

Composite Exhibit 18

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 CASE NO. 1:16-cv-21199-CMA/O'Sullivan
4
5

ANDREA ROSSI and LEONARDO)

6 CORPORATION,)

)

7 Plaintiffs,)

)

)

9 v.)

)

10 THOMAS DARDEN; JOHN T.)

VAUGHN; INDUSTRIAL HEAT,)

11 LLC; IPH INTERNATIONAL,)

B.V. and CHEROKEE)

12 INVESTMENT PARTNERS, LLC,)

)

13 Defendants.)

14
15 C O N F I D E N T I A L
16
17
18

19 Video Deposition of BARRY WEST
20 (Taken by the Plaintiffs)
21 Raleigh, North Carolina
22 Friday, December 2, 2016
23
24

25 Reported by: Marisa Munoz-Vourakis -
RMR, CRR and Notary Public

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1 APPEARANCE OF COUNSEL:	1
2 For the Plaintiffs:	2 Video Deposition of BARRY WEST, taken by the
3 BRIAN W. CHAIKEN, ESQ.	3 Plaintiffs, at Regus Business Center, 9121 Anson Way,
4 JOHN W. ANNESSER, ESQ.	4 Suite 200, Raleigh, North Carolina, on the 2nd day of
5 Perlman, Bajandas, Yevoli & Albright, P.L.	5 December, 2016 at 9:01 a m., before Marisa Munoz-Vourakis,
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Page 3	Page 5
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7 919-865-7000	7 FURTHER EXAMINATION BY MR. CHAIKEN . . . 227
8 jeremy.falcone@elliswinters.com	8 PLAINTIFF EXHIBITS
9 Also Present: THOMAS DARDEN	9 EXHIBIT NUMBER DESCRIPTION PAGE
10 For the Third-Party Defendants JM Products, Inc., Henry	10 Exhibit 1 Notice of Deposition 9
Johnson, Esq. and James Bass:	11 Exhibit 2 Twelve pages of documents 10
11 FERNANDO S. ARAN, ESQ. (By Telephone)	12 Exhibit 3 Bates stamped IH0006742 119
12 Aran, Correa & Guarch, P.A.	13 Exhibit 4 Bates number IH00006741 151
13 255 University Drive	14 Exhibit 5 Bates number IH00006740 152
14 Coral Gables, FL 33134-6732	15 Exhibit 6 Bates number IH00006670 154
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25 Also Present - DONALD GRAVES, Videographer	

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<p style="text-align: right;">Page 78</p> <p>1 back, and then we did a basic floor layout of how the 2 plant should sit and the way things should be 3 orientated so that everything fit and worked properly 4 based on T. Barker's -- the way we'd lay things out, me 5 and him working together, and, of course, none of that 6 happened like that.</p> <p>7 Q. Okay. We'll get to that in a second.</p> <p>8 So when was the first trip you made to 9 Florida for the purposes of seeing the plant?</p> <p>10 A. Oh, God, I'm trying to think here. I'm 11 going to guess late November, early December. It was a 12 couple, three weeks. I can't remember exactly. It may 13 have been a month before we actually shipped the unit 14 down there. I mean, they decided for me to fly down 15 there, take a look at this place and see what we're up 16 against, because we knew we got to have water, we knew 17 we got to have power this, that and the other.</p> <p>18 Q. Do you recall visiting the plant, actually 19 the plant facility in Doral, Florida in November 2014?</p> <p>20 A. Yeah, like I said, about a month before we 21 shipped.</p> <p>22 Q. Okay. Do you know how long before, and I'm 23 talking like months or weeks in November 2014, did 24 Rossi go down to prepare the plant?</p> <p>25 A. Andrea was down there a lot. I mean, he</p>	<p style="text-align: right;">Page 80</p> <p>1 having having(sic) there. The air kind of really 2 didn't happen. We didn't need it. We had air there 3 that we used from the other side sometimes, but, no, 4 mostly just the water supply, which turned out not to 5 exist as well. We ended up bringing a hose from the 6 bathroom up there for what water needs, but then they 7 wanted to use distilled water. Andrea said water from 8 the tap was unacceptable. So he actually bought water 9 from a company down there that we had to shuck all 10 these darn five gallon jugs of water and fill the 11 vessel up which provided water for the unit.</p> <p>12 Q. So, but getting back to the design of the 13 layout of the facility, that's something that you and 14 T. Barker worked on, is that correct?</p> <p>15 A. Right. Right.</p> <p>16 Q. When in time did you work on that?</p> <p>17 A. Oh, prior to it leaving, when we were near 18 completion. I'd say this would have happened 19 November-ish.</p> <p>20 Q. 2014?</p> <p>21 A. Yeah.</p> <p>22 Q. Was it your understanding at that time that 23 the facility in Doral, Florida was already operating or 24 had operations in it, or did you understand that it 25 have being developed or built out for purposes of this</p>
<p style="text-align: right;">Page 79</p> <p>1 was home every weekend, most of the time. He'd come up 2 a lot of times in the week, Wednesday or Thursdays a 3 lot of times. Sometimes on a Monday, but he would 4 never stay but a couple of days. He just was 5 monitoring progress on the rebuild.</p> <p>6 Q. Do you recall ever traveling to Miami in 7 about April of 2014 to see the facility?</p> <p>8 A. No. No.</p> <p>9 Q. No. Yesterday, we had the deposition of 10 Mr. T. Barker Dameron, and one of the exhibits was 11 Exhibit number 14. I'm going to show you the exhibit 12 right now.</p> <p>13 Oh, strike that. I'm not going to show you 14 that document. I have a date wrong, I apologize.</p> <p>15 So you said just earlier that T. Barker and 16 yourself had worked on a design of the facility in 17 Florida, is that correct?</p> <p>18 A. A layout plan, a basic layout, how the two 19 different, because you got to understand that all the 20 units were in one large container, the 40-foot 21 container. And all the power and control that operated 22 these things was in a separate container. And how that 23 needed to be for things to work out electrically as 24 well as the plumbing and the air there was, you know, 25 plumbing and air that we would -- were planning on</p>	<p style="text-align: right;">Page 81</p> <p>1 test?</p> <p>2 A. I understood that the customer up front 3 needed -- was going to utilize the steam source and 4 give us our water back. I mean, this was just, you 5 know, whatever this customer was, whatever he done, you 6 know, I don't -- I don't really know. I heard a couple 7 of different stories, but I don't really know, because 8 I wasn't allowed up there. I didn't get to see 9 anything on the other side of the wall. In fact, the 10 work I had to do on the roof of the Conex they didn't 11 even like that, because I could see over there, so.</p> <p>12 Q. What stories did you hear?</p> <p>13 A. First, I heard they were curing some kind 14 of a circuit board for an aircraft, it was a military 15 type contract, and then I heard they are treating some 16 kind of metal.</p> <p>17 Q. Let me stop you there.</p> <p>18 Who did you hear the military comments 19 from?</p> <p>20 A. From Fulvio.</p> <p>21 Q. And what was the second thing you heard?</p> <p>22 A. Then the second thing I heard they were 23 heating some kind of metal and the story kind of 24 changed though.</p> <p>25 Q. Who did you hear that from?</p>

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<p style="text-align: right;">Page 82</p> <p>1 A. Fulvio again and Reynoldo. 2 Q. Who's Reynoldo? 3 A. Reynoldo is the worker there. 4 Q. Who did he work for? 5 A. He worked for Mr. Jim Bass. 6 Q. Did you ever meet Jim Bass? 7 A. Yeah, couple, three times. 8 Q. Who is Jim Bass? 9 A. He was the guy that took care of everything 10 across the wall. 11 Q. Who worked for JM Products? 12 A. Yeah. Well, he is JM Products. He was JM 13 Products. 14 Q. Do you know what JM Products is or was? 15 A. No, I really don't know. That was a 16 secret. It was all, I was told, top secret military 17 something going on over there. 18 Q. Did you ever have a discussion with anyone 19 from Industrial Heat where they told you there were 20 subject matters or topics that you were not to discuss 21 with Dr. Rossi? 22 A. No. Andrea was -- Andrea was driving the 23 ship, man. He was at the helm of this thing. 24 Q. Were you aware that T. Barker Dameron was 25 told that there were subject matters or things that he</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Right. But did you understand that he had 2 a specific role with respect to what was going on in 3 North Carolina? 4 A. Yeah, he was Andrea's right hand. 5 Q. Okay. Did you understand that Fulvio 6 Fabiani and Dr. Rossi had a relationship prior to doing 7 the work for Industrial Heat? 8 A. Oh, yeah, I met a lot of the family members 9 and I understood that. 10 Q. Did the people at Industrial Heat 11 understand that Fulvio Fabiani had a relationship with 12 Dr. Rossi prior to the work performed at Industrial 13 Heat? 14 A. Yeah, they knew. 15 Q. Did they have a concern about that? 16 A. No. Fulvio was Andrea's electrician, man. 17 You know, I mean, that had been going on for some time. 18 Q. Did they ever express to you that they were 19 concerned about this prior relationship? 20 A. No. 21 Q. Now, when you're talking the design layout 22 for the Florida plant that you and T. Barker worked on 23 in November, approximately, November 2014, when did you 24 first communicate or did you communicate that layout 25 design to Dr. Rossi?</p>
<p style="text-align: right;">Page 83</p> <p>1 was not to talk to Dr. Rossi about? 2 A. No, sir. 3 Q. Never had that conversation with T. Barker? 4 A. No, sir. 5 Q. Now, you talked a little bit about Fulvio 6 Fabiani. What was Fulvio Fabiani's role with respect 7 to the Doral, Florida facility? 8 A. He was electrical design and maintenance 9 kind of supervisor. That's who I worked with, worked 10 for him actually, him and Andrea, you know. I mean, 11 but once again -- and Fulvio was assisting in a lot of 12 tests. Him and Andrea would come up with pretty much 13 the plan. 14 Q. Now, you first met Fulvio Fabiani while you 15 were working in North Carolina, is that right? 16 A. Right. Right. 17 Q. And he was working in the North Carolina 18 facility as well, Fabiani? 19 A. Oh, yeah. 20 Q. And what was his role in North Carolina? 21 A. Once again, this all started with my 22 meeting with Fulvio and making modifications to this 23 one panel. And this was, like I said, a week's worth 24 of work, and the thing went on for, you know, over 25 three years.</p>	<p style="text-align: right;">Page 85</p> <p>1 A. Yes. 2 Q. When did you do that? 3 A. When it arrived. 4 Q. When it arrived in Doral? 5 A. In Doral. We had talked about it earlier 6 though. I had mentioned it on the phone with Andrea 7 when I was coming in. Andrea, actually, he met me at 8 the airport one time and picked me up. I think it was 9 Andrea that came and got me the very first day. The 10 first time I flew up there, Andrea came and got me. 11 Maybe Fulvio took me back, but for the first -- my 12 initial look and get measurements, see how this stuff 13 is going to layout. 14 Q. So was this in December of 2014 you're 15 talking about? 16 A. No, I'm thinking this was in November. I'd 17 have to go back and try to pull -- find the plane 18 ticket. I don't know, man. I forget. They got all 19 that information there. 20 Q. So the first trip to the plant in November 21 of 2014, you brought along your design layout plan and 22 the design layout plan that you and T. Barker put 23 together? 24 A. No, no, couldn't have, because my purpose 25 for going down there was to measure the place so we</p>

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<p style="text-align: right;">Page 86</p> <p>1 could determine how things -- how the different 2 components needed to sit in place. 3 Q. So then when you -- when the E-CAT was 4 shipped and you arrived after the E-CAT was shipped, 5 was that when you provided your layout plan to 6 Dr. Rossi? 7 A. Yeah, but Andrea and T. Barker had 8 coordinated. I mean they knew, and I remember one time 9 Andrea got a little disappointed when he came down 10 there, because things didn't get done exactly like he 11 thought they should have been done, but. 12 Q. How do you know that Dr. Rossi received 13 your layout or plan? 14 A. I don't know, you know. I'm pretty sure 15 that T. Barker, I mean, I'm assuming here, but I know 16 the man did. I mean, they coordinated regularly. 17 Q. Do you think it was communicated via email? 18 A. Probably so. 19 Q. Do you have any reason to believe it was 20 communicated via hand delivery? 21 A. I don't know. I wouldn't think that. This 22 was something, you know, they could have communicated 23 over the phone for all I know. I mean, they talked 24 regularly. Sometimes Andrea would call and, you know, 25 ask for me when I was working on this or that, how long</p>	<p style="text-align: right;">Page 88</p> <p>1 up the Doral facility for IH? 2 A. Right. 3 Q. And you had helped prepare the design 4 layout, correct? 5 A. True. It was mostly T. Barker. He knew 6 how things had to be. I just went there and gathered 7 footages and measurements, and then we determined where 8 exactly in there things need to be placed. Of course, 9 all that was in vain. 10 Q. Okay. Now, you say it was in vain. Why 11 was it in vain? 12 A. Because when I got there and had my little 13 layout there and showing basically where the condensate 14 return take, which was going to sit over on one side 15 had to be, Andrea informed me that he was the director 16 on this site, and we're not using that frigging tank, 17 and then we revived it. He said it was like Lazareth, 18 we're going to revive this. We're all going to use 19 this tank, but it's going to be over here now. 20 Q. Okay. So other than the condensate reserve 21 tank -- 22 A. Yeah, well, everything that came back as 23 condensate needed a vessel to flow into, and that was 24 done away with altogether. Everything came back into a 25 smaller tank that was inside the unit, and the larger</p>
<p style="text-align: right;">Page 87</p> <p>1 do I think. I mean, he'd do that just to, you know, 2 checks and balances between me and T. Barker, because 3 we were both doing different stages, different parts of 4 the thing. 5 Q. Now, who ultimately was responsible or were 6 tasked with the job of setting up the Doral facility on 7 the IH side of the wall? 8 A. That would be me. 9 Q. Okay. 10 A. Me and, of course, Andrea, and I had a 11 couple of guys helping me as well. 12 Q. Couple of guys? 13 A. That was Jose and Marco. They agreed to 14 come down for a couple months to help me get the things 15 up and running, you know, because we couldn't finish 16 all the work. We were missing components. 17 There was some older some components, some 18 parts that were short, and we couldn't complete the 19 electrical to be in an operational mode until these 20 components came in, and we all agreed that this would 21 have to take place in Florida. 22 Q. Was Jose and Marco, were they Industrial 23 Heat employees or -- 24 A. No, they were independent, just like me. 25 Q. Okay. So you were responsible for setting</p>	<p style="text-align: right;">Page 89</p> <p>1 tank, which originally was going to be condensate 2 return tank, and then we were going to pump the water 3 back into the units. That ended up being -- we built a 4 big stand a little taller than this table, really heavy 5 duty stand out of wood to support that large tank full 6 of water, which this thing held, I forget how many 7 gallons, 55-gallon drums, it probably held 6, 800 8 gallons or more, maybe a thousand gallons of water, 9 which is substantially heavy. But it had to be up so 10 gravity could allow it to flow into the system. 11 So Dave Perry come down one time to check 12 us out and then help with the design or that stand, if 13 you will, and then we just attached a rubber hose into 14 the water fill inside and allowed gravity to feed it. 15 This was based on Andrea. 16 Q. Other than that condensate reserve tank, 17 what other things did Andrea demand be changed from 18 your design layout? 19 A. There was -- man, there was so many. The 20 size of the pipe that brought the condensate back, that 21 ended up -- we ended up moving that frigging hole, and 22 that thing ended up leaking, and he hired another 23 company, God, I can't remember the name of them guys. 24 I want to say the one guy was John that come over, but 25 he hired another company to come in and do a lot of the</p>

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<p style="text-align: right;">Page 90</p> <p>1 plumbing, and they made several modifications. 2 Q. Okay. I understand that -- well, did you 3 document these modifications? 4 A. No. 5 Q. Why not? 6 A. It ain't electrical. 7 Q. Did anyone from IH document these 8 modifications? 9 A. No. 10 Q. Why not? 11 A. They were Andrea's. 12 Q. Okay. 13 A. I mean, these are just basic gravity. I 14 mean, water has got to go down. It's got to flow 15 downhill. The way the thing initially was setup and 16 laid out, when the one tank wasn't utilized on the 17 floor over there, you won't use that at all, and then 18 he routed the condensate line directly straight in a 19 the smaller tank inside. Well, that caused some flow 20 issues and some problems, and Andrea made those 21 engineering changes, and we just supported him and made 22 it, you know, and made it work, got to where we made it 23 work. 24 Q. But did you express disagreements with 25 those changes?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Okay. But I'm trying to identify 2 specifically what the issues were. 3 So you mentioned two. You said you think 4 there were many. I'd like you to identify as many as 5 you can. 6 A. Some of the piping in there we had to make 7 changes to that, because the big Frankies as well as 8 the E-CATs were all grounded electrically through the 9 piping, and that presented major issues when we tried 10 to start up, because of the faults of the individual 11 heating elements. Many of them were shorted at some 12 level to ground, and then when they got a good 13 electrical ground, it caused them to burn up. 14 So they had to make plumbing modifications 15 to even allow it to operate, because it was not 16 electrically sound. 17 Q. Were those modifications made? 18 A. Yes, had to make those changes. They 19 wouldn't operate electrically without those changes. I 20 mean the ground system, the ground, you know, the low 21 potential path to earth, to ground was causing major 22 issues. 23 Q. Okay. Anything else that you recall 24 different from your design layout? 25 A. No, most of the rest was pretty</p>
<p style="text-align: right;">Page 91</p> <p>1 A. No, I didn't care. They paid me. I do 2 what I'm told. 3 Q. Okay. Do you know if anyone from 4 Industrial Heat said hey, we don't think these changes 5 are good or hopeful? 6 A. T. Barker pitched a bitch a little bit, 7 because he doesn't follow his plan at all. Well, he 8 followed it, but not exactly, but, you know, it didn't 9 matter. Once again, once it got to Florida, this is 10 Andrea's thing and -- 11 Q. Okay. So we have the condensate reserve 12 tank, we have the size of the pipe to bring the 13 condensate back, was there anything else that you 14 remember specifically, and I'm trying to get a list of 15 things but -- 16 A. As far as issues and problems, the hoses 17 kept coming off. 18 Q. Let's distinguish, I'm not asking you about 19 issues and problems right now. Right now I'm asking 20 about modifications to the design layout plan that you 21 and T. Barker put together. 22 A. That's pretty much the physical locations 23 of everything. I mean, once again, our plan wasn't 24 used at all, really. When it got down there, Andrea 25 took over.</p>	<p style="text-align: right;">Page 93</p> <p>1 straightforward. 2 Q. Okay. Approximately when did you get the 3 equipment in Doral up and running for the first time? 4 A. End of February, somewhere around the end 5 of February, 27th, 26th, somewhere around in there. 6 Q. Was there some agreement amongst the 7 parties -- when I say the parties, I mean T. Barker, 8 Dr. Rossi, J.T. Vaughn, that the tests, the 350-day 9 test had begun? 10 A. Yes, I guess there was, but I don't know, 11 they didn't tell me. 12 Q. They didn't tell you, hey -- 13 A. No, I knew when the plant got on line as 14 far as actual numbers that corresponded between Andrea 15 and, you know, IH. I didn't, you know. 16 Q. You mentioned earlier in our discussion 17 someone named Fabio Penon. Do you know who he is? 18 A. Oh, yeah. 19 Q. Who was he? 20 A. He's the guy that brought the kiss of a 21 lady to me. The smile. He remembers the kiss of a 22 woman, the kiss of the lady. 23 A really cool Italian cookie. I don't know 24 guys. I never -- first time I met Penon he brought the 25 whole box of these really cool cookies, and we sat down</p>

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<p>1 many times. In the end that one test you see there is</p> <p>2 only three units. There's actually a fourth one, but</p> <p>3 it had such catastrophic failures electrically that we</p> <p>4 took it off line. It ran at first, but didn't make it.</p> <p>5 We never changed anything inside those. We didn't</p> <p>6 rebuild those at all.</p> <p>7 Q. After you had gotten the facility up and</p> <p>8 running in February 2015, you said your role turned</p> <p>9 into one of maintenance?</p> <p>10 A. Pretty much.</p> <p>11 Q. So can you maybe describe for me what your</p> <p>12 day-to-day, day-to-day role was after February 2015?</p> <p>13 A. Be on site, maintain a close proximity.</p> <p>14 Andrea didn't want me to be more than a couple of hours</p> <p>15 away from the plant, even on the weekends. Of course,</p> <p>16 I was there my normal four or five days, and every</p> <p>17 week, and if something breaks, fix it.</p> <p>18 We had several little projects. We set up</p> <p>19 a controller. We shipped down an extra controller, and</p> <p>20 Andrea did some auxiliary testing between the main unit</p> <p>21 and the control house, if you will, the electrical</p> <p>22 control room. We set up a table and a controller</p> <p>23 there, and he actually tested some Quar-CATs and some</p> <p>24 other little smaller units.</p> <p>25 Q. Did you play a role in any of those tests?</p>	<p>1 other side back to us. I didn't install it. I</p> <p>2 didn't -- I want to say we did get up there on the</p> <p>3 steam line and put in some thermocouples and a pressure</p> <p>4 transmitter and do a little work with one of Fabio's</p> <p>5 cards, which was kind of like the little brains of each</p> <p>6 unit.</p> <p>7 Q. Did you see any rust when you were doing</p> <p>8 any of that work?</p> <p>9 A. Yeah, you know, the big Frankies, the site</p> <p>10 glass on the back the unit.</p> <p>11 Q. I'm talking the condensate pipe.</p> <p>12 A. I didn't have anything to do with that.</p> <p>13 Somebody else installed that, I, you know.</p> <p>14 Q. During this time, what was T. Barker</p> <p>15 Dameron's role at the Doral facility? Zero?</p> <p>16 A. Absolutely zero.</p> <p>17 Q. He had no role whatsoever?</p> <p>18 A. None. Glad the thing got down here.</p> <p>19 Q. Was there anyone from Industrial Heat that</p> <p>20 wasn't an outside consultant or third party that was</p> <p>21 monitoring the test in Doral, Florida?</p> <p>22 A. Not that I'm aware of. I guess I was</p> <p>23 their, kind of their eyes and ears down there, and we</p> <p>24 had investors come by all the time, I can't even count</p> <p>25 the number, probably a dozen or more times. J.T.,</p>
Page 99	Page 101
<p>1 A. Oh, yeah, well, I hooked them up. I wired</p> <p>2 the thing up for him, and then he did all the</p> <p>3 measurements and so on and so forth.</p> <p>4 Q. I take you back to something you said just</p> <p>5 a little bit earlier. So you were talking about the</p> <p>6 pipes that were rusted, and you said they were part of</p> <p>7 the big Frankies?</p> <p>8 A. Well, it really wasn't so much the pipes,</p> <p>9 it's the actual vessel itself. The piping that went in</p> <p>10 and out, all that was new. I mean, Newcomb installed</p> <p>11 all that new.</p> <p>12 Q. Do you think that the fact that there was</p> <p>13 some rust on those machines had any impact on the test</p> <p>14 results?</p> <p>15 A. I'm sure it should be considered.</p> <p>16 Q. Why?</p> <p>17 A. It's a foreign substance.</p> <p>18 Q. What about the condensate pipe itself? Did</p> <p>19 that have any rust in it?</p> <p>20 A. I don't know. We didn't run that.</p> <p>21 Q. You didn't check it?</p> <p>22 A. We didn't run it. We didn't install it.</p> <p>23 Q. You didn't install it?</p> <p>24 A. You know, I just -- I mean, it was an</p> <p>25 insulated pipe at an angle, you know, coming from the</p>	<p>1 Mr. Tom or others would come and bring, you know,</p> <p>2 people that were investors of the project, you know, to</p> <p>3 me, just to see us.</p> <p>4 Q. Were you giving reports to anyone in</p> <p>5 Industrial Heat regarding what you were seeing at the</p> <p>6 plant in Doral?</p> <p>7 A. Yeah, weekly, pretty much every week,</p> <p>8 sometimes, yeah, I might go a month or more and not</p> <p>9 talk to J.T. I mean, I just did my thing down there.</p> <p>10 Q. Were your reports oral or in writing?</p> <p>11 A. Most of them just on the phone.</p> <p>12 Q. Okay. And give me an example of what that</p> <p>13 oral report would be like?</p> <p>14 A. Plant is running good. Got a little</p> <p>15 hiccups here and there. Most of them plumbing, fix</p> <p>16 some leaks, but for the most part the plant ran, you</p> <p>17 know, pretty well, once we got the bugs worked out of</p> <p>18 it. And, you know, Andrea and Fulvio would come up</p> <p>19 with a plan to change this or that. Let's try this</p> <p>20 over here, you know.</p> <p>21 One of the biggest issues was trying to</p> <p>22 capture all the water, you know, not having any leaks,</p> <p>23 which was, you know, a big concern.</p> <p>24 Q. Do you know the methodology being used to</p> <p>25 measure the results of the plant?</p>

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<p style="text-align: right;">Page 106</p> <p>1 the times when I came home, maybe in September or so</p> <p>2 Q. September 2015?</p> <p>3 A. Yeah, I came home for my birthday, I think,</p> <p>4 and opening day of dove season, and I think that's when</p> <p>5 I met T. Barker and Joe in Swansboro, I think, because</p> <p>6 I was down that way hunting and fishing there at the</p> <p>7 beach at my mom's place in Topsail, and I think T.</p> <p>8 Barker had a place at Morehead, and so did Joe. So we</p> <p>9 kind of met in the middle at Swansboro in some little</p> <p>10 diner thing there on the waterfront and had a sandwich</p> <p>11 and talked. That's the first time I met Joe.</p> <p>12 Q. So September 2015 --</p> <p>13 A. I think it was September. I mean, I'm not</p> <p>14 positive. Somewhere along in there though. I know I</p> <p>15 was in Florida.</p> <p>16 Q. Was it your understanding that Joe Murray</p> <p>17 is an engineer?</p> <p>18 A. Yeah. Yeah.</p> <p>19 Q. Okay. Was it your understanding that Joe</p> <p>20 Murray was going to be representing IH as part of the</p> <p>21 monitoring of the facility in Doral, Florida?</p> <p>22 A. He was asking questions about it, yes. I</p> <p>23 understand that Joe was going to try to come down there</p> <p>24 and actually do some testings with Andrea, and then</p> <p>25 Andrea said he wouldn't be allowed in there.</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Nobody was allowed in there other than</p> <p>2 myself and Fulvio, without him knowing about it or</p> <p>3 being there.</p> <p>4 Q. Was there a specific employee from</p> <p>5 Industrial Heat that said I'd like to come in the</p> <p>6 plant, and Dr. Rossi said I'm not letting you in?</p> <p>7 A. I don't, don't know. I don't remember</p> <p>8 anybody -- he, you know, other than Joe.</p> <p>9 Q. Did Dr. Rossi ever tell Thomas Darden, you</p> <p>10 can't come do the plant?</p> <p>11 A. Probably not. If Tom scheduled a meeting</p> <p>12 to come down there and bring investors and do, then</p> <p>13 yeah, Andrea would try to accommodate as best he could.</p> <p>14 Q. Did Dr. Rossi ever tell J.T. Vaughn hey,</p> <p>15 can't come?</p> <p>16 A. I don't think so. Not that I'm aware of.</p> <p>17 Q. Did Dr. Rossi ever tell T. Barker Dameron</p> <p>18 hey, you cannot come --</p> <p>19 A. They didn't like each other. That wouldn't</p> <p>20 happen, no way.</p> <p>21 Q. You don't think Dr. Rossi didn't like,</p> <p>22 Dr. Rossi did not like T. Barker Dameron?</p> <p>23 A. I think they had -- they banged heads and</p> <p>24 locked horns a few times, you know.</p> <p>25 Q. Do you think that T. Barker Dameron and</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. Do you know when Joe -- when Andrea Rossi</p> <p>2 was first notified that Joe Murray was working for</p> <p>3 Industrial Heat?</p> <p>4 A. Oh, I don't know.</p> <p>5 Q. Do you know how he was first notified?</p> <p>6 A. No.</p> <p>7 Q. Do you know when Joe Murray first made a</p> <p>8 visit to the Doral facility?</p> <p>9 A. It seems like he did go down there one</p> <p>10 time. I don't think I was there. It seems like I</p> <p>11 heard some conversation about this -- I wasn't there,</p> <p>12 and I don't think he was allowed in. They wouldn't let</p> <p>13 him in or something, I don't know.</p> <p>14 Q. Do you know why he wasn't allowed in?</p> <p>15 A. No.</p> <p>16 Q. Did you have a discussion with Dr. Rossi</p> <p>17 and say hey, why didn't you let Joe in the plant?</p> <p>18 A. It seemed like me and Andrea did talk about</p> <p>19 that one time, and Andrea said he wouldn't be allowed</p> <p>20 to come in there doing the testing or checking.</p> <p>21 Q. Did he explain why?</p> <p>22 A. No, not -- he didn't have to.</p> <p>23 Q. Were there any other Industrial Heat</p> <p>24 employees that Dr. Rossi would not allow into the</p> <p>25 plant?</p>	<p style="text-align: right;">Page 109</p> <p>1 Dr. Rossi had a cordial relationship or an unfriendly</p> <p>2 one?</p> <p>3 A. I think T. Barker done exactly what he was</p> <p>4 told to do, and that was do his best to support Andrea.</p> <p>5 Q. That doesn't answer my question.</p> <p>6 A. And it became difficult, so their</p> <p>7 relationship suffered because of that.</p> <p>8 Q. Okay. Do you specifically know of an</p> <p>9 instance in which Dr. Rossi said or denied T. Barker</p> <p>10 Dameron access to the Doral facility?</p> <p>11 A. It wouldn't surprise me. I understand what</p> <p>12 you're saying. I don't know. I don't know. I don't</p> <p>13 know. Probably, like I said, it wouldn't surprise me.</p> <p>14 I can't answer that, because I'm not -- you know, I</p> <p>15 wasn't privy to emails and whatever correspondence they</p> <p>16 had.</p> <p>17 Q. I'm not asking what you don't know. I'm</p> <p>18 asking are you aware of a specific instance in which T.</p> <p>19 Barker Dameron said I would like to visit the Doral</p> <p>20 facility, and Dr. Rossi said you are not allowed in?</p> <p>21 A. It seems like I did hear this. It seems</p> <p>22 like T. Barker told me that he wanted to come down</p> <p>23 there one time.</p> <p>24 Q. When was this?</p> <p>25 A. I don't know. Toward -- probably after the</p>

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<p style="text-align: right;">Page 110</p> <p>1 thing was up and running, I guess.</p> <p>2 Q. Are you speculating?</p> <p>3 A. Yeah, I don't know. I don't know when. I</p> <p>4 don't know when. I don't remember when. I do recall,</p> <p>5 yeah, I do recall the conversation I had with T. Barker</p> <p>6 that Andrea didn't want him there, but.</p> <p>7 Q. Was that a conversation you had over the</p> <p>8 phone?</p> <p>9 A. Yeah, probably over the phone.</p> <p>10 Q. But you don't remember when?</p> <p>11 A. No, I don't remember exactly when.</p> <p>12 Q. Did you ever talk to --</p> <p>13 A. Probably in the beginning. It was possible</p> <p>14 in the beginning, because T. Barker did want to come</p> <p>15 down and see how the thing was setup, how it's going.</p> <p>16 It seems like he did come once. He did come once. It</p> <p>17 seems like T. Barker was there. He actually came a</p> <p>18 time or two, or at least once, you know, he did come,</p> <p>19 but it was way towards -- it was way after things had</p> <p>20 been ruined man, you know, I mean. I was sent down</p> <p>21 there with specific instructions trying to set this</p> <p>22 thing up, and when I got down there, all that went out</p> <p>23 the door. Andrea, you know, is the director on this</p> <p>24 site.</p> <p>25 Q. Did you ever have a conversation with</p>	<p style="text-align: right;">Page 112</p> <p>1 A. No, not that I'm aware of. As long as they</p> <p>2 coordinated with Andrea and let him know, he made</p> <p>3 arrangements for people to come see.</p> <p>4 Q. Did you have an understanding why investors</p> <p>5 were coming to this facility?</p> <p>6 A. Yeah.</p> <p>7 Q. Why?</p> <p>8 A. They wanted to see what their money was</p> <p>9 doing.</p> <p>10 Q. Okay. Do you know if the people who</p> <p>11 visited the plant were investors or potential</p> <p>12 investors?</p> <p>13 A. Probably a mix, probably a good happy mix</p> <p>14 of the both. I mean, Mr. Tom is a good salesman.</p> <p>15 Q. Did you ever have any conversations with</p> <p>16 investors who were brought into the Doral facility?</p> <p>17 A. Yeah.</p> <p>18 Q. And what were those conversations?</p> <p>19 A. It's running, you know, basically most --</p> <p>20 Andrea did most of the -- did most of the greeting and</p> <p>21 most of the -- he would always give an informative and</p> <p>22 then maintain -- people had to maintain a certain</p> <p>23 distance, because you couldn't touch this stuff, it was</p> <p>24 energized, it was shocking, man. You had to be careful</p> <p>25 in the plant. You had to know, you know. So I would</p>
<p style="text-align: right;">Page 111</p> <p>1 Dr. Rossi where he told you T. Barker Dameron is not</p> <p>2 allowed in the plant?</p> <p>3 A. Possibly, yes, I guess. I don't know. I</p> <p>4 don't know. Possibly. I can't answer. I can't</p> <p>5 remember all the different conversations we had.</p> <p>6 Q. Did you ever ask Dr. Rossi hey, is T.</p> <p>7 Barker Dameron allowed in the plant?</p> <p>8 A. Yeah, possibly. I probably did.</p> <p>9 Q. Okay. And what did he say?</p> <p>10 A. I don't remember. I don't know.</p> <p>11 Q. Okay. Was anyone else present when you</p> <p>12 asked him that question?</p> <p>13 A. Fulvio was probably sitting there.</p> <p>14 Q. Do you know approximately when you had that</p> <p>15 conversation?</p> <p>16 A. Oh, God, no. No way. I don't remember</p> <p>17 that.</p> <p>18 Q. You talked a little bit about Industrial</p> <p>19 Heat bringing investors to the Doral facility.</p> <p>20 Approximately how many times did that happen?</p> <p>21 A. Oh, God, eight to twelve maybe. I think at</p> <p>22 least seven or eight times, different folks came to</p> <p>23 view.</p> <p>24 Q. Did Dr. Rossi ever say no investors are</p> <p>25 allowed in the plant?</p>	<p style="text-align: right;">Page 113</p> <p>1 set up chains and different barricades where people</p> <p>2 could come and look, but not be allowed access in there</p> <p>3 so they could touch anything and nobody could get hurt.</p> <p>4 Q. I don't want to know right now what</p> <p>5 Dr. Rossi told them. I want to know what you told</p> <p>6 them.</p> <p>7 A. I just fix it, man. I work on it. I help</p> <p>8 the design and the build of it. I didn't do a whole</p> <p>9 lot of talking with these folks.</p> <p>10 Q. You told me you did, and that's why I want</p> <p>11 to know what the substance of those conversations are?</p> <p>12 MR. FALCONE: Objection.</p> <p>13 A. No, I didn't do a lot of talking. These</p> <p>14 folks, most of my conversation with them I had with</p> <p>15 them were about fishing or something.</p> <p>16 Q. Did you ever tell anybody, the investors or</p> <p>17 potential investors, that the plant was showing results</p> <p>18 of producing excess energy?</p> <p>19 A. Yeah, based on what Andrea and Fulvio were</p> <p>20 telling me, yeah, we were doing good, you know. But</p> <p>21 once again they are the ones that -- you know, I don't</p> <p>22 make those calculations. I just base on what they're</p> <p>23 telling me.</p> <p>24 Q. When those investors came in, were they all</p> <p>25 accompanied by Thomas Darden or J.T. Vaughn?</p>

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<p style="text-align: right;">Page 138</p> <p>1 A. Oh, yeah.</p> <p>2 Q. And did you participate in the unpacking of</p> <p>3 the materials on the Doral side?</p> <p>4 A. Absolutely.</p> <p>5 Q. Were there any pieces of equipment that</p> <p>6 were packed in North Carolina that were not utilized</p> <p>7 once you got to Doral?</p> <p>8 A. Yes.</p> <p>9 Q. Which pieces were those?</p> <p>10 A. Originally the condensate return tank and</p> <p>11 then we modified that and made it in a supply vessel of</p> <p>12 water for the unit.</p> <p>13 Q. Was there anything else?</p> <p>14 A. Yes, T. Barker had engineered the steam</p> <p>15 lines and the system components and shipped all those</p> <p>16 with the unit to be installed, but Andrea said no. He</p> <p>17 said no.</p> <p>18 Q. So what happened to those steam lines,</p> <p>19 system components?</p> <p>20 A. The last time I seen them they were under</p> <p>21 the unit. They were 5, 600 bucks a piece, man, never</p> <p>22 even used them.</p> <p>23 Q. Okay. Was there anything else?</p> <p>24 A. There was several miscellaneous things,</p> <p>25 wow, all the electrical stuff that I thought I might</p>	<p style="text-align: right;">Page 140</p> <p>1 Doral that wasn't utilized? And you had mentioned now</p> <p>2 three things; the condensate, return tank, steam line,</p> <p>3 system components and some miscellaneous electrical and</p> <p>4 miscellaneous pipes?</p> <p>5 A. Yeah, all those pipes were part of the</p> <p>6 original design to pipe in the condensate tank, which</p> <p>7 was going to sit on the ground.</p> <p>8 Q. And what happened to those pipes?</p> <p>9 A. They all left up under there. We used a</p> <p>10 bunch of them fixing and repairing and carrying on. I</p> <p>11 mean, we used what pieces we could to make changes as</p> <p>12 issues arose.</p> <p>13 Q. Was there any other equipment that was</p> <p>14 shipped that was not used?</p> <p>15 A. I'm trying to think. All the chairs, desks</p> <p>16 all that stuff went in. Fulvio's furniture, all that</p> <p>17 went to his apartment. We had a bunch of furniture</p> <p>18 from his apartment up in Raleigh, you know, that we</p> <p>19 shipped down there in the Conex because it was a free</p> <p>20 ride, so, of course, that wasn't used.</p> <p>21 There was some Quar-CATs, a few other units</p> <p>22 that I had built that was shipped for Andrea. That was</p> <p>23 part of another deal.</p> <p>24 I'm trying to think of other things that we</p> <p>25 didn't use there. No, that's pretty much it. Most of</p>
<p style="text-align: right;">Page 139</p> <p>1 need we shipped, some miscellaneous pieces of pipe, the</p> <p>2 water lines. Most of this stuff we made an attempt to</p> <p>3 prefab and setup and marked, match and marked all these</p> <p>4 different piping components, and almost none of that</p> <p>5 got used once it got down there. The basic plan and</p> <p>6 design, particularly return, condensate return and the</p> <p>7 steam piping supply over to -- over the wall to the JM</p> <p>8 Products' side, that stuff was all, you know, it was</p> <p>9 changed. They had already stubbed a couple of pipes,</p> <p>10 and we had to modify those through. And some of this</p> <p>11 work went on on the weekends when I wasn't there.</p> <p>12 Andrea hired for guys to come in on the weekends and do</p> <p>13 a lot of this plumbing stuff, which when we had issues</p> <p>14 with leakage and stuff, that's how I met these guys,</p> <p>15 that we were going to go do this blue herring fishing</p> <p>16 trip. I was going to go with one of these guys, and it</p> <p>17 never transpired because Andrea had problems, and he</p> <p>18 called the man ten times, and he showed up about two</p> <p>19 weeks later wanting his check, wanting his check for</p> <p>20 the work he had done. And Andrea told him I'm not</p> <p>21 giving you no damn check.</p> <p>22 Q. All right. Let me stop you there. I will</p> <p>23 keep you on track with the question I had asked.</p> <p>24 So the question I had asked was, was there</p> <p>25 any equipment that was shipping from North Carolina to</p>	<p style="text-align: right;">Page 141</p> <p>1 it was plumbing stuff and tanks associated.</p> <p>2 Q. I'm going to go back to something we talked</p> <p>3 about earlier as well, which was the condensate pipe</p> <p>4 that went to the JMP side as well as the return that</p> <p>5 came back.</p> <p>6 A. Well, it was two pipes, the steam.</p> <p>7 Q. Right, there's two pipes?</p> <p>8 A. Right.</p> <p>9 Q. One coming -- one going, one coming, right?</p> <p>10 A. One delivering and one returning, yes, sir.</p> <p>11 Q. We talked a little bit about rust in the</p> <p>12 pipes. I think your testimony, correct me if I'm</p> <p>13 wrong, was that you didn't notice any rust on those</p> <p>14 pipes? That wasn't something that you inspected, is</p> <p>15 that true?</p> <p>16 A. No, sir, that's right, that's true.</p> <p>17 Q. Did anyone ever tell that you they saw rust</p> <p>18 on either of those pipes?</p> <p>19 A. My experience with separating some of the</p> <p>20 pipes and moving the one pipe down, I mean, they had</p> <p>21 rust and stuff in them. You can see it, but it was</p> <p>22 obvious in the sight glasses on the big Frankies,</p> <p>23 because in the very beginning, they stayed rusty. We</p> <p>24 actually had to remove those and clean them and stuff,</p> <p>25 because it got so bad, you couldn't see the water</p>

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<p style="text-align: right;">Page 142</p> <p>1 level, where the water level was actually in the unit 2 in the reactor. 3 Q. Let me stop right there. We're only 4 focusing on the condensate pipes now, the going and 5 coming, those two pipes, not the ones that are in the 6 big Frankies. Do you recognize there's a difference? 7 A. I recognize the difference, but you got to 8 realize that the source of what was in those two pipes 9 originated from in the big Frankies' units. 10 Q. You think some of the rust from the big 11 Frankies could have gone through into -- 12 A. Oh, absolutely, yeah, you know it did. 13 Q. Did you see it happen or -- 14 A. Well, the leaks shown, showed that the 15 stuff was -- now, once again, I don't know where it 16 went to on the other side. You know, if you make the 17 assumption that the water that was over there was 18 clean, whatever that equipment was, it could have been, 19 you know, part of the culprit as well. So I don't 20 know. 21 Q. Do you recall seeing rust on the return 22 pipe? 23 A. Yes, that's the condensate return. 24 Q. Right. When did you see that? 25 A. We moved it. We had level issues in that</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Did you ever tell Fulvio? 2 A. Yeah. 3 Q. And what was his response? 4 A. It's coming from the big Frankies. It's 5 coming from inside the units. It was an issue we had 6 to deal with. They had a trap. They had a trap set 7 there, but I don't know that they ever serviced it or 8 worked on it. And once again, I don't know what the 9 plumbing team did, you know, I mean, I wasn't, you 10 know, responsible. 11 Q. Where was that trap that you're talking 12 about? 13 A. I want to say it was right there before 14 where the line dumped in, or maybe they uninstalled it. 15 Maybe they removed that. I know there was a trap sent. 16 It seemed like T. Barker sent a trap down there. Maybe 17 it never got installed or the plumbing guys removed it. 18 It seemed like maybe it was there, and then when Andrea 19 had the plumbing team made the changes and stuff that 20 got removed or something, you know, but, you know, the 21 rust was prevalent inside those units, and that's where 22 most of it -- because all that piping was new. I mean, 23 that piping that they installed was new piping. 24 Q. The condensate piping? 25 A. And the steam lines, you know, at no</p>
<p style="text-align: right;">Page 143</p> <p>1 one condensate tank that were used. That level 2 needed -- we had to make adjustments to that, because 3 they would get too full, and the pumps that removed 4 that material and sent them up to the units when Andrea 5 finally got his system dialed in there on what rates to 6 pump the material at to keep things balanced, and we 7 lost a lot too, you know, so we had this big tank up 8 there with a valve in there or a little foot pedal and 9 a float that would try to maintain that level. 10 Sometimes when you turn things up really high and 11 things really got to cooking hot, we would have issues. 12 We would have problems. 13 Q. Let's keep focusing on the rust in the 14 pipes. 15 So you said you saw the rust in the pipe 16 when you disassembled the return condensation pipes, 17 right? 18 A. Right, to move it, yeah. 19 Q. Did you ever tell Dr. Rossi hey -- 20 MR. FALCONE: Let him finish his 21 question before you answer. 22 MR. CHAIKEN: Thank you. 23 Q. Did you ever tell Dr. Rossi hey, we have an 24 issue. There's rust in this pipe? 25 A. No.</p>	<p style="text-align: right;">Page 145</p> <p>1 pressure. That stuff was new, new materials. 2 Q. Did you ever have a conversation with T. 3 Barker Dameron about the rust in the pipes? 4 A. Oh, yeah. 5 Q. And what was his comment on that? 6 A. Well, it's just Andrea is going to handle 7 it. Andrea is going to make these choices. 8 Q. Do you know if T. Barker ever raised that 9 issue with Dr. Rossi? 10 A. No, I don't know. I'm sure maybe he might 11 have, but, you know, once again, once the unit got down 12 to Florida, Andrea, Andrea had hold of the wheel, and 13 he was steering the thing where he thought it needed to 14 go. 15 Q. You weren't part of any conversation or 16 email chain in which that issue was raised, were you? 17 A. I don't think so, but I don't, you know. 18 Q. Were you ever at the Doral facility when 19 Dr. Rossi wasn't present? 20 A. Yeah. 21 Q. About how much time do you think you were 22 there? 23 A. Oh, God -- 24 Q. When he wasn't there? 25 A. Typically Andrea was there in the mornings</p>

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<p>1 on.</p> <p>2 Q. Did you take any other measurements that</p> <p>3 were used by Mr. Penon in his reports?</p> <p>4 A. I don't know, possibly.</p> <p>5 Q. If you did, would you have copies of them?</p> <p>6 A. No, I wouldn't have copies of them.</p> <p>7 Q. Who would have copies of them?</p> <p>8 A. I guess they would be gathering that</p> <p>9 information.</p> <p>10 Q. When you say they, who do you mean?</p> <p>11 A. Maybe Andrea and Fulvio. I mean, that's</p> <p>12 who we worked with in the office, you know.</p> <p>13 Q. Show you what's been marked as Exhibit</p> <p>14 number 6.</p> <p>15 (The document referred to was marked</p> <p>16 Plaintiff's Exhibit Number 6 for</p> <p>17 identification.)</p> <p>18 Q. I'm going to ask you to review that. When</p> <p>19 you're done, let me know.</p> <p>20 (Pause.)</p> <p>21 MR. CHAIKEN: For the record, Exhibit</p> <p>22 number 6 is document Bates stamped on the</p> <p>23 first page IH00006670, and it is entitled</p> <p>24 E-CAT MW1 Energy Plant Miami Energy Multiple</p> <p>25 Evaluation Final Report.</p>	<p>1 I know about the numbers, but, I mean, this appears to be</p> <p>2 accurate, as to what he, you know, what it's saying</p> <p>3 here, the way the plant was setup and all. It was from</p> <p>4 the grid, I guess you would call it, the grid, the</p> <p>5 plant on that building. We never consumed a whole lot</p> <p>6 of energy. It rarely got over a hundred amps even.</p> <p>7 And it was about 150, 180 amp capability there that we</p> <p>8 supplied to the plant. Fortunately we never tripped</p> <p>9 anything at that end.</p> <p>10 Q. So there's nothing in this document that</p> <p>11 you take issue with?</p> <p>12 MR. FALCONE: Objection.</p> <p>13 A. Once again, I don't know about the numbers,</p> <p>14 but as far as I can see here, everything is, you know,</p> <p>15 I mean, every time that Penon came, I assisted him,</p> <p>16 whatever they asked me to do, so.</p> <p>17 Q. I'm going to ask you a few -- I'm going to</p> <p>18 read to you some statements. I am going to ask if you</p> <p>19 think they're true or not.</p> <p>20 A. Okay.</p> <p>21 Q. Do you understand that Mr. Fabiani had a</p> <p>22 cop called USQL, that was his business entity?</p> <p>23 A. Quantum Leap, yeah, yeah, Fulvio's little</p> <p>24 pinball company.</p> <p>25 Q. So is this true or false: Fabiani, USQL</p>
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<p>1 A. Interesting. I've never seen this before.</p> <p>2 Q. This is the first time you've seen this</p> <p>3 document?</p> <p>4 A. First time I've seen it.</p> <p>5 Q. No one from Industrial Heat ever asked you</p> <p>6 to review it?</p> <p>7 A. No, sir.</p> <p>8 Q. Okay. Take a look and review it. It may</p> <p>9 take you a few minutes, because it's a five-page</p> <p>10 document.</p> <p>11 (Pause.)</p> <p>12 A. I don't know about the numbers, but, I</p> <p>13 mean, this all looks -- I see down here that it</p> <p>14 mentions that the fourth visit by me, that must have</p> <p>15 been the last time that I saw Penon. But every time he</p> <p>16 came, I assisted him, and I do remember missing one</p> <p>17 time. He came one time while I was home for my</p> <p>18 birthday or something in September, something, but they</p> <p>19 told me he had been there. But every time he was there</p> <p>20 I assisted.</p> <p>21 Q. Okay. My first question about this</p> <p>22 document is, is there anything in this document that</p> <p>23 you believe to be untruthful or inaccurate?</p> <p>24 A. I'm trying to think of where the flow</p> <p>25 meter -- no, it appears to be -- once again, I don't</p>	<p>1 and Penon played critical roles in the scheme to hide</p> <p>2 the fact that the plant does not perform up to the</p> <p>3 standards set forth in the license agreement, the plant</p> <p>4 being the Doral facility.</p> <p>5 MR. FALCONE: Objection.</p> <p>6 A. Okay.</p> <p>7 Q. Do you believe that to be a true statement,</p> <p>8 that there was a scheme to hide the fact that the plant</p> <p>9 did not perform up to standards?</p> <p>10 A. You know, my role in this was not to</p> <p>11 judge --</p> <p>12 Q. I'm not asking you to judge. I'm asking</p> <p>13 you whether you believed it?</p> <p>14 A. I'm kind of split both ways. I like to</p> <p>15 believe that this was an honest, you know, venture. I</p> <p>16 mean, I know these folks, certainly believed that they</p> <p>17 were, you know, and it appears not to have been an</p> <p>18 honest, you know, now that I look back at the way</p> <p>19 things were and all the work, it appears more and more</p> <p>20 that it was a dishonest, a dishonest venture.</p> <p>21 Q. Did you participate in any dishonesty?</p> <p>22 A. No, not knowingly.</p> <p>23 Q. What information that you know today leads</p> <p>24 you to conclude that this was not an honest venture?</p> <p>25 A. The deception and the fact that so many</p>

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<p style="text-align: right;">Page 158</p> <p>1 things were hidden from me, deliberately and</p> <p>2 intentionally, particularly on JM's side.</p> <p>3 My simple question and response to T.</p> <p>4 Barker one day on the phone, send me a picture of that</p> <p>5 thing and what it's doing, what the plant is doing</p> <p>6 right now and the reaction I got from Fulvio.</p> <p>7 Q. Are you done with your answer?</p> <p>8 A. Yeah.</p> <p>9 Q. What things exactly, or what things you</p> <p>10 believe were hidden from you?</p> <p>11 A. Things that really didn't matter to me,</p> <p>12 like the numbers. I really didn't -- I wasn't</p> <p>13 concerned with those.</p> <p>14 Q. Okay. What else was hidden from you</p> <p>15 besides the numbers?</p> <p>16 A. I don't know. I don't know what else, you</p> <p>17 know.</p> <p>18 Q. I thought you said earlier that your job</p> <p>19 wasn't to review the numbers?</p> <p>20 A. That's right, it wasn't.</p> <p>21 Q. Okay. So were the numbers hidden from you,</p> <p>22 or were they just not provided?</p> <p>23 A. I didn't look for them, and I seen them a</p> <p>24 lot. I saw Fulvio over there crunching numbers on his</p> <p>25 computer. I saw a lot of these readings. You know, I</p>	<p style="text-align: right;">Page 160</p> <p>1 not a single person, not a -- nothing.</p> <p>2 Q. And what did you conclude from that?</p> <p>3 A. There's nothing over there.</p> <p>4 Q. Okay.</p> <p>5 A. Certainly nobody working.</p> <p>6 Q. Do you think that impacted the test</p> <p>7 results?</p> <p>8 A. I don't know. I don't know what was over</p> <p>9 there.</p> <p>10 Q. Okay. Was there anything else that was</p> <p>11 withheld from you or hidden from you that you think</p> <p>12 should have been made known to you?</p> <p>13 A. Not that I'm aware of. I mean, this</p> <p>14 document right here I've never seen this before. This</p> <p>15 that was generated after I left. You know, once again,</p> <p>16 it looks pretty accurate, based on what I'm seeing on</p> <p>17 there .</p> <p>18 Q. Okay. Well, you just gave me a response</p> <p>19 that you think there was some dishonesty and some</p> <p>20 scheme, in your opinion, to fabricate test results, is</p> <p>21 that accurate?</p> <p>22 A. No, I don't know about fabricating,</p> <p>23 whatever, you know, I mean, there's just some doubts.</p> <p>24 I have doubts.</p> <p>25 Q. Do you have any evidence that supports your</p>
<p style="text-align: right;">Page 159</p> <p>1 helped take some of these numbers and write them down,</p> <p>2 you know, but what they did with them, I don't -- I</p> <p>3 don't know.</p> <p>4 Q. Well, you said that the basis for your</p> <p>5 opinion that there was some dishonesty here is that</p> <p>6 things were hidden from you. I'm trying to find out</p> <p>7 what those things were?</p> <p>8 A. Well, just what happened on the other side</p> <p>9 of the wall, for example.</p> <p>10 Q. Okay. So you asked what was going on on</p> <p>11 the other side of the wall, and you weren't given a</p> <p>12 response?</p> <p>13 A. Well, yeah, but it was vague, and it</p> <p>14 changed, that wasn't, you know.</p> <p>15 Q. Do you know if there was an agreement</p> <p>16 between Leonardo and Industrial Heat that what happened</p> <p>17 on the other side of the wall was to stay separate and</p> <p>18 apart from what Industrial Heat was doing?</p> <p>19 A. Probably, yeah, it seemed like I remember</p> <p>20 that.</p> <p>21 Q. Okay. So what was then deceptive or</p> <p>22 dishonest about keeping that side of the plant</p> <p>23 separate, and your knowledge of what's going on in that</p> <p>24 part of the plant being --</p> <p>25 A. The days and days and no sound over there,</p>	<p style="text-align: right;">Page 161</p> <p>1 doubts?</p> <p>2 A. No, not really.</p> <p>3 Q. Did anybody tell you that they felt that</p> <p>4 there was evidence that supports your doubts with</p> <p>5 respect to the workings at the plant at Doral?</p> <p>6 A. The testing procedures, you know, alone</p> <p>7 indicate that there's evidence there. I mean, the way</p> <p>8 they were getting this information, so, you know, I</p> <p>9 don't know. I'm not an engineer. I don't know the</p> <p>10 best way to obtain temperatures and, you know, steam</p> <p>11 flow rates and the measurements and the calculations,</p> <p>12 so I can't --</p> <p>13 Q. Do you know if the parties, the parties</p> <p>14 being Leonardo and Industrial, agreed upon the</p> <p>15 protocols for taking those measurements?</p> <p>16 A. Their agreement was not disclosed to me. I</p> <p>17 don't know what agreements they had.</p> <p>18 Q. If they had an agreement for test protocol,</p> <p>19 and it was followed, do you think that would be</p> <p>20 evidence of dishonesty?</p> <p>21 A. Depending on how it was -- you know, if it</p> <p>22 wasn't followed correctly, I would think, you know.</p> <p>23 Q. Did anyone tell you the test protocol was</p> <p>24 not followed correctly in this case?</p> <p>25 A. No, not that I remember. But, yeah, I</p>

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<p style="text-align: right;">Page 174</p> <p>1 A. No, I don't -- I don't know if it's false</p> <p>2 or not.</p> <p>3 Q. If he represented to investors of</p> <p>4 Industrial Heat that he was able to replicate E-CAT</p> <p>5 technology, would that be contradicting what he's told</p> <p>6 you?</p> <p>7 A. Based on what I've heard, it's not working.</p> <p>8 It doesn't work. So is that contradicting? Yeah, I</p> <p>9 guess so.</p> <p>10 MR. CHAIKEN: Your counsel has filed</p> <p>11 some objections to producing some documents</p> <p>12 that I have requested, and subject to that</p> <p>13 being resolved, I'll conclude my questions</p> <p>14 for the time being.</p> <p>15 Gentlemen in Miami, the witness is</p> <p>16 yours.</p> <p>17 MR. NUNEZ: Fernando, want to go</p> <p>18 first?</p> <p>19 EXAMINATION BY COUNSEL FOR THIRD-PARTY</p> <p>20 DEFENDANTS</p> <p>21 BY MR. ARAN:</p> <p>22 Q. Mr. West, my name is Fernando Aran. I'm an</p> <p>23 attorney in Miami, and I represent Jim Bass. I also</p> <p>24 represent Henry Johnson and JM. How are you this</p> <p>25 afternoon?</p>	<p style="text-align: right;">Page 176</p> <p>1 difficult to have done it there, there where we built</p> <p>2 the plant at. We had power problems there. We didn't</p> <p>3 have --</p> <p>4 Q. Let me ask you this, to the best of your</p> <p>5 knowledge, in order to test the plant and to test</p> <p>6 whether it had a COP of any amount, was the plant</p> <p>7 required to be tied into an operating factory or an</p> <p>8 operating business?</p> <p>9 A. I was told there was a customer down there</p> <p>10 that needed a steam, and that we were going to supply</p> <p>11 it for him.</p> <p>12 Q. Let me try to state it -- I understand</p> <p>13 that. But in order to conduct a test as to whether the</p> <p>14 E-CAT in question had a COP of any level, was it</p> <p>15 necessary for it to be hooked up into or provide power</p> <p>16 to an ongoing business?</p> <p>17 A. The way the plant was designed, yes, there</p> <p>18 needed to be a load. There needed to be some</p> <p>19 consumption, some source for this -- somewhere for this</p> <p>20 steam to go and then be returned.</p> <p>21 Q. And how would you measure that? In other</p> <p>22 words, when you were conducting your tests in Miami,</p> <p>23 were you at any time metering or measuring anything on</p> <p>24 the side of the JM plant?</p> <p>25 A. No, sir.</p>
<p style="text-align: right;">Page 175</p> <p>1 A. Pretty good, and yourself?</p> <p>2 Q. Not bad for a short overweight fellow.</p> <p>3 A. I understand.</p> <p>4 Q. Sir, let me start with a question</p> <p>5 concerning the E-CATs that were ultimately sent to</p> <p>6 Miami for testing. Was it contemplated at first that</p> <p>7 these tests would be done in North Carolina?</p> <p>8 A. I'm not sure. I'm not positive. I think</p> <p>9 there was some talk of originally doing it there, and</p> <p>10 based on our conversation earlier, it ended up moving</p> <p>11 to Miami, because I guess the biggest reason was</p> <p>12 probably because that's where Andrea lived. He wanted</p> <p>13 to do the testing down there, so.</p> <p>14 Q. Okay. Do you know whether -- I'm sorry, go</p> <p>15 ahead.</p> <p>16 A. I mean, I hear a conversation earlier about</p> <p>17 some laws or something in North Carolina that may or</p> <p>18 may not have prevented a test from happening here in</p> <p>19 Carolina anyway. I know Andrea lived in Miami, and</p> <p>20 that's where he wanted to do the test at.</p> <p>21 Q. And if the tests were going to be conducted</p> <p>22 in North Carolina, where -- in what facility would that</p> <p>23 have been done?</p> <p>24 A. I don't have a clue. I don't know where</p> <p>25 they would have done that. It would have been</p>	<p style="text-align: right;">Page 177</p> <p>1 Q. And isn't it true that you were able to</p> <p>2 determine whether steam was being produced by measuring</p> <p>3 temperature or anything else on the E-CAT side of the</p> <p>4 plant?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And the same would be true for the return;</p> <p>7 the measuring devices were on the E-CAT side of the</p> <p>8 plant?</p> <p>9 A. Yes, sir.</p> <p>10 Q. So, in essence, the entire time that the</p> <p>11 people were there, yourself included, for almost a year</p> <p>12 there was really no measurements that needed to be</p> <p>13 taken on the other side of the plant, correct?</p> <p>14 A. Yes, sir. I don't know whether or not it</p> <p>15 needed --</p> <p>16 Q. And all of the -- all of the validation and</p> <p>17 all the measurements that were being inputted and that</p> <p>18 resulted in various reports, were all conducted on the</p> <p>19 E-CAT side of the plant, correct?</p> <p>20 A. As far as I'm aware of, yes, sir.</p> <p>21 Q. Now, let me ask you this, you indicated</p> <p>22 that you had -- I don't know remember if it was seen,</p> <p>23 met or spoken to Mr. Bass two or three times?</p> <p>24 A. Yeah, over the entire course of the year.</p> <p>25 Q. Okay. And what were the circumstances</p>

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<p style="text-align: right;">Page 178</p> <p>1 under which you had the opportunity to, and please tell 2 me whether it was speak or see? What do you recall 3 were your communications with Mr. Bass? 4 A. When I first got down to Florida, I'm 5 pretty sure it was on the day of the arrival of the 6 plant, of the two plants, the control room and the 7 E-CAT plant, I was introduced to Mr. Jim Bass. He was 8 at the back door, and I met him, shook his hand, and 9 then I went many months and didn't see Mr. Bass. One 10 day he -- or weeks there, I forget how long, but he 11 came back down to talk to Fulvio one day, and I saw him 12 again and spoke. And then a couple other times when we 13 were going to lunch, he would need a conversation with 14 Fulvio or Andrea and usually it's Fulvio, and we would 15 stop in his office up front, and I saw him up front in 16 his office. But once again, that's all -- you can't 17 see anything behind three offices as to the work area 18 back there. I mean, I was never exposed to the actual 19 working area back there for JM products. 20 Q. In the times that you saw and spoke to 21 Mr. Bass, did he make any representations to you about 22 anything in particular? 23 A. No, sir. No, sir. 24 Q. He never told you what they were or were 25 not manufacturing at the JM site, correct?</p>	<p style="text-align: right;">Page 180</p> <p>1 you indicated when asked if you thought there was 2 anything going on that was underhanded, that you 3 thought that that was happening on the other side of 4 the wall was part of it, correct? 5 A. Yes, sir. 6 Q. Now, why would what was going on on the 7 other side of the wall have any bearing on what you 8 were doing, if none of your measurements or any of the 9 information gathering that you were doing had anything 10 to do with the other side of the wall? 11 A. The reaction from Andrea when I had the 12 ability to see on the other side of the wall, i.e., 13 being on top of the unit. I mean, when I was up on top 14 of the unit doing the work, we actually stored stuff up 15 there at first and then we removed them. But when 16 you're up on top of the unit, the wall is only eight 17 foot, seven, eight foot tall, and the ceilings in the 18 place were 30 feet, probably. The unit was up a couple 19 of feet, and it's eight feet tall. So when you're on 20 top, you can come through look over there and see 21 what's on the other side. That generated -- he didn't 22 want anybody up there on top of the building, not only 23 myself, Jose or Marco either. 24 Q. What did it matter to you what was on the 25 other side if all of the measurements you needed to</p>
<p style="text-align: right;">Page 179</p> <p>1 A. He never disclosed any information to me 2 about what they done there. 3 Q. And he never provided to you any 4 information of any kind or nature whatsoever, did he? 5 A. No, sir. 6 Q. And did you need to know anything from 7 Mr. Bass in order to do the work that you were doing? 8 A. No, sir. 9 Q. And Mr. Bass never made any representations 10 to you of anything or nature, correct? 11 A. No, sir. 12 Q. So then when you were read the statement 13 before that Mr. Bass was part of a scheme to defraud, 14 you really don't have any information of any facts that 15 Mr. Bass had conducted a fraud, do you? 16 A. No, sir. 17 Q. So if we took his name out of that 18 statement that you were asked to say true or false to, 19 would it be appropriate? 20 A. Yes, sir. 21 Q. And let me ask you this, did you ever meet 22 Mr. Henry Johnson? 23 A. I don't know him. I don't remember meeting 24 him. 25 Q. Now, you indicated when you were advised --</p>	<p style="text-align: right;">Page 181</p> <p>1 take and all of the work that was being done occurred 2 on the E-CAT side of the plant? 3 A. It doesn't matter to me. 4 Q. So then how can whatever was going on the 5 other side of the plant have been fraudulent, from your 6 perspective? 7 A. I don't know that it was fraudulent. I 8 just know that when the ability -- when I had the 9 ability to look over there, that got a reaction. 10 Q. And what if the technology or the processes 11 that were going on on the other side of the plant were 12 the type that you want to keep secret and confidential 13 for competitive reasons? Would that make it 14 fraudulent? 15 A. No, sir. 16 Q. And wouldn't I be correct in stating that 17 perhaps the reason why Mr. Rossi, when some investors 18 came, wanted certain things to be perhaps not easily 19 seen, was to protect the technology? 20 A. That may very well be true. 21 Q. That's as likely as your conclusion that it 22 may have been something not on the up and up, correct? 23 A. Repeat your question. I didn't understand 24 what you just said. 25 Q. In other words, that would be a reason for</p>

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<p style="text-align: right;">Page 202</p> <p>1 You arrived in the Doral facility pretty 2 much at the same time that the plant did, right? 3 A. Yes, sir. 4 Q. Remind me again that was the -- 5 A. That was my purpose for being down there, 6 was to get that plant setup and operational. 7 Q. Perfect. So did Mr. Fabiani come down with 8 you also to set it up and get it operational? 9 A. No, sir, he came earlier. Fulvio actually 10 had an apartment there that he had rented over there 11 somewhere near Andrea, from what I was told, over at 12 Miami Beach, out on the beach or near the beach, and I 13 was out there when Fulvio first rented the place, 14 helped him deliver some furniture and several things 15 out there and get set up and, of course, I stayed in a 16 motel over there not far from the plant, probably just 17 a few -- eight or ten blocks away. 18 Q. All right. So when you came down to set it 19 up, when was it, is that December or January 2014? 20 A. That was December 8, 9, somewhere right 21 along in there. We went home after the initial setup 22 and took a couple, three weeks off there for Christmas 23 and New Year's, and then I forget the exact date we got 24 back up around the first of January, but not New 25 Year's, maybe the fourth or fifth or something, myself</p>	<p style="text-align: right;">Page 204</p> <p>1 associated with each unit, each heater, each E-CAT, if 2 you will, and or big Frankie. 3 Q. And my understanding, you left around 4 October before the one year operation was complete, is 5 that correct? 6 A. I left in April. I left, again, I think at 7 the end of September, and I might have come home one 8 time for a few weeks in the middle there. Then I left 9 again for the road, which is right there in Halloween, 10 first of November, took about a month. And then I left 11 and got me another month right there at Christmas and 12 New Year's. And then I went back about the 10th of 13 January after deer season and stayed two weeks, two 14 final weeks, the last two weeks of the month of January 15 this year. And then I left there, I want to say the 16 27th, 28th of January, I forget that Friday, I forget 17 exactly, I have to look at the calendar, but I came 18 home, and that concluded my tour of duty in Miami. 19 Q. All right. Now, in all that time that you 20 spent there, and you have the same -- pretty much the 21 same hours as Mr. Fabiani, could you recall any acts or 22 anything that he did that would have made you believe 23 that he was somehow deceitful or dishonest with 24 Industrial Heat? 25 A. No, sir, I don't recall any.</p>
<p style="text-align: right;">Page 203</p> <p>1 and Jose and Marco, the two guys that were helping me 2 and had helped me with the project during the 3 construction aspect of it back in Raleigh, they stayed 4 with me all the way until we got up and running, which 5 was somewhere around the end of February. 6 Q. Okay. Was Mr. Fabiani, was he helping you 7 all in that setup between January and February when it 8 got -- 9 A. Some, but mostly Fulvio was doing his part 10 with the computer, getting all the software and 11 programming ready and setup while we were making all 12 the wiring and, of course, the plant left and went down 13 there unfinished. 14 A key component, which was Fulvio's cards 15 that were the actual little mini brains for each unit, 16 they had not arrived. We didn't get those until we got 17 down to Florida, and that was critical component wiring 18 wise for the operation of the plant. 19 So all that work transpired after the plant 20 was moved down there. We got main power and 21 everything, which was the first hurdle, got all that 22 stuff turned on, so we had lights, air conditioning and 23 could light up the -- light up the place for the rest 24 of the work that happened, which was installing all the 25 control cards in each one of the junction boxes</p>	<p style="text-align: right;">Page 205</p> <p>1 Q. Did anyone from Industrial Heat call you 2 into their offices and sit you down and get you to give 3 them a run down of things that Fabiani did that were 4 improper or anything like that? 5 A. No, sir. No, sir. 6 Q. Did Industrial Heat contact you at any time 7 prior to this, I don't want to say this deposition, 8 before this lawsuit, back and forth between the 9 parties, did Industrial Heat ever bring you in to 10 discuss your understanding of the facts? 11 A. No, sir. No, sir. I didn't even know very 12 many of the details about the contract until -- until 13 all this began. I mean, I was not, you know, a 14 party --I had no contract of any kind with Industrial 15 Heat. I mean, I was just, you know, I was just an 16 electrician guy they kind of found along the road and 17 ended up going in there to work for about a week on a 18 panel and stayed about three years, man. 19 Q. That's a good story. I like -- 20 A. It's the truth. 21 Q. I will have to meet up with you in North 22 Carolina one of these days. 23 So now, and I understand, Mr. West, you're 24 not a party to this case, you know, you didn't draft 25 anything, and you're not accusing anybody of anything,</p>

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<p>1 at least not to my knowledge, you can let me know if</p> <p>2 I'm wrong, but, you know, Industrial Heat, one of the</p> <p>3 big arguments, you know, is manipulating data,</p> <p>4 manipulating results, big fraud, big scheme, right? So</p> <p>5 I just want to make a hundred percent sure that before</p> <p>6 they made these allegations in this lawsuit, that they</p> <p>7 either did or did not sit down with you, the person who</p> <p>8 was down there in Doral the whole time that that one</p> <p>9 year project was going on, did they ever sit down with</p> <p>10 you and get your story of what happened in Doral?</p> <p>11 MR. FALCONE: Objection.</p> <p>12 A. You know, they asked, they asked questions.</p> <p>13 I reported, and I felt like it was my job to kind of</p> <p>14 keep T. Barker and J.T. somewhat abreast of what was</p> <p>15 going on down there. And they were aware when Penon</p> <p>16 and some of the investors would come, either being led</p> <p>17 by Mr. Tom or maybe J.T. or some of Andrea's friends,</p> <p>18 would come by to take a look at the plant and see</p> <p>19 things, I mean, I kind of, you know, it was -- they</p> <p>20 were paying me, so it was my duty, it was my job to</p> <p>21 kind of keep up with what was going on down there.</p> <p>22 Now, we might not talk every week. I mean,</p> <p>23 sometimes we might go several weeks and not hearing</p> <p>24 anything from any of them and them not hearing from me.</p> <p>25 But they paid me every week, and I went down there and</p>	<p>1 after the money, and they thought it was, you know,</p> <p>2 wrongfully taken from them, and that I was going to be</p> <p>3 asked to tell my side of the story or my interaction</p> <p>4 with the project. So, yeah, I was aware.</p> <p>5 Q. And did they ever sit you down to tell your</p> <p>6 side of the story?</p> <p>7 A. No, not really per se, other than casual</p> <p>8 conversation on the phone here and there about what's</p> <p>9 coming. This has been the actual, the first real</p> <p>10 account.</p> <p>11 Now, bear in mind that I met their</p> <p>12 attorneys sometime in the past here, I forget when I</p> <p>13 met Mr. Lomax and that team, and then I met Andrea's</p> <p>14 attorney one time for about 30 minutes down at the</p> <p>15 plant before I left. And basically I told him the same</p> <p>16 thing that, you know, that I've said in this</p> <p>17 deposition, and in fact, most of our conversation</p> <p>18 turned to Key West and fishing, man. You know, we had</p> <p>19 a better conversation talking about fishing and Key</p> <p>20 West really than did the plant, so.</p> <p>21 MR. CHAIKEN: Rudolfo, this is Brian</p> <p>22 talking, sorry to interrupt. The</p> <p>23 videographer just instructed me there's</p> <p>24 about five minutes left on this tape, maybe</p> <p>25 less than that at this point.</p>
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<p>1 done my job.</p> <p>2 Q. No, listen, I appreciate that. I'm not</p> <p>3 trying to say anything to that effect.</p> <p>4 My point is, you know, they've got this</p> <p>5 complaint, and they're suing my client, Fulvio Fabiani.</p> <p>6 So I understand that you had conversations with them</p> <p>7 while you were working at Doral, and when they were</p> <p>8 coming to visit, and you guys would have conversations.</p> <p>9 But my question is more direct. It is after the</p> <p>10 project finished, I think you said you left sometime at</p> <p>11 the end of January, right, and then this litigation</p> <p>12 starts let's say between June of this year, right, June</p> <p>13 of '16 through, you know, I think you told me, I think</p> <p>14 you said you talked to Mr. Vaughn a couple of weeks</p> <p>15 ago. Did they ever sit down with you and say we're</p> <p>16 suing these folks, and we want to know what you know?</p> <p>17 MR. FALCONE: Objection.</p> <p>18 BY MR. NUNEZ:</p> <p>19 Q. Has that ever happened?</p> <p>20 A. Not exactly like that, but, yeah, somewhat,</p> <p>21 I mean, J.T. asked questions. I don't have a whole lot</p> <p>22 of correspondence with T. Barker anymore, but some. I</p> <p>23 call him and speak with him occasionally. And, yeah,</p> <p>24 there were concerns. They told me that this was</p> <p>25 coming. I mean, I knew that, you know, that they were</p>	<p>1 MR. NUNEZ: You want to stop now and</p> <p>2 change the tape?</p> <p>3 THE VIDEOGRAPHER: Please. We're off</p> <p>4 the record at 2:52.</p> <p>5 (Recess.)</p> <p>6 THE VIDEOGRAPHER: Video number four,</p> <p>7 we're on the record at 2:58.</p> <p>8 BY MR. NUNEZ:</p> <p>9 Q. All right, thank you.</p> <p>10 Mr. West, you know the dangerous thing of</p> <p>11 taking a break is that I know there's a question I</p> <p>12 forgot to ask you.</p> <p>13 I think you testified that you knew that</p> <p>14 Mr. Fabiani and Mr. Rossi or Dr. Rossi had a prior</p> <p>15 relationship, is that correct?</p> <p>16 A. Oh, yes.</p> <p>17 Q. And how did you find that out?</p> <p>18 A. I met Andrea's wife, Maddalena. I've met</p> <p>19 his mother-in-law. I've met members of Andrea's family</p> <p>20 and Fulvio's talked with me many times about the</p> <p>21 relationship he had growing up with Maddalena, because</p> <p>22 they've known each other a lot longer than Andrea and</p> <p>23 Maddalena maybe have known each other. But I know</p> <p>24 Fulvio and Maddalena had a long relationship since</p> <p>25 Fulvio was very little, you know, he has known</p>

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<p style="text-align: right;">Page 210</p> <p>1 Maddalena, so, and now Andrea and her are married. I 2 mean, I seen them. They come to the plant pretty 3 regularly. I got to see them and, so yeah, so I knew. 4 Q. Is this something you found out when you 5 were working in Doral, or did you know this up at 6 Triangle Drive? 7 A. No, I knew this at Triangle Drive. 8 Maddalena made several visits up there. We all got 9 introduced and met Andrea's wife. 10 Q. Do you know whether Mr. Vaughn or 11 Mr. Darden also knew of this prior relationship between 12 Dr. Rossi and Mr. Fabiani? 13 A. I'm sure they did, yeah. I'm sure they 14 did. 15 Q. Did they ever make any comments to you 16 about that? 17 A. No, sir. 18 Q. Or have any discussions with regard to that 19 prior relationship? 20 A. No, sir. 21 Q. Now, I think you had -- I don't know if 22 this is just my notes or something I put down or 23 something you said, but I have here that you were the 24 eyes and ears for Industrial Heat down here in Doral, 25 Florida, is that correct?</p>	<p style="text-align: right;">Page 212</p> <p>1 them, letting them know or they would text me about, 2 particularly J.T. about investors or people coming by 3 to see the plant. Usually Andrea a lot of times would 4 let me know as well, just to keep me informed of what 5 was going on. And if we had any issues at the plant, 6 any major problems or this, that and the other, I'd 7 call him and let him know. But once again, after the 8 first few months when we got it up and going and got 9 most of the bugs worked out, the thing ran amazingly 10 well; plumbing issues, leaks. Plumbing issues were 11 more of a problem than anything else. 12 Q. And you said it was hot, right? I think 13 you like reiterated that a couple of times? 14 A. Damn hot. 15 Q. A lot of heat. And did it get hotter when 16 they made you close the doors? 17 A. Yeah, well, that wasn't really towards the 18 end there. Of course, I like the doors open all year 19 round down there. Everybody else is wearing coats and 20 freezing. I wore shorts all year round down there. It 21 felt good to me. I didn't mind 60-degree weather, 22 that's fine. 23 Q. Especially when you are working in that hot 24 warehouse, right? 25 A. Yes, sir.</p>
<p style="text-align: right;">Page 211</p> <p>1 A. Yes, sir. 2 Q. How often would you report to Industrial 3 Heat of what was going on? 4 A. Sometimes weekly and sometimes monthly. I 5 mean, there were a lot of times that there wasn't a 6 whole lot going on, other than general maintenance 7 while the plant was running. So they wouldn't contact 8 me and other than my, you know, my time that I sent in 9 every week, I wouldn't, you know, I wouldn't hear back 10 from them, so. 11 Q. And who would be -- who was your primary 12 contact person? 13 A. J.T. or T. Barker. 14 Q. Would you like, let's say on your time 15 sheets, would you send it to both of them? Would you 16 send it to one of them? 17 A. Just generally the payroll girl, I want to 18 say her name was Tricia and J.T. I'd always copy J.T. 19 Q. And how about if you were going to -- you 20 know, aside from payroll issues or your time sheets, 21 how about if you were just communicating with regard to 22 the operations of the plant, how and who would you 23 communicate with? 24 A. Typically J.T. or T. Barker, both. A lot 25 of times I would send a text or something to both of</p>	<p style="text-align: right;">Page 213</p> <p>1 Q. Do you recall ever sending an email or a 2 text to J.T. or T. Barker expressing concerns that you 3 had with Fulvio Fabiani's work? 4 A. No, I don't know. Maybe. Maybe I did. 5 It's possible. 6 Q. Well, I mean, we're kind of here. This is 7 the time to know or not know -- 8 MR. FALCONE: Objection. 9 A. I'm not sure. 10 Q. You're not sure. But right now, as you sit 11 here today, you can't remember a single time you wrote 12 something to T. Barker or J.T. Vaughn, and that's T. 13 Barker Dameron with any concerns about Mr. Fabiani's 14 work? 15 A. No, sir, I don't, I don't recall that, but 16 I may have mentioned something Fulvio was working on or 17 doing that I may have disapproved of or didn't know 18 about. But no, I don't -- it's possible, I don't know. 19 Q. Now, you mentioned it's possible you might 20 have been working, did you say doohickey? 21 A. No, sir. 22 Q. What did you say, that he might have been 23 working on something? 24 A. Something Fulvio may have been working on 25 that I didn't approve of or something, but, yeah, I</p>

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<p style="text-align: right;">Page 222</p> <p>1 needed to get -- he needed to get this information to 2 him.</p> <p>3 Q. Do you know whether he was preparing, and 4 this is part of your answer, I'm sorry if I'm treading 5 over the stuff you just answered. I want to be clear. 6 Was he sending monthly reports to somebody at 7 Industrial Heat?</p> <p>8 A. My understanding is that's what he was 9 supposed to supply, I think weekly at one time. I 10 heard weekly, but then I heard monthly, but I'm not 11 sure whether he did it or not. I have no way of 12 verifying that.</p> <p>13 Q. Fair enough. Give me one second. I'm just 14 looking through my notes. I'm almost done here, I 15 promise.</p> <p>16 (Pause.)</p> <p>17 Q. I know a couple of times you threw out or 18 you mentioned, and I'm listening through the speaker 19 phone, so I might have heard it wrong, something about 20 a Cadillac incident?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And that had something to do with 23 Mr. Fabiani?</p> <p>24 A. Yeah, Fulvio was going to alter one of 25 the -- one of the E-CAT cards to just give me a close</p>	<p style="text-align: right;">Page 224</p> <p>1 he had some concerns.</p> <p>2 A lot of times I'd go out and check things 3 or put my meter across certain things and see what they 4 were doing, and, you know, sometimes I would even get 5 out there and listen, just listen to things and hear 6 what they're doing. So, but, yeah.</p> <p>7 Q. Okay. And I don't want to put words in 8 your mouth, but it sounds to me when you're saying 9 Fulvio had some concerns that he wouldn't always agree 10 with Dr. Rossi, he would sometimes disagree with 11 Dr. Rossi?</p> <p>12 A. Yep. I think -- I think Penon had some 13 disagreements with Andrea too. Every once in a while 14 we had a disagreement, but for the most part, we tried 15 to be civil.</p> <p>16 Q. Now, again, towards the end of that direct 17 examination, you talked about, you know, I guess at the 18 beginning, you believed these folks were honest, but 19 then you went on and you said, but it appears not, and 20 that it was a dishonest venture, right? And you gave a 21 couple of examples. One of the things was what was 22 happening on the other side, right, on the JM side? 23 One of the things, I don't know if I heard you 24 correctly, you said you saw Fulvio crunching numbers on 25 his computer. What do you mean -- is that what you</p>
<p style="text-align: right;">Page 223</p> <p>1 contact that he can control and put a timer on it, and 2 we were going to get a couple of lights. Andrea wanted 3 to just get a couple of lights and put them in there 4 and make them blink or something, to give that portion 5 of the plant a little visual effect.</p> <p>6 Q. Okay. And why do you call that an 7 incident? I mean, what was that? I don't get it. Is 8 that a problem?</p> <p>9 A. No, no, it's kind of like a Christmas tree 10 with lights on it.</p> <p>11 Q. Okay. One of the things that you testified 12 earlier, one of the comments, I believe, that you made 13 was that Fulvio sometimes had concerns with the 14 information, I guess, the data that was coming from the 15 plant, is that correct?</p> <p>16 A. Yeah, we had some issues with some of the 17 components early on, and some of the dirt in the plant, 18 but, you know, that stuff cleared up given enough time. 19 I mean, it ended up running pretty clean there towards 20 the end. But, yeah, he had some concerns with some of 21 the measurements and stuff that was going on, and he 22 advised Andrea as he needed to.</p> <p>23 Q. I'm sorry, I missed that last part of the 24 answer.</p> <p>25 A. He would advise Andrea, if he, you know, if</p>	<p style="text-align: right;">Page 225</p> <p>1 said, and if it was what you said, what did you mean by 2 it?</p> <p>3 MR. FALCONE: Objection.</p> <p>4 A. You know, the numbers Fulvio was crunching, 5 that he was working on over there may not have had 6 anything to do with the plant at all. You know, I'm 7 not, I'm not, you know, I don't know that that was 8 exactly what he was doing.</p> <p>9 Q. Okay. So just to make clear, that earlier 10 testimony of yours, it's not to suggest that whatever 11 he was doing that day on the computer was somehow 12 dishonest, correct?</p> <p>13 A. No, sir, no, sir. I have no way of knowing 14 that.</p> <p>15 Q. So then on this whole, you know, and now 16 you feel it's a dishonest venture, and, you know, so 17 what -- I mean, whatever he was or wasn't doing on the 18 computer, you don't know what it was. You don't know 19 that that had anything to do with the allegations being 20 brought by Industrial Heat. You testified about the 21 stuff going on on the other side at JM. I'll leave 22 that alone. My client didn't really have much to do 23 with that. Well, you know, what else has happened 24 since you left this project, stopped working with these 25 folks that now you have some, you know, suspicion that</p>

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<p>1 there was a dishonest venture?</p> <p>2 MR. FALCONE: Objection.</p> <p>3 A. It seems to me that there's some --</p> <p>4 something shady going on here, okay. I mean, I was</p> <p>5 asked to do and help, and much of the information, the</p> <p>6 important stuff, if you will, you know, I wasn't</p> <p>7 allowed, I didn't have any knowledge about that. I</p> <p>8 wasn't allowed. I never knew or even seen the fuel</p> <p>9 itself but like once, maybe. And, you know, I was</p> <p>10 denied. They kept me out of, you know, most of the</p> <p>11 secrets of this project. And I got no way of knowing,</p> <p>12 you know, what really, what really has happened here.</p> <p>13 So, I mean, my job basically was to go down</p> <p>14 there and keep the thing running, and I did that, to</p> <p>15 the best, to the best of my ability, so.</p> <p>16 Q. So really aside from your concerns of what</p> <p>17 was going on on the other side of the wall at the JM</p> <p>18 side, and this general feeling that something is fishy,</p> <p>19 you don't really have any facts to testify in this</p> <p>20 proceeding to prove that there was some type of scheme</p> <p>21 involving Mr. Fabiani?</p> <p>22 A. No, sir. No, sir, I don't know. I</p> <p>23 can't -- I can't imagine, you know, Andrea and Fulvio</p> <p>24 not knowing what's going on. I mean, I would think if</p> <p>25 something was going on, they were both -- they would</p>	<p>1 follow-up questions based on some of the questions you</p> <p>2 received from counsel.</p> <p>3 Mr. West, you testified that you had</p> <p>4 conversations previously with counsel for Industrial</p> <p>5 Heat, is that correct?</p> <p>6 A. That I had conversations previously?</p> <p>7 Q. Yes, previously.</p> <p>8 A. For counsel. I knew that this was coming,</p> <p>9 yeah. I mean, they made me aware that this was going</p> <p>10 to happen.</p> <p>11 Q. And when did you have those conversations?</p> <p>12 A. Oh, I don't have the first clue.</p> <p>13 Q. Do you know what you talked about?</p> <p>14 A. Yeah, this was going to happen. There</p> <p>15 would be a deposition, that I'd be notified sometime in</p> <p>16 the future, is what they told me.</p> <p>17 Q. Was that over the phone or in person?</p> <p>18 A. Yeah, over the phone.</p> <p>19 Q. That was the sum and substance of the</p> <p>20 conversation?</p> <p>21 A. Pretty much, and then they let me know</p> <p>22 dates.</p> <p>23 Q. Who did you talk to?</p> <p>24 A. J.T., and then when I found it was actually</p> <p>25 going to happen, I actually called T. Barker myself and</p>
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<p>1 have both been a part of it</p> <p>2 Q. Well, I mean, that's the whole question is</p> <p>3 the if, if something is going on. And so, again, just</p> <p>4 to clarify my question, is that while you were working</p> <p>5 with, you know, Mr. Fabiani for almost I think you said</p> <p>6 it was almost three years, you can't testify to one</p> <p>7 thing that you think you saw him do that was dishonest</p> <p>8 or inappropriate or deceitful to Industrial Heat, is</p> <p>9 that correct?</p> <p>10 MR. FALCONE: Objection</p> <p>11 A. That I'm aware of, you know, once again</p> <p>12 Q. That's what I'm just looking at, what you</p> <p>13 know, what you know</p> <p>14 A. I don't know anything. I don't know if the</p> <p>15 information that Fulvio passed to him was accurate or</p> <p>16 not</p> <p>17 MR. NUNEZ: Thank you very much,</p> <p>18 Mr. West. I will stop there. No more</p> <p>19 questions</p> <p>20 MR. CHAIKEN: You gentlemen have any</p> <p>21 questions?</p> <p>22 MR. FALCONE: No questions</p> <p>23 FURTHER EXAMINATION BY COUNSEL FOR PLAINTIFFS</p> <p>24 BY MR. CHAIKEN:</p> <p>25 Q. This is Brian Chaiken, I have a few</p>	<p>1 asked him what's this about, what's going to happen</p> <p>2 here, what are they going to do, and he didn't really</p> <p>3 know either. He said they were just going to have some</p> <p>4 questions and --</p> <p>5 Q. Did you ever have a conversation with</p> <p>6 Mr. Pace or Mr. Lomax about this case?</p> <p>7 A. They interviewed me. We had a topic</p> <p>8 sometime back when I first met them. I mean, they just</p> <p>9 asked me some questions about what I had done down in</p> <p>10 Florida, you know, basically the same things that you</p> <p>11 asked when you came out to the plant that day.</p> <p>12 Q. When did that conversation take place?</p> <p>13 A. Oh, I don't know. I don't know. They</p> <p>14 could tell you. I don't remember.</p> <p>15 Q. Was it before --</p> <p>16 A. I think it was after I came back.</p> <p>17 Q. After you came back from Doral?</p> <p>18 A. No, we met -- did we meet in Florida? I</p> <p>19 don't remember. I forget the first time I met them. I</p> <p>20 remember I was out there. I know I saw them at</p> <p>21 Industrial Heat's new office one time, I went over</p> <p>22 there after I came back, and we had a meeting. I can't</p> <p>23 remember if we met out in Florida or not. I remember</p> <p>24 you coming to the plant that one day, that one morning</p> <p>25 about ten o'clock.</p>

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<div>Page 235</div> <div>1 CERTIFICATE</div> <div>2 I, Marisa Munoz-Vourakis, RMR, CRR and Notary Public,</div> <div>3 the officer before whom the foregoing proceeding was</div> <div>4 conducted, do hereby certify that the witness(es) whose</div> <div>5 testimony appears in the foregoing proceeding were duly</div> <div>6 sworn by me; that the testimony of said witness(es) were</div> <div>7 taken by me to the best of my ability and thereafter</div> <div>8 transcribed under my supervision; and that the foregoing</div> <div>9 pages, inclusive, constitute a true and accurate</div> <div>10 transcription of the testimony of the witness(es).</div> <div>11 I do further certify that I am neither counsel for,</div> <div>12 related to, nor employed by any of the parties to this</div> <div>13 action in which this proceeding was conducted, and</div> <div>14 further, that I am not a relative or employee of any</div> <div>15 attorney or counsel employed by the parties thereof, nor</div> <div>16 financially or otherwise interested in the outcome of the</div> <div>17 action.</div> <div>18 IN WITNESS WHEREOF, I have hereunto subscribed my name</div> <div>19 this of , 2016.</div> <div>20 MARISA MUNOZ-VOURAKIS</div> <div>21 Notary #20032900127</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	

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