

*Case Name: United States v. RaPower-3, LLC, et al. Case Number: 15-cv-828
Deposition of Brian Zeleznik taken August 2, 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			
Annotation: 5: 1 (Whereupon the witness was sworn 2by the reporter.) 3 MR. MORAN: Good morning, 4 Mr. Zeleznik. 5 MR. ZELEZNIK: Good morning. 6 MR. MORAN: We're on the record in 7 the case of United States versus RaPower, et al. on 8 August 2nd at 9 a.m. central time. 9 My name is Chris Moran, and I'm with 10 the U.S. Department of Justice Tax Division 11 appearing on behalf of the United States. 12 If all the attorneys in the room 13 could please state their appearances on the record 14 starting with Mr. Jones. 15 MR. JONES: Paul Jones, the attorney 16 for the witness. 17 MR. HEIDEMAN: Justin Heideman here 18 present for the other defendants			<div data-bbox="1444 1211 1730 1386" style="border: 2px solid black; border-radius: 15px; background-color: yellow; padding: 5px; text-align: center;"> <p>Plaintiff Exhibit 697</p> </div>	

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<p>other than those 19 represented by Don Rea. 20 MS. HEALY GALLAGHER: And Erin Healy 21 Gallagher for the United States Department of 22 Justice. 23 MR. MORAN: And for the record, 24 Mr. Donald Rea who represents defendants Greg 25 Shepard and Roger Freeborn is not present, so on the 6: 1 phone is our colleague Erin Hines. 2 For the record, this deposition will 3 be taken in accordance with the Federal Rules of 4 Civil Procedure. 5 We're in the second day of 6 depositions here in Springfield. Several exhibits 7 were marked yesterday. Counsel for the United 8 States has had custody of those exhibits overnight. 9 We'll be leaving those exhibits as well as any other 10 exhibits that we mark today with</p>				

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the court reporter 11 when we conclude with the deposition transcript. 12 13 BRIAN ZELEZNIK 14 called as a witness herein, having been first duly 15 sworn on his oath, was examined and testified as 16 follows: 17 18 DIRECT EXAMINATION 19 BY MR. MORAN:				
8:14 Q. Mr. Zeleznik, we're trying to get an 15 accurate record of your knowledge of the facts of 16 this case, so therefore, I have to ask you, is there 17 anything that would preclude you from answering 18 questions truthfully today? 19 A. No. 20 Q. Are you feeling well? 21 A. Yes. Thank you. 22 Q. Are you on any medications that would 23 preclude you from remembering things or answering 24 truthfully?				

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<p>25 A. No. 9: 1 Q. Have you had any alcohol in the last 2 eight hours? 3 A. No. 4 Q. I'd like to start out asking you a 5 few questions about your background just to 6 understand how you came to be involved in the 7 subject of this case. 8 Did you graduate from high school? 9 A. I did. 10 Q. Okay. And can you give me all the 11 formal education you've had since graduating from 12 high school? 13 A. I got my undergrad at Augustana 14 College in Rock Island, Illinois. 15 I got my masters in education 16 administration from Illinois State University in 17 2006. 18 I'm currently employed by LeRoy 19 Schools, LeRoy, Illinois. I'm the</p>				

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<p>high school 20 athletic director, head football coach, head track 21 coach, and I do teach a couple of courses at the 22 high school. 23 Q. Okay. What is your major in your 24 undergrad? 25 A. My undergrad was secondary education, 10: 1 physical education. 2 Q. And when did you graduate from 3 college? 4 A. '98. 5 Q. 98? 6 A. Yeah. 7 Q. And then your master's was in 2006? 8 A. Yes. 9 Q. When did you start teaching at LeRoy 10 Schools? 11 A. 1999. 12 Q. Okay. Is that right after you 13 graduated from college? 14 A. Yeah. I had a small stint as a 15 teacher's assistant at a junior high in Normal, but</p>				

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<p>16 my first full-time position was at LeRoy, yeah. 17 Q. Okay. When you came into LeRoy, what 18 was your -- did you start out as the athletic 19 director? 20 A. Oh, no, no. I was just a physical 21 education instructor from '99-2000 to the spring of 22 '04. So '04-05 was my first year as the athletic 23 director. 24 Q. Okay. When you started in 1999, were 25 you coaching at all? 11: 1 A. I was, yeah. I was not the head 2 coach. I was an assistant coach for -- I did 3 football. I did basketball. I did baseball 4 coaching, teaching physical education at the high 5 school level. 6 Q. Where did you graduate from high 7 school? 8 A. LeRoy High School; I was</p>				

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<p>born and 9 raised there. 10 Q. So you came back home? 11 A. Yeah. I'm doing exactly what my 12 father did. 13 Q. Oh, really. 14 A. A little bit of nepotism I guess you 15 could say, but yeah. 16 Q. So did you play sports at LeRoy? 17 A. I did. 18 Q. Did you play for your dad? 19 A. I did. 20 Q. What sports did you play? 21 A. Football, basketball, baseball. 22 Q. Did your dad coach all three of 23 those? 24 A. No. He just did football. 25 Q. Okay. And did he teach P.E. 12: 1 A. No. He was an anatomy/physiology 2 teacher. 3 Q. Okay. 4 A. As well as the athletic director and 5 dean of students.</p>				

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<p>6 Q. And who was your father? 7 A. Jim Zeleznik. 8 Q. And when did he retire? 9 A. He retired in 2004? Yeah, he had to 10 have, 2004, because I became the AD in '04-05, so 11 yeah, his last year was '04. 12 Q. So you teach P.E., and you're a 13 coach? 14 A. Uh-huh. 15 Q. For it sounds like two sports? 16 A. Two sports. 17 Q. Football and track? 18 A. Uh-huh. I teach P.E. for one period. 19 The rest of the day I have administrative duties 20 associated with the athletic director position. 21 So I'm really 7/8 administrator, 1/8 22 in the classroom as they need me. 23 Q. And what are your duties as the AD? 24 A. I schedule all athletic events, 25 supervision of athletic events. I schedule</p>				

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<p>13: 1 officials for athletic events. That's about 90 2 percent of it. 3 Q. Okay. And that's all athletic events 4 for all sports at LeRoy Schools? 5 A. Yes, that's correct.</p>				
<p>14:13 Q. About how many hours a week would you 14 spend carrying out your athletic director duties? 15 A. Oh, I would say -- just depends. If 16 it's football season, to complete my duties, all of 17 my duties, I'm probably putting in 60 hours a week. 18 Out of season, some of the winter, 19 it's probably closer to 45 to 50. I mean, that's a 20 rough guess. That's a rough guess. 21 In the spring, it's probably 45 to 22 50.</p>				
<p>15: 3 Q. Any other formal education? 4 A. No. 5 Q. How about informal education?</p>				

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<p>6 A. What would that be?</p> <p>7 Q. Classes you take.</p> <p>8 A. No. I have not taken any more</p> <p>9 classes since I've received my master's.</p> <p>10 Q. In any subject?</p> <p>11 A. Any subject.</p> <p>12 Q. Have you had any training in tax?</p> <p>13 A. T-a-x tax?</p> <p>14 Q. Yes.</p> <p>15 A. No.</p> <p>16 Q. How about finance?</p> <p>17 A. No.</p> <p>18 Q. What businesses are you involved</p> <p>19 with?</p> <p>20 A. I have an independent business,</p> <p>21 Zeleznik Solar Lenses. I'm the owner of 145 solar</p> <p>22 lenses.</p> <p>23 Q. Any other business?</p> <p>24 A. No.</p> <p>25 Q. Where did you get those lenses from?</p> <p>16: 1 A. I purchased those lenses from</p> <p>2 RaPower.</p>				

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<p>3 Q. Mr. Zeleznik, do you recall getting a 4 subpoena from the government for documents? 5 A. I do. 6 Q. How did you get that? 7 A. A gentleman walked up to our door and 8 said, I have a subpoena, and that was it is. I 9 signed it. 10 Q. What did you do in response to that 11 subpoena? 12 A. Compiled documents and sent what was 13 asked. 14 Q. Did you talk to anyone about 15 preparing your response? 16 A. I sent an inquiry to Dr. Shepard and 17 said I've received the subpoena. 18 His instructions to me were to just 19 do what it asked. He had mentioned Mr. Jones as 20 well, but other than that, that was it. 21 So I just followed the instructions</p>				

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<p>22 on the subpoena and sent the information. 23 Q. How did you communicate with 24 Mr. Shepard about that? 25 A. I believe I placed a phone call.</p>				
<p>17: 5 Q. Can you tell me where you looked for 6 the documents? 7 A. In my files and on the RaPower-3 site 8 in my log-in member area. 9 Q. So you have a log-in to RaPower? 10 A. Uh-huh. Yes, yes. Sorry. 11 Q. Can you tell me what information you 12 access there? 13 A. When I access my log-in member area 14 at RaPower, I can see the invoices for the 15 purchasing of the lenses that I bought. 16 I can also see payments made on there 17 as well, so payments I made towards the principal</p>				

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<p>18 that I owed on the lenses. They keep track of that 19 for me. 20 Q. Anything else? 21 A. I can also see the two individuals 22 that I sponsored on there as well and their 23 activity. 24 Q. What type of activity? 25 A. Lenses purchased. 18: 1 Q. How about payments made? 2 A. By them, no, no, I can't access their 3 payment information. 4 Q. And you printed out information from 5 the RaPower-3 website and produced it to the 6 government? 7 A. I did, yes, I did. 8 Q. And you mentioned other documents you 9 had in your files? 10 A. Tax, you know, 1040s. I've got, oh, 11 what would you call them, stubs or receipts for 12 money I've received through my</p>				

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<p>business so records 13 of that, of deposits, records of deposits into my 14 business savings account that I have for this. 15 There were a number of, you know, 16 operation and maintenance agreement forms for the 17 leasing of my lenses. 18 Q. Okay. And after you gathered those 19 documents, what did you do with them? 20 A. Gathered them, copied them. So I've 21 got them all on file, and then I send them off. 22 Q. Who did you send them to? 23 A. Peoria. That's where they went. 24 Q. Via... 25 A. Via -- I don't know where they were 19: I going from Peoria. I'm trying to think of the 2 person that was on the subpoena. I can't remember. 3 I'm sorry. Maybe D.C., but no, definitely dropped</p>				

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<p>4 them off at the circuit court or federal courthouse 5 in Peoria. 6 Q. Okay. You mentioned a, you called 7 him Dr. Shepard that you spoke to? 8 A. Yes. 9 Q. Who is Dr. Shepard? 10 A. Greg Shepard who, I've known him as 11 the...I don't know if he was the owner or what, but 12 I knew him as a part of Bigger, Faster, Stronger, 13 not personally, just by name. By being in high 14 school athletics, Bigger, Faster, Stronger is a very 15 respected business that works with interscholastic 16 athletes. 17 So that's where I knew him from, and 18 Roger Freeborn as well. Both of them were involved 19 in Bigger, Faster, Stronger, so that's where, you 20 know. Like I said, I didn't know him at all but</p>				

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<p>21 just knew the services they provided for schools 22 through training, and I also know him as a person 23 that is involved with RaPower-3. 24 Q. How is he involved with RaPower-3? 25 A. I don't know. I don't know his 20: 1 specific title. 2 Q. We'll talk more about him in a 3 minute. 4 A. Okay. 5 Q. You mentioned Bigger, Faster, 6 Stronger. 7 A. Yes. 8 Q. When did you first hear of Bigger, 9 Faster, Stronger? 10 A. Oh, I couldn't give you a specific 11 date. They've been around forever. They provide 12 training regimens for high schools and provide 13 athletic equipment. 14 Q. Do you remember Bigger, Faster, 15 Stronger from when you were a</p>				

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<p>high school athlete? 16 A. Uh-huh, yes. We actually did a lot 17 of their training programs going through high 18 school. 19 Q. You used their training programs? 20 A. Uh-huh, yes, we did. 21 Q. So as far as you know, they've been 22 around for at least 25 years? 23 A. Absolutely, yeah, absolutely. 24 I can remember, not to get 25 sidetracked, I can remember watching a video on how 21: 1 to properly train in the weight room that was quite 2 entertaining that came from Bigger, Faster, Stronger 3 that Dr. Shepard, Greg Shepard, was in. 4 Q. So did you know Greg Shepard when you 5 were a high school athlete? 6 A. I knew him as the own of Bigger, 7 Faster, Stronger, if I even connected that back 8 then, yeah. That's where I had</p>				

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<p>heard of him before. 9 Q. When was the first time you met 10 Mr. Shepard? 11 A. I've never met him personally. 12 Q. You've never met him? 13 A. No, I have not. 14 Q. How about Roger Freeborn, when was 15 the first time you met him? 16 A. I met Roger Freeborn in August of 17 2009. 18 Q. Okay. All right. You mentioned that 19 you became familiar with Roger Freeborn or you met 20 Roger Freeborn in August 2009? 21 A. That's correct. 22 Q. Okay. Had you ever heard that name 23 before? 24 A. I just knew he was involved with 25 Bigger, Faster, Stronger. 22: 1 Q. Do you know what his -- 2 A. Coach Freeborn, yeah. 3 Q. Do you know what his role is with</p>				

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<p>4 Bigger, Faster, Stronger? 5 A. I think he helped train and implement 6 their programs of Bigger, Faster, Stronger. 7 Q. Would high schools have to buy the 8 program from Bigger, Faster, Stronger? 9 A. I've never done it as an 10 administrator so I couldn't tell you how that 11 process worked. 12 Q. Okay. Do you know how Bigger, 13 Faster, Stronger makes money? 14 A. I do not. I know they sell athletic 15 equipment. 16 Q. What types of athletic equipment? 17 A. Weight training, weight training 18 equipment to high schools. 19 Q. So they sell weights? 20 A. Uh-huh, and racks and bars, yeah, 21 dumbbells, all those things. 22 Q. Do they manufacture them? 23 A. That I have no idea.</p>				

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<p>24 Q. Are there weights in your high school?</p> <p>25 school?</p> <p>23: 1 A. Yes.</p> <p>2 Q. Are they purchased through Bigger, 3 Faster, Stronger?</p> <p>4 A. No, I don't think so.</p> <p>5 Q. You mentioned an entity known as 6 RaPower-3?</p> <p>7 A. Yes.</p> <p>8 Q. And that you purchased lenses from 9 them?</p> <p>10 A. Yes.</p> <p>11 Q. About when did you become familiar 12 with RaPower-3?</p> <p>13 A. In August of 2009.</p> <p>14 Q. And did that coincide with meeting 15 Roger Freeborn?</p> <p>16 A. It did.</p> <p>17 Q. How did that occur?</p> <p>18 A. I received an e-mail about a program 19 to be able to potentially provide income that was 20 sent. It looked interesting, and</p>				

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<p>so I contacted 21 Roger Freeborn and asked if he would like to explain 22 it to me a little bit more. I thought it was a 23 pretty cool idea, so he came and talked to me about 24 it. 25 Q. And who was that e-mail from? 24: 1 A. I don't remember. I don't remember 2 if it was Freeborn or Shepard. 3 Q. Was it one of the two? 4 A. I think it was but I can't remember 5 which. 6 Q. And you said it was a source of 7 income? 8 A. Yes. 9 Q. Can you tell me how that source of 10 income worked? 11 A. Well, I mean, the background behind 12 getting into setting up a business, my wife and I 13 were looking for a third source of income, so we</p>				

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<p>14 were just looking at opportunities. She looked at 15 hers and I looked at mine, and I came across this, 16 and we have our oldest child, Abraham has Fragile X 17 Syndrome which is a genetic disorder, and when we 18 received that diagnosis...he's 11...we received that 19 diagnosis around 2006, 2007, we realized that 20 Abraham is going to be living with us the rest of 21 our lives and living with someone after we're gone. 22 So it was at that point that we 23 decided that we needed a third income to be able to 24 get in a spot financially where Abraham can be taken 25 care of.</p> <p>25: 1 So we set up a trust fund and just 2 made the choice that any money that we could make 3 from a third income could go into the trust fund.</p> <p>4 So we then had our second child who</p>				

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<p>5 was typical developing, and then we had our third 6 child who doesn't have Fragile X but she has a birth 7 defect in her corpus callosum, so she has 8 significant motor expressive language and emotional 9 deficiencies, so she as well is going to be living 10 with us for the rest of our life and then with 11 someone after that. 12 So it became very important for two 13 reasons for us to find a third source of income. 14 One, it would be completely unfair to 15 our middle child to have the financial burden and 16 the caregiver burden of taking care of his brother 17 and sister, not that he's not going to be involved 18 but, you know, just the sole provider. 19 And two, we needed to be in a 20 situation financially where they could stay in their</p>				

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<p>21 own home, especially after my wife and I are gone, 22 where they can stay in their home and care providers 23 can take care of them. 24 So we felt like if we could find a 25 source of income to help with that over a 30 to 26: 1 40-year period and develop that fund, we wouldn't be 2 as scared. 3 Q. Understood. 4 A. I just wanted to get into the reason. 5 That's why when I saw this, given my 6 responsibilities to our school and community, and my 7 wife is a therapist, and our responsibilities at 8 home, which is very unique compared to a lot of 9 families, this was a great opportunity because it's 10 not very disruptive to all our other 11 responsibilities. It's something I can manage as a 12 side, as a small side business. 13 Q. Understood.</p>				

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<p>14 We'll talk a little bit more about 15 your business, but I'd like to backtrack a little 16 bit. I should've asked you about this in the 17 beginning. 18 You mentioned your wife? 19 A. Yes. 20 Q. So you are married? 21 A. I am married. 22 Q. What's your wife's name? 23 A. My wife's name is Amy Zeleznik. 24 Q. How long have you been married? 25 A. We've been married since May 4, 2002. 27: 1 Q. Where did you meet? 2 A. We met in junior high. Then we broke 3 up and then we dated in high school. Then we broke 4 up and six years later, by chance, we ran into each 5 other and we were married. It's a long story. 6 Q. So you were married in 2002? 7 A. Right. 8 Q. And you mentioned three children?</p>				

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<p>9 A. Yes. 10 Q. What are their names? 11 A. Abraham is the oldest, Bohdan 12 (B-o-h-d-a-n) is the middle child, and then Aurelia 13 (A-u-r-e-l-i-a) is our youngest. 14 They're 11, 9 and 6. 15 Q. And besides the health issues you 16 just described for the oldest and the youngest, is 17 everyone else in the family healthy? 18 A. Yes. 19 Q. Okay. Glad to hear. 20 A. Thank you. 21 Q. And your parents are... 22 A. Jim Zeleznik and Carol Zeleznik. 23 Q. Are they both still living? 24 A. They are. They're watching children 25 right now in fact. 28: 1 Q. And what does your wife do for a 2 living? 3 A. She's a speech language pathologist. 4 Q. Where?</p>				

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<p>5 A. She's the director of therapy at I 6 think it's called Liberty Village in LeRoy, assisted 7 living facility in LeRoy, and then she does 8 independent home visits through a company I think. 9 I don't know specifically the company that she works 10 with, but she does at-home therapy services for 11 people, for elderly in Bloomington-Normal 12 specifically. 13 Q. All right. How many hours a week 14 does your wife work? 15 A. She works I would say 40 on the 16 average. 17 Q. Average? 18 A. Yeah. 19 Some weeks it's more, some weeks it's 20 less; you know, like 32 to 46. Just depends on 21 clients.</p>				
<p>29: 4 About how many hours</p>				

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<p>outside of work 5 do you and your wife spend caring for your children? 6 A. Well, this time of year I'm pretty 7 much 40 hours a week because I have summers off so I 8 try to -- no, no, that's not accurate. I would say 9 30 hours a week because I try to go in about 10 10 hours a week to the school. Otherwise I'd get 11 swamped. 12 During the school year, our parents 13 watch them I would say on the average from 8 a.m. 14 to -- well, no, they go to school now. 15 Jeez. Sorry. Let me do this in my 16 head. 17 When the school year begins, it just 18 depends if Aurelia goes full-time this year, so 19 you're looking at noon to 4 or 5 o'clock. 20 Q. That she's at school?</p>				

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<p>21 A. For Aurelia at home with a 22 grandparent. 23 Abraham and Bohdan will go full days 24 once school begins, so then a grandparent will pick 25 them up, and then from 3 to 4, 3 to 5, all depending 30: 1 on Amy's schedule...this is in the fall, because in 2 the fall I'll get home at probably 7 o'clock after 3 practice. 4 In the winter, if I don't have 5 supervision duties, then I'll pick up the kids 6 immediately after school, and we'll go home and I'll 7 be with them. 8 Q. All right. Is it fair to say that 9 when you and your wife aren't at work, you're taking 10 care of your children? 11 A. Yes, absolutely. I mean, we don't 12 get away much, no.</p>				
<p>30:14 All right. Getting back to the 15 entity known as RaPower-3, you already mentioned</p>				

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<p>16 that you purchased lenses from them? 17 A. I did. 18 Q. And you became aware of them in 19 August of 2009? 20 A. Of their existence, yeah, of the 21 program. 22 Q. Okay. 23 A. And then the first purchase was made 24 in I want to say late 2009, early 2010, somewhere in 25 there. I'd have to double check. 31: 1 Q. And you learned of RaPower-3 from 2 Greg Shepard or Roger Freeborn? You don't recall 3 which? 4 A. Roger Freeborn. I don't know who 5 sent the original information on e-mail. Roger 6 Freeborn explained it. 7 Q. Okay. How did he explain it? 8 A. The thing I remember most first was 9 the bonus contract that was available from IAUS. If</p>				

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<p>10 you purchased lenses, they had a very generous 11 incentive that if you purchased lenses, you could 12 become part of a bonus program with IAUS as an 13 incentive to purchase. 14 And then the other part that he 15 explained in detail was the leasing piece where, you 16 know, over -- and this is where everything I said 17 previously comes in. You know, over a -- you're 18 looking at an annual income from leasing your 19 equipment over a 30, 40-year period, and so that 20 kind of, you know, perked me up. Oh, wow! So this 21 is something that we could put away over time, a 22 long period of time if I can get it up and running. 23 Q. So you expected that annual income 24 from the leasing side would help support your 25 children? 32: 1 A. Absolutely, yeah,</p>				

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<p>absolutely. 2 And the bonus was, that would be 3 awesome if it happened, but it was more the leasing 4 of the equipment piece. 5 Q. You mentioned the bonus contract and 6 that piqued your interest. 7 A. Uh-huh, yes. 8 Q. How did the bonus contract work? 9 A. I knew you were going to ask that. 10 It's a percentage of IAUS sales. 11 So the first so many dollars of sales 12 that they make or, you know, a certain allotment of 13 sales that they make, a percentage of that money was 14 going to go towards you for purchasing lenses. It 15 was an incentive-based program that if you purchased 16 lenses, IAUS would have this bonus contract. 17 I know it was like they were giving 18 out a \$6,000 bonus per lens at one point, and then</p>				

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<p>19 it was a \$2,000 per lens bonus at one point, and now</p> <p>20 the bonus program is done. Obviously, there's only</p> <p>21 so much, you know, I would assume money that you</p> <p>22 could put towards incentive programs like that, but</p> <p>23 I was able to purchase lenses under those bonus</p> <p>24 programs.</p> <p>25 Q. All right. You said at one point</p> <p>33: 1 there was a \$6,000 bonus per lens?</p> <p>2 A. Uh-huh.</p> <p>3 Q. How much did you buy each lens for?</p> <p>4 A. \$1,050 upfront, and then I paid the</p> <p>5 rest of it over time.</p> <p>6 Q. How much was the rest of it?</p> <p>7 A. I want to say like 3,500 was the</p> <p>8 total.</p> <p>9 I'd have to look at my paperwork, so</p> <p>10 yeah.</p> <p>11 Q. So you would spend 1,050?</p> <p>12 A. Uh-huh.</p>				

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<p>13 Q. And then the remainder, which you 14 think is about 3,500, over time? 15 A. I don't think that's the -- I think 16 that's the total cost, so you're looking at 2,500 17 roughly. 18 Q. As the remainder? 19 A. Yes, that you paid for over time. 20 Q. So you'd pay \$3,500 total? 21 A. Correct. 22 Q. And you'd get a bonus of \$6,000? 23 A. For buying into the program, yes. 24 Q. That's a pretty good return, isn't 25 it? 34: 1 A. I would say so, yes. 2 Q. When did you get that bonus? 3 A. I've not received it yet. 4 Q. Do you know why you haven't received 5 the bonus? 6 A. I would assume because they have not 7 made the allotment of money to be able to pay the</p>				

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<p>8 bonuses. 9 Q. Who's they? 10 A. IAUS who the contract is with. 11 I would love to receive that bonus. 12 Q. And you mentioned that IAUS would pay 13 that bonus based on a portion of their sales? 14 A. Uh-huh.</p>				
<p>34:17 A. The way the contract reads to me is 18 that a percentage of their sales will be part of 19 that bonus program. 20 Q. Have you asked anyone why you haven't 21 received a bonus? 22 A. No. 23 Q. If you were going to ask someone, who 24 would you ask?</p>				
<p>35: 3 A. I don't know. That's a good 4 question. 5 Q. And your bonus is contingent on 6 IAUS's sales?</p>				

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7 A. Uh-huh, yes.				
35:10 Q. What does IAUS sell?				
35:14 A. All that I am aware of is that 15 they -- I don't know specifically what they sell. 16 Q. Do you believe they sell something? 17 A. I do, I do. 18 Q. And you're expecting a bonus, to 19 receive a bonus at some point in the future? 20 A. I am. 21 Q. You mentioned leasing. 22 A. Yes. 23 Q. Can you tell me how the leasing part 24 of it works? 25 A. What I know about the leasing part is 36: 1 that there's an operation and maintenance agreement. 2 I lease my lenses to be used as a part of a 3 mechanism that will create energy of some sort, and 4 I get \$150 a year per lens to do that. 5 Q. All right. You mentioned a				

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<p>6 mechanism. 7 A. Yes. 8 Q. What is that? 9 A. I couldn't explain it. 10 Q. Okay. 11 A. I own the lenses. I lease the 12 lenses. 13 Q. Who do you lease them to? 14 A. I lease them to LTB. 15 Q. And what does LTB do with the lenses? 16 A. They use them through advertising, 17 research and development, production, putting them 18 into these devices that create energy. 19 Q. Do they create energy now? 20 A. I don't know. 21 Q. Do you know if they've ever created 22 energy? 23 A. I've seen videos of the lenses 24 creating heat which could be used to create energy. 25 Q. Okay. What do you understand the 37: I term energy to be? 2 A. In this case as it pertains to my</p>				

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<p>3 lenses, my lenses are being used as a part of a 4 mechanism to create heat. 5 Heat is energy. What it's used for 6 I'm not that concerned about. As long as I have the 7 lease and they're using them, I want the rental 8 income for that lease. 9 Q. Have you ever seen your lenses? 10 A. Personally? 11 Q. Yes. 12 A. No, no. 13 Q. Do you know of any unique identifiers 14 for your lens such as a serial number?</p>				
<p>37:17 A. Well, what I was going to say is I 18 have 145 solar lenses but not specific lenses 19 because they have all these lenses, and I am good 20 for 145 of them, but there's not a stack that says 21 that's my 145 right there because they use all these 22 lenses for research and development so they get</p>				

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<p>23 broken and damaged. They get put up into these 24 towers used to create energy. 25 So, yo know, as lenses come and go, I 38: I have 145 that I always have to my name regardless of 2 if they go through so many lenses through research 3 and all that. 4 Q. Can you explain to me what you mean 5 by the term "good for"? 6 A. I own 145. What I mean by that is I 7 own 145 lenses. 8 Q. You've never seen them? 9 A. No. Videos; I've seen lenses in 10 videos being produced, being used to create energy. 11 Q. Do you know if the lenses you saw in 12 the videos were your lenses? 13 A. No. 14 Q. You mentioned that you'd be receiving 15 \$150 per year per lens? 16 A. Correct. 17 Q. Do you receive that?</p>				

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<p>18 A. Not yet. 19 Q. Do you know why you haven't? 20 A. Based on my understanding of it, it's 21 because it's not in full production yet. 22 Q. What do you mean full production? 23 A. Well, they're not -- I would assume 24 that I will receive the lease payment when they are 25 in full production producing energy, not just in the 39: 1 research and development phase. 2 Q. So to your knowledge, they're in the 3 research and development phase right now? 4 A. And production phase, yes, based on 5 all the information I receive monthly from RaPower-3 6 with plenty of updates about where they're at. 7 Q. They're in the production phase right 8 now?</p>				

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<p>9 A. You would have to ask them 10 specifically. 11 Q. What are they producing? 12 A. Parts for their towers to be able to 13 mass produce their towers to put them in which is I 14 guess the mechanism that my lenses would be a part 15 of to create the energy. 16 Q. And just so we're clear, when you say 17 they, who are you talking about? 18 A. RaPower. 19 Q. Anyone else? 20 A. I don't know that. I mean, you know, 21 LTB.</p>				
<p>40:10 Q. Mr. Zeleznik, you said that your 11 lenses produce heat, right? 12 A. Sure. 13 Q. And eventually you intend or you 14 believe that you'll be paid \$150 per year per lens? 15 A. Correct. 16 Q. Because those lenses are producing 17 heat?</p>				

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18 A. Correct. 19 Q. How do you think the lenses are going 20 to produce income from heat?				
40:25 A. That they will be used in the towers 41: 1 to concentrate, concentrate as solar power which 2 will concentrate to sun's energy and produce heat, 3 and that heat then in turn will be used for whatever 4 purpose they're going to use it for, but because 5 they're using my lenses in the project, then I'm 6 leasing them to use those lenses or I'm leasing the 7 lenses for them to use, so they're going to pay me 8 for whatever they produce. 9 Q. Do you know when it is they're going 10 to produce? 11 A. I don't. 12 Q. Are you concerned about that? 13 A. I'm not. 14 Q. Are you aware of a market for heat?				

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<p>41:17 A. I don't know. 18 Q. You're not aware of a market for 19 heat? 20 A. It was my understanding that the heat 21 produced from the towers helps turn a turbine which 22 then creates electricity. 23 Q. Do you know how the heat turns a 24 turbine? 25 A. I do not. So that would be my 42: 1 answer. 2 Q. Thank you. 3 I believe you mentioned that you 4 believed the heat will eventually make energy. Is 5 that a fair characterization? 6 A. Well, I think the heat is energy. I 7 think it's going to be used to create other 8 energies. 9 Q. What type of energies? 10 A. Well, like I just said, I think the 11 main point of the mechanisms</p>				

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<p>that my lenses are 12 going into is to produce heat to be able to turn a 13 turbine to create electricity. 14 That's the number one thing. I mean, 15 beyond that I don't know.</p>				
<p>42:18 Q. So you believe that the heat will be 19 used to turn a turbine? 20 A. Uh-huh. 21 Q. Which will generate electricity? 22 A. Correct. 23 Q. Okay. What do you believe will be 24 done with that electricity once it's generated by 25 the turbine?</p>				
<p>43: 6 A. I don't know. I do know that my 7 lenses are going to be used as a part of a mechanism 8 to produce heat that may turn a turbine to make 9 electricity, and I want to be paid, per the 10 operation and maintenance agreement, for the leasing</p>				

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<p>11 of my lenses for that process. 12 Q. And as we sit here today, you're not 13 aware of any electricity that's been produced? 14 A. I don't know. 15 Q. You've never received any income from 16 your rental of the lenses?</p>				
<p>43:20 A. I have not. 21 Q. You said that your main contact was 22 Roger Freeborn? 23 A. Yes, to begin with, yeah. 24 Q. And you got an e-mail? 25 A. Yes. 44: 1 Q. From him? 2 A. From someone. 3 Q. From someone? 4 A. Yeah, from someone, that detailed 5 this program, and Roger came and explained it. 6 Q. What do you mean he came and 7 explained it? 8 A. He came and went through the bonus 9 program, just laid out what was in</p>				

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<p>the e-mail and 10 the lease. 11 Q. So he visited you? 12 A. He visited me, yes, to explain it. 13 Q. Where? 14 A. At LeRoy. 15 Q. At the school or at your house? 16 A. At the school. 17 Q. Was this in your office? 18 A. It was. 19 Q. Was anyone else there? 20 A. No. It was just Roger and I. It was 21 in August. It was still before school started. 22 Q. Did you tell anyone else about this? 23 A. I did. 24 Q. Who? 25 A. My father. 45: 1 Q. What did you tell him? 2 A. Just told him about this program. 3 Q. Did he participate? 4 A. He did, yeah. He's been subpoenaed 5 and done all that. 6 Q. Did you ever participate in</p>				

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<p>any 7 webinars? 8 A. I don't know if I did. I remember 9 them having some webinars, but honestly, I don't 10 remember if I ever did any of that. 11 Q. Who organized the webinars? Who did 12 you hear about them from? 13 A. Roger Freeborn.</p>				
<p>45:17 (Plaintiff's Exhibit 54 was 18 marked for identification.) 19 Q. Mr. Zeleznik, I hand you a copy of 20 what's been marked as Exhibit 54 that's marked for 21 identification. 22 A. Okay. 23 Q. Do you recognize Exhibit 54? 24 A. It's an e-mail between Roger Freeborn 25 and I. 46: 1 Q. And I will represent to you that the 2 United States received documents from you. 3 A. Uh-huh, correct.</p>			54	

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<p>4 Q. And we added what we call a Bates 5 label down in the bottom right-hand corner. 6 A. Okay. 7 Q. It says ZELEZ_B&A and then a number. 8 A. Okay. 9 Q. Besides that number, does that look 10 like a document you produced to the United States? 11 A. Yes. 12 Q. Okay. And you said that it's a 13 series of e-mails between you and Roger Freeborn? 14 A. Okay. 15 Q. Well, is that correct? 16 A. It appears to be, yes. 17 Q. On the first page which is marked 18 page 722 down in the bottom right-hand corner, 19 there's an e-mail on October 9, 2009 between you and 20 Roger Freeborn. 21 A. Uh-huh, correct. 22 Q. And the first sentence of that e-mail</p>				

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<p>23 references a BFS stimulus plan? 24 A. Yeah. 25 Q. What's your understanding of what the 47: 1 BFS stimulus plan is? 2 A. That is the RaPower-3 program at its 3 very beginning. 4 Q. At the beginning? 5 A. BFS is Bigger, Faster, Stronger. 6 Q. I understand. 7 A. And so this was sent to coaches and 8 educators as an opportunity. 9 Q. Did you understand that this was 10 being offered by Bigger, Faster, Stronger? 11 A. What I understood was it was people 12 from Bigger, Faster, Stronger that were working with 13 a group out west was my understanding of it. 14 Beyond that, I have no knowledge. 15 Q. Who's the group out west? 16 A. Like Neldon Johnson. 17 I mean, that at the very</p>				

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<p>beginning of 18 it was all I really knew. 19 Q. All right. And go back to the fourth 20 page, and that's Bates number 725. 21 A. Okay. 22 Q. Was this an attachment to one of 23 those e-mails? 24 A. I couldn't remember. I wouldn't be 25 able to tell you. I'm sorry. 48: 1 Q. Do you recognize this document? 2 A. It looks like instructions to be able 3 to fill out the referral fee contract on the next 4 page. 5 Q. All right. If you could flip back to 6 page 723. 7 A. Okay. 8 Q. Up at the top, there appears to be 9 three attachments. 10 A. Okay. Yeah. 11 Q. One of those says IAUS instructions.</p>				

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<p>12 A. Okay. So that must be that. 13 Q. You think that the document on page 14 725 is the IAUS instructions? 15 A. I'm not a hundred percent sure. I 16 think that's a logical thought, but I couldn't tell 17 you a hundred percent. 18 Q. Any reason to think that the document 19 on Bates page 725 isn't the attachment?</p>				
<p>48:21 A. I don't know. 22 Q. All right. Just one question on page 23 725. 24 In the middle of the page, it 25 references a model or serial number. 49: 1 A. Okay. 2 Q. Do you see that? 3 A. Yes. 4 Q. Have you ever been given a model or a 5 serial number? 6 A. I don't know. 7 Q. Do you recall? 8 A. I don't know. 9 Q. Do you think you would recall</p>				

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getting 10 a serial number?				
49:13 A. I'd have to look through my documents 14 to see on my invoices.				
51: 7 This will be Exhibit 56. 8 (Plaintiff's Exhibit 56 was 9 marked for identification.) 10 Q. Mr. Zeleznik, you've been handed a 11 copy of Exhibit 56 which is Bates labeled 12 ZELEZ_B&A000679? 13 A. Correct. 14 Q. Does this look like a document you 15 produced to the United States? 16 A. Yes. 17 Q. What does it appear to be? 18 A. This is me talking to Coach Shepard 19 about something that I came cross. 20 Q. What's your understanding of Roger 21 Freeborn's e-mail address? Do you know what it is? 22 A. I'm sorry. I don't understand. 23 Q. I see an e-mail address			56	

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<p>24 coachfreeb@bfsmail.com. 25 A. Okay. 52: 1 Q. Is that Roger Freeborn's e-mail 2 address? 3 A. It appears to be on this one. 4 Q. And so this e-mail is something you 5 received from Roger Freeborn? 6 A. Yes. 7 Q. On the second page, Bates number 8 680... 9 A. Okay. 10 Q. There's an e-mail from March 18, 11 2010. 12 A. Correct. 13 Q. Then there's Item No. 2. In the 14 second sentence it says, "They then question when I 15 will get the money and whether I will ever get it. 16 I, of course, answered again that I trust the 17 people, and I will get it at some point." 18 A. Correct. 19 Q. Is this the same money that</p>				

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<p>you 20 talked about earlier that you still haven't 21 received? 22 A. Correct. 23 And I would like to just say for the 24 record that when I got involved in this, I had no 25 expectation of when I would receive funds. I mean, 53: 1 it was my understanding that it was a fledgling 2 operation that, I mean, if I saw something within 3 ten years, I was going to be happy because again, 4 for us, it was a decades long process that we were 5 looking at. 6 I mean, our purpose was for 30 to 40 7 years so, for something to take time to get going I 8 was okay with. I mean, I'm in year seven right now, 9 and I'm keeping track. I mean I'm not just, oh, 10 yeah, yeah, you know. I mean, I'm keeping track</p>				

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<p>11 but, yeah, it's year seven, and yeah, I have 12 expectations at some point to receive income, yes. 13 Q. Okay. And then on the final page, 14 Bates number 681... 15 A. Uh-huh, Yes. 16 Q. There's a series of e-mails between 17 you and Roger Freeborn. 18 A. Okay. 19 Q. If you could take a look at that 20 series of e-mails and let me know when you're done. 21 A. Yes. 22 Q. You're talking about a meeting? 23 A. Yes. 24 Q. Can you tell me about that meeting? 25 A. I had just -- boy, I'm trying to 54: I think -- just put out an e-mail to people who I 2 thought could be interested and said this gentleman 3 is going to be coming in and talking about this 4 program, and that's what it was.</p>				

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<p>5 Q. So you said back in August of 2009 6 you had met Roger Freeborn? 7 A. Correct. 8 Q. Okay. And that meeting was just 9 between the two of you? 10 A. Yes. 11 Q. Did he come back to your school? 12 A. He did for this. 13 Q. Was this the first time since 14 August 2009 that he'd been back? 15 A. I think so. 16 Q. And it sounds like you organized a 17 meeting of, is it teachers or -- 18 A. Yeah, just people within the 19 district. Just said, hey, here's a program. If 20 you're interested in looking at it come to the 21 meeting. 22 Q. Where was that meeting? 23 A. It was at the high school. 24 Q. Was this in a classroom or something? 25 A. Yes. 55: 1 Q. About how many people</p>				

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<p>did you e-mail 2 about that? 3 A. I don't know. Jeez. 4 Q. Do you think it was more than five? 5 A. Oh, yes, yes. 6 Q. Do you think it was more than ten? 7 A. That I couldn't tell you. I don't 8 remember. 9 Q. So you think it was between five and 10 ten? 11 A. I would say that's probably safe to 12 say. I don't know. I'm sorry. I don't. 13 Q. Do you remember any of the names of 14 people that you e-mailed? 15 A. My father was one. Frank Lunn was 16 one. I remember those two specifically because I 17 sponsored them eventually, but beyond that, I 18 couldn't tell you. 19 Q. Were there any other times that Roger</p>				

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<p>20 Freeborn came to your school or to LeRoy, Illinois</p> <p>21 that you know of?</p> <p>22 A. I don't know that he came back after</p> <p>23 that. I don't know. I don't recall if he came back</p> <p>24 after this. I honestly don't remember.</p> <p>25 Q. Okay. At the March 2010 meeting, do</p> <p>56: I you recall how many people actually showed up?</p> <p>2 A. You guys are trying my memory here.</p> <p>3 I have a terrible memory.</p> <p>4 It had to have been in that five to</p> <p>5 ten range.</p> <p>6 Q. Was Frank Lunn there?</p> <p>7 A. Frank was. I remember that</p> <p>8 specifically because I remember talking to Frank</p> <p>9 after that meeting. That sticks out in my head,</p> <p>10 that he was going to do some background checking and</p> <p>11 research on it himself to make a decision whether or</p> <p>12 not he felt like it was something that he wanted to</p>				

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<p>13 get involved in, so yeah. 14 Q. Mr. Zeleznik, I'm handing you a 15 document that was marked yesterday during Mr. Lunn's 16 deposition as Exhibit 41. 17 A. Okay.</p>				
<p>57:20 Q. And also Exhibit 41, does that appear 21 to be a document that you produced to the United 22 States? 23 A. Yes. No, it is not. 24 Q. You don't think you produced this 25 document? 58: 1 A. I did not produce this document 2 because I did not produce anything that wasn't 3 between Shepard, Freeborn, whoever was listed. 4 That was my understanding of the 5 subpoena, that I needed to produce documents from 6 RaPower, Shepard, Johnson, IAUS, and that was it. 7 Q. Okay. 8 A. I'm sorry. I don't think I provided</p>			41	

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<p>9 any documents between Frank and I; only the people 10 listed on the subpoena. 11 Q. Okay. If you could take another look 12 at the first page of that document. 13 A. Yeah. 14 Q. Is there an e-mail from Greg Shepard 15 down at the bottom? 16 A. It's an excerpt from an e-mail, so 17 yeah, I probably turned that in. 18 Q. Okay. 19 A. Yeah, yeah, I see, yeah. 20 So what I did was I probably cut and 21 pasted that from what Greg said and said here's 22 Greg's answers to Frank. 23 So I probably gave you that e-mail 24 from Greg Shepard. 25 Q. Okay. Can you go to the next page? 59: 1 A. Yeah. 2 Q. Tell me again, the series of e-mails 3 that appear in Exhibit 41, do those</p>				

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<p>look like 4 e-mails that you produced to the United States or at 5 least to the extent that they involved Greg Shepard? 6 A. Yes. 7 Q. Did you do any research before you 8 purchased lenses from RaPower-3? 9 A. I looked at the information that was 10 provided from Coach Freeborn, the stimulus plan. I 11 knew these individuals to be successful, trusted 12 businessmen. 13 Q. Which individuals? 14 A. Shepard, Freeborn through Bigger, 15 Faster, Stronger and that entity, so, you know, it 16 wasn't like I saw a flier on a bulletin board at a 17 convenience store and said, oh, hey, this looks like 18 a great deal, next to "will you mow my lawn" type 19 thing. 20 You know, these were</p>				

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<p>individuals that 21 I knew of, that I knew had a successful business. 22 While I've not worked with them personally, you 23 know, they did business with our school at some 24 point, you know, when I was in school. 25 I would not have had any part of 60: 1 those dealings, but, you know, they were known, so 2 there was a level of trust there with that, and then 3 the information that they provided, that's how I did 4 my, I guess research. 5 Q. Do you recall specifically what that 6 research -- withdraw. 7 Did you talk to anyone outside of the 8 RaPower-3 organization? 9 A. About the program? 10 Q. Yes. 11 A. No. 12 Q. How about solar energy in general? 13 A. No, I don't believe so. 14 Q. Did you look at any websites</p>				

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<p>other 15 than the defendants' website? 16 A. No, because the websites I looked at 17 were IAUS primarily, yeah. 18 Q. All right. And you've already 19 testified that you expected to make money through 20 bonuses and rental income? 21 A. Correct. 22 Q. Are there any other ways that you 23 expected to make money? 24 A. No. That was it. 25 Q. You mentioned the tax benefits. 61: 1 A. Yeah, well, to me the tax benefits 2 were simply an incentive from the government to be 3 able to build your business. That was it. 4 I mean, the tax thing was an 5 afterthought. I mean, the tax thing was... and it's 6 ironic that it's come to dominate the entire 7 process. It really is. The fact that I'm here and</p>				

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<p>8 everything that's been going on, it's really ironic 9 because the whole process has been about the income 10 and the bonuses. 11 The tax credits were simply to help 12 fund the equipment to help get my business off the 13 ground. 14 Q. What equipment is that? 15 A. My lenses that I own. 16 Q. Did you think you had any risk in 17 purchasing the lenses? 18 A. Risk from the standpoint that, you 19 know, here you were starting a business, and you 20 don't know if it's going to work, you know. 21 I mean, yeah, you assume, you always 22 assume some risk when you're beginning something, so 23 yeah, I mean, I felt like that there was risk from 24 the standpoint of...but not from whether it would 25 eventually work. Like I felt</p>				

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<p>from day one that this 62: I will go. I mean, everything that I've seen, heard, 2 looked at, they're doing some really, really cool 3 things, and I've never doubted from day one that 4 they were going to create energy in some capacity. 5 So I thought it was pretty cool to be 6 a part of that, and by that I mean the lease income. 7 So from the start, you know, I felt like, yeah. 8 Now, the bonuses, that would be 9 really nice. That would be really nice, but I'm not 10 going to hang my hat on the bonuses. It was the, 11 you know, 30 plus years of rental income. 12 Q. You mentioned really cool things. 13 A. Yeah. 14 Q. What are those? 15 A. Just their -- all right. No, I'm not 16 a tech savvy guy, so bear with me. The lenses,</p>				

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<p>17 their ability to focus the sun's light. The ball, 18 the concentrator that they have that increases the 19 magnitude of the heat is pretty cool, the turbine 20 that they've created that operates at high speeds. 21 You know, it's neat to see when you 22 look through all their videos and things that they 23 post seeing these things operate, and, you know, you 24 think that they're going to do pretty good things. 25 Q. Okay. Now, when we were talking 63: I about risk, you said the risk was the business might 2 not work. 3 A. Right. 4 Q. Do you know how much money you've got 5 at risk? 6 A. I couldn't tell you off the top of my 7 head. I'd have to go through and look. 8 Q. Do you think it's more than</p>				

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<p>\$10,000? 9 A. Yes. 10 Q. Do you think it's more than \$25,000? 11 A. Yes. 12 Q. Do you think it's more than \$50,000? 13 A. Yes. 14 Q. Do you think it's more than \$75,000? 15 A. I'd have to do some research. I'd 16 have to look through my paperwork. 17 There's no doubt in my mind though 18 that, yeah, it's over 25,000. 19 Q. Do you think it's less than a hundred 20 thousand? 21 A. I couldn't answer that without 22 looking through my paperwork. 23 Q. How much paperwork would you look at 24 to answer that question? 25 A. My invoices, the invoices of 64: 1 purchases. 2 Q. You've produced all these invoices?</p>				

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<p>3 A. It is over a hundred thousand. Doing 4 quick math off the top of my head, yeah, it would 5 have to be. 6 Q. Do you think it's less than \$150,000? 7 A. Maybe. Can I say maybe? 8 I couldn't tell you. 9 Q. What do you think the uppermost limit 10 is? 15 A. 150 would be I would say near the 16 top. I couldn't tell you. I'm sorry. 17 Q. You touched on this earlier but can 18 you tell me what the terms of payment were for each 19 lens? 20 A. 1,050, and then you pay the rest over 21 a period of time. 22 Q. What's the period of time? 23 A. I don't know that. 24 Q. Okay. When did you pay the 1,050? 25 A. At the time I purchased the lenses.</p>				

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<p>65: 1 Q. Okay. So if you purchased the lens 2 say in August of -- 3 A. Okay. So I don't know if you're -- 4 they have an upfront ten percent program. 5 Q. What's that? 6 A. You pay ten percent, and then you 7 provide the remainder to, well, it would be 150, so 8 then you'd pay the remaining by the end of the year 9 I think is what that program was. 10 Q. Okay. Did you ever participate in 11 that program? 12 A. I did. I purchased some lenses at 13 ten percent. 14 Q. Ten percent of what? 15 A. Of 1,050. 16 Q. Okay. So ten percent of 1,050 is 17 105? 18 A. Is it? I don't know. I'd have to 19 look. I'm sorry. That's not my area.</p>				

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<p>20 Q. That's all right. You're not a math 21 teacher. 22 A. No. There's people that I go to for 23 answers for that. Gotta be resourceful. 24 Q. And you've mentioned you'd pay the 25 remainder at the end of the year. 66: 1 A. I think they give you a year. 2 I have paid off -- I'm trying to 3 think. I'd have to look at my -- I own at a minimum 4 full 131 of my 145 lenses so that's where I'm at 5 right now. I own 131 in full, paid for 131 of my 6 145 lenses at 1,050. There are 14 lenses that I 7 still need to make a payment on. 8 Q. And when you say full, do you mean 9 you have paid all of the 1,050? 10 A. Yes, all of the 1,050. 11 Q. Or you paid all of the 3,500? 12 A. Yes, the 1,050. The remaining is now 13 the balance that gets paid over a</p>				

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<p>period of time. 14 Q. And when are you going to pay that? 15 A. It is part of the lease fee. They 16 take it out of the lease fee. 17 Q. And that's the lease fee that you 18 haven't received yet? 19 A. Yes. 20 Q. Okay. So just so we're clear, you 21 paid a total -- withdraw. 22 You fully paid on 131 lenses? 23 A. Correct, at 1,050. 24 Q. And when you say fully paid, you mean 25 that you paid \$1,050? 67: 1 A. On 131 lenses, that's correct. 2 Q. Okay. Understood. 3 Do you know how the price per lens 4 was determined? 5 A. I do not. 6 Q. Did you have the opportunity to 7 negotiate that price? 8 A. I never chose to negotiate that 9 price.</p>				

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<p>10 Q. Did you get any type of independent appraisal of what the lens was worth?</p> <p>12 A. No.</p> <p>13 Q. Do you know if there's a market for these lenses?</p> <p>14 these lenses?</p> <p>15 A. Other than the one I'm in?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. You don't know or there is no market?</p> <p>19 A. I don't know. Sorry.</p> <p>20 Q. Do you know if you could sell your lens to someone else?</p> <p>21 lens to someone else?</p> <p>22 A. I should. I own them, yeah, so I should be able to sell them if I'd like.</p> <p>23 should be able to sell them if I'd like.</p> <p>24 Q. So if someone came up to you and said, Mr. Zeleznik, I'll give you \$10,000 for your lens, do you think you would be allowed to sell them?</p> <p>25 said, Mr. Zeleznik, I'll give you \$10,000 for your lens, do you think you would be allowed to sell them?</p> <p>68: 1 lens, do you think you would be allowed to sell them?</p> <p>2 them?</p> <p>3 A. I can't say absolutely yes or no on</p>				

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<p>4 that answer. It would be -- I can just give you 5 what I think in my end which is... 6 Q. That's what I'm asking. 7 A. ...which is I own them, so if I would 8 like to sell them, yes, I would sell them if there 9 was an interest for them. 10 Q. You said you've purchased 145 lenses? 11 A. Yeah, in principal. I mean, I still 12 owe the 1,050 for 14 of them.</p>				
<p>68:17 Q. BY MR. MORAN: How did you decide how 18 many lenses to purchase? 19 A. I wanted...again, going back to that 20 third income theme, so what would be in our minds 21 helpful, in the neighborhood of 20 to \$30,000 a year 22 as an income, so that lead us to, lead me I guess, 23 to the 145 lenses. 24 I've got an anticipated revenue form 25 that I submitted that spells all that out, and I</p>				

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<p>69: 1 think that in that 145 lens range, I'm in the 20 2 thousands for an annual income in lenses, and so 3 that was the reason why. 4 And, you know, once I got to -- I 5 didn't want to get too deep and too busy with this 6 with everything else that's going on, so I felt 7 comfortable at that spot so I kind of stopped at 8 that spot. 9 Q. You just mentioned with everything 10 else going on you didn't want to get too deep. 11 A. Right. 12 Q. What does that mean? 13 A. Disruptive to our routine as a 14 family, so as a business that I could do and 15 monitor, keep track of from home. 16 Q. Okay. Did you mean you didn't want 17 to spend a lot of time on it? 18 A. I mean a lot of time away from home.</p>				
69:20 A. But yeah, I didn't want to				

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<p>spend a 21 lot of time away from home, and this allowed me to 22 be able to operate at home, yes.</p>				
<p>70: 8 Q. Okay. In your previous testimony, we 9 were discussing the lenses and you mentioned how you 10 expect that they will produce heat. 11 A. Okay. 12 Q. And I think you testified that at 13 this point they're still not producing heat. 14 A. They can produce heat. They've been 15 proven to produce heat. 16 To clarify that statement, they're 17 not as a part of a unit up in the air producing 18 solar heat, okay? They can produce heat.</p>				
<p>70:21 A. They can and do produce heat. 22 Q. They can and do produce heat? 23 A. Yes.</p>				

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24 Q. Do you know if your lenses are 25 producing heat right now? 71: 1 A. I couldn't tell you that. 2 Q. If your lenses were producing heat, 3 would you be expecting to receive rental income?				
71: 6 A. I don't know how they would -- I 7 don't know. Don't know. 8 Q. What's your understanding of when 9 you're going to receive the rental income? 10 A. At some point. 11 Q. And what has to occur before you will 12 receive the rental income? 13 A. In my mind, for the lenses to be in a 14 system up in the air producing heat from the sun. 15 Q. Have you asked anyone why you're not 16 been receiving rental income? 17 A. No.				
71:20 Q. Your answer to that question is no? 21 A. Is no.				

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22 Q. Why haven't you asked anyone?				
71:24 A. I don't know. I just haven't -- I've 25 felt comfortable with the information that they've 72: 1 provided. They've provided monthly newsletters, 2 videos of everything that's been going on out there, 3 and I felt okay with the information I'd received, 4 so I've not felt the desire to have to ask. 5 Q. What information is in the monthly 6 newsletters that causes you to not ask any 7 questions? 8 A. Progress of production on site. 9 Q. What type of progress? 10 A. Mass production of materials that 11 will be used to produce the units. 12 Q. What are the materials? 13 A. Metals, bars, different things that 14 will go in the structure. 15 Q. Which structure?				

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<p>16 A. The unit that will go up to produce 17 the solar energy. 18 Q. And you believe that they're mass 19 producing metals? 20 A. Mass producing parts for these units. 21 Q. You also mentioned videos? 22 A. Yeah. 23 Q. What do videos show? 24 A. They provide videos of the different 25 parts being produced in the shop, the RaPower-3 73: 1 shop. 2 Q. And I asked you about parts, and you 3 said metals? 4 A. A lot of the parts are made of metal 5 is what I meant. 6 Q. What's your understanding what else 7 is left to be done?</p>				
<p>73:10 A. I don't know. I don't know. 11 Q. Before the break, you testified that 12 you were in year seven?</p>				

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13 A. Uh-huh. 14 Q. And that you were keeping track? 15 A. Yes. 16 Q. What did you mean by that?				
73:19 A. That it's been seven years since I 20 started my business and that I keep close tabs on 21 what's going on, what they're saying. 22 Q. Okay. So just taking in what they're 23 saying via newsletters and videos?				
73:25 A. Yes. 74: 1 Q. What do you do to keep track of 2 what's going on? 3 A. I follow online the monthly 4 newsletter that they send out that has updates. 5 Q. Who sends that? 6 A. Dr. Shepard. That's the number one 7 thing is they provide these updates monthly of where 8 they're at, and a lot of times they'll have videos				

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<p>9 in those newsletters that you can watch for</p> <p>10 different production of parts and things. That's</p> <p>11 primarily how I keep tabs on what's going on.</p> <p>12 Q. So you don't ask any questions?</p> <p>74:18 A. No.</p> <p>19 Q. You mentioned looking at websites?</p> <p>20 A. Yeah.</p> <p>21 Q. Which websites?</p> <p>22 A. RaPower-3 website. It's pretty</p> <p>23 comprehensive.</p> <p>24 Q. Any other websites?</p> <p>25 A. No. At this present time, there are</p> <p>75: 1 no other websites that I go to.</p> <p>2 When it began, there was no RaPower-3</p> <p>3 website, so the only place I could go anyplace to</p> <p>4 see what was going on was IAUS.</p> <p>5 I have not gone to the IAUS website</p> <p>6 in, I can't even remember the last time I went to</p> <p>7 IAUS website.</p>				

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<p>8 I go to the RaPower-3 website, and 9 I've been for a while now, but it's pretty 10 comprehensive. They have a lot of information. 11 Q. At the beginning of the deposition, 12 we talked about your response to the government 13 subpoena. 14 Do you remember that? 15 A. Yes. 16 Q. Can you describe for me the process 17 in which you've produced e- mails that were 18 responsive to the subpoena?</p>				
<p>75:20 A. I printed them. 21 Q. How do you keep these e- mails? 22 A. In my account. 23 Q. Which account is that? 24 A. My school account. 25 Q. Do you use like an outlook server? 76: 1 A. I believe it's Google mail is what 2 our school system uses. 3 Q. Okay. Understand.</p>				

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<p>4 And if you had an e-mail that was 5 responsive, how did you produce it? Did you just 6 print off that e-mail?</p>				
<p>76: 9 A. I went to the search bar, typed Greg 10 Shepard, hit enter, they all showed up. Print, 11 print. It was very tedious. Print, print, print. 12 That's how I did it. 13 Q. So you printed each individual 14 e-mail? 15 A. I did, yeah. I'm not tech savvy so I 16 didn't get to put the thumb drive in and do all that 17 so I printed them.</p>				
<p>76:19 (Plaintiff's Exhibit 57 was 20 marked for identification.) 21 Q. Mr. Zeleznik, you've been handed by 22 the court reporter a document which has been marked 23 for identification as Plaintiff's Exhibit 57. 24 A. Okay. 25 Q. Do you recognize Plaintiff's 77: 1 Exhibit 57?</p>			<p>57 58</p>	

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<p>2 A. I do. 3 Q. What is it? 4 A. Placed in service letter. 5 Q. What does a placed in service letter 6 mean to you? 7 A. It informs me that my lenses are 8 being used. 9 Q. And what does being used mean to you? 10 A. In research and development, 11 advertising. 12 Q. Does it mean that they're producing 13 heat? 14 A. It could. 15 Q. Do you know if it does? 16 A. I've seen videos of lenses producing 17 heat. 18 Q. And you received this letter sometime 19 shortly after December 30, 2009? 20 A. Apparently. 21 Q. Is that your recollection? 22 A. That's what it looks like. 23 Q. And who's it signed by? 24 A. Neldon P. Johnson.</p>				

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<p>25 MR. MORAN: Thank you. 78: 1 (Plaintiff's Exhibit 58 was 2 marked for identification.) 3 Q. Mr. Zeleznik, you've been handed a 4 copy of what's been marked as Plaintiff's 5 Exhibit 58. 6 A. Okay. 7 Q. Do you recognize Plaintiff's 8 Exhibit 58? 9 A. Yes. 10 Q. What is it? 11 A. It's a placed in service letter, put 12 into service. 13 Q. What does the term put into service 14 mean to you? 15 A. It means it's being used in research 16 and development, testing. 17 Q. Anything else? 18 A. No. 19 Q. Do you recall receiving similar 20 letters for each lens that you purchased? 21 A. I recall receiving letters. How many</p>				

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<p>22 I don't know. 23 Q. What did you do with Exhibit 57 and 24 58 and any similar letters after you received them? 25 A. I filed them. 79: 1 Q. Okay. Did you give them to anyone? 2 A. I gave them to the CPA for tax 3 purposes. 4 Q. Okay. And it looks like Exhibit 58 5 was sent by Greg Shepard? 6 A. Correct. 7 Q. That's your understanding? 8 A. Correct.</p>				
<p>79:10 Q. Mr. Zeleznik, are you familiar with a 11 trust known as the Abraham Zeleznik Trust? 12 A. I am. 13 Q. Okay. I think you mentioned it 14 earlier. 15 A. Yes. 16 Q. What is it? 17 A. It's a trust fund for our son 18 Abraham, a special needs trust fund. 19 Q. Who's the beneficiary?</p>			58	

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<p>20 A. Well, Abraham. 21 Q. And who are the trustees? 22 A. Amy and I. 23 Q. What's the source of the trust funds? 24 A. It will be income from this business, 25 and we'll put stuff, I mean, we'll make deposits 80: 1 from time to time but, yeah, the hope is that, yeah, 2 this venture will provide quite a bit income for it. 3 Q. Any other sources of income? 4 A. For that fund? 5 Q. For the trust, yes. 6 A. Outside of my wife and I putting 7 money into it and potentially income from this 8 business, no, not at this time, I mean, unless 9 grandma and grandpa decide to donate. 10 Q. Okay. You said your father bought 11 lenses, right? 12 A. He did. 13 Q. Did he use the business to put money</p>				

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<p>14 into this trust? 15 A. He was going to take some of the 16 bonus money. 17 Q. And do what? 18 A. And give to the trust, yes. 19 Q. Does the trust own any lenses? 20 A. No. 21 Q. Were any of the lenses placed in the 22 trust's name is? 23 A. The lenses are in my name. The bonus 24 contract is for the trust. Does that make sense? 25 So when the bonus contract was filled 81: 1 out, the trust was to receive this amount of money 2 and the bonuses. 3 Q. So whatever the bonus is paid out, 4 that would go to the trust? 5 A. If it's specifically stated. 6 I own the lenses, not the trust. 7 Q. Does your wife own any lenses? 8 A. No, she does not. 9 Q. So you own them all in your</p>				

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name? 10 A. Yes.				
81:13 Q. Mr. Zeleznik, you've been handed a 14 copy of what's been marked for identification as 15 Plaintiff's Exhibit 59. 16 A. Correct. 17 Q. Do you recognize Exhibit 59? 18 A. I do. 19 Q. What is that? 20 A. It's Abraham's trust fund register. 21 Q. Okay. Is this a document that you 22 produced to the United States? 23 A. It is. 24 Q. Okay. I see several deposits on 25 this. 82: 1 A. Correct. 2 Q. What's the source of those deposits? 3 A. That's commission income from owning 4 the lenses. 5 Q. Okay. And how do you receive 6 commission income?			59	

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<p>7 A. Through advertising and basically 8 sponsoring people to start their own business. 9 Q. Okay. 10 A. And so I receive a fee for that. 11 Q. You mentioned sponsoring people? 12 A. Yes. 13 Q. What does that mean? 14 A. That I talked to them about it so my 15 father and Frank Lunn talked to them about it. If 16 they decide to sign up, then they sign up and then 17 you get commissions on their purchases. 18 Q. Okay. 19 A. So, yeah, it's like buying and 20 selling a car. 21 Q. So were you their sponsor? 22 A. I was. 23 Q. Do you sponsor anyone else? 24 A. No, just those two. 25 Q. And you've received commissions from 83: 1 who? 2 A. RaPower.</p>				

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<p>3 Q. Okay. 4 A. I've got the receipts. I submitted 5 those, or whatever you call those. 6 Q. And you put those -- you put the 7 commissions into the Abraham Zeleznik trust? 8 A. I did. I did to a certain point, and 9 then it got to the point where I was like, well, I 10 just need to open up a business savings account so 11 that that will show all money coming in and going 12 out. 13 So I stopped...so 2013 was the last 14 time I put anything into this fund. Everything now 15 goes into that business account, business savings 16 account that I opened. 17 So any money that I will transfer 18 into this account will come from that account. 19 Does that make sense? 20 Q. It sounds like you stopped putting</p>				

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<p>21 the commission income into the trust fund account 22 and started putting it into your business account. 23 A. And it's going into a small business 24 account for Zeleznik Solar Lenses. So that's where 25 it sits currently. 84: 1 And then anything I'm going to move 2 will move from that account to this account if I 3 choose to do that. 4 Q. But right now, all your money since 5 2013 is sitting in -- 6 A. Right. It's a little over 5,000. 7 Q. Is sitting in the Zeleznik Solar Lens 8 account? 9 A. Yes. 10 Q. Which is a business account? 11 A. That's correct. 12 Q. And your plan is to move that to the 13 trust account? 14 A. Not all of it, but if I were to move 15 money from that account, it will</p>				

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<p>go into this 16 account or the account we'll eventually set up for 17 our daughter, same account, special needs trust. 18 Q. Who advised you to, if anyone, to 19 make a separate business account? 20 A. I made the decision myself. It just 21 made sense. 22 Q. Why did it make sense? 23 A. Because I own a business. I have 24 property I'm going to lease. I have to be able to 25 show finances associated with the business, so I 85: I just went ahead and opened one. 2 Q. Is there any reason you didn't do 3 that before 2013? 4 A. Because I've never been in business. 5 It just never dawned on me because when I went into 6 it, it was, okay, we're going to do this for Abe's</p>				

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<p>7 trust fund, so that was the focus. The focus was 8 Abe's trust fund going into this, and that shifted 9 to, okay, well, as this progresses, you know, I've 10 gotta have -- and I was encouraged... 11 I'm sorry. Can I go back? 12 Q. Absolutely. 13 A. I couldn't tell you why at all, but I 14 was encouraged to put it under my name, not the 15 trust fund name. 16 Q. Who encouraged that? 17 A. I couldn't tell you. It was either 18 Roger or Greg, Roger Freeborn or Greg Shepard. 19 Q. Do you know why they encouraged that? 20 A. I don't. I don't know what the 21 purpose of it was; if it was just to streamline, 22 make things, you know, make more sense if it was in 23 my name because it could get confusing.</p>				

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<p>24 That's speculation. 25 Q. Okay. But you definitely recall 86: 1 either Greg Shepard or Roger Freeborn encouraging 2 you to not put the money into Abraham's trust 3 account?</p>				
<p>86: 5 A. I do, which then prompted me, I'm 6 going to open a small business account. Then I can 7 move funds from there to there, yes. 8 Q. Where is that small business again? 9 A. Busey Bank in LeRoy, Illinois. 10 Q. So at this point, all of your 11 business income goes into the Busey bank account? 12 A. That's correct.</p>				
<p>86:13 Q. You mentioned that you produced 14 documents from the RaPower-3 I think you called it 15 back office or member office. 16 A. You can log into your member's area,</p>				

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17 yeah, rapower3.com, and listed there are your 18 agreements and your invoices.				
87:17 Q. Mr. Zeleznik, have you ever visited 18 the solar site or the site at Delta, Utah? 19 A. I have not, no. 20 Q. Let me ask the question I should have 21 asked before that. 22 Where is the operation? 23 A. In Delta, Utah. 24 Q. Okay. And you've never visited it? 25 A. I've not, no.				
90:23 Q. I'm going to ask you or I'm going to 24 give you a series of names and kind of a standing 25 question. If you could please tell me what your 91: 1 understanding of, one, whether or not you know the 2 individual, and two, what their role is with the 3 RaPower-3 organization. 4 A. Okay. 5 Q. Greg Shepard. 6 A. One of the guys that founded				

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<p>7 RaPower-3. I know him. 8 Q. You do know him? 9 A. Well, yeah. 10 Q. And Roger Freeborn? 11 A. I know Roger. 12 Q. What's his role? 13 A. One of the guys involved with 14 beginning RaPower-3. 15 Q. Neldon Johnson? 16 A. I do not know Neldon. Owner of IAUS. 17 Q. Do you know if he owns RaPower-3? 18 A. No. 19 Q. You don't know? 20 A. No. 21 Q. Do you know who owns RaPower-3? 22 A. No. 23 Q. Glenda Johnson? 24 A. Neldon's wife. I've only seen her 25 signature. That's all I know of her. 92: 1 Q. What did you see her signature on? 2 A. Pay stubs. 3 Q. What type of pay stubs? 4 A. Commission check pay stubs.</p>				

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<p>5 Q. So you've seen her name on checks?</p> <p>6 A. Yes.</p> <p>7 Q. And what were those checks for?</p> <p>8 A. Commission.</p> <p>9 Q. And who are those checks from?</p> <p>10 A. I'd have to check but IAUS or</p> <p>11 RaPower-3.</p>				
<p>93:18 Q. What is LTB?</p> <p>19 A. They're a part of the operation and</p> <p>20 maintenance agreement that I have for my lenses.</p> <p>21 My understanding is that LTB will be</p> <p>22 the one using my lenses in the projects, in the</p> <p>23 solar projects.</p> <p>24 Q. Do you know who owns LTB?</p> <p>25 A. I do not, no.</p> <p>94: 1 Q. Have you done any research on LTB?</p> <p>2 A. Only where their address is. I did</p> <p>3 look them up.</p> <p>4 Q. How did you look them up?</p>				

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<p>5 A. I just Googled them because I was 6 curious about where they're at. I wanted an 7 address. 8 I mean, if I was going to be doing 9 business with them, I wanted to double check. 10 Q. Do you recall what their address was? 11 A. I think it was Nevada at the time. I 12 have not rechecked. 13 Q. Do you know if there's anything at 14 that physical location? 15 A. In Nevada? 16 Q. Yes. 17 A. I have no idea. 18 Q. Do you know who works at LTB? 19 A. I do not. 20 Q. I believe you already testified that 21 you don't know who owns them? 22 A. I do not. 23 Q. Okay. Did you look up anything other 24 than LTB's address? 25 A. LTB, IAUS, RaPower-3.</p>				

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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>Those were the 95: 1 three I researched, just looking up info. 2 Q. And when you say info, what do you 3 mean by that? 4 A. Just where they were located and if 5 they had a website. So I went to the IAUS website, 6 RaPower-3 website, you know. 7 Q. Do you remember LTB having a website? 8 A. No. 9 Q. You don't remember it or you know 10 that they didn't have a website? 11 A. They did not have a website that I 12 found. 13 Q. I believe you just testified that LTB 14 was going to be the entity that operated your 15 lenses? 16 A. Yes. My understanding is that 17 they're the company I leased my lenses to. 18 Q. And what was your</p>				

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<p>understanding -- 19 A. And that will pay the lease fee. 20 Q. What was your understanding of what 21 they were going to do with your lenses? 22 A. I don't know all that they would use 23 it for but my main understanding is that they're 24 going to be used in solar units. 25 Q. Okay. Did you research their history 96: 1 in solar energy, whether or not they've done this 2 before? 3 A. I did not. 4 Q. Continuing with our litany of 5 entities, IAS? 6 A. Okay. Yes. 7 Q. International Automated Systems? 8 A. Correct. 9 Q. You're familiar with International 10 Automated Systems? 11 A. I am. 12 Q. Okay. What is International 13 Automated Systems?</p>				

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<p>14 A. It's a company that produces 15 technologies. 16 Q. What types of technologies? 17 A. I couldn't tell you specifics. 18 Q. Do you know of any? 19 A. No. 20 Q. You don't know of any technologies at 21 International Automated Systems? 22 A. I don't know well enough to explain 23 so I would say no. 24 Q. Do you know if International 25 Automated Systems is a corporation? 97: 1 A. I know they're traded on the stock 2 market, so my assumption would be yes, that they are 3 a corporation. 4 Q. Okay. Are you a shareholder? 5 A. I am. 6 Q. How many shares do you have? 7 A. I believe 90,300 shares of IAUS 8 stock. 9 Q. When did you purchase those? 10 A. Over the course of the last</p>				

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<p>five or 11 six years. 12 Q. Do you remember which exchange you 13 purchased them in? 14 A. I just go through my brokerage 15 account, yeah. 16 Q. So you use your brokerage account 17 to -- 18 A. I do. 19 Q. Have you ever received a dividend 20 from International Automated Systems? 21 A. No, I have not, no dividends. 22 Q. Do you recall the share prices that 23 you paid? 24 A. Anywhere from 11 cents to 32 cents. 25 Yeah, I mean, it's a penny stock. 98: 1 Q. Where did you get the idea to by 2 International Automated Systems stock? 3 A. Because I had confidence in Glenda 4 Johnson, the stuff I can't speak on,</p>				

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<p>the 5 technologies, but I thought that it was a company 6 that had a bright future, so I purchased stock 7 because I felt like that if they could be successful 8 in their working with RaPower-3 that it made sense, 9 so, okay, I'm going to be a lens owner and be 10 involved with RaPower-3. IAUS is related to that. 11 It made sense to me to purpose shares of IAUS. 12 Q. Did anyone suggest to you that you 13 should by International Automated Systems stock? 14 A. Very early on in the process, they 15 made you aware that IAUS was a traded stock, and 16 they even offered stock for purchasing of lenses, 17 but they stopped that. 18 Q. And when you say they, who are you 19 talking about? 20 A. RaPower-3.</p>				

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21 Q. Specifically which individuals? 22 A. Greg Shepard. 23 Q. Okay. Anyone else? 24 A. I couldn't -- no. He's the only one 25 I can remember with that.				
99: 8 Q. This morning we've talked about and 9 you've made reference to your business which I 10 believe is called Zeleznik Solar Lenses? 11 A. Correct. 12 Q. How is that organized? 13 A. I run it. 14 Q. Is it a sole proprietorship? 15 A. It is. 16 Q. So it's not an LLC or a corporation? 17 A. No. 18 Q. And could you describe for me in your 19 words what the business is? 20 A. I am the owner of 145 solar lenses or 21 lenses to be used as solar lenses, and I lease them 22 for use. 23 Q. So besides owning lenses,				

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<p>does the 24 business do anything else? 25 A. I monitor daily RaPower-3 website and 100: 1 IAUS stock price, not that that's very exciting 2 presently. 3 Q. Does your business own your 4 International Automated Systems stock? 5 A. No. 6 Q. You own that personally? 7 A. Personally. It's a personal 8 investment. 9 Q. So the extent of your business is 10 owning 145 lenses? 11 A. And leasing them for use, correct. 12 Q. And leasing them for use. Okay. 13 You said that you monitor daily? 14 A. Yes. 15 Q. What does that mean? 16 A. I go to the rapower3.com website and 17 check for any new news on progress at the site. 18 Q. How often would you say you get news?</p>				

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<p>19 A. They sent a newsletter out...I 20 couldn't tell you. I feel like it's twice a month, 21 but it might be monthly, but I still go on and check 22 because there might be something that pops up. 23 That's about it. 24 Q. Do you receive the newsletter through 25 e-mail or -- 101: 1 A. Yes, via e-mail, yes. 2 Q. Is it posted to the website? 3 A. Yes. 4 Q. Is that in your member area or is 5 that publicly held? 6 A. Publicly available. 7 Q. Okay. Anything else that you do in 8 your daily monitoring? 9 A. No. 10 Q. Okay. About how much time per day do 11 you spend monitoring RaPower- 3 website? 12 A. An hour at most. 13 Q. On a day when there's no new news, 14 how long does that take?</p>				

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<p>15 A. I might shift or, you know, go 16 through the different news and some of their videos, 17 but yeah, not more than a half hour on a slow day. 18 I might just go in and check it and 19 look at it and get out in 30 seconds. 20 Q. So some days it's just 30 seconds? 21 A. Yeah, and it's not a full-time, it's 22 not a 40 hour a week job. It was never intended to 23 be. 24 Q. It sounds like it's usually less than 25 an hour a day.</p>				
<p>102: 2 A. Yes. 3 Q. That's fair? 4 A. On the average, that's fair. 5 Q. Do you think it's usually less than 6 half an hour a day on average? 7 A. Well, now, I mean, I couldn't tell 8 you.</p>				

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<p>9 Q. So, Mr. Zeleznik, I just want to be 10 clear. You said that your business activity 11 consists of, one, owning lenses? 12 A. Correct. 13 Q. And two, monitoring the RaPower-3 14 website? 15 A. Two, leasing lenses, and then three, 16 monitoring progress. 17 Q. So one is owning the lenses? 18 A. Correct. 19 Q. Two, leasing the lenses? 20 A. Correct. 21 Q. And three would be monitoring the 22 RaPower-3 website for developments in your business? 23 A. That's correct. 24 Q. Anything else? 25 A. Not presently. 103: 1 Q. You said not presently? 2 A. Correct. 3 Q. Prior to today, have there ever been 4 any other activities? 5 A. Well, the two sponsorships. 6 Q. Okay. And what did you do</p>				

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<p>for those 7 sponsorships? 8 A. Talked to them about the program. 9 Q. And who is them? 10 A. Frank Lunn and my father. 11 Q. About how much time did you spend 12 talking to them? 13 A. I can't remember. 14 Q. Do you think it was more than an 15 hour? 16 A. I can't remember. 17 Q. Is there anything else that your 18 business has done in the past that you haven't 19 talked about? 20 A. No. 21 Q. Okay. So again, I just want to be 22 clear. 23 A. No, that's fine. No, I don't believe 24 so. 25 Q. So your business activities at 104: 1 Zeleznik Solar Lenses has consisted of, one, owning 2 the lenses?</p>				

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<p>3 A. Correct. 4 Q. Two, leasing the lenses? 5 A. Correct. 6 Q. Three is monitoring the RaPower-3 website for developments in your business? 7 A. Correct. 8 Q. And four, sponsoring two individuals, 10 your father, James Zeleznik, and Mr. Frank Lunn? 11 A. That's correct. 12 Q. Anything else? 13 A. Not at this time. 14 Q. I need to know if anything else has 15 been done in the past. 16 A. No. 17 Q. Have you ever been involved in any 18 type of solar industry or solar endeavor prior to 19 this endeavor? 20 A. No. 21 Q. Do you ever recall this business 22 being profitable? 23 A. The extent of the profit would be the</p>				

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<p>24 deposits in the trust fund and the deposits in my 25 business account. 105: 1 Q. Okay. 2 A. So that's the extent of any income 3 I've received. It is not yet profitable, no, based 4 on expenses out. 5 Q. We're going to talk about your tax 6 returns in a bit, but you never recall Zeleznik 7 Solar Lenses having a profit in any year, right? 8 A. Not yet, no. 9 Q. And you've been involved in that 10 business since 2010? 11 A. Correct. 12 Q. So we're going on six years? 13 A. Correct. 14 Q. Okay. You're employed by LeRoy 15 Schools? 16 A. I am. 17 Q. And your wife is a speech therapist? 18 A. Yes. 19 Q. Approximately what is your</p>				

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<p>yearly 20 salary? 21 A. Mine personally? 22 Q. Yes. 23 A. 54,000. I couldn't tell you 24 specifically. 25 Q. That's fine. Just a ballpark is 106: 1 fine. 2 How about your wife? 3 A. It depends on how many individual 4 clients she has in a year. She fluctuates quite a 5 bit. Anywhere from 60,000 to a hundred thousand. 6 Q. Is it fair to say that your family is 7 supported by your employment at LeRoy Schools and 8 your wife's speech pathology business? 9 A. Yes. 10 Q. That's what pays your mortgage? 11 A. Yes. 12 Q. Puts food on the table? 13 A. Yes, absolutely. 14 Q. Does your business have a business 15 plan?</p>				

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<p>16 A. A business plan? 17 Q. Yes. 18 A. The plan in my mind is I lease the 19 lenses. I get paid a lease fee. 20 Q. That plan is in your mind? 21 A. That's my plan. 22 Q. Is it written down anywhere? 23 A. I do have a statement that I 24 submitted, personal statement, business statement. 25 Q. Who did you submit that to? 107: 1 A. You guys through the subpoena. 2 That also includes the anticipated 3 revenue, a spreadsheet as well. 4 Q. Okay. I think we're going to discuss 5 that statement later, but since it came up, when did 6 you write that statement? 7 A. Oh, I've written a couple of ones. 8 The latest one I wrote I want to say around '14 9 maybe, 2014. 10 Q. Okay. 11 A. I've not updated it, no. 12 Q. Did you write a business plan in</p>				

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<p>13 2010?</p> <p>14 A. I don't believe so.</p> <p>15 Q. Do you think you wrote one in 2011?</p> <p>16 A. That was the very first one I think.</p> <p>17 Q. Okay. Why did you write that?</p> <p>18 A. Because I wanted to sit down and</p> <p>19 really write out why I was doing this.</p> <p>20 Q. What did you do with the business</p> <p>21 plan?</p> <p>22 A. Just kept it in my files. I</p> <p>23 submitted it to CPA.</p> <p>24 Q. When did you submit it to your CPA?</p> <p>25 A. At tax time, documentation.</p> <p>108: 1 Q. And who is your CPA?</p> <p>2 A. Currently, Woodward & Associates in</p> <p>3 Bloomington, Illinois.</p> <p>4 Q. How about back then when you</p> <p>5 submitted it?</p> <p>6 A. It might have been Brian Bolander.</p> <p>7 Q. Did you come up with that</p>				

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<p>business 8 plan just out of your mind or did you have a model? 9 A. There was a model provided. 10 Q. Who provided it? 11 A. I think Greg Shepard as a, you know, 12 here's something to reference when you're thinking 13 through how your business works. 14 Q. Do you remember how he sent that to 15 you? 16 A. I don't. I'm assuming e-mail, and 17 I'm sure it was submitted. 18 Q. You think you submitted that to us? 19 A. Uh-huh, yes. 20 Q. Do you keep any records of the time 21 you spend on your business? 22 A. No. 23 Q. Earlier we talked about how much time 24 you spend, and that's just from your recollection 25 right now? 109: 1 A. Correct. I don't document</p>				

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<p>it. 2 Q. Have you ever received any marketing 3 materials from anyone at RaPower-3? 4 A. As in like a flier or -- 5 Q. Yes. 6 A. Yeah, I think so. 7 Q. What's the intent of those materials?</p>				
<p>109:10 A. I would speculate that those 11 materials are to be used to talk to people about the 12 program. 13 Q. What do you use them for? 14 A. What do I use them for? I just file 15 them. 16 Q. Okay. You don't give them to anyone 17 else? 18 A. No. 19 Q. What about when you sent that e-mail 20 back in -- forgive me -- 2009? 21 A. 2010. 22 Q. In 2010, you said you sent an e-mail 23 to seven individuals?</p>				

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<p>24 A. Right. That would be, okay, that 25 would be when they were used. 110: 1 I guess -- I'm just trying to think. 2 In the last -- since that time, I've not used any 3 marketing material. 4 Q. Have you ever created your own 5 marketing material? 6 A. No. 7 Q. Okay. So all material that you get 8 you receive from someone at RaPower-3? 9 A. Correct. 10 Q. All right. Does your business have a 11 website? 12 A. No. 13 Q. You said it does have a bank account? 14 A. It does. 15 Q. And that's at Busey Bank? 16 A. It is. 17 Q. Does it have an office? 18 A. No. 19 Q. Where is its address? 20 A. It would be my home</p>				

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<p>address, so 21 that's the office. 22 Q. Have you ever made business cards? 23 A. No. 24 Q. Does it have its own letterhead? 25 A. I've not made a letterhead, no. 111: 1 Q. Have you had any logos made? 2 A. No. 3 Q. Or made logos yourself? 4 A. No. 5 Q. Have you registered your business 6 with any state or local authority? 7 A. I have not. 8 Q. What expenses does your business 9 incur? 10 A. Other than the cost of the lenses. 11 Q. Anything? 12 A. No. Cost of the lenses is the 13 primary expense. Gas money today I guess. I don't 14 know. 15 Q. Do you pay yourself a salary?</p>				

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<p>16 A. I do not, no. 17 Q. And I believe you've already 18 testified that the only income you've received is 19 from commissions? 20 A. That's correct. 21 Q. Have you sought advice from anyone on 22 developing your business? 23 A. No. 24 Q. How about anyone at RaPower-3? 25 A. No. 112: 1 Q. And you said you always use your 2 school e-mail address? 3 A. I do. 4 Q. So your company doesn't have its own 5 e-mail domain or anything like that? 6 A. No. 7 Q. You mentioned that your CPA is 8 Jessica Woodward? 9 A. I mentioned I went to Woodward & 10 Associates. 11 Q. Okay. How long has Woodward &</p>				

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<p>12 Associates been preparing your tax returns? 13 A. Since 2013. 14 Q. Who prepared your tax returns prior 15 to that? 16 A. Brian Bolander and Ken Riter 17 (R-i-t-e-r). 18 It was Brian Bolander in 2010 and 19 2011, Ken Riter in 2012, and then '13 through '15 20 Woodward & Associates. 21 Q. Who prepared your tax return before 22 that? 23 A. 2009 I did my own taxes. 24 Q. Had you done your own taxes in 25 general prior to 2009? 113: 1 A. Yeah. 2 Q. All right. What changed in the first 3 year that you used Brian Bolander? 4 A. Because I'm not a certified tax 5 expert and so I wanted somebody who was to do the 6 tax credits and depreciation part.</p>				

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<p>7 I didn't want, I mean, there's no way 8 I would have done it myself, so I wanted to trust an 9 expert to do it. 10 Q. And how did you find Brian Bolander? 11 A. His name was provided. 12 Q. By who? 13 A. By Greg Shepard. 14 Q. What did Mr. Shepard tell you about 15 Brian Bolander? 16 A. Good guy, good accountant, 17 understands tax credits. 18 Q. What types of tax credits does he 19 understand?</p>				
<p>113:22 A. I don't know. 23 Q. Okay. Where is Brian Bolander 24 located? 25 A. I believe Utah. 114: 1 Q. Have you ever met Mr. Bolander? 2 A. I've not. 3 Q. What did you do to have him prepare 4 your tax returns? 5 A. I spoke with him over the</p>			<p>57 58</p>	

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<p>phone. 6 Q. Do you recall the topic of 7 conversation? 8 A. Not specifically, no. 9 Q. What did you provide him with? 10 A. The usual documents that are asked 11 for at tax time. 12 Q. Do you recall what those documents 13 are? 14 A. I mean, are you asking like 1040s or, 15 I'm sorry, like W-2s? Yeah. 16 Q. What else? 17 A. Mortgage form, student loan, interest 18 form, and then as far as the solar business side of 19 it, any documentation of purchases I made in that 20 year or any income that I would have received. 21 Q. Okay. Would that include the 22 placement service letters that we discussed earlier? 23 A. I believe so, yes. 24 Q. Just so we're clear, those are</p>				

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<p>25 Exhibits 57 and 58? 115: 1 A. Yeah. 2 Q. Can you check? 3 (Witness nodded head up and 4 down.) 5 MR. JONES: You have to have a verbal 6 response. 7 THE WITNESS: What's that? 8 MR. JONES: You have to have a verbal 9 response instead of a head nod. 10 THE WITNESS: I'm sorry. Yes. 11 I didn't hear the question. 12 MR. MORAN: That's fine. I'll take 13 those exhibits back. 14 Q. Just so we're clear, you would give 15 Mr. Bolander copies of placed in service letters? 16 A. Yes. 17 Q. Which were similar to Exhibits 57 and 18 58? 19 A. I would. 20 Q. Do you recall giving him anything 21 else?</p>				

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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>22 A. No. 23 Q. Did you ever talk -- you mentioned 24 Ken Riter? 25 A. Yes. 116: 1 Q. Who's Ken Riter? 2 A. A CPA. 3 Q. Where is Mr. Riter located? 4 A. I can't remember. I spoke with him 5 over the phone. 6 Q. Why did you switch? 7 A. Brian Bolander is no longer doing tax 8 returns with alternative energy credits. 9 Q. Do you know why that is? 10 A. I don't. 11 Q. Did you ask? 12 A. I asked Greg Shepard. 13 Q. What did Mr. Shepard tell you? 14 A. He said that Brian Bolander is no 15 longer doing returns with solar energy/alternative 16 energy credits.</p>				
<p>118:14 Q. Was there a time when you switched to 15 Jessica Woodward to prepare</p>				

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<p>your tax returns? 16 A. Yes. 17 Q. When was that? 18 A. 2013. 19 Q. And why did you switch to Jessica Woodward? 20 Woodward? 21 A. Because Ken Riter was no longer doing 22 tax returns that involved alternative energy 23 credits. 24 Q. Do you know why Mr. Riter wasn't 25 preparing tax returns that involved alternative 119: 1 energy credits? 2 A. I believe at that time I was told 3 pressure from the IRS. 4 Q. What did you discuss with 5 Ms. Woodward or Woodward & Associates? 6 A. Same thing I discussed with the other 7 two: This is my business. Here are the forms. 8 Q. Did you give her memorandums that you 9 had written?</p>				

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<p>10 A. Yeah. Like my personal business 11 statement, like what I'm doing? 12 Q. Yes. 13 A. Yes, I did. 14 Q. Did Ms. Woodward ever question the 15 propriety of these tax credits or depreciation 16 deductions? 17 A. No. She was always real positive 18 with it. 19 Q. Was she familiar with it?</p>				
<p>119:23 A. I don't know. 24 Q. Do you know if she asked anyone any 25 questions about -- 120: 1 A. I don't.</p>				
<p>120: 4 Q. Are you aware of Ms. Woodward or 5 anyone at Woodward & Associates questioning anyone 6 at RaPower-3 about solar lenses? 7 A. I couldn't tell you specifically if 8 they did. I would like to think that they did. 9 Q. You've mentioned -- going back to</p>				

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<p>10 Mr. Riter, who referred you to Mr. Riter?</p> <p>11 A. Greg Shepard.</p> <p>12 Q. What did he tell you about Mr. Riter?</p> <p>13 A. Good guy, good accountant.</p> <p>14 Q. Okay. And how were you referred to</p> <p>15 Woodward & Associates?</p> <p>16 A. I talked to Frank and asked Frank who</p> <p>17 he worked with because I wanted to work with</p> <p>18 somebody local.</p> <p>19 After I'd gone to two people that</p> <p>20 weren't local and not being able to sit down and</p> <p>21 have a face-to-face conversation with them, I wanted</p> <p>22 somebody close that I could go see and talk to, so</p> <p>23 that's when I made the switch.</p> <p>24 Q. Okay. Why did you prefer to have</p> <p>25 somebody you could sit down and talk to?</p> <p>121: 1 A. Just because the Bolander and Riter</p> <p>2 situation just stopped, and the explanations were</p>				

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<p>3 vague, so it made sense to me to have somebody local 4 that I could work with, that I could go in and sit 5 down with and talk to. Just felt right to do it 6 that way. 7 Q. Why did you consider the explanations 8 to be vague? 9 A. Because in my opinion they were.</p>				
<p>121:20 Q. All right. You mentioned that you 21 are the sponsor for two individuals? 22 A. I am. 23 Q. Who's your sponsor? 24 A. Roger Freeborn. 25 Q. So it would be fair to say you're on 122: 1 Mr. Freeborn's down line?</p>				
<p>122: 3 A. Mr. Freeborn is my sponsor. 4 Q. Are you familiar with the term down 5 line? 6 A. Yes, I've heard it. 7 Q. What does it mean? 8 A. It means that you get people</p>				

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<p>signed 9 up for something and you're their representative to 10 help them develop their business. 11 Q. Okay. Can you explain how the term 12 down line would apply to the RaPower-3 business? 13 A. In my own terms, I talked with Frank 14 and my father about it, and they liked it, and they 15 signed up, and then I got a commission for them 16 signing up. 17 Q. So would you consider them to be in 18 your down line? 19 A. I would consider myself to be their 20 sponsor. 21 Q. Just like Roger Freeborn is your 22 sponsor? 23 A. Correct. 24 Q. Can anyone join RaPower-3? 25 A. Yes. 123: 1 Q. Do you need a sponsor to join?</p>				

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<p>2 A. I don't know that. I don't know 3 that. That's a good question. 4 Q. So if an individual Googled solar 5 lenses and came onto the RaPower-3 website, do you 6 know if they'd be able to -- 7 A. If they had to have a sponsor? I 8 don't know.</p>				
<p>125: 9 (Plaintiff's Exhibit 60 was 10 marked for identification.) 11 Q. Mr. Zeleznik, you've been handed a 12 copy of what's been marked for identification as 13 Plaintiff's Exhibit 60. 14 Do you recognize Exhibit 60? 15 A. Yes. 16 Q. What is it? 17 A. Payment stubs for commissions. 18 Q. Did you produce these documents to 19 the United States? 20 A. I did. 21 Q. And that was pursuant to the United</p>			60	

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<p>22 States subpoena? 23 A. Yes. 24 Q. Where did you get this information 25 from? 126: 1 A. This was provided by RaPower-3. 2 Q. And when you were responding to the 3 subpoena, how did you get this information? 4 A. I had them on file. I filed them. 5 Q. Where was the file? 6 A. In my possession. 7 Q. Was it a physical file? 8 A. Yes. 9 Q. Okay. Do you recall how you obtained 10 it and transferred it to paper form? 11 A. I got this document with a check in 12 the mail, and then I made a copy of this document 13 for record. 14 Q. So you're saying at least the first 15 page, you received that in the mail?</p>				

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<p>16 A. I did. 17 Q. Okay. Can you flip back to - - I'm 18 referring to Bates numbers. Go back to ZELEZ_B&A 19 001845. 20 A. Okay. 21 Q. What is this document? 22 A. It's another commissions invoice. 23 Q. How did you receive this? 24 A. E-mail. 25 Q. Mr. Zeleznik, if you could look 127: 1 through Exhibit 60 and tell me whether or not you 2 received each of these documents from RaPower-3. 3 A. Wait. I'm sorry. 1960 or -- 4 Q. No. I'd like you to look through all 5 of Exhibit 60 which I realize is kind of lengthy, so 6 take a minute. 7 A. Oh, I see. Yes. 8 Q. And tell me whether or not you 9 received each of these documents from RaPower-3. 10 (Pause)</p>				

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<p>11 A. To the best of my knowledge, yes.</p> <p>12 Q. So it's your testimony that you</p> <p>13 received all the documents in Exhibit 60 from</p> <p>14 RaPower-3?</p> <p>15 A. To the best of my knowledge, yes.</p> <p>16 Q. Looking at the first page of</p> <p>17 Exhibit 60, there's a reference to Frank Lunn,</p> <p>18 Judith Elens, and Julie Zeleznik-Lohnes.</p> <p>19 A. Yes.</p> <p>20 Q. Who is Judith Elens?</p> <p>21 A. She is someone in my father's down</p> <p>22 line or that my father sponsored.</p> <p>23 Q. So your father sponsored Judith</p> <p>24 Elens?</p> <p>25 A. Yeah.</p> <p>128: 1 Q. Okay. Who sponsored or who's Julie</p> <p>2 Zeleznik-Lohnes?</p> <p>3 A. That is someone my father sponsored.</p> <p>4 Q. And what's her relationship to you?</p>				

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<p>5 A. That's my sister. 6 Q. And then I see several earnings. 7 A. Yes. 8 Q. So were you receiving commissions 9 from their joining RaPower-3? 10 A. Yes. 11 Q. And by their, I mean Judith Elens and 12 Judith Zeleznik-Lohnes. 13 A. Yes.</p>				
<p>128:18 Q. Mr. Zeleznik, you've been handed a 19 copy of what's been marked as Plaintiff's 20 Exhibit 61. 21 A. Okay. 22 Q. Do you recognize Exhibit 61? 23 A. It appears to be an e-mail 24 communication between me and these people. 25 Q. Who are these people? 129: 1 A. Greg Conn, Tom Morse, Jeff Baughman, 2 Carol Zeleznik. 3 This would be my father's e-mail 4 because he didn't use it, and Gary Tipsord.</p>			61	

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<p>5 Q. And then about two-thirds of the way 6 down the page, there's an e-mail from you. It says 7 "See the message below." 8 A. Yes.</p>				
<p>129:21 Q. Mr. Zeleznik, we've discussed your 22 RaPower-3 member area I think is what you called it. 23 A. Correct. 24 Q. Are you familiar with a selection you 25 can make in that area on the RaPower-3 website to 130: 1 view a tree or grid? 2 A. I am, yes. 3 Q. What is that? 4 A. It shows a couple things. It shows 5 what you've purchased, and it shows people that 6 you've sponsored and how many they've purchased and 7 the people they've sponsored and how many they've 8 purchased.</p>				
<p>132: 9 Q. Mr. Zeleznik, are you kept up-to-date 10 when people on your down line</p>				

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<p>make purchases? 11 A. No. I'm notified when I receive a 12 commission check for them purchasing the equipment. 13 Q. Okay. So you don't know until you 14 get a commission check? 15 A. No; well, unless it's updated in that 16 tree or grid. It will be updated there as well, so 17 I'll either find out by checking the grid if they 18 purchased another one or I'll get a commission check 19 in the mail, and I'll go, oh. Then I'll go in and 20 look and see if it's been updated, but sometimes, 21 you know, it's not updated. 22 One or the other happens first. 23 Q. Okay. Do you receive 1099s? 24 A. I do. 25 Q. What do those 1099s represent? 133: 1 A. Income received. 2 Q. And all that is from commissions?</p>				

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<p>3 A. Yes.</p> <p>4 Q. Do you get any other reward for</p> <p>5 bringing people into RaPower-3?</p> <p>6 A. Other than commissions, you get a</p> <p>7 percentage of the bonus payout.</p> <p>8 Q. Have you ever received a bonus?</p> <p>9 A. No.</p> <p>10 Q. Have you ever tried to get someone</p> <p>11 involved in RaPower-3 and had them decline?</p> <p>12 A. I don't know.</p> <p>13 Q. Who else have you tried to recruit?</p> <p>14 A. Talked to my father and Frank</p> <p>15 seriously.</p> <p>16 Anybody else that would have maybe</p> <p>17 attended that meeting heard Roger's explanation.</p> <p>18 Beyond that, that's it.</p> <p>19 Q. Okay. And Roger Freeborn would have</p> <p>20 been their sponsor?</p> <p>21 A. Anyone who would have attended that</p>				

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<p>22 meeting in March 2010? 23 Q. Yes. 24 A. Yes. 25 Q. You would not have been their 134: 1 sponsor? 2 A. No. 3 Q. Have you ever complained to 4 RaPower-3? 5 A. No. 6 Q. Have you ever asked them when you 7 would be receiving rental income? 8 A. No. 9 Q. Have you ever asked them about the 10 bonus? 11 A. No. 12 Q. Has RaPower-3 or any other defendant 13 in this case offered to sell you any other 14 commercial product? 15 A. No. 16 Q. Were you ever given the opportunity 17 to leave RaPower-3 or get your money back? 18 A. I never thought about it.</p>				

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Didn't 19 consider it. 20 Q. Do you ever remember hearing anything 21 about that? 22 A. No. 23 Q. Do you know what would happen if you 24 did want to leave RaPower-3 or get your money back?				
135: 2 A. No. 3 Q. Have you ever heard of an offer from 4 RaPower-3 to buy back the lenses? 5 A. Not to my knowledge, no. 6 Q. Have you ever been told that your 7 lenses were in a tower? 8 A. No.				
135:11 Q. Have you ever been told that your 12 lenses or any system that they were part of were 13 connected to an electrical grid? 14 A. No. 15 Q. Are you aware of any other 16 technologies that International Automated Systems is 17 involved with?				

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18 (Pause) 19 A. I'll just say no. 20 Q. Well, do you know of any? 21 A. No.				
136:25 Q. Have you ever seen videos of the 137: 1 lenses producing heat? 2 A. Yes. 3 Q. Can you describe those videos for me? 4 A. One video that stands out clearly is 5 of Neldon Johnson holding up something that showed 6 smoke coming off of it from the light reflecting 7 through the lens. 8 Q. Do you remember what that item was? 9 A. I don't. I'd have to go back and 10 look. 11 Q. Do you recall any other, besides the 12 videos you've just described, do you recall the 13 subject of any other videos? 14 A. Not specifically. I mean, I couldn't 15 tell you the name of the parts				

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<p>that were being 16 shown, being produced in those videos. 17 I know one video was bending the 18 outside frame for the circular part of the towers 19 that the lenses would be held in. That's one 20 example of them showing that production taking 21 place. 22 Q. Do you recall any other videos 23 producing heat besides the one you already 24 mentioned? 25 A. No. 138: 1 Q. How do you know that the individual 2 in that video was Neldon Johnson? 3 A. Because it was described in the 4 heading of the video. The description of the video 5 had Neldon Johnson's name in it as the person in the 6 video. 7 Q. Okay. All right.</p>				

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<p>138:14 Q. Do you know what the difference 15 between a lens and an alternative energy system is? 16 A. No. 17 Q. Do you know that there is a 18 difference? 19 A. No. 20 Q. What does the term alternative energy 21 system mean to you? 22 A. Something that produces alternative 23 energy, a sequence or series of events that produces 24 alternative energy. 25 Q. What's alternative energy? 139: 1 A. Land, water or sun; air. Sorry. 2 Wind, water or sun. 3 Q. Wind, water or sun? 4 A. Power. 5 Q. That's used to produce energy? Is 6 that what you're talking about?</p>				
<p>139: 8 A. Yes.</p>				
<p>141:18 Q. Did anyone call you B.J. Zeleznik? 19 A. That's what I've been called my whole</p>				

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<p>20 life, yeah. 21 Q. So when we see references to B.J. 22 Zeleznik... 23 A. That's me. 24 Q. Is there anyone else in your family 25 who goes by B.J.? 142: 1 A. No. I'm it. It's a character 2 builder.</p>				
<p>142: 7 Q. Okay. I don't want you to tell me 8 anything that he told you, but when was the first 9 time you met Mr. Jones? 10 A. Today. 11 Q. Had you spoken to him on the phone 12 before? 13 A. I did. 14 Q. When was that? 15 A. A week ago. 16 Q. That was the first time you spoke to 17 him? 18 A. That was the first time I spoke to 19 him; maybe two weeks ago. 20 Q. Are you paying Mr. Jones'</p>				

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fees? 21 A. I am not. 22 Q. Do you know who is? 23 A. I don't. 24 Q. You just know that you've never 25 received an invoice? 143: 1 A. I'm not getting an invoice, no.				
143: 7 You've been handed a copy of what's 8 been marked for identification as Plaintiff's 9 Exhibit 62. 10 A. Okay. 11 Q. Do you recognize Plaintiff's 12 Exhibit 62? 13 A. It looks like an e-mail between 14 myself and Roger Freeborn. 15 Q. Just a few questions on this 16 document. 17 At the top of page 573, there's a 18 reference to a band booster. 19 A. The band booster, that would have 20 been somebody...			62	
143:23 Q. The question is what does the term 24 band booster mean in the context				

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<p>of this e-mail? 25 A. Okay. Band booster would be an 144: 1 individual who would have been interested in seeing 2 Roger Freeborn's presentation and interested in 3 receiving the bonus money if they became a member 4 and I would assume to donate money to that program. 5 Q. Do you recall who the band booster 6 that he's referring to is? 7 A. I have no idea. 8 Q. Do you remember anyone who was 9 involved in the band at LeRoy Schools who you talked 10 to about this program? 11 A. No, no. 12 Q. Down at the bottom of page 573, in 13 bold it says \$7,250 per hour call. 14 What does that phrase mean to you? 15 A. I don't know. I don't know. 16 Q. Okay. Now, that body of e-mail at 17 the bottom of page 573, is that</p>				

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<p>an e-mail from Roger 18 Freeborn? 19 A. Yes. 20 Q. And this is a document you produced 21 to the United States? 22 A. Yes. 23 Q. Going to the next page on page 574, 24 there's a series of bullet points. I direct your 25 attention to the fourth bullet point. 145: 1 A. Okay. 2 Q. It says guaranteed government 3 program. 4 Do you see that? 5 A. I do, yes. 6 Q. What does that phrase mean to you? 7 A. The tax credits. 8 Q. Is it your testimony that that phrase 9 means that the tax credits are guaranteed by the 10 federal government?</p>				
<p>145:12 A. I don't know. 13 Q. Well, I asked you what the phrase 14 meant to you, and you said tax</p>				

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credits. 15 A. Uh-huh. 16 Q. What do you mean by that? 17 A. When I read that, I think incentives, 18 tax credit incentives to start an alternative energy 19 business. That's what that means to me.				
145:22 Mr. Zeleznik, do you recall receiving 23 any statements or opinions or memorandum about tax 24 credits from the defendants? 25 A. I do. 146: 1 Q. Do you recall, or what documents do 2 you recall receiving? 3 A. I remember two documents. They're in 4 the files. I can't remember the names of them. 5 Like a McConkie and an Anderson are the two. I 6 think that's accurate. 7 Q. Is it a Kirton McConkie? 8 A. Yes. 9 Q. Do you recall what you received from				

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10 Kirton McConkie? 11 A. Explanation of how the tax credits 12 apply to the business. 13 Q. And who did you get that from? 14 A. Greg Shepard. 15 Q. Then you mentioned Anderson. 16 A. Yeah.				
147: 8 Q. Does the term material participation 9 mean anything to you? 10 A. I've heard it before.				
147:13 Q. Have you ever heard Greg Shepard or 14 Roger Freeborn or Neldon Johnson or any documents 15 you've received from them reference the term 16 material participation? 17 A. I do remember the reference to 18 material participation. 19 Q. Do you remember in what context that 20 occurred? 21 A. I can't. 22 Q. Do you know what that term means?				

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23 A. No. 24 Q. Do you remember the context in which 25 it was used? 148: 1 A. No.				
149:14 Q. Have you ever heard any defendant in 15 this case mention the term depreciation?				
149:18 A. Yeah, depreciation is used as a part 19 of the explanation of how the tax credit piece works 20 for this. 21 Q. Okay. What did they tell you about 22 depreciation? 23 A. I honestly don't know much about it. 24 I hand the information to the accountant, and they 25 take it from there. 150: 1 Q. Who is they that you just referred to 2 in my last question? 3 A. I'm sorry. They as in -- like who 4 provided the explanation?				

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5 Q. Yes. 6 A. Greg Shepard.				
150:17 Q. Did any defendants in this case say 18 anything to you about tax credits?				
150:21 A. There was an explanation of, you 22 know, solar energy credits through your taxes that 23 you could receive. That's about it. 24 Q. And who gave that explanation? 25 A. Greg Shepard. 151: 1 Q. And what was that explanation? 2 A. I couldn't tell you specifics. I'm 3 not that familiar with it. 4 Q. As much as you remember, what did it 5 mean to you? 6 A. It meant that as someone who is an 7 owner of lenses that will produce, or help produce 8 any unit solar energy, because of that, then I 9 qualify for this tax credit, the				

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solar energy 10 credit. 11 That was my understanding. 12 Q. And that's based on what Greg Shepard 13 told you? 14 A. That's based on the information 15 provided by Greg Shepard, RaPower-3. 16 Q. Do you recall ever seeing a tax 17 calculator on either the International Automated 18 Systems website or Rapower-3 website? 19 A. I vaguely recall there being a tax 20 calculator.				
152:10 (Plaintiff's Exhibit 63 was 11 marked for identification.) 12 Q. Mr. Zeleznik, you've been handed a 13 copy of what's been marked for identification as 14 Plaintiff's Exhibit 63. 15 A. Okay.			63	
152:22 Q. Mr. Zeleznik, do you recognize what's 23 been marked for identification as			64	

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<p>Exhibit 63? 24 A. I do. 25 Q. What is it? 153: 1 A. It's our 2010 tax return. 2 Q. And who is "our"? 3 A. Myself and my wife's. 4 Q. And you produced this document 5 pursuant to United States subpoena? 6 A. I did. 7 MR. MORAN: This exhibit will be 64. 8 (Plaintiff's Exhibit 64 was 9 marked for identification.)</p>				
<p>12 Q. Mr. Zeleznik, you've been handed a 13 copy of what's been marked for identification as 14 Plaintiff's Exhibit 64. 15 Do you recognize it? 16 A. I do. 17 Q. What is it? 18 A. It is my wife and I's 2011 tax 19 return. 20 Q. Let me skip back to page 1916. 21 A. Okay. 22 Q. It's about four pages back. 23 A. Oh, okay. 16. Okay. Yeah.</p>			64	

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<p>24 Q. This is a Schedule C, is that 25 correct? 154: 1 A. Yes. 2 Q. And there's a reference to solar 3 energy? 4 A. Correct. 5 Q. Is this a part of your solar energy 6 business? 7 A. Yes. 8 Q. Then if you could flip back to page 9 1923, there is a general business credit... 10 A. Okay. 11 Q. ...on Form 3800. 12 Do you see that? 13 A. I do. 14 Q. Is that associated with your solar 15 energy business? 16 A. It is. 17 MR. MORAN: Okay. No more questions 18 on that exhibit. 19 (Plaintiff's Exhibit 65 was 20 marked for identification.)</p>				
<p>155: 1 Q. Mr. Zeleznik, you've been handed a</p>			65	

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<p>2 copy of Plaintiff's Exhibit 65 marked for 3 identification. 4 A. Yes. 5 Q. Do you recognize Plaintiff's 6 Exhibit 65? 7 A. I do. 8 Q. What is it? 9 A. It's my wife and I's 2012 tax return. 10 Q. Once again, if you could skip back to 11 page 1943, there is a Schedule C for a solar energy 12 business. 13 Is that your solar energy business? 14 A. Yes. 15 Q. And once again, if you could skip 16 back to Form 3800 which appears on page 1950. 17 Form 3800, does that form reference 18 your solar energy business? 19 A. Yes. 20 MR. MORAN: No more questions on that 21 exhibit.</p>				
<p>155:24 Q. Mr. Zeleznik, you've</p>			<p>66</p>	

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<p>been handed a 25 copy of what's been marked for identification as 156: 1 Plaintiff's Exhibit 66. 2 Do you recognize it? 3 A. Yes. 4 Q. What is it?</p>				
<p>156: 9 Q. Mr. Zeleznik, what is Exhibit 66? 10 A. It is my wife and I's 2013 tax 11 return. 12 Q. And going back to Schedule C which 13 appears on page 2007. 14 Do you see that? 15 A. Yes. 16 Q. What is that Schedule C for? 17 A. My solar energy business. 18 Q. If you could skip back to the Form 19 3800 which appears on page 2011, what is reflected 20 on this Form 3800? 21 A. My solar energy business.</p>			66	
<p>156:24 (Plaintiff's Exhibit 67 was 25 marked for identification.) 157: 1 Q. Mr. Zeleznik, you've been given a 2 copy of what's been marked for identification as</p>			67	

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3 Plaintiff's Exhibit 67? 4 A. Yes. 5 Q. Do you recognize Plaintiff's 6 Exhibit 67? 7 A. Yes. 8 Q. What is it? 9 A. My wife and I's 2014 tax return.				
157:12 Q. If you could please look at Schedule 13 C which appears on page 2027. 14 Do you see that? 15 A. I do. 16 Q. What is it? 17 A. It refers to my solar energy 18 business. 19 Q. Thank you. 20 Now skip back to Form 3800 which 21 appears on 2082. 22 What is this Form 3800 for? 23 A. My solar energy business. 24 MR. MORAN: Thank you.				
158: 3 Q. Mr. Zeleznik, I've given you a copy 4 of what's been marked for identification as 5 Plaintiff's Exhibit 68. 6 7 Do you recognize it?			68	

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8 A. Yes. 9 Q. What is it? 10 A. My wife and I's 2015 tax return.				
158:13 Q. Mr. Zeleznik, if you could please 14 skip back to page 2047 and the Schedule C that 15 appears there? 16 A. Yes. 17 Q. What is the Schedule C for? 18 A. In regards to my solar energy 19 business. 20 Q. Okay. And please look at page 2049, 21 Form 3800. What does that refer to? 22 A. My solar energy business. 23 Q. And, Mr. Zeleznik, in regards to the 24 exhibits we've just discussed which are your 2010 25 through 2015 federal income tax returns, you 159: I produced those documents to the United States? 2 A. I did. 3 Q. Pursuant to the subpoena of the 4 United States?			69	

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<p>5 A. I did. 6 Q. At any time, has Greg Shepard or any 7 other defendant in this case spoken to you or 8 written to you about the possibility of your income 9 tax returns being audited by the IRS? 10 A. Yes. 11 Q. What did he tell you? 12 A. That some RaPower-3 members were 13 being audited by the IRS. 14 Q. Do you recall when that first came 15 up? 16 A. 2013. 17 Q. And what did he tell you? 18 A. I can't recall specifically. 19 Q. So just so I understand your 20 testimony, it was 2013 that you first recall hearing 21 about other RaPower-3 members being audited? 22 A. Yes. 23 Q. When did you learn about your audit? 24 A. August of 2013. 25 Q. Did there come a time when</p>				

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<p>your tax 160: 1 returns were examined by the IRS? 2 A. Yes. 3 Q. And when was that? 4 A. The fall of 2013. 5 (Plaintiff's Exhibit 69 was 6 marked for identification.) 7 Q. Mr. Zeleznik, I've given you or 8 you've been handed a copy of what's been marked as 9 Plaintiff's Exhibit 69. 10 Do you recognize Exhibit 69? 11 A. I do. 12 Q. What is it? 13 A. It's an e-mail from me to Greg 14 Shepard. 15 Q. Okay. Why did you send Mr. Shepard 16 this e-mail? 17 A. Because people were being audited, 18 and I did not feel comfortable in my capacity to 19 represent myself. 20 Q. Okay. So what were you asking of 21 Mr. Shepard?</p>				

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<p>22 A. Fees in regards to representation 23 during the audit process. 24 Q. Earlier in your testimony, you said 25 that people were being audited. 161: 1 Do you recall that? 2 A. What's that? 3 Q. Earlier in your testimony, you 4 testified that you learned that people were being 5 audited? 6 A. Sure. 7 Q. And did that include you? 8 A. I can't remember the timeline of 9 whether the e-mails about auditing taking place 10 happened before me or after me. 11 I feel like from a cynical standpoint 12 they came after me, like I was in the first group 13 that got audited. 14 Beyond that, I couldn't tell you. 15 Q. All right. And below that, there's 16 an e-mail from, it appears to be from Greg Shepard 17 dated March 15, 2013.</p>				

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<p>18 Do you see that? 19 A. Yes. 20 Q. You received that e-mail from Greg 21 Shepard? 22 A. Yes. 23 Q. So that's just part of the e- mail 24 chain that you ultimately responded to? 25 A. Correct.</p>				
<p>162: 1 Q. Mr. Zeleznik, would you please skip 2 to the second page, 908? 3 A. Yes. 4 Q. There's an e-mail, it appears to be 5 from Greg Shepard to you, and it says "RESPONSES IN 6 CAPS"? 7 A. Yes. 8 Q. And then below that, there's an 9 e-mail from you to Greg Shepard dated August 6, 10 2013? 11 A. Yes. 12 Q. I see several words in caps. Whose 13 words are those?</p>				

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14 A. Greg Shepard's.				
164:23 (Plaintiff's Exhibit 70 was 24 marked for identification.) 25 Q. Mr. Zeleznik, you've been handed a 165: 1 copy of what's been marked for identification as 2 Plaintiff's Exhibit 70. 3 Do you recognize it? 4 A. I do. 5 Q. What is it? 6 A. It's an e-mail from Greg Shepard. 7 Q. And you produced this document to the 8 United States? 9 A. I did. 10 Q. And you produced it pursuant to the 11 United States subpoena? 12 A. I did.			70	
165:13 (Plaintiff's Exhibit 71 was 14 marked for identification.) 15 Q. Mr. Zeleznik, you've been handed a 16 copy of what's been marked for identification as 17 Plaintiff's Exhibit 71. 18 Do you recognize it?			71	

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<p>19 A. Yes. 20 Q. What is it? 21 A. It's an e-mail from Greg Shepard. 22 Q. Did you receive it? 23 A. I did. 24 Q. You produced this document pursuant 25 to the United States subpoena? 166: 1 A. I did. 2 Q. Okay. I see that there's an 3 attachment to this e-mail? 4 A. Yes. 5 Q. Is that attachment entitled IRS Audit 6 Basics? 7 A. It is. 8 Q. Does that document appear in pages 9 923, 924 and 925? 10 A. It does. 11 MR. MORAN: No further questions on 12 that document.</p>				
<p>166:13 (Plaintiff's Exhibit 72 was 14 marked for identification.) 15 Q. Mr. Zeleznik, you've been handed a 16 copy of what's been marked for identification as</p>			<p>72 73 74</p>	

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<p>17 Plaintiff's Exhibit 72. 18 A. Yes. 19 Q. Do you recognize it? 20 A. I do. 21 Q. What is it? 22 A. An e-mail from me to Greg Shepard. 23 Q. It's from you to Greg Shepard? 24 A. No, oh, no, no; from Greg Shepard to 25 me. Sorry. 167: 1 MR. MORAN: Okay. No further 2 questions on that. 3 (Plaintiff's Exhibit 73 was 4 marked for identification.) 5 Q. Mr. Zeleznik, you've been handed a 6 copy of what's been marked for identification as 7 Plaintiff's Exhibit 73. 8 Do you recognize it? 9 A. Yes. 10 Q. What is it? 11 A. It's an e-mail from Greg Shepard to 12 my accountant Jessica Woodward, carbon copied me. 13 Q. So you received this e-mail</p>				

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<p>as well? 14 A. I did. 15 Q. And at the top I see the words "HELLO 16 JESSICA-RESPONSES IN CAPS." 17 A. Yes. 18 Q. Is it your understanding that the 19 words that appear in capital letters are Greg 20 Shepard's writings? 21 A. Yes, it is. 22 MR. MORAN: No further questions on 23 Exhibit 73. 24 (Plaintiff's Exhibit 74 was 25 marked for identification.) 168: 1 Q. Mr. Zeleznik, you've been handed a 2 copy of what's been marked for identification as 3 Plaintiff's Exhibit 74. 4 A. Yes. 5 Q. Do you recognize Exhibit 74? 6 A. Yes. 7 Q. What is it? 8 A. An e-mail from Greg Shepard to 9 Jessica Woodward, carboned</p>				

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<p>myself. 10 Q. Once again, I see the phrase 11 "RESPONSES IN CAPS" at the top of page 953. 12 A. Yes. 13 Q. Down towards the bottom of page 953, 14 I see in capital letters "THE TRUST EARNED THE 15 MONEY." 16 Do you see that? 17 A. Hold on a second. I'm sorry. 18 Yes. 19 Q. What does that mean to you? 20 A. That means to me that Greg Shepard 21 thought that Abraham's trust earned the commission 22 money. 23 Q. To your knowledge, did your son's 24 trust do anything to earn money? 25 A. No. To my knowledge, I earned the 169: 1 money, and I put it in the trust. 2 Q. And then --</p>				
<p>169: 5 Q. In capital letters about three 6 questions down it says, I THINK</p>				

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<p>WE SHOULD ELIMINATE 7 THE RAPOWER3 TRUST ACCOUNT. B.J.-YOU ARE THE ONLY 8 ONE WE HAVE DONE THIS FOR. THE IRS WANTS THE TAXES 9 PAID ON THE \$715 IN COMMISSION INCOME." 10 A. Correct. 11 Q. I think you talked about this earlier 12 in your deposition. 13 A. I did. 14 Q. Can you explain to me why Greg 15 Shepard is saying this?</p>				
<p>169:19 MR. MORAN: You can answer. 20 A. Well, my thought was to have 21 everything under my name because that made it easier 22 for check writing and for 1099s and for everything 23 associated with my solar lens business. 24 Q. Earlier in the deposition, I think I</p>				

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25 recall you testifying that you were encouraged to 170: 1 move an account out of the trust name. 2 Do you recall that?				
170: 5 A. It was, as I just stated, you know, 6 when I first started, the income, a portion of the 7 income received would go into Abraham's trust. So 8 Abraham's trust was on bonus contracts but it was 9 still under my name. 10 I think what was getting confused was 11 were there two separate accounts, myself and the 12 trust, but really, it was all me, so it eliminated 13 that trust piece. 14 Q. Did anyone suggest to you that you 15 should eliminate the trust piece? 16 A. Greg Shepard, yes. 17 MR. MORAN: No further questions on 18 Exhibit 74.				
170:19 (Plaintiff's Exhibit 75 was 20 marked for identification.)			74 75	

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<p>21 Q. Mr. Zeleznik, you've been handed a 22 copy of what's been marked for identification as 23 Plaintiff's Exhibit 75. 24 Do you recognize that? 25 A. Yes. 171: 1 Q. What is it? 2 A. An e-mail from Greg Shepard to 3 Jessica Woodward, carboned myself. 4 Q. You produced this document pursuant 5 to the United States subpoena to you? 6 A. I did. 7 Q. Once again, I see blocks of capital 8 letters. 9 Whose words are those? 10 A. That's Greg Shepard's. 11 MR. MORAN: Thank you. 12 (Plaintiff's Exhibit 76 was 13 marked for identification.) 14 Q. Mr. Zeleznik, you've been handed a 15 copy of what's been marked for identification as 16 Plaintiff's Exhibit 76.</p>			<p>76 77 78</p>	

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<p>17 A. Yes. 18 Q. Do you recognize Plaintiff's 19 Exhibit 76? 20 A. Yes. 21 Q. What is it? 22 A. It's an e-mail from Jessica Woodward 23 to myself and Greg Shepard. 24 Q. And you produced Exhibit 76 pursuant 25 to the United States subpoena? 172: 1 A. I did. 2 Q. Thank you. 3 If you could please skip to the third 4 page, No. 1109. 5 A. Okay. 6 Q. I see an e-mail dated January 29, 7 2014. 8 A. Okay. 9 Q. Is that correct? 10 A. Correct. 11 Q. And then the phrase "Responses in 12 Bold." 13 A. Yes. 14 Q. Whose words are in bold? 15 A. Greg Shepard. 16 MR. MORAN: No more</p>				

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<p>questions on 17 Exhibit 76. 18 (Plaintiff's Exhibit 77 was 19 marked for identification.) 20 Q. Mr. Zeleznik, you've been handed a 21 copy of what's been marked for identification as 22 Plaintiff's Exhibit 77. 23 Do you recognize Plaintiff's 24 Exhibit 77? 25 A. Yes. 173: 1 Q. What is it? 2 A. An e-mail from myself to Greg Shepard 3 and him back to me. 4 Q. This looks like a chain of e- mails, 5 is that correct? 6 A. That's correct. 7 Q. Okay. If you'd skip to the second 8 page, 1148. 9 Do you see that? 10 A. I do. 11 Q. In the middle, it looks like there's 12 an e-mail from Greg Shepard dated February 20, 2014 13 at 9:12 p.m.?</p>				

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<p>14 A. Yes. 15 Q. In bold it says, "Contact info for 16 LTB, LLC is Neldon Johnson." 17 A. Yes. 18 Q. Do you see that? 19 A. I do. 20 Q. And whose writing that? 21 A. That's Greg Shepard. 22 MR. MORAN: Thank you. 23 (Plaintiff's Exhibit 78 was 24 marked for identification.) 25 Q. Mr. Zeleznik, you've been handed a 174: 1 copy of what's been marked for identification as 2 Exhibit 78. 3 A. Yes. 4 Q. Do you recognize Exhibit 78? 5 A. Yes. 6 Q. What is it? 7 A. It is an e-mail from Greg Shepard to 8 Paul Jones, carboned myself and Jessica Woodward. 9 Q. Directing your attention to the 10 e-mail at the top, December 26, 2015, 11:44 a.m., do 11 you see that? 12 A. I do.</p>				

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<p>13 Q. Just so I'm clear, that e-mail is all 14 Greg Shepard's writing? 15 A. I believe it is, yes. 16 MR. MORAN: No more questions on 17 Exhibit 78.</p>				
<p>182: 6 (Plaintiff's Exhibit 80 was 7 marked for identification.) 8 Q. Mr. Zeleznik, you've been given a 9 copy of what's been marked for identification as 10 Plaintiff's Exhibit 80. 11 A. Yes. 12 Q. Do you recognize it? 13 A. I do. 14 Q. What is it? 15 A. It's an e-mail from Coach Freeborn to 16 undisclosed people but me. 17 Q. And when you say Coach Freeborn who 18 are you talking about? 19 A. Roger Freeborn.</p>			80	
<p>183:15 Q. Mr. Zeleznik, I'm going to give you a 16 copy of a document that was marked yesterday as 17 Plaintiff's Exhibit 47.</p>			47	

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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>18 A. Okay. 19 Q. Do you recognize Exhibit 47? 20 A. Yes. 21 Q. What is it? 22 A. E-mail from Greg Shepard to me. 23 Q. And you produced that document 24 pursuant to the United States subpoena? 25 A. I did.</p>				
<p>184:18 (Plaintiff's Exhibit 81 was 19 marked for identification.) 20 Q. Mr. Zeleznik, you've been handed a 21 copy of what's been marked for identification as 22 Plaintiff's Exhibit 81. 23 A. Yes. 24 Q. What is this document? 25 A. This is my personal statement for my 185: 1 solar lens business. 2 Q. Did you discuss this document earlier 3 in your deposition? 4 A. Yes. 5 Q. Okay. And I think I asked you</p>			81	

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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>6 questions about your business plan. Is this what 7 you were referencing? 8 A. Yes. 9 Q. Okay. So is this your business plan? 10 A. This is an explanation of what my 11 business is, what I do. 12 Q. Okay. Who drafted this document? 13 A. This is my draft. 14 Now, I've received an example from 15 Greg Shepard of what, you know, a form letter of 16 what you could write, and so I've studied that, 17 thought about what I'm doing, and then wrote this.</p>				
<p>186: 6 Q. And you produced Exhibit 81 pursuant 7 to the United States subpoena? 8 A. I did, yes. 9 Q. A few questions on this. 10 The second paragraph, it says, "My 11 solar business generates or will generate future 12 revenues by various means."</p>			81	

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<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>13 A. Correct. 14 Q. What are those various means? 15 A. Commission income, police fee or 16 income, and bonus monies. 17 Q. Anything else? 18 A. No. That's it. 19 Q. Going down to the, I guess it's the 20 paragraph marked with two parentheses. Do you see 21 that towards the middle of that page on page 1882? 22 It starts with, "I have an operations and 23 maintenance agreement." 24 A. Yes. I'm sorry. Go ahead. 25 Q. And the third sentence says, at the 187: 1 end of the third sentence it says, "May be used to 2 produce electricity." 3 A. Yes. 4 Q. Okay. To your knowledge, has any of 5 your lenses ever produced electricity? 6 A. My lenses don't produce electricity.</p>				

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<p>7 My lenses are used to produce heat as a part of a 8 mechanism that potentially could be used to produce 9 electricity. 10 Q. Do you know if that process has ever 11 occurred? 12 A. If that's happened? I don't. 13 Q. You don't know? 14 A. I don't know.</p>				
<p>187:17 Q. The next sentence says, "This year I 18 will begin making \$150 a year per lens for the 19 initial five-year period." 20 A. Yeah. I need to update this. 21 Q. Well, did I read that correct? 22 A. Yes. 23 Q. And you say this year. What year did 24 you write this? 25 A. Boy, that's a good question. I 188: 1 honestly don't remember; '13 or '14. 2 Q. So you wrote this in 2013 or 2014. 3 My question is, did you begin making</p>				

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<p>4 \$150 a year per lens since then? 5 A. No, I did not. I need to update the 6 document. 7 Q. Are you planning to update the 8 document? 9 A. I should. 10 Q. So then farther down in that 11 paragraph starting the sentence "So my total rental 12 income would be 2,790 per lens," do you see that? 13 A. Yes. 14 Q. Is that accurate? 15 A. It would be over a five-year period I 16 believe. 17 Q. But have you ever earned rental 18 income of \$2,790 per lens? 19 A. No, as of yet, no. 20 Q. All right. Then down at the bottom 21 of page 1882, in the last paragraph, third sentence, 22 it says, "My participation is the only activity in 23 my business. Therefore, according to IRS</p>				

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<p>24 guidelines, I do materially participate." 25 A. There you go. 189: 1 Q. Did I read that correctly? 2 A. You did read that correctly. 3 Q. Okay. What IRS guidelines are you 4 referring to?</p>				
<p>189: 8 A. I don't know. 9 Q. But you wrote this? 10 A. Yes. 11 Q. At the time did you know what IRS 12 guidelines you were referring to? 13 A. I don't know. 14 Q. Do you know where you got that phrase 15 "IRS guidelines"? 16 A. I don't know. 17 Q. Look at the next page, 1883. You 18 have a summary and then a series of bullet points. 19 On the eighth bullet point down starting with LTB, 20 LLC, do you see that? 21 A. Yes. 22 Q. That eighth bullet point says, "LTB,</p>				

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<p>23 LLC operates and maintains my solar lenses and 24 receives payment for the heat that is generated." 25 A. Correct. 190: 1 Q. "From these payments, they may pay my 2 rental fee for the use of my lenses which produce 3 the heat." 4 A. Correct. 5 Q. Did I read that correctly? 6 A. That is correct. 7 Q. Okay. That's written in the present 8 tense, right?</p>				
<p>190:11 A. Based on the operation and 12 maintenance agreement, they do. They are allowed to 13 use my lenses. 14 Q. I understand that, but I'm talking 15 about the second clause where it says for the heat 16 that is generated. 17 A. They do generate heat. 18 Q. Your lenses generate heat? 19 A. The lenses generate heat. 20 Q. How do you know that?</p>				

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<p>190:23 A. I've seen the video that shows the 24 lenses generating heat. 25 Q. Do you know if the lenses in the 191: 1 video were your lenses? 2 A. I don't. I don't. 3 Q. There's a heading: "Some key 4 points." 5 Do you see that? 6 A. Yes. 7 Q. The first bullet point, second 8 sentence, it says, "I don't have to use LTB. It's 9 my choice." 10 A. Yes. 11 Q. Who else could you have used? 12 A. I don't know honestly. I haven't 13 researched it. 14 Q. Did you ever look around for anyone 15 else who could have used your lenses? 16 A. No. I didn't research it. 17 Q. You say it's my choice. 18 A. Yes. 19 Q. Who did you choose between?</p>				

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20 A. I chose to go with LTB. 21 Q. Over who else? 22 A. I didn't research it.				
192: 2 Q. I want to know who else you 3 considered. 4 A. I didn't consider anyone else. 5 Q. Okay. Thank you. 6 In the second bullet point, it says, 7 "LTB operates and maintains solar lenses." 8 Do you see that? 9 A. I do. 10 Q. When you say operate, what do you 11 mean? 12 A. I don't know. 13 Q. Okay. We're getting to the second 14 and third pages which are labeled 1884 and 1885. 15 A. Correct. 16 Q. What are these documents? 17 A. This is my expected potential profit 18 analysis. 19 Q. You prepared this? 20 A. I did, yes. 21 Q. What did you do to prepare it?				

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<p>22 A. I went into Excel and typed it out.</p> <p>23 Q. Where did you get the information</p> <p>24 that you put into the excel document?</p> <p>25 A. Based on the contracts that I have</p> <p>193: 1 with IAUS and LTB and the agreements.</p> <p>2 Q. Can you explain to me in your own</p> <p>3 words exactly what I'm looking at here?</p> <p>4 A. The first window is bonus income from</p> <p>5 my own personal purchases and the different amounts.</p> <p>6 Q. And that assumes -- well, how did you</p> <p>7 calculate that?</p> <p>8 A. That's based off of bonus contract</p> <p>9 with IAUS.</p> <p>10 The first purchase was \$3,000 bonus</p> <p>11 per lens. The next four purchases were \$6,000</p> <p>12 bonuses per lens, and then \$2,000 bonus per lens for</p>				

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<p>13 the remaining. 14 Q. Okay. So the dates that I see in the 15 farthest left-hand corner are the dates that you 16 purchased the lens? 17 A. Yes, that's correct. 18 Q. And did you ever receive any of these 19 bonuses? 20 A. No, not yet. 21 Q. I see a donated bonus of 27,000? 22 A. Uh-huh. 23 Q. What is that? 24 A. The first bonus of \$27,000 I was 25 going to donate to LeRoy Schools. 194: 1 Q. Did you donate that to LeRoy Schools? 2 A. I have not received a bonus. 3 Q. Are you still planning to donate to 4 LeRoy Schools? 5 A. Yes, yes, I will. 6 Q. In the second, you called it a 7 window? 8 A. Sure. That's the rental income, so</p>				

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<p>9 145 lenses. That's rental income for the first five 10 years, and then the next 25 years for the 30-year 11 total.</p> <p>12 Q. You expect to receive \$355,250?</p> <p>13 A. Yes.</p> <p>14 Q. Have you received any of that to 15 date?</p> <p>16 A. No.</p> <p>17 Q. And the next window I think is called 18 bonus income from level 1 downline purchases?</p> <p>19 A. Correct.</p> <p>20 Q. What's going on in that?</p> <p>21 A. That represents the percentage of 22 bonus that you get when people that you sponsor 23 purchase lenses.</p> <p>24 Q. And it looks like you expect to 25 receive a total of \$186,000?</p> <p>195: 1 A. That's correct.</p> <p>2 Q. Have you received any of that money?</p> <p>3 A. I have not.</p>				

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<p>4 Q. And then the next window is entitled</p> <p>5 "Ten percent rental income from level 1 downline</p> <p>6 purchases."</p> <p>7 A. Correct.</p> <p>8 Q. What is that?</p> <p>9 A. That is ten percent rental income</p> <p>10 from the lenses that my two individuals that I</p> <p>11 sponsor receive.</p> <p>12 Q. Okay. Have you received any of that</p> <p>13 income?</p> <p>14 A. No, I have not.</p> <p>15 Q. And then flipping to the next page,</p> <p>16 1885, what's going on in the next window?</p> <p>17 A. These are individuals who are</p> <p>18 sponsored by the people I sponsor...</p> <p>19 Q. Okay. So...</p> <p>20 A. ...and their purchases, and I receive</p> <p>21 a one percent rental income from their purchases.</p> <p>22 Q. So those are the people that</p>				

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<p>your 23 downline sponsors? 24 A. These are the people that, yeah, that 25 I sponsor. That's who they sponsor, correct. 196: 1 Q. Okay. And who are these people? 2 A. These are people that they sponsor. 3 Q. I just see first initials. 4 A. Sure. 5 Q. So I see 1F. Is that Frank Lunn? 6 A. No. This is how it's written in the 7 area where you can look at the tree. I think you 8 have Frank Lunn, Julie Lohnes. I'm going to assume 9 that's Margaret Zeleznik. 10 Q. Who's Margaret Zeleznik? 11 A. That was my grandmother. 12 Q. Did she sell it? 13 A. She's passed. 14 Q. Sorry. 15 A. Judith Elens, and then I don't know T 16 Cook and B Bauer. 17 So it's safe to say those ones I</p>				

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<p>said 18 were probably sponsors of my father. 19 Q. Okay. Do you know what happened to 20 your grandmother's lenses after she passed away. 21 A. I don't. I don't know the details of 22 how that worked nor do I expect to. 23 Q. Then below that I see a total 24 expected revenue from bonuses and rental income of 25 \$972,173.50. 197: 1 A. Correct. 2 Q. Have you received any of that money? 3 A. No. 4 Q. And then in the final window, it says 5 "Purchased lenses under Abraham Zeleznik Trust 6 Account (account closed)." 7 A. Correct. 8 Q. What happened to the lenses that the 9 Abraham's trust account -- 10 A. They rolled over into those 11 individuals' accounts.</p>				

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<p>12 All the Abraham Zeleznik trust 13 account is bonus money, so you can see it down here. 14 These lenses were purchased with the understanding 15 that the purchasers would receive 3,000 in bonus 16 money. The sponsor gets 3,000 bonus money; so 17 whoever their sponsor is, and the trust account 18 would get it. 19 So they wrote in there, like I did 20 for LeRoy Schools, they wrote in that 3,000 of their 21 bonus money would go towards Abe's trust fund. 22 MR. MORAN: Okay. We're done with 23 Exhibit 81.</p>				
<p>197:24 (Plaintiff's Exhibit 82 was 25 marked for identification.) 198: 1 Q. Mr. Zeleznik, you've been handed a 2 copy of what's been marked for identification as 3 Plaintiff's Exhibit 82. 4 A. Yes. 5 Q. Do you recognize it? 6 A. Yes.</p>			<p>81 82</p>	

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<p>7 Q. What is it? 8 A. It's an e-mail from Greg Shepard to 9 me, an e-mail string between the two of us. 10 Q. You produced this document pursuant 11 to the United States subpoena? 12 A. I did. 13 Q. Okay. In the second sentence at the 14 top e-mail it says, "In 2011, BJ has 20 lenses all 15 paid up." 16 A. Correct. 17 Q. My first question, BJ is you? 18 A. Yes, that's me. 19 Q. Okay. What does paid up mean? 20 A. In full. The principal is fully 21 paid. 22 Q. Does that mean the 3,500 that you 23 owe? 24 A. 1,050. 25 Q. So in your view, paying 1,050 is 199: 1 being all paid up? 2 A. Sure.</p>				
<p>199: 6 Q. Mr. Zeleznik, in your</p>				

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view, how much 7 do you have to pay to be all paid up?				
199:15 THE WITNESS: The lenses cost in the 16 3,000 -- I can't remember the exact cost. 17 For me to be able to receive lease 18 income and to pay off the remaining, I have to pay 19 1,050 per lens, yes. 20 Q. Mr. Zeleznik, just to be clear, to 21 you, in your mind, paying \$1,050 means that you are 22 all paid up for each lens? 23 A. Paying 1,050 in my mind means that I 24 can receive lease income for that lens. I qualify 25 for the bonus, and that through that lease income I 200: I pay off the remaining balance. That's what 1,050 2 means in my mind. 3 Q. Okay. Now, that's the lease income 4 that you still haven't received. 5 A. That's correct.			82	

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<p>6 Q. And when you used the term all paid 7 up in Exhibit 82, that meant that you had paid 8 \$1,050? 9 A. That's correct. 10 Q. And the fourth sentence, Mr. Shepard 11 says, "That's a maximum of 204,000 to BJ and 12 \$102,000 to the sponsor." 13 A. Yes. 14 Q. Did I read that correct? 15 A. Yes. 16 Q. What does that mean? 17 A. I believe he's talking about the 18 bonuses from the purchases of lenses. 19 Q. You've never received any of that 20 money, right? 21 A. No. 22 Q. Mr. Zeleznik, if you would look at 23 the second e-mail on that page dated June 27, 2013, 24 it seems like you were talking about a loan? 25 A. Yes.</p>				

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<p>201: 1 Q. What's that about? 2 A. I thought about taking a loan out of 3 the bank just to pay off the remaining principal on 4 all lenses and I chose not to do that. 5 Q. Why did you choose not to do that? 6 A. Because I thought that if I wasn't 7 paid in full that I would not, when the bonuses came 8 around, that I would not receive the bonus money, 9 but then it was my understanding from talking to 10 Mr. Shepard, Dr. Shepard, that as long as I am 11 making progress toward payment that they would 12 recognize that as bonus, as qualifying for the bonus 13 contract on a specific lens. 14 Q. Was your understanding correct? 15 A. Yes. 16 Q. So it was your understanding that if 17 you weren't paid in full...and by</p>				

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<p>paid in full, you 18 meant just paying the 1,050 per lens? 19 A. The 1050, correct. 20 Q. All right. It was your understanding 21 that once you had paid the 1,050 per lens that you 22 would be eligible for the bonus money? 23 A. Yes. 24 Q. And that was your concern? 25 A. That was my concern. 202: 1 Q. Okay. Now, when you were considering 2 getting a loan from a bank, what were you looking to 3 pay off? 4 A. The entirety of the remaining 5 principal that I owed. 6 Q. Is that on the 3,500? 7 A. That's on the 1,050. 8 MR. MORAN: Okay.</p>				
<p>202:10 (Plaintiff's Exhibit 83 was 11 marked for identification.) 12 Q. Mr. Zeleznik, you've been handed a 13 copy of what's been marked for identification as</p>			83	

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<p>14 Plaintiff's Exhibit Exhibit 83. 15 Do you recognize it? 16 A. Yes. 17 Q. What is it? 18 A. It's an e-mail from myself to Greg 19 Shepard. 20 Q. And you produced this document 21 pursuant to the United States subpoena? 22 A. I did.</p>				
<p>203:16 Q. In the second to last paragraph of 17 that e-mail, the second sentence, it says, "I 18 expected to receive a business credit to pay for the 19 systems." 20 A. Yes. 21 Q. What does that mean? 22 A. That means that the incentive of the 23 credit was to help pay for my equipment. 24 Q. So that you would get a credit from 25 the government? 204: 1 A. I would use an incentive, the</p>			83	

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<p>2 alternative energy tax credit to help pay for my 3 alternative energy equipment and lenses. 4 Q. And who were you paying for the 5 alternative energy lenses? 6 A. RaPower-3. 7 Q. So it was your understanding that you 8 would use a business credit from the government to 9 pay for the lenses that you bought from RaPower-3? 10 A. To help fund the equipment, yeah, 11 from RaPower-3, correct. 12 MR. MORAN: Okay. Thank you. No 13 further questions on Exhibit 83.</p>				
<p>204:15 (Plaintiff's Exhibit 84 was 16 marked for identification.) 17 Q. Mr. Zeleznik, you've been handed a 18 copy of what's been marked for identification as 19 Plaintiff's Exhibit 84. 20 Do you recognize Exhibit 84? 21 A. I do. 22 Q. What is it?</p>			84	

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<p>23 A. It's an e-mail string between myself 24 and Greg Shepard. 25 Q. And you produced this document 205: 1 pursuant to the United States subpoena? 2 A. Yes, I did. 3 Q. Okay. We're going to go back to the 4 third page which is Bates numbered 824. 5 A. Yes. 6 Q. This appears to be an e-mail from 7 Greg Shepard to you? 8 A. Yes. 9 Q. And Mr. Shepard is discussing Brian 10 Bolander? 11 A. Yes. 12 Q. Is this the extent of your knowledge 13 of why Mr. Bolander no longer prepared income tax 14 returns for RaPower-3? 15 A. That's it. 16 Q. I think you talked about that earlier 17 in your testimony.</p>				

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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>18 A. Yes.</p> <p>19 Q. In the fifth paragraph down, it says,</p> <p>20 "Attached is the tax attorney opinion letter from</p> <p>21 Kirton McConkie it's the largest law firm in Utah.</p> <p>22 The letter will refer to Solcol which is for our</p> <p>23 million dollar plus deals, but the same references</p> <p>24 apply to RaPower-3. This will be a great addition</p> <p>25 to your file. It will also allow you to go to many</p> <p>206: 1 local CPAs who would want to do your taxes."</p> <p>2 Did I read that correctly?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And if you flip to Bates</p> <p>5 number 826 through Bates number 837, is that what</p> <p>6 you know as the Kirton McConkie memo?</p> <p>7 A. Yes.</p> <p>8 Q. What did you do with the Kirton</p> <p>9 McConkie memo?</p> <p>10 A. I just put it in my file, yeah,</p>				

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11 provided it to the CPA. 12 MR. MORAN: Nothing further on 13 Exhibit 84.				
206:14 (Plaintiff's Exhibit 85 was 15 marked for identification.) 16 Q. Mr. Zeleznik, you've been handed a 17 copy of what's been marked for identification as 18 Exhibit 85. 19 A. Okay. 20 Q. Do you recognize it? 21 A. It appears to be an e-mail from Roger 22 Freeborn. 23 Q. Okay. If you'd please look through 24 all four pages and verify that this is in its 25 entirety an e-mail you received from Roger Freeborn. 207: 1 A. It appears to be complete. 2 Q. And you produced this document to the 3 United States pursuant to the subpoena that we 4 issued you? 5 A. I did.			84 85	
208:14 (Plaintiff's Exhibit 87 was			87	

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<p>15 marked for identification.) 16 Q. Mr. Zeleznik, you've been handed a 17 copy of what's been marked for identification as 18 Plaintiff's Exhibit 87? 19 A. Correct. 20 Q. Do you recognize Exhibit 87? 21 A. I do. 22 Q. What is it? 23 A. It's an e-mail it looks like between 24 me and Greg Shepard. 25 Q. Well, I see Greg Shepard's name in 209: 1 the middle there. 2 A. Yeah. 3 Q. He appears to have signed the e-mail. 4 A. Correct. 5 Q. So to the best of your knowledge, 6 this is an e-mail from Greg Shepard? 7 A. Yes. 8 Q. Looking at the top of the page, the 9 first sentence says, "Today, of course, is a tax</p>				

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<p>10 filing deadline date. Hope every one of you have 11 had the success as expected from our RaPower3 Tax 12 Benefit Program." 13 A. Okay. 14 Q. What is the RaPower3 Tax Benefit 15 Program? 16 A. In my mind, RaPower3 Tax Benefit 17 Program is nothing more than the RaPower3, the solar 18 lens energy credit that you get if you purchase a 19 lens. 20 Q. And who told you that you get that 21 credit? 22 A. RaPower3. 23 Q. Anyone else? 24 A. I couldn't tell you specifically. 25 Q. Okay. And you said RaPower3 told you 210: 1 that. 2 Who specifically at RaPower3? 3 A. Greg Shepard.</p>				
<p>210: 6 (Plaintiff's Exhibit 88 was 7 marked for identification.)</p>			<p>88</p>	

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<p>8 Q. Mr. Zeleznik, you've been handed a 9 copy of what's been marked for identification as 10 Plaintiff's Exhibit 88. 11 A. Yes. 12 Q. Do you recognize Exhibit 88? 13 A. It appears to be information via 14 e-mail from Greg Shepard or Roger Freeborn. 15 Q. Do you know which one? 16 A. Greg Shepard's name it looks like is 17 there, so it looks like some information was sent by 18 him and some was sent by Roger Freeborn. 19 Q. Okay. Did you produce this document 20 pursuant to the United States subpoena? 21 A. I did.</p>				
<p>211: 4 Q. Mr. Zeleznik, you've been handed a 5 copy of what's been marked for identification as 6 Plaintiff's Exhibit 89. 7 A. I have.</p>			<p>89 81</p>	

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<p>8 Q. Do you recognize it? 9 A. It is an e-mail from Greg Shepard. 10 Q. And earlier in your testimony, did 11 you reference this e-mail? 12 A. I don't remember. 13 Q. Mr. Zeleznik, would you take a minute 14 and look at the pages that are attached to 15 Exhibit 89? 16 A. Okay. 17 Q. There are pages 1094 through 1097. 18 Take a minute and review that. 19 (Pause) 20 A. Okay. 21 Q. Looking at Exhibit 89, it begins with 22 an e-mail from Greg Shepard? 23 A. Yes. 24 Q. He says, "Attached is the appeal 25 letter I wrote." 212: 1 A. Yes. 2 Q. Now, earlier in your deposition we 3 discussed Exhibit 81. 4 A. Okay.</p>				

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<p>5 Q. I'll give you your Exhibit 81 back.</p> <p>6 Do you recall Exhibit 81?</p> <p>7 A. I do.</p> <p>8 Q. Okay. And what is Exhibit 81?</p> <p>9 A. It's a statement, my statement.</p> <p>10 Q. Okay. And when we were discussing</p> <p>11 Exhibit 81, I believe you said you'd gotten</p> <p>12 something from RaPower3 about a draft of a plan?</p> <p>13 A. Yes, but I feel like it was a</p> <p>14 different one than this, although, I mean, there's</p> <p>15 similar information but, yeah, I thought it was from</p> <p>16 another form.</p> <p>17 Q. All right. Could you look at page</p> <p>18 1095 in Exhibit 89?</p> <p>19 A. Yes.</p> <p>20 Q. Looking at page 1095, in paragraph 1,</p> <p>21 it says, "I'm a distributor for RaPower3 which has a</p> <p>22 network marketing component. RaPower3 is registered</p> <p>23 to do business in all 50 states."</p>				

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<p>24 A. Yes. 25 Q. Now, looking back at Exhibit 81, in 213: 1 the third paragraph down where it has 1) Commission 2 income... 3 A. Yes. 4 Q. ...the second sentence says, "I am a 5 distributor for RaPower3 which has a network 6 marketing component." 7 A. Correct. 8 Q. All right. Now, if you skip down to 9 the second to last sentence of that paragraph, it 10 says, "RaPower3 is registered to do business in all 11 50 states." 12 Next sentence. "I make commissions 13 which would be subject to me receiving a 1099 form 14 and thus subject to paying taxes." 15 Did I read that correctly? 16 A. That's correct. 17 Q. Now, looking back to page 1095, do</p>				

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18 you see those same sentences, page 1095 of 19 Exhibit 89, do you see those same sentences in 20 Mr. Shepard's document? 21 A. Yes.				
213:24 THE WITNESS: They are, yes. 25 Q. BY MR. MORAN: Okay. Mr. Zeleznik, 214: 1 do you believe now that you used words that 2 Mr. Shepard gave you in Exhibit 89 in preparing 3 Exhibit 81? 4 A. Yes. 5 Q. You referred to Greg Shepard as 6 doctor. 7 A. Yes. 8 Q. What is he a doctor of, do you know? 9 A. I have no idea. 10 Q. Why do you call him doctor? 11 A. Because I've seen him listed as 12 Dr. Shepard somewhere.			89 81	
215:18 BY MR. MORAN: 19 Q. Mr. Zeleznik, I'm going to hand you a			57 58	

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<p>20 copy of what has been marked for identification as 21 Plaintiff's Exhibit 57. 22 A. Okay. 23 Q. Could you please take a look at 24 Exhibits 57 and 58? 25 A. Yes. 216: 1 Q. You want to confirm that you received 2 those documents from both RaPower3 and IAS? 3 A. I did. 4 Q. And that they are signed by Greg 5 Shepard and Neldon Johnson? 6 A. RaPower3 is signed by Greg Shepard. 7 IAS is signed by Neldon Johnson. 8 Q. All right. Do the words "This will 9 qualify you for solar tax credits" appear in those 10 documents? 11 A. Yes, it does.</p>				
<p>216:12 MR. MORAN: We have nothing further 13 at this time. 14 MR. JONES: We reserve signature.</p>				

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15 MS. HEALY GALLAGHER: Anything 16 further? 17 MR. HEIDEMAN: No.				
216:20 (Whereupon the deposition 21 concluded at 3:00 p.m.)				

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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.