

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

08:49:25

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UNITED STATES OF AMERICA, )

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Plaintiff, )

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08:49:25

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vs. )

Case No. 2:15-CV-828 DN

)

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RA POWER-3, LLC, INTERNATIONAL )

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AUTOMATED SYSTEMS, INC., LTBl, )

08:49:25

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LLC, R. GREGORY SHEPARD, and )

NELDON JOHNSON, )

11

Defendants. )

)

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15

BEFORE THE HONORABLE DAVID NUFFER

16

DATE: MAY 28, 2019

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

08:49:25

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MOTION HEARING

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Reporter: REBECCA JANKE, CSR, RMR  
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A P P E A R A N C E S

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1 MAY 28, 2019 SALT LAKE CITY, UTAH

2 P R O C E E D I N G S

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08:49:28

4 THE COURT: Good morning. Before we go any  
5 further, I'd like to have counsel make appearances. And  
6 let's start with counsel for Mr. Johnson last so we can  
7 sort that out. Let's figure out who else we've got here  
8 today.

08:49:40

9 MS. HEALY GALLAGHER: Good morning, Your Honor.  
10 Erin Healy Gallagher for the United States.

11 THE COURT: Thank you.

12 MR. LEHR: Michael Lehr for the Receiver Wayne  
13 Klein.

08:49:48

14 THE COURT: Thank you. And Mr. Klein is also  
15 present. All right.

16 Other counsel?

08:50:00

17 MR. WALL: Your Honor, Edwin Wall on behalf of  
18 Neldon Johnson, who is present. And also seated at  
19 counsel table is Denver Snuffer. And we do have a  
20 preliminary issue with regard to representation of counsel  
21 which will be addressed after the parties introduce  
22 themselves.

23 THE COURT: Any other counsel appearing today?

08:50:12

24 MR. PAUL: Steven Paul, Your Honor, here today on  
25 behalf of LeGrand Johnson, Randale Johnson and Glenda

1 Johnson.

2 THE COURT: Okay, Mr. Wall, let's take that --

3 MR. PAUL: Gregg Shepard is also here, Your  
4 Honor. He is appearing pro se.

08:50:25 5 THE COURT: Okay. Thank you. Mr. Wall.

6 MR. WALL: Your Honor, as a preliminary issue, I  
7 have had a chance to visit with my client. He has  
8 retained Mr. Snuffer to represent him in this matter.

9 However, Mr. Snuffer is unable to certify he is prepared  
08:50:39 10 to go forward today, and based on that, my client would  
11 ask for a continuance for the Court to allow Mr. Snuffer  
12 to get prepared so that he can go forward and be prepared  
13 to address the issues before the Court. With that  
14 continuance then, the matter could go forward and he could  
08:50:54 15 be represented by counsel that he has retained in his own  
16 right.

17 THE COURT: My order issued May 18 indicated that  
18 you will continue to be counsel of record for Mr. Johnson  
19 in connection with the pending contempt proceedings.

08:51:08 20 Should another qualified attorney timely enter an  
21 appearance for Johnson, certifying readiness to proceed,  
22 then I might take action on your motion to withdraw, but,  
23 in the meantime, you and Mr. Johnson were expected to  
24 attend and be fully prepared for this hearing and all  
08:51:28 25 related proceedings.

1 Our last event in this case was April 26. I  
2 think our first hearing was April 3, so there has been  
3 substantial time for Mr. Johnson to retain counsel. The  
4 motion was filed in January; is that right, Ms. Healy  
08:51:44 5 Gallagher?

6 MS. HEALY GALLAGHER: The order to show cause  
7 motion, yes.

8 THE COURT: Yeah. Okay. So here we are, four  
9 months later, and almost two months after the initiation  
08:51:53 10 of the first hearing, so I'll hear you or Mr. Snuffer on  
11 the reasons that Mr. Johnson did not retain counsel before  
12 this time and why counsel that he has retained is not  
13 prepared, but otherwise, we're going forward.

14 MR. WALL: Your Honor, I am prepared to go  
08:52:16 15 forward today, just for the Court's information. I do not  
16 have any information that relates to why there has not  
17 been a previous retention of counsel. Perhaps Mr. Snuffer  
18 can address that as well as what might be necessary for  
19 him to be prepared.

08:52:31 20 THE COURT: Okay.

21 Well, let me here you on that.

22 MR. SNUFFER: Thank you, Your Honor. When  
23 Mr. Wall was appointed as counsel, I got notice of that  
24 and I provided information to him on the assumption that  
08:52:47 25 he was going to proceed. I gave him, by email, a number

1 of documents, I think it was the day after his appearance  
2 in the case. I have not followed these contempt  
3 proceedings. My time has been preoccupied in getting the  
4 Tenth Circuit Court matters dealt with, and so everything  
08:53:12 5 that's occurred here has occurred outside my notice. When  
6 Mr. Johnson came in to see me about this matter --

7 THE COURT: And when was that?

8 MR. SNUFFER: Last week. My position was that I  
9 would consider doing it, but it's going to take  
08:53:34 10 considerable effort for me to get up to speed, and he was  
11 going to need to pay me, and I didn't think he had the  
12 means with which to pay me, and he said that he had social  
13 security money that he could use to pay a retainer to get  
14 me to handle this hearing.

08:53:52 15 So, on Friday I was able to get copies of the  
16 transcripts of the first hearing in April and the second  
17 hearing that was earlier this month. I was able to read  
18 all of those. I don't have access to all of the exhibits  
19 yet, but it became apparent to me that there's a lot more  
08:54:13 20 that has gone on, including the depositions of Mr. Johnson  
21 and his wife Glenda, that I need to review, and to know  
22 what he's done and what he's not done.

23 In discussions with Mr. Wall this morning, he has  
24 those depositions, and he's reviewed them. I have not.  
08:54:35 25 I'm simply not in a position, at this moment, to know

1 enough. I know about the underlying case, obviously. I  
2 know about the issues that are up on appeal because I have  
3 been briefing them. That's where my focus has been. But  
4 the details of what's gone on here and following through  
08:54:55 5 with the compliance, quite frankly, Mr. Paul, from my  
6 office has been the one who, alone, has been dealing with  
7 those issues, and I've been otherwise occupied. He hasn't  
8 briefed me. We haven't had an opportunity even to talk  
9 about this because of his schedule and my schedule since  
08:55:17 10 last week.

11 So, why the delay? I'm not sure. But that  
12 accounts for my lack of preparation. I just haven't had  
13 the opportunity.

14 THE COURT: Do you want to make a record about  
08:55:30 15 the reasons that Mr. Johnson did not see you about  
16 retaining you until last week?

17 MR. SNUFFER: I think the reason -- the obvious  
18 reason that presents itself to me from having lived  
19 through these last few months is because he well knows  
08:55:46 20 that I have been working on the Tenth Circuit Court brief,  
21 and one of the challenges that I hope he understands is  
22 that when you have a word limit, you can't say all you  
23 would like to say, and editing to get things down to the  
24 word limit is a formidable challenge.

08:56:04 25 He knows what I have been doing, and it hasn't

1 been related to this. My belief is that he hasn't asked  
2 me because he knows my time has been devoted to that  
3 purpose.

08:56:17

4 THE COURT: Okay. Do you want to make any  
5 further record on that point?

08:56:42

6 MR. SNUFFER: I think that he also has the  
7 assumption that he has the right to represent himself pro  
8 se and that, in that regard, he would prefer that he be  
9 heard from as the attorney above my representation or  
10 Mr. Wall's representation and that he simply prefers to do  
11 it himself if it's at all possible.

12 THE COURT: Thank you.

13 MR. SNUFFER: Thank you.

08:56:56

14 THE COURT: I understand that Mr. Johnson wanted  
15 to proceed pro se, that he did so through the majority  
16 of -- well, through two hearings, but where we became  
17 bogged down or obstructed was in Mr. Johnson's attempts to  
18 cross examine Mr. Klein. We have only called one witness  
19 on this motion, and that's Mr. Klein, and it's time to  
20 cross examine him. I don't want to defer further the  
21 cross examination of Mr. Klein, so I want to go through it  
22 today. That's my feeling.

08:57:17

08:57:39

23 But I haven't asked you, Ms. Healy Gallagher,  
24 what you think is appropriate. I am not going to  
25 permit -- my inclination is to go ahead with cross



1 examination of Mr. Klein, do whatever else we can do  
2 today. Mr. Snuffer may certainly appear if there is a  
3 future proceeding, which there may be because we have more  
4 witnesses, but I don't intend to just vacate today's  
08:57:58 5 calendar. But I want to hear from you. Maybe you have a  
6 different idea that would keep me from error.

7 MS. HEALY GALLAGHER: Well, Your Honor, from my  
8 perspective, this is one more example of an unwarranted  
9 delay or an attempt to delay these proceedings by Neldon  
08:58:11 10 Johnson. And I would also note, Your Honor, that your  
11 order regarding Mr. Wall's motion to withdraw was entered  
12 on the docket on May 18, 2019, notifying Mr. Johnson that  
13 if he wanted his own counsel, they needed to be prepared  
14 and ready to go.

08:58:32 15 And, from my records, the appellate brief that  
16 Mr. Snuffer mentioned that was occupying his time was  
17 filed no later than May 10, a week -- more than a  
18 week prior to your order. So that's no reason that  
19 actually bears on Mr. Johnson's ability or not to contact  
08:58:55 20 Mr. Snuffer if he truly wanted Mr. Snuffer to represent  
21 him and be prepared.

22 THE COURT: Thank you.

23 Mr. Lehr, did you want to be heard?

24 MR. LEHR: No, Your Honor. We agree. We are  
08:59:07 25 prepared to go forward today, and that would be our

1 preference to go forward today.

2 THE COURT: All right.

3 Mr. Klein, if you will take the witness stand.

4 Mr. Wall, we are going to proceed with the cross  
08:59:16 5 examination of Mr. Klein. And you read the transcript of  
6 the last hearing, right?

7 MR. WALL: Yes, Your Honor, and it's a  
8 preliminary matter. I have had an opportunity to visit  
9 with Ms. Healy Gallagher. She indicated she that had some  
08:59:28 10 additional questions because there had been the  
11 development of further additional information, so, to  
12 expedite matters, it would probably be best if she  
13 concluded her direct and then I would do the cross.

14 THE COURT: Well, Mr. Wall is telling me I have  
08:59:40 15 done the wrong thing, and he is correct, so have a seat,  
16 again, Mr. Klein.

17 MR. WALL: So, Mr. Klein will be testifying, but  
18 the direct --

19 THE COURT: Oh, some more questions. Okay.

08:59:46 20 MS. HEALY GALLAGHER: Your Honor, there have been  
21 events from the last hearing that will bear on --

22 THE COURT: Okay. So we do need that from your  
23 mouth, Mr. Klein. You have been sworn, so have seat.

24 MS. HEALY GALLAGHER: Thank you, Your Honor.

09:00:07 25

## 1 DIRECT EXAMINATION

2 BY MS. HEALY GALLAGHER:

3 Q. Good morning, Mr. Klein.

4 A. Good morning.

09:01:00

5 Q. Mr. Klein, as we just noted briefly for the  
6 record, there have been a series of compliance deadlines  
7 set by the Court between the last hearing on this matter  
8 and today; isn't that right?

9 A. Yes.

09:01:14

10 Q. So let's take a walk through what's happened  
11 since May 3. I'd like to start with Mr. Gregg Shepard.  
12 And let's first begin, could you just give a general  
13 synopsis of documents provided by Mr. Shepard and  
14 compliance verifications.

09:01:35

15 A. At the conclusion -- after the prior hearing on  
16 May 3, at the Court's request, we sat down with  
17 Mr. Shepard to discuss in detail the kind of information  
18 that I expected, that I believed was required by the  
19 Receivership Order and the kind of information that I  
20 thought was required in order to be in compliance.

09:02:00

21 I spent a lot of time to sit down and went  
22 through it in detail. He provided a compliance  
23 declaration. I reviewed that and wrote back to  
24 Mr. Shepard indicating that -- acknowledging that I had  
09:02:25 25 received the credit card records and also his compliance

1 declaration but that it was still missing information  
2 about the recipients of transfers.

3 Part of the paragraph 26 declaration required him  
4 to identify all transfers over a thousand dollars. So I  
09:02:51 5 sent a list of the transfers where he had indicated there  
6 had been a transfer of greater than a thousand dollars but  
7 indicating where I had not -- could not tell from that who  
8 the transferee was or the purpose. And then on, I  
9 believe, the 23rd, I received a response with additional  
09:03:19 10 information that -- that answered many of those questions  
11 and provided additional documents that I'd been unaware  
12 of.

13 Q. Okay. So let's take that in two parts. So, as  
14 of May 23, what's your evaluation of whether Mr. Shepard  
09:03:41 15 has complied with the document production requirements of  
16 the corrected Receivership Order?

17 A. Well, I got some documents on May 23 that I  
18 hadn't known existed, and so with the caveat that I don't  
19 know what I don't have, I believe that I -- that I have --  
09:04:08 20 I don't know that I'm missing anything.

21 Q. So, as far as you're aware, understanding there  
22 may be some question marks out there to date, to your  
23 understanding, he's basically complied with the document  
24 production requirements?

09:04:28 25 A. Yes.

1 Q. Now, you started to talk about the compliance  
2 verification. We have been talking about paragraph 26 of  
3 the corrected Receivership Order. You mentioned that  
4 he -- well, could you take us through what you received on  
09:04:48 5 May 23 in terms of the compliance verification and your  
6 opinion on whether that has reached a level of compliance.

7 A. On May 23, I received a supplement to his  
8 declaration that included a -- a memo from him explaining  
9 some general background and then also the background  
09:05:13 10 documents showing checks that had been -- some checks that  
11 had been written, copies of some of his bank statements  
12 and information about some investments that he had made  
13 previously and loans that he had made.

14 Q. So, in your mind, Mr. Klein, as of May 23, has  
09:05:39 15 Mr. Shepard, in essence, complied with paragraph 26 of the  
16 corrected Receivership Order?

17 A. Yes.

18 Q. To your knowledge. You mentioned a couple of  
19 documents that you received on May 23. Could you tell us  
09:05:57 20 a couple of things that you noticed in those documents?

21 A. There were two things in the documents that  
22 surprised me. One was that Mr. Shepard provided copies of  
23 checks written on Shepard Global's bank account that were  
24 written after the Receivership Order was entered, so I was  
09:06:20 25 surprised that he was still using that bank account. I

1 was disappointed that Wells Fargo Bank did not seem to  
2 have frozen the transactions in the account, but  
3 Mr. Shepard appeared to continue to be using that account,  
4 including making payments after the first contempt  
09:06:41 5 proceeding.

6 The second thing I noticed was -- well, the  
7 surprise was that he provided information about some  
8 investments that he had made that -- that showed that he  
9 had made payments to people; in some cases, loans to his  
09:07:02 10 son, business partner, investments in a South African  
11 prime bank scheme and also in some sort of options  
12 program. And with the information that he provided, I  
13 realized that there are some debts that are owed to him  
14 that should be considered assets of the Receivership  
09:07:30 15 estate because these are people that owe money to him, and  
16 his compliance declaration had indicated the only asset  
17 that he had was his home and furnishings and yet now, with  
18 this additional information, I realized that there are  
19 some receivables that he has; money owed by his son, by  
09:07:51 20 his son's business partner, by people promoting this bank  
21 scheme, and recoveries from the options scheme.

22 Q. So we'll talk about each of those two things in a  
23 moment, but what, if anything, does this production of  
24 documents tell you, Mr. Klein, about whether you have the  
09:08:17 25 information to be able to say that, in fact, Mr. Shepard

1 is in full compliance with the corrected Receivership  
2 Order?

09:08:33

3 A. Well, it highlights the problem that I don't know  
4 what I don't know, and so when I get information that I  
5 wasn't aware of, I'm happy to get that, but it leaves me  
6 wondering whether or not there is more, but I have no  
7 reason not to think that I don't have everything, but when  
8 I'm surprised, it always makes me wonder.

09:09:05

9 Q. I'm calling up, for your attention, a document  
10 that's been marked Plaintiff's Exhibit 955.

11 And, Your Honor, I emailed this immediately  
12 before the hearing, so I also have paper copies if that  
13 would be helpful.

09:09:18

14 THE COURT: I can watch it on the screen, but  
15 thanks for mailing those in.

16 You have them, Ms. Bowers?

17 THE CLERK: I do.

18 THE COURT: Okay.

19 MS. HEALY GALLAGHER: I'll hand them to counsel.

09:09:24

20 THE COURT: Thank you.

21 Q. BY MS. HEALY GALLAGHER: Mr. Klein, do you  
22 recognize Plaintiff's Exhibit 955?

23 A. I do.

24 Q. What is it?

09:09:54

25 A. This is a copy of a check that was provided to me

1 with Mr. Shepard's supplement on May 23.

2 Q. And up on the screen right now, we're seeing a  
3 check payable to Steven Bowers dated November 29, 2018,  
4 from Shepard Global, Inc. in the amount of \$7,300,  
09:10:16 5 correct?

6 A. Yes.

7 Q. And scrolling down, the second check in  
8 Plaintiff's Exhibit 955 is a check to NSDP made on  
9 November 18, 2018, from Shepard Global, Inc., for  
09:10:40 10 \$4,826.05, correct?

11 A. Yes.

12 Q. You said you were surprised to see these checks  
13 in Mr. Shepard's production. Why were you surprised?

14 A. Well, what surprised me is, number 1, that these  
09:10:53 15 were written on the Shepard Global bank account because  
16 that bank account and that entity -- that entity's assets  
17 were frozen, so, under a hyper-technical reading of the  
18 Receivership Order, any monies that had been put into this  
19 account should have belonged to the Receivership before  
09:11:13 20 they were paid out. But -- so, I was surprised he was  
21 still using this account.

22 The second thing that surprised me is that for  
23 all of his complaints about having to live on credit cards  
24 and borrowing money against -- against making credit card  
09:11:36 25 advances, that he is still paying large amounts, loaning



1 money out in large amounts as loans rather than using it  
2 for living expenses.

3 Q. And, Mr. Klein, the asset freeze in this matter  
4 was entered on August 22, 2018, correct?

09:12:01 5 A. That's my understanding, yes.

6 Q. The corrected Receivership Order in which the  
7 Court took exclusive possession of, among other entities,  
8 Shepard Global was entered on November 1, right?

9 A. Yes.

09:12:17 10 Q. And you mentioned, Mr. Klein, the prior contempt  
11 proceeding. Do you recall when that was?

12 A. I believe it was around November 15. I don't  
13 recall the date.

14 Q. And in that proceeding, Mr. Shepard was in fact  
09:12:33 15 held in civil contempt of this Court for having violated  
16 the asset freeze; isn't that right?

17 A. Yes.

18 Q. And these checks written on the Shepard Global  
19 account are dated after that finding of civil contempt?

09:13:05 20 A. Yes.

21 MS. HEALY GALLAGHER: Now, Your Honor, this  
22 information -- Mr. Shepard adequately, under the  
23 Receivership Order, reported this transfer and identified  
24 these transfers, provided information about them, so this  
09:13:22 25 is not necessarily directly on point for the United

1 States' civil contempt motion that we're here about today,  
2 and as officers of the Court, we felt it important to  
3 bring it to the Court's attention.

4 THE COURT: Thank you.

09:13:40

5 MS. HEALY GALLAGHER: I move for admission of  
6 Plaintiff's Exhibit 955.

7 MR. WALL: No objection.

8 THE COURT: This is a document consisting of two  
9 pages, the Steven Bowers check and the NSDP check?

09:13:56

10 MS. HEALY GALLAGHER: Correct.

11 THE COURT: It's received.

12 (Plaintiff's Exhibit 955 received in evidence.)

09:14:35

13 Q. BY MS. HEALY GALLAGHER: And, Mr. Klein, you  
14 discussed that you were surprised to receive information  
15 about the two scams of which Mr. Shepard claimed to be a  
16 victim. Is there anything else you want to share with the  
17 Court as far as why you were surprised about that?

09:14:54

18 A. Well, the reason I was surprised is because in  
19 his earlier compliance declaration -- I'm sorry. Pursuant  
20 to the Court's order on living allowance, the Court had  
21 directed Mr. Shepard to provide a list of all of  
22 Mr. Shepard's assets, liabilities and income, and so this  
23 information was different from what Mr. Shepard had said  
24 in his submission to the Court on his living expenses and  
25 assets.

09:15:24

1 Q. Is there anything else you would like to note for  
2 the court about Mr. Shepard's compliance, or lack thereof,  
3 with the corrected Receivership Order or the Court's other  
4 orders in this proceeding?

09:15:38

5 A. No.

6 Q. So let's turn our attention, then, to the  
7 Johnsons. If you would please walk through the -- a  
8 general overview of the materials that were delivered to  
9 you.

09:15:57

10 MR. WALL: And, Your Honor, could I ask for  
11 clarification as to when. I know documents and materials  
12 have been provided.

09:16:12

13 THE COURT: Make sure you identify that. And let  
14 me refresh my memory. It seems like at the last hearing  
15 there were ten boxes that had been delivered to somebody  
16 and they hadn't been reviewed yet. Did you have them by  
17 the time of the last hearing?

18 MR. KLEIN: No.

09:16:24

19 MR. WALL: Your Honor, the ten boxes were  
20 delivered to Nelson, Snuffer's law firm just prior to the  
21 deposition that had occurred on May 3.

22 THE COURT: Okay. The hearing.

09:16:36

23 MR. WALL: On May 2 was Mr. Johnson's deposition,  
24 and just prior to that, and it may have been just prior to  
25 his wife's deposition, they delivered the boxes to the

1 Nelson, Snuffer firm. The Court ordered that on May 10  
2 and on May 17 that there be further productions of  
3 documents and materials. And then I understand that there  
4 may have been one more disclosure of materials. That's  
09:16:54 5 why I asked for clarification.

6 THE COURT: Okay. Well, you're going to run  
7 through all of that for me?

8 MS. HEALY GALLAGHER: Correct.

9 THE COURT: Okay. I'd like to know when those  
09:17:02 10 ten boxes came over to Mr. Klein and then anything that  
11 was done following.

12 Q. BY MS. HEALY GALLAGHER: Let's start with that.

13 A. On May 10 -- it was either the 9th or the 10th,  
14 I'm not sure which day, Mr. Johnson delivered 16 boxes of  
09:17:23 15 documents, and so I prepared an index of those 16 boxes of  
16 documents. I have sent those boxes of documents out to be  
17 imaged and have document numbers affixed to them. And  
18 then, on May --

19 Q. Actually, could I stop you there for one quick  
09:17:45 20 second. Did those 16 boxes include the ten from Nelson,  
21 Snuffer that we have been talking about?

22 A. I do not know what the source was.

23 Q. Please continue.

24 A. And then, on May 17, another 15 boxes were  
09:18:04 25 delivered, along with a flash drive that contained

1 QuickBooks records from a -- from an earlier period and  
2 also had a number of PDF documents, and so I've not yet  
3 reviewed -- I have an index of what's on the flash drive,  
4 but I have not yet reviewed the documents on the flash  
09:18:34 5 drive. I have completed an index of the further 15 boxes  
6 that were delivered on May 17 and sent a receipt to  
7 Mr. Johnson for those.

8 Q. We also talked last time about a computer that  
9 was -- had reportedly crashed that had QuickBooks files on  
09:18:54 10 it I believe at least for RaPower. Did you receive that?

11 A. I did receive that, and I received that on May 9  
12 or 10 with the first production. I have sent that out for  
13 forensic imaging and have received a drive that has the  
14 contents of that flash drive on it, and they were able to  
09:19:13 15 read the QuickBooks records that were on that flash  
16 drive.

17 MR. WALL: Your Honor, I think he may have  
18 misspoken because he's talking about a flash drive.

19 THE WITNESS: I'm sorry. Computer.

09:19:22 20 MR. WALL: Then he talked about a computer. So  
21 if he's received a flash drive or an imaging of the  
22 computer, that needs to be clarified because he's  
23 discussed the flash drive now.

24 THE COURT: So clarify for us, Mr. Klein, what  
09:19:36 25 you got.

1 THE WITNESS: I apologize. So, on May 9 or 10,  
2 with the first production, the laptop computer was  
3 delivered. I sent that out for imaging and received a  
4 drive from the forensic computer experts containing the  
09:19:52 5 information on that computer. On May 17, with the second  
6 production, I received a flash drive that had QuickBooks  
7 records on it as well as some other documents.

8 THE COURT: And that flash drive was received  
9 through Nelson, Snuffer?

09:20:08 10 THE WITNESS: That was delivered by Mr. Johnson,  
11 by LeGrand Johnson.

12 THE COURT: Okay. But the hard drive that you  
13 got was from the forensic company that imaged the laptop?

14 THE WITNESS: Correct.

09:20:23 15 THE COURT: Okay.

16 Q. BY MS. HEALY GALLAGHER: And they were able to  
17 recover the files from the laptop, right?

18 A. Yes.

19 Q. What, if any, real estate records did you  
09:20:37 20 receive?

21 A. In the second production, on May 10, I received  
22 copies of records showing real estate transactions where  
23 property was transferred to Glenda Johnson and that  
24 included, in most cases, records showing the source of  
09:21:03 25 funds.

1 Q. And I believe we addressed this at the last  
2 setting, but you also received check registers from  
3 Mrs. Glenda Johnson?

4 A. During the depositions, yes.

09:21:16

5 Q. For any of the materials that we have talked  
6 about that were delivered to you since the last setting  
7 for this hearing, have you heard any explanation for why  
8 these materials weren't delivered promptly?

09:21:39

9 A. No, other than statements Mr. Johnson made at the  
10 prior hearing.

11 Q. Other than what's already been discussed in  
12 court?

13 A. Correct.

09:21:54

14 Q. So now I'd like to turn to what is still missing.  
15 And there are a few different people in different moving  
16 parts, different obligations on different respondents in  
17 this matter, so we'll just walk through them  
18 person-by-person. With respect to Glenda Johnson, what,  
19 if any, materials are still missing from her obligations  
20 under the corrected Receivership Order?

09:22:15

21 A. She provided to me check registers at the  
22 deposition, and that had records for certain bank accounts  
23 for certain periods. I don't know whether there -- the  
24 accounts were open for times -- additional times where I  
25 do not have check registers, so I don't know whether she

09:22:37

1 was unable to find those check registers, but some of  
2 those are missing.

3 The -- she also provided copies of bank  
4 statements, and those bank statements had some months --  
09:23:02 5 account statements for some months were missing and, in  
6 certain cases, pages were missing out of -- for the  
7 statements that I did have, and so I sent to Mr. Paul an  
8 email identifying what pages were -- pages and months were  
9 missing, and I have not received those missing pages.

09:23:25 10 Otherwise, the information that Mrs. Johnson  
11 provided was complete, and she did what appears to be a  
12 very good job and kept good records.

13 Q. All right. First, let's take a look at what's on  
14 the screen and should have been delivered last week to the  
09:23:51 15 Court and all parties as Plaintiff's Exhibit 952. Do you  
16 see that, Mr. Klein?

17 A. I do.

18 Q. What is Plaintiff's Exhibit 952?

19 A. 952 is the cover email -- email that I sent to  
09:24:15 20 Mr. Paul that accompanied a spreadsheet that had listed  
21 the missing pages for the bank statements from  
22 Mrs. Johnson.

23 Q. The second email on the first page of Plaintiff's  
24 Exhibit 952 is that email from you to Mr. Paul dated  
09:24:33 25 Monday, May 6, correct?



1 A. Correct.

2 Q. And then, up above, the first email is also dated  
3 May 6. And this email does what?

09:24:52

4 A. This email indicates that a spreadsheet is  
5 attached that identified the pages that appeared to be  
6 missing.

09:25:17

7 Q. And then, if we scroll down in 952, starting on  
8 the second page of that exhibit, this is the listing of  
9 the bank account records that were received and notes  
10 what's missing, correct?

11 A. Yes, although I've since noted an error.

12 Q. Where's the error that you'd like to point out?

09:25:37

13 A. On the screen, the entry for March 9, 2015,  
14 indicates that for that month that I had pages 1 and 2 but  
15 then it also says that I'm missing all pages, and that was  
16 an error. I did not have pages 1 and 2. I was missing  
17 all pages of the entire statement for that month.

09:25:55

18 Q. Okay. So for March 9, 2015, for that bank  
19 statement, in fact you're missing all pages?

20 A. Correct. And so it's the column that says 1 to 2  
21 that is an error.

09:26:15

22 Q. Okay. So, as we scroll through this chart, we do  
23 see that there are a number of missing pages and, in  
24 certain cases, some entire bank statements that are  
25 missing, correct?

1 A. Correct.

2 MR. WALL: Your Honor, they are going through the  
3 testimony of this without offering it into evidence. It  
4 needs to be offered if they want to read from it.

09:26:23

5 MS. HEALY GALLAGHER: I'm happy to offer  
6 Plaintiff's Exhibit 952 into evidence.

7 MR. WALL: I have no objection.

8 THE COURT: 952 is received.

9 Mr. Paul, no objection?

09:26:34

10 MR. PAUL: No objection.

11 THE COURT: No objection, Mr. Shepard?

12 MR. SHEPARD: No objection.

13 THE COURT: It's received.

14 (Plaintiff's Exhibit 952 received in evidence.)

09:26:41

15 Q. BY MS. HEALY GALLAGHER: Mr. Klein, what, if any,  
16 response have you received to this May 6, 2018 email?

17 A. I have not received a response.

18 Q. Have you received any of the pages or statements  
19 that are identified as missing?

09:27:37

20 A. No.

21 Q. Mr. Klein, do you recall what, if any, general  
22 supplement to the bank records that Mrs. Johnson had  
23 provided to you before was ordered to be provided by the  
24 Court?

09:27:48

25 A. My recollection is she was required to provide

1 copies of all of her bank statements for all of her  
2 personal bank accounts.

3 Q. And beginning at least as of what year?

4 A. I believe since 2005.

09:28:04

5 Q. Let's take a look at the order. This is on the  
6 docket at ECF number 676. It's up on the screen, and I'll  
7 draw your attention to paragraph 4 of that order.

8 A. I see, yeah. It -- the order requires that  
9 records from January, 2013, through present.

09:28:33

10 Q. What, if any, bank statements have you received  
11 from Mrs. Johnson consistent with paragraph 4 of this  
12 order?

13 A. None in addition -- in addition to what we've  
14 already discussed.

09:28:57

15 MR. PAUL: Your Honor, if I may, could I get some  
16 clarification. In addition to what we already discussed?  
17 My understanding is part of the production that was in the  
18 boxes and the flash drive included this information. And  
19 I can wait until cross examination.

09:29:10

20 THE COURT: Wait until cross, and let's do that.

21 MR. PAUL: Okay.

22 THE COURT: I'm going to need your help, counsel,  
23 to keep track of all this. I can tell that.

24 Q. BY MS. HEALY GALLAGHER: Is there anything else  
09:29:29 25 you would like to let the Court know about Glenda

1 Johnson's compliance, or lack thereof, from what you have  
2 been able to discern?

3 A. No.

4 Q. Let's turn to Randale and LaGrand Johnson. Would  
09:29:57 5 you summarize, please, for the Court where we are with  
6 Randale and LaGrand Johnson?

7 A. They each provided a declaration indicating --  
8 and I believe this was discussed at the prior hearing --  
9 indicating that they didn't have records or they didn't  
09:30:21 10 have many -- let me start over. They submitted  
11 declarations indicating that there were many records they  
12 did not have. I had received copies of checks from both  
13 of them that showed payments that they had made to IAS or  
14 RaPower and they -- both declarations claimed that those  
09:30:54 15 were the only records they had.

16 Q. What, if any, explanation did you get from  
17 Randale Johnson about what documents he -- and documents  
18 pertaining to International Automated Systems he used to  
19 have?

09:31:13 20 A. I don't recall.

21 Q. If it would be helpful, I can pull up the  
22 declaration.

23 THE COURT: I think I would appreciate that, too,  
24 because I'm a little confused about the previous answers,  
09:31:31 25 so if you could pull that up, that would help me.

1 Q. BY MS. HEALY GALLAGHER: This is on the docket at  
2 ECF number 621, the declaration of Randale Johnson  
3 relating to compliance verification of ECF dock 491,  
4 paragraph 24.

09:31:56

5 Let me know when you're ready, Mr. Klein, in  
6 terms of reviewing this declaration?

7 A. I'm ready.

8 Q. Do you want me to scroll down, or does this  
9 refresh your recollection?

09:32:08

10 A. I'm ready to see the next page.

11 Q. Okay.

12 A. Okay.

13 Q. So the question is, other than what's here in ECF  
14 number 621, what, if any, explanation has Randale Johnson  
15 given to you about what documents he used to have?

09:32:27

16 A. There has been no explanation about documents  
17 that he used to have. He stated he does not currently  
18 have documents or control of documents, but there is no  
19 explanation about what documents he had at one time and  
20 what happened to those documents.

09:32:47

21 Q. What, if anything, have you heard from Randale  
22 Johnson about his efforts to recover records that he used  
23 to have?

24 A. I have not received any further communications  
25 from him on that -- on any matter.

09:33:04

1 Q. And would you please remind the Court where --  
2 where this requirement of them comes from?

3 A. Well, the requirement comes from the Receivership  
4 Order which required all officers and directors of any of  
09:33:22 5 the Receivership defendants to deliver documents to me.

6 Q. And that was in paragraph 24?

7 A. Yes.

8 Q. Let's turn to the compliance, or lack thereof, of  
9 LaGrand Johnson. LaGrand Johnson filed a declaration in  
09:33:50 10 this matter, correct?

11 A. Yes.

12 Q. That's at ECF number 622, which is on the screen.  
13 Do you have a recollection, or would you like to take a  
14 look at the declaration?

09:34:02 15 A. I would like a reminder.

16 Q. Let me know when you're ready.

17 A. Okay. Can I see the next page? Can you scroll  
18 down, please? Okay.

19 Q. So, other than the declaration at ECF number 622,  
09:34:46 20 what, if any, information has LaGrand Johnson provided to  
21 you about the documents that he saw in the course of his  
22 relationship with IAS?

23 A. In addition to his declaration, he provided  
24 copies of checks and a few other documents, but I've  
09:35:06 25 received no explanation about what has happened to the

1 documents that he once had or any efforts he has made to  
2 recover documents that he explains that were delivered to  
3 their accountant.

09:35:27 4 Q. To your knowledge, understanding that you haven't  
5 had the chance to completely digest everything that has  
6 been presented to you, have you received accounting  
7 records that you would recognize as having come from Gary  
8 Peterson, who is mentioned in LaGrand Johnson's  
9 declaration?

09:35:41 10 A. I have not.

11 Q. And just to refresh the record, why, Mr. Klein,  
12 would you expect Randale Johnson and LaGrand Johnson to  
13 have documents that would be required to be turned over?

09:36:05 14 A. They were directors of a public company, and I  
15 believe LeGrand was also an officer, a chief financial  
16 officer, and therefore I would expect that when there were  
17 transactions, significant transactions, there would be  
18 corporate resolutions and corporate minutes that would be  
19 required to be signed by the directors. And, in fact, in  
09:36:20 20 the first production, I found records for about a half  
21 dozen transactions and minutes that were signed by Randale  
22 Johnson and LaGrand Johnson, but other than minutes and  
23 resolutions for those six or so transactions, I have not  
24 seen other corporate resolutions.

09:36:51 25 I believe there are some on the flash drive that

1 was delivered on May 17. I have not reviewed those, but I  
2 would expect there to be many more corporate resolutions,  
3 and I would expect there to be more financial statements  
4 for the company.

09:37:08

5 Q. So, why, Mr. Klein, does it matter -- or why is  
6 it important for former officers and directors of  
7 International Automated Systems to provide information to  
8 you identifying records that once existed, even if they  
9 are no longer in those officers' or directors' possession  
10 or control?

09:37:30

11 A. Number 1, I need to know what records were  
12 created so that, if the records -- if they don't have the  
13 records, then I need to know where those records are. So,  
14 if they are at the accountant's office, then we know the  
15 records still exist. The concern I have is that when  
16 Randale and LaGrand Johnson state that they have given us  
17 all the records that they have, what I don't know is  
18 whether or not there were no records created showing  
19 resolutions and minutes for these transactions or whether  
20 or not records were in fact created and they just no  
21 longer have them in their possession. So I don't know  
22 whether to keep looking for records.

09:37:48

09:38:11

09:38:29

23 Q. And even if, say, for example, documents have  
24 been delivered to you in the boxes and flash drives and  
25 all these other things, what would you have to do to



1 recreate this that would be made easier, for example?

2 A. Well, first, it would certainly be much easier to  
3 know what the universe of documents are that had been  
4 created and then I could compare that to what I have. So,  
09:38:52 5 yes, with additional time, I can go through the flash  
6 drive, the documents in the flash drive and identify what  
7 corporate resolutions and minutes are on there, but  
8 even -- but that requires for me to spend the time doing  
9 it, but even when I do that, I still don't know what other  
09:39:10 10 resolutions and minutes might exist that I don't have.

11 Q. And, nonetheless, the corrected Receivership  
12 Order places that burden on the respondents, not on you,  
13 correct?

14 A. Yes, because the requirement is I need them to  
09:39:26 15 tell me what documents exist, and then we can figure out  
16 where they are.

17 Q. Is there anything else that you'd like to share  
18 with the Court with respect to the compliance, or lack  
19 thereof, with respect to Neldon -- I'm sorry -- with  
09:39:43 20 respect to Randale and LaGrand Johnson?

21 A. No.

22 Q. Let's turn to Neldon Johnson. Could you give the  
23 Court a general overview of your perspective on Neldon  
24 Johnson's compliance or lack thereof?

09:40:06 25 A. In the instance of Mr. Neldon Johnson, there

1 are -- there are records that I would expect to exist  
2 that -- that I don't have copies of that I have been able  
3 to identify, and I've gone through the 31 boxes that were  
4 delivered.

09:40:27

5 But his compliance declaration I think has  
6 everything backwards. He says that he has delivered to me  
7 everything he has, but then he provides no sort of  
8 explanation about what documents have existed and even  
9 when they were delivered. He just simply says the

09:40:56

10 Receiver has them, has anything that I have. So he  
11 doesn't tell me what credit card -- hasn't provided a list  
12 of what credit card accounts he has had during what  
13 periods and where. He hasn't listed what bank accounts  
14 he's had. He -- in terms of bank accounts, for example,  
09:41:17 15 he says, well, the Receiver has all the records. He's  
16 gotten all the bank records from subpoenas he's issued to  
17 banks.

09:41:17

18 But, again, that has it backwards because I can  
19 only subpoena the records for the bank accounts that I  
09:41:31 20 know about. I don't know what bank accounts he may have  
21 had where I have not subpoenaed the records. Moreover,  
22 when I subpoena records from bank accounts, those only --  
23 the banks can only produce records for the prior seven  
24 years because that's how long they keep records. I would  
09:41:48 25 expect from him to get bank account records for periods

1 prior to more than seven years ago because I am not going  
2 to be able to get those from the banks.

3 But, again, his whole attitude seems to be: I  
4 delivered 31 boxes to the Receiver, and so it's up to the  
09:42:06 5 Receiver to go through and see what's in there and  
6 identify what might be missing.

7 Q. And you said a couple of times that that's  
8 backward. Why is that backward?

9 A. Because the Receivership Order requires him to  
09:42:23 10 identify all documents that have existed, to produce --  
11 deliver to me all of those documents and, to the extent  
12 there are documents that once existed that he no longer  
13 has, to identify where they are and to recover those that  
14 are within his control, even if they are not within his  
09:42:59 15 possession.

16 Q. Where Mr. Johnson has identified documents that  
17 may be in the hands of third parties, what is his  
18 suggestion that the Receiver do?

19 A. Well, his suggestion is that for the bank  
09:43:36 20 records, I go get them from the bank; for records that  
21 were given to Snell & Wilmer law firm that I should  
22 request them from Snell & Wilmer, or that I should get  
23 them from Gary Peterson, the accountant.

24 Q. And why is that backward?

09:43:53 25 A. Well, it's backwards because those are documents

1 that he is required under the order to retrieve and to  
2 deliver to me.

3 Q. And do I understand you correctly, Mr. Klein,  
4 that he has failed to do that?

09:44:17

5 A. Yes.

6 Q. Pulling up what is on the docket as ECF number  
7 669, declaration of Neldon P. Johnson, do you recognize  
8 this document, Mr. Klein?

9 A. I don't have it on my screen. There it is.

09:44:38

10 MR. WALL: Your Honor, may I inquire at this  
11 time, with regards to documents which have been filed of  
12 record, is the Court automatically taking judicial notice  
13 of those documents?

14 THE COURT: Yes.

09:44:53

15 Q. BY MS. HEALY GALLAGHER: Let's take a look  
16 through Mr. Johnson's compliance -- or Mr. Johnson's  
17 declaration. As an initial matter, Mr. Klein, from your  
18 perspective, does this comply with the Receivership Order,  
19 paragraph 26?

09:45:16

20 A. It does not in my opinion.

21 Q. Let's walk through a couple of reasons for that.  
22 All right. You have already addressed the documents in  
23 the hands of third parties which Mr. Johnson has not  
24 turned over to you, correct?

09:46:34

25 A. Yes.

1 Q. Is there anything more that you would like to say  
2 about that?

3 A. The -- well, on the -- no. I mean, in terms of  
4 the bank accounts, no. There are some other records that  
09:46:57 5 I would expect him to have that he's not delivered.

6 Q. Well, let's talk about that real quick. What's a  
7 primary example of other documents that he has not  
8 delivered?

9 A. Well, there are some tantalizing hints in some of  
09:47:13 10 the documents he did deliver. For example, one of the  
11 binders in the first production was a binder that  
12 contained the confirmation statements from brokerage  
13 houses when he sold securities and then reports that he  
14 filed with the SEC indicating what sales he had made as  
09:47:34 15 CEO off IAS. And so these records -- this binder shows  
16 records from 2003 through 2007 which I'm -- will be able  
17 to use to reconstruct what securities he sold and what  
18 monies then he received.

19 But I don't have records before 2003 or after  
09:47:57 20 2007, so I assume that those kind of records exist but  
21 they have not been delivered to me. Similarly, he says  
22 that -- he fails to answer what stock he has and what's  
23 happened to it and simply says: Well, I would defer to  
24 Pacific Stock Transfer for that information.

09:48:21 25 Well, I would like information from Pacific Stock

1 Transfer Company, but I also want Mr. Johnson's  
2 explanation about what stock he has had and what has  
3 happened to it because, number 1, it will help me verify  
4 the accuracy -- consistency between two records but also  
09:48:36 5 whether or not he may have transferred shares that are not  
6 reflected on the records of Pacific Stock Transfer  
7 Company.

8 Moreover, the -- he's not delivered -- nowhere in  
9 the boxes are copies of share certificates that were  
09:48:54 10 issued to RaPower. He had -- Mr. Johnson had RaPower  
11 buy -- purchase 19 million shares of stock in IAS, and I  
12 don't -- I don't know where those shares are.

13 Q. Why does that matter that you don't know where  
14 those shares are?

09:49:16 15 A. Number 1, those are an asset of the Receivership  
16 estate and should be in my possession. Number 2, if I  
17 don't have them, I wonder where they are and whether or  
18 not those shares have been sold or are currently being  
19 held and sold through the public markets.

09:49:36 20 Q. Do you have any -- or what, if anything, has  
21 given you a concern about whether those shares are being  
22 sold, could be sold right now?

23 A. One of the documents that -- that was in -- I  
24 found in the boxes that were delivered is a copy of a  
09:49:55 25 sheet showing that those shares had been issued to RaPower

1 and -- and because the company is still -- their stock is  
2 still traded on public markets, it can be sold.

3 Q. I'd like to bring your attention, Mr. Klein, to  
4 Plaintiff's Exhibit 954. Do you recognize this documents?

09:50:30

5 A. I do.

6 Q. What is it?

7 A. This is a document obtained -- provided to me by  
8 Pacific Stock Transfer company listing the shares owned by  
9 RaPower.

09:50:45

10 Q. It is the RaPower-3, LLC account statement,  
11 correct?

12 A. Yes.

13 MS. HEALY GALLAGHER: I move to admit Plaintiff's  
14 Exhibit 954.

09:50:57

15 MR. WALL: No objection.

16 MR. SHEPARD: No objection.

17 MR. PAUL: No objection.

18 THE COURT: It is received, 954.

19 (Plaintiff's Exhibit 954 received in evidence.)

09:51:02

20 Q. BY MS. HEALY GALLAGHER: What does Plaintiff's  
21 Exhibit 954 show us? Feel free to direct me.

22 A. If you scroll down, it appears to be divided into  
23 three sections, that the first shows shares that were  
24 issued to RaPower between 2011 and 2013, totaling 7.9  
09:51:25 25 million shares. Then there is another group sold to

1 RaPower during 2016 totaling 11.6 million and then  
2 additional shares that listed -- that are still  
3 outstanding -- I'm sorry -- and then a total list of  
4 outstanding shares totaling 19.7 million.

09:52:01

5 THE COURT: Where did this document come from?

6 THE WITNESS: This was produced by Pacific Stock  
7 Transfer company.

8 THE COURT: When?

09:52:20

9 THE WITNESS: In response to our subpoena in, I  
10 believe, February or March.

11 THE COURT: And they were produced about that  
12 time frame?

13 THE WITNESS: Yes.

14 THE COURT: Okay.

09:52:27

15 MR. LEHR: Your Honor?

16 THE COURT: Yes.

17 MR. LEHR: I believe it was more -- January 15, I  
18 believe was when everything was produced.

19 THE COURT: Thank you.

09:52:36

20 MR. LEHR: The first and only production we have  
21 gotten from Pacific Stock Transfer.

22 THE COURT: Thank you.

23 Q. BY MS. HEALY GALLAGHER: Mr. Klein, how many  
24 stock certificates does this document reflect?

09:52:46

25 A. It reflects probably about 20 to 25 stock



1 certificates, and the stock -- the stock certificate  
2 numbers are listed on this sheet.

3 Q. Under the heading Certificate Number?

4 A. Yes.

09:53:06

5 Q. And do you have any of those stock certificates  
6 in your possession?

7 A. I do not.

8 Q. What, if any, other large stock transfers have  
9 you noticed?

09:53:19

10 A. In one of the documents, in a document that I  
11 found in the box, there was an indication that 37 million  
12 shares were issued to someone named Gary Hansen.

13 Q. I'm showing you what's been marked Plaintiff's  
14 Exhibit 953. Do you recognize Plaintiff's Exhibit 953?

09:53:44

15 A. I do.

16 Q. What is it?

17 A. This is a sheet found in one of the boxes, box 4,  
18 I believe, of the first production of the documents from  
19 Mr. Johnson, and this -- this lists in the first

09:54:01

20 section --

21 Q. Well, actually, give me one quick second. So  
22 this is an excerpt of the transaction journal for  
23 International Automated Systems, correct?

24 A. It is.

09:54:13

25 Q. I move to admit Plaintiff's Exhibit 953.

1 MR. WALL: No objection.

2 MR. SHEPARD: No objection.

3 MR. PAUL: No objection.

4 THE COURT: 953 is received.

09:54:22 5 (Plaintiff's Exhibit 953 received in evidence.)

6 Q. BY MS. HEALY GALLAGHER: Okay. All right,  
7 Mr. Klein, what caught your attention on this page?

8 A. Well, the information in the first section shows  
9 the 11.7 million that were issued to RaPower during 2016  
09:54:40 10 that were contained on the prior exhibit, but it  
11 references a transfer of 37 million shares to -- it says  
12 Gary Hansen, and it lists 10 million shares there and then  
13 below that CEDE & Company, C-E-D-E & Company for 37  
14 million.

09:55:10 15 So I don't know whether that 37 million shares  
16 was transferred to Gary Hansen or whether that's just  
17 other shares that were put into book entry form and to  
18 make tradable. I've got 37 million shares out there, and  
19 I don't know who has them or what they -- where they are.

09:55:32 20 MR. WALL: Your Honor, may I inquire as to  
21 whether he misspoke. He indicated that with regard to  
22 Gary Hansen, there was a transfer of 10 million shares,  
23 but I only see 10 thousand. I don't know if he misspoke  
24 or if that's some misinterpretation.

09:55:46 25 THE COURT: I misunderstood it entirely, too. I

1 wrote down 37 million, but that appears to be CEDE &  
2 Company.

3 THE WITNESS: Well, so, the first entry -- both  
4 entries are dated -- first entry dated March 17 says  
09:56:02 5 transaction number 6034 to CEDE & Company, and then it  
6 says number of shares, 37,730,618 and identifies Gary W.  
7 Hansen. And then, on the third from the last column, it  
8 says number of shares, 10 thousand. And then the next  
9 entry under transfers says CEDE & Company, 37,720,618. So  
09:56:36 10 what I think that means is that Gary Hansen may have had  
11 37.7 million shares, he's transferred 10 thousand to  
12 someone else, which leaves his balance at 37,720,618.

13 THE COURT: And that's how you read it?

14 THE WITNESS: Yes.

09:56:58 15 THE COURT: Okay. Thanks.

16 Q. BY MS. HEALY GALLAGHER: Well, at any rate,  
17 Mr. Klein, whether the transfer was from or to Gary Hansen  
18 or someone else, nonetheless, more than 37 million shares  
19 are reflected on this page, and you don't know where those  
09:57:17 20 shares are; isn't that right?

21 A. Correct.

22 Q. 37 million shares seems like a lot. About what  
23 percentage of the total shares of IAS is that?

24 A. I think it's 20 to 25 percent of the total shares  
09:57:37 25 outstanding. In fact -- sorry. I know the answer. At

1 the bottom of this sheet it says total shares issued as of  
2 the end of this period is 177 million, so this represents  
3 about 22 percent of the outstanding shares.

09:57:59

4 THE COURT: Is this the latest statement of total  
5 shares of IAS that you know about?

09:58:30

6 THE WITNESS: This is the latest statement that I  
7 know about from Pacific Stock Transfer, and I don't know  
8 whether or not there are -- this is after the last annual  
9 report filed by IAS, so I don't know whether, like  
10 financial websites might have more information.

11 THE COURT: Okay.

09:58:47

12 Q. BY MS. HEALY GALLAGHER: Sort of related to the  
13 Judge's question, Mr. Klein, how, if at all, would a stock  
14 ledger help you in figuring this out?

09:59:13

15 A. Well, a stock ledger would -- if a company -- I  
16 would expect a company to have a stock ledger talking  
17 about what shares it had issued, newly issued shares. I  
18 would also expect the company to want to know who its  
19 shareholders are so they can send out notices of  
20 shareholder meetings, although many times shares are held  
21 in street name and therefore they can't do that, but the  
22 transfer agent would have to have a record of who all the  
23 owners were and would then give that information to the  
24 company.

09:59:25

25 So I would expect IAS to want to have information

1 that the transfer agent would have.

2 Q. Has any stock ledger, any IAS stock ledger been  
3 delivered to you?

09:59:50

4 A. No. My recollection is, during Mr. Neldon  
5 Johnson's deposition, he said there is no stock ledger.

6 Q. And what about any blank stock certificates for  
7 any yet unissued stock?

8 A. There were no stock certificates delivered to me  
9 for unissued stock.

10:00:03

10 Q. Why would you think IAS might have those?

11 A. Well IAS -- IAS has been continuing to sell  
12 shares in a number of -- or issue shares to a number of  
13 people and so, in order to issue shares, they -- they have  
14 a history, and their practice has been to make out

10:00:27

15 physical share certificates and send those to the

16 customers.

17 And, indeed, when Nelson, Snuffer delivered to me  
18 their shares, they were certificates, and so I -- this  
19 company appears to have a practice of actually issuing  
20 physical certificates when they issue shares.

10:00:48

21 Q. And why does it matter that the Johnsons, in  
22 particular Neldon Johnson, have not turned over stock  
23 information and documents and shares of stock themselves?

10:01:07

24 A. Well, number 1, they could be continuing to issue  
25 new shares of stock to themselves and/or others, and those

1 could be in the process of being sold. Number 2, that  
2 information would help me fulfill a mandate from the Court  
3 to report on what shares have been sold by family members  
4 since the date that the United States first filed its  
10:01:31 5 action in 2015.

6 Q. Is there any other information you would like to  
7 give the Court with respect specifically to stock or stock  
8 records?

9 A. No.

10:02:10 10 Q. Oh, I will ask what information, if any, do you  
11 have about the history of the Johnson family using, for  
12 example, stock shares to generate income over time?

13 A. Some of the documents that I received in these  
14 boxes indicated that IAS would issue stock essentially as  
10:02:34 15 currency. For example, when they owned a building, when  
16 IAS owned a building in Salem, Utah, IAS -- I'm sorry.  
17 IAS did not own the building. I believe the building was  
18 owned by Neldon Johnson. IAS had a mortgage on the  
19 building.

10:02:56 20 MR. WALL: Since he's indicating Mr. Johnson  
21 owned the building, I would ask for more specification.

22 THE COURT: Well, let's let him finish his  
23 statement.

24 THE WITNESS: I found indications that a document  
10:03:07 25 showing that IAS issued stock to the -- let me start over.

1 I found indications that IAS issued stock to a landlord of  
2 a building in Salem, Utah that was for rent payments. And  
3 so they -- correspondence indicated that the stock was to  
4 be -- was given to, I believe Hamilton is the name of the  
10:03:37 5 company, landlord, and Hamilton could then sell the stock  
6 when needed to generate cash to satisfy rent payments that  
7 were due.

8 Q. BY MS. HEALY GALLAGHER: And what, if any,  
9 indication have you had that there was a similar  
10:03:57 10 arrangement to pay legal fees to Nelson, Snuffer?

11 A. I received previously from Nelson, Snuffer a  
12 record of 9 million shares that had been issued by IAS to  
13 the law firm Nelson, Snuffer, which Nelson, Snuffer was  
14 directed to sell when needed to raise cash to satisfy  
10:04:17 15 legal bills to Nelson, Snuffer and also pay expenses  
16 related to litigation.

17 Q. Let's turn back to Mr. Johnson's declaration at  
18 ECF number 669. And take a look at paragraph 4-A, little  
19 3. Would you -- well, I'll just read it into the record.

10:04:52 20 It says: I have provided or the Receiver has  
21 obtained via subpoena copies of all bank records, account  
22 records for myself and the Receivership defendants, and I  
23 am trying to prepare a list of all bank accounts used by  
24 me since 2005, which list will be provided as soon as  
10:05:16 25 possible.

1 Did I read that correctly?

2 A. Yes.

3 Q. What's your perspective on whether this  
4 subparagraph complies with Mr. Johnson's requirements  
10:05:26 5 under the corrected Receivership Order?

6 A. My opinion is it does not comply, that I expect  
7 him to have delivered to me a list of all bank accounts  
8 for himself and each of the Receivership defendants, and  
9 those should have been required delivered by the end of  
10:05:46 10 the first 30-day period, which is, I believe, paragraph  
11 24, and certainly by the end of the 60-day period, which  
12 is paragraph 26 of the order.

13 Q. And what, if any, explanation has Mr. Johnson  
14 given you for not providing that list of bank accounts to  
10:06:04 15 date?

16 A. None, other than what's on here, that he is  
17 trying to prepare the list.

18 Q. Let's take a look at paragraph 4-D of  
19 Mr. Johnson's declaration, specifically with respect to  
10:06:49 20 his statement that, and I quote: I have participated in  
21 transfers of IAS shares but would defer to the stock  
22 transfer agent for that information because I do not know  
23 or have records other than those I have already  
24 surrendered to the Receiver for those stock transfers.

10:07:13 25 What is your opinion, Mr. Klein, on whether this



1 complies with the corrected Receivership Order?

2 A. My opinion is it does not, because, number 1, he  
3 doesn't provide information, and he just says he defers to  
4 the stock transfer agent. And the Receivership Order  
10:07:32 5 requires him to give me the information that he has.

6 Number 2. There are -- could be transfers of his  
7 IAS shares that are not known to the stock transfer agent  
8 and, therefore, simply getting information from the stock  
9 transfer agent might not tell me about all of the  
10:07:52 10 transfers.

11 Number 3. He says he does not know or have  
12 records of -- I would expect him to have some recollection  
13 at least for some of the transactions, and to the extent  
14 that he has transferred any of them for value, then if he  
10:08:00 15 received money, those incoming monies should be reflected  
16 in his bank account showing a deposit of funds.

17 Q. What about the second sentence of paragraph 4-D:  
18 My shares of IAS have been sold and the proceeds used to  
19 fund RaPower in a value in excess of \$20 million.

10:08:31 20 Did I read that correctly?

21 A. Yes.

22 Q. What's your perspective on that sentence?

23 A. Information such as this is really helpful to me  
24 as the Receiver because then I know where to go look, so I  
10:08:41 25 had the forensic accountants do an analysis and tell me

1 based on the records we have -- bank records we have so  
2 far, how much money was deposited into RaPower from Neldon  
3 Johnson.

4 Q. What did they find?

10:08:59

5 A. Zero. There were no deposits in RaPower that  
6 appear to have come from Neldon Johnson.

7 Q. So, if Neldon Johnson believes that this  
8 happened, what is his obligation under the Receivership  
9 Order?

10:09:12

10 A. If he put \$20 million into RaPower that were the  
11 result of his sales of his IAS shares, I would expect  
12 there to be records. I would expect his tax returns would  
13 show that he claimed income of \$20 million from the sale  
14 of IAS shares and reflect that he had invested or put into  
15 RaPower that \$20 million. So I would expect there to be  
16 multiple types of records showing this.

10:09:36

17 Q. What, if any, records have you received on this  
18 topic?

19 A. None, other than this.

10:09:51

20 THE COURT: I'm sorry to intervene here, but let  
21 me just make sure I understand this. You would expect to  
22 see reflection of his sale of shares in IAS and funding  
23 RaPower in his tax returns, in some records with RaPower.  
24 Where else would you expect to see that reflected?

10:10:17

25 THE WITNESS: In his bank statements, showing

1 that he had sold it. I would expect there to be  
2 confirmation statements from the brokerage firm -- the  
3 brokerage house whereby the shares were sold and received  
4 a confirmation statement, and he would have an account  
10:10:32 5 statement at the brokerage house.

6 THE COURT: Is that Pacific Stock Transfer?

7 THE WITNESS: No. Pacific Stock Transfer is the  
8 transfer agent. So the brokerage firms that have sold  
9 these shares have been -- at least for Nelson, Snuffer  
10:10:48 10 were a firm called Stern AG and another firm called Emmett  
11 Larkin.

12 THE COURT: And are you satisfied that you  
13 have -- do you have any records from those brokerage  
14 houses?

10:11:06 15 THE WITNESS: I mentioned earlier I have a binder  
16 that shows the confirmation statements from -- from 2003  
17 through 2007. Nelson, Snuffer provided me copies of  
18 account statements from Emmett Larkin and Stern AG and  
19 maybe one other broker/dealer for the shares that Nelson,  
10:11:30 20 Snuffer had been selling that had been delivered to it.

21 THE COURT: Okay. Thank you. Sorry to  
22 interrupt.

23 Q. BY MS. HEALY GALLAGHER: In the last sentence in  
24 paragraph 4-D, Mr. Johnson says: I quit-claimed title to  
10:11:44 25 vacant land and a house to my wife in 2006 or 2007,

1        parens, the Receiver knows about this, closed parens,  
2        which was prior to the bankruptcy and was approved by the  
3        Bankruptcy Court.

4                    Mr. Klein, what's your perspective on whether  
10:12:00 5        this sentence satisfies Mr. Johnson's obligations under  
6        the corrected Receivership Order?

7                    A.    It's a good start.  It's helpful to know about  
8        the transactions and his statements about his knowledge of  
9        it, but to simply say the Receiver has all the records, I  
10:12:15 10       think is not compliance.  The Receivership Order requires  
11       him to deliver records.  To the extent he does not have  
12       the records, he should explain where they are and what has  
13       happened to them.

14                    Q.    And if you've received real estate records or  
10:12:31 15       transaction records about property transfers from Glenda  
16       Johnson, why, in your mind, does that still not meet  
17       Neldon Johnson's obligation under the corrected  
18       Receivership Order?

19                    A.    One, because I don't know whether or not there  
10:12:55 20       are transactions other than what Glenda Johnson has  
21       provided me information about.  And, number 2, this -- the  
22       Receivership Order requires him, under oath, to provide  
23       the statements and the information.  Glenda Johnson's  
24       information was provided.  It was not under oath, but it  
10:13:17 25       was provided and is helpful, but I would like the

1 information from Neldon Johnson under oath and then be  
2 able to compare the accuracy and consistency of that  
3 information with the information from Glenda Johnson and  
4 what I found from our own independent investigation.

10:13:32

5 Q. Why does it matter that Mr. Johnson provide this  
6 statement under oath, in particular?

7 A. So that he has a higher obligation to ensure the  
8 accuracy of it and that there are consequences if he  
9 should not provide accurate information.

10:14:01

10 Q. Let's take a look at paragraph 4-E In paragraph  
11 4-E, Mr. Johnson claims not to have received in-kind  
12 payments or transfers or assets in lieu of payment of  
13 wages or other income. What is your perspective on that  
14 statement?

10:14:22

15 A. That is not consistent with information that --  
16 that I have seen in the -- my perusal of the documents  
17 that were produced. I have -- in looking at some of the  
18 bank records, we see that the bank accounts for IAS and  
19 RaPower were used to pay credit cards, payments, some of  
10:14:45 20 which appear to be for personal expenses, including FAA  
21 fees on an airplane he owned, meals. And so the  
22 indications are that most of his meals were paid for by  
23 IAS or RaPower and -- and there were many expenses that I  
24 would deem to be personal in nature.

10:15:16

25 Q. And without an explanation from Mr. Johnson about

1 those expenses, how can you know?

2 A. Well, I can't know. I -- he states there were  
3 none, and so I don't know if that's because he has a  
4 different perspective or different view about what is an  
10:15:36 5 in-kind payment.

6 Q. In the rest of paragraph 4-E, Mr. Johnson claims  
7 you hired him in the course of his recent deposition and  
8 the Court concurred the next day that he is to be paid \$1  
9 million yearly as his salary. Do you have any  
10:16:02 10 recollection of any of that happening?

11 A. I can guess how he -- there are components of  
12 this that have some familiarity. In his deposition, he  
13 produced a document that he says was signed by --  
14 authorized by directors of IAS to increase his salary to  
10:16:33 15 \$1 million a year. I -- and then that -- that issue came  
16 up again at the Court hearing on May 3. At his  
17 deposition, I also gave him a letter authorizing him to  
18 actually get the records -- the IAS and RaPower records  
19 that were in the warehouse that he said he had been  
10:17:05 20 unwilling to touch because the records were under the  
21 control of the Receiver and so I gave him a letter  
22 authorizing him to access -- to take possession of those  
23 records so they could be delivered to me.

24 He appears here to be making a connection that by  
10:17:24 25 having me authorizing him to get those records and his

1 having commented that he was to be paid a million-dollar  
2 salary, that I was acquiescing that he is owed a  
3 million-dollar salary. I will note that while the  
4 million-dollar salary was from, I believe, approximately  
10:17:44 5 ten years ago, as of the 2016, annual statement for IAS,  
6 the annual statement, annual report filed with the SEC  
7 still shows him as getting a hundred-thousand-dollar  
8 annual salary.

9 Q. So the last two sentences in paragraph 4-E are  
10:18:04 10 simply not true, correct?

11 MR. WALL: Objection, Your Honor.

12 THE COURT: Overruled.

13 THE WITNESS: It is my objection they are not  
14 accurate.

10:18:16 15 MR. WALL: I think he meant, opinion, Your  
16 Honor.

17 THE COURT: Sorry?

18 MR. WALL: He said, in my objection they are not  
19 accurate. I think he meant, "in my opinion."

10:18:23 20 THE COURT: Well, thanks for helping him out,  
21 Mr. Wall.

22 That's what you meant, right, Mr. Klein?

23 THE WITNESS: That is what I meant.

24 Q. BY MS. HEALY GALLAGHER: Let's take a look at  
10:18:28 25 paragraph 4 G of Mr. Johnson's declaration, ECF number

1 669. 4-G says: On information and belief, since 2005 all  
2 my expenditures in excess of \$1,000 have been provided to  
3 the Receiver.

4 What's your perspective, Mr. Klein, on whether  
10:18:46 5 this complies with Mr. Johnson's obligations?

6 A. This does not because paragraph 26 requires --  
7 paragraph 26 of the Receivership Order requires that he  
8 identify all transfers over a thousand dollars and explain  
9 who the transferee was and the purpose. Mr. Johnson  
10:19:06 10 appears to think that simply because he has delivered 31  
11 boxes and a flash drive and a computer that it appears to  
12 be stating that he's given us all that information, but I  
13 don't know if that is included in the boxes, the computer,  
14 the flash drive and the earlier compliance declarations;  
10:19:32 15 whether it means that there have been only a couple of  
16 isolated transactions; whether or not there have been  
17 hundreds or thousands.

18 Some of the boxes I have received are just  
19 crammed with individual papers, and it may be that some of  
10:19:48 20 those do show individual transfers in excess of \$1,000,  
21 but even if I were to take the time to go through all  
22 those records and compile a list of what are transfers in  
23 excess of \$1,000, that still doesn't tell me that that is  
24 all of them that he made, nor -- and I don't think that  
10:20:11 25 it's appropriate that I should be going through the



1 records to determine what those transfers are.

2 Q. Have you seen anything remotely like a listing of  
3 all expenditures in excess of a thousand dollars?

4 A. No.

10:21:28

5 Q. Is there anything else you would like to inform  
6 the Court about with respect to Mr. Johnson's compliance  
7 or lack thereof with the corrected Receivership Order at  
8 this time?

9 A. No.

10:21:40

10 MS. HEALY GALLAGHER: Unless Your Honor has any  
11 questions, those are my questions of Mr. Klein.

12 THE COURT: Let me make sure I understand. You  
13 got materials on the 10th and on the 17th?

14 THE WITNESS: Correct.

10:21:49

15 THE COURT: And you didn't receive any additional  
16 materials last week, the week of the 20th?

17 THE WITNESS: I don't believe so.

18 THE COURT: Except for an additional compliance  
19 declaration, I think.

10:22:03

20 THE WITNESS: Other than what's filed with the  
21 Court.

22 THE COURT: Okay. I think that's all. Thanks.  
23 Shall we turn it over to Mr. Wall? We probably ought to  
24 take a break. Is that all right, Mr. Wall?

10:22:19

25 MR. WALL: Yes, Your Honor. I have a sentencing

1 in a homicide case. It's in State Court, so, as you know,  
2 there's just dozens of cases. It's to start at 1:30. I  
3 don't think it matters if I'm there at 2 or 2:30, but a  
4 brief break now is fine.

10:22:35

5 THE COURT: How long do you think the sentencing  
6 is going to be? It sounds serious.

7 MR. WALL: My clients is cooperating, so I think  
8 it will be pretty brief.

9 THE COURT: Okay.

10:22:44

10 MR. WALL: I don't think it will take more than a  
11 half an hour. They take about 15 minutes.

12 THE COURT: Okay. Well, we'll try to arrange a  
13 break then. You said -- when do you need to leave here to  
14 be timely at the State Court?

10:22:52

15 MR. WALL: The State Court is ten minutes' walk  
16 from here.

17 THE COURT: Tell me the hour because I'm not good  
18 at math, Mr. Wall. You know that.

19 MR. WALL: So, if I were to leave here at, say,  
20 2:00 o'clock, I would be back by 2:30.

10:23:03

21 THE COURT: You think you're okay?

22 MR. WALL: Yes.

23 THE COURT: We'll plan a recess that way, but  
24 we'll have one right now. It's about 10:25. Could we go

10:23:16

25 'til 10:40 and be ready in places at 10:40? Okay. Thanks

1 very much.

2 (Short break.)

3 THE COURT: Go ahead, Mr. Klein. We're back in  
4 session now for cross examination by Mr. Wall.

10:43:19

5 CROSS EXAMINATION

6 BY MR. WALL:

7 Q. So, Mr. Klein, you have been testifying in direct  
8 examination in this case starting on April 26 of 2019?

10:43:33

9 A. I believe that was the second hearing. There was  
10 an earlier hearing earlier in April.

11 Q. Okay. There was one on May 3?

12 A. Oh. Okay, yes. Yes.

13 Q. And then an earlier one on April 26?

14 A. Yes.

10:43:44

15 Q. So this is your third day of testifying on direct  
16 in this case?

17 A. Yes.

18 Q. So, when we go back to April 26 of 2019, at that  
19 time you testified that you had not received any books

10:44:01

20 with regard to the IAS business; is that correct?

21 A. Yes.

22 Q. And you hadn't received any books from  
23 Mr. Johnson, Neldon Johnson?

24 A. Yes.

10:44:16

25 Q. And at that time you also testified that you had

1 not received any kind of accounting records for AIS?

2 A. Correct.

3 Q. And you had not received any information  
4 regarding foreign entities?

10:44:30 5 A. Not from Mr. Johnson.

6 Q. Okay. And also at that time you testified that  
7 you had not received any information concerning assets,  
8 with the exception of a log book for an airplane?

9 A. If that's what I said, it was incorrect because  
10:44:49 10 Mr. Johnson did provide a handwritten list of vehicles, I  
11 believe.

12 Q. Okay. And I gather, at that point in time, a  
13 sworn financial statement was due on December 31 of 2018;  
14 is that right?

10:45:08 15 A. Yes.

16 Q. And no sworn financial statement had been  
17 received?

18 A. Correct.

19 Q. You hadn't received any information concerning  
10:45:19 20 the transfers of assets?

21 A. Correct.

22 Q. And you did not -- had not received any  
23 information concerning payments made to family members; is  
24 that correct?

10:45:30 25 A. Correct. Not from Mr. Johnson.

1 Q. Okay. And you also testified that you had not  
2 received any information about documents that were once  
3 controlled by Mr. Johnson?

4 A. Correct.

10:45:44 5 Q. And that included documents that may have been in  
6 the possession of Glenda Johnson as well, correct?

7 A. In the possession of who?

8 Q. Glenda.

9 A. Correct.

10:45:58 10 Q. So really we're engaged in a process here of  
11 gathering documents, which you have indicated was  
12 documents and information which is the first phase of what  
13 you need to do as a Receiver, correct?

14 A. Yes.

10:46:10 15 Q. The second phase of what you need to do as a  
16 Receiver is to do an investigation, correct?

17 A. Yes.

18 Q. And that investigation includes following up on  
19 the information you receive during the first phase?

10:46:21 20 A. Yes.

21 Q. So it's fair to say that when you're given  
22 information during the first phase, it gives you a lead as  
23 to where to find documents, for example. In the second  
24 phase, that's what you do, you go find the documents?

10:46:36 25 A. That's a good description, yes.

1 MS. HEALY GALLAGHER: Objection. Actually it  
2 misstates Mr. Klein's testimony earlier.

3 THE COURT: Overruled.

10:46:55

4 Q. BY MR. WALL: So, let's go to the next hearing,  
5 which is May 3. And, at that time, you indicated that  
6 there were four categories of evidence that you were  
7 concerned about with regard to your work as a Receiver,  
8 correct?

9 A. That may be. I don't recall.

10:47:15

10 Q. Would it be helpful for you to refresh your  
11 recollection?

12 A. Yes.

13 Q. And I refer counsel to page 23 of the transcript  
14 of May 23, line 19.

10:47:43

15 MS. HEALY GALLAGHER: May 3?

16 MR. WALL: Yes, May 3, 2019, on page -- just to  
17 clarify, 23, line 19.

18 May I approach the witness?

19 THE COURT: Yes. Go ahead.

10:47:59

20 Q. BY MR. WALL: MR. WALL: Let me hand what I  
21 represent to you to be a transcript of the motion hearing  
22 on May 23, and point your attention to the last page where  
23 there is place of certification, and draw your attention  
24 to page 23, and here from lines 17 to about 23, could you  
10:48:22 25 read those to yourself?

1 A. Okay.

2 Q. So, does that refresh your recollection?

3 A. It does.

10:48:43

4 Q. So there were four categories of evidence that  
5 you were concerned about with regard to your work as a  
6 Receiver, correct?

7 MS. HEALY GALLAGHER: Objection. That actually  
8 mischaracterizes Mr. Klein's testimony from that day.

10:48:56

9 THE COURT: Mr. Wall, so I am as informed as  
10 everyone else, would you just read those lines from the  
11 transcript.

12 MR. WALL: So the question was: Let's talk about  
13 some of the information.

10:49:06

14 And I'm reading from line 12 so that it makes  
15 some sense:

10:49:17

16 Let's talk about some of the information about  
17 the documents in particular that you learned in the course  
18 of the depositions of Neldon and Glenda Johnson. What  
19 additional information did you learn about the documents,  
20 in fact, that had not yet been produced?

21 And the response was, beginning online 17:

10:49:32

22 Let me, I guess, start with identifying some  
23 categories. And then we can come back and discuss each of  
24 the categories. One of the categories related to  
25 corporate documents for the entities. The second category

1 would be financial records; in particular, the QuickBooks  
2 records. Third, records regarding real estate. Fourth,  
3 records of Mrs. Johnson's personal bank accounts which  
4 were delivered, many of which were on a flash drive that  
10:49:52 5 was delivered on Monday.

6 Which was the day before.

7 THE COURT: Okay. And your concern about that,  
8 Ms. Healy Gallagher?

9 MS. HEALY GALLAGHER: If I understood Mr. Wall's  
10:50:00 10 question correctly, he was characterizing those four  
11 categories as all of the documents that Mr. Klein was  
12 concerned about in the course of the Receivership.  
13 Meanwhile, this particular section had to do with the  
14 specific documents and information that we were talking  
10:50:16 15 about as a result of the deposition.

16 And that is also my concern generally with this  
17 line of questioning. To the extent Mr. Klein testified  
18 about something on April 26 or May 3, that's what he  
19 testified to. And a summary of it today, on a more narrow  
10:50:31 20 scope -- and I understand cross is cross, but Mr. Klein's  
21 testimony is what it was.

22 THE COURT: Well, and I've got transcripts and  
23 I'll have summations from each of the parties, but it does  
24 appear to me, Mr. Wall, that this question was about  
10:50:45 25 things he learned about in the -- additional information



1 he learned about in documents that had not yet been  
2 produced, and he was responding in terms of the context of  
3 Glenda Johnson. But I'm fine with you asking him  
4 questions about categories. You just go right ahead.

10:51:02 5 MR. WALL: Thank you, Your Honor.

6 Q. BY MR. WALL: So, with regard to what occurred  
7 between the first hearing in April, and on May 3, there  
8 had be the production of documents?

9 A. Yes.

10:51:18 10 Q. Okay. And the first area or category that was  
11 discussed had to do with corporate documents for entities?

12 A. Yes.

13 Q. Now, at the time of the hearing on May 3, you  
14 hadn't had time to go through; in fact, you hadn't even  
10:51:38 15 received the ten boxes of materials that had been turned  
16 over to Neldon Snuffer, correct?

17 A. I had not seen those documents -- those boxes.

18 Q. But, since that time, you have in fact had an  
19 opportunity to take a look at what corporate documents  
10:51:54 20 were provided?

21 MS. HEALY GALLAGHER: Objection. Misstates the  
22 information about the boxes and what was in them.

23 THE COURT: Overruled.

24 Go ahead.

10:52:03 25 THE WITNESS: I have received those 31 boxes and

1 have perused them, yes.

2 THE COURT: Okay. I'm sorry. I'm losing track.  
3 Sixteen boxes were delivered about the 9th or 10th?

4 THE WITNESS: Correct.

10:52:16 5 THE COURT: And another 15 on the 17th?

6 THE WITNESS: Correct.

7 THE COURT: Okay. Now I have my numbers.

8 Okay.

9 Q. BY MR. WALL: And on May 10, it was your  
10:52:24 10 understanding that there were ten boxes that were  
11 delivered to Nelson, Snuffer?

12 A. At the hearing on May 3, some of the argument was  
13 that there were boxes delivered to Nelson, Snuffer, but  
14 there was also a colloquy about how many boxes there were,  
10:52:44 15 and some -- there was some discussion there may have been  
16 up to 15 boxes.

17 Q. So, but the core thing is, as of May 3, you  
18 hadn't seen any of these boxes?

19 A. Correct.

10:52:57 20 Q. Okay. Now you -- since that time, you have had a  
21 chance to look at the boxes that have been provided to  
22 you, these 31 boxes?

23 A. Yes.

24 Q. And they did in fact contain corporate documents?

10:53:12 25 A. There were some corporate documents in there.

1 Q. Okay. And with regard to financial records, you  
2 understood that those documents were lodged in QuickBooks?

3 A. Yes.

10:53:29

4 Q. And you've received two forms of QuickBooks, one  
5 from a flash drive and one in the form of a computer that  
6 you had to take and have reconstructed?

7 A. Correct.

10:53:50

8 Q. And with regard to real estate, at the time of  
9 the May 3 hearing, you had had an opportunity to depose  
10 Mr. and Mrs. Johnson?

11 A. Yes.

12 Q. But with regard to the documents that were  
13 provided in these boxes, there was additional information  
14 concerning the real estate?

10:54:00

15 A. Yes.

16 Q. Okay. And then, finally, with regard to  
17 Mrs. Johnson's personal bank accounts, you've testified  
18 today that you've received some of that information and  
19 that it has gaps?

10:54:14

20 A. Yes.

21 Q. Okay. So let's talk about these corporate  
22 documents. These corporate documents are documents that  
23 were sought pursuant to paragraph 26 of the corrected  
24 order regarding Receivership, correct?

10:54:36

25 A. Not just paragraph 26. There are numerous

1 provisions of the Receivership order that require  
2 defendants to deliver to me all records of the  
3 Receivership defendants.

10:54:50

4 Q. Sure. And the corporate documents that you were  
5 provided were in fact part of that?

6 A. Yes.

10:55:13

7 Q. Now, you indicated in your testimony on May 3  
8 that there were no invoices that you were aware of at that  
9 point in time. Having gone through the materials, have  
10 you found any invoices with regard to payments that were  
11 made?

12 A. Yes. Many of them.

10:55:36

13 Q. And you indicated that, with regard to the board,  
14 corporate documents had not been provided concerning board  
15 minutes or meetings back on May 3. With the boxes that  
16 were provided, did those include board minutes?

10:56:01

17 A. There was one binder among those boxes that  
18 contained board minutes and board resolutions for about  
19 six board actions. In addition, the flash drive has some  
20 PDF documents that may be -- might be board resolutions.  
21 I don't know.

22 Q. So, with regard to the flash drive that you've  
23 just mentioned, you haven't had a chance to go through  
24 what was on that flash drive?

10:56:18

25 A. Correct. I've just looked at an index prepared

1 by someone else.

2 Q. Okay. And could you give the Court some idea as  
3 to how large the file, the total file occupying the flash  
4 drive is?

10:56:34 5 A. I don't know.

6 Q. Okay. Do you know if it's mega or gigabytes or  
7 just don't know at all?

8 A. I don't know.

9 Q. Okay. Also, there's a hard drive that you have  
10:56:46 10 that is the image of the computer that you were provided  
11 that you testified about earlier?

12 A. Correct.

13 Q. So, with regard to that hard drive, I take it you  
14 haven't gone through what is on that hard drive as well?

10:56:59 15 A. Correct. I have not.

16 THE COURT: Mr. Wall, can I just ask --

17 MR. WALL: Sure.

18 THE COURT: -- did you ever -- are you prepared  
19 to make a statement about what that computer is? Is that  
10:57:08 20 the computer that was used in the business, the single  
21 one, or what was that -- what does that computer purport  
22 to be?

23 MR. WALL: What that computer purports to be is  
24 the computer that crashed that had the QuickBooks that  
10:57:25 25 originally were with the business along with other

1 business records. The content of that is unknown to my  
2 clients because they don't have any memory of everything  
3 that was on it because it crashed. The reason for my  
4 inquiry with regard to this is that, in this contempt  
10:57:41 5 proceeding the issue is, has my client been providing the  
6 information that has been requested? And it's clear that,  
7 having not gone through the flash drive or through the  
8 hard drive, the Receiver may now well be in possession of  
9 everything that he has ever requested, other than an  
10:57:58 10 articulated list defining things.

11 THE COURT: And I understand that. We'll get to  
12 the argument about what's there --

13 MR. WALL: Yeah. And I was just explaining my  
14 reasoning.

10:58:06 15 THE COURT: -- and what's not. But is this  
16 laptop a secondary computer used in the business, or was  
17 it the computer? And for what time period was it in use?  
18 Can you give us facts about that?

19 MR. WALL: I don't have the specific facts with  
10:58:22 20 regard to how long that computer was used because I don't  
21 know when it crashed.

22 THE COURT: Okay. Well, Ms. Healy Gallagher, do  
23 you know?

24 MS. HEALY GALLAGHER: I just -- I recall  
10:58:30 25 information from prior settings that it was used at least

1 as of November, 2018, because that is when it was  
2 purported to have crashed.

3 THE COURT: Okay. But you don't have any idea  
4 when it came into service or what its role in the business  
10:58:44 5 was?

6 MS. HEALY GALLAGHER: I do not, other than the  
7 QuickBooks being on it for RaPower.

8 THE COURT: Okay.

9 MR. WALL: And I gather from Glenda Johnson's  
10:58:50 10 deposition that it was the computer that they used with  
11 regard to all of the transactions that they had with IAS  
12 and RaPower-3.

13 THE COURT: Okay. Well, if you can find out when  
14 it came into service and clarify a little more over lunch,  
10:59:05 15 I think that will help us know what we might expect to  
16 find there. That's what you're concerned about. That's  
17 what we're concerned about.

18 MR. WALL: Thank you, Your Honor.

19 THE COURT: Thanks. Sorry to interrupt.

10:59:20 20 MR. WALL: No. I think that this whole hearing  
21 is a process of clarification.

22 THE COURT: Yeah.

23 Q. BY MR. WALL: So, with regard to the additional  
24 information concerning corporate documents, you also, as  
10:59:34 25 of May 3, had received a handwritten letter signed by

1 Mr. Johnson, Neldon Johnson, that Glenda owned one-half of  
2 the revenues from IAS; is that correct?

3 A. Yes.

4 Q. And that information is consistent with the  
10:59:53 5 information that was obtained during the deposition of  
6 both Mr. and Mrs. Johnson, correct?

7 A. Mr. Johnson provided that information during his  
8 deposition. I don't recall that being discussed at all in  
9 the deposition of Mrs. Johnson.

11:00:18 10 Q. Thank you. Now, you've testified that -- today,  
11 when you testified back on May 3, about expectations that  
12 you had concerning stocks and corporate records regarding  
13 those stocks, you anticipated that there would be minutes  
14 with regard to the issuance of stocks. Have you found any  
11:00:46 15 minutes concerning the issuance of stocks?

16 A. I believe one of the -- I indicated that one of  
17 the binders in one of the boxes had about a half dozen  
18 events where we had minutes or resolutions. One of those  
19 had to do with increasing the number of outstanding -- the  
11:01:13 20 number of shares that IAS would be allowed to issue. And  
21 I -- I believe I've also previously received, from Nelson,  
22 Snuffer copies of some minutes and resolutions relating to  
23 issuances of stock. Particularly, I think those related  
24 to IAS issuing stock to Mr. Johnson in exchange for  
11:01:42 25 intellectual property he was giving to the company and



1 then what later happened to those shares.

2 Q. Okay. And with regard to whether the flash drive  
3 or the hard drive has additional information, you don't  
4 have any information about that?

11:01:58 5 A. Not -- I don't have knowledge of it now.

6 Q. Okay. When do you anticipate you would have an  
7 opportunity to know whether or not those particular  
8 electronic devices have the necessary information? Do you  
9 have an anticipated projected date?

11:02:18 10 A. Over the next two weeks.

11 Q. Okay. And who is doing the analysis of those?

12 A. Well, the financial analysis is being performed  
13 by Loan Peak Valuation Group, and I also have them do some  
14 of the indexing of the documents, but I'm the one who will  
15 be reviewing them for content.

11:02:43

16 Q. Okay. Thank you. Let's talk about the boxes  
17 that were held in Oasis, Utah that you became aware of  
18 during the time of the depositions. During the  
19 depositions, you learned that there were corporate records  
20 being held in boxes in Oasis, Utah, correct?

11:03:12

21 A. Yes.

22 Q. And you were given information about the location  
23 of those boxes being in some offices, correct?

24 A. I've -- my recollection is it was described as  
25 being in a warehouse, and I think the warehouse was a

11:03:29

1 building in which they had the company offices.

2 Q. Okay. And, at the time of the deposition, you  
3 were informed that Neldon Johnson -- you were informed by  
4 Neldon Johnson that Neldon Johnson didn't feel that he  
11:03:48 5 could access those or even touch them because he was no  
6 longer part of that corporation, either AIS or RaPower?

7 MS. HEALY GALLAGHER: Objection. Relevance and  
8 cumulative.

9 THE COURT: Overruled.

11:04:08 10 THE WITNESS: In his deposition, Mr. Johnson said  
11 that he had known those records were there and he felt  
12 like he could not touch them and deliver them to me.

13 MR. WALL: Okay.

14 THE COURT: And, Mr. Klein, prior to the  
11:04:23 15 deposition, had you ever been told of those records?

16 THE WITNESS: No.

17 THE COURT: Go ahead, Mr. Wall.

18 Q. BY MR. WALL: So, during the deposition of Neldon  
19 Johnson, it was discussed with him that -- there was a  
11:04:42 20 discussion with him regarding his authority to move those  
21 boxes, correct?

22 A. Yes.

23 Q. And that's when a letter was written granting him  
24 authority to provide the boxes to you, correct?

11:04:55 25 MR. LEHR: Objection. Misstates the record.

1 MR. WALL: Well, I'm asking him a question. I'm  
2 not trying to quote from the record, Your Honor.

3 THE COURT: Well, there was a letter written  
4 after the May 3 hearing, right, Mr. Lehr?

11:05:09

5 MR. LEHR: Yes, after the hearing -- no, Your  
6 Honor, it was at the deposition.

7 MR. WALL: It was at the deposition on May 2 the  
8 letter was written.

11:05:20

9 THE COURT: Okay. I know what it is. The  
10 objection is overruled. We have received that letter in  
11 evidence, right?

12 MR. WALL: No, not that I'm aware of.

13 THE COURT: Haven't we?

11:05:31

14 MS. HEALY GALLAGHER: Your Honor, my  
15 recollection, as I looked through the transcript, is that  
16 we discussed it, and I think it was identified. I do not  
17 know that we ever actually marked it with an exhibit  
18 number.

11:05:45

19 THE COURT: I know I've seen it. Let's get it  
20 marked eventually and get it in the record because it is  
21 what it is.

11:05:57

22 MS. HEALY GALLAGHER: And I have an objection to  
23 this line of questioning because the document itself, as  
24 this Court readily identified in the last setting,  
25 Mr. Johnson had authorization, and in fact was ordered to

1 produce these documents.

2 THE COURT: Yeah.

3 MS. HEALY GALLAGHER: Without this piece of paper  
4 from the Receiver.

11:06:05 5 THE COURT: Right. I understand that.

6 Go ahead, Mr. Wall.

7 Q. BY MR. WALL: So, the letter was provided to  
8 Mr. Johnson at his deposition?

9 A. Correct.

11:06:19 10 Q. And that was the letter that was discussed when  
11 you were talking in direct examination about the  
12 production of documents?

13 A. That's the letter that -- because Mr. Johnson  
14 said that he had -- those records were there but he  
11:06:38 15 couldn't touch them, I said, I will give you a letter  
16 authorizing you to deliver those documents.

17 Q. And you surmised during direct examination that  
18 it was because of that letter that Mr. Johnson wrote in  
19 his declaration that he had been retained by the Receiver  
11:06:58 20 at a pay rate of a million dollars a year?

21 A. I speculated that that might be a component for  
22 that statement in his declaration.

23 Q. At the deposition, there was absolutely no  
24 discussion as to whether or not there would be any kind of  
11:07:16 25 compensation made in connection with that letter, correct?

1 A. I don't recall whether or not there was a  
2 discussion. If there was any discussion, it would have  
3 been -- I would have made clear to him that the  
4 Receivership was not going to compensate him for complying  
11:07:36 5 with the requirements of the order.

6 Q. So it's your testimony that you don't recall  
7 whether or not there was compensation addressed concerning  
8 the letter of authorization?

9 A. I don't recall.

11:08:34 10 MR. WALL: May I approach the witness?

11 THE COURT: Yes.

12 Q. BY MR. WALL: So I'm going to represent to you  
13 that this is the copy of the deposition taken of Neldon  
14 Johnson on May 2, 2019, and signed by the transcriber and  
11:09:03 15 has an index that indicates that authorizations were  
16 discussed on pages 111, 165 and 171. So, turning first to  
17 page 111 of the deposition, I will ask you to take a look  
18 at, as is indicated here with regard to authorization,  
19 lines 21.

11:09:37 20 A. Okay.

21 Q. And then page 165.

22 A. Okay.

23 Q. And then the final page is page 175.

24 A. 171?

11:10:01 25 Q. 171, yes, you're right.

1 A. Okay.

2 Q. Does that refresh your recollection as to whether  
3 there was any discussion concerning compensation at all?

4 A. There was no discussion about compensation in  
11:10:34 5 connection with those three references to authorization.

6 Q. And, to the best of your memory, there was never  
7 a discussion about paying anyone a million dollars for  
8 that authorization?

9 A. Correct.

11:10:46 10 Q. Okay. But what was discussed was that, with  
11 authorization, Neldon Johnson would be able to go and get  
12 those documents and provide them to you as the Receiver?

13 MS. HEALY GALLAGHER: Objection.

14 Mischaracterizes the testimony and the so-called  
11:11:03 15 authorization.

16 THE COURT: Overruled.

17 THE WITNESS: The discussion was that, to the  
18 extent that Mr. Johnson felt that he was -- lacked  
19 authorization to deliver those records to me, that I would  
11:11:18 20 give him the authorization.

21 Q. BY MR. WALL: So, just to clarify your  
22 understanding with regard to the order from the Court,  
23 that order directed Mr. Johnson, if he had access and  
24 control over any of these records or documents, that he  
11:11:35 25 was to take them to you?

1 A. Correct.

2 Q. And from discussing with him, he seemed to  
3 perceive that he needed to have some sort of written  
4 authorization from you in order for him to get those  
11:11:50 5 documents and bring them to you?

6 A. At the deposition is the first time that we --  
7 that I had understood what form the documents were in and  
8 where they were, and that was when I first learned his  
9 position was that he had access to those documents all  
11:12:12 10 along but felt that he lacked authorization, and that was  
11 his reason they had not been delivered.

12 Q. And so, once you provided this written document,  
13 this letter, he provided you with these 31 boxes?

14 A. It was my understanding that he had delivered  
11:12:30 15 those boxes to Nelson, Snuffer before that period so that  
16 at least some of those boxes were already at Nelson,  
17 Snuffer.

18 Q. Okay. And then the rest -- I mean, in  
19 particular, the ones from the location in Oasis, Utah, to  
11:12:45 20 your understanding, he has provided you with all of those  
21 boxes of documents that were in this warehouse and the  
22 warehouse office since he received that authorization  
23 letter?

24 A. I don't know. During his deposition, he said  
11:13:02 25 that some boxes had been delivered to Nelson, Snuffer and

1 so I received two batches of boxes. I don't know whether  
2 the first batch are the documents that came from Nelson,  
3 Snuffer or included some other boxes, and I don't know  
4 whether or not that -- I don't believe I received a  
11:13:25 5 verification that those are all the records that were at  
6 the Oasis warehouse.

7 Q. Well, the only thing that -- additional written  
8 documentation that you've received concerning the  
9 materials that may have been at the Oasis was the  
11:13:43 10 declaration of Mr. Johnson where he says that he's turned  
11 everything over to you. Is that fair to say?

12 A. He says he's given me all the documents he has,  
13 and so if by that he means all the documents in the  
14 warehouse that he has access to, then yes.

11:14:10 15 Q. Okay. During the time that you deposed  
16 Mr. Johnson, he never indicated that he was the one that  
17 operated the QuickBooks program, did he?

18 A. I don't believe so.

19 Q. You didn't ask him whether or not he knew how to  
11:14:25 20 run QuickBooks, did you?

21 A. I don't believe so. I think that my -- the  
22 testimony, I believe, from Mrs. Johnson and even  
23 indications from him was that he did not run QuickBooks  
24 and that those entries were made by Mrs. Johnson.

11:14:42 25 Q. It's fair to say that he actually informed you



1 that he didn't want to have anything to do with the actual  
2 day-to-day transaction ledger, recording of transactions,  
3 financial transactions?

4 A. That's consistent with my memory, yes.

11:15:04

5 Q. Let's talk about the real estate records. Back  
6 on May 3, you had not yet seen any real estate records.  
7 Have you now seen real estate records amongst the  
8 materials produced?

11:15:26

9 A. I had some real estate records that I had  
10 acquired from public records, but I have not gotten real  
11 estate records from Mr. and Mrs. Johnson, and so records  
12 regarding real estate transactions were provided by  
13 Mrs. Johnson in the second delivery of batch of boxes on  
14 May 17.

11:15:46

15 Q. And could you describe for the Court what those  
16 records are?

11:16:09

17 A. There was a -- probably about a hundred pages of  
18 documents, maybe 150 pages of documents grouped by each  
19 real estate -- real property that is in Glenda Johnson's  
20 name and so they had -- those documents included sometimes  
21 only a couple of pages, sometimes many pages that  
22 sometimes would have -- often would have the closing  
23 statement from the title company, sometimes the checks  
24 that were used to make the purchase, sometimes the -- the  
25 real estate purchase agreement. And in, I believe, every

1 case there was a cover sheet summarizing the transaction  
2 and the history of the transaction.

3 I'm assuming that it was prepared by Mrs. Johnson  
4 indicating her memory of the transaction.

11:16:52 5 Q. So, with regard to the property that you've  
6 indicated was in her name, there were 18 properties,  
7 correct?

8 A. Yes.

9 Q. Three of those properties were transferred by  
11:17:02 10 Mr. Neldon Johnson to Glenda Johnson?

11 A. Correct.

12 Q. One of the pieces of property was in part  
13 purchased by Mrs. Johnson's inheritance?

14 A. It appears so, yes.

11:17:15 15 Q. And with regard to the records that you received,  
16 did you receive records concerning each and all of the 18  
17 properties?

18 A. Yes. More extensive on some than others.

19 THE COURT: And with which production was this?

11:17:32 20 THE WITNESS: The second group of boxes on May  
21 17.

22 THE COURT: Thank you.

23 Q. BY MR. WALL: During the deposition of  
24 Mr. Johnson, he informed you that he does not like to have  
11:18:01 25 money in his name, correct?

1 A. Yes.

2 Q. He also informed you that he does not like to  
3 have assets in his name, correct?

4 A. Yes.

11:18:10

5 Q. And further, he indicated to you, actually told  
6 you that he did not like to have accounts in his name,  
7 correct?

8 A. Yes.

11:18:22

9 Q. Has it been consistent with your investigation  
10 that he does not have assets in his name?

11 A. That many types of assets are not in his name.  
12 There do not appear to be many bank accounts in his name.  
13 The equipment was not in his name, but stock certificates,  
14 stock was issued in his name, and intellectual property  
15 was initially acquired under his name and then transferred  
16 to others.

11:18:51

17 Q. Okay. And by intellectual property you mean  
18 patents, don't you?

19 A. Patents and patent applications.

11:19:05

20 Q. Okay. With regard to personal bank accounts, did  
21 you find a personal bank account for Neldon Johnson?

22 A. I don't believe we have.

23 Q. Okay. But it's fair to say you don't know  
24 whether or not it's on the flash drive?

11:19:18

25 A. Correct. And in terms of records we have gotten

1 from banks, I don't think that we found any bank records  
2 for Neldon Johnson during the pasts seven years.

3 Q. Okay. Now, you testified on direct that the  
4 banks will only have records that go back as far as seven  
11:19:39 5 years, correct?

6 A. Yes.

7 Q. And you also testified that you have an  
8 expectation that Mr. Johnson would be able to provide you  
9 with bank records that go back further than seven years?

11:19:52 10 A. If he has records going back further than seven  
11 years, I would expect those to be delivered.

12 Q. But there's no requirement that you're aware of  
13 that he have any kind of bank records that go back seven  
14 years?

11:20:07 15 A. Not that I'm aware of.

16 Q. And, to your knowledge, he doesn't have any bank  
17 records that go to any particular date?

18 A. I don't -- I don't know.

19 Q. Okay. Let me ask you about control with regard  
11:20:49 20 to the assets of IAS. What is your understanding as to  
21 how the assets of IAS were controlled or managed?

22 MS. HEALY GALLAGHER: Your Honor, objection on  
23 403 in terms of the time we're spending on this. If  
24 Mr. Johnson has evidence of compliance with this Court's  
11:21:11 25 order, then that's what's to be put on rather than

1 inquiring of Mr. Klein what may or may not exist in the  
2 document dump that was imposed upon him in May.

3 THE COURT: Where are you headed with this,  
4 Mr. Wall?

11:21:24

5 MR. WALL: This is just a foundational question  
6 to put into perspective the kinds of records that he has  
7 testified to that he anticipated and whether or not he has  
8 received them.

11:21:37

9 THE COURT: Well, the big question here in my  
10 mind --

11 MR. WALL: I can narrow that with a leading  
12 question.

13 THE COURT: Okay. Narrow it down.

11:21:44

14 Q. BY MR. WALL: So, is it your understanding that  
15 IAS was controlled by a board of directors?

16 A. Yes.

17 Q. And it was managed by Neldon Johnson?

18 A. Yes.

11:21:57

19 Q. And your expectation, and you testified about  
20 your expectations, is based on IAS being a publicly traded  
21 company?

22 A. Yes.

11:22:14

23 Q. Is that right? And because it's a publicly  
24 traded company, you would expect that there would be  
25 minutes from the board regarding the issuance of stocks?

1 MS. HEALY GALLAGHER: Again, Your Honor. I  
2 object to this line.

3 THE COURT: Well, it's my question, too. I'd  
4 like to have Mr. Klein compare what he found with what he  
11:22:28 5 expects in a public company, and then we've got to trace  
6 down the issue of noncompliance as being willful and as  
7 being evidence of just a negligent operation of a  
8 business.

9 That's where you're going, right?

11:22:43 10 MR. WALL: Yes, Your Honor.

11 THE COURT: Well, get there.

12 MR. WALL: Okay.

13 Q. BY MR. WALL: So, you expected there to be  
14 minutes with regard to the stock?

11:22:51 15 A. I would expect, for any corporation, there to be  
16 minutes and board resolutions. I would particularly  
17 expect it with a company that was a publicly traded  
18 company required to file reports with the Securities and  
19 Exchange Commission.

11:23:08 20 Q. Okay. And with regard to the stocks, you asked  
21 Mr. Johnson about records concerning the stocks that had  
22 been issued?

23 A. Yes.

24 Q. And you asked him questions about to whom those  
11:23:21 25 stocks had been issued?

1 A. Yes.

2 Q. And he indicated to you -- he told you that IAS  
3 did not have any records as to the identities of the  
4 individuals or the street market names for whom those  
11:23:39 5 stocks had been issued, correct?

6 A. I think he indicated that often stock is issued  
7 in or held in street name, which means it's not held --  
8 it's held in the name of a depository company, such as  
9 CEDE & Company that we have discussed earlier but that it  
11:23:58 10 was -- but the company still would have -- I still would  
11 expect the company to know who stock was first issued to  
12 by the company.

13 Q. And he referred to that as --

14 MS. HEALY GALLAGHER: Your Honor, I -- as we can  
11:24:09 15 tell from that question and answer, if this is information  
16 that Mr. Johnson wants before the Court, then perhaps  
17 Mr. Johnson should testify to it in order to prove his  
18 compliance or lack thereof. Mr. Klein only knows what  
19 he's seen and what's been reported to him. If Mr. Johnson  
11:24:26 20 has evidence of compliance, then he can provide that to  
21 the Court.

22 THE COURT: I understand your objection. I'm  
23 overruling it. There may be more efficiency, but based on  
24 my prior experience with testimony of Mr. Johnson, there  
11:24:39 25 may not, so we're going to go ahead this way for now.

1 Q. BY MR. WALL: And you would have expected to find  
2 that information in some kind of ledger or record that you  
3 referred to as a stock ledger book, correct?

4 A. Correct.

11:24:52

5 Q. And Mr. Johnson informed you that they did not do  
6 that, correct?

7 A. Correct.

11:25:05

8 Q. He told you that, with regard to identifying who  
9 the IAS shareholders were, that you would have to contact  
10 the transfer agent?

11 A. Yes.

12 Q. And you understood that to be the stock transfer  
13 agent for whom he previously testified today?

11:25:18

14 A. Yes, although the current stock transfer agent is  
15 a successor to an earlier one.

16 Q. Okay. So do you have information as to who both  
17 of those stock transfer agents are?

18 A. Yes.

19 Q. And do you have their address?

11:25:29

20 A. Yes.

21 Q. So you have the ability to then subpoena all of  
22 their records concerning IAS, correct?

23 A. Yes.

11:25:38

24 Q. And you understand, from having talked to  
25 Mr. Johnson, that that is going to be the repository of



1 all of the records as to who it is that has obtained  
2 stocks from IAS, correct?

3 A. That's what he said, but that's not my -- that is  
4 not my expectation because, to the extent that IAS sold  
11:25:56 5 stock to an individual, I would expect the individual to  
6 have paid money to IAS, and therefore IAS bank records  
7 would show that money was received. In addition, the 2016  
8 annual report for IAS disclosed in the annual report that  
9 there had been significant transactions by which  
11:26:18 10 securities were sold. So certainly, in that situation, in  
11 preparing its annual report, IAS was aware of who it had  
12 sold stock to and who monies had been received from.

13 THE COURT: Mr. Klein, do you have any evidence  
14 that Mr. Johnson requested the records from the stock  
11:26:39 15 transfer agency?

16 THE WITNESS: I have not heard that he has.

17 THE COURT: You don't have any copy of a letter  
18 or anything like that?

19 THE WITNESS: I do not.

11:26:47 20 THE COURT: And there's currently an order  
21 outstanding to the stock transfer agency. Has there been  
22 any further response from them?

23 THE WITNESS: No.

24 THE COURT: Go ahead, Mr. Wall.

11:26:59 25 Q. BY MR. WALL: And just to follow up, have you

1 contacted both of the stock transfer agencies?

2 A. The current stock transfer agency, Pacific Stock  
3 Transfer Company, took over the prior stock transfer  
4 company OTC Stock Transfer. So it's my understanding OTC  
11:27:16 5 Stock Transfer is no longer in existence and Pacific Stock  
6 Transfer has all of their records.

7 Q. Okay. I think that answers that question. Thank  
8 you. During the deposition you requested information  
9 concerning the transfer of funds between various entities,  
11:27:55 10 but, in particular, you asked about monies that were  
11 received by individuals, particularly since the freeze was  
12 put in place?

13 A. Yes.

14 Q. And you -- you have obtained some bank records  
11:28:09 15 with regard to those transfers; is that correct?

16 A. I've -- we have issued -- we have obtained bank  
17 records for all the accounts that we are aware of.

18 Q. Okay. And is there any basis for you to believe  
19 that there may be accounts that you're not aware of?

11:28:27 20 A. No.

21 Q. And with regard to funds that were going in and  
22 out of companies, I take it that you have gone through and  
23 you have traced the transfer of funds as they relate to  
24 each of the defendant companies; is that correct?

11:28:47 25 A. That is in process. It's completed for all the

1 accounts except for the Wells Fargo Bank records which  
2 were received only this month.

3 Q. Only when?

4 A. Only this month.

11:29:17

5 Q. Okay. Now, with regard to the documents that you  
6 received in the boxes, were you anticipating receiving a  
7 further declaration of what was in those boxes?

11:29:41

8 A. I was expecting to get declarations, pursuant to  
9 paragraph 26, identifying all of the records that Neldon  
10 Johnson had and to the -- and then what happened to them.  
11 To the extent that those -- that records were delivered to  
12 me, I would expect the declaration to lay that out. To  
13 the extent that records had existed previously and been  
14 destroyed, I would expect the declaration to lay that out.  
15 To the extent that records had been transferred to someone  
16 else, to a law firm or accountant, I would expect it to  
17 lay that out.

11:29:59

18 I would expect that declaration to lay out what  
19 bank accounts he had had, what credit card accounts he had  
20 had, so that I could, as I looked through the documents,  
21 understand where each fit and what -- what I should no  
22 longer expect because they had been transferred or  
23 disposed of.

11:30:13

24 Q. And with regard to, for example, a credit card,  
25 if he didn't have a credit card, would it have been your

11:30:29

1 expectation that he would have provided a statement  
2 saying, I have not had a credit card. As a hypothetical?

3 A. Yes.

4 Q. So you were expecting affirmative statements with  
11:30:44 5 respect to each and all aspects of what's in paragraph  
6 26?

7 A. I was.

8 Q. And instead, you've received generalized  
9 statements that all of the materials in paragraph 26 have  
11:30:56 10 been provided pursuant to the declaration of Neldon  
11 Johnson that was filed in this case?

12 A. Correct.

13 Q. So, for example, with respect to the paragraph  
14 that is discussing any of his records -- and it may be  
11:31:12 15 helpful to refer to a specific one.

16 And, Your Honor, I'm referring to the Court  
17 docket number 669.

18 THE COURT: Uh-huh.

19 Q. BY MR. WALL: For example, on the third page,  
11:31:39 20 with regard to participating in share transfers, he makes  
21 a general statement that, I participated in transfers of  
22 IAS shares but would defer to the stock transfer agent for  
23 that information because I do not now -- I do not know or  
24 have records other than those I have already surrendered  
11:32:01 25 to the Receiver for those stock transfers.

1           That's a general statement. It doesn't provide  
2 the specificity that you were expecting?

3           A. Correct.

4           Q. But it is an effort to address what was requested  
11:32:13 5 by pointing you to what has been turned over?

6           A. I don't know that I would characterize it as an  
7 effort or as a attempt to create the appearance of  
8 complying rather than providing the information that I  
9 think is required by the order.

11:32:30 10           Q. For example, the second sentence says: My shares  
11 have been sold and the proceeds used to fund RaPower in a  
12 value in excess of \$20 million.

13           And you testified about that in direct. That's a  
14 generalized statement that the shares have been sold, but  
11:32:47 15 it isn't an affirmative statement as to how it was sold,  
16 who it was sold to, when it was sold, how many shares were  
17 sold, those particularities. Fair to say?

18           A. Yes.

19           Q. And it's because of that, that you find that the  
11:32:59 20 information that is disclosed in the declaration is not  
21 sufficient because it's not affirmative statements?

22           A. Correct.

23           Q. If it was to be affirmative statements, it would  
24 outline in detail everything so that you would effectively  
11:33:14 25 have a road map with regard to the documents that you

1 have, correct?

2 A. Yes. That's a good description of what I -- what  
3 I expected the declaration to provide.

11:33:28

4 Q. But what this declaration does consistently is,  
5 instead of providing a road map, it just provides an  
6 assertion that the information has been provided and  
7 you're going to find it in what has been turned over?

8 A. Or I need to get it from others such as banks and  
9 the stock transfer company.

11:33:43

10 Q. And it's fair to say that that's referring you to  
11 the second part, which is the investigation component?

12 A. Yes.

11:33:56

13 Q. But it's your preference to minimize how much  
14 investigation you have to do by getting the documents  
15 directly from the individual; in other words, presented  
16 during the first phase, directly from the individual,  
17 rather than you having to go to various entities, subpoena  
18 the documents and get them?

19 MS. HEALY GALLAGHER: Objection.

11:34:10

20 Mischaracterizes the nature of the Receivership Order.

21 THE COURT: Overruled.

11:34:26

22 THE WITNESS: Yes, it is my preference, but not  
23 simply because it facilitates the investigation, but also  
24 because it provides an insight into what Mr. Johnson knows  
25 and what documents exist and so that I can compare the

1 accuracy of information that I get from him with  
2 information that I get from other sources because in the  
3 process, I have to decide what records I can rely on, and  
4 so if the records that I get from the company turn out to  
11:34:47 5 be reliable and consistent with what I get elsewhere, that  
6 also facilitates the investigation because I've -- because  
7 I've been able to verify that those records are  
8 reliable.

9 Q. So let's talk about what you're expecting with  
11:35:13 10 regard to this reliability, and that is the affirmative --  
11 the making of an affirmative statement identifying  
12 specific information allows you to exclude the presence or  
13 possibility of the presence of other documents?

14 A. If that information is found to be consistent  
11:35:34 15 with what I learned from other sources, yes.

16 Q. Sure. And absent an affirmative statement, you  
17 don't have the ability to rely on anything that you review  
18 in the form of materials produced in the various boxes to  
19 know whether that represents the complete universe of the  
11:35:55 20 information that is relevant, say, to accounts or to real  
21 estate or to whatever area it is that you may be looking  
22 at.

23 A. That's accurate, but that's only part of it. It  
24 also saves -- saves me having to reconstruct all of the  
11:36:10 25 records because whereas I have now boxes of just invoices

1 stuffed in boxes, if I had a -- I'm hoping the QuickBooks  
2 records or other records of the company would help me  
3 understand what those are, and I could then spot check  
4 them against what we have, what the receipts in the  
5 boxes.

11:36:31 5  
6 Q. Certainly. And during the deposition of  
7 Mr. Johnson, you would repeatedly ask him for  
8 particularity with regard to things such as accounts or  
9 stocks or real property, and he would repeatedly answer  
11:36:49 10 you that he didn't know, that you had all the records, and  
11 that those records would reflect the information you  
12 wanted, in some form of words?

13 A. Correct.

14 Q. So there's been a big disconnect with regard to  
11:37:04 15 what you were anticipating you would receive and with  
16 regard to Mr. Johnson and how he has presented that  
17 information.

18 MS. HEALY GALLAGHER: Objection.  
19 Mischaracterizes the Receivership Order's requirements.

11:37:17 20 THE COURT: Overruled.

21 THE WITNESS: Yes. And part of the reason for  
22 those questions in the deposition was to make clear to him  
23 that, even if he didn't have a particular document in a  
24 certain form, that there were other documents or sources  
11:37:30 25 that I expected he could look to that might help -- that



1 might enable him to give more information than he had  
2 given.

3 Q. BY MR. WALL: So, your understanding from the  
4 reading of the revised readership -- or Receivership  
11:37:47 5 Order, was that there were to be affirmative statements  
6 with specificity regarding each and every one of the areas  
7 for which you are engaged in collecting assets, account  
8 information and shares and the like?

9 A. Yes.

11:38:03 10 Q. And when you were speaking with Mr. Johnson, he  
11 indicated to you that he had not read the revised  
12 Receivership Order in detail, didn't he?

13 A. He did.

14 Q. In fact, he indicated that he had just briefly  
11:38:19 15 perused it?

16 A. Yes.

17 Q. And so, in that context, did you engage in any  
18 further inquiry as to why he had not in detail read the  
19 Receivership Order?

11:38:37 20 A. I don't recall the extent to which we discussed  
21 it in his deposition, but my reaction to that statement is  
22 that at the time that order was issued, he was represented  
23 by counsel, and to the extent that he didn't comprehend  
24 it, I expected his counsel would have explained it to him,  
11:39:00 25 and I don't recall whether or not that was discussed in

1 his deposition.

2 Q. Okay. But, as you sit here now, you don't have  
3 any recollection of discussing that with him?

4 A. I don't recall.

11:39:28

5 Q. You haven't sent any kind of request to  
6 Mr. Johnson to provide any particular missing documents or  
7 information, have you?

8 A. I don't believe so.

11:39:46

9 Q. Okay. Is it your perception that there is  
10 missing documents from having reviewed the material?

11 A. There are documents that I would expect to exist,  
12 so, because I don't have them, I don't know whether it's  
13 because documents exist and they haven't been delivered or  
14 they never existed or they existed at one time and are now  
15 in possession of someone else.

11:40:09

16 Q. Okay. Have you provided -- and I'm not asserting  
17 that it's your duty, but I'm just asking. Have you  
18 provided him with any kind of identification of what it is  
19 you would expect to find and made an inquiry as to whether  
20 or not that particular expectation existed or not?

11:40:26

21 A. Not directly. I've done it through status  
22 reports that I have filed with the Court and special  
23 reports to the Court identifying the compliance failures  
24 and also during the course of the two prior hearings in  
25 this contempt proceeding.

11:40:47

1 MR. WALL: May I have just a moment, Your Honor?

2 THE COURT: Yes.

3 Q. BY MR. WALL: Now I'd like to visit with you just  
4 briefly about one of the exhibits that was presented.

11:41:52

5 And, Your Honor, I take it you have a law clerk  
6 in St. George that is online?

7 THE COURT: Right.

8 MR. WALL: So if we could get -- I call it the  
9 ELMO --

11:42:02

10 THE COURT: Sure.

11 MR. WALL: -- the ELMO lit up. This is a  
12 previously admitted Exhibit, Number 953.

13 THE COURT: Thanks for explaining that.

11:42:14

14 MR. WALL: And since it has been admitted, I  
15 think it can be put up.

16 THE COURT: What's the exhibit number again?

17 MR. WALL: It's Exhibit Number 953.

18 THE COURT: Thank you.

11:42:39

19 MR. WALL: I love being in a Court with the Judge  
20 with the highest tech capacity.

21 THE COURT: Those are in every courtroom.

22 MR. WALL: I remember when it didn't exist at  
23 all, Your Honor.

24 THE COURT: Right.

11:42:49

25 Q. BY MR. WALL: Can you see this Exhibit 953?

1 A. I do.

2 Q. And do you remember testifying about it  
3 previously?

4 A. Yes.

11:42:55 5 Q. Now, with regard to this exhibit, this is from  
6 the transfer agent, correct?

7 A. No. This came -- this document was in one of the  
8 boxes delivered on May 10 -- May 9 or 10.

9 Q. Okay. So -- but this is a Pacific Stock Transfer  
11:43:13 10 Company document, correct?

11 A. It appears, this -- yes.

12 Q. Okay.

13 A. This appears to have been created by Pacific  
14 Stock Transfer, but that's not -- I didn't receive it from  
11:43:25 15 them.

16 Q. Okay. And if you look up in this upper  
17 right-hand corner, this document was generated on January  
18 15, 2019, at 1:24 p.m. Is that what it indicates?

19 A. Yes.

11:43:41 20 Q. Do you have any reason to doubt that?

21 A. I do not.

22 Q. Okay. So, with regard to the transfer agents,  
23 the transfer agents are the ones who provide the access to  
24 the public for the purchase of publicly held stocks that  
11:44:06 25 are not traded on a major exchange, don't they?

1 A. No. Broker/dealers are the ones that provide the  
2 access and buy and sell the stock. When the stock changes  
3 hands, then the transfer agent will record the change in  
4 ownership of the stock.

11:44:22 5 Q. So, if you want to know who owns the stock or  
6 have a record of how that stock has changed, it's the  
7 transfer agent that you look to, correct?

8 A. Yes, to the extent that stock has been  
9 transferred through the public market on a recognized  
11:44:41 10 exchange or the OTC market, yes.

11 Q. And the brokers can be identified through the  
12 transfer agent?

13 A. The broker executing the particular trade?

14 Q. Yes.

11:44:52 15 A. Yes.

16 Q. And through the transfer agent, you can identify  
17 who it is who has actually purchased the stock, whether  
18 it's a street name or an individual's name?

19 A. Yes.

11:45:01 20 Q. And so, from the information that is presented  
21 here, it appears that this CEDE & Company Fast Book has,  
22 in the line there with regard to transfers, under shares,  
23 37,730,618 shares that were -- and it says DIST, DIT, or  
24 deposit date of May 17, 2017?

11:45:35 25 A. Yes.

1 Q. So that indicates that CEDE & Company has  
2 deposited on its books this \$37 million in stock, correct?

3 A. That could well be.

4 Q. And then, in the column that's next to it,  
11:45:52 5 there's this name, Gary W. Hansen. Do you see that?

6 A. Yes.

7 Q. And they have a certificate number that they  
8 reference as BE-1, correct?

9 A. Yes.

11:46:03 10 Q. And with regard to the number of shares, it says  
11 10 thousand, doesn't it?

12 A. Yes.

13 Q. And the column next to that at the top of that  
14 column it says how AQR, which would indicate how acquired,  
11:46:15 15 correct?

16 A. I believe so.

17 Q. And so that indicates that there was a transfer  
18 of 10 thousand shares to this Gary W. Hansen, correct?

19 A. That could well be.

11:46:27 20 Q. Okay. And then in the line below that, there is  
21 a reference that indicates that this CEDE & Company Fast  
22 Book, it was transferred the 70 -- or 37,720,618 shares,  
23 correct?

24 A. Yes.

11:46:44 25 Q. And so, that would account for the sum total of

1 all of the shares that are reflected with regard to what  
2 is in possession of this transfer company for transaction,  
3 correct?

4 A. That may be -- that may well be what this shows,  
11:47:01 5 yes.

6 MR. LEHR: Your Honor?

7 THE COURT: Yes.

8 MR. LEHR: I would just like to correct, this  
9 document was received from Pacific Stock Transfer Company  
11:47:09 10 on January 15. It was in our production they gave us.

11 THE COURT: Okay. That is what I thought I heard  
12 the witness say earlier.

13 MR. WALL: That's what I thought as well, but I  
14 don't think there's a question as to authenticity at this  
11:47:22 15 point. It's been admitted, so I'll probably just move  
16 forward.

17 Q. BY MR. WALL: Okay. So, with regard to the  
18 following lines, the lines that follow, it indicates the  
19 total number of shares that have been issued, and that's  
11:47:34 20 the total number of shares issued, to your understanding,  
21 by the corporate entity?

22 A. That's my understanding.

23 Q. And then there's a reflection of something like  
24 11 million shares that were issued from a previous system?

11:47:49 25 A. Yes.

1 Q. Okay. So, with regard to the transactions of the  
2 stocks for IAS, the shares that are actually being traded,  
3 as is reflected by this document, are only the 37,730,000  
4 shares?

11:48:11

5 A. I don't know that that's what it means. It may  
6 well be that CEDE & Company, who is a depository company,  
7 has 37.7 million shares that it is holding. There are  
8 other depository companies like DTCC and others that may  
9 also be holding shares in street name. So it might -- I  
10 don't know.

11:48:34

11 Q. This record doesn't reflect that there's any  
12 other entities that are holding any kinds of shares for  
13 IAS?

14 A. This does not.

11:48:44

15 Q. Okay. And you're not aware of any other stock  
16 transfer company being involved with IAS, other than the  
17 predecessor, which has been subsumed?

18 A. Correct.

11:48:58

19 Q. So, with regard to the global world of stocks  
20 that you're aware of, having done this investigation, all  
21 of the shares related to IAS are here reflected with  
22 regard to this stock transfer record?

23 A. Well, I'm not sure because, according to this  
24 document, Pacific Stock Transfer has a record of there

11:49:23

25 being 177 million shares issued. Now, 37.7 million shares



1 may be held by CEDE & Company as in street name. So,  
2 whether that -- there are other companies, depository  
3 companies holding stock in street name, I don't know.  
4 Whether or not that means that the remaining 80 million  
11:49:47 5 shares are held in somebody's name and represented by  
6 stock certificates, as opposed to being held in street  
7 name, I don't know.

8 Q. Do you have any information that indicates that  
9 there was a printing of stock certificates in this matter?

11:50:03 10 A. Yes.

11 Q. Okay. And where did you find that?

12 A. Because I have actually received, from Nelson,  
13 Snuffer, copies of stock certificates that had been  
14 delivered to them, and the ones that were not liquidated  
11:50:22 15 were returned to me.

16 Q. So you're referring to the 19 million shares that  
17 Nelson, Snuffer received?

18 A. I believe it was 9 million shares. I believe 9  
19 million shares.

11:50:32 20 Q. 9 million? Okay. With regard to those shares,  
21 if one does not go on the market, are those marketable  
22 shares?

23 MS. HEALY GALLAGHER: Your Honor, objection.  
24 We're afield from compliance here, again.

11:50:50 25 THE COURT: I agree. Sustained.

1 Q. BY MR. WALL: So, let me -- let me just get to  
2 the core. This total 177 million shares, does that  
3 include all warrants, all preferred shares and all common  
4 stock?

11:51:09

5 A. I doubt it because warrants, until they are  
6 exercised, do not result in shares issued. So it has to  
7 be -- you have to have shares authorized in order for  
8 warrants to be issued, but they are not issued until the  
9 warrant is exercised, and I believe this only -- does  
10 not -- does not include preferred shares. I think it only  
11 reflects common shares. But I don't have enough  
12 information to know that with certainty.

11:51:27

11:51:48

13 Q. Okay. Then, in wrapping things up, with regard  
14 to paragraph 26, as it relates to the various categories  
15 of items that are -- the Receiver is to have, we talked  
16 about the securities, these instruments, do you have any  
17 concerns with regard to patents and intellectual property  
18 and whether or not it's been identified fully and been  
19 provided?

11:52:04

20 A. To my knowledge, all of the patents that have  
21 been issued to Neldon Johnson have been assigned to  
22 others. There were, I think, three or four patent  
23 applications that are in his name, but there have been no  
24 patents granted.

11:52:23

25 Q. Okay. Do you have any concerns with regard to

1 deposit boxes or any other commercial boxes containing  
2 anything?

3 A. I do.

4 Q. Why?

11:52:33

5 A. In Mr. Johnson's declaration he says that there  
6 was either a safe deposit box or a commercial mailbox that  
7 someone opened, but he's never visited them, and they  
8 don't -- he doesn't have a key. And the problem is that I  
9 don't know whether he's referencing a safe deposit box or  
10 a commercial mailbox, and if it is a safe deposit box, I  
11 don't know what financial institution that box is at.

11:52:56

12 Q. Now, is that a personal box or is that a  
13 corporate box, or do you not know?

14 A. I believe he indicated it was in the name of one  
15 of the companies.

11:53:14

16 Q. Okay. So one of the companies but not his?

17 A. I believe that's what his declaration stated.

18 Q. Okay.

19 MR. WALL: Your Honor, at this time, I don't  
20 believe I have any further questions.

11:53:30

21 THE COURT: All right. Ms. Healy Gallagher, how  
22 much redirect do you have?

23 MS. HEALY GALLAGHER: Well, I was going to check  
24 to see if anybody else had cross.

11:53:42

25 THE COURT: Okay, well, yes, sorry.

1 Mr. Paul?

2 MR. PAUL: I do have some questions.

3 THE COURT: Okay. Let's do it.

4 MR. PAUL: I think I'll defer to Mr. Shepard

11:53:52

5 first. I think he already undertook some cross  
6 examination, so his examination may be limited to what has  
7 been presented in court today. He says he has about ten  
8 or 15 minutes, so that might take us to lunch.

9 THE COURT: Well, you better refresh my memory

11:54:07

10 then.

11 Mr. Shepard, did you already cross examine this  
12 witness?

13 MR. SHEPARD: I did partially but not on the  
14 testimony that has just been given.

11:54:18

15 THE COURT: Was that on the first day?

16 MS. HEALY GALLAGHER: No. It was on May 3.

17 THE COURT: Okay.

18 MS. HEALY GALLAGHER: Both Mr. Shepard and  
19 Mr. Paul cross examined Mr. Klein on what had happened so  
11:54:26 20 far to that date.

21 THE COURT: Oh, right.

22 MS. HEALY GALLAGHER: But they have not cross  
23 examined him on his testimony today.

24 THE COURT: Okay. All right. Thank you.

11:54:34

25 Mr. Shepard, do you have questions of Mr. Klein?

1 MR. SHEPARD: I do.

2 THE COURT: Okay. Go ahead. Come on up to the  
3 podium, if you would.

4 CROSS EXAMINATION

11:54:56 5 BY MR. SHEPARD:

6 Q. Mr. Klein, do you remember in your previous  
7 testimony that you indicated that, with all the stuff  
8 going on with Neldon, that you could only devote about 1  
9 percent of your time to me? Do you remember that  
10 testimony?

11 A. I remember something to that effect, yes.

12 Q. Well, with the 31 boxes and everything that you  
13 have had to go through since then, is it still about 1  
14 percent?

11:55:24 15 A. It may be 5 percent.

16 Q. Okay. Fair enough. Well, previously Erin Healy  
17 Gallagher asked if I was in compliance, and you said, and  
18 I quote: Yes. Shepard has complied with paragraph 26.

19 Is that correct?

11:55:49 20 A. Yes.

21 Q. Okay. So, but you did have some concerns --

22 Could we pull up Exhibit Number 955?

23 THE COURT: Ms. Healy Gallagher, do you have the  
24 ability to do that there?

11:56:06 25 Do you have a copy of it, Mr. Shepard?

1 MR. SHEPARD: I do.

2 THE COURT: Would you just put it on the  
3 projector, then? Yeah. Let's just do that.

11:56:31

4 MR. SHEPARD: And then there was another check on  
5 the back. Steve, could you turn that over.

6 Q. BY MR. SHEPARD: Okay. So there were two checks.  
7 And you indicated that you were a little dismayed because  
8 those accounts with Wells Fargo should have been frozen;  
9 is that correct?

11:56:56

10 A. Yes.

11 Q. And the savings and checking accounts should have  
12 been frozen?

13 A. Yes.

11:57:07

14 Q. And you also expressed a little dismay because I  
15 stated how desperate I am on living expenses, that the  
16 money here, instead of being spent on these two checks,  
17 could have been spent on my living allowances; is that  
18 correct? Is that what you implied?

11:57:26

19 MS. HEALY GALLAGHER: Your Honor, if I may take a  
20 moment --

21 THE COURT: Yeah.

11:57:43

22 MS. HEALY GALLAGHER: -- on this. And ask that  
23 the Court caution Mr. Shepard about his Fifth Amendment  
24 rights in light of the court orders that were issued and  
25 then subsequent conduct.

1 THE COURT: Are you talking about these payments?

2 MS. HEALY GALLAGHER: That's right. And  
3 Mr. Shepard is making statements now in open court about  
4 these payments.

11:57:55 5 MR. WALL: Your Honor, I would submit Mr. Shepard  
6 isn't testifying, he's asking questions.

7 THE COURT: He's asking a question, but he is, in  
8 that question, perhaps admitting to things.

9 You understand, Mr. Shepard, that your compliance  
11:58:08 10 with the orders of the court is what this hearing is  
11 about?

12 MR. SHEPARD: Right.

13 THE COURT: And these checks have been raised as  
14 possible violations of orders of the Court.

11:58:19 15 MR. SHEPARD: Exactly.

16 THE COURT: So Ms. Healy Gallagher is suggesting  
17 that this could lead to liability on your behalf, perhaps  
18 even criminally ability if you have violated those  
19 orders.

11:58:30 20 MR. SHEPARD: I have not violated those orders.

21 THE COURT: I understand that's your position,  
22 but I think you're wise to be careful about what you ask  
23 and what you say in questions. So ask your next question.

24 MR. SHEPARD: Okay.

11:58:44 25 Q. BY MR. SHEPARD: So, on a credit card, for

1 example, on a statement, there's a balance and there's  
2 available credit; is that correct?

3 A. Yes.

4 Q. Is available credit an asset?

11:59:05

5 A. Generally, I would not consider that to be an  
6 asset.

7 Q. Of course not. Would it surprise you, because  
8 you've been told this, that this particular account is a  
9 credit card? It is not an asset. It's a credit card.

11:59:30

10 THE COURT: You're talking about the account on  
11 which this check was paid?

12 MR. SHEPARD: Yes.

13 THE COURT: Okay.

14 Q. BY MR. SHEPARD: You should have recalled that.

11:59:38

15 You don't recall it?

16 MS. HEALY GALLAGHER: Objection, Your Honor. If  
17 Mr. Shepard has information about this, he is welcome to  
18 give it in his testimony.

19 THE COURT: And he will, probably.

11:59:49

20 But do you know what the nature of this account  
21 is?

22 THE WITNESS: I assume this is a checking account  
23 because it indicates there is a check number and indicates  
24 the -- a bank that it is drawn on, so I assume it is a  
12:00:11 25 check on a checking account.



1 Q. BY Mr. SHEPARD: If it is a letter of credit  
2 checking account, then it would not be an asset; is that  
3 correct?

4 A. Well, if this is a check that is from a credit  
12:00:30 5 card statement that is drawing down on a line of credit,  
6 then that would not be an asset, but if it is done in the  
7 name of Shepard Global then it would be in violation -- in  
8 my opinion, it would be in violation of the freeze order  
9 which froze the activities of Shepard Global, and to the  
12:00:56 10 extent that money then was acquired by Shepard Global,  
11 that's money that belonged to the Receivership estate.

12 Q. So let's assume that it is a credit card, not an  
13 asset, then that wouldn't be -- not in violation; is that  
14 correct?

12:01:12 15 A. No. Because as soon as Shepard Global then made  
16 a draw on a -- on a line of credit and Shepard Global then  
17 owned that money, that is an asset of Shepard Global,  
18 which, under the Receivership Order, is an asset of the  
19 Receivership estate.

12:01:32 20 Q. Would the same be true on a balance transfer?

21 A. If it was a balance -- if money was transferred  
22 into an entity in the name of Shepard Global, to where  
23 Shepard Global had control over it, that would be a  
24 Receivership asset.

12:01:51 25 Q. If, on a balance transfer, say like Bank of

1 America, gave me checks where I owed debt if I wrote that  
2 check, is that considered an asset?

3 MS. HEALY GALLAGHER: Objection, Your Honor.

4 This is a hypothetical. If Mr. Shepard has information  
5 about this, he can testify to it.

12:02:09

6 THE COURT: Sustained.

7 MR. SHEPARD: Fair enough.

8 THE COURT: If there is evidence to support the  
9 statements that you're inquiring about, Mr. Shepard, then  
10 you will be able to argue that at the end of our  
11 hearing.

12:02:28

12 MR. SHEPARD: Okay. That's easy.

13 Q. BY MR. SHEPARD: Could we pull up Exhibit 656,  
14 May 16.

12:02:43

15 THE COURT: Do you have a copy, Mr. Shepard?

16 MR. SHEPARD: I don't, but it was printed.

17 MS. HEALY GALLAGHER: Your Honor, I can plug my  
18 laptop in..

19 Mr. Shepard, do you mean ECF number?

12:02:55

20 THE COURT: Is it a filing with the Court or an  
21 exhibit?

22 MR. SHEPARD: It was filed under the third  
23 supplemental declaration, number 656.

24 THE COURT: Okay. We'll bring it up.

12:03:07

25 MR. SHEPARD: On May 16. Can you scroll down to

1 the bottom.

2 MS. HEALY GALLAGHER: Hang on. 656? Where would  
3 you like?

12:03:26

4 MR. SHEPARD: Where it has a list of the credit  
5 card debt.

6 THE COURT: Right there?

7 MR. SHEPARD: Exactly.

8 THE COURT: So we're on the second page of 656?

9 MR. SHEPARD: Right.

12:03:36

10 Q. BY MR. SHEPARD: Do you see that, Mr. Klein?

11 A. I do.

12 Q. Can you look at the bottom. Do you see Wells  
13 Fargo?

14 A. I do.

12:03:43

15 Q. Do you see in parentheses, Shepard Global, LLC?

16 A. Yes.

17 Q. Do you see the amount of 14,800?

18 A. Yes.

19 Q. Okay.

12:03:53

20 So, Judge, we'll come back to this as I present,  
21 that the checks in question were drawn not from an asset  
22 but it's credit card debt.

23 THE COURT: Okay. Well, we'll get there.

24 Q. BY MR. SHEPARD: All right. So let's draw

12:04:19

25 attention to the options on the scam part. You testified

1 that I brought up that I was scammed; is that correct?

2 A. I said that you delivered some documents. Some  
3 of the documents you delivered indicated that you had sent  
4 money to some companies that related to some options  
12:04:44 5 program.

6 Q. Did you get a government document from me?

7 A. One of the documents was a notice from the U.S.  
8 Attorney in Phoenix, indicating that a petition could be  
9 made for -- to receive some of the money that was  
12:05:04 10 apparently seized in a forfeiture action by the U.S.  
11 Attorney.

12 Q. Was that part of the Department of Justice?

13 A. Yes.

14 MS. HEALY GALLAGHER: Objection, Your Honor.  
12:05:14 15 Relevance.

16 THE COURT: Overruled.

17 Q. BY MR. SHEPARD: Mr. Klein, on this, did you  
18 peruse that very carefully, that document?

19 A. I believe I understand what it says.

12:05:27 20 Q. Did it indicate that I had any chance at all to  
21 recover any money?

22 A. It did. The letter from the U.S. Attorney  
23 indicated that the -- that you could file a petition for  
24 remission is what the letter said, which would -- might  
12:05:47 25 enable you to receive a share of the funds that had been

1 seized in a forfeiture action by the U.S. Attorney.

2 Q. Don't you recall that that likelihood was very --  
3 was not likely at all?

12:06:06

4 MS. HEALY GALLAGHER: Objection. Relevance as to  
5 Mr. Shepard's compliance.

6 THE COURT: Sustained.

7 Q. BY MR. SHEPARD: Okay. If it were not likely,  
8 then how could it be an asset?

9 MS. HEALY GALLAGHER: Objection. Relevance.

12:06:22

10 THE COURT: Sustained.

11 Q. BY MR. SHEPARD: Now let's go to the other two,  
12 Frandson and Bowers -- I mean Frandson and Hutchings that  
13 I purported scammed me out of some money. If they  
14 indicated that they were insolvent, would that be an asset  
15 that I should report?

12:06:50

16 MS. HEALY GALLAGHER: Objection. Relevance.

17 THE COURT: Sustained. You will be able to  
18 testify about these things, but having this witness guess  
19 about it is not the best way to get this evidence in.

12:07:09

20 MR. SHEPARD: Okay. At this time, I have no  
21 further questions.

22 THE COURT: Okay. Thanks.

23 Mr. Paul, how long do you think you've got for  
24 cross?

12:07:26

25 MR. PAUL: Probably ten or 15 minutes at the

1 most.

2 THE COURT: I'm trying to figure out how to make  
3 this coincide so that Mr. Wall can get to his State Court  
4 date. Why don't we take -- I'm just thinking out loud  
12:07:35 5 here. What if we take a break 'til about 20 after.  
6 That's about 13 minutes. Then we come back and do what we  
7 can until about 15 after one and we break for lunch until  
8 2:30 or whenever Mr. Wall gets back.

9 Does that work?

12:07:50 10 MS. HEALY GALLAGHER: That works.

11 MR. WALL: That will be fine, Your Honor.

12 THE COURT: Okay. Let's just get that little  
13 break in right now until 20 after. Okay. Thanks. We're  
14 in recess.

12:20:42 15 (Short recess.)

16 Mr. Paul.

17 MR. PAUL: Yes, Your Honor. Do you want to wait  
18 for Mr. Johnson?

19 MR. WALL: I'll wave his presence and we can  
12:21:02 20 proceed.

21 THE COURT: Well, I told you -- I did say we  
22 would be back -- did I say 20 after or did I say 15? I  
23 said 20.

24 MS. HEALY GALLAGHER: You did say 20, I believe.

12:21:11 25 THE COURT: Yeah. I said 20 after.

1 MR. WALL: I believe he's consulting with  
2 Mr. Snuffer, but I think we can go forward. I can  
3 represent his interests.

4 MR. PAUL: I've just got a couple questions. It  
12:21:21 5 won't take long.

6 CROSS EXAMINATION

7 BY MR. PAUL:

8 Q. Mr. Klein, I understand you've testified today  
9 about boxes that were delivered to you, the 31 boxes that  
12:21:28 10 have been delivered since we started these proceedings?

11 A. Yes.

12 Q. Is it your understanding -- do you have any  
13 recollection of the banking and financial records for  
14 Glenda Johnson accounts that were delivered together with  
12:21:41 15 those 31 boxes?

16 A. At the time -- yes. At the time we got the  
17 boxes, it was also a computer and also some banking  
18 records for Glenda Johnson, yes.

19 Q. Okay. Do those banking records that you received  
12:22:01 20 from Glenda Johnson include documents responsive to your  
21 email and spreadsheet of May 6?

22 A. Those -- I created a receipt for those, for those  
23 bank records, and I think those bank records that were  
24 delivered at the same time as the boxes were for  
12:22:32 25 certain -- certain months, and so it was -- it didn't seem

1 to be all of the bank accounts, but just certain months.  
2 And I -- I don't know whether or not those, the records  
3 that were delivered were the ones that were the missing  
4 records that I had identified to you.

12:23:01

5 Q. So, you have not compared the bank records that  
6 you received after the hearing with the spreadsheet that  
7 you sent to my office on May 6?

8 A. I'm trying to remember, and I can't remember that  
9 I have.

12:23:21

10 Q. Okay. So it's possible that the records, that  
11 you understand that were missing on May 6, have been  
12 produced before today?

13 A. Yes, it is possible, and I --

14 Q. Okay.

12:23:32

15 A. I'd like to think that I had looked at that  
16 question, but I can't say with certainty that I had.

17 Q. Okay. And if Mrs. Johnson testifies that those  
18 documents were part of the production that were given to  
19 you, would you have any reason to doubt that testimony?

12:23:49

20 A. I would not.

21 Q. Okay. And then you also testified that you were  
22 given a laptop computer by the Johnsons?

23 A. Correct.

24 Q. Since your last hearing?

12:24:08

25 A. Yes.



1 Q. And that you were able to recover the QuickBooks  
2 files from that computer?

3 A. Yes.

12:24:19

4 Q. And how extensive -- how many files were you able  
5 to extract from the QuickBooks program that was on the  
6 laptop computer?

7 A. I don't know.

8 Q. Okay. When will you know what you don't know  
9 about the QuickBooks files?

12:24:34

10 A. I received, on Thursday evening, a hard drive  
11 from the forensic computer entity that -- and so I expect  
12 that I will early this week be able to know what's on that  
13 hard drive.

12:24:58

14 Q. Okay. Have you had a chance to peruse it or  
15 anyone in your office peruse it to see whether it's a  
16 complete file or a partial file is I guess my question?

17 A. I do not know.

18 Q. Okay. But you're confident that it is the  
19 QuickBooks information?

12:25:12

20 A. The forensic computer company said that they were  
21 able to recover the QuickBooks files.

22 Q. Okay. And wouldn't that QuickBooks -- the  
23 QuickBooks files include significantly a large portion of  
24 the transactions that you're interested in for, I guess,  
12:25:31 25 IAS and RaPower?

1 MS. HEALY GALLAGHER: Objection. Foundation.

2 THE COURT: Sustained.

3 Q. BY MR. PAUL: What do you understand is contained  
4 in the QuickBooks files that you recovered?

12:25:41

5 A. What I expect the QuickBooks files to include are  
6 the day-to-day entries in the financial records showing  
7 monies coming in, going out, the purposes for those  
8 expenditures and profit and loss statements and balance  
9 sheets and then stock -- and then journal entries

12:26:05

10 explaining the reasons for transfers.

11 Q. And does that information include substantially  
12 all of the information that you believe you would receive  
13 under paragraph 26 of the Receivership Order or paragraph  
14 24 of the Receivership Order --

12:26:20

15 MS. HEALY GALLAGHER: Objection.

16 Q. -- from the named defendants?

17 MS. HEALY GALLAGHER: Objection. Foundation.

18 THE COURT: Sustained. I'm sure we're going to  
19 have a hearing, Mr. Paul, where we will decide what's  
20 in -- where we will hear what's in the QuickBooks file.

12:26:33

21 MR. PAUL: Okay.

22 THE COURT: But we are not there yet, and  
23 speculating about what will happen doesn't really help  
24 me.

12:26:43

25 Q. BY MR. PAUL: Okay. Are you willing to provide

1 that QuickBooks information to counsel for the named  
2 parties so that we can review that information and -- to  
3 facilitate responses to paragraph 26?

4 A. Yes.

12:27:09

5 Q. After the Corrected Receivership Order was  
6 entered, you had that served on individuals, correct?

7 A. I requested -- I inquired of your firm whether or  
8 not -- let me back up. The order requires that the -- I  
9 ensure that the order was served on various people, and so

12:27:38

10 I inquired of your firm whether or not I should cause  
11 those to be served personally or whether or not you would  
12 acquire acknowledgements of service, which you then  
13 provided to us.

14 Q. Okay. And do you remember who -- in fact, it may  
15 be an exhibit to these proceedings -- who was served --  
16 who acknowledged receipt of service through my office?

12:27:58

17 MS. HEALY GALLAGHER: Objection. Beyond the  
18 scope.

19 THE COURT: Overruled.

12:28:07

20 THE WITNESS: I believe it was Neldon Johnson,  
21 Glenda Johnson, LaGrand Johnson, Randale Johnson, Roger  
22 Hamblin, Curtis Snow and I believe Blaine Phillips.

23 Q. BY MR. PAUL: And were there individuals other  
24 than those on who you caused to be served a copy of the  
12:28:35 25 corrected Receivership Order?

1 A. Is your question whether I had the order served  
2 on people other than the ones I just mentioned?

3 Q. Yes.

12:28:52

4 A. I have mailed out copies of the order, dozens of  
5 copies of the order to people and also sent them to --  
6 to -- I sent out copies of the orders to dozens of people.  
7 I don't know that I've had them personally served on  
8 others.

12:29:24

9 Q. Other than the seven people that we provided  
10 acknowledgement of service, are any of the other people  
11 you sent the corrected Receivership Order to expected to  
12 respond to any of the compliance verification requirements  
13 in the order?

14 MS. HEALY GALLAGHER: Objection. Relevance.

12:29:42

15 THE COURT: How is it relevant, Mr. Paul?

16 MR. PAUL: As to -- it's relevant because we're  
17 here on an order to show cause for contempt for a few  
18 individuals who have an obligation to respond under  
19 paragraph 24 or paragraph 26 of the Receivership Order.

12:30:01

20 THE COURT: Right.

21 MR. PAUL: If it was sent to other people with an  
22 expectation of their responding to those same paragraphs,  
23 I'm questioning why there isn't an order to show cause  
24 related to those individuals.

12:30:14

25 THE COURT: The objection is sustained.

1 Q. BY MR. PAUL: Have you received compliance  
2 verifications from any of the other individuals who  
3 received a copy of the corrected Receivership Order?

4 MS. HEALY GALLAGHER: Objection. Relevance.

12:30:33 5 THE COURT: Sustained.

6 Q. BY MR. PAUL: Regarding Randale Johnson's  
7 declaration that was filed with the Court, I understand  
8 that you're concern with his declaration is his prior  
9 possession of IAS or RaPower-3 documents; is that fair?

12:30:56 10 A. Yes.

11 Q. Do you have any evidence that Randale Johnson had  
12 possession of any IAS or RaPower-3 documents?

13 A. No. I have evidence that he has -- I've seen  
14 documents, corporate documents that he has signed, and he  
12:31:14 15 has not given those to me, so I don't know whether that  
16 means that he did not retain copies of documents that he  
17 signed or he has them and has not given them to me or they  
18 are in possession of someone else.

19 Q. So, if Randale Johnson's declaration included a  
12:31:30 20 statement that he has no recollection of ever having  
21 corporate books or records of IAS or RaPower-3 in his  
22 possession or control, would that satisfy his obligation  
23 under paragraph 24 of the corrected Receivership Order?

24 A. No. I think that he should identify what  
12:31:46 25 documents he may have once had and then identify why they

1 are no longer in his control.

2 Q. And so I guess my question, then, if he is unable  
3 to identify any documents that he once had related to IAS  
4 or RaPower or any of the defendants, would that satisfy  
12:32:12 5 the compliance requirement of paragraph 24 for  
6 Mr. Johnson?

7 MS. HEALY GALLAGHER: Objection. If this is  
8 evidence that Mr. Johnson, Mr. Randy Johnson would like to  
9 submit, that's up to him.

12:32:25 10 THE COURT: This assumes facts not in evidence,  
11 so it's not -- I'm not going to permit this question.  
12 Let's get some evidence and then we'll figure out -- or  
13 I'll make a decision whether it satisfies the order.

14 Q. BY MR. PAUL: Okay. So, other than Mr. Randy  
12:32:39 15 Johnson's positions -- or position with IAS, you have no  
16 basis or expectation as to why he would have corporate  
17 records in his possession; is that true?

18 A. No. It's not simply his position, because I have  
19 obtained from other sources documents that bear his  
12:32:59 20 signature, and so it's not just because he was an officer  
21 and I would expect him to have the records, it's because I  
22 have obtained from other sources copies of documents that  
23 have his signature on. So, I do know from other sources  
24 that he, at one time, had possession of documents.

12:33:16 25 Q. Okay. Is there any other evidence that you're

1 aware of that would indicate that Mr. Randy Johnson had  
2 IAS corporate documents in his possession outside of the  
3 corporate offices at any time?

4 A. I do not know.

12:33:33 5 Q. So you have no evidence?

6 A. Not in my -- I don't.

7 Q. Okay. Regarding LaGrand Johnson's declaration,  
8 paragraph 3 of his declaration explains that he had, at  
9 some point before 2012, access to but not control of IAS  
10 financial records. Do you remember that?

12:33:49

11 A. Yes.

12 Q. And he says those records were kept at the  
13 corporate offices until the 2012 raid. Do you remember  
14 that part of his declaration?

12:34:01

15 A. Yes.

16 Q. Do you have any reason to believe that that is an  
17 untrue statement?

18 A. I do not.

19 Q. And in paragraph 5 of his declaration, he  
12:34:09 20 explains his role in preparing documents for the SEC for  
21 IAS after 2012. Do you recall that part?

22 A. Yes.

23 Q. Okay. And he explained what he knew about those  
24 documents and what he did with those documents, correct?

12:34:26

25 A. I don't recall that he identified all the

1 documents that he had had and whether or not -- what had  
2 happened to them.

3 Q. Okay. What level of identification of documents  
4 are you looking for as relate -- in addition to what he  
12:34:45 5 has already stated in his declaration?

6 A. I would expect that, if there was any corporate  
7 document that he had signed, that -- that at that point he  
8 was in control of that document, so I would expect him to  
9 identify the documents that he had signed and then explain  
12:35:06 10 the extent to which he retained copies of those, and if he  
11 did not retain copies, what was the disposition of the  
12 documents that he signed.

13 Q. Do you have any evidence on which to base a  
14 conclusion that Mr. LaGrand Johnson had any corporate  
12:35:54 15 documents for IAS or any of the other Receivership  
16 entities outside of the corporate offices?

17 A. I do not know where he maintained his  
18 documents.

19 Q. So you have no evidence that he had any documents  
12:36:06 20 in his possession or control outside of the corporate  
21 offices?

22 A. Correct.

23 Q. Okay. Thank you. Nothing further.

24 THE COURT: All right. We'll turn back to  
12:36:22 25 redirect.



1 MS. HEALY GALLAGHER: Thank you, Your Honor. May  
2 I take just a moment?

3 THE COURT: Yes.

4 MS. HEALY GALLAGHER: Thank you, Your Honor.

12:37:51

5 REDIRECT EXAMINATION

6 BY MS. HEALY GALLAGHER:

7 Q. Mr. Klein, Mr. Wall asked you a few questions  
8 about, as I recall, your preference with respect to how to  
9 receive information from the -- from Mr. Johnson. Do you  
10 remember that?

12:38:10

11 A. Yes.

12 Q. And you gave him some examples. Is the source of  
13 this dispute your preference about how to receive  
14 information from Mr. Johnson?

12:38:24

15 A. No.

16 Q. What's the source?

17 A. The source is what's required to be produced  
18 pursuant to the Receivership Order.

19 Q. And we also went through Mr. Johnson's  
20 declaration. Do you recall this, where he said he was  
21 creating a list of bank accounts that he had used since  
22 2005? Do you remember that?

12:38:51

23 A. Yes.

24 Q. But that list has not been delivered to you,  
25 correct?

12:39:07

1 A. Correct.

2 Q. So, in fact, there's no way for you to actually  
3 know whether you have notice of all of the bank accounts  
4 that might have been used for a Receivership defendant or  
12:39:19 5 entity, correct?

6 A. Correct. And when I get that list, I won't know  
7 for sure, but that will enable me to identify any other  
8 banks that perhaps I should issue a subpoena to.

9 Q. If Mr. Johnson used money out of a bank account  
12:39:36 10 that was not actually titled in his name, is that an  
11 account you would expect to see on that list from  
12 Mr. Johnson?

13 MR. WALL: Objection. Relevance. It's a  
14 hypothetical, and I don't think it goes to --

12:39:49 15 THE COURT: Overruled.

16 THE WITNESS: If there is an account to which he  
17 was an authorized signatory, then I would expect that  
18 information, yes.

19 Q. BY MS. HEALY GALLAGHER: If Mr. Johnson directed  
12:40:04 20 that money be paid from an account for a personal expense  
21 of his, even if he wasn't a signatory authority on that  
22 bank account, would you expect that account to be included  
23 on Mr. Johnson's list?

24 A. If he had control over the account, yes.

12:40:24 25 Q. Even acting through someone else?

1 A. Yes.

2 Q. On the bank account note, Mr. Paul asked you some  
3 questions about LaGrand Johnson's role with International  
4 Automated Systems. Do you recall that?

12:40:41

5 A. Yes.

6 Q. And it's your understanding, and we have talked  
7 about it before in these proceedings, LaGrand Johnson was  
8 a signatory authority on bank accounts for various  
9 Receivership entities; isn't that right?

12:40:55

10 A. Yes.

11 Q. So, do you have a thought on whether he would  
12 have access to bank account records?

13 A. I would expect him to have access to those  
14 records, if not the company's copies of the records, he  
15 could certainly get them from the bank.

12:41:09

16 Q. And it's Mr. LaGrand Johnson's obligation, as  
17 it's the obligation of any Receivership defendant, past  
18 and present officer, and other insiders of any  
19 Receivership entity, that if such documents are no longer  
20 within his control, he has to provide information to the  
21 Receiver identifying the records, the persons in control  
22 of the records and his efforts to -- undertaken to recover  
23 the records, correct?

12:41:35

24 A. Yes.

12:41:50

25 Q. And the source of that obligation is in paragraph

1 24 of the corrected Receivership Order?

2 A. Yes.

3 MS. HEALY GALLAGHER: No further questions.

4 THE COURT: All right. Any recross, Mr. Wall.

12:42:03

5 Oh, I'm sorry. Mr. Lehr, did you have questions?

6 MR. LEHR: Your Honor, we don't have to address  
7 this now. I did send over the authorization letter that  
8 was brought up earlier.

9 THE COURT: Okay.

12:42:13

10 MR. LEHR: If we wanted to have a question  
11 regarding that, I think clarifying what Mr. Klein's  
12 recollection is on that letter would be helpful.

13 THE COURT: Is it marked?

14 MR. LEHR: It's marked as a deposition exhibit.

12:42:26

15 THE COURT: Okay. Let me find that mailbox.  
16 Have you seen it, Ms. Bowers?

17 THE CLERK: I did, yes. We do have it, and I  
18 have it saved.

19 THE COURT: It is saved?

12:42:36

20 THE CLERK: Yes.

21 THE COURT: Okay. All right. So we have got it.

22 Did counsel receive it, Mr. Wall? Did you get it?

23 MR. WALL: What's the deposition number, Your  
24 Honor?

12:42:44

25 MR. LEHR: It's 2088.

1 THE COURT: 28?

2 MR. LEHR: 2088.

3 THE COURT: 2088. Okay.

12:42:57

4 MR. WALL: Your Honor, I have all the deposition  
5 exhibits, so I've got that.

6 THE COURT: Did you get it, Mr. Paul?

7 MR. PAUL: I don't know, but I don't have any  
8 questions related to it.

12:43:12

9 THE COURT: Are you able to display it,  
10 Mr. Lehr?

11 MR. LEHR: At the podium, yes. Oh, we have a  
12 printout.

13 THE COURT: Okay. All right. Let's go ahead.

12:43:20

14 MR. WALL: Your Honor, I have it, and I think I  
15 might be able to put it up.

16 MR. LEHR: Your Honor, I'd move to admit  
17 deposition 22088 -- 2088.

18 MR. WALL: I think it would be, in this case,  
19 Exhibit 956.

12:43:54

20 MR. PAUL: They are numbering them differently.  
21 The Receiver's exhibits carry a different sequence.

22 THE COURT: Okay. So this is -- are we at  
23 Receiver's Exhibit 4 or 5, Ms. Bowers?

12:44:07

24 MS. HEALY GALLAGHER: Well, consistent with the  
25 practice from the underlying trial, Your Honor, we have

1 started the Receiver's Exhibits at 2000.

2 THE COURT: Right.

3 MS. HEALY GALLAGHER: So this is -- actually it's  
4 marked at the bottom 2088 --

12:44:18 5 THE COURT: Okay.

6 MS. HEALY GALLAGHER: -- in the deposition. So  
7 we would just --

8 THE COURT: Okay. 2088. Okay. And this is a  
9 letter dated May 2, 2019, from Mr. Klein. Okay.

12:44:26 10 And can you pull it down just a little bit so we  
11 can read the top.

12 Okay. Go ahead, Mr. Lehr.

13 CROSS EXAMINATION

14 BY MR. LEHR:

12:44:36 15 Q. Okay. Mr. Klein, will you tell me your  
16 recollection regarding this letter and why it was drafted?

17 A. This was drafted during the -- on the day that we  
18 deposed Mr. Neldon Johnson because he stated that the  
19 reason he had not delivered any documents was that he felt  
12:44:53 20 that he didn't have authority to deliver those documents.

21 He had seen them in the warehouse and had walked by them  
22 multiple times but didn't have authority to deliver them,  
23 so I said that I would give him written authorization so  
24 that he could deliver those documents to me.

12:45:13 25 Q. Do you recall hearing that argument or excuse

1 from Mr. Johnson before?

2 MR. WALL: Objection, Your Honor, badgering, to  
3 the characterization of the question. It is totally  
4 inappropriate.

12:45:28 5 THE COURT: Overruled.

6 Do you recall having heard that before?

7 THE WITNESS: Before that date, I had not heard  
8 that that was the reason that the documents had not been  
9 delivered.

12:45:39 10 Q. BY MR. LEHR: Now, Mr. Klein, if you look at the  
11 second paragraph, do you -- why was that second paragraph  
12 included in the letter?

13 A. We included that language because I did not want  
14 to appear to be accepting Mr. Johnson's explanation as to  
12:46:01 15 why the records had not been delivered previously.

16 Q. Do you -- will you tell me why the third  
17 paragraph was included in the letter.

18 A. The third paragraph is included because I believe  
19 Mr. Johnson had asked who was going to pay him for his  
12:46:17 20 time to get the records and deliver them, and I included  
21 this language to ensure that he understood that he was not  
22 to expect any payment from the Receivership estate.

23 Q. Do you recall any other questioning or discussion  
24 about payment to Mr. Johnson at all in regard to this  
12:46:36 25 letter?

1 A. No.

2 MR. LEHR: No further questions, Your Honor.

3 THE COURT: Thank you.

4 MR. WALL: No questions, Your Honor.

12:46:46 5 THE COURT: And we received this, correct, 2088?

6 Okay.

7 And, Mr. Wall, recross?

8 MR. WALL: No questions.

9 THE COURT: Mr. Shepard, any recross?

12:46:57 10 MR. SHEPARD: No, thank you.

11 THE COURT: Mr. Paul?

12 MR. PAUL: I have nothing further. Thank you.

13 THE COURT: Okay. Let's just talk about

14 management for a few minutes. If counsel would come up to

12:47:08 15 Ms. Bowers -- Mr. Klein, you can step down, but you're not

16 excused.

17 You can just examine these where you are. I just

18 wanted to show you these. I now want to talk about

19 management for the rest of the case. This is a list of

12:47:27 20 documents that were signed by Mr. Snuffer following the

21 date the order to show cause 559 was filed. I did not

22 have this list when I made my earlier order that we are

23 going to go ahead today, but I want you to look at this

24 list, and if the list is incorrect, if there is a document

12:47:43 25 on this list which was not signed by Mr. Snuffer, then I



1 want you to tell me after our next recess so you have time  
2 to look at that.

3 Now, what other witnesses do you have, Ms. Healy  
4 Gallagher?

12:47:56 5 MS. HEALY GALLAGHER: Mr. Klein is our only  
6 witness, so none.

7 THE COURT: Okay. Mr. Lehr, what other witnesses  
8 do you have?

9 MR. LEHR: No other witnesses, Your Honor.

12:48:04 10 THE COURT: Okay.

11 Mr. Wall?

12 MR. WALL: Your Honor, Mr. Johnson rests. I  
13 gather they have rested and they are not calling  
14 witnesses, so we are not calling witnesses and we rest.

12:48:14 15 THE COURT: All right.

16 Mr. Paul?

17 MR. PAUL: I would follow the same lead that, if  
18 there are no other witnesses by the government, then we  
19 are not going to call any witnesses.

12:48:24 20 THE COURT: All right.

21 Mr. Shepard, do you have other witnesses or want  
22 to provide testimony yourself?

23 MR. SHEPARD: I want to provide testimony myself.  
24 And the witnesses would be Neldon Johnson, Glenda Johnson,  
12:48:37 25 Randale Johnson and LaGrand Johnson.

1 THE COURT: All right. Do you want to take the  
2 stand right now?

3 MR. SHEPARD: I can if you want.

12:48:46

4 THE COURT: Because we've got -- how long do we  
5 have before the recess? About 20 minutes? We could get  
6 started. Anybody concerned about that?

7 All right. Come on up. Stand in front of that  
8 podium and take the oath and then you can sit down up  
9 here, so bring your notes with you.

12:49:19

10 RALPH GREGORY SHEPARD,  
11 the witness hereinbefore named, being first duly cautioned  
12 and sworn or affirmed to tell the truth, the whole truth,  
13 and nothing but the truth, was examined and testified as  
14 follows:

12:49:19

15 THE COURT: Will you state your full name and  
16 spell it for the record.

17 THE WITNESS: Ralph Gregory Shepard.

12:49:56

18 THE COURT: All right, Mr. Shepard, you can go  
19 ahead and offer testimony as to the issues in this  
20 hearing. You can do it in a narrative, but I'm going to  
21 ask you to do it slowly because there may be objections,  
22 and I have to resolve those before you move on.

23 MR. SHEPARD: Okay.

24 THE COURT: Okay?

12:50:11

25 MR. SHEPARD: The first position that I'd like to

1 bring forth are the two checks. I don't know if we can  
2 bring those up again.

3 THE COURT: Could you do that, Ms. Healy  
4 Gallagher? That would help us.

12:50:32 5 MS. HEALY GALLAGHER: One second.

6 MR. SHEPARD: 955, Exhibit 955.

7 MR. WALL: I've got them right here, Your Honor.  
8 And this is the first facing page and then there's a back  
9 page.

12:50:52 10 THE COURT: Okay. You might have to stay there  
11 and tend it, Mr. Wall.

12 MS. HEALY GALLAGHER: If you switch it to this, I  
13 can just scroll.

14 THE COURT: Okay. Well, let's switch over there  
15 then.

12:51:03 16 Ms. Bowers, can you switch to Ms. Healy  
17 Gallagher's position?

18 Okay. Thanks to everyone for making this work.

19 All right. Go ahead, Mr. Shepard.

12:51:15 20 MR. SHEPARD: As you can see, this check is a  
21 Wells Fargo check. It is common in my practice of  
22 business and credit cards that sometimes credit cards  
23 companies -- and I deal with a lot. As you can see, I owe  
24 192,000 and change -- that some of these credit cards  
12:51:45 25 offer balance transfers. Some of these credit cards will

1 give you checks. You've probably all received checks in  
2 the mail on credit cards. If you haven't, that's unusual.

3 So these credit -- these checks from credit card  
4 companies many times can be written to anyone, can be  
12:52:07 5 written to an individual or can be written to a bank.  
6 This particular checks have to do with a line of credit.  
7 So when I write a check, they give me these checks, Wells  
8 Fargo does. These are not assets that I have money laying  
9 around in a checking account. This is a line of credit.

12:52:38 10 So I can write checks from this particular  
11 account on these particular checks that Wells Fargo gives  
12 me. I can write them to individuals or, in the case of  
13 the check that you don't see here, to a law firm, which is  
14 Denver Snuffer's law firm, to pay legal fees. So these  
12:53:06 15 were not assets that I had, Judge. These were -- so, when  
16 I wrote these checks, I have to pay them back, and there  
17 is interest, pretty big interest that I have to pay on  
18 these checks.

19 THE COURT: Okay. I understand your testimony  
12:53:22 20 about that.

21 MR. SHEPARD: Okay. So on other credit cards I  
22 get, I was buying groceries with credit cards to make it,  
23 and I still have to do that because I -- and I appreciate  
24 the living allowances being given to me. Hopefully I'll  
12:53:43 25 receive those starting next month.

1 THE COURT: Again, I'm going to caution you to be  
2 careful about what you admit you have done or spent.  
3 We're dealing with this exhibit. You've testified about  
4 that.

12:53:56

5 MR. SHEPARD: Okay. So I was involved in some  
6 people who scammed me on the options. These people  
7 operate out of the country in China, Australia. The  
8 Department of Justice tried to recover those funds. It  
9 never did.

12:54:16

10 MS. HEALY GALLAGHER: Your Honor, objection.  
11 Relevance on compliance.

12 THE COURT: Overruled.

12:54:34

13 MR. SHEPARD: And because those assets or the  
14 money that I gave these crooks could never be recovered, I  
15 didn't consider it an asset so I didn't reveal it. So  
16 that's that story.

12:55:01

17 And then there's two other individuals here in  
18 Salt Lake County, Jake Frandson and Larry Hutchings. I  
19 had a deal with them. They gave me a document, a legal  
20 document saying that they would pay me back, and they  
21 never did. When I asked them over and over and over again  
22 to give me the money back, they said they were insolvent  
23 and they could never give me the money back.

12:55:21

24 And for that reason, I didn't consider it an  
25 asset. That's the story there.

1 THE COURT: Okay. Anything else that you wanted  
2 to testify to?

3 MR. SHEPARD: Not right now.

12:55:32

4 THE COURT: Okay. Ms. Healy Gallagher, questions  
5 for Mr. Shepard?

6 MS. HEALY GALLAGHER: No questions.

7 THE COURT: Mr. Lehr?

8 MR. LEHR: No questions.

9 MR. WALL: No questions for Mr. Johnson.

12:55:40

10 THE COURT: Excuse me just a minute. Did you  
11 provide any documentation to the Receiver of the money  
12 loaned to the two people in Salt Lake City or of the  
13 investment scam?

14 MR. SHEPARD: I did.

12:55:52

15 THE COURT: When did you do that?

16 MR. SHEPARD: I provided that on the 3rd. I gave  
17 him -- to try to be in compliance, and then you ordered us  
18 to have a conference, Erin Healy Gallagher --

19 THE COURT: Right.

12:56:15

20 MR. SHEPARD: -- and Mr. Klein. So we did that,  
21 and he outlined everything that I should do, so I did. I  
22 thought I did pretty well, but he had some further  
23 questions and wanted further documentation. So, at that  
24 time, I found this and thought this might be relevant and  
12:56:32 25 so I gave this to him.

1 THE COURT: By "this" you're referring to this  
2 exhibit that we're talking about?

3 MR. SHEPARD: Yeah, these two checks.

12:56:43

4 THE COURT: Okay. How about -- how about  
5 documents related to the scam or to the obligation of  
6 these two people in Salt Lake County to pay you.

12:57:02

7 MR. SHEPARD: Right. I did. I gave him the  
8 legal agreement on those two individuals, and then I gave  
9 him the Department of Justice efforts to try to collect  
10 money from the scam artist

11 THE COURT: Okay. Does that suggest more  
12 questions?

13 MS. HEALY GALLAGHER: No, Your Honor.  
14 Mr. Shepard did provide this last Thursday.

12:57:10

15 THE COURT: Uh-huh.

16 MS. HEALY GALLAGHER: On the 23rd.

17 THE COURT: Right.

18 MS. HEALY GALLAGHER: To the extent the Court  
19 would like, we can submit those.

12:57:16

20 THE COURT: I think they ought to be in the  
21 record, so let's get them marked at some point. You don't  
22 have to do it right now.

23 So, Mr. Lehr, any other questions?

24 MR. LEHR: No, Your Honor.

12:57:29

25 THE COURT: Okay. Mr. Wall?

1 MR. WALL: No questions, Your Honor.

2 THE COURT: Mr. Paul?

3 MR. PAUL: I do have a few.

4 THE COURT: Go ahead.

12:57:40

5 CROSS EXAMINATION

6 BY MR. PAUL:

7 Q. In that Exhibit that we just had up -- I don't  
8 remember the number. 9 --

9 THE COURT: 955?

12:57:47

10 Q. BY MR. PAUL: -- 955, there is a -- one of the  
11 checks is made out to Nelson, Snuffer, Dahle & Poulsen.  
12 Do you remember what that check was for?

13 A. As I recall, that was when I was trying to pay --  
14 I owed about \$27,000 from that first go round that I had  
15 in December.

12:58:07

16 Q. That was to satisfy the prior contempt --

17 A. Yes, it was.

18 Q. -- charge?

19 A. Yes.

12:58:13

20 Q. And when you provided the payment to the Court,  
21 you represented to the Court the source of the funds for  
22 that order to show cause satisfaction payment, correct?

23 A. I did. I borrowed money.

24 Q. Okay. And you represented that it was borrowed

12:58:29

25 money through credit cards and bank loans, correct?



1 A. Yes.

2 Q. Okay. In January of 2019, did you believe you  
3 were in compliance of the corrected Receivership Order?

4 A. Yes, I was. I did believe that.

12:58:47

5 Q. Did you understand, at that time, the extent of  
6 the additional information that was required of you?

7 A. I did not.

12:58:59

8 Q. After the first hearing on contempt that we had  
9 in these proceedings on I think it was May 3, did you have  
10 an understanding, during the hearing, of what was required  
11 of you?

12 A. I kept realizing that there's more and more and  
13 more stuff and so it wasn't until I met with Erin Healy  
14 Gallagher and Wayne Klein that I fully understood the true  
15 extent of being in compliance.

12:59:18

16 Q. And since that time, have you tried to comply  
17 with the request of the Receiver to provide additional  
18 information and documentation?

12:59:30

19 A. It's my full-time job. And, again, I was  
20 extremely motivated because I need my living allowances to  
21 survive.

22 Q. Thank you.

23 Nothing further, Your Honor.

24 THE COURT: All right. Thank you.

12:59:39

25 MS. HEALY GALLAGHER: Your Honor, I have one

1 brief follow up.

2 THE COURT: Go ahead.

3 CROSS EXAMINATION

4 BY MS. HEALY GALLAGHER:

12:59:43

5 Q. Mr. Shepard, when the corrected Receivership  
6 Order was entered, you were represented by Nelson,  
7 Snuffer, Dahle & Poulsen, correct?

8 A. I was.

13:00:01

9 Q. And you remained represented by that firm through  
10 early 2019, correct?

11 A. I'm not sure. I feel like I've been on my own  
12 here for quite awhile.

13:00:16

13 MS. HEALY GALLAGHER: Well, let the Court's  
14 docket reflect when they withdrew on Mr. Shepard's  
15 behalf.

16 THE COURT: Okay.

17 MS. HEALY GALLAGHER: Nothing further.

18 THE COURT: All right. Thank you.

19 All right, Mr. Shepard, you can step down.

13:00:22

20 MR. SHEPARD: Thank you.

21 THE COURT: I would just. Let's see. So,  
22 Mr. Shepard, you wanted to call other witnesses, too,  
23 right? Is that what you said?

24 MR. SHEPARD: Yes.

13:00:34

25 THE COURT: Okay. And they were Neldon Johnson,

1 Glenda Johnson?

2 MR. SHEPARD: LaGrand and --

3 THE COURT: Randale?

4 MR. SHEPARD: Randale.

13:00:46

5 THE COURT: I'm at least going to defer that  
6 until after lunch, but Ms. Healy Gallagher?

7 MS. HEALY GALLAGHER: I would just ask for a  
8 proffer from Shepard as to what he is expecting to elicit  
9 from those witnesses and how that goes to his

13:01:00

10 compliance.

11 THE COURT: Okay. I'm going to let counsel talk  
12 about this. You can step down, Mr. Shepard, but let me  
13 just tell you what I think you need to do. I think  
14 counsel should have a little huddle here before we need to  
15 send Mr. Wall over to State Court and talk about the rest  
16 of these proceedings because the attorneys for those folks  
17 may have an opinion as to whether they want those folks  
18 called or not.

13:01:13

19 And you may be able to work something out with  
20 Ms. Healy Gallagher about a proffer; that is, you would  
21 say something that is going to be proven by those  
22 statements. She may accept that. I don't know. And then  
23 you may avoid the necessity of taking time to do that.

13:01:27

24 On the other hand, if we come back here at 2:30  
25 and you want to call them as witnesses and there has been

13:01:42

1 no deal worked out, you should be prepared to tell me what  
2 they are going to testify to so that I can decide if it's  
3 relevant and admissible or not.

13:01:59

4 MR. SHEPARD: This has to do solely with the  
5 contempt charge; is that correct?

6 THE COURT: Solely with the contempt charge --

7 MR. SHEPARD: Okay.

13:02:06

8 THE COURT: -- and what they can offer on your  
9 behalf. So let's try to have that little huddle now  
10 before Mr. Wall goes over.

11 All right, Mr. Wall?

13:02:19

12 MR. WALL: Your Honor, just so that you are  
13 aware, we will be objecting to him calling my client. In  
14 his disclosure, which is public document number 614, he  
15 does not list my client as a potential witness. He has  
16 not subpoenaed my client. We are entitled under Rule 45  
17 to sufficient notice. He is supposed to be under  
18 subpoena, and even if the Court were to deem that his  
19 presence here is sufficient for him to be under subpoena,  
20 we don't have adequate notice. And we have other  
21 objections, but I just --

13:02:34

22 THE COURT: That's why I wanted you to talk.

23 MR. SHEPARD: Judge, I guess I didn't -- my back  
24 is to the wall and I'm trying to defend myself.

13:02:47

25 THE COURT: Sure.

1 MR. SHEPARD: On the totality of the case. I  
2 have never been able to say this, but I am a thousand  
3 percent innocent and so the testimony would go to prove my  
4 thousand percent innocent. It has nothing to do with the  
13:03:03 5 contempt charge. So, if that's the sole thing, then  
6 let's --

7 THE COURT: Okay.

8 MR. SHEPARD: -- save it for another day.

9 THE COURT: We'll save it for another -- well, I  
13:03:10 10 don't know if there will be another day on that issue  
11 unless the Tenth Circuit responds to Mr. Snuffer and tells  
12 me that I get to redo our trial. Let's come back at 2:30  
13 and argue the case. Is that where we are at?

14 MS. HEALY GALLAGHER: It sounds like it.

13:03:26 15 THE COURT: Okay.

16 MR. WALL: Yes, Your Honor.

17 THE COURT: And if you're a little late,  
18 Mr. Wall --

19 MR. WALL: Please send the marshals to get me.  
13:03:33 20 I'll be famous.

21 THE COURT: You would and they would, too. We  
22 will all be back here at 2:30 awaiting the outcome of your  
23 homicide sentencing. We're in recess.

24 MR. SNUFFER: Your Honor, just briefly.

13:03:48 25 THE COURT: Yeah.

1 MR. SNUFFER: I looked at -- I looked on the  
2 docket. That appears to be a complete list.

3 THE COURT: Okay. Well, if you agree with that,  
4 then I'm going to just place this in the file as a Court's  
5 Exhibit for this hearing.

13:03:55

6 Ms. Bowers, if you'll help me do that.

7 Okay. We're in recess.

8 MR. WALL: Thank you, Your Honor.

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(Whereupon the proceedings were concluded.)

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REPORTER'S CERTIFICATE

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

I, REBECCA JANKE, do hereby certify that I am a  
Certified Court Reporter for the State of Utah;

That as such Reporter I attended the hearing of  
the foregoing matter on May 28, 2019, and thereat reported  
in Stenotype all of the testimony and proceedings had, and  
caused said notes to be transcribed into typewriting, and  
the foregoing pages numbered 1 through 150 constitute a  
full, true and correct record of the proceedings  
transcribed.

That I am not of kin to any of the parties and  
have no interest in the outcome of the matter;

And hereby set my hand and seal this 11th day of  
June, 2019.

\_\_\_\_\_

REBECCA JANKE, CSR, RPR, RMR