A. That I saw. 7 Q. How were the concentrators connected 8 to the heat exchanger? 9 A. They were not for this tour. 10 Q. Were the heat exchangers both 11 connected to turbines?</p>				

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<p>12 A. Yes. 13 Q. Did you see the turbines being 14 powered with heat from the heat exchangers? 15 A. I do not recall. 16 Q. Do you know if the turbines were 17 connected to anything other than the heat exchanger? 18 A. I do not know. 19 Q. So on your fourth site visit, who did 20 you hear from on your fourth site visit? 21 A. Just Greg Shepard. 22 Q. Was Neldon Johnson there? 23 A. He was. 24 Q. Did he speak? 25 A. He did not speak in any official 92: 1 capacity to my knowledge. 2 Q. Did he talk about the technology? 3 A. I think just answering questions 4 indirectly but not as a focal point. 5 Q. And what did Greg Shepard talk about? 6 A. Just the same that I've been hearing 7 for the previous few years. It was</p>				

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very consistent 8 so I really wasn't -- I wasn't as in tune with 9 everything. 10 What I was looking for was really the 11 ability to take the technology and once perfected 12 and put together, could it be mass produced, and 13 that's what I was most interested in.				
94:20 Has anyone ever told you that lenses 21 are actually in operation with the concentrators to 22 generate heat as you've heard from Mr. Johnson they 23 are designed to do? 24 A. Not at this time. 25 Q. Has anyone told you when they expect 95: 1 that to happen? 2 A. No.				
95: 7 How many times have you spoken on the 8 phone with Mr. Shepard between when you bought your 9 first lens and today? 10 A. I can't recall specifically. 11 Q. Was it maybe a handful of times? Was				

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<p>12 it more than a hundred? 13 A. Oh, somewhere in between. More than 14 a handful but certainly not -- it was probably less 15 than 25 for sure. 16 Q. And have you met with him in person 17 outside of the site visit? 18 A. I have. 19 Q. About how many times? 20 A. Just one that I believe. 21 Q. And what was that occasion? 22 A. I just, I was in town for a visit, 23 and I took him out to dinner, and that was it. 24 Q. Do you recall when that was? 25 A. This was on my, I believe my last, on 96: 1 or around my last site visit. 2 Q. So was it in connection with your 3 trip for the site visit? 4 A. I believe so but I'm not a hundred 5 percent sure. 6 Q. But you're thinking in 2015? 7 A. Right, yes. 8 Q. What did you all talk about at that</p>				

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<p>9 meeting? 10 A. It was really more social. We went 11 for seafood and a steak, and it was just some 12 gratitude. There wasn't any specific business 13 agenda for that.</p>				
<p>97: 4 Q. All right. When you talked to 5 Mr. Shepard on the phone you said approximately 25 6 times or perhaps not more than 25 times...right? 7 A. Right. 8 Q. ...what kinds of things were you 9 calling him about? 10 A. Specifically on each of the visits I 11 brought somebody with me like one of my sons and 12 then one of my other sons, so just to make sure that 13 that was okay, and so just more like travel 14 logistics, things like that. 15 Q. Did you ever ask him about things to 16 do with purchasing lenses? 17 A. No. 18 Q. Did you ever ask him about</p>				

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<p>tax 19 benefits of purchasing lenses? 20 A. Not to my knowledge. 21 Q. Did he ever tell you about tax 22 benefits of purchasing lenses? 23 A. Not on any phone calls. 24 Q. Who would you say was your primary 25 point of contact at RaPower-3? 98: 1 A. Greg Shepard. 2 Q. And aside from travel logistics, what 3 was his role as far as you were concerned? 4 A. The director of operations for 5 RaPower-3 and really, the main point of contact for 6 my involvement with RaPower-3. 7 Q. Did you ever have any interaction 8 with Matthew Shepard? 9 A. Yes. 10 Q. Tell me about that. 11 A. Matthew was with us when I took them 12 for dinner. 13 Q. Was that the extent of conversations 14 that you've had with Matthew Shepard? 15 A. Yes, other than Matthew was</p>				

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<p>at the 16 RaPower-3 tour that I went to, but I wasn't part of 17 his group and had very little interaction with him. 18 Q. And do you recall which tour was 19 that? Was that the most recent or -- 20 A. I believe so; well, my most recent. 21 Q. Your most recent. 22 A. Yes. 23 Q. Have you had any other interaction 24 with Matthew Shepard? 25 A. Other than just talking with him at 99: 1 dinner. We were both army officers and just talked 2 a little bit about entrepreneurship. That was 3 regularly the extent of it. 4 Q. Have you had any interaction with 5 Neldon Johnson outside of hearing from him at the 6 site visit? 7 A. No. 8 Q. Have you had any interactions with 9 Glenda Johnson?</p>				

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<p>10 A. Just meeting her at -- I believe it 11 was the third, either the second or the third site 12 visit, so just being introduced to her. 13 Q. Did you speak with her? 14 A. I did. 15 Q. About what? 16 A. Just nice to meet her and formalities 17 or pleasantries. 18 Q. Did she talk about the technology at 19 all? 20 A. No. 21 Q. Outside of the site visit, have you 22 had any other communication with Glenda Johnson? 23 A. Just related to their back office as 24 I had purchased a number of systems, the ability to 25 provide documentation. My purchases went beyond the 100: 1 scope of normal -- there's only so many lines of 2 purchases you can get access to, and so I had to 3 contact her to be able to get access to recent</p>				

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4 purchases for documentation, and so she fixed that 5 for me.				
100: 9 Q. So you don't know what her role is? 10 A. No. I just had contacted her through 11 their help desk for getting help in the back office 12 system. 13 Q. Okay. So I just want to make sure I 14 understand. 15 So you contacted the help desk for 16 the RaPower-3 back office? 17 A. There was an e-mail that I could use 18 for that, and that's what I used. 19 Q. Do you recall what that e-mail 20 address was? 21 A. I do not. I'm sorry. 22 Q. Do you remember if it had a 23 rapower3.com at the end of it? 24 A. I do not recall. 25 Q. Okay. Nonetheless, you sent an 101: 1 e-mail to this e-mail address, and Glenda Johnson is 2 the one who helped you as a result, right?				

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3 A. Correct. 4 Q. Other than that one instance, have 5 you had any other interaction with Glenda Johnson? 6 A. No, I have not.				
103:16 Q. Have you ever heard of a company 17 called LTB? 18 A. Yes. 19 Q. What is LTB? 20 A. LTB is a company that manages the 21 lenses, would replace them in the course of 22 business. 23 Q. Have you ever met anyone who works 24 with LTB? 25 A. No. 104: 1 Q. Do you know who owns LTB? 2 A. No. 3 Q. Did you do any research on LTB? 4 A. No. 5 Q. Do you know anything else about LTB? 6 A. No.				
104:13 Q. And I believe it's been established 14 you heard of a company called				

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 Deposition of Frank Frederick Lunn IV taken August 1, 2016*

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<p>International 15 Automated Systems, Inc.? 16 A. Yes. 17 Q. Okay. What's your understanding of 18 who owns that company? 19 A. It's a public company so it's owned 20 with publicly traded shares, and it is the owner of 21 the technology to my understanding. 22 Q. The technology for what? 23 A. For, in addition to other things, the 24 technology associated with RaPower-3. 25 Q. What, if any, research have you done 105: 1 on IAUS? 2 A. Just cursory research. 3 Q. Such as? 4 A. Through the stock market, through the 5 member forums, things like that. 6 Q. Are you a shareholder? 7 A. Yes, I am. 8 Q. How many shares do you own? 9 A. About 125,000. 10 Q. You mentioned forums that you did</p>				

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<p>11 research about IAUS on. 12 What are those? 13 A. Just like the investor forums where 14 investors talk about their stocks. 15 Q. Can you give me some examples? 16 A. I believe any time if you go to Yahoo 17 and click on a stock, there's a place where you can 18 click on, it may be forums, it may be something 19 else, but pretty much every company has that, so 20 it's not from the company itself. It's just 21 individual opinions. 22 Q. When did you buy shares in IAUS? 23 A. I don't recall but it was a long time 24 ago, and I've been buying consistently. 25 Q. Was it before or after you bought 106: 1 your first lens through RaPower-3? 2 A. I do not recall specifically but 3 around the time. I don't recall which came first. 4 Q. Nonetheless, since the first</p>				

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<p>time you 5 bought shares in IAUS, it seems like you have bought 6 additional shares over time since. 7 A. That is correct. 8 Q. Just to circle back to the forums, 9 and I understand your distinction. There are 10 basically public forums where people can talk about 11 any company that they want if they're interested in 12 investing, and then there are other sites where a 13 company might host its own forum to talk about its 14 specific activities or product, right? 15 A. Correct. 16 Q. So are there any forums that you're 17 aware of that IAUS hosts for itself? 18 A. Not to my knowledge. 19 Q. Okay. How about for RaPower-3? 20 A. Yes. 21 Q. What's that forum? 22 A. I don't recall the name, but I 23 believe it's related to RaPower-3 and IAUS, but I</p>				

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<p>24 don't believe IAUS sponsors that. 25 Q. Do you participate in that forum 107: 1 that's hosted for RaPower-3 and/or IAUS? 2 A. I do not. 3 Q. Do you have a user name for that 4 forum? 5 A. I do. I do not know what it is. 6 Q. Have you ever posted on that forum? 7 A. No, I have not. 8 Q. Do you read that forum? 9 A. I used to but I do not. 10 Q. Why did you stop? 11 A. Because it seemed pointless. 12 Q. How come? 13 A. Because back to -- as an 14 entrepreneur, I believe that things take time to 15 develop, and there's a complexity to it, and most 16 people are ignorant to everything involved, and they 17 want to come right to how quickly can we get 18 electricity. How quickly can we -- and they miss 19 the bigger picture, and I feel like I'm in this for</p>				

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<p>20 the long haul. 21 The long haul is putting all of your 22 pieces in place, none before they're ready because 23 otherwise you lose competitive advantage. You lose 24 market. 25 And so to me, this is a brilliant 108: 1 game of chess for the construction of a long-term 2 play, and that's why I'm in it, and it was very 3 evident to me that maybe other people were more 4 interested in how quickly can something else happen, 5 electricity, and I'm in it for the longer haul. 6 So it quickly was out of my focus 7 area or interest. 8 Q. So correct me if I'm misunderstanding 9 this, but on the forum, it sounds like people were 10 more interested in questions about immediate 11 production of heat or electricity. Is that fair?</p>				
<p>108:14 A. I would say much more of a 15 short-sighted view than the long-</p>				

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<p>term of creating 16 not only a company but an industry, and my focus is 17 on the latter.</p>				
<p>109: 9 Q. For your own 850 lenses, do you have 10 a business plan for their use? 11 A. Not a formal one. 12 Q. Do you have an informal one? 13 A. I treat it just the same way as I 14 would rental property or other, so it's just part of 15 my overall investment in wealth planning, so not a 16 formal or -- I don't know how to characterize it 17 other than no. 18 Q. So you have no business plan for your 19 850 lenses, correct?</p>				
<p>109:22 A. I do not have a formal plan. 23 Q. Do you have any business plan for 24 your 850 lenses? 25 A. No. 110: 1 Q. Have you done any sort of profit 2 analysis for your 850 lenses? 3 A. Informally, yes.</p>				

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<p>4 Q. What is your informal profit 5 analysis? 6 A. That when electricity is produced and 7 I am paid for these that I will be cash flow 8 positive, and much like rental income, it's a cash 9 flow opportunity. 10 Q. Mr. Lunn, do you consider yourself as 11 having a business related to your 850 lenses? 12 A. Yes. 13 Q. What is that business? 14 A. Business of passive income. 15 Q. So what is the business activity? 16 A. I have purchased lenses that will 17 provide an income, a passive income beyond what my 18 purchase is of those, and that will be substantial 19 and over a long period of time. 20 Q. So other than purchasing the lenses, 21 do you engage in any activity to further your 22 business related to the lenses? 23 A. Not at this point in time. 24 Q. Have you ever?</p>				

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<p>25 A. Not to this point. 111: 1 Q. How much time do you spend in a given 2 year on any business activity related to your 3 lenses? 4 A. I don't know exactly how you would 5 classify that. It's very much intermingled with all 6 of my activities. I don't specifically know. 7 Q. Well, let me ask you this. 8 So you said that the business 9 activity that you do related to the lenses is buy 10 the lenses. 11 A. At this point. 12 Q. Right. And you've said that you go 13 on the site visits. 14 A. Uh-huh. 15 Q. Yes? 16 A. Yes. 17 Q. What, if anything, else do you do in 18 the course of a given year to further the business 19 activity related to your lenses? 20 A. Well, currently I'm involved in 21 businesses in food,</p>				

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<p>entrepreneurship, jobs, and 22 energy, and so a lot of what I do right now is 23 preparing for being able to apply various components 24 one to the other. 25 And so, for instance, with the system 112: 1 with RaPower-3 system, not only is there the ability 2 for electricity for a larger component but also to 3 be able to be used in smaller opportunities. 4 And so looking at and exploring those 5 opportunities, it's very challenging to classify 6 specific, "I am now reading this book" or doing 7 this. So I don't know how to answer that question. 8 Q. Well, can you give me examples in the 9 past year of things that you've done to further your 10 business related to the lenses? 11 A. Well, in the past year, going to the 12 site, being able to I guess validity check that 13 things are on track, but</p>				

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<p>otherwise, right now, at 14 least for me on this particular one, it's a waiting 15 game, and I can push my focus to other areas right 16 now while this is maturing. 17 Q. Okay. And other than buying the 18 lenses and visiting the sites as you have in prior 19 years, since you bought your first lens, can you 20 give me any examples of specific conduct that you 21 have undertaken in furtherance of a business 22 activity related to your lenses? 23 A. Not specifically. 24 Q. Mr. Lunn, do you keep track of the 25 time you spend on activities related specifically to 113: 1 the business that you have involving your lenses? 2 A. Not specifically. 3 Q. Mr. Lunn, other than -- well, let me, 4 I'll withdraw that. 5 Have you sought input or expertise 6 from experts on solar energy technology other than</p>				

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<p>7 Mr. Johnson, Mr. Shepard, RaPower-3 or IAUS? 8 A. No, I have not. 9 Q. To date, Mr. Lunn, how much income 10 have you earned through any business activity 11 related to the lenses? 12 A. I don't know specifically. 13 Q. Is it more or less than \$10,000? 14 A. Less. 15 Q. More or less than \$5,000? 16 A. Less I'm guessing. 17 Q. Mr. Lunn, how much have you spent on 18 lenses or any other costs related to any business to 19 do with the RaPower-3 lenses? 20 A. I do not have that information. 21 Q. Is it more or less than \$10,000? 22 A. It is more. 23 Q. Is it more or less than \$50,000? 24 A. It's more. 25 Q. Is it more or less than a hundred 114: 1 thousand dollars? 2 A. More. 3 Q. More or less than \$150,000?</p>				

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<p>4 A. More. 5 Q. More or less than \$200,000? 6 A. Now we're getting to where I don't 7 really know. 8 Q. We're at least above \$150,000, 9 correct? 10 A. Correct. 11 Q. Mr. Lunn, do you know how much you 12 paid for each lens? 13 A. Not off the top of my head I don't.</p>				
<p>114:18 Q. Even if you don't recall the specific 19 price, do you recall whether you negotiated the 20 price that you would pay for the lens? 21 A. I did not. 22 Q. So it sounds like a price was quoted 23 to you, correct? 24 A. Yes.</p>				
<p>115: 1 Q. Mr. Lunn, did you ever get an 2 independent opinion or appraisal of the value of the 3 lenses that you purchased? 4 A. No. 5 Q. How did you decide how many lenses to</p>				

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<p>6 purchase? 7 A. It was not necessarily a scientific 8 system. It was essentially what I could afford 9 within the parameters of other obligations. 10 Q. Say more about that. What does that 11 mean? 12 A. It just means that I made decisions 13 based on my current cash flow situation. 14 Q. Did you look at your likely tax 15 liability in helping you determine how many lenses 16 to purchase? 17 A. Not directly. I mean, that was 18 certainly part of a consideration as it is with all 19 investments. 20 Q. Tell me about what the consideration 21 was. How did you factor it in? 22 A. Well, the first factor was what cash 23 that I had available and what I wanted to be able to 24 purchase, and then beyond that</p>				

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<p>was how it fit into 25 the residual income that would come in the future, 116: 1 and then beyond that would be tax opportunities to 2 make this less painful. 3 Q. So to pay lower taxes? 4 A. That's --</p>				
<p>116: 6 A. As I've stated before, the government 7 provides, Congress provides specific tax incentives 8 for job creation, energy, food and housing, and I 9 have investments in all four of those sectors. 10 And so taxes certainly -- I don't 11 want to mischaracterize -- taxes certainly are a 12 consideration, but I've never made a consideration 13 based on the tax consequence. 14 Q. And perhaps I was assuming too much. 15 You said to make this less painful so 16 what did you mean by that? 17 A. To be able to have an offset related 18 to taxes is always beneficial. 19 When I'm investing in low income</p>				

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<p>20 housing or other job creation, anything that you can</p> <p>21 do, the government specifically or Congress</p> <p>22 specifically has tax incentives to promote things,</p> <p>23 an agenda that it has, and so as an entrepreneur, I</p> <p>24 would always look to see what could I take advantage</p> <p>25 of within the scope of those investments.</p> <p>117: 1 Q. Mr. Lunn, do you keep any separate</p> <p>2 bank accounts solely for purposes of any business</p> <p>3 activity related to the lenses that you bought?</p> <p>4 A. Not a separate bank account but I do</p> <p>5 keep records.</p> <p>6 Q. Have you produced those records?</p> <p>7 A. Yes, I have.</p> <p>8 Q. Other than purchasing the lenses, do</p> <p>9 you have any expenses related to any business</p> <p>10 activity to do with your lenses?</p> <p>11 A. I do not personally.</p> <p>12 Q. Do you have any nonpersonal expenses?</p>				

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<p>13 A. Just the company, Kahuna Business</p> <p>14 Group, has paid for my travel. I didn't take</p> <p>15 vacation days to go visit the sites. That was part</p> <p>16 of my job.</p> <p>17 Q. So aside from purchasing the lenses</p> <p>18 and travel costs, are there any other expenses</p> <p>19 related to the business, any business activity for</p> <p>20 your lenses?</p> <p>21 A. Just my legal and accounting fees</p> <p>22 that are associated with that.</p>				
<p>118:19 Q. Mr. Lunn, have you ever considered</p> <p>20 selling your lenses to someone else?</p> <p>21 A. No, I have not.</p> <p>22 Q. Are you aware of any market for</p> <p>23 resale for your lenses?</p> <p>24 A. I am not.</p> <p>25 Q. Do you know what would happen if you</p> <p>119: 1 wanted to sell your lenses? Are you able to freely</p> <p>2 sell them or would you have to involve RaPower-3?</p>				

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<p>119: 5 A. I do not know. 6 Q. So, Mr. Lunn, how do you know where 7 your lenses are? 8 A. I don't specifically know where my 9 lenses are. I just know that each lens is 10 ubiquitous in a system, and so the number of lenses 11 I have is formulaic. 12 It's not, for me anyway, it's not 13 dependent on which tower wherever. I assume that 14 that's being taken care of somewhere else. That's 15 not an important component as long as I can show 16 what I specifically own. 17 Q. Well, how do you know what you 18 specifically own? 19 A. Because I have an agreement. 20 Q. I guess my question is how do you 21 know which specific lenses are yours?</p>				
<p>119:24 A. I don't. I'm sure there's a system 25 but that doesn't really concern me because they're</p>				

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<p>120: 1 all the same. There's not like lens 1, lens 2, lens 2 3. They're completely ubiquitous, and if one 3 breaks, then they replace it.</p>				
<p>120:14 Q. Have you ever received a list of 15 serial numbers connected with your lenses? 16 A. I don't believe I have.</p>				
<p>120:23 Q. So, Mr. Lunn, how do you know when 24 your lenses are placed in service? 25 A. I have received a placed in service 121: 1 letter for lenses. 2 Q. And do you have an idea of what that 3 means, placed in service? 4 A. I have a vague understanding. 5 Q. What is that? 6 A. That as part of the full component 7 system that it is used in the creation of the system 8 to be able to be used to create heat to create 9 electricity. 10 Q. So, and again, please correct me if 11 I'm wrong, but when you have</p>				

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<p>received a placed in 12 service letter, that doesn't necessarily mean to you 13 that your lenses are on a tower, correct? 14 A. Correct.</p>				
<p>121:20 Q. Mr. Lunn, has any defendant, has 21 Mr. Freeborn or Mr. Johnson or Mr. Shepard told you 22 that they have had outside experts review the 23 technology? 24 A. Not to my knowledge, not to me 25 personally. 122: 1 Q. You've never heard them say that? 2 A. I have not.</p>				
<p>122:18 Q. To follow up on a little bit of our 19 conversation from this morning, to your knowledge, 20 has any lens been used in the system that has 21 produced distilled water? 22 A. Not to my knowledge. 23 Q. Before you bought your first lens 24 through RaPower-3, had you engaged in any other 25 business activity around solar</p>				

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<p>energy technology? 123: 1 A. Other than some stocks, like penny 2 stocks that I had purchased, but no involvement in 3 anything other than investing. 4 Q. And after you bought your first lens 5 through RaPower-3, have you pursued any other 6 business activity related to solar energy 7 technology? 8 A. No, I have not. 9 Q. Have you ever seen a business plan 10 for RaPower-3? 11 A. No, I have not. 12 Q. Has anyone ever described one to you? 13 A. No.</p>				
<p>123:24 Q. Mr. Lunn, are you familiar with 25 something that you may have heard called the Kirton 124: 1 McConkie memo? 2 A. Yes, ma'am. 3 Q. Can you give me your idea of what 4 that is? 5 A. It is a letter that had to do with 6 the validity of the strategy for</p>				

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employing the use 7 of the lens with relation to a tax efficient method 8 or way. 9 Q. Where did you get the Kirton McConkie 10 memo? 11 A. From RaPower-3's website. 12 Q. Are you familiar with something that 13 you might know as the Anderson law tax attorney 14 opinion letter? 15 A. Not to my knowledge. 16 Q. Have you ever heard of Anderson Law 17 Center? 18 A. No. I don't recall. I don't recall 19 either of those. 20 Q. Have you ever heard of Todd Anderson? 21 A. No. 22 Q. Have you ever seen a letter from a 23 firm Hansen, Barnett & Maxwell? 24 A. No. 25 Q. Have you ever gotten any other tax 125: 1 opinion information from RaPower-3's website?				

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<p>2 A. Whatever is available on RaPower-3's website, I would have looked at that and printed that out, but outside of that, no.</p> <p>3 website, I would have looked at that and printed that out, but outside of that, no.</p> <p>4 that out, but outside of that, no.</p> <p>5 Q. Did you ever seek out an opinion by</p> <p>6 an accountant outside of RaPower-3 about the tax</p> <p>7 benefits?</p>				
<p>125:10 A. No, I have not.</p> <p>11 Q. Did you ever seek an independent</p> <p>12 opinion of an attorney about the tax benefits that</p> <p>13 RaPower-3 offered?</p> <p>14 A. No, I did not.</p> <p>15 Q. Did any defendant help you decide how</p> <p>16 many lenses to purchase?</p> <p>17 A. No.</p> <p>18 Q. Did you ever use a tax calculator on</p> <p>19 the RaPower3 website?</p> <p>20 A. I may have but I don't recall.</p> <p>21 Q. When you were looking at the RaPower3</p> <p>22 website -- no, let me withdraw that.</p> <p>23 Did any defendant ever refer you to a</p> <p>24 CPA or any other professional</p>				

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<p>for more information 25 about the tax benefits? 126: 1 A. No. 2 Q. We'll talk a little bit more about 3 your specific taxes in a minute, but did any 4 defendant ever mention the possibility that you 5 could be audited by the IRS as a result of your 6 participation in RaPower-3? 7 A. No. 8 Q. Was there a time that you came to 9 hear that other RaPower-3 customers would be 10 examined by the IRS? 11 A. That knowledge came to me. 12 Q. When? 13 A. I don't recall when I found out about 14 that. 15 Q. Do you recall whether it was before 16 last year? 17 A. Yes. 18 Q. Was it before 2014? 19 A. Yes. 20 Q. Before 2013? 21 A. Yes. 22 Q. Before 2012?</p>				

<p style="text-align: center;"><i>Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828</i> <i>Deposition of Frank Frederick Lunn IV taken August 1, 2016</i></p>				
<p>Plaintiff Designations – BLUE Defendant Completeness—PURPLE Defendant Counter-Designations – RED (at end)</p>	<p>Defendant Designations – RED Plaintiff Completeness—PURPLE Plaintiff Counter Designations – BLUE (at end)</p>	<p>Defense Objections/Responses – RED Plaintiff Objections/Responses – BLUE</p>	<p>Exhibits</p>	<p>Ruling</p>
<p>23 A. I don't recall at that point. 24 Q. So at any rate, it was before 2013 25 that you learned that other RaPower-3 customers were 127: 1 being examined?</p>				
<p>127: 4 A. I don't recall the date specific. 5 Q. How did you learn that? 6 A. I don't recall. 7 Q. So you don't remember who told you? 8 A. No.</p>				
<p>127:11 Q. And did there come a time when your 12 tax returns were examined by the IRS? 13 A. Yes.</p>				
<p>130:21 Do you have a petition pending in tax court? 22 court? 23 A. Yes, I do. 24 Q. Do you know for which tax years? 25 A. I do not. 131: 1 Q. Is someone representing you on your 2 petition in tax court? 3 A. Yes. 4 Q. Who is that? 5 A. That would be Mr. Jones. 6 Q. Who is here representing you</p>				

Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
Deposition of Frank Frederick Lunn IV taken August 1, 2016

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today? 7 A. Correct. 8 Q. Who is paying Mr. Jones' fee to 9 represent you in tax court? 10 A. I do not know. 11 Q. You're not though, correct? 12 A. I am not. 13 Q. And Mr. Jones is representing you 14 here today, correct? 15 A. I assume he is. 16 Q. Are you paying Mr. Jones to sit next 17 to you today? 18 A. No, I'm not. 19 Q. Do you know who is? 20 A. I do not.				
137: 4 Q. And, Mr. Lunn, have you bought lenses 5 so far in calendar year 2016? 6 A. I do not believe I have. 7 Q. Do you plan to? 8 A. I plan to. I usually do my purchases 9 in the fourth quarter so I know what my cash flow 10 situation is.				
140:22 Q. All right. I'm handing you what has 23 been marked Plaintiff's Exhibit 38.			38	

<p><i>Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828</i> <i>Deposition of Frank Frederick Lunn IV taken August 1, 2016</i></p>				
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<p>24 A. Okay. 25 Q. For the record, it is marked 141: 1 Lunn_F&L-72 through 74. 2 (Pause) 3 Q. Mr. Lunn, do you recognize 4 Plaintiff's Exhibit 38? 5 A. I do. 6 Q. What is it? 7 A. It is I believe an e-mail that I 8 received from Roger Freeborn. I don't recall when. 9 I do recall it was the last conversation I had or 10 correspondence I had with Roger. He wanted to share 11 something more related to entrepreneur opportunities 12 outside of just lenses. I never did anything with 13 it. 14 Q. And why do you think you got it from 15 Roger Freeborn? 16 A. Because he knew that I was an 17 entrepreneur and interested in more of the larger 18 picture than just the lenses. 19 Q. Roger Freeborn is handwritten on the 20 first page of Exhibit 38. 21 Is that your handwriting?</p>				

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<p>22 A. That is my handwriting. 23 Q. So that also suggests that that's who 24 it came from? 25 A. Yes. 142: 1 Q. So to your recollection, the text 2 that's on Lunn _F&L-72 was from Roger Freeborn? 3 A. Yes, that is my recollection. 4 Q. And what about the attachments, were 5 they from Roger Freeborn as well? 6 Well, let me ask you this. 7 Did you get them from Roger Freeborn? 8 A. I believe the answer to that is yes. 9 Q. Any reason to think you didn't get 10 these from Roger Freeborn? 11 A. Just the conflation of documents and 12 time and everything else, so it makes sense that 13 this would have all been the same. 14 Q. And did you ever look into this 15 information further? 16 A. No, I did not.</p>				

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17 Q. Did you ever talk to Roger Freeborn 18 about it? 19 A. He called me to follow up, and I said 20 I was not interested at that time. 21 Q. And do you remember about when he 22 sent you this or you discussed it? 23 A. I don't remember exactly when.				
160:21 Q. And, in fact, Mr. Lunn, to date, 22 residual income had still not started, correct? 23 A. That is correct.				
164:12 (Plaintiff's Exhibit 40 was 13 marked for identification.) 14 MS. HEALY GALLAGHER: So please take 15 a look at that. That's Plaintiff's Exhibit 40. 16 Counsel, you have one piece of paper 17 that's tucked in there but not stapled. 18 (Pause) 19 THE WITNESS: I'm good. 20 MR. HEIDEMAN: I don't have 48 or 49. 21 MS. HEALY GALLAGHER: So Plaintiff's			40	

<p><i>Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828</i> <i>Deposition of Frank Frederick Lunn IV taken August 1, 2016</i></p>				
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<p>22 Exhibit 40 begins with a series of pages initially 23 marked with Lunn_F&L-26 through 38. Then it skips 24 to 46 and 47; then to 50; then to 182. 25 So we'll walk through this and see 165: 1 what's what. 2 THE WITNESS: Okay. 3 Q. So, Mr. Lunn, do you recognize these 4 documents? 5 A. Vaguely, yes. 6 Q. Okay. Well, let's take a walk 7 through. 8 The first one is entitled 2011 Tax 9 Benefits, at least that's a page. 10 Do you remember where you got this 11 from? 12 A. I'm assuming I got it from the 13 website. 14 Q. From which website? 15 A. The RaPower-3 website. 16 Q. Okay. So you potentially downloaded 17 it rather than somebody sending it to you? 18 A. That's my assumption. 19 Q. And why do you think that?</p>				

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<p>20 A. Because I don't recall anybody ever</p> <p>21 sending me anything.</p> <p>22 The material that I had produced was</p> <p>23 material that I originally downloaded and printed</p> <p>24 and had the file on, and that's what I provided.</p> <p>25 Q. Okay. Then let's take a look at the</p> <p>166: 1 next page, Solar Energy Tax Benefit History.</p> <p>2 Similar situation? Do you believe</p> <p>3 you downloaded this from the RaPower-3 website?</p> <p>4 A. Yes.</p> <p>5 Q. Do you remember when?</p> <p>6 A. No.</p> <p>7 Q. How about the next page, Solar</p> <p>8 Investment Tax Credit (ITC). Did you download this</p> <p>9 from the RaPower3 website?</p> <p>10 A. Yes.</p> <p>11 Q. Do you remember when?</p> <p>12 A. I do not.</p> <p>13 Q. Page 29, it's two columns. The</p> <p>14 column on the left says tax benefits for Jim at the</p> <p>15 top.</p>				

Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>16 Do you see that? 17 A. Yes. 18 Q. And the column on the right says for 19 average dual income family. 20 Did I read that right? 21 A. Yes. 22 Q. Did you download this from the 23 RaPower3 website? 24 A. I do not know. 25 Q. Do you know where you got it? 167: 1 A. I don't. It looks different than the 2 previous so I don't want to make an assumption. I 3 just don't know for sure. 4 Q. Okay. The second line in the 5 left-hand column says prepared by Greg Shepard, 6 Chief Director of Operations at RaPower-3. 7 Do you see that? 8 A. Yes, I do. 9 Q. Do you have any reason to think that 10 this was not prepared by Greg Shepard? 11 A. No. 12 Q. Do you have any idea where you would</p>				

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<p>13 have gotten it from other than RaPower-3 or Greg 14 Shepard? 15 A. Well, I definitely would have gotten 16 it from one of those. I don't know whether I 17 received this when I was there or if it was on the 18 Internet or the website. 19 Q. Fair enough. 20 Do you remember when? 21 A. I don't know specifically. 22 Q. Okay. How about the next page, 30. 23 Quarterly Taxes is the header. 24 Do you remember where you got this 25 document from? 168: 1 A. I don't know specifically. It would 2 have been either from a meeting with Roger Freeborn 3 or the website. 4 Q. Just out of curiosity, why do you 5 think that this one is from Roger Freeborn rather 6 than from someone else? 7 A. It just doesn't look the same as the 8 ones from the website.</p>				

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<p>9 Q. Okay. And how about page 32 with the 10 header "Wait: This sounds too good to be true." 11 A. I'm not sure where that came from. 12 Q. Would you have gotten it from anyone 13 other than Greg Shepard, Roger Freeborn or 14 RaPower-3? 15 A. No. 16 Q. How about the pages marked 33 through 17 36. It starts with the header "Depreciation." 18 Do you know where you got this set of 19 documents, pages from? 20 A. Not with specificity, but, like you 21 had said before, either Roger, Greg or from the 22 website. 23 Q. How about page 37? 24 A. I'll say the same. 25 Q. Okay. It's titled Typical Teaching 169: 1 Couple. 2 A. Right. 3 Q. And you think you would have gotten</p>				

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<p>4 it from Roger Freeborn, Greg Shepard or the RaPower3 website?</p> <p>5 website?</p> <p>6 A. Correct.</p> <p>7 Q. Do you recognize the logo at the</p> <p>8 lower right hand portion of the text?</p> <p>9 A. Yes.</p> <p>10 Q. Who's logo is that?</p> <p>11 A. RaPower-3.</p> <p>12 Q. Now, let's take a look at page 38.</p> <p>13 This looks to be a generally blank</p> <p>14 Form 1040 for tax year 2011.</p> <p>15 Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Do you know where you got this from?</p> <p>18 A. I do not.</p> <p>19 Q. Do you know whose handwriting is on</p> <p>20 this document?</p> <p>21 A. I do not know with certainty.</p> <p>22 Q. Would it either have, well, would you</p> <p>23 have gotten this from either Roger Freeborn or Greg</p> <p>24 Shepard?</p> <p>25 A. Yes.</p> <p>170: 1 Q. How about the pages</p>				

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<p>marked 46 and 47, 2 do you know where you got these two pages from? 3 A. Well, it says on there, "Thank you 4 for coming to this page," so I will assume that it's 5 from the RaPower3 website. 6 It stipulates that in the first 7 paragraph. "Thank you for coming to this page." 8 Q. To learn more about our RaPower-3 tax 9 benefit program? 10 A. Yes. 11 Q. Okay. And we'll go actually to the 12 page marked 182. 13 It looks like there's handwriting at 14 the top that says Greg. 15 Do you see that? 16 A. Yes. 17 Q. So did you get this from Greg 18 Shepard? 19 A. Actually, that could be Greg or it 20 could be, when I first saw it, I thought it said 21 ORG, so I don't...but yeah, it could be from Greg</p>				

<i>Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828</i> <i>Deposition of Frank Frederick Lunn IV taken August 1, 2016</i>				
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22 Shepard. 23 Q. If you didn't get it from 24 Mr. Shepard, would you have gotten it either from 25 Mr. Freeborn or the RaPower3 website? 171: 1 A. Yes.				
171: 6 MS. HEALY GALLAGHER: Okay. Please 7 take a look at what's been marked Plaintiff's 8 Exhibit 41. 9 Go ahead and take a look at that and 10 let me know when you've had a chance. 11 For the record, Plaintiff's 12 Exhibit 41 is ZLEZ_B&A593 through 595. 13 (Pause) 14 THE WITNESS: Okay. 15 Q. If we could actually first take a 16 look at the page marked 595. The last full e-mail 17 on this page starts about a quarter of the way down, 18 and please correct me if I read this incorrectly. 19 From RaPower-3 Solar, and then it says mail to: 20 admin@rapower3.net. Sent on			41	

Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>September 9, 2010 to 21 Frank Lunn, and the subject is RaPower3, New Member. 22 Did I read that right? 23 A. Yes. 24 Q. And I just wanted to offer this for 25 bracketing for our information from this morning. 172: 1 Is this consistent with your 2 recollection for when you bought your first lens? 3 A. Yes. 4 Q. And the user name KAHUNANRG, that's 5 the entity that purchased that one first lens? 6 A. Yes. 7 Q. Or the name that you used to purchase 8 that lens? 9 A. Yes. 10 Q. Okay. So then if we flip over to 11 593, about a quarter of the way down the page, it 12 looks like it says Frank Lunn, and that's 13 frank@kahunaworld.com, correct? 14 A. Yes. 15 Q. And it looks like this is an e-</p>				

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<p>mail 16 from you to Mr. Zeleznik, correct? 17 A. It was to Greg and Roger Freeborn and 18 then copied B. J. Zeleznik if I'm looking at the 19 right one. 20 Q. Oh, well, I'm up at the -- up here. 21 So then there's an e-mail where you're sending it to 22 Brian, and you have forwarded him I think the e-mail 23 that you're talking about. 24 A. Okay. All right. I see what you're 25 saying. 173: 1 Q. So then in the original message -- so 2 there's a line that says original message with 3 dashes around it. 4 Do you see that about halfway down 5 the page? 6 A. I don't. Oh, yes, I do, thank you. 7 Q. Very good. 8 And that original message is from 9 greg@bfsmail.com. 10 Do you see that?</p>				

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Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>11 A. Yes. 12 Q. Was that an e-mail address you used 13 for Greg Shepard? 14 A. It was initially. 15 Q. And what other e-mail addresses are 16 you aware of? 17 A. greg@rapower3.com. 18 Q. Any other e-mail addresses that you 19 use for Greg Shepard? 20 A. No. 21 Q. And it looks like Mr. Shepard was 22 answering questions or comments in your e-mail in 23 caps below. 24 Do you see that? 25 A. I do. 174: 1 Q. Okay. So is this e-mail the first 2 contact you had with Greg Shepard yourself? 3 A. I believe so.</p>				
<p>179: 7 Q. Okay. I'm handing you Plaintiff's 8 Exhibit 43 Bates marked Lunn_F&L-67 and 68. 9 So, Mr. Lunn, for this I'd actually 10 just like to take a look at the form of the</p>			43	

*Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
 Deposition of Frank Frederick Lunn IV taken August 1, 2016*

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<p>11 document. 12 A. Yes. 13 Q. So at the very top it has your name, 14 Frank Lunn, and then a thick bar underneath your 15 name. 16 Do you see that? It's at the very 17 top. 18 A. Yes. 19 Q. Does that mean that you printed this 20 out from your e-mail? 21 A. I believe that is correct. 22 Q. And it says in the from field Greg 23 Shepard's name, and it has greg@bfsmail.com. 24 Do you see that? 25 A. Yes. 180: 1 Q. It says two undisclosed recipients. 2 Do you see that? 3 A. Yes. 4 Q. But you produced it, right? 5 A. Yes. 6 Q. So it came to you? 7 A. Yes. 8 Q. And that's your name at the top? 9 A. Yes. 10 Q. So if we see other e-mails in</p>				

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your 11 production that say Frank Lunn at the top, we can 12 conclude that it's an e-mail that you received, 13 right?				
180:15 A. I guess so. 16 Q. Do you have any reason to believe 17 that a document like this one with Frank Lunn at the 18 top and the thick bar underneath didn't come from 19 your e-mails? 20 A. No.			43	
181: 3 Q. There's a date under Greg Shepard's 4 name in the sent field. 5 Do you see that? 6 A. Yes, I do. 7 Q. What's that date? 8 A. December 26, 2011 at 3:31 p.m. 9 Q. And do you have any reason to think 10 you did not receive that e-mail on or about that 11 same time and date? 12 A. No.			43	
181:16 Q. Mr. Lunn, I'm handing you Plaintiff's 17 Exhibit 44 with Bates number			44	

Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
Deposition of Frank Frederick Lunn IV taken August 1, 2016

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<p>Lunn_F&L-20. 18 Do you recognize this document, 19 Mr. Lunn? 20 A. Yes, I do. 21 Q. Pardon. The Bates number for the 22 this document is not 20. It's 200. 23 Okay. What is this document, please, 24 Mr. Lunn? 25 A. This is a copy of a placed in service 182: 1 letter for my records. 2 Q. And is this for purposes of tax year 3 2011? 4 A. Yes. 5 Q. And it's dated February 2, 2012, 6 correct? 7 A. Correct. 8 Q. It is from Greg Shepard, Director of 9 Operations at RaPower-3, correct? 10 A. Correct. 11 Q. And what does this letter mean to 12 you? 13 A. That the lenses that I purchased were 14 used in the production of</p>				

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systems that would 15 eventually be creating energy.				
182:20 Q. Mr. Lunn, I'm handing you what's been 21 marked Plaintiff's Exhibit 45. 22 Go ahead and take a look at that and 23 let me know when you're done. 24 For the record, Plaintiff's 25 Exhibit 45 is Lunn_F&L-266 through 271. 183: 1 A. Yes. 2 Q. Okay. Mr. Lunn, do you recognize 3 Plaintiff's Exhibit 45? 4 A. Yes, I do. 5 Q. What is it? 6 A. It is an e-mail that I sent to my tax 7 preparer to verify tax information for my RaPower-3 8 lens purchases in 2011. 9 Q. For tax year 2011, correct? 10 A. Yes, ma'am. 11 Q. And why did you write this memo? 12 A. To make sure that she had all the 13 information as it was provided to me, and then I was 14 able to document everything appropriately.			45	

*Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
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<p>15 Q. Did anyone suggest that you write 16 this memo? 17 A. No. 18 Q. Did your tax preparer ask for it? 19 A. Not exactly, but my tax preparer had 20 no understanding of the RaPower-3 system so I wanted 21 to provide all that to her. 22 Q. All right. Would you take a look 23 please at the middle of the page? 24 A. Yes. 25 Q. We've got a series of dates with 184: 1 information about systems purchased. 2 Do you see that? 3 A. I do. 4 Q. So we'll take one for example, the 5 first one. It says ten systems purchased at \$3,500 6 a system. 7 Do you see that? 8 A. I do. 9 Q. So does that refresh your 10 recollection for how much each lens was worth? 11 A. Yes.</p>				

<i>Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828</i> <i>Deposition of Frank Frederick Lunn IV taken August 1, 2016</i>				
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12 Q. And let me be clear too. 13 When it says ten systems purchased, 14 does that mean ten lenses? 15 A. Yes. 16 Q. So 3,500 per system according to this 17 memo, but, Mr. Lunn, you didn't actually pay that 18 amount per lens, correct? 19 A. Correct.				
185:14 Q. All right. So the purchase price of 15 each system is \$3,500. 16 Where did you get that information? 17 A. From RaPower-3. 18 Q. From any particular person at 19 RaPower-3? 20 A. I believe it was on the invoice. 21 Q. Then it says, you're required to pay 22 an upfront amount of \$1,050 per system. 23 A. Yes. 24 Q. Where did you get that information? 25 A. Also from the RaPower-3 website. 186: 1 Q. Then you say the remaining balance of			45	

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Plaintiff Designations – BLUE Defendant Completeness—PURPLE Defendant Counter-Designations – RED (at end)	Defendant Designations – RED Plaintiff Completeness—PURPLE Plaintiff Counter Designations – BLUE (at end)	Defense Objections/Responses – RED Plaintiff Objections/Responses – BLUE	Exhibits	Ruling
<p>2 \$2,450 is to be paid back to company out of future earnings. 3 earnings. 4 A. Yes. 5 Q. So who were you paying back? 6 A. My understanding is RaPower-3. 7 Q. And it says in the next section that 8 you paid ten percent of the required upfront payment 9 as a downpayment. 10 So \$105 per system, correct? 11 A. Yes. 12 Q. So then in 2011, for all of the 13 lenses you purchased, you actually paid \$105 per 14 lens, correct? 15 A. Not exactly. I paid full for many of 16 them. I don't recall exactly how much. 17 And then I took advantage of the 18 program, and I believe to this point I paid all of 19 those in full. 20 Q. But here when you're explaining it to 21 your preparer, you're telling her that you paid 105</p>				

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<p>22 per system in 2011, is that correct?</p> <p>23 A. Not exactly.</p> <p>24 Some, and I don't have my information</p> <p>25 in front of me, but some I actually paid the full</p> <p>187: 1 1,050.</p> <p>2 The other were essentially a contract</p> <p>3 which there's not necessarily a distinction between</p> <p>4 how much actual cash was paid versus how much was</p> <p>5 paid.</p>				
<p>188: 2 Q. So your statement here towards the</p> <p>3 end of that paragraph where you say you financed the</p> <p>4 remaining balance of \$945 per system, do you see</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. What does that mean?</p> <p>8 A. Exactly what it says. That I paid</p> <p>9 \$105 for the system out of 1,050, and I financed the</p> <p>10 remaining 945 which I subsequently paid.</p> <p>11 Q. So you paid in 2012 any amount that</p>			45	

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<p>12 you financed? 13 A. I don't recall when that was paid. 14 Q. You may have paid it in 2012 as 15 opposed to in 2011, correct?</p>				
<p>188:17 A. I don't know. 18 Q. Then you say in the next paragraph, 19 "Based on my understanding of the program and the 20 tax benefits, my purchasing strategy was to purchase 21 enough systems to zero out any 2011 tax obligation 22 and hopefully carry back to recover past taxes 23 paid." 24 Did I read that correctly? 25 A. Yes. 189: 1 Q. Then you say, "I realize this 2 strategy is not typical but certainly allowable and 3 legitimate within the current tax incentives created 4 by Congress to stimulate investment and purchases 5 within green energy and energy creation incentives." 6 Did I read that correctly? 7 A. Initiatives, not incentives.</p>			<p>45</p>	

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<p>8 Q. Okay. Thank you. 9 A. You're welcome. 10 Q. Any other changes? 11 A. No. 12 Q. Who told you that it was allowable 13 and legitimate within current tax incentives? 14 A. The information from the RaPower3 15 website. 16 Q. Anyone else? 17 A. Not that I can specifically state. 18 Q. So no one else that you can recall, 19 correct? 20 A. Correct. 21 Q. Let's take a look at the following 22 couple of pages here, first at 267. 23 At the top of the page, it reads 24 "Additional information from www.RaPower3.com 25 website." 190: 1 Do you see that? 2 A. Yes, I do. 3 Q. Is this information you included for 4 your CPA? 5 A. Yes.</p>				

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6 Q. And does that information from the 7 RaPower3 website go through the page marked 269? 8 A. Yes. 9 Q. And what about the information on 10 page 270, who created that chart?				
190:13 A. I believe I created this. 14 Q. If you'd take a look, please, at page 15 271. 16 A. Yes. 17 Q. Do you recognize what this chart 18 might be? 19 A. This is from the RaPower-3 back end 20 office showing the purchases that I made. 21 (Pause)			45	
200: 6 Q. Have you seen lenses in an array 7 direct the sunlight to a concentrator to create 8 heat? 9 A. I have not personally. 10 Q. Have you seen a video of that? 11 A. I don't recall if I've seen a video				

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12 or if I've seen renderings but...				
<p>201:14 MS. HEALY GALLAGHER: Plaintiff's 15 Exhibit 48 for the record is Lunn_F&L-184 to 185. 16 Q. Just very quickly, Mr. Lunn, again, 17 we see your name with the thick bar underneath at 18 the top. 19 Was this an e-mail that you produced 20 to the United States? 21 A. Yes. 22 Q. This one is from Roger Freeborn, 23 correct? 24 A. Yes. 25 Q. And that's the coachfreeb@bfsmail.com 202: 1 e-mail address, right? 2 A. Correct. 3 Q. Mr. Lunn, did you pay the required 4 amounts for all of your lenses? 5 A. Yes. 6 Q. Did you ever ask what might happen if 7 you didn't pay the full amount required for all of 8 your lenses? 9 A. No.</p>			48	

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<p>202:14 Q. Would you please take a look, 15 Mr. Lunn, at Plaintiff's Exhibit 49. 16 It's Bates marked Lunn_F&L-461 to 17 462. 18 (Pause) 19 Q. Do you recognize this document? 20 A. Vaguely. 21 Q. Well, it's double printed so there's 22 a couple pages of text on each single page of paper, 23 correct? 24 A. Yes. 25 Q. So we start off with an e-mail that 203: 1 you printed from your system, correct? 2 A. Yes. 3 Q. And it's from Greg Shepard, 4 greg@rapower3.com, correct? 5 A. Correct. 6 Q. On or about November 17, 7:24 p.m.? 7 A. Yes. 8 Q. And the subject is Ra3 Vital Tax 9 Information, correct? 10 A. Yes.</p>			49	

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11 Q. Okay. So then all the text that 12 follows was from Greg Shepard, correct? 13 A. I believe so.				
203:19 MS. HEALY GALLAGHER: Plaintiff's 20 Exhibit 50 is Bates numbered Lunn_F&L-492 through 21 493. 22 Q. And with this one, Mr. Lunn, do you 23 recognize Plaintiff's Exhibit 50? 24 A. Yes. 25 Q. What is it? 204: 1 A. It is information I received from 2 Greg Shepard or RaPower3. I'm not sure. 3 Q. The title of the document is the 1976 4 IRS Coal Plant Ruling. 5 Do you see that? 6 A. I do. 7 Q. And, Mr. Lunn, you just said you got 8 it from Greg Shepard or RaPower-3. You're not sure 9 which. 10 A. Correct. I see Greg Shepard's 11 comments in bold so...			50	

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<p>12 Q. Was this something you would have 13 downloaded? 14 A. I would assume I did. 15 Q. And why would you assume that? 16 A. Because I printed it, and I try to 17 save paper, so it would have been, when I produced 18 information, it would have been in a folder marked 19 RaPower-3. 20 Q. Any reason to think you got it from 21 someone other than Greg Shepard or RaPower-3? 22 A. No.</p>				
<p>205: 3 Q. Plaintiff's 51 is Lunn_F&L-463 4 through 465. 5 Do you recognize this document, 6 Mr. Lunn? 7 A. Yes. I don't know whether -- I'm not 8 sure how I received it but... 9 Q. Well, it's called Preparation Notes 10 for RaPower3 Court Appeals, correct? 11 A. Correct. 12 Q. Would you have gotten it</p>			<p>51</p>	

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<p>from 13 Mr. Shepard or RaPower-3? 14 A. Yes. 15 Q. Is there anyone else you would have 16 gotten this from? 17 A. Not to my knowledge.</p>				
<p>206: 4 Q. Please take a look at Plaintiff's 5 Exhibit 52 and let me know when you're done. 6 (Pause) 7 A. Okay. 8 Q. Okay. Similar question, Mr. Lunn. 9 Do you recognize Plaintiff's 10 Exhibit 52? 11 A. I do. 12 Q. What is it? 13 A. It is information related to the 14 protest and appeals for the IRS findings. 15 Q. And where did you get this from? 16 A. I don't know specifically whether it 17 was from the website or from Greg Shepard, but it 18 was from Greg Shepard or RaPower-3. 19 Q. Any reason to believe you</p>			<p>52</p>	

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got this 20 document, Plaintiff's Exhibit 52, from someplace 21 other than Greg Shepard or RaPower-3? 22 A. No.				
207: 3 Q. Would you take a look at that, 4 please, Mr. Lunn? 5 A. Okay. 6 Q. And Plaintiff's 53 is Bates numbered 7 Lunn_F&L-25. 8 A. Yes. 9 Q. Mr. Lunn, this is also an e- mail that 10 you printed out from your system, correct? 11 A. Correct. 12 Q. It's from Greg Shepard, correct? 13 A. Yes. 14 Q. And dated on or about Wednesday, 15 December 9, 2015 at 3:15 p.m., is that right? 16 A. Correct. 17 Q. The subject is IRS Audit Info. 18 Do you see that? 19 A. Yes. 20 Q. Okay. Sort of the second			53	

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paragraph 21 of text, it reads, "Yesterday (12-8-2015) down in 22 Delta, the expert witness representing you arrived 23 with Neldon's attorney. His job was to evaluate 24 Neldon Johnson's technology. 25 Do you know who that expert witness 208: 1 is? 2 A. I do not. 3 Q. Do you know what his evaluation of 4 the technology was? 5 A. I do not.				
213: 1 MS. HEALY GALLAGHER: I think that's 2 all I have for today pending the held open 3 deposition. 4 Thank you very much for your time, 5 Mr. Lunn. 6 THE WITNESS: Thank you. 7 MR. JONES: We'll reserve signature. 8 (Whereupon the deposition 9 concluded at 4:09 p.m.)				
DEFENDANT COUNTER-DESIGNATIONS	PLAINTIFF COUNTER-DESIGNATIONS			

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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, 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.