

Bass 2017-02-02

207-48 Exhibit 48
236-34 Exhibit 34

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Thereupon.

THE VIDEOGRAPHER: Good morning. We're now on the video record. This is the videotape deposition of James Bass in the matter of the case Andrea Rossi versus Leonardo Corporation versus Tom Darden, et al.

Today is Thursday, February 2nd of 2017 and the time is 11:17 a m. Counsel, please state your appearance for the record and after this the court reporter will swear in the witness.

MR. PACE: Thank you. Chris Pace and Mike Maugans for the defendants. Jones Day for the defendants.

MR. ARAN: Fernando Aran of the law firm Aran, Correa & Guarch on behalf of the deponent, James Bass, third party defendant J.M. Products and third party defendant Henry Johnson.

MR. NUNEZ: Rudy Nunez on behalf of the third party defendant Fulvio Fabiani and United States Quantum Leap, LLC.

MR. CHAIKEN: Brian Chaiken on behalf of the plaintiffs, Dr. Andrea Rossi, who is present with me and Leonardo Corporation.

Thereupon--

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JAMES BASS

was called as a witness and having been first duly sworn responded as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. PACE:

Q. Mr. Bass, can you state your full name and your work and home address -- well, your full name and your work address.

A. I have a question first.

Q. Sure.

A. Shouldn't you be using a ouija board?

Q. A ouija board?

A. You know what it's for? Communicate with spirits.

Q. With spirits. Why do you think I should be using a ouija board?

A. They said I was a ghost.

Q. So you think I should be using a ouija board --

A. Yeah, maybe.

Q. -- you think that's how -- okay. I understand your disposition. So Mr. Bass, you are obviously not happy to be here today, correct?

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A. That's correct.

Q. Mr. Bass, you're obviously angry, correct?

A. Yes.

Q. All right. Let's start. Mr. Bass, can you please state your full name for the record.

A. James Alan Bass.

Q. Mr. Bass, will you please state your work address for the record.

A. 515 Northeast 8th Avenue, Deerfield Beach, Florida. I'm a contractor.

Q. So Mr. Bass, what is your educational background?

A. I have almost four years in the US Navy with flight control and guidance systems technician on aircraft. I graduated Rutgers University with electrical engineering with a specialty in closed loop control systems. I graduated first in my class summa cum laude. I'm a member of Tau Beta Pi and Eta Kappa Nu, both engineering honor societies.

Q. Any formal education after Rutgers?

A. I have been to various classes and things like networking. I have a Cisco certified network associate. That's a training for routing systems

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from Cisco Corporation and about 42 years of engineering experience.

Q. Apologies for the delay but I'm actually a right-handed writer and I'm trying to do this left-handed. Let's talk for a second about the 42 years of engineering experience. What was your first engineering-related job after you graduated from Rutgers?

A. I went to work at a computer company that did factory process control and I did hardware and software integration. We worked in nuclear plants. I designed a special control system for the Westinghouse Hanford nuclear reactor out in Idaho Falls, Idaho and many other projects.

Q. Who is that employer? What was the name of the employer?

A. My employer?

Q. Yes.

A. Modular Computer Systems.

Q. How long did you work for Modular Computer Systems?

A. Ten years.

Q. What did you do after you ended working

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The time is 11:45.

(Thereupon a brief recess was taken, after which the following proceedings were had.)

THE VIDEOGRAPHER: We're now back on the record. The time is 11:50.

BY MR. PACE:

Q. Mr. Bass, when we took a break you had said that you were doing or since the spring of 2016, you have done --

A. What did you do to your arm?

Q. Tore a rotator cuff. Had to have surgery on it and reattach it.

A. Not fun.

Q. No. When we took our break we were talking about work you have done with Andrea Rossi and Leonardo Corporation since the spring of 2016. You talked about designing energy provoking -- energy provoking system. Can you explain to me what that is?

A. Well, **the E-Cat needs energy to provoke it into generating heat and we're coming up with different methods, high voltage electricity, so I am trying to design some different test systems at high voltage.**

Q. So this is for providing energy into the

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E-Cat reactors?

A. Yes.

Q. Were you doing any of this work when you were working for J.M. Products and Andrea Rossi --

A. No.

Q. -- prior to the spring of 2016?

A. No.

Q. All right. What are platinum sponges?

A. It's a -- platinum sponge, if you think it looks like a sponge, it doesn't. It's more like a craggy-type stuff that they use to -- they eventually wind up after cooking it to put in catalytic converters. It's more like a powdery-type stuff, I think.

Q. Have you ever done any work with platinum sponges?

A. I didn't specifically do any work with platinum sponge, but J.M. did.

Q. J.M. Products did work with platinum sponges?

A. Yeah.

Q. But you didn't do any work with that?

A. I didn't handle it.

Q. Did you -- during your time you worked at J.M. Products did you ever see any platinum sponges?

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A. No.

Q. Did you believe that J.M. Products did work with platinum sponges --

A. Yes.

Q. -- at the Doral location?

A. Yes, because I know there was a pilot amount that was purchased and installed inside the -- whatever you want to call it, the box, for heating.

Q. And what was done with that platinum sponge after it was heated?

A. Supposedly it was removed. I wasn't -- I wasn't present when it was removed.

Q. Were you present when it was placed in there?

A. I assisted in putting tubes into the piping but I didn't know what they were at the time.

Q. What is graphene?

A. Graphene is a carbon. It's a certain form of carbon molecule that's extremely expensive, very slippery, used in a number of things and if you try and buy graphene you'll find out how gross expensive it is.

Q. Have you ever done any work with graphene?

A. We did. Again, the same deal. I didn't

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specifically. I just was aware of the cost of graphene because of a product that I had heard about a while prior to working for J.M.

Q. But when you were working for J.M. Products you believe J.M. Products did work with graphene?

A. They did. We bought -- I believe **we bought industrial diamonds and stuff and used the industrial diamonds in the heating process to produce graphene.**

Q. Let me -- I am going to use a few exhibits here that are just images taken over at the Doral location. For purposes of this deposition I'm happy to refer to the warehouse, building, however you want to refer to it. I am talking about the warehouse that is at 7861 Northwest 46th Street. Is there a way you are comfortable referring to it? Do you call it the warehouse, the building?

A. Warehouse is fine.

Q. I'll call it the Doral warehouse, just so I don't have to keep repeating the address for the rest of the afternoon. I'm going to hand you what I am going to mark here as Bass Exhibit 1.

(The document referred to was thereupon

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[...]

steam when it hits your filter?

A. Probably not. It's hard to say. No, it was collecting water mostly. There is some mix in there. I don't know.

Q. What is the purpose of the filter box?

A. To prevent impurities from going back into the E-Cat.
Q. So you just testified that for Bass Exhibit 2 this piping was intended to keep the water or the steam or the fluid, whatever was in here warm, hot?
A. Uh-huh.
Q. Then that leads into your -- into this filtration system here?
A. Uh-huh.
Q. If it was still steam coming in how would it -- at what point would it be converted into water?
A. It's mostly converted into water or a mix of water and steam inside the serpentine area.
Q. Okay. So why would you insulate the serpentine area then? Don't you want the heat to dissipate?
A. No, not particularly. You maintain the efficiency of the closed loop system. That's another closed loop system, by the way.

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Q. How do you turn steam into water without the heat dissipating?
A. Remove energy.
Q. No, how does steam be converted back into water? Does the temperature of the steam have to lower?
A. No.
Q. The temperature of the steam can stay above a hundred degrees Celsius?
A. Yes.
Q. How else does it convert into water?
A. You remove the energy from it.
Q. How do you remove the energy from it?
A. With an endothermic reaction.
Q. And what would that be?
A. Anything that takes in energy.
Q. Is there something within those serpentine pipes that would take in energy?
A. Yes.
Q. What is that?
A. In the beginning it was -- sorry. The catalytic stuff, platinum sponge.
Q. Platinum sponge. **The platinum sponge would be within the serpentine pipes?**
A. **Yes.**

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Q. Did you put the platinum sponge into those serpentine pipes?
A. I helped put pipes in there, that's all. **The pipes already had something charged in them.**
Q. Did you see something charged in them when you put the pipes? I am just trying to understand.
A. No, I didn't see physically what was in there.
Q. Let me take a step back, just so we're clear. When we're looking at Exhibit 2 you helped install these pipes, correct?
A. Yeah. Not the main serpentine. I did a lot of stuff here, with the filter box.
Q. You are pointing to Exhibit 3?
A. Yes.
Q. But for Exhibit 2, did you --
A. Exhibit 2 was already there when I started working for them.
Q. Do you think there was any -- were you told by anyone that there was any platinum sponge in --
A. I wasn't told anything about that at the time.
Q. Okay. Let me start over. If you give me

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just a second to ask the question. Do you believe today -- we will talk about when you found out later on. Do you believe today that in Exhibit 2 -- in these pipings in Exhibit 2 that there was platinum sponge at some point in the piping in Exhibit 2?
A. Yes.
Q. Okay. What's your basis for that belief?
A. Because I know that some of it was purchased. I mean what would you do, throw it in the street? That's what they talked about, that they inserted the platinum sponge or we did, or it was a group effort. I didn't know it was in the pipes but apparently some of it was already in there before they were closed up.
Q. Okay. Who told you that there was platinum sponge in the pipes before it was closed up?
A. Both Hank, Henry Johnson and Dr. Rossi said eventually. I didn't know what was in there at all at the time.
Q. When did they tell you that there was platinum sponge in the piping?
A. I have no idea. Probably a month later. I was the new guy in the block. I didn't know what

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was going on in there.
Q. I understand. When you say a month later, are you saying in early 2015?
A. Sometime in that area I found out it was platinum sponge they were putting in there.
Q. So you have never seen any platinum sponge put in the pipe, but you were told by --
A. Correct.
Q. -- Mr. Johnson and Andrea Rossi that there was platinum sponge in the pipe?
A. Yes, they even bought some. I saw the bill.
Q. You saw the invoice for --
A. I saw the invoice for the platinum sponge, so I figured that was good enough.
Q. So you never really saw the platinum sponge itself?
A. No.

Q. You saw an invoice for a platinum sponge?
A. Uh-huh.
Q. Do you know if that platinum sponge was, in fact, purchased?
A. Yes, I believe it was. I saw the invoice for the bill.
Q. Let me rephrase. Other than seeing an

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invoice, and the invoice was a request to buy the platinum sponge?
A. Huh?
Q. It was an invoice for platinum sponge. You recall it was over a million dollars worth of platinum sponge was being purchased?
A. No, I remember there was an initial charge to test it.
Q. Now, other than that document that you saw, the invoice or the bill or whatever it was, so I'm just asking, other than that did you ever see any platinum sponge at the J.M. Products -- at the Doral warehouse?
A. Not particularly, no.
Q. You qualified it some, so I just want to understand. Why do you say not particularly?
A. There were a lot of things laying around inside the plant. It could have been. There were boxes and crates and everything.
Q. I understand. So you could have seen platinum sponge and not known it was platinum sponge?
A. I wouldn't have known it.
Q. Understood. But to your knowledge you never saw platinum sponge but if it was there and -- you may have seen it and you wouldn't have known it

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was platinum sponge?
A. That's correct.
Q. Did you ever see any graphene at the J.M. Products -- at the Doral warehouse?
A. No. Again, it's small stuff, but whatever.
Q. Graphene particles or objects are small?
A. (Nods head.) Yes.
Q. Turning to -- turning back to Bass Exhibit 3, you say there is a filter box. Is that the clear box we see here that has kind of a red gauge on top of it?
A. Yes.
Q. All right. This was to take out any impurities in the water?
A. Uh-huh.
Q. And how was it -- did all the water that came through the system run through that box?
A. **Only in the beginning of each test.**
Q. At the beginning, if you can help me understand that. What does that mean?
A. When they first started the system if they opened up the system, they would run it initially through the box and then once they were convinced -- it was up to Dr. Rossi when to divert it

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around the box.
Q. So there is -- again, I'm not an engineer so I apologize if I'm going to be asking some questions poorly. So when the system would be started up -- and when you say system, do you mean like the E-Cat reactors?
A. E-Cat, yes.
Q. So when the E-Cat reactors would start up, at least initially all of the water that was flowing through this system would be redirected into this box?
A. Correct.
Q. The filter box?
A. Correct.
Q. Then at some point a valve would be turned so that the water no longer had to go into this filter box?
A. Yes.
Q. And how much water can that filter box hold?
A. I don't know. You can use your judgement there. I never particularly measured it.
Q. Do you have a sense of how much water it can hold?

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that?
A. Probably.
Q. All right.
A. I usually keep copies of stuff like that.
Q. Your response to Andrea Rossi is to -- you're setting up time for a meeting. You say you will not discuss what we're doing there. There, meaning the Doral warehouse, correct?
A. Uh-huh.
Q. Then you said: Besides, you won't really telling what you are doing there -- what we are doing there.
A. Uh-huh.
Q. Is that a reference to what -- well, tell me what you meant by that.
A. You're asking me to speculate. I don't recall. Could have been both sides.
Q. Well, you wrote it, so that's why I am asking you.
A. I wrote it two years ago.
Q. I understand. Can you tell me what you meant?
A. No.

Q. All right.

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A. I might have meant what I knew about the E-Cat, which was not very much at all or it might have been the fact of what we were putting inside of the serpentine pipes. I don't recall at the time. That was two years ago.

Q. You didn't know what was being put in the serpentine pipes?

A. No, I didn't at the time anyway, so it didn't make much difference.

Q. Do you know whether J.M. Products has ever sold a product?

A. No, I don't know.

Q. Have you ever seen a product being sold from J.M.?

A. No.

Q. Have you ever seen a customer of J.M. Products?

A. I think we had meetings with potential people. I don't recall exactly.

Q. Who is we?

A. We. Who is we? Me, Dr. Rossi was in there, I believe Industrial Heat was in there and we discussed the potential uses of heat, of steam energy, but that's all I recall. I don't recall the guest list.

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Q. Well, I think you're talking to me about the uses of the steam. I'm asking do you ever recall whether J.M. Products met with any customers to buy something that J.M. Products was producing, not that Leonardo was producing?

A. No.

Q. Okay.

A. Could I take a quick bathroom break?

Q. Of course. Let's go off the record.

THE VIDEOGRAPHER: Going off the record, the time is 12:47.

(Thereupon a brief recess was taken, after which the following proceedings were had.)

THE VIDEOGRAPHER: We're now back on the record. The time is 12:58, media number two.

(The document referred to was thereupon marked Bass Exhibit 8 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. Mr. Johnson, I'm marking what's another document as Exhibit 8. Again, with reference to our other exhibits, here in this e-mail -- in one of these emails on Exhibit 8 you say, I saw the heat strips that are installed on the serpentine pipes -- on the

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serpentine pipe. If you look at Exhibit 2, what are the heat strips? Is that the insulation?

A. No, he had heat strips along some parts of it that are covered up now.

Q. So in Exhibit 2 we can't see what the heat strips are?

A. No, you can't.

Q. What's the function of a heat strip?

A. I don't recall, but probably to maintain the heat when they had shut down the reactor. To keep heating, to keep the pipes hot, because it was a mandatory thing, as I recall, for the conversion and the platinum sponge. That's all I recall.

Q. You recall that it was required that the pipes stay heated for some purpose relating to the platinum sponges?

A. **Yes**, that's what I recall. That's the only reason to put them there and I think that was the final -- that was the conclusion that I was told. I don't remember the exact conversation.

Q. And who did you have that conversation with?

A. Dr. Rossi.

Q. We talked previously on these serpentine

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A. Yes.

Q. Okay. And it's not going to go through the exit pipe because it's not high enough to reach where the exit pipe starts?

A. Yes, that was the concern.

Q. Why is that a concern?

A. In case we needed to get the filter apart. In other words, you had water all over the place. The way -- if you see the clamps at the end, that's the only way to change the filter, so you would have spilled water. There actually is a discharge pipe. You can't see it. I think it's in the other corner. I specifically remember putting it in.

Q. Okay. So --

A. It's a little faucet with a PVC tap on it that allows all the water to drain out before you take it apart.

Q. And that being the water up to the point of the exit pipe --

A. Yes.

Q. -- because it's not going out the exit pipe. It just sits there like still --

A. It doesn't matter while the system is

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running, understand, but when they had to take it apart then it would have been a problem because there is gallons of water in the bottom of that.

Q. So ultimately you did install --

A. Yes.

Q. -- the drain?

A. Yes.

Q. How many times was that drain used; do you remember?

A. I have no idea.
Q. Did you ever use it?
A. No.
Q. When did you install it?
A. The drain?
Q. Yes.
A. Before the filter box was put in place.
Q. Okay. What did you understand, Dr. Rossi's -- Andrea Rossi's response when he says: "No, it is a dangerous source of spill. In case of clog we take off the filter."
A. Where are we?
Q. I'm sorry. The first page of Exhibit 11. There at the bottom he says: "No, it is a dangerous source of spill. In case of clog we take off the filter."

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A. Let me see what he said before that, what the question was.
Q. I don't think we have -- this is the way it was produced to us in discovery. But it looked like the preceding e mail may have been --
A. There is something missing in that because we definitely put the drain in there.
Q. Okay. So you don't think this is a reference to your proposal to put a valve --
A. No.
Q. -- to drain the water?
A. No.
Q. Okay. You make a reference up here at the top: "You are still the boss, so it's your decision." Was decisions -- decisions about what was to go on -- what was to take place inside the container on the J.M. Products side, those were all made by Andrea Rossi?
A. Yeah, but he was being kind to me.
Q. I apologize.
A. Huh? About what?
Q. How -- I'm unclear.
A. He said, "you are still the boss."
Q. No, that's you. I'm sorry, that's your

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e-mail to Andrea Rossi.
A. Huh? Oh, yeah, it is. Okay.
Q. Okay.
A. I was confused.
Q. Sorry. So decisions about what equipment was being used on the J.M. Products side of the Doral warehouse, those were made by Andrea Rossi?
A. Uh-huh. Yes.
Q. Decisions about what type of filter box or filtration system to put in, those had to be approved by Andrea Rossi?
A. Yes.
Q. Did you ever -- when it came to any of the operations on the J.M. Products side of the warehouse, did you ever have to get approval from Henry Johnson?
A. No.
Q. How many times have you met Henry Johnson?
A. Many times.
Q. Were they all in connection with J.M. Products?
A. Sometimes, yes.
Q. Did he form your corporation that you created?

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A. It was formed before I ever became part of it. I never was a direct part of J.M. though. I was a contractor.
Q. All right.
(The document referred to was thereupon marked Bass Exhibit 12 for Identification, a copy of which is attached hereto.)
BY MR. PACE:
Q. I am going to hand you, Mr. Bass, what's been marked as Exhibit 12. Mr. Bass, this is a corporation that you formed -- I'm sorry, these are the articles of incorporation for a company that you formed in September 2014, correct?
A. Yes.
Q. Who did the legal work for forming this company, if anyone?
A. Nobody. Actually, my accountant helped me do this, some of it.
Q. Who is your accountant?
A. Marshall Wexler. Does that matter?
Q. You formed this company right around the same time that you -- we'll see some documents later this afternoon, but would you be surprised to find out that you had accepted the -- or you had been

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offered the employment or offered a contract to work with J.M. Products or Andrea Rossi by September 1st of 2014?
A. Would I be surprised?
Q. Yes.
A. No.
Q. Okay. So at that time period is also when you formed Reactance Engineering?
A. Correct.

Q. Why did you form Reactance Engineering?

A. Because -- excuse me.

Q. Do you need some more water? We're going to break in like two minutes.

A. I don't need anymore water right now.

Q. Let's finish this question.

A. I have had a cough for about a month now. I was working for another company at the same time. The effort that I gathered I was going to be doing was not going to be full-time at J.M. and the other company wanted a contractor, a licensed -- they wanted to pay a company. They didn't want to pay an employee.

Q. Understood.

A. They didn't want to give me a 1099. They

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wanted it as a contractor. That was Velocity Aerospace. So based on that more than anything else I formed my corporation, Reactance Engineering, and I still have it.

MR. PACE: That answers that question. Should we go ahead. We said we would take a break at 1:30, 2, so let's go off the record.

THE VIDEOGRAPHER: Off the record, the time is 1:31.

(Thereupon a brief recess was taken, after which the following proceedings were had.)

THE VIDEOGRAPHER: Good afternoon. We're now back on the record. The time is 2:49.

BY MR. PACE:

Q. Mr. Bass, let me remind you that you are still under oath. Are you aware of that?

A. Uh-huh.

Q. I'm going to ask you a few questions. I want you to answer just as to whether something occurred. I do not want you to tell me the substance of it. During the break did you have a chance to speak with your lawyer?

A. We went to lunch, yes.

Q. During your break did you speak with any

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of the other lawyers here or with Andrea Rossi?

A. Only pleasantries.

Q. I'm sorry, I don't want you to tell me substance. I appreciate only pleasantries. I want to avoid attorney-client privilege so let me just ask you the questions. These individuals know or Mr. -- at least Mr. Chaiken knows why I'm asking the question. This is just establishing a record and then we will move on. Let your lawyer object to this and he may instruct you not to answer. What did you discuss with your lawyer during your break?

A. His girlfriend and marriage.

Q. All right.

A. My girlfriend.

Q. Did you discuss your testimony from this morning?

A. No.

Q. Fantastic. Can I have the Exhibit 12 from you? I should have given you an Exhibit 12. I am trying to figure out if it was -- it might be the articles of incorporation.

MR. ARAN: 12 is electronic articles of incorporation.

THE WITNESS: Yeah, this is my business.

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Q. Did he ever explain to you why this would be needed for the J.M. Products side of the plant?

A. No.

Q. Do you know of any reason it would be needed on the J.M. Products side of the plant?

A. I didn't know.

Q. I think you said there would be a transformer for an extremely high voltage.

A. Yes.

Q. What would such a transformer be used for typically or more commonly?

A. There is -- **making arcs, sparks.**

Q. I'm sorry, is there a --

A. **Creating plasma.**

Q. Can you -- is there a type of industry where transformers using this extremely high voltage would be used?

A. I'm not sure. I don't know.

Q. Okay.

A. But there could be.

Q. He says that: "This has priority upon what you are doing for Fulvio."

A. Yes.

Q. Is that a reference to the BeagleBone project?

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A. Yes.

Q. Were you ever able to find the transformer that Andrea Rossi wanted?

A. No.

Q. Was he able to find it?

A. He said he solved the problem. I'm not sure if that meant finding the transformer or solving the problem another way.

Q. And he never explained to you what the problem itself was?

A. That's correct.

Q. Were you ever involved in installing -- I think I know the answer to this but I just want to make sure I'm clear. I assume you were never involved in installing any transformers either on the Leonardo or the J.M. Products side of the

Doral warehouse, or am I incorrect?

A. Certainly **not on the Leonardo side**. Any transformers? Transformers, why are you asking that question?

Q. Well, we're talking about transformers here.

A. We put a transformer -- I'm trying to remember what we did it for. Not for this particular

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project, only after. Now I remember now.

Q. Why was the transformer used? For what purpose was the transformer used?

A. It's not relevant to this particular discussion.

Q. Fair enough.

A. We imported a whole new concept into the system.

Q. Into the system, meaning?

A. Into our side and I don't know how far we can go with this. After -- after the test was done the work got diverted, so.

Q. Well, first of all, you said brought a whole new system into our side. What is our side, the J.M. Products side?

A. The J.M. side.

Q. When was the new system brought in? Without giving me the details of it when was the new system brought into the J.M. Products side?

A. Rather than say new system we modified a lot of stuff, moved things around, moved the power feed around. So everything got diverted over to the J.M. side, that's all.

Q. This is after February of 2016?

A. Yeah, sometime later.

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Q. All right.

A. I don't remember exactly when.

Q. Is the container still -- is that -- the insulated black container on the J.M. Products side, is that still there?

A. Yes.

Q. Has anything in there been changed?

A. **Stuff has been added since then.**

Q. Into that container?

A. Uh-huh.

Q. Has anything been removed from the container?

A. I don't know that.

Q. At the time -- if we go back to early 2015, once you walked through that white door --

A. Why do you close your eyes when you're talking to me?

Q. Because I'm trying to make sure I get the question correct. I can see words when I close my eyes. Does that help?

A. Okay.

Q. Some people can do that. When you walked through the white door into the J.M. Products side of the Doral warehouse

--

A. Yeah.

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Q. -- other than the container --

A. Yeah.

Q. -- what do you see?

A. Tables, boxes, stuff like that.

Q. There is no manufacturing process going on on the other side of the wall?

A. What do you mean by the other side? You mean back on the J.M. side or on --

Q. Back on the J.M. Side. When you come in the J.M. side -- if it helps, let's look at our picture here.

A. What do you mean by manufacturing process? Can you clarify that question?

Q. Sure. Let's look at a picture, Exhibit 1. When you open up this white door and you walk into the J.M. Products side of the warehouse --

A. Okay.

Q. -- before you get to the offices what is there other than the container?

A. Pretty much the container and some tables and some electrical stuff and some meters and things like that.

Q. Are there -- are there any people working on that side, in that space? I am not talking the

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offices. I am talking the space between the container -- I'm sorry, the space between this white door and when you get to the office.

A. Well, probably not at 2 o'clock in the morning but sometimes during the day.

Q. Who would be working there during the day?

A. I would, sometimes Andrea would be there, Dr. Rossi would be there.

Q. Anyone else?

A. Typically, no. I can't tell you that. I wasn't there 24 hours a day.

Q. I understand. I am only asking for the time that you were there. The times you were there, is that where you would tend to work or would you tend to work in the office?

A. In the beginning I spent most of my time there and then in the office pretty much later on.

Q. How much time would Andrea Rossi spend working in that area?

A. On and off. Never knew.

Q. All right.

A. Can't answer that question.

Q. Were there -- what work was being done in that area?

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A. **Energy conversion.**

Q. The actual conversion of energy in the area?

A. Not in the area. **Inside the box.**

Q. But I'm sorry, my question was poor. Other than inside the box. So outside the box but past this gray wall on the J.M. Products side of the warehouse, was there anything being built or manufactured?

A. What do you mean by being built or manufactured?

Q. I am trying to understand was there anything that J.M. Products was doing other than whatever was going on inside that container?

A. No.

Q. Okay. And is that -- was that consistent during the time period that you were working with J.M. Products?

A. I would say so, yeah.

Q. All right. And your testimony is obviously limited only to the times that you were there, you can't tell me what was occurring --

A. Obviously.

Q. -- when you were not there?

A. Yes.

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(The document referred to was thereupon marked Bass Exhibit 21 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. Mr. Bass, I am handing you what's been marked as Exhibit 21.

A. Yeah.

Q. Is this a -- an early e-mail involving the -- what eventually became the BeagleBone project?

A. Yes.

Q. And this is the primary work that you were doing while you were working with J.M. Products?

A. Uh-huh. Yes. Yes.

(The document referred to was thereupon marked Bass Exhibit 22 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. I'll hand you what's marked as Exhibit 22. I take it -- Exhibit 22 reflects at least from your e-mail that there is information that you needed from Fabiani in order to continue your work on the project that you were not getting from Mr. Fabiani. Am I reading that first e-mail correctly?

A. Yes.

Q. His response -- I'm trying to see how you

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you have probably have said that you measured -- that J.M. Products measures the energy input?

MR. ARAN: Objection to form.

THE WITNESS: You're asking -- that's conjecture. You asked for conjecture, would I have said that. I don't know, no.

BY MR. PACE:

Q. Well, you just told me if you were asked about -- you just said --

A. I might -- I probably would have but I don't remember being asked.

Q. Fair enough. Fair enough. I was asking whether your recollection is that you were following -- you followed whatever instruction or guidance Andrea Rossi provided?

A. Of course, he was directly -- directly or indirectly my boss, however you want to look at that.

Q. Why would you say -- wasn't he directly your boss?

A. After a fashion, I more reported to J.M. but took technical direction from him.

Q. When did you report to J.M. Products?

A. Effectively I was being paid by J.M.

Q. Okay.

A. All right. So it's --

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Q. We will go through some of those e-mails in a minute.

A. There is a dashed line there.

Q. Fair.

A. There is nothing secret about it.

(The document referred to was thereupon marked Bass Exhibit 26 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. Showing you what's marked as Exhibit 26. This is the same root e-mail from you but an additional response from Andrea Rossi. Separate from these e-mails did Andrea Rossi tell you that the people who attended these meetings, either Industrial Heat or the Chinese investors, essentially it was none of their business what J.M. Products did with the power that it received?

A. I'm sorry, one more time the question, the exact question.

Q. Sure. Separate from this e-mail --

A. Yeah.

Q. -- would -- or did Andrea Rossi tell you that, either in connection with the people coming for the first or the second meeting?

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A. You said separate from the e-mail?

Q. Yes.

A. In other words, did he tell me some other time?

Q. Yes, that's all I am asking.

A. Obviously that's -- that's the best I've got right now. He obviously told me at least once. Might have told me again.

Q. So he's telling you -- at least in this e-mail he's telling you --

A. Yes.

Q. -- if somebody from Industrial Heat or somebody from this group of Chinese investors asked you about J.M., your response should be that it's not their business what J.M. does with the power?

A. Yes. That's -- the best answer is yes.

Q. Then my only question is aside from these couple of e-mails we looked at, you don't recall additional conversations with Andrea Rossi along those lines?

A. No, I do not. There could be, but I don't recall.

Q. And to the best of your recollection, to the extent that that was the direction or guidance you were given from Andrea Rossi, you followed it?

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A. Yes.

Q. What do you recall in terms of how you explained your role at J.M. Products either to -- to Industrial Heat during that meeting?

A. I was in charge of engineering projects around J.M.. I was called director of engineering.

Q. And who gave you the title of director of engineering?

A. I think Dr. Rossi said that would be a good title because of what I was going to be doing.

Q. Because what you were going to be doing?

A. Yeah.

Q. When did he give you the title?

A. I don't recall. Probably when we decided that I was going to go work with him, probably.

Q. Were you ever an employee of J.M. Products?

A. No.

Q. You were a contractor for J.M. Products?

A. Always.

Q. Were there any other engineers who were -- who worked for or were contractors for J.M. Products?

A. No, I don't think so.

Q. I'm going to take these things a little

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bit out of order because I already marked something.

(The document referred to was thereupon marked Bass Exhibit 28 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. Handing you what's marked as Exhibit 28. Who created this business card?

A. I did.

Q. You did. The image in the business card is a plant in Japan; is that correct?

A. I don't know. I just got it off the Internet.

Q. Why did you create this business card?

A. I had to have some business card to show people. That's what you usually do when you have business meetings, I'd have something, so.

Q. Well, how many people did you show this card to? How many people did you dole out this card to?

A. Probably during the meetings, that's what I recall.

Q. So twice?

A. Yeah. Yeah. There were two meetings -- there were two times we met, that's what I remember.

Q. So you had these business cards prepared

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for the purpose of two meetings?

A. I think so, yeah. Yeah, for whatever, from there on out. I still have some. Do you want one?

Q. I'm asking if you ever used them again. Did you ever give them out to anyone else?

A. Besides people that were involved? My girlfriend maybe. I don't know.

Q. So aside from giving them -- aside from giving one of these cards to your girlfriend and aside from Andrea Rossi and Fulvio Fabiani, the only people you may have given these cards to are people who attended either the meeting for Industrial Heat or the meeting that involved the Chinese investors?

A. Probably, yes. I don't recall giving them to anybody else. I didn't have a need to give them to anybody else.

Q. How many cards did you have made? A. 20. They come in sheets.

Q. Okay. And the phone number on there is what phone number?

A. That's the office in Doral.

Q. If messages were left at that phone number would they be provided to you?

A. Yes.

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Q. By whom?

A. By the phone company.

Q. Would you check the messages on that phone number?

A. Yes, when I was in there or Dr. Rossi would check them, either one. The phone -- it was a common phone between the two offices.

Q. Two offices meaning between your office and Andrea Rossi's office?

A. Yes.

Q. Did you ever represent yourself to be the director of engineering of J.M. Products to anyone else, to the best of your recollection?

A. I don't remember.

(The document referred to was thereupon marked Bass Exhibit 27 for Identification, a copy of which is attached hereto.)
BY MR. PACE:

Q. Now I'm going to go back to Exhibit 27. You have now what's been marked as Exhibit 27. This e-mail discusses a third meeting that was being set up for February 16, 2016 in Doral, Florida. Do you recall that -- do you recall such a meeting being set up?

A. No, I don't. If you prompt me on who was

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there I would probably remember.

Q. Well, I'm not sure the meeting occurred so that's what I was going to ask you. Do you recall if a meeting actually occurred or not?

A. I don't remember meeting anybody this last year.

Q. You ask here with your communications with Andrea Rossi: "When we met with some people last year, I don't remember who it was, one of them asked me how does Johnson Matthey heat their platinum in other plants. At that time I didn't know you were cooking platinum sponge, and I didn't know what process they were using in other US operations, so I was very uncomfortable answering." Is J.M. Products a affiliate or subsidiary of Johnson Matthey?

A. No, not really. No. Well, by affiliate, there was supposed to be the exchange of platinum sponge and then a return back of the cooked platinum sponge. That's the way I understood it.

Q. And you understood that from whom?

A. From working around the people, working around Dr. Rossi, Hank, Hank Johnson.

Q. So Hank Johnson told you they were buying platinum sponge --

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Page 212 (end)

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194-07 Exhibit 7
207-02 Exhibit 2
235-06 Exhibit 6
236-15 Exhibit 15
238-03
248-04 Exhibit 4

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THE VIDEOGRAPHER: We are now on the record. Please note that the microphones are sensitive and may pick up whispering and private conversations. Please turn off all cell phones or place them away from the microphones as they can interfere with the deposition audio. Recording will continue until all parties agree to go off the record. My name is Michael Massa representing Veritext. The date today is February 10th, 2017. The time is approximately 10:11 a m. This deposition is being held at Jones Day, 600 Brickell Avenue, 33rd Floor, Miami, Florida and is being taken by counsel for the defense. The caption of this case is Rossi versus Darden. This case is being held in the US District Court, Southern Division of Florida. The case number is 1:16-CV-21199-CMA. The name of the witness is Andrea Rossi. At this time the attorneys present in the room and everyone attending remotely will identify themselves and the parties they represent after which our court reporter, Janet Baldauf representing Veritext, will swear in the witness and we can proceed.
MR. PACE: Good morning. This is Chris Pace

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[...] Is there some event you can use to identify the time period? In other words, I got an accountant in the United States after X occurred, and we can use X as a baseline.

MR. ANNESSER: Object to form.

THE WITNESS: No.

BY MR. PACE:

Q. Okay. Sometimes that works for people. They think oh, the year after I got married is when I hired this person and they used that to figure it out.

A. No, no. The event has been that I had received a bill that was too high from the former accountant and I asked her to find one that cost a little bit less because -- that's it.

Q. Leonardo Corporation of Florida, do you own Leonardo Corporation of Florida?

MR. ANNESSER: Object to the form.

THE WITNESS: Yes. No. Sorry. Excuse me. Can you repeat the question. I was --

BY MR. PACE:

Q. No. I can repeat the question. Do you own Leonardo Corporation of Florida?

A. No.

Q. Who does?

A. Sorry. I thought that you were talking

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still of the old Leonardo. Now the citation has changed.

Q. You believe you own Leonardo Corporation of New Hampshire?

A. Yes, exactly.

Q. Okay. But Leonardo Corporation of Florida you do not own?

A. No.

Q. Who owns Leonardo Corporation of Florida?

A. A trust.

Q. What trust?

A. Florida Energy Trust.

Q. I'm sorry.

A. Florida Energy Trust.

Q. Florida Energy Trust. And who is the trustee of Florida Energy Trust?

A. Attorney Henry Johnson.

Q. And who is the beneficiary of Florida Energy Trust?

A. In this moment I am not able to answer. I don't remember exactly because I don't follow all the -- again, I don't follow the papers of the company. In this moment I am not able to answer. I should have to check with attorney.

Q. So Henry Johnson would know?

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A. Yes.

Q. Who was the original beneficiary of the trust?

A. Same answer.

Q. Oh, you have no idea who --

A. No, I don't. No, I don't.

Q. Let me take a step back here. So it's your understanding that Leonardo Corporation of New Hampshire was merged into Leonardo Corporation of Florida, correct?

A. If I am not wrong, yes, but, again, I did not operate in this kind of things. All these kinds of things has been made by my accountant and my attorney, so I did not follow all this stuff. They just told me it is -- just I am not the guy that goes through these kind of papers.

Q. Understood. So when you are talking about the advice you've gotten from accountants, you are talking about when it comes to the Leonardo corporations, you are talking about either James Travis or Diane Annesser, correct?

A. Correct.

Q. And when you are talking about the advice you've gotten from lawyers as to these companies, you are talking about either John Annesser or Henry

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Johnson?

MR. ANNESSER: Object to form.

THE WITNESS: I think this is privileged between a client and attorney.

BY MR. PACE:

Q. I'm not asking the substance. I'm just trying to identify the parties here. So without telling me the substance of your conversation with your lawyers I'm just asking --

A. My attorney -- my lawyers are Henry Johnson and John Annesser.

Q. And let me go through -- what I'm asking you for now then --

A. And also Brian Chaiken.

Q. Has he provided -- let me step back. John Annesser filed a document, a public document. He knows it. There's no surprise relating to the merger of Leonardo Florida and Leonardo New Hampshire. I'm not asking you for anything beyond -- he was representing you in that context as opposed to Henry Johnson. Maybe I can cut to the chase and make it easier.

A. You know, if you ask me --

Q. But I don't want to know a private conversation between you and John Annesser. Just I want to make sure before that comes out.

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[...] that Leonardo Corporation of Florida was owned by the Florida Energy Trust?

A. Yes.

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

MR. ANNESSER: Object to the form.

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

BY MR. PACE:

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

MR. ANNESSER: Object to the form.

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

BY MR. PACE:

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

BY MR. PACE:

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

A. Yes, Karl Norwood.

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

A. No.

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

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

Q. They were transparent to you?

A. Transparent to me. **Transparent means they counted nothing to me.**

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

A. Yes.

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Q. When did that occur?

A. Exactly the day, I don't remember, but a few days before the validation test because I had a problem because we were -- we had to make a test with a plant that was a one megawatt plant. This one megawatt plant had one big problem in that installation because not having something that could use the heat, we applied a big naval radiator, a big naval radiator that made a -- not a big noise, but a noise that during the night could have been a problem. I had experienced this in the matter. I had troubles for other things. Unfortunately, just in front of, as Tom Darden has seen when he came there, the factory was adjacent to a road, and just across the road, so 4 or 5 meters from the plant from the radiator there was a house. So the radiator shoot the noise directly in the windows of that house, and so I had experience of troubles that had came to me from just the household that called the police because our work could disturb, et cetera, et cetera.

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

A. Yes.

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

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A. Yes, sir.

Q. -- and I hear loud noise.

A. Problem is the night, not the day.

Q. Right.

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

Q. Right.

A. And so I had gone to what you in America you call the health care office. In Italy it's call ARPA, Agenzia Regionale de Protezione Dell'Ambiente. ARPA, A as in Adam, R as in Robert, P as in Peter, A as in Adam, ARPA. And it's an acronym that stands for Agenzia, Agency, P is for protezione, protection -- no. Agenzia Regionale. A is agency. R is Regionale. A region in Italy is what here is a county maybe. A big county is a region. Italy is made by 20 regions. So agency of the region is the R. P is protection, per la protezione. Ambiente, the A is for Ambiente which in Italian means environment. So Agency for the Regional

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

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

A. Yes.

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

A. Yes. You have been correct so far. And they told me in Italy we do not have authorizations for experiments. There is not something that is called an authorization for 36 hours. You are either authorized or you are not. Now, we understand your problem. You have to make a test that for a customer -- because I explained that it's a test for a customer that had bought the plant and just wanted to see if it work for one day before picking it up and bringing it to the United States. They say we understand you, but the cases are two. Either we make a procedure to authorize you and it will take in Italy to get an authorization for that can take between six months if you are very lucky and two years if you are

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normal. If you are unlucky, even more. Bureaucracy in Italy is tremendous. And so they said it is unthinkable that we can authorize you and take the reliability. The law does not foresee this. But if you find some kind of an agreement with your outdoor -- with your neighbor, we don't come. Because if they call us, we must exit. If they don't call us, we don't come because we know what you are doing, all right, we don't come. But if they call us or call the police and the police calls us, we must exit and we must stop you.

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

A. And this was exactly the situation. So I have gone to my neighbors and say please, I have to make this and this and

this and said they all right. You don't make too much noise, and we can accept it because we want to sleep. So I -- so I sent an e-mail to Tom Darden and explained to him the situation. And he said all right, it's not a big issue because I am

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not buying this because this makes one megawatt. I am buying this because this has a COP minimum six. For me what counts is not the rating. For me what rating is the number of the power, how much power, is not the rating. What counts for me is that it gives a COP-6. So I accept because I had proposed to him instead of using all the power of the plant that would have been too noisy during the night -- during the day is not a problem, but during the night is a problem, we can use -- I don't remember how much I say, one third of the power or one fourth. I don't remember how much. And he answered all right, for me okay.

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

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

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

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

BY MR. PACE:

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

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

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above the roof and one inside the container. Inside the container we had 54 or 56 E-Cats. I don't remember exactly the number now. All the other, the other 50, 55 were in the four big Frankies, so-called big Frankies in the roof. So the total, the total was 56

plus four, but each of those four contain 16 elements. On this my memory works well, as you can see.

Q. So just going back to -- and the way the testing works is -- Exhibit A is talking about 30 -- at least in groups, 30 E-Cat reactors, so that's about a third, a third or a fourth?

A. Yeah. We -- you know what we did, I told him, I told Darden, we can work with one group on the roof, so you can see how work the ones of the roof. And I don't know how many down to stay in a 250, 300 kilos. I don't remember exactly how much. At that rate the noise was zero.

Q. Oh, okay.

A. This is the issue. The noise was completely contained inside the factory, and the part out of the radiator because the radiator would expel the hot air, was just blow that did not -- we were around 70, 75 decibels. I bought a decibel meter. We were 70, 75. That is acceptable if you keep the window closed. Fortunately we were in April, and April in Ferrara is

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not too warm, so you can sleep with the windows closed and so it worked.

Q. How many neighbors did you have to go to?

A. Can you kindly repeat?

Q. How many neighbors did you have to go to to make sure they weren't going to complain?

A. You know, the worst one was the one that was in front of us just 10 meters from us. Then we had another house a little bit displaced. I remember two or three houses, and in each house there was three, four families because we do not have these kind of constructions in the area of Ferrara. We have small houses.

Q. Would you call them -- this may not be a phrase you are familiar with, but you do some real estate investing. Would you call them multi-family houses?

A. Yes.

Q. Did you have to pay the neighbors anything? I mean, did you have to pay them or did you just have to say we'll keep it down to a certain level?

A. No.

MR. ANNESSER: Object to the form.

THE WITNESS: I did not follow that way. I don't like that kind of way.

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BY MR. PACE:

Q. So the deal with the neighbor was --

A. No. It was just -- the deal was you let us sleep, we don't break you. That's it.

Q. So it was we keep the noise down, you won't call the police?

A. Exactly, exactly. And if you are disturbed, just call me, not the police.

Q. Right. If you are disturbed come on over and bang on the door?

A. No. Call me. I gave them my cell phone because I have stayed over 36 hours long of the test. I have been at the plant. So I told them any time, don't worry what is the time, you call me and tell me something is wrong. They did not

call me. It work completely well.

Q. Okay.

A. We did not have troubles.

Q. This radiator that was set up at the plant in Ferrara, who designed that?

A. I bought it from a scrap -- I bought it from -- there are -- Ferrara is close to the sea and disconnected from the sea by a canal, by a waterway, and so there are many, we say (speaking in Italian). We say boat builders. Something like that. And so

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[...] THE WITNESS: Seven.

BY MR. PACE:

Q. No. That's the problem.

A. Nine, nine.

Q. Yes. You are getting it?

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

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

A. Yes, it was correct.

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

A. I am very sorry for this.

Q. No.

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

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

Q. Just so I'm clear, this was a personal conversation you had with Tom Darden -- I'm sorry. Let me rephrase that. This was a live face-to-face meeting you had with Tom Darden?

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

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

A. Yes, yes.

MR. ANNESSER: Object -- object to form. Dr. Rossi, you need to allow me to object.

THE WITNESS: Oh, sorry, sorry, sorry.

MR. ANNESSER: Object to form. Thank you.

THE WITNESS: I am sorry.

BY MR. PACE:

Q. Also present when --

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[...] Rossi. We are going off the record at 4:09 p m.

(Thereupon, a recess was taken in the proceedings from 4:09 p m. to 4:20 p m.)

THE VIDEOGRAPHER: We are back on the record. Here begins videotape number six in the deposition of Mr. Andrea Rossi. The time is 4:20.

BY MR. PACE:

Q. Dr. Rossi, you realize you are still under oath?

A. Sure.

Q. Short questions, just answer yes or no and give your lawyer a chance to object.

A. Thank you.

Q. During our break did you speak with your counsel?

A. Yes.

Q. During our break when you spoke with your counsel, did you discuss the subject of your testimony thus far today at all?

A. Yes.

Q. Slow down here.

MR. ANNESSER: You can answer yes or no to that one.

BY MR. PACE:

Q. That's fine. What did you discuss?

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A. Privilege --

MR. ANNESSER: Objection. He knows the story.

MR. PACE: I'm pointing at him. Let me do it again.

BY MR. PACE:

Q. What did you discuss?

MR. ANNESSER: Object to the form. Covered by attorney-client privilege. I'm instructing the witness not to answer.

BY MR. PACE:

Q. You are going to follow that instruction, will you not, Dr. Rossi?

A. I will.

MR. ANNESSER: He's learned our game already.

MR. PACE: It's rare that I have to object to a witness answering one of my questions.

BY MR. PACE:

Q. I want to go back to the Second Amendment to the License Agreement. Did you negotiate this second amendment?

A. Yes.

Q. With whom?

A. Tom Darden.

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Q. Was -- other than lawyers, we'll talk about that in a second, but other than lawyers, was anyone else involved in negotiating the Second Amendment to the License Agreement?

A. Not that I can recall.

Q. What lawyers were involved in preparing or negotiating the Second Amendment to License Agreement?

A. I did not have lawyers.

Q. Do you recall whether Industrial Heat used lawyers?

A. Industrial Heat I do not recall specifically on this.

MR. PACE: In the second amendment there's a reference to -- it's called the six-cylinder unit. I want to show you what I'm going to mark here as Exhibit 12, a series of pictures.

(Thereupon, Photographs were marked for identification as Defendant's Exhibit 12.)

THE WITNESS: Okay.

BY MR. PACE:

Q. Dr. Rossi, these are pictures of the --

A. Six cylinder.

Q. Different pictures of the six-cylinder unit, correct? I'm sorry, Dr. Rossi. We have to have a verbal response for the court reporter. These are

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pictures of the six-cylinder unit, correct?

MR. ANNESSER: Object to the form.

THE WITNESS: Yes.

BY MR. PACE:

Q. This is the same six-cylinder unit that's being referenced here in the second amendment to license agreement?

A. Yes.

Q. This is a system you originally designed in Italy, correct?

A. Correct.

Q. Look -- and I'm not sure if you know the answer to this or not, but looking at this unit itself, is this at least in part the unit that you designed?

A. Can you repeat the question?

Q. Yes, that was poorly done.

A. Yes.

Q. The unit you built in Italy, the six-cylinder unit, that was sent to Raleigh, North Carolina, correct?

A. Yes, that is correct.

Q. Additional work was done on that six-cylinder unit in Raleigh, North Carolina?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: In this photo -- from what I

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see in these photos, no.

BY MR. PACE:

Q. Okay.

A. This comes as it was in Italy.

Q. Now, the six-cylinder unit, that didn't -- that wasn't used for heating water. It was used for heating oil, correct?

A. Correct.

Q. What kind of oil?

A. It is called (speaking in Italian). I don't know the pronunciation. Diathermic oil. It's correct diathermic oil, Engineer? The pronunciation.

Q. Yes, let's call it diathermic oil.

A. Okay. I just did not know the pronunciation. It was a matter of sound.

MR. ANNESSER: Just for the record, this is all confidential. I believe the entire testimony is going to be confidential, but **this particular portion may get into highly confidential**, but we'll get there.

BY MR. PACE:

Q. This six-cylinder unit, at least to the best of your knowledge, has never left North Carolina after it was shipped there from Italy?

A. As far as I know, yes.

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Q. Now, the idea with the six-cylinder unit heating oil as opposed to water -- why was the six-cylinder unit designed for oil?

A. Because it was -- it was an experiment. It was an experiment, you know, because diathermic oil allows to go to higher temperatures without changing phase, so it is possible to make things that with water you cannot do because water changes phase. Diathermic oil changes phase, but at much higher temperatures.

Q. And just so we are clear on the record for this, which is when you are talking about changing phase, you are talking about, for example, water turning into steam at around --

A. Yes, sir, the physical phases are solid, liquid, gases.

Q. And so --

A. And so the same thing, like, for example, water, can be in solid phase when it is ice, liquid phase when it is -- when we drink it, and gaseous phase when it is steam.

Q. And the oil that was used in the six-cylinder unit would not turn into a steam or vapor until a much higher temperature than for water?

A. Yes, correct.

MR. ANNESSER: Object to form.

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Dr. Rossi, please allow him to finish and allow me to make any objection I have before answering.

BY MR. PACE:

Q. Do you want me to do that again?

A. Yes. I do not remember now the temperature at which diathermic oil boils, but it is much higher than water. It is surely above 200 celsius degrees.

Q. And this six-cylinder unit that was set up, there was also a -- how was the temperature of the oil measured?

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. If you recall.

MR. ANNESSER: Object to form. And to the extent that we are going to discuss how this machine operated or was measured, **I want to declare it to be highly confidential**, attorneys' eyes only which means --

MR. PACE: No. He knows it.

MR. ANNESSER: He knows what?

MR. PACE: Wait. Are you aware of whether --

MR. ANNESSER: No, no, hold --

MR. PACE: No, no. You are right. You may

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be right. You may be right. Let me stop. I shouldn't have said that. Go ahead. Finish. I apologize.

MR. ANNESSER: I don't know what he knows or doesn't know, and he's not a party to this lawsuit.

MR. PACE: No, no, no. That's -- how the temperature was measured you think is --

MR. ANNESSER: How this operated, how it was measured, any of the intellectual property and/or trade secrets, how it was unmeasured or otherwise, **I will declare it as highly confidential**, attorneys' eyes only. Certainly it would be useful to competitors to know how we are operating systems. That's the designation I'm making, so...

MR. PACE: Right, right. Let's put it this way. I'm not going to fight over so we can keep moving. Can I ask you to step out and I'll have you back in a second.

(Joseph Murray left the room.)

BY MR. PACE:

Q. Turning back to the six-cylinder unit, how is the temperature measured in the six-cylinder unit?

A. In Italy -- because in North Carolina, as long as I have been in North Carolina, it has never

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[...] Q. So now, there's a single cap that Dr. Rossi has circled which is actually for inputting the oil as opposed to measuring the temperature. So let's -- I don't want to have you actively drawing on exhibits. I just wanted to make sure the record was clear on that one. I need to go back just for a second to this Exhibit 11. It is signed by you under Rossi, but it is not signed by you under Leonardo Corporation. I'm sorry. I'm asking you to go back to Exhibit 11. It's the Second Amendment to License Agreement.

A. Second amendment.

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

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

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

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

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

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[...] comes a little bit later where you say you never signed this and therefore it was canceled?

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. But I'm asking you actually kind of preceding that -- I don't know if I've seen an e-mail preceding that, so did you talk to him on the phone about the second amendment, Craig Cassarino?

A. No. I just exchanged one e-mail or two. I don't remember. I asked why you don't sign.

MR. PACE: Okay. I should have waved Joe back in. I wasn't thinking about it.

(Joseph Murray returned to the room.)

BY MR. PACE:

Q. I take it from your testimony earlier, you don't recall whether you and Tom Darden were present together when this was signed or whether you signed it separately from whenever Tom Darden signed it?

A. I don't recall.

Q. Do you recall talking to anybody at Industrial Heat about the fact that AEG would not sign the agreement, the second amendment?

A. Yes, I talked with Tom Darden about that. I told him I do not understand because -- I just -- and I told him I do not understand why they do not sign.

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Q. Do you recall proposing in June or July -- I guess it's June. Do you recall proposing in June of 2014 --

A. '14.

Q. Yes -- I'm sorry. Let me start this over. Do you recall in approximately August of 2013, the 1 MW plant arrived in Raleigh, North Carolina?

A. Yes, I recall. Q. In June 2014, do you recall proposing that -- to have the plant moved to Florida to provide services to a customer?

A. Yes, I recall.

MR. PACE: So I'm going to mark this as Exhibit 13.

(Thereupon, 6-10-14 E-mail was marked for identification as Defendant's Exhibit 13.)

THE WITNESS: Okay.

BY MR. PACE:

Q. So you proposed -- you're claiming -- you are saying here that you are confirming what you had already said, so I take it this is not the first time that you communicated a message to Tom Darden or JT Vaughn about a customer; is that correct?

A. Can you repeat the question.

Q. Sure. This e-mail is talking about that

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you've identified a customer --

A. Yes.

Q. -- who wants to put the 1 MW plant in his factory in Miami, correct?

A. Correct.

Q. All right. This e-mail says I confirm all -- I already said, meaning you had already provided this information to Tom Darden or JT Vaughn, correct?

A. Correct.

Q. Is this customer JM Products?

A. Yes.

Q. Do you know whether JM Products existed at that time?

A. I don't recall. I don't recall. Maybe yes, maybe not. I do not recall.

Q. Had you instructed anyone to form JM Products by that time?

A. I do not recall by the time and because for sure **at that time I already had talked with the people that before or later set up the JM company.**

Q. And who were those people?

A. The person I had started to get this idea was an Italian person connected with strong companies whose name is Francesco Di Giovanni.

Q. Let me go back. You said Francesco Di

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Giovanni?

A. Yes, sir.

Q. How do you know Francesco Di Giovanni?

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

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

A. All right.

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

A. Okay.

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

A. Yes.

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

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referring to?

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

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

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

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

A. This is not just matter of temperature.

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[...] tutorial. I know some of this already.

A. Yes, but if you want me to explain.

Q. Stop, stop, stop, stop.

A. Sorry. You are right.

Q. Here because you are kind of eating up time. We may have time for this later, don't get me wrong, but you are clearly kind of off track for what we are talking about. Let me ask you -- maybe I can get it quickly. At the time -- we'll ask it more broadly, but at the time of the June 10, 2014 e-mail, I understand the idea that you had, but there was not actually a customer who was producing catalyzers at the time, correct?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: There was -- I don't understand the question.

BY MR. PACE:

Q. Sure.

A. Many persons were producing catalyzers.

Q. I'm sorry. You said that you had -- you said we have a customer, we meaning Leonardo.

A. No.

Q. We meaning who? Who is the we?

A. No. We was -- we was rhetoric for Cherokee

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and me.

Q. Okay.

A. We all --

Q. Okay. You all --

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

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

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

MR. PACE: No, he's not.

MR. ANNESSER: Yes, he is.

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

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

BY MR. PACE:

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

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A. No.

Q. Okay.

A. **[Long rant]** Because this is a rhetoric. Probably the literal translation from my Italian to my English has changed in the sense that you are saying the meaning. But what you are saying is not what I meant. Here, it is rhetoric. In Italian a phrase composed like that means we could have, you know what I mean. At that time we did not have a customer. At that time we did not have a customer that was paying one thousand dollars per day, obviously, obviously. It was rhetoric. I wanted to say I have found a possible -- a potential customer that could pay one thousand dollars per day. Obviously I am not going to say -- sorry -- to Industrial Heat we have a customer that pays one thousand dollars per day if it does not exist anybody that is paying one thousand dollars per day. It is obviously. So it is obvious that I was not representing this as something that already had happened. I was representing the frame off the -- off the -- the frame off the possible solution that I could -- that I could have found for a dramatic situation that has been born from your client which is this.

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He has not -- he has never been able to get an authorization to put in operation the one megawatt plant. This is why we have made the second amendment because first we needed to delay the term to make the test because I had been impossibilitated (sic) to make the test for the very simple reason that they never have been able to give me a place where to put my plant at work and a place where my plant could produce its heat with the necessary authorization. They told me for one year -- Attorney, they told me for one year that they were in contact with the health care office of North Carolina to get those authorizations. Eventually we discovered that this was a lie because the health care office of North Carolina did never knew about any Industrial Heat and never had been informed that there was a plant to be put in operation. We have discovered it when the health care office went to Industrial Heat in Cherokee on Hargett Street because of some anonymous say that they were using radioactive something. And when they arrive there, they did not even know that existed a factory. And when JT Vaughn receive it there, JT Vaughn say to them no, the technology of Rossi is a bogus.

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MR. ANNESSER: Doctor --

MR. PACE: No. Let him rant.

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

MR. PACE: Stop now.

THE WITNESS: Sorry. So I have --

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

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

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

BY MR. PACE:

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

A. Darden. Always. Hundreds of times.

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

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

Q. Let's use your phrase.

A. Okay.

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

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: Yes.

BY MR. PACE:

Q. Did anyone else tell you that?

A. JT Vaughn.

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

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

BY MR. PACE:

Q. What you recall?

A. You know, let me say many times.

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

A. Correct.

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

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

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

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

Q. Okay.

A. It was December 2014.

Q. Okay.

A. In December 2014 some imbecile has written a letter to the North Carolina health care office saying that you must go to Industrial Heat because they are using radioactive stuff, blah, blah, blah, you must close them, you must, et cetera et cetera. Then North Carolina health care office after this letter was absolutely forced to go to Industrial Heat. They -- because the guy say the Cherokee, Cherokee Industrial Heat. So they got the address. They did not even know about Industrial Heat, and they have gone to the office of Cherokee on Hargett Street to say we have been informed here that you are making something radioactive, blah, blah, blah with Andrea Rossi with okay of Andrea

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

Q. And you said this was December of 2014?

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

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

BY MR. PACE:

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

A. Can you repeat.

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

A. No, no. This --

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

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

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BY MR. PACE:

Q. Stop. We'll take a break in just a few minutes so that you can rest.

A. No, no, no.

Q. It's long. The day is long. I understand. Don't get me wrong. I understand. But I'm going to ask fairly short simple questions, if you can provide me answers. If, as Mr. Annesser said, if there's a time when you feel like I need to say something more, you are allowed to say something more, but if the answer is simple, let's try to keep the answer simple. It will move us along here. You talked about the Department of Health going to the Cherokee offices in December of 2014, correct?

A. Correct.

Q. You have a very clear memory of when that occurred, yes?

A. I think so, yes.

Q. That certainly occurred after this e-mail you are looking at that's in June 2014?

A. Sure. Of course.

(Thereupon, E-mail Chain was marked for identification as Defendant's Exhibit 14.)

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MR. PACE: Let me show you what was marked as Exhibit 14. Did I give it to you guys? I'm sorry. I keep forgetting he's out there.

(Joseph Murray returned to the room.)

THE WITNESS: Very good. The first one and which -- and the second one. Okay, Attorney. Yes.

BY MR. PACE:

Q. So by the time of this series of e-mails --

A. Yes.

Q. -- you are not talking abstractly about -- you are saying a customer actually exists, correct?

A. Yes, it is correct. A potential customer.

Q. What?

A. A customer only becomes a customer after an agreement. A potential customer.

Q. A potential. But there's an actual company in existence that would be this customer?

THE WITNESS: I don't remember if --

MR. ANNESSER: Object to form.

THE WITNESS: I do not remember if -- maybe yes, maybe not. I simply -- I do not remember, Attorney, the date in which JM has been incorporated. But the problem is not if JM had been already formally incorporated or not because

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I had found a customer in anyway. Whatever the name, I had found the customer because, you know, I was desperate to put the plant in operation. **So I told to Di Giovanni, what I say to do before.** I will not lose your time. And he says all right, I appreciate it. So I told him all right, are you ready to pay \$1,000 per day to Industrial Heat or Cherokee or whatever, pay -- just to pay the energy? I cover you through all the rest because I will buy the catalysts that you -- that you will produce, and at that point you risk only to pay \$1,000 per day. If my plant does not work, you pay nothing because you don't pay \$1,000 just for gracious concession. You pay \$1,000 if we produce one megawatt per hour.

BY MR. PACE:

Q. And this is with Di Giovanni?

A. Yes, sir. So at this point --

MR. ANNESSER: Dr. Rossi, allow him to ask his question, please.

THE WITNESS: Yes. Sure, sure.

BY MR. PACE:

Q. Let's listen to the question. Answer the question. Did any of these communications with

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Di Giovanni occur by e-mail, yes or no?

A. No, did not occur by e-mail.

Q. Did these conversations with Di Giovanni occur in person?

A. Yes.

Q. Did any of these conversations with Di Giovanni occur by telephone?

A. Yes.

Q. Did you, either as Andrea Rossi or as Leonardo Corporation or on behalf of any other company, ever buy any products from JM Products?

A. Can you repeat the question? Sorry. Can you repeat the question?

Q. Did either you, Leonardo Corporation or any other company you control ever buy any products from JM Products?

A. Yes.

Q. What?

A. Catalysts.

Q. What catalysts?

A. We bought from them -- actually, what we bought from them have been the second generation of catalysts that we made after the agreement with Johnson Matthey for the platinum sponge expired. It aborted because we did not find an agreement.

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And what we bought have been some -- have been **a mixture of a powder that was a mixture of graphene and industrial diamonds that we made with that**. If we enter in this -- okay. Up to now, it is not confidential. If we enter in a discussion like the one that we made before, it becomes again confidential.

Q. So tell me -- you are saying you had an agreement with Johnson Matthey?

A. No. I was trying to have an agreement with Johnson Matthey.

Q. Who were you speaking with at Johnson Matthey?

A. Top level guys.

Q. Who?

A. Now I don't remember the name, but I have no difficulties to find the names in my papers. Maybe you have papers because I have produced it.

Q. I don't think that's been produced, but we'll talk to your lawyers afterwards, but who --

A. I am pretty sure it has been produced.

Q. In the agreement with or the possible agreement that you were talking about with Johnson Matthey --

A. Yes

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Q. -- was to do what?

A. To buy from them platinum sponges so that we could make our work that I explained to you before.

Q. But was it to sell back that platinum sponge to Johnson Matthey?

A. No. I asked them -- they were -- in the many discussions that I had with them, they say that they were also open to buy from us our product once they -- once they had seen it. They were interested to that, yes, they said so. They say that they were open to that.

Q. And these communications you were having, and listen to my questions, just answer the question.

A. Sure.

Q. The communication you are having, some of these are communications by e-mail, correct?

A. I don't remember if I exchanged an e-mails, but I think some e-mail is run, but we mostly made phone conferences with London, between me and them.

Q. And you don't -- sitting here today, you don't remember the names of any of those individuals?

A. You know, no, but I have no difficulties to produce those names. But, Attorney, I am pretty sure that in the discovery that I transmitted to you --

Q. Dr. Rossi --

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MR. ANNESSER: Dr. Rossi --

THE WITNESS: Sorry.

BY MR. PACE:

Q. Let's try. Let's just try here. I mean, I know you want to kind of go in whatever direction you want to go, but listen to me. I'm asking you simple questions. There will be opportunities for you to explain more.

A. Okay.

Q. But we are getting late in the day. It will speed things up here a little bit here.

A. I can say that I have spoken --

Q. Dr. Rossi, there's no question pending. Don't even say anything.

A. I was referring to the question before.

MR. ANNESSER: Dr. Rossi --

MR. PACE: Stop, stop, please.

THE WITNESS: Okay.

MR. PACE: Let's just do question and answer just for a little bit. In fact, let's take a break for a second. It's been long.

THE VIDEOGRAPHER: We have ten minutes left on this tape.

MR. PACE: That's a good idea too.

THE VIDEOGRAPHER: Stand by. We will go off

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the record. Here marks the end of videotape number six in the deposition of Mr. Andrea Rossi.

We are going off the record at 5:11.

(Thereupon, a recess was taken in the proceedings from 5:11 p.m. to 5:22 p.m.)

THE VIDEOGRAPHER: And we are back on the record. Here begins videotape number seven in the deposition of Mr. Andrea Rossi. The time is 5:22).

BY MR. PACE:

Q. Dr. Rossi, do you recognize you are still under oath?

A. Sure.

Q. Again, my short questions, answer the short questions, and then we'll move on which is during your break you had a chance to speak with your attorney?

A. Yes, I did.

Q. One of the subjects of speaking with your attorney was your testimony today?

A. Yes.

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. What did you discuss with your attorney?

MR. ANNESSER: Object to form. Attorney-client privilege. I instruct the witness

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[...] Q. -- your testimony of that is that was steam coming through?

A. Yes, sir.

Q. And then the steam would carry through these insulated pipes?

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. The four top insulated pipes in either the form of steam or water?

A. I do not understand the question.

MR. LEON DE LA BARRA: Object to form.

BY MR. PACE:

Q. Sure. Looking at Exhibit 17.

A. 17, okay.

Q. Your testimony is that at the very top, we see a pipe at the very top of Exhibit 17.

A. You know, let us number -- to allow me to understand, you are talking about the first pipes from the top, one, two, three, four, correct?

Q. Correct. So let's do that. So the very top pipe we'll say number one. Steam comes into pipe number one?

A. Yes.

Q. Correct? Are the reactors placed in pipe number one?

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A. Yes.

Q. The steam -- and this is -- all this piping is insulated?

A. Yes.

Q. Did I understand correctly from -- I think Jim Bass' testimony that there are also heat strips on these pipes?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: I did not understand your question. I'm sorry.

BY MR. PACE:

Q. Were there heat strips on any these pipes?

A. Strips? What do you mean strips?

Q. Heat strips through which you could send a little current of heat up, potentially heat the outside of the pipe?

A. No, no, no. Not strips.

Q. Coils?

A. I think I have understood. I'm not sure, but I think I have understood what you are referring to. I try to help you, so you tell me if I have understood.

Q. Okay.

A. When you say strip, you mean that heating

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cable. Okay. It is called a **heating cable**.

Q. Heating cable?

A. Now I can understand.

Q. So there's this heating cable in here underneath this insulation?

A. This is -- yes, between the insulation and the pipe.

Q. Understood.

A. Do you want to know what it is for?

MR. ANNESSER: Just wait for the question please.

BY MR. PACE:

Q. Do I want to know what it's called or what it's for?

A. Sorry.

Q. Did you just say do I want to know what it's called or what it's for?

A. No. What it is for.

Q. I do in a second, but I just want to before I get to that, the steam that comes into this pipe number one, it becomes water before it goes out on Exhibit 16 back on over to Leonardo side, correct?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: You have skipped many

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passages.

BY MR. PACE:

Q. I understand that. I'm jumping from one to the other so I understand that it's --

A. What I can tell you is that what you have inside the insulated pipes is steam.

Q. Uh-huh.

A. What you have inside the other insulating pipes that return to the plant, that is water.

Q. Right. That's what we just said.

A. Okay.

Q. Now, I'm just trying to -- you might tell me it's not in either of these pictures, **but where in these pictures does the steam convert to water?**

A. It's not here.

Q. It's **not in these pictures?**

A. **No.**

Q. There's -- am I missing something in the pictures?

A. No, you are not missing anything of the pictures, but these pictures do not explain where the steam becomes water.

Q. Why is that?

A. Because --

MR. ANNESSER: Why do the pictures not show

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that?

MR. PACE: Yes. I'm trying to understand.

THE WITNESS: You know, these picture are, first of all --

MR. ANNESSER: Just answer his question if you understand it. I'm going to object to the form because I'm not sure I understand the question.

THE WITNESS: The place where the steam became water is not -- is not illustrated by these photographs, Attorney.

BY MR. PACE:

Q. But it did occur somewhere within the container?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: Can you repeat the question.

BY MR. PACE:

Q. **But the conversion of steam to water occurred in the container?**

MR. ANNESSER: Object to form.

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

THE WITNESS: **No.**

BY MR. PACE:

Q. **Where did it occur, outside the container then?**

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A. **Yes.**

Q. Where outside the container?

A. In a proper heat exchanger that was placed not inside the container.

Q. Where was the heat exchanger?

A. The heat exchanger was in a proper room that is not indicated in this photographs. The steam through a pipe is gone in a heat exchanger that is not here.

Q. This heat exchanger, who installed that?

A. I did.

Q. Who helped you install it?

A. Contractors.

Q. Which contractors?

A. Well, I use very much flying contractors that in that industrial park everyday come to know if you need something. I use it to many of them. The heat exchanger that I have put down has been made by me with their help.

Q. Okay.

A. So -- in -- sorry.

Q. I'm sorry. I interrupted you that time. Please finish your answer.

A. I had finished.

Q. Do you know their names? Do you know any of

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their names?

A. No, I don't remember. We are talking of two years ago, and they were just guys. In that area, if you go there, they have the truck. It's people that has a truck that is a small workshop. They have everything there. You call them, and they are able to do anything. They are able to do whatever you need.

Q. Who removed it?

A. Sorry.

Q. Who removed this heat exchanger that you built?

A. It has been built by pipes --

Q. No. I'm sorry. My question was who removed it?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: I removed it with the help of contractors.

BY MR. PACE:

Q. Because it doesn't exist any longer at the Doral plant?

A. No because I have used the pieces of it to do other things because now it was completely useless.

Q. Well, it didn't exist at the Doral location in February of 2016, did it?

MR. ANNESSER: Object to the form

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THE WITNESS: Can you -- I did not understand the question.

BY MR. PACE:

Q. Sure. You remember seeing me at the Doral warehouse in December 16 of 2016?

A. I remember.

Q. The heat exchanger you are talking about now had been removed by then, correct?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: I don't understand the English. This heat exchanger has been removed after the end of the test.

BY MR. PACE:

Q. Okay. So it was sometime after February 2016?

A. If this was the question, this is the answer. Sorry.

Q. I'm still a little lost and then we'll take a quick break here because we have to move on to some other subjects before we end, but you said in Exhibit 17 --

A. Yes.

Q. -- what comes into there, that top pipe, what we labeled as pipe number one is steam, correct?

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A. I am very sorry. I did not understand the question.

Q. Sure. Let's go through this again. In Exhibit 17 --

A. Yes.

Q. -- the top pipe in that picture.

A. The top pipe, number one, yes.

Q. What you call number one.

A. Yes.

Q. You said what came in there was steam?

A. Came in where was steam? Was full of steam.

Q. What came in this pipe was steam?

A. Yes, yes. It was full of steam.

Q. So somewhere the steam had to exit -- your testimony now is that somewhere the steam had to exit this container

and go to -- and the heat at least from the steam had to exit the container and be dissipated or sent out of the warehouse; is that correct?

A. No.

Q. Okay. How would the steam be eliminated from --

A. With a heat exchanger.

Q. Let me. If steam came into the container --

A. The steam enters in the container, goes in these four pipes. In this phase we were using only

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four pipes. In some other phases we use also the other pipes. In this moment we were at the end of the job. We were -- we had in operation only the four pipes. So the steam -- then the steam exited from the container inside a pipe, inside a system of pipe, and run through the place where the heat exchanger was. The heat exchanger exchanged heat between air and steam and cool and the steam.

Q. Is it the other side -- then if I'm looking at Exhibit 17, is where the heat -- is where the steam is exiting this container somewhere on the other side of those pipes?

A. You -- you -- you can see because this photography does not take the area where there was the bypass.

Q. There was a **bypass**?

A. Yes, sir.

Q. Where would that --

A. Between the number 17 and the number 16, you have a hole. So the number 16 is not a continuation of the 17 because if I look at the 17 and I look at the 16, I have -- first I have to put the 17, and then I have to put the 16 because, as you can see, the 17 has the left side that is the end -- the left end of the container -- looking at the container from the point of

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observation of this photography while the photograph in number 16 shows us the right end of the container.

Q. Uh-huh.

A. But attention, **between the 17 and the 16, there is a piece of plant that has not been photographed**, you understand.

Q. I understand.

A. In that area there was the bypass.

Q. Okay. And I think we actually -- that's not for this picture -- I've got pictures down the road, but I just want to ask this before we take a break.

A. No. The number 18, you have to put the number 18 to follow the logic at the left --

MR. ANNESSER: Dr. Rossi, there is no question.

THE WITNESS: You are right and I am stupid. I am very, very stupid. I continue to make the same mistake, and I don't know why.

MR. PACE: Dr. Rossi, I'm just going to stop you so that we can get to this and take a quick break. Let me just do this. Exhibit 18.

(Thereupon, Photograph was marked for identification as Defendant's Exhibit 18.)

THE WITNESS: Okay.

BY MR. PACE:

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Q. When we look at Exhibit 17, we can see in the far left side tubing.

A. Exactly. There --

Q. Exhibit 18 -- let me do this.

A. Sorry.

Q. Exhibit 18 is, in fact, the tubing that we see on the far left in Exhibit 17?

A. You are correct.

Q. So that was the point you were just making.

A. Yes.

Q. This tubing is for inserting water, correct?

A. No.

Q. Okay. So what is it for inserting?

A. Nothing.

Q. Nothing. So these tubes -- who put these tubes in?

A. When you say tubes, you mean these hoses?

Q. Yes, sir.

A. Because if you say tube, I think to the steam.

Q. Correct. I'm sorry. Let me use the phrase you are using. Hoses.

A. The hoses are emergency hoses connected with the hydraulic, the hydraulic center of the factory in case of overheating. We never use them in all the year

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[...] A. Yes.

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

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

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

BY MR. PACE:

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

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

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

BY MR. PACE:

Q. Were there any steam traps inside the container?

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

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

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

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

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

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

BY MR. PACE:

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

A. Yes.

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

A. Yes.

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

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as steam, correct?

A. Correct. Yes, it is correct.

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

MR. ANNESSER: Object to form.

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

BY MR. PACE:

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

A. Not substantial.

Q. Plumbing or piping system.

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

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

A. For example.

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

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[...]

A. Yes, sir.

Q. -- you would look at the numbers on -- for what? You would look at the number for the flow meter?

A. Yes.
Q. And you would write that down?
A. Yes.
Q. And you maintain that record?
A. Yes.
Q. And then you don't really look at a thermal couple, right? Would you look at the computer? How do you know what's on the thermal couple?
A. Because there was a manual instrument to read the thermal -- to read the thermal couple.
Q. Okay.
A. And so I just looked at it and wrote down the number.
Q. And so that's a hand-held device, right?
A. Yes, sir.
Q. And you would write down that number and you kept that log?
A. Yes.
Q. And then there's a -- there's a pressure meter. Is it called --
A. Yes, the manometer.
Q. How many of those existed?

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A. Two.
Q. Two. And did you ever take readings from the pressure meters?
A. Yes, now and again also there. But I did not write down because it was pretty much constant. The pressure did not change basically, so I did not take record. I don't remember if I put also the -- also the pressure or not, but you will see. If you show me my blog I can tell you. I don't remember.
Q. So there's a book that has this that would have -- let me see if I can. Thank you, sir. I'm going to mark this as Exhibit 19.
(Thereupon, Spreadsheet was marked for identification as Defendant's Exhibit 19.)
THE WITNESS: Thank you.
BY MR. PACE:
Q. This is a document that you produced in discovery or that your lawyers produced in discovery. Is this --
MR. ANNESSER: Are you sure we produced this?
MR. PACE: You did.
MR. ANNESSER: I don't see a Bates number on it. That's why I asked.
MR. PACE: You produced this and made a

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file. You didn't put a number on it. In fact, I think Chris is going to have to contact you guys or we'll talk about it afterwards because I think part of it is corrupted. But we'll talk to Dr. Rossi and find out if that's right or not because it might not be. That's what we are about to find out.
THE WITNESS: I don't -- which is your question?
BY MR. PACE:
Q. Do you recognize this spreadsheet?
A. I am very sorry. No, I don't.
Q. Okay.
A. I don't. It is not mine.
Q. Do you know whether Fulvio Fabiani tracked when the -- when different parts of the plant were working or not working or had to be shut down for short periods?
A. I don't know exactly what Fulvio Fabiani was making because he worked for Industrial Heat, by the way. And he also had the task from Industrial Heat to help me if I had the troubles with electric stuff, but I know nothing about this work of his.
Q. Let me make sure I'm clear. What we are looking at here on Exhibit 19 is a spreadsheet that

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contains certain data information. This is not your log of the information you collected?
A. It's nothing to do with it, no.
MR. ANNESSER: Object to the form.
BY MR. PACE:
Q. And you don't know about -- there's also comments here about when different units in the plant were started or stopped?
A. I don't remember. I don't remember this events because, you know, we had a lot of event there. I don't remember.
Q. Okay. Let me ask you, did you maintain any log or record of when units, when E-Cat units at the plant were operating

or not operating?

A. I did, yes.

Q. You did?

A. Yes.

Q. How was that maintained?

A. Manually by me. I did it manually. When such events -- this is the log I was talking before to you.

Q. I'm sorry. You just said exhibit -- were you talking about this -- it's a handwritten log?

A. Yes.

Q. Okay. And in that handwritten log, if there

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[...]

two interpretations. I can mean when I write this phrase that I am working with three reactors out of four because I have one in maintenance. So means that I have three quarters of the plant that are working in this moment. Or this can -- could mean I am producing three quarters of the energy that I could produce which is a completely different thing, but still it can be described in this superficially blogistic (sic) phrase. So what I am saying is not that when you write in a blog you stay stupidities or falsities, I am just saying that when you say things in a blog, you say things superficially, not rigorously to have a well precise meaning.

BY MR. PACE:

Q. What did you mean when you wrote this in your blog, Dr. Rossi?

A. I don't remember.

Q. Did you mean --

A. I don't remember because I don't remember the context.

Q. Okay. Let's see if --

A. May be that I wanted --

(Thereupon, Correspondence was marked for

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identification as Defendant's Exhibit 21.)

MR. PACE: Dr. Rossi, I'm going to hand you what's marked as Exhibit 21. I just want to see at what point maybe we'll see if we get something concrete here.

MR. ANNESSER: Object to form. Move to strike.

BY MR. PACE:

Q. Let's look at Exhibit 21.

A. Sorry. 21. Okay.

Q. Yes, sir. So for Exhibit 21, these are letters from JM Products to Industrial Heat, correct?

A. Correct.

Q. The information in here about the power -- the energy that was received by JM Products, that was provided by you for these letters, correct?

A. It is correct.

Q. In fact, you wrote most of these letters, if not all of these letters?

MR. LEON DE LA BARRA: Object to form.

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. If not all of these letters?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: I wrote the draft and

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transmitted them to Attorney Johnson to send them to Industrial Heat.

BY MR. PACE:

Q. So these reflect different measurements. Let's look at the first one, July 1st, 2015.

A. Okay.

Q. It says that on 26 days the agreed daily amount was delivered. That would be one megawatt -- is that -- I always get that phrase wrong. One megawatt per hour or hour per hour? How do I say that phrase correctly?

A. Yes, the correct -- one megawatt hour per hour is energy.

Q. Okay.

A. Go to school. One megawatt hour per hour is energy. One megawatt is power is a rating. Engineer, go to school.

MR. ANNESSER: Dr. Rossi --

THE WITNESS: He's correcting me on things, on basics.

MR. ANNESSER: Dr. Rossi, listen to his, please. We've all had a long day.

BY MR. PACE:

Q. So when you are providing this information, and you are providing the information --

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A. During the month of June in our Doral factory, we received from your plant the amount of energy of one megawatt hour per hour for a total of 624 megawatt hours for 26 days while for four days we receive 750 kilowatt hour per hour for a total --

Q. Of 72 megawatt hours. That's accurate information you are telling me?

A. Kilowatt hour, kilowatt hour. Please forward your invoice for the agreed daily amount of 1,000 per day, blah, blah, blah. Yes.

Q. This is not like a blog posting, correct? This is supposed to be accurate information?

A. Yeah.

Q. And this was accurate information?

A. I suppose so, yes. Unless I did not make mistakes.

Q. But this is information you provided?

A. Yes, it is.

Q. So, for example, we know from the information you provided that in June of 2015, there were 26 days when the 1 MW plant was producing at a rate of one megawatt hour per hour and four days when it was producing at appears to be --

A. Excuse me. Where are you reading now? What are you reading now?

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Q. The letter you just read.

A. The July 1, 2015.

Q. Yes. Doesn't it say -- don't I read this correctly that for 26 days it was producing one megawatt hour per hour?

A. Yes, for 26 -- yes.

Q. Okay.

A. During the month of June.

Q. And then for four days it was producing 750 kilowatt hours per hour, correct?

A. Yes.

Q. And your testimony is all this information is accurate unless you made errors?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: It is save mistakes that I could have made.

BY MR. PACE:

Q. Understood. But to the extent you didn't make a mistake, then this is accurate. We could rely upon this to understand how much energy was being produced by the 1 MW plant during the month of June?

A. I did not understand the English of this phrase. I am sorry. Please speak slower if you can because --

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Q. To the extent you did not make a mistake in your calculations --

A. To the extent I did not make a mistake, correct, yes.

Q. -- then we can rely on these letters to know how much energy was being produced by the 1 MW plant, for example, in the month of June 2015, for example, this page, correct?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: What do you mean June of 2015?

BY MR. PACE:

Q. Do you see the beginning of that sentence, the first sentence of that paragraph? During the month of June.

A. In our factory, yes, but I don't see anywhere June 15.

Q. That's my fault, I apologize. June 2015 I believe is what I said.

A. Where is it?

Q. Do you know what year this was done, Dr. Rossi?

A. Sorry.

Q. Do you know what year that was done, Dr. Rossi? The reference to June is June in the year of our Lord 2015.

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A. Ah, June '15, yes. June 2015, yes. Because if you say June 15, I look for the day.

Q. I was saying -- I was saying June 2015 but it's late.

A. I'm sorry. I did not get the English.

Q. Let's -- I understand. Let me just do this. So assuming you did not make errors in your calculations for these letters -- we can rely on these letters as reflecting the amount of power that was produced by your 1 MW plant during the month

reflected in these letters? For example -- yes or no?

A. Yes. So far I did not mistake, yes.

Q. So, for example, this first page or the second page of Exhibit 21, the one -- this letter of July 1st, 2015?

A. July 1st, 2015 is the one that we are reading now, yes.

Q. Okay. So using that letter we can determine -- unless you made a calculation mistake, we can determine the amount of power that was produced by the 1 MW plant in June of 2015?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: Yes.

BY MR. PACE:

Q. How was this -- what did you use to make

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these calculations?

A. Notes that I take in papers.

Q. Is it the log -- is it the same thing as the handwritten log?

A. Yes, yes.

Q. You have a look of uncertainty there which is why I'm trying to figure out. Is it possible you may have had a separate set of handwritten notes?

MR. ANNESSER: Object to form.

THE WITNESS: Yes. You know, I also use the pieces of paper that momentarily use it and then put in the trash basket. I also had notes but this should be reflected also by the log, yes.

BY MR. PACE:

Q. Was there any of the measuring equipment for -- that Fabio -- I think you testified that Fabio Penon installed the measuring equipment for the 1 MW plant in Florida, correct?

A. It is correct.

Q. Did any of that equipment have to be replaced during the testing period?

A. Let me think. Not that I recall, but this means nothing because I was not involved in the measurements, so I don't recall to have seen engineer Penon change instrumentation but --

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Q. Could anyone else -- but if any instrumentation was changed, it would have been changed by Fabio Penon?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: Yes, of course. This is my -- absolutely. Nobody could touch his instrumentation.

BY MR. PACE:

Q. Just so I'm clear, that applies to the sensors?

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. That would apply to the flow meters; is that correct?

MR. ANNESSER: Object to form.

THE WITNESS: Again, I was not involved in measurements, so I am not able to answer this question. Honestly, I did not even know exactly which were his instrumentation respect the instrumentation that Fabiani had put on behalf of Industrial Heat, for example. I was absolutely out of that issue.

BY MR. PACE:

Q. So there was data that was being collected

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by Fabiani, and you don't know whether it was different or the same as the data collected by Penon?

A. I am sorry. Can you repeat the question. I lost it.

Q. You just testified that there was data being collected by Fabiani.

A. Uh-huh.

Q. But you don't know whether that was the same or different from the data being collected by Penon?

MR. ANNESSER: Object to form.

THE WITNESS: I don't know at all. I don't know the data of each of them. I know the data of Penon of course because I read the data of Penon in the reports, but I do not know -- I did not know the data in the making.

BY MR. PACE:

Q. How would you alter -- was there a way with the 1 MW plant to change its COP on a given day?

MR. ANNESSER: Object to form.

THE WITNESS: Sorry. I need that you repeat the question because I did not understand it.

BY MR. PACE:

Q. The phrase COP -- are you familiar with the phrase coefficient of performance?

A. Yes, of course. Yes, I am familiar with the

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coefficient of performance, sure.

Q. So there was a -- are you aware that there were daily calculations of the coefficient of performance associated with the 1 MW plant?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: I did not -- I am not aware -- what does mean was I aware? Aware respect what?

BY MR. PACE:

Q. Let me try this again. You read Fabio Penon's report?

A. Of course.

Q. You saw the column that had COP?

A. Of course.

Q. It was a different entry for each day?

A. Yes.

Q. That would be a daily calculation, correct?

MR. ANNESSER: Object to form.

THE WITNESS: Yes.

BY MR. PACE:

Q. So let's try from there.

A. Okay.

Q. So was there a way to effect or alter the COP of the 1 MW plant on a daily basis?

MR. ANNESSER: Object to form.

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MR. LEON DE LA BARRA: Object to form.

THE WITNESS: This was impossible.

BY MR. PACE:

Q. That's all I'm asking. I'm literally trying to understand. Would you be able to -- I can turn a dial, I can change the water flow --

A. No.

Q. -- I can do something that increases or decreases the COP on a given day?

MR. ANNESSER: Object to form.

THE WITNESS: Not -- no. It is nonsense.

BY MR. PACE:

Q. Okay. I'm not disagreeing with you. I'm just trying to understand, if you look at the -- and you've looked at the Fabio Penon report?

A. Yes.

Q. And you know that the COP is not the same every day?

A. No, no. It changes.

Q. It changes.

A. It changes, but this is -- now I have understood what you are asking. Now I have understood your question.

Q. It changes, but it doesn't change --

A. On demand. **It does not change on demand.**

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[...] steam from the --

A. Which one, Counselor?

Q. Actually, all three show the same pipe, correct?

A. No because --

Q. They are different angles?

A. -- here is also another one.

Q. Let me do it -- I appreciate that. In fact, same thing on number 25 if you look at the bottom. In 24, 25 and 26 --

A. 24, 25, and 26 they have the common denominator that is the steam pipe.

Q. And that's the silver encased piping?

A. It is correct.

Q. And that was designed to carry the steam from the plant over to the JM Products container?

A. Yes.

THE VIDEOGRAPHER: We are at 7 minutes, sir.

BY MR. PACE:

Q. And this pipe has been -- I'm sorry?

A. It's okay.

Q. This piping has now been taken down at the Doral warehouse, correct?

A. Yes.

Q. Who took it down?

Page 291 (end)

A. I did.

Q. When?

A. After the test, after the sealing of the test.

Q. Do you know -- was it immediately after, if you know?

A. I don't remember, but I --

Q. Who assisted?

A. Sorry.

Q. Did anyone assist you in taking down the piping?

A. Can you repeat the question.

Q. Yes. It's kind of the last question. Did anyone assist you in taking down the piping?

A. Yes.

Q. Who?

A. Contractors.

Q. Do you know their names?

A. No.

MR. PACE: I think I've run out of time.

THE VIDEOGRAPHER: Here marks the end of videotape number eight and the deposition. We are going off the record at 7:25 p.m.

(Thereupon, the taking of the deposition was concluded at 7:25 p.m. Signature and formalities were not waived.)

Rossi 2017-02-24

Note: the transcript is marked as from 2016 but it's from February 2017.

235-07 Exhibit 7
236-13 Exhibit 13
238-17 Exhibit 59
245-12 Exhibit 12
248-04 Exhibit 3

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Thereupon--

THE VIDEOGRAPHER: We're on the record. This is media unit number one. We're here today, February 24, 2017, at approximately 10:17 for the video depo of Andrea Rossi in the case styled Andrea Rossi and Leonardo Corporation versus Thomas Darden, et al, case number 1:16-cv-21199-CMA. The videographer is Jason Stapleton. The court reporter is Edward Varkonyi. At this time would counsel please state their appearances for the record.

MR. PACE: Can I make one correction before I do that? Did you say the deposition of Andrea Rossi?

THE VIDEOGRAPHER: I did. I'm sorry.

MR. PACE: It should be the deposition of Leonardo Corporation. The representative is Dr. Andrea Rossi. And for the defendants my name is Chris Pace of Jones Day and I actually have one of the defendants present here with me today, John T. Vaughn.

MR. ANNESSER: John Annesser on behalf of the plaintiffs.

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[...] A. It happens also to me to forget to turn off the telephone.

Q. I believe I have some documents here. I am not sure whether I used -- I think I might have shown you this one the last time, but I might not.

(The document referred to was thereupon marked Deposition Exhibit 2 for Identification, a copy of which is attached hereto.)

THE WITNESS: Thank you.

BY MR. PACE:

Q. Let me hand you what I marked as Exhibit Number 2. In fact, we did -- we did look at this exhibit last week. It was I think towards the end of the time during the deposition. A few questions I wanted to ask because I want to understand this. I had a chance to kind of look at it a little bit better. First of all what I marked here as Exhibit 2, these are -- these are your handwritten notes, correct?

A. Yes, it is correct.

Q. These are notes that would be taken, if I look on the left-hand column, for example, in the first page, that's the date, correct? There is a date in February on this first page starting from the 23rd going to the 28th; is

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that correct?

A. It is correct.

Q. The second entry is a recording of the temperature taken at 5 p m. from the steam -- from the output -- I'm sorry, let me take a step back. Just define some terms. I think we used these same terms last week. I just want to make sure that there is no confusion. At the Doral location I will refer to the E-Cat plant as probably just the E-Cat plant because I know there is individual units within there called the E-Cat units or reactors, correct?

A. Correct.

Q. Okay. And what I will probably refer to as the J.M. Products side is the side where the output from the plant, from the E-Cat plant was being sent. Is that okay?

A. Okay.

Q. All right. So there is -- there is between the E-Cat plant and the J.M. Products side, there is a -- or there was a pipe, correct, that would take the output from the E-Cat plant and send it over to the J.M. Products side of the warehouse,

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correct?

MR. ANNESSER: Object to form.

THE WITNESS: Can you repeat?

BY MR. PACE:

Q. Yes. At the Doral warehouse there was a pipe that carried the output from the E-Cat plant over to the J.M. Products side of the Doral warehouse, correct?

A. Correct.

Q. All right. What we have here on Exhibit 2, column -- the second column here is a reading of a thermocouple that was on that output pipe; is that correct?

A. It is correct.

Q. Now, is this -- where would you get this information? Can you read it directly from the thermocouple or do you have to read it from a separate computer?

A. No, I read it by means of a manual thermometer that was property -- was left there by Engineer Penon, the ERV, what we define the expert responsible of validation in the agreement, and he gave me the task to read -- every day we agreed upon to make the reading along my shift of work on the

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plant. My shift of work was from say about between 5 and 6 p m. and between 10 and 11 a.m. of the next day. And so I have taken these lectures.

Q. So this is -- so you're not reading the temperature of a thermocouple, you are actually putting a manual thermometer, so to speak, on the pipe?

MR. ANNESSER: Object to form, mischaracterization.

THE WITNESS: Can you repeat?

BY MR. PACE:

Q. I can, because I might have misunderstood. When you get this temperature data, let's take the first column here or the first line here which is we got 23 for February 23. We have --

A. Yes.

Q. We have 5 p m. Yes, 5 p.m. which is the time that you are doing this reading. Then we have 103. Is the 103, are you getting that -- is that information that is being taken out of the thermocouple that is on the pipe or is it information that is being obtained separately by using some

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[...] I reading the 26 and 24. I'm sorry, what you have there is 24. I thought that was a 6. I apologize. Let me do that question again then. That was my mistake. When we look at the row for February 26th.

A. Okay.

Q. The first number is 103.7; is that correct?

A. It is correct.

Q. 103.7 represents the temperature measurement you took for the output pipe on or about 5 p m. on February 26th?

A. Correct.

Q. All right. The next number is 103.6; is that correct?

A. It is correct.

Q. And that represents the temperature reading you took on or about 4 a.m. on February 26th or February 27th?

A. Correct. Correct.

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. So we do have some -- if you can turn to page -- let's see. Actually, looks like the time

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entry for June. The bottom corner says Rossi 9289?

A. Yes.

Q. Now, there is a fourth column here and from the copy this is the way it was kind of produced to us. It's very hard to read but I think that copy says -- I think the fourth column the heading is H2O.

A. The last column you say?

Q. Yes, the last column.

A. Yes, it is water. Yes.

Q. Okay. Sometimes there is percentages in this column and sometimes there is just an F. Is this a measure of the amount of water that was in the water tank that was part of the E-Cat plant?

MR. ANNESSER: Object to form.

THE WITNESS: I don't remember exactly.

BY MR. PACE:

Q. Do you know if F was short for full?

A. Yes, F means normal.

Q. Okay. We have percentages in here too, correct, some of them are 30 percent or 10 percent?

MR. ANNESSER: Object to the form.

BY MR. PACE:

Q. I'm sorry, negative 30 percent, negative

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10 percent in that last column. Do you know what that means or represents?

MR. ANNESSER: Object to form.

THE WITNESS: I -- you know, that could be -- that could be a level. I don't remember exactly what I meant with this because they were my personal annotations. These annotation did not go to the ERV. I don't remember exactly if I meant a level or a flow.

BY MR. PACE:

Q. Okay. These are -- so let's look at -- let's take a couple of days here.

A. Uh-huh.

Q. June. You see the entries there for June 8th and June 9th?

A. Okay.

Q. All right.

A. Uh-huh.

Q. Actually, let me ask you to look at June 7th, 8th and 9th.

A. Uh-huh.

Q. First thing is each of these rows of information reflects data that you were collecting on the day and time that is reflected in this document?

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In other words, when I look at this row for June 8th, the first number of 103.4 is the number you collected around 5 p m. on June 8th using the device provided by Dr. Penon, correct?

A. Yes, it is correct.

Q. So these are all contemporaneous measurements that you were recording, correct?

A. What do you mean contemporary?

Q. I'm sorry, these are all measurements that you were recording on that day that is reflected here in the spreadsheet?

A. Yes.

Q. Then you were actually putting it into this manual spreadsheet that same day?

MR. ANNESSER: Object to form.

THE WITNESS: Yes.

BY MR. PACE:

Q. Okay. So if we go to our third -- if we go to the last column here for the 7th, 8th and 9th of June.

A. 7th, 8th and 9th, okay.

Q. I have -- I see an F.

A. F and minus 30 percent.

Q. F, F and a minus 30. Does that help in terms of understanding

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[...] taking every day of the temperature for the output pipe from the E-Cat plant, correct?

MR. ANNESSER: Object to form.

THE WITNESS: Correct.

BY MR. PACE:

Q. As well as our -- as well as the last column that your recollection reflects somehow a water level connected to the E-Cat plant?

MR. ANNESSER: Object to form.

THE WITNESS: Correct.

BY MR. PACE:

Q. And just if you can kind of take a look over the entirety of the page, I am just going to tell you there is a lot of -- most of these temperatures are all between 103.7 and 103.6.

A. Uh-huh.

Q. Is the device you were using, did it read only one digit or did it read more than one digit and you rounded to the closest -- I'm sorry, that was a terrible question. Let me ask it again. Did the device that you were using to read the temperature, did it show only four digits, such as 103.7, or would it reflect more than four digits but you would round it off so if it said 103.68 you would write it as 103.7?

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MR. ANNESSER: Object to form.

THE WITNESS: The instrument that I used showed exactly the four digit, the 100s and the one decimal. If you are asking if it also indicated the hundredth,, the answer is no.

BY MR. PACE:

Q. That's exactly what I was asking. Again, to take a day out of here, October 12.

A. Yeah.

Q. The first manual reading you took shows a temperature is at 103.7, correct?

A. Correct.

Q. This is for the output pipe going over to Leonardo -- going over to the J.M. Products side of the warehouse, correct?

A. Yes, it is correct.

Q. The next reading you took for that day was 103.6, correct?

A. Correct.

Q. All right. And the last is 103.7,

correct?

A. Correct.

Q. All right. Dr. Rossi, can I ask you to turn to the top of -- it's page 9295. I believe it

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reflects the entries -- the manual entries for December.

A. Yes.

Q. If you look at the December 2nd, the last column has a 30 percent and then I have to be honest with you, I have a hard time figuring out what is written after that. **It looks like the word "Rich" is in there.**

MR. ANNESSER: Was there a question?

BY MR. PACE:

Q. Can you tell me -- I'm sorry. Can you read that?

A. I'm trying to recall. "CU Rich J.M."

MR. ANNESSER: His question is can you read that.

THE WITNESS: I can read, but I -- yes, I can read it.

BY MR. PACE:

Q. Let's start with that because I actually even have a hard time reading it. What does it say after 30 percent there?

A. Should be -- should be the letter, but what I do not remember because -- if I wrote this, this was for me. These notations were for me, not for

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Penon. You know, at the moment I put down something to remember something.

Q. Okay:

A. And I don't remember what that was.

Q. I just want to write down some of these days we were just looking at. I am going to mark the next exhibit as Exhibit 3. (The document referred to was thereupon marked Deposition Exhibit 3 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. So this I believe is information that you were -- that Leonardo was recording. If you can see there in the first page -- I'm sorry, let me start this over again. For Exhibit 3 on the first page it references "logbook of the performance data." Is this a logbook maintained by Leonardo Corporation?

A. This is much more than that. This is the logbook that I maintained for the ERV. This logbook was not for Leonardo Corporation because the ERV asked me to send to him every day at approximately the same time -- I don't remember if I have taken these values at the -- at 5 p m., surely not at 4 a m., but either 10 a.m. or 5 p m. I don't remember,

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but it's easy to reconstruct, make a comparison and this is the log -- logbook that Penon asked to me to update every day. Every day I sent to him by e-mail as an attachment this logbook with the new line every day. So for example, this logbook was an attachment. The first day of work of the plant had a logbook with only one line because --

Q. The line there that says 20?

A. The line that says 20.

Q. Okay.

A. On the 21st I sent it to him the same e-mail, but with the second line and so on and so on and so on until the end.

Q. And what e-mail address did you use to send that?

A. Sorry?

Q. What e-mail address did you use to send that?

A. The e-mail address that Dr. Penon gave to me.

Q. So that's what you sent it to. What e-mail did you send it from, which of your e-mail addresses?

A. This -- you know, this I don't remember.

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But usually I use ar.123@mail.com or could have been libero -- eon333@libero.it. One of these two should be.

Q. When we look at Exhibit 3, each line that corresponds to a date, such as the line for February 20th or the line for February 21st, the line for February 20th, that reflects data or information that you actually record on February 20th?

A. Can you repeat the question? I'm sorry.

Q. Sure. The first line of data in here under February is February -- there is a 2-0, correct?

A. It's the 20th of February.

Q. The 20th of February. Then it has numbers for water flow --

A. Yes.

Q. -- water, steam and P, which is short for pressure, correct?

A. Correct.

Q. Each of those numbers reflects information that you collected on February 20th, wrote down on February 20th and sent to Dr. Penon either on February 20th or February 21st, correct?

A. Correct.

Q. We'll come back and talk about this more

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generally. Just for a second here, we're going to jump up to June, just to go through. I am actually not trying to compare this to Exhibit 2. I am just trying to use some of the same reference dates. So it's page 1393.

A. Yes.

Q. Okay. So we have here -- when we were talking about Exhibit 2, we were talking about this kind of June 7th, 8th, 9th. What this reflects here, I have got a line that has under June on page 1393, there is a line that has 7 colon. This is information that you collected on the 7th of June, correct?

A. Uh-huh.

Q. It shows that there is a flow meter reading that you took on the 7th of June --

A. Uh-huh.

Q. -- there is a water temperature reading you took on the 7th of June, there is a steam temperature reading you took on the 7th of June --

A. Uh-huh.

Q. -- and there is a pressure reading you took on the 7th of June?

A. Yes.

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Q. All right. Next -- the next paragraph there has an 8 that reflects information you collected on June 8th, correct?

A. Uh-huh.

Q. Information that you recorded on June 8th, correct?

A. Yes.

Q. Information you transmitted to Dr. Penon on either June 8th or June 9th of 2015, correct?

A. Right.

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. Line 9 is similar because it also -- this reflects data you collected on June 9th, correct?

A. Sorry, can you repeat the question?

Q. Yes. You see the paragraph that starts with 9 colon, on this page Rossi 1393? That paragraph reflects data that you collected on June 9th, correct?

A. Correct.

Q. It has a water flow meter reading --

A. Uh-huh.

Q. -- a water temperature reading, a steam temperature reading and a pressure reading, correct?

A. Correct.

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[...]

THE WITNESS: Yes.

BY MR. PACE:

Q. And then what has to be done to restart the big Frankies, following a shutdown such as this?

A. The procedure to shut up and shutdown, if everything was all right, it's just to be turned it on from the control panel, there are the switches to restart the plant.

Q. Do you have to kind of reset or recalibrate the water pumps for each of the E-Cat units?

A. It depends. It depends. It depends. For sure during -- during a start-up there is work to do. You cannot just start up,

and it's not like a car. For sure a control must be made during the start-up.

Q. Now, do you remember this event on March 9th?

A. No.

Q. Am I safe to conclude that if the -- if the plant was shut down for four hours some part of that four hours is the plant -- are the E-Cats cooling down and part of that is the repair work being done?

MR. ANNESSER: Object to form.

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THE WITNESS: It depends on the situation. It depends on the situation.

BY MR. PACE:

Q. Well, this situation was to repair the water pipes.

A. Yes, but I don't remember which water pipes are we talking about, attorney. It depends because there were a lot of water pipes. Here, you know, this is a communication that I gave to Penon, so Penon had nothing to do with the maintenance. I just was communicating to him this anomaly that we had, but without entering in particulars because they were not his turf.

Q. Well, certainly on other occasions that we looked at earlier today there were times when you would say that three quarters of the plant was down?

A. Yes.

Q. I'm sorry, one quarter of the plant was down --

A. Yes.

Q. -- you were working with three quarters?

MR. ANNESSER: Object to form. Dr. Rossi, please allow him to finish his question before answering.

THE WITNESS: Yes.

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BY MR. PACE:

Q. So this at least shows that the entire plant was shut down for four hours?

MR. ANNESSER: Object to form.

THE WITNESS: Can you repeat the question, please?

BY MR. PACE:

Q. Yes. It says -- what you wrote here was from 2 p.m. through 6 p.m. the plant has been shut down to repair the water pipes to the four E-Cat 1000s. So that doesn't mean that a -- an individual E-Cat or just an individual big Frankie was shut down, but all of the big Frankies were shut down to do the water pipe repair, correct?

A. Well, actually in -- while when I communicated to Penon the water flow, the water temperature, the steam temperature, the bars, et cetera, I was rigorous. When I gave him communication of shutdown, et cetera, I was very synthetic because, again, it was not his turf. I cannot answer to your question not knowing precisely what happened that day.

Q. Well, what you wrote though at least was,

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you know, from 2 p.m. through 6 p.m., so you gave kind of a specific time period, correct?

A. Yes, it is correct.

Q. Okay. Then you say the plant has been shut down to repair the water pipes, correct?

A. Correct.

Q. And then you identify the water pipes of the four E-Cat 1000s, not one or another, but all four?

MR. ANNESSER: Object to form.

THE WITNESS: You know, again, I am not sure about that because this writing is pretty much -- pretty much imprecise. I just was communicating to Penon that I had problems to the plant and that for this reason he could have -- you know, from these three lines I am not able to reconstruct the situation, to synthetic and I did not conserve any. I don't remember.

BY MR. PACE:

Q. All right. You don't remember that -- just to be clear though, you don't remember that the plant wasn't shut down, you don't remember that it was, you just don't remember? You have something written here.

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MR. ANNESSER: Object to form.

THE WITNESS: I remember that if I have written these two lines here some problem has happened there, but I am not able to give a precise description of which kind of pipes we had to repair and which exactly, which phenomenon happened.

MR. PACE: I am going to hand you what's marked -- I apologize, I probably should have stapled this. We will staple it at a

break. It's going to be Composite Exhibit 7.

(The document referred to was thereupon marked Deposition Exhibit 7 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. Can you take a moment to look through Exhibit 7 for me.

MR. ANNESSER: The first page or all of it?

MR. PACE: Through all the pages.

MR. ANNESSER: All right.

THE WITNESS: Okay.

BY MR. PACE:

Q. These are -- these are invoices that you provided to -- that Leonardo Corporation provided to

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Industrial Heat or IPH International for reimbursement for expenses, correct?

A. Yes. I am reading those. If you have them, absolutely.

Q. Okay. And I apologize because I did give them to you in a little bit out of order sequence.

A. The graphic is a little bit different but I think that is a matter of photocopying. Because I don't remember the graphic but the graphic can have been changed by the photocopies.

Q. You mean the graphic, the Leonardo Corporation --

A. Yes, exactly.

Q. -- you have a more interesting graphic?

A. Yes, yes, exactly.

Q. Let me -- I have not given them to you in date order. I apologize.

A. No problem. No problem.

Q. Let me take them in date order.

A. Okay.

Q. If you can look at a document marked -- having the number 19062.

A. 19062.

Q. Should be at the back of that package.

A. Here it is.

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Q. Okay.

A. Yes.

Q. This says -- the description of the work is: "Work to modify and upgrade the pumping system and **substitution of nozzles and Teflon pipes**, plus materials. Period February 23 through February 27." And the total amount of that was \$2,750. Do you recall what that work was -- what work was done?

MR. ANNESSER: Object to form.

THE WITNESS: I do not recall but I can read it what it was and make sense. It is what is written.

BY MR. PACE:

Q. Do you recall anything beyond what was written?

A. No, honestly. But probably we had problems with the distribution system of the pumps that had been made in Industrial Heat and the connections had been made with very low quality material and we had problems, leakages caused by that so they had been substituted with higher quality material.

Q. Who did that work?

A. Industrial Heat in their factory. This

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work?

Q. The work reflected in Exhibit 20 --

A. The substitution --

MR. ANNESSER: Object to form.

THE WITNESS: I don't remember.

BY MR. PACE:

Q. Let me finish the question.

A. Sure.

Q. I think I asked it in a poor way.

A. Sorry.

Q. Who performed the work that is described here on page 19062?

MR. ANNESSER: Object to form.

THE WITNESS: I don't remember.

BY MR. PACE:

Q. Do you remember whether it was someone who -- was it someone other than you, Fabiani or Barry West?

MR. ANNESSER: Object to form.

THE WITNESS: I do not remember because this is a work that could have been done by us as well as by some contractor that always was around there.

BY MR. PACE:

Q. And then if it was done by some

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contractor who was in the area, would you have been the person on behalf of Leonardo Corporation who paid for the work?

A. Can you kindly repeat the question?

Q. Yes. If it was done --

A. Few words.

Q. If this work was done by some independent contractor --

A. Yes.

Q. -- who would have paid that independent contractor?

MR. ANNESSER: Object to form.

THE WITNESS: Leonardo Corporation.

BY MR. PACE:

Q. And who at Leonardo Corporation would have actually made the payment? Would that have been you?

A. Yes.

Q. The next page in this, if we're going sequentially -- or, I'm sorry, if we're going by date is 18819. It's an invoice from March 11 of 2015.

A. Okay.

Q. This description says: "N.55 thermocouples not grounded. To be put in place of the grounded thermocouples precedently installed to

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avoid short circuits, \$33.50 each, total for thermocouples 1,842." Then we have: "Work hours to complete the substitution of all the pipes, pipes connectors, thermocouples, plumbing." My first question is do you recall anything about the work that I just described or the thermocouples that I just described beyond what is here on page 18819?

A. No, I don't remember the particulars but I have an idea of what happened.

Q. Is N.55, does that mean 55 thermocouples were replaced or is that a type of thermocouple?

A. No, they had to be replaced because also -- you know, sometime we had the suspect that there had been some --

MR. ANNESSER: Dr. Rossi, I'm going to help.

THE WITNESS: Okay.

MR. ANNESSER: You've got to listen to his question and answer them and then you can explain, if you need to, but this will go a lot smoother if you listen to what he's asking you.

THE WITNESS: Can you kindly repeat?

BY MR. PACE:

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Q. I can. I am going to take it in pieces here. The N.55, does that mean that -- thermocouples?

A. Yes.

Q. Is that a type of thermocouple or is that a number? Does that mean 55 thermocouples were replaced or that's a type of thermocouple?

A. No, it's 55 thermal, N is for number.

Q. Got it.

A. This number is the quantity.

Q. Okay.

A. It says that 55 thermocouples had to be substituted.

Q. And the 55 thermocouples, those -- those were not just in the piping leading into the E-Cat plant, were some of those thermocouples in connection with the actual E-Cat units?

A. I don't remember.

Q. And did this include the thermocouples for Dr. Penon as well as thermocouples that Leonardo or Fabiani installed or were they just for ones that were installed by Leonardo?

MR. ANNESSER: Object to form.

THE WITNESS: I don't remember.

BY MR. PACE:

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Q. All right. The problem with the earlier thermocouples, the ones that needed to be replaced, is that they were grounded thermocouples, the result of which they were causing short circuits, correct?

MR. ANNESSER: Object to form.

THE WITNESS: I am not able to answer because this is -- it appears that it is an electric problem and I remember that the two -- the two contractors of Industrial Heat, Fabiani and Barry West, sometime came up to me saying that there was material that was creating problems, we had to substitute, et cetera, but I don't remember the issues exactly, when here we entered in a matter that is not my turf.

BY MR. PACE:

Q. There is \$3,250 paying for work hours. Is that money that was paid to Fabiani or West or would that be money paid to one of these independent contractors you hired for a day or so?

MR. ANNESSER: Object to form.

THE WITNESS: I am very sorry, I don't remember.

BY MR. PACE:

Q. If that amount of money was paid out to workers, though, that would have been paid out by

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you?

A. No, by Leonardo Corporation.

Q. I'm sorry, by Leonardo Corporation. But who at Leonardo Corporation would actually make the money -- would actually make the payment?

A. Can you kindly repeat? I did not --

Q. Yes. So Leonardo Corporation --

A. Yes.

Q. -- it may come from their bank account, its bank account, but some human being has to actually deliver --

A. That's me.

Q. That's what I meant. So you would actually deliver the money to the workers?

A. Yes, but not me as Andrea Rossi.

Q. Understood.

A. Me as the CEO of Leonardo Corporation.

Q. Understood. And do you recall anything more about these workers other than -- do you recall anything about the workers that did the work hours reflected on page 18819?

A. No.

MR. ANNESSER: Object to form.

THE WITNESS: No.

BY MR. PACE:

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Q. Do you recall that the short circuits were -- I guess my understanding is thermocouples don't really short circuit. Is the short circuit at the control panel or, again, is that something you don't know?

MR. ANNESSER: Object to form.

THE WITNESS: I don't remember.

BY MR. PACE:

Q. Moving to the next in time, I believe the document ends in 17341.

A. Got it.

Q. Okay. This is an August 24 invoice --

A. Yes.

Q. -- that Leonardo submitted to IPH International. It says: "N.16 spare resistances to be substituted in the reactor number 4, each \$450." Let me see if I have this correct, which is N.16 means there were 16 units that were replaced, correct?

MR. ANNESSER: Object to form.

THE WITNESS: No, attorney, spare. Spare means spare parts. This I remember because was a particular thing. One day I reflecting I said since the delivery term of this resistance is a little bit

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longer, I say if we lose resistances we have problems because then it takes time to have them. So just as your car has a spare wheel, I wanted to have 16 spare resistances, just to put them there in case of necessity. Spare.

BY MR. PACE:

Q. I understand. After saying spare resistances it says "to be substituted in the reactor number 4", so it identifies a specific reactor, correct?

A. Yes, it is correct because the reactor number 4 was the one that inspired me to do so because it had resistances that did not work properly and did not -- did not have the necessity to be substituted but I prefer to have a full change ready.

Q. And what were the issues that were arising with the resistances for reactor number 4?

A. Can you repeat?

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. You said that there was an issue with the resistances for reactor number 4. I just wanted to understand, what was that issue?

A. They had -- they sometime tended not to

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have regular absorption of current and not so much to need a substitution but enough to induce me to prepare spare parts.

Q. Would that -- would that problem result in lesser output by the reactor number 4, or no?

A. No. No, because in that case that would have been necessity of substitution and not those spare parts.

Q. Turning to page 16777.

A. Got it.

Q. That's November 14. I'm sorry, November 17, 2015, invoice from Leonardo to IPH.

A. Okay.

Q. It says: "Electricians work to repair the reactor number 2." Do you recall what the work was done to repair reactor number 2?

A. Absolutely not.

Q. Do you -- I am assuming, and correct me if I am wrong, that these electricians are not -- this is not a reference to either Fulvio Fabiani or Barry West, correct?

A. Correct.

MR. ANNESSER: Object to form.

BY MR. PACE:

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Q. Do you recall who these electricians were?

A. No, I do not recall. I do not recall.

Q. These electricians would have been paid by Leonardo Corporation, correct?

A. Yes.

Q. And you would have been the person on behalf of Leonardo Corporation to make the payment?

A. Yes.

Q. One more in this exhibit string, the one we haven't touched on yet, the first page. September 16, 2015 invoice.

A. Number 6937.

Q. Yes, 16937, correct.

A. Yeah.

Q. This says -- the description of the work here is: "Reparation of the reactor E-Cat 250 kW number 4 from September 7 through September 15. Four workers, 8 hours per day, TOT 32 HPD for a total of 224 hours at \$60 an hour."

A. Uh-huh.

Q. Do you recall what work was being done by these workers from September 7 through September 15 of 2015?

A. I think, yes. I suppose this has been

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when we have changed the resistances to the number 4.

Q. And is that something that would take eight hours a day for seven or eight days?

MR. ANNESSER: Objection to form.

THE WITNESS: **If it is written so. If it is written so, yes**, because it was a very delicate work. Also because we had to operate without disassembling, so it has been -- yes. If it is written so it has been, yes.

BY MR. PACE:

Q. Well, let me ask you, independent of what is written, just from your own knowledge of this plant --

A. Yes.

MR. ANNESSER: Just for clarification are you asking him as the rep of Leonardo --

MR. PACE: Yes.

MR. ANNESSER: -- or from his own personal knowledge?

MR. PACE: Since this is work for Leonardo, I think both are covered.

BY MR. PACE:

Q. So as a representative of Leonardo, I am

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asking independent of this document what do you know about the -- this work that was done? Do you recall this work being done at all?

A. Yes, I recall that we had substituted the resistances of the number 4, yes.

Q. And your recollection that it was -- do you recall that it would take four workers working eight hours a day for several days to do that?

A. I don't recall this particular but if it is written so here, I suppose it was so.

Q. And the amount paid was \$13,440?

A. This is the amount that we have invoiced to IPH.

Q. So that's the amount that was paid to the four workers?

A. I suppose so, yes.

Q. And that's an amount that you would have paid on behalf of Leonardo Corporation?

A. That -- yes, that Leonardo Corporation has paid, yes.

Q. And you have no additional information on what this work was that was done during that time period?

A. No.

MR. ANNESSER: Object to form.

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THE WITNESS: No.

BY MR. PACE:

Q. And during the time period of this work do you recall that the -- the big Frankie unit number 4 was not operating during that time?

A. During the time was not operating, yes.

Q. But it was still in the same -- it was still in the container that housed big Frankie units --

A. Yes.

Q. -- 1, 2 and 3?

A. Yes.

Q. I want to discuss a little bit in connection with the operation of the plant in Doral, Florida, the measuring equipment and the data that was collected from the measuring equipment. Some of the measuring equipment that was used in connection with the plant was provided by Engineer Penon, correct?

A. Yes.

Q. And then there was some measuring equipment that was placed in there by -- that was -- either belonged to Fulvio Fabiani or Leonardo for separate measurements; is that correct? A. No, we must make a clear distinction here

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[...]

that question next. So you're one step ahead of me. My question right now was did you ever actually look at the data that Fulvio Fabiani collected to see whether it was consistent with the data that you were collecting from the Penon measuring equipment?

A. No, because -- no, because Fabiani collected those data in a language that for me -- in a particular language, so -- and I was not interested honestly because for me what counted was what I read in the instruments of Penon and that was all. But, honestly, I told to Fabiani many times, I told -- I am -- I am finding this temperature between 103 and 104, blah, blah, does this make sense with what you are measuring with your instrument, and he always said yes, we are in the same -- we are in the same range. At this level, yes.

Q. So you would -- you would discuss with Fabiani the data he was collecting but you didn't actually look at his underlying data?

A. Yes, **I did not discuss those data**. I just now and again randomly for curiosity and also for -- you know, for serious curiosity, not curiosity just joking.

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For curiosity I asked him does this data that does this -- because the only thing that we could confront about was the temperature, because he -- because I was just measuring -- I was reading the flow meter and there was nothing to discuss. That was a seal at the thing with numbers around and you have to read it, so there is nothing to discuss. For the temperature there is the situation is not just reading a running wheel, but there are probes and so it is interesting to see if the probes are coherent or not. And I asked now and again and always -- it never happened that I said, are you between 103 and 104? It never happened that he said no, I am in completely different on mine.

Q. The data that was collected from the Penon measuring equipment, at least it was collected electronically. Do you recall where that was stored?

MR. ANNESSER: Object to form.

THE WITNESS: Excuse me, I did not understand the question.

BY MR. PACE:

Q. So thermocouples will generate data, correct, that is stored electronically on a computer somewhere or in a data log? Do you recall how that

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data was being stored in connection with the Penon measuring equipment?

MR. ANNESSER: Object to form.

THE WITNESS: I never knew a bit about that stuff and I was absolutely not interested to that. It was not my turf.

BY MR. PACE:

Q. And so Leonardo Corporation has no information on how or where that data was stored for Penon?

A. Absolutely not.

Q. If Dr. Penon testified that Fulvio Fabiani would send him -- would access that data and send it to him every couple of months, Leonardo Corporation doesn't have any information that is contrary to that?

MR. ANNESSER: Object to form.

THE WITNESS: Absolutely. Sorry. I have no information about that.

BY MR. PACE:

Q. Okay.

A. The only thing I knew was there was a computer of Penon that was storing that. That's all I know.

Q. Did you ever see Fulvio Fabiani accessing

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that computer?

A. Can you repeat?

Q. Did you ever see Fulvio Fabiani using that computer?

A. Not that I can recall.

Q. I think you testified to this earlier but I want to make sure I've covered it, which is do you recall any of the Penon measuring equipment ever being replaced?

A. Not that I can recall. But I remember now this morning we have read somewhere in an exhibit of yours that the PCE 830 had stopped. I don't remember if that was for some -- maybe was a blackout, no. I don't remember. But this morning during the deposition we have read something about the PCE 830. I don't remember what was that.

Q. Okay. And Leonardo Corporation doesn't have any information on that?

A. It was a blackout. It was a blackout. Now I remember. It was a blackout and it was written during the blackout out the PCE 830 is going out of service. That was it, yeah.

Q. So Leonardo Corporation doesn't have any information on any of the measuring equipment ever

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[...]

plant, of course under my control.

BY MR. PACE:

Q. Can you tell me about when that is? Are we still in 2014 or are we beginning 2015?

A. This is difficult to say. You must consider that if the plant has been, let me say just one number that could be wrong. Assume the plant arrived the 1st of November. Now we have from the 1st of November to the 23rd of February, you know, inside the period there was also Christmas, the Christmas holidays, blah, blah, blah, so one month is gone in various kinds of holidays. So basically we had all November, half December and half January to complete the -- because much work had to be done yet. At that point when we scheduled or when we understood that more or less within ten days we would have been completed, I phoned to the ERV and said from the 15th of February we are ready, you can come when you want.

Q. And did you -- well, let me -- let me see if I can -- I believe this is an exhibit we used in your last deposition but let me mark as Exhibit Number 9.

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(The document referred to was thereupon marked Deposition Exhibit 9 for Identification, a copy of which is attached hereto.)

THE WITNESS: Thank you. Okay.

BY MR. PACE:

Q. Do you recall this -- there being an e-mail exchange between you, Dr. Penon and Tom Darden about how the test was going to operate in Doral?

A. No, I don't remember but I take advice of this now from you. For sure it's genuine.

Q. You're actually I think going to answer my question then because my question was really going to be do you know anything about what is being discussed in this e-mail --

A. I don't remember.

Q. -- beyond what is written in the e-mail?

A. Let me read the e-mail. If I read the e-mails maybe something comes up. So they are in reverse order of date. The last is the first, is that correct?

Q. Yes, sir.

A. Okay. (Witness reading to himself.)

MR. ANNESSER: If you read allowed he has to take it down.

THE WITNESS: I am sorry.

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MR. PACE: He has to write mumble, mumble, mumble.

THE WITNESS: All right. Well, now your question is if -- your question was?

BY MR. PACE:

Q. Do you recall this e-mail exchange about questions about the test plan?

A. Now that I have read it, I recall it. And I -- it seems to me it confirms what I said before basically.

Q. If you look at page 19106.

A. Yes, got it.

Q. This actually is an e-mail from Dr. Penon.

A. Dear Mr. Darden, yeah. From Fabio Penon, yes.

Q. And if you look at the last full paragraph there it starts with: "Following my request."

A. Following.

Q. It says: "Following my request a few weeks ago --

A. Yes.

Q. -- before the plant start up Dr. Rossi has to apply a condensed steam collector at the bottom of

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the steam pipe before the plant start up."

A. Perfect.

Q. Do you recall having that conversation with Dr. Penon?

A. I recall this perfectly.

Q. And he is accurately summarizing the conversation that he had with you, that you were agreeing to apply a condensed steam collector?

A. I recall perfectly.

Q. All right. I'm sorry, I understand you recall the conversation perfectly. I guess my next question is is his summary of that conversation accurate?

A. No, this conversation is accurate.

Q. So you had -- at the request of Dr. Penon --

A. Yes.

Q. -- you had agreed to install a condensed steam collector at the bottom of the steam plant?

A. Sure.

Q. I'm sorry, steam pipe.

A. See here -- yes. Condensed steam, yes, exactly.

Q. And then -- most of these e-mails are not then -- that is the one e-mail where he was

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describing a conversation with you, so I wanted to ask about that. There is also an e-mail in here from you and it's on page 19104.

A. Sorry, 19104?

Q. Uh-huh.

A. 19104. Here we go. Yes.

Q. So the paragraph I'm interested in, do you see a sentence about halfway down it starts with: All those instruments for the measurement of temperature -- I'm sorry.

A. And of the steam, of the pressure of the steam and of the temperature of the water and the water tank inside the container connected with a computer of Engineer Penon, that he brought here and registers the data 24 hours per day, as well as with the control system -- am I mumbling enough clearly for you? Obviously Penon will consider for his calculations, blah, blah, blah. I think now he is embarking, et cetera.

Q. Let me just -- I want to read one small part of this and see if I can understand this better. It talks about data going to the computer of Engineer Penon.

A. Yes.

Q. But then says, "**as well as with the**

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control system of ours."

A. Sorry.

Q. Then a little bit later or then right after that you say: "Obviously Penon will consider for his calculations only the data registered by his computer."

A. Yes.

Q. "But we can compare data that he will find with the data that we will find." So my question is, what is the data -- what are you referring to as the data we will find?

A. With this we was the team. In particular these were the parallel measurements that Fabiani had told me that had prepared under the direction of Darden.

Q. And you are saying here that **you -- you and someone else, you and Fabiani**, because it says we, we can compare the data that he will find with the data that we will find?

A. Yes.

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. Do you recall ever comparing that data with Fabiani, other than what you described earlier today?

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MR. ANNESSER: Object to the form.

THE WITNESS: Other than what I described before, no.

BY MR. PACE:

Q. All right. It says, data is collected with -- data is collected in a computer of Engineer Penon, as well as with the control system of ours. Is that the control system that was operated by Fulvio Fabiani?

A. Yes, sir.

Q. Where was the condensed steam collector placed?

A. It was placed -- I set it up, I remember, together with Tom Darden and it was basically a rubber pipe with a cup at the bottom that had to collect -- there is -- okay. Along the pipe, the steam pipe that exited from the one megawatt plant to go to the J.M. plant, we have put this cup, this plastic cup sealed with the bottom of the steam pipe so that any dripping of water was visible at any time and it was put inside the insulation, but the insulation was made in a way that it could be easy displaced to pull down the rubber pipe, open the valve that was at its end and see if water was going down.

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And I remember perfectly that Darden together with me and Fabiani all -- quite all the times that Darden came down, he wanted to see the dripping of the water from, and we never have seen any dripping of water. And also the ERV. Also the ERV during his -- during his -- during the days in which he came controlled the dripping.

Q. So let me hand you what I will mark --

A. Yes, exactly.

Q. -- as Exhibit 10.

A. Yes, very good. Not that I can indicate to you. Not there. You can see the dripping in --

MR. ANNESSER: Dr. Rossi, let him hand you the exhibit and let me get a copy too.

THE WITNESS: Okay. Okay. Sorry, sorry, sorry. You have a photo that is precise, because you already gave it to me the last time.

MR. PACE: That would be 10 and 11.

(The document referred to was thereupon marked Deposition Exhibit 10 for Identification, a copy of which is attached hereto.)

(The document referred to was thereupon marked Deposition Exhibit 11 for Identification, a copy of which is attached hereto.)

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[...]

A. 480. Yes, it is my signature.

Q. And there is no signature on this document from Ampenergo, correct?

A. Yes, it is correct.

Q. Do you recall any discussions with Ampenergo after you signed this second amendment about their refusal or failure to sign the second amendment?

A. Yes, I recall.

Q. I am going to hand you what's marked as Exhibit 15.

(The document referred to was thereupon marked Deposition Exhibit 15 for Identification, a copy of which is attached

hereto.)

THE WITNESS: Thank you. Sorry, I got two. Maybe one copy is not mine.

BY MR. PACE:

Q. Yes, sorry about that.

A. It's okay.

Q. This is -- this contains on the first page here -- that's what I want to ask you about. This is an e-mail from you to a Craig Cassarino, correct?

A. Attorney, I was reading. I did not get your --

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Q. No problem.

A. Can you kindly repeat?

Q. I can. On the first page here there is an e-mail from you to Craig Cassarino on April 30, 2014, correct?

A. Yes, it is correct.

Q. And Craig Cassarino is somebody who is one of the managers or members of AEG?

A. It's the vice president of AEG.

Q. The vice president of AEG?

A. Yes.

Q. He also holds or at the time held some position in LTI Global?

A. Yes. I suppose yes.

MR. ANNESSER: Object to form.

THE WITNESS: Yes, he was the vice president of LTI.

BY MR. PACE:

Q. The last sentence of your e-mail reads: "We had offered to make the test with the Hot Cat, and we had sent to you an amendment, already signed by me and by Tom Darden, but for reasons remained mysterious to me Ampenergo did not sign and the amendment has been cancelled." Do you recall writing that to Craig

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Cassarino?

A. Yes.

Q. And that accurately reflects your -- your recollection of the situation, your view of the situation?

MR. ANNESSER: Object to form.

THE WITNESS: Well, I don't understand exactly what your question implies, so what I want --

BY MR. PACE:

Q. How about I will ask it again?

A. Yes.

Q. You wrote that because Ampenergo did not sign the amendment the amendment had been cancelled, correct?

A. Yes.

Q. That's what you wrote?

A. Yes.

Q. Okay.

A. I wrote -- I wrote this, yes. Q. And that's a reference to what's been marked as Exhibit 14, the second amendment to license agreement, correct?

A. Correct.

Q. All right. And the second amendment to

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license agreement in fact contemplated that testing would be done using a six cylinder unit, that is a six cylinder unit containing Hot Cats, correct?

MR. ANNESSER: Object to form.

THE WITNESS: Yes, and this is because, as I -- in this same e-mail, I explain we have to put in operation the one megawatt plant that we are ready to put in operation since when we deliver it in August of 2013. It has been delivered perfectly ready to go, as it has been turned off after the May test, the test made in 30 April, 1st of May 2013.

BY MR. PACE:

Q. Did you say after this you made improvements to the -- Industrial Heat made changes to the plant that you -- under your direction?

MR. ANNESSER: Object to form.

THE WITNESS: Later.

BY MR. PACE:

Q. Right. Okay.

A. Much later.

Q. Later than April 30 of 2014?

A. Yes, later has been taken a bigger container, et cetera.

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[...] there. To the best of your recollection you never discussed these questions with doctor -- how do resolve these questions with Dr. Penon?

MR. ANNESSER: Object to form.

THE WITNESS: The only thing that I can say is that I did not receive from Industrial Heat any -- any complaint or observation regarding any shortcoming in the proceeding of these discussions, so I have to assume that Penon has satisfactory answered because should it not be the case, for sure Mr. Tom Darden would have contacted me to say hey, Mr. Rossi, I am not -- not glad about what is going on with the ERV. He did not.

BY MR. PACE:

Q. Okay. And then from a timing standpoint you had testified previously about reaching a resolution with the neighbors over the sound issue that may be connected to running the test in Italy. That resolution with the neighbors, was that reached, if you recall, one day before the test, two days before the test, a week before the test? Do you recall?

A. I don't recall exactly, but few -- I don't know if it was a week or ten days or five

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days. It was -- it was before the test because I had put the plant in operation and it made a lot of noise and I assumed that problems were brewing up.

Q. Problems were brewing. Do you recall whether Tom Darden or J.T. Vaughn or anyone else was -- I am trying to use this as a touchstone for figuring out when you spoke with the neighbors. Do you recall whether they were in town yet or not?

A. No, no they were not in town yet.

Q. So they came into town -- someone from Industrial Heat or IPH came into town probably a day or two before the test?

A. Absolutely, yes.

Q. Okay.

A. Absolutely, yes.

Q. So the resolution was reached at least a couple of days prior to that?

A. At least.

Q. I want to talk a little bit about Leonardo Corporation and its dealings with J.M. Products. First, what agreements existed between Leonardo Corporation and J.M. Products?

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MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: The **main agreement between Leonardo Corporation and J.M. Products** was an agreement based on which Leonardo Corporation was going to buy from J.M. Products the catalysts they were producing, in change of the fact that Leonardo was going to pay all the accessory expenses that J.M. was going to have to pay for, besides to pay the well known \$1,000 per day to Industrial Heat and this is the only written agreement that exists between -- that has been made between Leonardo Corporation and J.M.

BY MR. PACE:

Q. I want to talk about that agreement a little bit more in a second but there is also a license agreement or a sublicense agreement between Leonardo Corporation and J.M. Products?

A. No, no, not that I can recall.

Q. There is also a loan of an employee from Leonardo Corporation to J.M. Products, correct?

MR. ANNESSER: Wait. I'm sorry, state that again.

BY MR. PACE:

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Q. There is a loan of an employee from Leonardo Corporation to J.M. Products?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: Attorney, I would prefer to rephrase in the answer because I don't know what does mean exactly by the loan of an employee.

BY MR. PACE:

Q. Fair enough.

A. I can say that Leonardo Corporation paid the expenses, paid the employee of J.M. Products in the compensation agreement I had spoken just before this question.

Q. Are you referring to James Bass?

A. Can you repeat?

Q. Are you referring to James Bass?

A. No -- yes. Well, **if James Bass was a consultant of J.M., was not an employee.** While I was talking of the employee of J.M., that was Mr. Reinaldo Breto and was basically was a person that has functions as janitor and guardian.

Q. And he -- your understanding of that written document is that he -- he was an employee of J.M. --

A. Yes.

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[...]

A. And we're talking of grams that have been worked upon. Because -- if you want, I repeat to you all that I already told you.

Q. I am not asking you to repeat. You asked me to break it down, so I am trying to break it down.

A. Perfect.

Q. Does that platinum sponge -- modified platinum sponge that you are testifying J.M. Products sold to Leonardo, does Leonardo still have that modified platinum sponge or has it sold it?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: Has used it.

BY MR. PACE:

Q. Leonardo has used it?

A. Has utilized it, yes.

Q. In what process would it utilize that modified platinum sponge?

A. We have utilized it in -- we utilized it in experiments that we made with a new product, not connected with this situation.

Q. Okay. So at some point J.M. Products -- I believe your prior testimony was at some point J.M. Products stopped working on trying to create some

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kind of modified platinum sponge and moved over to creating a graphene product; is that correct?

A. It is correct.

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

BY MR. PACE:

Q. I am trying to understand from a time period here. I think I have -- right in front of me. I going to mark as Exhibit 17. (The document referred to was thereupon marked Deposition Exhibit 17 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. This is an e-mail from you to somebody at --

A. Thank you.

Q. -- Johnson Matthey about buying --

A. Yes.

Q. -- some platinum sponge.

A. Yes.

Q. Okay. And this is for, I believe it's 10 kilograms of platinum sponge, correct?

A. Can you repeat the question to me?

Q. Yes. What we have here is Exhibit 17, this is an e-mail from you?

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A. Yes. And the top, top manager of Johnson Matthey.

Q. The top manager of Johnson Matthey. This is for the -- a purchase of platinum sponge from Johnson Matthey, correct?

A. That is correct.

Q. And you are telling him that you are apologizing for a delay because you had -- they had sent you an invoice or a proposal for buying some platinum sponge a while ago?

A. That is correct.

Q. And is this the first purchase of platinum sponge that you are making for or on behalf of J.M. Products or Leonardo Corporation?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: As far as I remember I was going to buy this platinum sponge. I don't remember if my program at the moment was to make J.M. directly buy from -- from Johnson Matthey or -- or -- but since I signed here please have the invoice and send the material to J.M. Products Corporation, warm regards, Andrea Rossi. In this moment I was talking as the director of J.M. Products.

BY MR. PACE

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Q. And as the director of J.M. Products at this time, in March 22nd of 2015 --

A. Yes.

Q. -- the product that J.M. Products was working on, according to your testimony, is going to be some type of modified platinum sponge; is that correct?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: The program was to buy the basic platinum sponge from Johnson Matthey **and then upgrade them** through a new process that I wanted to experiment.

BY MR. PACE:

Q. I guess I'm really kind of asking about the time period though. I am trying to figure this out through looking at e-mails.

A. Yeah.

Q. This is March 22nd.

A. This is March 22nd, yeah.

Q. So sometime after March 22nd is when this platinum sponge was delivered to J.M. Products to the best of your knowledge?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: No, sir. The platinum

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sponge we worked with at the plant of Doral was a residual of -- reserve of platinum sponge that I had made in Italy when I worked for completely different things.

BY MR. PACE:

Q. Okay.

A. Not -- so I brought with me that material when I came in the United States and basically I gave it to -- gave it in conto forniture. I don't remember the English name. When you are -- have a material, give it to somebody that treat it, then you get back the treated material and pay only the work made upon it.

What is the English?

Q. Consignment? No.

A. In Italian it's conto forniture.

Q. It's a contribution of it. I think I understand what you're saying.

A. If you understood, I am fine.

Q. So J.M. products has platinum sponge from prior to this date that was provided by you?

A. Exactly.

Q. And it was going to be provided later to Leonardo Corporation?

MR. ANNESSER: Object to form

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THE WITNESS: Yes.

BY MR. PACE:

Q. And it was **going to be altered by being placed in the cylinders and put into the -- what on the J.M. Products side is in the input tube coming into the -- coming over to the J.M. Products side**; is that correct?

A. Can you kindly repeat?

Q. Sure. I don't know if we need a picture of it. We looked last time. There is a container on the J.M. Products side, right?

A. Okay, sure. Now we're talking of J.M. Products side?

Q. We're talking about J.M. Products side.

A. Okay.

Q. We're talking about this product that eventually is going to be purchased by Leonardo Corporation.

A. Yes. It's okay.

Q. This is the -- what you testified earlier, this is the platinum sponge that you put into cylinders --

A. Yes.

Q. -- correct?

A. Correct.

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Q. Then you insert it into the tubing on the J.M. Products side of the Doral warehouse?

A. You are correct.

Q. Okay. And what was supposed to be -- and the combination of the heat from the steam and the pressure in the tubes was going to alter the platinum sponge?

A. It's a pretty complex thing but in -- if you want to say it in a very restricted nutshell, yes.

Q. I'm not claiming I'm not using a simplified approach.

A. It's okay.

Q. I'm just trying to understand.

A. It's okay.

Q. At some point J.M. Products changes over to trying to create or work with a product that is graphene, correct?

A. Correct.

Q. That change occurs because of the price of -- well, why does that change occur? Why does J.M. Products go from -- as a director of J.M. Products why does it go from doing a platinum sponge product to a graphene product?

MR. ANNESSER: Object to form. Are you

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now asking -- I just want to be clear for the record you're no longer asking him as the 30(b)(6) of Leonardo.

BY MR. PACE:

Q. Yes, this is a question to you, Dr. Rossi, in terms of what you know as opposed to Leonardo, what Leonardo Corporation knows. Just for the question, for that question, why did J.M. Products switch from creating a product that involved platinum sponge to a product that involved graphene?

A. Practically your question, for economic reasons. Because as you can see from this e-mail, I was dealing with these guys cited here are not just two salesmen of Johnson Matthey, they are top level -- top level guys of Johnson Matthey. So I was pretty much enthusiastic to work with them. But when I asked to send me the pro forma invoice I received a price that was basically not acceptable and since --

Q. Not acceptable because it's too high or too low? It could be both, right?

A. Sure, sure.

Q. Not acceptable --

A. My point of view not acceptable means too

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high.

Q. If you were going to resell it prices being too low can be bad too.

A. Sure, sure.

Q. I'm sorry, I stopped. So you said they quoted you too high?

A. It's welcome your --

MR. ANNESSER: Objection.

BY MR. PACE:

Q. Please resume. Sorry.

A. No problem. They made an offer that was too expensive and the risk for us was very high because that activity of J.M. was an experiment. It was an invention of mine and the risk that it could also not work was there and J.M. did not accept my proposal of a friendly agreement considering all the future possible developments and at that point I broken with them. **And since that physical principle that could have worked on the platinum sponges was applicable I was studying on the issue, was applicable also to graphite, to get graphene, a mix powder of graphene and diamond powders, I wanted to try that experiment that allowed us to work with a raw material, very poor** (phonetic), so the risk was

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very limited.

Q. And that was determined sometime after this e-mail that we're looking at here in March 22nd?

A. I tried -- I tried -- as I can recall, I tried for months to save the relationship with Johnson Matthey because I liked very much their products and I had strong ideas about that, but -- so I asked to them okay, give me a small amount.

Because, you know, they have some kind of a monopoly of that raw material. If you don't get them from them you can't find it. And I tried. Anyway, but I don't remember when at a certain point I said all right, good bye.

Q. Then you switched over to the graphene product?

A. Yes.

(The document referred to was thereupon marked Deposition Exhibit 18 for Identification, a copy of which is attached hereto.)

Q. Okay. So handing you what's been marked as Exhibit 18. This is the written contract you were just referring to between J.M. Products and Leonardo; is that correct?

A. That is correct.

Q. And this calls for Leonardo to pay \$300 a

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gram --

A. Yes.

Q. -- for any graphene catalyzer that was provided?

A. Yes, it is correct.

Q. Well, in fact, if you look at Exhibit 3 or Exhibit 18, I guess the third and fourth page -- this was produced in order -- is the gross sublease between J.M. Products and Leonardo?

A. Yes.

Q. That's another written agreement, correct?

A. Correct.

Q. And did you testify earlier that -- was any graphene catalyzer ever provided by J.M. Products to Leonardo?

A. Can you -- I was reading. Can you kindly repeat your question?

Q. I think you testified -- I might be wrong here. I thought you testified that some platinum sponge -- some modified platinum sponge was delivered to J.M. -- was delivered -- I'm sorry, I believe you testified earlier --

A. Yes.

Q. -- that J.M. Products sold some modified

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platinum sponge to Leonardo?

A. Yes.

Q. Some grams of it?

A. Yes.

Q. Did J.M. Products ever sell any graphene catalyzer to Leonardo?

A. Yes.

Q. And sold them pursuant to the terms of this agreement?

A. Yes.

Q. And sold them for -- for the price of \$300 per gram?

A. Yes.

Q. So net -- in light of all that Leonardo has paid for J.M. Products am I correct that Leonardo has lost money compared to how much -- compared to the amount of graphene catalyzer it received, Leonardo Corporation has paid much more than \$300 a gram in terms of the cost for -- for Jim Bass and the cost for the space that J.M. Products uses and everything else?

A. Good question. Not -- I don't remember. I don't recall. But if a difference there is, it is not a big difference. Because I think that the amount of

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graphene that Leonardo got from J.M. is not distant from that sum, but --

Q. How much? How much have they gotten from J.M. Products?

A. That I recall, ballpark, ballpark numbers, something around 150 grams, something around that.

Q. Okay. So you think they have gotten 150 grams. Is there documentation reflecting the delivery of that 150 grams from J.M. Products to Leonardo?

A. There are the invoices.

Q. There are invoices. When was that delivered?

A. I don't remember exactly, but I should have to go to check. But, you know, we have -- the first -- I am trying to answer to your question reconstructing. First we worked with a few grams of platinum sponge that I had and then finished the work with those, I had no more raw material, so in March I had to change the issue and in March I switched to graphene that was already an idea that I had in mind. So it was not something that I already had my

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safety boat.

Q. And the idea for these products, even though you're the CEO of Leonardo, it does come from you, the idea for whatever product was created by J.M. Products?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Form.

THE WITNESS: I pray you to repeat the question because I did not understand.

BY MR. PACE:

Q. Sure. Whatever this product was that J.M. Products was creating, it was based on a process or a method that you came up with?

MR. ANNESSER: Object to form.

THE WITNESS: Yes.

BY MR. PACE:

Q. All right. Not a process or method that you ever put into place at Leonardo?

A. No.

Q. All right. So let me mark this as Exhibit 25. Or Exhibit 19, I'm sorry. This is actually an exhibit from our answer and counterclaims which is why it's got the number 25 on it.

A. Thank you.

Q. For our purposes today we're going to

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refer to it as Exhibit 19.

(The document referred to was thereupon marked Deposition Exhibit 19 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. If you look at -- these are excerpts from your blog, correct?

A. Yes.

MR. ANNESSER: Object to form.

THE WITNESS: Sorry.

BY MR. PACE:

Q. If you look down here on the last one, April 14, 2016, this is actually kind of a generic question as opposed to really driven by this posting but you make a reference here: "Our customer spoke his satisfaction with facts, not words. He bought three units like the one he tested during this year with the company set up specifically for this purpose." Is the customer you are referring to there J.M. Products?

A. I want to underline that the answer to this question is related to the activity of Leonardo Corporation out of the territory of Industrial Heat, for which Industrial Heat had been licensed.

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So my comment about this issue must be, I think, I'm asking to my attorney, here is present Mr. J.T. Vaughn of Industrial Heat, and I would like not -- I think I have the right not to give him this information.

Q. I think he's covered by the protective order, so he has limitations based on the protective order.

A. Yes, but if he listens what I'm saying he gets information.

Q. How about this. Same thing would apply to you whenever you look at any information that is marked as confidential, but let me ask you this way.

MR. ANNESSER: Object to form, move to strike.

BY MR. PACE:

Q. I asked a different question here. Maybe you weren't focusing on my question.

A. Yeah.

Q. My question was is the customer of J.M. Products?

A. To answer this question --

Q. You can't answer yes or no to that question?

A. Sorry?

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Q. You can't answer yes or no to that question without revealing confidential information?

A. I am under oath so basically I insist -- if possible I want to respect the law, I want to respect the judge, I want to respect everybody. I am -- I am asking if the law allows me in this case to ask Mr. J.T. Vaughn to exit from here.

MR. ANNESSER: Chris, may I? I don't know the answer to this question. May I talk with the client and find out what his concern is?

MR. PACE: Go off the record. Why don't we go off the record.

THE VIDEOGRAPHER: Time is 17:06. Off the record.

(Thereupon a brief recess was taken, after which the following proceedings were had.)

THE VIDEOGRAPHER: Time is 17:17. We're back on the record.

BY MR. PACE:

Q. Dr. Rossi, I believe we left off, we were looking at Exhibit 19. On the second page there is a passage written by you that says: "Our customer spoke his satisfaction with facts not words. He

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bought three units, like the one he tested during this year with a company set up specifically for this purpose." So my first question is, this is kind of the narrow one, which is the customer that you are referencing here, is that J.M. Products?

A. Yes, but I am not sure that they will use the same entity.

Q. So J.M. Products, the company --

A. Sorry.

Q. -- for whom the president is Henry Johnson, that company has -- has agreed to buy three E-Cat plants from Leonardo Corporation?

MR. ANNESSER: Object to form.

THE WITNESS: Yes.

MR. LEON DE LA BARRA: Object to form.

BY MR. PACE:

Q. I'm sorry, I am not sure I heard your answer, Dr. Rossi.

A. Yes.

Q. Is that documented anywhere?

A. Not yet.

Q. At what price?

A. That has been -- it's a complex contract so it's not easy to answer this question.

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Q. Well, it's not written so it can't be that complex, if everyone can remember it.

A. Yes, but it's an agreement. It's an agreement.

Q. Is it an agreement between you and -- you as the CEO of Leonardo and Henry Johnson as the president of J.M. Products?

MR. ANNESSER: Object to form.

THE WITNESS: No.

BY MR. PACE:

Q. Who is the agreement with or between?

A. With -- with Mr. Di Giovanni, that he is the man of reference of the entity that will use these three plants.

Q. So this is Francesco Di Giovanni -- you are referring to Francesco Di Giovanni?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: Yes.

BY MR. PACE:

Q. And Francesco Di Giovanni is the beneficiary of the Platinum American Trust?

A. Yes.

MR. ANNESSER: Object to form.

BY MR. PACE:

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Q. And the Platinum American Trust owns J.M. Products?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: As far as I know and as far as I recall, yes.

BY MR. PACE:

Q. And these three plants that you have written are being bought, where will these plants be built?

A. This has still to be decided.

Q. You blogged recently about a manufacturing plant in the US as well as in Sweden.

A. This is our strategy.

MR. ANNESSER: Object to form. Are we wearing the Leonardo hat or --

BY MR. PACE:

Q. Wearing the Leonardo hat. You as the CEO of Leonardo has blogged that Leonardo is going to have or has an agreement with someone to build two manufacturing plants, one in the US and one in Sweden, correct?

MR. ANNESSER: Object to form.

THE WITNESS: It is correct.

BY MR. PACE:

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Q. With whom is that agreement to build the plants?

A. With nobody. This is a decision of Leonardo Corporation.

Q. Okay. Some of the blog posts make it sound like you are working with somebody else in building the plants.

A. No.

Q. So where will the plant be in the United States?

A. The factory will be here in --

MR. ANNESSER: I am going to object to form. Go ahead.

THE WITNESS: Is in Miami.

BY MR. PACE:

Q. And where would the factory be in Sweden?

MR. ANNESSER: Object to form.

THE WITNESS: That has -- we have chosen a locality, but has not yet been defined.

BY MR. PACE:

Q. And you just said we. Is that just because you are referring to Leonardo or is there somebody other than you?

A. In Sweden we are in a collaboration with HydroFusion.

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Q. Again, in that context we meaning Leonardo Corporation?

A. Yes, sir.

Q. Has the factory in Sweden -- has work on the factory in Sweden begun?

A. **No.**

Q. Has work on the factory in the United States begun?

A. **No.**

Q. You have blogged fairly recently that -- I'm sorry, I forgot to finish on an earlier issue. The three plants that you have said the customer has bought, which you have identified as J.M. Products, where are they going to be operated?

MR. LEON DE LA BARRA: Object to form.

MR. ANNESSER: Object to form. You can answer if you know.

THE WITNESS: This has to be defined.

BY MR. PACE:

Q. To where is Leonardo planning to deliver the three plants?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: Depends on the will of the customer.

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BY MR. PACE:

Q. The will of the customer being J.M. Products?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: J.M. Products or another entity.

BY MR. PACE:

Q. All right. So these are plants that could be delivered in the United States?

A. Can you kindly repeat?

Q. These are plants that could be delivered in the United states?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: No, because in the United States the situation has to be defined.

BY MR. PACE:

Q. Are they plants that could be delivered in Europe?

A. Could be.

Q. Does Leonardo still have some existing licenses that its granted that apply to certain parts of Europe?

A. Can you kindly repeat the question?

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Q. Sure. Are there licenses that Leonardo -- are there territories in Europe that Leonardo has licensed already to other companies?

A. We --

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: Yes.

BY MR. PACE:

Q. You have testified that there is a number -- I'm sorry, you have blogged -- sorry about that. You have blogged that there are -- that you have received a number of pre-orders and that Leonardo Corporation before accepting an order does a due diligence into the customer and then afterwards decides whether to accept the pre-order and has accepted a number of pre-orders. First of all, is that an accurate process, that someone can make an order for an E-Cat plant and Leonardo will conduct due diligence on that customer?

MR. ANNESSER: Object to the form.

THE WITNESS: I did not understand the question. I heard the question but I do not understand the meaning.

BY MR. PACE:

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Q. Sure. I am just going to read you -- I'm not going to give you these blog posts because there is so many pages of them but you were asked a question, you write about pre-orders. "We send a precise offer to them who make the pre-orders, with the price and the sale terms along with an order form. If the potential customer decides to buy, they send the order signed. Leonardo Corporation before accepting the order makes a due diligence about the customer to verify his industrial and financial consistency. If the due diligence is positive, we accept the order, otherwise the order is not accepted." **Is that the accurate process, the way that Leonardo Corporation has been handling pre-orders for E-Cat plants?**

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

MR. ANNESSER: Are you referring to a specific document?

MR. PACE: I am referring to a blog post.

MR. ANNESSER: Is that something that we have got in discovery?

MR. PACE: Yes.

MR. ANNESSER: Can you tell me the Bates

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number?

MR. PACE: I cannot but it's June 28, 2016 blog post.

THE WITNESS: That is a procedure, if I recall, because it's -- it's not a new thing but **that is the procedure that we intend to follow.**

BY MR. PACE:

Q. Is it the procedure that Leonardo Corporation has followed?

A. **No**, because -- well, so far we got many pre-orders that are just in suspension because we are not in a condition that we can deliver, so basically nothing has been done yet.

Q. So no one has ever -- no potential customer has ever, quote, sent the order signed?

A. No.

Q. And Leonardo has never conducted due diligence on a customer yet?

A. Not yet.

MR. ANNESSER: Object to the form.

BY MR. PACE:

Q. And Leonardo has not -- if the due diligence is positive, Leonardo has not accepted any orders yet?

MR. ANNESSER: Object to form.

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THE WITNESS: No.

BY MR. PACE:

Q. You have also identified a blog post that you have a new customer. At least different -- well, compared to previous partners and licensees, how important is the development of E-Cat to a new partner? Is there a new partner in developing E-Cats with which Leonardo is working?

MR. ANNESSER: Object to form. If you are going to refer to a specific document you may want to show it to him.

BY MR. PACE:

Q. Let me just ask the question. Does Leonardo Corporation have a new partner in the development of E-Cat units?

MR. ANNESSER: Object to form.

THE WITNESS: No.

(The document referred to was thereupon marked Deposition Exhibit 20 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. I am going to hand you what has now been marked as Leonardo Exhibit 20. This is an e-mail you wrote to Tom Darden

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with a copy to J.T. Vaughn, T. Barker Dameron and several others, correct?

A. You mean the first e-mail in the first page?

Q. Yes.

A. Because here are several e-mails.

Q. You know what, in fact I am only going to ask you about that first e-mail.

A. Okay. "Dear Tom", you mean?

Q. Yes.
A. Okay.
Q. Yes, sir. Actually, you know what, contextually you should look at the whole document because that way we can talk about any parts of it.
A. May I read it?
Q. Please. That's what I meant, please do.
A. Thank you. Thank you, I have read it.
Q. So let's start with the e-mail there that is earliest in time.
A. Earliest in time?
Q. Yeah.
A. So from Andrea Rossi to Tom Darden of February 27, 7:12 p m.?
Q. Correct.
A. Okay.

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Q. First of all, there is a -- we're on page 19056.
A. Okay.
Q. There is a sentence there: "Today the director of J.M. phoned me and said that they are satisfied."
A. Okay.
Q. **Who are you referring to as the director of J.M. who phoned you?**
A. **Jim Bass.**
Q. Jim Bass. And Jim Bass was not -- did this phone call actually take place between you and Jim Bass?
MR. ANNESSER: Object to form.
THE WITNESS: Sorry?
MR. LEON DE LA BARRA: Join.
BY MR. PACE:
Q. You're saying today the director of J.M. phoned me and said they are satisfied.
A. I cannot remember.
Q. Later you talk about how the -- there will be confirmation. Will be able to find confirmation of the COP by what is invoiced to J.M. Products versus what -- by Leonardo, versus what is invoiced to J.M. Products for the electrical bill

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from FPL, correct?
A. Yes.
Q. It says, but the -- but J.M. Products actually had no means of measuring the amount of steam or power that they were receiving from Leonardo, correct?
MR. LEON DE LA BARRA: Object to form.
THE WITNESS: No, it is not correct.
BY MR. PACE:
Q. How did J.M. Products measure the steam or power they were receiving from Leonardo?
A. They had a flow meter and thermometers.
Q. They had a flow meter on the steam?
A. No, on the returning water.
Q. So they could measure --
A. The water -- the condensed water that run back to the Leonardo plant and then they had a thermometer that measured the temperature of the steam at the inlet of their plant.
Q. Do you know who maintained that information for the thermometer for the temperature of the steam?
MR. ANNESSER: Object to form.
THE WITNESS: In collaboration, I and Jim Bass.

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BY MR. PACE:
Q. Well, most days Jim Bass wasn't at J.M. Products, correct?
MR. ANNESSER: Object to form.
MR. LEON DE LA BARRA: Object to form.
THE WITNESS: I did not understand the question.
BY MR. PACE:
Q. Most days Jim Bass was not at the Doral warehouse, correct?
A. I don't know if it is correct or not. He was there two, three days a week, as I can recall, something like that.
Q. So four to five days a week it was your responsibility to check the temperature of whatever was coming over to J.M. Products from Leonardo?

MR. ANNESSER: Object to form.

THE WITNESS: I did not -- yes. As a matter of fact, I was able to have those data also independent of Leonardo. But yes, I would say that that task was both on Jim Bass and me.

BY MR. PACE:

Q. I understand, but on days when Jim Bass wasn't there, you just said it's four or five days a week --

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MR. ANNESSER: Object to form.

BY MR. PACE:

Q. -- Jim Bass was not there?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: I did not say that.

BY MR. PACE:

Q. You said he was there two or three days a week, didn't you?

A. Yes.

Q. How many days in a week?

A. Seven, less three.

Q. Would be --

A. Is four.

Q. Less two would be five?

A. Yes.

Q. I mean, Dr. Rossi, I am not going to claim your --

A. No, it's okay.

Q. You're great with math. I know you are. I am not trying to make this a math game. I know it's getting long today.

A. Okay, okay.

Q. It's fair. It's fair. I'm being cute and I shouldn't be, so I apologize. Let me do this again.

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[...]

those records?

A. Can you repeat the question? Q. Sure. I just asked if you wrote down the information when you were on the J.M. Products side for the thermometer, you said not methodically --

A. Right.

Q. -- which suggests sometimes you wrote it down.

A. Sometimes probably -- I don't recall precisely this, but it is not impossible that I have taken some note.

Q. Did you maintain any of it?

A. No.

Q. Okay. So the notes you took from the Leonardo side you kept, the notes you took on the J.M. Products side you discarded somehow?

MR. ANNESSER: Object to the form.

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

MR. ANNESSER: Mischaracterization.

THE WITNESS: I would have taken note should I have found differences, relevant differences, because in that case that would have been an event. But since --

BY MR. PACE:

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Q. That you would have reported to Penon?

A. No. To Penon, no, because Penon had nothing to do with -- that would have been an event for me.

Q. Understood.

A. For my study.

Q. Understood.

A. Because I was also the technical director of the plant of J.M. and for me it would have been an event should I have found relevant differences. Until when there were -- and I never found relevant differences. There is nothing -- there was no events to remark.

Q. And the same thing with the flow meter that was on the J.M. Products side, your testimony is that you didn't -- you didn't methodically write down the readings on those flow meter -- that flow meter, correct?

A. Correct.

Q. And this is a flow meter that you have testified existed in the area between J.M. Products, the container, and the wall that divided J.M.Products and Leonardo?

A. Correct.

Q. All right. And to the extent that you

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did write down any of those flow meter readings for whatever reason, you haven't maintained them?

A. Can you repeat?

MR. ANNESSER: Object to form.

THE WITNESS: I lost the question.

BY MR. PACE:

Q. Sure. To the extent that you did keep any records of the meter readings on the J.M. Products side, is it correct that you haven't kept them?

A. Yes.

Q. All right. I want to go back to this e-mail for a little bit here. There is a part of Tom Darden's response makes a reference to the smaller devices. That's the E-Cat units that are not part of the big Frankies, correct?

A. Correct.

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. Is it correct that you -- you individually or you -- let me rephrase that. Is it correct that you fueled the big Frankie E-Cats without Industrial Heat and that Industrial Heat fueled the other E-Cats, some with

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your involvement, some without?

MR. ANNESSER: Object to form.

THE WITNESS: I am not able to answer this question because the plant remained for almost -- for a very long time in the -- the big Cats remained for many months in full hands of Industrial Heat. So I do not know if they have disassemble, recharge, because they had -- **for sure all the Cats, the big Frankies and the small Cats had been charged from us in Italy before being delivered to the United States.**

BY MR. PACE:

Q. By us in that context you mean Leonardo Corporation?

A. Can you repeat?

Q. When you said were charged by us in Italy, you mean us, Leonardo Corporation?

A. Well, I mean Andrea Rossi.

Q. Okay.

A. Okay. Because I made the charges.

Q. Okay.

A. Personally with my hands. And -- because I couldn't trust anybody to do that kind of work. And what -- I cannot know what happened

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[...]

A. No, through a bypass. Yes, through a bypass that -- yes, in any case, yes, the steam arrived -- this is the steam that run inside these pipes arrived from the Leonardo -- Leonardo's plant, yes, sir.

Q. So the **cylinders** you were just referring to or the reactors, can we see where in the piping -- **just where in the piping they would be here?** Can you tell me which pipe they would be in?

A. **All the insulated pipes that you can see.**

Q. Okay. So there is reactors on **four** levels of pipes that show up --

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: When this photos has been taken, yes.

BY MR. PACE:

Q. Okay. In those reactors were containers, they might have graphene in them or they might have platinum sponge in them?

MR. ANNESSER: Object to form.

THE WITNESS: There was only -- there was only a couple of them with the platinum sponge and --

BY MR. PACE:

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Q. How many of them with graphene?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join in that objection.

THE WITNESS: Around 30.

BY MR. PACE:

Q. And you removed -- you removed and checked at least the platinum sponge containers but for the **cylinders that had the graphene in them**, is it the same situation, which is every so often you had to pull them out of this tubing and check them?

A. Yes.

Q. All right. And to do that did anyone ever assist you in checking the cylinders?

A. No.

Q. Was anyone ever in the container with you when you checked the cylinders?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: No.

BY MR. PACE:

Q. How did you turn off the steam coming over to J.M. Products so you could check the cylinders?

MR. ANNESSER: Object to form.

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MR. LEON DE LA BARRA: Object to form.

THE WITNESS: Can you repeat the question?

BY MR. PACE:

Q. Sure. You couldn't physically go in there and remove the cylinders while what you have -- you are saying is 103 or 100 degree Celsius steam coming through those pipes, you can't reach in there and take a cylinder out of it and then put it back in, can you?

A. Yes.

Q. The steam -- so --

A. No, the steam was bypassed.

Q. Bypassed how?

A. It was bypassed. We had a bypass.

Q. There was a bypass located up where the steam was coming into the container?

A. Yes. The bypass was located in -- just behind the wall there was a bypass.

Q. Behind -- if we look at Exhibit 12 --

A. Yes.

Q. -- behind the gray wall?

A. Yes, behind this we had a bypass and the bypass allowed the steam in part or in total to the plant or all the steam out from the plant.

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Q. So the steam would be bypassed, it would either just be released into the warehouse or it would be circled back into the --

MR. LEON DE LA BARRA: Object to form.

MR. ANNESSER: Object to form.

THE WITNESS: No, it could not be released in the warehouse. The steam was sent to the heat exchanger that we had, that I explained to you the last time when I -- in my former deposition. So we had a bypass there that could either allow part or total -- on total the steam because I did not know how much -- how much steam it could be necessary in the various phases so we had a bypass that --

BY MR. PACE:

Q. Who?

A. Sorry.

Q. Who built the bypass?

A. We did it, because the bypass is made by pipes with a butterfly.

Q. But who is we?

A. I, with the help of contractors.

Q. And are they the same contractors who built the heat exchanger?

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A. You know, there was not the same contractors because sometime we had some contractor that -- that we call it from outside, but in that industrial area mainly in that period every day arrived guys with trucks that were ambulant -- ambulant workshops, you know, with welders, et cetera. And they knocked at the door saying you need help, et cetera, et cetera and I use it many, many times those guys because they are very well skilled, very good and I -- and also the advantage is they were not curious. They just wanted to work. So under -- I myself, I work with them and we made this piping system. I bought pipes and we made all the connections.

Q. And pipes as well as fans, correct? You had fans for your heat exchanger?

A. Yes.
Q. You had to have the heat exchangers themselves, correct?
A. Yes.
Q. Who paid for that?
A. Leonardo Corporation.
Q. Leonardo Corporation?
A. Yes.

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Q. Are there records reflecting those purchases by Leonardo Corporation?
MR. ANNESSER: Object to the form.
THE WITNESS: I suppose so, yes.
BY MR. PACE:
Q. So there is records you assume that reflect purchasing heat exchangers?
A. No, the heat exchangers are pipes. I bought pipes.
Q. How about the fans, are there records reflecting the fans?
A. Yes.
Q. Because those would have to be pretty big fans that were done, correct?
A. I had two fans with a total capacity of -- within the fan of the heat exchanger.
Q. The fans for the heat exchanger, those would be pretty bag fans?
A. They had the capacity necessary to move the air that had to be moved.
Q. And did you testify before that the way of getting the heat out was through the second story office?
A. No, it was not an office.
MR. ANNESSER: Object to form.

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BY MR. PACE:
Q. Office. Second story space?
A. Now it's becoming an office. Then was a -- basically was a pretty big -- pretty big, I would say workshop that we had in the second level.
Q. You said we had. We had being that second level?
A. We is --
Q. Is there no distinction really in this context between Leonardo and J.M. Products --
MR. LEON DE LA BARRA: Object to form.
BY MR. PACE:
Q. -- just space you worked?
MR. ANNESSER: Object to form.
THE WITNESS: No, no. When I say we is because I worked with the contractors with, you know, when I -- I was not alone there. So when I say we, it's because it was -- there was not only me. I was with contractors, et cetera. And Jim Bass also sometimes for other things, et cetera, et cetera. So I say we for my -- it is my custom to say we and not I.
BY MR. PACE:
Q. And up in this second story your testimony I think was that to get the heat out you --

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you or somebody knocked out the window on the second story?
A. Yes, the second floor we had big windows and we had to remove it completely one. Now we have reset everything because we're making offices there.
Q. So Leonardo paid for the piping --
A. Yes.
Q. -- that was used for the heat exchanger? Leonardo paid for the workers that did the work?
A. Yes.
MR. ANNESSER: Object to the form.
BY MR. PACE:
Q. Leonardo paid for the fans that were used for the heat exchanger system?
MR. ANNESSER: Object to form.
THE WITNESS: Yes.
BY MR. PACE:
Q. And this heat exchanger, the bypass, I am just trying to understand. We have both a bypass -- I'm sorry. Is it your testimony -- is the testimony that the piping for this heat exchanger ran along the side of the wall where the -- essentially this wall here that we see in Exhibit 12, but just on the J.M. Products side?

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A. Yes.

Q. Did it go straight up and then straight over to the --

A. It's impossible --

Q. -- loft?

A. -- to answer this way because there was a design and the bypass was run along the -- if we look at this wall from the side of Leonardo, if we look from here on, this run through the right -- yeah.

Q. So if we're looking at Exhibit 10 now?

A. Yeah, this run along the -- this run down and then along the right side of the plant of J.M., with the transmissions to the bypass. To the bypass that was on the flank and also -- and also there was the frontal connection for the inlet of the steam.

Q. So by this picture that you have there that is Exhibit 10, is this after the heat exchanger was removed from the warehouse or before?

A. I cannot -- I cannot say from this photos. It could be -- no, this photo has been made before.

Q. Before the heat exchanger was put into place?

A. No.

MR. ANNESSER: Object to the form.

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THE WITNESS: No, this photo has been made before it has been dismantled. This photo has been made -- this photo has been made when the heat exchanger was in operation.

BY MR. PACE:

Q. So the heat exchanger was in operation when that photo was made. You recognize that photo having been made when?

MR. ANNESSER: Object to form.

THE WITNESS: I don't know, you did it.

BY MR. PACE:

Q. How do you know the heat exchanger was in place then? That's what I don't understand.

A. Because we had the plant in operation because when the plant stopped to be in operation all this piping has been removed.

Q. I understand. I will actually come to that in just a second. Simply because the pipe is there --

A. I suspect that this photos have been made the last day of the test. I suspect.

Q. You understand the last day of the test the heat exchanger was still there?

A. Of course.

Q. Who removed that piping?

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A. I did.

Q. When did you remove that piping?

A. After the end of the test.

Q. Where is that piping now?

A. We use it to make other things. I recovered all the pieces that were not -- no more necessary to make other things and the heat exchanger -- all the pipes of the heat exchanger have been recovered to make other things and that space now is becoming offices.

Q. Let's see if I understand. You are looking there at Exhibit 10, there is a pipe there in Exhibit 10 that we see that is the pipe you are saying was carrying the output of the E-Cats over to the J.M. Products side of the Doral warehouse, correct?

MR. ANNESSER: Object to the form.

BY MR. PACE:

Q. That's what we see there?

A. You should repeat speaking if possible a little bit slower.

Q. Sure, certainly will. There in Exhibit 10 we see insulated pipe --

A. Yeah.

Q. -- that is carrying the output of the

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E-Cat plant over to the J.M. Products side of the Doral warehouse, correct?

A. Yes.

Q. That has now been -- you removed that pipe after -- sometime after February 16 of 2016, correct?

MR. ANNESSER: Object to form.

THE WITNESS: Correct.

BY MR. PACE:

Q. And you have repurposed that piping or you now are using that piping for another purpose?

MR. ANNESSER: Object to the form.

THE WITNESS: It's correct.

BY MR. PACE:

Q. And you didn't maintain the pipe, you didn't maintain the insulation, it's been put to another use?

MR. ANNESSER: Object to form.

THE WITNESS: (Nods head.)

BY MR. PACE:

Q. The heat exchanger no longer exists at the Doral location, correct?

A. Correct.

Q. The piping that was used for the heat exchanger you have now put to another use, you didn't

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maintain any of the piping for the heat exchanger?

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. Is that correct?

A. Correct.

Q. The -- I assume you replaced the window on the J.M. Products side, Leonardo paid for that?

MR. ANNESSER: Object to form.

THE WITNESS: We have represented as it was before we have installed the --

BY MR. PACE:

Q. What's your testimony as to when that window was put back in? Was it February 16th or 17th of 2016?

A. Sorry, can you repeat the question?

Q. Sure. Your testimony is that the heat exchanger was in place and functioning all the way through at least February 16 of 2016, correct?

A. Correct.

Q. So up until February 16 of 2016 that window in the second story was removed, correct?

MR. ANNESSER: Object to the form.

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

THE WITNESS: Can you repeat the

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question?

BY MR. PACE:

Q. I will.

A. A little bit slower.

Q. Sure. You said that the heat exchanger was pushing the heat out the window on the second story --

A. Yes.

Q. -- on the J.M. Products side, correct?

A. Yes, correct.

Q. Once -- as long as the heat exchanger was in place --

A. Yes.

Q. -- that window had to be removed, correct? A. Correct.

Q. Otherwise that room would have turned into an absolute furnace?

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: Of course.

BY MR. PACE:

Q. Of course, notwithstanding the form. So after you took -- after the plant was turned off and you took the heat exchanger down, you could replace the window on that second story, in that second story room, correct?

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MR. ANNESSER: Object to form.

THE WITNESS: Correct.

BY MR. PACE:

Q. So sometime after February 16 of 2016 is when you replaced the window on the second story?

A. No, the window as it was before has been replaced not much time ago. Not much time ago when I decided to make offices. Because --

Q. And do you recall who you paid to put the window back in?

A. Yes.

Q. Who was that?
A. Was a contractor.
Q. Do you recall --
A. Together with -- together with me, yes.
Q. When we talk about contractor, is this again somebody who -- like a day laborer?
A. Yes.
Q. Somebody who you -- there is no records of who this person is that Leonardo Corporation maintains?
A. Yes.
Q. You are not aware of any records that anyone maintains as to who this person is?
A. No.

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MR. ANNESSER: Object to form.
BY MR. PACE:
Q. And that person worked with you to replace the window, correct?
A. Yeah, yeah.
Q. No one else was present at the time?
MR. ANNESSER: Object to form.
THE WITNESS: No.
BY MR. PACE:
Q. And what happened to the fans?
A. The fans are still there.
Q. The fans are still in the warehouse?
A. Yeah.
Q. And what happened to the cylinders?
A. The cylinders have been -- I have used them for other things. I have recovered them for other things. Can we cut five minutes?
Q. Certainly.
A. Only call my wife.
Q. Please. We will go off the record.
A. Five minutes.
THE VIDEOGRAPHER: The time is 18:16.
Off the record.
(Thereupon a brief recess was taken, after which the following proceedings were had.)

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[...] Trust -- I'm actually going to say -- I'm not asking into. I'm asking does the Platinum American Trust make any payments to Leonardo?
A. No.
MR. ANNESSER: Object to form.
BY MR. PACE:
Q. And Leonardo doesn't make any payments to Platinum American Trust?
A. No.
Q. Are you aware that at some point in 2016 Leonardo was asked to transfer or assign the license patents under the licensing agreement to Industrial Heat or IPH?
A. Can you kindly repeat --
MR. ANNESSER: Object to form.
THE WITNESS: -- the question because it's heavy.
BY MR. PACE:
Q. I can. It is. I'll rephrase it. I will see if I can break it down a little bit. That might make it easier.
A. Thank you.
Q. Are you aware that under the license agreement there is a provision that says upon the request of either Industrial Heat or IPH, that

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Leonardo and Rossi shall assign to Industrial Heat or IPH what are called the licensed patents; are you familiar with that?
MR. ANNESSER: Object to form.
THE WITNESS: Yes. Yes.
BY MR. PACE:
Q. Are you aware that in 2016 IPH and Industrial Heat requested that such an assignment occur?
MR. ANNESSER: Object to form.

THE WITNESS: I don't recall exactly but if you have any document about that. I don't recall exactly what happened in 2016 on this matter.

BY MR. PACE:

Q. Okay.

A. So if -- if you have some document to show me, I will be glad to take a look at it.

Q. I think it's actually an attachment to the complaint, but I don't have it here but I am going to make the easier part to it which is whether or not that was sent, Leonardo has -- Leonardo Corporation or yourself individually have not assigned any of your patents -- let me start that over again.

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Leonardo Corporation has not assigned any patents it owns to anyone else in the year 2016; is that correct?

A. Absolutely.

Q. Dr. Andrea Rossi has not assigned any patents he owns to anyone else in the year 2016?

MR. ANNESSER: Object to form.

THE WITNESS: Correct.

BY MR. PACE:

Q. And would the answers be the same also for the year of 2017? In other words, Leonardo has not made any such assignment in 2017, correct?

A. Correct.

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. And Dr. Rossi has not made any such assignment in 2017?

A. Correct.

MR. ANNESSER: Same objection.

BY MR. PACE:

Q. For the temporary workers that you would hire on different occasions at -- for work at the Doral location, is there any identifying information that you have as to any of those individuals?

MR. ANNESSER: Object to form.

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THE WITNESS: Can you repeat?

BY MR. PACE:

Q. Yes. There were a number of temporary workers --

A. Yes.

Q. -- that were hired for work to be done at the Doral warehouse, correct?

A. Correct.

Q. Do you have any identifying information as to any of those individuals?

MR. ANNESSER: Object to form.

THE WITNESS: The information that I had, for the ones of which I had information, I already provided you with the discovery because you asked -- you asked in some phase of this litigation to be informed about all the supply, blah, blah, et cetera, and I supplied. So the ones of which I have the possibility to have a track, I already have informed you.

BY MR. PACE:

Q. That's the information that you're aware that your attorney put into a interrogatory response and then you signed?

A. Can you please speak slower?

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Q. I can.

A. Thank you.

Q. That's information that your attorney put into -- put in writing and then you signed and swore that that was accurate?

A. Correct.

MR. ANNESSER: Object to form.

THE WITNESS: Correct.

BY MR. PACE:

Q. We talked about this earlier today but I don't think -- I am not quite sure if I really closed the loop on this. What alterations were made to the E-Cat plant in Doral as compared to how it existed when it was shipped from Raleigh to Doral?

MR. ANNESSER: Object to form.

BY MR. PACE:

Q. Do you want me to do that again?

A. Yes.

Q. At some point in November, December -- at some point between October and December of 2014 the E-Cat plant was

shipped from Raleigh to Doral. My question is after that occurred what changes were made to the plant in Doral?
A. Now I have understood perfectly. Well,

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let me think. As I said before, when the plant -- of course we're talking of the one megawatt plant has been delivered from Raleigh to Doral it was incomplete. It was not ready to go. It was still incomplete and so Industrial Heat sent to Doral not only the plant but also, if I were recall, six workers, very good ones I must say, very well skilled and they worked for two months to complete everything, because it was very incomplete, the plant. And there was to make pipings, connections, et cetera, et cetera. So I would not say -- if I remember well in your question was contained the word altered, but nothing has been altered. It has been completed.

Q. Okay.

A. Like you receive a kit and you have to complete it. So which works did they do? A lot because they mounted the tank. They mounted a lot of pipings. They made a lot of connections.

Q. Can I ask it slightly differently? Because this will help, just a word, which is what you are saying is that these workers, they reassembled the plant along with the piping that was

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shipped down from North Carolina?

A. Yes, sir.

Q. Because in North Carolina, for example, the pipe that went from the plant over to the J.M. Products side was put together in North Carolina, it just had to be reconnected to the plant down in Florida?

A. No.

MR. ANNESSER: Object to form.

THE WITNESS: The plant that connected the J.M. plant to the Leonardo plant was not of our property. Was of J.M.

BY MR. PACE:

Q. Okay.

A. But -- but many pipings have been delivered from -- from Industrial Heat from Doral -- from Raleigh to Doral in Florida that have been assembled because there are -- there is a kilometer of pipings inside the plant.

Q. That's what I meant. So when you were talking about these six workers though, what they were doing is essentially reassembling the plant and the related equipment, like the water tanks and the tubing or the piping that was initially put together in Raleigh?

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MR. ANNESSER: Object to the form.

THE WITNESS: Reassembling is the wrong word. To reassemble means first disassemble, then reassemble.

BY MR. PACE:

Q. Right.

A. It is not so. The plant has been delivered at the state -- in the state it had arrived to be in Raleigh. Together with this there was another truck full of a lot of components that -- parts that had to be still connected, installed.

Q. I think I may know where we're differing here a little bit which is when you say the plant, are you referring only to the container and not to, for example, the -- there was another container right next to it, right, that had all the electrical equipment?

A. Correct, the computer.

Q. The computer and everything. Those are the things that had to be assembled when everybody got down to Doral?

MR. ANNESSER: Object to form.

THE WITNESS: Same thing. You are right, the containers were two. One, the bigger one

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contained the reactors, the E-Cats. The other, shorter, contained the control systems, also the one that we call the computer container. Also it was not -- sorry. Sorry. Also it had to be completed and so arrive in parts to be still connected, et cetera. In the computer container mainly the electricians worked, like Barry West, Fabiani. In the other worked mainly the workers, I would say all of them under my direction.

BY MR. PACE:

Q. Okay. What payments has Leonardo Corporation made to Fabio Penon?

A. The same that Industrial Heat made. We received invoices from the ERV and we paid the invoices.

Q. Well, Penon -- Dr. Penon also -- he did do a test for Leonardo Corporation back in 2012, didn't he, before the license agreement?

A. Yes. No test. He made the certifications.

Q. Made the certification?

A. The safety certification because he worked with Bureau Veritas and with SGS also. And he is the certicator. As I said

before, we knew him

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to certificate my power plants in Italy in 2008, et cetera. At that point I knew him as a certicator and I trusted him. So when I had the necessity to make the safety certification for the one megawatt plant of Leonardo, I called him again to make the safety certification, so yes.

Q. So Leonardo paid him for those, whatever work was done for the safety certification?

A. Yes, it is correct.

Q. And then other than that the only money that Leonardo has paid Penon is for -- is pursuant to the invoices that Penon has sent to both Industrial Heat and Leonardo; would that be correct?

A. Correct, as the ERV. He sent the invoices, same sum, it was 50/50, as per agreement, and he invoiced to Industrial Heat and to Leonardo Corporation. I don't remember exactly. If I don't remember in total it was something more than \$100,000 divided in two, 50 percent paid by Leonardo Corporation, 50 percent paid by Industrial. I don't remember if Industrial Heat has paid or not the last. I don't think Industrial Heat paid the last invoice and I had to pay on behalf because in Italy there is a law that we say in

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Italian is a Latin allocation is in solido, means if Mr. A and Mr. B made an agreement with Mr. C and Mr. C is paid from Mr. A, but is not paid from Mr. B, Mr. A has to pay also for Mr. B. So at that point since Industrial Heat did not pay the last invoice of the ERV, I had to pay for it.

Q. What payments has Leonardo Corporation made to Fulvio Fabiani?

A. To Fulvio Fabiani, I -- he was a consultant of mine. He was a consultant of mine. I knew him in 2012. It's completely false that he was adopted by the mother of my wife, as J.T. said. This is completely invented. He was a client of the brother of my wife who is an attorney like you and we knew Fabiani through the brother of my wife because he was a client.

Q. I'm only asking you just again --

A. No, no. Sorry, sorry.

Q. We're getting near the end of the day. It's hard, I know.

A. You are right.

Q. What money has Leonardo Corporation paid Fulvio Fabiani?

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A. Correct. I have retained him as a consultant in 2012. I don't remember exactly how much I paid him in the period. I think I paid him something around 40, \$50,000. After that when I -- sorry, I end up the answer.

Q. Since that time in 2012 has Leonardo Corporation paid anything to Fulvio Fabiani?

A. No.

Q. Has Leonardo Corporation -- has Leonardo Corporation paid anything to United States Quantum Leap?

A. No, same thing.

Q. Am I correct that Fulvio Fabiani lived when he was in Miami in a unit that you or a company of yours owned?

A. No, he rented -- no, when he was in Miami he rented an apartment that belongs to a company of which I am the CEO.

Q. That's what I meant.

A. But he rented.

Q. He rented?

A. Yes.

Q. I think that's what I said too though, maybe poorly.

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I just say I need this.

Q. Right.

A. Do it.

Q. So you -- you directed or requested for Jim Bass to work on a new control system that would be used by J.M. Products?

A. Correct.

Q. And then you requested or directed that Fulvio Fabiani assist Jim Bass in that project?

A. Yes, because they are complimentary, because where ends Fabiani begins Bass and vice versa. They together make a good couple, electronic.

Q. I will let that side.

A. Electronically speaking.

Q. A good electronic couple. And the work that they did together was sometimes done -- was sometimes done over at J.M. Products, correct?

A. Can you explain the question? I don't get the English.

Q. Sure. They would meet together?

A. Yes.

Q. Jim Bass and Fulvio Fabiani --

A. Yes.

Q. -- on this product -- on this project?

A. Yes.

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Q. When they would do so would they meet over at the offices that are on the J.M. Products side of the warehouse?

MR. ANNESSER: Object to form.

THE WITNESS: Yes.

BY MR. PACE:

Q. What you would have is you would have Fulvio instead of going through that door that directly connects Leonardo to J.M. Products, you would have him walk around the building and walk in the front door of J.M. Products, correct?

A. Yes, it is correct.

Q. There he would meet with Jim Bass?

A. Yes.

Q. And so that was so anyone else in the warehouse, such as a Barry West, would not see Fulvio crossing over from the Leonardo side of the warehouse to the J.M. Products side of the warehouse?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Object to form.

THE WITNESS: Correct. But attention, I say correct and I hope so, but consider that I was in the factory from 5, 6 in the afternoon to 10, 11 of the day after. During the day I was not there. I assume that they respected the

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rule.

BY MR. PACE:

Q. So the rule that you gave to Fulvio Fabiani was don't walk right through the door --

A. Exactly.

Q. -- that goes from Leonardo to J.M. Products, always walk around the building when you are going to go to the J.M. Products?

MR. ANNESSER: Object to form.

THE WITNESS: Correct, and the same symmetrical rule I gave to Jim Bass. Jim Bass was absolutely forbidden to enter in the area of Leonardo, for any reason.

BY MR. PACE:

Q. Right. He would -- he was to stay on the J.M. Products side?

A. Yes.

Q. Okay.

A. Yes. So the area that they had in common was the office of Jim Bass that was separated because when you -- as you will see when you will come there, you will see that you enter in the office and there are the offices.

Q. Understood.

A. Then there is a door, you enter through

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the door and you are in the J.M. area. Q. Did J.M. Products pay Fulvio Fabiani for that work or was that -- was that pursuant to what he was already being paid under his USQL contract?

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

BY MR. PACE:

Q. Let me start that over again. We have gotten a little away from it. This project you are talking about that Fabiani worked on with Jim Bass, did J.M. Products pay him for working on that project?

A. No.

Q. Is the only compensation he got for working on that project the money he was making under his USQL agreement with Industrial Heat?

MR. ANNESSER: Object to the form.

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

THE WITNESS: Can you repeat the question?

BY MR. PACE:

Q. Yes. Is the only money that Fabiani was making for working on this project with Jim Bass the payments he was getting from Industrial Heat under

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do it.

BY MR. PACE:

Q. Okay.

A. Never happened that they told me to pay a tax and I did not pay for it. Never happened. You know, I can understand him because when it comes to accounting to get bored is normal.

Q. Ten minutes left. I have a variety of wrap-up questions. I may have asked you this before but I am not sure I did, so I want to make sure I got it clear. I know you testified that the E-Cat 1000 were the big Frankies?

A. Yes.

Q. The E-Cat 100s are the smaller E-Cat units?

MR. ANNESSER: Object to form.

THE WITNESS: You know, all this, there is not a precise definition. Usually, yes, yes, we say the 1000 was the big ones. I don't remember to have defined 100 maybe. Usually I defined E-Cats by the photo or the smaller units, while the big ones were either big Frankies. The correct denomination should be 250 E-Cats, because it's the rating.

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BY MR. PACE:

Q. That's how many kilowatts the big Frankie can put out?

A. It's the rating.

MR. ANNESSER: Object to form, mischaracterization.

BY MR. PACE:

Q. You testified earlier today that there is an ability to regulate the power output of the big Frankie by regulating the amount of electricity or the amount of water that goes into the big Frankie. But am I correct that there is no way -- that you didn't have a way of -- let me rephrase

this. That you never attempted to regulate or modify the COP of one of the big Frankies?

A. Can you just either split the question?

Q. Break apart?

A. Yes.

Q. I am trying to separate between power and COP. You testified earlier today that the amount of power that a big Frankie puts out or an E-Cat unit puts out can be regulated by controlling the amount of water that would go in there or the amount of electricity, correct?

A. Yes

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Q. Okay. And then at times at least in connection with some of the big Frankies you would do that, you would regulate the amount of water or electricity going into them. But do I understand correctly that in terms of the COP being created by one of the E-Cat units, you never took any methods to regulate that, to lower that or to increase it above, like you kind of tried to get the best you could, the best COP you could out of each unit all the time; is that correct?

MR. ANNESSER: Object to form.

THE WITNESS: Yes.

BY MR. PACE:

Q. Okay. I am talking about the difference between the power output. So you can regulate the power output but you didn't regulate the COP?

A. COP is -- it's still a known harnessed horse. A known harnessed horse. To harness.

MR. LEON DE LA BARRA: Harness.

BY MR. PACE:

Q. A hard to harness horse?

A. Yes.

Q. Wow. At the end of a deposition you should try for much easier phrases like hello kitty.

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It's hard to regulate the COP of an E-Cat?

A. If not impossible.

Q. If not impossible?

A. In good and in bad.

Q. I think my only other questions are during the course of the testing that was being done in Doral, Florida, did you ever change the fuel or charge in any of the E-Cat reactors?

A. I made tests. I did.

Q. You changed the fuel in some of the reactors?

A. **Not changed but made some test, some injections.** *[note: Rossi likely pronounced "injections"]*

Q. I'm not quite sure what that means. Does that mean you took samples of it or did you make --

A. No, the contrary. The contrary. I have **injected some materials to make tests, to make experiments.**

Q. You have extracted some of the fuel from the E-Cat reactors to run other experiments?

MR. ANNESSER: Object to form.

THE WITNESS: **No.**

BY MR. PACE:

Q. I'm missing it. I'm sorry.

A. The contrary. I have **injected.** To

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inject, English.

MR. LEON DE LA BARRA: Injected.

BY MR. PACE:

Q. Oh, I'm sorry. I'm sorry.

A. No, I am sorry.

Q. I thought you said enacted. I'm thinking of the Constitution.

MR. ANNESSER: You don't know what injecting is?

THE WITNESS: Sorry. My fault.

BY MR. PACE:

Q. No, we're two minutes away from being done or one minute away from being done so don't worry about it. Let's start again.

A. No, injected. Because in Italian it's iniettare.

Q. So iniettare. You iniettare, you added something into the fuel of some of the E-Cat reactors?

A. To make experiment.

MR. ANNESSER: Object to form.

THE WITNESS: I did to make an experiment, yes.

BY MR. PACE:

Q. Were those big Frankie reactors, were

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those the smaller E-Cats?

A. The big Frankies.

MR. ANNESSER: Objection.

BY MR. PACE:

Q. When did you do that?

A. Toward -- when -- when I -- when we repaired the fourth reactor, I made this experiment to see if -- just to test the new materials.

Q. I'm trying to figure out how to deal with the new material. Will you either tell me what the new material is or include the new material as an additional disclosure pursuant to the agreement that we've already made on the record? You can do either one.

A. The second is better.

Q. All right. So you want to include it in the disclosure. That new material, did it improve the performance of the big Frankie, the fourth big Frankie?

A. I have not the time to see this because -- I had not the time because to know that I would have needed more time. Do not forget that before we decided to

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litigate this -- this plant had to work there at least two years.

Q. Understood.

A. The performance test was 350 days, but -- but -- but the -- the term sheet between Industrial Heat and J.M. was of two years.

Q. Understood.

A. Without impossibility to renew it because the program was to go ahead.

Q. And my final question is you testified that the -- that you had the piping removed at the Doral warehouse, the pipe that went from the E-Cat plant over to the J.M. Products side. You testified that the -- you had the heat exchanger removed from the J.M. Products side. What other -- what other things have been removed from the warehouse at the Doral location? I am not talking about adding to. I am talking about removed from.

MR. ANNESSER: Object to form.

THE WITNESS: What do you mean for Doral location?

BY MR. PACE:

Q. That you are aware of. At the warehouse you have already testified that there was piping that

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came from the E-Cat plant over to the J.M. Products plant. That's been removed, that's been taken down --

A. Correct.

Q. -- and pipes used for another purpose. There are heat exchangers you testified that all that, the heat exchangers, all that piping have been taken down and use for other purposes?

A. Right.

Q. So I am asking what other changes have been made at the Doral warehouse location?

MR. ANNESSER: Object to form and -- well --

THE WITNESS: The plant of J.M. has been completely redesigned because now it's destined to do another work. So basically all the material around has been represented, reassembled, cut, welded, et cetera.

BY MR. PACE:

Q. How about what you see there in Exhibit 21, does that still exist?

A. No.

Q. No. Do you remember looking before the filter that's in that same container, has that been

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[...]

removed?

MR. ANNESSER: Object to form.

MR. LEON DE LA BARRA: Join.

THE WITNESS: No, has been removed.

BY MR. PACE:

Q. Any other changes that have been made at the warehouse?

MR. ANNESSER: Object to form.

THE WITNESS: For example, now we are making offices where there was the heat exchanger and we are -- I am -- I think that we will prepare it to become a factory. Once freed, et cetera, that will be a factory at that the Doral location.

BY MR. PACE:

Q. How about any other changes on the Leonardo side of the warehouse?

A. The Leonardo side has not been touched.

Q. Other than the piping being removed?

MR. ANNESSER: Hey, Chris, we're out of time.

BY MR. PACE:

Q. Other than the piping being removed?

A. Other than the piping that has been removed **because it was property of J.M.**

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MR. PACE: Understood. No further questions. I think my time is up. I appreciate it.

THE WITNESS: Thank you.

CROSS EXAMINATION

BY MR. ANNESSER:

Q. Okay. Just on the record I've got two quick questions for you, just to clarify two things. One is you were talking about the big Frankies and I believe you said that they're properly called the 250 unit and Mr. Pace asked is that because they put out 250 kilowatts. Are the big Frankie units capable of putting out more than 250 kilowatts each?

A. Yes.

Q. And then the other thing I wanted to clarify was Mr. Pace was asking you about Mr. Fabiani having to walk out of the Leonardo side and around the building to the J.M. side. I want to make sure I understand correctly. He asked you whether the purpose of making him walk around was so Barry West would not see you -- or, I'm sorry, would not see Mr. Fabiani go through that door.

A. No, no was not this. Because I -- no, I

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did not understand this this way. I understood that the question was that Fabiani had not to see the area of J.M.

Q. Okay.

A. So I prohibited to Fabiani to go through the door that separated J.M. from Leonardo because I wanted not that Fabiani crossed the space of J.M. This is why. So I forced -- I **demanded him to make the tour there because I wanted not that Fabiani could see inside the area of J.M., as well as I wanted that Jim Bass did not -- could not enter in there in the area of Leonardo.**

MR. ANNESSER: Okay. That's all the questions I have. I think we're good.

MR. PACE: Could have been a one sentence response if you put him together with your translator.

MR. ANNESSER: We will read.

THE VIDEOGRAPHER: Time is 19:56.

Deposition adjourned. Off the record.

(Thereupon the taking of the deposition was concluded.)

Rossi 2017-03-01

194-08 Exhibit 8
207-36 Exhibit 36
235-08 Exhibit 8
236-33 Exhibit 33
238-22
245-07

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Thereupon--

THE VIDEOGRAPHER: We're on the record. The date is March 1st, 2017. The time is 10:14 a.m. This is media unit one of the video deposition of J.M. Products, Inc. in the matter of Andrea Rossi, et al. versus Thomas Darden, et al. At this time may counsel please state their appearances for the record.

MR. PACE: This is Chris Pace and Mike Maugans from Jones Day on behalf of the defendants.

MR. ARAN: Fernando Aran of the law firm of Aran, Correa & Guarch on behalf of third party defendants J.M. Products, James Bass and Henry Johnson.

MR. CHAIKEN: Good morning. Brian Chaiken on behalf of plaintiffs.

MR. NUNEZ: Rudy Nunez on behalf of third party defendants Fulvio Fabiani and United States Quantum Leap, LLC.

Thereupon--

LEONARDO ROSSI

was called as a witness by the Defendant and having been first duly sworn responded as follows:

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THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. PACE:

Q. Dr. Rossi, can you state your full name.

A. Andrea Rossi.

Q. And what's your present work address?

A. 1331 Lincoln Road, Miami Beach, Florida 33139.

Q. Is that also your resident address?

A. Yes.

Q. Is it the same unit within the building where you work and you reside?

A. Yes.

Q. Do you have -- you're here testifying today as the representative of J.M. Products, correct?

A. Correct.

Q. Do you have any formal title or position within J.M. Products?

A. Yes, I am the so to speak director, with a small D. So I am the scientific and technical director of the plant that I have designed and invented and -- but I do not have corporate tasks.

Q. So let me ask my question again. Do you have any formal title within J.M. Products?

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Your answer is no, correct?

A. I do not know what you mean by formal.

Q. Fair enough. Let me ask you, do you have any title -- do you hold any position as an officer or director of J.M. Products?

A. When you mean director, what do you mean?

Q. Do you know what a director of a corporation in the United States is?

A. No.

Q. Okay. Do you know what a board of directors for a corporation in the United States?

A. Yes, I know what is a board of directors.

Q. In this context, a director, I am referring to a member of a board of directors. So as to J.M. Products, are you a corporate officer of J.M. Products?

A. No.

Q. Are you a member of the board of directors of J.M. Products?

A. No.

Q. Okay. When you just described yourself as a director, small D, of J.M. Products, has anyone ever given you that title?

A. I gave it -- you know, I gave it to

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myself because discussing with the president, attorney Johnson, we can see that I can be qualified that way because I directed the plant. For example, I am the person most qualified to answer to the question put in your paper upon which I am here now.

Q. I understand. And that's because you control -- you control all aspects of J.M. Products, correct?

MR. ARAN: Objection to form.

THE WITNESS: Sorry, I must ask you as the other times to be so kind to speak a little bit slow. I understand perfectly English.

BY MR. PACE:

Q. I will. No, I sometimes ask --

A. Just if you go fast I --

Q. Fair enough.

A. I don't get it.

Q. You control all aspects of J.M. Products, correct?

MR. ARAN: Objection to form.

MR. CHAIKEN: Object to form.

THE WITNESS: Your -- your question is **correct in the measure of technical tasks.**

BY MR. PACE:

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Q. How about financial tasks, doesn't all money -- isn't all the money that J.M. Products uses to pay for any expenses it has come from either you or Leonardo Corporation?

A. But that was on the base of a contract that -- of an agreement that there was between J.M. and Leonardo Corporation and this agreement foresaw that Leonardo Corporation was going to pay all the bills and expenses for the day by day activity of J.M. as a compensation for products that Leonardo Corporation was going to buy from J.M.

Q. So my question again, because you didn't answer it. You started with a but response. All of the money for any expenses paid by J.M. Products came from either you or Leonardo Corporation; yes or no?

A. I don't know if all the money paid by J.M. came from Leonardo Corporation or me.

Q. So let's go -- let's talk a little bit about what you did to prepare to be the corporate representative J.M. Products today because that's an answer you should have, you should have prepared for, so let's talk about this. To prepare today to speak as the corporate representative of J.M. Products with whom

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[...]

Q. If you will answer my question first. What other documents -- you said reviewed your technical documents.

A. Yes.

Q. What other documents did you review to prepare?

A. I was answering. Another document that I have gone through together with my attorney and the attorney Johnson has been the one that you had in your hands a few seconds ago.

Q. Okay. And what else?

A. I don't remember else.

Q. Well, you said you reviewed documents relating to technical work that you performed.

A. Yes, also.

Q. Did you review any documents relating to the financial records of J.M. Products?

A. Can you kindly repeat the last?

Q. Did you review any documents relating to the financial operations of J.M. Products?

A. What do you mean exactly by financial operations?

Q. Did you review the bank accounts of J.M. Products?

A. No.

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Q. Did you review the bills of J.M. Products?

A. No.

Q. Did you review the invoices of J.M. Products?

A. No.

Q. Did you make any effort to determine how J.M. Products has paid for expenses in the past?

A. You know, for what concerns the expenses that J.M. made related to the activity in Doral, I know them perfectly because I did them as Leonardo Corporation based on the agreement that there was between J.M. and Leonardo Corporation.

Q. That Leonardo --

A. I reviewed those -- I reviewed those documents, yes.

Q. So I think some of this stemmed from you providing a slightly different answer a little while ago. I asked -- well, maybe not. Maybe I shouldn't say this. Are there any expenses that J.M. Products has had in the past two years that are not related to the Doral warehouse?

MR. ARAN: Objection to form.

THE WITNESS: Just one second. I take

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the occasion also now, because I must repeat it, because it's another -- that I have a problem, I cannot swallow and so now and again you will see me to cough in that --

BY MR. PACE:

Q. Cup.

A. This glass. This is not lack of respect. I am sorry, I have to sometime cough inside there because I cannot swallow. I delayed my surgery to be able to make this depositions because after that surgery I will be several weeks without having the possibility to talk. So please excuse me, sometime you will see me make this very bad gesture, but it's necessary. I'm sorry. I am sorry. Can you kindly repeat your question?

Q. Are you -- as the corporate representative of J.M. Products are you aware of any other source of funds that J.M. Products has had to pay for its expenses, other than you and/or -- you, Andrea Rossi and/or Leonardo Corporation?

MR. ARAN: Objection to form.

THE WITNESS: I have understood your question. I am aware only of the expenses that J.M. made related to the activity in Doral.

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I am not aware of other expenses that J.M. could have had.

BY MR. PACE:

Q. As to -- but you haven't answered my question, so let me ask my question again. As to those expenses of which you are aware, did either Andrea Rossi and/or Leonardo Corporation pay for all those expenses? It's a yes or no answer.

A. Yes.

Q. All right. We're going to go back here just for a second, which is as to J.M. Products then you, Andrea Rossi, controlled all technical and product development activities of J.M. Products, to the extent they existed, correct?

A. Correct.

Q. Either Andrea Rossi or Leonardo Corporation provided all of the funds for any expenses relating to the Doral location, correct?

MR. ARAN: Objection to form.

BY MR. PACE:

Q. Isn't that what you just answered?

A. No, I have understood your question. I have just to focus the memory because I want to be sure that what I answer is precise because there

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could have been -- in the top of the plant there could have been expenses not made by Leonardo or me at the very beginning. And -- but what -- as far as I recall, all the day by day expenses have been paid by Leonardo Corporation. Not by me as Andrea Rossi, by Leonardo Corporation.

Q. And then -- since you are here testifying as the corporate representative of J.M. Products your testimony is you're not aware of any other expenses that J.M. Products incurred in connection with the Doral location, correct?

A. Not that I am aware of.

Q. All right. So all expenses of J.M. Products were being paid -- as they relate to the Doral location were being paid by Leonardo Corporation, correct?

MR. ARAN: Objection to form.

THE WITNESS: All the expenses I am aware of.

BY MR. PACE:

Q. You are aware of as the corporate representative of J.M. Products and who also spoke with Henry Johnson, the president of J.M. Products, correct?

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MR. ARAN: Objection to form.

THE WITNESS: Again, I was the scientific and technological director, so I spoke with Henry Johnson for what concerns all the expenses. When I spoke with Henry Johnson, when we spoke about expenses, we spoke only about the expenses I was aware of, which are the expenses I explained before, the day by day expenses, you know, the employee, the

consultant, the bill of FPL, et cetera, et cetera, et cetera and invoices that came for some technological issue or technical issue. And -- but again, I am not aware of and I do not know if there have been or not other expenses independent from this activity.

BY MR. PACE:

Q. So you learned nothing from discussions -- your discussions with Henry Johnson about any expenses you didn't already know about?

A. Can you repeat?

Q. You told us you spoke with Henry Johnson about expenses of Leonardo.

A. Yes.

Q. I'm sorry, expenses of J.M. Products.

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A. Yes, yes.

Q. Sounds though what you just said is he didn't make -- he didn't inform you of any expenses you weren't otherwise already aware of?

A. He had no reason to do that because --

Q. Because?

A. Because I did not ask. It was not -- I was interested to the activity -- to the scientific and technological activity of J.M.

Q. So as the corporate representative of J.M. Products sitting here today, however, your testimony is you are not aware of a single expense incurred by J.M. Products that wasn't paid for or reimbursed by either Andrea Rossi or Leonardo Corporation, correct?

A. You are asking me if I am -- I am repeating your question to be sure I have understood it because I want to answer properly. You have asked me, if I understood, if I am aware of other expenses, apart the ones Leonardo Corporation has paid for. Is this the question?

Q. Leonardo Corporation or Andrea Rossi.

A. Yeah, okay.

Q. I just want to make sure you understood the question.

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A. The answer is yes.

Q. You are aware of other expenses incurred by J.M. Products?

A. No.

Q. You're not answering my question. Let me try it again.

A. Yes.

Q. As the corporate representative of J.M. Products do you know of any expenses incurred by J.M. Products, other than the expenses that were paid for by either Leonardo Corporation or Andrea Rossi?

A. No.

Q. All right. How many times has Henry Johnson been to the Doral -- I'm sorry, let me define something here. If I refer to the Doral warehouse -- what's the address of J.M. Products? What's the address of J.M. Products?

A. 7861 Northwest 46th Street, Doral, Florida 33166.

Q. If I refer to that as either the Doral warehouse or the Doral location, are you comfortable with that?

A. Yes.

Q. Okay. How many times has Henry Johnson

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been to the Doral warehouse?

A. Wow. Surely he has been there. How many times, as far as I can remember, I am not sure. I am -- you know, several times. Maybe two, three, something like that. But honestly, I do not remember enough well to answer. For sure I have in my brain the image of attorney Johnson inside the factory and in the office. I have this image in my mind, but I cannot recollect how many times.

Q. Understood.

A. But not many. Not many.

Q. Not many. So on a day-to-day basis you are at the Doral warehouse, correct?

A. Every day.

Q. All right. And any operations that are occurring at the Doral warehouse on behalf of J.M. Products, you are controlling?

A. Absolutely.

Q. And that has been so since J.M. Products was formed, correct?

A. It is correct.

Q. All right. So you, Andrea Rossi, control all of the day-to-day activity of J.M. Products, correct?

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A. Correct.

Q. You, Andrea Rossi, control Leonardo Corporation, correct?

A. Correct.

Q. Leonardo Corporation pays all the expenses of J.M. Products, correct?

A. No.

MR. CHAIKEN: Object to form.

BY MR. PACE:

Q. What expenses does J.M. Products incur that Leonardo does not pay?

A. You are forgetting that I told you at the beginning of this deposition that Leonardo paid the expenses of J.M. as a compensation of the products --

Q. But they are still paying it. My question was Leonardo pays for whatever reason -- you can explain later the reason.

MR. ARAN: Objection. Let's not talk over each other.

BY MR. PACE:

Q. Fair enough, I am just asking a question. You can explain later why they paid it.

A. Okay.

Q. You can explain in the trial. You can explain it at some other context.

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A. Okay.

Q. My question was -- let's see if you can answer my question though. Because I thought we went through this already. You, as the corporate representative of J.M. Products, are here to say -- to testify that the only expenses of which you are aware of J.M. Products were paid by Leonardo Corporation, correct?

A. If we limit our description of the facts to the action of paying the bills, yes.

Q. Yes, sir. I am --

A. If we confine, yes.

Q. We will get into the explanation of why they paid but I am just trying to establish that you, Andrea Rossi, ran the day-to-day operations of J.M. Products, correct?

A. Yes, it is correct.

Q. You, Andrea Rossi, controlled Leonardo Corporation, correct?

A. Correct.

Q. Leonardo Corporation paid for all the day-to-day expenses of which you are aware for J.M. Products, correct?

A. Correct.

Q. So there is -- the building -- the Doral

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warehouse where J.M. Products is located, that was found by you, correct?

A. Correct.

Q. It was leased by Leonardo, correct?

A. Correct.

Q. J.M. Products subleased whatever section -- whatever portion they used from Leonardo, correct?

A. Correct.

Q. J.M. Products leased or contracted for or received from Leonardo an employee?

A. Can you kindly repeat the question?

Q. Sure. Who is Reinaldo Breto?

A. Was the janitor -- well, janitor and guardian of -- he was an employee of J.M.

Q. He was an employee of J.M. He was lent to J.M. by Leonardo Corporation, correct?

A. Yes, it is correct.

Q. And that was your decision to loan Breto from Leonardo to J.M. Products?

A. Correct.

Q. Okay. And Mr. Breto acted under your direction?

A. Correct. And not only under my

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direction.

Q. Under who else's direction, Jim Bass?

A. Yes.

Q. And Jim Bass is an individual that you -- you made the decision to hire Jim Bass for J.M. Products, correct?

A. Yes, but -- yes. Yes, yes.

Q. You did not find Jim Bass initially, correct?

A. No, I did not.

Q. So I am not suggesting you did but the decision to hire Jim Bass was by you?

A. Yes.

Q. Back to my -- you resisted answering the control question, so I am trying to understand why.

A. I did not understand what you said.

Q. Sure. I asked you -- you were reluctant to answer yes to the question that, you know, Andrea Rossi controls -- controls J.M. Products.

A. It is absolutely --

MR. ARAN: Objection to form. There is no question pending. There is no question pending.

MR. PACE: What are you instructing him not to do then?

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MR. ARAN: I am objecting to the form, which is you are simply making statements that are not questions. I am objecting to the form and I am suggesting there is no question pending for him to answer.

BY MR. PACE:

Q. You were responding. I'm sorry.

A. I'm sorry, attorney, but I totally disagree with you. I am not resisting the facts that you are saying.

I always answered yes to every question that you asked to me related to the fact that I was the director of the day by day operation of J.M.

Q. I know, but I was asking you a question about control and that's where you resisted, so let me ask it again. Andrea Rossi controls **all** aspects of J.M. Products, correct?

MR. ARAN: Objection to form.

MR. CHAIKEN: Object to form.

THE WITNESS: No.

BY MR. PACE:

Q. Andrea Rossi controls J.M. Products, correct?

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MR. ARAN: Objection to form.

MR. CHAIKEN: Object to form.

THE WITNESS: No.

BY MR. PACE:

Q. Why is it that Andrea Rossi does not control J.M. Products?

A. Because to control J.M. Products mean to have full control of J.M. Products. As you -- as you have heard from the beginning, I was not in the board of directors. I was not the president. I was not the CEO. I was the director of all the scientific research and development activity and experimental activity of J.M., so I was the director and I am responsible about all the day by day operations, working operations that take -- that have taken act inside the factory of J.M., not of all the actions or deeds that are related to the -- to the activity that is proper of a president or of a board of directors.

Q. What other activities does J.M. Products engage in, other than activities that you have controlled?

A. I don't know.

Q. As the corporate representative of J.M. Products here today you are not aware of any

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activities in which J.M. Products is engaged that has not been controlled by Andrea Rossi?

A. I am --

MR. ARAN: Objection to form. He's here to testify about the matters set forth in your designated deposition, which deals with J.M.'s activities as they relate to this lawsuit and the operations of J.M. as it relates to this lawsuit and the operation of the E-Cat, et cetera. It does not deal with anything else that J.M. may have or not have.

MR. PACE: A, that's not true. B, that's kind of a coaching, speaking objection. You can make an objection, if it's a fair objection.

MR. ARAN: I will not help you anymore again.

MR. PACE: No, no, I understand.

MR. ARAN: I am trying to help you.

BY MR. PACE:

Q. That's fine. By the way, he's made the objection. I want to make sure it's clear on the record, I am not disputing that, that the objection is here. Let me try to rephrase my question. Well, I think your answer might go to a scope issue

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but my question is still, as the corporate representative of J.M. Products you are not aware of any activity in which J.M. Products has engaged that you have not controlled; is that correct or not correct?

MR. ARAN: Objection to form.

BY MR. PACE:

Q. Yes or no?

MR. CHAIKEN: Objection to form.

THE WITNESS: It is not correct. It is not correct, it is confusing because I have just -- attorney, I have just answered you, that I am aware of the facts --

BY MR. PACE:

Q. Dr. Rossi, let me -- I am going to try to break those into small questions and they may not go anywhere but let me just try this. I don't think every question is an invitation for you to say something in addition. Times there are, if you feel my question is unfair. You asked me to clarify it, so I am going to clarify. You testified today about various activities of J.M. Products that you have controlled, such as the technical aspects and the day-to-day

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activities at the Doral location, correct?

A. This is correct.

Q. I am asking you as the corporate representative of J.M. Products are you aware of any other activities in which J.M. Products has engaged? Do they have any other business activities that you are -- that you are not -- that you, Andrea Rossi, are not involved in? Do they have any other financial activities in which you, Andrea Rossi, is not involved in?

MR. CHAIKEN: Object to form.

THE WITNESS: I have not a hint about everything that happened out of the factory of J.M. in 7861 Northwest 46th Street, Doral, Florida.

BY MR. PACE:

Q. So you're aware of no such activities?

MR. ARAN: Objection to form.

THE WITNESS: I am aware and I am perfectly aware of all the activities that happened inside the factory.

BY MR. PACE:

Q. And you are not aware of any activities by J.M. Products outside that factory?

A. This is correct.

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Q. So to the best of your knowledge there are no activities by J.M. Products outside the factory?

MR. ARAN: Objection to form, mischaracterization.

THE WITNESS: I am not able to answer about things that I am not aware of.

BY MR. PACE:

Q. Fair enough, but I think I asked to the best of your knowledge. Let me ask the question again.

A. The best of my knowledge is I don't know.

Q. To the best of your knowledge you are not aware of any activities of J.M. Products other than what occurs at the Doral warehouse?

A. Yes.

Q. All right.

A. Sorry but, you know, it's the English to the best of your knowledge that had put me in difficulty because I don't know the semantic limit of that proposition. This is why I was --

Q. Understood. I understand. Some of these things I am trying to find out, you can only answer to the knowledge that you either have prior to

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preparing for the deposition or in connection with preparing for the deposition. But as a corporate representative of J.M. Products if the question, in fact, falls within the scope of the topics for which you are a corporate representative, and that can be a debate between counsel but if it does your answer, you know, is controlling for the corporation. If it doesn't, then it's just your personal -- you know, what Andrea Rossi knows personally.

A. Yeah.

Q. You would agree with me that as it relates to Leonardo Corporation the only activities of J.M. Products that are of significance to Leonardo Corporation are the activities at the Doral warehouse, correct?

MR. CHAIKEN: Object to form.

THE WITNESS: Can you kindly repeat?

BY MR. PACE:

Q. It's a long question. I will try again. The only activities of J.M. Products that are relevant to Leonardo Corporation are those activities at the Doral warehouse, correct?

A. Yes, it is correct.

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Q. And those activities you, Andrea Rossi, had complete control over?

A. Yes.

Q. All right. When did you inform Industrial Heat that you had complete control over the activities of J.M. Products?

A. From the beginning.

Q. From the beginning?

A. From the beginning. In June there is -- I am aware of an e-mail that I sent to Tom Darden and J.T. Vaughn in June 2014, so -- when did not yet exist the factory of Doral because the factory of Doral has been rented, if I will recall, in September for 2014. So in June 2014 I sent an e-mail where I clearly stated to J.T. Vaughn and Tom Darden that I was going to direct the plant of J.M. I informed them perfectly that it was an experimental plant. **I informed them -- they knew perfectly everything from the beginning.**

Q. And this is -- this you say is in e-mail communications that you had with Tom Darden and J.T. Vaughn, correct?

MR. ARAN: Object to form.

THE WITNESS: Yes, this is the one that I

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recall now, yes.

BY MR. PACE:

Q. Okay.

A. But maybe there are others, but I remember this perfectly. I have short memory of this because you have shown it to me in my first deposition.

Q. So it's a document that you -- an e-mail that you saw in your first deposition?

A. Yes. So I remember that. I am sure there are others but sure, I think there are others. I am perfectly sure that Tom Darden and J.T. Vaughn knew everything to the perfection but I have very fresh memory of this e-mail because you have shown it to me.

Q. And this e-mail --

A. You have shown it to me.

Q. And this e-mail, does it refer to J.M. Products or does it refer to a customer?

A. Kindly can you repeat?

Q. The e-mail you are talking about, does it refer to J.M. Products or does it refer to a customer?

A. I don't remember this particular, but I was referring to the plant of the customer.

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Q. And the customer --

A. When I say in that e-mail -- sorry, I have not finished. I'm sorry, attorney.

Q. No, fair. Please finish.

A. When I wrote in that e-mail I will direct or be the director, I don't remember -- now I don't remember by word, but when I say that I would have directed the plant, I was referring of -- obviously of the plant -- to the plant of the customer.

Q. When you were talking about operating the plant you were not referencing operating the 1MW plant, correct?

A. That would have been ridiculous because the fact that I was the director of the 1MW plant of Leonardo was known since 2012. It is like I come down to my wife and say dear, I have to inform you that I am your husband. You know, that would have been ridiculous.

Q. And so your reading -- obviously these are e-mails so we have the e-mails, but your reading of these e-mails is that they disclose that you are going to be in control of the customer?

A. Plant.

Q. The customer's plant?

A. (Nods head.)

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Q. And the day-to-day activities of that customer?

A. Yes, sir.

Q. All right. And other than that communication you believe there are other e-mail communications where you made the same point by referencing the plant of the customer?

A. I am not sure, attorney.

Q. Okay.

A. But I believe so. But also, if I may complete the question, in the sense no one of Industrial Heat has ever, until the beginning of the litigation, no one of Industrial Heat has ever put in discussion the thing. So they never asked me who is the directing the plant of J.M.. They visited -- they visited many times the plant of Leonardo. They have been there and they have also spoken with the -- with Jim Bass, but the only thing they were interested to was to show the plant and to get the reference of Jim Bass for their investors that were the British of Woodford and the Chinese from China. Please.

Q. You are now getting way collateral.

A. No, I am not going away. I am just saying that the only thing they were interested to

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was to get the funds from their investors. They never asked to me who is directing the plant.

Q. Dr. Rossi, did you ever take them to the other side of the Doral warehouse where J.M. Products operated; yes or no?

A. No, because --

Q. Did you tell them -- did you ever tell them that they could not access the other side of the Doral warehouse where J.M. Products was located; yes or no?

A. In pursuit of --

Q. I'm sorry?

A. Yes or no does not exist. I have to explain. If you -- I am sure that you know perfectly the term sheet between Industrial Heat and J.M.

Q. You drafted that.

A. In the term sheet was written very clearly that Leonardo -- pardon. Industrial Heat guys had not to enter in the area of J.M. and J.M. guys had not the right to enter in Leonardo area. Pardon, Industrial Heat area. So it had been stated, signed and accepted by both parties that are J.M. from one party and Industrial Heat from the other that none of them had to invade the area of the other.

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Q. And you --

A. The only guy that could go in both areas was me because I was at the same time as Industrial Heat knew perfectly, as I said before, I was the consultant and technical director of J.M., as well as the director of the plant of one megawatt.

Q. Again, so my question, let's ask again. Let's see if you can answer it this time. Did you tell them -- did you tell people from Industrial Heat that they could not go to the J.M. Products side of the warehouse? Why is that not a yes or no answer?

MR. ARAN: Objection to form.

BY MR. PACE:

Q. Dr. Rossi --

A. I did not tell. The contract told it.

Q. So you are saying you never did. So your testimony is -- your testimony is -- your sworn testimony is you never told anyone --

A. No, my testimony is that I don't recall that it has been necessary to tell to the guys of Industrial Heat that they could not invade the area of J.M., for the very simple fact that they were perfectly aware of the agreement that they had signed with J.M., where was written that J.M. guys could not

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invade the area of Industrial Heat and Industrial Heat guys were not allowed to enter in the J.M. area.

Q. So let's --

A. It was forbidden by contract. Excuse me. If they have asked to me to allow them there, that would mean that they asked to me to breach a contract that they had signed. This would mean that they tried to breach a contract that they had with J.M..

Q. Right. We're going to be here all day, Dr. Rossi, so we're going to have seven hours.

A. I am here for all the time you want. Also more than seven hours if you want.

Q. That's great. Then we will take more than seven hours.

MR. ARAN: No, you won't.

THE WITNESS: No problem.

BY MR. PACE:

Q. Let me ask the question again because it's a simple question, you can keep trying to dance around it, but I'm asking for a simple answer. Maybe it never occurred, so let me ask again. Did you, Andrea Rossi, ever tell anyone from Industrial Heat that they could not enter the

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J.M. Products side of the Doral warehouse; yes or no?

A. Not that I can recall.

Q. Was that hard?

A. Sorry?

Q. Was that hard, to answer that question?

MR. CHAIKEN: Object to form.

THE WITNESS: No, it's not hard. I don't recall.

BY MR. PACE:

Q. That's all I'm asking though.

A. Is this the answer?
Q. That was the question I asked. Now you're answering the question I asked.
A. Okay.
Q. Okay. You can hold onto your speeches for later on.
A. Perfect. But I just wanted --
MR. ARAN: Object.
THE WITNESS: I just wanted to clear if should they have asked to enter --
BY MR. PACE:
Q. But you're saying they didn't.
A. -- in the J.M. contract, I say I don't recall.
Q. Okay.

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A. I don't say they didn't. I say I don't recall.
Q. That's all I am asking for. I am asking for what you know, what you recall and your recollection --
A. I don't recall.
Q. -- is that it never happened?
A. Should they have made it they would have asked to me to breach a contract that they had signed.
Q. I understand. I understand what you think the law is but I am just asking you for your recollection.
A. You're asking me --
Q. Dr. Rossi --
A. You are asking me if --
Q. Dr. Rossi, let's go on to our next question.
A. Okay.
Q. There is a question, I get an answer from you, all right? And your answer is to the best of your recollection you don't believe you ever told anyone from Industrial Heat that they could not access the Doral -- the J.M. Products side of the Doral

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warehouse, correct?
A. No.
MR. CHAIKEN: Object to form.
MR. ARAN: Object to form.
THE WITNESS: I did not say that. I say I do not recall.
BY MR. PACE:
Q. I'm sorry. I said to the best of your recollection.
A. No, you said to the best of your recollection you believe that. I did not say so. I say as I am -- I say just I don't recall. I do not say I don't believe. I say I don't recall. You know English better than me but some English I have learned. To recall is one thing and to believe is another thing. And I also added that if they did, they made an illegal action because they asked to breach a contract.
Q. Dr. Rossi, Andrea Rossi, you've said this several times never in response to my question so let's see if we can --
A. No, I responded to your question. I don't recall.
Q. Let's keep going here.

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A. Okay.
Q. Jim Bass, what title did you give to Jim Bass in connection with J.M. Products?
A. Consultant, scientific consultant.
Q. Why did he represent himself as the director of engineering for J.M. Products?
A. Because he was for what concern -- for what concerned the part related to the electronics that we were developing there, he was the director. So he was -- in the sense he was a director. Also, I must ask you that Tom Darden asked me to present him as the director to his investors, to have references from the director of the customer that he was satisfied. You know --
Q. Let me stop you there. I will break this out. We can get to the conversation.
A. Okay.
Q. Let's make sure I am clear for what you said.
A. Okay.
Q. You're saying Tom Darden wanted someone from J.M. Products to meet with potential investors, correct? I am just going to take this one little chunk at a time. Is that correct, somebody from J.M.

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Products?

A. Someone that was not me.

Q. We will keep going this with little chunks and see if we can do it in little pieces here.

A. Very good.

Q. You're telling me Tom Darden told you --

A. Yeah.

Q. -- that he wanted somebody from J.M. Products, other than you, to meet with potential investors, correct?

A. Yes, it is correct.

Q. And Tom Darden asked you that this person be knowledgeable about the power or energy being received by J.M. Products from Leonardo Corporation, correct?

MR. CHAIKEN: Object to form.

BY MR. PACE:

Q. Do you want me to ask the question again?

A. No, no, no I have understood perfectly your question and it is correct.

Q. Did Tom Darden tell you -- did Tom Darden identify the particular person who should meet with these investors?

A. There was not another.

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[...]

A. This is interesting because --

Q. Wait, wait, wait. What isn't interesting, I think we all can agree, is you getting collateral, so let's stick to this.

A. Sorry, you are right.

Q. There is four meetings and trust me, the day will go much faster if you answer my questions and --

A. But I am not in a hurry.

Q. When my questions are unfair you can certainly go on.

A. All right.

Q. But sometimes like you get collateral to me.

A. I got all the time you want.

Q. You got four meetings. You said there is four times investors came in.

A. Yeah.

Q. Let me ask incrementally.

A. For meetings with the investors.

Q. With the investors. Did you meet with Tom Darden --

A. I am very sorry.

Q. No problem.

A. Yes.

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Q. Did you meet with Tom Darden in advance of each of those meetings with investors?

A. In the first case, yes.

Q. Okay.

A. In the other case, I don't recall.

Q. In terms of the conversation -- in terms of the request by Tom Darden to have either Jim Bass or at least somebody other than you to meet with the investors, did you -- did he make that request in connection with each of the four visits by investors or did he just make the request the first time and you understood that that should occur with each investor meeting?

A. No, he wanted -- he wanted -- I precisely do not recall.

Q. Okay.

A. But he never told me I want not Jim Bass, I want you. So by default --

Q. So you understood there is four times -- your testimony is that there is four times that investors came to the Doral warehouse or potential investors came to the Doral warehouse to see the 1MW plant, correct?

A. Kindly repeat your question.

Q. Yes. Your testimony is that there is

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four occasions when potential investors came to the Doral warehouse to see the 1MW plant, correct?

A. Yes, it is correct.

Q. Your testimony is each time one of those investor groups or potential investors groups came, they met with Jim Bass?

A. Yes, it is correct.

Q. And each time Jim Bass told them that J.M. Products was satisfied with the power or energy they -- it was receiving from Leonardo Corporation, correct?

MR. CHAIKEN: Object to form.

MR. ARAN: Object to form.

THE WITNESS: This -- as far as I recall, yes.

BY MR. PACE:

Q. And your testimony is that that --

A. Maybe -- I want to add this. I am sure of this for the first two times, first visit of the British, second visit of -- second visit with the Chinese. I am not sure of this for the third visit with the British again, but I think so. But I am not sure about the fourth visit with another Chinese commission. Maybe during this fourth visit with the

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Chinese commission Jim Bass was not there but I am not sure of this. I don't recall exactly.

Q. So --

A. The interesting is that the third visit with the British happened in October and in October they came with the commission of Woodford, October or September, they came with the commission of the British, of Woodford, with the two top manager of Woodford and they commented extremely positively the plant and I perfectly that the two officers of Woodford with enthusiastic of the plant while --

Q. And did they meet Jim --

A. I'm not finished.

Q. I am not asking about the details of the meeting though. Dr. Rossi, you're clearly getting collateral on me. All I was asking you -- I was asking very focused little questions because I am just trying to get my answers. I may ask you about these other subjects. I probably will later on today.

A. All right.

Q. You know how a deposition works. This is your third deposition in what, two weeks; is that correct?

A. Yeah, more or less, yes.

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Q. Okay. So you're aware that --

A. Yes.

Q. -- to some extent there is questions I want to ask, I want to get an answer to and then there will be opportunities for you to get into other subjects later on. You understand that, correct?

A. Yes, sure.

Q. You understand there is a lot of subjects we're going to get to cover today, correct?

A. Absolutely.

Q. So let me just -- I am just trying to nail down this one particular point.

A. Okay.

Q. Your testimony is now, just so I am clear, at least as to two --

A. Go ahead.

Q. -- there are four times investors visited the Doral location, investors or potential inventors to see the 1MW plant. Your testimony is on at least two of those occasions Jim Bass met with the group of potential investors, correct?

A. It is correct.

Q. All right. You are not sure if on the other two occasions Jim Bass met with the group of

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potential investors?

A. I am sure that he met them just for a hello.

Q. All right.

A. Just for a hello, while in the first two -- I am sure in the first two occasions Jim Bass has sit at the head of the meeting rooms. There is a table like this, more or less.

Q. Okay.

A. And he was sit where I sit now and all the other people was around and there has been a meeting of at least half an hour in the first two occasions, British and Chinese. The other two, I don't remember if it has been a meeting or just a hello.

Q. I understand. So Jim Bass was -- met -- so there is a meeting or hello. As to each of the four groups of investors or potential investors, Jim Bass was at least present at the Doral warehouse?

A. Yes.

Q. As to two of those four occasions he may simply have said hello, introduced himself as the director of engineering to the group of potential investors, correct?

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A. I don't remember if he introduced himself as the director of engineering or not, but he introduced himself as saying hello, everything all right just, you know, niceties and have a nice day. I don't remember exactly but could be that the second two meetings have seen Jim Bass in a very -- in a very short spot.

Q. Okay.

A. While in the first two he was a long movie.

Q. He was making more of a presentation in the first two meetings?

A. Yeah.

Q. Even in the second two meetings where you are saying Jim Bass's interaction was more limited with the groups of potential investors, even then he would express that J.M. Products was satisfied with the power or energy it was receiving from Leonardo Corporation?

MR. CHAIKEN: Object to form.

MR. ARAN: Objection to form.

BY MR. PACE:

Q. If you recall.

A. I cannot recall, but exists a body language and, you know, that -- the body language

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when he say hello to everybody was not the body language of a nervous guy, so.

Q. So you think by his body language he was implying to the investors that J.M. Products was happy with Leonardo Corporation?

A. I think you are understanding what I say.

MR. CHAIKEN: Object to form.

BY MR. PACE:

Q. But on at least two occasions your testimony is Jim Bass did meet with investors and had a long meeting, approximately a hour meeting with each of those groups of investors, correct?

A. Yes.

Q. And in those meetings he would more clearly say or would clearly say that J.M. Products was happy with or satisfied with the power or energy it was receiving from Leonardo Corporation, correct?

A. It is correct.

Q. All right. And in these meetings would -- would Jim Bass identify your role in connection with J.M. Products?

A. Can you repeat the question?

Q. Yes. I am just trying to understand, when Jim Bass is meeting with these group of investors, these half hour meetings each time --

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MR. ARAN: Objection to form.

BY MR. PACE:

Q. -- and he's talking about the J.M. -- J.M. Products being satisfied with the energy or power it's receiving from Leonardo, would he discuss your role in connection with either Leonardo or J.M. Products?

MR. ARAN: Objection to form.

THE WITNESS: No. No, it has not been put on the table. He just said he was satisfied. Basically that is what Tom Darden asked for. He just asked to me for to make Jim Bass represent a good reference because he had to get funds from those investors. That's it.

BY MR. PACE:

Q. Okay. And to go back to your testimony before, what Tom Darden said -- he either specifically asked for Jim Bass or at the very least he asked for someone from J.M. Products other than you, correct?

A. Correct.

MR. ARAN: Object to form, asked and answered.

(The document referred to was thereupon

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marked Deposition Exhibit 1 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. I am going to mark a couple of documents here but we will just take them one at a time. This is -- I marked as Exhibit 1 the -- the deposition notice for J.M. Products. You have seen this notice before?

A. Yes.

Q. And you -- these are the topics upon which you prepared yourself for testifying today?

A. Yes. Yes, sir.

Q. All right. We will come back to these in a bit. I wanted to have that marked as the first exhibit and then I can go to my second exhibit, which is going to be the term sheet.

(The document referred to was thereupon marked Deposition Exhibit 2 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. This is marked as Exhibit 2. You are familiar with this document, what's marked as Exhibit 2, term sheet?

A. Yes.

Q. Who -- did anyone on behalf of J.M.

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Products negotiate this term sheet?

MR. CHAIKEN: Object to form.

THE WITNESS: I did.

BY MR. PACE:

Q. You negotiated this on behalf of J.M. Products?

A. Yes, sir.

Q. With whom did you negotiate the term sheet?

A. With Tom Darden.

Q. All right. Did you disclose to Tom Darden that you were negotiating on behalf of J.M. Products?

A. Yes.

Q. And when you negotiated with Tom Darden over this term sheet, are these the e-mail communications that we have seen that go back and forth about the term sheet?

MR. CHAIKEN: Object to form.

THE WITNESS: Sorry, I did not understand the question.

BY MR. PACE:

Q. Sure. How did you negotiate with Tom Darden over the term sheet? How did you communicate? Was it by e-mail or was it by --

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A. By -- also by e-mail, sure. By e-mail, by personal discussions that we had in Raleigh because in this period I was in Raleigh.

Q. Okay.

A. In this period I still was in Raleigh regularly and by telephone, you know, we had many conversations about this.

Q. And who negotiated this term sheet on behalf of Leonardo Corporation?

A. Me.

Q. All right. So you were negotiating both as -- for J.M. Products and for Leonardo Corporation?

A. That is correct.

Q. And at the time J.M. Products was called J.M. Chemical Products, correct?

A. Yes, it is correct.

Q. Is that the name you came up with for the company originally?

A. No. Originally, you know, I don't remember. Honestly, I don't remember who came up.

Q. Is there anyone other than you who may have come up with the name?

A. Yes, could have been the -- could have been Di Giovanni but honestly, I don't remember that. I was not -- I did not like the name anyway

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and lately has been changed into J.M. Products.

Q. So is -- other than -- you made this a first reference today to Di Giovanni. That's Francesco Di Giovanni?

A. Yes.

Q. And Francesco Di Giovanni is the beneficiary of the trust that owns J.M. Products, correct?

A. Yes.

Q. All right. So your testimony is that you believe -- well, your testimony is that either you or Francesco Di Giovanni came up with the original name for J.M. Products, that being J.M. Chemical Products?

MR. ARAN: Objection, form.

THE WITNESS: As far as I recall because, you know, it is not -- it is not a thing that I considered important, so it is an issue of three years ago or something, so I don't -- I don't remember exactly, but yes. Anyway, I did not like it and I changed it.

BY MR. PACE:

Q. Why don't we complete that thought and then we will do the -- we will come back to this, which is at some point the company's name was changed from J.M. Chemical Products to J.M. Products,

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correct?

A. Yes, it is correct.

Q. And that was at your direction, correct?

A. Yes, it is correct.

Q. All right. Back to the term sheet. Who decided that J.M. Products would pay rent of \$1,000 per day? Who came up with that number?

A. I agreed upon this with Di Giovanni and he said that -- the agreement between me and Di Giovanni has been this. Leonardo will pay all the day by day in change of the product that we will take and I take the liability if the product is good or not in the first period and you will -- and J.M. will pay the thousand dollars per day to Industrial Heat. I tried to make also the interest of Industrial Heat because I was -- in those period you must not forget that my relationship with Industrial Heat was very good and --

Q. So you in connection with Di Giovanni came up with the number of \$1,000 a day?

A. No, the number of \$1,000 has been -- partially correct, I'm sorry. Partially correct because I have been in contact -- I was in contact with all the parties, that was Tom Darden -- Tom Darden, J.T. Vaughn, John Mazzarino.

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These are the three I dealt with to the setup of this term sheet regarding Industrial Heat. So I agreed upon this sum from the side of Industrial Heat with Tom Darden in first place, John Mazzarino in second place and J.T. Vaughn in third place.

Q. Did you negotiate with -- I'm a little confused. When the term sheet was first presented to Industrial Heat, the term sheet was first prepared by you or at your direction, correct?

MR. CHAIKEN: Object to form.

THE WITNESS: No.

BY MR. PACE:

Q. Somebody from Industrial Heat first prepared the term sheet?

A. Neither. We sit down at the table in Raleigh, in the meeting room of the factory of Raleigh and we came up with a draft where everybody has put -- in a brainstorm everybody has put down on the table his ideas and we came up with a draft.

Q. Who came up with the thousand dollars, if you recall? If you don't recall, you don't recall.

A. Maybe the idea of the number was mine but I am not sure of that.

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Q. Okay.

A. Maybe the idea of the number was mine because I said this is a good sum for Industrial Heat to make some money and is reasonable respect the work that -- that had to be done. But in any case, all this draft included the one thousand per day has been decide together around the table like this, with the three of Industrial Heat and me.

Q. So you negotiated this agreement, it was -- your recollection is it was in a conference room?

A. Yes.

Q. And in this meeting were you, Tom Darden, John Mazzarino and J.T. Vaughn, correct?

A. Correct. At least --

Q. Anyone else in the meeting?

A. I don't recall. I don't recall. I don't recall. But I don't think so because this was a decision that did not involve other kind of people there, so I don't recall.

Q. And so the terms -- eventually Henry Johnson came up to Raleigh to sign this agreement on behalf of J.M. Chemical Products, correct?

MR. CHAIKEN: Object to form.

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THE WITNESS: No.

BY MR. PACE:

Q. Did he not sign it in North Carolina?

A. No.

Q. He signed it back in Florida?

A. Yes.

Q. All right. There was a meeting in North Carolina with Henry Johnson prior to the term sheet being finalized; is that correct?

A. Yes.

Q. All right. Where were you when you signed the agreement?

A. This agreement, as I recall, attorney, maybe I'm wrong, but as far as I can recall everybody has signed it separately. So there has not been a meeting in which everybody signed. Once the term sheet has been completed, this term sheet has made many back and forth through the e-mail to correct things, et cetera, et cetera. Of course the attorney Johnson participated to this ping-pong because he had -- he also made reviewing, et cetera. Once we reached a final text that

was good for everybody, I don't remember who sent copies.

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Maybe the first copy has been admitted, but I am absolutely not sure, from Industrial Heat that sent the final -- the final version to me and to Johnson. We signed. I signed it by myself, Johnson signed it by himself, Darden signed it by himself and everybody -- and every of us retained a copy, with all the three signature at last.

Q. And what contribution did Henry Johnson make to any terms of the term sheet?

A. I don't recall.

Q. Do you recall -- but you recall that he made some changes or contributions to the term sheet?

A. Yes, I recall that.

Q. You just don't recall what they were?

A. Yes, exactly.

(The document referred to was thereupon marked Deposition Exhibit 3 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. I am going to mark as Exhibit 3 what's called an industrial gross sublease.

A. Can I ask five minutes of break to go to the men's room?

Q. Of course.

THE VIDEOGRAPHER: We're off the record

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The time is 11:36 a.m.

(Thereupon a brief recess was taken, after which the following proceedings were had.)

THE VIDEOGRAPHER: We're back on the record. The time is 11:47 a m.

BY MR. PACE:

Q. Dr. Rossi, you have in front of you what's been marked as Exhibit 3. This is a subleasing agreement between Leonardo Corporation and J.M. Products, correct?

A. Correct.

Q. Who negotiated this on behalf of Leonardo Corporation?

A. Me.

Q. And who negotiated it on behalf of J.M. Products?

A. Me.

Q. Okay. **So essentially this is -- you handled both sides of this agreement, correct?**

A. **Yes**, sir.

Q. Okay. And it says here that there is a base rent -- I'm sorry, I'm covering up my microphone. Paragraph 2(A) refers to a base rent of \$71,000 for the first year, correct?

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A. Yes.

Q. And then after that the base rent would go up by three percent a year for the second and the third year, correct?

A. Correct.

Q. And this base rent -- at least according to this agreement, the base rent was money that was going to be paid by J.M. Products to Leonardo Corporation, correct?

A. Correct.

Q. Did J.M. Products ever make these lease payments to Leonardo Corporation?

A. Yes.

Q. Did they make the payments using money that was provided to J.M. Products from Leonardo Corporation?

A. No, they paid by compensation with their products.

Q. So the money for -- I understand the phrase you want to use but let's talk about the currency. Was there a transfer of funds -- was there ever a transfer of funds from J.M. Products to Leonardo Corporation for any of the lease amounts under this agreement?

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A. No.

Q. Okay. So --

A. For the reason I said before.

Q. You explained --

A. Yes.

Q. -- the compensation --

A. Yes.

Q. -- the concept you were discussing.

A. Yes.

Q. But I just wanted to find out whether there was actually a payment of money, transfer of funds, and there was not. My question was -- I asked it as the first year, so let me just go through each of the three years. Was there ever any transfer of money from J.M. Products to Leonardo Corporation for lease under this agreement in the second year of the agreement?

A. The second year of the agreement did not exist.

Q. Okay. So this agreement -- when was this agreement terminated?

A. This agreement has been terminated when the plants have been stopped in February 2016.

Q. So the three year period would be from

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September 2014 to midnight August 31st, 2017. So the first year would have expired in September 2015, correct?

A. Yes.

Q. Or August 31st, 2015, correct?

A. Yes.

Q. The next year would have expired August 31st, 2016, correct?

A. Yes.

Q. Prior to that second year expiring this agreement was terminated?

A. Yes.

Q. All right. But at least for part of that second year of the lease term J.M. Products was located at -- was located at the Doral warehouse, correct?

A. I don't remember exactly when J.M. abandoned the plant, but few -- a few days -- I don't remember exactly how many days.

Q. Was it --

A. But --

Q. Was it in February or March of 2016 though?

A. I don't recall exactly, but very briefly after -- when it became clear that the litigation was

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not going to be resolved in matter of weeks and not even in matter of months, J.M. decided to abandon the plant.

Q. So that's -- the litigation -- **you filed your lawsuit in the beginning of April of 2016. Does that ring a bell with you?**

A. Yes.

Q. Does that sound accurate to you?

A. Yes, it is accurate.

Q. I think it was April 2nd of 2016 but I don't have it in front of me.

A. The deposit of the complaints.

Q. Yes. So your testimony is that J.M. Products stopped -- stopped at least certain operations sometime after the complaint was filed?

A. No, before.

Q. Before the complaint was filed.

A. Because before -- as you well know, before the complaint -- our complaints have been filed the situation had deteriorated very much, well before we met the first time in Miami with the attorney of Industrial Heat, which was you, and my attorney that was John Annesser in January -- 8 of January, if I am not wrong.

Q. It was in January of 2016?

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A. I remember the 8th of January, yes, because it's been an important date.

Q. I am just trying to kind of go back to something you were just saying, which is at some point in 2016 J.M. Products stopped -- well, at some point in 2016 J.M. Products stopped its business operations?

A. Yes.

Q. Okay.

A. In Doral.

Q. In Doral. And to the best of your -- and you, as the corporate representative today for J.M. Products, the only business activities you are aware of for J.M. Products -- I want to make sure I'm using the word you are comfortable with. You are more comfortable with aware. Let me start over. You, as the corporate representative of J.M. Products, the only business activities of J.M. Products that you are aware of were at the Doral location?

MR. ARAN: Objection to form.

THE WITNESS: As well as I were aware of, yes.

BY MR. PACE:

Q. Okay. So sometime in 2016 J.M. Products

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ceased all business operations that you, as the corporate representative of J.M. Products are aware -- let me start. That was a horrible question. Sometime in 2016 J.M. Products stopped its business operations at the Doral location?

A. Yes.

Q. I want to see if I can narrow it down when. It was before the lawsuit was filed at the beginning of April of 2016, correct?

A. Correct.

Q. It was after you met with Tom Darden in Miami, which was in January of 2016, correct?

A. Yes. You mean the meeting with the attorneys?

Q. Yes.

A. After that.

Q. I'm sorry, that's a good point. You met Tom Darden at a law office in Miami in January of 2016, correct?

A. Yes.

Q. Okay. So it was after that meeting. Fabio Penon was here in Miami and was at the Doral warehouse on at least the 16th and 17th of February

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of 2016. Was J.M. Products still operating at that time at the Doral warehouse?

A. Yes.

Q. All right. So now we have narrowed it further. So now we have gotten to sometime after February 17 of 2016, but before the very beginning of April of 2016 J.M. Products ceased its operations?

A. Yes.

Q. That was a decision that was made by you, correct?

A. No, that was a decision that has been made by the owner of J.M..

Q. And when you say the owner, **do you mean Di Giovanni?**

A. **Yes.**

Q. Is this -- was this a decision that was made -- I'm trying to remember here. Was this made at a meeting that you had with Henry Johnson and Di Giovanni?

A. I don't recall exactly this. I don't recall exactly this.

Q. Once the operations were -- once the business operations of J.M. Products ended sometime between mid February and the very, very beginning of

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April 2016, what happened to -- what happened, for example, to Jim Bass? Jim Bass then became an employee or a consultant for Leonardo?

A. Immediately after, yes, Jim Bass of course has been dismissed from J.M., and I asked to Jim Bass, because -- because he was very good, I asked to Jim Bass to go ahead for Leonardo Corporation in the study of the robotization system.

Q. I apologize. I was sipping water literally when you gave the last answer. Did you say the robotic system?

A. Yes, I asked to the -- to the company of Jim Bass that was -- I don't recall the name now. But I asked to continue to be a consultant of Leonardo Corporation because it would have been a pity to throw away a study that had been started at that point that is a very interesting technology related not to the one megawatt plant but to the technology of J.M. that is in development.

Q. The technology of J.M., is that then something that Leonardo acquired or is that still -- whatever that technology is it's still owned by J.M. Products?

A. No, the technology is still owned by J.M. Products.

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Q. But Leonardo is furthering the development of that technology?

A. Yes, because not for J.M. Products but for the European company we are in contact through Di Giovanni, we're going to develop this business.

Q. What is the European company?

A. It is a company in theory. This is an initiative that has to be still made.

Q. I'm sorry, I think I misunderstood. A company in its infancy, is that what you said?

A. No, in theory, in the making.

Q. Okay. In theory, I'm sorry.

A. In theory, yes. Sorry, it's a Latin expression. I'm sorry for use.

Q. So it's --

A. Excuse me.

Q. The European company hasn't been formed, but what you are discussing with Di Giovanni is forming that company in the future?

A. Yes, sir.

Q. All right. Let me come back here to J.M. Products. After J.M. Products was -- **after its business operations were closed in Doral, which we have established is sometime between late February and the very beginning of April of 2016**, the

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pipeline -- the pipes that were connecting the 1MW plant on the Leonardo side of the warehouse to the container, the kind of black box container on the J.M. Products side of the warehouse, those pipes were removed at some point, correct?

A. Correct.

Q. That was after the business of J.M. Products closed?

A. Yes.

Q. That was shortly after the business of J.M. Products closed?

A. Yes.

Q. That was at your direction?

A. Yes.

Q. And those -- this might help us for clarity sake. As you probably noticed through these various depositions I sometimes like having pictures. They help make things a little more clearer for me.

A. Sure.

Q. So I am going to mark here as Exhibit 4.

(The document referred to was thereupon marked Deposition Exhibit 4 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

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Q. Actually, you know what, I am going to ask you a question about Exhibit 3, just so we get that out of the way. I just realized I didn't actually --

A. I have Exhibit 4 here.

Q. Yeah. I want to ask you -- I am going to go back, only because I realized I didn't actually get an answer to my question. I just want to end it, get the answer and then we can move on.

A. Okay.

Q. So at least for part of the second year of this sublease that is Exhibit 3 --

A. Yeah.

Q. -- J.M. Products was operating at the Doral location, correct? At least from September 2015 until early 2016?

A. Yes. Independently from this lease contract J.M. left the area very short time after the closing of the plants, so automatically this expired.

Q. I understand what you're saying. I'm just asking the question of you testified earlier that there was no funds sent from J.M. Products to Leonardo to pay for the first year's rent.

A. Yes.

Q. I just want to ask the question, there

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was also no funds sent from J.M. Products to Leonardo to pay for the second year's rent?

A. Correct.

Q. I just wanted to close the loop. Now we can go to our new exhibit. So Exhibit 4 shows -- too much paper. Exhibit 4 shows the inside of the Doral warehouse, correct?

A. Yes, sir.

Q. What we see there is a -- in silver what we see there is a pipe wrapped in insulation, correct?

A. Yes.

Q. That pipe was removed sometime after February -- after the middle of February of 2016, but before the beginning of April of 2016, correct?

A. Yes.

Q. All right. And that pipe was removed at your direction, correct?

A. Yes.

Q. And the pipe that was contained within that insulation was then put to some other use by you; is that correct?

A. Yes.

Q. And was the insulation discarded?

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A. Yes.

Q. Okay. The -- what was the use that you put the pipe to?

A. That is related to a technology not related to the technology of the litigation and it's covered by industrial secret.

Q. I'm sorry, the last one was industrial secret?

A. Secret, yes.

Q. Let me ask you again. I am not asking for details on the underlying technology. I am just asking what did you do with the pipe? You put it to some other use?

A. Yes.

Q. What kind of use? You don't have to give me great details, but what kind of use? Let me rephrase. Where is it now?

Where is the pipe now?

A. Inside the plant.

Q. All right. And the pipe is now being used in another device inside the plant?

A. Yes, sir.

Q. And this pipe being used in this other device is carrying fluids through the device, without getting into the details of what those fluids are?

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A. Yeah.

Q. Okay. You can use a pipe to hold up a table, correct?

A. Sure.

Q. So I am trying to understand.

A. No, you are right. Like this, like this.

Q. Right, exactly. Even this picture there is a pipe --

A. Sure.

Q. -- that's shown as holding --

A. As a pillar. This is just a pillar.

Q. What we see here is there is a gray or metal-colored, surprisingly, pipe.

A. Yes, exactly.

Q. That is actually simply holding up the pipe wrapped in insulation?

A. Pillar. Like a pillar.

Q. Like a pillar?

A. Yeah.

Q. That's all I was trying to understand.

A. Sure.

Q. I just want to make sure our testimony was clear on that because we're talking about removing of pipes. Now we've got a picture that it's tied to.

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Reinaldo Breto, you testified earlier he was an employee of Leonardo that was lent or contracted out to J.M. Products, correct?

A. I am sorry but I think that Reinaldo Breto was an employee of J.M.

Q. You think he was an employee of J.M.

A. Yes, I remember. Maybe I am wrong but as I can recollect I remember that he was -- now he is an employee of Leonardo, but at the times he was an employee of -- of J.M..

Q. Okay. Well, this afternoon after lunch we will bring in the actual Leonardo to J.M. agreement, but it's just a matter of recollection.

A. Sure.

Q. But you are really getting, I think to my added question, which is after J.M. Products closed its business operations in Doral, Reinaldo Breto became an employee of Leonardo Corporation?

A. Yes.

Q. And he remains an employee of Leonardo Corporation until today?

A. Yes.

Q. And do you know where does -- at any point in time did he -- was he actually living at the Doral warehouse?

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A. No, he was not living in the Doral -- I asked him to -- we prepared for him a place where to sleep in an office for guarding, to have somebody always inside there because during the time I was alone in the Leonardo -- mainly in the Leonardo place, and I wanted to have somebody in the other side just for security to call me, then to call the police or somebody for security reasons. And yes, for some time he slept there, yes, but he was not -- it was not a stable situation.

Q. Do you know for how long he was residing at the Doral location?

MR. CHAIKEN: Object to form.

THE WITNESS: He was not residing. He never resided.

BY MR. PACE:

Q. I'm sorry, you're right. I just used the wrong word. For how long was he staying at the Doral location under the arrangement you talked about, where there was a place for him to be able to spend the night while you were at the Doral location?

A. During the -- I don't recall exactly the period -- I don't recall exactly the period **but when**

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we saw -- I was very suspicious about espionage, about -- sometime we had people around that was around to take photography, et cetera. During periods in which I did not feel very safe, I asked him to remain there.

Q. I understand. So it was not steady, it wasn't that he was always at the J.M. Products side of the Doral warehouse --

A. Yes.

Q. -- for a period of time, it was when you would request?

A. Yes.

Q. But otherwise he was a full-time janitor/handyman for J.M. Products?

A. It is correct.

Q. All right. If we have one extra copy, they'll split. This is a simple point.

(The document referred to was thereupon marked Deposition Exhibit 5 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. Dr. Rossi, just so that our record is clear I marked as Exhibit 5, because Mike here is very good at finding documents. This is why I am better doing depositions with Mike than without him.

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This is a document that shows that Leonardo Corporation lent Reinaldo Breto to J.M. Products in the first instance, correct?

A. Correct.

Q. All right. And now -- so essentially now that Reinaldo Breto is an employee of Leonardo essentially --

A. Yes.

Q. -- simply this contract has been cancelled?

A. I am not able to answer to this question. You know, from this invoice I can understand that Reinaldo -- Reinaldo was -- during the period of this invoice should have been an employee of Leonardo, not of J.M. Products. As I said before, I don't recall exactly if he was an employee of one or the other and so probably -- sir, I am not able to answer. Because this is an invoice where Leonardo invoices to J.M. Products the services of Reinaldo Breto. From this invoice I must only think that in this period Reinaldo Breto was an employee of Leonardo Corporation. This is all I can answer to you, sir.

Q. Okay. And in terms of this period,

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you're confident --

A. I don't see a date. Sorry if I interrupt you, but where is the date on this?

Q. I don't think there is a date to it. Is that your signature at the bottom?

A. Yes, it is my signature.

Q. This is a document that you prepared or had someone prepare for you?

A. I am not able to answer because I do not remember this document. I am reading this now. For sure it is authentic because this is my signature, there is no doubt about that, but I do not remember this. And so I am not able to answer you if -- if this has been something that then has been cancelled or not. I am not able to tell you.

Q. You're not aware of J.M. Products ever sending funds to Leonardo Corporation in the amount of \$3,000 a month for Reinaldo Breto, correct?

A. I have to repeat what I said before, this -- every expenses of the day by day, this reenters in the day by day expenses was covered by the compensation agreement between Leonardo and J.M. So J.M. never transferred money. J.M. paid in products by compensation.

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Q. But again, so we're clear though, there wasn't any transfer of funds, either for Reinaldo Breto or for any other purpose from J.M. Products to Leonardo?

A. Sir, not that I can recall.

Q. So that makes it easier for this. The other thing I would say is you are confident if you signed this it would have been during a period when J.M. Products was still conducting its business, correct?

A. Yes.

Q. So this must be prior to whenever it terminated its business in 2016?

A. Absolutely. Absolutely. Because after

when they terminated they had no reason at all to have anybody working for them.

Q. Okay.

A. In Doral.

Q. I want to -- I want to discuss the heat exchanger that you've testified about on the J.M. Products side of the Doral location in more detail actually later on today, but the only thing I want to talk about now on that is was that -- that heat exchanger that you have testified about, that you have discussed with Dr. Wong, do you -- do you know

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the date when that was removed?

A. Immediately after the -- after the closure, after the stop of the plants.

Q. So when -- when Fabio Penon was in Miami in February of 2016 the heat exchanger was still in place on the J.M. Products side of the Doral warehouse, correct?

A. Yes, it is correct.

Q. So sometime after that but before -- well, let me ask you, by the time you filed your lawsuit had the heat exchanger that you have testified about and described to Dr. Wong, had that been removed?

A. Sorry, attorney, it's pretty much confusing.

Q. Okay. Let's do this. When I refer to the heat exchanger I'm referring to the heat exchanger that you testified about previously in this case and that you described to Dr. Wong, okay?

A. Yes.

Q. As to that heat exchanger --

A. Yes.

Q. -- had that been removed from the Doral location prior to your lawsuit being filed?

A. Yes.

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Q. Okay. So that also -- just like the pipes -- the piping that we saw in Exhibit 4, that heat exchanger also, that was removed sometime between the middle of February 2016 and the beginning of April 2016?

A. It is correct.

Q. All right. And that also, according to your testimony, involved a large amount of piping.

A. Yes.

Q. Where has all that piping gone? We will talk about the other aspects of it later but I'm just trying to understand, is that piping -- let me just ask the question. Where did all that piping go?

A. In another plant not connected with the activity of the one megawatt plant, like the other one I told before.

Q. So there is another plant, there is another location? It's at a different location?

A. **It's another plant. No, it is in the same location, but it's -- it's another thing.**

Q. So let's see if we can get this -- we're going to talk about this in a lot more detail in the afternoon after lunch but I am just trying to understand.

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The piping for the heat exchanger that you testified about, it is now -- it's still at the Doral warehouse?

A. Yes.

Q. All right. But it's being used in some **new type** of device?

A. Yes.

Q. And in connection with this device, is it being used -- does it have fluids flowing through it?

A. Yes.

Q. And just to be clear for our purposes, we have discussed this in other depositions, I know, but I like each deposition to be clear. Both a liquid and a gas is a fluid, correct?

A. Correct.

Q. So if we talk about -- when we talk about -- if we were talking about water, if you described it as a heated fluid, that could be not just hot water, that could be steam, correct?

A. Correct.

Q. Okay. So I am not -- when I say that a fluid is flowing through these pipes I am not asking you whether it's steam or hot water or what it is, it's some kind of fluid?

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A. You know, in chemistry and in physics everything that is not solid is a fluid.

Q. Is a fluid. I just wanted the record to be clear that I am not -- when I refer to fluid, I am not trying to get into a debate

--

A. Sure.

Q. -- over whether we're talking about something is in liquid form or gas form, it's a fluid in any event.

(The document referred to was thereupon marked Deposition Exhibit 6 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. I'm going to hand you Deposition Exhibit 6.

A. Thank you.

Q. You're welcome. This is a -- this is the meeting from the first board of directors and shareholders for J.M. Products or, I'm sorry, for J.M. Chemical Products, correct?

A. I never saw this, so. I think this is the first time I see this document.

Q. Okay. If you look at the date on it -- well, let me ask. So in preparing for your deposition testimony today this is not a document you

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reviewed?

A. No, this is not a document I reviewed.

Q. Okay. Assuming this is an authentic document, it was produced by J.M. Products, date -- you see on the last page there is a date that is June 27, 2014, so that's right around the time that J.M. Products was formed, correct?

A. Okay. Yes, if it is so. Again, I am seeing, attorney, this document for the first time in my life.

Q. I understand. I am asking you about the date. I'm saying --

A. I am reading dated June 27, 2014, yes.

Q. Right. And is that -- do you recall --

A. Sorry.

Q. I'm sorry.

A. Sorry.

Q. Do you recall that's around the time that J.M. Products was -- J.M. Chemical Products was created as a company?

A. Makes sense.

Q. Okay. But you don't actually recall -- I am not trying to put words in your mouth. You don't actually recall --

A. No.

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[...] you will be requested and I am, just tell that it's a typo made by secretary and that's it. He told me that eventually has been corrected.

Q. It's been corrected. So there should be another document that should have been produced or would have been produced that would have the corrected information in it?

A. So the attorney Johnson told me.

Q. Understood. Right. You didn't actually do the correction?

A. No.

Q. Either Henry Johnson or his assistant, Colette made the correction?

A. I suppose so.

Q. By the way, just so I put it on the record before I forget about it, Colette is Colette Sauer, but it's spelled S-A-U-E-R, correct?

A. Yes, it is correct.

Q. We have got that done so later on today when I refer to Colette Sauer it will be spelled correctly in the record.

A. It's the secretary of Johnson.

Q. I want to -- before we take a break for lunch, I want to talk -- one of the deposition topics for today, if you look at -- if you're looking at

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Exhibit 1 but I will read it to you. You can read along with me if you like.

A. Exhibit 1, yes.

Q. Deposition topic 6 is --

A. Page?

Q. I'm sorry, page 2.

A. Page 2, yes.

Q. Deposition topic 6 is the relationship between JMP and Johnson Matthey p.l.c. --

A. Yes.

Q. -- or its affiliates --

A. Yes.

Q. -- including, but not limited to any products JMP purchased from or sold to Johnson Matthey, any payments between

JMP and Johnson Matthey and any agreements between JMP and Johnson Matthey. I think I can kind of cover this topic in just a few minutes and if I'm wrong, we'll break for lunch and finish afterwards.

A. No problem.

Q. J.M. Products never ultimately sold any products to Johnson Matthey, correct?

A. J.M. Products **was not supposed to** sell products to Johnson Matthey.

Q. Okay. And --

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A. Never. Never sold. The answer to your question, correct.

Q. They never sold. And that's because they were never intending to sell any products to Johnson Matthey?

A. No, Johnson Matthey --

MR. CHAIKEN: Object to form.

THE WITNESS: Johnson Matthey in the long discussions that I had with their top managers, they said that they would have been open to -- also to buy our products, to buy back the raw materials in case of we did not need them but -- but basically they were not supposed to buy material from JMP.

BY MR. PACE:

Q. Some of this I'm going over things that were covered in your prior deposition. I am just trying to make sure I'm clear because I've got you here as a representative of J.M. Products.

A. Okay.

(The document referred to was thereupon marked Deposition Exhibit 7 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. I am handing you what's marked as Exhibit

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7. I believe we covered this in your deposition on behalf of Leonardo Corporation last Friday, so I don't think I'm treading new ground. You just said that you were talking with high level people at Johnson Matthey.

A. Yes.

Q. And I believe last Friday you identified those individuals as the people on this e-mail. This is an e-mail that you had with Johnson Matthey with a Dalton O'Brian and Alain Groborz, correct?

A. Yes, it is correct.

Q. Those are the two individuals at Johnson Matthey with whom you were having your discussions?

A. Correct.

Q. All right. There has -- there has never been a payment by Johnson Matthey to J.M. Products, correct?

A. Correct.

Q. Has there ever been a payment by J.M. Products to Johnson Matthey?

A. I don't recall if -- because I bought -- I bought a sample from them and -- for several thousand dollars and I don't remember if I bought it as Leonardo Corporation or if J.M. bought it. I don't remember this.

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Q. Okay.

A. Maybe yes, maybe not. I don't recall exactly. Because in any case, this reentered in the day by day operation of the company. So in any case, the money had to come from Leonardo based on the agreement between Leonardo and J.M.. So maybe that this has been made, because they were in contact with J.M., as you can see from this e-mail. This e-mail has been signed Andrea Rossi, J.M. Products Corporation, Doral, Florida, so they knew that they were talking with J.M.

Q. Right.

A. And -- but I don't remember if I bought that sample as Leonardo or as J.M., so I am not able to answer your question. Either one.

Q. That's why I was asking you.

A. Either one.

Q. That's why I was asking the question. I was trying to understand whether J.M. Products bought it or whether Leonardo bought it.

A. I don't recall.

Q. Because I don't think we have received documents from either reflecting the actual purchase so I was trying to figure out who should have the

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documents.

A. And I can explain why. Because I bought from their American subsidiary.

Q. In Tennessee?

A. I don't remember if it is in Tennessee but we bought -- since we bought -- it was a small amount because it was just a sample and so they directed me to their American subsidiary for this small amount. And I don't remember if it was Tennessee or not.

Q. So let's break that down. Again, we can take a break in a little bit. I don't want to keep you for lunch.

A. I don't need it.

Q. Unfortunately I think I do need lunch. This e-mail is dated March 22nd and it talks about an order or potential order of 10 kilograms of platinum sponge. The first question is, your recollection that there was an actual purchase of platinum sponge from Johnson Matthey, that transaction occurred subsequent to this e-mail?

A. No.

Q. Prior to this e-mail?

A. Can you repeat the question?

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Q. Yeah. Maybe use of the word subsequent was a bad one. I think what you were just telling me was sometime after this e-mail you, either on behalf of Leonardo Corporation or on behalf of J.M. Products, bought some platinum sponge from a Johnson Matthey subsidiary in the United States; is that correct?

A. I bought from Johnson Matthey **a sample of a -- of a particular filter**, from which I could take off platinum sponges because they do not sell platinum sponges in small quantities and **I needed a small quantity to make one experiment** and so I bought from -- I bought -- yes, indirectly I bought platinum sponges, but directly **what I bought was a particular filter that I knew because I used it in Italy for other things. It's a catalyst. It's a catalyst that contains platinum sponges and I knew how to take off from that catalyst the platinum sponge that I need to make the experiment**, to make an experiment.

Q. Let me walk backwards, if I can. First of all, when you bought these filters, you bought them from a Johnson Matthey subsidiary in the United States?

A. Yes.

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Q. Second is you bought them sometime after the date of this e-mail, which is March 22nd of 2015, correct?

A. Yes.

Q. In response to this e-mail where you were looking to buy ten kilograms of platinum sponge, did Johnson Matthey inform you they weren't willing to sell ten kilograms -- simply ten kilograms of platinum sponge?

A. They sent an offer.

Q. You said that you needed a small amount of platinum sponge for the experiment you wanted to run. What do you mean by a small amount? Are we talking a few grams? Are we talking a kilogram?

A. We're talking a few grams.

Q. A few grams. And you obtained those few grams from the -- from removing them from **filters** you bought from the Johnson Matthey subsidiary?

A. Correct.

Q. And you don't recall sitting here today whether it was J.M. Products or Leonardo that bought those filters?

A. Correct.

Q. When J.M. Products -- actually, before I

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get into that subject, let me just see if I can wrap things up with Johnson Matthey. So you received order -- orders or proposed orders from Johnson Matthey for either J.M. Products or Leonardo to buy platinum sponge, but those orders were never completed, the platinum sponge pursuant to those orders was never bought; is that correct?

A. You say order, but you mean offers.

Q. Offer. I'm sorry, I didn't know if there was a phrase used for it. Yes, so let me rephrase my question. You received offers or proposals --

A. Yes.

Q. -- from Johnson Matthey to sell to either Leonardo Corporation or J.M. Products some quantity of platinum sponge, correct?

A. Correct.

Q. Those proposals or offers were never accepted by either J.M. Products or Leonardo, correct?

A. Correct. In that case from J.M. because -- yes, okay. No. The answer is correct.

Q. All right. Either J.M. Products or Leonardo did obtain some platinum sponge from a

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Johnson Matthey subsidiary, but it obtained it by purchasing **filters** from Johnson Matthey, the Johnson Matthey subsidiary, correct?

A. Yes, it is correct.

Q. So that transaction is not reflected in Exhibit 7?

A. No, sir.

Q. Okay. But it occurred sometime after Exhibit 7?

A. Yes, sir.

Q. All right. Other than proposals -- proposals or offers from Johnson Matthey to buy -- I'm sorry, to sell platinum sponge and aside from the transaction whereby either Leonardo or J.M. Products bought filters from a Johnson Matthey subsidiary, have there been -- are there any other agreements or -- are there any other agreements between J.M. Products and Johnson Matthey?

A. No, sir.

Q. Okay. Have there been any other potential agreements negotiated between J.M. Products and Johnson Matthey?

A. I don't understand the question.

Q. It was a poor question. Other than a proposal or offer to sell platinum sponge by Johnson

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Matthey to J.M. Products, and other than the transaction whereby certain filters were bought by either J.M. Products or Leonardo from a Johnson Matthey subsidiary, have -- are there any other business transactions that were negotiated or discussed between Johnson Matthey and J.M. Products?

A. No.

MR. PACE: Why don't we go off the record.

THE VIDEOGRAPHER: Sure. Off the record. The time is 12:44 p m.

(Thereupon a lunch recess was taken, after which the following proceedings were had.)

THE VIDEOGRAPHER: We're back on the. Record the time is 1:52 p m.

BY MR. PACE:

Q. Dr. Rossi, we have gone through this -- well, first of all you recognize you are still under oath, correct?

A. Yes.

Q. We have gone through this exercise before so I think you know the drill but I am going to ask you a series of questions. I'd ask kind of yes, no answers, give your lawyer a chance to object and at some point your

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lawyer I suspect is going to instruct you not to answer, so just -- we have done this before. Which is at your -- during the break with whom did you meet or discuss or have conversations?

A. With my attorneys.

Q. And those attorneys are?

A. Attorney Aran.

Q. Aran and attorney Chaiken?

A. Yeah.

Q. And just answering yes or no, did you discuss at all your testimony from earlier today?

A. Yes.

Q. With both of the attorneys or with just one or the other attorney?

A. With both of my attorneys.

Q. Okay. Again, give your lawyer a chance here. But what did you discuss?

MR. ARAN: Objection, privileged.

MR. CHAIKEN: Instruction not to answer.

MR. ARAN: And instruction not to answer.

THE VIDEOGRAPHER: Counsel, microphone, please.

MR. PACE: Hit it again, just so they hear it on the record.

MR. ARAN: Objection, privileged and

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instruct him not to answer.

BY MR. PACE:

Q. And Dr. Rossi, you are going to follow that instruction?

A. Yes.

Q. I want to start off talking a little bit about the heat exchanger we were discussing earlier today. I want to start by just laying a little bit of groundwork.

(The document referred to was thereupon marked Deposition Exhibit 8 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. I am handing you what is marked as Deposition Exhibit 8. Do you recognize Exhibit 8 as a picture of the Doral warehouse taken from the Leonardo side of that warehouse?

A. Yes.

Q. All right. Can you tell just by looking at the picture any time period when it was taken?

A. After -- I can take that this has been taken after the closing of the plants.

Q. After the closing. Now, you just said plants. So let's just make sure we're defining that

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correctly or we're on the same page. Sorry, I shouldn't say defining correctly. That we're on the same page. Plants means -- ones of those plants is the -- is the E-Cat plant by Leonardo, correct?

A. Yes, it is correct.

Q. And this picture that we have as Exhibit 8, that's reflected in the small piece of the red container that we can see on the right-hand side of the picture?

A. Yes, it is correct.

Q. All right. And the other plant is the J.M. Products plant and that we can see in this picture is the -- the top of the black box that we see on the right-hand side of the picture; is that correct?

A. Yes, it is correct.

Q. All right. Between those two plants -- I'm sorry, I may sometimes call them containers instead of plants. Is that okay with you?

A. No problem.

Q. That's because both of these, the E-Cat plant -- yeah, the E-Cat plant is in like a shipping container; is that correct?

A. Yes, the red shipping container.

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Q. And the J.M. Products plant is also in a shipping container that is just wrapped in insulation?

A. Yes, sir.

Q. So the black we see there is actually the insulation?

A. Yes, sir.

Q. All right. And between the two is a -- is a gray wall that looks like it's probably in the range of, you know, six, seven feet high. Is there a name you are comfortable referring to that wall?

A. Absolutely, okay.

Q. As contrasting the large walls that go up to the roof in this warehouse, what can we call this small wall? Can we call it a dividing wall?

A. Very good.

Q. Okay. So there is a dividing wall between the Leonardo container and the J.M. Products container?

A. It is correct.

Q. And you said that this picture was -- what you can conclude from this picture in terms of timing is it was taken after the operations of J.M. Products had ended. Why -- what about this picture shows that

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to you?

A. Because there is not the steam pipe. From this perspective we should necessarily see between the red container that is in the right of this photography and the black container that looms up on the top of the dividing wall at the left of the red ship container. We should see the pipe of the steam that brought -- that conveyed the steam produced in the red container that is the E-Cat, to the black container that is the J.M. plant. Here is not that pipe and obviously the plants were not in operation.

Q. I am going to mark here as actually Exhibit 9 and 10, because we're going to have one -- I am going to start with 9, and 10 is going to be the exact same version but I am going to let you draw on 10, which is why I am doing the difference, the distinction.

(The document referred to was thereupon marked Deposition Exhibit 9 for Identification, a copy of which is attached hereto.)

(The document referred to was thereupon marked Deposition Exhibit 10 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

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Q. Handing you what's marked as Exhibit 9 and 10. Actually, give one each to everybody because I've got a couple of extra in case any get messed up. One of these I am going to ask, the Exhibit 9, that we not draw on and then Exhibit 10 I am going to let you draw on. This is by no means to scale. I am not trying to claim it's to scale.

A. Okay.

Q. What I have tried to do is kind of create a simple diagram that has -- it's almost like an overview of the Doral warehouse. It doesn't have everything in it but it's

meant to show that there is a portion of the Doral warehouse that is for J.M. Products, that's the square that is the upper right corner of this diagram and then there is the area where Leonardo was operating, which is the bottom part of the Exhibit 9. I tried to draw in the little hallway we see in Exhibit 8 that takes you back to the bathroom in the back and then I put a box in here to represent the J.M. Products plant.

A. Okay.

Q. Again, not drawn to scale, but is that

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position wise roughly correct?

A. Yes, but I do not -- sorry, I miss the difference between the Exhibit 9 and the Exhibit 10.

Q. Absolutely none.

A. They look absolutely the same.

Q. They are the exact same.

A. Okay.

Q. The reason I gave you both of them is I want you then to put Exhibit 9 to the side because that way we know if you draw on Exhibit 10, we will be able to show the difference --

A. I understand.

Q. -- here is what Dr. Rossi drew because look at the difference between 9 and 10. So let's take 9 away from you so that you don't have an incentive to draw on 9. We will just put it under the pile, but we're not taking it away.

A. Okay.

Q. I actually -- if we need additional ones I actually have a few extra copies, we can create additional exhibits. I want to talk to you -- if you can keep Exhibit 10 with you, I want to see if I can set something up here. I am going to give you pictures you have seen before in a second. I am going to mark

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here as Exhibit 11 and 12.

(The document referred to was thereupon marked Deposition Exhibit 11 for Identification, a copy of which is attached hereto.)

(The document referred to was thereupon marked Deposition Exhibit 12 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. This is getting a little on the interactive side. This is Exhibit 11.

A. Thank you.

Q. This is Exhibit 12. You have seen each of these photographs before fairly recently?

A. Yes, I have seen these photographs during my -- I think my first deposition or the second. I don't remember exactly. One of the two.

Q. Right. It might even have been both. I don't remember now either.

A. Yeah.

Q. These are pictures of the inside of what you have identified as the J.M. Products plant or container, correct?

A. Yes, it is correct.

Q. And if I understand it correctly, if we put these pictures side by side, if you put Exhibit

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11 to your left and Exhibit 12 to your right, that kind of -- that's the way they would appear in the container, correct?

If you came into the container from the door we see in Exhibit 11, you would see these pipes in Exhibit 11 closest to that door, and then as you kept looking down or walking down the container, you would then see the equipment that is shown in Exhibit 2?

A. No.

Q. Can you explain to me how I got that wrong?

A. Here is a missing -- there is a gap.

Q. There is a gap between them?

A. Yes, between 11 and the 12 you should need an 11-B because as you can really see, you can easily see, they don't combine.

Q. Right. I'm sorry, I wasn't trying to say that and you said that previously, so let me just do this again. Which is, if you came in the door that we see on the left side of Exhibit 11 --

A. Okay. That's the entrance, okay.

Q. The first thing you would see are these pipes that are shown in Exhibit 11?

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A. Yes, it is correct.

Q. Then you would see some additional space and additional equipment in between the picture in Exhibit 11 and the picture in Exhibit 12?
A. Correct.
Q. And then on the far side of the container you would see the equipment we see in Exhibit 12?
A. Yes, it is correct.
Q. Okay. At the top of Exhibit 12 we see a pipe that's got some blue and looks like silver tape around it; is that correct?
A. You mean this?
Q. Yes, a tan colored pipe.
A. Yes, it is correct.
Q. That pipe is carrying the heated fluid from the Leonardo plant over -- into the J.M. Products plant, correct?
A. Correct.
Q. And that -- is that the same pipe as the one we see on the top of Exhibit 11? Recognizing there is a gap between them.
A. Yes, there is a gap between them and -- yes. In any case, yes.
Q. Okay. And you're familiar with the equipment that was in the J.M. Products container

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from your work for J.M. Products, correct?
A. Yes.
Q. Okay. I'm just making sure that you're knowledgeable about what we're looking at here.
A. I am.
Q. Okay. So looking at Exhibit 11, the way this system operated, the heated fluid coming from Leonardo -- coming from the E-Cat container would flow into these pipes, the first four pipes that we see here on Exhibit 11, the top four pipes we see on Exhibit 11?
A. The insulated pipes, yes.
Q. And I believe your testimony was very clear that that's steam that's coming through those pipes, correct?
A. Yes, sir.
Q. And so it remains steam as it's going through these four pipes?
A. Yes, sir.
Q. And then between Exhibit 11 and Exhibit 12 there is a -- we will get into more detail on it but there is a mechanism in place to carry the heated fluid out of the container -- out of the J.M. Products container to a heat exchanger; is that correct?

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A. Yes, there is a bypass.
Q. There is a bypass, okay.
A. Yes.
Q. And then after the heated fluid goes into the heat exchanger, it comes back as cooled fluid?
A. The cold fluid, yes.
Q. The cold fluid. And it comes into the pipe that we see on Exhibit 12, which is the -- it looks like it's a pipe wrapped in white insulation with some tan tape on it?
A. Yes.
Q. Okay. And, I'm sorry, just to be clear, it comes into this pipe somewhere on -- outside of the image, but on the left-hand side of Exhibit 12?
A. Can you repeat?
Q. Yes. When the -- when the cold fluid comes back into the container after it has gone through the heat exchanger, it would come into the pipe that is wrapped in white insulation with tan tape somewhere on the left-hand side of Exhibit 12, or what's not seen on the left-hand side of Exhibit 12?
A. Yes, it is -- yes, relatively cold. Relatively respect the steam, because it was still warm, but yes.

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Q. Then it would flow through this pipe that's covered in white insulation and tan tape out through the -- what we see here on the right-hand side of Exhibit 12?
A. Uh-huh.
Q. And that would then flow back to the Leonardo side of the Doral warehouse?
A. Yes.
Q. Okay. Just so I understand also, then I want to talk about our diagram that's Exhibit 10. Just so I understand, the heat -- the bypass that you referenced, the bypass goes out the -- how does the bypass carry the steam out from the J.M. Products -- out from the J.M. Products container? Is there a device that pushes the steam out or does it just flow naturally?
A. I did not understand the question.

Q. It was not a very good question by me. You testified that between Exhibit 11 and Exhibit 12 there is a -- there is a bypass and that takes the steam over to the heat exchanger, correct?

A. Yes.

Q. All right. What does that bypass look like?

A. A bypass is -- is a sort of a Y. So

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[...] was an experiment. And so I put the things in a way that I could have wheels in my hands. The famous violin, I wanted to play any cord, any possible cord to have any possible tuning. So I could -- I could modulate the amount of steam that I was sending inside this. Why these pipes are insulated while, for example, this area was designed to cool down in some particular cases? **When I put insulating means I need heat. So why I needed heat here? Because inside here I had the reactors.** I needed the heat here. How much heat, I did not know. I did not know. So basically I have made so that I could regulate.

Q. Can we be clear for the record, what you were just talking about was Exhibit 11?

A. Yes.

Q. You are talking about the pipes we see in Exhibit 11?

A. Yes, sir.

Q. Just doing it for the record.

A. This one.

Q. Understood.

A. So regulating this bypass, because the bypass as I -- which this kind of bypass is called -- in the jargon of this kind of technology it's called

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a butterfly. Why butterfly? Because it is like a wing. It is like a wing. When you turn the wing in one sense it closes the pipe. You turn it 90 degrees in the other -- you turn it clockwise, for example, it becomes open. You turn it counterclockwise, it becomes closed. Being a wing, it call it butterfly. So we had a butterfly here and butterfly here, so that we could modulate the steam. Why we foresaw a powerful heat exchanger at the end? Because I did not know how much heat I was going to consume, but I knew that I had to produce one megawatt power per hour for the performance test, so at that point I made that system. And foreseeing that the excess heat were going to be dumped in the -- dump heat in our jargon means to cool down without work, just to cool down. And this is it.

Q. And so the first bypass, what you have labeled as BP-1 --

A. Yeah.

Q. -- it would take the heated fluid from the pipe over to the exact same -- over to the same piping that is -- that is bypassed -- that bypass 2 led into?

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A. Yes.

Q. Then from there they would run against the far -- run against the wall to what I am calling the back of the warehouse? I don't know if you call it the back or the front of the warehouse. The part of the warehouse where the second story was?

A. Correct.

Q. Okay.

A. Sorry.

Q. Who purchased the butterfly bypasses?

A. No, we did it. We did it.

Q. You created it yourself?

A. Yes, because it is just -- please remember that I have very big experience in making this kind of stuff because I started when I was 22 years old to make incinerators with heat recovery, manufacturing them in my factory. In fact, also manufacturing using also my hands. I had 20 years of experience in that plant. A butterfly valve can be easily made with very few money. It's just a pipe with a disk inside, a shaft in the middle and outside a lever to maneuver it counterclockwise or clockwise, and that is a butterfly.

Q. I understand.

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A. If you buy a butterfly you spend \$5,000. If I make a butterfly for you it cost \$100.

Q. Understood. You may have been kind of using the royal plural, but you said we made the butterfly pass.

A. Yes

Q. Did you make it or did you make it with somebody else?

A. I needed the help of some contractor.

Q. Do you know the name of that contractor?

A. No, I don't remember because as I told you in a former deposition of mine I don't remember it's the first or the second, I used -- there was -- there were always around contractors in that area. Also because under my direction it's easy because it's just a matter of cutting and welding, so.

Q. Would you do any of the cutting and welding?

A. No, I did not cutting and welding with my hands specifically. I am able to but I did not.

Q. Right. I didn't think so. So the contractor was the person who did the cutting and welding. And the equipment used for the cutting and welding, was that equipment that the contractor

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brought with him or her?

A. The welder, yes, because we do not have a welder. For the cutting we have -- we have the tools necessary to cut.

Q. Aside from the bypass was there any -- was there any diverter pump that was used in connection with the heat exchanger? Was there any pump in let's say in the J.M. Products container to push the heated fluid out?

A. We had a recirculator.

Q. Yes, a recirculator.

A. Which is a pump.

Q. And who bought the recirculator?

A. I bought it. Leonardo bought it.

Q. If I concentrate hard I can actually write okay with my left hand now. Where did you buy the recirculator?

A. I don't remember.

Q. Did you save any purchase receipts from buying the recirculator?

A. Can you repeat the question?

Q. Did you save any receipts from buying the recirculator?

A. I don't take the accounting, so I am not able to answer. I did not take the accounting but

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yes, I should have it.

Q. Okay. In fact, when you say you should have it, your accountant should have it?

A. Yes. Yes.

Q. The heat exchanger on the J.M. Products side, that was one that you designed?

A. Can you kindly repeat?

Q. Yes. The heat exchanger that you have been drawing in these diagrams there on Exhibit 10, and it doesn't show all the heat exchanger --

A. Here I design nothing.

Q. That's what I was going to ask you. The heat exchanger has pipes that carry -- that carry the heated fluid from let's just say in the case of when you are using bypass number 2, **out of the J.M. Products container** --

A. Yes.

Q. -- **up to the second story** --

A. Yes.

Q. -- **of the Doral warehouse** --

A. Yes.

Q. -- and then the cooled fluid --

A. Yes.

Q. -- relatively speaking comes back?

A. **Yes.**

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Q. Who created that design?

A. I did.

Q. Okay. And for that design you needed a lot of pipe, correct?

MR. CHAIKEN: Object to form.

THE WITNESS: I don't know what you mean by a lot. I needed about 100 and something meters of pipe.

BY MR. PACE:

Q. Fair enough. I was going to say over 100 meter of pipe?

A. Over 100 meters of pipe. A lot --

Q. Relative concept, it depends on who you are, right?

A. 100 meters is very small respect, you know.

Q. If you're building a skyscraper a hundred meters is not very much.

A. Correct. Exactly.

Q. So the heat exchanger that you designed and built involved over a hundred meters worth of pipe. From where did

you buy that hundred meters worth of pipe?
A. From Home Depot and from -- because there

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were two different kinds of pipes. I bought them from Home Depot and from a supplier I don't remember the name of. A supplier of steel pipes. I don't remember the name of him. Was some -- it was a company in New Jersey, if I were remember or something like that or in Florida. I don't remember, sir, but for sure I have accounting of that.

Q. And would that be accounting -- is that J.M. -- were they bought -- was it bought by J.M. Products or was it bought by Leonardo, the pipes?

A. As far as I recall they have bought by Leonardo along the compensation agreement that Leonardo had with J.M.,. But maybe, again, by default it is Leonardo. I don't remember particular situations for which J.M. could have bought, but I think it was Leonardo.

Q. Okay. And the --

A. You know, when I prepared for this deposition, attorney, I did not go to find for distinction about this invoice, because for me it was one bundle.

Q. You didn't look for a distinction between J.M. Products and Leonardo?

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[...]

Q. I'm sorry, Dr. Rossi, you had -- you took a look at some notes to identify the model of the fans that were used in the heat exchanger you have been testifying about. What was the model? A. No, the manufacturer is Multifan.

Q. I'm sorry?

A. M-U -- Multifan, M-U-L-T-I-F-A-N.

Q. Multifan?

A. Multifan.

Q. And I forget if I asked you this already. Where did you buy the fans?

A. From Multifan.

Q. Directly, you bought it directly from -- Multifan is the manufacturer?

A. Yes.

Q. And you bought them directly from the manufacturer?

A. Yes.

Q. Is it safe to say you don't recall whether you bought them on behalf of Leonardo or J.M. Products?

A. Most likely Leonardo, but could be -- I think Leonardo.

Q. And you believe that your -- your accountant would have the records of the purchase of

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those fans?

A. Yes.

Q. And how many fans did you buy?

A. Two.

Q. Do you still have those fans?

A. They have been modified. They have been modified because I had used them for another purpose now.

Q. Without getting into the detail, can you explain to me what the other purpose is of the fans?

MR. ARAN: Objection to the extent --

BY MR. PACE:

Q. What's the purpose you are using the fans?

A. Can you repeat?

Q. Sure. You just said that you still have the fans but you are -- they have been modified because you are using them for another purpose, correct?

A. Yes.

Q. Are the fans being used in connection with the container, the J.M. Products container?

A. Yes, but for a completely different purpose because the kind of technology we have there is a completely different thing.

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Q. How have the fans been modified?

A. Can you repeat?

Q. How have the fans been modified?

A. I deem this confidential information because the modification of those fans reenters in this new technology. So if you are more specific and ask me something. How have been modified is too generic to answer. Because I should have to

explain things that I deem not information to give to my competitor and -- but --

Q. Were the fans modified by somebody on behalf of J.M. Products or somebody on behalf of Leonardo Corporation?

A. Leonardo Corporation.

Q. Who made -- who modified the fans?

A. I did.

Q. To modify the fans did you have to disassemble them?

A. Yes.

Q. Do they still operate as fans?

A. Fan is a very generic -- anything that moves a fluid -- anyway, yes. I would say yes.

Q. Are they still used to move air?

A. Yes.

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Q. Do they operate inside the container, the J.M. Products container?

A. Yes.

MR. ARAN: Objection to form.

BY MR. PACE:

Q. This heat exchanger that you have been testifying about, when was it put into place at the Doral warehouse?

A. Kindly can you repeat? I was distracted.

Q. Okay.

A. I was thinking to something. Sorry, it's my fault.

Q. I believe you have already testified that this heat exchanger about which you are testifying was removed sometime between mid February and very early April of 2016, correct?

A. Correct.

Q. All right. When was it installed?

A. It has been installed before the beginning of the test.

Q. If the test that you are describing was in late February of 2015 --

A. Correct.

Q. -- can you tell me was it installed by January of 2015? Was it installed in mid --

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A. I would say the end. Has been made at the very end, so I would say half February.

Q. The middle of February 2015?

A. Yes, just -- we completed it just before the start-up of the plant. Has been the last thing we made.

Q. And when you say we made, it was you and independent contractors, correct?

A. Yes. As I told you during I think my first deposition, I never say I. I always say we. It is also -- it is because I have been told when I was a child never say I because it's a concentric, et cetera. Always we because everything is merit of everybody, so I have this attitude. I tend to say always we.

Q. That's why I'm asking. When you say we, I want to make sure that you are not referring to just yourself, that there is somebody else involved.

A. Yes.

Q. So in this case to install the heat exchanger how many people were involved?

A. I don't remember. Maybe one, two because -- I don't remember exactly.

Q. How long did it take to install the heat exchanger?

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A. 15 days.

Q. Okay. If it was completed before the test -- before the end of February when the test you have described began --

A. Yes.

Q. -- you must have begun work on it by the early part of February?

A. Maybe, yes. I believe makes sense.

Q. Okay. So 15 days for the installation, approximately.

A. Yeah.

Q. How much were you paying the workers, if you recall?

A. I don't remember. I absolutely don't remember.

Q. Did you pay them --

A. You know, usually they were paid by the day cash because that's how things go there. And -- so I have not recall of this.

Q. It sounds like you would be paying several hundred dollars a day though to these workers or are they less expensive than that?

A. Might be, yes. I would say yes.

Q. And there is -- there is an element of this bypass -- I'm sorry. There is an element of

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this heat exchanger that you've described that we have not addressed yet, which is the -- these pipes that go up to the second floor are laid out in kind of a serpentine pattern on the second floor, a back and forth pattern?

A. Can you kindly rephrase?

Q. Yes.

A. Thank you.

Q. For the heat exchanger that goes up -- the pipes that are on the second floor --

A. Yes.

Q. -- those are laid in kind of a serpentine pattern, correct, a back and forth pattern?

A. You know, the part of pipe that goes up to the heat exchanger is just straight.

Q. Right. I am talking about the pipes that are in the heat exchanger.

A. That was confusing. The pipe inside is a serpentine, yes.

Q. And those serpentine pipes were -- your testimony has been that those serpentine pipes were contained within a wooden -- some kind of wooden enclosure?

A. Yes, we made -- to make it very fast and very cheap we made a wooden frame to sustain the

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serpentine and frame and the box even wooden, with a particular technique that I learned in my past to also **to eliminate the acoustic energy** and that's it.

Q. Who built the wooden box?

A. Carpenters. Carpenters that I got, contractors.

Q. Same answer, which is these are people who you don't have the names of any?

A. The same people. The same people.

Q. You don't know their names?

A. No, I don't.

Q. And you paid them in cash?

A. Yes. Mostly, not always. Some of them has been -- has made -- because some contractor that work with me in all the plant made invoice and I paid by invoice. Now I don't remember if the ones that worked in the second floor, if among them there was somebody. No, I don't think so. The ones that came to work there were just people that were there around with their trucks and I paid them cash.

Q. Okay. Where did you buy the wood for this enclosure box?

A. There was -- there is a shop that's Home Depot part and some wood also from -- from a wood

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seller that is not far from our factory. I don't remember the name of it.

Q. If you look at exhibit -- what we have here marked as Exhibit 14 and these are photographs that Dr. Wong took and submitted with his expert report.

A. Okay, yes.

Q. Exhibit A-1 --

A. Yes.

Q. -- is the second story of the Doral warehouse, correct?

A. Yes, it is correct.

Q. This is a picture that was taken sometime this past month of February 2017?

A. This photo has been taken by Dr. Wong when he visited our plant.

Q. And that was in February of -- February of this year, correct?

A. Yes.

Q. All right. The serpentine pipes would be laid on the floor, this kind of concrete floor we see here?

A. Yes. Yes, upon a frame of wood, yes.

Q. That was one of the things I was going to ask. So the pipes were on top of a wood frame,

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correct?

A. Yes, we have put kind of lumbers, upon the lumbers the pipe, the steam pipes.

Q. And then --

A. So the steam pipes were not in contact with the floor.

Q. Understood. And then the wood would also -- this was a box, so it would actually also cover up the steam pipes, correct?

A. Yes, not in contact with them through the frame because there had to be some distance between the wood cover and

pipes, and the steam pipes.

Q. So how tall was the box?

A. The tall was -- I get the dimensions. The dimensions should be in the report.

Q. Actually, I don't have Wong's. You provided the dimensions to Dr. Wong?

A. Yes, I provided the dimensions to Dr. Wong and more or less you make about one meter of it, more or less. One meter is three feet.

Q. And then the -- were the fans -- were the fans inside the box?

A. The fans were outside the box blowing air inside the box at a rate such that we had very consistent exchange of air inside the box, inside the

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box, not to allow the air to heat up too much.

Q. And the -- so the fans are drawing air from outside --

A. Yes.

Q. -- into the second story of the Doral warehouse and then they are going over these pipes, if I understand how the system works, because the pipes are warm, that air is getting warmed up and it has to be circulated back out of the second story?

A. Right.

Q. And it circulates back out of the second story through the windows?

A. Yes.

Q. So if you look at Exhibit A-1, when we look on -- we can see light coming through two openings here. Are those both windows or am I looking somehow at doors?

A. No, are both windows.

Q. Was the air being pushed out of both those windows or just one?

A. No, just one. The one with the two guys there because we were substituting the -- we were making substitution of -- of the glasses there. The second one has been the window that we used.

Q. Okay. So A-2, is that the -- is it your

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testimony that's the window that was used to push the air out?

A. I think so, yes.

Q. Okay. And just so I understand --

A. I think so. Sorry to interrupt. I think so because, you know, I am not -- I don't remember exactly looking out of that window, if this is the panorama. In any case, yes, I think so. Because this window is equal to another -- there are three windows basically. Yes, three windows there are and we used for this purpose the central one.

Q. So just so I understand that too, if you are walking into J.M. Products there is a window right above the door for J.M. Products?

A. Sorry, I do not understand what you are saying.

Q. Sure. When you walk into the J.M. Products building, the side of the Doral warehouse, there is a window above the door that you come in, correct?

A. Correct. And that is -- yes, correct.

Q. And then there is two -- if you are facing the building, to your left there is another set of second story windows?

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[...]

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(The document referred to was thereupon marked Deposition Exhibit 17 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. That is the -- that is the agreement you have referenced before about the compensation agreement between J.M. Products and Leonardo Corporation, correct?

A. Yes.

Q. And this is signed by Henry Johnson for J.M. Products and by you for Leonardo?

A. Correct.

Q. All right. I just wanted to make sure we got that kind of clear on the record, so that was 17. Exhibit 17.

(The document referred to was thereupon marked Deposition Exhibit 18 for Identification, a copy of which is attached

hereto.)

BY MR. PACE:

Q. I have marked here as Exhibit 18.

A. Yes, I know what is this.

Q. In connection with -- in connection with Industrial Heat entering the term sheet with J.M. Products or J.M. Chemical Products, Industrial Heat asked J.M. Chemical products to complete this form

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that is marked as Exhibit 18, correct?

A. Yes.

Q. And this was completed by Henry Johnson as the president of J.M. Chemical products?

MR. ARAN: Objection, form.

THE WITNESS: I am reading that, yes.

BY MR. PACE:

Q. Do you recognize that as Henry Johnson's signature?

A. Honest --

Q. If you don't recognize it, you don't.

A. Yeah, but I have no doubt -- I don't recognize it because I am not familiar with his signature.

Q. Okay.

A. But I am pretty sure that this has been signed by him.

Q. Okay. And the J.M. Chemical Products is what today is known as J.M. Products, correct?

A. Yes, it is correct.

Q. One statement in here is that JMC, which is short for J.M. Chemical Products, is owned by an entity formed in the United Kingdom. That's not -- that's not, in fact, accurate, correct?

A. No, it is not accurate. May I explain?

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Q. Yes.

A. Okay. From the beginning Di Giovanni told us that he was going to make for this business a partnership that would end up -- that would end up with a UK entity and this remained -- and this remained through various documents that follow it up and at the end Di Giovanni did not -- did not make an agreement with those people -- with those people and remained this -- this thing that eventually turned out not to have been made and it remained -- it remained --

Q. It remained? Finish.

A. It remained.

Q. Owned by Platinum American Trust?

A. American Trust, whose beneficiary is an Italian. So what was foreseen, also for me, also from me, I had understood that the beneficiary would become eventually a UK entity and that -- the beneficiaries of Di Giovanni was provisional.

Q. So at the time this was signed J.M. Chemical products was owned by Platinum American Trust, correct?

A. At the time this has been -- what is the time this has been signed, please?

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Q. August -- the middle of August 2013 -- 2014. The middle of August 2014.

A. So the Platinum Trust had already been made, am I correct?

Q. Correct.

A. Yes. So yes, when it has been signed still there was the conviction from all that Di Giovanni was going to eventually merge in a UK entity.

Q. So let me type out the date this was signed. So on the day this was signed J.M. Chemical Products was owned by Platinum American Trust, correct?

A. Correct.

Q. On the day this was signed the sole owner of Platinum -- the sole beneficiary of Platinum American Trust was Giovanni, correct?

A. Correct.

Q. And Giovanni was an Italian human being, not a United Kingdom entity?

A. Yes, it is correct.

Q. Okay.

A. But Di Giovanni --

Q. Let me just --

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A. Sorry.

Q. Let me do this by steps.

A. Sure.

Q. But your testimony is what you understood was that Di Giovanni was looking to transfer his beneficial interest in the trust to a UK entity, correct?

A. Yes, it is correct.

Q. And you say that -- and you have said that there are documents that reflect that this transaction was being contemplated, correct?

MR. CHAIKEN: Object to form.

THE WITNESS: I did not understand this.

BY MR. PACE:

Q. I thought I heard you make a reference that there are documents that reflect that Di Giovanni was -- was contemplating selling his beneficial ownership to a UK entity.

MR. CHAIKEN: Object to form.

THE WITNESS: No, sir, I did not say that.

BY MR. PACE:

Q. Okay. I misunderstood.

A. Di Giovanni told to us that --

Q. He told that to you?

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A. Di Giovanni told to me and to the attorney Johnson this.

Q. So that's all -- there is no documents that reflect it, it's just oral communications?

A. Not that I am aware of.

Q. Understood. And do you know the -- the supposed entity, the UK entity to which Di Giovanni was having some kind of communications?

A. Can you kindly repeat?

Q. Sure. You have said that orally Di Giovanni told you that he was having discussions with selling his beneficial interest in J.M. Products to a UK entity.

A. No, he told me that he was going to make a partnership with a UK entity.

Q. Make a partnership. Did he tell you the UK entity? Did he identify it for you?

A. Sorry?

Q. Did he identify the UK entity for you?

A. No.

Q. Did you ever ask him?

A. No, it was not my business.

Q. I'm sorry, I don't know if I've ever asked this before. How did you first meet Di Giovanni?

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A. You asked me before in the first deposition.

Q. I did. The first one. I am just getting forgetful in my old age.

A. No problem. I knew him in Italy initially when I was working, pretty much notoriously, in the field to make fuel from waste and that's how I knew him because he was in contact with some fertilizer production company and he was interested to that, et cetera and is borne from that -- if you want a friendship, and that's it. Then he followed all -- all the follow-up of my profession when he knew it.

Q. So --

A. Sorry.

Q. So he was originally -- you originally met him as a potential business partner?

A. Yes, sir.

Q. And --

A. I would not say potential business partner. As a customer. As a potential -- as a person that could -- that had the necessary acquaintances to allow us to make important plans.

Q. Okay. And then is the first -- is the first transaction you have done with him J.M.

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Products?

MR. CHAIKEN: Object to form.

BY MR. PACE:

Q. Let me rephrase that. You said that he was a potential customer for this other business which made me think he never became an actual customer. Have you done any transactions with Di Giovanni prior to him becoming the beneficiary of the Platinum American Trust, that in turn owned J.M. Products?

A. No.

Q. There was testimony earlier in a prior deposition, I think even your testimony, as well as Jim Bass, that there was a -- on the J.M. Products side of the Doral warehouse there was a flow meter. Is that correct?

A. Yes, it's correct.

THE VIDEOGRAPHER: Counsel, your microphone, please.

BY MR. PACE:

Q. I'm sorry. I'm sorry. Let me do that again. There has been testimony previously that on the J.M. Products side of the Doral warehouse

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[...]

BY MR. PACE:

Q. Here we go.

A. Go ahead.

Q. You are jumping ahead of yourself. Slow down.

A. Okay.

Q. I am allowed to ask that question.

A. All right.

Q. You just like to get ahead of yourself here.

A. All right.

Q. Ready?

A. So what's the question?

Q. Hold on. It's coming. Wait.

A. Good. I'm happy.

Q. Slow down. I am concerned about your blood pressure.

A. I'm still. You can see.

Q. Okay.

A. Yes.

Q. Ready?

A. Sure.

Q. Are you sure?

A. Yeah.

Q. Okay. Is this payment made by -- I

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know. Just making sure you calm yourself down here a little bit. It's a Wednesday. High blood pressure, I don't want you to have a heart attack on me. Is this payment made on behalf of J.M. Products?

A. No.

Q. Okay.

A. This -- what do you mean, this one?

Q. The thousand dollar a month payment to remain loyal.

A. Absolutely not.

MR. CHAIKEN: Glad we were able to work through that.

THE WITNESS: Sorry?

MR. CHAIKEN: I said I'm glad we were able to work through that.

BY MR. PACE:

Q. I think he saw this.

(The document referred to was thereupon marked Deposition Exhibit 21 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. Dr. Rossi, I am going to mark as Exhibit 21 a picture of the outside of J.M. Products. You identified for us three -- that there were three sets

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of windows over the J.M. Products part of the Doral warehouse, correct?

A. Yes, sir.

Q. And of those three sets of windows you said it was the middle set of windows where the air was being pushed out of the --

A. Yes.

Q. -- second story of the Doral warehouse?

A. Yeah.

Q. I am just trying to identify it here in this picture. That would be -- I'm going to give you -- I'm going to let you play

artist again. Actually, do you have something a little stronger? Can you circle on Exhibit 21 --

A. Yes. Sorry.

Q. You know what, we're going to do it this way. Let's do that. We can go right ahead, because we will know what the marking is. There is no marking -- markers -- let me just start. Other than the exhibit number on Exhibit 21 there is no other markings on Exhibit 21 right now, correct?

A. I did not understand the question.

Q. I am just trying to make sure I've got a clean record, which is as to Exhibit 21, other than

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the exhibit sticker on there, there is no other markings on that document, it's just a picture?

A. Yes.

Q. Okay. So the marking you are about to make will be the only marking on that?

A. Yes.

Q. Can you do me a favor and circle the window from which the heat was being exhausted from the second floor. All right. Can you just put an AR next to that, or however you initial something.

Perfect. Has J.M. Products ever had a customer -- I'm not asking about potential customer. I am asking about an actual customer. Has J.M. Products ever had a customer other than Leonardo?

A. No.

Q. I'm going to mark as Exhibit 22.

(The document referred to was thereupon marked Deposition Exhibit 22 for Identification, a copy of which is attached hereto.)

BY MR. PACE:

Q. This is what at least purports to be another sale contract between J.M. Products and another entity.

A. What is your question, attorney?

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Q. When you look at this agreement, is there a -- do you know what happened with this agreement? This looks like it's supposed to be an agreement with a second purchaser, a customer but --

A. Can I read it?

Q. Yes. The question is --

A. Let me continue to read it because I am trying to find a clue. So far I am not -- sir, I do not remember this document and I do not absolutely remember and, by the way, here is also a very strange thing, because I am reading here -- sorry, what's your question about this?

Q. What was the strange thing that you were seeing in this document?

A. The seller, which appears to be J.M. Products Corporation, will invoice an amount equal to US dollar per month starting from March 30, 2014. Excuse me, but on March 30, 2014 J.M. did not exist.

Q. I understand. This is not a document that --

A. What the heck is this?

Q. I know you don't believe me when I tell you that other parties have produced documents but I am going to represent to you that J.M. Products has produced this document. You may not believe me. You

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may think it was done by somebody in the State of Florida.

A. I believe you. I believe you because if you gave me this is because somebody has gave it to you. I don't -- I absolutely don't recall this document and the fact that J.M. starts selling products on March 30, 2014 is a little bit bizarre.

Q. Just as a reference to James Wolff would be a little bit bizarre in that other document?

A. I don't remember of this document, sir.

Q. I understand. I'm saying that could be a typo, who knows how that occurred?

A. Redacted, redacted, redacted, redacted, redacted, no signatures, sir.

Q. This is how we have it as well.

A. What the heck is this?

Q. You can look at somebody else at the table than me. We can deal with it afterwards.

MR. CHAIKEN: Dr. Rossi, wait for a question, please.

BY MR. PACE:

Q. The question is --

MR. ARAN: You are making a statement without a question.

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BY MR. PACE:

Q. Do you know who the buyer is for this contract?

A. No. I never have seen this contract before.

Q. Okay. And your testimony --

A. And it makes no sense.

Q. Right, I was going to say --

MR. ARAN: There is no question.

MR. CHAIKEN: Wait for the question.

BY MR. PACE:

Q. Why does it makes no sense, because of the date?

A. Sure. March 30, 2014, J.M. did not exist.

Q. Is there anything else that makes it make no sense?

A. Again, gram 1,500 of, redacted. Name redacted, mailing address redacted, phone redacted, e-mail redacted, signature redacted. But it is highly confidential. Looks like a clownery.

Q. Dr. Rossi, for once you and I actually seem to be pretty close to being in agreement.

A. Yeah.

Q. It's not a highly confidential document.

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A. I don't know what this is.

Q. You don't know. Fair enough. We can find out from J.M. Products directly. Notwithstanding seeing this document was one of the reasons I wanted to show and see if it refreshes your recollection.

A. Looks like maybe it's some draft.

MR. CHAIKEN: Dr. Rossi, there is no question pending.

THE WITNESS: You're right. I am sorry.

BY MR. PACE:

Q. Notwithstanding seeing this Exhibit 22, your testimony remains the same, that the only actual customer of J.M. Products was Leonardo Corporation?

A. Yes.

Q. Okay. I believe I've asked this in a prior deposition. I don't think I've asked it today and testifying here as a corporate representative of J.M. Products, let me just ask. Other than -- other than -- other than Platinum American Trust owning the shares of J.M. Products, are you aware of any agreements or payments between Platinum American Trust and J.M. Products?

A. No, not that I am aware of.

Q. Other than whatever Platinum American

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Trust paid for the shares of J.M. Products, are you aware of any payments between J.M. Products and Platinum American Trust?

MR. ARAN: Objection, form.

THE WITNESS: Can you repeat the question?

BY MR. PACE:

Q. It was a long question. Let me simplify it. Are you aware of any payments between Platinum American Trust and J.M. Products either going from J.M. Products to Platinum American Trust or going from Platinum American Trust to J.M. Products, are you aware of any payments?

A. Understood. Understood. No, I am not aware of.

Q. Let me ask about Francesco Di Giovanni, same type of questions. Are you aware of any agreement between J.M. Products and Francesco Di Giovanni?

A. Agreement?

Q. Yes.

A. Francesco Di Giovanni -- J.M. Products and Francesco Di Giovanni was practically the beneficiary of the trust that owned J.M.

Q. Let me rephrase it.

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A. So this is --

Q. Other than the trust agreement.

A. Okay.

Q. So one agreement was the trust agreement.

A. This is the only one I am aware of.

Q. Let me ask my question again though. Other than the trust -- the Platinum American Trust trust agreement, are you aware of any agreements between J.M. Products and Francesco Di Giovanni?

A. Not that I am aware of.

Q. Are you aware of any payments between J.M. Products and Francesco Di Giovanni?

A. No, I am not aware of.

Q. As the corporate representative of J.M. Products are you aware of any documents that record or reflect readings from the thermometer that was operated on the J.M. Products side of the Doral warehouse in 2015?

A. Can you kindly repeat the question?

Q. Let me break --

A. I think I have understood but I'm not sure.

Q. I'm going to ask you a series of questions as the representative of J.M. Products.

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A. Yes, okay.

Q. In each case it's going to be about whether documents exist reflecting certain measurements from the different measuring devices on the J.M. Products side. I believe I know the answer, you have told me your response individually, I have heard this from other people that I have deposed but I want to have a clean record for J.M. Products.

A. Yes.

Q. So on the J.M. Products side of the Doral warehouse during the time period from February 2015 to February 2016 there was a flow meter, correct?

A. Yes, sir.

Q. Is there any document that reflects or identifies the readings that anyone made off of that flow meter during that time period?

A. Now the question is clear. No, there is not because basically -- no, there is not. Q. Because I want to go through all these before I have to keep repeating the question. I want to ask the same question as to the thermometer on the J.M. Products side of the Doral location. During that time period, February '15 to February 2016, are there any documents that reflect or identify the readings off of that thermometer?

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A. No.

Q. All right. I feel like I'm forgetting one. Were there -- I'll ask you. Were there any other measuring devices in operation on the J.M. Products side of the Doral warehouse from February 2015 to February 2016?

A. No.

Q. All right. Without getting into the details of what other substance was involved, I am going to refer just for a second here. I am going to refer to the -- whatever product J.M. Products was working on that involved platinum sponge, and I understand there is a product that involved graphene and then a third product that involved -- somehow involved nickel. I want to ask for just a time period -- some time period questions. **Was J.M. Products working on -- first on a product that involved platinum sponge, then a product that involved nickel, then a product that involved graphene?** Was it one after the other or were they all going on at the same time?

A. I have understood. **Initially we worked only with platinum sponges, initially. Eventually I added the other matters and they have been treated**

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together in different reactors inside the steam line.

Q. Okay.

A. They were not alternative. Alternative.

Q. Okay, got it. Got it.

A. Okay.

Q. The time period that -- we saw an e-mail earlier today that was from, I think like March of -- March 22nd of 2015. It's sometime after that that you -- that J.M. Products went from working only on a product involving platinum sponge to these other potential products?

A. Sir, I did not understand.

Q. Fair enough.

A. I am sorry.

Q. I believe what you just testified was that initially J.M. Products was just working on producing a product that involved the platinum sponge.

A. Correct.

Q. Eventually J.M. Products started working on -- on different products that didn't necessarily contain platinum sponge?

A. Correct.

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Q. Diversified the products it was trying to develop?

A. Correct.

Q. I am just trying to -- I am trying to identify that time period when J.M. Products, according to your testimony, went from working only with platinum sponge to the possibility of creating a product that did not involve platinum sponge or did not only involve platinum sponge, and I was using the reference as the e-mail that was from late March of 2015 that you had with J.M. Products. I don't know if that's -- that's helpful to identify when you --

A. You said J.M. Products or Johnson Matthey?

Q. Johnson Matthey.

A. Okay.

Q. So can you tell me --

A. Yes, now I got it.

Q. Can you give me some time frame, when did J.M. Products go from working on a product that involved platinum sponge to working on a product that might have involved graphene? Let's try it that way.

A. I have understood now the question

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perfectly.

Q. Okay.

A. Well, I would say I have not a precise recollection of it. I cannot be precise but I can give you a ballpark distinction. I started for sure with the platinum sponges that I had brought with me from Italy. They were in-house already and they -- they -- and this has been immediately. So I started with them when the plant has been started, so we're talking of about 16, 17 February 2015, 2-0-1-5. I would say that I have looked for diversifications when I felt that the agreement with Johnson Matthey was becoming shaky and so I would place -- between the end of March -- and I don't remember exactly when I bought graphite but I think it has been end of March, beginning of April, something like that. After that date I could be wrong. I cannot be precise but the ballpark is this and after that I continued. Also I bought, as I told you this morning, I bought some platinum sponge from Johnson Matthey from another product that I bought from them from their United States subsidiary. So I -- I wanted to continue with all

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these materials because that was an experiment. Again, I want to repeat that that was an experiment and I wanted to try to test all the possible outputs of that experiment.

Q. And of those -- of those experiments the -- the one product that -- that J.M. Products ultimately did sell to Leonardo, that did not involve platinum sponge; is that correct, or incorrect?

A. You are correct.

Q. In --

A. Because the work with the platinum sponge was not -- was not completed. We did not have good results and **we had better results with the graphite.**

Q. There was some testimony previously, and I might be using the wrong terms here. I am trying to remember the phrase you used. I think you referred to them as heated -- heated -- heat cords or heat coils and somebody else referred to them as heat strips. Are you aware of some kind of heating device used to keep pipes warm? Is it called a heat -- what do you call it? Did you call it a heat cord?

A. I did not call them. They have been cited probably from Jim Bass.

Q. Well, he called them a heat strip

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A. Somebody called it heat strip, et cetera.

Q. What would you call it?

A. Well, they can also -- the technical name is heating cables.

Q. Heating cables.

A. And they are -- or heaters.

Q. There were heating cables installed in the -- **in the container at the J.M. Products side**, correct?

A. Yes, it is correct.

Q. **They were installed in those insulated pipes that we saw back in Exhibit 11?**

A. **Yes, it is correct.**

Q. When were those -- when were the heating cables installed?

A. From the beginning.

Q. And were they there through the end, through the --

A. Yes, yes.

Q. Let me ask the question again.

A. Through the end of the test.

Q. Through the end always ends up being unclear, right?

A. Yes, of course

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Q. Were they there until you removed those pipes from the J.M. Products container?

A. Correct.

Q. All right. Are those -- those heating cables, were those purchased by J.M. Products or by Leonardo, if you know?

A. I think Leonardo.

Q. And I have asked similar question to what I asked before, as the other devices. If there are any records of that purchase they would be with your accountant?

A. Yes.

Q. Do you recall where you bought them?

A. Yes or no.

Q. Did you just say yes or no?

A. Yes or no, because -- because -- no, I was thinking to a company but I am not sure, so I just delayed to the accountant. But maybe -- maybe I bought them from a company whose name was Extreme or something like that, but I am not sure. In any case, surely -- surely this is accounted for.

Q. Extreme --

A. Because this was not -- this was not a flying -- a freelance contractor. This was a

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company.

Q. When you said Extreme, could that have been Extreme Plumbing?

A. No. No, no, no, no, no, it was not a plumber. Has nothing to do with plumbers this. These are heaters.

MR. PACE: Why don't we -- I think we're pretty close to the end. Why don't we take a break and give me about five minutes to try to figure out -- let's make it ten. Give me ten minutes to figure out any closing questions and we'll be done.

THE WITNESS: Okay.

THE VIDEOGRAPHER: We're off the record.

The time is 5:24 p m.

(Thereupon a brief recess was taken, after which the following proceedings were had.)

THE VIDEOGRAPHER: We're back on the record. The time is 5:38 p m.

BY MR. PACE:

Q. Dr. Rossi, I just had a handful of kind of wrap-up questions. From February 2015 to February 2016 J.M. Products made no use of the heated fluid provided by Leonardo, other than whatever use was made within

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what we have been calling today the J.M. Products container; is that correct?

A. Yes, it is correct.

MR. ARAN: Object to form.

BY MR. PACE:

Q. You identified -- thus far you have identified -- you referenced four groups of potential investors who came to the Doral location. You referenced Tom Darden and J.T. Vaughn either together or separately coming to the Doral location. Are there any other -- were there any other visitors -- I'm sorry, I am going to exclude the temporary workers that either J.M. Products or Leonardo would occasionally hire. Were there any other individuals or groups that visited the Doral warehouse?

A. Yes.

Q. Who?

A. Ampenergo. Ampenergo visited the plant twice. The first --

Q. Go ahead. Sorry.

A. The first time in March or April '15 and the second time September/October '15. Q. Anyone else? Any other visits to the Doral warehouse?

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A. Not that I recall.

Q. All right. And then just to be clear, when -- in connection with both visits by AEG did they ever go on the J.M. Products side of the warehouse?

A. Can you kindly repeat? Was confusing the first time.

Q. So there is two visits by somebody -- somebody -- let me restart this. There is two visits to the Doral warehouse by people from AEG, correct?

A. Yes, it is correct.

Q. Okay. In connection with either of those visits did anyone from AEG go over to the J.M. Products side of the Doral warehouse?

A. No, absolutely.

Q. Did any of those individuals from AEG meet with Jim Bass?

A. No, not that I can recall.

Q. With whom did these individuals from AEG meet, other than yourself?

A. Fabiani and Jim Bass, because they entered in the plant during the time -- I am not sure that -- yeah, yeah, yeah, Fabiani and Jim Bass. Yes, yes, yes, both.

Q. All right. The AEG people met both

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Fabiani and Jim Bass?

A. Yes.

Q. Okay. On both occasions or on at least one occasion?

A. This is a good question. I don't recall. I don't recall. I think that -- no, I don't recall, attorney.

Q. Okay.

A. I don't recall exactly.

Q. I may have asked this, but just -- just in case I did not, we talked about -- I'm going back to the heat exchanger that you testified about installing on the J.M. Products side of the Doral warehouse. Do there exist any -- are you aware of whether there exists any photographs of that heat exchanger?

A. No.

Q. Do there exist any diagrams of the heat exchanger?

A. What do you mean by diagram?

Q. A drawing of the heat exchanger, maybe either before it was put in place or after.

A. Yeah, I made sketches for me because, you know -- I made sketches for me but then I scratch

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them once, because it was not a product. It was just --

Q. Let me see if I can get that defined because you said you scratched them. Does that mean you threw them away, the sketches?

A. Yes. I did not conserve them, so I --

Q. Are there any -- any -- any records of testing done on the heat exchanger?

A. What do you mean by testing?

Q. To see if it worked.

A. Oh, yeah, sure. Of course.

Q. Are there any records of it? Are there any documents reflecting testing that you did on the heat exchanger?

A. You know, I was -- no, because I was working for myself in that moment and I had nothing to produce to anybody. And again, as for what concerns the sketches, for sure I have taken numbers for me while the temperature was going on, was raising, I observed the behavior of the temperature of the piping with my infrared thermometer and for sure I have taken notes, et cetera, but I did not conserve them. Because once I have reached the performance I needed, for me was stable.

MR. PACE: No further questions.

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MR. ARAN: I don't have any questions.

MR. CHAIKEN: Read.

MR. ARAN: We -- what's the policy with him?

MR. CHAIKEN: Read.

MR. ARAN: Read.

MR. PACE: Yes.

THE VIDEOGRAPHER: Off the record. The time is 5:46 p.m.

(Thereupon the taking of the deposition was concluded.)