

Volume 14

Pages 2751 - 2970

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Jeffrey S. White, Judge

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	NO. CR 11-00573 JSW
	)	
WALTER LIEW; ROBERT MAEGERLE;	)	
and USA PERFORMANCE TECHNOLOGY,	)	
INC.,	)	
	)	
Defendants.	)	
	)	

San Francisco, California  
Tuesday, February 4, 2014

**TRANSCRIPT OF PROCEEDINGS**

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I N D E X

Tuesday, February 4, 2014

GOVERNMENT'S WITNESSESPAGE VOL.CHANG, ALLEN (RECALLED)

(PREVIOUSLY SWORN)	2760	14
Direct Examination resumed by Mr. Axelrod	2760	14
Cross-Examination by Ms. Lovett	2769	14
Cross-Examination by Mr. Froelich	2812	14
Redirect Examination by Mr. Axelrod	2818	14

GUAN, PHILLIP

(SWORN)	2827	14
Direct Examination by Mr. Hemann	2828	14
Cross-Examination by Mr. Gasner	2886	14
Voir Dire Examination by Mr. Hemann	2897	14
Cross-Examination resumed by Mr. Gasner	2898	14
Voir Dire Examination by Mr. Hemann	2923	14
Cross-Examination resumed by Mr. Gasner	2924	14
Redirect Examination by Mr. Hemann	2929	14
Recross-Examination by Mr. Gasner	2931	14

ROMETO, CECILY

(SWORN)	2932	14
Direct Examination by Mr. Scott	2932	14

E X H I B I T STRIAL EXHIBITSIDEN EVID VOL.

420, pages 1 and 11	2915	14
421A, pages 75 through 80	2893	14
421A	2895	14
446	2953	14
494, page 1	2949	14
496	2955	14
505	2951	14
637	2843	14

I N D E XE X H I B I T STRIAL EXHIBITSIDEN EVID VOL.

4	638	2852	14
5	639	2858	14
6	640	2883	14
7	641	2861	14
8	642	2871	14
9	643	2876	14
10	656	2840	14
11	658	2852	14
12	659	2924	14
13	664	2858	14
14	668	2863	14
15	670	2872	14
16	672	2879	14
17	673	2877	14
18	904	2935	14
19	905	2942	14
20	909	2958	14
21	929	2946	14
22	939	2940	14
23	941	2956	14
24	1283	2790	14

25

I N D E XE X H I B I T STRIAL EXHIBITSIDEN EVID VOL.

4	1681	2787	14
5	1728	2793	14
6	1766	2801	14
7	1776	2805	14
8	1802	2803	14
9	1813	2797	14
10	1819	2799	14
11	1826	2806	14
12	1926	2808	14
13	1927	2780	14
14	1934	2778	14
15	1946	2810	14
16	1948	2795	14
17	2036	2904	14
18	2602	2773	14
19	2927	2782	14
20	2979	2784	14
21	2980	2785	14

22

23

24

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1 Tuesday - February 4, 2014

7:56 a.m.

2 P R O C E E D I N G S

3 ---000---

4 (Proceedings were heard out of the presence of the jury:)

5 **THE COURT:** Good morning. Please be seated.

6 Call the case, please.

7 **THE CLERK:** Calling Case Number CR-11-573,  
8 United States versus Walter Liew, United States versus Robert  
9 Maegerle, and United States versus USAPTI.

10 Counsel, please state your appearances.

11 **MR. AXELROD:** Good morning, Your Honor. Pete Axelrod,  
12 John Hemann, and Richard Scott for the United States.

13 **THE COURT:** Good morning.

14 **MS. AGNOLUCCI:** Good morning, Your Honor. Simona  
15 Agnolucci, Stuart Gasner, and Katie Lovett for Mr. Walter Liew  
16 and USAPTI, and Mr. Liew is here with us today in court.

17 **THE COURT:** Good morning, everybody.

18 **MR. FROELICH:** Good morning, Your Honor. Jerry  
19 Froelich for Mr. Maegerle, standing next to me in court.

20 **THE COURT:** Good morning, everybody.

21 Any issues before the jury is brought in?

22 **MR. AXELROD:** Not from the Government.

23 **THE COURT:** All right. Ms. Agnolucci?

24 **MS. AGNOLUCCI:** We do have one brief issue that  
25 doesn't need to be discussed right now, but that I wanted to

1 alert the Court to. Depending on the way that the testimony  
2 goes, we may want to raise with Your Honor during one of the  
3 breaks the issue of the partnership agreement between Mr. Liew  
4 and his business partners, which Your Honor ruled on in  
5 connection with the *Daubert* motion.

6 We've since obtained a certified copy of the agreement,  
7 which was signed in the presence of a Chinese lawyer, and we'd  
8 like to discuss both the use of the document as an exhibit and  
9 the expert's ability to rely on it.

10 And I want to raise that now because I do think it could  
11 affect cross-examination later today.

12 **THE COURT:** All right. Well, when we get to that  
13 issue, let's discuss it maybe during a break.

14 Yes?

15 **MR. AXELROD:** Yeah, I think that would be an important  
16 issue to discuss because that exhibit was not part of what was  
17 disclosed for the cross-examination of the witnesses today, and  
18 I think there are serious questions about the reliability of  
19 that document and its meaning that would be -- that really  
20 probably merit the Court's attention before anything resembling  
21 that agreement or argument about that agreement can be  
22 presented to the jury.

23 **MS. AGNOLUCCI:** And just to be clear, we're not asking  
24 to use the actual document during cross-examination. We just  
25 want to, you know, alert the Court and be very clear about the

1 Court's expectations about what we can and can't ask.

2 **THE COURT:** Okay. Well, let's let events unfold, and  
3 we'll see what happens.

4 **MR. AXELROD:** And one reminder for the Court.  
5 Yesterday we'd spoken about the Diemer testimony and advising  
6 the jury about the portion that would apply to Mr. Maegerle. I  
7 just wanted to put that on the Court's radar screen to let them  
8 know, or if the Court would like me to do it.

9 **THE COURT:** Oh, that's right. That's right. Well,  
10 why don't you do it, because I think if the Court does it --  
11 it's the Government's case, and why don't we do that just  
12 before we continue with the examination of the current witness.

13 **MR. AXELROD:** Very well. Thank you, Your Honor.

14 **THE COURT:** All right. Let's get the jury in,  
15 Ms. Ottolini.

16 **MR. HEMANN:** Your Honor, we'll keep Mr. Chang outside  
17 just until he makes that announcement.

18 **THE COURT:** Yeah, that's fine. Actually, I don't  
19 think that affects him.

20 **MR. HEMANN:** I'll bring him in. Thank you.

21 (Proceedings were heard in the presence of the jury:)

22 **THE COURT:** Please be seated.

23 Good morning, ladies and gentlemen. Once again, thank you  
24 for your punctuality that enables us to start on time.

25 There's one housekeeping matter that I wanted to bring to



1 your attention. The Court's been trying to be diligent with  
2 respect to telling you when witnesses' testimony or evidence  
3 might relate to less than all of the defendants, and the Court  
4 neglected to do that with respect to Dr. Diemer, who is the  
5 DuPont person that the Government called.

6 So, Mr. Axelrod, why don't you tell us the situation  
7 vis-a-vis which defendants the Government contends Dr. Diemer's  
8 testimony applied to.

9 **MR. AXELROD:** Very well. Thank you, Your Honor.

10 At the end of Dr. -- at the end of last week after  
11 Dr. Diemer testified, the jury was advised that the testimony  
12 of Dr. Diemer related only to USAPTI and Walter Liew. And we  
13 wanted to clarify that, while that's true in the main and with  
14 respect to Dr. Diemer's testimony about his correlation and the  
15 Accession Report, that Dr. Diemer's testimony also included a  
16 discussion related to DuPont's trade secret policies and  
17 protections and measures in that regard; and that testimony  
18 would apply to Mr. Maegerle as well.

19 **THE COURT:** All right. And, of course, ladies and  
20 gentlemen, this is simply the Government's contention. They're  
21 in their case, and we've asked them, as a courtesy, to specify  
22 that; but it's for you to determine against who, if anybody,  
23 the evidence should be considered, all evidence.

24 So let's continue with the direct examination, please.

25 **MR. AXELROD:** Very well. Thank you, Your Honor.

1           **THE COURT:** And I just want to remind you, sir, you're  
2 still under oath. Thank you.

3                           ALLEN CHANG,  
4 called as a witness for the Government, having been previously  
5 duly sworn, testified further as follows:

6                           DIRECT EXAMINATION (resumed)

7 **BY MR. AXELROD:**

8 **Q.** Good morning, Mr. Chang.

9 **A.** Good morning.

10 **Q.** When we stopped yesterday, we were talking about meetings  
11 that occurred in -- with the clients -- with USAPTI's clients,  
12 the Chinese clients. Do you recall that?

13 **A.** Yes.

14 **Q.** And we -- I wanted to ask you about confidentiality, the  
15 confidentiality of the information that you received and that  
16 you worked on during your time at USAPTI.

17 Did Mr. Liew discuss with you the confidentiality of your  
18 work?

19 **A.** Yes.

20 **Q.** What did he tell you?

21 **A.** I'm sorry. With relation to the client?

22 **Q.** Well, in general.

23 **A.** Oh, in general.

24 Well, I guess with the client, that we were to deliver  
25 the -- whatever information that was required of us per our

1 agreements, like, with the clients during each deliverable, and  
2 with the potential vendors, that there would be a nondisclosure  
3 agreement whenever we sent out equipment bids.

4 **Q.** What was the purpose of those? Did he explain to you the  
5 purpose of having nondisclosure agreements?

6 **A.** Yes. And I also had some background information just  
7 understanding, like, the reason why they were there:  
8 Essentially to prevent vendors from utilizing or distributing  
9 any sort of design or specifications that our company came up  
10 with.

11 **Q.** And I'd like to show you an admitted exhibit, Exhibit 784.

12 Ms. Mahoney, if you could bring up 784, page 1.

13 And can you see that, Mr. Chang?

14 **A.** Yes.

15 **Q.** Do you recognize that document?

16 **A.** I do.

17 **Q.** And what is it?

18 **A.** It's a note from Mr. Liew.

19 **Q.** And what was the -- is this a note that you signed?

20 **A.** Yes.

21 **Q.** Can you describe where your signature is there?

22 **A.** It's -- it's the -- I guess the third column, just the  
23 second one to the left, down at the top.

24 **Q.** Okay. Do you see the cursor? Is that right there?

25 **A.** Yes.

1 Q. Okay. What was -- could you just briefly read that note,  
2 the first -- down to the first second bullet point?

3 A. Sure. (Reading):

4 "To All USAPTI.

5 "Point 1. Please guard our data, especially 3D  
6 files. Do not give any to Pangang.

7 "2. Call me if any do not" --

8 Q. Is that "doubt"?

9 A. Oh, yeah. (Reading):

10 -- "if any doubt or major decision," yes.

11 Q. So what was the context in which this note was provided?

12 A. We were at -- we were at the meetings with the client, and  
13 I believe at some point Mr. Liew was unable to attend, and this  
14 note, I think, was just given to us as a direction for -- to be  
15 cautious about our files.

16 Q. I want to switch gears with you for a moment and talk  
17 about the DuPont lawsuit.

18 At some point in time, did you become aware of the fact  
19 that DuPont had sued USAPTI and Walter Liew?

20 A. Yes.

21 Q. And when was that?

22 A. It was -- it was around the summer of 2011.

23 Q. Okay. Was -- was it in the spring?

24 A. Yeah. It's -- I don't remember exactly when.

25 Q. Okay.

1    **A.**    But it was getting close to our latter deliverable date,  
2    which I remember was around the summertime.

3    **Q.**    At some point did an investigator go to your parents'  
4    house?

5    **A.**    Yes.

6    **Q.**    And how did you learn about that?

7    **A.**    I learned about it through my parents.

8    **Q.**    Did the investigator -- and was that -- did the  
9    investigator identify him or herself?

10           **MS. LOVETT:**  Objection.

11           **THE COURT:**  Well, that's just -- overruled.  The  
12    answer is yes or no.

13           **THE WITNESS:**  I'm sorry.  What was the question again?

14           **THE COURT:**  Did the investigator identify him or  
15    herself?

16           **THE WITNESS:**  I believe so.  I think.

17    **BY MR. AXELROD:**

18    **Q.**    Did you have an understanding on who the investigator --  
19    where the investigator was from, who he or she was working for?

20    **A.**    Not specifically.

21    **Q.**    Okay.  And when did that visit by the investigator to your  
22    parents' house occur in relation to the filing of the lawsuit  
23    by DuPont?

24    **A.**    It happened a little bit after we found out.

25    **Q.**    Okay.  So after the lawsuit, an investigator went to your

1 parents' house?

2 A. Yes.

3 Q. Did you discuss the fact the investigator went to your  
4 parents' house, with Walter Liew?

5 A. Yes.

6 Q. And what did Mr. -- what did you tell Mr. Liew?

7 A. I told Mr. Liew that there was an investigator who came to  
8 my parents' house looking for me, and he dropped off a card for  
9 my parents.

10 Q. Did -- what did Mr. -- what did Mr. Liew say in response?

11 A. He said that I was not obligated to give up any  
12 information to any sort of private investigator.

13 Q. And did he give you, at that point in time -- prior to  
14 that point in time, had you heard of Kuan Yin?

15 A. Yes, I had.

16 Q. And how did Kuan Yin come up?

17 A. Mostly not as, like, a main topic, but it had come up  
18 through, like, you know, emails that were pertaining to just,  
19 like, our project as a basis of comparison.

20 Q. Did you know what Kuan Yin was?

21 A. Not exactly. I inferred that it was maybe a previous  
22 plant.

23 Q. Okay. But at the time that you were working, did you know  
24 who owned -- did you know that Kuan Yin was a TiO2 plant?

25 A. I mostly inferred it, yes.

1 Q. Okay. Did anyone tell you that?

2 A. I can't -- I can't say that I recall anyone told me  
3 directly that Kuan Yin specifically was a TiO2 plant.

4 Q. Did you have any discussion with Mr. Liew about Kuan Yin  
5 in relation to the visit by the investigator to your parents'  
6 house?

7 A. Yes.

8 Q. And what was that?

9 A. It was mostly, you know, when I brought up that the  
10 investigators were at my house, I guess, you know, when we were  
11 discussing it, he might have -- he said that, oh, perhaps the  
12 investigators were interested in me because my parents were  
13 from Taiwan.

14 Q. So how did that relate to Kuan Yin?

15 A. Supposedly Kuan Yin was in Taiwan.

16 Q. So that's what Mr. Liew told you?

17 A. Yes.

18 Q. Okay. I just -- I want to make sure I've got that.

19 So he told you that maybe your parents -- maybe the  
20 investigator was interested in your parents because --

21 MS. LOVETT: Objection.

22 BY MR. AXELROD:

23 Q. -- because they're from Taiwan?

24 THE COURT: Sustained.

25

1 BY MR. AXELROD:

2 Q. When did you stop working at USAPTI?

3 A. September 2011.

4 Q. Were you paid in full at the time you stopped working?

5 A. No.

6 Q. How much money were you owed?

7 A. About two months' worth of salary.

8 Q. And how much did that work out to?

9 A. Roughly \$6,000.

10 Q. During the time -- I want to ask you about some companies  
11 in Singapore. Okay?

12 A. Okay.

13 Q. In the course of your work, you worked with various  
14 vendors; right?

15 A. Yes.

16 Q. And suppliers of equipment and things like that?

17 A. Yes.

18 Q. Okay. Were you familiar with any companies in Singapore  
19 working on the projects?

20 A. No.

21 Q. Did -- I want to run down some names with you. A company  
22 called Lawrence Process Engineers in Singapore.

23 A. No.

24 Q. Did Walter Liew ever mention that company to you?

25 A. No.



1 Q. Did anybody at USAPTI ever mention that company to you?

2 A. No.

3 Q. Anyone ever discuss that company doing any work on the  
4 project?

5 A. No.

6 Q. Do you know anything about who owns that company?

7 A. No.

8 Q. Huadong Equipment Solutions.

9 A. No.

10 Q. You never heard of that company?

11 A. No.

12 Q. Walter Liew never mentioned it?

13 A. No.

14 Q. Nobody at USAPTI ever mentioned it?

15 A. No.

16 Q. Didn't do any work on the TiO2 projects, to your  
17 knowledge?

18 A. No.

19 Q. ESI Equipment & Engineering?

20 A. Only -- only because it was brought up in the  
21 correspondence.

22 Q. Okay.

23 A. But prior to that, no.

24 Q. Okay. And was a company called ESI Equipment in Singapore  
25 raised in any correspondence?

1 A. Just I think there was at least one correspondence that  
2 was brought up.

3 Q. Okay. Did you -- did Walter Liew ever mention that  
4 company to you as doing any work on these TiO2 projects?

5 A. I don't think prior to getting that correspondence.

6 Q. And do you know who owned ESI Equipment in Singapore?

7 A. No.

8 Q. Huan Qu Process Equipment?

9 A. I never --

10 Q. You never heard of it?

11 A. No.

12 Q. Didn't do any work on the TiO2 project?

13 A. Not to my understanding.

14 Q. Walter Liew never mentioned it to you?

15 A. No.

16 Q. Dongbei Process Engineering?

17 A. No.

18 Q. Walter Liew never mentioned that company?

19 A. No.

20 Q. Nobody at USAPTI ever mentioned that company as working on  
21 the TiO2 projects?

22 A. No.

23 Q. LHV Equipment and Service?

24 A. No.

25 MR. AXELROD: If I may have a moment.

(Pause in proceedings.)

**MR. AXELROD:** I have no further questions, Your Honor.

**THE COURT:** Thank you, Counsel.

**MR. AXELROD:** Thank you.

**THE COURT:** Ms. Lovett?

**MS. LOVETT:** Yes, Your Honor.

May I proceed, Your Honor?

**THE COURT:** Yes, you may.

**CROSS-EXAMINATION**

**BY MS. LOVETT:**

**Q.** Good morning, Mr. Chang.

**A.** Good morning.

**Q.** You testified yesterday that you have a degree in mechanical engineering from Berkeley; correct?

**A.** Yes.

**Q.** And you began your work at USAPTI in March 2010; is that correct?

**A.** Yes.

**Q.** You worked with the company for about a year and a half; right?

**A.** Yes.

**Q.** And at first you were an instrumentation engineer; correct?

**A.** Yes, at USAPTI.

**Q.** At USAPTI?

1 A. Yes.

2 Q. You were part of a team of four engineers that were  
3 working on instrumentation; right?

4 A. I believe that's correct.

5 Q. And what tasks did you perform in that role?

6 A. It was mostly filling out specifications for a long list  
7 of instrumentation that was given to us, like -- like, for  
8 example, at any point in a chemical process, there's something  
9 that needs to be measured, and there are inputs that helps --  
10 help us determine what we need to specify the equipment for.  
11 And I would look at the information and specify the equipment.

12 Q. Okay. And later you became an equipment engineer at  
13 USAPTI; correct?

14 A. Correct.

15 Q. And what kind of tasks did you perform in that role?

16 A. A lot of computer-automated drafting of tanks, and also  
17 some calculations to help size and specify tanks, and also  
18 reach out to equipment vendors to bid out for the equipment.

19 Q. And doing that computer-aided drafting, you used the  
20 program autoCAD; right?

21 A. AutoCAD and Illustrator -- not Illustrator, Inventor.

22 Q. And what part of the process did you use autoCAD for?

23 A. Mostly whenever there was 2D drafting as opposed to 3D  
24 drafting.

25 Q. What did you use Inventor for?

1 A. 3D drafting.

2 Q. And you also used a program called Compress; right?

3 A. Yes.

4 Q. What did you use Compress for?

5 A. To do pressure vessel tank calculations.

6 Q. And you also used some open-source material for the  
7 generic engineering tasks you did at USAPTI; right?

8 A. Yes. Yeah, reference materials.

9 Q. And you yourself kept a binder with reference materials  
10 that you had collected on materials and their compatibility;  
11 right?

12 A. I believe so, yes.

13 Q. And some of that information you had collected from the  
14 Internet yourself; right?

15 A. Yes.

16 Q. You mentioned yesterday that Mr. Maegerle often provided  
17 you with input or guidance; correct?

18 A. Yes.

19 Q. And you had only been a mechanical engineer working in the  
20 field for a few years; right?

21 A. Correct.

22 Q. Mr. Maegerle, to your understanding, had been a mechanical  
23 engineer for many years; right?

24 A. Yes.

25 Q. So his general experience as a mechanical engineer was

1 pretty valuable to you; right?

2 A. Yes.

3 Q. And engineering is an iterative field; right?

4 A. Sorry. Could you clarify that?

5 Q. Of course.

6 A. Okay.

7 Q. As you work on a project, you learn more about the context  
8 in which that project is placed; right?

9 A. Yes.

10 Q. So even though you came in with very little titanium  
11 dioxide knowledge, you learned more about the process as you  
12 worked; correct?

13 A. Correct.

14 Q. You also had access to the shared USAPTI server; correct?

15 A. Correct.

16 MS. LOVETT: Your Honor, may I approach with  
17 Exhibit 2602?

18 THE COURT: Yes.

19 MS. LOVETT: Your Honor, the parties have stipulated  
20 that this exhibit is an accurate reflection of part of the  
21 USAPTI server.

22 THE COURT: All right. Is that correct?

23 MR. AXELROD: Yes, sir. Yes, Your Honor.

24 THE COURT: All right. So stipulated.

25

1 **BY MS. LOVETT:**

2 **Q.** Mr. Chang, do you recognize what is depicted in this  
3 exhibit I just handed to you?

4 **A.** I believe so.

5 **Q.** What is it?

6 **A.** It seems to be a library of reference materials.

7 **Q.** And where was this library of reference materials?

8 **A.** I think it was just on the company server.

9 **MS. LOVETT:** Your Honor, I move to admit this  
10 screenshot of Exhibit 2602.

11 **MR. AXELROD:** No objection.

12 **THE COURT:** It's admitted.

13 (Trial Exhibit 2602 received in evidence)

14 **MS. LOVETT:** Mr. Guevara, can you please display it?  
15 Thank you.

16 **Q.** So you mentioned that this was a folder called "Reference  
17 Materials"; correct?

18 **A.** Yes, that's what it looks like it is.

19 **Q.** And if you look over in the sort of upper right-hand  
20 corner -- and Mr. Guevara can help you out a little bit --  
21 you'll see that there's a folder called "Books on Mechanical  
22 Engineering"; correct?

23 **A.** Yes.

24 **Q.** And, so, there were many different reference materials  
25 kept in this folder; correct?

1 A. I believe so, yes.

2 Q. And to your understanding, these sort of folders on the  
3 server were available to all USAPTI employees; correct?

4 A. Yes.

5 Q. Thank you.

6 MS. LOVETT: Your Honor, may I approach with  
7 Exhibit 1934?

8 THE COURT: Yes.

9 BY MS. LOVETT:

10 Q. Mr. Chang, are you familiar with this document?

11 A. (Witness examines document.) To an extent, yeah.

12 Q. Whose handwriting is it on this document?

13 A. I believe it's mine.

14 Q. And when was this prepared?

15 A. It looks like it's -- it looks like it was written on  
16 February 24th, 2011.

17 Q. And if you could just take a look, flip through all the  
18 pages of the exhibit quickly. Is the handwriting on every page  
19 of the exhibit your handwriting?

20 A. (Witness examines document.) Yes.

21 Q. And did you prepare these notes in the ordinary course of  
22 your responsibilities at USAPTI?

23 A. Pretty regularly. I wrote notes whenever I thought that  
24 there was something that I felt needed to be written down.

25 MS. LOVETT: Your Honor, I move to admit Exhibit 1934



1 into evidence.

2 **MR. AXELROD:** Objection.

3 **THE COURT:** May I see it, please?

4 **THE CLERK:** May I have it?

5 **THE WITNESS:** Oh, sorry.

6 **THE CLERK:** That's okay.

7 **THE COURT:** Thank you.

8 (Pause in proceedings.)

9 **THE COURT:** Why don't you come to the sidebar.

10 You may stand if you want, ladies and gentlemen.

11 (The following proceedings were heard at the sidebar:)

12 **THE COURT:** All right. So why don't you tell us,  
13 first, what's the relevance of Exhibit 1934?

14 **MS. LOVETT:** Well, these are notes that he kept in the  
15 course of meetings with various vendors, and I want to talk to  
16 him a little bit about how he kept information about vendors on  
17 the USAPTI system. So on page 4 he's drawn out a drawing of  
18 how he stored information that was supplied by vendors.

19 **THE COURT:** And to what issue is that relevant?

20 **MS. LOVETT:** It's -- we're -- the rest of my  
21 cross-examination is going to cover some of the information,  
22 the public information that vendors provided him about  
23 different types of equipment throughout the 100K process; and I  
24 just sort of want to establish that he was the person  
25 responsible for maintaining all of this information and that he

1 specialized in the vendor information.

2 **THE COURT:** All right. What's your objection?

3 **MR. AXELROD:** The objection is these are hearsay.

4 They're not business records. She can elicit all that  
5 testimony without having his notes. They don't add anything,  
6 and they're --

7 **THE COURT:** Well, "add anything" is a relevance issue  
8 or cumulative issue, so let's keep it -- let's get the  
9 relevance piece because I think there's probably sufficient  
10 foundation in the sense that it is kept -- he did say it was  
11 kept in the ordinary course of business he was involved in, and  
12 it does have an indicia of reliability. He's on the stand and  
13 he can defend or, you know, explain.

14 So I guess my biggest issue, really, at this point is  
15 relevance. And I guess Ms. Lovett's point is that to the  
16 extent that some of these pieces of equipment which the  
17 Government contends are or DuPont contends are trade secrets  
18 were actually available on the market.

19 **MR. AXELROD:** Well, that, I think, is an excellent  
20 observation the Court's making. In fact, none of this is  
21 relevant to the actual issues in the case about the specific  
22 pieces of trade secrets that we've alleged. This is just  
23 general information about vendors and vendor information.  
24 There's no linking up to the specific trade secrets alleged in  
25 this particular case. So I would, you know, suggest that this

1 is not relevant at all.

2 **MS. LOVETT:** Your Honor, this is very important for us  
3 in laying the foundation for our expert. In the Bill of  
4 Particulars, they laid out a number of different parts of the  
5 process that they were going to argue our client reasonably  
6 believed were a trade secret, and we want to show that he was  
7 receiving information about those things from vendors.

8 **THE COURT:** All right. I'm going to admit it. I  
9 think it's marginally relevant, and I don't think there's a  
10 huge amount of prejudice to the Government. And certainly he  
11 can explain on redirect, or you can bring out through the cross  
12 or your argument, that, you know, this is not what the  
13 Government is talking about. But I think it's -- you're  
14 talking about lots and lots of generic equipment and its  
15 availability, and I think that's part of, you know, the  
16 defense.

17 So it's got some relevance, and it's not -- the relevance  
18 is not clearly outweighed by the prejudicial effect. So I  
19 think I should admit it.

20 Anything you want to say on this point?

21 **MR. AXELROD:** No. I understand the Court's ruling. I  
22 will say, just to clarify, I do not believe that the witness  
23 indicated that it was his regular course of business to keep  
24 this. I think he said he would take notes, you know, at times,  
25 but I understand the Court's ruling.

1           **THE COURT:** I'm sure if Ms. Lovett wanted to spend  
2 more time, she could probably get this in as past recollection  
3 recorded. There's probably a myriad of exceptions to the  
4 hearsay rule, but I'll overrule the objection and admit the  
5 document.

6           **MS. LOVETT:** Thank you, Your Honor.

7           **THE COURT:** And give it back to the witness.

8           **MR. AXELROD:** Thank you, Your Honor.

9           **THE COURT:** Thank you.

10           (The following proceedings were heard in open court:)

11           **THE COURT:** The objection is overruled. You may  
12 continue. The document is admitted.

13           (Trial Exhibit 1934 received in evidence)

14           **MS. LOVETT:** Mr. Guevara, can you display page 4 of  
15 the exhibit, please.

16           **Q.** Mr. Chang, did you draw this diagram on page 4?

17           **A.** Yes.

18           **Q.** And does it depict the way that the RFQ and quotes for the  
19 100K were stored on the USAPTI server?

20           **A.** (Witness examines document.) I'm not sure that I quite  
21 remember.

22           **Q.** Okay. Can you describe for the jury, what is an RFQ?

23           **A.** Request for quote.

24           **Q.** And what did that mean within the context of your work at  
25 USAPTI?

1    **A.**    So for -- for some of the equipment, we would -- we would  
2    need to purchase it from an outside vendor.  And when we  
3    request a quote from a vendor, typically we do it in  
4    conjunction with requesting a quote from multiple vendors to  
5    try to get the best quality and price.

6    **Q.**    What would vendors send you in response to an RFQ?

7    **A.**    They would send us specifications on, you know, either a  
8    specific piece of equipment and their price or also, like, just  
9    the price and, like, how they would, you know, proceed on  
10   making the equipment.

11   **Q.**    Thank you.

12            You were involved in, as you said, the designing and  
13   sizing of specific equipment for both the 30K project and the  
14   100K project; correct?

15   **A.**    Yes.

16   **Q.**    And you performed some detailed design work on the  
17   aluminum chloride generator; right?

18   **A.**    Yes.

19            **MS. LOVETT:**  Your Honor, may I approach with  
20   Exhibit 1927?

21            **THE COURT:**  Yes, you may.

22   **BY MS. LOVETT:**

23   **Q.**    Mr. Chang, do you recognize this document?

24   **A.**    I believe so.

25   **Q.**    What is it?

1    **A.**    It seems to be an email correspondence asking for --  
2    Mr. Liew asking for .pdf drawings of designs of certain pieces  
3    of equipment.

4    **Q.**    And at the top of the email chain, who wrote that email?

5    **A.**    That would be me.

6    **Q.**    And who did you write the email to?

7    **A.**    Mr. Liew.

8    **Q.**    And who else?

9    **A.**    I seem to have also copied Thongchai Thongthawee, Tony  
10   Duong, and Phillip Ilagan.

11   **Q.**    And those were some of your colleagues at USAPTI; correct?

12   **A.**    Yes.

13   **Q.**    And when was this email sent?

14   **A.**    It looks like December 20th, 2010.

15   **Q.**    Was this email sent during the normal course of your  
16   duties at USAPTI?

17   **A.**    Yes.

18           **MS. LOVETT:** Your Honor, I move to admit Exhibit 1927  
19   into evidence.

20           **MR. AXELROD:** No objection, Your Honor.

21           **THE COURT:** Admitted.

22           (Trial Exhibit 1927 received in evidence)

23   **BY MS. LOVETT:**

24   **Q.**    Mr. Chang, in this email you were sending Mr. Liew and  
25   your other colleagues a .pdf of the equipment detail design for

1 the aluminum chloride generator; correct?

2 A. Correct.

3 Q. Mr. Guevara, can you turn to page 2 of this exhibit?

4 Mr. Chang, is page 2 an example of that detailed design  
5 that you sent to your colleagues?

6 A. Yes.

7 Q. You worked on the design of this piece of equipment;  
8 right?

9 A. Yes.

10 Q. Doing these kind of designs involved many revisions as  
11 different people review the designs; right?

12 A. Correct.

13 Q. And that included the clients; correct?

14 A. To a degree, yes.

15 Q. And a change in one element of a design like this would  
16 affect many other pieces of equipment potentially; correct?

17 A. Yes.

18 Q. Thank you.

19 You also performed detailed 3D design work on the  
20 oxidation reactor; right?

21 A. Yes.

22 Q. And you also performed similar work on the slurry tank;  
23 correct?

24 A. I believe so, yes.

25 MS. LOVETT: Your Honor, may I approach with

1 Exhibit 2927?

2 **THE COURT:** Yes.

3 **BY MS. LOVETT:**

4 **Q.** Mr. Chang, you can take a moment to look at this exhibit,  
5 but do you recognize this document?

6 **A.** Yes.

7 **Q.** What is it?

8 **A.** It appears to be a drawing details for the oxidation  
9 reactor.

10 **Q.** And did you do design work on this document?

11 **A.** I believe so, yes.

12 **Q.** And did the design work you did on the drawings in this  
13 document take place in the ordinary course of your duties at  
14 USAPTI?

15 **A.** Yes.

16 **MS. LOVETT:** Your Honor, I --

17 **Q.** Oh, go ahead.

18 **A.** Sorry. Yes. I don't recall specifically, but I think for  
19 this specific reactor, I worked in tandem with Thongchai.

20 **MS. LOVETT:** Your Honor, I move to admit Exhibit 2927  
21 into evidence.

22 **MR. AXELROD:** No objection, Your Honor.

23 **THE COURT:** Admitted.

24 (Trial Exhibit 2927 received in evidence)

25



1 **BY MS. LOVETT:**

2 **Q.** Looking at page 1 of this exhibit, Mr. Chang, what does  
3 this page depict?

4 **A.** It's a title block for -- that summarizes the piece of  
5 equipment with the company name.

6 **Q.** What kind of information is this supposed to tell a reader  
7 of this document?

8 **A.** The title block mostly serves to just say, like, what --  
9 what the drawing is, information about the company, like,  
10 revisions and who worked on it.

11 **Q.** And, Mr. Guevara, can you please turn to page 2 of this  
12 document?

13 Mr. Chang, what does this drawing depict?

14 **A.** It looks like it's an isometric view of the oxidation  
15 reactor.

16 **Q.** And this is a 3D drawing; correct?

17 **A.** Yes.

18 **Q.** Thank you.

19 **MS. LOVETT:** Your Honor, may I approach with  
20 Exhibit 2979?

21 **THE COURT:** Yes, you may.

22 **BY MS. LOVETT:**

23 **Q.** Mr. Chang, do you recognize this document?

24 **A.** Yes.

25 **Q.** What is it?

1     **A.**    This is an Excel -- well, this is a collection of  
2     screenshots of an Excel file.

3     **Q.**    Okay.  And do you know what this Excel file concerned?

4     **A.**    Yes.

5     **Q.**    What is that?

6     **A.**    It's mostly to house specifications and calculations for  
7     determining the materials and other specifications for our  
8     tanks.

9     **Q.**    And were you involved in the drafting of this document?

10    **A.**    Yes.

11    **Q.**    Was the drafting of this document part of your normal job  
12    responsibilities at USAPTI?

13    **A.**    Yes.

14            **MS. LOVETT:**  Your Honor, I move to admit Exhibit 2979  
15    into evidence.

16            **MR. AXELROD:**  No objection, Your Honor.

17            **THE COURT:**  Admitted.

18            (Trial Exhibit 2979 received in evidence)

19    **BY MS. LOVETT:**

20    **Q.**    This first page is related to the solid removal condenser  
21    tank; correct, Mr. Chang?

22    **A.**    Yes.

23    **Q.**    And which project was this for?

24    **A.**    The 100K.

25    **Q.**    This is yet another example of some of the design work

1 that you were involved in while you were at USAPTI; correct?

2 A. Yes.

3 Q. Thank you.

4 MS. LOVETT: Your Honor, may I approach with  
5 Exhibit 2980?

6 THE COURT: Yes.

7 BY MS. LOVETT:

8 Q. Mr. Chang, do you recognize this document?

9 A. Yes.

10 Q. What is it?

11 A. It appears to be the screenshot of the Excel page of the  
12 fume disposal system tank.

13 Q. And were you involved in the drafting of this document?

14 A. Yes.

15 Q. Was the drafting of this document part of your normal  
16 responsibilities at USAPTI?

17 A. Yes.

18 MS. LOVETT: Your Honor, I move to admit Exhibit 2980  
19 into evidence.

20 MR. AXELROD: No objection, Your Honor.

21 THE COURT: Admitted.

22 (Trial Exhibit 2980 received in evidence)

23 BY MS. LOVETT:

24 Q. You mentioned that this is related to the fume disposal  
25 system; correct?

1 A. Correct.

2 Q. And which project was this for?

3 A. The 100K.

4 Q. And this is another example of the design work that you  
5 were involved in during your time at USAPTI; correct?

6 A. Correct.

7 Q. You sometimes referred to the DuPont process in your work  
8 at USAPTI; correct?

9 A. I believe so, yes.

10 Q. And when you mentioned that term, you understood it to be  
11 a generic term for the titanium dioxide process; right?

12 A. Yes.

13 Q. You received some specifications and guidance from  
14 Mr. Maegerle, as we discussed earlier; right?

15 A. Correct.

16 Q. And you were aware that Mr. Maegerle once worked for  
17 DuPont; correct?

18 A. Yes.

19 Q. Mr. Liew told you that Mr. Maegerle had written permission  
20 to work outside of DuPont on TiO<sub>2</sub>; correct?

21 MR. AXELROD: Objection.

22 THE COURT: Sustained.

23 BY MS. LOVETT:

24 Q. You were involved in contacting different equipment  
25 vendors for quotations on pieces of equipment for USAPTI;

1 correct?

2 **A.** Yes.

3 **MS. LOVETT:** Your Honor, may I approach with  
4 Exhibit 1681.

5 **THE COURT:** Yes, you may.

6 **BY MS. LOVETT:**

7 **Q.** Mr. Chang, do you recognize this document?

8 **A.** Yes.

9 **Q.** What is it?

10 **A.** It seems to be a collection -- this is a collection of  
11 different quotes for different pieces of equipment and  
12 comparing the different vendors.

13 **Q.** Is this a document you were involved in maintaining?

14 **A.** Yes.

15 **Q.** And did you maintain this document in the ordinary course  
16 of your job responsibilities at USAPTI?

17 **A.** Yes.

18 **MS. LOVETT:** Your Honor, I move to admit Exhibit 1681  
19 into evidence.

20 **MR. AXELROD:** No objection.

21 **THE COURT:** Admitted.

22 (Trial Exhibit 1681 received in evidence)

23 **BY MS. LOVETT:**

24 **Q.** Exactly what information were you tracking in this chart,  
25 Mr. Chang?

1   **A.**   So for the -- for the pieces of equipment that we were  
2   looking for quotes, I -- I created this Excel sheet to be able  
3   to summarize the contact information, the dates that I relayed  
4   stuff to them, but mainly to be able to show, like, what  
5   their -- what their quotes were and any certain events relating  
6   to it.

7   **Q.**   And what did the color coding mean to you?

8   **A.**   Oh, just to help separate the different types of  
9   equipment.

10  **Q.**   And, so, your chart tracked the equipment type in the left  
11  column; correct?

12  **A.**   Correct.

13  **Q.**   And then the vendors that you had reached out to with your  
14  RFQs; right?

15  **A.**   Correct.

16  **Q.**   And a little bit of information about the contact people  
17  there, the location of the vendor, and then the status of what  
18  you had sent them; correct?

19  **A.**   Correct.

20  **Q.**   And the pricing information, was that provided by the  
21  vendor back to you?

22  **A.**   Yes.

23  **Q.**   And what kind of information did you keep in the Notes  
24  column?

25  **A.**   (Witness examines document.) I guess it was just anything

1 that I thought was relevant that didn't quite fit into any  
2 other columns.

3 Q. Mr. Guevara, can you display the second page of this  
4 document, please?

5 This was a multipage spreadsheet that you were  
6 maintaining; correct?

7 A. Yes.

8 Q. And over what period of time did you keep track of this  
9 kind of information?

10 A. Just when I -- when I started to reach out to vendors.

11 Q. Thank you.

12 A. Yeah.

13 Q. One vendor that you were in touch with was called Benicia  
14 Fabricators; correct?

15 A. Correct.

16 Q. Do you recall what kind of equipment Benicia Fabricators  
17 supplied?

18 A. They -- they were -- they were a machine shop that could  
19 fabricate pressure vessels.

20 MS. LOVETT: Your Honor, may I approach with  
21 Exhibit 1283?

22 THE COURT: Yes, you may.

23 BY MS. LOVETT:

24 Q. Mr. Chang, do you recognize this document?

25 A. Yes.

1 Q. What is it?

2 A. It seems to be an email correspondence that I wrote to --  
3 to one of the head people at Benicia Fab.

4 Q. And what was the name of that person?

5 A. Carmelo. I don't recall his last name.

6 Q. Does Carmelo Santiago sound right?

7 A. I believe so.

8 Q. And when -- what is the date on this document?

9 A. August 9th, 2010.

10 Q. And did you write this email in the normal course of your  
11 job responsibility to reach out and contact vendors at USAPTI?

12 A. Yes.

13 MS. LOVETT: Your Honor, I move to admit Exhibit 1283  
14 into evidence.

15 MR. AXELROD: No objection, Your Honor.

16 THE COURT: It's admitted.

17 (Trial Exhibit 1283 received in evidence)

18 BY MS. LOVETT:

19 Q. Mr. Chang, can you please read this email for the jury?

20 A. Yes.

21 "Hi, Carmelo.

22 "I am the new mechanical engineer here at USAPTI  
23 under Walter Liew who you have worked with before in the  
24 past. We have clients from our 100K project over from  
25 China who would like to do a tour of the Benicia



1 Fabrication facility and ask questions regarding the  
2 facility and its fabrication process. Ideally, we would  
3 like to schedule this for Thursday, August 19th. Please  
4 let me know if this can be arranged.

5 "Thank you."

6 **Q.** Thank you. And you and your colleagues from USAPTI did,  
7 in fact, visit Benicia Fabricators; correct?

8 **A.** Yes.

9 **Q.** And some clients from the 100K project went along with  
10 you; right?

11 **A.** I believe so. Sorry, my memory is a little hazy.

12 **Q.** That's fine.

13 Do you recall taking a tour of the fabrication facilities  
14 when you were there?

15 **A.** Yes.

16 **Q.** And do you recall meeting in the conference room at their  
17 facilities there?

18 **A.** Yes.

19 **Q.** Do you recall that there was a photograph of a chlorinator  
20 on the walls of that conference room?

21 **A.** I can't say that I recall the photographs inside the  
22 conference room.

23 **MS. LOVETT:** Your Honor, may I display for the witness  
24 previously admitted Exhibit 1726?

25 **THE COURT:** Yes, you may.

1 **BY MS. LOVETT:**

2 **Q.** Do you recall seeing this photo at Benicia Fabricators up  
3 on the wall of the conference room?

4 **A.** I can't say that I -- I can't say that I remember any of  
5 the photos in the conference room. Sorry.

6 **Q.** That's fine. Thank you.

7 Mr. Guevara, may I display for the witness previously  
8 admitted Exhibit 2602.

9 Do you see here in this exhibit, sort of in the upper left  
10 quadrant, it says, "BFM chlorinator pic," Mr. Chang?

11 **A.** I see it.

12 **Q.** Did you ever use this file?

13 **A.** I can't say that I remember using it. If I did, it must  
14 not have been very much.

15 **Q.** Do you know what was in that file?

16 **A.** It appears to be a collection of pictures of the  
17 chlorinator.

18 **Q.** Thank you.

19 **MS. LOVETT:** Your Honor, may I approach the witness  
20 with Exhibit 1728?

21 **THE COURT:** Yes.

22 **BY MS. LOVETT:**

23 **Q.** Mr. Chang, do you recognize this document?

24 **A.** Yes.

25 **Q.** What is it?

1   **A.**   It appears to be an email that I sent to Mr. Santiago at  
2   Benicia Fab.

3   **Q.**   And who else is cc'd on this email?

4   **A.**   Thongchai, Mr. Walter Liew, Mr. Robert Maegerle.

5   **Q.**   And what is the date on this email?

6   **A.**   February 25th, 2011.

7   **Q.**   And did you write this email in the ordinary course of  
8   your job responsibilities at USAPTI?

9   **A.**   Yes.

10           **MS. LOVETT:** Your Honor, I move to admit Exhibit 1728  
11   into evidence.

12           **MR. AXELROD:** No objection, Your Honor.

13           **THE COURT:** It's admitted.

14           (Trial Exhibit 1728 received in evidence)

15   **BY MS. LOVETT:**

16   **Q.**   You mentioned that you sent this email to Carmelo Santiago  
17   of Benicia Fabricators; correct?

18   **A.**   Correct.

19   **Q.**   And you, in this email, were seeking a quote for the  
20   micron grinder; correct?

21   **A.**   Correct.

22   **Q.**   Mr. Guevara, can you turn to page 2 of this exhibit,  
23   please?

24           Mr. Chang, this is an example of some of the detailed  
25   design information you sent to vendors; correct?

1 A. Correct.

2 Q. And is this the sort of information that you would send as  
3 part of the RFQ process?

4 A. Yes.

5 Q. And this particular drawing is of the micron grinder;  
6 correct?

7 A. Correct.

8 Q. Thank you.

9 MS. LOVETT: Your Honor, may I approach with  
10 Exhibit 1948.

11 THE COURT: Yes, you may.

12 BY MS. LOVETT:

13 Q. Mr. Chang, do you recognize this document?

14 A. I do.

15 Q. What is it?

16 A. It seems to be an email from one of our vendors, Mr. Chris  
17 Toomey.

18 Q. And the top email, who is that from?

19 A. Mr. Walter Liew.

20 Q. And who is it addressed to?

21 A. Chris Toomey at --

22 Q. Go ahead.

23 A. Chris Toomey at FLSmidth.

24 Q. And who's on the cc line there?

25 A. That would be me.

1 Q. And what was the date of this email?

2 A. March 8th, 2011.

3 Q. And did you review this sort of email to and from vendors  
4 as part of the normal course of your job responsibilities at  
5 USAPTI?

6 A. Yes.

7 MS. LOVETT: Your Honor, I move to admit Exhibit 1948  
8 into evidence.

9 THE COURT: Any objection?

10 MR. AXELROD: No objection, Your Honor.

11 THE COURT: Admitted.

12 (Trial Exhibit 1948 received in evidence)

13 BY MS. LOVETT:

14 Q. Mr. Chang, can you please read the second email down for  
15 the jury?

16 A. Sure.

17 "Hi, Allen and Walter.

18 "I received a request from ESI Equipment &  
19 Engineering in China for the exact same proposal I  
20 provided to you for your project in Changshou. It seems  
21 they are asking for the proposal to procure the equipment  
22 on your behalf. Before I send them the proposal, I want  
23 to check with you to ensure you are aware. Do you have  
24 any problems if I send them the same proposal I sent you?"

25 Q. And now can you read Mr. Liew's reply at the top of the

1 email there for the jury, please?

2 **A.** Yes.

3 "Hi, Chris.

4 "Please forward the proposal to ESI Equipment &  
5 Engineering since they will be acting as our buying agent  
6 for the project."

7 **Q.** Great. And this is the ESI Equipment & Engineering  
8 correspondence that you were referring to on direct examination  
9 with Mr. Axelrod; correct?

10 **A.** Yes.

11 **Q.** Thank you.

12 **MS. LOVETT:** Your Honor, may I approach with  
13 Exhibit 1813?

14 **THE COURT:** Yes, you may.

15 **BY MS. LOVETT:**

16 **Q.** Mr. Chang, take a moment to look at this document if you  
17 need it, but do you recognize it?

18 **A.** I believe so.

19 **Q.** What is it?

20 **A.** It looks like it's a -- it's a proposal description for a  
21 transport pump.

22 **Q.** And if I can direct you to the second page of the exhibit,  
23 who was this proposal sent to?

24 **A.** It was sent to me.

25 **Q.** And did you receive this document in the ordinary course

1 of your job responsibilities at USAPTI?

2 **A.** Yes.

3 **MS. LOVETT:** Your Honor, I move to admit Exhibit 1813  
4 into evidence.

5 **MR. AXELROD:** May I have a moment, Your Honor?

6 **THE COURT:** Yes.

7 (Pause in proceedings.)

8 **MR. AXELROD:** No objection, Your Honor.

9 **THE COURT:** Admitted.

10 (Trial Exhibit 1813 received in evidence)

11 **BY MS. LOVETT:**

12 **Q.** So you mentioned that this is a quote that you received;  
13 correct?

14 **A.** Yes.

15 **Q.** And it's a quote for the pneumatic pump; right?

16 **A.** Correct.

17 **Q.** Mr. Guevara, can you turn to page 5 of this exhibit,  
18 please?

19 You mentioned that quotes included pricing information;  
20 right?

21 **A.** Correct.

22 **Q.** And sometimes they also included some specifics about  
23 whatever device or equipment was being provided; correct?

24 **A.** Correct.

25 **Q.** And is the data on this page, page 5, an example of the

1 kinds of specifications that you would sometimes be provided  
2 from a vendor for a quote?

3 **A.** Correct.

4 **Q.** And, so, these are technical details about the pneumatic  
5 pump here; correct?

6 **A.** Correct.

7 **Q.** Thank you.

8 **MS. LOVETT:** Your Honor, may I approach with  
9 Exhibit 1819?

10 **THE COURT:** Yes, you may.

11 **BY MS. LOVETT:**

12 **Q.** Mr. Chang, do you recognize this document?

13 **A.** Yes.

14 **Q.** What is it?

15 **A.** It seems to be a quotation description from Quantum  
16 International.

17 **Q.** And did you work with Quantum International in your  
18 interactions with vendors as well?

19 **A.** Yes.

20 **Q.** And what's the date on this document?

21 **A.** December 10th, 2010.

22 **Q.** Is this a document that you reviewed in the ordinary  
23 course of your job responsibilities at USAPTI?

24 **A.** Yes.

25 **MS. LOVETT:** Your Honor, I move to admit Exhibit 1819



1 into evidence.

2 **MR. AXELROD:** No objection, Your Honor.

3 **THE COURT:** It's admitted.

4 (Trial Exhibit 1819 received in evidence)

5 **BY MS. LOVETT:**

6 **Q.** This is a quote that USAPTI received for chlorinator  
7 bricks; correct?

8 **A.** Yes.

9 **Q.** And it came, as you mentioned, from a company called  
10 Quantum; right?

11 **A.** Correct.

12 **Q.** The president of that company was Gary Stewart; right?

13 **A.** Yes.

14 **Q.** Mr. Guevara, can you turn to page 2 of this document,  
15 please?

16 Again, this quote included some information about pricing  
17 for this equipment; right?

18 **A.** Correct.

19 **Q.** And it also included some different sizing information for  
20 the bricks that could be supplied; right?

21 **A.** Correct.

22 **Q.** Thank you.

23 **MS. LOVETT:** Your Honor, may I approach with  
24 Exhibit 1971?

25 **THE COURT:** Yes, you may.

1 **BY MS. LOVETT:**

2 **Q.** Mr. Chang, do you recognize this document?

3 **A.** (Witness examines document.) Not -- not as much.

4 **Q.** Okay. Who is the document from?

5 **A.** This is from Robert O'Connor at Petro-Chem.

6 **Q.** And who is it addressed to?

7 **A.** It was directed to Mr. Liew.

8 **Q.** And who's on the cc line there?

9 **A.** Mr. Maegerle, myself, Ruth Oduca, someone at CALCO,  
10 Patrick S. Chang from Petro-Chem, Sandeep Dandekar at  
11 Petro-Chem.

12 **Q.** Do you recall receiving this email?

13 **A.** Not -- not as much, but....

14 **Q.** Okay. Were you involved in interacting with Petro-Chem?

15 **A.** Not -- I think I have, but I think it might have just been  
16 that my interaction was not as much.

17 **Q.** We'll move on then.

18 **A.** Sure.

19 **Q.** Thank you, Mr. Chang.

20 **MS. LOVETT:** Your Honor, may I approach with  
21 Exhibit 1766?

22 **THE COURT:** Yes.

23 **BY MS. LOVETT:**

24 **Q.** Mr. Chang, do you recognize this document?

25 **A.** Yes.

1 Q. What is it?

2 A. It's an email from -- it's an email regarding the rotary  
3 valves with Delta Ducon.

4 Q. And who's the email from?

5 A. Walter Liew.

6 Q. And who is it to?

7 A. Mr. Maegerle.

8 Q. And who's included on the cc line here?

9 A. Jian Liu and myself.

10 Q. And what's the date on this email?

11 A. February 18th, 2011.

12 Q. And were you involved in communications with Delta Ducon  
13 about these rotary valves?

14 A. Yes.

15 Q. And did you review this email in the ordinary course of  
16 your job responsibilities at USAPTI?

17 A. Yes.

18 MS. LOVETT: Your Honor, I move to admit Exhibit 1766  
19 into evidence.

20 MR. AXELROD: No objection, Your Honor.

21 THE COURT: Admitted.

22 (Trial Exhibit 1766 received in evidence)

23 BY MS. LOVETT:

24 Q. You mentioned that this involves a quote that you received  
25 from a company called Delta Ducon; correct?

1 A. Correct.

2 Q. Do you recall what kind of things Delta Ducon supplied?

3 A. Yes. They were one of our bidders for a specialty rotary  
4 valve.

5 Q. And what does a rotary valve do?

6 A. Essentially a rotary valve is a piece of equipment that  
7 turns; and when it turns, it pushes the equipment along to push  
8 equipment from one side of a pipe to another.

9 Q. Thank you.

10 MS. LOVETT: Your Honor, may I approach with  
11 Exhibit 1802?

12 THE COURT: Yes.

13 BY MS. LOVETT:

14 Q. Mr. Chang, do you recognize this document?

15 A. (Witness examines document.) I believe so.

16 Q. What is it?

17 A. It looks to be an email with regards to the bag filters.

18 Q. And who is this email from?

19 A. From Mr. Walter Liew.

20 Q. To who?

21 A. Mr. Robert Maegerle.

22 Q. Who else is cc'd here?

23 A. Jian Liu and myself.

24 Q. And what's the date on this email?

25 A. March 22nd, 2011.

1 Q. And does this email, again, concern vendors?

2 A. Yes.

3 Q. Which vendor does this concern?

4 A. Fisher-Klosterman.

5 Q. And was this another vendor you kept track of during your  
6 job responsibilities at USAPTI?

7 A. Yes.

8 MS. LOVETT: Your Honor, I move to admit Exhibit 1802  
9 into evidence.

10 MR. AXELROD: No objection, Your Honor.

11 THE COURT: Admitted.

12 (Trial Exhibit 1802 received in evidence)

13 BY MS. LOVETT:

14 Q. You mentioned that this concerned oxidation bag filters;  
15 correct?

16 A. Yes.

17 Q. Mr. Guevara, can you turn to the second page of this  
18 exhibit, please?

19 This is an email that you wrote, correct, at the second  
20 half of this second page?

21 A. Oh, yes.

22 Q. And you can take a minute to look at your email. It's on  
23 page 2 and page 3 of the document, but here you were comparing  
24 two different vendor quotes, MikroPul and Fisher-Klosterman;  
25 correct?

1     **A.**     Correct.

2     **Q.**     Thank you.

3                 **MS. LOVETT:**   Your Honor, may I approach with  
4     Exhibit 1776.

5                 **THE COURT:**   Yes.

6     **BY MS. LOVETT:**

7     **Q.**     Mr. Chang, do you recognize this document?

8     **A.**     Yes.

9     **Q.**     What is it?

10    **A.**     It looks like it is an email from Mr. Dave Luzan with  
11    regards to a jet mill.

12    **Q.**     And who is it addressed to?

13    **A.**     To Mr. Walter Liew.

14    **Q.**     And who's copied here?

15    **A.**     Myself and Afshin Nayeri from Sturtevant.

16    **Q.**     And did you work with Mr. Luzan in looking for equipment  
17    vendors?

18    **A.**     I believe so.

19    **Q.**     And did you review this email as part of your ordinary job  
20    responsibilities at USAPTI?

21    **A.**     Yes.

22                 **MS. LOVETT:**   Your Honor, I move to admit Exhibit 1776  
23    into evidence.

24                 **MR. AXELROD:**   No objection, Your Honor.

25                 **THE COURT:**   Admitted.

1 (Trial Exhibit 1776 received in evidence)

2 **BY MS. LOVETT:**

3 **Q.** This, according to the cover email, relates to a brochure  
4 that USAPTI was provided; correct?

5 **A.** Correct.

6 **Q.** Mr. Guevara, can you display page 2?

7 This is a brochure about micronizers; correct?

8 **A.** Correct.

9 **Q.** And you received this from a vendor; right?

10 **A.** Correct.

11 **Q.** Mr. Guevara, can you display the third page of this  
12 exhibit?

13 This brochure includes drawings of micronizers; correct?

14 **A.** Images, yes. Yeah, images.

15 **Q.** Thank you.

16 **MS. LOVETT:** Your Honor, may I approach with  
17 Exhibit 1826?

18 **THE COURT:** Yes.

19 **BY MS. LOVETT:**

20 **Q.** Mr. Chang, do you recognize this document?

21 **A.** Yes.

22 **Q.** What is it?

23 **A.** It seems to be a detail -- a section-view detail of a ball  
24 valve.

25 **Q.** And is this a document that you reviewed as part of your

1 role in reviewing vendor quotes?

2 **A.** Yes.

3 **MS. LOVETT:** Your Honor, I move to admit Exhibit 1826  
4 into evidence.

5 **MR. AXELROD:** Ms. Lovett, can I just take a look?  
6 May I have a moment, Your Honor?

7 **THE COURT:** Sure.

8 **MR. AXELROD:** No objection, Your Honor.

9 **THE COURT:** Admitted.

10 (Trial Exhibit 1826 received in evidence)

11 **BY MS. LOVETT:**

12 **Q.** This is a drawing provided to USAPTI by a vendor called  
13 Mayer; correct?

14 **A.** Correct.

15 **Q.** And it depicts the chlorinator draw-off valve; right?

16 **A.** I believe -- I believe so. I don't recall exactly.

17 **Q.** Okay. What do you recall about what this drawing depicts?

18 **A.** This is -- this drawing seems -- it describes the  
19 mechanism of how -- of how the ball valve works. And looking  
20 at the cross-section, you can see the various chambers and  
21 inputs that allow for it to function.

22 **Q.** And, so, it includes some technical details here on the  
23 drawing; right?

24 **A.** Correct.

25 **Q.** Thank you.



1 We spoke a little bit earlier about your handwritten  
2 notes; right?

3 **A.** Yes.

4 **Q.** And you would keep handwritten notes of information that  
5 you learned from vendors when you talked to them about  
6 equipment; right?

7 **A.** Yes.

8 **MS. LOVETT:** Your Honor, may I approach with  
9 Exhibit 1926?

10 **THE COURT:** Yes.

11 **THE CLERK:** 1926?

12 **MS. LOVETT:** 1926.

13 **Q.** Mr. Chang, do you recognize this document?

14 **A.** I believe so.

15 **Q.** What is it?

16 **A.** It looks like handwritten notes that I took during  
17 meetings.

18 **Q.** And if you can just flip quickly through all the pages.  
19 Is the handwriting on every page your handwriting?

20 **A.** (Witness examines document.) Looks like, yes.

21 **Q.** And you kept these notes in the ordinary course of your  
22 job responsibilities at USAPTI; correct?

23 **A.** Yes, when I did keep notes.

24 **MS. LOVETT:** Your Honor, I move to admit Exhibit 1926  
25 into evidence.

1           **MR. AXELROD:** No objection, Your Honor.

2           **THE COURT:** Admitted.

3           (Trial Exhibit 1926 received in evidence)

4           **BY MS. LOVETT:**

5           **Q.** The first page here is meeting notes from a meeting with  
6 Gary Stewart; correct?

7           **A.** Correct.

8           **Q.** And he was the individual we talked about earlier who was  
9 involved in Quantum; right?

10          **A.** Correct.

11          **Q.** And it mentions bricks at the top here; right?

12          **A.** Yes.

13          **Q.** And if you look at the second line down in the page, you  
14 see that it says Millennium arrow Cristal Global group. Do you  
15 recall what that was about?

16          **A.** I think to my -- to my understanding it meant that  
17 Millennium was -- possibly either owned Cristal Global or  
18 changed their name to Cristal Global or had some relation to  
19 Cristal Global.

20          **Q.** And did you understand that Millennium and Cristal Global  
21 were competitors with DuPont?

22          **A.** No.

23          **Q.** Mr. Guevara, can you turn to page 3 of this document?

24                 This, if you look at the top of the page here, is notes  
25 from a meeting with Alfa Laval. Correct me if I'm reading your

1 handwriting wrong, but it looks like Alfa Laval Inc.?

2 **A.** I believe so. And pardon my handwriting. I believe it's  
3 Laval.

4 **Q.** And you spoke to them about heat exchangers; correct?

5 **A.** It looks like, yes.

6 **Q.** And if you go about halfway down the page, below the sort  
7 of spirally drawing there, it says, "Used in Millennium group";  
8 correct?

9 **A.** Yes.

10 **Q.** And were these notes you took of things that vendors told  
11 you?

12 **A.** I believe so, yes.

13 **Q.** Thank you.

14 **MS. LOVETT:** Your Honor, may I approach with  
15 Exhibit 1946?

16 **THE COURT:** Yes.

17 **BY MS. LOVETT:**

18 **Q.** Mr. Chang, do you recognize this document?

19 **A.** Yes.

20 **Q.** What is it?

21 **A.** It looks like handwritten notes that I made to help with  
22 design.

23 **Q.** And is your handwriting on every page of this document?  
24 There are many, but take a quick flip through.

25 **A.** Yeah, it appears so, yes.

1 Q. And did you take these notes and create these notes in the  
2 ordinary course of your job responsibilities at USAPTI?

3 A. Yes.

4 MS. LOVETT: Your Honor, I move to admit Exhibit 1946  
5 into evidence.

6 THE COURT: Any objection?

7 MR. AXELROD: No objection, Your Honor.

8 (Trial Exhibit 1946 received in evidence)

9 THE COURT: All right. Before we move on, let's take  
10 a stretch break, ladies and gentlemen.

11 (Pause in proceedings.)

12 THE COURT: All right. Please be seated.

13 You may continue, Ms. Lovett.

14 MS. LOVETT: Thank you, Your Honor.

15 Q. Mr. Chang, did you write this title page here that we're  
16 looking at on the screen?

17 A. The title page? That doesn't look like my handwriting.

18 Q. Okay. But --

19 THE COURT: Counsel, please use the exhibit numbers.  
20 When you say "this page" --

21 MS. LOVETT: Yes. Page 1 of Exhibit 1946.

22 THE COURT: Thank you.

23 MS. LOVETT: Mr. Guevara, you can you please turn to  
24 page 15 of Exhibit 1946?

25 And for the record, this exhibit is Bates-stamped in the

1 bottom right corner, and it's Bates-stamped 033-Spiral  
2 Notebook-000015.

3 **THE COURT:** All right.

4 **BY MS. LOVETT:**

5 **Q.** Are these notes that you took on the flue pond?

6 **A.** Yes.

7 **Q.** And you and Mr. Axelrod discussed your flue pond design a  
8 little bit yesterday; correct?

9 **A.** Correct.

10 **Q.** And can you read the first line of this page, please?

11 **A.** Sure. "Elbows square because you can brick it and the  
12 bricks -- the brick is needed at U-turns."

13 **Q.** So these were notes that you took about why you needed to  
14 square the elbows of the flue pond; correct?

15 **A.** Correct.

16 **MS. LOVETT:** No further questions, Your Honor.

17 **THE COURT:** Thank you, Counsel.

18 Any redirect?

19 **MR. AXELROD:** Yes, Your Honor.

20 **MR. FROELICH:** Your Honor, I have --

21 **THE COURT:** Oh, I'm sorry.

22 **MR. FROELICH:** That's quite all right, Your Honor.

23 **THE COURT:** Again, my mistake, Mr. Froelich. Thank  
24 you for keeping me in the game here.

25

CROSS-EXAMINATION

1  
2 **BY MR. FROELICH:**

3 **Q.** Mr. Chang, I'm Jerry Froelich. How are you?

4 **A.** Hello.

5 **Q.** I represent Mr. Maegerle.

6 **A.** Uh-huh.

7 **Q.** We haven't had an opportunity to talk before this, have  
8 we?

9 **A.** I don't believe so.

10 **Q.** You've said you have an engineering degree from Berkeley;  
11 is that right?

12 **A.** Yes.

13 **Q.** And when you're in engineering school, when you're in  
14 college learning to be an engineer, they just teach you the  
15 basics; isn't that right?

16 **A.** Correct.

17 **Q.** And what you -- you really become a competent engineer and  
18 an efficient engineer, you learn on the job; isn't that right?

19 **A.** Yes.

20 **Q.** And as you learn, you become a better and better engineer;  
21 isn't that right?

22 **A.** Yes.

23 **Q.** And when you get your jobs, or particularly your first  
24 jobs, you may not know anything about the subject matter; isn't  
25 that correct?

1 A. Correct.

2 Q. And that's not unusual. You have to learn about the  
3 subject matter in that particular area; isn't that right?

4 A. That is correct.

5 Q. And the longer you stay in an area, you become more  
6 proficient in it?

7 A. Correct.

8 Q. And your experience is very important as an engineer?

9 A. Yes.

10 Q. All right. And that's what you carry with you for the  
11 rest of your life, your experience. And that's how you learn  
12 and thus become a better engineer?

13 A. Yes.

14 Q. And you thought Mr. Maegerle was a very good engineer,  
15 didn't you?

16 A. Yes.

17 Q. And while you were working, as you testified on direct,  
18 what you were doing, or part of the things you were doing, you  
19 were upscaling a 30-ton Jinzhou plant up to 100-ton Pangang  
20 plant; is that correct?

21 A. For the equipment, yes.

22 Q. Now, you also had help doing that, didn't you? Didn't you  
23 have chemical engineers there at USAPTI?

24 A. Yeah. They would provide input that would relate to the  
25 design, yes.

1 Q. Okay. And you also had mechanical engineers that were  
2 helping you?

3 A. I was -- I was working alongside with Thongchai, who was  
4 also doing CAD work.

5 Q. Okay. How about process engineers? Did you have process  
6 people helping you?

7 A. Oh, yeah. That would be Ruth and Ken also.

8 Q. Okay. Now, when you were -- you were able to upscale --  
9 you were doing -- you were able to do some of the upscaling; is  
10 that correct?

11 A. Yes.

12 Q. All right. But at certain places, because you didn't have  
13 the experience, you needed some help?

14 A. Yes.

15 Q. All right. And some of that you got from Mr. Liew; isn't  
16 that correct?

17 A. Yes.

18 Q. And some of it you got from Mr. Maegerle?

19 A. Yes.

20 Q. And also there were -- you had materials there at USAPTI  
21 that you could -- weren't there memorandums and documents or  
22 folders of documents you could go to?

23 A. Yes.

24 Q. And when you were -- you talked to -- first of all, is  
25 there a difference -- there's a difference between basic data



1 and design; isn't there?

2 **A.** What are you saying?

3 **Q.** Well, a design -- to have a design, don't you need flow  
4 sheets?

5 **A.** Yes.

6 **Q.** Okay. You need P&I drawings?

7 **A.** Yes.

8 **Q.** You need electrical drawings?

9 **A.** Eventually, yes.

10 **Q.** Okay. And how about logic diagrams?

11 **A.** For programming?

12 **Q.** Well, for -- yeah, for the programs, for the design. Do  
13 you need that?

14 **A.** Yeah.

15 **Q.** Okay. Now, you were shown Exhibit -- if we can pull it  
16 up, Exhibit 38, page 17, please. I thought it was -- well, let  
17 me go back.

18 You were shown an exhibit -- oh, there it is. That's  
19 right.

20 Do you remember you were shown that yesterday?

21 **A.** Yes.

22 **Q.** Okay. And that was what you believed -- you were told it  
23 was a flue pond?

24 **A.** Yes.

25 **Q.** That's -- all you're seeing there is the cement that goes

1 into a flue pond; isn't that correct?

2 A. Yes.

3 Q. All right. And that's all that is -- that, basically, is  
4 just a retainer wall to hold in water?

5 A. Yes.

6 Q. It doesn't take any great engineering to do the retainer  
7 wall to hold in water, does it?

8 A. Not -- not particularly, I don't think.

9 Q. Right. Now, there were some other things I wanted to talk  
10 to you about, and I won't take a lot of your time, but you --  
11 you met Mr. Maegerle. Mr. Maegerle would help you out  
12 occasionally; isn't that correct?

13 A. Correct.

14 Q. All right. And he was able to answer your questions  
15 pretty quickly, wasn't he?

16 A. Yes.

17 Q. All right. And he told you -- you knew -- you learned  
18 what his background was; isn't that correct?

19 A. Yes.

20 Q. That he had worked at DuPont?

21 A. Yes.

22 Q. And that he was retired?

23 A. Yes.

24 Q. All right. And he also told you that he had permission to  
25 consult for DuPont, didn't he?

1           **MR. AXELROD:** Objection.

2           **THE COURT:** Sustained.

3   **BY MR. FROELICH:**

4   **Q.** Well, you had a discussion with Mr. Maegerle about the  
5 lawsuit, didn't you? Do you remember you talked to  
6 Mr. Maegerle after the lawsuit was filed by DuPont?

7   **A.** A little bit, yes.

8   **Q.** All right. He wasn't concerned about it, was he?

9           **MR. AXELROD:** Objection.

10          **THE COURT:** Sustained.

11          **MR. FROELICH:** Your Honor, may we be heard for a  
12 minute?

13          **THE COURT:** No.

14   **BY MR. FROELICH:**

15   **Q.** Did Mr. Maegerle -- did you -- you discussed the lawsuit  
16 with him?

17   **A.** A little bit.

18   **Q.** Okay. And did he tell you that he had permission to be a  
19 consultant?

20          **MR. AXELROD:** Objection.

21          **THE COURT:** Sustained.

22   **BY MR. FROELICH:**

23   **Q.** Did he express any concern to you about the lawsuit at  
24 all?

25          **THE COURT:** Just a moment.

1           **MR. AXELROD:** Objection.

2           **THE COURT:** Sustained.

3                           (Pause in proceedings.)

4           **MR. FROELICH:** That's all I have, Your Honor. I'd  
5 like to be heard eventually.

6           **THE COURT:** All right.

7           Any redirect?

8           **MR. AXELROD:** I do.

9           **THE COURT:** All right.

10          **MR. AXELROD:** Thank you.

11          Your Honor, may I approach to take some of those exhibits  
12 back from Mr. Chang?

13          **THE COURT:** Yes, you may.

14          **MR. AXELROD:** Thank you.

15                           **REDIRECT EXAMINATION**

16          **BY MR. AXELROD:**

17          **Q.** Mr. Chang, on cross-examination you were asked by both  
18 counsel about the design process for this -- these TiO2  
19 projects and your role in that; right?

20          **A.** Sure. Yes.

21          **Q.** And you indicated that there were some -- for chemical  
22 engineering advice, you went to certain people at USAPTI;  
23 right?

24          **A.** I -- I guess -- sorry. I -- for chemical engineering  
25 information, yeah.

1 Q. Okay.

2 A. But, yeah. But I -- but not really for advice, I guess.

3 Q. And that's a bad question on my part.

4 To design a TiO2 facility, how many engineers do you need?

5 A. I would say that, you know, you need -- you need engineers  
6 of certain -- of certain types, to my understanding. I guess  
7 the exact number I couldn't really say because my experience  
8 really was just with USAPTI.

9 Q. Okay. And Ms. Lovett showed you some of your notes that  
10 you had taken at various meetings with vendors.

11 Do you recall that?

12 A. Sure, yeah.

13 Q. And at some of those meetings, Mr. Maegerle was present;  
14 right?

15 A. Mostly on, like, conference calls.

16 Q. Okay. And I want to look with you at a couple of the  
17 notes that have been admitted, and I'm going to start with  
18 1946. And this is the first page of those notes.

19 Do you see that?

20 A. Yes.

21 Q. Okay. And we're going to go back a little bit further in  
22 the notes.

23 And can you see those -- can you see those notes? Or is  
24 that visible?

25 A. Yeah. I can see it, yes.

1 Q. I can sort of zoom in.

2 MS. LOVETT: Mr. Axelrod, what page is this?

3 MR. AXELROD: That's page 20 of the notes.

4 Q. Can you make out -- that's your handwriting?

5 A. Yes.

6 Q. And does this reflect a conversation that included  
7 Mr. Maegerle?

8 A. I believe so.

9 Q. Okay. At the top it says, "Shutdown maintenance notes";  
10 right?

11 A. Yes.

12 Q. And then could you describe for the jury what information,  
13 in general terms, follows?

14 A. Just some guidelines for maintenance of pieces of  
15 equipment.

16 Q. And is one of those pieces the chlorinator?

17 A. I believe so, yes.

18 Q. And provides some guidance about when to shut it down, how  
19 often, things like that?

20 A. Yes.

21 Q. Was that information provided by Mr. Maegerle?

22 A. Yes.

23 Q. Okay. And to your knowledge, had he worked at any other  
24 TiO2 manufacturers other than DuPont?

25 A. Other than -- other than DuPont?

1 Q. Yeah.

2 A. Yeah, I can't say that I know.

3 Q. Okay. You only knew about his experience at DuPont?

4 A. Yes.

5 Q. Okay. And then a little bit further down in the bottom  
6 there, and I'm going to put my finger there, do you see that?

7 A. Yes.

8 Q. Okay. Is that more information about the chlorinator?

9 A. Yes.

10 Q. And is that more information provided by Mr. Maegerle?

11 A. Yes.

12 Q. And I'm going to turn the page. And you were talking with  
13 Ms. Lovett about the aluminum chloride generator; right?

14 A. Yes.

15 Q. And do you see those notes at the bottom about the  
16 aluminum chloride generator?

17 A. Yes.

18 Q. And is that also information that was provided to you by  
19 Mr. Maegerle?

20 A. I believe so.

21 Q. So when you were working on these pieces of equipment, I  
22 gather -- first of all, you were asked by Ms. Lovett whether  
23 Mr. Maegerle gave you general engineering advice; right?

24 A. I think so, yeah.

25 Q. Yeah. But he gave you more than that; didn't he?

1 A. As, like -- sorry. Like what?

2 Q. Well, did he provide you specific information with respect  
3 to the particular projects that you worked on at USAPTI?

4 A. Oh.

5 MS. LOVETT: Objection.

6 THE COURT: Sustained.

7 BY MR. AXELROD:

8 Q. Can you describe the kind of information that Mr. Maegerle  
9 provided to you --

10 A. Uh-huh.

11 Q. -- to fulfill your duties in equipment design?

12 A. Sure. Like he would -- he would give me, you know,  
13 information with regards to also how to maintain, like, the  
14 equipment, like -- like, for example on this document, like --  
15 like, how often to perform maintenance on certain pieces of  
16 equipment.

17 Q. Did he provide you with design criteria?

18 A. Yes. Yeah.

19 Q. Could you have done your work without his design criteria  
20 guidance?

21 MS. LOVETT: Objection.

22 THE COURT: Sustained.

23 BY MR. AXELROD:

24 Q. Was the design criteria that he provided you helpful in  
25 doing your work?



1 A. Yes.

2 Q. How so?

3 A. Like, you know, like, there was a lot of information that  
4 I didn't know how to -- how to even, you know, start to even  
5 determine on my own, and, you know, getting design criteria  
6 would fill in the gaps.

7 Q. Was that information that you could get by looking at a  
8 textbook?

9 MS. LOVETT: Objection.

10 THE COURT: Sustained.

11 BY MR. AXELROD:

12 Q. Other than talking with Mr. Maegerle, how else would you  
13 identify that information?

14 A. I could go online, try to find, you know, manuals and  
15 reference materials with regards to similar processes and that  
16 sort of stuff.

17 Q. And did you do that in this case?

18 A. I think I did for some things, yes.

19 Q. Okay. But when it comes to, for example, working on the  
20 design of the oxidation reactor, did you rely on information  
21 provided by Mr. Maegerle?

22 A. Yes.

23 Q. And for the chlorinator?

24 A. Yes.

25 Q. Okay. You were also asked about a picture of a

1 chlorinator. Do you recall that? At Benicia Fabrication?

2 A. I'm sorry. Do I recall the question or --

3 Q. Yeah. Do you recall that picture that was shown to you of  
4 the chlorinator?

5 A. Oh, just now?

6 Q. Yeah. Earlier during Ms. Lovett's examination.

7 A. Yes.

8 Q. Did you design a chlorinator based on that photograph?

9 A. No.

10 Q. Okay. Could you?

11 A. Not really.

12 Q. I want to also clear up with you this question. You were  
13 asked, initially by me on direct and then by Ms. Lovett on  
14 cross-examination, about ESI. Do you recall that?

15 A. Yes.

16 Q. And this is the email. This is Exhibit 1948. Do you  
17 recognize that?

18 A. Yes.

19 Q. Okay. And when you and I spoke, I was asking you about a  
20 company in Singapore called ESI. Do you recall that?

21 A. Yes.

22 Q. Do you have any knowledge of ESI in Singapore?

23 A. I guess just that they are related to the project, the  
24 equipment and procurement of equipment.

25 Q. So let me step back with you. Let's look at this email

1 together.

2 **A.** Sure.

3 **Q.** That bottom email, it says -- do you see the one from  
4 Mr. Toomey to you on March 8th, 2011?

5 **A.** Yes.

6 **Q.** And it says (reading):

7 "Hi, Allen and Walter.

8 "I received a request from ESI Equipment &  
9 Engineering in China...."

10 Do you see that?

11 **A.** Yes.

12 **Q.** Okay. And I asked you about ESI in Singapore.

13 **A.** Oh, okay.

14 **Q.** Were you confused about China and Singapore?

15 **A.** I suppose.

16 **MS. LOVETT:** Objection.

17 **THE COURT:** Sustained.

18 **BY MR. AXELROD:**

19 **Q.** Okay. So you understand the ESI that I asked you about  
20 was a ESI company in Singapore; right?

21 **A.** I'm sorry. Yeah. If that's what you said, then sorry. I  
22 misunderstood.

23 **Q.** Okay. Are you familiar with a company called ESI in  
24 Singapore having any involvement in any of the TiO2 projects  
25 that you worked on?

1     **A.**    I can't say that I can recall.

2     **Q.**    Okay.  Putting aside this ESI in China that's referenced  
3    in this Exhibit 1948 --

4     **A.**    Sure.

5     **Q.**    -- I'm asking you --

6     **A.**    Uh-huh.

7     **Q.**    -- about a company in Singapore called ESI, and I'm asking  
8    you whether you have any knowledge of that company having  
9    anything to do with the TiO2 projects that you worked on when  
10  you were at USAPTI.

11  **A.**    Yeah, I can't recall.

12           **THE COURT:**  I think we need to wrap it up soon,  
13  Counsel.

14           **MR. AXELROD:**  I have no further questions.  Thank you.

15           **THE COURT:**  Great.  That will wrap it up.  Thank you  
16  very much.

17           Do you have anything else, Ms. Lovett?

18           **MS. LOVETT:**  No, Your Honor.

19           **THE COURT:**  Great.

20           Thank you, sir.  You're excused.

21           **MR. FROELICH:**  Excuse me, Your Honor.  I'd like --

22           **THE COURT:**  I'm sorry.  I do that to you all the time.

23           **MR. FROELICH:**  That's all right.

24           **THE COURT:**  Go ahead.

25           **MR. FROELICH:**  No, Your Honor.  I'd like not to excuse

1 him.

2 **THE COURT:** You'd like not to excuse him?

3 **MR. FROELICH:** Yes, Your Honor.

4 **THE COURT:** You mean subject to call at a later time?

5 **MR. FROELICH:** That's correct.

6 **THE COURT:** You're still under subpoena and subject to  
7 recall. We'll notify if we need you during the course of the  
8 trial. But you can leave the courtroom now. Thank you.

9 I assume that's okay, Mr. Froelich? He can leave now?

10 **MR. FROELICH:** Yes, Your Honor.

11 **THE COURT:** Yes. You're excused for the moment.

12 (Witness excused subject to recall.)

13 **THE COURT:** All right. Next witness.

14 **MR. HEMANN:** Your Honor, the United States calls  
15 Phillip Guan.

16 **THE COURT:** All right. Come forward, sir. Right over  
17 here, please, Mr. Guan, to be sworn. Welcome, sir.

18 **THE WITNESS:** Thank you. Where shall I sit?

19 **THE COURT:** Just turn around. Come here. No, no.  
20 Right over here by the chair.

21 **THE CLERK:** Raise your right hand, please.

22 **PHILLIP GUAN,**  
23 called as a witness for the Government, having been duly sworn,  
24 testified as follows:

25 **THE WITNESS:** Yes.



1 What sort of business do you have?

2 **A.** I first start my business by myself, my wife, and also one  
3 or two staff temporary; and later on I hire more people working  
4 with me and for me.

5 **Q.** When did you expand the business, hire more people?

6 **A.** I think I -- when I start with the first year, I begin to  
7 hire one, and then later on increased as needed in the  
8 business.

9 **Q.** About how many people do you employ today?

10 **A.** My business is seasonal because I do tax preparation. So  
11 during the tax season, there would be more people; and during  
12 nontax season, there would be less people.

13 **Q.** Okay. What's the range, roughly?

14 **A.** Mmm, the range roughly on the regular nontax season, we  
15 have two people besides me and my wife.

16 **Q.** Okay.

17 **A.** And one is -- so they are helping me doing bookkeeping,  
18 payroll, and some similar tax preparations.

19 And then during the tax season, we have somewhere from  
20 eight to ten temporary people during the tax season, like right  
21 now.

22 **Q.** Do the people you employ, are they -- are they CPA  
23 accountants, too?

24 **A.** The people that I employ are not necessarily a CPA, and  
25 they come from a different branch. Some people are CPA or

1 revenue agent and working with me for part-time or full-time or  
2 temporary; and then some of them, they are accounting college  
3 graduated and working for me; and some of them is not  
4 accountants, completely finish. They're probably still student  
5 and doing internship with my firms.

6 **Q.** What sort of services do you provide to your clients?

7 **A.** We provide tax service. We provide tax service for  
8 individual and also business, such as corporation and  
9 partnerships. We also provide bookkeeping. We -- our client  
10 provides financial information, and we produce and publish an  
11 income statement.

12 And then the other portion of it, some of our clients do  
13 their own bookkeeping. So where they provide their finished  
14 bookkeeping, which is means balance sheet and income statement,  
15 and give it to us and we prepare the tax return. And we also  
16 provide a payroll service and sell tax service as well.

17 **Q.** Do you provide any audit services?

18 **A.** No, I don't. As a matter of fact, my license does not  
19 allow me to do audit service.

20 **Q.** How are audit services different than the services that  
21 you provide?

22 **A.** The -- when we talk about audit, there are two kind of  
23 audit. We just split it. And one kind of audit, as the  
24 average individual understand in the IRS audits or payroll  
25 audit, which we do provide. And that does not requires



1 financial audit, CPA license.

2 **Q.** So that's a situation in which somebody gets audited by  
3 the IRS and you help them through that process?

4 **A.** I do. I do provide the service. But we're -- let's say  
5 the public company need an audited financial statement, and  
6 that requires another CPA license, which I don't have it. And  
7 I -- I have a G license, which I don't provide the financial  
8 audit.

9 **Q.** Was Mr. Walter Liew a client of yours?

10 **A.** Yes.

11 **Q.** Can you describe what sort of relationship, business  
12 relationship, you had with Mr. Liew?

13 **A.** Mr. Liew first come to my office around the year of  
14 2006 -- for the tax year 2006, which means come in the year of  
15 2007. And I cannot remember exactly how he first get into my  
16 company. So we first interview Mr. Liew, and he provides the  
17 bookkeeping and financial information provided by QuickBooks;  
18 and we provide the first year tax return for the year 2006 tax  
19 year.

20 **Q.** Let me stop you there for a moment, Mr. Guan. The  
21 services that you provided to Mr. Liew, were they personal  
22 services or services for his business?

23 **A.** I have never do the individual tax return, which means  
24 like 1040, for Mr. Liew. And I only prepare the corporation  
25 tax returns.

1 Q. What about for anybody in Mr. Liew's family? Have you  
2 provided individual tax services?

3 A. Not that I know of.

4 Q. You mentioned that you started for tax year 2006 when he  
5 came to your office in 2007; is that correct?

6 A. That is correct.

7 Q. Okay. When -- and these -- this was for only the tax  
8 preparation service as opposed to bookkeeping services at that  
9 time; is that correct?

10 A. That is correct.

11 Q. Could you explain to the jury a little bit about how the  
12 tax preparation service works, what information you receive and  
13 use, and then how you use it, in particular with Mr. Liew?

14 A. Yes, sir.

15 As I provide tax preparation service, my client, like  
16 Mr. Liew, provides me a financial statement where -- means  
17 income statement and balances. They do their own bookkeeping,  
18 and then they provide financial information and support. And  
19 then I, based on the finished balance sheet and income  
20 statement, prepare the tax returns.

21 Q. So you mentioned two items, and I'm going to test you a  
22 little bit, I guess, your explaining ability.

23 You mentioned an income statement and a balance sheet. Do  
24 you remember those?

25 A. That's correct.

1 Q. Can you -- we're going to be looking at a few, so could  
2 you please just orient the jury a little bit about what an  
3 income statement and a balance sheet are?

4 A. Sure. Income statement, in general, average individual,  
5 is a profit and loss statement. It's -- basically, the first  
6 line of income statement is the total revenue of that whole  
7 year, the company, the revenue. And then we'll be minus each  
8 and every deductible business expenses. And in the bottom  
9 line -- a lot of time we refer to bottom line, which is called  
10 net income, which means, like, the whole year of the booked net  
11 income, what it is.

12 Okay. Where the balance sheet is where at December 31st  
13 of 2006 -- let's say for the year 2006 -- of the last day of  
14 that year the company, how much they own and how much they owe.  
15 How much they own is their asset, like a computer, a bank  
16 account. How much they owe means like they may owe a bank some  
17 money or they owe somebody the loan from -- to the company, and  
18 those are liability. And they will report it in the balance  
19 sheet.

20 But the balance sheet item, you're not really affecting  
21 the tax return. The tax return, in terms of taxable income, is  
22 really coming from the profit and loss, which is the same work  
23 as income statement.

24 MR. FROELICH: Your Honor, excuse me. Before he asks  
25 the next question, I don't believe this has anything to do with

1 me.

2 **MR. HEMANN:** That is absolutely correct. Thank you,  
3 Mr. Froelich.

4 I should have said that at the beginning, Your Honor.  
5 This testimony relates to USAPTI and Mr. Liew only and not to  
6 Mr. Maegerle.

7 **THE COURT:** All right. Thank you very much.

8 **MR. HEMANN:** Thank you, Jerry.

9 **Q.** So, Mr. Guan, when you first started working with  
10 Mr. Liew, did you play any role in the preparation of the  
11 profit and loss statement or the balance sheet?

12 **A.** We first -- we reviewed the income statement and balance  
13 sheet. We will make any adjustment if they're not reflected  
14 correctly according to the law. Such as, for example, mmm,  
15 when we correct payroll, the company issued payroll, the W-2,  
16 and then a lot of time the payroll will be get a net income.  
17 For example, like the payroll gross amount is a thousand and  
18 minus all the -- all the different taxes, and then it maybe  
19 ends up 800 bucks. It's a net.

20 And then sometimes if they're not -- like they not do it  
21 right, they're supposed to -- the gross payroll should be a  
22 thousand, not 800. So, therefore, if we see there's a  
23 difference, we will suggest you need to be adjusted according  
24 to what it is. So -- and we make those necessary adjustments.

25 **Q.** Okay. So let's try to paint a little bit of a picture of

1 how it actually worked with Mr. Liew.

2 How long during, when you were the tax preparer at the  
3 beginning, how long a process -- how long would you spend  
4 working on Mr. Liew's tax returns?

5 **A.** The tax return for his situation normally takes about one  
6 whole morning or one whole afternoon. But if we need it, we'll  
7 go further --

8 **Q.** Okay.

9 **A.** -- for the preparation process.

10 **Q.** So would Mr. Liew come to your office?

11 **A.** Yes.

12 **Q.** And who -- when you were acting as the tax preparer, who  
13 would he meet with?

14 **A.** He actually meet with me personally.

15 **Q.** What would he bring with him to the office?

16 **A.** He bring the profit and loss, balance sheet, and also a  
17 binder where have bank statement, and also some support  
18 document of what he provides -- produce the income statement  
19 and profit and loss statement.

20 **Q.** Before he came into the office to work with you on a  
21 particular tax return, did you have any responsibility for  
22 collecting information regarding Mr. Liew's company and its  
23 finances?

24 **A.** When in the scope of prepare tax return, and I do not  
25 provide a bookkeeping service, and it's the client's

1 responsibility to provide bookkeeping, done bookkeeping, and  
2 also support documents. And then we base on the balance sheet,  
3 income statement, profit and loss, and balance sheet, to  
4 produce the tax return. And we do not do the bookkeeping.

5 **Q.** So during the period of time that you were the  
6 bookkeeper -- I mean, the tax return preparer for Mr. Liew's  
7 corporate returns, did you do all of the work in the morning or  
8 afternoon that he would come in and work with you?

9 **A.** Yes.

10 **Q.** So let's -- and just to clarify that: You didn't go to  
11 Mr. Liew's office and look through his files or anything like  
12 that?

13 **A.** No. It actually happened in my CPA office.

14 **Q.** It all happened in your CPA office.

15 **A.** Inside my CPA office. And Mr. Liew bring his information  
16 to my office and sit in front of me, face to face. And in  
17 front of computer, we do it.

18 **Q.** And with regard to the information that Mr. Liew provided  
19 to you --

20 **A.** Uh-huh.

21 **Q.** -- did you do any investigation to determine whether the  
22 transactions that were reported on the balance sheets and the  
23 profit and loss statement really happened?

24 **A.** I did not do the investigation because I did not provide  
25 the audit service. And I provided tax preparation service, and

1 I -- based on the financial statement provided by the client.  
2 And we asked -- and we also in front of me and Mr. Liew, and we  
3 base on the financial statement, the balance sheet, and loss  
4 statement, and we transfer the information from the financial  
5 statement to the tax return.

6 **Q.** Great.

7 **MR. HEMANN:** Your Honor, may I approach the witness  
8 with Exhibit 656? And the parties have stipulated that this  
9 document was produced by Mr. Guan.

10 **THE COURT:** Why don't we, before we do that, maybe  
11 we'll take our break five minutes early, a couple minutes  
12 early, so we can do that fresh.

13 All right, ladies and gentlemen, we're going to take our  
14 first break in the morning. Remember the Court's usual  
15 admonition. Keep an open mind, don't discuss the case, don't  
16 obtain any outside information. And we'll see you in 15  
17 minutes.

18 (Proceedings were heard out of the presence of the jury:)

19 **THE COURT:** Okay. 15 minutes.

20 **MR. HEMANN:** Thank you, Your Honor.

21 (Recess taken at 9:39 a.m.)

22 (Proceedings resumed at 9:59 a.m.)

23 (Proceedings were heard out of the presence of the jury:)

24 **THE COURT:** All right. We're back on the record.

25 Mr. Froelich, did you have a matter you want to bring up

1 before we begin?

2 **MR. FROELICH:** Yes, Your Honor, I have a motion for  
3 mistrial. The last two days particularly, maybe the last three  
4 days, the Government has been hammering on Mr. Liew and  
5 everybody's concerned about the civil case; and that, you know,  
6 Mr. Liew's telling people, you know, not to say anything and  
7 there's concern about it.

8 And I was trying to elicit, the Government's interviewed  
9 twice, that my client wasn't concerned about it, and he had  
10 told them that he had gotten permission from DuPont and told  
11 Chang, and that he wasn't concerned about the case.

12 And I think that goes to state of mind, and I also think  
13 it rebuts this everybody else running around worried about the  
14 case. My client isn't.

15 **THE COURT:** Well, the motion is denied. Statements of  
16 a party opponent are not hearsay and they come in. Statements  
17 of a party opponent which is brought in by the party opponent  
18 himself are hearsay and no exception applies.

19 So the remedy is he has a right, if he wishes, to testify,  
20 and he can testify and talk about all he wants his state of  
21 mind; but having it come in through a witness who's going to  
22 talk about an out-of-court statement when there's no  
23 opportunity to cross-examine the speaker of the statement is  
24 classic hearsay and no exception applies.

25 So the motion is denied. You have your issue for appeal.



1 Let's bring the jury in.

2 (Proceedings were heard in the presence of the jury:)

3 **THE COURT:** All right, please be seated.

4 You may continue with your direct examination.

5 **MR. HEMANN:** And, Your Honor, may I approach the  
6 witness with Exhibit 656?

7 **THE COURT:** Yes.

8 **MR. HEMANN:** And the parties have stipulated that this  
9 was produced by Mr. Guan.

10 **THE COURT:** Is that correct?

11 **MR. GASNER:** Yes, Your Honor.

12 **BY MR. HEMANN:**

13 **Q.** Mr. Guan, I'm handing you what has been marked as  
14 Exhibit 656. Do you recognize that?

15 **A.** Yes.

16 **Q.** What is it?

17 **A.** This is the profit and loss for the year of 2006 tax  
18 return.

19 **Q.** And for what company?

20 **A.** Performance Group USA, Inc.

21 **Q.** And whose company was Performance Group USA, Inc.?

22 **A.** Mr. Liew.

23 **MR. HEMANN:** Your Honor, the United States moves 656  
24 into evidence.

25 **MR. GASNER:** No objection.

1           **THE COURT:** Admitted.

2           (Trial Exhibit 656 received in evidence)

3           **BY MR. HEMANN:**

4           **Q.** That document is from your records, Mr. Guan?

5           **A.** Yes.

6           **Q.** How did you come to obtain that document?

7           **A.** This document was provided by Mr. Liew to give it to me  
8 when -- during the tax preparation time.

9           **Q.** And was it provided to you on the day that you assisted  
10 Mr. Liew in preparing his taxes for the year 2006 as you  
11 described earlier?

12           **A.** Yes. It's -- actually on the left-hand side is  
13 December 5th, '07, was the date.

14           **MR. HEMANN:** Your Honor, may we publish this?

15           **THE COURT:** Yes.

16           **MR. HEMANN:** And if you can blow up on the top  
17 left-hand side.

18           **Q.** Are you looking, Mr. Guan?

19           **A.** Yeah.

20           **Q.** Thank you.

21           **A.** Yeah, that was the date that I get the information.

22           **Q.** Okay. And if you could just blow up sort of the first --  
23 yeah, the whole block there, Ms. Mahoney, please. Thank you.

24           This is the profit and loss statement you mentioned; is  
25 that correct?

1 A. That's correct.

2 Q. And could you just explain to the jury the numbers at the  
3 very top under "Income"?

4 A. Okay. Under "Income," there's two portions of it, the  
5 first portion is construction income, 1,852,799.21, and the  
6 second one is the interest income.

7 Q. And, Mr. Guan, you said "construction." Did you mean  
8 consulting?

9 A. Oh, I'm so sorry. I meant consulting.

10 Q. That's okay.

11 A. It is consulting income. I misread.

12 Q. And that's the \$1,852,799.21?

13 A. That is correct.

14 Q. And is that the number, Mr. Guan, that you ended up using  
15 as the top line receipts number on Mr. -- on the Performance  
16 Group tax return for 2006?

17 A. That's correct.

18 Q. Mr. Guan, this is a document that is approximately 52  
19 pages long. Were all of the pages in this document -- you can  
20 leave it up, Ms. Mahoney, sorry -- were all the pages of this  
21 document provided to you by Mr. Liew?

22 A. (Witness examines document.) Yes, it is.

23 Q. Accountants can turn pages faster than anybody in any  
24 other profession.

25 (Laughter)

1 Q. And let me ask you one more question about the first page,  
2 the profit and loss statement. There's another very large  
3 number, \$1,291,335.14. Do you see that?

4 A. Yes.

5 Q. And what does that number correspond to?

6 A. It's called consulting costs of goods sold, C-O-G-S,  
7 stands for cost of goods solds.

8 Q. And what is that, what is cost of goods sold just very  
9 generally?

10 A. Okay. Cost of goods sold stands for when you produce the  
11 consulting revenue, that is the portion of the money that it  
12 will cost to produce that consulting.

13 Q. And what is the effect of cost of goods sold on revenue  
14 for the purposes of preparing an income tax return?

15 A. It would be subtracted from the consulting income minus  
16 the cost of goods sold. It would become the gross profit.

17 MR. HEMANN: Your Honor, may I approach the witness  
18 with Exhibit 637?

19 THE COURT: Yes.

20 MR. HEMANN: And I'd like to inform the Court that the  
21 parties have stipulated to the admissibility of this document  
22 as a public record.

23 THE COURT: Is that correct?

24 MR. GASNER: Yes, Your Honor.

25 THE COURT: All right. So stipulated, and it's

1 admitted.

2 (Trial Exhibit 637 received in evidence)

3 **BY MR. HEMANN:**

4 **Q.** I'm handing you, Mr. Guan, what's been marked as  
5 Exhibit 637. Do you recognize that document?

6 **A.** Yes, I do.

7 **Q.** And what is it?

8 **A.** This is an extra tax return that was filed at December 6th  
9 of 2007 for year of 2006.

10 **MR. HEMANN:** And, Your Honor, did the Court say that  
11 the document is admitted?

12 **THE COURT:** Yes, without objection.

13 **MR. HEMANN:** Thank you.

14 And if you could put this up, Ms. Mahoney.

15 **Q.** And I'd like to ask you just a few initial questions about  
16 this, Mr. Guan.

17 Up at the top there is a name on the tax return. Do you  
18 see that, a company name?

19 **A.** Yes.

20 **Q.** And that was -- that's Performance Group USA, Inc.; is  
21 that correct?

22 **A.** That's correct.

23 **Q.** And that's Mr. Liew's company?

24 **A.** That is correct.

25 **Q.** Okay. Down at the bottom -- if you could blow up the

1 signature blocks, that large block at the bottom. Thank you,  
2 Ms. Mahoney -- there's some signatures. Do you see those?

3 **A.** Yes, I do.

4 **Q.** Do you see a signature for Walter Liew?

5 **A.** Yes, above my signature.

6 **Q.** Okay. And there's -- signature is next to your name at  
7 Phillip Guan there?

8 **A.** That's correct.

9 **Q.** And did Mr. Liew sign the tax return in your presence?

10 **A.** For the year of 2007, yes. For this one, yes.

11 **Q.** And did he sign it -- at what point in time did he sign  
12 it?

13 **A.** When I finally finished the tax return, we both agreed  
14 this is the tax return we are going to file it, and I signed  
15 first and he signed it.

16 **Q.** Ms. Mahoney, if you could blow up the numbers -- actually,  
17 maybe the first block under "Income." Not just the numbers.  
18 The whole block. Good. To the left, great, all the way  
19 through the numbers. Could you blow it up, sorry, using the  
20 one that makes it a little bit larger than that? Thank you.

21 As to the income numbers, Mr. Guan, I would like you to  
22 orient the jury a little bit as to some of the entries.

23 Number one is what?

24 **A.** Number 1, 1 little A, is gross receipts or sales, which is  
25 corresponding from the profit and loss, which we just get it

1 from the consulting income. It's exactly the same.

2 **Q.** So you're looking at the profit and loss statement that we  
3 looked at a few minutes ago, Exhibit 656 you have in front of  
4 you?

5 **A.** Yes.

6 **Q.** And the number at the top of that provided by Mr. Liew, is  
7 that the same number that you used for receipts in line one of  
8 the tax return?

9 **A.** That's correct.

10 **Q.** And then, also, we talked about costs of goods sold, and  
11 you were provided a number by Mr. Liew. What was that number  
12 that you were provided?

13 **A.** 1,291,335.

14 **Q.** And that's the number that you used in the preparation of  
15 the tax return; correct?

16 **A.** That is correct.

17 **MR. HEMANN:** Your Honor, we have a non -- we have a  
18 demonstrative chart that we shared with the defense that we'll  
19 not be seeking to admit, but we're going to use to illustrate  
20 testimony as we go.

21 **THE COURT:** Very well.

22 **MR. HEMANN:** Thank you.

23 **Q.** There's two pieces of information, the sort of top and  
24 bottom-line numbers that I want to provide with this chart,  
25 Mr. Guan. The gross receipts number, can you read that to me,

1 please, for the 2006 return?

2 **A.** 1,852,799.

3 **Q.** So on this return, Mr. Guan, after you subtract costs of  
4 goods sold, what are you left with?

5 **A.** Subtract cost of goods sold and add the interest income on  
6 line 5, as you can see, which is also additional income,  
7 interest income; and then we go to total income of 570,250.

8 **Q.** And that's on line 11?

9 **A.** Yeah, that's line 11.

10 **Q.** So once, Mr. Guan, you get to total income, what's the  
11 next step in the process?

12 **A.** The next step in the process will be minus all the  
13 expenses for the company besides the cost of goods sold.

14 **Q.** And those -- who provided those expenses to you?

15 **A.** From Mr. Liew's profit and loss statement.

16 **Q.** Ms. Mahoney, could you expand the section below on  
17 deductions and expenses or deductions -- yes, deductions?

18 And when you said you subtract the deductions, is this the  
19 section of the return that you're talking about?

20 **A.** That is correct.

21 **Q.** The top line, number 12, says, "Compensation of Officers."  
22 Do you see that?

23 **A.** Yes.

24 **Q.** On this -- for this tax year, who were the officers of  
25 Performance Group?



1 A. They are Mr. and Mrs. Walter Liew. Walter Liew.

2 Q. And from what section of the return are you obtaining that  
3 information?

4 A. In page 2, Schedule E, compensation of officers.

5 Q. So this line would refer to the payments that were made to  
6 Mr. and Mrs. Liew as officers of the company in 2006?

7 A. That's correct.

8 Q. And as you go down further, there's a couple of other  
9 numbers. There's the 69,680-dollar number. What's that for?

10 A. That's rent. It's line 16. Line 16 is rent, which the  
11 company paid the rent.

12 Q. And both compensation of officers and rent, are they  
13 deductible from total income?

14 A. That's correct.

15 Q. And then there's another larger number down below on line  
16 26 for other deductions. Do you see that?

17 A. Yes, I do.

18 Q. Can you explain to the jury what "other deductions" means?

19 A. There's a Statement 1. I think you need to look at  
20 Statement Number 1 attached to the tax return.

21 Q. Okay. We'll do that.

22 A. Okay.

23 Q. Ms. Mahoney, could you please turn to page 7 of this  
24 document?

25 And while she's doing that, Mr. Guan --

1 A. Yes.

2 Q. -- could you tell the jury what the -- what Statement 1  
3 is?

4 A. Statement 1 is the detail of the other deductions, which  
5 is line -- the total 378,490. So it's the detail that lists  
6 how each and every item, how it comes out with this total.

7 Q. So when we were looking at the first page of the return at  
8 line 26, was that number \$378,490?

9 A. That is correct.

10 Q. And the way you get that number is by adding up the  
11 various deductions that are listed on Statement 1?

12 A. That is correct. And that number -- those numbers come  
13 from the profit and loss statements.

14 Q. Okay. So the numbers that are listed here are reflected  
15 in the profit and loss statement that Mr. Liew provided to you?

16 A. That's correct.

17 Q. There's one particularly large number, \$264,980. Do you  
18 see that?

19 A. Yes, I do.

20 Q. And what is that for?

21 A. That's for subcontractor, subcontractor of his company,  
22 which means this company hire independent subcontractor which  
23 normally pays 1099.

24 Q. Okay. Could you go back to the first page, please,  
25 Ms. Mahoney?

1 Now, there's -- you mentioned that there's subcontractors,  
2 there's a line for subcontractors. Is there a line, an expense  
3 line, for salaries and wages of employees?

4 **A.** That is correct.

5 **Q.** And what line is that?

6 If you can blow up that deduction box.

7 **A.** Line 12 is for the compensation for employee -- I mean,  
8 for officer. And then line 12 is for compensation for officer.  
9 And line 26 is the company expenses, where inside of it there  
10 is the subcontractor where the company pay to third party.

11 **Q.** And is there a line for salaries and wages of employees?

12 **A.** Yes.

13 **Q.** What line is that?

14 **A.** For the employee -- I mean, in this tax year -- in this  
15 tax year there is no -- there is a line 13.

16 **Q.** And is there any salaries and wages for 2006 that were  
17 paid?

18 **A.** No.

19 **Q.** So after you calculate the various appropriate deductions,  
20 what number do you end up with?

21 **A.** For the year of 2006, the net income for taxable income is  
22 in line 26 -- line -- I'm so sorry, line 28.

23 **Q.** Okay. And that is --

24 **A.** July 28, which is \$68,518.

25 **Q.** Okay. And then that same number appears immediately below

1 in line 29C. Do you see that?

2 **A.** That is correct.

3 **Q.** And what is that line for?

4 **A.** That is the net operating loss deduction carryover from  
5 2005.

6 **Q.** So after you calculate on a corporate tax return the  
7 taxable income, what's the next step?

8 **A.** In the year 2005, this company have -- I cannot remember  
9 exactly -- it actually is --

10 **Q.** Can you go down to the next large box, Ms. Mahoney, under  
11 "tax and payments"?

12 And you can feel free to look at the original that's in  
13 front of you, Mr. Guan.

14 **A.** Okay.

15 **Q.** So the next step after calculating taxable income is what?

16 **A.** The tax -- so in line 30, because there is a net income --  
17 there's a net income 68,518 for year 2006; however, this  
18 company in the year 2005 have an operating loss, and they  
19 offset each other. And, therefore, for the year 2006 will  
20 be -- the taxable income in line 30 will be zero.

21 **Q.** Okay. There's a -- if you could go back to the first  
22 page -- or the whole page. Sorry.

23 There's a stamp in red on the left-hand side of the page.  
24 Do you see that? Do you see that, Mr. Guan?

25 **A.** Yes, I do.

1 Q. What does that stamp represent?

2 A. That is the stamp from IRS. Is it December? December 10?  
3 I cannot see very clear. Is it December 10? It looks like  
4 December 10 of 2007.

5 Q. And is that the stamp showing that the IRS received the  
6 tax return?

7 A. That's correct.

8 Q. So that was for the first year that you worked for  
9 Mr. Liew and his company Performance Group; is that correct?

10 A. Yes.

11 Q. Did you work for him again as a tax preparer for the tax  
12 year 2007?

13 A. Yes, I do.

14 MR. HEMANN: Your Honor, may I approach the witness  
15 with Exhibit 658? And 658, it's been stipulated that Mr. Guan  
16 produced this document.

17 THE COURT: All right.

18 MR. HEMANN: And with Exhibit 638, and for this  
19 document it has been stipulated that it is admissible.

20 THE COURT: All right. Is that correct, Mr. --

21 MR. GASNER: Yes, Your Honor.

22 THE COURT: -- Gasner?

23 Thank you.

24 THE CLERK: So 638 is admitted?

25 MR. HEMANN: And may 638 be admitted based on the

1 stipulation, Your Honor?

2 **THE COURT:** Yes.

3 (Trial Exhibit 638 received in evidence)

4 **THE CLERK:** Thank you.

5 **BY MR. HEMANN:**

6 **Q.** First, if you could go to 658 --

7 **A.** Okay.

8 **Q.** -- Mr. Guan, the first one, which is not yet in evidence.

9 Do you recognize this document, Mr. Guan?

10 **A.** Yes, I do.

11 **Q.** What is it?

12 **A.** This is a profit and loss statement for the year of 2007.

13 **Q.** For what company?

14 **A.** For Performance Group USA, Inc.

15 **Q.** And did you receive this document in your job as a tax  
16 preparer for Performance Group?

17 **A.** Yes, I do.

18 **Q.** And from whom did you receive it?

19 **A.** From Mr. Liew.

20 **MR. HEMANN:** Your Honor, the United States moves 658  
21 into evidence.

22 **MR. GASNER:** No objection.

23 **THE COURT:** Admitted.

24 (Trial Exhibit 658 received in evidence)

25 **MR. HEMANN:** If you could put the first page of this

1 up, Ms. Mahoney.

2 Q. Is there a signature on this document, Mr. Guan?

3 A. Yes, I do -- yes, there is.

4 Q. And whose signature is that?

5 A. It's Mr. Liew's signature.

6 Q. And do you know when Mr. Liew signed this document?

7 A. Yes.

8 Q. When did he sign it?

9 A. He signed it in front of me.

10 Q. In front of you?

11 A. Yes.

12 Q. During the -- did you meet with him in 2008 to prepare the  
13 2007 return?

14 A. Yeah, on the date of June 9, 2008.

15 Q. And is that the date that is next to his signature?

16 A. Yes.

17 Q. Does this document -- was this document provided to you by  
18 Mr. Liew?

19 A. Yes.

20 Q. And did you play any role in the preparation of this  
21 document before Mr. Liew brought it to your office?

22 A. No.

23 Q. We talked about a few numbers earlier with regard to  
24 consulting income and cost of goods sold. Are these numbers --  
25 are those entries on this document as well?

1 A. Yeah.

2 Q. If you could, please, turn to Exhibit 638, the one to your  
3 right.

4 A. Uh-huh.

5 Q. Do you know what that is?

6 A. 638. That's the tax return for -- that's the tax return  
7 for year of 2007.

8 Q. And did you assist Mr. Liew in preparing this tax return?

9 A. Yes, I do.

10 Q. Ms. Mahoney, if you could put this up on the screen,  
11 please, 638, page 1.

12 What company was this prepared for, Mr. Guan?

13 A. Performance Group USA, Inc.

14 Q. And there's signatures at the bottom. Whose signatures  
15 are those?

16 A. Both Mr. Liew's signature and my signatures.

17 Q. Were they signed on June the 9th, 2008?

18 A. Yes.

19 Q. What was the income, the gross income, that was reported  
20 on this tax return?

21 A. In line 29 -- 28 --

22 Q. I'm sorry, the gross receipts. I'm sorry, gross receipts.

23 A. Oh, gross receipts will be in line 1A, first reported in  
24 line 1A, and then same line 1C is 449,911.

25 Q. 449,911?



1 A. That's correct.

2 Q. Did you, Mr. Guan, go through the same process of making  
3 adjustments to gross receipts by reducing it by cost of goods  
4 sold and then by deductions with this return as you did with  
5 the 2006 return that you just described?

6 A. Yes.

7 Q. And what were those -- what information were those  
8 adjustments based on?

9 A. Could you rephrase the question one more time?

10 Q. Sure. How did you know what -- how did you know what  
11 numbers to put in the tax return?

12 A. Okay. Well, line number 1 is the gross revenue, is the  
13 consulting income from the profit and loss that exactly comes  
14 from the profit and loss statements.

15 Q. Okay.

16 A. And then the cost of goods sold, we make one adjustment  
17 from cost of goods sold in there, because in the original  
18 document there's a cost of goods sold equipment and 48,043 --

19 Q. Mr. Guan, let me stop you for one second.

20 Ms. Mahoney, could you please put up 658, page 1?

21 And you were explaining there was an adjustment made on  
22 the profit and loss statement.

23 A. That is correct.

24 Q. And what was that adjustment?

25 A. It just -- as you can see in the middle of the screen --

1 Q. Yes.

2 A. -- the cost of goods sold -- the cost of goods sold a  
3 little bit below. Just a little bit below. Yeah. Right  
4 there.

5 And there's a cost of goods sold, consulting cost of goods  
6 sold down below, \$68,873.88; and then there is another cost of  
7 goods sold equipment above, which is \$45,043.60. So I just add  
8 those two together as a total cost of goods sold.

9 Q. Okay. And that became the total number that was put into  
10 the tax return?

11 A. That is correct.

12 Q. Could you go back to the tax return, please, Ms. Mahoney,  
13 638, page 1?

14 The numbers in the tax return, Mr. Guan, under  
15 "deductions," and you don't have to go through them  
16 individually, but where did those numbers come from?

17 A. The number come from the profit and loss statements.

18 Q. And did you reduce, just as you had done for the 2006  
19 return, the total income by the total amount of deductions?

20 A. That's correct.

21 Q. And what was the taxable income for the year 2007?

22 A. Year 2007 the total income is in line 29 is \$663.

23 Q. And based on that 663-dollar total income, what was the  
24 tax paid for 2000 -- for the tax year 2007?

25 A. Because they still have a carryover from 2005 and 2006,

1 had not used all of them, so they are entitled by -- as tax  
2 law, to offset the carryover. So in 29, letter A, \$663 will be  
3 carried over. So ends up will be zero taxable income for the  
4 year of 2007.

5 **Q.** I want to stay with Performance Group. Did you prepare --  
6 did you do tax preparation services for the Performance Group  
7 company for the year 2008 as well?

8 **A.** Yes.

9 **MR. HEMANN:** Your Honor, may I approach the witness  
10 with Exhibits 664 and 639?

11 **THE COURT:** Yes.

12 (Pause in proceedings.)

13 **MR. HEMANN:** Your Honor, I believe I have the wrong  
14 exhibit in my box; and, so, what I'm going to do is I'm going  
15 to skip for a moment.

16 I'm just going to approach with 639 at this point,  
17 Your Honor.

18 **THE COURT:** All right.

19 **MR. HEMANN:** And the parties have agreed by  
20 stipulation that Exhibit 639 is admissible as a public record.

21 **THE COURT:** Is that correct, Mr. Gasner?

22 **MR. GASNER:** It is, Your Honor.

23 **THE COURT:** All right.

24 **MR. HEMANN:** May it be admitted?

25 **THE COURT:** Yes, it may.

1 (Trial Exhibit 639 received in evidence)

2 **MR. HEMANN:** Thank you.

3 And the issue has been rectified, Your Honor, and I'd also  
4 now like to approach with Exhibit 664.

5 **THE COURT:** Very well.

6 **MR. HEMANN:** Thank you.

7 **Q.** Handing you Exhibit 664, and you have in front of you  
8 Exhibit 639.

9 What is Exhibit 664, Mr. Guan?

10 **A.** 664 is the profit and loss statement of Performance Group  
11 USA, Inc., for the year 2008.

12 **Q.** And is this a document that you kept in your records and  
13 produced to the Government?

14 **A.** That is correct.

15 **Q.** Is it signed by somebody?

16 **A.** It's signed by Mr. Liew.

17 **Q.** On what date?

18 **A.** The year of February 2nd of 2009.

19 **MR. HEMANN:** Your Honor, the United States moves  
20 Exhibit 664 into evidence.

21 **MR. GASNER:** No objection.

22 **THE COURT:** Admitted.

23 (Trial Exhibit 664 received in evidence)

24 **MR. HEMANN:** If you could put this up on the screen,  
25 Ms. Mahoney. And if you could rotate it and highlight the

1 signature at the bottom.

2 **Q.** We talked about a couple of profit and loss statements  
3 that you were provided, Mr. Guan. Were you provided with this  
4 one for Performance Group in the same way as the earlier ones?

5 **A.** Yes.

6 **Q.** And did you do any work prior to Mr. Liew coming to your  
7 office with this profit and loss statement to -- did you do any  
8 work to prepare this before Mr. Liew brought it to your office?

9 **A.** No.

10 **Q.** The tax return for Performance Group for the year 2008 is  
11 Exhibit 639. Do you see that?

12 **A.** Yes, I do. Yes, I do.

13 **Q.** And could you put 639, page 1, on the screen, please,  
14 Ms. Mahoney?

15 Is it -- you see Performance Group up at the top; do you  
16 not?

17 **A.** Yes, I do.

18 **Q.** And below that, just below that, there is a box that says,  
19 "Final Return," that is not checked. Do you see that?

20 **A.** Yes.

21 **Q.** Mr. Liew met with you on February 2nd, 2009?

22 **A.** Yes.

23 **Q.** At that time, Mr. Guan, did he say anything to you about a  
24 bankruptcy that had been filed for Performance Group?

25 **A.** Not that I remember.

1 Q. Down at the bottom there are two signatures. Could you  
2 please identify those signatures?

3 A. Yes.

4 Q. Whose are they?

5 A. They are Mr. Liew and my signatures.

6 Q. The numbers that are reported for income, deductions, and  
7 tax, were those prepared, those numbers calculated or  
8 determined in the same way as you determined the numbers for  
9 2006 and 2007?

10 A. Yes.

11 Q. Could you please tell me what the gross receipts number  
12 for 2008 is?

13 A. Okay. The gross receipt is 368,581.

14 Q. Oops, I made a mistake already.

15 And I wrote that in the wrong -- I wrote that in the  
16 USA Performance box rather than the Performance Group box.

17 Could you tell me, Mr. Guan, what the total tax for the  
18 year 2008 was?

19 A. The 2008 tax year there's a loss of 45 -- it's a negative  
20 45904 in the line of 28.

21 Q. And, Mr. Guan, let me stop you there. Is the reason that  
22 there is a loss there because the amount of deductions exceeded  
23 the total income?

24 A. That is correct.

25 Q. So based on a loss of \$45,904, what was the total tax for

1 that year?

2 **A.** It's zero.

3 **Q.** At the time that Mr. Liew came to see you on February the  
4 second, 2009, about Performance Group USA, did he tell you  
5 about another company that he would need some tax return  
6 preparation help for?

7 **A.** 2000 -- in the time of February of 2009... Yes.

8 **Q.** Do you know what the name of the other company was?

9 **A.** The two names are very -- let me....

10 **Q.** If you don't remember exactly, that's okay.

11 **A.** I cannot remember exactly, yeah.

12 **Q.** Okay.

13 **MR. HEMANN:** Your Honor, may I approach the witness  
14 with Exhibits 668 and 641?

15 **THE COURT:** Yes.

16 **MR. HEMANN:** And I proffer to the Court that  
17 Exhibit 668, it's been stipulated that that document came from  
18 Mr. Guan; and as to 641, the parties have stipulated that it is  
19 admissible as a public record.

20 **THE COURT:** Is that correct?

21 **MR. GASNER:** That's true, Your Honor.

22 **THE COURT:** All right. Are you offering it?

23 **MR. HEMANN:** Yes, Your Honor. Thank you.

24 **THE COURT:** It's admitted.

25 (Trial Exhibit 641 received in evidence)

1 **BY MR. HEMANN:**

2 **Q.** You see the Exhibit Numbers at the bottom.

3 **A.** Okay, thank you.

4 **Q.** First, Mr. Guan, as to Exhibit 668, what is that?

5 **A.** (Witness examines document.) I cannot identify which is  
6 which exhibit numbers.

7 **Q.** Oh, I'm sorry. At the bottom or you can look on the back,  
8 there should be a blue sticker --

9 **A.** Oh, okay.

10 **Q.** -- on the back that says, "668." Do you see that?

11 **A.** Oh, yeah, I see it now.

12 **Q.** Okay. What is that document?

13 **A.** That is a profit and loss statement from the year 2008  
14 for --

15 **Q.** For what company?

16 **A.** For the company called USA Performance Technology, Inc.

17 **Q.** Did this document come from your records?

18 **A.** Yes.

19 **Q.** Is there a signature on the document?

20 **A.** Yes.

21 **Q.** Whose signature is it?

22 **A.** Mr. Liew's signature.

23 **Q.** And a date?

24 **A.** February 27, 2009.

25 **MR. HEMANN:** Your Honor, the United States moves



1 Exhibit 668 into evidence.

2 **MR. GASNER:** No objection.

3 **THE COURT:** Admitted.

4 (Trial Exhibit 668 received in evidence)

5 **BY MR. HEMANN:**

6 **Q.** There's the new company -- the company name,  
7 USA Performance Technology, was that the new company that  
8 Mr. Liew talked to you about?

9 **A.** Yes.

10 **Q.** Where did you get this document, the profit and loss  
11 statement for USA Performance Technology?

12 **A.** I received it from Mr. Liew.

13 **Q.** And did he sign the first page of this document in your  
14 presence?

15 **A.** Yes.

16 **Q.** There's a little note right up above the signature that  
17 says, "This profit and loss used for 2008 tax returns." Whose  
18 handwriting is that?

19 **A.** That is my handwriting.

20 **Q.** Did you prepare a tax return for USA Performance  
21 Technology based on this profit and loss statement and the  
22 attached balance sheet?

23 **A.** Yes, I do.

24 **Q.** Did Mr. Liew tell you anything about the formation or the  
25 fact of the new company?

1 A. He just let me know there's a new company formed, and also  
2 provide me the profit and loss statements.

3 Q. Okay.

4 A. Then I prepared the tax return based on the informations.

5 Q. And this company, USAPTI, let's look at the tax return at  
6 page 600 -- Exhibit 641.

7 A. (Witness examines document.)

8 Q. Is that the tax return that you prepared, Mr. Guan?

9 A. Yes, I do.

10 Q. And if you could just highlight the box and the line under  
11 it at the top, Ms. Mahoney. There we go.

12 It says up above, just up above this, it has the company  
13 name. What's the company name, Mr. Guan?

14 A. USA Performance Technology, Inc.

15 Q. And underneath it there's a box checked for initial  
16 return. Do you see that?

17 A. That's correct.

18 Q. What were the gross -- well, let me ask you sort of a  
19 foundational question first.

20 Did you prepare this tax return in the same way that you  
21 prepared the previous tax returns that we've discussed?

22 A. Yes.

23 Q. And did you use, in preparing this tax return, the profit  
24 and loss statement and balance sheet that Mr. Liew provided to  
25 you?

1 A. Yes.

2 Q. Mr. Guan, what was the -- what were the gross receipts or  
3 sales in line 1 for USA Performance Technology for the year  
4 2008?

5 A. 500,000.

6 Q. 500,000?

7 A. Yes.

8 Q. And where did that number 500,000 come from?

9 A. Profit and loss statement.

10 Q. Ms. Mahoney, could you put up, briefly, Exhibit 668,  
11 page 1?

12 Do you see that \$500,000 on the first page of the profit  
13 and loss statement?

14 A. Yes, I do.

15 Q. And where is it?

16 A. That is the consulting income.

17 Q. Do you also see a line here for compensation of officers?

18 A. Compensation of officers... Yeah. In the middle of the  
19 thing, in the middle of the page there's payroll expenses.

20 Q. Yes.

21 A. \$91,028.

22 Q. Okay.

23 A. And then as you can see, I -- there's my handwriting  
24 there. If you can make it a little bigger.

25 Q. Yes.

1 A. Yeah.

2 Q. Can you expand that, please, Ms. Mahoney, the handwriting,  
3 blow it up a bit.

4 Okay.

5 A. Okay. In the total in here that includes the gross  
6 payroll as well as payroll tax. So I separate because in the  
7 tax return there's a payroll and payroll tax. They're two  
8 different lines. So that's why I separate it. So the total  
9 payroll would be 84,000, the payroll tax is \$7,028.

10 Q. And, Ms. Mahoney, if you could go to Exhibit 641 again,  
11 page 1.

12 Is there a line on this that reflects that 84,000-dollar  
13 number?

14 A. Yes. It's in line 12 of the tax return.

15 Q. And what is that -- what is line 12 for?

16 A. Line 12 is the compensation for the officer for Mr. and  
17 Mrs. Liew.

18 Q. Okay. And in that year, who were the officers of the  
19 company? Was it Mr. and Mrs. Liew?

20 A. Let me look at it. Yes, it's on page 2, Schedule E, yes.

21 MR. HEMANN: Your Honor, can I reapproach the witness  
22 with Exhibit 639, which is already in evidence?

23 THE COURT: Yes.

24 MR. HEMANN: Thank you.

25 Q. Mr. Guan, I've handed you, again, the 2008 tax return for

1 Performance Group that was also prepared in February of 2009.

2 Do you remember looking at that a moment ago?

3 **A.** Yes, I do.

4 **Q.** And, Ms. Mahoney, can you please put up Exhibit 639,  
5 page 1?

6 Was there any officer compensation paid by Performance  
7 Group for the tax year 2008?

8 **A.** There's no.

9 **Q.** Did Mr. Liew offer you any explanation or information  
10 regarding why there was no compensation of officers for  
11 Performance Group but there was compensation of officers for  
12 USAPTI?

13 **A.** The tax return, as you saw in the other year, the loss is  
14 45,904. So the company for this year has lost money. So there  
15 was not -- and, also, when I received the profit and loss  
16 statement, there is no payroll for this company for 2008.

17 **Q.** But there was income and a payroll for USAPTI in 2008; is  
18 that correct?

19 **A.** That is correct.

20 **Q.** Okay. Ms. Mahoney, could you put 641 back up on the  
21 screen? Thank you.

22 On Exhibit 641, the 2008 return for USAPTI, what was  
23 the -- ultimately what was the taxable income and what was the  
24 tax paid?

25 **A.** For 2008, USAPTI?

1 Q. A little lower, Ms. Mahoney.

2 Yes.

3 A. The year of 2008, USAPTI in line 28 is negative \$259.

4 Q. And what was the taxable -- the total tax?

5 A. The tax would be zero because of the negative.

6 Q. Now, did your role change slightly for the services that  
7 you provided to Mr. Liew and his companies after this return?

8 A. Yes. We begin to provide a bookkeeping service for the  
9 year of 2009.

10 Q. Okay. Could you describe for the jury what bookkeeping  
11 services entail for your company?

12 A. The bookkeeping service means the client. In this  
13 situation Mr. Liew provides the bank statement, canceled check,  
14 as well as the support document, to produce profit and loss,  
15 and as well as the balance sheet.

16 Q. Can you break that down a little bit? Go through again  
17 the documents that Mr. Liew provided to you.

18 A. He will provide the bank statement, as well as the  
19 canceled check. As there's a binder that Mr. Liew provides to  
20 me and, kind of like, helps me to understand some of the checks  
21 what it goes to. So then I get those information from  
22 Mr. Liew, and then my staff help me to input it and then I  
23 review it with Mr. Liew together.

24 Q. And when you say the staff -- did you actually participate  
25 in inputting the information yourself or was it just your

1 staff?

2 **A.** The input will be my staff to input it.

3 **Q.** How long before you prepared the tax return -- did you  
4 also continue as a tax preparer?

5 **A.** Yes, I do.

6 **Q.** And how long would it take to input the information that  
7 was provided by Mr. Liew?

8 **A.** That depends on I do not -- I do not keep track myself,  
9 because it's done by my staff to the input portion of it. So  
10 my staff input it on a monthly basis, and then I review it with  
11 Mr. Liew. At the time that I do the bookkeeping, as well as  
12 the tax return, normally longer than just doing tax return,  
13 because we have -- we go through the reviewing of the  
14 bookkeeping together first.

15 **Q.** So it sounds like the information was provided by Mr. Liew  
16 on a monthly basis, the bank statements and the canceled  
17 checks?

18 **A.** I cannot remember is -- there's two kind of clients. One  
19 kind of client provides us a monthly basis and one kind of  
20 client give me like the whole year, okay, together. And I  
21 cannot remember -- I cannot recall whether or not Mr. Liew give  
22 me one time or on a monthly basis.

23 **Q.** How long would it take you, when Mr. Liew would then come  
24 in, to review the bookkeeping entries that your staff had  
25 prepared with him?

1   **A.**   It normally takes about a day for -- when I review the  
2   book, for about half a day, okay, and then we do the tax  
3   preparation for another half a day.  Normally, but not like  
4   exactly, so depends on the -- on the situation.

5   **Q.**   Do you remember with Mr. Liew how long it took to go  
6   through the bookkeeping records?

7   **A.**   I would say approximately half a day.

8   **Q.**   And then would you prepare the tax return on that same  
9   day?

10  **A.**   Normally I do.

11  **Q.**   And did you do so with Mr. Liew?

12  **A.**   In this year, yes.

13  **Q.**   And that year that you're referring to is 2000 --

14  **A.**   '9.

15  **Q.**   -- '9?

16  **A.**   Yeah.

17           **MR. HEMANN:**  Your Honor, may I approach the witness  
18   with Exhibit 670 and 642?

19           **THE COURT:**  Yes.

20           **MR. HEMANN:**  And, Your Honor, I would offer that 670  
21   the parties have agreed was provided by Mr. Guan, and 642 the  
22   parties have stipulated to its admissibility as a public  
23   record.

24           **THE COURT:**  Is that correct?

25           **MR. GASNER:**  That's true, Your Honor.



1           **THE COURT:** All right. So are you offering both of  
2 those?

3           **MR. HEMANN:** I will offer the -- and may I approach?

4           **THE COURT:** Yes.

5           **MR. HEMANN:** Thank you.

6           I will offer the -- I'm sorry, I will offer 670 after I  
7 lay a bit of foundation with Mr. Guan.

8           **THE COURT:** Okay.

9           **MR. HEMANN:** And I do offer 642 at this time.

10          **MR. GASNER:** No objection.

11          **THE COURT:** It's admitted.

12          (Trial Exhibit 642 received in evidence)

13          **BY MR. HEMANN:**

14          **Q.** If you can look at 670 first, Mr. Guan, what is that?

15          **A.** That is the profit and loss statement, as well as the  
16 balance sheet statement for the year 2009 for the USAPTI.

17          **Q.** Okay. And for USAPTI, this document that we're looking  
18 at, who actually generated the form that we're looking at?

19          **A.** My office.

20          **Q.** And did your office do so based on the process that you  
21 described a few moments ago of inputting the bank information  
22 provided by Mr. Liew?

23          **A.** That is correct.

24          **Q.** There is a signature --

25          **MR. HEMANN:** And, Your Honor, the United States offers

1 Exhibit 670.

2 **MR. GASNER:** No objection.

3 **THE COURT:** It's admitted.

4 (Trial Exhibit 670 received in evidence)

5 **BY MR. HEMANN:**

6 **Q.** There's a signature down at the bottom of page -- or  
7 Exhibit 670. Whose signature is that?

8 **A.** Mr. Liew's signatures.

9 **Q.** And at what point in time did Mr. Liew sign that document?

10 **A.** After we review the profit and loss statement, and both we  
11 agree -- excuse me, he agree to the profit and loss statement,  
12 then he will sign this profit and loss statement.

13 **Q.** Did you use this profit and loss statement and balance  
14 sheet to prepare a tax return for 2009 for USAPTI?

15 **A.** Yes.

16 **Q.** Can you please turn to the -- to Exhibit 642, a 2009  
17 corporate tax return? Do you have that in front of you?

18 **A.** Yes, I do.

19 **Q.** For what company is -- if you could put 642 up, please,  
20 Ms. Mahoney.

21 **A.** USAPTI.

22 **Q.** There's a signature down at the very bottom -- or two  
23 signatures down at the bottom. Whose signatures are those?

24 **A.** Both my signature and Mr. Liew's signatures.

25 **Q.** And did Mr. Liew sign this after you and he had reviewed

1 the balance sheet and the profit and loss statement?

2 **A.** Yes. Yes.

3 **Q.** There are a number of items on -- listed under "Income"  
4 and "Deductions." Are those based on the profit and loss  
5 statement and the balance sheet that your office had generated?

6 **A.** That's correct.

7 **Q.** In generating the profit and loss statements as a  
8 bookkeeper --

9 **A.** Yes.

10 **Q.** -- did you do any investigation or due diligence beyond  
11 just inputting the information that Mr. Liew provided to you?

12 **A.** We do that as we sit down with Mr. Liew to review the  
13 tax -- review the profit and loss before we input it in the tax  
14 return.

15 **Q.** So other than talking to Mr. Liew, do you do any  
16 investigation or due diligence to make sure that the numbers  
17 that have been reported to you by Mr. Liew are correct?

18 **A.** We do not do additional investigation. We do the review,  
19 face-to-face review, based on the draft that my staff prepare  
20 it and then we sit down together in the same -- in my office at  
21 a table and we look through the profit and loss, and I ask him  
22 whether or not that reflects it right.

23 **Q.** Did you talk to any employees of USAPTI or officers of  
24 USAPTI other than Mr. Liew?

25 **A.** Not that I remember of.

1 Q. And did you talk to any customers of USAPTI?

2 A. Not that I remember of.

3 Q. And did you talk to any banks of USAPTI?

4 A. No, not that I remember of.

5 Q. Did you talk to any of the individuals or businesses that  
6 received money from USAPTI during the year 2009?

7 A. Not that I remember of.

8 Q. Was it your practice, Mr. Guan, to ask Mr. Liew if he had  
9 provided all of the relevant information to you?

10 A. Yes.

11 Q. Could you describe that a little bit to the jury?

12 A. As we taking the role of the bookkeeper, then we ask our  
13 client to provide the necessary financial information, which  
14 include the bank statement, the canceled check, and all  
15 necessary support documentation necessary for us to produce a  
16 profit and loss and balance sheets.

17 Q. Did Mr. Liew tell you about any monies that had been  
18 directed by him or USAPTI to companies in Singapore?

19 A. I never -- I do not know any of that.

20 Q. And during your meetings with Mr. Liew, both before and  
21 after this year, did it ever come up that Mr. Liew had a  
22 business arrangement with anybody in China?

23 A. Business -- could you rephrase the question?

24 Q. A partnership or anything like that with anybody in China.

25 A. I -- no.

1 Q. So looking at Exhibit 642, the 2009 corporate return for  
2 USAPTI, what was the gross receipts or sales number that was  
3 reported to the Internal Revenue Service?

4 A. 713,685.

5 Q. And after taking into account reductions of income and  
6 deductions, what was the taxable income that was reported to  
7 the IRS for 2009?

8 A. In the line 28, 4553; 4,553.

9 Q. And based on that taxable income, what was the total tax  
10 for USAPTI for 2009?

11 A. Which is in line 31, 644.

12 Q. \$644?

13 A. Yes.

14 Q. After 2009, after the 2009 return -- and I guess I should  
15 ask. You met with Mr. Liew to do the 2009 return when?

16 A. 2009 tax return was done by July 25th of 2010.

17 Q. Okay. And that's the date that appears next to the  
18 signatures on the bottom of the return?

19 A. Yes.

20 Q. Did you continue with your responsibilities as bookkeeper  
21 for USAPTI for the tax year 2010, the next year?

22 A. Yes.

23 Q. Were your responsibilities as bookkeeper the next year the  
24 same as they were for tax year 2009?

25 A. Yes.

1 Q. Did you follow the same procedure that you just described  
2 to the jury?

3 A. Yes.

4 Q. Did you do any additional investigative or due diligence  
5 work for 2010 that you did not do for 2009?

6 A. No.

7 MR. HEMANN: Your Honor, may I approach the witness,  
8 please, with Exhibits 673, 643, and 672?

9 THE COURT: Yes. And before we do that, let's take a  
10 stretch break, ladies and gentlemen.

11 (Pause in proceedings.)

12 THE COURT: Please be seated when you're ready.

13 You may continue, Mr. Hemann?

14 MR. HEMANN: Thank you very much, Your Honor.

15 If you could first, please, look at -- and, Your Honor, I  
16 can tell the Court that the parties have stipulated that  
17 Exhibit 673 was produced to the Government by Mr. Guan and that  
18 643 is admissible as a public record.

19 THE COURT: All right.

20 MR. HEMANN: The United States will move 643 into  
21 evidence.

22 THE COURT: Any objection?

23 MR. GASNER: Yes, Your Honor, no objection.

24 THE COURT: Thank you. It's admitted.

25 (Trial Exhibit 643 received in evidence)

1 **BY MR. HEMANN:**

2 **Q.** If you could first look at Exhibit 673, Mr. Guan. What is  
3 that?

4 **A.** That is the profit and loss statement for USAPTI for year  
5 2010.

6 **Q.** And is this a document that you kept in your records?

7 **A.** Yes.

8 **Q.** And whose signature is it on the bottom of the document?

9 **A.** Mr. Liew.

10 **MR. HEMANN:** Your Honor, the United States moves 673  
11 into evidence.

12 **MR. GASNER:** No objection.

13 **THE COURT:** It's admitted.

14 (Trial Exhibit 673 received in evidence)

15 **MR. HEMANN:** If you could put that up on the screen,  
16 please, Ms. Mahoney.

17 **Q.** You said there's a signature down at the bottom for  
18 Mr. Liew?

19 **A.** Yes.

20 **Q.** And there's a date next to it. What is that date?

21 **A.** It's April 6 of 2011.

22 **Q.** Did you meet with Mr. Liew on that date to review his  
23 profit and loss statement?

24 **A.** Yes.

25 **Q.** Based on his profit and loss statement, did you assist

1 Mr. Liew in preparing a tax return for USAPTI for the tax year  
2 2010?

3 **A.** Yes, I do.

4 **Q.** Now, this year did you do something slightly differently  
5 with the tax return than you had done in previous years?

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

7 **Q.** Well, did you file it differently? Was it filed  
8 differently with the IRS?

9 **A.** Yeah. The previous year was filed in paper form. The  
10 year 2010 was filed in electronic format, e-filed.

11 **Q.** E-filed?

12 **A.** Yeah.

13 **Q.** And when you act as a tax preparer for somebody and you  
14 e-file something, what process do you follow?

15 **A.** I go through the normal procedure to review a tax return  
16 and sign the paper tax return. I also need the e-filer  
17 authorized form from the client to sign before I submit it.

18 **Q.** And do you ask the client to sign the documents, the  
19 original tax return as well, to keep in your files?

20 **A.** It's not required for the tax return signed by my client.  
21 Sometimes I do, sometimes I don't. But for the support  
22 document it's required, and also the e-filing form is required  
23 to sign.

24 **Q.** If you could please look at Exhibit 672, which is in front  
25 of you.



1 A. 600 -- excuse me?

2 Q. 672.

3 A. 672, okay.

4 Q. What is that document, Mr. Guan?

5 A. This is the 2010 tax return for USAPTI.

6 Q. And is that a document you kept in your files, Mr. Guan?

7 A. Yes, I do. Yes, it is.

8 Q. And is it signed in several places by Mr. Liew?

9 A. Yeah, it was signed by both of us.

10 Q. And was that signed during the course of your preparation  
11 of Mr. Liew's 2010 USAPTI tax return?

12 A. Yes.

13 MR. HEMANN: Your Honor, the United States will move  
14 672 into evidence.

15 MR. GASNER: No objection.

16 THE COURT: Admitted.

17 (Trial Exhibit 672 received in evidence)

18 MR. HEMANN: Ms. Mahoney, if you could please put up  
19 672, page 1, and blow up the text in Part II all the way down  
20 through the signatures. No, Part II up above. There you go.  
21 Thank you. All the way down to the signatures at the bottom.  
22 Thanks.

23 Q. So could you tell the jury what document we're looking at  
24 here in Exhibit 672, Mr. Guan?

25 A. This is an e-filing authorized form that, before I submit

1 the e-filing, both me and Mr. Liew sign this paper for me to  
2 submit the e-file.

3 Q. And attached to this document is another document -- is an  
4 actual draft of the tax return; is that correct?

5 A. It is.

6 Q. If you could go to 672, page 3, Ms. Mahoney, please.

7 In the third page, Mr. Guan, of this document there  
8 appears to be a 2010 U.S. corporation income tax return for  
9 USAPTI; is that correct?

10 A. Yes.

11 Q. Can you tell the jury how this document was prepared?

12 A. This document was prepared based on the profit and loss  
13 statement of 2010.

14 Q. Is it signed at the bottom?

15 A. It is.

16 Q. By whom?

17 A. By both Mr. Liew and me.

18 Q. Was this document prepared and signed before you actually  
19 e-filed the tax return for 2010?

20 A. Yes, it is.

21 Q. And is the e-filing, the actual e-filing of the tax return  
22 with Mr. Liew, duplicated, if you will, from this -- from the  
23 information on this document?

24 A. Excuse me, could you repeat your question?

25 Q. Sure.

1 A. I'm so sorry.

2 Q. Sure. It was a silly question.

3 The information that was contained on the e-filed 2010 tax  
4 return, was that based on the information that you went over  
5 with Mr. Liew in this tax return?

6 A. Yes.

7 Q. So if we could go to the actual e-filed version, which is  
8 Exhibit 643. Is that the e-filing of the 2010 USAPTI return,  
9 Mr. Guan?

10 A. Yes. Give me a minute and let me compare the two of them.

11 Q. Sure.

12 A. (Witness examines documents.) Yes, they appear to be the  
13 same.

14 Q. And could you tell the jury what the gross receipts or  
15 sales number, the top line number, for 2010 for USAPTI was?

16 A. The gross receipt is 895,448. The net income is 22,606.

17 Q. Okay. And then based on a net income -- and, Ms. Mahoney,  
18 if you could go to, first -- let me just step back real  
19 quickly, Mr. Guan -- to 643, page 2.

20 A. 643, page 2. Okay.

21 Q. The computer page is going to look a little bit different,  
22 Mr. Guan, so --

23 A. Okay.

24 Q. -- there's a number under "Income" there on the screen,  
25 Mr. Guan, that I think you just mentioned, 695 -- or 895,448?

1     **A.**    Yes.

2     **Q.**    Do you see that number?

3     **A.**    Yes.

4     **Q.**    And that's the gross receipts on line one?

5     **A.**    Yes, it is.

6     **Q.**    And you mentioned earlier, was this number derived from  
7     the information that Mr. Liew provided to you?

8     **A.**    Yes.

9     **Q.**    If you could go to the second page or the next page,  
10    Ms. Mahoney, page 3, and blow up just the top of that document.

11            There are two lines at the top of the document.  What do  
12    they show, Mr. Guan?

13    **A.**    Line 30 is net income, 22,606; and then line 31 is total  
14    tax is 3,391.

15    **Q.**    And that was the total tax paid by USAPTI for the tax year  
16    2010; is that correct?

17    **A.**    That's correct.

18    **Q.**    At some point in time, Mr. Guan, did you assist Mr. Liew  
19    in filing a tax return for USAPTI for the tax year 2007?

20    **A.**    USAPTI, yes.

21            **MR. HEMANN:**  Your Honor, may I approach the witness  
22    with Exhibit 640?  And the parties have stipulated that this  
23    document is admissible as a public record.

24            **THE COURT:**  You may approach.

25            **MR. HEMANN:**  Thank you, Your Honor.

1 Q. I'll just collect these from you.

2 A. Okay.

3 MR. HEMANN: I'm handing the witness Exhibit 640,  
4 Your Honor. And may it be admitted into evidence?

5 THE COURT: Any objection.

6 MR. GASNER: None. None, Your Honor.

7 THE COURT: It's admitted.

8 (Trial Exhibit 640 received in evidence)

9 MR. HEMANN: Would you please put up 640, page 1,  
10 Ms. Mahoney.

11 Q. Mr. Guan, can you tell the jury what that document is?

12 A. This document is the USAPTI for the year of 2007 with a  
13 zero income and zero expenses tax return.

14 Q. When was this document prepared?

15 A. July 8 of 2011.

16 Q. And did you assist Mr. Liew in preparing this document in  
17 July of 2011?

18 A. Yes, I do.

19 Q. And how did you come to be involved in the preparation of  
20 this document?

21 A. When I prepared 2008, which is the year later, when I  
22 first prepared it, I was told the business, it actually start  
23 at, I believe, June. So, therefore, when we filed the 2008 tax  
24 return, we mark it as initial and this was not -- 2007 was not  
25 filed.

1 Q. Did Mr. Liew explain to you why he did not ask you to  
2 prepare a 2007 tax return for USAPTI?

3 A. He explain it to me for year 2007 this company was not  
4 active, was not doing business.

5 Q. So was there some requirement that you go back and  
6 prepare -- that he go back and prepare a tax return for the  
7 year 2007?

8 A. Yes. I believe probably the Franchise Tax Board requires,  
9 like, \$800 requirement minimum per year. And then to send a  
10 notice to us to file the year of 2007 tax return; so,  
11 therefore, we do 2007 tax return in the later years.

12 Q. In discussing this with Mr. Liew in 2011 and also back in  
13 2008 -- I'm sorry, 2009 when you first did the 2008 return, did  
14 Mr. Liew tell you when USAPTI first started receiving revenue?

15 A. USAPTI, in the middle of 2008.

16 Q. So Mr. Liew told you that in the middle of 2008 USAPTI  
17 started receiving revenue?

18 A. Yes.

19 Q. And did he tell you what the source of that revenue was?

20 A. I did not -- I did not ask that question.

21 Q. So what was the revenue and sales for USAPTI for 2007,  
22 gross receipts?

23 A. 2007?

24 Q. Yes.

25 A. It's zero.

1 Q. Zero?

2 A. Yes.

3 Q. And the total tax paid was?

4 A. Obviously zero.

5 MR. HEMANN: Your Honor, I have no further questions  
6 at this time.

7 THE COURT: All right.

8 MR. HEMANN: Your Honor, may I collect the --

9 THE COURT: Yeah, why don't you collect the exhibits  
10 while Mr. Gasner is getting in position for cross-examination.

11 (Pause in proceedings.)

12 MR. HEMANN: May I approach, Your Honor?

13 THE COURT: Yes.

14 THE CLERK: May I have the exhibits, please, Counsel?

15 MR. HEMANN: I was going to put them in order for you.

16 THE CLERK: That's okay. Thank you.

17 MR. GASNER: Your Honor, I believe that Mr. Axelrod  
18 took a picture already of the whiteboard.

19 THE COURT: Is that correct?

20 MR. AXELROD: That is correct, and we can move that  
21 in.

22 MR. GASNER: No objection.

23 THE COURT: All right. It's admitted. Do you know  
24 the number?

25 MR. AXELROD: It's 4,000 -- and let me just check

1 here.

2 **THE COURT:** So, therefore, you may erase that.

3 **MR. GASNER:** Thank you.

4 **THE CLERK:** And what are you calling it?

5 **MR. HEMANN:** What number?

6 **THE CLERK:** No, what are you calling it?

7 **MR. HEMANN:** Drawing of an oxidation reactor.

8 **THE CLERK:** Thank you.

9 **MR. GASNER:** May I proceed, Your Honor?

10 **THE COURT:** Yes, you may.

11 **CROSS-EXAMINATION**

12 **BY MR. GASNER:**

13 **Q.** Good morning, Mr. Guan.

14 **A.** Good morning.

15 **Q.** My name is Stuart Gasner. I represent Walter Liew and  
16 USAPTI, and it's my job to ask you a few questions about your  
17 testimony on direct.

18 I'd like to first focus on your experience and skills as a  
19 CPA. You became a CPA in 2002; is that right?

20 **A.** Yes.

21 **Q.** You mentioned that there are different kinds of CPAs.

22 Could you explain that to the jury, please?

23 **A.** There are two different kind of CPA license. One is the G  
24 license, G like George, which means you're not allowed to do  
25 tax -- you're not allowed to do audit of financial statement.



1 You can't sign audit financial statement. And there's another  
2 one that you could sign the financial statements.

3 So the one that I have it is without signing the  
4 financial -- audit financial statements. So my company do not  
5 provide the audit service.

6 **Q.** And there are other kinds of financial planning  
7 certifications, is that true, in your field, in terms of  
8 financial planning and the like?

9 **A.** May I ask, could you repeat the question?

10 **Q.** Are there other certifications that one can get in terms  
11 of financial planning in your general field of practice? Is  
12 there a certified financial planner, for example?

13 **A.** There is, but I'm not -- I'm not one of them.

14 **Q.** Do you have any of those other initials that people put  
15 after their name on their business card other than CPA, or CPA  
16 is your one credential?

17 **A.** CPA is my one.

18 **Q.** Okay. Did you go straight -- when you got your CPA  
19 credential, did you go straight into private practice?

20 **A.** Yes.

21 **Q.** That was in 2002?

22 **A.** I -- before that, I worked for Andersen.

23 **Q.** For Andersen?

24 **A.** Yeah.

25 **Q.** And that's one of the, I think it's, Big 3 or Big 4?

1 A. Uh-huh.

2 Q. How long were you at Andersen?

3 A. About two years.

4 Q. Any other accounting firms that you had worked with before  
5 Arthur Andersen?

6 A. And then I began to open my own CPA firm, yeah.

7 Q. Okay. Mr. Liew came to you, I believe you said, in end of  
8 2007?

9 A. Somewhere in the 2007 we prepare the year of 2006 tax  
10 return. The date that appear in the tax return, that's the  
11 date. So in those days that I'm seeing him.

12 Q. You had your own accounting practice for about five years  
13 at that point?

14 A. I start my practice in 2002.

15 Q. At that point, roughly, how many clients did you have when  
16 Mr. Liew came to your door?

17 A. 2007 -- 2007 I would like to say somewhere about 800 to a  
18 thousand.

19 Q. A hundred to a thousand?

20 A. 800 to a thousand.

21 Q. 800 to a thousand. Thank you.

22 A. Somewhere around there, yeah.

23 Q. Okay. So let's just draw a circle, a pie, and we're going  
24 to put "2007" above it.

25 Of the 800 to a thousand clients that you had in 2007, how

1 many were businesses and how many were individuals,  
2 percentage-wise, in very rough terms?

3 **A.** I would say about a hundred -- about a hundred of them are  
4 business.

5 **Q.** And the other 700 would be individuals?

6 **A.** Yeah, the last would be individuals.

7 **Q.** Okay. So we'll draw a small slice of the pie, and that's  
8 corporations or other kinds of businesses.

9 **A.** That's correct.

10 **Q.** And the rest are individuals?

11 **A.** That's correct.

12 **Q.** Okay. Of the smaller slice of the pie, of those  
13 businesses, how many were local businesses here in the Bay Area  
14 whose business was generated all locally would you say?

15 **A.** Primarily my practice are local, local small business in  
16 the Bay, yeah.

17 **Q.** Did you have any large corporations as clients in 2007?

18 **A.** Not -- 2007... Not that I remember.

19 **Q.** Did you have any clients that had a substantial amount of  
20 their business coming from foreign countries?

21 **A.** No. No.

22 **Q.** Did you have any businesses as clients who transacted  
23 international business using letters of credit?

24 **A.** No. No.

25 **Q.** Did you have any clients who had businesses where the

1 corporation here in the United States was a joint venture  
2 partner with a company in a foreign country? Did you have that  
3 kind of client, to your knowledge?

4 **A.** To the best of my knowledge, I don't.

5 **Q.** Okay. Let's take a look at when Mr. Liew first -- that  
6 time period when he first came to visit you.

7 Do you know another accountant by the name of Mary Liu,  
8 L-I-U?

9 **A.** I know by name because I have a copy of the tax return  
10 that was produced by Mary Liu, but I do not know Mary Liu  
11 personally. I never meet Mary Liu.

12 **Q.** Did she, to the best of your recollection, refer  
13 Mr. Walter Liew, L-I-E-W, to you?

14 **A.** I do not know if -- it has been so long and my clients  
15 come into my office from different sources, and I do not know  
16 how he first come in my office. And, also, I personally do not  
17 know Mary.

18 **Q.** Okay.

19 **A.** Yeah, I do not know Mary.

20 **Q.** Do you recall when Mr. Walter Liew first became a client  
21 or, more properly, USA Performance Group first became a  
22 client --

23 **A.** Yeah.

24 **Q.** -- whether you had an opportunity to look at the prior tax  
25 returns that Mary Liu, L-I-U, had prepared?

1     **A.**    Yes, I do.

2     **Q.**    Do you recall that there were a variety of loans that were  
3 reflected on the books of Performance Group USA at that time?

4     **A.**    2005 are you talking about?  Are you referring to the year  
5 2005 tax return?

6     **Q.**    Yes.

7     **A.**    May I look at it?  Because it has been too long.  May I  
8 look at a copy of the 2005 tax return?

9     **Q.**    I don't happen to have that.

10           **MR. GASNER:**  But if I may approach, Your Honor, with  
11 Exhibit 2039, this may refresh his recollection.

12           **THE COURT:**  All right.

13           **THE WITNESS:**  Yeah.

14           **THE COURT:**  You may do so.

15                           (Pause in proceedings.)

16           **MR. HEMANN:**  And, Your Honor, if the record could  
17 reflect that this is part of Exhibit 421, which is not in  
18 evidence, pages 80 to -- I'm sorry, 75 to 80.

19           **THE COURT:**  All right.  It will so reflect.

20           **MR. GASNER:**  May I approach, Your Honor?

21           **THE COURT:**  Yes.

22           **THE CLERK:**  I'm sorry.  Can I have the number again,  
23 please?

24           **MR. GASNER:**  It's Trial Exhibit 2039 and 421.

25           **THE CLERK:**  Okay.  Thank you.

1           **THE COURT:** All right.

2           **THE WITNESS:** Thank you.

3           **BY MR. GASNER:**

4           **Q.** Directing your attention, Mr. Guan, to 421. Is that the  
5 2005 tax return --

6           **A.** Uh-huh.

7           **Q.** -- that you received when you took on Performance Group as  
8 a client in 2007?

9           **A.** Uh-huh.

10           **THE COURT:** Is that a yes? You can't say "uh-huh."  
11 You have to say "yes" or "no."

12           **THE WITNESS:** Okay. Could you rephrase your question  
13 one more time? So sorry.

14           **BY MR. GASNER:**

15           **Q.** Certainly.

16           Is Exhibit 421 that you have in front of you a copy of the  
17 tax return for 2005 for Performance Group USA that you received  
18 when you first took on Performance Group USA as a client?

19           **A.** Yes, I do.

20           **THE COURT:** Mr. Gasner, 421 appears to be a binder  
21 labeled "Performance Group Corporate Information Filing  
22 Records," et cetera.

23           **MR. HEMANN:** And, yes, Your Honor, these are just  
24 several pages from that binder.

25           **THE COURT:** Oh, all right. So we'll need to mark

1 those separately, then, so that we have a record of those.

2 **MR. GASNER:** Yes.

3 **THE COURT:** All right.

4 **MR. GASNER:** May I approach, Your Honor?

5 **THE COURT:** Yes.

6 **THE CLERK:** So what are we going to call them, 421A?

7 **THE COURT:** How many are there, Mr. Gasner?

8 **THE CLERK:** And what pages are they?

9 **MR. GASNER:** So, for the record, Your Honor, I'm  
10 showing the witness 421, pages 75 through 80.

11 **THE COURT:** All right.

12 **MR. GASNER:** And perhaps we could call that 421A.

13 **THE COURT:** All right. Very well.

14 (Trial Exhibit 421A, pages 75 through 80, marked for  
15 identification)

16 **BY MR. GASNER:**

17 **Q.** Mr. Guan, directing your attention to 2039, do you  
18 recognize that document?

19 **A.** (Witness examines document.) 2039....

20 **Q.** That's the other one to your right with the blue label on  
21 it.

22 **A.** 2039....

23 **Q.** And if you could take a look at page 3 in particular,  
24 that's what I want to ask you about. It says "Cash Deposits"  
25 and "Salary" on it. Do you see that?

1     **A.**     (Witness examines document.)   Page 3?

2             **MR. GASNER:**   May I approach, Your Honor?

3             **THE COURT:**   Yes.

4     **BY MR. GASNER:**

5     **Q.**     So this is the -- this is the page (indicating) that I'm  
6     looking at.   This one right here (indicating).

7     **A.**     Oh, okay.

8     **Q.**     Thank you.

9     **A.**     Thank you.

10            **THE COURT:**   Do you want to ask the question again?

11            **MR. GASNER:**   Yes, Your Honor.

12     **Q.**     Mr. Guan, do you remember that when you took on  
13     Performance Group USA, there were a variety of loans that the  
14     company had received from various people?   Do you recall that?

15     **A.**     Yes, I do.

16     **Q.**     Do you recall a variety of loans from Eddie Lee?

17     **A.**     Uh-huh.

18            **THE COURT:**   Is that a yes?

19            **THE WITNESS:**   Yes.

20     **BY MR. GASNER:**

21     **Q.**     Do you recall loans from Mu Qiao?

22     **A.**     Yes.

23     **Q.**     And can you tell the members of the jury how one treats  
24     loans to a corporation?   Is that on the P&L or the balance  
25     sheet or somewhere else?



1     **A.**     Okay.  The loan from the third party or the loan from the  
2     shareholder, they both showing up in the balance sheet, not in  
3     the income statement.

4             So if you can see in the tax return, page 4 of the tax  
5     return --

6             **MR. GASNER:**  Your Honor, it might help if I move the  
7     admission of 421A at this time.

8             **THE COURT:**  Any objection?

9             **MR. HEMANN:**  Not to 421A, Your Honor.

10            **THE COURT:**  All right.  It's admitted.

11            (Trial Exhibit 421A received in evidence)

12            **MR. GASNER:**  Mr. Guevara, if you could display 421A.

13     **Q.**     And, Mr. Guan, perhaps you can tell us what part of the  
14     tax return you were referring to in your answer.

15     **A.**     On page 4.

16     **Q.**     Okay.  Mr. Guevara, if we could display page 4, please.

17     **A.**     Let's see...  Oh, yeah.  Right there in the middle.

18     **Q.**     Okay.

19     **A.**     Line 18 and 19.

20     **Q.**     So that shows "Loans and Current Liabilities."  Am I  
21     reading that correctly?

22     **A.**     Yes, that is correct.

23     **Q.**     And then if we go to Statement 3, Mr. Guevara, on  
24     Exhibit 421A, do you recognize --

25             It's going to be a statement a little further on,

1 Mr. Guevara.

2 **A.** A statement --

3 **Q.** There we go.

4 **A.** Yeah. It's called "Loan Payable" on the document.

5 **Q.** All right. So is there a difference between money that  
6 you get as a loan and money that you get as revenue in your tax  
7 practice?

8 **A.** Yes.

9 **Q.** Can you explain the difference?

10 **A.** The loan -- okay. The loan the corporation received is  
11 not income. It is where the corporation doesn't have enough  
12 funds to run the operation, you need to loan the money from  
13 either the third party or the shareholder.

14 As you can see in here, there are two lines. One is loan  
15 from a third party. This is 100,000 even. This is loan from  
16 the third party. And the second line is loan from a  
17 shareholder, 89,100.

18 **Q.** So, Mr. Guevara, could you go back to the first page of  
19 the tax return? And --

20 **A.** I believe page 4.

21 **Q.** Page 4. I'm sorry.

22 **A.** Yeah.

23 **Q.** Thank you, Mr. Guan.

24 **A.** You're welcome.

25 One page up. This is the statement.

1 Q. One page back.

2 A. Yeah, right there.

3 Q. There we go.

4 Okay. If you could blow up the part that shows the --

5 A. Which is lines 17 and 18.

6 Q. Okay. So we've got those on the screen now. And this  
7 shows up on the liabilities and shareholder equity section of  
8 the return; true?

9 A. That is correct.

10 Q. And do you think that you received Exhibit 2039 in the  
11 course of your tax preparation responsibilities?

12 A. 2039....

13 (Witness examines document.) 2039, yeah. This one  
14 normally is in the binder. Yeah, this one is -- yeah. Yes.

15 MR. GASNER: Your Honor, I'd move the admission of  
16 2039.

17 MR. HEMANN: Your Honor, object, and ask if I can  
18 voir dire the witness on this document.

19 THE COURT: All right. You may do so.

20 MR. HEMANN: Thank you, Your Honor.

21 VOIR DIRE EXAMINATION

22 BY MR. HEMANN:

23 Q. The document that you're looking at, Exhibit 2039 --

24 A. Uh-huh.

25 Q. -- is that from your files?

1   **A.**   2039... This is the -- no, this is not from my file.  
2   This is the -- this is where -- because I do not prepare the  
3   year 2005 tax return. I prepared the 2006 tax return.

4   **Q.**   And that document relates to 2005; correct?

5   **A.**   This is 2005 documentation when they prepared the 2005 tax  
6   return.

7           **MR. HEMANN:** Your Honor, the United States would  
8   object based on foundation and hearsay.

9           **MR. GASNER:** May I proceed to lay additional  
10   foundation, Your Honor?

11           **THE COURT:** Yes, of course.

12                    **CROSS-EXAMINATION**    **(resumed)**

13   **BY MR. GASNER:**

14   **Q.**   So, Mr. Guan, when you started your tax preparation work  
15   for Performance Group USA, I believe you said earlier that you  
16   received the 2005 tax materials from Mary Liu; true?

17   **A.**   I get -- I received a copy of the tax return, but I'm not  
18   remember for sure do I receive this information or not.

19   **Q.**   Is Exhibit 2039 in the format of the materials that you  
20   typically receive from Walter Liew in the course of your tax  
21   preparation responsibilities?

22   **A.**   Say one more time. I'm so sorry.

23   **Q.**   Is Exhibit 2039 in the same format as the documents that  
24   you typically received from Walter Liew when you were doing  
25   taxes for Performance Group?

1 A. (Witness examines document.) I don't get your -- I don't  
2 get your answer [sic]. Could you repeat your question?

3 Q. Yes. I'm just asking you about the format, the way the  
4 document is structured.

5 A. Uh-huh.

6 Q. Do you have Exhibit 2039 in front of you?

7 A. Yeah.

8 Q. So my question is whether this document is in the same  
9 format as others you received from Mr. Liew when you were doing  
10 taxes for his companies.

11 A. You are referring for the year 2006 -- 2006, 2007, 2008,  
12 2009?

13 Q. Yes.

14 A. The information I cannot say for sure exactly same format  
15 because I have to look at the documentation to see whether or  
16 not it is exactly the format; but all the information, if I  
17 have -- if I see it, it would be in my file, if the necessary  
18 information I copied in my file or I returned it to the  
19 clients. So I cannot remember for sure whether or not exactly  
20 same format, same thing. Okay.

21 Q. Okay. Let's move instead to Exhibit 656, which has been  
22 admitted.

23 MR. GASNER: May I approach, Your Honor?

24 THE COURT: Yes.

25 MR. GASNER: Do you have your copy of Exhibit 656?



1 Borrowing"?

2 **A.** Okay.

3 **Q.** So under "Current Liabilities," it shows a loan from  
4 Mu Qiao. Do you see that?

5 **A.** I saw it on the screen, yeah.

6 **MR. GASNER:** And, Your Honor, it's been stipulated  
7 that Mu Qiao is Christina Liew's brother.

8 **THE COURT:** All right. Is that correct?

9 **MR. HEMANN:** That is correct, Your Honor.

10 **THE COURT:** All right. So stipulated.

11 **MR. GASNER:** And it's further stipulated that he  
12 resides in China.

13 **THE COURT:** All right. Okay?

14 **MR. HEMANN:** Agreed, Your Honor.

15 **THE COURT:** All right.

16 **BY MR. GASNER:**

17 **Q.** Do you recall any discussions with Walter Liew about loans  
18 from his wife's brother, Mu Qiao, in China?

19 **A.** I recall discussions from Mu Qiao. I do not ask -- I not  
20 discuss the relationship between those two people. I just know  
21 he's a person is Mu Qiao.

22 **Q.** Do you recall having discussions with Mr. Liew about how  
23 to treat short-term borrowing into Performance Group USA? Do  
24 you recall that topic?

25 **A.** Short-term... May I look for the --

1           **THE COURT:** Well, he's asking if you recall, not what  
2 the documents say.

3           **THE WITNESS:** No. Say what -- could you repeat your  
4 question?

5 **BY MR. GASNER:**

6 **Q.** Just looking back on your relationship with Mr. Liew, can  
7 you recall any discussions with him about how to treat  
8 borrowing from his relatives?

9 **A.** Yeah. When we -- when we do the book of -- when we review  
10 the book of the short-term, obviously I ask, "What is this?"  
11 And those are the short-term borrowing to run the business.  
12 So, yes, I do ask that.

13           **MR. GASNER:** Your Honor, may I approach the witness  
14 with Exhibit 2036?

15           **THE COURT:** Yes, you may.

16           **MR. GASNER:** I'll represent that this is a document  
17 from Mr. Guan's work papers.

18           **THE COURT:** All right.

19 **BY MR. GASNER:**

20 **Q.** Does Exhibit 2036 refresh your memory as to discussions  
21 you had with Mr. Liew about short-term borrowing?

22 **A.** Short-term borrowing....

23 (Witness examines document.) That is the same thing --

24           **THE COURT:** What he's asking you, sir, is: Does it  
25 refresh your memory so that you can testify without looking at



1 the document? Not what the document says, but does the  
2 document refresh your memory so you can testify what counsel's  
3 asking you without looking at the document?

4 **THE WITNESS:** Okay.

5 **THE COURT:** So the answer is "yes" or "no." Do you  
6 remember?

7 **THE WITNESS:** I cannot remember. I cannot remember  
8 for sure.

9 **BY MR. GASNER:**

10 **Q.** If you take a look at Exhibit 656 at page 16 under  
11 "Current Liabilities," it shows short-term borrowing of  
12 \$89,100. Do you see that?

13 **A.** Oh, okay. Yeah.

14 **Q.** Okay.

15 **A.** Yeah.

16 **Q.** And then if you look at Exhibit 2036, do you see where  
17 that same figure appears in the middle of the page?

18 **A.** Yes.

19 **Q.** Was it your practice, Mr. Guan, to keep in your work  
20 papers documents that supported items that were on the tax  
21 return?

22 **A.** If it is the year that I prepared the tax return because  
23 this is the year not prepared by me.

24 **Q.** But the -- we're looking at Exhibit 656, which I believe  
25 Mr. Hemann questioned you about in relation to the 2006 tax

1 return.

2 **A.** Yeah, that's correct.

3 **Q.** Okay. So I am asking you about a tax return that you did  
4 prepare.

5 **A.** Okay.

6 **Q.** You understand that; right?

7 **A.** Okay.

8 **Q.** And Exhibit 2036 appears to relate to an entry on a tax  
9 return that you did prepare. Do you see that?

10 **A.** Okay.

11 **Q.** Do you believe that Exhibit 2036 is something that you  
12 retained in your files to support something that was on the tax  
13 return?

14 **A.** (Witness examines document.) Yes, it may -- this one --  
15 this one is in the balance sheet of 2005, which is in the year  
16 2006 tax return, at the beginning balance of the short-term  
17 borrowing.

18 **MR. GASNER:** Your Honor, I'd move the admission of  
19 2036.

20 **MR. HEMANN:** I don't have an objection, Your Honor.

21 **THE COURT:** It's admitted.

22 (Trial Exhibit 2036 received in evidence)

23 **BY MR. GASNER:**

24 **Q.** So just to ask you some questions about your general  
25 procedure on tax returns with Mr. Liew.

1 I believe you said that he would, in the outset, he would  
2 bring you a binder of materials along with the profit and loss  
3 statement and the balance sheet; is that right?

4 **A.** Yes.

5 **Q.** The document that we just looked at, Exhibit 656 -- and,  
6 Mr. Guevara, if we could put that up, just the front page of  
7 that -- is this a report essentially from QuickBooks?

8 **A.** Yes, it is.

9 **Q.** Is that typical of the way you deal with your clients? Do  
10 many of them bring you QuickBooks reports?

11 **A.** Yes.

12 **Q.** And if you can just -- the front page of this is a summary  
13 that is built up from all the entries later in the document; is  
14 that right?

15 **A.** That is correct.

16 **Q.** And one printout is profit and loss; true?

17 **A.** That is true.

18 **Q.** And then if you go back to where we were talking about the  
19 loans from Mu Qiao at page 16, that's a balance sheet; right?

20 **A.** Yes.

21 **Q.** And that's another report that QuickBooks can generate  
22 from the particular entries; true?

23 **A.** That is correct.

24 **Q.** And the rest of this document has every little detail of  
25 each entry; right?

1 A. That is correct.

2 Q. Okay. So in 2006 when you started working with Mr. Liew,  
3 he would bring you the QuickBooks report; true?

4 A. Yes.

5 Q. And he would also bring you the backup; right?

6 A. Yes.

7 Q. And I believe you said that you would meet with him for  
8 either a morning or an afternoon; is that true?

9 A. Yes.

10 Q. That would be about four or five hours or so?

11 A. Yeah. Depends on the process, yeah.

12 Q. Is that typical of the amount of time you would spend with  
13 your business clients?

14 A. Yes.

15 Q. And I believe you said that you'd fill out the tax return  
16 right then and there and have Mr. Liew sign it; is that true?

17 A. That is true.

18 Q. Were there times where you needed two meetings, one to go  
19 over the materials and another for him to come back and sign  
20 it?

21 A. I cannot recall whether or not we need two meetings or  
22 not. I cannot recall.

23 Q. But your typical practice was everything in one meeting?

24 A. Because he not live in San Francisco, he live across the  
25 bridge; so, therefore, I try to have one meeting with him.

1 Q. I believe you said your office is at 2850 San Bruno  
2 Avenue?

3 A. My office, 2805 San Bruno. 2805 San Bruno Avenue,  
4 San Francisco, California 94134.

5 Q. That's just off of 101 outside of 280 --

6 A. That's correct.

7 Q. -- where it crosses over?

8 A. That's correct, uh-huh.

9 MR. GASNER: Your Honor, may I approach the witness  
10 with Exhibit 420?

11 THE COURT: Perhaps we can take our break now.

12 MR. GASNER: Very well.

13 THE COURT: All right. We're going to take our second  
14 and last break. We're going to end about 1:15 today.

15 Please remember the Court's usual instructions. Keep an  
16 open mind. Don't obtain outside information. And we'll see  
17 you in 15 minutes.

18 (Proceedings were heard out of the presence of the jury:)

19 THE COURT: All right. Fifteen minutes, everybody.

20 MR. GASNER: Thank you, Your Honor.

21 (Recess taken at 11:41 a.m.)

22 (Proceedings resumed at 11:59 a.m.)

23 (Proceedings were heard out of the presence of the jury:)

24 THE COURT: All right. Please bring in the jury, and  
25 let's get the witness back on the stand.

1 (Proceedings were heard in the presence of the jury:)

2 **THE COURT:** All right. Please be seated.

3 You may continue your cross-examination.

4 **MR. GASNER:** Thank you, Your Honor.

5 May I approach the witness with Exhibit 420, Your Honor?

6 **THE COURT:** Yes.

7 **THE WITNESS:** Thank you.

8 **MR. GASNER:** Thank you.

9 (Pause in proceedings.)

10 **BY MR. GASNER:**

11 **Q.** Mr. Guan, do you have Exhibit 420 in front of you?

12 **A.** Yes.

13 **Q.** Could you take a look at page 420, page 11?

14 **A.** Page 11. Okay.

15 **MR. GASNER:** May I approach, Your Honor, to direct the  
16 witness, because there's no pagination --

17 **THE COURT:** Yes. Yes, you may.

18 **MR. GASNER:** -- in the original?

19 (Pause in proceedings.)

20 **MR. GASNER:** I've directed the witness to the page in  
21 the original that corresponds to 420-0011.

22 **Q.** Do you recognize the handwriting on that Post-it sticker,  
23 Mr. Guan?

24 **A.** Yes.

25 **Q.** Is that yours?

1     **A.**     Yeah, that's my handwriting.

2     **Q.**     Take a look at the outside of Exhibit 420. Does that  
3 appear to be the kind of binder that Mr. Liew would bring to  
4 you in connection with the preparation of the Performance Group  
5 USA tax returns?

6     **A.**     (Witness examines document.) Yes.

7             **MR. GASNER:** Your Honor, move the admission of 420.

8             **THE COURT:** Any objection?

9             **MR. HEMANN:** Yes, Your Honor. Objection. Hearsay.

10            **THE COURT:** May I see the document, please?

11            **MR. GASNER:** Yes, Your Honor.

12            **THE COURT:** Get it from the witness.

13                             (Pause in proceedings.)

14            **MR. GASNER:** Your Honor, the clerk is handing the  
15 Court the page that Mr. Guan identified as having a Post-it  
16 sticker with his dated signature on it.

17                             (Pause in proceedings.)

18            **MR. HEMANN:** We have no objection to this page,  
19 Your Honor, with Mr. Guan's handwriting on it.

20            **THE COURT:** All right. So what is the --

21            **MR. GASNER:** And this is also -- it's stipulated this  
22 was seized from the Liew residence.

23            **THE COURT:** All right. So which of the --

24            **MR. GASNER:** I would move the admission of the entire  
25 document because the witness did identify it as the kind of

1 binder that Mr. Liew brought to him, and it's -- it's got his  
2 signature on one page.

3 **THE COURT:** Oh, you're moving for the admission of the  
4 entire binder?

5 **MR. GASNER:** I am.

6 (Pause in proceedings.)

7 **MR. GASNER:** I would urge the business records  
8 exception as well, Your Honor.

9 **THE COURT:** All right.

10 (Pause in proceedings.)

11 **MR. HEMANN:** Your Honor, I think there will be several  
12 of these. It may -- there will be several of these.

13 **THE COURT:** All right. Let's come to the sidebar,  
14 please.

15 Ladies and gentlemen of the jury, you may stand if you  
16 like.

17 (The following proceedings were heard at the sidebar:)

18 **THE COURT:** All right. So your objection is hearsay?

19 **MR. HEMANN:** It's hearsay. I think it's also --  
20 there's a relevance objection to the entirety of the documents,  
21 Your Honor; but the primary objection is hearsay. These are  
22 statements of Mr. Liew, both in certain aspects of these  
23 documents appear to have actually been prepared by Mr. Liew or  
24 by somebody at his direction; other parts are compilations of  
25 documents that Mr. Liew apparently collected, some of which he



1 kept at his house.

2 I think you'll hear about some others which he did give to  
3 Mr. Guan, but we'd object to those, too, because I think those  
4 are asserted conduct by Mr. Liew as to statements he believes  
5 that Mr. Guan should rely on. I think they are statements of  
6 the defendant and they are hearsay. I don't believe that  
7 there's an exception that applies.

8 **THE COURT:** All right.

9 **MR. GASNER:** So, Your Honor, the witness -- I think  
10 we've laid an adequate foundation that this is the type of  
11 document that Mr. Liew would give him. It's not offered for  
12 the truth of the matter asserted, but as part of the  
13 information that he received in the course of preparing tax  
14 returns.

15 It's also to show just an act, if you will, that these are  
16 the documents given to him to prepare the tax returns. And to  
17 the extent that any of them are offered for the truth of the  
18 matter asserted, they're business records. They're bank  
19 statements and things of that nature.

20 **THE COURT:** Well --

21 **MR. HEMANN:** Your Honor, may I just add one thing? I  
22 think that the important -- an important issue is with regard  
23 to this document and several of the like, it's the type of  
24 document. It's not this document. And this one's located in  
25 the Liew residence. He can't say, and he didn't say, that this

1 was the information that was provided. And I believe that  
2 we're going to hear references to certain items in this  
3 document.

4 **THE COURT:** Well, my ruling is I'm going to sustain  
5 the objection. If there's a specific document -- my concern is  
6 authenticity, first of all, and relevance because I don't know  
7 the extent this is relevant to the tax counts. This may be  
8 relevant to sole general relationship that this witness has  
9 with Mr. Walter Liew.

10 If you want to show a particular document and get him to  
11 authenticate it, you can; but when we start getting into things  
12 that are types of things that are looked at, like the tax  
13 return, the 2005, I think, tax return, he said, well, it looks  
14 like the type of return, but I'm not sure I ever saw it, that's  
15 not adequate foundation for authenticating this document.

16 So I'm concerned about not just the hearsay issue, but the  
17 authenticity. And, also, I'd like to see a better showing of  
18 relevance to the specific acts of evasion that the Government  
19 is alleging as opposed to just throwing a bunch of documents  
20 and numbers at the jury.

21 So I'm not saying I won't admit any of this material or  
22 even the substance of it, but in this form, to put an entire  
23 binder in based upon the testimony "this is the kind of  
24 document" or "it looks like it might be the kind of document"  
25 is not adequate. So I'll --

1           **MR. HEMANN:** And, Your Honor, if I can just offer  
2 one -- I may be making --

3           **THE COURT:** Ms. Agnolucci has a killer point to make.

4           **MS. AGNOLUCCI:** No, I'm here on another matter when  
5 you're all done.

6           **THE COURT:** All right.

7           **MR. HEMANN:** And, Your Honor, I may be making  
8 relevance objections to information about loans because of the  
9 point Your Honor just made. The loans don't appear on the tax  
10 returns at all. He would testify, I'm sure, if asked that  
11 loans don't appear in any line on the tax returns that he  
12 prepared.

13           **THE COURT:** Didn't he already identify many so lines?

14           **MR. HEMANN:** No, no, no. On cross-examination he  
15 identified --

16           **THE COURT:** That's what I mean, on cross.

17           **MR. HEMANN:** He said that in the balance sheet, there  
18 are loans, but he didn't say that he relied on those loans for  
19 any part of the work that he did.

20           **THE COURT:** That's part of redirect. I'm not going to  
21 get into that level of hypermanagement. I think the entire  
22 return was put in -- returns. I think to the extent that there  
23 is a theory -- and I can guess the theory, what it might be,  
24 with Defense expert about how loans might impact on tax  
25 liability and maybe even state of mind. So I'm not going to

1 exclude that entire subject matter. So we'll take it an  
2 objection at a time.

3 Yes, Ms. Agnolucci.

4 **MS. AGNOLUCCI:** I just wanted to alert Your Honor that  
5 there is one issue that we don't need to discuss now but that I  
6 would like to raise before Ms. Rometo, who's the next witness,  
7 testifies on direct examination.

8 **THE COURT:** Okay.

9 **MS. AGNOLUCCI:** So I wanted to alert the Court.  
10 Should we address it now or do you want to have a sidebar  
11 before her direct?

12 **THE COURT:** No, not now. Let's see how far we get  
13 today, and you'll give me your sort of best estimate, and I'll  
14 tell you when I want to hear it.

15 **MS. AGNOLUCCI:** Okay. Thank you, Your Honor.

16 **MR. HEMANN:** Thank you, Your Honor.

17 **THE COURT:** So here's this back.

18 **MR. GASNER:** Thank you.

19 (The following proceedings were heard in open court:)

20 **MR. GASNER:** May I proceed, Your Honor?

21 **THE COURT:** The objection is sustained. Yes, you may.

22 **BY MR. GASNER:**

23 **Q.** Mr. Guan, directing your attention back to 420, on the  
24 front page of that document, do you recognize the Post-it  
25 sticker there?

1     **A.**    Uh-huh.  Yes.

2     **Q.**    Whose handwriting is that?

3     **A.**    I think it's my handwriting.  Yeah.

4             **MR. GASNER:**  And, Your Honor, I'd move the admission  
5 of the front page -- the two pages with Mr. Guan's handwriting  
6 on them.

7             **THE COURT:**  Any objection to those two?

8             **MR. HEMANN:**  Just for the record, Your Honor, that  
9 would be the first page and what is Bates-numbered 420-0011.  
10 So with that, no objection.

11            **THE COURT:**  Admitted.

12            **THE CLERK:**  Does the first page have anything  
13 identifying its number?

14            **MR. HEMANN:**  Yes.  It says "Performance Group USA,  
15 Inc., bank statements, checks, and summary for 2006 tax  
16 returns."

17            **THE COURT:**  All right.  It's admitted.

18            (Trial Exhibit 420, pages 1 and 11, received in evidence)

19            **MR. GASNER:**  May I publish the front page, Your Honor?

20            **THE COURT:**  Yes.

21     **BY MR. GASNER:**

22     **Q.**    So the front page that is on the screen doesn't have the  
23 Post-it sticker on it.  So could you read the Post-it sticker  
24 to the jury, please?

25            That's not the portion, Mr. Guevara.  Thank you, though.

1 Can you read the Post-it that you have?

2 **A.** "Reconcile done" and then with my initial on it. So that  
3 doesn't mean I do the reconciliation. It just mean I check it,  
4 and the reconciliation is done.

5 **Q.** But you wrote on there "Reconciled PG." Is that what your  
6 Post-it note says?

7 **A.** No, it's not done by me. So I look at -- as you look in  
8 the inside --

9 **Q.** Yes.

10 **A.** -- there is a reconciliation. So as I -- as a tax  
11 preparer, I actually see the record, the reconciliation is  
12 done. So that doesn't mean it's done, the reconciliation, by  
13 me.

14 **Q.** So when you put "Reconciled PG," it just means that you  
15 saw that it had been reconciled by somebody else?

16 **A.** Yeah. Yeah. It's done.

17 **Q.** Okay. Thank you.

18 Let me show you --

19 **A.** I check it has been done.

20 **Q.** Let me show you what has previously been marked and  
21 admitted as Exhibit 637.

22 **MR. GASNER:** May I approach, Your Honor?

23 **THE COURT:** Yes, you may.

24 **THE WITNESS:** Thank you.

25

1 **BY MR. GASNER:**

2 **Q.** Thank you.

3 This is the 2006 tax return for Performance Group USA?

4 **A.** Yes.

5 **Q.** Do you believe, Mr. Guan, that based on the information  
6 that you had, that you did anything wrong in preparing these  
7 tax returns?

8 **A.** No. Based on the information provided by the client, and  
9 I prepared this tax return.

10 **Q.** If you'll take a look --

11 Mr. Guevara, if you could highlight in on the tax and  
12 payment section and a little bit above that and blow that up  
13 where it says 68,518, and above that as well. Just take a --  
14 that's perfect. Thank you.

15 So do you see, Mr. Guan, at line 28, it talks about --

16 **A.** I don't --

17 **THE COURT:** Wait just a moment. Let him finish his  
18 question, please.

19 **THE WITNESS:** I'm so sorry.

20 **BY MR. GASNER:**

21 **Q.** At line 28 it says "Taxable income," and that's 68,518.

22 Do you see that?

23 **A.** Yes, I saw that.

24 **Q.** And below that there's a special deduction in exactly that  
25 same amount. Do you see that?

1     **A.**    Yes, it is.

2     **Q.**    And it ends up with total tax being zero.  Do you see  
3     that?

4     **A.**    Yes.

5     **Q.**    Is that a coincidence, based on your memory of preparing  
6     this tax return, that the -- that net operating loss that  
7     carried forward is exactly the same?

8     **A.**    No, that's not true.  If you see the statement --  
9     Statement 2 of the tax return, then you will see the carryover  
10    in the Statement 2 of the tax return.

11    **Q.**    Okay.  If we could go to page 7, Mr. Guevara, at  
12    Statement 2 in the middle of the page.

13            Is that what you're referring to, Mr. Guan?

14    **A.**    Yeah, that's correct.  So as you can see, the carryover  
15    loss from year 2005 was \$77,239, but the law only allow you to  
16    deduct up to the taxable income.

17    **Q.**    Okay.  So is it fair to say that the fact that the taxable  
18    income here was exactly zero is simply a function of a net loss  
19    carryforward that is perfectly appropriate?  Isn't that true?

20    **A.**    According to the tax return that I prepared for year  
21    2008 -- 2006 -- excuse me -- which produced the line 28 number  
22    68,518 net income, because the company has 77,239, the law only  
23    allow the corporation offset the net operating loss up to the  
24    income.

25            So, therefore, as that result, as you can see, there will



1 be a carryover, the remaining balance for the year of 2007.

2 So as the law allow it for the tax law, the corporation  
3 only could offset up to the income. So, therefore, it is  
4 correct.

5 **Q.** So I take it the short answer to my -- I appreciate your  
6 long answer, but the short answer is, there's nothing wrong  
7 with ending up on that tax return with zero as the taxable  
8 amount; true?

9 **A.** That is correct.

10 **Q.** Thank you.

11 Let me ask you, if I might -- let's go to 2007. And I  
12 take it that the procedure that you used with Mr. Liew was the  
13 same in 2007?

14 **A.** That's correct.

15 **Q.** He would bring you a binder of materials; you would go  
16 over it in person; you'd fill out the tax return right there;  
17 is that right?

18 **A.** That's correct.

19 **Q.** Do you recall any issues coming up that you would discuss  
20 with Mr. Liew in preparing the 2007 return?

21 **A.** May I look at it? I cannot recall right at this moment if  
22 any issues.

23 **Q.** Certainly.

24 **MR. GASNER:** May I approach, Your Honor?

25 **THE COURT:** Yes.

1           **THE CLERK:** What exhibit number?

2           **MR. GASNER:** Approaching with Exhibit 638.

3           **THE WITNESS:** Thank you.

4 **BY MR. GASNER:**

5 **Q.** Thank you.

6 **A.** (Witness examines document.) Yes. When I prepare the  
7 2007 tax return for Performance Group USA, I compared 2006 and  
8 2007. There's a difference, and there's difference from  
9 1.8 million to 400. So -- and also, at the same time, I noted  
10 that there is another entity which is in the same years.

11 **Q.** Okay. So as issues came up in the course of your roughly  
12 four-hour meetings, you would discuss them with Mr. Liew; true?

13 **A.** Approximately.

14 **Q.** And you would give him the benefit of your accounting  
15 experience on the issues that came up in your discussions;  
16 true?

17 **A.** That is correct.

18 **Q.** In 2008, do you recall any issues that came up in the  
19 preparation of those tax returns?

20 **A.** May I look at the 2008 tax return?

21 **Q.** Certainly.

22           **MR. GASNER:** May I approach, Your Honor?

23           **THE COURT:** Yes.

24           **MR. GASNER:** I'm approaching with Exhibit 641.

25           **THE WITNESS:** Thank you.

1 **BY MR. GASNER:**

2 **Q.** Thank you.

3 **A.** (Witness examines document.)

4 **Q.** In 2008, looking at the tax return, do you recall any  
5 particular issues that arose that year?

6 **A.** (Witness examines document.) Not that I remember. You  
7 give me the USA Performance -- USAPTI, the tax return just  
8 given to me.

9 **Q.** Yes.

10 **A.** Okay.

11 **Q.** That's the exhibit you have in front of you.

12 And did you follow the same procedure in 2008? That is,  
13 Mr. Liew would bring you binders and materials; you'd sit down  
14 for a morning? Same procedure?

15 **A.** Yes.

16 **MR. GASNER:** May I approach with Exhibit 659,  
17 Your Honor?

18 **THE COURT:** Yes, you may.

19 **MR. GASNER:** I'm showing the witness what's been  
20 marked as 659. And it's been stipulated that this is from  
21 Mr. Guan's own files.

22 **THE COURT:** Is that correct?

23 **MR. HEMANN:** That is correct, Your Honor.

24 **BY MR. GASNER:**

25 **Q.** Do you recognize Exhibit 659, Mr. Guan?

1 A. Yes, I do. Yes, I do.

2 Q. What is it?

3 A. It is Performance Group USA. It's a bank statement,  
4 check, and summary for 2007 tax return.

5 Q. Would you, from time to time, keep the materials that  
6 Mr. Liew brought to you for the preparation of your tax  
7 returns?

8 A. For the year that I do not do the bookkeeping, I normally  
9 do not maintain this information. And this information was  
10 brought to me later down the year when there is a payroll audit  
11 and then I request information. This happened to be in my  
12 office because it was during the same period of time.

13 Q. There was later an audit by the IRS of the status of  
14 people that worked with Mr. Liew as to whether they were  
15 independent contractors or employees; is that right?

16 A. That is correct.

17 Q. And you maintained these records for that purpose?

18 A. Because I request those information from Mr. Liew for  
19 respond to the -- whether or not it's independent contractor or  
20 payroll audit, I respond.

21 Q. And at the time that this case that we're in right now  
22 proceeded, these documents were in your files at your office?

23 A. Well, in --

24 **THE COURT:** Let him finish the question, please,  
25 before you answer.

1 Please finish your question.

2 **BY MR. GASNER:**

3 **Q.** At the time when the FBI approached you to gather  
4 documents for this case, Exhibit 659 was part of the documents  
5 in your files; true? It's been stipulated that they were  
6 obtained from you, Mr. Guan.

7 **A.** Yes.

8 **Q.** Okay.

9 **MR. GASNER:** Your Honor, I'd move the admission of  
10 659.

11 **MR. HEMANN:** Objection, Your Honor. Relevance.

12 **THE COURT:** Let me see it, please. Can you get it,  
13 Ms. Ottolini?

14 **MR. HEMANN:** If I may ask one question of the witness  
15 regarding this document, Your Honor.

16 **THE COURT:** All right. Before I rule on it, you may  
17 voir dire the witness.

18 **MR. HEMANN:** Thank you, Your Honor.

19 **VOIR DIRE EXAMINATION**

20 **BY MR. HEMANN:**

21 **Q.** The document, Mr. Guan, that you're looking at, was that a  
22 document that you used in the preparation of Mr. Liew's 2007  
23 corporate tax return?

24 **A.** (Witness examines document.) During the time I prepare  
25 the tax return, Mr. Liew bring a binder of this one and also

1 the balance income statement. But I did not make a photocopy  
2 of this documentation. I make a photocopy of the balance  
3 income statement in my file. And then this one was brought to  
4 my office at a later time for -- to respond to the audit.

5 **Q.** But you had it with you at the time you did the tax  
6 return?

7 **A.** (Witness examines document.) I have -- he brought -- he  
8 brought this one in, and also he take this binder with him when  
9 he finished the tax return. During the time when I prepared  
10 the tax return, this binder was with me.

11 **MR. HEMANN:** Then, Your Honor, the United States does  
12 not have an objection.

13 **THE COURT:** Great. All right. It's admitted.

14 (Trial Exhibit 659 received in evidence)

15 **MR. GASNER:** Thank you, Your Honor.

16 **CROSS-EXAMINATION (resumed)**

17 **BY MR. GASNER:**

18 **Q.** And, again, later in your relationship with Mr. Liew and  
19 his company, you followed the same process: You would bring a  
20 binder in; you'd spend a morning or an afternoon; prepare the  
21 tax returns together; and then he would sign them on the spot?

22 **A.** Uh-huh. Well, when we do the bookkeeping and tax return,  
23 we would spend more time because we need to review the tax --  
24 the bookkeeping before we do the tax return.

25 **Q.** I believe you said that when you started doing the

1 bookkeeping, that was in 2009. Is that correct?

2 **A.** I believe so.

3 **Q.** And if I understood your testimony correctly, Mr. Guan,  
4 you basically did the same thing, except that your personnel  
5 did the QuickBooks entries; true?

6 **A.** Yeah. My personnel, yeah, my staff to input into the  
7 QuickBooks.

8 **Q.** So rather than bring a nice, neat binder with the  
9 QuickBooks reports already done, I take it Mr. Liew brought a  
10 big pile of checks and statements and things of that nature?

11 **A.** Yeah, bring the -- yeah, the bank statement and a copy of  
12 the canceled checks, yes.

13 **Q.** Back in the early days when you were simply preparing the  
14 tax returns, do you recall roughly how much you charged  
15 Performance Group USA for your services on each tax return?

16 **A.** That, I cannot remember. I have to look at the file.

17 **Q.** What's the range of your typical charges back in 2006? Do  
18 you recall?

19 **A.** I -- I cannot remember. I have to look at the file. But  
20 in my file there would be a copy of the charge -- what I  
21 charge.

22 **Q.** Do you think it was more than a thousand dollars or less?

23 **A.** Sir, I cannot remember.

24 **Q.** But for your -- we talked about your corporate clients.

25 It sounds like they're mostly small businesses here in the

1 Bay Area. What would be your typical charge currently for a  
2 tax return for a small business?

3 **A.** The corporation?

4 **Q.** Yes.

5 **A.** Just for the tax return?

6 **Q.** Yes.

7 **A.** Somewhere from \$500 to 2,000 depending complications --  
8 depends on how complicated are the tax return.

9 **Q.** Just based on your memory, do you think that Mr. Liew's  
10 returns were at the less complicated or more complicated end of  
11 the spectrum?

12 **A.** It's -- it's a medium. It's, like, in the average -- in  
13 the average -- in average corporation.

14 **Q.** Average end of the range for a corporation?

15 **A.** Yeah, toward the average. A little bit more complicated,  
16 yeah. Average, a little more complicated, yeah.

17 **Q.** Did you ever discuss with Mr. Liew ways that he could  
18 structure his business so as to minimize his taxes?

19 **A.** No.

20 **Q.** Do you do that from time to time with your business  
21 clients?

22 **A.** Not for -- not for Mr. Liew.

23 **Q.** But you have given that advice for other corporate clients  
24 of yours; true?

25 **A.** If my client request and then my time permitted, yes.



1 Q. There's nothing wrong with giving tax planning advice; is  
2 there?

3 A. That is correct.

4 Q. As a CPA, are you authorized to give tax planning advice  
5 to corporations?

6 A. Yes.

7 Q. If a corporation came to you with a business that had  
8 international aspects, would it be appropriate for you to give  
9 advice on how to structure their business so as to minimize  
10 their tax exposure?

11 MR. HEMANN: Objection.

12 THE COURT: Sustained.

13 BY MR. GASNER:

14 Q. Do you have occasion, from time to time, to refer your  
15 clients who want tax planning advice to lawyers or other  
16 specialists?

17 A. I normally don't do it, except, like, when they do living  
18 trust, and then I will, like, refer to the lawyer to ask them  
19 for a lawyer to establish a living trust.

20 Q. If you're trying to figure out the taxes for somebody that  
21 has a living trust, you might refer some details of that to an  
22 estate lawyer; is that fair to say?

23 A. Just refer -- I just refer my client to look for a lawyer,  
24 and they would discuss according two of them.

25 Q. Was there any point in your relationship with Mr. Liew and

1 his businesses in which you changed your method of dealing with  
2 him?

3 **A.** Could you make clear the question?

4 **Q.** Fair enough. Other than when you did the bookkeeping  
5 services in 2009, were there any other changes in the  
6 relationship that you had with Mr. Liew and his companies, or  
7 did you follow basically the same pattern you've been talking  
8 about today?

9 **A.** Same.

10 **MR. GASNER:** Your Honor, if I can just consult with  
11 counsel briefly.

12 **THE COURT:** Please. Take your time.

13 **MR. GASNER:** Thank you.

14 (Pause in proceedings.)

15 **MR. GASNER:** No further questions, Your Honor.

16 **THE COURT:** Thank you.

17 Any redirect, Mr. Hemann?

18 **MR. HEMANN:** Briefly, Your Honor.

19 (Pause in proceedings.)

20 **THE CLERK:** Do you want to get your exhibits,  
21 Mr. Gasner?

22 **THE COURT:** Are you going to need the exhibits,  
23 Mr. Hemann, that the witness has?

24 **MR. HEMANN:** No. I'm just going to refer to some  
25 specific pages, Your Honor, that are already on the system and

1 admitted, if that's okay.

2 **THE COURT:** All right. Would you mind -- all right.  
3 We'll retrieve them afterwards, then. It's okay. I just don't  
4 want to have his place there messed up.

5 **MR. HEMANN:** Certainly, Your Honor.

6 **MR. GASNER:** I'm done unless you need something. I'll  
7 stop puttering around.

8 (Pause in proceedings.)

9 **REDIRECT EXAMINATION**

10 **BY MR. HEMANN:**

11 **Q.** Mr. Guan, did Mr. Liew ever tell you anything about  
12 letters of credit that he had with his customers in China?

13 **A.** No.

14 **Q.** Did he ever ask you for your advice on how to treat money  
15 coming to the United States based on those letters of credit  
16 for tax purposes?

17 **A.** No.

18 **Q.** Mr. Gasner asked you a series of questions regarding some  
19 loans that appear in the balance sheets that you reviewed with  
20 Mr. Liew. Do you remember those?

21 **A.** Yes.

22 **Q.** Do loans have any impact on the gross sales or receipts  
23 that show on line 1 of a tax return?

24 **A.** No.

25 **Q.** Why not?

1 A. They're not.

2 Q. Why not?

3 A. The loan is not an income. The loan is a liability for a  
4 company. It's not an income.

5 Q. So, Ms. Mahoney -- do we have Ms. Mahoney? Hi.

6 Ms. Mahoney, could you please put Exhibit 637, page 1, up  
7 there? And just highlight the top, the income section of the  
8 return.

9 A. My screen is out.

10 Q. It usually comes on pretty quickly. Do you see it?

11 A. Okay. Yes, I see it.

12 Q. Okay. So if Performance Group had obtained a loan in --  
13 this is for the year 2006, would that loan have had any impact  
14 on the \$1,852,799 figure that is reflected in line 1?

15 A. I'm so sorry. Could you repeat your question?

16 Q. Certainly. It was a long question.

17 If Performance Group had received a loan during the year  
18 2006, would that money received have impacted in any way the  
19 \$1.8 million number on line one?

20 A. No. If it's a loan, it will not report any gross income.  
21 It will report in the balance and will increase the loan  
22 liability amount, not in gross revenue.

23 MR. HEMANN: Thank you, Your Honor. No further  
24 questions.

25 THE COURT: Anything else?



1           **MR. GASNER:** Your Honor, may I approach and retrieve  
2 my exhibits?

3           **THE COURT:** Please do. Thank you.

4           **MR. SCOTT:** Your Honor, the United States calls Cecily  
5 Rometo.

6           **THE COURT:** All right.

7           **THE CLERK:** Raise your right hand, please.

8                           **CECILY ROMETO,**

9 called as a witness for the Government, having been duly sworn,  
10 testified as follows:

11           **THE WITNESS:** Yes, I do.

12           **THE CLERK:** Thank you. Please be seated and state and  
13 spell your full name for the record.

14           **THE WITNESS:** My name is Cecily Rometo; C-E-C-I-L-Y,  
15 R-O-M-E-T-O.

16           **THE CLERK:** Thank you.

17                           **DIRECT EXAMINATION**

18 **BY MR. SCOTT:**

19 **Q.** Good afternoon, Ms. Rometo.

20 **A.** Good afternoon.

21 **Q.** How are you currently employed?

22 **A.** I'm a special agent with the FBI.

23 **Q.** And how long have you been a special agent with the FBI?

24 **A.** Just about three years.

25 **Q.** And where are you currently assigned?

1     **A.**    The San Francisco field office, Palo Alto resident agency.

2     **Q.**    And did you undergo training when you started with the

3     FBI?

4     **A.**    Yes, I did.

5     **Q.**    Where was that?

6     **A.**    At Quantico, Virginia.

7             **MR. FROELICH:**  Your Honor, I'm not sure --

8             **THE COURT:**  Oh, yes.  Would you make the announcement?

9             **MR. SCOTT:**  Oh, yes.  We always seem to forget,

10    Your Honor.

11             The testimony of Special Agent Rometo will apply to

12    defendant Walter Liew and defendant USAPTI only.

13             **THE COURT:**  Very well.  Thank you, Counsel.

14             Proceed.

15             Thank you, Mr. Froelich.

16    **BY MR. SCOTT:**

17    **Q.**    How long was your training at Quantico?

18    **A.**    It was just over 20 weeks.

19    **Q.**    And in the course of your time -- during your time with

20    the FBI, have you worked on an investigation of Walter Liew and

21    USAPTI?

22    **A.**    Yes, I have.

23    **Q.**    Over the course of this investigation, did you become

24    familiar with various corporate entities in Singapore to which

25    funds were sent at the direction of Walter Liew?

1     **A.**    Yes, I did.

2     **Q.**    Have you become familiar with a company called Lawrence  
3    Process Engineers, Pte, Limited?

4     **A.**    Yes.

5             **MR. SCOTT:**  Your Honor, during Special Agent Rometo's  
6    testimony, we're going to use some demonstratives on the easel,  
7    which I've shown to counsel.

8             **THE COURT:**  All right.  Very well.

9                             (Pause in proceedings.)

10            **MR. SCOTT:**  Your Honor, permission to approach the  
11    witness with Exhibit 904?

12            **THE COURT:**  All right.

13                             (Pause in proceedings.)

14    **BY MR. SCOTT:**

15    **Q.**    Special Agent Rometo, do you recognize that document?

16    **A.**    Yes, I do.

17    **Q.**    What is it?

18    **A.**    These are Accounting and Corporate Regulatory Authority  
19    records, or ACRA records, related to Lawrence Process  
20    Engineers.

21    **Q.**    What's the Accounting and Corporate Regulatory Authority?

22    **A.**    It is an entity in Singapore with which companies are  
23    registered, much the way you'd register a company here with the  
24    Secretary of State in the state.

25    **Q.**    And do you know where this document came from?



1 **A.** Yes. It was provided pursuant to a legal agreement  
2 between the United States and Singapore.

3 **Q.** And does this document reference the company Lawrence  
4 Process Engineers?

5 **A.** Yes, it does.

6 **Q.** And what general information is provided in this document?

7 **A.** This document provides the details of the proposed  
8 company, the details of the registering entity or authority,  
9 details of the directors, and associated dates and other  
10 information.

11 **MR. SCOTT:** Your Honor, the United States moves the  
12 admission of Exhibit 904.

13 **MS. AGNOLUCCI:** No objection, Your Honor.

14 **THE COURT:** It's admitted.

15 (Trial Exhibit 904 received in evidence)

16 **MR. SCOTT:** Mr. Hemann, if you could put up page 2.

17 **Q.** And, Special Agent Rometo, does page 2 in the bottom half  
18 of that page, does that show the name of the company?

19 **A.** Yes, it does.

20 **Q.** And at the top of the page does it list information  
21 regarding the applicant?

22 **A.** Yes.

23 **Q.** What is the applicant?

24 **A.** The applicant is the individual who helped to incorporate  
25 the company. So in this instance it was Casey Mee Huat Lin.

1 Q. Does that individual take care of the paperwork and the  
2 actual registration process?

3 A. That's my understanding.

4 Q. Turning your attention to page 3 of this document, do you  
5 see information regarding the directors of this company?

6 A. Yes.

7 Q. And who is the first director listed?

8 A. Just really quickly, I'm on page 3, but I don't think the  
9 screen is on page 3.

10 Q. I'm sorry.

11 A. Okay.

12 Q. And looking towards the top of the page, do you see  
13 there's a first director listed?

14 A. Yes.

15 Q. And who is that director?

16 A. The first listed director is Christina Hong Qiao Liew.

17 Q. And is there a second director listed on that page?

18 A. Yes, there is.

19 Q. And who is that?

20 A. The second director is Elaine Shu Peng Chin.

21 **MR. SCOTT:** And, Your Honor, the parties have  
22 stipulated that Elaine Shu Peng Chin is Walter Liew's niece and  
23 resides in Singapore.

24 **MS. AGNOLUCCI:** That's correct, Your Honor.

25 **THE COURT:** All right. So stipulated.

1           **MR. SCOTT:** Mr. Hemann, if you could go to page 4,  
2 please.

3           **Q.** In the middle of the page, Special Agent Rometo, do you  
4 see a date of registration?

5           **A.** Yes.

6           **Q.** And what is that date?

7           **A.** It looks like July 25th, 2006.

8           **Q.** And is that the date of the incorporation of the company?

9           **A.** Yes.

10          **Q.** Mr. Hemann, could you turn to page 5, please?

11           Again, in the middle of the page, Special Agent Rometo, is  
12 there a category for the address of the registered office?

13          **A.** (Witness examines document.) I have page 5 here, but I  
14 don't think it's quite up on the screen yet.

15          **Q.** If you look in the middle of the page, I think you'll see  
16 the heading.

17          **A.** Yes.

18          **Q.** And what is that address?

19          **A.** The listed address is 10 Anson Road, Unit 35-11,  
20 International Plaza.

21          **Q.** And are you familiar with that address?

22          **A.** Yes, I am.

23          **Q.** What is that address?

24          **A.** That address matches the address for Casey Lin & Company  
25 which is the office address of the -- that's the company that

1 helped to register and file the paperwork for Lawrence Process  
2 Engineers.

3 Q. So the registered address of Lawrence Process Engineers is  
4 actually the same as the company that did the incorporation?

5 A. That's correct.

6 Q. Mr. Hemann, if you could turn to page 11 of this document,  
7 please.

8 And, Special Agent Rometo, if you could focus on the  
9 section of the page that says "Particulars of Allottee." Do  
10 you see that?

11 A. I do.

12 Q. And does it show who the shareholder of the company is?

13 A. Yes.

14 Q. And who is that?

15 A. Christina Hong Qiao Liew.

16 Q. And is Christina the sole owner of the company?

17 A. Yes.

18 Q. Mr. Hemann, could you turn to page 45 of the same  
19 document, please?

20 And if you look at the bottom part of the page, there's a  
21 section called "Application for Striking Off."

22 What is the date of that application?

23 A. The date is July 4th, 2008.

24 Q. And are you familiar with the term "striking off"?

25 A. Yes.

1 Q. What does that mean?

2 A. It basically means to deregister the company.

3 Q. Special Agent Rometo, during your investigation, did you  
4 also become familiar with bank account information related to  
5 the company Lawrence Process Engineers?

6 A. Yes.

7 MR. SCOTT: Your Honor, permission to approach with  
8 Exhibit 939?

9 THE COURT: Yes.

10 BY MR. SCOTT:

11 Q. Special Agent Rometo, do you recognize that document?

12 A. Yes, I do.

13 THE CLERK: Excuse me. You said 939?

14 MR. SCOTT: 939.

15 THE CLERK: Do you want to say what it is since it's  
16 not in the record?

17 MR. SCOTT: Sure.

18 Q. Special Agent Rometo, what is that document?

19 A. These are banking records for United Overseas Bank Limited  
20 pertinent to Lawrence Process Engineers.

21 Q. And what type of information is provided in that document?

22 A. This document provides particulars of the applicant,  
23 particulars of signatories, as well as the actual tran -- it  
24 does provide actual transactional records as well.

25 MR. SCOTT: Your Honor, the United States moves the

1 admission of Exhibit 939.

2 **MS. AGNOLUCCI:** No objection.

3 **THE COURT:** Admitted.

4 (Trial Exhibit 939 received in evidence)

5 **MR. SCOTT:** Mr. Hemann, if you could pull up page 1,  
6 please.

7 **Q.** And, Special Agent Rometo, what's the name of the bank  
8 affiliated with Lawrence Process Engineers?

9 **A.** United Overseas Bank Limited or Far Eastern Bank Limited.

10 **Q.** And does this page also show the date that the application  
11 was filed to open an account?

12 **A.** (Witness examines document.) The signatures are dated  
13 July 26th, 2006.

14 **Q.** And the signatures are next to a category that says  
15 "Particulars of Signatories"; correct?

16 **A.** Yes.

17 **Q.** And who are the signatories listed?

18 **A.** The first listed signatory is Christina Hong Qiao Liew,  
19 and the second listed signatory is Walter Lian-Heen Liew.

20 **Q.** And do you see signatures on the right side of the page?

21 **A.** I do.

22 **Q.** And do you know whose signatures those are?

23 **A.** Yes.

24 **Q.** And whose signatures are they?

25 **A.** The first signature is what I understand to be Christina

1 Liew's signature, and the second signature is Walter Liew.

2 **Q.** Mr. Hemann, could you turn to page 2 of Exhibit 939?

3 And what information is provided on page 2?

4 **A.** Page 2 lists -- lists the two directors. Again, this  
5 looks like Christina Liew's signature, and I recognize the  
6 passport number; and it also lists Elaine Shu Peng Chin as the  
7 second director.

8 **Q.** And those were the two directors we saw from the ACRA  
9 records earlier?

10 **A.** Yes.

11 **Q.** Mr. Hemann, could you turn to page 3, please?

12 Special Agent Rometo, do you recognize this information?

13 **A.** Yes.

14 **Q.** And what is shown here?

15 **A.** This is acknowledgment from the bank regarding the  
16 signatories of the bank. It lists the signatories.

17 **Q.** And when it says "signatories," we've mentioned that once  
18 already. What do you understand that to mean?

19 **A.** I understand that to mean individuals who have control of  
20 the bank account.

21 **Q.** And is this information on page 3 consistent with what we  
22 saw on page 1 with respect to the signatores?

23 **A.** Yes, it is.

24 **Q.** Special Agent Rometo, during the course of the  
25 investigation, did you also become familiar with a company

1 called Huadong Equipment Solutions, Pte, Limited?

2 **A.** Yes.

3 **MR. SCOTT:** Your Honor, permission to approach the  
4 witness with Exhibit 905?

5 **THE COURT:** Yes.

6 **BY MR. SCOTT:**

7 **Q.** Special Agent Rometo, do you recognize that document?

8 **A.** Yes, I do.

9 **Q.** What is it?

10 **A.** This -- these are also ACRA records, so Accounting and  
11 Corporate Regulatory Authority records, associated with Huadong  
12 Equipment Solutions, Pte, Limited.

13 **Q.** And are those documents from Singapore?

14 **A.** Yes, they are.

15 **Q.** And what general information is provided in that document?

16 **A.** This document provides the company and the individual who  
17 helped to register Huadong, as well as details of Huadong  
18 directors and other associated information.

19 **MR. SCOTT:** Your Honor, the United States moves the  
20 admission of Exhibit 905.

21 **THE COURT:** Any objection?

22 **MS. AGNOLUCCI:** No objection, Your Honor.

23 **THE COURT:** It's admitted.

24 (Trial Exhibit 905 received in evidence)

25 **MR. SCOTT:** Mr. Hemann, if you would bring up page 2,



1 please.

2 Q. And, Special Agent Rometo, is the full name of the company  
3 listed on this page?

4 A. Yes, it is.

5 Q. And, again, do we see information regarding the applicant?

6 A. Yes.

7 Q. And, again, that's the company that effected the  
8 incorporation of the company in Singapore?

9 A. Yes.

10 Q. Turning to page 3, please, Mr. Hemann.

11 Special Agent Rometo, do you see information on page 3  
12 regarding the directors of Huadong Equipment Solutions?

13 A. Yes, I do.

14 Q. And who are the listed directors?

15 A. The first listed director is Walter Lian-Heen Liew, and  
16 the second listed director is Sue Lan Chin.

17 **MR. SCOTT:** And, Your Honor, the parties have  
18 stipulated that Shirley Sue Lan Chin is Walter Liew's niece and  
19 resides in Singapore.

20 **MS. AGNOLUCCI:** That's correct.

21 **THE COURT:** All right. So stipulated.

22 **MR. SCOTT:** Mr. Hemann, if you could turn to page 5,  
23 please.

24 Q. In the middle of that page, Special Agent Rometo, is there  
25 an office address for the company?

1 A. Yes.

2 Q. And do you recognize that address?

3 A. Yes, I do.

4 Q. What is it?

5 A. That is the address for -- I believe it's Express Co,  
6 which is the registration company who helped to incorporate  
7 this company in Singapore.

8 Q. And, Mr. Hemann, turning to the next page, page 6, please.

9 In the top right of page 6, Special Agent Rometo, do you  
10 see the date of registration of Huadong Equipment Solutions?

11 A. Yes.

12 Q. What is that date?

13 A. July 27th, 2006.

14 Q. Now, Mr. Hemann, if you would go to page 11, please.

15 Special Agent Rometo, what information is provided on  
16 page 11?

17 A. This provides the particulars of the LIT, so the  
18 individual who holds the shares associated with this company.

19 Q. And who's the owner of Huadong Equipment Solutions?

20 A. Walter Lian-Heen Liew.

21 Q. And is he the sole owner of the company?

22 A. Yes.

23 Q. Mr. Hemann, if you could turn to page 50, please.

24 The top part of page 50, that second category, is there  
25 some information about the closing of the business?

1     **A.**    Yes.

2     **Q.**    And what does it say?

3     **A.**    Under the category "Reasons for Striking Offer," it's  
4    listed that business ceased on October 31st, 2008.

5     **Q.**    Special Agent Rometo, during the course of your  
6    investigation, did you also locate bank account information  
7    related to this company Huadong Equipment Solutions?

8     **A.**    Yes.

9     **Q.**    Mr. Hemann, if you could bring up previously admitted  
10   Exhibit 528, please.

11           Special Agent Rometo, do you recognize this document?

12     **A.**    Yes.

13     **Q.**    And what's in this document?

14     **A.**    This document contains instructions for wire transfers and  
15   includes the beneficiary of Huadong and associated bank  
16   account.

17     **Q.**    And what's the listed associated bank with Huadong?

18     **A.**    The listed bank is DBS Bank Limited in Singapore, and the  
19   bank account number is 0029-001211-01-0-022.

20     **Q.**    And if you could slide up a little bit, Mr. Hemann.

21           Special Agent Rometo, how much was that transfer for?

22     **A.**    \$1,272,100.18.

23     **Q.**    And, Mr. Hemann, could you also bring up Exhibit 529,  
24   which is also in evidence?

25           Special Agent Rometo, do you recognize this document?

1 A. Yes.

2 Q. What information is provided on this page?

3 A. This information provides a wire transfer confirmation  
4 sent from FedLine, and it lists that same amount, \$1,272,100.18  
5 from Performance Group to Huadong.

6 Q. Thank you.

7 MR. SCOTT: Your Honor, permission to approach the  
8 witness with Exhibit 929.

9 THE COURT: All right.

10 BY MR. SCOTT:

11 Q. Do you recognize that document?

12 A. Yes.

13 Q. What is it?

14 A. These are records provided by Express Co, which is the  
15 company that helped incorporate Huadong Equipment Solutions.  
16 It provides details regarding that incorporation, including  
17 directors and the paperwork that was completed at the time.

18 MR. SCOTT: Your Honor, the United States moves the  
19 admission of Exhibit 929.

20 MS. AGNOLUCCI: No objection.

21 THE COURT: Admitted.

22 (Trial Exhibit 929 received in evidence)

23 MR. SCOTT: Mr. Hemann, if you could bring up page 36  
24 of this document, please.

25 Q. Special Agent Rometo, what information is provided on

1 page 36?

2 **A.** This information pertains to the opening of bank accounts  
3 at the Development Bank of Singapore, a Singapore dollar and  
4 U.S. dollar account to be signed singly either by Mr. Walter  
5 Lian-Heen Liew or Ms. Christina Hong Qiao Liew.

6 **Q.** So control of the account is with Walter Liew and  
7 Christina Liew?

8 **A.** That's my understanding, yes.

9 **Q.** And do you understand the Development Bank of Singapore to  
10 be also called DBS?

11 **A.** Yes.

12 **MR. SCOTT:** Your Honor, permission to approach the  
13 witness with Exhibit 494?

14 **THE COURT:** Yes.

15 **MR. SCOTT:** And with Exhibit 505?

16 **THE COURT:** Yes.

17 **BY MR. SCOTT:**

18 **Q.** Special Agent Rometo, looking first at Exhibit 494, the  
19 first page, do you recognize that document?

20 **A.** Yes.

21 **Q.** What is it?

22 **A.** This is a telegraphic transfer application. The applicant  
23 is Huadong Equipment Solutions and beneficiary is Qiao Hua.

24 **MR. SCOTT:** And, Your Honor, the parties have  
25 stipulated that Qiao Hua is Christina Liew's father and resides

1 in China.

2 **THE COURT:** Is that correct?

3 **MS. AGNOLUCCI:** That's correct.

4 **THE COURT:** All right. So stipulated.

5 **BY MR. SCOTT:**

6 **Q.** Special Agent Rometo, do you know where this document,  
7 Exhibit 494, was located?

8 **A.** (Witness examines document.) This was found in the Liew  
9 residence.

10 **Q.** And you mentioned that it was a telegraphic transfer  
11 application?

12 **A.** Yes.

13 **Q.** Is there an account number on the top right-hand part of  
14 the document?

15 **A.** There is.

16 **Q.** Do you recognize that account number?

17 **A.** I do.

18 **Q.** And to what bank account is that?

19 **A.** This is the same bank account for Huadong Equipment  
20 Solutions at DBS Bank.

21 **MR. SCOTT:** Your Honor, the United States moves the  
22 admission of Exhibit 494, page 1 only.

23 **THE COURT:** Any objection?

24 **MS. AGNOLUCCI:** No objection.

25 **THE COURT:** It's admitted.

1 (Trial Exhibit 494, page 1, received in evidence)

2 **BY MR. SCOTT:**

3 **Q.** Special Agent Rometo, looking at the top of the document  
4 first, does it have the name of the company?

5 **A.** Yes.

6 **Q.** And you already mentioned the bank account in the top  
7 right-hand corner; correct?

8 **A.** Yes.

9 **Q.** Moving down the document, does it show a dollar amount for  
10 the transfer?

11 **A.** Yes.

12 **Q.** And how much is it?

13 **A.** 750,000 U.S. dollars.

14 **Q.** And is there a date on the document?

15 **A.** (Witness examines document.)

16 **Q.** On the bottom right-hand corner.

17 **A.** Yes. Yes.

18 **Q.** What is it?

19 **A.** May 29th, 2008.

20 **Q.** And is there also a signature on the document?

21 **A.** Yes.

22 **Q.** And what does it say?

23 **A.** Walter Liew.

24 **Q.** And, finally, in the middle third of the page, it lists  
25 the beneficiary?

1 A. Yes.

2 Q. And what name is provided there?

3 A. Qiao Hua.

4 Q. And the account to which that is going, does it show what  
5 bank it's going to?

6 A. It does not provide the bank, but I recognize the account  
7 number.

8 Q. And if you look in the category above under "Beneficiary's  
9 Bank Details," do you see a bank listed?

10 A. Yes. It's HSBC, Hong Kong, and Shanghai Banking  
11 Corporation Limited, Hong Kong, People's Republic of China.

12 Q. Thank you.

13 Turning your attention now to Exhibit 505, do you  
14 recognize that document?

15 A. Yes.

16 Q. What is it?

17 A. This is a letter from Walter Liew to DBS Bank Singapore  
18 regarding instruction for telegraphic transfer.

19 Q. And where was that document found?

20 A. This was found in the safety-deposit box on a hard drive.

21 Q. And is there a date on that document?

22 A. Yes.

23 Q. What is it?

24 A. November 4th, 2008.

25 Q. And does it list a beneficiary?



1 A. Yes.

2 Q. Who is that?

3 A. Qiao Hua.

4 Q. And Qiao Hua is Christina Liew's father?

5 A. That's correct.

6 MR. SCOTT: Your Honor, the United States moves the  
7 admission of Exhibit 505.

8 MS. AGNOLUCCI: No objection.

9 THE COURT: It's admitted.

10 (Trial Exhibit 505 received in evidence)

11 BY MR. SCOTT:

12 Q. Special Agent Rometo, could you --

13 Looking at the first paragraph, Mr. Hemann, under "Dear  
14 DBS."

15 Could you describe what this paragraph relates?

16 A. It's a request for a telegraphic transfer for 1,250,000  
17 U.S. dollars to benefit Qiao Hua.

18 Q. And does it provide an account number where the money's  
19 going?

20 A. Yes, it does.

21 Q. Do you recognize that number?

22 A. Yes.

23 Q. And is that associated with the HSBC account we just  
24 talked about?

25 A. Yes.

1 Q. The signature block at the bottom of the page, whose name  
2 do you see there?

3 A. It lists Walter Lian-Heen Liew.

4 Q. And does it provide a title for him?

5 A. It provides the title of managing director, Huadong  
6 Equipment Solutions.

7 MR. SCOTT: Your Honor, permission to approach the  
8 witness with Exhibit 446.

9 THE COURT: Very well.

10 BY MR. SCOTT:

11 Q. Special Agent Rometo, do you recognize that document?

12 A. Yes.

13 Q. What is it?

14 A. This is a letter from Walter Liew to DBS Bank.

15 Q. And is there a date on it?

16 A. Yes.

17 Q. What is it?

18 A. November 21st, 2008.

19 Q. And where was this document found?

20 A. (Witness examines document.) This document was found in  
21 the USAPTI office.

22 MR. SCOTT: Your Honor, the United States moves the  
23 admission of Exhibit 446.

24 THE COURT: Any objection?

25 MS. AGNOLUCCI: May we have one quick moment,

1 Your Honor?

2 **THE COURT:** Sure.

3 (Pause in proceedings.)

4 **MS. AGNOLUCCI:** Objection, Your Honor.

5 **THE COURT:** May I see the document?

6 (Pause in proceedings.)

7 **THE COURT:** The objection is overruled. Admitted.

8 (Trial Exhibit 446 received in evidence)

9 **MR. SCOTT:** May we publish it, Your Honor?

10 **THE COURT:** Yes, you may.

11 **BY MR. SCOTT:**

12 **Q.** Special Agent Rometo, what's the date on this document?

13 **A.** November 21st, 2008.

14 **Q.** And, Mr. Hemann, starting with the part at "Dear  
15 DBS Bank."

16 What information is conveyed there?

17 **A.** It is a request to -- instruction to close two accounts at  
18 DBS Bank.

19 **Q.** And do you recognize those account numbers?

20 **A.** Yes.

21 **Q.** What are they?

22 **A.** The first is a current account, which I understand to be  
23 the Singapore dollar account for Huadong Equipment Solutions;  
24 and the second number is the account referenced earlier, which  
25 is the foreign currency current account for Huadong Equipment.

1 Q. And is there a signature block at the bottom of the page?

2 A. There is.

3 Q. Whose name is there?

4 A. It lists Walter Liew, director, Huadong Equipment  
5 Solutions, Pte, Limited.

6 MR. SCOTT: Your Honor, permission to approach the  
7 witness with Exhibit 496.

8 THE COURT: Yes.

9 BY MR. SCOTT:

10 Q. Special Agent Rometo, do you recognize that document?

11 A. Yes.

12 Q. What is it?

13 A. These are bank records, transactional records, for Huadong  
14 Equipment Solutions at DBS Bank.

15 Q. And what type of information do you see there?

16 A. So it lists the name of the company, an address for the  
17 company, as well as various transactional information and bank  
18 statements.

19 Q. And where was that document located?

20 A. I believe it was in the house. Let me double-check.  
21 (Witness examines document.)  
22 Yes, this was located in the Liew residence.

23 Q. And the bank statements you mentioned have the name  
24 Huadong Equipment Solutions on them?

25 A. Yes.

1           **MR. SCOTT:** Your Honor, the United States moves the  
2 admission of Exhibit 496.

3           **THE COURT:** Any objection?

4           **MS. AGNOLUCCI:** No objection.

5           **THE COURT:** Admitted.

6           (Trial Exhibit 496 received in evidence)

7 **BY MR. SCOTT:**

8 **Q.** Special Agent Rometo --

9 Actually, Mr. Hemann, could you put up page 7, please?

10 The top left-hand corner, does that show the name of the  
11 company affiliated with the account?

12 **A.** Yes.

13 **Q.** And the rest of the pages in this exhibit consist of bank  
14 statements related to those accounts?

15 **A.** Yes.

16           **MR. SCOTT:** Your Honor, permission to approach the  
17 witness with Exhibit 941?

18           **THE COURT:** Yes.

19 **BY MR. SCOTT:**

20 **Q.** Special Agent Rometo, do you recognize that document?

21 **A.** Yes.

22 **Q.** What is it?

23 **A.** These are DBS Bank records associated with Huadong  
24 Equipment Solutions.

25 **Q.** And what information is contained in those documents?

1     **A.**    These documents contain transactional records, bank  
2     statements, for the DBS account.

3     **Q.**    And for the same bank account numbers that we've been  
4     talking about previously?

5     **A.**    Yes.

6     **Q.**    And where was that document -- from where was that  
7     document obtained?

8     **A.**    This document was sent to the United States from Singapore  
9     pursuant to mutual legal assistance agreement.

10           **MR. SCOTT:** Your Honor, the United States moves the  
11     admission of Exhibit 941.

12           **MS. AGNOLUCCI:** No objection.

13           **THE COURT:** Admitted.

14           (Trial Exhibit 941 received in evidence)

15           **THE CLERK:** And, Counsel, can I have you tell me one  
16     more time what that is, since it's not on your list?

17           **MR. SCOTT:** DBS Bank records from Singapore.

18           **THE CLERK:** Thank you.

19           **MR. SCOTT:** And, Mr. Hemann, if you could bring up  
20     page 29, please. And if you could blow up the middle part with  
21     the numbers.

22     **Q.**    Special Agent Rometo, do you see the account number there?

23     **A.**    Yes.

24     **Q.**    Is it the same account number we've been talking about?

25     **A.**    Yes.

1 Q. On November 11th, do you also see a withdrawal of  
2 \$1,250,000?

3 A. Yes.

4 Q. And further down the page, do you also see information  
5 regarding the closing of the account?

6 A. Yes.

7 Q. And is that information consistent with the requests we  
8 looked at earlier in prior exhibits?

9 A. Yes, it is.

10 MR. SCOTT: Your Honor, permission to approach the  
11 witness with Exhibit 909?

12 THE COURT: Yes.

13 MR. SCOTT: Your Honor, before I begin another  
14 company, do you want me to continue for now?

15 THE COURT: Yes, just continue a few more minutes, and  
16 then we'll stop.

17 MR. SCOTT: Okay.

18 Q. Special Agent Rometo, do you recognize that document?

19 A. Yes.

20 Q. What is it?

21 A. These are ACRA records associated with ESI Equipment &  
22 Engineering Pte Limited.

23 Q. And is there information regarding the incorporation and  
24 organization of that company?

25 A. Yes.

1 Q. And where did that information come from?

2 A. This information came to us pursuant to a legal agreement  
3 between the United States and Singapore.

4 MR. SCOTT: Your Honor, the United States moves the  
5 admission of Exhibit 909.

6 MS. AGNOLUCCI: No objection.

7 THE COURT: Admitted.

8 (Trial Exhibit 909 received in evidence)

9 MR. SCOTT: Mr. Hemann, if you could bring up page 2,  
10 please.

11 Q. And in the middle of the page, Special Agent Rometo, do  
12 you see the name of the company?

13 A. Yes.

14 Q. And you also see information regarding the applicant at  
15 the top -- towards the top of the page?

16 A. (Witness examines document.) Yes.

17 Q. Mr. Hemann, could you go to page 3, please?

18 Special Agent Rometo, at the top of that page is there  
19 information regarding the directors of the company?

20 A. Yes.

21 Q. And what's the name of the first director?

22 A. The first listed director is Qiao Mu.

23 MR. SCOTT: And, Your Honor, the parties have  
24 stipulated that Qiao Mu is Christina Liew's brother and resides  
25 in China.



1           **THE COURT:** Is that correct?

2           **MS. AGNOLUCCI:** That's correct.

3           **THE COURT:** So stipulated.

4           **MR. SCOTT:** And, Mr. Hemann, if you could also go to  
5 page 4 for me, please.

6           **Q.** Is there another director listed on page 4?

7           **A.** Yes.

8           **Q.** And if you could pronounce it, what is that name?

9           **A.** I believe it's pronounced Joehan Tohkingeo.

10          **Q.** And do you know who that is?

11          **A.** That is Lorraine Lee's husband. She is the incorporator  
12 of the company.

13          **Q.** So that's the husband of the woman who worked on the  
14 incorporation?

15          **A.** That's my understanding, yes.

16          **Q.** Mr. Hemann, if you could turn to page 6, please.

17                 Is there, in the middle of that page, an address listed  
18 for the company?

19          **A.** This is an address listed for -- I believe it's -- oh, I'm  
20 sorry. Wrong page. Yes.

21          **Q.** Do you recognize that address?

22          **A.** Yes, I do.

23          **Q.** What is it?

24          **A.** This is the address for the company that Elaine --  
25 Lorraine Lee works for. Excuse me. I think it's BSP

1 Management. I'm sorry.

2 Q. Thank you.

3 Mr. Hemann, if you could turn to page 12, please.

4 Special Agent Rometo, is there information at the top of  
5 that page regarding the ownership of the company?

6 A. Yes.

7 Q. And who is the owner of ESI Equipment & Engineering?

8 A. Qiao Mu.

9 Q. And Qiao Mu is Christina Liew's brother?

10 A. Yes.

11 Q. And is he the sole owner of the company?

12 A. Yes.

13 Q. Mr. Hemann, if you could turn to page 66, please.

14 And in sort of the top of the page, there's a section  
15 called "Reasons for Striking Off." Do you see that?

16 A. Yes.

17 Q. And is there a date listed for business ceasing for ESI?

18 A. Yes. It lists May 31st, 2011.

19 Q. Special Agent Rometo, during the course of your  
20 investigation, did you also locate bank account information  
21 related to ESI?

22 A. Yes.

23 MR. SCOTT: Your Honor, permission to approach with  
24 Exhibit 936?

25 THE COURT: Now this would be the time to break.

1           **MR. SCOTT:** That's fine.

2           **THE COURT:** You may step down, Agent.

3           So if anybody wants to leave the courtroom, please do so  
4 now before I instruct the jury. We're going to lock the door.

5                               (Pause in proceedings.)

6           **THE COURT:** All right. So, ladies and gentlemen,  
7 we're going to break until tomorrow, and I'll say a few words  
8 about scheduling at that time.

9           I'm going to remind you of your proper conduct as jurors.  
10 First, keep an open mind throughout the trial and do not decide  
11 what the verdict should be until you and your fellow jurors  
12 have completed your deliberations at the end of the case.

13           Second, because you must decide this case based only on  
14 the evidence received in the case and on my instructions as to  
15 the law that applies, you must not be exposed to any other  
16 information about the case or to the issues it involves during  
17 the course of your jury duty.

18           Thus until the end of the case, or unless I tell you  
19 otherwise, do not communicate with anyone in any way and do not  
20 let anyone else communicate with you in any way about the  
21 merits of the case or anything to do with it. This includes  
22 discussing the case in person, in writing, by phone,  
23 Smartphone, or electronic means, via email, text messaging, or  
24 in or on any Internet chat room, blog, website, including such  
25 social networking media like Facebook, Myspace, LinkedIn,

1 YouTube, and Twitter, or other feature.

2 This applies to communicating with your fellow jurors  
3 until I give you the case for deliberation, and it applies to  
4 communicating with everyone else, including your family  
5 members, your employer, the media or press, and the people  
6 involved in the trial, although you may notify your family and  
7 your employer that you are continuing to sit as a juror in this  
8 case.

9 But if you're asked or approached in any way about your  
10 jury service or anything about this case, you must respond that  
11 you have been ordered not to discuss the matter and to report  
12 the contact to the Court.

13 Because you will receive all the evidence and legal  
14 instruction you properly may consider to return a verdict, do  
15 not read, watch, or listen to any news or media accounts or  
16 commentary about the case or anything to do with it. Do not do  
17 any research, such as consulting dictionaries, searching the  
18 Internet, or using other reference materials; and do not make  
19 any investigation or in any other way try to learn about the  
20 case on your own.

21 The law requires these restrictions to ensure the parties  
22 have a fair trial based on the same evidence that each party  
23 has had an opportunity to address.

24 A juror who violates these restrictions jeopardizes the  
25 fairness of these proceedings and a mistrial could result that

1 would require the entire trial process to start over.

2 If any juror is exposed to any outside information, please  
3 notify the Court immediately.

4 So tomorrow we're going to have our regular 8:00-to-1:30  
5 day with two 15-minute breaks. I'm going to check in with  
6 counsel before then to see how we're doing schedulewise so I  
7 can give you a little better sense of how we're doing vis-a-vis  
8 our original estimates, but sort of the preview is that I think  
9 we are on schedule. So I'll have more to say about that  
10 sometime tomorrow.

11 So have a very enjoyable evening. Thank you for your  
12 attention, and we'll see you tomorrow morning at 8:00 o'clock.

13 (Proceedings were heard out of the presence of the jury:)

14 **THE COURT:** All right. So the jury has left the  
15 court. Everyone may be seated.

16 I wanted to first address the issue that -- Ms. Agnolucci,  
17 are you going to need some time tomorrow morning to discuss  
18 some issue with respect to this special agent's testimony?

19 **MS. AGNOLUCCI:** I don't think that we have to discuss  
20 it as it pertains to this special agent's testimony, but we do  
21 have to discuss the issue before the testimony of Mr. Klein,  
22 who we expect we may be calling on Thursday, depending on how  
23 things go.

24 So it probably would be a good idea to get this resolved  
25 tomorrow morning.

1           **THE COURT:** All right. Well, let's plan on meeting.  
2 How long do you think it will take to discuss this issue?

3           **MS. AGNOLUCCI:** It depends on whether the Court has  
4 concerns and what those concerns are. I think we could at  
5 least preliminarily raise it briefly and then the Court may  
6 want --

7           **THE COURT:** Yes. Why don't we plan to meet about  
8 7:30. That will give us a good 30 minutes to at least start  
9 the discussion.

10           **MS. AGNOLUCCI:** Yes, Your Honor.

11           **THE COURT:** All right. Now let me get an updated  
12 suggestion -- or not suggestion, but sense of where we are in  
13 the schedule so that we can kind of think about scheduling some  
14 other matters.

15           **MR. AXELROD:** Yes, Your Honor. I believe things  
16 slowed down a little bit today, which means we may not be in a  
17 position to close until Thursday morning. I think we're  
18 certainly on target for this week. I think, you know,  
19 depending on what we accomplish tomorrow, it's likely to spill  
20 over at least into the first part of the day on Thursday before  
21 we're in a position to close -- or rest. Excuse me.

22           **THE COURT:** All right. So did you have any comment on  
23 that?

24           **MR. GASNER:** No, Your Honor. We've got witnesses  
25 lined up on that assumption for Thursday.

1           **THE COURT:** All right. So what I'm going to say is  
2 that, as I mentioned before, I'm going to allow the defendants  
3 the opportunity to make motions addressed to the Government's  
4 case. And to the extent we don't complete those discussions or  
5 the Court doesn't rule by the time it's time for testimony or  
6 evidence this Thursday, I will require the defendants to begin  
7 their case, if they want -- it sounds like they are going to  
8 present one -- and then we'll continue the argument, and we'll  
9 except, E-X-C-E-P-T, out of our argument, obviously, anything  
10 the defendants have brought forth in their case, because that's  
11 the proper legal standard.

12           My thought now is the following: What I would like to do  
13 is this. So let's assume, hypothetically, the Government rests  
14 Thursday morning. The Government would rest. I would, just in  
15 the interest of belt and suspenders, I'd have -- I guess I  
16 shouldn't -- that's probably not politically correct to say  
17 these days, but you know what I mean -- I care -- get everybody  
18 to the sidebar, and if the defendants want to just make their  
19 motion for the record, make absolutely sure that they preserve  
20 all their rights, I'll do that briefly.

21           Then we'll begin with the defendants' case. And then what  
22 I'd like to do is meet with -- I have a law and motion calendar  
23 starting at 9:00 on Friday, which should last probably no more  
24 than 30 minutes, 45 at the outside. I have to leave for a  
25 calendar in Oakland late morning. So we could take some time,

1 as much time as we can get in, Friday morning to discuss the  
2 motions.

3 Now, on reflection, I did indicate that I want the parties  
4 to marshal the evidence as much as possible, and I'm not  
5 precluding the defendants from filing a written document if  
6 they wish to do so. Just don't hand it up to me at the time of  
7 the argument, because I won't be able to look at it.

8 But if you wish to do that, if the defendants wish to do  
9 that to crystallize their arguments, if there's some aspects  
10 that you think would not lend themselves well to just an oral  
11 presentation, you know, I probably -- if Ms. Lovett was here,  
12 she'd probably be cringing at this, but that's kind of one of  
13 the things that you have to do when you're in a law firm in  
14 these kinds of cases in trial.

15 **MR. GASNER:** What we're planning to do, Your Honor,  
16 unless the Court would prefer otherwise, is during the sidebar  
17 argument, what we might do is hand up to the Court an outline  
18 of the argument with citations, both to the transcript and to  
19 the law, which somewhere in between just a pure oral argument  
20 and a full brief that we're -- just given the press of trial  
21 matters, I don't want to impose on Ms. Lovett to do a polished  
22 brief. But I think it would be helpful to the Court to have at  
23 least an outline with case citations and transcript citations.

24 Is that something the Court --

25 **THE COURT:** I agree. The only thing I'll say is in



1 fairness, as soon as you've got that completed, please give it  
2 to the Government.

3 **MR. GASNER:** We will.

4 **THE COURT:** And, of course, it's without prejudice to  
5 either side filing a more fulsome legal brief at a later time,  
6 as ordered by the Court. But that would certainly -- anything  
7 I can have in advance to sort of tee up your arguments and the  
8 Government's responses would be very helpful. Even if the  
9 Government doesn't have time to file a written outline in  
10 response, they'll at least know what they're looking -- what  
11 they're looking at.

12 So that's what we'll do.

13 And the next thing, the thing that the Court is working on  
14 is jury instructions, the next iteration of proposed jury  
15 instructions, which will be filed at some unspecified time in  
16 the future, but it will be filed nevertheless. And then I'll  
17 set some deadlines for getting your objections and requests for  
18 additional instructions, which will lead us directly into the  
19 charging conference.

20 And depending upon the scheduling, most likely we'll take  
21 a significant amount of time for that, even if we have to take  
22 a day off between. Assuming the case goes further -- again,  
23 I'm not in any way telegraphing how I'm going to rule on any  
24 motions, but assuming the case goes forward, to take a break  
25 both to argue -- finalize instructions, give the parties a

1 chance, you know, to catch their breath and prepare closing  
2 arguments, and then move into closing arguments and  
3 deliberation.

4 So it sounds to the Court like we should finish this case  
5 in the month -- with the schedule we have, in the month of  
6 February. Is that correct?

7 **MR. AXELROD:** Certainly from the Government's  
8 perspective.

9 **THE COURT:** Do you think so?

10 **MR. GASNER:** I do. We are cutting back on witnesses  
11 as the case narrows. We're still planning on calling our four  
12 experts, and I think we will fill up all of next week, at a  
13 minimum. But I think it remains to be seen how much of the  
14 following week we would need, if any.

15 **THE COURT:** Okay. And that will give us some  
16 breathing room for instructions and the like.

17 And, Ms. Agnolucci, if you wish to file -- I'm not  
18 ordering you to do so, but if you wanted to file some sort of  
19 an outline, because I'm obviously familiar with Klein's  
20 testimony from the *Daubert* in limines, but if there's a  
21 specific issue that you think the Court should be thinking  
22 about in advance, you know, and you want to file something,  
23 you're entitled to do so.

24 **MS. AGNOLUCCI:** Thank you, Your Honor. And if we did  
25 file something, it sounds like it would be acceptable to the

1 Court for it to be some kind of outline?

2 **THE COURT:** Yes.

3 **MS. AGNOLUCCI:** Thank you.

4 **THE COURT:** I'm not ordering you to file a response,  
5 but I'm sure you can pretty much anticipate -- I can't at this  
6 point; it's hard enough to focus what's going on at this  
7 moment -- what the issue might be. And, so, we'll have a  
8 discussion about that at 7:30 tomorrow morning.

9 **MR. HEMANN:** And I think there are two documents that  
10 are primarily at issue; correct?

11 **THE COURT:** Are they documentary issues or are they  
12 substantive testimony?

13 **MS. AGNOLUCCI:** Both, Your Honor.

14 **THE COURT:** All right. So to be determined. Let's  
15 move quickly, because I've got a bunch of patent lawyers.

16 **MR. AXELROD:** Just briefly a housekeeping matters.  
17 The Court admitted the drawing that Dr. Diemer did. It's been  
18 marked as 4010. I just want to hand it to the court clerk to  
19 have it stamped.

20 **THE COURT:** Yes. And would you mind staying around  
21 for a few minutes -- I'm going to delay my hearing -- so that  
22 you can resolve with Ms. Ottolini any issues with respect --  
23 administrative issues with respect to exhibits?

24 **MR. GASNER:** That's fine.

25 **MR. AXELROD:** Of course, Your Honor.

1           **THE COURT:** And the other thing, sort of as you're  
2 thinking down the road, or somebody is, on the presentation, if  
3 this case gets to the jury, on the presentation to the jury in  
4 an electronic format, how we're going to do that. We have to  
5 iron that out.

6           The other thing -- the other issue for you for,  
7 Mr. Gasner, or your team, is to communicate with Mr. Curl about  
8 the live feed.

9           **MR. GASNER:** We're still deciding whether it's going  
10 to be necessary. Some of the witnesses that we're cutting are  
11 ones that involve all the logistics of remote access and the  
12 like. That's figuring into our process. But we will contact  
13 Mr. Curl if we decide those are witnesses that we need.

14           **THE COURT:** Great.

15           All right. Counsel, thank you very much.

16           **MR. HEMANN:** Thank you, Your Honor.

17           **MR. AXELROD:** Thank you, Your Honor.

18                   (Proceedings adjourned at 1:25 p.m.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

DATE: Tuesday, February 4, 2014



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Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR  
U.S. Court Reporter