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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 1:16-cv-21199-CMA
ANDREA ROSSI, et al.,
Plaintiffs,
v.
THOMAS DARDEN, et al.,
Defendants.
-----x
INDUSTRIAL HEAT, LLC, et al.,
Counter-Plaintiffs,
v.
ANDREA ROSSI, et al.,
Counter-Defendants.
and
J.M. PRODUCTS, et al.,
Third-Party Defendants.
-----x

600 Brickell Avenue, Suite 3300
Miami, Florida
Friday, February 10, 2017
10:11 a.m. - 7:25 p.m.

HIGHLY CONFIDENTIAL TRANSCRIPT
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VIDEO DEPOSITION OF ANDREA ROSSI

Taken before Janet Baldauf, Registered
Professional Reporter and Notary Public in and for
the State of Florida at Large, pursuant to Notice of
Taking Deposition filed in the above cause.

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1 that Leonardo Corporation of Florida was owned by the
2 Florida Energy Trust?

3 A. Yes.

4 Q. All right. You do not know -- you do not
5 know who the beneficiary of that trust is?

6 MR. ANNESSER: Object to the form.

7 THE WITNESS: You mean the trust that owns
8 Leonardo Corporation. Honestly, I am not sure
9 because I am sure of nothing that is related to
10 papers, but I think that the beneficiary of
11 Florida Energy Trust is me. But I am not sure
12 because I thought again about that -- I think it's
13 me, but if from the papers it will emerge that it
14 is not me, I will tell you all right, I was wrong.

15 BY MR. PACE:

16 Q. Okay. Just to make sure I understand your
17 testimony correctly, you're not aware of any other
18 beneficiary that -- you don't recall any other
19 beneficiary of the Florida Energy Trust other than
20 yourself?

21 MR. ANNESSER: Object to the form.

22 THE WITNESS: I repeat, I think that the
23 only beneficiary was me, but, again, I could be
24 wrong.

25 BY MR. PACE:

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1 editing, but Industrial Heat made its editing, and
2 at the end we agreed upon the text. But they --
3 you know -- sorry.

4 BY MR. PACE:

5 Q. This amendment was also signed by AmpEnergo
6 -- I'm sorry. By AmpEnergo if you look on page three.

7 A. Yes, Karl Norwood.

8 Q. Was anyone from AmpEnergo involved in
9 negotiating the Exhibit A to the best of your
10 recollection?

11 A. No.

12 Q. But they were required to sign because they
13 were a party to the license agreement?

14 A. You know, AmpEnergo was not my business
15 honestly. I don't know why they signed it. They were
16 transparent to me.

17 Q. They were transparent to you?

18 A. Transparent to me. Transparent means they
19 counted nothing to me.

20 Q. Oh, I understand. In connection with the
21 what was ultimately going to be the validation, the
22 validation testing, do you recall meeting with the
23 health office or health official for the providence of
24 Ferrara?

25 A. Yes.

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1 Q. When did that occur?

2 A. Exactly the day, I don't remember, but a few
3 days before the validation test because I had a problem
4 because we were -- we had to make a test with a plant
5 that was a one megawatt plant. This one megawatt plant
6 had one big problem in that installation because not
7 having something that could use the heat, we applied a
8 big naval radiator, a big naval radiator that made a --
9 not a big noise, but a noise that during the night
10 could have been a problem.

11 I had experienced this in the matter. I
12 had troubles for other things. Unfortunately, just
13 in front of, as Tom Darden has seen when he came
14 there, the factory was adjacent to a road, and just
15 across the road, so 4 or 5 meters from the plant
16 from the radiator there was a house. So the
17 radiator shoot the noise directly in the windows of
18 that house, and so I had experience of troubles that
19 had came to me from just the household that called
20 the police because our work could disturb, et
21 cetera, et cetera.

22 Q. Noise issues, right? Really loud noise --

23 A. Yes.

24 Q. -- two in the morning, I'm trying to go to
25 sleep --

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1 A. Yes, sir.

2 Q. -- and I hear loud noise.

3 A. Problem is the night, not the day.

4 Q. Right.

5 A. We had to make a test of 36 hours of
6 something, something, so there was the night and there
7 was no way that we could skip the night. So at that
8 point to avoid problems because the problem is that if
9 somebody calls, you must be lawful. At that point he
10 calls, but you work because if you are lawful they
11 cannot stop you.

12 Q. Right.

13 A. And so I had gone to what you in America you
14 call the health care office. In Italy it's call ARPA,
15 Agenzia Regionale de Protezione Dell'Ambiente. ARPA, A
16 as in Adam, R as in Robert, P as in Peter, A as in
17 Adam, ARPA. And it's an acronym that stands for
18 Agenzia, Agency, P is for protezione, protection -- no.
19 Agenzia Regionale. A is agency. R is Regionale.

20 A region in Italy is what here is a
21 county maybe. A big county is a region. Italy is
22 made by 20 regions. So agency of the region is the
23 R. P is protection, per la protezione. Ambiente,
24 the A is for Ambiente which in Italian means
25 environment. So Agency for the Regional

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1 Environmental Protection. This is what it is. And
2 it is the perfect equivalent of your health care
3 department of Florida.

4 Q. So you -- did you based on your experience
5 in Milan, you contacted this office in Ferrara?

6 A. Yes.

7 Q. And you told them we are going to be doing
8 this experiment, it's going to run through the night,
9 and it's going to be loud, and they told you what in
10 response?

11 A. Yes. You have been correct so far. And
12 they told me in Italy we do not have authorizations for
13 experiments. There is not something that is called an
14 authorization for 36 hours. You are either authorized
15 or you are not. Now, we understand your problem. You
16 have to make a test that for a customer -- because I
17 explained that it's a test for a customer that had
18 bought the plant and just wanted to see if it work for
19 one day before picking it up and bringing it to the
20 United States.

21 They say we understand you, but the cases
22 are two. Either we make a procedure to authorize
23 you and it will take in Italy to get an
24 authorization for that can take between six months
25 if you are very lucky and two years if you are

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1 normal. If you are unlucky, even more. Bureaucracy
2 in Italy is tremendous.

3 And so they said it is unthinkable that
4 we can authorize you and take the reliability. The
5 law does not foresee this. But if you find some
6 kind of an agreement with your outdoor -- with your
7 neighbor, we don't come. Because if they call us,
8 we must exit. If they don't call us, we don't come
9 because we know what you are doing, all right, we
10 don't come. But if they call us or call the police
11 and the police calls us, we must exit and we must
12 stop you.

13 Q. It's like you see in Miami Beach with noise
14 issues, right? If your neighbors are okay that you are
15 going to have a little bit of a loud event, you're
16 fine. But if your neighbors are going to call the
17 local police or somebody, that's when they are going to
18 have to come out?

19 A. And this was exactly the situation. So I
20 have gone to my neighbors and say please, I have to
21 make this and this and this and said they all right.
22 You don't make too much noise, and we can accept it
23 because we want to sleep. So I -- so I sent an e-mail
24 to Tom Darden and explained to him the situation. And
25 he said all right, it's not a big issue because I am

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1 not buying this because this makes one megawatt. I am
2 buying this because this has a COP minimum six. For me
3 what counts is not the rating. For me what rating is
4 the number of the power, how much power, is not the
5 rating. What counts for me is that it gives a COP-6.

6 So I accept because I had proposed to him
7 instead of using all the power of the plant that
8 would have been too noisy during the night -- during
9 the day is not a problem, but during the night is a
10 problem, we can use -- I don't remember how much I
11 say, one third of the power or one fourth. I don't
12 remember how much. And he answered all right, for
13 me okay.

14 Q. And at the time, just so I understand, the
15 one megawatt plant that you had designed at the time
16 would have had 64 E-Cat units in it?

17 A. No. It was much more complicated. It had
18 one hundred and -- sorry.

19 MR. ANNESSER: Hold on. I was -- sorry --
20 contemplating your question. Go ahead.

21 THE WITNESS: It was 105 and I'll explain
22 you why, but you are half right because --

23 BY MR. PACE:

24 Q. That's the way I go through life.

25 A. -- the plant was divided into two parts, one

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1 THE WITNESS: Seven.

2 BY MR. PACE:

3 Q. No. That's the problem.

4 A. Nine, nine.

5 Q. Yes. You are getting it?

6 A. Got it. It's not seven. It's nine.

7 Q. At the time of entering the first amendment
8 you also learned that Industrial Heat was assigning the
9 license agreement to IPH International BV, correct?

10 A. Yes, it was correct.

11 Q. Do you -- do you recall having any
12 discussions with Tom Darden or whoever else was in
13 Italy at the time about the assignment or was it simply
14 presented to you and signed by you?

15 A. I am very sorry for this.

16 Q. No.

17 A. I remember that I discussed with Tom Darden.
18 Tom Darden was present there. This has been signed in
19 the meeting room of the factory of Ferrara just the day
20 before the -- the day before the validation test, the
21 day before the beginning of the validation test. And I
22 ask him, I say what the heck is this IDH because I
23 don't know. And he reassured me -- I trusted him
24 absolutely, and he assured me this is all Cherokee, the
25 mother of this all is the Cherokee Fund and now IH,

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1 IPH, whatever, do not worry because this is all under
2 Cherokee Funds, and so I signed it.

3 Q. Just so I'm clear, this was a personal
4 conversation you had with Tom Darden -- I'm sorry. Let
5 me rephrase that.

6 This was a live face-to-face meeting you
7 had with Tom Darden?

8 A. Yes. In the meeting room when we made all
9 the signatures, et cetera, with all the people around,
10 I signed because he has put a bunch of papers to sign
11 on the table, and I said, yes, I signed, but what is
12 this IPH, BV (speaking in Italian) in Netherlands, what
13 is that? And he said do not worry, that is Cherokee
14 Fund. I said all right. I trust you. All right.

15 Q. And so this -- this is a conversation --
16 this occurs. Also present are two or three people from
17 AEG?

18 A. Yes, yes.

19 MR. ANNESSER: Object -- object to form.

20 Dr. Rossi, you need to allow me to object.

21 THE WITNESS: Oh, sorry, sorry, sorry.

22 MR. ANNESSER: Object to form. Thank you.

23 THE WITNESS: I am sorry.

24 BY MR. PACE:

25 Q. Also present when --

1 Q. So now, there's a single cap that Dr. Rossi
2 has circled which is actually for inputting the oil as
3 opposed to measuring the temperature. So let's -- I
4 don't want to have you actively drawing on exhibits. I
5 just wanted to make sure the record was clear on that
6 one.

7 I need to go back just for a second to
8 this Exhibit 11. It is signed by you under Rossi,
9 but it is not signed by you under Leonardo
10 Corporation. I'm sorry. I'm asking you to go back
11 to Exhibit 11. It's the Second Amendment to License
12 Agreement.

13 A. Second amendment.

14 Q. There you go. So let me ask you turn to the
15 last page.

16 A. Okay. The last page, okay. I see it, yes.

17 Q. A few questions. One is it's signed by you
18 under Rossi, but it's not signed by you under Leonardo
19 Corporation. Do you recall why or not?

20 A. Probably there is no reason. Probably
21 because, you know, Leonardo Corporation is written
22 upon, and I have the signature under I suppose that it
23 was good for both.

24 Q. But you signed the first amendment twice,
25 both for Leonardo and as -- and personally, and you

1 Giovanni?

2 A. Yes, sir.

3 Q. How do you know Francesco Di Giovanni?

4 A. I knew him six years because he had followed
5 my vicissitudes for the Petroldragon issues, et cetera,
6 et cetera. And he always has followed my work and
7 always has say that he wanted to make something with
8 me. And when he heard about this LENR stuff, he
9 contacted me and told me that he was very interested to
10 make investments in Italy and in Europe for this
11 technology. So I had those problems. If you allow me,
12 I owe you an umbrella explanation to give logic to this
13 fact.

14 Q. Why don't we kind of walk through the e-mail
15 a little bit, and then we can talk about it more
16 broadly.

17 A. All right.

18 Q. There are a couple of e-mails I want to talk
19 about, and I don't want to lose my train of thought.

20 A. Okay.

21 Q. Because I wanted to ask you, it says produce
22 catalyzers that he sells.

23 A. Yes.

24 Q. Now at this point in time in June 10 of
25 2014, first of all, what kind of catalyzers are you

1 referring to?

2 A. I was referring to platinum sponges. And
3 because I had an idea. In fact, here is a key phrase
4 that I am sure you have got that is I will direct the
5 operation. So I had in my mind a perfect utilization
6 of heat possibly with high profit, and I proposed to
7 Mr. Di Giovanni to make a thing that would have taken
8 two targets for him; one, to test a new technology that
9 I had in mind, nothing to do with LENR. How to use
10 heat to make things, to make certain types of
11 catalysts. But at the same time to have a
12 one-year-long proof of concept of the capacity of our
13 megawatt plant. That would have been useful for him to
14 test our technology to make important investments in
15 Italy for this technology.

16 Q. So your idea was that the steam from the
17 1 MW plant was going to be run through or run over the
18 platinum sponge?

19 A. Run through a plant to treat the platinum
20 sponges to operate their catalytic capacity, catalytic
21 efficiency.

22 Q. Do you know at what temperature platinum
23 sponge is such that effect any change, any change in
24 platinum sponge?

25 A. This is not just matter of temperature.

1 and me.

2 Q. Okay.

3 A. We all --

4 Q. Okay. You all --

5 A. -- had the potential. Yes, you know --

6 Q. Stop. Dr. Rossi, please. You just answered
7 the question. You answered it and then you were going
8 to --

9 MR. ANNESSER: Mr. Pace, he's allowed to
10 answer it any way he wants to.

11 MR. PACE: No, he's not.

12 MR. ANNESSER: Yes, he is.

13 MR. PACE: He's not allowed to kind of waste
14 time in a deposition.

15 MR. ANNESSER: He's not wasting time. You
16 asked a question. He is allowed to answer.

17 BY MR. PACE:

18 Q. We have -- we have a customer, that's what
19 the e-mail says, capital C, correct? And who pays a
20 thousand dollars a day to rent the 1 MW plant, put it
21 in his factory in Miami, produce catalyzers that he
22 sells. At the time that you are writing this e-mail,
23 there was no customer that you had for Leonardo and
24 Industrial Heat or Cherokee that was producing
25 catalyzers to sell, correct?

1 A. No.

2 Q. Okay.

3 A. Because this is a rhetoric. Probably the
4 literal translation from my Italian to my English has
5 changed in the sense that you are saying the meaning.
6 But what you are saying is not what I meant. Here, it
7 is rhetoric. In Italian a phrase composed like that
8 means we could have, you know what I mean. At that
9 time we did not have a customer. At that time we did
10 not have a customer that was paying one thousand
11 dollars per day, obviously, obviously. It was
12 rhetoric. I wanted to say I have found a possible -- a
13 potential customer that could pay one thousand dollars
14 per day.

15 Obviously I am not going to say -- sorry
16 -- to Industrial Heat we have a customer that pays
17 one thousand dollars per day if it does not exist
18 anybody that is paying one thousand dollars per day.
19 It is obviously. So it is obvious that I was not
20 representing this as something that already had
21 happened. I was representing the frame off the --
22 off the -- the frame off the possible solution that
23 I could -- that I could have found for a dramatic
24 situation that has been born from your client which
25 is this.

1 He has not -- he has never been able to
2 get an authorization to put in operation the one
3 megawatt plant. This is why we have made the second
4 amendment because first we needed to delay the term
5 to make the test because I had been impossibilitated
6 (sic) to make the test for the very simple reason
7 that they never have been able to give me a place
8 where to put my plant at work and a place where my
9 plant could produce its heat with the necessary
10 authorization.

11 They told me for one year -- Attorney,
12 they told me for one year that they were in contact
13 with the health care office of North Carolina to get
14 those authorizations. Eventually we discovered that
15 this was a lie because the health care office of
16 North Carolina did never knew about any Industrial
17 Heat and never had been informed that there was a
18 plant to be put in operation. We have discovered it
19 when the health care office went to Industrial Heat
20 in Cherokee on Hargett Street because of some
21 anonymous say that they were using radioactive
22 something. And when they arrive there, they did not
23 even know that existed a factory. And when JT
24 Vaughn receive it there, JT Vaughn say to them no,
25 the technology of Rossi is a bogus.

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1 MR. ANNESSER: Doctor --

2 MR. PACE: No. Let him rant.

3 MR. ANNESSER: Okay. You want to let him
4 go? I was going to --

5 MR. PACE: Stop now.

6 THE WITNESS: Sorry. So I have --

7 MR. PACE: Dr. Rossi, okay. Wait. Enough
8 of the kind of side story.

9 MR. ANNESSER: Well, you said let him go,
10 and then you said enough.

11 MR. PACE: I know, I know, but then he
12 paused, and he was about to start on something
13 else kind of goofy.

14 BY MR. PACE:

15 Q. Let's go with who told you that they could
16 not get clearance from the health department?

17 A. Darden. Always. Hundreds of times.

18 Q. Hundreds of times Tom Darden told you that
19 Industrial Heat was having problems getting clearance
20 from the health department to operate the plant in
21 North Carolina?

22 A. You say clearance. I suppose it's the right
23 -- I say authorization of permission.

24 Q. Let's use your phrase.

25 A. Okay.

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1 Q. So Tom Darden told you hundreds of times
2 that they were not able to get the authorization or
3 permission from the health department to operate the 1
4 MW plant in North Carolina?

5 MR. ANNESSER: Object to form.

6 MR. LEON DE LA BARRA: Join.

7 THE WITNESS: Yes.

8 BY MR. PACE:

9 Q. Did anyone else tell you that?

10 A. JT Vaughn.

11 Q. JT Vaughn. Did JT Vaughn tell you that
12 hundreds of times?

13 MR. ANNESSER: Object to form.

14 MR. LEON DE LA BARRA: Object to form.

15 BY MR. PACE:

16 Q. What you recall?

17 A. You know, let me say many times.

18 Q. Okay. So JT Vaughn told you many times that
19 they were unable to get the authorization or
20 permissions to operate the 1 MW plant in North
21 Carolina?

22 A. Correct.

23 Q. And that permission had to come from the
24 health department?

25 A. Yes, because it has to -- yes.

1 Q. And so you -- and you discovered that was
2 inaccurate when the health department showed up at the
3 -- I shouldn't say plant. When somebody from the
4 health department showed up at the Industrial Heat
5 location in North Carolina and you met them?

6 A. No. I did not -- you are very correct with
7 the exception of the last three words. I was not there
8 because I was in Florida.

9 Q. Okay.

10 A. It was December 2014.

11 Q. Okay.

12 A. In December 2014 some imbecile has written a
13 letter to the North Carolina health care office saying
14 that you must go to Industrial Heat because they are
15 using radioactive stuff, blah, blah, blah, you must
16 close them, you must, et cetera et cetera.

17 Then North Carolina health care office
18 after this letter was absolutely forced to go to
19 Industrial Heat. They -- because the guy say the
20 Cherokee, Cherokee Industrial Heat. So they got the
21 address. They did not even know about Industrial
22 Heat, and they have gone to the office of Cherokee
23 on Hargett Street to say we have been informed here
24 that you are making something radioactive, blah,
25 blah, blah with Andrea Rossi with okay of Andrea

1 Rossi.

2 This is a storyteller that is -- tells
3 story thing that tells us that -- that Darden lied
4 to me because it is impossible that if since one
5 year he was trying to have permission from the
6 health care, they came to him not even knowing that
7 there was a factory on Triangle Drive, and they have
8 gone to the office of Cherokee where there was no
9 plant, and they asked to them what the heck are you
10 doing.

11 Q. And you said this was December of 2014?

12 A. Yes. It is December 2014, December,
13 November, something like that.

14 MR. ANNESSER: Let him ask his question,
15 please.

16 BY MR. PACE:

17 Q. So that's at least not information you had
18 in June of 2014?

19 A. Can you repeat.

20 Q. This is just time, so this is kind of basic.

21 A. No, no. This --

22 MR. ANNESSER: Dr. Rossi, you need to let
23 him ask his question.

24 THE WITNESS: You are right. I am sorry. I
25 am sorry. I am deeply sorry for this.

1 A. Yes.

2 Q. Changes were made to the container or to the
3 plumbing or piping system within that container after
4 it got to Florida, correct?

5 MR. ANNESSER: Object to form.

6 MR. LEON DE LA BARRA: Object to form.

7 THE WITNESS: We had -- first of all, when
8 it arrived in Doral, it was not complete because
9 the people of Industrial Heat had to finish the
10 work in Doral. We did not make changes. We just
11 completed the construction of it --

12 BY MR. PACE:

13 Q. So there was never kind of like a drip leg
14 steam trap on the piping that went from Leonardo to JM
15 Products?

16 MR. ANNESSER: Object to form.

17 MR. LEON DE LA BARRA: Join.

18 THE WITNESS: No. But you have the
19 photographs. We have the photographs. Sorry,
20 sorry, sorry.

21 BY MR. PACE:

22 Q. Were there any steam traps inside the
23 container?

24 A. I don't know what you mean steam traps. I
25 don't even know steam traps, what are.

1 Q. Do you know or not know -- do you know what
2 a steam trap is?

3 A. Yes, I know what a steam trap is, but there
4 are many kind. We have put a steam trap, but we did
5 not make any change to that.

6 Q. So the -- do you recall when the container
7 was in Raleigh, North Carolina or Cary, North Carolina,
8 right before it was sent down to Florida, so this is
9 late 2014, there was a system placed in that. A system
10 was designed for that to carry the -- to take water
11 through -- let the E-Cats heat it up and carry it as
12 steam, correct?

13 MR. ANNESSER: Object to form.

14 MR. LEON DE LA BARRA: Join.

15 THE WITNESS: I'm sorry. But I have not
16 understood exactly what you have said.

17 BY MR. PACE:

18 Q. When that -- work was being done in North
19 Carolina on this container that housed the E-Cats?

20 A. Yes.

21 Q. In order to work on the plumbing or piping
22 system that would take -- that would bring water in to
23 the E-Cat reactors --

24 A. Yes.

25 Q. -- allow it to be heated up and carried out

1 as steam, correct?

2 A. Correct. Yes, it is correct.

3 Q. Was any change made to that design after the
4 container arrived in Florida? Was there anything you
5 had to change or fix?

6 MR. ANNESSER: Object to form.

7 THE WITNESS: Some particular maybe. I
8 don't remember exactly, but I don't remember, but
9 nothing substantial.

10 BY MR. PACE:

11 Q. So you don't remember making any changes to
12 the --

13 A. Not substantial.

14 Q. Plumbing or piping system.

15 A. There were many, many -- there were some
16 many, many, you know, small things to fix, but I don't
17 remember anything substantial.

18 Q. Okay. And when you say small things to fix,
19 do you mean that there were -- for example, from the
20 shipping -- from the shipping a wire would get
21 disconnected --

22 A. For example.

23 Q. -- or something would get cracked. Okay.
24 For this test in Florida measuring equipment had to be
25 installed, correct?