

EXHIBIT H

(Fabio Penon Deposition Excepts)

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA

3 CASE NO. 1:16-cv-21199-CMA/O'SULLIVAN
4

5 ANDREA ROSSI, ET AL.,

6 Plaintiffs,

7 vs.

8 THOMAS DARDEN, ET AL.,

9 Defendants.
10 _____/

11 Casa de Campo

Resort & Villas

La Romana, D.R.

Wednesday, February 22, 2017

9:06 a.m. - 7:42 p.m.

12
13
14 VIDEOTAPED DEPOSITION OF FABIO PENON
15

16
17
18
19
20
21 Taken on behalf of the Plaintiffs before
22 Diana Santos, Shorthand Reporter and Notary Public
23 in and for the State of Florida at Large, pursuant
24 to Notice of Taking Deposition filed in the above
25 cause.

Page 138

1 (Thereupon, a recess was taken from 4:44
 2 p.m. - 4:53 p.m., after which the following
 3 proceedings were had:)
 4 THE VIDEOGRAPHER: We are now back on the
 5 record. The time is 4:53.
 6 BY MR. ANNESSER:
 7 Q Sir, have you ever heard of a company
 8 called JM Products?
 9 THE INTERPRETER: GM products?
 10 MR. ANNESSER: JM Products.
 11 THE WITNESS: Yes, I heard about it.
 12 BY MR. ANNESSER:
 13 Q Do you know Mr. Henry Johnson?
 14 A No.
 15 Q Have you ever spoken with him?
 16 A Never.
 17 Q What do you know of JM products?
 18 A Nothing practically.
 19 Q Have you had any communication with
 20 Mr. Johnson whatsoever?
 21 A No.
 22 Q Do you or have you met a gentleman by the
 23 name of James or Jim Bass?
 24 THE INTERPRETER: B-A-S-S.
 25 MR. ANNESSER: Yes.

Page 139

1 THE WITNESS: Which company?
 2 BY MR. ANNESSER:
 3 Q I believe he was with JM Products.
 4 A No.
 5 Q Did you ever request from Mr. Bass, or
 6 Mr. Johnson, or anyone at JM products to take any
 7 measurements of the amount of steam received from
 8 the E-Cat plant?
 9 A No.
 10 Q Did anything in your test protocol require
 11 measurements be taken on the JM Product side of the
 12 warehouse?
 13 A No.
 14 Q Did the operation of the JM plant have any
 15 effect whatsoever on your evaluations and
 16 calculation of the COP for the E-Cat?
 17 MR. PACE: Objection.
 18 THE WITNESS: Can we formulate the
 19 question?
 20 BY MR. ANNESSER:
 21 Q Did the operation on the JM side of the
 22 warehouse have any effect whatsoever on his
 23 calculation of the COP -- I'm sorry. On your
 24 calculation of the COP?
 25 MR. PACE: Objection.

Page 140

1 THE WITNESS: I don't understand the kind
 2 of question.
 3 BY MR. ANNESSER:
 4 Q Did the -- did the operation where the
 5 steam was used have any effect on your ability to
 6 measure the COP of the E-Cat plant?
 7 A No, no effect whatsoever.
 8 MR. PACE: Objection. I couldn't get in
 9 there, but objection.
 10 THE WITNESS: No, no effect whatsoever.
 11 BY MR. ANNESSER:
 12 Q Did you ever go -- I'm sorry.
 13 Did you ever see anyone go between the JM
 14 side and the side where the E-Cat plant was?
 15 MR. PACE: Objection. And you can
 16 completely clear it up by telling him what the
 17 JM side was, because I don't know if he said he
 18 actually knows it.
 19 BY MR. ANNESSER:
 20 Q The JM side is the side on the other side
 21 of the wall in the E-Cat plant. Did you ever see
 22 anyone go between the two sides?
 23 A Not to the best of my knowledge.
 24 Q Do you know Mr. Fulvio Fabiani?
 25 A Yes, I do.

Page 141

1 Q Did he take any of the measurements that
 2 you relied upon in creating your report?
 3 A To the calculation of COP?
 4 Q Yes.
 5 A So the question is?
 6 Q Did he provide any of the measurements to
 7 you?
 8 A No.
 9 MR. ANNESSER: Sir, that is all the
 10 questions that I have for you. I thank you
 11 very much for your time. Mr. Pace, who
 12 represents the defendants, may have some
 13 questions for you.
 14 MR. LUKACS: Mr. Videographer, may I have
 15 a time, please?
 16 THE VIDEOGRAPHER: Five hours and 29
 17 minutes. Could you please put your microphone
 18 on?
 19 MR. PACE: Oh, my apologies.
 20 CROSS-EXAMINATION
 21 BY MR. PACE:
 22 Q Let me start by asking what title do you
 23 prefer? Do you prefer Dr. Penon; do you prefer
 24 Engineer Penon; do you prefer Mr. Penon?
 25 A Dr. Penon.

<p style="text-align: right;">Page 206</p> <p>1 MR. LUKACS: 9:00 o'clock this morning and 2 it is now 20 minutes until 8:00. 3 MR. PACE: And it is now 20 minutes until 4 8:00 a.m. 5 MR. LUKACS: 8:00 p.m. 6 MR. PACE: And at this point -- 8:00 p.m 7 you are calling it into the deposition. 8 MR. LUKACS: Most respectfully, I might 9 add. 10 THE VIDEOGRAPHER: All right. Going off 11 the video record. The time is 7:42 p.m. in the 12 Dominican Republic. 13 MR. LUKACS: Reporter, thank you so much. 14 No waive. We'll have an opportunity to read. 15 (Thereupon, the taking of the deposition 16 was concluded at 7:42 p.m.) 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 208</p> <p>1 ERRATA SHEET 2 RE: ANDREA ROSSI, ET AL. VS. THOMAS DARDEN, ET AL. DEPO OF: FABIO PENON 3 TAKEN: February 22, 2017 JOB# 2547735 4 DO NOT WRITE ON TRANSCRIPT, ENTER ANY CHANGES HERE 5 Page # Line # Change Reason 6 _____ _____ _____ _____ 7 _____ _____ _____ _____ 8 _____ _____ _____ _____ 9 _____ _____ _____ _____ 10 _____ _____ _____ _____ 11 _____ _____ _____ _____ 12 _____ _____ _____ _____ 13 _____ _____ _____ _____ 14 _____ _____ _____ _____ 15 _____ _____ _____ _____ 16 _____ _____ _____ _____ 17 _____ _____ _____ _____ 18 _____ _____ _____ _____ 19 _____ _____ _____ _____ 20 _____ _____ _____ _____ 21 State of Florida) County of) 22 Under penalties of perjury, I declare that I have 23 read by deposition transcript, and it is true and correct subject to any changes in form or 24 substance entered here. _____ 25 Date FABIO PENON</p>
<p style="text-align: right;">Page 207</p> <p>1 RE: ANDREA ROSSI, ET AL. VS. THOMAS DARDEN, ET AL. DEPO OF: FABIO PENON 2 TAKEN: February 22, 2017 3 4 EXCEPT FOR ANY CORRECTIONS MADE ON THE ERRATA SHEET BY 5 ME, I CERTIFY THIS IS A TRUE AND ACCURATE TRANSCRIPT. 6 FURTHER DEPONENT SAYETH NOT. 7 _____ 8 FABIO PENON 9 STATE OF FLORIDA)) SS: 10 COUNTY OF MIAMI-DADE) 11 Sworn and subscribed to before me this 12 _____ day of _____, 2017. 13 PERSONALLY KNOWN _____ OR I.D. _____ 14 _____ 15 Notary Public in and for the State of Florida at Large. 16 My commission expires: 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 209</p> <p>1 CERTIFICATE OF OATH OF INTERPRETER 2 3 STATE OF FLORIDA)) SS: 4 COUNTY OF MIAMI-DADE) 5 6 I, DIANA SANTOS, Notary Public in and for 7 the State of Florida at Large, certify that the 8 Interpreter, UGO V. CHIARATO personally appeared 9 before me on February 22, 2017 and was duly sworn by 10 me. 11 WITNESS my hand and official seal this 12 22nd day of February, 2017. 13 14 15 _____ 16 DIANA SANTOS Notary Public, State of Florida at Large 17 18 Notary #FF030013 19 My commission expires: 7/7/17 20 21 22 23 24 25</p>