

DISTRICT COURT
CLARK COUNTY, NEVADA

TED R. BURKE, MICHAEL R.)
and LAURETTA L. KEHOE;) Case No. A558629
JOHN BERTOLDO; PAUL BARNARD;)
EDDY KRAVETZ; STEVE FRANKS;)
PAULA MARIA BARNARD; PETER)
T. and LISA A. FREEMAN; LEON)
GOLDEN; C.A. MURFF; GERDA)
FERN BILLBE; BOB and ROBYN)
TRESKA; MICHAEL RANDOLPH and)
FREDERICK WILLIS,)
 Plaintiffs,)
vs.) VIDEOCONFERENCE
) DEPOSITION OF
)
LARRY H. HAHN, individually,)
and as President and) CHARLES POWERS
Treasurer of Kokoweef, Inc.,)
and former President and)
Treasurer of Explorations)
Incorporated of Nevada;)
HAHN'S WORLD OF SURPLUS,)
INC., a Nevada corporation;)
DOES I-X, inclusive; DOE)
OFFICERS, DIRECTORS and)
PARTICIPANTS I-XX,)
 Defendants,)
and)
)
KOKOWEEF, INC., a Nevada)
corporation; EXPLORATIONS)
INCORPORATED OF NEVADA,)
a dissolved corporation,)
 Nominal Defendants,)

Saint Vincent Healthcare
Billings, Montana
May 12, 2009

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APPEARANCES:

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The videoconference deposition of
CHARLES POWERS, produced, sworn and examined
upon his oath on the 12th day of May, 2009
commencing at 10:10 a.m., at Saint Vincent
Healthcare, Billings, Montana, before me,
Frances L. Kunz, a free-lance shorthand
reporter, a Notary Public within and for the
State of Montana, pursuant to notice and the
Nevada Rules of Civil Procedure, for the
examination of the said CHARLES POWERS, a
witness called for examination by the plaintiffs
herein, in a certain suit and matter in
controversy now pending and undetermined in the
said District Court, Clark County, Nevada, being
Case No. A558629.

"mm-hmm" is yes

"huh-uh" is no

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CHARLES POWERS,

having been first duly sworn to state the truth,
the whole truth, and nothing but the truth,
testified upon his oath as follows:

EXAMINATION

BY MS. TAYLOR:

**Q. Good morning, sir. Can you please
state and spell your --**

MR. CLARY: Wait a minute. Wait a
minute.

MS. TAYLOR: Do you want to do all this
-- do you want to do all the technical stuff
first, Pat?

MR. CLARY: No. I just want you to
announce for the record why we're here, and as I
would normally do, I would say, "This is the
time for the taking of the deposition, blah,
blah, blah".

MS. TAYLOR: Pat --

MR. CLARY: Do you mind doing that?
If you won't do it, I'll do it.

MS. TAYLOR: I don't mind doing that,
but I have a way of doing my depositions, and if
you're going to tell me how to do my
depositions, it's going to be a really long day,

1 okay?
 2 MR. CLARY: You don't think that you
 3 need to say, "This is the time for taking the
 4 deposition --"
 5 MS. TAYLOR: That's fine.
 6 This and time and place noticed for the
 7 deposition of Charles Powers. The deposition is
 8 being recorded in Las Vegas.
 9 Mr. Powers is being transcribed in
 10 Billings, Montana at Saint Vincent's Hospital.
 11 And we've got a court reporter, Fran
 12 Kunz from Big Sky Reporting, as well as a
 13 videographer, Robert Parker from Saint Vincent's
 14 Hospital.
 15 I think there's been a request from
 16 opposing counsel to make identifications for the
 17 record, so why don't we go around the room in
 18 Billings and identify everybody for the video
 19 record, and then we'll go forward from there.
 20 MR. PARKER: Okay.
 21 My name is Robert Parker. I am the
 22 videoconference technician, and I'll be leaving
 23 here in a moment.
 24 MS. TAYLOR: And Mr. Parker, just for
 25 the record, what company are you with?

1 MR. PARKER: Saint Vincent Healthcare.
 2 MS. TAYLOR: Okay, great. Thank you,
 3 Mr. Parker.
 4 THE WITNESS: I'm Charles Powers. I'm
 5 going to be a witness. I live in Columbus,
 6 Montana, and I worked out at Kokoweef.
 7 THE REPORTER: I'm Fran Kunz, the court
 8 reporter. It's K-U-N-Z, and I'm with Big Sky
 9 Reporting Service.
 10 MS. TAYLOR: Okay.
 11 And then I'm Jennifer Taylor. I'm the
 12 attorney for the plaintiffs, and I have noticed
 13 this deposition.
 14 We can go around the rest of our room.
 15 MR. CLARY: I'm Patrick Clary. I
 16 represent so-called nominal defendant, Kokoweef,
 17 Inc., and I also am representing myself
 18 individually as a defendant named in this case.
 19 MR. HAHN: Larry Hahn, one of the
 20 defendants.
 21 MR. SEGEL: I'm Nelson Segel, counsel
 22 for Larry Hahn and Hahn's World of Surplus.
 23 MS. TAYLOR: Are there any other
 24 housekeeping matters that you wanted to do,
 25 Mr. Segel or Mr. Clary, before I commence with

1 examination of Mr. Powers?
 2 MR. PARKER: I have something. This is
 3 Robert.
 4 I just want to test this document
 5 camera.
 6 MS. TAYLOR: Okay.
 7 Okay, when you are ready to put
 8 something on here --
 9 MS. TAYLOR: Robert?
 10 MR. PARKER: Yes.
 11 MS. TAYLOR: Do you, by any chance,
 12 have a scanner there that you could possibly
 13 scan those pictures so that we can have them in
 14 our hands on this end?
 15 If you can scan them, I can give you an
 16 email address.
 17 And actually, you know what, Fran,
 18 let's go off --
 19 MR. SEGEL: Stay on the record.
 20 MS. TAYLOR: All right, fine.
 21 Whatever.
 22 Can you -- if you could scan them,
 23 Robert, I can give you an email address here,
 24 and we can have them printed and brought into
 25 our room. Is there any way that that's

1 possible?
 2 MR. PARKER: Yes.
 3 MS. TAYLOR: Yes?
 4 MR. PARKER: It is possible.
 5 MS. TAYLOR: Fabulous.
 6 Okay.
 7 Why don't you, then, Mr. Powers, give
 8 all of the photos to Robert.
 9 Robert, let me -- -- hold on, bear
 10 with me one second. Let me get a good email
 11 address to give to you real quick. Hold on one
 12 second.
 13 MR. PARKER: Okay.
 14 (Off the record.)
 15 THE REPORTER: You need to repeat that
 16 because we're on the record. They want to hear
 17 what you're saying.
 18 MR. PARKER: Okay.
 19 So, what it is, I made presets on the
 20 camera.
 21 THE WITNESS: Okay.
 22 MR. PARKER: So if you hit the number
 23 1, it's going to go to camera 1. If you hit the
 24 number 2, it's going to the document camera,
 25 okay?

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1 Then, when you want to get away from
 2 the picture, you should go back to number 1.
 3 So all you've got to do is 1,2; 1,2;
 4 1,2; 1,2, okay?
 5 MS. TAYLOR: Okay.
 6 Robert?
 7 MR. PARKER: Yes.
 8 MS. TAYLOR: When you get them scanned,
 9 you can email them to ben@litigationservices,
 10 all one word, .com.
 11 MR. PARKER: Okay. Will do.
 12 MR. SEGEL: Thank you.
 13 BY MS. TAYLOR:
 14 **Q. Sir, can you please -- I know you**
 15 **stated your name for the record, but could you**
 16 **just go ahead and please spell it for the**
 17 **record?**
 18 THE REPORTER: She's talking to you.
 19 THE WITNESS: Oh.
 20 Repeat that.
 21 BY MS. TAYLOR:
 22 **Q. Oh, sorry.**
 23 **I just want you to just spell your name**
 24 **into the record just to make sure that we've got**
 25 **the proper spelling on it, and your middle name**

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1 **if you have one.**
 2 **A. Okay.**
 3 **It's Charles, C-H-A-R-L-E-S; Andrew,**
 4 **A-N-D-R-E-W; Powers, P-O-W-E-R-S.**
 5 **Q. Okay.**
 6 **Now, Mr. Powers, we're doing this**
 7 **deposition at your request because you're**
 8 **leaving for Manila tomorrow morning, correct?**
 9 **A. That is correct.**
 10 **Q. And you're leaving for Manila because**
 11 **you've recently been diagnosed with --**
 12 **MR. CLARY: : Objection, leading**
 13 **question. It's not appropriate.**
 14 **MS. TAYLOR: Okay.**
 15 **I'm just going to also state, Pat,**
 16 **please keep your objections to those within the**
 17 **parameters of Rule 30(b).**
 18 **BY MS. TAYLOR:**
 19 **Q. Why are you leaving for Manila,**
 20 **Mr. Powers?**
 21 **A. Okay, I'm going for two reasons. Going**
 22 **to see a girlfriend that I have in Manila, and**
 23 **I'm going to see about getting a second opinion**
 24 **on a diagnosis of cancer.**
 25 **Q. And your diagnosis of cancer is for**

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1 **what kind of cancer?**
 2 **A. They say I have prostate and lung**
 3 **cancer.**
 4 **Q. Okay. All right.**
 5 **Well, Mr. Powers, I hope that they give**
 6 **you a good second opinion.**
 7 **A. Thank you.**
 8 **Q. And that they can take care of your**
 9 **issues while you're over there.**
 10 **Okay. We're here to talk today about a**
 11 **company previously known as EIN, and now known**
 12 **as Kokoweef.**
 13 **Are those -- are you familiar with**
 14 **those two company names?**
 15 **MR. CLARY: Objection. The question**
 16 **assumes facts that are not correct.**
 17 **MS. TAYLOR: Okay.**
 18 **Please, Pat, maintain your objections**
 19 **to those within the scope of 30(b)(6) and**
 20 **refrain from making speaking objections on the**
 21 **record.**
 22 **BY MS. TAYLOR:**
 23 **Q. Do you understand the question,**
 24 **Mr. Powers?**
 25 **MR. CLARY: I have been doing this for**

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1 41 years --
 2 **BY MR. TAYLOR:**
 3 **Q. Do you understand the question,**
 4 **Mr. Powers?**
 5 **A. Yes.**
 6 **MR. CLARY: -- And I don't need --**
 7 **THE REPORTER: Wait a minute. I can**
 8 **only take one person at a time.**
 9 **THE WITNESS: I understand the**
 10 **question.**
 11 **MS. TAYLOR: Okay.**
 12 **MR. CLARY: Well, wait a minute. I**
 13 **want to finish my objection -- my statement.**
 14 **I don't need -- I would like to put on**
 15 **the record that I don't need any advice from**
 16 **counsel for the plaintiffs with respect to how**
 17 **to handle my objections in a deposition. I have**
 18 **been doing this for 41 years.**
 19 **MS. TAYLOR: Okay. And I understand**
 20 **that, Mr. Clary, and I will continue to make a**
 21 **record every time you object outside the**
 22 **parameters of the rules.**
 23 **MR. CLARY: It's your privilege, and**
 24 **it's also my privilege to make proper**
 25 **objections.**

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1 BY MS. TAYLOR:
2 **Q. Mr. Powers, did you understand that**
3 **question?**

4 MR. CLARY: And let me interject this
5 comment:
6 My understanding is that this
7 deposition is being taken because of Mr. Powers'
8 physical condition -- and you can put that on
9 the record -- to preserve his testimony.

10 MS. TAYLOR: And that is my
11 understanding too, that Mr. Powers requested --

12 MR. CLARY: Could I take a breath --

13 MS. TAYLOR: Yeah, go ahead.

14 MR. CLARY: -- before I finish my
15 statement?

16 So this is a little bit different kind
17 of deposition than just a normal discovery
18 deposition.

19 And the question of the admissibility
20 of this deposition may be in question at some
21 point. In this regards, don't you for a moment
22 think that I'm not terribly sympathetic with
23 your situation. My first wife died of lung
24 cancer, so I'm very sympathetic.

25 THE WITNESS: Thank you.

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1 **A. Okay.**

2 MR. CLARY: Wait a minute.

3 And I don't disagree with that,

4 Mr. Powers. I want you to answer any question
5 that you are asked.

6 And I certainly -- by interposing
7 objections from time to time, I'm not in any way
8 trying to restrain you from answering your
9 questions truthfully and completely. I want you
10 to do that.

11 THE WITNESS: Thank you.

12 MR. CLARY: And I want to hear those
13 answers.

14 BY MS. TAYLOR:

15 **Q. We'll just go back since it's been so**
16 **long since I asked him the question.**

17 **Mr. Powers, are you familiar with the**
18 **company called EIN?**

19 **A. Yes.**

20 MR. CLARY: What is "EIN"?

21 MS. TAYLOR: And I'm about to ask him.

22 BY MS. TAYLOR:

23 **Q. Do you know what EIN stands for?**

24 **A. Explorations Incorporated.**

25 **Q. That's it, Explorations Incorporated?**

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1 MR. CLARY: I hope that you recover and
2 everything.

3 But I have a job to do here. It's
4 nothing -- nothing with respect to you
5 personally.

6 THE WITNESS: That's fine.

7 MR. CLARY: I have a job to do.
8 Thank you.

9 THE WITNESS: Thank you.

10 MR. CLARY: So I will make the
11 appropriate -- the objection I think is
12 appropriate. And those -- the propriety of my
13 objections and anything I say will not be
14 determined here in this deposition, but will be
15 determined by the discovery commissioner or by a
16 judge.

17 Go ahead, Counsel.

18 BY MS. TAYLOR:

19 **Q. So, going back -- and so let me just**
20 **state this so that you understand Mr. Powers:**

21 **If Mr. Clary does make an objection,**
22 **since the determination as to whether or not**
23 **your testimony would be determined at a later**
24 **date, unless you are instructed otherwise, we'll**
25 **go ahead and have you answer the question, okay?**

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1 **A. (Nodding head.)**

2 **Q. Okay.**

3 MR. SEGEL: I'll object. That's not
4 correct.

5 MR. CLARY: It's his answer.

6 BY MS. TAYLOR:

7 **Q. Are you familiar with a company called**
8 **Kokoweef?**

9 **A. Yes, I am.**

10 **Q. Okay.**

11 **At some point were you -- strike that.**

12 **Do you own shares of either EIN or**
13 **Kokoweef?**

14 **A. I had shares in the first company, and**
15 **I also have shares in the Kokoweef company now.**

16 **Q. Okay.**

17 **How was it that you came by ownership**
18 **of shares of both EIN and Kokoweef?**

19 **A. Some of the shares were given to me,**
20 **and some of the shares I paid out of my own**
21 **pocket.**

22 **Q. How did you come by your shares of**
23 **EIN? Through -- through them being given to you**
24 **or through paying for them?**

25 **A. Both.**

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1 (Silence.)
 2 THE REPORTER: Did you mute yourselves
 3 or what?
 4 MS. TAYLOR: Yeah, we did. We did.
 5 MR. SEGEL: Let me just interject --
 6 (Muted.)
 7 MS. TAYLOR: Fran, can you read me back
 8 his last answer, please?
 9 (Whereupon, the record was read by the
 10 reporter.)
 11 BY MS. TAYLOR:
 12 Q. Okay.
 13 And do you know how many shares,
 14 Mr. Powers, were given to you of EIN?
 15 A. I'm not sure on that.
 16 Q. Okay.
 17 Do you know how many shares you
 18 purchased in EIN?
 19 A. Yes. I purchased \$3,380 worth.
 20 Q. And what was the price of the shares at
 21 the time you purchased them?
 22 A. \$6 each.
 23 Q. And the shares that you were given in
 24 EIN, why were those given to you?
 25 A. When I first met Larry Hahn, I told him

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1 that I couldn't afford to buy shares in the
 2 company, and he said that I could work for
 3 shares, and so that is how I got those.
 4 Q. Okay.
 5 MR. CLARY: So, it wasn't a gift.
 6 MS. TAYLOR: I never --
 7 MR. CLARY: It was for services.
 8 MS. TAYLOR: But He said they were
 9 given, and I was very careful to craft a
 10 question that didn't indicate it was a gift,
 11 Pat.
 12 MR. CLARY: No, you didn't.
 13 MS. TAYLOR: Yes, I did.
 14 MR. SEGEL: Let's ask the next
 15 question. Please do. All right, Jennifer,
 16 please go forward.
 17 BY MS. TAYLOR:
 18 Q. What kind of services did you provide
 19 to Mr. Hahn for the shares that you were given
 20 in EIN?
 21 A. I went out to the camp, and I did
 22 piping and ventilation, and I also did diamond
 23 drilling.
 24 Q. And what kind of -- so, it was out at a
 25 mine.

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1 What kind of materials were you mining
 2 for, Mr. Powers?
 3 MR. SEGEL: Objection --
 4 MS. TAYLOR: Okay, fine.
 5 THE REPORTER: Wait just a second.
 6 Some gentleman said something, and who
 7 was it. And what did you say?
 8 MS. TAYLOR: Mr. Segel objected that I
 9 haven't laid a foundation on the mine issue.
 10 THE REPORTER: Keep your voices up when
 11 you're making objections because I'm not always
 12 looking at the camera.
 13 MR. SEGEL: Ms. Court Reporter, I was
 14 just trying to do something simple. It didn't
 15 have to be on the record.
 16 But correctly so, you're right.
 17 So, Ms. Taylor has resolved it. I
 18 simply suggested it would be desirable that we,
 19 in fact, have some foundation on "the mine"
 20 because we haven't talked about "the mine" yet,
 21 so that was what my objection was.
 22 MR. CLARY: Well, if Mr. Segel hadn't
 23 done it, I would have done it on the grounds of
 24 lack of foundation.
 25 //

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1 BY MS. TAYLOR:
 2 Q. Okay.
 3 Mr. Powers, what was the -- what was
 4 the property on which you were doing piping,
 5 ventilation and drilling?
 6 A. Okay. That was at the Kokoweef Mine
 7 out at Mountain Pass, California.
 8 Q. Okay.
 9 And what was the business of the
 10 Kokoweef Mine?
 11 A. They were looking for a lost treasure.
 12 Q. So, would you describe it, then, as a
 13 mining company?
 14 A. I believe at that time, it was an
 15 exploration --
 16 MR. SEGEL: Hold it for a moment,
 17 please.
 18 Objection. Assumes facts not in
 19 evidence.
 20 Did you hear that, Ms. Court Reporter?
 21 THE REPORTER: Yes, I did.
 22 MR. SEGEL: Thank you, ma'am.
 23 MR. CLARY: And I also object to the
 24 question as leading.
 25 //

1 BY MS. TAYLOR:
 2 Q. All right.
 3 So, they were looking for lost
 4 treasure, is that what you testified to,
 5 Mr. Powers?
 6 A. That is correct.
 7 Q. Okay.
 8 And what kind of lost treasure were
 9 they looking for?
 10 A. It's called the "Lost River of Gold".
 11 Q. Okay.
 12 So was it a -- so, were they looking
 13 for gold, then, is that what they were looking
 14 for?
 15 A. The part that I was doing was looking
 16 for an entrance.
 17 Q. Okay.
 18 And then ultimately, do you know what
 19 the goal of Kokoweef -- I'm sorry, Kokoweef
 20 mining was?
 21 A. At that time, it was exploration to
 22 find the entrance to the underground mine.
 23 Q. Okay.
 24 So they were going -- the plan of
 25 Kokoweef, then, the business was to engage in

1 mining; is that correct?
 2 A. Once the mine was found, yes.
 3 MR. CLARY: Objection. Leading and
 4 assumes facts not in evidence.
 5 You can answer the question if you
 6 understand it.
 7 THE REPORTER: I can't tell who is
 8 making objections. On the camera, their mouths
 9 aren't moving, and you're going to have to hold
 10 your hand up or something.
 11 MR. SEGEL: That was Mr. Clary.
 12 THE REPORTER: Thank you.
 13 MR. SEGEL: Ms. Court Reporter, that
 14 was Mr. Clary.
 15 MR. CLARY: In the future, when I make
 16 an objection or make a statement, I'll let you
 17 know it's me.
 18 THE REPORTER: Okay, thank you.
 19 We don't have very good video here.
 20 MS. TAYLOR: But the audio is good,
 21 right?
 22 THE REPORTER: The audio is great, but
 23 I need to know who's objecting.
 24 MS. TAYLOR: Fran, I'm sorry --
 25 THE REPORTER: Yes.

1 MS. TAYLOR: -- due to all the
 2 extraneous stuff, can you read me back my last
 3 question?
 4 THE REPORTER: Sure.
 5 (Whereupon, the record was read by the
 6 reporter.)
 7 BY MS. TAYLOR:
 8 Q. All right, how long did you provide
 9 piping, ventilation, and drilling service out at
 10 Kokoweef, Mr. Powers?
 11 A. I started in the early Nineties, and I
 12 quit in 2003.
 13 Q. All right.
 14 And during that time, did you ever --
 15 strike that. Let me go back.
 16 During that time, did they ever find
 17 the mine that you were looking for?
 18 A. No, not to my knowledge.
 19 Q. Okay.
 20 What types of efforts in drilling were
 21 you doing to locate the mine while you were out
 22 there?
 23 A. I drilled about 50 or 60 diamond drill
 24 holes in different locations on the mine.
 25 And then when they got the rotary rig,

1 I helped Larry Butler, and we drilled several
 2 holes around the campsite, also looking for the
 3 entrance.
 4 Q. During the time that you were at the
 5 camp -- well, let me rephrase that.
 6 If I -- if I refer to Kokoweef Mountain
 7 or Kokoweef mining, if I call it "the camp",
 8 will you understand what I'm talking about for
 9 the location where you were providing these
 10 services to Mr. Hahn?
 11 A. Yes.
 12 MR. SEGEL: Objection.
 13 The services -- I believe that the
 14 testimony is to provide services to Kokoweef or
 15 EIN, not to Mr. Hahn.
 16 MS. TAYLOR: Fair enough. The services
 17 that you provided to Kokoweef or EIN. I'm just
 18 trying to come up with a shortcut way to call
 19 it.
 20 MR. CLARY: Well, why don't you ask him
 21 what he understands "the camp" to be.
 22 I object to the question. If you ask
 23 him, "Do you know what I mean by "camp" And he
 24 says "yes". That's about as
 25 -- that's about as helpful from a probative

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1 point of view as me going out and clipping the
2 grass down here.

3 BY MS. TAYLOR:

4 Q. When you were out at Kokoweef,
5 Mr. Powers, were there buildings there, or was
6 it just workers?

7 A. There's a building there called the Big
8 House. It's a big meeting place, and there's
9 some places for people to stay.

10 And there's the Lower Camp where
11 there's some trailers, and some folks stay
12 there.

13 And then there is also the area around
14 the mountain that we were working.

15 Q. Okay.

16 Can you provide me any other
17 description of the Kokoweef mining area?

18 A. Well, the mining area, sometimes we
19 worked in what was called the tunnel in front of
20 the Big House. I don't know that it had another
21 name than that.

22 And then we did some diamond drilling
23 inside the Carbon and King Mine.

24 And then we also did some diamond
25 drilling up on the mountain itself in different

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1 A. Yes, they were each in different
2 locations.

3 Q. Okay.

4 While you were drilling in any of those
5 locations, did you ever come across any type of
6 materials that could have -- that could have
7 been used -- strike that.

8 What did you find when you were
9 drilling in those 50 to 60 locations?

10 A. I found a lot of areas that were open
11 holes. I also found some silver. I also found
12 some caverns.

13 And we put cameras in some of the holes
14 and took a look inside them.

15 Q. What were -- what was the protocol
16 after you drilled, and you found a cavern?

17 A. Okay.

18 I would usually drill two holes a week,
19 and on the weekends, we had folks that would
20 come out to the mine, and they would go up on
21 the mountain.

22 And we had a video camera that was
23 called a C-snake, and it would go down inside
24 the holes, and we could videotape what was
25 inside.

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1 locations.

2 Q. Okay.

3 So, with all of that area described --
4 strike that.

5 I'm trying to come up with, would you
6 -- how would you -- would you describe that as
7 "the camp" up there, or what would you use as a
8 shorthand to describe the mining operations and
9 location?

10 A. "The camp" was separate from everything
11 else. It was down below at a signif -- probably
12 several hundred yards below where we did any
13 work.

14 And we worked at different spots on the
15 mountain and at the Carbon and King Mine, and
16 also we had different locations on the side of
17 the mountain and on the top.

18 So, we had a lot of different
19 locations, and I can tell you what they were
20 called.

21 Q. Okay.

22 When you talked about drilling the
23 50 to 60 locations, were those all in different
24 areas of Kokoweef as you have just been
25 describing it?

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1 Q. Okay.

2 And those people that came out on the
3 weekends were -- who were those people?

4 A. One of them was Larry -- Jerry McKee,
5 and another one was Fred Loftnes.

6 MR. SEGEL: Spell it, please. Spell
7 his last name.

8 THE WITNESS: L-O-F-T-N-E-S.

9 MR. SEGEL: Thank you, sir.

10 THE WITNESS: And also we had, Larry
11 Butler would come up and help us sometimes with
12 the video camera.

13 Also Charles Bouck, B-O-U-C-K.

14 I don't remember all the folks that
15 were there, but we usually had some folks that
16 would show up every weekend, and they would put
17 the camera down in whatever holes that I had
18 drilled during the week.

19 BY MS. TAYLOR:

20 Q. Okay.

21 And how about when you found the
22 silver, what was your protocol for when you
23 found silver?

24 A. When I found the silver, a friend of
25 mine, Charles Bouck, was out to the camp that

1 weekend. And while I was drilling, he caught
2 the samples, and he took them with him and sent
3 them to a place in Denver to be assayed.

4 Q. Do you know roughly what year that was
5 the first time you found silver?

6 A. I don't remember.

7 Q. Okay.

8 And do you know what the results of the
9 assay were that Charles Bouck had done?

10 A. Yes. It's on our website.

11 Q. Do you know the address of the website
12 that you're referring to?

13 A. Yeah, it's kokoweef.com.

14 Q. Okay.

15 Did you ever bring the assay back to
16 anyone else at EIN or Kokoweef, other than your
17 friend Mr. Bouck?

18 MR. SEGEL: Objection, foundation.

19 His testimony was that Mr. Bouck got
20 the assay and knew the results. He never
21 said --

22 MS. TAYLOR: Okay. Fair enough.

23 BY MR. TAYLOR:

24 Q. Do you know if Mr. Bouck ever took the
25 results of the assay back to officers or

1 yourself.

2 BY MS. TAYLOR:

3 Q. What -- okay, let's get back to the
4 assay.

5 When Mr. Bouck had the assay done, did
6 you ever get to see the assay yourself?

7 A. I was there when he took the material
8 at the mine. He sent me a copy of the assay.

9 Q. Okay.

10 Did you personally take the copy of the
11 assay to any officers or directors of EIN?

12 A. I did not.

13 Q. Okay.

14 How -- do you know -- what kind of
15 experience do you personally have, Mr. Powers,
16 in mining work, or mining field work?

17 A. I started at the Homestake Mine in
18 South Dakota in 1965. I have been in and around
19 mining operations my entire career.

20 Q. And what kind of materials did the
21 Homestake Mine -- what was it trying to develop?

22 A. It was a silver mine, and it had a lot
23 of gold also.

24 Q. Okay.

25 So, you were experienced in fine -- in

1 directors at EIN?

2 A. Yes, he took them to Larry Hahn,
3 because --

4 MR. CLARY: Objection --

5 BY MS. TAYLOR:

6 Q. Mr. Powers, because of the way this
7 depo is going, I'll tell you what, count to
8 about 10 before you answer to make sure we can
9 get all objections in, and we're not talking
10 over each other, okay?

11 A. All right.

12 MR. CLARY: This is Mr. Clary.

13 Don't count to 10. Just take a
14 breath.

15 MR. SEGEL: I guess the objection, I
16 believe he's about to testify to hearsay, and
17 I'm going to object to hearsay.

18 The question was does he know, and he's
19 talking about what somebody else did.

20 THE WITNESS: I have the other man's
21 word that he did that.

22 MR. SEGEL: Objection, hearsay. He had
23 no knowledge.

24 He just testified having no knowledge
25 because the man told him so. So, don't double

1 mining?

2 MR. SEGEL: Objection, foundation.

3 I'm sorry, finish your question.

4 MS. TAYLOR: I can -- (two people
5 talking at a time.)

6 MR. SEGEL: I apologize.

7 BY MS. TAYLOR:

8 Q. So what were your roles at the
9 Homestake Mine, and especially in regard to any
10 of its silver operations?

11 A. I was a contract miner for 23 years,
12 and I was in the actual mining and the test
13 holing. That's what I did every day.

14 Q. Okay.

15 While you were at Homestake Mine, did
16 you ever, yourself, come across, as you just
17 testified you did at Kokoweef, silver in any of
18 the drilling that you did?

19 A. Yes. All the time.

20 Q. Okay.

21 Can you tell me, based on your
22 experience, then, when you found the silver that
23 you testified to in drilling at Kokoweef, do you
24 know -- did you have any estimate of what
25 quantity or what kind of silver base you had

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1 found out there?

2 MR. SEGEL: Objection, foundation.

3 It's one thing for him to testify that
4 he has been around silver.

5 It's something else to testify as to
6 his ability to determine the quantities involved
7 or anything else.

8 BY MS. TAYLOR:

9 Q. When you found silver in the Homestake
10 Mine, were you ever asked --

11 MR. CLARY: He can still answer the
12 question.

13 MS. TAYLOR: All right.

14 MR. CLARY: It's a yes or no question.

15 I'd like to hear whether he's going to
16 say yes or no.

17 MS. TAYLOR: Fran, read the question
18 back, please.

19 (Whereupon, the record was read by the
20 reporter.)

21 MR. CLARY: That's a yes or no
22 question.

23 THE WITNESS: The answer is no.

24 MR. CLARY: Thank you.

25 //

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1 A. All right.

2 Q. Did -- did you go and discuss the fact
3 that you had found silver with any of the
4 officers or directors of EIN or Kokoweef?

5 A. Yes, I did. I talked to Larry Hahn
6 about it.

7 Q. Okay.

8 And what did you tell Mr. Hahn?

9 A. I told Mr. Hahn that I had found what I
10 believed to be some high grade silver, and that
11 we should pursue and find out what we had.

12 He did not want to do that. He wanted
13 to continue looking for the entrance to the old
14 mine.

15 Q. Did he tell you -- was that his stated
16 reason? He wanted you to just keep looking for
17 the entrance to the mine? Was that his stated
18 reason for not wanting to pursue the silver?

19 A. He told me that he didn't want the
20 security problem out at the mine, and he didn't
21 want to deviate from the general purpose that we
22 had.

23 Q. Okay.

24 In your experience at the Homestake
25 Mine in the 35 years that you had been, or 25

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1 BY MS. TAYLOR:

2 Q. What would be your protocol, in your
3 experience, after finding silver through one of
4 your holes that you drilled? What would be the
5 next step?

6 You just talked about the assay. What
7 else would you do?

8 A. Once it's assayed, then it needs to be
9 drilled some more to find out how much you
10 have.

11 Q. Okay.

12 Do you know -- all right.

13 When you found the silver at Kokoweef;
14 Mr. Bouck took the assay, what then did you do?

15 A. I continued drilling. I drilled a lot
16 more holes around different areas.

17 Q. Were those additional holes part of
18 what you had been doing, or was it specifically
19 related to the silver that you had found?

20 A. It was to find the tunnel to lead into
21 the mine. It was on the general that I was
22 already doing and had been doing.

23 Q. Okay.

24 So let's go back to the hole that had
25 the silver in it that you found.

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1 years that you had been working as a miner and
2 in mining operations, did you believe that the
3 silver you had found was of some potential
4 value?

5 MR. SEGEL: Objection, foundation.

6 THE WITNESS: I did not know what we
7 had.

8 I suggested that we test it, and Larry
9 did not want to test it.

10 BY MS. TAYLOR:

11 Q. And when you say "test it", what would
12 that have entailed?

13 A. I would have drilled more holes and
14 took more samples.

15 Q. And you were already in the process of
16 drilling holes as part of your regular work out
17 there anyway, correct?

18 A. What happened was, Ralph Lewis came
19 out, and they set up a program on each location
20 of how many holes they wanted, what direction
21 and what depth, and I was doing that program.

22 Q. Okay.

23 I don't know if I asked you something
24 this simple, but did the -- did you believe
25 that, again, in your experience in mining

11 (Pages 38 to 41)

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1 operations, that the silver that you had found
2 in that hole was -- had some potential value
3 that would have made it worth further
4 exploration?
5 MR. SEGEL: Objection, foundation.
6 THE WITNESS: Yes, I believe that there
7 was enough silver there that we could have made
8 an operation.
9 I felt that we needed to test it
10 significantly, but I was not allowed to do
11 that.
12 BY MS. TAYLOR:
13 Q. And when you say "operation", can you
14 define what you mean by "operation"?
15 A. Okay.
16 What I would have done is I would have
17 put in the proper equipment to get the silver so
18 it could be sold to finance the operation.
19 Since I was not in charge, I was told
20 to continue drilling to find the entrance.
21 Q. Were you -- did you share that
22 information about the silver find with anyone
23 other than Mr. Hahn and Mr. Bouck?
24 A. I don't remember.
25 Q. Okay.

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1 Were you ever instructed not to share
2 the information about the silver with anyone
3 other than Mr. Hahn and Mr. Bouck?
4 A. I was actually asked to not share it
5 with anyone.
6 Q. And who asked you that?
7 A. Larry Hahn.
8 Q. Okay.
9 And did he tell you why he had asked
10 you not to share the information that you found
11 silver in one of your drill holes with anybody?
12 A. Yes.
13 He told me that he didn't want a
14 security problem out at the mine; that if we let
15 that type of information out, there would be
16 people all over the area, and he didn't want to
17 cause another gold rush, is what he said.
18 Q. Okay.
19 MR. CLARY: Gold rush on silver?
20 THE WITNESS: That is -- that is
21 correct.
22 MS. TAYLOR: I'm just going to move to
23 strike that comment by Mr. Clary.
24 MR. CLARY: Motion is granted.
25 //

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1 BY MS. TAYLOR:
2 Q. Do you know if Mr. Hahn ever shared the
3 information about the fact that there was some
4 silver found in one of the drill holes with any
5 of the other officers, directors of EIN or
6 Kokoweef?
7 MR. CLARY: Objection. It's been asked
8 and answered.
9 MS. TAYLOR: No, it wasn't.
10 MR. CLARY: You may answer the
11 question.
12 THE WITNESS: Not that I'm aware of.
13 BY MS. TAYLOR:
14 Q. All right.
15 Do you know whether he ever provided --
16 whether Mr. Hahn ever provided that information
17 to any of his shareholders as to the fact that
18 silver had been found at the mine?
19 A. I wouldn't believe so.
20 MR. SEGEL: Objection, speculation.
21 MS. TAYLOR: Okay.
22 BY MS. TAYLOR:
23 Q. And you were a shareholder, correct?
24 A. I am a shareholder, yes.
25 Q. Okay.

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1 And at that point after you found the
2 silver, you never received any information in
3 your capacity as a shareholder that silver had
4 been found at the mine?
5 A. No.
6 Q. Okay.
7 Other than the fact that Mr. Hahn did
8 not want a security situation to arise, did he
9 give you any other information about why -- or
10 strike that.
11 When you had the discussion with
12 Mr. Hahn, and he told you he did not want the
13 information about the silver to be shared for
14 security purposes, was there anything else that
15 he told you in that conversation about his
16 concerns with that silver find?
17 A. No. He just told me to stay on the
18 project that we were initially on and continue
19 looking for the entrance to the old mine.
20 Q. Okay.
21 Did he tell you -- well, I guess, did
22 he indicate that there would be any
23 ramifications against you if you did tell that
24 there was silver found on the mine site?
25 A. No.

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1 Q. Okay.
 2 So, what did you do with that drill
 3 hole after you were told not to pursue the
 4 silver?
 5 A. I continued drilling in the area, and I
 6 did not hit silver on any other holes that I
 7 drilled in that area.
 8 Q. Okay.
 9 When you were providing services in
 10 exchange for shares of EIN and/or Kokoweef,
 11 where did you live, Mr. Powers?
 12 A. Okay, most of the time, I lived in the
 13 Big House. That's the big building on the upper
 14 campsite.
 15 Q. Did you pay rent?
 16 A. No, it was included.
 17 Q. Did you receive Board in addition to
 18 room at the Big House, or did you have to pay
 19 for your own food?
 20 A. What we did is, I paid for my own food,
 21 and then Larry would reimburse me.
 22 Q. And how would he reimburse you?
 23 A. He would write me a check, and then I
 24 would cash it at the store.
 25 Q. Okay.

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1 Did you -- okay, so you would buy
 2 food. And would you provide Larry with
 3 receipts?
 4 A. Yes.
 5 Q. Okay.
 6 And when you say he would write you a
 7 check, what, the check was from EIN, or was it
 8 from -- what was the check -- what company was
 9 the check written on to pay you back for your
 10 food costs?
 11 A. US Bank. On --
 12 Q. But who was the account?
 13 A. Explorations Incorporated.
 14 Q. Okay.
 15 So Larry would write you a check from
 16 Explorations -- or EIN for food you had
 17 purchased, correct?
 18 A. That is correct.
 19 Q. Okay.
 20 And then you mentioned that you would
 21 cash it at the store.
 22 What store was that?
 23 A. Hahn's World of Surplus.
 24 Q. Okay.
 25 And what is Hahn's World of Surplus?

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1 A. It's a military surplus store on
 2 Lake Mead Boulevard in North Las Vegas.
 3 Q. And who owns Hahn's World of Surplus,
 4 to your knowledge?
 5 A. At that time, it was Larry Hahn. Now
 6 it is Leslie Hahn.
 7 Q. Okay.
 8 So he would have -- Mr. Hahn would
 9 write you a check from EIN, but then you would
 10 cash it at Hahn's World of Surplus?
 11 A. That is correct.
 12 Q. Okay.
 13 And why would you do that, Mr. Powers?
 14 A. Larry asked me to do it. I don't know
 15 why.
 16 Q. Okay.
 17 Were you allowed to go and cash your
 18 check somewhere else if you wanted to?
 19 A. As far as I know, I could.
 20 Q. As far as you knew, you could?
 21 A. Yes.
 22 Q. Okay.
 23 But Larry asked you to cash your checks
 24 at Hahn's?
 25 A. That is correct.

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1 Q. Okay.
 2 And did you ever ask him why he wanted
 3 you to do that?
 4 A. No, I did not.
 5 Q. Okay.
 6 Were you receiving any other types of
 7 payments from Mr. Hahn -- from Mr. Hahn through
 8 EIN, for the work you were doing out at
 9 Kokoweef?
 10 A. If I needed to have some money to
 11 travel or something, Larry would give me some
 12 money for gas.
 13 Q. Okay.
 14 So, for example, if you were traveling
 15 from Kokoweef to --
 16 A. South --
 17 Q. -- town or --
 18 MR. SEGEL: Objection, leading.
 19 BY MS. TAYLOR:
 20 Q. I'm just trying to get -- can you
 21 define for me a little bit better what type of
 22 travel Mr. Hahn would provide you money for?
 23 A. Yes.
 24 If I needed to go to South Dakota to
 25 see my mother, he would give me some gas money

1 for the trip.
 2 I did not receive any gas money to
 3 drive from the camp to Las Vegas and back.
 4 Q. And were -- so were those funds for
 5 personal trips, like to see your mother, were
 6 those also paid through EIN?
 7 A. Yes.
 8 Q. Okay.
 9 Did you ever have any involvement in
 10 purchasing equipment or supplies, other than the
 11 food you've described, for the -- for Kokoweef
 12 Mine?
 13 A. Yes.
 14 I was there when the drill rig, the
 15 rotary drill rig was bought. I was there that
 16 day. I was there when we bought different
 17 equipment for the camp and for the repair of the
 18 equipment.
 19 MR. CLARY: Could we get a little a
 20 foundation, like when this occurred maybe?
 21 THE REPORTER: Who was that?
 22 MS. TAYLOR: That was Mr. Clary trying
 23 to do a deposition for me.
 24 BY MS. TAYLOR:
 25 Q. Mr. Powers, do you -- are these

1 separate instances, or just one instance that
 2 you're talking about?
 3 A. These are separate instances at
 4 different times.
 5 Q. Okay.
 6 Do you know roughly when the rotary
 7 drill rig was purchased?
 8 A. I would have to guess, and I don't know
 9 exactly.
 10 Q. Okay.
 11 A. It's in one of the newsletters, but
 12 you'd have to look it up.
 13 Q. And where did he purchase the rotary
 14 drill or whatever?
 15 MR. SEGEL: Objection, foundation.
 16 Who is "he"?
 17 MS. TAYLOR: Who purchased -- okay,
 18 that's fair enough.
 19 BY MS. TAYLOR:
 20 Q. Who purchased the rotary drill rig that
 21 you were referencing?
 22 A. Larry Hahn bought it, and he bought it
 23 from Redding Drilling Company in Las Vegas.
 24 Q. Was anyone there besides yourself and
 25 Mr. Hahn and representatives from Redding?

1 A. Yes, Charlie Harding was with us that
 2 day.
 3 Q. Okay.
 4 And what happened when you went out to
 5 Redding to purchase the rotary drill rig?
 6 A. The rig was in Las Vegas. And we went
 7 and looked at it, and then they got ahold of
 8 Redding Drilling, and Larry purchased the drill
 9 rig.
 10 Q. Okay.
 11 And then what happened to the drill
 12 rig?
 13 A. We drove it out to camp, and it was
 14 just before a picnic. We set the drill up to
 15 drill, and to the embarrassment of all of us,
 16 the rig would not operate.
 17 Q. And the rig, was that purchased with
 18 EIN or Kokoweef funds?
 19 A. I believe that several people put in
 20 money for that. I believe that --
 21 MR. SEGEL: Objection, foundation.
 22 THE WITNESS: I believe that the check
 23 was written from Explorations --
 24 MR. SEGEL: Mr. Powers, one second.
 25 One second. I have to object.

1 The man is saying "I believe", that is
 2 not from his own knowledge. If he has actual
 3 knowledge, let him testify. If he does not have
 4 actual knowledge, I would suggest that he say he
 5 doesn't know.
 6 THE WITNESS: I did not see the actual
 7 check being written.
 8 BY MS. TAYLOR:
 9 Q. Do you know whether or not -- do you
 10 know of any of the people -- sorry. Strike
 11 that.
 12 Do you have knowledge as to who may
 13 have put money into that drill rig?
 14 A. I know that Charles Hardin put in money
 15 for rig, and I believe Bill Shimhouser.
 16 Q. And who is Bill Shimhouser?
 17 A. He's a gentleman that lives in
 18 Las Vegas, and he has shares in the company.
 19 Q. Do you know how -- do you personally
 20 know how many shares he has?
 21 A. No, I do not.
 22 Q. Have you met Mr. Shimhouser in the
 23 past?
 24 A. Yes, many times.
 25 Q. Other than being a shareholder, did

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1 Mr. Shimhouser have any other role in the
2 company, that you're aware of?

3 A. I don't believe he has any office in
4 the company.

5 Q. Okay.

6 Do you know, other than owning shares
7 -- strike that.

8 Do you know how Mr. Shimhouser came by
9 his shares of EIN or Kokoweef?

10 A. I have no knowledge of that.

11 Q. Okay.

12 Do you know if Mr. -- if Mr. Shimhouser
13 has provided anything other than money in
14 exchange for shares to the company, to either
15 EIN or Kokoweef?

16 A. I do not know that.

17 Q. Okay.

18 And then Mr. Hardin, who is he?

19 A. Charles Hardin is a shareholder in the
20 company. Has been for some time.

21 Q. Do you know how many shares Mr. Hardin
22 holds?

23 A. No, I do not.

24 Q. Okay.

25 And do you know if he has any

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1 A. No.

2 Q. Okay.

3 Mr. Powers, do you need a break?

4 A. No, I'm fine.

5 Q. Okay.

6 MR. CLARY: I wouldn't mind going to
7 the bathroom.

8 MR. SEGEL: Does anybody mind if we
9 take a couple minute break?

10 (Whereupon, a short recess was taken.)

11 BY MS. TAYLOR:

12 Q. All right, before we took a break,
13 Mr. Powers, we were talking about this drill rig
14 that you were present for the purchase of, and
15 that when you got it out to the -- to the mine,
16 it wouldn't operate.

17 Do you know what happened to it after
18 that?

19 A. Yes. We took it back to Las Vegas, and
20 we spent several months completely rebuilding
21 it.

22 Q. Okay.

23 And then what happened to it?

24 A. Then we took it out to the mine again,
25 and it worked, and we started drilling holes

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1 involvement in the company other than being a
2 shareholder?

3 A. I do not.

4 Q. Fair enough.

5 Okay, so other than Mr. Hardin and
6 Mr. Shimhouser, anyone else that you're aware of
7 that provided funds for the purchase of the
8 drill rig?

9 A. No.

10 Q. Okay.

11 Do you know -- do you know if these
12 were loans or gifts, or anything about how those
13 funds were provided?

14 A. No.

15 MR. SEGEL: Objection, foundation.

16 I think he testified he thought he
17 wasn't sure. So if you're going to talk about
18 specifics of the transaction, I think we need
19 some foundation that he knows he loaned money or
20 participated or whatever.

21 MS. TAYLOR: That's why I asked him if
22 he knew what they did.

23 BY MS. TAYLOR:

24 Q. Do you know if they loaned the money
25 for the drill rig, Mr. Powers?

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1 with it.

2 Q. Okay.

3 Do you know if it's still out at the
4 mine today?

5 A. To my knowledge, it is.

6 Q. Okay.

7 Was it at the mine when you left and
8 went back to Montana?

9 A. Yes.

10 Q. Okay.

11 Was it in the same operational
12 condition when you left as it was at the time
13 you first brought it back in to the mine after
14 the purchase?

15 That was a horrible question.

16 MR. CLARY: Do you understand that
17 question?

18 THE WITNESS: Yes.

19 BY MS. TAYLOR:

20 Q. Yes, you understand, or yes, it was in
21 the same condition?

22 A. It was in the same condition, and yes,
23 I understand the question.

24 Q. Okay. Thanks, Mr. Powers.

25 A. Mm-hmm.

1 Q. You testified that you were present at
2 other purchases of equipment for EIN or
3 Kokoweef.
4 Were there other examples you can give
5 us?
6 A. Yes.
7 Larry bought a dump truck, and he also
8 bought a water truck.
9 Q. Okay.
10 And you were present at both of those
11 purchases?
12 A. Yes, I was.
13 Q. Who did they buy the dump truck from --
14 or who did Larry buy the dump truck from?
15 A. It was -- it was on the Internet, and
16 I'm not quite sure of the name of the company
17 that he bought it from.
18 Q. Okay.
19 A. Or the water truck, I don't know what
20 company he got that from.
21 Q. Do you know how Mr. Hahn paid for the
22 dump truck?
23 A. I do not.
24 Q. Okay.
25 Do you know what the dump truck --

1 after the purchase of the dump truck, was it
2 also taken out to Kokoweef?
3 A. At a later date, yes.
4 Q. And what do you mean by "at a later
5 date"?
6 A. It was used at the store for a while,
7 and then it was taken to the camp.
8 Q. Do you know what it was used at the
9 store for?
10 A. No.
11 Q. Okay.
12 And when you say "the store", you mean
13 Hahn's World of Surplus, correct?
14 A. That is correct.
15 Q. Do you know how long it was at the
16 store before it went back to the camp?
17 A. I don't remember.
18 Q. Was it -- can you give me an estimate?
19 A. A few months.
20 Q. Was it your understanding that the dump
21 truck was purchased for use at -- at the mine?
22 A. Yes.
23 MR. SEGEL: Objection, leading and
24 foundation.
25 //

1 BY MS. TAYLOR:
2 Q. Okay.
3 When the water truck was purchased, do
4 you know how Mr. Hahn paid for that piece of
5 equipment?
6 A. No.
7 Q. Okay.
8 Did you know whether it was -- when I
9 say "how he paid for it", do you know if he paid
10 for it with EIN or Kokoweef money?
11 A. I do not.
12 Q. Okay.
13 Do you know what the purpose of the
14 water truck was?
15 A. Yes. It was to fight fire at the
16 camp.
17 Q. Okay.
18 And after the water truck was
19 purchased, did it end up at the camp to fight
20 fires?
21 A. It was there for a while.
22 Q. Okay.
23 And how long is "a while"? Can you
24 give me an estimate?
25 A. We had it there for two years.

1 Q. Okay.
2 And what happened to it after two
3 years?
4 A. A man named Honsey -- I don't know his
5 first name -- wanted to use it to water his
6 horses over in Pahrump.
7 Q. Okay.
8 Did Mr. Hahn or some other authorized
9 representative of EIN or Kokoweef sell the water
10 truck to this gentleman named Honsey?
11 MR. SEGEL: Objection, foundation.
12 THE WITNESS: No.
13 BY MS. TAYLOR:
14 Q. Okay.
15 Did the truck, the water truck, leave
16 the camp and go to Pahrump?
17 A. Yes.
18 Q. Okay.
19 How did -- did Mr. Honsey just take the
20 truck? How do you -- what happened to it?
21 I know it's -- I'm trying --
22 MR. SEGEL: Objection, foundation --
23 objection for foundation.
24 We have no knowledge of what happened,
25 how it happened.

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1 And you can go step one, step two, step
2 three.
3 BY MS. TAYLOR:
4 **Q. Okay.**
5 **So Mr. Honsey came out to the camp, and**
6 **he said he wanted take it to Pahrump. Is that**
7 **what you testified to?**
8 MR. CLARY: No, that's not what he
9 testified to. Objection.
10 MS. TAYLOR: Yes, it is what he
11 testified to.
12 THE WITNESS: I testified that
13 Mr. Honsey came and got the truck and took it to
14 Pahrump.
15 BY MS. TAYLOR:
16 **Q. Okay.**
17 **And do you know approximately when,**
18 **what year it was that he took it to Pahrump?**
19 A. It would have to be approximate.
20 2002.
21 **Q. Okay.**
22 **And you testified that he -- did you**
23 **testify why he wanted to take it to Pahrump?**
24 A. Yes. He told me he wanted to use to it
25 water his horses.

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1 **Q. Okay.**
2 **And --**
3 MR. SEGEL: Objection.
4 For the record, objection hearsay.
5 MS. TAYLOR: Sorry.
6 THE WITNESS: Yes, it would be his word
7 against mine.
8 BY MS. TAYLOR:
9 **Q. After he -- after -- did you see**
10 **Mr. Honsey take the truck off the campsite?**
11 A. Yes.
12 **Q. Okay.**
13 **And did you ever see the truck back on**
14 **the campsite?**
15 A. It had not returned when I left.
16 **Q. Okay.**
17 **Did you ever go to Pahrump where the**
18 **truck was, to Mr. Honsey's property?**
19 A. No.
20 **Q. Okay.**
21 **Did you ever see the truck anywhere**
22 **else, like at Hahn's World of Surplus?**
23 A. No.
24 **Q. Okay.**
25 **And do you know how -- strike that.**

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1 **And you testified that you don't**
2 **believe Mr. Honsey purchased the truck; is that**
3 **correct.**
4 MR. CLARY: Objection, foundation.
5 THE WITNESS: Mr. Honsey borrowed the
6 truck.
7 BY MS. TAYLOR:
8 **Q. He borrowed the truck, okay.**
9 **Do you know if he ever paid EIN or**
10 **Kokoweef for the use of that truck?**
11 A. Not to my knowledge.
12 MR. SEGEL: Objection, nonresponsive.
13 THE REPORTER: Was that, Pat?
14 MS. TAYLOR: That was Mr. Nelson --
15 Mr. Segel.
16 MR. CLARY: I've become mysteriously
17 silent.
18 BY MS. TAYLOR:
19 **Q. Was there any other equipment that you**
20 **were aware of that was Kokoweef equipment that**
21 **was not being used on the Kokoweef Mine site?**
22 MR. SEGEL: Objection.
23 Basically in his testimony, he was
24 never around when Kokoweef existed.
25 MS. TAYLOR: Okay, sorry. Fine.

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1 EIN.
2 Yes, he actually was -- no.
3 THE WITNESS: I believe I had left when
4 Kokoweef was started. I left in 2003.
5 BY MS. TAYLOR:
6 **Q. Okay.**
7 **So any equipment that was out at the**
8 **mine -- strike that.**
9 MS. TAYLOR: So, Fran, read me back my
10 question and I'll just -- I'll just restate it
11 with EIN.
12 (Whereupon, the record was read by the
13 reporter.)
14 THE WITNESS: Yes.
15 MR. SEGEL: That's not --
16 MS. TAYLOR: You know, go ahead and
17 state your objection, Nelson.
18 MR. SEGEL: No, it was a read back of
19 the question. I objected, and Ms. Taylor said
20 she's going to ask you a new question.
21 Am I correct?
22 MS. TAYLOR: Yeah, but I'm changing my
23 mind.
24 MR. SEGEL: Okay.
25 MR. CLARY: Well, he just testified

1 that he was never there when Kokoweef was in
2 existence, and you're asking him about Kokoweef
3 property.
4 MR. SEGEL: I object to this.
5 MS. TAYLOR: I want to -- state your
6 objection, Nelson, please.
7 MR. CLARY: Why don't you ask another
8 question so we could maybe go home someday.
9 MS. TAYLOR: Why don't you stop
10 interrupting my depo, Pat, and then maybe we can
11 go home someday.
12 MR. CLARY: All right, I just --
13 MR. SEGEL: Based on the existing
14 question, I object to the question because the
15 man was not present on the mine site at any time
16 during the existence of Kokoweef, based on his
17 testimony.
18 MR. CLARY: Kokoweef, Inc.
19 MR. SEGEL: Yes, not a corporation,
20 right. It's confusing.
21 MS. TAYLOR: It is confusing.
22 BY MS. TAYLOR:
23 **Q. So, Mr. Powers, do you have an**
24 **understanding as to when Kokoweef, Inc., a**
25 **Nevada corporation, commenced operations?**

1 MR. CLARY: That's a yes or no
2 question.
3 THE WITNESS: No.
4 BY MS. TAYLOR:
5 **Q. Okay.**
6 **Do you understand that at some point**
7 **while you were still on the mine site, EIN had**
8 **allegedly stopped doing business, and it become**
9 **Kokoweef, Inc., a Nevada corporation?**
10 MR. SEGEL: Objection, leading.
11 Mischaracterizes facts. It's not even in
12 evidence yet.
13 BY MS. TAYLOR:
14 **Q. You can answer the question.**
15 **A. Please restate it.**
16 BY MS. TAYLOR:
17 **Q. Okay.**
18 **You understood that EIN and Kokoweef**
19 **are two different names for companies, correct?**
20 MR. SEGEL: Objection, leading.
21 THE WITNESS: Yes.
22 BY MS. TAYLOR:
23 **Q. All right.**
24 **Do you know whether or not EIN is still**
25 **in business today?**

1 **A. I have not seen it myself. I've heard**
2 **that it is.**
3 **Q. Okay.**
4 **Do you know when Kokoweef -- and I**
5 **think I asked you this:**
6 **You said you did not know when Kokoweef**
7 **started operations, correct?**
8 **A. I don't remember when the changeover**
9 **was made.**
10 MR. CLARY: Wait a minute. Wait a
11 minute.
12 I'm objecting. He testified that
13 Kokoweef was not -- did not exist before he left
14 the operation.
15 MS. TAYLOR: No, he testified that he
16 didn't know when, and I just --
17 MR. SEGEL: No, he did say --
18 THE WITNESS: I'm not sure what year
19 the change was made.
20 MS. TAYLOR: Okay.
21 MR. CLARY: Off the record.
22 I don't know the probative value of
23 this is. It's a waste of time.
24 MS. TAYLOR: Pat, the waste of time is
25 your continued interruption of my deposition.

1 And I explained to you that if you made
2 repeated and constant side-bars, it was just
3 going to be something that we were going to take
4 to the Discovery Commissioner.
5 MR. CLARY: Be my guest.
6 BY MS. TAYLOR:
7 **Q. Mr. Powers --**
8 **A. Yes.**
9 **Q. -- at the time that you were out at the**
10 **site, did you know of any other equipment that**
11 **was purchased by EIN or Kokoweef, since you were**
12 **not sure what year Kokoweef came into existence,**
13 **that was purchased with those -- with company**
14 **funds, but not used at the mine site?**
15 MR. SEGEL: Objection. Assumes facts
16 not in evidence.
17 You may proceed.
18 Can you answer the question, sir?
19 THE WITNESS: Yes, I did see a road
20 grader that Larry brought from his brother. I
21 don't know what that was purchased with.
22 BY MS. TAYLOR:
23 **Q. And you saw that out at the mine site,**
24 **or you saw that somewhere else?**
25 **A. It was parked next to Larry's house in**

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1 Las Vegas.

2 Q. Do you know when that was, Mr. Powers?

3 A. I don't remember.

4 Q. Okay.

5 Were there any other supplies or
6 personal effects or personal items that you are
7 aware of that were purchased with company funds,
8 whether that was EIN or Kokoweef, Inc., a Nevada
9 corporation, that were used for personal reasons
10 by Mr. Hahn or -- well, start with Mr. Hahn?

11 A. No.

12 MR. SEGEL: Objection. Assumes facts
13 not in evidence.

14 MS. TAYLOR: Okay.

15 THE REPORTER: Was that Nelson?

16 MR. SEGEL: That was Nelson.

17 He just withdrew his objection.

18 MR. CLARY: It's a yes or no question.

19 MR. SEGEL: He answered no.

20 MR. CLARY: Oh, I didn't hear him.

21 MR. SEGEL: Yeah, that's why I withdrew
22 the objection.

23 THE WITNESS: The answer was no.

24 MR. SEGEL: Thank you, sir.

25 //

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1 care of security.

2 Q. What were his responsibilities in
3 regard to security?

4 A. He and Joanie were to keep track of
5 every one that came to camp and to make sure
6 that they had business at the camp, or that they
7 weren't to be there.

8 Q. And when you said he was in charge of
9 taking care of the mining site, what -- what
10 were his responsibilities in that regard, if you
11 know?

12 A. Hauling water for the mine site.
13 Keeping care of the roads. Watching over the
14 entire site to make sure that there was no one
15 there that wasn't supposed to be. To take care
16 of the equipment.

17 Q. How long did you actually live on the
18 site, Mr. Powers?

19 A. I was there from -- I left in 2003. I
20 was there for three years, so it would have been
21 '99 to '03.

22 Q. And in those four years that you lived
23 on the site, did you actually observe Mr. Butler
24 engaged in the job description that you just
25 gave me as an onsite director for the mine?

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1 BY MS. TAYLOR:

2 Q. Mr. Powers, do you know a gentleman
3 named Larry Butler?

4 A. Yes. I worked with him for years.

5 Q. Okay.

6 What's Mr.-- do you know Mr. Butler's
7 role in either EIN or Kokoweef, Inc., a Nevada
8 corporation?

9 A. He was onsite director.

10 Q. Did you have any type of title when you
11 were out at the camp?

12 MR. CLARY: When?

13 THE WITNESS: Diamond driller.

14 BY MS. TAYLOR:

15 Q. Okay.

16 From the time that you started working
17 out at the Kokoweef Mine, was that Mr. Butler's
18 title, onsite director?

19 A. Yes.

20 Q. When you left the mine, was that still
21 his title?

22 A. Yes.

23 Q. What were -- do you know what his
24 duties were as onsite director?

25 A. Take care of the mine site and take

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1 A. Yes.

2 And he also was the operator of the
3 rotary drill rig, and I was his assistant on
4 that rig.

5 Q. Do you know if Mr. Butler had had prior
6 experience working as an onsite director for a
7 mine?

8 A. I'm not aware of that.

9 Q. Okay.

10 Based on your experience in mining
11 operations at Homestake, did you have any
12 criticism of Mr. Butler's work performance as an
13 onsite director for the mine?

14 MR. SEGEL: Objection, foundation.

15 He testified that he was a miner. He
16 did not testify to any knowledge of management
17 operations or business practices.

18 BY MS. TAYLOR:

19 Q. You can answer the question.

20 A. Please repeat it.

21 Q. All right.

22 MS. TAYLOR: Fran, can you just read it
23 back?

24 (Whereupon, the record was read by the
25 reporter.)

1 THE WITNESS: I felt that he wasn't
2 qualified for the job that he was performing.
3 BY MS. TAYLOR:
4 Q. Okay.
5 What did you base that on?
6 A. His lack of experience with any of the
7 things that we were doing at the mine.
8 Q. Can you give me an example?
9 A. Yes.
10 He only had a short time with Joe Kelly
11 before he died, and that was all the mining
12 experience that he had. I don't know how many
13 months that was, but he had only months of
14 experience.
15 Q. Okay.
16 I'm sorry, you said he only had a
17 little bit of experience with somebody before he
18 died, and then I didn't hear your --
19 A. Okay. Joe --
20 Q. -- I didn't hear who you identified.
21 A. Joe Kelly was the miner out at the
22 mine. He was killed in an accident at
23 Kokoweef. And he had trained Larry Butler for a
24 very short time before he died.
25 MR. CLARY: Before who died?

1 THE WITNESS: Joe Kelly.
2 He was a man that was working out at
3 the mine.
4 MR. SEGEL: Just for the record, we're
5 having a very difficult time. It's not your
6 fault, sir, but the reception we're getting is
7 breaking up a little bit. Hopefully it will be
8 clear when we actually hear the tape.
9 THE WITNESS: All right.
10 If there's any questions, ask me to
11 repeat.
12 MR. SEGEL: Thank you, sir.
13 THE WITNESS: Thank you.
14 BY MS. TAYLOR:
15 Q. Mr. Powers, when you were at Homestake,
16 did you -- did your job descriptions include any
17 of the items that you described as Mr. Butler's
18 scope of work?
19 A. I did all the things for many, many
20 years at the Homestake Mine. I was a contract
21 miner. I was a diamond driller. I was actually
22 a shift boss at the mine in Colorado.
23 So I have -- I felt that I had much
24 more experience than the person that was my
25 leader.

1 MR. SEGEL: I would just like to object
2 that it was nonresponsive. I'm very pleased --
3 you were probably a very qualified miner, sir,
4 but that wasn't the question.
5 Would you ask him the question again so
6 we can have a response?
7 MS. TAYLOR: Fran, can you read back
8 the question, please?
9 (Whereupon, the record was read by the
10 reporter.)
11 THE WITNESS: Yes, it did include those
12 items.
13 MR. SEGEL: Excuse me. That broke up.
14 Can you repeat that?
15 THE WITNESS: The answer was yes.
16 MR. SEGEL: What you said -- I need the
17 whole answer, sir. I didn't hear what you --
18 you said in responding what items you did, and
19 that's what I wanted to hear, and it broke up
20 and I didn't hear it.
21 THE WITNESS: Okay.
22 I did jackleg mining. I did jumbo
23 mining. I did blasting and drilling. I did
24 diamond drilling. I did slushing and mucking.
25 And Larry Butler did not know how to do

1 any of those things.
2 MR. SEGEL: Thank you, sir. I'll ask
3 you on cross-examination the question I think I
4 need the answer to. Thank you for your efforts.
5 THE WITNESS: You bet.
6 MS. TAYLOR: Just for the record,
7 Mr. Clary just under his breath muttered that
8 "This is unbelievable", so be sure it gets on
9 the record.
10 MR. CLARY: Well, he testified as to
11 what the onsite manager duties were, and then he
12 said he didn't carry out the duties.
13 Now he's stating what he did, which are
14 different than the duties that he said were the
15 onsite manager's duties.
16 MR. SEGEL: The answer was
17 nonresponsive to the question.
18 MR. CLARY: It is unbelievable that
19 this deposition is so screwy.
20 THE WITNESS: Okay, for the record --
21 MS. TAYLOR: Mr. Powers -- go ahead.
22 MR. SEGEL: There is no question
23 pending.
24 BY MS. TAYLOR:
25 Q. Mr. Powers, what I wanted to --

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1 MR. SEGEL: One at a time, please.
 2 Thank you.
 3 BY MS. TAYLOR:
 4 Q. Mr. Powers, I just wanted to clarify,
 5 again, let's just ask -- let's just talk about
 6 those onsite director duties of Larry Butler's
 7 that you described because there has been some
 8 question about whether or not you were
 9 responding to my question as to your experience
 10 on those particular items.
 11 Did you -- did you want to clarify one
 12 of your prior answers?
 13 A. Okay.
 14 Since we're talking about the first
 15 part, I thought Mr. Butler did a good job on
 16 those first things that we talked about.
 17 Q. Okay.
 18 Let's just go through them one at a
 19 time.
 20 A. All right.
 21 Q. You said that he was supposed to haul
 22 water, correct?
 23 A. Yes.
 24 Q. Okay.
 25 And what did that involve?

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1 A. We had --
 2 Q. Was it literally just hauling water?
 3 A. Okay, we have a big water truck out at
 4 the camp. Every few days, you have to take that
 5 several miles from the camp to a spring and then
 6 load it up and then bring it back to the camp
 7 and put that into a storage tank.
 8 He did an excellent job on that.
 9 Q. Not particularly a skilled type of
 10 activity, though, is it?
 11 A. Actually it is very skilled, because a
 12 loaded water truck on those roads up at the camp
 13 is very treacherous.
 14 Q. Okay.
 15 So is that the same water truck that
 16 was taken off the site by the gentleman you
 17 described --
 18 A. No, we had --
 19 Q. -- Mr. Honsey?
 20 A. No, we had two water trucks. We had a
 21 large one and a small one. Mr. Honsey took the
 22 small one.
 23 Q. All right.
 24 And then you said that Mr. Butler was
 25 in charge of taking care of the roads. And what

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1 did that entail?
 2 A. Every time we had a storm out there, it
 3 tore the roads all up, and Mr. Butler and myself
 4 and other people would go out, and we would
 5 clear the roads and grade them, make them
 6 passable again.
 7 Q. Okay.
 8 And was that something that you had
 9 been experienced with in working at the
 10 Homestake Mine?
 11 A. No, I was experienced with that working
 12 in the oil fields.
 13 Q. Okay.
 14 And what about, you said that
 15 Mr. Butler was in charge of watching the site?
 16 A. Yes.
 17 Q. And what did that entail?
 18 A. That entailed checking on anybody that
 19 came into camp.
 20 The main road went right through the
 21 middle of camp, so it entailed of checking on
 22 the people coming into camp, making sure they
 23 had business there.
 24 And he did a fine job with that.
 25 Q. Okay.

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1 So in other words, Mr. Butler, himself,
 2 was perfectly capable of, in your opinion,
 3 handling security on the site, correct?
 4 A. Yes.
 5 The mining aspect is what I didn't
 6 believe he had enough experience with.
 7 Q. Okay.
 8 So would that include taking care of
 9 the equipment, which was one of the other things
 10 you said he was in charge of?
 11 A. He did fine taking care of the
 12 equipment.
 13 The diamond drilling, the mining and
 14 things like that that he was also in charge of
 15 he didn't have the experience that was necessary
 16 to take care of that.
 17 Q. Okay.
 18 A. Out at the camp, you kind of do all
 19 different things. And he was also mining and
 20 diamond drilling, but he lacked the experience
 21 on those things.
 22 Q. Was there anything else he did other
 23 than those items you listed?
 24 A. Yes.
 25 We worked on that drill rig. And then

21 (Pages 78 to 81)

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<p>1 we went to school, I and Larry did, and then we 2 started running the rotary drill rig together. 3 Q. Okay. 4 And all the list you just gave me, the 5 diamond drilling, the mining, the drill rig, the 6 rotary drill rig, were those all pieces of 7 equipment or duties that you had performed when 8 you were at Homestake? 9 A. Yes. 10 Q. Okay. 11 You mentioned "Joanie". Who is Joanie? 12 A. I don't remember her last name. She 13 lived out at the camp with Larry Butler. 14 Her job at the camp was to record all 15 the work that was being done out there and have 16 a logbook. 17 Q. Does the name "Latz" sound familiar to 18 you. 19 A. Yes, I believe that was her last name. 20 THE REPORTER: Would you spell that, 21 please? 22 MS. TAYLOR: L-A-T-Z. 23 THE REPORTER: Thank you. 24 BY MS. TAYLOR: 25 Q. Did you know -- so, Ms. Latz was in</p>	<p>1 A. As I understand it, their bills were 2 being paid for them by Larry Hahn. 3 Q. And what kind of bills did that 4 include? 5 A. Car insurance, groceries, satellite TV, 6 telephone. Things like that. 7 Q. Okay. 8 And they -- where was all this 9 happening? Where was the satellite TV and the 10 phone that was being paid for? 11 A. It's in the Lower Camp at the -- at 12 Kokoweef. 13 Q. Is that where the Big House is that you 14 were talking about earlier? 15 A. The Big House is in Upper Camp. 16 Q. Okay. 17 Do you know whether Mr. Hahn paid for 18 medical insurance for Mr. Butler or Ms. Latz? 19 A. I believe that there was no insurance. 20 Q. Do you know if he paid for any other 21 medical expenses for Mr. Latz or -- Ms. Latz or 22 Mr. Butler? 23 A. I know that Mr. Butler had dental work 24 done at Larry's brother's, because I went there, 25 and they mistaken me for Mr. Butler.</p>
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<p>1 charge of logging work on the campsite. 2 Did you ever see any of the logbooks? 3 A. No, I did not. 4 Q. Okay. 5 Do you know whether she was actually 6 performing those duties? 7 A. I do not. 8 Q. Was she in charge of doing anything 9 else, to your knowledge? 10 A. No. 11 Q. And do you know if Mr. Butler or 12 Ms. Latz, whether or not they were paid 13 employees, or if they were like you, where they 14 were doing work -- services in exchange for 15 shares? 16 MR. SEGEL: Objection -- 17 THE WITNESS: They were doing services 18 in exchange for money. 19 THE REPORTER: What was the objection? 20 MR. SEGEL: That it mischaracterized 21 the testimony. 22 BY MS. TAYLOR: 23 Q. Okay. 24 So they were paid actual cash for the 25 work they did, as you understand it, correct?</p>	<p>1 Q. Okay. 2 Do you know whether or not that was 3 paid for by Mr. Hahn with any EIN or Kokoweef 4 funds? 5 A. I do not know how it was paid for. 6 Q. Okay. 7 Was there anyone else that you know of 8 that lived out on the Kokoweef Mine site in 9 either the upper camp or the Lower Camp? 10 A. Yes, Jim Serrill. 11 Q. How do you spell that? 12 A. I'll have to guess on the last name. I 13 believe it's S-E-R-R-I-L. 14 Q. Okay. 15 MR. SEGEL: Two L's. 16 THE WITNESS: A man named Randy lives 17 out at the camp, but I don't know his last 18 name. 19 BY MS. TAYLOR: 20 Q. Anyone else? 21 A. No. 22 Q. Okay. 23 Do you know what Mr. Serrill did out at 24 the camp? 25 A. Jim's job was to look over the road</p>

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1 system and let the other folks know if it needed
2 repair.

3 And he also was in charge of the
4 explosives out at the camp.

5 Q. And do you know how Mr. Serrill was
6 characterized? Was he an employee of EIN or
7 Kokoweef, or was he someone out on the camp
8 getting services in exchange for shares like you
9 were?

10 MR. SEGEL: Objection.

11 THE WITNESS: Mr. Serrill --

12 MS. TAYLOR: Hold on, Mr. Powers.
13 Nelson has an objection.

14 MR. SEGEL: I guess the objection is
15 getting shares for his time.

16 That's not -- you know, you're making
17 an assumption that everybody that worked at the
18 mine got shares, and that's not the case.

19 MS. TAYLOR: That's why I asked him.

20 MR. SEGEL: Well, that's not what you
21 asked him.

22 Go ahead.

23 The objection is on the record, sir.

24 Can you answer the question.

25 THE WITNESS: Okay.

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1 The answer to that is, he was an
2 investor, and at one time, he was paying all the
3 expenses at the camp, so Larry was paying him
4 back for those services.

5 BY MS. TAYLOR:

6 Q. Do you know how Larry paid him back?
7 Was it -- in what form?

8 A. I didn't see how Larry paid him.

9 Q. Okay.

10 Do you know what qualifications
11 Mr. Serrill had to be in charge of all the
12 explosives at the camp?

13 A. Yes, he had a license. I believe it
14 was a San Bernardino County Explosive License.

15 Q. And then who was Randy?

16 A. Randy is another investor. He was the
17 one that built the Big House. And I don't know
18 what his situation was out at the camp.

19 Q. And when you say "built the Big
20 House" --

21 A. Yes, he was a --

22 Q. -- did he actually physical --

23 A. He was a contractor in Las Vegas, and
24 when he retired, he moved out to the camp, and
25 he actually physically built the Big House.

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1 Q. Okay.

2 Do you know how he was -- he was
3 compensated for the construction of the Big
4 House?

5 A. I do not know.

6 Q. Did Mr. Serrill live onsite as well?

7 Yes, you said he did. Sorry.

8 A. Yes, he did.

9 Q. Strike that.

10 Sorry, Mr. Powers.

11 Were Mr. Serrill's phone and satellite
12 dish, that kind of thing, were those also paid
13 for by Mr. Hahn, as you testified that Ms. Latz
14 and Mr. Butler's were?

15 MR. SEGEL: Objection. Assumes facts
16 not in evidence.

17 THE WITNESS: Yes, until he got his
18 Social Security.

19 BY MS. TAYLOR:

20 Q. Okay.

21 And then what happened?

22 A. Then Larry didn't give him any more
23 money.

24 Q. Okay.

25 Do you know someone named Cheryl

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1 Chervenak?

2 A. Yes, I do.

3 THE REPORTER: Could I have a spelling
4 on that, please?

5 MR. SEGEL: Larry knows how to spell
6 it.

7 Larry, tell us.

8 MR. HAHN: C-H-E-R-V-E-N-A-K.

9 Her name is Carolyn.

10 THE WITNESS: Yes, I do know her.

11 BY MS. TAYLOR:

12 Q. And who is she?

13 A. She's the daughter of Joan.

14 Q. The daughter of whom?

15 A. Of Joan.

16 Q. I'm sorry. Okay.

17 And then, what was her relationship to
18 the camp, to the mining operations?

19 A. She's an investor in the company.

20 Now I believe she's on the Board of
21 Directors.

22 Q. And does she live out there as well?

23 A. No. She has a camp trailer there and
24 comes out sometimes on the weekends.

25 Q. Okay.

<p style="text-align: right;">Page 86</p> <p>1 Are you aware of any personal expenses</p> <p>2 or items that have been paid for by Mr. Hahn for</p> <p>3 Ms. Chervenak?</p> <p>4 A. No.</p> <p>5 Q. Okay.</p> <p>6 Does Ms. Chervenak have any involvement</p> <p>7 in the sort of physical operations of the mine,</p> <p>8 any of the drilling or exploration or anything</p> <p>9 like that?</p> <p>10 A. No.</p> <p>11 Q. How is your relationship with</p> <p>12 Mr. Butler?</p> <p>13 A. I and Mr. Butler did not agree on too</p> <p>14 many things, but we put that aside so that we</p> <p>15 could work together.</p> <p>16 Q. What supervisory authority did</p> <p>17 Mr. Butler have over you?</p> <p>18 A. He felt that he was my boss.</p> <p>19 I went to Larry Hahn about that, and it</p> <p>20 was decided that he would be my equal, not my</p> <p>21 boss.</p> <p>22 Q. So, did Mr. Butler at any point have</p> <p>23 the authority to, I don't know, fire you or tell</p> <p>24 you to leave the camp?</p> <p>25 A. Yes, he did several times.</p>	<p style="text-align: right;">Page 88</p> <p>1 director?</p> <p>2 A. No.</p> <p>3 Q. Was he ever?</p> <p>4 A. No.</p> <p>5 Q. Okay.</p> <p>6 And how about John McChurch?</p> <p>7 A. Yes, I know John McChurch.</p> <p>8 Q. And who is he?</p> <p>9 A. He also was an investor in the</p> <p>10 company.</p> <p>11 He died of cancer a couple years ago.</p> <p>12 MR. SEGEL: I just want to put on the</p> <p>13 record that we're having some audio issues.</p> <p>14 Significant video issues.</p> <p>15 THE WITNESS: All right.</p> <p>16 MS. TAYLOR: And Fran, I don't know if</p> <p>17 -- if we can maybe have Robert come and check</p> <p>18 it because we're getting the issue where</p> <p>19 Charlie's image will freeze for a second, and</p> <p>20 there will be a little bit of audio over it, but</p> <p>21 the audio is getting kind of staticky as well.</p> <p>22 THE WITNESS: Okay. We hear you</p> <p>23 perfectly.</p> <p>24 (Off the record.)</p> <p>25 MS. TAYLOR: Okay, are we back on,</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Okay.</p> <p>2 So did he have -- was he entitled to do</p> <p>3 that, or did he just do that on his own?</p> <p>4 A. He believed he had the authority to do</p> <p>5 that.</p> <p>6 When I talked to Larry Hahn about it,</p> <p>7 it was reversed, and he was chastised for it.</p> <p>8 And we came to an agreement that we would put</p> <p>9 our differences aside and work together for the</p> <p>10 betterment of the operation.</p> <p>11 Q. Okay.</p> <p>12 And how was your relationship with</p> <p>13 Mr. Hahn?</p> <p>14 A. As far as I know, we were best</p> <p>15 friends.</p> <p>16 Q. Would you still say that as you're</p> <p>17 sitting here today?</p> <p>18 A. Yes. I have nothing against Larry</p> <p>19 Hahn.</p> <p>20 Q. Okay.</p> <p>21 Do you know someone named Norman Gains?</p> <p>22 A. Yes, I do.</p> <p>23 Q. And who is Norman Gains?</p> <p>24 A. He is also an investor in the company.</p> <p>25 Q. Is he -- is he an officer or a</p>	<p style="text-align: right;">Page 89</p> <p>1 Fran?</p> <p>2 THE REPORTER: We are.</p> <p>3 MS. TAYLOR: Can you just read me the</p> <p>4 last question?</p> <p>5 MR. SEGEL: Just -- I just want to put</p> <p>6 -- before you read the last question --</p> <p>7 MR. TAYLOR: Oh.</p> <p>8 MR. SEGEL: Go ahead.</p> <p>9 MS. TAYLOR: No, go ahead, Nelson.</p> <p>10 MR. SEGEL: I wanted to just make sure</p> <p>11 that we put in the record what we did.</p> <p>12 We switched over to a DSM connection,</p> <p>13 so hopefully our problems have gone away.</p> <p>14 MS. TAYLOR: Could you just read my</p> <p>15 last question and answer, because I don't</p> <p>16 remember what it was.</p> <p>17 (Whereupon, the record was read by the</p> <p>18 reporter.)</p> <p>19 BY MS. TAYLOR:</p> <p>20 Q. Do you know, Mr. Powers, if Mr. Church</p> <p>21 [sic] was ever on the Board of Directors for EIN</p> <p>22 or Kokoweef?</p> <p>23 A. To my knowledge, he was not.</p> <p>24 Q. Okay.</p> <p>25 Earlier on, we talked about your shares</p>

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1 that you were either given for services rendered
2 or you paid for, and you had them for both EIN
3 and Kokoweef. Do you remember that?

4 A. Yes.

5 Q. Okay.

6 MR. CLARY: I don't believe that he got
7 shares for his services or money in Kokoweef.
8 He may have got them through the plan of
9 reorganization, I don't know. I don't think
10 that he was issued any additional shares --

11 THE REPORTER: Pat, it's really hard to
12 hear you because she's shuffling her papers, so
13 would you -- there's a lot of static.

14 Now, could you repeat what you said?
15 I'm sorry.

16 MR. CLARY: I was just trying to --
17 right now, I'm trying to avoid having to do any
18 cross-examination, and I don't believe that the
19 witness testified that he received stock for
20 services and/or payment of money from Kokoweef.
21 I think he said he got it from EIN.

22 He may have received some shares as a
23 consequence of the reorganization between EIN
24 and Kokoweef.

25 I don't think that -- I object to the

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1 shares?

2 A. Yes.

3 Q. Okay.

4 In the amount of time --

5 A. In May of --

6 Q. Oh. Go ahead.

7 A. In May of last year, Larry sent me
8 5,000 shares in the new company as part
9 compensation for the work that I did.

10 I have never converted my Exploration
11 shares yet. I did the paperwork, but I haven't
12 received anything back.

13 Q. So you -- so the EIN shares, did you
14 send the paperwork back to the company for
15 conversion?

16 A. I sent my old stock certificate, and I
17 sent my receipts to the company for conversion.
18 That has not happened.

19 Q. And you have not received anything back
20 from the company?

21 A. No.

22 Q. Okay.

23 And have you been told anything by
24 Mr. Hahn or any Board of Directors or counsel
25 for the company about why you have not received

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1 question on the grounds that it assumes facts
2 that are not in evidence.

3 And I would ask Ms. Taylor to clarify
4 that perhaps so we don't have any confusion on
5 that issue, rather than my having to come back
6 and waste time with cross-examination.

7 BY MS. TAYLOR:

8 Q. Mr. Powers, you testified earlier that
9 you had, yourself, purchased \$3,380 worth of
10 shares; is that correct?

11 A. That is correct.

12 Q. Do you remember testifying to that?

13 Okay.

14 Were those shares EIN shares?

15 A. Yes.

16 Q. Okay.

17 Did you ever purchase Kokoweef shares
18 after the company was reorganized?

19 A. No.

20 Q. Okay.

21 Did you receive a transfer of the
22 shares from the EIN shares to the Kokoweef
23 shares as a result of the reorganization?

24 A. No.

25 Q. So the shares you have are still EIN

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1 your shares back?

2 A. No.

3 I have sent several requests and have
4 not received anything back.

5 Q. Okay.

6 Were you ever told that your shares had
7 been rescinded, or would be rescinded?

8 A. I heard a rumor to that. I have not
9 seen anything in person.

10 Q. Okay.

11 MR. CLARY: Which shares?

12 THE WITNESS: The --

13 BY MS. TAYLOR:

14 Q. The EIN shares, right, Mr. Powers?

15 A. No, the Kokoweef shares.

16 I have not seen it in black and white.
17 I have heard a rumor.

18 Q. All right.

19 So the Kokoweef shares, you actually
20 are holding those stock certificates at your
21 home, correct, or somewhere in your present
22 possession?

23 A. Yes, they're at home.

24 Q. Okay.

25 And those are shares that you heard

25 (Pages 94 to 97)

<p style="text-align: right;">Page 94</p> <p>1 potentially might be rescinded?</p> <p>2 A. I heard that. I have not seen or heard</p> <p>3 anything from Larry Hahn on that.</p> <p>4 Q. Okay.</p> <p>5 Do you know -- do you know how Mr. Hahn</p> <p>6 came to calculate that 5,000 shares was what you</p> <p>7 were due for all the work that you did at the</p> <p>8 mine site?</p> <p>9 A. No, I do not.</p> <p>10 MR. SEGEL: Objection, leading.</p> <p>11 Withdrawn.</p> <p>12 BY MS. TAYLOR:</p> <p>13 Q. Did you ever calculate, based on your</p> <p>14 experience at Homestake and your payscale at</p> <p>15 Homestake, what the value of the services you</p> <p>16 provided to the company was?</p> <p>17 MR. SEGEL: Objection, foundation.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MS. TAYLOR:</p> <p>20 Q. Do you know why EIN was reorganized</p> <p>21 into Kokoweef?</p> <p>22 A. I heard that there was some</p> <p>23 stockholders that felt that the company should</p> <p>24 be --</p> <p>25 MR. SEGEL: Just a minute.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. I can tell you several people.</p> <p>2 Q. And was it more than one meeting,</p> <p>3 Mr. Powers?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 So at the first meeting that you can</p> <p>7 remember, who was at that meeting?</p> <p>8 MR. CLARY: When?</p> <p>9 BY MS. TAYLOR:</p> <p>10 Q. Do you remember when any of these</p> <p>11 meetings were, Mr. Powers?</p> <p>12 A. No.</p> <p>13 Q. Okay.</p> <p>14 Do you -- can you give me an estimate?</p> <p>15 A. It was in the time frame that I was out</p> <p>16 at the campsite working, '99 to 2003.</p> <p>17 Q. Okay.</p> <p>18 A. We had several Board of Directors</p> <p>19 meetings at Larry Hahn's store.</p> <p>20 I was asked to sit in on the meetings</p> <p>21 even though I wasn't a Board member.</p> <p>22 Q. Okay.</p> <p>23 So if you can remember the first</p> <p>24 meeting that you were asked to sit in on during</p> <p>25 that time frame of '99 to 2003 where any of the</p>
<p style="text-align: right;">Page 95</p> <p>1 I'm going to object --</p> <p>2 THE WITNESS: -- able to be --</p> <p>3 MR. SEGEL: Just a minute.</p> <p>4 I'm going to object, Mr. Butler --</p> <p>5 Mr. Powers, I'm sorry, I'm objecting on the</p> <p>6 basis of hearsay.</p> <p>7 I think the question was, do you --</p> <p>8 MR. CLARY: Know.</p> <p>9 MR. SEGEL: -- know? Do you know why</p> <p>10 -- what was the rest of the question?</p> <p>11 MS. TAYLOR: Why -- why EIN was</p> <p>12 reorganized into Kokoweef.</p> <p>13 MR. SEGEL: Do you personally know?</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MS. TAYLOR:</p> <p>16 Q. Okay.</p> <p>17 What do you personally know about why</p> <p>18 EIN was reorganized into Kokoweef?</p> <p>19 A. I was at a couple of the Board of</p> <p>20 Directors meetings when it was discussed, and it</p> <p>21 was felt that the company needed to be legal and</p> <p>22 on the New York Stock Exchange like any other</p> <p>23 company.</p> <p>24 Q. Do you remember who was at any of those</p> <p>25 meetings?</p>	<p style="text-align: right;">Page 97</p> <p>1 reorganization issues were discussed, who else</p> <p>2 was there?</p> <p>3 A. John McChurch was there. Richard</p> <p>4 Duchek was there. Larry Hahn, Larry Butler,</p> <p>5 Jerry McKee.</p> <p>6 Several -- well, all the Board of</p> <p>7 Directors at that time. I don't remember all</p> <p>8 their names.</p> <p>9 Q. Okay.</p> <p>10 And what specifically was discussed at</p> <p>11 that first meeting that you're referring to?</p> <p>12 A. John McChurch had raised some issues</p> <p>13 with the way the company was being run, and the</p> <p>14 meeting was called to have John McChurch evicted</p> <p>15 from the company. And all those topics were</p> <p>16 discussed at that meeting.</p> <p>17 Q. And what did Mr. McChurch state at that</p> <p>18 meeting in regards to his concerns about how the</p> <p>19 company was being run?</p> <p>20 MR. SEGEL: Objection, hearsay.</p> <p>21 MR. CLARY: She asked what -- what were</p> <p>22 the items. He said all of the items were</p> <p>23 discussed.</p> <p>24 MS. TAYLOR: I'm going to go through</p> <p>25 it, Pat. Thanks.</p>

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1 MR. CLARY: You're welcome.
 2 THE WITNESS: Okay.
 3 BY MS. TAYLOR:
 4 Q. What were the issues -- go ahead,
 5 Mr. Powers.
 6 A. Okay.
 7 There was discussion about why the
 8 company was not on the New York Stock Exchange;
 9 why the company was not run as a normal company;
 10 why the stocks were not able to be bought and
 11 sold to the public. Things like that.
 12 Q. And when you say "why it was not run as
 13 a normal company", what did you mean by that?
 14 A. Some of the shareholders in the company
 15 thought it should be the same as all other
 16 companies.
 17 Q. Okay.
 18 MR. CLARY: Like what?
 19 BY MS. TAYLOR:
 20 Q. And what do you mean by "the same as
 21 any other company"?
 22 A. Like a normal company that would be
 23 bought and sold to the general public. Not a
 24 private company.
 25 Q. Were any -- okay.

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1 MR. CLARY: I didn't hear the last
 2 answer.
 3 "Not a private company"; is that what
 4 you said?
 5 THE WITNESS: That is correct.
 6 MR. CLARY: Thank you.
 7 BY MS. TAYLOR:
 8 Q. Were there issues raised in regard to,
 9 say, disclosure of --
 10 MR. SEGEL: Objection, leading.
 11 BY MS. TAYLOR:
 12 Q. Were there any issues raised regarding
 13 any of the financial handlings of the company
 14 that were concerns of any of those Board of
 15 Directors at that meeting that you're talking
 16 about?
 17 MR. SEGEL: Same objection.
 18 THE WITNESS: Yes.
 19 BY MS. TAYLOR:
 20 Q. Okay.
 21 Can you give me some examples?
 22 A. Some of the investors wanted to see the
 23 books of the company.
 24 Larry told them that the books were
 25 available. And then when they came to see --

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1 MR. SEGEL: Objection --
 2 THE WITNESS: -- they were not able to
 3 look at the books.
 4 MR. SEGEL: -- hearsay.
 5 THE WITNESS: It's not hearsay. I saw
 6 it myself. I was present when that happened.
 7 BY MS. TAYLOR:
 8 Q. You were present when -- when Mr. Hahn
 9 said books would be available?
 10 A. Yes.
 11 And I was present when --
 12 Q. So you were present --
 13 A. And I was present when the persons came
 14 to look at the books and weren't able to.
 15 Q. Okay.
 16 MR. CLARY: Who and when?
 17 You've got to place some foundation
 18 here.
 19 THE WITNESS: Okay. All right.
 20 MR. SEGEL: I agree with you.
 21 THE WITNESS: Norman Gains was one.
 22 Jerry McKee was another one. John McChurch
 23 was --
 24 BY MS. TAYLOR:
 25 Q. Mr. --

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1 A. Go ahead.
 2 Q. Mr. Powers, I'm sorry -- I'm sorry to
 3 interrupt you, but I want to make sure that
 4 there's a question pending, and I'm not sure
 5 that there is technically a question pending.
 6 All we are really getting is side-bar
 7 from Mr. Clary, so --
 8 A. All right.
 9 Q. -- can you please tell me some
 10 specifics.
 11 Who were some of the individuals that
 12 you know came to look at the books upon
 13 Mr. Hahn's representation that they would be
 14 available, and were told that they couldn't look
 15 at the books?
 16 A. Okay.
 17 I was present when John McChurch was
 18 there and asked. I was present when Jerry McKee
 19 was there and asked. I was present when Norman
 20 Gains was there and asked.
 21 Q. Okay.
 22 And do you know when Mr. Gains
 23 attempted to gain access to the books and was
 24 not allowed to?
 25 A. I don't have any dates.

1 Q. Okay.
2 But it was sometime in that time period
3 that you were at the camp between 1999 and 2003?
4 A. That is correct.
5 Q. Okay.
6 And then would your -- how about for
7 Mr. McChurch, do you have any dates for when
8 that occurred?
9 A. No. I wasn't keeping a diary.
10 MR. CLARY: Objection. I had the -- I
11 had the impression that this -- all these people
12 were there at the same time. I don't understand
13 why you're trying to change his testimony.
14 BY MS. TAYLOR:
15 Q. Let me clarify, Mr. Powers.
16 So --
17 MR. CLARY: So, what's going on? And I
18 think I -- I do have a hard hearing problem, but
19 it's not that bad.
20 MS. TAYLOR: And again, I would just
21 like to strike Mr. Clary's side-bar derogatory
22 comments.
23 BY MS. TAYLOR:
24 Q. Mr. Powers --
25 MR. CLARY: Well, you don't have the

1 MR. CLARY: He said there were multiple
2 times.
3 THE WITNESS: And they were multiple
4 times, multiple occasions.
5 BY MS. TAYLOR:
6 Q. Okay. Thank you, Mr. Powers.
7 Are there any other financial issues
8 that were discussed at that first Board of
9 Directors meeting that were of concern to those
10 members that were in attendance?
11 A. No.
12 Q. Okay.
13 Do you know a gentleman named Darrell
14 Wade?
15 A. Yes, I worked with him at the camp.
16 Q. What did Darrell Wade do at the camp?
17 A. Darrell Wade was working on upkeep of
18 the buildings.
19 Q. Did Mr. Wade reside at the camp as
20 well?
21 A. Yes.
22 Q. And do you know if personal items were
23 being paid for on behalf of Mr. Wade with EIN
24 and/or later Kokoweef funds?
25 A. Not that I'm aware of.

1 power.
2 MS. TAYLOR: I'd like to move to strike
3 Mr. Clary's side-bar derogatory comments.
4 BY MS. TAYLOR:
5 Q. Mr. Powers, are we talking about two
6 separate instances?
7 A. Three.
8 Q. You're talking -- first, you're talking
9 about the Board meeting where, and as I
10 understand your testimony, Mr. Hahn said to
11 those gentleman that you just described that
12 they would be able to come and see the books; is
13 that correct?
14 A. That is correct.
15 And then --
16 Q. And then --
17 A. -- and then at later times -- at later
18 times, those people came forward to look at the
19 books, and they were not allowed to see them.
20 Q. And in each of those times when those
21 three gentlemen came to look at the books and
22 were not allowed to see them, you were present
23 at that those times also, correct?
24 A. Yes.
25 And they were --

1 Q. Okay.
2 Okay, you said that there were several
3 Board meetings that you sat in on where the
4 reorganization of EIN into Kokoweef was
5 discussed, and we talked about the first Board
6 meeting.
7 How many Board meetings do you remember
8 sitting in on when those discussions were
9 occurring?
10 A. Two.
11 Q. Okay.
12 So let's talk about the second Board
13 meeting.
14 Do you remember in time how much later
15 the second one was from the first one?
16 A. Probably six months.
17 Q. Okay.
18 And do you remember who was in
19 attendance at that meeting, that second Board of
20 Directors meeting?
21 A. That one was held at the camp, and
22 everyone that showed up was in attendance. I
23 think we had like 90 people there.
24 Q. Okay.
25 And do you remember some of the items

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1 that were discussed in regard to the
2 reorganization at that meeting?

3 A. I don't remember all the particulars,
4 but it was discussed with everyone.

5 Q. Do you remember any particular topics
6 that were discussed?

7 A. No.

8 Q. Okay.

9 Was there any discussion about the
10 actual method of the reorganization?

11 A. We were told that it was being worked
12 on, and there would be further information later
13 on.

14 Q. And actually, I want to go back to the
15 first meeting for a second. I'm sorry,
16 Mr. Powers.

17 A. Sure.

18 Q. You -- there were other issues that
19 were being raised about -- you sort of said
20 raise issues how the company was being run,
21 discuss why it wasn't on the Stock Exchange, and
22 then you mentioned other issues --

23 MR. CLARY: New York Stock Exchange.

24 THE WITNESS: Yes.

25 //

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1 not as sufficient as needed. It was just a
2 personal opinion.

3 Q. And what was the response of Mr. Hahn
4 -- well, let's go back.

5 Was Mr. Hahn at this meeting as well?

6 A. Yes.

7 Q. And what was his response to these
8 concerns about Larry Butler?

9 A. Larry Butler would be left in the
10 position that he was in.

11 Q. Did he give any justification -- did he
12 give a reason for that?

13 A. No.

14 Q. Were there other issues that were
15 discussed at that first meeting?

16 A. I don't remember them.

17 Q. Do you have an opinion about how --
18 about Mr. Hahn's experience or ability to be
19 running a mining company?

20 MR. SEGEL: Objection, foundation.

21 THE WITNESS: I do.

22 BY MS. TAYLOR:

23 Q. Okay. And what is that?

24 A. I feel he is a good businessman, but I
25 feel that he needs to have someone that has a

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1 BY MS. TAYLOR:

2 Q. Then you mentioned other -- okay, what
3 other issues were raised during that meeting?

4 A. At that time, there was some issue with
5 Larry Butler, and whether he was competent to be
6 running the camp or not.

7 A lot of the investors felt that he
8 should be removed.

9 Q. And were those investors at that
10 meeting?

11 A. Yes.

12 Q. Okay.

13 And what were the -- who were some of
14 the investors that were concerned about
15 Mr. Butler's competence?

16 A. Myself, Jerry McKee, John McChurch,
17 Darrell Wade.

18 I'm sure there was some others. I
19 can't think of their names right now.

20 Q. Okay.

21 And we talked a little bit about your
22 concerns regarding Mr. Butler's competence
23 earlier regarding his mining skills, correct?

24 A. Yes.

25 I felt his mining skills were -- were

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1 tremendous amount of mining experience running
2 the mine.

3 Q. And had you told him that in the past?

4 A. Yes.

5 Q. And what was his response?

6 A. That he knew enough to take care of
7 everything.

8 Q. When you say that Mr. Butler was a good
9 businessman, why don't you --

10 A. Mr. Hahn.

11 Q. Mr. Hahn, thank you. I apologize.

12 Strike that. Let me go back.

13 For the years that you were out there,
14 did you feel that Mr. Hahn was forthright
15 regarding the business operations for the
16 shareholders and the directors?

17 A. Yes.

18 Q. Okay.

19 Do you feel he gave everybody enough
20 information about what was going on at the camp?

21 A. I believe he gave as much information
22 as he had.

23 Q. To your knowledge, was the company ever
24 -- did the company ever make money while you
25 were -- since you've been a shareholder?

29 (Pages 110 to 113)

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1 A. No.
2 Q. What do you base that on?
3 A. I don't really have a way to base
4 that.
5 Q. Were you ever entitled to look at the
6 books of the company?
7 MR. SEGEL: Objection. Asks for a
8 legal conclusion.
9 MS. TAYLOR: How is that a legal
10 conclusion?
11 MR. SEGEL: You asked if he had a right
12 to look at the books. He can answer the
13 question, but it's a legal -- it's an
14 appropriate objection.
15 Mr. Butler [sic] can you answer the
16 question?
17 MS. TAYLOR: Mr. Powers.
18 MR. SEGEL: Mr. Powers, I'm sorry.
19 THE WITNESS: That's fine.
20 Yes, I was able to look at the books,
21 but I did not.
22 BY MS. TAYLOR:
23 Q. Do you know why you were able to look
24 at the books, but Mr. Gains, Mr. McChurch, and
25 Mr. -- who was the other one? Wade, were denied

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1 you were working there?
2 A. I do not have that information with me,
3 but I can get it.
4 MS. TAYLOR: All right.
5 Fran, can you just leave a blank in
6 this depo transcript?
7 MR. SEGEL: No, I'm going to object to
8 that. This is the time. When the man is not
9 available, this is the time for that
10 information.
11 MS. TAYLOR: All right.
12 MR. SEGEL: I'm sorry Mr. Butler -- or
13 Mr. Powers. I don't know why I keep calling you
14 Butler. I know his name, and I haven't --
15 THE WITNESS: That's fine.
16 MR. SEGEL: I do apologize.
17 THE WITNESS: And I'm willing to answer
18 anything.
19 MR. SEGEL: And you've done it -- and I
20 think you're doing what you think is a good job,
21 and what we think is a good job, and you're
22 answering the questions to the best of your
23 knowledge, and we appreciate that.
24 BY MS. TAYLOR:
25 Q. Mr. Powers, do you have an estimate of

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1 access?
2 A. I do not.
3 MS. TAYLOR: Fran, I'm sorry about the
4 paper shuffling.
5 THE WITNESS: That's fine.
6 BY MS. TAYLOR:
7 Q. Did Mr. Hahn ever make any statements
8 to you regarding the financial health of the
9 company?
10 A. Sometimes when I asked for money to buy
11 things at the camp, he would tell me that we
12 didn't have enough in the account.
13 Q. And so what would you do then?
14 A. I would purchase whatever we needed to
15 continue the operation out of my own.
16 Q. Out of your own funds?
17 A. Yes.
18 Q. Okay.
19 And were you ever reimbursed for some
20 of those purchases?
21 A. No.
22 Q. Okay.
23 Do you have an estimate of how much
24 money you personally expended out at the camp
25 during the time that you were an investor, and

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1 how much you might have spent on camp -- on
2 mining -- sorry, on company expenses that you
3 were not reimbursed for?
4 A. No.
5 Q. Okay.
6 Was it more than \$5,000?
7 A. Yes.
8 Q. Was it more than \$10,000?
9 A. Yes.
10 Q. Was it more than \$50,000?
11 A. Yes.
12 Q. Was it more \$100,000?
13 A. Yes.
14 Q. Okay.
15 Was it more than \$150,000?
16 A. No.
17 Q. Okay.
18 A. I will get the records if you need
19 them.
20 MR. SEGEL: For the record -- and we
21 appreciate your willingness to cooperate,
22 Mr. Powers, but we would object to the
23 production of any documentation to support your
24 allegations that you advanced \$100,000 or more
25 to EIN or Kokoweef without getting reimbursed

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1 since today is the day for all information to be
2 provided to us, and we'll not have an
3 opportunity to cross-examine you or to prove any
4 documentation you provide.

5 MS. TAYLOR: Your objection is noted.

6 MR. SEGEL: Thank you.

7 BY MS. TAYLOR:

8 **Q. When you first got out to the mining**
9 **site, and you entered into this agreement with**
10 **Mr. Hahn to provide services, and you'd get**
11 **shares --**

12 MR. SEGEL: Objection.

13 MS. TAYLOR: That's what he testified
14 early on, Nelson.

15 MR. SEGEL: No, he didn't. That
16 mischaracterizes -- he testified that he
17 received shares for some of his efforts. He
18 never testified that was the arrangement.

19 MS. TAYLOR: Okay.

20 MR. CLARY: Or that they entered into
21 an agreement.

22 BY MS. TAYLOR:

23 **Q. Mr. Powers, when you came onto the**
24 **campsite, and you first started to talk to**
25 **Mr. Hahn about investing in the company, what**

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1 MR. CLARY: Wait a minute.

2 MS. TAYLOR: Mr. Powers. Mr. Powers --

3 MR. CLARY: Wait a minute, I have
4 objections.

5 The question assumes facts that are not
6 in evidence. You never bothered to ask him
7 whether there was an agreement as to how much
8 time he would have to put in to be entitled to
9 shares at the rate of \$6 per share.

10 You asked him why wasn't there such an
11 agreement, and then he has not testified there
12 was or was not such an agreement.

13 BY MS. TAYLOR:

14 **Q. Mr. Powers, did you ever have -- did**
15 **you and Mr. Hahn discuss how many hours you**
16 **would have to put in at the mine before you**
17 **would start receiving shares?**

18 A. No.

19 **Q. Did he ever -- did you two ever discuss**
20 **what types of work you would have to put in at**
21 **the mine before you would be receiving shares?**

22 A. No.

23 Q. Okay.

24 You understood that there was an
25 agreement between the two of you that you would

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1 did you guys discuss?

2 A. The first time I met Larry at the
3 store, we discussed that I could work at the
4 mine, and I would get shares in return for my
5 work.

6 Q. Okay.

7 And did Mr. Hahn tell you how many
8 shares you would get per hour of work?

9 A. No.

10 Q. Did he give you any type of estimate of
11 how many shares you would get per hour of work?

12 A. No.

13 Q. Did he tell you how much your -- how
14 much the shares were valued at at the time you
15 started doing work at the -- at the mine?

16 A. Yes, they were valued at \$6 per share.

17 Q. Okay.

18 And did he tell you how much -- why
19 didn't he -- why didn't you two reach an
20 agreement as to how many shares per hour of work
21 or some other specific arrangement for what you
22 would get, what you would be provided in
23 exchange for your work?

24 A. Larry said that the shares could be
25 worth up to, say, 10 --

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1 do some work, and you would get some shares in
2 exchange, correct?

3 A. That is correct.

4 Q. Did Mr. Hahn, then, tell you what he
5 felt the value of his shares would be over the
6 years that you would be working on the site?

7 MR. SEGEL: His shares?

8 BY MS. TAYLOR:

9 Q. The value of the shares for EIN.

10 A. We discussed the possibility that they
11 could be worth a lot of money.

12 Q. Okay.

13 Did he ever tell you a number?

14 A. We discussed several numbers.

15 Q. And what were those numbers?

16 A. Oh, \$10,000 per share. Maybe \$100,000
17 per share.

18 Q. Did Mr. Hahn indicate to you that this
19 -- the agreement that you would work and get
20 shares in exchange, was that something that he
21 told you he had done with other people out at
22 the camp?

23 A. He told me that if the person's skills
24 were necessary, they would be given shares in
25 exchange for money.

31 (Pages 118 to 121)

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1 Q. They would be given shares in exchange
2 for money?
3 A. In lieu of money, excuse me.
4 Q. Okay.
5 Did he ever -- to your knowledge, did
6 Mr. Hahn ever just give out shares to any of the
7 investors without taking money in exchange -- or
8 services in exchange?
9 A. No.
10 (Pause.)
11 Q. So, Mr. Powers, you provided us with a
12 stack of photographs?
13 A. Yes.
14 Q. Can you tell us generally what these
15 photographs depict?
16 A. They depict the first time I started
17 working at the camp until the time that I left.
18 Q. Are they in any particular order the
19 way they were scanned and sent over to us?
20 A. No.
21 Q. Okay.
22 A. There's -- there's also some pictures
23 of me on the website.
24 Q. Okay.
25 MR. CLARY: Which website?

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1 Q. It looks like rock.
2 A. Yeah, I can't tell what you have
3 there.
4 Q. I'm trying to -- oh, here it is.
5 MR. SEGEL: Mr. Powers, what's the
6 second picture that you have?
7 THE WITNESS: I have a picture of the
8 president of Crystal Cave Mining Company.
9 THE REPORTER: I think she's talking
10 about that one right there.
11 THE WITNESS: Oh, okay.
12 Okay, that is a picture inside the
13 tunnel that I and Jim Hanhart drove in the
14 mountain, and that's one of the little caves
15 that we found inside the mountain.
16 MS. TAYLOR: Okay. All right.
17 Hold on one second just on a
18 housekeeping note.
19 Do you want to him to authenticate all
20 these, and we'll just put them on there as an
21 exhibit item?
22 MR. SEGEL: I have no objection, but I
23 don't know why you want to burden the depo with
24 these pictures.
25 But if you want to, I have no objection

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1 THE WITNESS: kokoweef.com.
2 MS. TAYLOR: The kokoweef.com website.
3 BY MS. TAYLOR:
4 Q. Is this all the pictures that you took
5 during the entire time that you were on the
6 site?
7 A. Probably one-third.
8 Q. Was there any special significance to
9 the ones that you've selected for us today?
10 A. I selected to give a general idea.
11 Q. Okay.
12 And when you say "general idea", what
13 do you mean by "general idea"?
14 A. Of the different things that I did at
15 the camp and the different times that I was
16 there.
17 Q. Okay.
18 A. I didn't keep a diary so I can't give
19 you exact days.
20 Q. The -- I don't know if you've got the
21 stack in the same order.
22 In your stack, is the second page of
23 the pictures, is it -- do you know what I'm
24 looking at, Mr. Powers?
25 A. Can you hold that up so I can see it?

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1 to these pictures being admitted as pictures of
2 Kokoweef's site, of Mr. Powers and others. We
3 don't necessarily know who these people are, but
4 I don't think that there's any objection by any
5 of us to --
6 MR. CLARY: Well, don't be so sure.
7 MR. SEGEL: All right.
8 MR. CLARY: I object that there's no
9 proper foundation laid for these photographs to
10 come into evidence.
11 This deposition is going to be -- is
12 going to be used and submitted in the event that
13 this witness is not available, and these are
14 going to be offered at a hearing or trial as
15 evidence and be used for whatever purposes are
16 appropriate, if any.
17 I do not believe that they have been
18 properly authenticated, and I do not believe
19 that they are -- I object to their -- I will not
20 stipulate to their being admitted.
21 BY MS. TAYLOR:
22 Q. Well, then, go to your first photo,
23 Mr. Powers, and put it on the document reader,
24 would you, please?
25 A. Our technician has left.

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1 THE REPORTER: Well, we just need to
2 turn that one.
3 THE WITNESS: We'll see what we can do
4 here.
5 THE REPORTER: I think it just needs to
6 power up or --
7 MS. TAYLOR: And remember, he showed
8 you the remote control and you switched back and
9 forth.
10 THE REPORTER: Okay.
11 MR. SEGEL: Well, why don't -- I guess
12 what we've got to do, if you don't mind, is take
13 five minutes and let the court reporter mark
14 each of the documents so we'll have them
15 premarked.
16 MS. TAYLOR: Okay.
17 MR. SEGEL: Does that make sense?
18 MS. TAYLOR: You bet.
19 (Whereupon, a short recess was taken.)
20 (Whereupon, a photograph
21 marked as Deposition Exhibit
22 No. 1, Powers, for
23 identification.)
24 BY MS. TAYLOR:
25 Q. Mr. Powers, did you take this photo

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1 BY MS. TAYLOR:
2 Q. What's No. 2 that's been marked?
3 A. Okay, No. 2 is a picture of --
4 MR. SEGEL: One second, sir, let us
5 find it.
6 THE WITNESS: All right.
7 MR. SEGEL: Is that the one with the
8 generator on it, sir?
9 THE WITNESS: It's actually a water
10 pump, yes.
11 MR. SEGEL: Okay. The pictures are
12 very, very difficult to see, but there's three
13 gentleman in it?
14 THE WITNESS: Yes.
15 Charles Bouck is the one in the black
16 shirt. Fred Loftnes is the one --
17 BY MS. TAYLOR:
18 Q. Who took --
19 A. Fred Loftnes is the
20 one --
21 Q. I'm sorry, sir.
22 A. -- in the blue shirt, and I'm the one
23 that's leaning on the pump.
24 Q. Who took this picture, Mr. Powers, if
25 you know?

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1 that's been marked as Exhibit 1?
2 A. Yes.
3 Q. Do you know when you took it?
4 A. Sometime in 2003.
5 Q. And what's the photo of?
6 A. It's a little cave that we found when I
7 and Jim Hanhart were driving a tunnel out above
8 the Crystal Cave Mine -- Carbon and King Mine.
9 MR. SEGEL: Carbon and King?
10 THE WITNESS: Carbon and King.
11 MR. SEGEL: Got it. Thank you.
12 BY MS. TAYLOR:
13 Q. Was there a -- what is it showing other
14 than it's just a tunnel?
15 I mean, what was the significance of
16 you selecting this picture?
17 A. It was just a pretty picture, and it
18 showed one of the little tunnels that we found
19 when we were driving this tunnel.
20 Q. Okay.
21 A. It has no significance.
22 (Whereupon, a photograph was
23 marked as Deposition Exhibit
24 No. 2, Powers, for
25 identification.)

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1 A. I do not know.
2 Q. And do you know why you brought this
3 picture for us?
4 A. Yes. To just let the folks know that I
5 was out working at the Big House on different
6 things other than diamond drilling.
7 MR. SEGEL: Well, let me -- can I ask
8 you -- just let me voir dire the issue.
9 VOIR DIRE EXAMINATION
10 BY MR. SEGEL:
11 Q. Mr. Powers, are you trying to submit
12 these pictures for anything other than to show
13 us that you were onsite for a period of time?
14 A. That is why I'm showing the pictures,
15 to confirm that I was onsite.
16 Q. Is there anything in these pictures
17 that you wanted to display other than the fact
18 that you were onsite?
19 A. No.
20 MR. SEGEL: Well, I will tell you that
21 I -- neither I nor Mr. Clary, I hate to speak
22 for him, the last time he didn't like what I
23 said, nor Mr. Hahn, who I do speak for, don't
24 suggest that you were not onsite. In fact, I'm
25 going to ask you some questions about that when

1 it's my turn.
 2 A. All right.
 3 Q. If there's no other reason for you to
 4 have these picture other than to show that you
 5 were onsite, we appreciate that, but I'm not
 6 sure we need to spend your time going through
 7 each and every picture.
 8 If you feel that there are pictures
 9 here that depict something that you want, or
 10 Ms. Taylor wants to look at those pictures, she
 11 has a right to have you do so, we can.
 12 But I know you that it's been a long --
 13 you've been up there three hours already, and we
 14 appreciate your time, and it will be another
 15 hour, hour-and-a-half the way I see things, so
 16 we really don't want to spend time on items that
 17 you don't feel are important to help you tell us
 18 what you want to tell us about this situation?
 19 A. All right. That's fine with me.
 20 EXAMINATION (Continued)
 21 BY MS. TAYLOR:
 22 Q. Okay.
 23 I mean, so is -- so that's -- is there
 24 any picture in here, Mr. Powers, that you want
 25 to talk about, for something other than to show

1 MS. TAYLOR: Fran, the one that we're
 2 looking at, we've reached an agreement that --
 3 I'm sorry, we made you premark them all, but the
 4 one that we're looking, can you remark that as
 5 No. 3, please?
 6 MR. SEGEL: It will be Exhibit 3, so
 7 when you put your stickers on, have it as
 8 Exhibit 3.
 9 MS. TAYLOR: Right, what Nelson said.
 10 Okay.
 11 MR. SEGEL: Thank you.
 12 (Whereupon, a document was
 13 remarked as Deposition
 14 Exhibit No. 3, Powers, for
 15 identification.)
 16 BY MS. TAYLOR:
 17 Q. All right, Mr. Powers, so looking at
 18 the document we now have marked as Exhibit
 19 No. 3, can you generally describe for me what
 20 this photo is?
 21 A. It's a picture of me and Jim Zerbel in
 22 front of the spa tunnel in front of the Big
 23 House.
 24 Q. Okay.
 25 Do you know who took this photo?

1 that you were on the site?
 2 A. I don't believe that any of these
 3 pictures would do anything other than prove the
 4 different things that happened at the camp while
 5 I was there.
 6 Q. All right, Mr. Powers, you know what
 7 I'll do, is let me just -- let me look at a
 8 couple of them, and I'll ask you a couple
 9 questions on some of them, and we'll see if
 10 there's anything more than what we talked
 11 about.
 12 A. That's fine with me.
 13 Q. Can you find this picture, Mr. Powers?
 14 A. All right, I'll look for it. It would
 15 be in one of the small ones here.
 16 Q. What number is that one?
 17 A. No. 32.
 18 Q. No. 32, okay.
 19 MR. CLARY: No. 32?
 20 MR. SEGEL: Plaintiffs' 32, Pat. Just
 21 put Plaintiffs' 32 on it.
 22 MS. TAYLOR: I would rather just --
 23 these are just -- can we be off for a second?
 24 Fran, just one second.
 25 (Discussion off the record.)

1 A. No.
 2 Q. Do you know when it was taken?
 3 A. I would say 1999.
 4 Q. And was this taken during a day's work
 5 out at the mine?
 6 A. Yes.
 7 Q. And what -- do you see the -- does it
 8 accurately depict the conditions of the mine at
 9 the time you were out there?
 10 MR. SEGEL: I have to object, because
 11 the mines --
 12 MS. TAYLOR: Well --
 13 MR. SEGEL: -- is completely different
 14 from the Kokoweef mountain.
 15 MS. TAYLOR: Well, that's true.
 16 MR. SEGEL: So, he described it as
 17 being in front of the spa tunnel, so do you want
 18 a little more description on that or see where
 19 he says it is.
 20 THE WITNESS: The answer is no.
 21 MS. TAYLOR: You know --
 22 MR. CLARY: That's a good answer.
 23 I'd like to know where in the hell the
 24 spa tunnel is, but I --
 25 MS. TAYLOR: That's what I was about to

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1 ask him.
 2 BY MS. TAYLOR:
 3 Q. What is the spa tunnel, Mr. Powers?
 4 A. Okay.
 5 They were doing some tunneling out at
 6 the mine, and they started a tunnel and decided
 7 to move it over to another location. And
 8 started a tunnel over to the left, which is off
 9 of the picture.
 10 And so this little area here became
 11 known as a spa tunnel. It's -- it only goes in
 12 a few feet, and they have storage of different
 13 things in there.
 14 Q. So, when you're saying spa, S-P-A --
 15 A. Yes.
 16 Q. -- is that what you're calling it?
 17 A. Yes. They call it the spa tunnel.
 18 Q. Okay.
 19 So that was the original tunnel that
 20 they stopped, and then there's a tunnel that --
 21 A. To the left of that. That's the tunnel
 22 in front of the Big House.
 23 MR. CLARY: Why is it called the spa
 24 tunnel?
 25 THE WITNESS: Because a man called

1 picture, there would be a large fan up on a
 2 pedestal, and that's where that ladder went to.
 3 Q. Is there anything else significant
 4 about this photo --
 5 A. No.
 6 Q. -- or why you selected it?
 7 A. No.
 8 It's just a picture of one of the
 9 -- another one of the investors that came out
 10 and worked at the mine.
 11 Q. Okay.
 12 A. It has no significance other than to
 13 show some of the people that have come out and
 14 worked at the mine.
 15 Q. Mr. Powers, can you find this one?
 16 A. All right.
 17 Q. And the next one, Mr. Powers, can you
 18 find this one?
 19 A. (Witness complying.)
 20 Okay, I have it.
 21 Q. All right.
 22 So the one that you put on the document
 23 reader, we'll identify that as Exhibit 4.
 24 A. Okay.
 25 //

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1 Ralph Lewis used to sleep in there.
 2 MR. SEGEL: I guess my objection is --
 3 MS. TAYLOR: I don't even remember what
 4 it was now.
 5 MR. SEGEL: He just made the comment to
 6 an original tunnel, and I'm not sure this was
 7 the very first tunnel, or it was built a couple
 8 of feet over.
 9 BY MS. TAYLOR:
 10 Q. Okay.
 11 Mr. Powers, when you testified what's
 12 being depicted in this picture, you said that
 13 there was one tunnel adjacent to the spa tunnel
 14 being shown in the photo --
 15 A. Yes.
 16 Q. -- that was -- is that the one that was
 17 started and terminated, or was the spa tunnel
 18 started and terminated?
 19 A. The spa tunnel was started and
 20 terminated.
 21 Q. Okay.
 22 And then what is the track behind you
 23 and Mr. Zerbel?
 24 A. It's a ladder going up.
 25 And if you could see the rest of the

1 (Whereupon, a document was
 2 marked as Deposition Exhibit
 3 No. 4, Powers, for
 4 identification.)
 5 BY MS. TAYLOR:
 6 Q. Can you tell me what that is?
 7 A. That is the drill rig that we bought
 8 from Mr. Redding.
 9 Q. Okay.
 10 Did you take that photo?
 11 A. Yes, I did.
 12 Q. Do you know approximately when you took
 13 it?
 14 A. Probably 2002.
 15 Q. Okay.
 16 Was this after the drill rig became
 17 operational?
 18 A. I believe that was when we brought it
 19 back in to Larry's store to work on it.
 20 Q. Okay.
 21 And then take the next photo.
 22 A. Okay.
 23 Q. Oh, wait, actually, I'm sorry, go back
 24 to --
 25 MR. SEGEL: This photo, on the one

35 (Pages 134 to 137)

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1 where you said you took it back to Larry's
 2 store, then that's on -- that is actually at the
 3 store. That's not at the mine, correct?
 4 THE WITNESS: It looks to me that this
 5 picture is sitting out behind Larry's store. I
 6 see the rack for the netting there in the
 7 corner.
 8 MS. TAYLOR: Okay.
 9 BY MS. TAYLOR:
 10 Q. Do you know how long it was -- so this
 11 was only at the store just to have it --
 12 maintenance done on it?
 13 A. We brought it to the store to have the
 14 frame rewelded.
 15 Walt Leuth did the welding on the frame
 16 of the derrick, and then we took it to the Jack
 17 Shop, and at that place, we rebuilt the
 18 compressor and redid some of the hydraulics.
 19 Q. Okay.
 20 Mr. Powers, can you spell Walt's last
 21 name for the record?
 22 A. Mm, this will be just a guess,
 23 L-U-T-Z.
 24 Q. Now, then --
 25 MR. HAHN: L-E-U-T-H.

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1 MR. SEGEL: Mr. Hahn says it's
 2 L-E-U-T-H.
 3 THE WITNESS: Okay.
 4 MR. CLARY: We can't believe Mr. Hahn.
 5 BY MS. TAYLOR:
 6 Q. Okay.
 7 So the next picture that I had you pull
 8 that you've got on the document reader now,
 9 we'll mark that as Exhibit 5. And what is that?
 10 A. I think that one's been remarked.
 11 Mark 5 on that one.
 12 Just a moment.
 13 Q. No problem.
 14 (Whereupon, a document was
 15 marked as Deposition Exhibit
 16 No. 5, Powers, for
 17 identification.)
 18 THE WITNESS: Okay, this is the drill
 19 rig in operation at the camp. We're drilling
 20 down by Larry Butler's house.
 21 Q. Okay.
 22 So this drill rig that's in -- depicted
 23 in picture -- in Exhibit 5 is the same one that
 24 we saw in Exhibit 4, correct?
 25 A. Yes. It has been repainted and fixed,

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1 and it's now out at camp drilling.
 2 Q. Okay.
 3 And did you take this photo?
 4 A. No.
 5 Q. Do you know who did?
 6 A. No.
 7 Q. And so the house that we see in the
 8 background between the tree and the rig, that's
 9 Mr. Butler's house?
 10 A. No, that's Larry Hahn's house.
 11 Q. Okay.
 12 Where is Mr. Butler's house in this
 13 photo?
 14 A. It would be the direction that I'm
 15 looking as I'm sitting there.
 16 Q. Oh, that's you sitting in front of the
 17 tree with the orange hat on?
 18 A. That is correct.
 19 MR. CLARY: Could I just voir dire?
 20 VOIR DIRE EXAMINATION
 21 BY MR. CLARY:
 22 Q. How did you come into possession of
 23 this photograph?
 24 A. Probably it was taken with my camera.
 25 Q. Okay.

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1 Would that be true of the other
 2 photographs that you didn't take?
 3 Q. I believe all of these photographs that
 4 I have taken are ones that I took, or someone
 5 took with my camera.
 6 The person operating the rig is Larry
 7 Butler, the other person in the photograph.
 8 MR. SEGEL: Thank you, sir.
 9 EXAMINATION (Continued)
 10 BY MS. TAYLOR:
 11 Q. Are there any pictures in this batch,
 12 Mr. Powers, that depict any of the holes that
 13 you described drilling early in your deposition?
 14 A. Yes.
 15 Q. Can you find one of those for me?
 16 A. Yes.
 17 (Witness complying.)
 18 THE REPORTER: Do you see it on the
 19 document screen?
 20 MR. SEGEL: Okay. Yeah, we see it on
 21 there. Just figuring out which one it is.
 22 THE WITNESS: I wish I had brought all
 23 my pictures.
 24 MR. CLARY: It's got that white pole on
 25 the right?.

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1 MS. TAYLOR: This one.
 2 BY MS. TAYLOR:
 3 Q. Does it have netting in it? Is there
 4 netting above the hole, kind of a mesh?
 5 A. Yes.
 6 Q. And there's a piece of equipment that's
 7 right in front of the hole?
 8 A. Yes. It's a diamond drill.
 9 MR. SEGEL: Make that 6.
 10 (Whereupon, a document was
 11 marked as Deposition Exhibit
 12 No. 6, Powers, for
 13 identification.)
 14 BY MS. TAYLOR:
 15 Q. Okay.
 16 Did you take this photo, Mr. Powers?
 17 A. Yes.
 18 Q. Okay.
 19 Do you remember roughly when you took
 20 this one?
 21 A. 2002.
 22 Q. And do you remember, was there anything
 23 significant about this particular hole that you
 24 drilled?
 25 A. Well, there was a series of holes.

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1 Q. What's the white pipe kind of thing on
 2 the right-hand side of the photo --
 3 A. Well, if you're talking about --
 4 Q. -- if you know?
 5 A. If you're talking about the thing
 6 that's standing up in the air? --
 7 Q. Yes.
 8 A. -- that's just a piece of plastic
 9 pipe. It doesn't have any significance.
 10 Q. Okay.
 11 And then what about the -- so the
 12 equipment that's just to the left of where the
 13 hole's been drilled, you said that was a diamond
 14 drill?
 15 A. The orange equipment is the diamond
 16 drill.
 17 Q. Okay.
 18 Is there any other equipment besides
 19 the one diamond drill that's located in or
 20 immediately adjacent to the hole that you
 21 drilled?
 22 A. There's just the steel and the diamond
 23 drill, and that's all that's there. And that --
 24 things around it is to keep the rock from coming
 25 down onto the drill.

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1 This was at the brushy area, and this
 2 is the location of where I found the silver.
 3 Q. In this particular hole?
 4 A. In that particular location.
 5 Q. Okay.
 6 A. In my journal at the Big House is the
 7 particular hole and everything.
 8 Q. I'm sorry -- I'm sorry, Mr. Powers, can
 9 you repeat what you said about the journal at
 10 the Big House?
 11 A. I kept a journal of all the holes that
 12 I drilled at Kokoweef, and that would be
 13 recorded in that journal.
 14 Q. Okay.
 15 Can you describe for me a little bit
 16 more what's depicted in this picture?
 17 A. Okay.
 18 It's a diamond drill location. It's at
 19 one of the highest points that you can reach up
 20 on the mountain. And Ralph Lewis did some
 21 resistivity in that area and came up with some
 22 targets.
 23 And so he came up and mapped out the
 24 area for me to drill, and I was drilling those
 25 targets with that particular location.

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1 Q. Okay.
 2 Is there anywhere -- can you see in
 3 this picture at all any of the silver you found
 4 in this hole?
 5 A. Actually, that was all taken and
 6 analyzed.
 7 Q. Okay.
 8 A. There is possibly some still on the
 9 ground up in that area. I don't know.
 10 I have another picture of that area if
 11 you would like to see it.
 12 Q. In what you brought us today?
 13 A. Yes.
 14 Q. Okay.
 15 A. I'll put it on the scanner.
 16 Q. Has it got -- in the foreground, is
 17 there some draping material that says like
 18 "IBIS"?
 19 A. Well, I can't see it.
 20 MR. SEGEL: The yellow thing.
 21 THE WITNESS: Oh, yes, that's correct.
 22 BY MS. TAYLOR:
 23 Q. Okay, and a yellow spool?
 24 A. Yes. That's the photo.
 25 Q. So in relation to Exhibit 6, what are

1 we looking at, and -- let me go back.
 2 (Whereupon, a document was
 3 marked as Deposition Exhibit
 4 No. 7, Powers, for
 5 identification.)
 6 BY MS. TAYLOR:
 7 Q. Did you take Exhibit 7, the picture in
 8 Exhibit 7?
 9 A. I just took it to have it marked.
 10 THE REPORTER: No, she meant did you
 11 take it.
 12 THE WITNESS: Oh, yes I took the
 13 picture. And it's from a different angle, and
 14 you can see the camp in the -- in the -- down
 15 the mountain, and you can also see the equipment
 16 down below, the compressor and the fuel tank and
 17 things like that down below.
 18 BY MS. TAYLOR:
 19 Q. All right.
 20 A. It's the same location, just a
 21 different angle.
 22 Q. Where is the -- in this, in Exhibit 7,
 23 where is the hole that we saw on Exhibit 6?
 24 A. It would be off of the -- off of the
 25 picture.

1 Q. Okay.
 2 To the left or to the right?
 3 A. It would be to the right of that white
 4 pipe that's sticking across there.
 5 Q. Okay.
 6 Why did you take the photos that are
 7 now marked as Exhibit 6 and Exhibit 7?
 8 A. It was just to document some of the
 9 things that I was doing at camp.
 10 We worked at a lot of different
 11 locations. This location was called the brushy
 12 area.
 13 Q. Okay.
 14 On the 5,000 shares of Kokoweef
 15 stock --
 16 MR. SEGEL: Are you done with the
 17 photographs now?
 18 MS. TAYLOR: Oh, I'm sorry.
 19 BY MS. TAYLOR:
 20 Q. Yeah, I'm done with photos now,
 21 Mr. Powers.
 22 (Shutting photo scanner off.)
 23 BY MS. TAYLOR:
 24 Q. So, the 5,000 shares of Kokoweef stock
 25 that you received, Mr. Powers, was that -- was

1 that -- as you understood it, was that intended
 2 to be full payment for the work you had done out
 3 at the camp?
 4 A. No.
 5 Q. Okay.
 6 Did Mr. Hahn ever tell you how much
 7 more stock he was going to provide you for the
 8 work you had done at camp?
 9 A. No.
 10 Q. Has he indicated that he is going to
 11 provide you with any additional stock at all for
 12 your work at the camp?
 13 A. No.
 14 Q. Okay.
 15 And to date, you still haven't received
 16 your exchanged EIN for Kokoweef shares, correct?
 17 A. As of today, no.
 18 Q. Okay.
 19 (Whereupon, a short recess was taken.)
 20 BY MS. TAYLOR:
 21 Q. Mr. Powers, I want to go back really
 22 quickly to your silver discovery. And I don't
 23 remember if you testified, when did you think
 24 that that happened?
 25 A. 1999.

1 Q. Okay.
 2 Can you -- when you drilled that hole,
 3 can you describe -- and you found silver.
 4 Can you describe for me what it looked
 5 like?
 6 A. Yes, I can.
 7 It looked like if you opened a can of
 8 silver paint, it was about the same thickness,
 9 same color, and it just barely came out of the
 10 hole, it was so high grade.
 11 Q. And what do you mean "It just barely
 12 came out of the hole because it was so high
 13 grade"?
 14 A. Well, it just came out in kind of
 15 blobs.
 16 Q. Okay.
 17 Did Mr. Butler ever see the silver that
 18 came out of that hole?
 19 A. No, but we told him about it.
 20 Q. Okay.
 21 Did you -- other than those two photos
 22 that we saw, is there any other recordation of
 23 that silver that you found?
 24 A. It would be in my drill log if it's
 25 still at the Big House.

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1 Q. Okay.
 2 Did you do anything else to document
 3 it? Did you -- did you photos. Did you do any
 4 videos? Did you take any samples?
 5 A. We had some videos of those holes. I
 6 don't know if anything showed up on those
 7 videos. I haven't seen them lately.
 8 Q. Okay.
 9 Who took the videos?
 10 A. Jerry McKee.
 11 Q. So, did Mr. McKee then actually see the
 12 silver that was coming out of that hole as well?
 13 A. No.
 14 Q. Okay.
 15 MR. SEGEL: Did you ever show it to
 16 Mr. Hahn?
 17 THE WITNESS: Mr. Hahn never saw the
 18 actual silver, no.
 19 BY MS. TAYLOR:
 20 Q. Do you know if any samples -- Mr. Bouck
 21 took samples to have the assay done, correct?
 22 A. Yes.
 23 Q. Okay.
 24 Did Mr. Hahn know that samples had been
 25 taken for the assay?

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1 A. Yes.
 2 Q. What was his response to that?
 3 A. I wasn't there, so I can't reply.
 4 Q. Okay.
 5 Did he ever talk to you about the
 6 samples that had been taken from the hole where
 7 the silver was discovered?
 8 A. No.
 9 Q. Do you know -- for the time that you
 10 were out there at the site, do you know roughly
 11 how many days a week you worked? Do you have an
 12 estimate?
 13 A. It would depend.
 14 When we were busy, it was seven days a
 15 week. I would say most of the time, it was five
 16 days a week.
 17 Q. And how many hours a day when you
 18 weren't busy?
 19 A. When we were busy, we would work from
 20 daylight to dark. Probably at least 10 hours
 21 per day.
 22 Q. Okay.
 23 And then what about when you were not
 24 busy, and you were working five hours -- five
 25 days a week?

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1 A. Well, we would always work at least 8
 2 or 10 hours every day no matter what.
 3 Q. All right.
 4 Did Mr. Hahn ever promise you an amount
 5 of shares for all the work that you did over
 6 those three years?
 7 MR. SEGEL: Asked and answered three
 8 times.
 9 THE WITNESS: Repeat that.
 10 MR. SEGEL: You may answer.
 11 BY MS. TAYLOR:
 12 Q. Yeah, I -- at any point from the first
 13 time you met him until today, was there ever a
 14 number of shares that Mr. Hahn has promised you
 15 that would be provided to you for the work that
 16 you provided at the camp?
 17 MR. SEGEL: Same objection.
 18 Can you answer, sir?
 19 THE WITNESS: Yes.
 20 BY MS. TAYLOR:
 21 Q. Yes, you can answer, or yes, he
 22 promised you a number of shares?
 23 A. Yes, he answered me, and yes, I can
 24 answer.
 25 Q. Okay.

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1 And what was the number of shares that
 2 he promised you?
 3 A. I was promised 5,000 shares.
 4 Q. Okay.
 5 And that's what you received, right?
 6 A. Right.
 7 And that was predicated on that we
 8 found the treasure, but he gave it anyway.
 9 Q. Okay.
 10 Did he ever promise you -- did he ever
 11 promise you more shares than that?
 12 A. No.
 13 MS. TAYLOR: Okay. All right.
 14 I don't have anything else, unless, you
 15 know, I have a follow-up from Mr. Segel, but I'm
 16 going to turn you over to him now.
 17 THE WITNESS: Okay.
 18 EXAMINATION
 19 BY MR. SEGEL:
 20 Q. Just bear with me, because I'm going to
 21 try and go through my notes, and I can't read my
 22 own writing, so sometimes it takes time to
 23 figure out what I want to ask.
 24 Let's talk about your involvement at
 25 the mine.

1 A. All right.
 2 Q. You were asked -- you've testified that
 3 you had worked there for three years, but you
 4 said 1999 to 2003. Can you clarify your answer?
 5 A. Yes.
 6 I did not come out at the beginning of
 7 the year, and I did not leave at the end of the
 8 year. It was somewhere in the middle, and so
 9 that's what it came out to.
 10 Q. Okay.
 11 So even though it was in '99 to 2003,
 12 it was about three years in total length --
 13 A. Yes.
 14 Q. -- is that correct?
 15 Okay.
 16 Now, were you there continuously for
 17 three -- those three years, or were you there
 18 periodically, and you would leave and you would
 19 come back?
 20 A. I was there periodically.
 21 Q. And did you generally stay for a
 22 certain period of time, a week, a month,
 23 multiple months or did it vary?
 24 A. Sometimes I stayed for multiple months.
 25 Q. What was your normal procedure?

1 A. My normal procedure was to come down on
 2 my vacations. And I came down -- I got laid off
 3 several times at the work I was doing, and I
 4 would come down during the times I was laid
 5 off.
 6 Q. All right.
 7 So let's -- let's take 1999. Do you
 8 know how many weeks you were -- or days you were
 9 at the mine in 1999?
 10 A. No. I did not keep a diary.
 11 Q. Can you approximate? Was it a week?
 12 Two weeks? A month?
 13 A. I don't remember.
 14 Q. All right.
 15 And when you were employed, how long
 16 were your vacations?
 17 A. Three weeks.
 18 Q. And would you spend the full three
 19 weeks at the mine?
 20 A. I'm not -- not sure. I would think a
 21 week or two. I don't remember exact -- exact
 22 times.
 23 Q. All right.
 24 Is it fair to say that you spent
 25 20 weeks, 30 weeks at the mine, total.

1 MS. TAYLOR: Objection.
 2 THE WITNESS: I have never sat down and
 3 figured it all up.
 4 MS. TAYLOR: Never mind, I'll withdraw
 5 my objections.
 6 BY MR. SEGEL:
 7 Q. So, 20 to 30 weeks you think, total?
 8 MS. TAYLOR: For what? Objection,
 9 vague as to year.
 10 BY MR. SEGEL:
 11 Q. 20 to 30 weeks -- from 1999 to 2005,
 12 you spent 20 to 30 weeks working on the mine; is
 13 that your answer?
 14 A. My answer is, I would have to check.
 15 Q. Okay.
 16 So you don't have any recollection
 17 whatsoever?
 18 A. I have recollection of coming down and
 19 working. I did not write down the day that I
 20 came or the day that I left.
 21 Q. Okay.
 22 A. I can find out those dates if you need
 23 them.
 24 Q. We appreciate it, sir. You did
 25 everything you can to give us your best

1 recollection, and we appreciate that.
 2 You provided these pictures to us to
 3 show us that you were actually at the mine,
 4 correct?
 5 A. Yes.
 6 Q. And you also made reference to other
 7 people being at the mine?
 8 A. Yes.
 9 Q. Was it common practice for investors in
 10 Kokoweef or EIN back in those days to come out
 11 and work the mine?
 12 A. If you had enough shares, you were
 13 allowed to come work at the mine.
 14 Q. So you actually had to have shares to
 15 work the mine. Volunteers weren't allowed?
 16 A. Volunteers were allowed if you were a
 17 shareholder.
 18 Q. Okay.
 19 And how much were they paid?
 20 A. Some of them were given shares. Some
 21 were not.
 22 Q. Okay.
 23 And what determined whether they got
 24 shares or not?
 25 A. Executive privilege.

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1 Q. What does that mean?
 2 A. It means if Larry had made an agreement
 3 with them to give shares, they got shares. If
 4 Larry had made an agreement that they wouldn't,
 5 they wouldn't.
 6 Q. Do you know whether these agreements
 7 with Larry were discussed with the Board of
 8 Directors?
 9 A. Not to my knowledge.
 10 Q. Do you have any knowledge of whether or
 11 not these were discussed with the Board of
 12 Directors?
 13 A. No.
 14 Q. So you wouldn't know whether the
 15 Board approved them or didn't approve them,
 16 correct?
 17 A. I do not know.
 18 Q. Okay. Thank you.
 19 Do you know Ted Burke?
 20 A. Yes, I have met him several times.
 21 Q. And who is Ted Burke?
 22 A. Well, at one time he was a
 23 vice-president.
 24 Q. Okay.
 25 He is no longer a vice-president?

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1 A. To my knowledge, he is not.
 2 Q. Okay.
 3 Do you know why he is no longer a
 4 vice-president?
 5 MS. TAYLOR: Objection. Calls for
 6 speculation.
 7 MR. SEGEL: I asked if he knew.
 8 THE WITNESS: Yes.
 9 MR. SEGEL: Did you get that, Ms. Court
 10 Reporter?
 11 THE REPORTER: Yes, I did.
 12 MR. SEGEL: Okay. Thank you.
 13 BY MR. SEGEL:
 14 Q. And what is your understanding of why
 15 he is no longer a vice-president?
 16 A. That there was some discrepancy with
 17 Larry.
 18 Q. And, then, what was that discrepancy?
 19 A. I don't know the exact, I wasn't
 20 there. I only have rumor.
 21 Q. Well, what is your understanding of why
 22 Mr. Burke is no longer a vice-president?
 23 A. I understood that there was a conflict
 24 of Larry and Ted Burke's ideals.
 25 Q. Could you describe any more? Is that

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1 what your understanding is?
 2 A. I'm not really familiar with what's
 3 going on. I haven't been there for some time,
 4 so everything I would tell you would be third-
 5 or fourth-hand information.
 6 Q. Okay, that's fair. I appreciate it.
 7 Did Ted Burke work the mine?
 8 A. I never saw him do any work at the
 9 mine.
 10 Q. Were you present when the Big House was
 11 built?
 12 A. No.
 13 Q. Didn't you previously testify about a
 14 gentleman who built the Big House?
 15 A. Yes, his name was Randy. I don't
 16 remember his last name.
 17 Q. Okay.
 18 A. It was built before I was a part of the
 19 company.
 20 Q. Okay.
 21 Did Larry Hahn ever work the mine?
 22 A. I believe Larry did quite a bit of work
 23 at the mine.
 24 Q. How often was Larry on his mine
 25 working?

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1 A. We would see him during the week and on
 2 the weekends.
 3 MS. TAYLOR: Objection. Calls for
 4 speculation.
 5 BY MR. SEGEL:
 6 Q. Okay.
 7 In your opinion, was Larry actively
 8 involved in doing the work at the mine and
 9 generating whatever the mine had to do.
 10 MS. TAYLOR: Objection, leading,
 11 compound.
 12 THE WITNESS: Yes.
 13 MS. TAYLOR: Did you get my -- Fran,
 14 did you get my objection?
 15 THE REPORTER: Yes, ma'am.
 16 MR. CLARY: What was his answer?
 17 MR. SEGEL: Yes.
 18 THE WITNESS: The answer was yes.
 19 MR. CLARY: Thank you.
 20 BY MR. SEGEL:
 21 Q. Now, shortly after you were asked about
 22 people at the mine -- it was early in the
 23 deposition this morning -- you were asked about
 24 -- and you made a comment about Jerry McKee and
 25 Fred Loftnes and talked about Butler.

1 And then you made a comment, you said
 2 -- oh, talking about the assay. You made a
 3 comment that the assay was completed on the
 4 silver that you found. Do you remember that?
 5 A. Keep going.
 6 Q. Okay.
 7 Well, right after you made the comment
 8 about the assay, you said it is on our website.
 9 Do you recall saying that?
 10 A. Yes.
 11 Q. And what did you mean by "our website"?
 12 A. The original Kokoweef website.
 13 Q. Well, what did you mean by "our"?
 14 A. Well, there's two websites sites.
 15 Larry has one, and Richard Ducheck has one.
 16 The one that the sample is on is the
 17 original one, kokoweef.com.
 18 Q. And why did you use the term "our"?
 19 What did that mean to you?
 20 A. Well, it is the investor website, and
 21 I'm an investor, so that's why I used that term.
 22 Q. Okay.
 23 And what is an investor website?
 24 A. Well, to me, an investor website is
 25 where the investors have different things on

1 Q. And what was that -- when did you get
 2 -- when did Mr. Ducheck send you that message?
 3 A. Probably three years ago.
 4 Q. And what did that message say?
 5 A. It said that there is a website under
 6 "construction". It will be on at a certain
 7 time, and you can go there to look at the
 8 different things that are happening at the
 9 mine.
 10 Q. Now, at the time, was Mr. Ducheck a
 11 director of EIN or Kokoweef?
 12 A. Vice-president, I believe.
 13 Q. Okay.
 14 Do you know whether he was a director
 15 or not?
 16 A. I don't believe he was a director ever,
 17 that I know of.
 18 Q. Okay.
 19 And did that email inform you that
 20 kokoweef.com was the official website of
 21 Kokoweef, or EIN for that matter?
 22 A. At that time, it was the official
 23 website.
 24 Q. Okay.
 25 So did the -- did the emails you

1 there for the other investors to see.
 2 Q. Okay.
 3 Well, let me ask you a question:
 4 Was it Newmont mine that you were -- or
 5 Homestake?
 6 A. Homestake.
 7 Q. Homestake Mine, did they have an
 8 investor website?
 9 A. Not that I'm aware of.
 10 Q. Do you know of any other company that
 11 has an investor website?
 12 A. No.
 13 Q. Do you have an understanding why an
 14 investor website exists?
 15 A. No.
 16 MS. TAYLOR: Objection. Calls for
 17 speculation.
 18 MR. SEGEL: That's fine.
 19 BY MR. SEGEL:
 20 Q. Okay.
 21 Do you -- when did you first learn
 22 about kokoweef.com?
 23 A. I believe Richard Ducheck left me a
 24 message on my computer and told me about the
 25 website.

1 received inform you this that was the official
 2 website of Kokoweef?
 3 MS. TAYLOR: Asked and answered.
 4 THE WITNESS: At that time, yes.
 5 BY MR. SEGEL:
 6 Q. Thank you.
 7 And did things change?
 8 A. Yes, it has changed now.
 9 Q. And how has it changed?
 10 A. The kokoweef.com is still there. And
 11 Larry has started another website,
 12 kokoweefinc.net.
 13 Q. Okay.
 14 And what is kokoweefinc.net?
 15 A. It's another investor website.
 16 Q. So, is kokoweef.net -- kokoweefinc.net
 17 is operated by the investors?
 18 A. I'm not sure exactly how it's being
 19 operated. I know Larry Hahn is involved.
 20 Q. Have you visited the website?
 21 A. Yes.
 22 Q. Does it state that it is the official
 23 website of kokoweef.inc --
 24 A. It does.
 25 Q. -- or kokoweefinc.?

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1 A. Yes, it does.
 2 Q. What does that mean? Does that mean
 3 anything to you, other than --
 4 A. It means to me that it's the official
 5 website for the company.
 6 Q. Thank you, sir.
 7 And you're familiar with companies
 8 having websites?
 9 A. I've gone to very few. Maybe two other
 10 companies.
 11 Q. Is it your understanding that it's
 12 common today for corporations to have websites
 13 so people, investors, anyone interested in
 14 coming to the website, can learn about the
 15 company?
 16 A. Yes.
 17 Q. Okay.
 18 Now, you were talking about this silver
 19 that you found in 1999.
 20 A. Yes.
 21 Q. And I believe you testified that
 22 samples were taken, and an assay was done on
 23 those samples, correct?
 24 A. Yes.
 25 Q. Now, were -- was all of the silver that

1 like -- this hole was like opening a can of
 2 silver paint --
 3 A. Yes.
 4 Q. -- is that right?
 5 Now, how big of a hole was it that you
 6 had dug when you found this silver?
 7 A. It was not quite a half-inch in
 8 diameter, and the hole was probably 100 to
 9 150 feet deep.
 10 Q. And it was found at the bottom of this
 11 hole, is where you found the silver?
 12 A. No, it was somewhere in the middle.
 13 Q. Okay.
 14 50 feet down?
 15 A. Probably 50 feet down.
 16 Q. Okay.
 17 So, it wasn't just a matter of cutting
 18 in a few feet in and the silver was laying
 19 everywhere, correct?
 20 A. That is correct.
 21 Q. Now, did you drill any more in that
 22 hole?
 23 A. Yes, I did. I drilled -- we were
 24 drilling at that time a certain length of hole
 25 so that we could put the C-snake camera down and

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1 was located in that hole taken for assay, or
 2 just a part of it?
 3 A. To my knowledge, all of it.
 4 Q. All of it, okay.
 5 And was that silver ever returned to
 6 EIN or Kokoweef?
 7 A. Not to my knowledge.
 8 Q. Where is that silver today?
 9 A. I have no idea.
 10 Q. What was -- what is the value of the
 11 silver that was taken?
 12 A. Well, I don't have a value on that
 13 either.
 14 I'm guessing that the assay company
 15 that it was sent to probably still has it.
 16 Q. Is that something that assay companies
 17 normally retain the silver or other precious
 18 metals that they assay?
 19 A. I don't know. I have never sent in an
 20 assay.
 21 Q. So you're not familiar with the assay
 22 process whatsoever?
 23 A. No.
 24 Q. Okay.
 25 Now, you also testified that it was

1 take a video of it.
 2 The holes were all drilled to a certain
 3 length, and that hole was drilled to that
 4 length, and then a camera was inserted in
 5 there.
 6 Q. And was it wider than a half-inch, or
 7 did it maintain a half-inch in diameter?
 8 A. It's the same size. The hole is the
 9 same size the full length.
 10 Q. Okay.
 11 And how deep did you -- did you run
 12 that hole?
 13 A. I believe at that time, I was drilling
 14 250-foot holes.
 15 Q. Okay.
 16 And that was to look for the cavern,
 17 correct?
 18 A. We were looking for an entrance to the
 19 cavern.
 20 Q. Okay.
 21 And, but you found the gold -- you
 22 found the silver at about 50 feet?
 23 A. To my recollection, yes.
 24 Q. And that's all I can ask for. I'm not
 25 asking anything you can't do. I'm looking for

43 (Pages 166 to 169)

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1 just what you do recall.
 2 Did you drill additional holes in that
 3 vicinity?
 4 A. Yes, I did.
 5 Q. And how many holes -- when I say
 6 "vicinity", what size of an area did you drill
 7 additional holes, calling it the "vicinity"?
 8 A. The area is probably 20 foot in each
 9 direction.
 10 And we drilled several more holes. I
 11 would have to look at the record to see how
 12 many.
 13 Q. Okay.
 14 And did you find any more silver?
 15 A. No.
 16 Q. Now, you stated that you cashed your
 17 checks at Hahn's Surplus, correct?
 18 A. That is correct.
 19 Q. And did you get the money when you
 20 cashed those checks, or did Hahn's Surplus take
 21 a fee for cashing the checks for you?
 22 A. I kept the money. No fee.
 23 Q. Did you have a checking account in
 24 Las Vegas?
 25 A. No.

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1 Q. What bank were they drawn on?
 2 A. I don't remember.
 3 Q. What were the checks from?
 4 A. I don't remember.
 5 All you had to was do your
 6 fingerprint.
 7 Q. Okay.
 8 A. Thumbprint, if I remember correctly.
 9 Q. Okay.
 10 You testified that Hahn's World of
 11 Surplus was once owned by Larry and is now owned
 12 by Leslie Hahn?
 13 A. That is to my knowledge.
 14 Q. Is that your testimony?
 15 A. Yes.
 16 Q. And what is the basis -- -- what is
 17 the basis of your knowledge?
 18 A. From being in the area when that
 19 supposedly was happening.
 20 Q. What does that mean? I'm not sure I
 21 understand. Being in what area?
 22 A. I was working out at Kokoweef at the
 23 time, and I heard discussion about it. I have
 24 not seen it.
 25 Q. What did you --

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1 Q. Did you have a bank that was located in
 2 Las Vegas?
 3 A. No.
 4 Q. Did you have an ability to cash your
 5 checks anywhere other than Hahn's Surplus when
 6 you were here in Las Vegas?
 7 A. Yes.
 8 Q. Where could you have cashed your
 9 checks?
 10 A. US Bank.
 11 Q. Do you have a bus -- do you have an
 12 account with US Bank?
 13 A. No.
 14 Q. Have you ever tried to cash a check in
 15 Las Vegas?
 16 A. Yes.
 17 Q. And have you cashed checks in
 18 Las Vegas?
 19 A. Yes.
 20 Q. Where?
 21 A. I have cashed them at Wells Fargo and
 22 US Bank.
 23 Q. Were those checks drawn on US Bank or
 24 Wells Fargo?
 25 A. No.

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1 A. Have not seen it in black and white.
 2 Q. So, this information did come from some
 3 third party who overheard Larry talking about
 4 it?
 5 A. Yes.
 6 Q. Who was he talking to?
 7 A. I don't remember.
 8 Q. When did it occur?
 9 A. Sometime in between 2000 and 2003.
 10 Q. You have no specific recollection of
 11 any time frame?
 12 A. No.
 13 Q. Okay.
 14 And this may be -- this may be
 15 redundant, and I hate to do it. I just want it
 16 clear.
 17 Your problem with Mr. Butler was he
 18 didn't have mining experience, correct?
 19 A. I felt that he didn't have the
 20 experience necessary to be running the camp on
 21 the mining part of the operation.
 22 Q. But everything but the mining you felt
 23 he was competent and, in fact, did a good job
 24 with, correct?
 25 A. That is correct.

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1 Q. Thank you, sir.
 2 The purchase of the dump truck, can you
 3 tell me when the purchase of the dump truck took
 4 place?
 5 A. No.
 6 Q. You don't have any idea whatsoever?
 7 A. I would have to guess.
 8 Q. I don't want you to guess, sir.
 9 How about the water truck?
 10 A. I would -- I would have to guess on
 11 both of those. I didn't keep a diary, and I
 12 wasn't keeping track of the time.
 13 Q. Okay.
 14 Do you have any idea whether they were
 15 bought in a relatively similar time period, or
 16 were they bought at different time periods, do
 17 you know?
 18 A. Different -- different time periods.
 19 Q. Do you recall how far apart they were?
 20 A. No.
 21 Q. A month?
 22 A. Mm.
 23 Q. More than a month?
 24 A. Many months.
 25 Q. Less than a year?

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1 A. Well, you'd have me guessing again.
 2 Q. I don't want you to guess, sir. Thank
 3 you.
 4 Do you know whether Mr. Honsey
 5 purchased the water truck that you believe he
 6 took?
 7 A. I believe he borrowed it.
 8 Q. Do you have any knowledge of whether he
 9 had an arrangement with Kokoweef or EIN to
 10 purchase it?
 11 A. He had asked Larry to borrow it.
 12 Q. Were you present when he, quote,
 13 unquote, "asked Larry to borrow it"?
 14 A. No, I was present when he came to the
 15 camp and took it.
 16 Q. Do you have any knowledge of whether or
 17 not he paid for it?
 18 A. No knowledge.
 19 MS. TAYLOR: Asked and answered.
 20 BY MR. SEGEL:
 21 Q. Thank you, sir.
 22 Now, you were testifying about a couple
 23 of meetings. I think you said they were Board
 24 meetings regarding a discussion that Kokoweef --
 25 actually I don't want to put words in your

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1 mouth.
 2 There was a discussion of EIN, and it
 3 becoming Kokoweef or something of that nature.
 4 Can you refresh my recollection of what you
 5 said?
 6 A. I said that we had met about the
 7 reconstruction of Kokoweef, and I had said that
 8 we had several meetings about that.
 9 Q. Okay.
 10 And you said reconstruction. Did you
 11 -- did you mean the creation of Kokoweef?
 12 A. Yes, it was changing from Exploration
 13 to Kokoweef.
 14 Q. Okay.
 15 And was the name Kokoweef used, is that
 16 -- Kokoweef, Inc., was discussed in these
 17 meetings?
 18 A. I believe that I was at one that it
 19 was, yes.
 20 Q. Okay.
 21 And what was reason that EIN was going
 22 to cease to exist, and Kokoweef was going to be
 23 created?
 24 A. To have a cleaner, better company.
 25 Q. What does that mean, sir?

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1 A. To me, it means that it was going to be
 2 run with the issuance of stock at the New York
 3 Stock Exchange, and it would be run the same as
 4 any other business.
 5 Q. Can you -- was there a discussion of
 6 why EIN could not do those things, and why a new
 7 entity had to be created?
 8 A. Yes, but I don't remember all the
 9 different details.
 10 Q. Do you have any idea of them?
 11 A. One of them was that there was a
 12 problem that needed to be cleaned up, and I
 13 don't remember exactly all the details on that.
 14 Q. Do you remember what the problem was?
 15 A. There was some concern by some of the
 16 stockholders that the company wasn't being run
 17 up to standards.
 18 Q. And -- okay.
 19 Was there a discussion of the shares
 20 that had been issued to -- to investors?
 21 A. Not that I'm aware of.
 22 Q. Okay.
 23 The first meeting occurred at Hahn's
 24 Surplus; is that correct?
 25 A. We had several meetings at the store,

1 Hahn's Surplus.
 2 Q. You made reference to -- you made
 3 reference to two meetings. You made reference
 4 -- I thought the first meeting that you could
 5 not recall when it took place, occurring at the
 6 store, and I recall you saying that there was a
 7 meeting at Kokoweef with about 90 investors that
 8 were there as well as the Board members.
 9 Is that your testimony?
 10 A. Yeah, that would have been the annual
 11 picnic.
 12 Q. Okay.
 13 So would you -- is it your testimony,
 14 then, that one meeting was a Board meeting at
 15 Hahn's Surplus, and the second meeting you
 16 talked about was the annual shareholders
 17 meeting?
 18 A. Yes.
 19 Q. Okay.
 20 So at that annual shareholders meeting
 21 with about 90 shareholders present, there were
 22 discussions about how Kokoweef was being -- or
 23 how EIN was being operated, and what might be
 24 done to change things, correct?
 25 A. That is correct.

1 Q. Were there any votes by the
 2 shareholders on what to do?
 3 A. There was some votes. I don't remember
 4 exactly what we were voting on.
 5 Q. Okay.
 6 Well, I'm asking, did they vote on what
 7 to do about this issue that the way Koko -- or
 8 EIN was being operated should be changed?
 9 A. I believe we voted on making a change.
 10 Q. Okay.
 11 And did you, in fact, elect a Board of
 12 Directors at that meeting?
 13 A. The one at the camp, yes.
 14 Q. Okay.
 15 And those members of the Board of
 16 Directors were then charged with carrying out
 17 what was appropriate to be done by the Board --
 18 by the company, correct?
 19 A. Yes.
 20 Q. Was Mr. Hahn the sole director?
 21 A. Yes.
 22 Q. There were no other directors besides
 23 Mr. Hahn?
 24 A. Well, I'm not exactly sure how the
 25 thing was set up.

1 There was the president, two
 2 vice-presidents and the Board of Directors, but
 3 I don't know exactly who was what, and what
 4 their titles were.
 5 Q. Is it fair to say that Mr. Hahn was
 6 just one of many members of the Board of
 7 Directors?
 8 A. Yes, I guess it would be.
 9 Q. Are you familiar -- have you any got
 10 any familiarity with Boards of Directors and how
 11 they operate?
 12 A. No.
 13 Q. Do you have any experience or
 14 background or knowledge of how businesses
 15 operate?
 16 A. No.
 17 Q. So you don't have an opinion of whether
 18 or not -- I take that back. That's not fair.
 19 You were talking about Mr. Gains
 20 seeking the financial records -- to review the
 21 financial records of EIN, correct?
 22 A. Yes.
 23 Q. Let me just -- so we're clear, I'll
 24 represent to you that Kokoweef, Inc. was not
 25 formed until 2005, and the reorganization wasn't

1 completed until 2006.
 2 So, based on that information, do you
 3 have any reason to believe that they would have
 4 been seeking the records of Kokoweef?
 5 A. It would have been Explorations'
 6 records.
 7 Q. Thank you, sir.
 8 Now, can you give me some idea of when
 9 Mr. Gains sought the records, a review of the
 10 records, financial records of EIN?
 11 A. No, I don't know what year it was.
 12 Q. Sometime between '99 and 2003?
 13 A. Yes.
 14 Q. Okay.
 15 Same thing for Mr. McChurch?
 16 A. Yes.
 17 Q. You don't know when.
 18 How about Mr. McGee -- McKee?
 19 A. Same time frame.
 20 Q. In other words, you don't know
 21 specifically?
 22 A. No, at that time, I wasn't --
 23 Q. Sorry, go ahead.
 24 A. At that time, I wasn't paying much
 25 attention to the time or date.

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1 Q. Thank you, sir.

2 Now, do you have a recollection of
3 whether this was all done the same day? Within
4 a week? Within a month?

5 A. It was over a time period. Not on the
6 same day.

7 Q. What time period? Was it a week? A
8 month?

9 A. It could have been several months.

10 Q. Were you present when Mr. Gains went to
11 -- well, let's back up for just a minute.

12 Is it your understanding that
13 Kokoweef's official office is in the back of
14 Mr. Hahn's store?

15 A. Yes.

16 Q. So when we actually say that we were at
17 the Hahn store, it was really in the back area
18 that was considered to be the Kokoweef official
19 offices, correct?

20 A. Yes.

21 Q. Okay.

22 So were you at the offices of EIN when
23 Mr. Gains asked to see the books?

24 A. I was in the store next to Mr. Gains.

25 Q. Okay.

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1 Q. And you were with him when he was told
2 he couldn't see the books, correct?

3 A. No.

4 Q. You were not present when he was told
5 he couldn't see the books?

6 A. No.

7 Q. How is it that you know or believe that
8 he was told he could not see the books?

9 A. He told me that he was told that.

10 Q. Okay.

11 How about Mr. McKee, were you present
12 when Mr. McKee went to EIN offices and asked to
13 see the financial records?

14 A. Yes.

15 Q. You were present at the time?

16 A. Yes. I was standing close to him.

17 Q. And what was he -- and he asked to see
18 the records, and he was told what?

19 A. He was told that he could.

20 Q. And -- well, I think -- I'm not trying
21 to confuse you, but I think your answers are a
22 bit confusing.

23 What you testified to the first two
24 gentleman is that they were told they could see
25 it. Then when they went to see them they

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1 And what was he told?

2 A. He was told that he could look at the
3 records, but he never did get to.

4 Q. Were you there when he was told he
5 could not see the records?

6 A. No.

7 Q. Did he -- what is your basis for saying
8 that Mr. Gains went to see the books and records
9 and was told he couldn't see them?

10 A. He told me.

11 Q. You had no specific knowledge with it?

12 A. I did not see it.

13 Q. Thank you.

14 How about Mr. Church, were you present
15 when Mr. Church requested -- McChurch requested
16 to see the books and records of Koko -- of EIN?

17 A. Yes.

18 Q. You were present when he asked to see
19 the books?

20 A. Yes.

21 Q. And was he allowed to see the books?

22 A. No.

23 Q. What was he told?

24 A. He was told that he could, and then he
25 was not allowed to see the books.

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1 weren't allowed to.

2 And each time I asked you about one of
3 them, were you present when they were told they
4 couldn't, and you said yes, and then I asked you
5 a second question. So let's go back.

6 You were present when Mr. McKee was
7 told he could see the books, correct?

8 A. Yes.

9 Q. Is it true that you were not present
10 when Mr. McKee actually went to see the books?

11 A. Mr. McKee got to see some of the books.

12 Q. Mr. McKee was allowed to see the books?

13 A. See some of it, yes.

14 Q. What was he allowed to see?

15 A. I don't know. Some tax records, and I
16 believe one or two years of the company's
17 expenditures and things like that.

18 Q. And what is the basis of your knowledge
19 -- were you present when he saw those books and
20 records?

21 A. No, but I have copies of them.

22 Q. And how did you obtain those copies?

23 A. He gave them to me.

24 Q. And how -- and why did he give them to
25 you?

1 A. I don't know.
 2 Q. When did he give them to you?
 3 A. Mm, this year.
 4 Q. 2009?
 5 A. Yes.
 6 Q. Okay.
 7 Did you ask him for those books and
 8 records?
 9 A. No.
 10 Q. How is it that you got to be talking to
 11 Mr. McKee?
 12 A. He calls me about once a week.
 13 Q. And what does he call you for?
 14 A. To find out if anything is happening on
 15 the project.
 16 Q. On what project?
 17 A. The finding of the entrance to the
 18 caverns out at Kokoweef.
 19 Q. Are you saying that in the year of
 20 2009, he calls you once a week to find out how
 21 things are going at the Kokoweef camp?
 22 A. Yes.
 23 Q. Why does he call you?
 24 A. Well, I don't know. Maybe he likes me.
 25 Q. You seem like a nice gentleman, and I'm

1 down, and we're trying to write those ourselves.
 2 So you have Jerry McKee.
 3 Who else?
 4 A. Jim Hanhart.
 5 Q. Jim Hanhart, okay.
 6 A. Drew White.
 7 Q. Drew White, okay.
 8 Who else?
 9 A. Jack Sickh.
 10 Q. How do you spell his name, sir?
 11 A. S-I-C-K-H.
 12 Q. Thank you.
 13 Anyone else?
 14 A. Yes.
 15 Q. Who else?
 16 A. Charles Bouck.
 17 Q. Okay.
 18 A. Ralph Lewis.
 19 Q. Okay.
 20 A. Richard Ducheck.
 21 Q. Mm-hmm.
 22 THE REPORTER: What was the first name?
 23 BY MR. SEGEL:
 24 Q. Richard?
 25 A. Richard Ducheck.

1 sure he would like you.
 2 But my question would be, have you been
 3 to Kokoweef in 2009?
 4 A. No.
 5 Q. Has he been to Kokoweef in 2009?
 6 A. No.
 7 Q. Why is it -- to your knowledge, is
 8 there some reason why he believes that you would
 9 know what's going on at Kokoweef?
 10 MS. TAYLOR: Objection. Asked and
 11 answered. Calls for speculation.
 12 THE WITNESS: Yes.
 13 BY MR. SEGEL:
 14 Q. And why is it that he would believe
 15 that you know what's going on at Kokoweef?
 16 A. I get a lot of phone calls.
 17 Q. And who do you get phone calls from?
 18 A. A lot of different investors all over
 19 the United States.
 20 Q. Well, give me an example.
 21 Who calls you?
 22 A. Well, Jerry McKee calls me. Jack Sickh
 23 calls me. Jim Hanhart calls me.
 24 Q. Wait, wait, wait. We got those four
 25 because the court reporter is trying to get this

1 Q. Okay.
 2 A. Jim Zerbel.
 3 Q. Okay.
 4 A. That's all that I can think of off the
 5 top of my head.
 6 Q. Okay.
 7 Does Ted Burke ever call you?
 8 A. I have talked to Ted Burke several
 9 times.
 10 Q. Okay. All right.
 11 How about -- just hold on a second.
 12 A. Ted Burke hasn't called me about the
 13 mine.
 14 Q. What does Ted Burke call you about?
 15 A. He has called me to talk to me about
 16 the court case.
 17 Q. And what does he tell you about the
 18 court case?
 19 A. He is telling me that they want me, if
 20 I want to, to do some testimony, and I said I
 21 would be happy. I'm happy to testify for either
 22 side.
 23 Q. Okay.
 24 Did Mr. Burke tell you what to say?
 25 A. No.

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1 Q. Okay.
 2 A. I wouldn't do it anyway.
 3 Q. Any discussion -- I would think you
 4 wouldn't.
 5 Has Michael Kehoe called you?
 6 A. No.
 7 Q. Do you know Michael Kehoe?
 8 A. I have talked to him, but he didn't
 9 call me.
 10 Q. Okay.
 11 Do you know John Bertoldo?
 12 A. No.
 13 THE REPORTER: John who?
 14 MR. SEGEL: B-E-R-T-O-L-D-O.
 15 THE WITNESS: No.
 16 BY MR. SEGEL:
 17 Q. Do you know Paul Barnard?
 18 A. No.
 19 Q. Do you know Eddy, E-D-D-Y; Kravetz,
 20 K-R-A-V-E-T-Z?
 21 A. No.
 22 Q. Do you know Fred Kravetz?
 23 A. No.
 24 Q. Do you know Steve Franks?
 25 A. No.

1 Q. And does he call you about Kokoweef?
 2 A. Yes.
 3 Q. And does -- does he call you and tell
 4 you what's going on at the site?
 5 A. No.
 6 Q. Does Jerry McKee call you and tell you
 7 what's going on at the site?
 8 A. No.
 9 Q. Does Drew White call you and tell you
 10 what's going on at the site?
 11 A. No.
 12 Q. Does Jack Sickh call you and tell you
 13 what's going on at the site?
 14 A. No.
 15 Q. Does Charles Bouck call you and tell
 16 you what's going on at the site?
 17 A. No.
 18 Q. Does Ralph Lewis call you and tell you
 19 what's going on at the site?
 20 A. No.
 21 Q. Does Richard Ducheck call you and tell
 22 you what's going on at the site?
 23 A. No.
 24 Q. Does Jim Zerbel call you and tell you
 25 what's going on at the site?

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1 Q. Do you know C. A. Murff, M-U-R-F-F?
 2 A. No.
 3 Q. Do you know Gerda Fern Billbe,
 4 B-I-L-L-B-E?
 5 A. No.
 6 Q. Do you know Bob Treska, T-R-E-S-K-A?
 7 A. No.
 8 Q. Do you know Michael Randolph?
 9 A. No.
 10 Q. Do you know Frederick Willis?
 11 A. No.
 12 Q. Okay.
 13 Now, and Jeremy -- I'm sorry, the first
 14 ones you mentioned, I can't remember. Jeremy
 15 Rellis or something?
 16 MR. CLARY: Jerry McKee.
 17 MR. SEGEL: Oh, Jerry McKee, yeah.
 18 Sorry, I can't read my own writing.
 19 BY MR. SEGEL:
 20 Q. All right.
 21 Jim Hanhart, who is Jim Hanhart?
 22 A. He is the gentleman that got me
 23 interested in the Kokoweef project.
 24 Q. He's a good friend of yours, right?
 25 A. Yes, he is.

1 A. No.
 2 Q. Does Ted Burke call you and tell you
 3 what's going on at the site?
 4 A. No.
 5 Q. Well, you previously testified that you
 6 get calls about what's going on at the site,
 7 correct?
 8 A. That is correct.
 9 Q. You said this McKee called you.
 10 Well, if nobody is telling you what's
 11 going on at the site, why are people calling you
 12 and asking you about what's going on at the
 13 site?
 14 A. Because they think that I do.
 15 MS. TAYLOR: Objection --
 16 THE REPORTER: I didn't hear the
 17 objection.
 18 MS. TAYLOR: Speculation.
 19 BY MR. SEGEL:
 20 Q. And when they call, do you tell him
 21 them don't know what's going on?
 22 A. That is correct.
 23 Q. And they keep calling you?
 24 A. Yes.
 25 Q. Okay.

1 Have any of these people called to you
2 talk about the lawsuit, other than Mr. Burke?
3 A. No.
4 Q. Does Ted Burke have any experience in
5 the mining business?
6 A. No.
7 MS. TAYLOR: Objection. Calls for
8 speculation.
9 BY MR. SEGEL:
10 Q. What is your basis for saying no?
11 A. To my knowledge, he's a lawyer
12 wanna-be.
13 Q. A lawyer wanna-be?
14 How would you describe a lawyer
15 want-a-be? I don't want to be so I don't know
16 why anyone would.
17 MS. TAYLOR: I'll second that.
18 MR. CLARY: I'll stipulate to it as
19 well.
20 MR. SEGEL: We don't like our jobs, but
21 we're doing what we have to do.
22 BY MR. SEGEL:
23 Q. What would you consider to be a lawyer
24 want-to-be?
25 A. Well, to my knowledge, he's selling

1 time.
2 Q. Okay.
3 So it's your opinion that the boss, if
4 you will, should be a miner?
5 A. Yes.
6 Q. When you worked -- is it Newmont? I've
7 got a horrible memory.
8 MS. TAYLOR: Homestake.
9 BY MR. SEGEL:
10 Q. Homestake.
11 When you worked for Homestake, was the
12 president of Homestake a miner?
13 A. No.
14 Q. Do you feel that he was not competent
15 to run Homestake?
16 A. Yes.
17 Q. Okay.
18 Now, you testified that you received
19 5,000 shares of stock as compensation for your
20 work at the mine --
21 A. Yes.
22 Q. -- is that correct?
23 A. Yes.
24 Q. Did you report -- did you report the
25 income from receiving those shares on your tax

1 some type of rent-a-lawyer.
2 Q. Okay. Okay.
3 And do you know anything else about his
4 background?
5 A. No.
6 Q. Do you know if he has any background in
7 the mining business?
8 A. No.
9 Q. Okay.
10 Now, you previously testified he really
11 didn't work at the mine so he wasn't doing
12 mining work at all with you, right?
13 A. Not that I ever saw.
14 Q. Okay.
15 Is there anybody that's involved in EIN
16 or Kokoweef, that you're aware of, that is
17 competent to run the company?
18 MS. TAYLOR: Objection. Speculation.
19 THE WITNESS: No.
20 BY MR. SEGEL:
21 Q. And what qualifications do you think
22 are necessary for somebody to competently run
23 Kokoweef?
24 A. I think the person running the mine
25 should be someone that has run mines for a long

1 return?
2 A. There was no income.
3 Q. There was no income?
4 Did you get some advice from your tax
5 person?
6 A. No.
7 Q. Okay.
8 A. There is no income until you sell them.
9 Q. Okay.
10 Now, you said that you advanced funds
11 to EIN that you were not reimbursed in excess of
12 \$100,000; is that correct?
13 A. I did not say that.
14 Q. What did you say?
15 A. I said I bought the equipment and paid
16 for things out of my own pocket. It was not
17 reimbursed.
18 The money that I spent down there was
19 for other things and for expenditures at
20 Kokoweef.
21 Q. Well, let's back up and start from
22 square one.
23 What did you purchase from your own
24 funds that was not reimbursed?
25 A. I bought gasoline. I bought food. I

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1 bought repairs for equipment. Things like
2 that.

3 Q. Okay.

4 Gasoline. What was the gasoline
5 utilized for?

6 A. We used the gasoline at the camp. Some
7 of it was utilized for some of the equipment.

8 Q. Okay.

9 And how much gasoline did you purchase?

10 A. I have no idea.

11 Q. 100 gallons?

12 A. I could not tell you.

13 Sometimes I bought the gas; sometimes
14 Larry bought the gas.

15 Q. And is it your testimony that Larry
16 never reimbursed -- or let me put it rephrase
17 that.

18 Is it your testimony that EIN never
19 reimbursed you for the gasoline you purchased?

20 A. I was never paid for any of the
21 gasoline I purchased for the camp, that is
22 correct.

23 Q. Not a nickel?

24 A. Not a nickel.

25 Q. All right.

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1 so I need to make sure we're clear here.

2 If you purchased food, and you gave

3 Larry a receipt, EIN reimbursed you for the food
4 that you purchased?

5 A. Yes.

6 Q. Can you give me an estimate of how much
7 food you purchased for which you were not
8 reimbursed?

9 A. No.

10 Q. Would it be above \$1,000?

11 A. Yes.

12 Q. Would it be \$10,000?

13 A. I don't believe so.

14 Q. Okay.

15 Would it be above \$5,000?

16 A. I wouldn't think so.

17 Q. \$2,000?

18 A. No.

19 Q. So, somewhere between 1,000 and \$2,000?

20 A. Yes.

21 Q. Thank you, sir.

22 Repairs on equipment. What types of
23 repairs on equipment did you pay for?

24 A. I paid for hoses. I paid for oil. I
25 paid for repairs for the 3-wheelers, tires,

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1 Food. What type of food did you
2 purchase?

3 A. I purchased food for us at the camp.
4 When I turned in the receipts, Larry would
5 reimburse me, but I didn't turn all the receipts
6 in.

7 Q. So, is it your testimony that Larry
8 reimbursed you for every receipt you ever gave
9 him for food?

10 A. Yes.

11 Q. And I should say, EIN reimbursed you?

12 A. Yes.

13 Q. Okay.

14 So you've never -- you've never
15 presented a receipt to EIN for which you didn't
16 get reimbursement for food?

17 A. I did not turn in all of the receipts
18 that I did for purchases. I did that because I
19 felt that the company needed the money, so that
20 was kept out.

21 Q. But just so we're clear, because, you
22 know, hopefully you have a great wonderful life
23 in the Philippines for another 30, 40 years, but
24 if we go to this trial in this case, this
25 picture of you is what we're going to be seeing,

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1 things like that.

2 Q. And is it your testimony that you were
3 never reimbursed for any repairs that you paid
4 for?

5 A. I never -- I never turned any of that
6 in.

7 Q. You never turned a single receipt in
8 for repairs or parts for the equipment?

9 A. No.

10 Q. Do you have an estimate of how much you
11 made for repairs and oil and hoses and things
12 for which you didn't seek reimbursement?

13 A. A couple hundred dollars, probably.

14 Q. \$200 total?

15 A. Yes.

16 Q. Okay.

17 Anything else that you paid for that
18 you weren't reimbursed by EIN?

19 A. Not that I can think of.

20 Q. Okay.

21 So, we have \$200 for the repairs. We
22 have 1000 to 2000 for food, correct?

23 A. I think that would be close.

24 Q. The gasoline, then, now, do you have
25 any estimate at all of what the gasoline would

1 have been?
 2 A. Probably a couple hundred dollars.
 3 Q. Under \$10,000?
 4 A. A couple hundred dollars.
 5 Q. A couple hundred dollars, okay.
 6 So let me make sure I get this clear.
 7 We're talking about \$200 for gasoline.
 8 We're talking about 1,000 to \$2,000 for food,
 9 and we're talking about \$200 for miscellaneous
 10 repairs --
 11 A. That's all a guess.
 12 Q. -- correct?
 13 A. That's all a guess, but I think it's
 14 close.
 15 Q. Well, I don't want you -- so you think
 16 it's close. I mean --
 17 A. Yes.
 18 Q. -- I don't want you guessing, but if it
 19 works fine, that's why I put the 1,000 to \$2,000
 20 for the food so it's --
 21 And so basically we're talking at the
 22 most \$2400, \$2,400 that you paid for; did not
 23 seek reimbursement on, correct?
 24 A. Yes. I didn't seek reimbursement, that
 25 is correct.

1 Q. And it's fair to say whenever you
 2 submitted a bill to Larry with the receipts, EIN
 3 reimbursed you for your advances?
 4 A. Yes.
 5 Q. Okay.
 6 MS. TAYLOR: We need to take a break to
 7 change the tape.
 8 MR. SEGEL: We need to change a tape,
 9 and I don't know about you, but I need to run
 10 down the hall.
 11 (Whereupon, a short recess was taken.)
 12 BY MR. SEGEL:
 13 Q. Mr. Powers?
 14 A. Hello.
 15 Q. I need to cover a couple of things that
 16 we usually do at the beginning, but Jennifer
 17 does hers differently.
 18 Could you tell me a short description
 19 of your educational background?
 20 A. Yes, I have a high school education.
 21 Q. From where?
 22 A. Spearfish High School, Spearfish,
 23 South Dakota.
 24 Q. Spell that, please.
 25 A. S-P-E-A-R-F-I-S-H.

1 Q. Just the way it sounds. Thank you.
 2 I think of spearfish down in the
 3 Caribbean, not in South Dakota.
 4 A. Okay.
 5 Q. All right.
 6 And do you have vocational training?
 7 A. No.
 8 Q. Do you have any post-high school
 9 classes or education?
 10 A. I went to truck driving school and slot
 11 tech school.
 12 THE REPORTER: In what school?
 13 THE WITNESS: Slot tech, S-L-O-T.
 14 BY MR. SEGEL:
 15 Q. And when did you do that?
 16 A. 1998.
 17 Q. 1998, okay.
 18 When did you graduate from high school?
 19 A. 1964.
 20 Q. Okay.
 21 Now, can you give me a description of
 22 your work history from 1964 forward?
 23 A. 1965, I started at the Homestake Mine
 24 in Lead, South Dakota.
 25 In 1966, I quit the mine and went to

1 Colorado, and I went to work in a Felspar mine
 2 in Jimtown, Colorado.
 3 In 1967, I quit that mine and went back
 4 to the Homestake Mine.
 5 Q. Okay.
 6 A. I stayed at the Homestake Mine until
 7 1977. At that time, I quit there and went to
 8 the oil fields in Gillette, Wyoming.
 9 I worked -- I worked in the oil fields
 10 for 13 years, and at that time, I went back to
 11 work at the Homestake Mine.
 12 Q. So that puts us up to 1990?
 13 A. Possibly.
 14 Q. Okay.
 15 A. '89, I believe, is when I went back to
 16 work at Homestake.
 17 And then I worked at the Homestake Mine
 18 until 1998.
 19 Q. Okay.
 20 A. And then I went out and worked out at
 21 Kokoweef. And I was there until around August
 22 of 2003, and I went to work at the Stillwater
 23 Mine in Columbus, Montana. And I worked there
 24 until last year of July, which I retired.
 25 Q. Okay.

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1 Now, just so I'm clear, you said that
2 you were -- you worked Homestake from '89 to
3 '98. And then you said you went to Kokoweef.

4 But in your testimony you said you went
5 to Kokoweef in late '99, so was there --

6 A. I don't know the exact time of the year
7 it was.

8 Q. But it was 1999, not '98?

9 A. That's what I have written down. Larry
10 would --

11 MR. CLARY: What do you have written
12 down?

13 THE WITNESS: Larry would be able to
14 verify that.

15 BY MR. SEGEL:

16 Q. Well, I'm just trying -- I'm not trying
17 to confuse you. I'm just trying to make sure
18 that my records are clear.

19 What do you -- do you have a piece of
20 paper that you're reading from?

21 A. No. I did write down some notes to
22 kinds of jar my memory a little.

23 Q. And you've been using those throughout
24 the testimony?

25 A. No, I just looked at them a second to

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1 A. Piss ditch. P-I-S-S.

2 Q. I got it, okay. I'm sure that must be
3 a term of art.

4 What were your duties as a laborer?

5 A. You had to muck the dirt out of the
6 piss ditch so many trucks full in a shift, and
7 if you did that, then you did that for 90 days
8 probationary, and if you got that, then you
9 could move on to something else.

10 Q. Did you move on to something else?

11 A. Yes, I did. I moved on to motorman.

12 Q. Motorman. What's a motorman?

13 A. Motorman is the one that hooks on to
14 the different things down in the mine and moves
15 them around.

16 Q. Okay.

17 And is that where you -- what you were
18 doing when you left at the end of '66?

19 A. Yes.

20 Q. All right.

21 Then you went to Felspar. What did you
22 do at Felspar?

23 A. I was a contract miner at the Felspar
24 mine in Jimtown, Colorado.

25 Q. And what did you do as a contract

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1 kind of get an idea.

2 Q. Okay.

3 A. You can see them. I'll fax them to you
4 if you want.

5 Q. Might as well. It won't hurt.

6 MR. CLARY: Let's attach it as an
7 exhibit.

8 MR. SEGEL: We'll attach it as an
9 exhibit. That will be Exhibit 8, I believe?

10 THE REPORTER: Yes.

11 MR. SEGEL: Let's have the court
12 reporter make a copy after the deposition and
13 attach it to the transcript.

14 We appreciate it, sir. Thank you.

15 (Whereupon, a document was
16 marked as Deposition Exhibit
17 No. 8, Powers, for
18 identification.)

19 BY MR. SEGEL:

20 Q. Now, when you were with -- when you
21 went to work for Homestake Mine originally in
22 '65, what was your job?

23 A. I started out as a laborer in the piss
24 ditch.

25 Q. The what ditch?

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1 miner?

2 A. Drill, blast, muck, haul, skip.

3 Everything to do with mining.

4 Q. Okay.

5 And then is it fair to say both at
6 Homestake and Felspar was on-the-job training?

7 A. Yes.

8 Q. Were there any classes to teach you
9 about mining or procedures?

10 A. No.

11 Q. Were there any classes to teach you
12 about how to spot gold, silver or whatever it
13 was you were mining?

14 A. No.

15 Q. Okay.

16 And you went back to Homestake, what
17 did you do when you went back to Homestake?

18 A. I started out as a motorman, and then I
19 went contract mining.

20 Q. Okay.

21 The oil field, what did you do at the
22 oil field?

23 A. I did truck driving, equipment
24 operation, railroad building, mine building.
25 Built subdivisions, highways, roadways, oil

1 field locations.
 2 Q. Were you doing manual labor, or you
 3 were doing them as an operator? Or what was
 4 your actual work?
 5 A. I was an operator. I was a truck
 6 driver. I ran equipment. I did manual labor.
 7 Q. Okay.
 8 And back to Homestake. What did you do
 9 when you went back to Homestake?
 10 A. I went back to Homestake as a contract
 11 miner.
 12 Q. And for the 12, 13, 14 years, that's
 13 what you did?
 14 A. Yes.
 15 Q. Were you -- okay.
 16 Were you ever a -- well, I think you
 17 just told us what this was. Please, if you
 18 don't mind, my memory is short. What were your
 19 duties as a contract miner?
 20 A. All right.
 21 You run a pneumatic drill to drill
 22 holes into the rock. Once the holes are
 23 drilled, you put in the dynamite and the
 24 ammonium nitrate and blast the area.
 25 And after that's done, you go in and

1 Q. When was that?
 2 A. It would be in 1966 or '67.
 3 Q. Okay.
 4 But from my records, in '66 and '67 you
 5 were at Felspar or Homestyle -- Homestake
 6 rather. I keep messing them up.
 7 And any other experience that you have
 8 in the area of mining or -- in the area of
 9 mining?
 10 A. Yes. I did some mining out at
 11 Kokoweef.
 12 I also did some mining for Stillwater
 13 Mining Company here in Montana.
 14 Q. And that was as a contract miner?
 15 A. No, I was a helper.
 16 Q. A helper, okay.
 17 And as a contract miner or a helper,
 18 are you supposed to be aware of when you
 19 actually hit something of value --
 20 A. Yes.
 21 Q. -- or do you just dig things out?
 22 And what was your training in
 23 determining whether you had hit something of
 24 value?
 25 A. After you mine for a while, you know

1 clean it out and rock bolt it. And then you
 2 take the rock out, and it is moved into an area
 3 where it can be moved again, and then it's
 4 skipped to the surface.
 5 Q. Okay.
 6 And did you put the explosive in, or
 7 did someone else do that?
 8 A. I put the explosive in. I did the
 9 drilling. I did the mucking, the barring, the
 10 slushing, the transportation, the whole thing.
 11 That's what a contract miner does.
 12 Q. Okay.
 13 And do contractor miners have
 14 supervisors that oversaw their actions?
 15 A. You have a shift boss over about 100
 16 people, and they come by and say hello, and
 17 that's about all that happens.
 18 Q. Okay.
 19 Were you ever a shift boss?
 20 A. Yes, I was.
 21 Q. And when did you become a shift boss?
 22 A. I was a shift boss at the mine in
 23 Colorado.
 24 Q. That's Stillwater?
 25 A. No, it was called Allied Chemical.

1 what the ore looks like when it's valuable.
 2 Q. Did you get any training on making that
 3 determination?
 4 A. No.
 5 Q. It was just on-the-job experience?
 6 A. On-the-job experience.
 7 Q. Okay.
 8 When we were looking at the pictures,
 9 you -- in a couple, three of the pictures when
 10 we asked you, in the picture No. 3, you said was
 11 in or about 1999.
 12 What was your basis of determining that
 13 that picture took place in 1999?
 14 A. I'm just guessing.
 15 Q. Okay.
 16 Well, is there some basis of that
 17 guess? That's -- picture No. 3, by the way, is
 18 the picture with Jim Zerbel.
 19 A. Okay.
 20 The reason that I'm thinking that that
 21 was the time frame, Joe Kelly had just died, and
 22 the truck was still down in the ravine.
 23 Q. Okay. All right.
 24 And then, when did you first go out and
 25 work on Kokoweef?

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1 A. I don't remember.
 2 And I asked some people, and they
 3 didn't remember.
 4 Q. Was it prior to '99, though?
 5 A. Yes.
 6 Q. Okay.
 7 Now, Exhibit 1, which you said was
 8 above really on Carbon and King, it shows the
 9 tunnel that you found where the silver was, you
 10 said that took place in 2003.
 11 A. There was no --
 12 Q. What's your basis --
 13 A. There was no silver found in that
 14 location.
 15 Q. Okay.
 16 Do you have Exhibit 1 now --
 17 A. Yes.
 18 Q. -- the Carbon and King pictures?
 19 A. Yes.
 20 Q. You said that took place in 2003.
 21 What is your basis for telling us it
 22 took place in 2003?
 23 A. Because I was out working with Butler
 24 on the drill rig. Jim Hanhart came down, and we
 25 drove this tunnel.

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1 Q. And how is it that you recall it was
 2 2003?
 3 A. Well, it was just before I left.
 4 Q. Okay. All right.
 5 Then picture No. 4, which was the drill
 6 rig, you said was taken in 2002. That's the one
 7 where it was at Larry's store?
 8 A. I'm just guessing at that.
 9 Q. Well, so you have no basis for that
 10 time frame?
 11 A. Not really.
 12 Q. Okay.
 13 And --
 14 A. It could have been 2003.
 15 Q. Okay.
 16 All right.
 17 A. I'll say 2002 or 2003.
 18 MR. SEGEL: I appreciate it, sir. I'm
 19 sure I've bored you long enough. I'm going to
 20 let Mr. Clary ask any questions, is he has any.
 21 THE WITNESS: I'm not bored. I'm just
 22 trying to help.
 23 MR. SEGEL: We appreciate your efforts,
 24 sir.
 25 //

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1 EXAMINATION
 2 BY MR. CLARY:
 3 Q. What is your mailing address?
 4 A. Box 61, Columbus, Montana, 59019.
 5 Q. Do you have an address that you're
 6 going to be using when you're in the
 7 Philippines?
 8 A. No.
 9 Q. Do you have a cell phone?
 10 A. Yes, but it doesn't work outside the
 11 United States.
 12 Q. What is the number?
 13 A. (605) 641-3265.
 14 Q. How would we -- if anyone needed to
 15 reach you in the Philippines, how would they go
 16 about that?
 17 A. You can get me on the Internet.
 18 Q. Okay.
 19 How do we reach you on Internet?
 20 A. Charles --
 21 Q. Do you have an email address?
 22 A. Yes. charles6231946@yahoo.com.
 23 Q. Okay.
 24 That would be the only way we could
 25 reach you?

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1 A. Yes.
 2 They have a completely different phone
 3 system than we do.
 4 Q. Now, in addition to the notes that you
 5 referred to that are being attached as an
 6 exhibit, I didn't see those, but I did see you
 7 at one point during the deposition pick up a
 8 booklet of some kind that you had before you --
 9 A. Yes, I have --
 10 Q. -- is that correct?
 11 A. Yeah, I have a booklet here.
 12 Q. Okay.
 13 What is that booklet?
 14 A. It's just a thing that I've got all
 15 kinds of stuff in.
 16 Q. Is that the drill log that you were
 17 talking about?
 18 A. No. I left it in one of the drawers up
 19 at the Big House.
 20 Q. So what is -- what is this booklet
 21 you're holding right now? What does it contain?
 22 A. I was downloading some songs off of the
 23 Internet, and this is the names of the artists,
 24 and I crossed them off as I recorded their
 25 songs.

55 (Pages 214 to 217)

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1 Q. So the -- that booklet doesn't have
2 anything to do with EIN, Kokoweef or this court
3 case --
4 A. It does not.
5 Q. -- is that true?
6 A. It does not.
7 Q. Have you ever spoken to Jennifer
8 Taylor, who was taking your deposition earlier?
9 A. Yes, I have.
10 Q. When did you speak to her, on how many
11 occasions?
12 A. Possibly three.
13 Q. When were -- when were those occasions?
14 A. I talked to her today, and several
15 other times over the last few weeks.
16 Q. And what was the subject matter of
17 those telephone conversations?
18 A. Setting up where I could come down and
19 be a part of the case.
20 Q. And have your deposition taken such as
21 what is occurring today, right?
22 A. Yes.
23 We talked about me flying down to
24 Las Vegas, and because I was leaving for the
25 Philippines the next day, we set this up for

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1 A. No.
2 Q. Where did you get those records from?
3 A. I got some from Charles Bouck.
4 Q. Okay.
5 What do those records consist of?
6 A. Some newsletters and the assay.
7 Q. When you say "the assay", are you
8 referring to the silver assay --
9 A. Yes.
10 Q. -- that you had -- okay.
11 That's all? There's nothing else other
12 than that?
13 A. No.
14 Q. Now, when did you first hear about the
15 court case that we're taking this deposition in?
16 A. Several months ago, I guess.
17 Q. All right.
18 Whom did -- whom did you first hear --
19 from whom did you first hear about this case?
20 A. Mm, I believe the first call I got was
21 from Richard Ducheck.
22 Q. And when -- you say that was several
23 months ago?
24 A. Yes.
25 Q. What did he tell you about the case?

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1 today.
2 Q. And did she tell you anything about the
3 case?
4 A. No.
5 Q. Have you provided -- other than the
6 photographs that we got this morning at the
7 beginning of the deposition, have you provided
8 any other documentation to Ms. Taylor?
9 A. No.
10 Q. Do you have any other documentation in
11 your possession that relates to either EIN or
12 Kokoweef?
13 A. Yes.
14 Q. What is that? Would you tell us what
15 that documentation is?
16 A. I have some records of the company
17 business. I have some tax records of the
18 company.
19 Q. Okay.
20 And those are the tax records that were
21 given to you by whom?
22 A. Jerry McKee.
23 Q. And did you get the other records that
24 you say relate to company business from him as
25 well?

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1 A. He told me that there was a court case
2 going on in Las Vegas. I told him I wasn't much
3 interested in it.
4 Q. Did he tell you some more about it
5 anyway?
6 A. No.
7 Q. And who else did you talk to about the
8 case?
9 A. Well, I've talked to --
10 MS. TAYLOR: Objection. That's not in
11 evidence.
12 MR. CLARY: Pardon me?
13 MS. TAYLOR: Objection. There's
14 nothing in evidence.
15 THE WITNESS: I've talked to all the
16 people that I have mentioned before.
17 BY MR. CLARY:
18 Q. About the case?
19 A. Yes.
20 Q. You talked to all of them about the
21 case?
22 A. Yes.
23 And nobody knows anything, so you have
24 nothing to worry about.
25 MR. SEGEL: Did he talk to Gail

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1 Hemingway.
 2 THE WITNESS: Yes, I talked to Gail.
 3 BY MR. CLARY:
 4 Q. We'll give you a chance to prove that.
 5 Tell me what you understand the case is
 6 about.
 7 A. I'm not sure exactly what the case is
 8 about. I know that there was some concern, but
 9 I'm not sure what it's even about.
 10 Q. Do you know who is suing whom?
 11 A. I believe Ted Burke is suing Larry
 12 Hahn.
 13 Q. Okay.
 14 And is there anything else you know
 15 about the case other than what you testified to?
 16 A. I have heard a lot of stories, but I
 17 don't know anything whether it's true or not,
 18 and I have made no decisions.
 19 Q. Well, just tell me what you have heard
 20 and from whom.
 21 A. Well, I've heard that there's a court
 22 case going on.
 23 MS. TAYLOR: No, no. Mr. Powers, it's
 24 my turn now to do what Pat did all morning.
 25 I'm going to object that everything

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1 Objection, vague as to "this". Calls
 2 for speculation, hearsay.
 3 BY MR. CLARY:
 4 Q. Go ahead, tell me -- tell me what you
 5 have been told specifically that you recall.
 6 A. I don't recall anything specific.
 7 It's to me about like one guy is taking
 8 a piss behind the bush, and the other guy says
 9 he's taking a piss behind the wall.
 10 Q. Okay.
 11 A. I have been trying to look at it on the
 12 website, and I can't make heads or tails of
 13 anything.
 14 Q. Which website?
 15 A. I have looked at both websites.
 16 Q. How recently?
 17 A. Last week.
 18 Q. Did you see a report from me on the
 19 website?
 20 A. Mm, I believe that I did.
 21 Q. Did you read it?
 22 A. Yes, I did, but I don't remember much
 23 about it.
 24 Q. Do you remember anything about it?
 25 A. Basically, no.

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1 he's about to testify to is hearsay, calls for
 2 speculation, assumes facts not in evidence.
 3 THE WITNESS: Yes, it is all hearsay.
 4 BY MR. CLARY:
 5 Q. All right. That's fine.
 6 Well, go ahead and answer my question,
 7 if you can.
 8 A. We have talked about what we think is
 9 going on. I have no idea if it's true or not.
 10 Q. Well, tell me what was said --
 11 A. Okay.
 12 Q. -- and by whom about what's going on.
 13 MS. TAYLOR: I'm going to assert my
 14 same objection.
 15 Fran, if you got that.
 16 THE WITNESS: I don't remember who has
 17 told me what. It's basically one person says
 18 this, and the other person says that.
 19 BY MR. CLARY:
 20 Q. What's "this"? Tell me about "this"
 21 first?
 22 A. Oh, if one says --
 23 MS. TAYLOR: Objection, vague.
 24 Wait, Mr. Powers, hold on. Bear with
 25 me, sorry.

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1 I am to the point in my life, I guess I
 2 have "sometimers disease".
 3 MR. CLARY: I don't have anything
 4 further.
 5 MS. TAYLOR: I don't have any
 6 followup.
 7 MR. SEGEL: Thank you, sir. We
 8 appreciate your time. Hope you have a great
 9 time in the Philippines.
 10 THE WITNESS: Thank you.
 11 MR. SEGEL: I hope that young girl
 12 doesn't hurt you.
 13 MS. TAYLOR: Thank you very much,
 14 Mr. Powers.
 15 (Whereupon, the deposition was
 16 concluded at 3:20 p.m.)
 17
 18
 19
 20
 21
 22
 23
 24
 25

DEPONENT'S CERTIFICATE

I, CHARLES POWERS, the deponent in the foregoing deposition, DO HEREBY CERTIFY that I have read the foregoing 221 pages of the typewritten transcript, and that the same is, with any changes made in ink by me on the Correction Sheet, a full, true and correct transcript of my oral testimony given at the time and place hereinbefore mentioned.

CHARLES POWERS

STATE OF MONTANA)

: ss.

County of Stillwater)

Subscribed and sworn to before me by the said

CHARLES POWERS,
this _____ day of _____, 2009.

Printed Name: _____
Notary Public, State of Montana
Residing in Columbus, Montana
My Commission Expires: _____

CERTIFICATE

STATE OF MONTANA)

: ss.

County of Yellowstone)

I, Frances L. Kunz, a free-lance shorthand reporter, a Notary Public in and for the State of Montana, do hereby certify that previous to the commencement of the examination of the said CHARLES POWERS, a witness called for examination by the plaintiffs in the said suit in the said District Court, being Case No. A558629, was duly sworn by me to testify the truth in relation to the matters in controversy now pending and undetermined between the said parties so far as he should be interrogated concerning the same;

That this deposition was taken in shorthand by me at Saint Vincent Healthcare, Billings, Montana, on the 12th day of May, 2009, commencing at 10:10 a.m., and was reduced to typewritten form by me;

That the foregoing is a true transcript of the questions asked, the testimony given and the proceedings had;

That I am neither attorney nor counsel, nor in any way connected with any attorney or counsel for any of the parties to said action or otherwise interested in its event.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 20th day of May, 2009.

My commission expires December 19, 2011.

Frances L. Kunz
Shorthand Reporter
and Notary Public.

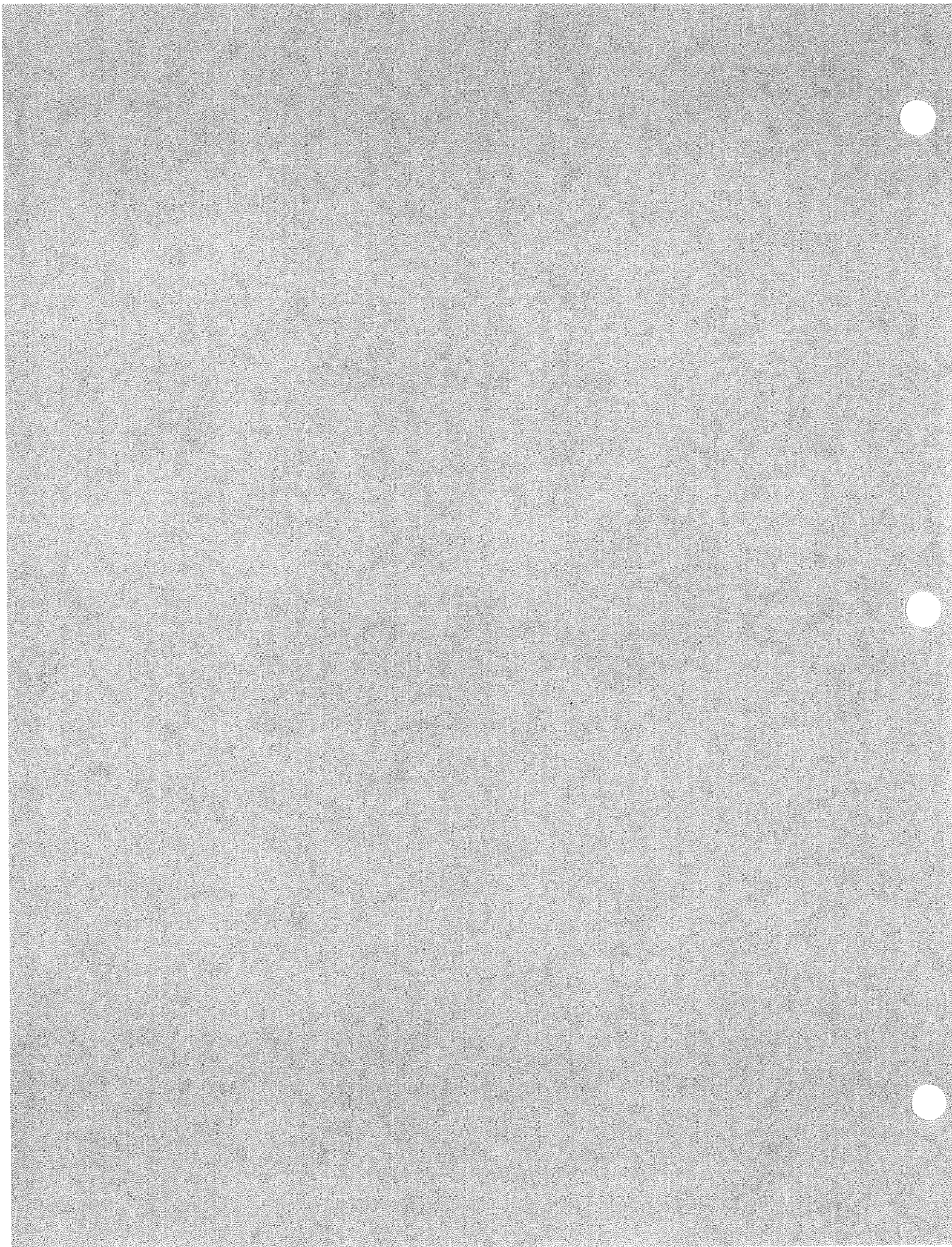
CORRECTIONS

Page Line Correction

CHARLES POWERS

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